

## PUNISHMENT AND THE PHYSIOLOGY OF THE *TIMAEUS*

### I. PLATO'S MEDICAL ANALOGIES

It hardly needs to be said that the parallel between mental and physical health plays an important part in Plato's moral philosophy. One of the central claims of the *Republic* is that justice is to the soul what health is to the body (443b–444e).<sup>1</sup> Similar points are made in other dialogues.<sup>2</sup> This analogy between health and sickness on the one hand and virtue and vice on the other is closely connected to the so-called Socratic paradoxes. Throughout his life Plato seems to have clung in some sense to the ideas that justice is our greatest good, that the unjust man is correspondingly miserable and that no one is therefore willingly unjust. It follows from these ideas that the unjust man, like the sick man, is in a wretched state which is not of his own choosing.

This train of thought has an obvious bearing on the problem of punishment. If injustice is to be seen as a form of illness it might seem that we ought to adopt the same attitude towards the unjust man that we do to one who is sick. We do not normally hold sick people responsible for their illnesses and do not blame or punish them. Instead we seek to cure them by the exercise of medical science. It might seem, therefore, that, if injustice is indeed a form of illness, we should simply abandon punishment and the conventional ideas of responsibility which go with it and should endeavour instead to 'cure' criminals by the use of medical or quasi-medical means. But, far from proposing the abolition of punishment, Plato evidently supports the institution—so much so that in the *Laws* he proposes an elaborate penal code in which punishments of a more or less conventional kind are laid down for a wide variety of crimes. He is able to do this because he believes that undergoing punishment makes an unjust man better.<sup>3</sup> In arguing this point he regularly uses the language of illness and cure.<sup>4</sup> He thus commits himself to the view that punishment, understood in the conventional sense as the infliction of something that is intended

<sup>1</sup> For discussions of the analogy between health and virtue in the *Republic*, see A. J. Kenny, 'Mental health in Plato's *Republic*', *Proceedings of the British Academy* 55 (1969), 229–53, reprinted in *The Anatomy of the Soul* (Oxford, 1973), 1–27; R. F. Stalley, 'Mental health and individual responsibility in Plato's *Republic*', *J. Value Inquiry*, 15 (1981), 109–24. The following works will be referred to by the author's last name only: F. M. Cornford, *Plato's Cosmology* (London, 1937); M. M. Mackenzie, *Plato on Punishment* (Berkeley, 1981); A. W. Price, *Mental Conflict* (London, 1995); T. J. Saunders, *Plato's Penal Code* (Oxford, 1991); A. E. Taylor, *A Commentary on Plato's Timaeus* (Oxford, 1928); T. J. Tracy, *Physiological Theory and the Doctrine of the Mean in Plato and Aristotle* (The Hague, 1969).

<sup>2</sup> See, e.g., *Crito* 47d–e; *Charmides* 156e–157e; *Gorgias* 477b–480e, 504b–505b; *Phaedrus* 270b–c; *Timaeus* 87b–89d; and the passages from the *Laws* cited in note 4 below.

<sup>3</sup> This doctrine is mentioned briefly at *Republic* 445a. The best known account is in the *Gorgias* where Socrates argues that punishment benefits the unjust by curing them of their wickedness, and that the judge stands to the unjust person in the same relation that the doctor stands to the one who is sick. The unjust man who avoids punishment is therefore like the sick man who avoids treatment (476a–481a).

<sup>4</sup> The most important passages are 854c–855a, 862e–863c, 934c. See also 735e, 843d, 941d, 957e. There have been two book-length treatments of Plato on punishment in recent years. Saunders argues that Plato has a quasi-medical view of punishment; Mackenzie lays more emphasis on the idea of education. R. F. Stalley, *An Introduction to Plato's Laws* (Oxford, 1983), 137–50, sees the *Laws* as implying that punishment serves a variety of purposes.

to be unpleasant or painful, has the effect of curing injustice. Criminal acts are to be seen as signs of sickness in the minds of their perpetrators. Some of these may turn out to be so far gone in their injustice as to be incurable. For these the only response must be a sentence of death or exile. But those whose injustice is curable should receive some other form of penalty designed to restore them to mental health.

In order to make good his position on these matters, Plato would have to demonstrate (i) that criminals do in general suffer from a condition of mind which might be regarded as an illness, and (ii) that blame and punishment are appropriate means of remedying such 'mental illnesses'. In the *Gorgias* and the *Republic* he does a little to meet the first of these requirements: he claims that physical ill-health is a condition of disorder or disharmony among the elements of the body and he argues that injustice is a corresponding condition among the elements of the soul. But he does virtually nothing to satisfy the second requirement: there is very little to indicate why anyone should suppose that punishment can cure sickness of the soul.<sup>5</sup> Thus, in these dialogues, the doctrine that punishment cures injustice seems to rest on little more than an imprecise analogy between mind and body. However, T. J. Saunders has argued that the picture changes in Plato's later works. In particular the *Timaeus* includes an elaborate account of human physiology which is strongly influenced by Greek medical theory<sup>6</sup> and which was certainly treated by later generations as an important medical text.<sup>7</sup> The most important feature of this account, from our point of view, is that it treats body and soul not merely as parallel to one another, but as interdependent in the sense that what happens to the one affects the other.<sup>8</sup> The three parts of the soul familiar from the *Republic* are located in specific parts of the body—reason in the head, spirit in the chest, appetite in the stomach—and the operations and interconnections of these parts are described in physiological terms. Pain and pleasure, for example, are explained in terms of the disruption and restoration of the body's natural state (64a–65b). There is even a physiological account of mental illness (86b–87b). These doctrines are obviously relevant to our problems about punishment, since they imply that injustice is literally a form of sickness. But, more importantly from our point of view, Saunders sees them as opening the way for a physiological explanation of the way in which punishments understood as the infliction of pain can help to cure vice. It follows that if we combine the account of punishment in the *Laws* with the physiology of the *Timaeus* we can see that Plato has a 'genuinely medical penology', one which really does treat vice as a form of disease which is to be cured by essentially the same methods as are used in the case of physical disease (168–9).

