From the holdings of the Department of Special Collections , Princeton University Library, Princeton, NJ

These documents are either in the public domain, or can only be used for educational and research purposes (Fair use) as per U.S. Copyright law (text below). By accessing this file, all users agree that their use falls in the public domain or within fair use as defined by the copyrightlaw. We do not charge any permission or usage fees for the publication of images of material inour collections, including those provided by Princeton University Library, via our website, catalog, or directly from staff.For more information regarding copyright, credit, and citation please review the information onthe Copyright, Credit and Citation Guidelines page of our website.
https://library.princeton.edu/special-collections/policies/copyright-credit-and-citation-guidelines. If you have any questions, including how to order higher-quality images from the collection, contact Special Collections Public Services via our Ask Us! Form. https://library.princeton.edu/special-collections/ask-us

Doctoral Dissertations, 2011-2026 Classics

2018

Empire of Law: Legal Culture and Imperial Rule in the Roman Province of Egypt

Dolganov, Anna

Princeton, NJ : Princeton University

http://arks.princeton.edu/ark:/88435/dsp014m90dz29k

U.S. Copyright law: The copyright law of the United States (Title 17, §108, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship, or research. If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of fair use that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve a violation of copyright law. https://www.copyright.gov/title17/title17.pdf

EMPIRE OF LAW
LEGAL CULTURE AND IMPERIAL RULE IN THE ROMAN PROVINCE OF EGYPT

Anna G. Dolganov

A DISSERTATION

PRESENTED TO THE FACULTY

OF PRINCETON UNIVERSITY

IN CANDIDACY FOR THE DEGREE

OF DOCTOR OF PHILOSOPHY

RECOMMENDED FOR ACCEPTANCE BY

THE DEPARTMENT OF CLASSICS

Adviser: Brent D. Shaw

November 2018

© Copyright by Anna G. Dolganov, 2018. All rights reserved.

EMPIRE OF LAW
LEGAL CULTURE AND IMPERIAL RULE IN THE ROMAN PROVINCE OF EGYPT

Anna G. Dolganov

ABSTRACT

This dissertation seeks to shed light on the administration of justice in the provinces of the Roman empire, arguably the most prominent public interface between the Empire and its subjects, as well as the sphere in which Rome left its most far-reaching and lasting legacy in the Mediterranean world. In order to do so, this study integrates, for the first time, the voluminous and underexploited evidence of documentary papyri from Roman Egypt into a broader investigation of judicial administration in the Roman provinces, from its origins under the Republic to the threshold of late Antiquity at the end of the third century CE. This study examines the sphere of law and courts in the Roman empire from several perspectives: first, by considering the institutional framework within which Roman courts administered justice to provincials, then by considering the significance of Roman record-keeping and archival institutions for the imperial legal order, then by examining how Roman provincial courts dealt with local laws and traditions. Finally, the study examines the agency of legal practitioners in the development of the Roman imperial legal sphere, as well as the significance of the adoption of distinctly Roman models of legal culture by civic elites in Roman Egypt and elsewhere in the Roman empire. By systematically bringing the rich papyrological material from Egypt to bear on broader questions of law and legal culture in the Roman provinces, this dissertation seeks to open new horizons for the study of Roman legal history and to develop new perspectives on the institutional and cultural impact of Roman imperial rule.

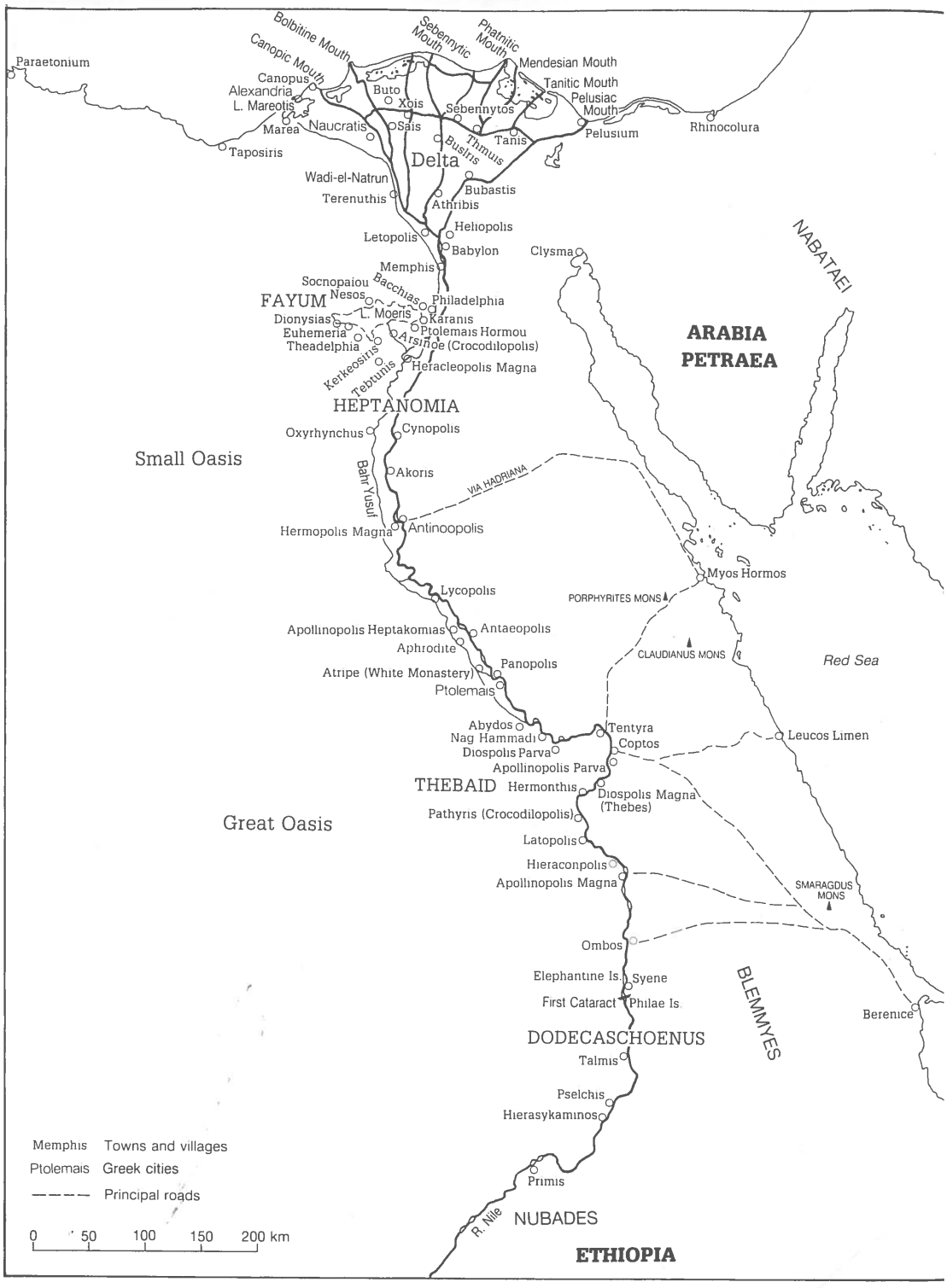


Fig. 1. Map of Egypt, 332 BC–AD 642.

From Bowman, A. K. (1986) *Egypt after the Pharaohs*. London.

Table of contents

Introduction 1

Chapter 1. Provincial Jurisdiction 19

1.1 The Administration of Justice in the Province of Egypt 19

1.2 Roman Law and Roman Provincial Jurisdiction: The Scholarly Debate 34

1.3 Provincial Jurisdiction under the Republic: Literary and Documentary Evidence 40

1.4 Provincial Jurisdiction under the Principate: Legal Sources and Documentary Evidence 55

1.5 Roman Jurisdiction in Egypt: The Papyrological Evidence 66

1.5.1 *The jurisdictional activity of Roman equestrian officials* 68

1.5.2 *The jurisdictional activity of civic and nome officials* 80

1.5.3 *The limits of local jurisdiction* 92

1.5.4 *The question of the* edictum provinciale *and formulary procedure in Roman Egypt* 97

1.6. Judicial Procedure at the Court of the Prefect of Egypt 115

1.6.1 *Preliminary hearing, delegation to a judge* 118

1.6.2 *Full proceedings and judgment* 130

1.6.3 *Referral of cases* 135

1.7. The Processing of Petitions: Diachronic Trends 138

1.8. Conclusion: Egypt and Roman Provincial Jurisdiction 149

Chapter 2. Documents, Records and Archives 152

2.1 A Gap in the Records 153

2.2 From Documents to Records to Archives 157

2.3 Documents and Archives at Rome: The Republic and its Empire 172

2.4 Documents and Archives at Rome: The Augustan Imperial Project 182

2.5 Archives and Legal Memory: The Flavian Watershed in Roman Egypt 188

2.6 Archives and the Imperial Order: The Arsinoite Archive Crisis and the

Rise of the Roman Liturgical System 203
2.7 Conclusion: Archives and the Roman Imperial Legal Sphere 215

Chapter 3. Roman Law and Local Law 219
3.1 From Imperial Law to Local Law – and Back Again? 220
3.2 The "Law of the Egyptians" 231
3.3 Herakleides: A Wronged *Patronus* 243
3.4 "Egyptian law" and Roman Policy: Marriage, Dowry and Inheritance 254
3.5 Chairemon: A Wronged *Paterfamilias* 261
3.6 Dionysia: A Daughter Victimized by her "Egyptian" Father 278
3.7 Conclusion: From "Egyptian Law" to Roman Law 291

Chapter 4. Legal Practitioners 297
4.1 Papyrological Evidence and the Study of Legal Practitioners in the Roman World 298
4.2 Legal Practitioners at Rome in the Republic and Early Principate 309
4.3 Legal Practitioners in Egypt, from the Ptolemies to the Romans 323
4.4 *Rhētores*, Forensic Orators 335
4.4.1 *The presence and absence of advocates* 336
4.4.2 *Forensic oratory: The shape of a field* 341
4.4.3 *Forensic orators in Egypt* 349
4.4.4 *Elite orators* 358
4.4.5 *Forensic oratory as elite social performance* 380
4.4.6 *Roman law as an implicit framework in Roman imperial courts* 392
4.5 *Nomikoi*, Legal Experts 405
4.5.1 *Greek and Latin notaries* 411
4.5.2 Iurisconsulti 417
4.6 Conclusion: Practicing the Law in Roman Egypt 432

General Conclusion 436

Appendix 1 List of All Documented Prefects of Egypt 447
Appendix 2 Diagram of Archives in Roman Egypt 450
Appendix 3 *Rhētōres* in Papyri/Ostraka
from Roman Egypt (ca. 5 BCE - ca. 342 CE) 451
Appendix 4 *Nomikoi* in Papyri/Ostraka
from Roman Egypt (ca. 72 CE - ca. 250 CE) 477

Bibliography 483

INTRODUCTION

A Greek manual for the interpretation of dreams composed in the Roman province of Asia in the second century CE furnishes us with rare insight into the world of the Roman empire in the Antonine Age. In Artemidoros' *Oneirokritika*, an extensive catalog of dream-visions is interpreted in relation to different types of individuals, whose age, gender, social status, profession and circumstances in life determine the specific meaning of each dream. Artemidoros' human typology spans the social scale and illustrates a broad spectrum of human preoccupation, aspiration and experience. The same dream signifies different things for slaves hoping for freedom, sea merchants worried about their freights, artisans concerned about the health of their business, paupers uncertain of their fate, young men wishing to marry, and sick men anxious about the progress of their disease. Occasionally, Artemidoros refers to specific individuals encountered by him in his activity as a dream-interpreter.[1]

Strikingly prominent throughout Artemidoros' oneiromantic manual are individuals engaged in lawsuits (*dikazontes, dikazomenoi, dikēn echontes*). For them, virtually every dream has its own level of interpretation. To dream about sexual

[1] On the *Oneirokritika* of Artemidoros, see Harris-McCoy 2012, Chandezon and Du Bouchet 2014 and Weber 2015. Generally on dream-interpretation in antiquity, see Harris 2009 and Harrisson 2013. On the reception of Artemidoros in modern psychoanalysis, see Price 2004 and Näf 2015.

intercourse with the corpse of one's mother, for example, is auspicious for litigation over land and signifies victory in testamentary disputes over maternal property (1.79). When a person embroiled in a lawsuit dreamt that he was sick and lacking doctors, the dream predicted that his advocates (*synēgoroi*) would abandon him in court (4.45). Similarly, when someone trying to escape conviction of a public crime dreamt that he had lost his legal papers, he was exonerated on the next day (5.10). However, when Chrysampelos the lyre-player was suing to reclaim a servant who had been enslaved by someone else, a dream-vision of the deceptive god Pan gave him a false promise that he would win (4.72). To dream of being struck by lightning is auspicious for legal proceedings involving loss of status (*atimia = infamia*) but signifies defeat in proceedings over money or property. The only exception is litigation over land, where those in possession of the disputed land will win (just as individuals struck by lightning cannot be moved from the spot) while those without possession will inevitably lose, according to the same logic (2.9). A limpid river is a good sign for a lawsuit (2.27), while a bridge means having the upper hand over the judge (4.66). To dream of oneself as an infant is bad for plaintiffs, who will stammer and fail to convince the judge; however, it is auspicious for defendants, especially if they are guilty, because small children are easily forgiven for their mistakes (1.13). To dream of a swift deer (2.12) is good for escaping legal charges, whereas leeks (1.67) or a cloak (2.3) signify defeat in a lawsuit, while dreaming of a wild boar foreshadows a powerful and ruthless adversary who will brutally assail the dreamer in court (2.12). Dreaming of gladiatorial combat could signify a forthcoming marriage, or

else adversarial proceedings in a forthcoming lawsuit (2.32), where the weapons represent the documents and claims of the respective parties.[2]

No less striking is the prominence of trials, especially criminal trials, in Artemidoros' catalog of dreams. Artemidoros devotes the majority of his discussion of death-dreams to different types of capital punishment administered at the court of the Roman governor (2.50-54). This includes death by hanging, having one's throat cut or being burned alive, crucified or exposed to wild beasts in the amphitheater – these last three being the grisly triad of Roman *summa supplicia*. These punishments are described in graphic detail – the crucified person is exposed naked to the elements, the beasts tear at the flesh of their victims – which suggests that these violent scenes were vividly present in the imagination of Artemidoros' audience. A separate section is devoted to dreams of beheading (1.35), a nobler form of capital punishment traditionally administered by Roman courts to Roman citizens and provincials of high social status. This dream, too, has a specific interpretation for individuals embroiled in lawsuits: it is auspicious for lawsuits over land and for escaping capital charges, but it is a bad omen for proceedings involving loss of status (*atimia = infamia*) due to the linguistic association between losing one's head and loss of status (*akephalia = capitis deminutio*) in Roman law. Overall, the dream-interpretations of Artemidoros rather strikingly present courts and

[2] On legal practice and the representation of justice in Artemidoros, see Menard 2015. While visions of criminal trials in the *Oneirokritika* have been duly noted by historians (see Shaw 2003: 537-538 and Menard 2015: 105-109), Artemidoros' frequent references to litigation have attracted less scholarly attention. These are briefly noted by Shaw 2003: 538 and Menard 2015: 101-103, but not mentioned in Harris 2004 and Harrisson 2013. References to the administration of justice in Artemidoros are discussed by Hamdoune 2014: 240-251.

litigation as one of the most prominent domains of human experience, on par with slavery, marriage, travel, disease and death.[3]

In the same period as Artemidoros was composing his dream-manual in the province of Asia, the African author Apuleius was composing the *Golden Ass*, a sophisticated example of the ancient novel that showcases one of the signature characteristics of this genre of Roman imperial literature. More than any other Greek or Latin novel, the *Golden Ass* is rife with legal themes and scenes of judgment, including criminal trials at the Roman governor's court. The protagonist Lucius is a Greek provincial from an elite family who has completed his studies of Latin rhetoric and Roman law at Rome (*studia Quiritium,* 1.1) and travels through an imaginary Greek provincial landscape inhabited by criminal plots familiar from Roman rhetorical handbooks. At the start of the novel, Lucius experiences a "judicial nightmare" very similar to the visions described by Artemidoros, where he faces trial for murder, torture and execution (2.32-3.12). At the end of the novel, Lucius arrives in the provincial capital, where he observes convicted criminals being condemned to the beasts by the Roman governor (10.22-34). Lucius ultimately escapes and returns to Rome, where he becomes a successful forensic orator in the courts of the imperial capital (11.28-30).[4]

---

[3] While visions of judicial punishment such as those considered by Shaw 2003: 537-538 and Menard 2015: 105-109 constitute important evidence for the impact of the Roman penal system on the imperial *imaginaire,* the much more numerous references to litigation arguably bring us closer to the experiential world of Roman provincials.

[4] On the provincial world of the *Golden Ass,* see Millar 1981. On courts and trials as a pervasive theme in the ancient novel, see Bodel 2010 and Schwartz 2016 on Latin and Greek novels, respectively. On declamatory plots in novels, see van Mal-Maeder 2001 and 2003. On the *Golden Ass* as evidence for Roman legal culture in the western provinces in the Antonine Age, see Dolganov forthcoming d.

One generation after Apuleius, the African Christian exegete Tertullian exploited the power of Roman legal language to develop a Latin lexicon for Christian theology. To give force to the Christian notion of baptism, Tertullian employed the conceptual framework of the Roman law of obligations. To explain the transmission of orthodox Christian doctrine, Tertullian took metaphors from the Roman law of property and inheritance. To make Christians deaf to heretical beliefs, Tertullian drew an analogy with procedural objections (*praescriptiones*) in a Roman trial. In his apologetic works, Tertullian invoked the dramatic context of Roman courts and gestured at the rhetorical format of petitions and forensic speeches. He also made reference to juristic consultations and imitated the terse language of Roman legal writers.[5]

It is in Tertullian's writings, as well as contemporary accounts of Christian martyrdom from the provinces of Africa, Asia Minor and Gaul, that we find striking expressions of Christian self-fashioning through appropriation of the vocabulary and rituals of the Roman penal system. As a "witness" (*martys*) of Christ, the Christian martyr was impervious to Roman attempts to dominate his spirit by lacerating his body

[5] On Roman legal language in Tertullian, see Beck 1967 and Vitton 1924. On the contribution of Tertullian to Christian doctrinal vocabulary, see Braun 1972 and Daniélou 1977. For Tertullian's use of Roman contract law to explain Christian baptism, see *De baptismo* 6 with Harrill 2001; see also *Ad martyres* 3.1, *De resurr. mort.* 48.11, *De corona* 3.3 and *De pudicitia* 12.3-10. For Tertullian use of the Roman law of property and inheritance to explain the transmission of Christian doctrine, see *De praescriptione haereticorum* 37.3-7. As indicated by its title, this treatise develops the notion of a procedural objection (*praescriptio*) to automatically silence heretics, see *De praescr.* 4-5, 14, 15.2, 44.5. It is unclear to me why this point has been problematized in the research. The argument of Fredouille 1972: 195-234 that Tertullian's use of the term is not strictly speaking juridical does not seem plausible. On the device of *praescriptio* in Roman law, see Pellecchi 2003. Tertullian's *Apologeticum* and *Ad Scapulam* are styled as petitions to Roman officials (*Apol.* 1.1 and *Ad Scap.* 1.1) and evoke the dramatic context of a Roman governor's court (*Apol.* 1.1, *Ad Scap.* 4-5). Two of Tertullian's treatises are styled as legal consultations, see *De fuga in persecutione* 1 and 12.1 and *De corona* 1.1, 1.6, 2.2 and 4.1.

through judicial torture and a painful and humiliating execution. Instead, the martyr turned Roman judicial spectacles into triumphant displays of Christian faith and perseverance. The Roman authorities, in turn, could look forward to their own condemnation at the criminal court of the Last Judgment, the iconography of which was modelled on the Roman governor's tribunal, with the Apostles flanking Christ as his judicial advisors (*assessores*). The force of such depictions was strengthened by the fact that Christian churches often adopted the architectonic format of a Roman judicial basilica, where representations of Christ sitting in judgment took the place of the tribunal of a Roman judge.[6]

As illustrated by these examples, the Roman imperial court system exercised a profound impact on the imagination and lived experience of the inhabitants of the Roman empire. At the heart of this system were annual assizes (*conventus*) held by Roman governors in cities throughout each province, where governors conducted administrative business and exercised their all-important public role as judges. At each assize, Roman governors received numerous petitions and admitted hundreds of litigants into their courts. This judicial activity was perceived as an embodiment of the benevolent claims of Roman rule, as reflected by the fact that the virtue of governors (as well as emperors)

---

[6] On the genesis of the Christian doctrine of martyrdom from the symbolism and rituals of Roman criminal law ("forged in the crucible of the Late Roman penal system," in the apt formulation of Gleason 1999: 305), see the essential study of Bowersock 2002, as well as the reflections of Gleason 1999, Shaw 2003 and Bryen 2014. The earliest surviving depictions of the Last Judgment are preserved in Christian catacombs at Rome, see the third-century fresco in the apse of the *cappella Greca* of S. Priscilla in Carletti 1981. See also the mosaic of the enthroned Christ in the apse of the basilica of S. Pudenziana (ca. 420 CE). For examples of the full iconography of the Last Judgment, emulating the arrangement of a Roman imperial tribunal, see the plates included in Marinis 2016. On the Christian use of the architectural form of the basilica and its judicial connotations, see Christern 1986.

could be measured in terms of their equity and industriousness as judges. The court of the Roman governor was the main criminal tribunal of each province, where capital crimes were adjudicated in a public and often spectacular manner, employing torture and culminating in a public execution. The spectacularization of penal practice was an aspect of Roman rule that had a particularly vivid presence in the imperial *imaginaire*, as we have seen.[7]

The evidence also suggests that the prominence of criminal trials in the literature and cultural production of the Antonine and Severan Age was part of a much broader efflorescence of legal culture in the Roman provinces. Not only did Artemidoros' implied audience occasionally experience nightmarish visions of judicial punishment – they were also very interested to know what all of their dreams (including their judicial nightmares) meant for their imminent and ongoing lawsuits. Although Artemidoros' dream-manual was composed in Greek, it assumes a notable familiarity with Roman law, as illustrated by the references to *infamia, possessio* and *capitis deminutio*. Similarly, the humor of Apuleius' pervasive legal references depends on his audience being acquainted with Roman court procedure and the terms and concepts of Roman law. An even more remarkable level of legal awareness is assumed by the exegetical works of Tertullian, where Roman legal doctrine has an integral role in theological arguments. Even the less elaborate texts, such as *De baptismo*, *De corona* and *De praescriptione haereticorum*,

[7] On the Roman assize system, see Haensch 1997 and Burton 1975. On the governor's court as a criminal tribunal, see Shaw 2003 and Harries 2007: 28-42. The majority of the virtues for which Roman governors are praised in honorific inscriptions can be directly linked to the governor's judicial activity: *benignitas, clementia, humanitas, innocentia, integritas, iustitia, mansuetudo, patientia,* see Panciera 2006. The equity of the governor's court judgments is explicitly mentioned in CIL VIII 2734 (Lambaesis, 3c. CE). On judicial activity as a measure of the virtue of Roman emperors, see Tuori 2016: 187ff.

presume a striking degree of familiarity with Roman law and court procedure on the part of Tertullian's African audience.[8]

An important context for these observations is provided by the evidence for legal practice and expertise in the provinces. In the Antonine Age, the epigraphic record begins to register the presence of legal practitioners in major cities throughout the Roman empire. The emergence of this evidence is primarily due to the fact that individuals begin to identify themselves (or be identified) as forensic orators (*advocati, rhētōres*) and legal experts (*iurisperiti, iuris studiosi, nomikoi*) in funerary and honorific inscriptions. This points to the rising social prestige of legal practice in Roman imperial courts, which suggests that these developments began much earlier and that beneath this very visible top layer of individuals was a much larger industry of legal practitioners active in the sphere of litigation. The epigraphic record also shows individuals who, just like the protagonist of the *Golden Ass,* traveled from a Greek province to Rome to study Roman law. The corpus of Roman jurisprudence, in turn, includes several legal writers who were, most likely, Greek provincials writing about Roman law in the eastern provinces. Considering that the vast majority of Greek provincials were not Roman citizens before 212 CE, the evidence for Roman legal learning in the East suggests that Roman law had an important broader role in the jurisdiction of Roman provincial courts.[9]

---

[8] On the familiarity with Roman law implied by Artemidoros' scenarios, see Hamdoune 2014: 241-242 and Menard 2015: 112-120. Pervasive instances of legal humor in the *Golden Ass* include 2.22, 6.9, 6.22, 6.23, 6.29, 7.3, 7.10 and 9.27. On the significance of these legal references as evidence for Roman legal culture in the West, see Dolganov forthcoming d. On the social profile of Tertullian's (most likely) well-heeled Carthaginian audience, see Schöllgen 1984 and 1984-5.

[9] For Roman legal learning and expertise in the East, see Kantor 2009 and 2015 and the important study of Jones 2007, which contains an appendix of legal experts in Greek inscriptions and papyri. Jones rightly questions earlier assumptions (notably, by Kunkel 1967) that these were merely experts in local law: see for

Overall, Antonine and Severan sources provide us with striking glimpses of large-scale developments taking place in the legal sphere of the Roman provinces, developments that look forward to the vibrant and, in important ways, very *Roman* legal culture that emerges throughout the Roman world in the sources from Late Antiquity. The historical progression of these developments, however, is something into which our epigraphic, legal and literary evidence gives very limited insight. Beyond the harrowing spectacles of Roman criminal justice, to what extent did the Roman assize system affect provincial cultures of litigation? How often did individuals engage with Roman as opposed to local courts, and why? How, exactly, did Roman officials perform the task of jurisdiction over their predominantly non-Roman subjects and what normative framework did they use? Generally, how can we characterize the impact and reception of Roman legal forms in the provinces and the fate of local legal forms and practices under Roman rule? And what, if anything, does the vast Roman legal literature produced in the Antonine and Severan age tell us about the administration of justice by Roman officials in the provinces?[10]

The only region of the Roman empire that permits us to pose and investigate these questions is Egypt, where arid conditions have preserved tens of thousands of papyrus-

---

example C. Pinnius Iustus, a Severan legal expert from Amastris in Pontus who served as *assessor* to the *proconsul* of Africa (CIL VIII 1640 = 12876 (IGR I 933), Jones 2007 no. 34) and the spectacular example of Licinius Rufinus of Thyatira, whose work on Roman jurisprudence appear in the *Digest* (see Jones 2007 no. 14). On Roman jurisprudence in the provinces before Late Antiquity, see Liebs 1976, 2002a and 2002b and 2005. Testimonia for young men from the Eastern provinces traveling to Rome or Berytus to study Roman law include: CIL VI 33868 = ILS 7742 (Rome); AE 2003 1744 (Rome); SEG 26: 1456 (Pamphylia, student from Berytus, late 2nd century CE).

[10] The Roman impact on legal culture in the provinces in the late Empire is spectacularly illustrated by Humfress 2007. Generally on the legal sphere of the late Empire, see Honoré 1978, 1998, and 2004, Harries 1999, Matthews 2000, Sirks 2007, Schmidt-Hofner 2008, Kaiser 2015.

documents from the Hellenistic, Roman, Byzantine and early Arab periods. Among these documents are several thousand documents attesting to the Roman administration of justice, including hundreds of petitions to Roman officials and authentic records of proceedings of Roman courts. In addition to presenting us with detailed information about the legal process and the activity of different actors in a Roman courtroom, papyri enable us to see beyond the courtroom and observe the aftermath of judgments issued at the *conventus*, the delegation of cases and their investigation at the local level. Papyri also give us an insider's view of Roman judicial administration through surviving examples of correspondence between Roman and local officials. The perspective of private letters, in turn, sheds light on the subjective experience of provincials engaging with the Roman court system and the situational contexts in which they chose to do so. Then, there is the evidence of thousands of private legal documents, which illustrates the impact of Roman rule on documentary and archival practices and on the forms of legal transactions. The proceedings of court cases, in turn, reveal dynamic encounters between Roman officials and the so-called "laws of the Egyptians."[11]

This unique wealth of documentary evidence, which spans the Ptolemaic period and more than six centuries of Roman rule, makes Egypt essential for our understanding of Roman provincial jurisdiction, its structure and diachronic development, and its impact on life and culture in the Roman provinces. As the research currently stands, Egyptian sources have received limited attention from Roman legal historians and occupy a marginal place in legal histories of the Roman empire. This marginalization is primarily

[11] For an overview of different genres of papyrological evidence, see the sources collected in Keenan, Manning and Yiftach-Firanko 2014. Petitions and court proceedings attested in papyri before 284 CE are listed in the appendices of Kelly 2011.

due to scholarly tradition, which has long regarded Egypt as a region with a "special status" (*Sonderstellung*) that was inherently different from the rest of the empire and organized differently from other Roman provinces. This view developed in reaction to the burgeoning field of papyrology, which produced a large volume of entirely new documentary evidence for which there was no surviving parallel elsewhere in the Roman world. The predominantly Greek and Demotic documents from Roman Egypt displayed significant continuity with Ptolemaic administrative language and documentary forms, and illustrated in great detail the complex management of the ecosystem of the Nile. This strengthened the idea of Egypt as a marginal place, impervious to Roman influence. In part, also, this idea took its impetus from Latin writers who describe Egypt as perverse and uncivilized, devoid of political culture and the rule of law (*insciam legum, ignaram magistratuum,* Tac. *Hist*. 1.11). According to Tacitus, Augustus chose to retain Egypt "close to home" (*domi retinere, Ann*. 2.59), instituting a restrictive system of direct rule by an equestrian prefect and prohibiting senators from entering the province without the permission of the *princeps*. Unlike other Greek cities in the Roman empire, Alexandria was denied the right to have its own city council (*boule*) during the first two centuries of Roman rule. This gave rise to the notion that Egypt was not a regular Roman province but a private domain of the emperor.[12]

As the last three decades of research on the administration of Roman Egypt have demonstrated, however, anti-Egyptian stereotypes and the unique ecology and culture of the Nile Valley did not prevent the Romans from ruling Egypt as a regular Roman province. By the Flavian period, when the expansion of the papyrological record provides

[12] On Egyptian exceptionalism in modern scholarship, see the extended discussion of Jördens 2009: 24-58.

us with a clear view, this was certainly the case. Administrative historians now widely regard Roman Egypt as a full-fledged Roman province, whose administrative and fiscal structures essentially correspond to what we observe or can deduce in other provinces. New research has also improved our understanding of the transition from the Ptolemies to the Romans, explaining and thereby underscoring the short- and long-term impact of Roman rule.[13]

This growing consensus about the "Romanity" of Roman Egypt, however, does not extend to its legal sphere, where the *status quo* of scholarly opinion is that Egyptian papyri predominantly illustrate the continuity of pre-Roman (Ptolemaic and enchoric Egyptian) legal institutions, forms and traditions in the Roman period. This view established itself in the postwar decades (1950s-1970s) as a reaction against earlier attempts by Roman legal scholars to come to terms with the Egyptian sources and integrate them into Romanistic research. The decisive turn was effected by Hans Julius Wolff, whose work on Ptolemaic legal documents led him to question whether Rome had a significant impact on the legal sphere of Egypt at all. This skepticism was shared by the next generation of scholars, including leading figures such as Joseph Mélèze-Modrzejewski, who made sustained arguments for Hellenistic continuity and against the idea of a Roman legal order being implemented in Egypt in any strong sense. Contrary to earlier views, it was argued that Egypt failed to illustrate the core features of a Roman

[13] For approaches to Egypt as a regular Roman province, see Lewis 1970 and 1984, Bowman and Rathbone 1992, Haensch 1997, Capponi 2005, Haensch 2008: 81-83 and Jördens 2009. Still, more work needs to be done on Egypt from this perspective, see Rathbone 2014 to this effect. On the transition from Ptolemaic to Roman Egypt, see Monson 2012 on Ptolemaic and Roman land tenure and fiscal policy. Despite the warning of Rathbone 2014 about recent research producing a "faltering consensus" about the Romanity of Roman Egypt, it seems to me that Monson's work contributes to a more nuanced understanding of the change effected by Roman rule.

legal order, such as the practice of Roman governors of issuing a general jurisdictional edict (*edictum provinciale*), or to show significant evidence for knowlege and reception of Roman law. The current consensus among scholars of legal papyri is conveniently summarized in a 2014 article on "peregrine" (non-Roman) law in Roman Egypt: "yet, since Mitteis' foundational *Reichsrecht und Volksrecht*, it became clear that the legal practice of the papyri was mostly not an illustration of the great classical Roman Law, but a continuation of the Greek and Egyptian traditions: from the Roman point of view *iura peregrinorum*, 'peregrine law.' Later evidence has only confirmed this result."[14]

While raising the standard of research on legal papyri, the legacy of Wolff had the effect of separating the increasingly specialized discipline of juristic papyrology from the broader field of Roman legal history. Consequently, legal work on Roman Egypt has tended to produce self-contained regional studies of the papyrological material, while general studies in Roman legal history have tended to omit or exclude the Egyptian sources from consideration. Paradigmatic in this sense is the view expressed in an important essay on civil procedure in the Roman provinces: "based on what we know from the rich papyrological material, formulary procedure never seems to have been introduced in the province of Egypt, nor does the *cognitio* of Egyptian governors have anything to do with the *extraordinaria cognitio* of the imperial legal sources; instead, it is predominantly a product of pre-Roman tradition." In support of this view, the author cites

[14] The citation is taken from Alonso 2014: 351. For the view that law in Roman Egypt predominantly reflects the continuity of Hellenistic and Egyptian traditions, see Wolff 1953, 1956, 1974 and 2002, Mélèze-Modrzejewski 1970, 1988 and 1993 and more recently Yiftach-Firanko 2009, Rupprecht 2011 and Alonso 2014. In her comments on provincial lawyers, that "the law learned by the sophisticated Roman at Rome differed from the use-law, influenced by local ways of legal thinking, acquired by the humble legal scribe or advocate (*nomikos*)," Harries 2016 takes a similar view (*nomikos*, incidentally, is an error, as this term is never used of advocates).

Wolff, Mélèze-Modrzejewski and other eminent authorities in juristic papyrology whose work continues to define the *status quo* on this issue.[15]

The tides have started to turn in the last decade of research on law in the Roman provinces. There have been a number of articles on law in the Greek East that make use of the Egyptian sources, as well as several studies of the Egyptian material that take imperial and socio-anthropological perspectives on legal culture in Roman Egypt. Nevertheless, there has been no sustained attempt to integrate papyrological evidence into a broader investigation of law and jurisdiction in the Roman provinces. The lack of systematic work on the papyrological material itself, including the several hundred attested examples of Roman court proceedings in papyri, which have never been studied in depth, poses an additional problem. As a result, the rich evidence from Egypt remains an underexploited resource for Roman legal historians and has, in effect, never been integrated into the legal history of the Roman empire. The present study is to be understood as a step toward bridging this gap. My purpose is to examine in detail the evidence from Roman Egypt, but also to look at it from a broader imperial perspective, placing papyri in dialogue with the evidence for courts, jurisdiction and legal practice at Rome and in other Roman provinces during the Republic and Principate. By taking into consideration a wide range of evidence, including Roman jurisprudential literature, this

[15] The citation is taken from Hackl 1997: 158. The regionalism of legal research on Roman Egypt is illustrated by general studies of the court system (Foti-Talamanca 1974 and 1979, Anagnostou-Cañas 1984), which do not place papyrological evidence in dialogue with the Roman legal sources or evidence from other provinces. Even within the field of papyrology, work on the Judaean desert papyri tends to avoid extended comparison with the sources from Egypt, as illustrated by the recent monograph of Czaikowski 2016. At the same time, studies in Roman legal history that examine law and jurisdiction in the provinces rarely make use of papyrological evidence, see for example Hackl 1997 and Schmitt-Hofner 2008.

study aims to assess the relationship between legal forms and jurisdictional practices at Rome and those applied in the provinces, and at the same time to pose questions of continuity and change between the Republic and Principate as regards the Roman imperial administration of justice.[16]

The study is divided into four chapters. The first chapter examines the institutional structure and diachronic development of the Roman assize system in Egypt, from its establishment shortly after the Roman conquest of 30 BCE to the period immediately preceding its reorganization under the tetrarchic reforms of the late third century. After an overview of judicial activity as a public role of the Roman prefect of Egypt, I proceed with a general overview of the evidence for Roman jurisdiction in the provinces, assessing the significance of praetorian jurisdiction in the city of Rome as a model for the jurisdiction of provincial governors and drawing lines of continuity between the Republic and the Principate. I then turn to Egypt and analyze in detail the institutional framework of Roman jurisdiction in papyri, placing the Egyptian evidence in dialogue with the Roman legal sources and evidence from other provinces. My aim here is to test the notion of Egyptian exceptionalism, including the supposed absence of core Roman practices such as the bipartite praetorian model of legal procedure and the *edictum provinciale*. Lastly, I draw attention to diachronic trends in Egyptian petitions that reflect the long-term impact of the Roman jurisdictional system on the Egyptian culture of litigation.

[16] Examples of work on law in the Greek East that integrates Egyptian evidence include Jones 2007, Bryen 2012 and Kantor 2009b and 2017. Studies that take an imperial perspective on courts and litigation in Roman Egypt include Kelly 2011 and Bryen 2013.

The second chapter examines record-keeping and archival institutions in Roman Egypt, contextualizing them within a broader history of Roman record-keeping and drawing attention to their instrumental role in the evolution of the legal sphere under Roman rule. I begin with some general observations about the impact of written records on knowledge and memory. As illustrated by Michael Clanchy's study of England after the Norman conquest, the making of administrative records and their organization into functional archives effected a shift from local knowledge and oral memory to administrative knowledge and official memory, where state acts and private legal claims could be proved on the basis of documents.[17] While, in the English case, the development of archives and filing systems was highly experimental and took shape over the course of nearly two centuries, the Egyptian sources suggest that Roman administrators came to Egypt with a vision of a centralized archival system, which was progressively implemented during the first century of Roman rule. Distinctly different from Ptolemaic practices, the Roman system had an important context in the record-keeping traditions of Republican Rome and the rise of an ecumenical vision of imperial record-keeping in the Augustan Age. My discussion traces the development of the Roman archive system in Egypt from the Augustan to the Severan age, with emphasis on its implications for the legal sphere. In particular, the Roman practice of keeping detailed records of administrative *acta,* including verbatim records of court proceedings, was instrumental for the development of Roman jurisdictional policies, and served as grist to the mill for legal practitioners, who formulated claims on the basis of previous decisions taken by Roman officials in similar cases.

[17] See Clanchy 1994.

The third chapter investigates the normative framework of Roman provincial jurisdiction on the basis of the Egyptian sources, with reference to Roman legal literature and evidence from other provinces. I begin with an overview of the debate about imperial and local law in the Roman empire since the seminal study of Mitteis and the inception of the field of papyrology at the turn of the twentieth century. This very traditional debate is in need of new questions and new approaches. The work of legal historians of modern colonial empires (such as British India) offers a useful comparative perspective on imperial legal regimes, on local "custom" as an imperial discourse, and on the codification of local practices as a cooperative enterprise between imperial authorities and local elites. This is helpful for thinking about imperial and local law in Roman Egypt, including the "laws of the Egyptians" mentioned in a dozen papyri from the Roman period, which we observe being interpreted by local legal experts (*nomikoi*). At the same time, elements of *interpretatio Romana* suggest that the "laws of the Egyptians" were wielded by individuals with knowledge of Roman law.[18]

The fourth chapter is dedicated to legal practitioners attested in papyri, key agents whose activity is documented in all areas of the legal sphere, from the composition of legal documents to the representation of litigants in court and the prestigious role of advising imperial officials and judges. Despite the abundance of evidence, legal practitioners are one of the least studied aspects of legal culture in Roman Egypt, and generally in the Roman provinces before Late Antiquity. After an overview of the current state of research, my discussion turns to legal practice at Rome in the Late Republic and early Principate with the aim of elucidating in what terms legal practice in Roman

[18] See Mitteis 1891. For work on modern imperial legal regimes, see Chanock 1985, Fitzpatrick 1991, Cohn 1996, Merry 1991 and Benton 2002.

provincial courts was influenced by Roman models. In particular, court proceedings in Roman Egypt abundantly attest to the well-known Roman practice of forensic oratory, as well as the practice of judges of being assisted by panels of judicial advisors and consulting authoritative experts on questions of law. Close attention to prosopography reveals, furthermore, that forensic oratory was an important prestige-practice of civic elites in Egypt, as it was for the political elite at Rome. In this respect, papyrological evidence illuminates the much more limited evidence available from other provinces and suggests a generalized adoption of distinctly Roman forms of elite legal culture by civic elites in the Roman provinces.

1

PROVINCIAL JURISDICTION

The first part of our investigation will examine Roman judicial administration in the provinces from an institutional perspective. The administration of justice was a key sphere of activity for magistrates in Republican Rome, particularly the important court of the urban praetor, characterized by distinct forms of legal procedure and mechanisms of legal development. As this chapter seeks to demonstrate, the praetorian model of jurisdiction was likewise employed by Roman provincial governors under the Republic and subsequently under the Principate. Contrary to long-held views regarding Egyptian exceptionalism, papyri from Roman Egypt provide strong evidence for the implementation of praetorian forms of jurisdiction and legal procedure and shed light on the evolution of these forms under the Principate. This suggests a very high degree of coherence in the institutional framework of Roman jurisdiction throughout the Roman empire.

1.1 The Administration of Justice in the Province of Egypt

The Roman governor of Egypt (*praefectus Aegypti*) had a complicated job. He was in charge of one of the two most important grain-producing regions of the Roman empire, which was the main provider of grain to the city of Rome and later to Constantinople.

The Nile Valley had a difficult and sensitive ecology, micro-managed through a complex and finely-tuned irrigation system. The formidable task of managing the flood season and keeping Egyptian agriculture productive, overseeing the harvest, collection and transport of grain to Alexandria and from there to Rome, were among the prefect's chief preoccupations. Like all provincial governors, the prefect also had to ensure the flow of tax revenue and keep the peace in his province, including the large, multiethnic and factious metropolis of Alexandria, as well as hard-to-control areas such as Egypt's sprawling eastern desert, where caravans bearing precious cargo from harbors on the Red Sea had to deliver their wares safely to the Nile, to be conveyed to the provincial capital. The wealth extracted from Egypt and the importance of Egyptian grain meant that the prefect was initially in command of three legions—a massive garrison that was eventually reduced to two and subsequently to one legion by the early second century—as well as several detachments of auxiliary troops. The prefect also supervised the management of the quarries of porphyry, the rare purple granite quarried only in Egypt and reserved for the exclusive use of the emperor.[19]

The prefect of Egypt was a Roman *eques*, not a member of the senate, which made him less independent *vis-a-vis* the emperor than the senatorial governors (*legati*

[19] On the complex task of the Roman governor of Egypt, see Jördens 2009, focusing on the prefect's fiscal and administrative activity (census, taxation, requisitions, water and land-management). On the water-management of the Nile Valley, see Bonneau 1993 and Haug 2012 on the Fayuum region. On the agricultural exploitation of the Nile valley in the Ptolemaic and Roman periods, see Bowman and Rogan 1999. On the grain supply of Rome, see Erdkamp 2005: 206-258. On the Roman military presence in Egypt, see Alston 1995. The initial Augustan garrison of three legions was reduced to two before 23 CE and then remained constant at one legion and an approximately equivalent number of auxiliary troops from the reign of Trajan onwards, see Alston 1995: 31-33. On the porphyry quarries of the eastern desert, see Lucci 1964 and chapter 1 of Maxfield and Peacock 2001.

Augusti pro praetore) of other imperial provinces, and he was decidedly small fry in comparison with the two proconsular governors of Africa and Asia, senior senators who were among the wealthiest and most powerful members of the imperial ruling elite. By contrast, the prefect of Egypt owed his position and career exclusively to the emperor's favor. He might return to Rome and be promoted to the praetorian prefecture or elevated to the Senate, but he could also fall as quickly as he had risen. Many prefects of Egypt would, very likely, have spent their terms of office concerned about the subsequent progress of their careers.[20]

As the chief representative of the emperor in Egypt, the prefect presided over imperial festivals and generally participated in the civic and religious life of his province. It was a signature characteristic of Roman imperial rule that governors ruled in an itinerant fashion and took annual tours of their provinces, during which they held assizes in major cities. Visiting each city was a major ceremonial occasion. As the jurist Ulpian took care to remind governors, "upon arriving in the capital or other major city, a governor must allow the city to be commended to him, and he must also forbear with no ill graces as his own praises are sung, for provincials consider this to be a matter of honor" (*Dig*. 1.16.7, Ulpian, *De off. procos.* 2). The prefect of Egypt was on tour for at least four months of each year, which enabled him to administer different areas of his province in a more direct fashion. This might involve inspecting city finances, visiting

[20] On the social profiles and careers of prefects of Egypt, see Brunt 1975. A menacing edict prohibiting divination (P. Coll. Youtie I 30, 199 CE) reflects the efforts of an ambitious prefect, Q. Aemilius Saturninus, to make a favorable impression during the upcoming visit of the Severi. Upon his return to Rome, Saturninus was duly promoted to the praetorian prefecture but his colleague Plautianus soon had him murdered (Dio 76.14.2 with de la Bédoyère 2017: 226). I discuss this papyrus in a forthcoming paper. On the high prestige attached to the senatorial provinces of Africa and Asia, see Eck 2010: 16.

legionary headquarters, surveying aqueducts and public works, and even presiding over local elections. In Egypt, it was particularly important to scrutinize the work of local administrators in charge of the forty-two districts (nomes) of Egypt (*stratēgoi*, *basilikoi grammateis*), on whom the entire system of revenue extraction and agricultural exploitation depended. It was also important to keep the legions content. One can think of many other demands on the prefect's time. The administrative correspondence that took place between the prefect and the extensive network of procurators and nome officials must alone have constituted a large amount of daily business for the prefect and his staff. In Egypt, the burden of imperial administration was arguably heavier than in most other provinces due to the economic importance of the region, as well as the fact that, despite being one of the most urbanized and densely populated regions of the Roman empire, Egypt had a long history of centralized administration and was slow to develop a culture of municipal self-government.[21]

On top of all of this, the Roman governor of Egypt had an important role as a supreme judge and provider of justice to a provincial population that thronged his

[21] Generally, on the Roman assize system, see Burton 1975 and Haensch 1997. While focusing primarily on Hispania, Le Roux 2014: 113-129 has valuable general observations on the phenomenon. For a possible first-hand account of a governor's provincial tour, see Arrian's *Periplous* of the Black Sea, which he conducted during his governorship of Cappadocia, a text that may reflect the texture of his *commentarii*, as noted by Haensch 1992: 239. On the assize circuit of the prefect of Egypt, see Foti Talamanca 1974 and Haensch 1997: 208-228. A visit of a prefect to the legionary camp is illustrated by SB V 8247 (1c?). On the prefect's visit to temples, see for instance BGU II 362 = W. Chr. 96, a list of expenses of the Capitoline temple at Arsinoe, which includes the costs of wreathing during a visit of the Severan prefect Septimius Heraclitus, as well as a lawyer's fee for presenting to the prefect grievances regarding precious objects belonging to the temple (col. vii 8-23). On the high level of urbanization and population density in Roman Egypt, see Bowman 2000 and 2011. On the development of civic culture in Egypt, see Bowman 1971 and 2000, Bowman and Rathbone 1992 and Hagedorn 2007.

tribunals and incessantly petitioned him with its grievances. Like all Roman governors, the prefect gave regular audiences, both at Alexandria and at his assizes in various provincial cities, during which he heard petitioners, dispensed privileges and adjudicated civil and criminal cases. In addition to hearing individual petitioners and adjudicating cases with the formalities of civil procedure, as we will see in more detail below, the governor extended the reach of his jurisdiction by issuing informal judicial pronouncements "from the floor" (*de plano*). A Roman governor could also expect to be accosted by petitioners outside the courtroom. As vividly illustrated by a papyrus from the 60s CE, a group of legionaries approached the prefect Caecina Tuscus "on the street of the legionary camp by the temple of Isis," where the prefect told them to file formal petitions to him, then again "by the *principia* of the camp" where they came to hand in their petitions, then again "before the Paleiouros" where they saluted the prefect, then finally "at his tribunal in the *atrium*" at Alexandria, where the prefect made his judicial pronouncement. In a private letter from the second century CE, a petitioner tells of how he managed to intercept the prefect on his way out of the theater: "taking pity," he writes, "the prefect heard my grievances."[22]

Thus, although the Roman prefect of Egypt had many tasks at hand that were of the utmost importance to the material interests of the empire—among them, the extraction of grain, taxes, labor and military manpower—a significant amount of his time

[22] On the role of the governor as benefactor, judge and arbiter of prestige, see Meyer-Zwiffelhoffer 2002, Meyer 2004 and Slootjes 2006. On the imperial petition system, see the classic Millar 1977: 440-452. On the petition system in Egypt, see Haensch 1994 and Kelly 2011: 38-123. On judicial pronouncements "from the floor" (*interlocutiones de plano)* see Nörr 1983. For the encounters between Tuscus and the legionaries, see SB V 8247 and P. Fouad 21, which appears to be an official record of the very same hearing described in SB V 8247 15-23, see Westermann 1941. For the private letter where the petitioner describes his interception of the prefect, see SB XIV 11903, late 2c. CE.

and energy was dedicated to the administration of justice. Papyrological evidence reveals the remarkable extent to which Roman governors took this public role seriously. In more than one hundred surviving records of hearings before the prefect of Egypt, we observe him adjudicating cases of murder and kidnapping, abuse by rapacious creditors and tax officials, physical and moral injury, matters of status and privilege, slave sales and defaults on loans, as well as disputes over joint ownership, property and inheritance. We also observe the prefect castigating disobedient freedmen, protecting the dowries of women and hearing the grievances of parents against offenses by their children. An even broader spectrum of issues is represented by several hundred surviving petitions to the prefect, which are only a small sample of the total number of petitions received by prefects every year. As emphasized by an important recent study of petitions from Roman Egypt, "despite the scholarly focus in recent years on the role of law in structuring differences in status and hierarchy, the ideology of the Roman legal system in the provinces was that fundamentally it was a system which could be accessible to all free individuals."[23] The evidence from Roman Egypt illustrates in vibrant colors how this ideology was enacted in the administrative practice of Roman imperial officials. In a well-known Severan papyrus, we learn that 1,804 petitions that had been submitted to the prefect over the course of three days during his assize in the Arsinoite nome were taken to Alexandria, answered and sent back to Arsinoe within two months. Evidently, these were petitions that the prefect's staff had not been able to process during the assize at Arsinoe, presumably because the stopover was very brief. To offset this inconvenience,

[23] For the citation, see Bryen 2008: 200.

the prefect's office relieved petitioners of the need to travel to Alexandria to make copies of their subscribed petitions, and had them delivered directly to the capital of the nome.[24]

As suggested by Strabo's playful reference to his holding "the post of the Ptolemaic king" (*taxis basileōs*), the Roman prefect of Egypt was in part stepping into a role that already existed. The Ptolemies had a regular practice of conducting administrative and fiscal surveys of the province, the term for which (*dialogismos*) became one of the standard terms for the Roman *conventus.* As far as the royal administration of justice was concerned, this was a traditional role that the Ptolemies had themselves inherited from the Pharaohs—the upholders of Ma'at, a divine personification of law and order, in Jan Assmann's formulation the "totality of social norms"—which was frequently depicted in Egyptian art as a small female figure resting in the Pharaoh's hands. Although the Ptolemaic evidence is sparse and fragmentary, it shows that the Ptolemaic kings and queens regularly traveled up the Nile, and their royal presence (*parousia*) is attested in various cities in the *chōra* throughout the second century BCE. Some of the evidence shows the kings reviewing the work of local officials, as the Roman prefect would also do. This was the primary meaning of *dialogismos* (literally, "inspection of accounts"), which originated in the Ptolemaic practice of reviewing the fiscal administration of the nomes.[25]

---

[24] On the ideological significance of the Roman petition system, which was in theory open to all, see Bryen 2013: 41-50. The papyrus attesting to 1,804 petitions is P. Yale 61 (ca. 209 CE) with Horstkotte 1996b. Such a large number of received petitions was clearly not atypical in this period, see Haensch 1994. On the ideology of universal access to Roman justice, see the remarks of Bryen 2008: 183-188.

[25] For Strabo's impressions of Egypt, see book 17 of the *Geography.* This particular citation is taken from 17.12: ἐπαρχία δὲ νῦν ἐστι, φόρους μὲν τελοῦσα ἀξιολόγους, ὑπὸ σωφρόνων δὲ ἀνδρῶν διοικουμένη τῶν πεμπομένων ἐπάρχων ἀεί. ὁ μὲν οὖν πεμφθεὶς τὴν τοῦ βασιλέως ἔχει τάξιν. On Ma'at and the ideology of justice in Ancient Egypt, see Assmann 2002: 127ff. who translates Ma'at as "connective justice," a

There are also scattered references to the Ptolemaic administration of justice. We know that the Ptolemies were active legislators, and that they accepted petitions at Alexandria (apparently, deposited through a special window in their royal residence) and during their visits to the *chōra.* There are dozens of surviving petitions to the Ptolemaic kings and queens, cast in an adulatory language that carries over into the Roman period. Many of these petitions, however, indicate that they were handed over to and dealt with by one of the local officials (*stratēgoi*) in charge of the districts (nomes) of Egypt. There is sparse evidence for royal responses to petitions, and it is not clear to what extent the kings actually heard petitioners in person. The overwhelming majority of Ptolemaic petitions do not actually request a hearing from the king, but ask for orders to be sent down to the local level. We have correspondingly little evidence for the Ptolemies engaging in judicial activity. Naturally, one must be wary of arguments from silence, particularly given the sparse surviving material from the Late Ptolemaic period. Nevertheless, the fact remains that the evidence that we do have does not suggest that the Ptolemaic royal visits were comparable in regularity or scale to the assize tours of the Roman prefect, nor that the Ptolemies—or indeed any other Hellenistic rulers—cultivated a judicial role that was comparable to that of Roman governors. In the emphatic words of Hans-Julius Wolff: "in no case and at no point was the king's court a regular instance of jurisdiction;" instead, the sovereign's role was that of an "extraordinary point of refuge for those seeking protection, outside the regular framework of the administration."[26]

---

phraseology that has been widely adopted. On the life of these ideas and their reception by the Ptolemies, see Manning 2012 and 2010: 169ff. The evidence for the visits of the Ptolemies to the *chōra* is collected in Clarysse 2000. On *dialogismos* in the Ptolemaic period, see Monson 2012: 233.

[26] On law and justice in Ptolemaic Egypt, see Manning 2010: 165-201, as well as the important work of Wolff—his early monograph from 1962 and the distillation of his life's work in Wolff 2002: 23-96. For

By contrast, administering justice was the capacity in which the prefect of Egypt was most likely to be visible to provincials. The audiences of Roman governors across the Empire are described to us as highly public and spectacular events, held in monumental auditoria or large open spaces that enabled crowds of people to witness the exercise of Roman justice. Our evidence from Egypt shows that prefects held annual assizes in the cities of Pelusion and Memphis, and that they traveled regularly up the Nile, sailing as far as Koptos in Upper Egypt and stopping in various cities along the way. This peripatetic model of administration, for which the Nile Valley was uniquely suited, allowed Roman governors to compensate for their otherwise limited ability to exercise direct rule. It also meant that the governor's court traveled with pomp and circumstance throughout the province. The activity of the ruler as judge and instance of jurisdiction seems to have been specifically Roman, and it is probably not coincidental that *dikaiodōsia* ("the giving of justice") first emerges in Roman-period papyri as the counterpart of *dialogismos.* Unlike most petitions to "King Ptolemy," petitions to the Roman prefect were not notional appeals to high power. Many early Roman petitions ask for a hearing from the prefect, and there are several first-century examples of applications and summons (*parangelia*) to the prefect's *conventus*. Therefore, despite important

---

petitions to the Ptolemies, the major corpus is P. Enteux. which includes a trove of petitions from the Arsinoite town of Magdola, which points to the administrative archive of the Arsinoite *stratēgos* Diophanes, who was the *de facto* recipient of the petitions "to King Ptolemy." A much-needed study of petitions from the Ptolemaic period is currently being undertaken as a dissertation project by Gert Baetens under the direction of Mark Depauw at Leiden. The above citation from Wolff is taken from Wolff 1962: 18. On the place of law and justice in the ideology of Hellenistic kingship, the standard points of reference are Schubart's two articles on the subject (1937a and 1937b). Much-needed is an updated study, which makes an adequate distinction between ideology and practice (as Wolff already tried to do in his 1962 study, see pp. 1-18.

continuities with the Ptolemaic period, the traveling supreme court of the Roman prefect was, in many ways, a dramatic intrusion into the legal and administrative landscape of the Nile Valley, and one that can be expected to have exercised a powerful impact on litigation patterns and other aspects of the legal culture of the region.[27]

The question of continuity and change in the Roman administration of justice with regard to the Ptolemaic period is complicated by our sparse evidence from the last century of Ptolemaic rule and the first century of the Roman period. Another complicating factor is the continuity of Ptolemaic administrative terminology in the Roman province, which at first sight suggests institutional continuity. This impression would be misleading, however: although the Roman state left the nomenclature of many Ptolemaic institutions and officials unchanged, the nature of these offices and the profiles of the individuals who held them changed dramatically. For example, the Ptolemaic official in charge of confiscation and irregular revenues due to the royal crown (the so-called *idios logos* or "private account") became an equestrian procurator appointed from Rome. On the other hand, the chief financial minister of the Ptolemies (*dioikētēs*) became a low-ranking administrator for much of the Roman period. Whereas district governors of the hinterland (*stratēgoi* and royal scribes) had been powerful members of local aristocratic clans under the Ptolemies, under the Romans they came to be appointed from the civic elite of Alexandria and sent out to govern districts where they did not, and could not, own landed property. The employment of the civic elite of the provincial capital to

[27] On the spectacle of the governor's court and its impact on the provincial *imaginaire*, see Gleason 1999 and Shaw 2003. On the performative space of the Roman courtroom, see Bablitz 2007 and De Angelis 2010. Early evidence for *parangelia* and requests to be heard at the *conventus* includes P. Wash. II 106 (18 BCE), SB I 5235 (Arsinoite, 14 CE), P. Oxy. II 294 (22 CE), P. Oslo II 19 (1c.) and P. Oxy. II 283 (mid-1c.).

govern the hinterland seems to have been a broader administrative strategy implemented under Augustus. This is illustrated by the province of Africa, where large hinterland territories were likewise attributed to major cities, such as Carthage and Cirta, and governed by members of the political elite of the cities in question. With time, in Egypt as in Africa, the political elite of the provincial capital progressively merged with the rising curial elites of the hinterland.[28]

There is one further crucial difference in the administration of justice between the Ptolemaic kingdom and the Roman province. Unlike the Ptolemies, the Romans made no effort to maintain a separate system of "native" Egyptian courts. Instead, Roman officials admitted all provincial affairs into their own courts, no matter what laws, customs, ethnic groups or languages were involved. If, in the Ptolemaic period, Egyptian law and the

[28] The dearth of documentary evidence for the late Ptolemaic and early Roman periods is mentioned in somewhat drastic tones by Haensch 2008: 82-83. The general tendency for legal historians of Roman Egypt is to privilege continuity with Ptolemaic practice, to the point of ignoring change. Kelly 2011: 111-120 is a case in point: to focus on the continuity of "euergetic" language in Ptolemaic and Roman petitions is to elide what was significantly different about the Roman justice system. For a strong argument in favor of change rather than continuity, see the seminal article of Bowman and Rathbone 1992. On the Roman use of the Alexandrian civic elite to govern the hinterland, see Bowman and Rathbone 1992: 125-127. For the Roman prohibition against officials purchasing property and engaging in financial transactions in the places where they held office, see chapter 70 of the *Gnomon of the Idios Logos* (BGU V 1210, ll. 174-180); as with most of the *Gnomon,* this rule most likely dates back to the Augustan period. On the documentary evidence for this rule, see Kruse 2002 I: 44.48. The fundamental distinction between Roman equestrian officials and officials of Egyptian origin is not always emphasized enough, see Thomas 1982: 139-142 for a sustained argument on this point. One revealing index of the difference is the register of communication between the prefect and different officials. A *stratēgos* could be threatened (see, for example, the prefect's *subscriptio* in P. Harris I 68: "the *stratēgos,* with his own liability before his eyes, will take care to appoint a guardian to the minors in questions," or the end of the prefect's circular banning divination in P. Coll. I 30: "and you yourselves will not escape punishment if I hear of any [diviner] being overlooked in your nomes"). Such language is never used in communication with *epistratēgoi.* On the demotion of the *dioikētēs*, see Haensch 2008: 84-85.

Demotic language were regarded as criteria for sending cases to separate Egyptian tribunals, papyri from the Roman period show cases involving Demotic contracts and Egyptian marriage law being brought before the Roman prefect. We also observe Demotic-speaking litigants communicating through translators (*hermeneis*) with their Roman judges. In adjudicating such cases, Roman officials called upon the advice of local "experts" in "Egyptian law," who show up in our sources as *nomikoi*, legal specialists. For a historian of imperial legal regimes, the universal jurisdiction practiced by Roman imperial officials is a classic case of imperialism at work, and one which illustrates the very close nexus between law and imperial power in the Roman context.[29]

Even our very meager evidence from the first decades of Roman rule shows Egyptian provincials actively seeking Roman justice. A remarkable discovery of discarded documents from the record offices at Alexandria in a necropolis in the Heracleopolite nome, where they had been reused as mummy cartonnage, provides us with a snapshot of the legal activity that was taking place in the provincial capital in the

[29] The key document regarding separate (Greek and Egyptian) spheres of jurisdiction in the Ptolemaic justice system is the *diagramma* of Ptolemy VIII Euergetes II (a.k.a. Physkon) from 118 BCE (P. Tebt. I 5), which establishes the language of documents as the decisive criterion for sending cases to the *laokritai*. Evidently, it was becoming difficult to distinguish "Greeks" and "Egyptians" in purely ethnic terms, see Wolff 2002: 85-86 and Pestman 1985a. On what counted as "Egyptian law" in the Roman province, see below chapter 3.2. On legal experts in the Roman province, see chapter 4.5 and the evidence collected in Appendix 2. On separate systems of native courts in modern colonial empires, see Chanock 1985 and Moore 1992 on British Africa, and Benton 2002: 167-209, who evaluates a wide spectrum of examples from India and Africa. A compelling parallel to Roman Egypt is provided by the British colonial administration in India, where high-ranking British officials likewise admitted into their courts all categories of local cases and employed the services of native advisors on Hindu and Muslim law—particularly on issues of family, marriage and inheritance, as was also the case in Roman Egypt. On the large-scale British effort to create a body of Hindu law on the basis of classical legal texts and commentaries, as well as local informants on living customary law, see Cohn 1996: 57-75 and Galanter 1988: 412-413. Generally, on legal regimes in European colonial empires, see Benton 2002: 1-30, 167-209.

Augustan Age. These documents show Alexandrian citizens registering their loans, sales and marriage contracts in the archives of the city and trying to defend their claims through the courts. One woman reports to an Alexandrian court official (*epi tou kritēriou*) her intention to divorce her abusive husband (BGU IV 1105, 30 BCE-14 CE) and demands the return of her dowry along with "damages and expenses" (*blabē kai dapanēmata*), a technical phrase that first emerges in papyri from the Roman period, and may reflect Roman notions about the assessment of damages. We also encounter an Alexandrian Jew, who petitions the prefect with regard to his tax privileges (BGU IV 1139, 4 BCE). For citizens of Alexandria, access to the prefect, *iuridicus*, and other Roman equestrian officials was enhanced by their proximity, by the privileged status of Alexandrian citizens, and by the concentration of legal practitioners in the provincial capital, as we will see more in detail below. In many respects, therefore, Alexandrians were in a good position to become quickly adept at navigating the new options for litigation presented by the new Roman government.[30]

Still, the Alexandrians were not alone in engaging with the Roman judicial system from early on. Far from it. The variety of petitions to the prefect that were coming in from the hinterland, already in the Augustan age, is striking. Among the Augustan petitions, we also meet a family who had traveled to Alexandria all the way from the Lykopolite nome in Upper Egypt, to petition the prefect for assistance in getting back

[30] The Augustan documents from Alexandria were initially published by Schubart as BGU IV 1050-1061 and 1098-1209, see Schubart 1913 for an early study of these papyri, and Balconi 1976 for a more updated survey of the documents. More documents from Alexandria have since been discovered in cartonnage and dozens remain unpublished. A translation of all extant documents from early Roman Alexandria is currently being undertaken at the University of Chicago under the direction of Peter Van Minnen, see http://www.classics.uc.edu/~vanminnen/ Alexandria/Ancient_Alexandria.html

their daughter, who was being detained by her employer against her will (BGU IV 1139, Alexandria, 5 BCE). In what may be the earliest surviving Roman-period petition (BGU IV 1138, Alexandria, 19-18 BCE), a man from a town in the Eastern Delta appeals to the prefect at Alexandria regarding a decision by a judge (*kritēs* = *iudex datus*), who had been assigned to him by the same prefect one month earlier. Presumably, he alleged that the judge had colluded with his adversary. The adversary was himself an employee of the *epistratēgos*, a Roman equestrian procurator in charge of Lower Egypt, whom the petitioner accused of fraudulently releasing his debtor from custody. It thus appears that the petitioner had initially tried to pursue his debtor via the *epistratēgos,* then petitioned and presented his problem to the prefect at Alexandria, received a *iudex*, and was now appealing his decision. Was the plaintiff trying to obtain a fair judgment or to game the system? In any case, it is noteworthy to what extent the mechanisms of Roman legal procedure were up and running, and the provincials were taking full advantage of them, only a decade after the Roman conquest.

The physical presence of the court of the prefect in different locations within the province was clearly a significant element in channeling litigation towards the Roman judicial system. The prefect's assize tour is first attested in a document from 18 BCE, only twelve years after the Roman conquest (P. Wash. II 106). There, a woman named Dionysia writes to her brother, asking him to file testimony on her behalf*,* so that she can sail up and plead her case before the prefect, who was sailing down the Nile for his *conventus.* Memphis, the important city at the foot of the Nile Delta, or possibly the city of Oxyrhynchos itself, may have been their mutual destination. We also encounter a cultivator of royal land from the Arsinoite village of Soknopaiou Nesos, who appeals to

the prefect while being held in prison for murder at Arsinoe (P. Lond. II 354, Soknopaiou Nesos, 7-4 BCE). A petition from the Heracleopolite nome shows a local farmer complaining to the prefect (for the second time, he says) about excessive taxation, during his *conventus* of the nome (SB V 7537, Herakleopolite nome, 6-5 BCE). Even the well-known and complicated case of the priest Satabous from Soknopaiou Nesos, who was reported for fiscal evasion by a fellow priest and was finally summoned to the tribunal of the *Idios Logos* at Alexandria in 14 CE, included a petition submitted at the *conventus* of the Arsinoite nome. A few years later, in 39 CE, at the *conventus* in Oxyrhynchos the prefect Gnaeus Vergilius Capito put the *stratēgos* Tiberius Claudius Pasion in charge of adjudicating the accusation against the wet-nurse Saraeus of having appropriated her nursling when her own child had died. After the *stratēgos* decided in favor of the nurse, the plaintiff Pesouris abducted the child, whereupon the father, a weaver by the name of Tryphon, turned to the prefect again to recover the child—one more example of provincials of modest background engaging with Roman justice.[31]

Under a misleading veneer of continuity, suggested mostly by terminology, the early documents of Roman justice in Egypt point to a world of litigation that was

[31] On the diverse social profiles of petitioners, see the overview of Kelly 2011: 123-155. Unsurprisingly, priests emerge as a very prominent group among the early petitioners. They were literate and highly skilled in managing documents, and they also kept meticulous records of their privileges, which they were keen to defend; one is reminded of the English monasteries manipulating and occasionally forging charters to underpin their privileges in the face of the crown's increasing reliance on written documents at the end of the 13th centiry, see Clanchy 1993: 170 and 318-19. On the archive of Satabous, see Schentuleit 2007 and Kelly 2011: 127-130. His case is discussed extensively in 2.1. The significance of records and archives for the development of litigation will be discussed in 2. On the Roman archival system in Egpyt, see 2. The two main papyri relevant to the case of Pesouris, Saraeus and Tryphon are P. Oxy. I 37 and 38, from the archive of Tryphon; see the detailed presentation of Biscottini 1966: 233-238; on Tryphon's social background, Kelly 2011: 131-133.

undergoing profound transformation. The evidence for litigation culture in the second century CE to be considered at the end of this chapter confirms the impression. To define more precisely the processes underway, two fundamental questions need to be addressed, namely, the relation between Roman judicial practice in Egypt and the tradition of Roman provincial jurisdiction, and the exact judicial forms and institutions of Roman justice in the province of Egypt. These two questions will be discussed in succession in the next paragraphs of the present chapter.

1.2 Roman law and provincial jurisdiction: the scholarly debate

In order to set the Egyptian case within the broader framework of jurisdiction in the Roman empire, it is necessary first of all to take stock of the debate about Roman provincial jurisdiction. The traditional view of Roman legal historians, which still dominates the recent scholarship, is that law and procedure in the city of Rome were fundamentally different from law and procedure in the Roman provinces. The foundations of this view were laid by Romanists in the early 19th century, who regarded Roman law as culturally specific to Rome and theorized how Roman legal forms had organically developed out of the society and political culture of the Roman Republic. Subsequently, with the publication of a growing volume of documentary evidence, mostly papyrological, from the provinces in the course of the nineteenth and early twentieth centuries, Roman legal scholars theorized a strong distinction between "classical" Roman law in the city of Rome and the law practiced in Roman provincial

courts. Whereas at Rome the praetor merely defined the legal issue of the case, which was adjudicated by a private judge who was not accountable to the praetor for his decision, Roman provincial jurisdiction came to be regarded as a "Beamtenjustiz" administered by state functionaries according to an entirely different model of legal procedure, the so-called *cognitio extra ordinem*, where an imperial official had control of the legal process from beginning to end. It was presumed that the *cognitio extra ordinem* gradually took over at Rome as well, replacing the traditional Republican jury courts (*quaestiones*) and praetorian formulary procedure at some point before the Severan age.[32]

The accuracy of this traditional narrative can be questioned on many points, starting with the term *cognitio* and the concept of *cognitio extra ordinem*. As demonstrated by two important studies, this phrase—which is attested only once as a Greek transliteration in a fourth-century papyrus—is largely a construct of Roman legal

[32] The traditional Romanist doctrine on *cognitio extra ordinem* is conveniently summarized in the relevant entry in Berger 1953: "The latest form of civil proceedings which, originally concurrent with the formulary procedure as "extraordinary" (*extra ordinem*, sc. *iudiciorum privatorum*), later became exclusive. The *cognitio extra ordinem* was based on the idea that the administration of justice is a function of the state, while in the previous forms of proceedings the trial was dominated by the parties under the moderation and supervision of the magistrate. The characteristic feature of the *cognitio extra ordinem* which appeared at the beginning of the Empire, is that the private juror disappears and his place is taken by a public official acting as a delegate of the emperor or, of a high functionary. When the new procedure became general, there was no more bipartition of the trial nor a formula, the whole proceeding being under control of the same functionary or his delegate. In criminal matters the new procedure under the Principate, *cognitio extra ordinem*, was opposite to the procedure before perpetual courts (see *Quaestiones*). Here, too, the imperial jurisdictional official held the trial in his hands from beginning to end and rendered the final sentence." See also Kaser and Hackl 1996: 339-409 for a detailed exposition of the traditional doctrine, and Torrent 2013 for a recent reformulation of this position, arguing that despite close resemblance to formulary procedure this was clearly an instance of *cognitio* proceedings.

scholarship.[33] In Latin, *cognitio* simply denoted a judicial hearing, which allowed the judge to "become acquainted with" (*cognoscere*) a case. Accordingly, the term *cognitio* could be contrasted with the issuing of an executive order (*iussio, Dig.* 4.2.23.3) or with proceedings *in iure* where no extended presentation of the case took place. It is an essential point that the Roman legal sources show *cognitiones* being held at all stages of the legal process by imperial officials, Roman magistrates, as well as judges. Any Roman official or magistrate, including the praetor himself, could choose to undertake a full examination of a case instead of delegating it to a judge. In some cases, praetors were even formally obliged to do so: the praetorian remedy of *restitutio in integrum*, for example, could only be granted after a court hearing (*cognitio*) by the praetor. Thus, the remedy "wholly depended on the praetor's *cognitio*" (*Dig.* 4.4.24.5, Paulus 1 *sent.*). Similarly, in a discussion of *rei vindicatio,* Ulpian states that free persons, such as for instance children *in potestate*, can only be claimed through "*praeiudicia,* interdicts and the praetor's *cognitio*" (*Dig.* 6.1.1.2, Ulpianus 16 *ad ed.*). The legal sources also refer to *cognitiones* conducted by judges, in very similar terms.[34] Contrary to textbook definitions of *cognitio extra ordinem, cognitiones* by provincial governors were not a new development under the Principate: in Cicero's Verrine orations, for example, we are told that Verres selected the most lucrative testamentary cases "to hear them himself (*cognoscere*) with his *consilium*" (Cic. *Verr.* 2.2.30). Overall, there is virtually no evidence to suggest that the term *cognitio* had any technical meaning beyond its primary

[33] On *cognitio extra ordinem* as a construct ("chimera") of Roman legal scholarship, see Orestano 1980 and Turpin 1999. The only attestation of this phrase occurs in P. Lips. I 33 (368 CE).

[34] Examples include *Dig.* 27.10.17, Gaius 1 *de manumiss.*, *Dig*. 2.1.19 pr., Ulpianus 6 *fideic*., *Dig*. 27.2.2 pr., Ulpianus 36 *ad ed.*

meaning of "court hearing" or that it was associated with a new system of legal procedure under the Principate.

By contrast, *extra ordinem* (or *extraordinarius*) did emerge as a new technical phrase under the Principate, reflecting new developments in Roman law and jurisdiction. Interestingly, the phrase implies the existence of a legal system or order (*ordo*) against which everything *extra ordinem* was defined.[35] The development of Roman law *extra ordinem* draws attention to the nature and significance of the "*ius ordinarium*" itself. Romanist scholarship is undoubtedly correct to identify the *ius ordinarium* as the praetorian system of civil actions, *formulae*, executive orders (*interdicta*) and monetary penalties. This is suggested by many passages in the Roman legal sources, where "ordinary" civil proceedings on the basis of the praetor's edict (*iure ordinario*) are contrasted with proceedings *extra ordinem.* One typical example is the jurist Marcian's statement that individuals robbed of their inheritance could reclaim the property by initiating civil proceedings against the possessors *iure ordinario,* or else could report this as a crime to be dealt with *extra ordinem* by the *praefectus urbi* or provincial governor. It is also the case that the legal rules and remedies that were labelled *extra ordinem* were by definition not part of the praetor's edict*,* such as the law of *fideicommissa,* which developed as a separate area of the law under the authority of the *princeps*.[36] What this implies, however, is that the Roman praetorian edict and *ius honorarium* (which interpreted and thereby encompassed the Roman *ius civile*) continued to function as a

[35] This led Romanists to coin the Latin phrase *ordo iudiciorum*, which is not attested in the Roman legal sources, which use instead the terms *ius ordinarium* and *iudicia ordinaria.*

[36] Instances where the Roman legal sources distinguish between *ius civile/ius praetorium* and proceedings *extra ordinem* include: *Dig*. 50.16.10, Ulpianus 6 *ad ed.*; *Dig*. 48.10.7, Marcianus 2 *inst*.

core framework of Roman law under the Principate. In other words, the development of "extraordinary" law under the Principate underscores the continued importance of "ordinary" Roman law (*ius ordinarium*) throughout the imperial period.[37]

The older Romanist tradition saw the development of Roman law *extra ordinem* as emblematic of the growing discrepancy between law in the Roman empire under the Principate and the Republican tradition of law and civil procedure in the city of Rome. As argued by Kaser in an article about the "changing face" of Roman jurisdiction: "In all its forms, the *cognitio* procedure belongs in the particular sphere of activity of the *princeps*. It is in fact an imperial law of actions, quite separate from the traditional constitutional principles of the Republic and from the ordinary divided process, in the same way that the *fiscus* was a treasury under the exclusive authority of the emperor or that the imperial provinces were governed entirely by the emperor." While some studies have sought to question or modify certain notions, such as *cognitio extra ordinem* as a technical phrase, the traditional Romanist narrative of Roman legal history continues to shape current scholarly views. In his reference work on the legal sphere of Roman Greece and Asia Minor, Fournier refers to the *cognitio* of the governor as a new procedure instituted under the Principate. In line with earlier ideas of Beamtenjustiz, Fournier draws a fundamental distinction between *iudices privati* in the Roman tradition of bipartite civil procedure and the *iudices pedanei* or *delegati* appointed by governors under the *cognitio* procedure.[38]

---

[37] A similar conclusion recently in Buzzacchi 2013: 107, based mostly on evidence from the Western provinces.

[38] See Fournier 2010a: 32-33. Fournier's inference that *IK* 17/1 *Ephesos* 3072 (late 2c.), where a local aristocratic family adjudicates "in the place of the governor Vibius Bassus," refers to *iudices delegati* (as opposed to *iudices privati*) is manifestly incorrect: clearly, these men were deputies *agentes vice praesidis* (presumably, while the governor was away from the city), the equivalent of what in papyri is referred to as

Similarly, in the recent *Oxford Handbook of Roman Law and Society*, an article on the "imperial *cognitio* process" speaks of it as a new form of procedure from the reign of Augustus "distinguished by the absence of the division of proceedings into two phases," which "entailed the end of the use of the *formulae,* which gave formulary procedure its name." Instead, governors delegated cases to "subaltern" officials, a procedure that was "fundamentally different from the old formulary procedure, because this delegation was discretionary, whereas the magistrate was obliged to appoint a judge under the traditional system."[39] This highly questionable dichotomy between formulary procedure and the "*cognitio* process" reflects the extent to which older ideas of Romanist scholarship have acquired an axiomatic status. As a result, the relationship between Roman law and law in the Roman provinces remains a controversial problem. Only a fresh look at the evidence can bring some clarity.[40]

Before turning to the evidence for Roman jurisdiction in the provinces, it is necessary to establish a preliminary point: the core aspects of Roman jurisdiction according to the forms of Roman *ius honorarium* remained substantially the same in the

---

diadekhomenos ta kata tēn hēgemonian. In serving as a deputy, the individual temporarily took over the role of the judicial official. This by no means implies an abandonment of the bipartite process whereby governors examined and delegated cases. In my view, the distinction between *iudices privati* and *iudices delegati* is another "chimera" of Roman legal scholarship, which lacks any basis in the evidence. It seems unsubstantiated by the Roman legal sources on *iudices,* where both expression appear to refer to the same practice of delegating the adjudication of cases. This issue will be discussed by me in a separate article.

[39] See Rüfner 2016: 257-258 and 262 citing Merola 2012: 58. It is not clear how, under traditional formulary procedure, the official was "obliged" to appoint a judge—it seems quite clear from *Verr*. 2.2.25-26 that provincial governors were not obliged to do so under the Republic, certainly not under the Principate.

[40] For the citation, see Kaser 1967: 137. For the relative lack of research on the administration of justice in the Roman provinces under the Principate, see Buzzacchi 2014: 93.

Republic and Principate. This point is crucial for our understanding of the development of legal institutions in the Roman empire. One consequence of the traditional view of the so-called *cognitio extra ordinem* as a new system of imperial jurisdiction under the Principate is to draw attention away from the Republican sources, which provide us with some of our clearest illustrations of Roman provincial governors employing Roman law and procedure in line with the praetorian system at Rome. By drawing lines of continuity with the Republic and stepping away from widely-accepted ideas about the shift to *cognitiones* as a new form of legal procedure under the Principate, it is possible to reframe the entire question of law in the Roman provinces, placing new emphasis on the structural presence, impact and reception of Roman legal forms – and, indeed, on the need to investigate the evolution of "classical" Roman law within a broader imperial context.

1.3 Provincial jurisdiction under the Republic: literary and documentary evidence

In 87 BCE, in a region along the Ebro River in the vicinity of modern Zaragoza, there arose a dispute over water rights between three Celtiberian communities. Apparently, the Sosinestani had sold land to the Salluienses for the purpose of channeling water. The Allavonenses, however, objected that this had been done without their agreement and that the Salluienses were now illicitly channeling water over land belonging to the Sosinestani. In response to the conflict, one of the communities (or perhaps both of them) appealed to the Roman governor (*proconsul*) to arbitrate the dispute. In line with the legal

procedure of the city of Rome, the *proconsul* defined the substance of the case in a legal brief (*formula*) using Roman juridical language (*iudices sunto*; *sei parret/non parret*; *qua de re agitur*; *ager publicus, ager privatus*) and the characteristically Roman device of legal fiction (*sei Sosinestana ceivitas esset*). Having drafted the *formula*, the *proconsul* assigned the case to a jury from the city council of a fourth community, the Contrebienses. Thus, the Roman *proconsul* exercised his twofold power of *iurisdictio*: to define the legal framework for judgment (*ius dicere*) and to assign a judge or jury to adjudicate the case (*iudicem dare*). The Contrebienses issued their verdict on the basis of the governor's *formula* in favor of the Salluienses. Subsequently, both the *formula* and the judgment of the Contrebienses were inscribed in Latin on a bronze tablet and displayed in public by the Salluienses as a monument to their legal rights, established under Roman authority.[41]

The *proconsul* in question, C. Valerius Flaccus, was a notable figure who had served as urban praetor at Rome and governor *pro praetore* in Asia Minor before progressing to the consulship in 93 BCE. In the following year, Flaccus was appointed proconsular governor of Hispania Citerior, where he suppressed a rebellion that reportedly resulted in the death of 20,000 Celtiberians (App. *Ib.* 16.100). Flaccus' Spanish command was remarkably long, lasting more than ten years until 81 BCE, when he returned to Rome to celebrate his Celtiberian triumph. Clearly, his brutal repression of the Celtiberians did not stop Celtiberian communities from petitioning him with requests

[41] The *editio princeps* of the *Tabula Contrebiensis* is Fatás 1980; Richardson 1983 provides a new edition with English translation and commentary. See also Birks, Rodgers and Richardson 1984 and Bannon 2017. Full bibliography in Diaz Ariño 2008: 95-98. On the use of technical Roman legal language to define the question on which the Contrebian senators were called to decide, see Richardson 1983: 36-38; on formulary language in particular, Buzzacchi 2013: 95-96.

to arbitrate their conflicts. On the contrary, Flaccus' success in establishing military control of the region arguably gave greater weight to his judicial pronouncements.[42]

One century later, another Roman governor was not so successful. East of the Rhine in the newly-conquered province of Germania in 9 CE, three Roman legions were massacred in a surprise ambush by Germanic tribes in the Teutoburg forest. The cause of this catastrophic defeat was deemed to be a failure of judgment on the part of the *legatus Augusti* P. Quinctilius Varus. According to the contemporary writer Velleius Paterculus, Varus harbored illusionistic ideas about what his governorship of Germania would entail: "he got into his head the notion that these men (who, in fact, possessed only the limbs and voices of men), whom it had been impossible to subdue by the sword, could be tamed by the law. With this purpose in mind, he entered the heart of Germany as if it were a nation enjoying the sweetness of peace, and he wasted the summer campaigning season sitting on his tribunal and administering justice according to all the formalities of legal procedure." Taking stock of the situation, the Germans deceived Varus by "feigning a series of fictitious lawsuits, provoking each other into disputes and professing their gratitude that these disputes could be settled by Roman justice, and that their barbarous nature was now being softened by a new and hitherto unknown method, as conflicts that had traditionally been settled by armed combat were now being settled by law." As a result, Varus was lulled into a false sense of security, "fancying himself to be the urban

[42] On C. Valerius Flaccus, see Broughton 1968, II: 628. Richardson 1983: 38 connects the formulation of the *Tabula* to Flaccus' previous experience as *praetor urbanus.*

praetor dispensing justice in the *forum,* not a general in command of an army in the heart of Germany." Soon enough, disaster struck.[43]

Both episodes eloquently illustrate the centrality of justice to the ideology and practice of Roman imperial rule. In return for its conquest and exploitation of its provinces, Rome offered its provincial subjects the gift of Roman justice, which was industriously dispensed by the highest-ranking Roman officials. However, as pointed out by Velleius, not all subjects of Roman *imperium* were equally receptive to this Roman gift. While peaceful and civilized nations could be ruled by law, bellicose and barbarous nations had to be violently repressed and ruled by military force. According to Velleius, Varus had underestimated this essential point. Instead, like an urban praetor, he dispensed justice and adjudicated legal disputes, blindly enacting the ideological claims of Roman rule, which the Germans cunningly used against him. Setting aside their anger at being conquered by the Romans, they pretended to be grateful for the gift of Roman justice. Putting away their swords, they pretended to submit to a civilizing process that would transform them into the sort of province that Rome (and Varus) aspired to rule, where the primary public role of the governor was to dispense justice and maintain the rule of law. Although this model of rule proved unrealistic (or, at any rate, premature) east of the Rhine in 9 CE, it would be progressively implemented throughout the Roman empire. By the end of the third century, when the military and civilian spheres of the Empire were

[43] Velleius Paterculus, 2.117.3-118.1. The burgeoning bibliography on the *clades Variana* can be found in Baltrusch et al. 2012. On Velleius' depiction of Varus' activities, see Baltrusch 2012: 119 and the different perspectives of Eck 2010: 23-24, who thinks that beyond its negative tone Velleius' description of Varus' judicial activity corresponds to well-attested Roman practice, and Schmitzer 2007: 406-407, who explains the literary logic of the portrait in relation to narratives of Roman defeats. Note that in any case Velleius was a contemporary who had met Arminius and may have known Varus personally.

formally separated, the principal activity of Roman governors, now commonly referred to as *iudices*, was the administration of justice.[44]

As illustrated by the *Tabula Contrebiensis* and Velleius' sardonic account of the *clades Variana,* the jurisdictional activity of Roman governors in the provinces was modeled on that of the urban praetors at Rome. This link had a very long history, arguably going back to the creation of the first Roman provinces with governors of praetorian rank in the mid-third century BCE. Our evidence for the urban praetorship itself suggests that the judicial role of the urban praetor at Rome and the law emanating from his jurisdictional activity (*ius honorarium*) developed in the late third and second centuries BCE, concurrently with the establishment of Roman rule by praetorian governors in the first Roman provinces.[45] There seems to have been an important sense in which the law of the city of Rome developed in parallel with the legal framework of Roman provincial rule. The praetorian model for the jurisdiction of governors manifested itself in a variety of ways. Just as every urban praetor issued an annual edict outlining his jurisdictional policy at Rome, it was customary for every governor to issue an edict in his province (*edictum provinciale*) that closely followed the structure of the urban edicts. The earliest source who clearly illustrates this procedure is Cicero, who in a letter to Atticus describes his own edict as governor of Cilicia in 51 BCE:

> de Bibuli edicto nihil novi praeter illam exceptionem de qua tu ad me scripseras "nimis gravi praeiudicio in ordinem nostrum." ego tamen habeo isodunamousan sed

[44] On the formal separation of the civilian and military spheres of the Roman imperial administration (*militia officialis* and *militia armata,* respectively) under Diocletian and Constantine, see Speidel 2006: 263-268; Demandt 1989: 77 and 87; Jones 1964 I: 42-45, 101 and II: 566; MacMullen 1963: 49-50.

[45] On the early development of the judicial role of the praetors at Rome, see Brennan 2000: 125-135.

tectiorem ex Q. Muci P. L edicto Asiatico, EXTRA QVAM SI ITA NEGOTIVM GESTVM EST VT EO STARI NON OPORTEAT EX FIDE BONA, multaque sum secutus Scaevolae, in iis illud in quo sibi libertatem censent Graeci datam, ut Graeci inter se disceptent suis legibus. breve autem edictum est propter hanc meam diairesin quod duobus generibus edicendum putavi. quorum unum est provinciale in quo est de rationibus civitatum, de aere alieno, de usura, de syngraphis, in eodem omnia de publicanis; alterum, quod sine edicto satis commode transigi non potest, de hereditatum possessionibus, de bonis possidendis, vendendis, magistris faciendis, quae ex edicto et postulari et fieri solent. Tertium de reliquo iure dicundo agraphon reliqui. dixi me de eo genere mea decreta ad edicta urbana accommodaturum. itaque curo et satis facio adhuc omnibus. Graeci vero exsultant quod peregrinis iudicibus utuntur. "nugatoribus quidem" inquies. quid refert? tamen se autonomian adeptos putant. vestri enim credo gravis habent Turpionem sutorium et Vettium mancipem.

As for Bibulus' edict, it contains nothing new apart from the *exceptio* you mention in your letter as "gravely discriminating against our order." I, however, have included in my own edict a clause from the Asian edict of Q. Mucius Scaevola, which has the same force but is phrased less explicitly: "unless the transaction is contrary to the principles of good faith." I have followed Scaevola on many points, including the principle (which the Greeks regard as emblematic of their liberty) that Greeks should settle controversies amongst themselves according to their own laws. My own edict, however, is quite brief, due to my limitation of its written provisions to two categories: the first being purely provincial matters, such as the finances of cities, debt, interest, contracts and everything pertaining to the *publicani*; the second being all matters that cannot be conveniently transacted without an edict, such as the claiming of inheritances, issues of ownership and sale, and the auctioning of insolvent property, all of which it is customary to bring to court and settle on the basis of the edict. A third category comprising all other jurisdictional matters I have left unwritten, stipulating that I would issue my decisions in accordance with the urban edicts. So far, my jurisdiction in line with this scheme has given general satisfaction, and indeed the Greeks are exsultant that they are allowed to use foreign judges—

> "who must be a laughable lot," you say, but what does it matter as long as the Greeks believe that they have been granted the privilege of self-government! You at Rome, I suppose, have men of high character to perform this role, such as Turpio the shoemaker and Vettius the broker?[46]

By Cicero's time, the edicts of the urban praetors had become a tralatician corpus of clauses and *formulae,* among which new praetors could add, omit or alter the wording of individual clauses. Cicero's discussion shows that the same was true of the provincial edicts: apart from one, harshly-worded *exceptio,* the edict of Bibulus contained "nothing new," whereas Cicero adopted a milder formulation from Scaevola's edict as governor of Asia in 97 BCE. It emerges from Cicero's description that, apart from a series of provisions pertaining to exclusively provincial matters, such as tax farming and Greek-style contracts (*syngraphai*), the provincial edict closely mirrored the urban edicts. The majority of his text Cicero left unwritten and simply referred to the praetorian edicts published at Rome that year.[47]

---

[46] Cic. *Att.* 6.1.15. On Cicero's edict, see in particular Marshall 1964, Pugliese 1964 and Schulz 1997: 96-98. On the overlap with the praetorian edict, see Fournier 2010a: 274.

[47] The broadly tralatician nature of the provincial edict is confirmed by Cicero's correspondence with Appius Claudius Pulcher, his predecessor in Cilicia, who was incensed that Cicero's edict had reversed some of his policies (which, presumably, compromised Pulcher's *clientela* relations). Cicero's answer was that he had innocently written his edict at Rome, and that the clauses in question were tralatician and taken from earlier edicts (Cic. *Ad fam.* 3.8: *Romae composui edictum; nihil addidi, nisi quod, publicani me rogarunt, cum Samum ad me venissent, ut de tuo edicto totidem verbis transferrem in meum. Diligentissime scriptum caput est, quod pertinet ad minuendos sumptus civitatum: quo in capite sunt quaedam nova, salutaria civitatibus, quibus ego magno opere delector; hoc vero, ex quo suspicio nata est me exquisisse aliquid, in quo te offenderem, tralaticium est*.). On Scaevola's provincial edict, see Brennan 2000: 550 and Fournier 2010a: 274-275. According to Val. Max. 8.15.6, Scaevola's conduct in the province was so exemplary that the Senate decided to commend it to every future governor of Asia; see also Diod. 37.5.

The strong expectation that the provincial edict would mirror the urban edict underpins one of Cicero's arguments in his prosecution of Verres as a corrupt governor of Sicily: two chapters of Verres' Sicilian edict were formulated differently from his own edict as urban praetor at Rome, which for Cicero was clear evidence that certain clauses had been introduced by Verres at Rome in order to rob specific individuals of their recent inheritances. Having achieved his despicable goal, Verres could dispense with these scandalous formulations in his provincial edict. Cicero's expostulations suggest that his audience had a clear notion that praetors and provincial governors were supposed to employ the same legal framework—indeed, Cicero's statement about justice at Rome adhering to the same principles as justice in Sicily makes a striking universalizing claim about Roman law. It is clear from the Verrine orations that the jurisdiction of governors over matters of private law was not limited to Roman citizens, but extended to Sicilian provincials. Virtually all of the testamentary cases mentioned by Cicero involved wealthy Sicilians, who had appealed to Verres under the provisions "*si de hereditate ambigetur*" in his provincial edict. Like Verres, both Cicero and Scaevola incorporated the standard praetorian clauses for the claiming of inheritances into their provincial edicts. As emphasized by Cicero, while certain things might be regulated differently in the provinces, Roman governors were expected to deal with inheritance claims precisely as the urban praetors did at Rome.[48]

[48] Cic. *Verr.* 2.1.112 and 116-118. That Cicero asserts the universal scope of Roman law in the sphere of testamentary law is in itself quite striking. This does not necessarily imply, however, that succession among Sicilian provincials was regulated according to Roman strictures. It is significant that the Sicilian inheritance disputes described by Cicero involve civic or religious associations that attempt to claim property by accusing heirs of failing to fulfil a condition in the will. On the value of the Verrine orations as

The Roman jurisdictional policy in Sicily was defined in the so-called *lex Rupilia* of 132 BCE—regulations emanating from the work of a senatorial commission sent to Sicily after the first servile war, which were promulgated by the governor Rupilius in a *decretum* and subsequently became a Roman policy that was dubbed by Sicilians as the *lex Rupilia.*[49] The so-called *lex Rupilia* laid down the rules for the jurisdiction of Roman governors over cases involving Sicilian provincials. Cicero gives us a brief description of this jurisdictional scheme:

1) Disputes between Sicilians from the same city could be handled locally, in the civic courts and according to the civic laws (*domi suis legibus*).

2) Disputes between Sicilians not from the same city could be brought before the governor, who would appoint a panel of Sicilian judges by lot.

3) In disputes between a city and a private individual, judges would be furnished by the senate of another city, selected from a list of cities through *reiectio* by both parties.

4) In a lawsuit by a Roman citizen against a Sicilian provincial, the governor would appoint (presumably, by lot) a Sicilian judge. In a lawsuit by a Sicilian against a Roman citizen, the governor would appoint a Roman judge.

5) For all other matters (*ceterae res*), the governor would appoint judges from the local *conventus* of Roman citizens.[50]

---

evidence for the provincial edict, see in detail Maganzani 2007. On the tralatician nature of the praetorian edict, see Cic *Verr.* 2.1.114.

[49] On the nature of the so-called *lex Rupilia,* see Cic. *Verr*. 2.2.32: *ex P. Rupili decreto, quod is de decem legatorum sententia statuit, quam illi legem Rupiliam vocant*. This context suggests that the *decretum* of Rupilius was incorporated into the tralatician part of the provincial edict of Sicilian governors.

[50] The judiciary clauses of the so-called *lex Rupilia* are quoted in Cic. *Verr*. 2.2.30-34; see most recently Kantor 2010 and especially Maggio 1993: 251 and Fournier 2010b on the question whether or not the *lex Rupilia* can be taken as generally representative of Roman judicial practice in the provinces.

It is clear from Cicero's *Verrines* that the Roman governor of Sicily employed Roman formulary procedure and administered justice according to praetorian legal forms. For example, Cicero states that L. Metellus, who succeeded Verres as governor of Sicily, employed the praetorian *formula Octaviana* aiding victims of compulsion (*per vim aut metum*) both at Rome and in Sicily (*Verr.* 2.3.152). The *formulae* issued by Verres himself (in Latin, apparently) are described and sometimes directly cited by Cicero (*Verr.* 2.1.116, 2.2.93), including a mock-formula to the following effect: "if he does not accept what you say you owe him, accuse him; if he claims his money, take him to prison" (*si non accipit quod te debere dicis, accuses; si petit, ducas*, 2.2.31). In one instance, Verres targets a wealthy Sicilian provincial by proclaiming, in an edict, that he will not grant him a legal action for *iniuria* (*iudicium iniuriarum*) if anyone physically injures him, or for any other reason (*ipsi autem nullius actionem rei se daturum, Verr.* 2.2.66); and, if a lawsuit is filed against him, Verres would appoint a judge from his own staff (*cohors*). In two instances, the citizens of a Sicilian city file charges against one of their fellow citizens for corrupting the public records under the praetorian *actio de albo corrupto* (*Verr.* 2.2.60, 2.2.90). Elsewhere, Cicero describes several cases where Sicilian provincials appeal to Verres for *bonorum possessio* of inheritances under the Roman legal action of *petitio hereditatis*. In these testamentary cases, Sicilian heirs are reported to Verres for failing to satisfy a condition in the will, which causes them to forfeit their inheritances. According to Cicero, when it came to high-profile testamentary cases, Verres was loathe to appoint Sicilian judges by lot as dictated by the *lex Rupilia.* Instead, in two cases, Verres chose to adjudicate the case himself, forcing the defendants to offer him large bribes (*Verr.* 2.2.25-26). In another case, Verres appointed judges of his own

choosing, instead of selecting them by lot in accordance with the *lex Rupilia*. When the defendant fled the province, Verres appointed a new panel of judges by lot in line with the *lex Rupilia* and they condemned the defendant in his absence (*Verr.* 2.2.35-45).[51]

Various aspects of the jurisdictional scheme of the so-called *lex Rupilia* in Sicily resonate with other evidence for Roman provincial courts, which reflects certain core principles and generalized practices of Roman jurisdiction. For example, in line with the praetorian model, whenever a Roman governor appointed judges he also issued a legal brief (*formula*) that defined the issue to be adjudicated. This is clear from the Verrine orations and directly illustrated by the *Tabula Contrebiensis* of 87 BCE. Interestingly, forms taken directly from Roman civil law operated also in the arbitral activity of the Senate and of Roman provincial magistrates in the provinces of Greek tradition, as illustrated by several documents, including a judgment transmitted by the praetorian governor of Achaea Q. Calpurnius Piso in 138 BCE in a land dispute between Sparta and Messene. First, the issue to be determined was defined: the judges had to find out who had possession of the land during the governorship of Mummius; then, the judges were appointed, in this case the city of Miletus, which was requested to adjudicate the case according to the *formula*.[52] The adjudication of disputes between cities by a corporate

---

[51] If, as seems likely, the so-called *lex Rupilia* was a Roman policy incorporated into the provincial edict of Sicilian governors (see n. 31), the thrust of Cicero's criticism was that Verres' actions went against the promises of his own jurisdictional edict.

[52] IvOl 52; text, translation and commentary in Ager 1996: 446-450 (159). Other examples include include Ager 120 (Magnesia and Priene, c. 175-160 BCE), Ager 156 (Melitaia and Narthakion, c. 143 BCE), Ager 158 (Hierapytna and Itanos, c. 140-111 BCE), and Ager 160 (Priene and Samos, 135 BCE). On the use of formulary procedure in these judgments, se Marshal 1980: 648-650 and Buzzacchi 2013: 94-96. The *formula* applied in these cases corresponded to the interdict *uti possidetis*, see Birks, Rodgers and Richardson 1984: 49 and n. 18.

body of another city echoes the procedure followed in the *Tabula Contrebiensis* and is further corroborated by the rules of the *lex Rupilia.*

We also know of many analogous provisions about local jurisdiction. The rule in the *lex Rupilia* that provincial cities had jurisdiction over disputes between their own citizens also featured in the provincial edicts of Scaevola as governor of Asia in 97 BCE and Cicero as governor of Cilicia in 51 BCE. This provision meant that governors, when petitioned with such cases, were expected to remit them to the local courts. As shown by Cicero, such regulations served to prevent abuse of power by powerful litigants with privileged connections to the governor. When certain Sicilians were denounced to Verres by their enemies, with whom Verres was allegedly colluding, they tried in vain to defend themselves with the argument that Rome had granted their cities the privilege of settling cases *suis legibus* in their civic courts (Cic. *Verr.* 2.2.59-60, 2.2.90) In these cases, the privilege offered protection to litigants whose opponents tried to drag them to the governor's court.[53]

In addition to its ideological importance, the concession of jurisdictional autonomy to cities mitigated the governor's administrative burden by limiting the number of cases adjudicated by his court. In this respect, the rules governing local jurisdiction in the Roman municipal charters from Spain under the Principate reflect a similar rationale: in the Flavian *municipium* of Irni, civil cases worth less than 1,000 HS and not involving

[53] To cite a parallel example, when the city of Termessos in Pisidia received the status of a *civitas libera et immunis* in 68 BCE, it was given the privilege of enjoying its own laws (*eique legibus sueis ita utunto*). While the Termessians could appeal to the Roman governor, for example to reclaim possession of slaves lost during the Mithridatic war, they were not obliged to do so. If they did, the governor would either issue judgment himself or appoint a panel of *recuperatores* to adjudicate the case. The *lex Antonia de Termessibus* is edited most recently as *RS* 19; see Ferrary 1985.

questions of free status (*causae liberales*) or charges of *infamia* had to be settled locally; they were simply ineligible to go up to the governor. Whereas litigants *could* petition the governor in civil cases worth more than 1,000 HS or involving charges of *infamia,* these could also be settled locally if both parties agreed. Clearly, the point was to restrict the flow of cases up to the governor.[54]

Another aspect of the *lex Rupilia* that reflects a broader Roman policy is the rule that disputes between Greek provincials ought to be adjudicated by Greek judges. As Cicero tells us, an analogous provision was included in the provincial edict of Scaevola in Asia, which was adopted by Cicero in his Cilician edict. We also find this policy in the Cyrene edicts of Augustus: in non-capital cases, the Roman governor would appoint Greek judges from different cities than the parties, unless the parties specifically requested Roman judges. In capital cases, Augustus made a special concession by allowing Greeks to choose between an all-Roman jury, which seems to have been the earlier policy, or a half-Roman/half-Greek jury, appointed from lists of judges with the possibility of *reiectio*.[55]

From this survey of the Republican sources, we can summarize some of the main characteristics of the Roman jurisdictional system in the provinces under the Republic:

---

[54] *Lex Irnitana* IX B 84, lines 3-18 with Wolf 2011: 118-119 and González and Crawford 1986: 227-230. For a precise explanation of these clauses, see Wolf 2006: 210-215 and the reconstruction and analysis of the text at 235-237. Lamberti 1993: 149-167 provides a detailed discussion of these lines with references to the legal sources; see also more recently Wolf 2012: 12-25 and 271-272. For general bibliography on the *lex Irnitana*, see below n. 36. The financial limits on cases forwarded to the governor are discussed below, 1.5.3.

[55] Oliver 1989, number 8 (= SEG IX 8, FIRA 68). On jurisprudential matters in the edicts, see recently Lintott 2003: 63-64 and especially Laffi 2013: 36-51 (37-41 on the First edict), with a detailed discussion of the terminology and concepts of Roman law that lie behind the Greek text of the edicts.

1) Like the urban praetor at Rome, it was customary for a Roman provincial governor to issue an edict outlining his jurisdictional policy. Apart from a series of provisions pertaining exclusively to the province, on issues such as tax farming and the revenues of cities, the provincial edict substantially replicated, or referred directly to, the urban edict and its list of legal actions, *formulae,* procedural clauses (*exceptiones, praescriptiones*) and executive orders (*interdicta*), which constituted the Roman *ius honorarium.* Accordingly, provincials petitioned the Roman governor on the basis of these legal actions and procedural clauses.

2) When petitioned by provincials, the governor could:

a) remit disputes between citizens of provincial cities to their civic courts (*reicere ad suas leges*).

b) exercise jurisdiction on the basis of his edict, in line with the bipartite praetorian system. This involved: i) a preliminary hearing; ii) the issuing of a *formula* or executive order (*interdictum*); iii) the appointment of a judge or panel of *recuperatores* to adjudicate the case.

c) choose to examine and adjudicate (*cognoscere*) the case himself.[56]

3) It was a Roman policy to appoint Greek judges in cases involving Greek provincials. As illustrated by Cicero's account, which is corroborated by Augustus' Cyrene edicts, the Roman municipal charters and other sources from the Principate, judges were selected by lot, with the possibility of *reiectio* by the parties, from lists of propertied citizens from major cities associated with a particular assize district.

[56] There was also, presumably, a sphere of *ex officio* jurisdiction for governors in cases involving fiscal violations and other crimes directly pertaining to Roman interests. This sphere is difficult to pin down in the Republican sources. It was eventually formalized and progressively expanded under the Principate.

4) It emerges from the Republican sources, in particular from Cicero's Verrine orations, that a Roman governor's court was generally understood to employ Roman law. Either a dispute was settled locally in the civic courts according to local laws (*domi suis legibus*), or the Roman governor took on jurisdiction of the case and employed Roman law and procedure, granting a Roman legal action or defining the issue in a *formula* and appointing judges to adjudicate the case. This jurisdictional policy is also reflected by a Republican *senatusconsultum* granting a *privilegium fori* to the three nauarchs Asklepiades of Klazomenai, Polystratos of Karustos and Meniskos of Miletos in 78 BCE. There, it is stated that the three men and their descendants may choose to have their legal disputes adjudicated "in their home city according to their own laws (*kata tous idious nomous*) or at the court of a Roman official with Italian judges," implicitly according to Roman law.[57] As mentioned above, Cicero could assume that the most current version of the urban praetor's edict would be available to provincials in Cilicia in the 50s BCE. The *Tabula Contrebiensis* shows that the governor's *formula* framed the case in line with Roman legal concepts and categories, but did not necessarily exclude the application of local rules.

Clearly, the essential coextensiveness of the urban and provincial edicts, together with the evidence that these constituted the framework of Roman jurisdiction over provincials, has fundamental implications for the nature of the Roman legal order in the provinces and for the normative framework employed by Roman provincial courts. The

[57] On the *senatusconsultum de Asclepiade* (CIL VI 40890), see the commented edition by Raggi 2001; on the Greek rendition of Roman legal terms in the document, see Laffi 2013: 5-7. The *privilegium fori* for the three men in mentioned in lines 11-14 of the Latin version and in lines 16-20 of the better-preserved Greek version, see Raggi 2001: 99-109.

formulations *domi suis legibus* and *reicere ad suas leges* themselves arguably imply that, when a Roman court took on a provincial case, it was expected to employ Roman law. Arguments distinguishing "classical" Roman law and procedure from Roman provincial law and procedure have traditionally tended to set aside silently the Republican evidence, laying emphasis on the alleged absence of evidence for Roman formulary procedure in the provinces under the Principate. Despite a relatively small number of explicit testimonia, however, our evidence clearly shows that the praetorian edict and *ius honorarium*, as well as the praetorian model of bipartite procedure, remained the core framework of Roman provincial jurisdiction under the Principate, as well.

1.4. Provincial jurisdiction under the Principate: legal sources and documentary evidence

As the evidence currently stands, there is good reason to believe that dossiers of jurisdictional regulations based on Roman *ius honorarium* continued to be a core aspect of Roman gubernatorial jurisdiction under the Principate. One can begin with a pronouncement from the early first century CE, where the governor of Asia states his intention to act in accordance with his "published general disposition (*katholikē prothesis*) to observe the written ordinances of proconsuls before him" (*RDGE* 70). It is a plausible inference that this general disposition, which was posted and displayed in public (*prothesis*) and where the governor established his jurisdictional policies with

respect to those of his predecessors, represents a continuation of the Republican practice of governors issuing jurisdictional edicts at the beginning of their terms of office.[58]

The publication of a dossier of jurisdictional regulations on the praetorian model is also implied by chapter 85 of the *lex Irnitana*, the Flavian municipal law of Irni, in Spain (91 CE), which states that municipal magistrates are required to display in a visible location all portions of the *album* of the provincial governor that are relevant to their own jurisdiction. This *album* included *edicta*, judicial *formulae, sponsiones, satis acceptiones, praescriptiones, exceptiones* and *interdicta.* As this enumeration makes clear, the *album* of the governor was based on Roman *ius honorarium,* as further reflected by the presence in the *lex Irnitana* of known praetorian regulations, as well as several references to the praetor's jurisdiction in the city of Rome, which is explicitly stated to be the model that is to be followed.[59] It is worth noting, in this regard, that in the *lex de Gallia Cisalpina,* a

---

[58] On the inscription, see Fournier 2010a: 432-433 and the detailed discussion of Bitner 2014. The phrase *katholikē prothesis* is translated as "general procedure" by both Sherk and Bitner, which is, in my view, misleading. Surely, the direct meaning of the verb *protithēmi* was meant. This was the standard verb used by governors to order that a document be posted in public, see the standard expression *prothes, "*publish!" in P. Oxy. VII 1032 l. 45, 161 CE, among dozens of other examples. Thus, "published general disposition" seems a more natural translation of *katholikē prothesis.* One wonders whether this Greek expression was indirectly trying to convey *album* in a non-technical way. On provincial edicts under the Principate, see Fournier 2010a: 277-278.

[59] Displaying of the *album* of the provincial governor: *lex Irnitana* IX B 85, lines 30-32 with Wolf 2011: 120-121 and González and Crawford 1986: 230-231 (and see Lamberti 1993: 146); references to praetorian jurisdiction: *lex Irnitana* V C 49, VIII A 69, X A 89 and 91 with Wolf 2011: 74-77, 98-99, 128-135 and González and Crawford 1986: 213-214, 221-222, and 233-236. On formulary procedure in the *lex Irnitana* see Le Roux 2014: 259-260. On the knowledge of legal procedure at Rome presupposed by the *lex Irnitana*, see Johnston 1987: 62-66. For comprehensive discussions of the *lex Irnitana*, see Lamberti 1993 and most recently the articles collected in Wolf 2012. On the extension of *ius Latii* to Spain by Vespasian, documented also by the other, more fragmentary municipal laws (the *lex Salpensana* and the *lex Malacitana*, *FIRA* 23 and 24 respectively), see Wolf 2011: 18-21.

law that converted the former Roman province into a region of Italy in the 40s BCE, the jurisdictional role of the peregrine praetor at Rome with respect to local magistrates is entirely analogous to the governor's role in the Flavian municipal charters. Very important, in this regard, is the statement of Gaius (*Inst.* I 6) that the jurisdiction of governors (*praesides provinciarum*) was the functional equivalent of the jurisdiction of the urban and peregrine praetors, whose edicts were one of the principal sources of Roman law (*amplissimum ius*). Gaius goes on to say that the edict of the curule aediles was traditionally published in public provinces by *quaestores provinciae*, but not in *provinciae Caesaris* where *quaestores* were lacking. Presumably this meant that, in *provinciae Caesaris*, the regulations of the aedilician edict (which included a number of important, empire-wide rules pertaining to slave-sales, to be discussed below) were incorporated directly into the *album* of the governor. In view of the fact that the jurisdiction of *legati Augusti* emanated directly from the emperor, the most efficient explanation is that it encompassed the jurisdictional spheres of the traditional magistracies in the city of Rome.[60]

Thus, the *lex Irnitana* provides clear imperial-period evidence for gubernatorial publication of jurisdictional regulations derived from Roman *ius honorarium*. In addition to being displayed *in albo* in the provincial capital and, presumably, at locations of the *conventus*, these regulations were also to be displayed at the municipal level, insofar as they were relevant to local jurisdiction. Moreover, references in the *lex Irnitana* to

[60] The inclusion of material from the aedilician edict in addition to the praetorian edicts may be implied by the plural reference to *edicta* in the *lex Irnitana* (IX 85 line 30; see Wolf 2011: 120-121 and González and Crawford 1986: 229-231). For the *lex de Gallia Cisalpina,* see CIL XI 1146; CIL I^2 592 = Bruns, Fontes 7, no. 16 = *FIRA* I^2 no. 19; Crawford 1996: I 461-77 no. 28. On local jurisdiction in the *lex Irnitana* and *lex de Gallia Cisalpina,* see Rodger 1996.

jurisdictional rules and legal procedure in the city of Rome underscore the fact that knowledge of Roman *ius honorarium* was assumed to be available to provincials. While Baetica was certainly a *provincia populi Romani*, the abstract language of the *lex Irnitana* (where the governor is referred to as "he who is in charge of the province") and its close textual and structural similarity to other surviving examples of Roman municipal laws suggest that we are looking at a general template of a Roman *lex municipalis* that was employed in both public and imperial provinces.[61]

New evidence for the use of formulary procedure and for the enduring role of the *ius honorarium* as the main template for provincial jurisdiction well into the Principate has emerged in recent years, once again from Spain but this time from the imperial province of Hispania Tarraconensis. In a rural area of the Valley of the Ebro, some 50 kilometers west of Zaragoza, a cache of eleven rectangular plates of bronze, all deriving from the same original large bronze *tabula*, was found by chance in 1993. Once recomposed, the *tabula* turned out to contain the text of a *lex* regulating the organization of an irrigation community on the right bank of the River Ebro. The text is dated explicitly to the reign of Hadrian, and current scholarly consensus tends to put it in the years 122-133 CE. The three *pagi* forming the community belonged to the Roman colony

[61] This is further suggested by the recently discovered text of the *lex municipalis* of Troesmis in the imperial province of Moesia from the reign of Marcus Aurelius, which displays close textual similarities to the Flavian municipal laws and includes a very precise reference to a chapter from the *lex Iulia et Papia*. Evidently, *leges municipales* of this sort continued to be employed into the late second century. For preliminary publications, see Eck 2013 and 2014. The resemblances, let it be noted, appear to point to a general template, not to a specific law that was replicated in the same way again and again; see the extensive discussion of Lamberti 1993: 201-239 with references to previous research. On the distinction between *provinciae Caesaris* and *provinciae populi Romani* and questioning the importance of this distinction at the level of administration, see Millar 1989.

of *Caesaraugusta*, modern Zaragoza, and to the Latin *municipium* of *Cascantum*, today Cascante, some 80 kilometers upstream of Zaragoza. The irrigation system was centered upon a canal, the *rivus Hiberiensis*, and the *lex* spells out the obligations of the several communities with regard to the regular upkeep of the canal itself, the sanctions that applied in case of transgression, and most importantly from our perspective, the judicial procedure for the sanctions:

> 14. [si(?) quis(?) ab(?) aliquo(?) p]oenam ex hac lege petet is a quo poe-
> [na petita(?) fuerit(?)] vadimonium ad eum qui prox<i=U>mae
> [iurisdictio]ni(?) municipi(i) aut coloniae praeerit
> [promittat(?) 3 pr]ox<i=U>mae rationis habita ex edicto Mi-
> [nici(?) 3]ani leg(ati) Aug(usti) clarissimi viri ut in
> [3] promitti oportebit iudicem
> [3 inter] quos controversia erit extra ordi-
> [nem 3] qua secundum legem intra dies quin-
> [que proximas quibus(?)] datus erit pronuntiet
>
> 15. [is(?) qui(?) cum(?) ali]quo hac lege aget petetve hanc for-
> [mulam accipi]to iudex esto quitquit parret e lege
> [rivi(?) Hiberiensis(?)] quae lex{s} est ex conventione paga-
> [nica(?) omnium(?) C]aesaraugustanorum Gallorum Cas-
> [cantensium Bels]inonensium paganorum illum
> [(illi) facere oportere ei]us iudex illum illi c(ondemnato)
> s(i) n(on) p(arret) a(bsolvito)

> 14. If anyone seeks a penalty against any person on the basis of this law, let him against whom the penalty is sought make a promise to appear (*vadimonium*) at the court of whoever is in charge of *iurisdictio* in the nearest *municipium* or *colonia* for the amount stipulated in the edict of Minicius Fundanus *legatus Augusti vir*

> *clarissimus,* as it is necessary to promise [on the basis of the edict of the *praetor urbanus*?]. And it will be necessary for [the person in charge of *iurisdictio* to assign?] to those between whom the dispute has arisen a judge *extra ordinem,* on the condition that he pronounce his sentence within five days of his appointment, in accordance with the law.
>
> 15. [He who?] will sue or present claims [against?] anyone on the basis of this law, let him receive this *formula*: let there be a judge. Whatever it appears that X owes to Y on the basis of the *lex rivi Hiberiensis,* which issues from the collective agreement of all the *pagani*, the Gauls of Caesaraugusta and the Belsinonenses of Cascantum, let the judge condemn X to Y for this amount. If it does not appear so, let him absolve him.

This text—a "classical Roman legal text," in the words of Nörr—presents us with a *formula iudicii* on the basis of the edict of the provincial governor, employing the full range of Roman juridical vocabulary, often in abbreviated form: *condemnato si non paret absolvito* (abbreviated as *csnpa*, 15 l. 43), *dare debeto* (*dd*, 1b l. 15, 6bis l. 31, 8 l. 49), *vadimonium* (14 l. 30), *qui … iure dicundo praeerit* (10 l. 5) *actio persecutiove* (11a l. 1) and *formula* (15 ll. 38-39). The interesting reference to a *iudex extra ordinem* (ll. 35-36) may reflect the fact that this *formula iudicii* was not part of the traditional material included in the Roman praetor's edict (*ius ordinarium*), but was a new legal action created by the governor of Spain on the basis of a law of the province of Tarraconensis. In providing us with an example of a *formula extra ordinem*, the *lex rivi* sheds an important light on the relationship between praetorian *ius ordinarium* and gubernatorial jurisdiction *extra ordinem.* One could hardly ask for clearer evidence for the enduring

application of praetorian models of jurisdiction and formulary procedure in the provinces.[62]

The employment of praetorian legal forms is likewise attested in the East—for example, in the imperial province of Arabia in the 130s, where among the papers of a Nabataean-Jewish woman named Babatha we find three copies of a Greek text of the praetorian *actio tutelae,* precisely as it is attested in Latin in Gaius' *Institutes*. In view of Babatha's ongoing dispute with her son's guardians, it can be deduced that she and her son were planning to cite the *actio tutelae* in a lawsuit at the Roman governor's court.[63] Another important *testimonium* for praetorian legal forms in the provinces are deeds documenting the sale of slaves, which routinely contain guarantees against hidden defects that are based on (and explicitly refer to) the edict of the curule aediles. Such clauses (for example, *hygiēn ek diatagmatos = sanum ex edicto*) are documented in both Greek and

[62] For the *editio princeps* of the *lex rivi Hiberiensis*, see Beltrán Lloris 2006, with references to the circumstances and location of the find and maps of the area concerned. On the *pagi* in question, see Le Roux 2014: 146-155. The chronology is linked to the *fasti* of the governors of Tarraconensis, on which see especially Alföldy 2007: 338-342. In all likelihood, the *lex* was sanctioned by the *legatus iuridicus* in the *conventus* of Caesaraugusta, see the discussion in Le Roux 2014: 146 n.9. On the *conventus* in Caesaraugusta, see Haensch 1997: 171. Among the burgeoning bibliography on the legal aspects of this new document, see especially Nörr 2008: 124-184, Buzzacchi 2013: 59-87, 2014 and Platschek 2014. Buzzacchi offers no explanation for the *iudex extra ordinem,* whereas Nörr 2008: 132-133 proposes that this may have meant dispensing with the formalities of *ius ordinarium* regarding the selection and time-limits of judges.

[63] The three papyri in question are P. Yadin I 28-30. On the *actio tutelae*, see Mantovani 1999: 56-58. The text, in Greek, may have been translated from a Latin original in the *album* of the provincial governor, see the discussion in Laffi 2013: 55-57. In that case, of course, the translation must have been the work of somebody with good knowledge of Roman law, as pointed out by Oudshoorn 2007: 330-336. Nörr 1999: 268 provides a tentative reconstruction of the Latin original. For an extended discussion of the procedural aspects of these documents, see also Nörr 1998.

Latin slave-sales from provinces in both East and West.[64] It is clear that these praetorian *actiones* were part of the provincial legal order, and it is reasonable to infer that they belonged to a corpus of jurisdictional rules derived from Roman *ius honorarium*, of the sort that the *lex Irnitana* describes as being published *in albo* by the governor. This further supports the continuation of the Republican tradition of gubernatorial edicts based on Roman *ius honorarium*.

Further evidence for praetorian legal forms being employed by governors under the Principate can be found in the imperial-period literature pertaining to Roman land surveyors (*corpus agrimensorum*). In several texts of the *corpus agrimensorum*, we encounter references to governors issuing possessory interdicts. In one passage, it is explicitly stated: "we shall see whether this type of possession warrants the issuing of an interdict, since there is a great variety of legal controversies pertaining to ordinary praetorian law (*ius ordinarium*) that arise in different provincial contexts. While in Italy access to rainwater certainly gives rise to considerable disputes, in Africa this question is handled quite differently." Here and elsewhere in the *corpus agrimensorum*, it is taken for granted that the jurisdictional framework employed by Roman governors in sorting out provincial conflicts over property and water-rights is Roman *ius honorarium*, pointing to a jurisdictional edict on the praetorian model being issued by governors in the West and presumably formally published *in albo,* as described in the *lex Irnitana*.[65]

---

[64] On the aedilician clauses in slave-sales, see Jakab 1997: 153-196, 200-205.

[65] References to legal procedure in the *corpus agrimensorum* are collected in Campbell 2000: 475-477. The passage quoted is Agennius Urbicus, *De controversiis agrorum* 20.14-18 Campbell. Other relevant references to *interdicta* include Agennius Urbicus*, De controversiis agrorum* 30.22-27 Campbell with the gloss in *De controversiis* 64.20-24. For a detailed study of the value of the *corpus agrimensorum* as a source for legal practice, especially in the provinces, see Maganzani 1997.

