



Political Debate in the Age of Justinian I

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Trinity College

August 2022

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This thesis examines how Romans in sixth-century Constantinople debated politics. It begins by observing that Justinian I ruled in a political culture far more open to conflicts of views and criticism of the régime than is often appreciated. It conducts intertextual, contextualist close readings of the texts of thirteen contemporary authors to explain how this culture of debate operated. This literary evidence is marked by highly creative, tactical uses of discourse. The care and ingenuity with which these tactics were formulated confirms the importance that contemporaries placed on mobilising the opinions and expectations of imperial subjects to exert (or defuse) political pressure on the emperor.

Chapter One introduces the two defining ideological conflicts of the period, a political debate about Roman tradition and a culture war about classical and Christian culture, and the régime's strategic need to navigate them. Chapter Two remodels the operation of Justinian's propaganda as an ecosystem in which a devolved network of propagandists amplified and tailored imperial messages but simultaneously inflected them to suit their own agendas. Chapter Three explores the debate about this propaganda culture that developed within Constantinople's civil bureaucracy, as traditionalists became concerned with the disjunction between imperial representations and reality. Chapter Four turns to the period's central debate, tracing how the régime and its opponents dialectically developed new tactics for advancing unchanging conceptions of the extent of imperial authority to intervene in the Roman legal tradition. The whole thesis demonstrates the value of a synchronically intertextual methodology for reading sixth-century political literature.

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List of Abbreviations

Agathias, <i>H.</i>	Agathias, <i>Histories</i> .
<i>AP</i>	<i>Epigrammatum anthologia Palatina cum Planudeis et appendice nova</i> .
Arist. <i>GC</i>	Aristotle, <i>On Coming-To-Be and Passing-Away</i> .
<i>CGL</i>	<i>The Cambridge Greek Lexicon</i> .
<i>CIG</i>	<i>Corpus Inscriptionum Graecarum</i> .
<i>CIL</i>	<i>Corpus Inscriptionum Latinarum</i> .
<i>CJ</i>	<i>Codex Justinianus</i> .
<i>CTh.</i>	<i>Theodosian Code</i> .
<i>DPS</i>	<i>Dialogue on Political Science</i> .
<i>HA</i>	<i>Scriptores Historiae Augustae</i> .
<i>J. Inst.</i>	Justinian, <i>Institutes</i> .
<i>J. Nov.</i>	Justinian, <i>Novels</i> .
<i>LSJ</i>	Liddell, Scott & Jones, <i>A Greek-English Lexicon</i> .
<i>MalKom</i>	<i>Philologisch-historischer Kommentar zur Chronik des Malalas</i> .
Mansi	Mansi, ed. <i>Sacrorum conciliorum nova et amplissima collectio</i> .
<i>ND</i>	<i>Notitia Dignitatum</i> .
<i>NUC</i>	<i>Notitia Urbis Constantinopolitanae</i> .
Paul, <i>DHS</i>	Paul the Silentary, <i>Description of the Hagia Sophia</i> .
<i>PG</i>	<i>Patrologia Graeca</i> .
<i>PL</i>	<i>Patrologia Latina</i> .
<i>PLRE</i>	Jones, Martindale & Morris, <i>The Prosopography of the Later Roman Empire</i> .
<i>P. Oxy.</i>	<i>The Oxyrhynchus Papyri</i> .
Procopius, <i>SH</i>	Procopius, <i>Secret History</i> .
<i>SEG</i>	<i>Supplementum Epigraphicum Graecum</i> .
Thuc.	Thucydides, <i>History of the Peloponnesian War</i> .
Zos.	Zosimus, <i>New History</i> .

Full details of editions and translations are provided in the list of works cited.

Journal titles abbreviated in the notes are expanded in full in the list of works cited.

Acknowledgements

Writing a doctoral thesis is quite the task at the best of times. Writing one during a pandemic is something else altogether. It would have been entirely impossible without the thoughtful guidance, limitless patience, and unquestioning compassion of my supervisor, Peter Sarris, to whom I would like to express my heartfelt gratitude. This thesis is ultimately nothing more than my attempt to explain what, in a supervision on Justinian for Part I of the Historical Tripos in 2016, Peter called ‘a public culture of debate’ (to quote from my undergraduate notes). The direct line from then to now is a testament to his mentorship and his talent for stimulating historical curiosity. Whatever good ideas this thesis happens to contain owe themselves, in one way or another, to Peter.

My examiners, John Weisweiler and Shane Bjornlie, engaged carefully with my work and furnished me with considerable insight into what exactly it is that I have managed to achieve. I am extremely grateful also to Geoffrey Greatrex, who shares more of his time, wisdom, and connections with graduate students than any other academic I have met. My colleagues Silvio Roggo and Stephanie Forrest provided valuable advice and camaraderie and Silvio, Geoffrey, Norman Underwood, and Andrew Wallace-Hadrill kindly shared drafts of unpublished work, which influenced this thesis to no small extent. Not a word of what follows, nor the remarkable work of so many of my peers, would have materialised without a scholarship from the Arts and Humanities Research Council, graciously extended in light of pandemic-related complications.

I would like to pay tribute to my parents, Jon and Sally Hassall, who may be thankful that I, at last, have no choice other than to seek gainful employment but who have nonetheless been unconditionally supportive throughout, and my grandparents, David and Edna Rooke and Raymond and Jill Hassall. Much of this thesis is about the referent texts with which sixth-century Romans made sense of their lives. My own referent texts are the fixture lists for Aston Villa Football Club. I can associate every thesis breakthrough, each conquered case of writer’s block, with a matchday escape: a result, a goal, a family meal.

It would take a further 80000 words to enumerate properly all the other debts I have accrued, but for their companionship and support, I cannot fail to thank Ed and Liam, who can watch every ball of a Test, Alicia, Felix, and Ben, who donated large portions of their scholarships to the Maypole, Issy, Imogen, and Char, who are unimpeachable models of friendship, Dan, who indulged my most absurd ideas, and, above all, Jack, for everything. This thesis bears my name but it has not in the slightest been an individual endeavour.

Introduction

The lawyer and poet Agathias, writing in Constantinople in the later sixth century, recalls the activity of a foreign doctor, ‘some Syrian man called Uranius who used to wander around the emperor’s city’:¹

‘He often hung about in front of the Stoa Basileios and sat in the bookstores, where he sparred with and boasted to the men gathered around him... They always gathered around late afternoon – after some unbridled booze-up, it always seemed – and, from the first opportunity, set about speaking on eminent topics and inquiring into the ineffable. But since they are always quibbling about these things, they neither persuade each other nor learn anything they didn’t already know. That’s how these things tend to go. The same men cling continually to the same views. In the end, their contentiousness drives them to anger and they rail openly at each other, spewing swear-words, as if contesting a game of dice.’²

Agathias’ contempt defines himself and his fellow members of Constantinople’s high-society dinner-party circuit, at which Uranius was ‘the butt of all the jokes’, among the class of men who – unlike the doctor and his coterie – properly ‘knew how a rational debate should be conducted’.³ This concern to valorise and lay claim to the mental technologies of ‘rational

¹ ἄνθρωπος γὰρ τις Σύρος τὸ γένος, Οὐράνιος ὄνομα, κατὰ τὴν βασιλέως πόλιν ἤλατο. Agathias, *H.* 2.29.1. Agathias and other key authors are introduced fully in 1.1, below. All translations from Greek, Latin, German, and French (but not Coptic or Syriac, where peer-reviewed translations are provided in the notes) are the author’s own, generally pursuing a literal approach and consistent renderings of key terms to maintain in translation any intertextualities present in the originals. The bibliography lists all peer-reviewed translations consulted. The notes acknowledge specific debts to these translations where relevant. For Uranius, see: *PLRE* 3 Vranius; Averil Cameron, *Agathias* (Oxford, 1970), p.104; R. C. Blockley, “Doctors as Diplomats in the Sixth Century A.D.,” *Florilegium* 2 (1980), p.91 n.14; J. D. Frendo, “Agathias’ View of the Intellectual Attainments of Khusrau I: A Reconsideration of the Evidence,” *BAI* 18 (2004), p.100; B. Ortega Villaro, “Some Characteristics of the Works of Agathias: Morality and Satire,” *AAASH* 50 (2010), p.283 n.84.

² πολλὰς γὰρ ἰὼν πρὸ τῆς βασιλείου στοᾶς καὶ ἐν τοῖς τῶν βιβλίων ἤμενος πωλητηρίοις διεπληκτίζετο καὶ ἐμεγαληγόρει πρὸς τοὺς αὐτόθι ἀγειρομένους... τοιγάρτοι τὰ πολλὰ περὶ δειλῆν ὀψίαν ἀπὸ κραιπάλης, ὡς τὸ εἶκός, καὶ ἀκολασίας ξυναλιζόμενοι, οὕτω δὴ ἐκ τοῦ παρδείκοντος ἐκείνων τῶν ὑπερτέρων ἀπάρχονται λόγων καὶ ζητήσεως θεσπεσίας αἰεὶ τε περὶ ταῦτα στενολεσχούντες οὔτε πείθονται ὑπὸ σφῶν οὔτε ἄλλως μεταμανθάνουσι τὰ προεγνωσμένα, ὅποια ἅττα καὶ τύχοιεν ὄντα. ἔχονται δὲ διὰ παντὸς τῶν αὐτῶν οἱ αὐτοὶ καὶ τελευτῶντες τῆς φιλονεικίας χαλεπαίνουσι κατ’ ἀλλήλων καὶ ἀναφανδὸν διαλοιδροῦνται, φωνὰς ἀσχήμονας ἀφιέντες, ὡς περ ἐν κύβοις διαμαχόμενοι. Agathias, *H.* 2.29.2–5.

³ κοινὸν ἄθυρμα. Agathias, *H.* 2.29.8. ἡπίστατο, ὅπως χρῆ... ἀντιφέρεσθαι τὰ εἰκότα. 2.29.6. The translation here is guided by J. D. Frendo, *Agathias: The Histories, Translated with an Introduction and Short Explanatory Notes* (Berlin, 1975), p.64. For the dinner-party context of Agathias’ poetry, see: Agathias, *Ep.* 1 = *AP* 4.3; S. D. Smith, “Classical Culture, Domestic Space and Imperial Vision in the Cycle of Agathias,” *Spaces in Late Antiquity: Cultural, Theological and Archaeological Perspectives*, eds. J. Day, R. Hakola, M. Kahlos & U. Tervahauta (London, 2016), pp.32–47; S. D. Smith, *Greek Epigram and Byzantine Culture: Gender, Desire, and Denial in the Age of Justinian* (Cambridge, 2019), pp.1–3. For other ‘false intellectuals’ in Agathias’ poems, see Ortega Villaro, “Some Characteristics,” p.284, and additionally Agathias, *Ep.* 13, 95–97 = *AP* 11.376, 11.354, 11.382, 11.365.

debate', in qualitative distinction from arguing over dice, reflects Agathias' position in a public intellectual culture where both ideas themselves and the right way of discussing those ideas were debated.⁴ In this 'emperor's city', next to the offices where lawyers toiled at their own arguments, Constantinopolitans self-consciously embroiled themselves in open debate.⁵ This is a study of how they did so.

I: What?

I.A: Questions

This study concerns the tactical processes of political debate: *how* Romans in the age of Justinian debated, in addition to *what* they debated. This question is predicated on the tactical nature of the evidence. As this introduction will discuss, modern scholarly access to sixth-century debates is refracted through literary sources partly composed to advance their authors' strategic interests in those same debates. Agathias' invective against Uranius demonstrates that the sphere of legitimate debate could be constructed or expanded as it suited. Ideological assumptions and limits on permissible speech kept other topics and individuals from the debating table. To understand how sixth-century Romans debated, therefore, further questions about who debated, how and by whom the terms of debate were set, and what other pressures acted on the field of debate must be answered.

