Panel Abstracts Booklet

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[Panel 3] Law, Institutions, and Economic Performance in Classical Antiquity

[Wednesday]

Slot 3: 3:40 - 4:30pm
Gerhard Thür, Österreichische Akademie der Wissenschaften
Psychological Considerations in Athenian Law

Athenian law, especially the area of procedure before a court of law, developed a number of "social mechanisms" that solved problems that remain tricky for modern jurists. Relying on the psychological considerations of the litigants, or economic competitors, these legal mechanisms shifted complex decisions from the law courts or economic experts to the persons immediately concerned. A first, unpleasant example is the *basanos*-procedure in private litigation, whereby slaves were questioned under torture, in which the psychological calculation of three persons, the slave's owner, his opponent, and the salve him- or herself, came into acute and intimate contact. An example more relevant as a model for today seems the assessment of the amount of loss after the conviction of a culprit, the *timēsis*. The law court did not calculate this, but rather each litigant asserted the amount that he thought fitting in the particular case. The judges could only choose one or the other, and each litigant had to stay within the margin of probability. Beyond court procedure, one can mention the public auction, particularly in the administration of the property of wards. This paper examines several of the numerous examples of Athenian law's reliance upon the psychological considerations of the parties directly involved through detailed analysis of ancient sources against the backdrop of contemporary legal assumptions.

For some of these items see Thür, G., "Vom Lebenswert des Griechischen Rechts," in: D. Kallinikou et al. (eds.), Ioannis K. Karakostas. Essays by friends and metees II (Athens 2017) 1375–1378.

Slot 4: 4:40 - 5:30pm
Errietta Bissa, University of Wales Trinity Saint David
Juror Perception and Expectation of the Economy in Classical Athens

This paper explores research on modern juries based on social identity theory, shared information bias and low-information rationality, with particular focus on the relationship of jury to expert vs. non-expert testimony as a comparative insight to classical Athenian juries' understanding of economic and financial matters. The aim is to identify the extent that the surviving court speeches can reveal a common coherent perception of the contemporary economy of Athens, and its relevant legislation, by the average jury. Such a perception can throw light onto the legislative process, and on discussions of the economy in socio-moral terms in other genres.

[Thursday]

Slot 5: 9:00 - 9:50am

Rachel Zelnick-Abramovitz, Tel Aviv University

Manumission, Guarantors and the Involvement of the Polis

Manumission inscriptions found in Delphi and other poleis in central and western Greece show the important role of guarantors. These were appointed and often named in manumission agreements, and their role is taken by some scholars as protecting the manumission agreement (whether done by fictive sale or be dedication to a deity) against any violation, or the manumitted slave against any attempt to re-enslave her or him. In many Delphian manumission documents the appointment of the guarantor is said to be made "according to the law"; in other places, instead of naming guarantors the polis's institutions are involved. In this paper I will review the evidence of guarantors in manumission inscriptions, discuss their character as sale or dedicatory transactions, and discuss the varied terminology employed to describe them. My main argument will be that although manumission documents are the copies of private transactions, some poleis had an interest that parties stick to these agreements by stipulating that they use a guarantor (e.g. in Delphi) or by more direct involvement (e.g. in Chaeroneia). This, to my mind, points to a growing intervention of the state in private transactions, of the kind we see in land sale contracts in some places in Greece.

Slot 6: 10:00 - 10:50am

Mariagrazia Rizzi, Università degli Studi di Milano-Bicocca

Regulatory economic interventions in Athens in epigraphic evidence: Institutions, law and economic performance in the field of metra kai stathma

