

ATHENS AND ROME: LIFE AND CULTURE IN CLASSICAL ANTIQUITY

Lecture 26 – Crime and Order
Rome

CLCS4007
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Order in Society

“The orator Demosthenes himself gives this definition: ‘A law is the following: - something which all men should obey for many reasons, foremost because every law is devised and given by God, but resolved by intelligent men, a means of correcting offences both intentional and unintentional, a general agreement on part of the community by which all those living within should order their lives...” – *Digest 1.3.2* (Marcianus).

Order in the Republic

- ▣ Responsibility for maintaining order – *aediles*, *tresviri capitales*? – more serious issues of disorder, magistrates with imperium?
- ▣ Single out ringleaders of disorder. Magistrates usually only had lictors with him. Quelling disorder relied upon the majority of people accepting the authority.
- ▣ Usual prohibitions about having armed soldiers in the pomerium.

Breakdown of the System

- ▣ *Populares* gaining the support and loyalty of *collegia* (joined by law) – notably Clodius.
- ▣ Use of these (sometimes violent) “mobs” to obstruct opponents, or prevent opponents obstruction.
- ▣ Increasingly difficult for Aristocracy to cope with genuine mass protests without resorting to military force.

“He brought forward an agrarian law too, and when his colleague announced adverse omens, he resorted to arms and drove him from the Forum; and when next day Bibulus made complaint in the senate and no one could be found who ventured to make a motion, or even to express an opinion about so high-handed a proceeding...” – **Suetonius *Divus Julius* 20.1.**

Imperial Period

- ▣ Emperors could call on Praetorian Guards and *cohortes urbanae* to restore order.
- ▣ This done at discretion of emperor, more crowd control than policing.



Crimes

Theft and Burglary

“Robbers, who are more heinous thieves (that is, plunderers), are normally condemned to forced labour, whether in perpetuity or for a limited period, because those of better class are removed for a time from their civic rank or directed to quit the boundaries of the homeland... Cutpurses, pickpockets, and burglars are to be similarly punished... in the case of the lower orders, it does not go beyond forced labour and, for those of nobler rank, banishment.” – *Digest* 47.18.1.1-2 (Ulpian).

Kidnaping

“...if someone abducts or conceals the prostitute slave-woman of another, this is not theft... but lust... He acts more heinously than a thief does, but the ignominy that he thereby incurs makes up for that; certainly he is no thief.” – *Digest* 47.2.39 (Ulpian).

Hooliganism

“No sooner was dusk over than he would put on a cap or a wig and go to the taverns or roam about the streets playing pranks, which, however, were very far from harmless; for he used to beat men as they came home from dinner, stabbing any who resisted him and throwing them into the sewers. He would even break into shops and rob them, setting up a market in the Palace, where he divided the booty which he took, sold it at auction, and then squandered the proceeds.” – **Suetonius *Nero* 26.1.**

“[Photis] There’s a gang of young idiots of good family disturbing the public peace just now. You can see murdered men lying in the open street, and the provincial guards are stationed too far away to save this city from these killings.” – **Apuleius *The Golden Ass* 2.18.**

Legitimate Homicide

- ▣ Roman law recognised the right of the citizen to kill in certain situations:
 - a thief who came by night could be killed by the householder;
 - the offender of family honour could be subject to the summary justice of the *paterfamilias*.

“...Aulus Fulvius, a senator, was slain by his own father; and the latter was not the only private individual, as some think, who ever acted thus. There were many others, that is to say, not only consuls, but private individuals as well, who slew their sons. This was the course of affairs at that time.” – **Dio Cassius 37.36.**
(Cataline Conspiracy)

Prosecution and Condemnation

Prosecuting Criminals

- ▣ Like Athens, in Rome there was no police authority to conduct investigation and build a case against a defendant.

“When anyone summons another before the tribunal of a judge, the latter must, without hesitation, immediately appear. If, after having been summoned, he does not appear, or refuses to come before the tribunal of the judge, let the party who summoned him call upon any citizens who are present to bear witness. Then let him seize his reluctant adversary; so that he may be brought into court, as a captive, by apparent force.” – **XII Tables 1.1-2.** (c. 450 BC).

