

In *Rhetoric* 1.13, Aristotle anticipates *stasis* theory, that is, the systematic classification of disputes. Allen (2000, 171, 382 n. 10) and Harris (*Dike* 3, 29-30) suggest that he also makes a claim about Athenian trials:

“People often agree that they have done an act but do not agree that it was crime; for example, that they took something but not that they stole; that they punched, but not that they committed *hubris*...” (*Rhet.* 1374a)

In other words, ‘questions of fact’ are distinct from ‘questions of definition;’ often (*pollakis*) the facts of the case are agreed upon and the dispute turns on a question of definition. Was this common in Athenian trials? The corpus of Attic oratory suggests it was not. Many cases clearly turn on a question of fact. What is more, many of the cases that deal with questions of definition simultaneously involve important questions of fact. In Athenian trials, significant facts were virtually always in dispute.

In cases where a defendant has admitted performing a given action (such as an act of violence), both parties still offer competing versions of the surrounding events, versions that are intended to color, if not decide, the issue of definition. In *Lys.* 1, the defendant Euphiletus indicates that the prosecution will counter his claim of justifiable homicide by presenting a different and (according to him) fabricated narrative of the killing (27-28). In *Dem.* 54, it is admitted that Ariston was beaten a group of assailants, but witnesses will testify that the defendant Conon did not take part (32-33, 37). There are other speeches where it might appear that “the two litigants themselves arrived in court already in agreement on the facts” (Allen 2000, 171), but most of these nevertheless contain allegations that an opponent is lying (e.g. *Lys.* 4.12-13, *Dem.* 21.142, 34.34, 38.14, 39.22, 51.3, 22, 52.12-16).

It has been suggested that “litigants sometimes base their case on interpretation of laws” and that furthermore “[w]hen they argue for an interpretation, they pay careful attention to the wording of the law” (Harris 2000, 34). But these cases typically also involve significant factual claims or allegations. The speaker of *Lys.* 10 tries to settle an issue of fact before turning to an argument concerning definition (4-5). Other speakers place arguments concerning statutory interpretation in the context of alleged fact situations wherein their opponents lied, tried to deceive them, or plotted against them (*Hyp.* 3.2-5, 12, *Lys.* 9.17-19). Charges against proposers of illegal decrees (*graphai paranomôn*) necessarily involve statutory interpretation. But litigants in such cases also allege all sorts of ‘facts’ with a view towards demonstrating that their opponents are arguing in bad faith (e.g. *Aes.* 3.50-53, *Dem.* 18.10-16, 22.4, 35-37, 57-59, 23.188; cf. *Dem.* 24.194).

*Stasis* theorists after Aristotle emphasize that trials often turn on multiple questions and multiple types of questions (e.g. *Rhet. Ad Herr.* 2.1.2). Such appears often to have been the case in Athenian trials. But one question litigants raised perhaps more than any other was that of who lied.