

ATHENS AND ROME: LIFE AND CULTURE IN CLASSICAL ANTIQUITY

Lecture 25 – Crime and Order
Athens

CLCS4007
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Defining Crime

- ▣ How does damage to the community differ from harm to the individual?
- ▣ What is the difference between crime and immorality? Does the law also reflect social perceptions.
- ▣ Crime can only exist in the context of a legal system designed to deal with it.

Evidence

- ▣ There are no crime statistics for the ancient world – no way of knowing crime rates, detection rates, and frequency of condemnation.
- ▣ Anecdotal accounts from literary sources – perceptions of (often wealthy) elite authors.
- ▣ Law court speeches provide details about alleged crimes.
- ▣ Plato's (*Phaedo*) description of Socrates time in prison.

The Early State

- ▣ Earliest communities centred around nobles and their followers.
- ▣ Social conflict in archaic Athens due to exploitation of the elite – attempts to monopolise landownership, harsh sharecropping contracts, and loan-sharking.

“The aristocratic families of early Greece had something in common with the mafia families of New York and Palermo: they accumulated wealth by violent, deceitful, and otherwise illegitimate means.” – **van Wees (1999), 1.**

Factors Limiting Organised Crime in Classical Athens

- ▣ Solonian Law codes, reduction in power of aristocrats and, relatively little patronage in Democratic Athens.
- ▣ Laws passed by a (relatively) representative cross-section of the free adult male population.
- ▣ Large numbers of jurors – corruption more difficult (i.e. bribery, and physical intimidation).

Crimes in Athens

Brawls and Violence

- ▣ Quarrels, drunken violence, and violence by hooligans mentioned in the sources.

“...his own son is one of these and has often given and received blows on account of some girl; and that things of this sort are natural for young men. As for me and all my brothers, he will make out that we are not only drunken and insolent fellows, but also unfeeling and vindictive.” –
Demosthenes *Against Konon* 54.14.

Theft

- ▣ Terms like mugger (*lopodutai*), house-breaker (*toichoruchoi*) and robbers (*kleptai*) are used as terms of abuse.

[Phidippides] “O wretch, and parricide, and house-breaker!” – **Aristophanes** *Clouds* 1327.

[Just-Man, talking to Informer] “Like a thief you sneak yourself in where you have no business. You are hated by all and you claim to be an honest man.” – **Aristophanes** *Wealth* 909-10.

Fraud and Profiteering

- ▣ One of speeches of Demosthenes (*Against Zenothemis* 32) mentions a purported attempt by Zenothemis and Hegestratos to defraud creditors of a maritime loan.

“For their interests are the opposite of other men's: they make most profit when, on some bad news reaching the city, they sell their grain at a high price. And they are so delighted to see your disasters that they either get news of them in advance of anyone else, or fabricate the rumour themselves...” - **Lysias 22.14.** (if found guilty would be subject to death penalty).

Public Debtors

“[defendant – Euxitheus] ...for even after suffering a condemnation for a debt of seven minae, he could not release himself from prison: his friends had to purchase his release...” - *Antiphon On the Murder of Herodes* 5.63.

“So corrupt and selfish was his attitude towards you that he thought that his own father, imprisoned by the State for moneys due, had a right to escape, without payment and without trial, but that any other citizen, not having the means to pay, might be dragged from his own home to prison.” - *Demosthenes Against Androtion* 22.56.

Causes of Crime

- ▣ Poverty often attributed as a cause of crime.

“There are crimes of which the motive is want...But want is not the sole incentive to crime; men also wish to enjoy themselves and not to be in a state of desire -- they wish to cure some desire, going beyond the necessities of life...” – Aristotle *Politics* 1266b38 ff.

[Speech of Diodotus] “...No one has ever yet risked committing a crime which he thought he could not carry out successfully... cities and individuals alike are disposed by nature to do wrong, and there is no law that will prevent that...” – Thucydides 3.45.

Maintaining Order

“Policing” in Athens

- ❑ No real “police” force to detect/prevent crime.
- ❑ Little in the way of public prosecutors, (notably exception the “Introducers of Cases” – individual citizens generally responsible for bringing cases to trial (either victims or their families, or volunteer prosecutors).
- ❑ Witnesses very important – Athenians frequently appear to intervene.
- ❑ The members of the Boule could also arrest traitors revolutionaries, and those guilty of malpractice or incompetence while carrying out public duties.

