

Introduction

The Ancient Prison in Historiography

The Italian architect Carlo Bonucci was appointed director of excavations at Pompeii in 1824, and for a quarter century he oversaw the first glimpses of a city buried under volcanic ash seventeen centuries prior. Three years into his appointment, Bonucci (1827) published a description of ongoing efforts, including a riveting, if impressionistic, account of excavations of the ancient city's civic forum, "the most noble and magnificent district of Pompeii" (149). Pompeii's forum—its social, commercial, religious, and governmental center—boasted all the amenities Bonucci knew to be typical of Roman cities. Excavators had uncovered meeting spaces for social clubs, an imposing temple to Jupiter within which archaeologists identified the city's treasury and, in the shadow of the temple on the western edge of the forum, with a small, dark entry to an underground space, "we caught a glimpse of the prison which began to be unearthed, and whose exceedingly narrow doors were equipped with iron bars. There were discovered chambers without light, well secured and vaulted. In them lay the bones of skeletons, those struck by the inundation which accompanied the eruption of 79" (151). Fifty years later, the German archaeologist Johannes Overbeck (1875) reiterated Bonucci's interpretation, finding just off the forum "the building in which one recognizes the prison, which according to [the ancient architect] Vitruvius is due a place on the forum. The discovery of some vaulted rooms without windows and some skeletons in them has greatly strengthened this assumption" (68). Following what was prescribed in an ancient architectural handbook, nineteenth-century excavators knew the civic prison to be a necessary and regular feature of any Roman city; following the evidence they saw on the ground, they identified one such facility in the corner of Pompeii's forum.

Another 1875 publication, however, offered an alternative identification of the space as a civic treasury, and by the turn of the twentieth century the identification of the site as a prison had fallen out of vogue (Fiorelli 1875, 251). In 1899, the German archaeologist August Mau suggested that the space was in fact a treasury servicing (unconnected) municipal offices above (91), and by 1918, Albert W. Van Buren, librarian at the American Academy in Rome, offered an overview of excavations and the state of scholarly interpretation, saying only that the space is “usually explained as municipal treasury offices with treasure vaults beneath.” (73–74). Nineteenth-century archaeologists thought they had found Pompeii’s civic prison; by the early twentieth century, it had disappeared again.

What happened? What change precipitated the disappearance of the civic prison of Pompeii from the archaeological record, and in its stead the arrival of two civic treasuries located some fifteen meters apart? A full accounting of the historical currents on which shifting identifications drift is beyond the scope of this book, and the answer is surely not monocausal. We point to one trend as influential: increasing availability of works of classical jurisprudence, newly edited and analyzed by architects of the budding discipline that we now call classics. No scholar has been more responsible for vanishing prisons from the imagined classical world than Theodor Mommsen, editor of late ancient works of Roman law and author, in 1899, of *Römisches Strafrecht* (Roman criminal law), to this day the most influential study on the topic and one progenitor of the now ubiquitous claim that Romans did not use prisons for punishment, but solely in a custodial function as a holding facility on the way to punishment in the form of death, exile, or labor outside the city. If municipal prisons were intended exclusively for temporary pretrial or presentencing custody, and incarceration was a marginal aspect of the judicial process as a whole, then the presence of a prison at the heart of cities like Pompeii was harder to explain, and easier to explain away.

Mommsen built his conviction about the absence of punitive incarceration in the Roman world on two cornerstones—one piece of ancient evidence, and one ideal as to the nature of true “punishment.” His evidentiary support is an opinion from a jurist named Ulpian, to whom we return below. As we discuss in chapter 1, Roman jurists are legal scholars, commentators, and imperial advisors. Early in the third century CE, Ulpian wrote a work titled *On the Duty of the Proconsul*—a handbook of sorts, delineating how Ulpian believed provincial administrators ought to behave. In it, he claimed that “Governors are in the habit of condemning people to be kept in prison or that they might be kept in chains, but they ought not do this, for punishments of this type are forbidden; the prison should be used to confine men, and not for their punishment” (*D* 48.19.8.9, L120 [early-third century CE]). Governors do use prison for punishment, Ulpian claims, but they ought not to, as he felt such uses were a form of judicial abuse.

Mommsen (1899) finally turns squarely to the question of punishments in the fifth and final book of *Römisches Strafrecht*, opening the analysis with his guiding

ideal. “Punishment [*Strafe*] is the evil [*Übel*] inflicted upon a person in retaliation [*in Vergeltung*] for a crime committed by him, according to a statutory or customary legal norm, through a governmental sentence [*staatliches Urtheil*]. Without a governmental sentence in respect to a specific person there is no punishment . . . A sentence imposed not according to a statutory norm, but rather because of capriciousness of the magistrate, is not a punishment in the legal sense” (897). According to Mommsen, penal incarceration did not exist in Rome because *true* penal sentences must be prescribed according to legal ideals and implemented by judges as precise recompense for defined crimes. If Ulpian is right that prison penalties were unlawful, then definitionally any use of the prison for punishment was an arbitrary sanction imposed by a judge, and arbitrary sanctions are definitionally not “punishment.” Andrea Lovato (1994) goes further, claiming that penal incarceration as defined by Mommsen did not occur “in any system and at any historical moment” before the early modern period (88). Alberto De Simoni (2022) sums up the argument: “If we accept Mommsen’s framework, we reach two interesting conclusions. On the one hand, imprisonment as a penalty did not exist at any point in Roman criminal law since it does not meet the requirement to be qualified as such. On the other, historical instances of imprisonment become deviations from the rule and therefore lose their relevance because they carry the label of something that should not exist” (36). Mommsen’s argument involves a version of the no true Scotsman fallacy—no true Roman would employ the prison as a penalty, and aberrations simply prove the rule.

