

## *The Powerless and Unfree* *A Case Study*

The law courts provide a venue where personal and political power struggles are played out in front of the *dēmos* with real consequences for real people. As discussed in Chapter 4, the jury is the idealized *dēmos*, which is supposed to work in harmony with the laws. Together, the *dēmos* and the laws interdependently strengthen each other, with citizens enjoying their freedom and power symbiotically with the *nomoi*. Criminals, by contrast, destroy the basic social contract by weakening the power of the laws and, in turn, the power of citizenship. This struggle is the backdrop to all court trials, but cases that deal directly with citizenship project it to the forefront. Apollodoros' *Against Neaira* (59) is one such case focused on legitimate versus usurped citizenship.<sup>1</sup> In the following pages, I use this text as a sustained case study of the role of freedom and power in conflicts over status and the ramifications of such ideology. The ability to act, circumscribed by the phrase “whatever one wishes” (ὃ τι ἄν βούληται), appears with both positive and negative connotations in the speech, and the terms κύριος and ἄκυρος determine who should be acting freely and who should be subject to domination. Citizens are presumed to be rightfully empowered, but their power can be challenged. The severity of usurping the powers of citizenship becomes apparent when we take into account the precarious nature of freedom and power. We shall see the imagined dangers of allowing an immigrant to wield the power to do “whatever she wishes” illegitimately. Exploring this threat is key to better explicating the structure of Apollodoros' argument in *Against Neaira*, to understanding freedom and performative power as essential features of citizenship, and to revealing the real effects of ideology on the most vulnerable members of Athenian society.

<sup>1</sup> The speech comes to us in the Demosthenic corpus, but his authorship has been doubted since antiquity. Following general consensus, I attribute the speech to Apollodoros. For a review of the internal evidence, see Kapparis 1999: 48–56.

The background of the case shapes the speech's content. Composed between 343 and 340, *Against Neaira* is a prosecution speech for a metic's illegal marriage to a citizen.<sup>2</sup> Theomnestos is the official prosecutor, but after a short introduction (1–15) he yields the platform to Apollodoros, who is both his father-in-law and brother-in-law, as well as the author of the speech.<sup>3</sup> The official charge is against Neaira, a metic who was also formerly a sex laborer and slave, for allegedly being married to Stephanos, an Athenian citizen whose own hostility toward Apollodoros is offered as motivation for the suit.<sup>4</sup> While a law against masquerading as a citizen existed perhaps as early as Solon, non-Athenians became further distinguished from citizens statutorily in the fifth and fourth centuries. Perikles' double-descent requirement for citizenship in 451/0 prohibited the offspring of mixed marriages from being citizens, and another law passed in the 380s prevented mixed-status marriages altogether, clearly demarcating marriage to a citizen as an exclusive citizen privilege.<sup>5</sup> Thus, the prosecution must prove both that Neaira is not a citizen and that she is "married" to Stephanos. While much of the speech is dedicated to establishing that Neaira is a foreigner through her uncitizen-like behavior, the prosecution's proof of illegal marriage mostly rests on Neaira's alleged daughter, Phano, being passed off as Stephanos' legitimate offspring. Phano has enjoyed the benefits of citizenship, including marriage to Athenian men and participation in religious roles reserved for citizens. In a society lacking any official documentation of marriages, Neaira's "legitimate" children were the

<sup>2</sup> While other scholars characterize the charge as a suit for illegal use of citizenship (γραφὴ ξενίας), Kapparis shows that the infraction is instead regarding a fourth-century law prohibiting marriages between metics and citizens (1999 on §16 and 2005: 78). He cites Harrison, who includes [Dem.] 59 in his section on marriage law (Harrison 1968: 24–9), and MacDowell, who includes it in his section on marriage law as well though he attributes it to part of the 451/0 Periklean citizenship law (MacDowell 1978: 87). For [Dem.] 59 as a *graphē xenias*, see Todd 1993: 208; Hamel 2003: 135. Under either statute, the nature of the offense still focuses on an alien usurping a citizen's privilege, namely marrying a citizen. The case revolves around citizen versus alien abilities.

<sup>3</sup> Apollodoros married Theomnestos' sister and, later, Theomnestos married Apollodoros' daughter (his own niece) to further strengthen family ties (2). For more on familial marriage strategies, see Cox 1998: 3–37.

<sup>4</sup> For the term "sex laborer," p. 62 n. 18. I use "prostitute" or "whore" when reflecting the demeaning language of the Greek. For a dissection of Apollodoros' use of different Greek terms for sex laborers and Neaira's status, see Miner 2003.

<sup>5</sup> For Perikles' citizenship law, see [Arist.] *Ath. Pol.* 26.4; Plut. *Per.* 37.3; C. Patterson 1981 and 2005. For a detailed explanation of the evolution of laws regarding marriages and the mixed marriage statute in particular, see Kapparis 1999 on §16. He considers the documents at §16 and §52 to be authentic parts of the same fourth-century law. *Hetairai* in particular may have been the target of the law (Kapparis 2018a: 179–82; see also Bakewell 2008/09). Canevaro shows that both documents are later insertions, and, while he remains equivocal about the document at §16, believes the one at §52 is a forgery (2013a: 183–90). Regardless of the veracity of the two documents, the overall substance of the law itself is defended by Kapparis.

evidence that she was not merely a sexual companion but was acting as a wife. The legitimacy of one's offspring was a privilege of citizen marriage, and Neaira's appropriation of that right is tantamount to her pretending to be a lawfully wedded wife and thus a citizen. Therefore, although the charge is technically against Neaira, Stephanos and Phano also come under scrutiny and have much to lose from a successful prosecution.

*Against Neaira* provides a wealth of information about Athenian private and public life, from sexual labor to contemporary politics, and is an exemplar of how citizenship extends outward from the *oikos*. As Kapparis puts it, "there is hardly any modern study of classical Athens which does not draw information from this text, since the speech substantially enriches our knowledge of Athenian life, society, religion, law, constitution and institutions."<sup>6</sup> Yet the role of freedom and power have not been previously explored in this speech.<sup>7</sup> Although the charge is technically a public one about citizenship, Apollodoros' attack centers on what might appear to be private concerns. Taking both realms into account is necessary for analyzing the work as a whole and scrutinizing the connection between *oikos* and *polis* in Athens. The intersection of the public and private spheres in *Against Neaira* is typical of the blurred distinction between the two realms. The *oikos* was the basis not only of women's identity but also of men's, since it "both allowed and constructed an Athenian's public identity and participation."<sup>8</sup> The parameters and ideals of citizenship, including the freedom and power to do whatever one wished, accordingly straddled both domains. Attending to the way power and freedom are deployed throughout the speech illuminates the underpinnings of Apollodoros' argumentative strategies and furthers our understanding of the power structures in the private and public realms. Therefore, by taking into consideration the power struggles as presented by Apollodoros, we can better make sense of how Neaira as the specter of the metic wife threatens the *oikos* and the city, and also acknowledge the consequences of such ideology. The stakes are high: if Neaira is convicted, Stephanos will be fined 1,000 drachmas, the legitimacy of all his children will be called into question, and Neaira and Stephanos will suffer the emotional wound of their long-term relationship

<sup>6</sup> Kapparis 1999: 2.

<sup>7</sup> Glazebrook's chapter on *Against Neaira* is the latest dedicated treatment of the whole speech (2021: 63–93). Developed independently, our readings emphasize different elements of the text, while drawing a few parallel and complementary conclusions. Instead of focusing on freedom and power, her account centers on how Apollodoros crafts Neaira's identity as a sex laborer.

<sup>8</sup> C. Patterson 1994: 200.

being forcibly terminated. Most disturbingly by far, Neaira will be sold back into slavery.

A naturalized citizen himself, Apollodoros frames power as a zero-sum game in which its illegitimate deployment comes at the expense of Athenian citizens.<sup>9</sup> I will argue that throughout his speech, the relationship between freedom, power, and civic status frames Neaira's crimes and their repercussions. Apollodoros' narrative relies on the democratic principle that links power and citizenship, and that conversely associates their disconnection with dire consequences for the status of the individual and the condition of the whole *polis*. These threats to citizenship, according to *Against Neaira*, emanate from the household and are shaped by the allegedly precarious power structures that cross private-public boundaries.<sup>10</sup> More than simply intending to arouse disgust or contempt for an immigrant courtesan acting as a citizen wife, the prosecution tries to exploit the jury's prejudice in order to provoke fear for their own status. Gaining or losing power in the *oikos* accordingly results in gaining or losing power in the city. In Section 5.1, I will show that citizens and laws are portrayed as rightfully *kurios* throughout *Against Neaira* and link the term *kurios* to the free range of action described by the phrase to do "whatever one wishes." Facilitating citizen power is portrayed as a proper citizen behavior. Stephanos and Neaira are shown instead as undermining citizenship like the criminals in Chapter 4. While the jurors should be *kurioi* since they are citizens, Neaira as a paradigmatic Other (female, foreign, former slave, sex laborer) should obviously not be empowered.<sup>11</sup> I will demonstrate in Section 5.2 that Apollodoros treats Neaira's metic status, enslavement, and *hetaira* livelihood as key features that should result in a lack of freedom and power.<sup>12</sup> At the extreme, lack of

<sup>9</sup> Apollodoros' performance of citizenship, including his public prosecutions and marriage to a citizen, is concerned with defending the boundaries of citizenship precisely because of his enfranchised, as opposed to native, status (Deene 2011).

<sup>10</sup> Similarly, Spatharas argues that Apollodoros' argumentative strategy involves "a fascinating narrative that exploits Athenian anxieties concerning the integrity of the *oikos*," but does not investigate how those anxieties are related to power or freedom (2011: 101).

<sup>11</sup> Neaira is remarkably called *kuria* once when an arbitrator reestablishes her free status at §46. The use here, however, is with regards to her civic status as free instead of enslaved. See pp. 100–1 for a fuller treatment of *kurios* as related to being free.