The evidence of Roman jurisprudential literature, which begins to be attested for the first century of the Principate and rises significantly for the second and early third centuries, provides a different but complementary perspective on Roman imperial jurisdiction. While being themselves closely familiar and directly engaged with the practice of courts, Roman legal writers were also interested in theorizing the powers and mechanisms by which jurisdiction was exercised at Rome and in the provinces. From the perspective of the Roman legal sources, the jurisdictional system of a Roman province was configured around the central role of the governor (*proconsul, praeses provinciae*). Within his *provincia,* a Roman governor had an exclusive right to issue general legislation (*ius edicendi*) and possessed supreme judicial authority, which was unappealable except before the emperor. Formally, the governor's administration of justice emanated from his *imperium*—the power to command and coerce, deriving from the traditional military role of Roman magistrates—and his *iurisdictio,* the power of civil jurisdiction, literally to "pronounce the law." Beyond military activity, the governor's *imperium* underpinned his coercive and executive acts in the civilian sphere. In particular, *imperium* was understood to be the source of the governor's criminal jurisdiction and exclusive power to issue capital punishment (*ius gladii*). In line with the bipartite praetorian model, the governor's *iurisdictio* was the power to grant a legal action (*actionem/iudicium dare*) and define the legal substance of the case (*ius dicere*) and the power to determine by whom the case would be adjudicated (*iudicis dandi licentia,* Dig. 2.1.3). While the *imperium* of the governor could not be delegated, he could delegate his powers of civil jurisdiction (*iurisdictio*) to other officials (*mandare iurisdictionem*). In theory, the governor's *iurisdictio* was all-encompassing, so that there was "no matter in

the province that could not be effected through him" (*nec quicquam est in provincia, quod non per ipsum expediatur,* Dig. 1.16.9pr. Ulpianus 1 *de off. procons.*). In practice, however, there was a very limited number of cases that a governor could examine himself. The Roman jurists were concerned to police the boundaries of *imperium* and defined a category of acts based on *imperium* (such as capital jurisdiction) or involving "more *imperium* than *iurisdictio*" (such as *restitutio in integrum*) that had to emanate directly from the governor. Beyond these acts, however, a governor's *iurisdictio* could be delegated quite unproblematically and even *en bloc* to a provincial legate. By the Severan age, even the *ius gladii* appears to have been a relative factor: Ulpian explicitly states that the governor's *legati* could investigate capital cases, as long as it was the governor himself who actually pronounced the sentence. Ulpian's only objection was that governors were not allowed to delegate business to their legates before they themselves entered the province (evidently, governors often did this). Ulpian's compromise was that, although a governor could *empower* his legates before arriving in the province, they could not actually *use* their powers until his *adventus*.[66]

[66] For Ulpian's discussion of the governor's powers, see Dig. 2.1.3-4. The chapters of the Digest relevant to this discussion are 1.16, 1.21 and 2.1, mentioned in the previous note. Other key passages on the distinction between *imperium* and *iurisdictio* include: 5.1.58 (Paulus 13 *ad Sab.*), 26.1.6.2 (Ulpianus 38 *ad Sab.*) and 50.1.26.pr. (Paulus 1 *ad ed.*). Some acts, such as *tutoris datio*, were not classified in either category, see Ulpian in 26.1.6.2. The problem of what constitutes "more *imperium* than *iurisdictio*" is mentioned in Dig. 1.21.1.1, 2.1.4 and 50.1.26.pr. On the impossibility of delegating *imperium,* see Papinian in 1.21.1.1; Paul disagreed, see his *nota* to Papinian in 1.21.1.1 as well as 1.21.5.1. The relevant passage from Ulpian regarding *legati* hearing criminal cases (and sending *praeauditae custodiae* to the governor) is Dig. 1.16.6pr. Ulpianus 1 *de off. procos*. On the absurdity of delegating one's *iurisdictio* before entering one's province (at which point one had not yet formally received one's own powers) see Dig. 1.16.4.6, Ulpianus 1 *de off. procos.*

In their theorization of imperial rule, the Severan jurists were visibly negotiating a large gap between theory and practice. In practice, governors operated in premodern conditions, with a relative paucity of administrative personnel and without anything approaching a centralized police force.[67] For governors of large provinces, criminal cases alone must have constituted a formidable burden, which, one suspects, was often dealt with summarily and *pro forma.* The jurists tell us that governors could examine or redirect (or, presumably, ignore) petitioners at their discretion and even a rescript from the emperor that "enabled" the petitioner to approach the governor did not actually oblige the governor to hear the case. An edict of the emperor Diocletian ordered governors to grant petitioners at least a preliminary hearing (*notio*) before assigning a *iudex* (which they were formally supposed to do, but evidently tended to skip). It also emerges from the legal sources that the legates of governors routinely executed much of the governor's civil administration, and did so with a free hand, as we can deduce from the emphasis of jurists on the limits of the authority of officials with "delegated" jurisdiction (*mandata iurisdictio*). Ultimately, even the question of *imperium* was negotiable when faced with practical considerations: the Severan jurist Paul states, contrary to the "purist" doctrine of Papinian, that even a private individual who was appointed *iudex datus* received some *imperium* along with his *iurisdictio,* "because there can be no *iurisdictio* without the power to exercise a moderate degree of coercion." Here and elsewhere, it is apparent that the imperial jurists were seeking to bring theoretical decorum to the much messier and

[67] Although see Fuhrmann 2011 on the policing that did take place, primarily via the Roman army and through the agency of municipal officials.

less coherent picture of what governors, flooded by petitions on top of their other burdens of administration, were actually doing in their provinces.[68]

1.5 Roman jurisdiction in Egypt: the papyrological evidence

Jurisdiction and judicial procedure as practiced in the Roman province of Egypt and documented in vivid detail by papyrological evidence has hitherto been kept apart from the broader issue of Roman provincial jurisdiction. As stated by Hackl in his essay on civil procedure in the provinces: "based on what we know from the rich papyrological material, formulary procedure never seems to have been introduced in the province of Egypt, nor does the *cognitio* of Egyptian governors have anything to do with the *extraordinaria cognitio* of the imperial legal sources; instead, it is predominantly a product of pre-Roman tradition." In other words, papyrological evidence is not deemed relevant to general discussions of the legal process in the Roman provinces because it is presumed that jurisdiction in Roman Egypt did not operate according to Roman models.[69] The basis for this view can be described as follows. First of all, it is argued that in Egypt,

---

[68] On the discretion of governors to hear or delegate (or, presumably, ignore) cases, see Dig. 1.18.8 (Iulianus 1 *Dig*.), Dig. 1.18.9 (Callistratus 1 *de cogn.*) and the edict of Diocletian at CJ 3.3.2pr. On *mandata iurisdictio* and its limits, see Dig. 1.21, particularly Papinian at 1.21.1.1, and *contra* Paul at 1.21.5.1 on *iudices pedanei* receiving *imperium* and the power of "moderate coercion" (*modica coercitio*). See also 2.1.12 (Ulpianus 18 *ad ed.*) on the allowance of "moderate chastisement" (*modica castigatio*) to municipal magistrates.

[69] See Hackl 1997: 158. Similar conclusion even in Buzzacchi 2013: 39, all the more noteworthy considering that her work argues for the continuity of *ius honorarium* in the provincial legal process under the Principate.

in contrast to other provinces, the *edictum provinciale*—the jurisdictional edict issued by Roman governors, modeled on the Roman praetor's edict—was never introduced. To argue against the existence of an *edictum provinciale* (which was based, as we know, on Roman *ius honorarium*) is, of course, to argue against the presence of fundamental Roman legal and jurisdictional forms in Roman Egypt. In addition to the supposed absence of an *edictum provinciale,* it is argued that documents preserved from Egypt fail to illustrate other basic features of Roman jurisdiction, such as the bipartite legal process, whereby a preliminary hearing before the governor was followed by delegation to a judge or jury: the jurisdiction of the prefect of Egypt and his referral of cases to *epistratēgoi*, Alexandrian and local officials, supposedly does not conform to Roman notions of *iurisdictio,* as we have it from the Roman legal sources. As for the jurisdictional activity of local officials, including municipal officials at Alexandria (*archidikastēs, dioikētēs, exēgētēs*) and district governors in the hinterland (*stratēgoi*), it is generally believed that these officials did not have their own, formally independent jurisdiction, but could issue binding decisions exclusively through delegation by the prefect. At the same time, no clear principles governing their jurisdictional activity in relation to the prefect and other officials have ever been established. Instead, it is argued that Roman Egypt had "an overly complicated legal system, which had a large number of adjudicative officials with substantially overlapping jurisdictions." All of this has served to distance the Egyptian material from the jurisdictional schemes outlined in the Roman legal sources and other evidence for Roman jurisdiction, such as the Roman municipal laws. In matters of jurisdiction, Egypt continues to be regarded as a special case.[70]

[70] The citation is taken from Kelly 2011: 34. The lack of autonomous jurisdiction among all provincial

Papyrological evidence shows precisely the opposite, namely, that distinctly Roman models of jurisdiction and legal procedure were implemented in Roman Egypt, in part integrating existing civic and administrative configurations and in part adapting these configurations to a Roman framework. In what follows, I will describe and analyze the structure and function of the Roman judicial system in Egypt, beginning with the jurisdictional activity of Roman equestrian officials and then proceeding to examine local jurisdiction by civic and nome officials. I will then pose the question of the normative framework employed by Roman imperial officials in Egypt, including the much-debated questions of formulary procedure and the *edictum provinciale.*

1.5.1 The jurisdictional activity of Roman equestrian officials

As articulated by Strabo in his description of the new province in the 20s BCE (17.12), the administrative order of Roman Egypt had two, clearly distinguished tiers. The upper tier of the administration was composed of imperial officials of equestrian rank, who were appointed from Rome and were predominantly not natives of Egypt. The highest-

---

officials except for the prefect is an influential thesis of Mitteis, laid out in Mitteis 1910 and authoritatively summarized in Mitteis 1912: 25: "during the first three centuries of the Principate, civil and criminal jurisdiction in Egypt belonged to the *praefectus Aegypti* alone, the special competences of the *iuridicus Alexandreae* and *procurator* of the Idios Logos (and perhaps also the *archidikastēs*) being merely exceptions to the rule. All other officials, especially the *stratēgoi* and *epistratēgoi,* lacked jurisdictional competence altogether." Mitteis' thesis was based on a very limited number of published papyri, less than 10% of the currently available material. Nevertheless, his thesis was upheld by generations of scholars and continues to be widely accepted, see for example Kelly 2011: 83: "But lower officials such as the archidikastai, stratēgoi, epistatai tōn phylakitōn, and military officers as a strict matter of law exercised no independent jurisdiction. If they were to exercise jurisdiction and make binding decisions, this was only meant to be in cases that had been delegated to them by the prefect." See below on the jurisdiction of *epistratēgoi* and section 1.5.2 on the jurisdiction of *stratēgoi*.

ranking imperial official in Egypt was the *praefectus Aegypti*, the second-most-important equestrian official in the whole of the Roman empire, on whom the emperor bestowed an *imperium* "analogous to that of a *proconsul.*"[71] Below the prefect was the *iuridicus*, an equestrian official who had a permanent court at Alexandria and acted as a deputy-prefect during the prefect's absence from the provincial capital.[72] Another high-ranking equestrian official based at Alexandria was the procurator of the *Idios Logos,* who was in charge of confiscation and other irregular revenues due to the Roman *fiscus.* This procurator was also responsible for investigating fiscal crimes and pursuing cases of fiscal evasion.[73] The hinterland of Egypt, in turn, was divided into three large administrative regions (*epistratēgiai*) encompassing multiple nomes, which were overseen by three equestrian procurators with the Ptolemaic title of *epistratēgos*.[74] Additionally, papyri from the Roman period document the presence of about 40 domanial and fiscal procurators throughout the province.[75] The lower tier of the administration was composed of officials who were Egyptian provincials, typically from the Hellenized elite of Alexandria. This included a series of officials based at Alexandria (*archidikastēs,*

---

[71] Dig. 1.17.0. *De officio praefecti augustalis*. Dig. 1.17.1 Ulpianus 15 *ad ed.*: *Praefectus Aegypti non prius deponit praefecturam et imperium, quod ad similitudinem proconsulis lege sub Augusto ei datum est, quam Alexandriam ingressus sit successor eius, licet in provinciam venerit: et ita mandatis eius continetur.*

[72] On the *iuridicus* of Egypt, see Haensch 2016.

[73] On the Roman procurator of the *Idios Logos,* see Harter and Kruse forthcoming and the older study of Swarney 1970. While we observe fiscal procurators conducting judicial proceedings (*diagnōseis = cognitiones*), there is no evidence for them delegating cases to judges. One reason may be that fiscal procurators did not have *iurisdictio* in the strict sense, or perhaps delegation was simply not a relevant issue, because the only persons authorized to adjudicate fiscal crimes were the *procuratores Caesaris* themselves.

[74] On the Ptolemaic and Roman *epistratēgos,* see Thomas 1982.

[75] On procurators in Roman Egypt, see the unpublished dissertation of Beutler 2003.

dioikētēs, exēgētēs, hypomnēmatographos) and others sent out to govern the forty-two districts (nomes) of the Egyptian hinterland (*stratēgoi, basilikoi grammateis*).[76] During the reign of Hadrian, the posts of *archidikastēs* and *dioikētēs* were turned into equestrian procuratorships. From this point onward, these officials take on a jurisdictional role that resembles that of other equestrian officials in Egypt: we observe them receiving petitions, holding audiences, adjudicating cases and even summoning litigants to Alexandria. From the age of Hadrian, it is possible to speak of at least seven equestrian officials in Roman Egypt with major roles in the administration of justice.[77]

The evidence for the jurisdiction of the *praefectus Aegypti* closely corresponds to the Roman legal sources on *imperium* and *iurisdictio.* The prefect's *ius edicendi* is amply attested in nearly sixty examples of edicts on a wide variety of issues, which were posted

[76] The *archidikastēs,* whose full titulature was that of "chief judge in charge of the *chrēmatistai* and all the courts," was primarily in charge of the central archive of private legal transactions (*katalogeion*) at Alexandria. Documentation shows him processing requests for authenticated copies of documents registered in the *katalogeion,* typically in the context of a legal dispute. Such requests came from individuals throughout the entire province, who had deposited notarized documents in the *katalogeion* as a means of securing legal claims. The *dioikētēs* forfeited his Ptolemaic role as chief financial officer but was nevertheless active in the sphere of taxation and landed estates. The *exēgētēs* is attested early on dealing with matters pertaining to the ephebate and legal guardianship, which developed into a specialized sphere of jurisdiction of the Alexandrian *exēgētēs* (as well as *exēgētai* in the hinterland) in the course of the second century. On the Roman *archidikastēs*, see Calabi 1952. On the Roman *dioikētēs,* see Hagedorn 1985. On nome officials in the Roman period, see Kruse 2002 and the remarks of Bowman and Rathbone 1992: 125-127. On *stratēgoi* see below 1.5.2.

[77] In one document (P. Fouad 24, 144 CE) we observe the *archidikastēs* addressing a litigant whom he had summoned to his Alexandrian court, telling him to petition him again *pro bēmatos*, which implies that he was holding an informal audience, which would be followed by formal proceedings *pro tribunali.* The *dioikētēs*, who is attested as a high-ranking ducenariate procurator in second-century Greek inscriptions from Asia Minor (see *IK* 13/3 *Ephesos* 627 and 3056, 180-192 CE) likewise took on the role of receiving petitions, instructing and adjudicating cases, and became the next official in line to serve as deputy-prefect if the *iuridicus* was for any reason not available to take on this function.

at Alexandria and sent to local officials (*stratēgoi*) for publication in the nomes. Although criminal jurisdiction is underrepresented in the papyrological record, it is clear that the prefect, on par with other Roman governors, had an exclusive authority over the adjudication of criminal cases. There are multiple surviving examples of judicial proceedings where the prefect adjudicates a case involving a capital crime, such as murder and banditry. There are also multiple documents illustrating the preparation of criminal cases for the prefect's judgment, including records of interrogation and torture of suspects. In one instance, we can observe a litigant escalating a property dispute into a criminal case by making additional charges of poisoning against his adversary, which immediately prompts the *epistratēgos* to refer the case up to the prefect (P. Oxy. III 486, 131 CE). Criminal trials before the prefect are also attested in narrative sources, such as Philo's first-century account of the prefecture of Flaccus, as well as fictionalized trial scenes in literary texts such as the *Acta Alexandrinorum*. References to capital punishment (*anōtatō* or *eskhātē timōria*, a rendition of the Latin *summum* or *ultimum supplicium*) appear in the edicts of several prefects. In one petition, a rare direct testimonium for the *ius gladii*, the relatives of two men condemned *ad bestias* ask for them to be removed from their tax list.[78]

[78] On the 60+ surviving *edicta* of the prefect, see Katzoff 1980 and 1982 and Haensch 2010. An updated corpus is being prepared by Haensch in the context of his *Corpus der Urkunden der Römischen Herrschaft (CURH),* see the preliminary e-publication at https://publications.dainst.org/journals/efb/1589. The much-debated question whether prefects of Egypt issued a general jurisdictional edict (*edictum provinciale*) will be discussed below in section 1.5.4. On the prefect's criminal jurisdiction, see Haensch 1997: 338-340. I find implausible his suggestion that all capital jurisdiction was exercised at Alexandria. We should rather consider the nature of our evidence—the majority of extant court protocols were collected for use as judicial precedents, where we would not expect to see capital crimes. The insistence of Humbert 1964: 103 on the non-competence of the prefect's traveling assize court over criminal cases is based on an

A detailed description of the prefect's criminal jurisdiction is preserved in a papyrus containing an edict of the Hadrianic prefect Petronius Mamertinus (SB XII 10929, 133-137 CE), which enumerates the categories of cases that the prefect would adjudicate (*diagignōskein = cognoscere*) at first instance. These include:

1) homicide (*phonos = homicidium*)
2) brigandage (*lēsteia = latrocinium*)
3) poisoning (*pharmakeia = veneficium*)
4) kidnapping (*plagiaria = plagium*)
5) rustling of livestock (*apelata = abigeatus*)
6) armed assault (*bia sun hoplois = vis armata*)
7) forgery (*plastographia = falsum*)
8) fraud (*radiourgia = fraus*)
9) the annulment of testaments (*anērēmenai diathēkai = testamenta rescissa*)
10) grave personal injury (*hybris anēkestos = atrox iniuria*)
11) the grievances of patrons against freedmen or parents against children

The majority of these categories correspond to capital crimes (*causae capitales*) in Roman law, which fell under the exclusive *ex officio* jurisdiction of provincial governors.

---

unsubstantiated inference from P. Stras. I 5, where the prefect orders further investigation into a case and requests that the parties subsequently be sent to his court at Alexandria; this was not a question of competence but of the time necessary for a full investigation to take place. On judicial torture in criminal investigations, see Taubenschlag 1957. For the torture of an innocent person by a police official, see SB 16 12949 with Rea 1983. Narrative accounts of the prefect's criminal jurisdiction occur in Philo, *In Flaccum* 53-54, 105-107, 130-132; see also Eusebius' fourth-century account of Christian persecution in the third century in book VI of his *Church History*. For fictionalized trial scenes before the prefect, see the texts discussed by Harker 2008: 80-82. A new edition of the *Acta Alexandrinorum* (to replace Musurillo 1954) is currently being prepared by Chris Rodriguez in Paris. Another fictive trial scene before the prefect of Egypt occurs in the novel of Xenophon of Ephesus (3.12-4.4). Edicts of prefects that threaten capital punishment include P. Lond. III 1171v = W. Chr. 349 (42 CE) prohibiting extortion by tax collectors and P. Coll. Youtie I 30 (199 CE) prohibiting divination. For the *ad bestias* case, see P. Petaus 9 (185 CE).

All other cases (implicitly, of a civil nature) the prefect would hear only on appeal, with a deposit of one-fourth of the estimated value of the case.[79]

Apart from *causae capitales* and the grievances of parents and *patroni,* enumerated in the edict of Mamertinus, there were other categories of cases that generally fell under the jurisdiction of Roman governors. Among these were proceedings involving questions of free status (*causae liberales*) and lawsuits resulting in *infamia,* which included the praetorian *actio furti, ui bonorum raptorum, iniuriarum, lege Laetoria, de dolo malo et fraude, fiduciae, pro socio, tutelae, mandati,* and *depositi.* In chapter 84 of the *lex Irnitana,* both categories of cases are excluded from the jurisdiction of municipal magistrates and reserved for the jurisdiction of the governor. While cases involving *actiones famosae* could be handled locally if both parties consented—on which point the Republican *lex de Gallia Cisalpina* stipulates 10,000 HS as the maximum value of the case—cases *de libertate* without exception fell under the governor's jurisdiction. This is confirmed by an edict of the emperor Diocletian, which states that cases *de ingenuitate* and *de libertinis* traditionally belong to the exclusive *ex officio* jurisdiction of governors (*CJ* 3.3.2.1).[80] These regulations are corroborated by papyrological evidence, where all attested cases involving questions of slave or free status appear to be handled directly by the prefect. In a petition from the 40s CE (P. Oxy. XLII 3033, 45-47 CE), a woman

[79] On the edict of Mamertinus, see Jördens 2011. On Greek renditions of Latin legal terms in the edict, see Laffi 2013: 71-74. The edict contains a citation from what appears to be Mamertinus' own jurisdictional edict (*edictum provinciale*), see my discussion below in section 1.5.4. On the Petronii Mamertini, a family probably originating from Africa and in strong ascent during the Antonine age, see Champlin 1980: 10.

[80] On the Roman categories of *actiones famosae* and *causae liberales,* in the *lex Irnitana* and other documents with reference to the Roman legal sources, see Gonzalez and Crawford 1986: 228-230 and Lamberti 1993: 148-167 (and note the parallels with the legal sources mentioened there at p. 154). On the *causa liberalis* in Cicero's *Pro Flacco,* see Fournier 2010: 31.

complains to the prefect that both she and her son have been forced into slavery (*doulagōgia*). The case of Tryphon the weaver, briefly mentioned earlier, also involved a charge of enslavement (*doulagōgia*) against the employer of Tryphon's wife Saraeus, whose baby had been seized in the place of a slave child. The humble status of Saraeus notwithstanding, her case was heard by the prefect and delegated to the *stratēgos* for final judgment. In another instance of a *causa liberalis,* this time involving a freedwoman (P. Oxy. XLII 3016, 148 CE), the prefect gives a hearing and appoints a panel of *recuperatores* (*xenokritai*) to adjudicate the case; this is in line with the role of *recuperatores* in adjudicating a *causa liberalis* in Asia, involving a Phrygian slave, as documented by Cicero (*Pro Flacco* 40). Papyrological evidence also corroborates the evidence of the *lex Irnitana* about *actiones famosae* falling under the jurisdiction of the governor. In a second-century anthology of legal cases (SB XIV 12139), we observe a series of disputes over joint-ownership being adjudicated by prefects and their delegated judges. The advocates in these cases refer to an extensive prefectural case-law on partnership, which they emphasize is a matter of "general" law (*katholikē hypothesis*). Evidently, disputes over *societas* were frequently heard by the prefect's court, possibly because they were understood in relation to the Roman *actio pro socio* and singled out for the prefect's jurisdiction. To take another example, in a second-century papyrus (P. Mil. Vogl. I 25, 127 CE) a freedman is accused of hoodwinking the prefect into hearing his case by bringing false charges (*enklēmata*) regarding the return of a pledge (*pistis*) of landed property and a deposit (*parathēkē*) of 2,000 drachmas. If the *enklēma peri pisteōs* and *enklēma peri parathēkēs* were understood in relation to the Roman *actio fiduciae* and *actio depositi,* both legal actions resulting in *infamia*, this would help explain why these

charges were deemed a good strategy for getting the prefect to hear the case. In the Roman legal sources, in turn, we find a praetorian rule stating that formal permission from the praetor was required to initiate proceedings (*praetor ait: "in ius nisi permissu meo ne quis vocet"*) in lawsuits against one's parent or *patronus* and lawsuits resulting in *infamia* (Dig. 2.4.10.12, Ulpianus 5 *ad ed*.). This, too, is corroborated by papyrological evidence: in one petition (P. Oxy. VI 898, 123 CE), a son proclaims his intention to sue his own mother and asks the *stratēgos* to keep the petition "on file" and act on his behalf "as he sees fit," implicitly to bring the case to the attention of a high official. In an early fourth-century court case (CPR XVII 18, 321 CE), a forensic orator states a legal objection that the litigant "is not allowed to sue his mother without permission *ex edicto*" (ll. 10-12), a clear reference to the praetorian rule. There are multiple attestations of appeals to the prefect for the remedies of the *lex Laetoria* protecting the interests of minors, including two by Roman citizens before 212 CE (P. Oxy. XVII 2111, 135 CE; BGU II 378 = Chrest. Mitt. 60, ca. 147 CE).

Another category of cases that, as we discover in papyri, fell under the *de officio* jurisdiction of the governor was corrupt or abusive behavior by officials. In papyri, we observe several cases of this type being meticulously prepared for the prefect's judgment. In one case (PSI X 1100, 161 CE), the *epistratēgos* conducts a preliminary investigation where he questions a large number of local officials in response to orders from the prefect to interrogate these individuals, extract pledges and convey them to Alexandria, where the *epistratēgos* looks forward to showing the prefect "everything that has been investigated in my presence" (ll. 5-6). It can be inferred that an administrative crime of a serious nature has occurred and was brought to the attention of the prefect, presumably

during his assize in the region. Another document contains testimony collected in relation to the misdeeds of a village-scribe (*kōmogrammateus*), who among other things has committed extortion and illegally purchased property in his nome in the name of his mother-in-law (P. Mil. Vogl. II 98, 138-139 CE). This report, too, was made in response to orders from the prefect, to whom the case had been presented at his recent assize in the Arsinoite nome. The report refers to a special category (*taxis*) of cases involving "accusations against officials" that were reserved for the prefect's judgment at the *conventus* (ll. 2-3). This document shows that the prefect had exclusive authority over cases of official abuse and took care to hear and investigate such cases.[81]

From the perspective of the Roman legal sources, official abuse pertained to the general category of *vis* and was prosecuted as a crime under the *lex Iulia de vi,* as either *vis publica* or *vis privata,* depending on whether state or private interests were being damaged.[82] As stated by Ulpian in his commentary to the praetor's edict, "we adhere to the following doctrine, that whatever is done by violence is a crime of either vis publica or vis privata" (*hoc iure utimur, ut quidquid omnino per vim fiat, aut in vis publicae aut in vis privatae crimen incidat*, Dig. 50.17.152pr., Ulpianus 69 *ad ed*.), although a case

[81] On corruption and abuse by officials in the Roman empire, see Schuller 1989 with Veyne 1981, Noethlichs 1981 and MacMullen 1988 on the Late Empire.

[82] On the *lex Iulia de vi,* see Dig. 48.6-7 and CJ 9.12 with Harries 2007: 110-115. According to Papinian (Dig. 1.21.1pr., Papinianus 1 *quaest*.), jurisdiction over matters pertaining to a public law (*publici iudicii exercitio*) could be inherent to one's office or specially conferred by a law or *senatusconsultum.* In a provincial context, jurisdiction under the *lex Iulia de vi* was presumably inherent to the criminal jurisdiction of the governor. Papyrological evidence confirms that cases pertaining to the broad category of "violence" (*bia*) received attention from high officials. Some petitioners explicitly state that their grievances "require" the judgment of the prefect. In one case, a bee-keeper complains of being summoned to the prefect's court on (allegedly, trumped-up) charges "requiring" his judgment and being fined 500 drachmas (P. Ryl. II 113, 133 CE).

could involve a combination of both (Dig. 47.8.2.1, Ulpianus 56 *ad ed*.). Additionally, the praetorian interdicts *unde vi* and *de vi armata* were available as civil remedies in cases of intimidation (*metus*) or eviction by force. The two cases of official abuse just mentioned would presumably have been classified as *vis publica* under the *lex Iulia.* Elsewhere, an Egyptian petitioner complains of violence (*bia*) consisting of physical abuse and extortion by individuals who have forged official documents in the name of the deputy *stratēgos,* and forced the victim to sign contracts of sale, mortgage and loan for 400 drachmas (M. Chr. 52 = P. Lond. II 358, 150-152 CE). It is noteworthy that the victim draws attention to this instance of *bia* both as an administrative crime (ll. 6-9) and as an offense against his own person (ll. 11-14). He also emphasizes that this case demands the *cognitio* (*diagnōsis*) of the prefect. The Roman legal sources confirm that the prosecution of *vis* under the *lex Iulia de vi* took place through the court of the governor. Allegations of violence (*bia*) are very frequent in Egyptian petitions to Roman officials. Such allegations were often tactical maneuvers designed to capture the attention of administrators. At the same time, we observe officials (as well as emperors) taking allegations of violence seriously, investigating and hearing cases involving administrative abuse, rapacious creditors and oppressive local potentates. As this discussion seeks to emphasize, complaints of violence in documents from Roman Egypt can be placed in productive dialogue with the Roman legal sources on *vis.* In this respect, papyrological evidence appears to be providing us with important insight into a key Roman juridical domain that had an extensive sphere of application in the Roman provinces.[83]

[83] On allegations of violence in petitions from Roman Egypt, see Bryen 2013, who employs a socio-anthropological approach to the material. Missing from the study, however, is any discussion of violence as

The jurisdictional roles of the other equestrian officials in Roman Egypt can be explained with reference to the Roman legal sources and parallels from other provinces. The *iuridicus* is one of several *legati iuridici* attested in the Roman empire, in provinces that include Britannia and Hispania Tarraconensis. In Egypt, the *iuridicus* was permanently based at Alexandria (he did not, as far as we can tell, ever travel to the *conventus*) where his main function was civil jurisdiction. In this respect, the *iuridici* seem to have been intended as a jurisdictional aid to governors, who in addition to their judicial activity had important fiscal, administrative and military duties. In the language of the Roman legal sources, the *iuridicus* possessed *iurisdictio* in the full technical sense, whereby he was formally empowered to receive petitions, assign judges and issue judicial verdicts. In view of the fact that the *iuridicus,* like the prefect, was a *legatus Augusti,* his jurisdictional powers presumably emanated from the emperor himself. When the prefect was absent from Alexandria, the *iuridicus* formally became an acting prefect (*diadekhomenos ta kata tēn hēgemōnian*) and functioned as the main instance of jurisdiction in the provincial capital. In Roman juridical language, this would be rendered as *agere vice praesidis.* As soon as the prefect returned, the *iuridicus* immediately forfeited this role. This is vividly illustrated by a private letter (SB XIV 11906, 2-3c. CE) where a man writes from Alexandria that he has filed a petition with the *iuridicus,* who has declined to issue a release (presumably, from a fiscal obligation of some sort) under his own authority because the prefect was already arriving in the city.[84]

---

a Roman juridical domain—there is not a single reference to *vis* or the *lex Iulia de vi.* The same omission occurs in Kelly 2011.

[84] For an interesting comparison between the *iuridicus* and the *legati* of provincial governors of the late Republic, see Haensch 2008: 85 and n. 22. The *legatus iuridicus* of Hispania Tarraconensis is probably mentioned in the *lex rivi Hiberiensis*, line 44, see Nörr 2008: 108. On deputies in Roman imperial

As with the *iuridicus,* the judicial activity of *epistratēgoi* conforms to what the Roman legal sources describe as *iurisdictio.* From at least as early as the second century, when petitions to *epistratēgoi* emerge in the papyrological record, we have clear evidence that *epistratēgoi* could be petitioned independently and were empowered to adjudicate and instruct cases and assign judges. Beyond matters pertaining to the superior authority of the prefect (such as capital jurisdiction), the jurisdictional scope of prefects and *epistratēgoi* appear to have broadly overlapped. This and the role of *epistratēgoi* in overseeing the administration of a specific region invites comparison with the *legati* of the *proconsul* of Africa, who were likewise responsible for the administration of large tracts of the province and were based in major cities in those regions. In formal terms, the administrative hierarchy was different: unlike the *proconsul* and his *legati,* it is not clear that the *praefectus Aegypti* had a direct hand in the appointment of *epistratēgoi.* Thus, the apparent similarity between the administrative and jurisdictional roles of *epistratēgoi* and *legati* is perhaps better described as a functional parallel.[85]

---

administration, see Peachin 1996. The assumption of the prefect's judicial role by the *iuridicus* also conforms to what the legal sources describe as *mandare iurisdictionem* (Dig. 1.21). This helps explain the exact scope of the jurisdiction taken on by the *iuridicus* of Egypt as deputy-prefect: only the *imperium* inherent in the practice of *iurisdictio* could be transferred as part of the *mandatum* (Dig. 1.21.1.1; 1.21.5.1). Correspondingly, there is no evidence to suggest that the *iuridicus* acquired the prefect's authority over criminal cases, which emanated from the prefect's *imperium.*

[85] The nature of the jurisdiction of the *epistratēgoi* is debated in current scholarship. The influential thesis of Mitteis 1910 that only the prefect possessed independent jurisdiction in the entire province of Egypt, whereas all other officials could receive jurisdictional authority only by delegation (see n. 47 above), has been decisively disproved with regard to the *epistratēgoi* by Thomas 1982. And yet, in what continues to be the most recent work of reference on legal procedure in Roman Egypt, we read once again that, despite differences in hierarchy, "*epistratēgoi* and *stratēgoi* had this in common: neither possessed jurisdictional powers *ex officio,* but could only be invested with them through delegation from the prefect" (Anagnostou-

Like other equestrian officials in Egypt, the Roman procurator of the *Idios Logos* had his own sphere of competence over matters that included fiscal crimes, the confiscation and auctioning of property, and the fiscal privileges of priests. However, while the *Idios Logos* can be observed investigating and adjudicating cases, there is no evidence for him assigning judges. It may be that the procurator of the *Idios Logos* did not possess *iurisdictio* in the technical sense. On the other hand, his apparently exclusive role in investigating fiscal crimes and other matters pertaining to the interests of the *fiscus* finds a striking echo in Ulpian's statement that governors "would do well to abstain from fiscal cases, which pertained to the competence of imperial procurators."[86] As illustrated by papyrological evidence, including the official rulebook (*gnōmōn*) of the procurator of the *Idios Logos* itself, the separation of the *fiscus* from the jurisdiction of governors dates back to the early Principate, most likely to the Augustan Age.[87]

1.5.2 The jurisdictional activity of nome officials

Before the creation of *boulai* under the Severi, the nome *stratēgoi* were virtually the only instance of local jurisdiction in the Egyptian hinterland. In the first decades of Roman rule, their office went from being held by members of local aristocratic families in the hinterland to being held by Alexandrians appointed by and directly answerable to the Roman prefect. In this respect, nome *stratēgoi* permanently ceased to be local officials

---

Cañas 1991: 191 citing Thomas 1982 in spite of the fact that he reaches precisely the opposite conclusion). On the jurisdiction of *stratēgoi*, see the evidence discussed below in section 1.5.2.

[86] *Sane si fiscalis pecuniaria causa sit, quae ad procuratorem principis respicit, melius fecerit, si abstineat* (Dig. 1.16.9pr. Ulpianus 1 *de off. procons*.).

[87] On the *fiscus* and its development, see Brunt 1966 and 1984 and Alpers 1995. On the Augustan creation of equestrian procurators with jurisdictional powers on par with those of senatorial officials, see Tac. *Ann.* XII 60.

and became externally-appointed functionaries of the central Roman government. Unlike other eastern provinces, where Greek cities had their own territories and organs of local jurisdiction, the hinterland of Roman Egypt lacked what the Roman state recognized as autonomous civic communities and was instead governed by *stratēgoi.* In Roman administrative terms, this made Roman Egypt more akin to a large territory subordinated to a major city than to the administrative landscape of a Greek province. However, although *stratēgoi* were not local officials in the strict sense and were not permitted to own land or have personal ties to the nomes in which they governed, their administrative and jurisdictional role was in many respects functionally analogous to that of municipal officials elsewhere in the Roman empire. This is clearly illustrated by the developments following the municipalization of Egypt under the Severi. After the creation of *boulai* in the regional capitals (*mētropoleis*) of the nomes ca. 200 CE, the nome system of Egypt gradually evolved into an administrative landscape of cities and *territoria* (which the nomes eventually became). As this took place, the functions of *stratēgoi* were progressively taken over by the *boulai,* until the *stratēgia* was discontinued in the mid-fourth century.[88]

[88] On the Ptolemaic *stratēgia,* see Bengtson 1964 vol. 3. On the Roman *stratēgia*, see Dirscherl 2004 (the only existing synthetic monograph) with the critical review of Kruse 2006. Kruse 2002 on royal scribes is often indirectly relevant for *stratēgoi.* See also the older article of Whitehorne 1988 and the inventory of *stratēgoi* and royal scribes in Bastianini and Whitehorne 1987. The judicial role of *stratēgoi* is discussed (in line with the mainstream view on lack of independent jurisdiction) in the unpublished dissertation of Witt 1977. An in-depth reference work on the Roman *stratēgia* is a great desideratum. On the transformation of *stratēgoi* from local potentates to Alexandrian officials in the Roman period, see Bowman and Rathbone 1992: 107 and 125. This shift is clearly illustrated by dedicatory inscriptions from temple of Hathor at Dendera: Spiegelberg 1904 III 50044 (12 BCE) and Bernand 1984 no. 24 (1 CE). On the subordination of territories through the Roman administrative schemes of *adtributio* and *contributio,* see Veyne 1959 and Laffi 1966. On municipalization in in the hinterland of Egypt, see Bowman and Rathbone 1992 and

While Roman-period *stratēgoi* retained some of their earlier Ptolemaic role in local administration and policing, as reflected, for example, by the similarity between Ptolemaic and Roman petitions to *stratēgoi* complaining of theft, robbery and physical assault, they acquired a new sphere of competence as functionaries of the Roman equestrian administration and its system of annual assizes. From the first century CE, when the evidence begins to provide us with a clear view, we observe *stratēgoi* supervising all the preliminary stages of the legal process prior to the *conventus*. Their functions included: a) receiving formal depositions of evidence (reports of actionable offenses, statements by doctors or eyewitnesses) and keeping them on file (*en katakhōrismō*); b) receiving requests for summons to the *conventus* to be served on an opponent; c) conducting preliminary hearings to evaluate claims and collect statements; d) serving summons and receiving formal promises of attendance in court; e) composing dossiers of cases for the prefect to examine at the *conventus*; f) adjudicating "leftover" cases after the *conventus*; g) executing the prefect's orders for further investigation. In all of these respects, the role of *stratēgoi* resembles that of municipal *duoviri* elsewhere.[89]

Hagedorn 2007. On the Severan *boulai* and the development of their administrative role, see Bowman 1971 and Alston 2001: 249-259. On the discontinuation of the *stratēgia* in the mid-fourth century, see Thomas 1960 and Lallemand 1964: 39-40.

[89] On the role of *stratēgoi* in policing and the initial stages of the criminal process, see the sample of sources collected in Keenan et al. 2014: 502-508. On orders for arrest, see Bülow-Jakobsen 1986, Gagos and Sijpestein 1996 and Bagnall and Mitthoff 2004. On summons to the *conventus*, see Foti Talamanca 1979: 5-25, 48-66, Haensch 1994 and Kelly 2011: 94-103. Specific examples illustrating the jurisdictional functions of *stratēgoi vis-à-vis* the *conventus* include: a) P. Tebt. II 330, 196-8 CE (report of offense to be kept on file for future claims), P. Oxy. XII 1502r, 260-1CE (doctor's statement and report of offense on file with *stratēgos* cited as evidence in court); b) SB I 4416, 158-9 CE and P. Berl. Moeller. 2, 69-79 CE (requests for summons to the *conventus* to be served on an opponent); c) PSI. IX 1033, 2c. CE (conducting preliminary hearings to evaluate claims and collect statements); d) P. Fouad. 23, 2c. CE (serving summons and receiving formal promises to attend the *conventus*); e) P. Oxy. XLV 3264, 80-1 CE (composing

The role of *stratēgoi* in processing requests for summons and preparing cases for the *conventus* implies that these officials had considerable power to determine which cases made it up to the courts of higher officials. Tellingly, one second-century petitioner asks the prefect to order the *stratēgos* to look into his case (an incident involving robbery and theft) and, if the *stratēgos* can confirm his complaints, to have the opponent summoned to the *conventus* (P. Louvre, I 2, 133 CE). Elsewhere, an *epistratēgos* responds to a Roman veteran's angry request to order the *stratēgos* to send his opponent to Antinoupolis for punishment: "if the *stratēgos* discovers that an outrage (*hybris* = *iniuria*) has been committed, he will inform me of it" (SB XXIV 16252, 163 CE). As these examples show, a *stratēgos* could simply ignore a petitioner, or decide that a petitioner's claims were not eligible for consideration by a higher court. Indeed, it was arguably the power of *stratēgoi* in mediating access to the *conventus,* and not their lack of jurisdictional authority (as has been traditionally supposed), that motivated many litigants to submit petitions to the prefect, often traveling to Alexandria to do so, in order to obtain a *subscriptio* accepting the case, which was then presented to the *stratēgos*. Numerous petitions ask the prefect to order *stratēgoi* to serve summons for the *conventus*, and some explicitly mention the petitioner's inability to obtain justice locally through the *stratēgos*. In one petition, a Roman veteran named Aelius Syrion informs the prefect that his complaints against recalcitrant debtors have fallen on deaf ears and failed to be dealt with by the *stratēgos* "or any other local judge." Accordingly, Syrion requests and is granted a hearing from the prefect (P. Vet. Aelii 10 ll. 29-31, 179 CE). In another petition, local tax collectors state their claims and ask the prefect to order the *stratēgos* to keep them "safe

---

dossiers of cases for the prefect to examine at the conventus); f) SB I 5761, ca. 91 CE (adjudicating "leftover" cases after the *conventus*).

from harassment" until the *conventus* (SB IX 7462, 55-60 CE); it is implicit that they anticipated an unhelpful or possibly hostile reaction from the *stratēgos.* The local power of *stratēgoi* was even more formidable in the sphere of criminal jurisdiction, where they had the authority to make arrests, investigate crimes and conduct interrogations, employing violent methods if necessary. Virtually all of our papyrological evidence for criminal cases shows them being reported to and investigated by *stratēgoi.* In one court protocol, the *stratēgos* detains and interrogates suspects of vandalism to a vineyard, has them beaten and menacingly orders them to confess the truth (P. Oslo II 17 ll. 13-15, 136 CE). In criminal cases that required the judicial sentence of the prefect, this evidence was collected and presented at the *conventus*, along with the persons involved.[90]

From the more limited evidence available in other provinces, we can establish many points of connection between the jurisdictional role of Egyptian *stratēgoi* and that of civic and municipal magistrates in other Roman provinces. The first point is the organization of summons to the *conventus* (in Latin, *vadimonium, in ius vocatio, litis denuntiatio*). In chapter 84 of the *lex Irnitana,* we read that the chief magistrates of the *municipium* (*duoviri iure dicundo*) had "jurisdiction over all matters concerning the promise of a *vadimonium* to the place in which he who is in charge of the province will be or is expected to be on the day for which the request of the promise of a *vadimonium* is made." The role of mediating access to the *conventus* was also shared by the civic authorities of Greek cities, as illustrated by a second-century letter of a governor of Achaia to the city of Sparta, which limits appeals to his court to cases involving judgments or *praeiudicia* pertaining to capital crimes or loss of civic status (*epitimia*) and

[90] On the papers of Aelius Syrion, see Sänger 2011. On the brutal interrogation of the vandalism suspects, see Crook 1995: 82-83.

cases above a certain financial limit. Municipal officials also played an instrumental role in the sphere criminal jurisdiction, as reflected by stories and documentary accounts of Christian persecution, where civic and municipal magistrates are responsible for the seizure, imprisonment and interrogation of suspects. In these respects, too, the activity of Egyptian *stratēgoi* closely corresponds to the jurisdictional role of municipal officials elsewhere.[91]

Egyptian *stratēgoi* mediated access to the *conventus* and served as an interface between the Roman administration and local populations, a role that was likewise analogous to that of municipal magistrates in other provincial contexts. This observation leads to the question whether *stratēgoi,* like municipal magistrates, had their own designated sphere of local jurisdiction. The widely accepted view, based essentially on the work of Mitteis, holds that these officials did not have independent judicial authority but always acted on delegation from the prefect. This thesis is, in my view, inherently implausible, for it is difficult to see how the prefect of Egypt would have managed to delegate all cases heard by forty-two *stratēgoi* in their nomes throughout the year, or to imagine why the Roman state would have wanted to create a judicial system without instances of local jurisdiction, contrary to Roman practice in all other known contexts in the Roman empire. A fresh look at the Egyptian evidence suggests otherwise. As a preliminary point, it must be emphasized that our evidence for court hearings is

[91] On the organization of summons by local magistrates in the *lex Irnitana*, see IX B 84, lines 20-23 with Wolf 2011: 118-119 and González and Crawford 1986: 229-230. On *vadimonium*, see Donadio 2011: 1-17. The letter of the proconsul of Achaia is Oliver 1989 number 91; for its interpretation, see especially Fournier 2005, whose conclusions are summarized in Fournier 2010a: 586-588. On the financial limit on cases forwarded to the governor, see the reference to the *lex Irnitana* above, sections 1.3 and 1.5.1 and the discussion below in section 1.5.3.

disproportionately skewed in favor of the judicial records of high officials and their delegated judges in the context of the *conventus*. One reason for this is that court protocols of high officials were avidly copied and collected by legal practitioners for use as judicial precedents, which is the main form in which court proceedings survive in the papyrological record before Late Antiquity. By contrast, records of court hearings before *stratēgoi* as "local jurisdiction" in the true sense, outside the immediate framework of the *conventus,* are disproportionately thin on the ground. Such records, which tend to survive among the remains of local administrative archives or in the private papers of individuals, were clearly more ephemeral than the judicial records of high officials, which were excerpted, copied and circulated throughout the province for many decades.[92]

The dominance of the *conventus* in our documentation can convey the misleading impression that *stratēgoi* did not have an independent judicial role. Precisely the opposite was true. As the main instance of local jurisdiction in each nome, the *stratēgos* received all manner of complaints and requests on matters ranging from theft and physical assault to unfair tax-exactions, nominations to liturgies, vandalism and violent crimes, as well as private legal disputes. While some petitions to *stratēgoi* ask for reports of misdeeds to be kept "on file" (implicitly, for a future lawsuit at the *conventus*), many ask for a judicial hearing: "I ask, if it seems right to you, to order the accused to be summoned before you

[92] On the *stratēgos*' lack of independent jurisdiction, the original thesis of Mitteis 1910 continues to be broadly accepted, see Humbert 1964 (where *stratēgoi* do not even appear on the list of officials with judicial functions), Witt 1977, Anagnostou-Cañas 1991: 193-195, Peachin 2007b and Kelly 2011: 83-86. On the range of papyri containing reports of court proceedings, see Palme 2014. For examples of legal case-collections, see Katzoff 1972 and 1980: 833-843 and Anagnostou-Cañas 1991: 241-244. A technical analysis of the documentary genre of Roman court proceedings, addressing the format and typology of these documents, will be published by Dolganov and Palme in the context of their editorial project (*Roman court proceedings: new documents, new perspectives*) in Vienna.

to receive the necessary punishment," one of the standard invocations at the end of dozens of petitions on subjects such as damage by livestock (e.g. SB XIV 11335, 26 CE), physical assault and theft (e.g. P. Mich. V 230, 48 CE; BGU I 22, 114 CE), the return of a loan (e.g. P. Fouad 27, 44 CE), a theft of valuables by an ex-wife (P. Oxy. II 282, 29-37 CE), revenge-rape (P. Oxy. XXXVI 2758, 110 CE) and domestic abuse (e.g. P. Oslo II 22, 127 CE). One petitioner (BGU IV 1036 = M. Chr. 118, 108 CE) provides a long inventory of stolen items and asks the *stratēgos* to summon the culprits and administer justice (*dikaiodōsia*). A group of tax-farmers ask for a hearing against individuals who have illegally appropriated land, demanding that they be forced to pay taxes on it (P. Lond. II 294 = W. Chr. 355, 187-188 CE). None of these petitioners request or even mention a hearing from a higher official.

There are also records of proceedings where *stratēgoi* act in an independent judicial capacity. To start, we know that *stratēgoi* conducted their own assize tours of their nomes and held audiences in the villages. One document (P. Münch. III 67, 119-129 CE) records a judicial hearing before the *stratēgos* in the village of Bacchias. Apparently, the petitioner was pressing charges (*enklēma*) against his wife and her relatives. Having previously filed a petition to the *stratēgos* in the *mētropolis* of the nome, he now received a hearing in his own village. In another document (BGU XIII 2241, 144 CE), a village official (*kōmogrammateus*) writes to the *stratēgos* regarding a dispute between three brothers that the *stratēgos* had recently heard in his court. Apparently, the *stratēgos* had issued a ruling (*apophasis*) that included orders to the *kōmogrammateus*. Elsewhere, we encounter a petition to an *epistratēgos* by a Roman veteran named Iulius Apollinaris, acting on behalf of two minors (both Antinoite citizens) in a testamentary conflict that

had already been handled by a *stratēgos* and his deputy (BGU I 168, 169-170 CE). Apparently, the large estate left to the orphans by their parents had been seized by their great-aunt, including landed property, movables and slaves. Apollinaris faced the aunt in a judicial hearing before the *stratēgos* Aelius Eudaimon, who issued a ruling that the slaves be handed over to Apollinaris and that he take possession of the estate. The aunt, however, took advantage of the fact that Eudaimon was leaving the city (possibly, to attend the lengthy assize of the prefect at Memphis) and refused to relinquish the property. Consequently, it became necessary for Apollinaris to petition the *epistratēgos* during his assize of the Arsinoite nome. The petition received a *subscriptio* referring Apollinaris to the deputy *stratēgos,* who heard the case and issued a ruling, referring the case back up to the *epistratēgos.* In contrast to his deputy, Aelius Eudaimon the original *stratēgos* did not have any qualms about issuing a judicial pronouncement in the case, and Apollinaris emphasizes that it was his lengthy departure from the city that made it possible for his aunt to ignore the ruling. There is no indication that the *stratēgos* lacked independent judicial authority in this case. On the contrary, it is striking that two Antinoite citizens, who had privileged access to the court of the *epistratēgos* at Antinoupolis, nevertheless preferred to have their case adjudicated by the *stratēgos* of the nome. There is no evidence that Eudaimon had received orders or instructions from a higher official.

Two documents shed further light on the independent judicial role of *stratēgoi vis à vis* higher officials. In one court protocol (P. Mil. Vogl. I 27 col. iii, 129 CE), we encounter a *stratēgos* named Andromachos at a local hearing in the village of Tebtunis, where he upbraids Patron, a young Alexandrian and Arsinoite landowner, for delaying

nearly six months before submitting a letter from the *exēgētēs* requesting that Patron's aunt, who had appropriated his property, be summoned to Alexandria. The text is fragmentary, so we do not know whether the grumbling *stratēgos* accedes to the request or not, in view of the delays caused by Patron. Two years earlier (P. Mil. Vogl. I 25, 127 CE), Patron had travelled to Alexandria to petition the prefect against the aunt. The prefect delegated the case to the *archidikastēs*, who ruled that "the *stratēgos* of the nome should appoint a guardian to represent these young people, according to his own judgment, and then adjudicate (*diagnōsetai*) the case" (P. Mil. Vogl. I 25 col. v ll. 4-7). Apparently, the case then came before the same Andromachos, who evidently ruled in favor of Patron, because the aunt proceeded to make herself scarce in the Arsinoite nome. The recalcitrance of a litigant, and all-too common occurrence in papyri, is not in itself a negative reflection on the judicial authority of the *stratēgos.* Nor can it be plausibly argued that the *stratēgos* had received his judicial authority by delegation from a high official (the *archidikastēs,* in this case). The *archidikastēs* does not offer instructions for adjudicating the case. Instead, he expects the *stratēgos* to adjudicate (*diagnōsetai*) as he sees fit.

The judicial role of *stratēgoi* is described in vivid terms in a petition to an *epistratēgos* complaining about a rapacious moneylender named Ptolemaios from an elite officeholding family in the nome capital of Arsinoe (SB XX 14401, 147 CE). Ptolemaios allegedly bleeds his clients dry by illegally charging exorbitant interest rates. The petitioner emphasizes that Ptolemaios is well-connected and powerful at Arsinoe, so that it would be fruitless to petition the *stratēgos* against him, because "the people of Ptolemaios sit as the judicial advisors (*sunedreuousi*) of the *stratēgos* whenever he

exercises his role as a judge (*dikastēs*).” The petitioner asks the *epistratēgos* to tell the *stratēgos* to hear the case in his own court and, if the accusations prove to be true, to send the culprits up to the court of the *epistratēgos.* The petition receives the *subscriptio*: “petition the *stratēgos,*” which does not suggest that any further instructions were issued. Here, it emerges that the *stratēgos* was a necessary first instance of jurisdiction, and that he had the authority to decide whether the case in question would progress to a higher court. The routine subscription of petitions with simple referrals of this sort (“petition the *stratēgos*”) arguably constitutes some of our clearest evidence for the independent jurisdictional role of nome *stratēgoi.*

How can nome *stratēgoi* be contextualized within the broader institutional framework of Roman imperial administration and jurisdiction? The model whereby members of the civic elite of the provincial capital (Alexandria) were sent out to govern the hinterland invites comparison to a similar administrative model implemented in the province of Africa in the same period. Under Augustus, the provincial capital of Carthage and the Numidian regional capital of Cirta became administrative centers of large formal *territoria* or *perticae*. Although both regions were densely urbanized, only a small number of urban communities had the formal status of Roman cities (*coloniae, municipia*) with autonomous jurisdiction over their own territories. Instead, the hinterland appears to have been governed by “jurisdictional prefects” (*praefecti iure dicundo*) appointed from the officeholding elite of Carthage and Cirta. The *praefectus iure dicundo* was most likely not an elected magistracy (*honos*) but a liturgical post (*munus*) in the *cursus honorum* of Carthaginian and Cirtensian officeholders. In many respects, therefore, the role of *praefecti iure dicundo* in Africa appears to be analogous to that of

nome *stratēgoi*, who were likewise members of the officeholding elite of the provincial capital appointed to serve as administrators in the hinterland, as part of an Alexandrian career. The similarity between these three Augustan administrative constellations (Egypt, Africa, Numidia) is further suggested by the fact that all three were disaggregated and "municipalized" in a similar fashion in the Severan Age. With the creation of *boulai* in the Egyptian *metropoleis,* the role of *stratēgoi* was progressively reduced and eventually discontinued. Similarly, with the creation of autonomous *municipia* (*municipia libera*) in the *pertica* of Carthage and the disaggregation of the Cirtensian system, *praefecti iure dicundo* in the hinterland cease to be attested. While no conclusive statement can be made on this issue, it is certainly tempting to look for Roman juridical terminology that characterizes the institutional role of nome *stratēgoi,* who were appointed officials (*praefecti*) with broad administrative and jurisdictional functions (*iure dicundo*).[93]

[93] On the Augustan organization of the territory of Carthage, see Gascou 1984, Fishwick 1994 and Beschaouch 1995, as well as the still fundamental study of Teutsch 1962. On the Augustan organization of the territory of Cirta as a "confederacy" of three satellite towns formally attached to Cirta as fictive colonies, see Gascou 1972: 108-115 and 1982: 177-178. Other examples of Roman *coloniae* in Africa that functioned as administrative centers of large regions include Sicca Veneria and Diana Veteranorum, see Beschaouch 1981 and Broughton 1929: 136-137. On *praefecti iure dicundo* as administrators in the African hinterland, see Gascou 1990, who follows Veyne 1959 in applying the definition of the gromatic writers of *praefecti* as satellites of the city magistrates on the territory of a Roman *colonia*. On the restrictive Roman policy regarding municipal status before the Severan age, see Gascou 1972: 207-225 and Dossey 2010: 101-110. On the wave of Severan municipalization in Africa, see Gascou 1972: 167-198, 226-230 and 1982: 207-219 and Dossey 2010: 110-114. On the "freedom" of Severan *municipia libera*, see Jacques 1991 who emphasizes fiscal autonomy and Veyne 1961 who sees *libertas* as symbolic, the equivalent of seeing eye to eye with the Romans. See Beschaouch 2002: 1204-1208 for a balanced interpretation.

1.5.3 The limits of local jurisdiction

In Sicily under the so-called *lex Rupilia,* Greek cities had jurisdiction over civil disputes between their own citizens, but not those involving Roman citizens or citizens of other Greek cities. In the *lex Irnitana,* municipal magistrates have jurisdiction over resident aliens (*incolae*) as well as citizens of the *municipium.* Additionally, the Roman state gave *privilegia fori* to certain individuals and groups, such as the traditional privilege of Roman citizens to be sent to Rome when accused of capital crimes. In the *lex Rupilia,* Roman citizens are exempt from the jurisdiction of Greek courts, although a Roman governor could appoint a Greek judge to adjudicate a civil dispute where a Roman was accused by a Greek. *Privilegia fori* could also be granted to specific individuals, as illustrated by the *senatusconsultum de Asklepiade* of 78 BCE, which gave three Greek captains and their descendants the right to choose between the civic courts of their own cities, the courts of a free city which was a long-time friend of the Romans, or the courts of Roman officials.[94]

The Egyptian evidence confirms the privileged status of Roman citizens in having their disputes examined by the prefect and other high-ranking Roman officials. In multiple cases, we observe the prefect personally examining requests for guardianship and the *ius trium liberorum* by Roman women, as well as claims for the legitimation of children born to Roman soldiers during military service. Admittedly, it can often be difficult to determine whether it was Roman citizenship *per se* or other factors that influenced this tendency. For example, in the lengthy property dispute between Tertia Drusilla, the widow of a Roman veteran, and the veteran Iulius Agrippinus, was it the

[94] See above, section 1.3.

Roman status of the litigants, their status as Roman veterans, or the high financial worth of the dispute that determined its examination by several equestrian officials at Alexandria over the course of many years?[95] Apart from Roman citizens, the Egyptian sources also point to other privileged groups to whom Roman officials gave special attention. In particular, Roman soldiers and veterans appear to have been regularly successful in getting their grievances heard by Roman officials. We might note the well-known collection of cases pertaining to the marriage of Roman soldiers, which were examined by a series of high-ranking officials. In a *subscriptio* to a petition by a Roman veteran (BGU II 448, 150-154 CE), the prefect delegates the opening of his will to the *epistratēgos,* not to the *stratēgos* by whom this procedure was normally overseen. This is likely to reflect the prefect's special treatment of the veteran. Another group with a well-attested *privilegium fori* were Antinoite citizens, who had the right to summon their opponents for trial at the court of the *epistratēgos* in Antinoupolis. One can also infer, although the evidence for this is indirect, that Alexandrian citizens had a *privilegium fori* to take their cases to Alexandria.

One further parameter attested in numerous contexts in the Roman empire that probably was the main mechanism regulating the boundary between local and provincial jurisdiction was the financial worth of cases. In chapter 84 the *lex Irnitana,* we read that cases worth less than 1,000 HS are subject to the jurisdiction of municipal magistrates

[95] On the dispute between Drusilla and Agrippinus (later, with his son Agrippianus), see Foti Talamanca 1979: 73-127 and Rupprecht 1998. Another consideration for evaluating jurisdiction over Roman citizens is the status of officials. It is reasonable to suppose that local officials (for example, *stratēgoi*) who were not themselves Roman citizens had limited jurisdictional authority over Roman citizens, as suggested by complaints against the insubordinate behavior of Romans (and Alexandrians) in the *chora,* see for example BGU III 747, 139 CE.

and (by implication) not eligible to go up to the governor. The amount of 1,000 HS at Irni was one fifth of the property qualification for serving as a municipal judge. In the nearby Spanish *municipium* of Malaca, the corresponding sum was (most likely) 2,000 HS, indicating that jurisdictional limits were not standardized but presumably calibrated on the property qualification of the local *ordo decurionum.* While 1,000 HS and 2,000 HS were the minimum values of cases eligible to be heard by the governor, the parties could consent to have a case of higher value be adjudicated in the *municipium*—up to a maximum of 10,000 HS, according to the Este fragment of the Republican *Lex de Gallia Cisalpina*. The ability of consenting parties (*convenientes*) to choose to settle in a local court, even in high-value cases, represents a broader Roman policy, confirmed by the Roman legal sources.[96] In chapter 69 of the *lex Malacitana,* we read that the *municipium* has jurisdiction over its own lawsuits against private individuals that were above 1,000 HS but "not so much that the proconsul must exercise jurisdiction (*ius dicere*) and prescribe judgment (*iudicia dare*) in this matter." In the corresponding chapter of the *lex Irnitana,* it is specified that the limit of 1,000 HS in lawsuits by the *municipium* corresponds to the maximum value of private disputes where "no action could take place in the *municipium* if either party were unwilling." This shows that the lower limit on local jurisdiction was, in fact, a limit on the submission of cases up to the governor. Whereas in private disputes it was conceivable that the parties could agree on a settlement in the *municipium* even beyond the sums of 1,000 or 2,000 HS, in disputes where the *municipium* sued an individual the municipal laws simply assume that individuals would try to have their cases heard by the governor.

[96] See for example Dig. 50.1.28 Paulus 1 *ad ed.*: *inter conuenientes et de re maiori apud magistratus municipales agetur*.

Civil disputes adjudicated locally *inter convenientes,* at Irni and elsewhere, had a maximum value as well. In the Este fragment of the Republican *lex de Gallia Cisalpina,* we read that civil lawsuits resulting in *infamia* could be settled *inter convenientes* by local magistrates up to a maximum value of 10,000 HS. This figure corresponds to the limit on the jurisdiction of a *iudex* in the *formula certae pecuniae* cited in Gaius' *Institutes* (4.49-4.51). The same figure (2,500 *denarii* = 10,000 HS) appears as a maximum sum in a praetorian *formula* cited by Ulpian (Dig. 9.3.5.6, Ulpianus 23 *ad ed.*) and in the *formula tutelae* of Babatha (P. Yadin I 28-30, 128 CE). The figure of 2,500 *denarii* also corresponds to the deposit required by Corbulo as governor of Asia for appeals to his court (IGRR IV 1044). Thus, 2,500 *denarii* = 10,000 HS appears to have been an important standard limit on local jurisdiction in the Roman empire, providing us with strong indirect evidence for an overarching Roman legal framework in the provinces. Beyond this sum, the case presumably had to be examined by a higher official.[97]

As briefly mentioned above, a second-century edict of a governor of Achaea to the city of Sparta sets a financial minimum on appeals from the city to the governor's court. Curiously, in place of the sum is an unrecognizable symbol that suggests that the amount was left unspecified, to be determined by the city itself. This is corroborated by a gubernatorial edict from Asia, which establishes a fine for blocking the port of Ephesos but leaves the amount blank, presumably to be determined by the Ephesians. If this is correct, it would suggest that the cities of Sparta and Ephesos had themselves requested and obtained these regulations. This throws an interesting light on the question of local

[97] On the blanket-figure of 2,500 *denarii* = 10,000 HS, see Nörr 1998: 319-320.

jurisdiction, because it suggests that the civic authorities themselves were interested in restricting appeals to the governor and keeping cases in their own courts. Evidently, on this point, the governor and the civic authorities had a convergence of interests: a sphere of local jurisdiction permitted Roman officials to limit the flow of cases to their courts; at the same time, it empowered local officials to regulate the internal affairs of their communities. In his *praecepta gerendae reipublicae*, Plutarch critizes the propensity of Greeks to take their disputes to the Roman governor's court in order to get the upper hand over their opponents, thereby eroding the autonomy and solidarity of their cities (19). In a similar vein, the Severan writer Philostratus tells the story of the sophist Polemo, who advised his native city of Smyrna to keep civil disputes in their own civic courts, while duly sending criminal cases up to the governor (Philostratus, *Vit. soph*. 532).[98]

In Egypt, there are several documents that suggest that the financial worth of cases was a factor in determining their eligibility to be examined by a high official. In one second-century petition (SB V 8001, 2c. CE), an Egyptian provincial asks the *stratēgos* to serve summons on his debtor for the return of a loan of 260 drachmas at the upcoming *conventus* of the prefect Haterius Nepos. As no further details are specified, it appears that the amount of the loan (which corresponds to ca. 250 *denarii* and 1,000 HS) was sufficient to demand a hearing at the *conventus*. In another petition (P. Mich. IX 526, 155 CE), an Antinoite woman complains to the deputy *stratēgos* of her neighbor encroaching on her land and pocketing "no small amount" of her revenue. Her statement

[98] On the minimum amount for appeals to be forwarded to the governor of Achaea, I follow Oliver 1979: 548; see also Fournier 2005: 121. On the edict of the governor of Asia L. Antonius Albus to the Ephesians (IK 11/1 *Ephesos* 24, 162-164 CE) see Fournier 2010a: 380-382 (including text and translation of the document).

that the issue "requires the judgment of the prefect" may be due to the financial stakes involved. This point emerges even more explicitly in another petition (P. Oxy. XXXVIII 2852, 104-105 CE), where a woman asks the *stratēgos* to serve summons on her opponents in a testamentary dispute. She is very emphatic about the fact that the estate is worth ten talents, plus a loan of one talent, "all of which requires the *cognitio* (*diagnōsis*) of the prefect Vibius Maximus." By contrast, there are numerous petitions where humble petitioners merely ask the *stratēgos* to hear them against their opponents, regarding a loan of 40 drachmas (P. Fouad 27, 44 CE), some valuables stolen by the ex-wife of Tryphon the weaver (P. Oxy. II 282, 29-37 CE) and many other thefts of unspectacular proportions. One would presume that the edict of Petronius Mamertinus, which states that civil cases will be heard only on appeal with a deposit of one-fourth, implies a minimum value for these appeals. Thus, papyrological evidence corroborates other provincial evidence that one of the factors determining the threshold between local jurisdiction (whether by *stratēgoi* or municipal officials or other local authorities) and imperial courts was the value of cases.

1.5.4 The question of the **edictum provinciale** *and formulary procedure in Roman Egypt*

As discussed earlier in this chapter, legal and epigraphic evidence suggests that the Republican practice of publishing jurisdictional regulations based on Roman *ius honorarium* continued to be an established practice of Roman governors under the Principate. The Flavian *lex Irnitana* provides unequivocal evidence for the publication *in albo* of jurisdictional regulations that included judicial *formulae* and the full spectrum of

praetorian clauses (*sponsiones, stipulationes, satis acceptiones, exceptiones*, *praescriptiones*, *interdicta*). While Baetica was a *provincia populi Romani,* the recent discovery of the *lex rivi Hiberiensis* in the Roman province of Hispania Tarraconensis from the reign of Hadrian, containing a *formula iudicii* on the praetorian model, suggests that Roman *ius honorarium* functioned as a jurisdictional framework in *provinciae Caesaris* as well. The presence of a Greek *formula tutelae* among the papers of Babatha, a Nabataean Jewish woman enmeshed in a legal dispute at the court of the Roman governor of Arabia (also a *provincia Caesaris*) under Hadrian, suggests that governors of Eastern provinces likewise issued jurisdictional *edicta* based on Roman *ius honorarium.* This inference is further supported by the extensive jurisprudential literature on Roman *ius honorarium* produced by legal writers during the second and early third centuries. In particular, the 32-book commentary on the *edictum provinciale* by the Antonine jurist Gaius, which is attested in several citations in Justinian's *Digest,* implies that there was a core format and body of material shared by gubernatorial edicts that could be referred to as "the" *edictum provinciale.* The citations chosen by Justinian's compilers show that parts of the *edictum provinciale* were coextensive with the urban praetor's edict itself. Thus, the current state of the evidence speaks for the continuity of a long tradition of jurisdiction based on Roman *ius honorarium* in the provinces under the Republic and Principate. This emergent picture of Roman provincial jurisdiction makes the question of Egypt, where copious documentary evidence for gubernatorial jurisdiction survives, all the more pressing.[99]

[99] On praetorian legal forms and models of jurisdiction in the provinces, see the preceding discussion in sections 1.3-1.4.

Scholarly opinion currently weighs against the idea of an *edictum provinciale* ever being issued by the Roman prefect of Egypt. The existence of such an edict, while broadly accepted before the 1970s on the basis of deductive arguments and documents such as the third-century Latin applications for *bonorum possessio*, was subsequently rejected by numerous scholars including Wolff and Mélèze-Modrzejewski, who described the *edictum provinciale* in Egypt as a "chimera of juristic papyrology." The two main arguments against the *edictum* are: 1) the testimonia cited in support of an *edictum provinciale* in Egypt are inconclusive—instead, one would expect such an edict to be widely attested and explicitly referred to; 2) a jurisdictional edict on the praetorian model had no purpose in Roman Egypt, where formulary procedure was never introduced. This broadly accepted view is summarized in a recent Oxford Handbook article on juristic papyrology and Roman law: "an edict ordering jurisdiction in its formal and material aspects (the organization of the *conventus*, the application of peregrine law, etc.) seems unlikely: we would expect it to be constantly invoked in the numerous surviving petitions and trial records, where there is no trace of it; the freedom apparent in our sources regarding the organization of the conventus and the application of the peregrine law also belies the existence of such an edict. Since it seems evident that the formulary procedure was not applied in Egypt, an edict modeled on the *edictum provinciale* on which Gaius commented is even less likely."[100] Some scholars have dissented from the first point, arguing that papyrological evidence for the *edictum provinciale* should indeed be regarded as conclusive. However, there is general agreement on the second point, that in Roman Egypt formulary procedure was never

[100] See Alonso 2016: 59.

introduced. In this respect, Egypt poses a problem for scholars who view Roman provincial jurisdiction as operating in accordance with the forms of Roman *ius honorarium*. One solution has been to argue that the *edictum provinciale,* while being a generalized practice of Roman governors including the prefect of Egypt, did not contain *formulae iudiciorum* or any other material pertaining to formulary procedure. With the emergence of clear evidence for *formulae iudiciorum* in Arabia and Spain, however, such an argument is difficult to sustain. Another solution has been to treat Egypt as an exception, not representative of Roman practice elsewhere. This argument, too, has become increasingly less sustainable. The more Egypt is "normalized" as a Roman province, according to the prevailing trend in current research on Roman imperial administration, the more broader arguments about the Roman empire must work to integrate the Egyptian sources.[101]

One major argument put forward against the existence of an *edictum provinciale* in Egypt is the apparent lack of explicit references to it, whereas we would expect it to be frequently invoked. This is not a valid assumption. Apart from the general fact that the papyrological record is lacunose and often haphazard in what it has preserved, normative legal texts are a particular category of sources for which our evidence is virtually always indirect at best. A good example is the rulebook (*gnōmōn*) of the Roman procurator of the *Idios Logos.* Despite the obvious importance of this rulebook as a reference text for

[101] Arguments against the *edictum provinciale* in Egypt were voiced by Martini 1964 and in the influential articles of Katzoff 1969 and Mélèze-Modrzejewski 1970: 341-344. This quickly became the mainstream view on this issue, see Schiller 1978: 410-427, Katzoff 1980 and 1986, Wolff 1980: 787, Hackl 1997: 155 and most recently Alonso 2016: 57-60. For arguments in favor of the *edictum* in Egypt, see Ankum 1970a and b and Purpura 1982. To explain the supposed absence of formulary procedure in Egypt, Ankum concludes that the *edictum provinciale* did not contain material relevant to *formulae iudiciorum.* By contrast, Hackl 1997 simply excludes Egypt as an exceptional case.

Roman fiscal policy in the sphere of private legal relations, the papyrological record preserves only one general reference to it and one specific reference to one of its regulations. Even in petitions and court cases to which the rules of the *gnōmōn* are directly relevant, the rulebook itself is never cited or mentioned. If not for the chance attestation of an exceptionally long papyrus containing an epitome of this rulebook (BGU V 1210), we would have no direct evidence at all for the normative framework employed by fiscal officials in Roman Egypt. Instead, it would have to be deduced indirectly from the papyrological sources. This is important to keep in mind when evaluating the evidence for the *edictum provinciale.*[102]

In comparison with only four testimonia for the rulebook of the *Idios Logos,* the evidence for an *edictum provinciale* in Egypt is much more abundant, consisting of numerous direct references, as well as numerous contexts where such an *edictum* can be inferred indirectly. One piece of direct evidence is the long edict of the Flavian prefect Tiberius Iulius Alexander (OGIS 669), issued at the beginning of his term of office in 68 CE, where Alexander outlines his policies on a series of issues, with explicit reference to established general policies, as well as the specific policies of his predecessors. In this respect, Alexander's edict inherently suggests a tralatician *edictum provinciale,* in relation to which a new governor defined his agenda. The form is illustrated by Cicero's composition of his Cilician edict in relation to an existing tralatician model, incorporating

[102] The Antonine epitome of the *Gnōmon of the Idios Logos* is attested in two papyri: BGU V 1210 and P. Oxy. XLII 3014; see my discussion in Dolganov forthcoming a. A general reference to the rulebook occurs in the long edict of Alexander, see OGIS 669 ll. 43-46 with the commentary of Chalon 1964. An additional testimonium occurs in PSI 294, a court record of a hearing involving a foundling, where the term *gn*[*ōmō*]*n* and a reference to its penalty against the adoption of foundlings (BGU V 1210, ll. 115-116, P. Oxy. XLII 3014 col. i l. 20-col. ii l. 1) can be supplemented in ll. 22-24. This is discussed by me in a forthcoming article that redates and substantially revises the published texts of P. Oxy. XLII 3014 and PSI 294.

specific clauses from other edicts, including that of his predecessor (Cic. *Att*. 6.1.15, *Ad fam.* 3.8). Similarly, the "general" edict of a first-century governor of Asia made clear his intention to observe the acts of his predecessors (*RDGE* 70). The fact that Alexander's edict is predominantly dedicated to legal procedure further strengthens its link with an *edictum provinciale.*[103]

Another piece of direct evidence for the *edictum provinciale* appears to be a direct citation from the jurisdictional edict of the prefect Petronius Mamertinus (SB XII 10919, 133-137 CE, mentioned above). The papyrus begins with another edict of Mamertinus ("Marcus Petronius Mamertinus the prefect of Egypt speaks [*legei* = *dicit*]") that employs direct speech and introduces a citation, which is formulated in the third person: "the governor (*hēgemōn*) will adjudicate (*diagnōsetai* = *cognoscet*) cases of homicide, banditry, poisoning..." and so forth. At the end of the citation, the text reverts back into the direct speech of the initial edict: "all others will not be heard by me except on appeal..." and so forth. The precise nature of this citation has been debated. Skeptics of the *edictum provinciale* have identified Mamertinus' citation as an imperial edict or excerpt from imperial *mandata,* while proponents of the *edictum* have pointed out that Roman governors are known to have published imperial *mandata* by incorporating them into their own edicts.[104] There are also several examples of gubernatorial edicts that refer to the same governor's *edictum provinciale*. An edict of Corbulo as governor of Asia, for example, stipulates a deposit of 2,500 *denarii* for appeals "in accordance with my published edict" (*protethen diatagma*, IGRR IV 1044); similarly, the edict of a first-

[103] On the edict of Alexander, see the text and commentary of Chalon 1964.

[104] As exemplified by Pliny *Ep.* 10.96.7 and P. Coll. Youtie II 30, 199 CE. On the identification of the citation of Mamertinus as an imperial edict or *mandata,* see Katzoff 1986.

century governor of Asia refers to a policy stated in his "published general disposition" (*katholikē prothesis*, *RDGE* 70). A key question regarding the citation of Mamertinus is whether it is plausible for an *edictum provinciale* to use the third person ("the governor will adjudicate...") or whether we would necessarily expect it to be formulated in the first person, as the Roman praetor's edict seems to have been.[105] Despite skepticism on this point, it is entirely plausible, with no evidence demonstrating otherwise, that the jurisdictional edict of a Roman governor could be formulated using indirect speech. In fact, clear evidence for this is provided by the edict of Alexander. At two points, Alexander issues "general orders" (*katholou keleuō,* ll. 35, 53) in which he refers to "the prefect" (*eparkhos*) in the third person: "I generally order that, whenever the prefect has previously adjudicated and dismissed a case brought before him, that case may never again be pleaded at the *conventus*" (ll. 35-36). The use of indirect speech and the similar nature of the regulations, which pertain to legal procedure, make it highly probable that the edicts of Alexander and Mamertinus were both referring to the same source. The sixty-year gap between the two edicts speaks against this being an imperial edict, and strongly in favor of identifying this source as a tralatician *edictum provinciale*.[106]

A further clue for identifying the citation of Mamertinus with a general *edictum provinciale* is provided by a second-century petition (BGU VII 1578, 2c. CE) that refers to the governor's duty to hear grievances of parents against their children, a rule that

---

[105] Dig. 4.3.1.1, Ulpianus 11 *ad ed*: *verba autem edicti talia sunt:* "*quae dolo malo facta esse dicentur, si de his rebus alia actio non erit et iusta causa esse videbitur, iudicium dabo.*"

[106] The use of indirect speech in the citation of Mamertinus is Katzoff's main reason for dismissing its identification with an *edictum provinciale*, see Katzoff 1986: 120-122. Purpura 1982: 514 presumes that the third-person construction reflects the tralatician portion of the *edictum,* but does not cite the edict of Alexander. The use of indirect speech in the edict of Alexander seals the case for Purpura's thesis.

appears in the citation, as emanating from a "most sacred general edict" (*hierōtaton katholikon diatagma*). This is certainly a very plausible reference to an *edictum provinciale*. The term *katholikos* appears in numerous other contexts, with reference to "general" edictal ordinances (*katholikōs diatetagmena*) and matters of "general" law (*katholika pragmata*), which are suggestive of an *edictum provinciale*. As observed by Purpura, many of these "general ordinances" represent tralatician policies that one would associate with an *edictum provinciale*. In one papyrus, an outraged widow refers to "general edictal ordinances" (*katholikōs diatetagmena*) by all emperors and prefects that women have the right of first creditor (*prōtopraxia*) with regard to their dowries (BGU III 970, ll. 9-13, 177 CE). This "general" policy, stemming most likely from Augustan legislation, appears in the long edict of Tiberius Iulius Alexander, further strengthening its connection to a tralatician *edictum provinciale.* In another papyrus, a petitioner refers to the prefect's "general ordinances" regulating nomination to liturgies (BGU III 983, 138-161 CE). Elsewhere, a forensic orator says to the prefect: "if I may mention a general policy (*katholikon*): prefects have laid down a five-year-limit for bringing legal claims, while some have allowed ten years for individuals residing in areas where assizes do not take place" (P. Flor. I 61 = M. Chr. 80, ll. 44-48, 85 CE). A general policy of this sort by successive prefects (and which is, incidentally, well-attested in the Roman legal sources) strongly suggests tralatician regulations in the form of an *edictum provinciale.*[107]

[107] On the term *katholikos* with reference to policies than one would associate with the *edictum provinciale,* see Purpura 1982. The arguments of Katzoff 1986 against this connection are, in my view, less persuasive. Regarding *praescriptio temporis* for legal actions in the papyrological evidence, Amelotti 1958: 175-178 sees this as originating in Greek law and insists that it must have been promulgated through *ad hoc* edicts rather than an *edictum provinciale*, a point that is taken up by Mélèze-Modrzejewski 1970: 341-344. This argument does not, in my view, have a basis in the evidence. The *praescriptio* of five years is well-attested

One of the clearest pieces of evidence for an *edictum provinciale* in Egypt is a recently published papyrus (BGU XX 2863, ca. 133 CE) where a *iudex* appointed by the prefect Mamertinus consults the prefect about a case where one of the litigants had appealed to a letter of Hadrian extending Roman rules of representation in succession to Egyptian provincials. As the *iudex* points out to Mamertinus, this new policy "has been incorporated by you into your own edict (*diatagmati sou aneilēmptai*)" (ll. 14-15). The fact that something could be "incorporated" into this edict makes it virtually certain that the *diatagma* in question was the *edictum provinciale.* This illuminates an identical scenario that occurs in another papyrus (BGU I 140 = M. Chr. 85, 135 CE), where a *iudex* appointed by Mamertinus consults him about an Egyptian litigant's appeal to the same letter of Hadrian. The *iudex* states in court that he has deferred the case to consult Mamertinus because it involves a matter of "general" import (*katholikon*). This is a further illustration of the link between "general edictal ordinances" (*katholikōs diatetagmena*) and the *edictum provinciale*, into which Hadrian's ruling had been integrated.[108]

Additional evidence for an *edictum provinciale* is provided by a letter of Hadrian (BGU I 140 = M. Chr. 373, ca. 119 CE) to the prefect Rammius Martialis, conceding to the illegitimate children of Roman soldiers the right to inherit from their fathers "in

---

in the Roman legal sources, see for example Dig. 5.2.8.17 (Ulpianus 14 *ad ed*.), Dig. 5.2.9 (Modestinus l.S. *de inoff. testam*.), Dig. 7.1.37 (Africanus 7 *quaest*.) and so forth. The link between the *praescriptio quinquennii* and the *edictum provinciale* seems certain on the basis of Dig. 2.14.28pr. (Gaius 1 *ad ed. provinc*.): *contra iuris civilis regulas pacta conventa rata non habentur: veluti si pupillus sine tutoris auctoritate pactus sit ne a debitore suo peteret, aut ne intra certum tempus veluti quinquennium peteret.*

[108] In his 2014 *editio princeps* of the Berlin papyrus, Thomas erroneously transcribes *diatagma ti sou* in l. 14. whereas *diatagmati sou* is clearly correct. On Hadrian's grant of the right to representation in succession, see Katzoff 1970 and my discussion in Dolganov 2018.

accordance with the chapter of the edict in which *bonorum possessio* is granted to *cognati.*" The fact that the emperor could assume that the praetorian clause *unde cognati* was in force in Egypt is strong evidence for an *edictum provinciale* modeled on the Roman praetor's edict and incorporating its contents, in line with the established practice of Roman governors discussed earlier in this chapter. Other, similar references to chapters of the *edictum* occur in seven surviving third-century Latin applications for *bonorum possessio* of an inheritance, which refer to "the chapter of the edict in which *bonorum possessio* is promised to legitimate heirs" (*ex ea parte edicti qua legitimis heredibus b(onorum) p(ossessionem) dari pollicetur*). This formulation varies between *dari pollicetur* and *dari/daturum te polliceris,* the latter indicating that the authority behind the *edictum* was the prefect of Egypt himself.[109] Evidently, on this point, the *edictum provinciale* overlapped with the Roman praetor's edict, either through direct incorporation or by proclaiming its general validity in the province—or both, as illustrated for us by Cicero's edict in Cilicia three centuries earlier, where Cicero both formally published praetorian clauses and generally referred to the praetor's edict on all matters not explicitly addressed in his *edictum*.[110]

Beyond direct references to an *edictum* (*diatagma*) or edictal ordinances (*diatetagmena*) that can be plausibly linked with an *edictum provinciale,* there are numerous contexts where the existence of such an *edictum* can be inferred indirectly. One is a well-known instance where a pregnant widow of a Roman citizen is closely

[109] This is further suggested by the prefect's response: *ex edicto legi/recognovi*.

[110] On the letter of Hadrian to Rammius Martialis, see Phang 2001: 38-46. On requests for *bonorum possessio* in papyri, see Gagos and Heilporn 2001. On Cicero's Cilician edict, see the preceding discussion in section 1.3

monitored during her pregnancy and delivery (P. Gen. II 103, 147 CE), in line with the praetorian procedure of *inspectio ventris* (Dig. 25.4: *De inspiciendo ventre custodiendoque partu*). In another document (P. Ryl II 75, 150 CE), the prefect Munatius Plancus states a general principle whereby applications for *cessio bonorum* for the purpose of defrauding creditors must be declared null and void. As pointed out by Ankum, this principle is in line with the praetorian *interdictum fraudatorium* (Dig. 42.8). There are also numerous documents from Roman Egypt, with one parallel from Roman Arabia, that refer to the payment of double-damages "in accordance with the law of deposit" (*kata ton nomon tēs parathēkēs*). The double-penalty (*diplē* = in Latin, *dupla*) prescribed by this "law of deposit" (*nomos tēs parathēkēs*) is in line with the Roman legal soures on monetary penalties for the breach of *bona fide* transactions. In fact, one wonders whether the *nomos tēs parathēkēs* may be a direct reference to the praetorian *actio depositi* itself. Similarly, the double-penalty prescribed by the so-called "law of security deposits" (*nomos tōn arrabōnōn*) in a second-century contract of sale (BGU II 446, after 161 CE) could be identified with the *cautio duplae* described in the Roman legal sources (Dig. 10.2.49, Ulpianus 2 *disp*.; Dig. 18.1.72.pr., Papinianus 10 *quaest*.). These are just a few examples taken from a wide variety of instances where papyrological evidence appears to reflect the forms of Roman *ius honorarium,* furnishing us with important indirect evidence for an *edictum provinciale* on the praetorian model, which was the traditional form in which Roman *ius honorarium* became part of the legal order of a Roman province.[111]

[111] On the two papyri illustrating *inspectio ventris* and the *interdictum fraudatorium*, see Ankum 1970b: 364 and Purpura 1982: 521; *contra* Katzoff 1980 and 1986. The procedure of *inspectio ventris* and *custodia* of the pregnancy was also prescribed in instances of divorce, when the father wished to claim paternity,

The second major argument invoked against the *edictum provinciale* in Egypt is the supposed absence of the traditional Roman legal procedure *per formulas,* whereby the judicial magistrate (praetor or provincial governor) issued a short brief defining the issue to be determined (*formula iudicii*) and appointed a judge or panel of judges (*recuperatores*) to adjudicate the case. A *formula iudicii* could be taken from an established lexicon of legal actions enumerated in the praetorian edict or *album* of a governor. Additionally, a new *formula* could be created on the basis of local regulations (as illustrated by the *lex rivi Hiberniensis*) or *in factum* for new circumstances presented by a particular case. That formulary procedure was never introduced in Egypt is a point on which both proponents and skeptics of the *edictum provinciale* agree. This universally accepted view, however, does not rest on a firm evidentiary basis. One can begin by pointing out that the papyrological evidence does not allow us to *exclude* the possibility of formulary procedure, since we do not have a single surviving example of formal instructions issued by the prefect of Egypt to a delegated judge. Instead, these instructions must be deduced indirectly from judicial pronouncements and epistolary

---

under the *senatusconsultum Plancianum,* see Dig. 25.3. The clause prescribing a double-penalty (*diplē*) "in accordance with the law of deposit" occurs in P. Yadin I 17, 128 CE and P. Lond. II 298 = M. Chr. 332, 124 CE; see also P. Oxy. XXX 2677, 2c. (template of deposit contract with reference to law of deposit), P. Prag. I 3, 139-160 CE (double-penalty without reference to law of deposit) and P. Oxy. XLIII 3134, 258 CE, P. Pintaudi 32, 224 CE, P. Ryl. IV 662, 364 CE and PSI VI 699, 3c. CE (law of deposit without reference to double-penalty). The emergence of this clause for the first time in Roman-period documents in two different provinces, as well as its persistence into Late Antiquity, make it overwhelmingly likely that we are dealing with Roman regulations, see my discussion in Dolganov forthcoming b. The Roman legal sources attest to a praetorian punishment *in simplum* for an ordinary deposit and *in duplum* for a deposit made in an emergency (Dig. 16.3.1.1, Ulpianus 30 *ad ed*.). It may be that the double-penalty acquired a more extensive application under the Principate. Additionally, a penalty *in duplum* could be stipulated by the contracting parties (see for example Dig. 21.2 on the *stipulatio duplae* in contracts of sale). On the *cautio duplae,* see Dig. 10.2.49 (Ulpianus 2 *disp*.) and Dig. 18.1.72pr. (Papinianus 10 *quaest*.).

communication between the prefect and his judges. A close examination of these sources suggests precisely the opposite, that *formulae iudiciorium* on the praetorian model were indeed issued by the Roman prefect of Egypt, corroborating the evidence for this practice in other provinces under the Principate.[112]

Our earliest evidence illustrating this point is the hearing involving Saraeus, wife of Tryphon the weaver, regarding her enslaved child, which took place before the Oxyrhynchite *stratēgos* in the context of the *conventus* of 49 CE (P. Oxy. I 37). During the proceedings, the *stratēgos* states that his judicial pronouncement follows a preliminary judgment (*ta krithenta*) issued by the prefect. The format and language of this pronouncement bears a notable resemblance to the Greek *formula tutelae* found among the papers of Babatha:

> ὁ στρατηγός· ἐπεὶ ἐκ τῆς ὄψεως φαίνεται τῆς Σαραεῦτος εἶναι τὸ παιδίον, ἐὰν χιρογραφησηι αὐτηι τε καὶ ὁ ἀνὴρ αὐτῆς ἐκεῖνο τὸ ἐνχειρισθὲν αὐτῆι σωμάτιον ὑπὸ τοῦ Πεσούριος τετελευτηκέναι, φαίνεταί μοι κατὰ τὰ ὑπὸ τοῦ κυρίου ἡγεμόνος κριθέντα ἀποδοῦσαν αὐτὴν ὃ εἴληφεν ἀργύριον ἔχειν τὸ [ἴδιο]ν τέκνον.
>
> The *stratēgos* said: "since (ἐπεὶ) upon visual examination it appears (φαίνεται) that this is the child of Saraeus, if she and her husband have signed a declaration that the slave-child entrusted to her by Pesouris has died, in accordance with the judgment of our Lord Prefect it appears to me (φαίνεται) that she should give back the money she has received and take back her own child."
>
> P. Oxy. I 37, ll. 29-36, 49 CE

[112] The supposed absence of formulary procedure in Roman Egypt is, to my knowledge, a universally accepted notion, see Modrzejewski 1970: 341-344, Ankum 1970b: 363, Katzoff 1980: 825-833, Purpura 1982: 521-522, Hackl 1997: 158, Alonso 2016: 59. As often with widely accepted notions, the evidentiary basis for this is rarely discussed.

ἐπεὶ ὁ δεῖνα τ̣[οῦ] δε̣ῖ̣ν̣[ο]ς̣ [ὀρ]φανοῦ ἐπιτροπ[ὴ]ν̣ ἐχείρισε̣ν̣, περὶ ο̣[ὗ] πρ̣άγματος ἄγεται, ὅταν διὰ̣ τ̣[ο]ῦ̣το τὸ πρᾶγμα τὸν δε̣ῖ̣ν̣α̣ τῷ̣ δεῖνι δοῦναι ποιῆσαι̣ δέῃ ἐκ κ[α]λῆς πίστεως, τούτου οἱ ξενοκ̣ρίται τὸν δ̣ε̣ῖ̣ν̣α τῷ̣ δεῖνι μέχρι̣ δην(αρίων) Βφ̣ κατακρειν[ά]τωσα̣ν, ἐ̣[ὰν δὲ] μ̣ὴ φ[αί]ν̣η̣τ̣α̣ι ἀπ̣ο̣[λυσ]άτωσαν.

Quod ille illius pupilli tutelam gessit, qua de re agitur, quidquid ob eam rem illum illi dare facere opportet ex fide bona, eius recuperatores illum illi dumtaxat denarium MMD condemnanto, si non paret absolvanto (Latin translation: Nörr 1998).

Since (ἐπεὶ) person X exercised *tutela* over orphan Y, which is the subject of the lawsuit, whatever it behoves X to give or do to Y in good faith in this matter, let the *recuperatores* condemn X to Y for up to 2,500 *denarii*. If it does not appear so (ἐὰν δὲ μὴ φαίνηται), let them absolve him.

P. Yadin I 28 ll. 4-15, 128 CE

Evidently, the prefect had instructed the *stratēgos* to establish two points: whether the living child resembled the mother and whether the slave child had in fact died. Once both points were established, the judgment prescribed by the prefect was that the woman should return her payment and take back her child. The instructions of the prefect seem to have adhered to the format of a Roman *formula iudicii*, whereby if certain facts could be established as true a specific judgment would follow; if not, it would not. Clear echoes in terminology and syntax (ἐπεὶ... φαίνεται...) between this text and the Greek *formula tutelae* of Babatha further confirm this inference. In this instance, the prefect's delegation of the case to a local official (in this case, the *stratēgos*) constitutes a difference from the praetorian procedure at Rome, where *iudices* were not officials but private individuals

appointed from a local *album iudicum* or privately chosen by the parties. As other papyrological evidence shows, however, the prefect of Egypt also routinely delegated cases to private individuals—typically members of the local civic elite at the location of the *conventus*—in line with the traditional praetorian system. In one instance, such a *iudex* appointed by the prefect reports his decision, employing language that is strongly suggestive of a *formula iudicii*: the land in question "appears to be" (φαίνονται) jointly owned by the litigants; the slaves and money debts likewise "appear" (φαίνεται) to be so; on the issue of maternal property, the *iudex* states that he has regrettably been unable to make a decision, since both parties have claimed that they do not have their accounts on hand. The report of the *iudex* suggests that he had been issued a *formula* where the prefect laid out several points to be established in the case.[113]

Another illustration of a *formula iudicii* is furnished by a second-century judicial pronouncement of the *iuridicus* Maximianus (M. Chr. 88, 141 CE), who defines the legal issue of a dispute over a debt and delegates its investigation to the *stratēgos* of the nome. Among other things, the *stratēgos* is to establish what exactly the creditor had contracted, "so that if this man is shown to be the creditor he keeps what is due to him, whereas if he is not shown to be the creditor but took something without a legal contract he should pay back its double value" (ἵνα ἐὰν μὲν ἀποδειχθῇ δανιστὴς εἶναι, μείνῃ αὐτῷ τὰ νόμιμα, ἐὰν δὲ μὴ ἀποδειχθῇ καὶ εἴ τι ἔλαβεν μὴ δεόντως ᾠκονομήσας τοῦτο

[113] On the vicissitudes of Tryphon and Saraeus, see Kelly 2011: 312-316. On the papyri in the archive of Tryphon, see Biscottini 1966, whose translation of the verdict of the *stratēgos* ("mi sembra opportuno, anche secondo i decreti del prefetto, che ella restituisca il denaro che ricevette e abbia suo figlio") is misleading. Without the "anche" (which is not present in the Greek text), it is clear even from this translation that we are dealing with a *formula iudicii.* On the *formula tutelae* of Babatha, see Nörr 1998 and Mantovani 1999: 56-58. The report of the *iudex* occurs in P. Rein. I 44 = M. Chr. 82, 104 CE.

διπλοῦν ἀποδῷ, col. iii ll. 1-7). This summary of the legal issue (if X is true, let him be condemned for the sum of Y; if X is not true, let him be absolved) conforms to the format of a Roman *formula*.

A third example is furnished by proceedings concerning *cessio bonorum* (P. Ryl. II 75, ll. 1-21, 150 CE, mentioned above) where the prefect Munatius Plancus makes the following judicial pronouncement: "let his financial means (*poros*) be investigated; for there is a principle (*typos*) according to which I have frequently judged and which seems to me fair with regard to those who resign their property, namely, that if they have done anything to defraud their creditors, the *cessio bonorum* shall not be valid (εἴ τι ἐπὶ περιγρ[α]φῇ τῶν δανιστῶν ἐποίησαν, ἄκοιρον εἶναι, ll. 11-12)." The most direct technical translation of the Greek term *typos* into Latin is *forma,* legal principle or policy, which in this case reflects the rules of the praetorian *interdictum fraudatorium,* whereby the praetor granted *restitutio in integrum* against deceitful debtors attempting to defraud their creditors. In the next hearing on the papyrus, we observe Plancus applying this principle: "if he be found to have contracted new loans with the intention of defrauding his creditors, may the *cessio bonorum* not be valid" ([ἐ]ὰν εὑρεθῇ ἐπεκχρηȯ́μ̣ε̣ν̣ος ἐπ̣ὶ̣ π̣[ερι]γραφῇ, ἄκοιρον ἔστω, ll. 19-20). As this conditional and imperative construction illustrates, the prefect's *typos* was in effect a *formula* defining the legal issue of the case.[114]

We now arrive at the two clearest papyrological examples of *formulae iudiciorum.* The first is a curious semi-literary papyrus (PSI VII 743r, 1-2c. CE) where Greek texts are transliterated using Latin letters. In addition to several fragments that can

[114] On the link between this document and the praetorian *edictum fraudatorium,* see Ankum 1970b: 364 and Purpura 1982: 521.

be attributed to gymnosophistic literature, one short fragment contains the following text (with my emendations):

litr[
tote . [. .]uto p. [
tutu o crites ṭ[
leucion tition [
catacrinato.
ean de me pha[
a . . . . . a. . [

The corresponding Greek text can be transliterated and supplemented as follows:

λιτρ[
τοτε .[.]υτο π .[
τούτου ὁ κριτὴς τ[ὸν?
Λεύκιον Τίτιον [αὐτῷ?
κατακρινάτω.
ἐὰν δὲ μὴ φα[ίνηται,
ἀπ̣ο̣λ̣υ̣σ̣άτ̣ω̣. [

The name Lucius Titius reveals this text to be a blank template of a Roman *formula,* attesting to the presence of Roman legal formularies in the province of Egypt at least as early as the second century CE.[115]

The next papyrological example of a *formula* is a bilingual record of a judgment by a panel of *recuperatores* appointed by the prefect in 148 CE (P. Oxy. XLII 3016,

[115] On the papyrus, see Nörr 2000.

briefly mentioned above). After a list (in Greek) of the names of the *recuperatores*, all of them Roman citizens, the text of the judgment proceeds in Latin:

[- ca.10 -] mụḷịẹṛ de qua agitur . [---]
[-ca.?-]. [. .]ụsạ. oetis aduẹ[---]
[-ca.?-]. . liberṭịṇạ ạẹ. . [---] 15
[-ca.?-]. lụn. ṇ. [---]
[-ca.?- n]on uidet[ur ---]
[-ca.?-]. . . serụ[---]
[-ca.?-]. ụṣ ẹxạco. [---]
[-ca.?-]ẹ. . . . ṣṣẹ[---] 20
[-ca.?-]ṣạ. . . .f. ụịḍ[---]

P. Oxy. XLII 3016 ll. 13-21, 148 CE

While the text is highly fragmentary, the clearly legible phrase *mulier de qua agitur* corresponds to a standard element of a Roman *formula* (*qua de re agitur*), while the letters *]on uidet[* in l. 17 may be supplemented as *non uidetur* = *non paret*. Regrettably, we do not know the identity and status of the freedwoman or the other parties involved. The use of Latin and the assignment of Roman *recuperatores* may indicate that we are dealing with a circle of Roman citizens. In any event, this appears to be a clear instance of the application of formulary procedure at the court of the Roman prefect. The evidence from Roman Egypt fully corroborates the conclusions of Nörr regarding the *formula tutelae* of Babatha as "undeniable evidence for the use of *formulae* in lawsuits" in the Greek East.[116]

[116] See Nörr 1998: 330, who treats Egypt as an exception in line with the widely accepted view.

1.6 Judicial procedure at the court of the prefect

Papyrological sources vividly illustrate what Roman legal writers meant when they described the jurisdiction of the Roman governor as all-encompassing (Dig. 1.16.9pr. Ulpianus 1 *de off. procons.*). Among hundreds of surviving petitions to the prefect of Egypt, we encounter an astonishingly broad spectrum of individuals, from tenant farmers and widows of shepherds to Alexandrian officeholders, petitioning the prefect with a wide variety of grievances and requests. The substance of these requests can be classified into two general categories: petitions asking the prefect for a hearing (or, occasionally, for referral to an *epistratēgos*) and petitions asking for written orders to be sent to another official, typically the *stratēgos* of the nome.

As we learn from the Roman legal sources, epigraphic evidence, and literary texts such as Cicero's account of Verres' governorship of Sicily, a Roman governor had three main options for dealing with petitions requesting a hearing at his court:[117]

1) In line with the bipartite praetorian model of legal procedure (*iurisdictio*), the governor could give a preliminary hearing, issue instructions and assign a judge (*iudex* = *kritēs, dikastēs*), a panel of *recuperatores* (*xenokritai*), or a larger jury to adjudicate the case.

2) The governor could adjudicate the case himself.

3) The governor could remit the case to a local court (*reicere ad suas leges*) or refer the case to another official. The governor's staff could, presumably, also ignore the petition.

[117] See the preceding discussion in sections 1.3-1.4.

As will be discussed in detail in the next sections, the Egyptian evidence confirms that the same jurisdictional options (preliminary hearing and delegation, full proceedings and judgment, remission or referral) were available to the Roman prefect of Egypt.

Papyri also draw our attention to an important terminological point: the term *diagnōsis* (*cognitio*) is used of judicial proceedings before the prefect, as well as other officials (BGU III 891, 144 CE) and delegated judges (M. Chr. 85 = BGU I 19, 135 CE). Thus, the papyrological evidence for *diagnōsis* corroborates the broad semantic range of *cognitio* in the Roman legal sources—not a distinct model of legal procedure by governors but "judicial proceedings" *tout court*. The Roman legal sources also distinguish between different types of hearings before the governor, such as informal hearings "from the floor" (*de plano*) as opposed to formal judicial proceedings before the prefect's tribunal (*pro tribunali*). This distinction is also present in papyri, where officials occasionally tell petitioners to approach them again *pro bēmatos* (*pro tribunali*), implying that the current hearing was taking place in a less formal setting (P. Fouad 24, 144 CE; P. Oxy. XLII 3017, 176-177; P. Thead. 15, 280-281 CE). Important insight into the typology of hearings at the court of the governor is provided by Ulpian in his commentary on the praetor's edict (Dig. 38.15.2.1-2, Ulpianus 49 *ad ed*.):

> Dies bonorum possessionis utiles esse palam est: sed non sessionum numerabuntur, si modo ea sit bonorum possessio, quae de plano peti potuit. quod si ea, quae causae cognitionem pro tribunali desiderat vel quae decretum exposcit, sessiones erunt nobis computandae, quibus sedit is quibusque per ipsum praetorem factum non est, quo minus daret bonorum possessionem. In bonorum possessione, quae pro tribunali datur, illud quaeritur, si sedit quidem praetor pro tribunali, sed postulationibus non dedit: potest dici tempus ad bonorum

possessionem non cedere, cum praeses aliis rebus aut militaribus aut custodiis aut cognitionibus fuerit occupatus.

It is clear that the days counted toward the time limit of applications for *bonorum possessio* are legally effective days (*dies utiles*). If it is the sort of *bonorum possessio* that can be requested *de plano,* the days on which court sessions take place will not be counted. Or, if the *bonorum possessio* requires a court hearing (*cognitio*) *pro tribunali* or a judicial pronouncement (*decretum*), we shall have to count the days on which the praetor sits in judgment and where nothing has been done by him to prevent the granting of *bonorum possessio.* With regard to *bonorum possessio* that must be sought *pro tribunali*, the question arises: what if the praetor sits in judgment *pro tribunali* but does not allow any time for *postulationes*? Then, the time does not count toward the time-limit for claiming *bonorum possessio*, because the governor (*praeses*) was occupied with other business, such as military matters, capital cases (*custodiae*) or judicial proceedings (*cognitiones*).

Thus, Ulpian clearly distinguishes between hearings *de plano* vs. hearings *pro tribunali* and between presentations of petitions in court (*postulationes*) vs. judicial proceedings (*cognitiones*). Apparently, some petitions could be presented to the governor *de plano* while others required a hearing *pro tribunali*—either a simple *postulatio* or a hearing (presumably, *cognitio*) resulting in a judicial pronouncement (*decretum*). These distinctions will be important to keep in mind in what follows.[118]

[118] It is telling that, while discussing procedural rules pertaining to the Roman praetor's court, Ulpian smoothly transitions from *praetor* to *praeses*, furnishing us with additional evidence for the praetorian model of gubernatorial jurisdiction.

1.6.1 Preliminary hearing, delegation to a judge

The papyrological record provides copious evidence for the bipartite Roman model of the legal process at the court of the prefect (and other high officials). The process began with a petition to the prefect requesting a hearing. Such a petition could be filed at Alexandria or at any location of the prefect's *conventus*. If an assize ended before all submitted petitions were processed, there is evidence to suggest that the staff of the prefect took the remaining petitions with them. In the early third century, a prefect received 1,804 petitions at an Arsinoite assize and had them taken to Alexandria, answered and sent back to the Arsinoite nome. Before this procedure was instituted, petitioners could presumably only travel to Alexandria to retrieve their petitions. At this stage, petitioners could engage representatives to file and retrieve their petitions for them. Responses to petitions were issued in the form of letters (for petitioners of privileged or eminent status) or short statements (*subscriptiones*) written directly on the petition. The important question, whether and when responses to petitions implied that the petitions had been presented in court, is difficult to answer in conclusive terms. It is reasonable to suppose that letters from the prefect were issued after the petitions had actually been presented to the prefect in person—either *pro tribunali* (if the prefect allowed time for *postulationes,* as noted by Ulpian, Dig. 38.15.2.2) or during a less formal audience *de plano*. Regarding *subscriptiones,* it is plausible to suppose that a simple referral ("petition the *stratēgos*") indicated a purely bureaucratic procedure without a hearing. Of the 1,804 petitions received by the prefect over three days at an Arsinoite assize in the early third century, which were taken back to Alexandria to be processed and sent back with *subscriptiones* six weeks later, all received a bureaucratic *subscriptio.* There is good reason to believe

that the procedures for processing petitions and hearing petitioners underwent significant diachronic development, to be discussed at the end of this chapter.[119]

Before the Severan Age, most petitions (with *subscriptiones* and, if relevant, letters) were handed back to the petitioners to convey to the relevant instance. Eventually, at the end of the second century, Egypt adopted the practice of pasting subscribed petitions into long rolls and posting them in public to allow petitioners to make authenticated copies. At any given assize, part of the prefect's judicial schedule would have been taken up by cases reserved for him by other officials. This will have included criminal cases and other matters requiring the prefect's judgment. Then came the individual petitions submitted at the assize. Some petitions were submitted and immediately approved for a hearing. This is clearly indicated by an edict of the prefect Pactumeius Magnus, which stipulates a ten-day period for petitioners who have received the response "petition me at my tribunal" to register themselves for a hearing, beyond which time the approval would expire (P. Oxy. XLII 3017, 176-177 CE).

In adversarial disputes, the procedure for obtaining a hearing required the additional step of *parangēlia* ("summons to appear in court"), an older Greek term that came to represent a Roman procedure introduced in Egypt in the Roman period. The procedure began with an initial petition to the *stratēgos* of the nome, stating the claim that the litigant wished to pursue through the court of the prefect (or other high official). The *stratēgos* then arranged for summons to be served on the opponent. The opponent then had the option to issue a counterstatement to the charges (*antirrhēsis*) and could

[119] On officials taking unanswered petitions with them, see for example P. Oxy. 2563, 170 CE with Haensch 1994: 497 and the famous case of 1,804 petitions in P. Yale I 61, ca. 209 CE with Haensch 1994 and Horstkotte 1996b.

petition the prefect (or other high official) on his or her own account (as illustrated for example by P. Oxy. VII 1032, 162 CE). This could promote a settlement out of court. If the plaintiff still wished to proceed, both parties were required to give a formal promise to attend the next assize held by the prefect in the vicinity. Under some circumstances, the litigants could also be summoned to Alexandria within a stipulated period. Formal promises to appear in court were submitted in written form to the *stratēgos,* and could be strengthened by an oath or deposition of real security. If the opponent refused to cooperate, there were various options available. One could begin the entire process of *parangelia* by directly petitioning the prefect's court, at Alexandria or at any location of the *conventus.* A positive response from the prefect, accepting the case, created additional pressure for the *stratēgos* to summon the opponent and for the opponent to show up to the hearing. One could also request that the prefect send orders to the *stratēgos* that a recalcitrant opponent be summoned and required to deposit real security as a guarantee for attending the prefect's court.[120]

Subsequently, the litigants had to travel to the hearing, register their presence with the tribunal of the prefect, and attend each court session until their names were called. If a party did not turn up, it was possible for judgment to be issued in his or her absence, as stated in multiple surviving *subscriptiones* and records of court proceedings. In one hearing (P. Hamb. I 19 ll. 1-17, 89 CE), the names of individuals registered for judicial proceedings (*pros dikaiodosian*) are called out in court. After some do not come forward, the prefect announces through his herald that, when they are called a second time and do not come forward, judgment will be issued. An advocate then takes the opportunity to

[120] On summons (*parangelia*) to the *conventus*, see Foti Talamanca 1979: 5-25, 48-66, Haensch 1994 and Kelly 2011: 94-103 with the examples cited in n. 64 above.

explain on record why his clients are unable to attend. In another record (P. Fouad 24, 144 CE), a litigant explains to the *archidikastēs* that he has traveled to Alexandria to attend his court in line with a formal promise given by him and his opponents to the *stratēgos* of the Arsinoite nome. Although he arrived within the stipulated time, his opponents did not sail down. He was then told to remain at Alexandria for thirty days until his opponents came. After thirty days, he was permitted to sail back to the Arsinoite nome with the reassurance that his opponents would be summoned again after the harvest through the *stratēgos* of the nome. On virtually all points, the practices of *parangelia, antirrhēsis* and formal promises to attend court correspond to the practices of *in ius vocatio, denuntiatio litis, contradictio* and *vadimonium*, with the accompanying procedures of *iusiurandum* and *pignoris capio,* as they are described in the Roman legal sources. Considering the terms of the *lex Irnitana*, it is clear that the role of municipal magistrates in organizing *vadimonia* to the governor's court closely corresponds to the role of *stratēgoi* in doing the same thing in Egypt. In the *lex rivi Hiberiensis,* this role is exercised at a more local level by *magistri pagi,* who are responsible for taking oaths and pledges (*iusiurandum, pignus*) and organizing *vadimonia* to the nearest municipal court.[121]

[121] For a traditional interpretation of the Roman legal sources on summons, see Kaser and Hackl 1996: 371-391; for a concise overview of the sources and literature on this topic, see Rüfner 2016: 263-264. I disagree with the argument of Metzer 2016 that there was no clearly-defined Republican procedure for forcibly summoning reluctant opponents; Cicero's account of Verres' court in Sicily seems manifestly to suggest otherwise. In his seminal 1910 study of petitions, even Mitteis "felt tempted" to draw the connection between *parangelia* in papyri and the Roman legal sources on *litis denuntiatio* (Mitteis 1910: 69), even though he did not generally regard Roman legal terminology as applicable to legal procedure in Roman Egypt before the tetrarchic reforms. On *vadimonia* in the *lex Irnitana,* see IX B 84, lines 20-23 with Wolf

When civil cases came to a hearing before the prefect, it was typically not a full-scale trial culminating in a judicial verdict, but a preliminary hearing where the prefect issued a statement instructing the case and delegated its adjudication to a judge or jury. A good illustrative example is provided by a record of several hearings before the Hadrianic prefect Petronius Mamertinus at an assize, most likely, in the Oxyrhynchite nome (P. Oxy. XVII 2111, ca. 135 CE). The first hearing on the papyrus (ll. 1-12) is a dispute over a debt, involving a widow who puts forward a legal action (*agōgē,* a technical Greek term for the Latin *actio*) on the basis of documents of apparently dubious authenticity and claims to be illiterate. After the arguments of both parties are presented by advocates, the prefect consults his *consilium,* issues his opinion on the case and permits the assignment of a judge: "since the father died... (regarding the question whether) he is indeed the creditor to whom this loan-contract, which must be verified, was issued, a judge will be given." The next hearing (ll. 13-19) is an appeal of a young woman named Claudia Zosime, a Roman citizen, who claims relief from taxes unfairly imposed on her on the basis of the protection offered to minors by the *lex Laetoria*. The prefect, "looking down upon Zosime," orders a local investigation into the case. The third case on the papyrus (ll. 19-50) is a full-scale murder trial where a man had strangled a woman. Here, long speeches are delivered and various pieces of evidence, including written statements by doctors and witnesses, are presented to the prefect. By contrast, the first two cases are only preliminary hearings, in line with what the Roman legal sources describe as *postulationes*, where the prefect examines, instructs and delegates the case or remits it for further investigation. In this respect, the Egyptian evidence fully corroborates legal and

---

2011: 118-119 and González and Crawford 1986: 229-230. On *vadimonium* and the role of *magistri pagi* in the *lex rivi Hiberiensis,* see Nörr 2008: 124-133.

epigraphic sources for the bipartite format of civil jurisdiction in the courts of Roman governors.

Amid copious papyrological evidence for judicial practice, we occasionally find testimonia for the theory and ideology of jurisdiction, as it was understood by Roman officials. In one court case, a team of forensic orators cite a judgment issued by a *iudex* appointed by the prefect Valerius Proclus as an important precedent. The orators then declare that, by opposing the legal position encapsulated in this judgment, the adversary is "contradicting the pronouncement of the prefect Valerius Proclus" (SB XIV 12139 col. ii 12-16, col. iii 4-10, 146 CE). The logic of this statement, which treats the words of the *iudex* as if they had been spoken by the prefect himself, suggests a rather striking level of reception of Roman ideas about the legal process, where the judicial magistrate defined the legal framework within which the *iudex* then proceeded to issue his verdict. Elsewhere, in a preliminary hearing before the prefect Rutilius Lupus, we observe a Roman woman named Lucia Macrina demanding back a deposit (*parakatathēkē*) she had made with the soldier Antonius Germanus (M. Chr. 372 = BGU I 114, ll. 5-13, 117 CE). The prefect responds: "I am aware that deposits of this sort are *de facto* dowries. For this reason, I will not give you a judge, since it is not permitted for soldiers to marry. So, if you are in fact demanding back your dowry and I grant you a judge, it will seem that I think that the marriage is legitimate." This is a remarkable testimonium for Roman legal reasoning applied in judicial practice, since one of the core tasks of a Roman judicial magistrate was to determine whether a particular legal action could be granted in a particular case. In the language of the Roman praetor's edict, this was a clear instance of *iudicium non dabo.*

The appointment of judges by governors—*kritai, dikastai* or *kritai dothentes* in papyri, *iudices dati* in the Roman legal sources—is another practice on which papyrological evidence provides an important perspective. In Sicily under Verres' governorship, Sicilian and Roman judges were appointed by lot from lists of wealthy individuals residing in the district of the *conventus* (*Verr.* 2.2.38, *iudices dentur, ex iis civitatibus quae in id forum convenirent electi*). This represents a standard Roman practice, attested with minor variations in sources from the Republic and Principate. At Rome in the Late Republic, the *album* of judges was composed of senators and equestrians, grouped into three *decuriae*. In the Augustan Age, this *album* was augmented to four *decuriae* (and later to five) composed of senators, equestrians and *ducenarii* with respective property qualifications of 1,000,000 HS, 400,000 HS and 200,000 HS. Some of these judges were designated as *selecti* by the emperor, which seems to indicate that they had a preferred status for adjudicating cases, and may have been required to reside at Rome for extended periods of time for this purpose. The small *municipium* of *Irni* in Spain illustrates the Roman model on a miniature scale: the *album* of judges was grouped into three *decuriae* and composed of individuals between the ages of 25 and 65 with a minimum property qualification of 5,000 HS (86). In line with civil procedure at Rome, the selection of judges and *recuperatores* at Irni was conducted through a procedure of *reiectio* (69, 87), which is also attested in the Augustus edicts to Cyrene. Greek epigraphic sources from multiple provinces confirm that the procedure of *reiectio* and the appointment of judges by lot from an *album iudicum* remained standard aspects of gubernatorial jurisdiction under the Principate.[122]

[122] On the appointment of judges in the Verrines, see also *Verr.* 2.2.68-75, where both advocates, judges

In Egypt, the appointment of judges is described in detail in an edict of the prefect Sulpicius Similis, issued at the start of an assize in the Oxyrhynchite nome (P. Oxy. XXXVI 2754, 111 CE). The prefect instructs all litigants who have previously obtained friends (*philoi*) of the prefect as judges, but did not receive a hearing, to petition the *archistatōr,* a high-ranking equestrian official in the prefect's *officium.* All other cases that are entered into the judicial lists but do not receive a hearing by the end of the assize would be adjudicated by the *stratēgos* of the nome. If it could be shown that judges had caused unnecessary delays, the prefect would compel them to stay on after the assize until they finished their judicial business. This edict reveals several important pieces of information. Evidently, some judges were appointed from the entourage (*philoi*) of the prefect. This is corroborated by other papyrological evidence, which shows Alexandrian officials and members of the Alexandrian civic elite (among them, *archidikastai, exēgētai, hypomnēmatographoi, archigeōrgoi, praefecti alae*) adjudicating cases at assizes, to which they had presumably traveled from Alexandria along with the prefect. This is in line with Cicero's remarks on Verres' tendency to appoint judges from his own staff (*cohors*, *Verr.* 2.2.32, 2.2.66). While Cicero presents this as one of Verres' crooked practices, his discussion shows that governors were fully empowered to do so (*Verr.* 2.2.30, *praetor improbus, cui nemo intercedere possit, det quem velit iudicem*). In view of the Egyptian evidence, this may have been a generalized practice of governors under the Principate. The edict of Similis also points to the existence of a privileged pool of

---

and their *consiliarii* are wealthy men (*homines honesti*) from the assize district of Syracuse. On the *album* of judges at Irni, see Le Roux 2014: 250-257. For *kritēs dotheis* as the Greek rendition of *iudex datus,* see BGU I 329, 153 CE and P. Oxy. XIV 1637, 256-261 CE. There is, to my knowledge, no published study that integrates papyrological evidence into a broader discussion of *iudices* in the Roman empire.

litigants who received the *amici* of the prefect as judges. In this instance, the role of the *archistatōr* was, presumably, to put these litigants first on the judicial lists, and if their cases were not heard to arrange for them to be heard by elite officials at the next assize. In another second-century papyrus, we observe *statōres* of the prefect gently reminding a *stratēgos* to handle the case of a particular individual as quickly as possible (P. Oxy. LVIII 3917). The role of elite status and personal connections in getting cases through quickly is further illustrated by a private letter (SB XII 11126, 2-3c. CE), where a man named Achillas notifies his wife and son that a "dishonored" woman has arrived with her father at Alexandria to file her petition to the prefect. Her expectation of a letter from the prefect is a clear indication of the woman's high status. When, after some time, the petition still had not been examined, Achillas sent a note on her behalf through the prefect's administrative assistant, who happened to be one of his kinsmen. In another private letter (P. Oxy. II 294, 22 CE), an Alexandrian writes that he has been advised to build a close relationship with the *archistatōr* to improve his chances at the court of the prefect. Other papyrological evidence confirms the role of *stratēgoi* in adjudicating cases left over from the *conventus* and sending detailed reports of these hearings to the prefect.[123]

In implicit contrast to the *amici* of the prefect, mentioned in the edict of Similis, were other *iudices* (*kritai*) to whom the prefect delegated cases. Whenever their titles

[123] On the role of Alexandrians as *iudices* at the *conventus,* see the brief remarks of Foti Talamanca 1979: 144-145; I am not aware of any synthetic treatment of this topic. On the role of *stratēgoi* in adjudicating "leftover" cases in the aftermath of the *conventus,* see SB III 7173, 179-180 CE (assignment of pending cases (*meteōra*) to *stratēgos* and his successor), SB XIV 11477, 202 CE (official letter to *stratēgos* and royal scribe ordering cases forwarded by the prefect to be adjudicated within a stipulated period) with Mattwich 1974. See also SB I 5761, ca. 91 CE, a detailed report by the *stratēgos* to the prefect of his adjudication of one such case.

happen to be preserved, these individuals are virtually always revealed to be members of the local office-holding elite in the city where the assize is being held. At an Arsinoite assize, for example, we encounter Ptolemaios, ex-gymnasiarch of Arsinoe, who signs the proceedings of a case delegated to him by the prefect (BGU II 592, 2c. CE). At another Arsinoite assize, we meet another ex-gymnasiarch serving as *iudex* (BGU III 969, 2c. CE). At an assize in Memphis, we meet Sarapion, ex-gymnasiarch of Memphis, serving as *iudex* (P. Mert. III 117, 141 CE) and so forth. In numerous petitions, individuals complain that the local influence of their opponents makes it impossible for them to receive justice in their home-cities. In one case, a citizen of Arsinoe engaged in a lawsuit against an Arsinoite officeholder (former *exēgētēs*) explicitly states that "he is a powerful man in my home city, which will make me powerless against him before such judges" (P. Fouad 26, 157-159 CE). Nearly all cases of delegation to judges documented in papyri involve the appointment of a single judge. In only one document (P. Oxy. XLII 2016, 148 CE) do we encouter a panel of *xenokritai* (*recuperatores*), who are assigned to a case involving manumission among Roman citizens. Thus, single judges seem to have been the dominant model of adjudication in Roman Egypt.[124]

Papyrological evidence helps resolve several long-standing controversies, going back to the time of Mommsen, regarding the appointment of judges at provincial assizes. While interpretations of the literary and epigraphic sources have varied, papyri provide clear and conclusive evidence for the assignment of single judges in private-law cases, in

[124] The edict of Similis has apparently never been interpreted as implying two distinct categories of judges. Foti Talamanca 1979: 144 n.48 assumes that *iudices* could *only* be appointed from the Alexandrian entourage of the prefect; Anagnostou-Cañas 1991: 212 n.19 seems to think the same. The papyrus is not mentioned at all by Kelly 2011.

line with the Roman model of civil procedure, and for the appointment of judges from lists of members of the local civic elite of each assize city. This is, most likely, what Pliny the Younger meant when he spoke of himself arriving in the city of Prusa and "summoning judges in preparation for the *conventus*" (*Ep.* 10.58.1). And this is almost certainly what Dio Chrysostom meant when he stated that, once his native city of Prusa acquired the status of an assize center, his fellow-citizens acquired the right "to adjudicate themselves" (Dio Chrys. *Or*. 40.10).[125]

As to the Roman procedures of *sortitio* and *reiectio* for selecting judges, this is something of which the Egyptian evidence provides no direct illustration. Thus, it remains an open question whether judges drawn from the local municipal *album* were appointed in this way, in line with the *lex Irnitana* and other epigraphic evidence for *reiectio* and *sortitio iudicum* in the provinces. In some instances, we know that the prefect appointed judges of his own choosing from his entourage, as noted above, or from his *officium,* as illustrated by a third-century papyrus where the *princeps officii,* a centurion

[125] Mommsen's hypothesis was that, in line with Roman models, judges and *recuperatores* were appointed from a local *album iudicum* in the provinces (Mommsen 1876: II.1 231 n.3). This idea was dismissed by Sherwin-White, who in his commentary to Pliny *Ep.* 10.58.1 states that such an *album* could only have been used for the appointment of jurors (Sherwin-White 1966: 639-640). In support, Sherwin-White cites two Latin inscription mentioning the *sortitio* of judges in Asia (CIL X 5393, 23-30 CE and CIL XI 3943, 87 CE) and states that *iudices privati* were not selected by lot, therefore both texts must be referring to jury courts. This view is shared by Kantor 2017: 75-76. In fact, it is simply not true that *iudices privati* could not be appointed by lot, as evidenced by Pliny, *Pan.* 36 who clearly spells out a procedure of *sortitio* followed by *reiectio*: *sors et urna fisco iudicem assignat: licet reiicere, licet exclamare: Hunc nolo, timidus est, et bona seculi parum intelligit: illum nolo, quia Caesarem fortiter amat*. Mommsen was well aware of this passage: see Mommsen 1876: II 1.195 n.1. In view of the Egyptian evidence, the hypothesis of Mommsen about the appointment of *iudices* from a local *album* in the provinces, in line with the Roman model, looks very plausible indeed. Kantor 2017: 75 seems to understand Dio's statement as referring to locals being put on the *consilium* of the governor; this seems implausible—surely, the appointment of local judges is meant here.

named Domitius, serves as *iudex datus* (*kritēs dotheis*) of the prefect. In another case (P. Oxy. III 653b, 162-163 CE), the prefect Volusius Maecianus actually asks one of the forensic orators (evidently, an eminent figure) whom he would prefer as *iudex.* The orator responds, "whomever you prefer to give," and the prefect assigns the centurion who had originally referred the case up to his court. The principle of assigning an official already familiar with a particular case as *iudex* is further illustrated by the fiasco surrounding the archives of the Arsinoite nome, an episode to be discussed in detail in the next chapter, where the *iudex* assigned by the prefect is a former *stratēgos* who had handled earlier stages of the case (P. Fam. Tebt. 24, ll. 83-115, 124 CE). In another instance, the *epistratēgos* Herennius Philotas simply declares that he will appoint Hermias, former *kosmētēs* and former *agoranomos* (presumably, of Antinoupolis or whichever city happened to be the location of the assize) as *iudex* (SB V 7558, ll.30-31, 172-173 CE). The appointment of Hermias may shed light on the phenomenon of *iudices selecti* in the epigraphic evidence for the *quinque decuriae* at Rome. From the broader *album* of eligible judges, it seems that cases were adjudicated by a narrower pool of *selecti,* some of whom are referred to in inscriptions as *adlecti inter selectos*. It may be that some *selecti* were appointed by lot or *via* rotation, while others were personally chosen (*adlecti*) by the emperor or judicial official. Thus, Hermias may have been on the "preferred list" of this particular *epistratēgos*.[126]

[126] On the *album iudicum* at Rome, see Demougin 1975 and the useful overview of sources and scholarship in Bablitz 2007: 92-100. On members of the *quinque decuriae* in Africa, see Duncan-Jones 1967 and Pflaum 1969. On Gaul, see Burnand 1974. On Italy, see Demougin 1975.

1.6.2 Full proceedings and judgment

As far as we can tell, the option of holding full judicial proceedings and personally adjudicating a case was always available to a Roman governor, who was expected but not strictly obliged to respect the autonomy of cities and remit cases to local courts (*reicere ad suas leges*). In Egypt, furthermore, the jurisdictional landscape was distinctive with respect to other eastern provinces due to the region's strong tradition of centralized administration, which the Romans continued until the Severan Age. Beyond its three (later four, with the addition of Antinoupolis under Hadrian) Greek cities, the province was subject to direct rule by Roman procurators and district officials (*stratēgoi, basilikoi grammateis*) appointed from Alexandria. It is not at all clear to what extent the Greek cities of Egypt had regular civic institutions and courts. The city of Alexandria was notoriously deprived of the right to have a *boulē* until 200 CE and there is virtually no evidence for the existence of independent Alexandrian courts. Instead, Alexandrian officials such as the *exēgētēs* (in charge of matters involving *tutela*) and *archidikastēs* (in charge of a central archive of private legal documents and the lawsuits arising from them) appear to have been fully integrated into the Roman jurisdictional system.

