**Evidentiary Arguments in 5th century prose**

In her book on Herodotus, Rosalind Thomas describes the generic elements of the literary and intellectual milieu developing in the 5th century BCE as

> using the discourse of proof, of τεκμήρια and μαρτύρια, and the language of early medicine and natural philosophy which sought to prove theories by abstract argument where evidence was lacking. This language was also to become the style of fully developed rhetoric.[1]

In this excerpt Thomas suggests that a methodological thread runs through early Greek prose, a consistent use of evidentiary argumentation. This method takes appearances and circumstances as "proofs" or "signs" (τεκμήρια) of nature or reality. In the burgeoning prose genres of medicine, history, and oratory authors make frequent appeals to such empirical "proofs" when constructing arguments for the nature of something or the reality of a situation. Thomas points out Herodotus' own use of such methodology throughout the *Histories*, yet offers only this scintillating statement of its enduring use. In this paper, I trace the development of such evidentiary arguments through the early Greek prose genres in order to contextualize its use in Arguments from Probability in oratory, particularly in Lysias and Antiphon.

The medical corpus offers an initial insight into prose genres' use of empirical proof in argumentation. In the treatise *On airs, waters, and places* the Hippocratic author attempts to demonstrate his knowledge of the human body and the nature of man. In §16 specifically the author argues that Asiatic peoples are fainthearted because of conditions and institutions such as despotic rule and unchanging seasons. Amid various examples, the author reaches a generalizing conclusion: "one's disposition will be changed by institutions, and the following is strong proof

---

[1] Thomas, Rosalind. Herodotus *in Context: Ethnography, Science, and the Art of Persuasion*. Cambridge: Cambridge University Press, 2000.

of these things" (ἀποτρέπεσθαι τήν γνώμην ἀπὸ τῶν νόμων, μέγα δὲ τεκμήριον τουτέων, 16).[2]

The author then provides an example of free Greeks living in Asia who are "the most warlike" (μαχιμώτατοι). To argue for a conclusion about the nature of Asiatic peoples, the medical writer turns to empirical "proof" (τεκμήριον) such as their climate and political forms. Plato later picks up on this evidentiary aspect of medical demonstration in the *Phaedrus*. Before Socrates ironically alludes to the medical corpus by arguing that "landscapes and trees have nothing to teach me" (τὰ μὲν οὖν χωρία καὶ τὰ δένδρα οὐδέν μ' ἐθέλει διδάσκειν, 230d3-4), he describes the setting for his and Phaedrus' conversation and notes the cold water in the stream, which he knows "because I sought proof with my foot" (ὥς γε τῶι ποδὶ τεκμήρασθαι, 230b6). Unlike doctors, Socrates looks to people for τεκμήρια. The wide-spread use of τεκμήρια-language in the medical corpus may be assumed from the treatise *On airs, waters, and places* as well as Plato's back-handed allusion in this passage.

After Herodotus, Thucydides takes up the genre of history, and like Herodotus before him, Thucydides utilizes evidentiary proofs in his argumentation. He begins his history by claiming that the Peloponnesian War was the "greatest disturbance for the Greeks and a great part of the barbarian world" (κίνησις γὰρ αὕτη μεγίστη δὴ τοῖς Ἕλλησιν ἐγένετο καὶ μέρει τινὶ τῶν βαρβάρων, 1.1.2). To support this thesis, Thucydides "takes as proof" (τεκμαιρόμενος, 1.1.1) two things: (1) that both Athens and Sparta were at their military peaks and (2) nearly all the other Greek city-states allied with one or the other. Once again, an author looks to empirical τεκμήρια in order to support his thesis about the nature of the war. Spending twenty sections laying out his various "proofs," Thucydides returns to his methodology in §21, where he

---

[2] All translations are my own.

contends that "if anyone, on account of the stated proofs, considers these things (which I have just detailed) as I do, he would not be mistaken" (ἐκ δὲ τῶν εἰημένων τεκμηρίων ὅμως τοιαῦτα ἄν τις νομίζων μάλιστα ἅ διῆλθον οὐχ ἁμαρτάνοι, A.21.1).[3] Thucydides, like the medical author in *On airs, waters, and places,* uses empirical "proofs" for a generalized thesis about the nature of something, here the Peloponnesian War. This empirical method reaches its persuasive climax, however, in the work of orators, who coopt the methodology into their developing Argument from Probability.

The Argument from Probability is the primary logical tool for orators such as Lysias and Antiphon. In order to present a viable case, orators and logographers attempted to structure the τεκμήρια in such a way as to demonstrate the probable occurrence (εἰκός). Like their prose counterparts, orators used "proofs" to support a more general claim about reality, and, like historians and doctors, the orators much preferred empirical τεκμήρια. They use evidence and appearances as "proofs" or "signs" of the probable reality of the situation. However, as will be shown, orators use of τεκμήρια differs from the way in which doctors and historians use such proofs. Both Antiphon and Lysias demonstrate well the mechanics of such an argument.