Among the athenian epigraphic sources to be dated between the classical age and the era of roman domination, a series of nomoi and psephismata have been preserved, which show a variety of legislative interventions in the economic sphere. Of particular importance is a rather well-known hellenistic decree regarding weights and measures (IG II2 1013). This psephisma contains a series of provisions aimed at the regulation of commercial relations in Athens regarding the quantification of traded goods by both volume and weight. The manufacture and use of particular weights and measures is ordered; the competences and punitive powers towards private individuals and magistrates are identified by the various bodies in charge (archontes, Boule, Areopagus); the metrological reforms of the choinix and the commercial mine are introduced, resulting in a metrological standardization and also – as we will see - harmonization. On one hand, these legislative interventions demonstrate the importance, recognized by the authorities, of a comprehensive regulation of all the subjects involved in measuring goods (magistrates with duties concerning weights and measures, judicial bodies, traders, free citizens as well as slaves, public slaves assigned to the conservation of weights and measures) and to all its essential aspects (from the production and distribution of copies, to the identification of the functions of the bodies responsible for controlling the correct use of weights and measures in the markets, to the provision of sanctions against the various private actors, magistrates and public slaves), in order to ensure fairness and trust in the markets of Athens, Piraeus and Eleusis. On the other hand, through the reforms of the choinix and the commercial mine, the decree aims at a metrological harmonization with the Roman system, enabling easy convertibility and thereby facilitating commerce not

only among Rome and Athens themselves, but among all territories familiar with either notation throughout the Mediterranean. By leaving a mere local dimension, the legislative effort of one city aims at gaining usefulness on a interregional scale

Slot 7: 11:10 - 12:00am
Michael Leese, University of New Hampshire
Property Rights Enforcement in Ancient Greece

My paper will explore the effectiveness of property rights enforcement mechanisms for landed property vs. liquid assets like loans, bank deposits, and cash in classical and Hellenistic Greek poleis. Moveable goods will also considered, since they share traits with both categories - the visibility of land, and the easy mobility of liquid capital. I will argue that the problems with guaranteeing the preservation of non-landed capital accumulations in ancient Greece created significant obstacles to the development of long--term, stable accumulations of financial and commercial capital, which in turn set limits to the growth of the non-agricultural sectors of the economy.

Slot 8: 12:10am - 1:00pm
Jesse James, Columbia University
Social and Ethical Aspects of Greek International Economic Law

New economic institutionalists have re-emphasized the importance of legal and other institutions on economic behavior. Yet even this important and influential work arguably has not gone far enough in accounting for the role of the social and the ethical in the development and operation of institutions implicated in economic action. In other words, some say new institutional economics is still an under-socialized economics. Sociological approaches to economics and law seek to fill this alleged gap by seeking social and ethical influences on the development of and change in legal rules and structures governing economic activity, and for why people have obeyed and enforced those rules. Although not focused on "economic" law, Adriaan Lanni's Law and Order in Ancient Athens (2016) is a recent example of a sociologically inflected approach to Greek legal compliance.
Moving beyond domestic law, my paper will take an international perspective on legal rules and structures that affected Greek economic activity. I will briefly describe several Greek international legal institutions: the use of symbola agreements in treaties; the rules against piracy; and the differing rules governing the imposition of transit fees on land versus marine transport. I will argue that to understand the development and use of these international institutions we must take into account their specific social and ethical contexts. For example, symbola agreements were likely used and enforced not merely for the economic efficiency that would result from greater legal certainty, but because other social ties connected the poleis that entered into them. Piracy was forbidden by customary law not only because it disrupted trade: it was widely seen as unjust, and toleration of piracy was a sign of backwardness. My goal will be both to emphasize the importance of international law in Greek economic affairs and to contribute to a sociological understanding of Greek international economic activity.

