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THE PROVINCE STRIKES BACK
IMPERIAL DYNAMICS
IN THE EASTERN MEDITERRANEAN

edited by
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Maintaining Order and Exercising Justice in the Roman Provinces of Asia Minor

Cédric Brélaz

Law and order are, together with taxation, the main attributes of sovereignty and the most visible demonstrations of the power of an authority. Furthermore, public order is an essential factor of political stability for an empire. These two fields of State activity – the maintaining of order on the one hand, and the exercise of justice on the other – are probably some of the best ways to inspect the institutional relations between imperial central power and local communities. For this reason, the impact of Roman imperial rule on local communities of the Anatolian peninsula, and especially on Greek or Hellenized cities, can be measured by examining these two particular spheres. The study of how law was enforced in Roman Asia Minor will allow us to look into the prerogatives of the imperial State and into the tasks of the local communities within the provincial frame.

The purpose of this paper is first of all to describe briefly the functioning of policing and judicial institutions in the Roman provinces of Anatolia, as well as the interaction between imperial structures and local ones. This analysis will be no more than an overview, permitting structural observations and comparisons on the functioning of imperial government. Then, I will try to make some systematic comments on the distribution of the tasks between imperial State and local communities and on the scope of Roman imperial intervention within the Anatolian provinces.¹

Geopolitical and historical frame

The Roman provinces of Anatolia covered roughly the territory of modern Turkey (Fig. 1). They were never unified into a single province and the Anatolian peninsula in Roman times never formed a political or administrative entity within the empire. However, Anatolia can be said to constitute a geopolitical unity, considering the common history of its regions at least since the conquest of the peninsula by the King of Macedon, Alexander the Great, at the end of the fourth century BC and because of the Hellenization that was induced by the conquest.² The provinces of Anatolia, which were shaped at different times from the second century BC to the first century AD, formed within the Roman Empire a sort of tactical and political theatre of operations.³ In spite of this relative unity, these provinces are an interesting case for a study such as ours because of their diversity. Anatolia under

¹ The section on jurisdiction of this paper, as well as Appendix I, were written in collaboration with Julien Fournier (Ecole française d'Athènes), whom I thank for having shared with me his great experience on the topic. My English text was kindly revised and improved by Robert Pitt (British School at Athens); all remaining errors are mine.

² See Mitchell 1993; Sartre 1995. I will concurrently use boths terms, Anatolia and Asia Minor, to speak of the same geographical entity, that is the whole Turkish peninsula in Antiquity.

³ This theatre of operations can easily be distinguished as opposed to the European Greek-speaking provinces (including mainland Greece) on one side, and to the Semitic Near East provinces on the other. On the Near East provinces (Syria, Judaea-Palestine, Arabia), see Isaac 1992; Millar 1993.

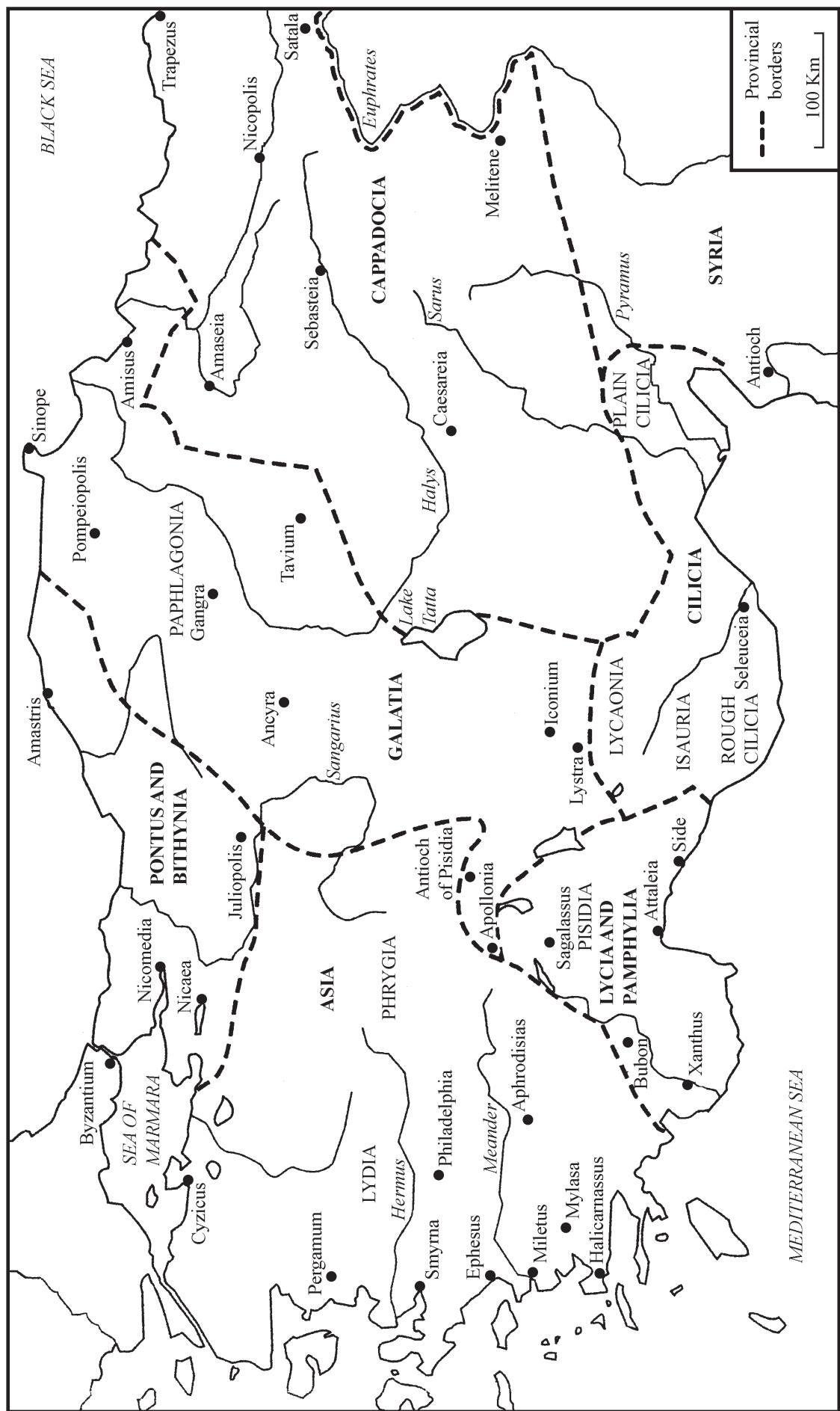


Fig. 1. Asia Minor in Roman Times, Second Century AD.

