

ABSTRACTS

Carlos LÉVY, *Cicero, law, and the barbarians*, p. 29-45.

The aim of this paper is to tackle the evolution of Cicero's perception of barbarian civilizations and specifically of their laws. There was at first an immense gap between his presentation of the origin of human societies in the 1st book of the *De inventione*, which posits no difference between barbarians and Greeks or Romans, and the rhetorical precepts, which are full of contempt towards them. The many problems and disappointments in Cicero's life led him, especially in the *De republica*, to reflect more deeply on the Romans' place between Greeks and barbarians. From this work on, he faced the difficult challenge of including barbarians in different forms of universality without giving them the same status as the Urbs. Imperialism, defined as a protective domination, seemed to him the best solution.

Julien DUBOULOZ, *Accommodating former legal systems and Roman law: Cicero's rhetorical and legal perspective in the Verrine Orations*, p. 47-67.

This paper considers the legal relations between local communities and Roman authorities within the empire from a Roman point of view. It is mostly based on Cicero's Verrine Orations, the accusation pronounced in 70 BCE before a *repetundae* court against Verres, a former governor of Sicily. This piece of judicial rhetoric gives us access to the kind of arguments which were suitable for a Roman audience and Roman readers as far as provincial autonomy was concerned. A study of a specific civil law procedure, the *uadimonium* procedure, shows how difficult it is to assess the degree of interaction between local and Roman law from a judicial source like the *Verrines*. Furthermore, local law appears to be, to a large extent, both a rhetorical and an ethical construct, to be interpreted in the context of the critical viewpoint on imperialism which was cautiously developed by Cicero as the accuser in the *repetundae* speech.

Clifford ANDO, *Performing justice in republican empire, 1-565 CE*, p. 69-85.

This paper investigates the performance of trials by Roman magistrates outside the borders of the empire. It is contended that these occasions induced heightened reflection on the part of Roman authors about the ideological work performed by judicial rituals. The fulsome accounts of such trials grant interpretive insight into the work that Romans understood legal institutions to perform in provincial contexts, albeit their routinized nature in those contexts occasioned much less commentary from ancient authors.

Ari Z. BRYEN, *A frenzy of sovereignty: Punishment in P.Aktenbuch*, p. 89-108.

The “Berlin Legal Codex,” recently republished as *P.Aktenbuch*, is a puzzling document: it purports to record a series of criminal judgments given by an unnamed governor (*hēgemōn*) against a range of malefactors. Given the rarity of criminal verdicts in the corpus of papyri more generally, *P.Aktenbuch* would seem to be of the highest importance; however, there are many reasons to doubt whether it records actual verdicts given in the governor’s court. More likely, it is a literary artifact that uses criminal punishment to meditate on the question of sovereignty more generally. In this respect, it seems to be a cousin of the more famous Martyr Acts or *Acta Alexandrinorum* – but with an important twist: in the *Aktenbuch*, the governor is unambiguously good, whereas the victims are unambiguously bad. The *Aktenbuch* is in that sense an *inverted* martyr act. Unlike the martyr acts, the text is also constructed as a series of monologues, rather than a series of dialogues between empire and subject. Most unusually for a Roman provincial document, the *Aktenbuch* celebrates violent punishments, and should be read as part of a broader provincial conversation on the nature of sovereignty.

Kaius TUORI, *Between the good king and the cruel tyrant: The Acta Isidori and the perception of Roman emperors among provincial litigants*, p. 109-132.

After the reign of Augustus at the latest, the inhabitants of the Roman provinces were by and large convinced that the emperor was a crucial force in the legal process and – with time, effort, and connections – one might be able to receive a hearing from this highest of judges. The emperor, if he so wished, was the law, even in the provinces. However, the perception of the emperor, much like that of Roman power in general, varied greatly between observers, from unquestioning praise to descriptions of cruelty. When approaching these descriptions of the emperor as judge, it becomes apparent that they were intended for different audiences, from local partisans to Roman officials, and even the emperor himself. It could be said that by praising the emperor as right and just, the provincials may have hoped to persuade him to act that way. The purpose of this essay is to explore this narrative dichotomy in the textual tradition in and around the text known as the *Acta Isidori*, part of a third-century corpus now called the *Acta Alexandrinorum*. The text is presented as a transcript of a trial held before Claudius in Rome, relating to the complex and long standing conflict between the Jewish and Greek inhabitants of Alexandria. This text, purporting to be from the trial between King Agrippa and Isidorus, an ambassador of the Greeks, clearly shows the propagandist value and the difficulties faced by both those approaching the emperor, and the emperor himself, in projecting his power. The aim of the chapter is to explore the role of the narratives of kingship in the legitimation and delegitimation of imperial power in the provinces as it manifested itself in the jurisdiction of the Roman emperor.

