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## Philosophies of Imprisonment in Late Antiquity

### Abstract

One of the few things that prisons were not used for, in a legal sense, was punishment. However, a multitude of laws outlined the necessity of a quick trial and short jail time. Imprisonment was seen as an inconvenience to all parties involved, and a constant flow, rather than maintaining the status quo, was the way prisons were supposed to work. There existed no sense of the prison as a final destination for the guilty, "no one [was] to be condemned to permanent imprisonment." Manifesting a distaste for imprisonment in general, Roman law prohibited jail time and simultaneously ascribed the uses of the institution while limiting its reach. Expediency was the best policy as far as prisons were concerned and the laws themselves upheld the preventative and practical facets of prison.

### **Philosophies of Imprisonment in Late Antiquity**

Mary Olson

Prisons in the Late Antique world were intended, by those in power, to function as a sort of half-way house for the accused awaiting trial or the condemned awaiting death. Legal understanding of prison was not, however, what resulted for all classes and social groups. Though it was unintentional, prisons became yet another form of punishment to the masses. And while philosophers like Libanius<sup>1</sup> agonized over the miserable conditions in the prison for the poor, the Christians saw the prison as a time of seclusion, a time to reflect and grow spiritually. Christianity applied a new religious twist to the prison system; and from this ideological application, prisons were transmuted into theoretical havens that assisted the transition into the next world. Although prisons changed little during Late Antiquity, the perception and the understanding of prisons varied by social groups; from the law-makers to the common man, but it was the Christians who applied a higher spiritual meaning to what was an inconvenience to some and an unintentional form of suffering to others.

In order to understand how the conceptual perception of prisons changed with different social groups, one must first understand what prisons were meant to be and what they actually were. Prison structure was governed on logic, with different types of prisons to separate the accused from the condemned. From the structure, scholars can understand the purpose of the prison, and current scholarly debate revolves around the intention of the law-makers. The *Digests of Justinian*<sup>2</sup> outlined what prisons were intended to be and how they should be used.

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<sup>1</sup>Libanius was a Roman scholar from Antioch, living from 314-393 CE.

<sup>2</sup>Set of laws compiled under Emperor Justinian in 533 CE, consists older legal texts and commentaries of jurists on the civil law.

Treatment of detainees, however, differed due to class. Libanius rallied against prisons, deplorable conditions, and the suffering therein. It was with the Christians that prison shifted from a place of suffering to a locale for salvation. Spiritual revelation became the main purpose of prisons. Despite their intention and structure, the purpose and perception of prisons changed throughout social groups within the Roman Empire of late antiquity.

Though few of the prison structures have survived in Rome, some physical evidence of prison complexes has been found elsewhere. In Athens, prison remains consisted of “eight cells and courtyard.”<sup>3</sup> The structure was more open; or at least this was the design of the main, outer prison. There is evidence that there were multiple parts of the prison system, the outer, more open area and “an inner (or deeper) [prison]..in which the accused might be shut up in darkness...”<sup>4</sup> While the inner prison was dreary, “other parts of the prison were less terrible. Some had windows...The more desirable parts of the prison could sometimes be obtained by purchasing them from jailers...”<sup>5</sup> This division begs the question: which type of prisons do the extant primary sources examine? While there is enough physical evidence left to distinguish various types of prisons, the sources themselves do not identify which type of prison they were discussing, or provide enough description to visualize its dimensions.

Another complication in the modern study of ancient prisons can be found in Gerasa, a Roman prison in present-day Jordan. Now housed in a museum, an inscription from the site asserts that some prison buildings were built by Bishop Paul between 539 and 540 CE. Along with naming the founder, the inscription discerns between two different types of prisoners. “The

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<sup>3</sup> Brian Rapske, *The Book of Acts and Paul in Roman Custody*. Vol. 3, *The Book of Acts in its First Century Setting* (Grand Rapids, MI: William B. Eerdmans Publishing Company, 1994), 196.

<sup>4</sup> Edward M. Peters, “Prison Before the Prison: The Ancient and Medieval Worlds,” in *The Oxford History of the Prison: The Practice of Punishment in Western Society*, ed. Norval Morris and David J. Rothman, (New York: Oxford University Press, 1998), 19.

