

THE PRISON OF ATHENS: A COMPARATIVE PERSPECTIVE

VIRGINIA HUNTER

THE PRISON OF ATHENS HAS, on the whole, attracted little attention on the part of scholars. There is, for example, no full-scale study that makes use of all the ancient evidence to reconstruct prison life or even to identify who exactly was incarcerated there.¹ Instead, most scholars have allowed one issue, whether imprisonment was a “normal” penalty, to influence, if not dominate, their discussions. For instance, Douglas MacDowell (1978: 257) ends his brief account of imprisonment in Athens thus: “But, despite a dearth of known instances, it is clear from general statements that imprisonment was one of the forms of punishment which a litigant could propose.” In this he agrees with Barkan (1936a: 341), who believed it “indisputable” that “imprisonment was a penalty per se.”² Neither scholar has attempted to place imprisonment in a larger perspective in an effort to understand what purpose such a punishment might have served in a penal system that sought either restitution or retribution and rarely, if at all, correction or reform. In my view, this issue represents a *cul-de-sac* blocking other paths of investigation.

Clearly, the prison of Athens needs to be analyzed in greater depth. In turn, this means engaging primary sources that are scattered and all too brief, consisting mainly of allusions by Attic orators to an institution whose nature and purpose they assumed was widely understood by their listeners. As a result, they offer no description of the prison in and of itself and no analysis of its place within the penal system of Athens. Indeed, the best description we have of the Athenian prison is to be found in Plato’s picture of Socrates’ last hours in the *Phaedo*.

In what follows I shall offer an analysis of the prison that aims both to reconstruct the institution itself—its administration, its denizens, the conditions of life within its walls, and the measures adopted there for security—and to lay bare its purpose. In order to achieve this end, the paper will adopt a comparative approach, viewing the prison in a cross-cultural perspective.

THE PRIMARY SOURCES

Let me begin by analyzing three primary sources, two lawsuits and a dialogue of Plato, in some detail. The three will serve to illustrate the general quality of

¹ Discussions of the Athenian prison include Thonissen 1875: 114–120; Caillemer in Dar.-Sag. s.v. *carcer*; Thalheim in *RE*, s.v. *Δεσμωτήριον*; Barkan 1936a; Bonner and Smith 1938: 275–276; Paoli 1957; Wycherley 1957: 149–150; Harrison 1971: 177, 241–244; Cohen 1973: 74–80; Cartledge 1990; and Allen 1997. None of these is a major study.

² Since this article was published in 1936, most scholars have concurred with Barkan, viewing imprisonment as “a normal penalty” (Bonner and Smith 1938: 276; cf. Harrison 1971: 177 and Allan 1997). Notable exceptions are Cohen 1973: 79 and Todd 1993: 140.

our sources. The three also offer a lively tableau of the prison and its inmates as seen and experienced by contemporaries.

First, Antiphon 5, *On the Murder of Herodes*. Euxitheus, the defendant and a suspect in the murder of Herodes, was arrested as a malefactor (*kakourgos*) and imprisoned, after being refused bail (i.e., the right to produce sureties).³ He was, in his own words, put in bonds (ἐδέσθην, 17). The procedures employed in this case fell under the jurisdiction of the Eleven, the “custodians of malefactors”: they were responsible for the custody of the accused until his trial. Euxitheus complains bitterly about his incarceration. First, it had given his opponents an unfair advantage, since he had been unable to look after his own interests in person and so was relatively unprepared. Secondly, while in prison he had been submitted to bodily suffering, a form of degradation that he believes could very well prejudice his friends against him and so affect their attitude as witnesses in his defence (18). In other words, once Euxitheus had been refused sureties, he remained in prison, in chains, until his trial.

In his speech of defence, Euxitheus also adverts to another inmate of the prison, the debtor (63). The individual involved is one Lycinus, who is also implicated in the murder of Herodes, but whose friendship Euxitheus disavows. He points out that on a previous occasion, when Lycinus was in prison for debt, he could not produce the money to release himself: in fact, his friends purchased his release, an act of reciprocity in which Euxitheus had no part. His failure to assist Lycinus meant that the two were not close friends and so complicit in the murder. As to Lycinus’ experience in prison, Euxitheus describes him as having been “in bonds” (δεδεμένον) and having suffered physical indignity.

My second example, drawn from Demosthenes 22, *Against Androtion*, is very brief. As part of his allegation that Androtion is a man without civic rights (*atimos*), Demosthenes refers to his father’s status. While in prison for debt, the latter extricated himself, not by paying his debts, but by running away (34, 56; cf. Dem. 24.125 and 168). In fact, he escaped by dancing away from the prison, fetters and all, at the Festival of Dionysus (68).

My third illustration, Plato’s *Phaedo*, is much longer and rich in detail about the prison and prison life. First, the dialogue indicates the location of the prison in Athens as near the court where Socrates’ trial took place. That is, it was in or near the Agora. There Socrates’ friends met each morning at daybreak before proceeding to the prison, where a porter opened the door and admitted them (59d–e). Once inside, his friends spent most of the day with Socrates, leaving in the evening.

On the day of Socrates’ death, the Eleven release the condemned man from his fetters and issue an order that he is to die that day. On entering, then, his friends find Socrates just released from his fetters, with his wife Xanthippe and

³ On the use of sureties in an *endeixis/apagoge*, the procedure used here, see below, 300–301.

their young son seated at his side.⁴ Almost immediately Socrates dismisses his wife and sits up on his couch to converse with his friends (60a–b). The number of friends who visited Socrates this day is worth noting: it was fifteen (59b–c). And as the day progressed, they were joined by his three children and his female relatives (116a–b). At least one slave was also in attendance (117a).⁵ At one point there were no fewer than twenty persons—possibly twenty-five—in his presence. Some of this group, the members of his family along with Crito, follow Socrates to a nearby room where he bathes. There he also expresses his last wishes, emerging when the sun has nearly set, ready to face death. Soon after, one of the underlings of the Eleven enters to order him to drink the hemlock. Rather than delay, Socrates asks for the poison to be brought at once. In so doing, he ignores the advice of Crito, who tells him it is possible to wait until the last moment as some of the condemned do, obeying the orders of the Eleven only after they have eaten and drunk in the presence of their loved ones (116e). Finally, an attendant administers the hemlock, remaining to the end to test Socrates' limbs for feeling and to confirm the effects of the poison (117a–118a).

Together the three sources allow us to draw a sketch of the Athenian prison. Located in the centre of Athens, it was under the jurisdiction of the Eleven, who delegated routine tasks to a number of assistants. The inmates themselves included men who had been arrested and were awaiting trial and others already condemned to death and awaiting execution. These two groups shared the prison with debtors. As for life inside the prison, conditions were harsh: inmates were forced to wear fetters and complained of physical hardship. It seems, however, that couches and baths were provided, as well as an opportunity to leave the prison for at least one major festival. The privilege of seeing visitors was not restricted in any way. In what follows I shall submit this sketch to closer inspection in light of other primary sources for the prison.

LOCATION

Plato's description of the prison, indicating that it was in or near the Agora, is confirmed by Demosthenes 24. At one point in his argument against Timocrates (208), the orator asks his listeners to imagine a jail-break. If such should occur, they will hear an outcry near the court in which they are sitting as jurors. The prison, in other words, was "associated with the lawcourts" and "may have stood near the Agora." The words are those of J. M. Camp (1986: 113), who, in his

⁴ It is curious that Xanthippe and her child are already present. Had she been there all night because she was allowed some form of conjugal rights on this solemn occasion?

⁵ Who was this slave who, at Crito's bidding, goes out to fetch the attendant responsible for administering the poison? The word *pais* is a term commonly applied to slaves, in the lawsuits often synonymous with *oiketes* or household slave. The *pais* here is probably not a prison functionary, the terms for which are *demosios* or *hyperetes*, but a personal attendant or *akolouthos* who accompanied his master, Crito, in public. This raises the question whether other attendants were also present. If so, we must imagine that the number of individuals in Socrates' presence this day exceeded twenty.

study of excavations in the Athenian Agora, identifies the Poros Building, a large structure (ca 40 by 17 m.) outside the southwest corner of the Agora as the state prison.⁶ The location of the building, just a short walk from the lawcourts, allows us to picture Theramenes' march to prison in 404. Condemned to death by the Thirty and handed over to the Eleven for execution, Theramenes was first torn from the altar in the Bouleuterion, where he had sought refuge, and then led away through the Agora to his death by hemlock (Xen. *Hell.* 2.3.56; cf. Diod. Sic. 14.5.3). He died in the same manner and in the same surroundings as Phocion would in 318. The latter was also led on foot to the prison, in his case from the theatre, where the Assembly had met to decide his fate (Plut. *Phocion* 36.1–2).⁷

ADMINISTRATION

The role of the Eleven in the penal structure of Athens is well documented. Their task, Aristotle asserts in his *Constitution of the Athenians* (AP 52.1), was to take charge of men in jail.⁸ Hence, they were called "guardians (*phylakes*) of the prison" (AP 35.1).⁹ In addition, the Eleven supervised the execution of malefactors such as thieves, kidnappers, muggers, and temple-robbers, mostly common criminals, who admitted their guilt. The latter were summarily put to death (AP 52.1; Dem. 24.65, 35.47). The Eleven also undertook the execution of those who, like Socrates and Theramenes, were condemned by the courts (Aesch. 1.16; Lys. 14.17; Xen. *Hell.* 1.7.10; Diod. Sic. 13.102.4; cf. Lys. 22.2). Xenophon's description of Theramenes' arrest may well indicate the formula used on such occasions. Critias, one of the Thirty, utters the following words: "We hand over to you this man Theramenes, condemned in accordance with the law. Do you, the Eleven, take him into your custody and lead him away to the appropriate place and do what follows from our decision" (Xen. *Hell.* 2.3.54).¹⁰

⁶ Crosby (1951), who published the remains, identified the structure only as a public building. Subsequently, Vanderpool (1980) argued that the Poros Building was the state prison. His identification is accepted by Wycherley (1978: 46–47), but strenuously opposed by Koumanoudis (1984). See below, Appendix on the Poros Building.

⁷ Plutarch indicates that the street on which the prison was located was wide enough to accommodate a procession of horsemen which happened to be passing on the day of Phocion's death (37.1). In other words, the prison was situated on one of Athens' major thoroughfares. Tritle (1988: 6–7) discusses Nepos' account of Phocion's death.

