ANTIPHON'S *AGAINST THE STEPMOTHER* ON "JUSTIFICATION", "KNOWLEDGE" AND "TRUTH"

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Abstract
This paper aims to provide an epistemic reading of Antiphon's *Against the stepmother*. By speaking of "epistemic reading", I wish to emphasise that in no way do I hope to provide an exhaustive reading of this text. My interest is in fact rather specific: I shall examine those passages where Antiphon's conceptions of "truth", "knowing", "learning" and "telling the truth" are displayed, thus bringing the text's epistemological background to the fore. My working hypothesis is that this text says something remarkable both about what conceptions of "truth", "knowing", "learning" and "telling the truth" are presumed in forensic contexts and about "epistemic justification" *per se*.
The paper is divided into seven sections: section 1 illustrates the prosecution case; section 2 aims to explain why this text is particularly relevant and how it is related to other important texts; section 3 examines §§ 6-8 and focuses on "justification" and its relation to "knowledge"; section 4 addresses §§ 11-12 where "probabilistic arguments" are deployed; section 5 examines § 28 and § 13 and the connection between "truth" and "visibility"; section 6 is committed to the scrutiny of §§ 29-30 and §§ 14-20, which offer significant remarks on what "teaching the truth" means; "section 7 takes into consideration the major philosophical outcomes.

Keywords: Antiphon, Greek rhetoric, Greek forensic oratory, epistemology.

1. GENERAL REMARKS: THE PROSECUTION CASE

In *Against the Stepmother*[1] Antiphon's client (whose name is unknown) prosecutes his stepmother for having killed his father. The events (which are detailed in §§ 14-20) are as follows: the speaker's father was hosted to dinner by his friend Philoneus, whose

[1] As noted by Sommerstein (2014, 383): "The case is traditionally called 'Against the Stepmother', but this is inappropriate. Given what we learn about the ages of those concerned, the accused woman must have been married to the deceased at the time of the speaker's birth; in other words, the speaker is the deceased's illegitimate son, the offspring of what would now (but not then) be thought of as an adulterous liaison".

concubine – whom he was about to put in a brothel – served them wine poisoned with what she believed to be a love potion which could make her master love her again. Philoneus, who received a larger draft, died instantly, whereas his friend passed away twenty days later. Since the concubine was a slave, she was tortured and executed by the relatives of Philoneus. Several years later, after reaching maturity, the son of Philoneus's friend, fulfilling his father's edict, prosecuted his stepmother (whose defence is assumed by one of her sons, the prosecutor's half-brother) for having planned the whole matter. According to the prosecution, the stepmother had maliciously persuaded the concubine to poison both her own master and the stepmother's husband, under the pretext that the draft was a love potion that would allow both women to regain their men's love: hence, while it was the girl who actually poisoned both men, the real instigator would be the stepmother. The woman's guilt would be further supported, in the prosecution case, by the fact that she had previously made similar, though unsuccessful, attempts to kill her husband (and, apparently, was even caught in the act and did not deny it).

The accusation seems to be twofold, then: "first, that the stepmother planned the administration of the drug and, second, that she did so knowing and intending its fatal result"[2]. The main issues would thus be 1) whether the woman was the real brain behind the plan and, if she was, 2) whether she did intentionally kill the husband or not, i.e. whether she arranged for her man to be given the draft in order to kill him or in order to make him fall in love with her again. If so, it has been argued, the whole prosecution argument is rather weak, for the speaker provides no evidence (whether physical or verbal or written) to support his own thesis that the stepmother is the real instigator of the murder[3]. Following Gagarin, however, one might think that this is not the real case, for "the speaker is concerned to show that the defendant contrived the plan to give the drug, provided the drug, and persuaded the *pallakē* to help administer it, but he is not concerned to show that she knew the drug was a poison, rather than a love potion. Antiphon's strategy, in

[2] Wohl (2010, 44).

[3] "With no substantial evidence to rely on, Antiphon constructs for his client a vivid and largely imaginary narrative of these events", Edwards (2017, 244).

other words, is to portray the stepmother as the primary agent in a plot to give her husband a drug"[4].

The main problem is that, even assuming that the main question is "was the stepmother who convinced the concubine to poison the wine?" (and not "did the stepmother aim to kill or did the men die by accident?"), evidence supporting the prosecution is still lacking, for a) there are no eyewitnesses and therefore b) it is not at all clear how it is that the speaker learned of the events he recounts – indeed, this is the reason why even the real aim (if not the authorship[5]) of the text has been questioned, with some scholars arguing that it is merely a didactic exercise[6].

Of course, that actual evidence is lacking does not mean that the prosecution has been inconclusive, because, as noted by Gagarin, "(…) his vivid story of the women seeking desperate remedies when they fear they are losing their men's love would fit comfortably into most of the (all-male) jurors' preconceptions about the kinds of

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[4] Gagarin (2002, 150). While Gagarin's reading is mostly persuasive, it seems that the following remarks by Wohl (2010, 44, n. 26) are not off target: "Gagarin 2002: 146–52 argues that the issue is not intent but planning, that is, the stepmother's conduct not her motive. Cf. Carawan 2000: 211–15, who proposes that knowledge of lethal effect, and not the intent to kill, determined liability in Athenian law. In this case, knowledge, agency, and intent are (purposely) hard to disentangle. Thus, I agree with Gagarin that the speaker's primary burden of proof is that the stepmother planned the fatal dose, not that she did so with specific intent to kill her husband, and that this charge, if proved, may well have been damning enough for an Athenian jury. But his vague language of volition allows him simultaneously to insinuate her murderous intent (…) and in this way to counter a possible defense of accidental homicide". Besides, she further emphasises: "In this repeated insistence on (and conflation of) the stepmother's volition, deliberation, and foreknowledge, the speaker is not only trying to counter a potential defense that the death was an accident; he also needs to address the awkward fact that his stepmother didn't actually administer the drug herself" (2010, 44).

[5] "There are dramatic flourishes that seem out of character with Antiphon's austere style: the plaintiff refers to his 'stepmother' as Clytemnestra and casts himself in the role of a latter-day Orestes. The arrangement of the speech is peculiarly disjointed: the proof (5-13) comes before the narrative (14-20); and after what appears to be the proper epilogue, there is yet a second, rather disconnected, closing statement (28-31). None of these anomalies, however, would have roused so much suspicion were it not that the argumentation seems utterly inadequate. (…) Most of those who have commented on the speech--even those who expressed admiration for it--generally conclude that the plaintiff had no case. The argument seems unworthy of the Antiphon whom later antiquity regarded as the master of homicide disputes.", Carawan (1998, 215-216).

[6] Both Maidment (1941, 8-12) and Gagarin (2002, 146-152) have convincingly argued for the text being delivered in actual courts.

steps desperate women take for the sake of love"[7]; indeed, "the appeal to stereotypical behaviour of women as a continual threat to men—plotting, using drugs, concerned primarily with love—may have been more effective with the male jurors than the defence's presumed response that she acted out of love. Even if the defence argued persuasively that the intent was not to kill, the jurors may have concluded that her behaviour was nonetheless so threatening to the stability of the family that she deserved punishment"[8]. In one word, it might even be that Antiphon's strategy has been persuasive after all. Still, we – as readers – are left wondering where the truth lies (even because, as usual, the verdict is unknown): is the stepmother innocent? Is she guilty? Or, to put it differently, is she Clytemnestra, as the prosecutor maintains (§ 17)[9]? Or is she Deianira, as Carawan and Wohl, among others, suggest[10]?

According to Maidment it is highly likely that, at the end of the day, the woman is innocent and that the speaker has resolved to charge her only in accordance with his father's desire[11]. This would also explain why, as I mentioned, the argumentation is so weak. In point of fact, given that no conclusive proof of the woman's guilt is available, the speaker ends up focusing his attention on the stepmother's earlier attempts to kill the father, which failed: that the defence refuses to let him question the family slaves about these previous facts, the plaintiff argues, provides strong evidences in favour of the woman's guilt (§§ 9-13).