Questions about punishment are, of course, closely linked to what we would regard as questions about responsibility.<sup>9</sup> Some of those who in modern times have

<sup>5</sup> The nearest Plato comes in these dialogues to explaining how punishment works is in the *Gorgias* 504a–b, which implies that punishment restrains the desires.

<sup>6</sup> See Tracy, 77–156. Taylor argues that the *Timaeus* represents not Plato's own views so much as those of a fifth century Pythagorean who was also a medical man. Cornford insists that the views of the *Timaeus* are Plato's own but also notes the influence of medical writers of the Italian school (see especially 332ff.).

<sup>7</sup> This is evidenced by the fact that there is an extended summary of 69e–87a in the so-called Menon papyrus and by Galen's commentary on the dialogue.

<sup>8</sup> See Saunders, 171; Tracy, 133.

<sup>9</sup> There is no precise equivalent in Greek for the English word 'responsible'. But Greek legal practice did, of course, recognise the distinction between voluntary and involuntary offences. Plato himself stresses that each of us is responsible for the way in which he or she chooses to live. Thus, in the Myth of Er the souls who are about to return to earth are told: 'A demon will not select you but you will choose a demon.... Virtue is without a master; as he honours or

advocated the replacement of punishment by techniques to cure the criminal have recognized that their proposals would require us to change or even abandon traditional ideas on this subject. After all the question whether a patient is or is not responsible for his illness normally has little bearing on the kind of treatment he or she is given. Plato himself is aware of this point. He recognizes that his doctrine of the involuntariness of injustice leaves no room for the traditional distinction between voluntary and involuntary crimes, but he is, nevertheless, able to find room for a very similar doctrine.<sup>10</sup> His position appears to be that those crimes which would traditionally have been regarded as voluntary crimes are signs of a diseased condition of the soul which requires treatment in the form of punishment, while those acts which would traditionally have been seen as involuntary crimes are not symptomatic of mental disease and hence do not call for treatment. One might, however, object that this merely shifts the problem without solving it. If criminals are seen as suffering from an illness which results, at least in part, from purely physiological causes and if the cure of that illness requires the intervention of medical or quasi-medical expertise, does that not imply that they have little or no control over their character and way of life? If that is right then one would have to agree with Flew who argues that Plato's conception of vice as a form of illness and the associated doctrine of punishment as a cure treats criminals as 'victims rather than agents'.<sup>11</sup>

In this paper I shall offer an account which, in important respects, resembles that of Saunders. In particular I shall agree with him that, as Plato sees it, one of the main aims of punishment is to induce the criminal to change his way of life. There may therefore be a significant parallel between the judge who imposes punishment and the doctor who seeks to change his patients' regimen. I shall, however, take issue with the specifically physiological parts of Saunders' account and question whether it is helpful to speak of Plato as propounding a 'medical penology'. The key point is that Plato's conception of medicine is very different from our own and demands a much more active contribution from the patient than we have come to expect. Thus, rather than speaking of him as presenting a 'medical penology' it might be truer to say that he offers a moralised medicine. By the same token, his theory, far from threatening our status as responsible agents, has the effect of extending the sphere of human responsibility.

## II. PUNISHMENT AND PHYSIOLOGY

If Plato really believed that vice is a disease which results from a bad condition of the body one might expect him to recommend that criminals be treated by medical means, such as changes of diet, exercise or, in extreme cases, the use of surgery or drugs. But such treatments are not punishments,<sup>12</sup> nor are they what the Athenian stranger

dishonours her, each will have more or less of her. The blame belongs to him who chooses; god is blameless (*αἰτία ἐλομένων· θεὸς ἀναίτιος*)' (*Republic* 617d-e, A. Bloom [trans.], New York, 1968). See also *Timaeus* 41e-42e with Taylor, 610-14.

<sup>10</sup> In the *Laws*, 860e-862c, the Athenian stranger argues that his doctrine that injustice is involuntary does not require him to abandon the conventional distinction between voluntary and involuntary acts. One who harms another involuntarily and against his will (*μὴ βουλόμενος ἀλλ' ἄκων*) has not committed an injustice and does not merit punishment though he may need to give compensation (862a-c).

<sup>11</sup> A. G. N. Flew, *Crime or Disease?* (London, 1973), 17.

<sup>12</sup> The important point is of course that in punishing another person we seek to cause them pain or unpleasantness. Medical treatment may be painful or unpleasant but these are side-effects which the doctor tries, so far as possible to avoid. The comparison between the doctor and the judge in the *Gorgias* ignores this point (with presumably intentional irony). See Saunders, 166.

prescribes for criminals in the *Laws*. Of course, some punishments, such as beatings, have a direct effect upon the body. The comparison between these corporal punishments and physically painful medical treatments, such as surgery and cautery, may make the assimilation of punishment to medicine superficially attractive,<sup>13</sup> but this has little relevance to the penology of the *Laws* where corporal punishments are largely confined to slaves.<sup>14</sup> The penalties prescribed for citizens are mostly fines, loss of rights, and exile. Not only are these not the kind of medical treatment that one would expect from the *Timaeus*, but they do not even involve any direct action upon the criminal's body.<sup>15</sup> It is difficult to see, therefore, how they could have any direct *physiological* effect.

Although Saunders stresses the physiology of the *Timaeus*, he evidently attaches greater importance to its preference for the kind of medicine that relies on regimen (*δίαίτα*)—particularly the use of gymnastics—rather than on drugs or surgery. Indeed this point, in practice, plays the major role in his account of Plato's theory of punishment. He notes that in the *Timaeus* we find 'physical disease prevented by or cured by medical regimen (movement, health-inducing actions)', and 'psychic disease, prevented or cured by moral regimen (education, morality-inducing actions)'. He suggests that Plato's talk of crime as a psychic disease which is cured by punishment must belong to 'the same realm of discourse' and asks, therefore, 'how punishment can function as a cure which is regimen' (172). To answer this question Saunders refers to a passage at 862d, where the Athenian stranger, having claimed that injustice is disease of the soul, goes on to explain how such disease is to be treated. The basic principle is that 'whenever any man commits any unjust act, great or small, the law shall instruct him and absolutely compel him for the future, either never willingly to dare to do such a deed, or to do it ever so much less often'.<sup>16</sup> Saunders sees this as implying that the judge must use measures of two different kinds—ones which compel and ones which teach. Teaching, Saunders claims, cannot be expected to achieve an immediate effect. What is needed is something which will compel the criminal to change his way of life—to start doing good deeds rather than bad ones (172). Saunders sees this change of lifestyle as a change of regimen, like that which a doctor might seek to impose on a patient.

