

# **Allegations in the Agora: impacts of the built environment on the effectiveness of law in Athens**

## **I. Introduction**

The incidents in Ferguson and with Tamir Rice and Eric Gomer are attracting significant attention to the American legal and police systems and causing the populace to question whether the system is flawed and infested with racism. Law is a complicated topic with many nuances; however, the legal system in Athens during the age of Pericles was remarkably effective. I was first intrigued in learning that some trials in Athens took place out in the open in roped off sections of the Agora, the Athenian city center, and assumed that this would result in a profound impact on how the people of Athens viewed and approached trials. In this paper, I will be investigating the sites and buildings in the Agora that have been suggested as places of litigation for 4<sup>th</sup> and 5<sup>th</sup> century Athens. This investigation will consider law activity in the Heliaia, Predecessor to the Square Peristyle, Stoa Poikile, and Stoa Basileius. I will detail the physical spaces in which trials took place, discuss the nature of litigation in Athens, and analyze how the built environment created a powerful incentive to follow the law during the Age of Pericles. The legal sites in the Agora were highly public and abundant. Litigation was prevalent, making up for the lack of police enforcement. Due to the high chance that past offenses could be made known in any kind of court case, Athenians were encouraged to obey the law. In general, I find the legal system in Athens to be highly effective.

## II. The Built Legal Environment in the Agora

The Agora was the central place of Athens, situated to the northwest of the Acropolis, in which just about any activity took place. Euboulos, a comic poet of mid 4<sup>th</sup> century, made the jest:

In one and the same place you will find all kinds of things for sale together at Athens: figs, bailiffs, chickpeas, lawsuits, beestings, curds, bunches of grapes, turnips, pears, apples, witnesses, roses, medlars, milk-puddings, honeycomb, myrtle, allotment machines, irises, lambs, waterclocks, laws and indictments.<sup>1</sup>

Litigation was intermingled with and as prevalent as commerce in the Agora. Mixing at the Agora blended public and private and formal and informal.<sup>2</sup> As a place of diverse activities, there was reason for citizens of all classes to appear at the Agora, and even for non-citizens and slaves.<sup>3</sup> Even those men who were not qualified to participate in the legal system could overhear trials taking place in the Agora as they went about their personal business. This fact is due to the physical nature of the law courts in the Agora. Men alone do not make the polis, but it is a “blending of material and human elements.”<sup>4</sup> The first section of my paper will go through the sites of law courts in the Agora and the aspects of these sites that made litigation in the Agora highly accessible.

An array of literary evidence is available describing the practices of law in the Agora, but there is little physical evidence. The discovery of equipment throughout the Agora, and highly concentrated in the northeast corner of the Agora, is among the only physical evidence and includes 14 of the 17 uncovered *kleroteria* (allotment machines for

---

<sup>1</sup> in Millet (1998) 217.

<sup>2</sup> Millet (1998) 215.

<sup>3</sup> Millet (1998) 220.

<sup>4</sup> Millet (1998) 206.

selection of the jury), 22 *pinakia* (small bronze plate used to identify a citizen), and 48 *ballots* (used by the jury to vote on the guilt and punishment of the defendant).<sup>5</sup>

The identification of buildings used primarily for law in the Agora was mostly based on literary evidence and the following requirements: the building had to be large enough and have enough seats to accommodate the juries and the building had to be separated from the outside to some extent.<sup>6</sup> One such building was the Heliaia. The term Heliaia may refer to the law court in the southwest corner of the Agora or the large judging body composed of ordinary citizens established in 590 BCE under Solon, enduring for 400 years, and covering all civic and personal matters.<sup>7</sup> Scholars believe that this building was associated with law because it had a walled temenos to enclose the area but no altar or shrine, and it was large enough to seat the jurors.<sup>8</sup> The Heliaia housed the most important cases affecting the public, but not private or public arbitration, trials at deme, or homicides.<sup>9</sup>

A second group of buildings that met the requirements outlined by Camp was the Predecessor to the Square Peristyle, located in the northeast corner of the Agora. Four buildings, A-D, made up a complex that could accommodate juries of assorted sizes.<sup>10</sup> Building C featured an open construction that “readily explains the many references in the speeches of orators to the citizens who could stand around the courtroom hearing and seeing without entering.”<sup>11</sup> There existed a “light outer [rope] barrier along the south flank” of Building C to keep outsiders at least partially at a distance from the trials.<sup>12</sup>

---

<sup>5</sup> Thompson (1972) 53-56.

