

# New Europe College Yearbook

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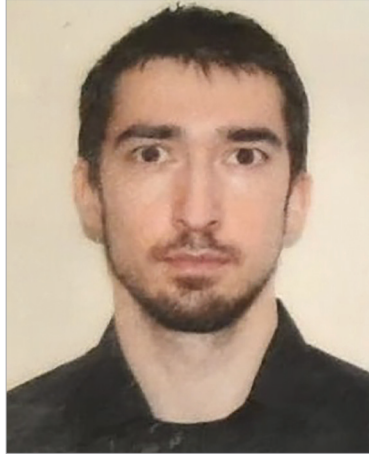
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Volacu, Alexandru (2023), *Limitele electoratului. Cine ar trebui să poată vota într-o democrație?*, Institutul European, Iași

Volacu, Alexandru (2019), *Avem datoria de a vota?*, Institutul European, Iași

# STASIS AND DEMOKRATIA. A MAPPING OF RESILIENCE-DRIVING INSTITUTIONS IN CLASSICAL ATHENS

Alexandru Volacu

## Abstract

The chapter aims to outline the institutional architecture developed in Classical Athens with respect to the defence and resilience of democracy. In the first part I explain why and how the case of Classical Athens can be usefully drawn upon for engaging in contemporary institutional design. In the second part I describe several institutions from Classical Athens that aimed at and/or contributed to the prevention or resolution of anti-democratic challenges (*staseis*). The overarching purpose of this exposition is to set the basic foundations for a broader project that will draw on the institutional logic reconstructed from this historical case study in order to offer normative prescriptions for contemporary democratic resilience to autocratization challenges.

**Keywords:** Democracy; Democratic resilience; Neo-institutionalism; Stasis.

## 1. Introduction

There is a pervasive view in recent years amongst political scientists that democracy is declining at a global level. Some even go so far as to argue that we are experiencing a “third wave” of autocratization, which started in the early `90s and deepened at an accelerate pace in the past decade (Luhmann and Lindberg: 2019). These developments have, understandably, given rise to a shift in attention within democratic studies, which traditionally focused on democratization and democratic transitions and largely neglected the converse question of democratic breakdown (Cassani and Tomini: 2020, p. 273), with a few notable exceptions such as Linz and Stepan (1978). In the past decade, however, the study of what is

most often termed democratic backsliding or erosion<sup>1</sup> has become central to this field of research, with two broad areas of research being pursued, sometimes distinctly and sometimes in tandem. The first has an explanatory aim, in that it seeks to uncover the political, social, economic, agential and cultural features that facilitate or cause backsliding to occur (see e.g. Bermeo: 2016; Waldner and Lust: 2018; Przeworski: 2019; Haggard and Kaufmann: 2021 for some overviews). The second has a prescriptive aim, in that it seeks to address questions related to how backsliding can be prevented, or stopped and reversed once it has been triggered. This latter area, which is usually grouped under the term of democratic resilience (Holloway and Manwaring: 2023) is comparatively newer and arguably less developed than the former.

At this point, the reader of this chapter might be slightly puzzled. Why, after all, in a discussion that is seemingly focusing on Classical Athens, judging by the title, should we begin with an outline of the way in which contemporary democracy, and with it the field of democratic studies, has evolved? The reason for this will become clearer, once the aim of the broader project – for which the present chapter constitutes an opening foray – is stated. Concretely, the project seeks to contribute to the latter of the two research areas previously mentioned, i.e. the problem of contemporary democratic resilience. However, unlike the bulk of the literature developed thus far, which has been driven by pivotal case studies from the past couple of decades (e.g. Guasti: 2020a, 2020b; Laebens and Luhrmann: 2021) or larger time series focusing on the last century (Boese et al.: 2021), in the current project I intend to critically draw on a much earlier historical case in order to first construct a normative framework for better understanding and pursuing the goal of contemporary democratic resilience, and second, to outline concrete recommendations for institutional design flowing from the framework proposed. The broader project initiated here is therefore not one of political history, but rather of historically-informed contemporary political theory,<sup>2</sup> with the present chapter aiming to map out the historical institutional framework which will be drawn upon in subsequent works. By looking in-depth at the specific case of Classical Athens and attempting to excavate normative features that are relevant for present times, I am therefore engaging in a type of inquiry that is rather atypical for political theorists, but which is also not unprecedented, with several enterprises already advanced, such as the essays collected in Ober and Hedrick (1996), but also Schwartzberg (2004), Ober (2008a, 2017), or Malkopoulou (2017), to name only a few.

## 2. Why the Case of Classical Athens?

Having explained in the introductory section that the overarching aim of the chapter is to set the foundation for a broader project on contemporary democratic resilience, I believe it is worthwhile to justify (albeit succinctly) why the historical focus of the chapter – and the project as a whole – is placed on the case of Classical Athens. Three primary reasons underlie this decision.

First, the Athenian political system is sufficiently similar, in many respects, to contemporary democracies, but also sufficiently different, in many others, so as to provide a unique vantage point for spotlighting key issues which are ordinarily less perceptible to us. Both of these claims require further explanation. The former, in particular, may be deemed so controversial as to undermine the entire plausibility of the project, since it might be argued that Classical Athens was not in fact democratic. After all, while political inclusion was widespread when compared to other societies of the period, it only extended to adult male citizens, thereby excluding women, slaves, and metics. While a more precise account is subject to historical controversy, there are good reasons to believe that “during the fifth century the number of adult male citizens varied between 30,000 and 50,000 out of a total population of around 250,000 to 300,000” (Thorley: 2004, p. 79) and during the fourth century it remained at around 30,000, out of a population of at least 200,000 (Hansen: 2006, p. 45). If these figures are roughly correct, it follows that in Classical Athens political power was in fact concentrated in the hands of less than 20%, perhaps even 15% of the entire population, with the rest of the 80-85% being fully disenfranchised. Judging from the perspective of political equality, which is widely taken to be the core normative feature of contemporary democracy (e.g. Dahl: 1998; Christiano: 2008; Wilson: 2019), we then have a strong reason to object against using the democratic label with reference to the Athenian system.

While I cannot go into this complex debate here, it suffices to say that historians overwhelmingly label Classical Athens as democratic,<sup>3</sup> understanding the term in a way that is broader and closer to what Athenians themselves likely had in mind, as “political power wielded actively and collectively by the *demos*” (Ober: 1993, p. 481) or as “legitimate collective self-governance by citizens” (Ober: 2017, p. 29). Regardless, whether the political systems of modern states and Classical Athens should be labeled in the same way is not essential for the kind of project undertaken here, as long

as they share a minimum of core normative commitments. For example, another emerging area of historically-informed research in political theory, which has been grouped under the label of *plebeian politics* (McCormick: 2011; Vergara: 2020), draws on the institutional architecture of the Roman Republic in order to devise democratic innovations for contemporary regimes, even though the case they build on surely departs from the ideal of political equality even more than the Athenian one. Moreover, if we take democracy to require more than political equality, such as a robust embodiment of popular control (Weir and Beetham: 1999), it could be argued that, *in some respects*, the Athenian system democratically outperforms representative systems and could be beneficially explored as a source for improving our current democracies.