<sup>12</sup> The term *hetaira* literally means "female companion" and is a euphemism for a sex laborer who engages in longer-term liaisons with her clients. While legally indistinguishable from other prostitutes, *hetairai* had a higher social status and cost than, for example, "street walkers." They typically did not have a pimp or madam, which resulted in greater independence and the possibility of significant wealth accumulation in contrast to other types of female sex laborers. "Courtesan" is an inexact but common translation which I will adopt here. The difference between a *hetaira* and prostitute (or *porne*) was hardly clear or fixed. See Kurke 1999: 175–219. A study by Kapparis details the spectrum of the roughly 200 words for female and male sex laborers in the Greek world (2011).

power is properly subjection: the result of entwining citizenship with power and freedom is the ideological exclusion of non-citizens from both. Finally, Section 5.3 examines how power accretes to Neaira's actions and the destabilizing consequences that threatens to precipitate. Since power is negotiable, Neaira is presented as a danger to the whole community because she assumes power and thus the ability to pursue goals for herself and her children.<sup>13</sup> In the zero-sum game of power, the prosecution claims that, as a consequence, the *dēmos* becomes disempowered and metics like Neaira become empowered.

### 5.1 Who Should Be *Kurios*?

From the very beginning, Apollodoros demarcates citizens as inherently powerful with the term *kurios*.<sup>14</sup> As we have seen in Chapter 4, the power intrinsic to freedom can be expressed by the adjective *kurios* and its lack by *akuros*, with individual citizens, the *dēmos* as a whole, and the laws normally *kurios*. Apollodoros deploys these default assumptions to establish himself and his family as good members of the community by claiming that they empower citizens. Conversely, he also claims that the defense undermines that very power. The focus on being *kurios* in distinguishing between the litigants from early on and continuously in the speech points to the importance of power in the work as a whole.<sup>15</sup>

The opening speaker and prosecutor of record, Theomnestos, begins by describing Stephanos' wrongs against Apollodoros, Theomnestos' in-law. Although the charge is technically against Neaira, it is her affiliation with Stephanos that makes her the target. Establishing vengeance as a clear motive for a suit is quite typical as a way to protect the prosecutor against the suspicion of sycophancy.<sup>16</sup> Theomnestos claims that Stephanos has previously attacked Apollodoros with a frivolous lawsuit, after Apollodoros

<sup>13</sup> Bakewell similarly concludes that "for Apollodoros and others like him, the real problem was Neaira's ability to pursue goals of her own, not only for herself but for her children as well. In so doing, she undermined the concept of the citizen *oikos*, usurped the role of its *kyrios* and damaged the city to which they all belonged" (Bakewell 2008/09: 107).

<sup>14</sup> *Kurios* and related terms are used eighteen times in the speech.

<sup>15</sup> C. Patterson's seminal article discusses the role of the *oikos* as the point of comparison between Apollodoros and Stephanos (1994). My view looks specifically at the role of *kurioi* within the household as the point of comparison between them and the correspondence between Apollodoros and the jury. Bakewell's argument attributing the cause of the ban on metic-citizen marriages to the anxieties of the *kurioi* is parallel to mine in that it views the *oikos* through the eyes of the *kurios* (2008/09).

<sup>16</sup> For a recent defense of enmity as proper motivation for both private and public prosecutions, see Kucharski 2012, writing against such scholars as Kurihara 2003.

had proposed that the Assembly vote on whether to allocate the state's annual surplus to the theoric or military fund. Stephanos brought an indictment for an illegal decree, or *graphē paranomōn* (γραφὴ παρανόμων), against Apollodoros, citing perhaps an extant law that required any surplus to automatically go to the theoric fund (4–5).<sup>17</sup>

In addition to making Stephanos look litigious, Theomnestos' preamble also attempts to improve the prosecution's standing in the eyes of the jury. He defends Apollodoros and his proposition, explaining his actions thus:

ἔγραψε ψήφισμα ἐν τῇ βουλῇ Ἀπολλόδωρος βουλευὼν καὶ ἐξήνεγκε προβούλευμα εἰς τὸν δῆμον, λέγον διαχειροτονῆσαι τὸν δῆμον . . . κύριον δ' ἡγούμενος δεῖν τὸν δῆμον εἶναι περὶ τῶν αὐτοῦ ὃ τι ἂν βούληται πράξει, ὁμωμοκῶς δὲ τὰ βέλτιστα βουλευσείν τῷ δήμῳ τῷ Ἀθηναίων. (4)

Apollodoros as councillor drafted a decree in the Council and brought a resolution before the Assembly proposing that the people decide by show of hands . . . he thought that the people should be *kurios* to do whatever it wished with its own money, and he had sworn to act as councillor for the best interests of the Athenian people.<sup>18</sup>

As part of Theomnestos' *captatio benevolentiae*, we should expect his claim to be in line with popular ideas. Unpacking the claim reveals two assumed premises. First, since Apollodoros' act is tacitly equated with his oath to act in the best interest of the people, for the *dēmos* to be empowered (*kurios*) is a good thing. Second, power has a performative aspect, since Apollodoros' act confirmed the people's power by putting them in a position to exercise it. The *dēmos* rightfully utilizes its power when as the sitting Assembly it does "whatever it wishes" (ὃ τι ἂν βούληται) with its property. Since the present dikasts are part of the *dēmos* too, the anecdote is a direct appeal to their goodwill toward Apollodoros and, by extension, the prosecution.

Much like Apollodoros' proposal regarding the surplus funds, Theomnestos' own decision to charge Neaira is also styled as their family's empowerment of the people in contrast to Stephanos' sycophantic motivations. Theomnestos describes how his initial reluctance to bring the case was overcome by combined public and private concerns:

<sup>17</sup> This conflicts with Theomnestos' assertion that a law necessitated that any surplus fund military expenses in time of war. Since the laws surrounding the theoric and stratiotic funds are not entirely clear to us, scholars disagree on the details of Apollodoros' actual proposal and the relevant laws. For a summary of the issues and scholarship, see Kapparis 1999 on §4.

<sup>18</sup> All translations of *Against Neaira* are based on Carey 1992, with some modification.

παρακαλούντων δὴ με ἀπάντων, ἰδίᾳ προσιόντων {τε} μοι, ἐπὶ τιμωρίαν τρέπεσθαι ὧν ἐπάθομεν ὑπ' αὐτοῦ, καὶ ὀνειδιζόντων μοι ἀνανδρότατον ἀνθρώπων εἶναι, εἰ οὕτως οἰκείως ἔχων {τὰ} πρὸς τούτους μὴ λήψομαι δίκην ὑπὲρ ἀδελφῆς καὶ κηδεστοῦ καὶ ἀδελφιδῶν καὶ γυναικὸς ἑμαυτοῦ, μηδὲ τὴν περιφανῶς εἰς τοὺς θεοὺς ἀσεβοῦσαν καὶ εἰς τὴν πόλιν ὑβρίζουσαν καὶ τῶν νόμων καταφρονοῦσαν τῶν ὑμετέρων εἰσαγαγὼν εἰς ὑμᾶς καὶ ἐξελέγξας τῷ λόγῳ ὥς ἀδικεῖ, κυρίους καταστήσω ὃ τι ἂν βούλησθε χρῆσθαι αὐτῇ. (12)

Since people on all sides urged me, approaching me privately, to seek revenge for what was done to us by him and condemned me as the most cowardly man alive, if, though so closely related to them, I failed to exact punishment for my sister, father-in-law, nieces, and wife, and if I failed, by bringing before you the woman who is so blatantly committing impiety against the gods and outrage against the city and showing contempt for your laws, and by proving her guilt in my speech, to make you *kurios* to treat her however you wish.

Theomnestos underscores his duty both to his family and to the city. Thus, his personal motivations are shown to overlap perfectly with public-facing ones, and the interests of the jurymen themselves. Since he is, in fact, delivering a prosecution speech for the suit he has brought, he implies that he has effectively established the people, and specifically the present jurors, in its rightful role as *kurios* to do “whatever it wishes.” The range of action is stressed as unlimited: the people are empowered to do what they wish with the defendant, just as earlier Apollodoros made it so the Assembly could act in accordance with its wishes. That we see the *dēmos* described as *kurios* in these passages is not surprising; rather, it is the way in which their power is discussed that is striking. It is taken for granted that the *dēmos* and its laws should be empowered, but Theomnestos presents them as dependent on specific situations in the Assembly and courts to confirm their power, for which the prosecution is all too happy to take credit.

Theomnestos’ and Apollodoros’ power as citizens is in harmony with the power of the rest of the citizen body. Earlier, he emphasized Stephanos’ injury to his family as a way to justify his prosecution and avoid accusations of sycophancy. In this passage, he highlights the city and its people as victims partly for the same purpose. He claims that he is not acting for his own benefit, as a sycophant might, but as an agent of his family and the state.<sup>19</sup> While this may be a rhetorical strategy to add authority to his case and hide the fact that he is an instrument of Apollodoros, the approach he

<sup>19</sup> Kapparis notes the use of εἰσαγαγὼν as especially emphasizing his role as agent (1999: ad loc.).

takes aligns the prosecution with the jury through the idea of power. Theomnestos makes it seem as if justice for his personal *oikos* is bound up with justice for the city, which encompasses the jury as *kurioi*. Exacting revenge and allowing the *dēmos* to act as it wishes are two sides of the same coin. By developing a public identity congruous with the city's expectations and empowerment, Theomnestos in a few short sections demonstrates that he and Apollodoros deploy their citizenship correctly. Their households, and their roles in them as *kurioi*, form a touchstone by which to test the behavior of the other litigants.