The plaintiff's speech rests ultimately upon two specific elements: 1) the fact that the defendant, i.e. the half-brother, cannot (claim to) know with certainty that his mother is innocent, because he was not present at the events (§§ 6-8; 28) – such that in swearing that he is certain that she is innocent, he swore falsely; 2) the refusal

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[7] Gagarin (2002, 147).

[8] Gagarin (1998, 9)

[9] "in comparing the stepmother to Aeschylus's Clytemnestra, he hopes to plant in the jurors' minds the idea not only that she committed the murder by her own hand (which he acknowledges in his own narrative that she did not) but that, like Aeschylus's queen, she premeditated the act and intended its lethal outcome. And even if she did not (since like any good lawyer, the speaker leaves himself a fall-back position), her intent is irrelevant since she still caused his death and, as the thrice-venerable saying goes, the doer must suffer" Wohl (2010, 50). See also Edwards (2017) on this.

[10] Carawan (1998, 248); Wohl (2010, 51).

[11] Maidment (1941, 11).

by the half-brother to hand over his family's slaves for interrogation with regard to the woman's previous conduct (§§ 9-13).

Before addressing the text, some further remarks are in order.

First, even though, as we shall see, Antiphon's strategy consists in mixing up these two arguments in order to reinforce his client's position (§§ 5-13), and although it is clear that they *are* connected, it is nonetheless important to acknowledge that they are, strictly speaking, two distinct arguments[12], in the sense that the slaves the defendant refuses to hand over are *not* witnesses to the murder – that is, they do *not* possess first-hand knowledge of the crime under discussion; at best, they may know about the previous attempts the woman is supposed to have made to kill her husband[13]. In this respect, then, it must be borne in mind that it is not the defendant's refusal to hand over the slaves that makes the whole case inconclusive. Second, although the defendant's motive in not allowing his slaves to be questioned is open to speculation, it must be remarked that (precisely because the slaves have not been interrogated) it is *not* clear at all whether such previous attempts have really occurred or not. That is to say, the plaintiff's argument is that *if* his half-brother had handed the slaves over, they would have confirmed that the woman had already tried to kill his husband. But, since the slaves have not been interrogated, they did *not* actually support the plaintiff's own account – which remains, then, unsubstantiated by evidence.

To sum up, since the plaintiff's speech rests upon the claims that a) his half-brother cannot truthfully say that he knows that his mother is innocent, and that b) the slaves would have confirmed the plaintiff's account, *had* they been interrogated, the argument is rather weak. In this regard, however, it is important to note that it is precisely the fact that *no eyewitness is available* that makes room for the

[12] On whether these two arguments should or should not be taken as one cf. Due (1980) and Carawan (1998) for two paradigmatic (and distinct) views.

[13] Carawan (1998, 236) acknowledges that "The slaves were not to be questioned on the fatal incident itself but in support of the claim that the woman had previously tried to drug her husband and was discovered *ep' autophōrōi*" and provides the following explanation: "It suggests to us perhaps a probability bearing on the fact of the defendant's involvement: it seems to establish a pattern. But the ancient text gives no indication that this was indeed its implication--there is no argument from probability to the effect that, 'she tried it once; she was likely to do it again'. In the scheme of the argument, it goes directly to the issue of *pronoia*, that she knew or should reasonably have anticipated the lethal consequences."

prosecution[14]: if the concubine were still alive, it would have been sufficient to ask her about the real involvement of the plaintiff's stepmother, but given that she is dead and given that there are no other witnesses, there is no way to be certain[15].

2. ANTIPHON'S *AGAINST THE STEPMOTHER* IN CONTEXT

Overall, my hypothesis is that, in spite of the difficulties I mentioned so far (or perhaps precisely because of them), the text is intriguing and its epistemological elements are worthy of analysis. Let me be very clear on this: my hypotheses are, first, that this text says something remarkable about what conceptions of "truth", "knowing", "learning" and "telling the truth" are presumed in forensic contexts and, second, and perhaps most importantly, that this text says something remarkable about "epistemic justification" *per se*.

As a matter of fact, "epistemic justification" seems to be one of the main epistemic concerns (if not the main) within forensic oratory. Broadly speaking, this is easily understood once we acknowledge that – whether or not the plaintiff and the defendant *do* speak the truth – the main (epistemic) purpose of someone who speaks in front of the jurors is persuading them that their claims are, so to speak, both justified and justifying (as far as possible). That is, the speaker needs to prove that their assertions are a) supported by evidence and therefore b) adequately justified and also c) justifying – at least partially. (Obviously, by saying so, in no way do I wish to maintain that "truth" is not epistemically relevant; on the contrary, I just aim to stress that, because the jurors cannot know the truth of facts, for they lack the appropriate access to them, the only way in which they can hope to assess the truth of beliefs is to establish whether such beliefs are appropriately justified or not).

For the sake of clarity, assuming the jurors' point of view, three main related epistemic issues – whose significance clearly goes

[14] Indeed, *Against the stepmother* is what we define as *logos amartyros*, i.e. a speech without witnesses. See on this Rossetti (1995; 2012). More on this below.

[15] In this regard, Carawan (1998, 220) rightly remarks that "it is puzzling that the plaintiff makes no clear reference to the concubine's testimony to this effect in his reconstruction of the events. Instead, his narrative appears to be based largely on conjecture" (of course, once it is assumed that the prosecution is entirely false, that the concubine's testimony is ignored ceases to be so puzzling).

beyond the forensic contexts – can be identify: 1) how is it possible to come to know something about which first-hand experience is lacking? 2) under what conditions a belief is appropriately or adequately justified and therefore justifying, at least partially? 3) under what conditions knowledge- or justification- transmission and knowledge- or justification- generation are possible, if any?

Indeed, I said that the significance of these epistemic issues goes beyond the forensic contexts, for, first, they have been regularly addressed by epistemologists throughout the history of philosophy to date and, second, they constitute a common place within early and classical Greek philosophy and culture. To give just few and well-known examples, the problem of "knowledge-transmission" worries Greek culture from its very beginning, given that it is essentially linked to the familiar question of "poetic authority"; the problem of investigating into something which is not perceptually (and therefore immediately) available strongly connotes 5-4th centuries debates ranging from figures such as Anaxagoras and Democritus to medicine; that of "epistemic justification" and its relation to "truth" goes straight to the heart of Plato's philosophy (speaking of Plato, let us bear in mind the famous law-court passage (*Theaetetus* 201a–c)). I would say that within this multi-layered and multi-coloured picture, Greek forensic oratory should not go unnoticed.

Let us come back to Antiphon's *Against the stepmother*. If the picture I just sketched makes sense, it fits even more those contexts where eye-witnesses (who constitute, at least in principle, important evidence in support appropriate beliefs' formation) are not available – the so-called *logoi amartyroi*. True, (rhetorically) stressing the importance of eye-witnesses *especially* when they are *not* available is a common place in forensic or epideictic texts. However, it might be still the case that such texts are "epistemically", besides "rhetorically", worthy of analysis. Indeed, the topic of "non-available witnesses" is variously addressed: well-known speeches that insist on their importance are Gorgias's *Apology of Palamedes* (§§ 22-23, in particular, stress emphatically the connection between "eye-witnessing", "knowledge" and "justification"[16]), Antisthenes's *Ajax* and *Odysseus* (the former is particularly concerned with the

[16] It should be noted that it is plain that in the *Apology of Palamedes* the reason why there are no witnesses is that there are no facts: clearly, what did not happen cannot be known or witnessed.

epistemological gap obtaining between the jurors – who are repeatedly said to be ignorant – and the eyewitness), Antiphon's *Tetralogies* (see, specifically, the first tetralogy which exactly displays the case of a murder in which no eyewitness is available) and *On the murder of Herodes* (where the slave who provide testimony about the events under dispute is executed to death) among others[17].

