

JILL HARRIES: *Law and Empire in Late Antiquity*. Cambridge University Press, Cambridge 1999. ISBN 0-521-41087-8. ix, 235 p. GBP 37.50 (H/b).

This will become a standard work on late Roman law in its social and political context. Harries examines the making of the law, its aims, rhetoric, and efficacy, the workings of justice, attitudes to torture and punishment, the competence and venality of judges, and the practice of settling disputes out of court, either by secular arbiters or by bishops. That is, all available sources are used to scrutinize the late imperial legal system in its entirety, and many of its characteristics are interpreted in a way which is far from traditional.

It is an undeniable fact that contemporaries criticized heavily the workings of late Roman law. If we are to believe the secular historians, the bishops, and even the lawgivers themselves, obtaining justice was expensive, slow, sometimes physically uncomfortable (not to say tormenting), and too often impossible, especially for poor people. These complaints have little counterpart in the early Empire. The natural and common conclusion has been that during the imperial period torture became more common, punishments more cruel, judges less competent and more corrupt, and law in general less efficacious. H. offers an alternative interpretation. Increasing and louder complaints do not prove that there were more abuses, rather that more attention was paid to them, perhaps even that more was done to remedy them. The same rulings were repeated over and over again not because they had been ignored or disobeyed but because people wanted to be assured that old laws were still valid and because they expected them to be enforced. In all, late Roman law functioned much better than has been imagined.

This view has much to recommend it. Although classical Roman law may seem to us surprisingly just and lenient, being, e.g., very reluctant to impose the death penalty on citizens, it is quite clear that the leniency was restricted to a limited number of people only. Slaves could be tortured, and common criminals crucified or thrown into the arena. Upper-class authors did not raise their eyebrows at such practices. Moreover, it is shaky to claim that governors in the Principate were incorruptible just because there is no contemporary source to complain that they were open to bribes. The New Testament is almost the only text which looks at Roman justice from the point of view of the less privileged, enabling us to see how Paul was going to be routinely flogged before he revealed that he was a Roman citizen.

People in the provinces, and the middle and lower classes in general, attract much more attention in the sources of Late Antiquity. That may partly explain the more negative view of justice. However, H. does not conceal the fact (though she does not stress it very much either) that in the Julio-Claudian Empire Roman citizens formed a privileged group of several million people who had little reason to fear physical maltreatment in the hands of the legal authorities, a position which no comparable group possessed a few centuries later (124-9). Thus, there seems to have been *both* more widespread cruelty in Roman criminal justice *and* increasing criticism against cruelty in general. This apparent contradiction arose because even the social equals of those who dominate our written record could now face torture. I admit it is not clear whether we should regard more highly a society where torture and the death penalty are inflicted only on the lower classes or one where they are imposed equally on everyone.

Thus, to highlight her point that justice was not worse in Late Antiquity, H. might even more effectively have stressed the shortcomings of early imperial justice. That would perhaps have reduced the need for a slightly apologetic tone when discussing the later developments. At any rate, I would not go so far as to suggest that Late Antiquity was more humane in the area of torture and punishment (135). At least, I would not consider burning alive a more humane punishment than crucifixion, although the Christians naturally shunned the latter. Moreover, the impact of possible Christian insistence on greater humanity remains unclear, while H. also points out that the Christians did not, in principle, object to the judicial infliction of pain (129-34, 146-50). Later world history does not support the idea that Christianity as such (at least not without other factors) would tend to create more lenient judicial systems.

H. observes that Roman citizens often could choose whether to invoke laws or not, and that the state tacitly accepted the fact, not even demanding universal compliance (80-2). In this context, H. might have discussed some laws which vehemently forbade people from settling their quarrels in private or from disposing of their goods as they saw fit, threatening them with the gravest penalties if they broke the law (see e.g. laws on *raptus*, adultery, illegitimate children, women's sexual relations with slaves), not to speak of the emotional law of Diocletian and Galerius against incestuous marriages (Coll. 6.4.1), which seems to imply that divine favour for the Empire was at risk if Roman law was not universally embraced by the populace.

A few minor points: even if there is no direct proof that the texts of Republican and Augustan *leges* had survived in Late Antiquity (13-4), I would find it rather odd if they did not. The phrase 'according to the law of the Romans', appearing in the papyri up to the fourth century, no longer necessarily implies the 'otherness' of Roman law (32): apart from the fact that the expression was entirely formulaic, it could, at that time, equally well be perceived as referring to 'our' law, in the same way that the legal writers and emperors used phrases like '*Romanis legibus cautum est*'. I was not convinced that the court charges were 'modest' for the poor (100). The very last items of the Bibliography seem to be missing, at least Voss and Watson (226).

H. joins the current tendency to see late ancient society in a favourable light and to dismiss Gibbon's D-word altogether. Irrespective of the possibility that a new generation may sooner or later re-challenge this overall doctrine, the main reasoning of her book cannot be easily refuted. It is both a refreshingly thought-provoking study and a lucid introduction to the workings of late Roman law. It should be read by everyone interested in the law, administration, and social relations in the Roman Empire.

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*Die Stempelsiegel im Vorderasiatischen Museum*, von Liane Jakob-Rost mit einem Beitrag von Iris Gerlach. 2. Auflage. Staatliche Museen zu Berlin, Vorderasiatisches Museum. Verlag Philipp von Zabern, Mainz am Rh. 1997. 118 S. mit 23 Abb., 7 Tafeln. ISBN 3-8053-2029-9. DEM 35.00.

*Mit Sieben Siegeln versehen*. Das Siegel in Wirtschaft und Kunst des Alten Orients. Hrsg. von Evelyn Klengel-Brandt. Staatliche Museen zu Berlin, Vorderasiatisches Museum.