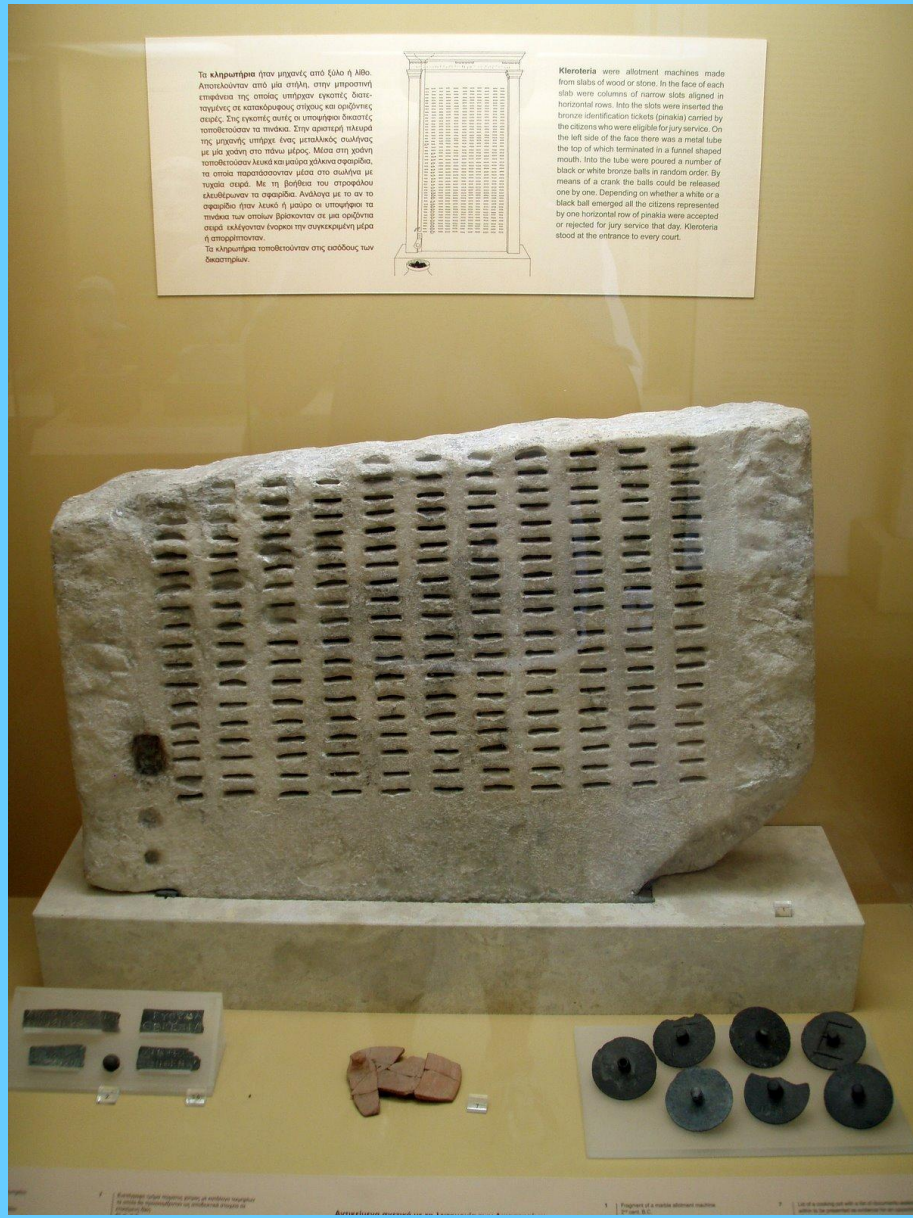


CRIME AND PUNISHMENT IN ANCIENT GREECE





AESCHYLUS'