Lovato (1994) was among the first to point out a fundamental flaw in Mommsen’s coercive/punitive dichotomy, showing that already in the Roman republic judges imposed even coercive imprisonment with a genuinely punitive function, however infrequently (so he argues) (80–83, 87–88). For all its nuance and rigor, his book *Il carcere nel diritto penale romano: dai Severi a Giustiniano* (The prison in Roman criminal law: from the Severans to Justinian) has been occasionally misunderstood as claiming either that penal incarceration was technically illegal and materially rare, or that it was technically lawful but remained uncommon. Other legal historians take a more definitive approach, like Yann Rivière, author of two important books on the topic: *Le cachot et les fers: détention et coercition à Rome* (2004a) (The dungeon and the irons: detention and coercion at Rome) and *Histoire du droit pénal romain: de Romulus à Justinien* (2021) (History of Roman criminal law: from Romulus to Justinian). Rivière’s (2021) updated analysis restates Mommsen’s conclusion: “in Roman penal law, incarceration never had the function of penal confinement, defined for a limited-term or in perpetuity, and it was solely through the negligence of judges or procedural delays that detainees awaiting trial could be held within the walls of a cell” (409). Instances of punitive prison sentences were aberrations stemming from governmental officials’ coercive power (*coercitio*) and not from their legal mandate (*iurisdictio*), even when that coercive power included legitimate punitive aims. Rivière’s claim would perhaps be defensible if by “incarceration” he means

strictly penal sentences in civic prisons. As we discuss below, however, the Romans he invokes considered convict labor part of the punitive carceral system.

We return to this specific argument about penal incarceration and legal ideology in chapter 1. For now it will suffice to say that among historians, the ancient prison's marginality is nearly dogmatic—a question asked and answered, and an interpretive tool of broad application. For instance, the ancient Roman historian Livy recorded that in the second century BCE, the politician Lucius Scipio's enemies intended to “lock [him] up in a prison among nighttime thieves and bandits, to have him expire in the dark lower prison.” J. C. Yardley's 2018 translation for the Loeb Classical Library includes a note of objection: “This is a gross exaggeration. Lucius's imprisonment would be temporary, lasting only until the fine was paid or guarantors found” (200n262). In this instance, we argue, a received orthodoxy has framed the evidence in a way that obscures it.

As Alexander Nogrady put it succinctly in 2011, in the Roman world “there was no such thing as a prison sentence to be served in prison; prisons were used solely to hold suspects in custody until they were sentenced and, if necessary, until the death penalty that had been imposed was carried out” (389). In the same volume, Romina Schiavone (2011) claimed, “imprisonment as a punishment did not yet exist in the Roman Empire” (236). Examples of such canonical statements could be multiplied here, but will not be. A historiographic dogma had taken shape in Mommsen's wake: the notion that “Romans did not use prisons for punishment” has become a handy slogan for historians, widely repeated by specialists and assumed as a bedrock principle by generalists and historians of later periods.

As we hinted earlier, the field of classical archaeology often responds to scholarship on the history and literature of antiquity, and the case of the prison has been no exception. In his overview of “Political Spaces in Late Antiquity,” Luke Lavan (2007) writes, “Of prisons we know little. We have no securely identified architectural evidence” (121). In something of a narrative two-step, historians have in turn looked to archaeology—itsself reflecting previous historical analysis—and found their conclusions more or less confirmed. Julia Hillner (2015) uses very similar language to Lavan, asserting, “archaeologically, we know very little about late Roman prison, or Roman prisons more generally, and this may be due to the often improvised nature of legal imprisonment in a variety of public spaces. For example, there is some evidence from late antique Egypt that unused temples were used as prison” (125; she is referring here to P. Oxy. 17.2154; D18 [fourth century CE], on which more below). Likewise, Kristina Sessa (2018), in her book *Daily Life in Late Antiquity*, offers this reflection: “Most of the time, prisons were used to detain people accused of crimes before the court appearance, or, in the case of debtors, to hold them until they rendered payment. The Romans thus did not construct prisons as distinct spaces, as we do today. Instead, they relied on preexisting buildings, typically private homes, to incarcerate men and women” (144). Sessa is of course correct that private spaces and temporary facilities were sometimes employed as

ad hoc prisons, but the notion that the Romans did not purpose-build carceral facilities is simply incorrect, as chapter 2 demonstrates in detail.

