> son Socrates, as he was going through the entrance that leads to the grove, holding a grape-cutting sickle in his hand—it fell on his foot, and thus he was dispatched in same-day punishment. Great then are the gods in Axitta! And they instructed the scepter and curses which had been made in the temple to be canceled, and Jucundus's and Moschius's children, Tatias's grandchildren, Sokrateia and Moschas and Juncundus and Menekrates did cancel them, in all ways propitiating (ἐξειλασάμενοι) the gods, and from now on we bless them, writing the gods' power on a stele. (*I.Beichtinschriften* no. 69; trans. adapted from Ramsay MacMullen and Eugene N. Lane, eds., *Paganism and Christianity, 100–425 CE, A Sourcebook* [Philadelphia: Fortress, 1992] 103–104)

From this inscription, a number of points surface, especially with regard to the nature of the conflict situation and how it was handled. We discover that the conflict which led to the invoking of curses involved rumors being spread throughout the community. According to the inscription, Tatia was rumored to have poisoned her son-in-law. In response, Tatia proceeded to erect a scepter and to place curses within the temple as a way of recompensing her detractors.[16] Shortly thereafter, however, she experienced what was perceived to be divine retribution (possibly death?), and as a result, her family had the curses canceled. This not only reveals the power of community accusations, it also shows the prominent role which spiritual affliction played in Roman Anatolia: it seemed natural enough for the community to assume—based on what evidence we do not know—that Jucundus was under a potion, and Tatia's natural response to the subsequent slander was the use of curses.

B. Third-Party Strategies in Roman Anatolia

When discussing the conflict facing the Anatolian readers in 1 Peter, the majority of modern commentators are reticent about postulating the involvement of local and provincial courts. On the rare occasions that judicial matters are taken into account, attention is normally focused on the difficulties experienced at the local level. The legal troubles of Paul, which are rehearsed in the book of Acts, are generally seen as paradigmatic of the types of situations in which the recipients may have found themselves. Due to this hesitancy among interpreters, however, the legal

[16] Cf. Audollent, *Defixionum*, no. 4A, where Demeter and Kore are implored to take vengeance on the one who publicly spoke against the dedicatee as well as those who wrote and conspired to accuse the dedicatee.

context to which the letter was addressed is often unappreciated and very rarely understood.

What has been frequently overlooked in the previous discussion is the fact that the courts had become a standard and regularly appealed-to means of conflict management in first-century CE Asia Minor. After the conquest of Rome, Anatolian society, like most other provincial societies, became increasingly litigious. This is evident, for instance, in the *Icaromenippus* of Lucian of Samosata. After a journey to heaven, the character Menippus begins to see mankind more clearly. As a result, he recognizes that there are four primary activities with which people are preoccupied: commerce, war, farming, and litigation (Lucian, *Icar*. 12). Even among Christian writers, the importance of the Roman legal system was readily understood. According to the Muratorian Canon 3–4 (ca. 170 CE), the apostle Paul selected Luke to be his traveling companion because of his expertise in Roman law (*quasi ut iuris studiosum*).[17] Despite the fact that the historical accuracy of this statement could be called into question, it does serve to emphasize the usefulness of such knowledge in the ancient world.

Symptomatic of this preoccupation with litigious affairs was the burgeoning of what one might describe as "trivial" cases. The Anatolian judicial systems were not merely employed for pressing legal matters. Even the mundane conflicts of provincial society were increasingly being taken

[17] Proper caution should be used at this point due to the questionable nature of the present reading, *quasi ut iuris studiosum* ("as so to speak, one learned in the law"). Over the years, this text has been variously interpreted and often emended (for a discussion of the different views, see Bruce M. Metzger, *The Canon of the New Testament: Its Origin, Development, and Significance* [Oxford: Clarendon, 1987] 305 n. 2). Two considerations, however, do suggest that *quasi ut iuris studiosum* is likely to be the original reading, and, as such, that the author intended to represent Luke as an expert in the law. First, the idea of Luke's legal expertise as represented in the Latin text of the Muratorian Fragment is later repeated by Chromatius of Aquileia (d. 406/407 CE). In his commentary on Matthew (Prologue §2), Chromatius refers to Luke as one who was "very educated in the law" (*eruditissimus legis*). One would assume that either Chromatius was dependent on the Fragment or, more likely, that both were drawing on an earlier source. Second, as Arnold Ehrhardt points out, the description *iuris studiosus* was "a technical expression for a student of the Roman law" (cf. *Dig*. 1.22.1; 48.19.9.4; 50.13.4). But more than that, it also applied to "a legal expert who acts on behalf of a Roman official" (*The Framework of the New Testament Stories* [Manchester: Manchester University Press, 1964] 17). In the present context, this meaning would fit quite naturally. Luke would be viewed as an assessor who served the apostle Paul. So despite the fact that the third Gospel was written by Luke, it is ultimately thought to be sourced in and thus to gain its authority from the apostle Paul (cf. F. F. Bruce, "Some Thoughts on the Beginning of the New Testament Canon," *BJRL* 65 [1983] 37–60 [56]).

before the courts. The previously mentioned example of Demonax, the Cynic philosopher, is a case-in-point. After Demonax was pelted in the head with a rock, the bystanders who witnessed the scene immediately shouted, "(To) the Proconsul! (To) the Proconsul!" (Lucian, *Demon.* 16). This situation not only demonstrates the importance of the legal system within provincial life, it also reveals why the courts had become so popular. It was here that inhabitants could achieve what was painfully absent from many of the informal solutions: a (seemingly) definitive resolution to the conflict situation.

Furthermore, what is often overlooked by various Petrine interpreters is the fact that conflict involving the employment of separate action strategies could quickly and easily turn to the courts for formal resolution.[18] The trial of Apuleius is a prime example (Apuleius, *Apol.* 1–2).[19] For a period of some days, Apuleius' political enemy, Sicinius Aemilianus, had verbally assaulted him, falsely declaring him to be the murderer of Pontianus (Aemilianus' nephew and Apuleius' stepson). Even though the charge had no substance, the situation became so heated that Aemilianus eventually took the case before the governor's tribunal.[20] The accusation of murder was dropped (due to the fact that it was fabricated), and Aemilianus ultimately accused Apuleius of practicing magic, a nebulous accusation that was difficult to disprove and one that carried with it a certain degree of disdain. Such an episode is indicative of how popular hostility and court proceedings cannot be firmly separated in the Roman world.

Although these examples could be multiplied further (see below), the present evidence should be sufficient to demonstrate the importance and prevalence of third-party legal conflict in Roman Anatolia. Yet this fact alone brings only partial clarity to the situation of 1 Peter. In order to understand the various dangers threatening the Petrine readers, we must delve deeper into these judicial systems (both local and provincial) to explore how the processes actually worked. In what follows, therefore, we will seek to examine the functions and functionaries of the judicial systems of Roman Anatolia.

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[18] It is not uncommon for disputants in a conflict to employ a variety of different tactics in order to achieve a desired outcome, and when one particular approach proves unsuccessful, it is often promptly replaced by alternative (and escalated) forms (see Ch. 2).

[19] A similar illustration comes from the autobiography of Libanius. When the rhetorician became sick, and some of his friends suspected that the ailment was the result of incantations, he was urged to "prosecute (ἐκίνουν) certain individuals who were rumored to be responsible" (Libanius, *Or.* 1.248).

[20] On the specifics behind this trial, see Thomas N. Winter, "*Apology* as Prosecution: The Trial of Apuleius," (Ph.D. diss., Northwestern University, 1968).

1. *Civic Courts*

Difficulty surrounds any attempt to reconstruct the civic judicial systems that existed across the land of Asia Minor. Much as the case with the separate action strategies, the barrier at which all interpreters frustratingly arrive is the scarcity of ancient evidence. Due to the fact that local magistrates dealt with only minor civil disputes and cases involving less serious infractions, the daily administration of local jurisdiction has left little impact on the literary and epigraphic records. But even from the paucity of data, a basic arrangement of judicial activities can nonetheless be constructed.

a. *Local Officials*

Any discussion on the civic courts of Asia Minor must begin with the duties of local authorities, for it is here that the most basic level of jurisdiction lies. Within each Anatolian city, "regular city magistrates, like their equivalents at Rome, had powers of jurisdiction within their own spheres of responsibility."[21] This is evident, in part, from the fact that local officials could impose fines on law-breakers, but only within the designated confines of their control.[22] An inscription from Ilion, for example, lists various magistrates to whom fines should be paid along with their respective amounts (*I.Ilion* no. 65).[23]

The role of city magistrates, however, is most clearly demonstrated from the evidence found in the book of Acts. In this particular narrative, each time a disturbance is created or accusations are made, resolution is sought from the civic leaders. After casting out an evil spirit from a slave girl in Philippi, Paul and his associates are dragged before the authorities (most likely the *duumviri*),[24] beaten with rods, and then thrown into jail (Acts 16.19–24). In Thessalonica, the fury of the crowd was turned upon

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[21] Mitchell, *Anatolia* I, 201.

[22] On the administration of cities in Asia Minor, with particular regard for officials and their duties, see Isidore Lévy, "Études sur la vie municipale de l'Asie Mineure sous les Antonins: Première Série," *REG* 8 (1895) 203–50; idem, "Études sur la vie municipale de l'Asie Mineure sous les Antonins: Seconde Série," *REG* 12 (1899) 255–89; idem, "Études sur la vie municipale de l'Asie Mineure sous les Antonins: Troisième Série," *REG* 14 (1901) 350–71; Magie, *Roman Rule*, 639–51; Dmitriev, *City Government*.

[23] Cf. *OGIS* no. 483, where the city warden (ἀστυνόμος) of Pergamum was given the ability to fine those who did not maintain the appropriate upkeep of their property.

[24] William M. Ramsay, "The Philippians and Their Magistrates: On the Title of the Magistrates at Philippi (Acts xvi.19–22)," *JTS* 1 (1899) 114–16; Harry W. Tajra, *The Trial of St. Paul: A Juridicial Exegesis of the Second Half of the Acts of the Apostles* (WUNT 2/35; Tübingen: Mohr Siebeck, 1989) 9–11.

Paul's host, as Jason and other believers were taken before the magistrates and accused of acting contrary to the decrees of Caesar (Acts 17.5–9; cf. 13.50; 14.4–5). As a result, Jason was required to post bond in order to be released from custody (cf. *OGIS* nos. 484, ll. 50–51; 629, l. 101).

Other evidence seems to confirm the idea that local officials served as the judicial authorities of provincial communities. One indication is the titles that are often attributed to these magistrates. In Side, the δημιουργός, Decimus Junius Zendotos, is honored with the titles ἁγνός and δίκαιος (*I.Side* no. 76), titles closely akin to those ascribed to governors of Lycia-Pamphylia.[25] A similar situation can be found in the Roman colony of Pisidian Antioch. Here the *duumvir*, Saturninus, is lauded for the justice and integrity shown in the administration of the matters under his jurisdiction (*CIL* III no. 6844 = *ILS* no. 7202). These inscriptions illustrate the fact that local officials had authority to render rulings in judicial disputes.

Further substantiation comes from the recently discovered Claudian Monument at Patara (Lycia). Among the numerous positive results which the inscription attributes to the establishment of the province of Lycia-Pamphylia, one of the more significant relates to judicial administration: τῆς πολιτείς τοῖς ἐξ ἀρίστων ἐ[π]ιλελεγμένοις βουλευταῖς ἀπὸ τοῦ ἀκρίτου πλήθους π[ι]στευ[θεί]σης ("the administrative affairs having been entrusted to councilors chosen from among superior people by the incompetent majority").[26] What this suggests is that local jurisdiction rested firmly in

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[25] For the inscriptional evidence, see Georgy Kantor, "Roman Law and Local Law in Asia Minor (133 B.C.–A.D. 212)," (Ph.D. diss., University of Oxford, 2008) 306 n. 939.

[26] There is some debate over the meaning of the preposition ἀπό in line 28. According to the translation of Christopher P. Jones ("The Claudian Monument at Patara," *ZPE* 137 [2001] 161-68 [163, 168 n. 30]), the preposition denotes direct agency ("drawn [or chosen] *by* the incompetent majority"). However, this decision has been questioned by a number of interpreters who prefer a more local meaning ("taken *away from* the incompetent majority"; see, e.g., Thomas Corsten, *SEG* 51 [2001] no. 1832; *AE* [2001] no. 1931; Thomas Marksteiner and Michael Wörrle, "Ein Altar für Kaiser Claudius auf dem Bonda tepesi zwischen Myra und Limyra," *Chiron* 32 [2002] 545–69 [564]; Kantor, "Roman Law," 291 n. 885). The interpretive choice one makes at this point dictates the level of involvement exercised by the common people in electing their leaders (and thus, their judicial authorities). If the preposition denotes *direct agency*, then the people would play a sizeable role in the selection of their administrators—though the fact that Rome narrows this list (ἐξ ἀρίστων) relativizes this decision considerably. If a *local* meaning is preferred, no such decision-making prerogative is revealed. To go against the majority here is difficult, but a local reading seems inadmissible in this case. Such an interpretation demands that the preposition modify πιστευθείσης and provide a contrast to the bestowal of privileges to the councilors (i.e., "taken *from* the people and given *to* the councilors"). Yet πιστεύω + ἀπό cannot sustain such a meaning. If this were the case, one would have expected the presence of an additional verbal form denoting the removal or taking away of privileges. Therefore, given that all allow for the possibility of a direct agency reading (for examples, see LSJ, 192 III 4; BDAG, 107 5eβ), and since a strong grammatical indicator is present

the hands of city magistrates, as they were considered more than competent to officiate such matters.

A second group of local officials which are of particular importance for reconstructing the legal processes of Roman Anatolia are the officers of the peace (or police officers). In the minds of some commentators, it was these officials who posed the most serious threat to the Anatolian communities. For instance, as Selwyn describes it, "what the Christians in the first century had to fear was not the Roman law-court but the Roman police and the ebb and flow of public feeling which might precipitate its action. Its business was to keep order and to suppress suspicious movements before they became formidable."[27] Such a conclusion is, of course, natural given that the rounding up of Christians by police officials is part of the standard picture of Christian persecution within the ancient literature. One needs only to turn to the *Martyrdom of Polycarp* to understand how this image became permanently stamped onto the Christian memory. What must be determined, however, is whether such an account provides an accurate description of police activities in first-century CE Asia Minor. As such, it is imperative that we clearly delineate the identity of these police officials as well as their given responsibilities.