THE ORESTEIA

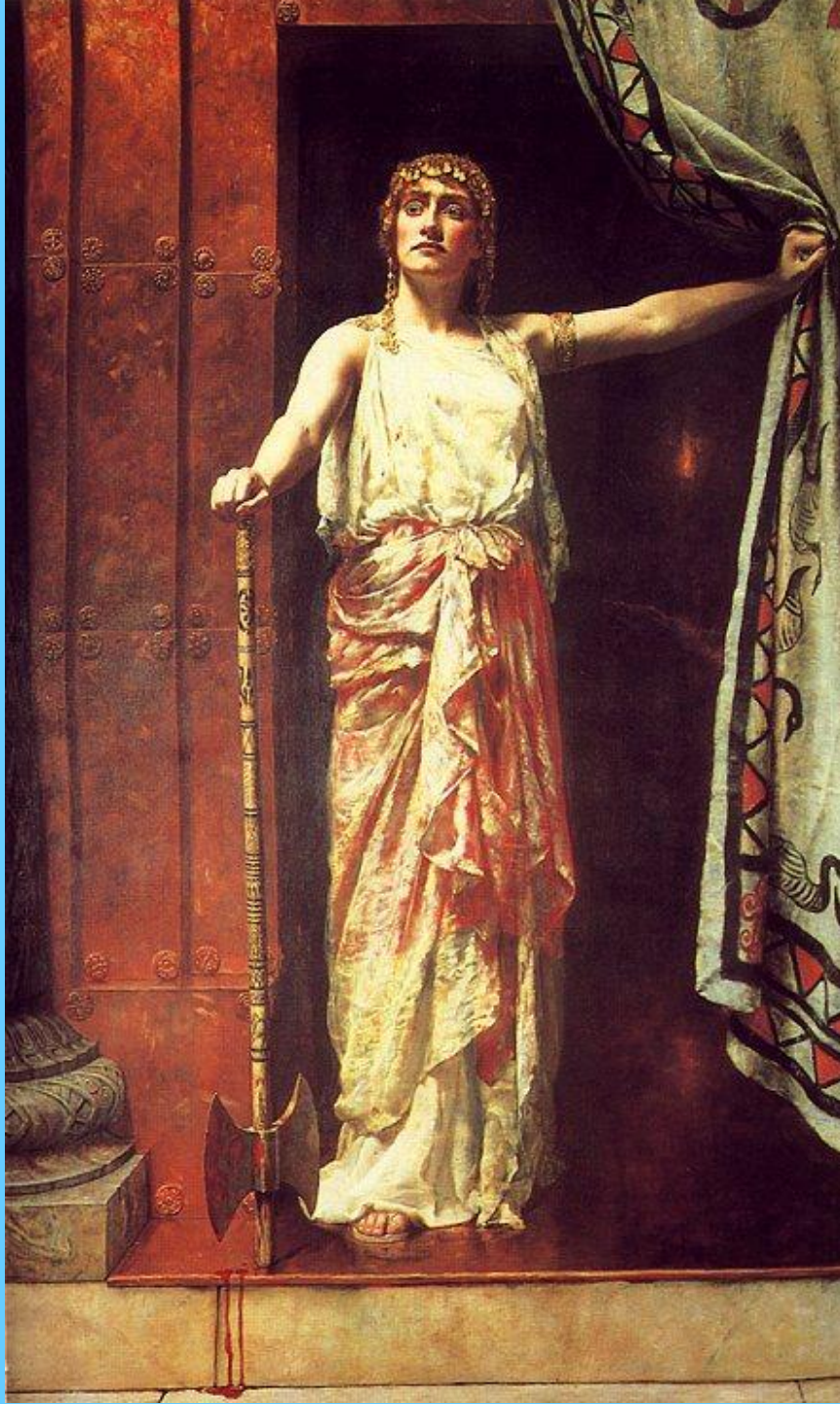
AGAMEMNON ♦ THE LIBATION BEARERS ♦ THE EUMENIDES