<sup>6</sup> Camp (1986) 108.

<sup>7</sup> Boegehold (1995) 18.

<sup>8</sup> Camp (1986) 47.

<sup>9</sup> Boegehold (1995) 19.

<sup>10</sup> Thompson (1972) 59.

<sup>11</sup> Thompson (1972) 59.

<sup>12</sup> Thompson (1972) 59.

Although the Heliiaia and Predecessor to the Square Peristyle were formal legal buildings, they had features that allowed for heavy public engagement in the legal system. The Heliiaia could seat 1000 dikasts, therefore requiring the participation of many citizens in trials. The Predecessor to the Square Peristyle was far more open to the public, allowing for large juries and large numbers of ordinary men outside of its walls to listen to trials.

Several other multi-purpose structures in the Agora were used for litigation: the Stoa Basileios, Stoa Poikile, and Poros benches. The Greek Stoa was a covered walkway open to the public as a place to sell goods, philosophize with friends, hold religious meetings, practice law, etc. A number of Stoas lined the Agora. The Stoa Basileios in the northwest corner of the Agora, was where the Basileus (a magistrate in Athens who oversaw religious rites and homicide cases) would listen to charges and counter-charges of citizens at an *anakrasis* (pretrial hearing).<sup>13</sup> According to Millet, The Stoa Poikile was a place of patriotic art, a military museum, an execution chamber, a honeymoon hotel, and a location for arbitrations, law courts, public proclamations, and philosophizing.<sup>14</sup> Although extremely multi-purpose, the “Stoa Poikile is mentioned repeatedly ... as a meeting place for boards of arbitration and for law courts.”<sup>15</sup> For example, “Demosthenes tells of an arbitration in the Stoa [and] ... two 4<sup>th</sup> century inscriptions mention juries of five hundred sitting there.”<sup>16</sup> When open structures like the Stoa Poikile were used as courts, they were “presumably roped off or otherwise demarcated with wicker screens to provide a formal boundary between judicial and other activities.”<sup>17</sup> One can imagine those formally involved in a trial positioned under the Stoa’s roof or on the Stoa’s steps

---

<sup>13</sup> Boegehold (1995) 97.

<sup>14</sup> Millet (1998) 215.

<sup>15</sup> Thompson (1972) 71.

<sup>16</sup> Thompson (1972) 93.

<sup>17</sup> Millet (1998) 217.

and spectators surrounding the front of the Stoa with no walls to impede their view and only a rope or fence to separate them from the trial.

Several structures kept the public from entering the court. The *dryphaktoi* were barriers or encircling walls made of wood typically placed at the entrance to a building.<sup>18</sup> There may also have been a *kinklis* (swinging gate) that one had to go through the reach the speaking position.<sup>19</sup> The structures hardly prevented casual spectators milling about the stalls in the Agora from “listening to ordinary cases as they went about their business.”<sup>20</sup> A single trial in the Agora had many more observers than modern day hearings because *dikasts* and any other ordinary Greek citizens standing nearby could listen to the case. Essentially, trials taking place in open areas of the Agora were public sources of entertainment. It is unlikely that “the more boisterous aspects of the Agora did not impinge on the law courts.”<sup>21</sup> There was an interesting dynamic at play for litigation in the Athenian Agora brought on by the physical nature of the law courts, the implications of which will be discussed in the next section.

### **III. The Nature of Law in Athens**

The judicial system in Athens during the Age of Pericles was based on Solon’s obscurely written laws, no professional police or state prosecutor, and a highly democratic system for selecting the jury and voting on cases. Some believed that Solon’s laws were obscure for the sake of being democratic in allowing the people to have the power of decision, but Aristotle suggests in the “Constitution of Athens” that, “the obscurity arises rather from the impossibility of including the best solution for every

---

<sup>18</sup> Boegehold (1995). 195-196.

<sup>19</sup> Boegehold (1995). 196.

<sup>20</sup> Lanni (2009) 13.