<sup>13</sup> See, for example, *Gorgias* 479a where Socrates argues that someone who avoids punishment is like the sick person who, 'in spite of suffering from serious illnesses contrives not to pay the penalty to the doctors for his bodily transgressions (*διαπράττειτο μὴ διδόναι δίκην τῶν περὶ τὸ σῶμα ἀμαρτημάτων*) and avoids treatment from fear, like a child who avoids cautery and surgery because they are painful'. This passage ignores the key point that those who punish set out to cause pain, while pain is normally only an unwanted side-effect of medical treatment. However it also brings out Plato's tendency to look on illness as a fault which is in some sense the responsibility of the sick person.

<sup>14</sup> Passages where corporal punishment is prescribed for slaves include 845a,b; 854d; 881c; 882a–c; 914b–c. But citizens can, it seems, be chastised physically for some (mostly trivial) offences; see 784d, 845c, 881d, 917c–d.

<sup>15</sup> Of course any kind of punishment could be seen as affecting the body indirectly. It could, for example, be argued that fines, and most other kinds of punishment, frustrate our desires and that in the *Timaeus* the desiring element in the soul is located in the stomach (70d–e). The possession of a body may thus be a necessary condition of having desires. But to say this is still not to give physiology any distinctive role in the explanation of punishment. We have not advanced beyond the idea, implicit in the *Gorgias* and the *Republic*, that punishment by restraining the desires may help to create order in the soul.

<sup>16</sup> ὁ τί τις ἀν ἀδικήσῃ μέγα ἢ μικρόν, ὁ νόμος αὐτὸν διδάξει καὶ ἀναγκάσει τὸ παράπαν εἰς αὐθις τὸ τοιοῦτον ἢ μηδέποτε ἐκόντα τολμήσαι ποιεῖν, ἢ διαφερόντως ἤττον πολὺ. Translation from R. G. Bury, *Plato* vol. XII, Loeb Classical Library (Cambridge, MA, and London, 1926).

There clearly is an important point here. As he makes clear in the *Republic*, Plato believes that we become virtuous by doing virtuous acts in much the same way that we become physically healthy by engaging in healthy activities (444b–e). A consequence of this view is that those who are unjust are likely to have acquired their immoral disposition by engaging in the wrong kind of activities and can be restored to moral health only if they can be induced to change their lifestyle. The most obvious way in which to induce a change of lifestyle is by advice and exhortation, but these measures are unlikely to have much effect on those who are seriously wicked. Fear of punishment, on the other hand, may affect the behaviour of these people. Thus one purpose of punishment may be to deter criminals from repeating their acts and so to habituate them to right action. It is not difficult to understand how a punishment which worked in this way could be seen as forcing offenders to change their moral regimen, or even as curing them of their vice. But to draw an analogy of this kind is merely to show that there is a certain parallel between medical treatment and punishment. It is not, in itself, to advocate a ‘genuinely medical penology’. To do that one would have to establish that punishment could improve the character of a criminal by some kind of physiological means.

Saunders seeks to meet this challenge by arguing that changes of regimen involve the breaking up of the established patterns of movement in the soul and their replacement by new patterns. Such changes are necessarily painful. ‘The break-up of the existing pattern can be brought about by the person himself who steels himself to put up with pain in the interest of change. But the break-up can also be induced by someone else. How? Simply by causing the pain. For the causing of pain is necessarily a disruption of the regularity and equilibrium of the existing pattern’ (174). In this way, Saunders believes, one could see punishment as helping to bring about the change of regimen. It can thus play an important part in the process by which the diseased soul is restored to a sounder condition.

In arguing this point, Saunders attributes to Plato the views (i) that ‘when a person changes his regimen in some respect, the process is in its early stages painful’ and (ii) that ‘the same is true ... when one has to change one’s outlook and personality’ (173). To establish that Plato did indeed hold these views he cites a passage from the *Laws* where the Athenian stranger uses the following argument against innovation in education:

Nothing, as we shall find, is more perilous than change in respect of everything, save only what is bad,—in respect of seasons, winds, bodily diet (*ἐν διαίταις σωμαίων*), mental disposition (*ἐν τρόποις ψυχῶν*), everything in short with the solitary exception, as I said just now, of the bad. Accordingly, if one considers the human body, and sees how it grows used to all kinds of meats and drinks and exercises, even though at first upset by them, and how presently out of these very materials it grows flesh that is akin to them, and acquiring thus a familiar acquaintance with, and fondness for, all this diet, lives a most healthy and pleasant life; and further, should a man be forced to change back to one of the highly-reputed diets (*ἡντινοῦν τῶν εὐδοκίμων διαιτῶν*), how he is upset and ill (*συνταραχθεὶς ὑπὸ νόσων*) at first, and recovers with difficulty as he gets used again to the food—it is precisely the same, we must suppose, with the intellects of men and the nature of their souls. (797d–798a)<sup>17</sup>

It is by no means clear that this passage, as it stands, commits Plato to the view that a sudden change of regimen is necessarily painful. The main point is that change, except in the case of what is bad, is dangerous. In the case of bodily regimen change is likely to cause illness (*νόσος*).<sup>18</sup> In the case of mental dispositions it causes

<sup>17</sup> Trans. Bury.

<sup>18</sup> In the *Republic* (404a; 406b) Socrates criticises the elaborate regimens advocated by contemporary medicine on the grounds that those who follow them are liable to become ill if

analogous disturbance. There are two points worth noticing here. The first is that the Athenian explicitly stipulates that his remarks do not apply to cases where the antecedent condition is itself evil. It is not clear therefore that his remarks have any bearing on cases where a criminal is compelled to change his vicious regimen for a more virtuous one. The second point is that a change of regimen is said to cause *illness* rather than pain. Of course physical illnesses are often painful but this is not normally the case with mental illnesses.<sup>19</sup> In any case it is difficult to see how Plato could argue that punishing a criminal makes him ill. The point ought rather to be that through pain the criminal is rid of a pre-existing illness. The passage therefore provides very little support for the idea that when a criminal is made to change his way of life he necessarily experiences pain.

