

Guilty or not guilty? You be the juryⁱ

Introduction

Socrates (469 – 399 BCE) was a classical Greek philosopher credited as one of the founders of Western philosophy. It is believed Socrates did not record his own work; instead he is chiefly known through the accounts of classical writers Plato and Xenophon and the plays of Aristophanes. Socrates' trial and execution in 399 BCE remains controversial and divides historians. On the one hand, they ask why, in a society enjoying high levels of freedom and democracy did the jury sentence to death the 70-year-old philosopher? On the other hand, the charge of impiety – or having a lack of reverence for the Gods – is seen as unacceptable in a democracy deeply reverential of their Gods, and the charges and penalty were for the good of the democracy of the time. Ultimately, the jury of 500 (some accounts say 501) Athenians voted in a majority to put Socrates to death by poison. Read the following account of the trial, and **you** decide. **You** be the jury! But before you proceed, let's first consider some major differences between the ancient Athenian jury system and that of modern day.

Then: Juries consisted of between 500-1501 men, aged 30 and over

Now: Juries in criminal trials (in Queensland) consist of 12 men and women, aged 18 and over

Then: Juries sat on wooden benches in the city centre (or Agora) separated from spectators by a barrier

Now: Juries are empanelled and sit in a court, and deliberate in a private jury room

Then: All jurors were required to swear by the Gods Zeus, Apollo, and Demeter the following oath:

I will cast my vote in consonance with the laws and decrees passed by the Assembly and by the council, but, if there is no law, in consonance with my sense of what is most just, without favour or enmity. I will vote only on the matters raised in the charge, and I will listen impartially to the accusers and defenders alike

Now: Jurors either swear an oath or make an affirmation (a pledge) to fulfil their duty as a juror and it is up to the juror whether they choose to swear on a Bible or another religious book

Then: Prosecutions could be initiated by any citizen

Now: Prosecutions are brought by the Crown on behalf of the community

Then: A majority jury ruling was required (out of the possible hundreds on the jury)

Now: A jury must be unanimous, or at least a majority of 11

Then: There was no judge, so the jury determined guilt and the sentence, in separate votes

Now: The jury determines the guilt of the accused but the judge determines the sentence

Now read on and examine the charges and witness testimony before reviewing the case as a modern-day jury. Students may choose to role-play the parts of the narrator and witnesses – there was no judge in the proceedings. Once you have read and heard the evidence, deliberate as the jury, guided by the questions at the end of the transcript. And come up with your own judgement of Socrates: guilty or not guilty as charged?

The Trial of Socrates

Setting:

The People's Court in the Agora, Athens civic centre

Narrator:

The charge is Impiety, or failure to show reverence toward the Gods of Athens. In Athens, at the time of the trial of Socrates, judicial proceedings could be initiated by any citizen. In Socrates' case, proceedings began when a poet named Meletus delivered a summons to Socrates on this charge. Once the King determined that the lawsuit was permissible under Athenian law, a date was set for the preliminary hearing or *anakrisis*. The indictment and affidavit read:

Socrates is guilty of refusing to recognise the Gods recognised by the state, and of introducing new divinities. He is also guilty of corrupting the youth. The penalty demanded is death.

In Athens, religion was a matter of public participation under law. Socrates's irreverence, Meletus claimed, had resulted in the corruption of the city's young men. Approximately one month after Meletus' summons was issued, the trial of Socrates was held. By this time, two others had joined the lawsuit against Socrates: Anytus, a politician, and Lycon, an orator, so he faced three accusers at his trial.

The trial began in the morning, with the reading of the formal charges. The three accusers, Meletus, Anytus and Lycon, had three hours to make their argument for a guilty finding.

Witness for the prosecution—Meletus:

Socrates has led Greece's youth against the state. During the periods of unrest when Athenian democracy was temporarily overthrown it was former pupils of Socrates—Critias and Alcibiades—who led the revolts. The teachings of Socrates—especially his expressions of disdain for the established Constitution—were responsible for the resulting death and suffering. Since then, he has also encouraged youth in another antidemocratic uprising (though it was unsuccessful) in 401. We have had enough of "Socratified" youth!