Before addressing Antiphon's *Against the stepmother*, I wish to make it very clear that because my aim is to address the epistemological background of this text, I shall confine myself to an epistemological analysis of it. This means that many significant issues – such as, for instance, the role of Antiphon within the development of Athenian law, whether Antiphon's argumentative stances are "rational" or "irrational" and the role and function of the interrogation of the slaves by means of torture within the trials – shall be left aside. In doing so, I am aware that I will not be able to provide an exhaustive reading of this text (that is, a reading which effectively takes into consideration both its epistemic and rhetorical implications). But, as I mentioned, this goes beyond the scope of this paper. Instead, what I *do* hope to do is to identify those arguments which are epistemically relevant, regardless of their rhetorical import. In view of this, the main challenge that I hope to meet is, of course, to extract the epistemological claims from the rhetorical context. Accordingly, in what follows I will try to mark regularly whether (on my view) we are dealing with a purely rhetorical argument or with an epistemic one (or with one which is both rhetorical and epistemic).

3. ANTIPHON ON "KNOWLEDGE" AS "JUSTIFIED TRUE BELIEF": §§ 6-8

I said that forensic oratory says something interesting about concepts such as "truth", "knowledge", "knowledge-transmission", "knowledge-generation" and, above all, "justification". Otherwise said, my claim is that forensic oratory presumes a conception of "knowledge" in terms of "justified true belief". Let us address this at first. In order to do so, we need to focus on section §§ 6-8, which is devoted to arguing that the defendant cannot claim to know

[17] Euripides's *Hippolytus* also displays a kind of forensic scenario in which eyewitnesses are missing.

(εἰδέναι) that his mother is innocent, because in fact he possesses neither first-hand knowledge nor second-hand knowledge (that is, adequate evidence provided by others with such knowledge) of the events.

In § 6, the plaintiff exclaims:

> Καὶ πῶς τοῦτό γ᾽ἐρεῖ, ὡς εὖ οἶδεν ὅτι γ᾽οὐκ ἀπέκτεινεν ἡ μήτηρ αὐτοῦ τὸν πατέρα τὸν ἡμέτερον; Ἐν οἷς μὲν γὰρ αὐτῷ ἐξουσία ἦν σαφῶς εἰδέναι, παρὰ τῆς βασάνου, οὐκ ἠθέλησεν· ἐν οἷς δ᾽οὐκ ἦν πυθέσθαι, τοῦτο αὐτὸ προὐθυμήθη. Καίτοι αὐτὸ τοῦτο ἐχρῆν, ὃ καὶ ἐγὼ προὐκαλούμην, προθυμηθῆναι, ὅπως τὸ πραχθὲν ᾖ ἀληθὲς, ἐπεξελθεῖν.
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> How can he [*scil.* The plaintiff's half-brother] say that he well knows that his mother did not kill our father? When he had the opportunity to gain certain knowledge through an interrogation of slaves, he refused, but he was eager to try methods that could not produce information. However, he should have been eager for the proposal I made in my challenge, i.e. to carry on a full examination, for the matter to be true (trans. Gagarin, modified[18]).

The speaker points out that his half-brother cannot claim to εὖ εἰδέναι[19] – i.e. to *know well* – that his mother did not kill his father.

The claim is not that what defeats the half-brother's claim of knowledge is the fact that it is *false* that his mother is innocent; rather, he means that his half-brother is not *justified* – or, at least, not *adequately* justified – in believing that she is innocent. Epistemically speaking, this means that the main concern is not that of questioning the *truth*-conditions of the defendant's claim of innocence (that is, whether or not the proposition/belief "my mother is innocent" is true), but the utterer's *justification*-conditions (that is, whether or not he is adequately justified in believing that his mother is innocent). Indeed, the first relevant point is that truth-conditions and justification-conditions do not necessarily overlap. As I mentioned earlier, law-courts contexts (are forced to) revolve around the latter much more than around the former.

[18] All the translations are to be found in Gagarin, MacDowell (1998); Greek text is, unless otherwise stated, after Gagarin (1997).

[19] As Gagarin (2002, 146) notes: "The expression εὖ εἰδέναι occurs repeatedly (6, 8, etc.), suggesting that this is a direct quotation from the defendant's oath (8, 28)".

That the emphasis is on the justification-conditions is made explicit by the following lines, where the plaintiff explains that the reason why his half-brother cannot claim to know that his mother is innocent is that he refused to gain knowledge by interrogating the slaves, i.e. those who are supposed to know the truth[20]. The reasoning clearly is the following: because the brother has neither witnessed the events nor has been instructed by those who have, he cannot be in a position to actually know whether his mother did kill his husband or not, such that, at the end of the day, he cannot say that he is adequately justified in believing that she is innocent.

"Witnessing" and/or "learning from the witnesses" seem to be, at minimum, necessary (although perhaps not sufficient in their own) conditions for knowledge of this sort of event. (Rhetorically speaking – although of course, we are not in the position to evaluate properly how the jurors might have been affected by such an argument –, it is reasonable to suppose that, by emphasising that the defendant's claims do not stem from "knowing", the speaker wishes to insinuate that the defendant is not telling the truth.).

Let us now consider the first few lines of section 7. Here, the speaker further adds:

> Μὴ γὰρ ὁμολογούντων τῶν ἀνδραπόδων οὗτός τ᾽εὖ εἰδὼς ἂν ἀπελογεῖτο καὶ ἀντέσπευδε πρὸς ἐμέ, καὶ ἡ μήτηρ αὐτοῦ ἀπήλλακτο ἂν ταύτης τῆς αἰτίας. Ὅπου δὲ μὴ ἠθέλησεν ἔλεγχον ποιήσασθαι τῶν πεπραγμένων, πῶς περί γ᾽ὧν οὐκ ἠθέλησε πυθέσθαι, ἐγχωρεῖ αὐτῷ περὶ τούτων εἰδέναι;
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> If the slaves did not agree with me, he – by being quite certain – could have defended himself and contended against me and his mother would be entirely free of the charge. But since he did not want to put the facts to the test, how can he know things he did not want to learn through inquiry? (text Dilts, Murphy; trans. Gagarin, modified).

[20] I say that the slaves are *supposed* to know the truth, because, as I mentioned, even if they possessed first-hand knowledge of the previous attempts at killing the man, they surely did not possess first-hand knowledge of the events under actual discussion. This being the case, it is not true that, by means of interrogating the slaves, the defendant could have come to know the truth about the murder. Omitting this is, of course, part of Antiphon's strategy.

Had the defendant handed over his slaves to be interrogated and had they further confirmed his own account, then he would have been justified in claiming that he knows with certainty that his mother is innocent. Had the slaves (as witnesses) supported the defendant's account, their testimony would have produced evidence in his favour.

Pretending that the line of reasoning is sound (because in fact it is not)[21], once again, the main point seems to be that, because the defendant does not possess first-hand knowledge of the facts and because, further, he has not been instructed by *those* who *do* possess it, he is not adequately justified in claiming that he knows the truth. (As we shall see below, the plaintiff will attempt to persuade the jurors that he himself is worthy of trust precisely due to the fact that he has been instructed by those who know the truth). Indeed, the plaintiff rhetorically asks: "since he did not want to put the facts to the test, how can he know things he did not want to learn through inquiry?".

Here, the plaintiff is stressing that, because the defendant refused to acquire the *relevant information* from the *appropriate source*, i.e. the witnesses, he is not in the position to claim that he possesses certain knowledge about the facts. In short, it seems that testimony – and by "testimony" I mean here "the uttering performed by someone who possesses first-hand knowledge" – turns out to be a necessary (once again, not sufficient) justification-condition when first-hand knowledge is not available.

While the first few lines of section 7 focus on the necessity of acquiring relevant information from the appropriate epistemic source in order to acquire knowledge, the following ones assume a slightly different point of view:

> Πῶς οὖν περὶ τούτων, ὦ δικάζοντες, αὐτὸν εἰκὸς εἰδέναι, ὃν γε τὴν ἀλήθειαν οὐκ εἴληφε;
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> How, jurors, is it plausible for him to know these things, given that he did not grasp the truth of them? (the translation is mine[22]).

[21] However, on this cf. footnote 19.

[22] I wish to thank one anonymous referee for making my translation more idiomatic.

