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Der wiederkehrende Leviathan

Staatlichkeit und Staatswerdung in Spätantike und Früher Neuzeit

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1. Introduction

In the course of the first centuries of Roman rule in the Mediterranean, an equilibrium had been achieved between the demands of the central government and the claims to autonomy of the cities of the empire. This autonomy was modelled on the image of Rome itself, as Aulus Gellius attests in a well-known passage[1], and extended to political, administrative and cultural aspects alike. This equilibrium was transformed in the Later Roman Empire, although it maintained the distinguishing characteristics of classical antiquity. Until recently, however, a view widely held among scholars maintained that the enlarged bureaucracy of the Later Roman Empire, a consequence of the subdivision of the enormous empire into small-scale administrative units, brought about a substantial and far-reaching change in the relationship between the central authority and the cities. It was assumed that an ever increasing interventionist tendency of the central government led to greater interference in the affairs of the municipalities and thereby weakened their autonomy. The causes of this increasingly invasive imperial policy have been sought in an alleged economic decline and in the growing political insignificance of the cities.

Yet the Later Roman Empire was characterised by a multitude of culturally and, above all, economically diverse local conditions. One could, therefore, argue that individual legislative interventions by the central government merely reflect an attempt to maintain uniformity and control in an empire that was only loosely tied together by a unified political, administrative and monetary system. This paper wants to explore this line of argument by examining one particularly important aspect of the interaction between the central government and the cities: the benevolence of the emperor. By granting or rejecting municipal petitions the emperor determined the political, economic and administrative circumstances of a municipality. In certain circumstances the benevo-

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[1] Aulus Gellius, *Noctes Atticae*, 16, 13, 9, discussing the meaning of 'coloniae populi Romani'.

lence of an emperor and his granting of favour was spontaneous, but in others his benevolence and favour had to be solicited directly by the cities concerned. The ancient sources, and epigraphic sources in particular, have provided us with copious evidence of this continuous interaction between the centre and the periphery. The following aims at analysing this interaction in order to assess the relationship between interventionism on the part of the central government and continuing local autonomy on the part of the cities. It focuses on three areas where such exchange is particularly well documented: the rank and status of cities, the economy, and the administration of finances.

2. Changes in the Status of Cities in the Later Roman Empire

During the High Empire many cities rose or fell in rank – i.e. they were raised from the status of a dependent village to that of an independent city or, conversely, degraded to village status – as the result of a decision taken by the emperor. With respect to the Later Roman Empire, the demotion in status suffered by a city and, consequently, its loss of autonomy are often explained by economic failure or detrimental demographic changes. Scholars further tend to link the loss of autonomy with broader phenomena of the age, such as the decline of municipal politics in general, the depopulation of the 'curiae', and, not the least, the alleged interventionism on the part of the imperial government, not only in the administrative but also in the economic activities of the cities[2], which was long regarded as typical for the centralising and absolutist state of the so-called 'Dominate'[3].

The evidence of a connection between the loss of city status and difficult economic conditions or demographic decline is, however, sparse. In many, if not most, cases, the reasons for demotion were political, in that they occurred as a punishment for offending an emperor – if a city had, for example, supported the victorious emperor's opponents in the struggle for power. Cases of this kind have a long tradition: We know, for example, that Vespasian was angered that Capua had supported Vitellius[4] in the struggle for the succession during the 'longus et unus annus'; the complete absence of senators from this city in the Flavian period could well be explained by Capua's troubled rela-

[2] See, for instance, Rostovtzeff, *Social and Economic History*. More recently Lo Cascio, *Mercato*; id. *L'approvvigionamento* discusses the relationship between local autonomy and the imperial government in the context of the much debated question of 'free' vs. 'regulated commerce' in the Roman Empire.

[3] For a discussion and summary of the problematic definition of 'Late Antiquity', see Giardina, *Esplosione*, and Carrié/Rousselle, *L'Empire*, pp. 9-25.

[4] Tacitus, *Historiae*, 3, 57; 4, 3.

tionship with the ruling house[5]. During Septimius Severus' reign several cities were deprived of rank or property as punishment for having supported enemies of the ruling house. A famous case is that of Byzantium, which became a 'kome' and lost its independence in 195 because it had supported Pescennius Niger, Severus's rival in the contest for the throne[6]. In the Late Empire, Caesarea in Cappadocia was among the cities to suffer demotion in status from 'civitas' to village because it had offended the emperor: Julian removed it from the 'katalogon' of cities and turned it into a 'vicus' after the Christians, who made up the majority of the city's population, had set its temples on fire[7]. Constantia in Palestine suffered the same fate: it became a 'vicus' of Gaza after its pagan temples had been burned down[8]. When Antioch revolted in 387 against excessive taxation during the so-called 'riot of the statues', it was removed from the 'katalogon ton poleon' to become a 'vicus' of Laodicea[9]. Further examples of such demotions include Adana in Cilicia which became a 'kome'[10], Emesa in Syria[11] or the unnamed "μικρὰ πόλις which εἰς κώμης σχῆμα κατέβη", i.e. a small city which became a village, mentioned by Libanius as he deplores the burdens of decurions[12].

Equally rich is the evidence of cities that were raised in rank or restored to their previous status after they had been punished by demotion. Several 'vici' and 'pagi' rose to the rank of 'civitates' and obtained special honours from the emperors: Aquincum and Carnuntum in Pannonia, for example, had both

5 I have discussed these matters with regard to the Early Empire more exhaustively in Biundo, *Mobilità Sociale*. For other Italian cases see Cracco Ruggini/Cracco, *Changing Fortune*.

6 Cassius Dio 74, 14, 3; Herodianus 3, 6, 9. Cf. Ziegler, *Antiochia*, 494-500.

7 Sozomenus, *Historia Ecclesiastica* 5, 4, 1-5; Libanius, *Oratio* 16, 13-14: the city was henceforth to be treated "like a village." One hypothesis concerning the meaning of the 'katalogon tôn poleôn' (κατάλογον τῶν πόλεων) that both sources mention holds that this was a list for the purpose of levying taxes drawn up in the context of Diocletian's reform of the taxation system: cf. Cracco Ruggini, *Poteri in gara*, p. 271.