I.B: Defining Debate

In a rare conceptual discussion of medieval debate, de Jong and van Renswoude suggest that a culturally specific study should 'accord with the... vocabulary of our... sources'.⁶ This

⁴ Compare Thucydides' Mytilenean debate, which is 'as much about how to conduct debate in the *ekklesia* as about the fate of Mytilene': A. W. Gomme, *A Historical Commentary on Thucydides, Volume 2: The Ten Years' War, Books II–III* (Oxford, 1956), p.315. For the context of dice-playing, see CJ 1.4.25, 3.43.1; R. Meijering, "Anatolius and Peter of Cardona on Sports and *Sportulae*: C. 3.10.2 and 3.43.1," SG 6 (1999), pp.77–90; S. Corcoran, "After Krüger: Observations on Some Additional or Revised Justinian Code Headings and Subscripts," ZSSR 126 (2013), p.428; S. Bond, Review of B. W. Frier, *The Codex of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text*, *Classical Review* 68 (2018), p.121.

⁵ For law offices in the Stoa Basileios, see: Agathias, *H.* 3.1.4; Procopius, *Buildings* 1.11.12; G. Downey, "The Architectural Significance of the Use of the Words *Stoa* and *Basilike* in Classical Literature," *AJA* 41 (1937), pp.204–5; Frenzo, "Agathias' View," p.104.

⁶ M. de Jong & I. van Renswoude, "Carolingian Cultures of Dialogue, Debate and Disputation," *EME* 25 (2017), p.15.

approach does not, in fact, capture ‘how the disputants themselves perceived the activity they engaged in’ – only how they chose to represent it.⁷ As feminist critics of the theorist Jürgen Habermas have repeatedly argued, debate can be defined in ways that exclude certain modes of speech and therefore certain groups from legitimate public discourse.⁸ Agathias knew as much:

‘Uranius did not know how a rational debate should be conducted. By one moment opposing the first principle of an inquiry, and the next questioning the motives of a question raised before he responded to it, he did not allow the discussion to proceed in good order. Instead, he confounded any clarity and frightened away any conclusions.’⁹

The *Histories* embeds a model of ‘rational debate’ that may be extracted by developing this negative. For Agathias, debate must work ‘in good order’ from first principles, through a Socratic question-and-answer method, towards ‘clarity’ and ‘conclusions’. It is a collaborative act of problem-solving governed by fixed hermeneutic rules that preclude tactical uses of discourse.¹⁰

Agathias’ definition of debate, however, is a tactical use of discourse in its own right. The *Dialogue on Political Science* had recently used these same hermeneutics to rationalise a traditionalist constitution for the Roman state, to the particular advantage of a *paideia*-bearing aristocracy.¹¹ Agathias enacts and protects similar cultural affiliations. He rejects

⁷ Ibid. p.16.

⁸ Against J. Habermas, *Strukturwandel der Öffentlichkeit: Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft* (Frankfurt am Main, 1990), see: S. Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (Cambridge, 1992), especially pp.7–14; I. M. Young, *Justice and the Politics of Difference* (Princeton, NJ, 1990), especially pp.119–21. Against J. Habermas, *Theorie des kommunikativen Handelns* (Frankfurt am Main, 1981), see I. M. Young, “Communication and the Other: Beyond Deliberative Democracy,” *Democracy and Difference: Contesting the Boundaries of the Political*, ed. S. Benhabib (Princeton, NJ, 1996), pp.120–36; J. Squires, “In Different Voices: Deliberative Democracy and Aestheticist Politics,” *The Politics of Postmodernity*, eds. J. Good & I. Velody (Cambridge, 1998), pp.126–46. For further helpful discussion, see: M. Fleming, “Women and the ‘Public Use of Reason,’” *Feminists Read Habermas: Gendering the Subject of Discourse*, ed. J. Meehan (London, 1995), pp.117–38; L. McLaughlin, “Feminism and the Political Economy of Transnational Public Space,” *After Habermas: New Perspectives on the Public Sphere*, eds. N. Crossley & J. M. Roberts (Oxford, 2004), pp.160–61; M. Warner, *Publics and Counterpublics* (New York, NY, 2002).

⁹ ὁ Οὐράνιος... οὐδὲ ἠπίστατο, ὅπως χρῆ... ἀντιφέρεσθαι τὰ εἰκότα· ὅμως νῦν μὲν τῇ πρώτῃ θέσει τῶν πεύσεων ἐναντιούμενος, νῦν δὲ πρὶν ἀποκρίνασθαι ἀντερωτῶν τὰς αἰτίας τῶν προβλημάτων, οὐ ξυνεχώρει ἐν κόσμῳ ἰέναι τὸν λόγον, ἀλλὰ διετάραττε τὸ σαφὲς καὶ τὴν εὐρεσιν ἀνεσόβει. Agathias, *H.* 2.29.6.

¹⁰ On fixed rules and tactical possibilities, see: C. Kelly, *Ruling the Later Roman Empire* (Cambridge, MA, 2006), pp.229–30; J. Harries, *Law and Empire in Late Antiquity* (Cambridge, 1999), pp.27–31, 213.

¹¹ L. S. B. MacCoull, “Menas and Thomas: Notes on the *Dialogus de Scientia Politica*,” *GRBS* 46 (2006), pp.302, 311; P. N. Bell, *Three “Political Voices” from the Age of Justinian* (Liverpool, 2009), pp.49–79. *Paideia* denotes education in and cultural allegiance to the classics: E. Watts, *City and School in Late Antique Athens and Alexandria* (Berkeley, CA, 2006), pp.1–23. See further: W. Jaeger, *Paideia: Die Formung des griechischen Menschen* (Berlin, 1973); P. Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire*

Uranius' irrational argumentation as based on 'the most minimal, scattered impression' of classical philosophy and therefore only capable of 'deceiving and misleading men who had no share in *paideia* at all'.¹² Beneath an apparently dispassionate narrative, his message is that such men were intruders in the legitimate domain of 'rational debate'.¹³

This study is concerned with the actual practice of late Roman debates. This did not always conform to late Roman *conceptions* of debate. Agathias complains that Uranius and his circle were unwilling to be persuaded, since 'the same men cling continually to the same views'. Yet debates are routinely performative, rarely predicated on the possibility of convincing a direct opponent. The Nestorian who engages in a set-piece disputation with the emperor in Constantinople, like the Labour leader who debates a Conservative Prime Minister on national television, does not realistically expect to change his interlocutor's mind.¹⁴ Instead, he aims to convert his interlocutors' supporters, to convince undecided observers, or to intensify existing bases of support by performing the act of debate. Siniosoglou frames these goals as an 'interest... in winning, not persuading', but the distinction is really about targets.¹⁵ 'Winning' simply involves 'persuading' third-party audiences. The performative nature of debate demands an inquiry into a broader set of tactical choices, like the manipulation or undermining of opposing arguments, than those permitted under Agathias' terms.

As Siniosoglou points out, such 'strategic' or tactical uses of discourse are incompatible with the Habermasian conception of debate as a consensus-building exercise of public communicative reason.¹⁶ Many historians have used Habermas to theorise

(Madison, WI, 1992), pp.35–70; M. S. Bjornlie, *Politics and Tradition between Rome, Ravenna and Constantinople: A Study of Cassiodorus and the Variae* (Cambridge, 2013), pp.49–53.

¹² ἀπομάξαθαι σποράδην καὶ ἐλάχιστον / τοὺς οὐδαμῶς παιδείας μετελιηχότας ἔξαπατᾶν... καὶ παράγειν. Agathias, *H.* 2.29.7.

¹³ Agathias, *H.* pr.1–9, 16–20; A. Kaldellis, "Agathias on History and Poetry," *GRBS* 38 (1997), pp.295–305.

¹⁴ For Paul of Nisibis's debate with Justinian, see: S. P. Brock, "A Monothelete Florilegium in Syriac," *After Chalcedon: Studies in Theology and Church History Offered to Professor Albert van Roey for his Seventieth Birthday*, eds. C. Laga, J. A. Munitiz & L. van Rompay (Leuven, 1985), pp.35–42; A. Guillaumont, "Un colloque entre orthodoxes et théologiens nestoriens de Perse sous Justinien," *Académie des Inscriptions et Belles-Lettres: Comptes Rendus* 114 (1970), pp.201–7; Averil Cameron, "Can Christians Do Dialogue?," *SP* 63 (2013), p.115.

¹⁵ N. Siniosoglou, "Plato Christianus: The Colonisation of Plato in Late Antiquity," *Pseudologie: études sur la fausseté dans la langue et dans la pensée*, ed. P. Hummel (Paris, 2010), p.168.

¹⁶ *strategisches*. Habermas, *Theorie des kommunikativen Handelns*, vol.1, p.384; Siniosoglou, "Plato Christianus," pp.168–69. Overview and discussion: J. M. Roberts & N. Crossley, "Introduction," *After Habermas: New Perspectives on the Public Sphere*, eds. N. Crossley & J. M. Roberts (Oxford, 2004), pp.5–11; M. E. Gardiner, "Wild Publics and Grotesque Symposiums: Habermas and Bakhtin on Dialogue, Everyday Life and the Public Sphere," *After Habermas: New Perspectives on the Public Sphere*, eds. N. Crossley & J. M. Roberts (Oxford, 2004), pp.28–48; N. Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of

premodern intellectual cultures.¹⁷ However, Habermasian theory is simply not an historical tool. It offers an ‘idealization’ against which the ‘quality of actually existing public communicative practices’ may be judged.¹⁸ To study ‘actually existing’ patterns of debate without judging their quality, a broad and unidealised definition of debate borrowed neither from ancient sources nor Habermasian theory is required.¹⁹

Here, political debate is the use and counter-use of discourse for political ends. This definition captures the fundamental qualities of debate as a form of discourse (rather than a set-piece event) while embedding as few assumptions as possible. Debate is dialogic and oppositional but requires no particular techniques, purposes, or media. Debates can take place ‘face-to-face’ or ‘through a written exchange of arguments’ (and in other kinds of texts besides).²⁰ Debaters can aim at rational persuasion or at misrepresentation and incitement. They further may be subject to any symmetrical or asymmetrical distribution of power.²¹ State propaganda campaigns, for example, may participate in debates so long as they respond to or are responded to by other discursive acts. This is a broad study of tactical discourse.

I.C: Setting Parameters

The sources determine this study’s geographical and temporal scope. Though sixth-century political debates were legible in and involved men from the provinces, the texts that contributed most significantly to those debates were all produced in Constantinople, so this study concerns the political culture of the capital. The temporal parameters are defined by

Actually Existing Democracy,” *Postmodernism and the Re-Reading of Modernity*, eds. F. Barker, P. Hulme & M. Iversen (Manchester, 1992), pp.197–231.

¹⁷ Examples: L. Melve, *Inventing the Public Sphere: The Public Debate during the Investiture Contest (c.1030–1122)* (Leiden, 2007); L. Melve, “‘Even the Very Laymen Are Chattering about It’: The Politicization of Public Opinion, 800–1200,” *Viator* 44 (2013), pp.25–48; D. Lawton, *Voice in Later Medieval English Literature: Public Interiorities* (Oxford, 2017), pp.66–78; S. N. Eisenstadt & W. Schluchter, “Paths to Early Modernities: A Comparative View,” *Public Spheres and Collective Identities*, eds. S. N. Eisenstadt, W. Schluchter & B. Wittrock (Abingdon, 2017), pp.1–18; C. L. Novetzke, “Religion and the Public Sphere in Premodern India,” *Asiatische Studien* 72 (2018), pp.147–76. Discussion: Habermas, *Strukturwandel der Öffentlichkeit*, p.51; E. Noelle-Neumann, *The Spiral of Silence: Public Opinion – Our Social Skin* (Chicago, IL, 1993), pp.58–69; A. Pinter, “Public Sphere and History: Historians’ Response to Habermas on the ‘Worth’ of the Past,” *JCI* 28 (2004), pp.217–32.

¹⁸ L. Dahlberg, “The Habermasian Public Sphere: Taking Difference Seriously?,” *T&S* 34 (2005), p.130.

¹⁹ de Jong & van Renswoude, “Carolingian Cultures,” pp.14–15.

²⁰ *Ibid.* p.14.

²¹ C. Mouffe, *The Democratic Paradox* (London, 2000); Dahlberg, “Habermasian Public Sphere,” pp.121–25.

the needs of an intellectual history.²² They open with Zosimus, the early sixth-century historian to whose political ideas Justinian's early propaganda catered. They close with Corippus and Agathias, the post-Justinianic poets who navigated the fractious legacies of the period's debates. The "age of Justinian" therefore simply signifies the 'Justinianic intellectual milieu' during which Justinian, as the emperor in a monarchic polity, was 'at the nexus' of political debate.²³ Any other assumptions embedded in the phrase, concerning the self-conscious uniqueness of Justinian's reign or its historical position bridging ancient Rome and medieval Byzantium, should be disavowed.²⁴

II: Why (and Why Now)?