Hayim LAPIN, *Pappus and Julianus, the Maccabean martyrs, and rabbinic martyrdom history in Late Antiquity*, p. 133-155.

Starting with the varied references to Pappus and Julianus (or Lollianus) in rabbinic works, this paper examines the construction of a martyrdom history in rabbinic works of the fifth to seventh century that is retrojected onto rabbis of the first and second centuries. The reuse of one fragment of the Pappus and

Julianus story in a rabbinic account of the martyrdom of a woman and her seven sons suggests a partial context. For this story, we can plausibly argue for the “rediscovery” of a story from 2 and 4 Maccabees in response to the emerging Christian cult of the Maccabean Martyrs in the second half of the fourth century. If this case is indicative, the emerging interest in martyrdom may be rooted in a broader discourse of martyrdom in the late antique Christian Roman East. Whether or not in conversation (contention) with Christian martyrdom, the stories depict a resistant stance in which tribunals represent the locus of resistance. The accused, typically a rabbi, stands before the emperor, who presides as judge over a *cognitio extraordinaria*. The hero triumphs by resisting the demands of an oppressive state to violate the divine Torah, and, as in our cases, calls into question the very legitimacy of the emperor as judge.

Aitor BLANCO-PÉREZ, *Appealing for the emperor's justice: Provincial petitions and imperial responses prior to Late Antiquity*, p. 159-173.

Visits by Roman emperors provided provincials with exceptional opportunities to present their pleas. Epigraphic evidence from the high imperial period and particularly the 3rd century CE sheds light on this process of petition and response. The aim of the present paper is to study these inscriptions in order to understand the application and reception of Roman justice in the eastern provinces of the empire. Particular attention is devoted to noteworthy testimonies, such as the bilingual minutes from Dmeir (Syria), the petition of Skaptopara in Thrace, and related texts from Lydia. The essay will argue that the presence and legally binding decisions of emperors such as Diocletian could transform the perception of Roman rule among local populations, including the Jews.

Julien FOURNIER, *Representing the rights of a city: Ekdikoi in Roman courts*, p. 175-194.

This paper focuses on the office of *ekdikos*, i.e., a public advocate appointed to represent the interests of a Greek city before a court. Widely attested in the interstate arbitrations of the Hellenistic period, the office remained important during the imperial period. The *ekdikoi* acted as intermediaries between local peregrine courts and Roman courts. During the Principate, the office underwent a significant evolution: what was previously a collegiate and ad hoc appointment became a permanent and individual one. In this respect, the *ekdikos* may have been a forerunner of the office of *defensor ciuitatis*, established by the central authorities in the 4th century CE.

Capucine NEMO-PEKELMAN, *Jewish judicial patrons and advocates in the Western Roman empire (5th century)*, p. 195-211.

This paper investigates the very concrete circumstances in which Jewish litigants were exposed to Roman law, raising questions about those individuals, mainly Jewish judicial patrons and advocates, who bridged Jewish communities and the world of the courts. Focusing on the Western part of the empire at the onset of the 5th century, it addresses the social origins, intellectual education, and professional careers of these intermediaries. Jewish judicial patrons and advocates were considered threats by Christian opponents. Eventually, the latter convinced the central government to banish them from the judicial and legal world of the West.

Soazick KERNEIS, *Legal pluralism in the Western Roman empire: Popular legal sources and legal history*, p. 215-229.

Legal realism recommends that we distinguish between law in books and law in action. Vulgar law often is assumed to have existed only in the oriental part of the Roman empire, an assumption based on the premise that peoples in the West had no system of law prior to the conquest. This absence ostensibly facilitated the transplant of Roman law. Yet to understand the practice of law in the Roman empire, we must consult a broad array of documents, including official but also popular sources. The latter demonstrate that although natives in the West did not have *ius* or a similar form of law, they did have their own systems of rules: customary law based on values quite different from those of the Romans. For this reason, the application of Roman law was not easy. *De minimis non curat praetor*. Law in books often is silent about the process of accommodation. If we are to fill in the lacunae left by official documents, we must be mindful of other sources, written by other people, in other places, sometimes in other languages. These popular sources illustrate the variety of legal forms created by the intertwining of Roman rules and native customs, as well as original methods of dispute resolution and ideas of judicial truth.

Marie ROUX, *Judicial pluralism in the Visigothic kingdom of Toulouse: Special jurisdictions and communal courts*, p. 231-250.

The aim of this paper is to explore whether the judicial pluralism of the Roman empire remained a reality in the post-Roman western kingdoms. The Visigothic Kingdom of Toulouse is an interesting case, as the *interpretationes* of the Breviary of Alaric are a useful source to consider how a post-Roman power preserved and changed Roman legislation regulating public and private jurisdictions. We will see that some special jurisdictions, such as that of the Urban prefect for senators, were suppressed, whereas others, such as that of military courts, were maintained. The compilers of the Breviary specified the conditions in which parties were permitted to come before communal courts and before private arbitrators. The *interpretationes* thus prove that part of the judicial pluralism inherited from the empire still existed and remained a part of practice.