Even so, the hermeneutic circle is not entirely closed; over the years a number of archaeologists working on ancient Hellenistic and Roman sites have identified a wide variety of carceral facilities—importantly at Rome, Cosa (Italy), Messene (Greece), Djemila (Algeria), Tiberias (Israel), and Sarmizegetusa (Romania), as we detail below. Unfortunately, sites like these have been seen as peculiar rather than regular, and interpreted as jails rather than prisons. In other words, archaeologically attested carceral spaces have been categorized as exceptions to the norm rather than challenges to it. With this book, we join a scholarly movement aspiring to change that.

In other instances historical dogma has overshadowed even careful studies that might have upset the scholarly consensus, like Jens-Uwe Krause's (1996) magisterial social history of prison ideals and practices in *Gefängnisse im römischen Reich* (Incarceration in the Roman Empire). Krause's analysis is rich and thorough, and it is one of the few studies that might have changed the conversation among historians of the Roman Empire, analyzing as it does a broad swath of documentary evidence for incarceration alongside literary materials. His study nevertheless begins—on its very first page—with a reiteration of Mommsen's creed. "In its modern form the prison owes its existence to the late eighteenth century; in medieval and early modern Europe, imprisonment was the exception. The prison housed defendants pending judgment and convicts pending execution of the sentence. Corporal punishment was dominant. In principle, in antiquity the prison was also used for pretrial detention and execution detention" (1). Despite his survey of an impressive range of evidence unknown in the late nineteenth century, Krause ultimately did not veer far from Mommsen's position.

Outside the realms of classics, ancient history, and archaeology, the notion that ancient Mediterranean prisons were marginal relies largely on two other academic celebrities. Émile Durkheim published the first part of "Deux lois de l'évolution pénale" ("Two laws of penal evolution") in 1899—the same year as Mommsen's *Roman Criminal Law*—and came to a similar conclusion that Mommsen came to about antiquity. Quoting Wilhelm Rein's (1844) *Das Criminalrecht der Römer von Romulus bis auf Justinianus* (Roman criminal justice from Romulus until Justinian), Durkheim begins from the premise that across Mediterranean antiquity, "Prison . . . was originally no more than a place for preventive detention. Later it became a means of punishment. However, it was rarely used, except for slaves, soldiers and actors" (79). The idea of a marginalized premodern prison held disciplinary sway for decades, but it was in 1975 when the notion of the Roman state without penal, limited term, or reformatory incarceration jumped from the academic disciplines of history and anthropology to the pages of a mass market trade paperback, written by one of the most important and influential public intellectuals of the twentieth century: Michel Foucault.

Surveiller et punir: naissance de la prison (1975) was a watershed in the historical study of the prison, receiving quick translation and appearing by 1977 in English under the title *Discipline and Punish: The Birth of the Prison*. Foucault analyzed the coconstituted modern carceral state and carceral subject-of-state. Writing in the wave of a decades-long scholarly tradition that saw the prison in antiquity as used solely for pretrial detention and postconviction segregation until proper punishment could be meted out (typically on the body of the convicted), he saw in antiquity a radical alternative to modern society. So, while throughout the twentieth century Mommsen and others had argued that prison was not (or *should not be*) used as a form of punishment in the ancient world, in 1975 Foucault took the next step of claiming that the modern prison system was born in the early modern period, though its roots could be traced back to medieval monastic confinement.

Foucault has dictated the terms of engagement for scholars of incarceration, not only for historians of the modern period but also historians of the more distant past. Julia Hillner's 2015 book, *Prison, Punishment and Penance in Late Antiquity*, makes a case, as the title suggests, for how concepts of penance and punishment intermingle with ideas and practices of confinement across Late Antiquity. Her book investigates the "long-term genesis of the sixth century Roman legal penalty of forced monastic confinement," showing how a complex web of competing, pre-existing legal and punitive discourses help to contextualize the landmark reforms of Justinian in 529 and 529 CE, in which "the penalty of confinement in a monastery was introduced to public law" (ii, 1–4, 12, 314–16; cf. Hillner 2007, 205–37). By "long-term genesis," Hillner refers to ideas stretching back centuries to classical Athens in Plato's dream of Magnesia, with its three prisons, including the "Reformatory" (33–38). She argues that Plato's idea of punishment as reform was then refracted in Roman imperial discourse through ideas of education, as well as late antique Christian principles of punishment, to finally find expression in late Roman legal theory of forced monastic confinement (45–88). Shifting punitive uses of confinement and exile in the later Roman Empire prepared the ground for late ancient monastic confinement, Hillner argues, before which Roman emperors "were anxious to reduce the function of the public prison" and so "limit the number of prisons" (120–21; see also 139–40).

