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The Dynamics of Dual-level Governance in the Roman Empire, First–Third Centuries CE: Incremental Permeation and Occasional Intrusions of Roman Normativity in Local Life

The question of the autonomy of the more than 2,000 cities forming the territorial basis of the Roman Empire is a traditional subject in the studies on the Roman imperial institutions. Deprived of freedom of action in foreign affairs,¹ the cities could, in the words of Rome, ‘use their own laws,’ *suis legibus utere*, a capacity labeled *autonomia* in the Greek-speaking part of the empire. Every single city had a strong identity, comprised of peculiar cults and local myths, and a sense of common history and pride. Their life was articulated, on a daily basis, by shared rituals and decisions taken by several institutional bodies. Local magistrates, elected annually by the assembly of local citizens, governed the cities, with the assistance of a Council, comprised of a few dozen to a few hundred members.

In addition to permitting cities their autonomy as a cultural favour, the central power had an interest in, rather than an aversion to, maintaining local autonomy, as well as precise expectations regarding it. As a matter of fact, cities did not only take care of their own administration: they also acted as “tools” for the empire by fulfilling a number of tasks devised and entrusted to them by the central power in the judicial, fiscal, or security domains, as well as for the maintenance of roads (*vehiculatio*), a series of crucial capabilities for which the Roman state had only a very light bureaucratic structure. These tasks, called *munera* (in Latin) or *leitourgiai* (in Greek), were required by the central power, but a latitude existed regarding the way cities organised them internally in order to fulfil them. In

1 Plutarch, *Precepts of Statecraft* 805B: “Nowadays, then, when the affairs of the cities no longer include leadership in wars, nor the overthrowing of tyrannies, nor acts of alliances . . .”

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that sense, the Roman Empire relied on a dual-level governance system, engaging both levels – the cities and the Roman state – in an exchange of demands and responses, in an empire where intermediary institutions, such as the regional assemblies of cities, had few real powers.²

Recently, a series of studies has delineated the sharing of powers between cities and the Roman administration in the most significant areas of local autonomy, namely, the local administration of justice, finances and the maintenance of local order, as well as the recovery of taxes.³ In addition, scholarship on the process by which Roman legal norms were diffused throughout the empire have come to reveal a double-sided situation: in the High Empire the appeal for Roman normativity was a bottom-up movement at least as much as a top-down one, thus adding a lot of complexity to what was once believed to be a deliberate and sustained infringement of the center on the periphery.⁴ Regarding the local communities and their organisation, the emperor's ruling was requested for "every significant aspect of the civilisation and communal life of the cities,"⁵ including economic, religious or cultural aspects of local life. Roman normativity, which I would define as a legal Roman authority (external to the cities), judging, or not, according to Roman law, was thus, on a regular basis, locally sought on subjects that were debated in the cities, or that normally had to be judged in local courts. On their side, the Roman power and its legal experts and advisors regularly protected local jurisdiction, and also local law when a judgment was enacted on matters regarding a "peregrine" city (a city which had not received a Roman charter, unlike *municipia*, which were communities preexisting the conferment of a Roman statute, and *coloniae*, which were *stricto sensu* founded by a Roman magistrate). This principle in judicial administration is sometimes called "subsidiarity."⁶ It is a clear effect of the interest of the Roman state in local autonomy,⁷ while any other policy

2 On regional assemblies of cities, see the chapter by Marco Vitale in this volume.

3 Merola, *Autonomia locale*; Burton, "Roman Imperial State"; Brélaz, *La sécurité publique*; Fournier, *Entre tutelle romaine et autonomie civique*. Syntheses: Brélaz, "Motifs et circonstances" and Brélaz, "Maintaining Order." These studies treat the subject mainly from the epigraphical sources emanating from the Greek cities of the Roman Empire, as the sources are more numerous than in the Western communities and because the problem is apparently more stringent in these communities with their own multi-secular constitutions, and which proclaim their attachment to their self-government.

4 More recently: Ando, "Pluralisme juridique"; Czajkowski, Benedikt and Strothmann, *Law in the Roman Provinces*.

5 Millar, *The Emperor*, 447. On the growing legal role of the emperor, Tuori, *The Emperor of Law*.

6 Hurllet, "Justice."

7 Interest in local law: Fronto, *Correspondence, Ad Marcum Caesarem* 1.6; Pliny the Younger, *Letters* 10.92–93.

would have been a useless effort, also contrary to the widely shared ideal that every city should be administered according to its own constitution.

The points I want to make in this chapter pertain to the dynamics and chronology of the evolution of “autonomy,” during the High Empire, with respect to the vast majority of the cities in the empire.⁸ Whatever the principles and discourses praising local autonomy, this imperial dual-level governance was per se unstable: on the one hand, from the very beginning, the obvious precedence of the Roman state over the cities occasionally prompted the deliberate diminution of local autonomy, although this kind of event found few avenues of expression in the epigraphical sources; on the other hand, the local solicitation of decisions from the Roman power about the many facets of local life progressively shrunk the space available for local initiatives regarding the organisation of local life – although “autonomy” obviously never disappeared.⁹ Once the Roman power had been solicited about a matter and had given an answer – for example, how many teachers could be paid by a city – a rule theoretically existed for all cities. It would then set a precedent for any future decision.¹⁰ The second, related point is that there was continuity, rather than disruption, in the Roman view and administration of the cities up to – and including – the time of Diocletian (285–305): the precedence of the Roman state was an ancient and permanent principle concerning any city, while the recurring recourse to Roman normativity (be it, e.g., the request of a privilege or a charter from an emperor, or an appeal to a governor about a nomination) made its impact only by means of a long-term coagulation in the cities. In the next section, the case study of local careers offers an approach to this long-term permeation and coagulation of a normativity external to the cities on a matter all the more compelling in that it is closely related to self-government. It is followed by an examination of the way that, from the Augustan period, the central power regularly intervened at the request of sub-groups in an “infringing,” but not sustained, and only poorly recognised, manner. In conclusion, it is shown that the rhetorical tone of most sources relevant to the relationship between cities and central power is accompanied by a common understanding that the central power could deal with cities as it saw fit, regardless of their status and statutes, and that it supported an incremental pro-

⁸ The case of Aphrodisias, a “free” city defined as being outside of the empire from a legal point of view, which paid no tax to Rome and whose authorisation was required to receive a Roman governor on its territory, is certainly exceptional. Even in its case though, recent discoveries have shown the presence of Roman officers in the third century (Chanotis, “Roman Army”). Curators (see below) were also nominated.