⁸ Cf. Ant. 5.70; Dem. 24.105, 113, 169; Din. 2.13–14; Hyp. 4.6; Isaeus 4.28; Lys. 10.10, 16; Lys. 13.86; Pl. *Phd.* 59e; Xen. *Hell.* 2.3.54–55. For more on the Eleven, see Paoli 1957; Harrison 1971: 17–18; Rhodes 1981: 579–582; Todd 1993: 79–81; and Hunter 1994: 144–145.

⁹ Cf. AP 24.3 and ps.-Xen. *Const.* 3.4, where they are called "guardians of prisoners." On the identification of these guardians as the Eleven, see Rhodes 1981: 309, 439. They are not to be confused with the guardian (*phylax*) of the prison who admitted Crito in Plato's dialogue (*Crito* 43a). He was a public slave (*demostios*) who acted as a turnkey or porter (*θυρωρός*) and was later so designated in the *Phaedo* (59e).

¹⁰ Jacob (1928: 80), who describes these words as the formula "légale de tradition, nécessaire pour la prise de corps," believes that they were addressed to the *hyperetai* who accompanied the Eleven.

The passage also makes it clear that the Eleven did not act alone. They were accompanied by *hyperetai*, "underlings" or public slaves, who acted as assistants in making arrests. It was the *hyperetai*, for example, who dragged Theramenes from the altar and led him through the Agora to his death (Xen. *Hell.* 2.3.54–56; Diod. Sic. 14.5.1–4).¹¹ Such slaves were not the only ones assigned to the Eleven. They also had an assistant who acted as public executioner (*demios* or *demokoinos*: AP 45.1; Ant. 1.20; Lys. 13.56; Pl. *Rep.* 439e; Pollux 8.71; cf. Pl. *Leg.* 872b).¹² In addition, a number of *hyperetai* worked right in the prison. These included a porter or turnkey and a sort of factotum who announced the decision of the Eleven to a condemned person and also seems to have been a kind of guard, since he was well acquainted with one of the prisoners (Pl. *Phd.* 59d–e, 116a–d; cf. Pl. *Crito* 43a). Finally, there was a man who mixed and administered hemlock (*Phd.* 63d–e, 117a–118a; cf. Plut. *Phocion* 36.2–4). These assistants, and presumably others, were responsible for security and for routine tasks about the prison; i.e., it was they who put prisoners in bonds, whether simple fetters or more elaborate mechanisms for containment like the stocks (Jacob 1928: 83). The Eleven were also responsible for hunting down those who had escaped from prison (Dem. 25.56).

INMATES

Based on the examples adduced above, we have noted three categories of inmates: individuals condemned to death and awaiting execution, persons arrested and awaiting trial, and debtors. Let us look more closely at the last two groups in order to ascertain who precisely might have spent time in Athens' prison.

First, who might be in prison awaiting trial? Euxitheus' case offers a clue. A suspect in the murder of Herodes, he was arrested as a *kakourgos* and imprisoned, after being denied the right to produce sureties (Ant. 5.17).¹³ Admittedly,

In this interpretation, he follows O. Keller, who emended the manuscript tradition in the Teubner edition (1890) by bracketing "the Eleven" at Xen. *Hell.* 2.3.54.

¹¹ Cf. Dem. 24.162, 197; Diod. Sic. 13.102.1; Jacob 1928: 79–81. For the terminology used to designate public slaves, see Jacob 1928: 3–9. Cf. Jordan 1975: 247–249 and Hunter 1994: 148. *Hyperetai* were also assistants to officials like the Eleven, under whose authority they undertook policing duties such as making arrests and maintaining order.

¹² The executioner was also called the man in charge of the pit (ὁ ἐπὶ or πρὸς τῷ ὀρύγματι: Din. 1.62; Pollux 8.71; cf. Lycurgus 1.121), since the pit was the place in Athens, outside the city walls, where he cast the bodies of criminals who had been executed but refused burial (Barkan 1936b: 62). Jacob (1928: 82) distinguishes this executioner from the person who administered hemlock in the prison. On the pit, see further Gernet 1976: 309, n. 29 and Barkan 1936b: 54–62.

¹³ I know of no systematic study of the use of sureties (*engyetai*) in judicial contexts since Partsch 1909. Recent works on Athenian law (e.g., Harrison 1968–71; MacDowell 1978; Todd 1993) discuss their use in conjunction with specific procedures. For example, in an *endeixis* or in the prosecution of an alien, sureties guaranteed the appearance of a defendant in court (Harrison 1971: 87, 92, 221; MacDowell 1978: 75–76, 239). Of course, the use of sureties was not restricted to judicial contexts: they might be required in any instance where a pledge was made. For a general discussion of the many and varied uses of sureties, see Caillemer in Dar.-Sag. s.v. *eggye*.

Euxitheus was an alien, yet he insists that his incarceration was without legal justification, since he had been ready to offer the three sureties required under the law. In refusing to release him, he alleges, the Eleven had acted without precedent: before his case no alien who was ready to offer sureties was ever imprisoned. It is impossible to verify Euxitheus' statement about the legal right of aliens to produce sureties if they were arrested as *kakourgoi*. In fact, the existence of such a law has been denied (Hansen 1976: 24). Perhaps Euxitheus is confusing his case with other kinds of lawsuits instituted against aliens, where the general rule was that an alien, unlike an Athenian citizen, was required to offer sureties as a guarantee that he would remain in Attica until his trial. If he was unable to do so when he appeared at the Polemarch's office for a preliminary hearing, he was imprisoned (Dem. 32.29; Isoc. 17.12; cf. Dem. 25.60; Gauthier 1972: 138–141; MacDowell 1978: 76, 239). This procedure might be construed—or even misrepresented—as the right of aliens to offer sureties in other legal contexts. One such context was the procedure under which Euxitheus was in fact arrested: it was very specific and affected Athenian citizens and aliens alike. He was denounced as a *kakourgos* under an *endeixis*, a procedure which left it to the discretion of the prosecutors, here the relatives of Herodes, whether or not to arrest him before the trial. They did arrest him; whereupon, it was further left to their discretion whether he should be allowed to offer sureties. When they refused him bail, he remained in prison under the jurisdiction of the Eleven. In other words, in the case of an *endeixis* followed by an *apagoge*, there was an element of discretion. This was not so in the case of the summary arrest (*apagoge* without *endeixis*) of a malefactor caught in the act: he remained in prison until his trial or, if he confessed, until he was dispatched by the Eleven.¹⁴

In the light of these preliminary distinctions, let us return to our original question: who might be in prison awaiting trial? One category of prisoners was malefactors arrested under the procedures of *apagoge*, *endeixis*, and *ephegesis* and brought to the office of the Eleven (Dem. 22.26, 24.146, 209; Hyp. 3.12; Isaeus 4.28; Isoc. 15.90, 21.14; Lys. 13.85–86). This group could include both flagrant criminals and others who had been denied bail. Offenders who were not *kakourgoi*, but were arrested under the same procedures might also be part of this group. I am referring to *atimoi*, persons who had lost their civic rights, but continued to exercise them illegally. An example might be someone found guilty of maltreating his parents or shirking military service who was seen entering places like the Agora that were out of bounds (Dem. 24.103; cf. 60 and 105). Precisely the same procedures were used against a person accused of murder found in an area forbidden to him such as the Agora or the precinct of a temple (Dem. 24.60, 105). He would end up in prison.¹⁵ In addition to this group of prisoners, others might include a metic or alien who had been unable to provide sureties

¹⁴ In my interpretation of these procedures, I follow Hansen 1976: 9–28. Cf. Gagarin 1989: 28, n. 34.

¹⁵ He was, in other words, summarily arrested. Slightly different procedures were used in the case of convicted homicides who had gone into exile and later returned illicitly. As outlaws, they

when he appeared at the the Polemarch's office; a man (i.e., a sycophant) who had brought a malicious prosecution against a merchant or ship-owner (Dem. 58.10–11); and a person convicted under a *graphe xenias* and so facing a penalty of enslavement. In this last case, there was a stay of execution pending an indictment for false evidence (*dike pseudomartyrion*). The latter would allow the convicted man—or woman—to challenge the witnesses for the prosecution.¹⁶ Meantime, he remained in prison (Dem. 24.131–132; cf. Harrison 1971: 193, n. 1; Scafuro 1994: 179–180).

The Eleven were not the only officials who had the power to arrest and imprison: in its judicial capacity, the Boule also exercised this power. Over whom? The bouletic oath recorded by Demosthenes is clear: on taking office, each *bouleutes* swore not to imprison any Athenian who offered three sureties in the same property class as himself, with the exception of traitors to the city, revolutionaries, and tax-collectors in default (Dem. 24.144). In other words, the Boule might imprison a member of one of these three groups as a precautionary measure until he came to trial (Rhodes 1972: 179, n. 3).¹⁷ Examples of individuals arrested and held in prison under the jurisdiction of the Boule include the conspirators rounded up after the profanation of the Mysteries (And. 1.45) and the Arginusai generals (Xen. *Hell.* 1.7.3). The procedure in such cases was an *eisangelia*, an extraordinary charge reserved for major offences against public order as well as for lesser offences committed by officials (e.g., maladministration or misconduct in office). The procedure stemmed from what Rhodes calls the Boule's "'official' jurisdiction": it supervised the administration of the polis (1972: 147; cf. Arist. *AP* 45.2). Those it supervised included public officials, generals, and trierarchs, who, unlike members of the three groups mentioned above, were not imprisoned so long as they could offer three sureties. However, anyone found guilty on a charge of *eisangelia* might well end up in prison, if the Boule determined that the case went beyond its jurisdiction and required a penalty of over 500 drachmas (Dem. 47.43). Such a case it submitted to a court or to the Assembly, meanwhile assuming the responsibility for the arrest of the accused.

could either be killed on the spot or denounced under an *endeixis* and then arrested by *apagoge*. The magistrates to whom they were handed over were the Thesmothetai. Strictly speaking, they were not awaiting trial in prison, since the Thesmothetai were empowered to put them to death (Dem. 23.28–31, 51; cf. Lys. 6.15, a passage which indicates that exiles guilty of wounding or attempted murder faced the same fate as convicted murderers if they returned to Attica). Again I follow Hansen 1976: 99–112.

¹⁶ Our sources are silent on the question of women in prison. Yet women were indicted (Dem. 59: Neaera, under a *graphe xenias*; Ant. 1: the step-mother of the speaker, for murder), executed (Ant. 1.20: Philoneus' *pallake*, for murder), and routinely tortured for information (Hunter 1994: 93–94). There is thus no reason to believe that they were spared incarceration while awaiting trial or execution.