The speaker claims that since the defendant refused to verify the facts and to gain information about them from those who know them, it must be concluded that it is not εἰκός (here "not εἰκός" seems to mean "highly unlikely" or "unreasonable") that he possesses knowledge. Indeed, the plaintiff argues, his brother did not grasp the *truth of the facts*: "knowing" meaning or, better, presuming precisely this, i.e. grasping the ἀλήθεια τῶν πραγμάτων[23].

At first, this closing line might be, on the one hand, emphatically restating that the defendant is *not adequately justified* in believing that his mother is innocent, because he did not *grasp* the truth of the facts and, on the other hand, suggesting (albeit implicitly) that *what* the defendant claims is not true – because he did not grasp the *truth of the facts*. That is, it is highly likely that Antiphon is indulging in rhetoric's prerogative to say the same thing over and over in different language.

However, a (perhaps) less likely but more intriguing reading is possible. Let me spell this out. It might be possible to take this assertion as meaning something slightly different. Indeed, the speaker might be actually suggesting that "grasping the truth of facts" is a necessary and, in some sense, *prior* condition for both justification and knowledge to occur, so that the defendant does not simply fail to possess *appropriate* reasons to believe that his mother is innocent; more radically, he does not possess *any kind* of reason at all (where "reason" is taken here as heavily epistemically freighted). As a matter of fact, how could you possess some kind of evidence – even a provisional one – about some fact X if you, we might say, have not been *acquainted* with it[24]? Epistemically speaking, assuming that such an analysis is sound, section 7 is meant to make it explicit that not only the defendant does not possess adequate justification (as section 6 seems to suggest), but that, more radically, he does not possess justification at all: his beliefs are groundless or, to put it another way, there is no (epistemic) reason in virtue of which the believer is actually allowed to hold the belief.

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[23] More on this below.

[24] I am speaking of "acquaintance" here with the aim to emphasise that in order to hold a justified belief about P or that P, P needs to be something to which the believer has a *cognitive access* or something to which the believer is related. For present purposes, it is not relevant to establish whether such a cognitive access that I defined in terms of "acquaintance" is to be understood as an epistemic or as a non-epistemic relation in its own. The main point is that I simply cannot hold a (justified) belief about P, unless I am acquainted with it.

As I mentioned, I am aware that the most natural objection to this analysis is that Antiphon is not making an epistemic point, after all. That is, I am aware that this analysis is conjectural. Still, because nothing in the text seems to prevent us from taking Antiphon as making an epistemic claim, albeit implicitly, I would say that the epistemic character of this passage cannot be entirely ruled out.

The untrustworthiness of the defendant is, once again, the focus of the following paragraph:

> Τί ποτε ἀπολογήσεσθαι μέλλει μοι; Ἐκ μὲν γὰρ τῆς τῶν ἀνδραπόδων βασάνου εὖ ᾔδει ὅτι οὐχ οἷόν τ᾽ ἦν αὐτῇ σωθῆναι, ἐν δὲ τῷ μὴ βασανισθῆναι ἡγεῖτο τὴν σωτηρίαν εἶναι· τὰ γὰρ γενόμενα ἐν τούτῳ ἀφανισθῆναι ᾠήθησαν. Πῶς οὖν εὔορκα ἀντομωμοκὼς ἔσται φάσκων εὖ εἰδέναι, ὃς οὐκ ἠθέλησε σαφῶς πυθέσθαι ἐμοῦ ἐθέλοντος τῇ δικαιοτάτῃ βασάνῳ χρήσασθαι περὶ τούτου τοῦ πράγματος;
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> What defense will he make? Since he knew well that he couldn't save her by interrogating the slaves, he believed that safety might lie in avoiding an interrogation; that way, he expected the facts to remain concealed. How then can he have truly sworn an oath that he is quite certain, given that he did not want to learn certain information about the matter when I wanted to carry out a completely fair interrogation? (trans. Gagarin, modified).

Apart from restating that the defendant cannot claim to know what really happened, this passage takes into account a crucial element, i.e. the emphasis on "visibility" and "clarity", which is in fact one of the leitmotivs of this speech[25].

The speaker claims that – by refusing to interrogate the slaves – his brother aimed to keep the facts "concealed" or, we might say, "out of sight": the point being, clearly, that what is "out of sight" cannot be seen and, therefore, cannot be known. There is a noticeable dichotomy between "knowing" – which is understood in terms of "seeing" (cf. the expressions "εὖ εἰδέναι" and "σαφῶς πυθέσθαι" that allude quite evidently to the semantic field of "visuality") – and "facts unseen": "knowing X" means – or, at least, requires – "having X in view". In essence, the very (f)act of "knowing something" (or knowing that something is the case) presumes that the knowing-subject "sees" and, accordingly, that the

[25] Indeed, it is a leitmotiv also of *Antiph.* 5 and, more generally, of Greek forensic oratory as O'Connell (2016; 2017) effectively emphasised.

object of knowledge "is seen" or, at least, "suitable for being seen": both the objective and the subjective elements are required for "knowledge" to really occur (more on this below).

4. ANTIPHON ON "HYPOTHETICAL ROLE-REVERSAL ARGUMENTS" AND "*PRIMA FACIE* JUSTIFICATION": §§ 11-12

While §§ 6-8 focus on arguing that the defendant does not possess certain knowledge of the events – this being, as I mentioned, the first argument upon which the prosecution relies –, §§ 9-12 are devoted to the second argument, i.e. the refusal by the defendant to hand over his slaves for interrogation. Indeed, as we have seen, the plaintiff claims that his step-mother had made previous attempts to murder his father and that the family's slaves are witnesses to (or, at minimum, informed about) such attempts[26]. In short, while §§ 6-8 focus on showing that the defendant is not (adequately) justified in believing that his mother is innocent, §§ 9-12 are aimed at arguing that the defendant's behaviour constitutes evidence supporting the plaintiff's position.

In § 11, the plaintiff argues:

> Καίτοι εὖ οἶδά γ', εἰ οὗτοι πρὸς ἐμὲ ἐλθόντες, ἐπειδὴ τάχιστα αὐτοῖς ἀπηγγέλθη ὅτι ἐπεξίοιμι τοῦ πατρὸς τὸν φονέα, ἠθέλησαν τὰ ἀνδράποδα ἃ ἦν αὐτοῖς παραδοῦναι, ἐγὼ δὲ μὴ ἠθέλησα παραλαβεῖν, αὐτὰ ἂν ταῦτα μέγιστα τεκμήρια παρείχοντο ὡς οὐκ ἔνοχοί εἰσι τῷ φόνῳ. Νῦν δ', ἐγὼ γάρ εἰμι τοῦτο μὲν ὁ θέλων αὐτὸς βασανιστὴς γενέσθαι, τοῦτο δὲ τούτους αὐτοὺς κελεύων βασανίσαι ἀντ' ἐμοῦ, ἐμοὶ δήπου εἰκὸς ταὐτὰ ταῦτα τεκμήρια εἶναι ὡς εἰσὶν ἔνοχοι τῷ φόνῳ.
>
> Now I am quite certain that if they had approached the moment they heard the news that I was going to prosecute my father's

[26] In § 9, it is stated: "Τοῦτο μὲν γὰρ ἠθέλησα μὲν τὰ τούτων ἀνδράποδα βασανίσαι, ἃ συνῄδει καὶ πρότερον τὴν γυναῖκα ταύτην, μητέρα δὲ τούτων, τῷ πατρὶ τῷ ἡμετέρῳ θάνατον μηχανωμένην φαρμάκοις, καὶ τὸν πατέρα εἰληφότα ἐπ' αὐτοφώρῳ, ταύτην τε οὐκ οὖσαν ἄπαρνον, πλὴν οὐκ ἐπὶ θανάτῳ φάσκουσαν διδόναι ἀλλ' ἐπὶ φίλτροις/I wanted to interrogate their slaves, for they knew that on a previous occasion this woman—the mother of these men—had contrived our father's death by poisoning, that he had caught her in the act, and that she had not denied it, except to claim she was giving the drug as a love potion, not to kill him" (trans. Gagarin).