In stark contrast, the *oikos* of Stephanos and Neaira is at complete odds with the people and the city they constitute. Their misdeeds have affected Theomnestos' family in the past and now they are affecting the whole *polis*. Theomnestos delineates his concern for the effect of their deeds on the *dēmos*:

ὥσπερ καὶ Στέφανος οὗτος ἔμ' ἀφηρεῖτο τοὺς οἰκείους παρὰ τοὺς νόμους καὶ τὰ ψηφίσματα τὰ ὑμέτερα, οὕτω καὶ ἐγὼ τοῦτον ἦκω ἐπιδείξων εἰς ὑμᾶς ξένη μὲν γυναικὶ συνοικοῦντα παρὰ τὸν νόμον, ἀλλοτρίου δὲ παιδὸς εἰσαγαγόντα εἰς τε τοὺς φράτερας καὶ εἰς τοὺς δημότας, ἐγγυῶντα δὲ τὰς τῶν ἐταίρων θυγατέρας ὡς αὐτοῦ οὕσας, ἡσεβηκότα δ' εἰς τοὺς θεούς, ἄκυρον δὲ ποιοῦντα τὸν δῆμον τῶν αὐτοῦ, ἂν τινα βούληται πολίτην ποιήσασθαι· τίς γάρ ἂν ἔτι παρὰ τοῦ δήμου ζητήσῃ λαβεῖν δωρεάν, μετὰ πολλῶν ἀναλωμάτων καὶ πραγματείας πολίτης μέλλων ἔσεσθαι, ἐξὸν παρὰ Στεφάνου ἀπ' ἐλάττονος ἀναλώματος, εἴ γε τὸ αὐτὸ τοῦτο γενήσεται αὐτῷ; (13)

And just as Stephanos tried to deprive me of my relatives, contrary to your laws and decrees, so I too have come before you to prove that this man is living in marriage with a foreign woman contrary to the law, that he introduced another's children into his phratry and deme, that he gives the daughters of courtesans in marriage as though they were his own, that he has committed impiety against the gods and makes the people *akuron* over granting citizenship to anyone it wishes. For who would seek to obtain this gift from the people, when it would cost much expense and trouble to become a citizen, if he can get it from Stephanos with less expense, provided that the result for him will be exactly the same?

At first sight, the opening comparison might seem awkward: just as Stephanos has attempted to deprive Theomnestos of his relatives, contrary to the law and the people's decrees, so Theomnestos has brought him into the law court. Carey has suggested that the expected follow-up to the first clause might be something along the lines of, "so I, too, am trying to deprive Stephanos of his loved ones," but the plaintiff uses a milder statement to

avoid creating sympathy for Neaira and Stephanos.<sup>20</sup> The structure, however, furthers the connection between the prosecution and the jury. Rather than comparing the actions of Stephanos and Theomnestos here, it seems that the orator is instead juxtaposing the injured parties. While the beginnings of each clause appear parallel (Στέφανος οὐτοσί ἐμέ . . . ἐγὼ τοῦτον), it is not simply an inversion of Stephanos and Theomnestos as subject and object, whereby we should infer an identical action (namely, the depriving of loved ones). Stephanos' attempt to harm Theomnestos' family was contrary to the law, just as Stephanos' own personal life is also contrary to the law. Theomnestos has brought him to court in order to show (ἐπιδείξων) that Stephanos has been harming the city all along, too, by transgressing other laws. The comparison is centered on Stephanos' injurious actions and their victims, roughly amounting to: "Just as he has wronged me by threatening to deprive me of my relatives, I've come to show how he is wronging *you* by taking your power."<sup>21</sup> The summary afterward, at §14, reinforces this reading by shifting from how Stephanos has wronged Theomnestos to how Stephanos and Neaira are committing crimes against the city.<sup>22</sup> As the hinge between Theomnestos' opening and Apollodoros' narration, it highlights the parallel situation of the victims.

Theomnestos' allegations of Stephanos' harm to the city begin at the level of Stephanos' *oikos* and expand to the public sphere: he is living with a foreigner as a wife, is acting as if their children are citizens, has wronged the gods, and, finally, has disempowered the people by granting citizenship illegitimately. At one end of the spectrum, living with an illegal wife is centered in the *oikos*, while at the other end illegal enfranchisement carries the action into the public sphere. The role of the *oikos* in the city and citizenship is key to the escalation of the misdeeds. In particular, Stephanos' role as *kurios* of his household in both public and private affairs harms Athens; a theme developed throughout the speech. Theomnestos then addresses the direct effect on the jury. He wishes to show that just as Stephanos earlier transgressed the jury's decrees in an attempt to harm Apollodoros, now he and Neaira are attempting even more clearly to strip the *dēmos* of their power

<sup>20</sup> Carey 1992: ad loc.

<sup>21</sup> Theomnestos intimates that the high fine Stephanos proposed for Apollodoros was intended to disenfranchise him, the equivalent of stripping Apollodoros of his power (6–8).

<sup>22</sup> "The wrongs inflicted by Stephanos without provocation which induced me to bring this indictment, I have explained to you. You must now be convinced that this woman Neaira is a foreigner and that she is living in marriage with Stephanos here and has committed many crimes against the city" ("Α μὲν οὖν ἀδικηθεὶς ἐγὼ ὑπὸ Στεφάνου πρότερος ἐγραψάμην τὴν γραφὴν ταύτην, εἶρηκα πρὸς ὑμᾶς· ὥς δ' ἐστὶν ξένη Νέαιρα αὐτῇ καὶ συνοικεῖ Στεφάνῳ τούτῳ καὶ πολλὰ παρανενομήκεν εἰς τὴν πόλιν, ταῦτ' ἤδη δεῖ μαθεῖν ὑμᾶς, 14).

(ἄκυρον ποιοῦντα) and limit its sphere of action in giving citizenship to “anyone they wish” (ἄν τινα βούληται). Since he conceives of the jury and the whole *dēmos* as coterminous, this is an attack on the jurors.<sup>23</sup>

Theomnestos concludes his introduction by appealing to the jury to vote on behalf of the laws, but also on behalf of themselves. The laws, jury, *dēmos*, and city all become one interconnected entity with which Theomnestos allies the prosecution. The access point for this connection is being *kurios*. Theomnestos alleges that rather than strengthening the power of the people, Stephanos, through his proxy Neaira, uses his power not only for himself, but also to actively disempower the *dēmos*. He is a deplorable citizen and *kurios*. A pattern is thus established of representing the defendants as challenging the jury’s own power in contrast to the prosecution’s protection of it.

Apollodoros himself takes up the prosecution at §16 and continues employing the themes of power and its proper distribution throughout his arguments. His narrative includes details about Neaira’s life as a sex laborer and her daughter Phano’s marriages, but little about Neaira’s other children, proof that Phano is her daughter, or much else that would evince Neaira’s marital status. He instead highlights just how important citizenship is in order to justify harsh punishment for those who abuse it. One of the most striking features of his speech, in fact, is that about the final third of it is dedicated to a digression on the mass enfranchisement of the Plataians during the Peloponnesian War decades earlier.<sup>24</sup> His argument hinges on the enfranchisement process, which Neaira and Stephanos have overridden by “creating” citizens out of their illegitimate offspring. The lengthy exegesis about enfranchisement proceedings can be understood through the lens of power and the role of citizens as *kurioi*.

Apollodoros calls to witness the people of Athens themselves to testify to the solemnity of the enfranchisement process. Technically, using the actions of the Athenian people as evidence rather than procuring a statement would be a type of proof or “indication” (τεκμήριον), not a “testimony” (μαρτυρία).<sup>25</sup> By calling it a “testimony,” Apollodoros implicitly converts the jurors from passive observers to active participants in the trial:

<sup>23</sup> Compare Carey 1992 on §13.

<sup>24</sup> As only the next generation of Plataians born from a union with an Athenian woman were granted absolute equal rights, Glazebrook uses this episode to further show the importance of women in the production of citizens, thus contextualizing the famous tripartite division of women into wives, *hetairai*, and *pallakai* at §122 (2021: 89–91).

<sup>25</sup> See Carey 1992 on §88.

Βούλομαι τοίνυν ὑμῖν, ὧ ἄνδρες Ἀθηναῖοι, καὶ τοῦ δήμου τοῦ Ἀθηναίων μαρτυρίαν παρασχέσθαι, ὡς σπουδάζει περὶ τὰ ἱερὰ ταῦτα καὶ ὡς πολλὴν πρόνοιαν περὶ αὐτῶν πεποιήται. ὁ γὰρ δῆμος ὁ Ἀθηναίων κυριώτατος ὢν τῶν ἐν τῇ πόλει ἀπάντων, καὶ ἐξὸν αὐτῷ ποιεῖν ὅ τι ἂν βούληται, οὕτω καλὸν καὶ σεμνὸν ἡγήσατ' εἶναι δῶρον τὸ Ἀθηναῖον γενέσθαι, ὥστε νόμους ἔθετο αὐτῷ καθ' οὓς ποιεῖσθαι δεῖ, ἐάν τινα βούλωνται, πολίτην, οἱ νῦν προπεπηλακισμένοι εἰσὶν ὑπὸ Στεφάνου τουτοῦ καὶ τῶν οὕτω γεγαμηκότων. (88)

I now wish, men of Athens, to provide testimony from the Athenian people, to show the gravity with which it treats these rites and how much care it has devoted to them. For the Athenian people, though being *kuriōtatos* over everything in the city and able to do whatever it wishes, believed that the grant of Athenian citizenship was such a noble and solemn gift that it imposed laws on itself defining terms on which it must admit a man as citizen, if they so wish, laws which have now been treated with contempt by this man Stephanos and people who marry as he has.

In this passage, Apollodoros expressly reaffirms the power of the *dēmos* while also explicating the strict limitations on gifts of citizenship. The language of power is central to the actions of the people, who are called the most powerful (*kuriōtatos*). Again, he links power with “doing whatever one wishes” (ποιεῖν ὅ τι ἂν βούληται); it is an essential feature of the *dēmos*. His overt characterization of the people as such is a direct appeal to the jurors, themselves empowered constituents of the *dēmos*, to take the case personally.

Citizenship, which is what constitutes the *dēmos*, must be guarded so carefully that the people have chosen to add restrictions, via laws, to creating new citizens. Note that Apollodoros does not imply that this renders the *dēmos* any less *kurios* or altogether *akuros*, unlike the consequences of Stephanos' and Neaira's deeds. Simply put, it is still the most powerful entity (*kuriōtatos*). Like any other law, these laws have been created by and for the people, and so proceed from and assert their power rather than diminish it. Throughout the entire account, in fact, he does not distinguish “between actions of the *nomos* and the *dēmos*,” further integrating them.<sup>26</sup> By treating enfranchisement in a cavalier fashion, the defendants have challenged the power and ability of the *dēmos*.

Apollodoros then examines the details of the enfranchisement process, which is safeguarded by a system of checks in the courts and Assembly.<sup>27</sup> First, there is a requirement that the potential citizen be a benefactor to his city (89). Next, the Assembly must vote to pass the decree awarding

<sup>26</sup> Kapparis 1999 on §88.