⁹ E.g., Humfress, “Thinking Through Legal Pluralism.”

¹⁰ Administrative memory: Nicolet et al., *La mémoire perdue*; on archives: Ando, *Imperial Ideology*, 80–96.

cess, never fully completed and mostly not felt to be harmful, of the permeation of Roman normativity in local life.

Local careers and Roman normativity

Local careers were organised by functions of different natures, and obtained in different ways. Elected magistracies and some priesthoods, on the one side, were the most honorific functions, endowed with a share of local power, either civil or religious. Magistrates had a leading role in their communities and the glory, or *dignitas*, according to Roman conceptions, associated with it.¹¹ Recent studies confirm the importance of the local electoral process. For example, the *lex Troesmensium* (municipal law of Troesmis, in Moesia inferior) shows that the popular vote was still a prerequisite under Marcus Aurelius (161–180) in the Danubian provinces, and was protected from infractions.

At the same time, a process operating slowly and inconspicuously in the life of the cities in the High Empire was the growing importance of the tasks, or ‘duties’ (*munera/leitourgiai*) in communal life. Their function in the operation of the empire was evoked in preamble. Some of them were also designed for the working of institutions inside the cities (such as the gymnasium). Liturgical offices were distributed among the inhabitants of the cities, primarily by local authorities, following considerations of wealth or personal capacity, and a rotation of service, *per vices ab omnibus quos id munus contigit*,¹² rather than through an electoral process. In consequence, whereas they could sometimes confer prestige and power,¹³ they usually were much less political in the sense that they implied more a routine allotment than a reward for personal ambition or collective choice. The balance between magistracies and “duties” and the evolution of that balance therefore constitute a good test case for the institutional and political dynamics at play within the cities. Four main points appear:

¹¹ Callistratus (1 *cogn.*), *Digest* 50.4.14.pr.

¹² Pseudo-Ulpianus (2 *opin.*), *Digest* 50.4.3.13, on *hospitium* (the duty to give hospitality to Roman officials): “in turn, those on whom the burden falls.”

¹³ Especially in the case of embassies: *AE* 1916, 42 (Volubilis, Mauretania). In exceptional circumstances this *munus* could be attributed to volunteers, without following a rotation of service: Table A, *lex Troesmensium* (Eck, “Die *lex Troesmensium*”) and Marcianus (12 *inst.*), *Digest* 50.7.5, Hadrian to the Clazomenians (in western Asia Minor). In some Greek cities, ambassadors could be elected: Philostratus, *Lives of the Sophists*, 536.

(1) The increase in the number of “services” during the High Empire

In the Flavian municipal law from Spain, which was a charter given to the “peregrine” cities by the central power at the end of the first century so as to organise them into *municipia*, very few services were mentioned (embassies, and maintenance of roads and buildings).¹⁴ But in the treatise by Arcadius Charisius, maybe in the 280s, the number of *munera* about which a regulation existed had dramatically increased. Some of the functions that the inhabitants of Greek cities defined as magistracies, with elections by the people, could then be considered duties by the representatives of Roman power.¹⁵ In Egypt, too, the same observation of an increase in the number of services can be made, based on another type of documentation.¹⁶ The *agoranomos* in the East and the *aedilis* in the West, for example, were normally magistrates responsible for supplying grain to their city, but this task was assigned as a *munus* at the end of the third century. The supervision of public funds was also defined as a duty rather than a magistracy by Arcadius Charisius. There was still variability from city to city in the number, naming, and delineation of the different services – some of them, in the Greek world, being designated with a suffix in *-archês*, because they included a ‘leading’ function.¹⁷ From the Roman point of view, the most important aspect was that, in the cities, a set of individuals could swiftly be nominated to fulfil these many functions for objective reasons, if needed, with no mediation by an electoral procedure.

Moreover, bureaucratic functions essential to the daily working of the cities were also defined as services at the time of Diocletian, such as the ones pertaining to the archives or to the scribes. Previously, the scribes, at least, were paid by the civic treasuries.¹⁸ The definition of these functions as services was certainly not valid for all the cities; but in my opinion, their pervasiveness does correspond to an imperial Roman imprint on communal life, facilitating the meeting of demands placed upon the cities by the Roman state.

(2) The role of Roman administration in the designation of the holders of liturgies
The issue of appointment to these local “duties” is therefore crucial for understanding local autonomy. The case is oblique, and scholars’ attention was long drawn to the question of the “curators,” who were officials directly nominated in

¹⁴ *Lex Irnitana*, ch. F-H and 83 (González and Crawford, “The *Lex Irnitana*”; to be completed with Crawford, “The Text of the *Lex Irnitana*”).

¹⁵ Such is the case of *limenarchia* (a function associated with harbors), *agoranomia* (supervision of markets), and even priesthoods (*Digest* 50.4.18.10; 50.4.2; *Code of Justinian* 10.42.8). On quaestorship, Felici, “Riflessioni.”

¹⁶ Lewis, *Compulsory Public Services*.

¹⁷ Pont, *La fin de la cité*, 280.