> murderer and had offered to hand over their slaves for interrogation and I had refused to accept them, they would be presenting this as the strongest possible evidence that they were innocent of the murder. So, since I am the one who wanted to conduct the interrogation myself, at first, and then asked them to conduct it instead, I expect that these same considerations should be indication for my side that they are guilty (trans. Gagarin, slightly modified).

Slightly differently, in § 12 he restates that

> Εἰ γὰρ τούτων θελόντων διδόναι εἰς βάσανον ἐγὼ μὴ ἐδεξάμην, τούτοις ἂν ἦν ταῦτα τεκμήρια. Τὸ αὐτὸ οὖν τοῦτο καὶ ἐμοὶ γενέσθω, εἴπερ ἐμοῦ θέλοντος ἔλεγχον λαβεῖν τοῦ πράγματος αὐτοὶ μὴ ἠθέλησαν δοῦναι. Δεινὸν δ'ἔμοιγε δοκεῖ εἶναι, εἰ ὑμᾶς μὲν ζητοῦσι αἰτεῖσθαι ὅπως αὐτῶν μὴ καταψηφίσησθε, αὐτοὶ δὲ σφίσιν αὐτοῖς οὐκ ἠξίωσαν δικασταὶ γενέσθαι δόντες βασανίσαι τὰ αὑτῶν ἀνδράποδα.
>
> If they were willing to hand over slaves for interrogation and I had refused them, this would be evidence for their side. In the same way, then, consider it indication for my side that they refused to hand over their slaves when I wanted to put the matter to the test. It seems to me a terrible thing if they are trying to persuade you not to convict them, when they did not see fit to become jurors in their own case by handing over their own slaves for interrogation (trans. Gagarin, slightly modified).

As I briefly mentioned, the plaintiff puts huge emphasis on the fact that his half-brother refused to hand over his slaves for interrogation, on the basis of the reasonable view that, since the defendant asserts his innocence, he *should* be happy to "put the matter to test". Indeed, he says, if the defendant had allowed the slaves to be interrogated, he would have claimed that this constitutes a τεκμήριον in his favour (i.e. in favour of his side of the case). Because, however, he did not allow the interrogation, his refusal must be taken as a τεκμήριον against him[27].

In both these passages, Antiphon makes use of what is called as "hypothetical role-reversal", which is, as Gagarin emphasises (1998: 12), quite common in his texts and which usually occurs in

[27] On the role of the interrogation of the slaves in Athenian courts, see Adamidis (2019).

connection to τεκμήριον. Indeed, the very sense of the passage relies upon the full comprehension of this term and its context of use.

Why this kind of argument is defined as "hypothetical role-reversal" is, I think, quite clear. Indeed, it seems that, as Piazza and Di Piazza put it, "in many cases such inferences are formulated showing the coherence or inconsistency between a usually approved general affirmation and the occurrence of certain events. This aspect of the (possible) inconsistency between behaviours and discourses is the defining trait of the *tekmērion* in the *Rhetorica ad Alexandrum* (…). This suggests that an important component of the notion of *tekmērion* was really its capacity for confutation" (2016: 19). Piazza and Di Piazza are here rightly relying upon Noël's seminal analysis of *tekmērion* in Isocrates. Noël emphasises that *tekmērion* frequently "rests upon the evidence of two contradictory premises drawn from the discourse or the acts of the opponent, and the confrontation of them arouses in the mind of the audience a wider conclusion as to the cogency of the orator's speech and this latter's attitude" (Noël, 2011: 323).

Consistently with this, Antiphon's point is that if someone's actions contradict their own assertions, this is a clear indication that they are lying. By speaking of a "clear indication" I mean to emphasise the conjectural/provisional/fallible nature of the inference (which does not entail, of course, logical necessity). We might perhaps say that the refusal to interrogate the witnesses generates *prima facie justification* for thinking that the defendant is not telling the whole truth and for thinking that the defendant is trying to hide something.

Here, the presumption is, in turn, that if someone claims to be innocent but refuses to interrogate those who are supposed to know the truth, it is highly likely that they are guilty and therefore in claiming that they are innocent it is highly likely that they are lying. In short, it is an inference to the most likely explanation. The half-brother's refusing to hand over his slaves can be variously explained. However, what best explains this is that he does not want those who know the truth to be interrogated because the truth is that his mother is guilty. If guilt is not the correct explanation (which is possible), then one would have expected (or would now expect) that the defendant would have gladly required the slaves to testify. Lacking any further response from the defendant, it seems most plausible to suppose that he is not just avoiding evidence, but actually lying.

Apart from the employment of this kind of argument, there is something interesting here. Indeed, the defendant's conduct is explained by means of a comparison with (what is assumed to be) the *standard behaviour*: the defendant's conduct is consistent with that of those who are guilty or, vice versa, the defendant's conduct is inconsistent with that of those who are innocent, and therefore the defendant is guilty. If so, it is noteworthy that the *standard behaviour* is that which consists in the *match between one's words and one's conduct*. In this case, the defendant claims to be innocent, but his conduct *contradicts* such a claim: that is, his conduct is inconsistent with that of those who are innocent, conforming instead with that of those who are guilty. Hence, the fact that the defendant, having claimed to be innocent, refused to interrogate those who know the truth is τεκμήριον of his guilt, because i) it is consistent with the *standard behaviour* of those who are guilty[28] and ii) it shows that he is lying (or, to be more precise, that his mother is lying, since it is her who is charged).

That the defendant's violation of the *standard behaviour* – I am speaking of a "violation" because the standard behaviour is clearly assumed to have a *normative force* here – is taken as evidence for the prosecution is made clear by the fact that the plaintiff opens the argument by exclaiming, quite resoundingly, "I am quite certain (εὖ οἶδα)" – although, of course, as I mentioned, there is no "certainty" involved here. Along these lines, in § 12 he urges the jurors to be aware (cf. γενέσθω) that his opponent's behaviour is a τεκμήριον that the plaintiff is telling the truth; that is, the jurors have to concede that the defendant's inconsistent conduct speaks in favour of the plaintiff. Further, the occurrence of εἰκός in the closing lines of § 11 does nothing to devalue the (rhetorical) import of the argument, for, although it marks its fallibilist and conjectural background[29] it also emphasises that the plaintiff's line of reasoning entirely meets the jurors' expectations[30]. Since the *standard behaviour* is that one's deeds are consistent with one's words, the plaintiff is reasonably certain that the jurors will consider his opponent's words-deeds inconsistency as speaking (loudly) in his favour.

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[28] On "inconsistency" as τεκμήριον of guilt, see Antiph. 5.38 and Antiph. 6.27 which resoundingly echo 1.11-12.

[29] On the fact that, in spite of the Aristotelian analysis, τεκμήριον cannot be – at least, as far as Antiphon is concerned – understood as leading to certain knowledge I fully agree with Piazza, Di Piazza (2016).

[30] Such a value of εἰκός has been effectively pointed to by Hoffmann (2008).

5. ANTIPHON ON "TRUTH", "CLARITY" AND "KNOWLEDGE": § 28 AND § 13

Before proceeding with § 13, which is usually taken as the conclusion of the previous argument, let us take § 28 into consideration. Here, the speaker exclaims:

> Θαυμάζω δὲ ἔγωγε τῆς τόλμης τοῦ ἀδελφοῦ καὶ τῆς διανοίας, τὸ διομόσασθαι ὑπὲρ τῆς μητρὸς εὖ εἰδέναι μὴ πεποιηκυῖαν ταῦτα. Πῶς γὰρ ἄν τις εὖ εἰδείη οἷς μὴ παρεγένετο αὐτός; οὐ γὰρ δήπου μαρτύρων γ᾽ ἐναντίον οἱ ἐπιβουλεύοντες τοὺς θανάτους τοῖς πέλας μηχανῶνταί τε καὶ παρασκευάζουσιν, ἀλλ᾽ ὡς μάλιστα δύνανται λαθραιότατα καὶ ὡς ἀνθρώπων μηδένα εἰδέναι·
>
> I am amazed at my brother's audacity. He swears that he knows with certainty that his mother did not do these things; but how could someone know with certainty something that happened when he wasn't there himself? Surely those who plot the murder of their close friends and relatives do not contrive their schemes and make their preparations in front of witnesses but in the greatest possible secrecy so that no one else will know (trans. Gagarin, slightly modified).

