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DIKASTERIA: A PANHELLENIC PROJECT?
A RESPONSE TO NADINE GROTKAMP¹

Fifty one years after the first edition of *Justizwesen der Ptolemäer*,² the reconstruction of the Ptolemaic judicial system elaborated by Hans Julius Wolff keeps all its freshness and continues to stimulate the curiosity of scholars, as Nadine Grotkamp's lecture has just shown. Obviously, as every innovative theory, neither was this one welcomed without some critical reactions; but altogether, it has become part and parcel of juristic papyrology in its current state. We may only regret that the results of this research were not incorporated into the first volume of Wolff's manual published by our colleague H.-A. Rupprecht ten years after the death of the author.³ And even more so since—and this does not seem to be a merely superfluous remark—they could be used beyond the domain of judicial techniques to seek answers to the broader questions like the relations between Greeks and barbarians in the Hellenistic kingdoms or the prehistory of human rights. Our Symposion gives me the opportunity to display, in my response to Nadine Grotkamp, another aspect of this problem, namely the classic roots of the Ptolemaic judicial system.

The pioneers of legal papyrology favoured the Athenian model in the study of the Greek roots of Ptolemaic law. And so, for an eminent Greek scholar, “the Greek law in Egypt results from the Athenian law, as the common language, the *koinē*, results from the Attic dialect.”⁴ But the evidence called in support of this statement is not enough to make it credible. A scrupulous search reveals rather than a transfer (once termed as ‘reception’) of the Athenian laws towards Alexandria, a plurality of sources from which the Ptolemaic lawmakers were able to draw while constructing

¹ The issues addressed in this response are dealt with in a broader approach in my contribution to the proceedings of the 27th International Congress of Papyrology held in Warsaw in 2013: J. Méléze Modrzejewski, ‘Modèles classiques des lois ptolémaïques’ (forthcoming).

² H.-J. Wolff, *Das Justizwesen der Ptolemäer*, München 1962 (Münch. Beitr. 44); 2^e éd. 1970. See my papers: ‘Zum Justizwesen der Ptolemäer’, *ZRG. RA* 80 (1963) p. 42-82; ‘Nochmals zum Justizwesen der Ptolemäer’, *ZRG. RA* 105 (1988) p. 167-179.

³ H.-J. Wolff, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemäer und des Prinzipats*, 1. *Bedingungen und Triebkräfte der Rechtsentwicklung*, ed. H.-A. Rupprecht, Munich 2002.

⁴ G. Petropoulos, *Bibl. Orient.* 5 (1948), p. 90-93, review of R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri, 332 B.C.-640 A.D.*, 1st ed., New York 1944.

legislation capable of ensuring adequate protection of the interests of the monarchy. Like was the case of the judicial organization.

Wolff's reconstruction of the system assumes the form of a diptych crowned by a capital. While the king reserved for himself the decisions in matters concerning his treasure, the *basilikon*, and those regarding possible threats to the kingdom security or economy, the administration of justice over the whole territory was entrusted to a double network of 'nationally specialized' courts: *dikastēria* designed for the Greek-speaking immigrants both in the cities and in the *chōra*, and the courts of laocrites, Egyptian priests, which were to consider the cases of the native population. Wolff showed that it was a coherent construction, organized towards 273 B.C.E. by means of an "organic law," a *diagramma*, which seems to have left numerous traces in the papyri.

Before Wolff, the attention of papyrologists was chiefly centred on the court of Krokodilopolis, the administrative centre of the Arsinoïte nome, known from a group of documents kept today in the Flinders Petrie's collection in Dublin. Among them there are the minutes of some cases heard by this court in 226/225 B.C.E. Two texts evidence a bench of nine *dikastai* presided over by a *proedros*, thus giving way to its denomination as the 'court of ten' (Zehnmännergericht), in an obvious splendid parallel to the Roman decemvirate or the decimal system of Cleisthenes. Yet another document of the same group preserving a complete list of the judges has only eight men, including the *proedros*. Ten, therefore, is not a prescribed composition, but an average, and the number of the *dikastai* may vary between eight and twelve. Clearly, the composition of the Ptolemaic dicasteries did not follow the example of the Athenian courts comprising either 201 or 401 members according to the Aristotelian testimony. A much more feasible model is provided by the inter-city treaties envisaging juries of variable number (of 9, 11 or 15) of jurors depending on the value of the dispute, chosen at random from restricted lists.