Readers of Foucault's landmark study will recognize immediately that Hillner's argument operates within a Foucauldian frame, even if she disagrees with his chronology. While Foucault "saw [the modern prison penalty's] origin in the ordering of time, space and activities in the medieval monastery," Hillner objects that Foucault had "overlooked the late antique phenomenon of monastic confinement," and demonstrates that the legal theory and practice of monastic confinement undermines Foucault's view of "monasteries as homogeneous communities of spiritual volunteers" (348–49). For Hillner, the modern prison penalty should not be traced back to the medieval monastery but to late antique monastic confinement: "sixth century monastic confinement demonstrates that not only an

idea but also the practice of educative punishment—punishment that aimed not only at the body but also the ‘soul,’ through segregation, surveillance and discipline of behaviour—existed in Western society over a thousand years prior to the introduction of the modern prison penalty” (348). Punishing the soul; surveillance; discipline; segregation; punishment—these are all Foucauldian terms.

Our argument is not that Mommsen single-handedly caused prisons to disappear, or that Foucault believed the prison was invented out of whole cloth. Rather, it is that Mommsen’s argument about the marginal role of Roman prisons was so influential that for the better part of the twentieth century, prisons fell off most historical and archaeological maps. The impact of Foucault’s work was similarly determinative for scholars of carceral studies, such that the field has been defined as an almost entirely modern field of study, in practice even if not in theory. We object not to their intentions but to their impacts.

It is difficult to overstate the impact of Foucault’s analysis, and the reification that his book imposed on its underlying historical claims. When Didier Fassin (2017) opened his *Prison Worlds: An Ethnography of the Carceral Tradition* with the assertion “Prison is a recent invention,” he was able to do so because of an orthodoxy in the field of critical prison studies traceable, ineluctably, to Foucault (14). Foucault was not the first to construct a premodernity with marginal prisons, but his account remains the most broadly influential, and it set a course in which the overwhelming majority of histories assume that before the early modern period, there is no true prison to be found (Moran and Morin 2015). Summarizing her own account of the prison’s history for the *Oxford Research Encyclopedia of Criminology and Criminal Justice*, sociologist and prison historian Ashley T. Rubin offered a concise definition of the prison and an absolute timeline for its emergence.

Prisons are government-sanctioned facilities designed for the long-term confinement of adults as punishment for serious offenses. This definition of prisons . . . emerged relatively late in human history. For most of Western history, incarceration played a minor role in punishment and was often reserved for elites or political offenders; however, it was rarely considered a punishment in its own right for most offenders. The notion of the prison as a place of punishment emerged gradually, according to most accounts, over the 17th through 19th centuries. (2018, 1)

We aim to show that such accounts are historically incorrect, but we maintain that their authors are not historiographically culpable; for more than a century, scholars have handed down as fact a set of arguments well established as the historical state-of-the-art. Reading widely in carceral history, one gets a sense that more than his arguments, Foucault’s subtitle, *The Birth of the Prison*, has framed what it means to study the carceral history in the subsequent half-century.

Thus, the influential *Oxford History of the Prison* begins its analysis with “The prisons of the ancient world have disappeared” (Peters 1995, 3). In a strict sense, the sentiment gets at something true: modern scholarship has obstructed our attention to ancient incarceration. But rumors of the prison’s absence say more

about how the history of incarceration has been understood than about the sources on offer; in this standard reference book of the field, eighteen of the four hundred pages are devoted to prisons before the medieval period, and even they analyze only selected literary sources from Greece, Rome, Byzantium, and the Bible. Rather than indicating the breadth of available data, this selection represents an historiographical tradition that sees the prison as a novel and peculiar legacy of the West. The volume, however, was released in 1995, on the eve of a new wave of research into the prison's ancient roots.

Our impulse to search for the ancient prison beyond legal sources is not new; we are indebted to a large number of scholars who have thought critically, carefully, and expansively about the place of the prison in the ancient Mediterranean for some thirty years already, beginning with Krause's (1996) groundbreaking volume mentioned above, along with two colloquia held in Strasbourg in 1997 and 2000 that produced volumes of great learning on portions of the ancient carceral regime from classical Greece to the European Middle Ages (Bertrand-Dagenbach et al. 1999, 2005). The early 2000s saw a burst of interest in ancient incarceration lead by Spanish scholars like Sofía Torallas Tovar (2003) and Inmaculada Pérez Martín (2003b), whose edited volume *Castigo y reclusión en el mundo antiguo* (Punishment and confinement in the ancient world) brought together fourteen scholars to work on the topics of punishment and carcerality, and in the same year Pilar Pavón Torrejón's exquisite *La cárcel y el encarcelamiento en el mundo romano* (The prison and incarceration in the Roman world) introduced a rich array of archaeological data to a conversation that had largely occurred, theretofore, in the realms of literary and documentary materials. A second wave of scholarship has brought further texture and grand new insights to the field, beginning with two excellent studies from 2015: Julia Hillner's *Prison, Punishment, and Penance in Late Antiquity* and José Luis Zamora Manzano's *La administración penitenciaria en el derecho romano* (Penitentiary administration in Roman law). More recently still, J. Nicholas Reid has contributed important analysis of the ancient Mesopotamian evidence, while Marcus Folch and Jacob Abolafia have analyzed the classical Athenian evidence anew (Reid 2022; Folch 2021a,b,c; Abolafia 2021, 2024).