Of the approximately 90 records of proceedings at the court of the prefect of Egypt attested in papyri before the reign of Diocletian, less than one third are full-scale judicial proceedings that result in a verdict. The others can be described as preliminary hearings, where the case is delegated to a judge or referred to another official. In view of the fact that court judgments of the prefect were avidly collected by legal practitioners and are thereby overrepresented in the papyrological record, the actual proportion of non-capital cases that came to trial at the prefect's court is likely to have been even smaller. In many

instances, it is possible to deduce the mechanisms that brought the matter to trial before the prefect. The majority of these cases can be classified as pertaining to the prefect's *de officio* jurisdiction, where the prefect alone had the formal authority to issue a judicial ruling. Central to this category was criminal jurisdiction, a key domain of the prefect's judicial activity (on par with other Roman governors) that has left few traces in the papyrological record, which privileges the evidence for private litigation. Nevertheless, there are surviving testimonia for several criminal trials being conducted by the prefect or prepared for his judgment. Among them is a case of criminal activity by sailors, where several hundred individuals had been arrested and preliminary investigations conducted at the local level. Apparently, torture had been wrongfully administered to an innocent person, regarding which the prefect conducts a stern investigation (SB XVI, 12949, 200-203 CE). The full-scale murder trial from the assize records of Mamertinus (P. Oxy. XVII 2111, ca. 135 CE) has already been mentioned. Another case examined by the prefect by virtue of his *ex officio* jurisdiction involves a complaint of a patron, an Egyptian provincial, against his freedman (P. Oxy. IV 706, 113-117 CE). This case (discussed in detail in chapter 3) illustrates the prefect's *de officio* obligation to hear the grievances of parents and *patroni* against their dependents, a category of cases that appears after the long list of *causae capitales* in the jurisdictional edict of Petronius Mamertinus.

A further category of cases that we observe being given a judicial hearing by the prefect of Egypt involve matters of administrative importance, such as the problem of grain management involving municipal officials and the *stratēgos* of the nome investigated by the prefect Subatianus Aquila (P. Oxy. XXII 2341, 208 CE). In another

case, where a change in the Nile flood has altered the fertility and tax-status of certain lands (P. Ross. Georg. II 22, 154-159), we observe the prefect Liberalis giving a preliminary hearing and immediately declaring that he will give a full hearing to the case (*diagnōsomai peri tou pragmatos,* l. 20). This was, again, a matter of administrative significance that the prefect chose to investigate and decide himself.

In line with the jurisdictional regulations of the edict of Mamertinus, which stipulates that the prefect will only hear civil cases on appeal (*ekklētos* = *provocatio*), there are several surviving examples of appeals being brought to trial before the prefect. In two cases, the prefect upholds the contested verdict of the *boulē* regarding municipal elections (P. Wash. Univ. I 5, ca. 250 CE) and releases two *bouleutai* from liturgical obligations imposed by the *boulē* which purportedly threaten them with financial ruin and loss of citizenship (P. Oxy. XII 1503, 288-9 CE). Elsewhere, litigants object that another official has already issued a verdict in the case but the opponent proceeded to petition the prefect without filing a formal appeal (P. Oxy. II 237 col. VII ll. 19-29, 128 CE; P. Oxy. XLI 2955, ca. 218 CE). The well-known debate about the respective liturgical obligations of cities and villages in the Arsinoite nome (SB V 7696, 250 CE), which takes place before the prefect Appius Sabinus, likewise proceeds from an appeal against an earlier decision by the *epistratēgos* (l. 26). Several third-century petitions illustrate the dramatic procedure whereby *provocationes* to the prefect were deposited at the feet of the emperor's statue in the local temple of the imperial cult (*Sebasteion*).[127]

[127] On appeals to the prefect's court, see Anagnostou-Cañas 1991: 220-225. On the deposition of appeals at the feet of imperial statues, see P.Vindob. Tandem 2, 238-244 CE; CPR I 20 = W. Chr. 402, 250 CE; P. Oxy. XVII 2130, 267 CE.

There are also examples of private legal disputes being brought to trial before the prefect where there is no evidence of a formal appeal. Some of these cases are testamentary disputes in which the heirs of Egyptian provincials protest against the fact that they have been disiherited (P. Oxy. XLII 3015, 109-117 CE; P. Oxy. XXXVI 2757, 72-79 CE). Consequently, these disputes hinge on questions of enchoric private law. In each instance, the prefect consults with a local legal expert (*nomikos*) and pronounces that it is legal and valid for Egyptian testators to disinherit children in favor of other children. As regards the mechanisms that brought these cases to trial before the prefect, there are two possible scenarios: either the petitioners had petitioned the prefect directly or their cases had been referred up to the prefect by other officials. In the latter scenario, it is entirely logical that officials faced with questions of law and legal interpretation would refer these cases up to the prefect, especially if it was unclear whether Roman or local legal standards should apply. The former scenario would imply that the prefect himself chose to adjudicate these cases at first instance. In another private dispute brought to trial before the prefect (P. Oxy. II 237 col. VII ll. 19-29, 128 CE), a father had forcibly reclaimed his daughter from her marriage after a dispute with his son-in-law, the famous case of Dionysia discussed in detail in chapter 3). Apparently, the father had petitioned the prefect with a charge of violence (*bia*) against his son-in-law, who filed a counter-petition explaining the whole case. It is difficult to tell whether it was the petition, the counter-petition, the fact that the case had already been handled by an *epistratēgos,* or the general fact that it illustrated an important legal problem, that motivated the prefect to adjudicate the case. Similar questions can be posed with regard to another private-law case brought to trial before the prefect, involving a lowly creditor,

a freedman, who seeks to reclaim a large loan of 100 artabae of grain from the heir of the original debtor, a man of high status (*euskhēmōn*), who has apparently refused on multiple occasions to return the grain (M. Chr. 80 = P. Flor. I 61, 85 CE). As illustrated by a second-century petition, where a Roman soldier is unable to reclaim a loan of grain and states that this outrage can have "no other judge than the prefect," obstinate default on the part of the debtor could be prosecuted through the court of the governor (P. Vet. Aelii 10, 179 CE). Accordingly, the advocate of the freedman states that it was necessary to submit a petition to the prefect, in line with the prefect's own orders. In view of the fact that the prefect brutally castigates the freedman for bringing a false claim, the question remains open whether it was the claim itself, or the occasion to publicly expose and punish an instance of vexatious litigation against an eminent person, that had motivated the prefect to hear the case.

Overall, the relatively small number of surviving examples of full-scale judicial proceedings before the prefect of Egypt suggests that only a very small proportion of non-capital cases received a formal trial at the prefect's court. Perhaps we should not overestimate the number of full-scale trials in capital cases either: as we read in the *Sententiae* attributed to Paul (Dig. 48.18.18.10, Paulus 5 *sent*.), governors could hear and condemn capital crimes without judicial proceedings in the informal context of a hearing *de plano.* Papyrological examples of civil trials before the prefect confirm the clause in the edict of Mamertinus that civil cases were primarily examined on appeal. At the same time, some of these examples suggest that choosing cases for adjudication could be a matter of the governor's personal choice. As we are reminded by an edict of the emperor Diocletian (*CJ* 3.3.2), a Roman governor was only obliged to hear cases that fell within

his *de officio* jurisdiction. Beyond this, governors had the right to remit or delegate cases as they saw fit. However, if a governor *wished* to hear a particular case—provided that it did not fall within the exclusive jurisdiction of the emperor and his fiscal procurators—there was nothing to prevent him from doing so.

1.6.3 Referral of cases

Not all petitioners who requested a judicial hearing before the prefect were granted one. Instead, a large number were referred to other officials, either an *epistratēgos* or, more frequently, the *stratēgos* of the nome. This illustrates the third option available to governors when faced with petitions for hearings: if it was not necessary or desirable to grant a judicial hearing, or if further investigation was required, the case could be referred elsewhere. Precisely how this was done is important for understanding the nature of the referral.

In referring cases to *epistratēgoi,* the prefect typically subscribed petitions with the simple statement "petition the *epistratēgos.*" The petitioner then submitted a separate petition to the *epistratēgos,* citing the earlier petition and *subscriptio* of the prefect as a reason to pay close attention to the case. The question then arises whether, in cases referred by the prefect, the *epistratēgos* exercised his own independent jurisdictional powers, or whether this sort of referral was in any sense a delegation of the prefect's own judicial authority, along the lines of what Roman legal writers refer to as *mandare iurisdictionem*. It is not possible to give a conclusive answer to this question. It must be noted that the prefect's referral did not constrain the *epistratēgos* to hear the case, since we observe at least one such case being delegated further down to the *stratēgos* of the

nome (SB XIV 12087, 162 CE). It also seems significant that, whereas the prefect frequently sent orders and instructions when referring cases to *stratēgoi,* there is a notable lack of evidence for directives from the prefect telling an *epistratēgos* how to handle a particular case. In one administrative letter (BGU III 747, 139 CE), the *stratēgos* of the Coptite nome notifies the prefect of his difficulties collecting taxes from Roman and Alexandrian citizens, who refuse to obey local tax collectors. The prefect responds that they should be brought before the *epistratēgos,* who will force them to pay what they owe. Was this a way of providing an implicit directive to the *epistratēgos*? Was there perhaps a separate letter sent to him directly? Apart from this and the above-mentioned instance where the *epistratēgos* fulfils the prefect's request to investigate administrative abuse, there is strikingly little evidence for instructions being issued by the prefect in referring cases to *epistratēgoi*. Instead, the *epistratēgoi* seem to have exercised their jurisdictional powers with a considerable degree of independence from the prefect.

Referrals of cases to *stratēgoi,* on the other hand, frequently came with instructions from the prefect, of which there are numerous surviving examples. These took the form of letters, typically issued on behalf of privileged or eminent petitioners, who had presumably been permitted to present their petitions to the prefect in person. The prefect's letter, accompanied by the petition and *subscriptio*, explained to the *stratēgos* what the prefect wanted him to do about the case. In one such letter, the prefect Flavius Titianus admonishes a *stratēgos* that the Alexandrian petitioner is not subject to liturgies in the hinterland (BGU XI 2058, 126-133 CE). In another letter, the prefect asks a *stratēgos* to verify the petitioner's report about an illegitimate holder of a municipal liturgy. On the petition itself, the prefect had written, "if you petition the *stratēgos,* he

will not fail to do his part." Thus, the *subscriptio* reflects the fact that instructions were issued to the *stratēgos.* Letters could also instruct cases in a technical legal sense, as illustrated by a letter of the *dioikētēs* (P. Oxy. XXIV 2411, ca. 173 CE), which describes in juridical terms under what circumstances a certain loan contract was to be regarded as unbroken (*aperilytos*).

Did the prefect's instructions by letter constitute delegation of his judicial authority? If one considers that letters were most likely issued after petitions had been presented to the prefect in court, as illustrated by papyri and corroborated by the legal sources on *postulationes*, the role of the letter does seem analogous to the instruction of a judge. In some letters, *stratēgoi* are instructed how they should adjudicate the case: "if, in good faith, the *fiscus* is owed anything, make sure that it receives it" (P. Oxy. XLIII 3089, 146 CE). In other instances, however, the *stratēgos* seems to be left to his own devices, to adjudicate the case as he sees fit: "I send you the petition so that you may examine the matter in court (*diagnōskein* = *cognoscere*) with him and the other *praktōr* accused by him, so that an appropriate resolution can be found" (P. Oxy. XLII 3027, 161-169 CE). It is clear that this type of delegation had a different force from the appointment of a judge at the *conventus*: whereas the ruling of a *iudex* could be treated as if it had been pronounced by the prefect himself (SB XIV 12139 col. ii 12-16, col. iii 4-10, 146 CE), no decision issued by a *stratēgos* ever appears in a lawyer's collection of judicial precedents.

In practice, the majority of petitioners could not expect to receive a hearing or letter from the prefect, but had to content themselves with a written *subscriptio* that typically told them to petition another official (*stratēgos, epistratēgos*). In practice, as we

observe, even a bureaucratic *subscriptio* from the prefect could be a powerful instrument for getting one's case examined (or reexamined) in another court. Although we have no sense of the proportion of submitted petitions that were answered by the staff the prefect, one gets the impression from the tone of second and third-century petitions that receiving a "sacred *subscriptio*" (*hiera hypographē*) in itself constituted considerable success in the world of litigation.[128]

1.7 The processing of petitions: diachronic trends

Although there was a strong hierarchical distinction between Roman equestrian officials and those of provincial origin, the range of subject matter in the petitions that were submitted to the prefect, the *iuridicus,* the *epistratēgoi* and *stratēgoi* (with the exception of officials with a specialized role, such as the *Idios Logos*) was substantially the same. Therefore, despite differences of authority, the spheres of competence of equestrian and nome-level officials broadly overlapped (a feature that, for Weber, characterized premodern systems of rule).[129] This meant that individuals could petition several officials at once on the same issue, or submit to an imperial official a complaint that had already been dealt with by a nome *stratēgos*—and they could also bring the same matter to court

[128] For instances of *hiera hypographē,* see P. Cair. Isid. 73, 314 CE; P. Diog. 17-18, 3c. CE; P. Lund IV 1, 197 CE; P. Mich. VI 423, 198 CE; P. Oxy. XIV 1475, 267 CE; P. Oxy. XLVII 3364, 209 CE; P. Oxy. LXXIX 5210, 298-299 CE; P. Sakaon 38, 312 CE; P. Wisc. I 33, 147 CE; SB XIV 11707, 212 CE; SB XIV 12087, 162 CE; SB XVIII 14007, 217 CE.

[129] For Weber's remarks on overlapping and competing spheres of jurisdiction as characteristic of premodern states, see Weber 1978 I: 228-231.

repeatedly, as soon as a new official came into office. By "playing the system," litigants offset some of its vagaries: filing more petitions increased one's chances of getting a hearing; appealing to a high official might help the progress of one's case at the local level; getting one's petition into the workflows in several places might help offset the tendency of imperial officials to give inconclusive responses and shuttle petitioners back and forth. For example, in a private letter from early third-century Oxyrhynchos, we discover a woman named Gaia, who had gone to court to confirm her rights to receive interest on a gift of land, and had received an unfavorable (as she put it, "lawless") verdict from an official named Agrippa, most likely the *epistratēgos*. She petitioned the prefect Valerius Datus at Alexandria and received written instructions to petition the same Agrippa again. She went back to his court, gritting her teeth, only to be disappointed again. As soon as the next prefect Basilianus arrived in the capital, Gaia once again submitted all court records together with her previous petitions to two prefects. However, she was not granted a hearing but only a vague written response that she should "exercise her rights," which was too ambiguous to have any effect on Agrippa, against whom she was effectively powerless. Undaunted, Gaia petitioned Basilianus again, only to receive the same ambiguous response. As illustrated by Gaia's plight, although in theory the tribunal of a Roman governor was an all-powerful entity that could determine the course of justice, it was in practice quite difficult to get the governor to pay attention to one's case.[130]

The chronological distribution of our evidence suggests that one's chances of receiving a hearing at the *conventus* were better in 14 CE than they would be in 186 CE,

[130] For Gaia's letter, see P. Oxy. XLIII 3094 (217-8 CE) with Kelly 2011: 89-90 and Reinard 2016.

due to a burgeoning "industry" of litigation and progressively growing volume of judicial business directed toward imperial officials. Our primary indication of this is the evolution of the procedures employed by the prefect's office for processing petitions. Although, as argued above, even our sparse documentation from the first century CE shows that petitions to the prefect could be forwarded to local officials (which was already a routine practice in the Ptolemaic period), it is not until the second century that we begin to have evidence for large-scale bureaucratic procedures. In our first-century evidence for *hypographai* (in Latin, *subscriptiones*), these represent actual judicial pronouncements by the prefect—often several sentences, and phrased in the imperative. Starting in the 130s CE, however, the dominant form of *subscriptio* attested in our documents is the very short, administrative response which typically directs the petitioner somewhere else ("petition the *stratēgos,* who will do what is necessary"). This was not the same thing as delegating a case to a judge (*iurisdictio* in the strict sense), a process that formally began with a preliminary hearing. On the contrary, a short *subscriptio* like this meant that the petitioner had, by definition, failed to obtain the prefect's audience. He or she could then go and petition the official specified, to whose court the prefect's *subscriptio* might facilitate access, without any guarantee of the outcome—the case of Gaia, mentioned above, is a good illustration. The emergence of "subscribed" petitions of this sort in papyri from the 130s CE onwards suggests that the prefect's office was developing its bureaucratic procedures to deal with an overwhelming number of petitions. And it is precisely in this period (the 130s) that the prefect Mamertinus found it necessary to publish an extract from his *mandata* that spelled out that *only* criminal and appeal cases were eligible for his *cognitio*. At about the same time, the governor of Achaea issued a

very similar edict, in which he stated that, because crafty litigants were appealing to his court as a dilatory tactic, he would refuse to accept any further appeals, unless they were worth more than a certain amount, or had "prejudicial" value for cases involving capital charges or *capitis deminutio.* A chance remark in the petition of Dionysia reveals that second-century prefects regularly issued prohibitions of this sort against the submission of private petitions at first instance (P. Oxy. II 237, col. vi 6-8).[131]

Interestingly, the edicts of Mamertinus and the governor of Achaea were both contemporary with visits of the emperor Hadrian to the two provinces. In Egypt, the emperor's visit in 130-131 CE also neatly coincides with our first surviving physical example of a petition subscribed by the prefect's office: "'petition the *epistratēgos*;' deliver to the petitioner" (P. Oxy. III 486 = M. Chr. 59, 131 CE). We also have a copy of a petition from 130 CE that was "subscribed" by Hadrian during his visit to the Arsinoite village of Karanis: "copy of subscription: I have subscribed; let this be posted in public."

---

[131] On the evolving procedures for processing petitions in Egypt, see Haensch 1997, who does not, however, analyze what was bringing about these changes within the broader picture. For early *subscriptiones* that represent *sententiae* issued in court, see P. Iand. IV 53, col. iii, where the synopsis of a case is followed by a *hypographē* of several lines by the prefect Mettius Rufus, or P. Vind. Bosw. 1 (87 CE), where the *stratēgos "*subscribes" with detailed instructions to the royal scribe of the nome. See also P. Fam. Tebt. 15, col. ii 55-col. iii 1 (114-115 CE), where the prefect's *subscriptio* is an order, issued after a court hearing, and phrased in the imperative. With these responses we can contrast the "bureaucratic" *subscriptiones* of the second century: "petition the *archidikastēs* Hierax" (BGU XI 2012, 2c. CE), "the *stratēgos* will put an end to the matter" (P. Mil. Vogl. IV 229, 140 CE), "if the case has not been adjudicated before, petition the *epistratēgos*" (P. Oxy. LXXIII 4961, 223 CE). The first physical example of a "subscribed" petition from Egypt is P. Oxy. III 486 = M. Chr. 59 (131 CE). There, a woman who had been admitted to the prefect's tribunal at Alexandria had an adversary who did not show up; she then petitioned the prefect to allow her to go back to her nome and pursue her case there. The prefect's written response ("petition the *epistratēgos*") functioned as her ticket of admission to the court of the *epistratēgos.* On petitions to *epistratēgoi,* see Thomas 1982: 113-129 and 143-159 (an appendix of petitions). On the edict of the governor of Achaea, see IG V 1.21 (Sparta, reign of Hadrian) with Fournier 2005.

The subscription itself is lost (SB XVI 12509, 130 CE). In view of the fact that Hadrian is credited with the reform and expansion of the imperial petition system at Rome, it is a plausible guess that the emperor and his staff had introduced new procedures for processing petitions in Egypt—and also in Arabia and Judaea, as papyri from the Judaean Desert suggest. However, while the Karanis document shows that Hadrian's staff had posted the petition in public for copying and had, very likely, employed the *kollēsis* procedure (the method of pasting subscribed petitions together into rolls, which were displayed and later archived), this procedure is not attested in Egypt until just after the *next* imperial visit in 175-6, and it would not be fully instituted until just after the next imperial visit by the Severi in 199-200 (the pattern seems significant). Bureaucratic procedure tends to be inherently conservative, but the scrutiny of the emperor and his staff may have had a potent effect on eliminating "outdated" practices—after all, in the provinces of Arabia and Judaea, the *kollēsis* method was already in use since Hadrian's time.[132]

Therefore, by the mid-second century, possibly spurred on by the visit of Hadrian in 131 CE, the prefect's office routinized the practice of "subscribing" petitions with short, bureaucratically-generated responses. While some petitioners were granted a hearing at the *conventus,* the majority were directed to other officials, whom they had to petition from scratch. These evolving bureaucratic practices suggest that the prefect's office was trying to come to grips with a growing onslaught of petitioners, which in turn

[132] For the journeys of Hadrian, see Halfmann 1986: 188-210. The impact of imperial visits on administrative and bureaucratic procedures in the provinces is something that I will investigate separately; the theme comes up again in the discussion of archives in the next section. On Hadrian's reform of the petition system at Rome, see Honoré 1994: 12ff. On the *kollēsis* procedure, see Clarysse 2003. Its adoption for petitions in Arabia and Judaea is evident in P. Yadin I 33 and PSI IX 1026.

suggests that a petitioner's chances of gaining admission into an imperial courtroom were becoming progressively lower. Initially (from the 130s to ca. 200), subscribed petitions were handed back to the petitioners. Then, after some experimentation and the visit of the Severi in 199-200, the prefect's office made a definitive switch to the *kollēsis* procedure, and pasted-rolls of petitions began to be posted in public for copying (and subsequently archived) at Alexandria and at the site of the *conventus*. This was the method employed with the 1,800 petitions that were submitted to the prefect during a three-day period at Arsinoe in the early third century. By this time, the archival institutions of the Roman administration in Egypt were equipped to support this procedure.[133]

Thus, the papyri enable us to observe the development of the prefect's court into an increasingly large-scale bureaucratic institution in the course of the second century CE. Although petitioning the prefect was notionally available to provincials of every rank and file—and this was an ideologically important and powerful aspect of the Roman administration of justice—getting heard in an imperial court was a very different matter. Getting heard was a competitive business, and imperial officials were very busy men. It clearly mattered *who* one was. It helped considerably if one's case went up to the governor through official channels—hence, the governor of Achaea had to specify that he neither wanted appeals to be submitted *nor to be forwarded* up to him. This puts the significance of juristic discussions of *iurisdictio* into perspective: by the Severan period, much of the prefect's jurisdictional activity was exercised on paper, and typically involved rubber-stamping cases for examination by a lower instance. Even if one's case fell into one of the *ex officio* categories to which governors were supposed to pay

[133] On the evolving practices of archiving petitions, see Haensch 1994: 254-263 and 1997. On the developent of the Roman archival system in Egypt, see 2.5-6.

attention, the edict of Diocletian mentioned above reveals that governors who were "overwhelmed" by their large caseloads and other administrative business tended to forward such cases directly to judges—and this was already a step beyond the short *subscriptio* that an average petitioner could expect to receive. As Tertullian would thematize in his *Apologeticum,* even commiting a public crime was no guarantee that one would actually be allowed to *speak* in the governor's court.[134]

However, as indeed we might expect, this did not deter petitioners, who had clever ways of "playing the system" to their advantage. Many petitioners did not ask for a hearing at all, but requested that an imperial official take action, typically that a nome official be told to examine (or *reexamine*) their case. Even a minimal *subscriptio* from the prefect's office ("petition the *stratēgos*") could have considerable value: for some litigants, this was an admission ticket into a local court; for others, it was a way of keeping a case moving through the courts, which was a powerful litigation strategy in its own right. If a case dragged on, "winning" the dispute might be a matter of who had the time and money to remain in the game. Of course, one could also never rule out the possibility that the attention of an imperial official might be peaked by one's petition, if it was pitched in the right way, and we have plenty of evidence that, if at first they did not succeed, litigants tried and tried again, particularly when the next prefect arrived at Alexandria.

Further light on the evolving sphere of litigation comes from the rhetoric, content and "texture" of petitions. Although, as always, we are hampered by an uneven temporal distribution of papyri (very few before the late first century, four times as many

[134] For Diocletian's edict, see CJ. 3.3.2 (294 CE). For Tertullian's thematization of the difficulty of getting "heard" in an imperial court, see *Apol.* 1.1-3.

throughout the second century, about 30% fewer in the third), several diachronic changes are visible. For example, while the range of subject matter of first-century petitions to the prefect includes taxation and tax privileges, violence, official abuse, border disputes, and problems with recalcitrant debtors, there is very little evidence, direct or indirect, for petitions on issues of family law or succession. When the prefect Iulius Lupus was faced with disputes involving Egyptian testamentary law in the 70s CE, he had to consult a local legal expert (*nomikos*). In 89 CE, the prefect Mettius Rufus was surprised to discover (most likely, from the *same* local legal expert, who was now serving as *stratēgos* of the Oxyrhynchite nome) that a "certain custom of the *chōra*" gave Egyptian wives and children rights of entailment over the property of their husbands and fathers. Twenty years later, the prefect Sulpicius Similis was baffled by this same phenomenon; he had the research done and discovered Rufus' edict. This suggests that inheritance cases from Demotic-Egyptian circles did not often make it up to the court of the prefect in this period. On the other hand, marriage, dowry and succession (inheritance claims, division of property, relations between heirs, the provisions of wills, the transmission of maternal property) are *very* well-represented in litigation documents from the 130s CE onwards. In no less than three trial transcripts from this period, we encounter advocates who state that a succession-related issue is *katholikon*, a matter of "general" law with an extensive case-law, which appears to be a technical term for policies incorporated into the *edictum provinciale*. A *iudex* appointed by the prefect Mamertinus in 135, who was distressed by the great number of previous judgments on the subject of joint ownership by heirs, was told by the prefect to tally them up and rule with the majority. On the basis of the second-century evidence, one is tempted to conclude that the sphere of litigation was not only

growing—it was also increasingly reflecting the traditional mainstays of private litigation at Rome, such as the law of property and testamentary law.[135]

We also notice a growing number of second-century petitions becoming more rhetorical and resembling forensic speeches, in contrast to the plainer accounts of events that still continue from the early Roman period. For example, an Arsinoite petition to the prefect from 147 CE opens like this: "It is the worst of all injustices in human life for free men to be subjected to violence. For this reason I implore you, my Lord Prefect, to pursue the ways of violence!" (P. Wisc. I 33, Arsinoite, 147 CE). The petition continues in a highly rhetorical vein, escalates to its grand finale—"... evidently to be a *stratēgos* means to dominate, to hinder, to injure, as well as to strike, smite and flog free men as slaves!"—and then concludes with a neat, ring-composition effect: "*for this reason I implore you* that this be stopped, through your great freedom-loving [administration of justice]." This was, in fact, a very short and simple petition. In longer, more elaborate narratives, we can discern the structure, formulae, and rhetorical devices of forensic

[135] On Lupus' engagement with "Egyptian" testamentary law, on which he consulted Areios the *nomikos,* see P. Oxy. XXXVI 2757 col. ii. I very much suspect that this Areios is the same person as Claudius Areios, who appears as *stratēgos* of the Oxyrhynchite nome fifteen years later, and who "tipped off" the prefect Mettius Rufus that Egyptian men were trying to hide the entailment rights of their wives and children, created by their Demotic-style marriage contracts—see the edict of Mettius Rufus in P. Oxy. II 237, col. viii 27-43 and the subsequent edict of Similis in col. viii 21-27. The emergence of "Egyptian law" in documents from the late first century onwards leads Bryen forthcoming b to argue that the category of "Egyptian law" was brought into existence at this time, as the Romans were developing new ways of thinking about Roman and imperial law. However, the fact that our evidence for court protocols *generally* begins in the Flavian period (this is to be discussed in the next section and further in chapter 7) does not allow us to conclude that the category of "Egyptian law" did not exist earlier. On issues of succession as *katholika,* see BGU I 19 = M. Chr. 85 (135 CE), SB XX 15147 (138 CE) and SB XIV 12139, col. ii 11ff (146 CE). The puzzlement of the *iudex* appointed by Mamertinus occurs *ibid.* in col. v 13ff. On the connection between the term *katholikos* and the *edictum provinciale,* see the preceding discussion in 1.5.4 with nn. 88-89.

argument, the most spectacular example being the petition of Dionysia (P. Oxy. II 237), but there are others. One striking feature of such petitions, which is attested for the first time in a petition from 160 CE, is the inclusion of "appendices" of judicial precedents (typically, protocols of decisions of high imperial officials) that bolster various points of the argument. In both form and rhetoric, such petitions conspicuously stand out from the rest, and John Crook is undoubtedly right to suggest that they were composed by forensic specialists, with the context of the imperial courtroom in mind.[136]

This brings us back to our overarching theme, namely, the impact of the Roman imperial justice system on provincial society and culture, and vice versa. The diachronic trends examined so far suggest a dynamic expansion of the sphere of litigation and its upward flow to the courts of Roman imperial officials in the course of the first two centuries of Roman rule. This points to significant developments in the legal culture of the region. How can we characterize these developments and the mechanisms driving them? In the sociology of law, this question would be approached from two competing perspectives. On the one hand, we could emphasize, with Lawrence Friedman, the

[136] One very striking early petition that reflects the work of a forensic practitioner is P. Lond. II 354 (of which CPR XV 15 is an alternate version) from 7-4 BCE. There, an Arsinoite cultivator of royal land complains of being unjustly imprisoned for murder, and asks the prefect to reopen the investigation. The petition is highly rhetorical, with florid and exalted language; it also makes reference to the *res iudicata* principle; the London papyrus, moreover, is written in a spectacular literary hand, which suggests to me that it was anthologized by the person who composed it. Not coincidentally, the "petitioner" mentions that he was defended in court by an advocate named Leukios, which leads one to suspect that Leukios (Lucius? a Roman citizen?) was also the author of the petition. This document is unique among the early petitions, but the "forensic" type of petition is visibly on the rise in the late second century. The resemblance of such petitions to advocates' speeches was duly noted by Crook 1995: 69. On the inclusion of judicial precedents in petitions, see Katzoff 1980: 836-7. Particularly impressive appendices of precedents are attached to P. Oxy. II 237 (the petition of Dionysia, 186 CE) and P. Oxy VI 899 = W. Chr. 361 (the petition of Apollonarion, 199 CE).

importance of public attitudes and "demand" for the law—for example, we would conclude that more and more litigants in Egypt acclimated to the Roman way of doing things, and discovered the benefits of petitioning a high official, and of "going to law" in their family affairs, which were previously dealt with in a private or non-state context (such as the family, or the local temple center). Or, we could argue, with David Nelken and others, that patterns of legal behavior tend to be shaped less by popular attitudes toward the law, and more by the institutional possibilities available for legal relief. For example, in the Netherlands and Germany, two cultures that are in many ways similar, there is a dramatic difference in litigation rates, due to the fact that, in the Dutch (but not in the German) context, there are many accessible and well-functioning alternatives to litigation. Another factor to consider is that, whereas in the United States there is a high level of lay participation in the legal process, in a legal culture such as Italy, lay participation is restricted and litigation strongly mediated by the legal profession. This point is particularly salient for Roman Egypt, where the "institutional possibilities" for litigation were to a significant extent a matter of having access to individuals with specialized knowledge and skills who mediated nearly every aspect of the legal process, from the drafting of a legal instrument, to its registration in an archive, to the composition of a petition, and finally to the courtroom itself, where Roman-period court protocols reveal to us a panoply of advocates, notaries and "legal experts" (*nomikoi*). All of the trends examined so far on the basis of Roman-period litigation documents point, in one way or another, to the activity of legal practitioners, to their growing numbers, and to their deft and increasingly sophisticated methods of managing the law. These key individuals will be examined in chapter 4. The next point on our agenda will be the

development of the "technology" of litigation—namely, the evolution of the archival institutions and record-keeping practices of the Roman imperial administration, which created a new playing field for litigation in the second century.[137]

1.8 Conclusion: Egypt and Roman provincial jurisdiction

In his *Annals* of Roman history, Tacitus describes the progressive rise of the jurisdictional powers of equestrian procurators under the Julio-Claudian emperors. It all started with Augustus, who "ordained that litigation (*lege agi*) in the courts of equestrian officials in Egypt and the judgments (*decreta*) issued by them were to be regarded on par with those of magistrates in the city of Rome. Soon, in other provinces and in the imperial capital, powers were conceded to equestrians that previously only the praetors had possessed."[138] Evidently, in the time of Tacitus, it was a matter of common knowledge that the judicial role of equestrian officials in Egypt was analogous to that of

[137] The work of Friedman, a major proponent of "legal culture" as a useful concept in the sociology of law, involves a strong distinction between what he calls "internal" legal culture (i.e. the ideas, practices and attitudes of legal professionals) and "external" legal culture (i.e. the ideas, practices and attitudes of the general population with regard to the law). Friedman emphasizes the importance of the pressures created by "external" legal culture (i.e. public opinion and attitudes) in producing social and legal change, see Friedman 1985 and 1990. Nelken, on the other hand, argues that institutions and "internal" legal culture (although he is critical of Friedman's dichotomy) have been empirically demonstrated to have a more significant impact on legal behavior than *vice versa*, see Nelken 2004: 9ff. On litigation in Germany vs. the Netherlands, see Blankenburg 1997 and 1998. For Nelken's work on legal culture in Italy, see Nelken 2004: 17-26 with further references.

[138] *nam divus Augustus apud equestris qui Aegypto praesiderent lege agi decretaque eorum proinde haberi iusserat ac si magistratus Romani constituissent; mox alias per provincias et in urbe pleraque concessa sunt quae olim a praetoribus noscebantur*, Tac. *Ann.* XII 60.

Roman praetors and senatorial governors. As Ulpian tells us, the *imperium* of the prefect of Egypt was defined by Augustus as equivalent to that of a governor (*proconsul*) of a public province (Dig. 1.17.1 Ulpianus 15 *ad ed*.). In line with the implications of these well-known passages, the primary aim of this chapter has been to exploit the copious documentary sources from Egypt as evidence for jurisdiction and the administration of justice in the Roman empire, placing papyri in dialogue with the Roman legal sources and documentary evidence from other Roman provinces. As urged by Nörr with regard to the Babatha archive, in order to fully grasp the significance of the Judaean Desert papyri for our understanding of Roman law and its application in the Roman empire, "it is necessary to analyze the individual contexts in which legal procedure through *formulae* and *cognitiones* was employed in the provinces. Since the Babatha archive primarily documents the initial stages of litigation, it is of the utmost necessity to subject the mainstream scholarly doctrine on *litis denuntiatio* to a thorough reexamination; this requires not only a precise comparison with the papyrological material from Egypt but also with the sources on *vadimonium* and *in ius vocatio* in the classical formulary procedure." By contrast, Hackl cites the passages from Tacitus and Ulpian with a cautionary note: to understand this as implying the existence of formulary procedure in Egypt is to go "too far" since this "contradicts everything that we know about the serving of summons and the formulary procedure itself."[139]

As I have tried to show here, the Egyptian evidence by no means contradicts what is known about Roman law and procedure. On the contrary, papyrological evidence eloquently documents the implementation of Roman models of jurisdiction and legal

[139] See Nörr 1998: 330; Hackl 1997: 158 n. 85.

procedure, in line with the evidence from other Roman provinces. Moreover, a confrontation with Roman jurisprudential literature shows that papyrological evidence is fully in line with the Roman legal sources on jurisdiction as well. The evidence from Roman Egypt illuminates the more fragmentary evidence available in other Roman provinces and enables a very strong argument for Roman provincial jurisdiction operating in accordance with Roman legal and procedural forms, since the Republic and throughout the Principate. This has far-reaching implications for our understanding of Roman law *vis à vis* the Roman empire, as a legal tradition that appears, from very early on, to have functioned and developed as a framework of imperial jurisdiction. The apparent fact that gubernatorial jurisdiction *extra ordinem* nevertheless employed *formulae iudiciorum* on the praetorian model seems to be a veritable missing link for explaining the evolution of Roman law in the Roman empire under the Principate. In this respect, papyrological evidence from Egypt sheds light on a process that could previously only be hypothesized on the basis of the much more limited evidence available elsewhere. A central goal of this chapter has been to integrate the evidence from Roman Egypt into a broader investigation of judicial administration in the Roman empire as a key domain for observing the institutional and cultural impact of Roman rule. The next chapter, dedicated to Roman record-keeping and archival institutions, will investigate another important aspect of this domain.

2

DOCUMENTS, RECORDS AND ARCHIVES

The next part of our investigation considers the significance of Roman imperial record-keeping and archival institutions for Roman judicial administration. The ability of the Roman state to exercise control over the production and management of documents, particularly its documentation of its own acts, was an instrumental and ideologically important aspect of Roman rule. As argued in this chapter, papyrological evidence from Roman Egypt suggests that the Roman state developed a particularly advanced system of records and archives that was, in many respects, different from earlier Hellenistic practices. Especially important for Roman judicial administration was the Roman practice of documenting the *acta* of officials, including the minutes of judicial proceedings, which Roman archival technology turned into a vast store of information that played a key role in the development of the law. The archival system in Roman Egypt can be productively understood in light of a distinct vision of imperial record-keeping in the Augustan Age that was progressively developed and implemented in the course of the Principate.[140]

[140] For a tabular summary of the archival systems in Roman Egypt, see Appendix 2.

2.1 A gap in the records

In the year 11 CE, Satabous the son of Herieus, priest and former scribe of the temple of Soknopaios, from the Arsinoite temple-village of Soknopaiou Nēsos, bought a house together with a courtyard and an empty plot of land (*psilos topos*) from another priest named Chairemon. The sale was documented in a bilingual Demotic and Greek deed, in which Chairemon confirmed the payment and waived all future claims on the property, in the customary fashion (P. Dime III 2, 11 CE). The contract of sale was then registered in the local archive of the village of Psinachis, where the seller Chairemon had his primary residence. Approximately three years later, however, another priest named Nestnephis (who, as we discover from a series of other documents, was Satabous' personal enemy) reported to the royal scribe (*basilikos grammateus*) of the nome that Satabous had illegally taken over ownerless property (*adespota*)—a category of property that fell to the imperial treasury and had to be purchased at auction or directly from the procurator in charge of the *Idios Logos*. Thus, according to Nestnephis, Satabous was guilty of fiscal evasion. In making his denunciation, Nestnephis took the opportunity to make a bid for the ownerless property himself. The royal scribe forwarded the case to the Roman procurator in charge of the *Idios Logos*, who summoned both men for a hearing at Alexandria. According to Nestnephis, the entire property purchased by Satabous from Chairemon had "long ago belonged to a Ptolemaic soldier" (*Laarchou arkhaiou tinos gegonenai*, CPR XV 6). Nestnephis also pointed out that Satabous was purchasing the land for only half of its value, and that the deed of sale had not been registered in the central record office (*bibliothēkē*) at Alexandria, which surely signified that something

rotten was going on. Satabous was also guilty of violating the new Roman requirement that all sales of real property be registered in the provincial capital. The *Idios Logos* then ordered a local investigation at Soknopaiou Nēsos, with the involvement of the nome *stratēgos*, the royal scribe, a local centurion named Lucretius, and the senior priests (*presbyteroi tōn hiereōn*) of the village.[141]

On the ground, there appear to have been no documents to establish the status of the property. Initially, Nestnephis had alleged that the *entire* property (including the house) was *adespoton* (SP I 5240 col. i 12-14), which shows that he thought that his adversaries would not be able to prove the contrary. Although Satabous made sure to have the Demotic portion of his deed of sale translated into Greek, in multiple copies, his only proof of title was the seller's good word. Accordingly, although the seller Chairemon swore that this was his ancestral property, inherited from his fathers and forefathers (SB I 5240 col. i 9-11), he did not have any documents to prove it. Evidently, Nestnephis did not have any hard evidence either, since his initial claims about the house being *adespoton* were ultimately ignored by the *Idios Logos*. The senior priests, in turn, declared that "no deeds demonstrating original ownership" (*arkhaiai oikonomiai*) were

[141] On the archive of Satabous, see the overview article of Schentuleit 2007, as well as the useful description by Hoogendijk and Feucht 2013. The registration of the initial deed of sale at Psinachis is documented in P. Lond. II 262, the Greek portion of the original Demotic contract (P. Dime III 2). The accusation of Nestnephis is attested in two fragmentary official documents (SB I 5236-7 ca. 14 CE). It is also mentioned by Satabous in SB I 5232 (15 CE), who tries to clear himself regarding the unregistered deed of sale. Nestnephis' accusation is also summarized in more detail in the official report of the case, including the results of the local investigation and the final hearing and verdict of the *Idios Logos* (the most complete copy is SB I 5240, after 17 CE; the other two are P. Lond. II 355 and CPR XV 6, 16 CE). On sale of confiscated property and *adespota* in Ptolemaic Egypt see Manning 2003: 160-161 and 167-171; on sale at auction in the broader Greek world, see Pringsheim 1949. On the auctioning of *adespota* and *caduca* in Roman Egypt, see Kruse 2002 I: 524-538 and 539-554, respectively.

on file with them (SB I 5240 col. i 4-6). There appear to have been no written records of *any* kind that resolved the question of the property title, one way or the other. The best that the *Idios Logos* could do in this situation was to ask the priests what they thought. Did the house and yard really belong to Chairemon's family? Interestingly, the priests did not uphold Nestnephis' claims in their entirety, but declared that only the vacant lots (*psiloi topoi*) adjoining the house seemed to them to be ownerless. Consequently, although Satabous was allowed to keep the property, he had to pay a fine of 500 drachmas to the *fiscus* for taking possession of a parcel of ownerless land. Why did the priests only partially uphold Satabous' claims of ownership? Perhaps they were in league with Nestnephis after all. In revenge, Satabous' eldest son made a very similar denunciation against Nestnephis, after which Satabous was attacked and beaten by his enemy's cronies, who also invaded his mill and stole his millstone. Clearly, there was a deeper conflict operating in the background of this affair.[142]

The denunciation of Nestnephis suggests a keen awareness of new rules and standards brought to Egypt by the Romans. From a Ptolemaic perspective, there was nothing wrong with the sale. The fact that Satabous' proof of title rested in the contract of sale itself reflects standard Ptolemaic practice—two decades earlier, the father of Satabous bought a house together with the father of Nestnephis, using the very same type of Demotic contract. If the house had been in Chairemon's family for generations, it is

[142] On the conflicts between Satabous and Nestnephis, see Kelly 2011: 1-7, 309-310 and Bryen 2013: 152-156. The sale of a house and *psiloi topoi* to the fathers of Satabous and Nestnephis is P. Dime III 2 (8 BCE). The fact that this property later came into the full possession of Satabous may have had something to do with his subsequent enmity with Nestnephis, see Schentuleit 2007: 107 and Schentuleit and Lippert in P. Dime. III: 423. For the counter-accusation for fiscal misdeeds by the son of Satabous ca. 14 CE, see SB I 5233. For the subsequent attacks on Satabous, see CPR XV 7, SB I 5235 and 5238.

not surprising that he was unable to produce an original deed of sale to prove his own title to it. His main mistake was to have left the property unoccupied for many years, and apparently visibly deteriorating, which laid his claims of ownership open to question. Nestnephis clearly thought that the situation would look suspicious to a Roman official, who would also be displeased that the sale had not been registered at Alexandria, contrary to Roman orders. Nestnephis presumably also knew that a report of fiscal evasion made it likely that the Roman procurator of the *Idios Logos* would pursue the affair. Interestingly, when the *Idios Logos* ordered the local investigation, he instructed Satabous to bring all relevant documents in his possession, provided that they had been "inspected" in the archives (*episkemmenas*, SB I 5954 14). The legal act was defined by its registration in the provincial records. While such a standard existed for sales of land in the Ptolemaic period, we see the Roman *Idios Logos* applying it with particular rigor. In the late second century BCE, a group of Egyptian funerary workers had their ownership rights protected by a Ptolemaic court even though they had *not* registered their Demotic contract of sale, because their adversary (a soldier named Hermias) had no documents to prove his counter-claim. However, although Satabous *had* registered the contract of sale in the local archives, and Nestnephis *did not* have any hard evidence to substantiate his claims, Satabous was still penalized for his inability to prove his title. Not only that, but many years later, his son had to provide documented proof that his father had indeed paid the fine. Overall, the details of this case—the denunciation and subsequent counter-denunciation—suggest that the residents of Roman Egypt were reacting to the

introduction of new standards of documentation and new, more stringent criteria for what constituted a legal "fact" four decades after the Roman conquest.[143]

2.2 From documents to records to archives

The plight of Satabous illustrates a key aspect of the process of provincialization, namely, the assertion of Roman administrative control over the production and management of documents. In Ptolemaic as well as Roman Egypt, documents and written records were the primary basis of administrative knowledge and power. The case of Satabous shows very clearly how, in a situation where no documents could be found, the Roman procurator of the *Idios Logos* could not exercise effective control, but had to rely on local knowledge in order to regulate the situation. By the second century CE, however, the Roman system of provincial records would evolve to the point that conflicts over property could be resolved on the basis of census returns, contracts, or property declarations deposited in public archives several decades earlier. In the Flavian period, Chairemon would have been able to secure his property title by mentioning it in his census declaration, or by reporting it to the archive of acquisitions of real property

[143] The Greek translation of the Demotic portion of Satabous' deed of purchase is attested in five copies: CPR XV 2-4 and SB I 5231 and 5275. For the final hearing and verdict, see the copies of the official report: SB I 5240 (the most complete copy), P. Lond. II 355 and CPR XV 6. Interestingly, in a draft of his petition to the *Idios Logos* in 14 CE, Satabous made reference to Chairemon's ancestral claims to the property ("being inherited from his father, from his paternal and maternal ancestors, as the deed of sale shows," Chr. Mitt. 68 10-11) but then crossed this sentence out, presumably because he thought that it could not actually be proved. On the late second-century BCE property dispute between Hermias and the Egyptian *choachytai*, see Pestman 1992 and 1993.

(*bibliothēkē enktēseōn*) in the capital of the nome. The papyri also show us how, by the second century CE, the system of provincial records provided the Roman imperial administration with the information and means to demand and enforce a wide range of compulsory public services, according to criteria of wealth, age, citizenship, residence, social and occupational status. The demise of Demotic documents by the end of the first century CE marks another important development: the gradual province-wide adoption of common forms and standards in the production of private documents.[144]

The changes in documentary practice brought about by the Roman provincial administration of Egypt require careful parsing. The creation of records, their organization into functional archives, and their widespread use (administrative or otherwise) are not the same thing and cannot be taken for granted as parts of a self-evident development. Clanchy's important study of the development of written records in medieval England after the Norman conquest offers a clear example of this. Although, soon after their arrival in England, the Norman kings began to produce masses of documents—including the remarkable Domesday Book, a register of all English landholdings, livestock, and their value, compiled twenty years after the conquest of 1066—permanent archives were not established until more than a century after the Norman occupation (ca. 1193). Instead, the Norman court (which, like the Roman provincial administration, held assizes and was peripatetic throughout its dominions) was for a long time content to carry its documents in portable archives, entrusting important documents (such as charters) to monasteries, which had to be mobilized whenever such a

[144] On the dwindling of legal documents drawn up in Demotic in the late first century, see Lewis 1991 — this was not, however, a general decline of Demotic writing, see the remarks of Tait 1994. On the Roman *bibliothēkai enktēseōn,* see Wolff 1978: 245-253, Jördens 2010a and b, and now Lerouxel 2016.

document needed to be found. In the meantime, some private individuals—and especially the monks, who were seasoned specialists in producing and managing documents—were able to turn the situation to their advantage. When written charters did not exist, the monks took care to forge them and have them officially inspected and registered. In one case, an abbot can be observed taking a calculated risk that the existence of a certain document would never be checked in the unwieldy mass of the royal records.[145] Eventually, the accumulation of documents and the enterprising behavior of private individuals warranted the creation of permanent archives (ca. 1193). But it then took another century for the King's administration to develop filing and indexing systems that enabled it to access its own records (ca. 1320). Even as filing systems developed, a general search of the royal archives tended to be successful only if documents were recent and accurately dated, and it remained a consistent pattern that private individuals and groups had better control of the royal records that pertained to their interests than did the administration itself.[146] The evolution of records and archives was also a matter of cultural change. It took many generations before records of property title came to be widely used—instead, in one fabled episode from the 1280s, a landowner brandished the rusty sword of his Norman ancestor to prove title to his land. With time and with the rise of lawyers in the course of the thirteenth century—a key development, both in medieval England and in the Roman empire—official documents and records came into routine use and became the chief currency of litigation. Furthermore, the records of the royal assize courts furnished the legal profession with the basis for the development of case law,

[145] Clanchy 1994: 171.

[146] Clanchy 1994: 172.

which in turn contributed to the development of the English Common Law.[147] Although our view of the first century after the Roman conquest of Egypt is obscured by a dearth of evidence, we can see that the creation of a functional system of administrative records and archives was likewise a long-term process that lasted more than a century. As in the English case, this process was instrumental for the institutional development of Roman rule and contributed in essential ways to the development of the legal sphere.

From its earliest phase, turning Egypt into a Roman province involved the production of documents on a massive scale. Like its Ptolemaic predecessor, the Roman state was keenly interested in keeping detailed records of all matters pertaining to revenue extraction—the productivity of land, the payment of taxes and tarifs, the movement of goods, including grain ships as well as precious cargoes of luxury goods that arrived at the port of the Red Sea and sailed up the Nile to Alexandria. Egypt was envisioned by Augustus as the breadbasket of Rome and Italy, which made strict oversight of grain production and transport a top priority. Consequently, travel in and out of Egypt was restricted, and entry was generally prohibited to senators and influential equestrians without permission from the *princeps*. In addition to documenting imperial revenues, Roman authorities were also keenly interested in keeping detailed records of

[147] On records and archives in England after the Norman conquest, see the classic study of Clanchy 1994 (originally published in 1979), particularly chapters 2 and 5. On the Domesday Book, see Fleming 2003. On the Earl of Warenne's rusty sword, see Clanchy 1994: 41-45; even if the episode itself was fictionalized, it represented the resistance of the landed nobility to written documentation and to the encroachment of the King and his archives on their traditional authority. On the development of court records, see Clanchy 1994: 98-104. This was a key technological advancement for the rising legal profession in the twelfth and thirteenth centuries, on which see Brand 1992a and 1992b. On the parallel rise of the English judiciary, see Turner 1985. For an overview of the development of the legal profession in continental Europe in the Middle Ages, see Brundage 2008, who emphasizes the role of the canon law tradition and the emergence of universities at the turn of the thirteenth century.

the territory of the province, documenting land of different fiscal status and levels of productivity, documenting the location and boundaries of landholdings, and keeping track of private ownership of real property (land, houses, slaves) and all transactions pertaining to it. The documentation of private wealth was a distinctive characteristic of Roman record-keeping, which progressively developed under the Principate and eventually gave rise to a separate system of archives for transactions involving real property (*bibliothēkai enktēseōn*), to be discussed in detail below. Another distinctive (and related) feature of Roman record-keeping were detailed demographic records. This practice, which had roots in Republican tradition, played a central role in the Augustan project to record and classify the territories and populations of the Roman empire (an "inventory of the inhabited world," in the evocative words of Nicolet), to be discussed in the next sections. Accordingly, in the earliest decades of Roman rule in Egypt, the Romans introduced a general census of the population in the form of household declarations (*kat'oikian apographai*), which contained the name, age, filiation, residence, civic and occupational status of all members of each household. The first Roman-period household declarations are attested from 11-10 BCE, but it is likely that some sort of census began to be conducted soon after the initial conquest in conjunction with the emergence of the Roman poll tax as early as 25 BCE. Regular seven-year census cycles are attested from 11-10 BCE, and a cycle of fourteen years became the norm from 33-34 CE onwards.[148] In parallel with the census, which was the basis for capitation taxes, began a process of registration into fiscally-privileged status groups. A permanent register was kept at Alexandria for all Roman citizens in the province, for all Alexandrian citizens and

[148] On the earliest evidence for the Roman census, see Claytor and Bagnall 2015.

(presumably) for citizens of the other Greek cities. Registers were also created for the fiscally-privileged citizens of the nome *mētropoleis*, and for all members of "Hellenic" *gymnasia*, including the "6475 Hellenes" of the Arsinoite nome. By the late first century, both metropolite and gymnasial status was regulated according to a strict hereditary principle and subject to rigorous standards of documentation, with a special "scrutiny" procedure (*epikrisis*) for the verification of descent. The Romans also introduced an *epikrisis* of priests and monitored the process of admission into priesthoods. To these records must be added the registers of births and deaths, instituted in Egypt under Augustus.[149]

Roman population records and the wide range of uses to which these records were put progressed far beyond what is known about Ptolemaic practice or any other context in the Hellenistic Greek world. We know that the Ptolemaic state kept population lists that were updated at the local level for tax purposes—and which the Romans may initially have used for levying the poll tax. The Ptolemies are also known to have conducted a general census of the population, attested in a small number of surviving household declarations. However, the Ptolemaic census appears to have been a sporadic enterprise,

[149] On the Egyptian grain supply to Rome, see Erdkamp 2005: 225-237. The transport of spices and other luxury goods from India to the Red Sea and up the Nile to Alexandria for a Mediterranean market is strikingly illustrated by the Muziris papyrus (SB XVIII 13167, 2c. CE), which documents the value of one such cargo as 1155 talents = 7,000,000 silver *drachmai,* see Casson 1990. On travel restrictions in and out of Egypt and within the province, see Tac. *Ann.* 2.59 and chapters 64-69 of the *Gnomon of the Idios Logos* (BGU V 1210 ll. 164-180). On the Roman *bibliothēkai enktēseōn,* see the literature cited in n. 4. On the Roman provincial census, see Nicolet 1991: 123-148 and now the unpublished dissertation of LeTeuff 2012 and LeTeuff 2014. On the census in Roman Egypt, see Jördens 2009: 62-99, Capponi 2005: 83-96, Bagnall and Frier 1994 and Rathbone 1993: 86-99. The earliest census declaration is a papyrus from 3 BCE that attests to a census cycle in 10 BCE, see Claytor and Bagnall 2015. On Roman registers of birth and death, see Geraci 2001-2002 (who notes Republican precedents to the Augustan institution) and Purpura 2006.

not a true functional parallel for the cyclical census of the Roman period. It is difficult to exaggerate the significance of the Roman census. In addition to providing the basis for capitation taxes (which were a heavy imposition, the Roman poll tax alone being up to forty times as much as the Ptolemaic salt tax) and for compulsory public services (where, again, the Roman system of civic liturgies would far outstrip the Ptolemaic system of corvée labor), the Roman census was also employed as an instrument of social and demographic control.[150] Census declarations recorded all categories of persons, including children, slaves and freedmen, and contained detailed information, including the precise age of individuals, which, by means of the fourteen-year census cycle and the information provided by birth reports, enabled the administration to track minors as they entered the age of tax liability at fourteen. As mentioned, the census was also instrumental for the maintenance of closed hereditary status-groups. Declarations recorded the names of both parents, and occasionally also of the grandparents. Likewise, the label *apatōr* ("without a legal father") was a permanent element in an individual's formal identification in the census, as well as other official contexts (such as pay-lists and loan contracts), throughout the individual's lifetime. The term *apatōr* first emerges in papyri from the Roman period, which strongly suggests its connection to the Latin *spurius,* which is attested in Latin birth declarations. This status resulted from situations where a legal marriage could not be contracted—either because the father was absent from the scene or because the parents belonged to status-categories that the Roman state did not permit to marry, such as Roman soldiers, who were "unmarriageable" during their

[150] The evidence for "compulsory public services" in Roman Egypt (a phrase coined by Lewis) is collected in Lewis 1997 (original edition 1982). See more recently Drecoll 1997 and the remarks of Thomas 1983. The older study of Oertel 1917 is still an important work of reference.

military service, or unions between "Egyptians" and Roman or Alexandrian citizens. Although it is difficult to gauge the social effects of illegitimacy in Roman Egypt, the legal effects could be considerable: an *apatōr* and his or her offspring were deprived of access to citizenship in a Greek city or nome *mētropolis* (although, interestingly, Roman women could still pass their citizenship to their illegitimate children) and it also significantly limited a person's chances of coming into an inheritance. In all of these respects, Roman population records and their social and demographic effects reached beyond what is known to have existed in the Ptolemaic period.[151]

What should perhaps be regarded as the single most instrumental change that took place in Egypt in the Roman period and that enabled Roman records to exercise the far-reaching impact that they did, was the development of a centralized system of archives. It is clear that the Romans took over certain Ptolemaic institutions, such as the *katalogeion*—a notarial center with its own archive at Alexandria, where Alexandrian citizens drafted and registered their contracts. It is also evident that the Romans inherited and built upon Hellenistic practices, such as the registration of private legal transactions. At the same time, the evidence suggests that archival institutions became more advanced and operated on a much larger scale in the Roman period. In contrast to anything documented in the Ptolemaic period, the Romans progressively implemented a

[151] On Ptolemaic population records and the surviving evidence for the Ptolemaic census, see Clarysse and Thompson 2006, particularly II: 1-35 on the census, which the authors do not believe was ever a regular practice. On Roman population records as an instrument of social and fiscal control, see Kruse 2013. On the status of *apatōr,* see Youtie 1975. On *spurius* in Roman birth declarations, see P. Mich. III 169, 145 CE and P. Wisc. II 50, 165 CE. On the Roman interest in demographic manipulation, of which the Augustan marriage and manumission laws are a seminal example, see Dolganov forthcoming b and c. On ethnic classification as a strategy of governance, see Fischer-Bovet forthcoming on the Ptolemaic evidence and Dolganov forthcoming c on the Roman evidence.

centralized and integrated archival "system," where master-archives in the provincial capital communicated with local archives in the hinterland, eventually leading to the creation of an additional tier of master-archives in the capital of each nome. We also observe an evolution in the ways in which the Roman imperial administration documented its own acts, including the records of its courts, which had profound implications for the legal sphere.[152]

By the mid-first century CE, when the evidence becomes dense enough to provide us with a detailed picture, the archive system in Roman Egypt was structured as follows: the *mētropolis* of each nome was furnished with a record office of "public accounts" (*bibliothēkē demosiōn logōn*) that contained administrative records from the entire nome, including census returns, land registers, tax and liturgy lists, and the account-books of nome officials. A complete set of all of these documents was also sent to Alexandria and deposited in a large, central record office, the so-called "archive in the Patrika quarter" (*bibliothēkē en tois Patrikois*). This is explicitly stated in a document from 77 CE, in which a royal scribe of the Diopolite nome confirms to a secretary (*grammateus*) that he has effectively done his job, which includes "depositing rolls (*biblia*) of records in the archive of the Patrika and, correspondingly, copies of them in the local record office, as has been ordained" (BGU III 981 col. i 8-12)—thus, while copies of documents were filed in the nome *bibliothēkai*, the Patrika archive received the originals. Nome officials were required to submit documents to the capital on a regular basis. A late-second

[152] Archives and record-keeping are one of many aspects of Roman Egypt that offer crucially important evidence for the Roman empire more broadly but have remained unexploited due to traditional notions of Egyptian exceptionalism. In fact, even Wolff, who generally emphasizes Ptolemaic continuity, made the point that large central archives in Roman Egypt were a new Roman creation, see Wolff 1978: 46-56. Not so with notarial practices, which he saw to be a continuation of hellenistic traditions, Wolff 1978: 34-44.

century papyrus states that *stratēgoi* and royal scribes were to send "reports of taxes in cash and in kind, of financial accounts, and of various other things on a monthly basis" (SB XVIII 13175 = W. Chr. 52, 194 CE), while an early-third century papyrus shows a *stratēgos* paying a fine to the *dioikētēs* of Alexandria for being late with submitting his reports (P. Oxy. I 61, 221 CE). Another papyrus records the receipt by an archive keeper at Alexandria of "four rolls of records (*hypomnēmatismoi*)" from a nome *stratēgos* (P. Lips. 123, 136 CE). These *hypomnēmatismoi* most likely represent the administrative accounts of the *stratēgos* (attested in the form of "day-books" containing detailed records of official acts, correspondence, petitions and protocols of hearings) which were subject to the scrutiny of the prefect's office. The protocolling of *acta*, as opposed to merely financial accounts, was a distinctive Roman practice. Thus, the Roman system of provincial records envisioned a constant flow of records from the nomes to the provincial capital. There were couriers whose job it was to transport documents to Alexandria, and special officials at Alexandria (*eklogistai*) who were responsible for checking the documents that came in from each nome.[153]

As far as we can tell, this network of public record offices in the nomes was a Roman innovation. While it is known that individual Ptolemaic officials and bureaus kept their own records, both at Alexandria and in the *chōra*, there is no Ptolemaic evidence to suggest this sort of integrated system of nome archives that operated according to uniform procedures and communicated with central archives at Alexandria. The Patrika archive must have operated on a massive scale, since it was meant to function as a reference archive for the *bibliothēkai demosiōn logōn* of all the nomes. This remarkable

[153] On archives in Roman Egypt, see Burkhalter 1990, who convincingly amends the scheme of Cockle 1984. On archival practice with regard to *epikrisis* documents, see Kruse 2013.

fact is illustrated by a famous episode from the Flavian period: when it was discovered in 90 CE that the central record offices at Arsinoe and Oxyrhynchos were being inadequately managed, successive Roman prefects assumed that all the damaged documents could simply be recopied from the records filed in the Patrika. Although this was ultimately revealed to be an impossible task, it shows that Roman imperial officials operated with a strong belief in the efficacy of archival institutions.[154]

The Roman interest in establishing a centralized system of provincial records also extended to private legal acts. The practice of securing private legal documents by registering them in archives was not a Roman innovation. In fact, the Romans with their culture of *tabulae* did not have a developed tradition of this sort. Instead, this practice had a much older history and was a phenomenon on the rise in the Eastern Mediterranean in the Hellenistic period. From as early as the fourth century BCE, there is evidence for Greek *poleis* keeping archival records of contracts and sales of real property. In Ptolemaic Egypt, certain demotic contracts of sale from the third century BCE (such as P. Hawara 9, 239 BCE) have Greek "dockets" stating that the document has "fallen into the official chest" (*piptōke eis kibyton*), which suggests an archival procedure. Greek notaries (*agoranomoi*) begin to be attested in the *chōra* as early as 265 CE. The legal documents composed by them (including sales, marriage contracts, transfers of dowry, loans, tenancy contracts, wills, etc.) were collated into registers and deposited into archives,

[154] Although there is plenty of evidence for Ptolemaic record-keeping in the form of tax lists and land registers, direct evidence for archival institutions is scarce. In some cases, we can make inferences. For example, the corpus of petitions from Magdola in P. Enteux. seems to come from the archive of the Arsinoite *stratēgos* (although the editors are tentative on this point, see the introduction to the volume at xxxvi-xl) while several registers of contracts seem to point to the archive of an *agoranomeion*, see the introduction to CPR XVIII at 16-34.

variously referred to as *bibliothēkē, dēmosion* or *arkheion*, although it is not always clear whether these archives were separate institutions, or were attached to the *agoronomeia* themselves. In 145 BCE, the Ptolemaic administration issued a general order that all Demotic contracts (*synallagmata*) that were being brought in for registration had to be furnished with Greek abstracts, signed and dated by the official processing them. Thus, the procedure for registering Greek contracts was now being extended to Demotic documents. Evidently, by the mid-second century BCE, the registration of contracts was becoming a generalized practice—and this trend is also visible in other parts of the Hellenistic world.[155]

With the annexation of Egypt, the Romans further developed and, once again, centralized these practices. In the Roman period, all notarial establishments (*grapheia* and *agoranomeia*) were required to send a full record of their documentary production to Alexandria, in addition to filing it in the relevant local archives.[156] Just as the Patrika

---

[155] On archives of private transactions in the Greek *poleis,* see Faraguna 2015. On Ptolemaic archives and archival procedures, see Manning 2010: 189-193, who traces the rise of the Ptolemaic state as a "third party" to private transactions. The first attestation of an *agoranomos* in Egypt is P. Hib. I 29 = W. Chr. 259 (265 BCE). On *agoranomoi* and their activity in the Ptolemaic period, see Pestman 1985c and Wolff 1978: 28-27. See Raschke 1974 on the office in the Ptolemaic and Roman periods. Archival registration of contracts was not practiced exclusively by *agoranomoi*: there are also surviving registers of Greek contracts composed by private scribes (such as P.Tebt. III 1 815, 223-222 BCE). On the archival registration of private legal documents as a broader trend in the Hellenistic Greek world, see Lambrinudakis and Wörrle 1983 on 2nd century BCE Paros, and Harter Uibopuu 2013 on Hellenistic Kos and Delphi and early Roman Asia Minor. See also Clay 1998, for the interesting hypothesis that Epicurus filed installments of his *Peri Physeōs* in the *Mētrōon* at Athens.

[156] This is stated in the *Gnōmōn* of the *Idios Logos* (BGU V 1210, col. ix 221 - col. x 228), which stipulates a time limit of 60 days for documents coming in from Upper Egypt, 30 days for documents from all other nomes, and 15 days for the city of Alexandria itself. Those who did not register would be fined 100 drachmas, three to four times the full rate of the annual capitation tax. Let us recall that Nestnephis had reported to the *Idios Logos* that Satabous' purchase of Chairemon's house had not been registered in the

archive was supposed to contain a complete set of originals of the "public accounts" (*dēmosioi logoi*) of every nome, another central archive—the *katalogeion,* or possibly the *Nanaion*, which is attested with this function in the second century, or perhaps initially the Patrika archive itself—was meant to contain a complete record of all private legal documents composed by notarial centers throughout Egypt. The overarching idea seems to have been that the archives of the Roman administration at Alexandria should function as a master-record for the province—we will consider the significance of this in a moment. The immense volume of documents managed by Roman record offices every year is reflected by the rise of a documentary form of which there are very few Ptolemaic examples: the *tomos synkollēsimos*, or "pasted roll," into which specific genres of documents such as petitions, census returns, applications for *epikrisis* and reports of birth and death were glued together and numbered by roll and entry to enable them to be located in the archives. The pasted roll and its cataloguing marks suggest an important shift in record-keeping practices in the Roman period. The significance of this documentary form lies in the sheer scale of documentation it implies: the systematic collation of numerous genres of records, created on a regular basis and in some instances emanating from the entire provincial population. While there is certainly sufficient evidence to suggest that the Ptolemaic and Seleucid kingdoms had highly-developed archival institutions, with filing systems that enabled documents to be located by date, the

---

bibliothēkē (SB I 5232 30-35). In fact, the deed of sale had been filed in the village record office of Psinachis (SB I 5231= Jur. Pap. 28 11), so the *bibliothēkē* in question was a central record office of some sort. In response, Satabous wrote a petition to the *Idios Logos* where he tried to excuse himself and blamed his notaries (*synallagmatographoi*), insisting that they be fined for their negligence (SB I 5232 35-40). This seems to echo the regulations in the *Gnōmōn.* Thus, it would appear that the registration of land sales at Alexandria — and perhaps of all contracts, as stated in the *Gnōmōn* — was already compulsory in the Augustan period.

Hellenistic sources do not suggest a scale of archival documentation comparable to that of Roman Egypt, where archival records extended beyond the fiscal sphere to the administration of justice, the minutes and daily business (*acta*) of officials, as well as the status, family, property holdings and legal transactions of private individuals. Nor does the Hellenistic evidence suggest anything comparable to the Roman creation of an integrated system of archives in Egypt, with master-archives in the provincial capital that communicated with two branches of central archives in the capital of each nome. Overall, the evidence for records and archives in Roman Egypt suggests that the Roman state developed record-keeping and archival practices on a scale that is unknown and perhaps unparalleled in the Hellenistic world.[157]

The development of Roman archival records had important implications for the activity of private individuals, who could contest a claim based on a census declaration or marriage contract filed in a nome archive several decades earlier or defend a privilege by citing from the records of a court hearing. Archival records also created new conditions for the development of institutional knowledge and memory. We can see this with striking clarity in the context of medieval England, where systematic record-keeping by the King's administration and the storage of records in permanent archives constituted a

[157] On *tomoi synkollēsimoi*, see Clarysse 2003. On the Roman archive system as an innovation with regard to Ptolemaic practice, see Wolff 1978: 46-56 and Burkhalter 1990: 288 ff. On archival institutions in the Seleucid empire, see Kosmin 2018: 67-81. It is clear that Seleucid state archives were carefully constructed architectural spaces that housed masses of documents. In Seleucia in Pieria alone, ca. 25,000 clay bullae have been excavated, which had evidently served as a visible marker of the date of deposited rolls. There is no evidence, however, that illustrates precisely what genres of records were kept by the Seleucid state or how these records were retrieved and used. There is, as far as I am aware, no evidence for an integrated archive system, where archives at different locations reinforced and communicated with each other, anywhere in the Greek world before the Roman period.

major breakthrough in the preservation and use of such records—both by the King's administration and by interested parties and professional groups. For the burgeoning English legal profession, which arose in conjunction with the activity of the royal assize courts, court records constituted the raw material from which the laws of England could be extracted. Similarly, in Roman Egypt, it was from the records of the imperial assize courts, exploited by a burgeoning industry of legal practitioners, that "the law" of the province would progressively emerge, as will be discussed in the next chapter.

But before considering the impact of the Roman archive system in Egypt in further detail, I want to dwell for a moment on its inception and initial development. To cite one of the central arguments of Clanchy's study of Norman England, "making documents for administrative use, keeping them as records, and using them again for reference were three distinct stages of development which did not automatically and immediately follow from each other."[158] Although, unlike the Norman conquerors of England, the Romans arrived in Egypt with their own, highly-developed documentary culture, record-keeping practices, and many generations of experience ruling overseas territories, to build an "information technology" in a new province was a long-term process that had to run its course. Documents did not automatically become records, records were not automatically organized into archives, and it could take a long time for archives to become fully functional. In Egypt, the Romans encountered a particularly complex administrative system that produced masses of documents. On top of this, the Roman state introduced population records that had not existed before. The imperial *census* was an ambitious enterprise of the Augustan period, and we should not assume

[158] Clanchy 1994: 156.

that there was a precise plan for how census records would be managed and used, particularly in the long term. The Domesday Book offers a suggestive parallel for how an ambitious record-keeping project could remain ahead of its time until an appropriate institutional framework and cultural context developed around it. Similarly, the papyrological evidence suggests that Roman records and archives were a work in progress throughout the early Principate—both in the province of Egypt and in the imperial center itself.

2.3 Records and archives at Rome: The Republic and its Empire

The creation of the Patrika archive as a master-archive into which documents and records from the entire province of Egypt would flow was a striking idea, emblematic of the establishment of Roman power in the region, "subsuming" all existing sources of administrative knowledge. An archival institution of this sort has no known Ptolemaic parallels. Instead, it is perhaps best understood in light of what we know about record-keeping practices at Rome and their development in the context of the great imperial project of the Augustan Age.

As Nicolet has emphasized in his work on Roman imperial geography, the evolving sphere of administrative record-keeping was a central aspect of the rise of Rome as an imperial power and of the institutional—as well as ideological—development of the Roman imperial state. It is not coincidental that, by the second century BCE, when Rome had extended its hegemony over the Italian peninsula and large parts of the

Mediterranean, the Roman Republic had very advanced record-keeping practices, which included the use of permanent archives and elaborate procedures for documenting official acts. There were records of *senatusconsulta*, sorted by year and filed "in duplicate" in the *aerarium Saturni* and in the temple of Ceres. There were also records of Senate meetings (*acta senatus*), sorted by year and month, and records of laws, *plebiscita,* judicial decisions (*decreta*) and treaties with allied and foreign communities. In the archives, documents were stored on waxed tablets, which were bound together into *codices* and sorted according to genre and date. Certain important documents, such as laws, treaties, key *senatusconsulta* and cadastral maps (*formae agrorum*), were inscribed on bronze tablets, some of which were posted in the area of the Capitoline Hill. Beyond *formae agrorum,* there were also written records of centuriation, which accounted for Roman *ager publicus* (and later also imperial estates) and for the territories assigned to Roman *municipia* and *coloniae*. In addition to records of legislation, treaties and senatorial *acta*, the archives at Rome also contained records pertaining to the land and population of territories subject to Roman power, including fiscal records, tax-farming contracts, military rosters, registers of Roman and Latin citizens (in Italy and abroad) and census records, which documented the name, age, tribe and landed property of individuals. The Roman census was the basis for the stratification of Roman society and membership in the Roman political elite, as well as a core instrument for the recruitment of the Roman army, depicted on the frieze on the altar of Domitius Ahenobarbus (120s BCE), which shows records being made on the traditional Roman medium of waxed tablets bound into *codices*. In these respects, the Roman census was an institution of vital importance for the Roman social order and Rome's power-relations with its allies and subjects. As illustrated

by the *Tabula Heracleensis,* which contains the text of a Republican *lex municipalis* (possibly of Caesar), Republican municipalities in Italy were required to conduct their own census in synchrony with the census cycle at Rome and to send these records to the censors in the capital.[159]

Another key sphere of Roman record-keeping that is of primary importance for this discussion is the recording of *acta* (literally, things "done," "performed" or "executed"), which was the Latin term for records of official acts and deliberative decisions. At Rome, *acta* had a long and important history. Since the Middle Republic, chronicles of acts and events (*acta, commentarii*) and calendar-based lists (*fasti*) were a characteristic Roman way of documenting the past. *Acta* and *commentarii* were kept by the Roman priestly colleges, and these included the annual chronicles of the *pontifex maximus,* which were (supposedly) posted on white tablets and archived year-by-year. In the age of Cicero, the pontifical chronicles existed in book-form (*libri annales*) and were thought to be a documentary record that extended back to the early Republic. Also, during the Republic and throughout the Principate, important news and events in the city

[159] On Roman record-keeping and its integral connection to the ideology and the practice of imperial rule (which, as Nicolet rightly emphasizes, already began in the Middle Republic), see Nicolet 1988, especially chapters 6 and 7 on the census and cadastral records. On senatorial records (*senatusconsulta* and *acta senatus*) in Republican Rome, see Coudry 1994. On cadastral records in the Late Republic and Early Empire, see Moatti 1993 and 1994. On archives in Republican Rome, see Moatti 2003. Generally on archives and archival practices in the Roman world see the collections of papers in the series *La memoire perdue* I-III. The evolution of archival institutions in the provinces of the Roman empire, particularly in the Greek East, is still a subject where much work remains to be done. On the census in the *Tabula Heracleensis,* see CIL I^2 593 = ILS 6085 = FIRA I^2 no. 13 = Crawford *RS* I n. 24 ll. 72-3 and 140-160. Lo Cascio 1990 sees the document as reflecting a logical scheme for the centralization of the census in Italy in the age of Caesar. Others have doubted this, perhaps unnecessarily, see for example Bispham 2007: 360-364.

of Rome were chronicled in the *acta publica, acta urbana* or *acta diurna* (as they are variously called in late Republican and early imperial sources), a record that simultaneously functioned as a public "bulletin," and featured omens and prodigies, military operations, reports of assemblies (*contiones*) and the outcomes of trials. The *acta publica* were posted in public and subsequently archived, and it was apparently still possible for Asconius to consult the *acta* from the 50s BCE (nearly a century earlier), an impressive index of the functionality of archives at Rome in the first century BCE.[160]

In the political sphere, detailed records of *acta* were kept by the Senate (*senatusconsulta* and *acta senatus,* mentioned above) and by individual senators while holding magistracies and military commands. A Roman official's *acta* included documents such as military diaries, official correspondence, records of embassies, judicial records and financial accounts. Although the *acta* of Republican officials were formally considered to be "public records" (*tabulae publicae*), they were traditionally retained by officials in their private possession. Consuls had their own versions of *senatusconsulta* (whose drafting they supervised) and their own copies of the proceedings of the Senate, as well as the correspondence, judicial and financial records from their year(s) in office. Similarly, governors of provinces and military commanders took

[160] On *acta* and *commentarii,* see the useful concise discussion of Meyer 2004: 31-34. On Roman priestly records and the significance of writing and record-keeping in the religious sphere of Republican Rome, see Rüpke 2012: 82-110, Scheid 1990a and Beard 1991 and 1998. On the pontifical chronicles, many differing views have been offered, among them Frier 1979, Rüpke 1993 and Scheid 1998; in Cicero's time, their function seems to have been understood as broadly analogous to that of the *acta diurna*; see the recent overviews of the *status quaestionis* by Rosa 2013 and Rodriguez-Mayorgas 2011. On the pontifical chronicles in relation to the rise of historiography at Rome, see the volume edited by Eigler et al. 2003. On the *acta urbana/acta diurna,* see Baldwin 1979 and Behrisch 1995-1996. The relevant Asconius passage is *In Milonianam* 44.

records of their *acta* back to Rome with them, and kept them in their private archives (*tablina*). Roman consuls and proconsuls often elaborated their *acta* into the more narrative form of *commentarii,* which could be published on their own, or serve as raw material from which aggrandizing poems and histories were commissioned. Thus, the recording of *acta* and the composition of *commentarii* served the political elite of the Republic in memorializing their achievements and exercising their strong traditional authority over official memory and narratives of the past.[161]

This was one of the many instances where the aristocratic ethos and competitive political culture of Republican Rome had a negative effect on Rome's ability to meet the institutional needs of its growing overseas empire. Although the financial accounts (*rationes*) of Republican governors and generals were subject to scrutiny by the quaestors at Rome, the crime of extortion (*repetundae*) was a notorious problem, and a permanent tribunal was set up for it in 149 BCE. This in turn became an infamous means of attacking one's political opponents. Also, despite the fact that the *acta* of governors were documented on wax tablets—a medium self-insured against forgery—Cicero accused Verres of tampering with the fiscal records of his governorship of Sicily, and of making inconvenient judicial records disappear (2 *Verr*. 2.101-6, 2.187-191). It was also a well-known problem that corrupt consuls could bring altered or forged *senatusconsulta* to be registered in the *aerarium*. During his own consulship, Cicero went out of his way to make authoritative records of the proceedings of the Catilinarian trials by enlisting a

[161] On the paradoxical situation in the Republic, whereby *tabulae publicae* were retained by ex-officials *in privata custodia* (as Cicero puts it in *Pro Sulla* 42), see Meyer 2004: 21ff., Mantovani 2000 and Coudry 1994. On the rise of *commentarii* as a form of autobiographic writing in the Late Republic, see Scholz and Walter 2013. On aristocratic rituals of commemoration and engagement with collective memory in Republican Rome, see Flower 1996 and 2009.

group of senators who were "skilled in fast writing." Cicero then broke with tradition by having these records copied and circulated, instead of keeping them in his house (*Pro Sulla* 42). Clearly, by virtue of remaining in private hands, the "public records" of Republican officials were not above suspicion. As we will see, the Principate would mark a definitive break with this tradition.[162]

This brings us to the important and characteristically Roman practice of documenting not only official acts, but also the minutes of political, legislative and judicial proceedings. This usage reflects the strong concern, in the political culture of the Republic, to represent official acts as the result of collective deliberation, either within the Senate itself, or between a magistrate and his board of advisors (*consilium*). The magistrate's judicial pronouncement (*decretum*) was understood to emanate "from the advice of the *consilium*" (*de sententia consilii*). Accordingly, the proceedings of the Senate were recorded and documented the opinions (*sententiae*) of individual senators, a practice that began at some point in the Late Republic and continued throughout the Principate. One can also draw attention to the Roman practice of having texts of laws and official acts inscribed in bronze and displayed "in plain sight where they can be easily read from the ground" (*palam ubei de plano recte legi possit*), a clause that is attested in documents from as early as the second century BCE (such as the *senatusconsultum de Bacchanalibus* of 186 BCE or the Gracchan *lex repetundarum* of the 120s) and continues

[162] On the *rationes* of governors and generals being subject to scrutiny, see Millar 1964: 38-39. On *repetundae* legislation in the Republic, see Lintott 1981. The problem of extortion, as well as the problem of the extortion court being used as a political weapon, continued into the early Principate, see the evidence collected in Brunt 1961. On the notorious Republican practice of registering nonexistent *senatusconsulta* in the *aerarium*, see Plutarch, *Cato Minor* 17 and Cicero *Ad Att.* 4.17. On the Roman documentary medium of the *tabula,* see Meyer 2004, with physical features analyzed at 125-168.

into the High Empire, as illustrated by the Flavian municipal charters from Spain and the letter of Commodus to Chersonesus Taurica regarding the collection of the prostitution tax (185-186 CE, CIL III 13750 = AE 1893, 126 = AE 2003, 28). The publication clause was an integral part of a Roman enactment, which ensured that every individual could have access to the words of the law. Thus, the Roman provinces inherited a long Roman tradition of displaying written records of enactments and official acts in monumental form in public and visible locations.[163]

Detailed records of proceedings were also made for the hearings and trials that took place before Roman magistrates. For this, we have very striking early evidence preserved in Greek inscriptions. The earliest is a text from ca. 129 BCE, which records a judicial decision (*decretum*) made by a Roman consul with a *consilium* of 55 senators, all of whom are listed with their *tria nomina*, regulating the borders of Pergamene territory. Interestingly, the *decretum* is cited with the cataloguing marks (*codex* and tablet number) of its location in an archive at Rome—presumably, the *aerarium Saturni,* where

[163] On the judge's *consilium,* see Ducos 2003, Crook 1954: 4-7 and now Kantor 2017. This Republican institution and its legacy in the Empire is an important subject that lacks an in-depth study. The notion of judicial pronouncements emanating *de sententia consilii* was second-nature to Pliny the Elder, who used the phrase as a metaphor to describe the Laocoon statue as a work of perfect collaboration between three Rhodian sculptors, see *NH* 36.5.37. On the recording of *sententiae* in the Senate*,* see Cicero, *Pro Sestio* 61.129 and *Ad Fam.* 8.11.4, where Cicero tells his addressee that the *sententiae* spoken at a recent Senate meeting could be looked up in the *commentarius rerum urbanarum*. Presumably, these were not the *acta senatus,* but a précis of them in the *acta urbana,* of the sort quoted by Asconius, *In Milonianam* 44. Imperial evidence for the recording of *sententiae* in the Senate includes CIL VIII, 270 (138 CE), a *senatusconsultum* taken from a *liber sententiarum in senatu dictarum*, as well as the *Aes Italicense* (CIL 2.6278 = ILS 5163) from the 170s CE, which records the *sententia prima* of a senator in a discussion of the prices of gladiators, see Gómez-Pantoja 2009: 44-66, as well as the older study of Oliver and Palmer 1955. On the letter of Commodus, see Haensch 2009: 217. The Roman publication clause bears only a superficial resemblance to the clause in traditional Greek honorific decrees that a monument be set up "in the most visible location" (ἐν τῶι ἐπιφανεστάτωι τόπωι, IG IV², 1 65, Epidauros 1c. BCE).

senatorial records and other *tabulae publicae* were kept. Another epigraphic text, from 73 BCE, records the proceedings of a dispute between Roman *publicani* and the Greek city of Oropos, which was adjudicated at Rome by the consuls with a *consilium* of 15 senators. At the hearing, envoys from Oropos cited a grant of fiscal immunity to the sanctuary of Amphiaraos, which L. Cornelius Sulla had bestowed upon them (presumably, shortly after his military victories in 86 BCE) in accordance with the *lex locationis* (*nomos misthōseos*) of the province, which observed the immunity of sacred land. The Oropians also cited a subsequent judicial pronouncement (*decretum*) of Sulla, issued at Rome in 80 BCE, where he confirmed their privileges. The case of the *publicani* was presented by the young senator Lucius Domitius Ahenobarbus, who argued that Amphiaraos was not, strictly speaking, a god, and therefore not eligible for fiscal immunity. The consuls then examined the evidence. After establishing the existence of Sulla's *decretum* and verifying that it had been ratified by the Senate, the consuls ruled in favor of the Oropians. Their new *decretum* was entered into the *codex* of proceedings (*delton hypomnēmatos,* or *commentarius* in Latin) for that month and communicated to the Senate. After the trial transcript follows an appendix of relevant documents: a citation from the *lex locationis,* citations from Sulla's *decretum* and the *senatusconsultum* that upheld it in 80 BCE, with a reference to Sulla's *consilium* by the *codex* and tablet number of its location in the records of *symbeboulemena* (in Latin, *decreta* or perhaps *res consultae*) for that year and month. Then follows the full text of the new *senatusconsultum* of 73 BCE, confirming the new *decretum* of the consuls. For Mommsen, the term *dokei* (*videtur*) preceding the citations of documents unequivocally meant that the consuls had the *decretum* and *senatusconsultum* of 80 BCE looked up in

the archival records—and, indeed, we should consider the possibility that the texts were archived together as a dossier. Presumably, the Oropians had brought with them a dated copy of Sulla's *decretum*, which would have made it easier to locate the documents in the archives. Altogether, this episode vividly illustrates how the business of ruling an empire, and the ability of provincials to wield records of Roman *acta* pertaining to them, necessitated the development of functional records at Rome.[164]

The trial record itself begins with the precise date (day, month and year) and location of the proceedings (the *basilica Porcia*), followed by the full names of all 15 members of the *consilium*. Recording this was important, since (as mentioned) Roman judicial pronouncements were conceptualized as a joint venture between the judge and his *consilium*. Then follows an abbreviated account of the proceedings, which names the advocates speaking for each side. The adversarial nature of Roman legal procedure made it important to document both sides of the case, and also to record the identity of the advocates, who were often individuals of high social and political standing, speaking for their clients and friends or against their political opponents. It is not unlikely that a more extensive record was made of this hearing as well, of which only a concise summary was entered into the official *acta*. Finally comes the *decretum,* followed by a dossier of supporting documents and extracts from earlier *acta* that establish the basis of the

[164] The relevant texts are Sherk *RDGE* 12 (ca. 129 CE, preserved in two copies at Smyrna and Adramyttium) and *RDGE* 23 (73 BCE). On the Oropos inscription, see Mommsen 1885, whose interpretation is to be preferred to the pessimistic views of Culham 1989 and 1996, who does not believe that archival records could be searched and retrieved. The significance of this document as a general illustration of Roman administrative practice, which was obvious to Mommsen (see p. 278: "die neue Urkunde giebt uns von dem römischen Administrativprocess ein klares und vollständiges Bild, das übrigens keine wesentlich neuen Züge bietet"), has been lost on subsequent interpreters (see e.g. Coles 1966).

decision. One wonders (although we cannot be sure) whether the *decretum* was then archived together with the "paper trail" of documents, which would facilitate the handling of any future dispute on this subject.[165]

In all of its features—the magistrate's *consilium,* the paraphrase of proceedings, the appendix of relevant documents—the text from Oropos bears remarkably close resemblance to the trial records that begin to be attested in papyri from Roman Egypt a century later. Evidently, court records in the provinces followed an established Roman model. At this point, I should stress that the Roman practice of recording the minutes of judicial proceedings, often carefully reproducing the courtroom dialogue *verbatim*, has no parallel in the evidence from the Classical and Hellenistic Greek world. Instead, this

[165] Although the Republican evidence is sparse, we should probably imagine court records emerging in conjunction with the rise of forensic oratory in the third and second centuries BCE and perhaps becoming regularized after the creation of the first *quaestiones perpetuae* in 149 BCE. On the recording of proceedings at Rome, see Coles 1966: 9-13. It is less clear, however, precisely when the practice of shorthand developed. Diogenes Laertius attributes the invention of Greek shorthand to Xenophon (2.48), while Dio attributes Latin stenography to Maecenas (55.7). In later antiquity and the Middle Ages, its invention was associated with the work of Cicero's secretary Tiro in recording Cicero's speeches and correspondence, the so-called *notae Tironianae*. In Cicero's time, stenographic practices made it possible to record *sententiae* in the Senate and the speeches of advocates in court. Accordingly, we hear that the version of the *Pro Milone* that Cicero actually delivered was taken down during the trial (*excepta*) and was still available for Asconius to read in the mid-first century CE (*In Milonianam* 42). Cicero also enlisted Senators armed with a good memory and skilled in fast writing to record the proceedings of the Catilinarian trials (*sed etiam quos sciebam memoria, scientia, celeritate scribendi facillime quae dicerentur persequi posse*, *Pro Sulla* 42) but there is no indication that they were writing shorthand. However, a *notarius* is mentioned in Sen. *Apocol.* 9 and there is a clear reference to shorthand in Suet. *Tit.* 3 (*notis quoque excipere velocissime solitum*). See also Seneca, *Ep.* 90: *Quid verborum notas, quibus quamvis citata excipitur oratio, et celeritatem linguae manus sequitur*. The earliest papyrological evidence for shorthand (in Greek) is P. Brem. 82 from the early second century CE. On ancient and medieval shorthand, see Boge 1973.

appears to have been an important Roman-period development in the legal sphere of the Greek East.

2.4 Records and archives at Rome: The Augustan Imperial Project

A major leap in Roman administrative record-keeping took place in the age of Caesar and Augustus (ca. 50 BCE - 14 CE), an age that witnessed the last burst of large-scale military conquest, the first major scheme of overseas colonization and the creation of numerous new provinces, including Roman Egypt in 30 BCE. Despite its rhetoric of traditionalism, the Augustan Age constituted a paradigm shift for Rome as an imperial power, achieved through the reorganization of Roman political instititutions and the administrative structures of Roman imperial rule. As compellingly illustrated by Nicolet, a central role in the Augustan imperial project and "inventorization of the inhabited world" was played by administrative records and archives. In view of the fact that Roman Egypt was, in a very strong sense, an Augustan province, it is useful to approach the papyrological evidence for Roman record-keeping and archival institutions from the perspective of these major Augustan developments.

In the course of the Augustan Age, a full population census was instituted in the provinces, and extensive cadastral records were made of all provincial territories. This was especially important in areas of extensive military colonization, such as Africa and Spain. Copies of these records were kept in the archives of each *colonia*, in the provincial capitals, and in the *tabularium principis* at Rome, which was part of a new complex of

imperial archives established at Rome by Augustus. The *tabularium principis* was an institution of massive proportions—itself, most likely, a complex of archives rather than a single building—which housed documents and records from many different spheres and departments of the imperial administration, including provincial census records and cadasters, registers of Roman citizens, records of privileges granted to communities and individual grants of Roman citizenship (as known from the *Tabula Banasitana,* IAM 2.1 94), financial accounts, the emperor's own *acta* and correspondence, and a separate archive for records pertaining to the Roman army (*tabularium castrense*). The *tabularium principis* would serve as a model for the archives of provincial governors, and it is arguably our best parallel for the large, central archive established by the Romans in the Patrika quarter of Alexandria, to serve as a center of administrative knowedge for all of Egypt. In the meantime, the management of the *aerarium Saturni* was permanently transferred from the quaestors to two *praefecti* of praetorian rank, and we learn from Dio that a special commission of senators was also appointed in 16 CE to oversee the refurbishment of *tabulae publicae* that had become damaged with time. What was still legible was to be copied afresh, and what had become illegible was to be tracked down and recopied from alternate sources (Dio, *Roman History,* 57.16.2). The activity of this commission, which is attested in inscriptions from the reigns of Tiberius and Claudius, points to a large-scale overhaul of the public records at Rome.[166]

[166] On the development of imperial record-keeping in the Augustan period, see Nicolet 1988 chapters 6 and 7. Key passages on the organization of cadastral records occur in Hyginus (2), Constitutio <limitum> 158.26-33 Campbell with commentary; on the author and date, see Campbell 2000: xxxvi-xxxvii. There, Hyginus specifies that cadastral records of *coloniae* are to be kept at the local level and in the *tabularium principis* at Rome*,* and that they are to be regularly updated with any changes in ownership, borders, etc. This was perhaps, the ideal rather than the practical reality, since, as the evidence from Roman Egypt

The significance of the Augustan reforms was manifold. On the one hand, the development of imperial record-keeping, and the expansion and centralization of administrative knowledge that resulted from it, brought the practice of imperial rule closer to the ground, enhancing the ability of the imperial state to exercise its oversight of taxation and revenues, of the army, of the administration of justice, of the shape of the population and social order in the provinces, and so forth. The imperial records also did important ideological work. As compellingly argued by Nicolet—and this is also a central theme in recent comparative work on uses of writing by ancient states—the work of recording, mapping and classifying the lands and peoples of the empire was instrumental for the development of Roman imperial ideology and of a territorial notion of *imperium* in the early Principate. In the city of Rome, the Augustan record-keeping project exercised a broad cultural impact that manifested itself in a variety of media, including literary works, such as Strabo's *Geography*, Pliny's *Natural history* and the large output of semi-literary treatises by the imperial *agrimensores*, as well as monumental representations in the Roman cityscape such as the *horologium* of Augustus and the world-map of Agrippa, on display in the Campus Martius. The imperial archives

---

amply illustrates, keeping property records up to date was proverbially difficult, see the discussion of the *bibliothēkai enktēseōn* below. On the Republican precursors of the Augustan provincial census in the older provinces of Sicily, Achaea and Asia Minor, see Le Teuff 2010. On the institution of the census in Egypt, see the references in n. 6 above. Further on the census, see the papers collected in *La memoire perdue* IV. On the *tabularium principis,* see Mastino 1993 and Cencetti 1953. On the *tabularia* of provincial governors, see Haensch 1992. On the reform of the *aerarium Saturni* and its staff, see Millar 1964: 33-35. On the senatorial commission of *curatores tabularum publicarum*, see CIL X 5182 = ILS 972, CIL XI 6163 = ILS 967 and CIL VI 9I6 = VI 31201.

were also a powerful embodiment of Rome's world-domination—a panopticon as well as an inventory of sorts of Rome's vast empire.[167]

In Roman archival practice, the maintenance of large central archives was also envisioned as a back-up mechanism to protect against the loss, deterioration and falsification of documents. Already in the Republican period, the Romans had a marked practice of storing records in duplicate and depositing them in multiple archives—at the local level and in the regional, provincial and imperial centers. This practice was observed at Rome, where provincial cadasters and census records were kept, and where *senatusconsulta* were traditionally filed in two separate archives and recorded once more in the *acta senatus*, and it was also implemented in the provinces. In Egypt, for example, the Roman administration went to great lengths to duplicate, and eventually triplicate, the provincial records. One episode that illustrates this practice of multiple storage is worth citing at length: in the fatal year of 69 CE, a border dispute between the Gallilenses and the Patulcenses, two local communities in Sardinia, was sorted out by the provincial governor on the basis of a cadastral map (*forma agrorum*) of Marcus Caecilius Metellus, which had been inscribed in bronze and deposited in the provincial archives nearly two centuries earlier (in itself, a notable fact). The trial was remitted twice in order to allow the Gallilenses to travel to Rome to procure another *forma* from the archives of the emperor (*tabularium principis*)—presumably, a more recent version of the cadaster that was favorable to them. Their mission failed, however, possibly because this was a period

[167] On Augustan geographical work, see Nicolet 1988 chapter 8. On the *horologium* of Augustus, see Heslin 2007. On the development of an imperial cityscape at Rome under Augustus, see the classic study of Zanker 1988. On the map of Agrippa, see Nicolet 1988 chapter 5; on its use as a source by Strabo and Pliny, see Arnaud 2007-2008. For an illuminating comparative perspective on the relationship between record-keeping and the growth of the ancient state, see Haicheng 2014 on early imperial China.

of military coups and political assassinations at Rome. We hear about this affair from a Sardinian inscription that reproduces an excerpt from the governor's *acta*, documented on a *codex* of linked wax tablets (*codex ansatus*). A few months later, the irony of history asserted itself: during the final political coup of 69, a massive fire destroyed most of the buildings on the Capitoline hill, including three thousand bronze tablets, among them many historic documents. Suetonius tells us that Vespasian studiously restored this "magnificent and ancient record of empire (*instrumentum imperii*) from all existing copies, which were sought from everywhere." It is likely that some of these copies were obtained from archives in the provinces. Under these circumstances, if a copy of the *forma agrorum* of Metellus was sent from Sardinia back to Rome, the Gallilenses would have permanently lost their battle against the Patulcenses. Evidently, however, the Roman back-up system had worked.[168]

The Augustan Age also marked a decisive shift in the recording of *acta* and their transferral out of the semi-private control of the Roman aristocracy into the developing bureaucratic sphere of the empire. In 59 BCE, Caesar's *lex Iulia de repetundis* required all provincial magistrates to file copies of their financial accounts in two cities in their province, and to deposit an additional copy in the *aerarium* at Rome. Then, at some point during the Julio-Claudian period, a full record of the *acta* of governors came to be deposited in archives in the provincial capitals. At Rome, Augustus laid down new rules for the drafting of *senatusconsulta*, which now had to take place in the presence of the

[168] The inscription in question is the *Tabula Esterzili,* CIL X 7852 = FIRA^2 I 322–4 no. 59, on which see Mastino 1993 and the other papers collected in the volume. The relevant Suetonius passage is in *Vesp.* 8. The storage of documents in duplicate is an archival practice that is also attested on Hellenistic Paros, see Lambrinudakis and Wörrle 1983.

urban quaestors, who were (presumably) supposed to take down an immediate copy to be deposited in the *aerarium,* as a counter-measure against the old problem of forged or altered *senatusconsulta* being brought in by the consuls for registration. Then, in the reign of Tiberius, we have our first evidence for a senatorial official *ab actis,* selected by the emperor to oversee the production and management of the *acta senatus*. The migration of *acta* from aristocratic *tablina* into imperial archives ultimately resulted in an important epistemological shift: if Cicero could cast aspersions on the integrity of the judicial records of someone like Verres, Apuleius describes the protocolling of the governor's *acta* as an emblem of permanence and immutability. Similarly, the epistemological power of Christian *acta martyrum* derived from the fact that, by the Antonine and Severan Age, the protocolling of *acta* had become an impersonal, institutionalized process that was understood to generate a precise and permanent record of the past.[169]

The development of records and archives at Rome in the Republic and early Principate provides us with an important context for understanding the evolving archival institutions of Roman Egypt. The work of scholars such as Nicolet on the Roman empire, Clanchy on medieval England and Haicheng on the Chinese empire encourages us to understand the evolution of Roman record-keeping in terms of a rising imperial "information technology." In the Roman imperial context, Egypt is a unique region where

[169] On the evolution of imperial *acta* into an emblem of permanence, see the evidence collected in Meyer 2004: 241-249, although her argument that this is a phenomenon of Late Antiquity is not, strictly speaking, correct. This was already a development of the High Empire, thematized in Apuleius, *Florida* (9.11-12: *proconsulis autem tabella sententia est, quae semel lecta neque augeri littera una neque autem minui potest, sed utcumque recitata est, ita provinciae instrumento refertur*) and in the Christian *acta martyrum.* See also P. Oxy. II 237 col. vii 37-39 (133 CE) where the prefect orders the final response of the litigant to be entered into the protocol, a solemn act whose finality concludes the hearing.

we can observe this process on the ground in considerable detail. The Egyptian evidence in turn furnishes us with a framework for thinking about the broader significance of imperial records and archives for the evolution of the imperial legal sphere.

2.5 Archives and legal memory: The Flavian Watershed in Roman Egypt

Although the Patrika archive is first attested in the year 46 CE (P. Vindob. Bosw. 1 line 19), it is clear from the relevant papyrus that the archive had existed for some time, and the Satabous affair may point to its creation in the Augustan period. As outlined above, the early decades of the first century CE were an important period for the institutional development of the imperial archives at Rome itself. Evidently, at the same time, the Romans were investing in the development of archival institutions in the provinces, and in reconfiguring the Egyptian record-keeping system around a new master-archive at Alexandria. Similarly, just a few years after the creation of the new province of Lycia/Pamphylia in the 40s CE, the first Roman governor Quintus Veranius sternly promulgated the rules for archival practice: the public slaves working in the archives were strictly prohibited from accepting documents with corrections or erasures. There would be a reward of 300 drachmas for anyone who reported them, and all such documents were declared null and void. Obstinate miscreants would be flogged, or even condemned to death. Veranius was particularly incensed because neither his edicts, nor his subsequent warnings, nor the punishments already inflicted on disobedient archive-workers, had curbed this insidious problem. Evidently, he had been pursuing the reform

of the archives throughout his five-year term as governor. As Meyer has shown, the Romans, by virtue of their peculiar documentary culture of *tabulae*, had very exacting standards for what constituted a legal document, and sought to import these standards into the provinces. Even more importantly, however, this evidence underscores the centrality of records and archives to the Roman vision of provincial rule in the wake of the Augustan reforms. For the Julio-Claudian governor Quintus Veranius—as for the Flavian prefect of Egypt Mettius Rufus, whom we will meet in a moment—functional archives were a high priority and an instrumental aspect of provincial rule.[170]

The second tier of the Roman archive system in Egypt were the archives of "public accounts" (*bibliothēkai demosiōn logōn*) in the *mētropoleis* of the nomes, which are first attested in documents from 53 CE (P. Mich. IX 539, P. Oxy. XLVII 3332) and were probably created shortly before. Their creation was the next big step towards an integrated record-keeping system, where local archives communicated with central archives in the nomes, which in turn communicated with central archives in the provincial capital. The management of the nome *bibliothēkai* was a costly liturgical office, performed from the outset by the wealthiest citizens of the *mētropoleis*. Thus, the creation of the nome *bibliothēkai* marked the rise of—and, indeed, it would also be instrumental to—the Roman system of municipal liturgies (compulsory public services). As the nome *mētropoleis* evolved into imperial municipalities, with Graeco-Roman civic

[170] On the provincialization of Lycia/Pamphylia under Claudius, see Kantor 2006. On the inscription from Myra, where Quintus Veranius cracks down on archival practice, see Wörrle 1975. The Romanisms in this inscription (which reads like a Greek translation of a Latin original) are pointed out by Meyer 2004: 184 ff. The governor speaks of *pittakia,* the standard Greek term for *tabulae,* which Meyer takes to mean that the Roman medium of waxed-tablets had been adopted in the province. It seems to me more likely that *tabula* is being used here in the loose sense of "legal document," and that the documents in question were on papyrus (the customary medium in the Greek world).

institutions and privileged elites, the Roman state developed its inroads into the private wealth of its subjects.[171]

The impact of this evolving two-tier system of archives is reflected in the first-century evidence for *epikrisis,* the process of examination preliminary to the admission into fiscally privileged status groups, such as the Greek gymnasia. Although a register (*graphē*) of the gymnasial class at Oxyrhynchos was initially drawn up under Augustus (ca. 5 CE), we learn from later *epikrisis* documents that the register was revised two generations later under Nero ca. 57 CE, and then revised again under Vespasian ca. 72 CE. A similar revision is attested in other nomes in the late 60s CE. One likely reason for these revisions is that the Roman administration initially had a limited ability to verify claims of ancestry, which allowed individuals to infiltrate the Augustan lists. For example, it may not have been readily possible for Alexandrian officials in the 30s and 40s CE to check census records or birth declarations from two decades earlier. At the turn of the century, it is likely that the census did not yet encompass the entire provincial population. Furthermore, before the existence of the nome *bibliothēkai*, records of this sort may not have been easy to retrieve several decades later. In the 90s CE, however, we see the *epikrisis* procedure operating with a notable degree of precision: in one papyrus (PSI X 1109, 93-94 CE), the *stratēgos* of the Oxyrhynchite nome responds to a query from an *eklogistēs* at Alexandria (an official responsible for checking incoming

[171] A relatively late date for the institution of the nome *bibliothēkai* (ca. 53 CE) is suggested by the fact that there is no reference to them in the surviving documents from the tax office of the Arsinoite village of Philadelphia (30s-60s CE), which had its own *census* records, land registers and tax lists going back three decades. These documents show, incidentally, how tax-collection functioned at the village level without recourse to a large, central record office (as it apparently did throughout the Ptolemaic period). On the tax archive of Philadelphia, see Hanson 1994 and her introduction to P. Congr. XV.

documents from each nome) who had requested further proof that a particular individual was a metropolite on both sides of his family and eligible for the reduced capitation tax. The citizen-lists were duly checked, and the metropolite status of the father and maternal grandfather was confirmed. It is telling that the *eklogistēs* did not have this information checked in the archives at Alexandria, although in theory these records existed there as well. Instead, local administrative knowledge was informing the comprehensive but unwieldy body of knowledge in the provincial capital.[172]

The impact of archives may also be reflected in the overall size and shape of the papyrological record, which expands nearly fourfold in the Flavian era, and remains abundant for the next two centuries. In medieval England, a similarly dramatic rise in the volume of surviving documents from the thirteenth century onwards was the direct result of a large-scale expansion of record-keeping, along with the creation of permanent archives, in the late twelfth century. The Flavian rise in surviving papyri may be reflecting a similar sort of change. To substantiate this hypothesis, however, one would have to perform a differentiated analysis of the distribution of papyri according to provenance, genre and date, a study that cannot be undertaken here. All that can be said at this point is that the general shape of the evidence is strongly suggestive. It seems significant that certain genres of documents—including court records, except for those preserved in private contexts, and virtually all surviving status declarations and applications for *epikrisis*—first begin to be attested in the Flavian era. It may also be possible to identify a broad diachronic trend towards long-term storage of documents in the course of the Roman period: the cartonnage texts from the Herakleopolite nome show

[172] On the *epikrisis* procedure and the revision of gymnasial and metropolite registers, see Kruse 2013. The evidence for *epikrisis* is collected and discussed in the earlier study of Nelson 1979.

that, in the early first century CE, the archives at Alexandria were discarding legal documents (petitions and contracts) after two or three decades. By contrast, in the early second century, the archives of the Arsinoite nome were busy restoring and filing damaged records from five or six decades earlier. By the mid-second century CE, provincial record offices were retaining the originals of thousands of petitions that were being submitted to the prefect at each assize. By the mid-third century CE, *epikrisis* applications were being cross-checked against archival records going back nearly two centuries.[173]

In trying to make sense of this development, the case of early medieval England provides a useful comparative example. In the documentation preserved from the decades after the Norman conquest, we observe the administration of the new kings grappling with an analogous problem of instituting a functional record-keeping system and asserting control over its own documentary production. In the English case, systematic record-keeping by the King's administration was not a gradual development but an abrupt shift effected by a single individual, Hubert Walter, who served as chief justice and royal chancellor to the King during a period of twelve years at the end of the twelfth century (1193-1205). The only administrative records that were being systematically kept in Walter's time (since ca. 1129) were the financial records ("pipe rolls") of the royal treasury. After Walter's term of office, however, several new genres of records emerge—

[173] With the exception of two Hermopolite applications for ephebic status (P. Ryl. II 101, 63 CE and P. Flor. I 79, 60 CE), none of the *epikrisis* documents collected in Nelson 1979 predate 70 CE, and most are post-Flavian. For the cartonnage finds from Augustan Alexandria, see BGU IV 1050-1061 and 1098-1209 with Schubart 1913 and Balconi 1976. On the Arsinoite archive crisis see the discussion later in this chapter and the references in nn. 42-50. A new study of this material is urgently needed. On the second-century switch to the *kollēsis* procedure and evolving practices of archiving petitions, see Haensch 1994: 254-263 and 1997.

including records of proceedings in the King's courts ("plea rolls")—and are subsequently attested for nearly every year. While it is not entirely clear whether Walter instituted these records, or merely regularized them and their storage in permanent archives, his work resulted in the dramatic growth of documentary production by the royal administration—reflected in the amount of paper purchased by the royal chancery—as well as a marked increase in the number of surviving documents. The proliferation of records and the rise of archives in the era of Walter marked a watershed in the transition from memory to the written record. Whereas it had previously been customary to observe a limit of one century (the typical length of memory in oral cultures) for producing evidence in court, the coronation of Richard I in 1189 was fixed by royal statute (in 1275 and 1293, one century later) as the legal limit of memory for the rest of the medieval period.[174] This is illuminating for the case of Roman Egypt, where a watershed in the documentary record is observable in the early Flavian period, around the year 69 CE. It is significant, for example, that the Flavian registers for the gymnasial class remained definitive for the next two centuries, after which point *epikrisis* ceases to be attested. Although many individuals traced their genealogies all the way back to the Augustan period, this was strictly speaking superfluous. What mattered was one's ability to document ancestry back to the Flavian lists. Human memory and family records notwithstanding, the institutional memory of *epikrisis* formally began ca. 69 CE. Thus, in

[174] On the development of the royal records and archives in Medieval England, see Clanchy 1994: 58-84 and 151-186. The era of Walter as the beginning of artificial memory is discussed at 152ff.

the Roman as in the Norman case, official memory seems to have been predicated upon the ability of the state to keep retrievable records.[175]

The evidence for Roman court records likewise falls into a curious pattern around the year 69. In pre-Flavian papyri, virtually all surviving court protocols, or references to them, are private copies that had been kept by the parties involved in the proceedings. For example, Tryphon the weaver from Oxyrhynchos kept a transcript of his wife's hearing before the *stratēgos* about their stolen baby (P. Oxy. I 37, 49 CE), and this is the earliest Roman-period court protocol preserved in papyri. Similarly, a group of legionaries kept records of their encounters with the prefect regarding their privileges in the 60s CE. We have both their petition, which refers to proceedings before the prefect (P. Fouad 21, 63 CE), and a record of the prefect's pronouncement (SB V 8247) written in the same hand. Court records were also avidly collected by priestly groups, whom we observe citing them while lobbying for their rights and privileges. After all, the Egyptian temples were advanced centers of literacy and documentary production, and they had been keeping careful records of their privileges and all relevant legislation since the Ptolemaic period. In one striking episode from the 80s CE (P. Vindob. Bosw. 1), a group of priests tried to prove to a high-ranking Roman official (the prefect or the *Idios Logos*) that their priesthood was hereditary and did not require paying a magistracy fee to the *fiscus*. To demonstrate this, they hauled out a transcript of a hearing before the *Idios Logos* from 46 CE. In presenting this forty-five-year-old document, they emphasized that it had been "duly inspected (*episkemmenous*) in the archive of the Patrika quarter, among the *very old* records (*arkhaia biblia*) deposited there" (18-19). The term *episkemmenous* indicates

[175] At Oxyrhynchus, the typical *epikrisis* application (such as P. Mich. XIV 676, 272 CE) began with the ancestors registered in the Flavian lists.

that the archive had been searched and the existence of the record had been verified. Thus, we discover that, in the 40s CE, the *acta* of Roman equestrian officials were being recorded and filed in the Patrika archive, and that the archive made it possible to find records from nearly five decades earlier.[176]

But this episode also illustrates the problematic nature of archival knowledge. For an archive to actually function as a source of information, one had to be able to navigate its contents. In medieval England, rudimentary filing systems initially made it difficult for officials to verify the authenticity of documents by checking them in the royal archives. In this respect, the Patrika archive seems to have functioned remarkably well. On the other hand, the priests who found this "very old" court protocol did so on the basis of their own, independent record of the hearing, with precise information about its context and date. If one did not have an exact idea of what one was looking for in the archives, and where it was filed, what could one expect to find? In the English case, filing and indexing systems were slow to develop, and it took more than a century after Hubert Walter's reforms for the King's administration to begin exploiting the potential of its archives as a source of documentary evidence. The first major attempt to do so—when Edward I tried to find documents to bolster his claims to Scotland in 1291—ended in failure. However, as filing practices improved in the fourteenth century, the royal archives increasingly came to be employed as a repository of evidence. The rising legal

[176] Another highly literate group that kept a very impressive record of their privileges, including imperial letters spanning several centuries, were the *technitai* of Dionysus, see Pap. Agon. 3 and 4. The *technitai* were, moreover, an "international" network, and records of imperial privileges presumably circulated between its various branches across the Mediterranean. Here, my citation of P. Vindob. Bosw. 1 is based on new readings that I have made of the lacunae in lines 18-20; I plan to reedit this important papyrus in the context of my current work on court proceedings in Roman Egypt.

profession, for whom the royal court records ("plea rolls") were a treasure trove of cases and precedents, was the earliest group to make extensive use of the royal records, already in the mid-thirteenth century. The legal guilds also developed their own court records (the Year Books), which documented proceedings in a more comprehensive fashion, including the dialogue in direct speech.[177] In Roman Egypt, the Flavian era appears to have been an important turning point in a similar sort of development, where evolving archival practices gradually enabled the archives at Alexandria to be exploited as a source of historical information. In the Roman context, the agents operating at the forefront of this process were, likewise, legal and forensic practitioners.

As noted above, the pre-Flavian evidence for court records primarily shows private copies, contemporary to the proceedings, being made and kept by the litigants. From the 70s CE onwards, however, the evidence takes on an entirely different shape. We begin to see collections of extracts from proceedings of *unrelated* cases involving the same legal issue, or illustrating different aspects of a legal problem. Some of these collections show clear signs of being taken from an archive: in one Oxyrhynchus papyrus, transcripts of hearings before successive prefects are listed in separate columns in chronological order, all on the subject of Egyptian testamentary law (P. Oxy. XXXVI 2757, after 79 CE). Most likely, someone had searched the *conventus* records from successive years for decisions on this particular topic. Another papyrus (P. Oxy. XLII

[177] Initially, Edward did not even try to use the royal archives, but automatically ordered the monasteries to search their records and chronicles. Only after the evidence produced by these very traditional sources turned out to be inadequate did the King order an experimental search of the Chancery rolls. Although this experiment likewise failed to provide him with useful evidence, it established an important precedent for the use of archives as a historical resource, see Clanchy 1994: 154-156 and 184-186. On the "plea rolls" and Year Books, see Clanchy 1994: 98-102.

3015, after 117 CE) is a fragment of a similar collection, containing three decisions from at least one prefect, two of them taken from the records of two separate assize tours. Although the earliest court records that appear in such collections date to the 70s CE, the collections themselves were typically compiled several decades later, and occasionally span more than a century. The earliest example of a judicial precedent cited in a trial dates to the 130s CE (P. Oxy. II 237, col. vii 29-38) while the earliest petition that includes an appendix of judicial precedents dates to the 160s (P. Würz. 9 = W. Chr. 26). For the most part, our sources show court records from no earlier than 69 CE being cited in documents from the second century CE. Interestingly, the evidence for the edicts of prefects seems to display a similar pattern: the earliest ones to be cited in non-contemporary papyri, both from the second century (P. Stras. IV 226; BGU VII 1563), are two edicts of Tiberius Iulius Alexander from 68 and 69 CE. This pattern may also be visible in the long version of the *Gnōmōn* of the *Idios Logos* (BGU V 1210, mid-second century CE), which contains references to policies established by emperors and prefects. Although the material in the *Gnōmōn* extends back to the Augustan period, the earliest specific references are to a policy of Vespasian (col. iii 57) and to a case adjudicated by the Flavian prefect L. Iulius Ursus in the 80s CE (col. vii 140). The individuals compiling this information clearly had administrative records at their disposa, but, tellingly, none that predated the Flavian period.[178]

[178] On precedent collections and the phenomenon of "case law" in Roman Egypt, see Jolowicz 1937 and Katzoff 1972 and 1980. The *Gnōmōn* of the *Idios Logos* is attested in a long papyrus from the 160s CE (BGU V 1210) and a more fragmentary papyrus traditionally dated to the first century, but likely more or less contemporry with the ther one (P. Oxy. XLII 3014); the extant portions of the two texts are identical. On the *Gnōmōn*, see the forthcoming volume edited by Harter-Uibopuu and Kruse. For the policies of emperors and prefects cited in the Gnōmōn, the relevant chapters are 1 (Trajan), 2 (Hadrian), 18

In sum, the evidence suggests that the browsing of *acta* and *conventus* records in the archives at Alexandria—by legal and forensic practitioners, and by the imperial bureaux themselves—was a practice that first developed in the late first century CE. Curiously, by the time the archives came to be exploited in this way, the pre-Flavian records were apparently not readily accessible, since the individuals who compiled the *Gnōmōn* of the *Idios Logos* or searched the *conventus* records for judicial precedents never cite from records predating the reign of Vespasian. How are we to explain this apparent Flavian shift? Possibly, a new filing or indexing system was introduced in the Alexandrian archives, which made records easier to locate and search. Going back to our Norman example, the royal archives remained uncharted territory for nearly a century before the development of functional filing practices. In the Roman case, the central library of the prefect (*hēgemonikē bibliothēkē*), where the prefect's *acta* and *conventus* records were stored in the second century CE, may have acquired a new filing system, been moved to a new building, or been instituted as a separate archive altogether for the first time ca. 69 CE. The removal of *acta* and *conventus* records into a separate physical space would provide the strongest explanation for why these records suddenly became available for browsing from the 70s CE onwards, and why surviving precedent collections never reach further back than the reign of Vespasian.[179]

(Vespasian), 23 (Paradalas, a Hadrianic prefect), 36 (Antoninus Pius), 50 (Norbanus and Rufus, Flavian prefects) and 54 (Ursus, a Flavian prefect). For a list of the prefects of Egypt, see Bastianini 1975 and 1980. On the uncertain identity of Norbanus, see Jördens 2007.

[179] On the *bibliothēkē* of the prefect (and, generally, on the archives of provincial governors) see Haensch 1992. It seems to me virtually certain that the *hēgemonikē bibliothēkē* was the primary source from which judicial precedents were collected, as I see no other way of explaining how records of proceedings before delegated judges and epistolary exchanges between judges and *nomikoi* made it into precedent collections, of the sort cited in P. Oxy. II 237. Such documents must have been taken from dossiers of cases put

One can link these developments to broader Flavian concerns with administrative record-keeping, as illustrated by the intensive cadastral surveys conducted in Italy and numerous provinces such as Gaul, Africa, Spain, Corsica, Greece and Egypt in the 70s CE. Another major Flavian development was the creation of the *bibliothēkai enktēseōn* (discussed below) at some point in the years 68-72 CE. One can also mention the brief Flavian revival of the census of Roman citizens residing throughout the Empire. The apparent Flavian shift in the documentation of administrative *acta* in Egypt may also have had something to do with the extended visit of Vespasian in 69-70 CE. The fact of the emperor and his staff operating in the province for an entire year may have influenced the practices of *officia* in Roman Egypt, in part because it is quite likely that the emperor's staff made use of the local bureaucratic personnel. As I have suggested in the previous chapter, imperial visits can be correlated with discrete changes in bureaucratic practices, such as the procedures for processing and publishing petitions. One can be certain that Vespasian's *acta* were meticulously documented throughout his visit in order to be taken back to Rome, where they were retrospectively ratified by the Senate in 70 CE. In this instance, recording the emperor's *acta* was a matter of unprecedented importance: this was the first time that the imperial bureaucracy at Rome was confronted

---

together and archived by the prefect's office. Although Haensch does not suggest it, I find attractive the idea that the *hēgemonikē bibliothēkē* was first instituted as a separate archive in the prefecture of Tiberius Iulius Alexander (in office in 66-69 CE). This would make good sense of the fact that, in the 40s CE, the *acta* of the *Idios Logos* (presumably, in the context of the *conventus*) were deposited in the Patrika archive, whereas we know that second-century *conventus* records were stored in the prefect's archive. A new study of P. Vindob. Bosw. 1, which contains a tantalizing reference to an *enkeleusis* of Tiberius (Iulius Alexander?) regarding archival records, might shed further light on this question.

with an emperor who had formally reigned for nearly a year before reaching the imperial capital.[180]

At the same time as these changes were taking place in the archives at Alexandria, the imperial administration was also reorganizing the central archives of the nomes, which acquired an important new branch: the "archives of acquisitions" (*bibliothēkai enktēseōn*), created at some point during the years 68-72 CE. These archives contained files (*diastromata*) for individual property owners, organized by village, gender and name, which were meant to provide a detailed and up-to-date picture of the real property (land, livestock, houses, slaves) owned by a given person, together with a full record of transactions (such as loans, mortgages, sales, marriage, inheritance and entailment) bearing upon the status of that property.[181]

The purpose of the archives of acquisitions has been much debated. Some have argued that they were intended as an instrument of fiscal control, which offered the imperial state an enhanced means of keeping track of private wealth (*poros*) and of

---

[180] On the Flavian cadastral surveys, see Piganiol 1962. On the Flavian census and *lustrum* of Roman citizens (which may be connected with the Flavian extension of the *pomerium* at Rome in 75 CE, see for example CIL VI 1232), see Suet. *Vesp*. 9 and Censorinus, *de die natali* 18.14. Vespasian was proclaimed emperor in Egypt in the summer of 69 (*dies imperii* 1 July) but did not reach Rome until a year later. The retrospective ratification of Vespasian's *acta* was a key clause in the the law that invested Vespasian with his powers as emperor in 70 CE (the so-called *lex de Imperio Vespasiani*). See CIL VI 930 = ILS 244 at chapter VIII: *utique quae ante hanc legem rogatam acta gesta decreta imperata ab imperatore Caesare Vespasiano Aug. iussu mandatuve eius a quoque sunt, ea perinde iusta rataq(ue) sint ac si populi plebisve iussu acta essent*. The standard study of this text is Brunt 1977. For more recent bibliography, see Buongiorno 2012 and Mantovani 2005. In the meantime, scholars have rightly pointed out that this was not, strictly-speaking, a *lex de imperio* (Vespasian had held *imperium* since 69) and that *lex de potestatibus* is a more appropriate description, see Ando 2013: 930-931 and Purpura 1999 (who suggests *lex de auctoritate*).

[181] On the creation of the *bibliothēkai enktēseōn,* see Wolff 1978: 222-244, Burkhalter 1990: 199-202 and now Lerouxel 2016.

preventing individuals from shirking their fiscal obligations, while others have pointed out that the Roman administration already possessed sufficient knowledge (from census records, land surveys, and so forth) to estimate wealth, and that we should instead take seriously the words of the prefect Mettius Rufus, who stated in an edict in 89 CE that the archives served to regulate the rights of ownership, particularly the claims of heirs, and to provide legal security in transactions involving real property, "lest individuals entering into contractual agreements be defrauded through ignorance" (P. Oxy. II 237 col. viii 36). The Roman imperial government had limited resources for direct policing and law enforcement, and set a correspondingly high value on the maintenance of order at the local level. The archives of acquisitions greatly facilitated the registration of property claims and titles, and brought greater transparency to transactions and economic activity involving real property—for example, large loans, which were typically secured on land—since it was now possible to check that property was not entailed on an heir, owed to the *fiscus*, or already encumbered in another transaction. One could also get a general sense of the "credit history" of the person with whom one was doing business. Accordingly, notaries were required to obtain a written report (*epistalma*) from the archive before composing contracts, and were threatened with a fine if they did not.[182]

Furthermore, from the perspective of imperial officials facing a growing burden of jurisdiction, on top of all other administrative business, the archives of acquisitions

[182] On the purpose and function of the *bibliothēkai enktēseōn*, see Wolff 1978: 245-253. The argument that they were primarily a fiscal initiative is put forward by Maresch 2002. Against this, and reiterating Wolff's points, see Jördens 2010a and b, with the additional remarks of Yiftach-Firanko 2010. It is an important point that, unlike registration in the census, there is no evidence for registration in the *bibliothēkai* being enforced or penalized, which one would expect if they had a direct fiscal function. On the positive effect of the *bibliothēkai* on credit, legal security and transaction costs, see Lerouxel 2015 and 2016.

also meant that property conflicts and disputes could be more effectively handled at the local level. In the case of the dispute between Dionysia and her father discussed in the previous chapter (P. Oxy. II 237, 186 CE), although the initial property dispute was brought to the court of the prefect, the case was investigated entirely by the *stratēgos* of the nome, and the outcome was determined by a search of the *bibliothēkē enktēseōn* of Oxyrhynchus, which revealed a property declaration (*apographē*) from twenty years earlier that secured Dionysia's title to the property. Property disputes, especially in the context of testamentary conflicts, were an especially fierce and thorny sector of litigation, where litigants often had the means and motivation to keep lawsuits dragging on for years, and to keep them coming back into the courts of high officials. It is very likely that Mettius Rufus had this problem in mind, when he stated in his edict that "both public and private affairs were in disorder because the files in the *bibliothēkai enktēseōn* were not being adequately maintained" (P. Oxy. II 237 col. viii 28-30). He then spelled out the importance of keeping continuous, unbroken records, and of refurbishing the files regularly, so that the archives would function properly. As for Quintus Veranius, who tried, literally, to whip the Lycian archives into shape in the 40s CE, for Mettius Rufus well-functioning records were synonymous with order and instrumental for the management of "both public and private affairs" in a Roman province.