¹⁷ There is no evidence that the Boule had the right of penal imprisonment in the fourth century. According to Aristotle (*AP* 45.1), it lost that and other powers (e.g., the power to inflict the death penalty) sometime in the fifth century.

Demosthenes 51 offers an excellent example of the Boule's power to arrest and imprison. Here the Boule passed a decree ordering that any trierarch who did not bring his ship around to the pier before the end of the month was to be arrested and handed over to the court. The speaker alleges that his opponents had not done so and were thus liable to imprisonment (51.4; cf. 8).¹⁸

Who then might have been in prison, arrested by the Boule? A traitor or a revolutionary or even a trierarch, a general, or a state official guilty of maladministration or misconduct in office.

In addition to individuals who had been condemned to death and to others awaiting trial, debtors were a third category of inmates. More precisely, they were public debtors, for those imprisoned for debt were virtually all men who owed money to the state.¹⁹ In general, such debtors fell under the jurisdiction of the Boule, the body which supervised public finances in Athens (Rhodes 1972: 88–113). According to Aristotle (*AP* 47–48), the Boule worked closely with financial boards like the *poletai*, the sacred treasurers, and the *apodektai* to ensure that public monies were collected. To take the example of the *poletai*, they were a board of ten responsible for leasing public property, for letting out contracts for taxes and mines, and for selling confiscated property (47.2). If an individual who leased or purchased property or who entered into a contract defaulted on his payment, he became a public debtor and automatically lost his civic rights, i.e., was *atimos* (And. 1.73).²⁰ Indeed, any person who had in his possession monies that belonged to the state, whether sacred or profane, but who failed to pay or return them at the appropriate time was a debtor to the state. For the ten *apodektai*, who collected public revenues and allocated them to other state functionaries, reported anyone in arrears. That person then had to pay double the amount missing or go to prison. The Boule, Aristotle tells us further, had the power to exact this money and the legal right to imprison defaulters (*AP* 48.1; cf. And. 1.92–93; Dem. 24.96–98, 130).²¹ In his speech *Against Timocrates*, Demosthenes names several people who spent time in prison for appropriating public funds or public property. Among them

¹⁸ On *eisangelia*, see Rhodes 1972: 162–171 and 1979 and Hansen 1975: 69–120, cataloguing 144 cases.

¹⁹ In matters of private debt, between individuals, the courts did not intervene to execute a judgment against a debtor but left it up to his creditor to act, using a form of legal self-help. See Millett 1991: 82–84 for the problems one faced in recovering money from a defaulting debtor. For the difficulties involved in executing judgments in private suits, see Harrison 1971: 187–190 and Hunter 1994: 141–143.

²⁰ On public debtors as *atimoi*, see Hansen 1976: 67–68, 93–94. They were referred to as οἱ ὀφείλοντες τῷ δημοσίῳ.

²¹ If the money involved was sacred (i.e., owing to one of the gods' treasuries), a debtor had to make a tenfold repayment (Dem. 24.82–83, 111–112, 121). Those who defaulted were allowed a period of grace until the ninth prytany before the amount owed was doubled or multiplied by ten (And. 1.73; Dem. 59.7). In general, payments to public or sacred treasuries were due in the ninth prytany (*AP* 47.3–4, 54.2; Harrison 1971: 173–175).

was Glaucetes, who, in his term as Treasurer of Athena, appropriated some of the treasures dedicated to the goddess on the Acropolis (Dem. 24.128–129), and Agyrrius, the radical democrat, who spent many years in prison until he paid back the public monies he had embezzled (134–135; And. 1.133–136).²²

So far we have considered public debtors whose offences fell under the jurisdiction of the Boule and for whom the penalty of imprisonment was not obligatory but at the Boule's discretion (Harrison 1971: 242; Hansen 1976: 93–94). Imprisonment was obligatory in the case of a second group of debtors, men condemned by the court to remain in prison until they paid a fine. For in certain cases, incarceration was stipulated as an additional penalty when the sentence of a fine was imposed.²³ Anyone guilty of *hybris*, for example, who did not pay a fine within eleven days went to prison (Aesch. 1.16; Dem. 21.47).²⁴ Immediate incarceration faced an individual guilty of impiety (Pl. *Apol.* 37c; Harrison 1971: 242–243), as well as a disfranchised person found guilty by the court of breaching the rules of *atimia* by entering a forbidden area. If the penalty imposed was a fine, he had to stay in jail until he paid it (Dem. 24.105).²⁵ Yet another such inmate might be a juror who served when he was not entitled to do so, because he was *atimos*. If convicted by the court and fined, he too must stay in jail until he paid the fine. Moreover, if he was a public debtor before serving as juror, he must stay there until he paid the original debt as well (*AP* 63.3). Finally, one might find in prison a man convicted in a suit against a merchant or ship-owner (*dike emporike*): he must remain there until he paid the amount adjudged against him (Dem. 33.1; 35.46–47; 56.4; Cohen 1973: 74–77). As Harrison notes (1971: 188, n. 2), “this was an exception to the rule that in Athens the private creditor had no right to execution against the person of the debtor.”²⁶

²² On Agyrrius, see Davies 1971: 278; Rhodes 1981: 492; and Strauss 1986: 100–104.

²³ The terminology used for this additional penalty, *δεσμοὶ προστίμων*, is found throughout Demosthenes 24 (e.g., 39, 41, 46, 56). *LSJ*⁹ construes the verb *προστίμων*, a compound of *τιμῶν*, as “to award further penalty.” Moreover, just as there was a noun, *τίμημα*, to express the estimate or award, so too there was a compound noun, *προστίμημα*, for an additional award or penalty. The latter was usually imprisonment until the fine was paid but could be a harsher form of corporal punishment, confinement in the stocks (the *ποδοκάκκη*) for five days and five nights. Demosthenes mentions this as an additional penalty the court might award in the cases of theft prosecuted under a *δίκη κλοπῆς* (24.105, 114–115; cf. Lysias 10.16; Cohen 1983: 62). On the stocks, see further below, 310–311.

²⁴ The law set forth at Dem. 21.47 indicates that the additional penalty of imprisonment was imposed only in the case where the offence was committed against a free person.

²⁵ The examples Demosthenes gives are persons who maltreated their parents or who shirked military service (cf. 24.103).

²⁶ On debtors faced with imprisonment imposed as a penalty by the court, see further Harrison 1971: 242–244 and Hansen 1976: 37, 92. Based on Dem. 24.63, the latter also includes those convicted by the court in an impeachment (*eisangelia*) whose penalty was monetary. They too were imprisoned until the fine was paid. While the passage Hansen cites is part of Timocrates' law, Demosthenes' discussion (64–65) suggests that those convicted in an *eisangelia* already faced the additional penalty of imprisonment before 353, when the law was passed.

The question of imprisonment for debt is complicated by the law of Timocrates, passed in 353 (Dem. 24.39–40). At the same time, the law itself and Demosthenes' tirade against it help to clarify the procedures involved when an additional penalty of imprisonment was imposed on debtors. Thenceforth, instead of going to prison at once and remaining there until his debt to the state was paid, such a debtor was allowed to name sureties and remain free until the ninth prytany. At that point, if neither he nor his sureties paid the debt, he was imprisoned. In other words, Timocrates' law extended the right to remain free until the ninth prytany to most debtors.²⁷ Conversely, it indicates that before 353 some debtors did not enjoy the privilege of naming sureties until the ninth prytany, but went straight from the courtroom to the prison in the custody of the Eleven.²⁸

Our sources provide details about a number of notorious Athenian debtors. One of them, Andron, father of Androtion, we have already met. Incarcerated as a debtor to the state, Andron remained in prison for five year stretches, though he did manage to run away (Dem. 24.125; cf. Dem. 22.33–34, 56, 68; 24.168). Imprisonment, Demosthenes charges, ran in Androtion's family.²⁹ Perhaps the most interesting public debtor is Aristogiton, whom Demosthenes calls a "jail-bird" in one of two orations written against him (Dem. 25.30). Dinarchus too alleges that he spent more time in prison than out of it (Din. 2.2, 9; cf. Dem. 25.61). At one point (324/3), he reveals, Aristogiton was convicted of being a debtor to the state and handed over to the Eleven (Din. 2.13–14; cf. Lyc. fr. 13; Dem. 25 and 26). His prosecutors were Lycurgus and Demosthenes. Aristogiton's debts were mostly the result of fines, one of which was as high as five talents (Dem. 25.67; Din. 2.12; Sealey 1967: 186–187; Hansen 1976: 141). Even earlier, he had been committed to prison twice along with his brother (Dem. 25.67). In fact, Aristogiton's father before him had been condemned to death and sent to prison, but escaped to Eretria (Dem. 25.54; cf. 77; Hansen 1976: 151). Like Andron and like his father, Aristogiton also escaped from prison, by digging his way out (Dem. 25.56).³⁰ Finally, Demosthenes himself was imprisoned for debt in 323 as a result of an enormous fine of fifty talents imposed on him by an

²⁷ Under Timocrates' law (24.39–40), sureties named for a convicted individual's debt had to be approved by a vote of the Assembly. In the event that the debtor was imprisoned at the ninth prytany, his sureties' property was confiscated. The law did not cover what Rhodes (1972: 151) calls "contractual debtors," i.e., tax farmers and lessees of state property and their sureties. The latter must pay immediately or be imprisoned.

²⁸ See Dem. 56.18, where it is alleged that one of the protagonists, who had defaulted in the repayment of a maritime loan, intended to bring the money he owed to the courtroom with him and, in the event that he lost the case, repay it at once, thus avoiding arrest and a stay in prison.

²⁹ On Andron, see Rhodes 1981: 19 and Harding 1994: 14–16. Davies (1971: 33–34) includes the family in his Register.

³⁰ On Aristogiton, see Sealey 1967. See too Hansen (1976: 13, 134–135, 138–139, 141–142), who argues persuasively (144–152) in defence of the authenticity of Dem. 25 against a hostile tradition descending from Dionysius of Halicarnassus, which includes among its adherents scholars like Lipsius and Sealey. I accept his arguments.