8 Iulianus, *Epistulae* 56; Sozomenus, *Historia ecclesiastica* 5, 3, 6-7.

9 The conspiracy takes its name from the fact that the rebels attacked the painted images and bronze statues of members of the imperial family and thereby brought the accusation of 'laesa maiestas' on the Antiochenes. The event is narrated by Libanius, *Orationes* 19, 25-37; 20, 4-7; 21, 5; 22, 6, 20; 23, 9-25; 30; 33, 33; 34, 6-14; 36, 4; Iohannes Chrysostomus, *Homiliae ad populum Antiochenum de statuis* 2, 1-3 and 24-28; 3, 6-7; 36 and 45; 4, 6; 5, 63; 6, 1-2 and 73; 8, 1-2; 17, 2 and 5. Cf. Petit, *Libanius*, pp. 238-43; Liebeschuetz, *Antioch*, passim; Cracco Ruggini, *Poteri in gara*; Paverd, *Homilies on the Statues*; most recently, Groß-Albenhausen, *Imperator christianissimus*, pp. 170-183, and Stewart, *Destruction of Statues*, both citing the relevant literature.

10 In some inscriptions of the 5th century it is referred to as κώμη Ἀδανῶν: *IG* XIV 2306; 2559; 2560; *Inscriptiones Christianae Urbis Romae* I 868 (a funerary inscription from Rome).

11 Libanius, *Epistula* 846.

12 Libanius, *Orationes* 49, 31 of 388/92. Cf. the numerous cases listed by Jones, *Cities*, passim.

originally been 'canabae'. They became cities under Trajan and later colonies under Septimius Severus. Viminacium in Moesia was raised to the rank of a city by Hadrian[13]. According to Procopius, Caputvada in Africa, which had previously been merely a 'kome', was made a 'polis' by Justinian because it had supported his army in the campaign against the Vandals[14].

Tymandus in Pisidia and Orcistos in Phrygia are especially useful examples to document this type of change in the fourth century, since they are illustrated by a wealth of epigraphic evidence[15]. Between the end of the third and the beginning of the fourth centuries, perhaps during Julian's reign, Tymandus in Pisidia was raised from the rank of a 'vicus' to that of a 'civitas'[16]. According to the imperial letter preserved in an inscription, from which we derive our knowledge of the case, the municipality of the Timandeni addressed a petition to an emperor (whose name cannot be read from the stone) seeking to obtain the "ius et dignitas civitatis"[17]. In his answer the emperor grants the municipality the status of a 'civitas', but he does so on the condition that the city fill its 'curia' with at least 50 decurions every year[18]. The Timandeni were, according to the letter, proud to be able to supply the required number of magistrates and

[13] Cracco Ruggini, *La città imperiale*, pp. 218-225. For imperial elevation of city statuses in general, see Millar, *Emperor*, pp. 394-411.

[14] Procopius, *De Aedificiis* 6, 6, 8-16. Cf. Ward-Perkins, *Cities*, p. 373.

[15] For discussion of these two cities in particular, and more broadly on city autonomy in Late Antiquity, the problem of corruption and the depopulation of the 'curiae' in general, see Biundo, *Le finanze municipali.*

[16] *CIL* III, 6866 = *ILS* 6090 = *Monumenta Asia Minoris Antiqua* IV, 236 = *Fontes Iuris Romani Anteiustiniani* I^2, 92. Cf. on this inscription Abbott/Johnson, *Municipal Administration*, no. 151; Jones, *Cities*, pp. 67-69; Jones, *Later Roman Empire*, pp. 358, 719; Johnson/Coleman-Norton/Bourne, *Roman Statutes*, no. 270; Chastagnol, *Orcistos*, p. 399; Foss, *Byzantine Asia Minor*, pp. 185, 224. The inscription has been tentatively dated to the time of Diocletian by Mommsen, *Stadtrechtsbriefe*, p. 550, although language and style could also suggest a date in the time of Julian.

[17] *CIL* III, 6866, l. 5-15: "[...] contemplati sumus | Tymandenos voto praecipuo, summo etiam | studio optare, ut ius et dignitatem civitaltis praecepto nostro consequantur [...]. ut per universum orbem nostrum civiltatum honor ac numerus augeatur eoslque eximie cupere videamus, ut civitatis | nomen honestatemque percipiant, isdem | maxime pollicentibus quod apud se deculrionum sufficiens futura sit copia, creldidimus adnuendum [...]"

[18] *CIL* III, 6866, l. 31-32: "[...] Numerum autem decurionum | interim quinquaginta hominum inlstituere debebis [...]". There is, unfortunately, insufficient evidence for a diachronic assessment of the usual number of city 'curiales'. We know from the album of Canusium/Canosa of 223 AD (*CIL* IX, 338) that its 'curia' had 100 decurions. In this period, I would nevertheless suppose that the number was variable and depended on the communities themselves; we should not necessarily consider it a symptom of crisis that at Timgad (*CIL* VIII, 2403) in the 4th century, for example, there were only 59 decurions; cf. Abbott/Johnson, *Municipal Administration*, nos. 136 and 151. On the 'album' of Timgad see Chastagnol, *L'album de Timgad*, and more recently on the 'curiae' Amodio, *Curie municipali.*

to meet the requirements of having the status of 'civitas': The city not only had an active citizen body and an 'ordo' which was responsible for the local administration, but also enjoyed such demographic and financial circumstances as to allow it to bear the responsibilities which accompanied the granting of the title 'civitas'.

Orcistos in Phrygia provides another example of a petition to the emperor addressed by a municipality seeking a status promotion. We know of this case from a dossier of documents relating to the petition, which has been preserved almost entirely in a long Latin inscription. The best known edition[19] of the epigraphic dossier was published by André Chastagnol almost thirty years ago[20]; the most recent edition is that of Denis Feissel, who gives an important commentary and a new interpretation of the internal structure and the identification of the different parts of the dossier[21]. According to the inscription, the city of Orcistos had been a 'civitas' in the past[22] but had lost its rank and became a dependent 'vicus' of the neighbouring city of Nacolia; from then onward, it was subordinate to Nacolia in all matters of administration and taxation[23]. This must have happened at some point between 237 and 324[24]. Orcistos was restored to the status of a 'civitas' and administrative autonomy between 328 and 330 through a successful petition to Constantine and his sons which must have been submitted between 324 and 326. Through the emperor's 'indulgentia' Orcistos once again enjoyed the 'nomen civitatis'[25].