We build on each of these studies below, which together demonstrate that reports of the prison's birth have been greatly exaggerated. In fact, it is not clear that "the prison" is the kind of institution that could have a birthday to mark, or an origin to uncover. As such, the aim of this book is not to find the seeds of the prison or their earliest stages of germination, but rather to show that across the Mediterranean basin beginning with the earliest documentary sources available on papyrus, prisons and practices of incarceration already existed within a sophisticated system of social control and economic exploitation throughout the timespan of our study. We are left to wonder if a search for the "birth of the prison" may prove a fool's errand; perhaps the problem with debate over the prison's origin is not that it is too difficult to locate but that points of origin are legion.

It is important not to mince words: we do not mean simply that carceral facilities did exist across the ancient Mediterranean basin, and that they were used occasionally to detain people on a temporary basis. Rather, we argue that prisons existed as an integrated penal institution, and that the institution boasted a great majority of the facets that historians have, until recently, seen as novel to modernity. Historians are not liable for repeating a long-established orthodoxy about the birth of the prison, and we do not intend to censure colleagues from whom we have learned a great deal. However, in the case of an institution so central and insidious, camouflaged and rife as the prison, it is urgent to get the history right, and the data that ancient historians have assembled, translated, modeled, and synthesized over the past thirty years offer a remarkably different picture than the one that carceral historians have inherited.

As we argue at length below, in various contexts across Mediterranean antiquity, prisons—both civic prisons and other sites of formal imprisonment—were sometimes intended as spaces of punishment for deviance, and they were often experienced that way. We find explicit evidence for instances of limited-term sentences of incarceration, even at times with the further intention of reforming the offending person. We see evidence of remarkable disparities in carceral victimization, with indigenous and indigent people bearing the brunt of a carceral society that relied on bodily inputs to serve economic needs of the state. We find evidence of long-term solitary confinement, punitive food rations, a bureaucratic system for placing and keeping people in penal detention, and we witness a comprehensive legal theory of punishment promulgated by emperors who state in no uncertain terms that “the prison is for punishment. The prison is for guilty people” (*CTh* 11.7.3, L35 [320 CE]). And we find archaeological evidence for purpose-built carceral facilities over a vast stretch of space and time, along with evidence for their widespread use. We find, in other words, The Prison. Put differently, we cannot find any reasonable way, based on our data, to avoid the conclusion that “the notion of the prison” as defined by Rubin (2018) existed already in antiquity (1).

Our analysis begins with the earliest significant corpus of documentary sources for incarceration: papyri from Egypt of the early Ptolemaic period. Prior to these papyri, the overwhelming majority of relevant Mediterranean evidence is literary—often political treatises and dramatic materials of the fifth and fourth centuries BCE, such as those written by Demosthenes, Lysias, Plato, Thucydides, and Xenophon. Similarly to the Roman evidence, these classical Greek sources have most often been read to indicate the use of state prisons solely for pretrial detention, even though the speeches of many Athenian legal advocates note incarceration as one of the formal punishments available as sentences for those convicted of crimes—this much was demonstrated by Danielle Allen (1997) in a now classic article that similarly sought to overturn a nineteenth-century dogma according to which penal incarceration was not a legal punishment for citizens of Athens in the classical period, nor was it used.

Recent work by Marcus Folch and Jacob Abolafia explores the use of incarceration as a tool for political leverage in Greek literary materials of the classical period. As Abolafia (2024) indicates, there are only two classical Athenian authors who “wrote in any sustained way about incarceration, and the paucity of such evidence has fed the scholarly confusion over the prevalence and importance of incarceration in Athens” (28). The archive, in other words, only gives access to a thin sliver of carceral ideologies or practices. Folch (2021a) likewise contends that, while the Athenian prison was likely used as part of a broader legal system, the authors of our extant literary sources did not consider such functions to be particularly noteworthy, nor did they think or write in legal categories that are the legacy of late Roman jurisprudence (344–46). “Custodial, coercive, and punitive imprisonment was uninteresting to fifth- and fourth-century historians and orators. For Athenians and non-Athenian authors living in classical Athens, the prison became important when it ceased to be procedural and was enlisted within democratic and antidemocratic conflict” (513). Abolafia’s work confirms Folch’s (2021a,b) insights, and shows that when historical analysis is restricted largely to literary materials from elite authors, the prison appears only in glimpses constructed by political thinkers extrapolating (sometimes) from common practices to idealized and rhetorical systems. For the most part, such sources are all that we have from classical Athens, and they are necessarily far removed from the voices of traders and wage laborers captured in the papyri because their aim was never to enlighten the prison’s nonpolitical functions. Nevertheless, we argue that these earlier literary sources point in a similar direction as later documentary materials, and we agree with Allen, Folch, and Abolafia that a portrait of an elite prison in classical Greek literature is an artifact of the archive more than a reflection of common practices. Different kinds of sources do not just give us different information; they give us different kinds of knowledge. The literary sources from classical Athens were simply not interested in most of the prison’s use, function, or history; nor are they particularly useful for answering such questions.