The Ptolemaic *dikastai* must have been also chosen from such lists, even if we do not have any direct proof thereof. The onomastics of the judges suggest a choice among the Greco-Macedonian elites of the nome or its capital. Let us recall, in alphabetical order, the names of the judges known from the dossier of *P. Petrie*: Andron, Diocles, Diomedes, Dionysodorios, Diotrephe, Dorotheos, Jason, Maiandrios, Menekrates, Polycles, Sonikos, Taskos, Theophanes, and Zenothemis. All Greeks, not a single Egyptian name. It does not mean, however, that the *dikastēria* were "purely Greek" courts, as we may still read in the treatise of my teacher R. Taubenschlag.⁵ They were naturally the courts of the dominant minority of 'Hellenes', the descendants of the soldiers of Alexander and of Ptolemy Sôter and other Greek speaking immigrants, Greeks and Macedonians, but they also heard

⁵ R. Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri (332 B.C.-640 A.D.)*, 2nd edition, revised and enlarged, Warsaw 1955, p. 484.

cases of the Hellenized barbarians like Jews or Thracians. The Greek continuity set itself into the framework of a new political and social reality.

What we have just noted about the judges, we may also say about the law therein applied. A Ptolemaic *diagramma* foresaw a hierarchy of the rules which were admitted in the administration of justice: the royal legislation, represented by *diagrammata*; the law of the parties designated as *politikoi nomoi*; and the “the most equitable opinion,” *dikaiotatē gnōmē*, which came into play when the royal law and the *politikoi nomoi* remained silent. Likewise, a polis recognised a hierarchical layout of the legal rules which it was to respect. Demosthenes informs us that the Athenian heliasts committed themselves to try cases according to the laws of the city (*nomoi*), the decrees of the people (*psēphismata*), finally, just as in Egypt, according to the most equitable opinion. In the Ptolemaic monarchy, royal laws (*diagrammata*) replaced old laws of the city (*nomoi*), and “civic laws” (*politikoi nomoi*) of the immigrants took the place of the more recent decrees (*psēphismata*). The common recourse to *dikaiotatē gnōmē* as a means to fill in the gaps of the substantive law is epigraphically attested in the Greek world, and not only in Athens, from the 4th century B.C.E. onwards. In current research the Athenian model therefore is giving way to a pan-Hellenic project.

So much could also be said about the relationship between the written and the oral, which characterises the applicable law and the justice which applies it. In classical Greece, the written laws contrasted, as Michael Gagarin has shown, with the essentially oral legal proceeding.⁶ In the Ptolemaic *dikasteria* this proportion is inverted: they apply the rules of usually not written law in a procedure which multiplies written procedural documents. This is a clear case of the so-called “inverted continuities” which are featured in the extension of the Greek law in Egypt.

Little by little, the Athenian model fades away for the benefit of a wider scheme. The Ptolemaic *dikasteria* are an original creation, not reproducing any specific model, yet abundantly borrowing from a vast judicial and institutional experience of the Greek world. In this sense, the justice dispensed by the Ptolemaic *dikasteria* fits in the Panhellenic programme aspiring to turn Alexandria into the cultural capital of the Greek world included in the borders of the *oikoumenē* by the conquests of Alexander the Great.

The introduction of Greek justice adapted to the needs of the time into a judicial system founded on the respect by the Ptolemies for the cultural and ethnic duality of the country brought about a practical solution to the problems which could arise from this very same pluralism which characterised the legal life of Egypt. At the same time, the Ptolemies strengthened the barrier which separated the Hellenes from the Egyptians: an independent system of justice for either group left no place left for—to use a term coined by the late Jean Triantaphyllopoulos—a “nomocracy”

⁶ M. Gagarin, *Writing Greek Law*, Cambridge-New York 2008.

(*nomokrasia*), that is to say, for the formation of a ‘Graeco-Egyptian’ law, a phantom which still haunts the minds of the modern scholars. Diocles, Diomedes, or Zenothemis were at least as little inclined to apply the Egyptian law in proceedings before their court, as were the laocrites concerned with the Greek law before theirs. Both were invested with a mission of preservation and defence of their national heritage in the judicial domain. For that purpose, the laocrites found instructions in the collections of guidelines compiled by their predecessors, such as the famous “Demotic Law-Book” in its different versions. The *dikastai*, with an exception of rare cases in which royal law clearly told them which way to follow, had to stand by what they could find in the *dikaionmata*, pieces of evidence, which the litigants produced during trials, or follow their sense of justice to express “the most equitable opinion” (*dikaioatē gnōmē*). By doing so these agents of the continuity of the Greek law after the conquests of Alexander the Great paved the way for the ambition of our Society to put the study of Greek legal history in the place it deserves because of its role in the construction of the Western culture.

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