¹⁸ David, “Les *apparitores*.”

the cities by the emperor or the governor. Codes make it clear that the governor or the emperor had the power to designate only a few of these agents.¹⁹ The discussion has been renewed, without substantially altering the existing evaluation of the overall paucity of these officials, by the publication of lead weights from Nicomedia, with the interesting case of the association of the functions of governor and curator. Finally, the supposedly systematic nomination of such officials remains uncertain even at the end of the period, when Diocletian implemented his administrative reforms.²⁰

Although emanating initially from the cities themselves, the designation of the holders of “duties” may have frequently been superseded by an external judgment. Because of the personal involvement and sometimes personal expenses they implied, they were often legally disputed in the court of the governor. The expansion of the rules about excuses that could be used to evade such a designation is described by François Jacques as characteristic of the third century. The selection of those responsible for these services in the end included, in an explicit and realistic manner, the possibility of an appeal to the governor.²¹ The stream of appeals to the governor increased in the third century for another reason, too. The redaction of the treatise of Herennius Modestinus, a jurist from the East, probably for the inhabitants of Asia Minor, was linked to the expansion of Roman citizenship in the Greek world in 212, which, for example, provoked the appointment of a number of guardians for orphans according to Roman law. An explanation was needed to determine who could be excused from this kind of function.²²

Considering the increase of duties accomplished in service of one’s city and the empire over time, and the propensity to litigate one’s appointment to these in front of the governor, this kind of function appears to have been an important and growing medium for Roman normativity to penetrate the distribution of these less politicised, and yet vital functions in the cities.

19 Jacques, *Le privilège de liberté*; Brélaz, “Aelius Aristide,” 604–605, n. 5. The main pieces of evidence are Ulpianus (2 *off. proc.*), *Digest* 1.16.7.1 (*curatores operum*, in charge of the construction of buildings); Papirius (2 *de const.*), *Digest* 50.8.12.4 (*curatores kalendarii*, in charge of the collection of the interests of the public credits, see Jacques, *Le privilège de liberté*, 263; Pont, *La fin de la cité*, 280); Aelius Aristides, *Orations* 50.72 (eirenarchs, in charge of local security); and the *praefecti* nominated in lieu of *duumviri* (main magistrates of the cities), as noted by Brélaz.

20 Nicomedia: curators: *SEG* XLIV 1008 (the same in *LV* 1376); *LV* 1371; curator and governor, *SEG* *LV* 1382; *LXIV* 1269. Under Diocletian: Pont, *La fin de la cité*, 305–311.

21 *Code of Justinian* 10.32.2 (Diocletian and Maximian). Compare to Table A of the *lex Troesmenisium*: the rules about the notice that must be given to a nominated person are developed too, but in order to make sure that a nominee for an embassy would be ready to leave within five days.

22 Méléze-Modrzejewski, “Grégoire le Thaumaturge”; Chevreau, “L’évolution de la tutelle romaine.”

(3) Magistracies and the notions of gradation and proportionality: the diffusion of Roman *mores*

In Roman cities (*municipia, coloniae*) a *cursus honorum* articulated the succession of magistracies in one's career: they were generally to be held in a precise order, at a certain age, with a lapse of time between two functions. Such a notion did not exist in cities of Greek heritage, in the Eastern part of the empire.²³ Beyond the Roman discourse about the best way of demonstrating one's political virtues in a lifetime, the concept of the *cursus* also provided the authorities with a convenient classification of the local elites. A series of imperial constitutions insisted on these notions of progression and proportionality. Yet, as the cities with Roman charters obviously had this kind of internal organisation, it can be confidently assumed that these sets of rules were particularly convenient for a governor asked to produce a decision about a contentious election of a magistrate in a "peregrine" city, providing him with principles to guide his judgment. These Roman laws used vocabulary such as *gradatim* ('in due order'), *a minoribus ad maiores* ('from the lesser to the greater'), *aequaliter* ('fairly'), *per vices* ('in turn'), *secundum aetates et dignitates* ('according to age and rank').²⁴

None of these terms were routinely used in the Greek cities: but when needed the governor acted according to these values, which were assuredly just and sound, but did not reflect internal and autonomous political transactions of power. In addition, in all cities, either of Roman constitution or not, the intervention of the governor, for the holders of magistracies and duties, represented an external authority intervening in internal, and unresolved, political affairs. A constitution dating from the time of Diocletian also seems to illustrate a problem regarding the lack of candidates to hold magistracies, a problem which may have been felt more palpably in some provinces than in others (Africa, for example, was certainly less affected). The emperors wished to avoid the same individuals being solicited repeatedly, following a principle of the Roman government that the affluence of local elites and the good health of civic communities were mutually dependent on one another.²⁵

²³ Plutarch, *Precepts of Statecraft* 813D: "it is right that men who are adorned with the highest offices should in turn adorn the lesser." The case-study by Kirbihler, "Un *cursus honorum* à Éphèse?" confirms that point.

²⁴ *Digest* 50.4.11.pr.; 50.14.5; 50.4.3.15; *Code of Justinian* 10.43.2. On the role of fiction in the extension of Roman law to aliens (*peregrini*), see Ando, *Law, Language and Empire*, chapter 1.

²⁵ Pseudo-Ulpianus (2 *opin.*), *Digest* 50.4.3.15. On the principle of sparing the wealth of local notables: Trajan in Pliny the Younger, *Letters* 10.111.