The second reason for thinking that the Athenian experience might be relevant for the topic of democratic resilience has to do with the historical facts on the ground. There is some controversy over the exact timeframe we should use to talk about democratic Athens, but the most common position is to take the Cleisthenic reforms of 508/507<sup>4</sup> as its starting point, and the reforms imposed by Antipater in the aftermath of the Lamian War in 322 as its end.<sup>5</sup> This gives us a timeframe of about 180 years during which Athens is continuously ruled democratically, with the two exceptions of the oligarchy of the Four Hundred in 411 and the narrower oligarchy of the Thirty Tyrants in 404/403. But these brief exceptional situations are themselves suggestive of the entrenchment of Athenian democracy, since the regimes in question are overthrown in less than a year from their inception. In Classical Athens, then, we have a case study of a robust democratic regime, which manages to endure, and to quickly rebound from isolated constitutional crises, for almost two centuries.

Finally, it could be said that the Athenian case is not unique even amongst the Greek *poleis*, with many other enduring democratic regimes existing contemporary to it, so why focus on it to the detriment of others? Surely, none were as large, influential, or powerful as Athens, but this does not constitute a reason to prefer the latter since we are fundamentally interested in dynamic processes that are internal to a political community (although they can be affected by external circumstances). Rather, singling out the Athenian case is warranted in light of the fact that we have, with respect to it, an extensive collection of historical sources that we can rely on in order to better understand both the institutional architecture of the political system but also, importantly, (at least part of) the underlying logic and aims of these institutions. These range from (almost) complete



political and historical works written during the respective timeframe (e.g. Herodotus' *Histories* or the Aristotelian *Athenaion Politeia*), to speeches of the Attic orators such as Demosthenes or Lysias, surviving fragments from Attidographers (Harding: 2007), plays (particularly the comedies of Aristophanes), as well as archeological and epigraphic evidence, such as pottery shards used during ostracism votes and stelae containing legal provisions (see Hansen: 1991, pp. 4-26 for an overview).

To summarize then, there are three primary reasons why taking an in-depth look at the institutional system of Classical Athens may be helpful for contemporary institutional design when it comes to democratic resilience: it shares core normative features with contemporary democracies but is also sufficiently distinct so as to provide different perspectives from the ones present in recent case studies; it displays remarkable durability, withstanding as a democratic system (in different forms) for almost two centuries, often in adverse circumstances; and it can be much better understood when compared to other historical examples due to the extensive sources for evidence we currently have.

### **3. Democratic Resilience, *Stasis*, and Institutions: Some Preliminary Remarks**

Before moving to the institutional mapping prefaced in the introductory section, it is important to make a few clarificatory points regarding the conceptual and theoretical framework employed. To start with, the concept of democratic resilience – central to the project – has been given a wide range of interpretations in the academic literature, from “an attachment to democratic ideals persists and such ideals continue to be canvassed in some quarters, in spite of hostility from the officially prescribed values and norms and apparent indifference from many elements in society” (Burnell and Calvert: 1999, p. 4) to “the outcome of critical actors’ efforts to represent marginalized groups in the face of threats to existing gender equality rights” (Chiva: 2023, p. 1). Most discussions of democratic resilience, however, rely (often implicitly) on two kinds of conceptualizations, which Volacu and Aligica (2023) have labeled as an *ex ante* account and an *ex post* one. While the former refers to “the ability of a political regime to prevent or react to challenges without losing its democratic character” (Merkel and Luhrmann: 2021, p. 872), the latter states that “a democratic system is resilient if it maintains its democratic

identity through a challenge aiming to undermine it" (Volacu and Aligica: 2023, p. 5).<sup>6</sup> The central difference between the two is that while the *ex ante* account assesses systemic capacity, which depends on institutional and agential features of a polity, the *ex post* account assesses the outcome of a process triggered by the initiation of an anti-democratic challenge.

This difference can be made clearer by borrowing a concept from ancient Greeks, i.e. that of *stasis*, which has been described by Finley (1985, p. 44) as „one of the most remarkable words to be found in any language“. While rooted in ideas such as “placing” or “position”, the political usage of the term was quite diverse, with its most well-known meanings being those of faction and, most often, civil war (Finley: 1985, p. 44; Berent: 1998; Hansen: 1991, p. 269). However, we should be cautious not to draw a too strict of an equivalence between *stasis* and the modern sense of civil war, since the latter can exist for a variety of reasons including secessionism, sectarianism, the replacement of one set of political rulers with another without changing the regime, etc. Drawing on the sources mentioned earlier, and in particular on Berent (1998), we should rather understand *stasis* more narrowly, as a typically violent (but not necessarily so<sup>7</sup>) factional struggle for core constitutional reform (*metabole politeias*). In Classical Greece, this process ordinarily pitted an oligarchic faction against a democratic one, with one trying to overthrow the existing constitutional order that was defended by the other.<sup>8</sup> But the concept can also be beneficially resurrected to describe a process which is still very much salient in contemporary times and is not really captured by another label, namely the case where there is a serious public contestation of constitutional foundations by a significant faction in society (either in terms of numbers or political influence). To clarify, by constitutional foundations I am not (necessarily) referring to constitutional provisions, but rather to the kind of political regime in place, which can be shaped through *some* constitutional, but also ordinary, legal instruments. There are already several terms that we ordinarily use to depict processes such as these. One is *revolution*, but, both in the social and strictly political sense, this necessarily entails a *transformation* of state structures (Skocpol: 1979, p. 4). Another is *democratic backsliding* or *erosion*, but this also requires the achievement of political change, and in a particular direction. By contrast, the concept of *stasis* is neutral in terms of outcomes, and could aptly be applied to describe the (violent or non-violent) process of factional struggle over constitutional foundations – which in modern times ordinarily pits an autocratizing faction and a (liberal-)democratic one –

even when this does not result in institutional change either ultimately or at any point throughout the process.

The concept of democratic resilience then, in both the *ex ante* and the *ex post* account, can be reconstructed around the notion of *stasis*, with the former representing the capacity of a democratic system for *stasis prevention*, and the latter representing a democratic *stasis resolution*. This distinction, which will be drawn upon in the following two sections, was visible in the institutional architecture of Classical Athens, particularly in respect to duties and liability for one's actions, even though it was not explicitly articulated as such. Just to give one example, since I will subsequently present these considerations in more detail, taking part in anti-democratic action ordinarily made one liable to denunciation in the Assembly through the procedure of *eisangelia*, but in the context of *stasis*, if democracy was overthrown, the same person would have been liable to be killed without trial (especially after 410)<sup>9 10</sup>.

These kinds of institutions represent the primary focus of this chapter. This is not due to mere descriptive historical interest, though as will be seen many of them raise fascinating historical puzzles, but rather because of the more general lessons we can draw regarding their role in democratic defense. The theoretical framework which grounds this analysis is, therefore, a neo-institutionalist one (see Hall and Taylor: 1996), taking individual action as being of fundamental explanatory value, in a context where such action is shaped to a more or less significant extent by incentives provided by institutions – which are broadly interpreted as (systems of) rules, that can be legal provisions but also informal social norms and practices. I therefore refrain from making strict rationality assumptions as a basis of behavior.<sup>11</sup> All that is needed for my purposes is the much less controversial position that some non-trivial sum of individuals sometimes act on the basis of the costs and benefits that they expect to incur or receive if they follow or deviate from formal or informal norms.