<sup>27</sup> For the development of the naturalization procedure over time, see M. Osborne 1983: 155–70.

citizenship. Then, the matter must be brought again to the Assembly, with at least 6,000 in attendance in order to be ratified. Apollodoros specifies that this second round of voting occurs by secret ballot as the citizens enter the Pnyx, before any foreigners enter (90).<sup>28</sup> It is done this way

ἵνα κύριος ὦν αὐτὸς αὐτοῦ ἕκαστος σκοπῇται πρὸς αὐτὸν ὄντινα μέλλει πολίτην ποιήσεσθαι. (90)

so that each man *kurios* over himself may consider in his own mind who the man is who is going to be made citizen.

Apollodoros calls the individual *kurios*, but the term here does not simply indicate free citizen status and the subsequent authority over oneself. It also denotes independence of thought, further emphasized by the reflexive construction (σκοπῇται πρὸς αὐτὸν). The implication is that autonomous thought can be affected by outside influence.<sup>29</sup> Apollodoros plays on the underlying assumption that citizens should be *kurios* in all aspects, with the understanding that this condition in practice is unstable. Non-citizens can affect an individual's power, in this case by potentially influencing his decision. The effect of Apollodoros' digression regarding this second vote is twofold. Since the citizenship requirements are so stringent, so, too, should the jurors treat this case with the utmost severity. Also, just as when they sit in Assembly, in the courts, too, they should be unswayed by foreigners, namely Neaira.

The unusual method of voting by secret ballot in the Assembly intensifies the conflation of the enfranchisement vote with the current court hearing. As the speech aims to demonstrate many times over that Neaira is not a citizen, Apollodoros transforms the citizen as juror to the citizen as Assemblyman in the act of voting on a grant of citizenship: will the juror "vote" for Neaira's citizenship by acquitting her? The invocation of a citizen as *kurios* over himself in this rather metaphorical sense follows from Apollodoros' construction of proper *kurioi* throughout the speech as the link between the Assembly of the past and the law court of the present. Thus, Neaira and Stephanos' transgressions again are made pertinent to the individual jurors.

The final step in the enfranchisement process is the possibility of a *graphē paranomōn*, or suit for an illegal decree (90). The check imposed by the law court on the Assembly's citizenship grant was "not seen as

<sup>28</sup> For more on the procedure for opening an *ekklesia*, see Hansen 1991: 141–2.

<sup>29</sup> Compare the law rendering a man *akuros* to make a will if under the influence of a woman or insanity ([Dem.] 46.16).

a limitation, but rather as an additional safeguard and the means for a more accurate expression of the true wishes of the sovereign *dēmos*.<sup>30</sup> The ability to bring a suit for an illegal decree is in the province of any Athenian who wishes (τῷ βουλευμένῳ Ἀθηναίων, 90). As I showed in Chapter 2, the primary feature of a citizen is his autonomy, or the prerogative of bringing his desires to fruition. Thus, *ho boulomenos* is shorthand for “citizen.” Mediated through the courts that are composed of citizens, the final safeguard of citizenship is the individual citizen himself. Apollodoros’ reminder, which works rhetorically to inflate the position of the jurors currently sitting on the case, rests on the notion of the empowered citizen.

Whereas the *dēmos* and the citizens who comprise it should be equally *kurios*, Neaira and Stephanos instead act as if they are more powerful than the *dēmos*.<sup>31</sup> Citizenship is so important to the city that its most powerful entity, the people, has limited the way in which it can be conferred. The defense has chosen to circumvent the procedure, thus granting themselves a power allowed neither to any individual citizen nor even to the collective *dēmos*. By asserting more power than he should, Stephanos threatens the power, and arguably the equality, germane to citizenship. Apollodoros aims to show:

ὅσων ὑμᾶς ἀγαθῶν κωλύουσι κυρίους εἶναι Στέφανός τε οὗτοσι καὶ οἱ τὸν αὐτὸν τρόπον τοῦτω γεγαμηκότες καὶ παιδοποιούμενοι. (93)

how important the privileges are over which Stephanos here and all who marry and have children the same way he has are preventing you from being *kurious*.

The language is strong. Stephanos is again accused of depriving the *dēmos* of its power through the way he runs his *oikos*. He uses the building blocks of a household, marriage and children, to hurt the city and his fellow citizens rather than to strengthen them. Stephanos’ role as *kurios* makes others *akuroi*, the opposite of Theomnestos’ and Apollodoros’ characterization of themselves. In carefully designating when the *dēmos* is *kurios* or not, Apollodoros frames the problem as arising from neither the law nor an individual citizen’s empowerment, but from an individual stripping other citizens of their power. Through this frame, the extended explanation of enfranchisement is not only a means to show off Apollodoros’ learning, but also to show how individual and state power are crucial to the case.

Toward the close of the oration, Apollodoros returns to demonstrating the prosecution’s role in supporting the power of the jury, as Theomnestos

<sup>30</sup> Kapparis 1999 on §88.    <sup>31</sup> Compare Carey 1992 on §88.

did in the opening sections. After detailing the restrictions placed even on the enfranchised Plataians, who were Athenian allies *par excellence*, Apollodoros elaborates on Neaira's career in order to contrast those deserving new citizens and the unworthy pretender (104–8). Since the disparity is so great, he argues, it is clear that she is not, nor could she be, a citizen. It is now up to the jury to act appropriately. Apollodoros concedes that they may have had a reasonable excuse not to act before because of either ignorance or inability, but that they no longer have one since Theomnestos and Apollodoros have brought her to court (109). He claims that since she is now at the jury's disposal, their power is reaffirmed (κύριοι ἐστέ, 109).<sup>32</sup> The responsibility of each individual member, a function of their power, is stressed in the closing sections (“each of you,” ὑμῶν ἕκαστος, 110, 114, 126), reified by the prosecution preferring the charge.

To sum up, the theme of the power of the citizenry recurs throughout *Against Neaira*. The prosecution draws attention to its activities as empowering the people and portrays the accused as consistently working against the power of the *dēmos*. Since power is central to citizenship, the prosecution hopes to make each individual *kurios* in the jury anxious about the potential loss of his own status. Just as there are members of the *polis* who ought to have power based on citizen status, as shown, there are others who ought not. The case rests equally on both, and so now I turn to the speech's presentation of the people who should not be empowered.

## 5.2 *Who Should Not Be Kurios?*

In order to convict Neaira, Apollodoros must show that she is not a citizen and yet is married to a citizen.<sup>33</sup> The defense does not seem to be contesting the first point but rather the second.<sup>34</sup> Yet, Apollodoros goes to great lengths to prove that Neaira is a foreign ex-slave and a courtesan. While sexual labor was not illegal for citizens, in the Athenian imaginary it was relegated to slaves and alien free women.<sup>35</sup> Her former enslavement and profession, then, might both be evidence in the eyes of Athenians that she is not a citizen, but not that she is married to Stephanos. It appears that Apollodoros does not have very much evidence to show that Stephanos

<sup>32</sup> He has also put her “under their vote” (ὑπὸ τὴν ὑμετέραν ψῆφον ἤγαγον, 126). In other words, she is subject to the power of their decision.

<sup>33</sup> Apollodoros specifies that she is a citizen neither by birth nor decree (οὔτε οἱ πρόγονοι ἀσπὶν κατέλιπον οὔθ' ὁ δῆμος πολίτην ἐποίησατο, 107).

<sup>34</sup> See §118 and Carey 1992 on §118.

<sup>35</sup> This was, of course, not strictly adhered to in reality. See E. Cohen 2000a and E. Cohen 2006.

actually kept Neaira as a wife and not a concubine, a legal state of long-term cohabitation without citizen offspring or the other privileges of citizen marriage. Much of the first part of Apollodoros' narrative accordingly focuses instead on what he claims is Neaira's well-known, notorious behavior as a way to "prove" that she could in no way be a citizen and to color the jury's disposition toward her (18–48). In his closing, he even instructs the dikasts by "looking at her face, [to] consider only this: if, being Neaira, she has done these things" (τὴν τε ὄψιν αὐτῆς ἰδόντες, ἐνθυμεῖσθε τοῦτο μόνον, εἰ Νέαιρα οὕσα ταῦτα διαπέπρακται, 115). The passages crafting her character are thus foundational to his case. The rest of the narrative focuses similarly on the alleged indecent behavior of her purported daughter, Phano (49–84). In contrast to the citizens highlighted in Section 5.1, as female metics neither Neaira nor Phano should be empowered. I will argue that it is this characteristic that underpins the explicit contrast between the behavior of a foreign woman and that of a proper female citizen exploited in Apollodoros' narrative.<sup>36</sup> Using power as a hermeneutic lens elucidates the connections between *oikos*-level and *polis*-level consequences and resolves the tension of Neaira's portrayal as both uncontrollable and perennially oppressed.

Clearly, the speech's *ad hominem* strategy should make us hesitate to take any of Apollodoros' statements at face value. While most scholars recognize the tendentious nature of the claims made by the prosecution, they also generally believe that Neaira was a courtesan and many also accept her alleged notoriety as fact.<sup>37</sup> But Glazebrook has argued for the skeptical position that, based on the speech alone, we cannot even be sure that Neaira was a sex laborer.<sup>38</sup> She focuses instead on how the characterization of Neaira as such is a rhetorical device in which the worst attributes of sex laborers in the Athenian imagination apply to her in order to underscore her Otherness in contrast to Athenian women's moderation (σωφροσύνη). Understanding Neaira's identity as an intentional construct by the prosecution for a specific purpose is a productive approach. My argument does not depend upon how much of Apollodoros' presentation of Neaira is factually accurate. Whatever the practical reality of the

<sup>36</sup> For Neaira's characterization as a sex laborer in contrast to a female citizen both in status and behaviors, see Glazebrook 2021: 63–93.

<sup>37</sup> While most scholars refer to her as a courtesan, the title of Hamel 2003 will suffice as an example: *Trying Neaira: The True Story of a Courtesan's Scandalous Life in Ancient Greece*. Kennedy, in rejecting that *hetaira* are sex laborers at all, stands as an exception (Kennedy 2014: 68–96). For the transformation of another woman into an "infamous" Greek courtesan, Phryne, see Funke 2024.

<sup>38</sup> Glazebrook 2005.

situation, Apollodoros appeals to the ideological state of affairs. Looking closely at his characterization of Neaira reveals the underlying structure of the speech and the continued importance of power in democratic thought.