Few avenues for inquiry into a society's political, social, and intellectual life offer a better return-on-investment than the study of how its inhabitants debated. Since debates are not purely rational and freestanding sociolinguistic constructs, whatever Agathias' pretensions, their study concerns not just contentious issues but also the 'power of words'.²⁵ Words tend to be spoken, heard, written, and read near other words, in material and spatial environments, and under the distorting operation of power, so the study of political debate is simultaneously a study of an historically specific political culture.²⁶ Debates are shaped by socially and politically enforced limits on acceptable content, by cultural rules of

²² Following: Bjornlie, *Politics and Tradition*, p.85; M. Kruse, *The Politics of Roman Memory: From the Fall of the Western Empire to the Age of Justinian* (Philadelphia, PA, 2020), p.24.

²³ Kruse, *Politics*, pp.9, 29.

²⁴ On uniqueness: T. Honoré, *Tribonian* (London, 1978), p.16; A. Kaldellis, *Procopius of Caesarea: Tyranny, History, and Philosophy at the End of Antiquity* (Philadelphia, PA, 2004), p.2; C. Pazdernik, "Justinianic Ideology and the Power of the Past," *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), p.191; G. Greatrex, "Perceptions of Procopius in Recent Scholarship," *Histos* 8 (2014), pp.84–95. On periodisation and Roman identity: M. Maas, "Roman Questions, Byzantine Answers: Contours of the Age of Justinian," *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.3–27; Y. Stouraitis, "Roman Identity in Byzantium: A Critical Approach," *BZ* 104 (2014), pp.175–220; A. Kaldellis, *Romanland: Ethnicity and Empire in Byzantium* (Cambridge, MA, 2019); P. Theodoropoulos, "Did the Byzantines Call Themselves Byzantines? Elements of Eastern Roman Identity in the Imperial Discourse of the Seventh Century," *BMGS* 45 (2021), pp.1–17.

²⁵ R. Lim, *Public Disputation, Power, and Social Order in Late Antiquity* (Berkeley, CA, 1995), p.231.

²⁶ On political culture: R. P. Formisano, "The Concept of Political Culture," *JIH* 31 (2001), pp.393–426; G. Almond & S. Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Princeton, NJ, 1963); S. Chilton, "Defining Political Culture," *WPQ* 41 (1988), pp.419–45; S. Welch, *The Concept of Political Culture* (Basingstoke, 1993). On ancient political culture: K.-J. Hölkesskamp, *Reconstructing the Roman Republic: An Ancient Political Culture and Modern Research* trans. H. Heitmann-Gordon (Princeton, NJ, 2010), pp.56–75; R. Payne, *A State of Mixture: Christians, Zoroastrians and Iranian Political Culture in Late Antiquity* (Berkeley, CA, 2013).

engagement, and by the accessibility of public platforms from which meaningful participation is viable. In turn, these phenomena are determined by the distribution of power and of the means of discursive production. Political actors make tactical choices rooted in their analysis of how best to achieve strategic goals in their political culture. To ask how a political culture debated is to shine a light on all these political, social, and intellectual operations at once.

The conditions for this study have only recently been generated. For much of its life as an object of historical inquiry, Justinian's Constantinople has been represented as a political culture where debate did not take place on the basis of two competing logics, one "narrow" and one "closed". The recent dissolution of these logics, under a more nuanced conceptualisation of imperial power, invites the specific questions about open debate that this study addresses.

II.A: A Narrow Political Culture

Justinian pursued a 'Christian vision of Roman autocracy'.²⁷ According to early studies of sixth-century political thought, his subjects approved of this vision and its implementation, and otherwise 'took for granted' their 'scheme of social and political order'.²⁸ This organically narrow model precludes any oppositional dialogue, any debate about ideas. When it encounters the problem of critics like Procopius, who composed an unpublished invective against Justinian, it assimilates them to an ideological framework shared with those 'naïve yes-men' who proliferated around the emperor:²⁹

²⁷ Maas, "Roman Questions," p.22. See also P. Maraval, *Justinien: le rêve d'un empire chrétien universel* (Paris, 2016).

²⁸ E. Barker, *Social and Political Thought in Byzantium from Justinian I to the Last Palaeologus: Passages from Byzantine Writers and Documents* (Oxford, 1957), pp.19–20. Also: F. Dvornik, *Early Christian and Byzantine Political Philosophy: Origins and Background* (Washington, D. C., 1966), pp.837–39; C. A. Mango, *Byzantium: The Empire of New Rome* (New York, NY, 1980), pp.149–230; B. Rubin, *Das Zeitalter Iustinians* (Berlin, 1960), p.145; D. M. Nicol, "Byzantine Political Thought," *The Cambridge History of Medieval Political Thought, c.350–c.1450*, ed. J. H. Burns (Cambridge, 1988), pp.51–53; M. V. Anastos, *Studies in Byzantine Intellectual History* (London, 1979); M. V. Anastos, *Aspects of the Mind of Byzantium: Political Theory, Theology, and Ecclesiastical Relations with the See of Rome* (London, 2001). For an honourable exception, see H.-G. Beck, *Res Publica Romana: Vom Staatsdenken der Byzantiner* (Munich, 1970); H.-G. Beck, *Das byzantinische Jahrtausend* (Munich, 1978), with discussion at A. Kaldellis, *The Byzantine Republic: People and Power in New Rome* (Cambridge, MA, 2015), pp.ix–7.

²⁹ *naive Jasager*. Rubin, *Das Zeitalter Iustinians*, p.168.

‘Procopius took a conservative, and therefore positive, approach to the imperial idea. He does not criticise the traditional political ideals. He merely refuses to accept the emperor Justinian as their appointed advocate.’³⁰

Averil Cameron’s foundational literary treatment of Procopius is a cornerstone of the narrow model. Her Procopius was a ‘conventional thinker’ whose apparent divergence from Justinian’s overtly Christianised imperial ideology merely results from his classicising generic constraints.³¹ Procopius’ conventionality was a product of Christianity’s ‘totalising discourse’, which entrenched narrow limits on sixth-century social and political imaginations.³² This picture recalls Dvornik’s earlier claim that ‘the whole Christian world in Justinian’s time believed in the same political philosophy as did the Emperor’, even if they did not write in the same register or agree that Justinian measured up to shared expectations.³³

II.B: A Closed Political Culture

As an heuristic, the identification of conventions enables the recognition of literary and rhetorical traditions in and on which Roman authors worked and the framework of ideological assumptions within which Roman politics took place.³⁴ It also, however, encourages the ‘persistent tendency to homogenize Byzantine society – politically, religiously, intellectually – and to subordinate individuals to normative ideas that allegedly exerted a stranglehold on the minds of the entire population’ against which the 2017 *Cambridge Intellectual History of Byzantium* is oriented.³⁵ The *History*’s immediate intellectual heritage is the oeuvre of co-editor Anthony Kaldellis, which maintains that sixth-century thinkers disagreed but did not debate. Debate implies open intellectual contest and is distinguishable in this way from other forms of political engagement like direct action,

³⁰ *Prokop stand der Kaiser- und Reichsidee konservativ und somit positiv gegenüber. Er kritisiert nicht die altüberlieferten politischen Ideale. Er weigert sich lediglich, Kaiser Justinian als ihren berufenen Verfechter anzuerkennen.* Ibid. p.173.

³¹ Averil Cameron, *Procopius and the Sixth Century* (London, 1985), p.266.

³² Averil Cameron, *Christianity and the Rhetoric of Empire: The Development of Christian Discourse* (Berkeley, CA, 1991). See also Averil Cameron, “Redrawing the Map: Early Christian Territory after Foucault,” *JRS* 76 (1986), pp.266–71, reviewing M. Foucault, *Le souci de soi* (Paris, 1984).

³³ Dvornik, *Political Philosophy*, p.838.

³⁴ I. Toth, “Modern Encounters with Byzantine Texts and their Reading Publics,” *Reading in the Byzantine Empire and Beyond*, eds. T. Shawcross & I. Toth (Cambridge, 2018), p.49; Kaldellis, *Procopius*, p.161.

³⁵ A. Kaldellis & N. Siniosoglou, “Introduction,” *The Cambridge Intellectual History of Byzantium*, eds. A. Kaldellis & N. Siniosoglou (Cambridge, 2017), p.18.

voting, organising, and so on.³⁶ Under a sufficiently wide and deep operation of power, ‘conventionality can be ascribed to necessity’ and fear or force may cause dissenters to express their views only to likeminded confidants.³⁷

Kaldellis reimagines Cameron’s conventional thinkers as Neoplatonists, crypto-pagans, and antimonarchists.³⁸ His project centres a on reading of Procopius as a Straussian ‘esoteric’ writer.³⁹ He identifies an intertextual network of ‘hidden transcripts’ and allusions, within the Procopian corpus and to the classical canon, which encodes Procopius’ dissent from the Christian-imperial logic of Justinian’s rule and critique of Justinian’s tyranny.⁴⁰ To decode this message, a reader must be attentive and deeply familiar with classical literature.⁴¹ These privileged readers exist beyond the hostile imperial court, in ‘dissident circles’ that swapped texts and ideas in secrecy.⁴² This is a model of ‘an underground opposition movement’ whose members engaged in dissidence but not in debate.⁴³

Many of Kaldellis’s specific interpretations have been rebutted. Most importantly, Procopius was not a pagan but a Christian disinterested in doctrinal questions and opposed to religious intolerance.⁴⁴ Nonetheless, Kaldellis’s model of Justinianic political culture as a

³⁶ On how ancient politics was conducted and understood, see: M. I. Finley, *Politics in the Ancient World* (Cambridge, 1983); D. Hammer, “What Is Politics in the Ancient World?,” *A Companion to Greek and Roman Political Thought*, ed. R. K. Balot (Chichester, 2009), pp.20–36, with extensive further bibliography.

³⁷ Kaldellis, *Procopius*, p.168.

³⁸ A. Kaldellis, “The Historical and Religious Views of Agathias: A Reinterpretation,” *Byzantion* 69 (1999), pp.206–52; “The Religion of Ioannes Lydos,” *Phoenix* 57 (2003), pp.300–16; “Republican Theory and Political Dissidence in Ioannes Lydos,” *BMGS* 29 (2005), pp.1–16; “The Works and Days of Hesychios the Illustrious of Miletos,” *GRBS* 45 (2005), pp.381–403; “The Making of Hagia Sophia and the Last Pagans of New Rome,” *JLA* 6 (2013), pp.347–66. Compare: Cameron, *Agathias*, pp.88–111; Cameron, *Procopius*, pp.247–52.

³⁹ Kaldellis, *Procopius*, pp.36–38, with L. Strauss, *Persecution and the Art of Writing* (Chicago, IL, 1988), pp.22–37, or L. Strauss, “Persecution and the Art of Writing,” *SR* 8 (1941), pp.488–504.

⁴⁰ Kaldellis, *Procopius*; A. Kaldellis, “Classicism, Barbarism, and Warfare: Prokopios and the Conservative Reaction to Later Roman Military Policy,” *AJAH* 3–4 (2004–2005), pp.189–218; “Prokopios’ *Persian War*: A Thematic and Literary Analysis,” *History as Literature in Byzantium: Papers from the Fortieth Spring Symposium of Byzantine Studies, University of Birmingham, April 2007*, ed. R. Macrides (Farnham, 2010), pp.253–73; “Procopius’ *Vandal War*: Thematic Trajectories and Hidden Transcripts,” *North Africa under Byzantium and Early Islam*, eds. S. T. Stevens & J. P. Conant (Washington, D. C., 2016), pp.13–22, with J. C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, CT, 1990).

⁴¹ Kaldellis, *Procopius*, pp.34–35.

⁴² A. Kaldellis, “Identifying Dissident Circles in Sixth-Century Byzantium: The Friendship of Prokopios and Ioannes Lydos,” *Florilegium* 21 (2004), pp.1–17.

⁴³ B. Croke, “The Search for Harmony in Procopius’ Literary Works,” *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), p.31. See also: F. M. Ahl, “The Art of Safe Criticism in Greece and Rome,” *AJP* 105 (1984), pp.174–208; F. M. Ahl, “The Rider and the Horse: Politics and Power in Roman Poetry from Horace to Statius,” *ANRW* 32 (1984), pp.40–125.