#### **4. *Stasis*-preventing Institutions in Classical Athens**

I begin with an outline of the basic institutions in use at various times during the timeline of Classical Athens, that can be convincingly interpreted as serving, at least in part, the function of preventing *stasis* and – therefore – ensuring the continuation of the democratic regime without significant

challenges and social conflicts threatening to overthrow it. I will discuss three such institutions, not necessarily in chronological order, skewing some of the historical controversies regarding them and focusing rather on explaining their purpose and the evidence we have of their employment towards the goal of democratic defense.

#### **4.1. Ostracism**

Out of all the institutions discussed in this chapter, ostracism is surely the one with which the average reader will be most familiar with, at least terminologically. The word ostracism (deriving from *ostrakismos*) has been preserved in numerous languages, including the one in which this chapter is written (English) and the native language of its author (Romanian). Nowadays it is commonly used to describe a kind of social exclusion, but as we will see in this section this differs from the original meaning of ostracism which referred to a kind of politically-motivated territorial exclusion.

The most extensive description of the institution of ostracism is found in a fragment from the 3<sup>rd</sup> century attidographer Philochorus who outlines it as a two-stage procedure. In the first stage a vote is taken in the Assembly on whether to hold an ostracism that year. If the vote is affirmative, a second round is to be held in the Agora at a specified time in the future,<sup>12</sup> where willing citizens would write a name on a potsherd (*ostrakon*), designating the person they wished to see ostracized. All potsherds were then tallied up and, if there were at least 6,000 potsherds in total, the person whose name was inscribed on a plurality of them was ostracized, meaning that they would have to leave the city for 10 years (Harding: 2007, F116; see also Arist. [*Ath. Pol.*] 43.5; and for a modern overview Hansen: 1991, p. 35 and Forsdyke: 2005, pp. 146-149). It is worth highlighting that the nature of the ostracism was strictly political. The property of the exiled was not confiscated, their citizenship rights would be fully restored on return and some retained their political clout once the exile had elapsed (Forsdyke: 2005, p. 152).

The date when the institution of ostracism was first introduced is subject to a minor historical controversy, due to a fragment referencing Androtion's claim that it was enacted just before the first ostracism, i.e. that of Hipparchus – who was a relative of the former tyrant Pisistratus (Harding: 2007, F109). This would put the date of enactment at around 488/487. But this view is contradicted by other sources, including Philochorus in

the fragment referenced above and Aristotle (Arist. [*Ath. Pol.*] 22.1), who maintain that it was enacted as part of the democratic reform package of Cleisthenes, in 508/507, and this is the standard scholarly position in contemporary times as well (see Forsdyke: 2005, pp. 281-284 for a justification). In any case, the date and person subjected to the first ostracism is indeed taken to be Hipparchus, with the last being Hyperbolus, likely in 415 (Forsdyke: 2005, p. 170). Between these, historians are confident of at least eight other ostracisms taking place, usually of major political and military figures.<sup>13</sup>

Both the dates of ostracisms – half are grouped in the 480s and only one takes place after 442 – as well as the persons ostracized are important for reconstructing the aim of this institution. This is, of course, not an easy task since we do not have access either to the reasoning of Cleisthenes when he proposed it, nor to the reasoning of citizens who cast inscribed *ostraka* as part of the process.<sup>14</sup> Consequently, there have been a variety of explanations of its functions, ranging from interpreting it as an instrument against tyranny, to a form of punishment against treason, corruption, or religious offences. Forsdyke (2005), who has undertaken the most in-depth and influential modern analysis of the institution of ostracism, takes a critical view of these explanations, advocating for a pluralist approach whereby ostracism is understood as a collective ritual with “a number of practical and ideological functions for the Athenian democracy”, that evolve over time (Forsdyke: 2005, pp. 158-159). If the first three known uses are probably connected to the very serious threat regarding the restoration of tyranny with Achaemenid support (on this point see Rhodes: 2002, p. 198), from the ostracism of Xanthippus (Pericles’ father) in 484 onwards they almost always target leading political elites that are not perceived as pro-tyrannical. The most plausible explanation offered by Forsdyke, holding in mind the general idea that individual citizens might have specifically inscribed *ostraka* for many different reasons, is that “the fundamental significance of ostracism for the Athenians was its role as a deterrent to violent intra-elite conflict and its symbolic articulation of the power of the people” (Forsdyke: 2005, p. 161). On this view, ostracism worked as a stabilizing force for the democratic regime, in that when severe tensions began to arise between competing political factions, these could be extinguished before spilling into the violent process of *stasis* by simply exiling the leading figure of one of these factions. This *stasis*-preventing function is also in line with Hansen’s (1991, p. 35) interpretation of ostracism, according to which “in the years 510-507 he [Cleisthenes]

had had personal experience of how the rivalries of political leaders could split the state: to obviate such stasis in the future he introduced a procedure by which a leader could be sent into banishment". The practical deployment of ostracism beginning with 484 also lends important support to this view. If we look at the list of factional leaders drawn by Aristotle (Arist. [*Ath. Pol.*] 28.2) for the better part of the fifth century: Xanthippus v. Miltiades, Aristides v. Themistocles, Cimon v. Ephialtes, and Thucydides (son of Melesias<sup>15</sup>) v. Pericles, we can notice that at least one of each pair, and sometimes both (i.e. Aristides and Themistocles) were ostracized, ordinarily while at the height of their political influence.

Another interesting aspect, for this chapter, regarding ostracism which is at least worth flagging is that it is the only Athenian institution discussed here whose revival (in a modified form) has been explicitly advocated as part of a contemporary mechanism for democratic self-defense. The proposal, advanced by Anthoula Malkopoulou (2017), would seek the strictly political temporary expulsion of a citizen from holding office, through a popular vote, without recourse to the much more dubious practice of territorial exclusion. The idea has a number of interesting upshots, including the possibility to block anti-democrats from gaining office in a way that could be democratically legitimate, decentering the discourse on democratic defense from the institutional level to that of citizens, and the potentially moderating effects of such a practice on the ideological positions of politicians. However, while acknowledging these possibilities, I've also raised what I believe is a strong (and perhaps decisive) objection against the proposal, which refers to the risk that it poses for the capacity of representatives of persistent minorities for even standing for political office, since alongside broad pro-democratic coalitions, the institution can also result in broad nationalistic, religious, anti-LGBTQ etc. coalitions to be formed, that can politically expel their perceived opponents (Volacu: 2021).

Without delving into a more detailed analysis here, I do think it is important to underline, therefore, that the more beneficial way of engaging with political history for the purposes of contemporary political theory is not to try to pluck out particular institutions from their historical context and advocate for their revival (though sometimes this can make sense), but rather to reconstruct their logic and aims and then – if these are also shared in our contemporary contexts – to see how we can draw on their normative features in order to construct institutions that are aligned with our current values and philosophical commitments.

