

Constitution of Athens

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A note on ancient constitutions

- Constitution (*politeia*)= laws, customs;
- No written constitutions in antiquity;
 - Aristotle merely *describes* how the Athenian political system functioned;
- Modern times:
 - Great Britain has *no* written constitution
 - its constitution consist of laws of parliament, findings of courts and customs;
 - Earliest written constitutions: U.S. (1787) and France (1791).

Constitution of Athens



The Historical Constitution:



Solon

- ‘...when the majority were the slaves of the few, the people opposed the leaders of the state. When the strife was severe, and the opposition of long standing, both sides agreed to give power to Solon as mediator, and entrusted the state to him...’ (v2).
- Leader by birth, but of middle class
- Preached against greed of the rich, blamed them for the civil strife
- The ‘shaking off’ of burdens:
 - made loans on security of one’s person illegal (what does this mean?).



Solon's and ancient China's social classes compared

- Solon:
 - wealth basis--measures of harvested products;
 - Amounts can vary
- Four groups:
 - Military and political functions associated with merit (w/out examinations):
 - Wealthiest = elite, equestrian troops, serve as magistrates;
 - Poorest = hoplites, serve in assembly and juries.
- Ancient China: functional basis
- Five groups (in effect):
 - Officials (who are also scholars)
 - Scholars (not all of whom are officials)
 - Farmers
 - Mechanics/Craftsmen
 - Merchants
- No warrior category
- See Ping-ti Ho, *The Ladder of Success in Imperial China*, p. 18.



Aristotle's social classes compared with those of ancient China


Aristotle:

- Citizen-magistrates
- Farmers, wealthy or not;
- Mechanics (Bk III), should be excluded from polis;
- Merchants
 - Bk I: household management)

Ancient China:

- Official Scholars (Shih)
- Farmers (Nung)
- Craftsmen (Kung)
- Merchants (Shang)
- Ping-ti Ho:
 - system more fluid than categories suggest.

What are the differences?



Can you account for similarities in social structure?



Rise of Cleisthenes

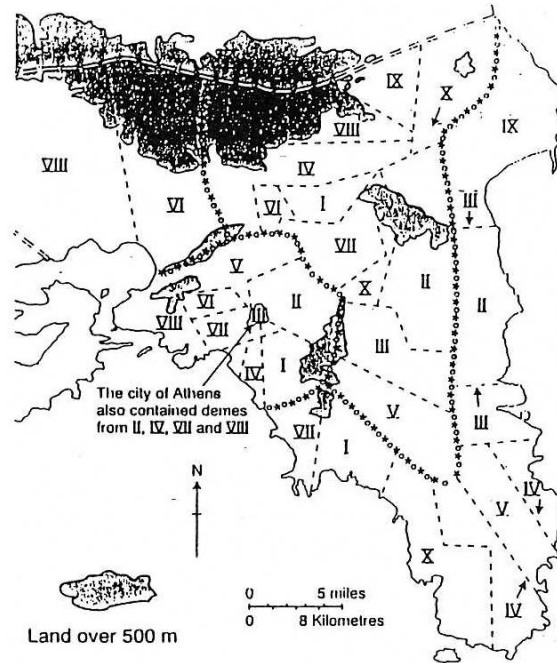
- 510 BCE: the Alcmaeonids (an aristocratic family), deposed Hippias, the son of Peisistratus, with the help of the Spartans;
- 510- 508: Civil war between Alcmaeonids and the archon Isagoras (another aristocrat);
- 508: Cleisthenes, former chief archon, supported by *people*, because his family had opposed the tyrants;
 - initiated reforms on basis of popular support;
 - Created ‘the most democratic state the Greek world had ever seen’ (Ober 1989, 69).



Cleisthenes' Reforms

- Defined citizen as *legitimate* son of Athenian father;
- Expansion of participation:
 - ‘...he first divided all the citizens into *ten* tribes instead of the earlier four, with the aim of mixing them together so that more might share control of the state’ (CA, xxi);
- Severed direct link between ancestry and tribe,
- Reduced role of tribal loyalties in political life:
 - Hence, “no investigation of tribes” (CA, xxi);
 - did not establish twelve tribes because that would have aligned with the *trittyes* (thirds) of the four traditional tribes.