Antiphon, the earliest in the canon of ten forensic orators, is known best as the Father of logograpy and for his "considerable shrewdness" in argumentation.[4] For example, in a speech written for a young man prosecuting his step-mother on the grounds that she poisoned his father,

---

[3] This statement also parallels a statement in *On airs, waters, and places*: "one would not be mistaken, which is likely to happen if one does not previously know these things through consideration" (μηδὲ διαμαρτάνειν, ἅ εἰκός ἐστι γίγνεσθαι, ἢν μή τις ταῦτα πρότερον εἰδὼς προφροντίσῃ, 2). Clearly, correctly reading τεκμήρια is key to avoiding logical error.

[4] Kennedy, George A. "Oratory," in *The Cambridge History of Classical Literature, Volume 1*. eds. Easterling and Knox. Cambridge: Cambridge University Press, 1985.

Antiphon grounds much of his argument on the defendants' (the step-mother and her sons) refusal to allow the household slaves to be tortured for testimony. In an extended section at the beginning of the speech (§10-14) Antiphon makes repeated reference to τεκμήρια, though one example crystallizes the point: "it is indeed probable, I think, that these same considerations are evidence for my case that these men are guilty of murder" (ἐμοὶ δή που εἰκὸς ταὐτὰ ταῦτα τεκμήρια εἶναι ὡς εἰσὶν ἔνοχοι τῷ φόνῳ, 11). Here Antiphon brings his argument to a head, claiming that the refusal to offer up the slaves as evidence is in itself evidence of the defendants' guilt. Antiphon uses their actions as τεκμήρια within an Argument from Probability to demonstrate their guilt.

Lysias likewise frequently utilizes "proofs" within probabilistic arguments. As Lysias attempts to disprove Eratosthenes' claim to innocence in his famous twelfth speech, he fashions an Argument from Probability concerning Eratosthenes' nature:

> It is necessary for the [judges] to cast their vote based on [Eratosthenes'] deeds rather than his words, taking that which they know was done as evidence of what was then said, since it is impossible to provide witnesses of these things.
> <div align="right">Lysias 12.33</div>

> τούσδε ἐκ τῶν ἔργων χρὴ μᾶλλον ἤ ἐκ τῶν λόγων τὴν ψῆφον φέρειν, ἅ ἴσασι γεγενημένα τῶν τότε λεγομένων τεκμήρια λαμβάνοντας, ἐπειδὴ μάρτυρας περὶ αὐτῶν οὐχ οἷόν τε παρασχέσθαι.

Like doctors and historians before him, Lysias turns to τεκμήρια in order to establish a conclusion when eye-witnesses are lacking. While attempting to prove what likely happened at the meeting of the Thirty when Lysias and his brother Polemarchus were condemned to die, Lysias directs the judges' attention to empirical evidence upon which they ought to found their opinion. Lysias claims that although Eratosthenes decries his innocence, his known actions

agains the democracy make it probable that he was a willing participant in the murder of Polemarchus. Like the prose genres of medical texts and history, oratory makes repeated use of τεκμήρια in argumentation.

The oratorical version of evidentiary arguments, however, adds a level of nuance not consistently found in the medical or historical texts. Whereas the Hippocratic author and Thucydides turn to "proofs" in order to support a general claim about the nature of something, Lysias and Antiphon reveal that oratory uses τεκμήρια in a slightly different manner. First, oratory is often more concerned with the reality of a situation, not the nature of a thing.[5] Second, oratory does not utilize τεκμήρια to prove beyond a shadow of a doubt (to use modern legal jargon) what actually occurred; they aim more simply to suggest what likely happened. Thucydides does not claim that the Peloponnesian War was "likely the greatest disturbance" the world had yet seen; he argues that it was in fact the greatest disturbance. Likewise, the Hippocratic author claims that climate and institutions do truly cause Asiatic peoples to be fainthearted. τεκμήρια, for these early prose writers, are "signs" of reality. In comparison, orators use τεκμήρια as "evidence" in support of an argument.

In conclusion, it appears that Thomas was correct, a methodological thread does run through early Greek prose. The genres of medical texts, history, and oratory all use the language of proof throughout for persuasive purposes. Yet it is important to note also the subtle differences within this tradition. While the language of τεκμήρια in oratory appears to have connections to other forms of Greek prose, it carves out a unique niche for such discourse by coopting it within the Argument from Probability.

---

[5] This division loosely reenacts the νόμος/φύσις debate often found in Greek thought. Note also the disjunction between ἔργων and λόγων in Lysias' speech, clearly recalling a key theme in Thucydides' history.