Roman imperial rule was most of the time divided into six provinces:⁴ some were very urbanized and deeply Hellenized (as on the Western coast of Asia Minor) – and we will see later the importance of such factors (urbanization and Hellenization) for the impact of imperial rule in the provinces; others, on the contrary, were less well Hellenized and were mostly rural as in the Eastern part of the peninsula, especially Cappadocia which lay on the external border of the empire (*limes*) on the river Euphrates.⁵ The case study of Anatolia enables us to draw up a typology of the provinces within the Roman Empire according to their geopolitical shape and their internal structures.

I will focus, in this paper, on the first three centuries AD, that is to say on early Roman imperial times, which constitute a coherent period in the history of the institutions and the structures of the Roman Empire. This period coincides with an era of peace and political stability for the Anatolian provinces, as well as for most of the remaining regions of the empire. The form into which Roman rule was shaped during this period in Anatolia arose from a fundamental political action: the pacification and the demilitarization of the peninsula by Augustus, the first emperor, who built up an autocratic government in Rome after decades of civil strife and wars against enemies and others who rebelled against the power of Rome throughout the empire.⁶ The internal organization of the Anatolian provinces under Roman rule proceeds from this uncontested condition: the military victory and political supremacy of Rome. Rome defeated all its enemies and imposed its political and ideological hegemony in Anatolia. From that time on, Rome established a military monopoly in the Anatolian provinces and became the reference power for all the most important matters.⁷ These military and political transformations had very deep consequences on the institutions of Greek cities, in particular on the conditions in which public security was managed and jurisdiction was exercised.⁸

Keeping order in Anatolia under Roman rule⁹

The main change in the sphere of public security due to the pacification and provincialization of Anatolia is the disappearance of royal and local armies of Hellenistic type. Royal and

⁴ See below n. 7. For the episodic administrative modifications of the borders of these provinces, see Rémy 1986. For Rome's penetration in the East in the late Hellenistic times, see Kallet-Marx 1995; Dmitriev 2005b.

⁵ Van Dam 2002, 13-38; Cassia 2004.

⁶ For the ideology of pacification, see *R. Gest div. Aug.* 13; *Vell. Pat.* 2.126.3. See also Kneppel 1994, 217-281.

⁷ Such policy was first applied by Augustus to the ancient provinces of Anatolia created at the time of the Republic (Asia, Pontus and Bithynia), and then to the new province of Galatia in 25 BC. The same model was adopted by his successors as new provinces were created during the first century AD, namely Cappadocia, Lycia and Cilicia. From the reign of Vespasian onwards, we can speak of a complete integration of the Anatolian peninsula into the Roman Empire. The provinces of Asia and of Pontus and Bithynia, the oldest and most peaceful, were left by Augustus to be administered by the Senate (*provinciae populi Romani*). In contrast, emperors tended to keep for themselves the control of the newly created provinces (*provinciae Caesaris*), where Roman troops could be engaged (as in Galatia and in Cappadocia). However, too much emphasis should not be put on the distinction between these two types of provinces (cf. Strabo 17.3.25; Dio Cass. 53.12.1-3), since the difference lies first of all in the way their governors were chosen (respectively, election by lot within the Senate and direct appointment by the emperor): cf. Millar 1989.

⁸ For the Western part of the Anatolian peninsula, a general overview on provincial administration in Mitchell 1999. For the whole peninsula, see Magie 1950. For Roman provincial administration in general, see Eck 2000.

⁹ For more details on this topic, see Brélaz 2005.

mercenary troops were dismissed or included in the Roman army. Local military offices were suppressed. For all that, particular administrative structures were not created on behalf of the Roman State to take the place of those former civic institutions. There was, within the Anatolian provinces, no State instrument specialized in keeping order that was supposed to promote justice, such as the police in the modern Western State since the seventeenth and eighteenth century.¹⁰ There was indeed no direct link between the two spheres that we are dealing with: policing on the one hand, and jurisdiction on the other. Policing operations on the territory did not prejudge the judicial activity that could be carried out afterwards. This meant that public order could be kept and criminals would be arrested to avoid threats to society, independently of any jurisdictional power. Local policing activities were not limited by the division of judicial tasks between the Roman State and the cities. We will perceive the relevance of this point when dealing with the prerogatives of Roman authorities for criminal law.

Although they were deprived of their military apparatus and independence, local communities within the Roman provinces of Anatolia actually enjoyed a complete autonomy in keeping order on their territory: they were able to create and organize any police functions and troops, such as guards and patrols (including youth associations of *ephebes* and *neoi*), to pursue, to arrest and to keep as prisoners any suspects or criminals. Keeping order locally was a necessity for local communities themselves. That is why we hear of a lot of local officers in the cities of the Roman provinces of Asia Minor who had different preventive or reactive police tasks against criminals and brigands (like respectively the *paraphylakes* and the *eirenarchoi*). In performing these functions these local officers, nominated by the town councils, did not work for Rome, but for their own city.¹¹ These civic functions were created or developed by Greek cities during the first century AD to ensure the security of their inhabitants within the pacified provinces of the Roman Empire. Rome indeed did not systematically control territory within the provinces to enforce law, nor did it vouch for the internal security of local communities. The emperor Trajan reminded his governor in Pontus and Bithynia, Plinius the Younger, of this very principle of government, when he was asked for military protection for the little city of Juliopolis, frequently harassed by merchants and Roman officers passing through: "But if we should assist the city of Juliopolis in the same manner (as Byzantium),¹² we should burden ourselves with a precedent; for other towns will request the same aid, and the more readily, the weaker they are".¹³ Imperial power did not deal with public order at local level, and problems such as delinquency, and residual or sporadic brigandage, did not fall within its prerogatives. It is clear, however, that imperial power took advantage of the job that cities were doing by maintaining order: to ensure the rule of Rome, the provinces ought to be quiet and provincials should enjoy imperial peace and security. But local communities were not controlling territory on Rome's behalf. The two parts

¹⁰ See Napoli 2003.