Thus, the *bibliothēkai enktēseōn* should probably be understood, not as a specifically fiscal initiative, but as part of the broader effort of the imperial administration to maintain order in the province, and to facilitate local administration and handling of legal disputes. In view of the ever-growing centripetal flow of litigation and administrative business to the courts of imperial officials, this was a high priority. In

providing a useful context for individuals to register their property titles, the archives of acquisitions also indirectly catered to the imperial interest in keeping track of land sales and monitoring private wealth. The creation of the *bibliothēkai* also reflects the growing sophistication of archival practice. Here, we see a category of information, drawn from many different types of records, being differentiated from the rest and removed into a separate archive. Rather like a "smart folder" on the hard drive of a modern computer, the archive of acquisitions turned many scattered pieces of information into a body of useful knowledge. Similarly, the transfer of *acta* and *conventus* records to a more accessible location (most likely, the prefect's library) ca. 69 CE reflects their growing importance as a body of knowledge within the developing legal sphere of the province.

2.6 Archives and the imperial order: The Arsinoite archive crisis and the rise of the Roman liturgical system

The Roman institution of two branches of permanent archives in the nomes (ca. 50 and ca. 70 CE) had significant implications for central and local administration, documentary culture and the developing sphere of litigation in the province. But their impact was not immediate. As the Norman example shows, it could take many decades for archives to become functional, and even more time for the development of an institutional and cultural context in which archives would play an important role. In fact, as we discover in a collection of private documents from the Arsinoite village of Tebtunis, the *bibliothēkai* of the Arsinoite and Oxyrhynchite nomes experienced serious problems throughout the

first half-century of their existence. During a *conventus* at Arsinoe in the spring of 90 CE, the prefect Mettius Rufus was presented with a document from the *bibliothēkē demosiōn logōn* that was missing its beginning. When the prefect investigated the reason, the most recent archive-keepers, who had been in office for nearly twenty years (ca. 71-89 CE), admitted that this was true of many documents, but insisted that they had received the archive in this condition from the previous keepers. Nevertheless, both they and their heirs ended up bearing the brunt of the expenses for repairing the damaged rolls. Their description of the state of the archive is worth quoting at length: [183]

> ὑμεῖς δὲ αὐτοὶ κατεστάθημεν πρὸ πολλῶν ἔτι πάλαι χρόνων
> παραλ[α]μβάνοντες παρὰ τῶν προτέρων βιβλιοφυλάκων
> πλεῖστα ἄναρχα, τινὰ δὲ κ[α]ὶ διεφθαρμένα, ἃ δὲ καὶ συνκεκολλημένα, τῶν δὲ
> κατὰ καιροὺς στρατηγῶν καὶ βασιλικῶν
> γραμματέων κατὰ τὸν αὐτ̣[ὸ]ν τρόπον καὶ ἡμεῖν παραδεδωκότων τὰ βιβλία
> ὅποιά ἐστιν καὶ διὰ τὸ πλῆθος τῶν βιβλίω[(ν)]
> ἀσύνθετα καὶ ἐπάλληλα αὐτὰ κεῖσθαι, συνέβηι καὶ διὰ τὴν πλείστην καὶ
> ἐπάλληλον, τοῦ νομοῦ μεγίστου ὄντος, καθημερινὴν
> πρ[ο]αίρεσιν ἕτερα τῶν βιβλιω ἃ μὲν μὴ σῴζεσθαι πολλῷ χρονο
> διαφθαρέντα, ἃ δὲ καὶ ἀπὸ μέρους διεφθάρθαι, τινὰ δὲ
> καὶ κεφαλόβροτα γ̣ε̣γονέναι...
>
> And we ourselves were appointed a very long time ago, and had received from the previous keepers documents that, for the most part, lacked their beginning, and some of which were generally damaged or stuck together, while successive *stratēgoi* and royal scribes delivered to us their accounts in whatever state they were, and, due to the great quantity of the rolls, they lie in unsorted heaps. Moreover, it happened that, due to the constant daily consultation of these

[183] For Arsinoite archive crisis, the most important document is P. Fam. Tebt. 15. See also 14, 17 and 24 with the commentary of van Groningen 1950. This material awaits comprehensive reexamination.

> documents—the nome being very large—some of the other rolls did not stand the test of time and were completely or partially destroyed, while others were nibbled away at the top...
>
> P. Fam. Tebt. 15 col. iv 87-92

Evidently, during the first four decades of their existence of the *bibliothēkai,* a very large proportion of incoming documents and records had not been collated and filed, but lay in unsorted heaps. Subsequently, this had to be done (insofar as it was still possible) and paid for by the culprits and their heirs, as well as subsequent keepers, over the course of the next thirty-five years, and the job was still incomplete in 124 CE. Other problems described by the keepers—such as damage by worms and rodents, or wear and tear on the beginnings of rolls—were more routine, but indicate that there was no procedure in place for monitoring, repairing and recopying damaged rolls. Establishing who was responsible for damaged records was one of the main points of controversy during the entire period that this affair was being sorted out. Given how the archive was managed before 90 CE, a large part of the first-century records would have hopelessly deteriorated or become impossible to find by the turn of the second century, just to give us an idea of the sort of scenario that could produce shifts or gaps in the documentary record, of the sort discussed earlier.

Much is revealed by the attempts of successive prefects to deal with this situation. The automatic reaction of the prefect Mettius Rufus was to order all damaged documents to be recopied from the originals in the archive of the Patrika (P. Fam. Tebt. 15 col. ii 52-3). This shows that the Patrika archive was indeed meant to function as a master-reference for the *bibliothēkai demosiōn logōn* of all the nomes. As noted above, Roman archival practice emphasized the multiple storage of records, which was useful both when

a local archive failed, and when the records of a central archive needed to be refurbished. A decade after Vespasian's monumental restoration of three thousand bronze *tabulae* (most likely, collected from sources across the empire) on the Capitoline Hill, the recopying of mere papyrus rolls may have seemed to Rufus to be a paltry task. Eight years later, this plan was still being entertained by the prefect Junius Rufus, when the new archive-keepers convinced him that it was impossible (53-55). In theory, of course, all of these records existed in the Alexandrian archive. In practice, however, to locate, retrieve and recopy hundreds of rolls was unrealistic, and certainly prohibitively expensive for the local officials. Instead, the preferred solution was to have the documents sorted and filed *as they were*, pasting them into rolls whenever possible (col. ii 55- col. iii 58). As we will see, the fact that the archive-keepers were not Roman state functionaries, but members of the gymnasial class of Arsinoe, was an important reason for the failure of the archives. It also meant, however, that their estates could be mercilessly taxed in order to compensate for the damage. Eighteen years later, the widows and heirs of the original keepers were still financing the restoration of the rolls, and even the keepers that came into office in 107 were forced to shoulder the remaining expenses, with apparently ruinous consequences: after one of them died in 117, both of his sons refused their inheritance.

In 103 CE, as the affair of the *bibliothēkē demosiōn logōn* was being sorted out, it was reported to the prefect that the *bibliothēkē enktēseōn* was likewise in a deplorable state (col. v 110-130). Apparently, the building itself was decrepit, and many of the rolls placed in it had disappeared, while damaged rolls lay unsorted and sealed up in packages because the keepers responsible for them had already died. The prefect Italus then

ordered the *stratēgoi* to make sure that all the rolls were transferred to a new building, and that a complete catalog (*anagraphē*) of the damaged documents was made in the presence of the keepers. Evidently, after the difficulties encountered with the *bibliothēkē demosiōn logōn*, the prefect did not even attempt to have these rolls restored.

The Arsinoite archive crisis is often cited as a sobering illustration of the dysfunctionality of ancient archives, and of the inability of the Roman state to enforce its demands. In fact, the evidence reveals a much more complex picture. We should note, first of all, that Mettius Rufus' "discovery" of the Arsinoite archive crisis in 90 CE was not accidental. In the previous year, Rufus had been tipped off by the *stratēgos* of the Oxyrhynchite nome, and had ordered a general overhaul of the *bibliothēkē enktēseōn* at Oxyrhynchos, denouncing its maintenance as inadequate (P. Oxy. II 237, col. viii). The subsequent investigation at Arsinoe suggests that the nome *bibliothēkai* were a prominent point on Rufus' agenda. Like Quintus Veranius in Lycia in the 40s CE, he seems to have initiated a crackdown on the archives, and his actions reflect the very powerful interest of the Roman imperial state in developing functional records in the provinces, imposing what they saw to be an adequate standard of archival practice. The relentless way in which successive prefects pursued the collation of damaged records at Arsinoe over the course of four decades (90-124 CE), implicating the families of the original keepers, as well as subsequent keepers who had nothing to do with the events, suggests that the Roman course of action had a punitive dimension. Then follows the obvious question: why, exactly, had the archive-keepers at Arsinoe failed so spectacularly in their job? It seems implausible that they were so completely ignorant of their duties. Instead, one suspects that this had been a case of playing deaf before Roman demands.

To make sense of this episode, it must be pointed out that the creation of the nome *bibliothēkai* was one of the first major hallmarks of the rise of the Roman system of compulsory public services (*leitourgiai* in Greek, *munera* in Latin) in Egypt and elsewhere in the Roman empire. The term *munera* encompassed a wide variety of fees, duties, offices and administrative functions that the Roman imperial state imposed on its subjects, in accordance with criteria such as wealth, age, gender, civic and professional status. Referred to in Greek by the narrower term *leitourgiai*, *munera* developed *pari passu* with the institutional fabric of the empire, particularly of its urbanized regions, where they were integrated into the institutional framework of political communities. In Egypt, tax-collection was progressively absorbed in the sphere of public services in the course of the first-century CE. The supervision of the nome archives (*bibliophylakeia* in Greek, *cura tabularum* in Latin) was not part of the Greek civic tradition, unlike the *kosmeteia* or the gymnasiarchy. It is perhaps the earliest known instance of a new major administrative duty being imposed by the Roman government on the municipal elites of Egypt.[184] With the creation of the *bibliothēkai demosiōn logōn*, the metropolitan elites suddenly found themselves saddled with large, new archival institutions that they were supposed to administer, most likely at their own expense. From the earliest evidence for

[184] On *munera* in the Roman empire, see Grelle 1999 and Neesen 1981. The jurisprudence of *munera* (including precise definitions and typologies) developed much later than the phenomenon itself, see Horstkotte 1996. On "compulsory public services" in Roman Egypt, see the references in n. 10. Curiously, none of these studies emphasizes the *bibliophylakeia* as one of the first major compulsory services. For Lewis, the *bibliophylakes demosiōn logōn* were not liturgists until 113 CE (P. Giss. 58). The evidence of the Tebtunis archive shows, however, that the keepers were personally liable for damaged records already in 90 CE. Although we do not have explicit evidence for this, I would assume that the *bibliophylakeia* (like the *cura tabularum* in the West) from the outset involved ex-gymnasiarchs managing the records at their own expense. See Oertel's remarks on this question in Oertel 1917: 287-288. I will investigate this topic in detail in a separate paper on the Arsinoite archive crisis.

the archives in the 50s CE, the Arsinoite archive-keepers (*bibliophylakes*) were consistently ex-gymnasiarchs—the pinnacle of a civic career, attained by the wealthiest citizens of the *mētropolis*. As a comparison, in the Spanish city of Tarraco in the second century we observe the *cura tabularii* being performed by a municipal man who had filled all the regular local offices, *omnibus honoribus functus,* that is, one of the wealthiest and highest-ranking members of the curial class. Clearly, the management of the archives was envisioned as a costly enterprise (and probably also a time-consuming one), where a large income (*poros*) was required to cover the necessary expenses, and also to serve as insurance for damages. For the rising civic elites of the *mētropoleis*, the *bibliophylakeia* must have been perceived as an unprecedented instance of Roman encroachment, with the added sting that these institutions did not, strictly speaking, serve the interests of their city, but instead *directly* served imperial interests, administration and fiscal control. This was not about provincials governing themselves. Here, the private wealth of the urban elites was, in a very direct way, being put at the service of the imperial state. The very high standards dictated by the Romans for the management of these archives (as we can tell even from Mettius Rufus' very brief description of how the archives of acquisitions were supposed to function in P. Oxy. II 237 col. viii) made the job of the *bibliophylakes* even less enviable.[185]

Within this broader context, it is not difficult to imagine the metropolitans of Arsinoe chafing at this new, burdensome Roman imposition, and tacitly deciding to

[185] The Tarraco inscription is CIL II, 4248, the base of an honorific statue granted for the performance of the *cura tabularii censualis,* illustrating the fact that the formal distinction between magistracies (*honores*) and *munera* (strictly-speaking, non-honorific) was not always observed. Naturally, the fact of *munera* being non-honorific means that we hear next to nothing about the *cura tabularii* in Western career-inscriptions, although it must have been a generalized phenomenon.

ignore it. During their twenty years in office (60-79 CE), the second generation of keepers of the *bibliothēkē demosiōn logōn* managed to avoid sorting and filing the masses of records that were coming in from the nome officials every year. They also ignored the fact that it was *their* responsibility to have documents pasted together into rolls (*tomoi synkollēsimoi*), which was an instrumental part of the filing process. When the scandal broke out, the keepers tried to paper over these obvious facts, shifting the blame on the size of the nome, on well-known hazards such as humidity, wear and tear, and damage by rodents, and on the negligence of the earlier keepers, who were conveniently already dead. The Roman response to the situation was unsympathetic and uncompromising: the damage was done, and every last bit of it had to be repaid. The fact that some of the records still being collated in the 120s CE were six or seven decades old shows that the Romans saw this as a matter of principle. That this episode was perceived to be a deliberate infraction against imperial orders is our strongest explanation for the relentlessness with which Roman officials pursued this affair to its bitter end, in a way that would deter future liturgists from committing the same mistakes.[186]

We never hear of this problem again. Even more significantly, we observe the nome *bibliothēkai* in routine use throughout the second and third centuries CE. As Lerouxel has shown, land-related transactions regularly involved consultation of the files of the *bibliothēkē enktēseōn*. Remarkably, in the 180s CE, Dionysia's property claims were clinched by a declaration filed by her father in the *bibliothēkē enktēseōn* twenty-five

[186] That the Arsinoite *bibliophylakes* were in office for eighteen years (60-79) is remarkable, and presumably reflects the incipient nature of the liturgical system at this stage. The impact of this long term of office must have been mitigated considerably by the apparent (and, most likely, deliberate) failure of the keepers to perform many of the functions of their job.

years earlier (P. Oxy. II 237 col. v 23). In fact, her father seems to have been shocked that the *bibliophylakes* managed to unearth this document. In 198 CE, we observe a woman confirming the return of a large loan of 1040 drachmas, according to a loan agreement made by her deceased father nearly fifty years earlier through the *grapheion* of the Arsinoite village of Euhemeria (P. Tebt. II 397). The official copy of the document that she appends must have been taken from records deposited in the—now, apparently well-functioning—*bibliothēkē demosiōn logōn* of the Arsinoite nome.[187]

The next major development in the record-keeping system of the province took place in the reign of Hadrian. Building on Hellenistic practices, Roman officials had made a concerted effort to create an institutional framework for records of private transactions, particularly those involving real property, for which separate archives of acquisitions were eventually created. This was good for business and economic activity, important for the orderly management of legal disputes, and also contributed to the store of administrative and fiscal knowledge that was employed in governing the province. Accordingly, notarial establishments (*grapheia* and *agoronomeia*) in the Roman period were required, under the threat of a fine, to register all legal documents at Alexandria and in the relevant nome *bibliothēkai*. This characteristically Roman "double-storage" of records at the local level and in a central master-archive was a means of protecting against the deterioration and falsification of documents. Then, shortly before 127 CE, the Roman administration took the concept of a master-archive to yet another level with the creation of the "archive of Hadrian" (*bibliothēkē Hadrianē*) at Alexandria. The records contained in this archive—rather like the sealed text of a Roman *tabula* or Greek double-

[187] On the routine use of the *bibliothēkai enktēseōn* in land-related economic activity, see Lerouxel 2015 and 2016.

document—were to be kept as a pristine, original record that would only be consulted if absolutely necessary. It now became obligatory for all notarial documents to be sent to Alexandria in *two* copies, to be registered in two different archives: the original rolls were to be checked for additions and corrections and deposited in the *bibliothēkē Hadrianē*, while copies of them were to be filed in a second archive called the *Nanaion*. Before dispensing an official copy of a document, the keeper of the *Nanaion* was instructed to consult the keeper of the *Hadrianē* (presumably, to verify the existence of the original, and, if necessary, to verify the text). Evidently, by Hadrian's reign, archival institutions and filing practices had become sufficiently advanced to make this demanding system possible. Interestingly, the edict of the prefect Flavius Titianus in which the new procedure is announced (P. Oxy. I 34 = M. Chr. 188, 127 CE) mentions that it was already in place for documents coming in from the Arsinoite nome. Evidently, the Arsinoite archive crisis had serious repercussions for the way documents from this nome were handled at Alexandria. When the Arsinoite archives proved unreliable, an extra back-up copy of the Arsinoite records was deemed necessary, providing us with yet another, striking piece of evidence for the high level of Roman administrative investment in the system of provincial records.[188]

As illustrated by the Satabous affair with which this chapter began, the registration of private transactions was notoriously difficult to enforce. Roman officials were well aware of this. Five months after announcing the new archival procedures in

[188] On the *bibliothēkē Hadrianē,* see Burkhalter 1990: 203ff. and Wolff 1978: 48 and 130ff. I have not been able to find any evidence to support the assertion of Jördens 2010a: 160-161 that this archive was also intended for the public records housed in the archive of the Patrika. The reduplication of an archive (as a measure against falsification, deterioration, etc.) is also attested on Paros in the second century BCE, see Lambrinudakis and Wörrle 1975.

127, the prefect Titianus issued another edict, castigating notaries for registering deeds of security (*asphaleiai* = Latin *cautiones*) "everywhere except in the *bibliothēkē Hadrianē*," even though this archive was "specially designed to make sure that no improper dealings would escape notice" (col. iii 1-9). This statement echoes the concerns of Quintus Veranius regarding falsification a century earlier, and it is echoed further by a second-century imperial edict from Pisidia, where the emperor—possibly, Hadrian himself—stated that it had been generally decreed in the provinces that all contracts be registered in archives, and that lax practices of registration in Pisidia had resulted in falsification becoming rife. As Meyer has argued, the Roman legal culture of *tabulae* made the Romans "allergic" to the very different standards and attitudes to legal documents they encountered in the Greek world—at Rome, we must remember, falsification was a public crime since the Late Republic. In the imperial evidence, we are also observing the growing importance of archives and archival records within the Roman administrative vision itself.[189]

In practice, however, for notaries in the Egyptian hinterland to send documents to Alexandria was presumably not inexpensive and the 100-drachma fine evidently did not stop many notaries from shirking this requirement. On the ground in the nomes, the second-century evidence shows that individuals increasingly opted for private scribes, rather than public notaries, as well as less formal (and less costly) transaction types, such as the chirograph, which could be registered with the *katalogeion* at Alexandria through the *ad hoc* procedure of *demosiosis* ("publication"). Eventually, the Roman administration seems to have given into these tendencies. In the Severan period, village

[189] The inscription from Sibiunda (Zivint) in Pisidia is SEG 19.854 = Oliver 1989 no. 186. On Roman governors reacting to Greek documentary practices, see Meyer 2004: 184-187.

notarial centers (*grapheia*) disappear from the papyrological record, and *demosiosis* progressively rises in importance as a means of registering a legal transaction.[190]

Thus, the initial efforts of the Roman imperial administration to monitor the production of private legal documents (e.g. by licensing notarial centers in the villages) and to maintain a comprehensive master-record of private transactions in the Alexandrian archives, seem to have been gradually abandoned. Presumably, the utility of this scheme no longer justified the practical burden, as documentary forms and standards became more regularized (with the waning importance of Demotic documents, for example) and as functional archives in the nomes made the role of the central archives less crucial. As noted by Burkhalter, the decline of the *grapheia* in the late second century liberated the public archives from masses of notarial records, while the procedure of *demosiosis* meant that more private litigation came under the authority of the *archidikastēs*, who was the point of call for conflicts arising from documents registered in the *katalogeion*. These second-century developments sharpened the distinction between the private and public spheres of provincial record-keeping—between records of private legal documents and records of public and administrative acts.[191] At the same time as it slackened its grip on the sphere of private legal documents, the imperial administration progressively invested more bureaucratic energy in keeping records of its own acts, including the proceedings of the imperial courts, as well as the petition system, which became a large-scale bureucratic

[190] On the decine of the *grapheia* and notarial records (*demosioi chrēmatismoi*), see Burkhalter 1990: 211ff. On the rise of private scribal activity, *cheirographa* and *demosiosis* in the Oxyrhynchite nome, see Yiftach-Firanko 2008. Further on *demosiosis* and its rise in the late second century, see Wolff 1978: 129-135. In a second-century imperial letter from Pisidia, an emperor (possibly Hadrian) reprimanded the provincials for their neglect of imperial regulations, which had apparently resulted in a widespread problem of falsification (see n. 49 above).

[191] For these observations, see Burkhalter 1990: 213-214.

enterprise in the course of the second century. The development of archival records of official acts, and their deployment by legal and forensic practitioners, had important implications for the legal sphere and would become a central mechanism in the development of the law, as will be discussed in the next chapter.

2.7 Conclusion: Archives and the imperial legal sphere

The establishment of an integrated and centralized system of records and archives in Roman Egypt was a key Roman-period development in the landscape of the Nile Valley, which can be usefully understood in terms of an evolving imperial technology of information and contextualized within the broader institutional development of Roman imperial rule since the Age of Augustus. The Norman conquest of England provides a suggestive comparative example of the task of organizing administrative knowledge in a newly conquered territory. In particular, this example vividly illustrates the institutional and cultural aspects of the development of administrative records and archives, and their impact on legal and documentary culture. In both the Roman and the context of medieval England, the passage from documents to functional archival institutions was a complex and long-term process that ran its course over many decades. Within a few decades after annexation, the Roman administration invested in the reconfiguration of the provincial records around a central archive at Alexandria that was to serve as a master-archive for the entire province. By the mid-first century CE, the Patrika archive contained a full set of administrative records from every nome. Subsequently, with the institution of the

bibliothēkai demosiōn logōn in the nome capitals ca. 50 CE and their separation into two branches ca. 70 CE, an integrated system of archives was created. This was an "information technology" that had not existed in Egypt before and its implications were vast. However, the "technological" development of the archives was not instantaneous, and it took some time for filing systems to make it possible to retrieve and, eventually, browse the records. In this respect, a sea-change appears to have taken place ca. 69 CE, after which point records of proceedings and other administrative *acta* begin to be preserved in contexts that point to individuals performing searches of archival records. This is also the period when several genres of records are first attested in papyri, and when the definitive gymnasial and metropolite registers were compiled, which remained in force for the next two centuries. Subsequently, from the point of view of the second century and later, legal and institutional memory in Roman Egypt effectively began in the Flavian period. Although many of the circumstantial details behind the archival reforms and observable shifts in the documentary record of Roman Egypt are obscure to us, it is clear that the Flavian era was a key turning point in the institutional development of the Roman system of provincial records. Subsequently, the papyrological evidence shows rather strikingly how, from the perspective of the second and third centuries CE, the early Flavian period—like the era of Hubert Walter—came to constitute the threshhold of legal memory, and the starting point of what might be called an artificial or archival memory in the province. In both the Norman and the Roman context, this watershed in the technology of information took place approximately one century after the initial conquest.

As vividly illustrated by the Arsinoite archive crisis, not only did archival institutions require many decades to become fully operative, but the impact of these institutions might be further delayed by local habits and attitudes vis à vis the requests of central power. In the Arsinoite nome, four decades after the creation of the *bibliothēkē demosiōn logōn*, local liturgists did not, and perhaps did not want to, understand the sort of enterprise they were supposed to be managing, and they were forced to learn the hard way about the importance of archives under Roman rule. This episode took place during an important turning point in the rise of the Roman system of compulsory public services, and the Arsinoites got a very clear picture of the obligations and liabilities implicit in the Roman notion of *munus*.

In the case of medieval England, the development of administrative records and archives was initially motivated by practical concerns but ended up creating a vast repository of historical data. Gradually, as archival institutions, filing and indexing systems developed, the archives came to be navigated and exploited as a historical resource. In particular, the legal profession was keen to mine the royal records for court cases, judicial precedents, and pieces of historical information relevant to the sphere of the law. Once the "technology" of records and archives was in place, it was through the agency of lawyers and judges that records of cases were turned into a body of practical knowledge, which in turn contributed to the body of legal doctrine that would come to be known as the English Common Law. In the context of Roman Egypt, we observe a similar process, whereby the development of administrative records and archival technology eventually enabled records of *acta* and court proceedings to be exploited by a rising legal and forensic profession to (literally) "extract" the law. By the turn of the

second century CE, the impact of archives on legal practice becomes clearly visible in our evidence. In the second century, litigation documents feature an impressive variety of extracts from archival records, including census returns, property declarations, loans, contracts and judicial proceedings, as well as citations of judicial precedents that occasionally span more than a century. This is when we first encounter lawyers' collections of judicial precedents, which must originally have been collected from the *conventus* records filed in the prefect's archive at Alexandria.

3

ROMAN LAW AND LOCAL LAW

One of the core questions posed about any imperial legal regime is the relationship between the imperial legal order and local laws and traditions. This is the subject of a long-standing debate about the nature of the Roman imperial legal order that first gained momentum at the turn of the twentieth century with the rise of documentary papyrology and the sensational discovery of P. Giss. 40, a papyrus that contains a reference to Caracalla's grant of Roman citizenship to the inhabitants of the Roman empire in 212 CE.[192] This chapter provides a synopsis of the traditional debate about imperial and local law in the Roman context and suggests how this debate might be steered in a productive new direction. Contrary to established opinion, a close look at the evidence for the so-called "laws of the Egyptians" does not suggest that Roman officials simply relied upon local legal experts for information about local marriage and inheritance practices. Instead, the evidence strongly suggests that the Roman state developed its own interpretation of these practices in accordance with the logic and principles of Roman law. The evidence further reveals that Roman provincial courts made Roman legal remedies available to non-Roman provincials, who enlisted the help of competent lawyers to make claims on the basis of Roman law if this happened to be advantageous to them.

[192] Among the vast bibliography on the papyrus, see most recently van Minnen 2016 and Bryen 2016.

3.1 From Imperial Law to Local Law – and back again?

The framework of the current debate about law in the Roman provinces, for which Egypt serves as an important model, was established more than a century ago by the first generation of Romanists working in the developing field of documentary papyrology. It is this framework that underpins the definitive works of reference on this subject, written in the 1960s and 1970s by the second and third generation of legal papyrologists. At the turn of the twentieth century, Romanists were quite surprised to discover that what they conceived of as Roman law, according to the modern doctrine of Roman law produced by generations of Romanist scholarship, was very remote from what they saw in the Egyptian papyri. Faced with this fundamental problem, Romanists developed the concepts of Reichsrecht and Volksrecht, and dealt with the evidence for what appeared to be Roman law but was still quite different from what one was used to thinking based on the legal sources by developing the concept of "vulgar" law, whereby the forms of classical Roman law were reduced to a less complex form and infused with non-Roman elements, due to a low level of Roman legal knowledge in the provinces.[193] The impact of

[193] The tendency to assume a lack of legal competence in the provinces goes back to Kunkel 1967; see also Peachin 1996: 33-65 and Harries 2016. This is primarily due to the lack of synthetic work on legal practitioners in the Roman Empire before Late Antiquity. An important corrective to this view is provided by Crook 1995 and Humfress 2007, who reveal a high level of expertise among provincial legal practitioners. The spectacular efflorescence of forensic culture in the Late Empire, discussed by Humfress, was clearly a story that began much earlier, on which see chapter 4 on legal practitioners. On the opposition between Reichsrecht (imperial law) and Volksrecht (local or folk law) in the eastern provinces of the Roman Empire, see the classic study of Mitteis 1891. Volksrecht was a laden technical term employed in contemporary law and government in 19th century Germany: see Whitman 1990. A central argument of Mitteis – that the universal grant of Roman citizenship in 212 CE marked a campaign of the Roman imperial government to implement Roman law – sparked much later critique: see for instance De Visscher

this approach is still felt very clearly in recent scholarship. To this day, legal historians tend to approach the question of law in the Roman provinces by positing a basic opposition between "Roman law"—as we have it from Roman jurisprudential literature and its interpretation within the Romanist tradition—as part of a general package of Roman institutions and cultural practices, and various local laws, customs and practices in the provinces. Consequently, historians tend to look for the spread and influence of Roman legal forms (together with their social and cultural features) on the one hand, and for the survival and persistence of indigenous laws and traditions on the other.[194] Writing about law in Graeco-Roman Egypt, Yiftach-Firanko concludes, in line with the well-known arguments of Wolff, that the impact of Roman law was negligible in Egypt until the fifth century CE. While family law and the law of succession in Egypt was more susceptible to Roman influence, contract law was essentially unaffected and only crudely incorporated Roman instruments, such as the *stipulatio* clause, and even this only after the *Constitutio Antoniniana*. In another recent article on juristic papyrology and Roman

---

1954-1955 and 1957 against the idea of a forced Romanization, arguing rather for a gradual and organic process of acculturation to Roman law. See also Schönbauer 1931 and 1937 in favor of the formal retention of local law through a policy of "double citizenship." Against this idea, see Arangio-Ruiz 1950. Schönbauer's concept of Provinzialrecht—the law operative within a given province, which might combine elements of Roman law, local law and state-administered law specific to the province—remains a useful one. See Amelotti 1995 for an overview of the debate. On the legal significance of the citizenship grant, see Garnsey 2006. On the concept of Vulgarrecht in German Romanist scholarship, where it initially had as much to do with political orientation as with scholarly opinion, see Liebs 2008. Although this approach to late Roman law has now been discredited, it has died hard (see for instance Vera 1991) and still casts a long shadow that is visible in the standard periodization of Roman legal history into classical and post-classical law (although see Johnston 2005 for the new category of "epiclassical" law for the third century).

[194] This is in part due to the authority of standard works of reference within the field of juristic papyrology (notably the work of H. J. Wolff and J. Mélèze-Modrzejewski) which are firmly situated within this problematic. See Wolff 1953, 1956, 1974a and 2002 and Mélèze-Modrzejewski 1970, 1982, 1990 and 1993.

law, Alonso remarks that in Roman Egypt the only area of the legal sphere where Roman citizens adhered to the forms of Roman law was family and succession—and even here, there were "departures from the Roman orthodoxy." In all other areas, both Romans and non-Romans employed Greek legal instruments, "even when these contravene basic principles of Roman law." Alonso sees no compelling evidence for a Reichsrecht, a Roman law of the empire. Instead, "alien law was not merely applied but also adopted by the Roman jurisdiction in relevant aspects of its own organization and procedure." Altogether, "the alien practices that dominate private transactions in Egypt do not belong to the history of Roman law, but to that of the Greek and Egyptian legal traditions." Thus, it would appear that, despite several centuries of Roman rule in Egypt, there was remarkably little Roman influence on the legal sphere.[195]

This generally accepted view is problematic for several reasons. One core problem is the notion of an "orthodox" Roman law, which is to a significant extent an orthodoxy of modern scholarship on the Roman legal sources. In fact, the nature of the Roman legal sources makes it very difficult to have a historically accurate idea of Roman law with which to approach the documentary evidence. The legal sources primarily consist of anthologies of excerpts from the works of imperial court jurists writing in the Severan age, whose texts were excerpted and edited according to very specific criteria under Justinian in the sixth century. One might think that a more natural explanation for

[195] Yiftach-Firanko 2009: 557. Alonso 2016: 62-66. The idea of pre-Roman continuity in the legal sphere of Roman Egypt (including legal and documentary forms, notarial practices and archival institutions) was central to the work of Wolff, which remains influential among scholars of legal papyri. Much of the evidence for these supposed continuities does not stand up to closer examination. It is highly improbable, to say the least, that references to *ta prostetagmena* ("ordinances," the standard Greek term for edicts and other executive acts by Roman emperors and officials) in documents from the second, third and fourth centuries CE are references to Ptolemaic legislation (*contra* Alonso 2016: 392-3).

the discrepancy between the legal sources and documentary evidence would be that the modern doctrine of Roman law is, on some points, historically inaccurate. As the research currently stands, our understanding of the diachronic development of Roman law is very limited. No work of legal history has systematically confronted legal and documentary sources (including papyri) to trace the evolution of Roman law and its role in Roman imperial jurisdiction, or to account for the process by which Roman law became the imperial law of the Roman Empire. When such a history is written, provincial documentary evidence must be taken into account.[196]

A conclusion to be drawn from the modern debate over law in the Roman provinces is that thinking in terms of the "spread" of Roman law does not get us very far. Apart from the basic problem that our historical understanding of Roman law is lacunose and potentially inaccurate, the difference between the law of the documents and the law of the legal sources is also a difference between what is now commonly referred to as "law in practice" and "law on the books." One cannot expect the Justinianic anthologies of Antonine and Severan jurists—which overwhelmingly focus on private law and contentious legal problems, and which, despite careful selection by the sixth-century compilers, reflect a wide range of differing juristic opinions—to speak directly to the daily business of Roman provincial courts. In fact, the apparent mismatch between what we see in the legal sources and what we observe in the papyri becomes much less stark

[196] On the problem of the modern doctrine of Roman law being subject to constructs of modern legal scholarship, see Tuori 2007a. The development of Roman law into the imperial law of the Roman Empire was of great interest to Mitteis, see Mitteis 1891 and 1898. On this unresolved problem, see the remarks of Stolte 2001: 176-179, a paper that is interesting in its attempt to explain the impact of Roman law in the Euphrates papyri by using traditional methods (linking documentary forms to "Roman" or indigenous law, distinguishing the "real" Roman law of the legal sources from its "imitation" in provincial documents, etc.) while simultaneously commenting on the inadequacy of these methods.

once we question certain received notions within the Romanist tradition, and instead consider that the documentary evidence from Egypt may occasionally provide us with new information about Roman law, certainly as it was applied in Roman provincial courts, but possibly also in the city of Rome itself at a particular point in time. Furthermore, thanks to pioneering work by scholars of late Roman law, Roman historians are now developing more complex approaches to law and legal practice. It is no longer acceptable to speak of the "vulgarization" of Roman law in the provinces. There is also growing awareness of the inadequacy of centralist, top-down approaches to law and legislation – that law is created and laid down and then promulgated and taken up, to a greater or lesser extent, depending on factors such as effectiveness of enforcement, the cooperation of elites, and general levels of acculturation.[197] Even though the importation of sociological approaches (notably, those generated by the Law and Society movement) to the study of late Roman law has brought greater complexity to our understanding of the real effects of law and legislation, the discussion now predominantly focuses on the discrepancy between "law in practice" and "law on the books." Thus, the conceptual framework still remains that of the creation and reception of law, which essentially means

[197] For an illustration of documentary evidence refining our understanding of Roman legal doctrine and its development, see Dolganov forthcoming c on the *poena dupli* in deposit contracts attested in papyri. On the theoretical battle against "legal centralism" (defined as an approach that focuses on the state as exclusive purveyor of law and justice) see Trubek and Galanter 1974 and Griffiths 1986 on the counter-paradigm of "legal pluralism." See also the compelling discussion in Galanter 1981 of society as a complex normative landscape, thickly populated with different forms and levels of ordering, where official law may be only remotely present and relevant. Similar to Galanter's emphasis on a centrifugal flow of legal messages and their socially mediated reception (as opposed to an influx of complaints and cases into the legal system, which automatically turns formal law and legal institutions into the focal point of analysis) see Griffiths 2003 on the reception of legal rules being heavily mediated by the local rules of a particular social field, to exercise a very indirect effect on social behavior.

working with a top-down model, even if one ends up reversing the top-down dynamic to argue that provincial practice actually fed back into and influenced imperial law. Also, although the concept of legal pluralism has been eagerly adopted by Roman historians as a convenient way of referring to the coexistence of multiple legal traditions in the Roman Empire, the term arguably confuses more than it elucidates, due to its implicit elevation of all normative systems to the level of "law."[198]

Recent research offers a possible way out of this conundrum. Work by Roman historians such as Caroline Humfress and Ari Bryen draws upon approaches developed by legal anthropologists offering interesting and fruitful ways of thinking beyond the gap between law and social practice by shifting our focus to ground level, to observe how individuals navigate the various forms of ordering (including legal ordering) that operate and interact in a given environment.[199] It is a basic premise in the sociology and anthropology of law that, to understand the place of law in society, legal institutions must be viewed in relation to the various non-institutionalized forms of ordering and social

[198] Examples of the productive application of Law and Society models to late Roman law include Harries 1999b and 2007 and Humfress 2007, a study that, among other things, explores some of the mechanisms by which forensic practice influenced imperial law in Late Antiquity. The distinction between "law in practice" and "law on the books" risks being used as a blunt instrument, as exemplified by the discussion of Watson 2007. On legal pluralism, see Benton 2011. On the controversy over legal pluralism among social scientists, see von Benda-Beckmann 2002.

[199] On the utility of the work of legal anthropologists for Roman legal history, see Humfress (forthcoming), using the Dionysia papyrus (P. Oxy. II 237, 186 CE) as an ancient case study that demonstrates the utility of such methods. Bryen 2013, a study of violence in Roman Egypt, makes extensive use of anthropological research, see in particular chapter 3 on ancient and modern notions of violence, and chapter 5 on the role and impact of law. Kelly 2011, a study of litigation in Egypt, looks at the different ways in which individuals used the provincial legal system for various identifiable goals, making comparative use of historical work on litigation culture, and productive (although not very extensive) use of sociological approaches to law and litigation.

control with which they necessarily coexist. Some anthropologists go much further in shifting the focus away from institutions. One study even warns against looking too hard for normative order and social control, arguing that the very idea that law (and by extension other forms of normative ordering) fulfills a basic need of self-regulation in human societies belongs to the ideology of law itself. On the contrary, as this study seeks to show, not all communities are norm-bound in the interest of self-regulation, as we tend to assume. Rather, in some cultures, mechanisms of dispute settlement that we, from a western perspective, would tend to qualify as legal, are socially embedded to the point that it becomes nonsensical to think of them as such, nor do they serve anything that can be described as a normative order.[200]

To the extent that there has been a postcolonial turn in the study of the Roman Empire, swinging the pendulum away from centralization and integration of empire toward regionalism and cultural resistance, Roman historical scholarship has now moved beyond posing the question in terms of the success/failure of Romanization to think in more complex terms about "being Roman" meant in any given context, and about an ongoing process of negotiation, with the active involvement of provincials and their elites, about what being and becoming Roman was supposed to entail.[201] In Roman legal history, however, the debate is still overwhelmingly conducted in terms of the "spread"

---

[200] Against the tendency to take for granted the importance of social control, using the counterexample of dispute settlement in Papua New Guinea, see Strathern 1985.

[201] On the problematic notion of Romanization, and the equally problematic counter-notion of cultural resistance to Roman rule, see the reflections of Woolf 1998: 1-24. See also Woolf 1994 for a balanced discussion of the problem of Greek culture and identity under Roman rule. The "cultural resistance" approach to Hellenism, exemplified by Alcock 1993 and Swain 1996, is currently experiencing a recession: see for instance Spawforth 2012 on Roman Greece as a project of Augustan antiquarianism (and later its Hadrianic revival), with the active participation of Greek elites.

and reception of Roman law – an approach that we have inherited, via nineteenth-century Romanist scholarship, directly from the age of European colonialism, pointing to the deeply conservative tendency of the field.[202] At the same time, the broader tendency in Roman studies to question the effectiveness of the penetration of Roman culture and institutions has produced very persistent arguments for the survival of indigenous law. For instance, despite the ongoing discovery, during the past five decades, of a wealth of new documents from the Roman Near East, which offer complex evidence for the strategic employment of Roman courts by provincials, and for the deft use of Roman legal and documentary forms, studies of this material continue to privilege the idea of local (Jewish or Nabataean) law tenaciously "surviving" under Roman imperial rule. One recent monograph on the Judaean Desert papyri systematically argues against any Roman influence on "Jewish law" (imagined as a socio-legal order on the basis of later Rabbinic sources). Another recent survey of these documents that purports to assess the impact of Roman law draws a straightforward connection between the choice of (Roman vs. Jewish) documentary forms and political attitudes toward Roman rule.[203]

---

[202] On the methodological conservatism of Romanist scholarship – proverbial since the nineteenth century, see the satirical treatise of von Jhering 1884 – see the reflections of Humfress 2011. See also Tuori 2007b on Reichsrecht still being a key question in the debate over centralization and integration or disaggregation and decline of the Roman Empire.

[203] On the imperviousness of "Jewish law" to Roman influence on the basis of the Judaean Desert papyri, see Oudshoorn 2007 *passim*, with the criticism of Jakab 2011. For a more balanced and useful treatment of the Judaean Desert papyri, see now Czaikowski 2017. The second study mentioned is Meyer 2007, which tellingly prefaces itself by referring to the "unfashionable" concept of Romanization and then proceeds to discuss the "spread" of Roman legal practices vs. the retention of local practices. Meyer's notion of an individual's free choice of the elements of documentary forms is problematic. In both ancient and modern administrative contexts, the shape of documentary forms does not tend to be a matter of free choice by private individuals. In Arabia, as in Egypt, most documents were composed by professional scribes and notaries, who typically worked from formularies, such as the blank form of a *parathēkē* contract in P. Oxy.

A fundamental problem is that of method. The field of Roman legal studies has generally been slow to adopt new tools and frameworks for analyzing the ever-growing supply of published documentary material. There continues to be general commitment to the opposition between Roman and indigenous law, despite the fact that, as argued above, our understanding of Roman law itself often turns out to be unstable and hypothetical upon closer scrutiny, while our knowledge of indigenous law in the provinces is lacunose at best.[204] Just as one cannot use the imperial legal sources as a guide to social practice – a trend in Roman legal studies that is now increasingly discredited – one must be equally wary of treating what the legal sources and papyri call local "law" or "custom" as representing aspects of indigenous provincial culture. Postcolonial research has amply demonstrated that "custom" or "tradition" in imperial contexts frequently represents a construct of the colonial period – even though revisionist scholarship may not have "shattered the common idea of an essential traditional law directly incorporating a pre-colonial reality" quite yet.[205] Just as "custom" and "customary law" have been instrumental to the establishment of imperial control in colonial territories, they have also played a powerful role in post-colonial re-negotiation of identity, social and political structures and power-relationships. Similarly, many important "traditions" that had a key

---

XXX 2677 (2c. CE, Oxyrhynchus), or indeed Babatha's *actio tutelae*, which she carried in three blank copies (P. Yadin 28-30), see Czaikowski 2017: 93-105.

[204] The slow progress in methodological approaches to law and legal practice in the Roman Empire is in part due to the fact that relatively very few Roman legal historians interested in law have closely engaged with the documentary evidence, see for instance Schmidt-Hofner 2011, a study that seeks a ground-up perspective on the evolution of the Roman justice system essentially without any recourse to papyrological evidence. It must be said that much of the documentary evidence has only recently been systematically studied, see the monographs of Fournier 2010a and Kantor (forthcoming) on the inscriptions from Greece and Asia Minor.

[205] The citation is taken from Fitzpatrick 1984: 22.

role in the construction of national identity in European nation states were in fact of relatively recent creation. As ethnographic research has consistently shown, the realm of the "customary" or "traditional" in societies, even though it draws authority from purporting to be long-established, static and stable, is in fact observably the opposite: fluid, variable and often pragmatic. To cite an example, just as "customary law" is being exploited by NGO policy-makers as a convenient space for the creation of new rules for sustainable development, "custom" is also being used by the inhabitants of such areas as an argument for unsustainable practices. "Custom" can have many faces, and the discourse of "custom" is powerful and versatile, so one must always ask who is using it, in what context, and for what ends – a consideration that is equally important in analyzing ancient litigation documents.[206]

To echo the enjoinder of Humfress, in an important essay on law and custom in the Roman imperial context, "rather than thinking of 'local laws' and customs as 'survivals' that 'persisted' from pre-Roman contexts, a legal anthropological approach can help us to explore the ways in which local laws, customs *and* Roman law were continuously being constructed and reconstructed in numerous different ways under the

[206] For a probing discussion of "custom" as an ancient and modern discourse, and as a social phenomenon analyzed by anthropologists, see Humfress 2011. On "custom" in imperial and post-colonial contexts, see the important collection of papers by Hobsbawm and Ranger 1992, as well as Fitzpatrick 1984, von Benda-Beckmann 1984, Fitzpatrick 1991 and Chanock 2005. On the imperial codification and colonial instrumentalization of "custom" in post-colonial Africa, see Chanock 1985, with the useful review essay by Merry 1991; see also Moore 1992. See also McGaffey 1970 on the Congo and Brown 1995 on colonial Egypt. On the example of "customary law" as an interface between NGOs and local groups in the sphere of sustainable development, see Ørebech et al. 2005.

Roman Empire."[207] One important takeaway from anthropological research for scholars of antiquity is that it can make us critically aware of our assumptions and develop new ways of thinking about the ancient sources. Naturally, ancient documents do not enable us to conduct anything resembling an anthropological case study, but the tools developed by anthropologists are nevertheless useful in helping us think beyond the framework of "law and its application." From an anthropological perspective, we would instead seek to contextualize legal activity (i.e. engagement with legal institutions, discourses and bodies of knowledge) within the ensemble of ways in which individuals in Roman Egypt could pursue their goals, keeping in mind that what was understood to be Roman or Egyptian law might be part of a wide array of instruments available to this person. Therefore, instead of continuing to look for manifestations of Reichsrecht and Volksrecht in the papyri, we can instead try to ask more constructive questions about how our evidence for legal practice illustrates the impact of Roman provincial courts and Roman rule more generally. To do this, it is necessary to step out of the traditional paradigm of "Romanisation juridique," which conceives of Roman and local law (or "custom") as distinct and competing systems of norms and cultural practices, and consider instead how the content and shape of these categories evolved through time and varied by context, and how these categories were mobilized – and manipulated, as we will see – by individuals, for whom the Roman justice system was one of various available resources for managing conflict and conducting interpersonal affairs. Even if many pieces of any given picture are inevitably missing in the ancient sources, making our general framework more nuanced and complex in this way can help us make more productive use of our evidence.

[207] See Humfress 2011. Also, see Czaikowski 2017: 17-24 for a recent application of this sort of approach to the Judaean Desert papyri.

3.2 The "law of the Egyptians"

Arguments in favor of the survival of local or indigenous law under Roman rule hinge upon the evidence of six well-known papyri from Egypt from the first and second centuries CE, where explicit reference is made to the "laws (*nomos* or *nomoi*) of the Egyptians" (although, as will be shown below, the documents relevant to this problem are more numerous). Revisiting the Egyptian material presents a useful occasion to update and revise our approach to the problem of "local law" under Roman rule.[208] According to the prevailing view, argued by Wolff and Mélèze-Modrzejewski, the existence of the "*nomos* of the Egyptians" into the late second century CE reflects Roman state tolerance of indigenous laws and traditional practices, which, after the generalization of Roman citizenship in 212 CE were formally demoted to the status of local "customs." The general scenario imagined is that of the coexistence of several laws and traditions on the ground (Roman, Greek, Jewish, Demotic Egyptian) where the Roman administration merely sought to exercise a monopoly over the sphere of public law and legislation and

[208] The six papyri most commonly cited, listed in Yiftach-Firanko 2007, are P. Oxy. II 237 (186 CE, Oxyrhynchus), P. Oxy. IV 706 = M. Chr. 81 (113-117 CE, Oxyrhynchus), P. Oxy. XLII 3015 (after 117 CE, Oxyrhynchus), P. Oxy. XXXVI 2757 (after 79 CE, Oxyrhynchus), P. Tebt. II 488 (after 121-122 CE, Tebtunis), and SPP XX 4 = CPR I 18 = M. Chr. 84 (124 CE, Ptolemais Euergetis). To these one must also add P. Oxy. LXXIII 4961 (223 CE, Oxyrhynchus), which has not yet been generally recognized as a *locus classicus* on this problem, and P. Oxy. XII 1558 (267 CE), sadly very fragmentary, which appears to refer to the status of Egyptian *nomoi* after 212 CE. But evidence for Egyptian family law being treated in Roman provincial courts is much broader. For instance, PSI V 450 (2-3c. CE, Oxyrhynchus) is clearly concerned with the transmission of maternal property to children, and cites a second-century court protocol before the prefect (col II ll. 25-47, where a consultation of a *nomikos* is read out in court in ll. 36-47) that clearly has to do with enchoric marriage practices, and even appears to involve a Demotic document (see the reference to *hermēneia* in l. 34).

usurped the authority to exercise binding judgment over *any* provincial case that was brought into its courts. According to the most recent discussion, the "law of the Egyptians" was "not merely tolerated but unfailingly applied by the Roman courts, even when it challenged the most basic Roman principles," whereas the application of Roman private law to Egyptian provincials was "in general out of the question."[209] We know that the *nomos* of the Egyptians existed in written form. In the recent synopsis of the problem by Yiftach-Firanko, it is tentatively described as a manual of laws and customs of mixed Greek and Egyptian origin drafted by unknown agents for use in Roman provincial courts, and subject to ongoing study and interpretation. The *nomos* was clearly a very artificial thing but somehow also a kind of living law that represented continuing local practices and was available and applicable to all non-Romans. This picture is contradictory and merits detailed reexamination.[210]

Initial difficulties are posed by the ambiguity of the Greek word *nomos.* Whereas in Roman legal language there were distinct terms for custom (*consuetudo/mos*), statute (*lex*) and (written or unwritten) customary law (*ius*), *nomos* could be used to mean either

[209] For the idea that the 'laws of the Egyptians' represent a "programmatic" Roman policy of applying local private law (status, family and succession) see Alonso 2016a: 353-354 and 2016b: 61-62. In fact, Alonso's main example (P. Oxy. XLII 3015) implies precisely the opposite, that the Egyptian litigants had tried to appeal to *Roman* legal remedies for disinherited children. Evidently, the application of Roman principles to Egyptian private-law cases was not "out of the question," as Alonso claims. In upholding the freedom of the testator in line with the 'laws of the Egyptians,' the Roman prefect was unwilling to overturn the Egyptian will, not objecting in principle to the use of a Roman juridical framework. For a detailed analysis of this case, see my discussion here and in chapter 4 on legal practitioners.

[210] On the Roman legal order in Egypt, before and after the *Constitutio Antoniniana,* see the important paper of Mélèze-Modrzejewski 1970, with Mélèze-Modrzejewski 1982, 1988 and 1993, as well as the comprehensive account in the first volume of Wolff 2002: 99-200. Yiftach-Firanko 2009 offers a recapitulation of the problem.

law, statute or custom. It is hard, for instance, to pin down what is meant by the stock phrase *kata tous nomous*, often used in reference to a *de facto* marriage in the absence of a formal marriage contract. One suspects that the meaning is not "according to statute," but rather "lawful" or "legitimate" in a broader sense; in fact, *kata nomous* was the technical Greek translation of the Latin term *legitimus*. When Egyptian testamentary conventions were being discussed in the court of the prefect under Trajan (P. Oxy. XLII 3015, 109 CE), the prefect concluded that "the *nomos*, as it is said, gives the person managing the entire property and safeguarding it for his/her children the power (*exousia*) to choose one of them and make him the heir." In this case, the *nomos* conferred an *exousia* (the Greek equivalent of Latin *potestas*) and hence was being attributed with legal force. On the other hand, the *nomos* was also said to be based on oral tradition (*hōs legetai*), which shows that the prefect saw it as somewhat apocryphal, even though he chose to uphold it. But the term *nomos* should not mislead us into thinking that the Roman administration regarded Egyptian *nomos/nomoi* on par with the laws of Greek cities. From the Roman point of view, the Egyptian provincials of the *chōra* – who did not have their own *civitates* or native courts, or indeed any formal collective status – were not eligible to have what the Roman regarded as *ius civile.* Instead, from a Roman perspective, the *nomos* of the Egyptians had an inferior normative status and derived its authority, to a significant extent, from being upheld by Roman courts, where, as we will see, it could also be reinterpreted or rejected. Thus, the ambiguity of *nomos* warns against thinking of an Egyptian "law" or "laws" as opposed to local traditional practices, which more accurately describes their status under Roman rule.[211]

[211] For references to "law" and "custom" in the papyri, see Taubenschlag 1944 and 1948, both reprinted in

It is also important to distinguish the "*nomos* of the Egyptians" from practices that are not singled out by the label "Egyptian." Clearly, the Roman administration broadly accepted the continuity of provincial usages, including those different from Roman practice (such as the *synchōrēsis* contract) or even contrary to Roman sensibilities (such as sibling marriage or ritual circumcision). Nevertheless, explicit references to "Egyptian" *nomos* only appear in a handful of documents, primarily relating to family and inheritance law. This suggests that the label meant something very specific. Some of these "Egyptian" practices (such as the use of marriage contracts to entail property on children) clearly reflect practices attested in Demotic documents, which suggests that the "*nomos* of the Egyptians" in the Roman period was in part a continuation of what, in Ptolemaic papyri, was referred to as the "*nomos* of the *chōra.*" This takes us briefly back to the status of Demotic Egyptian law in Ptolemaic Egypt.[212]

Taubenschlag 1959. Examples of *de facto* marriage *kata nomous* (or *kata tous nomous*) include P. Dryton 1 (164 BCE), 3-4 (126 BCE), BGU VIII 1820 (55 BCE), P. Mich XVIII 785B (47-61), P. Oxy. XLIX 3487 (65 CE) and SB 10.10572 (126 CE). The discussion of Egyptian testamentary law comes from P. Oxy. XLII 3015, 109 CE.

[212] On the "*nomos* of the Egyptians" as a continuation of the "*nomos* of the *chōra*," see Taubenschlag 1948: 108-109 and 1955: 1-8, although its scope is much broader in the Ptolemaic evidence. *Contra* Mélèze-Modrzejewski 1988 and 2005, who argues that the *nomos* of the Egyptians represents exclusively Greek law. This position is based on several problematic claims. For example, it is incorrect that the freedom to disinherit children was "contrary to the spirit of Egyptian law" (Mélèze-Modrzejewski 1988: 391), since we clearly see this practice in the Demotic sources, on which see Pestman 1961. It also seems evident that the practice of entailing one's entire estate on wife and children must be the *panprasion* referred to in P. Oxy. XLII 3015, 117 CE, a term that echoes the fictive sale in Demotic marriage contracts. Beyond clear contexts of this sort, however, the identification of Greek vs. Egyptian cultural practices is fraught with difficulty. Tracing ethnic distinctions between Greeks and Egyptians (already dubious for the Ptolemaic period) becomes essentially impossible with the decline of Demotic documents in the first century CE. Secondly, one now tends to admit that people and practices mixed in Ptolemaic Egypt much more than we used to think. *Contra* Mélèze-Modrzejewski and Wolff, whose thesis that Greek and Egyptian law did not

The legal order of the Ptolemies consisted in establishing two separate branches of Greek and Demotic courts, in parallel to which was later instituted a separate network of courts administered by royal officials (*chrēmatistai*). We know little about the legal institutions of pharaonic Egypt, but it is clear that temple centers were focal points for the administration of justice and an important repository of legal knowledge, hence we are not surprised to see that the Egyptian courts of the *laokritai* in the Ptolemaic period were staffed by Egyptian priests. But these "native" courts in fact look like a Ptolemaic creation: they had a uniform structure of three judges, and, like the Greek *dikastēria,* they were chaired by an *eisagogeus.* There is also evidence of their sessions being monitored by the nome *stratēgoi*, who sat together with the *laokritai* "at the door of the temple," the traditional place for dispensing justice in pharaonic Egypt. All of this led Wolff to conclude that the *laokritai* were part of an integrated two-tier legal system masterminded by Ptolemy II Philadelphus. The *laokritai* worked with what must have been an extensive legal literature of casebooks and manuals (to which the "*nomos* of the *chōra*" is surely a reference) attested in at least six Demotic papyri and one Greek papyrus, spanning the Ptolemaic and Roman periods. Like the Jewish Torah, the Demotic legal literature was clearly of interest to the Ptolemaic administration and it cannot be coincidental that both were translated into Greek in the reign of Philadelphus. In view of the Ptolemaic judicial reforms, as well as the general effort of the Ptolemies to appropriate Egypt's pharaonic past, it is not unlikely that the compilation of Demotic legal literature was itself an

---

"mix" in any way continues to be influential (see Wolff in 1962, 1966, 1974b and 2002 I: 71-98). This fraught problematic can only be resolved through a wholesale revision of the framework within which it was developed, especially the problematic idea of an entity called "Greek law" on which more clarity will hopefully be provided by the forthcoming volume edited by Canevaro and Harris .

initiative of the Ptolemaic period, hence from the beginning a somewhat artificial construction of a Demotic legal "tradition." Unfortunately, the paucity of our sources allows us little insight into this fascinating moment in Egyptian history.[213] One point, however, deserves to be emphasized. Despite the existence of the courts of the *laokritai,* our evidence shows that Egyptians frequently brought their grievances before nome *stratēgoi* and the courts of the *chrēmatistai*, as soon as these were instituted in the early second century BCE. Evidently, individuals were gravitating away from their own designated "national" legal fora toward state-administered courts, presumably because these offered better chances of enforcement – a pattern that is well-attested in other imperial contexts. It is telling that, in a Ptolemaic ordinance of 118 BCE, the jurisdictions of the *chrēmatistai* and *laokritai* were defined not by a principle of personality (i.e. Greek vs. Egyptian) but rather by the language of the transaction, which suggests that Egyptians

[213] On the structure of the Ptolemaic justice system, see Manning 2010: 165-201 and Wolff 1960, 1962: 31-112 and 1966. On Egyptian temple *scriptoria* ("Houses of Life") as centers of scholarship and legal expertise, see Quaegebeur 1982. On Egyptian justice "at the door of the temple" and the involvement of *stratēgoi*, see Quaegebeur 1993). The papyri that contain Demotic legal texts are: P. Berlin 23757 recto (3c BCE), P. Mattha (3c BCE), P. Carlsb. 236 (2c CE), P. Carlsb. 301 (late Ptolemaic), P. Berlin 23890 (1c BCE) and P. Carlsb. 628 (mid-Ptolemaic). The Greek text is P. Oxy. XLVI 3285 (2c CE). Although there is a literary tradition that attributes the "codification" of Egyptian law to the Saite and Persian periods (on which see Manning 2010: 171-177), Manning makes a persuasive case for the Ptolemaic endeavor to appropriate ancient Egyptian culture as a backdrop for the compilation and translation of Demotic legal texts (see Manning 2010: 198-201 and (forthcoming) on the Asyut case, where provisions on Egyptian marriage law are associated with a Ptolemaic regnal year – as part of a Ptolemaic legal compilation?). Royal initiative does not mean that we need to imagine scholars slavishly working on commission. As with the translation of the Septuagint, local expertise was necessary, but local experts would likely have come to such a project with their own vested interests. We should rather imagine the sort of bilateral dynamic depicted by Spawforth 2012 for the antiquarian revival of Greece and Hellenism in the Augustan period. On the "codification" of custom in modern colonial contexts as a bilateral effort between imperial powers and colonial elites, see Snyder 1981, Chanock 1985 and Moore 1986 on colonial Africa.

made use of Greek as well as Demotic courts and documentary forms, and also that it had become difficult to distinguish between Egyptians and Greeks in the *chōra.* By the first century BCE, our evidence for the dual system of *laokritai* and *dikastēria* disappears entirely.[214]

In the Roman period, *Aigyptios* became a blanket-category for the entire hinterland population of Egypt beyond the Greek cities of Alexandria, Naukratis, Ptolemais Hermiou and later Antinoupolis. Formally, therefore, the Romans abandoned the Ptolemaic distinction between Greeks and Egyptians in the *chōra* and instead classified the provincial population into Romans, *astoi* (citizens of Greek cities) and *Aigyptioi.* This classification was nuanced somewhat through the creation of a fiscally-privileged Greek gymnasial class in the *chōra,* as well as fiscally-privileged citizenships in the regional capitals (*mētropoleis*) of the nomes.[215] Nevertheless, in strict terms, Greeks in the *chōra* who did not have citizenship in a Greek *polis* fell into the category of *Aigyptioi.*[216] An important point to keep in mind is that the Romans had strong cultural prejudices against the ethnic population of Egypt, strengthened by the anti-Egyptian

---

[214] On the gravitation of petitions and lawsuits toward the *stratēgos* and *chrēmatistai*, see Wolff 1960: 219ff. and Manning 2010: 193-198. On the widely observable tendency of individuals to use legal fora that best guarantee enforcement, even if these are more time-consuming, see Benton 2011: 59-62 for a survey of modern imperial examples. Against the idea of a principle of personality in the Ptolemaic and Roman legal systems, see Wolff 1960, 1962 and 2002 II. For the Ptolemaic *prostagma* on jurisdiction from 118 BCE, see P. Tebt. I 5 ll.207-220 with Pestman 1985a, who rightly insists that the point of the *prostagma* was to regulate jurisdiction by language, and not (as many, including Mélèze-Modrzejewski 1979 have argued) to protect native courts against encroachment by the *chrēmatistai.* Our last piece of evidence for the *laokritai* after the *prostagma* is a Demotic text, TDF I 11 (96 BCE).

[215] On metropolitan citizenships and the Roman creation of a Greek gymnasial class (as well as the 6,475 Greek *katoikoi* of the Arsinoite nome) as a concession to Greeks in the *chōra,* see Van Minnen 2002b.

[216] The strict Roman classification of the population into Romans, *astoi* and *Aigyptioi* is reflected in the so-called *Gnōmōn of the Idios Logos* (BGU V 1210, P. Oxy. XLII 3014), see Dolganov (forthcoming a).

propaganda of the Augustan Age. Consequently, for Roman ears, the term *Aigyptios* was a negative label for a provincial population whose customs the Romans thought to be alien, inferior, and occasionally downright repulsive. At the same time, the Roman blanket-category *Aigyptios* presumably meant that the "laws of the Egyptians" became formally available to all Egyptian provincials, regardless of their ethnic identity. This created new possibilities for creative exploitation of this legal domain.[217] The manipulation of social hierarchies and the remapping of ethnic boundaries are both well-known strategies of imperial rule. For an imperial power to assert its hegemony over the legal sphere and designate a sphere of native custom that is *a priori* inferior to law and subject to imperial sanctions are similarly well-attested phenomena. One modern legal theorist has described this reification of custom as "integral to imperial oppression," a key aspect of the imperial construction of the colonial subject that, through the very act of conferring notional autonomy, was a quintessential assertion of imperial control. By defining as uniform, fixed, and stable practices that were multifarious and dynamic, and did not even necessarily belong together, the "customary" mold catered to the interests of the imperial state while simultaneously creating a framework for legitimate state

[217] On *Aigyptios* as an umbrella term for (non-Roman) Egyptian provincials, see Mélèze-Modrzejewski 1988. That the pluralistic court system of the Ptolemies had disintegrated well before the Roman conquest was already argued by Wolff 1960. On the Roman re-ordering of Egyptian society, see the seminal paper of Bowman and Rathbone 1992, although subject to revision on various points (see Monson 2012 on land tenure and Hagedorn 2007 against Augustan municipalization). For pejorative use of the term *Aigyptios*, see for instance P. Oxy. XIV 1681 (3c CE), a private letter that equates *Aigyptios* with *barbaros*, and P. Ups. Frid. 10 (late 3c), which states that "all Egyptians are idiots." But see especially the decree of the emperor Caracalla, banning all "Egyptian" rustics from the city of Alexandria (P. Giss. I 40 (ca. 215 CE) ll. 17-30). Here, it may be a racist label, since the emperor also conveniently explains that "true *Aigyptioi*" can be recognized by their speech, physiognomy and dress (ll. 28-30).

interference.[218] On the flip side, postcolonial studies of imperialism have shown that imperial subjects were far from passive in this process, but could strategically engage in discourses of "custom" with the colonial power, and often seized the opportunity to generate new (or reformulate old) "traditions." For example, it is a telling pattern throughout colonial Africa that "custom" derived from male informants consistently emphasized male domination over women, and that men often appealed to colonial courts to have such "customary" practices enforced. Similarly, elites favored by a colonial regime might construe their new status as part of "immutable and immemorial tradition."[219] Even though the case of Ptolemaic and Roman Egypt was in many ways manifestly different from that of modern colonial empires, these comparative examples will be instructive in what follows.

It is striking that, although all traces of the *laokritai* vanish well before the Roman conquest, Egyptian legal casebooks continued to be copied in both Greek and Demotic into the second century CE. A Greek papyrus from Roman Oxyrhynchus (2c CE) appears to contain a translation of our earliest attested Demotic legal manual (3c BCE), while a Demotic papyrus from Tebtunis (2c CE) contains the forty-fourth column of what must have been a very extensive compilation of material. It would seem that the Demotic legal tradition was still being kept alive throughout the Roman period. However, the Roman

[218] On the creation of a sphere of "custom" as a form of imperialism, see the discussion of Fitzpatrick 1991. On the construction of "traditional" colonial legal forums as explicitly subordinate to imperial courts and subject to their intervention, see Benton 2011: 64ff. citing the work of Chanock 1985, Mamdani 1996 and Roberts 2005. On British efforts to rationalize their right of intervention in local jurisdiction, see Benton 2008.

[219] On enhanced male domination over women as a consistent feature of colonial-invented "custom" in Africa, see Ranger 1992: 258. On the chiefs of Fiji embracing as long-standing tradition their new elite status within the colonial misinterpretation of the Fijan social order, see Clammer 1973: 218-219.

evidence also shows that the "*nomos* of the Egyptians" came to include practices of Greek origin, such as the manumission law of P. Oxy. IV 706 (113-117 CE), or the right of fathers to reclaim their married daughters from their husbands, which is absent from the Demotic evidence but bears strong resemblance to *aphairesis* in Attic law. Faced with this puzzle, some scholars have posited a mixed Graeco-Egyptian law already in the Ptolemaic period, while others have insisted that the "*nomos* of the Egyptians" in the Roman period represents purely Greek legal material, such as Ptolemaic *diagrammata* (of which there are traces in second century CE papyri) and compilations of the private law of the Greek cities (for which there is no written evidence). A more plausible scenario may be that Greek and Demotic-Egyptian practices (to the extent that this distinction was still operative in the late first century BCE) merged by virtue of becoming part of the new, undifferentiated Roman category of "Egyptian" customary law.[220]

How should we imagine this fusion taking place? It is often rightly pointed out that, unlike European colonial powers, the Roman administration did not sponsor the codification of indigenous law as an instrument for governing local populations. However, Roman officials clearly had to be in a position to adjudicate cases involving local norms and traditions – hence the recent theory that the "*nomos* of the Egyptians" was a body of legal casebooks and manuals compiled in Greek for use in Roman courts. It has to be admitted, however, that, while it is likely that some texts and handbooks, such as Ptolemaic ordinances and older Greek translations of Demotic legal casebooks, were

[220] The two legal papyri referred to are P. Carlsb. 236 (Demotic) and P. Oxy. XLVI 3285 (Greek), both from the second century CE; the latter is generally thought to be a translation of P. Mattha (3c BCE). On the law of manumission in P. Oxy. IV 706 (113-117 CE) as Greek law, see Mélèze-Modrzejewski 1988. On the practice of *aphairesis* or *apospasis* in Greek law, see Lewis 1982: 179, Rosivach 1984 and Cohn-Haft 1995: 5-8.

available to the Roman administration, our evidence does not speak in favor of any systematic compilation. The papyri rather suggest that the "laws of the Egyptians" became known to high-ranking Roman officials piecemeal, as cases made it up to their courts and individuals made arguments from Egyptian law. For instance, when the text of an "Egyptian" *nomos* regarding the right of fathers to effect the divorce of their daughters was cited before an *epistratēgos* in 133 CE, it was clearly unfamiliar to the judge and his legal advisors, who had to adjourn the hearing so that this text could be examined. A generation earlier, the prefect Servius Sulpicius Similis (107-112 CE) was stumped by a multitude of conflicts resulting from an "enchoric custom" that gave Egyptian wives claims to their husbands' estates. In fact, as he did research into this "custom," he discovered that another prefect had ruled on it twenty years earlier (although it is not made clear how the earlier prefect had obtained his information). Both examples show the Roman notion of "Egyptian" customary law taking shape as Roman officials reacted to the cases brought before them and their verdicts became part of the case history on that issue.[221] Thus, through what was most likely a gradual and piecemeal process, sadly invisible to us, the "*nomos* of the Egyptians" probably became a repository of both Greek and Demotic "traditional" practices by the second century CE. The primary agents in this process would not have been state officials gathering ethnographic data, as in modern colonial contexts, but individual litigants and local legal practitioners, deftly adapting to the new terminology of the Roman administration, regardless of whether it accurately reflected ethnic and social realities on the ground. It is possible that, in the course of such courtroom encounters, Greek practices were associated with Demotic legal literature or

[221] On the idea of a compilation of handbooks of "Egyptian" customary law for Roman use, see Yiftach-Firanko 2009: 550-552.

even reinvented as ancient Egyptian customs, which would be consistent with the creative reshaping of customary law that has often been observed by ethnographers in modern colonial contexts. In this case, the fact that the Roman administration, following its Ptolemaic predecessor, recognized the "laws of the Egyptians" as indigenous customary law would have been a major factor responsible for its prolonged existence. Even if the Demotic material would have long ceased to reflect "living law," five or more centuries after it was first compiled, the "*nomos* of the Egyptians" was nevertheless a powerful body of knowledge to mobilize in a Roman court.

Who had control of this knowledge in the Roman period? The presence of Demotic texts would suggest priestly circles. However, when we see the "*nomos* of the Egyptians" being cited before Roman officials in the second century, it was cited in Greek. In several court hearings, we see legal experts (*nomikoi*) with Roman *nomina* and Greek *cognomina* being called upon to give authoritative opinions on the "laws of the Egyptians." The names and titles of these experts indicate that they were enfranchised Roman citizens and civic officeholders at Alexandria. The fact that they are singled out by name and reappear in several cases suggests that they were a small and exclusive group, while their activity at multiple locations of the prefect's *conventus* suggests that they were legal advisors affiliated with the prefect's court. The nature of their expertise in the laws of the land is obscure, but it is noteworthy that their pronouncements, as we will see in detail below, tended to interpret the "laws of the Egyptians" in line with Roman legal concepts. Overall, by the late first century CE, when our sources begin, our evidence gives us little reason to think that the "*nomos* of the Egyptians" represented a living legal tradition, subject to ongoing interpretation and development. In our sources,

it primarily features as a body of (primarily textual) knowledge that was available to legal practitioners in the province and employed by them in constructing legal arguments, which were then cross-checked by local legal experts on the staff of provincial officials – who proceeded to subject these "Egyptian" customs to distinctly Roman legal reasoning, as will be discussed in the examples below. [222]

3.3 Herakleides: a wronged *patronus*

At some point in the early second century CE, a man named Herakleides freed his slave Damarion for a stipulated sum of money. This transaction was documented in a Greek deed of manumission, where Herakleides confirmed his receipt of payment and waived any further claims (ll. 3-5). It was now "not permitted that he or anyone else exact anything else" from the freedman, to quote the typical clause from a contemporary Greek manumission document. It is clear that the manumission contract of Damarion did not contain provisions for *paramonē*—additional service after manumission—a practice that did not correspond to full freedom in the Greek tradition but constituted a continued unfree state. Accordingly, in receiving full freedom through his Greek manumission

[222] The citation of the "*nomos* of the Egyptians" occurred in an early-second century court case cited in the petition of Dionysia (P. Oxy. II 237 col. VII ll. 31-33). Regarding the *nomikoi*, it is not at all clear that these were special legal experts engaged in the study and development of "Egyptian" law (*pace* Yitach-Firanko 2009: 552). Their legal reasoning suggests that they were ordinary lawyers by training, who may simply have had extensive familiarity with Demotic legal literature. That they belonged to the staff of the prefect, which is the reason one of them was sent out to monitor a case adjudicated by a *iudex datus* in CPR I 18, seems to me reasonably clear. On *nomikoi* in papyri, see the prosopography assembled in Jones 2007, extended and updated in chapter 4 below.

contract, Damarion was liberated from any further obligations toward his former master. A situation subsequently arose, however, in which Herakleides wanted to reassert control over his freedman. Possibly, he had requested a favor from Damarion, who refused to have anything to do with him, or perhaps he was being pressurized or sued by Damarion himself. It then occurred to Herakleides (or was perhaps suggested to him by a lawyer) that he should petition the Roman governor, who would be sympathetic to his case because Roman freedmen had lifelong obligations toward their former masters and incurred heavy penalties for improper behavior. And indeed, the Roman prefect of Egypt granted Herakleides a hearing, where he ruled as follows: "since the laws (*nomoi*) of the Egyptians have no provision regarding [the duties of freedmen?] and the power (*exousia*) of manumittors... in line with the civic laws (*astikoi nomoi*) I order Damarion [to obey?] Herakleides his *patronus*... in accordance with the law (*kata ton nomon*)." To Damarion he declared that, if Herakleides complained about him again, he would have him beaten with rods.[223]

This fragmentary bit of papyrus offers a revealing snapshot of Roman justice in action. Having been admitted into the audience of the highest Roman official, Herakleides presented what was by Roman standards an obvious social injustice, which had no remedy in the local law. Impressed by the fact that local manumission practices liberated freedmen from all obligations toward their former masters, the prefect applied the Roman rules of manumission. Precisely how he did so depends on how we interpret

[223] The papyrus in question is P. Oxy. IV 706 (114-117 CE), see Mélèze-Modrzejewski 1988: 386-389, Wolff 2002: 118-119 and Purpura 2001. For an example of the waiver-clause in Greek manumission documents, see P. Oxy. XXXVIII 2843 (86 CE). On manumission and *paramonē* in the Greek tradition, see Sosin 2015.

astikoi nomoi (literally, "the laws of the city/cities"). This phrase, a *hapax legomenon* in the papyrological evidence, has been taken by some as a Greek rendition of Roman *ius civile* (i.e. "the laws of the City"), while others have preferred to associate *astikoi* with *astoi* ("citizens"), the Roman juridical category for the citizens of Greek *poleis* in Egypt, including Alexandria. Deciding between these alternatives may be less crucial than appears at first sight. Looking into the fiscal rulebook (*gnōmōn*) of the Roman procurator of the *Idios Logos* (BGU V 1210), we observe that some of the rules governing patron/freedman relations among Roman citizens were extended to Greek *astoi*. This suggests that the Romans sought to import their institution of *patronatus* into the law of the Greek *poleis*. In the case of Herakleides, the prefect was either directly invoking Roman law or invoking it indirectly via "the laws of *astoi,*" i.e. the Roman category for the laws pertaining to citizens of Greek *poleis*, which were on this point influenced by Roman law. Either way, from the prefect's (Roman) point of view, the lack of developed practices of *paramonē* among Egyptian provincials was not going to stand in the way of a patron's basic social right to expect obligations and services from his freedman.[224]

The prefect's imperious and rather high-handed application of the Roman law of manumission, overriding the provisions of a Greek manumission contract, illustrates the hegemonic character of Roman imperial jurisdiction. As outlined in detail in chapter 1, Roman governors administered justice by means of their exclusive formal powers of

[224] On Roman manumission, see Mouritsen 2011: 36-66 and 120-206. Mouritsen follows Taubenschlag 1955: 101 in taking *astikoi nomoi* to mean Alexandrian law. On *astikoi nomoi* as a reference to Roman *ius civile,* see Wolff, Mélèze-Modrzejewski and Purpura (cited in the previous note). On the influence of Roman manumission on the rules pertaining to Greek *astoi* (*Gnōmōn* chapters 9, 10, 14, 15 and 19-21) see my discussion in Dolganov 2018 and the contribution of Elizabeth Meyer in the same volume. This point is attractive because the "laws of *astoi*" then become a parallel to "the laws of the Egyptians" as a Roman administrative category.

imperium and *iurisdictio* – the power to command and coerce (*imperium*), which included the governor's criminal jurisdiction and power to issue capital punishment (*ius gladii*), and the power of civil jurisdiction (*iurisdictio*), literally to "pronounce the law" (*ius dicere*). Within his province, a Roman governor had an exclusive right to issue general legislation (*ius edicendi*) and possessed supreme judicial authority, which was unappealable except before the emperor. In line with the Roman notion of *iurisdictio*, the role of the governor was to define the legal substance of the case (*ius dicere*), then to assign its adjudication to a judge or jury. If the governor chose to adjudicate the case himself, his ruling constituted an authoritative statement about a concrete legal scenario, the rules applicable to it, the arguments presented on both sides and the factors that favored its resolution one way or the other. Proceedings of Roman courts were meticulously recorded under the Principate, meaning that transcripts of hearings could be excerpted, copied and cited as authoritative precedents in future cases.[225]

As discussed in detail in chapter 1, literary and documentary sources show that the jurisdiction of Roman governors employed the legal and procedural forms of Roman *ius honorarium*, directly reflected by the fact that the jurisdictional edicts of governors incorporated material from the edicts of the urban praetors. Accordingly, Cicero tells us that he left the majority of his jurisdictional edict in Cilicia unwritten and simply referred to the praetorian edicts published at Rome that year. We are told by the second-century provincial jurist Gaius that a fiction of Roman citizenship enabled Roman officials to make Roman legal actions available to non-citizens (*peregrini*): "a fiction of citizenship

[225] On the jurisdictional activity of Roman governors, see Burton 1975 and Turpin 1999. On the provincial edicts of governors, see Fournier 2010a: 263-281 and Hoyos 1973. The governor's *ius edicendi* is discussed in Gaius, *Inst.* 1.6 as a functional analog of the legislative powers of Roman magistrates.

is made for a *peregrinus*, if he sues or is sued on a matter for which there exists a Roman legal action, if it is proper to extend this action to a *peregrinus*." Gaius' examples are the legal actions for theft and damages. Through the device of legal fiction, Roman lawsuits and legal remedies could be extended to provincials. Elsewhere in the Roman legal sources, we find a statement of the Hadrianic jurist Julian that the law of the city of Rome (*ius civile*) served as the ultimate point of reference when statutory regulations, custom, usage and precedent were lacking on a given issue. Both passages imply that Roman *ius civile* as a body of knowledge was available in the provinces – similarly, the Flavian *lex municipalis* of Irni in Spain states that all matters of private law not explicitly mentioned in the *lex* are to be handled according to Roman *ius civile* – and that it was regarded in principle as a universal framework, to be invoked when deemed appropriate. Both Iulianus and Gaius seem to have envisioned that this would take place at the discretion of the official.[226]

The application of Roman law to provincial disputes is already illustrated for us in the *Tabula Contrebiensis*, the Republican inscription from Spain discussed in chapter 1. There, we observe the Roman governor Valerius Flaccus issuing a Latin *formula iudicii*

[226] On Roman *ius honorarium* as the model and framework of Roman provincial jurisdiction, see chapter 1.1-4 and 1.5.4. On the fiction of Roman citizenship, see Gaius, *Inst.* 4.37 with Ando 2011: 1-36 and 114-131. Ando is surely right to emphasize this as a key mechanism of Roman jurisdiction over non-citizens. On Cicero's Cilician edict, see *Ad Att.* 6.1.14. The passage from Iulianus is *Dig*. 1.3.32pr. (Iulianus, 84 *Dig*.): *De quibus causis scriptis legibus non utimur, id custodiri oportet, quod moribus et consuetudine inductum est: et si qua in re hoc deficeret, tunc quod proximum et consequens ei est: si nec id quidem appareat, tunc ius, quo urbs Roma utitur, servari oportet*. The clause on Roman *ius civile* in the Flavian *lex Irnitana* occurs in chapter 93, see González & Crawford 1986: 198-199 and 237**.** Interestingly, although Wolff was opposed to the idea that Roman jurisprudential literature could be brought into productive dialogue with legal papyri, it was nevertheless clear to him that Roman law as a body knowledge was occasionally employed by Roman imperial officials, see Wolff 2002: 116-122.

and appointing judges in a conflict over water rights between two Celtiberian communities, whose members probably did not even speak Latin. In applying Roman law and procedure to this provincial dispute, Flaccus was clearly responding to a request for adjudication from the communities themselves. No doubt attracted by the prospect of having their claims protected by a Roman *proconsul* and his army, the victorious group took care to have the *formula* and judgment inscribed in Latin.[227] Thus, when the prefect of Egypt applied Roman legal rules to the case of a provincial *patronus,* complaining about the injustice of local manumission practices*,* he was exemplifying a more widely attested practice of Roman imperial officials.

In fact, the evidence for the "laws of the Egyptians" generally displays signs of juridical *interpretatio Romana.* For instance, marriage between Egyptian provincials without a written contract (the so-called "unwritten marriage") was understood to give husbands full legal power over their children in terms analogous to *patria potestas* in Roman law. The logic seems to have been that, since the wife had not brought property into the marriage, the children did not own assets independently of their father. Accordingly, like a Roman child *in potestate*, the child of an "unwritten" marriage could not make a will, while a daughter's dowry and personal acquisitions formally belonged to her father. On the other hand, a marriage with a written contract (the so-called "written marriage") did not give rise to this sort of paternal power, presumably because the children had independent claims to the property of their mothers when they came of age. In one case (to be examined below), a legal expert (*nomikos*) adduced an additional interpretation, that the formal act of giving a daughter away in marriage (*ekdosis*) –

[227] On the *tabula Contrebiensis*, see Richardson 1983, Birks, Richardson & Rodger 1984 and Bannon 2017. See my discussion in chapter 1.3 with nn. 23-24.

implicitly, with a dowry and marriage contract – suspended the father's legal power as if she had not been born into an "unwritten" marriage. The influence of Roman legal concepts on the rules governing Egyptian marital arrangements suggests that, whatever the primary ingredients of this body of knowledge (translations of Demotic casebooks, Ptolemaic legislation, Greek private law, local informants), the "laws of the Egyptians" took shape in Roman courts, and were accordingly cited with reference to court judgments by Roman officials.[228]

It is noteworthy that virtually all references to the "laws of the Egyptians" in the Roman period pertain to the sphere of the family (marriage, testation, paternal power). This is curious, in view of the fact that the Roman state recognized a variety of local legal forms (including numerous forms of Greek contracts) that were rarely, if ever, singled out by the labels "Greek" or "Egyptian." It looks as though a marked juridical space was created for "Egyptian" family law.[229] A closer look at the case of Herakleides may help explain the logic of this. As noted above, it is remarkable that a private conflict of this sort was adjudicated by the governor of Egypt himself. In view of the efforts taken by Roman governors to limit the flow of litigation to their courts, why was the prefect

[228] On "written" and "unwritten" marriage, see Wolff 1939 and Yiftach-Firanko 2003: 81-104. The evolution of the "laws of the Egyptians" through case law in Roman courts would account for the fact that it seems to reflect *interpretatio Romana*. Compare the gradual evolution of "Hindu law" (compiled on British initiative from classical Hindu legal texts and the testimony of local informants) into an increasingly Anglicized case law under British rule, see Cohn 1996: 57-76 and Galanter 1988. On the displacement of traditional law that thereby resulted, see Galanter 1968.

[229] On the Roman recognition of the legal force of written contracts, no matter their form, see Pringsheim 1961 and Babusiaux 2006. Generally, on the capacity of Roman law to assimilate provincial legal forms and practices through mechanisms developed within Roman jurisprudence, see Ando 2011a.

sorting out a dispute between an Egyptian provincial and his freedman?[230] It is possible that Herakleides was a man of high status, or that this sort of conflict had frequently come to the notice of the prefect and was being singled out for an authoritative decision. Another explanation is offered by an intriguing clause in the jurisdictional edict of Petronius Mamertinus from the reign of Hadrian. Apart from *causae capitales,* another category of cases that the prefect would hear at first instance were "all accusations that patrons bring against their freedmen or parents against their children" (π(ερὶ) ὧν ἐὰν μέμφωνται ο[ἱ] ἐλε̣υ̣θερώσαντες ἀπελευθέρους ἢ γονεῖς παῖ̣δ(ας)).[231] This clause reflects the intellectual framework of the Roman *familia*, the juridical construct of a family unit in Roman law, where children and freedmen (*liberi* and *liberti*) were the two main categories of dependents of the *paterfamilias*, the head of the *familia*. Evidently, it was part of the Roman governor's *ex officio* jurisdiction to examine all cases pertaining to the authority of parents and patrons over their dependents, who owed them respect (*pietas, obsequium*) and in the case of freedmen concrete duties and services (*operae*) under Roman law. Mamertinus emphasized that these were the *only* private cases that he would hear at first instance.[232]

---

[230] For Roman governors proclaiming the limits of their jurisdiction at first instance, see the edict of the prefect Petronius Mamertinus in SB XII 10929 (discussed below) with Jördens 2011 and the edict of an Antonine governor of Achaia in *IG* V 1, 21 with Fournier 2005. Apparently, second-century prefects of Egypt regularly made pronouncements restricting the flow of private cases, see P. Oxy. II 237 col. vi, 5-8. Also worth mentioning is a first-century inscription from Cos, where Domitius Corbulo, as governor of Asia, stipulates a very large deposit of 2,500 *denarii* for appeals lodged at his court, see IGRR IV 1044 = *AÉ* 1974, 629, with Burton 1976.

[231] For the text, see SB XII 10929 (133-137 CE) col. iii ll. 2-4.

[232] Jördens 2011 does not offer an explanation of the clause regarding patrons and parents; neither does Fournier 2010a: 278-280. On this text as a direct citation from the *edictum provinciale* of Mamertinus, see 1.5.4.

This striking clause, in which the authority of the *paterfamilias* is singled out for the governor's attention on par with violent crimes, counterfeit and forgery, may reflect regulations emanating from the social legislation of the Augustan Age. A powerful innovation of the Augustan political regime was the idea that one could manipulate the fabric of society through the institutions of the family. Accordingly, Augustan laws governing marriage and manumission sought to control access to Roman citizenship and regulate the composition of the Roman elite classes (*ordines*) through restrictions on marriage and testation. Augustan legislation also created a new legal action that enabled patrons to sue freedmen for "ingratitude," broadly conceived to include breach of obligation (such as failure to provide financial assistance), verbal insult and physical assault. The fact that the authority of parents and patrons is typically discussed in tandem in the Roman legal sources, including a rubric in the Digest dedicated to "the respect (*obsequium*) owed to parents and patrons," suggests that analogous remedies were created for parents against undutiful children. The juridical definition of moral virtues such as *obsequium* and *pietas* resonates well with what we know about Augustan legislation.[233] The Augustan social reforms left a powerful legacy for the ordering of society through the juridical *familia*. In the *Gnōmōn* of the *Idios Logos* we observe that restrictions on marriage and testation were instrumental for the stratification of Egyptian society into Romans, Greeks and Egyptians. This strategic policy of regulating class

[233] On the Augustan origins of the *actio ingrati* against freedmen, see Gardner 1993: 39-51, who draws only a tentative link with the father's remedies against undutiful children (66–68); the edict of Mamertinus is not taken into account. For the rubric *de obsequiis parentibus et patronis praestandis,* see *Dig.* 37.15. On Augustan social legislation, see Treggiari 1996 and McGinn 1998. On Augustan testamentary sanctions as a means of controlling class structure, see Wallace-Hadrill 1988. On the Augustan manumission laws as a way of regulating access to Roman citizenship, see Gardner 1991. For a social-engineering perspective on the Augustan marriage laws, see Nörr 1981 and Dolganov forthcoming a.

structure also had a strong ideological dimension. The fact that the Roman state acted as an arbiter of family affairs was a potent message of imperial power that reverberated widely in provincial culture. For instance, it was customary for Egyptian provincials to draft their marriage contracts at the feet of statues of the Roman empress, the universal patroness of marriage, while the wills of Roman citizens were deposited in temples of the imperial cult. Thus, the family was both central to the juridical framework of the Roman Empire and occupied a central place in the ideology of imperial rule.[234] The family was also a key aspect of what it meant to be Roman. We are told by the provincial jurist Gaius that the institutions of the Roman *familia* were understood to be something quite distinctive and culturally specific, and that no other nation had anything resembling Roman *patria potestas,* as the emperor Hadrian took care to point out to provincials who had petitioned him for Roman citizenship for themselves and their children. We read in the Roman legal sources and observe in papyri that family law was a sphere in which Roman citizens were distinguished from the rest of the imperial population, through special rules as well as visible rituals, such as Latin birth declarations, which had to be filed at Alexandria for every Roman child born in Egypt, or Latin mancipatory wills, which were ceremoniously opened and recited in public proceedings in imperial cult temples (*Kaisareia*). Roman citizens in Egypt also made their status conspicuous by

[234] On Augustan social legislation in the papyrological evidence, including the *Gnōmōn* of the *Idios Logos* (BGU V 1210 and P. Oxy. XLII 3014), see Dolganov forthcoming a. On marriage ceremonies before statues of empresses, see Flory 1984: 319-320. In Egypt, this practice is attested in a dozen papyri, including one Demotic marriage with an alimentary marriage contract (*syngraphē trophitis*), see P. Ups. Frid. 2 (59-60 CE).

documenting important private legal acts in Latin on waxed tablets (*tabulae ceratae*) made of wood, which in Egypt was an expensive and scarce material.[235]

Seen in this light, the fact that nearly all references to the "laws of the Egyptians" in papyri likewise pertain to the sphere of the family acquires a richer meaning. To be sure, respect for local practices in this sphere can be understood as a pragmatic concession, which has important parallels in other imperial contexts. At the same time, it meant that the family was embedded in a discourse of Roman imperialism, as a juridical space in which the categories Roman and non-Roman ("Egyptian") were sharply defined.[236] The importance of the *familia* as a constitutive mechanism of the Roman social order, instrumental for establishing and policing the boundaries between Romans and non-Romans*,* alerts us to the full significance of occasions like the case of Herakleides, where quintessentially Roman rules pertaining to the *familia* were applied to Egyptian provincials. The verdict issued to Herakleides conferred upon him an important legal and social power of the Roman *paterfamilias* over his freed slaves – the prefect even pointedly used the Latin term *patronus*. In the performative context of the governor's tribunal, this was a triumph of Roman equity over the strict law of an "Egyptian" manumission contract, a victory of the culturally superior Roman institution

---

[235] On *patria potestas* as a "legal form that specifically belongs to Roman citizens" (*quod ius proprium civium Romanorum est*) see Gaius, *Inst.* 1.55 (although, apparently, the Galatians liked to *think* that they had their children *in potestate*). On Roman birth declarations (*professiones liberorum*), see Sánchez-Moreno Ellart 2001 and 2004. On the documentary evidence for Roman wills, see the appendices in Nowak 2015. On the opening of Roman wills in *Kaisareia,* see Nowak 2015: 76-81, Strassi 2006 and Kunderewicz 1961. On *tabulae ceratae* as a marker of Roman status in the provinces, see Meyer 2004: 169-183.

[236] On the preservation of a sphere of "indigenous" family law by the British imperial administration in India, see Galanter 1978 and 1988. On the family as a socio-legal space where boundaries between Romans and non-Romans were created and maintained, see Dolganov forthcoming a.

of *patronatus* over retrograde "Egyptian" practices. To have Roman standards applied to his case is, of course, precisely why Herakleides had petitioned the Roman prefect in the first place.[237]

It is through judicial encounters like these, where local practices and traditions were packaged in legal arguments and brought to the courts of Roman officials, that the Roman legal order of Egypt (including the "laws of the Egyptians") evolved and took shape, as court judgments were recorded, copied and circulated as authoritative precedents. This is almost certainly why the case of Herakleides appears on our papyrus.[238]

3.4 "Egyptian law" and Roman policy: marriage, dowry and inheritance

Apart from the case of Herakleides and another one to be discussed later (P. Tebt. II 488), all other evidence for "Egyptian law" in the Roman period pertains to three contexts in family law: the freedom of parents to disinherit their children, the exercise of paternal power, and the claims of wives and children on the family estate. The property claims (*katochai*) of wives and children on the family estate emanated from a Demotic type of

[237] In fact, the prefect's decision may have been spelled out for him in imperial *mandata*, which prescribed a series of punishments to freedmen according to their offenses, see for example *Dig*. 37.14.7.1 (Modestinus *l.s. de manumiss*.). Nevertheless, the ruling was enacted as a spontaneous exercise of Roman justice.

[238] The most frequent context for excerpts from court records is the arsenal of legal practitioners, see for instance P. Oxy. XLII 3016 (148 CE), written in a calligraphic book-hand that suggests a lawyer's reference collection. On argument from precedent in papyri, see Jolowicz 1937, Katzoff 1972 and 1980 and Bryen 2015.

marriage contract (*syngraphē Aigyptia* or *syngraphē trophitis*) that is well attested throughout the Pharaonic and Ptolemaic periods, and was still being composed in Demotic in the first century CE. In this kind of marriage deed, parents typically entailed their entire property directly on their children, although they often kept the usufruct of it during their lifetime. If one spouse died, the estate was left in the safekeeping of the other spouse, while children could press charges against their parents for alienating property that had been promised to them – for example, if the father alienated the mother's property after her death, or without her consent, or vice versa. In upholding the legal validity of Egyptian-style marriage contracts, the Romans were exercising their general policy of enforcing contracts drafted according to established documentary forms.[239]

The "Egyptian" custom that allowed parents to spontaneously disinherit any of their children can be linked to a practice that is already attested in papyri from the Pharaonic period, and may originally have been a safety mechanism against the fragmentation of estates through partible inheritance. We have evidence of four decisions by two prefects protecting the testamentary freedom of Egyptian fathers, which shows

[239] On marriage, testation and the entailment of property in Demotic documents, see Pestman 1961 and 1969. For an overview of property claims (*katochai*) of children in Greek documents, see Kreller 1919: 181-200, who does not relate this evidence to the Demotic sources. On the development of the *phernē* and related instruments in Graeco-Roman Egypt, see Yiftach-Firanko 2003 and the earlier study of Häge 1968. On the continuation of Demotic marriage practices in the Hellenistic and Roman periods, see Häge 1968: 104-126 and 181-208 for a survey of the evidence. Häge, following Wolff, is committed to identifying elements of Greek or Egyptian law, which he sees as discrete entities that never "mixed" – a problematic framework that hampers analysis of legal behavior and precludes adequate assessment of cultural interaction and diachronic change. On the "translation" of Demotic marriage practices into Graeco-Roman legal instruments, see the important paper of Gagos, Koenen and McNellen 1992 on loan-marriages in Oxyrhynchus, as well as Dolganov forthcoming c, which seeks a broader explanation of the use of loan and deposit for dowry in the Roman period.

that Roman officials did not see this usage as problematic. It is interesting to consider, however, in what terms the plaintiff seems to have presented the case. In the first of three decisions of Sulpicius Similis in Trajan's reign, the prefect states that "it is best for them to be judged according to Egyptian laws, which allow individuals to spontaneously change their wills. The dead man made a valid will" (P. Oxy. XLII 3015, lines 2-5). The plaintiff was most likely a disinherited child who sought to claim his portion of the inheritance. The prefect's emphasis on the necessity to apply "Egyptian law" to Egyptians suggests that the plaintiff had tried to appeal to other legal standards, presumably Roman ones. He may have been hoping that the prefect would extend to him the Roman remedy to dispute an undutiful will, if he could demonstrate that his father had acted unreasonably. The other two cases, as well as a case from Vespasian's reign (P. Oxy. XXXVI 2757), all suggest a similar scenario. Thus, we can see "indigenous" provincial law being contested in Roman courts by the provincials themselves. On this issue, however, the prefects were inclined to uphold the "Egyptian" usage.[240]

The issue of paternal power was more complex. We hear that, in "Egyptian law," a marriage without a written contract (the so-called "unwritten" marriage, *agraphos* or *asyngraphos gamos*) resulted in enhanced paternal power over children.[241] Consequently,

---

[240] The four decisions in question are contained in P. Oxy. XLII 3015 (early 2c CE) and P. Oxy. XXXVI 2757 (late 1c-early 2c CE). To spontaneously disinherit a child was contrary to Roman testamentary law, where parents had to explicitly justify disherison, and where children had legal remedies against "undutiful" wills and could sue for up to a quarter of their intestate share under the *lex Falcidia de legatis* (see Wacke 1973 and Stein 1987) or seek to invalidate their parents' will under the *querela inofficiosi testamenti* (see Marrone 1962).

[241] The logic of this appears to have been that the wife had not formally transferred any property into the family, hence the children did not have claims on property apart from that of their father, see the preceding discussion in 3.3 with n. 33.

the child of an "unwritten" marriage could not make a will during the father's lifetime, and the father allegedly also had the power to dissolve a daughter's marriage and reclaim her dowry. It has been argued that "written" and "unwritten" marriage represent practices of Greek rather than Demotic-Egyptian origin. While we cannot be sure of this, or know whether the distinction would still have been relevant in the Roman period, it is good to keep in mind that the so-called "Egyptian" right of fathers to reclaim married daughters may not have been a widespread and revered tradition at all, but a practice that was taken out of a specific cultural context and turned into a legal instrument that could be used opportunistically in a later period.[242]

The meddling of parents in daughters' marriages was obviously not a problem peculiar to Egypt, but a pattern of behavior widely attested throughout human history and favored by social factors such as partible inheritance. There were also many human

[242] Documents pertaining to paternal power with regard to written/unwritten marriage include two well-known and much-cited papyri: P. Oxy. II 237 (186 CE, Oxyrhynchus), SPP XX 4 = CPR I 18 = M. Chr. 84 (124 CE, Ptolemais Euergetis), as well as the more recently published and rarely cited P. Oxy. LXXIII 4961 (223 CE, Oxyrhynchus). In addition to these, one must also consider P. Tebt. II 407 (199 CE), where a father exercises full control over the family property, to which his wife and daughter have no independent rights (presumably, the result of an "unwritten" marriage where the wife had no property of her own). P. Mil. Vogl. IV 229 (Tebtunis, 140 CE) depicts a similar scenario. The terminological distinction between "written" and "unwritten" marriage first emerges in the Roman period, and it is possible that the differential rules regarding paternal power were likewise first formalized at this time, through an *interpretatio Romana* of these marital arrangements – an *ekdosis* (or "giving away" in marriage of a daughter with a dowry set down in a written contract) being construed as effecting an *emancipatio,* an "unwritten" marriage (without a contract) being construed as a kind of *sine manu* marriage where the daughter remained in the *potestas* of her father, while her children entered the *potestas* of her husband. On "written" and "unwritten" marriage as marriage with and without a written contract, see the fundamental study of Wolff 1939). See also the more recent study of Greek marriage documents by Yiftach-Firanko 2003, although his arguments (Yiftach-Firanko 2003 and 2005) against Wolff that all marriages in the Greek documents were *ekdosis* marriages is not, I think, convincing, and muddies the waters unnecessarily on this question.

factors at work, such as natural mistrust of a son-in-law and fear of his influence over a young daughter. We can also see in papyri from Egypt and Palestine that parents were perennially worried about dowries being squandered by profligate sons-in-law. This is likely to be a principal reason why parents often delayed transferring immovable property into the new marriage, and often retained title to it until their own death, presumably to avoid having to retrieve it if the marriage quickly ended in divorce, while movables were frequently transferred in the form of a loan or deposit rather than a dowry, possibly because the enforcement of a loan was seen to be more secure, since it was independent of the circumstances of the divorce. Another consideration that would have worried both parents and brides is that the bride's property successfully devolve upon her children after her death, and not be appropriated by her husband for his children by another woman. In one Egyptian papyrus, parents even took their deceased daughter's dowry back from their son-in-law to keep it safe for their grandchildren, when they reached majority. In another case, an "unwritten" marriage of a wealthy Egyptian woman appears to have been so contracted to avoid giving her husband too much access to her property, on which he still attempted to assert his claims after her death.[243]

[243] On parental interference in children's marriages as an anthropological pattern, see generally Segalen 1986: 139-198, as well as Flandrin 1984: 128-138 on pre-revolutionary France, and Watt 2001 on post-Reformation Europe, citing cases where parents appealed to tribunals, which tended to enforce parental control over issues of marriage and divorce. On the logic of family relations with respect to different economic and social conditions, see Goody 1976, with 86-114 on marriage and inheritance. Goody associates a greater degree of parental control over marriage in societies with an advanced agricultural surplus-economy, characterized by a competitive and hierarchical environment in which endogamy and hypergamy (marrying "up") tend to predominate (119-120). These patterns were also operative in the hinterland of Roman Egypt. On strategies of devolution of property on daughters in the Judaean Desert papyri, see Satlow 2005, whose cogent remarks are also applicable to the Egyptian evidence. On the devolution of property onto women in Roman Egypt, see Rowlandson 1996: 168-171, 192-195 and

We should also note that consent-based marriage and free divorce naturally created space for parental interference. According to the Roman legal sources, a daughter's lack of overt opposition to her father reclaiming her dowry was sufficient to constitute consent (*Dig.* 24.3.2.2). Parents clearly could and did exert informal pressure, as we see in a second-century letter from a certain Antonia to her father (P. Würz. 21), where she tries to dissuade him from compelling her to divorce her husband. On the other hand, parental involvement need not always have been coercive. In many family situations, fathers were the natural agents to mediate marriage and divorce, since a daughter might be very young, and was likely to return to the house of her parents if a divorce took place. In Egypt, a strong practice of partible inheritance between male and female children meant that parents had particularly high stakes in daughters' marriages. Hence, we observe that, if parents made a division of their property in their marriage contract or in a separate deed, or entailed their estates on their children (a Demotic-Egyptian usage that influenced Greek testamentary practice), they often retained possession and usufruct of the property until their death. Similarly, although dowries were often accompanied by gifts of immovable property (*prosphora*), title and usufruct tended to be retained by the parents. Thus, even though daughters occasionally received an advance share of the family property through marriage gifts, parents often limited such gifts to a formal promise (stated in the marriage contract or separate deed of gift),

---

Yiftach-Firanko 2003: 164-173. On loan and deposit as instruments for the transfer of dowry and dotal property between wife and husband, see Dolganov (forthcoming c). For the case where parents reclaimed their deceased daughter's property to hold in safekeeping for their grandchildren, see SB XVIII 13176 (Hermopolite nome, 168 CE). For a husband's underhanded attempt to claim a share of the property of his deceased wife (with whom he was in an "unwritten" marriage) on behalf of their newborn son, see SB III 6611 (Ptolemais Euergetis, 120-121 CE). Her relatives claimed the child was stillborn; he brought forth a live baby; when this child also died, this shady affair was resolved through arbitration.

presumably as a precaution against their son-in-law, as well as a measure of control over the daughter, lest she try to flout her parents, divorce her husband and make off with her dowry. Both the papyri and the writings of Roman jurists indicate that parents had the power to revoke their marital gifts to their children (the title of which had most likely not yet been transferred), and this power may have been recognized by the Roman administration along the same lines as the power of parents to disinherit ungrateful children. However, even though several prefects protected the testamentary freedom of Egyptian fathers, Roman administrators appear to have disliked the idea that a dowry set down in a marriage contract should not be delivered, or that a marriage, once created, should be tampered with by an overbearing father.[244]

As in the case of the relations between *patroni* and freedmen, the problem of paternal authority was complicated further by an ideologically motivated commitment of

[244] On the effect of partible interitance on strategies of succession, see generally Goody 1976: 86-98, and on Roman Egypt see Rowlandson 1996: 171-175. Rowlandson and Takahashi 2009 argue that sibling marriage in Egypt was a "fashion" sparked by the Roman establishment of hereditary status groups, as well as the new Roman system of property relations, which did not favor joint ownership (the traditional safeguard against the fragmentation of family estates). While I find this argument to be too extreme (instead see Shaw 1992, who locates brother-sister marriage as a strategy of class differentiation already in the Ptolemaic period; see also Monson 2012 against drastic arguments of discontinuity in land tenure patterns and property ownership between the Ptolemaic and Roman periods), it is correct, I think, to see brother-sister marriage as "one strand in a nexus of complimentary practices which together tended to maintain property fragmentation at an acceptable level," in the more moderate phrasing of Rowlandson 1996: 172-3. On property entailment and succession in Demotic Egyptian practice, see Pestman 1969. For marriage gifts of real property in the Roman period, typically with the retention of usufruct by parents, see for instance P. Ryl. II 155 (138-161 CE), P. Grenf. 2.71 (244 CE) and CPR 1.24 and 1.26 (136 CE) for a mother's *charis anaphairetos* (*donatio irrevocabilis*) to her daughter. For late second century CE provisions regarding a mother's right to revoke marital gifts given in addition to the dowry (distinguishing between a daughter's *dos* and her *peculium*) see *Dig.* 39.5.31.1 (Papinian 12 *resp*.). A judge was to decide if the mother's grievances were justified.

the Roman administration to protect the interests of the *paterfamilias*. In this respect, the extraordinary clause preserved in the edict of Mamertinus, yet another emblem of the "beneficial" nature of Roman rule, shows that the Roman state set a high value on enforcing the authority of the *paterfamilias* over his dependents (*liberti, liberi*) – a concern that may have originated in the family law politics of the Augustan Age. This legal protection was not limited to Roman citizens, but was liberally extended to Egyptian provincials, as demonstrated by the case of Heralkeides.[245] In Ulpian's *de officio proconsulis* we read that it was expedient for governors to punish disobedient children and freedmen in the informal context of a general public hearing (*de plano*): "a governor can even threaten and terrify a child, brought forward by a father, who does not behave as he ought to; similarly, he can castigate a disobedient freedman, either with words, or by having him beaten with rods" (*Dig.* 1.16.9.3).[246] The latter vividly illustrates the context in which Herakleides had his freedman disciplined at the court of the prefect.

3.5 Chairemon: a wronged *paterfamilias*

Approximately seven decades after Herakleides, a man named Chairemon, a member of the municipal elite of Oxyrhynchus, petitioned the prefect with the following complaint:

[245] For the edict of Petronius Mamertinus, see SB XII 10929 (133-137 CE) with Jördens 2011, who does not comment on the clause pertaining to the *paterfamilias.* The significance of this clause, which I suspect has Augustan origins, is examined in detail by me in a forthcoming paper.

[246] On judicial pronouncements *de plano*, see chapter 1.1 with n. 4 and 1.6-1.6.2.

Χαιρήμων Φανίου γυμνασιαρχήσας τῆς Ὀξυρυγχειτῶν πόλεως· τῆς θυγατρός μου Διονυσίας, ἡγεμὼν κύριε, πολλὰ εἰς ἐμὲ ἀσεβῶς καὶ παρανόμως πραξάσης κατὰ γνώμην Ὡρίωνος Ἀπίωνος ἀνδρὸς αὐτῆς, ἀνέδωκα ἐπιστολὴν Λογγαίῳ Ῥούφῳ τῷ λαμπροτάτῳ, ἀξιῶν τότε ἃ προσήνεγκα αὐτῇ ἀνακομίσασθαι κατὰ τοὺς νόμους, οἰόμενος ἐκ του παύσασθαι αὐτὴν τῶν εἰς ἐμὲ ὕβρεων· καὶ ἔγραψεν τῷ τοῦ νομοῦ στρατηγῷ (ἔτους) κε, Παχὼν κζ, ὑποτάξας τῶν ὑπ᾽ ἐμοῦ γραφέντων τὰ ἀντίγραφα ὅπως ἐντυχὼν οἷ παρεθέμην φροντίσῃ τὰ ἀκόλουθα πρᾶξαι. ἐπεὶ οὖν, κύριε, ἐπιμένει τῇ αὐτῇ ἀπονοίᾳ ἐνυβρίζων μοι, ἀξιῶ τοῦ νόμου διδόντος μοι ἐξουσίαν οὗ τὸ μέρος ὑπέταξα ἵν᾽ εἰδῇς ἀπάγοντι αὐτὴν ἄκουσαν ἐκ τῆς τοῦ ἀνδρὸς οἰκίας μηδεμίαν μοι βίαν γείνεσθαι ὑφ᾽ οὗτινος τῶν τοῦ Ὡρίωνος ἢ αὐτοῦ τοῦ Ὡρίωνος συνεχῶς ἐπαγγελλομένου. ἀπὸ δὲ πλειόνων τῶ[ν] περὶ το[ύ]των πραχθέντων ὀλίγα σοι ὑπέταξα ἵν᾽ εἰδῇς. (ἔτους) κς, Παχών.

Chairemon, son of Phanias, former gymnasiarch of the city of Oxyrhynchus. Since, my Lord Prefect, my daughter Dionysia had on many occasions acted impiously (*asebōs*) and illegally (*paranomōs*) against me at the instigation of her husband Horion, son of Apion, I submitted a letter to his Highness Longaeus Rufus, in which I asked to recover in accordance with the laws (*kata tous nomous*) the property that I had given to her as a gift upon her marriage (*prosēnegka*), thinking that she would thereby be persuaded to stop her outrages (*hybreis*) against me. The prefect then wrote to the *stratēgos* of the nome in the 25th year on the 27th of Pachon, attaching copies of the documents I had submitted, and instructed him to examine my case and act accordingly. Now, my Lord, since she persists in her mindless behavior (*aponoia*) in harassing me further, and since the law (*nomos*) – the relevant portion (*meros*) of which I have attached for your information – accords to me the power (*exousia*) to take her from her husband's house against her will, I request that no violence (*bia*) be inflicted on me by any of Horion's men or by Horion himself, who is constantly threatening me. Of the many previous cases that have dealt with this problem, I have appended a selection for your information.[247]

[247] For the text of Chairemon's letter, see P. Oxy. II 237 col. vi, 12-20.

This carefully formulated petition used a series of key words and phrases to attract the prefect's attention. Chairemon had experienced moral injury (*hybris,* the standard Greek term for the Latin *iniuria*) from his daughter, as well as threats of physical violence (*bia*) from his son-in-law. Allegations of violence were a classic strategy to engage the social and moral duty of officials to react, as persecutors of crime and protectors of the physical inviolability of freeborn persons. Furthermore, as we discover in the edict of Mamertinus, this case was eligible for privileged consideration by the governor as a complaint of a father against his daughter. Thus, Chairemon provided the prefect with numerous reasons to examine his case: his elite status, the threat of violence, his grievances against his daughter, the fact that the orders of the former prefect had not been carried out. And indeed, the prefect Faustinianus granted Chairemon a hearing and wrote to the district governor (*stratēgos*) of the Oxyrhynchite nome to investigate Chairemon's charges of violence and follow up on the orders of the former prefect.[248]

The substance of Chairemon's complaint, about which we learn from the counter-petition of his daughter Dionysia, was that his daughter had illegally seized the income of a large estate that he had given her as a gift on the occasion of her marriage (*prosphora*). Chairemon had apparently retained usufruct of the property, with which Dionysia was now interfering. Accordingly, Chairemon claimed his legal right (*kata tous nomous*) to revoke the gift as punishment. The prefect Rufus directed the case to the *stratēgos,*

[248] Among the extensive bibliography on this important document, see Urbanik 2002, who explores the evidence for paternal power and divorce in Roman law, Kreuzsaler and Urbanik 2008, who discuss the reference to *humanitas* in the appendix of court cases (discussed below) and Bryen 2017, who analyzes the rhetoric of the petition. For a general introduction to the papyrus, see the *editio princeps* of P. Oxy. II 237 and Kreuzsaler 2008. On complaints of violence in petitions and administrative responses to them, see chapter 5 of Bryen 2013. That Chairemon was granted a hearing by the prefect is revealed to us by Dionysia in col. vi l. 7 of the papyrus.

apparently without a final resolution. In his complaint to the subsequent prefect Faustinianus, Chairemon argued that his daughter's unabated brazenness motivated him to act upon the power (*exousia*) given to him by "the law" (*ho nomos*) to forcibly divorce Dionysia from her vicious husband.[249]

The question that has sparked generations of scholarly debate is the nature of "the law" (*nomos*) cited by Chairemon as the source of his power to revoke the property of his daughter and to dissolve her marriage. The counter-petition of Dionysia, in which Chairemon's own petition is cited, includes an appendix of judicial precedents that mention the "laws of the Egyptians." This has led to the conclusion that Chairemon, too, was appealing to "Egyptian" law. Others have argued that the father's power to reclaim a married daughter (*aphairesis*) in Attic law means that the "laws of the Egyptians" on this point were in fact Greek. As a result of the argument of Dionysia's own petition, Chairemon's case is generally regarded as an argument from local law being brought into a Roman court, and this papyrus is often cited as evidence for the persistence of pre-Roman legal forms and for Roman tolerance (and even respect) for local laws and

[249] On *prosphora* in Roman Egypt – a legal instrument used for transferring real property and slaves (*res mancipi* in Roman law) into a marriage, separately from money and valuables – see Yiftach-Firanko 2003: 164-175. Parents sometimes retained lifelong possession and usufruct of the property. The idiomatic expression *kata tous nomous* did not connote specific laws, but meant "legal" or "legitimate" in a more general sense. For example, it was used to translate the Latin expression *heres legitimus* into Greek (see for instance BGU V 1210 24, 27 149 CE). *Kata tous nomous* is to be distinguished from *kata nomous* without the definite article, where *nomos* meant custom or established practice, for instance when speaking of a *de facto* marriage (*kata nomous*) without a written contract, see for example P. Mich. XVIII 785B (47-61 CE) and SB XVIII 13168 (123 BCE) for a Ptolemaic example. On this point, I disagree with Yiftach-Firanko 2005: 80 (citing Katzoff and Wasserstein on P. Yadin 18) that *kata tous nomous* means "according to the customs." In papyri, this phrase always has a specifically legal connotation. Accordingly, in the Greek marriage contract in P. Yadin 18, it was used to signify the legal effects of the marriage.

traditions. Some recent studies have taken matters in a different direction, arguing that "the laws of the Egyptians" (like other examples of "indigenous" law in imperial contexts) must have been a highly constructed juridical domain, and that we should expect litigants to engage with it in strategic and manipulative ways. It has also been suggested that Chairemon was, in effect, trying to win a property dispute against his daughter by strategically rerouting it onto the terrain of "Egyptian" family law.[250] In fact, it is unlikely that Chairemon had appealed to "the laws of the Egyptians" at all. Instead, much like Herakleides, he was probably trying to take advantage of the powerful remedies available to him in Roman law, applied by Roman provincial courts. That his daughter Dionysia chose to foreground the "laws of the Egyptians" was part of her own strategy, which we will examine in detail in the next section.

Chairemon's main tactic was to present his case to the Roman prefect as an egregious case of filial ingratitude: his daughter was acting brazenly and unlawfully (*asebōs kai paranomōs*) and causing him moral injury (*hybris* = *iniuria*) and financial loss, while his son-in-law had insulted him and threatened him with violence. The edict of Petronius Mamertinus provides the explanation for this strategy: as noted above, imperial constitutions dating from as early as the early thid century show that Roman governors had an *ex officio* duty to protect parents against offenses by their children, and

[250] That Chairemon's case against Dionysia represents an appeal to Egyptian law is the prevailing interpretation of the papyrus. That the "law of the Egyptians" on this point was in fact Greek was argued by Mélèze Modrzejewski 1988. For the idea that Chairemon's power to effect his daughter's divorce hearkens back to the Attic practice of *aphairesis*, see Lewis 1982. On the highly constructed nature of the "laws of the Egyptians" see Bryen 2015. The argument of Humfress (forthcoming) – that Chairemon invoked "Egyptian law" strategically to win his property dispute – rightly emphasizes the need to be attentive to legal strategy in dealing with litigation documents. While my interpretation of the papyrus differs on several points, I fully share this general approach.

the existence of this regulation is corroborated by the Roman legal sources. This is most probably the sort of scenario in which the freedman of Herakleides was disciplined by the prefect.[251] Roman governors also gave privileged attention to legal disputes between parents and children. A third-century imperial rescript of Valerius and Gallienus tells a woman named Galla that her financial conflict with her children will be heard by the governor, who will issue aggravated punishment to the children if he finds them violating the respect owed to their mother (*laesa pietas*). A rescript of Severus Alexander states: "if your son continues his brazen behavior (*contumacia*), you can use a more extreme remedy and bring him to the provincial governor, who will issue the sentence that you seek" – the son in question had alienated property belonging to the father. "The authority of the provincial governor will compel your daughter not only to pay you reverence, but also to be a support in your life," state the emperors Diocletian and Maximian. "Daughters, sons and other contumacious offspring who have affected parents with the pain of harsh verbal insult (*convicium*) or grave personal injury (*atrox iniuria*) the laws wish to punish by cancelling their emancipation and depriving them of their undeserved liberty," states a fourth-century imperial letter to an urban prefect. Just as an undutiful freedman could be reenslaved as an extreme punishment, an emancipated child could be brought back under the *potestas* of the father.[252]

---

[251] See Ulpian in *Dig.* 1.16.9.3.

[252] For the passages, which constitute only a small selection of the relevant material, see *CJ* 8.46.4 pr.-1 (Valerius and Gallienus to Galla, 259 CE); *CJ* 8.46.3 (Severus Alexander to Artemidoros, 227 CE); *CJ* 8.46.5 (Diocletian and Maximian to Donatius, 287 CE); *CJ* 8.49.1 (Valentinian, Valens and Gratian to Praetextatus, *puerus,* 367 CE). The passages from the Codex are taken from the rubrics on *patria potestas* (*CJ* 8.46) and *liberi ingrati* (*CJ* 8.49). The last passage echoes Ulpian's citation of the Augustan jurist Labeo on *convicium* and *atrox iniuria* committed by freedmen against patrons (*Dig.* 47.10.7.7-8). According to Labeo, *iniuria* became *atrox* when it was committed against a magistrate, patron or parent.

There were also Roman legal remedies enabling parents to reclaim gifts from "ungrateful" children. In part, this was a self-evident aspect of *patria potestas* in Roman law, where the property of a child *in potestate* had the status of *peculium* and formally belonged to the father. Although married daughters *in potestate* had claims on their dowries, real property and additional gifts were considered to be part of the *peculium.* Once a marriage ended, the dowry of a daughter *in potestate* could, under some circumstances, revert back to the father. On this issue, the regulations attested in the Roman legal sources are in line with the papyrological evidence. In one second-century petition, a Roman veteran asks the prefect to hear his case against his daughter regarding her ungrateful behavior (*akharistia*) in accordance with the "sacred general edict" (*hieron katholikon diatagma*), which is presumably a reference to the governor's *edictum provinciale.* The veteran states that his daughter is under his legal power (*hypokheiria*) "according to the law" (*kata ton nomon*), by which we should understand Roman law. His careful enumeration of his gifts to her as part of her dowry (again, using the verb *prospherō*) in return for her help and support in his old age (as he emphasizes) suggests that he was intending to revoke the marriage gifts. That this posed a problem may imply that the daughter was still married, hence the gifts could be understood to be part of the dowry. The veteran emphasizes that all property acquired by his daughter *in potestate* in fact belongs to him. Interestingly, we observe the same principles being invoked by Egyptian litigants. In one petition, an Egyptian father (married to his sister) asserts his

---

Atrox iniuria also features in the edict of Petronius Mamertinus among the crimes examined by the governor at first instance. On punitive reenslavement (first attested under Claudius in *Dig.* 37.14.5.pr.) and recall into *potestas* in the legal sources, see Gardner 1993: 48-51 and 66-68. See also Constantine *Frag. Vat.* 248 (330 CE).

legal power (*exousia*) over his daughter (who was apparently trying to divorce her own brother) in order to reclaim her dowry and property after her divorce. Similarly, in a private letter, a man warns his wife and daughter that, if they do not cooperate with him in manumitting a number of slaves, all marriage gifts that he has given his daughter (again, *prospherō*) together with everything that she has subsequently acquired will be donated by him to the Serapeum of Alexandria. Both scenarios can be interpreted from the perspective of Roman notions of *peculium* and *patria potestas*.[253]

As noted above, a Roman juridical framework can generally be detected in the Roman interpretation of marital arrangements between Egyptian provincials, where "unwritten marriage" was understood to confer a strong form of *patria potestas*. In one well-known example, an Egyptian father asserts ownership of the property of his deceased son, who had tried to bequeath it to someone else. The father's advocate argues that the son, by virtue of being the child of an "unwritten marriage," does not have the power to make a will—*exousia tēs diathēkēs*, which sounds like a Greek rendition of the Latin *testamenti factio*. The advocate thereby appears to be making an analogy between the child of an "unwritten marriage" and a child *in potestate* in Roman law. Interestingly, the fact that the son had made a will suggests that he was not aware of such restrictions. This opens up the interesting possibility that pushing the analogy with Roman law

[253] On the Roman veteran and his daughter *in potestate*, see BGU VII 1578. On the *hieron katholikon diatagma* as a probable reference to the *edictum provinciale,* see Purpura 1982 and 2001 n.13. On the Egyptian father repossessing the dowry of his daughter, see P. Mil. Vogl. IV 229 (140 CE). On the Egyptian father threatening to donate his daughter's property to the Serapeum, see P. Tebt. II 407 (ca. 199 CE). He also threatens to do this same with property that he holds in his wife's name (*ep'onomatos sou*). Was he threatening to illegally alienate her property, knowing that she would not be able to press charges against him? Or did she come into the marriage with no property of her own? A reedition of the text with new readings and supplements may shed further light on these questions.

created legal effects for "unwritten marriage" that had not existed before. The scenario suggests that the father and his advocate were opportunistically pushing for an *interpretatio Romana* of local marriage practices that worked to their advantage. In another example, which offers a close parallel to the dispute between Dionysia and Chairemon, an Egyptian father successfully strips his daughter of an "irrevocable gift" (*charis anaphairetos*) of real property that he had registered in her name, as punishment for her impious behavior (*asebeia)*. The daughter objects that she is not the child of an "unwritten" marriage, which shows that her father had argued that she was under his legal power on this basis.[254]

Overall, there is ample evidence in both legal and documentary sources for the existence of Roman legal remedies for parents against offenses by their children. We read in the Roman legal sources that violation of filial respect *(pietas, obsequium*) aggravated the punishment for any other offense; it also justified disherison, the revocation of gifts and punitive loss of legal independence (or reenslavement, in the case of disobedient freedmen). The fact that remedies for parents against their children were included in the *edictum provinciale* of the governor (as illustrated by the edict of Mamertinus) indicates that these remedies were dispensed by Roman courts to provincials regardless of their civic status. This makes it very likely that Chairemon's initial request to the prefect Rufus to revoke his gift of property from his impious daughter "according to the law" (*kata tous nomous*) was an appeal to Roman law. If there were Roman remedies available to

[254] On the Egyptian father and his deceased son, see CPR I 18 (124 CE), to be discussed in more detail in chapter 4.5.2. On the Egyptian father and his impious daughter, see P. Oxy. LXXIII 4961 (223 CE). In the rubric *de revocandis donationibus* in the *Codex Iustinianus* (*CJ* 8.55) we discover that the right of parents to revoke gifts also applied to emancipated children from at least as early as the late third century CE. See also the rubric *quando donator intellegatur revocasse voluntatem* in *Frag. Vat.* 248-259.

Chairemon on this issue, it would have obviated any need to appeal to local ("Egyptian") law. This leads to the question of Dionysia's marriage: on what basis did Chairemon make his second request to the prefect Faustianus, that the scandalous behavior of Dionysia and her husband authorized him to end her marriage? Was this an appeal to local ("Egyptian") law, as has been generally assumed? Or were there Roman remedies available to Chairemon to reclaim his married daughter and bring about her divorce?