Athenian jury when he was convicted of accepting money from Harpalus, the Macedonian (Din. 1.6; Hyp. 5.2; Plut. *Dem.* 26.2). He too escaped from prison, unable, as he tells us himself in one of his letters (2.17), to endure the physical hardship (*kakopathia*) he experienced there.³¹

In identifying inmates of the prison, I have consistently used the words "might have been." For it is clear that the law of Athens forced few individuals to languish in prison, but afforded most potential inmates the opportunity to remain at liberty by naming sureties. Exceptions were men condemned to death, flagrant criminals, traitors, revolutionaries, and certain public debtors.³² Moreover, even a public debtor might hope to be released from prison if someone, kin or friend, came forward to pay his debt. With some exceptions then few Athenians with a network of supportive kin and friends needed to face incarceration. Among the latter they might expect to find close connections to act as sureties. To do so was an obligation akin to that of serving as a witness and a form of reciprocity ensuring gratitude (*charis*) and ultimately a return on the part of the recipient. Hence, the Attic lawsuits abound in examples of individuals coming forward as sureties in manifold circumstances. Some of these examples indicate that even people without social status like aliens and freed slaves were able to produce sureties when required.³³

The list of inmates we have compiled does not point unequivocally to the use of imprisonment as a form of punishment. Are we to conclude then that penal imprisonment did not exist in Athens? Not necessarily, for a number of references do allude to this form of imprisonment. None, however, is secure enough for us to affirm, with Harrison, that imprisonment was a "normal penalty" (1971: 177). For example, Socrates, in his defence, proposes a series of penalties he might assess for himself to counter Meletus' assessment of the death penalty. His first proposal is imprisonment, which he rejects in the following words: "Why should I spend my life in prison, a slave to a succession of officials" (Pl. *Apol.* 37b-c)? He then distinguishes this possibility from a second kind of assessment, a fine with imprisonment until it is paid. If Socrates' example is hypothetical, Lysias tells us that Andocides actually did assess a penalty of imprisonment for himself rather than pay a fine if he failed to hand over his attendant to the court. The jurors accepted his assessment with the result that he spent almost a year in prison until he turned informer (Lys. 6.21-23). Unequivocal as Lysias' account may seem, Stephen Todd (1993: 140) expresses doubt about its validity as an example of penal imprisonment, "we know of no case where a litigant suggested imprisonment as a *timema*: its appearance in Lys. 6.21 (even if we believe that

³¹ On the imprisonment, escape, and exile of Demosthenes, see further Goldstein 1968: 43, 52, 66-68.

³² These offenders have been discussed above, 300-305. For citizens of other city-states arrested abroad and brought to Athens for incarceration, see below, 322, and for prisoners of war, see n. 64.

³³ Examples include Neaera, the Athenian prostitute and ex-slave from Corinth (Dem. 59.40), Epaeetus, an alien from Andros and one of Neaera's lovers (Dem. 59.65), and Panceon, a resident of Athens who claimed to be a Plataean, but was more probably a metic or even a slave (Lys. 23.9-11).

tendentious statement) is as a contingent penalty only, proposed by Andokides in the event of his failing to produce his slave as evidence for an alibi.³⁴ The evidence, in other words, and these two examples constitute the evidence, is extremely thin, but still does not permit us to reject out of hand the possibility that imprisonment might in exceptional cases be assessed as a penalty in court.

Let us consider this matter further. Perhaps we are dealing with *une question mal posée*, based on passages in the orators that refer to imprisonment as a penalty (e.g., And. 4.3–4; Dem. 24.151–152; cf. Dem. 24.144–150).³⁵ If we look closely at the list of offenders who might be detained, it is clear that the form of detention they experienced was what Rhodes calls “precautionary” imprisonment (1972: 179, n. 3; 1981: 580): it ensured that offenders (or alleged offenders) remained in custody until their trial or execution occurred or until they paid their debts. Precautionary is an apt characterization of imprisonment in Athens and one that I accept. But I would make a further distinction and describe imprisonment as either custodial or coercive. Custodial imprisonment affected those in prison awaiting execution or trial, coercive imprisonment those incarcerated until their debts were paid. For some prisoners in this second category, imprisonment also constituted a penalty. Having come before the courts and been sentenced to a fine, they had imposed on them the additional penalty of remaining in prison until the fine was paid. In his prosecution of Timocrates, Demosthenes designates this additional imposition as a form of punishment or retribution (*timoria*: 24.101, 122, 132), indicating that some forms of imprisonment were at least thought to be punitive (cf. Hansen 1976: 37; Allen 1997: 126).

CONDITIONS OF LIFE IN ATHENS' PRISON

In considering the conditions of life in Athens' prison, I shall adopt a comparative approach, viewing the prison in a cross-cultural perspective. For it is my belief that the model of prison life drawn from a later era in European history, viz. eighteenth-century England, may help us to make sense of our

³⁴ See further Furlley (1989), who believes that Lys. 6.23 is corrupt and would emend ἐδέδετο ἐγγὺς ἐνιαυτὸν τοῦ ἐγγυήσας ἑαυτὸν, thus changing the sense from “he was imprisoned for nearly a year” to “he was imprisoned, having pledged his own person as surety.” Furlley bases this emendation on discrepancies between the text of Lys. 6 and And. 1 in respect of Andocides' arrest and imprisonment. His arguments are persuasive and if correct eliminate our most important source for imprisonment as a *timema*.

³⁵ Cf. Dem. 24.92 and 132; 51.4; Arist. *AP* 67.5. Pace Barkan 1936a: 341, none of these passages need indicate any more than we have already acknowledged above, viz., that both the court and the Boule had the power to imprison, sometimes as a part of a judgement (ἐπὶ κρίσεσιν or ἐπὶ κρίσει). Barkan also adduces Plato's *Laws* as evidence that imprisonment was a normal penalty in Athens, basing his argument on the assumption that Plato's laws “are based upon Athenian legal practice” (341). Such an assumption is generally valid, as Saunders concludes in his study of Plato's penal code (1991: 353). But Saunders' work also demonstrates that there are considerable discrepancies between Magnesian and Athenian procedures and penalties (e.g., 284–285, 316–317). Thus the fact that a prison term is imposed as a penalty for a number of offences in Magnesia (e.g., at Pl. *Leg.* 864c, 880b–c, 908a, 955a) is no argument for its prevalence in Athenian law. Cf. Saunders 1990.

accidental and scattered sources in two ways: (a) by explaining some odd, and seemingly inexplicable, features of the Athenian prison and (b) by encouraging us to ask rational questions about others.³⁶ More particularly, the comparative method encourages us to view the Athenian prison as a social and cultural system appropriate to, and reflective of, a specific social structure.

Let me begin with security and its implications for prisoners and for the prison itself. In Athens, security was basically very simple: it was ensured by the use of chains. In all three examples of individual prisoners discussed above, Euxitheus, Socrates, and Andron, chains were mentioned. This is perhaps not surprising in the case of the first two, one a malefactor awaiting trial, the other a man condemned to death for impiety. On the other hand, we might not expect debtors to be in bonds, as both Andron and Lycinus were. In fact, in Athens the prison and chains (*desma*) were virtually synonymous (And. 1.2; 2.15). The very word for prison, *desmoterion*, expresses the notion of binding. Moreover, the word *desmos*, the singular of *desma*, often denotes imprisonment (And. 4.4; Dem. 24.92–93, 146, 152; Lys. 6.21). To put an individual in prison was to bind or chain him (*dein*: Dem. 22.56; 24.144; Lys. 6.23; 13.55). Hence, a prisoner was “one who had been put in chains” and so “one who was bound” (*dedemenos*: And. 1.66; Lys. 13.60; Thuc. 6.60.2). The noun *desmotes* denotes precisely the same condition.³⁷ This, and sometimes worse, as we shall see below, was the condition of prisoners in Athens’ jail. In addition, because imprisonment affected the body or person it was considered a form of corporal punishment. One “suffered” the experience (*pathein*: Dem. 24.119 and 146).³⁸ As we have already noted, individuals who

³⁶ On the use of models, see Finley 1986: 60–66; Ober 1989; and especially Cohen 1991: 35–69.

³⁷ The Athenians also called the prison τὸ οἶκημα, the “house” or “residence” (Dem. 24.131, 135–36; 25.61, 63; 32.29; 56.4; Pollux 8.45). In his *Life of Solon* (15.3), Plutarch includes the word in a series of euphemisms that he believes the Athenians used to disguise what was unpleasant. Another word that expresses the notion of imprisonment, which could be used as a synonym for δεσμοκτήριον, is the noun εἰργκτή (Dem. Ep. 2.17; Plut. *Phocion* 37.1; Pollux 8.72; cf. Plut. *Dem.* 26.2: εἰργμός). More common is the verb εἰργεῖν (or εἰργεῖν), to shut in or confine and so to imprison (Aesch. 1.16; Lyc. 1.112; cf. Xen. *Hell.* 5.4.8). εἰργεῖν is twice used to describe the confinement of Athenian citizens by private individuals (And. 4.18; Dem. 21.147), an act that was illegal under the law of Athens and so indictable in a suit for confinement (δίκη εἰργμοῦ: IG II² 32.9–14; Pollux 6.153; MacDowell 1978: 126). Under an analogous procedure, an alleged adulterer caught in the act, by an aggrieved husband, for example, and imprisoned might bring a suit against his captor for illegal confinement (Dem. 59.66: γραφή δότικως εἰργθῆναι). Andocides (4.18) also indicates that in foreign treaties there was a prohibition against confining free men (εἰρξαι) or putting them in bonds (δῆσαι). The distinction drawn here may signify that εἰργεῖν, together with its cognates, was a general term for confinement that need not involve chains or bonds. Hence it is used infrequently in reference to the state prison, where the usual verb is δεῖν. On chains and bonds, see further Ducrey 1968: 218–228 and for their depiction on vases, see Seeberg 1967. In penal practice binding usually refers to fetters (πέδαι: worn by Cleophon, Aesch. 2.76; by Andron, Dem. 23.68).

³⁸ The verb πάσχειν, to experience or suffer in person, stands in opposition to ἀποτρίνειν, to make restitution through monetary payment (Aesch. 1.15; Dem. 21.47; 24.63, 105, 146; Arist. *AP* 63.3, 67.5).

had been incarcerated complained of suffering physical hardship in prison (Ant. 5.18: Euxitheus; Dem. *Ep.* 2.17: Demosthenes; cf. And. 2.15: Andocides).