<sup>5</sup> Peters, “Prison Before the Prison,” 21.

condemned were arranged in one prison and the accused were placed in the new building that we are naming ‘the preventive prison.’”<sup>6</sup> In this case, the two types of prisons were physically separated in two different buildings. These various types of prisons further obfuscate reports like Diodorus Siculus' account of Alba Fucens, a prison in Southern Italy. According to Siculus: “[Alba Fucens] is a deep underground dungeon, no larger than a nine-couch room, dark and noisome from the large numbers committed to the place, who were men under condemnation on capital charges...”<sup>7</sup> But neither of these two sources outlines what type of prison was implemented, and for what crimes. Due to the division of prison buildings and the separation of different types of prisoners, ancient primary sources are once again called into question.

From the inscription at Gerasa and additional textual evidence, it is clear that the division between the two types of prisons, whether in separate buildings or different parts of the same building, had a practical application. The inner prison, which was equated to “a dark hole,”<sup>8</sup> was reserved for the condemned. For those merely accused there were mandates against such imprisonment:

[w]hen incarcerated [the accused] must not suffer the darkness of an inner prison, but he must be kept in good health by the enjoyment of light...at early sunrise, he shall forthwith be led out into the common light of day that he may not perish from the torments of prison, a fate which is considered pitiable for the innocent but not severe enough for the guilty.<sup>9</sup>

The inner prison was more severe, darker and more desolate than the outer prison. This division reflected a practical separation of prisoners between the condemned and the accused.

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<sup>6</sup> Pierre-Louis Gatier, “Nouvelles Inscriptions de Gerasa,” *Syria* 62 (1985), 301 : “Les condamnés disposent d’une autre prison et les inculpés sont mis dans le nouveau bâtiment que nous nommerions <<prison préventive>>.”

<sup>7</sup> Diodorus Siculus, *Library of History* Vol XI, in *Loeb Classical Library*, trans. Russel M. Geer (Cambridge, Massachusetts: Loeb Classical Library, 1954), 31.9.2.

<sup>8</sup> *The Martyrdom of Perpetua and Felicitas*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 3.23.

<sup>9</sup> *The Theodosian Code and Novels and the Sirmondian Constitutions*, trans. Clyde Pharr (New York: Greenwood Press, Publishers, 1952), 9.3.1.

Additionally, there were various types of prisons beyond just the inner and outer; there were state and local prisons, each with a different design and purpose. For the most part “the state prison (*carcer*) was...the most severe form of imprisonment,”<sup>10</sup> housing those convicted of more serious crimes whose cases needed to be administered by higher officials. Laws, however, accounted for the difference in all these different types of prisons and sought that the suffering should be proportionate to the crime.<sup>11</sup>

Was there a purpose to prisons beyond just the institutional function—were prisons meant to inflict fear on the populace? O. F. Robinson holds that “[p]rison was deliberately a place of terror, designed to strip the prisoner of all dignity, and to induce confessions by both physical and psychological means.”<sup>12</sup> Prison, to Robinson, is more than a mere institution; it was another vehicle to ensure civil obedience. Much like Brent Shaw's interpretation of the judicial system, that “intended its punishments to be public and strikingly visual precisely in order to achieve the terror-effect that was to provide the desired deterrent,”<sup>13</sup> the prison system with its deplorable conditions and human suffering was another conscious attempt to deter crime. According to Robinson, the visual character of both imprisonment and trial promoted social obedience through fear.

While Shaw and Robinson attribute a grander social utility to prisons, scholars such as Jill Harries delegate the prison system to a more passive role. Harries asserts that the prisons attempted to reform themselves, and that the state took some responsibility for the well-being of prisoners. While she concedes that “the innocent could suffer a long time in gaol, and perhaps

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<sup>10</sup>Rapske, *Paul in Roman Custody*, 22.

<sup>11</sup>*Theo. Code*, 9.1.7, 9.1.18, 9.1.19, 9.3.1

<sup>12</sup> O.F. Robinson, *Penal Practice and Penal Policy in Ancient Rome* (London: Routledge, 2007), 113.

