Plato and the Theory of Punishment


For many years now Trevor Saunders has been producing papers connected in one way or another with Plato's theory of punishment. He himself regards the present volume as the culmination of nearly twenty years of research. The result of his labours is a big book not only in the number of its pages and in the time it has taken to write but also in its wide ranging scope and in the depth of its scholarship. In his introduction Saunders apologetically quotes Callimachus' remark, 'Big book, big evil'. Those of us who do not have the capacity to take on a really large scale project may find that remark very consoling. Sadly for us there are scholars of Saunders' stature who from time to time show that it is far from a universal truth.

Although the book's centre of interest is, as the title suggests, the penal code of the Laws it delivers far more than it promises. The first third is taken up with a detailed and perceptive account of the development of ideas about punishment in Greek thought from Homer to the orators. There is then a long chapter on Plato's 'medical' penology and a shorter one on the penology of Plato's myths, before Saunders embarks on a lengthy and detailed discussion of the penal code itself. This not only takes account of Plato's penal theory, as Saunders understands it, but also relates Plato's proposals in detail to what is known of Athenian practice. Baldly summarised the story Saunders tells is that Greek thinking about penology begins, so far as we have any knowledge, with Homer's heroes who, when they are wronged, seek to protect and enhance their honour by exacting vengeance on their enemies and triumphing over them. The literature of the post-Homeric period is characterised by the idea that the gods act as surrogate punishers. The anxiety of victims that they will not achieve redress results in 'a series of vivid constructs of the imagination, designed partly for the purposes of deterrence, but also to assure a victim that whatever his own weakness, the offender would be caught and punished in the end by some overwhelmingly powerful surrogate'.(33) This background, Saunders suggests, is partly responsible for the predominantly vindictive tone characteristic of the courts in the
classical period. But his discussion of the orators also shows the very wide range of considerations which the Athenians took into account in assigning punishments. Although penal policy seems never to have become a topic for public debate there is evidence that intellectuals of the late fifth and early fourth centuries did discuss the institution of punishment in a critical way.

As Saunders sees it, Plato offers a radically innovative penology which breaks sharply with the vindictive traditions of the Greek courts while at the same time preserving and adapting to his purposes much of the practice of Athenian law. The penology which emerges from Saunders' detailed examination of many passages in the Laws and some from other dialogues is deeply influenced by the medical model. Plato maintains that the courts, when dealing with an offender, should seek first to ensure that he gives recompense to his victim. They should then impose an additional penalty to cure him of his injustice. The use of words like 'cure' which have medical overtones is not a casual analogy. On Plato's theory the pain of punishment is inflicted as an unavoidable concomitant or consequence of the effort to cure a diseased state of the offender's soul. Saunders argues at length that the physiology of the Timaeus provides a basis for the identification of such a diseased mental state and for remedying it by quasi-medical procedures. On his interpretation, the Platonic judge will ideally need to make a careful investigation of the state of the offender's soul and will then apply measures which are precisely adapted to curing that state. As he whimsically puts it, Platonic criminal diagnosis is 'micropsychoscopically hexoboulometric'.(185) But Plato does not confine himself to putting forward this penology as a theoretical ideal. Although the penal code of the Laws is in many respects very traditional and largely follows Athenian practice, Saunders argues nevertheless that it is largely consistent with Plato's theory of punishment. Even when it looks as though Plato is prescribing penalties in much the same way and for much the same reasons as any other law giver, closer examination shows that he in fact means the courts of his Cretan city to diagnose carefully the psychological state of each individual offender and to apply an appropriate penalty. When the 'disease' is incurable then the penalty is to be death, or sometimes exile. If it is curable then the penalty will be graduated in accordance with the psychic condition of the offender in order to make him reform.