So, the plaintiff restates that his opponent cannot claim to know with certainty that his mother is innocent, because he is not justified in believing so: indeed, he was not there, so he did not see what really happened[31].

[31] The plaintiff wonders "how could someone possess certain knowledge about something that happened when he wasn't there himself?", thus implying that "εἰδέναι" belongs only to those who "are there" when some event X occurs. While according to §§ 6-8 "learning through inquiring the witnesses" does constitute "knowledge" – such that "second-hand knowledge" is "knowledge" – § 28 omits this, highlighting the specific epistemic status of first-hand knowledge. Here, the main purpose seems to be delegitimising the defendant's attempts to free his mother from the charges, by showing that he cannot know that she is innocent: because he was not there, the defendant is not justified in believing that his mother did not kill his father. (It must be remembered that the only person who was actually involved in the father's death was the concubine of the father's friend who, after having been interrogated and tortured, has been killed. That is to say, each and every person who was actually involved is dead.).

Besides, the speaker argues, it is no surprise that the defendant was not there, because killers usually plan murders in secrecy. As a matter of fact, because the event is λαθραιότατα (i.e. "kept hidden" or, we might say again, "kept out of sight"), no one can know (μηδένα εἰδέναι) what really happened. In this respect, § 28 echoes § 8, for it strongly links the very possibility of "seeing/knowing" with the "clearness" or "manifestation" of the facts themselves: that which is not capable of being observed cannot be known and, consequently, only that which is observable can be the object of knowledge. (From the rhetorical point of view, the emphasis on the fact that the matter is kept hidden is allegedly meant, on the one hand, to suggest that since the defendant was not there, he cannot claim to know the truth and, on the other, to explain why there are no witnesses available).

The linkage between "clarity", "observability" and "knowing" is established already in § 13, where the plaintiff argues:

> περὶ μὲν οὖν τούτων οὐκ ἄδηλον ὅτι αὐτοὶ ἔφευγον τῶν πραχθέντων τὴν σαφήνειαν πυθέσθαι· ᾔδεσαν γὰρ οἰκεῖον σφίσι τὸ κακὸν ἀναφανησόμενον, ὥστε σιωπώμενον καὶ ἀβασάνιστον αὐτὸ ἐᾶσαι ἐβουλήθησαν. Ἀλλ᾽οὐχ ὑμεῖς γε, ὦ ἄνδρες, ἔγωγ᾽εὖ οἶδα, ἀλλὰ σαφὲς ποιήσετε. Ταῦτα μὲν οὖν μέχρι τούτου· περὶ δὲ τῶν γενομένων πειράσομαι ὑμῖν διηγήσασθαι τὴν ἀλήθειαν· δίκη δὲ κυβερνήσειεν.
>
> In this matter then it is evident that they were trying to avoid to learn through inquiry the clarity of the facts; they knew that their own wickedness would have become manifest, and so they wanted to let the matter rest in silence without an interrogation. But not you, gentlemen; I know well that you will make things clear. But enough about that. I will now try to give you a full-detailed reporting speech of the truth of what really happened[32] and may justice be my guide (trans. Gagarin, modified).

[32] I opted for rendering the expression "διηγήσασθαι τὴν ἀλήθειαν περὶ τῶν γενομένων" as "giving a full-detailed reporting speech of what happened", following Centrone (2014) who emphasises that "telling the truth (ἀλήθεια)" consists precisely in "giving a full-detailed reporting speech of what happens": "Dire la ἀλήθεια consiste piuttosto nel fornire un resoconto non omissivo, dettagliato, che non si lascia sfuggire nulla di ciò che deve essere detto; non a caso ἀλήθεια (come assai spesso l'aggettivo ἀληθής) si accompagna spesso in Omero al verbo καταλέγειν, che indica un elenco, un'enumerazione di oggetti, fatti e circostanze (cfr. il nostro "catalogo"). Questo resoconto, almeno in linea di principio, può

In order to fully comprehend this passage, it might be useful to linger on the occurrences of σαφήνεια and σαφές for a moment.

The speaker argues that the defendant does not want learn through inquiry the σαφήνεια τῶν πραχθέντων, in order to keep his own wickedness unseen. This is an intriguing expression, not only because it is a *unicum* in Antiphon's speeches[33], but also because we would usually take the adverb σαφῶς as qualifying the *cognitive act* of knowing or coming to know. But (*contra* Gagarin who translates it as "clear investigation") this is not the case: here, σαφήνεια is said to be τῶν πραχθέντων, such that it is the facts – not the cognitive act of grasping them – that exhibit the quality of "clarity" (or the quality of being "clear").

Consistently with this, as we have seen, in § 28 the speaker claims that murderers keep the facts "hidden" or "out of sight" (λαθραιότατα), such that no one can know (μηδένα εἰδέναι) what really happened – thus pointing to the linkage between "seeing/having in view"-"knowing" and "being seen/in view"-"being known".

Indeed[34], the expression σαφήνεια τῶν πραχθέντων ("the clarity of facts") in the opening line seems to suggest that (factual) truth – i.e., in the present case, the father's murder – is (assumed to be) evident, *unless* one does not commit oneself to conceal it. The whole paragraph is based upon the leitmotiv of "keeping in the dark"-"bringing to light": truth is (assumed to be) not obscured in itself; it is hidden by those who do not want it to be known. Accordingly, the speaker claims that he is confident that the jurors will make things clear (σαφὲς ποιήσετε). What it is hoped will become clear is, obviously, the (factual) truth: the speaker urges the jurors to bring the real facts to light; to make "how things really are" evident to anyone[35].

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poi essere fornito solo da chi sia stato diretto testimone degli eventi, come di fatto accade nei poemi omerici." (2014, 11).

[33] Gagarin (1997, 113).

[34] Nothing of what I am going to say in what follows is meant to be a generalization about "facts", "knowledge" and "truth". However, I am inclined to think that all I shall say does apply to legal contexts.

[35] It might be worth of mentioning that the emphasis on visibility as something which belongs to facts seems to be suggesting that we are not concerned here with the objective side. That is, there are no facts that are objectively more accessible than others. However, some facts are not actually accessed to (for instance, because no witness is there) and, in this sense, they are not clear at all – subjectively speaking. Obscurity falls always on the subjective side. Of course,

The emphasis on visibility and clarity is easily explicable once we consider that it is the "manifestative" character of truth that grounds both knowledge and knowledge's share-ability. We might perhaps put it as follows. While "(factual) truth" is what determines truth-conditions – in the sense that it is what makes a proposition true – "evidence" or "clarity" is what guarantees that such truth-conditions can be actually known: it is because (factual) truth is knowable that truth-conditions can be ascertained and truth-values judged.

Precisely because "truth" and "justification" are different, precisely because they were fully aware of the gap between "something being true" and "something being known (i.e. justifiedly believed)", the Greeks must have felt it as crucial to conceive of "truth" in such a way that the gap *could be* closed, i.e. as essentially epistemically accessible.

6. Antiphon on "teaching-the-truth": §§ 29-30 and the narrative sections (§§ 14-20)

As we have seen, in §§ 13 and 28 the speaker says that the defendant did/is doing his utmost to keep the facts hidden by taking the best advantage of the absence of eyewitnesses. Given that, he adds, apart from the killer, it is only the victim who really knows what happened (§ 29):

> οἱ δὲ ἐπιβουλευόμενοι οὐδὲν ἴσασι, πρίν γ᾽ ἤδη ἐν αὐτῷ ὦσι τῷ κακῷ καὶ γιγνώσκωσι τὸν ὄλεθρον ἐν ᾧ εἰσί.
>
> The victims of plots know nothing until the evil is already done and they understand the destruction that has come on them (trans. Gagarin).