Today, there is an urgent need to rethink what prisons are for, if indeed they should be for anything at all. Part of that reimagination must involve grappling with the long and ugly tail of the prison’s history, and to do so we will need to engage an archive of sources that speak to the prison in all its guises, not just its legal intention or political function. This is a central aim of our book.

INCARCERATION IN HISTORY

The earliest sources for the use of punitive, coercive, and custodial incarceration happen also to be among the earliest written sources extant anywhere in the world—ancient Mesopotamian materials like a small clay tablet from the twenty-second century BCE that records the names of three laborers from the city of Ur (Tell el-Muqayyar, Iraq) who were incarcerated on a particular day, and thus

should not be paid a wage. “Kitušlu the son of Gemegišbare; Luzah the son of Imta; EnDU the son of Lugalēn. Total: 3 workers. They did not go out, they are dwelling in prison” (British Museum 88538 [twenty-second century BCE]; trans. Reid 2022, 41–42). A Sumerian Hymn to Nungal, composed sometime in the early second millennium BCE and surviving in over fifty copies, speaks of a “river ordeal”—a judicial process after which the innocent are released and the guilty are returned to prison as punishment. As Tikva Simone Frymer (1977) points out, “There does not seem to be any doubt that these hymns reflect an actual juridical situation: That in Sumer of the late Neo Sumerian period the temple of Nippur played an important role in the judicial system, serving as a site for the river-ordeal, and providing prison facilities for those convicted by such (and probably other) trials” (89).

Already by 300 BCE, a highly developed vocabulary was available in both Greek and Latin to describe diverse types of prison and practices of incarceration. The terms are a constellation—often overlapping and in more than a few cases interchangeable, even within a single source. In Greek, a civic prison is typically called a *desmōtērion* while *fulakē* serves as a more general term, often interchangeable with other terms like *eirgmos* and *heirktē* (Riaño Rufflanhas 2003, 77–79). Regional variation is visible, as for instance in Sicily where writers often use the Latin term *karkaron* even when writing in Greek. Some technical terms like *froura* lead double lives—occasionally used to denote a military prison specifically, but other times employed as a general term for a prison (Pavón Torrejón 2003b, 29–31). Jargon and colloquialisms are common, too: Jaime Curbera (2018) lists twenty terms in ancient Greek, and we shall see that many prisons received hyperlocal monikers. Coptic terminology largely reflects the Greek, with a few unique phrases noted by Sofía Torallas Tovar (1999) and, as we have argued elsewhere, some specialized terms in Greek (like *aichmalōtos*) and Latin (like *signa/sikne*) became generalized in Coptic. Terminology in Latin is somewhat more circumscribed, with *carcer* used to denote a wide variety of prison facilities; often terms are used to denote the status of imprisoned people rather than their place of incarceration, words like *vincula* and *custodia*, both of which are widely interchangeable with *carcer* (Pavón Torrejón 2003b, 74–79; Rodríguez Martín 2003, 182–85; Zamora Manzano 2015, 25). Peter Garnsey (1970) notes that *custodia* has a particularly wide range of applications: “It covers the various ways in which a defendant might be held in custody before the trial or the execution of sentence. It stands for the imprisonment that is an act of *coercitio* by a magistrate. It refers to methods of punishment after sentence has been passed” (147).

Adjectives could also be used to differentiate prison spaces—for instance, by specifying a civic prison as *carcer publicus* or a military prison as *carcer castrensis*. In imitation of Rome’s civic prison, the terms *tullianum* and *robus* came to indicate the lower, darker parts of a prison, while the lighter, outer parts of the prison are called *vestibula*. In time, yet more creative terminology developed—like the

use of *signa*, a noun denoting military standards that came to indicate instead a prison that stood nearby or underneath a legion's temple where they held their standards (Livy, *From the Founding of the City* 38.5 [early first century CE], Calpurnius Flaccus, *Declamations* 4, L46 [second century CE]). The Latin term *signa* appears also in Coptic (*sikne*) as a general term for a prison, and even in Arabic as *sijn*, which is still in contemporary use (Letteney and Larsen 2021, 84–85, 98–102; Crum 1926, 201n8). As today, the ubiquity of incarceration spawned a variegated and sophisticated constellation of terms, each with their own nuance: *prison*; *jail*; *lockup*; *slammer*; *clink*; *big house*; *inside*; *supermax*; *tank*; *brig*; *SHU*.