Witness for the prosecution—Anytus:

Socrates does not believe in the Gods of the Athenians – indeed he has on many occasions said that the Gods of the poets and the city are **quarrelsome and vindictive!**

Socrates also acknowledges a rather strange personal phenomenon, a *daimonion* or internal voice. By implication he believes he is guided by something he regards as divine or semi-divine. This is extremely suspect to us Athenians.

Witness for the prosecution—Lycon:

What seems strange about Socrates is that he neither labours to earn a living, nor participates voluntarily in affairs of state. Instead, he seems to embrace poverty and although youths of the city keep company with him and imitate him, Socrates insists he is *not a teacher*. Moreover, he refuses to take money for his work and has done so all his life. Rather, he purports to help others recognize what is real, true, and good —this is a new approach to education which is rather suspect! What's more, he is known for confusing those he talks to into the unpleasant experience of realizing their own ignorance!

His associations are completely inappropriate. Socrates is usually to be found in the marketplace and other public areas, conversing with *all manner* of people—young and old, male and female, slave and free, rich and poor—that is, with virtually anyone he can persuade to join with him in his question-and-answer mode of probing serious matters! He rarely aligns himself politically with oligarchs or democrats, as he should. He cannot be trusted!

Narrator:

Following the prosecution's case, Socrates had three hours to answer the charges. Although many versions of the defence (called apology) were recorded, only two have survived, one by Plato and another by Xenophon. Both are called as defence witnesses.

Witness for the defence— Plato:

The depictions of comic playwright Aristophanes have had an extremely damaging impact on my teacher and mentor, Socrates. Aristophanes' comedy *Clouds* which the whole of Athens has seen, presents Socrates as an eccentric head of a 'Thoughtery' – a place for thinking. Socrates is portrayed "stalking the streets" of Athens and found "gazing up" at the clouds. While Socrates originally felt honoured to be part of this play having said—"When they break a jest upon me in the theatre, I feel as if I were at a big party of good friends"—the negative impacts of these depictions are felt here today in this court. In *Clouds*, the actor wearing the mask of Socrates makes fun of the traditional Gods of Athens and gives naturalistic explanations of phenomena Athenians view as divine.

In addition, Aristophanes has labelled a gang of pro-Sparta aristocratic youths as "Socratified" showing Socrates to be subversive, since Sparta is the enemy of Athens. All of Athens has seen Aristophanes depictions of Socrates, and you jurors will have grown up believing the falsehoods spread about him in the play. I have known Socrates for most of my 25 years. Socrates is often to be found in the political district of Collytus within the city walls, talking to me and other young people of the city. He is an inspiration!

Witness for the defence—Xenophon

Socrates is simply misunderstood. His love of irony has resulted in people misunderstanding him; they just don't 'get' him. Furthermore, Socrates pursues his mantra that "the unexamined life is not worth living for a human being" by single-mindedly questioning people about what matters most – questions of love, courage, reverence, moderation, and the state of their souls. And it has to be said that the Athenian youth does imitate Socrates's

questioning style, much to the annoyance of some of their elders. This is true of two of the accusers in today's trial – Anytus and Lycon – whose sons have both reportedly questioned their fathers in Socratic style.

In his own defence—Socrates

Men of Athens, I honour and love you; but I shall obey the Gods rather than you, and while I have life and strength I shall never cease from the practice and teaching of philosophy. I have battled for decades to save the souls of Athenians—pointing them in the direction of an examined, ethical life.

Aristophanes has depicted me badly and untruly. I am defamed! He is more dangerous than the three men who brought charges against me today – he has poisoned men's minds against me. In *Clouds*, and then later in his other plays *Birds* and *Frogs*, Aristophanes has complained of my deleterious effect on the youth of the city. My teaching is about the nature of virtue and I deny the charge that I corrupted the young and insist that if this is so, I should be instructed, not punished.