¹¹ The nomination of the *eirenarch* by the governor, as detailed by Aristid. *Or.* 50.72, does not prove an ordinary practice: see Brélaz 2005, 108-111. See also Dmitriev 2005a, 206-213. What Burton 2001, 207-210, says about *dekaprotoi*, concluding that these taxation officers were not created nor chosen by Roman authorities, could be applied also to *eirenarchs*.

¹² Due to its very strategic position on the Bosphorus at the entry of the Anatolian peninsula, the city of Byzantium was protected by a Roman garrison.

¹³ Plin. *Ep.* 10.78 (Trajan's answer; transl. Melmoth-Hutchinson, Loeb 1915). See Brélaz 2002.

obviously had the same interests, but on two different levels. Local officers cared about the security of the inhabitants of their city and the safety of their own homeland, while Rome was trying to preserve the stability of its imperial rule.¹⁴

Moreover, the intervention of Roman power in the provinces for policing matters was restricted to the defence of its direct interests. In principle, soldiers were set firstly on the outer frontiers of the empire. Actually, there were only two legionary camps continuously for the whole Anatolian peninsula (Satala and Melitene), and they lay on the Euphrates border in Cappadocia. Within the provinces, restricted military contingents (legionary detachments, auxiliary units) were put at the disposal of every governor, and small groups of soldiers taken from these troops were set locally where there were strategic targets to protect, as for instance the most important roads, customs, and imperial properties such as estates, quarries and mines.¹⁵ Additional soldiers were also employed directly in the governor's services (*officium*) to back him up in the administration of his province, and especially in his judicial tasks,¹⁶ but there were very few of them, because emperors wanted to avoid withdrawing operational manpower from the purely military tasks.¹⁷ The troops quartered in Anatolia, reinforced if necessary by further imperial forces called from other parts of the empire, were engaged locally only as subsidiary measures, in case of emergency, when cities were not able to oppose big threats, such as external attacks (as during the Gothic invasions in the middle of the third century AD)¹⁸ or brigandage on a large scale approaching rebellion (as in Isauria, where several outbreaks were quelled by Roman troops during the reign of Augustus).¹⁹ In such cases, military troops intervened to protect the political and territorial integrity of the empire. In the same way, although governors were theoretically responsible for keeping order in their whole province and were supposed to arrest all the "bad guys" (*mali homines*),²⁰ only criminals dangerous for the Roman political and ideological order, such as rebels, sacrilegious persons or leaders of brigands' gangs, were actively pursued by the governors' staff and Roman officers. Christians were at times included in this category of criminals too, because they refused to recognize the moral preponderance of the emperor, as is made clear in the narratives of the martyrs' lives showing how they were arrested and executed;²¹ these people were pursued for lese-majesty as sacrilegious persons and for disturbing public order and morality as a factious mob and troublemakers.²²

¹⁴ Contra Yannakopoulos 2003, who thinks that local policing functions were created on Rome's behalf according to the imperial propaganda of pacification in order to ensure the *pax Romana* within the Eastern provinces.

¹⁵ See Petraccia Lucernoni 2001. The fortress (*castellum*) of one of those contingents, lying in Phrygia, was studied by Christol and Drew-Bear 1987.

¹⁶ Nelis-Clément 2000, 211-268.

¹⁷ Plin. *Ep.* 10.20; 22 (Trajan's answers).

¹⁸ Salamon 1971.

¹⁹ Syme 1995, 257-269. For the evolution from brigandage to open warfare in Isauria, see Dio Cass. 55.28.3; Shaw 1990, 218-233; Lenski 1999. For brigandage in Anatolia, see Wolff 2003.

²⁰ Ulp. (*7 de off. proc.*) *Dig.* 1.18.13pr; Paul. (*13 ad Sab.*) *Dig.* 1.18.3. See also Appendix II.

²¹ Ronchey 2000; Meyer-Zwiffelhoffer 2002, 143-171. A selection of these narratives in Musurillo 1972; one of the most famous is the martyrdom of Pionios in Smyrna: see Robert *et al.* 1994.

²² For the debate about the reasons for the Christian persecutions, see Giovannini 1996; Teja 2000.

In short, we could say that, since Greek cities in Asia Minor had enjoyed autonomy for their internal security for centuries,²³ the aim of Roman rule in this sphere was never to substitute a radically different system for local institutions. Rather, the impact of this rule took the form of a superimposition of an imperial political structure above local institutions. Rome enforced its rule and intervened locally, only when its sovereign attributes and its tactical interests were in danger. The task of keeping order on a day to day basis was, on the other hand, left to the cities themselves. The emperor Commodus was aware of this division of the duties, as he sent a letter to the Lycian city of Bubon to congratulate its inhabitants because they had successfully opposed the attack of a large band of brigands.²⁴ By thanking the local population for having repelled the enemies, the emperor implicitly admits that the threat was beyond the local context and that the Roman army should have intervened. But we have to keep in mind that such an approach, very favourable to the cities because it avoided imperial intervention in the local sphere for minor concerns, only became possible and viable thanks to the military submission of local communities to Rome and the destruction of any other power than the Roman one in the very beginning.