Saunders goes on to cite the *Timaeus* as a source for the idea that 'the pain of a change of bodily or mental condition has ... a physical base' (173). The reference here is apparently to the account of pleasure and pain at 64c-d: 'when an affection which is against nature (*παρὰ φύσιν*) and violent occurs within us with intensity it is painful, whereas the return back to the natural condition (*τὸ δὲ εἰς φύσιν ἀπιόν*), when intense, is pleasant'.<sup>20</sup> But this passage does little to explain why the criminal who changes his way of life must experience pain. Timaeus makes it quite clear that it is a disruption of the *natural* condition of the body that is painful. Later he puts the point more succinctly: 'all that is against nature (*τὸ παρὰ φύσιν*) is painful, what takes place in the natural way (*τῇ πέφυκε*) is pleasant' (81e). In the *Philebus* the same doctrine is associated with the idea that the natural state is one of harmony: 'when, in us living beings, harmony is broken up, a disruption of nature and a generation of pain also take place at the same time' (31d).<sup>21</sup> The criminal's soul, as Plato conceives it, is full of disharmony and disproportion and is therefore in a state contrary to nature. There appears to be no textual support for the idea that the disruption of such an unnatural state is painful, even if it is deeply ingrained.<sup>22</sup> Thus these passages provide no grounds for attributing to Plato the idea that a criminal who undergoes reformation must experience pain.<sup>23</sup>

they change their lifestyle in any way. This does not, however, imply that every change of regimen causes illness. See also *Laws* 646c.

<sup>19</sup> In a slightly different context Saunders cites *Timaeus* 86b for the doctrine that pain is a disease of the soul (175, n. 107), but this appears to be a misreading. Timaeus argues that excessive pleasures and pains are diseases because they overwhelm the reason. This does not imply that pain in itself is a disease. One would suppose that where pain is appropriate it can be seen as healthy.

<sup>20</sup> Translation from R. G. Bury, *Plato* vol. IX, Loeb Classical Library (Cambridge, MA, and London, 1929). Cornford's translation of this passage blurs the key point by translating *τὸ μὲν παρὰ φύσιν καὶ βίαιον γυγνόμενον ἀθρόον* as 'an affection which violently disturbs the normal state' and, *τὸ δ' εἰς φύσιν ἀπὸν πάλιν ἀθρόον* as 'the sudden restoration of the normal state'.

<sup>21</sup> Translation from H. N. Fowler, *Plato* vol. VIII, Loeb Classical Library, (Cambridge, MA, and London, 1925).

<sup>22</sup> One could perhaps go farther than this. Plato's doctrine is that a sudden disruption of the body's natural state is painful. There is nothing to suggest that the disruption of an unnatural state which has become ingrained must be painful. Indeed one could argue the reverse. Plato holds that the sudden restoration of the body to its natural state is pleasant. This is the case even when we have become accustomed to the previous unnatural state and thus have been feeling no pain. If one were to apply this in a literal way to the criminal (whose state is in Plato's view unnatural) it might seem that he too should find the experience of being jolted into a new way of life pleasant.

<sup>23</sup> It is also worth noting that the doctrine of *Timaeus* 64c-d is explicitly limited to bodily pains (see 64a1-3). The pains of punishment as conceived in the *Laws* are not in general physical.

There are clearly two different ways in which pain might be associated with changes of regimen. It might be the case (a) that such changes are by nature painful (i.e. that the change causes the pain) or (b) that such changes can be induced by the experience of pain (i.e. that the pain causes the change). Saunders is certainly aware of this distinction. For example, in discussing the *Gorgias* he argues that, whereas both punishment and medical treatment may be painful, 'punishment is essentially painful, cure only incidentally so' (164). He acknowledges, too, that 'punishment aims to cause pain, regimen does not' (172). Nevertheless his language sometimes seems to blur the distinction between the pain which causes a change of regimen and the pain that results from it. For example he writes:

To acquire a new regimen the criminal necessarily experiences initial pain, which he may well not be willing to make the effort to bring on himself by attempting a reform of conduct. But we can impose that pain on him by punishment, and so simultaneously and necessarily achieve the initial conditions essential for his change of regime, whether he likes it or not. (174)

The pain mentioned in the first sentence here appears to be the pain that is consequent on a change of regimen. The pain referred to in the second sentence is the pain involved in punishment which, according to the theory under discussion, can induce a change of regimen. The passage thus blurs the distinction between two different processes.

It is easy to see how confusion could arise here. On Saunders' interpretation the pain is indistinguishable from the break-up of the patterns of movement in the soul. It is simply the affective side of that break-up. He further attributes to Plato the view that a change of regimen cannot occur without such a break-up. Thus a change of regimen necessarily involves pain. But there are two ways in which the change of regimen and the break-up might be associated. (i) It might happen that a criminal of his own accord, as the result of persuasion or through fear of penalties, decides to give up his life of crime. This change of lifestyle leads to the break-up of the patterns of movements in his soul. He initially finds this break-up painful, though the pain ceases as he grows used to his new way of life. (ii) Alternatively it might be the case that forcible external intervention in the form of punishment breaks up the established patterns of movements in the soul. The criminal finds this painful but it leads him to follow a new and better style of life. There are clearly two different processes here. Both involve a painful break-up in the soul but the part played by that break-up is different in the two cases. In the first case no punishment need actually be inflicted, so punishment, as such, plays no direct part in the criminal's reformation. In the second case punishment does play a direct part: it causes the break-up which leads the criminal to change his lifestyle. If we bear in mind the distinction between the two cases it becomes clear that the claim (a) that a change of lifestyle is painful does nothing to support the claim (b) that the infliction of pain in the form of punishment can bring about a change of lifestyle.