Clytemnestra and Aegisthus murder King Agamemnon



A representation of the sacrifice of Iphigenia from Pompeii



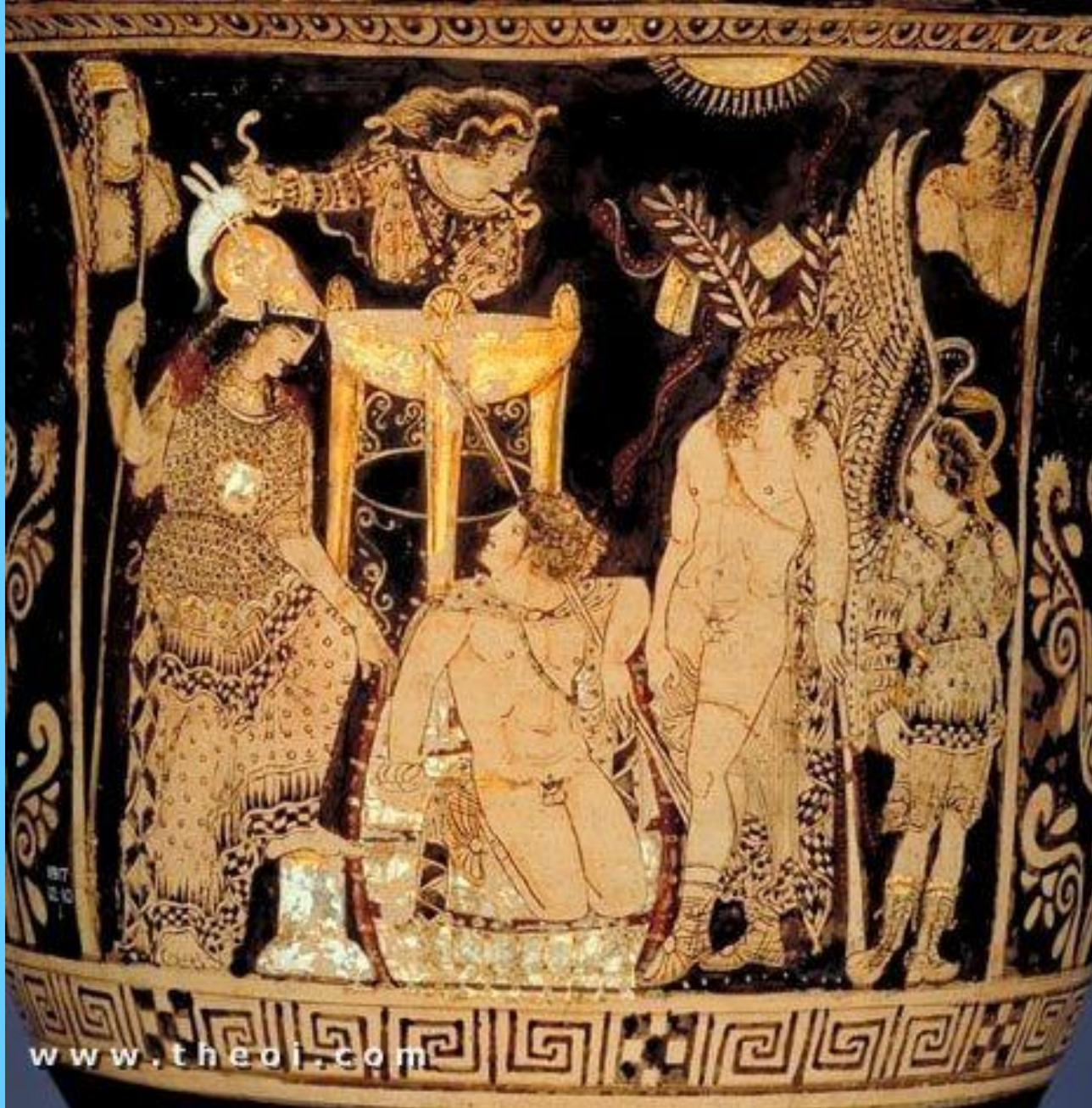
**John Collier's
"Clytemnestra"
(1900)**



Orestes kills Aegisthus



Aegisthus hounded by the Furies



Orestes seeks ritual purification and advice at Delphi



**The Areopagus Council Hill in Athens:
Scene of the mythic trial of Orestes and later of the Athenian Homicide Court**



The trial of Orestes on the Areopagus

Choes
&
Anthesteria

*Attic Iconography
and Ritual*



« Richard Hamilton »