Accordingly, apart from the killer, it is only the victim who can make the others see how things are/make things known to others. In the following lines, the plaintiff reveals how he came to learn the truth about the facts:

keeping the facts concealed is (or might be) also an effective rhetorical strategy. Cf. on this Sluiter (2016).

> Τότε δέ, ἐὰν μὲν δύνωνται καὶ φθάνωσι πρὶν ἀποθανεῖν, καὶ φίλους καὶ ἀναγκαίους τοὺς σφετέρους καλοῦσι καὶ μαρτύρονται, καὶ λέγουσιν αὐτοῖς ὑφ᾽ ὧν ἀπόλλυνται, καὶ ἐπισκήπτουσι τιμωρῆσαι σφίσιν αὐτοῖς ἠδικημένοις· [30] (…) ἐὰν δὲ τούτων ἁμαρτάνωσι, γράμματα γράφουσι, καὶ οἰκέτας τοὺς σφετέρους αὐτῶν ἐπικαλοῦνται μάρτυρας, καὶ δηλοῦσιν ὑφ᾽ ὧν ἀπόλλυνται. Κἀκεῖνος ἐμοὶ νέῳ ἔτι ὄντι ταῦτα ἐδήλωσε καὶ ἐπέστειλεν, ὦ ἄνδρες, οὐ τοῖς ἑαυτοῦ δούλοις.
>
> Then, if they [scil. victims] can and have enough time before their death, they summon their friends or relatives as witnesses, tell them who is causing their death, and direct them to take vengeance for the wrongs they are suffering. [30] (…) If victims lack these means, they write things down, and they summon their own servants as witnesses and disclose to them who is causing their death. Young as I was at the time, my father disclosed these matters to me and gave instructions to me, not his slaves (trans. Gagarin, slightly modified).

Epistemically speaking, this is interesting. The one who *really knows* how things are is the one who can really *disclose* them to the others. Here δηλόω – that I opted for translating with "disclosing" – does not seem to mean simply "stating" the truth, i.e. uttering a proposition that corresponds to reality; more precisely, it alludes to the act of "illuminating something, in order to make it visible to others". Again, the emphasis on "clarity" and "visibility" is notable. Indeed, "disclosure" points to an "uttering" performed by someone who really knows how things are with the aim of conveying knowledge.

In short, we might say that "disclosure" 1) is both facts-dependent and knowledge-dependent (or, in other words, both true and justified) and 2) does constitute an act of *communication*, not merely an assertion.

The plaintiff's case is that, in listening to his father's words, he himself has become a witness (note the double mention of the witnesses)[36] – although his knowledge is clearly not, epistemically speaking, the first-hand knowledge of the eye-witnesses. By emphasising that the truth has been disclosed to him, the plaintiff is attempting to persuade the jurors that the truth can be disclosed to

[36] In this regard, it is quite significant the expression σαφώς δηλούται occurring in Antiph. 3.2.5 (here σαφεστέρως δηλούται) and 3.4.5. Cf. also 2.1.3.

them as well: just as the father/victim has made the truth visible to him, so the son/plaintiff is making the truth visible to the jurors[37].

Of course, in doing so the plaintiff aims to mark the difference between the defendant and himself. As we have seen he has emphasised repeatedly that the defendant cannot claim to know that his mother is innocent, because neither he was there to see the killing occurring nor he has been instructed by the witnesses (indeed, there are no witnesses). By contrast, in §§ 29-30 the speaker is arguing that he *can* legitimately claim to be telling the truth, because, unlike his half-brother, he *did* gain information (πυθέσθαι) from someone who knew the truth – in fact, he learned it from the victim – and disclosed (δηλόω) it to him[38].

A few additional elements deserve attention. First of all, "disclosure" understood as an "uttering performed by someone who really knows how things are with the aim of conveying knowledge" is taken as grounding (at least partially) knowledge-transmission, in the sense that who performs "disclosure" is someone who is justified in believing that, say, "O" is the case, such that their words are justifying (at least partially) for the hearer (of course, whether "disclosing" is sufficient for "making someone learn something" is questionable, for it accounts for, or sets the bar at, the cognitive state of the speaker/knower, but it remains silent regarding what it is required by the cognitive state of the listener to actually become a learner).

Secondly, it seems that the plaintiff is insinuating that, because he learned the truth from someone who surely knew it, he can (§13) provide "a much-detailed reporting speech of what happened", that is, that speech which is normally uttered by the witnesses. Accordingly, §§ 14-20 are devoted to narrating the facts. Things are not so easy though, because in fact whether the plaintiff's argument is epistemically conclusive is questionable. As a matter of fact, it is not clear if the narration does correspond to what really happened nor if the speaker is really justified in marking the epistemic difference between his half-brother and himself. Indeed, scholars

[37] On this kind of rhetorical strategy see O'Connell (2017).

[38] For the sake of preciseness, as one anonymous referee rightly points out, it might be convenient to acknowledge, that hearsay evidence was actually admissible in Athenian courts if the witnesses had died. That is to say, although the relevance of the fact that the plaintiff learned the truth from his father is, epistemically speaking, questionable, there is no doubt that the plaintiff's reliance upon this fits perfectly the Athenian legal practices.

agree that "details must have come partly, perhaps largely, from the speaker's imagination" (Gagarin, 1998: 9). And it seems that they have a point.

As I mentioned, the plaintiff stresses that he learned the truth from his father (i.e. the victim) in order to ground his epistemic status: the reference to the father *qua* victim is supposed to guarantee that his son is telling the truth. In a nutshell, the line of reasoning is that, because the father is the *epistemic authority*, the son – having been instructed by him – does possess knowledge of what happened and, therefore, is telling the truth.

However, is it accurate and reliable? While it is obvious that the victim has an easy access to the material executor's identity (§ 29), it is not obvious that the victim can tell who the real instigator of the murder is – if there is one. That is, the father certainly could have come to know about his wife operating in the dark in some way, but it is highly unlikely that he *did* really see (or hear from her about) her instigating the murder. In short, the father/victim did not have a strong (epistemically speaking) access to the events. But if even the father/victim is left with nothing but conjecture[39], it follows that the reconstruction of the events provided in the narrative section (§§ 14-20), though vivid and effective, is conjectural as well and, therefore, that when he promises that he will provide a fully-detailed speech reporting what really happened, the plaintiff is lying (besides, assuming that the narrative section is entirely fictitious, it would also possible to explain why the concubine had never accused the step-mother of being the instigator of the plot).

All in all, albeit perhaps rhetorically effective, the argument is not epistemically sound – although it puts emphasis once again on the distinction between the speech's truth-conditions and the speaker's justification-conditions. Indeed, as far as we know, the narrative section could be either conjectural – in that the plaintiff figured out what really happened on the basis of his father's suggestions or some other hint about which we are not informed – or even a lucky guess. That is, it seems unquestionable that the speaker is not adequately justified in claiming that the murder occurred in precisely this way[40]. However, does it follow from this

[39] On this see Carey (2004, 41-42).

[40] In short, on the one hand, the plaintiff is justified in believing his father's words, because he knows that his father, as the victim, has epistemic authority; on the other hand, however, it is clear that he is not justified in believing that the

that it is false? Or to put it more clearly, does it follow that it is inaccurate? Of course not. As a matter of fact, that the reconstruction of the murder is conjectural does not mean that the murder did not take place in exactly this way. Conjecture and guesswork affect neither "factual truth" nor the speech's truth-value; they only qualify the cognitive state of the knower. There is a gulf between what it is for a proposition/belief to be "true" in the sense of "corresponding to the external item which makes it true" and what it is for a proposition/belief to be "justified".

Epistemically speaking, the real problem is that the narration (whether accurate or not), being unjustified and unsupported by witnesses, is unreliable – at least, from the jurors' (and readers') point of view. What kind of justification do they (and we) have to trust the speaker's account, given that nobody *else* can confirm it? The answer is straightforward: none. Again, this does not necessarily mean that it is false; rather, it means that its truth-value cannot be recognised (which is quite another story).