There is a similar difficulty when Saunders discusses the role of fear in the reformation of offenders:

The criminal's desire for the pleasure to be gained from wrong action induces fear of the pain he believes would come from other actions, in particular (in some cases) the pain of changing his way of life. Now the pain inflicted by punishment is deterrent: it induces, or is meant to induce, fear of further pain for further offences. The pain in breaking up the existing state of the soul, imposes on the new state, with its potential for change, a new and better fear. The criminal now fears not the pain of doing good acts, but the pain of doing bad ones. This deterrent fear, which he should have had already by virtue of his education, and which he has been unable or unwilling to overcome by himself, has been imposed upon him by the punisher. In the language of the *Laches*, he has learned to fear what should be feared... (175-6).

It is difficult to keep track of the various pains and fears here. I take it that the criminal fears that he would find behaving justly painful (presumably because just behaviour would frustrate his desires). More especially he believes that a change in his way of life would be painful and therefore fears that. However the experience of being punished creates within him a new fear, a fear of doing wrong. What is not entirely clear is quite how punishment achieves this effect. One thought may be that fear of being punished makes the criminal refrain from vicious activities. He then gradually develops a better character and becomes as reluctant to break the law as he was in the past reluctant to obey it. But it looks as though Saunders means to suggest rather more than this. The pain of punishment in 'breaking up' the existing state of the criminal's soul, imposes on his new state, 'a new and better fear'. Perhaps the thought here is that criminal's fear of changing his ways is part and parcel of his old mental state. When this is broken up the way is open for the creation of a new fear, the fear of doing wrong. If this is right then the passage weaves together at least two distinct strands of thought. There is firstly the idea that the fear of punishment or disgrace may lead us to refrain from wrongdoing and thus to become accustomed to a law-abiding lifestyle. This, as we have seen, is an idea which Plato would almost certainly accept, but there is nothing distinctively medical or physiological about it. Saunders combines this with the idea that the pain of punishment by jolting us from one pattern of soul-movements to another may help to substitute good fears for bad ones. This suggestion owes much more to the physiology of the *Timaeus* but it is difficult to see any textual support for it.

A further source of difficulty is that, as Saunders himself concedes, the Athenian stranger makes no explicit reference to the physiology of the *Timaeus* and makes no use of distinctively medical language in setting out his penal code (172). The explanation Saunders offers for this is that 'the *Laws* is a relatively popular work in which only selected subjects... are presented with much rigour or completeness' (177). While this may be true, there would be no need for a detailed explanation of the *Timaeus* physiology to get over the basic idea that punishment has a medical basis. The absence of medical language, therefore, suggests that distinctively medical ideas do not play a central role in Plato's penology. It is particularly notable that the only explicit reference to medical regimen in the *Laws* is in the passage at 797d-798a, cited above, which has no direct relevance to punishment. Equally significant is the fact that the *Timaeus* makes no mention of a link between physiology and punishment, for although Timaeus, as Plato presents him, is not primarily concerned with ethics or politics, he is interested in the social consequences of his physiological theories. In particular he insists on the need for good government and education (86b-87b). If Plato had seen the physiology of the *Timaeus* as having a direct bearing on punishment one might have expected some reference to it at this point.

The upshot of all this is that there is certainly a resemblance between the judge and the doctor in the sense that both seek to make people change their ways of life and thus to become 'better'. It may well be helpful to follow Saunders in drawing attention to the idea of regimen in this context. But there seems to be no evidence of a direct link in Plato's thought between physiology and punishment. This might, in itself, seem to suggest that something has gone seriously wrong with Plato's penal theory. If, as Plato apparently maintains in the *Timaeus*, crime has physiological causes it surely ought to be capable of being cured by physiological means. Thus, assuming that Plato is serious about the account of human nature he puts into the mouth of Timaeus, he ought to insist that the wicked be subjected to medical treatment, or at least to some form of therapy that acts directly on the body. The fact



that Plato does not seek to replace punishment by medical treatment may seem, therefore, to indicate an unwillingness on his part to take seriously the implications of the physiological account of vice.

I believe that Plato can be defended against this charge and that the conception of punishment embodied in the *Laws* is, in fact, consistent with the physiology of the *Timaeus*. But before attempting this defence I want to consider in more detail the account of 'mental illness' in that dialogue.

### III. THE PHYSIOLOGY OF VICE

According to Timaeus, the human soul has both mortal and immortal parts. These parts, as we have seen, are assigned to different parts of the body. The reason is located in the head, while the two mortal parts, which correspond to the spirited and appetitive elements identified by Socrates in the *Republic*, are located respectively in the heart and the stomach (69c–73d). After describing the structure of the body and some of its main functions, Timaeus offers an account of physical disease which he sees as resulting primarily from disproportions among the various elements of the body (81d–86a). This in turn serves as the basis for his account of vice which is seen as a sickness (*νόσος*) of the soul (86b–87b).

According to Timaeus disease of the soul is folly (*ἄνοια*). This takes two forms: madness (*μανία*) and ignorance (*ἄμαθία*).<sup>24</sup> Thus any condition which results in madness or ignorance must be considered as a disease. Excessive pleasures and pains must, therefore, be regarded as among the most serious of diseases. 'When a man is carried away by enjoyment or distracted by pain, in his immoderate haste to grasp the one or to escape the other he can neither see nor hear aright (*οὔτε ὁρᾶν οὔτε ἀκούειν ὀρθὸν οὐδὲν δύναται*); he is in a frenzy and his capacity for reasoning is then at its lowest (*λυττᾷ δὲ καὶ λογισμοῦ μετασχεῖν ἥκιστα τότε δὴ δυνατός ἐστι*)' (86b–c).<sup>25</sup> Timaeus goes on to describe how sexual intemperance (*ἡ περὶ τὰ ἀφροδίσια ἀκολασία*), in particular, is a disease (*νόσος*) of the soul which arises as the result of physiological causes. Thus 'we might almost say... of all that is called incontinence in pleasure (*πάντα ὅποσα ἡδονῶν ἀκράτεια... λέγεται*) that it is not justly made a reproach as if men were willingly bad. No one is willingly bad (*κακὸς μὲν γὰρ ἐκὼν οὐδεὶς*); the bad man becomes so because of some faulty habit of body (*διὰ πονηρὰν ἔξιν τινὰ τοῦ σώματος*) and unenlightened upbringing, and these are unwelcome afflictions that come to any man against his will' (86d–e). Timaeus then gives a similar account of the pains which arise from disorders in the humours of the body. 'When acid and salt phlegms or bitter bilious humours roam about the body and, finding no outlet, are pent up within and fall into confusion by blending the vapour that arises from them with the motion of the soul, they induce all manner of diseases of the soul (*παντοδαπὰ νοσήματα νυχῆς*) of greater or less intensity and extent' (86e–87a). They thus give rise to all varieties of bad temper and despondency, rashness and cowardice, dullness and oblivion (87a).