⁴⁴ S. Gador-Whyte, “Procopius and Justinian’s Propaganda,” *Basileia: Essays on Imperium and Culture in Honour of E. M. and M. J. Jeffreys*, eds. G. Nathan & L. Garland (Brisbane, 2011), pp.109–120. See also: M. A. Elferink, “ΤΥΧΗ et Dieu chez Procope de Césarée,” *Acta Classica* 10 (1967), pp.111–34; D. Brodka, *Die Geschichtsphilosophie in der spätantiken Historiographie* (Frankfurt am Main, 2004), pp.40–61; D. Brodka, “Prokopios von Kaisareia und die Abgarlegende,” *Eos* 100 (2013), pp.349–60.

closed intellectual space that brooked only indirect and subversive opposition has remained relatively popular.⁴⁵ Much response returns to the narrow model, denying Procopius' heterodoxies by framing Kaldellis's allusions as either too obscure to have been decoded or too obvious to have eluded the imperial authorities.⁴⁶ The latter position is more likely, since classical literature was integral to late Roman education and culture.⁴⁷ The former position encounters the difficulty that esoteric writing is by definition plausibly deniable.⁴⁸ Denying that any given piece of writing contains an esoteric message because its allusions are obscure may recursively support the original argument for its esotericism.⁴⁹ Since Kaldellis's argument depends simply on the accumulation of viable allusions, the debate about Procopius' esotericism is largely intractable.⁵⁰ It may be entirely circumvented simply by asking whether he really needed to conceal dissident politics from those in power.

II.C: Changing Conceptions of Imperial Power

The narrow and closed models depend on an overdeterminative understanding of imperial power. They diverge only with respect to *how* power suppressed debate. On the narrow model, power ideologically conditioned imperial subjects and prevented the rise of deliberative fora where new ideas could be generated.⁵¹ It therefore inculcated in its subjects one set of political ideas to the exclusion of alternatives. On the closed model, power was

⁴⁵ e.g. J. M. Gilmer, "Procopius of Caesarea: A Case Study in Imperial Criticism," *Byzantina Symmeikta* 23 (2013), pp.45–57; E. N. Boeck, *The Bronze Horseman of Justinian in Constantinople: The Cross-Cultural Biography of a Mediterranean Monument* (Cambridge, 2021), pp.72–97; A. Varghese, "Kaiserkritik in Two Kontakia of Romanos," *Byzantine Narrative: Papers in Honour of Roger Scott*, ed. J. Burke (Leiden, 2006), pp.393–403; P. N. Bell, *Social Conflict in the Age of Justinian: Its Nature, Management, and Mediation* (Oxford, 2013), pp.11–12.

⁴⁶ For the former position: Michael Whitby, "Procopian Polemics," *CR* 55 (2005), p.650; C. Pazdernik, Review of A. Kaldellis, *Procopius of Caesarea: Tyranny, History, and Philosophy at the End of Antiquity*, *HRNB* 33 (2004), p.36; Averil Cameron, Review of A. Kaldellis, *Procopius of Caesarea: Tyranny, History, and Philosophy at the End of Antiquity*, *AHR* 109 (2004), p.1621. For the latter position: Greatrex, "Perceptions," p.96 n.81.

⁴⁷ H. Marrou, *Histoire de l'éducation dans l'antiquité* (Paris, 1956), Part 3; T. Morgan, *Literate Education in the Hellenistic and Roman Worlds* (Cambridge, 1998); R. Webb, "The Progymnasmata as Practice," *Education in Greek and Roman Antiquity*, ed. Y. L. Too (Leiden, 2001), pp.289–316; Watts, *City and School*, pp.1–23.

⁴⁸ Strauss, *Persecution*, pp.26–27.

⁴⁹ For this and other critiques and defences of esoteric theory: S. Drury, *The Political Ideas of Leo Strauss* (New York, NY, 1988); M. Burnyeat, "Sphinx Without a Secret," *Explorations in Ancient and Modern Philosophy* (Cambridge, 2012), pp.289–304; J. Montgomery, "Leo Strauss and the Alethiometer," *Renaissance Averroism and its Aftermath: Arabic Philosophy in Early Modern Europe*, eds. A. Akasoï & G. Giglioni (Dordrecht, 2013), pp.285–320; A. Hirst, *Leo Strauss and the Invasion of Iraq: Encountering the Abyss* (London, 2013); A. M. Melzer, *Philosophy between the Lines: The Lost History of Esoteric Writing* (Chicago, IL, 2014).

⁵⁰ Kaldellis, *Procopius*, p.38.

⁵¹ Barker, *Social and Political Thought*, p.5; Rubin, *Das Zeitalter Iustiniens*, pp.140–68; Cameron, *Procopius*, p.244; Cameron, *Rhetoric of Empire*, pp.19–23, 120–23.

explicitly coercive, suppressing the expression rather than the formulation of alternatives. Esoteric writing is specific to dominated ‘climate[s] of persecution’, designed to reach a public audience without running the risk of ‘capital punishment’ that came with public speech.⁵² Kaldellis applies this theory contextually, framing classicism as the cultural code that defined Strauss’s ‘trustworthy and intelligent readers’ for Procopius, but still requires dissidence to be perilous.⁵³ Procopius indeed claims that loose-tongued dissidents would find it ‘impossible either to escape the notice of the mass of spies or to avoid suffering the most miserable death once discovered’.⁵⁴ Much modern scholarship takes cues from this statement, comparing Justinianic political life to Soviet and Nazi totalitarianisms far more often than to conventionally debate-friendly liberal democracies.⁵⁵ Yet Procopius is not always to be taken at his word, despite Justinian’s apparent record of removing inconvenient political figures under the cover of religious persecution.⁵⁶

The political possibilities open to late antique emperors were, in reality, constrained. The old view that ‘both in the theory and in the practice of the constitution the emperor’s powers were absolute’ relies on an unduly constitutionalist outlook, privileging the legal principle that ‘what satisfies the emperor has the force of law’ over the extent to which any emperor could actually exercise his prerogative.⁵⁷ Over the last decade, there has been a ‘remarkable evolution in [scholarly understandings of] imperial power’ as close attention to historical patterns has drawn its horizons inwards.⁵⁸ Late Roman emperors, Justinian in particular, occupied highly contingent positions.⁵⁹ They continually negotiated and renegotiated their stations, operating with powerful, sacred symbolisms that sustained the

⁵² Strauss, *Persecution*, p.25.

⁵³ *Ibid.*; Kaldellis, *Procopius*, pp.103–4, 168; A. Kaldellis, “How Perilous Was It to Write Political History in Late Antiquity?,” *SLA* 1 (2017), pp.38–64.

⁵⁴ οὔτε γὰρ διαλαθεῖν πλήθη κατασκόπων οἶον τε ἦν οὔτε φωραθέντα μὴ ἀπολωλέναι θανάτῳ οἰκτίστῳ. Procopius, *SH* 1.2.

⁵⁵ e.g. Honoré, *Tribonian*, pp.28–30; Mango, *Byzantium*, p.135; Bell, *Social Conflict*, pp.9–11, 272, 336; C. J. H. Hayes, “The Novelty of Totalitarianism in the History of Western Civilization,” *PAPS* 82 (1940), pp.91–93. Discussion: Maas, “Roman Questions,” p.7; Greatrex, “Perceptions,” pp.82–83; S. Turlej, *Justiniana Prima: An Underestimated Aspect of Justinian’s Church Policy* trans. A. Sosenko (Kracow, 2016), p.10.

⁵⁶ See below, 1.IV.C and 4.III.

⁵⁷ A. H. M. Jones, *The Later Roman Empire, 284–602: A Social, Economic and Administrative Survey* (Oxford, 1964), p.321. *quod principi placuit, legis habet vigorem*. J. *Digest* 1.4.1.

⁵⁸ G. Greatrex, “The Emperor, the People and Urban Violence in the Fifth and Sixth Centuries,” *Religious Violence in the Ancient World: From Classical Athens to Late Antiquity*, eds. J. Dijkstra & C. Raschle (Cambridge, 2020), p.390. See also Kaldellis, *Byzantine Republic*, pp.2–6.

⁵⁹ M. Meier, *Das andere Zeitalter Justinians: Kontingenzerfahrung und Kontingenzbewältigung im 6. Jahrhundert n. Chr.* (Göttingen, 2003).

imperial office but not necessarily its inhabitants.⁶⁰ Constantinople's walls, thanks to the newly 'sedentary nature' of imperial rule, afforded greater protection from the traditional usurpatory threat of the military but simultaneously empowered various urban 'interest groups'.⁶¹ Rulers depended on their continued 'acceptance' by these Constantinopolitan groups and therefore performed delicate balancing acts between competing demands 'on all sides... that could hardly all be met'.⁶² Under this inverted theorisation of imperial power, emperors were 'subject to vigorous lobbying' and, therefore, ideas about the 'suppression of dissent [are] misplaced'.⁶³ The quotidian effect of imperial power was not to prevent debate on either narrow or closed terms. In fact, since emperors had to meet the expectations of a critical mass of subjects, weighted according to the distribution of political power, performative engagements in debates that might shape these subjects' ideas were all the more important.

II.D: An Open Political Culture

The conclusion that a given historical culture did not debate can only rest on an empirical assessment of the forms of political communication that actually occurred. Configured in certain ways, debates play integral roles in sustaining even authoritarian regimes, so an absence of debate cannot be inferred from an analysis of political or governmental structures.⁶⁴ Investigations of political cultures must be founded on an *a priori* openness to

⁶⁰ G. Dagron, *Empereur et prêtre: étude sur le "césaropapisme" byzantin* (Paris, 1996); G. Dagron, *L'hippodrome de Constantinople: jeux, peuple et politique* (Paris, 2011); Kaldellis, *Byzantine Republic*, p.6. Contrast: M. P. Canepa, *The Two Eyes of the Earth: Art and Ritual of Kingship between Rome and Sasanian Iran* (Berkeley, CA, 2009), p.102; M. Meier, "Liturgification and Hyper-Sacralization: The Declining Importance of Imperial Piety in Constantinople between the Sixth and Seventh Centuries A.D.," *The Body of the King: The Staging of the Body of the Institutional Leader from Antiquity to the Middle Ages in East and West*, eds. G.-B. Lanfranchi & R. Rollinger (Padova, 2016), p.230.

⁶¹ Greatrex, "Emperor, People, Urban Violence," p.389. See also: R. Pfeilschifter, *Der Kaiser und Konstantinopel: Kommunikation und Konfliktaustrag in einer spätantiken Metropole* (Berlin, 2013); J. Szidat, *Usurpator tanti nominis: Kaiser und Usurpator in der Spätantike (337–476 n. Chr.)* (Stuttgart, 2010); A. Omissi, *Emperors and Usurpers in the Later Roman Empire: Civil War, Panegyric, and the Construction of Legitimacy* (Oxford, 2018). On Justinian's sedentariness: B. Croke, "Justinian's Constantinople," *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), p.60; B. Croke, "Justinian the 'Sleepless Emperor,'" *Basileia: Essays on Imperium and Culture in Honour of E. M. and M. J. Jeffreys*, eds. G. Nathan & L. Garland (Brisbane, 2011), p.103.

⁶² Akzeptanz. Pfeilschifter, *Kaiser und Konstantinopel*, pp.1–40; Greatrex, "Emperor, People, Urban Violence," p.395.

⁶³ Greatrex, "Emperor, People, Urban Violence," p.401. Contrast D. Džino & R. W. Strickler, eds., *Dissidence and Persecution in Byzantium: From Constantine to Michael Psellos* (Leiden, 2022).