Slot 9: 2:30 - 3:20pm

Taco Terpstra, Northwestern University

Roman Contract Enforcement as an Emergent Property

Ancient historians in their thinking about Roman law often follow Douglass North, who defined a state as "an organization with a comparative advantage in violence" with the power to "specify and enforce property rights" (*Structure and Change in Economic History* 1981: 21). However, as I will argue in this paper, the Roman state did not see enforcement as its task. Instead, enforcement was based on private order: the threats of shunning, shaming and ostracizing. Nevertheless, the state did play a role in how effective such social penalties were. State institutions enhanced collective-action mechanisms, resulting in contract enforcement as an "emergent property." A key component of this property was the Roman civic order as we see it reflected in the witness lists attached to legal contracts. Jean Andreau showed long ago that witness lists follow a finely calibrated status ranking, which was based on the civic order created by the state (*Les affaires de monsieur Jucundus* 1974). Officeholding, imperial-cult priesthoods and citizenship - acquired by birth or manumission - were the factors determining relative status. I argue that ranking witnesses made legal contracts "socially embedded," which increased their enforceability.

Slot 10: 3:30 - 4:20pm

Saskia Roselaar, Ruhr-Universität Bochum

The Roman state and Italian prosperity: institutions and economic developments in the Roman Republic

This paper will focus on institutions which regulated the tenure of land in the Roman Republic (4th-2nd centuries BC). In particular, it will investigate how these institutions changed in correlation with economic developments in the same period.
Due to the nature of the evidence, we are best informed about land tenure in the area of Italy under Rome's control. In this area, the most important institutional change was the introduction of a more systematic scheme of land distribution after the Latin War. The Roman state often took land as spoils of war from defeated enemies, which became the property of the Roman state and was known as the ager publicus populi Romani, 'public land of the Roman people'. From the Latin War onwards, the process of distributing land became more structured. A variety of citizenship statuses were created (citizenship with or without the vote, as well as the Latin and the allied status). At the same time, various procedures for distributing land were set up, most importantly the Latin and Roman colonies. This system ensured that the Romans collected the maximum possible amount of tax and recruited the maximum number of soldiers for the Roman army.
At the same time, a number of economic developments took place, seeming to indicate a general change in settlement patterns, as well as an increase in commercial connections within and outside of the Italian peninsula. Settlement in the fourth and third centuries was mostly in hill forts and isolated farmsteads – many of which had only recently been erected, since the formation of hills fort settlements started between the sixth and fourth centuries – but many of these disappeared in the course of the fourth and third centuries. In the fourth century, the function of hill forts as central places was partially taken over by rural sanctuaries, which appeared from the late fourth century onwards.

At the same time, we see an increase in trade by Italians to areas outside the peninsula, especially in the East. In some areas, larger farms producing for commercial purposes appear in the fourth and third centuries.
The connections between the change in institutions of the Roman state – which also impacted its allies, who were formally independent states – and these economic developments, are not entirely clear. Did the Italians experience economic change as a result of the Roman conquest? If so, was there economic growth or decline? Was the Roman state aware of the economic potential of its allies? And did it create these new institutions with the express aim of profiting from its allies' prosperity? This paper aims to shed new light on the correlation between economic developments and institutions in a crucial period of Roman Republican history.

[Friday]

Slot 12: 10:00 - 10:50am

Ryan Pilipow, University of Pennsylvania

The Economies of Legal Expertise in the Late Roman Empire

Legal experts of the late Roman world traded their expertise in many micro-economies. Various social classes required legal expertise; in turn, a broad array of legal experts developed to respond to those needs. To sample the range of demands for legal professionals, I investigate three examples: papyrological remains of document creation in Egypt, consultation fees in the Diocletian's Price Edict, and the epistles of Sidonius Apollinaris requesting legal aid. These examples come from diverse social and economic backgrounds, but they all showcase the transactional nature of of legal expertise. Put simply, legal expertise was a commodity. Each example is rooted in its social context, and each displays a slightly different logic of remuneration in trading economic, social, or political capital. While each case includes all of these kinds of capital to some degree, the proportion changes significantly with the context in which the expert operates. In order to appreciate fully the degree to which law and legal practice inflected the economies of the Roman world, we should consider the distinct influences that exist within different social settings. We often think of law in the late Roman world as the preserve of of the imperial circle. Contrary to this assumption, the pervasiveness of legal expertise in various micro-economies suggests that legal discourse was instead a flexible tool, available to inhabitants of the Empire from diverse social and economic backgrounds.