#### 4.2. *The Graphe Paranomon*

The institution of ostracism fell into disuse in the last century of Athenian democracy, although the question of whether to hold an ostracism was still put in the Assembly every year. This does not mean that the threat of *stasis* generated by intra-elite conflict suddenly disappeared after 415. Rather, alternative institutions started to be employed to similar effects (despite having other purposes as well), the most notorious such institution being the *graphe paranomon*.<sup>16</sup>

The term *graphe paranomon* is translatable as “public prosecution for unconstitutional proposal” (Hansen: 1991, p. 174). It was most likely introduced in the reforms proposed by Ephialtes, so in 462, but the first certain instance of its use is recalled to have taken place in 415<sup>17</sup> (Andoc. 1.17), meaning indeed that its popularity arises around the same time that ostracism is no longer used. As part of the political overhaul of 403/402, the *graphe* is split into two versions, following the newly introduced distinction between laws (*nomoi*) and decrees (*psephismata*), with the former continuing to be challenged through a *graphe paranomon* and the latter through a *graphe nomon me epitedeion theinai*. The procedure, however, remained largely the same in both cases. Hansen (1991, pp. 205-208) outlines it as follows: the mechanism is initiated through an oath sworn by any willing citizen, either before the vote on its adoption in the Assembly or after the vote passes (in which case, the decree/law is suspended until the end of the procedure); the accuser then delivers a written charge which could be either procedural (it violated another law or it was proposed illegally) or substantive (i.e. it was damaging to the *demos*); the case is subsequently brought in front of a jury panel (*dikasterion*), which was composed of a minimum of 501 citizens (sometimes double or even more than double in size); the accuser and the proposer of the law then face each other in court; if the former won the majority of votes, the law would be rescinded and the proposer punished, but if the former lost by more than 4/5 of the vote, he would be punished with a fine and partial loss of citizenship rights (*atimia*).

Even with these potential costs for the accuser, the *graphe paranomon* was likely used quite often, suggesting its practical importance for the Athenian *polis*. While we have definite evidence for thirty-five cases for the period 403-322<sup>18</sup>, it has been suggested that “jurors must have judged a *graphe paranomon* something like once every month” (Hansen: 1991, p. 209). The question, then, is what was the purpose of the institution? As in

the case of ostracism, it is reasonable to think that the *graphe paranomon* served a variety of functions. Hansen (1991, pp. 208-210) focuses on the epistemic function, since political decisions had to be approved by a separate body when they were challenged through the *graphe*. Another common interpretation is that, seen through our contemporary lens, the two types of public prosecutions performed a judicial review function, since they questioned the “constitutionality” of decrees or laws (Canevaro: 2017).

More important for my present purposes, the *graphe* served a democratic function as well, with Demosthenes famously claiming that giving up these kinds of indictments for illegality would spell the “ruin of [...] democracy” (Dem. 58.34). There are at least two reasons for this. First, the institution prevented the subversion of democracy through legal means, since decrees would be voided if they violated the democratic rules in place, legal reforms could only target specific institutions and not go against the broader democratic system, and, at least in the fourth century, the practice evolved to the point where “breach of the (democratic) principles underlying the law” (Hansen: 1991, p. 206) also represented a valid reason to overturn a decision. Second, since the institution threatened to punish the proposer of a decree or a law if it was established to be unconstitutional, citizens were discouraged from even bringing forth such proposals to begin with, especially as penalties went – at least in one case – as far as execution.<sup>19</sup> Having this punitive potential in mind, the *graphe paranomon* was effectively used as a political weapon throughout the fourth century, especially targeting decrees aiming to confer honors on Athenians or foreign citizens<sup>20</sup> (Hansen: 1991, p. 211). The consequences of these arrangements were likely similar in scope to those of ostracism. Political elites were faced with consistent scrutiny by the *demos* and, therefore, needed to placate them in their public stances so that when they were subjected to a vote they retained popular backing. While democracy was in place, the *demos* continued to hold power, so any attempt at anti-democratic overtures in political decision-making, that could eventually lead to *stasis* and the potential subversion of the *demos*, was effectively nipped in the bud.

### **4.3. *Eisangelia* and the Law Against Tyranny**

Ostracism was used, at most, against one person per year. The *graphe paranomon* was not limited in its usage, but could only be deployed against



someone who proposed a law or a decree. Other institutions, however, did not presuppose restrictions of this kind and could be more widely used against political elites that were seen as potentially inimical to democracy. The most important of them was the so-called *law against tyranny*.

The historical evolution of this institution is even more controversial than those discussed in the previous sections. Its origin, according to Ostwald (1955, p. 105) is pre-Solonian, due to a fragment from Plutarch (Plut. *Sol.* 19.3) which mentions an amnesty granted by Solon that included those convicted for the attempt to establish a tyranny. Whether it continued in the same form, was changed, or was newly enacted as part of Solon's reforms in 594, it is clear that Athenians in the fourth century traced some version of it back to this time. According to Aristotle (Arist. [*Ath. Pol.*] 8.4), "Solon [...] appointed the council of the Areopagus to guard the laws [...] In general it watched over most and the greatest of the city's affairs [...] it tried those charged with conspiring to dissolve the democracy, under the law of denunciation which Solon enacted to deal with them". The law was likely in place in a similar form after the reforms of Cleisthenes in 508/507, with the amendment that the Assembly now shared the power to hear political trials and after the Ephialtic reforms of 462 the Areopagus was completely stripped of that power, which was put in the hands of the courts. It was, however, changed at some future point, with Ostwald (1955, p. 118) dating it as most likely to have taken place in the reforms of 403/402, and with another modification taking place a few decades later that removed the Assembly's juridical function completely (Hansen: 1991, p. 159). This is the version of the law for which the contents are known quite well, due to its explicit citation in a speech of Hypereides, who states that liability for impeachment arises "if anyone [...] seeks to overthrow the Athenian people [...] or if he gets together with anyone with a view to overthrow of the people, or assemblies an association; or if anyone betrays a city or ships or an army or fleet; or says things, as a speaker, not in the best interests of the Athenian people and takes money for doing so" (Hyp. 4.7-4.8).

The procedure used was typical for Athenian trials: an *eisangelia* (denunciation) could be made by any citizen in the Assembly against another person on the grounds previously mentioned; a decree was then passed regarding the logistical aspects of the trial (including whether it was to be judged by the Assembly itself or the courts); on the day of the trial the denouncer appeared as an accuser (otherwise he would be fined and suffer partial *atimia*), while the person accused also had the opportunity

to defend herself; following the speeches, the people assembled as jurors voted on whether the accused was guilty and, if so, for the penalty they should receive (Hansen: 1991, pp. 214-215).

The institution was likely used quite extensively. If the main target of the *graphe paranomon* were the *rhetores*, i.e. the politicians, *eisangelia* was mainly (though certainly not exclusively) directed against the *strategoï*, i.e. the generals. Generalships were peculiar offices in Classical Athens, as they were not occupied through what was thought to be the most democratic way, namely through lottery, but were elected annually, with immediately renewable mandates. A board of only ten generals were elected each year, however, more than a quarter of all known *eisangelia* targeted generals (Hansen: 1991, p. 216). Furthermore, as Hansen (1991 p. 217) suggests, “at least a fifth of all generals were confronted sooner or later by an *eisangelia*; in other words, in every board of ten generals there were probably at least two who, in the course of their military careers, would be denounced by that procedure. And their first *eisangelia* was usually their last, for it usually ended with condemnation and the death sentence – in the light of which many a general preferred to flee into exile and be condemned in his absence”.