⁶⁴ I. W. Zartman, "Opposition as Support of the State," *The Arab State*, ed. A. Luciani (London, 1990), pp.220–46; H. Albrecht, "How Can Opposition Support Authoritarianism? Lessons from Egypt," *Democratization* 12 (2005), pp.378–97.

the possibility of active debate. There is accordingly *prima facie* evidence that Justinian's subjects debated in ways unaccounted for by the narrow and closed models. In 537, Justinian issued *Novel* 60, a rescript restricting the aggressive collection of debts from the terminally ill. It opens with a measured response to the emperor's critics:

‘Those who aim at the truth of matters would not easily turn to criticism if they examined true facts, for it is a fair assertion that some men find fault with the great number of laws promulgated daily by us without considering that we are compelled by necessity’s call always to make the law agree with circumstances.’⁶⁵

Where the narrow model describes critics who shared their political ideals with the régime, *Novel* 60 reveals that their ideological conceptions of Justinian's legislative authority were fundamentally different. Where the closed model insists that criticism could not be expressed within imperial earshot, *Novel* 60 reveals that it was registered at court but met only a reasoned rebuttal. On a performative understanding of debate, this rebuttal targeted not vocal critics themselves but a broader audience whose expectations of imperial policy might be affected by exposure to oppositional views.

Novel 60 was not an aberration; parallels abound. Procopius' graphic polemic may have been beyond the limits of literary society's public tastes but his *Wars* was both the period's most influential literary work and an openly oppositional text. It criticises Justinian's foreign and domestic policy, advocates a more conservative conception of the imperial role, and possibly suggests how an assassination might be attempted.⁶⁶ Procopius himself describes the *Wars* as a critical account of Justinian's military failures.⁶⁷ He is one of several contemporary writers to offer eulogies and starring roles to the victims of Justinian's persecutions, hardly the behaviour of writers who feared a similar fate.⁶⁸ Meanwhile,

⁶⁵ οἱ τῆς ἀληθείας τῶν πραγμάτων ἐστοχασμένοι οὐκ ἂν ῥαδίως εἰς μέμψεις χωροῖεν, εἰ τάληθῆ κατεξετάζοιεν. τινὰς γὰρ εἰκὸς τῷ πλήθει τῶν νόμων τῶν καθ' ἐκάστην παρ' ἡμῶν προτιθεμένων ἐπιμέμφεσθαι, οὐκ ἐννοῦντας, ὅτι τῆς χρείας ἀεὶ καλοῦσης συμφώνους τοῖς πράγμασι τιθέναι νόμους ἀναγκαζόμεθα. J. *Nov.* 60.pr.

⁶⁶ For open criticism, see: Procopius, *Wars* 1.25.33–34, 5.3.6–9, 7.35.11, 7.36.6, 7.37.24–26, 8.13.14, 8.26.7; J. Signes Codoñer, “Kaiserkritik in Prokops Kriegsgeschichte,” *Freedom and its Limits in the Ancient World: Proceedings of a Colloquium Held at the Jagiellonian University, Kraków, September 2003*, ed. D. Brodka (Cracow, 2003), pp.215–29. For the assassination advice, see: J. D. Frendo, “Three Authors in Search of a Reader: An Approach to the Analysis of Direct Discourse in Procopius, Agathias and Theophylact Simocatta,” *Novum Millennium: Studies on Byzantine History and Culture Dedicated to Paul Speck, 19 December 1999*, eds. C. Sole & S. Takács (Aldershot, 2001), pp.125–35; Kaldellis, *Procopius*, pp.163–64; Greatrex, “Perceptions,” p.86 n.38.

⁶⁷ Procopius, *SH* 11.11.

⁶⁸ See below, 1.II–IV and 4.I.

Justinian's theological opponents expressly rebuked him in published literature and personal letters sent directly to court.⁶⁹ Public theological disputations were common. Even on the narrow thesis that they were 'authoritarian' set-pieces producing 'fixed responses', rather than occasions of 'genuine religious debate', their sloganeering still filtered into less formal public discourse.⁷⁰ Disputations are the obvious source for the 'clichéd buzzwords about the Almighty, like how to define its nature and essence', that Uranius' circle 'repeats' in the *Histories*.⁷¹ As far as Justinian was concerned, these questions had been comprehensively settled by imperial edicts.⁷² In practice, if the sources are approached with an *a priori* openness to the possibility of debate, this capacity of imperial power to quell debate into political and religious conformity dissolves. In its place emerges the broad freedom of imperial subjects to exchange views with each other, to voice criticism, and to apply pressure to the régime.

The range of openly debated issues was extensive. Even Uranius' theological and philosophical debates were, for Agathias, proxies for more political debates.⁷³ In a period of intermittent war and tribute arrangements with Persia, Agathias alleges that Uranius used his pseudo-philosophical performances to 'persuade most people that [Khusro I, the Persian king] was an exceedingly learned man'.⁷⁴ He then directly connects the average

⁶⁹ On the Miaphysite side, note John Philoponus' letter to Justinian: G. Furlani, "Una lettera di Giovanni Filopono all'imperatore Giustiniano," *ARIV* 79 (1919–1920), pp.1247–65; L. S. B. MacCoull, "Philoponus' Letter to Justinian (CPG 7264)," *Byzantion* 73 (2003), pp.390–400; U. M. Lang, "John Philoponus and the Fifth Ecumenical Council: A Study and Translation of the *Letter to Justinian*," *AHC* 37 (2005), pp.411–36. On the "stricter" Chalcedonian side, note Facundus, *In Defence of the Three Chapters* 12.3 = *PL* 67.838c; M. Maas, *Exegesis and Empire in the Early Byzantine Mediterranean: Junillus Africanus and the Instituta Regularia Divinae Legis* (Tübingen, 2003), pp.63–64; Bell, *Social Conflict*, p.207; R. Eno, "Doctrinal Authority in the African Ecclesiology of the Sixth Century: Ferrandus and Facundus," *REA* 22 (1976), pp.95–113. Contrast M. V. Anastos, "Justinian's Despotism Control of the Church as Illustrated by his Edicts on the Theopaschite Formula and his Letter to Pope John II in 533," *Studies in Byzantine Intellectual History* (London, 1979), p.2.

⁷⁰ The narrow thesis: S. Goldhill, "Introduction: Why Don't Christians Do Dialogue?," *The End of Dialogue in Antiquity*, ed. S. Goldhill (Cambridge, 2008), pp.5–8; Lim, *Public Disputation*. The counter-argument: Averil Cameron, *Dialoguing in Late Antiquity* (Washington, D. C., 2014), p.29.

⁷¹ τὰ εἰθισμένα ῥημάτια τοῦ κρείττονος περὶ ἀνακυκλῶντας, ὁποῖον δὴ τι αὐτοῖς ἢ τε φύσις ἐστὶ καὶ ἡ οὐσία. Agathias, *H.* 2.29.2.

⁷² e.g. Justinian, *On the Right Faith*; *J. Nov.* 132. See further A. Grillmeier, *Christ in Christian Tradition 2: From the Council of Chalcedon (451) to Gregory the Great (590–604). Part 2: The Church of Constantinople in the Sixth Century* trans. J. Cawte & P. Allen (London, 1995), pp.389–407, 422–27.

⁷³ On the politics of orthodoxy, see: P. Allen, "The Definition and Enforcement of Orthodoxy," *The Cambridge Ancient History 14: Late Antiquity: Empire and Successors, A.D. 425–600*, eds. Averil Cameron, B. Ward-Perkins & Michael Whitby (Cambridge, 2001), pp.811–34; C. Humfress, *Orthodoxy and the Courts in Late Antiquity* (Oxford, 2007); S. Roggo, "The Deposition of Patriarch Eutychius of Constantinople in 565 and the Aphthartodocetic Edict of Justinian," *Byzantion* 89 (2019), pp.433–46.

⁷⁴ ἔπεισε τοὺς πολλοὺς, ὡς εἶη σφόδρα πεπαιδευμένος. Agathias, *H.* 2.32.3. For Uranius' relationship to Khusro: *H.* 2.29–32.1; Blockley, "Doctors as Diplomats," pp.89–100; Frendo, "Agathias' View," pp.97–110. For the wars and tributes: G. Greatrex & S. N. C. Lieu, *The Roman Eastern Frontier and the Persian Wars, AD 363–*

Constantinopolitan's views on Persia and Roman foreign policy to their impression of Uranius' intellectual authority.⁷⁵

Over the last decade, scholars have delineated many debates taking place in full view of the régime, encouraged by and reciprocally encouraging the new conception of imperial power. These debates concerned an array of specific political, social, and religious issues.⁷⁶ This work has been guided by the principle that texts from the same time and place that express conflicting views on the same theme were contributing to a contemporary debate.⁷⁷ The *Cambridge Intellectual History* recommends 'assum[ing] that every idea or issue was the site of disagreement' and uncovering the 'relevant debate'.⁷⁸ As it turns out, in the rich literary record from Justinian's Constantinople, these debates are almost countless.

Shane Bjornlie's 2013 monograph offers the most detailed picture of Justinianic political culture as a vibrant, diverse, and adversarial intellectual space.⁷⁹ It is ostensibly a treatment of Cassiodorus' *Variae*, arguing that the text is not a documentary record but 'drew heavily upon themes of the political discourse of Constantinople' to justify the reintegration of the palatine élite of Ostrogothic Italy into the Roman state.⁸⁰ To support this claim, Bjornlie uses thematic concordances between contemporary texts to elucidate 'the obvious political drama' playing out between the régime and its traditionalist opponents in

628 2 (London, 2002); R. Payne, "Cosmology and the Expansion of the Iranian Empire, 502–628CE," *P&P* 220 (2013), pp.3–33.

⁷⁵ Agathias, *H.* 2.32.5.

⁷⁶ Roman identity and history: Kruse, *Politics*; M. Kruse, "A Justinianic Debate across Genres on the State of the Roman Republic," *Shifting Genres in Late Antiquity*, eds. G. Greatrex & H. Elton (Farnham, 2015), pp.233–46; G. Greatrex, "Procopius and the Past in Sixth-Century Constantinople," *RBPH* 96 (2018), pp.969–93; R. Praet, *From Rome to Constantinople: Antiquarian Echoes of Cultural Trauma in the Sixth Century*, Ph.D. dissertation (Rijksuniversiteit Groningen and Universiteit Gent, 2018). The Goths: R. Kasperski, "Jordanes versus Procopius of Caesarea: Considerations Concerning a Certain Historiographical Debate on How to Solve 'the Problem of the Goths,'" *Viator* 49 (2018), pp.1–23; R. Kasperski, "Too Civilized to Revert to Savages? A Study Concerning a Debate about the Goths between Procopius and Jordanes," *MJ* 5 (2015), pp.33–51. Constantine's legacy: M. S. Bjornlie, "Constantine in the Sixth Century," *The Life and Legacy of Constantine: Traditions through the Ages*, ed. M. S. Bjornlie (London, 2016), pp.92–114. Saints and miracles: M. Dal Santo, *Debating the Saints' Cult in the Age of Gregory the Great* (Oxford, 2012); A. Kaldellis, "The Hagiography of Doubt and Scepticism," *The Ashgate Research Companion to Byzantine Hagiography 2: Genres and Contexts*, ed. S. Efthymiadis (Farnham, 2014), pp.453–77. Wealth accumulation: Bell, *Three Political Voices*, pp.73–74, 107. See above all Bjornlie, *Politics and Tradition*, and also: D. Krallis, "Historiography as Political Debate," *The Cambridge Intellectual History of Byzantium*, eds. A. Kaldellis & N. Siniossoglou (Cambridge, 2017), pp.599–614; S. Esders, "Procopius of Caesarea, the *Lex Tricennalis*, and the 'Time of the Vandals': Historiography, Law, and Political Debate in Mid-Sixth-Century Constantinople," *EME* 27 (2019), pp.195–225.

⁷⁷ Bjornlie, *Politics and Tradition*, pp.83–84; Kruse, *Politics*, p.8.

⁷⁸ Kaldellis & Siniossoglou, "Introduction," p.20.

⁷⁹ Bjornlie, *Politics and Tradition*.

⁸⁰ *Ibid.* p.4. See also M. S. Bjornlie, "What Have Elephants to Do with Sixth-Century Politics? A Reappraisal of the 'Official' Governmental Dossier of Cassiodorus," *JLA* 2 (2009), pp.143–71. For Cassiodorus, see J. J. O'Donnell, *Cassiodorus* (Berkeley, CA, 1979).

the capital.⁸¹ For the dynamics of debate in Constantinople, his most significant contribution is to show that Cassiodorus tailored his *Variae* to the politics and ethics of Justinian's opponents. From this Italian's perspective, the capital was a site of political debates that *the emperor was not winning*.