CLASSICS

Illustrated

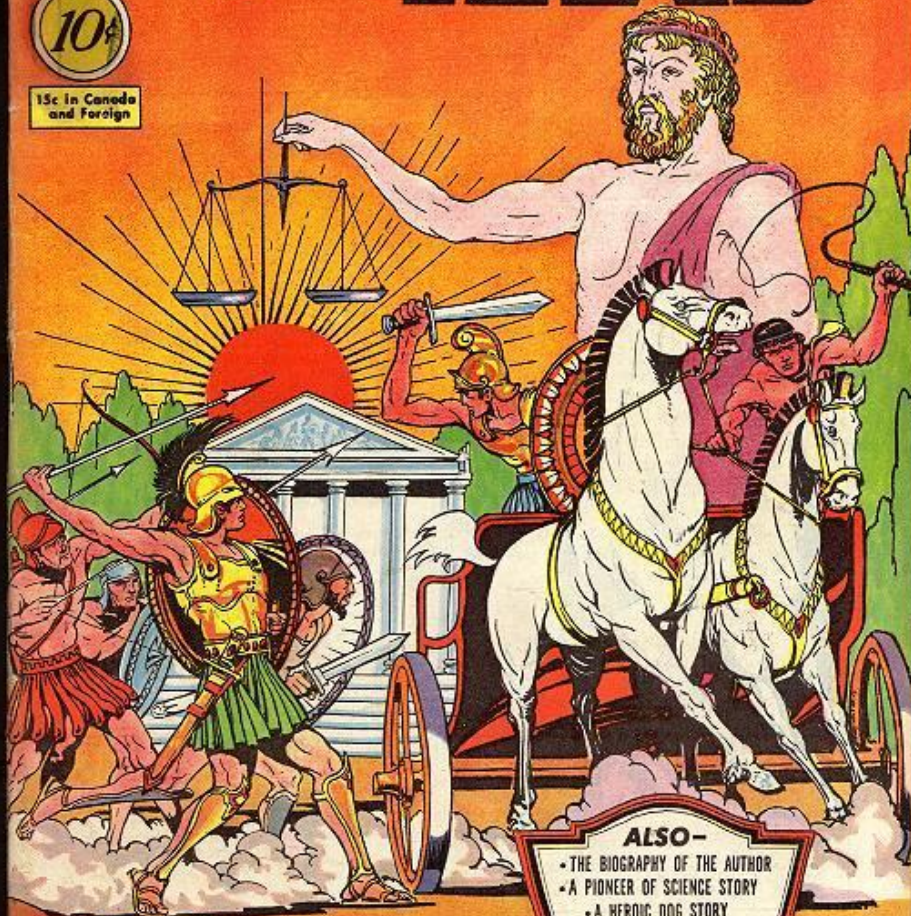
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The 5th-century BCE Gortyn Law Code (Crete) is located by the Odeion



The main Gortyn inscription was re-discovered in 1884.

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“Yes, they’re draconian measures
– but then, I am Draco.”

Draco was an archon who introduced new Athenian laws in 621 BCE.



Solon introduced major legal and social reforms in 594/593 BCE. He would remain an iconic figure, idealized as an all-wise judge.



The “Laws of Solon” were displayed in the Royal Stoa in the Agora well into the Classical Age.

ATHENIAN TRIAL BY JURY

Well-developed by 5th-century BCE. Emerged from reforms of Solon and right to appeal an archon's verdict to a citizen body called the eliaia.

Juries selected by lot from the entire citizen body.

List of 6,000 potential jurors for the year was drawn up.

Sizes of jury ranged from 200 to +1000 men.

Each juror paid three obols a day.

ATHENIAN TRIALS

Trials consisted of opening argument, speeches made by orators for both parties, the reading of pertinent laws and depositions, the testimony of male witnesses, and closing arguments.

Athenians rarely employed forensic evidence in court.

The jury members were entirely responsible for deciding questions both of law and of fact.

First the prosecutor and then the defendant made a speech; in some cases each was permitted to speak twice.

Each was allowed the same length of time for speaking, measured by a water-clock (klepsydra).

Each litigant was expected to speak for himself; he was not allowed to pay for a lawyer to speak on his behalf.

THE VERDICT

At the end of the litigants' speeches, the jury voted at once, without further advice or deliberation.

The majority decided the verdict.

The method of voting was by placing pebbles, or later bronze disks, in urns for conviction or acquittal; various devices enabled a juror to conceal which way he voted.

For some offences the penalty was laid down by law, but in other cases the penalty of the amount of damages had to be decided by the jury.

In such cases, when the guilty verdict had been given against the defendant, the prosecutor proposed a penalty and the defendant proposed another.

The jury voted again to decide between them.

MAGISTRATES AND CASES

Even after the introduction of juries, the archons and other magistrates remained an important part of the system.

The archon had charge of cases concerning family and inheritance rights. The *basileus* had charge of homicide cases and most cases connected with religion. The *polemarchos* had charges of cases concerning non-Athenians. The “Eleven” had charge of cases of theft and similar offenses.

A crime was not tried unless a prosecutor brought an action in writing before a court against an alleged offender. Since there was no police or state prosecutors, any male citizen could be a prosecutor.

One of Solon’s innovations was to allow anyone to initiate proceedings in cases where an offense was regarded as affecting the community as a whole. This established a distinction between a private case (*dike idia*), brought by a prosecutor who complained that he had suffered some wrong personally, and a public case (*dike demosia*), brought by anyone on behalf of the general public.

SYCOPHANTS

To encourage public prosecutions, the state in some public cases gave a prosecutor a proportion of the fine or property confiscated from the offender if he won his case.