For Roman legal theorists, the interference of fathers in daughters' marriages constituted an important juridical problem, where the Roman institution of consent-based marriage came into conflict with the strong Roman notion of paternal power. In Roman law, marriage was a consensual contract between the spouses that was understood to last as long as both spouses had the mental disposition to remain married (*affectio maritalis*). At the same time, Roman fathers had the power to reclaim children *in potestate* through the praetorian interdicts *de liberis exhibendis et ducendis*, which could even be used to reclaim a married daughter from her husband. As Ulpian writes in his commentary to the Roman praetor's edict:

> Si quis filiam suam, quae mihi nupta sit, velit abducere vel exhiberi sibi desideret, an adversus interdictum exceptio danda sit, si forte pater concordans matrimonium, forte et liberis subnixum, velit dissolvere? et certo iure utimur, ne bene concordantia matrimonia iure patriae potestatis turbentur. quod tamen sic erit adhibendum, ut patri persuadeatur, ne acerbe patriam potestatem exerceat.
>
> If a father, whose daughter is married to me, wishes to take her away or asks for her to be brought out to him, should an exception be given against the interdict if the father seeks to dissolve a marriage that is consensual/harmonious (*concordans*) and perhaps even bolstered by the existence of mutual children? On

> this issue we adhere to a clear legal principle (*certo iure utimur*) that concordant marriages should not be disturbed by the law of paternal power (*patria potestas*). But this policy should be implemented by persuading the father that he should not use his *patria potestas* harshly.[255]

According to Ulpian, while Roman praetorian law (*ius honorarium*) formally enabled the father to reclaim his married daughter *in potestate*, Roman officials were advised to observe the "clear legal principle" (*certum ius*) that *patria potestas* should not be used to upset a harmonious marriage. This statement by Ulpian reflects an imperial policy of tempering the effects of *patria potestas* on marriage that had developed in the course of the second century. At some point in the 160s or 170s CE, not long before the legal dispute between Dionysia and Chairemon, the question of *patria potestas* and divorce received an authoritative ruling by the emperor Marcus Aurelius. This ruling stated that a harmonious marriage (*bene concordans matrimonium*) of a daughter *in potestate* to which the father had initially consented could not be rescinded by him, "unless great and just cause had arisen" (*magna et iusta causa interveniente*). It is unlikely that the ruling of Marcus created a new policy—the petition of Dionysia already provides evidence of Roman officials protecting marriage against paternal interference in the reign of Hadrian, discussed below in section 3.6. This suggests that Marcus' ruling strengthened an already existing policy, and was subsequently regarded as the definitive ruling on the subject, which was cited by subsequent emperors and legal writers. As Ulpian emphasizes, however, the policy to protect marriage did not cancel the father's power—rather, the father had to be "persuaded" to change his mind—nor did it exclude that, under some

[255] For Ulpian's discussion, see *Dig.* 43.30.1.5 (Ulpian, 71 *ad ed.*).

circumstances, a father might have legitimate reason to interfere in a daughter's marriage. And interfere they clearly did, since we are told by a third-century legal writer that a husband had an analogous legal action (*de uxore exhibenda et ducenda*) to demand his wife back.[256] The emperor Diocletian, citing Marcus' ruling in a rescript in 294 CE, specifies that a father did *not* in any case have the power to effect the divorce of an emancipated daughter. The emperor Justinian, citing Marcus' ruling in the sixth century, specified what "great and just cause" might be in his understanding: if the spouses were young and unwise and their behavior was bringing shame on them or material loss to their parents. This may reflect the content of Marcus' original ruling, since we discover in another classical source (Ulpian citing the Augustan jurist Labeo) that daughters forfeited their dowries to their fathers for similar reasons: "and I also believe, as Labeo believes, that the father can occasionally be denied the action [to recover the dowry], if his character is so vile that there is reason to fear that he will squander it... because if the father has an upright lifestyle and is the sort of person to whom the daughter ought by all means to give her consent, while the daughter is of volatile character, or else too young or too much under the influence of an undeserving husband, we should say that the praetor should rather concede the legal action to her father." In other words, although the consent of a daughter *in potestate* was necessary for her dowry to return to the father after

[256] On the husband's counter-suit, see *Dig.* 43.30.2 (Hermogenian, 6 *iuris epit.*). The continuing importance of the interdicts in the imperial period is suggested by the rubrics dedicated to them in *Dig.* 43.30 and *CJ* 8.8. These interdicts provided the framework for the key pronouncement of Marcus Aurelius regarding *patria potestas* and divorce, as implied by *Dig*. 43.30.1.3: *si vero mater sit, quae retinet, apud quam interdum magis quam apud patrem morari filium debere (ex iustissima scilicet causa) et Divus Pius decrevit et a Marco et a Severo rescriptum est, aeque subveniendum ei erit per exceptionem*, as well as *Paul. Sent*. 5.6.15: *Bene concordans matrimonium separari a patre divus Pius prohibuit*, *itemque a patrono libertum*, *a parentibus filium filiamque*: *nisi forte quaeratur*, *ubi utilius morari debeat*.

divorce, her consent was dictated by an objective standard of what was reasonable in a given situation. If the daughter could be shown to be immature, immoral, or under the influence of a reprehensible husband, it sanctioned her father to dispense with her consent. Elsewhere, we find that a daughter's bouts of insanity likewise enabled the father to end her marriage by *repudium* against her will and to recover her dowry.[257] Therefore, despite the "clear" Roman principle protecting marriage from the exercise of *patria potestas*, Roman legal writers inform us that a father who could show that his interests were being damaged by his married daughter *in potestate*, especially if he could prove her husband's bad influence and her own lack of sound judgment, was empowered to effect her divorce. A *concordans matrimonium* was, by definition, a marriage based on mutual consent. The idea may have been that an immoral or irrational daughter was unfit to exercise consent, or that her lack of filial duty deprived her of the right to do so. It is telling that the Roman legal sources never explicitly define what, exactly, constituted legitimate reason for paternal interference in the marriage of a daughter *in potestate*. One can clearly see, from the range of testimonia, that this question was a contentious issue that was frequently debated in the courts, with were arguments on both sides that could determine the outcome one way or the other.

---

[257] The ruling of Marcus Aurelius is cited by Diocletian in *CJ* 5.17.5 (294 CE) and by Justinian in *CJ* 5.17.12 (534 CE). The latter is preserved in Greek in a single Verona manuscript of the *Codex Iustinianus*. See also *Paul. Sent*. 5.6.15 (attributing the ruling to Antoninus Pius) and *Dig.* 43.30.1.3, 5 (Ulpian, 71 ad ed.). See the discussion of these texts in Urbanik 2002. For Ulpian's reference to Labeo on the respective claims of fathers and daughters *in potestate* to the dowry after divorce, see *Dig*. 24.3.22.6 (Ulpian, 33 ad ed.). See also *Dig.* 24.3.2.2 (Ulpian, 35 *ad Sab.*) on the fragility of the daughter's consent – it was sufficient that she did not openly refuse. On the father's power to forcibly reclaim a married daughter prone to fits of insanity (*furiosa*), see *Dig*. 24.2.4 (Ulpian, 26 *ad Sab.*).

Chairemon's request to bring about his daughter's divorce is formulated in similar terms to what we find in the Roman legal sources: Dionysia and her husband had caused him financial loss; Dionysia's mindless behavior (*aponoia*) was the result of her husband's bad influence over her (P. Oxy. II 237 col. vi, 12-20). To substantiate his request, Chairemon adduced an excerpt (*meros*) from a law (*nomos*) that gave him the power (*exousia*) to "take his daughter away from her husband's house against her will" without being exposed to violence while exercising this power (col. vi, 17-19). Based on the judicial precedents cited by Dionysia (examined below), it has been assumed that the "law" to which Chairemon was appealing must have been the "laws of the Egyptians." As demonstrated above, however, there is substantial evidence that Roman provincial courts made Roman legal remedies available to provincials, including remedies for fathers against offenses by their children, a category of grievances that was part of the *ex officio* jurisdiction of Roman governors and was incorporated into the *edictum provinciale*. Accordingly, Chairemon's first request to revoke a gift of property from his daughter probably tried to appeal to the remedies due a father wronged by his children under Roman law. Formally, as we have seen, Roman law (*ius honorarium*) enabled a father to reclaim his married daughter *in potestate* from an undesirable marriage. Could Chairemon, in his second request to end his daughter's marriage on grounds of insult and insanity, have likewise been appealing to the remedies of Roman law?

One can begin by considering the semantics of Chairemon's appeal to "the law" without any specification of its nature in a petition to the Roman prefect of Egypt. It is implicit that "the law" was something that the prefect would immediately recognize and respect, which speaks against the likelihood of this being an appeal to local ("Egyptian")

law. If "the law" was in fact Roman, what could it have been? The term *nomos* could be used to refer a Roman statute or ruling by the emperor, although we would expect this to be specified. *Nomos* could also be a general reference to Roman law – as illustrated by the Roman veteran's claim to have his daughter *in potestate* "according to the law" (*kata ton nomon*) in BGU VII 1578 (2/3c CE) or the oral cancellation of a contract (*acceptilatio*) "according to the law of the Romans" (*kata ton nomon tōn Rōmaiōn*) in M. Chr. 328 (168 CE). Another possibility is that Chairemon was directly citing the relevant praetorian interdicts *de liberis exhibendis et ducendis*. For this, we have a number of important parallels. The literature pertaining to Roman land surveyors (*corpus agrimensorum*) contains numerous references to praetorian interdicts being issued by Roman governors in the provinces. Similarly, in the eastern province of Arabia in 130s CE, a Nabataean-Jewish woman by the name of Babatha carried three copies of a Greek text of the praetorian *actio tutelae*. In view of Babatha's ongoing dispute with her son's guardians, it can be deduced that she and her son were planning to use the *actio tutelae* in a lawsuit at the Roman governor's court. The Roman veteran's appeal to the remedies of the "sacred general edict" (*hieron katholikon diatagma*) in BGU VII 1578 is another likely reference to the *edictum provinciale.*[258]

[258] On the existence of an *edictum provinciale* in Roman Egypt, see chapter 1.5.4. On praetorian interdicts in the *corpus agrimensorum,* see chapter 1.4 with n. 47. On Babatha's *actio tutelae* (either taken directly from the praetor's edict, or else from a collection of Roman procedural *formulae*), see P. Yadin 28-30 with Cotton 1993 and Nörr 1998 and 1999. What Babatha was planning to do with this *formula* has been much debated, since, according to the Roman jurists, the *actio tutelae* was strictly speaking only available to the son, when he came of age. The praetorian *formula* may have been part of Babatha's general effort to persuade the governor to enforce her son's rights, or may have been intended for a future lawsuit.

Looking closely at Chairemon's petition, the wording of his request to the prefect Faustianus bears a notable resemblance to the wording of the interdicts *de liberis exhibendis et ducendis,* as cited by Ulpian in his commentary on the praetor's edict:

> ἐπεὶ οὖν, κύριε, ἐπιμένει τῇ αὐτῇ ἀπονοίᾳ ἐνυβρίζων μοι, ἀξιῶ τοῦ νόμου διδόντος μοι ἐξουσίαν οὗ τὸ μέρος ὑπέταξα ἵν' εἰδῇς ἀπάγοντι αὐτὴν ἄκουσαν ἐκ τῆς τοῦ ἀνδρὸς οἰκίας μηδεμίαν μοι βίαν γείνεσθαι ὑφ' οὗτινος τῶν τοῦ Ὡρίωνος ἢ αὐτοῦ τοῦ Ὡρίωνος συνεχῶς ἐπαγγελλομένου.
>
> Now, my Lord, since she persists in her mindless behavior (*aponoia*) in harassing me further, and since the law (*nomos*) – the relevant portion (*meros*) of which I have attached for your information – accords to me the power (*exousia*) to take her from her husband's house against her will, I request that no violence (*bia*) be done to my person by any of Horion's men, or by Horion himself, who is constantly threatening me.
>
> P. Oxy. II 237 col vi, 16-19

> *ait praetor: "qui quaeve in potestate Lucii Titii est, si is eave apud te est dolove malo tuo factum est, quo minus apud te esset, ita eum eamve exhibeas.*"
>
> *deinde ait praetor: "si Lucius Titius in potestate Lucii Titii est, quo minus eum Lucio Titio ducere liceat, vim fieri veto.*"
>
> The praetor states: "whoever is in the legal power of Lucius Titius, if he or she be in your custody, or if with malicious intent you have arranged for him or her not to be in your custody, so let him or her be produced."
>
> Then, the praetor states: "if Lucius Titius is in the legal power of Lucius Titius, let no violence be done to prevent Lucius Titius from taking him away."
>
> Dig. 43.30.1pr.; 43.30.3pr. (Ulpian 71 *ad ed*.)

Chairemon's assertion of his legal power to "take (*agein* = Latin *ducere*) his daughter away from her husband's house" so that "no violence (*bia* = Latin *vis*) be done to his person" echoes the interdict *de liberis ducendis* with its standard interdictal formula *vim fieri veto*, prohibiting that violence be done to prevent the father from exercising his right. Also significant is the term *meros,* which appears elsewhere as a standard Greek term for a specific chapter of the praetor's edict (*pars edicti*). This is exemplified by a letter of Hadrian and by bilingual requests for *bonorum possessio* of inherited estates, all of which employ the phrase ἐξ ἐκείνου τοῦ μέρους τοῦ διατάγματος or, in Latin, *ex ea parte edicti*.[259] If indeed Chairemon was appealing to the Roman interdicts *de liberis exhibendis et ducendis*, one can reasonably exclude that he made any appeal to the "laws of the Egyptians" on this issue. The only point on which Chairemon may have needed to refer to the "laws of the Egyptians" was in establishing his legal power over his daughter, against which Dionysia duly protested, as we will see in the next section. Thus, the dispute between Dionysia and Chairemon seems to be providing us with a very direct piece of evidence for non-Roman provincials in the Greek East (or, more specifically, the lawyers employed by them) appealing to the rules of Roman law—in this case, putting forward claims on the basis of the Roman law of marriage and the Roman concept of *patria potestas*, several decades before the *Constitutio Antoniniana*. Even if one prefers to stay with the traditional idea that Chairemon was citing from the "laws of the Egyptians" (which may have been a Roman administrative compendium, as noted above), it is clear that Chairemon's petition was drafted by someone with very precise

[259] For Hadrian's letter, see BGU I 140 = Chr. Mitt. 373, ca. 119 CE. Applications for *bonorum possessio* that employ the phrase ἐξ ἐκείνου τοῦ μέρους τοῦ διατάγματος include: P. Oxy. IX 1201, 258 CE, P. Thomas 20, 269-270 CE and PSI X 1101, 271 CE.

knowledge of the legal arguments that enabled a father to end his daughter's marriage and reclaim her dowry in contemporary Roman law.[260]

3.6 Dionysia: a daughter victimized by her "Egyptian" father

Chairemon's daughter Dionysia – or, more precisely, the lawyers composing her petition – had a different take on the matter. Her petition to the prefect Faustianus is the longest surviving petition from Roman Egypt, skillfully composed by someone with legal expertise, a keen sense of rhetoric, and in command of an impressive arsenal of archival documents referring to judicial precedents. In this long and complex document, Dionysia gave a comprehensive history of her conflict with her father, seeking to resolve it once and for all, and to prevent him from harassing her again. As Bryen notes in a recent article, the petition is full of rhetorical terms for silence and speechlessness, which communicate Dionysia's goal to silence her father. Here is her version of the story.[261]

Dionysia began by revealing the true nature of the conflict. Apparently, the gift of property that Chairemon wanted to revoke from her had in fact belonged to Dionysia's deceased mother, who had used her marriage contract to entail the property on her future children. Chairemon, who retained lifelong usufruct of the property, had with Dionysia's permission mortgaged it as security for a loan of eight talents from a man named Asklepiades (it must have been quite a large estate). However, Chairemon apparently did not intend to repay the loan and may have been planning to forfeit the estate to his

[260] The implications of this observation will be discussed more extensively in 4.6.6.

[261] On the rhetoric of speechlessness in the petition, see Bryen 2017.

creditor – the mortgage may in fact have been a covert form of sale. Realizing this, Dionysia made agreements with Chairemon, stipulating that income from the property should be channeled to repay Asklepiades (col. iv, 6-10 and 12-14), but still no payment took place. In the end, Dionysia seems to have personally taken on the debt and taken over the annual income of the land as repayment (col. iv, 16-32). At this point, Chairemon petitioned the prefect Rufus about Dionysia's "illegal" possession of the property, which he presented as his own gift to her and which he now wanted to revoke (col. iv, 33-35; col. vi, 12-16). Dionysia sent a counter-petition to Rufus, telling her side of the story and citing her contractual agreements with Chairemon (col. iv, 35-col. v 4). Apparently, it was not stated in Dionysia's own marriage contract that the property had belonged to her mother, so she had some difficulty proving her independent claims to it. The prefect Rufus ordered the *stratēgos* of the Oxyrhynchite nome to perform an investigation into the financial transactions between father and daughter and their respective property claims (col. v, 5-19). An archival search at Oxyrhynchus confirmed Dionysia's financial agreements with Chairemon. It also revealed a property declaration made by Chairemon twenty-four years earlier, which apparently revealed that the property had belonged to Dionysia's mother. In a subsequent hearing, this document seems to have convinced the *stratēgos* of Dionysia's claim to the property (col. v, 23-28). However, when Dionysia petitioned the new prefect Faustianus to a get a definitive confirmation of her rights, she received an impersonal and ambiguous answer: "you are entitled to exercise the rights that you possess; regarding the rest of your petition, the *stratēgos* will take care..." (col. v, 38). She then petitioned the *stratēgos* to have her claim formally registered for the future. Whether he did or not is not entirely clear.

Undaunted, Chairemon petitioned the new prefect Faustianus (the letter cited above, P. Oxy. II 237 col. vi, 12-20), mentioning nothing about the archival investigation. Instead, he made it seem as if nothing had happened after the prefect Rufus issued his initial response, instructing the *stratēgos* to look into his case. Remarkably, the prefect Faustianus gave Chairemon a hearing (col. vi, 7) and then ordered the *stratēgos* to investigate the new charge of violence against Dionysia's husband and carry out the orders of Rufus (col. vi, 32-35). Chairemon (armed with the prefect's letter), Dionysia and Horion then came together at the court of the deputy-*stratēgos*, who stated that the only question that remained to be settled was the issue of Chairemon's right to reclaim his daughter from her husband, which had not been addressed by the prefect. Therefore, both parties had the option of petitioning Faustianus again and his judgment would decide the matter (col. vii, 1-8). This appears to be why Dionysia's lawyers composed her present petition.

As argued above, there is no cogent reason to assume that Chairemon had appealed to local ("Egyptian") law – on the contrary, he was most likely appealing to the powerful remedies available to him as a *paterfamilias* wronged by his daughter *in potestate* in Roman law. Dionysia's argument was more intricate, since her own property claim derived from the Demotic-style marital arrangements of her parents, where her mother had used her own marriage contract to entail her property on her future children. To explain the nature of this claim, Dionysia had to cite the decrees of two prefects from nearly a century earlier (col. viii, 21-27 and 28-43), where the entailment of property in traditional Egyptian marriage contracts was described as an *epichōrios nomos* (col. viii, 34), an "indigenous local custom." The prefects confirmed the validity of such

entailments and declared it obligatory that they be registered in the archives of real property (*bibliothēkē enktēseōn*), where this information would be available to potential creditors. Apparently, Egyptian husbands were trying to hide such entailments in order to mortgage or alienate the property. Dionysia's point was that Chairemon had avoided filing his own marriage contract in the archives for precisely this reason. Consequently, his creditor Asklepiades was not aware of Dionysia's title to the mortgaged estate. Although Dionysia herself did not have a copy of her parents' marriage contract, the discovery of a property declaration (*apographē*) made by Chairemon two decades earlier somehow revealed that the property had belonged to Dionysia's mother (col. v, 23-28). Dionysia's overarching point seems to have been that Chairemon, in his pursuit of Roman legal remedies due to a wronged father, was in fact trying to escape the provisions of his own, very traditional Egyptian marriage contract.[262]

In response, Chairemon restated his position as a wronged father, introduced a new charge of violence against Horion, and invoked his power to effect his "mindless" daughter's divorce. Dionysia's strategy was to argue that Chairemon was concocting this lawsuit in order to escape his financial obligations to her (col. vii, 16 and col. viii, 7-21). Her claim to her mother's property had meanwhile been established (or so she says, col. v, 25-27). Dionysia also took care to insure herself against the arguments put forward by Chairemon. In her petition, together with its supporting apparatus of judicial precedents (to be examined in detail below), Dionysia appealed to the protection accorded to

[262] On Egyptian marital arrangements in Demotic documents, see Pestman 1961 and 1969. On the continuation of Demotic marriage practices in the Hellenistic and Roman periods, see Häge 1968:104-126 and 181-208. On the compulsory registration of debts, mortgages and property claims in the archives of real property as a Roman initiative to improve the security of transactions, see Lerouxel 2015.

marriage against paternal interference in Roman law. Dionysia also emphasized that she was *not* under her father's legal power. This part of her argument was instrumental, since it undermined Chairemon's ability to take advantage of the Roman remedies available to a *paterfamilias* with regard to his children *in potestate*, including the interdicts *de liberis exhibendis et ducendis* noted above. On this point, Dionysia's lawyers brought in the "laws of the Egyptians" to show that, according to the Roman interpretation of Egyptian marital arrangements, Chairemon did not have *potestas* over his daughter.

To bolster her argument, Dionysia's lawyers included a series of judicial precedents illustrating the problem of *patria potestas* and marriage in Roman Egypt. These cases were carefully chosen to reinforce Dionysia's case and constituted a nuanced legal argument in their own right. They are also snapshots of courtroom interactions that provide us with insight into Roman discourses of law and imperialism and the role of Roman law as a framework of Roman imperial jurisdiction.

Case no. 1: In 128 CE, nearly sixty years before the conflict between Dionysia and Chairemon, a man named Sempronius and his son-in-law Antonius appeared before the prefect of Egypt. After a quarrel, Sempronius came and took his daughter away from her husband's house. Antonius summoned his father-in-law to the court of a high-ranking Roman official (*epistratēgos*), who pitied the daughter and ruled that the father should not prevent the couple from living together. Sempronius, however, ignored the verdict and petitioned the Roman prefect, charging Antonius with violence (*bia*). At the prefect's court, Antonius requested "not to be separated from a woman who was fond of him." The lawyer Didymos argued that Sempronius had acted with reason: Antonius had insulted

him, accusing him of incest with his daughter, and even physically threatened him. Unable to tolerate this outrage (*hybris*, by which we may understand the Latin *iniuria*), Sempronius had "used the power (*exousia*) accorded to him by the law (*kata tous nomous*)" to reclaim his daughter. In response, the lawyer Probatianus stated that, "if the marriage is still intact (*aperilytos*), the father has no legal power (*exousia*) over the daughter or her dowry." Thus, Probatianus identified the legal issue at stake: if the physical removal of the daughter did not end her marriage, she was protected against her father's legal power (*exousia* = *potestas*). Following this reasoning, the prefect Titianus ruled that everything depended on the will of the daughter. The abbreviated record of this hearing, as we have it, contains no reference to "Egyptian" laws and practices. Instead, the courtroom debate appears to reflect a Roman juridical framework, including the concept of *patria potestas* (*exousia*), the notion of marriage as consisting in *affectio maritalis* (hence, the idea that the marriage was intact as long as the daughter wished to be married), and the protection accorded to marriage against paternal power in Roman law.[263]

Case no. 2: The verdict of Titianus served as a key precedent in another case, which took place five years later at an assize in the eastern Delta in 133 CE. There, a certain Flavesis son of Ammounis wished to remove his daughter from cohabitation with Heron, son of Petauesis, and was summoned by Heron before the Roman *epistratēgo*s. This time, both parties had Egyptian names and were speakers of Demotic. The daughter was apparently not married with a contract, but merely "living together" with Heron. The verdict was

[263] For the case, see P. Oxy. II 237 col. vii, 20-29. On *patria potestas* and divorce in the Roman legal sources, see Urbanik 2002.

postponed "so that the law (*nomos*) of the Egyptians could be read." After the relevant text was read out in court, the lawyers of Heron announced that the prefect Titianus had "heard a similar case involving Egyptian persons (*prosōpa*, probably a Greek rendition of the Latin *personae*) and did not uphold the inhumanity (*apanthrōpia* = *inhumanitas*) of the law, but instead honored the will of the daughter." The argument of these provincial lawyers reflects modes of argumentation employed in Roman forensic oratory and jurisprudence, where the principles of *humanitas* (humanity, civility) and *aequitas* (equity) were used to argue against the letter of the law. Presented with a choice between the "laws of the Egyptians" and a recent "equitable" decision by a Roman governor, the *epistratēgos* upheld the ruling of Titianus. With the help of a translator, the girl indicated that she wished to remain with her husband. The precise role of the "law of the Egyptians" in this case is not entirely clear. It was almost certainly used to establish the Egyptian father's legal power over his daughter (presumably, a child of an "unwritten" marriage). But whether or not there was an explicit "Egyptian" rule permitting a father to reclaim his daughter from an undesirable marriage, or whether this was argued on the basis of Roman notions of marriage and *patria potestas*, is unknown. What is quite clear is that Heron's lawyers wanted to emphasize the "Egyptianness" of the father's actions. According to them, the prefect Titianus had rejected excessive use of paternal power by "Egyptians" as *inhumanum* (inhumane, uncivilized). In fact, none of this is apparent from the record of proceedings before Titianus, where the names of the litigants are Roman and there is no reference at all to Egyptian law. Instead, one suspects that the "Egyptianizing" interpretation of Titianus' ruling reflects rhetorical sleight-of-hand by Heron's lawyers. The fact is that the individuals concerned had manifestly different

social profiles: in the first case, bearing Roman names; in the second case, bearing Demotic names where the woman did not speak Greek; in Chairemon's case, a member of the civic elite of Oxyrhynchus. That all could be attributed the same, uncivilized "Egyptian" tendencies is a striking illustration of the Roman construct of *Aigyptios* at work. When something was labelled "Egyptian," it was by definition un-Roman, inferior, and often contrary to Roman sensibilities.[264]

Case no. 3: In the third of the four extant cases, Dionysia's lawyers went back an entire century to the court of the Roman *iuridicus* at Alexandria in 86 CE, where a woman named Didyme, represented by her husband Apollonios, stood as a plaintiff against her father Sabinus. Sabinus no longer approved of Didyme's marriage and had revoked her dowry. Speaking on Didyme's behalf, the lawyer Sarapion stated that, "in addition to everything else, these persons (*prosōpa* = *personae*) are Egyptians, the severity of whose laws is intemperate. For I tell you quite plainly that Egyptians have the legal power (*exousia*) to deprive their daughters not only of what they have given them, but also of everything they might acquire as their own private possessions" — in other words, the "Egyptian" notion of paternal power was even more extreme than that of the Romans. Lest the *iuridicus* be misled by the Roman name of the defendant, the lawyer took care to emphasize that Sabinus was an "Egyptian" behaving like a typical "Egyptian." This case suggests the disdain with which Roman officials were disposed to view the population of

[264] For the case, see P. Oxy. II 237 col. vii, 30-38. On the discourse of *humanitas* in Roman jurisprudence, see Kreuzsaler & Urbanik 2008. *Humanitas* was also the quality of being "civilized," which the Romans thought of themselves as imparting to conquered peoples, see Woolf 1998. There is a touch of imperialism behind *apanthrōpia* in this case as well.

Egypt and its customs. The *iuridicus* told Sabinus to return the dowry he had already granted. Sabinus objected that he did not want his daughter to be married to Apollonios. The *iuridicus* replied that it was worse for her to be taken away from her husband. The ruling of the *iuridicus* is in line with the Roman principle that a dowry, once given, could not be revoked, and that a marriage, once contracted, could not be interfered with. Similarly, the distinction made by the lawyer Sarapion between the daughter's property as given by her father vs. property subsequently acquired by her is in line with the Roman juridical distinction between dowry and *peculium*.[265]

Case no. 4: The next case is an extract from a correspondence that took place in the 130s CE between a Roman official (*praefectus*) in charge of enforcing legal decisions (*epi tōn kekrimenōn*) and a legal expert (*nomikos*) named Ulpius Dionysodoros. The *praefectus* was sorting out a dispute between a father and his daughter over her dowry, where the daughter was the child of an "unwritten" marriage (hence, understood to be under her father's legal power) and the father was trying to reclaim her dowry. It is unclear whether the marriage itself had ended. The *nomikos* responded that the act of giving the daughter away in marriage (*ekdosis,* implicitly with a dowry and marriage contract) transformed her status, as if she were no longer the child of an "unwritten marriage" or under her father's legal power (*en exousia* = *in potestate*). The opinion of the *nomikos* accords with the Roman principle that a daughter *in potestate* was protected with regard to her marriage and dowry, unless she voluntarily ceded it to her father. Quite remarkably, the *nomikos* employed the Roman device of legal fiction to argue that, as far as paternal

[265] On the Roman juridical distinction between dowry and *peculium*, see Saller 1994: 204-224.

power was concerned, a daughter married with a marriage contract effectively acquired the status of an emancipated child, as if she had never been born into an "unwritten marriage" at all. Here we have another, striking illustration of Roman law operating as a legal and intellectual framework of Roman officials, as well as provincial lawyers, in the Greek East before the *Constitutio Antoniniana*.[266]

What points did Dionysia's lawyers want to be extracted from these four cases? Above all, they intended to provide the prefect with authoritative models for ruling in favor of Dionysia. Consequently, cases 1-3 showcased the commitment of Roman officials to protecting the institution of marriage, including marriage between Egyptian provincials, against paternal interference and the respect paid by them to the will of the woman. On this point, the authority of Titianus's ruling was strengthened by the fact that it was subsequently upheld by a Roman *epistratēgos.* Next, although Dionysia was arguing that paternal power should not be used to interfere in a daughter's marriage, Chairemon was obviously trying to argue the opposite. Therefore, it was important for her to protect herself by arguing that she was not under her father's legal power. Although Dionysia insists that she is the child of a "written" marriage, she did not have her mother's marriage contract in her possession, which made her position somewhat precarious. Consequently, case 4 served to demonstrate that her own marriage with a dowry and marriage contract was sufficient to suspend her father's *potestas.* Dionysia's lawyers apparently also wanted to underscore that Chairemon's attempt to end her marriage reflected retrograde "Egyptian" notions of paternal power, which had been

[266] For the case, see P. Oxy. II 237 col. viii, 2-7. On the daughter's claims to her dowry after the end of a marriage, unless she voluntarily ceded it to her father, see the rubrics *soluto matrimonio dos quemadmodum petatur* in *Dig.* 24.3 and *CJ* 5.18; see also *Frag. Vat.* 116.

condemned by previous Roman officials as excessive and "uncivilized." Cases 2 and 3 were perfectly chosen, because they contained explicit criticism of Egyptian fathers, as well as a convenient (and possibly misleading) interpretation of the key decision of Titianus as a ruling against the *inhumanitas* of Egyptian practices. To Egyptianize Chairemon's case was a clever rhetorical move against his strong position as a *paterfamilias* injured by his daughter *in potestate* in Roman law. It is revealing that Dionysia did very little to refute her father's charges of violence and *hybris* – his main points of leverage with the prefect – but perhaps her lawyers thought that proof of her honest business dealings was sufficient, and that protesting too much could provoke suspicion. Thus, as a result of Dionysia's rhetorical presentation of the case, generations of scholars have been convinced that Chairemon was an Egyptian trying to appeal to local Egyptian tradition.

Dionysia concluded her petition with a summary of her argument. She asked the prefect to issue orders to enforce Chairemon's annual debt-payments to her and to prevent him from harassing her again:

> ἐπίσχειν τε αὐτὸν ἤδη ποτὲ ἐπειόντα μοι πρότερον μὲν ὡς ἀνόμου κατοχῆς χάριν, νῦν δὲ προφάσει νόμου οὐδὲν αὐτῷ προσήκοντος· οὐδεὶς γὰρ νόμος ἀκούσας γυναῖκας ἀπ᾽ ἀνδρῶν ἀποσπᾶν ἐφείησιν, εἰ δὲ καὶ ἔστιν τις, ἀλλ᾽ οὐ πρὸς τὰς ἐξ ἐνγράφων γάμων γεγενημένας καὶ ἐνγράφως γεγενημένας
>
> Since he has already attacked me on the initial charge of illegal possession of property and now on the pretext of a law that is not available to him, for there exists no law that permits women to be taken from their husbands against their

> will, and if there is such a law it certainly does not apply to women born of a 'written' marriage and themselves married with a written contract.[267]

The slippery rhetoric of this statement reflects the tenuousness of Dionysia's position on the terrain of family law. From a Roman juridical perspective, a *paterfamilias* had a formal right to reclaim his daughter *in potestate* even if she was married, as we have seen. On top of this, Roman imperial law privileged the grievances of parents against offenses by their children. In fact, Dionysia could not fully deny that a father might, under some circumstances, be empowered to end marriage of his daughter ("and if there is such a law...") – the best that she could do was to insist that this power did not apply to her. Despite the rhetorical brilliance of Dionysia's petition, the outcome of the case was not a foregone conclusion. The prefect may have refused to give Chairemon a hearing, persuaded by the case history that he was acting in bad faith. If the prefect heard the case, however, the outcome was not predictable. Our sample of Roman legal texts on the question of *patria potestas* and divorce, despite being carefully selected and freed from major contradictions by Justinian's compilers, shows that legal opinions on this issue varied considerably and were influenced by the specific circumstances of the conflict. Ultimately, whether Chairemon had good reason to take action against his undutiful daughter, or whether he was maliciously trying to cheat her out of her maternal inheritance, would have to be determined through contentious proceedings, with arguments brought forward on both sides of the case. The deftness with which both parties juggled aspects of Roman and "Egyptian" law, arguing on opposite sides of a

[267] P. Oxy. II 237, col. vii, 10-14.

contentious problem in Roman jurisprudence, shows beyond reasonable doubt that the true agents in this affair were competing teams of expert lawyers.

Overall, papyrological references to "Egyptian law" do not suggest a system of indigenous customs and norms deeply embedded in Egyptian society and culture. On the contrary, the "laws of the Egyptians" appear to have been a Roman label attached to local marriage and inheritance practices that were distict from (and, implicitly, alien to) the policies of Roman law. In fact, it is not the category of "Egyptian law" *per se* but Chairemon's attempt to *conceal* his Demotic-style marital arrangements that provides us with insight into the survival of local traditions under Roman rule. The marriage deed of Dionysia's mother, with its alimentary provisions and clauses protecting the transmission of property to children, was still reasonably common in Oxyrhynchus in the late second century CE, which suggests that elite attitudes to family and property in this region were conservative, and possibly more influenced than elsewhere by older Demotic-Egyptian practices. A century earlier, we see a man successfully claim his share of the family property based on the marriage contract of his parents, in which both estates were entailed on the children in their entirety (P. Oxy. IV 713, 97CE). The contract had been diligently registered in the public archives, so the children had no problem making their claims. Here, we may indeed be observing the persistence of a practice widely attested in Demotic marriage contracts, where parents pledged their entire property to their children. If in the Ptolemaic and early Roman periods Demotic marriage contracts (or Greek marriage contracts influenced by Demotic practices) gave wives and children remarkably strong claims to the family property, so that husbands needed the formal consent of their wives to make financial transactions, these traditions were evidently deteriorating in the

second century CE. In a private letter from an Arsinoite village in the late second century (P. Tebt. II 407), we observe a former priest of the Hadrianeum at Arsinoe, instructing his wife and daughter to help him manumit a series of slaves, who were part of the property he had registered in their names. If they tried to oppose him, he threatened to donate all the property to the Serapeum at Alexandria, an institution that was well-equipped to enforce its claims. In contrast to the strong property rights established for women and children in Demotic alimentary contracts, here we see that a woman who did not come into a marriage with property of her own made both herself and her children dependent on her husband's whims. Despite the fact that Dionysia's mother apparently did have her own property and tried to ensure its transmission to her children, Dionysia still risked losing her maternal inheritance through her father's intrigues. Thus, Dionysia's case suggests that the Roman state's willingness to recognize an entity called the "law of the Egyptians" may actually have helped conserve Demotic-style marriage practices, in spite of the resistance of men like Chairemon who were happy to part ways with these inconvenient aspects of local tradition.

3.7 Conclusion: from "Egyptian law" to Roman law

As far as we can tell, the "laws of the Egyptians," which were eventually drawn up in written form, were largely the result of the Roman state granting juridical space to local family law matters. Nearly all of our evidence for the "*nomos* of the Egyptians" in the Roman period pertains to a few very specific contexts in family law, all of which

relate broadly speaking to the exercise of paternal power. In contrast to family law, property law was a sphere in which the Roman administration did *not* tend to create legal space for local rules and procedures. In a document from the 120s CE, a provincial complains of illegal construction on his property. He appears before a chiliarch, most likely a delegated judge (*iudex datus*) appointed by the prefect's office, who seems to be telling him that he is appealing in vain to Egyptian law three years after the fact. What this means is presumably that the relevant praetorian action had expired after one year. Since there was a Roman rule relevant to the problem, Roman procedural rules were applied, trumping the man's attempt to mobilize an "Egyptian" provision. This, of course, tells us nothing about the law that was actually operative on the ground – whether these "Egyptian" rules were being widely observed, or whether a clever lawyer had thought of invoking an antiquated rule as a convenient loophole.[268] What this shows, however, is that Roman officials did not generally enforce enchoric custom, as we see it represented in extant Demotic legal literature, most of which concerns property relations, but merely recognized and enforced specific practices in the sphere of family law, in which the Roman imperial power did not – and could not, realistically – dictate uniform standards. In fact, the *Gnōmōn* of the *Idios Logos* shows a positive concern to *maintain* difference at the level of the family (e.g. via different rules governing marriage and succession) as a means of preserving boundaries between social classes and status groups: Roman citizens, Alexandrians and other Greeks, the priestly elite, freedmen and slaves, and the "Egyptians" of the *chōra*. In this respect, the Roman upholding of "Egyptian law" evokes a British historian's discussion of customary law in colonial Africa, as a "law of and for

[268] For the case, see P. Tebt. II 488 (121-122 CE) with Wolff 1960: 215 n. 62. For the praetorian law on illicit construction, see *Dig.* 43.24.15.4 with Lenel 1927: 482ff.

subordinates – racially and culturally, which was seen as suitable to their state of evolution. It was recognized specifically because of their cultural difference; the need to emphasize that difference; the requirements of governance; and the incapacity of the colonial state, which was too weak to extend a common law to all." At the same time, the "laws of the Egyptians" were manifestly interpreted by Roman administrators and legal practitioners through the lens of Roman legal concepts. This was part of the Roman imperial state's hegemonic exercise of jurisdiction, which included the power to "pronounce" and thereby determine the law (*ius dicere*). In view of the fact that Roman courts were one of the most prominent public interfaces between the imperial state and its subjects, jurisdiction was, in all of its aspects, central to the ideology and practice of imperial rule. For the imperial state to exercise authority over family law was a potent symbolic statement of power and control over the lives of provincials, even though in practice it was the provincials themselves who brought their "traditional" practices to Roman courts, and then used Roman courts to challenge those very same "traditions."[269]

[269] For the *Gnōmōn* of the *Idios Logos*, an administrative handbook for the procuratorial official in charge of irregular revenues due to the *fiscus*, see *BGU* V 1210 (2c CE) and P. Oxy. XLII 3014 (1c CE) with Riccobono 1950, Swarney 1970 and the contributions in Harter-Uibopuu and Kruse forthcoming. The extant portions of the document are primarily concerned with regulating the composition of social classes (Roman, Greek, Egyptian). On the Roman effort to define and control status groups, see Bowman and Rathbone 1992: 112-114. The origins of such regulations in Augustan family-law politics are discussed by me in Dolganov forthcoming a. See also the remarks of Youtie 1975 on the label *apatores* ("fatherless," i.e. without a legal father) as evidence for a Roman concern to prevent mixing between classes. In practice, such boundaries were impossible to maintain: see Bagnall 1993 on the *lex Minicia* and subsequent regulations of Hadrian, which modified the effects of the lack of *conubium* between Romans and non-Romans. The citation is taken from Chanock 2005: 342, contrasting African "customary law" with the more elevated status of indigenous legal tradition in India. See also Fitzpatrick 1991 on the designation of a sphere of indigenous custom and culture as an imperialist act *par excellence*.

We cannot know, of course, whether there was a strong sense in Oxyrhynchite society of Egyptian or Greek traditions, as opposed to Roman practices. All we can know for sure, based on the evidence, is that "Egyptian law" and Roman law were important instruments available to provincial litigants for arguing their cases in Roman courts. As anthropological research shows and ancient documents confirm, human agents tend to be remarkably good at exploiting institutions and discourses to work in their favor. For this reason, documents pertaining to legal disputes are a notoriously unreliable guide to what people actually do in their lives. We should not expect Egyptian provincials to have brought their native customs and traditions to Roman courts. On the contrary, it is a basic premise of litigation that individuals call upon whatever "traditions" and legal instruments best guarantee them success.

The litigation documents examined here vividly show Roman law functioning as an intellectual framework, conceptual apparatus and normative system in the courts of high-ranking Roman officials and, consequently, also in the arguments of lawyers who composed petitions and argued cases in their courts. In most of the cases considered, the litigants involved were provincials of "Egyptian" status. Nevertheless, the legal practitioners representing them invoked Roman legal principles and formulated their cases in ways that would appeal to the sensibilities of a Roman judge. In Roman jurisprudential literature, we read that Roman officials were advised to apply Roman *ius civile* when custom and precedent were lacking on a given issue. In papyri, we also see officials doing this when they thought that a local practice was distasteful or produced an unjust situation. We have the impression that the *iuridicus* who ordered an Egyptian father to return the dowry that he had delivered and then revoked was bristling at the idea

that contractual obligations were being violated. On the other hand, in order to protect an Egyptian *patronus* from his freedman, the prefect was ready to override the written provisions of a Greek manumission contract. After all, Roman justice was one of Rome's great *beneficia* to its subjects – in the language of colonialism, it was, quite literally, "the gift we gave them." In this connection, we should bear in mind that, when cases involving "Egyptian" private law were personally examined by the prefect of Egypt, these were not routine administrative occasions, but were *a priori* staged and ideologically charged encounters between provincial subjects seeking Roman justice and the highest imperial judge, who wielded Roman law and had the power to uphold, reject or alter any provincial custom or practice.

The point of departure for this chapter has been the very traditional problem of determining what was Roman about law in the Roman provinces, particularly before the generalization of Roman citizenship in 212 CE, using Egypt as a case-study. Given the clear evidence that legal procedure in Roman provincial courts was modelled on the Roman praetor's edict and *ius honorarium*, and that Roman law was present in the provinces as a body of knowledge, this chapter has sought to hone in on contexts where we can see what this meant in more concrete terms. Overall, the results of this investigation point to the integral role of Roman law in the legal order of the Roman Empire before 212 CE. Even in areas of private law where Roman citizens were distinguished by the special rules of Roman *ius civile*, we observe the rules and arguments of Roman law being invoked with reference to Egyptian provincials.

The evidence discussed above also offers insight into a crucial mechanism by which Roman legal forms were generalized in the provinces. When provincials had

something to gain by litigation in Roman courts, a key force that enabled them to navigate the Roman court system and instrumentalize the rules and discourses of Roman and Egyptian law was the agency of remarkably deft and resourceful legal practitioners, who composed petitions, devised legal arguments and argued cases as advocates (*rhetors*) in court. It is to these key figures that we now turn.

4

LEGAL PRACTITIONERS

The final part of our investigation turns to one of the most conspicious phenomena in the legal sphere of Egypt as it developed under Roman rule: the rise of legal practitioners and the adoption of Roman forms of legal practice, within the institutional framework of the Roman assize system and of the Roman models of court procedure examined in chapter one. This chapter examines the rich documentation for legal practice in Roman Egypt as an illustration of the profound cultural impact of Roman judicial administration. In particular, a prosopographical analysis of legal practitioners reveals members of the Egyptian officeholding elite serving as forensic orators, legal experts and judges in Roman courts, in line with the much more fragmentary evidence from other provinces. In this respect, the Egyptian evidence illuminates legal practice as a central element of a distinctly Roman model of elite culture adopted by civic elites throughout the Roman empire. This chapter explores the implications of elite involvement as legal practitioners in imperial courts for the dynamics of the legal process and for the development of the law. Beyond the elite, the Egyptian sources also provide uniquely detailed information about the broader field of legal practice, enabling a more varied and nuanced typology of legal practitioners and illustrating their agency in virtually all areas of the legal sphere.

4.1 Papyrological evidence and the study of legal practitioners in the Roman world

Let us begin with a detailed examination of one of the court cases cited as judicial precedents in the petition of Dionysia, briefly discussed in chapter 3.6. In the city of Alexandria in 128 CE, the Roman prefect of Egypt adjudicated a bitter dispute between a father, Sempronius, and his son-in-law, Antonius – men with Roman names but apparently not Roman citizens. The dispute was over Sempronius' daughter and Antonius' wife, whom the father had forcefully taken away from her husband's house, and whom the husband was trying to reclaim. During their audience with the prefect, both men were represented by advocates (*rhētores*) – a core aspect of legal procedure in Roman courts at Rome and throughout the Roman empire. The session began with the introductory speech of Isidoros the Younger, the plaintiff's *rhētōr*, who told an elaborate tale about the father-in-law Sempronius being instigated by his own mother to quarrel with his son-in-law and reclaim his daughter from her marriage with him. Subsequently, the daughter fell so sick with longing for her husband that, when Antonius petitioned the Roman *epistratēgos*, the official was moved by her suffering and ruled that the couple should not be separated. Even the brief paraphrase of Isidoros' speech that is included in the abbreviated court transcript gives a good sense of his florid and emotive rhetoric. However, Isidoros went on, Sempronius ignored the ruling and petitioned the prefect, accusing Antonius of violence, so that the two were summoned to the prefect's court. The bottom line was – and here, Isidoros ended his speech with a statement summarizing his client's claims – that Antonius did not wish to be torn asunder from his loving wife. The *rhētōr* Didymus then stepped forward on behalf of Sempronius, arguing that the father-

in-law had perfectly good reason for taking action since Antonius had gravely insulted him and even accused him of incest with his daughter. This intolerable outrage is described as *hybris,* the Greek rendition of the Roman legal concept of *iniuria*. In view of this, Sempronius had rightly used his legal power (*exousia,* the Greek rendition of the Roman concept of *potestas*) to reclaim his daughter and was now charging the husband with violence as well. Looking into Roman jurisprudential literature, we find doctrines that support both positions.[270] At this point, a third *rhetor*, Probatianus, made the technical point that the physical removal of the daughter had not altered the legal effects of the marriage; consequently, if the wife wished to remain with her husband, her father had to release her. The prefect Titianus accepted this line of reasoning, stating that all depended on the wishes of the daughter. The proceedings of this hearing were duly written down and entered into the prefect's records. Although the record of proceedings, as we have it, is heavily abbreviated, it still conveys a vivid impression of the rhetorical display and animated debate that took place in a Roman governor's court.

In the next court transcript cited in Dionysia's petition, we discover that the ruling of Titianus was cited five years later in another, similar case adjudicated by the *epistratēgos* Paconius Felix during an assize in the Nile Delta in 133 CE. The litigants were likewise represented by advocates. The *rhētōr* Isidoros stated on behalf of the father that he was entitled by the "law of the Egyptians" to reclaim his daughter from an undesirable marriage. The *rhētores* Severus and Heliodoros, however, insisted that the prefect Titianus had presided over a similar dispute between Egyptian provincials, where he ruled against the inhumanity (*apanthrōpia*) of the law and favored the wishes of the

[270] For this trial, see P. Oxy. II 237 col. VII 20-29. On the analysis of these arguments from the perspective of Roman law, see section 3.6 and below section 4.4.6.

daughter. In appealing to the principle of *humanitas,* the advocates were employing a Roman legal argument against the letter of the law, attested in the writings of the Roman jurists as well as in Greek and Latin rhetorical handbooks of the Roman period. Both the relevant "Egyptian law" and the court transcript of Titianus were read aloud and the *epistratēgos* issued his decision in line with Titianus.[271] How did Severus and Heliodorus learn about this case? It is possible that the verdict of Titianus was excerpted from the court records immediately after it was issued, and then circulated among legal practitioners as an authoritative decision on an important topic. It is also possible that Severus and Heliodorus discovered it in the prefect's archives at Alexandria while searching the *conventus* records for previous decisions relevant to their case.

After the verdict of the prefect Titianus proved to be an authoritative model for the *epistratēgos* Paconius Felix, the two decisions were anthologized and circulated together in the hands of legal practitioners over the course of the next six decades. Fifty-three years later, we find these cases in the long appendix of documents attached to the petition of Dionysia, who was trying to win her own legal battle against her father at Oxyrhynchus in the 180s CE. The petition is an impressive piece of work, a calligraphic papyrus more than two meters long, containing a complex legal argument masterfully cast in a subtle rhetoric that disparaged the father's case, as well as his person, from a variety of angles, with reference to both Roman and Egyptian law. Every point of this argument was supported by documents, including edicts and letters of prefects, responses

[271] For this trial, see P. Oxy. II 237 col. VII 29-38, also briefly discussed in section 3.6. On *humanitas* and *interpretatio humanior* in Roman law, see Palma 1992 and Kreuzsaler and Urbanik 2008. Note that *apanthrōpia*, as well as the reference to the "laws of the Egyptians", come up in Severus and Heliodorus' summary of the previous case, not in the record of the hearing before Titianus itself.

of jurists and court protocols of similar cases going back to the Flavian period (in line with the Flavian watershed in archival memory, discussed in the chapter on archives). This spectacular arsenal of documents, spanning nearly twelve decades, is a striking embodiment of the technological impact of the Roman system of provincial archives on legal practice. It also points to the existence of a vibrant world of legal practitioners, who avidly excerpted and anthologized legislative and judicial *acta*, which traveled from the archives at Alexandria to the courts of Oxyrhynchus across the span of an entire century.[272]

As showcased by the petition of Dionysia and dozens of other papyrus documents from Roman Egypt, the legal culture of Egypt under Roman rule was a culture of "lawyers" – skilled specialists who operated at every level of the legal process, from the drafting of legal instruments, to the composition of petitions and dossiers of documents for the presentation of cases in court, to the courtroom itself, where litigants were as a general rule represented by rhetorically-trained advocates (*rhētores*), and where judges sat with councils of judicial advisors (*consilia, symboulia, synēdria*) and consulted authoritative experts (*iurisconsulti, nomikoi*) on questions of law. In both respects, procedure in the courts of Roman Egypt mirrored core aspects of court procedure in the city of Rome itself.

The prominence of professionalized legal activity – in particular, of professionalized forensic advocacy – in Roman Egypt is a conspicuous phenomenon that requires explanation. Even if a limited argument can be made for the existence of forensic advocacy in Ptolemaic courts (discussed below in section 4.3), the practices

[272] On Dionysia's petition see sections 3.5-3.6. On archives and their impact on the legal sphere, see sections 2.5 and 2.7.

attested in Ptolemaic sources are by no means comparable to the mass phenomenon that we observe in the Roman-period material, where forensic advocacy is ubiquitous at all levels of the judicial system. The activity of legal practitioners in Roman Egypt is also reflected by documents such as case-collections, drafts of court speeches, and highly rhetorical petitions, which often resemble forensic speeches in their employment of rhetorical devices and arguments from judicial precedent. At the same time, several hundred court transcripts preserved in Roman-period papyri directly reveal forensic orators and legal experts in action in Egyptian courts, placing their ubiquity and importance before our eyes.

Looking beyond Egypt, it becomes apparent that Roman-period papyri reflect broader developments taking place in the Roman empire. Forensic advocacy was a traditional aspect of legal practice at Rome since the Republican period. Subsequently, from as early as the age of Cicero, evidence from diverse regions of the Roman empire points to the existence of advocates and their activity in connection with Roman imperial courts. It is clear that Roman governors implemented a distinctly Roman model of legal procedure in their courts. In the second century CE, professional associations of forensic pleaders (*forenses, agoraioi*) begin to be attested in inscriptions, and epigraphic evidence for individuals who identify themselves as orators, advocates and "legal experts" becomes increasingly thick on the ground. In a verse epitaph from Numidia, erected by a man during his own lifetime, we read: "I pleaded cases happily, until one dawn stole from me my marriage and my children, all my prized possessions" (CIL VIII, 3506 = ILS 7747, Lambaesis). In a verse epitaph from Africa for a young man of twenty-two, we read: "clever as a boy, he grew into a modest youth and then into a young orator, who

delighted the ears of the public with his skills as a forensic rhetorician (*togatus*)" (CIL VIII, 646 = 11786 = ILTun 517, Mactaris, 3c. CE). In an epitaph from Ephesos, a young man of eighteen was "just learning the labors of the rhetorical art" when death intervened (SEG XXXVII 903). The commemoration of an officeholder as an "orator and legal expert" (IGRR IV 1226 = TAM V 2.933) in Thyateira is one of many such examples from the eastern provinces in the early third century. This reflects both the growing scale and the rising prestige of forensic activity throughout the Roman world.[273]

The scope and significance of these developments becomes spectacularly visible in the late Roman period, when the imperial legal codes together with rhetorical, literary and patristic sources from the fourth and fifth centuries present us with a striking picture of a professionalized forensic sphere, with an institutional structure that extended from the courts of the highest imperial officials down to the municipal level. By the turn of the fourth century, every major imperial court had its own statutory Bar of forensic orators, the composition and size of which was regulated by imperial law. For the young and ambitious, forensic oratory tended to be an early-career activity, and successful orators could progress to higher courts, attain the post of *advocatus fisci,* and be promoted to provincial and imperial offices. In turn, forensic practitioners with a high degree of legal

[273] Cicero's Verrine orations are a key Republican source on legal practitioners in the provinces, see for example *In Verr.* II 2.22-24, 31-34, 36, 54, 69, 70-73. This rich evidence remains underexploited. For associations of *forenses/agoraioi,* see a.e. AE 1898, 99 (Mauretania Caesariensis), CIL XII 697 = ILGN 109 = AE 1965, 270 (Gallia Narbonensis, 2c. CE), CIL XI 6362 = Pisaurum 73 (Umbria), IGBulg I² 15(3) (Thrace, late 2/early 3c. CE) and IGBulg III 1.1416 (Thrace, 2c. CE). For orators and advocates in epigraphic sources, see a.e. CIL VIII, 2743 (Numidia, 2c. CE), AE 1911, 99 = AE 1913, 10 (Numidia, early 3c. CE), IG VII 106 (Megara, early 2c. CE), IApollonia T 322 (Corinth, 2c. CE), IEph 3057 (Ephesos, 2c. CE). On the epigraphic evidence for legal experts, see Liebs 1993 for Africa and Jones 2007 for the Greek East.

expertise could be invited to serve as judicial advisors (*assessores*) to imperial officials, and eventually attain judicial magistracies themselves. Forensic oratory at the top level of the late Roman judicial system was fiercely competitive, as reflected by the efforts of emperors to limit the size of each imperial Bar, by regulating admission and restricting the ability of orators to progress to higher courts. late Roman sources also illustrate the emergence of formal standards for the training of advocates – in particular, the growing importance of the law as an additional curriculum of study and training for top-level forensic practitioners hoping to achieve careers in the imperial administration.[274]

It is a distinctive characteristic of the Roman imperial context that the judicial system of the Empire was coextensive with the Roman system of civil administration. As illustrated by the Theodosian and Justinianic codes, forensic oratory in the late Empire was a key sphere of activity for individuals pursuing all sorts of civil careers. The majority of late Roman governors and praetorian prefects began their public careers at the Bar, while prosopographical studies of the students of Libanius' rhetorical school show many of them starting out as forensic orators and eventually becoming high functionaries of the imperial state.[275] In fact, the developments that we observe in the late Roman sources began much earlier, with a trajectory going back to the earliest phases of Roman provincial rule. This is a history that remains unwritten before late Antiquity. While important work has been done on late Roman legal practice, the activity of legal practitioners in the Roman provinces during the four centuries between the late Republic

[274] On legal practitioners in the late Empire, see the classic chapter of Jones 1986 I: 470-522 and Humfress 2007 chapters 2-4.

[275] On imperial careers among the students of Libanius, see Petit 1957: 154-170. See also Petit 1994, a general prosopographical study of imperial functionaries in the works of Libanius.

and the late Empire (ca. 70 BCE - 330 CE) remains an underinvestigated subject. Although there have been a few regional studies, the sources have never been collected and studied for the Roman empire as a whole.[276]

In part, the research has been shaped by the legacy of the traditional view that knowledge of Roman law in the provinces – and, by extension, legal competence – was limited before late Antiquity and in some regions (such as Roman Egypt) never progressed very far. Different versions of this view have shaped and continue to shape influential work in Roman imperial and legal history. This view has received important correctives, such as Crook's study of legal advocacy, which draws attention to the skill of advocates in papyri and their adherence to a distinctly Roman model of legal practice, and Humfress' study of late Roman conflicts over Christian orthodoxy, which draws attention to the vibrant legal and forensic culture that was to be found throughout the Roman world in the 4th-6th centuries.[277] Missing, however, is any kind of synthetic study

[276] For regional studies of legal practice in the Roman provinces, see Liebs 1987, 1993 and 2002a on jurisprudence in the Latin West and Jones 2007 and Kantor 2009a, 2013 and 2015 on legal experts in the Greek East. Kunkel 1967 is a general study of "jurists" in the Roman empire, which draws negative conclusions about legal competence in the provinces. The study of Vössing 1997 examines the literary and epigraphic evidence for legal practitioners in Africa, again drawing a sharp distinction between advocates and "jurists." This distinction is questioned and the evidence from North Africa reexamined in Dolganov (forthcoming d).

[277] For the traditional view that knowledge of Roman law in the provinces was limited, and that law and legal procedure in the Roman provinces was only "Roman" in a superficial sense, see Kunkel 1967, Kaser 1978: 128-130 and Wolff 1953, 1956, 1974 and 2002, followed by Rupprecht 2011. The enduring influence of this view on Roman historical scholarship is visible in Peachin 1996: 33-64, Millar 1999, Yiftach-Firanko 2003 and Garnsey 2006. This view has been recently reiterated in the *Oxford Handbook of Papyrology* by Alonso 2016, as well as Harries 2016 in her comments on provincial lawyers: "the law learned by the sophisticated Roman at Rome differed from the use-law, influenced by local ways of legal thinking, acquired by the humble legal scribe or advocate (*nomikos*)" in the provinces (note incidentally that in our evidence the term *nomikos* is never used of advocates). Similarly, Alonso 2016 in speaking of

of legal practitioners in the Roman empire before late Antiquity. Apart from Kunkel's survey of "jurists," Crook's study of advocacy, and Christopher Jones' collection of testimonia for legal experts (*nomikoi*) in Greek inscriptions and papyri, there has been very little synthetic work on this subject and nothing approaching a comprehensive treatment of the evidence. There has been correspondingly little effort to bring papyrological evidence in dialogue with evidence from other regions of the Empire. Despite growing awareness of the importance of papyrological material for Roman imperial history, papyri are still an underexploited resource for Roman historians. One striking case in point is that the corpus of ca. 400 court protocols preserved in Roman-period papyri, which constitutes the single largest body of evidence for courts and legal practice in the Roman world, has never been systematically studied.[278]

Although the presence of legal practitioners is pervasive and explicit in papyri, it has not received much attention in recent legal-historical work on Roman Egypt, which has tended to approach litigation from a socio-anthropological perspective, focusing on

---

the "lack of legal science" in Roman Egypt and of the fundamental discrepancy between Roman law and the law of the papyri takes us back to the older Romanist position. For a different view of the matter, see Kantor 2009b, Purpura 2015 and Dolganov 2018. That the Greek East would ultimately become the heart and soul of Roman jurisprudence was emphasized by Mommsen, who regarded Gaius as an eastern provincial emblematic of a rising culture of Roman jurisprudence in the eastern provinces: see Mommsen 1905: 28 (original text from 1859) with the remarks of Jones 2007.

[278] My reference to papyri as an "underexploited resource" comes from a chapter title in Crook's 1995 book on advocacy, which was the first work of legal history after Kunkel 1967 to incorporate papyrological evidence into a synthetic discussion of legal practice in the Roman empire. In this respect, Crook's work is an important model for Humfress 2007. On reports of proceedings in papyri, the only synthetic work to date is the short study of Coles 1966, which was explicitly intended as a prolegomenon that would lead to more comprehensive work. This is the subject of the research project "Proceedings in the Law Courts of Roman Egypt" (www.oeaw.ac.at/antike/forschung/documenta-antiqua/antike-rechtsgeschichte-und-papyrologie/). In this framework, I have conducted a comprehensive papyrological and historical analysis of Roman proceedings. The present chapter builds upon the results of that research project.

the motivations and strategies of litigants in pursuing their interests through the courts. In both Bryen's study of violence in Roman Egypt and Kelly's study of petitions and litigation, legal practitioners are mentioned only in passing. It is remarkable that even spectacular examples of lawyerly expertise such as the petition of Dionysia are discussed in terms of the petitioner's own "authentic" perspective and voice. To quote from Bryen: "presumably, Dionysia had legal assistance in gathering these decisions and citing them;" "petitioners do not always present a case as careful and as well-researched as Dionysia's, but there is ample evidence that petitioners did know something about the law when they presented their requests to authorities."[279] Thus, the general assumption is that the litigants themselves were the primary authors of their own petitions. This blind-spot in the research is all the more surprising because it is precisely in papyri that we are able to get a clear picture of legal practitioners operating at every step of the legal process. In omitting the agency of legal practitioners, recent work on law in Roman Egypt has effectively elided a central aspect of the legal culture of Egypt as it developed under Roman rule.

As the research currently stands, we are unable to account for the developments that bring us to the spectacular state of affairs in the late Empire, when forensic practice was a cornerstone of civil careers throughout the Roman world. This poses a problem for the interpretation of the late Roman sources, as indicated by the fact that, in Humfress' study, legal practice at Rome in the age of Cicero functions as an interpretive framework for the late Roman legal profession four centuries later.[280] Even more significantly, the

[279] See Kelly 2011 and Bryen 2013 (the quote is from p. 149).

[280] While, as Humfress herself admits, it is clear that Libanius' glosses of Cicero's *De Oratore* on the relative merits of rhetoric and jurisprudence were in fact referring to a very different institutional reality in

late Roman evidence underscores the fact that the absence of narratives tracing the development of legal practice in the provinces has obscured an important dimension of Roman imperial history.[281]

In this chapter, I want to take up this strand of Roman legal history by examining the Egyptian evidence for legal practitioners from the first three centuries of Roman rule and integrating this evidence into a broader picture of legal practice in the Roman empire. On the one hand, Egypt is the only place where a detailed regional study of this subject is possible. On the other hand, it is only by looking at Roman Egypt within a broader imperial context that the full significance of the Egyptian material comes to the fore. Similarly, the developments we observe in the late Roman sources cannot be fully understood without an adequate sense of their earlier history, and vice versa.

---

the fourth century, what this new reality was and how precisely it came about remains opaque in her discussion (Humfress 2007: 10-21). What does Libanius mean when he says that legal study had previously been an occupation for lower-status individuals? And what were the developments that led to legal study becoming increasingly attractive for the young aristocrats at Libanius' rhetorical school?

[281] It is striking to see Peachin, in the recently published *Oxford Handbook on Roman Law and Society* (Peachin 2016), refer to his contribution on "Lawyers in Administration" as a "distressingly sketchy prolegomenon to a full study of Roman lawyers in Roman administration" due to the "absence of anything at all like a full treatment of lawyers in the Roman administrative system." In addition to Peachin's own work on the subject – Peachin 1996, 2001, 2007a, 2016 and (forthcoming) – the role of legal experts in the Roman imperial administration is also discussed by Liebs 2002b, 2006 and 2010, working primarily with Roman jurisprudential sources and focusing on the imperial court at Rome. A full treatment of this question is lacking.

4.2 Legal practitioners at Rome in the Republic and early Principate

As the first step in investigating the development of legal practice and forensic culture in Egypt under Roman rule, it is useful to begin with a discussion of legal practice at Rome. This is a logical starting point for considering in what terms provincial practice was influenced by Roman models, and how the models themselves evolved in the course of the Principate. Through the copious writings and surviving court speeches of Cicero, our evidence for legal practice at Rome is most abundant for a short period of three decades in the late Republic (ca. 70 to 43 BCE) and then sharply declines for the Principate, when we are progressively better informed about the provinces, particularly after the papyrological evidence for court proceedings begins in the Flavian period. Consequently, Cicero is a crucial source for Rome, and the standard typology of Roman legal practitioners and their subdivision into two main "fields" of advocacy and jurisprudence is to a large extent based on interpretations of Cicero's works. More recent research, however, has questioned the accuracy of these interpretations. Particularly problematic is the nebulous category of "jurists" in Roman legal scholarship, which we will consider in detail in a moment.[282]

From as early as the Twelve Tables, court procedure at Rome had a bipartite structure, where preliminary proceedings "at law" (*in iure*) before a magistrate were followed by a second stage of proceedings before a judge or jury (*apud iudicem*). During the initial phase, the magistrate granted an action for a specific legal claim. This claim was formulated by the magistrate in a concise brief (*formula*) to the judge, who

[282] For a reconsideration of traditional approaches to the "Roman Jurists," see Tellegen-Couperus 2001 and especially Lehne-Gstreinthaler 2011, 2014 and 2016.

adjudicated the claim on the basis of the facts of the case, which was argued by advocates representing both parties.[283] Two salient characteristics of the court system at Rome are of primary importance for our discussion. First of all, Roman court procedure was adversarial and representative. During the initial proceedings *in iure,* both parties were typically represented by advocates (*patroni, advocati*) or legal proxies (*cognitores, procuratores*) who had technical (or, at the very least, practical) knowledge of Roman law. After all, even getting through the first part of a Roman trial required some technical legal knowledge, without which a Roman lawsuit would simply fail—if for example the praetor refused to grant a legal action or if the suit was cut down by a procedural objection or failed to obtain an advantageous *formula*. Subsequently, during proceedings *apud iudicem,* both parties were, once again, typically represented by advocates. At the same time, magistrates and judges were assisted by panels of judicial advisors (*consilia, assessores*) and could solicit legal opinions from authoritative experts (*iurisconsulti*) on questions of law, as could the parties themselves. Both the Roman tradition of forensic advocacy and the activity of *iurisconsulti* in dispensing legal opinions (*responsa*) were rooted in Roman aristocratic culture, where it was the traditional duty of elite patrons to furnish their clients and friends with advocacy and legal advice. Accordingly, the term *patronus* was also the traditional term for a courtroom advocate.[284]

---

[283] On the earliest evidence for bipartite procedure at Rome, see Brennan 2000: 131ff: "as far back as we can tell, a Roman civil trial before a praetor – whether under the procedure of *legis actiones* or *per formulas* – took place in two stages." Generally on Roman civil procedure, see the useful concise introduction of Metzger 1997, as well as Metzger 2013. The standard reference work on this subject is Kaser 1996. However, it is important to approach this work with a critical understanding of the Romanist tradition, on which see the reflections of Metzger 2004.

[284] On the Roman tradition of forensic advocacy, see Crook 1995: 119-171 and Frier 1985: 95-138. On the link between advocacy and *patronatus*, see David 1992.

This brings us to the second key characteristic of the Roman court system, which is the importance of legal practice as a sphere of activity of the Roman aristocracy, for whom it was a source of social and political prestige. This included the Roman judicial magistrates themselves, for whom the praetorship (or governorship of a province) was one of the pinnacles of a political career. This also included Roman judges, who were typically appointed from lists that were open exclusively to the wealthiest classes of Roman society. Accordingly, the judicial advisors chosen by magistrates and judges likewise included individuals of high social status. Next, came the legal experts (*iurisperiti, iurisconsulti*) – members of the aristocracy who engaged in the socially prestigious activity of dispensing legal opinions (*responsa*) to magistrates, judges, advocates and private clients. Then, came the advocates, for whom the traditional Roman term was *patronus*, a reflection of the social role of patrons in representing their clients and friends in court. Both the link between advocacy and *patronatus* and the Roman notion of law as an arcane body of knowledge controlled by a small group of authorititative experts reflect the traditional dominance of the aristocracy in the legal sphere of Republican Rome.[285]

[285] On Roman judges and juries, see Frier 1985: 197-234 and Tellegen-Couperus 2001. Registers of judges at Rome were open to senators and/or equestrians at different points during the politically turbulent decades of the late Republic. Under the Principate, the property qualification for entering the lists was lowered to the curial census of 100,000 HS. It was also possible for litigants to agree upon a judge who was not on the lists, a role akin to that of a private arbitrator. On the evidence for *iudices privati,* see Gagliardi 2008. On *iurisconsulti,* see Frier 1985: 139-196 and 252-297 and now Lehne-Gstreinthaler 2011 and 2014. It is significant that the earliest *iurisconsulti* were members of the college of *pontifices*, the aristocratic wardens of arcane knowledge of different sorts. It is curious that both Roman annalistic historiography and Roman civil law "emerged" from the hoary archives of the *pontifices* at approximately the same time, under the initiative of Publius Mucius Scaevola. On Scaevola's contribution to the development of Roman law, see Harries 2006a: 41-47 and Schiavone 2005 section III.2.

In the late Republic, the ebb of Roman military conquest placed new emphasis on the civil sphere and the courts as a competitive forum for the Roman political elite. By the early first century BCE, senatorial careers ceased to observe the traditional requirement of ten years of military service before obtaining a civic magistracy at Rome, opening the way for the rise of a new model of a predominantly civil career. This is exemplified by Cicero, who served as an army officer for approximately two years (90-88 BCE) at the end of the Social War, then dedicated himself to forensic oratory, which earned him the public renown to pursue political office. In the age of Cicero, the influence of Greek rhetoric had contributed to the rise of forensic oratory as an elaborate technical art. This produced a new kind of orator: a trained technician whose success in the courts derived not only from his social authority but also from his technical skill. Furthermore, the establishment of a standing criminal court for extortion (*quaestio perpetua de repetundis*) in 149 BCE, followed by additional criminal tribunals for violent crimes and electoral bribery in the 80s, created permanent and highly politicized venues for forensic oratory at Rome. Accordingly, criminal prosecutions grew in importance as a means for young men to make their names in the public sphere, as exemplified by the career of the orator Lucius Licinius Crassus, who rose to prominence at the age of 21 through his successful prosecution of Gaius Papirius Carbo for extortion in 119 BCE, resulting in Carbo's suicide. The rise of Crassus was later mirrored by his pupil Cicero, who propelled his own political career by his successful prosecution of Gaius Verres in 70 BCE for extortion commited during his governorship of Sicily.[286]

[286] The ten-year rule for military service before obtaining a magistracy is mentioned by Polybius VI.19.4. By Cicero's time, this rule apparently ceased to be strictly applied, as there is no evidence for Cicero doing military service beyond the years 90-88 BCE. On the rise of forensic rhetoric as a technical discipline and

An important aspect of legal practice among the Roman aristocracy was the fluidity of professional roles. We know that elite Romans of the Republic who practiced forensic oratory also served as judges and judicial advisors, while some progressed to the urban praetorship and served as governors of provinces. This pattern continued under the Principate, as encapsulated by Pliny the Younger in his description of his forensic activity: "I have frequently pleaded, I have frequently judged, I have frequently sat on judicial councils" (*frequenter egi, frequenter iudicavi, frequenter in consilio fui*, *Ep*. 1.20.12). It is clear from Pliny's discussion that this was an entirely typical range of activity for an orator of elite status. In addition to this, Pliny served as an urban praetor at Rome and as the governor of the province of Bithynia.[287]

Alongside forensic oratory, another key domain of legal practice among the aristocracy was jurisprudence, which developed into a technical discipline with its own scientific literature in the late Republic and early Principate.[288] Here, however, we encounter an important problem in Roman legal history that must now be addressed. It is a strong traditional view of Romanist scholarship that the legal writers attested in Justinian's *Digest* belonged to a discrete socio-professional class of "jurists," whose existence could be traced back to the early Roman Republic and whose activity was chiefly responsible for the development of Roman law. The logic of this view is that most

---

its effects on traditional forms of social authority, see Crook 1995: 30-57 and 171-174. On the *quaestiones perpetuae,* see Jones 1972, Cloud 1994: 505-530 and Harries 2007: 59-85. On Crassus' prosecution of Carbo through the standing court for extortion (*quaestio de repetundis*), see Cicero *Brut.* 103-106.

[287] The interchangeability of roles among elite legal practitioners in Republican Rome is clearly demonstrated by Lehne-Gstreinthaler 2014. This included legal experts as well and serves to relativize the distinction in Roman legal scholarship between "advocates" and "jurists" as discrete groups.

[288] On the rise of Roman jurisprudence in the late Republic and early Principate, see Frier 1985 and Schiavone 2001.

Roman judges and Roman judicial magistrates were laymen without technical knowledge of the law. Consequently, magistrates and judges were dependent on the legal expertise of jurists, who sat on their advisory councils (*consilia*), assisted in drafting *formulae* and legislation, and furnished legal advice beyond the courtroom. Thus, the activity of the jurists was the main driving force behind the development of the praetor's edict and generally of Roman law. Whereas, during the Republican period, the jurists were an independent and self-selecting group, under the Principate they gradually forfeited their independence and were enlisted into the administrative staff of emperors. Nevertheless, even the emperors, in conducting their legislative and judicial business, depended upon the expertise of the jurists, who composed imperial rescripts, assisted in drafting legislation, and sat on the emperor's judicial council (*consilium*). Thus, the jurists continued, indirectly, to be the creative force behind the development of Roman law.[289]

The essence of the Romanist notion of Roman law as jurists' law (*Juristenrecht*) is well-illustrated by the following citations:[290]

---

[289] For the traditional Romanist narrative of the history of Roman jurisprudence, see Kunkel 2005 – the fourteenth edition of the 1948 original – and the two-volume handbook of Wieacker 1989 and 2006. This narrative can already be found in the works of the Savigny school of historical jurisprudence in the 19th century, such as Savigny's *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft* (1814) and Puchta's *Kursus der Institutionen* (1841-1847). The ideas propagated by the Savigny school, however, had the explicit purpose of shaping contemporary legal politics, on which see Whitman 1990. This contemporary dimension was lost as these ideas entered legal textbooks and were transmitted through generations of legal scholarship. Many elements of the Romanist narrative – such as the idea of Roman law as Jurists' Law (Juristenrecht), the notion of the Roman Jurists as a politically-independent guild, the progressive encroachment of emperors on the independence of the Jurists – continue to influence major works of Roman legal history, including Frier 1985 and Schiavone 2005. For recent work that introduces a revisionist perspective on the history of Roman legal science, see Lehne-Gstreinthaler 2011 and 2014.

[290] Citations are taken from Schulz 1946: 53 and Kaser 1978: 115-130 (my translation).

> "It is beyond doubt, though there appears to be no direct evidence, that the real authors of the praetorian, aedilician and provincial Edicts were the jurisconsults... More than this, the whole principle underlying edictal development of the law can have been originated by no layman."
>
> "The Law of the Roman jurists (*Juristenrecht*), which turned Rome's small number of positive norms and provisions into a self-contained and living system, was not the product of state institutions but rather of a group of private experts, who were not formally authorized to create binding law... However, the fact that this great mass of legal thought, which was in constant flux, was regarded by the Romans themselves as Law is beyond doubt."

While this narrative has been variously modified by generations of Roman legal historians, the figure of the Roman jurist (*iurisperitus, iurisconsultus*) as distinct from the Roman advocate remains a fixed element. Accordingly, studies of Roman legal practice—including Frier's important study of the rise of Roman jurisprudence as a technical discipline in the late Republic and Crook's study of advocacy in the Roman world—tend to work with a strong distinction between advocates and legal experts as separate socio-professional groups: while advocates were trained in rhetoric, legal experts were trained in the law; the knowledge, skills and concerns of the latter were different, as were their modes of reasoning and argumentation. "We do not find in the papyri *nomikoi* acting as pleaders," observed Crook. In noting the blurriness of this distinction in the papyrological evidence for legal practice, Crook concluded that the apparent fact that "advocacy and legal knowledge tended to be the province of the same people" was a function of provincial legal practice being at a relatively low level, a "tale of the ordinary folk." In my view, this claim is not sustainable, as will be made clear in the discussion of

the papyrological evidence in the following sections. Instead, the documentary evidence for legal practice calls for a more nuanced typology of legal practitioners in the Roman world.[291]

The evidentiary basis of the traditional typology (advocates vs. "jurists") is worth re-examining briefly. The key source is Cicero, who frequently compares oratory and legal science and comments on the respective merits of orators and legal experts (*iurisperiti, iurisconsulti*). The *locus classicus* for this distinction is Book I of *De oratore,* where the orator L. Licinius Crassus argues that an orator must acquire a perfect command of the law (165-203), which is quite easy to learn and which Crassus himself has been able to master (185-9). In fact, in his old age, Crassus plans to dedicate himself to the composition of a Digest of Roman civil law, in order to improve upon the existing legal literature and make the law a universally accessible body of knowledge (190-1). Crassus also plans to become a *iurisconsultus* after retiring from the forum, as a pleasant remedy against the solitude of old age (199-200). In response, the orator M. Antonius points out that this argument is tendentious, and that what Crassus really means is that legal science is merely an ancillary discipline to oratory. It is implicit in Crassus' discussion that, whereas an orator can achieve complete mastery of the law, a legal expert cannot easily acquire the same sort of skill in oratory (234-6). And, without oratory, the practitioner of legal science is no more than a "pedantic legalist, an announcer of cases, a

[291] Whereas Frier 1985 concludes that the rise of professionalized forensic oratory in the late Republic met with the rise and "victory" of professionalized jurisprudence, Crook 1995 (the quotes are from pp. 157-8) seeks to demonstrate that forensic debate continued to dominate the legal process and the development of the law under the Principate, both at Rome and in the provinces. Many of Crook's arguments, including the traditional classification of legal practitioners, are taken up and developed by Humfress 2007 for the late Empire. The dichotomy between advocates and "jurists" is widely present in Roman legal scholarship, see for example Kunkel 1967 and Vössing 1996 and 1997.

chanter of *formulae,* a catcher of syllables" (236). Antonius then proceeds to argue that technical legal knowledge is unnecessary for the orator, because the orator's art is to make a winning argument for whatever happened to be his client's case (240). When questions of law arose in court, it was precisely because the law was ambiguous, so what the orator actually needed was not legal knowledge but rhetorical skill to make a persuasive argument (241-243). Furthermore, Antonius concludes, to disperse one's energies studying the law can be detrimental to the orator's skills, which require constant exercise (250-2). Whereas eloquence is the fruit of long and laborious training, knowledge of the law can be acquired quickly from books or learned men (252). Thus, Antonius implicitly agrees with Crassus about the law being ancillary to oratory.

In arguing for the intellectual superiority of oratory over legal science, to the point of contemplating giving legal *responsa* himself in his treatise *De legibus* (1.11-13), Cicero was asserting the superior status of his own area of expertise over a prestigious traditional activity of the old Roman aristocracy. As noted above, in the course of the late Republic, traditional forms of social authority in the Roman legal sphere were giving way to a process of professionalization. Just as forensic oratory became an increasingly elaborate technical discipline, Roman law was beginning to be theorized into an intellectual system and to acquire its own technical literature. In turn, members of the Roman political elite – including those seeking to enter its ranks as "new men" – specialized in these disciplines. Whereas Cicero's talent was oratory, his fellow student in rhetoric, Servius Sulpicius Rufus, built his reputation as a legal scholar and writer. Despite this specialization, however, oratory and legal science were part of a continuum of legal practice among the Roman political elite. Just as Servius Sulpicius Rufus pleaded

cases in court, Cicero composed legal arguments and wrote treatises on Roman constitutional law.[292]

Cicero's *De oratore* had an extensive reception in antiquity and was a point of reference in subsequent discussions of the relationship between rhetoric and law by rhetorical writers from Quintilian down to Libanius in the fourth century. For Quintilian in the Flavian period, the takeaway point from Cicero was that a forensic orator could indeed master the law, and was advised to do so, because this knowledge was relatively easy to acquire, "for, if many individuals who have despaired of mastering the art of oratory have tended toward legal study, how easy it is for an orator to learn what is studied by those who confess themselves unable to become orators" (*Inst. Or.* 12.3.9). Like Cicero, Quintilian takes a jab at jurisprudence as a discipline pursued by those of lesser talent. Libanius does something similar in a speech where he complains that his elite students of rhetoric are going off to the imperial law schools. Libanius remarks that, previously, only men of inferior social status went off to study the law, and that intensive legal study is detrimental to an orator's skill, which requires constant practice. With the help of Cicero, Libanius exalts oratory as a superior art, requiring greater talent and skill.[293]

---

[292] On the rise of Roman jurisprudence as an intellectual discipline with its own technical literature in the late Republic, see Schiavone 2001 and Frier 1985: 139-196 and 252-287, who links this development to the massive political and legal change effected by the enfranchisement of Italy after the Social War. This question merits its own investigation. Further on the history of Roman Republican jurisprudence Harries 2006a and now Lehne-Gstreinthaler 2011. On Servius Sulpicius Rufus, the orator and *iurisperitus,* see Harries 2006a: 116-125.

[293] The relevant passages are Quintilian *Inst. Or.* 12.3 and Libanius *Or.* 62; see also Libanius *Or.* 50 and *Ep.* 339 and 1013. The passages from Libanius and Cicero's *De oratore* are discussed by Humfress 2007: 9-13. Humfress interprets Libanius' reference to Cicero as representing a continuity of discourse about

At the same time, however, neither Quintilian nor Libanius nor indeed Cicero speak of rhetoric and the law as strictly separate disciplines practiced by separate groups of individuals. On the contrary, law is described as a discipline complementary to rhetoric, which gives forensic orators an edge in their work and offers an alternative area of expertise to forensic practitioners who lack the aptitude to become brilliant orators. Also, under the Principate, members of the rhetorically-trained elite could choose to practice jurisprudence at a high level as legal advisors (*assessores*) of officials and functionaries of the imperial state, a path that offered its own prospects for an imperial career.[294] Although, in the age of Cicero, this career path did not yet exist, Cicero's generation did witness the beginning of the rise of jurisprudence as a domain of the Roman imperial apparatus of state. In fact, one suspects that the implicit target of Cicero's barbed comments about legal science were the legal writers who were producing major works of jurisprudence in the age of Caesar. It is perhaps indicative that Cicero tells us very little about the projects in which legal writers such as Trebatius Testa, or indeed the prolific Servius Sulpicius Rufus, were engaged. All we are told is that, whatever *iurisperiti* could do, orators could do it even better.

Meanwhile, researchers are becoming increasingly aware of the fact that the strong traditional distinction between advocates and legal experts in Roman legal scholarship conjures up a misleading picture. This obscures the essential fact that the elite

---

rhetoric and law from the late Republic to the late Empire. This is problematic, especially because Humfress also assumes a great deal of continuity of practice across four centuries of Roman imperial history: "the role of the *iurisconsultus* in the late Empire, as under the late Republic and Principate, was to provide expert knowledge of the law..." (71). This underscores the need for an investigation of the development of legal practice at Rome and in the Roman empire before late Antiquity.

[294] On the Roman assessorate, already attested under the Republic and progressively developing into a discrete career path under the Principate, see Behrends 1969.

iurisconsulti of the Republic also practiced forensic oratory, sat as judges and pursued political careers. It is indicative that the *causa Curiana,* one of the great legal debates of the Republic, took place between two advocates: Quintus Mucius Scaevola, a *iurisconsultus* with rhetorical training, and Publius Licinius Crassus, an expert orator with deep knowledge of the law. As lucidly argued by Tellegen: "in my opinion, this distinction between *oratores* and *iurisprudentes* is fundamentally wrong. One of the tasks of a budding Roman politician was to appear as an *advocatus* in a lawsuit. In his subsequent career as magistrate, governor of a province and finally as a member of the Roman senate considerable demands were made on both his oratorical and on his juridical skills. Therefore every young Roman who wanted to make his career in politics received a suitable training, namely one which included law and oratory." In this respect, what was true during the Republic continued to be true under the Principate. Pliny the Younger, who himself served as an advocate, magistrate, judge and judicial advisor (*Ep*. 1.20.12), mentions Titius Aristo, a prominent legal writer whose works are frequently cited in the *Digest,* as a man who "helped many with his advocacy and even more with his legal advice" (*Ep*. 1.22.6). It is also virtually certain that Salvius Iulianus, arguably the most prominent *iurisconsultus* and legal writer of his generation, began his senatorial career by practicing forensic oratory, as befitted young men of his education and status.[295]

A further problem with the traditional typology of Roman legal practitioners is that legal practice was not limited to the activity of the elite. Important recent work has

[295] The quote is from Tellegen 1983: 295, a surprisingly neglected paper. On the interchangeability of courtroom roles among the political elite of the Republic, see Lehne-Gstreinthaler 2014. On the *causa Curiana,* see Tellegen 1983 and Tellegen and Tellegen-Couperus 2000. There has been a virtual lack of reception of these arguments among Roman legal historians. On Salvius Iulianus, see PIR² S 136 with Liebs 1997a.

attracted attention towards a great variety of practitioners whose practiced neither oratory nor jurisprudence. There were court heralds (*praecones*) who announced cases and summarized their contents to the magistrate. There were also court officials who processed applications for lawsuits and managed lists of cases to be heard in court. Members of the personal staff (*apparitores*) of Roman judicial magistrates could be quite influential, and even participated in the magistrate's judicial council (*consilium*). Additionally, there were individuals who made a lucrative business out of representing litigants as legal proxies (*cognitores*) during the initial proceedings *in iure* before the magistrate.[296] Moreover, the evidence shows that authoritative legal knowledge was not the exclusive purview of a special class of "jurists" but was wielded by a variety of individuals, including freedmen and other persons of low or middling social status who drafted wills and aided litigants in navigating Roman courts, in addition to more prestigious forms of legal activity, such as sitting on the *consilia* of judges and assisting in drafting legislative texts. Interestingly, Cicero's own effort to dismiss the work of elite legal experts as an unsophisticated, book-derived knowledge, ancillary to the work of orators, employs stereotypes about routine legal work performed by lower-class individuals. The lowly "chanter of *formulae*" and "petty legal drudge" were instrumentalized by Cicero to denigrate the elite Roman *iurisconsultus*. What the elite

[296] One such individual, named Aebutius, Cicero mockingly refers to as a "representative of widows" (*cognitor viduarum*, Cic. *Pro Caec.* 14), while Horace in his Satires urges his audience to go out and get themselves hired as *cognitores* (*Sat.* 2.5.32-42). For discussion of this and other evidence for *cognitores* and *procuratores*, see Lehne-Gstreinthaler 2016.

iurisconsulti were in fact doing—dispensing authoritative legal opinions and developing a new technical literature of Roman law—is thereby conveniently elided.[297]

The nexus between legal practice and the pursuit of a political career would remain a stable aspect of Roman elite culture under the Principate. In the Flavian era, success in forensic oratory was arguably no less important for the political elite than it had been in the age of Cicero, and it is striking that senior senators such as Pliny and Tacitus, when they were not governing provinces or holding political office, pleaded civil cases at the centumviral court.[298] Legal expertise, too, offered prestige and career prospects, particularly for those fortunate enough to be recognized as legal authorities by the emperor. In addition to advising private clients and composing works of legal literature, *iurisconsulti* vested with the authority to issue legal *reponsa* (*ius respondendi*) were formally consulted by magistrates and judges, and could receive appointments as secretaries and legal advisors of the emperor. At the same time, elite *iurisconsulti* pursued careers in politics and administration and achieved top posts in the senatorial and equestrian *cursus*.[299] From the Republic and throughout the Principate, legal practice at

---

[297] On the broader evidence for non-elite legal practitioners and court personnel, see Lehne-Gstreinthaler 2016. On *apparitores,* see Purcell 1983. On the roles of court officials in charge of composing lists of cases for adjudication (*archistatōres*) and introducing cases in court (*eisagōgeis*), see the debate over the professional identity of Lucia of Samosata in Egypt (Lucian, *Apol.* 12): Pflaum 1959 (arguing that Lucian was *archistatōr*), Gilliam 1961 (suggesting *hypomnēmatographos*) and Van der Leest 1985, arguing that both Lucian and Lampo (mentioned by Philo, *In Flacc.* 16.131) had the post of *eisagōgeus.* See my discussion of Lampo below in 4.3.

[298] On forensic culture at Rome after the age of Cicero, see Bablitz 2007, Crook 1995: 119-171 and Frier 2010. The latter two presume a competitive dynamic between practitioners of rhetoric and jurisprudence.

[299] On the *ius respondendi,* see Gaius *Inst.* 1.7 and Pomponius in *Dig.* 1.2.2.48-50. For an overview of the bibliography on this contested problem in Roman legal scholarship, see Tuori 2004. On legal experts in the entourage of the emperor, see Honoré 1994 and Liebs 2010.

Rome was a prestige-activity of the political elite and a key ingredient in the making of elite careers. But the world of litigation at Rome was clearly not limited to elite actors, and even Cicero's discussion of legal practice as consisting of the technical disciplines of oratory and jurisprudence indirectly reveals a much broader industry of legal services performed by a wide spectrum of individuals. Under the Principate, this Roman model of widespread forensic culture progressively exercised its influence on provincial elites throughout the Empire, including Roman Egypt, as we will see.

4.3 Legal practitioners in Egypt, from the Ptolemies to the Romans

As we turn to the primary object of our investigation, it is necessary to begin by posing the question of continuity and change between the Ptolemaic and Roman periods. One of the arguments traditionally employed against the relevance of Egyptian papyri for our understanding of Roman law and legal practice is the supposed continuity of pre-Roman (enchoric Egyptian and Ptolemaic) institutions and legal forms. This view was systematically propounded by scholars such as Kunkel and Wolff, whose work remains authoritative, particularly within German scholarship. By contrast, Crook's study of advocacy simply assumes that court proceedings in Egyptian papyri reflect a Roman model of legal practice, without systematically arguing this point or comparing early Roman developments with the Ptolemaic sources. In fact, Crook was rather inclined to downplay the distinctiveness of Roman advocacy and saw it as essentially analogous to the Greek tradition of *synēgoria*. Consequently, continuity and change remains an open

question, and Crook's fundamental point that Egyptian papyri constitute evidence for a distinctly Roman model of legal practice has had a surprisingly limited reception. To a striking extent, Egyptian papyri still remain an "underexploited resource" for Roman legal history.[300] So it is important to pose the question of continuity and change once again. This task is complicated by a scarcity of evidence from the late Ptolemaic and early Roman periods. In what follows, I will give an overview of the Ptolemaic and early Roman evidence for legal practitioners, and consider what it can tell us about the development of legal practice under Roman rule.

Our understanding of the Ptolemaic sphere of law and justice is currently very limited. This is only partly due to insufficient source material, particularly from the last century of Ptolemaic rule. The evidence in fact makes it clear that there were highly developed practices of petitioning and litigation in Ptolemaic Egypt, centuries before the Roman conquest. While the authorship of Ptolemaic petitions has never been thoroughly investigated, it is likely that the simpler petitions were composed by learned scribes, well-versed in the conventions of the genre, while other, more elaborate petitions may have been composed by forensic practitioners who spoke for the litigants in court. Although the Ptolemaic evidence for court proceedings is limited to a handful of papyri, there is evidence for advocacy (*synēgoroi, synkatastantes*) in the major Ptolemaic courts, where trials appear to have been conducted according to an adversarial system. Particularly striking is the evidence for hired advocacy, which is indirectly reflected by

[300] On the continuity of pre-Roman legal forms and institutions in Roman Egypt, see Wolff 1953 and 2002 111-130 and Kunkel 1967: 269-270, 355-359. Crook's methodological position in using papyri as evidence for Roman legal practice is limited to a brief statement: "Egypt was, from Augustus on, a Roman province: what happened in its courts was Rome's responsibility, and the head of the judicial hierarchy was the Roman prefect" (Crook 1995: 8).

receipts for the payment of an advocacy tax (*synēgorikon*). We also get direct glimpses of Ptolemaic advocates in action in the proceedings of court cases, such as the property dispute between the Greek soldier Hermias and a clan of Egyptian funerary workers, which took place before Ptolemaic officials at Thebes in 117 BCE. During the trial, both sides of the case were argued, professionally and in accordance with the canons of Greek rhetoric, by advocates (*synkatastantes*) with Greek names representing the two parties.[301]

The existence of a developed culture of petitioning and litigation in Ptolemaic Egypt must be regarded as a significant factor in the development of legal practice under Roman rule. Even our very sparse evidence from the first decades after the Roman conquest shows petitions being submitted to the prefect from all over the province, including reports of violence, robbery, kidnapping and enslavement, reports of abuse by officials, complaints about recalcitrant debtors, and conflicts over property. In both language and content, many early Roman petitions strongly resemble Ptolemaic petitions, which suggests continuity in the scribal traditions for composing these documents. There is good evidence that temple centers continued to compose their own litigation

[301] On Ptolemaic law and justice, the standard reference work is still Wolff 1962, but see also Manning 2010: 165-201 and (forthcoming). On Ptolemaic petitions, I refer to the ongoing dissertation project of G. Baetens at Leuven University. For a list of Ptolemaic court proceedings, see Coles 1966: 55-56 and 61, together with the new texts edited by Kramer and Sànchez-Moreno Ellart 2017. For the *synēgorikon* tax, see O. Wilck. 1537 = SB I 2089 (Thebes, 2c. BCE) and UPZ II 172 (Thebes, 126 BCE). For the Hermias trial, see *UPZ* II 161 = P. Par. 15 (119 BCE) and *UPZ* II 161 = P. Tor. 1 = M. Chr. 31 (117 BCE) with Crook 1995: 36-7 and Manning 2010: 197-8. Crook was inclined to see the Ptolemaic evidence for professionalized advocacy as being a development out of the earlier Greek tradition of *synēgoria* and as representing a generalized development in the Hellenistic world, see Crook 1995: 32-37. This is an important matter for further investigation. On *synēgoria* in Classical Athens, see Rubinstein 2000. For the hypothesis that the practice of advocacy in Ptolemaic courts "spilled over" into the Demotic courts of the *laokritai*, see Manning (forthcoming) on the proceedings text from the archive from Asyut (P. BM 10591, 170 BCE).

documents in the Roman period, as they had done in the Ptolemaic period. Furthermore, the continued attestation of Ptolemaic legislation and Demotic legal literature (and Greek translations of it) in the Roman period suggests a remarkable degree of survival of local legal knowledge.[302]

But continuities should not distract attention from important changes. The Roman assize system, where Roman imperial officials gathered to dispense justice and conduct administrative business in a series of provincial cities every year, was a novelty in the Egyptian landscape. These Roman officials – some of whom were natives of Italy and the Latin-speaking West – administered justice according to a Roman system of legal procedure and according to the framework of Roman law. In contrast to the Greek tradition of *synēgoria*, where litigants were meant to speak for themselves and the *synēgoros* was notionally only a stand-by, in the Roman tradition legal advocacy was virtually compulsory and was explicitly tied to the exercise of political and social power. So one would expect the advent of Roman imperial rule to have exercised a powerful impact indeed on legal practice in Egypt.[303]

---

[302] In one striking early Roman petition filed at Alexandria in 5 BCE, which happens to survive because it was later used to make mummy cartonnage in the Herakleopolite nome, a husband and wife had traveled to Alexandria from Lykopolis in Upper Egypt to petition the prefect to restore them their daughter, allegedly kidnapped by her employer to whom she had been hired out as a wet-nurse (BGU IV 1139). For evidence that temple centers composed their own legal documents, one only has to look at the legal papyri from the temple village of Soknopaiou Nesos, including the Augustan archive of Satabous the temple scribe, on which see Schentuleit 2007 nd 2.1. above. It also appears from the ostraka of the Arsinoite village of Narmuthis that the temple center made a large-scale business out of composing petitions for private clients. On Demotic legal literature, see chapter 3 n. 21. On Ptolemaic ordinances in Roman-period papyri, see Amelotti 2001 and Migliardi Zingale 2001. Among these documents are P. Oxy. LXXVI 7096 (early 1c. CE) and P. Fay. 22 = M. Chr. 291 (1c. CE), which contain *diatagmata* concerning marriage.

[303] On Attic *synēgoria,* see Rubinstein 2000. In my view, the differences between Attic *synēgoria* and Roman advocacy have not been sufficiently emphasized. Crook 1995: 3-45 downplays them entirely.

An immediate Roman impact is suggested by several shifts in the terminology for legal practitioners. In the Roman period, from the very earliest documents, the official term for advocate was *rhētōr,* a term not attested with this meaning in the Ptolemaic period. Meanwhile, the Hellenistic term *synēgoros* (supporting speaker) recedes in the Roman period. The semantics of *rhētōr* are intriguing. In the Greek tradition, it meant "public speaker" as well as "expert rhetorician." In the Roman period, *rhētōr* was used of epideictic rhetoricians and teachers of rhetoric, in addition to forensic orators. It is likely that the term was linked to the Latin *orator*. Both the term itself, with its connotation of rhetorical training, as well as its use as an official title in papyri and inscriptions from the Roman period (e.g. Apollonios *rhētōr*) suggest that the shift from *synēgoros* to *rhētōr* was not merely terminological, but reflected a shift in rhetorical culture and the rise of forensic oratory as a professionalized activity under Roman rule. Another important shift in terminology is the emergence of the Greek term *nomikos* ("legal expert") in sources from the Roman period. There may be a link between *nomikos* and the Latin *iurisperitus,* a term with a similarly broad range of meaning. Like *iurisperitus*, *nomikos* was used of notaries and law students, as well as legal experts who advised imperial officials, to be discussed later in this chapter.[304]

Let us now examine the small number of testimonia for legal practitioners in early Roman Egypt. One of the earliest surviving testimonia is a private letter from Alexandria to Oxyrhynchos in the late first century BCE, which mentions Apis, a *synēgoros* at Alexandria, who is slow to deliver *biblia* (legal documents or records) that must be

[304] There is no in-depth study of the semantics of these terms, as far as I am aware. For the semantic range of *nomikos,* see the appendix of documentary testimonia in Jones 2007.

registered.[305] The Egyptian name of the *synēgoros* points to his local origins. In this case, use of the term *synēgoros* may be due to the early date of the letter, when the terminological shift from *synēgoros* to *rhētōr* was not yet complete. Subsequently, the standard term for advocate would nearly always be *rhētōr* in the Roman period. Another early reference to advocacy occurs in a private letter of a certain Pappos to Athenodoros, a financial administrator (*dioikētēs*) of a district in the Heracleopolite nome, with reference to an ongoing assize of an otherwise unknown prefect Gallus at Memphis in 9 BCE. It had been recommended to Pappos to hire an advocate named Eukles (*synēgoron parastēsai,* using the older term *synēgoros*), but he first wanted to ask Athenodoros before incurring such a major expense. This document is the earliest surviving reference to the Roman prefect's *conventus*. It shows that hiring an advocate was understood to be an important and necessary aspect of litigation at the *conventus,* since the question is not *whether* an advocate should be hired but *who* the advocate should be. Judging by his name, Eukles was a Greek provincial. We do not know whether he was based at Memphis or active locally in the Herakleiopolite nome, or whether he had travelled from Alexandria for the *conventus*. Eukles was clearly very expensive, and his reputation was such that it was sufficient to refer to him by his name alone.[306]

Perhaps the most intriguing evidence for legal practitioners in early Roman Egypt are two Augustan petitions to the prefect Gaius Tyrannius from a man named Satabous, a cultivator of public land from the Arsinoite village of Soknopaiou Nesos. This Satabous

[305] P. Oxy. XII 1479 (Alexandria, late 1c. BCE).

[306] BGU XVI 2631 (Herakleopolite nome, March 2, 9 BCE). On the archive of Athenodoros, see the volume of texts published by Brashear 1995. It is unclear whether this Gallus bore any relation to the ill-fated Cornelius Gallus, who killed himself after falling out of favor with Augustus, see Rohr Vio 2000. A family relationship would shed an interesting light on early Augustan politics.

and his son had been reported for murder to the chief of police (*epistatēs phylakitōn*), arrested and held in custody. The matter came to a hearing, and the two were apparently about to be released, when the *epistatēs* ended his term of office and was replaced. When the matter was brought before the new *epistatēs*, Satabous hired an advocate (*rhētor*) to defend him (*pros apologian*). The advocate used exalted rhetoric and invoked the *res iudicata* principle: "the laws forbid anyone to be put to trial twice for the same offense!" (P. Lond. II 354 ll. 18-19). Nevertheless, the two men were still not released, and Satabous was now petitioning the prefect Gaius Tyrannius, asking that his case be examined once again.[307] We learn about this case from two different versions of the same petition, which are the earliest surviving petition-texts from the Roman period. These petitions are impressive pieces of rhetoric, which feature appeals to the *tychē* of the emperor and to the prefect's "divine presence" (*epiphaneia*, CPR XV 15 l.15), as well as multiple invocations of the law: "let the evildoers meet with the punishment due to them according to the law!" (P. Lond. II 354 ll. 18-19). While one of the petitions is written in a neat and professional scribal cursive, the other (P. Lond. II 354) displays a spectacular uncial bookhand, which features in numerous paleographical manuals as a dazzling example of calligraphic writing on papyrus. Was this calligraphic document intended to impress the prefect and his staff? Or was the petition (which shows no sign of ever being submitted) perhaps anthologized by Satabous' lawyers, as part of their portfolio of successful cases? Interestingly, one of the advocates was named Leukios, a rare Greek name, or possibly a Greek rendition of the very common Latin name Lucius. This would imply that the *rhētōr* was a Roman citizen, which in this period would virtually guarantee

[307] CPR XV 15 and P. Lond. III 354 (Soknopaiou Nesos, 7-4 BCE); presiding official: *epistatēs phylakitōn.*

that he was an Alexandrian, possibly a member of one of the prominent Alexandrian families that were enfranchised by the Romans in the Augustan Age. The striking fact that Leukios is mentioned to the prefect only by his first name suggests that the *rhētōr* was a familiar figure at the prefect's court. One wonders, in fact, whether these two petitions, which give a laudatory account of Leukios' performance, were written by the staff of Leukios himself.[308]

Beyond these four Augustan papyri, the evidence for advocacy recedes until the reign of Claudius, when we have a private Latin record of an inheritance dispute between soldiers of the *legio III Cyrenaica*. The case is a textbook example of a Roman civil trial, which involved soldiers and was therefore conducted in a military setting. The case was was first examined by the prefect of the legion, who delegated it to a centurion, who adjudicated together with a *consilium* of advisors. The phrase *causa ex utraque parte perorata* ("after the case had been pleaded by both parties") suggests the presence of advocates on both sides but unfortunately we know nothing about them.[309]

Our next piece of evidence is a court protocol attested among the private papers of Tryphon, a weaver from Oxyrhynchos.[310] The hearing took place at the Oxyrhynchite *conventus* of 49 CE. There, a *rhētōr* named Aristokles pleads on behalf of Pesouris, the employer of Tryphon's wife Saraeus, a wet-nurse. After Saraeus fiercely interjects on her own behalf, a man named Theon backs up her statement. He, too, may have been an advocate, or perhaps a male relative representing Saraeus, or possibly a court assistant

---

[308] On the paleography of the calligraphic London papyrus, see most recently Cavallo and Maehler 2008: no. 88. A similar hand was used in a contemporary papyrus of Homer, P. BM 107.

[309] P. Mich. III 159 (Arsinoite nome? ca. 37-43 CE).

[310] P. Oxy. I 37 = M. Chr. 79 = FIRA III 170 (Oxyrhynchos, March 29, 49 CE); presiding official: Tiberius Claudius Pasion, *stratēgos* serving as *iudex* appointed by the prefect.

who was responsible for translating into Greek the statements of Saraeus who, almost certainly, spoke Egyptian. The *stratēgos* who had been delegated the case ruled "in accordance with the decision (*krithenta*) of the prefect," which shows that the case was taking place in the framework of the *conventus*. Did the *rhētōr* Aristokles live and work in the Oxyrhynchite nome, or did he travel with the prefect's peripatetic court?

A curious feature of this papyrus is its distinctive format: a single sheet with two short and narrow columns (ca. 12 cm by 20 cm) facing each other. This format, which is very different from the longer and broader columns of later reports of proceedings (e.g. P. Oxy. II 237: ca. 30cm by 30cm), strongly resembles the format of Roman documents on wax tablets. It is noteworthy that the contemporary Latin report of proceedings (P. Mich. III 159) has precisely the same dimensions, inverted 90 degrees. Another early instance of court proceedings that exhibits a similar format (two columns, ca. 17cm by 18cm) is a record of grievances presented by soldiers to the prefect Tuscus (SB V 8247, 63 CE); the same hearing is recorded in P. Fouad 21 in a similar hand and format (one column, ca. 19cm by 19cm). If my inference about wax tablets is correct, these early instances of Roman court proceedings are a striking reflection of the Romanity of this type of documentation, issued by Roman authorities according to a characteristically Roman format, which had evidently not yet been fully converted to the medium of papyrus.[311]

These six documents constitute the only explicit evidence for legal practitioners from the entire first century of Roman rule in Egypt (30 BCE - 70 CE). Nonetheless,

[311] The curious format of P. Oxy. I 37, SB V 8247 and P. Fouad 21 has, to my knowledge, never been linked to the format of wax tablets. I also find striking their angular hand with sharp diagonal strokes, which to me suggests scribes who were trained to write Latin documents – compare the Latin text of P. Mich. III 159. This will be the subject of a separate investigation.

several important inferences can be made. First of all, it is clear that there was forensic advocacy at the Roman *conventus* from the earliest decades of Roman rule. The names of several *rhētores*/*synēgoroi* are Greek or Graeco-Egyptian, reflecting their local or eastern provincial origins. The evidence also suggests that these *rhētores* were a small and eminent group, widely familiar to litigants and imperial officials alike. The formulation of their names – Apis the *synēgoros*, Eukles the *synēgoros* – suggests that, for at least some of them, "advocate" was an occupation and title. The connection of these advocates to the *conventus* leaves open the question whether they were active locally in the nomes, or whether they were based at Alexandria and traveled along with the prefect on his assize tour. In the case of Apis and Eukles, it is clear that the advocates were privately hired. In the murder case of Satabous, however, it is unclear how the imprisoned defendant managed to engage such a high-profile advocate, whose staff produced highly rhetorical and heirloom-worthy calligraphic petitions. Instead, it is tempting to regard the two petitions to Gaius Tyrannius as early evidence for prestigious advocates affiliated with the court of the prefect, who were available at the *conventus* to represent even the lowliest litigants in cases that came before the prefect and other high-ranking officials. This point will be developed further in the next sections.

Apart from this handful of testimonia, papyrological evidence for legal practitioners is scarce before the Flavian period. This scanty picture can be supplemented with one important literary testimonium. In his treatise against Flaccus, a former prefect of Egypt (ca. 33-38 CE) who had been hostile to the Jews, Philo of Alexandria provides us with a portrait of Lampo, an Alexandrian aristocrat who acted as keeper of judicial records for Roman governors (*In Flacc*. 16.128-135): "standing by governors whenever

they administered justice, he recorded the proceedings of each trial and entered them into the records" (*In Flacc*. 16.131). This Lampo probably had the post of *eisagogeus* (introducer of cases). He was known as a "pen-murderer" (*kalamosphaktēs*) due to his pernicious habit of tampering with the prefect's judicial records in return for bribes. After all, no Roman governor could be expected to remember all of the cases that he had adjudicated. Philo furnishes us with a revealing glimpse into the practice of Roman governors of recruiting their administrative staff from the civic elite of the provincial capital. It seems likely, given his position, that Lampo traveled with the prefect on his assize tour, and we should probably imagine a retinue of assistants of this sort who were present at the *conventus*. We will return to this point.[312]

From the Flavian period onwards, the meager state of the evidence significantly improves with the dramatic expansion of the papyrological record and the emergence of several key genres of texts. In particular, ca. 370 transcripts of court proceedings from the Roman period, which begin to be attested from the Flavian period onwards, constitute the largest body of evidence for legal practice in the Roman empire. These documents reveal a variety of actors operating in Roman provincial courts, including numerous advocates, as well as court heralds, stenographers, translators (*hermēneis*) and court assistants (*hypēretai*). We also observe judges sitting with their advisory councils and consulting authoritative legal experts (*nomikoi*) on questions of law. The papyrological record also

[312] On Philo's Lampo, see Van der Leest 1985, the commentary of Van der Horst 2003: 207-218 and Harker 2008: 111. The reading of *eisagōgeus* may be possible through a textual emendation of the passage (suggested by Van der Leest) from ὑπομνηματίζετο τὰς δίκας *εἴσαγων ὡς* ἔχων τάξιν to ὑπομνηματίζετο τὰς δίκας *εἰσαγωγέως* ἔχων τάξιν. Lampo's associate Isidoros is a prominent character in the *Acta Alexandrinorum,* see the *Acta Isidori* in Musurillo 1954: 18-26. On Lampo and Isidoros, see Harker 2008: 15, 23, 42-45 93-95, 154-155. Lampo's court functions appear to have been very similar to the post of Lucian in Egypt, see Lucian, *Apol.* 12 with Van der Leest 1985.

sheds light on the preparatory work for legal cases, including drafts of petitions and forensic speeches, and case-collections for use as judicial precedents. This evidence directly reflects the activity of legal practitioners throughout the province of Egypt.[313]

Even this rich evidence, however, has its limitations, of which it is important to be aware. Most proceedings-texts (particularly those from the first and second centuries CE) are excerpted and heavily abbreviated, making it difficult to reconstruct what was actually said in court. Many texts have the form of extracts or condensed summaries that primarily highlight the verdict reached in the case. Entire speeches of advocates are often reduced to short phrases, while exchanges between officials and their advisors are elided altogether. Understanding the texture of these court transcripts is important for their accurate analysis. When faced with a heavily abbreviated text, it is necessary to read between the lines in order to get a sense of the rhetoric and argumentation of the speakers. A lack of attention to these details has precluded Roman legal scholars from identifying arguments based on Roman legal principles, and has contributed to a generally low opinion of the competence of legal practitioners in Roman Egypt. This point will be duly addressed in the sections on forensic orators and *iurisconsulti*.[314]

Another limitation of proceedings-texts is the fact that they tend to refer to advocates by only one name (e.g. Sarapion *rhētōr*), which makes prosopography a thorny problem. Nevertheless, systematic analysis of names, dates, and trial-contexts makes it possible to link multiple testimonia to the same individuals. Naturally, proceedings-texts primarily tell us

[313] As I have suggested in chapter 2, the Flavian expansion of the papyrological record may have something to do with a shift in "archival memory" due to the establishment of a centralized system of provincial archives. The sudden emergence of court proceedings in the Flavian period may also reflect a shift in policy regarding access to judicial records, see my discussion in 2.5.

[314] On the format reports of proceedings and the abbreviated nature of most texts, see Coles 1966.

something about the individuals who spoke in court – the advocates, the litigants and the judges – and it is important to keep in mind the activity of other courtroom actors (heralds, assistants, legal advisors and so forth) who are silent. There are also important agents about whom we have virtually no direct information, such as the staff of officials who processed petitions and selected cases for adjudication. Their agency, too, must be inferred or reconstructed from sparse bits of evidence. Lastly, while the evidence for preparatory legal work contains valuable information about the methods and materials of legal practitioners, these individuals are typically anonymous. Consequently, careful observation, deductive reasoning, and comparison with other genres of evidence must be used to interpret this material as evidence for legal practice. In what follows, I will present a general analysis of the evidence for legal practitioners in Roman Egypt from the Flavian period onwards. The majority of the discussion will focus on forensic orators, who are the best-attested group. Subsequently, I will turn to *nomikoi*, a term that designated different types of legal practitioners, including notaries and legal advisors to officials. Lastly, I will analyze some of the evidence for legal work, which offers an important means of nuancing the traditional subdivision of legal practitioners into advocates and legal experts. The aim of this discussion is to produce a clearer and more nuanced picture of legal practice in Roman Egypt, which is a key context for understanding legal practice and its development in the Roman empire.

4.4 *Rhētores*, forensic orators

As we have seen, the earliest Roman-period documents already show advocates pleading cases at the *conventus*. As soon as reports of court proceedings enter the papyrological

record in the Flavian period, advocates – often, teams of advocates – are everywhere to be found. Evidently, this state of affairs came about much earlier, during the period when our sources are lacking. While a limited argument can be made for the existence of professionalized advocacy in Ptolemaic courts, the Ptolemaic sources do not suggest anything comparable to the mass phenomenon we observe in the Roman-period documents, where the presence of advocates is the rule, and their absence a rare exception. As emphasized by Crook, it is striking to what extent papyrological sources resonate with other evidence for advocacy in the Roman world, including the evidence from the city of Rome itself. In Egypt, we see advocates giving elaborate introductory speeches (*narrationes*) and employing rhetorical devices familiar from the speeches of Cicero and Roman rhetorical handbooks. To Crook, it was self-evident that the Egyptian sources reflected the adoption of a Roman model of forensic practice in the provinces. My analysis of the evidence will confirm and develop this important point. At the same time, I want to pose new questions and address unresolved problems, such as the organizational structure of advocacy and the involvement of provincial elites in the forensic sphere.

4.4.1 The presence and absence of advocates

One important question posed but never conclusively answered is the logic of the presence and absence of advocates. Generally speaking, advocates are present in Roman-period court proceedings with striking regularity. They appear in preliminary hearings, as well as full proceedings, in cases of private litigation, as well as fiscal, criminal and administrative matters, and they represent litigants of very different background and

social class. In some cases, one wonders how the individuals in question – such as the orphaned children of a shepherd, who are masterfully represented by a former *advocatus fisci* (P. Sakaon 31 = P. Thead. 15, 280-1 CE) – could afford to engage legal assistance at all, let alone the prominent *rhētores* or teams of *rhētores* who spoke for them. Crook's tentative explanation was that there must have been advocates "on call" at the *conventus,* but he did not develop this point or explain the presence of multiple advocates on behalf of the same client.[315] Both points will be addressed further below.

While advocates are normally present in Roman-period court proceedings, in a number of cases they appear to be absent. One example (M. Chr. 91 = BGU II 388, 157-159 CE) is a long report of a fiscal investigation conducted by the procurator of the *Idios Logos*, involving a spectacular attempt by the female companion of a murdered soldier to appropriate his property (and avoid paying taxes on it) by dispersing livestock and valuables across several nomes with the help of household slaves. Although numerous individuals speak throughout this hearing, there are no advocates mentioned. Another example (SB VI 9050, after 114 CE) is a collection of four cases adjudicated by four different prefects, where siblings are nominated to liturgies. No advocates are mentioned and the litigants appear to be speaking for themselves. By contrast, in an analogous papyrus where liturgy-nominees present *excusationes* to the *iuridicus* (PSI IV 293, 2c. CE), advocates are present.[316]

[315] Crook 1995: 94-5, 100 on the advocates "on call" and 74, 84, 86, 99 un the problem of multiple advocates.

[316] Regarding the absence of advocates, Crook did not see a consistent pattern in the evidence, which he felt to be highly problematic for his study, see Crook 1995: 64-65.

In such instances, the apparent absence of advocates has several plausible explanations. One is that the presence of advocates was simply elided in the report of proceedings. In some cases, the speaking-role of advocates was limited to the introductory speech, which means that their statements may simply not show up in an excerpted or fragmentary report. In other instances, the presence of advocates seems to have been elided in the process of abbreviation. This is probably what happened in the papyrus about sibling-liturgies (SB VI 9050), where the extracts from proceedings are very short and heavily abbreviated. Another clear case of "elision" is the report of a case delegated by the prefect to the *stratēgos,* who informs the prefect about his verdict (SB I 5761, ca. 91 CE). There, the adversaries appear to state their own cases, but it is clear that their concise single statements are paraphrases of the proceedings. Both the context of the *conventus* and the nature of the case (a property dispute involving abuse of guardianship) virtually guarantee that there were advocates present. Most likely, the *stratēgos* was being minimalistic in his report.

The evidence also suggests a second explanation: although advocates were regularly present in the courts of high-ranking officials and delegated judges at the *conventus,* they may not always have been available or deemed necessary at the local level. In one papyrus, a wealthy man named Paulinus appears at the *conventus,* where he is represented by an eminent advocate at the court of the *archidikastēs,* serving as *iudex* appointed by the prefect (P. Mil. Vogl. I 25, after 127 CE). Then, two years later, Paulinus appears alone at the local court of the *stratēgos* in the village of Tebtunis (P. Mil. Vogl. I 27, after 129 CE). This being a local hearing, the services of a *rhētōr* may have been deemed unnecessary. Similarly, a wealthy creditor appears to speak for

himself, very deftly and rhetorically, at the court of the *stratēgos* (P. Wisc. I 1, early 2c. CE). Elsewhere, a member of the city council (*bouleutēs*) speaks for himself using forceful rhetoric in a tax case at the court of a procurator (SB XXIV 15940, 200-250 CE?). One document is especially revealing: in a hearing before the *stratēgos* concerning a fugitive slave (PSI IX 1033, 166 CE), the defendant brings in an advocate who launches a full defense, whereas the plaintiff states: "I have not come here to plead a full-fledged lawsuit, but merely to serve a demand for payment (*diastolikon*)." Evidently, this was not the time and place for advocacy and formal proceedings.

Another explanation suggested by the sources is that there was an important difference between cases involving private legal disputes, where advocates were the rule, and cases involving a fiscal or criminal investigation, where advocates might be disallowed by the presiding official. In a papyrus from the village of Karanis (SB IV 7368, 2-3c. CE), the case of a corrupt *kōmogrammateus* is investigated by a *stratēgos*, where various individuals (accusers, witnesses, etc.) speak but no advocates are mentioned. In another criminal investigation by a *stratēgos* into the vandalism of a vineyard (P. Oslo II 17, 136 CE), the *stratēgos* interrogates the defendants directly (and has them beaten) but no advocates are mentioned. This is also the most natural explanation for the absence of advocates in the above-mentioned investigation into forgery and fiscal evasion conducted by the procurator of the *Idios Logos* (M. Chr. 91 = BGU II 388, 157-159 CE). That the presence of advocates in such investigations was subject to the discretion of officials is further suggested by two contexts where advocates are specifically referred to as "standing by" (*parestotes, paristamenoi*) defendants who had committed fiscal crimes and were being prosecuted by state officials (P. Bacch. 20 =

SB VI 9329, 120 CE; BGU I 114 = M. Chr. 372 col. VI, 135 CE). The verb *paristemi* may imply that the advocates had been permitted and appointed by the court. Interestingly, the fiscal delators themselves were also represented by advocates, which throws into relief the centrality of advocacy and adversarial proceedings to the Roman model of the legal process. Even the Roman imperial treasury (*fiscus*) was given a private legal identity and furnished with special advocates (*advocati fisci*) to defend its interests.[317]

Overall, the occasional absence of advocates in papyri highlights their regular presence at the Roman *conventus*. In the high courts of the province, advocates are ubiquitous and we almost never encounter individuals who only speak for themselves. Noteworthy in this regard is a court case cited in a mid-3rd century petition (P. Giss. 34 = M. Chr. 75, ll. 10ff., 266 CE), where the interests of a woman are represented at the court of the *archidikastēs* by her grandfather, who was an Alexandrian councillor (*bouleutēs*) together with the *archidikastēs*. Although it can be presumed that the *bouleutēs* had the rhetorical training to present his granddaughter's grievances in a cogent fashion (moreover, this was only a preliminary hearing), the hearing begins with the speech of a *rhētōr* who presents the whole case to the *archidikastēs*. This highlights the importance of advocacy, in this case, professionalized advocacy, to the Roman model of the legal

[317] Interestingly, there is a Ptolemaic petition that mentions the rule that advocates (*synēgoroi*) are not permitted in cases of fiscal evasion (P. Amh. II 33, ll. 15-21, 157 BCE). In the case before the *Idios Logos*, the story is so extreme that one would not have been surprised if it were a paraliterary fiction. However, it does seem to be authentic, as indicated by the presence of a *prosodopoios*, a rare term for a court summoner (or perhaps fiscal prosecutor) that appears in only one other papyrus (SB XVI 12747.9–14) at the court of the same procurator of the *Idios Logos*.

process. In the Roman courts of Egypt, advocacy was the rule, with very few exceptions, throughout the Roman period.

4.4.2 Forensic oratory: The shape of a field

Papyrological evidence provides important information about many aspects of forensic oratory as an organized activity (such as the appearance of advocates on behalf of apparently destitute clients and the frequent appearance of multiple advocates on behalf of the same client) that require explanation. A comprehensive first-hand examination of the evidence for court proceedings in Roman Egypt, comprising twice as many documents as those hitherto considered, is a fruitful context for investigating and explaining these and other aspects of forensic oratory as a field of activity. First, there is the question of analytical terminology and whether it is appropriate to speak of "professionalization" and of forensic oratory in the Roman empire as "professionalized." While historians of Roman law tend to be wary of these terms, it is difficult and arguably misleading to avoid them. If one considers modern analytical criteria, the practice of forensic oratory in the Roman world exhibits many characteristics of what modern sociologists of professions would regard as a professionalized field:

1) There was a well-defined curriculum of study and training in forensic rhetoric that prepared individuals for oratory in the courts.

2) The practice of forensic oratory had an institutional structure, reflected by the evidence for professional associations of advocates (*forenses*/*agoraioi*) and eventually for a formal Bar attached to imperial courts.

3) The sources provide us with glimpses of a professional ethos of advocacy, such as the duty of advocates to give an earnest defense of each client and their prohibition from receiving salaries or demanding exorbitant fees.

4) At the same time, there was a large number of non-elite practitioners for whom advocacy and other legal work constituted a trade and a livelihood.

In all of these respects, forensic oratory in the Roman world merits description as a professionalized field.[318]

In analyzing the shape and organizational structure of this field in Roman Egypt, testimonia from four Roman authors provide helpful parameters. The first is Quintilian, who in his *Institutio Oratoria* provides copious information about the practice of forensic oratory in the city of Rome—a subject already discussed in section 4.2. At one point, Quintilian poses the traditional question: did orators need to study the law (*Inst. Or.* 12.3)? In line with Cicero's discussion of this question in *De Oratore,* Quintilian states that legal knowledge is absolutely necessary for a forensic orator, who risks looking ridiculous in the courtroom if he is forced to ask for legal advice from the "lesser" advocates (*minores advocati*) sitting on the bench. Even worse, the designated legal expert (*iuris peritus ille*) might be absent, or the legal advice offered to the orator might be deficient. To avoid this, Quintilian insists that the orator have full control of all aspects of his case. From Quintilian's account, we get a vivid sense of the variety of actors involved in the pleading of court cases: first, there is the main orator, an elite figure who was the primary voice to speak in court. Then, there are the "lesser" advocates, who

[318] On sociological approaches to professions, see Suddaby and Muzio 2015 and Dingwall 2008. For an important case study of the medical profession, see Freidson 1970. The application of these approaches to legal practice in the Roman world is a fruitful area for further investigation.

assisted the orator from the bench. Finally, there were the legal clerks (*pragmatici*) who sat "on the books" and furnished the orator with prompts.