Clearly the idea that vice is a disease is here presented as a literal truth, rather than as a mere analogy. But it would be misleading to conclude from this that Timaeus sees vice as a purely physiological phenomenon. The true position is that our mental and

<sup>24</sup> Price, p. 86, rightly comments that these 'seem to be two aspects of folly rather than two species'.

<sup>25</sup> The translations of this passage and the one that follows are from Cornford.

physical conditions both depend on the interaction of soul and body. As Cornford puts it, 'it is recognized that when soul and body are united in the composite living creature, either can set up disorder in the other'.<sup>26</sup> This is no doubt why Timaeus refrains from describing bodily ills as the cause, *αἰτία*, of mental illness and chooses rather to speak of 'mental illnesses which come about through the condition of the body, *διὰ σώματος ἔξιν* (86b). His position seems to be that, except in some extreme cases, a poor bodily condition is not solely responsible for vice. The condition of our souls is, rather, the product of our bodily condition and the education we have received:

... when men of so bad a composition dwell in cities with evil forms of government, where no less evil discourse is held both in public and private, and where, moreover, no course of study that might cure these evils is pursued from youth upward, that is how all of us who are bad become so, through two factors that are altogether against the will (*διὰ δύο ἀκουσιώτατα*). For these the blame must fall upon the parents rather than the offspring, and upon those who give rather than on those who receive nurture;<sup>27</sup> nevertheless a man must use his utmost endeavour by means of education, pursuits and study (*καὶ διὰ τροφῆς καὶ δι' ἐπιτηδεύματων*) to escape from badness and lay hold upon its contrary (87a–b).<sup>28</sup>

It is striking also that, although Timaeus believes that vice results from bodily disorder he evidently regards it as an intellectual failing. The reason why vice can be seen as a kind of folly (*ἄνοια*) seems to be that excessive pleasures and pains do not simply overpower the judgement and force us to do what we recognise to be wrong.<sup>29</sup> Rather they distort the judgement and thus lead to bad choices.<sup>30</sup> This is why Timaeus can claim that under their influence we do not see or hear aright and that they induce a state of frenzy in which our capacity of reasoning is at its lowest (86c). Likewise the sexual desires which arise from an overflowing of the bone marrow make the soul

<sup>26</sup> P. 346.

<sup>27</sup> Of course, the same could be said about the parents and teachers. Their errors too must result from their bad upbringing. The logic of Timaeus' position would appear to be that no one should be blamed. Taylor sees this as evidence that Timaeus expresses, not Plato's own views, but those we would expect of an Italian or Sicilian medical man (611–14).

<sup>28</sup> Translation adapted from Cornford.

<sup>29</sup> Christopher Bobonich, 'Akrasia and Agency in Plato's *Laws* and *Republic*', *Archiv für Geschichte der Philosophie* 76 (1994), 3–36, argues that, although the *Republic* and the *Laws* both recognise the possibility of *akrasia*, there is a important difference between these dialogues in the way in which the phenomenon is understood. The *Republic* treats the parts of the soul as distinct agents, whereas the *Laws*, in Bobonich's view, abandons the idea of parts of the soul and explains *akrasia* in terms of the activity of a single agent. While I am dubious about the suggestion that Plato has abandoned the doctrine of the tripartite soul, Bobonich is certainly right to claim that the model of the parts as agents is less prominent in the *Laws*. It is also absent from the *Timaeus*, although this dialogue certainly recognizes distinct parts of the soul.

<sup>30</sup> It is not clear precisely what view is taken in the *Timaeus* of *akrasia*. The phrasing of 86c–e suggests that what is called *akrasia* is in fact a case of the soul's judgement being thrown into disorder by pleasure. If this is taken in conjunction with the account of the disordered state of the soul in childhood (42e–44d) it would point to the conclusion that the soul under the influence of pleasure and pain is incapable of forming any clear or consistent conception of the good. It may be significant that the discussion in the *Laws* of what we would call questions of responsibility gives no separate place to incontinence with respect to pleasure. Pleasures overcome the soul by deceitful persuasion (*πειθοῖ μετὰ ἀπάτης*) whereas anger overcomes it by an irrational force (*ἀλογίστῳ βίῳ*) (863b). The laws on homicide and wounding accordingly distinguish between involuntary injuries, voluntary ones and those done through anger. Those done in anger are seen as coming between the voluntary and the involuntary. The implication seems to be that whereas anger may forcibly overcome a fundamentally sound judgement, pleasures and pains work rather by distorting the judgement through deceitful persuasion. But it is not clear how this relates to passages elsewhere in the *Laws* which seem to imply that there can be a conflict between judgement and appetite.

'sick and senseless' (νοσοῦσαν καὶ ἄφρονα) as the result of bodily disorder (86d). Here, as Mackenzie puts it 'the general tenor of the passage is to present a strong intellectualist thesis and to explain this thesis in terms of psychic disturbance'.<sup>31</sup>

Timaeus' 'intellectualism' is reflected in the remedies he proposes for ill health of mind and body. He does nothing to suggest that it can be cured by directly physiological measures such as surgery or drugs. He is suspicious of such drastic methods of intervention even in cases of what we would regard as physical ill-health. The main means to health of mind and body is through correct mental and physical regimen. Health and sickness, goodness and badness depend upon the proportion between body and soul. If the soul is too strong for the body then the latter will be weak and enfeebled. Conversely over-attention to the body may cause the soul to be dull, slow to learn and forgetful, thus producing stupidity which is the worst of ailments. Thus intellectual activity has to be combined with bodily regimen (87b–88b).<sup>32</sup> To guard against illness of the body one must exercise it in the right kind of way. Direct physiological intervention through the use of drugs is to be adopted only as a last resort (89b). The same principles apply to the health of the soul. Each part must be exercised so that it maintains its own proper relation to the other parts. But priority has to be given to strengthening the rational soul whose task it is to govern (89d):

if a man is engrossed in appetites and ambitions and spends all his effort upon these, all his opinions (δόγματα) must needs be mortal and, so far as that is possible, he cannot fall short of becoming mortal altogether, since he has nourished the growth of his mortality. But if his heart has been set on the love of learning (φιλομάθειαν) and true wisdom (τὰς ἀληθείας φρονήσεις) and he has exercised that part of himself above all, he is surely bound to have thoughts immortal and divine, if he shall lay hold on truth, nor can he fail to possess immortality in the fullest measure that human nature admits (90b–c).<sup>33</sup>