[19] Others include *CIL* III, 352 and 7000; *ILS* 6091; *Fontes Iuris Romani Anteiustiniani* I 95; *Monumenta Asia Minoris Antiqua* VII, 305. An English translation of the epigraphic dossier is to be found in Abbott/Johnson, *Municipal Administration*, no. 154; Johnson/Coleman-Norton/Bourne, *Roman Statutes*, no. 304. See also Girard/Senn, *Lois*, no. 26; Chastagnol, *Realia*; further Jones, *Cities*, pp. 67-69; Jones, *Later Roman Empire*, pp. 358, 719; Millar, *Emperor*, pp. 266, 336, 410; Jacques, *Les moulins d'Orcistos*.

[20] Chastagnol, *Orcistos*, with French translation. All references are to this edition.

[21] Feissel, *Adnotatio*; see also note 26.

[22] Col. II, lines 23-25: "[Patri]a nostra Orcistos vetustis[si]|[m]is temporibus ab origine etiam | [civ]itatis dignitatem obtinuit [...]."

[23] As Chastagnol, *Orcistos*, pp. 400 sq. noticed, this was not a case of 'attributio', a legally as well as fiscally different concept: cf. Laffi, *Adtributio*. Orcistos simply became a 'vicus' within the territory of Nacolia.

[24] A Greek inscription seems to imply that at least until 237 Orcistos held the title of a city, as it mentions a 'gerousia' (= 'ordo'), 'archontes' and a 'demos'. Buckler, *Charitable Foundation*, p. 9, in the first edition of this inscription, asserted that a 'gerousia' could mean a dependent village, not a polis, but see contra Chastagnol, *Orcistos*, p. 399. If it is true that, according to this inscription, Orcistos was a polis in 237, it follows that the community lost its polis status at some point between then and 324-326, when the Orcistans petitioned Constantine.

[25] For a summary of the problems concerning the dating of these events see Chastagnol, *Orcistos*, pp. 393-398.

Evidence of this affair has come down to us because the citizens of Orcistos who were responsible for the publication of the inscription wished to leave an eternal memorial to Constantine and his sons for their benevolence in reinstating the status of the city. The people of Orcistos decided to inscribe the documents in Latin rather than in their mother tongue, which was Greek. The documents are inscribed on three sides of a pillar (1.54 m/h) and contain: a) the final part of a letter sent from the Praetorian Prefect Ablabius to the citizens of Orcistos to inform them that their petition had been successful (col. I, lines 1-7)[26]; b) a 'rescriptum' from Constantine addressed to the same Praetorian Prefect to inform him of his decision (I, 8-48 and II, 1-16); c) the beginning of the petition by the citizens of Orcistos addressed to Constantine seeking to be granted the status of 'civitas' (II, 17-34); and d) a second rescript of Constantine to communicate to the citizens of Orcistos his decision to restore the status of 'civitas' (III, 1-32).

Unfortunately, the epigraphic dossier provides no information about the reason for the city's demotion. There is a number of hypotheses to explain why the rank of 'civitas' would no longer be regarded as appropriate for Orcistos – one of them is that a severe economic recession and population decline had occurred – but no firm evidence supports them[27]. As we have seen, the reason why the relationship between an emperor and a city deteriorated was often that the city's political leanings displeased the emperor. One might, therefore, hypothesize that Orcistos was punished for supporting the wrong side because it had favoured Licinius in his struggle for power with Constantine[28]. Once a situation that was politically viable both for the city and for Constantine had been re-established, the arguments advanced by the municipality of Orcistos could have persuaded Constantine to restore the city to its proper rank.

3. Economy and the Autonomy of the Late Roman Cities

There is no evidence that Orcistos' demotion in rank was due to an economic recession. On the contrary, the prosperity and economic advantages of Orcistos were advanced by its citizens as the main reasons for recovering its former status. The economic argument in the petition to further the claim to the status of a 'civitas' is, as Chastagnol has already pointed out, a particularly interest-

[26] According to Feissel, *Adnotatio*, pp. 257-263, this first part of the document was not a letter of the praetorian prefect, but an 'adnotatio' of Constantine in its complete and original form, including the imperial subscript.

[27] See the overview given by Chastagnol, *Orcistos*, pp. 398-411.

[28] Ibd., pp. 401 sq.

ing aspect of the dossier. The inscription contains valuable information about the economic situation of the city in that period. It had always been clear in antiquity that a city was not characterised merely by the monuments adorning it. Further characteristics were an active citizen body, a functioning political and administrative life and a thriving economy, which demonstrated a city's vitality[29]. Orcistos, as the city itself boasts in the inscription, did indeed have all the elements typical of the classical city: already long ago, it had had sufficient decurions ('curiales') and annual magistrates, a flourishing population (I, 16-20), a forum adorned with statues, and numerous public and private baths. Above all, Orcistos was rich in water (I, 20-31); it was a 'locus opportunus' and, because of its position at the intersection of four major roads, a 'mansio' for the public post was situated there. Orcistos, therefore, deemed itself a municipality that fully merited reinstatement to the status of a 'civitas'. Further, the population flourished and, just like at Tymandus, its citizen body actively participated in the political life that was fundamental to the cities of the ancient world. Orcistos, moreover, claimed to have a 'curia' and a suitable number of 'curiales' for the local administration[30]. This is all the more significant since elsewhere in the Later Roman Empire the haemorrhaging of the 'curiae' due to the increased civil and financial burdens borne by the 'curiales' became an ever more pressing problem for local administration[31]. In conclusion, Orcistos, just like Tymandus, could guarantee that it would meet the demands put on it by the 'civitatis dignitas' (II, 25), just as it had in the past.

Constantine's acknowledgment of the importance of the local 'curia' and of its ability to make autonomous decisions is certainly one of the most interesting points to emerge from the epigraphic dossier and is of fundamental importance for the question of this paper. We will come back to this point below. Yet Constantine did not limit himself to restoring the 'privilegium libertatis' (III, 13-14) to the city, but also granted it several privileges: He conceded, for example, an exemption from a local tax 'pro cultis' ("pecuniam quam | pro

[29] Pausanias 10, 4, 1, gives the example of a Phocian city which, while it did not have monuments, theatres, markets, gymnasia or fountains, nevertheless had a territory defined by boundaries and officials who sat in the federal council of the Phocaeans: on this point see Millar, *Emperor*, pp. 394 sq.