Two aspects of Apollodoros' accusations are germane to our purposes: sexual availability and lack of any control, whether self-restraint or subjection to another's control. Neaira's past as a sex laborer undergirds the allegations of sexual availability and the lack of control it purportedly reveals. Throughout the text, Apollodoros underscores how she was "working with her body" (ἐργαζομένη τῷ σώματι, *vel sim.* 20, 22, 36, 49, 108), had many lovers (26, 29, 30, 31, 32), and attended symposia (24, 33, 48). Since sexual labor was not imagined as a suitable role for an Athenian woman, the focus on it does not simply make Neaira, and later Phano, disreputable, but ideologically un-Athenian, and so impossible to consider as legitimate wives. As opposed to the self-control and *sôphrosunê* expected of a proper citizen woman, prostitutes were associated with excess in all modes of consumption (wine, sex, and luxury) and general shamelessness.<sup>39</sup> Apollodoros' profile of Neaira is that of an immodest prostitute who has been with many men, even in public. He includes the distasteful detail that she was "already working with her body, though still too young, as she had not yet reached maturity" (ἐργαζομένη μὲν ἤδη τῷ σώματι, νεωτέρα δὲ οὖσα διὰ τὸ μήπω τὴν ἡλικίαν αὐτῇ παρεῖναι, 22) as a sign of her unnatural and innate intemperance.<sup>40</sup> The salacious details of the life of a sex laborer are calculated to incite outrage in the jury at the idea that such a woman could even pretend to be a citizen wife.

In addition to indicating her lack of propriety, Apollodoros also uses her sexual labor to show that she has no control over herself although she wishes to exert control. He uses Neaira's past as a slave to further support this portrayal. She not only does not have legitimate power due to her lack of citizenship but her station and behavior make manifest that she is *incapable* of being *kuria*. The speech suggests that the inverse of not having power is not simply the inability to do what one wishes, but in fact being subject to the whims of others. To do "whatever one wishes" to another attests to a status imbalance; an Athenian woman was a citizen, and thus her status was secure, although she had a *kurios* and expressed her citizenship in a markedly different way than a male citizen.<sup>41</sup> She would not normally be subject to

<sup>39</sup> Schaps includes "independence" as an attribute (1979: 95). For prostitution in antiquity, see Faraone and McClure 2006, Glazebrook and Henry 2011, E. Cohen 2015, and Kapparis 2018a.

<sup>40</sup> Compare Glazebrook 2021: 71–2.

<sup>41</sup> Further discussion of similarities and differences between male and female citizenship can be found on pp. 107–9.

suffer “whatever one wishes.”<sup>42</sup> Neaira’s deficiency of character as well as her trade and status mark her instead as one to be subjected.

Apollodoros introduces Neaira’s background with her original mistress, Nikarete, as key to showing that Neaira, unlike a citizen, deserves to be the object of another’s will.

ὥς δὲ Νέαιρα αὐτῇ Νικαρέτης ἦν καὶ ἡργάζετο τῷ σώματι μισθαρνοῦσα τοῖς βουλομένοις αὐτῇ πλησιάζειν, τοῦθ’ ὑμῖν βούλομαι πάλιν ἐπανελθεῖν. (20)

The fact that this woman Neaira belonged to Nikarete and worked with her body on hire to all who wished to have relations with her, this is the point to which I wish to return.

This introduction gets at the crux of the matter. Neaira belongs to Nikarete and she is available to all comers. Sexual availability and remuneration are generally associated with sex laborers.<sup>43</sup> Apollodoros exploits the inherent implications of power in these transactions to underscore Neaira’s position as non-citizen and threat. The connection between sexual labor and having others do what they wish with her is intensified by her status as a slave. Slaves were considered unable to effect their own desires. Aristotle’s characterization of slaves as living possessions succinctly summarizes this idea: they are to be used for the ends of others.<sup>44</sup> While in reality there were also relatively wealthy and independent slaves in Athens, the archetype of the slave remained a person defined by being completely of another and used for the achievement of that person’s desires.<sup>45</sup> We have seen that citizens are thought of as powerful and entitled to do what they wish; in contrast, a slave and a courtesan should be passive. As both, Neaira is not entitled to autonomy in any sense.

Apollodoros’ portrait of Neaira is full of the language of subjection, in particular her subordination to others’ desires. As a child, she is already available to “anyone wishing to spend money” (τῷ βουλομένῳ ἀναλίσκειν, 23).<sup>46</sup> Later in her career, two of her lovers, Timanoridas and Eukrates:

<sup>42</sup> For example, Euphiletos describes his control over his wife at first as measured, not letting her do anything she pleased but not being overbearing, certainly not subjecting her to whatever he wished, and finally giving her even more freedom once they have a child (Lys. 1.6). Aristotle likewise distinguishes between the despotic rule of master over slave versus the πολιτικῶς rule of man over wife (Pol. 1259a39–b1).

<sup>43</sup> Glazebrook 2005. <sup>44</sup> Pol. 1253b31–32. See also pp. 23–5.

<sup>45</sup> For “privileged” slaves, see Kamen 2013: 19–31.

<sup>46</sup> Gilhuly’s careful reading of *Against Neaira* notes the echo of democratic terminology (*ho boulomenos*) in these phrases and argues that “the transference of βουλόμενος to Neaira’s clientele emphasizes the public nature of her intimate commerce” (2009: 40). Apollodoros molds her into an ever-available commodity in order to negate any positive association with her as a *hetaira* (Gilhuly 2009:

κατατιθέασιν αὐτῆς τιμὴν τριάκοντα μνᾶς τοῦ σώματος τῇ Νικαρέτῃ, καὶ ὠνοῦνται αὐτὴν παρ' αὐτῆς νόμῳ πόλεως καθάπαξ αὐτῶν δούλην εἶναι. καὶ εἶχον καὶ ἐχρῶντο ὅσον ἐβούλοντο αὐτῇ χρόνον. (29)

paid Nikarete thirty minas for Neaira's person and bought her outright in accordance with the law of the city to be their slave. And they kept her and used her for as long as they wished.

The use of the word for body (σῶμα), typical for a slave transaction, underscores her status as a possession. She is a body to be traded, not the stuff of a citizen wife. The added detail that they kept Neaira only for as long as it suited them (ἐχρῶντο ὅσον ἐβούλοντο αὐτῇ χρόνον) also vaunts the power imbalance, with the verb *boulomai* stressing their control of the situation. Neaira is at the disposal of others, for whatever they wish, for as long as they wish.

Even once Neaira is freed, she remains unable to control her life. The stigma of being a freed person was pervasive in Athens, and Apollodoros underscores the aspect of subjection in his deployment of her reputation.<sup>47</sup> When Neaira's owners Timanoridas and Eukrates decide to marry, they no longer want her as a sex slave, nor do they want to see her working around their city (30). Thus, they offer to free her for a price of thirty minai, ten of which they contribute themselves. Neaira uses her savings and turns to her former johns as a means of collecting the balance. The Athenian Phrynion, a previous customer who is introduced at this point in the narrative, pays off the remaining amount (32). Neaira moves with Phrynion to his native Attica, but the arrangement is not as Neaira presumably anticipated. Apollodoros elaborates:

Ἀφικόμενος τοῖνυν δεῦρο ἔχων αὐτὴν ἀσελγῶς καὶ προπετῶς ἐχρήτο αὐτῇ, καὶ ἐπὶ τὰ δεῖπνα ἔχων αὐτὴν πανταχοῖ ἐπορεύετο ὅπου πίνοι, ἐκώμαζε τ' αἰεὶ μετ' αὐτοῦ, συνῆν τ' ἐμφανῶς ὅποτε βουλευθείη πανταχοῦ, φιλοτιμίαν τὴν ἐξουσίαν πρὸς τοὺς ὀρῶντας ποιοῦμενος. (33)

When he came here with her he treated her in an outrageous and reckless way; he took her to dinner with him everywhere wherever he was drinking, she joined in all his carousals, and he had intercourse with her in public anywhere whenever he wished, making a display of his privilege in front of onlookers.

Although she is a free woman, she is still subject to another's desire, not her own. Indeed, Apollodoros says Phrynion "did not grant her wishes" (οὐδ'

38–44). I bring to bear other uses of *boulomai* that also echo citizen power to demonstrate the larger framework of disempowerment at play.

<sup>47</sup> For restrictions and social differentiation, see Zelnick-Abramovitz 2005 and Kamen 2013: 32–42.

ὑπηρετεῖ αὐτῇ ἃ ἐβούλετο, 35). He treats her as if she is still a possession, or, in other words, a slave.<sup>48</sup> Moreover, she exhibits an unbefitting desire to assert control, which is the basis of her danger. Some scholars argue that Apollodoros' rhetoric here arouses compassion toward Neaira.<sup>49</sup> Rather than designed to elicit sympathy from fourth-century Athenians, however, this is crucial evidence that even when freed she falls short of a citizen woman. Phrynion's actions are presented as foul treatment, to be sure, but after she leaves him, Apollodoros criticizes *her* as the one who wronged *him* (τὸ ἡδικηκέναι μὲν αὐτῇ, 37).<sup>50</sup> He also makes a point of calling witnesses to the events, including one where slaves had sex with her while drunk (33). Whatever pity the modern reader may feel for Neaira's exploitation, Apollodoros' inclusion of details that seem tangential to the official charge conform to his purpose of presenting the context of Neaira's crimes to encourage a guilty verdict.<sup>51</sup> His portrait of her is meant to arouse contempt in the jury, and this episode is one more instance of him conjuring up character-damaging anecdotes.<sup>52</sup> Even when granted freedom, Neaira carries on in a way that suggests she is able not to satisfy her own desires but only to serve the wishes of others, like a slave. Apollodoros characterizes her as both uncontrolled in her desires and as the object of others.

While Apollodoros spends a lot of time demonstrating that Neaira is not a citizen, his real task is to prove that she has been usurping the rights of citizenship. That is, he must show that she is acting like a citizen's wife, a privilege allotted only to citizen women. Since mixed-status concubinage was legal, Apollodoros must find a way to show that she and Stephanos were not just living together but acting "married." As mentioned earlier, he

<sup>48</sup> Compare Carey 1992: ad loc. Glazebrook emphasizes that her unlimited availability here reveals her innate nature as a sex laborer (2021: 72–3). It also makes her seem like a common prostitute rather than a *hetaira* (Spatharas 2011: 107–8).