The open model of Justinianic political culture now enjoys a consensus extending even to former proponents of other models. Repression and esotericism are absent from Kaldellis's 2015 study of Roman popular power.⁸² Cameron has explicitly revised her earlier positions, rejecting a late antique 'closing-in of horizons' in favour of 'making Byzantium a far more open society'.⁸³ The historiographical developments charted here are so well-founded that late Rome has formed the index case for the opening-up of other medieval political cultures.⁸⁴ These developments, however, raise further questions. It has been conclusively proven *that* sixth-century Romans debated and the catalogue of *what* they debated is expanding, but it remains to ask *how* they debated: how the competing expectations that Justinian had to navigate were constructed, what happened when those expectations came into direct conflict, what effect these dynamics have had on the extant source material, and what these dynamics reveal about sixth-century politics. Constantinople's culture of debate has been studied largely incidentally, to understand a particular writer's project or the valences attached to a particular idea. This study, which is deeply indebted to the scholarship detailed above, including in the narrow and closed traditions, contributes instead a tactical analysis of the recently opened-up political culture of the age of Justinian.

III: How?

This study reads the textual output of the thirteen writers from the age of Justinian who made the most frequent or significant contributions to sixth-century political debate. This

⁸¹ Bjornlie, *Politics and Tradition*, p.123.

⁸² Kaldellis, *Byzantine Republic*. Also A. Kaldellis, "How to Usurp the Throne in Byzantium: The Role of Public Opinion in Sedition and Rebellion," *Power and Subversion in Byzantium*, ed. D. G. Angelov (Aldershot, 2013), pp.43–56.

⁸³ Cameron, *Dialoguing*, p.9; See further: Cameron, "Can Christians Do Dialogue?," pp.103–21; Averil Cameron & N. Gaul, eds., *Dialogues and Debates from Late Antiquity to Late Byzantium* (London, 2017). Note also Averil Cameron, "Writing about Procopius Then and Now," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), p.14, revising Cameron, *Procopius*, following M. Mullett, "The Madness of Genre," *DOP* 46 (1992), pp.233–43.

⁸⁴ de Jong & van Renswoude, "Carolingian Cultures," p.7.

breadth of perspective means that the study focuses on a small number of contentious issues, the debates that engaged the greatest volume of political attention. This inexhaustiveness obviates the need for any firm limits on the political. The debates covered here have cultural, social, and religious implications but all relate to contests over how Romans should form governed communities – specifically, communities governed by Justinian. Accessing and analysing these debates, however, is not a straightforward case of close reading. The sources must be read intertextually in their political, cultural, and spatial contexts. Following common practice among classicists, Kaldellis has popularised among late antique historians the analysis of diachronic intertextualities with classical models.⁸⁵ In contrast, this study centres the synchronic intertextualities at the heart of Bjornlie’s monograph, refining the methodology to take account of evidentiary limitations.

III.A: The Limitations of the Sources

The sources provide no neutral facsimiles or stenographic records of debates, even when they purport to be verbatim transcripts of disputations.⁸⁶ For example, those historians who purport to be studying the ‘political tactics’ used in antiquity’s most famous oral debate, the 427BC Mytilenean debate in the Athenian assembly, are in fact studying its literary (and largely invented) representation by Thucydides, who ‘was trying to say something that he himself thought important about the assembly and its leaders’.⁸⁷ Even authors like Agathias

⁸⁵ Kaldellis, *Procopius*, especially p.37; A. Kaldellis, “The Classicism of Procopius,” *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.339–54; C. Lillington-Martin & E. Turquois, eds., *Procopius of Caesarea: Literary and Historical Interpretations* (Abingdon, 2018); B. Swain, “Jordanes and Virgil: A Case Study of Intertextuality in the *Getica*,” *CQ* 60 (2010), pp.243–49; Kruse, *Politics*, p.8; M. Kruse, “Archery in the Preface to Procopius’ *Wars*: A Figured Image of Agonistic Authorship,” *SLA* 1 (2017), pp.381–406. For intertextual approaches to earlier literature, see: G. Pasquali, “Arte allusiva,” *L’Italia che scrive* 25 (1942), pp.185–87; L. Edmunds, *Intertextuality and the Reading of Roman Poetry* (Baltimore, MD, 2001); S. Hinds, *Allusion and Intertext: Dynamics of Appropriation in Roman Poetry* (New York, NY, 1998); E. Finkelpearl, “Pagan Traditions of Intertextuality in the Roman World,” *Mimesis and Intertextuality in Antiquity and Christianity*, ed. D. MacDonald (Harrisburg, PA, 2001), pp.78–90; J. Farrell, “Intention and Intertext,” *Phoenix* 59 (2005), pp.98–111; G. D’Ippolito, “Il concetto di intertestualità nel pensiero degli antichi,” *Classica Salmanticensia* 2 (2000), pp.13–32; D. Fowler, “On the Shoulders of Giants: Intertextuality and Classical Studies,” *Materiali e discussioni* 39 (1997), pp.13–34; G. Kelly, *Ammianus Marcellinus: The Allusive Historian* (Cambridge, 2008); K. Doulamis, ed., *Echoing Narratives: Studies of Intertextuality in Greek and Roman Prose Fiction* (Eelde, 2011); R. F. Thomas, *Reading Virgil and his Texts: Studies in Intertextuality* (Ann Arbor, MI, 1999); G. B. Conte, *The Rhetoric of Imitation: Genre and Poetic Memory in Virgil and Other Latin Poets* trans. C. Segal (Ithaca, NY, 1986).

⁸⁶ Averil Cameron & N. Gaul, “Introduction,” *Dialogues and Debates from Late Antiquity to Late Byzantium*, eds. Averil Cameron & N. Gaul (London, 2017), p.4.

⁸⁷ Thuc. 3.36–49. First quote: E. M. Harris, “How to Address the Athenian Assembly: Rhetoric and Political Tactics in the Debate about Mytilene (Thuc. 3.37–50),” *CQ* 63 (2013), p.94. Second quote: A. Andrewes, “The Mytilene Debate: Thucydides 3.36–49,” *Phoenix* 16 (1962), p.75. Compare: G. Mader, “Demagogic Style and Historical Method: Locating Cleon’s Mytilenean Rhetoric (Thucydides 4.37–40),” *Rhetorica* 35 (2017), pp.1–12;

who state a concern for the accurate transmission of events to posterity engage in contemporary debates.⁸⁸ A study of political debate must account for the fundamentally political, tactical nature of its evidence.

It must also account for the imprecise dates, circulations, readerships, and editorial histories of the sources. It is never possible to isolate fully the literature to which any Roman reader or writer had access, even if it may be possible to identify sources directly utilised in their writing. These uncertainties can bear only so much weight. The sources must be related primarily to their shared political culture rather than to each other. Yet that political culture is itself visible only through the texts that shaped (and aimed to shape) it. This heuristic difficulty may be resolved by deploying a thematically intertextual approach to recover the political culture in which the sources were produced and a lexically intertextual approach to illuminate authors' specific literary tactics for influencing that political culture.

III.B: Thematic Intertextuality

Most debate takes place orally, from public spheres to private households.⁸⁹ Sixth-century oral debates are now mostly invisible. For Bjornlie, they may be partially recovered by identifying thematic intertextualities between sixth-century sources, which 'suggest a political and social dialogue that was probably more pronounced and audible in... daily interaction... than is visible in the written word'.⁹⁰ In this sense, 'the tangible recurrence of specific themes' in sixth-century texts 'attests to a political culture' in which those themes were prevalent.⁹¹ This model of thematic concordances as attestations to the debates behind texts, to a background culture where 'day-to-day gossip and complaint [was] exchanged', is methodologically sound.⁹² Themes addressed by multiple contemporaries in different ways are self-evidently the site of debate. These correspondences permit maps of the issues and concerns in particular currency to be drawn.

J. Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton, NJ, 1998), pp.94–104.

⁸⁸ Krallis, "Historiography as Political Debate," p.614. Compare Agathias, *H.* pr.5 and pr.10.

⁸⁹ Note Barker, *Social and Political Thought*, pp.4–5.

⁹⁰ Bjornlie, *Politics and Tradition*, p.84.

⁹¹ *Ibid.* p.122.

⁹² *Ibid.* p.84.

III.C: Lexical Intertextuality

While the prevalence of certain themes might indicate background debates that motivated authors, their texts were structured by tactical choices aimed at influencing those debates. This symbiosis poses methodological hurdles. Bjornlie figures thematic intertextuality as a mode of late antique communication as well as a useful mode of modern reading:

‘The manner in which the authors of this period referred to each other either explicitly, indirectly or thematically betrays a definite pattern of critique and polemical riposte... Communicating through the correspondence of themes... allowed them to respond to each other without attracting official censure.’⁹³

This use of ‘the correspondence of themes’ overstates the evidence. There are thematic intertextualities, especially the shared mobilisation of the demonic, between John Lydus’ treatise *On Powers* and Procopius’ *Secret History*.⁹⁴ These suggestive correspondences are the only evidence that either text was published or read during Justinian’s reign. *On Powers* is incomplete and the *Secret History* notoriously unpublished.⁹⁵ Their shared themes are not evidence of an underground reading group or the actual circulation of the texts but are symptoms of a shared political culture where the demonic furnished productive co-ordinates for explaining and opposing Justinian’s rule.⁹⁶

This is not to say that writers never responded directly to each other. It is simply to require a more rigorous criterion for identifying these interactions: specific engagements with the characteristic vocabulary of another text, similar to Kaldellis’s allusions. For example, *On Powers* is organised around a prominent term in Justinian’s propaganda, ‘sleeplessness’.⁹⁷ This meaningful lexical intertextuality results from an intentional manipulation of imperial texts. This is the bar for accepting a direct text-text, rather than text-background-text, orientation.

⁹³ Ibid. p.83.

⁹⁴ Lydus, *Powers* 2.15, 3.56–57; Procopius, *SH* 12.20, 12.27, 18.1–2, 30.34. See further: J. Migdal, “Magic, Demons and Apocalypse in the Composition of *Historia Arcana* by Procopius of Caesarea,” *ZHE* 5 (2012), pp.127–56; B. Rubin, “Der Antichrist and die „Apokalypse“ des Prokopios von Kaisareia,” *ZDMG* 110 (1960), pp.55–63; Cameron, *Procopius*, p.237.

⁹⁵ See below, 1.I.B, D.

⁹⁶ Contrast Kaldellis, “Identifying Dissident Circles,” pp.1–17. On ancient cultures of draft-sharing, however, see M. Kennerley, *Editorial Bodies: Perfection and Rejection in Ancient Rhetoric and Poetics* (Columbia, SC, 2018).

⁹⁷ ἀγρυπία. Below, 3.II.

III.D: Further Methodological Considerations

This study's intertextual analysis therefore proceeds on two levels, capturing the debates that motivated literary production and the tactical choices that shaped it. This is an artificial binary and the methodological framework must be flexible, because thematic and lexical intertextualities frequently go hand-in-hand. Nonetheless, this approach retains scope for a tactical analysis of the sources without dividing them from their author's day-to-day political activity or over-interpreting the evidence.

An intertextual analysis raises questions of intent and reception.⁹⁸ The coherence of the readings developed in this study is the first line of defence against objections that they do not uncover authors' compositional choices. Some scholars are sceptical about whether intertextual approaches will avoid distorting the culturally specific practice of reading and writing in late antiquity.⁹⁹ *All* textual meaning, however, is constructed intertextually.¹⁰⁰ The experience of writing and reading about sleeplessness in a city where imperial propaganda made conspicuous claims to sleeplessness can only be recovered by an intertextual approach.¹⁰¹ Furthermore, the late Roman literary mode was, if anything, more intertextual, more referential, and less wedded to notions of authorship and originality than modern modes.¹⁰² An intertextual approach is essential not only for recovering past debates from the sources but also for understanding how those debates operated.

The intertextual method demands an understanding of the text as any legible object. Intertexts may be furnished by, and debates take place between, literature but also material

⁹⁸ Farrell, "Intention and Intertext," pp.98–111.

⁹⁹ W. Mayer, "Approaching Late Antiquity," *A Companion to Late Antiquity*, ed. P. Rousseau (Chichester, 2009), pp.8–9. On the sociology of late Roman reading, see T. Shawcross & I. Toth, eds., *Reading in the Byzantine Empire and Beyond* (Cambridge, 2018).