<sup>13</sup> Brent D. Shaw, “Judicial Nightmares and Christian Memory,” *Journal of Early Christian Studies* 11:4 (2003), 535.

not survive at all,”<sup>14</sup> Harries also states that “by the late 4th century, prisoners' rights, which had been acknowledged from Constantine onward, were more systematically upheld.”<sup>15</sup>

Furthermore, in the “early 5th century, the formal involvement of bishops in the supervision of prison conditions provided a further guarantee of humane treatment...”<sup>16</sup> According to mandates and laws, prisons were ideally supposed to be regulated in humane ways; and if they really were, then prisons were not meant to be places of terror, but mere institutions.

By their own laws, Roman politicians saw prisons as half-way houses: a repository for the accused before their trials and the condemned before their deaths. In order to ensure that the accused were tried and that the guilty were sentenced, prisons were utilized as “the most effective form of custody.”<sup>17</sup> Prison was used as a preventative measure, insurance for the state to guarantee that justice would be served.<sup>18</sup> Though the treatment of prisoners varied due to social status and type of crime committed, prisons were never the final stop in the judicial process, they were merely an interlude.

Status and social standing granted the prisoners from privileged classes higher levels of leniency and special concessions not available to the general populace. Special consideration was applied to sentencing, and “if any of the leading citizens of any *civitas* commit brigandage or any other crimes such that they appear to have deserved the death penalty, [provincial magistrates] are to keep them in fetters and write to [the emperor].”<sup>19</sup> Delays between sentencing and

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<sup>14</sup> Jill Harries, *Law & Empire in Late Antiquity* (Cambridge, United Kingdom: Cambridge University Press, 1999), 120.

<sup>15</sup> *Ibid.*, 121.

<sup>16</sup> *Ibid.*

<sup>17</sup> Peter Garnsey, *Social Status and Legal Privilege in the Roman Empire* (Oxford: Clarendon Press, 1970), 150.

<sup>18</sup> R. Grand, “La Prison et La Notion d'Emprisonnement dans L'Ancien Droit,” *Revue Historique de Droit Franc, Ais et Etranger* 19-20/1-2 (1940). “C'est un emprisonnement préventif...C'est un mesure de sûreté.”

<sup>19</sup> *The Digest of Justinian*, 2, trans. Alan Watson (Philadelphia: University of Pennsylvania Press, 1985), 48.19.27.2.

condemnation, though common in the prison system, were due to respect, as local governors waited for a higher ruling before passing judgment. Despite their condemnation and their faith, the martyrs of Lyon received the same measure of respect, obtaining the same benefits as other criminals from the Roman elite. After the martyrs confessed, changing their status from “accused” to “condemned,” “they were locked up in prison to await the arrival of the governor.”<sup>20</sup> Because of the nature of Roman law,<sup>21</sup> the privileged classes were held in prison until a higher official could be consulted. For the upper classes, prison really did function just as a detainment center.

One of the few things that prisons were not used for, in a legal sense, was punishment. However, a multitude of laws outlined the necessity of a quick trial and short jail time.<sup>22</sup> Imprisonment was seen as an inconvenience to all parties involved, and a constant flow, rather than maintaining the status quo, was the way prisons were supposed to work. There existed no sense of the prison as a final destination for the guilty, “no one [was] to be condemned to permanent imprisonment.”<sup>23</sup> Manifesting a distaste for imprisonment in general, Roman law prohibited jail time and simultaneously ascribed the uses of the institution while limiting its reach. Expediency was the best policy as far as prisons were concerned and the laws themselves upheld the preventative and practical facets of prison.

While the Roman state clearly laid out how prisons were supposed to work, the theory and practice did not always align. Perhaps one of the most famous and telling passages from the

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<sup>20</sup> *The Letter of the Churches of Lyons and Vienne*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo.(Oxford: Clarendon Press, 1972), 1.

<sup>21</sup> Roman law did not allow for individual cases or leniency. Even after sentencing, if new facts arose “A provincial governor...does not have the power to reinstate a person whom he has condemned.” Dig.48.18.1.27. Because of the unrelenting nature of the law, governors and judges might have been additionally hesitant to condemn those of high society.

<sup>22</sup> *Theo Code*, 9.1.6, 9.1.18, 9.3.1, 9.36.1.

<sup>23</sup> *Dig.*, 48.19.35.