(4) The references to local laws in the legal codes and judicial imperial activity

In a manner typical of the Roman Empire, which truly demonstrates a tension between autonomy and administration, most of the references to *leges municipales* in the corpora of Roman law are linked to the distribution of “services” in the cities, and they recommend taking into account local specificities, when they exist. The *leges municipales* referred to in the codes were not a general municipal law enacted by Rome, but corresponded to local norms established in the cities, either peregrine or those which had received their laws from Rome.²⁶

The bulk of the evidence mentioning *leges municipales* concerns the distribution of official positions in cities, but other specificities are known.²⁷ As Georgy Kantor puts it, “it is natural to assume that as long as the traditional polis offices continued to exist, local custom would, to some extent, be accepted in the system of appointment to those and in the distribution of financial burden among the local elites.”²⁸ The visibility of this subject in the codes is apparently paradoxical: it proves both that the Roman governor was often asked to judge these problems, and that he had to take into account local laws, when they existed – which was, as Clifford Ando emphasises, a natural way of thinking for most of the Roman circles of power. (It should be noted though that this preference was not universally shared among the senatorial elite: for example Pliny, when he was the governor of Bithynia-Pontus, wondered if he could use Roman religious law in peregrine cities, an idea which Trajan firmly opposed.)²⁹ An example of how a Roman judge could intervene on this subject even in a free and peregrine city is found in a long letter of Marcus Aurelius to the Athenians: among other subjects, he decided that a candidate, whose election had been contested in court by his opponents, could not hold a local priesthood, because he did not meet the criteria defined in Athenian laws. The emperor carefully noted that he did not want “to upset the (local) traditions” in this matter.³⁰ This is typical of how local “auton-

26 On *lex municipalis* see Crawford, “How to Create a *Municipium*,” App. 2 (to which some references are added in the following note).

27 An asterisk marks constitutions or judgments from the Tetrarchic time (including Licinius): 1) Specific privileges of the cities: *Digest* 42.5.37; 50.1.17.5; 50.1.1.2; 50.4.18.25*; *Code of Justinian* 10.40.6*; 2) Particularities of local law, that have to be enforced, a) about official positions in the cities: Pliny the Younger, *Letters* 10.112–113; Fronto, *Correspondence, Ad amicos* 2.7.4; Follet, “Lettre de Marc Aurèle,” §2; *Digest* 3.4.6; 49.1.12*; 50.1.25; 50.2.10; 50.2.11; 50.3.1.pr; 50.4.1.2*; 50.4.3.1; 50.4.14.3; 50.4.18.27*; 50.5.8.3; 50.6.6.1; 50.16.214; *Theodosian Code* 12.1.5*; b) other cases: *Digest* 2.12.4; 3.4.3; 43.24.3.4; 50.1.21.7; 50.8.2.1; 50.9.6; *Code of Justinian* 7.9.1; 8.48.1*; 11.30.4*; 3) Harmonisation of local law by Roman law: *Digest* 50.4.11.1; 50.9.3; 4) Local law not to be enforced: *Digest* 47.12.3.5.

28 Kantor, “Greek Law,” 18.

29 Pliny the Younger, *Letters*, 10, 49–50 and 68–9.

30 Follet, “Lettre de Marc Aurèle.”

omy” could be protected by an external, Roman judge. The process nevertheless let political rivalry expand beyond the limits of the city, signaling the weakness of the internal processes of control, and was clearly contrary to the recommendations of Plutarch, at the beginning of the second century, whose reflection is all the more valuable as it was based on his own experience, as a friend of the Romans and magistrate in his own city of Chaeronea:³¹

However, the statesman, while making his native State readily obedient to its sovereigns, must not further humble it; nor, when the leg has been fettered, go on and subject the neck to the yoke, as some do who, by referring everything, great or small, to the sovereigns, bring the reproach of slavery upon their country, or rather wholly destroy its constitutional government, making it dazed, timid, and powerless in everything.

But, in a practical way, how could a judge consider both local and Roman law? Normally a Roman judge (either the governor or the emperor) had to check that local laws had not previously been dismissed in a similar case, according to Ulpian.³² In addition, in anticipation of judicial litigation about the conferral of offices,³³ the local elites would be apt to regulate local careers, or some aspects of them, in a Roman way. Regarding the statement by Trajan that local law should be enforced in the matter of an entrance-fee to local senates, Alan K. Bowman wrote thus: it is “an excellent example of legal provision being subject to gradual *de facto* change.”³⁴ Moreover, as Modestinus eloquently puts it in a chapter of the *Digest* pertaining to the *munera* and offices:³⁵

It is laid down by edict that offices (*honores*) should be conferred in due order and, in a letter of the deified Pius [Antoninus Pius, 138–161] to Titianus, that one should move from the lesser to the greater. This is true if it is prescribed in the *lex municipalis* that men of a certain status should be preferred for offices; it must, however, be realised that this provision is to be observed if the men are suitable (*idonei*); and this is what is contained in a rescript of the deified Marcus.

François Jacques pointed out that this passage showed the persistence of the criteria of *dignitas* in elections in Roman cities, superseding that of affluence. To take a different, but complementary, line of interpretation, I would insist on the fact that Marcus Aurelius stated that a local law about the conferral of magistracies had to abide by the Roman law about the definition of *idonei*. This notion certainly in-

31 Plutarch, *Precepts of Statecraft* 814F.

32 Ulpianus (4 *off. proc.*), *Digest* 1.3.34.

33 Ando, “Pluralisme juridique” and Pont, *La fin de la cité*, 265–271.

34 *P.Oxy.* 44, p. 123.