It is notable here that the way in which appetite and ambition lead to vice is by corrupting the *opinions* and that the remedy for this disorder is through learning and wisdom. The implication is that the vicious soul is one which has failed to form or to maintain true opinions about the good. Timaeus does not, it seems, envisage a condition of *akrasia* in which the lower elements in the soul overwhelm the reason so that we act in ways which we ourselves recognise to be bad. Rather he believes that if the mortal elements get out of hand they corrupt our judgement so that we no longer have a true conception of the good. To ameliorate this condition the soul has to be restored to true judgement. This suggests two kinds of measure. There are, firstly, those which appeal directly to the reason and thus help to establish within us a true

<sup>31</sup> Mackenzie, p. 177. Price, p. 85, points out that according to Timaeus our bodies are structured so as to prevent the appetites getting the upper hand. '... those who framed us could predict our "intemperance" over food and drink. ... By setting appetite at such a distance from reason... and by providing a lower belly to hold excess intake... they did what they could to reduce the mental and physical effects. Strictly the intemperance is of the soul and not of the body...'

<sup>32</sup> Taylor, 626–8, cited by Saunders, 170, suggests that in medicine Plato always favoured regimen rather than other remedies such as the use of drugs. To defend this position he has to maintain that the attack on regimen in the *Republic* is not seriously intended. In fact Plato's position is reasonably consistent. He certainly believed that the proper way to health was by healthy living, but he was clearly hostile to elaborate forms of medical treatment, particularly the use of the kind of regimen that forces one to make bodily health one's main preoccupation. See L. Edelstein, 'The relation of ancient philosophy to medicine', *Bulletin of the History of Medicine* 26 (1952), 299–316, who argues that Greek philosophers and medical men were in conflict with each other because they were ultimately committed to incompatible conceptions of the good life.

<sup>33</sup> Translation adapted from Cornford.

conception of the good. To this end we may receive instruction from parents and teachers but we can also help ourselves by engaging in appropriate intellectual pursuits. The second kind of measure is designed to ensure that physiological disorders do not distort our judgements. To this end reason must exercise its control over the body by engaging in the right kinds of physical exercise. Here again parents and teachers presumably have a part to play, though we can also help ourselves, for it is largely up to us whether we adopt such a regimen.

Although Timaeus believes that we become bad against our will there is an important sense in which the general effect of his argument is to strengthen rather than to weaken the idea of responsibility. For Timaeus, as for the Socrates of the early dialogues, it is our primary responsibility to care for our own souls. We care for the body by caring first for the soul. There is, indeed, a striking parallel between the *Timaeus* and the *Charmides*, 156d–158b, where Socrates endorses the teaching of Zalmoxis that one ought not to treat the body without treating the soul, since one cannot hope to treat the part without treating the whole. Since everything that is good or evil in the body springs from the soul, one must treat the soul first in order to cure the body. Once there is self-control (*σωφροσύνη*) in the soul bodily health will soon follow. The same pattern of thought underlies the criticism of medical practice in the *Republic*. That is based on the belief that those who live rightly should not need elaborate medical treatment. The *Timaeus* has a much more complex account of the relations between soul and body, one which allows that there is influence in both directions, but it is clear that the way to achieve health of the body, as of the soul, is by living under the direction of reason.<sup>34</sup> The main difference between this doctrine and that of the earlier dialogues is that the emphasis is now on law and education rather than on self-examination. To achieve justice we need to be brought up in a well-ordered state. This is, of course, precisely what one would expect from the *Laws*. There the Athenian stranger insists on the need to care for the soul, but he sees this as requiring a state in which every institution is directed to the inculcation of virtue.<sup>35</sup>

#### IV. THE ROLE OF PUNISHMENT

Nothing is said directly about punishment in the *Timaeus*, but if he is serious about the account of vice which he puts into Timaeus' mouth, Plato clearly needs to indicate some way in which punishment might play a part in restoring the criminal's soul to health. The passage from the *Laws*, 862d, cited above, which claims that the legislator should seek to 'instruct' (*διδάσκειν*) and 'compel' (*ἀναγκάζειν*) the criminal to change his ways, suggests two ways in which punishment might serve this purpose.<sup>36</sup> The first is by acting as a means of teaching or instruction. As we have seen, the *Timaeus* and the *Laws* share the view that to become virtuous we have to be brought up under good laws and receive the right kind of education. In the *Laws* it is seen as

<sup>34</sup> Taylor (p. 266), commenting on *Timaeus* 42e3–4 where the Creator refers to the possibility that human souls may 'become the cause of evil to themselves', suggests that 'Timaeus is specially thinking of the harm a man may do to his own bodily health by neglect, ignorance of the laws of physiology, vice, and the like'. The concern with bodily health is not, in fact, so clear as Taylor suggests, but he is right in claiming that, according to the doctrine of this passage, we seem to be responsible for bodily as well as mental ills.

<sup>35</sup> See, e.g., 631b–632d, 726–734d.

<sup>36</sup> Another suggestion would be that the experience of pain helps to weaken the desires of the lower soul, but, as we have seen, it is difficult to see any trace of such a view in either the *Timaeus* or the *Laws*. In these writings, at least, Plato seems to believe that the judge is no better equipped than the doctor to act directly upon the desires.

a fundamental responsibility of the legislator to make correct assignments of honour and disgrace, reward and punishment.<sup>37</sup> The thought here seems to be that the allocation of punishments is one of the means by which the legislator teaches the citizens how they are to live.<sup>38</sup> Plato thus has much in common with those modern theorists who have justified punishment as an emphatic way of impressing on the criminal and on others the wickedness of his crime.<sup>39</sup> So far as possible the legislator relies on persuasion to lead the citizens into the paths of virtue, but those who are hardened in their wrongdoing will ignore gentle admonitions. Punishment is a forcible way of drawing the criminal's attention to the wrongness of what he has done. Thus in this aspect punishment is consistent with the emphasis in the *Timaeus* on education as the means to right living.