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Slot 13: 11:10 - 12:00am

Thomas McGinn, Vanderbilt University

Juristic Holding and Economic Motivation: The 'Pre-History' of the Res Communes Omnium

The Roman jurists famously recognized different categories of property, distinguishing between certain types that were not available for economic exploitation by the state or society – Gaius (2.1) describes them as *extra patrimonium* – such as *res sacrae*, *religiosae*, and *sanctae*, and those that were, which included not just private property but a category of items under the ownership of the Roman people or, if one wishes, the state, known as the *res publicae*. This category itself divides into two subtypes, according to the modes of economic exploitation regarded as permissible under the law.

In the Severan period, thanks to the jurist Marcian, we have the full-blown articulation of yet another category of property, the *res communes omnium* or "things common to all" in a text from the third book of his elementary law treatise, the *Institutes*, preserved at D. 1.8.2 pr.-1. According to Marcian, the *res communes omnium* are provided to all persons through "natural law" and include the air, flowing water, the sea, and its shores.

The Byzantines appropriated this passage for Justinian's own elementary textbook on law, fusing it with one drawn from Gaius (Inst. 2.1 pr.-1). This has encouraged some scholars to argue that we owe the category itself to the compilers, while a number of others hold that it is classical, but uniquely the position of Marcian. More recently, the suggestion has been made that other jurists, namely Ulpian, recognized the category as well.

I propose to test this theory by examining aspects of the juristic treatment of the items in the category in the high classical period, so before its actual creation. I show how these jurists grapple with doctrinal challenges and economic considerations in ways suggesting that, while the category itself is not inevitable, it does address similar concerns.

Slot 14: 12:10am - 1:00pm

Charles Bartlett, Duke University

Restrictions on Ownership and Economic Development at Rome

This paper examines iura in re aliena, or rights in the property of someone else, for what they might tell us about changes in both economic performance and conceptions of economic forces at Rome. These rights are understood as restrictions on ownership, because they require the owner, usually of a piece of land, to acknowledge the rights of others, such as, for instance, in the case of right of way. The list of iura in re aliena expanded as Rome developed, and the complexity of these rights increased. This paper investigates this complexity for indications of increasing sophistication in how the law structured the ownership and use of property, as well as the effects of such rights on economic performance.

Slot 15: 2:30 - 3:20pm

Peter Candy, University of Edinburgh

Parallel Developments in Roman Law and Maritime Trade during the Late Republic and Early Principate

In this paper I demonstrate that the development of Roman maritime law coincided with the rapid increase in the volume of Roman maritime traffic during the late Republic and early Principate. By comparing the chronological distribution of shipwrecks in the Mediterranean basin with the likely date ranges for the introduction of maritime legal rules, I show that the most prolific period of praetorian and juristic innovation coincided with the period during which the volume of maritime traffic was increasing at its greatest pace. The coincidence of legal innovation with the intensification of transactional activity invites the question as to the relationship, if any, between these parallel developments.

Slot 16: 3:30 - 4:20pm

Jonathan Ainslie, University of Edinburgh

A Tale of Three Cities? Comparing the Legal Treatment of Foreigners in Ancient Rome and the Early Modern Low Countries