35 Modestinus (11 *pand.*), *Digest* 50.4.11.pr.–1. For other aspects, Jacques, *Le privilège de liberté*, 335–336.

cluded the idea of sufficient wealth, but, more generally, too, of any general condition relating to the capacity of acting as magistrate, according to Roman political culture (for example, the question of age, which is also raised in a passage of the *lex Troesmensium*).³⁶ Finally, an opinion of Callistratus, a jurist originating from a Greek-speaking region at the beginning of the third century, interestingly seems to classify the order in which criteria were to be taken into account for the conferral of magistracies, when a Roman judge was to hear such a case: character (*persona*), link to the city – whether one’s fatherland or not (*origo*) –, affluence (*facultates*), ‘law under which anyone is to perform *munera*’ (*lex secundum quam muneribus quisque fungi debeat*).³⁷ It is an astute mix of interpersonal appreciation (*persona*) and Roman criteria (*origo* and *facultates*), with a zest of local autonomy. The mention of municipal laws is also noticeable in the Tetrarchic time: contrary to what is often assumed, this period, in my opinion, applied, rather than breached, previous rules of government pertaining to the cities.³⁸

The cities and their constitutional variety – a variety that was nevertheless reduced when it came to *municipia* and colonies which received the main corpora of their laws from Rome, with some latitude regarding, e.g., their religious life – were constituent of the fabric of the empire. A discourse and a practice of supporting this variety existed, both at the local and at the imperial level. But over time, from Augustus to Diocletian, by solving problems on the organisation of self-government, the central regulation focusing on the local organisation of services or on the fulfillment of magistracies only increased, without any emperor having reversed the previous policies in a more centralised way.

Beginning with Augustus: The strength of civic rhetoric, the permeability of the civic level

What is being investigated here evinces the same complex articulation as in the preceding section. It delineates the capacity of the Roman power to consider the cities not in a diplomatic, but in a purely administrative way, and to occasionally intervene in the intimacy of their life – in their territory, or upon the requests of some of their components – and against the will of the cities themselves. Evidence

³⁶ See e.g. *idoneus* in Pseudo-Ulpianus (2 *opin.*), *Digest* 50.4.3.2; Ulpianus (57 *ad ed.*) 50.16.42.

³⁷ Callistratus (1 *cogn.*), *Digest* 50.4.14.3.

³⁸ For a detailed assessment of the question, Pont, *La fin de la cité*, chapter 4. Constantine did not treat the *consuetudines* of the African cities in the same manner: their popular assemblies might well live on but would not have any impact on the decisions (*Theodosian Code* 12.5.1).

shows that these separate “encroachments” existed from the time of Augustus and did not develop dramatically, up to and including the time of Diocletian. They continuously coexisted with diplomatic approaches and displays of respect for civic laws by the Roman power.

(1) Action regardless of statute and status

Very few texts attest explicitly to “edicts,” imperial orders addressed to the cities of the empire in general.³⁹ Fergus Millar accounted for their rarity and gave a series of examples. The edict of Claudius (41–54) about *vehiculatio*, found in Achaia (Greece), touched *et colonias et municipia non solum Italiae verum etiam provinciarum item civitatum cuiusque provinciae*, “colonies, as well as *municipia* not only in Italy but also in the provinces, as well as the cities of each province.”⁴⁰ The same enumeration of the whole series of statutes can be found in a document from the same time, cited by Flavius Josephus: an edict about the Jews was enacted by Claudius after violent riots in Alexandria. Its provisions for its publication were worded almost in the same way as the law about *vehiculatio*.⁴¹ Later on, only abridged versions of such a list are known: “for all the cities” or in “each city.”⁴² Only logical from the point of view of the empire, this kind of non-diplomatic style, which certainly accounts for so few generalised texts being engraved, is no less significant for the working of the empire than the rhetorical tone of embassies or one-to-one imperial diplomacy. Other expressions of general validity were found in the legal codes, extending principles throughout the whole empire, with adverbs such as *generaliter*.⁴³

Another administrative method of classifying the cities of the empire was to do so according to their size. This pragmatic approach was impervious to the individual rights or characteristics of any city, which at least in the Greek world was an important idea. Cities could thus be classified as *civitates minores, maiores, maximae*⁴⁴ (“smaller, bigger, biggest”); the payment to gladiators was arranged by Marcus Aurelius⁴⁵ according to a repartition of the cities into three categories,

³⁹ See Millar, *The Emperor*, 255–257. Add Ando, “The Rites of Others,” 265–267.

⁴⁰ *CIL* III 7251 (Tegea, in Greece).

⁴¹ Flavius Josephus, *Jewish Antiquities* 19, 287–291 (the omission of the *civitates* is probably related to an omission in the transmission of the text to Flavius Josephus).

⁴² *P.Fay.* 20 (Severus Alexander); Marcianus (12 *inst.*), *Digest* 50.7.5.6.

⁴³ About adverbs such as *generaliter, plenissime*, Brunt, “*Lex de imperio Vespasiani*,” 111.

⁴⁴ Modestinus (2 *excus.*), *Digest* 27.1.6.2.

⁴⁵ *FIRA*² I 49, §11.

which could be determined by the Roman official in the region. The idea is found later in a papyrus written by a teacher claiming personal rights.⁴⁶

The criterion of the size of a city elaborated by the Roman power, although wise from an administrative point of view, did not account for the way that cities, especially in the Greek world, still claimed to see themselves: as unique and incomparable. A similar trend of administrative rationality is to be observed when the jurist Paulus recommends that if an appropriate person could not be found in a city to be chosen as a guardian for children from this same city, the governor was to look for one in neighbouring cities.⁴⁷ The classification of cities by the imperial power deserves further study: as for the individuals, the notion of proportionality for the cities, or of neighborhoods creating obligations of duties, which could be appreciated only from a panoptic perspective, was contrary to the idea of diplomacy within the empire and permitted criteria alien to the idea of autonomy to seep into their constitutions.⁴⁸