The data are quite clear on this one fact, as simple as it is unsettling and, we argue here, undeniable: carceral practices were ubiquitous in the ancient Mediterranean world and an inescapable part of society. Most city dwellers of classical and Hellenistic Greece, in the Ptolemaic kingdom of Egypt, the Roman Republic and Empire, and well into the Byzantine period in the eastern Mediterranean knew that their own town had a prison that was designed as a part of the built environment of the city and used to confine deviant people. They would have known precisely how to walk from their home to the civic prison, and in their mind's eye, they could envision its dirty, barred window, guarded door, and the poor souls suffering inside. Some would have glanced inside as they walked down the city's main street and found tired eyes set in sullied faces looking back at them through the window. Or they had heard prisoners' voices, smelled the stench of their quarters, and watched them transported through the city center on their way to trial, to a prison camp out of town, to beg for food or money, or to be executed and disposed of. In the words of Alain Chauvot (1999a), "The [ancient Roman] prison was an unthinkable presence in the heart of the city, a fixed instrument and a tool with a variety of functions, capable of evolving and adapting; in a word, an historical object among the others, neither more or less banal than the others, at the same time like a brutal emptiness, sucking in and canceling all goodness and dignity. If its study requires from the historian all the necessary learnedness, it is also a measurement of the distances and the proximities that [the historian] maintains with the structures of the ancient world" (224). Most ancient city-dwellers must have known that some mid-sized towns like Oxyrhynchus and Pompeii actually had more than one carceral facility, that larger cities contained several, with people incarcerated not only in civic prisons but also gladiator barracks, amphitheaters, *praetoria*, bakeries, and private villas, and that myriads more sat incarcerated far from urban centers in work camp prisons, toiling alongside enslaved laborers and animals on behalf of the state to bake bread, extract stone, ore, minerals, or to serve those who did.

Our argument is that across the ancient Mediterranean basin, prison systems were just that: a system woven into the fabric of nearly every aspect of public life, not just the legal sphere. By paying close attention to the architecture, documentation, and visual representation of this system, we can begin to trace its contours. Doing

so, we find proof of the prison system as a state-taxed, state-funded institution that was perceived to provide a public good. It cannot have been lost on Roman taxpayers of the second century CE that their receipt included line items for prison maintenance and prison staff salaries, recorded next to other taxes of a similar sort: those for road and waterworks maintenance, public safety, and a dozen other publicly funded and explicitly enumerated services, including housing for soldiers and care for the poor (SB 24.16185, D68 [151 CE]). Prisons were weight-bearing beams of societal infrastructure—it would be hard to account for production of metals and food, or maintenance of roads and water supplies, without practices of incarceration. Some historians have found it difficult to imagine a prison *system* in the ancient world. We argue that the available data suggest essentially the opposite: it is impossible to imagine the ancient Mediterranean without one.

This system impacted larger societal institutions, of course, but it also inflected the lives of individuals, families, and communities in profound ways. Residents in Ptolemaic Philadelphia (Kom el-Kharaba el-Kebir, Egypt) may have heard a plea from Phaneisis, recently incarcerated far from home, and left to beg for food to keep him alive until his family has time to arrive (P. Cair. Zen. 3.59519, D134 [263–226 BCE]). In the Idumean City of Maresha (Beit Guvrin, Israel), locals may have heard the pleas of Zebatus, who was held for three years in a place he calls “the Punishments” and was close to death as a result of his incarceration (CIIP 4.3.3689, D170 [probably second century BCE]). Maybe Theodorus’s neighbors heard about his happy ending: after he served a twenty-two month sentence for sexual deviance, the west Anatolian man walked out of prison alive. Many of them would at least have seen the stele recording his story (SEG 38.1237, D167 [235–36 CE]). And perhaps residents saw a new law in Thamugadi (Timgad, Algeria) promulgated around 360 CE and posted at the city center, indicating that locals incarcerated in the public prison should be fed at public expense (CIL 8.17897, D171 [361–63 CE]).

Individuals were surrounded by the system in more mundane ways. Whether they knew it or not, every time a Roman walked over a floor in a public building covered in the coveted Numidian yellow marble, they walked on the fruits of carceral labor: on stone extracted by prisoners in the city of Simitthus (Chemtou, Tunisia; A13). Roman citizens receiving free bread from politicians had the capacity to see that their food was often produced by convicts sent to labor in public bakeries. Spectators at public games in Carales (Cagliari, Italy) could easily learn that their city’s amphitheater was equipped with two prisons: one for gladiators and another for their human victims (Gladiator Prison, A33; Prison for the Condemned, A24). It may not have escaped the notice of a native Latin speaker that such places were called *carceres*: the same name given to cages that held animals at the edges of the amphitheater. All were being held in preparation for public execution.

We argue over the course of this book that the ancient economy, the food system, public entertainment, travel networks, architecture, the sensory experience

of walking through a city—all of it—was supported by the bodies of the imprisoned, caught in a system built to punish them for deviance and, at times, to exploit their bodies as a public good in recompense for bad behavior. Of course this is a metaphor, but it is not only a metaphor. As we will see, the courthouses where law was practiced were often structurally supported by the pillars and vaults of the prison underneath. There is a haunting sense in which the prison upheld ancient Mediterranean society.