Roman and local jurisdiction in Asia Minor (with Julien Fournier)

If we turn now to how legal and judicial matters were organized by imperial power in the Anatolian provinces, we will see that the same line of government was followed as for policing. Local jurisdiction was by no means suppressed after the creation of Roman provinces in Asia Minor: local courts were everywhere preserved and kept working,²⁵ and local judges were not chosen or nominated by Rome. However, their competence was limited by the power of Rome:²⁶ penal and criminal prerogatives were reserved for Roman courts; in particular, local courts were not able to fine beyond a certain amount or to pronounce capital punishment on freemen. In the same way, local courts were not allowed to try Roman citizens on civil matters, if they chose to appear before a Roman court.²⁷ Therefore, the jurisdiction of local courts was bypassed by Roman jurisdiction. Since sovereignty was given to imperial authorities, provincial and imperial courts – that is to say the tribunal of the governor, or of the emperor – also worked as courts of appeal and could annul verdicts of local courts, if a plaintiff chose to appeal to the Roman courts.²⁸ The Roman provincial courts were made up of a jury which assisted the governor in exercising justice: this jury also included provincial representatives – who were not Roman citizens –, at least for the trials which involved provincials and as far as civil law was concerned.²⁹ So provincials were in some way allowed to take part in Roman jurisdiction too. Moreover, the governor administered justice in an itinerant form

²³ For security and war in Hellenistic Asia Minor, see Ma 2000. See also the papers edited by Couvenhes and Fernoux 2004.

²⁴ *AE* 1979, 624.

²⁵ Nörr 1966, 30-34.

²⁶ Horstkotte 1999.

²⁷ Roman citizenship gives the privilege to escape local jurisdiction, at least when a Roman citizen is in the position of a defendant. This advantage was explicitly specified in the Senate's decrees awarding citizenship or other privileges to foreigners during the first century BC: see Raggi 2001, 98-109.

²⁸ Millar 1992, 507-516; Fournier 2005.

stopping in a limited number of cities chosen for this purpose (*conventus*),³⁰ so that the preponderance of Roman jurisdiction was obvious to everyone within the provinces.³¹

Since it had to do with public order and could hand down capital punishment, the supremacy of Roman jurisdiction was particularly clear for criminal law. Consequently, imperial authorities reserved for themselves the highest expression of jurisdiction and of public force: capital punishment.³² Provincial freemen could be tried for criminal matters only by the governor, and not by local courts, and Roman citizens could even be handed over to the emperor, if they appealed to him. On the contrary, slaves could be judged and put to death by local courts and officers. Early Christian history gives us several examples of this functioning of the Roman judicial system: Christian martyrs indeed, as citizens of Greek cities or inhabitants of native communities, were judged and executed by Roman governors in the provinces (as Jesus Christ in Judaea because he was a *peregrinus*), while Paul the apostle claimed the privilege he had as a Roman citizen to appear before the emperor to defend his cause. This is why he was brought and finally put to death in Rome and not in Judaea.³³ However this system of differentiation was theoretical, for Roman authorities would not be able to control every local court. That is why we hear of executions of freemen in provincial towns,³⁴ and in the case of dangerous criminals caught in the act or of notorious brigands, these punishments were probably tolerated and even encouraged by Roman authorities, because it was considered to be expedient to the State and the society in general to get rid of such threats as soon as possible.³⁵

The study of how criminal trials worked in the Anatolian provinces clearly exemplifies the limits of imperial power in the provinces. As stated above, the governor, as the agent of the imperial power within the provinces, was supposed to control the provincial territory dependent on his authority and maintain order. But the means left at his disposal were very meagre: he only had a few soldiers to keep order and pursue criminals in a whole province. In reality, the function and the efficiency of Roman criminal courts depended on the initiative and the participation of local officers.³⁶ Most criminal trials were induced by local officers, who decided to arrest some criminals and to hand over to the governor's courts those who were accused of crimes punishable by harsher penalties and capital punishment, that is to say of crimes which could be judged only by Roman courts. So, Roman criminal jurisdiction, to be effective, often needed the active involvement of local communities and postulated common interests between governors and local élites in keeping order. In civil law, on the contrary, where the interests of the imperial power were not so crucial, the intervention of Roman authorities was much less. Local rights were preserved and tolerated as far as they did not directly contravene

²⁹ Nörr 1999. In Cyrenaica (Oliver 1989, nos. 8-12), there were even mixed juries with native representatives for criminal matters. But these courts seem to have been created following riots or abuses in order to reform the judicial system. Such courts, inspired by the permanent criminal courts known in the city of Rome (*quaestiones perpetuae*), do not seem to have existed in every province.

³⁰ Burton 1975; Haensch 1997, 305-311 and Appendix VIII; Mitchell 1999, 22-29.

³¹ For the participation of local populations in the trials that were publicly organized by governors in the towns, mainly on the basis of fourth century sources, see Amarelli 2005.

³² Garnsey 1968; Liebs 1981.

³³ See Colin 1965.

³⁴ Riess 2001, 313-324; Porena 2005, 66-67, 77-91.

³⁵ Ulp. (10 ad Sab.) Dig. 28.3.6.9; Call. (6 de cogn.) Dig. 48.19.28.15; Mod. (6 diff.) Dig. 49.1.16.

³⁶ See Appendix II.

Roman legislation or other political requirements,³⁷ and there was no systematic attempt to substitute Roman civil law for those rights or to impose it.³⁸ Moreover, by trying on appeal lawsuits between provincials, the governor had to pronounce sentence in accordance with local law.³⁹

Sovereignty and local autonomy

The main conclusion to be drawn from this brief study is the differentiation that Rome made between the tasks which came under sovereignty and the tasks which did not. We saw that imperial power reserved for itself all the sovereign prerogatives in policing and judicial matters: military defence of the borders, protection of strategic and tactical targets within the provinces (especially places of fiscal or economic relevance), pursuit of people opposing Roman political and ideological order and of the most dangerous criminals; finally, supreme jurisdiction such as capital punishment and the court of appeal. The most important political transformation induced by the Roman provincialization of Anatolia is precisely this transfer of sovereignty from local communities to imperial authorities, which appeared through the withdrawal of military independence and capital jurisdiction from the cities. With the exception of these prerogatives, local autonomy was preserved, so that local institutions could keep functioning, including police and courts. In dealing with order and jurisdiction, local communities were not granted a privilege by Rome. These tasks were not delegated to them by imperial authorities. These competences and this autonomy actually pre-dated Roman rule in Asia Minor, and then were maintained.