This assessment puts the spotlight on the effects of the law against tyranny, and the *eisangelia* procedure more generally. The institution explicitly offered an instrument through which Athenian citizens could dismantle anti-democratic factionalization and could block actions aiming at the subversion of democracy in its infant stages, thereby averting *stasis*. However, the evidence we have concerning its practical use points to a role that is similar to that performed by the *graphe paranomon*, only for another category of political elites, namely those who played a leading role in public life not through their political enterprises but through their military clout. Here, perhaps even more often than in the case of the *graphe paranomon*, the procedure effectively ensured that power was diffused in the *polis*, with elites holding influential offices being constantly rotated either following a successful prosecution or by their forced departure into exile; and, furthermore, the significant threat of being (successfully) prosecuted would have surely weighed significantly in the conduct of these generals towards the *demos* and their ability to control the *polis* through the democratic regime, since it was the *demos* who decided – in the Assembly or in the courts – whether the accused was to be found guilty and, if so, the way in which he should be punished. The dispositions created through such institutions amongst the ranks of political and military

elites, must have been ones that were favorable towards the interests of the *demos*, including those regarding the preservation of democracy and the avoidance of *stasis*.

## 5. *Stasis*-resolving Institutions in Classical Athens

For approximately 180 years, Athens retained its democratic system while being largely devoid of *stasis*. It is not unreasonable to suggest that a significant reason for democratic stability was in the type of institutional arrangements previously outlined, especially due to their role in subverting elite overreach and maneuvers that would be contrary to popular will. Still, as previously mentioned, this period also saw two periods of *stasis* in Athens, during which the democratic regime was initially overthrown and subsequently restored. The fairly short timeline of survival for the oligarchical regimes and the formidable challenges quickly and effectively mounted against non-democratic rule represent the main reason why we should study these chapters of Classical Athenian history, with an eye to lessons for present times. As with the case for *stasis*-prevention, discussed earlier, here we can also see that Athenians developed institutions that aimed and succeeded to shape individual behavior in a democracy-defending direction, ultimately resolving the *staseis* with a democratic outcome. Subsequently, I will outline four primary institutions that contributed to this situation.

### 5.1. *The Cult of the Tyrannicides*

Many contemporary societies hold dominant historical narratives regarding their ethnogenesis, or the founding origin for their nationhood or statehood, that often bend historical truth to a more or less severe extent, in order to build a certain positive image about themselves. Athenians, it appears, were no exception when it comes to the foundational story of their democracy (Teegarden: 2014a, p. 32). The core of this story revolved around the public assassination of the tyrant Hipparchus (son of the better-known Pisistratus) by Harmodius and Aristogeiton a few years prior to the Cleisthenic reforms. The two Athenians were commonly assumed to have performed an act of tyrannicide by killing Hipparchus, thereby giving birth to democracy through that act and becoming its original heroes. That this story was widely believed by Athenians can be surmised from Thucydides,

who is adamant about the fact that it represents an inaccurate account, despite being commonly held (Thuc. 6.53.3-6.59.4), but both Herodotus (Hdt. 5.55) and Aristotle (Arist. [*Ath. Pol.*] 18) share the account offered by Thucydides, which is widely accepted in contemporary scholarship. In this more accurate version of events, Hipparchus is indeed assassinated by Harmodius and Aristogeiton, but this is by no means the founding act of democratic Athens. For one, Hipparchus was not the tyrant of the *polis*, but only the brother of the tyrant, Hippias. For another, Hippias is not assassinated but continues to rule tyrannically for four more years until he is ousted through the means of a Spartan intervention under Cleomenes. And, finally, the reasons for Hipparchus' assassination are suggested as having less to do with a democratic aim and more to do with a personal quarrel between him and his assassins.

In any case, it is beyond any doubt that the actions of Harmodius and Aristogeiton were widely acclaimed after the Cleisthenic reforms of 508/507 (thus, less than a decade after the assassination), as statues of them were erected in the Agora as early as 507 (Shear: 2012, pp. 33-34). In time, the public accolades turned into a full-blown cult, with numerous social, political, and religious rituals surrounding it, some of which we can reconstruct from various sources such as speeches and ancient manuscripts. One well-known example is of religious rituals, including the performance of songs at the Panathenaia festival starting from the late sixth century, which were eventually extended, as evidenced by Demosthenes: "[...] will you permit like treatment for the citizen descended from Harmodius and your greatest benefactors, those whom, to mark their deeds on your behalf, you include by law in the festive libations at all your sanctuaries and sacrifices, whom you exalt in song and venerate on a par with the heroes and gods?" (Dem. 19.280). At some point, likely after 410, there was also a law prohibiting the public slander of the tyrannicides, as illustrated by Hypereides: "[...] the people wrote a prohibition in a law, forbidding anyone either to slander Harmodius and Aristogeiton or to sing rude songs about them" (Hyp. 2.3). But perhaps most notorious were the special socio-economic benefits conferred upon the descendants of Harmodius and Aristogeiton, namely *sitesis*, i.e. free meals in the Prytaneion for life, *proedria*, i.e. front row seats at festivals, and *ateleia*, which meant that they were exempt from sharing some public burdens, such as paying for choruses (which was expected from wealthier citizens).<sup>21</sup>

Beyond providing a common narrative as to the foundations of democracy, the evolving cult of the tyrannicides served as an instrument that projected the “paradigm for the good Athenian citizen” (Shear: 2012, p. 40) in a public and perennial manner. The ideal Athenian citizen should cultivate his character and model his behavior by following the example of Harmodius and Aristogeiton, in which case he will be remembered heroically in the future and his descendants will benefit from their actions as long as democracy stands. This meant that such a citizen should not refrain from going even as far as assassination, should the city be in the throes of *stasis* and democracy overthrown. As Teegarden (2014a, p. 32) puts it, “tyrannicide was the act of a committed democrat who was unwilling to wait for others to liberate his fellow citizens”. How effective the cult of the tyrannicides was in resolving *stasis* with a democratic outcome, we cannot know for sure. But it is not at all far-fetched to think that the kind of beliefs instilled by the ideas and practices associated with it were important in the restoration of democracy following the oligarchy of the Four Hundred. The reason for this is that one of the key moments in this process (and perhaps the most salient one) is the assassination of Phrynichus in 411, who was one of the main political figures of the new regime.<sup>22</sup> There is a divergence of accounts regarding the actual event, with Thucydides claiming that the assassins were a border-guard and an Argive (Thuc. 8.92.2), and Lysias claiming in a speech made around 398 that the two were in fact Thrasybulus of Calydon and Apollodorus of Megara (Lys. 13.71). Shear (2011, pp. 141-142) makes a compelling case in favor of the latter account, highlighting the fact (also referenced in his speech by Lysias), that the two had received Athenian citizenship with full civic rights, golden crowns and other honors at the City Dionisia festival in 409. Thus, while the pair of tyrannicides contributing to the resolution of the 411 *stasis* did not ultimately receive the same honors as Harmodius and Aristogeiton, likely both because there was no law mandating an identical treatment but also because they were not Athenian citizens, they were greatly honored and received important benefits for their action. Surely, this experience must have made the cult even more potent in shaping attitudes throughout the *polis* and, in a short amount of time, a new institution would be introduced aiming to give a more formal basis for the rewards bestowed upon a tyrannicide. This is the institution I now turn to.