In some respects, maintaining law and order in a provincial city was a community project. Due to the fact that the Roman State did not have enough resources at its disposal to facilitate a centralized network of police forces, most of the relevant policing duties were entrusted to civic communities.[28] In many cases, private measures were taken to ensure peace and safety.[29] The real authority for such tasks, however, rested

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in the modification of a passive verbal form (ἐπιλελεγμένοις), agency is the most natural reading. On the grammatical use of ἀπό to denote agency, see Raphael Kühner and Bernhard Gerth, *Ausführliche Grammatik der griechischen Sprache*, Zweiter Teil: *Satzlehre* (3rd ed.; Hannover/Leipzig: Hahnsche Buchhandlung, 1898) 1:457–58; Antonius N. Jannaris, *A Historical Greek Grammar Chiefly of the Attic Dialect* (London: Macmillan, 1897) §1507; BDF §210(2).

[27] Selwyn, *First Epistle of St. Peter*, 55. Cf. Spicq, *Épîtres de Pierre*, 20; Achtemeier, *1 Peter*, 34.

[28] For this reason, Selwyn's (*First Epistle of St. Peter*, 55) claim that it was the *Roman* police which the Christians had to fear is technically inaccurate. This same confusion between local officials and Roman officials appears to be insinuated by Jobes (*1 Peter*, 9), who notes that the persecutions were "probably reinforced at the local level by the increasing suspicions of Roman officials at all levels." Who these "Roman officials" may have been remains unstated and undocumented.

[29] In many cases, people made what little effort they could to prevent themselves from being victimized. For example, to guard against thieves in the night, a simple solution was loud commotion (Apuleius, *Metam.* 3.27; cf. Luke 12.39). At other times, large groups of people banded together in moments of crisis (e.g., Apuleius, *Metam.* 7.25–26; 8.29;

firmly in the hands of civic leadership. Within this structure, there was very little compartmentalization of policing duties. The imposition of law and order might be carried out by any number of local officials (cf. the use of lictors [ῥαβδοῦχοι] by the *duumviri* at Philippi [Acts 16.35, 38]). This was especially the case during times of trouble. For example, in Ephesus the γραμματεύς took on the task of breaking up the riot of the silversmiths (Acts 19.35–41). Nevertheless, in most Anatolian cities, there was at least one elected official specifically responsible for policing the community.

The policing systems of the eastern provinces were considerably more developed than those in the West.[30] In Asia Minor in particular we find a well-organized law enforcement structure. Here the highest-ranking police official was the local eirenarch (εἰρήναρχος).[31] This office, which was an annual magistracy in Anatolian cities,[32] appears to have developed sometime during the early Principate.[33] In fact, the earliest attestations come from the first century CE.[34]

Pliny, *Ep.* 6.25). Those with considerable wealth had more substantial options, however. Very often personal security guards were employed to provide protection (e.g., Apuleius, *Metam.* 4.18; Petronius, *Saty.* 53).

[30] Otto Hirschfeld, "Die Sicherheitspolizei im römischen Kaiserreich," in *Kleine schriften* (Berlin: Weidmannsche Buchhandlung, 1913) 578–612 (609). The most important source for the study of police activity in the ancient world is the Egyptian papyri. For this reason, a large portion of modern attention has been devoted to this particular province (e.g., Roger S. Bagnall, "Army and police in Roman Upper Egypt," *JARCE* 14 [1976] 67–88; Jean-Jacques Aubert, "Policing the Countryside: Soldiers and Civilians in Egyptian Villages in the 3rd and 4th Centuries A.D.," in *La hiérarchie* (*Rangordnung*) *de l'armée romaine sous le haut-empire: actes du congrès de Lyon* (*15–18 septembre 1994*) [ed. Y. Le Bohec; Paris: De Boccard, 1995] 257–65; Patrick Sänger, "Die Eirenarchen des Römischen Ägypten," [Ph.D. diss., University of Vienna, 2004]; John Bauschatz, "Policing the Chora: Law Enforcement in Ptolemaic Egypt," [Ph.D. diss., Duke University, 2005]).

[31] See Alessandro Zamai, "Gli irenarchi d'Asia Minore," *Patavium* 17 (2001) 53–73; Christopher J. Fuhrmann, *Policing the Roman Empire: Soldiers, Administration, and Public Order* (Oxford: Oxford University Press, 2012) 66–75.

[32] Cf. *IGR* III no. 450 (in Termessos, Ossas held the office five times); *IGR* III no. 461 (in Pergamum, Tiberius Claudius Veter held the office three times).

[33] Another police official of Asia Minor was the παραφύλαξ. This particular officer appears to be of a somewhat lower ranking than the eirenarch (Keith Hopwood, "Policing the Hinterland: Rough Cilicia and Isauria," in *Armies and Frontiers in Roman and Byzantine Anatolia: Proceedings of a Colloquium Held at University College, Swansea in April 1981* [ed. S. Mitchell; BARIS 156; Oxford: B.A.R., 1983] 173–87). The major difference may have been that the παραφύλαξ actually patrolled the territory in person while the eirenarch assigned such duties to his subordinates (as suggested by Mitchell, *Anatolia* I, 196).

[34] E.g., *I.Kyzikos* II nos. 25 [= *IGR* IV no. 130], 26 [= *ILS* no. 9108] (Flavian period). Cf. also Louis Robert, *Études anatoliennes: recherches sur les inscriptions grecques de l'Asie mineure* (Paris: Boccard, 1937) 339 no. 1, who lists a dedication from Sebastopolis (Caria) which is made by a certain P. Statius Hermas in honor of the emperor Trajan (116/117 CE). The inscription records Hermas as being honored with the *ornamenta* of *strategos* of the night

The late-third-century CE jurist Arcadius Charisius describes the eirenarchate as a personal *munera* (*Dig*. 50.4.18.7), which was "carried out by mental application and by the deployment of bodily effort without any [financial] loss to the man undertaking them" (50.4.18.1; trans. Watson). Yet, despite such a noble definition, the eirenarchate was performed at a great financial cost to the office holder. Therefore, it was normally reserved for men of considerable wealth and high social standing. This is evident from the fact that those who filled this office also held some of highest magistracies in the city.[35] It was even possible to be both chief archon and eirenarch at the same time (*I.Ankara* no. 81 = Bosch, *Ankara*, no. 117 = *IGR* III no. 208). Confirmation of their status can be found in the appointment of the office itself. As seen in the familiar story of Aelius Aristides, the eirenarch was appointed to the office by the governor, having been selected from a list of the ten leading citizens of the community (*Or*. 50.72).

The responsibility of a first-century police official was to seek out known or suspected criminals (i.e., those who have already been charged or convicted of a crime). One of the most important aspects of this task was the suppression of brigandage. Much of his work therefore consisted of patrolling the outer territory of the city rather than the city itself. A good example appears in the story of Xenophon of Ephesus. Though the account is somewhat exaggerated, it provides considerable insight into the work of an ancient police officer. In this case, ὁ τῆς εἰρήνης τῆς ἐν Κιλικίᾳ προεστώς (the basic equivalent of the eirenarch)[36] trails a group of brigands who had abducted a woman with the intention of sacrificing her to Ares. While many of the brigands are killed in the scuffle, the few that remain are brought back to the city and thrown into jail to await trial (2.13). This episode not only reveals one of the primary tasks of a local police official, it also shows the manner in which these responsibilities were carried out. Rather than undertaking any preventative policing

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and as having held the offices of ἀγορανόμος, παραφύλαξ, and τειμὴ εἰρηναρχικός. If this final office marks a more prestigious position within the ranks of the eirenarchate ("honored eirenarch"), then we would have to posit the origin of the eirenarch a some time prior to 116/117 CE in order to allow for such a hierarchical development (as proposed by Nikos Yannakopulos, "Preserving the *Pax Romana*: The Peace Functionaries in Roman East," *MedAnt* 6 [2003] 825–905 [832]).

[35] For a complete list of references to eirenarchs as well as other police officials in the eastern part of the Roman world, see Yannakopulos, "Peace Functionaries in Roman East," 883–97; Catherine Wolff, *Les Brigands en Orient sous le Haut-Empire Romain* (CEFR 308; Rome: École française de Rome, 2003) 235–39.

[36] See Joseph L. Rife, "Officials of the Roman Provinces in Xenophon's 'Ephesiaca'," *ZPE* 138 (2002) 93–108 (94–104).

measures, most of the efforts undertaken by police were *reactive* in nature. This was due, in large part, to the limitations of their forces.

To aid him in his duties, the eirenarch (or the lower-ranked παραφύλαξ) might have under his command a small group of men called διωγμῖται (cf. *Mart. Pol.* 7.1; *OGIS* no. 511).[37] It was this group who actually made the arrests and who would be the primary combatants if a situation turned violent. For some time, the level at which this group might be equipped had been only a matter of conjecture (with a few conclusions being drawn from Christian sources, e.g., *Mart. Pol.* 7.1; Mark 14.43). However, a funerary relief discovered in the Cayster valley (near Ephesus) has shed significant light on the subject (*I.Ephesos* no. 3222). This relief, which honors Μητρας Ἀνδρήᾳ παραφύλαξ Ἥρων ("Metras, son of Andreas, *paraphylax*, Hero"), depicts three διωγμῖται hailing their deceased παραφύλαξ.[38] The men are dressed in tunics, with each possessing a short sword, a curved club, and a small round shield. Thus, it would appear, based on such light armament, that these groups were employed more in swift pursuit of brigands than in full-scale combat.[39]

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[37] H. O. Fiebiger, "Diogmatai," in *Paulys Realencyclopädie der classischen Altertumswissenschaft* (eds. A. F. von Pauly, et al.; vol. 5; Stuttgart: Alfred Druckenmüller, 1905) 784.

[38] On the παραφύλαξ relief, see Robert, *Études anatoliennes*, 102–103, who was the first to identify the three men as διωγμῖται. Cf. also Thomas Drew-Bear, "Three Inscriptions from Asia Minor," in *Studies Presented to Sterling Dow on His Eightieth Birthday* (ed. A. L. Boegehold; GRBM 10; Durham, NC.: Duke University Press, 1984) 61–69; Michael P. Speidel, "The Police Officer, A Hero: An Inscribed Relief from Near Ephesos," *EA* 5 (1985) 159–60. For further inscriptional evidence on διωγμῖται, see Louis Robert, "Études épigraphiques. Première série," *BCH* 52 (1928) 407–25 (407–409).

[39] On the basis of this armament, Christopher P. Jones, "A Note on Diogmitae," *ICS* 12 (1987) 179–80, has argued that "the diogmitae were neither 'mounted policemen' nor 'a tough crowd of vigilantes or enforcers,' but light-armed local constables" (180; against Barry Baldwin, "Leopards, Roman Soldiers, and the *Historia Augusta*," *ICS* 10 [1985] 281–83). However, we should be careful in over-interpreting this relief to the neglect of other evidence. Elsewhere διωγμῖται are associated with *mounted* pursuit. For instance, those who captured Polycarp (*Mart. Pol.* 7.1) were διωγμῖται and ἱππεῖς ("horsemen"). Similarly, a dedication from upper Caria reveals a group made up of a παραφύλαξ, a νεανισκάρχη along with ten youths under his command, and six slaves to tend the horses (Louis Robert and Jeanne Robert, *La Carie: histoire et géographie historique, avec le recueil des inscriptions antiques*, Tome II: *Le plateau de Tabai et ses environs* [Paris: Adrien-Maisonneuve, 1954] 281–83, no. 162). Although διωγμῖται are not mentioned specifically, the inscription does show how the group, under the command of the παραφύλαξ, might pursue criminals—on horseback.

b. *Legal Jurisdiction*

In most cases, the discretion of local magistrates would be sufficient to try disputes that arose within an Anatolian community. Their jurisdiction, however, was not unlimited.[40] The bulk of a civic magistrate's judicial attention was given to minor civil cases and petty crimes. When larger issues arose, alternative means were taken to adjudicate the conflicts. Very often when conflicts arose between two different communities, or when lawsuits exceeded the financial limits of a magistrate's jurisdiction, foreign judges were brought in to provide a ruling.[41] These were usually men of considerable social standing (e.g., magistrates or former magistrates themselves, who may have been selected by lot from a larger pool of worthy candidates [*TAM* II no. 508, ll. 21–27]) who could offer an impartial hearing. These judges might be assigned the task of adjudication as a result of an agreement between the two disputants, or in some instances, the case might be taken to the governor *in iure*, having it then delegated to a third party under a *formula* (e.g., *CIL* I^2.ii.4 no. 2951a;[42] *OGIS* no. 437 = *IGR* IV no. 297).[43]

Aside from the larger quarrels between communities and those involving significant financial disputes, local courts were also limited in the types of criminal cases they could hear. Normally, civic communities were

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[40] Umberto Laffi, "I limiti della competenza giurisdizionale dei magistrati locali," in *Estudios sobre la Tabula Siarensis* (eds. J. González and J. Arce; AAEA 9; Madrid: Consejo Superior de Investigaciones Científicas, 1988) 141–56. The clearest evidence on the jurisdiction limitations of magistrates comes mainly from outside of Asia Minor, but the variation should suggest caution in applying the information directly to Anatolian cities. From Greece, there are two classic examples which seem to demonstrate considerable restriction on the jurisdiction of local magistrates (see James H. Oliver, *Greek Constitutions of Early Roman Emperors from Inscriptions and Papyri* [MAPS 178; Philadelphia: American Philosophical Society, 1989] nos. 91, 156). At Urso in Baetic, however, the *lex coloniae Genetiuae Iuliae* regulates fines up to 20,000 sesterces (*RS* I no. 25, chs. 61, 93), seemingly providing the *duumviri* with considerable jurisdiction.

[41] For the inscriptional evidence, see Robert, "Études épigraphiques," 417–18; Magie, *Roman Rule*, 1517–18 n. 49; Dmitriev, *City Government*, 298–99.

[42] See John S. Richardson, "The *Tabula Contrebiensis*: Roman Law in Spain in the Early First Century B.C.," *JRS* 73 (1983) 33–41; Peter Birks, et al., "Further Aspects of the *Tabula Contrebiensis*," *JRS* 74 (1984) 45–73.