- ▣ A Julian Law protected the defendant from being prohibited from attending the trial. – *Digest* 48.6.8.
- ▣ The *publica iudica* maintained the requirement that the accuser had to be present, and that the defendant had the right to confront them.
- ▣ One notable feature of the imperial period (varying under different emperors) was the *maiestas* (treason) trials.

Condemnation

“The stages of capital punishments are more or less as follows. The extreme penalty is held to be condemnation to the gallows. There is also burning alive; this, however, though deservedly included in the term "extreme penalty" is yet regarded as following after the first, because this class of punishment was devised at a later time. Also there is beheading. Then, the next punishment after death is sentencing to the mines; after that, deportation to an island... such as relegation, for a period or permanently, or to an island, or when someone is handed over to forced labour, or punished by beating with rods. It is not the custom for all persons to be beaten with rods, but only freemen of the poorer classes; men of higher status are not subject to beating with rods, as is specifically laid down in imperial rescripts.” - *Digest* 48.19.28.1-2 (Callistratus).

Jail Break

“...those who break out of prison and escape are to be punished. And Saturninus endorses the view that those who break out of prison, whether by breaking down the doors or through a conspiracy with others detained like themselves, are to be punished by death; but if they escape through the laxity of the jailers, their punishment should be less severe.” – *Digest* 47.18.1 (Ulpian).

Banditry

Bandits

- ▣ Banditry a frequent feature of the ancient world.
- ▣ May be viewed by authorities as the illegitimate exercise of personal power, and hence a threat to the state.

“For what are states but large bandit bands, and what are bandit bands but small states.” – **St. Augustine** *The City of God* 4.4.

“There was, for example, a robber named **Corocotta**, who flourished in Spain, and who made Augustus so angry at first that he had offered a reward of 1,000,000 sesterces for his capture alive.” – **Dio Cassius 56.43.3.**

“At this period one **Bulla**, an Italian, got together a robber band of about six hundred men, and for two years continued to plunder Italy under the very noses of the emperors and of a multitude of soldiers. For though he was pursued by many men, and though Severus eagerly followed his trail, he was never really seen when seen, never found when found, never caught when caught, thanks to his great bribes and cleverness... Papinian, the prefect, asked him, "Why did you become a robber?" And he replied: "Why are you a prefect?" Later, after due proclamation, he was given to wild beasts, and his band was broken up — to such an extent did the strength of the whole six hundred lie in him.” (77.10).

Bandits to Rebel Army

“But before long another plot was organized against Commodus. It involved a former soldier named **Maternus**, who had committed many frightful crimes. He deserted from the army, persuading others to flee with him, and soon collected a huge mob of desperadoes. At first they attacked and plundered villages and farms, but when Maternus had amassed a sizable sum of money, he gathered an even larger band of cutthroats by offering the prospect of generous booty and a fair share of the loot. As a result, his men no longer appeared to be brigands but rather enemy troops.” - **Herodian 1.10.1.**

“They now attacked the largest cities and released all the prisoners, no matter what the reasons for their imprisonment. By promising these men their freedom, he persuaded them to join his band in gratitude for favours received. The bandits roamed over all Gaul and Spain, attacking the largest cities; a few of these they burned, but the rest they abandoned after sacking them.” - **Herodian 1.10.2.**

Bandits Popularised in Literature

- ❑ Achilles Tatius (third-quarter of second century AD) - *The Adventures of Leukippe and kleitophon* – the protagonists captured by bandits in Nile Delta (allusions to *Boukoloï* “herdsmen” of the marshy regions in the Delta).
- ❑ Xenophon of Ephesus (mid-second century AD) – *The Ephesian Tale of Anthia and Habrocomes* – plot involving pirates, and robber bands.
- ❑ Heliodorus *Aethiopica* (3rd or 4th century AD?)

Riots

Riots as People Power

- ▣ Mass demonstrations (which could become riots) were a recognised means of communication with the authorities.
- ▣ Riots also expression of failure of authorities to fulfil their obligations – notably food-supply.