Prison security has implications both for prisoners and for the prison itself. In order to explain this statement, let us look at the prison in eighteenth-century England. For both in structure and in function the English prison has many features in common with its Athenian counterpart and thus offers a model for reconstructing prison life in Athens. First, I shall describe briefly the nature of the prison in England, including the character of its inmates and some of the conditions of life within it. For simplicity's sake, the account that follows is drawn mainly from the work of M. Ignatieff (1978: 15–43).³⁹ Ignatieff points out (15–16) that before 1775 “felons” (i.e., criminals who correspond very closely to Athenian malefactors) were rarely punished by imprisonment: they were whipped, transported, or put to death by hanging. John Howard’s prison census for 1776 gives the following figures for inmates in England and Wales: 653 petty offenders, or 15.9 per cent of the total; 2437 debtors, or 59.7 per cent; and 994 felons, or 24.3 per cent. The last category was divided into three groups, those awaiting trial, those convicted and awaiting execution or transportation, and a few serving sentences of imprisonment. From these figures Ignatieff concludes that “the prison before 1775 was more a place of confinement for debtors and those passing through the mills of justice than a place of punishment” (28). In terms of inmates then the English prison was not unlike its Athenian counterpart. Of course, there were also genuine differences. In England, for example, there were three major types of confinement: the debtors’ prison, the jail, and the bridewell or house of correction. Only the second will be discussed here.

The inmates of the jail reveal the same mix documented by Howard:

Besides debtors, who were allowed to live with their families and who could not be subjected to coercive discipline, there were felons awaiting trial, usually in irons, but also allowed free run of the prison, unlimited visits, and exemption from labor; those awaiting trial for misdemeanors, rarely in irons, and allowed pre-trial privileges; capital convicts awaiting execution or pardon, usually chained in “condemned cells”; a few felons undergoing sentence of imprisonment; and finally, transports waiting to be shipped off (Ignatieff 1978: 31).

Although the prisoners were supposed to be kept apart, in fact, lack of custodial staff prevented this rule from being followed. As a consequence, the different categories of prisoners mingled freely, some in chains, some unhampered, but all enjoying the privilege of unlimited visits.⁴⁰ This was important, since the institution did not provide adequate food, but left prisoners to fend for

³⁹ For corroboration and for additional details, I have also consulted Beattie 1986; Bender 1987; Evans 1982; Innes 1980; Linebaugh 1992; Semple 1993; and Sheehan 1977.

⁴⁰ In theory, only debtors had the right to unlimited visits and outside food. In practice, however, since the different categories of prisoners were often confounded and shared the same wards, jailers usually gave up restricting these privileges to debtors (Ignatieff 1978: 31).

themselves, depending on private charity or the donations of family and friends (33–34).⁴¹ In addition, in the jail the chains that felons and condemned convicts wore were virtually the only form of security used. In itself, this meant that few custodial staff were needed. In Newgate, for example, there was only one turnkey or watchman for every hundred prisoners. Chains also obviated the need for high walls or heavily secured buildings, thus influencing prison architecture and making contact between the inside and the outside world easy and open. Finally, chains also permitted visitors free and virtually unlimited access to prisoners. On the other hand, lack of custodial staff meant that order could not readily be maintained by the guards or turnkeys alone. Instead, they shared power with a flourishing inmate community which was often self-governing:

Not only were there few turnkeys, but their duties were limited to locking and unlocking at dawn and dusk, admitting visitors, guarding the gates, putting offenders in irons, and escorting them to and from court. They did not patrol the corridors, supervise the day yards, inspect the sleeping rooms, or march the felons about to prayers or exercise. They did not enforce a “discipline” in the nineteenth century sense of the term. Internal order, such as it was, was enforced chiefly by the inmate subcultures themselves (38–39).

Other aspects of the subculture included mock trials and boxing matches held among prisoners (40).⁴²

By way of summary, let me highlight the salient features of English prison life before the advent of the penitentiary. Within the prisons there was, in the words of John Bender (1987: 29), an “easy traffic of visitors,” which served to sustain “familial communication.” As Bender also observes, “the guard was strikingly light,” as low as one official to each hundred prisoners. In effect, prisons were little more than “temporary lodgings” for most inmates. As such they were also a microcosm of the society that produced them, on the one hand, replicating its social, economic, and even political structures, and on the other, establishing their own rules, or misrules, and their own rites (Bender 1987: 14, 28; cf. Sheehan 1977).

With the English model in mind, let us return to the prison of Athens, where security was also ensured by the use of chains. For prisoners, fetters were a source of physical discomfort, curtailed movement, and degradation, but they did not hinder those who wore them from taking part in prison life or even, on some occasions, from escaping. Others in the prison were not so fortunate. I am referring to prisoners described as bound “in the stocks” (literally “in wood”).⁴³ Those contained in this way included malefactors (Dem. 24.146;

⁴¹ Again this became the practice, even though in theory the state was required to provide food for most prisoners. (Debtors were maintained at the expense of their creditors.)

⁴² For all aspects of life in Newgate Prison, see Sheehan 1977. Innes (1980: 276–290) describes the prisoners’ collective institutions, including forms of self-government, in King’s Bench, a debtors’ prison.

⁴³ The Greek for “to place in the stocks” varies from δέιν ἐν τῷ ξύλῳ (And. 1.92) to δέιν ἐν τοῖς ξύλοις (And. 1.45) to δέιν εἰς τὸ ξύλον (And. 1.93).

cf. 105), tax-farmers in default (And. 1.92–93), and conspirators like Andocides and his associates (And. 1.45). What did “the stocks” entail? To judge by Lysias’ description (10.16), they were a wooden device meant to bind the foot. Indeed, this function is embodied in the archaic name of the device used by both Lysias and Demosthenes (24.105), *podokakke*. Although the word was still extant in the classical era, in common parlance it had been replaced by the simpler designation “wood,” in reference to the material out of which it was constructed. Herodotus describes the stocks in recounting how Hegesistratus escaped from a Spartan prison (9.37.2). He notes that Hegesistratus was “bound in wood,” adding further that the wood had “iron fastenings.” Here only one foot was bound, since Hegesistratus escaped by cutting off part of his foot and drawing the remainder through the hole. If we picture the device as attached to a wall or even to the floor, anyone unfortunate enough to be enclosed in it was so immobilized as to present no threat to security.⁴⁴ The device itself, however we reconstruct it, and the chains worn by the general prison population indicate that security was simple in the extreme, depending almost entirely on direct physical restraint.

Given the kind of security resorted to, it is possible to reconstruct prison conditions along much the same lines as those in the English prison. Few custodians were required, and few are mentioned. Among them were a factotum who acted as the messenger and representative of the Eleven and the man who administered hemlock. Important too was the turnkey who locked and unlocked the gate morning and evening and who admitted visitors. In addition, someone would be required to attach fetters to the prisoners, to put them in the stocks, and to accompany those awaiting trial to court.⁴⁵ The fact that inmates were fettered also meant that visitors could enter the prison freely. The friends of Socrates, as we have seen, arrived at dawn and spent the whole day with the philosopher. Friends, of course, were crucial, since they not only offered the prisoner comfort and advice, but also took care of his interests in the outside world. As one prisoner puts it: “A true friend . . . is one who visits you in prison and labours to help you out, spends more money than sighs and is sorry for your misfortune” (Sheehan 1977: 236). The words are those of an inmate of Newgate, but might have been spoken by Euxitheus, who believed that assisting a friend in prison for debt was the very hallmark of *philia* (Ant. 5.63). In fact,

⁴⁴ Cf. Hunter (1994: 177–181), who rejects Gernet’s view (1976: 324–325) that the *podokakke* was a modified version of the *sanis* or plank. I would also distinguish the use of stocks within the prison for reasons of security from their imposition on certain criminals as a supplementary penalty. (See above, n. 23.) Here I agree with Gernet 1976: 325 and MacDowell 1978: 257 that this was a form of ignominious exposure meant to humiliate the offender.

⁴⁵ The custodians worked under the supervision of the Eleven, who must have divided up their work in order to allow some of their number to tend to duties elsewhere. In addition to policing functions, the Eleven had judicial responsibilities such as bringing certain cases (e.g., *apographai* and some *endeixeis*) before the court (Arist. *AP* 52.1 with Rhodes 1981: 579–581; Hunter 1994: 144–145).

the same friends who visited Socrates laid plans for his escape, but could not convince the philosopher to carry them out (Pl. *Crito* 44b–45c). Family members, including children, also visited Socrates, revealing that it was customary for women—mothers, sisters, wives—to attend their loved ones and, if death was impending, to hear their last wishes. When, for example, Dionysodorus was in prison, condemned to death by the Thirty, he sent for his wife and advised her about the disposition of his property. At the same time, he instructed her, and through her his male relatives, to see that his death was avenged (Lys. 13.39–42). In another instance, when forty-two Athenians were imprisoned as conspirators, a group of women, with their children, congregated at night outside the prison after the door was locked, bewailing the fate of their relatives within (And. 1.48).

In addition to comfort and advice, did these numerous visitors offer material support? That is, were they, and particularly female relatives, responsible for supplying prisoners with necessities, including food? Any answer to this question must be hypothetical, since our sources do not indicate whether or not the state provided basic subsistence to those in prison. But if the example of Eretria offers any evidence for ancient Greek practice, we might be led to conclude that prison rations were very meagre indeed, perhaps even non-existent (cf. Allen 1997: 129). For Demosthenes alleges that Aristogiton's father died in prison in Eretria, abandoned by his son (25.54). According to Dinarchus (2.8, 11), Aristogiton did not supply his father with necessities, with the result that he was reduced to starvation. As Hansen (1976: 151) comments: "Since prisoners were presumably supported by their relatives Kydimachos is now left to starve and dies in prison." This is only a hint, but it is given plausibility by comparative material, which suggests that the "easy traffic of visitors" was not sheerly a privilege, but part of a policy designed to meet real needs, whether for legal counsel or for material comforts. I would thus extend to Athens Hansen's presumption about Eretria: relatives were probably responsible for seeing at least partially to the needs of prisoners incarcerated there.

Based on the examples of Socrates and Dionysodorus, we have some sense of what life was like in Athens' prison. But both men were awaiting execution and so in somewhat extraordinary circumstances, possibly even contained in an area reserved for those condemned to death. What about everyday activity among the general prison population? Two vignettes drawn from the Attic lawsuits offer a glimpse of such activity. In fact, we are fortunate in that the vignettes allude to the same incident and so serve to corroborate each other. The suits from which they are taken are Demosthenes 25 (60–63) and Dinarchus 2 (9–10), both composed for the prosecution and both entitled *Against Aristogiton*. Their accounts of Aristogiton's outrageous activity in jail leave no doubt that an inmate community flourished within its walls. Both accuse Aristogiton of theft in prison, although Demosthenes is more precise in identifying the victim as an alien, a man from Tanagra, who was thrown into jail until he could find sureties. When Aristogiton

stole his "pocket-book,"⁴⁶ a fight broke out in which Aristogiton got the better of his opponent. Wounded, the latter gave up the search for his property, which was later discovered in Aristogiton's possession. He had hidden it in a small box, to which he held the key. The other inmates were so incensed at Aristogiton's behaviour that they voted not to associate with him, refusing to share fire, light, or meals with him or to allow him to join them in sacrifice. In effect, Aristogiton was ostracized.