¹⁰⁰ J. Kristeva, "Le mot, le dialogue et le roman," *Σημειωτική: recherches pour une sémanalyse* (Paris, 1969), pp.145–46. See also: R. Barthes, *Le degré zéro de l'écriture* (Paris, 1972), p.15; M. M. Bakhtin, *The Dialogic Imagination: Four Essays* trans. C. Emerson & M. Holquist (Austin, TX, 1981), pp.269–422; M. J. M. Alfaro, "Intertextuality: Origins and Development of the Concept," *Atlantis* 18 (1996), pp.268–85.

¹⁰¹ On the contextualist development of intertextual theory, see Alfaro, "Intertextuality," pp.277–84, and note especially: R. Barthes, "The Death of the Author," *Image Music Text* (London, 1977), pp.142–48; M. Foucault, *L'ordre du discours: leçon inaugurale au Collège de Grance prononcée le 2 décembre 1970* (Paris, 1971); G. Genette, *Palimpsestes: la littérature au second degré* (Paris, 1982).

¹⁰² P. van Nuffelen, "Malalas and the Chronographic Tradition," *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtke (Stuttgart, 2017), pp.261–72. On culturally specific concepts and practices of authorship, see further: D. Krueger, *Writing and Holiness: The Practice of Authorship in the Early Christian East* (Philadelphia, PA, 2004); I. Peirano, "Ille ego qui quondam: On Authorial (An)onymity," *The Author's Voice in Classical and Late Antiquity*, eds. A. Marmorodoro & J. Hill (Oxford, 2013), pp.251–86; A. J. Berkovitz & M. Letteney, eds., *Rethinking 'Authority' in Late Antiquity: Authorship, Law, and Transmission in Jewish and Christian Tradition* (Abingdon, 2018). Compare, by the late medieval period, A. Minnis, *Medieval Theory of Authorship: Scholastic Literary Attitudes in the Later Middle Ages* (Philadelphia, PA, 2012).

texts like buildings.¹⁰³ Intertextuality is therefore not limited by genre.¹⁰⁴ This opens up a range of literary tactics beyond the lexical. The tactical choice to write in a particular genre, to mobilise form and generic expectations, is not predetermined by the debate that motivated the writing. Other tactical possibilities arise over time, as intertexts acquire new charges. At every stage of analysis, this study remains contextualist, alert to historical developments, the shifting contours of sixth-century debates, and the contestable meanings of Constantinople's texts.

III.E: Plan of the Study

Chapter One introduces the thirteen key authors and the political and cultural contexts for the debates treated in the rest of the study. It establishes a vocal current of traditionalist thought as a central protagonist in the debates of the age of Justinian. It demonstrates the noninstitutionalised fluidity of sixth-century debate and the imperial régime's self-preservative interest in managing debates. Chapter Two addresses the techniques, reproduction, and tactical manipulation of imperial propaganda. It argues that Justinian's propaganda structured contemporary political debate but also afforded opportunities for imperial subjects to amplify their own arguments and augment the pressure they exerted on the régime. Chapter Three turns to the consequences of this propaganda culture in a bureaucratic debate about Roman tradition that morphed into one about attitudes to imperial propaganda. Chapter Four concerns the period's defining political contest, over Justinian's authority to change Roman law, in which the themes of all the preceding chapters converge.

¹⁰³ Bell, *Social Conflict*, pp.320–31; C. L. Connor, "The Epigram in the Church of Hagios Polyeuktos in Constantinople and its Byzantine Response," *Byzantion* 69 (1999), pp.479–527.

¹⁰⁴ D. Duff, "Intertextuality versus Genre Theory: Bakhtin, Kristeva and the Question of Genre," *Paragraph* 25 (2002), pp.54–73; Kruse, *Politics*, p.8.

The Cast and the Context

In any long-form intertextual study, sources rise to the surface of the analysis when they become relevant to the topic at hand and resubmerge themselves as other texts take the stage. Meanwhile, the use of late antique literature as historical sources requires parsing an array of evidentiary problems: dating and placing texts, reconstructing authors' backgrounds, and separating original material from later scribal interventions.¹ The first half of this chapter, to avoid disrupting the intertextual flow of subsequent analysis, provides a cast list that introduces each of this study's thirteen key authors and deals with these problems.²

A comprehensive study of the processes of political debate demands the treatment of a large cast, which in turn requires an organisational strategy. Other historians have trialed several strategies, each of which embeds claims about the faultlines along which sixth-century politics operated. The obvious option is to divide the authors by their institutional or professional position, since Bjornlie's study identifies a 'central contest between Justinian and the bureaucracy'.³ Court writers developed a 'language of legitimacy' for the emperor and civil servants 'mount[ed] a sustained literary campaign' against it.⁴ Yet this clean division obscures the fluidity of intellectual culture and Bjornlie's own analysis strains against his model.⁵ His Procopius was 'peripheral to the central contest' because he was 'not a member of the bureaucratic establishment', despite being 'remarkably attentive to the key themes of the bureaucratic invective'.⁶ Procopius was demonstrably in political contact with bureaucrats. He was also a famous, widely-read author and an open opponent of Justinian. It makes more sense to question whether the dominant 'invective' was distinctively 'bureaucratic' than it does to characterise Procopius as a 'peripheral' writer.

¹ C. Sogno, B. K. Storin & E. J. Watts, "Introduction: Greek and Latin Epistolography and Epistolary Collections in Late Antiquity," *Late Antique Letter Collections: A Critical Introduction and Reference Guide*, eds. C. Sogno, B. K. Storin & E. J. Watts (Oakland, CA, 2017), pp.1–10.

² A tactic borrowed from Kruse, *Politics*, pp.11–15. Also M. Roberts, *The Jeweled Style: Poetry and Poetics in Late Antiquity* (Ithaca, NY, 1989), pp.9–37.

³ Bjornlie, *Politics and Tradition*, p.113.

⁴ *Ibid.* p.83.

⁵ J. Harris, "Institutional Settings: The Court, Schools, Church, and Monasteries," *The Cambridge Intellectual History of Byzantium*, eds. A. Kaldellis & N. Siniossoglou (Cambridge, 2017), p.27.

⁶ Bjornlie, *Politics and Tradition*, p.113.

Some scholars have looked instead to the senate for political battle-lines. Lounghis identifies a senatorial ‘war party’ in the 520s and Cameron a swiftly executed senatorial plot to elevate Justin II in 565.⁷ Late antique emperors certainly needed to placate the senatorial aristocracy.⁸ Yet by the sixth century, the senate had few formal competences. It was increasingly ‘an assembly of highly decorated office-holders’ rather than a hereditary aristocracy and its members derived power in the provinces through their landholdings and in Constantinople through access to the emperor (on a differentiated basis) rather than by virtue of senatorial status.⁹ Justinian’s own reforms further cemented ‘the senate’s dependency upon the imperial court’, reconstituting its membership by elevating new, loyal senators and restricting such privileges as the inheritability of *illustris* rank and access to *consistorium* meetings to those senators expressly rewarded by imperial decree.¹⁰ As a result, the usefulness of treating senators as an institutional group capable of operating independently from the court is doubtful – especially given that senators were routinely also bureaucrats or courtiers.¹¹

Kaldellis suggests that sixth-century political allegiances are defined better by religio-cultural than by institutional affiliations. Classically educated men worked within and beyond the bureaucracy but were united by their ‘cultural loyalties’ and Neoplatonic paganism into a bloc opposing Justinian’s ‘encroaching bureaucratic absolutism’.¹² This approach has the advantage of connecting political allies across institutional lines, better reflecting the interconnectivity of Constantinople’s ‘mélange of diverse communities’.¹³ It suffers the

⁷ T. Lounghis, “Die kriegerisch gesinnte Partei der senatorischen Opposition in den Jahren 526 bis 529,” *Zwischen Polis und Provinz und Peripherie: Beiträge zur byzantinischen Geschichte und Kultur*, ed. L. M. Hoffmann (Wiesbaden, 2005), pp.25–36; Averil Cameron, *In laudem Iustini Augusti minoris* (London, 1976), p.126.

⁸ C. Begass, “Property and Power of the Senatorial Aristocracy of the Eastern Roman Empire in the Fifth and Sixth Centuries,” *JLA* 9 (2016), pp.462–82.

⁹ *eine Versammlung von hochdekorierten Beamten*. C. Begass, *Die Senatsaristokratie des oströmischen Reiches, ca. 457–518: prosopographische und sozialgeschichtliche Untersuchungen* (Munich, 2018), p.398. See also: *ibid.* pp.478–85; Jones, *Later Roman Empire*, pp.529–30; P. Heather, “New Men for New Constantines? Creating an Imperial Élite in the Eastern Mediterranean,” *New Constantines: The Rhythm of Imperial Renewal in Byzantium, Fourth to Thirteenth Centuries*, ed. P. Magdalino (Aldershot, 1994), pp.184–97; J. Banaji, *Agrarian Change in Late Antiquity: Gold, Labour and Aristocratic Dominance* (Oxford, 2007), pp.101–70.

¹⁰ J. F. Haldon, “Economy and Administration: How Did the Empire Work?,” *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.39–41; Bjornlie, *Politics and Tradition*, pp.74–75.

¹¹ On the senatorial loyalty effected by Justinian, see C. Gizewski, *Zur Normität und Struktur der Verfassungsverhältnisse in der späteren römischen Kaiserzeit* (Munich, 1988), pp.166–67.

¹² Kaldellis, “Identifying Dissident Circles,” pp.3–4. Also: A. Kaldellis, “Things Are Not What They Are: Agathias *Mythistoricus* and the Last Laugh of Classical Culture,” *CQ* 53 (2003), p.299; Kaldellis, *Procopius*, p.3.

¹³ Croke, “Justinian’s Constantinople,” p.74.

insurmountable disadvantage, however, that not all men with classical ‘cultural loyalties’ opposed Justinian.¹⁴

Sixth-century political debate should be understood as a complex network. Its participants had layered identities. The interest groups that Justinian sought to pacify, cultivate, or neutralise could coalesce around institutional identities, like membership of the praetorian prefecture or the episcopate, or around shared allegiances to particular ideas, like Roman tradition, the classical canon, or Miaphysite Christology.¹⁵ These faultlines in sixth-century political culture sometimes ran along and sometimes cut across the grooves of professions, education, cultural tastes, class positions, and so on. This cast list attempts to capture this fluidity. It is first presented as an expanded version of Bjornlie’s model, with authors categorised by institutional affiliation. The following sections connect writers to their political and cultural allies from different categories of the initial list.

1.I: The Cast

For each key author, the cast list provides a potted biography, an overview of their texts, and resolutions to any problems of access to their political thought. This catalogue excludes the texts that appear in this study only as minor parties in dialogue, like Cassiodorus and the *Inauguration Hymn*, and the material texts that structured the environment in which these authors wrote.

1.I.A: The Court

The textual production of court writers operated under a specific logic. In a political debate context, the court faced outwards. Its members were structurally incentivised to be ‘intimate participants in [Justinian’s] production of a language of legitimacy’.¹⁶ In theory, the court or *consistorium* played a formal constitutional role: discussing policy, sanctioning laws, adjudicating cases.¹⁷ It was also a ‘palace bureaucracy’ whose officials were appointed by

¹⁴ See below, 1.III–IV.

¹⁵ On Justinian and Miaphysitism, see: W. H. C. Frend, *The Rise of the Monophysite Movement: Chapters in the History of the Church in the Fifth and Sixth Centuries* (Cambridge, 1972); U. M. Lang, *John Philoponus and the Controversies over Chalcedon in the Sixth Century: A Study and Translation of the Arbitrator* (Leuven, 2001); V. L. Menze, *Justinian and the Making of the Syrian Orthodox Church* (Oxford, 2008).

¹⁶ Bjornlie, *Politics and Tradition*, p.83.

¹⁷ Jones, *Later Roman Empire*, pp.333–38.

the emperor, though household staff and other favoured individuals also wielded influence.¹⁸ In practice, the *consistorium* (like the senate) had become ceremonial.¹⁹ Governmental work was conducted by *ad hoc* cabinets of relevant officials, amplifying for aspirant political influencers the importance of winning Justinian's favour.²⁰ Courts are sites of interpersonal, competitive power relations, where unwritten rules shape the behaviour of courtiers and rulers alike.²¹ Justinian's court was therefore both a governmental institution and 'the space around the ruler within which access to imperial favour [was] negotiated'.²² To win favour, courtiers often wrote texts that praised the emperor and advanced his interests. A talent for political writing gave educated provincial men the chance to attain pay, position, and influence in Constantinople. Therefore, while intrigues and competition certainly took place behind the scenes, the literature produced at court presents a relatively unified face, engaging closely with the themes of polemic and debate current in broader political society.