Map of Cleisthenes' *trittyes*



Numbers refer to the tribe to which each *trittys* belonged, as listed below:

- | | |
|---------------|-------------------|
| I Erechtheis | VI Oineis |
| II Aegeis | VII Kekropis |
| III Pandionis | VIII Hippothontis |
| IV Leontis | IX Aiantis |
| V Akamantis | X Antiochis |



Cleisthenes' Reforms, cont.

- 30 *trittyes*, three for each tribe;
- One each on coast, in city and country—Why?
- 139 demes (district centers)—neighborhood of city or village (in country side);
- Each citizen to use the name of the deme, not a family name;
- Demes named after location or founder;
- Citizens still free to join *phratries* (brotherhoods), belong to clan groups and hold priesthoods (these now private, not political).

Upshot:

Citizenship of a place
replaces membership in a
clan.



Cleisthenes' Reforms, cont.

- Boule (council) of 500 (to replace old Boule of 400);
- 50 members from each tribe sent to the Boule;
- Term limits: service on council *limited* to two annual terms (U.S. President: 2 4-year terms);
- Broadening participation: notables may have initially dominated, but term limit expanded the number of citizens needed to serve;
- Citizens from *all* of Athens now included, not just urban elite;
- Mode of selection unknown—either election or selection by lot (sortition; this system used for jury selection in many countries today).



Cleisthenes' Reforms, cont.

- Introduced ostracism law:
 - 6,000 would agree to an ostracism assembly:
 - citizens voted to banish fellow citizens for ten years;
 - Originally intended against tyrants; later used against political dissenters.



Cleisthenes, cont.

- Cleisthenes' mottos were
 - *isonomia* (equality) and
 - collective responsibility,
 - but he did not support speaking out in public (*isegoria*, mentioned later);
- He did not remove property qualifications for office.

The Trireme: School of Democracy





The Trireme: Athens' School of Democracy

- Battleship of the Athenian navy;
- *Boule* oversaw trireme construction and maintenance (CA, xlvi);
- Navy increasingly important in early fifth century defense of Greece against Persia;
- Previously, cavalry and hoplites (heavy-armed soldiers) were crucial:
 - demes preserved names of the fallen;
- Athenian navy:
 - helped win great sea battle against Persia at **Salamis** in 480 BCE;
- Paradigmatic community, a brotherhood (Barry Strauss, *Dēmokratia*).



The Trireme: School of Democracy

- Triremes manned by citizen oarsmen (Aristotle advised using non-citizen farmers, *Pol.* 1327b8-14);
- Helped establish democratic self-confidence, basis for later *isonomia* (equality) of the poorest citizens;
- Socrates mockingly describes how an oarsman or foot soldier would know he was as good as a man of means—by the rich man's pallor (*Rep.* 556c-557d);
- Discipline, order and obedience of the crews: rhythm of rowing—cooperative, collective effort;
- Went into battle in silence (no cheering or shouting).



Athens' Alliance system: its role in the growth of democracy

- Aristides “was the man who assessed the first list of contributions to be paid by the cities two years after...Salamis”;
- Ionians “to have the same enemies and friends” as Athens;
- “Athens’ confidence increased and she built up a significant financial reserve”;
- Aristides encouraged people to move into city to serve in public posts;
- “The people agreed, took control, and treated their allies more tyrannically except for the peoples...they used...as guards for the empire” (CA, xxiv).