[43] On the surface, the presence of this type of system could hold important implications with regard to the trial of Christians. In that there were adequate means by which to circumvent the possible bias of one judicial authority or another, the legal situation of Christians may not have been as grim as it might first appear. But due to the fact that this type of arbitration seems to have been reserved for higher profile cases (often those between entire communities), it is unlikely that the average Christian would have been presented with such an opportunity (for the socio-economic conditions of the Petrine readers, see Ch. 4).

excluded from capital jurisdiction. This is nowhere more evident than in the words of Philostratus. In describing the positive influence that the sophist Polemo exerted on the city of Smyrna, Philostratus notes,

> He helped them also in the following manner. The suits which they brought against one another he did not allow to be carried anywhere abroad, but he would settle them at home. I mean the suits about money, for those against adulterers, sacrilegious persons and murderers, the neglect of which breeds pollution, he not only urged them to carry them out of Smyrna but even to drive them out. For he said that they needed a judge with a sword in his hand (δικαστοῦ γὰρ δεῖσθαι αὐτὰς ξίφος ἔχοντος). (Philostratus, *Vit. soph.* 532; trans. Wright [LCL])

This particular statement reveals two things about the local court-provincial court relationship in the province of Asia. First, it hints at a growing proclivity to by-pass local courts and to take one's case (even though it might be an insignificant matter) directly to the governor's tribunal (cf. *IGR* III no. 582). It is this tendency about which Plutarch had railed a century earlier (*Praec. ger. rei publ.* 19 [*Mor.* 815A]). But not only does it reveal a proclivity towards the governor's court, it also reveals a *need* to transfer certain cases to his tribunal. The types of cases which call for such a reassignment are said to be adultery, sacrilege, and murder—all capital crimes. In fact, that is exactly what we find some years earlier in this very city. At the martyrdom of Polycarp, it was the governor, not the local magistrates, who rendered the final death sentence (*Mart. Pol.* 9–16).

For this reason, an important topic of concern with regard to the jurisdiction of local communities is the autonomy of "free/federated cities" (*civitates liberae/foederatae*). It is apparent that under the Roman Empire, "a free city meant not an independent sovereign state, but a state subject to her [Rome's] suzerainty enjoying by her grace certain privileges."[44] The question of course is, how far did the limits of these privileges extend? To what extent could the jurisdiction of these "free cities" be carried out? This question is particularly important when trying to reconcile the judicial responsibilities of the provincial governor with those of local

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[44] A. H. M. Jones, "*Civitates liberae et immunes* in the East," in *Anatolian Studies Presented to William Hepburn Buckler* (eds. W. M. Calder and J. Keil; Manchester: Manchester University Press, 1939) 103–17 (106). In this way, the Romans governed these "independent" cities of Asia Minor in the same manner as Alexander the Great and the later Hellenistic monarchs (see Elias J. Bickerman, "Alexandre le Grand et les villes d'Asie," *REG* 47 [1934] 346–74; idem, "La Cité grecque dans les monarchies hellénistiques," *RPh* 13 [1939] 335–49).

communities, for if there were numerous communities within the provinces which possessed judicial autonomy and which were thus able to adjudicate capital cases without the interference of the leading promagistrate, then the governor's tribunal becomes somewhat less important for our purposes. Much closer attention would then need to be given to the formal means of conflict resolution at the local level. However, if these *civitates liberae* and *foederatae* were free in name only (being required to yield to the governor for capital jurisdiction), his court would need to become the primary focus of our investigation.

The point at which inquiry must begin is with the jurisdiction of the governor. While in office, a provincial governor was not allowed to leave his province, nor did his jurisdiction extend beyond the assigned provincial boundary (*Dig*. 1.18.3; *RS* no. 12, Cnidos Copy, col. III; cf. *I.Aphrodisias* I no. 48). Technically, *civitates liberae* and *foederae* were independent and thus not part of any province. In theory, therefore, it would seem that free cities should have possessed complete judicial autonomy without any interference from Roman magistrates or promagistrates. In fact, that is exactly what we find in the free city of Colophon during the late Republican period (ca. 130–110 BCE). Inscribed on the sanctuary of Claros, we read a decree from Colophon in honor of Menippos, a prominent citizen who made five embassies to Rome in order to preserve the community's judicial autonomy (*SEG* 39 [1989] nos. 1243–1244).[45] Though the rights

[45] Scholars have been divided over the background of Menippos' fifth and final embassy. The primary point of contention is the meaning of the enigmatic expression ἐπὶ Ῥωμαϊκῶι θανάτωι. In the *editio princeps*, Louis Robert and Jeanne Robert, *Claros* I: *Décrets hellénistiques* (Paris: Éditions Recherche sur les civilisations, 1989) 87, took the phrase to mean that the man was charged with the murder of a Roman citizen. While not denying this possibility, Jean-Louis Ferrary, "Le statut de cités libres dans l'empire romain à la lumière des inscriptions de Claros," *CRAI* 135 (1991) 557–77 (567–70), has suggested that the expression could imply that a Roman citizen had been convicted of a capital offense in a Colophonian court and subsequently executed. Thus, the person in custody would either be the accuser or the magistrate who tried the case (here Ferrary is followed by Stephen Mitchell, "The Treaty between Rome and Lycia of 46 BC (MS 2070)," in *Papyri Graecae Schøyen* (*PSchøyen I*) [ed. R. Pintaudi; PapFlor 35; Firenze: Gonnelli, 2005] 163–250 [200–202]). The difficulty for this position, though, is in explaining why the blame would fall on one member of the community rather than the entire city (cf. Kantor, "Roman Law," 238). More recently, a third approach has been proposed by Gustav A. Lehmann, "Polisautonomie und römische Herrschaft an der Westküste Kleinasiens: Kolophon/Klaros nach der Aufrichtung der *Provincia Asia*," in *Politics, Administration and Society in the Hellenistic and Roman World: Proceedings of the International Colloquium, Bertinoro 19–24 July 1997* (ed. L. Mooren; StudHell 36; Leuven/Paris: Peeters, 2000) 215–38 (234–37). According to Lehmann, the person in custody was a Colophonian citizen who had been charged with a capital crime under Roman law and was thus threatened with a Roman-style execution. But this theory, too, is not without problems. For, as Mitchell

of the Colophonians were being encroached upon by former proconsuls, through the efforts of Menippos, the city was assured of the governor's lack of jurisdiction outside the province (col. 2, ll. 4–5). Furthermore, its right to try not only Colophonians but also resident aliens (col. 1, ll. 37–38) and Roman citizens was also upheld (col. 1, ll. 42–44). This included not just minor civil cases, but "all charges" (παντὸς ἐγκλήματος), including capital offenses (col. 1, l. 41).

Moving closer toward the Augustan era, we find the autonomy of some free cities beginning to wane, and others, while being confirmed, being slowly relativized. The recently published inscription from the Martin Schøyen Collection (P.Schøyen 25) stands out as a noteworthy witness to this revocation. This important bronze tablet, which dates to the time of Julius Caesar, records the treaty that was struck between Rome and the Lycian League on July 24, 46 BCE. Aside from the issues of military alliance and territorial boundaries, a portion of the treaty is taken up with the question of legal jurisdiction.[46] It is here that we begin to see a slight change from the situation at Colophon. Concerning the trying of capital crimes, the tablet reads, "if a Roman citizen is charged in Lycia, let him be judged according to his own laws in Rome, and let him not be judged anywhere else. But if a citizen of Lycia is charged, let him be judged according to his own laws, and let him not be judged anywhere else" (P.Schøyen 25, ll. 35–37; trans. Mitchell). So, unlike the freedom granted to the Colophonians, the Lycians were required to transfer all capital cases involving Roman citizens directly to Rome.

A similar shift is evident in the civil and non-capital disputes as well:

> If any Roman concerning other matters should be engaged in a dispute with a Lycian, let him be judged in Lycia according to the laws of the Lycians, and let him not be judged anywhere else. But if a Lycian is engaged in dispute by a Roman, whatever magistrate or promagistrate happens to be dispensing justice, whichever of them the disputants approach, let him dispense justice and let him set up a court for them (P.Schøyen 25, ll. 37–41; trans. Mitchell)

("Treaty between Rome and Lycia," 202) points out, such a reconstruction is contrary to the chronological sequence of the text. Overall, a decision on this matter is somewhat difficult given the evidence. Until further details come to light, it seems best simply to adopt the reading of Robert and Robert.

[46] For a more complete discussion of the judicial issues surrounding the inscription, see Mitchell, "Treaty between Rome and Lycia," 199–205; Pierre Sànchez, "La convention judiciaire dans le traité conclu entre Rome et les Lyciens (P.Schøyen I 25)," *Chiron* 37 (2007) 363–81; Kantor, "Roman Law," 248–60.

Therefore, rather than having their case heard in the local court of the free/federated city, Roman defendants were assigned to the jurisdiction of the nearest Roman magistrate or promagistrate, who would have the case tried via the traditional formulary process. Each of these prescriptions marks a significant departure from the decreed rights of the Colophonians. This agreement serves as a middle position between the complete autonomy described above and the heavily restricted autonomy found in later free states.[47]

One example of a city whose autonomy did not experience such reduction, however, is Chios. In the later part of the reign of Augustus (ca. 4/5 BCE),[48] we read of a grievance placed before the proconsul of Asia (*SIG*^{3} no. 785 = *IGR* IV no. 943 = *SEG* 22 [1972] no. 507). The nature of the conflict is difficult to discern. It may have involved a legal dispute in which a Roman citizen refused to be tried in a Chian court.[49] A more probable solution is that the letter comes in response to the actions of C. Antistus Vetus (*PIR*^{2} A 771), the governor's predecessor. The problem, it would seem, was that the former proconsul had encroached upon the city's judicial autonomy, a clear breach of a *senatusconsultum* from 80 BCE (cf. Livy, 38.39.11; Appian, *Mith*. 61; Pliny, *Nat*. 5.38). In response, the current governor reaffirms their status, acknowledging their right to subject Romans to the jurisdiction of Chian courts rather than having them tried at the provincial tribunal under Roman law.[50] But while the

[47] A similar agreement was made with the citizens of Plarasa and Aphrodisias only a few years later (*I.Aphrodisias* I no. 8, ll. 46–48 = *IAph2007* no. 8.27, ll. 46–48). In 39/38 BCE, the *senatusconsultum de Aphrodisiensibus* granted this city jurisdiction over local citizens: ἀλλ]ὰ ἐλευθέρους εἶναι τῷ <τε> δικαίῳ καὶ ταῖς [ἰδίαις κρίσεσιν ἕνεκεν τοῦ] δήμου τοῦ Ῥωμαίων τή[ν] πολειτήαν τὴν Πλαρασέων καὶ Ἀφροδεισιέων χρῆσθαι ("the community of Plarasa and Aphrodisias should be free and enjoy [its own] law [and courts ?as far as] the Roman People [are concerned]"; trans. Reynolds).

[48] *Pace* W. G. Forrest, *SEG* 22 (1972) no. 507, who dates the inscription during the reign of Nero, connecting Anitistus Vetus (ll. 3, 6) with the consul of 55 CE (*PIR*^{2} A 776) and thus placing his proconsulship at 64/65 CE. The problem with this suggestion is that "the disgrace and suicide of L. Antistius Vetus in A.D. 65 (Tac. *Ann*. 16.10f) makes this identification difficult in view of the honorific reference to Vetus in line 4 [*sic*] of the Chios inscription." Furthermore, "[t]he wording of the reference to Augustus in lines 18–19 also implies that the latter was alive at the date of composition" (Anthony J. Marshall, "Romans under Chian Law," *GRBS* 10 [1969] 255–71 [255 n. 2]).

[49] Suggested by Robert K. Sherk, *Roman Documents from the Greek East: Senatus Consulta and Epistulae to the Age of Augustus* (Baltimore: Johns Hopkins, 1969) 353.

[50] While most commentators allow for a very broad interpretation of the rights afforded to the Chians (claiming that the rights of the Chian court extended to all disputes involving Roman citizens resident in the city, including capital cases), there are some who understand the scope of the ruling to be much more limited. Given the rarity with which Rome would concede this right, they argue that οἵ τε παρ᾽αὐτοῖς ὄντες Ῥωμ[αῖ]οι

proconsul's response does uphold the fact that the city possessed a certain freedom, the need to offer proof of this autonomy (cf. Pliny, *Ep*. 10.47–48, 92–93) shows how easily this privileged status could be encroached upon by aggressive governors.

What the Chian letter demonstrates is that "[t]he status of 'free city' and the consequential rights . . . needed constant reaffirmation and protection." In fact, this was true of all privileged communities: "the meaning of all the different statuses enjoyed by cities under the Empire was subject to change over time, and to constant dialogue, dispute and redefinition."[51] This is nowhere more evident than in a recently discovered letter from the emperor Trajan to the city of Aphrodisias. Prior to this correspondence, Aphrodisias had been granted jurisdiction over its own citizens by the *senatusconsultum de Aphrodisiensibus* of 39/38 BCE (*I.Aphrodisias* I no. 8, ll. 46–48 = *IAph2007* no. 8.27, ll. 46–48), and although Trajan claims to have confirmed this earlier privilege (*IAph2007* no. 11.412, letter 2, ll. 17–19), in reality his decision serves to erode its foundation by tightening its restrictions even further:

> [if a Greek] who is a citizen of Aphrodisias either by birth or by adoption into the citizen body [is prosecuted by a] Greek who is a citizen of Aphrodisias the trial is to be heard under your [laws and at Aphrodisias], but if, on the contrary, a Greek [from another city (is prosecuted by a Greek Aphrodisian) the trial is to be held under] Roman law and in the province; those, however, who are [in debt to the city or stand surety for such a debt] or in short have a financial involvement with your public [treasury] are to undergo [trial in Aphrodisias]. (*IAph2007* no. 11.412, ll. 6–11; trans. Reynolds)

τοῖς Χείων ὑπακούωσιν νόμοις (ll. 17–18) only extended to civil trials (so, e.g., Theodor Mommsen, *Römisches Strafrecht* [Systematischen Handbuchs der Rechtswissenschaft; Leipzig: Duncker & Humbolt, 1899; repr., Graz: Akademische Druck, 1955] 111 n. 1 [who changed his previous stance which allowed for both civil and criminal cases, see Mommsen, *Römisches Staatsrecht*, 3:702 n. 2, 706 n. 2]; Marshall, "Romans under Chian Law,"; Mitchell, "Treaty between Rome and Lycia," 204). Yet given the fact that there is clear evidence that Rome did (at times) concede the jurisdiction of its citizens to free cities (see the decree of Colophon above, *SEG* 39 [1989] nos. 1243–1244), it remains to be seen why this decree should not be read in an inclusive manner, granting the Chians both civil and criminal jurisdiction.