Elsewhere, Quintilian speaks of orators turning to their *librarii* (the men "on the books") to provide them with prompts (11.3.131). Pliny similarly mentions that his own freedman stood behind him as he delivered a speech (*Ep*. 2.11.15). Quintilian's account conveys a hierarchical scheme, where a principal orator delivers the forensic oration but relies on a cohort of assistants for the legal and factual points that arise in the ensuing discussion. It is not entirely clear to which category of assistants the *iuris peritus* belonged, but Quintilian's phrasing (*Inst. Or*. 12.3) seems to suggest that this was one of the *minores advocati,* who had specialized legal knowledge and could be consulted by the orator on legal questions. This suggests a person with a subsidiary role doing the legal research and preparatory work for orators. The latter would go well with Quintilian's subsequent point (echoing Cicero's *De oratore*) that those who cannot succeed as orators should dedicate themselves to studying the law. It has been suggested that the *minores advocati* were junior colleagues of the orator, but it is perhaps more likely that these were orators of inferior status and skill. This is suggested by Quintilian's remark about self-important orators delivering their speeches, receiving their applause, and then departing from the courtroom and leaving the rest of the trial to men of lesser skill and experience (*imperiti*) who were typically "commoners" (*pullatae turbae*) (6.4.6). Elsewhere, Quintilian emphasizes that his rhetorical curriculum does not seek to train "some kind of forensic day-laborer or mercantile voice" nor a "by no means useless pleader in lawsuits, commonly called a *causidicus*" but instead a man "excelling in natural talent... feeling and speaking in a refined fashion" (12.1.25). These and other passages reflect a discourse

of distinction between elite orators, who were "naturally talented" and did not need to practice oratory for financial gain, and lower-class individuals who made a living from forensic pleading. This points to a broader industry of litigation, where skilled individuals could find a livelihood or even make sound profits arguing and winning cases. Quintilian's elitist remarks must also be understood in relation to oratory as a mechanism of social mobility, where individuals with talent could gain celebrity status, attract attention from the powerful, and rise to high positions in Roman society. To denigrate such individuals by associating them with lower-class *causidici* is a rhetorical strategy analogous to Cicero's denigration of legal scholars such as Sulpicius Rufus by associating them with notaries and hacks—formula-mongers and chanters of syllables. In fact, Quintilian himself was a "new man" at Rome, a provincial from Spain who came to Rome to study rhetoric, opened a rhetorical school, forged the right connections and eventually attracted the attention of the emperor Vespasian and was rewarded with a consulship and a chair in rhetoric.[319]

Like Quintilian, Pliny the Younger was a "new man" who rose to a high social position through a public career that began in the courts: "through my studies I rose, through my studies I was imperilled, and then rose again" (*Ep*. 4.24, *studiis processimus, studiis periclitati sumus rursusque processimus*). Throughout his career, Pliny continued to plead high-profile cases in prestigious courts, including testamentary disputes at the court of the *centumviri* at Rome. In one description of forensic oratory at the centumviral

[319] For the career of Quintilian, see *PIR*^{2} F 59. On Quint. *Inst. Or.* 12.3, see Bablitz 122, 187 and 219. Generally on Quintilian as a source on the practice of forensic advocacy at Rome, see Bablitz 2007: 185-198 and 219; Crook 1995: 167-171. Bablitz translates *minores advocati* simply as "junior counsel." I would emphasize the implicitly inferior status of this group, who should not be confused with the elite young protégés "shadowing" experienced orators, see the next section.

court (*Ep*. 2.14), Pliny complains that this fine discipline (*pulcherrimum opus*) is in hopeless decline due to the intrusion of upstart orators—ambitious young men of obscure origin (*adulescentuli obscuri*), who ignored the established custom of being introduced by senior orators and built a false reputation for eloquence by hiring claques to applaud them. This passage is a vivid, if tendentious commentary on forensic oratory as a prestige-practice of the elite. It is not entirely clear whether these upstart orators were seeking to enter the political arena, or whether they were mainly interested in earning high fees from wealthy clients. If so, Pliny's description sheds further light on forensic oratory as a lucrative occupation within the market of legal services at Rome. Elsewhere, Pliny praises a forensic contest between two young orators from senatorial families before a *consilium* of senior senators (including himself) at the court of the *praefectus urbi*: "for what is more pleasing to the public than to observe two noble young men (*clarissimi*) trying to make their name and reputation through their rhetorical pursuits, or more gratifying for me than to be cited as a role model for their virtuous mission" (*Ep*. 6.11). The comparison is double-edged, since Pliny had achieved his career without the social advantages of these young *clarissimi*. Elsewhere, with reference to a poetry recital, Pliny sardonically expresses his contentment "that some noble youths, at least, are doing something worthy of their ancestors" (*Ep*. 5.17). The opportunities for social advancement presented by the courts register in contemporary senatorial writers such as Pliny and Tacitus in a double-edged fashion: in the *Dialogus*, Tacitus rhetorically glorifies the rise of "new men" such as Eprius Marcellus and Vibius Crispus: "the more humble and remote their birth... the more brilliant and illustrious they were as exemplars of eloquence and its utility, they who without wealth or noble birth to recommend them,

not excelling in manners and derided for their appearance, were for many years the most powerful men in Rome, *principes* of the forum so long as it pleased them and subsequently *principes* among the friends of Caesar" (Tac. *Dial*. 8). Elsewhere, however, the same men are denigrated for rising by dishonorable means, through legacy hunting and fiscal denunciation (*captatio, delatio,* Pliny *Ep*. 2.20, Tac. *Hist*. 4.42, *Ann*. 1.74). Both Pliny, Tacitus and Quintilian had entered the Senate as "new men" by virtue of their rhetorical skill and success as forensic orators. At the same time, they denigrated as "young upstarts" and dishonest opportunists those who attempted a similar rise: in his tirade against claque-hiring *adulescentuli*, Pliny echoes Quintilian in scorning ambitious young men seeking success in the courts. It was arguably the instrumental role of forensic oratory as an avenue for social and political advancement that necessitated these discourses of exclusion, including the supposed "decline" of oratory due to the intrusion of lowly and presumptious upstarts, who are to be strictly distinguished from the "true" elite.

In the satires of Juvenal, a younger contemporary of Pliny, we find a satirical account of the hopeless job prospects of advocates at Rome, where rhetorical skill is no longer a sufficient means to earn a decent living (*Sat*. 7.111-149). Even if one pleads successfully, the earnings are miserable, and it is necessary to hand over large sums to the clerks (*pragmatici*). Here, once again, we encounter clerks who assist the advocate in pleading his case. Apparently, however, the situation, is dramatically different for members of the elite, who charge high fees and have excellent business as advocates due to their wealth and preeminence. According to Juvenal, in Flavian Rome even Cicero would not earn high fees without the gold ring of equestrian rank, eight slaves, ten

attendants, a curule chair and a retinue of advocates (*togati*) at his feet. Thus, once again, we encounter the figure of the elite orator with his cohort of underlings. In the end, the obscure young advocate is advised to go to Gaul or Africa, the "nursemaid of advocates," where rhetorical skill is still adequately rewarded. In his eighth satire, Juvenal rails against the snobbery of the aristocracy (*Sat*. 8.47-50): "even among the lowliest plebs (*ima plebe*) you can find an eloquent Roman, whose occupation it is to defend ignorant nobles in court; from the toga-clad populace will come a man who will untie the knots and riddles of the law." While taking into account the exaggeration inherent in the genre of satire, Juvenal's descriptions suggest a vibrant industry of legal practitioners, which included elite men whose success was largely a function of their wealth and social connections as well as individuals of low origin who were skilled and respectable professionals. We can imagine a wider social spectrum beyond these two figures, stereotyped by the satirist.[320]

A purple passage for forensic oratory in the Roman empire is Ammianus Marcellinus' tirade against the forensic "profession" (*professio oratorum forensium*) in the Roman empire in the fourth century CE (30.4.9-19). There, Ammianus classifies forensic orators into four types, all of which are instructive for our discussion:[321]

---

[320] On the Juvenal passages, Bablitz 2007 reads them as a negative reaction against the rise of lowly rhetoricians. This is questionable. Juvenal's depictions of the boorish and arrogant *nobiles*, as well as the wealthy orator with a fat gold ring whose skill does not seem proportional to his reputation, are arguably even more biting.

[321] With regard to this passage, Matthews 1992: 48 argues that the four types do not correspond to real categories of legal practitioners, but are satirical portrayals that "merge into more or less indistinguishable forms of wickedness." This is perhaps excessive. While these are certainly non-technical and in part overlapping portrayals, it does seem that Ammianus was trying to create four distinct and recognizable characterizations.

1) The first category operate at the local level, typically in the initial stages of litigation and in proceedings before local judges. They are primarily interested in financial gain and are criticized for their venal efforts to induce wealthy people to litigate against their family and friends (30.4.9-10).

2) The second category profess to have deep knowledge of the law. Pale from their study of the legal literature, they dispense their recondite knowledge in an oracular fashion for high fees (30.4.11-12).

3) The third category are forensic orators of a more illustrious sort, who are primarily concerned with achieving fame and social advancement, rather than with the fate of their clients. Their formidable skills enable them to prolong lawsuits indefinitely, until their clients are destitute (30.4.13).

4) The fourth category are impostors without an adequate education, who make a business out of initiating litigation but are rarely allowed to plead cases in court. These advocates tend to be hastily hired and badly briefed. To compensate for their inferior skills, they use verbal abuse and cheap tricks such as requests for adjournment in order to study the legal paperwork. Their primary interest is, once again, financial gain. In criticizing this group and their incompetence, Ammianus touches on various aspects of advocacy that are familiar to us from documentary sources, such as the use of adjournment as a delay-tactic and the appearance of senior advocates with a staff of junior assistants (30.4.14-19).[322]

[322] The reason why these inferior *rhētores* are rarely permitted to plead may be that they did not belong to the *numerus clausus* of statutory advocates at each court. Alternatively, it is possible that they were at the bottom of the list and were simply never appointed by the official.

These four "portraits" of forensic oratory yield several important observations. One theme that emerges in all four authors is that forensic pleading in prestigious courts – at Rome and in the provinces – was dominated by orators of elite social standing. This is explicit in Juvenal's warning to the aspiring advocate at Rome, and implicit in Pliny's complaint about the decline of oratory due to an invasion of upstarts of dubious background and education. Likewise, Ammianus' fourth category of orators with substandard training are implicitly individuals of non-elite pedigree, who were, according to Ammianus, rarely allowed to plead cases in court. Ammianus also makes an implicit distinction between forensic practitioners who operate at the local level versus those who plead in the higher courts. In Ammianus as in Juvenal, social status is a key factor determining success as a forensic pleader. All four testimonia depict a hierarchical scheme, where a principal orator is assisted by a staff of underlings. Another important point that emerges from these testimonia is that certain advocates had technical expertise in the law. For Quintilian, answers to legal questions were to be sought from the *minores advocati* on the bench, among whom there was a *iuris peritus*. Similarly, Ammianus's second category of forensic orators are those who studied the law and gave legal advice to clients. All of these observations will be important in our analysis of the papyrological evidence.

4.4.3 Forensic orators in Egypt

The evidence for forensic oratory in Roman Egypt can be described along the following lines. It is clear that forensic oratory was strongly associated with the *conventus,* where proceedings-papyri reveal a broad spectrum of *rhētores* of varying skill and prestige. It is

possible to identify *rhētores* who were locally-based in the nomes, as well as those who appear to travel together with the prefect's court. *Rhētores* frequently plead in pairs or groups, and in these cases the roles each one of them discharges allow inferences about their working relationships, division of tasks, and hierarchical dynamics. It is also possible to discern the institutional organization of forensic oratory. In particular, papyrological evidence suggests that there were groups of high-profile orators associated with the courts of particular officials, long before this practice emerges in the legal sources of the late Empire. This issue will be discussed in detail in the next section.

Let us now address each point individually, starting with the distinction between local *rhētores* and high-profile *rhētores* who reappear at the *conventus*. Although the practice of recording only one name for advocates in reports of proceedings makes prosopography difficult, there is a distinct pattern of recurring names among *rhētores* who plead cases before high-ranking officials. For example, a *rhētōr* named Aristonikos is attested pleading before the prefect at Alexandria in 85 CE (P. Flor. I 61 = M. Chr. 80) and again at the court of a high official in the same period (SB XX 15148). Another *rhētōr* named Crispinus pleads before the prefect at Alexandria in 162-3 CE (P. Oxy. III 653 = M.Chr. 90) and again in 166 CE (BGU XI 2058 col. II 13-16). There are many other such examples. Interestingly, advocates with recurring names also tend to exhibit a confident tone and superior rhetorical skills. Aristonikos, for example, leaves his opponent in the dust, and speaks in a tone of familiarity with the prefect that suggests that he was a "regular" at the prefect's court. Then, there is Kallineikos, an eminent Alexandrian *rhētōr* who defends the Arsinoite landowner Tertia Drusilla in a prolonged property dispute that went through several Alexandrian courts in the 140s CE (SB 16

12555, 138-144 CE; M.Chr. 87 = P. Lond. II 196, 141 CE; BGU XI 2070 recto, 142-144 CE). Kallineikos is also attested in another papyrus, where he pleads at Alexandria at the court of the *iuridicus* ca. 148 CE (P. Cairo Preis. 1[2]). There, his opponent is Lykarion, a *rhētōr* who is also attested in another papyrus where he scores a victory at the *conventus* in the Nile Delta in 146 (SB XIV 12139 col. II - col. IV 14). Through the example of Lykarion and other recurring names, we can deduce that there were eminent legal practitioners from Alexandria who traveled to the *conventus*. We will return to this point in the next section.

Alongside these eminent metropolitan *rhētores*, we also observe *rhētores* of a less illustrious sort, who operated at the local level. Two such *rhētores*, who were active locally in the Arsinoite nome, are attested in multiple papyri, which allows us to trace their activity in some detail. The first local *rhētōr*, Pasion, appears as an advocate on behalf of two generations of the same family from the village of Tebtunis. In 114 CE, Pasion represents the father Leonides at the court of the *stratēgos*; ten years later, Pasion appears at the Arsinoite *conventus (*together with a colleague named Gaius) on behalf of Leonides' sons. Evidently, for this family of middling wealth, who were implicated in the Arsinoite archive crisis which dragged on for many years, Pasion was the family advocate of choice. Pasion also appears at the court of the *stratēgos* in 123 CE (this time, with a colleague named Didymos) on behalf of a weaver from the village of Philadelphia who seeks exemption from a liturgy.[323]

[323] The evidence on Pasion consists of three papyri: 1) P.Fam. Tebt. 24 ll. 82-102 (Arsinoite nome, August 15, 114 CE); *rhētōr*: Pasion; presiding official: Apollonios, *stratēgos*. 2) P.Fam. Tebt. 24 ll. 22-40 (Arsinoite nome, 124 CE); *rhētores*: Pasion and Gaius vs. Ammonios and Hermias; presiding official: Apollonios, ex-*stratēgos*, *iudex* appointed by the prefect. 3) P. Phil. 3 (Arsinoite nome, 123 CE); *synēgoroi*:

The second local *rhētōr,* Ammonios, appears in 118 CE at the court of the *stratēgos* as an advocate in a private dispute between litigants from Tebtunis. We then encounter him at the Arsinoite *conventus* in 124 CE, in the same hearing as Pasion, as an advocate on behalf of a wealthy local family of municipal officeholders. This family was evidently connected to one of the litigants involved in the case from 118, the report of which was found in the same archive of papers. Like Pasion, Ammonios seems to have served different members of the same family over many years. We find Ammonios again at the Arsinoite *conventus* in 127 CE, where he represents a freedman seeking to reclaim a deposit of 2,000 drachmas from the estate of a wealthy Roman citizen, again from Tebtunis. This case was initially heard by the prefect Flavius Titianus, who delegated it to the *stratēgos*. Ammonios' opponent is a formidable *rhētōr* named Palamedes, who gives a spectacular rhetorical performance worthy of Cicero. There is a stark difference in caliber between Ammonios and Palamedes, who uses elegant language and an array of rhetorical devices, and who is remarkably quick on his feet, attacking his opponent at every turn. Palamedes ridicules the freedman for his low status and questions the authenticity of his deed of deposit – for where, he asks, did such a lowly person get such a large amount of money to begin with (col. III 3-6)? Palamedes also seems better informed about his client's case than Ammonios, who gives the introductory speech and then leaves his client "in the lurch" to answer the judge's questions, making several embarrassing mistakes (col. II 33-39; col. III 19-30). Apart from differences in rhetorical skill, the fact that Ammonios seems inactive on behalf of his client may also be a function of his client's humble status and modest budget. It may also be that Ammonios

---

Pasion, son of P- vs. Didymos, son of Sarapion; presiding official: *stratēgos.* On the Arsinoite archive crisis, see Van Groningen 1950: 46-61 and 85-108 and the discussion in chapters 2.1 and 2.6.

felt intimidated by his formidable opponent, who mounts an aggressive defense. Ammonios was a local Arsinoite *rhētōr,* who served clients from the village of Tebtunis. The impressive skills of Palamedes, as well as his Homeric name, suggest a man of more elevated status and ambitions. This was an elite *rhētōr,* perhaps a *rhētōr* from Alexandria who had traveled to the *conventus*.[324]

Another example where advocates exhibit stark differences in skill and prestige is a hearing before the prefect Septimius Vegetus in 85 CE, in another instance where a freedman tries to recall a loan from a wealthy man.[325] Kephalon, the advocate of the freedman, plaintively asks "his Beneficence" the prefect to pardon the freedman and spare him from corporal punishment (14-18). Apparently, the freedman had used some sort of a ruse to obtain a hearing from the prefect and have his opponent arrested and brought into court. By contrast, Aristonikos, the advocate of the wealthy man, speaks to the prefect in a familiar tone: "now, ask him why he owes this money" (24) and "you are absolutely right to ask this question and I will tell you everything: all prefects before you have ruled as follows…" and so on (44-48). Aristonikos praises the noble status of his client and casts aspersions on the freedman's low status and dubious claim – a loan contracted by his father forty years earlier (27-30, 47-48). Aristonikos' final point is a rhetorical device familiar from the speeches of Cicero: "if you comply with him, ten thousand more will come!" (56-58). Like Palamedes, Aristonikos speaks exclusively to

[324] The evidence for Ammonios consists of three papyri: 1) P. Fam. Tebt. 19 = SB VI 9252 (Arsinoite nome, April 6, 118 CE); *rhētores*: Ammonios vs. Verus; presiding official: Apollonides, *stratēgos.* 2) P. Fam. Tebt. 24 ll. 22-40, see previous note. 3) P. Mil. Vogl. I 25 col. II-IV l.17 (Arsinoite nome, 127 CE); *rhētores*: Ammonios *vs*. Palamedes presiding official: Andromakhos, *stratēgos,* upon referral by the prefect.

[325] P. Flor. I 61 = M. Chr. 80 (Alexandria? February 8, 85 CE); *rhētores*: Kephalon vs. Aristonikos; presiding official: Septimius Vegetus, prefect.

the presiding official and never addresses the opponent or his advocate. This may have been a deliberate expression of his superiority. Here, again, we may be witnessing an encounter between an Ammonios from Tebtunis and a Palamedes from Alexandria. This also reminds one of the rhetorical strategy employed by Apuleius, who speaks directly to the governor and uses a condescending tone to present his opponents as ignorant and boorish (*Apol*. 34.5; 36.5-6; 98.8).

Another excellent illustration of the dynamics between advocates, which sheds light on the process of hiring an advocate, is a testamentary dispute that takes place at the Arsinoite *conventus* in 250 CE before a *iudex* appointed by the prefect.[326] As the *rhētōr* of the plaintiff prepares to make his speech, the defendant's advocates interject with a request for adjournment so that they can learn the case. Apparently, the defendant – an Egyptian woman who did not speak Greek – was seized immediately after coming off the boat, leaving her no opportunity to find or to instruct an advocate. Presumably, this means that her two advocates were assigned to her by the court of the prefect, which initially examined and delegated the case.[327] By contrast, the plaintiff comes prepared with a well-instructed *rhētōr* named Ammonios, whose pompous tone suggests that he is an eminent figure. After Ammonios delivers his introductory speech, a second *rhētōr* Sarapion gets up and delivers a second oration, repeating most of the same information. A natural explanation for this strange scenario is that Sarapion was a young protégé, to

[326] P. Stras. I 41 + P. Lips. I 32 = M. Chr. 93 (Arsinoe, April 23, 250 CE); *rhētores*: Ammonios and Sarapion vs. Antoninus and Horigenes *neōteros*; presiding official: Hermanubis, *iudex* appointed by the prefect.

[327] On the Roman policy of providing advocates to individuals who lacked them, particularly those in a weak position, including women, wards, and those who were being intimidated by a patron or powerful adversary, see *Dig.* 3.1.1.4 (Ulpian 6 *ad ed*., citing the praetor's edict) and *Dig.* 1.16.9.5 (Ulpian 1 *de off. procons*.). This point is discussed further below with reference to P. Stras. I 5.

whom the senior *rhētōr* was giving a chance to show his skills, according to a practice well established at Rome.

As evidenced by these and other cases, advocates in Roman Egypt tended to work in pairs. In all likelihood, the explanation lies in the organizational structure of forensic practice, which had both hierarchical and collegial aspects, and which involved a variety of different types of forensic practitioners. In Quintilian's description of the Roman trial discussed above, we find numerous courtroom actors, including the main orator, the *minores advocati,* the *iurisperitus,* the *pragmatici*, and so on. As Ulpian specifies in his manual on Roman imperial courts (*De omnibus tribunalibus*): "under the term advocate we must understand all individuals who are somehow involved in the proceedings of court cases; by contrast, those who are accustomed to charge fees for preparatory work but are not present in court do not count among that number" (*Dig*. 50.13.1.11). Thus, the term *advocatus* (or *rhētōr*) could stand for a variety of different courtroom actors involved in the pleading of a case. And there were also further actors involved in the preparation of cases who were not present in court.

We know from Roman literary testimonia that high-profile orators worked with assistants that included junior orators who "shadowed" their superiors. For example, in one of his letters, Pliny accepts a request to serve as an advocate in a civil case, and as his "price" asks to bring his young protégé Cremutius Ruso to plead together with him (*Ep*. 6.13). This was the Roman tradition of *tirocinium,* and there is evidence that suggests this practice in Roman Egypt as well. Apart from the case just mentioned, there is a variety of other contexts where major and minor speaking roles seem to correspond to a senior

orator and his junior associate.[328] In addition to the master/apprentice dynamic illustrated by Pliny and possibly by the team of Ammonios and Sarapion, the evidence also shows forensic practitioners taking on differentiated roles. Although Quintilian insists (in line with Cicero's *De oratore*) that a forensic orator ought to have full control of all aspects of his case, the courtroom scenario he in fact describes involves a clear division of labor, where a principal orator delivers the forensic speech and does the main pleading, while a group of "lesser" advocates (*minores advocati*, among whom there is a *iuris peritus*) control the legal material, and the so-called *pragmatici* (clerks) provide prompts and citations from the books.

The papyrological evidence for court proceedings suggests that Quintilian's description is an accurate illustration of forensic practice in Roman provincial courts. In proceedings-papyri, we frequently encounter multiple advocates, where one delivers the introductory speech and does the main pleading, while others cite documents and make additional points. In several contexts, we notice that certain advocates had the specific task of adducing legal points and arguments from precedent. For example, in one case, after the *rhētores* Isidoros and Didymos deliver their introductory speeches (P. Oxy. II 237 col. VIII 20-27), Isidoros' colleague Probatianus follows with a technical legal point: if the marriage is juridically intact, the father does not have legal power over the daughter (28-29). In another case, a *rhētōr* named Herakleides gives the introductory speech (SB XIV 12139 col. II 4-10) while a second *rhētōr* Lykarion follows with a legal argument

[328] Other trials where it may be possible to identify a senior orator and his junior associate include BGU I 361 = M. Chr. 92 = FIRA III 57, 184 CE (Philotas assisted by Heliodoros, Longus assisted by Apollonianus); SB XIV 12139 col. II - col. IV 14, 146 CE (Herakleides assisted by Lykarion), P. Oxy. XLI 2955, 218 CE (Nemesion assisted by Kleanthes), SB I 5676, 232 CE (Hermeinos assisted by Arsinoos) and P. Oxy. XLIII 3117 *recto*, 235 CE (Demetrios assisted by Antonius). See the discussion below.

supported by judicial precedents (11-16). The *rhētores* speaking for the other side have a similar division of tasks: first, Isidoros presents the main argument (17-19), then Apollonios follows with a point of law: in juridical terms, the disinherited sister cannot be regarded as a stranger (*allotria = extranea*) in the family. In the end, Lykarion adduces a key precedent that clinches the outcome of the case.

How this division of roles was determined is an important question. In some cases, as with Pliny and his protégé Cremutius Ruso, it may have been a matter of seniority. Elsewhere, it may have been a function of social status, where an elite orator was accompanied by a group of less eminent assistants. In other contexts, however, roleplay may have been a function of specific skills and areas of expertise that were determined by aptitude rather than social status. According to Roman rhetorical writers, success in forensic oratory was determined by natural talent, by the quality of one's rhetorical training (hence, in part, by one's wealth) and by experience and constant practice. In turn, those with less aptitude for oratory might choose to study the law. While tendentiously aggrandizing oratory as the superior art, rhetorical sources indirectly shed light on the fact that some forensic practitioners chose to acquire technical legal training. Like Quintilian's *minores advocati* and Ammianus' second category of forensic orators, some of the *rhētores* in papyri who have a minor speaking-role may have specialized in composing legal arguments, while their more rhetorically gifted colleagues specialized in the delivery of speeches in court. It is noteworthy that the *rhētōr* Lykarion, who adduces legal points and judicial precedents in the case just mentioned, appears in another papyrus in a high-profile case at Alexandria where he plays exactly the same role: his colleague delivers the speech, while he brings in the judicial precedents (P. Cairo Preis. 1^2). Was

Lykarion an aspiring young orator shadowing a senior colleague? Or was he a forensic practitioner with legal training, who conducted legal research for high-profile Alexandrian orators? Some insight into this question can be gained from Augustine's metaphorical reference to a courtroom scenario where a defense advocate blames his colleague for composing a deficient legal argument (*formula litis*) that the advocate unsuccessfully pleads in court. This is the sort of complementary professional dynamic one imagines to have been present in some of the numerous partnerships between *rhētores* in papyri.[329]

We will have an opportunity to discuss the papyrological evidence for legal work in detail in a separate section. Now, let us turn to forensic oratory as a prestige-practice of the elite. With the help of papyrological evidence, we can see how this key aspect of the Roman legal tradition exercised a profound impact on elite culture in the Roman provinces.

4.4.4 Elite orators

At Alexandria in the early second century CE, a young student named Neilos wrote home to his father Theon at Oxyrhynchos, reporting on his life in the provincial capital. In particular, Neilos was incensed by his failure to find an adequate master of rhetoric. Apparently, all the top Alexandrian rhetoricians had left the province or died, while those who were available were lower-class individuals who had moved to Alexandria from the hinterland. One teacher recommended to Neilos by his father's friend Philoxenos was Didymos, who had previously had a rhetorical school in the *chōra* – an important

[329] The relevant passage of Augustine is *De Quantitate Animae* 57 (CSEL 93. 204), on which see Humfress 2007: 72-73.

testimonium for the existence of rhetoricians and rhetorical schools in the Egyptian hinterland in the early second century. None of these teachers, however, were good enough for Neilos, who was convinced that he would gain absolutely nothing from their lessons. He would simply not be caught dead with Didymos! Instead, Neilos hoped that his own abilities and regular attendance of declamatory performances at Alexandria would enable him to achieve success.[330]

The letter of Neilos enables us to make various inferences about his family, status, and plans for the future. It is clear from contextual details that Neilos belonged to a *very* wealthy family, which had property and connections at Alexandria and Oxyrhynchus. It is quite possible that Neilos' father Theon was a member of the eminent Alexandrian family of the Iulii Theones, who were Roman citizens of equestrian rank and major landowners in the Oxyrhynchite nome. Successive generations of Theones are attested holding top magistracies at Alexandria, and it may be possible to identify Neilos' father as Theon the *archidikastēs* of 111 CE or his son Theon, who became *archidikastēs* at some point in the 120s or 130s CE. Similarly, the Alexandrian Philoxenos mentioned by Neilos may have been a scion of another prominent officeholding family from Alexandria, which produced multiple *stratēgoi,* as well as an *archidikastēs* named Claudius Philoxenos in 135 CE.[331]

This letter offers remarkable insight into the world of civic elites in the cities of the Roman empire, where eloquence was instrumental for the pursuit of a successful

[330] For the letter, see P. Oxy. XVIII 1290 with Turner 1975.

[331] On the Tiberii Iulii Theones, see Sijpesteijn 1976. On Philoxenos the *archidikastēs*, see BGU I 136 = M. Chr. 86 (Memphis, after March 24, 135 CE). On *stratēgoi* named Claudius Philoxenos, see PSI I 51 (63-4 CE), W. Chr. 176 (ca. 60 CE), P. Flor. III 374 (56 CE?), P. Ryl. II 152 (42 CE). A Claudius Philoxenos is also attested as nomarch in 62 CE (BGU III 748).

public career. Accordingly, in the Greek East as in the Latin West, wealthy families sent their sons to the provincial capital or beyond, to one of the great metropolitan centers of the Empire, to receive the best rhetorical training. Specifically, the rhetorical curriculum employed in the Roman empire was a curriculum that emphasized forensic rhetoric, and was designed to prepare young men for the courts. At Rome, as we have seen, the courts were a traditionally important sphere of activity for the political elite, who were active as advocates, legal experts, judicial advisors and judges. In particular, forensic oratory in a prestigious court was a means for young men to enter public life and begin their political careers. In the course of the Principate, this Roman model of forensic culture exercised its influence in the provinces, as illustrated by literary and epigraphic evidence for civic elites in provincial cities acting as advocates, assessors and judges in Roman imperial courts.[332]

As an example from the Greek East, we can take Plato, the "legally expert orator" (*nomikos rhētōr*) from the city of Gerasa in the age of Hadrian, whom Philo of Byblos describes as "all learned disciplines combined in a single voice" and as "safeguarding the laws in his courtroom speeches, on the judge's chair, and on the assessor's seat." Evidently, in line with the model illustrated by Pliny the Younger (*frequenter egi,*

[332] On the rhetorical curriculum in the Roman empire and its emphasis on forensic rhetoric, see Heath 2004. On major cities in the Greek East as centers of Roman legal learning, see Kantor 2009b. On sons of eminent provincial families being sent to the provincial capital, Berytus or Rome to study oratory and the law, see a.e. CIL VI 8991 = AE 2000, +132 (a student of rhetoric or law who died at Rome at the age of 16), CIL VI 33868 (a *iuris studiosus* from Nicomedia who died at Rome), AE 1903, 320 = AE 1904, +58 = AE 1904, +81 (the son of an equestrian family from Thubursicu Numidarum who died at 18 during his studies at Carthage) and *SEG* XXVI 1456 (a man from Pamphylia who had studied law at Berytus). See also the voyage of Gregory Thaumatourgos from Pontus to Berytos to study Roman law in the early 3c. (*In Origenem oratio panegyrica* 1 and 5). On *nomikoi* in the Greek East, see Jones 2007. On orators and sophists in Greek inscriptions, see Puech 2002.

frequenter iudicavi, frequenter in consilio fui, Ep. 1.20.12), Plato was trained in both oratory and the law and acted as an advocate, assessor and judge at the court of the Roman governor of Syria (so it may be presumed). Plato was a celebrity in his home city of Gerasa (modern Jerash) where he was very likely a member of the city council (*bouleutēs*) and civic officeholder. The relative proximity of Gerasa to the Levantine coast makes one wonder whether this might be an indirect piece of evidence (the earliest, in fact) for Berytus as a center of Roman legal learning, already in the early second century CE.[333] As a parallel example, we can cite an unpublished inscription from Berytus, where the governor Appius Alexander honors "M. Aurelius Cassianus, *bouleutēs* of Gerasa and *iurisconsultus*" at the turn of the third century. This is another instance of a member of the civic elite of Gerasa serving as a legal expert and *assessor* at the court of the Roman governor, and another piece of indirect evidence for Berytus as a center of Roman legal learning.[334] A further example from the Greek East is Titus Flavius Lucius Hierax, scion of an officeholding family with senatorial and equestrian connections from Ephesos. Hierax is identified as the son and brother of two orators (*rhētores*) who had each held the post of Asiarch. It can be presumed that the two orators were active at the court of the proconsul of Asia.[335]

A satirical literary example of an elite career is provided by Lucius, the protagonist of Apuleius' *Golden Ass*.[336] This Lucius is the son of a Roman senator (2.3),

---

[333] On Plato, see Philo of Byblos *FgrHist* 790 F 34.

[334] The inscription from Berytus will appear in the forthcoming volume of J. Aliquot and C. Brélaz of the *Inscriptions Grecques et Latines de Syrie.* On the contents of the inscription, see Rey-Coquais 1978: 67.

[335] IvE 362, early 3c. CE. On this inscription, see Fischer 2013: 142, a study of the evidence for orators and sophists from Ephesos.

[336] The career of Lucius in the *Golden Ass* is discussed in detail by me in a forthcoming article.

presumably from the province of Achaea, where Lucius' mother has her ancestral home. In the beginning of the novel, Lucius travels to Thessaly on business, having completed his curriculum of "Roman studies" (*studia Quiritium*) at Rome, by which we can understand Latin rhetoric and Roman law (1.1-2). At the end of the novel, Lucius returns to Rome, where he joins the Isiac cult and achieves enormous success as an advocate, earning high fees (11.28, 30). One night, Osiris comes to him in a dream and urges him to continue pleading cases without paying attention to hostile rumors against him, which are motivated by jealousy of his erudition and hard work. Lucius is then promoted by Osiris to the rank of *duovir quinquennalis* within the Isiac priesthood. He shaves his head and proudly displays it in public. In this puzzling conclusion to the novel, one level of interpretation is provided by Lucius' failed imperial career. Contrary to what one would expect from a *clarissimus puer* with a prestigious education, Lucius opts out of the pursuit of political office, either at Rome or in his native province. Instead, he dedicates himself exclusively to pleading in the courts. Indeed, Lucius' initiation into the Isiac priesthood may be a cipher for his joining an association of forensic pleaders and rising through its ranks. In this respect, Lucius violates the elite ethos of forensic oratory, which was meant to be a source of prestige but not a source of income, an avenue into a public career but not a career in itself.

As an example from the Latin West, we can take Marcus Sedius Rufus, a wealthy man from Numidia who held the full *cursus* of civic offices in the provincial capital of Lambaesis, and who served as *advocatus* at the court of the governor, whom Rufus honors as his *patronus* with an honorific statue. In his testament, Rufus made an

impressively large bequest of 600,000 HS to build a temple within the *capitolium*-complex of Lambaesis, with a dedicatory inscription that bears his name.[337]

The last example, which is the most instructive for our discussion, takes us back to the province of Egypt. It is the career of the historian Appian of Alexandria. In the preface to his *Roman History* (*praef*. 15), Appian tells us that he had reached top positions (*ta prota*) in his own province, after which he migrated to Rome and "pleaded cases at the court of the Emperors, until they thought me worthy to become their *procurator*" (*epitropeuein ēxiosan*). By coincidence, we happen to have a letter of Fronto to the emperor Marcus Aurelius recommending Appian for appointment to a procuratorship, despite his advanced age. Fronto had made several inquiries on Appian's behalf over the course of two years, and the emperor had responded "with pleasantry" (*comiter*) that if he were to make Appian a procurator this would unleash "a flood of pleaders (*causidici*) demanding the same thing" (*Ad Ant. Pium* 9.2). The pejorative connotation of *causidicus* indicates that there was a clear difference to the emperor between "lawyers" who sought to enter the ranks of the elite and members of the elite (like Fronto) who practiced forensic oratory.[338] We also have a Greek letter from Appian to Fronto, where Appian tries to persuade Fronto to accept a gift of two slaves, and Fronto's reply, also in Greek (Fronto, *Epistulae variae* 4 and 5). The gift may have been

[337] The evidence consists of two inscriptions, AE 1911: 99 = AE 1913: 10 and CIL VIII 18227. On Rufus' temple to the *genius* of Lambaesis, see Eingartner 2005: 151, 219-221. The bequest is apparently the largest known sum spent on a temple, see Duncan-Jones 1982: 90.

[338] On Fronto's letter to Pius, see Champlin 1980: 98-100, making the important point that Fronto was asking for Appian to be granted the honor, without actually taking up the post of a procurator – the careful wording of Appian's *praefatio* is consistent with this scenario.

linked to Fronto's ministrations on Appian's behalf, which would ultimately prove successful.[339]

Appian therefore provides us with a snapshot of an elite career in the legal sphere within and beyond the province of Egypt. It can be inferred that Appian was a member of a wealthy Alexandrian family with Roman citizenship that possessed enough wealth for Appian to acquire equestrian rank. He held top civic offices (*ta prōta*) at Alexandria, possibly rising to the post of *archidikastēs,* the pinnacle of an Alexandrian career. By virtue of his rhetorical talents and connections, Appian was able to progress to Rome to plead in the imperial courts. It is probably this sort of migration by elite orators to the metropolitan centers of the Empire that left Neilos bereft of adequate roll-models at Alexandria. It is possible that Appian received an appointment as *advocatus fisci,* which was awarded to top forensic orators and functioned as an entry-level position for procuratorial careers. Nevertheless, the leap into the imperial civil service was a difficult one, mediated by patronage, which Appian did not achieve until the last years of his life.[340]

Appian's Greek letters to Fronto reflect his prestigious rhetorical training, as well as his knowledge of Roman law. Although we can presume that Appian refined his skills after moving to Rome, this constitutes important evidence for the possibility of acquiring Roman legal knowledge at Alexandria. A related point is Appian's command of Latin. While it is well-known that Appian made extensive use of Latin sources in composing his

---

[339] On this epistulary exchange ("a playful *controversia*"), see Champlin 1980: 42, 76.

[340] For Appian's career, see *PIR*^{2} A 943. On *advocati fisci,* see De Ruggiero 1961, original from 1895: I 125 ff. I wonder if the fact that the emperor refers to Appian as one of "a flood of *causidici*" speaks against him being an *advocatus fisci*.

histories, his career as an orator at Rome also suggests that he was proficient in Latin oratory. If it can be assumed that an orator in the imperial courts was required to plead in Latin, Appian's example is a striking one.[341]

The example of Appian demonstrates, quite significantly, that the career-pursuits of civic elites in Roman Egypt – particularly its capital city of Alexandria – conformed to the broader imperial trends that are visible elsewhere in the Roman empire. The letter of Neilos is one of many insights provided by papyrological sources into the lives of individuals of Appian's social class (or slightly less eminent) as they realized their ambitions and pursued their careers. For Appian, imperial courts were the forum and forensic oratory the skill that brought him to the notice of important people, took him from Alexandria to Rome, and ultimately won him an equestrian procuratorship. Judging by his wealth, education and connections, Neilos too was gearing up for a high-profile Alexandrian career. It is virtually certain that his rhetorical training would take him to the imperial courts at Alexandria, where his performance would attract the attention of imperial officials and senior members of the Alexandrian aristocracy. It is noteworthy that a *rhētōr* named Philoxenos is attested pleading before the prefect at Alexandria in 115 CE (M. Chr. 372 col. IV 1-15), while a *rhētōr* named Theon is appointed by the procurator of the *Idios Logos* to defend a woman accused of fiscal evasion at Alexandria in 135 CE. The name Theon is, admittedly, quite common. With the name Philoxenos, however, we are on firmer ground in identifying this Alexandrian *rhētōr* as a member of

[341] On Appian's use of Latin documents and sources, see Gowing 1992: 39-50. It is noteworthy that Fronto, in his letter to the emperor, refers to Appian as an old friend and "colleague in my studies on a near-daily basis" (*cum quo mihi et vetus consuetudo et studiorum usus prope cotidianus intercedit*). Indeed, part of the intellectual exchange between the two orators may have been their respective rhetorical mastery of Latin and Greek; see Champlin 1980: 42, 45-6.

a prominent officeholding family, for whom forensic oratory would have been part of a broader public career.[342]

With the examples of Appian and Neilos in mind, let us now examine the papyrological evidence for civic elites in Roman Egypt and their activity in imperial courts. Although the practice of recording only one name for advocates makes prosopography problematic, several contexts provide a clear illustration of forensic oratory as an activity of civic elites and an integral part of elite careers. It will then be possible to generalize from these examples.

In the first example, a *rhētōr* named Ptoleminos defends the interests of an orphaned child before a municipal official (*exēgētēs*) of Oxyrhynchus, in a case delegated by the deputy-governor (*corrector*) of Egypt in 274 CE.[343] Ptoleminos delivers an emotional speech, using elaborate language and rare literary words ("the orphan's parents have died of a terrifying (*phrikodes*) disease") that reflect his literary and rhetorical education. Ptoleminos is subsequently attested twenty years later as a member of the city council (*bouleutēs*) and municipal officeholder (*exēgētēs*, *epimelētēs*) at Oxyrhynchus (P. Oxy. LXVII 4597, 294 CE; P. Oxy. I 43, 295 CE). Evidently, he was a member of the local civic elite, who pleaded as an advocate in his youth and then entered the local

[342] We can also note, in this regard, another Theon, *stratēgos* of the Prosopite nome in 136 CE, who conducts a criminal investigation in remarkably sophisticated Greek, employing elaborate turns of phrase such as the notion of a "clear conscience" (*syneidesis kathara*, P. Oslo II 17, 136 CE 10-12). Theon's rhetorical use of Greek suggests that he was an individual of high status with a prestigious education, perhaps another relative of the Iulii Theones?

[343] P. Merton I 26, Oxyrhynchos, February 8, 274 CE; presiding official: Agathos Daimon, senator (*bouleutēs*) and *exēgētēs* of Oxyrhynchus; former *prytanis, kosmētēs*, *exēgētēs* and *hypomnēmatographos* of Alexandria, subsequently *stratēgos* of the Oxyrhynchite nome.

council and attained political office.[344] Interestingly, Aurelius Agathos Daimon, the *exēgētēs* of Oxyrhynchus who adjudicates Ptoleminos' case, is elsewhere attested as a prominent member of the city council (*bouleutēs, prytanis*) and major officeholder (former *kosmētēs*, *exēgētēs*, *hypomnēmatographos*) at Alexandria (M. Chr. 198 = Pap. Agon. 2, 274 CE). Some years later, he is also attested as the *stratēgos* of the Oxyrhynchite nome (P. Flor. I 83). Like the Iulii Theones, Agathos Daimon was a member of the civic elite of Alexandria and Oxyrhynchus. He attained magistracies in the provincial capital and subsequently resided and held office in the nome where he had his estates. It is overwhelmingly likely, given his Alexandrian connections, that Agathos Daimon had received his rhetorical training at Alexandria. Like Ptoleminos, he probably made appearances as a forensic orator in the courts. Thus, in Agathos Daimon, we have a snapshot of an elite Alexandrian career, the sort of career that Neilos, son of Theon, would probably have envisioned for himself.[345]

In the next example, a case that came before the prefect at the *conventus* in the Nile Delta in 262 CE, an old man who is a cultivator of imperial land has been robbed of his crops. His grievances are masterfully presented to the prefect by a *rhētōr* named Hermon, who is revealed to be the *archidikastēs* of Alexandria currently in office (*enarkhos archidikastēs*).[346] The *archidikastēs* delivers a highly rhetorical speech—as Crook puts it, a "tear-jerking performance"—"this old man has suffered injuries

[344] The name Ptoleminos is uncommon enough, and our list of known names of *bouletai* at Oxyrhynchus extensive enough, for the prosopographical link to be made with reasonable confidence.

[345] The career of Agathos Daimon was somewhat more modest than the achievements of the Theones, who had equestrian careers and attained the post of *archidikastēs.*

[346] P. Strasb. I 5 ll. 7-19 (Hermopolis *parva*, Nile Delta, September 7, 262 CE); presiding official: Theodotos, prefect.

unworthy of the peace that you protect for the sake of us all" (ll. 8-9); "having arrived at such an advanced age, he has suffered violence against all possible laws," and so forth.[347] The prefect fully accedes to Hermon's requests: the old man's financial losses must be compensated, and all claims of physical injury can be brought separately to the prefect's tribunal (ll. 18-19).[348]

How can we explain this intriguing scenario, where the case of a rural cultivator is argued by one of the highest-ranking officials in the province? That this case came before the prefect is in itself remarkable, and probably due to the fact that the grievances of imperial *coloni* received privileged attention from imperial officials. Presumably, the *archidikastēs* had been requested to plead the case, as it is difficult to imagine the old man being in any sense a paying client of such an illustrious orator. We know from the Roman legal sources that, in cases where litigants were unable to hire legal assistance, a Roman official would provide an advocate. In his commentary on the praetor's edict, Ulpian mentions a clause in the edict that states: "if they do not have an advocate, I will provide one" (*si non habebunt advocatum, ego dabo*). In addition to individuals who could not find or afford legal assistance, this clause also applied to those who were prevented from doing so by their adversaries or patrons. Also, Ulpian writes in Book I of his handbook *On the duties of a proconsul*: "[the proconsul] must also furnish advocates to those who ask for them, especially to women, wards or other persons in a weak

[347] Crook 1995: 100.

[348] The papyrus itself is a petition composed on behalf of the old man, which cites the proceedings in question and is presumably meant to be submitted to local officials who will execute the verdict. The petition is written in a striking calligraphic hand, attested in other papyri, which can in my view be identified as a scribal hand from Alexandria (I suspect the same about the petition of Dionysia, P. Oxy. II 237). Possibly, the petition had been composed by the bureaucratic staff of the prefect or *archidikastēs*.

position, or to those who are mentally ill, if someone asks on their behalf (and even if no one does). It is also necessary to provide an advocate to anyone who complains of being unable to find one due to the power and influence of his adversary." This strongly suggests that advocacy was considered to be an essential part of the legal process, and also that there were advocates available whom the prefect could spontaneously appoint. It is striking, in this case, that the prefect chose to appoint a high-ranking member of his Alexandrian entourage.[349]

It is relevant that the old man's case was not a formal trial, but only a short preliminary hearing, one of many such hearings that the prefect would sit through in a single court session. In this context, the task of the *rhētōr* was to give a cogent summary of the case so as to enable the prefect to issue a ruling, typically delegating the matter down to a local official or judge. One can imagine how, when numerous cases had to be presented quickly to an imperial official, the task might be entrusted to an experienced *rhētōr* who had close ties with the court. There is other evidence that suggests that this was indeed the case. In several contexts, an advocate presents a case quickly and in a matter-of-fact tone that suggests that he had closer ties to the official than to the litigants. For example, in a preliminary hearing at the court of the *epistratēgos*, the *rhētōr* presents the case in what seems to be an impersonal fashion, "of these two men, the other one is Antonius Domnus, who has petitioned the prefect, …" (P. Lips. II 147, 189 CE). In another preliminary hearing, the *rhētōr* begins: "this man is an Antinoite. He has petitioned you for having suffered violence, …" (P. Mich. VI 365, 194 CE). One gets the

[349] See *Dig.* 3.1.1.4 (Ulpian 6 *ad ed.*, citing the praetor's edict) and *Dig.* 1.16.9.5 (Ulpian 1 *de off. procons.*), already mentioned in n. 58.

impression that the *rhētōr* was concerned to expedite things for the official. The presentation is brief and the ruling immediately follows.

The presence of the *archidikastēs* in the Nile Delta shows that he had accompanied the prefect to the *conventus*. This is in line with other evidence that the prefect traveled with an entourage from Alexandria, which might include the procurator of the *Idios Logos,* the *archidikastēs* and other Alexandrian officeholders, whom we observe serving on the prefect's *consilium* and receiving appointments as judges at the *conventus*.[350] As I have pointed out, there is evidence that certain *rhētores* made the journey from Alexandria as well. In view of Hermon's example, we must consider that some of these *rhētores* could have been Alexandrian officeholders in their own right. The performance of the *archidikastēs* as *rhētōr* underscores the essential point that provincial officeholders were, by definition, individuals with a prestigious rhetorical education. Very likely, Hermon had practiced forensic oratory at Alexandria while beginning his political career. Evidently, even as a major officeholder, he continued to make appearances as *rhētōr*. It is unlikely that Hermon's speech on behalf of the old man involved extensive preparation: from the abbreviated text on the papyrus, it is possible to infer that the *archidikastēs* had most likely been provided with a summary of the case and had extemporized his presentation using the appropriate rhetorical *topoi* (for example, capitalizing on the man's old age and his status as an imperial *colonus*) and embellishments.[351] Overall, Hermon's speech on behalf of the old man suggests that the

[350] On members of the entourage (*philoi*) of the prefect serving as judges, see P. Oxy. XXXVI 2754, 111 CE and my discussion in 1.6.

[351] The briefing of orators is attested in numerous documents, including the so-called *narratio* papyri, where the first column of text contains a factual summary of the case, often beginning with the words "you

archidikastēs regarded this as a welcome opportunity for performative display of his rhetorical skill before an elite audience at the court of the prefect. This invites comparison with the officeholding aristocracy at Rome, who in addition to their political activity continued to plead cases before a senatorial audience at the centumviral court. We will return to the question of forensic oratory as elite social performance in the next section.

The examples of Ptoleminos the *exēgētēs* and Hermon the *archidikastēs* provide us with clear illustrations of forensic oratory as a practice of the civic elite in Roman Egypt. These are two rare instances where we happen to have enough prosopographical information for a clear picture. If we did not have the minutes of the *boulē* of Oxyrhynchus, or if the *rhētōr* Hermon did not happen to be the *archidikastēs* currently in office, Ptoleminos and Hermon would remain to us mere names, along with most of the names of *rhētores* who appear in Egyptian court proceedings. These examples are instructive, and it is important to extend their implications to other contexts where the evidence, while not being as conclusive, points in a similar direction. For instance, we can draw a link between the *rhētōr* Crispinus, who pleads before two different prefects in the 160s CE, and Iulius Crispinus the *dioikētēs* of Alexandria, who sits on the prefect's

---

are speaking on behalf of..." (*legeis hyper*), while a second column contains a rhetorically embellished draft of a speech on the basis of the summary. The capital letter N with a vertical stroke is most likely a reference to this being a *narratio,* the introductory portion of a forensic oration, see Crook 1995: 114-118. While all attested examples of *narratio* papyri in the two-column format date to the fourth century, this type of document was clearly in general use by forensic practitioners, see for example P. Oxy. III 472, containing notes for the presentation of a court case that is known from a petition (P. Oxy. III 486, ca. 131 CE), both discussed in the next section.

consilium ten years later.[352] It is also possible that Claudius Philoxenos, the *archidikastēs* of 135 CE, was the same person as the *rhētōr* Philoxenos, who pleads before the prefect twenty years earlier, or a member of the same Alexandrian family.[353] We can also make a tentative sketch of the career of Isidoros the Younger, who serves as assistant (*hypēretēs*) of the prefect, sits on the *consilium* of officials at the *conventus,* and appears as a *rhētōr* at the court of the prefect in the 120s CE. A *rhētōr* named Isidoros is subsequently attested multiple times pleading before high officials at Alexandria and the *conventus* in the 130s and 140s. An eminent *rhētōr* Isidoros also pleads before the prefect Volusius Maecianus in 162-3. A span of 40 years is long, but it is certainly possible that we are looking at a man who was in his early twenties in the 120s, and who still made appearances as *rhētōr* at the court of the prefect in his late fifties. There are numerous Alexandrian officeholders named Isidoros during this period, but here we cannot make precise prosopographical connections.[354]

---

[352] Crispinus pleading at the court of the prefect: P. Oxy. III 653 b (2. Selis) = M.Chr. 90 (Alexandria? 162-3 CE); BGU XI 2058 col. II 13-16 (Alexandria*?* 166 CE). Two different Iulii Crispini members of the *consilium* of the prefect: P. Daris 2 = SB XVI 12749 = P. Strasb. IV 179 (Arsinoe, 176-179 CE), discussed in detail below.

[353] Philoxenos, *rhētōr* at the court of the prefect: BGU I 114 = M. Chr. 372 col. IV 1-15 (Alexandria, 115 CE). Claudius Philoxenos, *archidikastēs*: BGU I 136 = M. Chr. 86 (March *conventus,* Memphis, 135 CE).

[354] Isidoros *neoteros*, assistant (*hypēretēs*) of the prefect: CPR I 18 (*conventus,* Arsinoe, 123 CE). Isidoros *neoteros*, assistant (*hypēretēs*) of the prefect, member of the *consilium* of the *archidikastēs*: P. Mil. Vogl. I 25 (*conventus,* Arsinoe, 127 CE). Isidoros *neoteros*, *rhētōr* at the court of the prefect: P. Oxy. II 237 (Alexandria, 128 CE). Isidoros, *rhētōr* at the court of the *epistratēgos*: P. Oxy. II 237 (*conventus,* Xois, Nile Delta, 134 CE). Isidoros, *rhētōr* together with Apollonios at the court of a high official: SB XX 15147 (Alexandria? 138 CE). Isidoros *archidikastēs*: P. Ryl. II 287 (130 CE). Isidoros *stratēgos*: BGU III 891 (Arsinoite nome, 144 CE). Isidoros, *rhētōr* together with Apollonios and Areios against Herakleides and Lykarion at the court of a *iudex* appointed by the prefect: SB XIV 12139 col. II - col. IV 14 (February *conventus,* Xois, Nile Delta, 146 CE). Isidoros, *rhētōr* together with Crispinus at the court of the prefect: P. Oxy. III 653 b (2. Selis) = M.Chr. 90 (Alexandria? 162-3 CE).

Another tentative story can be told about the *rhētōr* Apollonios the Elder, who represents two fiscal delators at the court of the procurator of the *Idios Logos* at Alexandria in 135 CE (M. Chr. 372 col. vi). This Apollonios may be the same person as the *rhētōr* who pleads at the court of the prefect Petronius Mamertinus at Alexandria (or in its vicinity) ca. 133-135 CE (P. Oxy. XVII 2111). We also encounter two *rhētores* named Apollonios and Isidoros pleading together at the court of a high official, possibly in Alexandria, ca. 138 CE (SB XX 15147), and again, at the court of a *iudex* appointed by the prefect, at a *conventus* in the Nile Delta in 146 CE. In the latter case, the opponents of Apollonios and Isidoros are the *rhētores* Herakleides and Lykarion.[355] Lykarion appears in another papyrus, where he pleads against the Alexandrian *rhētōr* Kallineikos at the court of the *iuridicus* at Alexandria. We can infer that both Lykarion and Herakleides (who is Lykarion's senior colleague in the case from 146) were orators from Alexandria who had traveled to the Nile Delta for the *conventus*. The same may have been true of their eminent opponents Apollonios and Isidoros. A *rhētōr* Apollonios is subsequently attested pleading before the prefect Munatius Felix in 150 CE (P. Ryl. II 75 ll. 1-20). There are also two contexts where an Apollonios is appointed *iudex* by Mamertinus, and several Alexandrian officeholders with the name Apollonios from this period – such as Claudius Apollonios, *stratēgos* of the Herakleopolite nome in the 130s CE – but in these instances it is not possible to make prosopographical connections with any degree of certainty.[356]

---

[355] SB XIV 12139 col. II - col. IV 14 (February *conventus,* Xois, Nile Delta, 146 CE).

[356] Apollonios*, iudex* appointed by the prefect Mamertinus: P. Oxy. IX 1195 (February *conventus* at Oxyrhynchos, 135 CE) and SB XIV 12139 col. v ll. 13-16 (unknown location, 133-135 CE). Claudios Apollonios, *stratēgos* of the Herakleopolite nome: SB V 7601 (Herakleopolis? July 135 CE).

In two other series of contexts with recurring names, it is possible to draw further prosopographical links. In the first document, a *rhētōr* Alexandros is attested pleading at the court of a high official (prefect or *iuridicus*) ca. 128-130 CE (P. Oslo III 80 *recto*). The next three hearings that we need to consider take place at assizes of the prefect Petronius Mamertinus in 134 and 135 CE. Herakleides is the name of a prominent Alexandrian *rhētōr* in a case from 146 CE considered above. It is possible that one or both of these men can be identified with the *rhētores* Herakleides and Alexandros who plead before the *archidikastēs* Ulpius Asklepiades at an assize of Mamertinus at Koptos in February, 134 CE (M. Chr. 372 col. II 13 - col. III 22). If so, these *rhētores* had traveled across the entire province together with the *archidikastēs,* as part of the prefect's retinue of officials and staff from Alexandria. A Herakleides is subsequently appointed *iudex* by Mamertinus at an assize at Memphis or Arsinoe in 134 CE, which probably took place during the same assize tour on the journey between Koptos and Alexandria (BGU I 19 = M. Chr. 85 ll. 13-17). *Iudices* were typically drawn from the civic elite of the city in which an assize took place. However, prefects also delegated cases to imperial officials and Alexandrian officeholders who were present at the *conventus*. And, could Asklepiades the *rhētōr,* who argues an important case delegated by Mamertinus at an assize in 135 CE (BGU I 19 = M. Chr. 85 February *conventus,* Memphis or Arsinoe), be the same man as Ulpius Asklepiades, the *archidikastēs* of 134?

In the next sequence, a *rhētōr* named Heliodoros is attested pleading cases before high officials (*prefect, epistratēgos, archidikastēs*) at the *conventus* in 127 and 133 CE.[357]

[357] See P. Mil. Vogl. I 25 (*conventus,* Arsinoite nome, 127 CE): Heliodoros, *rhētōr* against Artemisios at the court of the *archidikastēs*, serving as *iudex* appointed by the prefect; Harpokration, secretary (*grammateus*) of the *katalogeion* archive, and Isidoros *neoteros,* assistant (*hypēretēs*) of the prefect, are

It may be possibly to link him with Claudius Heliodoros, an Alexandrian who serves as a member of the *consilium* of the *archidikastēs* at Alexandria ca. 144 CE.[358] We can also note the *rhētōr* Berenikianos, who pleads against the *rhētores* Dionysios and Harpokration at the court of the *archidikastēs* Claudius Philoxenos at the *conventus* in Memphis in 135 CE (BGU I 136 = M. Chr. 86). Berenikianos is a name that suggests Roman citizenship. Also, a tentative link has been proposed between this name and the family of Iulia Crispina, daughter of Berenikianos, who appears in the Judaean Desert papyri (P. Yadin I 20, 130 CE; P. Yadin I 35, 131 CE) and is attested as an absentee landowner in the Arsinoite nome (BRU I 53, 134 CE).[359] The name Dionysios is attested again for a *rhētōr* at the court of the *archidikastēs* in 146 CE.[360] It may be possible to identify him with Antonius Dionysios the *archidikastēs* of 144 CE (n. 89 above). The name Harpokration is attested for an Alexandrian who serves as secretary of the *katalogeion* archive and member of the *consilium* of the *archidikastēs* in 127 CE (n. 88 above). He might conceivably be the same person as Harpokration the *rhētōr* who opposed Berenikianos in 135.[361] A curious coincidence concerns the *rhētores* Neilos and

---

members of the *consilium* of the *archidikastēs*; P. Oxy. II 237 col. VIII 30-38 (*conventus*, Xois, Nile Delta, 133 CE): Heliodoros and Severus, *rhētores* against Isidoros at the court of the *epistratēgos.*

[358] See P. Fouad 24 (Alexandria, ca. 144 CE): Antonius Dionysios, *archidikastēs,* presiding official; Claudius Heliodoros, member of the *consilium* of "comrades" (*synētheis*) of the *archidikastēs*; the defendants Neilos and Sarapion do not show up.

[359] On the connection between Iulia Crispina, daughter of Berenikianos, and the Arsinoite landowner Iulia Crispina, see Lewis 1989: 111 and Ilan 1992, who also argues that Crispina was the granddaughter of the Herodian princess Berenike. The latter connection may be far-fetched.

[360] SB XIV 12139 col. IV 15 - col. V 20 (Alexandria or *conventus* at Xois, Nile Delta, 146 CE): Dionysios and Dorion, *rhētores* against Neilos and Sarapion, at the court of the *archidikastēs* Claudius Hierax.

[361] See also BGU XX 2863 (*conventus,* Arsinoite nome? 133-135 CE), where a Harpokration, *iudex* appointed by Mamertinus, consults the prefect by letter. In BGU III 969 (*conventus,* Memphis? 139 CE) we

Sarapion, who plead together before the *archidikastēs* in 146 CE (n. 91 above). One or two years earlier (ca. 144 CE), two defendants named Neilos and Sarapion had failed to show up to a hearing at the court of the *archidikastēs* (n. 89 above). The plaintiff was Deios, a wealthy Arsinoite landowner who was engaged in a bitter testamentary dispute with his brothers. Are the two *rhētores* at the court of the *archidikastēs* the same men as the two defendants who fail to turn up to the same court? If so, one wonders whether the *rhētores* were acting as proxies for Deios' brothers, or whether Deios had filed a lawsuit against his own advocates.[362]

While some of these prosopographical links are admittedly tentative, the evidence supports my general hypothesis that there was a core group of individuals from Alexandria, who traveled with the prefect on his assize tour and took on various roles (*rhētōr, iudex, assessor*) at the *conventus*. A good illustration of this is provided by a hearing that took place at the Arsinoite *conventus* in the 170s CE before the prefect Pactumeius Magnus (P. Daris 2 = SB XVI 12749 = P. Strasb. IV 179, Arsinoe, 176-179 CE), with a *consilium* in order of rank, consisting of:[363]

a) Iulius Crispinus, *dioikētēs,* a Roman equestrian procurator. If he was of Alexandrian origin, one wonders whether he bore any relation to the *rhētōr* Crispinus who pleads before two prefects in the 160s CE.

b) Flavius Valens, *epistratēgos,* a Roman equestrian procurator.

---

meet a Harpokration a.k.a. Thlesion, *iudex* in a case involving the same family as BGU I 136 = M. Chr. 86 four years earlier (see above).

[362] On Deios and his family, see P. Fouad 22-25, 41, 51 and 77.

[363] The ordering of *consilia* by rank was a point first established by Mommsen 1867: 115, see most recently Kantor 2017: 67-68.

c) --us Loukounnios (Iuncinus?), *praefectus alae,* an equestrian post that was part of the *cursus honorum* of the Alexandrian aristocracy.

d) Iulius Crispinus, an equestrian garrison commander (*chiliarch = tribunus*), another post that was part of the Alexandrian *cursus honorum*. If the name is correct, he may have been a close relative of the *dioikētēs*.

e) Iunius Geilon, *eisagogeus,* the prefect's introducer of court cases and keeper of judicial records. Like Philo's Lampo, he may have been an Alexandrian. If Lucian of Samosata indeed held this post in Egypt (*Apol*. 12), it may have become an equestrian post in the second century.

f) Messius Bassus, the prefect's secretary *ab epistulis Graecis*. It is unclear whether he was an Alexandrian, locally recruited by the prefect, or a member of the prefect's personal staff.

The case was argued by a *rhētōr* named Domitius Apollonios, a name that likewise suggests Roman and Alexandrian status. It appears that both the *rhētōr* and several members of the *consilium* belonged to the Alexandrian civic elite. The prominence of elite Alexandrians as leading actors at the prefect's assize court helps make sense of the pattern of recurring names at the *conventus*. It also helps contextualize the development of advocacy in the late Empire, when a statutory Bar and *numerus clausus* of advocates, including an inner circle of elite orators, was instituted at every major imperial court. It is to this development and its significance that we now turn.

In a third-century case that came before the *epistratēgos* at the Arsinoite *conventus* of 280-1 CE, the orphaned children of a shepherd have been deprived of their flock by a local tax official (*dekaprotos*). The case of the orphans is argued by Isidorus,

an *advocatus fisci* (*apo synēgoriōn*), a prestigious post attained by elite orators of outstanding skill (P. Sakaon 31 = P. Thead. 15, Arsinoite nome, 280-1 CE). Even the abbreviated transcript of this hearing conveys Isidoros' skillful speech, complete with rhetorical questions and quick interjections against his opponent. It is difficult to imagine that the litigants had in any sense "hired" such an illustrious advocate. More likely, the *advocatus fisci* was assigned to this case by virtue of his institutional role of defending the interests of the *fiscus*. It is relevant, in this regard, that the mother of the orphans had previously petitioned the prefect with a complaint that the depredations of the tax official made her family unable to pay their taxes (P. Sakaon 36, Theadelphia, 280-1 CE). The prefect's office responded to her petition that the *epistratēgos* would examine the case "as would best ensure the payment of imperial revenues" (*ibid*. ll. 34-36). Subsequently, the *advocatus fisci* argued the case more than once before the *epistratēgos*, because the tax official apparently resisted all injunctions against him. As with the case of the *archidikastēs* pleading for the *colonus,* here we observe an elite *rhētōr* pleading a case by virtue of his institutional relationship to the court (or, in this case, to the imperial *fiscus* itself). This brings us to the next example.

The next case is a dispute over mortgaged property that came before the prefect Honoratianus at the Hermopolite *conventus* of 232 CE (SB I 5676). In the midst of the proceedings, one of the *rhētores* declares, "... he is a powerful man, a *rhētōr* of the *epistratēgos*. For this reason, I cannot plead against him at that court, but only before you..." (ll. 15-16). The powerful man was the *rhētōr* Claudius Dionysios, whose imperious voice orders the litigants to come forward during the hearing. Dionysios is distinguished from the other *rhētores* by his two names, which indicate that he was a

Roman and Alexandrian (or Antinoite) citizen before the *Constitutio Antoniniana*. By contrast, the *rhētores* Hermeinos and Arsinoos, his opponents, bear Graeco-Egyptian names that suggest a less illustrious background.[364] This papyrus is the earliest explicit reference to an advocate bearing a formal affiliation to an imperial court in the Roman empire, a development that does not register in the Roman legal sources until a century later.[365]

There are some early hints of this development. Already in the early second century CE, a private letter of a wealthy man from Alexandria refers to someone as an "arrogant little rhētōr (*rhētoriskos*) at the court of the *iuridicus*" (P. Giss. Bibl. III 20 = Sel. Pap. I 117, Alexandria, 113-117 CE). Similarly, we notice that the Alexandrian *rhētōr* Kallineikos pleads predominantly at the court of the *iuridicus*. There are also Greek and Latin inscriptions from the late second and early third centuries CE where elite advocates honor provincial governors as their patrons. In one such inscription from North Africa, an *advocatus* of equestrian rank honors two successive governors for awarding him a privileged status (*dignatio*), which in this context presumably meant that he was invited by the governor to plead high-profile cases. The Severan jurist Ulpian uses similar phrasing in his warning to governors not to discriminate against humble litigants "who either have no advocates at all, or who have hired advocates who make less frequent appearances in court and are not distinguished by any position of rank (*minus frequentes neque in aliqua dignitate positos*)." In both instances, the terms *dignatio* and *dignitas*

[364] The *rhētōr* Claudius Dionysios is also attested in another papyrus, SB XX 15827, 3c. CE.

[365] The earliest evidence for a *numerus clausus* of advocates at major imperial courts are two constitutions of Constantine from 319 CE, which abolish the existing limits, *CTh* 2.10.1-2. On the rise of the provincial Bar in late Antiquity, see Jones 1986 I: 470-522 and Frier (forthcoming).

point to an inner circle of elite orators who had a privileged and dominant position at the governor's court.[366]

Having identified this phenomenon in the Egyptian sources, let us now explore its ramifications.

4.4.5 Forensic oratory as elite social performance

In the city of Rome, the courts were a traditional forum for rhetorical display and social performance by the political elite, who were active as advocates, legal experts, judicial advisors and judges. In the words of Pliny the Younger: "I have frequently pleaded, I have frequently judged, I have frequently sat on judicial councils" (*Ep*. 1.20.12, already mentioned in section 4.2). As illustrated in striking terms by Pliny's correspondence, one of the most prominent urban activities of senators in imperial Rome was to attend or participate in trials in the major courts. One important consequence of this aspect of Roman elite culture was that the leading actors in the Roman judicial system – the advocates, legal experts, judges and judicial magistrates – were also leading members of the Roman governing class. In the courtroom, this contributed to a dynamic that is vividly illustrated already by the court speeches of Cicero, where the legal process often comes across as a performative encounter between competing members of the aristocracy, who speak a shared language of politics, high culture, rhetoric and the law. In the prosecution

[366] Of the four total attestations of the *rhētōr* Kallineikos, three are hearings at the court of the *iuridicus*: M.Chr. 87 = P. Lond. II 196, 141 CE; SB XVI 12555 (138-144 CE); P. Cair. Preis. 1,[2] (148-150 CE). For advocates honoring governors as their patrons, see MonAnt 23 1914: 213 (Pisidia, 270s CE), CIL VIII 02734 = CIL VIII 18125 (Lambaesis, early 3c. CE) and AE 1911, 99 (Lambaesis, early 3c.). For the advocate L. Valerius Optatianus who thanks two governors for his special status (*dignatio*) see CIL VII, 2393 = AE 1923 (Timgad, early 3c.) and AE 1917/18, 73 (Lambaesis, early 3c.). The relevant passage of Ulpian is *Dig.* 1.16.9.4 (1 *de off. procos.*).

of Verres, Cicero fought a fierce battle against his opponent Hortensius and won a major political victory. Eight years later, Cicero was Hortensius' colleague in defending Murena against Servius Sulpicius Rufus, whom on that occasion Cicero duly showered with invective. Cases such as these bring to light the thick web of horizontal ties between advocates, magistrates and judges, to which the judicial system at Rome was structurally prone. One's opponent today could be one's *iudex* tomorrow, or one's *praetor* the following year.[367]

In this respect, as the present chapter sought to demonstrate, imperial courts in the provinces operated under similar conditions. In the provinces, as at Rome, legal practitioners (orators, legal advisors, judges) at the top level of the judicial system tended to be members of the civic elite of the provincial capital and other major cities. Accordingly, if one imagines courtroom contexts where scions of prominent provincial families pleaded cases before imperial officials and members of the provincial aristocracy, the imperial courtroom too became a theater for display and performance by the political elite. As we learn from the letters of Cicero and Pliny, elite orators at Rome approached high-ranking officials with confidence as their social equals. Similarly, in the dramatic scenario of the *Apology* of Apuleius, the elite African orator approaches the Roman governor as a fellow member of an imperial ruling class, establishing with him a common language of literary culture, rhetoric and the law.[368]

---

[367] The dynamics of the legal process at Rome as elite competition and social performance vividly comes across in the "who's who" chapter breakdown of Frier 1985 for the late Republic and Bablitz 2007 for the Republic and Principate. Another *locus classicus* are the Verrine orations, where the senators in the jury (particularly those with a shady past in the age of Sulla) are themselves indirectly on trial.

[368] On the *Apology* of Apuleius, see Hunink 1997. On learned display and entertainment in the speech, see Sallmann 1995.

Reports of court proceedings from Roman Egypt are a unique body of documentary evidence for courtroom interactions. They eloquently speak to the question of forensic practice as elite social performance, and draw our attention to the significance of this dynamic for the legal process in Roman imperial courts. In proceedings-papyri, there are numerous contexts in which a high-profile *rhētōr* addresses an imperial official in a bold and familiar tone. The *rhētōr* Aristonikos, for example, speaks to the prefect with remarkable familiarity and nonchalance: "now ask him how many years ago his father died!" or "you are right to ask this question, and I will tell you everything: prefects before you have set five years as the limit for filing claims" (P. Flor. I 61 = M. Chr. 80, 85 CE, ll. 44-48). Aristonikos' confident demeanor poses a stark contrast to his opponent Kephalon, who meekly addresses the prefect as "your Beneficence" (l. 14). In another case at the court of the prefect (P. Oslo II 18 = SB XIV 12087, fr. A l. 18 - fr. B l. 8, 150 CE), a *rhētōr* named Kanopos aggressively attacks a defendant whom the plaintiff has hauled into court for a theft committed by his son. The prefect Munatius Felix objects: "I do not know what you are talking about. Even if this man were found to be a murderer, his father cannot be held responsible!" But Kanopos does not desist: "let him swear an oath that he did not agree to produce his son!" The prefect continues, "why do you detain this man illegally, bring him to court, and demand an oath from him?" Both the prefect's mild warning and Kanopos' persistence are strong reflections of the *rhētōr's* status and confidence in the presence of an imperial official.

In many instances, we observe a high-profile *rhētōr* instructing or putting pressure on an official. In one example, a Roman procurator has no recollection of a dispute and looks to the *rhētōr* Demetrios, who states in an authoritative tone how he thinks the

matter should be handled (P. Oxy. XLIII 3117 *recto*, Oxyrhynchos, 235 CE). The procurator's deference to Demetrios suggests that the *rhētōr* was an eminent figure, well known to the official. In another case, the Alexandrian *rhētōr* Kallineikos explains to the deputy-*iuridicus* precisely how he should proceed with the case (M.Chr. 87 = P. Lond. II 196, Alexandria, 141 CE). When the deputy-*iuridicus* hesitates ("but how is it possible to refer the matter to the local level if this man is away on military service?"), Kallineikos becomes impatient: "now ordain what you wish to be done!" (9-12). It is relevant that the deputy-*iuridicus* was an Alexandrian officeholder (*dioikētēs*) and not a Roman equestrian procurator, which may explain Kallineikos' brusque treatment of him. Elsewhere, the Alexandrian *rhētōr* Lykarion warns a *iudex*: "you are adjudicating a matter of universal import, which is the subject of previous rulings by magistrates and prefects" (SB XIV 12139, 146 CE, col. II ll. 11-12). Lykarion then presents the *iudex* with an array of previous decisions. Although the *iudex* ultimately rules in favor of Lykarion and his colleague Herakleides, he prefaces his decision with a dismissive comment that the case is a "matter of little importance." Possibly, this *iudex* (himself an Alexandrian officeholder) felt some resentment against these patronizing Alexandrian *rhētores*. This scenario is reminiscent of Pliny's remarks about the problem of pleading before judges whom one considered to be one's social or intellectual inferiors. It was a bad idea to try to impress these men with elaborate rhetoric. Instead, it was best to be quick and spell things out to them. As Quintilian reminds us, however, an orator always ran the risk that a judge would perceive his arguments as an assault on his own authority.[369]

[369] Other examples where a *rhētōr* pressurizes an official by referring them to the acts of their predecessors include SB XX 15147 (2c. CE) where the *rhētōr* Apollonios warns an official, "this matter is of universal significance (*katholikon*) and by no means lacking previous rulings" and BGU XI 2058 (166 CE) where the

In several contexts, we observe a high-profile *rhētōr* take a confrontational stance against a high-ranking imperial official. In one case at the court of the prefect (P.Oxy. III 653 = M.Chr. 90, Alexandria? 162-3 CE), the *rhētōr* Isidoros speaks in defense of a high-handed creditor, who has recalled a loan in order to seize the mortgaged properties of his debtor. As Isidoros begins his highly rhetorical and manipulative account of the events, the prefect interjects: "take back the loan and do not worry about the rest." Isidoros retorts: "let him pay interest as well!" The prefect stands firm: "you have already seized his harvest, have you not?" Isidoros denies this and the prefect appoints a commissioner to investigate. This prefect, we might add, was the eminent legal expert (*iurisconsultus*) and imperial advisor Volusius Maecianus. Maecianus soberly assesses the situation and signals that he is not deceived for a moment by Isidoros' rhetorical attempt to disguise the creditor's act of bad faith. Showing no sign of intimidation, however, Isidoros confidently insists on the formal legitimacy of his client's claims, makes further demands, and pushes Maecianus to his limits. Similarly, when the prefect Munatius Felix objects that the *rhētōr* Kanopos has made illegitimate demands on behalf of his client, Kanopos retorts and proceeds with his argument. These bold dialogues show that high-profile *rhētores* looked imperial officials in the eye and were treated by them with respect. Such dialogues also suggest that elite *rhētores* and imperial officials tended to be familiar with each other.[370]

---

rhētōr Crispinus states, "both you and the prefects before you have granted immunity from liturgies." Pliny speaks about the need to tailor orations to the judge in *Ep.* 1.20; boorish judges and assessors who wanted short speeches meant that the case was not worth pleading, *Ep.* 1.20.23. For Quintilian on the variable intellegence of judges, see *Inst. Or.* 12.10.52-3. One fatal mistake made by orators was to criticize previous judgments by other judges, which a judge could resent on his own behalf, see *Inst. Or.* 5.2.2.

[370] In another example, just after the prefect issues his ruling, a *rhētōr* exclaims: "now order for the security to be cancelled!" The prefect concedes: "he is right to intervene, I hereby cancel the security" (P.Oxy. XLI 2955, Oxyrhynchus, 218 CE, ll.16-17). On Maecianus the *iurisconsultus*, see Liebs 1997b.

There are also numerous instances where an imperial official gives clear preferential treatment to a high-profile *rhētōr* over his less eminent opponent. In one of the above-mentioned cases, the prefect is entirely of one mind with the *rhētōr* Aristonikos but virtually ignores his meek opponent Kephalon. In another case, the *epistratēgos* Herennius Philotas grows visibly angry when a *rhētōr* named Apollonios the Younger corrects him on a point of fact (SB V 7558 = FIRA III 30, 170s CE, ll. 21-22). The incensed Philotas menacingly interrogates the *rhētōr*, who demurely responds and falls silent for the rest of the hearing. By contrast, Dioskoros and Apollonios, the *rhētores* of the other party, present a series of requests that are duly granted by Philotas. At one point, Dioskoros even seems to hurry Philotas along: "now give us an auditor, if you please" (l. 30) and Philotas immediately does so. One would guess that the two *rhētores* were men of status who had a privileged standing at the court of the *epistratēgos*. These two contexts may be examples of the sort of affinity between elite *rhētores* and imperial officials that Ulpian and the opponents of Claudius Dionysios (the powerful "*rhētōr* of the *epistratēgos*" in SB I 5676) warn us about.[371]

Affinities of this sort were arguably a natural consequence of the fact that leading forensic orators were often members of the officeholding elite. As dramatized in the *Apology* of Apuleius, it was natural for an elite orator to try, with the due amount of caution to be sure, to build a sense of solidarity with an imperial governor, with whom the orator shared an elite background and education. There is evidence for this sort of dynamic in the papyrological sources. The prefect and the *rhētōr* Aristonikos, for example, are united in their disdain for the freedman's attempt to press charges against an

[371] Once again, the relevant passage of Ulpian is *Dig.* 1.16.9.4 (1 *de off. procos.*). The *rhētōr* Claudius Dionysios appears in SB I 5676 (Hermopolis, 232 CE) and SB XX 15827 (3c. CE).

eminent person. Similarly, in one of the cases listed in the petition of Dionysia, a *rhētōr* named Sarapion comments to the Roman *iuridicus* on the backwardness of Egyptian customs: "moreover, these people are native Egyptians, whose laws are characterized by an unmitigated harshness. I am not exaggerating when I say that they..." (P. Oxy. II 237 col. VIII 39-43, Alexandria, 87 CE). Sarapion implicitly places himself together with the *iuridicus* on the same side of the opposition between the Graeco-Roman ruling class and the retrograde "Egyptians" of the hinterland. In the *Apology*, Apuleius employs a similar strategy of establishing a common language of literary culture with the governor, while alienating his uncultivated Libyan adversaries, who spoke bad Latin and knew nothing of Homer (*Apol*. 18-23, 30-31).

In contexts like these, where a trial or hearing took place at the court of a high-ranking imperial official, it is evident that the legal process had a strong performative dimension. Although texts of court proceedings tend to be excerpted and heavily abbreviated, we can identify numerous contexts where *rhētores* engage in competitive rhetorical display. In one fragmentary report, we notice that a *rhētōr* employs the literary term *philostorgōs*, "with tender affection" (P. Oslo. III 80, 160s CE). In another fragmentary report (P. Bingen 78, 166 CE, l. 6-7), a *rhētōr* begins his speech in a lofty tone, "and now, obeying your ordinances, we shall execute our defense." The speech of Ptoleminos regarding the guardianship of an orphan, the speech of Isidoros the *advocatus fisci* on behalf of the orphans who have lost their sheep, the speech of Hermon the *archidikastēs* on behalf of the aging *colonus,* as well as the performances of Aristonikos and Palamedes, all are examples of elite orators displaying the fruits of their rhetorical training. Similarly, in the heavily abbreviated court protocols attached to the petition of

Dionysia, it is clear that the short "statements" of *rhētores* at the court of the prefect and *epistratēgos* are paraphrases of long and elaborate speeches, which contained emotive stories about star-crossed lovers and jealous fathers, as well as precise technical arguments about paternal power and the contractual nature of marriage (P. Oxy. II 237, col. VIII 19-43). We get a good sense of the scale and texture of forensic orations from a few extant drafts of court speeches. One fragment of a draft speech from Oxyrhynchus (P. Oxy. III 472), pertaining to a real case that is known from another papyrus (P. Oxy. III 486, ca. 131 CE), is a remarkably long and detailed text that features accusations of poisoning by a wealthy woman's steward, who is revealed to be her frustrated and jealous lover, as well as a stolen mortgage contract and other sensational details. This is the sort of speech that one ought to imagine being delivered at the court of the prefect.

Amid the animated dialogues that take place at the courts of Roman imperial officials, one often gets the feeling that trials have a distinctly theatrical character. For example, the case adjudicated by *epistratēgos* Paconius Felix in the appendix of judicial precedents attached to the petition of Dionysia concludes with a Demotic-speaking woman being asked, through a translator, whether she wishes to remain with her husband. Her response is yes and the imperial official magnanimously upholds her wishes (P. Oxy. II 237, col. VIII 37-38, discussed above in section 4.1). This is one of three cases cited in Dionysia's petition where a daughter's wish to remain with her husband is protected by a high-ranking Roman official. Another highly theatrical scene takes place at the conclusion of the trial where a freedman attempts to recall a loan from a wealthy man. Throughout the hearing, the freedman is brutalized by the *rhētōr* Aristonikos. In the end, the prefect pronounces in a sarcastic tone: "you deserve to be beaten for having caused an

eminent man and his wife to be arrested! However, I will be obliging and benevolent to you in order to please the crowd. You have brought your claim after forty years. I will oblige you with half that time: in twenty years, you may approach my court again" (P. Flor. I 61 = M. Chr. 80, ll. 59-66). Evidently, this judicial spectacle was being witnessed by a cheering and jeering crowd of spectators at Alexandria. It is striking to see the same judicial scenario – the insolent freedman assailing a man of high status – repeated in two other hearings at the prefect's court.[372]

These contextual details throw into relief the performative and spectacular nature of judicial proceedings at the Roman imperial *conventus*, major public events which often took place in open spaces and before large audiences. As I have emphasized, however, these trials were also performative by virtue of the involvement of elite actors, whose performance as advocates or judicial advisors reflected on their status, public reputation and future careers. As a suggestive parallel, one can cite the famous conflict between a tax farmer (*manceps*) and a group of Syrian villagers, which was adjudicated by the emperor Caracalla at Antioch in 216. The case is known to us from a bilingual inscription of the proceedings on the wall of the temple-sanctuary, whose revenues the Syrian *coloni* were trying to protect (SEG XVII 759). The advocates were L. Egnatius Victor Lollianus and Gaius Sallius Aristaenetus. Both were eminent senators with illustrious political careers. Both were also highly skilled orators, who had trained with the foremost rhetorical celebrities of the age, and would earn celebrity-status in their own right. Aristaenetus

[372] The two other hearings involving an insolent freedman are P.Mil. Vogl. I 25 col. II-IV l.17 (127 CE) and P. Oxy. IV 706, discussed in detail in chapter 2.3.

would even appear as a "sophist" in Philostratus' *Lives of the Sophists*.[373] These two men had been chosen by Caracalla to accompany him on his tour of the East in the years 213-217 CE. In 215, we encounter Lollianus in Egypt, once again as a *rhētōr* at the court of Caracalla, where he once again advocates for a group of rural cultivators, who have been injured by a local tax official. It is difficult to imagine that the litigants were, in any sense, clients of these illustrious orators. Presumably, Lollianus and Aristaenetus had been requested to plead these cases by the emperor himself.[374] During the proceedings at Antioch, Aristaenetus opens with a series of procedural objections (col. I ll. 7-17): first of all, the representative of the farmers is not a proper representative; secondly, the case has not come before the governor and there has been no formal appeal; consequently, the case is not eligible to be heard by the emperor. As Lollianus attempts to argue against these objections (ll. 17-24), Caracalla becomes impatient and asks, point-blank, whether the orators actually want him to hear the case (col. II l. 31). At this point, Aristaenetus could, presumably, only say yes. He steps back and lets Lollianus proceed with his *narratio* (col. II l. 34-46): "the subject of this contest (*agōn*) is religious piety" and the inscription soon

[373] On Lollianus, see Puech 2002: no. 35 and Haensch 2006. Lollianus (born ca. 180 CE) was a native of Bithynia and a citizen of Prusa, the hometown of the famous epideictic orator Dio. In 213, Lollianus was adlected in the priesthood of *sodales Antoniniani,* which reflects his senatorial rank and proximity to the imperial family. In the 230s and 240s, he was twice commemorated at Athens as an orator, with reference to his illustrious political career. Lollianus attained the consulship, three proconsulships of Asia, and the urban prefecture of Rome at an advanced age. Aristaenetus, likewise a native of the East (born ca. 170 CE), shows up in Philostratus as a sophist and student of Chrestos of Byzantium (*Vit. Soph.* 2.11). He was a senator and served as *iuridicus* in Italy, consul and governor of Bithynia-Pontus and Moesia Inferior in the early third century. We also see him being honored as *orator maximus* at Rome.

[374] On the trial before Caracalla (the Dmeir inscription) see Kunkel 1955, Williams 1974, Crook 1995: 91-95, Stolte 2003 and Tuori 2016: 248-252. For the hearing before Caracalla in Egypt, attested in two papyri, see SB XIV 11875 and 11876.

breaks off. It is clear that both orators were trying to deliver a sound rhetorical performance. However, as they try to silence each other with procedural objections (a classic strategy, frequently attested in papyri), the game appears to become too realistic and the emperor intervenes in order for the case to be pleaded at all. As Caracalla remarks, "if I were in a hurry to get up and leave, I would simply say: let this procedural objection stand!" In implicit contrast to an imperial official overloaded with cases, Caracalla is in no hurry to leave the courtroom. The procedural objection cannot stand, because the rhetorical performance must go on. Even from the few extant lines of Lollianus' *narratio*, it is clear that an important goal of the speech was to provide pleasant entertainment for the emperor and (presumably) a broader audience of imperial officials and provincial grandees. Caracalla appears to have been enjoying himself immensely.

These trials before the emperor are instructive for our analysis of trials before Roman imperial officials. As in some of the Egyptian examples, the proceedings before Caracalla convey a clear dynamic of familiarity between the courtroom actors, as well as a clear sense of the theatrical nature of the trial, where both parties are represented by high-profile orators and political figures from the emperor's personal entourage. Thus, the trial before Caracalla was, at the same time, a command performance and staged competition between two highly skilled and ambitious senators. This, I would argue, closely resembles scenarios that one encounters at the court of the prefect of Egypt and other high-ranking imperial officials. There, too, certain *rhētores* were prominent political figures, some of whom (like Claudius Dionysios, the fearsome "*rhētor* of the *epistratēgos*) had close personal ties to the official, as we have seen. For elite orators such as Aristonikos, Kallineikos and Hermon the *archidikastēs*, a trial before the prefect

of Egypt was a prestigious and highly public rhetorical contest – an *agōn,* as it is referred to by Lollianus and numerous *rhētores* in papyri – where the arbiter was a high-ranking imperial official, a powerful source of patronage and connections, and where one's opponents were typically other ambitious members of the provincial governing class. The audience, in turn, included other imperial officials and influential members of the provincial aristocracy, as well as crowds of spectators who came to witness the spectacle of Roman justice. Thus, an elite orator in an imperial court in the provinces performed before multiple audiences, all of which in different ways validated and promoted his status. Perhaps even more than the centumviral court at Rome, imperial courts in the provinces were venues *par excellence* for elite social performance.

Lastly, the proceedings before Caracalla draw attention to imperial trials as judicial spectacles. Throughout the trial, there is a distinct sense that the *rhētores* and the emperor are self-consciously "performing" their respective courtroom roles. A similar sort of dynamic is observable at the court of the prefect of Egypt, where courtroom debates are often conducted with a kind of sportsmanship that gives them a staged and theatrical character. One suspects, for example, that the aggressive arguments of elite orators such as Aristonikos and Crispinus were part of a role that imperial officials fully expected these orators to play. The large audience of spectators, in turn, applauded dramatic judicial scenes, where married daughters were protected against their Egyptian fathers, where rural cultivators were vindicated against rapacious tax officials, and where a wealthy man defended by an elite *rhētōr* and a lowly freedman defended by a mediocre *rhētōr* received their just deserts. The presence of imperial statues, silently watching over the legal process at the Roman governor's tribunal, reinforced the message that one was

witnessing the magnificent exercise of Roman justice.[375]

4.4.6 Roman law as an implicit framework in Roman imperial courts

In addition to being a discrete body of knowledge and a technical discipline in its own right, Roman law was an integral component of the Roman rhetorical curriculum and thereby part and parcel of the shared educational background that supported the elite practice of forensic oratory. It is clear from the corpus of Roman declamation, as well as the writings of western provincial writers such as Apuleius and Tertullian of Carthage, that the doctrines of Roman law were part of the intellectual arsenal of civic elites in the West. Gaius' *Institutes,* an introductory handbook to Roman civil law from the Antonine period that is generally believed to have circulated in the Greek East, strongly suggests that Roman law was studied in the eastern provinces as well, many decades before the earliest evidence for Berytus as a center for Roman legal study emerges in the late second century CE. A close look at the papyrological evidence for court proceedings clearly supports the conclusion that Roman law was part of the intellectual framework not only of Roman imperial officials in Egypt, but also of the *rhētores* who pleaded in their courts. The social profile of forensic orators at the top level of the Roman court system shows that members of the civic elite of Alexandria and other major cities in the Greek East had technical knowledge of Roman law.[376] This argument goes against the traditional and still very much established view in Roman legal scholarship that, beyond the narrow sphere of

[375] On the presence of the emperor's statues at the governor's tribunal, see Apuleius, *Apol.* 85.2.

[376] On Roman law in Apuleius, see Summers 1967 and 1970. On Roman legal terms and concepts in Tertullian, see Vitton 1924. Both authors are treated by me in Dolganov forthcoming d. On the *Institutes* of Gaius as an eastern provincial product, see Liebs 1976: 294-310.

Roman citizens, there was limited knowledge and application of Roman law in the East before the *Constitutio Antoniniana*. The papyrological sources, however, reveal that Roman law was indeed present in the imperial courts of the Greek East, both as a legal framework and as an intellectual toolkit of legal practitioners, already in the first century CE.[377] The presentation of this argument, which will be developed further in the section on *iurisconsulti,* will consist of a series of case studies. I have deliberately chosen cases involving Egyptian provincials, in order to highlight the role of Roman law as a legal and intellectual framework of Roman imperial jurisdiction.

The first case study is one of the cases attached to the petition of Dionysia, discussed in chapter 3.6, where a father who disapproves of his son-in-law attempts to reclaim the dowry of his married daughter (P. Oxy. II 237 col. VIII 39-43, Alexandria, 87 CE). A *rhētōr* named Sarapion explains to Umbrius the *iuridicus,* "moreover, these people are native Egyptians, whose laws are characterized by an unmitigated harshness. I am not exaggerating when I say that they not only have the power to take away from their daughters what they have given to them, but also whatever the daughters happen to acquire for themselves" (39-42). Beyond its flamboyant rhetoric, Sarapion's distinction between things given to the daughter (implicitly, in dowry) and things acquired by her is in line with the Roman juridical distinction between dowry and *peculium* as the two categories of property of a daughter under her father's legal power (*in potestate*). In Roman law, the property of a child *in potestate* had the status of *peculium,* which was formally the property of the *paterfamilias* and subject to his discretion. While the *peculium* of children *in potestate* was in theory revocable, the sources suggest that in

[377] On the supposedly limited presence of Roman law in the East, see the references cited in n.8.

practice it tended to be granted – often, in anticipation of an inheritance – with a considerable degree of freedom for its disposition.[378] If this inference is correct, Sarapion's statement that "the severity of the laws is unmitigated" among native Egyptians would be laying emphasis on the fact that Egyptian fathers had an excessively harsh version of paternal power that allowed them to do what the Roman *paterfamilias* could do in theory but was not expected to do in practice.[379]

Viewed from the perspective of the Roman legal sources, the promise of a dowry was an agreement (*pactum*) that created a contractual obligation between the father and his son-in-law, who thereby became the legal owner of the dowry and could sue for its delivery after the marriage (*Dig*. 2.14.4.2, Paulus 3 *ad ed*.). This sort of thinking may be reflected in the *iuridicus'* statement: "since you have already given a dowry to your daughter, now restore it!" (l. 42.). In Roman law, once a dowry was transferred it formally became the property of the husband for the duration of the marriage. If, in this case, the dowry had been formally transferred into the marriage (e.g. through the registration of land in the daughter's name), this would add further force to the insistence of the *iuridicus* that the dowry, once granted, had to be restored.[380]

From the perspective of Roman law, the interference of a father in the marriage of a daughter *in potestate* constituted a legal problem, where the Roman notion of marriage as a consensual contract between spouses came into conflict with the Roman notion of

[378] A liberal practice allowing sons *in potestate* to administer their *peculium* is plausibly inferred from Roman literary and legal sources by Saller 1994: 123-126, in agreement with the arguments of Kaser 1938.

[379] On the Roman juridical distinction between dowry and *peculium* of daughters *in potestate*, see Saller 1994: 204-224.

[380] On the husband as the legal owner of the dowry, which he had *in bonis* for the duration of the marriage, see Gaius, *Inst*. 2.62-63 (on the conveyance of property title to the husband) and *Dig*. 23.3.7.3 and 9 pr. (Ulpian 31 *ad Sab*.): *si res in dote dentur, puto in bonis mariti fieri*.

paternal power. While a father's consent was necessary for the marriage of a child *in potestate* to take place, Roman legal writers articulate the principle that paternal consent, once given, could not be revoked. As concisely stated in a third-century anthology of Roman legal maxims: *eorum qui in potestate patris sunt sine voluntate eius iure matrimonia non contrahuntur, sed contracta non solvuntur* (Paul. *Sent*. 2.19.2). It is unclear from the abbreviated text of this hearing whether the father had ceased to approve of the marriage, or whether he was trying to argue that he had never consented to it in the first place: "it is not fitting for her to be together with this man," says the father, to which the *iuridicus* responds, "it is far worse for her to be taken away from her husband!" Evidently, from the perspective of the *iuridicus,* the marriage had taken place and the father had no business interfering in it. Just as a father could not revoke a dowry that had already been granted, he could not break up a marriage that already existed. Although none of the litigants in this case were Roman citizens, Sarapion and Umbrius appear to analyse the situation in accordance with the conceptual framework of Roman law.[381]

The second example is the case with which we began this chapter, which came before the prefect Flavius Titianus at Alexandria in 128 CE (P. Oxy. II 237 col. VIII 19-29). There, a father had physically removed his married daughter from her husband's house. Accordingly, the subject of the courtroom debate was whether a father could forcibly effect the divorce of a daughter, and whether her physical removal automatically dissolved the marriage. The *rhētōr* Isidoros the Younger, speaking on behalf of the

[381] For an extensive discussion of marriage and paternal power in the Roman legal sources, see section 3.5-6. On the principle that marriage was not subject to the exercise of paternal power, see the key ruling of Marcus Aurelius cited in *CJ* 5.17.5 (294 CE) and Justinian in *CJ* 5.17.12 (534 CE). See also *Paul. Sent*. 5.6.15 and *Dig.* 43.30.1.3, 5 (Ulpian, 71 ad ed.). These texts are discussed in Urbanik 2002 and chapter 3.6.

husband, argued that the father should not to be allowed to break up a marriage based on mutual affection. This was in line with what we find in the Roman legal sources, according to which paternal power (*patria potestas*) could not be used to dissolve a harmonious marriage (*bene concordans matrimonium*), and paternal consent to marriage, once given, could not be rescinded. Instead, a marriage lasted as long as both spouses had the mental disposition to remain married (*affectio maritalis*). The *rhētōr* Didymus, on the other hand, argued that an act of moral outrage, as well as a threat of physical violence, justified the father's actions. Similarly, in the Roman legal sources, we encounter the notion that, if the marriage of a daughter was damaging to her father's dignity, reputation or material interests, he was entitled to intervene. In response, the *rhētōr* Probatianus made the technical point that the physical removal of the daughter has not altered the legal effects of the marriage, which remains "intact" – *aperilytos,* a technical term that is not attested before the Roman period, and which may be a Greek rendition of a Roman legal term (such as *integrum*). In the legal sources we encounter various perspectives on the question of what constituted divorce: if the decision to send a notice of divorce (*repudium*) had been made in a moment of anger and the wife still wished to remain with her husband, the marriage simply continued by virtue of the spouses' mutual desire to remain married (*Dig*. 24.2.3, Paulus 35 *Ad ed*). If, however, it could be demonstrated that a wife was unable to exercise sound judgment – if, for example, she was "raving mad" (*furiosa*, *Dig*. 24.2.4, Ulpianus 26 *Ad Sab*. citing Iulianus, *Dig*.) – she could forfeit her ability to determine her own fate. The statement of Probatianus is fully in line with the Roman principle that a marriage lasted as long as the spouses had the mental disposition to remain married (*affectio maritalis*), and that a marriage was not subject to the exercise

of paternal power. The prefect accepted this line of reasoning and ruled that the wife was free to decide whether or not she wished to remain with her husband. Although the litigants were ostensibly not Roman citizens, being spoken throughout this hearing was the language of Roman law.[382]

As I have argued above, the *rhētōr* Isidoros *neoteros* can be identified with an Alexandrian who is elsewhere attested as a personal assistant (*hypēretēs*) of the prefect (CPR I 18, 123 CE) and as a judicial advisor of the *archidikastēs* (P. Mil. Vogl. I 25, 127 CE). The name of the *rhētōr* Probatianus suggests that he was a Roman citizen, most likely another Alexandrian. It is striking that the two positions argued in this case corresponded to two sides of a contentious debate in contemporary Roman jurisprudence. This is a remarkable illustration of the knowledge and competence of the Alexandrian lawyers who composed these arguments. The correspondence between contemporary imperial legislation and jurisprudence and the arguments of provincial lawyers also suggests how Roman provincial jurisdiction – in which Roman emperors and legal writers were themselves directly involved – contributed to the evolution of "classical" Roman law.[383]

---

[382] For detailed discussion of this case, see 3.5-6. For the relevant doctrines in the Roman legal sources, see also Urbanik 2002. Regarding the civic status of the litigants, some doubt remains. The names Sempronius and Antonius strongly suggest Roman citizenship and there is nothing in the court protocol itself that indicates otherwise. Instead, the claim that these litigants were not Roman citizens is made in the subsequent case from 133 CE, where advocates defending a married couple of Demotic-speaking Egyptians were trying to invoke the decision of Titianus as a judicial precedent. Their interpretation of the previous case may well be manipulative, and Sempronius and Antonius may not have been Egyptians at all. If so, we have a good illustration of argument from judicial precedent as an important mechanism by which Roman legal rules were extended to non-citizens.

[383] While these conclusions go against the currently established view of Roman legal scholarship regarding knowledge and application of Roman law in the East before 212 CE (see Alonso 2014 and 2016 for an

The next case has been cited multiple times as evidence for the presence of high-profile Alexandrian orators at the *conventus*. The court was presided over by Aelius Dionysios, ex-*agoranomos* and *praefectus annonae*, *iudex* appointed by the prefect Valerius Proclus. The case involved a conflict over joint ownership between siblings, all of them provincials with Demotic-Egyptian names. After the death of their father, three brothers had received equal shares of adjoining land as joint-owners, while their sister did not receive a share, possibly because she had been given a dowry that counted as her portion of the family estate. After one of the brothers died, another brother inherited his share by virtue of being the eldest. The allotment of a double share to the eldest brother reflects non-Roman inheritance practices within a Demotic-Egyptian cultural milieu. The eldest brother then sold some of his land to his sister. When he died, however, the sister was sued by the remaining brother for this portion of the family estate, which the brother claimed had been sold illegally to a "stranger," as he regarded the disinherited sister. Instead, the brother asserted his own right to purchase the property (col. ii 1-10).[384] During the hearing, the *rhētores* Heraklides and Lykarion argued on behalf of the brother

---

extreme version of this view), it is interesting to note that this view was far from established in the earlier generations of Romanist scholarship. For Leopold Wenger, one of the principal figures of German Romanistik in the early twentieth century, the petition of Dionysia revealed a striking level of Roman legal knowledge by lawyers in Egypt. In noting the correspondence between their arguments and Roman jurisprudential literature, Wenger 1937 concluded that the Roman imperial administration was developing its legal doctrines and policies in the "experimental laboratory" of the provinces. Mitteis 1891 had already voiced this hypothesis for the period after 212 CE. Unfortunately, these ideas and their implications were regarded as a case of misplaced enthusiasm by Wolff (see Wolff 1953: 53-4, particularly n. 99), whose work became authoritative for subsequent generations of Romanists. This effectively curtailed further engagement with these questions in the field of juristic papyrology.

[384] SB XIV 12139 col. II - col. IV 14 (Xois, February 18, 146 CE); see the *editio princeps* with translation and commentary by Youtie 1977. The significance of this document for our understanding of law and legal practice in the Roman provinces has not, to my knowledge, been analyzed in depth in any published study.

that the estate was undivided, which meant that no portion of it could be alienated away from the three joint owners (col. ii 8-10). This argument is in line with Roman legal rules concerning joint ownership by co-heirs of an estate (*consortium*), where special proceedings (*actio familiae herciscundae*) were necessary to legally separate individual shares.[385] The *rhētōr* Apollonios replied on behalf of the sister that the former prefect Heliodoros had issued a ruling that joint owners were free to sell their shares to anyone they wished (col. ii 17-20). In response, Herakleides and Lykarion pointed out that Heliodoros' ruling had recently been reviewed by a judge in a similar case, who reaffirmed the basic principle that jointly-held property had to be sold to partners before it could be sold off to strangers (col. iii 4-10). Lykarion then cited another case, a transcript of which is included in our papyrus, where two *rhētores* named Dorion and Dionysios argued that Heliodoros' ruling applied only to joint ownership between partners (*koinōnoi*) but not to joint ownership between family-members (*syngeneis*), who were obliged to sell to each other before alienating outside the family (col. v 7-11). This argument finds support in the Roman legal sources on *consortium* as a "natural and inseparable partnership" (*naturalis societas, societas inseparabilis,* Gaius, *Inst*. 3.154) and is in line with the Roman juridical distinction between joint ownership *qua* partnership (*societas*) and joint ownership via inheritance (*consortium, iure hereditario*). Here it is evident that the Greek term *koinōnos,* which is not attested with a juridical meaning before the Roman period, is a rendition of the Latin legal term *socius*, while the Greek term *syngenēs* is a standard Greek rendition of the Latin *cognatus*.[386]

---

[385] On *consortium* in Roman law, see Babusiaux 2015: 85-91 and Anselmo 2001.

[386] On the respective Roman legal actions for the division of property available to co-heirs (*actio familiae herciscundae*) and other joint owners (*actio communi dividundo*) see *Dig*. 17.2.34, Gaius 10 *ad ed. provinc.*

The second argument of Heraklides and Lykarion was that the sister had the juridical status of a "stranger" (*allotria*) with regard to the family estate. Here, the term *allotrios* has a juridical meaning that is, once again, not attested before the Roman period, and which is a Greek rendition of the Latin *extraneus*. In response, Apollonios' colleague Isidoros pointed out that a sister is a sibling and can by no means be regarded as *extranea*. Heraklides and Lykarion, however, retorted that the sister had been disinherited, which in juridical terms made her an *extranea* with regard to the family estate. This is fully in line with Roman legal thinking. In the Roman legal sources, the Severan jurist Modestinus describes a hypothetical case that illustrates precisely this issue: a grandfather had disinherited his grandson, who was subsequently named heir by the external heir of the grandfather; however, the emancipated father, having been passed over in the will, disputed it and got possession of the grandfather's estate *contra tabulas*; now, the grandson could not take part in the inheritance but was excluded as an *extraneus,* because it is not in his own name (i.e. not *qua* grandson) that he became an heir of his grandfather in the first place. As this scenario shows, disherison created the legal fiction that the disinherited person was an *extraneus* with regard to the family estate.[387]

See also generally *Dig.* 5.4.0 (*Si pars hereditatis petatur*). The Roman distinction between the two different types of joint-ownership is the subject of a joke in Apuleius' *Golden Ass* 9.27, where a baker tries to determine whether he, his wife and her lover constitute a single household (hence, the need for *actio familiae herciscundae*) or merely a partnership (hence, the need for *actio communi dividundo*). It is implicit in *Dig*. 45.1.122.3, Scaevola 28 *Dig.* that shares of property jointly owned by co-heirs cannot be alienated to strangers without asking the joint owners first. A study of the Greek terminology for Roman legal terms in documentary sources (see for example the *Gnōmōn* of the *Idios Logos,* BGU V 1210) is a great desideratum. Laffi 2013 provides an important step in this direction.

[387] The Modestinus passage in question is *Dig*. 37.8.5, Modestinus 6 *diff. Si nepos exheredatus heres extiterit ei, quem avus heredem fecerat, deinde pater eius emancipatus testamento praeteritus accipiat*

In response, Apollonios and Isidoros retorted that the sister had not in fact been disinherited. A lack of clarity on this point may have been due to the fact that the sister was not explicitly disinherited but simply passed over in the will. While passing over a *suus heres* rendered a will invalid in Roman testamentary law, it was regarded as valid in the testamentary practice of Egyptian provincials.[388] In this respect, the case seems to be illustrating the problem of interpreting the precise legal effects of local inheritance practices. It is evident, in this case, that Heraklides and Lykarion had the stronger argument, supported by an array of previous judgments. Accordingly, the *iudex* ruled that the uncle as co-heir and joint owner had a prior claim to purchasing the land (col. iv 3-14).[389]

This case offers a particularly striking illustration of the role of Roman law as an intellectual framework of Roman jurisdiction, here applied to a property dispute involving Egyptian provincials and enchoric inheritance practices. While the testamentary arrangements themselves were not questioned, it was debated how their legal effects should be interpreted from a Roman juridical perspective: if an Egyptian will continued to be valid when a child was omitted, as seems to have been the case here, what did the omission of the daughter mean in Roman juridical terms? Should she be regarded as *extranea*? Had she been disinherited or not? As I have argued in the previous sections, four of the *rhētores*—as well as the *iudex*, who was an Alexandrian officeholder—were eminent individuals who were active in the Alexandrian courts.

---

contra tabulas patris bonorum possessionem, iungi patri suo nepos non poterit, sed ut extraneus excludetur, quia non suo nomine avo heres extiterit.

[388] This is discussed in chapter 3.4.

[389] On the validity of spontaneous disherison and omission of children in Egyptian wills, see P. Oxy. XXXVI 2757 (late 1c. CE) and P. Oxy. XLII 3015 (early 2c.).

Although the proceedings are heavily abbreviated, it is evident that these Alexandrian lawyers were competent in Roman law. The general impression one gets from this case is that of a learned conversation between elite legal practitioners who employ a Roman conceptual framework in their argumentation. Despite the non-Roman status and inheritance practices of the litigants, their conflict over joint ownership is interpreted and resolved from the perspective of Roman law.

In the final example, we encounter the *rhētores* Kallineikos and Lykarion at Alexandria at the court of the *iuridicus* (P. Cairo Preis. 1,[2] Alexandria, 148-150 CE). The case involved a runaway slave, who had absconded shortly after her sale, having stolen some valuables from her new master. The buyer proceeded to file a lawsuit against the seller, an Egyptian provincial named Sarapion. The name and civic status of the buyer are regrettably unknown. The buyer demanded his money back, as well as the value of the stolen property (4-9). However, he did not have the contract of sale, and claimed that the slave had stolen it as well (6). The *rhētōr* Kallineikos objected on behalf of the seller that the sale had been made "for the simple amount" – *haplō khrēmati,* the Greek rendition of the Latin *simpla pecunia* – which guaranteed reimbursement of the single amount of the purchase price in case of eviction only. Accordingly, Kallineikos argued that the seller was not liable to return the purchase-price of a runaway slave (11-20). Because the contract itself was missing, there was no way to establish what the specific clauses of the contract had been. The question that then follows is: on what, exactly, did the buyer base his case? The fact that the case was being heard by the *iuridicus* indicates that it was being taken seriously, despite the absence of the contract of sale. In fact, the argument of the buyer implies that there was an implicit legal framework governing transactions of

sale that was independent of the specific contractual arrangements made by the two parties. Most likely, the buyer had appealed to Roman legal rules protecting buyers against sellers who acted in bad faith. In particular, there were Roman rules of guarantee against eviction and hidden defects, developed specifically for the sale of slaves and livestock, which were codified in the Roman edict of the curule aediles. Accordingly, slave sales in both Latin and Greek from different regions of the Roman empire feature clauses of guarantee derived from the Roman aedilician edict, often with the explicit phrase *ex edicto* or *ek diatagmatos*. More specifically, the aedilician edict obliged the seller to provide a slave that was "healthy, free from theft or delict, not a fugitive or prone to wander off" (*sanum esse furtis noxaque solutum fugitivum erronem non esse praestari*, *AE* 2012 358, 51-75 CE; ἀνέπαφον πρὸς πάντων καὶ μήτε ῥέμβον μήτε δραπετικὸν ἱερᾶς τε νόσου ἐκτός, BGU III 887 = M. Chr. 272, 151 CE). Other hidden defects of slaves included insanity and debilitating disease (such as epilepsy), as well as suicidal tendencies. Among the remedies available to the seller under the aedilician edict was the *actio redhibitoria*, a lawsuit for the return of the purchase price along with compensation for any losses or damages, which had to be filed within six months after the sale. The details of this case suggest that this was the remedy sought by the buyer of the fugitive slave.[390]

In Ulpian's citation from the aedilician edict (*Dig*. 21.1.1.1), we read that the hidden defects of slaves against which the edict protected buyers included the tendency to wander off—*erro,* rendered in Greek as *rhembos* in second-century slave-sales from Egypt and Pamphylia: BGU III 887 = M. Chr. 272, 151 CE (mentioned above) and P.

[390] On contracts of sale and clauses of guarantee in Attic, Hellenistic and Roman law, see Jakab 1997. On the *actio redhibitoria,* see *Dig*. 21.1.0. *De aedilicio edicto et redhibitione et quanti minoris.*

Turner 22, 142 CE. However, Ulpian also cites Pomponius, a Roman legal writer of the second century, to the effect that in practice the aedilician edict only protected buyers against hidden physical defects but not against defects of character (*vitia animi*), such as extreme fearfulness and the propensity to wander off (*et ideo nominatim de errone et fugitivo excipitur: hoc enim animi vitium est, non corporis, Dig*. 21.1.4.3, Ulpianus *1 ad ed. aedil. curul*. citing Pomponius). For *vitia animi,* guarantees had to be made explicitly in a *stipulatio* in the contract of sale, otherwise the seller bore no responsibility (*ibid*. citing Pomponius). This suggests that the Roman legal position on this question evolved under the Principate, eroding the stricter aedilician rule that sellers had to guarantee against defects of character. Accordingly, sellers were not automatically obliged to do so and were only liable for what they had explicitly promised in the contract. The argument of the *rhētōr* Kallineikos in our papyrus is precisely that the seller had no written proof that any guarantee (*stipulatio*, rendered in Greek as *epigegrammenon eperōtēma*) had been made against the flight of the slave, because the contract of sale was "for the simple amount," which implied minimal guarantees. Presumably, the amount of the sale had been recorded independently of the contract, hence Kallineikos could use this as an argument about what sort of a contract it had been. Interestingly, the same contemporary jurist Pomponius is recorded saying that, in practice, sales "for the simple amount" were not subject to reimbursement (*simplariarum venditionum causa ne sit redhibitio, in usu est, Dig*. 21.1.48.8, Pomponius 23 *Ad Sab*.).[391] Nevertheless, the fact that this case made it into the court of the *iuridicus* suggests that the buyer still had an argument against the seller, possibly arising from the Roman notion of sale as a *bona fide* transaction. If the

[391] On clauses of guarantee in sales contracts from the Roman period, distinguishing between sales offering better and worse conditions, see Jakab 1997.

iuridicus could be convinced that the slave's theft and flight shortly after her sale indicated bad faith (*dolus malus*) on the part of the seller, perhaps he would compel the seller to return the purchase price. This case offers another instance of the application of Roman legal rules to transactions involving Egyptian provincials. Once again, *rhētores* on both sides display technical knowledge of Roman law.

4.5 *Nomikoi*, legal experts

There is arguably no aspect of legal practice in the Roman empire that is more controversial than the question of legal expertise, more specifically expertise in Roman law. Traditionally, Roman legal scholars are strongly committed to the idea of Roman law as the product of a culturally-specific legal tradition rooted in Rome and Italy – "the quintessential element of Roman culture," in the words of Kunkel. One of the most essential aspects of this legal tradition was jurisprudence, traditionally understood to have been developed by an independent and self-selecting group of legal experts, the "jurists," at Rome. In this respect, the imperial legal writers of the *Digest* were regarded by Romanist scholars as part of a continuum of independent Roman juristic tradition going back to the Republican period.[392] This traditional narrative left little room for Roman

[392] For traditional Romanist narratives of the history of Roman law, see Schulz 1948, Kunkel 2005, first published in 1948 and now in its 14th edition, and Wiacker 1989 and 2006. For the traditional idea of an independent juristic tradition in the Republic and early Principate, see Frier 1985 and Schiavone 2001, who charts the jurists' gradual loss of independence to the emperor. These narratives remain stable and influential, in part because no counter-narrative of Roman legal history has ever been produced. In view of the massive amount of documentary evidence that has been published in the last century, new synthetic

jurisprudence beyond Rome and the Italian peninsula. To some extent, it was recognized by Roman legal scholars that Roman law traveled as part of the process of "Romanization" in the West, a conclusion made inevitable by the discovery of the Flavian municipal charters and other epigraphic evidence for Roman law in the western provinces. The Greek East, however, was regarded as fundamentally different, due to its strong local civic, cultural and legal traditions. It was presumed that, in line with the slow and limited spread of Roman citizenship in the East, the impact of Roman institutions and Roman legal forms was likewise very limited.

Although the discovery and publication of documentary sources, particularly within the rapidly growing field of papyrology, steadily contributed new evidence for the legal sphere of the Greek East, Roman legal scholars resisted the implications of this evidence for many generations. In the 1950s, Kunkel, in what is still the standard work of reference on legal experts in the Roman world, set out to demonstrate that the "legal experts" (*iurisperiti, iurisconsulti, nomikoi*) in Greek provincial sources were either notaries or experts in local law. They were by no means to be regarded as practitioners of Roman jurisprudence or as evidence for any sort of deep knowledge of Roman law in the East before the *Constitutio Antoniniana*. Kunkel's argumentation is worth quoting:

"In another context, it will be shown how limited anything beyond elementary knowledge of Roman law was in the provinces in this period. This is especially true of the East, where Roman citizenship was not widespread and even the relatively small

---

histories of Roman law that take a broader imperial perspective, particularly for the period before the *Constitutio Antoniniana*, are a great desideratum. Also important to take into account is the intellectual history of Romanist ideas – for example, the strong link traditionally drawn between civic status and legal forms – in their nineteenth-century context. For this kind of approach, see Whitman 1990. The citation from Kunkel 1967 occurs on p. 315.

minority of enfranchised provincials lived, for the most part, according to local law. As regards the newly enfranchised eastern provincials who entered the Senate and to whom one did not dare entrust military commands and provincial governorships in the West, evidently they could not be trusted to behave as Romans among Romans; presumably, some of them did not even speak fluent Latin. That these men had much interest in or understanding of Roman law—the quintessential element of Roman culture—is certainly not to be expected."[393]

It was inconceivable to Kunkel that the newly-enfranchised Greek civic elites, who most likely did not even speak proper Latin, could have had any appreciation or understanding of Roman law, "das eigentlichste Element der römischen Kultur." In making his arguments, Kunkel expressed emphatic opposition to the view of Mommsen that Gaius was an eastern provincial who exemplified a burgeoning culture of Roman legal learning in the Greek East.[394]

Somewhat paradoxically, the province of Egypt, with its unique wealth of documentary sources, came to be regarded by Roman legal scholars as the clearest evidence for low-level knowledge and reception of Roman law in the East. In part, scholars of legal papyri since Mitteis were struck by the overwhelming presence of Greek (as well as Demotic) documents that did not seem to show any influence of the forms of classical Roman law. While some Romanists, notably Leopold Wenger, were deeply impressed by the presence of Roman court procedure in Egypt, as well as certain distinctly Roman forms of legal thinking in the arguments of legal practitioners, others were more sceptical and less inclined to see major Roman influence. In particular, Wolff

[393] Kunkel 1967: 315.

[394] See Mommsen 1905: 28 (original text from 1859), *contra* Kunkel 1967: 213.

made a systematic effort to demonstrate that the legal forms and institutions of Roman Egypt were mostly pre-Roman (enchoric and Ptolemaic) and that Roman law always remained no more than a "superficial varnish" in the legal sphere of the region. As far as jurisprudence was concerned, the widely attested practice of lawyers in Roman Egypt of collecting judicial precedents was interpreted as a kind of rudimentary compensation for the lack of jurisprudence and the absence of authoritative sources of legal knowledge in the province. The influential work of Wolff forestalled further attempts to make strong arguments about the impact of Roman law in Egypt. As has recently been argued, "since Mitteis' foundational *Reichsrecht und Volksrecht*, it became clear that the legal practice of the papyri was mostly not an illustration of the great classical Roman Law, but a continuation of the Greek and Egyptian traditions... later evidence has only confirmed this result." This is the currently established view with regard to the papyrological evidence.[395]

Gradually, however, historians of Roman law have been moving away from traditionally-held views. For several decades, the work of Liebs has been drawing attention to the provincial origins of many legal writers in the *Digest,* and to the provincial authorship and subject-matter of numerous works of Roman jurisprudence.

---

[395] The citation is taken from Alonso 2014: 351. For Wenger's reflections on what he saw to be Roman legal forms and ideas operating in the high courts of the province of Egypt, see Wenger 1937. For Wolff's arguments that Roman legal forms had a limited and superficial impact on law in Roman Egypt, see Wolff 1953, 1956, 1974 and 2002, echoed by Yiftach-Firanko 2009, Rupprecht 2011 and Alonso 2014 and 2016. For the notion that argument from judicial precedent compensated for the lack of authoritative legal experts in Roman Egypt, see Katzoff 1972. More recently, on the supposed "lack of legal science" in Roman Egypt, see Alonso 2016. For a different view of the matter, see Purpura 2015. That the courts of Roman Egypt constitute evidence for the generalized use of judicial *exempla* in Roman legal practice is taken for granted by Crook 1995 and Humfress 2007.

More recently, Jones' survey of the Greek evidence for legal experts (*nomikoi*) has returned to the thesis of Mommsen and called into question traditional views about Roman legal knowledge in the Greek East. If one looks at the totality of the Greek sources for *nomikoi*, a significant proportion of which was either not available to or not taken into consideration by Kunkel, there is no compelling reason to assume that legal experts in the Greek East were exclusively specialists in local law. On the contrary, there is good reason to believe that these individuals had expertise in Roman law. Some of the *nomikoi* attested in in Greek inscriptions were young men studying the law at Berytus or Rome, while others served as judicial advisors (*assessores*) to Roman provincial officials. Still others, such as Licinius Rufinus from Thyatira in Lydia, are attested as Roman legal writers in Justinian's *Digest*. The well-known eastern provincial origins of the Severan jurists Ulpian and Modestinus (and probably also Papinian and Paul) provide another powerful argument in favor of Mommsen's thesis regarding a flourishing culture of Roman legal learning in the Greek East in the second century. Thus, the second-century evidence strongly suggests that civic elites in the Greek East were traveling to major imperial centers to acquire expertise in Roman law.[396]

---

[396] In this respect, the educational pursuits of Gregory Thaumatourgos, who set out from Pontus to Rome in the 230s CE to study Roman law, are most plausibly interpreted as exemplifying an established practice of eastern provincial elites and not as a new development after the *Constitutio Antoniniana,* contrary to the influential thesis of Mélèze-Modrzejewski 1971. On Gregory's study of Roman law and journey to Rome (ultimately rerouted to Berytus), see his *In Origenem oratio panegyrica* sections 1 and 5. Other testimonia for young men from the eastern provinces traveling to study Roman law at Rome or Berytus include: CIL VI 33868 = ILS 7742 (Rome); AE 2003 1744 (Rome); SEG 26: 1456 (Pamphylia, student from Berytus, late 2nd century CE). The fact that Roman legal science had flourished in the Greek East since at least as early as the mid-second century was already clear to Mommsen in the 1850s, see Mommsen 1905. Against Kunkel's argument that Roman jurisprudence did not exist in the provinces, see Liebs 1976, 1987, 1993 and 2002a, whose arguments are developed further by Humfress 2007 for late Antiquity. On Licinius

Other important recent work has drawn attention to legal experts in the Greek East as key actors operating at the interface between Roman imperial authorities and local populations: "a new development of the Roman period was the professionalization and growing significance of legal experts, modelled at least to some extent on Roman *iuris periti*... These experts could be both consulted by the governors on points of local law and used by litigants to gain knowledge of Roman enactments, thereby facilitating the homogenizing tendencies in substantive law. They often belonged to the educated elite of the cities and had considerable achievements in other cultural pursuits." The fact that legal experts in the Greek East tended to be members of the officeholding elite is an essential point for our discussion of Roman imperial courts as a forum for elite social performance, and as a sphere of integration of civic elites into the political and administrative fabric of the Roman empire.[397]

As noted by Jones, the information provided by papyri from Roman Egypt and the Near East is of an entirely different nature than the evidence of honorific and funerary inscriptions, available in other regions of the Greek East. In Egypt, we know much less about the social profile and careers of the legal experts in question. The papyri on the other hand, besides providing some of the earliest evidence for *nomikoi*, reveal a great deal more about what these legal experts actually did, and what the nature of their legal knowledge was. Also, papyrological sources tend to reach much further beyond major urban centers into the periphery of the province and lower down on the social spectrum than the genre of the honorific inscription.

Rufinus, see Millar 1999. On *nomikoi* in the Greek East, see Jones 2007, Kantor 2009b, 2013 and 2015 and Czajkowski 2016: 88-106.

[397] The citation is taken from Kantor 2015.

The Greek term *nomikos* first emerges in literary and documentary sources of the Roman period, which suggests a strong link between *nomikos* and the Latin *iurisperitus*. Like *iurisperitus*, *nomikos* was a general term with a broad range of meaning, from the non-technical description of someone as "legally knowledgeable" to the designation of someone who professionally drafted legal documents. In the Greek sources, *nomikos* is used to refer to notaries, as well as students and scholars of the law (in Latin, *iuris studiosi*), and individuals who served as legal advisors (in Latin *assessores,* in Greek *symbouloi, synkathedroi*) to imperial officials. Thus, like *iurisperitus,* the term *nomikos* is not a precise indication of the activity of the individual in question. For this, more context is required.[398]

4.5.1 Greek and Latin notaries

In his prosopography of jurists in the Roman world, Kunkel listed eleven *nomikoi* attested in Egyptian papyri and classified them into three categories:

1) *Nomikoi* with Graeco-Egyptian names who composed Greek legal documents

2) *Nomikoi* with Roman names who composed Latin legal documents

3) *Nomikoi* with Roman names who advised magistrates and judges on matters of Graeco-Egyptian law.

For Kunkel, there was an essential difference between *iurisperiti/nomikoi* who drafted legal documents and *iurisperiti/nomikoi* who served as legal advisors (*iurisconsulti*) to officials. His distinction between state-sanctioned legal advisors (*iurisconsulti*) and other kinds of "legal experts" continues to be a useful one. Meanwhile, however, the relevant

[398] For the semantic range of *nomikos,* see the discussion and list of testimonia in Jones 2007 and Kantor 2009b. Another useful discussion of *nomikos* as a technical term is provided by Kovarik 2014.

evidence has more than doubled in size. To Kunkel's list of 11 *nomikoi* from the Roman period before late Antiquity, Jones has added another 11, plus one fourth-century *tabellio*, and my own research has added another 5, for a total of 27 different attestations of *nomikoi* in Roman Egypt from the Flavian period to the end of the third century CE.[399] The majority (19 out of 27) of these attestations show individuals doing notarial work. There are 14 instances (10 clear, 4 likely) of *nomikoi* with Graeco-Egyptian names (and one with the Latin name of Serenus) who drafted Greek legal documents. Then, there are 5 instances of *nomikoi* with Latin names who drafted Latin legal documents. The small total number of testimonia reflects the fact that most Roman-period documents do not contain notarial signatures, which did not become common until the fourth century CE. In three documents, we learn the name of the *nomikos* simply because he is required to sign on behalf of an illiterate person. In two further cases, the *nomikos* signs his name in order to certify a Greek translation of a Latin document. Elsewhere, we learn about *nomikoi* indirectly, in private letters that refer to their activity, or in the proceedings of court cases, where a legal transaction is disputed and the *nomikos* who had drafted the document is summoned to court.[400]

---

[399] The turn of the fourth century provides a convenient cut-off point for my discussion, due to the reorganization of the notariate and the emergence of signed notarial documents. From the early fourth century, *nomikos* became a standard term for notary, while continuing to serve as a general term for "legal experts" of other sorts. What, exactly, was the education and professional activity of someone like Dioskoros of Aphrodito? On the imprecise semantics of *nomikos,* see Kovarik 2014.