*Digests of Justinian* is Ulpian's entry about the use of prisons. According to Ulpian,

[g]overnors are in the habit of condemning men to be kept in prison or that they might be kept in chains, but they ought not do this; for punishment of this type are forbidden. Prison ought to be employed for confining men, not punishing them.<sup>24</sup>

Not only does this law insist that prisons were only to be used to bind men, but it also acknowledges that prisons were used to hold prisoners so long that imprisonment had become punishment. By outlining the true intention of prisons and chiding those who violate the original aim of imprisonment, Ulpian reasserted both the primary role of prisons and what they had become. There was some recognition, even at the legal level, of governors' abuse and misuse of the prison system. Ulpian's entry indicates that to some degree the Roman state knew that prisons were expanding beyond their original *raison d'être*.

More than just expanding their use, prisons had become a form of punishment because of the unhealthy conditions in which the prisoners were forced to reside. Libanius wrote at length about how the “prison is packed with bodies. No one comes out...though many go in.”<sup>25</sup> This influx of prisoners led to the overcrowding of prisons, which in turn led to dismal conditions, and “brought stresses both physical and psychological upon the prisoner...”<sup>26</sup> These strains on the individual led to death: “people [were] dying...and dying as a result of their afflictions, of close confinement in particular and dying by the thousands.”<sup>27</sup> Cramped quarters were a major problem, arising, however from overcrowding rather than intention. The overcrowding was what led to the dismal conditions and

[w]ith so many shut up in such close quarters, the poor wretches were reduced to the physical appearance of brutes, and since their food and everything pertaining

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<sup>24</sup>*Dig.*, 48.19.8.9.

<sup>25</sup>Libanius, *Orations 45: On the Prisoners*, in *Libanius: Selected Works Vol. II*, trans. A.F. Norman (Cambridge, MA: Harvard UP, 1977), 45.8.

<sup>26</sup>Rapske, *Paul in Roman Custody*, 198.

<sup>27</sup>*Lib., Or.* 45.11.

to their other needs was all foully commingled, a stench so terrible assailed anyone who drew near that it could scarcely be endured.<sup>28</sup>

While Roman laws seemed to have some conception of how prisons should work versus how they were being utilized, the law-making elite seem to not have understood the full extent of the suffering.

Death and suffering undermined the laws that prisons were meant to uphold, and ultimately justice was not being served. Both the accused and the condemned were dying while in jail, which violated the law in both cases. Whether those imprisoned were to be sentenced to death or not, they faced the same likelihood of death within the prison. According to Libanius, if prisoners died

without trial, then they are the victims of injustice in having failed to secure a hearing, and if they die after their guilt has been proved, they are again victimized by being robbed of a speedy death. “Yes! Why do you leave me to rot?” they would protest. “The law gives no warrant for this. Why make me die a lingering death...? Such is not the punishment enjoined by statute.”<sup>29</sup>

Prisoners died before sentencing and before execution, and both of these violations breeched the laws governing the judicial process as a whole. Without anyone enforcing the laws, sentencing, and trying of prisoners, “laws [were] mere scraps of paper.”<sup>30</sup> While the suffering that prison inflicted upon its detainees was unintentional as far as the state was concerned, the death that accompanied overcrowded prison conditions ultimately undermined the legal process as the accused and the condemned alike died slowly.

While, in theory, making prisoners supply their own food was practical and devoid of animosity, the nutritional well-being of those incarcerated and quickly became another means of suffering. When providing their own food was not within their means, “the ugly and aged [went]

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<sup>28</sup>Siculus, *Library of History Vol XI*, 31.9.2

<sup>29</sup> Lib., *Or.* 45.14.

<sup>30</sup> *Ibid.*, 45.32.

begging, while those who [had] any looks at all endure[d] every kind of outrage.”<sup>31</sup> Responsible for their own care but unable to make money while imprisoned, those incarcerated had to often rely on scant prison rations. Later, however, bishops responsible for good works in the government “had to visit the public prisons Wednesday and Friday each week, examine the prisoners, reexamine the causes for detention and denounce the faults committed by the responsible authorities...”<sup>32</sup> Throughout most of the Roman Empire, prisoners were responsible for feeding themselves, receiving only meager support from the state. Though this was practical in the eyes of the state, starvation quickly became yet another form of unintentional suffering at the hands of the empire.