[30] I, 16-20: "[...] Adseruerunt enim uicum suum | spatiis prioris aetatis oppidi splendore florulisse ut et annuis magistratu(u)m fascibus orn[a]lretur essetque curialibus celebre et popul[o] | ciuium plenum."

[31] On this problem see MacMullen, *Decline*, pp. 44-49; Lepelley, *Les cités de l'Afrique*, pp. 243-292; Liebeschuetz, *Decline*, pp. 104-136; Laniado, *Notables municipaux*, pp. 1-26; Cecconi, *Crisi*. The high number of imperial constitutions in *CTh* 12, 1 "de decurionibus" aimed at counteracting the flight of the 'curiales' from duties in city government is significant: see, for instance, *CTh* 12, 1, 15 (AD 319); 11 (325); 12 (325); 13 (326); 14 (353); 16 (319); 17 (329); 18 (353); 111 (386); 161 (399), and many more.

cultis ante solebatis in|ferre": III, 20-23) that had probably been collected hitherto by Nacolia, the town to which Orcistos had been attached when it was a 'vicus'. In his rescript, Constantine informs the 'rationalis' of the Asian diocese, an official responsible for the imperial finances, of Orcistos's exemption from the 'pecunia pro cultis'[32]. One must, therefore, suppose that such a tax (unfortunately not attested elsewhere) was paid by the city to the municipal treasury, probably to finance the cults and maintain the temples in the city and its territory[33]. Moreover, it may be that this privilege was granted by the emperor because the entire population of Orcistos was Christian. This piece of information comes only at the very end of Constantine's letter, apparently as the culmination of the arguments put forward in favour of the city ("quasi quidam cumulus": I, 40-44), and shows that the citizens of Orcistos were well informed of Constantine's religious leanings[34].

In his letter, Constantine informs the 'ordo' of his decision to restore to Orcistos the status of 'civitas'. In doing so, he fully recognized the administrative and financial autonomy of the city and confirms the legitimacy of the local 'curia'[35]. The 'pecunia pro cultis' was probably an indirect tax, one of the various 'vectigalia' locally paid and managed by the 'ordo' of the city. Yet it seems that in practice Orcistos remained subject to Nacolia in matters of the administration of justice and finance, even after it was re-established as an autonomous 'civitas': Constantine was, in fact, forced to confirm his earlier decision to grant the 'ius antiquum nomenque civitatis' to Orcistos by yet another rescript (III, 14-18). In this second rescript, he declared that he did not want the new 'civitas' to continue to suffer the injustices that had hitherto been

[32] III, 18-30: "[...] idque | oratis vestris petitionique | deferimus ut pecuniam quam | pro cultis ante solebatis in|ferre minime deinceps dependaltis. Hoc igitur ad virum perfel[c]tissimum rationalem Asialnae dioeceseos lenitas nostra | perscribsit, qui secutus for|[mam] indulgentiae concessae | vobis pecuniam deinceps pr[o] | supra dicta specie expeti a vo|bis postularique prohibeb[it]."

[33] According to Mommsen (*CIL* III, p. 67) the 'pecunia pro cultis' was a state tax rather than a local tax. Abbott/Johnson, *Municipal Administration*, in their commentary on the inscription (no. 154), argue that the phrase only replaced a tax in kind ('species') by one in cash ('pecunia'), but see contra Chastagnol, *Orcistos*, p. 413. Later, the exemption from the 'pecunia pro cultis' may have been abolished, when Constantine introduced a 'vectigal' directed at the maintenance of the local churches and clergy: cf. Cassiodorus, *Historiae ecclesiastica* 1, 9, 210: "Ex terra vero subdita sibi, ex unaquaque civitate detrahens, publicum certumque vectigal ecclesiis provincialibus cleroque distribuit."

[34] I, 39-42: "Quibus omnibus quasi | quidam cumulus accedit quod omnes | [i]bidem sectatores sanctissimae reiligilonis habitare dicantur."

[35] III, 3-14: "Imp. Caes. Consta[n]tinus | maximus Guth. (sic!) victor ac trium|fator Aug. et Fl. Clau. Constantinus | Alaman. et Fl. Iul. Const(ant)ius nnbb. | Caess. s[a]lutem dicunt | ordini ciuit. Orcistanorum. | Actum est indulgentiae nos|trae munere ius uobis ciuitaltis tributum non honore modo | verum libertatis etiam priuillegium custodire."

perpetrated on its people by the citizens of Nacolia. By exempting the city from payment of the 'pecunia pro cultis' and by addressing the local 'ordo' Constantine ensures that Orcistos would retain full autonomy.

These two case studies, and Orcistos in particular, show that the cities of the Late Empire possessed remarkable vitality and that this vitality was characterised by the autonomy of 'curiae', which were entitled to make decisions about all important matters for the administrative and financial well-being of the city. Moreover, these cases show that the elevation of the rank of a city was based not only on its political and strategic importance, but also on its economic prosperity and productivity. As has already been mentioned, Constantine considered Orcistos a 'locus opportunus'; it had a geographical position of strategic importance; it was rich in water and had an economy that was sufficiently prosperous to convince the emperor to restore the city to his benevolence and bestow the 'nomen civitatis' on it. Constantine is quite resolute on this point; he categorically refuses to allow such a prosperous and flourishing city to lose its wealth and revenue: "Quo[d]/ [es]t indignum temporibus nostr(i)s, ut tam o[p]/[p]ortunus locus civitatis nomen amittat,/ et utile commanentibus ut depraeda/[t]ione potiorum omnia sua commoda utilit[a]/[tes]que deperdant" (I, 34-39).