What this incident reveals is that inmates of the prison were not segregated, but shared meals and religious ritual. They also imitated political activity outside the prison by making decisions collectively, using the vote. For better or for worse, in the absence of prison discipline and sufficient guards to enforce it, the inmates disciplined themselves, exerting control over the behaviour of their members. In other words, they were a self-governing community with a subculture modelled on that of the society outside the walls of the prison.⁴⁷

RECONSTRUCTING THE PRISON OF ATHENS

Does this sketch of prison life offer any clues to the physical structure of the prison itself? I believe it does and while the clues are not compelling enough to permit a full reconstruction of the building, they do offer a basis for some hypotheses about it. But first we must divest ourselves of modern notions of prison life and prison architecture.

The prison as a specific building type was introduced in the nineteenth century, though some of its characteristics were foreshadowed in penal institutions going as far back as 1703. That was the year in which Clement XI founded such a house for boys in Rome. At its centre was a vaulted hall with 60 galleried cells, where the boys lived in monastic solitude, when they were not spinning wool. The cells overlooked the central hall in such a way that each boy could always see, through the barred window of his cell, the altar prominent at one end of the hall. The motto of the Rome House of Correction appealed to John Howard, the indefatigable prison reformer: "it is of little advantage to restrain the bad by punishment, unless you render them good by discipline." But the importance of this institution to penal history went beyond its emphasis on

⁴⁶ I have accepted J. H. Vince's translation of γραμματεῖον in the Loeb edition of Demosthenes, Volume 3. While the exact nature of the stolen object is unclear, it must have been associated with writing or record-keeping, either a small tablet or a document of some kind. Elsewhere γραμματεῖα are tablets used by the Boule to record payments made by lessees to the public treasury (Arist. *AP* 47.2–48.2). The word also denotes written records or documents (Ant. 1.10; Dem. 22.23; Lys. 32.7), including a will (Is. 6.29). For an alternative explanation of the Tanagran's presence in prison, see Hansen 1976: 150.

⁴⁷ Another aspect of prison life was the release of prisoners during major festivals. In fact, it was at one of these festivals, the Dionysia, that Andron escaped (Dem. 22.68). Other festivals included the Thesmophoria and the Panathenaia (Farnell 1907: 96–97; Deubner 1932: 58–59, citing *inter alia* the scholiast to Dem. 22.68).

discipline to “the new mainstays upon which that discipline rested: silence, solitary confinement, exposure to religious ritual, and, behind them all, architecture” (Evans 1982: 60). In a sense, the Rome House of Correction was the historical prototype for what in the eighteenth century came to be named the penitentiary, with its emphasis on solitary confinement. For by the nineteenth century solitude would become the major feature of the new prison, and the cell its predominant architectural characteristic. Nor was it accidental that the new prison was called the penitentiary, since its aim was moral reformation and finally redemption, its target no longer the body but the immortal soul. These are the principles—Christian principles—that motivated reformers like Howard and Hanway. In time their visions were incorporated in Bentham’s plan for the Panopticon (1786) and in the model prison at Pentonville (1842). For the first time, the prison became a specific building type constructed with the aim of ensuring silence and solitude and of supplanting physical suffering with mental anguish. Chains gave way to impenetrable walls and a light guard of turnkeys to constant scrutiny. As a product of the Enlightenment and of eighteenth- and nineteenth-century religious and scientific ideas and economic conditions, the penitentiary has little in common with the prison of Athens. In no sense can it be used as a model for reconstructing its physical structure.⁴⁸

Redemption was not the aim of the penitentiary’s predecessor. Indeed, far from redeeming inmates, the early modern prison was thought to make them worse. Eighteenth-century Newgate, for example, was squalid, dirty, and disease-ridden, reviled as “a ‘tomb for the living,’ ‘the mansion of misery’ and even ‘Hell itself’” (Sheehan 1977: 229). As for physical structure, John Howard’s survey of 1777 provides evidence that prisons were not a distinct building type: many were incorporated into other public buildings such as the gatehouses of city walls, castle keeps, mansions, and even disused chapels. Others were “nothing more or less than rooms, cottages or lodging houses, hardly distinguishable from the buildings around them and betraying no sign of their special function” (Evans 1982: 13). Within they reflected the class structure of the world outside, being divided into a masters’ and a common side, where prisoners lived in graded wards. In the better section of Newgate, for instance, the Masters’ Side Debtors’ Hall ward, a room twenty-four foot by sixteen foot by fourteen foot high normally held up to ten prisoners. Beds were provided and meat roasted on the spot with plate, dishes, and a table supplied for communal dining. Common side debtors, on the other hand, might have only barrack beds, while felons slept on wood or even stone floors (Evans 1982: 36–39). Such wards could be crowded, with up

⁴⁸ On prison architecture, I consulted Evans 1982; on the reformers, including Howard and Bentham, Semple 1993; on the Panopticon, Foucault 1979; on Pentonville, Ignatieff 1978; and on the intellectual, economic, and material background of the transformation of the prison in the eighteenth and nineteenth centuries, Ignatieff 1978, Foucault 1979, and Semple 1993.

to thirty prisoners in a room measuring thirty-two by twenty-six feet (Sheehan 1977: 231). Within the wards, prisoners slept and ate together, making their own society. Security was primitive, for the most part, irons and a guard at the point of exit and entry. Given too the throngs of visitors who heightened the prison's "permeability," escapes were common.⁴⁹

Differences notwithstanding, it is this early prison that offers clues to the reconstruction of the prison of Athens. With reconstruction as our aim, let us return to the primary sources.

Life in Athens' prison was characterized not by solitude, but by shared activity: prisoners had their own society, dining together and participating in "politics" and ritual. Unlike its British counterpart, the prison was not divided along lines of status or class. In this it reflected the world outside, where formal equality was the rule. Hence, even aliens incarcerated there were not segregated but mingled freely with Athenian citizens, while debtors rubbed shoulders with felons. On the other hand, when a group of conspirators, forty-two in all, was rounded up, they were subjected to a form of special security, the stocks, and lodged together in one area.⁵⁰

Did prisoners associate en masse or in more manageable units of ten to twenty? Our sources do not tell us, but the latter arrangement makes some practical sense, simplifying control and identification. As for actual accommodations, it is reasonable to imagine large chambers where mixed groups of prisoners slept and ate together. Socrates, for example, received visitors in the room where he slept, which was by no means a small cell but a chamber able to accommodate twenty to twenty-five visitors. There is no reason to believe he stayed there alone. Perhaps it was a special area set aside for the condemned, normally a transient and probably not a very numerous group in a city the size of Athens.⁵¹ Socrates' lengthy stay

⁴⁹ "Permeability" is Evans's word (1982: 40). It refers to characteristics like the presence of shops, trades, and a taproom, multiple occupation of wards, and shared privies.

⁵⁰ For the mixture of Athenian citizens and aliens in prison, see Dem. 25.60–61 and for the proximity of debtors and felons, Din. 2.10. Andocides and forty-one others accused of conspiracy were placed in close confinement in the same area in the prison (And. 1.45 and 48: ἐν τῷ αὐτῷ). This permitted them to discuss their fate and offer advice to Andocides himself (48–51).

⁵¹ We have no evidence to guide us as to the number of those condemned to death. Nor can our model be of any assistance, since eighteenth-century England saw a proliferation of offences—some of them trivial—bearing the penalty of death (Ignatieff 1978: 16–19; Beattie 1986: 513–519). On the other hand, we should not suppose that executions were rare in Athenian law. Todd (1993: 140) notes that "death was by far the most common of physical penalties" and that the death penalty was "carried out for a wide variety of offences" (141). Apart from homicide and flagrant crime (malefaction), the following are some offences that bore or might bear the penalty of death: betrayal (Lycurgus 1.27; Xen. *Hell.* 1.7.22); theft of sacred property (Isoc. 20.6; Lycurgus 1.65; Xen. *Hell.* 1.7.22); citation in court of a non-existent law (Dem. 26.24); military malconduct tantamount to treason (Xen. *Hell.* 1.7.1–35); transportation of grain to a market other than Athens (Dem. 34.37; Lycurgus 1.27). Even this select list does not take account of suits in which the penalty was τιμῆτός, to be determined, and

of thirty days stemmed from a religious prohibition against executions during the festival of the Delia.⁵²

On the whole, the prison was an unpleasant place evoking complaints of physical hardship. As for security, the simple expedient of fetters was employed and control ensured at the point of entry and exit, where a turnkey locked the door in the evening and opened it in the morning. To judge by accounts of escapes, security was not perfect. Connivance with prison staff was one way some chose to depart, while others dug their way out, indicating that the walls were far from impregnable, perhaps constructed of material no more sturdy than the unbaked bricks used in domestic architecture. The steady flow of visitors also militated against security, making the prison "permeable" and giving prisoners eager abettors in their schemes to escape.⁵³

In sum, I would imagine a structure not designed specifically as a prison where inmates were expected to serve long sentences in solitude, subjected to discipline and normalization, but rather one modelled on domestic accommodation, a kind of large lodging-house for inmates whose stay was temporary and usually very brief. It was laid out as a series of chambers accommodating prisoners in small groups. Whether it had an enclosing wall is impossible to determine.

CONCLUSIONS: THE PRISON IN PERSPECTIVE

The prison of Athens was primarily a place of detention for debtors and for those passing through the justice system who required temporary custody. None of its inmates served a prison term in the modern sense of a precise number of months or years laid down in a sentence. Hence, their stay was expected to be brief. Expectations aside, there was one group for whom a stay in prison might be protracted. I mean, of course, public debtors, whose persons were held in security

so might result in death for the accused, as it did for Socrates. The question of the death penalty along with the rhetoric surrounding it in the Attic lawsuits requires further research. Barkan (1936b), who concentrates on modes of execution, is no help here.

⁵² Every year at the time of the Delia a ship sailed from Athens on a sacred mission to Delos. Until it returned, no executions were carried out (Pl. *Phd.* 58a-c with Rowe 1993 *ad loc.*; Xen. *Mem.* 4.8.2).