Kimberley CZAJKOWSKI, *Legal knowledge and its transmission in three marriage contracts from the Judaean desert*, p. 251-269.

The archives of Babatha and Salome Komaise have become especially popular case studies of multi-legalism in antiquity. This paper re-examines the three very different marriage contracts from the archives to trace the methods by which knowledge of these different legal orderings could be transmitted within a small, recently annexed community. An emphasis is placed on the importance of preserving documents for the transmission of particular legal forms, and it is suggested that there may have been differences in how models of Jewish Aramaic and Greek contracts were kept and made available in this community. This is also set in the context of the effects of the newly arrived Roman power on the availability of different contractual forms.

Yair FURSTENBERG, *Imperialism and the creation of local law: The case of rabbinic law*, p. 271-300.

Following the destruction of Jerusalem in 70 CE and the imposition of a direct Roman rule over Palestine, the rabbis transformed the corpus of biblical commandments, Judean legal practices and customs into a comprehensive and detailed legal system. How can we explain the surprising fact that it was specifically under Roman jurisdiction that Jewish law emerged for the first time as a cohesive and codified system of civil law? In this article I argue that rather than functioning as an ideological or utopian construct, the creation of rabbinic law under Rome follows a familiar pattern well attested in the study of indigenous law under colonial rule. Scholars have recurrently described the development of local legal practices into fixed and formal legal systems, following colonial standards, thus triggering the invention of colonized “customary law”. In a similar manner, papyrological evidence attests to the crystallization of a corpus of “laws of the Egyptians” during the second century CE. Rabbinic material, however, offers the most detailed account of the processes by which the diversity of local customs characteristic of the pre-Roman period transformed into a fixed and general system of law at the hands of local experts. The article surveys three aspects of rabbinic legal innovation that feature elements of colonized “customary law”: the creation of new legal fields, codification of custom, and the establishment of a Roman-like court procedure. Together, these elements reflect the rabbinic effort to transform normative practices of different sources into a comprehensive legal system befitting imperial legal landscape.

Catherine HEZSER, *Did Palestinian rabbis know Roman law? Methodological considerations and case studies*, p. 303-322.

Palestinian rabbis of the first four centuries lived in an environment in which Roman law was practiced and Roman law schools existed. They would have been aware of Roman legal practices through hearsay, observation, and everyday life experiences. Palestinian rabbinic texts from the Mishnah to the Talmud Yerushalmi show striking similarities between rabbinic halakhah and Roman law in many legal areas. On the basis of theoretical considerations and case studies from shipping law, slavery law, and family law this paper investigates whether and to what extent rabbis can be expected to have known Roman law. In which areas of law are similarities most likely and how can the relationship between rabbinic and Roman law be explained?

Orit MALKA and Yakir PAZ, *A rabbinic postliminium: The property of captives in tannaitic halakhah in light of Roman law*, p. 323-344.

The commonly held scholarly opinion is that according to tannaitic law, captivity does not impact the legal bonds of the captive, and thus does not void a captive's property rights. In this paper, based on the exposition of conflicting strata in t. Ketubbot 3:8, we uncover a view that captives' property rights are undermined upon capture and the captives regain their previous rights only when they physically return. This is similar to Roman law, where a captured person ceases to be a citizen, and as a result, all his or her legal bonds – among them

property rights – are undermined. However, if the captive returns, his or her civil status is resurrected and rights reinstated through the institution of *postliminium*. We thus argue that the Tosefta displays a deep internalization of Roman concepts regarding the legal consequences of captivity and formulates a rabbinic version of *postliminium*.

Yael WILFAND, “A proselyte whose sons converted with him”: Roman laws on new citizens’ authority over their children and tannaitic rulings on converts to Judaism and their offspring, p. 345-364.

This paper analyzes rabbinic rulings on legal relations between converts and their children as a case study for examining the dynamic and nuanced influence of Roman legal and social approaches to new citizens on the development of rabbinic halakhah. This study considers topics such as converts’ bequests and their authority over offspring who were born (or even conceived) prior to their parents’ conversion, including children who joined Israel with one or both parents. According to tannaitic sources, even if both generations converted together, family ties between children and their father were severed upon his conversion; thus, they were no longer deemed his heirs. Striking parallels with Roman law (including Gaius, *Institutes* 1, 93-94; 3, 19-20) lead us to examine once more the relationship between Roman and rabbinic law.

Natalie B. DOHRMANN, *Ad similitudinem arbitratorum: On the perils of commensurability and comparison in Roman and rabbinic law*, p. 365-385.