Orcistos, as already mentioned, was well endowed by nature with water resources that enabled the city to maintain public and private thermal baths (I, 24-26: "aquaru[m] | ibi abundantem aflu[en]tiam, labacra quoqu[e] | publica priua[taqu]e)". More importantly, however, it was rich in water courses that allowed for the operation of numerous mills: "pr[aeter]ea ex decursibus | praeterfluentium [a]quarum aquimolin[a]lrum numerum copiosum" (I, 29-31)[36]. The importance of water mills in ancient technology and particularly for the Roman economy has recently attracted greater scholarly attention than before. As a result of numerous archaeological discoveries in various parts of the Empire, it has become clear that water mills began to play an important role in the Roman economy much earlier than had originally been supposed[37]. Set against this

[36] I, 20-39: "Ita enim ei situ ad[q]ue ingenio | locus opportunus esse perhib[e]tur ut ex qulattuor partibu[s e]o totidem in sese confluan[t] | viae, quibus omnibus publicis mansio tamen [u]ltilis accomo[da] esse dicat[u]r, aquaru[m] | ibi abundantem aflu[en]tiam, labacra quoqu[e] | publica priua[taqu]e, forum istatuis (!) ueterum | principum ornatum, populum comm[a]nentium | adeo celebrem [ut se]dilia [qu]ae ibidem sunt [fa]lcile conpleantur, pr[aeter]ea ex decursibus | praeterfluentium [a]quarum aquimolin[a]lrum numerum copiosum. Quibus cum omnilbus memoratus locus abundare dicatur, c[on]l[t]igisse adseruerunt ut eos Nacolenses si[bi] | [a]dnecti ante id temporis postularent. Quo[d] | [es]t indignum temporibus nostr(i)s, ut tam o[p]l[p]ortunus locus ciuitatis nomen amittat, | et inutile commanentibus ut depraedal[t]ione potiorum omnia sua commoda utilit[a]l[tes]que deperdant."

[37] For decades water mills had been considered an innovation of the Middle Ages (see the well known essay of Bloch, *Moulins à eau* as well as White, *Medieval Technology*, 79-103, and

background, the economic role and importance of Orcistos becomes ever clearer, especially when one takes the prevailing semiarid climate and harsh conditions of this part of Phrygia into consideration. As Chastagnol remarked, it is unlikely to be a coincidence that the city was situated at the intersection of four major roads. Its location must have been of use to neighbouring municipalities, not least because of the many water mills that lay within its territory. Furthermore, the fertility of the land and the abundance of wheat grown by the city in its territory seem to be attested by an inscription of the 3rd century, which refers to a regular dole of wheat given out to the citizens by an important member of the community[38].

To conclude: Orcistos had probably been punished for political reasons and then regained the rank of 'civitas' through imperial 'clementia' and 'indulgentia'[39] when the emperor recognized the city's strategic geographical position and both its natural and technological resources. Constantine considered it 'indignum' that under his reign an important 'civitas' like Orcistos should lose its autonomy and suffer injustice by being subordinated to another city. Constantine resolved, therefore, to redeem the city with the 'privilegium libertatis,' i.e. with full administrative and financial autonomy.

Moritz, *Grain Mills*, 131-139), and this technology in fact seems to disappear after a short period of advancement in the Late Roman Empire, only to reappear between the IXth and the Xth centuries: on this point see Lo Cascio/Malanima, *Mechanical Energy*. However, modern archaeological investigations with a very high degree of accuracy leave no doubt as to the high level of technological achievement in the Roman world, and recent findings prove the existence of water mills in both the Greek and the Roman economies from the 3rd century BC onward: see e.g. Wilson, *Industrial Uses of Water*; id., *Machines*. Recent excavations of water mills in the city of Rome, e.g. on the Janiculum, have led to the discovery of hydraulic structures connected to Trajan's aqueduct: Bell, *Mulini ad aqua*; id., *Flour Mill*; Wilson, *Water-Mills on the Janiculum*; id. *Water-Mills on the Palatine*. Diocletian's Price Edict has an entry for the price of a mill (2000 'denarii') as well as one for the slaves and animals required to operate it: Giacchero, *Edictum Diocletiani*, p. 15, l. 56-59. A famous mill system at Barbegal, at the mouth of the Rhône, dates to the 2nd century AD: Leveau, *Barbegal Water Mill*. The wide-spread scholarly opinion that premodern societies, including the Roman society, were characterized by technological stagnation needs to be corrected; a series of studies and several recent conferences have taken an interest in this subject: e.g. recently Lo Cascio, *Innovazione tecnica*; Oleson, *Engineering and Technology*.

38 See above note 24.

39 For a discussion of the language of imperial 'clementia' see Carrié, *La "munificence"*.

4. The Financial Autonomy of Late Roman Cities: Interventionism or Liberality?

The Orcistos dossier provides clear evidence of the value and the importance which the emperor still placed on the local autonomy of the cities. 'Coloniae' and 'municipia' were still administered by the curial 'ordo', and the same 'ordo' was also responsible for the expenditure and revenues from 'vectigalia' accruing to the municipal funds. Concerning the administration of the city's finances, we know from the Digest that already by the time of Septimius Severus the cities were obliged to seek the emperor's approval for any proposal to establish new or to change existing 'vectigalia'[40]. Apart from this, however, the local 'ordo' had complete autonomy in the administration of already existing 'vectigalia', and above all in the use of that part of the revenues which fell to the city's treasury[41]. Earlier, in the reign of Vespasian, the citizens of Sabora in Spain had sought permission from the emperor to keep the 'vectigalia' that Augustus had granted them and to introduce new ones. In response to their request, Vespasian referred the Saborenses to the Proconsul of the province[42]. This is but one of many examples of imperial interventions in the management of municipal finances[43]. That there was a continuous exchange between the central government and the cities is evident also from requests for 'beneficia' addressed to the emperor by cities seeking, for example, exemption from taxes or the reduction of debts. From time to time and according to the prevailing circumstances, the emperor answered personally, but he also relied on his representatives responsible for the administration of finance. Under Diocletian at the latest, when the empire was divided in much smaller administrative units than those that existed before, the imperial government had administrative personnel at its disposal on the local level, who were used for general coordination as well as, if necessary, for direct intervention in the

[40] *Dig.*, 39, 4, 10 (Hermogenianus): "Vectigalia sine imperatorum praecepto neque praesidi neque curatori neque curiae constituere nec praecedentia reformare…licet." See also *CJ* 4, 62, 2: "Vectigalia nova nec decreto civitatium institui possunt."; ILS 6092 = *Fontes Iuris Romani Anteiustiniani* I^2, 74 (*Epistula Vespasiani ad Saborenses*). For further references cf. De Ligt, *Fairs and Markets*, pp. 209-211.