The second function of punishment suggested by our passage in the *Laws* is that of compulsion. This is most naturally read as a reference to its role as a deterrent.<sup>40</sup> Fear of the penalty may make the criminal and others who are aware of what has happened refrain from committing crimes in future. As we have seen, Plato would not regard this as, in itself, an adequate account of punishment since those who refrain from crime merely because they fear the penalty could not be said to have been cured. But if fear of the penalty leads us to behave in accordance with the requirements of reason, we may acquire healthy habits of mind and body. The psycho-physiology of the *Timaeus* suggests some embellishments of this view. The appetites have no share in reason but are guided by images and phantasms (εἰδῶλων καὶ φαντασμάτων). The creator therefore contrived that 'the influence proceeding from the reason should make impressions of its thoughts upon the liver, which would receive them like a mirror and give back visible images' (71b). Some of these images strike terror into the appetitive part, others make it calm and serene. One might speculate here that some of these images are images of punishment. Reason brings the appetites to order by picturing to them the penalties which will be imposed if they have their way.

The element of spirit may also play an important role in punishment. In the *Republic* Socrates argues that spirit comes to the aid of reason. This means that it will join with reason in restraining the desires. But it also means that our reaction to pains or deprivations imposed on us from outside will depend on whether the rational element in our souls sees them as just or unjust. We do not feel anger if we recognize that suffering has been justly imposed but we do when we believe that we have been treated unjustly (440a–d). Similarly in the *Timaeus* we are told that spirit boils with anger when reason tells it of wrongful acts, whether these stem from some outside influence or from the creature's own appetites. Spirit then acts so that every sentient part of the creature is aware of commands and threats and becomes obedient to reason (70a–b). It is not very difficult to see how this could be developed into an account of how punishment can cure vice. Plato's view must be that the experience

<sup>37</sup> 631d–632c. Other passages which suggest that the legislator, in establishing a penal code, is educating the citizens include 857c–859c and 957c–958a.

<sup>38</sup> Punishment is often associated in Greek thought generally and in Plato's work with the notion of *νουθέτησις*, admonition.

<sup>39</sup> See, e.g., R. Nozick, *Philosophical Explanations* (Oxford, 1981), 370–4; Jean Hampton, 'The moral education theory of punishment', *Philosophy and Public Affairs*, 13 (1984), 208–38 at p. 226. For a more detailed discussion of the relevance of these ideas to Plato's *Laws* see R. F. Stalley, 'Punishment in Plato's *Laws*', *History of Political Thought* 16 (1995), 469–87.

<sup>40</sup> At 718b the Athenian argues that the legislator must combine persuasion with force in the shape of punishment. He illustrates this with the example of a law of marriage in which the function of punishment is clearly seen as deterrent. It motivates people to obey the law by making disobedience appear less attractive (721d).

of pain or deprivation leads to anger. If reason perceives the pain or deprivation as unjust, the anger will be turned on those who inflict it. But if reason perceives that the pain or deprivation constitutes a just punishment for some misdeed then the anger will be directed towards the appetites which are responsible for that misdeed. One merit of this view is that it would explain why punishments in the actual world often seem to have the reverse effect from that intended, intensifying the criminal's resentment against society rather than reconciling him to it. This happens when punishment is not accompanied by appropriate instruction and the criminal therefore fails to see the justice of what is done to him. His anger therefore turns against those who inflict the punishment upon him.

If these arguments are correct, punishment can be one means by which the rational insight of the wise legislator creates order and harmony in the state as a whole and in the minds of the individual citizens. Punishment is an appropriate way of treating someone whose soul has become disordered in the ways that *Timaeus* describes for three reasons: (i) because it is a means both of educating the soul; (ii) because it ensures that the citizens follow the kinds of life which lead to mental and physical health; and (iii) because it arouses the criminal's anger against the appetites that have led him astray. There is, thus, an important connection between Plato's theory of punishment and the medical doctrines of the *Timaeus*. In that dialogue he sets out a unified account of mental and physical health. It seems that in both cases something depends on our bodily constitution, but the main determinant of our condition is the way in which we choose to live. If we follow the correct kind of mental and physical regimen we will have healthy minds and healthy bodies. Saunders is, therefore, right to see the idea of regimen as providing a point of contact between penal and medical theory. But, even on his own account, the description of Plato as presenting a 'genuinely medical penology' is potentially misleading. That phrase suggests that medical science determines the treatment that should be given to criminals. It may thus conjure up in the mind of the modern reader the picture of a doctor who intervenes physiologically by the use of surgery or drugs and who could in principle effect a cure without the patient's knowledge or consent. It could thus appear to support the idea that the criminal is to be seen as a patient and that we are victims rather than agents with respect to our own misdeeds. But the *Timaeus* makes it clear that Plato is suspicious of this kind of medicine even in the case of physical diseases. If we are sick that is because we have chosen to live in an unhealthy way. We are thus largely responsible for our own illnesses.<sup>41</sup> Conversely the way to cure those who are ill is by persuading them to adopt a healthy lifestyle. The task of the legislator is to ensure that the citizens do live in a healthy way and thus become virtuous. Evidently punishment plays an important part in this process. It may therefore be seen as a means of curing vice. But it would be a mistake to take this as grounds for assimilating punishment to forms of medicine such as surgery or drug treatment. The movement is in fact in the reverse direction, for Plato sees it as the task of medicine to persuade us to live in accordance with the requirements of reason. Thus rather than speaking of Plato as having a 'medical penology', we might more accurately describe him as presenting a moralised view of medicine.

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<sup>41</sup> This goes a long way towards explaining what at first sight seems to be the very callous attitude to the sick displayed in *Republic* III, 403c–412a, where the discussion of 'gymnastic' education turns into an attack on medicine. The fundamental point there is that if we live in a healthy way we should not need elaborate medical treatment.