Post-Cleisthenic reforms

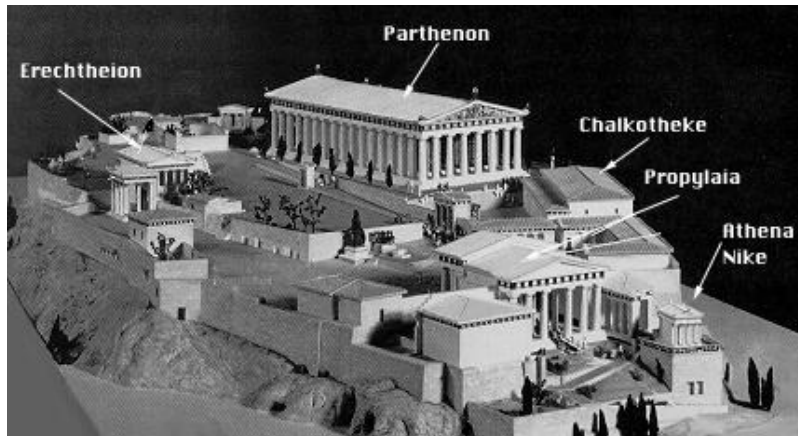
- Archons: selection by lot from group pre-elected by tribes (less aristocratic);
- Aeropagus (retired archons) lost powers, therefore lost collective identity;
- More citizens involved; not necessarily well-connected, or elite;
- Boule, council, determines agenda of Ekklesia (assembly);
- 457/6: all offices open to *thetes*;
- 462: pay for gov't service and lowering property qualifications;



Post-Cleisthenic reforms, cont.

- Pay for government service;
- Most offices not powerful, so significance of these changes difficult to assess;
- Symbolic significance of masses doing daily business of the city;
- Elites led reforms and competed with each other in the democratic arena;
- They displayed their wealth and even gave it away, e.g Cimon, whose lands were unfenced and who could afford huge largesse.

The Acropolis (5th c. BCE): Paid for by Athens' allies





Pericles, 495?-429

- Wealthy, of good birth (not as wealthy as Cimon);
- *Strategos*, 443-429: only remaining elective post;
- Great orator:
 - ‘...first of the Athenians, the most powerful in speech and in action” (Thucydides, 1.139.4; famous “Funeral Oration,” 430);
- Dies of plague, 429.
- Assessment:
 - Seen by some (e.g. Thuc.) as autocratic, almost a monarch;
 - Aristotle saw him as making city more democratic—why?.



Pericles' policies

- Used influence with other generals (9) to avoid calling Ekklesia;
- Instituted pay for jury service;
- Pursued great building projects, e.g. on the Acropolis;
- Guided Athens during first years of the Peloponnesian war, 431-404 BCE (Athens and her allies vs. Sparta)
- (Thuc.: war started because of fear of Sparta).



Oligarchic Interregnum (late Fifth century)

- The Four Hundred, founded to make alliance with Athens more attractive to despotic Persia;
- Deposed by the people;
- Thirty overthrew democracy, undermined the laws on pretext of restoring the original constitution and killed 1500 people;
- Thirty overthrown and democracy restored; still in place at time of writing (mid fourth century).



Athenian political values: *Isegoria* [right to speak]

- Cornerstone of Athenian democracy (Ober, 79);
- Masses move from passive to active role in Fifth century;
- *Ekklesia*: decisions made on the basis of speeches;
- Led to importance of rhetoric not just for the elite—Sophists, teachers of how to argue (criticized by Plato for twisting falsehood into truth and vice versa).



Athenian political values: *Isonomia* [equality]

- Democratic cities “aim at equality over anything else” (*Pol.* 1284a19);
- Equal opportunity to show one’s merit, and to be honored for it (Thuc., “Pericles’ Funeral Oration);
- Equality before the law: rich treated same as poor;
- Equal by nature? No, according to M.H. Hansen (1989), *pace* Plato and Aristotle;
- Hansen says term little used; equality never deified as *demokratia* was, no trireme named for it, Herodotus speaks of it in Greek, not Athenian context;
- Raaflaub: Herodotus, Thucydides and many other sources attest its importance.