## 5.2. *The Oath of Demophantus*

The year 411 was an important one in the history of Athenian democracy. Following the catastrophic Sicilian Expedition of 415-413 and the support given by the Achaemenid Empire to Sparta, the Athenians were in a very precarious military situation, which quickly turned into political instability and, eventually in an anti-democratic coup which set up a Council of Four Hundred as the dominant power. A series of events, including a pro-democratic revolt of the Athenian fleet anchored at Samos, the above-mentioned assassination of Phrynichus, the push for moderation from within the coup's members, and the revolt of a section of the army in Piraeus led to a fairly quick restoration of democracy (Thuc. 8.45-8.97). In total, the *stasis* lasted less than four months, from June to September of 411 (Teegarden: 2014a, p. 17).

In the aftermath of these events, the Assembly adopted a decree proposed by Demophantus, with the very clear aim of shoring up citizen mobilization against any future anti-democratic forces, should they succeed in overthrowing democracy again. We have excellent evidence for the contents of that decree due to a speech made by Andocides in 399, where he reads the decree in full from the stele on which it was inscribed (Andoc. 1.96-1.98). The decree comes in two parts. The first outlines that overthrowing the democracy or holding office while democracy is overthrown makes one liable to be killed and his property confiscated, and exculpates the killer from any penalty. The second is an oath, that all Athenian citizens had to swear, which has remained known as the Oath of Demophantus. The oath was as follows:

I shall kill, by word and deed, by vote and by my own hand, if I can, anyone who overthrows the democracy at Athens, and anyone who, when the democracy has been overthrown, holds any office thereafter, and anyone who aims to rule tyrannically or helps to set up the tyrant. And if anyone else kills him, I shall consider that man to be pure in the sight of both gods and spirits, because he has killed an enemy of the Athenians, and I will sell all the property of the dead man and give half to the killer and not keep any back. And if anyone dies while killing or attempting to kill any such man, I shall care both for him and for his children, just as for Harmodius and Aristogeiton and their descendants. And all oaths that have been sworn against the people of Athens, at Athens or on campaigns or anywhere else, I declare null and void (Andoc. 1.97-1.98)

There are several important aspects to point out regarding this institution, even though spatial constraints prevent a more in-depth analysis. First, we should note that in spite of the language couched in terms of tyranny, there is an important shift from earlier institutions such as the law against tyranny (see section 4.3 above), in that the accent is no longer placed on mitigating the threat from a dynastic tyranny but from a broader oligarchy, directing the punishment at anyone who occupies offices during the overthrow of democracy. Second, the focus of the decree is placed on the case where *stasis* is unfolding, undoubtedly based on the experience Athenians had with such a process no more than a year before. Part of the aim must have been to prevent *stasis* altogether by making it publicly known that there will be consequences of the utmost severity for anyone who would engage in it on the anti-democratic side. But the other, likely central, part was to effectively mobilize citizens to defend democracy in case *stasis* was unfolding, through generating “common knowledge<sup>23</sup> of credible commitment to defend the democracy” and solve the coordination problem inherent to situations of this kind, by incentivizing citizens to “take the all-important first step in defense of the democracy - to ‘kill a tyrant’ and thus initiate a revolutionary bandwagon” (Teegarden: 2014a, pp. 52-53), by bestowing upon them honors similar to those reserved for Harmodius and Aristogeiton discussed in the previous sub-section.

As to the practical effects of the Oath on the beliefs and actions of Athenians in future events, we can once again only resort to informed conjectures since we do not have access to their thoughts aside from those made explicit in our surviving sources. But there are still several things to be said. The most immediate effects, discussed at length by Shear (2011) regard the role played by the Oath and its accompanying rituals in restoring social peace and reunifying the *polis*. But the more important ones relate to the next *stasis* that took place at Athens. Following its defeat in the Peloponnesian War, the Spartans forced a regime change in 404 that concentrated all political power in the hands of a board of thirty individuals, commonly referred to as the Thirty Tyrants. This regime was overthrown in less than a year as well, through the successful mobilization of Athenian exiles whose ranks grew increasingly with time and, after they won several victories in the field, through the pressure of those remaining in Athens who deposed the Thirty Tyrants and a subsequent board of ten oligarchs who took their place (Arist. [*Ath. Pol.*] 37-38; Xen. *Hell.* 2.3-2.4). What drove the mass mobilization that was key to democratically resolving the *stasis* of 404/403 is probably a complex of factors, but, as Teegarden

(2014a, pp. 43-52) has extensively argued on a number of grounds, it is quite reasonable to think that the Oath played a significant part in this process.

Furthermore, there is also a case to be made, albeit more difficult one, that “the remarkable stability of the fourth-century Athenian democracy should ultimately be attributed to the fact that all Athenians swore the oath of Demophantus, and to the successful mobilization against the Thirty tyrants that followed” (Teegarden: 2014a, p. 53). Here again, I believe it is more likely that the robustness of democracy can be better explained by the conjuncture of a range of institutions – described in this chapter – rather than the result of a single one, but it is worth noticing that the Oath was still recalled much later during the fourth century and it was imbued with a kind of transgenerational character, as Lycurgus indicates in a speech given in 330: “You have sworn in the decree of Demophantus to kill the man who betrays his country, whether by word or deed, hand or vote. I say “you”; for you must not think that, as heirs to the riches bequeathed by your ancestors, you can yet renounce your share in their oaths or in the pledge your fathers gave as a security to the gods, thereby enjoying the prosperity of their city” (Lycurg. 1.127).

### **5.3. *The Law of Eukrates***

In the second half of the fourth century Athenian democrats were confronted with a new threat, which did not come from the Achaemenid Empire, nor Sparta, but rather from the rising power of Macedon. This threat was more forceful than ever after the Athenian defeat at the battle of Chaeronea in 338, which left Philip II as hegemon over almost all of Greece through the establishment of what modern historians call the League of Corinth. Even though Philip did not impose regime changes on the more or less reluctant allies that joined the League (including Athens), there was a palpable concern amongst Athenians that their democracy was in danger. These contextual details form the background for the enactment of a new institution in 337/336, called the Law of Eukrates. Luckily, we have unmediated access to the content of this law due to the excavation of a stele on which the law was inscribed, in 1952 (Ostwald: 1955, p. 103). The text reads as follows:

If anyone rises up against the People for a tyranny or joins in establishing a tyranny or overthrows the Athenian People or the democracy at Athens,



whoever kills anyone who does any of these things shall be without guilt; and it shall not be permitted for the councillors of the Council of the Areopagus, if the People or the democracy at Athens have been overthrown, to go up to the Areopagus or to sit in session or to deliberate about anything; but if, when the People or the democracy has been overthrown at Athens, any of the councillors of the Areopagus go up to the Areopagus or sit in session or deliberate about anything, he shall be deprived of citizen rights, both he and his descendants, and his estate shall be public property, and a tithe for the goddess (IG II<sup>3</sup> 1 320).

The attentive reader will immediately notice that the first part of this law is very similar to the decree adopted in 410 at the proposal of Demophantus, reiterating that those engaged in the subversion of democracy were liable to assassination and that their assassins would be free from any punishment. The second part, however, completely departs from that decree, focusing on a single institution, i.e. the Areopagus. This has indeed represented a curious emphasis and one which has puzzled many historians up to the present time. Membership in the Areopagus was for life (the only such body in Athens) and it was composed of former archons. Traditionally, the archonships were elected positions and reserved for the top two property classes in Athens, therefore the Areopagus had a decidedly elitist bend. The body was also quite powerful once, acting as “guardian of the laws” and as a court of justice, including for political trials. In the first half of the fifth century it was reformed several times however, culminating in the constitutional revisions proposed by Ephialtes that curtailed the power of the Areopagus, which was now selected by lot and opened to the third property class (the *zeugites*) as well,<sup>24</sup> to a single function, i.e. that of a homicide court. Some of its powers were gradually restored throughout the fourth century and by the time of the passage of the Law of Eukrates it was quite an active body in Athenian politics (Hansen: 1991, pp. 288-295).