“Angered at the rabble for applauding a faction which he opposed, he cried: ‘I wish the Roman people had but a single neck’...” – **Suetonius**
Caligula 30.2.

Rabble-rousers

“Those who are responsible for sedition and disturbance when a mob has been excited are, according to their social standing, either hanged on the gallows or thrown to the beasts or deported to an island.” - *Digest* 48.19.38.2 (Paulus).

- ▣ Leontius prefect of Rome under Constantius II, diffuses a riot (reportedly as a result of a scarcity of wine) by singling out one of the ringleaders and having him strung up and publicly flogged – *Ammianus Marcellinus Roman Antiquities* 15.7.

“Certain persons, who commonly call themselves "the lads," in certain towns where there is unrest play to the gallery for the applause of the mob. If they do no more than this and have not previously been admonished by the governor, they are beaten with rods and dismissed and also forbidden to attend public entertainments. But if after such correction they are caught doing the same again, they should be punished with exile; or sometimes capital punishment may be imposed...” - *Digest* 48.19.28.3 (Callistratus).

“—The measure led to general and undisguised protests from the common people, endowed with less discretion than their superiors, and — thanks to their humble station — faced by fewer perils. Then came a rumour that Nero had repented of his outrage and recalled Octavia to his side. At once exulting crowds scaled the Capitol... They hurled down the effigies of Poppaea, they carried the statues of Octavia shoulder-high, strewed them with flowers, upraised them in the forum and the temples...Already they were filling the Palace itself with their numbers and their cheers, when bands of soldiers emerged and scattered them in disorder with whipcuts and levelled weapons.” - **Tacitus *Annals* 14.60-61.**

- ▣ In AD 410 the prefect, Gabinius Pompeianus, was lynched by a mob who blamed him for food shortages caused by the siege of Alaric - **Zosimus *New History* 5.41.1.**

Politics and Mob Violence

- ▣ Clodius, during his tribunate (58 BC) passed laws legalising *collegia* (many of which had been suppressed previously) and made the grain dole one of free distribution (rather than subsidy).
- ▣ Uses his gang to harass public business.
- ▣ In 52 BC street-fighting between Clodius' gang of supporters, and Milo's (who had collected a gang of his own, including gladiators). Clodius is killed.

“...the people carried the body of Publius Clodius into the Senate House where, after piling up benches, platforms, tables, and books, they cremated him. With Clodius the Senate House itself went up in flames, the Basilica Porcia, which adjoined the Senate House also burned down.” – **Asconius** *On Cicero's Milo* 29.

“So this Cleander, too, who had been raised to so exalted a station, fell suddenly and perished in dishonour. It was not the soldiers, however, that killed him, as in the case of Perennis, but the populace. A famine occurred, sufficiently grievous in itself; but its severity was vastly increased by Papirius Dionysius, the grain commissioner, in order that Cleander, whose thefts would seem chiefly responsible for it, might incur the hatred of the Romans and be destroyed by them. And so it came to pass. There was a horse-race on...a crowd of children ran into the Circus... The children shouted in concert many bitter words, which the people took up and then began to bawl out every conceivable insult; and finally the throng leaped down and set out to find Commodus (who was then in the Quintilian suburb), invoking many blessings on him and many curses upon Cleander. The latter sent some soldiers against them, who wounded and killed a few; but, instead of being deterred by this, the crowd, encouraged by its own numbers and by the strength of the Praetorians, pressed on with all the greater determination. They were already drawing near to Commodus, whom no one had kept informed of what was going on... Commodus was so terrified (he was ever the greatest coward) that he at once ordered Cleander to be slain, and likewise his son, who was being reared in the emperor's charge.” – **Dio Cassius 73.13.**

Useful Reading

- ▣ Harris, J. (2007) *Law and Crime in the Roman World* (Cambridge: Cambridge University Press).
- ▣ Nippel, W. (1984) 'Policing Rome'. *Journal of Roman Studies* 74: 20-29.