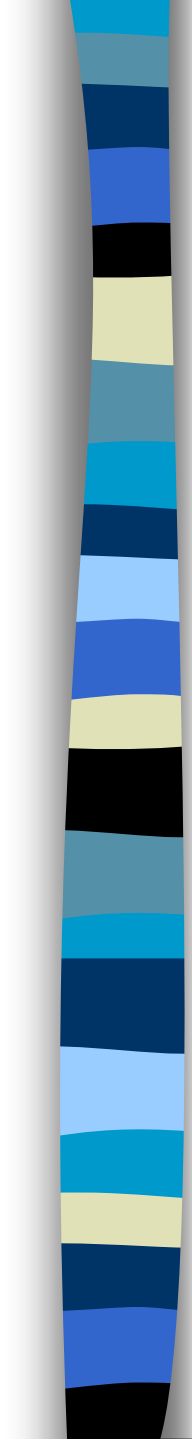
Athenian political values: *Eleutheria* [liberty]

- Free, as opposed to enslaved;
- Independence of city from foreign rule;
- Constitutional: political participation in public and freedom in private (slave could have latter, Pseudo-Xenophon; see also Pericles' Funeral Oration);
- *Individual* right to freedom? Mulgan says no; Hansen says yes;
- Cites exemption of citizens from corporal punishment, inviolability of the home, no infringement of private property (CA, XLVI);
- So how did Thirty legally kill Athenian-born persons?



Pericles' formulation

- Free to live and do as one chooses in private:
 - “We do not get into a state with our...neighbor if he enjoys himself in his own way....We are free and tolerant in our private lives; but in public affairs we keep to the law. This is because it commands our deep respect.”
- However,
 - “each individual is interested not only in his own affairs but in the affairs of the state as well...we do not say that a man who takes no interest in politics is a man who minds his own business; we say that he has no business here at all” (Thuc., *Hist of Pelop. War*).



Concrete example of obligation to participate

- Refusal to participate carries a price:
 - ‘...if any man fails to serve as an Arbitrator when his age-group is performing this duty he shall lose his citizen rights, unless he happens to hold public office that year or to be abroad; only these categories are exempt’ (C, LIII).
- One scholar (M.H. Hansen) asserts that complete withdrawal into private life was acceptable, but his is a minority view.



Eleven constitutional changes

- “The eleventh...has lasted to the present day with ever-increasing power being assumed by the people. They have made themselves supreme in all fields,; they run everything by decrees of the *Ekklesia* and by decisions of the *dikasteria* in which the people are supreme. For the judicial powers of the *Boule* have passed to the people, which seems a correct development, for a small number are more open to corruption...than a large [number]” (CA, xli).



Aristotle on Citizenship Criteria

- Cities decide criteria (states do today);
- 'citizen...differs under each form of government; and our definition is best suited to a democracy' (*Pol.*, 3.1);
- State = partnership of citizens in a constitution (3.3)
- Citizen 'shares in the administration of justice, and in offices' (3.1);
- Offices may be continuous (3.1)
 - assembly,
 - juries;
- Or discontinuous:
 - general, archon (3.1);
- Residence does NOT confer citizenship (3.1):
 - metics.



Good Man/Good Citizen (3.4)

Good man:

- Possesses perfect excellence (*arete*)
- Excellence is rule over himself and others
- Good ruler is both wise and good
- Good man and good citizen do not necessarily coincide:
 - Why?
- Good man can be good citizen:
 - Does he *have* to be?
 - e.g. a good man in Sparta?
- He is most likely to share in 'honours of the state'.

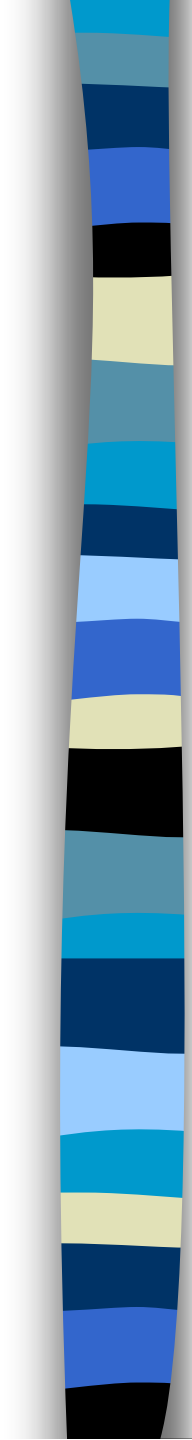
Good citizen

- Possesses a citizen's excellence
- Relative to the constitution
- Democratic citizen:
 - Obey like a freeman;
 - Rule like a freeman;
- Citizen need not be wise
 - why?
- Good citizen not necessarily a good man
 - e.g. in democracies.
- Would Athenian and Spartan citizens differ?