While the poor suffered, the rich were not necessarily aggravated by imprisonment. For those from the upper classes who “could rely on the assistance of friends or family, they were not ordinarily restricted in the quality of their existence [while in prison].”<sup>33</sup> While the poor suffered in cramped conditions, there is some mention of the upper echelons securing beds while imprisoned.<sup>34</sup> This discrepancy between the lower and upper class, though seen in many facets of society, is prominent in the prison system, where the poor could not “even lie down to rest.”<sup>35</sup> Perpetua and her fellow martyrs were from the upper classes and were considered “the most distinguished of the condemned prisoners...”<sup>36</sup> Housed separately, the Christian martyrs were to die together, and held themselves above the other criminals that Felicitas was almost forced to die with.<sup>37</sup> Even though prison conditions were deplorable, the Roman aristocracy was not

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<sup>31</sup> *Ibid.*, 45.9.

<sup>32</sup> Gartier, “Nouvelles Inscriptions de Geres,” 303 : “ils doivent aussi visiter les prisons publiques le mercredi et le vendredi de chaque semaine, examiner les prisonniers, rechercher les causes de la détention les fautes commises par les autorités responsables...”

<sup>33</sup> Rapske, *Paul in Roman Custody*, 209.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Lib., Or.* 45.8.

<sup>36</sup> *The Martyrdom of Perpetua and Felicitas*, 16.

<sup>37</sup> *Ibid.*, 15.

suffering so much as inconvenienced. For them, perhaps, prisons functioned as they should – as detention centers that did not lead to death and suffering.

With the persecution of Christians, however, the prison slowly became less a form of social control, but rather a form of religious salvation. The perception of prison changed for the Christians—it gained ritualistic significance. Prison became a road to salvation rather than confinement or an experience. Christianity took an image and a structure that was largely regarded as a secular institution and changed it into an ideal. These highly different paradigms display a “remarkably different way in which people choose to understand”<sup>38</sup> the pre-established building. Christians applied new meaning to incarceration and “such different understandings presuppose very different processes of interpreting...which is not the same for every individual. It is a dynamic of interpretation.”<sup>39</sup> This new outlook on prisons arose from both martyrdom and persecution, but it also extended the meaning of the prison into the spiritual while applying an importance to the suffering martyrs underwent.

In a broad sense, this new awareness of prison as a mode of salvation was a coping mechanism, a way of granting meaning and purpose to the Christian martyrs through their persecution. Tertullian, an early Christian philosopher and theologian, detailed this new Christian mind-set.<sup>40</sup> In his *Apology*, Tertullian defended Christianity and protested martyrs' persecution while explaining the new ideology of suffering. The impetus behind becoming a martyr arose from the idea that Christians “in no way suffer harm; in the first place, because nothing is of importance to us in the world, except to leave it as quickly as possible; secondly,

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<sup>38</sup> Jas Elsner, *Art and the Roman Viewer : The Transformation of Art from the Pagan World to Christianity* (Cambridge, United Kingdom: Cambridge University Press, 1995), 2.

<sup>39</sup> *Ibid.*

<sup>40</sup> Tertullian, also known as Quintus Septimus Florens Tertullianus was born in mid 2<sup>nd</sup> century in Carthage, who later converted to Christianity. Tertullian was influenced by Christian martyrs' perseverance and the importance of suffering. For more information see: Tertullian, “Introduction,” in *Apologetical Works and Minucius Felix Octavius*. Vol. 10, *The Fathers of the Church : A New Translation*, trans. Rudolph Arbesmann, Sister Emily Joseph Daly and Edwin A. Quain (Washington, DC: The Catholic University of America Press, 1950).

because, if any misfortune is inflicted on us, it is attributed to your sins.”<sup>41</sup> Because of their strong belief in the afterlife and the necessity of achieving salvation, Christians almost welcomed martyrdom. During the martyrdom of Pionius, the proconsul asked him “[w]hy do you rush towards death?”<sup>42</sup> Pionius responded: “I am not rushing towards death...but towards life.”<sup>43</sup> The hope for salvation and the belief that martyrdom was a path to heaven transformed the prison and suffering into a means to obtain an end.