What was then, the aim of the second part of the Law of Eukrates? Two sets of explanations have been offered. The first, which is more intuitive and traditionally more favored by historians (see Wallace: 1989 for a defense and an overview of positions), is that the Athenians were suspicious of the Areopagus, both perhaps due to some of its recent activities and more generally, due to the fact that it was still perceived to some extent as an artefact of the non-democratic regime. On this view, the law meant to functionally debilitate the Areopagus should democracy be overthrown, so as to make collusion with the new regime impossible. More recently, Teegarden (2014a, pp. 103-105) has compellingly objected to this

explanation, drawing on a number of sources that indicate the Areopagus was in fact quite anti-Macedonian in its actions prior to the passing of the law. Teegarden insightfully builds an alternative view of the aim of Law of Eukrates, which revolves around the idea that the Athenians saw the Areopagus not as an institution which threatened democracy, but rather as one that could contribute to its protection. In particular, he argues that the main problem Athenians faced was not with a sudden overthrow of democracy (as in 411 and 404), but rather a gradual erosion under Macedonian pressure. The point of the ban on meetings by the Areopagus was, in this context, to serve as a “signaling institution”, in that when the Areopagites decided to no longer hold their meetings (which took place on the Hill of Ares, a visible site to the urban population), this was the signal to all other Athenian citizens that democracy was overthrown. Regardless of which explanation turns out to be more plausible, both of them point in a similar direction for the purposes of this chapter, in that both suggest that the Law of Eukrates is meant to play a part in the democratic resolution of the *stasis*, either because it prevents dangerous anti-democratic collusion once the process is unfolding, or because it makes citizens aware of the fact that action is needed in order to restore democracy in the *polis*.

#### **5.4. The Law on Stasis**

The final institution discussed in this chapter, which has been sometimes called the *Law on stasis* and other times the *Law against neutrality* is probably the most controversial of all those outlined, not due to its aim<sup>25</sup> or dating, but due to the uncertainty of its very existence, even though the wide majority of historical scholars treat it as authentic (Hansen: 1991, p. 298; Rhodes: 2002, p. 189; Ober: 2022, p. 192). The common statement of the law comes from a passage in Aristotle (Arist. [*Ath. Pol.*] 8.5): “Seeing that the city was often in a state of strife, and that some of the citizens through apathy accepted whatever might happen, he enacted a special law to deal with them, that if when the city was torn by strife anyone should refuse to place his arms at the disposal of either side he should be outlawed and have no share in the city”.

To start with, we should note that there is a debate on whether “outlawed” is to mean merely stripped of civic rights (*atimos*), or actually exiled (Forsdyke: 2005, p. 98), with the former interpretation usually preferred. But aside from that, the prescriptive direction is fairly clear:

whenever *stasis* is unfolding in the *polis*, citizens should take one of the sides in the conflict, lest they are to be penalized after its conclusion. In order to understand the aim of the law, we need to place it in the wider context of the Solonian reforms, which are designed with the intent of ensuring political and social stability in the *polis* (see Wallace: 2007 for an overview). In this light, the institution has been ordinarily interpreted as an instrument for precluding civil violence and attempts to upend the constitutional order (e.g. Forsdyke: 2005; Gouschin: 2016). Ober (2022, p. 192) articulates the possible logic behind it as such: “Solon here appears to be driving up the cost of conflict in an attempt to prevent its outbreak. Rather than allowing a matter to be violently contested only among polarized parties with very strong preferences over outcomes, and thus with much to gain or to lose, Solon pushed citizens with weaker preferences into the fray. This might incentivize those ‘in the middle’ to intervene before the conflict was joined, especially if they were a large majority [...] If the likelihood and the costs of losing were both high, the expected value of fighting would fall below the value of the status quo and *stasis* would be avoided”. If this is right, the law should probably be seen more as a *stasis*-preventing institution, than a *stasis*-resolving one, in the framework employed in this chapter. However, it might be argued that in time, the institution evolved into one that neatly fits into the latter category as well. While Solon surely did not have anything like democratic defense in mind, for a *polis* like Athens in the fifth and fourth centuries, in which a high number of citizens were (even if selfishly) committed to democracy, the institutional effects of the law – if citizens indeed felt it was binding – would have been to mobilize them in taking arms for one of the parties in the unfolding *stasis*, and this party would overwhelmingly have been the democratic one.

Of course, this could only have been the case if the institution actually existed in one form or another – otherwise, how could citizens have taken it to have been binding? Without going into the finer details of this dispute – which is one that in any case demands historical not philosophical proficiency – (see Forsdyke: 2005, pp. 98-99; Teegarden: 2014b), I will make one point that I believe is sufficient for my purposes. Probably the strongest argument invoked against the authenticity of this law refers to a speech given by Lysias in the years following the restoration of democracy in 403. The bulk of the speech represents an attack levied by Lysias against Philon for having fled Athens during the *stasis*. The relevant excerpt for the Law on *stasis* is the following: “He argues, so I am told, that, if it was a

crime to absent himself at that crisis, we should have had a law expressly dealing with it, as in the case of all other crimes. He does not expect you to perceive that the gravity of the crime was the reason why no law was proposed to deal with it. For what orator would ever have conceived, or lawgiver have anticipated, that any of the citizens would be guilty of so grave an offence?" (Lys. 31.27). The common interpretation drawn from here is that not taking sides in the *stasis* was not illegal, otherwise Lysias – who was not a citizen but a long-time Athenian resident and a respected rhetor – would have appealed to such a law in order to challenge Philon. There are some reasons to question this interpretation (Teegarden: 2014b, pp. 158-159). But even if we take it at face value, Lysias seems to suggest that while there was no *formal* legal requirement to actively take a side during *stasis*, there was definitely some kind of a binding social norm<sup>26</sup> that citizens were expected to do it, to the point where it was almost inconceivable not to do it – and therefore there was no point in legislating such conduct. While not settling the matter of its enactment by Solon, this passage gives credence, in any plausible interpretation, to the idea that there was an effectively binding *institution* – whether formal or informal – that shaped citizen behavior during *stasis*, so that they would take a side in the civil conflict.

## 6. Conclusion and future research

As explained, the main objective of the chapter was not to argue in favor of any particular position, but rather to outline the principal institutional arrangements Classical Athenians developed in time in order to prevent and respond to *staseis* that were inimical to democracy. The effectiveness of these arrangements can be gauged at if we look at the political situation between 508 and 322, with democracy being remarkably resilient throughout this period. The chapter therefore constitutes a starting point in a broader project, the ultimate aim of which is to develop normative prescriptions – built on the institutional logic we can excavate from the case of Classical Athens – that strive to make contemporary democracies more stable and resilient when faced with autocratic challenges. This, however, remains a task for future works.