The institutional foundations of trade have been extensively studied in the early modern Low Countries. This literature has mainly focused on the relative importance of national sovereigns and private ordering in resolving commercial disputes. Recently, Gelderblom has positioned the city at the centre of institutional change. Unlike national sovereigns, cities had the financial and legal resources to attract foreign merchants. They also directly benefitted from the resulting "thickness" of market activity within their jurisdiction. Various strategies can be observed: while Antwerp attracted foreign merchants by extending consular jurisdiction to them, Amsterdam made its domestic procedures more easily accessible to foreigners. One of the most important legal changes affecting foreigners in the formative period of Rome's commercial development was the procedural shift from the legis actiones to the formulary system. Much has been written about the excessive formality of the legis actiones and their lack of responsiveness to republican commercial expansion. It has also been noted that the system of standardised written pleadings, or formulae, was first adopted by the peregrine praetor, as the legis actiones were available only to citizens. The Second Punic War had resulted in an influx of peregrini to Rome and this group was involved in high value disputes. The lex Aebutia, passed no earlier than 199 BCE, extended the use of formulae to citizens. This paper will argue that the commercial needs of the peregrini were significant in making the procedural arrangements of Roman law more flexible and inclusive. It will discuss points of difference to the Low Countries, such as the absence of an inter-city competitive dynamic and fact that the peregrini were initially driven to Rome by conflict rather than commercial opportunities. Finally, it will discuss the motivations of Roman authorities for such an unusual, foreigner-led reform, given the absence of these competitive factors.

[Saturday]

Slot 17: 9:00 - 9:50am

Nico Dogaer, KU Leuven

Institutions and economic performance in Ptolemaic fulling and linen boiling

Ever since the discovery and publication of the so-called 'Revenue Laws of Ptolemy Philadelphus', the non-agricultural sectors of the Ptolemaic Egyptian economy (305-30 BC) have been interpreted as 'state monopolies'. Although this model has recently been criticized, it is clear that the Ptolemaic state introduced various measures in most industries, which imposed real constraints on artisans and merchants. The most strictly state-controlled commodities, apart from ἀρώματα such as frankincense and myrrh, were vegetable oils and mineral resources. Coincidentally, these products formed the basic raw materials used by the linen boilers, in the form of castor oil and natron. They had to reckon with not one but two 'commodity monopolies' at the same time. Fullers used natron as well, and it is probable that they also employed castor oil. In addition, the textiles treated by the artisans were governed by different fiscal regimes, the linen industry being regulated to a greater extent than the wool business. The fullers and linen boilers are thus the ideal test case for studying the effects of these institutions on the Ptolemaic economy. Anecdotal evidence for this can be found among the papyri, but the quantification of economic performance remains problematic. A number of proxies for this will be proposed, chiefly among which is taxation.

Slot 18: 10:00 - 10:50am

Ching-Yuan Wu, Peking University

Revisiting the Comparison of the Iron Industries of the Han and the Roman Empires

The iron industries of the Han and Roman empires have seldom been compared, and comparisons have focused on technological differences, with recent concerns moving towards the issue of monopolization or lack thereof (Wagner 2001; Bang 2009). The result is a dichotomous impression that the Han iron industry from the reign of Wudi onwards operated within a state monopoly framework that produced and distributed relatively high-quality castiron products, while the Roman iron industry relied upon local bloomery iron production and private merchants for production and distribution. While pioneering, the impression requires revision. Regarding the Han Empire, early doubts on the degree of monopoly achieved during the reign of Wudi (Elvin 1973) receive support by archaeological and metallurgical analyses suggesting the continued persistence of bloomery iron production following the prohibition of private iron production by the Han imperial government (Larreina-Garcia 2018). Regarding the Roman empire, the appointment of imperial procurators and the promulgation of legislation have not been factored into earlier comparisons (Hirt 2010), Also, recent studies on Roman iron production suggesting that cast-iron production may have been in practice at least for producing military equipment (Sim 2012). Apart from documenting these new developments, this paper also considers new avenues for comparison, such as the legal frameworks that defined government intervention in the iron industries. This paper surveys the Roman epigraphical evidence such as the Lex Metalli Dicta and the Lex Metalli Vipsaniensis along with the recently discovered Yinwan bamboo strip archive in the context of Chinese literary sources such as the Yantielun to discuss minute administrative strategies of legally defined iron production districts in the two empires. The aim is to consider the iron industry and its participants as organic sources of socio-economic power gradually absorbed into the emerging Han and Roman state apparatus (Scheidel 2009).