[51] Fergus Millar, "*Civitates liberae*, *coloniae* and provincial governors under the Empire," *MedAnt* 2 (1999) 95–113 (109, 112). The grey areas of jurisdiction would have grown especially blurry during the transition from one emperor to the next. As some evidence tends to suggest, privileges granted to a city by one emperor may not have been recognized by subsequent rulers. The city of Astypalaea, for example, had its freedom taken away under the Flavians, but it was soon restored by Trajan (*IG* XII,3 nos. 174–175 [= *IGR* IV no. 1031], 176 [= *IGR* IV no. 1032]). Likewise, in a letter to the Vanacini in northeast Corsica, Vespasian restores privileges granted to the community by Augustus, which had lapsed under Galba (*CIL* X no. 8038 = *FIRA* I no. 72 = *AE* [1993] no. 855).

Whereas the previous decree was loose enough for the Aphrodisians to exercise jurisdiction over all non-Romans, Trajan's slight alteration now excludes a second group: resident aliens. What this shift reveals is the ease with which the autonomy of "free" cities could slip away. "It is a commonplace that a small and powerless city-state lying inside a Roman province was liable to find that its privileges were steadily eroded, and might even collaborate, without realizing it, in the process."[52]

Such a transition, of course, simply marked further Roman intrusion into the fleeting notion of local autonomy. In fact, it may be that the Julio-Claudian jurist Proculus better reflects the actual state of affairs in the provinces when he notes, "persons from *civitates foederatae* may be charged in our courts, and we inflict punishments on them [if] condemned" (*Dig*. 49.15.7.2; trans. Watson). Such a statement seems natural enough given the power of the governor. As Hannah M. Cotton put it, "it would be naïve to speak of [free cities] as some kind of extra-territorial enclaves in the province, outside the direct control of the provincial governor."[53] For while a small number of communities may have been able to cling to a few privileges emanating from their free status,[54] most felt the strong arm of Rome steadily pulling these privileges away.

In summary, then, each civic community of first-century Asia Minor possessed local courts wherein litigants could have cases tried. Jurisdiction in these local communities was held by city magistrates whose legal authority extended to various civil suits and minor criminal infractions. For larger disputes or those associated with capital offenses, however, these leaders were forced to yield to higher authorities, whether foreign judges or (in the case of capital crimes) the governor himself. Although there were some "free" cities scattered across Asia Minor, their jurisdiction remained somewhat negotiable and never really beyond interference from the governor.

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[52] Joyce Reynolds, "New Letters from Hadrian to Aphrodisias: Trials, Taxes, Gladiators and an Aqueduct," *JRA* 13 (2000) 5–20 (13). The loss of judicial autonomy was not always to a city's dismay, however. In some ways, the presence of Rome was welcomed. Many free cities seemingly traded their autonomy—whether officially or simply in practice—for the pomp and splendor that went along with being an official assize site of the governor's tribunal (so, e.g., Ephesus, Pergamum).

[53] Hannah M. Cotton, "Private International Law or Conflict of Laws: Reflections on Roman Provincial Jurisdiction," in *Herrschen und Verwalten: Der Alltag der römischen Administration in der Hohen Kaiserzeit* (eds. R. Haensch and J. Heinrichs; KHA 46; Köln: Böhlau, 2007) 234–55 (241).

[54] The list in Pliny, which is most surely not exhaustive, contains a total of eleven *civitates liberae* in Asia (*Nat*. 4.23; 5.29, 33, 39), three in Cilicia (5.27), and two in Pontus-Bithynia (1.49; 6.2).

2. *Provincial Courts*

For most litigants, civic courts were more than sufficient to meet their legal needs, and given the great cost associated with the governor's tribunal (e.g., travel expenses, court fees, etc.), they provided local inhabitants with the most efficient means of administering justice.[55] The jurisdiction of civic courts was not sufficient to try every case, however. Certain matters demanded the kind of special jurisdiction that could only be found at the provincial level. During the Principate, there existed two types of provincial courts within the provinces of Asia Minor. In some cases—though probably not enough to deserve much attention—trials were conducted before provincial jury courts. On the other hand, the vast majority of cases were heard before the tribunal of the provincial governor.

a. *Provincial Jury Courts?*

In 1926, five imperial edicts (and one *senatusconsultum*) dating to the early Principate were discovered in the modern city of Libya (ancient Cyrene). These edicts, which have been described as "the most important epigraphical find for the reign of Augustus since the famous *Res Gestae*,"[56] mark an attempt by Augustus to regulate the judicial process in the public province of Cyrene. The first (7/6 BCE) describes the Augustan reform of provincial jury courts (*SEG* 9 [1959] no. 8, ll. 1–40). In order to remedy the problems caused by unfair treatment and Roman bias against Greeks in capital cases, Augustus set the lower age-limit for serving on the jury at twenty-five, raised the census requirement from 2,500 to 7,500 *denarii*

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[55] For some, however, the thought of having one's case heard before the highest court in the province would have been an extremely appealing proposition (cf. Plutarch, *Praec. ger. rei publ.* 19 [*Mor.* 815A]). In some instances, in fact, litigants were so overanxious about presenting their case before the governor's tribunal that they failed to recognize the insignificance of their disputes. As a result, they were referred back to the local civic courts (*IGR* III no. 582). As such, there were certain preventative measures in place to avert frivolous cases. For instance, appealing the decision of civic courts was an option, although certain factors often made it difficult. A man from Thyatira tried to appeal the decision of a lower court (probably that of Thyatira), but was denied a hearing by the governor (*IGR* IV no. 1211). In the same vein, appeals could be extremely expensive. In the city of Cos, the proconsul of Asia set the security for appealing the decision of a local court at 2,500 denarii (*I.Cos* no. 26 [= *IGR* IV no. 1044] + *AE* [1976] no. 648). Appealing a magistrate's verdict was thus well beyond the means of those from the lower strata of society.

[56] Naphtali Lewis and Meyer Reinhold, eds., *Roman Civilization, Selected Readings*, vol. 1: *The Republic and the Augustan Age* (3rd ed.; New York: Columbia University Press, 1990) 590.

(30,000 HS),[57] and ruled that an equal number of both Greek and Roman jurors must be appointed in cases involving the trial of Greeks. The role of this inscription in reconstructing capital jurisdiction in a provincial setting has proven vitally important, for, as A. N. Sherwin-White points out, "[h]itherto it was held that all criminal jurisdiction in provinces was decided by the personal *cognitio* of the governor sitting with the usual *consilium* of officials and *comites*, the system which finally prevailed in the Principate."[58]

But more than just serving as validation for the existence of criminal jury-courts within the provinces, the Cyrene Edict has led to a re-examination of familiar texts from other areas. On the basis of this evidence, Sherwin-White has offered a fresh reading of two previously published inscriptions from the province of Asia. During the latter part of the reign of Augustus (or possibly the early Principate of Tiberius), we hear of a certain Q. Decius Saturninus who held the post of *praef*(*ectus*) *fabr*(*um*) *i*(*ure*) *d*(*icundo*) *et sortiend*(*is*) *iudicibus in Asia* (*CIL* X no. 5393 = *ILS* no. 6286). Similar to the *album* (i.e., list of citizens qualified to serve as jurors) in Cyrene, this text indicates the selection by lot, a procedure unknown for civic *iudices privati*. This, according to Sherwin-White, is further indication of provincial *quaestiones* ("jury courts"). In addition to this text, he proposes a similar jury system in an inscription dating to the time of Trajan (*CIL* XI no. 3943 = *ILS* no. 7789).[59] But his reappraisal does not end there. He also provides a new interpretation of an obscure passage from the letters of Pliny. At Prusa ad Olympium, Pliny notes that he was "summoning jurors (*iudices*) and preparing to hold assizes" (*Ep*. 10.58.1; trans. Radice [LCL]). Due to the fact that there was little need for a governor to form an *album* of private judges in an assize setting, Sherwin-White suggests that this is another example of a jury court similar to the *quaestiones* at Rome.

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[57] This financial restriction most likely served as a line of demarcation between the elite group who served as provincial judges and those who were lower level civic judges (*iudices privati*).

[58] A. N. Sherwin-White, *The Letters of Pliny: A Historical and Social Commentary* (Oxford: Clarendon, 1966) 640.

[59] Ibid. Such a view is contrary to the way previous scholars normally interpreted this inscriptional material, *viz*., as references to *iudices privati* (so, e.g., Ludwig Mitteis, *Reichsrecht und Volksrecht in den oestlichen Provinzen des roemischen Kaiserreichs, mit Beiträgen zur Kenntniss des griechischen Rechts und der spätrömischen Rechtsentwicklung* [Leipzig: Teubner, 1891; repr., Hildesheim: Olms, 1963] 132–33 n. 4; Dessau, *Geschichte der römischen Kaiserzeit*, 2:598).

By all appearances, then, there seems to be a very limited amount of evidence for the existence of jury courts in at least two of the provinces listed in 1 Peter (Asia and Pontus-Bithynia). The strength of this present data, however, is not sufficient to uphold elaborate theories of influence and jurisdiction.[60] Given the current state of our knowledge, a much safer approach would be to focus the weight of our attention on the governor's tribunal. This seems to be confirmed by the evidence itself, since, as Kantor notes, both the Cyrene Edict as well as the letters of Pliny tend to point toward his ultimate authority: "the governor could decide for himself whether to give judgement personally or to sit with a *quaestio*: 'αὐτὸς διαγεινώσκειν κ[αὶ] ἱστάναι ἢ συμβούλιον κριτῶν παρέχειν' (*SEG* IX 8, l. 66). The right δικάζειν αὐτοί [Dio Chrysostom, *Or*. 40.10] still depended to a certain extent on his goodwill."[61] Furthermore, when one surveys the history of Christian persecution throughout the Imperial era, there is no evidence to suggest believers were ever tried before a court of jurors. For this reason, our primary focus will be on the role of the provincial governor in the Anatolian judicial process.

b. *Roman Provincial Governor*

(1) *The Office and Jurisdiction of the Governor*

The provincial governor was the most important and most powerful official in the Roman provinces. Usually drawn from the Roman aristocracy, the governor was responsible for the administration of the province, being entrusted with ultimate authority (barring interference from the emperor) over its inhabitants and all of the affairs that took place therein (*Dig*. 1.16.8).

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[60] In an attempt to reconcile the capital jurisdiction afforded to the courts of Cyrene with the judicial authority of the governor, Jones, *Criminal Courts*, 98–101, has argued that the latter "was probably bound to use the jury for crimes falling within the scope of the criminal statutes, *crimina iudiciorum publicorum*, but could exercise *cognitio* for *crimina extraordinaria*" (100). With the number of Roman citizens in the provinces on the rise, these courts (according to Jones) would remedy a potentially problematic situation, namely, citizens being charged and convicted of criminal offenses, then simply claiming *provocatio* as a way of being sent to Rome for appeal. When assessing the pertinence of this evidence for the trying of Christians, however, it becomes clear that these courts are of little relevance to the prosecution of Christians as Christians. Christianity was not a crime that fell under the *crimina iudiciorum publicorum*, and therefore a jury would not have been required. This is evident in the trying of Christians by Pliny. Rather than assigning the case to a jury, he simply tried and condemned the accused them himself. Even when we look beyond this one event, it is clear that our sources provide us with no other evidence of juries playing any role in the condemnation of Christians as Christians.

[61] Kantor, "Roman Law," 111.

The office arose as a necessary corollary to Roman conquest and expansion.[62] As the boundaries of the State were extended during the Republic, the military need exceeded that which could be performed by the two annually elected consuls.[63] In the process of expansion, it thus became necessary to extend the power (*imperium*) of the magistrates beyond the temporal limits ascribed to the office. With such commanders acting *pro consule*, their extended position came to be referred to as proconsul.[64] As the numbers of these promagistracies later multiplied further through the introduction of the propraetor (295 BCE; Livy, 10.25.11; 10.26.12–15; 10.30.1), Rome not only aided the process of territorial expansion (through an increased supply of military commanders), it also set the foundation for administering its newly acquired territories, for these promagistracies of the Republic would later evolve into the governorships of the Empire.

Understanding the evolutionary process from promagistrate to provincial governor begins with a distinction between types of *provinciae* ("tasks," "assignments," "spheres of influence") assigned to consuls (and thus proconsuls) and praetors (and thus propraetors).[65] With the concern of the State being focused both on previously conquered territories and their subsequent administration and on future plans of military expansion, consulate and praetorian duties commonly became divided up along the lines of these two *provinciae*. Due to the respective ranks of the two offices, the consuls were normally assigned more task-oriented duties such as pressing military campaigns, while the praetors were often given a geographical territory which they were expected to administer and protect. It was this traditional distinction between *provinciae* that Augustus so brilliantly used to his own advantage during his rise to emperor.

During the "First Settlement" of 27 BCE, Augustus formally relinquished his control of the provinces gained under the Triumvirate. Nevertheless,

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[62] George H. Stevenson, *Roman Provincial Administration Till the Age of the Anotonines* (Oxford: Basil Blackwell, 1939) 1–35; John Richardson, *Roman Provincial Administration 227 BC to AD 117* (London: MacMillan, 1976) 11–26.

[63] According to tradition, the last king of Rome (Tarquinius Superbus) was expelled and replaced by two consuls, colleagues who possessed all of the decision-making powers of the State (Livy, 1.60.3–4). Regardless of the reliability of this tradition, during the Republican period the two consul system was fully developed (cf. Polybius, 6.11.11–12).

[64] The first recorded instance of a Roman consul performing his duties *pro consule* is Quintus Publilius Philo (327 BCE) who was allowed to continue his attack on Neapolis and Palaeopolis (Livy, 8.23.12).

[65] For a full treatment, see Fred K. Drogula, "The Office of the Provincial Governor under the Roman Republic and Empire (to AD 235): Conception and Tradition," (Ph.D. diss., University of Virginia, 2005) 94–198.

there were three that remained under his control: Spain, Gaul, and Syria.[66] Unlike most of the Mediterranean territories, these were strategic *provinciae* which held out the possibility of further expansion through military conquest. So rather than appointing these spheres of service to the annually elected consuls, Augustus assigned the *provinciae* to members of the imperial family along with his own trusted friends. Since he himself held *imperium maius* ("ultimate power") over these areas (Dio Cassius, 53.32.5), these *legati* were assigned the praetorian rank and given the lesser *imperium pro praetore*, indicating that their power was derived from the emperor. Thus, the official title of these governors was *legati Augusti pro praetore*, while the provinces they administered came be to be referred to as imperial provinces.