## NOTES

- <sup>1</sup> See Daly (2019, p. 11) for an overview of the various labels which have been used to describe what is a fundamentally similar phenomenon.
- <sup>2</sup> See Green (2015) for a defence of this type of analysis.
- <sup>3</sup> See Raaflaub (2007, pp. 11-13) for a basic, but convincing, defence of this position. Still, the unpersuaded reader can resort to using the original label of *demokratia* (see Hansen: 1991, pp. 69-711 and Ober: 2008b for an in-depth analysis of the term) as delineated from democracy in order to describe the political regime of Classical Athens, even though I will employ, for simplicity, the term democracy.
- <sup>4</sup> All historical dates given in this chapter are BCE.
- <sup>5</sup> The latter is less controversial, since the wealth criterion introduced for full enfranchisement marked a clear departure from what was perceived to be a core democratic feature (see Canevaro: 2011 for a discussion of these reforms). The former is more controversial, with another view – most forcefully defended by Raaflaub (2007) – placing the beginning of Athenian democracy in the succession of reforms proposed by Ephialtes in 462/461 and Pericles in 451/450. Two other views, the one likely harboured by most Athenians (at least in the fourth century), i.e. that Athenian democracy begins with the Solonian reforms in 594 (Hansen: 1991, p. 299) and that democracy only begins with the reforms of 403/402 have sometimes been advocated but are outside the scholarly mainstream (see Cartledge: 2007, pp. 163-166 for brief critical accounts of these views).
- <sup>6</sup> See Holloway and Manwaring (2023) for a more extensive inventory of definitions.
- <sup>7</sup> See Correa (2022) for a discussion on non-violent *staseis* in Athens.
- <sup>8</sup> The most vivid depiction of such an event is Thucydides' account of the *stasis* at Corcyra (Thuc. 3.70-3.85).
- <sup>9</sup> The claim is based on the evidence we have in respect to the evolution of the law against tyranny (see sec. 4.3 below) and the transgenerational character of the Oath of Demophantus (see sec. 5.2 below).
- <sup>10</sup> While the kind of contemporary factional struggles for constitutional essentials we are interested in here are importantly different from the ones in Classical Greece, in that they are largely non-violent and gradually autocratizing, the idea that institutional design should track the distinction between *stasis* prevention and resolution (or, in more familiar language, between ordinary democratic institutions and democracy-defending institutions at work during a process of democratic erosion) has been – to my knowledge – largely ignored (however, for an ethical assessment of the differential permissibility of pro-democratic action in the two contexts, see Wolkenstein: 2023).
- <sup>11</sup> There is, however, such a strand of literature that uses rational-choice modeling to explain some of the Classical Athenian institutions that I will have in mind here as well (e.g. Tridimas: 2016; Lyttkens et al.: 2018; Schwuchow and Tridimas: 2022)

- <sup>12</sup> Hansen (1991, p. 35) puts it at around two months.
- <sup>13</sup> Some of which will be named below.
- <sup>14</sup> Although sometimes these *ostraka* contain additional writing alongside a name, the ones excavated ordinarily only reveal personal animosity towards the respective person rather than more abstract justification (see e.g. Forsdyke: 2005, p. 155) as does the well-known anecdote recounted by Plutarch (Plut. *Arist.* 7.6), in which an illiterate Athenian asks Aristides (without knowing his identity) to inscribe his own name on the *ostrakon* for no other reason than that he was fed up with him being called “the Just”.
- <sup>15</sup> A different person from Thucydides, son of Olorus, the much better known historian.
- <sup>16</sup> See Hansen (1991, p. 205) and Lyttkens et al. (2018, p. 397) for a defence of the claim that the *graphe paranomon* functionally replaced ostracism.
- <sup>17</sup> Although the procedure is suggested to have been in use as early as the Mytilenean debate in Thucydides, which means that it goes back at least to 427 (Thuc. 3.43).
- <sup>18</sup> And six for the *graphe nomon me epitedeion theinai*.
- <sup>19</sup> This is the case of Eudemus of Cydathenaeum, mentioned by Demosthenes (Dem. 24.138), who wanted the same capital punishment to be dealt to the subject of his speech, accusing him of having proposed a law postponing the arrest of debtors, ostensibly to the advantage of some of his friends.
- <sup>20</sup> See, for instance, Aeschines’s speech *Against Ctesiphon*, which is directed as much towards Ctesiphon as the proposer of the decree as to the prospective receipt of the honour, i.e. Demosthenes (Aeschin. 3).
- <sup>21</sup> There is epigraphic evidence for the first of these going back to the middle of the fifth century, but it is possible that the latter two were introduced somewhat later, perhaps after the restoration of democracy at the end of the fifth century, but definitely before 389, because Isaios references them in a speech made in that year (Teegarden: 2014a, p. 45).
- <sup>22</sup> See Shear (2011, 19-69) for a detailed account of competing narratives surrounding this *stasis*.
- <sup>23</sup> See Shear (2011) for an ample analysis on the importance of the practical aspects of swearing the oath, the rituals surrounding it, the positioning of the stele where the oath was inscribed in the urban space etc.
- <sup>24</sup> By the fourth century however, even the fourth, and lowest, property class had access to the archonships (Hansen: 1991, p. 88).
- <sup>25</sup> Although here, too, there are conflicting views and even ones which go completely against the grain of mainstream thought (see Van’t Wout: 2010 for an example claiming that the law in fact promoted neutrality rather than discourage it).
- <sup>26</sup> Citing earlier literature, Bers (1975, p. 495) also indicates this possibility, i.e. that the so-called law may have in fact only have been an abstract prescription, an emphatic moral denunciation, or a religious curse.

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Abbreviations of the names and works of classical authors follow common scholarly conventions (in the numbering of speeches) and the Oxford Classical Dictionary, 3<sup>rd</sup> edition, wherever possible. The following abbreviations are used:

Aeschin. 3	Aeschines, <i>Against Ctesiphon</i>
Andoc. 1	Andocides, <i>On the Mysteries</i>
Arist. [Ath. Pol.]	Aristotle, [ <i>Athenaion Politeia</i> ], trans. by P.J. Rhodes, Penguin Books, London, 2002.
Dem. 19	Demosthenes, <i>On the False Embassy</i>
Dem. 24	Demosthenes, <i>Against Timocrates</i>
Dem. 58	Demosthenes, <i>Against Theocrines</i>
Hdt.	Herodotus, <i>The Histories</i> , trans. by R. Waterfield, Oxford University Press, Oxford, 1998.
Hyp. 2	Hypereides, <i>Against Philippides</i>
Hyp. 4	Hypereides, <i>In Defence of Euxenippus</i>
IG	<i>Inscriptiones Graecae</i>
Lycurg. 1	Lycurgus, <i>Against Leocrates</i>
Lys. 13	Lysias, <i>Against Agoratus</i>
Lys. 31	Lysias, <i>Against Philon</i>
Plut. Arist.	Plutarch, <i>Life of Aristides</i>
Plut. Sol.	Plutarch, <i>Life of Solon</i>
Thuc.	Thucydides, <i>The War of the Peloponnesians and the Athenians</i> , trans. by J. Mynott, Cambridge University Press, Cambridge (UK), 2013.
Xen. Hell.	Xenophon, <i>Hellenica</i> , trans. by R. Warner, Penguin Books, London, 1979.

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