If the law allowed that a trial for life should not last one but many days, you would be convinced, but now it is not easy to dispel great slanders in a short time.

Narrator:

When the three-hour defence of Socrates comes to an end, the court herald asks the jurors to come to a verdict by putting their ballot disks into one of two marked urns: one for guilty votes and one for acquittal. Four jurors then are tasked with counting the votes. Only a majority is necessary for conviction. With no judge to offer instructions as to how to interpret the charges or the law, each juror bases his decision in large part on his own interpretations of the law. When the ballots are counted, 280 jurors had voted to find Socrates guilty, 220 jurors for acquittal.

Following conviction, the trial enters its second phase: punishment. The prosecution and the defendant must each propose a punishment and the jury must choose between the two options. The range of possible punishments include death, imprisonment, loss of civil rights – the right to vote, serve on a jury or speak at the Assembly – exile, or a fine. The prosecution of the three accusers propose death.

Socrates:

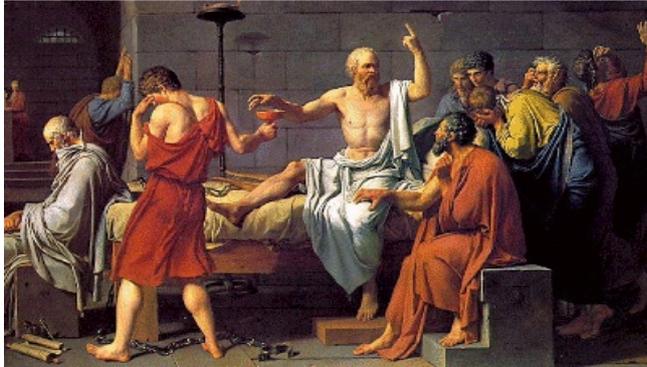
I propose that I receive free meals in the Prytaneum – the public dining hall in the centre of Athens. If not that, then I will pay a fine of one mina of silver—which is one-fifth of my net worth, augmented by additional amounts from my friend Plato and other supporters.

Narrator:

Socrates is seen to have mocked the court by his first punishment proposal and his fine is also seen as too light. The defendant is seen to be unrepentant. In the final vote, a larger majority of jurors favours a punishment of death, with 360 jurors voting for death, 140 for the fine. Under Athenian law, execution is carried out by drinking a cup of poisoned hemlock.

Socrates, on hearing his penalty:

My conviction resulted from my unwillingness to address you as you would have liked me to do. I predict history will come to see my conviction as shameful for Athens, though I have no ill will for the jurors who convicted me. The hour of departure has arrived, and we go our ways—I to die, and you to live. Which to the better fate is known only to the Gods.



'The Death of Socrates' by
Jacques-Louis David (1787)

Narrator:

You, the jury should now consider the testimony presented and come to **your own** verdict. In making your decision, consider the context of the time which is illustrated in the juror oath which is sworn before the Gods. Consider the following questions:

1. **Did the jury find it simple to arrive at a verdict? Why or why not?**
2. **Was the verdict unanimous or a majority? How would it differ today?**
3. **Would it have been easier to have some judicial instructions?**
4. **How difficult do you think it would have been to discuss the evidence with 499 other jurors or at least a reasonable sample?**
5. **Laws change over time, how might time and social context impact on the way juries work today?**

ⁱ End note: Much of what is known about Socrates' trial comes from the writings of Plato and Xenophon. Reporting trials did not occur then as it does today, so there is no definitive account of the event, no record of the prosecution's argument, of witnesses called on Socrates' behalf, names of witnesses, and so on. The story of Socrates has become known as *'the Socratic problem'* due to the limited records available. This mock-trial is drawn from academic texts and literature and adapted for the purposes of a role-play student task in jury decision-making. It is not intended as an accurate portrayal of the Trial of Socrates but stays as close to popular interpretations as possible.

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