Since the traditional military, task-oriented *provinciae* were taken by imperial legates, public magistrates (both consuls and praetors) were left only to attend to the geographically defined provinces in which the primary task was administration and protection. These provinces, which in name belonged to the People of Rome, are referred to as public provinces.[67] Herein a type of hierarchy was constructed. As a way of drawing distinction between consulars and praetorians, Augustus determined that the governorship of the provinces of Asia and Africa could only be filled by ex-consuls, while all other (lesser privileged) provinces were to be governed by ex-praetors (Dio Cassius, 53.14.2; cf. Strabo, *Geogr*. 17.3.25). But despite this distinction, both were commonly referred to as proconsuls (Dio Cassius, 53.13; cf. Tacitus, *Ann*. 15.22). These two provincial admin-

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[66] Strabo, *Geogr*. 17.3.25; Suetonius, *Aug*. 47; Dio Cassius, 53.12. Other provinces began as public provinces, but were later changed to imperial provinces (e.g., Illyricum [Dio Cassius, 54.34.4]; Sardinia [*CIL* X nos. 8023–8024]; Achaia and Macedonia were converted to imperial provinces by Tiberius [Tacitus, *Ann*. 1.76], but restored again to public provinces by Claudius [Suetonius, *Claud*. 25]).

[67] It is common to refer to these provinces as "senatorial" provinces. This terminology will nonetheless be avoided due to the fact that it could imply the notion that there were separate administrative hierarchies within the provinces, a notion that is simply untenable (Fergus Millar, "The Emperor, the Senate and the Provinces," *JRS* 56 [1966] 156–66; cf. idem, "'Senatorial' Provinces: An Institutionalized Ghost," *AncW* 20 [1989] 93–97). While there were some minor differences between the two offices (e.g., manner in which they were chosen [*legati* were chosen by the emperor; proconsuls appointed to their province by lot]; length of tenure [*legati* served until they were replaced; proconsuls served for one year]; number of lictors [*legati* possessed five lictors; the number of proconsulate lictors varied according to their position as ex-consul or ex-praetor]; dress [*legati* wore a sword and military attire; proconsuls did not]; cf. Dio Cassius, 53.13), both types of provincial governor possessed unlimited *imperium* in their respective provinces (barring interference from the emperor).

istrations would serve as the primary means by which Roman provinces were governed throughout the remainder of the Principate.[68]

During the late-first century CE, Asia Minor contained both imperial and public provinces, and despite the differing titles, the overall duties of these governing officials would have been somewhat similar. There were three areas of responsibility to which all provincial governors would have needed to devote significant attention.[69] First, while the Republican picture of a provincial governor as a gallant military commander had all but faded in the public provinces, all governors held some *military* responsibility. Even in *inermes provinciae* ("unarmed provinces") such as Asia or Pontus-Bithynia,[70] a proconsul would have possessed at least a small number of troops to command.[71] For instance, troops were employed in escorting important provincial officials (Pliny, *Ep*. 10.27; cf. Dio Cassius, 57.23.4). During the Trajanic and Antonine periods, soldiers (*beneficiarii*) were often taken from their legionary units and stationed at various strategic points along Roman roads (*stationes*) in order to aid local police activities against the threat of brigands.[72] It is very possible that the early traces of these same *beneficiarii* could have been used in similar ways.[73] Furthermore, there was the presence of provincial militia over whom a Roman officer would normally have been given command (cf. Pliny, *Ep*. 10.21).[74] What made the military responsibilities of most proconsular governors different from their Republican counterparts, however, was the

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[68] Another type of provincial governor, which holds little relevance for the provinces of Asia Minor, is the praesidial procurator. These were men appointed by the emperor and chosen not from among the senatorial ranks but from the lower, equestrian order (cf. Tacitus, *Ann*. 12.60) to govern certain provinces (e.g., Raetia, Noricum, Thracia). One might also mention the prefect, to whom the emperor assigned the duties of administering other provinces (e.g., Egypt, Judea).

[69] For the duties of provincial governors, see *Dig*. 1.16–19. Cf. also Drogula, "Office of the Provincial Governor," 357–419; Graham P. Burton, "Powers and Functions of Pro-Consuls in the Roman Empire, 70–260 A.D.," (Ph.D. diss., Oxford University, 1973).

[70] Cf. Josephus, *War* 2.366–368, who notes that these provinces contained no Roman legions during the time of Nero.

[71] Robert K. Sherk, "The *Inermes Provinciae* of Asia Minor," *AJP* 76 (1955) 400–13; Werner Eck, *Die Verwaltung des römischen Reiches in der Hohen Kaiserzeit: Ausgewählte und erweiterte Beiträge* (AREA 1, 3; Basel: F. Reinhardt, 1995–1998) 2:187–202. Cf. E. Ritterling, "Military Forces in the Senatorial Provinces," *JRS* 17 (1927) 28–32.

[72] *CIL* III no. 7136 [= *ILS* no. 2052]; *CIL* VIII nos. 2494 [= *ILS* no. 2636], 2495; *IGR* I no. 766; *IGR* IV no. 886; *TAM* II nos. 953, 1165; *SEG* 2 (1952) no. 666. See Robert L. Dise, Jr., "Trajan, the Antonines, and the Governor's Staff," *ZPE* 116 (1997) 273–83.

[73] See *AE* (1967) no. 525; *CIL* VIII no. 27854; *CIL* XII no. 2602 [= *ILS* no. 2118].

[74] Antoine Stappers, "Les milices locales de l'empire romain: leur histoire et leur organisation d'Auguste à Dioclétien," *MusB* 7 (1903) 198–246, 301–34.

lack of an "external" border and any type of foreign foes that might be fought and conquered.

One place where foreign enemies posed a much more serious threat and where military glory could still be won was in the imperial province of Galatia-Cappadocia. During the time of Nero, Cn. Domitius Corbulo (and for a short period Caesennius Paetus) was named *legatus Augusti pro praetor* and given total control of the united province in an effort to bring resolution to the festering conflict in Armenia (see Appendix 2).[75] To carry out this mammoth task, a large array of Roman troops was placed at his disposal. Once this threat had been subdued and Vespasian had risen to power in Rome, military stability was afforded to the area as two legions (*legio XII Fulminata* and *legio XVI Flavia Firma*) were assigned to the province.[76] For one serving as *legatus Augusti pro praetor* in Galatia-Cappadocia, therefore, military responsibilities would have demanded significant attention, as the eastern *limes* were of vital importance to the Empire.[77]

A second area of responsibility to which all provincial governors would have needed to devote serious attention was the *administration* of the province. In practice, administrative duties took on a variety of forms. One of the first tasks of a governor was the publication of his provincial edict.

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[75] Given that much of Corbulo's time was taken up with military affairs (often outside of the province), legates would have in all likelihood controlled the province much like a governor (i.e., taking care of administrative and judicial affairs). In fact, inscriptional evidence reveals the name of C. Rutilius Gallicus, whose title (*legatus provinciae Galaticae*) shows that he was subordinate to Corbulo's ultimate authority (*I.Ephesos* no. 715 [= *ILS* no. 9499]; *CIL* III no. 4591; cf. Statius, *Silv.* 1.4.76–79).

[76] In the provinces of Asia and Pontus-Bithynia, there is evidence for an increasing military presence during this same period. During the time of Pliny, Pontus-Bithynia was home to two active auxiliary cohorts (Pliny, *Ep.* 10.21, 106; see D. B. Saddington, "The Development of the Roman Auxiliary Forces from Augustus to Trajan," in *ANRW* [eds. H. Temporini and W. Haase; Part II, *Principat* 3; Berlin/New York: Walter de Gruyter, 1975] 176–201 [193–94]), which were most likely stationed in the province during the Flavian period. In Asia, we find evidence for the presence of two cohorts under the command of M. Aemilius Pius in ca. 69–71 CE (*AE* [1920] no. 55). What this reveals is that even governors in *inermes provinciae* ("unarmed provinces") were responsible for some type of military presence under the Flavians.

[77] During this time, governing officials were drawn from both consular and praetorian ranks. Consulars were given the title *legati Augusti pro praetore*, while praetorians—their subordinates—simply held the title of *legati Augusti* (E. Ritterling, "Zu zwei griechischen Inschriften römischer Verwaltungsbeamter," *JÖAI* 10 [1907] 299–311). The common hierarchical structure of the province would have been one consul, who functioned like a traditional provincial governor, and three praetors, two commanding the legions and one helping the governor with administrative and judicial matters (Sherk, "Roman Galatia," 998).

Upon entrance into office, each governor would issue an edict whereby he set forth the body of law on which his administration would be based (repeating but also supplementing the existing *lex provinciae*), thus providing the inhabitants with an idea of how the provinces would operate.[78] "In theory each new governor might issue a completely new edict"; however, "in practice it was not so, partly because each governor would in this way have given himself a great deal of unnecessary trouble, and partly because by any great innovations he would have been sure to injure the web of complicated interests in his province, and so make enemies, and court an accusation."[79] The edict of Q. Mucius Scaevola (Pontifex), governor of Asia in 98/97 BCE,[80] became a standard model that most either completely adopted or slightly adapted (Valerius Maximus, 8.15.6; cf. Cicero, *Att.* 6.1.15). Regardless of how it was composed, the publication of a provincial edict allowed a governor to address a number of judicial, administrative, and fiscal issues with speed and efficiency.[81]

While local magistrates were responsible for posting these edicts, along with other documents/laws whereby the citizens of the province were governed (cf. *lex Irnitana*, ch. 85),[82] their presence in local communities did not always result in adherence. A few examples should illustrate this fact. During the reign of Augustus, rules were put in place to prevent the exploitation of State transport in the provinces. Yet soon after the accession of Tiberius, it was necessary for Sextus Sotidius Strabo Libuscidianus, the governor of Galatia, to set forth an edict that tightened existing

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[78] See W. W. Buckland, "L'edictum provinciale," *RD* 13 (1934) 81–96; B. D. Hoyos, "*Lex Provinciae* and Governor's Edict," *Antichthon* 7 (1973) 47–53.

[79] W. T. Arnold, *The Roman System of Provincial Administration* (3rd ed.; Oxford: Blackwell, 1914) 55–56.

[80] On dating Scaevola's governorship prior to his Roman consulate of 95 BCE, see B. A. Marshall, "The Date of Q. Mucius Scaevola's Governorship of Asia," *Athenaeum* 54 (1976) 117–30; Jean-Louis Ferrary, "Les gouverneurs des provinces romaines d'Asie Mineure (Asie et Cilicie), depuis l'organisation de la province d'Asie jusqu'à la première guerre de Mithridate (126–88 av. J.-C.)," *Chiron* 30 (2000) 161–93 (163–67); *pace* Ernst Badian, "Q. Mucius Scaevola and the Province of Asia," *Athenaeum* 34 (1956) 104–23, who argues for a date of 94/93 BCE, a year after his Roman consulate.

[81] The one downside of using edicts as a way of speeding up the administration process was the fact that all gubernatorial edicts were dependent upon the *potestas* of the governors who issued them. Their efficacy, therefore, did not transcend successive administrations. This resulted in numerous requests for incoming governors to confirm previously conferred privileges (e.g., religious [Josephus, *Ant.* 16.60, 160–161, 167–173; Philo, *Legat.* 311–315; *I.Ephesos* nos. 24 (= *SIG*^{3} no. 867), 213 (= *SIG*^{3} no. 820)]; prominent individuals [Aelius Aristides, *Or.* 50.88, 93]; cities [*SIG*^{3} no. 785 = *IGR* IV no. 943]).

[82] For the text, translation, and commentary of the *lex Irnitana*, see Julián González, "The Lex Irnitana: A New Copy of the Flavian Municipal Law," *JRS* 76 (1986) 147–243.

regulations due to provincial abuse (*AE* [1976] no. 653).[83] Similarly, in 113/114 CE a proconsular edict was made in Ephesus concerning a free zone in the city's aqueduct system. Only a few years later (120/121 CE), however, another edict was required in order to enforce the previous regulations (*I.Ephesos* no. 3217a, b). As these examples demonstrate, the decree of laws and edicts did not always lead to Roman initiatives being carried out. Often gubernatorial rulings went unheeded (cf. *I.Ephesos* no. 23). Therefore, it was necessary for governors not only to produce legislation but also to enforce it.[84]

One way that governors enforced their will in the provinces was through local assize tours. Unlike many ancient magistrates who controlled their realms from capital cities, provincial governors traveled the extent of their territories, administering justice and overseeing affairs of the province. To facilitate this process, Roman provinces were divided up into judicial districts, and each district contained a principal city in which the governor would hold annual court sessions.[85] The various stops along his assize tour were known as διοικήσεις or *conventi*.[86] While in each city a major

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[83] See Stephen Mitchell, "Requisitioned Transport in the Roman Empire: A New Inscription from Pisidia," *JRS* 66 (1976) 106–31.

[84] As Graham P. Burton, "Proconsuls, Assizes and the Administration of Justice under the Empire," *JRS* 65 (1975) 92–106, has noted, "vast though the powers of the proconsul were in theory, there were severe physical restraints upon the manner in which he could exercise them; his interventions were bound then to be unevenly spread geographically, and sporadic in their frequency" (106). On the disparity between the absolute power of the governor and his inability to exercise complete control in his province, see Christina Kokkinia, "Ruling, Inducing, Arguing: How to Govern (and Survive) a Greek Province," in *Roman Rule and Civic Life: Local and Regional Perspectives: Proceedings of the Fourth Workshop of the International Network, Impact of Empire (Roman Empire, c. 200 B.C.–A.D. 476), Leiden, June 25–28, 2003* (eds. L. de Ligt, et al.; Impact of Empire (Roman Empire, c. 200 B.C.–A.D. 476) 4; Amsterdam: J. C. Gieben, 2004) 39–58.