Citizenship of “Mechanics” (manual workers), *Pol.* 3.5

- “Is he only the true citizen who has a share of office, or is the mechanic to be included?...if none of the lower class are citizens, in which part of the state are they to be placed?”
- “....no more absurdity in excluding them than in excluding slaves and freedman...In ancient times, and among some nations, the artisan class *were* slaves or foreigners...The best form of state will not admit them to citizenship”;
- “but if they are admitted, then our definition of the excellence of a citizen will not apply to every free man...but only to those who are freed from necessary services” (par. 1277-8).



Objections to “Mechanics” as Citizens (*Pol.* 3.5)

- Some are rich and meet property qualifications in oligarchies!
- Thebans only admit businessmen (mechanics) after ten years’ retirement;
- “no man can practise excellence who is living the life of a mechanic or labourer”;
- “such a life is ignoble and inimical to excellence” (7.9)
- Only those who share in the “honours” of the state should be citizens in full sense;
- Why does Aristotle think this?



Aristotle and Athens on Citizenship

Aristotle, *Pol.*, Book III

- Cities determine criteria;
- Workers = citizens in extreme democracy
- Best if workers excluded (1278a1);
- B/c they lack leisure and education to participate in ruling and being ruled;
- They may serve as oarsmen!

Const. Ath.

- Rigorous examination process
- Male offspring
- Two Athenian parents; law on *epigamia*
- Free-born; faking carries heavy penalty;
- Military service
- Included citizens from lowest classes;
- No occupational requirement.



Principles of the fourth-century constitution

- Offices open to all citizens;
- Term limits (one year in most cases);
- Selection for most offices by lot (sortition);
- *Strategi* (generals) are still elected (why?)
- Anti-corruption measures, e.g. *euthuna* before the statue of the eponymous hero of one's tribe (xlvi) (compare ICAC in HK);
- Wealthy subject to the liturgy (300-400 citizens).



Sortition: selection for office by lot

- Enemies of democracy cited sortition as sign of preference for equality (Hansen)
- What would be their argument against it?
- Democrats saw it as check on corruption,
- a way to prevent conflict and preserve power of people.
- How would sortition secure these ends?



Issues the constitution addresses

- Citizenship: who is/is not a citizen (XLII);
- Welfare: disabled persons (XLIX);
- Justice (LII-LIII), legal matters involving foreigners (LVIII); Infrastructure (LIV)
- Consumer protection (regulation of prices and weights and measures) (LI);
- Environmental hygiene (L);
- Warfare, election of officers, supervision of *Ephebes* (future citizens who serve as guards), building triremes (XLVI);
- Religion: care for sanctuaries (L), great festivals of Athena and Dionysius (LVII), sacrifices (LIV).



Citizenship secured by law on *epigamia* (law prohibiting marriage with foreigners)

- “...if a foreign man lives as husband with an Athenian woman...he may be prosecuted...by any Athenian wishing and entitled to do so. If he is found guilty, *he and his property* shall be sold and one-third of the money shall be given to the prosecutor” (emph. added);
- note the motive to prosecute!



Epigamia, continued

- “The same rule applies to a foreign woman who lives with an Athenian as his wife. And an Athenian convicted of living as husband with a foreign woman, shall be fined a thousand drachmas”
- This is a much lighter penalty than being sold into slavery, as in the case of the foreign man living with the Athenian woman (why?);
- Note that it is only the men who are punished.
- Source: Ilias Arnaoutoglou, *Ancient Greek Laws: A Sourcebook* (London and New York: Routledge, 1998), 18.



Athenian Justice System

- Dike = Justice
- Several offices involved
 - The Eleven (LII)
 - Introducers (LII)
 - Receivers (LII)
 - The Forty (LIII)
 - Arbitrators (LIII)
 - Archon (LVI)
 - King Archon (LVII)
 - Polemarch (LVIII).
- Dikasteria = jury
- Most juries have 500 members;
- Up to 1,000 in public suits (LXVIII);
- What do you think is the rationale for these large juries (by today's standards)?