(2) Sub-groups⁴⁹

Lastly, the intervention of an authority within the territory of a supposedly autonomous entity deserves some attention. It seems that it was mere routine, beginning from the Republican period and ongoing in Augustan times. The intervention in “cities and villages,” which means in cities and in the villages within their territory, is visible first through the regulation of *vehiculatio*. As early as the reign of Tiberius, the governor of Galatia would organise the duties of cities and their villages to avoid problems, thus eliminating a function which could have been left in the hands of the local magistrates. This change was for the sake of the cities and the intention was certainly good: the governor acted in an effort to give remedy to the illicit demands of Roman officials travelling through Anatolia.⁵⁰ In similar circumstances, Hadrian in 129 CE again reiterated this interest in “cities and villages [in their territory].”⁵¹ Later, the provisions for the application of Diocletian’s fiscal reforms stipulated that the imperial edict on the subject should be sent, in Egypt, by the magistrates of the cities to any village or place in their territory.⁵²

Sub-groups could also argue that their interests diverged from those of the city they belonged to. To cite only a few examples: in the cities listed by Flavius Josephus, the associations of Jews requested that the governor allow them to prac-

46 *P.Oxy.* 47, 3366 (Parsons, “Petitions and a Letter”).

47 Paulus (9 *resp.*), *Digest* 26.5.24; Callistratus (4 *cogn.*), 27.1.17.1 for an exemption.

48 See, too, in Ulpianus (2 *off. proc.*), *Digest* 1.16.7.1, the notion that the governor should encourage building operations in the cities “in proportion of their capacity.”

49 Eilers, “Inscribed Documents,” clearly delineates the issue.

50 *SEG* XXVI 1392.

51 *SEG* LIX 1365.

52 *P.Cair.Isid.* 1, l. 14–18.

tice their religion according to their customs (which meant authorisation for being absent from official occasions on Shabbat days, or having a special place of worship in the urban space); in Miletus, a family of priests of the sanctuary of the Cabiri asked the governor to confirm, in opposition to the city, their priesthood of this civic sanctuary;⁵³ in Sardis, a village secured the right to create a market, whose privileges were denied by the local senate.⁵⁴ In all of these cases, there is a distortion in the documentation: epigraphic evidence of these can only persist if it finds methods of expression in, or in spite of, the positive wording found in the epigraphical documents emanating from the civic world. These requests also account for the maturity and growing confidence of local sub-groups in the Roman administration. But these processes could also be likened to an infringement on the autonomy of the cities, for a series of internal questions for which the civic institutional bodies had expressed different resolutions.

Conclusion

In the Roman Empire, autonomy was not only an ideal, but also a practice, and an imperial norm, as I hope to have shown; but, as François Jacques puts it, “l’idée de l’Etat l’emporte sur l’idée de cité.”⁵⁵ Local autonomy could be promptly diminished, if needed, and was also altered over time by the permeation of Roman normativity in local life. From the very beginning, the nature of the empire in regards to local autonomy was clear to perceptive observers, too. After describing the constitution of the Cretan cities, Strabo (10.4.22), who completed his *Geography* under Tiberius (14–37), noted:

I have assumed that the constitution of the Cretans is worthy of description both on account of its peculiar character and on account of its fame. Not many, however, of these institutions endure, but the administration of affairs is carried on mostly by means of the decrees of the Romans, as is also the case in the other provinces.

It is worth comparing this passage to the one by Menander Rhetor, from Laodicea in Asia, at the end of the third century, the historiographic fortunes of which

⁵³ *IMilet* 1, 360; *ILabraunda* 61 could pertain to the same type of context.

⁵⁴ *AE* 1994, 1645.

⁵⁵ Jacques, *Le privilège de liberté*, 347.

have been much greater. This passage is used to demonstrate the situation of the Greek cities either after the edict of Caracalla, or during the reign of Diocletian.⁵⁶

Nowadays, however, the topic of laws is of no use, since we conduct public affairs by the common laws of the Romans. Customs however vary from city to city, and form an appropriate basis for encomium.

In my mind, both passages actually account for the “dual-level governance” system, with great insight: local customs existed (and they did well after 212), but Roman norms might be used, and would supersede local laws, in any domain. Everything was in place as early as the Augustan era. Lastly, another witness, Tacitus (*ca.* 56–120), as a member of the senatorial elite, precisely described an “arcane” feature of the empire. When the Roman Senate had to review the rights of the sanctuaries of the greatest cities of Asia, the embassies of the cities were received, and: *Factaque senatus consulta quis multo cum honore modus tamen praescribatur*. The senate passed a number of resolutions, scrupulously complimentary, but still imposing a limit.⁵⁷

Once in a while, what was “prescribed” could be qualified as an “infringement.” But the concern on the “encroachment” of local rights sometimes appears more as an ideological one, shared by some Greco-Roman intellectuals, or by contemporary historians. Considering the *local* interest in *Roman* normativity, and the *Roman* interest in *local* constitutions seen as subservient to the good functioning of the whole system, I would emphasise that the dynamics of the evolution of autonomy were identical from the beginning of the empire, worked as a result of the accumulation of precedents, and would progressively and in unplanned ways alter political transactions in the cities. As they mainly resulted from an administrative routine which, as a whole, did not offend local people, was often locally sought, and was not overtly antagonistic to local norms, they also went largely unnoticed, acting in the background, but in the end changing the reality of civic “autonomy.”

⁵⁶ Menander Rhetor I, 363, l. 11–14. See Ando, “Pluralisme juridique”; Lepelley, “Le nivellement juridique.”

⁵⁷ Tacitus, *Annals*, 3.63.