<sup>21</sup> Millet (1998) 217.

instance in a general provision.”<sup>22</sup> I agree with this assertion and contend that Solon’s vagueness gave the law the appearance of being more democratic and caused Athenians to defer from citation of the law and focus more on extra statutory norms in court. Extra statutory norms are behaviors expected of society that relate more toward a person’s good character. If a litigant chose to quote laws to help their case, they were responsible for finding them and quoting them.<sup>23</sup> The written laws could be found “inscribed on stone *stelai* in various public areas of the Agora.”<sup>24</sup> It was the function of the *Themothetai* to inscribe the laws.<sup>25</sup>

An injured party came to court at their own will. They were first heard in a preliminary hearing by magistrates or arbitrators. If the party did not approve of the decision, they could appeal to the *dikasterion*. Cases under 1,000 drachmae were heard before 201 *dikasts* and cases over 1,000 drachmae were heard before 401 *dikasts*. Only laws, challenges, and depositions previously spoken for the arbitrator were allowed with the *dikasterion*.<sup>26</sup> Aristotle claims that “the feature which is said to have contributed most to the strength of the democracy, [is] the right of appeal to the *dikasterion*.”<sup>27</sup> Any citizen over 30 and without public debt could serve as a juror.<sup>28</sup> Due to the number of *dikasts* at a given trial and the few requirements to serve on the jury, there was bound to be someone in the jury who knew aspects of the defendant’s personal life and about their quality of character. A *kleroteria* (allotment machine) was used to ensure equal representation of

---

<sup>22</sup> Arist. 153.

<sup>23</sup> Lanni (2009) 4.

<sup>24</sup> Lanni (2009) 4.

<sup>25</sup> Arist. 148.

<sup>26</sup> Arist. 192-193.

<sup>27</sup> Arist. 153.

<sup>28</sup> Const 202

the demes and random selection of the jurors.<sup>29</sup> During the trial, each litigant had a fixed time to speak and there were no second speeches. Time was measured using a *klepsydrai* (water clock). After the prosecutor and defendant had spoken, each juror voted secretly by dropping two ballots, “which have a pipe through the middle, half of them pierced and half blocked.”<sup>30</sup> One box was made of bronze and one of wood, the bronze one to count. The vote was singular and without deliberation.<sup>31</sup> If the defendant was found guilty, a second phase of speeches commenced, half a measure of water in length,<sup>32</sup> to set the penalty, typically a fine, loss of citizenship, exile, or execution.<sup>33</sup> The process was optimized to be as fair as possible with a random and representative selection of the jury and a secure and secret vote. Using the *klepsydrai* to time speeches and conducting votes without deliberation made for a rapid trial. Indeed trials always took under one day.<sup>34</sup> Therefore, a high volume of litigation could take place in Athens; the courts were in session about 200 days a year and could hear as many as 40 cases a day.<sup>35</sup> With “the sheer volume of litigation and routine legal proceedings ... the average Athenian could anticipate being involved in a legal proceeding far more often than someone living in contemporary Western society.”<sup>36</sup>

As stated previously, citizens came to trial frequently, but sometimes there was not an adequate incentive to take a case to court. For instance, it was not always certain that the injured party would be able to gain financially from the verdict.<sup>37</sup> Suits were

---

<sup>29</sup> Arist. 204.

<sup>30</sup> Arist. 206.

<sup>31</sup> Lanni (2009) 4.

<sup>32</sup> Arist. 207.

<sup>33</sup> Lanni (2009) 5.

<sup>34</sup> Lanni (2009) 4.

<sup>35</sup> Lanni (2009) 10.

<sup>36</sup> Lanni (2009) 17.

<sup>37</sup> Lanni (2009) 16.

brought on sporadically leading to an under enforcement of crimes. However, arguments in court included “any prior violation of the law by a litigant or his ancestors,” even violations entirely unrelated to the crime.<sup>38</sup> Under enforcement was compensated for in this way; Athenians could not blithely commit crimes because these events could come back to haunt them in any future hearing. If past wrongs were not brought to suit because people lacked the money or speaking ability, these wrongs could be punished later. In addition to citing past inflictions unrelated to the crime at hand, litigants spoke extensively on their and their opponent’s character. Themes of arguments included: treatment of family and friends, moderation in the face of conflict, honesty and fair dealing in business affairs, and loyalty and service to the city.<sup>39</sup> The defendant or prosecutor commonly discussed any liturgies they may have committed in service to Athens with their personal funds. It is important to note however that although a litigant’s character was extremely important, “having good character references would be unlikely to save a litigant from conviction in a dispute where he had clearly acted unfairly.”<sup>40</sup> Nevertheless, the fact that a court decision relied heavily on the defendant’s past behavior and overall character provided an unwritten incentive to follow the law and conform to social norms. Under enforcement, the lack of a professional police, vaguely written laws, and financial barriers were compensated for by the fear that any miss-step could come back to haunt an Athenian if they were brought to trial at any future date, and the number of trials that took place in Athens made it likely that they would be.