⁵³ Demosthenes escaped by conniving with some of his guards (Ep. 2.17; Plut. *Dem.* 26.2), while Socrates' friends failed to persuade the philosopher to do the same (Pl. *Crito* 44b-45c). Aristogiton dug his way out (Dem. 25.56), as did Callixenus (Diod. Sic. 13.103.2). Here it is worth noting that one form of theft in Athens was *toichoruchia*, "house-breaking" (Dem. 35.47; Xen. *Mem.* 1.2.62). It involved boring or digging through the wall of a house (Cohen 1983: 72-73), an indication that private houses were vulnerable. Was the prison similarly vulnerable because it was constructed of mud-brick, the same material as a private house? Possibly, since many public buildings were so constructed (Wycheley 1978: 267). Others who escaped include Andron (Dem. 22.68), Harpalus (Hyp. 5.12; Plut. *Mor.* 846b), and Pytheas (Plut. *Dem.* 27.1-2; Goldstein 1968: 56, 88, n. 121). For escapes from British prisons, see Bender (1987: 14), who attributes some of them to the presence of numerous visitors. For example, Jack Sheppard, who attained the status of a folk-hero because of his brilliant escapes, once left in female disguise while the turnkeys were nodding. On Sheppard's many ruses, see Linebaugh 1992: 7-41. Similar ruses were entirely possible in Athens' prison (Pl. *Crito* 53d).

for the money they owed (Rhodes 1972: 151). But even this form of incarceration is not to be construed as a prison term: it was entirely contingent, ending at the moment a debtor repaid the money he owed. On the other hand, debtors had the distinction of being the only prisoners who might remain in prison for many years (Dem. 24.125, 135). They thus came closest to being a prison population. In my view they also formed the majority of those incarcerated.⁵⁴

Did the Athenians envision any larger purpose for the prison in addition to custody? In answer to this question, we can reject one possible answer, reform. In popular discourse on punishment, there is no talk of penitence or reformation as an aim of the prison. Indeed, only in the vaguest way were the laws themselves and the penalties they imposed thought to "make people better."⁵⁵ Here I agree with Saunders (1991: 123):

The very direct and personal nature of the system also retarded the emergence of the idea of punishment as reform, in the sense not of mere deterrence but of character-improvement: that can emerge only when angry or triumphant plaintiffs demanding vengeance can be kept at arm's length by some disinterested authority.

This is one explanation. I would also suggest a second. As we noted above, modern ideas about penitence and reformation derived from Christian principles that were in turn dependent on the belief in an immortal soul. Moreover, even the silence and solitude contemplated in the early penitentiary as a means of transforming the character of its inmates were, like the cell itself, based on a monastic model. Before the late eighteenth century no one thought of the prison as a source of betterment. Nor did the Athenians. It is thus entirely understandable why they failed to develop a notion of penal reform.⁵⁶

⁵⁴ There is some evidence that anyone held in custody awaiting trial had to be brought before a court within thirty days (Dem. 24.63; Harrison 1971: 87). As for public debtors, I have no quantifiable evidence to support my view that they formed a majority in prison. I base it merely on the ubiquity of debtors in our sources, together with the widespread concern expressed there about the possibility of contracting debt to the state (through fines, for example). It is clear that this kind of debt was by no means rare or exceptional.

⁵⁵ See, for example, Dem. 22.68; 24.106; 25.17; Lys. 14.12; 15.10; 22.19–20; 24.27. References of this kind usually point to the effect of punishment on others rather than the accused himself, revealing that the end contemplated was deterrence. For more on the discourse on punishment, see Saunders (1991: 120–122), who demonstrates that the penology of the courts was "strongly retributive and deterrent." (A good example is Dem. 24.215–218.) He also notes that penology never became "a recognized topic of public debate," although certain intellectuals did engage in penological reflection (Protagoras) and even criticism (Gorgias and Antiphon). An example of such reflection is Diodotus' speech in the Mytilenean debate advocating a policy of utilitarian moderation in opposition to Cleon's stringently retributive form of justice (Thuc. 3.37–48; Saunders 1991: 127–131).

⁵⁶ The exception is Plato, who did develop a reformatory penology, based on his own view of the soul and on psychic conditions that could be diagnosed and sometimes cured. Thus, for some offences he suggests cure or reform. For example, one of the three prisons proposed for Magnesia was called the *sophronisterion*, "reformatory" or "institution for inducing a sound mind." Here wrongdoers might be incarcerated for over five years (Leg. 908e–909a). I do not believe that Plato copied an Athenian

Given its mainly custodial function, did the prison serve as a means of deterring offenders? I would suggest that it did, at least in the case of state debtors, for whom the prospect of incarceration acted as an inducement to pay money owed. Indeed, the assumption that lies behind this form of imprisonment is that someone, whether kin or friend, will in time release the debtor by paying the money for which his person is being held as security. Here we can be more precise, by considering Demosthenes 24, *Against Timocrates*, an oration that throws considerable light on contemporary thinking about imprisonment for debt. As part of his argument, Demosthenes asserts that Timocrates' law will destroy the Athenian financial system by allowing certain debtors who offered sureties to withhold their payments until the ninth prytany. The money owed is the source of the revenues required to meet the expenses of the Assembly, the Boule, the cavalry, and other public institutions. These revenues he calls supplementary payments, meaning those needed over and above what is provided by taxation. Such payments, he asserts, are made out of fear of imprisonment. For this reason, the Council and lawcourts must retain the authority to imprison defaulters immediately and not at the ninth prytany, or else see the polis suffer financial disaster (24.96–97). Rhetoric aside, Demosthenes makes it clear that the fear of imprisonment was thought to be effective in forcing certain debtors to make speedy payment. In other words, threatened imprisonment had a "deterrent value," much as it did in eighteenth-century England, where many prosecuted debtors never ended up in prison because they had paid their debts (Innes 1980: 254–255).

Did the prison also play a larger role in social control by deterring anyone who might potentially be incarcerated within it?⁵⁷ There is no easy answer to this question, given the fact that a stay in Athens' prison was usually brief and contingent. It was not just a punishment to be feared in its own right, but rather an experience embedded in a larger penal process intended to humiliate offenders. The prison, for example, cannot be separated from the rituals surrounding arrest, a very public act often carried out by individual Athenians together with their friends and neighbours, using procedures of self-help. Having seized an accused or manifestly guilty man, his captors marched him to the office of the Eleven. Or else an arrest was carried out by the Eleven and their slave assistants, who took

model in devising this kind of punishment. Its source was his own "medical penology" (Saunders 1991), which was in turn integral to his larger philosophic outlook. Only one of Magnesia's prisons, that situated near the Agora, corresponds to Athens': here the majority of prisoners were to be kept in custody (908a). There was no counterpart to Magnesia's most ominous prison, which was to be situated in the countryside and named so as to convey the idea of *timoria*, retribution (908a, 909b–c).

⁵⁷ Social control, I would define as a form of regulation—an institution or process—that affects the behaviour of members of a society in such a way as to ensure that they conform to its norms or rules, thus preserving the social order. (In arriving at this definition, I have benefited from Janowitz 1978: 27–52 and Cohen and Scull 1983: 1–14.) It is a complex notion and one to which I cannot do justice here. For many specific aspects of social control in classical Athens, see Hunter 1994.

into custody anyone sent to prison by the court. From the court they led him through the Agora to the prison nearby. This procession amounted to a kind of spectacle in which the prisoner was exposed for all to see and sometimes even submitted to abuse (Plut. *Phocion* 36.1–2). But the shame did not end here. Once in prison, the individual was forced into close association with other inmates, including felons and men condemned to death for serious crimes. Worse still, he suffered the physical indignity of fetters. Conditions were bad enough to provoke bitter complaints about bodily abuse from those who had stayed there. Nor is this surprising in a society where the body of the free was virtually sacrosanct and where corporal punishment and judicial torture were reserved for slaves. Like the whip, chains and fetters were a marker of the slave condition. Life in prison then amounted to an inversion of all that was normal for the free, as they entered a liminal world somewhere between free and slave. The reaction once again was deep humiliation (Ant. 5.18; Dem. 24.87, 125; cf. Dem. *Ep.* 2.17).⁵⁸ Such a reaction indicates that imprisonment was an experience to be avoided at all cost.

Open, physical, and fraught with ignominy, the prison and the rituals surrounding it derived their effectiveness and their capacity to deter from the very nature of Athenian society. For the polis of Athens was a closely-knit community of theoretical equals, whose primary values included honour, particularly family honour, and shame, whose laws forbade behaviour such as demeaning violence (*hybris*) or confinement that might impugn the honour of a peer, and where life was lived in the knowledge that the freedom and inviolability that distinguished the free also represented a boundary dividing them from the class of slaves below. In a word, the prison as an institution was effective because it was closely articulated with the social and ideological structures of Athenian society.

APPENDIX ON THE POROS BUILDING

Since 1975 when Vanderpool identified the Poros Building as the state prison of Athens, scholars seem generally to have accepted his arguments for this view (see, for example, Camp 1986: 113–116; Wycherley 1978: 46–47). One exception is Koumanoudis, who contends that “there is no testimony in ancient Greek authors nor any archeological evidence” that supports this identification (1984: 81). Vanderpool’s arguments, he believes, rest entirely on the movable finds of the excavation—a series of “medicine pots” and part of a marble statuette of Socrates. I would add to these finds the basin and *pitthos* in the northwest room, the “bathroom,” which Vanderpool identifies as the very place where Socrates bathed in his final hours. Let me consider these finds and their strength as evidence.

⁵⁸ On the sacrosanctity of the citizen’s body, see Halperin 1990: 98–99; Winkler 1990: 48–49; and Hunter 1992 and 1994: 181–184.

The Medicine Pots

In his study, Vanderpool discusses a group of thirteen small pots, each about four centimetres high, found in a context of the third century B.C. and “usually described as medicine pots” (20; see his Figure 10). Four such pots were published in Sparkes and Talcott (1970: 230, 376, Plate 96, nos 2000–2003), where they are described as “of the sorts sometimes called medicine-pots.” As Koumanoudis notes, none of the four bears any resemblance to the thirteen pots of the Poros Building. On the other hand, one of the four (no. 2003) came from that very building from a different area and a different context (fourth century B.C.). It thus constitutes a fourteenth medicine pot and is so described by Vanderpool in Figure 11. It has a companion in Sparkes and Talcott’s no. 2002. In other words, only this fourteenth pot is included among those “sometimes called medicine pots.” In Koumanoudis’s view (79), there is no proof that the thirteen were medicine pots at all and so no reason for Vanderpool to draw the conclusion he did. The latter, pondering the concentration of thirteen such pots, wondered “if these particular pots did not once contain hemlock, each pot a single dose” (20).