“There are also five Introducers of Cases (Eisagogeis), elected by lot, one for each pair of tribes, who bring up the 'monthly' cases to the law-courts. 'Monthly' cases are these: refusal to pay up a dowry where a party is bound to do so, refusal to pay interest on money borrowed at 12 per cent., or where a man desirous of setting up business in the market has borrowed from another man capital to start with; also cases of slander, cases arising out of friendly loans or partnerships, and cases concerned with slaves, cattle, and the office of trierarch, or with banks. These are brought up as 'monthly' cases and are introduced by these officers; but the Receivers-General perform the same function in cases for or against the farmers of taxes. Those in which the sum concerned is not more than ten drachmas they can decide summarily, but all above that amount they bring into the law-courts as 'monthly' cases.” - Aristotle *Constitution of the Athenians* 52.2.

Scythian Archers

- ▣ Crowd-control rather than police.

“Those public slaves before the law courts and other gatherings, to whom they gave the task of restraining those who behaved inappropriately, and those speaking out of turn, were called “Scythians” and “archers”, and “Speusinoi” after the first man who organised their service.” – **Julius Pollux 8.131-32.** (second century AD).

“The archers are public slaves, guards of the city, 1,000 in number, who at first lived in tents pitched in the middle of the Agora, but then moved to the Areopagus...” – **Schol. On Ar. Arc. 54.**

The “Eleven”

- ▣ Responsible for the accused until trial - take them between the court and prison, and if condemned oversee their execution – also summarily executed. Assisted by *hyperetai* “underlings” or public slaves.

“The Eleven also are appointed by lot to take care of the prisoners in the state prison. Thieves, kidnappers, and pickpockets are brought to them, and if they plead guilty they are executed, but if they deny the charge the Eleven bring the case before the law-courts; if the prisoners are acquitted, they release them, but if not, they then execute them. They also bring up before the law-courts the list of farms and houses claimed as state-property; and if it is decided that they are so, they deliver them to the Commissioners for Public Contracts. The Eleven also bring up information laid against magistrates alleged to be disqualified; this function comes within their remit, but some such cases are brought up by the Thesmothetae.” – **Aristotle *Constitution of the Athenians* 52.1.**

Punishments

- ▣ Athenian penal system based on restitution or retribution, not on correction or reform.
- ▣ Thieves and kidnappers, may be swiftly executed, by one of the “Eleven”.
 - need to be caught in the act / clearly in possession of stolen property, and unable to come up with a defence when interrogated
 - the accused being brought before one of the Eleven
 - admittance of crime.

[Speech of Diodotus] “Now in human societies the death penalty has been laid down for many offences... men have tried every kind of punishment... in the attempts to find greater security against criminals.” – **Thucydides 3.45.**

Incarceration

Prison in Athens

- ▣ *Desmoterion* – state prison.
- ▣ Three main reasons for imprisonment:
 - awaiting trial, and unable to or prevented from providing sureties (i.e. bail) – for example Euxitheus (*Antiphon On the Murder of Herodes*);
 - as a public debtor, who is in prison until the sum has been repaid;
 - awaiting execution (e.g. Socrates).
- ▣ Confinement to prison generally of short duration.

Conditions in Prison

- ▣ Literary descriptions imply prison was not penitentiary in nature – not singled celled isolation.
- ▣ More a communal environment, with limited guards.
- ▣ Use of fetters (chains) for restraint, in more severe cases stocks – **Andocides 193**.
- ▣ The *Phaedo* records descriptions of beds and bathing facility.
- ▣ Family members and friends clearly at liberty to visit the imprisoned during day – prisoners reliant on food and comforts brought to them – **Demosthenes *Against Aristogiton* 25.54; Dinarchus *Against Aristogiton* 2.8, 11.**

“The reason was that it was to the prosecution's advantage, first, that I should be prevented from looking after my interests in person, and so be quite unable to prepare for my trial: and secondly, that I should undergo bodily suffering, and by reason of that bodily suffering find my friends readier to tell lies as witnesses for the prosecution than the truth as witnesses for the defence. In addition to which, lifelong disgrace has been brought upon me and mine.” – *Antiphon On the Murder of Herodes* 5.18.