[400] For the relevant testimonia, see my appendix of *nomikoi* in papyri. For *nomikoi* who sign on behalf of illiterate persons, see P. Berl. Leihg. 27 (167 CE); P. Diog. 29 (225-6 CE); P. Diog. 49 (225-6 CE). For *nomikoi* who certify Greek translations of Latin documents, see BGU I 326 = M.Chr. 316 = FIRA III 50 (189-194 CE); SB VI 9298 (249 CE). For private letters that mention *nomikoi*, see BGU I 276 (2-3c. CE); P. Mich. VIII 476, 477 and 488 (early 2c. CE); P. Oxy. III 533 (late 2-early 3c. CE); P. Oxy. XLI 2983 (2-3c. CE); SB XIV 11853, 3-4c. CE. For *nomikoi* being summoned to court as authors of disputed

In some of these examples, *nomikos* seems essentially to have been synonymous with *nomographos* ("legal scribe"), a much more common technical term for notary, attested in Ptolemaic papyri and in more than 80 papyri from the Roman period. Under Roman rule, there were *nomographoi* registered in each village (*nomographoi kōmēs,* e.g. BGU II 647, 130 CE and BGU XI 2085, 119 CE) and *nomographoi* working in notarial establishments in the main public square (*agora*) of each major city (*nomographoi tes agoras,* e.g. BGU III 888 = M. Chr. 239, 151 CE). In a private letter from the third or fourth century CE, we hear of a legal document being drafted and kept by the "*nomikos* of the *Sebastē agora*" (SB XIV 11853, 3-4c. CE). An overlap between the terms *nomikos* and *nomographos* is further illustrated by a papyrus containing two edicts of the prefect Flavius Titianus concerning the archival procedures of the new archive of Hadrian at Alexandria (P. Oxy. I 34, ca. 127 CE). In the first edict (cols. I-II at col. I 7-12), Titianus describes the established procedure of registering contracts together with the names of the notaries (*nomographoi*) and the respective parties (*synallassontes*). In the second edict (cols. III-IV), Titianus admonishes "*nomikoi* from Egypt" (that is, from the hinterland of the province) for shirking the Roman requirement to send legal documents to Alexandria to be registered in the Alexandrian archives. In this context, it is reasonable to conclude that *nomikoi* and *nomographoi* referred to the same individuals. Evidently, by the second century CE, *nomikos* had become an alternative term for notary, although not the most frequent one, and would eventually emerge as one of several standard terms for notary, along with *tabellio* and *symbolaiographos*, in late Roman papyri.[401]

---

documents, see BGU I 361 (184 CE); BGU II 388 = M. Chr. 91 (ca. 158-160 CE). On the late Roman notariate and the emergence of notarial signatures in the fourth century, see Kovarik 2014.

[401] On the edict of Titianus, see Burkhalter 1990 and my discussion in the chapter on archives. On the late Roman notariate, see Kovarik 2014.

In addition to 14 testimonia for *nomikoi* who drafted Greek legal documents, there are 5 testimonia for *nomikoi* who composed Latin legal documents in accordance with Roman forms. In two instances, which are both Greek translations of Latin documents, the *nomikoi* call themselves *nomikoi Rhōmaikoi*, a term that refers to their specific skill of drafting documents in Latin (*Rhōmaika*). The need for Latin documents was created by the imperial requirement that all Roman citizens in the provinces have a series of important documents (wills, manumissions, marriage documents, *agnitiones bonorum*, *professiones liberorum*, military diplomas and so forth) drafted in Latin on wax tablets. Consequently, there was a discrete market for Latin legal documents among Roman citizens in Egypt, where the primary clientele consisted of Alexandrian landowning families and veterans of the Roman army.[402] It is noteworthy that all of the Latin *nomikoi* whose names are known have Roman names that indicate Roman citizenship. Prior to the *Constitutio Antoniniana*, Roman citizenship in the hinterland of Egypt was comparatively rare, as enfranchisement was available exclusively to Alexandrian citizens, freedmen of Roman citizens, and veterans of the Roman army. Of course, Roman names could also indicate immigration from elsewhere. This, however, can be excluded for two of the five Latin *nomikoi,* who have an Egyptian *alias* that points to their origins in the province of Egypt. The name and residence of a third *nomikos* – Gaius Lucius Geminianus from Karanis – strongly suggests a military background, and this may have been true of the other Latin notaries as well. If one imagines in what sort of environment the skill of composing Latin legal documents might be acquired, the Roman army is a very plausible context. Accordingly, the *officia* of Roman imperial officials routinely employed soldiers

[402] On the requirement that Roman citizens in the provinces produce Latin documents on *tabulae ceratae*, see Meyer 2004: 169-215 and Dolganov (forthcoming a).

as bureaucratic functionaries.[403] Although all of our testimonia for Latin *nomikoi* are relatively late, no earlier than the mid-second century CE, this should not necessarily be taken as a *terminus non ante* for their actual presence, since, as noted above, notaries did not typically sign their documents in this period. In fact, Latin legal documents are already attested in papyri in the late first century BCE, so it is clear that there were Latin notaries active in Egypt (primarily associated with the Roman army) from the first decades of Roman rule. The haphazard preservation of papyri, however, has not provided us with any direct information about these individuals before the late second century.[404]

One key question with regard to these *nomikoi Rhōmaikoi* is the extent of their knowledge of Roman law. Kunkel was disposed to elevate the social status and legal knowledge of the "Roman" *nomikoi* above that of their Graeco-Egyptian counterparts, because of their Roman citizenship and presumed ability to grasp the complexities of Roman testamentary law. Furthermore, since he mistook the term *Rhōmaikos* (Latinate) for *Rhōmaios* (Roman), Kunkel was led to regard these *nomikoi Rhōmaikoi* as Roman in a strong sense, and possibly even immigrants from Italy. His high estimation of their

---

[403] Karanis and other towns in the Fayuum were a favorite destination of discharged veterans, see Alston 1995: 117-142 (who, however, downplays the social impact of discharged soldiers). With regard to the origins of the Latin notaries, Kunkel mistook *rhōmaikos* (Latin) for *rhōmaios* (Roman), see Kunkel 1967: 270 and 356. This led him to attribute more "Romanity" to these *nomikoi* that was strictly necessary: "the list contains three cautelary jurists of the Roman sort... Lucceius Geminianus bears a good Italic name; he may have been an immigrant from Italy" (356). In fact, *Loukkios* is almost certainly Lucius rather than Lucceius, as indicated by all other instances of this spelling: P. Mich. IV 224 l. 4279a, P. Mich. XII 644 and P. Wash. Univ. I 3.

[404] The earliest Latin papyri include: P.Oxy. IV 737 = ChLA V 308 (31-8 BCE), an account of payments to weavers; ChLA XLIII 1241 (ca. 25-1 BCE), a papyrus that includes a list of payments to weavers and a private letter to a freedman named Macedo; SB XVI 12609 = ChLA XLV 1340 (25 CE), a Latin loan contract. All of these documents emanate from the Roman army.

legal knowledge may have been conditioned by the tendency, in Roman legal scholarship, to view Roman testamentary law as a great technical art. More recent research, however, has emphasized that the drafting of Roman wills was practiced by a variety of individuals, including skilled slaves, as well as the testators themselves. As for the social status of the Latin *nomikoi*, despite their Roman citizenship (and indeed, some of the Greek *nomikoi* for whom only one name is preserved may have been Roman citizens as well) there is nothing to suggest that they were individuals of high social status. On the contrary, the aggressive manner in which the procurator of the *Idios Logos* interrogates Flavius Iulius a.k.a. Sarapion with regard to what he suspects to be forged manumission documents suggests otherwise. In the end, the documents are confiscated and Iulius is forced to pay security to ensure his presence at the next hearing.[405]

In addition to drafting legal documents, papyrological evidence also shows *nomikoi* participating in the management of legal transactions and the lawsuits arising from them. In several court cases, a *nomikos* who had composed a legal document is called into court when the document or transaction is a matter of dispute (BGU I 361, 184 CE; BGU II 388 = M. Chr. 91, ca. 158-160 CE). We also observe *nomikoi* serving as instances of official communication with regard to a particular transaction. For example, a second- or third-century private letter between brothers (P. Oxy. XLI 2983) mentions a legal document (*oikonomia*) and a letter from the local *nomikos* of the sender to the local *nomikos* of the addressee ("my lawyer has written to your lawyer"). In another private

[405] For Kunkel's comments on Graeco-Egyptian as opposed to Roman notaries, see Kunkel 1967: 269-270 and 356-357. On the composition of Roman wills being practiced by a variety of individuals of low or middling social status, see Lehne-Gstreinthaler 2016. For the brusque treatment of Flavius Iulius a.k.a. Sarapion by the procurator of the *Idios Logos*, see BGU II 388 col. ii 29-40 and col. iii 5-10.

letter (P. Oxy. III 533, late 2-early 3c. CE), a *nomikos* named Panechotes is due to be paid 64 drachmas for orders of payment that have been submitted to him and must be retrieved by a third party.

It is natural to assume that individuals who did notarial work – particularly those who drafted complex legal instruments such as contracts and wills – also did cautelary work, offering advice to clients on the form, content and legal effects of different clauses and types of documents. Regrettably, the papyrological record furnishes us with few illustrations of this practice. Nevertheless, in one private letter we do hear of a *nomikos* named Serenus (possibly a Roman citizen) being consulted with regard to the sale of a pack-animal (*bardos*) and some legal questions pertaining to its payment and delivery (BGU I 276, 2-3c. CE). In addition to establishing rightful ownership of the *bardos,* Serenus wrote an official letter that determined the course of action of the disputing parties. Was Serenus the drafter of the sales-contract in question? Or was he being consulted by virtue of his authoritative knowledge of the law of sale? Both may have been the case. This context illustrates the semantic difference between the broader term *nomikos* – which could be used to refer to different types of legal work – and the narrower term *nomographos*, which invariably referred to the technical work of drafting and copying documents.

4.5.2 Iurisconsulti

We now arrive at a final category of *nomikoi,* identified by Kunkel as a discrete group by virtue of their elite status and distinctive role advising imperial officials and dispensing authoritative legal opinions that were cited in court. The papyrological evidence contains

testimonia for at least 9 individuals of this profile over the period from the 70s to the 250s CE. Kunkel noted the resemblance of the activity of these *nomikoi* to that of *iurisconsulti* at Rome but he took care to distinguish between the two. Although the sources from Roman Egypt ostensibly showed the influence of the Roman practice of soliciting legal opinions from authoritative experts, the Egyptian experts had nothing to do with Roman law. Instead, their legal knowledge and the cases they dealt with exclusively concerned matters of Graeco-Egyptian law. In the one clear case where *nomikoi* were consulted by the prefect of Egypt about a point of Roman law (M. Chr. 371 col. III), Kunkel identified them as members of the prefect's personal staff and argued that the legal question was, in any case, so elementary that the "consultation" was most likely a mere formality (358). For Kunkel, the idea that Roman jurisprudence could be practiced by provincials in Roman Egypt was simply inconceivable. Instead, he argued, the strong local legal traditions of Egypt, as well as its low number of Roman citizens, made Egypt "particularly infertile soil for the spread of Roman law and its legal science" (359).[406]

A reexamination of the evidence, however, suggests a different picture. As the discussion of Jones compellingly demonstrates, if one does not *a priori* exclude the possibility that legal experts in the Greek East had expertise in Roman law, it becomes apparent that the evidence points precisely in this direction. We know from inscriptions and literary sources that Greek civic elites sent their sons to study the law at Berytus and Rome. We also know that members of the Greek civic elite sat as judicial advisors (*assessores, synkathedroi*) to imperial officials. Consequently, the judicial advisors of

[406] For Kunkel on Egyptian *iurisconsulti,* see Kunkel 1967: 269-270 and 357-359. More recently, see the comments of Jones 2007: 1354-1357.

imperial officials in the Greek East included members of the local civic elite who had been educated in Roman law. It is natural to conclude that what was true in the Greek cities of Asia, Greece, Syria and Lycia, was true at Alexandria as well. In other words, it is legitimate to introduce papyrological evidence into a more holistic discussion of legal experts in the eastern provinces. While Greek inscriptions provide us with important information about the social profile and careers of legal experts in the East, Egyptian papyri provide us with detailed insight into their activity and the nature of their legal knowledge.

In what follows, I will focus on four *iurisconsulti* for whom there is more ample evidence. The earliest *iurisconsultus* attested in papyri is a *nomikos* named Areios and advises the prefect Tiberius Iulius Lupus in a court case ca. 72 CE (P. Oxy. XXXVI 2757 col. II, Alexandria?).[407] This Flavian date reflects the fact that court proceedings are not preserved in the papyrological record before the Flavian period, a curiosity that may be explained by the development of the Roman system of provincial archives, as I have suggested. It is very likely that *iurisconsulti* like Areios were active in Egypt much earlier, perhaps already in the early first century CE. The court case in question concerned a disputed will, where an Egyptian provincial had disinherited (or simply passed over) a daughter in favor of another child, presumably a son. Subsequently, the daughter petitioned the Roman prefect's court to dispute her father's will. During the hearing, the prefect consulted the *nomikos* Areios regarding the relevant law, and the *nomikos* stated that "the (Graeco-Egyptian) laws" gave fathers the power (*exousia*) to disinherit any of their children, without precise strictures about the format and language

[407] The papyrological evidence fo *nomikoi* is collected in Appendix II.

in which this was to be done (ll. 6-9). Having been informed of this, Lupus issued his pronouncement in line with the opinion of the *nomikos*: the formulation of the will was not illegal and the Egyptian father did indeed have the power (*exousia*) to disinherit any of his children (ll. 10-12).

One suspects, in this case, that the advocates of the disinherited Egyptian daughter were trying to appeal to Roman rules that protected children against disherison and guaranteed them a portion of their intestate inheritance. They also seem to have made reference to Roman rules about the wording of wills, where disherison had to be made explicit ("let X and all others be disinherited") in order for the will to be valid. It is interesting to note that the term "disinherited" (*apoklēronomos = exheredatus*) is not attested in Greek before the Roman period, which provides a further indication that the legal framework being employed in this case was a Roman one. It therefore appears that the task of the *nomikos* to establish the relevant Graeco-Egyptian law on this point was being performed against the backdrop of Roman testamentary law.[408]

It may be possible to link Areios with Tiberius Claudius Areios, an Alexandrian who served as *stratēgos* of the Oxyrhynchite and Arsinoite nomes in 89-93 and 98-100 CE, respectively. As the Oxyrhynchite *stratēgos* in 89, Claudius Areios warned the

[408] My reading of this document departs from the widely accepted view that an inheritance case involving Egyptian provincials cannot have anything to do with Roman testamentary law. For this view, see Mélèze-Modrzejewski 1988: 389-390 and most recently Alonso 2014, summarizing earlier scholarship. Once this *a priori* notion is set aside, however, it becomes apparent, in my view, that the claim of the lawyers of the disinherited daughter was made on the basis of Roman legal rules. This is even more explicit in the subsequent example (P. Oxy. XLII 3015). On the Roman legal remedies available to disinherited children (*lex Falcidia, querela inofficiosi testamenti*) and their development in the late Republic and early Principate, see Paulus 1994. Interestingly, a decade after the *Constitutio Antoniniana,* a female petitioner disputing her father's will explicitly states that she is now a Roman citizen and consequently stands to benefit from Roman legal remedies against unjust disherison by her father (P. Oxy. LXXIII 4961, 223 CE).

prefect Mettius Rufus that Egyptian provincials were trying to hide the property claims of their wives and children by neglecting to register their Demotic-style marriage contracts in the Roman archives of acquisitions (P. Oxy. II 237 col. VIII 28-43, discussed in chapter 2.5-6). Claudius Areios' familiarity with enchoric marriage practices resonates well with what we know about Areios the *iurisconsultus*. The chronological span of 28 years for Areios' activity is admittedly quite long. However, the *nomikoi* Claudius Artemidoros and Ulpius Dioskourides are likewise attested over long periods of 15 and 31 years, respectively. In Areios' case, the prosopographical link would mean that he had been active as a *iurisconsultus* at a relatively young age, before beginning an administrative career. If the link is correct, we have an early Flavian example of an Alexandrian with a high-profile political career, serving as a *iurisconsultus* at the Roman governor's court, where he exhibits knowledge of Roman law.[409]

The next *iurisconsultus* is a *nomikos* named Artemidorus, who is attested as a legal advisor in three different court cases spanning a period of fifteen years. The first two cases were heard by the prefect Sulpicius Similis in 109-110 CE. The papyrus in question (P. Oxy. XLII 3015) contains a collection of extracts from proceedings in testamentary cases involving Egyptian provincials. In each case, disinherited Egyptian provincials came into a Roman court to dispute a Graeco-Egyptian will. In the fragmentary final lines of the first extract (ll. 2-5), the prefect states that "it is best to administer justice to them according to the laws of the Egyptians, which allow testators to spontaneously change their wills. This testator has made a valid will." It is implicit in the prefect's statement that the petitioner had tried to dispute the will by appealing to a non-

[409] For Claudius Areios the *stratēgos* of the Arsinoite and Oxyrhynchite nomes, see Bastianini and Whitehorne 1987: 89 and 23.

Graeco-Egyptian legal framework – presumably, the remedies available to disinherited children in Roman law. The prefect, however, insisted on the application of the relevant "law of the Egyptians." Traditionally, Roman legal scholars have understood this statement as evidence for a Roman policy of applying enchoric private law to Egyptian provincials with the help of local legal experts. As I have argued above, however, this case can be taken to demonstrate precisely the opposite: the propensity of Roman officials to adhere to Roman legal standards, which is what these Egyptian petitioners apparently hoped would happen at the prefect's court. In this case, however, the prefect was not inclined to allow the strictures of Roman testamentary law to overturn an Egyptian testator's will. It is significant, in this case, that the problem presented to the Roman prefect—to preserve the will and freedom of the testator or to protect the testamentary rights of his natural heirs (*sui heredes*)—was an important problem in Roman jurisprudence, with the additional twist that here Egyptian testamentary practices were being pitted against the Roman principle that legitimate children should receive a fair share of the family estate. While the advocates of the Egyptian petitioners had evidently tried to appeal to Roman rules protecting children against unjust disherison, the *nomikos* argued that the will of the testator was in line with local practices and was therefore legal and valid. In debating this testamentary case, it is evident that both the advocates and the *nomikos* were conversant with the forms and concepts of Roman law.[410]

[410] For the (in my view, incorrect) interpretation of this case as a "paradigmatic" instance of the Roman application of Egyptian private law to Egyptian provincials, see Alonso 2014: 353-354 and 2016: 61-62. On the importance of the testator's will in Roman culture, see generally Champlin 1991. On the conflicting

In the two subsequent cases on the papyrus (ll. 6-12; 13-27), the *nomikos* Artemidoros is present to "interpret the laws of the case" (*exegoumenos tous nomous*). He is distinguished from the prefect's *consilium* (*symbouloi*), whom Similis consults separately. In both cases, Artemidoros confirms that Egyptian testators have the power to choose as heirs whichever child or children they please. As in the first case on the papyrus, it appears that the petitioners had tried to dispute the will by appealing to Roman remedies available to unjustly disinherited children. They may also have tried to challenge the will on formal grounds, if the testator had not explicitly disinherited them but merely passed them over, which by Roman standards made a will invalid. Once again, the task of the *nomikos* to establish the "law of the Egyptians" seems to have been performed with reference to the rules of Roman testamentary law.

A *nomikos* named Artemidoros is attested fifteen years later in another papyrus (CPR I 18, briefly discussed in chapter 3.4), containing a record of a hearing that took place at the Arsinoite *conventus* in 124 CE. The case had been delegated by the prefect to Blaesius Marianus, an Alexandrian official in charge of enforcing previous judgments (*epi tōn kekrimenōn*). It was, once again, a testamentary case involving Egyptian provincials. This time, an Egyptian father was disputing the will of his son, who had left property to another male relative. The hearing was conducted "in the presence of the *nomikos* Claudius Artemidoros" (l. 5). In view of the subject matter of the case (enchoric testamentary law) and the context of the prefect's *conventus,* it is reasonable to assume that we are dealing with the same Artemidoros. Evidently, this Artemidoros was a Roman citizen, most likely a member of a prominent Alexandrian family that had received

---

values of testamentary freedom and the natural rights of heirs in Roman law, see Babusiaux 2015: 195-234. See also my discussion of this case in 3.4.

citizenship through an imperial grant in the early first century CE.[411] In the dispute, the advocate of the father argued that the son, a child of an "unwritten" marriage under Egyptian law, did not have the legal power to make a will (*exousia tēs diathēkēs*). In turn, the advocate of the son's heir argued that, under Egyptian law, testators were free to leave property to whomever they wished. After consulting Artemidoros, the judge pronounced that a child of an "unwritten" marriage did not have the power to make a will before his father's death. Then, the advocate of the son's heir objected that the son had in fact been born into a "written" marriage. Consequently, the judge ordered the father to clarify this point within a period of sixty days.

The formulation of the *nomikos'* pronouncement – that the child of an "unwritten" marriage did not have the power to make a will before his father's death – strongly suggests that this was an interpretation of Graeco-Egyptian practices from a Roman juridical perspective: the phrase *exousia tēs diathēkēs* sounds very much like a Greek rendition of the Latin *testamenti factio*. We know from this and other papyri that an "unwritten" marriage (that is, cohabitation without a written contract) among Egyptian provincials was construed by the Roman administration as conferring a strong form of paternal power on the father that appears to have been understood as analogous to the power of a Roman *paterfamilias* over children *in potestate*.[412] Taking this analogy one step further, it was possible to argue that, like Roman children *in potestate,* children from an "unwritten" marriage could own no property of their own and could not make a will before their father's death. As I have argued in my brief discussion of this document in

[411] This important case is discussed at length by Crook 1995: 74-75 and Mélèze-Modrzejewski 1988: 390-392. See also Purpura 2003. See also my discussion of this case in 3.5.

[412] On "written" and "unwritten" marriage, see chapter 3.4-5 with n. 34.

chapter 3.5, the fact that the Egyptian son had made a will at all suggests that he was not aware of such restrictions on his testamentary capacity. This suggests that the imposition of a Roman juridical lens created legal effects for "unwritten" marriage that had not existed before. If this inference is correct, the pronouncement of the *nomikos* Artemidoros constitutes strong evidence for Egyptian *iurisconsulti* applying a Roman legal framework to local practices, even if it went against the grain of these practices. Interestingly, the quick-thinking advocate of the son's heir rebounds with the spontaneous claim that the son was in fact the child of a "written" marriage, which the father is then required to disprove within sixty days. This sudden twist in the debate offers further evidence that "written" and "unwritten" marriage and their respective legal effects were not a straightforward representations of local practices but were categories devised by the Roman imperial authorities, with the collaboration of Egyptian *iurisconsulti*, according to the logic of Roman law.[413]

Contemporary with Claudius Artemidoros was an eminent *nomikos* named Ulpius Dioskourides, a name that likewise indicates that this man was an Alexandrian citizen

[413] In this papyrus, Mélèze-Modrzejewski 1988 noted the similarities between the so-called Law of the Egyptians and Roman rules of *patria potestas* and *testamenti factio*, and concluded that these (in part coincidental) resonances between "Egyptian" and Roman law must have surprised the judge, and encouraged him to a make the decision that was more closely alligned with Roman rules (392). Going a step further, Purpura 2003 argues that lawyers' arguments about Egyptian law deliberately sought to create resonances with Roman law in order to secure favorable judgments from Roman officials. In my view, these resonances were not merely a rhetorical strategy of advocates, but were part of a general Roman policy of translating local practices into a Roman juridical framework. Accordingly, in answering the question "what are the testamentary rights of the son of an "unwritten" marriage?" the *nomikos* employed the Roman concepts of *patria potestas* (*exousia*) and *testamenti factio* (*exousia tēs diathēkēs*). Faced with an *interpretatio Romana* of this testamentary dispute, the Alexandrian official *epi tōn kekrimenōn* would, I think, have been as unsurprised as his successor in the next example (P. Oxy. II 237 col. VIII 2-7, 140s CE).

who received Roman citizenship through an imperial grant under Trajan, possibly by virtue of his work as a *iurisconsultus* at the Roman prefect's court. Dioskourides is attested in four papyri, which document his activity as a *iurisconsultus* over a remarkably long period of 31 years. The first papyrus (PSI V 450 col. II) contains an extract from proceedings before a delegated judge of the prefect Sulpicius Similis (in office 107-112 CE) in a testamentary dispute among Egyptian provincials. This dispute involved questions of enchoric marital arrangements and the legal effects of an "unwritten" marriage on the testamentary rights of children. While handling the case, the judge had consulted Diskourides by letter and received a written response, which was subsequently read out in court. It is curious that the judge seems to refer to Dioskourides' response as a "translation" (*hermēneia*). Does this mean that the *nomikos* had issued his response in Latin? The response itself is regrettably not preserved.[414] The second papyrus (BGU XX 2863) contains a letter to the prefect Petronius Mamertinus (in office 133-137 CE) from Flavius Harpokration, a delegated judge, regarding a testamentary conflict among Egyptian provincials. One of the parties had appealed to a pronouncement of Hadrian – presumably, Hadrian's well-known extension of the Roman rules of representation in succession to Egyptians – whereas the other party had argued that the offspring of sons and daughters did not have equal claims under Egyptian law. Before writing to Mamertinus, the judge had consulted the *nomikos* Ulpius Dioskourides, who investigated the matter and presumably issued a written response, which is not preserved. The third

[414] The papyrus in question, PSI V 450 (107-112 CE), is a collection of documents pertaining to enchoric Egyptian marital arrangements, where a marriage contract could be used to entail property on future children. Although the collection itself dates to the mid-third century CE, the documents in it go back to the early second century. The purpose of the collection seems to have been a property claim that a third-century woman wanted to trace back to the marriage of her grandparents in the second century.

papyrus (SB XX 15147) is a fragment of proceedings before a high official (prefect or *iuridicus*) from the mid-second century CE in a testamentary conflict between Egyptian provincials. A previous judgment in a similar case is mentioned, along with a letter of Dioskourides, who had evidently been consulted in this or the previous case. Dioskourides' letter is not preserved. The fourth papyrus (P. Fouad. 25 *verso*) contains a draft of an advocate's speech in a testamentary conflict between brothers, where the Arsinoite *stratēgos* Numisianus (in office 138-142 CE) had consulted Dioskourides by letter and received a response. The brothers belonged to a landowning family from the Arsinoite nome, and it seems that their conflict concerned (once again) the respective testamentary rights of male and female heirs and their children. As these individuals were not Roman citizens, it is an open question whether they appealed to Roman law or the "law of the Egyptians" – or perhaps both, depending on what suited their interests. As in the previous cases, it is likely that the task of Dioskourides involved transposing local practices into a Roman conceptual framework.

Among the supporting documents and judicial precedents appended to the famous petition of Dionysia, we find a legal opinion of the *nomikos* Ulpius Dionysodoros, most likely from the early 140s CE (P. Oxy. II 237 col. VIII 2-7). Dionysodoros was responding to a delegated judge of the prefect, who had consulted him about a case where an Egyptian father sought to interfere in the marriage of his daughter and to revoke her dowry. The first detail to note is that Ulpius Dionysodoros is referred to as a former *agoranomos,* which indicates that he was a member of the civic elite of Alexandria. This was probably true of the other Egyptian *iurisconsulti* as well, as I have suggested. Secondly, Dionysodoros' legal opinion is a virtually unique documentary attestation of a

jurist's response, which has important evidentiary value for the genre of juristic consultation. This response is remarkably terse, consisting of only a few sentences that directly answer the inquiry of the judge:

> Ulpius Dionysodoros, former *agoranomos*, legal expert (*nomikos*), to the most honorable Sallustius Africanus, *praefectus alae,* official in charge of cases already adjudicated (*epi tōn kekrimenōn*), greetings.
> Dionysia, having been given away in marriage (*ekdotheisa*) by her father, is no longer in her father's legal power (*en exousia = in potestate*). For even if her mother had cohabited with her father without a written contract, the fact of her being given away in marriage by her father (*ekdosthai pros gamon*) means that she is no longer the child of an "unwritten" marriage. About this you, most honorable *praefectus,* are entirely correct. With regard to her dowry, she is protected from her father by records of previous judgments, and this response should help her as well.

The response of the *nomikos* vividly illustrates his task of interpreting local practices through a Roman juridical lens. Although Dionysia had been born into an "unwritten" marriage and was in her father's legal power (*en exousia*), the fact of being given away into a "written" marriage was interpreted as suspending the father's power for the duration of the marriage. At the end of his response, Dionysodoros employs the characteristically Roman device of legal fiction: the fact of entering into a "written" marriage herself created the fiction that Dionysia was not the child of an "unwritten" marriage after all. This reasoning bears a very close resemblance to the statement of the lawyer Probatianus in the hearing before the prefect Flavius Titianus (P. Oxy. II 237 col. VII 20-29) discussed at the beginning of this chapter: "if the marriage was to be regarded

as unbroken, the father did not have legal power over the dowry or over the daughter that he had given away in marriage" (ἐὰν ἀπερίλυτος ἦν ὁ γάμος, τὸν πατέρα μήτε τῆς προικὸς μηδὲ τῆς παιδὸς τῆς ἐκδεδομένης ἐξουσίας ἔχειν). Interestingly, Dionysodoros goes on to say that his response is merely a confirmation of what the official already believes to be true. Evidently, the official *epi tōn kekrimenōn* was himself familiar with the "law of the Egyptians" and its interpretation in line with the conceptual framework of Roman law. Taking the argument one step further, the resemblance between the response of the *nomikos* and the statement of Probatianus may be providing us with important new information about the conceptualization of the legal effects of marriage (via a legal fiction that temporarily "suspended" paternal power for the duration of the marriage) in second-century Roman jurisprudence.

The testimonia for these four *nomikoi* provide a rich evidentiary basis from which we can draw several conclusions. First of all, the fact that there are numerous attestations of the same *nomikoi* suggests that *iurisconsulti* in Roman Egypt – i.e. state-sanctioned legal experts, who were called upon to advise Roman imperial officials – were relatively few in number, and that their legal opinions continued to be solicited throughout their lifetimes. The four testimonia for Ulpius Dioskourides spanning 31 years are an especially striking example of this. Secondly, our evidence shows that *iurisconsulti* in Roman Egypt tended to be eminent citizens of Alexandria, who pursued officeholding careers in the provincial capital. Some of them were Claudii, members of older Alexandrian families that had received Roman citizenship through an imperial grant several generations earlier, while others were Ulpii, members of rising families or direct beneficiaries of an imperial grant of citizenship by means of their status and connections

and possibly by virtue of their service as *iurisconsulti* at the prefect's court. This is in line with the epigraphic evidence for *nomikoi* in other regions of the Greek East, which shows eminent members of the civic elite of major cities being adlected as *assessores* to imperial governors. The fact that the same *iurisconsulti* appear in different locations in Egypt shows that these individuals traveled to the *conventus*. Indeed, the fact that these *iurisconsulti* were consulted during ongoing trials shows that they were physically present at the *conventus*. Most likely, we should imagine them as members of the prefect's Alexandrian entourage, who accompanied him on his assize tour and were available for consultation at each assize. Thirdly, papyrological evidence provides us with important insight into the legal knowledge of these *iurisconsulti*. In particular, it is striking that their interpretation of the "law of the Egyptians" made use of a Roman juridical framework. Just as the marriage practices of Egyptian provincials are analyzed and classified according to Roman concepts such as *patria potestas* and *peculium,* local testamentary practices are interpreted against the backdrop of Roman testamentary law. Like a Roman child *in potestate*, the son of an "unwritten" marriage did not have *testamenti factio* until his father's death. In contrast to the Romans, however, Egyptian provincials were free to choose any child or children as heirs while disinheriting the others. Unlike Roman wills, disherison in Graeco-Egyptian wills did not have to be made explicit, phrased in a specific way or justified in the will, factors that could automatically invalidate a will under Roman law. Nevertheless, the persistent efforts of Graeco-Egyptian petitioners to dispute the wills of their parents in Roman courts reflects their hopes that Roman officials would apply Roman rules, which were favorable to them.

Implicit in such cases is a general understanding that the immanent legal framework of Roman imperial courts was Roman law.

A fourth and final point is the significance of the fact that virtually all of our evidence for *iurisconsulti* in Roman Egypt shows them being consulted about questions of enchoric law. This has traditionally been used as an argument against the existence of practitioners of Roman jurisprudence in Egypt (and elsewhere in the Greek East). Our documentation of juristic consultations about the "law of the Egyptians" seems to be exceptional, probably because the pronouncements of Egyptian *nomikoi* were regarded (and cited) as the principal source of authority on these matters. By contrast, other types of legal inquiries are elided in our sources, which almost never record juristic consultations and provide very little information about the activity of judicial *consilia*. At most, we read that an official has spoken with his *consilium,* and on rare occasions we learn who the *consiliarii* were (typically, a combination of Alexandrian officeholders and Roman equestrian officials), but the details of their advice are never revealed. Overall, the papyrological record has preserved very little information about the activity of legal advisors to imperial officials.[415]

The available evidence thus undermines the assumption that Roman Egypt lacked jurisprudence and authoritative experts in Roman law. On the contrary, numerous court cases clearly illustrate a Roman legal framework and distinctly Roman forms of legal reasoning. If the analysis of the papyrological evidence provided above is correct, it shows that the work of *iurisconsulti* (state-sanctioned legal advisors) in Roman Egypt

[415] It is noteworthy, in this regard, that the one instance where the prefect of Egypt is described as consulting the legal experts (*nomikoi*) on his advisory council (M. Chr. 372 col. III 18-22) the question was a point of Roman law.

involved the interpretation of enchoric practices within a Roman juridical framework. Thus, in addition to their authoritative knowledge of the "law of the Egyptians," these eminent legal experts from Alexandria also reveal themselves to be competent in Roman law. It is intuitive to imagine these individuals following the sort of path that is illustrated by epigraphic evidence from other cities of the Greek East, which shows the sons of wealthy families traveling to major imperial centers to study Roman law.

4.6 Conclusion: Practicing the Law in Roman Egypt

This chapter has sought to highlight a key dimension of the impact of the Roman imperial court system on society and culture in the Roman provinces, by focusing on the multitude of human agents who came to operate at all levels of this system, and whose activity was instrumental to the development of Roman imperial legal institutions and legal forms in the provinces, including specifically the forms of Roman law. Papyrus documents from Egypt are virtually the only body of evidence from the Roman empire that enables us to trace and analyze these developments. As illustrated by this evidence, Roman provincial courts operated according to a distinctly Roman, bipartite model of the legal process, where a preliminary hearing before a judicial magistrate was followed by full proceedings, typically before a delegated judge. The Roman court system was an adversarial system, where all parties were, as a general rule, represented by advocates (*rhētores*), and where magistrates and judges sat with panels of judicial advisors (*consilia*) and had recourse to the advice of authoritative experts (*nomikoi* =

iurisconsulti) on questions of law. The present chapter has primarily focused on the evidence for *rhētores* (forensic orators) and *nomikoi* (legal experts), two categories of legal practitioners that are well attested in papyrological sources. At the same time, I have sought to nuance and relativize these categories, distinguishing between *nomikoi* who did notarial work and to *nomikoi* who acted as legal advisors to officials, between forensic practitioners who delivered orations and those who had a minor speaking role adducing legal points and judicial precedents, and finally drawing the essential distinction between legal practitioners of a more humble sort who operated at the local level and high-profile legal practitioners who belonged to the officeholding elite of the province.

My discussion has also explored the role of Roman imperial courts as venues for rhetorical display and social performance by the provincial elite, and the implications of this dynamic for the legal process itself. As we can glean from transcripts of court proceedings attested in papyri, courtroom debates before high-ranking imperial officials often took the form of a rhetorical contest, where orators on both sides sought to impress, even if they did not (and could not, realistically) win the case. On many occasions, this dynamic gave rise to distinctly theatrical scenarios, where orators delivered pompous and emotive speeches and aggressively debated with and even sought to provoke the governor. Such scenarios also throw into relief the essence of Roman trials as public spectacles of imperial justice: it was not beneath the *archidikastēs* to argue the case of an elderly farmer, victimized by tax officials, nor did the *advocatus fisci* balk at pleading the piteous cause of the defenceless orphans at the court of the Roman prefect.[416]

[416] SB XVI 12749, Arsinoite nome, 176-9 CE.

Papyrological evidence offers significant insight into the legal sphere of the Empire by illustrating the function of Roman law as a legal and intellectual framework of Roman imperial jurisdiction. Instrumental in this regard was the activity of elite legal practitioners in high imperial courts. Although the evidence for court proceedings in papyri is nearly always heavily abbreviated, it is possible to discern that elite orators and *iurisconsulti* had a technical command of the forms, concepts and arguments of Roman law, already in the first century. This, in addition to their authoritative knowledge of local institutions and practices, made elite legal practitioners key interlocutors for Roman imperial officials in their administration of justice. In this respect, I believe, the uniquely detailed information provided by papyrological evidence sheds light on a key mechanism of the development of Roman law into the law of the Empire.

Lastly, my analysis has sought to trace the institutional development of legal practice in Roman Egypt, particularly the affiliation between high-profile forensic practitioners and imperial courts, which becomes progressively visible in the papyrological sources. This evidence looks forward to the creation of a statutory Bar at every major imperial court in the late Empire, a development that would play a central role in the late Roman system of civil administration, where civil functionaries were typically recruited from the provincial and imperial Bar. I would emphasize, however, that it is important to understand these late Roman developments as part of a much longer historical process which I have attempted to trace here. At the core of this process was the involvement of provincial elites as forensic practitioners in Roman imperial courts, and the tendency of elite practitioners to gravitate toward the most prestigious courts.

The important subject of legal practice in the Roman empire, particularly for the

period before late Antiquity, awaits a systematic study. The large number of Greek and Latin testimonia for legal practitioners must be collected and analyzed, examining different genres of evidence from different regions of the Empire, with close attention to terminology and prosopography. Such a study must also reevaluate the traditional typology of Roman legal practitioners (particularly, the dichotomy between advocates and jurists) and generate a more nuanced typology that makes better sense of the imperial sources. This task is clearly beyond the scope of this investigation. Instead, what I have attempted here may serve as a starting point for a much-needed general study of legal practitioners in the Roman world.

CONCLUSION: EMPIRE OF LAW

At some point during the years 133-134 CE, the emperor Hadrian sent a letter to the prefect Petronius Mamertinus, extending to Egyptian provincials the right of representation in succession as it existed in Roman testamentary law. Soon afterward, a Graeco-Egyptian woman named Khenalexas petitioned Mamertinus, seeking to reclaim her deceased father's share of her grandmother's intestate inheritance, which she had forfeited to her uncle and cousin several years before the emperor's grant. In support of her claim, Khenalexas cited a recent decision of the *epistratēgos* Gellius Bassus, who had applied Hadrian's ruling in another case where the children of an Egyptian provincial had been deprived of their father's share of their grandmother's estate. After consulting Mamertinus, the judge who had been delegated the case of Khenalexas confirmed that she stood to benefit retrospectively from the emperor's *charis* (= Latin *beneficium*), the gift or privilege of Roman justice.[417]

This episode illustrates several key aspects of law and justice in the Roman imperial context. The administration of justice constituted an important *beneficium* that the Roman imperial power saw itself as conferring on its provincial subjects. In addition to serving as an instrument of governance, justice was also part of the legitimizing narrative of empire, an embodiment of the rationality and equity of Roman rule. As

[417] For Hadrian's ruling, see BGU I 19, 133-135 CE with Katzoff 1970 and the recent 2014 publication of BGU XX 2863, 133-137 CE, with my discussion in 1.5.4.

illustrated by this case, the rules of Roman law — including Roman *ius civile*, the law governing private legal relations between Roman citizens — could be applied to provincials who brought their grievances to Roman courts. In this instance, the emperor was evidently responding to a complaint about the lack of representation in succession in the testamentary practice of Egyptian provincials. Possibly, a petitioner from Egypt had traveled to Rome to petition the emperor, or perhaps Mamertinus himself had written to Hadrian to consult him on what he believed to be an objectionable aspect of local Egyptian practice. In either scenario, the initiative would ultimately have come from Egyptian petitioners, who were evidently appealing to Roman legal standards against the injustice of local inheritance practices. Here, we can immediately infer the agency of local legal practitioners, well-versed in Roman law, who presented such arguments. In response, Hadrian magnanimously applied the rules of Roman *ius civile*, a performative act of imperial justice and dispensation of privilege (*charis*). The power of the emperor's word, which itself had the epistemological status of law, made Khenalexas confident that Mamertinus would acknowledge her new Roman claim, overriding her uncle's rights according to local tradition. In another document (BGU XX 2863, 133-137 CE), we discover that Hadrian's ruling was integrated by Mamertinus into his *edictum provinciale,* creating a permanent legal claim for future petitioners. The two papyri in which Hadrian's ruling appears vividly illustrate how, by virtue of the Roman system of administrative records and archives, which enabled legal practitioners to collect and cite previous court decisions, a provincial case-law quickly developed around this issue. In view of the burgeoning industry of litigation in Roman Egypt, which brought thousands of petitioners into the courts of Roman officials every year, one would imagine that the

new imperial policy rapidly had the effect of aligning this particular aspect of local testamentary practice with the rules of Roman *ius civile*.[418]

As illustrated by this extended example, the aim of this study has been to exploit the potential of papyrological evidence from Roman Egypt to illuminate our general understanding of the legal sphere of the Roman empire, its diachronic development, and its institutional and cultural impact in the Roman provinces. Contrary to the traditional and still dominant view of Egypt as a region with an "exceptional status," whose legal and cultural spheres reflect the largely unabated continuity of pre-Roman (Greek and Egyptian) traditions in the Roman period, the point of departure for this study has been to view Egypt as a province of the Roman empire and investigate the ways in which its legal sphere developed under Roman rule. As this study has sought to demonstrate, by placing papyrological evidence in dialogue with jurisprudential, literary and epigraphic sources for Roman jurisdiction, at Rome and in the provinces under the Republic and Principate, it is possible to make a sustained argument for the implementation of distinctly Roman legal forms and models of jurisdiction and legal practice in the provinces. The close confrontation of papyrological sources with other evidence for Roman provincial jurisdiction consistently shows that Egypt is mainly "exceptional" in its great wealth of documentary evidence, which furnishes us with copious insights and illustrations of

[418] On the 'beneficial' ideology of Roman rule, see the seminal paper of Nutton 1979. On rationality as a key Roman legitimacy claim, see Ando 2000: 325 and 373-385. On the application of Roman law to non-citizens, see Ando 2011: 1-36, with a useful collection of the legal sources on *fictio iuris* in 114-131. On the status of the emperor's word as law, see Harries 1999: 19-31. As argued in 1.5.4, Hadrian's ruling was promptly integrated by Mamertinus into his provincial edict (*diatagmati aneilēmptai,* BGU XX 2863 ll.14-15, 133-137 CE).

developments that shed light on the more limited and fragmentary testimonia surviving elsewhere in the Roman empire.

This is not to say, of course, that Roman Egypt was "the same" as any other Roman province. There can be no doubt that the Nile Valley was an ecologically, geopolitically and culturally unique region, with a distinctive history and strong local traditions that continued into the Roman period. There is also clear evidence that Rome itself regarded Egypt as different, a marginal place with an exotic religion, a factious and unruly metropolis, and a swarthy population with perverse customs that were distasteful to Roman sensibilities. In the age of Augustus (and probably still in the age of Tacitus) Egypt was regarded as a province that was "difficult to approach, rich in grain, factious and volatile in its wantonness and superstition, ignorant of laws and clueless about civic magistracies" (*inscia legum, ignara magistratuum,* Tac. *Hist.* 1.11). Accordingly, Augustus occupied Egypt with a military garrison of three legions and instituted a restrictive system of direct rule, limiting human mobility, not permitting Alexandria or any of the hinterland cities to have full-fledged political institutions and creating legal mechanisms to restrict the ability of Egyptian provincials to progress to Roman citizenship and enter the ranks of the imperial ruling elite. Despite its unique ecology, politically marginalized status and persistent cultural stereotypes, however, papyrological evidence clearly shows that Egypt was ruled by Rome in a manner consistent with its approach to other Roman provinces. The provincial census, land registers and declarations of birth and death, the system of civic liturgies, the provincial assize system and practices of recording administrative *acta* and court proceedings, the existence of central gubernatorial archives in the provincial capital — all are core aspects of Roman

provincial administration that are documented throughout the Roman empire. At the same time, it is clear that the Roman provinces covered very different geographical areas, each with its own distinct history and regional peculiarities, ethnic and cultural identities, local institutions and traditions. A fatal flaw in the idea of Egyptian exceptionalism is the inherent implausibility of the notion that Egypt was more unique and different than, for example, Africa, Cappadocia, Arabia or Britain were from each other. Instead, it is more accurate to say that each Roman province was unique and different in its own way. In fact, it is precisely the great diversity inherent in the landscapes and cultures of the Mediterranean basin that highlights the remarkable extent to which Rome managed to create a politically, institutionally and culturally integrated Mediterranean empire.

An important result of this study is to draw attention to the legal sphere as a key domain for observing this process of imperial integration. To a notable extent, the papyrological evidence for the Roman court system is corroborated by the Roman legal sources on jurisdiction and the surviving evidence from other Roman provinces. For example, with the help of papyri, it is possible to make sense of some of the procedures for appointing judges at the Roman *conventus* in the Greek East, an issue that has until now remained highly speculative due to the limited information provided by Greek epigraphic sources. Papyrological evidence also makes it possible to demonstrate conclusively the generalized employment of praetorian legal forms by Roman governors under the Principate, including praetorian *actiones* and *interdicta,* as well as *formulae iudiciorum* on the praetorian model. Furthermore, a close look at Roman court proceedings in papyri reveals what could only be vaguely hypothesized on the basis of legal and epigraphic sources: that legal practice in Roman imperial courts was a high-

prestige activity for provincial elites already in the first century CE, and that elite orators and legal experts in the Greek East were competent in Roman law, which they employed as a metalegal framework in interpreting local laws and practices. This has significant implications for our understanding of the forms and doctrines of Roman law, which seem to have functioned and developed from very early on as a framework of Roman imperial jurisdiction. This also points to the far-reaching cultural impact of the Roman court system, which resulted in the "globalization" of certain aspects of the Roman legal tradition, such the adoption of legal practice as a form of aristocratic culture by civic elites throughout the Roman empire.

An eloquent illustration of this cultural impact is provided by a family portrait from Late Antiquity. In the early decades of the fourth century CE, two brothers named Ammon and Harpokration, members of a wealthy family of Egyptian priests from the city of Panopolis in Upper Egypt, traveled to Alexandria to pursue their higher education. Upon completing their studies in rhetoric, Ammon assumed the title of *scholasticus* (literally, “one who has been to a rhetorical school”), which signified that he was a certified orator who could plead cases in the provincial courts. Harpokration, the more talented brother, chose to become a “sophist” or public teacher of rhetoric in Panopolis. He soon attracted the notice of important people and with time received a summons to the imperial court at Constantinople to serve as a panegyrist to the emperor. Ammon writes to his mother from Alexandria, announcing his brother’s turn of good luck — “he is always beloved by the gods,” he writes with a tinge of jealously. The “fortunate” Harpokration would travel far and wide with the imperial court and receive a series of appointments as financial inspector (*curator*) and imperial envoy to cities in mainland

Greece — a promising start to an imperial career, cut short by Harpokration's untimely death.[419]

The story of Ammon and Harpokration showcases the profound, long-term impact of the Roman imperial court system on life and culture in the Roman provines. Looking into the history of this family, we see traditional Demotic-Egyptian names and priestly titles. As far as we can tell, Ammon and Harpokration were the first generation of their family to "break out" of the priestly sphere at Panopolis and pursue provincial and imperial careers. What propelled these two careers forward was a prestigious education in rhetoric, as well as the opportunities for rhetorical display and networking at Alexandria. The two brothers chose to take two distinct career-paths open to individuals with high-class rhetorical training: Ammon chose forensic oratory in the courts, while Harpokration became a teacher and artistic performer of oratory. In Africa a few decades later, two similar career choices were made by the young Augustine and his friend Alypius, who, like Ammon and Harpokration, traveled from a small hinterland town to study rhetoric in the provincial capital. Subsequently, Augustine established a rhetorical school at Carthage and then at Rome, where he was promoted by the senator Symmachus for appointment as professor of rhetoric at the imperial court of Milan, with bright prospects for an imperial career. Meanwhile, Alypius went to Rome to study the law and pursued a career in the courts, serving as a judicial advisor (*assessor*) to top imperial officials.[420]

[419] On the archive of Ammon, see Maresch and Willis 1997 and van Minnen 2002a. For Ammon's letter to his mother, see P. Ammon I 3, 348 CE with van Minnen 2002a: 188-195.

[420] On the rhetorical and legal careers of Augustine and Alypius, see Humfress 2007: 189-191 and 86, 177-179, respectively.

Therefore, although the regions of North Africa and the Nile Valley had very different histories and trajectories of development under Roman rule, by the fourth century very similar career options were available to a priestly family in the deep hinterland of Egypt as to small-town elites in the area of Carthage. By the fourth century, forensic oratory had become a cornerstone of civil careers across the Empire, at all levels of the provincial and imperial administration. The most prestigious courts were the stomping ground of the imperial elite — a forum for display and promotion for young members of aristocratic families, as well as less eminent individuals who rose by virtue of their talent and could, by distinguishing themselves in the courts, attain posts in the imperial administration or enter the ranks of the imperial bureaucracy. As illustrated by the career of Ausonius of Bordeaux and several other Gallic rhetoricians from the fourth century, mastery of the art of oratory in the late Empire could be a rapid means of social advancement and even an entry-ticket into the Senate and prestigious imperial offices. And it is in the third and fourth centuries that we observe the rise of the law as a discrete curriculum of study and training, with its own place in imperial careers. Even Christian bishops, many of whom came from wealthy families, were often rhetorically trained and had pursued civil careers as forensic orators or judicial advisors. The bishop Cyprian had been a forensic orator and teacher of rhetoric at Carthage; the bishop Ambrose had served as an imperial *assessor* and consular prefect of Liguria; Augustine the rhetorician and Alypius the *assessor* would of course themselves return to Africa to pursue careers in the church. It is virtually impossible to imagine the success story of Harpokration taking place within an Egyptian priestly *milieu* in Upper Egypt in the first or second centuries CE. In this respect, the rhetorical and legal careers pursued within this priestly family in

the fourth century are emblematic of the process of integration effected by three centuries of Roman rule. Even after the dissolution of the Roman empire as a political entity, Roman law and legal institutions would continue to live on in the Byzantine Empire and would be adopted by the Frankish and Germanic Kingdoms of the West, subsequently to be transmitted as an intellectual tradition. Thus, the Roman imperial court system, the most prominent public interface between the Roman imperial state and its subjects, was arguably also the sphere in which Rome exercised its most far-reaching and lasting impact in the Mediterranean world.

Altogether, this study hopes to have taken an important step toward the resolution of the paradoxical situation whereby, in spite of a consensus among Roman historians about the Romanity of Roman Egypt in the sphere of administration, and subsequently also in the economic and cultural spheres in Late Antiquity, legal historians have remained committed to the idea of a very limited Roman impact on the legal sphere. This widely-accepted view has posed a major obstacle for arguments about the Roman impact on legal forms and institutions in other Roman provinces, for which there is growing evidence, and indeed for any sort of general argument about the development of the legal sphere of the Roman empire. Until now, most scholars undertaking such arguments have excluded Egypt as an exception, not representative of Roman practice elsewhere. With studies demonstrating the Romanity of Roman Egypt, this position has become increasingly less sustainable. If what one presumes to be true in Spain or Arabia is nowhere to be found in the copious documentary evidence from Egypt, one is led to ask whether it was true in Spain or Arabia at all. On the part of Roman legal historians, there is a fundamental problem of explaining how, exactly, the legal sphere of the Roman

provinces developed after the *Constitutio Antoniniana,* and why legal papyri fail to show a dramatic shift toward a "Roman orthodoxy" at the same time as literary and legal sources from Late Antiquity reveal widespread familiarity with Roman law and the efflorescence of Roman forms of legal and forensic culture throughout the Roman world. There is also the core problem of explaining why, exactly, Roman jurisprudential literature, much of which is concerned with provincial jurisdiction and makes reference to legal cases in the provinces, should find no echoes in the papyrological evidence. It seems more likely that scholarly understanding of the "orthodoxy" of "the great classical Roman Law" may on some points be historically inaccurate, and that the impact of Roman legal forms and institutions may have been underestimated in interpreting the papyrological record.

As this study has sought to demonstrate systematically, the implementation of Roman legal institutions and models of jurisdiction in Roman Egypt and the influence of Roman legal forms are amply documented in papyrological sources, in ways that are corroborated by other genres of evidence for law and jurisdiction in the Roman empire. Naturally, the integration of papyri, together with other documentary evidence from the Roman provinces, into the study of Roman legal history is a very large agenda where much remains to be done. The results of the current study suggest, however, that further research in this area will contribute to a more accurate historical understanding of Roman law, as well as a more holistic and complex historical perspective on the legal sphere of the Roman empire and its development, impact and legacy. The elimination of law as the last major pillar of arguments in favor of Egyptian exceptionalism will also have the beneficial consequence of opening up the mass of papyrological evidence for broader

exploitation by Roman imperial historians. For example, the centralized system of archives progressively implemented in Roman Egypt, which can be contextualized in a tradition of Roman record-keeping and linked to specific imperial initiatives under the Principate, provides a context in which to situate the scantier references to similar institutions and developments in other provinces. Likewise, the wealth of papyrological evidence for "compulsory public services" awaits to be integrated in a general study of *munera* in the Roman empire. Another significant result of this investigation, which derives its insights from different genres of evidence from different regions of the Roman world, is to demonstrate the very high degree of coherence in the institutional framework of Roman jurisdiction throughout the Roman empire, both at it was theorized by legal writers at Rome and as it was understood and put into practice by officials and legal practitioners in the provinces. This speaks for the importance of transregional and institutionalist perspectives on the legal history of the Roman empire. After a decade of studies exploring socio-anthropological approaches to the construction and negotiation of law in particular regional contexts in the Roman provinces, perhaps at this point the pendulum could swing back toward a Mommsenian approach to Roman legal history, with the advantage of a dramatically expanded evidentiary basis that the great Mommsen would certainly have applauded.

APPENDIX 1

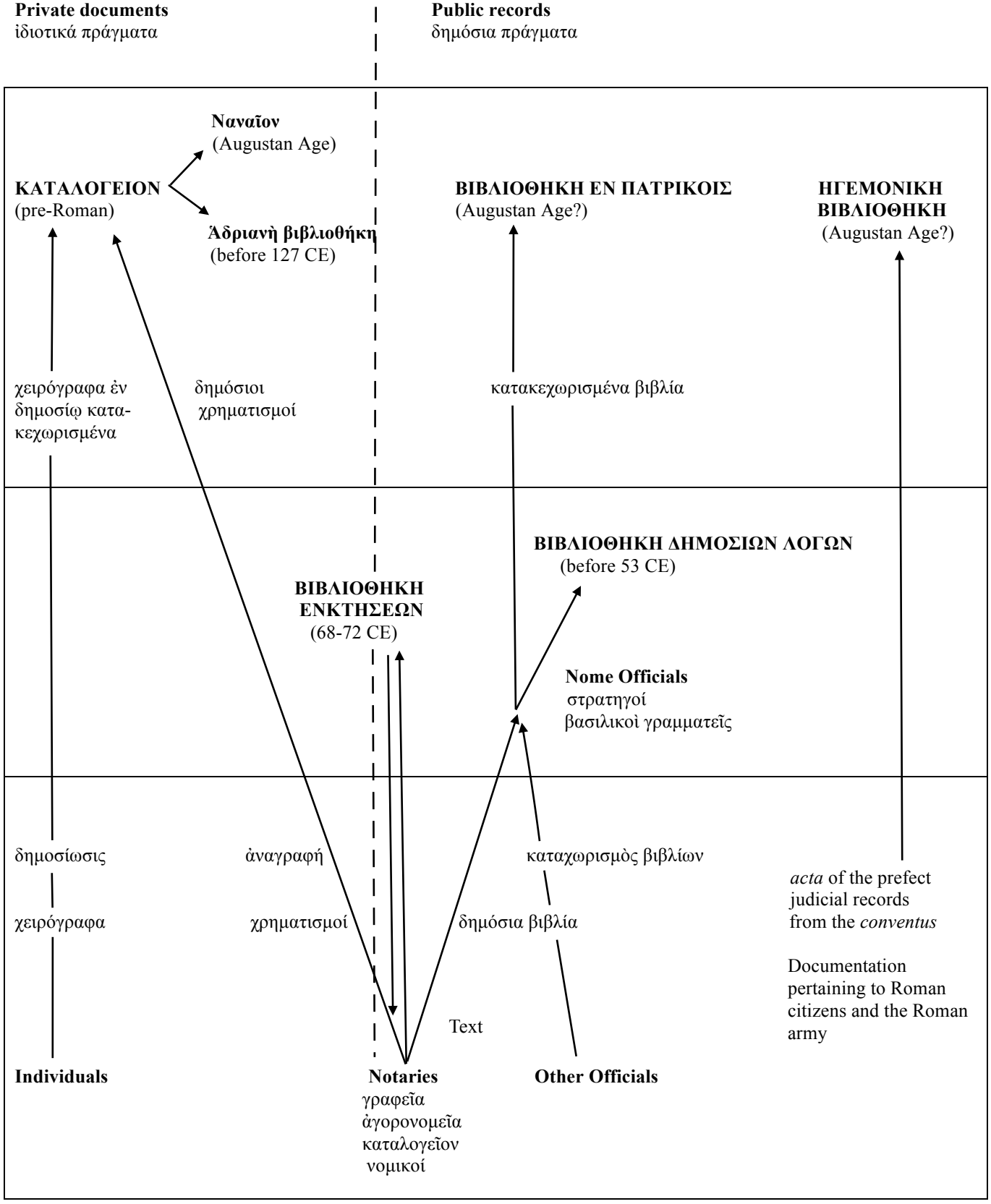
List of All Documented Prefects of Egypt
(adapted from Jördens 2009)

30 BCE – 26 BCE	Gaius Cornelius Gallus	
25 BCE – 24 BCE	Aelius Gallus	
24 BCE – 22 BCE	Publius Petronius	PIR^2 P 27ß
15/14 BCE – 13/12 BCE	Publius Rubrius Barbarus	
7 BCE – 4 BCE	Gaius Turranius	
2/1 BCE – 3 CE	Publius Octavius	PIR^2 O 20
9/10	Publius Ostorius Scapula	PIR^2 O 165
10/11	Gaius Iulius Aquila	
11 – 14	Lucius Antonius Pedo	
14/15	Quintus Magius Maximus	PIR^2 M 89
15 – 21	Lucius Seius Strabo	
21 – 27	Gaius Galerius	
28 – 31	Publius Flavius Hiberus	
32 – 38	Aulus Avilius Flaccus	
38	Quintus Naevius Cordus Sutorius Macro	PIR^2 N 12, *designatus*
38 – 41	Gaius Vitrasius Pollio	
41 – 42	Lucius Aemilius Rectus	
between 42 and 45	Marcus Heius	
45 – 47	Gaius Julius Postumus	
47 – 52	Gnaeus Vergilius Capito	
53 – 54	Lucius Lusius Geta	
55 – 59	Tiberius Claudius Balbillus	
60 – 62	Lucius Julius Vestinus	
63 – 64	Gaius Caecina Tuscus	
66 – 69	Tiberius Julius Alexander	
70 – 72	Lucius Peducaeus Colo(nus?)	PIR^2 P 222
73	Tiberius Julius Lupus	
74	Valerius (?) Paulinus	
75 – 76	[S]ept[imius?] Nu[...]	
78 – 79	Gaius Aeternius Fronto	
80/81 – 82	Gaius Tettius Africanus Cassianus Priscus	
83	Lucius Laberius Maximus	
84	Lucius Julius Ursus	
85 – 88	Gaius Septimius Vegetus	
89 – 91/92	Marcus Mettius Rufus	PIR^2 M 572
92 – 93	Titus Petronius Secundus	PIR^2 P 308
94 – 98	Marcus Junius Rufus	
98 – 100	Gaius Pompeius Planta	PIR^2 P 637
100/101 – 103	Gaius Minucius Italus	PIR^2 M 614

103 – 107	Gaius Vibius Maximus	
107 – 112	Servius Sulpicius Similis	
113 – 117	Marcus Rutilius Lupus	
117 – 119	Quintus Rammius Martialis	
120 – 124	Titus Haterius Nepos	
124 – 126?	Petronius Quadratus	
126 (125?) – 133	Titus Flavius Titianus	
133 – 137	Marcus Petronius Mamertinus	PIR^2 P 288
137 – 142	Gaius Avidius Heliodorus	
142 – 143	Gaius Valerius Eudaemon	
144 – 147	Lucius Valerius Proculus	
147 – 148	Marcus Petronius Honoratus	PIR^2 P 281
150 – 154	Lucius Munatius Felix	PIR^2 M 723
154 – 159	Marcus Sempronius Liberalis	
159 – 160	Titus Furius Victorinus	
161	Lucius Volusius Maecianus	
161/62 – 164	Marcus Annius Syriacus	
164 – 167	Titus Flavius Titianus	
167 – 168	Quintus Baienus Blasianus	
168 – 169	Marcus Bassaeus Rufus	
169 – 175	Gaius Calvisius Statianus	
176	Gaius Caecilius Salvianus	
176 – 179	Titus Pactumeius Magnus	PIR^2 P 39
178 – 180	Titus Taius Sanctus	
180 – 181	Titus Flavius Piso	
181 – 183	Decimus Veturius Macrinus	
185	Titus Longaeus Rufus	
186 – 187	Pomponius Faustinianus	PIR^2 P 714
188	Marcus Aurelius Verrianus	
188	Marcus Aurelius Papirius Dionysius	*designatus*
189 – 190	Quintus Tineius Demetrius	
191 – 193	Larcius Memor	PIR^2 M 713
193 – 194	Lucius Mantennius Sabinus	
195 – 196	Marcus Ulpius Primianus	
197 – 199	Quintus Aemilius Saturninus	
200 – 203	Quintus Maecius Laetus	PIR^2 M 54
204 – 205/206	Claudius Julianus	
206 – 210	Tiberius Claudius Subatianus Aquila	
212 – 213	Lucius Baebius Aurelius Juncinus	
215	Aurelius Septimius Heraclitus	
216 – 217	Lucius Valerius Datus	
218	Julius Basilianus	
219 – 220	Geminius Chrestus	
222	Lucius Domitius Honoratus	
222 – 223	Marcus Aedinius Julianus	
223/24?	]alerius	

224	Marcus Aurelius Epagathus	
between 225 and 230?	Claudius Claudianus	
229/30	Claudius Masculinus	
(230? –) 231/32	Marcus Aurelius Zeno Januarius	
231/32 – 236	Mevius Honoratianus	PIR^2 M 576
237	Corellius Galba	
239 – 240	Lucius Lucretius Annianus	
240/41 – 241	Gnaeus Domitius Philippus	
242 – 245	Aurelius Basileus	
245 – 247/48?	Gaius Valerius Firmus	
249 – 250	Aurelius Appius Sabinus	
(250/51 –) 252	Faltonius Restitutianus	
ca. 253?	]dius Rufinianus	
between 247 and 257	Lucius Titinius Clodianus Consultius	
253 – 256	Titus Magnius Felix Crescentillianus	PIR^2 M 96
259 – 261	Lucius Mussius Aemilianus	
262 – 263	Aurelius Theodotus	
264/65	Gaius Claudius Firmus	
266/67	Juvenius Genialis	
270	Tenagino Probus	
271 – 272/73	Statilius Ammianus	
273 (?) – 274	Gaius Claudius Firmus	
279 – 281/82	Hadrianius Sallustius	
282 – 284	Pomponius Januarianus	PIR^2 P 722
284 – 286	Marcus Aurelius Diogenes	
286/87	Bellicius Peregrinus	
287 – 290	Gaius Valerius Pompeianus	
290 – 292	Titius Honoratus	
292/93	Rupilius Felix	
297	Aristius Optatus	
298 – 299	Aelius Publius	

APPENDIX 2
Diagram of Archives in Roman Egypt
(adapted from Burkhalter, F. (1990) "Archives locales et archives centrales en Égypte Romaine," *Chiron* 20: 191-216)



APPENDIX 3

***Rhētōres in papyri/ostraka from Roman Egypt* (ca. 5 BCE - ca. 342 CE)**
(ordered by edition in accordance with the Duke Database *Checklist of Editions*)

BGU I 15 col. I = W. Chr. 393 = Sel. Pap. II 246
Diadelphos, *rhētōr*
presiding official: Iulius Quintianus, *epistratēgos*
Proceedings involving a complaint against nomination to two liturgies in two different places. The advocate has a lofty tone but appears to be badly briefed: he does not know that the place in question does not currently have a *kōmogrammateus*, whose function has been taken over by the village elders (*presbyteroi*).

BGU I 19 = M. Chr. 85, Arsinoite nome, 135 CE
Asklepiades, *rhētōr*
presiding official: Menander, former royal scribe*, iudex*
Proceedings in a testamentary dispute among Egyptians. The plaintiff invokes an imperial privilege granted by Hadrian, extending the Roman rules regarding representation in succession to Egyptians. The advocate Asklepiades intervenes at the very end, after the ruling of the judge, to demand the restitution of the income that had fallen to the defendants in the intervening period.

BGU I 136 = M. Chr. 86, Memphis, after March 24, 135 CE
Berenikianus, *rhētōr*
vs.
Dionysios, *rhētōr*
Harpokration, *rhētōr*
Pasion, *ekdikos* (*procurator ad litem*?) of Tapountōs, his wife
presiding official: Claudius Philoxenos *archidikastēs*
Dispute of woman against her uncles, denying her share of her father's property (see BGU III 969 for the same individuals).

BGU I 329, Arsinoite nome, before Jan. 153
-areis, *rhētōr*
presiding official: Moderatus?
Fragmentary proceedings in a testamentary matter involving an Egyptian mother.

BGU I 361 = M. Chr. 92 = FIRA III 57, Arsinoite nome, May 26 184 CE
Philotas, *rhētōr* (oratio)
Heliodoros, *rhētōr* (rebuts to Apollonianos)
vs.
Longus, *rhētōr* (oratio)
Apollonianus, *rhētōr* (adds to Longus)
Longinus, son of Chaeremonianos, *ekdikos* for minor plaintiff
presiding official: Apollonios, Arsinoite *stratēgos* of the Herakleidou meris

Proceedings (red ink) in a dispute over a contested Roman will. The heir of the will, an Antinoite citizen, is underage. His opponents try to hinder the opening of the will and allege that the minor is not in fact related to the testator.

BGU II 362, Arsinoite nome, 215-216
Anonymous, *rhētōr*
Records of the Capitoline temple at Arsinoe, which mention a payment of 60 dr. due to a (presumably, local) *rhētōr* who has spoken on behalf of the temple before the prefect Septimius Heraclitus.

BGU II 390, Arsinoite nome, early 3c. CE
Ammonios, *rhētōr*
vs.
Heliodoros*, rhētōr*
Proceedings regarding an unpaid loan.

BGU II 592, Arsinoite nome, ca. 160 CE
Didymos *presbyteros, rhētōr*
vs.
Dioskoros, *rhētōr*
Apollonios, *hypēretēs* of the prefect
presiding official: Ptolemaios son of Sarapion, ex-gymnasiarch of Arsinoe, *iudex* of the prefect
Proceedings in a testamentary dispute among Egyptians. The advocate Didymos defends the interests of a woman who does not stand to benefit from the will. He argues that the will is forged. The *iudex* rules that all should report to the stratēgos for the opening of the will.

BGU III 893, Arsinoite nome, 2-3c. CE
-ōros, *rhētōr*
Fragmentary proceedings in a testamentary dispute.

BGU III 969, Arsinoite nome, after February 28, 139 CE
Athenodoros, *rhētōr*
vs.
Didymos, *rhētōr*
Chaeremon, *prodikos* on behalf of his wife
presiding official: Harpokration a.k.a. Thlesion, ex-gymnasiarch, *iudex*
Proceedings in a dispute over exemption from dyke-work (due to status as animal-rearer). The advocates are businesslike and professional.

BGU VII 1567, Philadelphia, 3c. CE
Harpokration, *rhētōr*?
Ptolemaios, *rhētōr*
vs.
Theodoros, *rhētōr*?

presiding official: *stratēgos*
Proceedings before the stratēgos involving bee-keepers from the Leontopolite nome. The advocates Harpokration and Theodoros (if these are indeed advocates, and not the parties themselves) seem to speak in the first person on behalf of the litigants.

BGU XI 2058 col. II 13-16, Alexandria? April 3, 166
Crispinus, *rhētōr*
presiding official: Syriacus, prefect
Documents concerning freedom from liturgies for Alexandrian citizens. Includes fragmentary extract from proceedings before the prefect. Advocate begins a lofty speech "not only you but other prefects before you have ruled..."

BGU XI 2070 recto, Alexandria, 142-144 CE
Kallineikos, *rhētōr*
vs.
Anonymous, *rhētōr*
-ōn, *rhētōr*
presiding official: Valerius Demetrius a.k.a. Domitius, *iudex*
Proceedings in the property dispute between Tertia Drusilla and Iulius Agrippinus, the heir of the creditor of her deceased husband. Kallineikos is a high-profile Alexandrian advocate, attested in other papyri (M.Chr. 87 = P. Lond. II 196, SB 16 12555, P. Cair. Preis. 1^2). He uses sharp language ("he lied" col. II 3). The speeches of Agrippinus' advocates are summarized as one statement. The parties spoke during the hearing as well.

BGU XV 2474 = SB XIV 11334, Arsinoite nome? 2-3c. CE
Sarapion, *rhētōr*
Fragmentary petition for exemption from liturgy with citation of proceedings in a similar case.

BGU XVI 2631, Herakleopolite nome, March 2, 9 BCE
Eukl[es], *synēgoros*
Private letter to Athenodoros, the *dioikētēs* of a district of the Herakleopolite nome, in light of an upcoming *conventus* in Memphis, where sender Pappos has been recommended an advocate to appoint (*parastēsai*) and wants to know the *dioikētēs'* opinion – presumably, as an insider regarding court personnel (so, the advocate is traveling with the *conventus*? or is local but generally well-known?)

BGU XIX 2762 *verso*, Hermopolis? 152 CE
Apollonios, *rhētōr*
presiding official: Aelius Sokratikos, *procurator*
Fragmentary proceedings regarding tax arrears, advocate seems to blame the former *stratēgos* and to defend an *epimelētēs* (municipal tax official). *Recto* (list of names and *arourae* of land) is unpublished.

CPR VII 3, Arsinoite nome, 150 CE
Anonymous, *rhētōr*

presiding official: Heras, son of Artemidoros, *stratēgos*?
Proceedings in a dispute over the tenancy of a house, the presiding official certifies the record.

CPR XV 15 (see P. Lond. III 354, 7-4 BCE), Soknopaiou Nesos, 4 BCE
Leukios, *rhētōr*
Anonymous, *rhētores*
presiding official: Cordus, *epistatēs phylakitōn*; then Breision, ditto, and Diodoros, ex-gymnasiarch, *iudex*?
Proceedings in a trial for murder as a result of a violent dispute. The earliest evidence for advocacy in Roman Egypt.

CPR XVII A 18, Hermoupolis, 321 CE
rhētōr?
Theophanes, *ekdikos*? gymnasiarch and *bouleutēs* of Hermoupolis
presiding official: Sostratos Aelianus, *stratēgos*
Proceedings from the *acta* (*hypomnēmatismoi*) of the *stratēgos,* hearing takes place in a public street. Theophanes represents his son and wife (hence, is not technically a *rhētōr*) regarding contested ownership of land, tries to block adversary's lawsuit, *stratēgos* disallows.

M. Chr. 93 = P. Strasb. I 41 + P. Lips. I 32, Arsinoe, April 23, 250 CE
Ammonios, *rhētōr* (oratio a)
Sarapion, *rhētōr* (oratio b)
vs.
Antoninus, *rhētōr*
Horigenes *neōteros*, *rhētōr*
presiding official: Hermanubis, *iudex?*
Proceedings in a testamentary dispute. The skilled and well-prepared advocate Ammonios and his underling Sarapion take on the hastily-hired and badly-briefed team of Antoninus and Horigenes, who urgently request an adjournment. Very illustrative of the process of hiring an advocate *ad hoc*. The papyrus is from Hermopolis Magna, but the hearing took place at the Arsinoite conventus.

M. Chr. 372 = BGU I 114 col. I 5-13, Alexandria? January 5, 117 CE
Phaneios, *rhētōr*
presiding official: Rutilius Lupus, prefect
Extract from proceedings regarding the illegitimacy of soldiers' marriages.

M. Chr. 372 = BGU I 114 col. IV 1-15, Alexandria? June 4, 115 CE
Philoxenos, *rhētōr*
presiding official: Rutilius Lupus, prefect
Extract from proceedings regarding the illegitimacy of soldiers' marriages.

M. Chr. 372 = BGU I 114 col. I 14 - col. III 22, Koptos, February 25, 134 CE
Apollinarios, *rhētōr*

vs.
Alexandros, *rhētōr*
Herakleides, *rhētōr*
presiding official: Ulpius Asklepiades, *archidikastēs, iudex*
Extract from proceedings regarding the illegitimacy of soldiers' marriages. The speeches of the team of advocates are rendered as one statement.

M. Chr. 372 = BGU I 114 col. VI, Alexandria? November 22, 135 CE
Apollonios *presbyteros, rhētōr*
vs.
Theon, *rhētōr*
Horion, *rhētōr*
presiding official: Iulianus, procurator of the *idios logos*
Extract from proceedings regarding the illegitimacy of soldiers' marriages. The advocate Apollonios speaks on behalf of two fiscal delators. The other two advocates defend ("stand by," *paristamenoi*) the woman accused of fiscal evasion.

P. Flor. I 61 = M. Chr. 80, *conventus*? February 8, 85 CE
Kephalōn, *rhētōr*
vs. Aristonikos, *rhētōr*
presiding official: Septimius Vegetus, prefect
Proceedings in a dispute over the recall of a debt by the freedman Phibion from Arkhios a.k.a. Polydeukes, a person of more eminent status, after forty years. There is a marked discrepancy in the skill and confidence of the advocates that accords with the discrepant status of the litigants. Aristonikos is a prominent advocate attested in another papyrus.

O. Bodl. 2 2295 descr., Thebes, 2c. CE
Ammonios, *rhētōr*
Note of payment, fragmentary.

O. Leiden 307 = SB X 10367, Thebes?, 2-3c. CE
Horion, *rhētōr*
List of names.

O. Mich. III 976, Karanis, late 3-early 4c. CE
Anonymous, *rhētōr*
List of payments, *rhētōr* receives 400 drachmas.

O. Narm. I 106, Narmuthis, 2-3c. CE
Anonymous, *rhētōr*
Note, *rhētōr* 31

O. Theb. 143, Thebes, 3c. CE
Episthenes, *rhētōr*
List of rations to functionaries (diplokeramia), including 2 boethoi, grammateus epitropos, agoranomesas, cornicularius, princeps, hermeneus, boethos basilikou, stratēgos

O. Wilck. 1056, Thebes, April 7, 113 CE
Cornelius, *rhētōr*
Tax receipt.

P. Bacch. 20 = SB VI 9329, Arsinoe? September 26, 171 CE
Apollophilos, *rhētōr*
presiding official: Ulpius Serenianus, *archiereus*
Extract from proceedings regarding priests' exemption from manual labor liturgies. Advocate is "parestos" (see BGU I 114 = M. Chr. 372 col. VI fiscal evasion case), possibly because the adversaries are officials (*pragmatikoi*)? Advocate concisely presents the case, *archiereus* delegates down to *stratēgos*.

P. Berl. Zill. 4 = ChLA X 463, Hermopolis, ca. 350 CE
Theodosios, *rhētōr*
presiding official: Strategios *praeses* of Thebais
present: Flavius Antirus *exceptor*
Proceedings regarding tax exaction relating to an inheritance. Preliminary hearing, tax officials not present.

P. Bingen 78, *conventus* unknown location, 166 CE?
Ammonios, *rhētōr*
Aurelius Ptolemaios, *rhētōr*?
vs.
Sostratos, *rhētōr*
Dioskoros, *rhētōr*?
presiding official: Didymos, procurator of the *Idios Logos*?
Proceedings in property dispute. Aurelius Ptolemaios speaks to the law of the case. Sostratos begins his speech in a formal tone: "obeying your orders, we will make our defence." The debate is over the interpretation of a previous decision of Didymos himself.

P. Bod. I 166, location unknown, ca. 285 CE
rhētores?
presiding official: Marcus Aurelius Diogenes, prefect
Proceedings regarding a dispute over the payment of taxes, it is unclear whether any of the names (Silvanus, Lucius, Gelasios) or voices belong to advocates.

P. Bon. 16, location unknown, 2-3c. CE
Theokritos, *rhētōr*?
vs.
Horigenes, *rhētōr*?
Serenus, *rhētōr*
presiding official: Harpokration? *iudex?*
Proceedings regarding a liturgy.

P. Brem. 46 = Hengstl, Griechische Papyri 153, Hermopolis, October 20, 110 CE
Licinius Dr-, *rhētōr* (epideictic orator)
Bank document, honorarium of 400 dr. for an epideictic orator, who gave a speech in honor of Aurelius NN in the gymnasium of the Great Serapeum.

P. Brem. 76, Hermopolis, 2c. CE
Ploution, *rhētōr*
Archive of Apollonios. Fragmentary proceedings, orphan appointed guardian by *exegetes* of the city.

P. Cair. Goodspeed 29, Arsinoite nome, ca. 150 CE
Anonymous, *rhētōr*
vs.
Rufus, *rhētōr*
presiding official: high official with a *consilium*
Proceedings involving Roman citizens and regarding a testamentary conflict. The advocate intervenes after the pronouncement to ask for an arbiter (*iudex*?). The first advocate derides identity of his client's opponent (i.e. well, let her be who she says she is).

P. Cair. Preis. 1^2 = P. Fay. 203 descr., Alexandria, 148-150 CE
Anonymous, *rhētōr*
Lykarion, *rhētōr*
vs.
Kallineikos, *rhētōr*
presiding official: *iuridicus*
Proceedings concerning the sale of a slave, who has run away with the contract of sale. Both advocates are prominent and known from other papyri. Kallineikos is a high-profile Alexandrian advocate, attested in BGU XI 2070 recto, M.Chr. 87 = P. Lond. II 196 and SB 16 12555. Lykarion appears in SB XIV 12139 col. II - col. IV 14. Calligraphic script.

P. Col. 7 174 = Hengstl, Griechische Papyri 42, Karanis, 342 CE?
Horion, *rhētōr*
Narratio papyrus (Advocate's brief and draft speech), Horion is commissioned to speak on behalf of Sambathion from Karanis (unjustly taxed for land belonging to someone else, abandoned by tenant farmers for dryness).

P. Col. X 275, unknown location, early 3c. CE
Didymos *neōteros*, *rhētōr*
presiding official: *stratēgos, iudex*?
Fragmentary extract from proceedings, concerning soldier's right to inherit from his mother (against her will?).

P. Col. X 285 col. II, Arsinoite nome, 315 CE
Anonymous, *rhētōr*
presiding official: Aurelius Apollonios a.k.a. Eudaimon

Proceedings regarding a property dispute, anonymous *rhētōr* presents the matter of the case *(hypothesis tou pragmatos*) to the *stratēgos*.

P. Fam. Tebt. 19 = SB VI 9252, Arsinoite nome, April 6, 118 CE
Ammonios, *rhētōr*
vs.
Verus*, rhētōr*
presiding official: Apollonides, *stratēgos*
Proceedings regarding recalcitrant debtor and seizure of property. Very direct rendition of statements and dialogue, no sign of high rhetoric, feature of local jurisdiction?

P. Fam. Tebt. 24 ll. 22-40, Arsinoite nome, 124 CE
Anonymous, *rhētores*
Ammonios, *rhētōr*
Hermias, *rhētōr*
Gaius, *rhētōr*
Pasion, *rhētōr*
Apollonios, *rhētōr* (earlier hearing cited here, 109 CE)
presiding official: Apollonios, ex-*stratēgos*, *iudex* of prefect
Proceedings pertaining to the Arsinoite archive crisis. Advocates are there to represent three sets of parties, they are "*synegorountes*" (i.e. the parties brought their own advocates? see similar use of *parestos*). Ten years earlier in 114, the advocate Pasion had represented the previous generation of the same family, as evidenced by his appearance in line 98. Some of the advocates' names are omitted, their rhetorical work does not stand in the foreground of this record of proceedings.

P. Fam. Tebt. 24 ll. 82-102, Arsinoite nome, August 15, 114 CE
Pasion, *rhētōr*
presiding official: Apollonios, *stratēgos*
Proceedings pertaining to the Arsinoite archive crisis. Pasion represents Leonides, the archive clerk. Ten years later, he represents Leonides' sons in P. Fam. Tebt. 24 ll. 22-40.

P. Fouad I 24, Alexandria, ca. 144 CE
presiding official: Antonius Dionysios, *archidikastēs*
***consilium* of "*synetheis*": Claudius Heliodoros, Diogenes** ...
Deios son of Zeuxis shows up at Alexandria, but adversaries Neilos and Sarapion do not. He requests instructions to the Arsinoite *stratēgos* to write to compel them to come (?) to the Arsinoite *conventus*?

P. Freib. IV 63, location unknown, 2c. CE
Chrysippos, *rhētōr*
Very fragmentary proceedings, involving an *eques* named Gemellus and some sort of contract.

P. Giss. I. 34 = M. Chr. 75 ll. 10-16, Alexandria, 266 CE
Anonymous, *rhētōr*

Aurelius Sabinus, *ekdikos* (?) of defendant, *bouleutēs* of Alexandria
presiding official: Aurelius Didymos, *archidikastēs*
Proceedings regarding a loan secured on property at Oxyrhynchus, where the creditor has made a move to seize the property, although Menodora claims that the loan has already been repaid. Menodora is represented at Alexandria by her grandfather, Aurelius Sabinus, who is a fellow-senator (*symbouleutēs*) of the *archidikastēs* himself. Despite his apparently high status, Sabinus has the case argued by a *rhētōr*. The hand of the papyrus resembles that of the petition of Dionysia (P. Oxy. II 237) — an Alexandrian chancery hand?

P. Giss. I 84, Apollonopolis Heptakomias, early 2c. CE
-os, *rhētōr*
presiding official: Apollonios, *stratēgos*
Archive of Apollonios. Proceedings of conflicts between villagers, who speak during the hearing. Only one advocate is apparent. Highly significant for understanding the difference between the *conventus* and local jurisdiction.

P. Giss. I 117 = P. Herm. Landl, Hermopolite nome, mid 4c. CE
Didymos, *rhētōr* (teacher of rhetoric?)
Catullinus, *rhētōr* (teacher of rhetoric?)
List of heirs, among them a *rhētōr* and the heirs of a *rhētōr* (teachers of rhetoric?)

P. Giss. Bibl. III 20 = Sel. Pap. I 117, Alexandria, 113-117 CE
Anonymous, *rhētōr* (*rhētoriskos*) at the court of the *iuridicus*
Private letter, brother does legal business on behalf of sister at Alexandria, needs to look up her slave-sales with the notary (*grammateus*) in question and asks her to remember the date and the notary's name. One person who bought a slave from her is a "little *rhētōr*" at the court of the *iuridicus*.

P. Hamb. I 29 ll. 2-17 = FIRA III 169 = Jur. Pap. 85, unknown location, 89 CE
Apollodoros, *rhētōr*
presiding official: Mettius Rufus, prefect
Proceedings, litigants on the court list are called by name and do not respond, prefect pronounces that those who do not respond twice will be adjudicated in their absence. Advocate explains absence of clients and has petition entered into the records.

P. Herm. 18, unknown location, 323 CE?
Klematios, *rhētōr*
presiding official: Helpidios, *hypomnēmatographos*
Latin-format Greek proceedings, regarding the registration of a slave sale. Advocate presents the case to the court in a businesslike fashion and tells the officials what they should do.

P. Horak 16, Oxyrhynchos, ca. 170 CE
Fronto, *rhētōr*
Harpokration, *kathēgētēs*

List of payments to educators, including a private teacher Harpokration (author of the *Lexicon of Ten Orators*?) and a *rhētōr* named Fronto.

P. Horak 19, Oxyrhynchos, 4c. CE
Anonymous, *rhētores*
Fragmentary private letter that mentions a judicial hearing.

P. Kell. I 54, Kellis, 4c. CE
Anonymous, *rhētōr*
Administrative list of payments to court officials, *rhētōr* is first on the list, then there is a princeps, a *praeco*, a *hypomnēmatographos*, a *skeptor*, an *epistolephoros* and an *epistoleus*.

P. Laur. III 64, Arsinoite nome? 180-192 CE
Areios, *rhētōr*
Fragmentary proceedings.

P. Laur. III 65, unknown location, 3c. CE?
Ptolemaios, *rhētōr*
Kalandos, *rhētōr*
Fragmentary proceedings involving woman named Antonia. Advocates refer to their dispute as an "*agōn*."

P. Lips. II 147, Antinoupolis? April 5, 189 CE
Hermodoros, *rhētōr*
presiding official: Alexandros, *epistratēgos*
Proceedings involving a group of several individuals, Roman and Antinoite citizens, it very much seems that this is an advocate affiliated with the court of the official, who presents the case professionally to him. This is in any case a preliminary hearing, an entry ticket to a lower court, where the party is directed down to the *stratēgos*.

P. Lond. II 188 R, Sebennytos, 3c. CE
Neikodemos, *rhētōr* (advocate? teacher of rhetoric?)
List of public grain rations, includes civic officeholders and one *rhētōr*

P. Lond. II 196 = M. Chr. 87, Alexandria, 141 CE
Kallineikos, *rhētōr*
vs.?
presiding official: Iulianus, *dioikētēs,* acting *iuridicus*
Proceedings before *dioikētēs,* selection by parties of arbitrator/judge: -oentius Domnus, ex-exegetes. Kallineikos is a high-profile Alexandrian advocate, attested in other papyri (BGU XI 2070 recto, SB 16 12555, P. Cair. Preis. 1^2). Kallineikos seems to hurry the *iuridicus* along: "just do what seems good to you."

P. Merton I 26, Oxyrhynchos, February 8, 274 CE
Ptoleminos, *rhētōr*

presiding official: Aurelius Agathos Daimon, son of Potamon, *boulētēs* and *exegētēs* of Oxyrhynchos
Proceedings regarding an orphan, advocate orates in a lofty and emotive rhetoric, the parents died of a horrible disease, etc. Crook points out the rhetoric (in this case not obviously necessary) as stock trade of advocacy.

P. Mich. VI 365, Arsinoe? 194 CE
Iulianus, *rhētōr*
presiding official: Rutilius Achilleus, *epistratēgos*
Verso of petition of Gemellus Horion, proceedings in complaint of Antinoite against being forced into a liturgy in Karanis. Opponent does not show up in court. Advocate sounds highly confident in addressing the *epistratēgos,* again a case of an affiliated advocate who presents cases ("this guy is an Antinoite") professionally?

P. Mich. IX 534, Arsinoe? 156 CE
Ammonios, *rhētōr*
presiding official: *epistratēgos*?
Petition to high official. After opponent does not show up, litigant appeals to the tribunal through the advocate, to make sure that the absence of the opponent is recorded. Illustration of necessity of professional legal representation.

P. Mich. X 602, Oxyrhynchite nome, 3c. CE
Serenus, *rhētōr* (advocate? teacher of rhetoric?)
Private letter to the *rhētōr* Serenus, asking for help with loading barley onto a boat.

P. Mich. XI 619, Oxyrhynchos, ca. 182 CE
Anonymous, *rhētōr*
List of household expenses, payment of 44 dr. to *rhētōr* (advocate? by far the greatest expense on the list) is there along with bath admission and the purchase of cabbage.

P. Mil. Vogl. I 25 col. II-IV l.17, Arsinoite nome, December-January 127 CE
Ammonios, *rhētōr*
vs.
Palamedes, *rhētōr*
presiding official: Andromakhos, *stratēgos* upon referral of prefect
One of two reports of proceedings pertaining to Paulinus. A conflict against a freedman named Demetrius, whose advocate Ammonios is much less skilled than Paulinus' Palamedes. Interestingly, after the initial *oratio*, Paulinus and Demetrius seem to be the ones speaking most of the time.

P. Mil. Vogl. I 25 IV l.18 - col. V l.27, Arsinoite nome, May-June 127 CE
Heliodoros, *rhētōr*
vs.
Artemisios, *rhētōr*
presiding official: *archidikastēs*, *iudex* of prefect

consilium*: Flavius - , Herakleides Priscus, [Z]enon, Kephalion, Isidoros *neoteros hyperetēs*, Harpokration *grammateus* of the *katalogeion
One of two reports of proceedings pertaining to Paulinus. A testamentary conflict with a woman.

P. Mil. Vogl. II 98, Arsinoite nome, 138-9 CE
Kastor, *rhētōr*
vs.
Anonymous, *rhētores*
presiding official: Heliodoros, prefect
Proceedings in case of corrupt *kōmogrammateus* who bought property in his nome. Advocates' speeches fall by the wayside, paraphrased. They allege that a rhetorical trick made him admit on record that he bought the property.

P. Mil. Vogl. IV 231, Arsinoite nome, early 2c. CE?
Anonymous, *rhētōr*
Fragmentary proceedings.

P. Mil. Vogl. VI 287, Arsinoite nome, 2c. CE?
Anonymous, *rhētores*
Fragmentary proceedings.

P. Oslo II 17, Prosopites, 136 CE
presiding official: Theon, *stratēgos*
Proceedings regarding the vandalism of vines, *stratēgos* speaks very rhetorical, literary Greek. No advocates present?

P. Oslo III 80, unknown location, mid-2c. CE
Alexandros, *rhētōr*
-os, *rhētores*
presiding official: prefect? (sent up from *epistratēgos*)
Two extracts from proceedings before a high official, advocates speak in lofty rhetoric (*philostorgōs*)

P. Oxf. 4, Arsinoite nome? before 150 CE
Kastor, *rhētōr*
vs.
Anthestios, *rhētōr*
presiding official: Munatius Felix, prefect
Petition containing extract from proceedings involving the leasing of camels. Advocates are "*parestos*" or "*synegorōn*."

P. Oxy. I 37 = M. Chr. 79 = Sel. Pap. II 257 = FIRA III 170, Oxyrhynchos, March 29, 49 CE
Aristokles, *rhētōr*
vs.

Theon, *rhētōr*?
presiding official: Tiberius Claudius Pasion, *stratēgos, iudex*?
Proceedings in a conflict between a wet-nurse and her employer, who holds her own child hostage in order to receive back the money for time she has not worked, due to the premature death of the nursling. Aristokles sounds pompous but not particularly refined. It is unclear whether Theon, who at some point speaks for the wet-nurse Saraeus, is actually an advocate.

P. Oxy. II 237 col. VIII 19-29, Alexandria, 128 CE
Isidoros *neōteros*, *rhētōr*
Probatianus, *rhētōr*
vs.
Didymos, *rhētōr*
presiding official: Flavius Titianus, prefect
Proceedings involving a father's attempt to dissolve his daughter's marriage.

P. Oxy. II 237 col. VIII 30-38, Xois, 133 CE
Isidoros, *rhētōr*
vs.
Severus, *rhētōr*
Heliodoros, *rhētōr*
presiding official: Paconius Felix, *epistratēgos*
Proceedings involving a father's attempt to dissolve his daughter's marriage.

P. Oxy. II 237 col. VIII 39-43, Alexandria, 87 CE
Sarapion, *rhētōr*
presiding official: Umbrius, *iuridicus*
Proceedings involving a father's attempt to dissolve his daughter's marriage.

P. Oxy. III 653 b (2. Selis) = M.Chr. 90, Paraetonium? 162-3 CE
Isidoros, *rhētōr*
vs.
Crispinus, *rhētōr*?
presiding official: Volusius Maecianus, prefect
Proceedings regarding a loan and the seizure of mortgaged properties, the parties are asked whom they wish to be appointed as judge. Animated exchange between prefect and Isidoros, which however suggests a degree of familiarity. Advocate Crispinus is attested elsewhere.

P. Oxy. IV 707 V, Oxyrhynchos? 135-8 CE
Sarapion, *rhētōr*
Proceedings regarding a lease with obligations not fulfilled. Advocate gives very long and detailed presentation of the case, a sign of the more copious sort of record of proceedings that tends to be attested in the private papers of the parties (see P. Fam. Tebt. 124).

P. Oxy. VI 899 R = W.Chr. 361 ll. 20-32, location unknown, Aug./Sep. 154 CE
Saturninus, *rhētōr*
presiding official: Parmenion, *iudex*
Proceedings in case regarding obligations of women to take on compulsory land cultivation. Brief fragmentary statement from advocate.

P. Oxy. IX 1204 = Sel. Pap. II 294, Oxyrhynchus, 299 CE
Isidoros, *rhētōr*
Gregorius, *rhētōr*
presiding official: Domnus, *rationalis*
present: Olympios, *commentariensis officialius*
Proceedings where a certain Aurelius Ploutarchos disputes his nomination to office of *decemprimus*, from which he is allegedly exempt due to his rank. The opposition does not seem to be present, this is a preliminary hearing, there are two advocates speaking (rather loftily) for Ploutarchos.

P. Oxy. XII 1479, Alexandria, late 1c. BCE
Apis, *synēgoros*
Private letter, man cannot proceed with legal business because Apis the *synēgoros* has not delivered to him the records (*biblia*) but delays on a daily basis.

P. Oxy. XII 1502 R, Oxyrhynchos? 260-1
-ios, *rhētōr*
presiding official: Metrodorus, acting *epistratēgos*
Fragmentary proceedings regarding violence and physical injury, with doctor's report.

P. Oxy. XVII 2111, location unknown, ca. 135 CE
Apollonios, *rhētōr*
presiding official: Petronius Mamertinus, prefect
Calligraphic collection of extracts from proceedings, one involves a murder by strangulation (Sarapion, Ptolema), where the advocate Apollonios (known from other papyri) gives a remarkably long *oratio* presenting the case to the prefect.

P. Oxy. XX 2338, Oxyrhynchos, after 289 CE
Arōn, *rhētōr*
List of poets, trumpeters and heralds with tax privileges, among them a *rhētōr* who is possibly also a herald.

P. Oxy. XX 2340, location unknown, 192 CE
Eudaimon, *rhētōr*
vs.
Hippias, *rhētōr*
presiding official: Iulianus, *epistratēgos*?
Proceedings involving a complaint against liturgy, plaintiff claims he is a humble linen-weaver, defendant (hypostratēgos) states that he is a perfume-seller. Precedent of

Macrinus cited as *exemplum* (*paradeigma*). Advocates seem to present both sides in a concise and matter-of-fact way, sign of affiliation with the court?

P. Oxy. XXXI 2601, Alexandria? early 4c. CE
Anonymous, *rhētōr*
Private letter between brother and sister. Brother tending to legal business, engages a *rhētōr* to present case in land dispute a few days (?) later.

P. Oxy. XLI 2955, Oxyrhynchus, after April 6, 218 CE
Theon, *rhētōr*
vs.
Nemesion, *rhētōr*
Kleanthes, *rhētōr*
presiding official: Basilianus, prefect
Proceedings regarding registration of purchased real property, animated stochastic exchanges between advocates (objection, etc.), dynamic of familiarity with prefect – "he's right, cancel the security!"

P. Oxy. XLIII 3094, Oxyrhynchos, ca. 217-8 CE
Anonymous, *rhētōr*
presiding official: Agrippa, *stratēgos*? *epistratēgos*?
Private letter of Gaia, who in a petition to the prefect has blamed her advocate for poorly representing her and her legal rights before (stratēgos?) Agrippa. Was the advocate assigned to her, or did she hire him?

P. Oxy. XLIII 3117 recto, Oxyrhynchos, after June 14, 235 CE
Demetrios, *rhētōr*
Antonius, *rhētōr*
vs.
Asklepiades, *rhētōr*
presiding official: Alexandros, procurator
Proceedings in a testamentary dispute, defendant's advocate asks for adjournment to gather documents and be instructed about the case (hastily hired *ad hoc*?), the plaintiff's advocates try to prevent this. Demetrius has a long *oratio* presenting the case. Antonius speaks only once. Presumably, he is the partner of Demetrius, unlikely to be the party himself (*pace* Crook).

P. Oxy. L 3562, Oxyrhynchos, 178-9 CE
Philippos, *rhētōr*
presiding official: *epistratēgos*
Proceedings regarding a loan secured on land.

P. Oxy. LIV 3757, Oxyrhynchos, March 15, 325 CE
Didymos, party, speaks for himself
presiding official: Flavius Leukadios, *logistēs*
staff: *hyperetai* (Horion, Heras), *paredros* (Eulogios)

Proceedings in dispute over debt.

P. Oxy. LIV 3758, Oxyrhynchos, March, 325 CE
Theon, *rhētōr*
vs.
Ammonios, *rhētōr*
Poimenios, *rhētōr, tabellio*
presiding official: Flavius Leukadios, *logistēs*
staff: *hyperetēs* (Horion), *boethos* (Berenikianus) and *paredros* (-phanes, Eulogios,
Procedings of various sorts. Theon dominates the scene, tyrannizes the other party in two different cases, aggressively tries to prevent Ammonios from speaking (through objections, "who instructed this guy?!" etc.) in the first case. Prefect's authority is cited. Ammonios likewise reappears in a second case. In another case, Poimenios the advocate turns out to be a notary (*tabellio*) as well?!

P. Oxy. LIV 3759, Oxyrhynchos, October 2, 325 CE
Poimenios, *rhētōr*
vs.
Iskhyrion, *rhētōr*
presiding official: Flavius Leukadios, *logistēs*
staff: *hyperetēs* (Dionysodoros) and *paredros* (Phanias)
Proceedings in a property dispute. Animated exchanges between advocates, procedural objections are once again important, Iskhyrion tries to prevent the case from even being argued by the other side, refers to his own objection as "marvelous and legally brilliant." Prefect's authority likewise cited. Adjournment results.

P. Oxy. LIV 3764, Oxyrhynchos, ca. 326 CE
Ammonios, *rhētōr*
presiding official: Flavius Leukadios, *logistēs*
present: *prosthureios* (Paulus) and *bouleutēs diaitetēs* (Dionysodoros)
Proceedings in a property dispute. Ammonios seems to be the only advocate, presents case concisely to the *logistes*.

P. Oxy. LIV 3767, Oxyrhynchos, 329/330 CE
Didymos, party, speaks for himself
presiding official: Flavius Iulianus, *logistēs*
present: 3 eirenarchs
staff: *hyperetai* (Tithous, Sarapas), *paredros* (Euangelos)
Proceedings in a robbery, rustics have stolen something from Didymos, who speaks for himself and cites pronouncement of the prefect.

P. Oxy. LIV 3775, Oxyrhynchos, July 1, 342 CE
Arios, *rhētōr*
presiding official: Flavius Eutrygios, *logistēs*
Fragmentary proceedings in a property dispute, attached to a petition.

P. Oxy. LX 4075, Oxyrhynchos, after June 13 318 CE
Gerontios, *rhētōr*
presiding official: Flavius Eutrygios, *logistēs*
Records of *logistēs,* including staff (*hyperetai, paredros*), and a record of proceedings regarding the opening of a will.

P. Oxy. LXXV 5055, Oxyrhynchos, 2c. CE
Sarapammon, *rhētōr*
Achilles, *rhētōr*
Severus, *rhētōr*
presiding official: *epistratēgos*
Private letter from *rhētōr* Sarapammon to *rhētores* Achilles and Severus, asking to get minutes of recently-pleaded case regarding the house of a painter, gives names and precise date.

P. Oxy. LXXVII 5118, Oxyrhynchos, 286-292 CE?
Adrianos, *rhētōr*
Very fragmentary proceedings.

P. Par. 69 = W. Chr. 41 col. III 17-30, Elephantine, 232 CE
Agathos Daimon, *rhētōr*
presiding official: *stratēgos* of Elephantine
Proceedings of a property dispute before the *stratēgos* of Elephantine. A man named Aurelius Serenus of equestrian rank is represented by Agathos Daimon the advocate, who cites imperial pronouncements regarding the twenty-year rule for adverse possession in the provinces.

P. Phil. 3, Arsinoite nome, 123 CE
Didymos, son of Sarapion, *synēgoros*
Pasion, son of P-, *synēgoros*
presiding official: *stratēgos*
Weaver asks to be exempted from liturgy, two men speak on his behalf – are they strictly-speaking advocates?

P. Ross. Georg. II 22, Arsinoite nome, 154-159 CE
Apion, *rhētōr*?
presiding official: Sempronius Liberalis, prefect
Proceedings (preliminary) regarding complaint for illicit tax exaction. Prefect takes on the case.

P. Ross. Georg. V 18 More = ChLA XLVI 1395, location unknown, 212-3 CE
Herakleides, *rhētōr*
presiding official: Baebius Iuncinus, prefect
Striking early example of bilingual proceedings, very fragmentary, verso has Latin legal texts.

P. Ross. Georg. V 21, location unknown, 3c. CE?
***rhētores*?**
-leinos, defendant?
Proceedings in dispute over a deposit, unclear whether the voices speaking in the first person are the parties or *rhētores* speaking for them.

P. Ryl. II 75 ll. 1-20, unknown location, 150 CE
Archelaos, *rhētōr*
Apollonios, *rhētōr*
Asklepiades, *rhētōr*
presiding official: Munatius Felix, prefect
Two extracts from proceedings (from the same day), advocates declare *cessio bonorum* to the prefect.

P. Ryl. II 77, Hermopolis? 192 CE
Hierax, *rhētōr*
Olympiodoros, *prodikos*
presiding official: Sarapion a.k.a. Apollonios, *stratēgos*
Two different proceedings regarding nomination to municipal offices, unclear how *prodikos* differs from *rhētōr* here.

P. Ryl. II 272, unknown location, 2c. CE
Anonymous, *rhētōr*
vs.
-mon, *rhētōr*
Fragmentary proceedings.

P. Ryl. IV 469 verso, unknown location, 3c. CE
Anonymous, *rhētores*
Fragmentary proceedings.

P. Sakaon 31 = P. Thead. 15, Arsinoite nome, 280-1 CE
Isidoros, *advocatus fisci, rhētōr*
presiding official: Aurelius Herakleides, *epistratēgos*
Proceedings involving orphaned children, deprived of their flock by a tax official. Illustrious advocate represents them in a highly rhetorical oration. *Epistratēgos* permits them to petition his tribunal and receive judgment from him.

P. Sakaon 32 = P. Thead. 14, Arsinoite nome, 254-268 CE
Hermias, representative of villagers from Philagris?
presiding official: *stratēgos*
Proceedings before stratēgos (same hand as P. Sakaon 31?), vandalism of irrigation works, vexatious report?

P. Sakaon 33 = P. Ryl. IV 653 = ChLA IV 254, Arsinoe, *secretarium*, 321 CE
Anonymous, *rhētōr*

Arion, *paron* (procurator ad litem?)
Leontius, *rhētōr*?
presiding official: Tziper, *praeses* of Aegyptus Herculia
Bilingual proceedings regarding the blockage of an irrigation canal, *cessio bonorum*.

P. Sakaon 34 = P. Thead. 13 = ChLA XLI 1204, Arsinoe, *secretarium*, 321 CE
Anonymous, *rhētōr*
presiding official: Tziper, *praeses* of Aegyptus Herculia
Proceedings regarding tax exaction, tax officials not represented?

P. Sarap. 67 = P. Amh. II 128 verso, Hermopolite nome, after July 17, 128 CE
Apollonios, *rhētōr*
List of debts, including 80 dr. to Apollonios the *rhētōr*.

P. Strasb. IX 876, Hermopolis/Antinoupolis, ca. 300 CE
Theodoros, *rhētōr*?
presiding official: ?
Small fragment of proceedings with narratio of advocate, who refers to a previous hearing at the court of a high official as a rhetorical contest (*agōn*).

PSI IV 293, Alexandria? late 2-early 3c. CE
Leonides, *rhētōr*
Sarapion, *rhētōr*
presiding official: *iuridicus*
Proceedings before *iuridicus*, *excusationes* from liturgies by Oxyrhynchite landowners.

PSI XIV 1411, unknown location, 2c. CE
Anonymous, *synēgoroi*
Very fragmentary proceedings, someone speaks "through *synēgoroi*."

PSI XV 1549, Oxyrhynchos, 249-250 CE
Anonymous, *rhētōr*
presiding official: Appius Sabinus, prefect
Fragmentary proceedings, cultivation of public land.

PSI XV 1561 = SB XII 11052, Oxyrhynchos, ca. 287-290 CE
Gymnasios, *rhētōr*
presiding official: Valerius Pompeianus, prefect
Fragmentary proceedings, rejection of liturgy, *cessio bonorum*.

PSI Congr. XXI 17, Oxyrhynchite nome? 3c. CE
Anonymous, *rhētōr*
Fragmentary proceedings, *cessio bonorum*.

P. Strasb. I 5, Hermopolis *parva*, September 7, 262 CE
Hermon, *archidikastēs* in office, *rhētōr*

presiding official: Theodotos, prefect
Proceedings regarding an old man being put upon by others, *archidikastes* in office represents him as advocate.

P. Strasb. I 22 = M.Chr. 374, Hermopolis, 207 CE
Asklepiades, *rhētōr*
presiding official: Subatianus Aquila, prefect
Proceedings regarding *praescriptio longi temporis*. Advocate only says "yes" in this extract.

P. Strasb. IV 275, location unknown, ca. 225 CE
Anonymous, *rhētōr*
presiding official: Sopatros, (former) *epistratēgos*
Fragmentary proceedings (cited in other proceedings?).

P. Tebt. II 287 = W. Chr. 251, Arsinoite nome, 161-9 CE
Longinus, *rhētōr*
vs.
Protarkhos, *rhētōr*
presiding official: Severianus, *iuridicus*?
Proceedings in a conflict between the Arsinoite fullers and dyers and an official who allegedly overtaxed them. The advocates summarize both sides of the case in a matter-of-fact fashion, are they "insiders" at the court of the prefect?

P. Tebt. II 343 R, Tebtunis, 2c. CE
Apollonios, *rhētōr*
Land survey and property lists, including property held by the *rhētōr* Apollonios.

P. Tebt. II 489 verso, Tebtunis, January 14, 127
Anonymous, *rhētōr*
presiding official: *stratēgos*? upon delegation (*anapompē*) of prefect
Proceedings of a conflict about the sale of a *pastophorion*. The advocate is not named, gives presentation of the case.

P. Vet. Aelii 12, Ankyron (Herakl.), ca. 222-225 CE
Anonymous, *rhētōr*
vs.
- *presbyteros*, *rhētōr*
Archive of Aelius Syrion. Fragmentary proceedings involving soldiers in dispute over property (?).

P. Vindob. Tandem 7, Hermopolite nome? ca. 321 CE?
Anonymous *rhētores*
Aurelios Ales, defendant?
Fragmentary proceedings in testamentary dispute (?).

P. Vindob. Worp 1, Arsinoite nome, 90-96 CE?
Apollonios, *rhētōr*
vs.
Hermaios, *rhētōr*
presiding official: *stratēgos*
Proceedings in dispute over taxes on purchases made in the *metropoleis,* and the immunity of villagers from Soknopaiou Nēsos from this tax. Litigants speak "through" the advocates, whose statements are concisely summarized. A good illustration of advocacy at the local level.

P. Wash. Univ. I 5, Oxyrhynchos, ca. 250 CE
Anonymous, *rhētōr*
vs.
Komeinios, *rhētōr*
presiding official: Appius Sabinus, prefect
Fragmentary proceedings in testamentary (?) dispute. Extensive protocol that gives a sense of the rhetoric and dialogue.

P. Wisc. I 1, unknown location, early 2c. CE
-ē..os , *rhētōr*
presiding official: *stratēgos*
Proceedings of dispute over a loan secured on land. Unclear whether the parties speak primarily for themselves or the advocate's role is elided. Petheus the defendant reveals he is in the wrong despite his advocate. Limnaios, the creditor, speaks for himself and very rhetorically – a rhetorically-educated man, or elision of his advocate's presence?

SB I 5676, Hermopolis, 232 CE
Claudius Dionysios, *rhētōr*
vs.
Hermeinos, *rhētōr*
Arsinoos, *rhētōr*
presiding official: Honoratianus, prefect
Proceedings (included in a petition) of case involving an illegal mortgage. The advocates complain that Claudius Dionysius (attested elsewhere) can only be faced at the court of the prefect because he is a powerful man, a *rhētōr* of the *epistratēgos*. This is an important testimonium for the existence of a Bar of statutory advocates attached to the high courts of the province.

SB V 7558 = Sel. Pap. II 260 = FIRA III 30, unknown location, July 30, 148 CE
Apollonios, *rhētōr*
Dioskoros, *rhētōr*
vs.
Apollonios *neoteros*, *rhētōr*
Thrakidas, *rhētōr*
presiding official: Herennius Philotas, *epistratēgos*

Petition to *epistratēgos* regarding Antinoite exemption from liturgies, cites proceedings before former *epistratēgoi* and rescript of Hadrian. Animated exchange between advocates and official.

SB V 7696, Ptolemais Euergetis (Arsinoe), after August 28, 249 CE
Loukios (Lucius?), *rhētōr*
Chaireis, *rhētōr*
Seleukos, *synēgoros* (on behalf of three villagers)
vs.
Philippos, *rhētōr*
Sarapion, *rhētōr*
Iskhyrion, *rhētōr*
Serenus, *rhētōr*
Kastor, *nomikos, rhētōr*
presiding official: Appius Sabinus, prefect
Proceedings in conflict over liturgical obligations of villagers with regard to the *metropolis*. Seleukos, who steals the show with his citation of Severan legislation, is not a *rhētōr* but a *synēgoros — advocatus fisci*? Or does this simply mean that he is privately hired and brought along to represent the three villagers specifically? Philippos responds to his statements about "the law." Kastor is called both *nomikos* and *rhētōr*. Sarapion and Chaireis mainly read documents, Loukios, Iskhyrion, Seleukos and Philippos make actual rhetorical arguments.

SB VIII 9902 = P. Berl. Bork. = SB XXIV 16000, Panopolis, early 4c. CE
Theodotos, *rhētōr*
List of names, property holdings and professions, including the "sons of the *rhētōr* Theodotos." A long list contains only one mention of a *rhētōr*.

SB XIV 11394, Arsinoite nome, 2c. CE?
Prot]arkhos, *rhētōr*
Very fragmentary proceedings.

SB XIV 11875 = P. Mich IX 529 and SB XIV 11876, location unknown, 215 CE
Lollianus, *rhētōr*
presiding official: Caracalla, emperor
Proceedings before Caracalla regarding rapacious tax-exaction, attested in two different papyri. Lollianus is an eminent senator and member of Caracalla's personal entourage, who defends villagers here and again in the proceedings at Antioch recorded in the inscription from Dmeir (SEG XVII 759, 216 CE).

SB XIV 11903, Abotis, late 2c. CE
Anonymous, *rhētores*
Private letter recounting legal activity. Apparently, advocates had not deigned to lend him a helping hand, so he decided to approach the prefect on his way back from the theater, apparently with success.

SB XIV 12087 A 18 - B 7= P. Oslo II 18, location unknown, Feb./Mar. 152 CE
Kanopos*, son of Dorion, rhētōr*
presiding official: Munatius Felix, prefect
Petition that cites proceedings regarding a father's non-responsibility for his adult son's liabilities and actions. Animated exchange between aggressive advocate and the prefect: "I do not know what you are talking about," etc.

SB XIV 12139 col. II - col. IV 14, Xois, February 18, 146 CE
Herakleides*, rhētōr*
Lykarion*, rhētōr*
vs.
Apollonios*, rhētōr*
Isidoros*, rhētōr*
Areios, *rhētōr*
presiding official: Aelius Dionysios, ex-*agoranomos* and *praefectus annonae*, *iudex* of prefect Valerius Proclus
Proceedings in conflict over joint ownership between siblings. All of the advocates are well-known figures. Herakleides gives the *oratio*. Both Herakleides and Lykarion refer to precedents: in the end Lykarion whips out a newly minted decision of the *archidikastes,* from one week earlier, which steals the show. The statements of Apollonios and Isidoros are very short – presumably, heavily abbreviated? Isidoros argues from precedent, Apollonios makes a legal point.

SB XIV 12139 col. IV 15 - col. V 20, Alexandria? Xois? (*conventus*), February 10, 146 CE
Neilos*, rhētōr*
Sarapion*, rhētōr*
vs.
Dorion, *rhētōr*
Dionysios, *rhētōr*
presiding official: Claudius Hierax, *archidikastēs*
Proceedings in conflict over joint ownership between siblings. Arguments on both sides illustrated by precedents. A Neilos and Sarapion appear in the papers of Deios, son of Zeuxis in P. Fouad. 24.

SB XIV 12209 = P. Flor. II 116
Herakleios, *rhētōr*
vs.
Anonymous, *rhētōr*
Very fragmentary proceedings. Advocates interrupt each other (*hypoballō*).

SB XVI 12555 = P.Alex. 5 (ll. 10-23) = BGU I 245 (ll. 1-9, 24-32) = BGU XI 2071, ends of lines of ll. 10-23, Alexandria, 138-144 CE
Kallineikos, *rhētōr*
vs.?
presiding official: Neokydes, *iuridicus*

Proceedings before *iuridicus*, who asks why the stratēgos had not managed to bring the case to an end. Kallineikos states: the opponent did not show up.

SB XVI 12629 = P. Harr. I 160, Oxyrhynchos, after ca. 329 CE
Anonymous, *rhētōr*
vs.
Makrobios, *rhētōr*
presiding official: *logistēs*
Fragmentary proceedings, case had been before *rationalis* and received a pronouncement. One advocates tries to make a procedural objection (so that the case cannot proceed). We get a sense of the liveliness of the dialogue.

SB XVI 12685 = SPP XXII 184, Herakleia (Arsinoite village), 138-9 CE
Ammonios, *rhētōr*
(on additional fragment of the papyrus: -anos, *rhētōr*)
presiding official: Aelius Numisianus, *stratēgos*
Proceedings before *stratēgos* on tour of the nome. Infringment on the rights of priests. Local jurisdiction, advocate presents things in a matter-of-fact way, without any signs of high rhetoric.

SB XVI 12692 = P.Col. VII 175, Karanis? 339 CE
Theodoros, *rhētōr*
vs.
Alexandros, *rhētōr*
presiding official: *defensor civitatis*
consilium*: 3 bouleutai, Neilos the Nilometer, Anubion *archi-hyperetes* (acting as *hermeneus,* interpreter), Elias and Sambas *demosioi* of the *defensor
Neilos represents two sisters as *entolikarios* (*cognitor*?)
Proceedings regarding liability for taxes on piece of land that two sisters claim does not belong to them (the land had switched hands to be cultivated by peasants, an arrangement that later ceased). Advocates put on a performance, Theodoros loftily opens with the recitation of an imperial pronouncement, cleverly using the *praescriptio longi temporis* against its original intention (i.e. to bind the landowner with fiscal obligations, not to confirm his rights). Alexandros begins his speech with a procedural objection, which seems primarily to have a rhetorical function. The parties speak through a translator, Anubion.

SB XVI 12749 = P.Daris 2 = P.Strasb. IV 179, Arsinoe, 176-179 CE
Domitius Apollonios, *rhētōr*
presiding official: Pactumeius Magnus, prefect
***consilium*: Iulius Crispinus, *dioikētēs*; Flavius Valens *epistratēgos*; Ba- Loukounnios, praefectus alae (*stolou*); Iulius Crispinus, chiliarch; Iunius Geilon, eisagogeus (who signs the original protocol); Messius Bassus, ab epistulis Graecis**
Proceedings "from book 2 of the *acta* of Pactumeius... from the Arsinoite *conventus*" that give *consilium* of the prefect.

SB XVI 12949, location unknown, 207 (or 268?) CE
Herakleides, *rhētōr*
vs.
Didymos, *rhētōr*?
presiding official: Maecius Laetus, prefect
also present: commentariensis
Proceedings in case where an apparently innocent man has been tortured.

SB XVI 13032 = CPR VII 4, Arsinoite nome, 156 CE
Sarapion *neoteros*, *rhētōr*
presiding official: Sempronius Liberalis, prefect
Proceedings of several cases of nomination to municipal magistracies. Advocate presents the case in the first person plural on behalf of the litigant.

SB XVIII 13302, location unknown, 3c. CE?
***rhētores*?**
Theophilos, *nomikos*
present: *archidikastes*, former *exēgetēs*
presiding official: Septimius Asklepiades, title unknown
Fragmentary proceedings regarding nomination to a liturgy. Many important figures speak, and a *nomikos* has a speaking role.

SB XVIII 13932 = P.Oxy. XXII 2343, Oxyrhynchos? December 31, 287 CE
Chrysammon, *rhētōr*
presiding official: Gaius Valerius Pompeianus, prefect
Petition that refers to proceedings (complaint against nomination as *eirēnarch*) and the choice and instruction of an advocate, who approaches the tribunal as necessary. Nemesianus the notary (specially affiliated with the *officium* of the prefect, quite obviously) makes himself known in the document (see the *nomographos agoras* dressing administrative petitions in other papyri).

SB XX 15147, location unknown, 117-161 CE
Apollonios, *rhētōr*
Isidoros, *rhētōr*
presiding official: high official, prefect Petronius Mamertinus?
Proceedings in testamentary conflict, both advocates' names are attested in other papyri in this period, a precedent of the *epistratēgos* is cited, together with a letter of the *nomikos* Dioskourides. Apollonios adds that the matter is *katholikon* (has an important case history, is of general significance).

SB XX 15148, location unknown, ca. 85 CE?
Aristonikos, *rhētōr*
presiding official: high official? prefect?
Very fragmentary proceedings. Aristonikos is the name of an expert advocate at the court of the prefect in 85 CE, the Phibion case.

SB XXII 15775, metropolis (?) of the Herakleiopolite nome (papyrus is from Karanis), 203-6 CE
Theon, *rhētōr*
presiding official: Claudius Iulianus, prefect
Very fragmentary proceedings.

SB XXII 15827, location unknown (papyrus is from Karanis), 3c. CE
Claudius Dionysios, *rhētōr*
presiding official: *epistratēgos*?
Very fragmentary proceedings. Advocate Claudius Dionysios appears elsewhere as statutory advocate of the *epistratēgos*.

SPP IV S. 58 - 83 = P.Lond. II 261, S. 53 (Z. 1-278) = P. Lond. II 260, S. 42 (Z. 507-703) = W. Chr. 61 (Z. 432-488), Arsinoe, ca. 73 CE
Asklepiades, slave of anonymous *rhētōr*
Tax register that contains the slave of a *rhētōr* (*rhetorikos doulos*).

SPP XX 4 = CPR I 18 = M.Chr. 84 = Jur. Pap. 89, Arsinoe, 124 CE
Soterichos, *rhētōr*
vs.
Marcianus, *rhētōr*
presiding official: Blaesius Marianus, *epi tōn kekrimenōn, iudex*? upon delegation of prefect
present: *nomikos* Claudius Artemidoros, Isidoros, *hyperetēs* of the prefect
Proceedings in case where Egyptian father contests the will of his son, born into an "unwritten" marriage. Advocate Marcianus bluffs by saying Egyptian law allows individuals to leave property to whomever they want.

SPP XX 47 = CPR I 6 = M.Chr. 158, Herakleopolite nome, 238 CE
Aurelius Ammonios a.k.a. Apollonios, *astos* and *rhētōr*
Woman sells land by *parachoresis* to a *rhētōr*. Interesting for the *rhētōr*'s self-identification – Alexandrian citizen and *rhētōr*.

SPP XX 282 = ChLA XLV 1324, unknown location, ca. 312 CE
Gaianos, *rhētōr*
presiding official: procurator (*epitropos*)
Very fragmentary bilingual proceedings.

APPENDIX 4

***Nomikoi* in papyri/ostraka from Roman Egypt (ca. 72 CE - ca. 250 CE)**
(classified and ordered alphabetically by name)

Greek notaries

P. Diog. 49, Philadelphia, 225-6 CE
Anonymous, *nomikos*
Fragment of a document where the *nomikos* signs on behalf of an illiterate man.

P. Mich. VIII 477, Alexandria, early 2c. CE
Anonymous, *nomikoi*
Private letter from Terentianus at Alexandria to Tiberianus at Karanis. Terentianus has failed to register a document on behalf of Tiberianus because, as was explained to him by the *nomikoi,* the person in whose name it had been drawn up had to be present.

P. Mich. VIII 478, Alexandria, early 2c. CE
Anonymous, *nomikos*
Private letter from Terentianus at Alexandria to Tiberianus at Karanis.
Terentianus mentions a *nomikos* with reference to a declaration (*apographē*) and something that he must send down to Tiberianus.

P. Oxy. I 34, Oxyrhynchus, 127 CE
Anonymous, *nomikoi* and *nomographoi*
Papyrus containing two edicts of the prefect Flavius Titianus regarding the new archive of Hadrian at Alexandria. In the first edict, Titianus states that contracts must be registered at Alexandria together with the names of the drafters (*nomographoi*). In the second edict, Titianus upbraids *nomikoi* from Egypt (presumably, from the hinterland) for shirking the requirement that all legal documents be sent to Alexandria to be registered in the archives.

P. Oxy. XLI 2983, Oxyrhynchos, 2-3c. CE
Anonymous, *nomikos*
Private letter between brothers that mentions a legal document (*oikonomia*) and a letter from the local *nomikos* of the sender to the local *nomikos* of the addressee.

SB XIV 11853, Arsinoite nome, 3-4c. CE
Anonymous, *nomikos* in the *Sebastē agorā*
Private letter urging the addressee to attend to a legal document (*oikonomia*) that the sender has left with the *nomikos* who works in the Forum of Augustus (*Sebastē agorā*), presumably of the city of Arsinoe.

P. Berl. Leihg. 27, Theadelphia, 167 CE
Aphrod-, *nomikos*

Greek receipt for seed corn composed by *nomikos* named Aphrod- who signs the document on behalf of seven illiterate men.

P. Diog. 29, Philadelphia, 225-6 CE
Dioskoros, *nomikos*
Greek lease contract where the *nomikos* signs on behalf of an illiterate man.

P. Oxy. III 533, Oxyrhynchos, late 2-early 3c. CE
Panechotes, *nomikos*
Private letter, announcing that orders of payment have been sent to Panechotes the *nomikos* (the word *nomikos* is inserted above the line). The addressee must pick them up and pay the *nomikos* 64 drachmas.

P. Ross. Georg. II 20, Arsinoite nome, 145-147 CE
Sarapion, *nomikos*
Petition to the prefect regarding a contract of sale between non-Romans, drafted by a *nomikos* named Sarapion.