The Mediterranean world was no stranger to practices of incarceration that were at once violent and banal, and inequitable in ways familiar in our contemporary moment. Today gleaming courthouses send men, women, and children to dilapidated warehouses for deviant humans, with certain groups disproportionately targeted for incarceration. The ancient system's noble garb similarly veiled a nasty underbelly. Legislators and lawyers calmly debated the uses of incarceration, sparing a rare word on the violence inherent in practices they prescribed. As is often the case, men who made laws concerning ideal prison functions rarely faced the consequences of their legislation. This simple fact places a profound demand on historians, reminding us that the intention of incarceration often has little to do with its effects, and that to mistake prescriptive laws with descriptive practices is to live in the fantasyland of an elite who have always been the prison's proprietors, and rarely its victims. It is hardly novel to suggest that elites were unlikely to suffer the worst excesses of their punitive apparatus. Nevertheless, ancient legislators were often more forthright than their modern counterparts about the discriminatory practices inherent within systems that they built and perpetuated; many created a legal system that explicitly targeted socially and economically vulnerable groups for more regular and strenuous carceral penalties than their socially elite counterparts (Garnsey 1970, 153–80).

The view from the lawcourt above must be counterbalanced, and perhaps upended, by the view from inside the prison below. In the Roman context, legal reformers debated whether the prison ought to be used as a form of punishment, as we detail below (p. 21–33). Their occasional disagreement over aims is almost wholly distinct, on the one hand, from practices on the ground in provincial prisons hundreds and sometimes thousands of kilometers away, and, on the other hand, from experiences of incarceration as punishment expressed in documents produced by and for the prison's victims. For the incarcerated individuals attested in our data, who toiled in prison camps or wasted away in civic facilities for months and years on the verge of death, the intentions of theorists and legislators had long since faded from view as material to understanding their plight. We are lucky to have such prisoners' letters, graffiti, court testimony, and bail receipts, and our approach is to listen when they tell us what prisons were like and what incarceration was, asking after their experience at least as much as we ask after the intentions of their captors. Such data about experience of incarceration has too often been regarded as somehow less real than the opinions and ideals of

legislators as a historical source of penal incarceration; from our point of view, their experience is *at least as real*, and maybe more so.

Furthermore, historical study of the experiences of ancient prisoners have often been unnecessarily anecdotal, viewed through the lens of a few figureheads who came to have canonical status among subsequent interpreters: Socrates, Paul the Apostle, or Boethius, just to name a few (Allen 1997; Schellenberg 2021; Relihan 2007). Even if we could gather a list of names comprising *all* prisoners from a certain period known to historical sources, such a list would not represent more than a small fraction of the total prison population. The vast sea of incarcerated individuals will inevitably remain nameless, lost to the historian. The task is not futile, however, and to the degree we can recover the voices of prisoners from the past, we feel obliged to do so. We ought to allow prisoners to be privileged informants—admitting their experience of incarceration into the historical record as a valid form of inquiry and reversing, in some small way, the indelible taint of criminality that disqualifies carceral subjects as “knowers” of the system that binds them (Jones 2023, xxxii). Prisoner experiences are part of history, even as they are subjugated knowledges: “historical contents that have been buried or masked in functional coherences or formal systematizations . . . a whole series of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges: naive knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity” (Foucault 2003, 7). As Michelle Daniel Jones (2023) writes in *Who Would Believe a Prisoner?:* “We are here to counter the dominant narratives, to expand the canon of knowers and knowledge, and to rewrite history justly” (xxxix). As historical facts, prisoner experiences ought to be part of any rigorous history of the prison.

Prison practices can be submitted to historical analysis; and, while legal and political historians often prefer to view carceral practices as secondary and subsequent to intellectual trends, the assertion is never obviously true; in at least some instances it is demonstrably false. For instance, Guy Geltner (2008) has shown at length that medieval lawmakers “mostly abhorred” penal incarceration, and yet it was commonly imposed by judges with the result that “in the case of punitive imprisonment in the Middle Ages, legislation lagged behind practice, and both departed from contemporary, mainstream penal thought” (44). Jacob Abolafia (2024) has recently asserted that “In the case of the prison, the idea precedes the institution” (1). Geltner’s study shows that, in the case of medieval Italy, precisely the opposite was true. We hope to make a similar case, at least as regards the relationship between Roman law and Roman carceral practice. If theory does not always predate or motivate practice, then to grasp one is not to understand the other. And, importantly, understanding practices and experiences of incarceration is to understand something significant, and perhaps controlling, about the history of the prison. They offer a glimpse at a true genealogy of the prison, in Foucault’s (2003) words, “this coupling together of scholarly erudition and local memories,

which allows us to constitute a historical knowledge of struggles and to make use of that knowledge in contemporary tactics” (8).

Privileging prisoner experiences alongside juristic ideals, we find that the history of the prison is not a handbook that offers more just models or answers to pressing moral questions of today. The task, however, might present a mirror: one that we can hold up to contemporary society and offer a glimpse of ourselves from the foreign vantage point of the past, in which we are able to see which aspects of our carceral society are novel and which are bound up in longer histories. We stand better able to perceive that aspects of our justice system that seemed unique to us at first blush are not unique at all, and that policies that seem obvious and even natural are in fact choices encoding historically peculiar ideologies of punishment.

When deployed as a mirror, prison history better positions us—both historians and those involved in public policy—to work at shaping a kind of society that perhaps has not yet existed: a world without the violence of prison. The notion may sound grandiose or even impossible, but we mean it seriously. *Homo sapiens* forges new futures all the time. Why not now?