<sup>49</sup> Kapparis argues that this passage, among others, is part of a purposefully sympathetic portrait of Neaira, crafted in order to explain how what would have been an elderly woman living quietly in an *oikos* by the time of trial could be responsible for such serious crimes. Rather than use a conglomerate of negative *hetaira* stereotypes to characterize her, Apollodoros uses familiar positive female stereotypes: he paints her as "a caring mother . . . prepared to do anything necessary to protect her children and family. This was a much more convincing character and explained why this harmless elderly woman who was sitting in the court on that day had broken some important laws of the Athenian state. She had not done it for herself, but for her family like any good mother" (2021: 163). This is a revision of his earlier view that attributed the sympathy evoked by the passage to a miscalculation by Apollodoros (Kapparis 1999: 46–7).

<sup>50</sup> I am following the emendation αὐτῇ for the transmitted αὐτὴν, making Neaira the subject, not object, of the infinitive followed by most editors including Dilts 2009.

<sup>51</sup> For the relevance of extralegal arguments in Athenian courts as a means to consider the whole story behind a case for a verdict aiming at an equitable notion of justice, see Lanni 2006: 41–74.

<sup>52</sup> Glazebrook 2005: 169–70.

attempts to prove that Stephanos has treated Neaira's children as citizens. While the sons would have been enrolled in the phratries and demes, making their citizenship more difficult to disprove, the daughter, Phano, was an easier target. She had been twice married to and divorced from citizen men. To give a daughter lawfully in marriage to a citizen man was a privilege of citizens. Proof that Stephanos had done so with an illegitimate daughter would be evidence of Neaira's false claim to citizenship.

Of course, this argument rests on the premise that Phano is a daughter of Neaira, and not of a citizen ex-wife as Stephanos claims, which Apollodoros does not go to great lengths to disprove.<sup>53</sup> Without traditional evidence to demonstrate that Phano really is Neaira's daughter, Apollodoros instead fashions Phano as a copy of Neaira to argue that her character evinces their familial connection.<sup>54</sup> In his retelling, Phano's taste for luxury and intractability links her with Neaira and allegedly causes the dissolution of her first marriage. Her behavior exposes her intemperance (ἀκολασία), the result of an upbringing with too much license (ἐξουσία, 50). In contrast to what is expected of a citizen, she is neither well behaved nor obedient to her husband, Phrastor (οὔτε κοσμίαν οὔσαν οὐτ' ἐθέλουσαν αὐτοῦ ἀκροᾶσθαι, 51). Her lack of self-control and unwillingness to be controlled demonstrate her status and her descent from Neaira.

As Apollodoros draws to the conclusion of the speech, he returns to Neaira and ties together the strands of citizenship and autonomy explicitly. He asks the jury:

ἐάσετε ὑβρίζουσιν εἰς τὴν πόλιν καὶ ἀσεβοῦσιν εἰς τοὺς θεοὺς ἀτιμώρητον, ἦν οὔτε οἱ πρόγονοι ἀστὴν κατέλιπον οὔθ' ὁ δῆμος πολίτην ἐποιήσατο; [108] ποῦ γὰρ αὕτη οὐκ εἴργασται τῷ σώματι, ἢ ποῖ οὐκ ἐλήλυθεν ἐπὶ τῷ καθ' ἡμέραν μισθῷ; . . . τὴν δὲ ὑφ' ἑτέροις οὔσαν καὶ ἀκολουθοῦσαν τῷ διδόντι τί οἴεσθε ποιεῖν; ἄρ' οὐχ ὑπηρετεῖν τοῖς χρωμένοις εἰς ἀπάσας ἡδονάς; εἴτα τὴν τοιαύτην καὶ περιφανῶς ἐγνωσμένην ὑπὸ πάντων γῆς περίοδον εἰργασμένην ψηφιεῖσθε ἀστὴν εἶναι; (107–8)

Will you leave this woman . . . unpunished for insulting the city so shamefully and contemptuously and committing sacrilege against the gods, a woman who was neither bequeathed citizenship by her ancestors nor granted it by the people? For where has she not prostituted herself? Where

<sup>53</sup> Kapparis argues that Phano is probably Stephanos' legitimate daughter, citing her previous marriages and Stephanos' insistence on having a dowry as evincing his intention for her to be properly married (1999 on §§64–73).

<sup>54</sup> Their conflation into a "two-headed monster" is further described by C. Patterson 1994: 207–9, quote from 208; see also Kapparis 2018a: 246.

has she not gone to earn her daily wage? . . . And what do you expect a woman to do when she is under the control of different men and goes with anyone who pays? Surely to serve her customers in every type of pleasure? So then, will your verdict be that a woman of her character who is known for certain by all to have plied her trade over the breadth of the world is a citizen?

Apollodoros certainly wishes to show that Neaira's sexual wantonness is diametrically opposed to the behavior expected of a wife.<sup>55</sup> But he also draws attention to her being the possession of another. He is emphatic that Neaira did these things no citizen would and nothing else should be expected of her.<sup>56</sup> The defense itself will not even argue against the fact that she was a courtesan. Her travel around Greece and her sexual activity mark her as a non-citizen, to be sure, but the passage also draws attention to the power wielded over her by her customers: what other kind of life could one expect from someone who is like the possession of many others, following whoever may pay (τὴν δὴ ὑφ' ἑτέροις οὔσαν καὶ ἀκολουθοῦσαν τῷ διδόντι)?<sup>57</sup> The outcome of her subordinate position is that she serves her customers in all pleasures. Such a woman (τοιαύτη) is clearly not a citizen.

Consistent with the prevailing ideology, the prosecution demonstrates that Neaira's lack of power is as much in contrast to citizenship as is her behavior. She is uncontrolled and trying to be uncontrollable. Such women should have no power in the state, but by pretending to be citizens, they effectively do, to the detriment of true citizens. The potential consequences of their empowerment are treated in the conclusion of the prosecution's speech and are explored in the following section.

### 5.3 Consequences of Power Reversal

Apollodoros plays on the fears of the jury in order to create a vision of the repercussions from an acquittal. The standard of appropriate and inappropriate *kurioi* deployed in the work presents the defense as falling short of ideological norms. The allegation that Stephanos, Neaira, and those like them endanger citizenship is coherent because freedom and power were normally imagined as exclusively within the province of citizens. I argue that Neaira is depicted as

<sup>55</sup> Glazebrook 2005.

<sup>56</sup> Although both δέ and δὴ are transmitted in the manuscripts as part of the sentence τὴν δὴ ὑφ' ἑτέροις οὔσαν . . . τί οἷσθε ποιεῖν (108), editors generally choose the emphatic particle δὴ since Apollodoros is stating the obvious. See Kapparis 1999: ad loc.

<sup>57</sup> Glazebrook traces Neaira's journeys to demonstrate that her mobility gives her "a geographic identity that reflects her promiscuity, affirms her involvement in the sex trade, and identifies her as foreign" (2021: 79).

a threat to the whole community because she illegitimately assumes power and so the ability to pursue goals for herself and her children, since acting powerfully is indeed power in itself.<sup>58</sup> As a metic, her fraudulent use of citizen freedom and power hampers the power of citizens, both female and male, and the law. Athenian women lose their exclusive powers and status, while Athenian men are affected as the *kurioi* over those citizen women. The law's disempowerment, too, affects men's status. Tapping into the ideas of power and freedom that bind *oikos* and *polis*, Apollodoros paints Neaira's actions as an exercise of power with real consequences.

Apollodoros dramatizes the personal effects of the case in an imagined dialogue between each dikast and a woman in his life, over whom he is likely the *kurios* (110–1). Each juror will be questioned by his wife, mother, or daughter about the substance of the trial and the verdict. This *prosopo-poia* turns on the parallelism of the juror's power in the *polis* to his power at home. Neaira is a menace to both, and to female citizens' role in each. Moreover, Apollodoros draws attention to the jurors' wives, daughters, and mothers in contrast to the alleged foreigners' behavior. As opposed to these Athenian women, foreign women were imagined as more outspoken, independent, and wayward, and therefore detrimental to society at large. In fact, Bakewell has argued that the law against mixed marriages cited in *Against Neaira* was motivated not solely by anxiety about surreptitious contamination of the citizen pool, but also by the anxiety about these “nubile metic women . . . [who] were relatively more available, and in the popular mind, more outspoken and independent” and from whom *kurioi* could not keep their sons.<sup>59</sup> Once again, a danger to the *oikos* is also a danger to the *polis* as a whole. Apollodoros has implied that Neaira, as a metic, ex-slave, and courtesan, falls squarely in the camp of the disempowered inhabitants of Attica, as does her daughter Phano. In his fictional dialogue between each juror and a woman, Apollodoros warns the jury that when they admit they have acquitted Neaira:

αἱ μὲν σωφρονέσονται τῶν γυναικῶν ὀργισθήσονται ὑμῖν, διότι ὁμοίως αὐταῖς ταύτην κατηξιοῦτε μετέχειν τῶν τῆς πόλεως καὶ τῶν ἱερῶν· ὅσαι δ' ἀνόητοι, φανερώς ἐπιδείκνυτε ποιεῖν ὃ τι ἂν βούλωνται, ὡς ἄδειαν ὑμῶν καὶ τῶν νόμων δεδοκότων· δόξετε γὰρ ὀλιγώρως καὶ ῥαθύμως φέροντες ὁμογνώμονες καὶ αὐτοὶ εἶναι τοῖς ταύτης τρόποις. (III)

<sup>58</sup> Compare Bakewell 2008/09: 107.

<sup>59</sup> Bakewell 2008/09: 99. For the ideology of the female metic as represented in tragedy, see Kennedy 2014: 26–67. She argues that when female metics were not contained by proper ethnic and gender roles, that is, being a wife and mother in a metic household, they were represented as an encroaching disease on the citizen body.

the most respectable women will be angry with you, because you thought it right that this woman have the same share in the city and religion as them; while to the foolish ones you are giving a clear signal to do whatever they wish, since you and the laws have granted them immunity. Thus, with your negligence and indolence, you will give the impression that you approve of her ways.