Bibliography

Primary sources

- Aelius Aristides, *Orations: Aelii Aristidis Smyrnaei quae supersunt omnia*, vol. II, edited by Bruno Keil. Berlin: Weidmann, 1898; translated by Charles A. Behr, Leiden: E. J. Brill, 1981.
- AE: *L'Année épigraphique*, Paris, 1888–
- CIL: *Corpus Inscriptionum Latinarum*, Berlin, 1863–
- Code of Justinian: Corpus Iuris Civilis*, vol. 2: *Codex Iustinianus*, edited by Paul Krüger. Berlin: Weidmann, 1912; translated by Bruce W. Frier, *The Codex of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text, Based on a Translation by Justice Fred H. Blume*, 3 vols. Cambridge: Cambridge University Press, 2016.
- Digest: Corpus Iuris Civilis*, vol. 1: *Digesta*, edited by Theodor Mommsen and Paul Krüger. Berlin: Weidmann, 1870; translated by Alan Watson et al., Philadelphia: University of Pennsylvania Press, 1985.
- FIRA²: *Fontes iuris Romani anteiustiniani*, vol. I, edited by Salvatore Riccobono. Florence: G. Barbèra, 1941.
- Flavius Josephus, *Jewish Antiquities, Volume VIII: Books 18–19*, edited and translated by Louis H. Feldman, Loeb Classical Library, 433. Cambridge, MA: Harvard University Press, 1965.
- Fronto, *Correspondence*, vol. I: edited and translated by C. R. Haines. Loeb Classical Library 112. Cambridge, MA: Harvard University Press, 1919.
- I.Labraunda*: Jonas Crampa, *Labraunda. Swedish Excavations and Researches*, III 1/2. *Greek Inscriptions*, 2 vols. Lund: Gleerup, 1969–1972.
- I.Milet: Milet VI. Inschriften von Milet*, 3 vols. Berlin – New York: W. De Gruyter, 1997–2006.
- Menander Rhetor: edited and translated by D. A. Russell and N. G. Wilson. Oxford: Clarendon Press, 1981.
- P.Cair.Isid.*: A. E. R. Boak and H. C. Youtie, *The Archive of Aurelius Isidorus in the Egyptian Museum, Cairo, and the University of Michigan*. Ann Arbor: The University of Michigan Press, 1960.
- P.Fay.*: Bernard P. Grenfell et al., *Fayum Towns and their Papyri*. London: The Egypt Exploration Society, 1900.
- P.Oxy.*: *The Oxyrhynchus Papyri*. London: The Egypt Exploration Society, 1898–
- Philostratus, *Lives of the Sophists*: edited and translated by Graeme Miles and Han Baltussen, Loeb Classical Library, 134. Cambridge, MA: Harvard University Press, 2023.
- Pliny the Younger, *Letters, Volume II: Books 8–10. Panegyricus*, edited and translated by Betty Radice, Loeb Classical Library, 59. Cambridge, MA: Harvard University Press, 1969.
- Plutarch, *Precepts of Statecraft*: Plutarch, *Precepts of Statecraft: Moralia, Volume X*, edited and translated by Harold North Fowler, Loeb Classical Library, 321. Cambridge, MA: Harvard University Press, 1936.
- SEG: *Supplementum Epigraphicum Graecum*, Leiden, 1923–
- Tacitus, *Annals: Books 1–3*, edited and translated by Clifford H. Moore and John Jackson, Loeb Classical Library, 249. Cambridge, MA: Harvard University Press, 1931.
- Theodosian Code: Theodosiani libri XVI cum constitutionibus Sirmondianis et leges novellae ad Theodosianum pertinentes*, edited by Theodor Mommsen and Paul M. Mayer, 2 vols. Berlin: Weidmann, 1903–1905; translated by Clyde Pharr, *The Theodosian Code and Novels, and the Sirmundian Constitutions*. New York: Greenwood Press, 1952.

Secondary works

- Ando, Clifford. *Imperial Ideology and Provincial Loyalty in the Roman Empire*. Berkeley, Los Angeles: University of California Press, 2000.
- Ando, Clifford. *Law, Language and Empire in the Roman Tradition. Empire and After*. Philadelphia: Penn Press, 2012.
- Ando, Clifford. “Pluralisme juridique et intégration de l’empire.” In *Integration in Rome and in the Roman World*, edited by Gerda de Kleijn and Stéphane Benoist, 5–9. Leiden: Brill, 2013.
- Ando, Clifford. “The Rites of Others.” In *Roman Literary Cultures: Domestic Politics, Revolutionary Poetics, Civic Spectacle*, edited by Alison Keith and Jonathan Edmondson, 254–277. Toronto: University of Toronto Press, 2016.
- Brélaz, Cédric. *La sécurité publique en Asie Mineure sous le Principat (I^{er} - III^e s. ap. J.-C.). Institutions municipales et institutions impériales dans l’Orient romain*. Basel: Schwabe, 2005.
- Brélaz, Cédric. “Motifs et circonstances de l’ingérence des autorités romaines dans les cités grecques sous le Principat.” In *Amministrare un impero. Roma e le sue province*, edited by Anselmo Baroni, 109–143. Trento: Università degli Studi di Trento, 2007.
- Brélaz, Cédric. “Maintaining Order and Exercising Justice in the Roman Provinces of Asia Minor.” In *The Province Strikes Back. Imperial Dynamics in the Eastern Mediterranean*, edited by Björn Forsén and Giovanni Salmeri, 45–63. Helsinki: Finnish Institute at Athens, 2008.
- Brélaz, Cédric. “Aelius Aristide (Or. 50.72–93) et le choix des irénarques par le gouverneur: à propos d’une inscription d’Acmonia.” In *Philologos Dionysios. Mélanges offerts au professeur Denis Knoepfler*, edited by Nathan Badoud, 603–637. Geneva: Droz, 2011.
- Brunt, Peter A. “The *Lex de imperio Vespasiani*.” *Journal of Roman Studies* 67 (1977): 95–116.
- Burton, Graham. “The Roman Imperial State, Provincial Governors and the Public Finances of Provincial Cities.” *Historia* 53 (3) (2004): 311–342.
- Chaniotis, Angelos. “Roman Army in Aphrodisias.” In *Pratiques militaires et art de la guerre dans le monde grec antique. Études offertes à Pierre Ducrey à l’occasion de son 75^e anniversaire*, edited by Cédric Brélaz and Sylvian Fachard, 151–158. Paris: Éditions Picard, 2013.
- Chevreau, Emmanuelle. “L’évolution de la tutelle romaine à travers le mécanisme de l’*excusatio tutelae*.” *Fundamina* 20 (2014): 139–149.
- Crawford, Michael H. “How to Create a *Municipium*: Rome and Italy after the Social War.” *Bulletin of the Institute of Classical Studies* 71 (1998): 31–46, App. 2.
- Crawford, Michael H. “The Text of the *Lex Irnitana*.” *Journal of Roman Studies* 98 (2008): 182–220.
- Czajkowski, Kimberly, Benedikt Eckhardt, and Strothmann, Meret, eds. *Law in the Roman Provinces*. Oxford: Oxford University Press, 2020.
- David, Jean-Michel. “Les *apparitores municipaux*.” In *Le quotidien municipal dans l’Occident romain*, edited by Clara Berrendonner, Mireille Cébeillac-Gervasoni, and Laurent Lamoine, 391–403. Clermont-Ferrand: Presses universitaires Blaise Pascal, 2008.
- Eck, Werner. “Die *lex Troesmensium*: ein Stadtgesetz für ein *municipium civium Romanorum*.” *Zeitschrift für Papyrologie und Epigraphik* 200 (2016): 565–606.
- Eilers, Claude. “Inscribed Documents, Un-inscribed Documents, and the Place of the City in the *Imperium Romanum*.” In *Selbstdarstellung und Kommunikation. Die Veröffentlichung staatlicher Urkunden auf Stein und Bronze in der römischen Welt*, edited by Rudolf Haensch, 301–312. München: Beck, 2009.