So, we can consider local communities within Roman provinces of Anatolia not as simple administrative units entirely depending on central power and on imperial rules and working for Roman interests, but as self-governing political entities, forming together a network constituting the imperial State.⁴⁰ However, this model of imperial and local political interaction was valid only in the most urbanized and in the most deeply Hellenized provinces of Anatolia (as on the Western coast of Asia Minor), where the Greek city institutional standard was by far the most prevalent political organization at local level.⁴¹ On the contrary, in regions not so well pacified where such a model was lacking, especially in the Eastern part of the peninsula near the frontier, the intervention of Roman military and administrative authorities within local communities to keep order was much more important. In the same way, in other provinces lacking Greek cities elsewhere in the East, as in Southern and Eastern Syria, Judaea-Palestine or Egypt, and in border zones, Roman troops used to act as policing power and judicial authority, since no local community had institutions able to undertake such tasks.⁴² Consequently,

³⁷ See, e.g., Plin. *Ep.* 10.20; 34; 84; 93; 109; 111; 113; 115. Even the concession of Roman citizenship does not involve the suppression of local law's validity; see *AE* 1971, 534 (*Tabula Banasitana*): *civitatem Romanam salvo iure gentis dare*.

³⁸ Lintott 1993, 154-160. However, the spread of Roman law in substitution of local rights was a long-term process: see Lepelley 2001.

³⁹ Cf. *Iul. (84 dig.) Dig.* 1.3.32.

⁴⁰ Cf. Lévy 1899, 285.

⁴¹ One could probably make the same observation for other deeply pacified and urbanized provinces elsewhere in the empire, as Achaia (mainland Greece), Narbonensis (Southern Gaul) and Baetica (Southern Spain).

⁴² See Pollard 2000, 85-110; Gebhardt 2002; Isaac 1992, 54-118; Alston 1995, 74-101. The same could be said of the procuratorial provinces: see Loreto 2000.

we note that the autonomy allowed to local communities by imperial authorities was proportional to the degree of sophistication (according to the Graeco-Roman standard) of their internal political structures. For example, in Lycia in Southern Asia Minor, where Greek cities were united for a long time in a confederacy, Rome retained those native federal institutions within provincial administration which precisely had fiscal, judicial and police powers. Imperial authorities kept on the one hand this federal structure, but on the other hurried to seize military power and supreme jurisdiction from the confederacy as Lycia was turned into a province.⁴³ In the same way, a few cities in the Roman provinces of Anatolia enjoyed the privileged status of free cities thanks to good turns done to Rome previously, mainly during the wars of the first century BC. According to this status, those cities gained tax exemptions and were even allowed to continue to sentence provincial freemen (but not Roman citizens) to capital punishment.⁴⁴ These were of course great privileges; nevertheless none of those free cities was allowed to retain its military forces. Even if the free cities theoretically did not belong to the Roman provincial administration, Rome deprived them of the most crucial instrument of sovereignty: military power.⁴⁵ It follows from these examples that Roman imperial power did not rely on a single pattern of government: Rome could tailor its rule according to the pre-existing conditions and structures it found in the regions it was subduing and transforming into provinces. So, the impact of imperial power depended on the state of organization of local communities and differed from place to place.

Nevertheless imperial authorities tended to favour a particular line of government: Roman imperial power deliberately fostered local autonomy within the provinces and encouraged the creation of new self-governing cities. Some rural communities gained civic status through Roman emperors during imperial times.⁴⁶ The diffusion of Greek culture and education in the East, and the assimilation of the local ruling class through the concession of Roman citizenship, were also measures used to stimulate local autonomy and to spread the institutional standard of the Greek city. Hence Roman rule supposed the participation of local communities and of their officers in governing the empire, and the valorisation of the city-state as the basic core on which the imperial State could rely.⁴⁷ Local élites in Anatolian provinces were aware of the value of their involvement in the administration of the empire, as the orator Aelius Aristides from Smyrna proclaims in the middle of the second century AD in his praise of the Roman Empire. According to Aristides, the main advantages of Roman rule for local communities were the following: “There are in every city a lot of people who are fellow citizens of yours [that is to say Roman citizens] no less than of their own compatriots, although many of them have not seen Rome yet. So, there is no need of garrisons to control the citadels. Because the most important and the most powerful inhabitants of each place keep for you their own homeland, so you hold the cities in two ways, from Rome and one by one thanks to them”.⁴⁸

⁴³ Behrwald 2000, 129, 145-146.

⁴⁴ Ferrary 1991; Millar 1999.

⁴⁵ See Dio Chrys. *Or.* 31.102-104, 113, about the free city of Rhodes. On this speech of Dio, see Veyne 2005, 163-257.

⁴⁶ Mitchell 1993, 86-97; Sartre 1995, 212-216.

⁴⁷ Lintott 1993, 129-153. See also Appendix I.

⁴⁸ Aristid. *Or.* 26.64.