[41] I have discussed these points in Biundo, *Proprietà municipali*; *Gestion publique de l'eau*; *Le finanze municipali*. On the financial autonomy of the cities in the Later Roman Empire see also Schmidt-Hofner, *Finanzautonomie* and the references in note 52.

[42] ILS 6092 = *Fontes Iuris Romani Anteiustiniani* I^2, 74.

[43] See, for example, Hadrian's Letter to the Stratoniceans from AD 127 (*Inscriptiones graecae ad res romanas pertinentes* IV, 1156 = *L'Annee Épigraphique* 1949, 253), in which the emperor allows the city of Stratonicea to draw its own income from the 'chora' and makes suggestions about the restoration and the sale of a building in public property. See also the evidence quoted in Millar, *Emperor*, pp. 427-434.

affairs of the cities. Apart from such interventions, however, the cities enjoyed administrative and financial autonomy and were allowed to manage resources and expenditure from the municipal funds freely [44].

There are many examples of imperial interventions aimed at setting the finances of a city in good order. This occurred with respect to public building in the cities with notable frequency. The ever closer attention paid to local financial management by the imperial government is, however, no proof of a greater desire to interfere in municipal affairs. It only shows a concern for managing the financial affairs of a city in an effective and orderly manner: emperors were careful to balance income and expenditure and to reduce unnecessary costs, especially during economic downturns[45]. There is, for example, a considerable number of imperial decrees ordering the cities to concentrate on building structures that had a practical value such as city walls[46]. Other enactments emphasize the importance of restoring existing buildings or completing work already in progress rather than undertaking new construction[47], or they compel the cities to recycle building material. While measures were taken to ensure that this would not be to the detriment of smaller and less important cities, it was a widespread practice to reuse 'spolia' from public buildings in larger and flourishing cities[48]. Imperial intervention of this kind was not only meant to control municipal expenses for building activities but also to avoid unnecessary expenditure on useless construction, as well as to protect weaker cities particularly in times of economic decrease[49].

I have discussed the financial situation of the cities in the Late Roman Empire and their relationship with the central government elsewhere and in more detail. My intention was to refute and correct the wide-spread opinion among scholars that, from Constantine onward, the cities lost control both of the management of their finances and of the resources themselves, which were

[44] See, e.g., the contributions in *Il capitolo delle entrate municipali*.

[45] Chastagnol, *Orcistos*, p. 377, has, among others, underlined that in the 4th and 5th centuries the frequency of earthquakes and fires seems to have increased, which would explain the numerous imperial decrees on this subject.

[46] E.g. *Fontes Iuris Romani Anteiustiniani* I^2, 108; *CTh* 4, 13, 5 (358); *CTh* 15, 1, 34 = *CJ* 8, 11, 12 (396).

[47] *CTh* 15, 1, 3 (362); 15 (365); 20 (380); 29 (393). In the High Empire, Plinius informed Trajan of the waste of public resources by the Nicomedians who had started to build an aqueduct but failed to complete it before they began to build a second one. Trajan in his answer imposed measures to avoid the waste of city resources: *Epistula* 10, 37.

[48] *CTh* 15, 1, 1 (357); 14 (365); 37 (398).

[49] *CTh* 15, 1, 16 (AD 365); 17 (365); 27 (390). Cf. Bonfante, *Diritto romano*, ch. 4.; Ward-Perkins, *Cities*, p. 388; Biundo, *Le finanze municipali*.

wholly or partly transferred to the imperial treasuries[50]. Until now, most scholars held that, from the beginning of the fourth century onward, the imperial government undertook a series of confiscations of municipal property and that these losses were restored on various occasions in the fourth century completely or in part[51]. However, no such property transfer is positively attested in our sources. While according to some sources municipal property indeed appears to have been under the control of the imperial 'res privata'[52], other sources show the cities still in possession of their properties[53]. According to the traditional interpretation of the evidence, the first general confiscation of property held by the cities was carried out by Constantine or his son Constantius II prior to 358 AD[54]. This confiscation would have been followed by a complete restitution of the cities' properties under Julian (in 362) as part of his general policy of strengthening municipal autonomy[55]. A further confiscation would have occurred in the reign of Valentinian and Valens, who, later, reversed their policy and themselves returned the property to the cities. There is, however, no direct proof in the sources that a confiscation of city property ever took place; what we have are references to a complete restitution by Julian and a partial restitution by Valentinian and Valens, which at first sight seem to imply that a confiscation had previously taken place[56].

50 Biundo, *Proprietà municipali*; *Le finanze municipali*; cf. similarly Schmidt-Hofner, *Finanzautonomie*.

51 Sic e.g. Liebenam, *Städteverwaltung*, the classic treatise of the subject; Brunner, *Erbpacht*; Stein, *Histoire du Bas-Empire*, pp. 168 and 181; De Martino, *Costituzione Romana V*, p. 526; Jones, *Later Roman Empire*, pp. 732-734; recently the same model has been proposed again by Ward-Perkins, *Cities*, p. 375. Millar, *Italy*, p. 305 sq. was the first to doubt the traditional view and, instead, proposed a slow and gradual appropriation of public property by private individuals. More nuanced views than the traditional one have also been proposed by Lepelley, *Cités*, pp. 61-72; Bonamente, *La città*, pp. 46-59; Chastagnol, *La legislation sur les biens des villes*; Bransbourg, *Fiscalité*.

52 On the meaning of 'aerarium', 'fiscus', 'patrimonium', and 'res privata', i.e. the various branches of the imperial treasury, and their evolution in the Early Empire see Lo Cascio, *Patrimonium*; for the Late Empire, see Delmaire, *Largesses sacrées* (pp. 4-13 on terminological issues).

53 For example, *CTh* 10, 3 and *CJ* 11, 70; 71; 74.

54 For a summary of the debate and more detailed bibliography see Biundo, *Proprietà municipali*.

55 For which he was praised as "curiarum et rei publicae recreator" in honorific inscriptions: *L'année épigraphique* 1907, 191 and 1970, 631 and *CIL* III, 12333 (= Conti, *Inschriften Kaiser Julians*, no. 17 , 18, and 58, with the relevant bibliography). Cf. Sozomenus, *Historia Ecclesiastica* 5.3.1.

