

Although scholars agree that enmity is a prevalent concern in Attic oratory, they have drawn divergent conclusions from this body of evidence. D. Cohen (*Law, Violence, and Community in Classical Athens*, 1995) presents Athens as a violent, “feuding” society while G. Herman (*Morality and Behaviour in Democratic Athens: A Social History*, 2006) argues that Athens was entirely non-feuding. Others have taken positions at some point on the spectrum between these two extremes (e.g. Christ, *The Litigious Athenian*, 1998; Allen, *The World of Prometheus: The Politics of Punishing in Democratic Athens*, 2000; Lanni, *Law and Justice in the Courts of Classical Athens*, 2006). This paper investigates how the Attic orators employ enmity in the courtroom, arguing that the rhetorical purposes of these speeches should be taken more fully into account when using them to reconstruct Athenian social values.

Scholars often represent the Attic orators as employing enmity solely to win favor with the jury by demonstrating their adherence to communal norms. Cohen’s approach is representative of the pattern. He argues that jurors did not vote on a strictly legal basis, but rather considered the “totality of the transaction,” taking into account whether litigants had acted in conformity with the citizen’s normative expectations on relationships of enmity. According to this approach, enmity functions primarily to legitimize or delegitimize the prosecutor’s appearance in court. In other words, when a prosecutor affirms or denies preexisting hostility with his opponent, he attempts to make the jury believe that he has the right motivation for bringing suit regardless of the facts of the case.

In this paper I attempt to show that the orators’ use of enmity is not intended simply to legitimize a litigant’s case in itself, but is closely intertwined with each speech’s overall structure and functions to support various types of arguments, especially character and probability arguments. Litigants shape the way they present their relationships with their opponents to support the claims of their cases and undermine those of the opposition. A speaker who prosecutes on a charge involving physical violence often emphasizes his hostile relationship with his opponent in order to establish a motive for the alleged crime (Dem. 21, 54; cf. Antiph. 1, Lys. 12, 13) while defendants in such cases predictably deny that they were involved in extended feuds (Antiph. 4; Lys. 1, 3, 4). Likewise, whereas prosecutors in public trials often deny enmity to avoid the appearance of private motivation in a matter of the city’s interests ([Lys.] 6; Lys. 22, 27; Dem. 23; Lycurg. 1), defendants in such procedures underscore personal animosity as the driving motive behind their opponents’ frivolous accusations (Lys. 9; Andoc. 1; Dem. 18).

Since enmity is part of each speaker’s legal argument and can be manipulated according to the needs of the case, one cannot conclude from the many affirmations of hatred for an opponent that Athenians viewed such feuding behavior as normal and legitimate. Neither can one conclude from the many denials of enmity that Athenians viewed such relationships as morally repugnant. Litigants do not craft their presentation of enmity to meet those expectations; they shape it to meet the exigencies of their individual cases and support their legal contentions by means of arguments from probability.