Such behaviour actually permitted a relative disengagement of imperial power in the administration of the provinces. After the military victory of Rome and the creation of the provincial administration, as soon as Roman hegemony was imposed and consolidated, routine government was left to the cities under the supervision of governors who represented the sovereignty of the imperial State in the provinces. Then, as mentioned above, imperial authorities intervened locally only to protect fundamental interests. I have only spoken in this paper of the monopoly of the military and of the supreme jurisdiction, but we should also mention taxation,⁴⁹ minting, economic exploitation of the imperial properties,⁵⁰ and ideological submission of provincial societies to the emperor through oaths of allegiance and political cult.⁵¹

Local autonomy and world empire

As Giovanni Salmeri has already pointed out elsewhere,⁵² such an imperial rule, leaving much room for local autonomy, fits pretty well with the theory that Michael Hardt and Antonio Negri evolved in their influential essay entitled *Empire*, where the authors analyse the contemporary concept of empire in the globalization process of the international relations we are attending to for more than a decade (the ‘empire’ nowadays is supposed to be the new political and economic order worldwide inspired by Western capitalist countries). In discussing the concept of empire, Hardt and Negri draw a difference between the activities related to the sovereignty of empire on the one hand – such as military hegemony and political command – which are watched over by imperial structures, and the tasks of day to day administration, on the other, which are carried out locally. Moreover, intervention of imperial structures in the local sphere takes place only in case of threat to the imperial prerogatives.⁵³ Such an approach – distinguishing two levels of government, one imperial dealing with matters which have an importance related to sovereignty, the other local attending to ordinary civic administration – is very stimulating for our understanding of the functioning of the Roman imperial system. But it is not certain that this theoretical model, which happens to correspond with Roman provincial rule, is also valid for other imperial administrations.

“Local autonomy was the corollary of world empire” said Sir Ronald Syme commenting on Pompeius’ favourable policy towards Eastern cities in the middle of the first century BC.⁵⁴ This is incontestably true for the Roman Empire, as is shown by the example of how law and order were managed in the Anatolian provinces. But is this interaction and subsidiarity between imperial power and local communities a characteristic of all supranational empires? The status of local communities in other world empires claiming universality proves quite different. In the Byzantine and Ottoman Empires, for example, which succeeded the Roman Empire in the East, local communities were not conceived as self-governing political entities, and they did not enjoy such an autonomy.

⁴⁹ See Merola 2001.

⁵⁰ See Lo Cascio 2000.

⁵¹ See Ando 2000, 359-362, 389-390, 394-395.

⁵² Salmeri 2005, 187-188.

⁵³ Hardt and Negri 2000, 339-348.

⁵⁴ Syme 1995, 124.

Local communities were administrative units depending on central power and most cities were directly ruled by imperial officers.⁵⁵

The comparison with the Byzantine and Ottoman Empires actually reveals a particularity of Roman rule. In the Roman Empire, and especially in the East where there had been a tradition of civic experience for centuries, the basic political cell was precisely the local community relying on a civic group and disposing of its own institutions. Furthermore, Rome itself was a city-state;⁵⁶ the Roman provinces were the result of the territorial expansion of a single city, and they were governed by imperial officers representing the civic magistrates of Rome; likewise the Senate was at the same time the governing assembly of the empire and the town council of the *Urbs*. In short, we could say that the Roman Empire is the application and the extension on a world scale of the idea and of the political model of the city. Hence the principle of self-governing communities was by no means unknown to Rome, which deliberately preserved and spread this network of cities to establish its rule, as the Hellenistic kingdoms had already done in Asia Minor.⁵⁷

Local autonomy was not an impediment to imperial rule. On the contrary, this way of governing, which would seem a paradox to other empires, made the Roman provincial administration easier. After their integration within the provinces, local communities became active collaborators in the workings of Roman power by managing their internal concerns themselves and attending to tasks which happened to be crucial for the maintenance of imperial rule (raising taxes, keeping order, exercising justice). Such a ruling system lasted till local communities were dissolved as civic organizations in Late Antiquity. From the fourth century AD onwards, sociability ties changed within the cities. Individual as well as collective identity ceased to pass through citizenship and civic life. The richest and the most influential inhabitants of each city monopolized power. Town councils gradually disappeared, and imperial officers or local magnates took the place of civic magistrates, as central power intervention in the local sphere was becoming more frequent. The Early Byzantine period corresponds with the end of local autonomy as the imperial ruling method.⁵⁸

The existence of different imperial ruling patterns – as suggested when dealing with the importance of local autonomy in the Roman Empire in comparison with the Byzantine and Ottoman Empires – prevents us from considering imperial power as a homogeneous historical and political phenomenon. Empires can of course share some common structural features (formation of a multinational organization, tendency to universality, progressive assimilation of native people), as Eisenstadt observed by proposing a sociological definition of what an empire is.⁵⁹ This does not imply, however, that there is only one way for an empire to rule the provinces and that the relations between imperial power and local communities would always and everywhere be determined by the same conditions.⁶⁰

⁵⁵ Haldon 1999; Ivison 2000; Inalcik 1977.

⁵⁶ Cornell 2000.

⁵⁷ See Ma 2002.

⁵⁸ See Lepelley 1996; Liebeschuetz 2001, 104-136; Laniado 2002.

⁵⁹ Eisenstadt 1963.

⁶⁰ Furthermore, the ruling systems of empires, as well as the status of local communities, can evolve as time passes. See, for example, the birth of a civic movement in the towns of Western medieval Europe during the twelfth century (see Boucheron and Menjot 2003), and the emergence of municipalities in the Ottoman Empire in the late nineteenth century (see Lafi 2005).

The comparative analysis of imperial systems reveals, on the contrary, that behind the generic and often idealized concept of empire lies a kind of political organization which is very dependent on historical circumstances and lacks the innate strength and the intrinsic legitimacy we usually ascribe to it.⁶¹

Appendix I

Normative aspects of local autonomy (with Julien Fournier)

The distribution of the tasks between imperial power and local communities in the sphere of law and order described above raises the question of the existence of any imperial regulation in connection with that. In other words, does this division of attributions arise from juridical texts stating positively the limits of local competences?