[85] By the end of the first century CE, the province of Asia contained thirteen assize centers (from Republican period to the end of the Flavian period): *I.Priene* no. 106 (56–50 BCE); *SEG* 39 (1989) no. 1180, ll. 88–91 (17 BCE); Pliny, *Nat*. 5.95–126 (sources from Augustan date); *I.Didyma* no. 148 (40 CE; for the identification of the thirteen νεοποιοί as delegates from the various assize centers, see Louis Robert, "Le culte de Caligula à Milet et la province d'Asie," in *Hellenica: recueil d'épigraphie de numismatique et d'antiquités grecques* [vol. 7; Paris: Adrien-Maisonneuve, 1949] 206–38); *I.Ephesos* no. 13 [= *SEG* 37 (1987) no. 884] (70–90 CE; see Christian Habicht, "New Evidence on the Province of Asia," *JRS* 65 [1975] 64–91). Unfortunately, the same precision cannot be attained for the assize centers of other Anatolian provinces. For references to assizes in Pontus-Bithynia, see Dio Chrysostom, *Or*. 40.33; Pliny, *Ep*. 10.58.1.

[86] The assize itself (the court not the location) was referred to either as ἀγορὰ δικῶν, ἡ ἀγοραῖος, or ἡ ἀγοραία. On the governor's *conventus* tour, see Burton, "Proconsuls,"; Naphtali Lewis, "The Prefect's *Conventus*: Proceedings and Procedures," *BASP* 18 (1981) 119–29; Francesco Amarelli, "Il *conventus* come forma di partecipazione alle attività giudi-

part of the governor's time was given over to judicial matters, his administrative tasks were also at the forefront of his agenda.

An area to which a governor might devote a portion of his attention during a local *conventus* stop was the economic condition of a given city. Although he was not directly responsible for the taxes of his provinces (a task normally performed by the quaestor or procurator), his duties did extend to the supervision and monitoring of the financial affairs of the provincials.[87] Similarly, the task of overseeing the general welfare of local communities was one that required considerable effort.[88] For not only was the governor faced with the occasional community in crisis (e.g., *AE* [1925] no. 126 [famine in Galatia-Cappadocia]), he was also forced to deal with the more mundane issues that inevitably arose in each provincial city. In his *Duties of Proconsul*, the jurist Ulpian describes a theoretical gubernatorial agenda for each *conventus* stop:

> He should go on a tour of inspection of sacred buildings and public works to check whether they are sound in walls and roofs or are in need of any rebuilding. He should see to it that whatever works have been started, they are finished as fully as the resources of that municipality permit, he should with full formality appoint attentive people as overseers of the works, and he should also in case of need provide military attachés for the assistance of the overseers. (*Dig*. 1.16.7.1; trans. Watson)

Despite such a general prescription, however, we must remember that "Roman governors were not confined or defined by their responsibilities in the manner of a modern bureaucrat, but rather they enjoyed considerable freedom to use their office to pursue those activities that they found personally attractive or important."[89] As a result, many of these mundane tasks could be pushed aside for more rewarding endeavors. One type of activity that held out far more personal reward was public building. It was in this way that a governor could inscribe and memorialize his name for future generations, leaving a lasting legacy of his great deeds and successful administration. One of the more common building projects was

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ziarie nelle città del mondo provinciale romano," in *Politica e partecipazione nelle città dell'impero romano* (ed. F. Amarelli; SSA 25; Rome: L'Erma di Bretschneider, 2005) 1–12.

[87] E.g., *I.Ephesos* nos. 15–17; *OGIS* no. 669 [= *IGR* I no. 1263]; *IGR* III no. 739, c. 18; *SIG*^{3} no. 784; Pliny, *Ep*. 10.47–48. Of course, financial administration was one task that could have been easily overlooked, because there was very little return in diligent management (cf. Pliny, *Ep*. 10.18).

[88] Cf. *I.Ephesos* no. 23; *SEG* 48 (1998) nos. 1582–1583; Pliny, *Ep*. 10.33–34, 65.

[89] Drogula, "Office of the Provincial Governor," 357–58.

the construction of Roman roads.[90] This was especially true of governors in Asia Minor during the time of the Flavians. Roads became particularly important in moving troops to and from the eastern *limes*. It was also quite common for a governor to partake in the construction, or at least the dedication, of various public buildings such as temples, theaters, hospitals, or baths.[91] And if the construction of new buildings was not what was needed, the restoration and repair of old, dilapidated structures would have been a comparable priority.[92]

The final area of a governor's provincial responsibilities—and the one most pertinent for our purposes—was his service as the supreme *judicial* arbitrator of the province. As the most powerful official in the Roman provinces, the governor possessed complete judicial authority (*Dig*. 1.16.7.2). His jurisdiction covered the extent of the legal spectrum. As such, he was afforded the liberty to dispense justice in any and all circumstances. Therefore, while in one sense the immensity of the governor's power was something that provincials wanted to avoid as much as possible, especially if they were on the receiving end of his fury (cf. Acts 16.38–39; 19.35–40; Dio Chrysostom, *Or*. 48.1–2), in many respects his presence was a highly sought after and valued commodity. Litigants knew that any dispute could be tried before his court, with both parties receiving the most authoritative decision in the province.

The means by which the governor's judicial duties were carried out, as mentioned above, was through an annual *conventus* or assize tour. During this tour, the governor and his staff traveled along an announced circuit, visiting each of the major assize centers and setting up public tribunals to dispense justice to the inhabitants of the surrounding district. The types of cases that might be heard at these *conventi* varied considerably, including both civil and criminal affairs. For instance, a large portion of the cases brought before the governor (at least, according to the epigraphic record) were territorial disputes, whether between communities or individuals.[93]

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[90] *AE* (1902) no. 169; *AE* (1936) no. 157; *AE* (1995) no. 1551; *CIL* III nos. 318 [= *ILS* no. 263], 3198 [= *ILS* no. 5829], 14401c [= *ILS* no. 5828]. For more on Roman road-building, see Ch. 3.

[91] Temples: *CIL* VIII no. 2681; *AE* (1920) no. 72. Theaters: *AE* (1977) no. 827. Hospitals: *AE* (1987) no. 952. Baths: Pliny, *Ep*. 10.23–24.

[92] Examples of governors repairing or restoring dilapidated structures include: *AE* (1933) no. 99 (odium); *AE* (1968) no. 537 (portico); *AE* (1975) no. 834 (theater).

[93] Graham P. Burton, "The Resolution of Territorial Disputes in the Provinces of the Roman Empire," *Chiron* 30 (2000) 195–215 (206–12), lists the inscriptional evidence for some 88 known boundary disputes where the provincial governor was brought in to make a ruling. These types of disputes held out some of the greatest reward for a provincial governor (see Drogula, "Office of the Provincial Governor," 390–92).

The reason was that unlike certain legal matters that could be summarily dealt with through letters or edicts (e.g., taxation [*IGR* III no. 1056 (4)]; requisitioned transport [*AE* (1976) no. 653; P.Lond. 1171]), boundary disputes required considerable investigation by an imperial official who was sanctioned to provide an authoritative demarcation.[94]

At each stop, the number of litigants seeking to have their disputes adjudicated could have been substantial. During the early-third century CE, the Egyptian prefect Subatianus Aquila received 1,009 petitions at one *conventus* stop (P.Oxy. 2131) and 1,804 at another (P. Yale 61; and this in a span of only two and a half days!). Although these figures may not be representative of a typical Anatolian assize, they nonetheless illustrate the great demand on a governor's tribunal. So while at times governors chose to hear cases that could have been handled at the local level (*AE* [1976] no. 673; cf. Plutarch, *Praec. ger. rei publ.* 19 [*Mor.* 815A]), given the great demand for gubernatorial jurisdiction, it was much easier to let local communities handle smaller matters themselves (*I.Kyme* no. 17 = *SEG* 18 [1968] no. 555).[95] In fact, there are known instances in which a governor refused to hear matters that could be handled by civic officials (*IGR* III no. 582; cf. P. Yale 1606 [governor refused to hear a case that had been previously tried in a local court]).

In an attempt to ease the burden of his tremendous duties, the governor had a number of legates (*legati*) to whom he could delegate certain responsibilities.[96] Ordinarily these were men with considerable administrative experience. We know, for example, that two of Cicero's four *legati* were former governors themselves (Gaius Pomptinus, former governor of Transalpine Gaul and Quintus, Cicero's brother and former governor of Asia). Therefore, the powers and privileges afforded to these men could be quite extensive, including jurisdiction in legal proceedings (Strabo, *Geogr.* 3.4.20; Aelius Aristides, *Or.* 50.85; *CIG* no. 2954). During the Principate, it

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[94] This is not to say that governors always (if ever) surveyed the land and marked the boundaries themselves. Normally, this type of work would be delegated to a lower-ranking official (*AE* [1967] no. 355; *AE* [1966] no. 356; *AE* [1979] no. 563; cf. also G. H. R. Horsley and Rosalinde A. Kearsley, "Another Boundary Stone between Tymbrianassos and Sagalassos in Pisidia," *ZPE* 121 [1998] 123–29, where the *legatus pro praetore* and the procurator set the boundary).

[95] This citation assumes the reading of John A. Crook, "An Augustan Inscription in the Rijksmuseum at Leyden (*S.E.G.* XVIII, no. 555)," *PCPhS* 8 (1962) 23–29.

[96] See Bengt E. Thomasson, *Legatus: Beiträge zur römischen Verwaltungsgeschichte* (Stockholm/Göteborg: Svenska institutet i Rom/P. Åström, 1991). Cf. also Romuald Szramkiewicz, *Les Gouverneurs de province à l'époque Augustéenne: Contribution à l'histoire administrative et sociale du principat* (Études prosopographiques; Paris: Nouvelles Éditions Latines, 1975) 267–94.

became common for legates to hold tribunals at the same *conventus* site as the governor (Aelius Aristides, *Or.* 50.96–98). But what is more, there is also evidence of gubernatorial delegates being assigned to different locations altogether (Cicero, *Att.* 5.21.6–7). In fact, we hear of a number of occasions where a governor forwarded a dispute to his legate who was at an alternate location, presumably because he was in a better position to make a ruling (e.g., *SEG* 28 [1978] no. 1169 + *SEG* 41 [1991] no. 1236; *AE* [1999] no. 1592).

Another member of the governor's staff who commonly held judicial proceedings was the quaestor. The quaestor, who was appointed not by the governor but by the people and then assigned to a province by lot, was a junior magistrate responsible for the financial affairs of the province.[97] Yet, on occasions, the quaestor could even fulfill certain judicial roles. While evidence for the independent jurisdiction of this office is somewhat sparse (e.g., *AE* [1998] no. 1361; cf. *I.Aphrodisias* I no. 53), the emergence of the title *quaestor pro praetore* (*ILS* nos. 911, 981, 1048) may give some indication of the great lengths to which his authority could be extended.[98]

Alongside the staff of the governor, another Roman official who exercised judicial responsibilities in the provinces was the provincial/imperial procurator (Tacitus, *Ann.* 12.60). While the limit to which his jurisdiction extended has been a matter of some debate,[99] it is commonly agreed that procurators on imperial estates exercised some (albeit low level) jurisdiction over the territories under their supervision. Likewise, most concur that provincial procurators exercised judicial responsibilities over minor fiscal cases. But in these roles the procurator would have made little to no impact on the possible legal disputes arising against Christians in Asia Minor. More relevant for our purposes (and somewhat more puzzling as well) is the occasional reference in the legal sources to the procurator's involvement in civil and criminal cases. Here it seems best to understand

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[97] Aside from the quaestor and his *legati*, the governor also had other staff at his disposal (see Arnold, *Provicial Administration,* 65–69; Richardson, *Roman Provincial Administration,* 28–31). Another group that made up the governor's cabinet was the *comites*. These were younger men, usually of close acquaintance with the governor, who wanted to gain experience in administrative duties. He also brought along *apparitores* (civil servants) to aid him in daily administrative duties (e.g., scribe, lictor, messenger, herald, etc.).

[98] A. H. J. Greenidge, "The Title *Quaestor Pro Praetore*," *CR* 9 (1895) 258–59. Whether they received capital jurisdiction remains to be demonstrated.

[99] See Fergus Millar, "Some Evidence on the Meaning of Tacitus *Annals* XII.60," *Historia* 13 (1964) 180–87; idem, "The Development of Jurisdiction by Imperial Procurators: Further Evidence," *Historia* 14 (1965) 362–67; P. A. Brunt, "Procuratorial Jurisdiction," *Latomus* 25 (1966) 461–89.

these activities as sporadic necessities created by the high demand for justice combined with the low number of officials who could provide it: "sometimes procurators exercised (or attempted to exercise) jurisdiction in civil and criminal suits in response to the demands of individual provincial subjects who wished to avoid the potential difficulties and delays inherent in any attempt to gain a hearing at the governor's tribunal."[100]

Overall, these gubernatorial subordinates would have eased the judicial burdens of the governor considerably.[101] By thus dividing his administrative staff across the province, a governor could much more rapidly cover the extent of the assize circuit. There were nevertheless certain instances in which these lower level officials were required to forward a case directly to the governor's tribunal. In his treatise *Duties of Proconsul*, the Severan jurist Venuleius Saturninus notes the limitations of a legate's judicial authority: "If a matter should arise which calls for one of the heavier punishments, the legate must refer it to the proconsul's court. For he has no right to apply the death sentence or a sentence of imprisonment or of severe flogging" (*Dig*. 1.16.11; trans. Watson). While such a statement certainly reflects the hierarchy of authority developed in later periods, these

[100] Graham P. Burton, "Provincial Procurators and the Public Provinces," *Chiron* 23 (1993) 13–28 (27–28). Given this great imbalance between the supply and demand of justice, it is possible that at times other unsanctioned figures were called on to adjudicate between conflicting parties. For example, in later periods there is considerable evidence of Roman soldiers being called upon to settle disputes (e.g., *I.Prusias* no. 91; *TAM* II no. 953; *Cod. justin*. 9.2.8; see Mitchell, *Anatolia* I, 122–24, and John Whitehorne, "Petitions to the Centurion: A Question of Locality?," *BASP* 41 [2004] 155–69).