That is not to say that Christians threw themselves at the courts and into prison. However, their belief in salvation allowed them to remain stalwart against the various tortures and multiple persecutions directed against them. Tertullian again explains the mindset behind the acceptance of suffering:

'Why then,' you say, 'do you complain because we persecute you, if you desire to suffer, since you ought to love those through whom you suffer what you desire?' Certainly we are willing to suffer, but in the way that a soldier endures war. No one actually has a liking for suffering, since that inevitably involves anxiety and danger.<sup>44</sup>

While Christians did not desire death, they did embrace what was given to them; prisons became a reprieve from the world and a step closer to ascension.

Christians were forced to reside in conditions similar to those of the dredges of society because they confessed and were thus considered “condemned.” Christians were usually from the lower classes, and thus they did not have the added protection of social rank, and were often treated like common criminals.<sup>45</sup> When martyrs lacked the means to bribe guards, they had no

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<sup>41</sup>Tertullian, *Apology*, in *Apologetical Works and Minucius Felix Octavius*. Vol. 10, *The Fathers of the Church : A New Translation*, trans. Rudolph Arbesmann, Sister Emily Joseph Daly and Edwin A. Quain (Washington, DC: The Catholic University of America Press, 1950), 106.41.5.

<sup>42</sup>*The Martyrdom of Pionius*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 20.6.

<sup>43</sup> *Ibid.*

<sup>44</sup>Tertullian, *Apology*, 123.50.1.

<sup>45</sup>Robinson, *Penal Practice*, 191.

method to better their position within the prison. In Perpetua's case, she and the other martyrs “bribed the soldiers to allow us to go to a better part of the prison to refresh ourselves for a few hours.”<sup>46</sup> While Perpetua had the means to bribe the guards, this seems to have been the exception rather than the rule. Most of the martyrs remained in the inner prison due to both their confession and their rank in society.

Additionally, fear may have been another reason for placing Christians in the inner prison. Early in the empire, with the initial wave of Christianity, the majority of pagan Romans did not understand the new religion. Edward Peters suggests that “Christians may have been routinely placed at first in the inner part of the prison because of their jailers' fear that they might escape by means of magic.”<sup>47</sup> Due to ignorance and fear, jailers kept Christians in the inner prison, which was reflected in their descriptions of prison conditions.

Suffering and death, which arose from prison conditions, became a spiritual journey that ended with redemption. Salvation came through suffering, thus the “cruelty” inflicted upon the martyrs by the Romans was “our [Christians'] glory.”<sup>48</sup> Pain and suffering became the road to salvation and the martyrs began to celebrate “the glory of being in bonds! The chains that were the object of all our prayers!”<sup>49</sup> Increased suffering was welcomed in many cases, as even more assurance of ascension. In the martyrdom of Montanus and Lucius, they described their stay in prison as a spiritual revelation; the prison itself began to resemble heaven. The martyrs were arrested and ordered

to be put into prison. The soldiers took us there, and we were not terrified by the

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<sup>46</sup> *The Martyrdom of Perpetua and Felicitas*, 3.26.

<sup>47</sup> Peters, “Prison Before the Prison,” 21.

<sup>48</sup> Tertullian, *To Scapula*, in *Apologetical Works and Minucius Felix Octavius*. Vol. 10, *The Fathers of the Church: A New Translation*, trans. Rudolph Arbesmann, Sister Emily Joseph Daly and Edwin A. Quain (Washington, DC: The Catholic University of America Press, 1950), 5.

<sup>49</sup> *The Martyrdom of Montanus and Lucius*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 219.

foul darkness of the place. In fact, the dismal prison soon began to shine with the light of the Spirit, and the ardour of our faith clothed us with the brilliance of day to protect us against the ugly shadows and the pitch-black veil of night. And thus we climbed this high tower of torments as though we were climbing up to heaven.<sup>50</sup>

Prisons represented a journey that became a trial, a test of faith that once overcome, ensured the entry of the martyrs into heaven. Once dead, the martyrs “attained perfection.”<sup>51</sup> Prisons were a spiritual journey and due to the suffering they endured, Christians believed they were guaranteed everlasting life.