As far as disarming is concerned, for example, we have no trace of a systematic attempt to prohibit through legal arrangements the use of local armies in the Roman provinces of Anatolia during the reign of Augustus.⁶² On the other hand, the effects of such a policy are clearly perceptible during the first century AD (disappearance of local armies, suppression of military offices). Rather than a unilateral decision, the disarming of local communities in Asia Minor is probably the result of a long-lasting political process, which consisted in the transfer of military sovereignty from the cities to the imperial power during the first decades of the Principate. Under Roman rule, which henceforth was the only reference power, local military troops became useless. Moreover, it does not seem that provincial charters (*leges provinciarum*) setting out the inner administrative organization of the provinces – whose existence we partly know for the two double provinces of Pontus and Bithynia and Lycia and Pamphylia – contained any clause about how order should be kept and what should have been the attributions of local communities in this field.⁶³ Apart from some general instructions (*mandata*) that emperors addressed to their governors about their duty to keep order in the provinces they ruled,⁶⁴ the prerogatives of local communities for maintaining order were not positively expressed by the Roman State. One of the main reasons is the fact that policing was not conceptualized at that time as a distinct activity of public power.⁶⁵

As for jurisdiction, some regulations about the separation of competences between Roman and local courts seem to have been inserted in the general edict that the governors used to issue as soon as they took up their duties in the provinces and where details were given of the procedure to be followed to refer to their court.⁶⁶ However, in opposition to local communities in the Western part of the empire, which were provided with municipal

⁶¹ See Ménissier 2006.

⁶² See Brunt 1990, 255-266.

⁶³ The few clauses that we know from these regulations deal with qualifications for the inhabitants of a city to become councillors and with the fiscal immunities of individuals and communities. See Fernoux 2004, 129-146; Dmitriev 2005a, 302-303.

⁶⁴ Marotta 1991, 99-122, 156-176.

⁶⁵ See also Brélaz 2007.

⁶⁶ See the edict of Cicero as governor of Cilicia in 51/0 BC (Cic. *Att.* 6.1.15) and the edict of M. Petronius Mamertinus, prefect of Egypt from 133 to 137 AD (*P. Yale* 1606 [SB XII 10929]). Cf. *Lex Irnitana* (J. González, *JRS* 76 [1986], 147-243), <LXXXV>.

charters of the Roman type,⁶⁷ the limitations of local jurisdiction were not expressed in the constitutions and laws of Greek cities in the East, because those were not issued by Roman authorities. Nevertheless the normative intention of Roman power was more extensive for jurisdiction than for policing. On various occasions,⁶⁸ and with the help of various statutes (decrees, edicts, instructions, rescripts), specific decisions issued by the governor or even the emperor set out the respective extent of Roman and local jurisdiction. This normative trend consisted in asserting the preponderance of Roman jurisdiction through two main items.

First are stated the legal prerogatives of Roman citizenship: as defendants in a civil action, Roman citizens had the privilege to choose the jurisdiction they wanted.⁶⁹ This principle recalls the content of the judicial clauses of the treaties that Rome stipulated with its allies under the Republic, whose purpose was to safeguard Roman citizens from the effect of local jurisdiction.⁷⁰ It follows that one of the most important duties of Roman provincial authorities was to guarantee the legal privileges due to Roman citizenship. Second is asserted the monopoly of Roman jurisdiction on criminal law: capital suits can be brought only before the governor.⁷¹ Apart from that, local communities can continue to use their own laws and to exercise justice in civil matters.⁷² This local civil jurisdiction, however, seems to have been limited in accordance to the amount of money involved in the case.⁷³ The range of local jurisdiction is also bound by the possibility given to provincials to appeal against a local judgment to the governor's court. Thus rescripts from Roman authorities defining the procedure of appeal show implicitly the superiority of Roman jurisdiction over the local one.⁷⁴

The lack of a more formal definition of the prerogatives of local communities for policing and jurisdiction cannot be attributed only to a shortage of sources.⁷⁵ There was in any case no constitution of the empire stating the separation of the tasks between Roman power and local communities.⁷⁶ As the example of jurisdiction makes clear, only the matters escaping local courts were specified by Roman authorities. The capacity of local communities to keep order and to exercise justice did not need to be stated by law, for in this sphere cities were not granted powers delegated by Rome. The innovation which

⁶⁷ See Wolf 2006.

⁶⁸ This occurred mainly after disturbances of the judicial machinery, when the governor or the emperor intervened to specify or to modify the prerogatives of local courts. So, misuses of power by local officers pushed Augustus into reforming the judicial system in Cyrenaica and Antoninus as governor of Asia into limiting the powers of local policemen (see below n. 71).

⁶⁹ See, for instance, in Sicily the so-called *Lex Rupilia* in connection with that: Cic. 2 *Verr.* 2.32.

⁷⁰ See lastly the treaty between Rome and the Lycian confederacy (Mitchell 2005).

⁷¹ Oliver 1989, nos. 8-12 (Augustus' edicts in Cyrenaica); Plin. *Ep.* 10.30 (imperial instructions); *P. Yale* 1606 (SB XII 10929: provincial edict in Egypt); Marcian. (2 *de iud. publ.*) *Dig.* 48.3.6.1 (imperial instructions and provincial edict in Asia).

⁷² Cic. *Att.* 6.1.15 ironically observes that "the Greeks regard such provisions as their charter of liberty, that cases between Greeks should be tried under their own laws" (... *sibi libertatem censem Graeci datam, ut Graeci inter se disceptent suis legibus... Graeci vero exsultant quod peregrinis iudicibus utuntur. 'Nugatoribus quidem' inquies. Quid refert? Ii se αὐτονομίαν adeptos putant*).

⁷³ Oliver 1989, no. 156.

⁷⁴ Oliver 1989, nos. 91, 160, 170, 276 a-b. See also Fournier 2005.

⁷⁵ On the sources concerning Roman provincial administration, see Burton 2002 with methodological insights.

⁷⁶ See Marotta 2000-04, II 185-197 on the lack of norms about governor's duties.

required to be proclaimed and regulated in the Anatolian provinces was henceforth the sovereignty of Roman imperial power, not the usual functioning of civic institutions.