[101] In combination with the governor's tribunal, these were the only courts in Asia Minor officiated by Roman authorities. It is true that in Egypt there were standing courts overseen by Roman officials which were put in place as a way of reconciling the problems created by the transient nature of the assize system (see Jean N. Coroi, "La papyrologie et l'organisation judicaire de l'Égypte sous le principat," in *Actes du Ve Congrés International de Papyrologie* [Brussels: Fondation Égyptologique Reine Élisabeth, 1938] 615–62). From this, some have postulated the existence of similar courts in other provinces as well (so, e.g., Moriz Wlassak, *Zum römischen Provinzialprozess* [SAWW 190/4; Wien: A. Hölder, 1919] 35 n. 54; Max Kaser, *Rechtsgeschichte des Altertums*, Teil 3, Band 4: *Das römische Zivilprozessrecht* [2nd ed.; rev. K. Hackl; HAW 10.3.4; Munich: Beck, 1996] 470). Nevertheless, in Asia Minor the evidence for standing courts operated by Roman officials is sorely lacking. Even the judicial duties carried out by gubernatorial delegates were performed on an *ad hoc* basis without any pre-arranged territorial divisions or "dioceses" (*pace* Ernst Kornemann, "Dioecesis," in *Paulys Realencyclopädie der classischen Altertumswissenschaft* [eds. A. F. von Pauly, et al.; vol. 5; Stuttgart: Alfred Druckenmüller, 1905] 716–34 [716–17]). On the organization and jurisdiction of various courts within the provinces, see Hans Volkmann, *Zur rechtsprechung im principat des Augustus* (2nd ed.; MBPF 21; Munich: Beck, 1969) 126–50.

restrictions likely stretch back to a time just prior to Augustus.[102] Because the governor alone possessed the power of execution (Dio Cassius, 53.14.5; cf. 52.22.2–3), his was the only jurisdiction that extended to capital cases (cf. *Dig*. 1.16.6). Even the matter of two runaway slaves is forwarded to Pliny due to the fact that capital punishment may have been demanded by further investigation into the specifics of their case (Pliny, *Ep*. 10.29–30).

By all appearances then it would seem as though the governor's jurisdiction over provincial inhabitants was virtually limitless. Years ago, however, the brilliant classicist, Theodor Mommsen, proposed that all citizens accused of capital charges were sent directly to Rome. This, according to Mommsen, was due to the fact that not all provincial governors possessed capital jurisdiction (*ius gladii*) until the second century CE. While some governors were said to have abused their powers, condemning citizens without proper authority, this was thought to be the exception rather than the rule.[103] Such a contention, if it were true, would hold out significant implications for the judicial authority of governors during the first century CE (and in particular, for those with whom the recipients of 1 Peter may have come into contact).

The problems with this proposal, however, have been clearly exposed by Peter Garnsey. In his treatment of the jurisdiction of provincial governors, Garnsey concludes that, "while it is true that governors were not permitted to execute citizens *summarily*, they were certainly able to execute them *judicially*. That is to say, they could try, condemn and execute citizens, provided that an appeal did not reverse the sentence."[104] During the second century CE, "lower-class" citizens and non-citizens alike could clearly be tried and condemned by the governor.[105] Furthermore, even

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[102] Kantor, "Roman Law," 206–12. During the late Republican period, the restrictions on a legate's jurisdiction do not appear to have been so narrow. Cicero (*Att*. 5.21.6–7) was able to send his legate, Q. Volusius, to undertake judicial proceedings at Cyprus without ever visiting the site himself. Such a maneuver would have been difficult if the jurisdiction of Volusius had been restricted. Similarly, a story is related by Cicero in which Heraclides of Temnus was able to take a lawsuit before a guberatorial legate after losing his case at the governor's tribunal (*Flacc*. 49).

[103] Mommsen, *Römisches Strafrecht*, 229–50. Cf. also James L. Strachan-Davidson, *Problems of the Roman Criminal Law* (Oxford: Clarendon, 1912) 166–69; A. H. M. Jones, *Studies in Roman Government and Law* (Oxford: Basil Blackwell, 1960) 53–65.

[104] Peter Garnsey, "The Criminal Jurisdiction of Governors," *JRS* 58 (1968) 51–59 (54 [original emphasis]).

[105] Examples of gubernatorial punishment include: flogging (*Dig*. 47.21.2); hard labor (*Dig*. 48.13.8.1; 48.19.9.11; 49.18.3); imprisonment (*Dig*. 48.3.1, 3); execution (*Dig*. 48.19.15; 48.22.6.2); exposure to wild beasts (*Dig*. 28.3.6.10; 47.9.12.1; 49.16.3.10; 49.18.1.3); crucifixion (*Dig*. 48.19.9.11; 49.16.3.10); burning alive (*Dig*. 48.19.28.11).

when we search for first-century CE evidence, there are various texts that reveal similar actions taken by governors.[106] In fact, even the often referred to right of appeal (*provocatio*) afforded to Roman citizens was no guarantee of escape, for "[i]n practice, the efficacy of appeal depended on the discretion of the governor. In effect, the man who gave judgement in the provinces in criminal cases had the power, but not the right, to refuse an appeal against his own sentence."[107]

In summary, then, the provincial governor possessed supreme authority in the provinces of Asia Minor. One of his primary duties as the chief representative of Rome was to oversee the administration of justice. In discharging this duty, the governor traveled the length of his province in an annual assize tour wherein he tried cases that were beyond the jurisdiction of the local civic courts as well as many others which merely sought a hearing from the highest court in the land. What remains to be seen, though, is how these trials took place. For this reason, we will conclude our discussion on the Anatolian judicial system with an investigation into the legal procedures of the provincial tribunal.

(2) *Legal Procedure*

One of the most important aspects for understanding the nature of conflict resolution—and especially Christian conflict resolution—within first-century Roman Anatolia is the process of legal arbitration before the governor's tribunal. For while it is possible (and even probable) that some early Christians were brought before local courts on minor civil charges, it was only at the provincial level that serious accusations could be made. It would only be here that Christians could be charged as Christians and thus be prone to all of the legal repercussions associated with that name (see Ch. 6). On this basis, our focus here will be on the procedure surrounding criminal trials before the provincial assize. There are three aspects of the process in particular with which we will be concerned: how the defendant was brought to trial, the governor's method of rule in the case, and the problems inherent in this system of justice.

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[106] E.g., Suetonius, *Galb.* 9.1 (crucifixion of a Roman citizen in Spain); Pliny, *Ep.* 10.58 (Velius Paulus, the proconsul of Bithynia, condemned Flavius Archippus of Prusa to the mines); Pliny, *Ep.* 2.11.2–9 (Marius Priscus, proconsul of Africa, condemned two Roman *equites* and their friends, one *eques* being exiled while the rest of the group was killed).

[107] Peter Garnsey, "The *Lex Iulia* and Appeal under the Empire," *JRS* 56 (1966) 167–89 (167). To demonstrate the discretion of a governor, there is considerable evidence to show both his power to try prisoners (see above) and to send them to the emperor (Josephus, *War* 2.77–78, 243–246; *Ant.* 18.88–89; *Vita* 407–409; Tacitus, *Hist.* 4.13; Suetonius, *Dom.* 16).

The Roman judicial system operative in the Anatolian provinces was by nature an *accusatorial* process. In order for proceedings to be undertaken, accusations first had to be brought by a private individual (which would include local magistrates functioning in the office of eirenarch) rather than by the State. In this way, the accuser had to face the accused in an official hearing, rather than simply providing anonymous information regarding suspected transgressions (cf. Pliny, *Ep*. 10.97; Tertullian, *Scap*. 4.3). This could take place in one of two ways, as the manner in which a defendant arrived before the governor's court was largely dependent upon the crime for which he or she was accused. One way in which known criminals (i.e., those who had been accused of or condemned for a specific crime) were rounded up and brought to trial was through the efforts of the local eirenarch and his διωγμῖται. After apprehending notorious law-breakers, the eirenarch was responsible for interrogating the suspects and then presenting them before the governor with specific written charges (cf. Xenophon of Ephesus, 2.13; *Mart. Pol*. 7–9).[108] But even then his task was not complete, for once the case went to trial, the eirenarch was required to attend the hearing and to give an account of his report (*Dig*. 48.3.6.1).

The second way in which a defendant might arrive at the governor's tribunal was through the personal accusation of another member of the local populace. A requirement at every trial before the provincial governor was the presence of a *delator* ("informer") who could bring formal charges against the accused.[109] As we see in Paul's appearance before Felix, no trial could take place without this key ingredient (Acts 23.35; cf. Tertullian, *Scap*. 4.3). But rather than simply moving from accusation to trial, there were a number of important steps that preceded the actual hearing itself. The preliminary stage of the legal procedure was the called *iurisdictio*.[110] This process began with the litigant petitioning the governor to grant a hearing. At this point, there was no guarantee that the case

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[108] This is evident from the provincial edict of Antoninus Pius, governor of Asia between ca. 130–135 CE (see *Historia Augusta: Pius*, 3.2–4). Pius demanded that "[e]irenarchs, when they had arrested robbers, should question them about their associates and those who harbored them, include their interrogatories in letters, seal them, and send them for the attention of the magistrate" (*Dig*. 48.3.6.1; trans. Watson).

[109] Olivia F. Robinson, "The Role of Delators," in *Beyond Dogmatics: Law and Society in the Roman World* (eds. J. W. Cairns and P. J. du Plessis; Edinburgh Studies in Law; Edinburgh: Edinburgh University Press, 2007) 206–20.

[110] On the important division between the two stages of Roman legal proceedings (*iurisdictio* and *iudicatio*), see Fritz Schulz, *Classical Roman Law* (Oxford: Clarendon, 1951) 13–17; cf. E. I. Bekker, "Über Anfang und Ende des 'in iure'—Verfahrens im römischen Formularprozeß: *ius dicere—litem contestari*," *ZRG* 27 (1906) 1–45 (1–12).

would even be tried. For example, when Jews from Achaia brought Paul before the tribunal of Gallio, he refused to grant them a trial because he considered the matter to be a question of words and names from their own law (Acts 18.12–17). In this way, "[i]t was [the accusers], not the governors, who tested the system, to see what 'crimes' were admissible for trial by the Roman authorities."[111]

If the governor did, in fact, agree to try to the case, the next decision to be made involved the nature of the trial itself: would the governor hear the case himself using the process of *cognitio*,[112] or would he assign judges according to the traditional *formula* procedure? Although the formulary process may have been on its way out during the Principate, there is sufficient evidence to show that it nonetheless remained a viable option, especially in matters of civil dispute (cf. *Dig*. 1.18.8–9).[113] If this option was chosen, a jury would be selected and limits would be set on their jurisdiction. Yet since the *formula* was a somewhat less common procedure, and since we are concerned primarily with the manner in which Christians would have been tried (i.e., capital cases), we will focus on the judicial role of the governor and the carrying out of his duties through the process of *cognitio*.[114]

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[111] Jill Harries, *Law and Crime in the Roman World* (Cambridge: Cambridge University Press, 2007) 31.

[112] In modern literature on the subject, one of three designations is usually employed to describe the judicial process at work in the Roman provinces: *cognitio* ("investigation"), *cognitio extraordinaria* ("extra-ordinary investigation"), or *cognitio extra ordinem* ("investigation outside the order"). In this study, we will avoid the latter two descriptions in an attempt to circumvent possible confusion which they might create (cf. Riccardo Orestano, "La *cognitio extra ordinem*: una chimera," *SDHI* 46 [1980] 236–47 [esp. 236–37]). Unlike the way it may sound, the language itself (*extraordinaria, extra ordinem*) is not intended to describe proceedings which are in some way exceptional. Rather, the terms arose out of conservative legal discourse where jurists described hearings in which a governor ruled on matters not formally addressed by civil, praetorian, or criminal law (Harries, *Law and Crime in the Roman World*, 9, 29–33).

[113] See Maxime Lemosse, "Le procès provincial classique," in *Mélanges de droit romain et d'histoire ancienne: Hommage à la mémoire de André Magdelain* (eds. M. Humbert and Y. Thomas; Histoire du droit; Paris: Editions Panthéon-Assas, 1998) 239–46; Kaser, *Das römische Zivilprozessrecht*, 163–71. Examples of the *formula* process in the Roman provinces include: *RS* no. 19, col. I, l. 36–col. II, l. 5 (68 BCE); P.Schøyen 25, ll. 38–41 (46 BCE); *SEG* 9 (1959) no. 8 (7/6 BCE); Pliny, *Ep*. 10.58.1 (ca. 110 CE); P. Yadin 28–30 (ca. 125 CE); Francisco Beltrán Lloris, "An Irrigation Decree from Roman Spain: The *Lex Rivi Hiberiensis*," *JRS* 96 (2006) 147–97 (col. III, ll. 38–43) (between 117 to 138 CE).

[114] One of the greatest problems in studying the process of *cognitio* during the early Principate is the paucity of historical data (see Ignazio Buti, "La 'cognitio extra ordinem': da Augusto a Diocleziano," in *ANRW* [eds. H. Temporini and W. Haase; Part II, *Principat* 14; Berlin/New York: Walter de Gruyter, 1982] 29–59 [29–30]). Some of the early evidence was collected by the jurist Callistratus (late 2nd–early 3rd CE) in his *De cognitionibus*, but

Once the nature of the trial had been determined, the accused would be notified prior to the hearing (cf. Apuleius, *Apol.* 1–2). The form which an official summons might take is revealed in a number of documents from the Cave of Letters. One such example is the summons given to John, the son of Josephus, who was accused of misappropriating funds designated for the orphaned Jesus over whom he had been appointed guardian (125 CE):

> . . . before the attending witnesses Babatha daughter of Simon son of Menahem—through her guardian for this matter, Judah son of Khthousion—summoned (παρήγγει[λεν]) John son of Joseph Eglas, one of the guardians appointed by the council of Petra for her son Jesus the orphan of Jesus, saying: On account of your not having given . . . to my son, the said orphan . . . just as ʿAbdoöbdas son of Ellouthas, your colleague, has given by receipt, therefore I summon (παρανγέλλω) you to attend at the court of the governor Julius Julianus in Petra the metropolis of Arabia until we are heard in the tribunal in Petra on the second day of the month Dios(?) or at his next sitting in Petra . . . (P. Yadin 14; trans. Lewis)

When this text is compared with the other summons decrees discovered in the Babatha find, it becomes evident that each notice contained five basic elements: (a) the name of the accuser, (b) the name of the accused, (c) the specific accusation, (d) the court where case would be tried, and (e) a list of witnesses (cf. P. Yadin 23, 25–26, 35[?]). In other words, this document provided the accused with proper notification concerning the specifics of the upcoming trial.