Even the darkness associated with prisons gained a metaphorical significance. In most cases, the “dark prison [was] identified in Christian literature as one of the devices of the Devil to erode the life and faith of the Christian.”<sup>52</sup> Thus the dark of the prison became yet another obstacle that the Christian has to overcome. Tertullian urged martyrs to overcome the darkness that they were thrust into and “consider yourselves as having been transferred from prison to what we may call a place of safety. Darkness is there, but you are light; fetters are there, but you are free before God.”<sup>53</sup> Like the chains and the unsanitary conditions, the martyrs also braved the dark as yet another trial to be embraced. In response to a pagan taunter, Marian and James reply that “the soldiers of Christ even in a dungeon enjoy the most brilliant light, and in their fasting have the satisfying food of God's word.”<sup>54</sup> Despite their deplorable conditions, they rejoice in their new home. Dark had been equated with evil for centuries, and in this sense a triumph over the dark was also considered to be a triumph over the devil.

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<sup>50</sup> *Ibid.*, 217.

<sup>51</sup> *The Letter of Phileas*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 323.

<sup>52</sup> Rapske, *Paul in Roman Custody*, 201.

<sup>53</sup> Tertullian, *To the Martyrs*, in *Disciplinary, Moral and Ascetical Works*. Vol. 40, *The Fathers of the Church : A New Translation*, trans. Rudolph Arbesmann, Sister Emily Joseph Daly and Edwin A. Quain (New York: Fathers of the Church, Inc., 1950), 2.4.

<sup>54</sup> *The Martyrdom of Marian and James*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 205.

Martyrs had been promised an everlasting life, but it was not something freely given – they had to fight to obtain ascension. Through their suffering, martyrs fought for their salvation though they seemed beaten and weak. Prison became a spiritual revelation, and the result was that “the prison now offer[ed] to the Christian what the desert once gave to the Prophets.”<sup>55</sup> For the martyrs their incarceration was

a battle...because we [Christians] are called to trial in courts so that we may fight there for the truth while our life hangs in the balance. And the victory is to hold fast to that for which we have fought. This victory has attached to it the glory of pleasing God and the reward is eternal life.<sup>56</sup>

Simply put, when martyrs died, they won – that was their “happy ending.” And the prison itself is a place of battle because “the prison is the Devil's house...But [martyrs] have come to the prison for the very purpose of trampling upon him right in his own house.”<sup>57</sup> Imprisonment was an active struggle for salvation, not just passive endurance.

One of the first martyrologies to most clearly demonstrate the ideals of ascension through prison and prison as a place of salvation was *The Martyrdom of Perpetua and Felicitas*.

Perpetua not only battles the devil in her dreams, but she also considered the prison as a welcoming abode. Perpetua embraced the “‘prison as a home,’ as notable blessings, [a] place of refuge and grace.”<sup>58</sup> Rather than being a place of suffering, to her “prison had suddenly become a palace, so that I wanted to be there rather than anywhere else.”<sup>59</sup> In her acceptance of prison as a realm of salvation and comfort, Perpetua would have agreed with Tertullian's teachings about prison, martyrdom, and the world. Overall, the physical, present realm in which the martyr lived

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<sup>55</sup> Tertullian, *To the Martyrs*, 2.8.

<sup>56</sup> Tertullian, *Apology*, 123.50.2.

<sup>57</sup> Tertullian, *To the Martyrs*, 1.4.

<sup>58</sup> Thomas J. Heffernan and James E. Shelton, “Paradise in carcere: The Vocabulary of Imprisonment and the Theology of Martyrdom in the *Passio Sanctarum Perpetuae et Felicitatis*,” *Journal of Early Christian Studies* 14:2 (2006), 221.

<sup>59</sup> *The Martyrdom of Perpetua and Felicitas*, 3.



was more of a prison than the institution of the prison. Upon entering the prison “we shall realize that you have left a prison rather than entered one.”<sup>60</sup> Through prison, Perpetua gained a chance for salvation, whereas in the world, she had nothing but her mortal life.

While the physical world became less important, prisons became more hospitable for the opportunity for salvation that they represented to the Christian martyrs. Rather than perceiving the prison as a realm of pain and stagnation until death, prisons had become a haven for the Christian martyrs. In the words of Heffernan and Shelton, Perpetua's imprisonment was “an abode of rest and of refreshment on her pilgrimage towards martyrdom.”<sup>61</sup> The changing Christian mindset and beliefs had transformed the prison into “a paradise-like refuge.”<sup>62</sup> Even more than that, “the transformative experience of her conversion and impending self-sacrifice changed many of her [Perpetua's] past frames of reference...her prison becomes a welcoming place.”<sup>63</sup> Prison was transformed into a welcoming institution because of the salvation it represented.