Men who made a habit of prosecuting for their own dishonorable purposes became known as sycophants.

To discourage unjustified prosecution, a law was introduced imposing a penalty on a prosecutor in most kinds of public cases if he either obtained less than one-fifth of the jury's votes or abandoned the case before the trial.

The penalty was a fine of 1,000 drachmas with (at least in some cases) partial disfranchisement in addition.

It was also possible to prosecute a man for being a sycophant.

TYPES OF PUBLIC CASES

- **GRAPHE:** The most common type of public case, its name means “writing.”
- **APAGOGE:** The prosecutor began by arresting the defendant and taking him to prison – used against thieves and other malefactors, especially when caught in the act, and also against persons accused of homicide and seen in places where they were not allowed to be.
- **EPHEGESIS:** The same as apagoge, except that the prosecutor asked magistrates to make the arrest.
- **PHASIS:** Used for various offenses connected with trade, property or mining. The prosecutor received half of the reward to the state.
- **EISANGELIA:** Initiated by a denunciation to the assembly, this involved charges of treason or some other serious offense against the state.
- **PROBOLE:** Used mainly for cases concerning religious festivals.
- **DOKIMASIA:** A procedure for checking that a man was not disqualified from being a citizen.
- **EUTHYNA:** A procedure for charging any state official of abuse of office at the end of his term.

HOMICIDE

There was a special set of homicide courts, the most famous of which was the Areopagus Council, manned by former archons.

All trials for homicide were held in the open air, so that all those present might avoid the pollution of going under the same roof as a killer.



The Council of the Areopagus tried only cases in which someone was accused of killing an Athenian citizen intentionally with his own hand.

OTHER HOMICIDE REGULATIONS

Men called the ephetai sat at the Palladion (a temple of Athena just outside Athens) to try persons accused of unintentional homicide, or homicide of a non-citizen, or of accomplices.

At the Delphinion (a temple of Apollo and Artemis) those were tried who admitted that they had killed but claimed that the killing was lawful – for example, in self-defense.

The penalty for intentional homicide was death or permanent exile from Attica with confiscation of property; for unintentional homicide, exile could be ended by permission of the killed person's family.

PUNISHMENT

The most common kind of penalty was payment of money.

The death penalty was prescribed for men and women for intentional homicide, treason and sacrilege, and for men for adultery, seduction and malfeasance in office.

From the fifth century BCE onwards, the most common means of execution in Athens was the plank, a piece of wood to which the condemned person was strapped by iron bands around the neck, wrists and ankles. The plank was raised upright and the condemned died slowly over a period of days.

Some offenders convicted of capital crimes were granted the “privilege” of self-execution, perhaps by hemlock.

In Classical Athens, capital punishment was frequently named as the possible penalty, yet there were relatively few actual executions. Exile for intentional homicide was permanent.

SLAVES

Corporal punishment was used for slaves, sometimes for aliens, rarely for citizens.

It was standard court procedure to accept the testimony of a slave only after the slave had been tortured.

The evidence of slaves, like the evidence of women, could be introduced to court only after male citizens had mediated the telling of their stories.



ATHENIAN WOMEN AND CRIME

Even aristocratic women in Classical Athens had no legal capacity of their own, but were always under the *kyreia* or guardianship of a man.

Neither women nor children could appear in court as witnesses.

If a male prosecutor wished to introduce the testimony of a woman into court, he had to use a process called “oath challenge.”

Women were not permitted to serve on juries.

FEMALE VICTIMS

The rape of a free Athenian woman was punished by a fine of 100 drachmas.

The penalty for a man who seduced or committed adultery with a free woman was death.

A man who merely stepped over the threshold of the house of another without permission of the owner had committed the crime of outrage.

Rape was legally a crime against a woman's father or husband.

When a married woman was raped, her husband had a legal obligation to divorce her, under penalty of losing his rights of citizenship.

FEMALE OFFENDERS

Women accused of crimes could not defend themselves in court, but had to rely on a male relative to represent and defend them.

If the penalty for a man who committed adultery with the wife of a citizen was death, the penalty for the woman was a miserable life. Legally a divorced adultress could remarry, but in practice this was unlikely because of her public shame.

Abortion was an offense when a woman induced or procured it without the knowledge and consent of her husband or kyrios.

There were certain crimes that only alien women and men could commit: failure to have a patron; failure to pay the alien tax; simulation of citizenship; and marriage with a citizen.

The penalty for marriage with a citizen was being sold into slavery.