While proper, self-controlled women will be furious, the behavior of the worse sort will be most affected. They, too, will begin to act “however they wish” (ὅ τι ἂν βούλωνται) in negative ways like the metic prostitutes Neaira and Phano have. They will disobey their *kurioi* and break the law. The implicit sanction of the jury and the laws in acquitting Neaira gives the women permission (ἄδειαν) to do so. The term *adeia* primarily indicates amnesty or safety, and thus the sort of permission granted here is a special protection, contrary to convention.<sup>60</sup> Neaira’s power will be institutionalized through this “grant” and normalized through the jurors’ individual approval (ὁμογνώμονες). While not creating a binding legal precedent, which did not exist in Athens, the imagined consequence functions as a rhetorical prospective precedent: this pseudo-legal dispensation by the jury will alter the behaviors of their women who no longer need worry about prosecution.<sup>61</sup> The effect on the greater community was predicated on the sitting jury as representing the whole of the *dēmos*, especially in public suits.<sup>62</sup> The overlapping power structures of the public and private domains, and in particular Apollodoros’ highlighting of these continuities with reference to citizenship, make the destructive effects on each juror’s household an intelligible concern.

The consequences also disturb the household from without, as other prostitutes will appropriate the new, dangerous power and benefit from it:

κομιδῇ γὰρ ἤδη {παντελῶς} ἐξουσία ἔσται ταῖς πόρναις συνοικεῖν οἷς ἂν βούλωνται, καὶ τοὺς παῖδας φάσκειν οὐ ἂν τύχωσιν εἶναι· (112)

<sup>60</sup> LSJ s.v. I.1. For the development of the legal process of *adeia* in the fifth century, see Esu 2021.

<sup>61</sup> For the lack of the jurisprudential principle of precedent in classical Athens, see Lanni 2004, who argues that references to precedent are only a rhetorical device, and Rubinstein 2007, who instead uses the precedent-trope to illuminate the jury’s standing in public cases as the collective voice of the Athenians. Harris argues that Athenians operated under persuasive, but not binding, precedent (2013: 246–73).

<sup>62</sup> “A verdict pronounced at the end of a public action could be interpreted as an expression of the collective attitude of the Athenian people to a particular breach of the law, which, partly through the choice of procedure, was viewed as a matter that concerned the community as a whole” (Rubinstein 2007: 371).

For there will then be complete license for whores to live in marriage with anyone they please, and to declare anyone at all the father of their children.

Again, a version of the phrase “whatever they wish” is employed to underscore their new capacity. The focus here is on contravening the regulation of marriage and of legitimate offspring. “Whore” is code in this passage, as all the sex laborer terms throughout the speech are, for a non-citizen woman. In other words, aliens and former slaves will ignore the law and marry citizens. They would be transformed from being marked by subjection and a lack of freedom to imposing their own wills. Key to the outcomes in both passages is the increased latitude of action for each individual without regard for the law. While following the law and being powerful are not mutually exclusive, empowering the wrong people results in disorder and lawlessness.

For the prostitutes, their ability to act is described as an *exousia*.<sup>63</sup> Although not exclusively a negative word, it can have negative connotations. In addition to “power” or “authority” (LSJ I.1), it can signify license or an abuse of that power (LSJ I.2). It is also used of citizen privileges.<sup>64</sup> The ambivalence of the word *exousia*, chosen instead of a generally more positive word, makes it more suitable for the frightening scenario Apollodoros is painting of prostitutes taking on citizen prerogatives. If, as the prosecution alleges, Neaira’s daughter has been passed off as a citizen, we can see that she has gained status and, subsequently, power. The effects of that power are manifest, for example, when Phano infiltrates the city’s religious duties and acts as the *basilinna* (72–9). While Neaira is not participating in the ceremony directly, it is her “citizenship,” in conjunction with Stephanos’, that ultimately allows Phano to take on religious duties. The life of Phano is used as a concrete example of both Neaira’s effect on others like her and her newfound ability to pursue goals for her children. It is that very *exousia* to which other foreigners might aspire.

The scope of the prospective precedent expands from the effect in each man’s house to the standing of citizens in the city overall, a shift that rests on the continuum of power through both. Just as the prologue claimed that Stephanos made the *dēmos akuros*, now Apollodoros points directly to Neaira as the cause of this disempowerment. Having equated acquittal by the jury with approval of Neaira’s “ways” (τρόποι, 111), Apollodoros

<sup>63</sup> Compare Phano at §50.

<sup>64</sup> For the use of *exousia* to denote citizen “rights,” see Ostwald 1996. Also compare the verb ἐξέσται in the voluntarism formula discussed on pp. 39–9. For *exousia* as positive freedom, see Mulgan 1984.

clothes what Lanni calls the consequentialist topos as a quasi-legal result.<sup>65</sup> He warns the jury that, if Neaira remains unpunished,

οἱ μὲν νόμοι ἄκυροι ὑμῖν ἔσονται, οἱ δὲ τρόποι τῶν ἑταιρῶν κύριοι ὃ τι ἂν  
βούλωνται διαπράττεσθαι. (112)

your laws will be *akuroi*, while the ways of courtesans will be *kurioi* to  
achieve whatever they wish.

The parallel construction implies that the infinitive and its indefinite relative clause (“to achieve whatever they wish”) apply to both cola: in an utter reversal of the normal course of events, the laws will be disempowered, replaced in turn by the “ways” (τρόποι) of courtesans. Although *kurios* can specify what the person or thing has the ability to do, throughout we have seen it used with an indefinite clause to emphasize power in an unbounded sphere of action. In the worse-case scenario constructed by Apollodoros, the laws are completely stripped of their power.<sup>66</sup> Due to the zero-sum and performative aspects of power, whoever acts powerfully *is* powerful at another’s expense. Thus, Neaira’s acts of empowerment, unchecked, result in her actual empowerment and a trickle-down effect to others like her. By exploiting the idea of power that stretches from the *oikos* to the city, Apollodoros paints Neaira’s actions as an exercise of power by a metic *hetaira* that alters other women’s behavior and status.

While worries about the effect of bad women are common in Greek thought, Apollodoros’ specific rhetoric leverages ideas about power to motivate his range of prospective precedents.<sup>67</sup> The antithesis between the laws of the citizens and the ways of the courtesans (οἱ μὲν νόμοι . . . ὑμῖν . . . , οἱ δὲ τρόποι τῶν ἑταιρῶν) contrasts the law-abiding nature of the Athenians with courtesans and, by extension, the defendant. Their behavior will take the place of longstanding laws. While we have seen citizens called *kurios* both individually and collectively, here the focus is on the laws

<sup>65</sup> Lanni 2004: 166–8.

<sup>66</sup> For a reading that emphasizes the point of view of the household *kurios* and his loss of control over his women in §§III–3 as the hinge that connects the consequences from the *oikos* to the *polis*, see Glazebrook 2021: 87–9.

<sup>67</sup> The examples are manifold, beginning with Hesiod. For negative female exempla corrupting other women, see, for example, Aristophanes’ *Frogs*, where Euripides is chastised for his portrayal of unsavory women precisely because of how women are affected (1039–54). The Aristophanic Aeschylus contrasts his brave male characters and the virtues they instill in the audience with Euripides’ female characters who, by acting inappropriately, encourage the same behavior in female spectators. One might even read the closing lines in Perikles’ funeral oration urging women to remain little talked of as betraying the fear of an unruly woman’s power over others (Thuc. 2.45.2).

rather than the citizens. As discussed in Chapter 4, the conflation of the citizen, jury, and laws allows the concept to extend across the three entities. Thus, the disempowerment of the laws is the disempowerment of the jury. And just as the laws reflect the character of Athens, even though the “ways” of courtesans and not the courtesans themselves are called *kurioi*, we should understand identity between them.<sup>68</sup> Unlike citizens, who are empowered in harmony with the laws, the empowerment of the wrong people operates within a zero-sum situation. As they increase their power, they detract from that of the standing establishment.

Using power as a hermeneutic lens elucidates Apollodoros’ connection between consequences at the *oikos* and *polis*-levels. The abstract idea of power loss and the concrete effect on other citizens come together as Apollodoros’ argument reaches a close with a final imagined outcome for the household. The two threads continue to be interwoven through the fate of citizen women and their *kurioi*:

ὥστε καὶ ὑπὲρ τῶν πολιτίδων σκοπεῖτε, τοῦ μὴ ἀνεκδότους γενέσθαι τὰς τῶν πενήτων θυγατέρας. [113] νῦν μὲν γὰρ, κὰν ἀπορηθῇ τις, ἱκανὴν προῖκ’ αὐτῇ ὁ νόμος συμβάλλεται, ἂν καὶ ὀπωστιοῦν μετρίαν ἢ φύσις ὄψιν ἀποδῶ· προπηλακισθέντος δὲ τοῦ νόμου ὑφ’ ὑμῶν ἀποφυγούσης ταύτης, καὶ ἀκύρου γενομένου, παντελῶς ἤδη ἢ μὲν τῶν πορνῶν ἐργασία ἥξει εἰς τὰς τῶν πολιτιδῶν θυγατέρας, δι’ ἀπορίαν ὅσαι ἂν μὴ δύνωνται ἐκδοθῆναι, τὸ δὲ τῶν ἐλευθέρων γυναικῶν ἀξίωμα εἰς τὰς ἐταίρας, ἂν ἄδειαν λάβωσι τοῦ ἐξεῖναι αὐταῖς παιδοποιεῖσθαι ὥς ἂν βούλωνται καὶ τελετῶν καὶ ἱερῶν καὶ τιμῶν μετέχειν τῶν ἐν τῇ πόλει. (112–13)<sup>69</sup>

So you must also show concern for citizen women, to prevent the daughters of the poor becoming unmarriageable. For as matters stand, even if a girl is needy, the law contributes an adequate dowry for her, if nature gives her even a remotely moderate appearance. But if the law is brought into contempt by you with this woman’s acquittal and becomes *akuros*, then without a doubt the trade of whores will fall to the daughters of citizen women, all those who because of poverty cannot be married, while the status of free women will fall to the courtesans, if they receive permission to be able to bear children however they wish and to share in the civic rituals and ceremonies and rights.

This dramatic reversal of roles, where female citizens are prostitutes and female prostitutes are citizens, is predicated on three assumptions: first,

<sup>68</sup> Compare Dem. 24.210. For the connection between law and character, see De Brauw 2001.