56 Sources for Julian's restitution: Ammianus Marcellinus 25, 4, 15: "vectigalia civitatibus restituta cum fundis"; *CTh* 10, 3, 1 (362): "possessiones publicas civitatibus iubemus restitui"; *CJ* 11, 70, 2: "Pamphyliae etiam civitates et quaecumque aliae quidquid sibi adquirant, id firmiter habeant". Libanius mentions municipal property in Antioch in *Oratio* 13, 45, held during

The majority of scholars who accept the hypothesis of a transfer of revenues from the cities to the imperial treasuries formerly connected it with the tendency of the central government to increase its control of city finances and to interfere in them more frequently[57]. Against this view, I have argued that instead of assuming a universal confiscation of municipal resources, such transfers to the imperial treasuries – which undoubtedly occurred at certain times – should rather be interpreted as isolated measures in moments of increased economic pressure on the central government or on certain regions of the empire (whose economic situation was, of course, notoriously diverse). Moreover, transfers of this kind account neither for the loss of municipal control of property nor for the loss of political and economic autonomy[58]. In fact, even in moments when these universal confiscations are alleged to have occurred, at least some cities clearly retained possession of their property[59]: this holds true for example for Antioch which, according to Libanius, still possessed public land between 355 and 360, for various cities in Africa under Constantine, and for the cities of Samnium in the reign of Constantius II[60].

Notwithstanding the persistence of municipal property, we may still observe that in the Later Empire the central administration paid closer attention to the cities and to the diligent management of their resources. It is also true that most of the relevant documentation stems from legal sources and consists of imperial decrees and constitutions. Neither of these facts, however, should lead us to believe that the imperial government massively interfered in city life on a regular basis[61]. Rather it seems, as we have seen above, that there was simply a

Julian's reign: ἧς ἐστὶ μὲν καὶ τὸ ταῖς πόλεσιν ἐπανορθώσαι τὴν πενίαν ἐξεληλαμένας ἀρχαίων τε καὶ δικαίων κτημάτων; Julian himself (*Misopogon*, 370D -371) claims to have given 3000 plots of land ('kleroi') to Antioch and estimates its total possessions to 10,000 allotments (ibid., 362C). For the confiscation under Valentinian and Valens see the inscription from Ephesus *Fontes Iuris Romani Anteiustiniani* I^2 108 (= *L'année épigraphique* 1906, 30) with Biundo, *Proprietà municipali*, and Schmidt-Hofner, *Finanzautonomie*.

57 So, for example, Lepelley, *Finances municipales*.

58 Biundo, *Proprietà Municipali*, p. 48, and *Le finanze municipali*.

59 In 359 the proconsul of Achaia allowed the collection of city goods for the purchase of construction materials for public works to Chalkis: *IG* XII, 9, 907: [...] ἐκ τῶν πολιτικῶν προσόδων.

60 Libanius, *oratio* 31.16. For African cities see Lepelley, *Cités*, p. 69; for Samnium id., *Finances municipales*, pp. 235-240. In AD 385, the 'vir clarissimus' Postumius Iulianus bequeathed an estate including a 'kasa' to the city of Praeneste (modern Palestrina) with the explicit prohibition of alienation: *CIL* XIV, 2934 = *ILS* 8375.

61 Cf. Carrié/Rousselle, *L'Empire* 1999, p. 712, pointing out the widespread tendency in scholarship to characterize Late Roman government as "un pouvoir omniprésent a exercé sa tyrannie à coups de lois, de contraintes et d'interdits".

general concern to safeguard the prosperity of the cities[62]. At the beginning of Constantine's reign, for example, a number of imperial decrees were issued to protect the revenues of the cities, both from movable and immovable property. Constantine seems to have been particularly concerned to ensure that the property remained at the disposal of the cities. A constitution of 319 for example, confirms that the cities should receive the property of 'curiales' who die without heirs ('bona caduca')[63]. Another decree of the same year orders that extra-urban land that had been confiscated from decurions or had belonged to decurions who left no heirs behind, should be assigned to the city they had served[64]. A constitution of 405, which bans 'delatores' from petitioning the emperor for municipal and temple estates, contains an explicit allusion to an analogous law of Constantine[65]. In 312, a panegyrist praises Constantine for having granted the city of Autun and the territory of the Haedui a remission of debts for five years and a reduction of their tax burden because of the difficult economic circumstances that prevailed at the time[66]. It seems altogether implausible to attribute the confiscation of municipal property to an emperor like Constantine, who seems to have been so strongly concerned for the well-being of the cities. And it also appears strange that no trace of a broad and empire-wide confiscation carried out by Constantine can be discerned in the sources. Quite to the contrary, contemporaries accused him of financial mismanagement and 'profusa largitio'[67].

Also later in the fourth and fifth centuries, preventive measures were taken to protect city property[68], such as the prohibition of 'curiales' from either renting public estates of the cities or for the prohibition of illegal alienation of this

62 *CJ* 7, 38, 2 (387); *CTh* 15, 1, 41 (401); 15, 1, 43 (405); *Nov. Theod.* 23 (443); *Nov. Marc.* 3 = *CJ* 11, 70, 5 (451).

63 *CTh* 5, 2, 1 (dating to 326: Delmaire, *Les responsables*, p. 616). The concession of 'bona caduca' to the cities had been abolished by Diocletian (*CJ* 10, 10, 1 from 292) but was restored to them by Constantine; in 429 Theodosius II confirmed the right of the cities to accept the inheritance of 'curiales' who left no designated heirs: *CJ* 6, 62, 4.

64 *CTh* 12, 1, 6.

65 *CTh* 10, 10, 24 (405): "Idem AA. [Impp. Arcadius et Honorius AA.] et Theod(osius) A. Anthemio p(raefecto) p(raetorio). Pro inclyti principis Constantini sanctione, quam nos etiam hac lege roboramus, in his possessionibus, quae patrimoniali vel rei publicae aut templorum aut cuiuslibet huiusmodi tituli iure subtractae a nostra liberalitate poscuntur, cesset penitus delatorum nomen infestum omnesque se ab hac nefaria petitione retineant scientes nullum ex hoc posse fructum adquiri, sed huius decreti violatores sacrilegii poenam contrahere."