7. Conclusions

Let us take stock and let us begin by briefly recalling the main assertions:

1. The cognitive act of "knowing (something)" – usually denoted by the verb εἰδέναι (in conjunction with the adverbs σαφώς or εὖ) – means "being justified in believing (something)", such that Antiphon seems to be submitting something akin to the well-known JTB (knowledge as justified true belief) account[41].
2. The cognitive act of "grasping (something)" – denoted by the verb λαμβάνω – is likely to mean "being acquainted with/related to something" thus providing the ground for the very possibility of "justification". One cannot hold or come to form a well-formed justified belief, unless some prior cognitive access to the facts is given.
3. "Factual truth" is assumed to be (essentially) epistemically accessible, such that "knowing X" rests upon the very

murder took place in the way he claims it did (in the narrative section), because his father could not have access to that.

[41] For an overview, see Ichikawa, Steup (2018).

possibility of "having X in view" and, vice versa, "being known" rests upon the very possibility of "being in view" (§ 8; § 13; § 28).

4. "Telling the truth" is likely to presume that one's claims are consistent/match one's conduct (§§ 11-12) or, to be more accurate, if one's claims are not consistent with – or do not match – one's behaviour, it is highly likely that one is lying. In turn, this means that "probability" does play a role within legal contexts, but – and this is significant – it is clearly distinguished from "truth".
5. "Teaching" understood as "making someone learn something" seems to *presume* "disclosure", that is, both a) the fact that the speaker is justified in believing that, say, "O" is the case and b) the fact that such justification possessed by the speaker functions as a justification for the hearer as well (at least partially). However, it is not clear at all whether "teaching" can be wholly reduced to "disclosure". (As I mentioned, this picture leaves open the possibility, which is not addressed in this text, that the hearer does not actually learn what the speaker is telling them, for it seems reasonable to suppose that, in order to really accept the speaker's testimony, the hearer needs to perform a cognitive *activity* in their own).

At the beginning, I argued that forensic oratory in general and Antiphon's *Against the stepmother* in particular have a lot to say about fundamental epistemic concepts such as "knowledge", "truth", "telling the truth", "teaching" and, mostly, "justification". Indeed, I hinted that law-court contexts are epistemically challenging – and intriguing – due to the fact that "truth-values" can be ascertained only via examining whether the "justification-conditions" are met. To put it otherwise, since the truth of what happened is precisely what is under dispute, the jurors cannot rely upon it in order to establish who (the plaintiff or the defendant) is telling the truth; contrariwise, the only way in which they can judge who is telling the truth is by assessing who is justified in claiming what they claim.

This picture actually explains why also the speakers (in the present case, the unnamed plaintiff) are far more concerned with "justification" and "evidence" rather than with "truth". As we have seen, Antiphon's strategy relies upon two main arguments: on the one hand, he wishes to highlight the inconsistency between the defendant's words and behaviour, which constitute evidence (or

does provide *prima facie* justification) in favour of his own client; on the other hand, he mainly insists on the fact that, while the defendant's claim that he knows with certainty that his mother is innocent is not (adequately) justified, the plaintiff's claim that he knows with certainty that the woman is guilty is, because it relies upon the victim's testimony (even though this line of reasoning is, in the present case, far from conclusive). At the end of the day, both arguments are devoted to put into question the defendant's (epistemic) reliability.

As I said at the beginning, my aim was to bring to the fore the epistemological background of this text. The underlying working hypothesis was that forensic oratory has a lot to say about epistemic concepts such as "justification", "knowledge", "truth" and "testimony". Needless to say, I did not draw a comprehensive picture of "forensic epistemology" nor did I attempt to; more humbly, I hope that this piece can contribute – in its small – to revalue the epistemic core of Greek forensic oratory.

References

Adamidis, V., 'The Rhetorical Use of Torture in Attic Forensic Oratory', *Rhetorica: A Journal of the History of Rhetoric*, 37 (1), 16–34, 2019.

Carawan, E., *Rhetoric and the Law of Draco*, Oxford: Clarendon, 1998.

Carey, C., *Trials from Classical Athens*, Routledge (second edition), 2012.

Centrone, B., 'ΑΛΗΘΕΙΑ LOGICA, ΑΛΗΘΕΙΑ ONTOLOGICA IN PLATONE', Méthexis, 27 2014, 7–23.

Dilts, M. R., Murphy, D. J., *Antiphon and Andocides: Speeches (Antiphontis et Andocidis Orationes)*, Oxford Classical Texts, Oxford University Press, 2018.

Di Piazza, S., Piazza, F., 'The words of conjecture. Semiotics and epistemology in ancient medicine and rhetoric', *Rhetorica: A Journal of the History of Rhetoric*, 34 (1), 2016, 1–26.

Due, B., *Antiphon: A study in argumentation*, Opuscula graecolatina (Supplementa Musei Tusculani), Museum Tusculanum, 1980.

Edwards, M., 'Tragedy in Antiphon 1, Against the Stepmother', in Fountoulakis, A., Markantonatos, A., Vasilaros, G., (eds.) *Theatre World. Critical Perspectives on Greek Tragedy and Comedy. Studies in Honour of Georgia Xanthakis-Karamanos*, *Trends in Classics - Supplementary Volumes, 45*, De Gruyter, 2017.

Gagarin, M., *Antiphon, the speeches (edition and commentary). Cambridge Greek and Latin Classics*, Cambridge University Press, 1997.

Gagarin, M., MacDowell, D. M., *Antiphon and Andocides*, *The Oratory of Classical Greece*, Volume 1, University of Texas Press, 1998.

Gagarin, M., *Antiphon the Athenian: Oratory, Law and Justice in the Age of the Sophists*, University of Texas Press, 2002.

Hoffman, D. C., 'Concerning *Eikos*: Social Expectation and Verisimilitude in Early Attic Rhetoric', *Rhetorica: A Journal of the History of Rhetoric* 26 (1), 2008, 1–29.

Ichikawa, J.J., Steup, M., 'The Analysis of Knowledge', *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), in Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/sum2018/entries/knowledge-analysis/>.

Keren, A. 'Epistemic authority, testimony, and the transmission of knowledge', *Episteme*, 4 (3), 2007, 368–381.

Lackey, J., Sosa, E., (eds.), *The Epistemology of Testimony*, Oxford University Press, 2006.

Leonard, N., 'Epistemological Problems of Testimony', *The Stanford Encyclopedia* of Philosophy (Summer 2021 Edition), in Edward N. Zalta (ed.), forthcoming URL =

<https://plato.stanford.edu/archives/sum2021/entries/testimony-episprob/>.

Maidment, K. J., *Minor Attic Orators. Vol. I. Antiphon, Andocides*, Loeb Classical Library, Heinemann, 1941.

Noël, M-P., 'Isocrates and the *Rhetoric to Alexander*: Meaning and Uses of *Tekmerion*', *Rhetorica: A Journal of the History of Rhetoric*, 29 (3), 2011, 319–335.

O'Connell, P., 'The rhetoric of visibility and invisibility in Antiphon 5, *On the murder of Herodes*', *Classical Quarterly*, 66 (1), 2016, 46–58.

O'Connell, *The Rhetoric of Seeing in Attic Forensic Oratory*, University of Texas Press, 2017.

Rossetti, L., 'Un topos attico di V secolo: il logos amarturos', *Nova Tellus [México]*, XIII, 1995, 27–58.

Rossetti, L., 'Il *logos amarturos'*, Zbornik Matice srpske za klasicne studije, 14, 2012, 49–71.

Sluiter, I., 'Obscurity', in Grafton, A., Most, G. W. (eds.) *Canonical texts and scholarly practices: a global comparative approach*, Cambridge University Press, 2016, 34–51.

Sommerstein, A. H., 'The decline of the oath?', in Sommerstein, A. H., Torrance, I. C. (eds.) *Oaths and Swearing in Ancient Greece*, De Gruyter, 2014, 381–393.

Wohl, V., 'A Tragic Case of Poisoning: Intention Between Tragedy and the Law', *Transactions of the American Philological Association (1974-2014)*, 140 (1), Spring 2010, 33–70.

Zagzebski, L. 'A defense of epistemic authority', *Research Philosophica*, 90 (2), 2013, 293–306.