Appendix II

Policing collaboration and criminal procedure: inquisitorial and accusatorial features

During the Principate, the emperor – who progressively took over jurisdiction within the Roman State as he monopolized political power –, as well as his representatives in the provinces, are able to decide a judicial enquiry on their own behalf and to bring a suit against any person without the intervention of an accuser. Henceforth all criminals are prosecuted by the State and there is no more need of the complaint of a private citizen to set in motion an official enquiry, as was the case in Republican times. This new procedure is called inquisitorial by the scholars, or *extra ordinem* because the judgment was given by the emperor or the magistrate outside the penal permanent courts (*quaestiones perpetuae*) existing in the city of Rome since the late second century BC which could be referred to only after a citizen had lodged a formal accusation.⁷⁷ According to the inquisitorial procedure, the governor is theoretically at the origin of the criminal repression within the province. He is able to arrest or to make an enquiry against anybody handed over or even only denounced to him. He can decide on his own will to seek delinquents and to punish them. So, one might think that, in imperial times, Roman authorities were entirely responsible for the pursuit and the indictment of criminals throughout the provinces.

However, imperial and provincial legislation shows that active participation in this field was requested from local communities too, and that a sort of accusation was at any rate maintained in the criminal procedure. A provincial edict of Antoninus Pius, when he was governor of the province of Asia in AD 135/6, deals in particular with the procedure to be followed in case of arrest of a criminal. This edict stipulates that “eirenarchs, 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. Therefore, those who are sent [to court] with a report [of their interrogation] must be given a hearing from the beginning although they were sent with documentary evidence or even brought in by the eirenarchs”.⁷⁸ Two phases of particular relevance are pointed out in the procedure. First, it follows from the edict that local magistrates (appearing in this case through the figure of the eirenarch, a policing officer) play a decisive role in discovering, hunting down and arresting criminals. Second, to be effective, the judicial procedure in front of the governor must rely on a first questioning of the accused carried out by the local officer who conducted the arrest. These elements invite us not to consider the governor as the unilateral source of criminal repression in the provinces.

The presence of local officers in the inquisitorial procedure is due to practical requirements. Although imperial instructions advise them to hunt brigands and to catch criminals in their provinces, governors do not have enough means (and in particular enough soldiers at their disposal) to fulfil that duty. Governors cannot obviously be aware

⁷⁷ Pugliese 1982; Santalucia 1998, 213-215, 241-249, 256-268.

⁷⁸ Marcian. (2 de iud. publ.) *Dig.* 48.3.6.1 (transl. A. Watson, Philadelphia 1985). For more details, see Rivière 2002, 274-282.

of every offence committed in their provinces. That is why Roman authorities appeal to informers⁷⁹ and need the cooperation of local officers, who know the situation on the territory and are directly confronted with criminals. Apart from the cases where special kinds of criminals were explicitly prosecuted by the Roman power for political reasons (such as rebels, or Christians but only from the introduction of systematic persecutions in the middle of the third century), most criminals in the provinces were indeed arrested and handed over to the governor's courts by local officers on their own initiative.⁸⁰ As Antoninus' edict shows, governors used in such circumstances to require local officers to draw up a report of the questioning of the accused carried out immediately after the arrest. This report (*elogium*), stating what accusation was made against the person arrested, is intended to serve as a sort of bill of indictment.⁸¹ As the governor (or his representative) will hear the accused during the preliminary investigation of the case, he will compare his declarations with the report written by the local officer. If this report happens to be forged and the charges fallacious, the accused will be acquitted and the local officer reproved for his negligence or his dishonesty.

Thus the maintenance of an accusatorial principle in the inquisitorial criminal procedure during the Principate⁸² strove to combat Roman and local officers' misuses of power, and especially to avoid unjustified charges and to restrict arbitrary arrests about which provincials frequently complained to the emperor.⁸³ Such provisions belong to a voluminous legislative tradition whose purpose was to control the abuses and extortions of Roman soldiers and functionaries.⁸⁴ In this way, emperors were motivated by philanthropic thoughts, in particular by the ideal of an equitable and fair government and by the care to warrant the presumption of innocence of the persons arrested. But more concrete considerations had some weight too: the limitation of unjustified charges also tried to prevent the obstruction of Roman courts due to the great number of suits brought to them. This supervision of the policing activities of local officers by Roman authorities – before judicial investigation and trial – also fought the opposite excess, that is to say laxity. Thus, in the same way, imperial instructions forced governors to reproach local officers who discharged arrested persons without a sufficient enquiry about their guilt.⁸⁵ Such legislation aimed at outlining the frame of the policing collaboration between Roman provincial authorities and local communities, a collaboration which was essential to governors to allow them to perform their duties in the field of criminal repression and capital jurisdiction.

⁷⁹ Rivière 2002.

⁸⁰ Nevertheless in the prosecution *ex officio* too, that is when Roman authorities directly seek some precise criminals, the collaboration of local officers is requested to arrest them, as shown, for example, in the acts of Pionios' martyrdom, in *Cod. Iust.* 8.40.13 about a notorious brigand, as well as in *Ulp.* (*I ad ed.*) *Dig.* 11.4.1.2 and *Paul.* (*I sent.*) *Dig.* 11.4.4 about fugitive slaves.

⁸¹ Marotta 2003, 72-87.

⁸² For such an interpretation, see Botta 2000; Rivière 2002, 263-305. *Contra Santalucia* 2001, who denies any accusatorial value of the local officer's preliminary enquiry and questioning.

⁸³ See, e.g., Hauken 1998, 35-57, ll. 1-16; 58-73, ll. 1-5 (petitions from peasants and villagers near the Lydian city of Philadelphia).

⁸⁴ See Mitchell 1976, 111-112; Kolb 2000, 117-139.

⁸⁵ *Ven. Sat. (2 de off proc.) Dig.* 48.3.10.

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