<sup>69</sup> While all modern editors emend the “of citizen women” (τῶν πολιτιδῶν) found in all of the manuscripts to “of citizen men” (τῶν πολιτῶν) in 113, I have argued this change is unnecessary and inconsistent with the importance of women in the passage and the speech (Campa 2022).

that citizens have a monopoly on power; second, that female sexual labor is synonymous with immigrant or slave status; and, third, that neither sex laborers nor foreigners belong in a citizen household. The cause of this chaos is the law becoming *akuros*, and accordingly citizens of both sexes becoming *akuroi*. Granted, the free women (ἐλευθέρων), a term which here exclusively indicates citizens, are not called *akuroi* directly.<sup>70</sup> But since women, unlike male citizens, are not commonly called *kuriai* it is no surprise that Apollodoros does not directly describe them as *akuroi* but points to their lack of power in a roundabout fashion. They lose their exclusive access to civic rights, spanning public and private, just as we have seen how the defendants' actions disempower the *dēmos* with reference to male citizens (13, 93).<sup>71</sup> The stakes of citizenship are signaled by the use of the verb *metechein* to describe the *hetairai*'s new role in the city, a verb commonly used for citizenship and its privileges. If sex laborers are having "citizen" children and participating in the life of the city, they are taking the place of citizen women, who in turn must now ply the prostitute's trade. The protasis in the final sentence (beginning with "if they receive permission," ἂν ἄδειαν λάβωσι) explicitly links status (ἄξιωμα) to the ability to produce legitimate children and participate in the city. Hence, restricting citizen women's ability to act in those spheres is limiting citizen women's power. Although not explicitly termed disenfranchisement, the loss of exclusive access to those spheres of activity, spanning private and public, would be a blow to Athenian women's citizenship. In contrast, foreign sex laborers would gain all the power citizens are losing. Apollodoros again utilizes the language of permission (ἄδειαν) and license (ἐξεῖναι) to elevate these women to positions of power where they can act as they wish (ὥς ἂν βούλωνται), like citizens.<sup>72</sup> The subtext includes the corresponding effect on these women's *kurioi*, who would find themselves with wards uncompetitive for marriage. The male citizen's loss of control over their charges links their loss of power with the women's.

After painting the consequences of acquittal in broad strokes for the *polis* and *oikos*, Apollodoros returns to the jurors' specific households with

<sup>70</sup> For ἐλεύθερος meaning "citizen," see Hansen 2010b: 2–3.

<sup>71</sup> As Deborah Kamen has pointed out to me, another reason women may not be called *akuros* is that it may be equivocal, since it could denote "lacking a *kurios*." Although we do see the term meaning "not yet one's own *kurios*" referring to an underage male in Aeschin. 1.139, it is more ambiguous in the case of women since they never became their own *kurios*. See pp. 102–3 for a discussion of Aeschin. 1.139.

<sup>72</sup> For the importance of ὥς, see Kapparis 1999: ad loc.

which he opened the peroration. In order to do so, he uses the families of the jurors as models of good citizen households to continue elucidating the power distinctions between Neaira as a prostitute, on the one hand, and citizens, on the other. In particular, he ties the uprightness of the female citizen to her *kurios*.

ὥστε εἰς ἕκαστος ὑμῶν νομιζέτω, ὁ μὲν ὑπὲρ γυναικός, ὁ δ' ὑπὲρ θυγατρός, ὁ δ' ὑπὲρ μητρός, ὁ δ' ὑπὲρ τῆς πόλεως καὶ τῶν νόμων καὶ τῶν ἱερῶν τὴν ψῆφον φέρειν, τοῦ μὴ ἐξ ἴσου φανῆναι ἐκείνας τιμωμένους ταύτῃ τῇ πόρῃ, μηδὲ τὰς μετὰ πολλῆς καὶ καλῆς σωφροσύνης καὶ ἐπιμελείας τραφείσας ὑπὸ τῶν προσηκόντων καὶ ἐκδοθείσας κατὰ τοὺς νόμους, ταύτας ἐν τῷ ἴσῳ φαίνεσθαι μετεχούσας τῇ μετὰ πολλῶν καὶ ἀσελγῶν τρόπων πολλὰκις πολλοῖς ἐκάστης ἡμέρας συγγεγεννημένη, ὡς ἕκαστος ἠβούλετο. (114)

So let each one of you believe that he is casting his vote, one in defense of his wife, another his daughter, another his mother, another the city and its laws and religion, so that those women are not seen to be held in equal esteem with this whore, and that women reared by their kinsmen with great and proper decency and care and given in marriage according to the laws are not shown to have an equal share as a woman who has been with many men many times each day, in many lascivious ways, as each man wished.

This works doubly on the jury. First, it assumes that they have female relations who have been brought up virtuously and who display that virtue, thus flattering them as upstanding *kurioi* themselves. Second, it identifies the idealized *oikos* with the city and its laws. Whether one juror is thinking of his mother and another juror of the laws, they will all come to the same conclusion. They are also described as giving their daughters in marriage “according to the laws” (κατὰ τοὺς νόμους). In the way discussed in Section 5.1, the prosecution unabashedly works to align itself with the city and *dēmos*. The aims of the jurors’ *oikoi* are likewise allied with the aims of the *polis* as a whole. Neaira as a courtesan ex-slave, in contrast, was not part of such an *oikos*. As a result, instead of being raised to cultivate virtue, she is subject to the base wishes of others. Apollodoros again utilizes the phrase “as each man wished” (ὡς ἕκαστος ἠβούλετο) to show Neaira’s sexual availability and complete control by others, in contrast to the proper Athenian woman’s discretion. The essential qualities of the latter are the moderation cultivated in a respectable *oikos* and a betrothal according to the laws. The former instead is marked by deviant excess and constant subjection to another’s desires. The civic distinction between statuses is built from the *oikos*, as seen in Apollodoros’ warning against citizen women being held in equal esteem with Neaira, perhaps a more private valuation, and in sharing in the state equally (ἐν τῷ ἴσῳ . . . μετεχούσας), a common

way to express citizenship. Both the private and public aspects turn on their participation or lack thereof in a citizen *oikos*. As before, Apollodoros does not intend for the jury to pity the prostitute. Rather, he expects the jury to be appalled that someone with such a lack of control should be considered equal to women in their own family.

Although *kurios* language is absent from the earlier passage (114), the “whatever one wishes” phrase echoes its previous iterations in showing that the person who is at the whim of others lacks power. Since power is an essential feature of citizenship, this further emphasizes the ideological gap between Neaira and citizen women. Neaira should not be powerful or share in citizens’ rights. The jurors’ female relatives, on the other hand, should have the power to participate in the city in specific ways, which are threatened by the likes of the defendant. In the prosecution’s careful presentation, Neaira has attempted to be empowered, and in some ways succeeded in being so, in the private and public roles reserved for proper citizen woman. By mentioning the jury’s own families, Apollodoros makes the consequences personal, but keeps the importance of power and civic life in the forefront.

Apollodoros emphasizes the stakes for the city in a clever personalization of the laws. He asks the dikasts to imagine that “the dispute is not between myself, the speaker, and those citizens who will defend and support her, but that it is the laws and Neaira here who are in dispute with each other over her actions” (ἡγεῖσθε δὲ μήτ’ ἐμὲ τὸν λέγοντα {εἶναι Ἀπολλόδωρον} μήτε τοὺς ἀπολογησομένους καὶ συνεροῦντας πολίτας, ἀλλὰ τοὺς νόμους καὶ Νέαιραν ταυτηνὴ περὶ τῶν πεπραγμένων αὐτῇ πρὸς ἀλλήλους διαδικάζεσθαι, 115). While the overall sentiment is not unique to him, the use of the verb διαδικάζεσθαι for the dispute is a twist on the common trope.<sup>73</sup> As opposed to the more general δικάζεσθαι, meaning to go to trial, διαδικάζεσθαι refers to the specific procedure (ἡ διαδικασία) where there were two claimants rather than a prosecutor and defendant.<sup>74</sup> It applied, for example, to inheritance cases.<sup>75</sup> In these disputes, one person was not accusing the other of a crime, but rather two claimants were disputing some property. The winner received it, the loser did not. The consequences of zero-sum contest between Neaira and the laws is made explicit; either Neaira wins all, or the laws do.

<sup>73</sup> I am indebted to Kostas Kapparis for bringing this passage to my attention. While other editions print *dikazesthai*, I follow his reading of *diadikazesthai* (Kapparis 1999: ad loc.).

<sup>74</sup> For the details on *diadikasia*, See Todd 1993: 119–21.

<sup>75</sup> Disputes over liturgy liability also fell under this rubric.

## 5.4 Conclusion

Apollodoros juxtaposes not just his good household with Stephanos' bad one, but a good steward of a citizen household with a poor one. In order to do so, he relies on tropes about citizen power to ingratiate himself with the other *kurioi* on the jury and exclude Stephanos and Neaira. His emphasis on citizenship's freedom and power exposes inverse expectations about non-citizens in the *polis*. This approach to the case and the jury's favor hinges on the role of the empowered citizen as *kurios* in his household as well as in the public sphere. Hence, Apollodoros manipulates examples of proper and improper uses of power and their effects on citizens as a means to key his audience into stereotypes about each actor.

The speech against Neaira reveals how power and freedom, or the ability to do as one wishes, are central to notions of citizenship. As a basis upon which to build citizenship, it justifies many of the hyperbolic claims of the prosecution and ties together some apparent digressions into an overarching structure. In the prosecution's careful presentation, Neaira the immigrant has seized power by entering an *oikos*. Since power is not essentially fixed, whoever acts *kurios* is *kurios*. The passing metic is, in this model, a grave threat since an assumption of citizen privilege by a non-citizen is a claim to power at the expense of true citizens.<sup>76</sup> Apollodoros depends on that notion to argue that when someone like Neaira acts *kuria*, it is not in harmony with the complex ideology of power and authority, but instead reduces the power of the ideologically privileged elements in the system. If unchecked, it can disempower the laws and the citizens so closely associated with them. Neaira as a foreigner doing what she wishes is alleged to destabilize democratic ideology from the bottom up, from the individual to the *dēmos*.

<sup>76</sup> Kasimis expounds on the threat of the "passing" metic as key to understanding citizenship in Athens throughout her monograph (2018: especially Chapters 2 and 6).