- Felici, Maurilio. “Riflessioni sui *munera civilia* di Arcadio Charisio.” In *Gli Statuti Municipali*, edited by Luigi Capogrossi Colognesi and Emilio Gabba, 153–181. Pavia: Istituto Universitario di Studi Superiori Press, 2006.
- Follet, Simone. “Lettre de Marc Aurèle aux Athéniens (*EM* 13366): nouvelles lectures et interprétations.” *Revue de Philologie* 53 (1979): 29–43.
- Fournier, Julien. *Entre tutelle romaine et autonomie civique. L’administration judiciaire dans les provinces hellénophones de l’Empire romain*. Athens: École française d’Athènes, 2010.
- González, Julián and Crawford, Michael H. “The *Lex Irnitana*: A New Copy of the Flavian Municipal Law.” *Journal of Roman Studies* 76 (1986): 147–243.
- Humfress, Caroline. “Thinking Through Legal Pluralism: ‘Forum Shopping’ in the Later Roman Empire.” In *Law and Empire. Ideas, Practices, Actors*, edited by Jeroen Duindam, Jill Harries, Caroline Humfress, and Nimrod Hurvitz, 223–250. Leiden: Brill, 2014.
- Hurlet, Frédéric. “Justice, *Res publica* and Empire: Subsidiarity and Hierarchy in the Roman Empire.” In *The Impact of Justice on the Roman Empire*, edited by Olivier Hekster and Koenraad Verboven, 122–137. Leiden: Brill, 2019.
- Jacques, François. *Le privilège de liberté. Politique impériale et autonomie municipale dans les cités de l’Occident romain (161–244)*. Rome: École française de Rome, 1984.
- Kantor, Georgy. “Greek Law under the Romans.” In *The Oxford Handbook of Ancient Greek Law*, edited by Edward Harris and Mirko Canevaro. Oxford Handbooks online, 2015: DOI:10.1093/oxfordhb/9780199599257.013.25
- Kirbihler, François. “Un *cursum honorum* à Éphèse ? Quelques réflexions sur la succession des magistratures de la cité à l’époque romaine.” In *Folia Graeca in honorem Edouard Will: Historica*, edited by Paul Goukowsky and Christophe Feyel, 67–107. Nancy: Association pour la Diffusion de la Recherche sur l’Antiquité, 2012.
- Lepelley, Claude. “Le nivellement juridique du monde romain à partir du III^e siècle et la marginalisation des droits locaux.” *Mélanges de l’École française de Rome. Moyen Âge* 113 (2001): 839–856.
- Lewis, Naphtali. *The Compulsory Public Services of Roman Egypt*, 2nd ed. Firenze: Edizioni Gonnelli, 1997.
- Mélèze-Modrzejewski, Joseph. “Grégoire le Thaumaturge et le droit romain.” *Revue Historique de Droit Français et Étranger* 49 (1971): 313–324.
- Merola, Giovanna. *Autonomia locale, governo imperiale. Fiscalità e amministrazione nelle province asiatiche*. Bari: Edipuglia, 2001.
- Millar, Fergus. *The Emperor in the Roman World*. London: Duckworth, 1977.
- Nicolet, Claude et al. *La mémoire perdue. À la recherche des archives publiées, publiques et privées, de la Rome antique*. Paris: Éditions de la Sorbonne, 1994.
- Parsons, Peter J., “Petitions and a Letter: The Grammarian’s Complaint.” In *Collectanea Papyrologica. Texts published in honor of H.C. Youtie. Part II*, edited by Ann E. Hanson, 409–496. Bonn: Rudolf Habelt, 1976.
- Pont, Anne-Valérie. *La fin de la cité grecque. Métamorphoses et disparition d’un modèle institutionnel et politique local en Asie Mineure, de Dèce à Constantin*. Geneva: Droz, 2020.
- Tuori, Kaius. *The Emperor of Law: The Emergence of Roman Imperial Adjudication*. Oxford: Oxford University Press, 2016.