Martyrdom created a sense of peace with death and a cohesive subculture within the larger Christian belief system. Martyrs felt as though they were joining a larger family, one more exclusive than just the Christian afterlife. When Phileas was about to be condemned to death, he claimed that “the apostles and the martyrs were his kin.”<sup>64</sup> To be openly Christian in the Roman Empire meant accepting a degree of danger, and through their persecution, Christians became a tighter group. This kinship, which was valued above blood ties, was based on suffering, and thus they were

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<sup>60</sup> Tertullian, *To the Martyrs*, 2.1.

<sup>61</sup> Heffernan and Shelton, “Pardius in carcere,” 221.

<sup>62</sup> *Ibid.*, 222.

<sup>63</sup> *Ibid.*.

<sup>64</sup> *The Martyrdom of Phileas*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 5.

neither dismayed nor greatly disturbed at the persecutions which we suffer from ignorant men, since we joined this way of life with the understanding that we pledged ourselves to enter into the present conflicts at the risk even of our lives, wishing to obtain those things which God promises in return.<sup>65</sup>

Through their persecution and their preservation, Christians became a close-knit community.

Within this community, however, the martyrs formed a sort of upper echelon; they were the most holy and most ready to confront the Roman state and embrace both the prison and their own death.

Accepting their deaths as a form of redemption, the Christian martyrs used an existing structure to construct a new spiritual paradigm. When faced with death, the martyr Justin stated that he had “confidence in my perseverance...if I endure. Indeed, I know that for those who lead a just life there awaits the divine gift even to the consummation.”<sup>66</sup> Death was a gift, because it brought the martyrs to the next life, and “the life that we long for is better...”<sup>67</sup> Christians' main concern was for the next life, so they were able to transform prisons into an ideal that they could utilize, that served them and their religion.

Christians changed not only the perception of prisons, but they also brought about large and numerous legal and judicial changes during Late Antiquity. The Christianization of the Roman Empire brought about even more laws, and many existing laws actually became harsher while “the crimes multiplied that earned dramatic retribution.”<sup>68</sup> Religion began to play a more important role in the largely unemotional Roman laws.<sup>69</sup> Under Justinian, prisons further evolved to conform to the Christian interpretation. The role of prisons changed again as

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<sup>65</sup> Tertullian, *To Scapula*, 1.1.

<sup>66</sup> *The Acts of Justin and Companions*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 5.

<sup>67</sup> *The Martyrdom of Pionius*, in *The Acts of the Christian Martyrs*, ed. Herbert Musurillo (Oxford: Clarendon Press, 1972), 143.

<sup>68</sup> Ramsay MacMullen, “Judicial Savagery in the Roman Empire,” in *Changes in the Roman Empire: Essays in the Ordinary* (Princeton: Princeton UP, 1990), 212.

<sup>69</sup> Alan Watson, *The Law of the Ancient Romans* (Dallas: Southern Methodist University Press, 1970).

Justinian “introduced into Roman law the unprecedented concept of corrective imprisonment as a penalty.”<sup>70</sup> Under the Christian moral code, prison had to attempt salvation for all – their goal became similar to that of the church. What had begun as an administrative tool in Late Antiquity became a mode of salvation. When the persecution ended, however, the alternative use of prison was maintained, and from this Christian perception of prison came the idea of reform and penance as a concurrent goal of imprisonment in Late Antiquity.

Prisons served contrasting functions for various social groups because they were perceived and understood differently by each group. The upper classes, the law-makers, saw prison primarily as a judicial apparatus to hold the accused until trial and the condemned until death or exile. This perception of prison is largely clinical because the Roman elite would not, under normal circumstances, be subjected to prison. Even if they were imprisoned, the aristocracy was not subjected to the same conditions as the lower classes or common criminals. However, “normal” people in the Roman Empire did not see prisons as favorably. To those in the inner prison, there was only suffering and waiting. The Christians experienced the same conditions. In their case, however, prison was not despised; rather they embraced prison as a road to salvation. Prisons became both a fight for redemption and a locale for contemplation and endurance.

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<sup>70</sup> Julia Hillner, “Monastic Imprisonment in Justinian's Novels,” *Journal of Early Christian Studies* 15:2 (2007) 205.