Among other things, *C.Th.* 2, 1, 10 declares that the judgments of Jewish tribunals in civil matters will be enforced by the state as if they were issued by Roman courts of arbitration (*ad similitudinem arbitratorum*). The extraordinary power exerted by this analogical reasoning characteristic of the *fictio iuris* reasoning – comprehending all Jewish civil law as ersatz arbitration – serves as the inspiration for an exploration into the question of “similarity” between legal systems. A look at the rabbinic laws of arbitration reveals that the space opened by Rome for the operation of Jewish legal practice seems in the tannaitic sources to have been more anxiety-producing than empowering. The first part of the paper will look at the early rabbinic construction of the idea of arbitration (cf. *Mekhilta de-Rabbi Ishmael*, Neziqin 1; t. *Sanhedrin* 1; *Sifre Deuteronomy* §17), and map its conceptual foci in relation to similar Roman ideas. The second part of the paper reflects on the manifold methodological pitfalls (and potentials) of comparison, history, and jurisprudence in the study of rabbinic and Roman law in an imperial landscape.

Katell BERTHELOT, “Not like our Rock is their rock” (*Deut 32:31*), *Rabbinic perceptions of Roman courts and jurisdiction*, p. 389-408.

This paper discusses how early (mainly tannaitic) rabbinic sources viewed Roman jurisdiction, and the possibility that Jews would turn to non-Jewish courts to settle their disputes. It does not aim to describe actual practices, nor to clarify how Jews navigated between non-Jewish and Jewish courts in Palestine, but rather seeks to analyze rabbinic statements about Roman or non-Jewish courts and to

understand how the rabbis conceived of their activity as opposed to that of non-Jewish courts. What is at stake is the history of representations, or ideas, rather than legal history. After noting that few tannaitic texts explicitly reject Roman or non-Jewish courts, I examine the well-known case of a Jewish divorce enforced by a non-Jewish tribunal, then proceed to analyze the underlying covenantal rationale for the rejection of Roman courts. I argue that at least some rabbis associated non-Jewish courts with idolatry, thus rejecting the more accommodationist position that seems to characterize most rabbinic literature on the subject, while other texts associate Jewish or more specifically rabbinic jurisdiction or arbitration with God's holiness.

Ron NAIWELD, *The rabbinic model of sovereignty in biblical and imperial contexts*, p. 409-427.

As the constitutive text of rabbinic Judaism, the Mishnah provides a unique theological and political framework shaped through contact with both Jewish and Roman influences. The following is an attempt to reconstruct this framework by examining the rabbinic legal institution of the *beit din* in relation to the priestly model of sovereignty, on the one hand, and to the imperial context, on the other. Special attention is given to the Edict of Caracalla, issued shortly before the redaction of the Mishnah, and to the theological justification it gives to the universalization of Roman citizenship.

Kimberley FOWLER, *Early Christian perspectives on Roman law and Mosaic law*, p. 429-453.

This paper will consider four Christian sources from between the second and fourth centuries CE, all of which in their own way represent Roman law as to some degree dependent on, inspired by, or compatible with that of Moses. The nuanced viewpoints put forward by each writer, however, evidence more particular agendas and responses to the challenge of following both God's laws and those of Rome. Whether authors were writing in the pre- or post-Christianised empire was a factor in some cases, as was the perceived relationship of certain authors between Christianity and Judaism. I will argue firstly that Roman law was primarily for certain early Christian authors a polemical tool by which to argue for the distinction between Christianity and Judaism. Secondly, I will show that by directly or indirectly connecting the Mosaic and Roman laws, Christian authors were able to further both pro- and anti-Roman agendas.

Christine HAYES, *"Barbarians" judge the law, The rabbis on the uncivil law of Rome*, p. 455-498.

In the ancient and late antique world, various peoples engaged in competitive ethnic apologetics. In so doing, they drew on central tropes of the civilized/barbarian dichotomy, first formulated by the Greeks, which valorized law as the definitive mark of a civilized people and bulwark against barbarian savagery. Invoking familiar tropes of the "barbarian repertoire" (described by Kostas Vlassopoulos), ancient and late antique writers adopted a double strategy of apologetics and redirection, defending themselves against the charge of barbarism

and redirecting it on to their accusers. Palestinian rabbis participated in this competitive ethnic apologetics in two ways. First, they defended themselves from the charge of barbarism by neutralizing violent elements of biblical death penalty law. Specifically, they “barbarized” the stubborn and rebellious son of Deuteronomy 21, and they imported substantive and conceptual elements from Roman law in order to conform biblical executions to the Roman standard of a dignified and aesthetically pleasing death. Second, they redirected the charge of barbarism onto Rome through ironic narratives focused on the savagery of Roman emperors.