Dikasteria: An elaborate system

- Forty judges—four from each tribe—try cases under ten drachmae; small claims court (LII);
- Cases over 1,000 drachmae come before *dikasteria* of 401 members; less than 1,000 drachmae, 201;
- Complex selection of jurors overseen by Archon (LXIII);
- Minimum age = 30;
- Strict voting procedures to prevent fraud (LXVI);
- Majority vote determines verdict, except in case of a tie, when defendant wins (benefit of the doubt).



Dikasteria: a contemporary satire

- “He’s a JURY-addict! Most violent case on record.
- He’s wild to render verdicts, and bawls like a baby if he ever misses a seat on the very first bench.
- You know those pebbles that the Jurors drop into the urns marked *Guilty* and *Not Guilty*, to record their votes...he’s squeezed his so hard that...he has three fingers stuck together...”
- Aristophanes, *The Wasps* (ca. 400 BCE).



Anti-corruption measures

- *Euthuna*: audit of office-holder's accounts upon his departure from office:
 - Symbolic: before statue of eponymous hero of the office-holder's tribe;
 - '...and if anyone wishes to bring a charge, whether of public misdemeanor or private malfeasance, against any of those who have undergone the *euthuna* in the *dikasterion* within three days of that hearing, he records...the names of the accuser and the defendant...the decision of a jury is final.'



Consumer protection (LI)

- “Ten superintendents of the markets are selected by lot, five for the Peiraeus and five for the city. They...supervise goods for sale to make sure they are pure and unadulterated”.
- “Ten inspectors of weights and measures are similarly selected...to ensure that honest weights and measures are used by those who are selling.”
- Thirty-five corn inspectors to ensure fair prices and weights.



Welfare for Disabled Poor

- “The *Boule* also reviews the incapable, for there is a law that anyone with property of less than three minae who suffers from a physical disability which he prevents his undertaking any employment should come before the *Boule*, and if his claim is approved he should receive two obols a day subsistence from public funds. There is a treasurer selected by lot to handle this” (XLIX).



Tax only the Rich (LVI)

- Tax on the rich was called the Liturgy of the *choregeia*:
 - Either a chorus at a religious festival or a trireme;
- *Choregi* for tragedies = the three richest men in Athens;
 - Exemption only if the citizen has already performed this liturgy or is not old enough (minimum age requirements).
- Why tax only the rich?



Athenian liturgy

‘Liturgy’ refers to a public office or duty which the richer citizens discharged at their own expense:

- ‘**1836** [LYTTON](#) *Athens* (1837) II. 461 The State received the aid of what were termed liturgies from individuals. **1847** [GROTE](#) *Greece* II. xi. III. 159 The Liturgies of the State, as they were called, unpaid functions such as the trierarchy, choregy, gymnasiarchy, which entailed expence and trouble upon the holder of them. **1880** *Sat. Rev.* 25 Dec. 790. It was a species of liturgy, a voluntary contribution to a great public object’ (*Oxford English Dictionary* online).



Environmental Hygiene (L)

- “There are ten city commissioners, of whom five hold office in the Peiraeus (which is?) and five in the city itself.”
- “They ensure that the dung collectors do not deposit dung within ten stades of the walls, and...they also prevent the construction of waste pipes with outfalls from above into the street...”
- “With assistants provided by the state, they remove the corpses of those who die in the streets.”



Religion = *part* of the state

- “A board of ten are also selected by lot to take care of the sanctuaries...and repair the temples most in need of attention” (L);
- Archon and King Archon organize the great festivals of Athena and Dionysius (LVI-LVII);
- “Ten sacred officials are elected who...make sacrifices ordered by oracles, and if good omens are required, they see to it with prophets” (LIV).
- Aristotle in Book VII: religion part of city but not of government; non-political officers.



What we learn from this text

- Complexity of Athens' political, administrative and judicial system;
- Citizenship criteria determine who could participate;
- Attempts to reduce corruption by increasing accountability—
 - audits,
 - multiple office-holders,
 - control over jury selection and voting;
- City's concern for its defense;
- Role of commercial and environmental regulation;
- Importance of city's religious cults (e.g. Athena).