66 *Panegyricus Latinus* 8 [5] (ed. Mynors).

67 For instance, Ammianus Marcellinus 16, 8, 12; Julianus, *Caesares* 36, 335b; Aurelius Victor, *de Caesaribus* 41.16; Anonymus de rebus bellicis 1, 1 sq.; 2, 4; Zosimus 2, 38, 4 accuses Constantine of dissipating the wealth of the cities with an excessive fiscal imposition: ταῖς τοιαύταις εἰσφοραῖς τὰς πόλεις ἐξεδαπάνησεν.

68 *CTh* 10, 3, 2 (372). About this problem see also *Dig.* 50, 2, 6, § 2; *Dig.* 50, 8, 2.

category of land[69]. Many of Constantine's constitutions banning the petitioning for municipal property were repeated by his successors[70]. Rather than interfering in the administrative and financial life of the cities, the central government paid particular attention, especially during periods of economic depression, to the way in which the municipalities managed their property. In the same way, therefore, we must also interpret the constitutions on municipal building work mentioned above.

Moreover, the management and disposition of the municipal resources had already been in the hands of imperial 'curatores civitatum' two centuries earlier, at least as long as they were agents of the emperor. As we have seen, by the time of Septimius Severus the cities needed permission from the emperor to introduce new 'vectigalia'. Under Diocletian too, there were ordinances aimed at directing city expenditure toward, for example, construction that would prove useful to the community[71]. Diocletian was also the first emperor to transfer the 'bona vacantia' of the cities to the 'fiscus'[72]. The financial management and intervention in the cities by the imperial government had, therefore, already begun by the beginning of the second century AD. When the economic situation of the empire changed, interference increased to a point where municipal property could be transferred to the 'res privata'. Transfers of this type were nevertheless temporary and could be compensated. If, for example, local financial demand increased, cities were entitled to ask the central government for assistance to meet the new demands[73]. A more systematic procedure began to take shape with Valentinian and Valens, who in 374 established that one third of the revenue of each city was to be retained in the municipal

[69] *CJ* 7, 38, 2 (387).

[70] Apart from *CTh* 10, 10, 24 (405) cited above see, for instance, again *CJ* 7, 38, 2 (387) compelling illegal holders of municipal property to return the land without compensation; similarly *CTh* 15, 1, 41 (401). In 451 Marcian established that anyone who had held 'praedia iuris civilis' since 379 but who had never paid the 'canon civilis' was now to pay the rent. Emperor Zeno, who, 30 years later, explicitly mentions Marcian's law, ordered the payment of the 'canon civilis' from possessors of municipal land: *CJ* 11, 70, 6 (480?). For all this see further Biundo, *Le finanze municipali*.

[71] One example is *CJ* 11, 42, 1 (292). See also the sources quoted by Lepelley, *Finances municipales*, p. 246.

[72] *CJ* 10, 10, 1 (292).

[73] Mazzarino, *Aspetti sociali*, p. 266. If there was inadequate finance for public infrastructure the emperor himself granted an additional quota: e.g. *CJ* 10, 30, 4 § 1 (530); *CJ* 1, 4, 26 (530); *Nov. Just.* 128, 16-18; 25.4 (535); 30.8 (536); 147.2 (553).

treasuries, while two thirds were to remain under the administration of the 'res privata'[74].

The example of Orcistos, which we are fortunate to know better than other cities, testifies to such restitutions of financial autonomy and to the exemption from taxes. The epigraphic dossier shows that the central government periodically evaluated the requirements of the cities and, provided that these did not conflict with current imperial policy or go against the prevailing economic conditions, acted on its findings. Furthermore, the case of Orcistos proves that the main concern of the central government was the economic condition and the financial and political well-being of the cities. As the emperor himself said in his response to the Orcistans, his interest was to safeguard the city's 'commoda' and 'utilitates'.

V. Conclusions

The Later Roman Empire neither represents a period of deterioration in the relationship between the central government and the municipalities, in that the latter became more and more subject to a centralising authority, nor was it a period of increased interference by the central authority in local government to the detriment of municipal autonomy. The cities continued to be the backbone of the empire. The minute subdivision of the provinces after the administrative reforms of the Tetrarchic period onwards made the control of local administration gradually more acute, but it did not cause a total loss of municipal autonomy. The fact that legal texts, however sporadic they may be, provide an abundant source of documentation for Late Antiquity has further contributed to modern misconceptions of the relationship between centre and periphery. These texts do not prove interventionism. They reveal only an interest in maintaining the unity of the Empire by guaranteeing municipal autonomy and the financial well-being of the cities, which, as 'simulacra' of Rome, constituted the cells of the empire. Already in previous centuries, the same sort of exchange and concern had characterised the relationship between the imperial authority and the cities, as the imperial correspondence and the deployment of the 'curatores civitatum' show.

The traditional polis culture persisted long into Late Antiquity, not only with respect to the conspicuous external attributes that were typical of a city, such as urban amenities and monuments, but also in terms of administrative

[74] *CTh* 4, 13, 7 and *CTh* 15, 1, 18, both AD 374. This situation remained unchanged, as far as we know, at least until the epoch of Arcadius and Honorius and probably also later (*CTh* 15, 1, 32 and 33; 5, 14, 35, all of 395).

sovereignty and corporative character. Orcistos, amongst others examples, is a case in point. Undoubtedly, the cities endured many economic and political vicissitudes in that age. This should not, however, be interpreted as a symptom of the decline and failure of the municipal administration. The regions of the Empire were subject to various economic conditions and at various times experienced greater or lesser prosperity. The empire was so vast and rich in regional diversity that it is impossible to treat it as uniform[75]. Thus the constant presence and the occasional direct interventions of the imperial government must not be interpreted as excessive interference in local administration. They should rather be seen as attempts to maintain unity and uniformity in a culturally and economically diverse world.

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[75] Cf. Vera, *Colonato tardoantico*, p. 192: an Empire that "solo l'irrefrenabile tendenza degli antichisti alle sintesi astratte può concepire unitariamente".

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