Jail Break

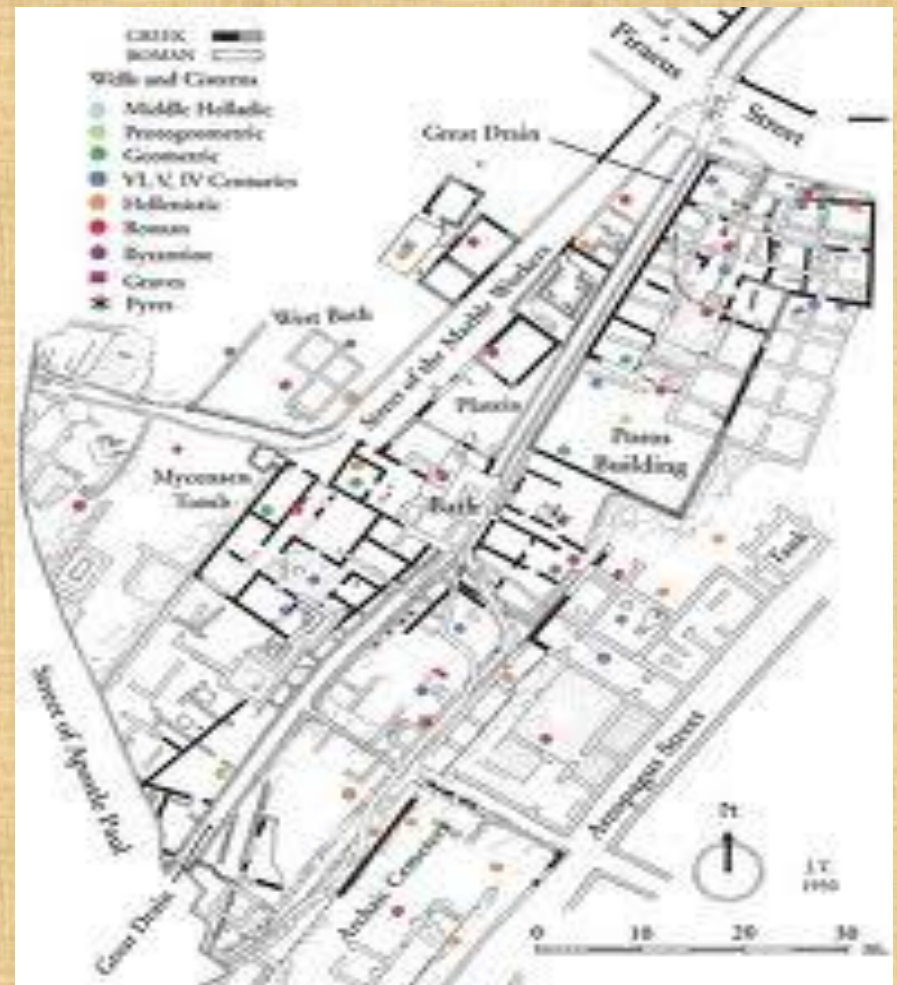
- ▣ The “Eleven” responsible for hunting down escaped prisoners.

“Prove, therefore, that your father was not a defaulter, or that he left the prison, not by running away, but by paying his debts... if your father danced his way out of it, fetters and all, at the procession of the Dionysia.” – **Demosthenes *Against Androtion* 22.34, 68.**

“...where he was sentenced to a fine of fifty talents and delivered over to prison in default of payment. But out of shame at the charge under which he lay, as he says, and owing to the weakness of his body, which could not endure confinement, he ran away, through the carelessness of some of his keepers and the connivance of others.” – **Plutarch *Demosthenes* 26.2.**

Location of the Prison

- Vanderpool (1980), has argued that Poros building in the Agora was the site of Athens building, citing evidence which includes medicine pots and a marble statue of Socrates.
- This has come under some scepticism, see Hunter (1997).



Bibliography

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