Koumanoudis’s criticisms have some validity. He is on especially strong ground when he notes (1984: 79) how these vessels were transformed from pots that are “sometimes called” or “usually described as” medicine pots to “a type certainly used in antiquity for drugs” in the guide to the Athenian Agora (1976: 175).⁵⁹ My own criticisms are of a different nature. Even if we allowed that the thirteen minuscule vessels were medicine pots, what would be their function in the prison? Certainly not the preservation and storage of hemlock juice. For, as Vanderpool himself notes, the poison was prepared on the spot in the exact amount required. It was then proffered to the condemned in a cup or *kylix* (Pl. *Phd.* 117a–b; cf. Plut. *Phocion* 36). What the executioner was required to do was produce juice by bruising or grinding parts of the plant (*conium*). In one member of the hemlock family (*maculatum*), the leaves and fruit are most poisonous; in another (*oenanthe crocata*), it is the root (Vale and Meredith 1981: 194–195). The executioner would have to know which parts of the plant were toxic and how much was required to produce death in the manner desired. He would need a mortar and pestle, possibly a measure, and finally a cup or cups, depending on the number who were to be executed at any one time. If some of the liquid remained, he would not preserve or store it. With each subsequent execution—and it is impossible to estimate the

⁵⁹ In fact, the thirteen pots found in a third-century context do bear some resemblance to medicine bottles of the Hellenistic era. See Sjöqvist 1960, a catalogue and discussion of fifty-four specimens from third- and second-century Morgantina. Made of clay and varying in shape and size (from 0.020 to 0.056 m.), they were containers for an ointment of *lykion*. Some (Sjöqvist’s Types 1 and 2) were inscribed with the name of the drug and occasionally that of the druggist “as a personal guarantee” (82). The author suggests other drugs that could similarly be prepared as an ointment and so “packed in small jars of our type” (83). In other words, such containers were used by those who sold the equivalent of a patent medicine. In addition to the pots with a practical use, others (Sjöqvist’s Type 3) were votive gifts to the gods and so had a symbolic value. Sjöqvist believes that the small jars “may have served different purposes” (78).

frequency of death by hemlock—he would begin his work anew. No part of the process required medicine pots.⁶⁰

The Bath

In her report on the Poros Building, Crosby (1951: 180) describes the contents of the northwest room as a *pitthos* and a terracotta basin. The latter was “set into the ground, the rim flush with the floor,” an arrangement that “recalls that found in bathing establishments where basins of stone or of clay are sometimes so set” (Sparkes and Talcott 1970: 366, no. 1849). Sparkes and Talcott note illustrations of such basins in Ginouvès 1962. It is this that led Vanderpool to conclude that the basin and *pitthos* found in the northwest room comprised “simple arrangements for bathing” (18). He cites Sparkes and Talcott and their references to Ginouvès, but leaves reason to doubt that he studied the latter. I myself consulted Ginouvès (Plate 7, 20–21 and Plate 30, 98, baths of Eretria and Delphi respectively, as well as a number of other plates, including Plate 49, a bath of Eleusis). In all of these examples the basin set into the floor served as the front part of a tub.

What the plates illustrate are hip baths that do not immerse the bather’s body, a type common in many bathing establishments in both the classical and the Hellenistic eras. They were often set side by side around the periphery of a circular room or *tholos*. (See Ginouvès, Plates 30, 100 and Plate 49, and Yegül 1992: 24–29, Figures 26 and 30, Gortyn, and Figure 28, Piraeus; cf. Sears 1904; Shear 1969: 395–398.) Such baths required a steady supply of water and a system of drainage.

Other kinds of bathing equipment used in the classical era include full tubs (Sparkes and Talcott, 216 with plates and bibliography) and *louteria* or stood wash-basins (Sparkes and Talcott, 218–221, with plates). Cf. Cook 1959 and especially Yegül 1992: Figures 19–22, who illustrates wash-basins and even a shower.

In a word, a mere basin set into the floor without an attached seat or a flow of water or even an outlet for drainage corresponds to no known model of an ancient bath or of bathing equipment.⁶¹ Moreover, what Vanderpool neglects to note is that “the same arrangement is found in workshop equipment of various periods” (Sparkes and Talcott, 366). For basins used in this way, see Young 1951: Plates 82c and 83a and c. In Plate 83a, a workshop from the Hellenistic era, a floor of cement, “sloped to conduct liquid,” had been set around the rims of two basins (Young, 268). In my view, the basin in the northwest room had

⁶⁰ Gill (1973) discusses the effects of hemlock, noting the discrepancies between Plato’s description of Socrates’ death and modern medical accounts of hemlock-poisoning.

⁶¹ Mabel Lang reminds me that the bathtub at Pylos had no drain hole. According to Blegen, the excavator (1966: 188), it was “a *Sitzbad* in which the bather sat while water was poured over him by an attendant.” A *kylix* was used for this purpose and the water itself stored nearby in *pitthoi*. Even this extremely primitive arrangement is excluded here, for the basin involved had a depth of only 32 cm. with a circumference at the mouth of 37 cm. Filled with water, it might just serve to wash the feet.

nothing do do with bathing at all but was equipment used in a workshop. After all, Crosby herself pointed to "clear evidence of marble working" in the building (181). Marble workers, she believed, had moved into the northwest room, where "they were established in the first quarter of the fourth century" (179).⁶²

The Water-Supply

In discussing earlier attempts to identify the Poros Building, Vanderpool (18) notes the rejection of the idea that it was a *synoikia*, or apartment building, but he fails to explain why this identification found no favour. Crosby does offer an explanation (1951: 184): "in the area of the Poros Building there is no provision for any adequate water-supply for domestic purposes, such as we would expect to find in connection with any building designed as living-quarters" (cf. Thompson and Wycherley 1972: 74).⁶³ In my view, the lack of an adequate water-supply is also a sound reason for rejecting the identification of the building as a prison, a form of living-quarters. And while we have no idea of the prison's population at any one moment, it was not so small an enterprise as Vanderpool would have us believe. Forty-two conspirators were incarcerated there together in 415 (And. 1.45, 48; Thuc. 6.60). In addition, one annual board of the Eleven spent time there, condemned to death for wrongly releasing inmates from prison (Is. 4.28). So did the ten Treasurers of Athena, together with the Treasurers of the Other Gods, pending their trial for burning down the Opisthodomos (Dem. 24.136; Cohen 1992: 114–115, 221–224). Finally, in 321 a group of Samians arrested by the Athenian general in Samos was incarcerated there and condemned to death. Their plight is recorded in a Samian decree in honour of the man who ransomed them (Habicht 1957: 157).⁶⁴

⁶²I have not discussed the statuette of Socrates found in the annex in a Hellenistic context. Vanderpool connects it to the Athenians' repentance for having put Socrates to death. One of the prison officials, he speculates, set up the replica "in the place where Socrates was executed" (21). The suggestion loses all significance when other evidence for Vanderpool's reconstruction is shown to be faulty.

⁶³Sometime in the first quarter of the fourth century, work "was started on a well in the northwest room, but was given up . . ." (Crosby 1951: 179; cf. Vanderpool 1980: 18).

⁶⁴The precise number of the Samians is not disclosed, only the fact that they were "many." Vanderpool, who cites this inscription (21), notes an alternative date of 323. Habicht (1957: 160) dated the events to 321. I have not included here the 292 Lacedaemonians, 120 of them Spartans, brought to Athens in 425, after being captured by Cleon on the island of Sphacteria (Thuc. 4.38.5). The Athenians decided to keep them in chains (Thuc. 4.41.1; 57.4; cf. Ar. *Knights* 393–394; Plut. *Nicias* 9.4). But were they kept in the state prison? In answer, I am tempted to agree with Vanderpool (19) that prisoners of war were probably detained elsewhere. Their numbers, which might far exceed 292, would surely strain the facilities of a civic prison. In fact, the document Thucydides cites recording the terms of the Peace of Nicias states that the Lacedaemonians were kept in the δημόσιον (5.18.7). τὸ δημόσιον may allude to nothing more specific than the public area or building (even buildings) where prisoners of war were detained. Ducrey (1968: 217) is equivocal in this matter and so offers no help.

The Poros Building with its eight rooms, each no larger than a respectable *andron* (i.e., 4.50 m. square), is too small for Athens' needs. Nor does it help to suggest, as Vanderpool does, that the large courtyard at the south end of the building (11.60 by about 15 m.) was available whenever it was necessary to round up large numbers of people. This was a temporary expedient at best and no solution in the case of groups of prisoners like the conspirators whose stay was longer than a day or two. In other words, Athens' prison was capacious enough to accommodate a significant, though fluctuating, population. It would require an adequate water-supply both for consumption and for hygiene. On these grounds alone, the Poros Building must be rejected as the state prison.

The Model

Vanderpool has not made explicit the model he employed in concluding that the design and layout of the Poros Building were appropriate for an ancient prison. Nonetheless, he leaves no doubt that he had in mind the modern penitentiary, constructed with a series of uniform cells and a guard tower (18, 20). Cautioning against such a model, I myself have attempted to reconstruct a more open and communal arrangement based explicitly on the model of the pre-penitentiary prison. It has the virtue of tying together many of the primary sources for the prison, meagre as they are. Few of these sources are discussed by Vanderpool. In rejecting Vanderpool's model as flawed, I would again reject the Poros Building as appropriate to the needs of a prison in the classical era.⁶⁵

DEPARTMENT OF HISTORY
GLENDON COLLEGE, YORK UNIVERSITY
TORONTO, ONTARIO
M4N 3M6

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⁶⁵ A shortened version of this paper was read at the annual meeting of the Classical Association of Canada in Montreal in May 1995. Parts of it were also read at the Graduate History Seminar at Cornell University in September 1994 and at the Seminar in Social History and Historical Anthropology at York University in February 1995. The author would like to express her gratitude to Mabel Lang (Bryn Mawr College) and Douglas Hay (York University), the former for her useful comments on the appendix, the latter for his assistance with the English prison system. I am also grateful to Paul Cartledge (Cambridge University), Mark Golden (University of Winnipeg), and an anonymous reader of *Phoenix* for their helpful suggestions and criticisms. Any errors are my own.

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