Now, how did the physical environment of litigation in the Agora increase the effectiveness of the legal system? The sheer volume of trials was in part due to the fact

---

<sup>38</sup> Lanni (2009) 8.

<sup>39</sup> Lanni (2009) 5-7.

<sup>40</sup> Lanni (2009) 17.

that trials could take place in a number of locations in the Agora, and these locations accommodated sizable juries containing citizens from all demes in a representative fashion. This would have likely guaranteed that someone in the jury personally knew or knew of the litigants. Furthermore, trials taking place in structures partitioned off from the Agora by ropes or fences allowed not only the jury but also virtually anyone to hear the case. In a feature called *thorubos*, “litigants regularly asked jurors and spectators to interrupt their opponents by shouting out when they made controversial claims.”<sup>41</sup> In fact, “Aeschines recounts an incident where his opponent in a treason case tried to falsely accuse him ... but the jury shouted him down.”<sup>42</sup> Although those observing from behind the ropes in the Agora could not vote on the case, they could discredit a litigant’s argument or make proclamations to influence those in the jury. This would not have been possible in a traditional law court closed off from public view, but was possible for trials in open structures in the Agora.

#### **IV. Conclusions: The Effectiveness of the Legal System**

I would argue that the physical legal environment in the Agora and the practice and nature of trials in Athens created a highly effective system of law. Athenians were both formally and informally engaged in litigation on a frequent basis because those going about their business in the Agora could drop by to overhear a trial. The spectators and juries could engage themselves in the process and debunk false claims through *thorubos*. Typically, arguments focused on demonstrating that one had exemplary character and bringing up past statutory and non-statutory crimes of the opponent. Therefore the Athenian court system created a peaceful society where the wealthy

---

<sup>41</sup> Lanni (2009) 12.

<sup>42</sup> Lanni (2009) 12.

generally paid taxes and people served military and governmental duties. Not doing ones duty could result in conviction even in a trial of a completely unrelated nature.

Encouraging public service in this way proved to be more effective than encouraging public service through a formal norm. With a formal norm, Athenians would have been required to give a minimum amount with little incentive to give beyond. The informal norm in Athens was to give as much as possible, because this would result in continually increasing juror good will. Additionally, the lack of formal laws maintained the feeling of a limited state and a feeling of volunteerism rather than a feeling of coercion.

Legal activity in the Agora took place in the Heliaia, Predecessor to the Square Peristyle, Stoa Basileios, and Stoa Poikile during the age of Pericles. In this essay, I have detailed the physical legal environment, discussed the nature of law in Athens, and remarked on how the physical environment created a highly effective system for promoting good behavior.

## References

- Boegehold, Alan L. *The Lawcourts At Athens : Sites, Buildings, Equipment, Procedure, and Testimonia*. Princeton, N.J.: American School of Classical Studies at Athens, 1995.
- Camp, John McK. *The Athenian Agora : Excavations In the Heart of Classical Athens*. London: Thames and Hudson, 1986.
- Lanni, Adriaan. *Social Norms in the Courts of Ancient Athens*. *Journal of Legal Analysis*, Forthcoming; Harvard Public Law Working Paper No. 08-19, 2009.
- Millet, P. "Encounters in the Agora." In *Kosmos: Essays in Order, Conflict and Community in Classical Athens*. Cambridge, 1998.
- Arist. *AC* (in Moore, J.M. *Aristotle and Xenophon on Democracy and Oligarchy*. Berkeley, C.A.: University of California Press, 1975.)
- Thompson, Homer A, and R. E Wycherley. *The Agora of Athens : the History, Shape, and Uses of an Ancient City Center*. Princeton, N.J.: American School of Classical Studies at Athens, 1972.

MIT OpenCourseWare  
<http://ocw.mit.edu>

21H.237 The City of Athens in the Age of Pericles  
Fall 2014

For information about citing these materials or our Terms of Use, visit: <http://ocw.mit.edu/terms>.