An important point to consider is that bringing charges against someone in a Roman court involved exposing oneself to certain risks. When the day of the *conventus* arrived, one of the first tasks of the plaintiff was to submit a *libellus* to the governor's court in which he or she registered

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only parts of this work still survive (Roberto Bonini, *I "Libri de cognitionibus" di Callistrato: ricerche sull'elaborazione giurisprudenziale della "cognitio extra ordinem"* [SGUB 38; Milan: Giuffrè, 1964]). Moreover, the little information we do possess derives mostly from the classical lawyers and imperial rescripts found in the *Digest*. But the basic agreement between the few, early imperial sources and the later testimony from classical jurists seems to suggest that the *cognitio* process was in effect and of a similar nature during the latter half of the first century CE (see A. N. Sherwin-White, *Roman Society and Roman Law in the New Testament* [Oxford: Clarendon, 1963] 13–23). Even if we disallow the erroneous notion that the transition from *formula* to *cognitio* was the result of the political upheval that took place as the Republic was turned into an Empire (as suggested by Max Kaser, "The Changing Face of Roman Jurisdiction," *IrJur* 2 [1967] 129–43 and Buti, "La 'cognitio extra ordinem'," 31, but refuted by William Turpin, "*Formula*, *cognitio*, and proceedings *extra ordinem*," *RIDA* 46 [1999] 499–574), the *cognitio* process was clearly at work in first-century CE Asia Minor.

in a formal *subscriptio* (or *inscriptio*) the details of the charges, the name of both the accused and the accuser, and his or her own signature. "This [procedure] was devised so that no one should readily leap to an accusation (*accusationem*) since he knows that his accusation will not be brought without risk to himself" (*Dig*. 48.2.7; cf. *Cod. theod*. 9.1.9, 11, 14). For, by its very nature, a judicial system driven by popular accusations was prone to abuse. To remedy, or, at least, to counter, these problems, the Romans instituted three procedural offenses to deter would-be accusers (see *Dig*. 48.16, *senatusconsultum Turpillianum* of 61 CE): *calumnia* (making false accusations, whether out of malice or frivolity, with little regard for the truth),[115] *praevaricatio* (conspiring with the defendant to conceal the truth), and *tergiversatio* (failure to carry out the prosecution of a formally laid accusation). Penalties for these offenses ranged from fines, to bans on legal privileges, to degradation and expulsion.[116] Of course, there were ways of getting around these regulations, but for the most part, these rules were effective.[117]

Moving from the preliminary matters to the actual trial itself, we finally come to the *iudicatio* stage of the process. It is at this stage that judgment is rendered by the judge or jury based on the facts of the case. In the *cognitio* procedure, the presentation of the case was somewhat different from the formulary process. Here the governor made full investigation into the matter for himself. He controlled the submission of evidence, the presentation of witnesses, and the interrogation of the defendant.[118]

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[115] Julio G. Camiñas, "Le 'crimen calumniae' dans la 'Lex Remnia de calumniatoribus'," *RIDA* 37 (1990) 117–34; Donato Antonio Centola, *Il* crimen calumniae*: contributo allo studio del processo criminale romano* (Pubblicazioni del dipartimento di diritto romano e storia della scienza romanistica dell' università degli Studi di Napoli 'Federico II' 14; Napoli: Editoriale Scientifica, 1999) esp. 61–106. There were certain people who could make accusations without fear of *calumnia*. These included minors (Apuleius, *Apol*. 2); a parent pursuing the death of a child (*Dig*. 48.1.14); and a husband who accused his wife of adultery (*Dig*. 4.4.37.1).

[116] Fines: *Dig*. 47.15.3.3 (5 pounds of gold). Bans on legal privileges: *Dig*. 47.15.5 (prevented from bringing future prosecution). Degradation and expulsion: *Dig*. 50.2.6.3 (removable from office); Tacitus, *Ann*. 14.41 (Valerius Ponticus expelled from Italy). Under later law, the seriousness of these penalties gradually increased. For instance, in the *Theodosian Code* we read: "if the suit of the plaintiff should be adjudged unjust, he shall pay to the defendant the expenses; he shall pay the costs which the defendant is proved to have sustained for the entire time of the litigation . . ." (4.18.1.4; trans. Pharr). During the time of Constantine, all failed accusers faced the penalty which threatened the accused (*FIRA* I nos. 459–60, ll. 10–23; *Cod. theod*. 9.1.14, 19; 9.2.3; cf. Harries, *Law and Crime in the Roman World*, 22).

[117] The story of Apuleius is a case-in-point (see above).

[118] Andrew Borkowski and Paul du Plessis, *Textbook on Roman Law* (3rd ed.; Oxford: Oxford University Press, 2005) 81.

In essence, he was at liberty to direct the hearing in whatever manner he saw fit.

In Roman law, the burden of proof theoretically rested on the shoulders of the plaintiff.[119] As the jurist Paul states, *Ei incumbit probatio qui dicit, non qui negat* ("Proof lies on him who asserts, not on him who denies," *Dig*. 22.3.2; trans. Watson; cf. *Cod. justin*. 4.19.23; Justin, *1 Apol*. 4.4). In theory, this rule should have applied equally in the provinces as well. The jurist Marcian, for instance, records that, "[t]he deified Hadrian wrote to Julius Secundus in a rescript, and similar rescripts have been given elsewhere, that credence should certainly not be given to the letters of those who remitted [accused persons] to the governor as if they had already been condemned" (*Dig*. 48.3.6; trans. Watson). But the very fact that such a reminder was necessary suggests that the innocence of a defendant often needed just as much substantiation as his or her guilt. This demonstrates just how easily the burden of proof could shift from the plaintiff to the defendant.

What would make this process even more difficult for many defendants is the fact that social status played a significant role in the Roman legal system.[120] In Roman thought and practice, individuals did not experience equality before the law. This is evident in the later connection between social status and prescribed punishment. With a categorical distinction being drawn between the *honestiores* and the *humiliores* (second century CE), two different legal standards of punishment were created.[121] But even during the early Principate, the situation differed very little. Ulpianus reports that the Augustan jurist Labeo refused to hear cases of fraud if they were brought by persons of lower social orders against someone of a higher order (*Dig*. 4.3.11.1). The case of Aelius Aristides before the proconsul of Asia (C. Julius Severus) illustrates just how easily social status could result in legal privilege. Even before the trial began, the details of the case had essentially been decided. As a result, Aristides was allowed to turn the

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[119] Maxime Lemosse, *Cognitio: étude sur le role du juge dans l'instruction du procès civil antique* (Paris: Librairie André Lesot, 1944) 236–39; Erwin J. Urch, "Procedure in the Courts of the Roman Provincial Governors," *CJ* 25 (1929) 93–101 (100).

[120] See Peter Garnsey, *Social Status and Legal Privilege in the Roman Empire* (Oxford: Oxford University Press, 1970); Elizabeth A. Meyer, "The Justice of the Roman Governor and the Performance of Prestige," in *Herrschaftsstrukturen und Herrschaftspraxis: Konzepte, Prinzipien und Startegien der Administration im römischen Kaiserreich: Akten der Tagung an der Universität Zürich, 18.–20.10.2004* (ed. A. Kolb; Berlin: Akademie Verlag, 2006) 167–80.

[121] Guillaume Cardascia, "L'apparition dans le droit des classes d'*honestiores* et d'*humiliores*," *RD* 28 (1950) 305–37, 461–85.

court into his own special performance, being rewarded with a ruling in his favor (Aelius Aristides, *Or*. 50.89–92).

Ordinarily, the governor's deliberation on a case was not made in isolation. Like most Roman officials, the governor employed a group of councilors (called a *consilium*) to offer advice on judicial decisions.[122] The composition of this group could be considerably diverse, as members were selected at the magistrate's own discretion.[123] Members could be drawn from the governor's staff or friends or even from elite members of the local civic community.[124] This group differed from the *quaestio* in that the governor was not bound to follow the *consilium*'s advice.[125] He alone was responsible for the final verdict, which he issued in written form.

If the governor decided to rule against the defendant, he was then at his own discretion to determine the appropriate penalty.[126] The *lex Valeria* and three *leges Porciae* protected Roman citizens from summary physical abuse as well as providing them with the opportunity to appeal a death

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[122] Mommsen, *Römisches Staatsrecht*, 1:307–19.

[123] A passage from Josephus illustrates how diverse a group of councilors could actually be. In *Ant.* 14.229, 238–239, he provides a full list of the members of the *consilium* of L. Lentulus Crus, the consul of 49 BCE. The membership of this group ranges from the propraetorian legate, T. Ampius Balbus, to two Roman businessmen who were active in the province, P. Servilius Strabo and T. Ampius Menander (a freedman). See further Jaakko Suolahti, "The Council of L. Cornelius P. f. Crus in the Year 49 B.C.," *Arctos* 2 (1958) 152–63.

[124] Examples of the governor's staff serving on his *consilium* include: legate and quaestor (*CIL* X no. 7852 = *ILS* 5947), and *comites* (*AE* [1921] no. 38). Examples of local elites serving on the governor's *consilium* include: Cleombrotus, a young lawyer from Amasia (*IGR* III no. 103), and M. Aristonicus Timocrates, head of the museum at Smyrna (*IGR* IV no. 618).

[125] P. R. C. Weaver, "*Consilium praesidis*: Advising Governors," in *Thinking Like a Lawyer: Essays on Legal History and General History for John Crook on His Eightieth Birthday* (ed. P. McKechnie; MnemSup 231; Leiden/Boston: Brill, 2002) 43–62 (43, 52); *pace* Wolfgang Kunkel, "Die Funktion des Konsiliums in der magistratischen Strafjustiz und im Kaisergericht," *ZRG* 84 (1967) 218–44; idem, "Die Funktion des Konsiliums in der magistratischen Strafjustiz und im Kaisergericht," *ZRG* 85 (1968) 253–329.

[126] Whether a magistrate, using his own personal discretion, could decide the penalty in criminal cases during the latter half of the Principate has been a matter of some debate. While some have argued that imperial legislation bound the magistrates to prescribed penalties (so, e.g., Francesco M. De Robertis, "Arbitrium iudicantis e statuizioni imperiali: Pena discrezionale e pena fissa nella cognitio extra ordinem," *SZ* 59 [1939] 219–60), others have claimed that they possessed unfettered judicial discretion (so, e.g., Ernst Levy, *Gesammelte Schriften. Zu seinem achtzigsten Geburtstag mit Unterstützung der Akademien der Wissenschaften zur Göttingen, Heidelberg und München sowie von Basler Freunden ihm dargebracht von Wolfgang Kunkel und Max Kaser* [Köln/Graz: Böhlau, 1963] 2:459–90). Though the weight of the evidence tends toward the former (see Bauman, *Crime and Punishment*, 136–39), both sides agree that during the early Principate, judges (and especially provincial governors) were at their own discretion in selecting penalties for criminal cases.

sentence through *provocatio ad populum* (cf. Acts 16.35–39; 25.6–12).[127] The same Porcian laws offered considerable protection for those who committed capital crimes. According to these regulations, a citizen could choose exile rather than face capital punishment.[128] While these laws were not always followed in the treatment of suspected criminals (cf. *FIRA* I no. 103 = *CIL* VIII no. 10570 = *ILS* no. 6870), they nonetheless provided the accused some safeguard against the threat of violence. The form of punishment ultimately inflicted upon a convicted criminal was dependent upon a number of factors: the nature of the crime, the social standing and legal status (e.g., free vs. slave; citizen vs. non-citizen; etc.) of the defendant,[129] the personal inclinations of the governor, and even practicality.[130] Sentences could therefore range from a fine for less serious offenses to hard labor in the mines[131] and even death for more severe criminal actions.[132]

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[127] *Lex Valeria*: Cicero, *Rep*. 2.53. *Leges Porciae*: Livy, 10.9.3–6; Cicero, *Rep*. 2.54; *Rab. Perd*. 4.12; Sallust, *Bell. Cat*. 51.21–22.

[128] Sallust, *Bell. Cat*. 51.22, 40; cf. Dio Cassius, 40.54.2; Polybius, 6.14.4–8. Most regard this privilege as belonging solely to the higher social strata of the Empire, positing very little leniency to those of lower status (as suggested, e.g., by Wolfgang Kunkel, *Untersuchungen zur Entwicklung des römischen Kriminalverfahrens in vorsullanischer Zeit* [Munich: Beck, 1962] 67 n. 253; Jones, *Criminal Courts*, 14–15). Yet this view has recently been questioned on the grounds that the source material does not make such a distinction, and that in many cases no such privilege is shown (see Bauman, *Crime and Punishment*, 13–18). If social esteem was the determining factor in such instances, the Petrine readers would benefit very little from these regulations given that most found themselves among the lower strata of society (see Ch. 4). Even if the only qualification was citizenship, this position would be little affected due to the fact that few would have possessed even this privilege.

[129] Jean-Jacques Aubert, "A Double Standard in Roman Criminal Law? The Death Penalty and Social Structure in Late Republican and Early Imperial Rome," in *Speculum Iuris: Roman Law as a Reflection of Social and Economic Life in Antiquity* (eds. J.-J. Aubert and A. J. B. Sirks; Ann Arbor: University of Michigan Press, 2002) 94–133, shows that there was a three-tiered (rather than two-tiered) system of punishment during the Principate. Not only was a person's social class (*honestiores* vs. *humiliores*) used in determining the nature of punishment, one's legal standing (free vs. slave) also played a crucial part (cf. Rolf Rilinger, *Humiliores-Honestiores: zu einer sozialen Dichotomie im Strafrecht der römischen Kaiserzeit* [Munich: Oldenbourg, 1988]).

[130] For instance, a criminal could not be sent to the beasts if the time for the games had already ended (see *Mart. Pol*. 12.2).

[131] Fergus Millar, "Condemnation to Hard Labour in the Roman Empire, from the Julio-Claudians to Constantine," *PBSR* 52 (1984) 124–47. In later periods, condemnation to the mines became a common punishment for Christians, see J. G. Davies, "Condemnation to the Mines: A Neglected Chapter in the History of the Persecutions," *UBHJ* 6 (1957–58) 99–107; Mark Gustafson, "Condemnation to the Mines in the Later Roman Empire," *HTR* 87 (1994) 421–33.

[132] On the various means of capital punishment in the Roman penal system, see Mommsen, *Römisches Strafrecht*, 911–44. The assortment of punishments faced by Christians is described by Tertullian: crucifixion, beatings and lacerations, decapitation,