BGU I 276, Arsinoite nome, 2-3c. CE
Serenus, *nomikos*
Private letter from Deios to his brother Ptolemaios regarding the sale of a pack-animal (*bardos*) where a *nomikos* named Serenus has been consulted and has written a letter. Serenus has confirmed that Deios owns the *bardos*.

Unclear

Anonymous, *nomikoi*
O. Narm. 74, Narmuthis, 2-3c. CE
Ostrakon with a *memorandum* regarding legal work, which mentions an "investigation (*exetasis*) by *nomikoi.*"

Didymos, *nomikos*
P. Mich. VIII 476, Karanis, early 2c. CE
Private correspondence between Roman soldier Claudius Terentianus at Alexandria and his patron Tiberianus at Karanis. Terentianus sends greetings to the *nomikos* Didymus and his entire family.

Sarapion, *nomikos*
P. Gen. III 144, Herakleopolite nome, 2c. CE
A *nomikos* named Sarapion serves as the bearer of letters between brothers.

Latin notaries

Anonymous, *nomikos*

BGU I 361, Arsinoite nome, 184 CE
Court proceedings before the *stratēgos,* regarding a contested will of a Roman citizen. The *nomikos* who wrote the will is present in court.

Aurelius Aegyptos, *nomikos Rhomaikos*
SB VI 9298, Oxyrhynchos, 249 CE
Certified Greek translation of an *agnitio bonorum possessionis,* authored and translated by the *nomikos* Aurelius Aegyptos.

Gaius Lucius Geminianus, *nomikos Rhomaikos*
BGU I 326 = M.Chr. 316 = FIRA III 50, Karanis, 189-194 CE
Certified Greek translation of the Latin will of the retired sailor C. Longinus Castor (with a subsequent codicil from 194 CE) authored and translated by the *nomikos* Gaius Lucius Geminianus, who certifies that his translation is exact with regard to the original.

Iulianus, *nomikos*
SB XVI 12764 recto, col. II 4, Oxyrhynchos, 1-2c. CE
A list of payments, which includes payment to the *nomikos* Iulianus for the *aparchē,* a tax on the registration of the births of freeborn Roman children.

Flavius Iulius *a.k.a.* Sarapion, *nomikos*
BGU II 388 = M. Chr. 91, Antinoupolis, ca. 158-160 CE
Court proceedings before the Idios Logos involving a spectacular case of fiscal evasion, where the property of a murdered soldier has been dispersed and hidden by his consort. The *nomikos* appears in court as the drafter of manumission tablets that the *Idios Logos* suspects to be forged. The soldier was a long-time client of the *nomikos*, who had composed a Latin marriage document for him as well.

Iurisconsulti

Anonymous *nomikoi* in the *consilium* of the prefect
M. Chr. 372 col. III 11-22, Alexandria (?), October 114 CE
Extract from proceedings of a hearing in October, 114 CE, where the prefect Rutilius Lupus consults his legal advisors (*nomikoi*) and rules against the legitimacy of the sons of a Roman soldier and his Roman consort. Here, the *nomikoi* seem to be equated with the prefect's *consilium.* The subsequent extract from proceedings on this papyrus is a hearing of Lupus from the same year, where Lupus is described as consulting his “friends” (*philoi*) instead.

Areios, *nomikos*
P. Oxy. XXXVI 2757 col. II, Alexandria? 72-73 CE
Extract from proceedings before the prefect Tiberius Iulius Lupus in a testamentary conflict among Egyptian provincials. Lupus consults the *nomikos*, who states that, according to the relevant local law, Egyptian fathers are free to disinherit any of their children. Consequently, the Egyptian will in question is legal. It may be possible to link

this Areios with Tiberius Claudius Areios, who served as *strategos* of the Oxyrhynchite and Arsinoite nomes in 89-93 and 98-100 CE (see Bastianini and Whitehorne 1987: 89 and 23), and who demonstrates detailed knowledge of Demotic marriage practices in P. Oxy. II 237 col. VIII 28-43.

Claudius Artemidoros, *nomikos*
P. Oxy. XLII 3015, Oxyrhynchite nome (?), May, 109 CE
Oxyrhynchite nome (?), January, 107-112 CE
Extracts from proceedings before the prefect Sulpicius Similis. The *nomikos* Artemidoros is present to interpret the law in testamentary conflicts among Egyptian provincials. In both cases, Similis consults Artemidoros separately from his *consilium.*

CPR I 18, Arsinoite nome, 124 CE
Judicial proceedings at the Arsinoite *conventus* before an official in charge of enforcing previous judgments (*epi tōn kekrimenōn*) in a testamentary case where an Egyptian father disputes the will of his son. The hearing is conducted in the presence of the *nomikos* Artemidoros. During the hearing, the official consults the *nomikos*, who informs him that, according to the relevant local law, the son of an "unwritten" marriage cannot make a will before his father's death.

Ulpius Dionysodoros, ex-*agoronomos* and *nomikos*
P. Oxy. II 237 col. VIII 2-7, location unknown, 117-161 CE
Among the supporting documents and judicial precedents listed in the famous petition of Dionysia is the letter-response of the *nomikos* Ulpius Dionysodoros, who had been consulted by an official in charge of enforcing previous judgments (*epi tōn kekrimenōn*) regarding a case where an Egyptian father wanted to dissolve the marriage of his daughter.

Ulpius Dioskourides, *nomikos*
PSI V 450 col. II, location unknown, 107-112 CE
A collection of legal documents and extracts from judicial proceedings, which includes the correspondence of a delegated judge (*kritēs*) of the prefect Sulpicius Similis with the *nomikos* Ulpius Dioskourides regarding a testamentary matter among Egyptian provincials. The letter of the judge and the response of the *nomikos* had been duly registered in the judicial records (*hypomnēmatismoi*) of the prefect.

SB XX 15147, location unknown, 117-138 CE
Court proceedings before a high official (most likely, the prefect) in a testamentary matter among Egyptian provincials. A previous judgment in a similar case is cited along with a letter of the *nomikos* Ulpius Dioskourides, who had evidently been consulted in this or the previous case.

BGU XX 2863, location unknown, 133-137 CE
Letter of a delegated judge (*kritēs*) to the prefect Petronius Mamertinus regarding a testamentary conflict among Egyptian provincials. The *iudex* seems to have consulted the *nomikos* Ulpius Dioskourides and received a response before writing to Mamertinus.

P. Fouad. 25 verso, Arsinoite nome, after 138 CE
Draft of an advocate's speech in a testamentary conflict between brothers, which mentions a previous decision by the Arsinoite *stratēgos* Numisianus (in office 138-142 CE), his letter to the *nomikos* Ulpius Dioskourides, and Dioskourides' response.

Kastor, *nomikos* (and *rhētōr*?)
SB V 7696, Arsinoē, 250 CE
Judicial proceedings before the prefect Appius Sabinus regarding the liability of villagers for metropolitan liturgies. A *nomikos* named Kastor speaks during the hearing (l. 116). Shortly thereafter, a *rhētor* named Kastor speaks (l. 123). If this is the same individual, it constitutes a rare instance where an advocate is simultaneously referred to as a *nomikos*.

Flavius Longinus, *nomikos*
P. Par. 69 = W. Chr. 41 col. III 17-30, Elephantine, 232 CE
Proceedings of a property dispute before the strategos of Elephantine, involving a man named Aurelius Serenus of equestrian rank. The *nomikos* Flavius Longinus is present at the hearing.

Sentianus, *nomikos*
P. Oxy. III 578, Alexandria, 117-119 CE?[421]
Fragmentary court proceedings before the *iuridicus* Flavius Priamus regarding a conflict over joint ownership. A *nomikos* named Sentianus is involved. The phrase ἀναγνόντος ῥωμ[αικὰ in line 3 may mean that the *nomikos* was the author of a Latin legal document (a will?) that is read out in court. However, it is also possible that he was consulted about the case and issued a legal opinion. In this case, ἀναγνόντος ῥωμ[αικὰ would imply that the opinion was written in Latin.

Theophilos, *nomikos*
SB XVIII 13302, location unknown, 3c. CE
Fragmentary proceedings of a hearing before the *archidikastēs*(?) regarding liturgies. The *nomikos* Theophilos speaks during the hearing.

[421] In view of Priamus' service as a *tribunus militum* under Rammius Martialis in 111 CE (CIL VI 222, PIR^2 F 342A), it is possible that he served as *iuridicus* during Martialis' prefecture (117-119 CE).

BIBLIOGRAPHY

Ager, S. (1996) *Interstate Arbitration in the Greek World, 337-90 BC*. Berkeley.

Alcock, S. E. (1993) *Graecia Capta: The Landscapes of Roman Greece*. Cambridge.

Alföldy, G. (2007) "Fasti und Verwaltung der hispanischen Provinzen," in Haensch, R. and Heinrichs, J. (eds) *Herrschen und Verwalten. Der Alltag der römischen Administration in der Hohen Kaiserzeit*. Köln: 325-356.

Alston, R. (1995) *Soldier and society in Roman Egypt: A Social History*. London.

(2001) *The City in Roman and Byzantine Egypt.* London.

Alonso, J. L. (2014) "The Status of Peregrine Law in Roman Egypt: On 'Customary Law' and Legal Pluralism in the Roman Empire," in Derda, T., Łaijtar, A. and Urbanik, J. (eds) *Papyrology AD 2013*, *Journal of Juristic Papyrology*, 43: 10-63.

(2016) "Juristic papyrology and Roman law," in Du Plessis, P. J., Ando, C. and Tuori, K. (eds) *The Oxford Handbook of Roman Law and Society*. Oxford: 56-69.

Alpers, M. (1995) *Das nachrepublikanische Finanzsystem: Fiscus und Fisci in der frühen Kaiserzeit*. Berlin.

Amelotti, M. (1958) *La prescrizione delle azioni in diritto romano*. Milan.

(1995) "Reichsrecht, Volksrecht, Provinzialrecht. Vecchi problemi e nuovi documenti," *Studia et Documenta Historiae et Iuris* 65: 211-215.

(2001) "Leggi greche in diritto romano," *Minima Epigraphica et Papyrologica* 4: 11-24.

Anagnostou-Cañas, B. (1984) "La femme devant la justice provinciale dans l'Égypte romaine," *RD* 62: 337-60.

(1991) *Juge et sentence dans l'Égypte romaine*. Paris.

Ando, C. (2000) *Imperial Ideology and Provincial Loyalty in the Roman Empire*. Berkeley.

(2011a) *Law, Language and Empire in the Roman Tradition*. Philadelphia.

(2011b) "Law and the landscape of Empire," in Benoist, S. and Daguey-Gagey, A. (eds) *Figures d'empire, fragments de mémoire: Pouvoirs (pratiques et*

discours, images et représentations), et identités (sociales et religieuses) dans le monde romain impérial (Ier s. av J.-C. - Ve s. ap. J.-C.). Paris: 25-47

(2013) "The origins and import of Republican constitutionalism," *Cardozo Law Review* 34: 917-936.

(2015) "Exemplum, analogy and precedent in Roman Law," in Lowrie, M. and Lüdemann, S. (eds) *Exemplarity and Singularity: Thinking Through Particulars in Literature, Philosophy and Law*. London: 111-122.

Ankum, H. (1970a) "La législation des préfets d'Egypte et l'edictum provinciale," in *Anamnesis: Gedenkenboek E. A. Leemans,* Brugge: 63-69.

(1970b) "Les édits des préfets d'Egypte et le problème de l'edictum provinciale," *Annales de la Faculté de Droit et des Sciences Economiques de Toulouse* 18: 357-364.

(1983) "La noción de *ius publicum* en derecho romano," *ADHE* 53: 523-536.

Anselmo, G. (2001) "*Societas inseparabilis* o dell'indissolubilità dell'antico consorzio fraterno," In *Iuris Vincula. Studi in onore di Mario Talamanca*. Napoli: 149-191.

Arangio-Ruiz, V. (1950) "Sul problema della doppia cittadinanza nella Repubblica e nell'Impero romano," in *Scritti giuridici in onore di Francesco Carnelutti*, vol. IV. Padova. 55-77.

Aricò, A.G. (1983) "*Ius publicum-ius privatum* in Ulpiano, Gaio e Cicerone," *AGSP* 37: 445-787.

Arnaud, P. (2007-2008) "Texte et carte de Marcus Agrippa: historiographie et données textuelles," *GeogrAnt* 16-17: 73-126.

Assmann, J. (2002) *The Mind of Egypt: History and Meaning in the Time of the Pharaohs*. Cambridge, MA.

Bablitz, L. (2007) *Actors and Audience in the Roman Courtroom*. London.

Babusiaux, U. (2006) *Id quod actum est. Zur Ermittlung des Parteiwillens im klassischen römischen Zivilprozess.* München.

(2015) *Wege zur Rechtsgeschichte: Römisches Erbrecht*. Stuttgart.

Bagnall, R. S. (1989) "Official and Private Violence in Roman Egypt," *BASP* 26: 201–216.

(1993) "Egypt and the *Lex Minicia," JJP* 23: 25-28.

Bagnall, R. S. and Frier, B. W. (1994) *The Demography of Roman Egypt*. Cambridge.

Bagnall, R. S. and Mitthoff, F. (2004) "Order to Send a Person," in Harrauer, H. and Pintaudi, R. (eds) *Gedenkschrift Ulrike Horak*. Florence, I: 59-62

Baker, J. H. (1986) *The Legal Profession and the Common Law: Historical Essays*. London.

Balconi, C. (1976) "Documenti dell'età augustea," *Aegyptus* 56: 208-286.

Baldwin, B. (1979) "The *acta diurna*," *Chiron* 9: 189-203.

Baltrusch, E. (2012) "P. Quinctilius Varus und die *bella Variana*," in Baltrusch, E., Hegewisch, M., Meyer, M., Puschner, U. and Wendt, C. (eds) *2000 Jahre Varusschlacht. Geschichte – Archäologie – Legende*. Berlin: 117-134.

Bannon, C. J. (2017) "Rivers, Rights, and Romanization," in D. Kehoe and T. McGinn (eds) *Ancient Law, Ancient Society*. Ann Arbor. 122-143.

Bastianini, G. (1975) "Lista dei prefetti d'Egitto dal 30a al 299p," *ZPE* 17: 263-328.

(1980) "Aggiunte e correzioni," *ZPE* 38: 75-89.

Bastianini, G. and Whitehorne, J. E. G. (1987) *Strategi and Royal Scribes of Roman Egypt: Chronological List and Index*. Florence.

Bauman, R. (1996) *Crime and Punishment in Ancient Rome*. London.

Beard, M. (1991) "Ancient literacy and the function of the written word in Roman religion," in *Literacy in the Roman World*, *JRA* Suppl. 3: 35-54.

(1998) "Documenting Roman Religion," in *La mémoire perdue II: recherches sur l'administration romaine.* Paris: 75-101

Beck, A. (1967) *Römisches Recht bei Tertullian und Cyprian. Eine Studie zur frühen Kirchenrechtgeschichte*, 2nd edition. Aalen.

de la Bédoyère, G. (2017) *Praetorian: The Rise and Fall of Rome's Imperial Bodyguard*. New Haven, CN.

Behrends O. (1969) "Der assessor zur Zeit der klassischen Rechtswissenschaft," *ZRG* 86: 192-226.

(2000) "Die Gewohnheit des Rechts und das Gewohnheitsrecht. Die geistigen Grundlagen des klassischen römischen Rechts mit einem vergleichenden Blick

auf die Gewohnheitsrechtslehre der Historischen Rechtsschule und der Gegenwart," in Willoweit, D. (ed), *Die Begründung des Rechts als historisches Problem, Schriften des Historischen Kollegs*. München: 19-136.

Behrisch, L. (1995-1996) "Die *acta diurna*: eine römische Staatszeitung?" *Altertum* 41: 55-68.

Beltrán-Lloris, F. (2006) "An irrigation decree from Roman Spain: the *lex rivi Hiberiensis*," *JRS* 96: 147-197.

Benda-Beckmann, F. von (1984) "Law out of context: a comment on the creation of traditional law discussion," *Journal of African Law* 28: 28-33.

(2002) "Who's afraid of legal pluralism?" *Journal of Legal Pluralism and Unofficial Law* 47: 37-82.

Bengtson, H. (1964) *Die Strategie in der hellenistischen Zeit: ein Beitrag zum antiken Staatsrecht*. München.

Benton, L. (2002), *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900.* Cambridge.

(2008) "From International Law to Imperial Constitutions: The Problem of Quasi-Sovereignty, 1870-1900," *Law and History Review* 26: 595-619.

(2011) "Historical perspectives on legal pluralism," *Hague Journal on the Rule of Law* 3: 57-69.

Berger, A. (1953) *Encyclopedic Dictionary of Roman Law*. Philadelphia.

Bernand, A. (1984) *Les portes du désert. Recueil des inscriptions grecques d'Antinooupolis, Tentyris, Koptos, Apollonopolis Parva et Apollonopolis Magna.* Paris.

Beschaouch A. (1981) "Le territoire de Sicca Veneria (El-Kef), nouvelle Cirta, en Numidie Proconsulaire (Tunisie)," *CRAI*: 105-122.

(1995) "Note sur le territoire de Carthage sous le Haut-Empire," *CRAI*: 861-872.

(2002) "L'histoire municipale d'Uchi Maius, ville africo-romaine à double communauté civique," *CRAI*: 1197-1214.

Beutler, F. (2003) *Die Prokuratoren des römischen Ägypten*. Ph.D. dissertation. University of Vienna.

Biddle, B. J. (1979) *Role Theory: Expectations, Identities, and Behaviors*. New York, London and San Francisco.

Birks, P. B. H., Rodger, A., and Richardson, J. S. (1984) "Further aspects of the Tabula Contrebiensis," *JRS* 74: 45-73.

Biscottini, M. V. (1966) "L'archivio di Tryphon tessitore di Oxyrhynchos," *Aegyptus* 46: 186-292.

Bitner, B. J. (2014) "Augustan procedure and legal documents in *RDGE* 70," *GRBS* 54: 639-664.

Blankenburg, E. (1997) "Civil litigation rates as indicators for legal culture," in Nelken, D. (ed) *Comparing Legal Cultures*. Dartmouth: 41-68.

(1998) "Patterns of legal culture: the Netherlands compared to neighboring Germany," *American Journal of Comparative Law* 46: 1-41.

Bleicken J. (1962) *Senatsgericht und Kaisergericht. Eine Studie zur Entwicklung des Prozessrechts im frühen Prinzipat*. Göttingen.

Bodel, J. (2010) "Kangaroo Courts: Displaced Justice in the Roman Novel," in De Angelis, F. (ed) *Spaces of Justice in the Roman World*. Leiden: 311-329.

Boge, H. (1973) *Griechische Tachygraphie und Tironische Noten. Ein Handbuch der antiken und mittelalterlichen Schnellschrift*. Berlin.

Bonneau, D. (1993) *Le régime administratif de l'eau du Nil dans l'Égypte grecque, romaine et byzantine*. Leiden.

Boube, J. (2009) "Sala le municipe claudien," *BAM* 21: 184-187.

Bowersock, G. W. (2002) *Martyrdom and Rome*. Cambridge.

Bowman, A. K. (1971) *The Town Councils of Roman Egypt*. Toronto.

(2000) "Urbanization in Roman Egypt," in Fentress, L. (ed) *Romanization and the City. Creation, transformations and failures*. Portsmouth, RI: 173-187.

(2011) "Ptolemaic and Roman Egypt: population and settlement," in Bowman, A. K. and Wilson, A. (eds) *Settlement, Urbanzation, and Population*. Oxford: 317-358.

Bowman, A. K. and Rathbone, (1992) "Cities and Administration in Roman Egypt," *JRS* 82: 107-127.

Bowman, A. K. and Rogan, E. (1999) *Agriculture in Egypt from Pharaonic to Modern Times.* Oxford.

Brand, P. (1992a) *The Origins of the English Legal Profession*. Oxford.

(1992b) *The Making of the Common Law.* London.

Braun, R. (1972) *Deus christianorum. Recherches sur le vocabulaire doctrinal de Tertullien.* Paris.

Brashear, W. (1995) *The Archive of Athenodoros (and assorted documents of the Augustan period).* Berlin.

Brennan, T. C. (2000) *The Praetorship in the Roman Republic*. 2 Vols. Oxford:

Broughton, T. R. S. (1929) *The romanization of Africa proconsularis*. Baltimore.

(1968) *The Magistrates of the Roman Republic*, II. New York.

Brown, N. J. (1995) "Law and Imperialism: Egypt in Comparative Perspective," *Law and Society Review* 29: 103-126.

Brundage, J. A. (2008) *The Medieval Origins of the Legal Profession: Canonists, Civilians and Courts.* Chicago.

Brunt, P. A. (1961) "Charges of provincial maladministration under the early principate," *Historia* 10: 189-227.

(1966) "The 'Fiscus' and its development," *JRS* 56: 75-91)

(1975) "The administrators of Roman Egypt," *JRS* 65: 124-147.

(1977) "Lex de Imperio Vespasiani," *JRS* 67: 95-116.

(1984) "Remarks on the Imperial Fiscus," *Liverpool Classical Monthly* 9: 2-4.

Bryen, A. Z. (2008) "Visibility and violence in petitions from Roman Egypt," *GRBS* 48: 181-200.

(2012) "Judging empire: courts and culture in Rome's eastern provinces," *Law and History Review* 30: 771-811.

(2013) *Violence in Roman Egypt: An Interpretation.* Philadelphia.

(2014) "Martyrdom, rhetoric and the politics of procedure," *Classical Antiquity* 33: 243-280.

(2015) “Tradition, precedent and power in Roman Egypt,” in Procházka, S., Tost, S., and Reinfandt, L. (eds) *Official Epistolography and the Language(s) of Power.* Wien: 201-216.

(2016) “Reading the citizenship papyrus (P. Giss. 40),” in Ando, C. (ed) *Citizenship and Empire in Europe 200-1900. The Antonine Constitution after 1800 Years.* Stuttgart. 29-43.

(2017) “Dionysia’s complaint: finding emotions in the courtroom,” *GRBS* 57: 1010-1031.

Bülow-Jakobsen, A. (1986) “Orders to Arrest: P.Haun. inv. 33 and 54, and a Consolidated List,” *ZPE* 66: 93-98.

Buongiorno, P. (2012) “Idee vecchie e nuove in tema di ‘lex de imperio Vespasiani,’” *Athenaeum* 100: 513-528.

Burke. P. (1993) *History and Social Theory*. Ithaca, NY.

Burkhalter, F. (1990) “Archives locales et archives centrales en Égypte Romaine,” *Chiron* 20: 191-216.

Burnand, Y. (1974) “Les juges des cinq décuries originaires de Gaule Romaine,” in *Mélanges d’Histoire Ancienne: offerts à William Seston*. Paris: 59-72.

Burton G.P. (1975) “Proconsuls, assizes and the administration of justice under the empire,” *JRS* 65: 92-106.

(1976) “The issuing of *mandata* to proconsuls and a new inscription from Cos,” *ZPE* 21: 63-68.

(1998) “Was there a long-term trend to centralisation of authority in the Roman empire?" *RPh* 72: 7-24.

(1992) “The Roman imperial state (A.D. 14-235): evidence and reality,” *Chiron* 32: 249-280.

(2004) “The Roman imperial state, provincial governors and the public finances of provincial cities: 27 B.C.-A.D. 235,” *Historia* 53: 311-342.

Buzzacchi, C. (2013). *Lex rivi Hiberiensis. Un’indagine sul processo civile nelle province.* Roma.

(2014) La lex rivi Hiberiensis: domande allo storico del processo romano,” in Maganzani, L. and Buzzacchi, C. (eds) *Lex rivi Hiberiensis. Diritto e tecnica in*

una comunità di irrigazione della Spagna romana. Giornate di studio in ricordo di Giorgio Luraschi, Milano 2-3 luglio 2012. Napoli: 93-120.

Cagiano de Azevedo, M. (1940) *I Capitolia dell'impero romano*. Città del Vaticano.

Cairns, J. W. and Du Plessis, P. J. (2007) (eds) *Beyond Dogmatics: Law and Society in the Roman World.* Edinburgh.

Calabi, A. (1952) "L'ἀρχιδικαστής nei primi tre secoli della dominazione romana," *Aegyptus* 32: 406-424.

Canevaro, M. and Harris, E. (eds.) (forthcoming) *The Oxford Handbook of Ancient Greek Law.* Oxford.

Capponi (2005) *Augustan Egypt: The Creation of a Roman Province*. London.

Carletti, S. (1981) *Guida delle catacombe di Priscilla*. Roma.

Casson, L. (1990) "New light on maritime loans: P. Vindob. G 40822," *ZPE* 84: 195-206.

Cavallo, G. and Maehler, H. (2008) *Hellenistic Bookhands*. Berlin.

Cencetti, G. (1953) "Tabularium principis," in *Studi di Paleografia, Diplomatica, Storia ed Araldica in Onore di Cesare Manaresi*. Padova: 131-166.

Cerami, P. (1991) "Tormenta pro poena adhibita," *AGSP* 41: 31-51.

(2006) "*Lex aeterna* e *ius naturale*: alle radici della giuridicità," *Index* 34: 77-85.

Chalon, G. (1964) *L'Édit de Tiberius Julius Alexander: Étude historique et exégétique*. Olten and Lausanne

Champlin, E. (1980) *Fronto and Antonine Rome*. Cambridge, Ma.

Chandezon, C. and Du Bouhet, J. (eds) (2014) *Artémidore de Daldis et l'interpretation des rêves*. Paris.

Chanock, M. (1985) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia.* Cambridge.

(2005) "Customary law, sustainable development and the failing state," in Ørebech, P., Bosselman, F., Bjarup, J., Callies, D., Chanock, M. and Petersen, H., *The Role of Customary Law in Sustainable Development.* Cambridge. 338-384.

Christern, J. (1986) "Die Gerichtsbasilika beim Forum von Tipasa (Neuaufnahme), ihre Funktion und die Frage nach den Vorbildern für den basilikalen Kirchenbau," in

Feld, O. and Peschlow, U. (eds) *Studien zur spätantiken und byzantinischen Kunst, Friedrich Wilhelm Deichmann gewidmet*, 3 vols. Bonn. I: 163-204.

Clammer, J. (1973) "Colonialism and the perception of tradition in Fiji," in Assad, T. (ed) *Anthropology and the Colonial Encounter*. London: 199-220.

Clanchy, M. T. (1993) *From Memory to Written Record. England 1066-1307*, 2nd edition. Oxford.

Clarysse, W. (2000) "The Ptolemies visiting the Egyptian Chora," in Mooren, L. (ed) *Politics, Administration and Society in the Hellenistic and Roman World. Proceedings of the International Colloquium, Bertinoro 19-24 July 1997* = Studia Hellenistica 36. Leuven: 29-53.

(2003) "Tomoi Synkollesimoi," in Brosius, M. (ed) *Ancient Archives and Archival Traditions: Concepts of Record-keeping in the Ancient World*. Oxford: 344-339.

Clarysse, W. and Thompson, D. J. (2006) *Counting the people in Hellenistic Egypt*. 2 vols. Cambridge.

Clay, D. (1998) "Epicurus in the archives of Athens," in idem. *Paradosis and Survival: Three Chapters in the History of Epicurean Philosophy*. Ann Arbor: 40-55.

Claytor, W. G. and Bagnall, R., (2015) "The Beginnings of the Roman Provincial Census: A New Declaration from 3 BCE," *GRBS* 55: 637-653.

Cloud, D. (1994) "The constitution and public criminal law," in Crook, J. A., Lintott, A. and Rawson, E. (eds) *The Cambridge Ancient History*. *Vol. 9: The Last Age of the Roman Republic, 146-43 B.C*. Cambridge.

Cockle, W. E. H. (1984) "State archives in Graeco-Roman Egypt from 30 B.C. to Septimius Severus," *JEA* 70: 106-122.

Cohn, B. S. (1996) *Colonialism and Its Forms of Knowledge: The British in India*. Princeton.

Cohn-Haft, V. L. (1995) "Divorce in Classical Athens," *JHS* 115: 1-14.

Coleman, K.M. (1990) "Fatal charades: Roman executions staged as mythological enactments," *JRS* 80: 44-73.

Coles, R. A. (1966) *Reports of Proceedings in Papyri*. Bruxelles.

Constable, M. (2005) *Just Silences: The Limits and Possibilities of Modern Law*. Princeton.

Corcoran, S. (2000) *The Empire of the Tetrarchs.* Oxford.

Coriat, J.-P. (1990) "Technique législative et système de gouvernement à la fin du principat: la romanité de l'État moderne," in Nicolet, C. (ed) *Du pouvoir dans l'Antiquité: mots et réalités.* Genève: 221-238.

(1997) *Le Prince législateur. La technique législative des Sévères et les méthodes de création du droit impérial à la fin du Principat.* (BEFAR 294). Roma.

(2000) "Consolidation et précodification du droit impérial à la fin du principat," in *La codification des lois dans l'Antiquité: actes du colloque de Strasbourg, 27-29 novembre 1997*. Paris: 273-284.

Cornioley, P. (1973) "De l'origine de la *longi temporis praescriptio*," *RHD* 41: 119-130.

Cotton, H. (1993) "The guardianship of Jesus son of Babatha: Roman and local law in the province of Arabia," *JRS* 83: 94-408.

(2007) "Private international law or conflict of laws: reflections on Roman provincial jurisdiction," in Haensch, R. and Heinrichs, J. (eds) *Herrschen und Verwalten. Der Alltag der römischen Administration in der Hohen Kaiserzeit*. Köln: 234-255.

Cover, R. M. (1986) "Violence and the word," *Yale Law Journal* 95: 1601-1629.

Criscuolo, L. (2013) "Copie, malacopie, copie d'ufficio e il problema della titolarità di un archivio nell'Egitto tolemaico," in Faraguna, M. (ed) *Legal Documents in Ancient Societies IV: Archives and Archival Documents in Ancient Societies, Trieste 30 september-1 october 2011*. Trieste: 245-258.

Crook, J. A. (1954) *Consilium Principis. Imperial Councils and Counsellors from Augustus to Diocletian.* Cambridge.

(1995) *Legal Advocacy in the Roman World*. Ithaca.

Coudry, M. (1994) "Sénatus-consultes et acta senatus: rédaction, conservation et archivage des documents émanant du sénat, de l'époque de César à celle des Sévères," in *La mémoire perdue. À la recherche des archives oubliées, publique et privées de la Rome antique*. Paris. 65-102.

Culham, P. (1989) "Archives and alternatives in Republican Rome," *CPh* 84: 100-115.

(1996) "Fraud, fakery and forgery: the limits of Roman information technology," *AncW* 27: 172-183.

Czajkowski, K. (2016) *Localized Law. The Babatha and Salome Komaise Archives.* Oxford.

Daniélou, J. (1977) *The origins of Latin Christianity. A history of early Christian doctrine before the Council of Nicaea*. Philadelphia.

Daube, D. (1969) *Roman Law: Linguistic, Social and Philosophical Aspects*. Edinburgh.

(1992) *Collected Works of David Daube*. Berkeley.

David, J.-M. (1992) *Le patronat judiciaire au dernier siècle de la République romaine*. Roma.

De Angelis, F. (ed) (2010) *Spaces of Justice in the Roman World.* Leiden.

Demandt, A. (1989) *Die Spätantike: Römische Geschichte von Diocletian bis Justinian*. München.

Demougin, S. (1975) "Les juges des cinq décuries originaires de l'Italie," *AncSoc* 6: 143-202.

De Ruggiero, E. (1961) *Dizionario epigrafico di antichità Romane.* Roma.

Diaz Ariño, B. (2008) *Epigrafía latina republicana de Hispania*. Barcelona.

Dingwall, R. (2008) *Essays on Professions*. London.

Dirscherl, H.-C. (2002) *Der Gaustratege im römischen Ägypten: seine Aufgaben am Beispiel des Archiv-, Finanz- und Bodenwesens und der Liturgien: Entstehung, Konsolidierung, Niedergang? 30 v. Chr. - 300 n. Chr.* St. Katharinen.

Dolganov, A. (2018) "Reichsrecht and Volksrecht in theory and practice: Roman law and litigation strategy in the province of Egypt," in Jursa, M. and Täuber, H. (eds) *Administration, Law and Administrative Law: Comparative Studies in Imperial Bureaucracy and Officialdom*. Wien.

(forthcoming a) "Imperialism and social engineering in the *Gnomon of the Idios Logos,"* in Harter-Uibopuu, K. and Kruse, T. (eds) *Dienst Nach Vorschrift: Vergleichende Studien zum "Gnomon des Idios-Logos." 3 Internationales Wiener Kolloquium zur Antiken Rechtsgeschichte.* Wien.

(forthcoming b) "Oracles of the law: the Roman imperial rescript system," in Armgardt, M. (ed) *Law and the Legitimation of Monarchy.* Stuttgart.

(forthcoming c) "Loan-marriages and deposit-dowries: local practice and imperial legal fora in the Roman provinces," in Berthellot, K., Goodman, M. and Nemo-Pekelman, C. (eds) *Legal Pluralism and the Law of the Other.*

(forthcoming d) "*Nutricula causidicorum*: forensic practitioners in Roman Africa," in Czajkowski, K., Eckhardt, B. and Strothmann, M. (eds) *Law in the Roman Provinces.* Oxford.

Donadio, N. (2011) *Vadimonium e contendere in iure. Tra "certezza di tutela" e "diritto alla difesa."* Milan.

Donker van Heel (1998) *The Legal Manual of Hermopolis (P. Mattha). Text and Translation.* Leiden.

Dossey, L. (2010) *Peasant and Empire in Christian North Africa*. Berkeley.

Drecoll, C. (1997) *Die Liturgien im Römischen Kaiserreich des 3. und 4. Jh. n. Chr.: Untersuchung über Zugang, Inhalt und wirtschaftliche Bedeutung der öffentlichen Zwangsdienste in Ägypten und anderen Provinzen*. Stuttgart.

Drew-Bear, T., Eck, W. and Herrmann, P. (1977) "*Sacrae Litterae*," *Chiron* 7: 355-383.

Ducos, M. (2003) "Le juge et le *consilium*," in Defosse, P. (ed) *Hommages à Carl Deroux 3*. Bruxelles. 460-469.

Duncan-Jones, R. (1967) "Equestrian rank in the cities of the African provinces under the Principate: an epigraphic survey," *PBSR* 35: 147-188.

(1982) *The Economy of the Roman Empire. Quantitative Studies,* 2nd edition. Cambridge.

Eck, W. (1979) *Die staatliche Organisation Italiens in der hohen Kaiserzeit*. München.

(1992) "Zur Durchsetzung von Anordnungen und Entscheidungen in der hohen Kaiserzeit: die administrative Informationsstruktur," *SIFC* 10: 915-939.

(2010) "P. Quinctilius Varus – seine senatorische Laufbahn und sein Handeln in Germanien: Normalität oder aristokratische Unfähigkeit?" in Aßkamp, R. and Esch, T. (eds) *Imperium: Varus und seine Zeit. Beiträge zum internationalen Kolloquium des LWL-Römermuseums am 28. und 29. April 2008 in Münster*. Münster: 13-28.

(2013) "La loi municipale de Troesmis: données juridiques et politiques d'une inscription récemment découverte," *Revue historique de droit français et étranger* 91: 199-213.

(2014) “Das Leben römisch gestalten. Ein Stadtgesetz für das *Municipium Troesmis* aus den Jahren 177-180 n. Chr.” in de Klejn, G. and Benoist, S. (eds), *Integration in Rome and in the Roman world: Proceedings of the tenth workshop of the International Network Impact of Empire (Lille, June 23-25, 2011)*, Leiden-Boston: 75-88

Eich, P. (2005) *Zur Metamorphose des politischen Systems in der römischen Kaiserzeit. Die Entstehung einer “personalen Bürokratie” im langen dritten Jahrhundert*. Berlin.

(2007) “Die Administratoren des römischen Ägyptens,” in Haensch, R. and Heinrichs, J. (eds) *Herrschen und Verwalten. Der Alltag der römischen Administration in der Hohen Kaiserzeit*. Köln: 378-399.

Eigler, U., Gotter, U., Luraghi, N. and Walter, U. (2003) (eds) *Formen römischer Geschichtsschreibung von den Anfängen bis Livius. Gattungen - Autoren - Kontexte.* Darmstadt.

Eingartner, J. (2005) *Templa cum Porticibus. Ausstattung und Funktion italischer Tempelbezirke in Nordafrika und ihre Bedeutung für die römische Stadt der Kaiserzeit*. Rahden.

Erdkamp, P. (2005) *The Grain Market in the Roman Empire: A Social, Political, and Economic Study.* Cambridge.

Ermann, J. (2001) “*Ius Gladii* – Gedanken zu seiner rechtshistorischen Entwicklung,” *ZRG* 118: 365-77.

Evans-Grubbs, J. (1995) *Law and Family in Late Antiquity: The Emperor Constantine’s Marriage Legislation.* Oxford.

Fantham, E. (2004) *The World of Cicero’s De Oratore.* Oxford.

Faraguna, M. (2015) “Archives, Documents, and Legal Practices in the Greek Polis,” in Harris, E. M. H. and Canevaro, M. (eds) *Oxford Handbook of Ancient Greek Law*. Oxford. (on-line publication)

Fatás, G. (1980) *Contrebia Belaisca* II: *Tabula Contrebiensis*. Zaragoza.

Feissel, D. (2004) “Pétitions aux empereurs et formes du rescrit,” in Feissel, D. and Gascou, J. (eds) *La pétition à Byzance*. Paris: 45-49.

Feissel, D. and Gascou, J. (1995) “Documents d’archives romains inédits du Moyen Euphrate (IIIe s. après J.-C.). 1, Les pétitions (P. Euphr. 1 à 5),” *JS*: 65-119.

Ferrary, J.-L. (1985) “La *Lex Antonia de Termessibus*”, *Athenaeum* 73: 419-457.

Finkelstein, M. I. (1933) "Mandata principum," *TRG* 13: 150-169.

Fischer, J. (2013) "Redner, Sophisten und Philosophen im römischen Ephesos," in Fischer, J. (ed) *Der Beitrag Kleinasiens zur Kultur- und Geistesgeschichte der Griechisch-Römischen Antike.* Wien. 125-152.

Fischer-Bovet, C. (forthcoming) "From the Ptolemies to the Romans: a reevaluation of the categories used in the Gnomon of the Idios Logos," in Harter-Uibopuu, K. and Kruse, T. (eds) *Dienst Nach Vorschrift: Vergleichende Studien zum "Gnomon des Idios-Logos." 3 Internationales Wiener Kolloquium zur Antiken Rechtsgeschichte.* Wien.

Fishwick, D. (1994) "On the origins of Africa proconsularis II: The administration of Lepidus and the commission of M. Caelius Phileros," *AntAfr* 30: 57-80.

Fitzpatrick, P. (1984) "Traditionalism and traditional law," *Journal of African Law* 28: 20-27.

(1991) "Custom as Imperialism," in Abun-Nasr, J. M. (ed) *Law, Society and National Identity in Africa*. Hamburg: 15-30.

Flandrin, J.-L. (1984) *Familles, parenté, maison, sexualité dans l'ancienne société*, 2nd edition. Paris.

Fleming, R. (2003*) Domesday Book and the Law: Society and Legal Custom in Early Medieval England*. Cambridge.

Flory, M. B. (1984) "*Sic exempla parantur*. Livia's shrine to Concordia and the Porticus Liviae," *Historia* 33: 309-330.

Flower, H. I. (1996) *Ancestor Masks and Aristocratic Power in Roman Culture*. Oxford.

(2009) "Alternatives to written history in Republican Rome," in Feldherr, A. (ed) *The Cambridge Companion to the Roman Historians.* Cambridge: 65-76.

Foti Talamanca, G. (1974) *Ricerche sul processo nell'Egitto Greco-Romano I: L'organizzazione del conventus del Prafectus Aegypti*. Milano.

(1979) *Ricerche sul processo nell'Egitto greco-romano, II: L'introduzione del giudizio*, *1*. Milano.

Fournet, J.L. and Gascou, J. (2004) "Liste des pétitions sur papyrus des Ve-VIIe siècles," in Feissel, D. and Gascou, J. (eds) *La pétition à Byzance*. Paris: 141-196.

Fournier, J. (2005) "Sparte et la justice romaine sous le Haut-Empire: à propos de IG V 1, 21," *REG* 118: 117-137.

(2010a) *Entre tutelle romaine et autonomie civique: l'administration judiciaire dans les provinces hellénophones de l'Empire romain (129 av. J.-C.-235 apr. J.-C.)*. Paris.

(2010b) "La *Lex Rupilia*, un modèle de régime judiciaire provincial à l'époque républicaine?" *Cahiers du Centre Gustave Glotz* 21: 157-186.

Freidson, E. (1970) *Profession of Medicine: A Study of the Sociology of Applied Knowledge*. Chicago.

Friedman, F. (1985) *Total Justice*. New York.

(1990) *The Republic of Choice: Law, Society and Culture*. Harvard.

Frier, B. (1979) *Libri Annales Pontificium Maximorum: The Origins of the Annalistic Tradition*. Ann Arbor.

(1985) *The Rise of the Roman Jurists.* Princeton.

(2010) "Finding a place for law in the High empire: Tacitus, *Dialogus* 39.1-4," in De Angelis, F. (ed) *Spaces of Justice in the Roman World*. Leiden: 67-87.

(forthcoming) "The professionalization of advocacy in the Late Roman Empire," preliminary online publication of a paper delivered at the Association of Ancient Historians Annual Meeting, 2013: https://www.academia.edu/27943465/The_Professionalization_of_Advocacy_in_the_Late_Roman_Empire

Fuhrmann, C.J. (2011) *Policing the Roman Empire. Soldiers, Administration and Public Order.* Oxford.

Futrell, A. (1997) *Blood in the Arena: The Spectacle of Roman Power*. Austin.

Gagliardi, L. (2008) "Zur Figur des "iudex privatus" im römischen Zivilprozess. Eine historisch-soziologische Untersuchung auf der Grundlage literarischer Quellen," *RIDA*: 241-266.

Gagos, T. and Heilporn, P. (2001) "A new *agnitio bonorum possessionis,*" in Gagos, T. and Bagnall, R. S. (eds) *Essays and texts in honor of J. David Thomas,* Oakville: 175-185.

Gagos, T., Koenen, L. and McNellen, B. E. (1992) "A first century archive from Oxyrhynchos or Oxyrhynchite loan contracts and Egyptian marriage," in Johnson,

J. (ed) *Life in a Multi-Cultural Society: Egypt from Cambyses to Constantine and Beyond*. Chicago: 181-205.

Gagos, T. and Sijpestein, P. J., (1996) "Towards an Explanation of the Typology of the So-Called 'Orders to Arrest'," *BASP* 33: 77-97.

Galanter, M. (1968) "The displacement of traditional law in modern India," *Journal of Social Issues* 24: 65-91.

(1978) "Remarks on family law and social change in India," in Buxbaum, D. C. (ed), *Chinese Family Law in Historical and Comparative Perspective*. Seattle: 492-497.

(1981) "Justice in many rooms: courts, private ordering, and indigenous law," *Journal of Legal Pluralism and Unofficial Law* 19: 1-48.

(1988) "Law: judicial and legal systems of India," in Embree, A. T. (ed), *The Encyclopedia of Asian History,* New York: 411-414.

Gardner, J. F. (1991) "The purpose of the *Lex Fufia Caninia*," *EMC* 10: 21-39.

(1993) *Being a Roman Citizen*. London.

Garnsey P. (1968) "The criminal jurisdiction of governors," *JRS* 58: 51-59.

(1970) *Social Status and Legal Privilege*. Oxford.

(1979) "Rome's African empire under the principate," in Garnsey, P.D.A. and Whittaker, C.R. (eds) *Imperialism in the Ancient World*. Cambridge: 223-254.

(2006) "Roman citizenship and Roman law," in Swain, S., and Edwards, M. (eds) *Approaching Late Antiquity: The Transformation from Early to Late Empire*. Oxford: 133-155.

Gascou, J. (1972) *La politique municipale romaine en Afrique proconsulaire de Trajan à Septime-Sévère*. Rome.

(1982) "La politique municipale de Rome en Afrique du Nord, I. De la mort d'Auguste au début du IIIe siècle," *ANRW* II.10.2: 136-229.

(1990) "La praefectura iure dicundo dans les cités de l'Afrique romaine," in L'Afrique dans l'occident romain (Ier siècle av. J.C.-IVe siècle ap. J.C.) : actes du Colloque organisé par l'École française de Rome sous le patronage de l'Institut national d'archéologie et d'art de Tunis (Rome, 3-5 décembre 1987). Rome: 367-380.

Geraci, G. (2001-2002) “Le dichiarazioni di nascita e di morte a Roma e nelle province,” *MEFRA* 113: 675-711.

Gilliam, J. F. (1961) “Ala Agrippiana and Archistator,” *CPh* 56: 100-103.

Glare, P. (1994) “The temple of Jupiter Capitolinus at Arsinoe and the imperial cult,” in Bülow-Jacobsen, A. (ed) *Proceedings of the 20th international congress of papyrologists: Copenhagen, 23-29 August, 1992*. Copenhagen: 550-554.

Gleason, M. (1999) “Truth contests and talking corpses,” in Porter, J. (ed) *Constructions of the Classical Body.* Ann Arbor, MI: 287-313.

Gómez-Pantoja, J. L. (2009) *Epigrafia anfiteatrale dell'Occidente Romano, VII: Baetica, Tarraconensis, Lusitania Vetera*. Roma.

González, J. and Crawford, M. H. (1986) “The *Lex Irnitana*: a new copy of the Flavian municipal law,” *JRS* 76: 147-243.

Goody, J. (1976) *Production and Reproduction: a Comparative Study of the Domestic Domain.* Cambridge.

Gowing, A. M. (1992) *The Triumviral Narratives of Appian and Cassius Dio*. Ann Arbor.

Grelle, F. (1986) “Le categorie dell’amministrazione tardoantica. Officia, munera, honores,” in Giardina, A. (ed) *Società romana e impero tardoantico I: Istituzioni, ceti, economie.* Bari: 37-56.

(1999) “I ‘munera civilia’ e le finanze cittadine,” in *Il capitolo delle entrate nelle finanze municipali in Occidente ed in Oriente: actes de la Xe rencontre franco-italienne sur l’épigraphie du monde romain: Rome, 27-29 mai 1996*. Roma: 137-153.

Griffiths, J. (1986) “What is Legal Pluralism?" *Journal of Legal Pluralism and Unofficial Law* 24: 1-55.

(2003) “The social working of legal rules,” *Journal of Legal Pluralism and Unofficial Law* 48: 1-84.

van Groningen, B. A. (1950) *A Family-Archive from Tebtunis (Pap. Lugd. Bat. VI).* Leiden.

Häge, G. (1968) *Ehegüterrechtliche Verhältnisse in den griechischen Papyri Ägyptens bis Diokletian*. Köln.

Haensch, R. (1992) “Das Statthalterarchiv,” *SZ* 109: 209–317.

(1994) “Die Bearbeitungsweise von Petitionen in der Provinz Aegyptus,” *ZPE* 100: 487–546.

(1997) “Zur Konventsordnung in der Provinz Aegyptus und den übrigen Provinzen des römischen Reiches,” in Kramer, B., Luppe, W., Maehler, H. and Poethke, G. (eds) *Akten des 21. Internationalen Papyrologenkongresses, Berlin, 13.-19.8.1995.* Stuttgart/Berlin: 320-391.

(1998) “Typisch römisch? Die Gerichtsprotokolle der in Aegyptus und den übrigen östlichen Reichsprovinzen tätigen Vertreter Roms,” in Börm, H., Erhardt, N. and Wiesehöfer, J. (eds) *Monumentum et instrumentum inscriptum. Beschriftete Objekte aus Kaiserzeit und Spätantike als historische Zeugnisse. Festschrift für Peter Weiss*. Stuttgart: 117-126.

(2006) “L. Egnatius Victor Lollianus,” in Vigourt, A., Loriot, X., Berenger-Badel, A. and Klein, B. (eds) *Pouvoir et Religion dans le monde Romain*. Paris: 289-302.

(2008) “Die Provinz Ägyptens: Kointinuitäten und Brüche zum ptolemäischen Ägypten. Das Beispiel des administrativen Personals,” in Piso, I. (ed) *Die römischen Provinzen: Begriff und Gründung (Colloquium Cluj-Napoca, 28 September – 1. Oktober 2006)*. Cluj-Napoca: 81-105.

(2009) “Not Official, but Permanent: Roman Presence in Allied States. The Examples of Chersonesus Taurica, the Bosporan Kingdom and Sumatar Harabesi,” in Eilers, C. (ed) *Diplomats and Diplomacy in the Roman World.* Leiden. 209-226.

(2010) “Quelques observations générales concernant la correspondance conservée des préfets d’Égypte,” in Desmulliez, J., van Cauwenberghe, H. and Jolivet, J.-C. (eds) *L’étude des correspondances dans le monde romain. De l’Antiquité classique à l’Antiquité tardive: permanences et mutations. Actes du XXXe Colloque international de Lille, 20-21-22 novembre 2008*. Lille: 95-113.

(2016) “Im Schatten Alexandrias: Der iuridicus Aegypti et Alexandreae,” in Haensch, R. (ed) *Recht haben und Recht bekommen im Imperium Romanum. Das Gerichtswesen der Römischen Kaiserzeit und seine dokumentarische Evidenz. Ausgewählte Beiträge einer Serie von drei Konferenzen an der Villa Vigoni in den Jahren 2010 bis 2012*. Warschau: 165-182.

Hagedorn, D. (1985) “Zum Amt des *dioiketes* im römischen Agypten,” *YCS* 28: 167-210.

(2007) “The emergence of municipal offices in the nome-capitals of Egypt,” in Bowman, A. K., Coles, R. A., Gonis, N., Obbink, D. and Parsons, P. J. (eds) *Oxyrhynchus: A City and its Texts.* London: 194-204.

Haicheng, W. (2014) *Writing and the Ancient State: Early China in Comparative Perspective.* Cambridge.

Halfmann, H. (1986) *Itinera principum. Geschichte und Typologie der Kaiserreisen im Römischen Reich.* Stuttgart.

Hamdoune, C. (2014) "Servir l'empereur dans le traité d'Artémidore," in Chandezon, C. and Du Bouhet, J. (eds) *Artémidore de Daldis et l'interpretation des rêves*. Paris: 209-253.

Hannah, R. (2011) "The Horologium of Augustus as a sundial," *JRA* 24: 87-95.

Hanson, A. E. (1994) "Topographical arrangement of tax documents in the Philadelphia tax archive," in Bülow-Jacobsen, A. (ed) *Proceedings of the 20th International Congress of Papyrologists*. Copenhagen: 210-218.

Harker, A. (2008) *Loyalty and Dissidence in Roman Egypt: The Case of the "Acta Alexandrinorum*." Cambridge.

Harper, G.M. (1928) "Village administration in the Roman province of Syria," *YCS* 1: 105-168.

Harries, J. (1999a) "Constructing the judge: judicial accountability and the culture of criticism in late antiquity," in Miles, R. (ed), *Constructing Identities in Late Antiquity.* London: 214-233.

(1999b) *Law and Empire in Late Antiquity*. Cambridge.

(2006a) *Cicero and the Jurists. From Citizens' Law to the Lawful State.* London.

(2006b) "Violence, victims, and the legal tradition in late antiquity," in Drake, H. A. (ed) *Violence in Late Antiquity: Perceptions and Practices*. Hampshire: 85-102.

(2007) *Law and Crime in the Roman World*. Cambridge.

(2016) "Legal education and the training of lawyers," in Du Plessis, P. J., Ando, C. and Tuori, K. (eds) *The Oxford Handbook of Roman Law and Society.* Oxford.

Harrill, J.A. (2001) "The influence of Roman contract law on early baptismal formulae (Tertullian, Ad Martyras 3)," *SP* 25: 275-282.

Harris, W. V. (2004) *Dreams and Experience in Classical Antiquity*. Cambridge.

Harris-McCoy, D. (2012) *Artemidorus' Oneirocritica: Text, Translation, and Commentary*. Oxford.

Harrisson, J. (2013) *Dreams and Dreaming in the Roman Empire: Cultural Memory and Imagination*. London.

Harter Uibopuu, K. (2013) "Epigraphische Quellen zum Archivwesen in den griechischen Poleis des ausgehenden Hellenismus und der Kaiserzeit," in Faraguna, M. (ed) *Archives and Archival Documents in Ancient Societies (Trieste 30 September - 1 October 2011)*. Trieste: 273-305.

Harter-Uibopuu, K. and Kruse, T. (eds) *Dienst nach Vorschrift: Vergleichende Studien zum "Gnomon des Idios-Logos." 3. internationales Wiener Kolloquium zur Antiken Rechtsgeschichte.* Wien.

Haug, B. J. (2012) "The Egyptian Fayuum: Environment, Irrigation, Agriculture and the End of Antiquity," Ph.D. dissertation. UC Berkeley.

Hauken, T. (1998) *Petition and Response: An Epigraphic Study of Petitions to Roman Emperors, 181-249*. Bergen.

Heath, M. (2004) *Menander: A Rhetor in Context*. Oxford.

Herrmann, P. (1990) *Hilferufe aus römischen Provinzen: ein Aspekt der Krise des römischen Reiches im 3. Jhdt. n. Chr.* Göttingen.

Heslin, P. J. (2007) "Augustus, Domitian and the so-called Horologium Augusti," *JRS* 97: 1-20.

Hobsbawm, E. and Ranger, T. O. (1992) (eds) *The Invention of Tradition.* Cambridge. (reprint of 1983 original)

Honoré, A. M. (1978) *Tribonian.* London.

(1994) *Emperors and Lawyers*, 2nd edition. Oxford.

(1998) *Law in the Crisis of Empire, 379-455 AD: the Theodosian Dynasty and its Quaestors with a Palingenesia of Laws of the Dynasty.* Oxford.

(2002) *Ulpian. Pioneer of Human Rights*, 2nd edition. Oxford

(2004) "Roman Law AD 200 – 400: From Cosmopolis to Rechtsstaat?" in Swain S. and Edwards, M. (eds) *Approaching Late Antiquity.* Oxford: 109-132.

(2010) "Ulpian, natural law and Stoic influence," *Legal History Review* 78: 199-208.

Hoogendijk, F. and Feucht, B. (2013), "Satabous son of Herieus," http://www.trismegistos.org/arch/archives/pdf/151.pdf

Hornum, M.B. (1993) *Nemesis, the Roman State and the Games*. Leiden.

van der Horst, P. W. (2003) *Philo's Flaccus: The First Pogrom*. Leiden.

Horstkotte, H. (1996a) "Systematische Aspekte der *munera publica* in der römischen Kaiserzeit," *ZPE* 111: 233-255.

(1996b) "Die 1804 Konventseingaben in P. Yale 61," *ZPE* 114: 189-193.

(1999) "Die Strafrechtspflege in den Provinzen der römischen Kaiserzeit zwischen hegemonialen Ordnungsmacht und lokaler Autonomie," in Eck, W. (ed) *Lokale Autonomie und römische Ordnungsmacht in den kaiserzeitlichen Provinzen vom 1. bis 3. Jahrhundert.* München: 303-318.

Hoyos, B. D. (1973) "*Lex provinciae* and governor's edict," *Antichton* 7: 47-53.

Humbert, M. (1964) "La juridiction du Préfet d'Égypte d'Auguste à Dioclétien," in Burdeau, F., Charbonnel, N. and Humbert, M. (eds) *Aspects de l'Empire romain.* Paris: 95-142.

Humfress, C. (2005) "Law and legal practice," in Maas, M. (ed) *The Cambridge Companion to the Age of Justinian*. Cambridge: 161-184.

(2006) "Civil law and social life," in Lenski, N. (ed) *The Cambridge Companion to the Age of Constantine*. Cambridge: 205-225.

(2007) *Orthodoxy and the Courts in Late Antiquity*. Oxford.

(2011) "Law and Custom under Rome," in Rio, A. (ed), *Law, Custom and Justice in Late Antiquity and the Early Middle Ages*. London.

(forthcoming) "*Lex* and the city: the case of Dionysia and her father."

Hunink, V. (1997) *Apuleius*, *Pro Se De Magia (Apologia).* 2 vols. Amsterdam.

Ilan, T. (1992) "Iulia Crispina, Daughter of Berenicianus, a Herodian Princess in the Babatha Archive," *JQR* 82: 361-381.

Jacques, F. (1991) "Municipia libera de l'Afrique proconsulaire," *Epigrafia*: 583-606.

Jakab, E. (1997) *Praedicere und cavere beim Marktkauf — Sachmängel im griechischen und römischen Recht.* München.

(2011) Review of Oudshoorn (2007), *ZRG* 128: 647-655.

Jhering, R. von (1884) *Scherz und Ernst in der Jurisprudenz: Eine Weihnachtsgabe f. d. juristische Publikum*. Leipzig.

Jolowicz, H. F. (1937) "Case law in Roman Egypt," *Journal of the Society of Public Teachers of Law* 14: 1–16.

Johnston D. (1985) "Munificence and municipia. Bequests to towns in classical Roman law," *JRS* 75: 105-125.

(1987) "Three thoughts on Roman private law and the Lex Irnitana," *JRS* 77: 62-77.

(2005) "Epiclassical law," in Bowman, A. K., Garnsey, P. D. A. and Cameron, A. (eds) *The Cambridge Ancient History*. *Vol. 12: The crisis of Empire, A.D. 193-337*. Cambridge: 200-207.

Jones, A. H. M. (1964) *The Later Roman Empire, 284-602: A Social Economic and Administrative Survey.* Oxford.

(1972) *The Criminal Courts of the Roman Republic and Principate* (edited by J. A. Crook). Oxford.

(1964) *The Later Roman Empire, 284-602: A Social Economic and Administrative Survey.* Oxford.

Jones, C. P. (1984) "The sacrae litterae of 204; two colonial copies," *Chiron* 14: 93-99.

(2007) "Juristes romains dans l'Orient grec," *CRAI* 151: 1331-1359

Jördens, A. (2007) "Noch einmal: Norbanus "praefectus Aegypti"?" *ZPE* 163: 195-199.

(2009) *Statthalterliche Verwaltung in der römischen Kaiserzeit. Studien zum praefectus Aegypti.* Stuttgart.

(2010a) "Öffentliche Archive und Römische Rechtspolitik," in Lembke, K., Minas-Nerpel, M. and Pfeiffer, S. (eds) *Tradition and Transformation. Egypt under Roman Rule. Proceedings of the International Conference, Hildesheim, Roemer- and Pelizaeus-Museum, 3–6 July 2008*. Leiden and Boston: 159-180.

(2010b) "Nochmals zur *bibliotheke enkteseon*," in Thür, G. (ed) *Symposion 2009.* Wien: 277-290.

(2011) "Eine kaiserliche Konstitution zu den Rechtsprechungskompetenzen der Statthalter," *Chiron* 41: 327-356.

Kaiser, W. (2015) "Justinian and the Corpus iuris civilis," in Johnston, D. (ed) *The Cambridge Companion to Roman Law*. Cambridge: 119-148.

Kantor, G. (2006) "Ancestral laws under Roman rule: the case of Lycia," *VDI* 259: 50-77 (in Russian, summary in English)

(2009a) "Roman Law and Local Law in Asia Minor (133B.C. - A.D.212)," PhD Dissertation. Oxford.

(2009b) "Knowledge of Law in Roman Asia Minor," in Haensch, R. (ed) *Selbstdarstellung und Kommunikation: die Veröffentlichung staatlicher Urkunden auf Stein und Bronze in der römischen Welt: internationales Kolloquium an der Kommission für Alte Geschichte und Epigraphik in München (1. bis 3. Juli 2006).* München: 249-265.

(2010) "*Siculus cum Siculo non eiusdem ciuitatis*. Litigation between citizens of different communities in the Verrines," *Cahiers du Centre Gustave Glotz* 21: 187-204.

(2013) "Law in Roman Phrygia: rules and jurisdictions," in Thonemann, P. (ed) *Roman Phrygia: Culture and Society*. Cambridge: 143-67.

(2015) "Greek Law under the Romans," in Harris, E. M. H. and Canevaro, M. (eds) *Oxford Handbook of Ancient Greek Law.* Oxford. (on-line publication)

(2017) "Qui in consilio estis: The governor and his advisers in the Early Empire," *Istoricheskij vestnik* 19: 50-87.

Kaplony-Heckel, U. (1963) *Die demotischen Tempeleide.* Wiesbaden.

Kaser, M. (1938) "Der Inhalt der *patria potestas*," *ZRG* 71: 62-87.

(1978) "Das Urteil als Rechtsquelle im römischen Recht," in R. Strasser, et al. (eds) *Festschrift Fritz Schwind*. Wien: 115-130.

(1986) "*Ius publicum* und *ius privatum*," *ZRG* 103: 1-101.

(1996) *Das römische Zivilprozessrecht.* München. (1966 edition revised and reworked by K. Hackl)

Katzoff R. (1969) "The Provincial Edict in Egypt," *TR* 37: 415-437.

(1970) "BGU 19 and the law of representation in succession," in Samuel, D. H. (ed.), *Proceedings of the Twelfth International Congress of Papyrology,* Toronto: 239-242.

(1972) “Precedents in the courts of Roman Egypt,” *ZRG* 89: 256-282.

(1980) “Sources of law in Roman Egypt. The role of the prefect,” *Aufstieg und Nidergang der Römischen Welt*, II 13, *Recht (Normen, Verbreitung, Materien)*. Berlin: 807-844.

(1982) “Prefectural edicts and letters,” *ZPE* 48: 209-217.

(1986) “Law as *katholikos*,” in Bagnall, R. S. and Harris, W. V. (eds), *Studies in Roman law in memory of A. Arthur Schiller*. Leiden: 119-126.

Katzoff, R. and Schaps, D. (eds) (2005) *Law in the Documents of the Judaean Desert.* Leiden.

Keenan, J. G. (2014) “Criminal Procedure in the Roman Period,” in Keenan, J. G., Manning, J. G. and Yiftach-Firanko, U. (eds) *Law and Legal Practice in Egypt from Alexander to the Arab Conquest*. Cambridge: 502-516.

Keenan, J. G., Manning, J. G. and Yiftach-Firanko, U. (eds) (2014) *Law and Society in Egypt from Alexander to the Arab Conquest*. Cambridge.

Kehoe, D. P. (2007) *Law and the Rural Economy in the Roman Empire*. Ann Arbor.

Kelly, C. (2004) *Ruling the Later Roman Empire.* Harvard.

Kelly J. M. (1957) *Princeps iudex. Eine Untersuchung zu den Grundlagen der kaiserlichen Gerichtsbarkeit.* Weimar.

Kelly, B. (2011) *Petitions, Litigation and Social Control in Roman Egypt.* Oxford.

van der Kooij, A. (2007) “The Septuagint of the Pentateuch and Ptolemaic rule,” in Knoppers, G. N. and Levinson, B. M. (eds) *The Pentateuch as Torah: New Models for Understanding its Promulgation and Acceptance*. Winona Lake: 289-300.

Kosmin, P. (2018) *Time and Its Adversaries in the Seleucid Empire.* Harvard.

Kovarik, S. (2014) *Das spätantike Notariat*. PhD dissertation, Universität Wien.

Kramer, B and Sànchez-Moreno Ellart, C. M. (2017) (eds) *Neue Quellen zum Prozeßrecht der Ptolemäerzeit: Gerichtsakten aus der Trierer Papyrussammlung (P. Trier I).* Boston.

Kreller, H. (1919) *Erbrechtliche Untersuchungen aufgrund der graeco-aegyptischen Papyrusurkunden*. Leipzig.

Kreuzsaler, C. (2008) “Dionysia vs. Chairemon: ein Rechtstreit aus dem römischen Ägypten,” in Falk, U., Luminati, M. and Schmoeckel, M. (eds), *Fälle aus der Rechtgeschichte*. München: 1-13.

Kreuzsaler, C. and Urbanik, J. (2008) “Humanity and inhumanity of law: the case of Dionysia,” *JJP* 38: 119-155.

Kruse, T. (2002) *Der königliche Schreiber und die Gauverwaltung. Untersuchungen zur Verwaltungsgeschichte Ägyptens in der Zeit von Augustus bis Philippus Arabs (30 v. Chr.-245 n. Chr.)*. 2 vols, Munich.

(2006) “Der Gaustratege im römischen Ägypten: Bemerkungen zu einem neuen Buch,” *Tyche* 21: 83-116.

(2013) “Bevölkerungskontrolle, Statuszugang und Archivpraxis im römischen Ägypten,” in Faraguna, M. (ed) *Archives and Archival Documents in Ancient Societies (Trieste 30 September - 1 October 2011)*. Trieste: 307-333.

Kunderewicz, C. (1961) “Quelques remarques sur le rôle des Καισαρεῖα dans la vie juridique de l’Égypte romaine,” *JJP* 13: 123-129.

Kunkel, W. (1955) “Der Prozess der Gohariener vor Caracalla,” in *Festschrift Lewald*. Basel: 81-91

(1967)^{2} *Herkunft und soziale Stellung der römischen Juristen.* Graz.

(2005)^{14} *Römische Rechtsgeschichte.* Stuttgart.

Kyle, D. G. (1998) *Spectacles of Death in Ancient Rome.* London.

Laffi, U. (1966) *"Adtributio" e "Contributio". Problemi del sistema politico-amministrativo dello stato romano.* Pisa

(2013) *In greco per i Greci. Ricerche sul lessico greco del processo civile e criminale romano nelle attestazioni di fonti documentarie romane*. Pavia.

Lallemand, J. (1964) *Administration civile de l’Égypte de l’avènement de Dioclétien à la création du diocèse (284-382). Contribution à l’étude des rapports entre l'Égypte et l'Empire à la fin du IIIe et au IVe siècle*. Bruxelles.

Lehne-Gstreinthaler, C. (2011) *Sententiae et Opiniones. Eine Untersuchung zur römischen Rechtswissenschaft der Republik*. PhD dissertation, University of Innsbruck.

(2014) “Die Stellung der Juristen im Formularverfahren,” *ZRG* 131: 216-312.

(2016) “Jurists in the Shadows: the everyday business of jurists in Cicero’s time,” in Du Plessis, P. J. (ed) 2016. *Cicero’s Law: Rethinking Roman Law of the Late Republic.* Edinburgh: 88-99.

Lamberti, F. (1993) *Tabulae Irnitanae: municipalità e ius Romanorum.* Naples.

Lambrinudakis, W. and Wörrle, M. (1983) “Ein hellenistisches Reformgesetz über das öffentliche Urkundenwesen,” *Chiron* 13: 283-368.

van der Leest, J. (1985) “Lucian in Egypt,” *GRBS* 26: 75-82

Lenel, O. (1889) *Palingenesia Iuris Civilis. Iuris Consultorum reliquiae quae Iustiniani digestis continentur ceteraque Iuris Prudentiae Civili fragmenta minora secundum auctores et libros disposuit.* Leipzig.

(1927) *Das Edictum perpetuum: ein Versuch zu dessen Wiederherstellung*, 3rd edition. Leipzig.

Le Roux, P. (2014) *Espagnes romaines. L’empire dans ses provinces*. Rennes.

Lerouxel, F. (2015) “The βιβλιοθήκη ἐγκτήσεων and transaction costs in the credit market of Roman Egypt (30 B.C.E. to ca. 170 C.E.),” in Kehoe, D., Ratzan, D. and Yiftach-Firanko, U. (eds) *Law and Transaction Costs in the Ancient Economy.* Ann Arbor: 162-184.

(2015) *Le marché du crédit dans le monde romain (Égypte et Campanie)*. Rome.

Le Teuff, B. (2010) “Les recensements dans les provinces de la République romaine: aux origines de la réforme augustéenne,” in Barrandon, N. and Kirbihler, F. (eds) *Administrer les provinces de la République romaine: actes du colloque de l'université de Nancy II, 4-5 juin 2009*. Rennes: 195-211.

(2012) *Census: les recensements dans les provinces de l’empire romain d’Auguste à Dioclétien*, PhD dissertation, Bordeaux

(2014) „Les recensements augustéens, aux origines de l’Empire,” *Pallas* 96: 75-90.

Levy, E. (1956) *Weströmisches Vulgarrecht. Das Obligationenrecht*. Weimar.

(1959) “Römisches Vulgarrecht und Kaiserrecht,” *BIDR* 62: 1-6.

Lewis, N. (1970) “Greco-Roman Egypt: Fact or Fiction?,” *Proceedings of the 12th International Congress of Papyrology*. Toronto: 3-14 = *On Government and Law in Roman Egypt: Collected Papers of Naphtali Lewis*, ASP 33: 138-149.

(1981) “The prefect’s conventus. Proceedings and procedures,” *BASP* 18: 119-129.

(1982) “*Aphairesis* in Athenian Law and Custom,” in Mélèze-Modrzejewski, J. and Liebs, D. (eds) *Symposion 1977*. Köln: 161-82.

(1984) “The Romanity of Roman Egypt: a Growing Consensus,” *Atti del XVII Congresso Internazionale di Papirologia.* Napoli: 1077-1084 = *On Government and Law in Roman Egypt: Collected Papers of Naphtali Lewis*, ASP 33: 298-305.

(1989) *The Documents from the Bar Kokhba Period in the Cave of Letters*. *Greek Papyri*. Jerusalem.

(1991) “The demise of the Demotic document: when and why,” *JEA* 79: 276-281 = *On Government and Law in Roman Egypt: Collected Papers of Naphtali Lewis*, ASP 33: 351-356.

(1997) *The Compulsory Public Services of Roman Egypt*, 2nd edition. Firenze.

Liebs, D. (1976) “Römische Provinzialjurisprudenz,” *ANRW* 2.15. Berlin: 288-362.

(1987) *Die Jurisprudenz im spätantiken Italien (260–640 n. Chr.).* Berlin.

(1993) *Römische Jurisprudenz in Africa mit Studien zu den pseudopaulinischen Sentenzen*. Berlin.

(1997a) “L. Octavius Cornelius P. Salvius Iulianus Aemilianus,” in Sallmann, K. (ed) *Die Literatur des Umbruchs. Von der römischen zur christlichen Literatur, 117 bis 284 n. Chr.* München: 101–105.

(1997b) “L. Volusius Maecianus,” in Sallmann, K. (ed) *Die Literatur des Umbruchs. Von der römischen zur christlichen Literatur, 117 bis 284 n. Chr.* München: 130-133.

(2002a) *Römische Jurisprudenz in Gallien (2. bis 8. Jahrhundert)*. Berlin.

(2002b) “Rechtskunde im römischen Kaiserreich: Rom und die Provinzen,” in Schermaier, M. J., Rainer, J. M. and Winkel, L. C. (eds) *Iurisprudentia universalis: Festschrift für Theo Mayer-Maly zum 70. Geburtstag.* Köln/Weimar/Wien: 383-407.

(2005) *Römische Jurisprudenz in Africa: mit Studien zu den pseudopaulinischen Sentenzen*, 2nd edition. Berlin.

(2006) “Reichskummerkasten: die Arbeit der kaiserlichen Libellkanzlei,” in A. Kolb (ed) *Herrschaftsstrukturen und Herrschaftspraxis: Konzepte, Prinzipien und Strategien der Administration im römischen Kaiserreich*. Berlin: 137-152.

(2008) “Roman vulgar law in late antiquity,” in Sirks, B. (ed) *Aspects of Law in Late Antiquity: Dedicated to A.M. Honoré on the Occasion of the Sixtieth Year of his Teaching in Oxford*. Oxford: 35-53.

(2010) *Hofjuristen der römischen Kaiser bis Justinian*. München.

Lintott, A. (1993) Imperium Romanum: *politics and administration*. London and New York.

(1981) “The leges de repetundis and associate measures under the republic,” *ZRG* 98: 162-212.

Lo Cascio, E. (1990) “Le professiones della Tabula Heracleensis e le procedure del census in età cesariana,” *Athenaeum* 78: 287–317

Lucci, M. L. (1964) “Il porfido nell’antichità,” *ArchClass* 16: 226-271.

MacGaffey, W. (1970) *Custom and Government in the Lower Congo*. Berkeley.

McGinn, T. A. J. (1998) *Prostitution, sexuality, and the law in ancient Rome*. Oxford.

MacMullen, R. (1963) *Soldier and Civilian in the Later Roman Empire*. Harvard.

(1988) *Corruption and the Decline of Rome*. New Haven.

Maehler, H. (2005) “Greek, Egyptian and Roman Law,” *JJP* 35: 121-140.

Maganzani, L. (1997) *Gli agrimensori nel processo privato romano.* Milano.

(2007) “L’editto provinciale alla luce delle Verrine: profili strutturali, criteri applicativi,” in Dubouloz, J, and Pittia, S. (eds) *La Sicile de Cicéron. Lectures des* Verrines*.* Paris: 127-146.

(2014) “La formula con intentio incerta della lex rivi Hiberiensis (# 15 III.39-43)”, in Maganzani, L. and Buzzacchi, C. (eds) *Lex rivi Hiberiensis. Diritto e tecnica in una comunità di irrigazione della Spagna romana. Giornate di studio in ricordo di Giorgio Luraschi, Milano 2-3 luglio 2012*. Napoli: 181-222.

Maggio, L. (1993) “Processo criminale e giudici locali nella Sicilia dell’età ciceroniana,” *Labeo* 39: 238-256.

van Mal-Maeder, D. K. (2001) "Déclamations et romans: la double vie des personnages romanesques: le père, le fils et la marâtre assassine," in Pouderon, B. (ed) *Les personnages du roman grec: actes du colloque de Tours, 18-20 novembre 1999*. Tours: 59-72.

(2003) "La mise en scène déclamatoire chez les romanciers latins, " in Panayotakis, S., Zimmerman, M. and Keulen, W. (eds) *The Ancient Novel and Beyond*. Leiden: 345-355.

Mamdani, M. (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism.* Princeton.

Manning, J. G. (2003) *Land and Power in Ptolemaic Egypt: The Structure of Land Tenure.* Cambridge.

(2010) *The Last Pharaohs. Egypt under the Ptolemies.* Princeton.

(2012) "The Representation of Justice in Ancient Egypt," in *Yale Journal of Law and the Humanities* 24: 111-118.

(forthcoming) "The administration of justice in Ptolemaic Egypt," in Jursa, M. and Täuber, H. (eds) *Administration, Law and Administrative Law: Comparative Studies in Imperial Bureaucracy and Officialdom.* Wien.

Mantovani, D. (1999) *Le formule del processo privato romano.* Second edition. Padova.

(2000) "Aspetti documentali del processo criminale nella Repubblica: le *tabulae publicae," MEFRA* 112: 651-691.

(2005) "Les clauses 'sans précédents' de la Lex de imperio Vespasiani: une interprétation juridique," *CCG* 16: 25-43.

Maresch, K. (2002) "Die Bibliotheke Enkteseon im römischen Ägypten: Überlegungen zur Funktion zentraler Besitzarchive," *APF* 48: 233-246.

Maresch, K. and Willis, W. H. (1997) *The Archive of Ammon Scholasticus of Panopolis I: The Legacy of Harpocration.* Opladen.

Marinis, V. (2016) *Death and the Afterlife in Byzantium. The Fate of the Soul in Theology, Liturgy, and Art.* Cambridge.

Marotta, V. (1991) *Mandata principum*. Torino.

Marrone, M. (1962) *Querela inofficiosi testamenti.* Palermo.

Martin, G. (2006) *Dexipp von Athen: Edition, Übersetzung und begleitende Studien.* Tübingen.

Martini, R. (1964) *Ricerche in tema di editto provinciale*. Milano.

Marshall, A. J. (1964) "The structure of Cicero's edict," *AJPh* 85: 185-191.

(1980) "The survival and development of international jurisdiction in teh Greek world under Roman rule," in *Aufstieg und Nidergang der Römischen Welt*, II 13, *Recht (Normen, Verbreitung, Materien)*. Berlin: 626-661.

Mastino, A. (1993) "Tabularium principis e tabularia provinciali nel processo contro i Galillenses della Barbaria sarda," in Mastino, A. (ed) *La Tavola di Esterzili: il conflitto tra pastori e contadini nella Barbaria sarda, Atti del convegno di studi di Esterzili, 13 giugno 1992*. Sassari: 99-117.

Mathwich J. (1974) "Übersendung von Akten des Konvents von 202 unter Q. Maecius Laetus an den libyschen Gau (P. Amsterdam Gr. Inv. Nr. 23)," *ZPE* 15: 69-78.

Matthews, J. (1992) "Ammianus on Roman Law and Lawyers," in den Boeft, J., den Hengst, D. and Teitler, H. C. (eds) *Cognitio Gestorum: The Historiographical Art of Ammianus Marcellinus*. Amsterdam: 47-57.

(2000) *Laying Down the Law: A Study of the Theodosian Code.* New Haven.

Maxfield, V. A. and Peacock, D. S. F. (2001) *Mons Claudianus, Survey and Excavation 1987-1993*, II. *Excavations: part 1*. Cairo.

Mélèze-Modrzejewski, J. (1970) "La règle de droit dans l'Égypte romaine," in *Proceedings of the Twelfth International Congress of Papyrology*. Toronto: 317-377.

(1971) "Grégoire le Thaumaturge et le droit romain. À propos d'une édition récente," *RIDA* 49: 313-324.

(1979) "Chrématistes et laocrites," Wolff, H. J., Biscardi, A., Thür, G. and Méléze-Modrzejewski, J. (eds) *Symposion 1974.* Athens: 375-388.

(1982) "Ménandre de Laodicée et l'Edit de Caracalla," in Mélèze-Modrzejewski, J. and Liebs, D. (eds) *Symposium 1977.* Köln: 335-366. (reprinted in Mélèze-Modrzejewski 1990)

(1988) "La loi des Égyptiens. Le droit grec dans l'Égypte romaine," in Basil, M. G. (ed) *Proceedings of the XVIIIth International Congress of Papyrology, Athens 25-31 May 1986*. Athens: 383-390.

(1990) *Droit impérial et traditions locales dans l'Egypte romaine*. Aldershot.

(1993) "Diritto romano e diritti locali," in Schiavone, A. (ed) *Storia di Roma III,* 2 vols. Turin. 2: 985-1009.

(2005) "What is hellenistic law? The documents of the Judaean desert in the light of the papyri from Egypt," in Katzoff, R. and Schaps, D.M., *Law in the Documents of the Judaean Desert*. Leiden: 7-21.

(2006) "Greek Law in the Hellenistic Period: Family and Marriage," in Cohen, D. (ed) *The Cambridge Companion to Ancient Greek Law*. Cambridge.

(1994) *La mémoire perdue I: à la recherche des archives oubliées, publiques et privées, de la Rome antique.* Paris.

(1998) *La mémoire perdue II: recherches sur l'administration romaine*. Roma.

(2000) *La mémoire perdue III: recherches sur l'administration romaine: le cas des archives judiciaires pénales*, *MEFRA* 112: 647-777.

(2001) *La memoire perdue IV: recherches sur l'administration romaine: les documents du census, MEFRA* 113: 559-764.

Ménard, H. (2015) "Pratiques et représentations de la justice dans l'œuvre d'Artémidore de Daldis," in Weber, G. (ed) *Artemidor von Daldis und die antike Traumdeutung. Texte – Kontexte – Lektüre*. Berlin: 101-125.

Mennen, I. (2011) *Power and Status in the Roman Empire, AD 193-284*. Leiden.

Merola, G. D. (2012) *Per la storia del processo provinciale romano: i papiri del medio Eufrate*. Napoli.

Merry, S. E. (1991) "Law and colonialism (review essay)," *Law and Society Review* 25: 889-922.

Metzger, E. (1997) *A New Outline of the Roman Civil Trial.* Oxford.

(2004) "Roman Judges, Case Law, and the Principles of Procedure," *Law and History Review* 22: 243–275.

(2013) "An Outline of Roman civil procedure," in *Roman Legal Tradition* 9: 1-30.

(2016) "Republican civil procedure: sanctioning reluctant defendants," in Du Plessis, P. J., Ando, C. and Tuori, K. (eds) *The Oxford Handbook of Roman Law and Society*. Oxford: 254-256.

Meyer, E. A. (2004) *Legitimacy and Law in the Roman World. Tabulae in Roman Belief and Practice*. Cambridge.

(2007) "Diplomatics, law and Romanisation in the documents from the Judaean desert," in Cairns, J.W. and du Plessis, P.J. (eds) *Beyond Dogmatics. Law and Society in the Roman World*. Edinburgh: 53-84.

(2006) "The justice of the Roman governor and the performance of prestige," in Kolb, A. (ed) *Herrschaftsstrukturen und Herrschaftspraxis. Konzepte, Prinzipien und Strategien der Administration im römischen Kaiserreich. Akten der Tagung an der Universität Zürich 18.-20.10.2004*. Berlin: 167-180

Meyer-Zwiffelhoffer, E. (2002) *Politikōs arkhein. Zum Regierungsstil der senatorischen Statthalter in den kaiserzeitlichen griechischen Provinzen*. Stuttgart.

Migliardi Zingale, L. (2001) "Ancora sui prostagmata basileon nella provincia romana d'Egitto," *Minima Epigraphica et Papyrologica* 4: 495-508.

Millar, F. (1964) "The Aerarium and its officials during the empire," *JRS* 54: 33-40.

(1977) *The Emperor in the Roman World, 31 B.C.-A.D. 337*. London.

(1981) "The world of the *Golden Ass*," *JRS* 71: 63-75.

(1989) "'Senatorial' provinces, an institutionalized ghost," *Ancient World* 20: 93-97.

(1999) "The Greek East and Roman law: the dossier of M. Cn. Licinius Rufinus," *JRS* 89: 90-108.

van Minnen, P. (2000) "Euergetism in Graeco-Roman Egypt," in Mooren, L. (ed) *Politics, Administration and Society in the Hellenistic and Roman World. Proceedings of the International Colloquium, Bertinoro 19-24 July 1997*. Leuven: 437-469.

(2002a) "The Letter (and Other Papers) of Ammon: Panopolis in the Fourth Century A.D.," in Egberts, A., Muhs, B. P. and van der Vliet, J. (eds) *Perspectives on Panopolis (P.L.Bat. XXXI)*. Leiden. 177-199.

(2002b) "Hai apo gymnasiou: 'Greek' women and the Greek 'elite' in the metropoleis of Roman Egypt," in: H. Melaerts – L. Mooren (eds), Le rôle et le statut de la femme en Égypte hellénistique, romaine et byzantine, Leuven, 2002, 337–353.

(2016) “Three Edicts of Caracalla? A New Reading of P.Giss. 40, ” *Chiron* 46: 205-221.

Mitteis, L. (1891) *Reichsrecht und Volksrecht in den östlichen Provinzen des Römischen Kaiserreichs.* Leipzig.

(1898) “Trapezitika,” *ZRG* 19: 198-260.

(1910) “Zur Lehre von den Libellen und der Prozeßeinleitung nach den Papyri der früheren Kaiserzeit,” *Berichte über die Verhandlungen der Königlich Sächsischen Gesellschaft der Wissenschaften zu Leipzig* 62: 61-126.

(1912) *Grundzüge und Chrestomathie der Papyruskunde*, II: *Juristischer Teil.* Berlin.

Mnookin, R.H. and Kornhauser, L. (1979) “Bargaining in the shadow of the law: the case of divorce,” *Yale Law Journal* 88: 950-997.

Moatti, C. (1993) *Archives et partage de la terre dans le monde romain (IIe avant-Ier siècle après J.-C.).* Roma.

(1994) “Les archives des terres publiques à Rome (IIe s. av.–Ier s. ap J.C.). Le cas des assignations,” in *La mémoire perdue I: à la recherche des archives oubliées, publiques et privées, de la Rome antique.* Paris: 103-20.

(2003) “Experts, mémoire et pouvoir à Rome, à la fin de la République,” *Revue Historique* 626: 303-325.

Mommsen, T. (1867) “Decret des Proconsuls von Sardinien L. Helvius Agrippa vom J. 68 n. Chr.” *Hermes* 2: 102-127 (= *Gesammelte Schriften*. Band 5. Berlin 1905: 325-351).

(1876) *Römisches Staatsrecht*. Leipzig, second edition.

(1883) “Die Italischen Bürgercolonien von Sulla bis Vespasian,” *Hermes* 18: 161-213.

(1885) “Der Rechtsstreit zwischen Oropos und den römischen Steuerpächtern,” *Hermes* 20: 268-287.

(1905) “Gaius ein Provinzialjurist,” in *Gesammelte Schriften* II. Berlin: 26-38.

Monson, A. (2012) *From the Ptolemies to the Romans: Political and Economic Change in Egypt.* Cambridge.

Moore, S. F. (1992) "Treating law as knowledge: telling colonial officers what to say to Africans about running "their own" native courts," *Law and Society Review* 26: 11-46.

Mouritsen, H. (2011) *The Freedman in the Roman World.* Cambridge.

Musurillo, H. (1954) *The Acts of the pagan martyrs.* Oxford.

(1972) *The Acts of the Christian martyrs.* Oxford.

Nader, L. (1979) "Disputing without the force of law," *The Yale Law Journal* 88: 998-1021.

Näf, B. (2015), "Artemidor – antike Formen der Traumdeutung und ihre Rezeption," in Weber, G. (ed) *Artemidor von Daldis und die antike Traumdeutung. Texte – Kontexte – Lektüre*. Berlin: 327-347.

Neesen L. (1981) "Die Entwicklung der Leistungen und Ämter (munera et honores) im römischen Kaiserreich des zweiten bis vierten Jahrhunderts," *Historia* 30: 203-235.

Nelken, D. (2004) "Using the concept of legal culture," *Australian Journal of Legal Philosophy* 29: 1-26.

Nelson, C. A. (1979) *Status declarations in Roman Egypt*. Amsterdam.

Nicolet, C. (1988) *L'inventaire du monde. Géographie et politique aux origines de l'empire romain*. Paris.

Nocera, G. (2002) "*Ius publicum* e *ius privatum* secondo l'esegesi di Max Kaser," *SDHI* 68: 1-54.

Norden, E. (1912) *Apuleius von Madaura und das römische Privatrecht.* Leipzig.

Nörr, D. (1969) *Die Entstehung der longi temporis praescriptio. Studien zum Einfluss der Zeit im Recht und zur Rechtspolitik in der Kaiserzeit*. Köln.

(1976) "Der Jurist im Kreis der Intellektuellen: Mitspieler oder Aussenseiter? (Gellius, Noctes Atticae 16.10)," in Medicus, D. and Seiler, H. H. (eds) *Festschrift für Max Kaser zum 70. Geburtstag*. München: 57-90.

(1981) "The matrimonial legislation of Augustus: an early instance of social engineering," *Irish Jurist* 16: 350-364.

(1983) "Zu einem fast vergessenen Konstitutionentyp, *interloqui de plano*," in *Studi in onore di Cesare Sanfilippo* vol. 3*,* Milano: 521-543.

(1998) “Prozessuales aus dem Babatha-Archiv,” in Humbert, M. and Thomas, Y. (eds) *Mélanges de droit romain et d’histoire ancienne: hommage à la mémoire de André Magdelain*. Paris: 317-341.

(1999a) “Zu den Xenokriten (Rekuperatoren) in der römischen Provinzial-gerichtsbarkeit,” in Eck, W. (ed) *Lokale Autonomie und römische Ordnungsmacht in den kaiserzeitlichen Provinzen vom 1. Bis 3. Jahrhundert.* München: 257-301.

(1999b) “Römisches Zivilprozessrecht nach Max Kaser: Prozessrecht und Prozesspraxis in der Provinz Arabia,” *ZRG* 115: 80-98.

(2000) “PSI VII 743r fr. e: Fragment einer römischen Prozeßformel. Bemerkungen zum vorhadrianischen Edict un zu den *Hermeneumata pseudodositheana*,” *ZRG* 177: 179-215.

(2008) “Prozessuales (und mehr) in der *Lex rivi Hiberiensis*, ” *ZSS* 125: 108-187.

Noethlichs, K. L. (1981) *Beamtentum und Dienstvergehen: Zur Staatsverwaltung in der Spätantike*. Wiesbaden.

Nowak, M. (2015) *Wills in the Roman Empire: A Documentary Approach*. Warsaw.

Nutton, V.M. (1979) “The beneficial ideology,” in Garnsey, P. D. A. and Whittaker, C. R. (eds) *Imperialism in the Ancient World*. Cambridge: 209-222.

Oertel, F. (1917) *Die Liturgie. Studien zur ptolemäischen und kaiserlichen Verwaltung Ägyptens.* Leipzig.

Oliver, J. H. (1979) “Greek applicants for roman trials,” *AJPh* 100: 543-558.

(1989) *Greek Constitutions of Early Roman Emperors from Inscriptions and Papyri*. Philadelphia.

Oliver, J. H. and Palmer, R.E.A. (1955) “Minutes of an act of the Roman Senate,” *Hesperia* 24: 320-349.

Ørebech, P., Bosselman, F., Bjarup, J., Callies, D., Chanock, M. and Petersen, H. (2005) *The Role of Customary Law in Sustainable Development.* Cambridge.

Osgood, J.W. (2006) “*Nuptiae iure civili congruae*: Apuleius’s story of Cupid and Psyche and the Roman law of marriage,” *TAPhA* 136: 415-441.

Oudshoorn, J. G. (2007) *The relationship between Roman and local law in the Babatha and Salome Komaise archives: general analysis and three case studies on law of succession, guardianship and marriage*. Leiden.

Palma, A. (1992) *Humanior interpretatio*: *humanitas* nell'interpretazione e nella normazione da Adriano ai Severi. Torino.

Palme, B. (1999) "Die *officia* der Statthalter in der Spätantike: Forschungsstand und Perspektiven," *AnTard* 7: 85-133.

(2008) "Militärs in der Rechtsprechung des römischen Ägypten," in Harris, E. and Thür, G. (eds) *Symposion 2007.* Wien: 279-294.

(2009) "The Range of Documentary Papyri," in Bagnall, R. S. (ed) *The Oxford Handbook of Papyrology*. Oxford: 358-394.

(2014) "Roman litigation — reports of court proceedings," in Keenan, J. G., Manning, J. G. and Yiftach-Firanko, U. (eds) *Law and Society in Egypt from Alexander to the Arab Conquest*. Cambridge: 482-502.

Panciera, S. (2006) "Le virtù del governatore provinciale nelle iscrizioni latine da Augusto a Diocleziano," in Demougin, S., Loriot, X., Cosme, P. and Lefebvre, S. (eds), *H.-G. Pflaum: un historien du XXe siècle. Actes du colloque international, Paris le 21, 22, et 23 octobre 2004. École Pratique des Hautes Etudes, Sciences Historiques et Philologiques. III Hautes Etudes du Monde Greco-Romain, 37*. Genève: 457-484.

Paulus, C. (1994) "Die Verrechtlichung der Familienbeziehungen in der Zeit der ausgehenden Republik und ihr Einfluss auf die Testierfreiheit," *ZRG* 111: 425–435.

Peachin, M. (1996) *Iudex vice Caesaris: Deputy Emperors and the Administration of Justice during the Principate.* Stuttgart.

(2001) "Jurists and the law in the early Roman Empire," in de Blois, L. (ed) *Administration, Prosopography and Appointment Policies in the Roman Empire. Proceedings of the First Workshop of the Internation Network 'Impact of Empire (Roman Empire, 27 BC – AD 406)'. Leiden, June 28 – July 1, 2000 (Amsterdam 2001)*. Leiden: 109-120.

(2007a) "Exemplary government in the early Roman Empire," in Hekster, O. et al. (eds) *Crises and the Roman Empire. Proceedings of the Seventh Workshop of the International Network Impact of Empire (Nijmegen, June 20-24, 2006).* Leiden: 75-96

(2007b) "Petition to a Centurion from the NYU Papyrus Collection and the Question of Informal Adjudication Performed by Soldiers," in Sirks, A. J. B. and Worp, K. A. (eds) *Papyri in Memory of P. J. Sijpesteijn (P. Sijp.*) (American Studies in Papyrology 40). Oakville: 79–97.

(2016) “Lawyers in administration,” in Du Plessis, P. J., Ando, C. and Tuori, K. (eds) *The Oxford Handbook of Roman Law and Society.* Oxford: 164-175.

(forthcoming) “In search of a Roman Rule of Law,” in *Legal Roots. The International Journal of Roman Law, Legal History and Comparative Law.*

Pellecchi, L. (2003) *La praescriptio: processo, diritto sostanziale, modelli espositivi*. Padova.

Pestman, P. W. (1961) *Marriage and Matrimonial Property in Ancient Egypt. A Contribution to Establishing the Legal Position of the Woman.* Leiden.

(1969) “The law of succession in Ancient Egypt,” in Brugman, J., David, M., Kraus, F. R., Pestman, P. W. and van der Valk, M. H. (eds) *Essays on Oriental Lws of Succession.* Leiden: 58-77.

(1985a) “The competence of Greek and Egyptian tribunals according to the decree of 118 BC,” *BASP* 22: 265-269.

(1985b) “Registration of demotic contracts in Egypt: P. Par. 65, 2nd cent. B.C.,” in Ankum, J., Spruit, J. E. and Wubbe, F. B. J. (eds) *Satura Roberto Feenstra sexagesimum quintum annum aetatis complenti ab alumnis collegis amicis oblata, 17–25.* Fribourg: 17-25.

(1985c) “Agoranomoi et actes agoranomiques. Krokodilopolis et Pathyris, 145-88 av. J.C.,” in Pestman, P. W. (ed) *Textes et études de papyrologie grecque, démotique et copte (P.L. Bat. 23).* Leiden: 9-44.

(1992) *Il processo di Hermias ed altri documenti dell’archivio dei Choachiti (P. Tor. Choachiti).* Turin.

(1993) *The Archive of the Theban Choachytes (Second century B.C.): A Survey of the Demotic and Greek Papyri Contained in the Archive*. Leiden.

Petit, P. (1957) *Les Étudiants de Libanius*. Paris.

(1994) *Les Fonctionnaires dans l’œuvre de Libanius: Analyse prosopographique.* Paris.

Phang, S. E. (2001) *The Marriage of Roman Soldiers (13 B.C.-A.D. 235): Law and Family in the Imperial Army.* Leiden.

Pflaum H.G. (1959) “Lucien de Samosate, Archistator Praefecti Aegypti, d’apres une Inscription de Cesaree de Mauretanie,” MEFRA 71: 281-286.

(1960-1) *Les carrières procuratoriennes équestres sous le haut empire romain*, 4 vols. Paris.

(1969) "Les juges des cinq décuries originaires d'Afrique Romaine', *AntAfr* 2: 153-195.

(1982) *Les carrières procuratoriennes équestres sous le haut empire romain. Supplément.* Paris.

Piganiol, A. (1962) *Les documents cadastraux de la colonie romaine d'Orange*. Paris.

Platschek, J. (2014) "Iusiurandum und vadimonium in der lex rivi Hiberiensis," in Maganzani, L. and Buzzacchi, C. (eds) *Lex rivi Hiberiensis. Diritto e tecnica in una comunità di irrigazione della Spagna romana. Giornate di studio in ricordo di Giorgio Luraschi, Milano 2-3 luglio 2012*. Napoli: 121-144.

Potter, D. S. (1993) "Martyrdom as spectacle," in Scodel, R. (ed) *Theater and Society in the Classical World.* Ann Arbor: 53-88.

(1996) "Performance, power, and justice in the high empire," in Slater, W. J. (ed) *Roman Theater and Society: E. Togo Salmon Papers I*. Ann Arbor: 129-159.

Price, S. (2004) "The Future of Dreams: From Freud to Artemidorus," in Osborne, R. (ed) *Studies in Ancient Greek and Roman Society*, Cambridge: 226-259.

Pringsheim, F. (1949) "The Greek sale by auction," in *Scritti in onore di Contardo Ferrini pubblicati in occasione della sua Beatificazione*, 4 vols. Milan. 4: 284-343.

(1961) "Id quod actum est," *ZRG* 78: 1-91.

Puech, B (2002) *Orateurs et sophistes grecs dans les inscriptions d'époche impériale*. Paris.

Pugliese, G. (1964) "Riflessioni sull'editto di Cicerone in Cilicia," in *Synteleia Arangio Ruiz*, II, Naples: 972-986.

Purpura, G. (1982) "*Katholikon diatagma*. Sulla denominazione dell'editto provinciale egizio," in *Studi in onore di Arnaldo Biscardi* vol. 2, Milano: 507-522.

(1999) "Sulla tavola perduta della "Lex de auctoritate Vespasiani," *MEP* 2: 261-295.

(2001) "Diritti di patronato e astikoi nomoi in P. Oxy. IV 706," in *Iuris vincula. Studi in onore di Mario Talamanca* vol. 6, Napoli: 465-483.

(2003) “Il giurista e l’avvocato. *Nomikoi* e *rhetores* in CPR I, 18,” in *Atti del VII Convegno Nazionale “Colloqui di Egittologia e Papirologia,” Siracusa, 29 nov. – 2 dic. 2001, Quaderni del Museo del Papiro.* Siracusa: 117-128 = *Minima Epigraphica et Papyrologica* VII-VIII (2004-2005) 269-278.

(2006) “Le dichiarazioni di nascita nell’Egitto romano,” in *Atti del IX Convegno Internazionale di Egittologia e Papirologia. Imagines et Iura personarum nell’Egitto antico. Per i novantanni di Sergio Donadoni*. Palermo: 209-218.

(2015) “Sulla Constitutio Antoniniana,” review of C. Corbo, 2013. *Constitutio Antoniniana. Ius, Philosophia, Religio, Studi e Testi di Koinonia, Index* 43: 2-10.

Quaegebeur, J. (1982) “Sur la ‘loi sacrée’ dans l’Égypte gréco-romaine,” *AncSoc* 11-12: 27-40.

(1993) “La justice à la porte des temples et le toponyme *premit*,” in Cannuyer, C. and Kruchten, J.-M. (eds) *Individu, société et spiritualité dans l’Egypte pharaonique et copte: mélanges égyptologiques offerts au Professeur Aristide Théodoridès.* Athens: 201-220.

Raggi, A. (2001) “*Senatus consultum de Asclepiade Clazomenio sociisque*,” *ZPE* 135: 73-116.

Ranger, T. O. (1992) “The invention of tradition in colonial Africa,” in Hobsbawm, E. and Ranger, T. O. (eds) *The Invention of Tradition.* Cambridge: 211-262.

Raschke, M. G. (1974) “The office of agoranomos in Ptolemaic and Roman Egypt,” in Kiessling E. and Rupprecht H.-A. (eds) *Akten des XIII. Internationalen Papyrologenkongresses, Marburg/Lahn, 2. bis 6. August 1971*. München: 349-356.

Rathbone, D. (1993) “Egypt, Augustus and Roman taxation,” *CCG* 4: 81-112.

(2014) “The romanity of Roman Egypt: a faltering consensus?,” *JJP* 43: 73-91.

Rea, J. R. (1983) “Proceedings before Q. Maecius Laetus, praef. Aeg. etc,” *JJP* 19: 91-101.

Reinard, P. (2016) “Gaias Rechtsstreit und Caracallas Alexandria-Aufenthalt. Zum Kontext des Privatbriefs P.Oxy. 43/3094,” *Studia Antiqua et Archaeologica* 21: 209-219.

Rey-Coquais, J. P. (1978) “Syrie Romaine, de Pompée à Dioclétien,” *JRS* 68: 44-73.

Reynolds, J. (1982) *Aphrodisias and Rome. Documents from the Excavation of the Theater of Aphrodisias.* London.

Riccobono, S. (1950) *Il Gnomon dell'Idios Logos.* Palermo.

Richardson, J. S. (1983), "The Tabula Contrebiensis: Roman Law in Spain in the Early First Century B.C.," *JRS* 73: 33-41.

Riess, W. (2001) *Apuleius und die Räuber: ein Beitrag zur historischen Kriminalitätsforschung*. Stuttgart.

Roberts, R. (2005) *Litigants and Households: African Disputes and Colonial Courts in the French Soudan, 1895-1912.* Portsmouth.

Rodger, A. (1996) "Jurisdictional limits in the *lex Irnitana* and the *lex de Gallia Cisalpina,*" *ZPE* 110: 189-206.

Rodriguez-Mayorgas, A. (2011) "Annales Maximi: writing, memory and religious performance in the Roman Republic," in Lardinois, A. P. M. H., Blok, J. H. and van der Poel, M. G. M. (eds) *Sacred Worlds: Orality, Literacy and Religion*. Leiden: 235-253.

Rohr Vio, F. (2000), *Le voci del dissenso. Ottaviano Augusto e i suoi oppositori*. Padova.

Rosa, C. B. (2013) "Religion, writing and systematization: reflections on the Annales Maximi," *Tempo* 19: 229-248.

Rosivach, V. J. (1984) "*Aphairesis* and *apoleipsis*: a study of the sources," *RIDA* 31: 193-230.

Rostovzeff, M. I. (1957) *The Social and Economic History of the Roman Empire*, 2nd edition. Oxford.

Rowlandson, J. (1996) *Landowners and Tenants in Roman Egypt: The Social Relations of Agriculture in the Oxyrhynchite Nome.* Oxford.

Rowlandson, J. and Takahashi, R. (2009) "Brother-Sister Marriage and Inheritance Strategies in Greco- Roman Egypt," *JRS* 99: 104-139.

Rubinstein, L. (2000) *Litigation and Cooperation: Supporting Speakers in the Courts of Classical Athens*. Stuttgart.

Rüfner, T. (2016) "Imperial *cognitio* process," in Du Plessis, P. J., Ando, C. and Tuori, K. (eds) *The Oxford Handbook of Roman Law and Society*. Oxford: 257-269.

Rüpke, J. (2012) *Religion in Republican Rome: Rationalization and Ritual Change*. Philadelphia.

(1993) "Livius, Priesternamen und die *annales maximi*," *Klio* 75: 155-179.

Rupprecht, H.-A. (1998) "Ein Verfahren ohne Ende: Der Prozess der Drusilla," in Andorlini, L., Bastianini, G., Manfredi, M. and Menci, M. (eds) *Atti del XXII Congresso Internazionale di Papirologia.* Firenze: 1135-1144.

(2011) *Recht und Rechtsleben im ptolemäischen und römischen Ägypten. An der Schnittstelle griechischen und ägyptischen Rechts 332 a.C.–212 p.C.* Mainz.

Russell D. A. and Wilson N. G. (1981) (eds) *Menander Rhetor*. Oxford.

Sänger, P. (2011) *Veteranen unter den Severern und frühen Soldatenkaisern: die Dokumentensammlungen der Veteranen Aelius Sarapammon und Aelius Syrion*. Stuttgart.

Saller, R. (1994) *Patriarchy, Property and Death in the Roman Family.* Cambridge.

Sallmann, K. (1995) "Erzaehlendes in der Apologie des Apuleius, oder: Argumentation als Unterhaltung," in *Groningen Colloquia on the Novel* 6: 137-158.

Sánchez-Moreno Ellart, C. (2001) "*Professio Liberorum*"*: las declaraciones y los registros de nacimientos en derecho romano, con especial atención a las fuentes papirológicas.* Madrid.

(2004) "Notes on some new issues concerning the birth certificates of Roman citizens," *JJP* 34: 107-119.

Sanz Palomera, G. (2007) "Nuevos fundamentos sobre la *lex Hadriana*," *Gérion* 25: 371-389.

Sartre, M. (1999) "Les *metrokomiai* de Syrie du Sud," *Syria* 76: 197-222.

Satlow, M. L. (2005) "Marriage payments and succession strategies in the documents from the Judaean Desert", in Kaṣôf, R. and Schaps, D. M. (eds) *Law in the documents form the Judaean Desert*. Leiden and Boston: 51-66.

Scarry, E. (1985) *The Body in Pain: The Making and Unmaking of the World.* Oxford.

Scheid, J. (1990a) "Rituel et écriture à Rome," in Blondeau, A.-M. and Schipper, K. (eds) *Essais sur le rituel II*. Louvain/Paris: 1-15.

(1990b) *Romulus et ses frères: le collège des frères arvales, modèle du culte public dans la Rome des empereurs.* Roma.

(1998) "Les annales des pontifes. Une hypothèse de plus," in *Convegno per Santo Mazzarino.* Roma: 199-220.

Schentuleit, M. (2007) "Satabus aus Soknopaiu Nesos: aus dem Leben eines Priesters am Beginn der römischen Kaiserzeit," *CE* 82: 101-25.

Schiavone, A. (2005) *Ius: L'Invenzione del Diritto in Occidente.* Torino.

Schiller, A. A. (1958) "Jurists' law," *Columbia Law Review* 58: 1226-1238.

Roman Law: Mechanisms of Development. Leiden.

Schmidt-Hofner, S. (2008) *Reagieren und Gestalten: Der Regierungsstil des spätrömischen Kaisers am Beispiel der Gesetzgebung Valentinians I.* München.

(2011) "Staatswerdung von unten. Justiznutzung und Strukturgenese im Gerichtswesen der römischen Kaiserzeit (1.-6. Jh. n. Chr.)," in Eich, P., Schmidt-Hofner, S. and Wieland, C. (eds) *Der wiederkehrende Leviathan. Staatlichkeit und Staatswerdung in Spätanike und Früher Neuzeit*. Heidelberg: 139-180.

Schmitzer, U. (2007) "Tatsachenbericht oder literarische Fiktion? Velleius Paterculus über die *clades Variana*," in Lehmann, G. A. and Wiegel, R. (eds) *Römische Präsenz und Herrschaft im Germanien der augusteischen Zeit: der Fundplatz von Kalkriese im Kontext neuerer Forschungen und Ausgrabungsbefunde. Beiträge zu der Tagung des Fachs Alte Geschichte der Universität Osnabrück und der Kommission "Imperium und Barbaricum" der Göttinger Akademie der Wissenschaften in Osnabrück vom 10. bis 12. Juni 2004.* Göttingen: 400-417.

Schöllgen, G. (1984) *Ecclesia sordida? Zur Frage der sozialen Schichtung frühchristlicher Gemeinden am Beispiel Karthagos zur Zeit Tertullians*. Münster.

(1982) "Der Adressatenkreis der griechischen Schauspielschrift Tertullians," *JbAC* 25: 22-27.

Schönbauer, E. (1931) "Reichsrecht gegen Volksrecht? Studien über die Bedeutung der Constitutio Antoniniana für die römische Rechtsentwicklung," *ZRG* 51: 277-335.

(1937) "Reichsrecht, Volksrecht und Provinzialrecht," *ZRG* 57: 309-355.

Scholz, P. and Walter, U. (2013) (eds) *Fragmente Römischer Memoiren*. Heidelberg.

Schubart, W. (1913) "Alexandrinische Urkunden aus der Zeit des Augustus," *APF* 5: 35-131.

(1937a) "Das hellenistiche Königsideal nach Inschriften und Papyri," *APF* 12: 1-26.

(1937b) "Das Gesetz und der Kaiser in griechischen Urkunden," *Klio* 30: 54-69.

Schuller, W. (1989) "Zwischen Klientel und Korruption: Zum römischen Beamtenwesen," in Dahlheim, W., Schuller, W. and von Unger-Sternberg, J. (eds) *Festschrift R. Werner, zu seinem 65. Geburtstag*. Konstanz: 259-269.

Schulz, F. (1946) *History of Roman Legal Science.* Oxford.

Schulz, R. (1997) *Herrschaft und Regierung. Roms Regiment in den Provinzen in der Zeit der Republik.* Paderborn.

Schwartz, S. (2016) *From Bedroom to Courtroom: Law and Justice in the Greek Novel*. Groningen.

Schwind, F. von (1940) *Zur Frage der Publikation im römischen Recht. Mit Ausblicken in das altgriechische und ptolemäische Rechtsgebiet*. München.

Segalen, M. (1986) *Historical Anthropology of the Family*. Cambridge.

Seidl, E. (1973) *Rechtsgeschichte* Ägyptens *als römische Provinz*. St. Augustin.

Shaw, B. D. (1984) "Bandits in the Roman Empire," *P&P* 105: 3-52.

(1992) "Explaining incest: brother-sister marriage in Graeco-Roman Egypt," *Man* 27: 267-299.

(2003) "Judicial Nightmares and Christian Memory," *Journal of Early Christian Studies* 11: 533-563.

Sherwin-White, A. N. (1966) *The Letters of Pliny: A Historical and Social Commentary.* Oxford.

(1973a) "The Tabula of Banasa and the *Constitutio Antonianiana*," *JRS* 63: 86-98.

(1973b) *The Roman citizenship,* 2nd edition. Oxford.

Sijpesteijn, P. J. (1976) *The family of the Tiberii Iulii Theones.* Amsterdam.

Simshäuser, W. (1973) *Iuridici und Munizipalgerichtsbarkeit in Italien*. München.

(1989) "La juridiction municipale à la lumière de la *lex Irnitana," RIDA* 67: 619-650.

Sirks, A. J. B. (2007) *The Theodosian Code: a Study.* Friedrichsdorf.

Slootjes, D. (2006) *The Governor and his Subjects in the Later Roman Empire*. Leiden.

Snyder, F. G. (1981) *Capitalism and Legal Change: An African Transformation*. London.

Sosin, J. D. (2015) "Manumission with *paramone*: Conditional freedom?" *TAPhA* 145: 325-81.

Spawforth, A. (2012) *Greece and the Augustan Cultural Revolution.* Cambridge.

Speidel, M. A. (2006) "Militia. Zu Sprachgebrauch und Militarisierung in der kaiserzeitlichen Verwaltung," in Kolb, A. (ed) *Herrschaftsstrukturen und Herrschaftspraxis. Konzeption, Prinzipien und Strategien der Administration im römischen Kaiserreich.* Berlin: 263-268.

Spiegelberg, W. (1904) *Die demotischen Denkmäler.* 3 vols. Leipzig.

Stein, P. (1987) "Lex Falcidia," *Athenaeum* 65: 453-457.

Stolte, B. (2001) "The impact of Roman law in Egypt and the Near East in the third century AD: the documentary evidence. Some considerations in the margin of the Euphrates papyri (P. Euphr.)," in de Blois, L. (ed) *Administration, Prosopography and Appointment Policies in the Roman Empire: Proceedings of the First Workshop of the International Network, Impact of Empire (Roman Empire, 27 B.C. – A.D. 406), Leiden, June 28-July 1, 2000.* Gieben: 167-179.

(2003) "Jurisdiction and representation of power, or, the emperor on circuit," in de Blois, L. (ed) *Representation and Perception of Roman Imperial Power. Proceedings of the Third Workshop of the International Network Impact of Empire (Roman Empire, c. 200 B.C. - A.D. 476).* Amsterdam: 261-268.

Strassi, S. (2006) "*hoi ek tou Kaisareiou*. Diffusione e valore simbolico dei Kaisareia nell'Egitto romano," *APF* 52: 218-243.

Strathern, M. (1985) "Discovering social control," *Journal of Law and Society* 12: 111-34.

Suddaby, R. and Muzio, D. (2015) "Theoretical Perspectives on the Professions," in Muzio, D., Broschak, J. and Empson, L. *Oxford Handbook of Professional Service Firms.* Oxford

Summers, R. G. (1967) "A Legal Commentary on the Metamorphoses of Apuleius," PhD dissertation. Princeton.

(1970) "Roman justice and Apuleius' Metamorphoses," *TAPhA* 101: 511-531.

Swain, S. (1996) *Hellenism and Empire: Language, Classicism, and Power in the Greek World AD 50-250.* Oxford.

Swarney, P. R. (1970) *The Ptolemaic and Roman Idios Logos.* Toronto.

Swetnam-Burland, M. (2010) "'Aegyptus Redacta': the Egyptian obelisk in the Augustan Campus Martius," *The Art Bulletin* 92: 135-153.

Tacoma, L. (2009) *Fragile Hierarchies: The Urban Elites of Third-Century Roman Egypt.* Leiden.

Tait, W. J. (1994) "Some notes on demotic scribal training in the Roman period," in Bülow-Jacobsen, A. (ed) *Proceedings of the 20th International Congress of Papyrologists: Copenhagen, 23-29 August, 1992*. Copenhagen: 188-192.

Taubenschlag, R. (1944) "Customary law and custom in the papyri," *JJP* 1: 41-54.

(1948) "*Nomos* in the papyri," *JJP* 2: 67-73.

(1952) "Die römischen Behörden und das Volksrecht vor und nach der C.A," *ZRG* 69: 102-127.

(1955) *The Law of Graeco-Roman Egypt in the Light of the Papyri 332 B. C. — 640 A. D,* 2nd edition. Warsaw.

(1957) "Die körperliche Züchtigung im Rechte der Papyri," *EPap* 8: 97-101.

(1959) *Opera minora*, 2 vols. Warsaw.

Tellegen, J. W. (1983) "*Oratores*, *Iurisprudentes* and the *Causa Curiana*," *RIDA* 30: 293-330.

Tellegen, J. W. and Tellegen-Couperus, O.E. (2000) "Law and Rhetoric in the *Causa Curiana*," *Orbis Iuris Romani* 6: 171-203.

Tellegen-Couperus, O.E. (2001) "The Role of the Judge in the Formulary Procedure," *The Journal of Legal History* 22: 1-13.

Teutsch, L. (1962) *Das Städtewesen in Nordafrika in der Zeit von C. Gracchus bis zum Tode des Kaisers Augustus*. Berlin.

Thomas, J. D. (1960) "The strategus in fourth century Egypt," *CE* 35: 262-270.

(1982) *The Epistrategos in Ptolemaic and Roman Egypt*, Part II: *The Roman Epistrategos*. Opladen.

(1983) "Compulsory public service in Roman Egypt," in *Das römisch-byzantinische Ägypten. Akten des internationalen Symposions. Trier, 26.-30. September 1978*. Mainz: 35-39.

Torrent, A. (2013) "*Lex rivi Hiberiensis*: desde el proceso formulario a la *cognitio extra ordinem*," *Index* 41: 237-254.

Treggiari, S. (1991) *Roman Marriage*. Oxford.

(1996) "Social status and social legislation," in Bowman, A. K., Champlin, E. and Lintott, A. (eds), *The Cambridge Ancient History. Volume 10. The Augustan Empire, 43 BC-AD 69*, Cambridge: 873-904.

Trubek, D. and Galanter, M. (1974) "Scholars in self-estrangement: some reflections on the crisis in Law and Development studies in the United States," *Wisconsin Law Review*: 1062-1102.

Tuori, K. (2004) "The *ius respondendi* and the freedom of Roman jurisprudence," *RIDA* 51: 295-337.

(2007a) *Ancient Roman Lawyers and Modern Legal Ideals: Studies on the Impact of Contemporary Concerns in the Interpretation of Ancient Roman Legal History*, 2nd edition. Frankfurt.

(2007b) "Legal pluralism and the Roman Empires," in Cairns, J. W. and du Plessis, P. J. (eds) *Beyond Dogmatics. Law and Society in the Roman World*. Edinburgh: 39-52.

(2016) *The Emperor of Law. The Emergence of Roman Imperial Adjudication.* Oxford.

Turner, E. G. (1975) "Oxyrhynchus and Rome," *HSCP* 79: 1-24.

Turner, R. V. (1985) *The English Judiciary in the Age of Glanville and Bracton c. 1176-1239*. Cambridge.

Turpin, W. (1999) "Formula, Cognitio And Proceedings Extra Ordinem," *RIDA* 46: 499-574.

Urbanik J. (2002) "D. 24.2.4: '*...patrem tamen eius nuntium mittere posse...*' - l'influsso della volonte del padre sul divorzio dei sottoposti," in Derda, T., Urbanik, J. and Weçowski, M. (eds) *Euergesias Charin: Studies Presented to Benedetto Bravo and Ewa Wipszycka by their Disciples*. Warsaw: 293-336.

Vera, D. (1991) "Trent'anni dopo la morte del Vulgarrecht: (a proposito di un libro recente sul diritto tardoromano)," *Athenaeum* 69: 248-252.

Veyne P. (1959) “Contributio: Bénévent, Capoue, Cirta,” *Latomus* 18: 568-592.

(1961) “Le Marsyas colonial et l’indépendance des cités,” *RPh* 35: 87-98.

(1981) “Clientèle et corruption au service de l’État: La vénalité des offices dans le Bas-Empire romain,” *Annales (ESC)* 36: 339-360.

De Visscher, F. (1954-1955) “La constitution antonine (212 ap. J. C.) et la persistance des droits locaux,” *CHM* II: 788-811.

(1957) “L’expansion de la cité romaine et la diffusion du droit romain,” *MH* 14: 164-174.

Vitton, I. (1924) *Concetti giuridici nelle opere di Tertulliano*. Roma.

Vössing, K. (1996) “Africa nutricula causidicorum? Die romische Jurisprudenz in Africa,” *AfrRom* 11: 127-54.

(1997) *Schule und Bildung im Nordafrika der römischen Kaiserzeit*. Bruxelles.

Wacke, A. (1973) “Die Rechtswirkungen der Lex Falcidia,” in Medicus, D. and Seiler, H. H. (eds) *Studien im Römischen Recht. Max Kaser zum 65. Geburtstag gewidmet von seinen Hamburgern Schülern*. Berlin: 209-251.

Waldstein, W. (1980) “Gewohnheitsrecht und Juristenrecht in Rom,” in Harder, M. and Thielmann, G. (eds) *De iustitia et iure. Festgabe für Ulrich von Lübtow zum 80. Geburtstag*. Berlin: 105-126.

Wallace, S. Le R. (1938) *Taxation in Egypt from Augustus to Diocletian*. Princeton.

Wallace-Hadrill, A. (1988) “Family and inheritance in the Augustan marriage laws,” in Edmondson, J. (ed.), *Augustus: His Contributions to the Development of the Roman State in the Early Imperial Period,* Edinburgh: 250-275.

Watson, A. (2007) “Law and Society,” in Cairns, J. W. and Du Plessis, P. J. (eds) *Beyond Dogmatics: Law and Society in the Roman World.* Edinburgh: 9-38.

Watt, J. (2001) “The Impact of the Reformation and Counter-Reformation,” in Kertzer, D. I. and Barbagli, M. (eds) *Family life in Early Modern Times 1500-1789*. New Haven: 125-156.

Whittaker, C. R. (1997) “Imperialism and culture: The Roman initiative,” in Mattingly, D. J. (ed) *Dialogues in Roman Imperialism: Power, Discourse, and Discrepant Experience in the Roman Empire.* Potsmouth, RI: 143-163.

Whitehorne, J. E. G. (1988) "Recent research on the *strategi* of Roman Egypt (to 1985)," *ANRW* II 10.1: 598-611.

Weber, G. (ed) (2015) *Artemidor von Daldis und die antike Traumdeutung. Texte – Kontexte – Lektüre*. Berlin.

Weber, M. (1978) *Economy and Society: An Outline of Interpretive Sociology*, 2 vols. (originally published in 1922) Roth, G. and Wittich, C. (eds). Berkeley.

Wenger, L. (1938) "Rechtstheoretische Fragen in der juristischen Papyrusforschung," in *Actes du Ve Congrès International de Papyrologie, Oxford 1937*. Brussels: 522-564.

Westermann, W. L. (1941) "Tuscus the prefect and the veterans in Egypt (P. Yale inv. 1528 and P. Fouad I, 21)," *CP* 36: 21-23.

Whitman, J. Q. (1990) *The Legacy of Roman Law in the German Romantic Era: Historical Vision and Legal Change.* Princeton.

Wieacker, F. (1989) *Römische Rechtsgeschichte. Erster Abschnitt*: *Einleitung, Quellenkunde, Frühzeit und Republik.* München.

(2006) *Römische Rechtsgeschichte. Zweiter Abschnitt: Die Jurisprudenz vom frühen Prinzipat bis zum Ausgang der Antike.* München.

Williams, W. (1974) "Caracalla and the Rethoricians. A Note on the cognitio de Goharienis," *Latomus* 33: 663-667.

Wilson, A. (2002) "Urban production in the Roman world: the view from North Africa," *PBSR* 70: 231-273.

Winkler, J. J. (1985) *Auctor and Actor. A Narratological Reading of Apuleius' The Golden Ass*. Berkeley.

Witt, P. D. (1977) "The judicial function of the strategos in the Roman period," Ph.D. dissertation. Duke University.

Wörrle, M. (1975) "Zwei neue griechische Inschriften aus Myra zur Verwaltung Lykiens in der Kaiserzeit," in Borchhardt, J. (ed) *Myra: Eine lykische Metropole in antiker und byzantinischer Zeit.* Berlin: 254-300.

Wolf, J. G. (2006) "La lex Irnitana e le Tavole di Veleia e Ateste," in Capogrossi Kölnsi, L. and Gabba, E. (eds) *Gli statuti municipali*. Pavia: 205-237.

(2011) *Die Lex Irnitana. Ein römisches Stadtrecht aus Spanien*. Edition with German translation and commentary. Darmstadt.

(2012) *Lex Irnitana: Gesammelte Aufsätze*. Berlin.

Wolff, H. J. (1939) *Written and Unwritten Marriages in Hellenistic and Postclassical Roman Law*. Haverford.

(1953) "Faktoren der Rechtsbildung im hellenistisch-römischen Aegypten," *ZRG* 70: 20-57.

(1956) "Zur Romanisierung des Vertragsrechts der Papyri," *ZRG* 73: 1-28.

(1960) "Plurality of laws in Ptolemaic Egypt," in *RIDA* 3: 191-223.

(1962) *Das Justizwesen der Ptolemäer.* München.

(1966) "Law in Ptolemaic Egypt," in Rigsby, K. (ed) *Essays in Honor of C. Bradford Welles.* New Haven: 66-77.

(1974a) "Das Vulgarrechtsproblem und die Papyri," *ZRG* 91: 54-105.

(1974b) "Review of Seidl, *Rechtsgeschichte* Ägyptens *als römische Provinz," ZRG* 91: 404-414.

(1978) *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemaeer und des Prinzipats, vol. II: Organisation und Kontrolle des privaten Rechtsverkehrs*. München.

(1979) *Das Problem der Konkurrenz von Rechtsordnungen in der Antike*. Heidelberg.

(1980) "Römisches Provinzialrecht in der Provinz Arabia," *ANRW* II.13: 763-806.

(2002) *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats, vol I: Bedingungen und Triebkräfte der Rechtsentwicklung.* H.-A. Rupprecht (ed). München.

Woolf, G. (1994) "Becoming Roman, staying Greek: culture, identity and the civilizing process in the Roman East," *PCPhS* 40: 116-143.

(1998) *Becoming Roman: The Origins of Provincial Civilization in Gaul.* Cambridge.

Yiftach-Firanko, U. (2003) *Marriage and Marital Arrangements: A History of the Greek Marriage Document in Egypt: 4th century BCE-4th century CE.* München.

(2005) “Judaean marriage documents and *ekdosis* in the Greek law of the Roman period,” in Katzoff, R. and Schaps, D. (eds) *Law in the Documents of the Judaean Desert.* Leiden: 67-84.

(2008) “The *cheirographon* and the privatization of scribal activity in early Roman Oxyrhynchos,” in Thür, G. and Harris, E. (eds) *Symposion 2007.* Wien: 325-340.

(2009) “Law in Graeco-Roman Egypt: Hellenization, Fusion, Romanization,” in Bagnall, R. S. (ed) *The Oxford Handbook of Papyrology*. Oxford: 541–560.

(2010) “Comments on Andrea Jördens ‘Nochmals zur *bibliotheke enkteseon*,’” in Thür, G. (ed) *Symposion 2009.* Wien: 291-299.

Youtie, H. C. (1975) “Apatores: law vs. custom in Roman Egypt,” in Bingen, J., Cambier, G. and Nachtergael, G. (eds) *Le Monde Grec. Pensée, littérature, histoire, documents. Hommages à Claire Préaux.* Brussels: 723-740.

(1977) “*P. Mich. Inv.* 148 *verso*: the rule of precedent,” *ZPE* 27: 124-137.

Zanker, P. (1988) *The Power of Images in the Age of Augustus*, transl. by A. Shapiro. Ann Arbor.