Justinian²³

Justinian was born in c.483 in the Illyrian village of Tauresium.²⁴ In his youth, he moved to and was educated in Constantinople under the aegis of his uncle and adoptive father Justin, a soldier who became Anastasius' *comes excubitorum* and then orchestrated his own

¹⁸ J. Harries, "The Roman Imperial Quaestor from Constantine to Theodosius II," *JRS* 78 (1988), p.157. On membership of the *consistorium*: Jones, *Later Roman Empire*, p.333; R. Delmaire, *Les institutions du bas-empire romain, de Constantin à Justinien 1: les institutions civiles palatines* (Paris, 1995), p.31. On household staff: K. Hopkins, "Eunuchs in Politics in the Later Roman Empire," *PCPS* 189 (1963), pp.62–80. On other favoured individuals: *CJ* 1.12.10.

¹⁹ Jones, *Later Roman Empire*, pp.337–38.

²⁰ V. Bileta, "The *Venatio* in the Emperor's Presence? The *Consistorium* and the Military Men of the Late Roman Empire in the West," *Gaining and Losing Imperial Favour in Late Antiquity: Representation and Reality*, eds. K. C. Choda, M. S. de Leeuw & F. Schulz (Leiden, 2020), pp.77–78; J. E. Atkinson, "Justinian and the Tribulations of Transformation," *AC* 43 (2000), pp.22–23; Harries, *Law and Empire*, pp.41–47.

²¹ N. Elias, *Die höfische Gesellschaft: Untersuchungen zur Soziologie des Königtums und der höfischen Aristokratie, mit einer Einleitung: Soziologie und Geschichtswissenschaft* (Neuwied, 1969). In the Roman context: P. F. Bang, "Court and State in the Roman Empire: Domestication and Tradition in Comparative Perspective," *Royal Courts in Dynastic States and Empires*, eds. J. Duindam, T. Artan & M. Kunt (Leiden, 2011), pp.103–28; A. Wallace-Hadrill, "The Roman Imperial Court: Seen and Unseen in the Performance of Power," *Royal Courts in Dynastic States and Empires*, eds. J. Duindam, T. Artan & M. Kunt (Leiden, 2011), pp.91–201; K. C. Choda, M. S. de Leeuw & F. Schulz, "Introduction," *Gaining and Losing Imperial Favour in Late Antiquity: Representation and Reality*, eds. K. C. Choda, M. S. de Leeuw & F. Schulz (Leiden, 2020), pp.1–14. Roman court studies rarely reach the sixth century. This is partly the task of C. Rollinger & N. Viermann, eds., *Empresses-in-Waiting: Power, Performance, and the "Female Court" of Late Antiquity* (Liverpool, forthcoming).

²² Wallace-Hadrill, "Roman Imperial Court," p.96.

²³ *PLRE* 2 Iustinianus 7.

²⁴ Procopius, *Buildings* 4.1.17; Malalas 18.1. The earliest testimony to Justinian's year of birth dates to the twelfth century: Zonaras 14.5.

accession in 518.²⁵ During Justin's rule, Justinian rose swiftly and ambitiously through the court ranks; he corresponded with the pope, participated in the murder of his rival Vitalian in 520, and distributed unusual largesse during his consulship of 521.²⁶ In 527, Justinian became first Justin's colleague and then sole ruler until his own death in 565.

Justinian was the central writer of his age.²⁷ His literary production is inseparable from his day job of attaining, maintaining, and executing imperial power. A significant proportion of his writing is dedicated to the contemporary Christological debates that he sought to resolve.²⁸ The volume and variety of this work testify to his interest in and capacity for theology.²⁹ The practical business of ruling also involved drafting different kinds of constitutions and other communications, some of which Justinian authored personally.³⁰ Yet even when laws were drafted by his quaestors, they were still written in the emperor's voice

²⁵ *Book of Ceremonies* 1.93; Procopius, *SH* 6.10–11; B. Croke, "Justinian under Justin: Reconfiguring a Reign," *BZ* 100 (2007), pp.16–22. On the *comes excubitorum*, see Mary Whitby, "On the Omission of a Ceremony in Mid-Sixth Century Constantinople: Candidati, Curopalatus, Silentarii, Excubitores and Others," *Historia* 36 (1987), pp.483–88. On Justinian's education, see: Maas, "Roman Questions," p.5; G. Downey, "Justinian's View of Christianity and the Greek Classics," *Anglican Theological Review* 40 (1958), p.15.

²⁶ Croke, "Justinian under Justin: Reconfiguring a Reign," pp.13–56. For Vitalian's murder, see *PLRE* 2 Vitalianus 2. For Justinian's consulship, see Marcellinus 521. For Justinian's consular diptychs, see: R. Delbrueck, *Die Consulardiptychen und verwandte Denkmäler* (Berlin, 1929), nos 26–28; A. Cutler, "The Making of the Justinian Diptychs," *Byzantion* 54 (1984), pp.75–115.

²⁷ Kruse, *Politics*, p.9.

²⁸ Most are letters predating Justinian's accession, in M. Amelotti & L. M. Zingale, *Scritti teologici ed ecclesiastici di Giustiniano* (Milan, 1977). Three letters postdate the accession: in 539/40, to the patriarch of Alexandria; in 542/43, to formerly Miaphysite monks in Alexandria; undated and unaddressed, condemning the Three Chapters. Texts: *PG* 86.1145–49; Amelotti & Zingale, *Scritti teologici*, pp.57–63; E. Schwartz, *Drei dogmatische Schriften Iustinians* (Munich, 1939), pp.5–43 and 45–70. Discussion: Grillmeier, *CCT* 2.2, pp.357–62, 422–25; R. Pavouris, *The Condemnation of the Christology of the Three Chapters in its Historical and Doctrinal Context: The Assessment and Judgement of Emperor Justinian and the Fifth Ecumenical Council (553)*, Ph.D. dissertation (University of Glasgow, 2001), pp.187–88; K. Wesche, *On the Person of Christ: The Christology of the Emperor Justinian* (New York, NY, 1991), pp.111–13; A. Gerostergios, *Justinian the Great, the Emperor and Saint: Illustrious Byzantine Emperor, Legislator, and Codifier of Law* (Belmont, MA, 1982), p.45; Schwartz, *Drei dogmatische Schriften*, p.173. In 551, Justinian added an *Edict on the Right Faith*: *PG* 86.993; Grillmeier, *CCT* 2.2, pp.425–39. After 561, he debated the Nestorian Paul of Nisibis and Syriac fragments survive: London BL Add. MS 14535, ff.16v–20r; Guillaumont, "Un colloque," pp.201–7; Brock, "Monothelete Florilegium," pp.35–42. Around the same, he composed a troparion *On the Only-Begotten Son*: Amelotti & Zingale, *Scritti teologici*, p.44; E. Wellesz, *A History of Byzantine Music and Hymnography* (Oxford, 1961), pp.178–79; J. H. Barkhuizen, "Justinian's Hymn 'Ο μονογενής υἱὸς τοῦ θεοῦ,'" *BZ* 77 (1984), pp.3–5; C. Newman, "The Poetry of Theology: An Analysis of Justinian's Hymn 'Ο Μονογενής Υἱός,'" *GOTR* 43 (1998), pp.85–91.

²⁹ P. Sarris, *Economy and Society in the Age of Justinian* (Cambridge, 2006), p.166. Compare Procopius, *Wars* 7.35.11; Procopius, *SH* 18.29.

³⁰ T. Honoré, "Some Constitutions Composed by Justinian," *JRS* 65 (1975), pp.107–23. On the constitution and its subcategories: T. G. Kearley, "The Creation and Transmission of Justinian's Novels," *LLJ* 102 (2010), p.380; S. Corcoran, "State Correspondence in the Roman Empire: Imperial Communication from Augustus to Justinian," *State Correspondence in the Ancient World: From New Kingdom Egypt to the Roman Empire*, ed. K. Radner (Oxford, 2014), pp.175–76; L. Lemcke, *Bridging Center and Periphery: Administrative Communication from Constantine to Justinian* (Tübingen, 2020), pp.16–18.

and contemporaries responded to them on this basis.³¹ Between 528 and 534, Justinian commissioned and published two editions of a *Code* of Roman law, a jurisprudential *Digest*, and a student textbook titled the *Institutes*.³² This codification project reformed the legal curriculum, pruned contradictions from the body of valid law, restricted independent legal exegesis, and most importantly established that ‘only the constitutions contained in our *Code*’ could be cited in court.³³

After the codification, Justinian found further legislation necessary. 175 extant constitutions in Justinian’s name were promulgated between 534 and 565.³⁴ These *Novels* are layered texts with multiple, simultaneous audiences. Most contain a normative or functional text that describes the law, a persuasive text that encourages compliance, a propagandising text that represents Justinian to his officials or the public, and an argumentative text that justifies the law.³⁵ This was also true of the pre-534 constitutions included in the *Code*, but they were abbreviated during the codification process and now lack their argumentative, propagandising prefaces.³⁶ The *Novels* predominate in this study not only for this reason of convenience but also because, despite not shifting or describing social realities with any regularity, they did play particularly prominent roles in contemporary political debate.³⁷

³¹ Kruse, *Politics*, p.13. There are two exceptions: J. *Nov.* 166–67, in the names of the prefects Theodorus and Bassus respectively.

³² The first edition of the *Code* is only attested papyrologically: S. Corcoran, “Justinian and his Two Codes: Revisiting P. Oxy. 1814,” *JJP* 38 (2008), pp.73–111; S. Corcoran, “The *Novus Codex* and the *Codex Repetitae Praelectionis*: Justinian and his Codes,” *Figures d’empire, fragments de mémoire: pouvoirs et identités dans le monde romain impérial, IIe s. av. n. è–VIe s. de n. è.*, eds. S. Benoist, A. Daguet-Gagey & C. Hoët-van Cauwenberghe (Villeneuve-d’Ascq, 2011), pp.425–44.

³³ *solis... nostro codici insertis constitutionibus.* CJ C. Summa 3. See further: C. Humfress, “Law and Legal Practice in the Age of Justinian,” *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.161–84; C. Humfress, “Law in Practice,” *A Companion to Late Antiquity*, ed. P. Rousseau (Chichester, 2009), pp.377–91; Honoré, *Tribonian*, pp.139–222. For the manuscripts, see C. M. Radding & A. Ciaralli, *The Corpus Iuris Civilis in the Middle Ages: Manuscripts and Transmission from the Sixth Century to the Juristic Revival* (Leiden, 2007).

³⁴ See Kearley, “Creation and Transmission,” pp.377–98. This study primarily uses the *Greek Collection*.

³⁵ G. Lanata, “Du vocabulaire de la loi dans les *Novelles* de Justinien,” *SG* 3 (1989), pp.37–48.

³⁶ Humfress, “Law and Legal Practice,” p.174.

³⁷ Humfress, “Law in Practice,” pp.377–91; C. Humfress, “Thinking Through Legal Pluralism: ‘Forum Shopping’ in the Later Roman Empire,” *Law and Empire: Ideas, Practices, Actors*, eds. J. Duindam, J. Harries, C. Humfress & N. Hurvitz (Leiden, 2013), pp.225–50.

Junillus Africanus³⁸

Most *Novels* were drafted at court by the quaestor.³⁹ In 542, Justinian appointed Junillus to this position until his death in 549.⁴⁰ Junillus was ‘an émigré from North Africa’, born under Vandal rule, who moved to Constantinople perhaps shortly after the 534 reconquest.⁴¹ He remained in epistolary contact with anti-Justinianic Chalcedonian clerics in the west.⁴² In the capital, he composed the *Instituta*, an introductory textbook on biblical exegesis designed to be read aloud in the classroom with ‘the students asking questions and the teacher answering’.⁴³ This was a popular handbook, widely read in the west and likely in Constantinople.⁴⁴ It was also an ideological instrument of the imperial régime.⁴⁵

The *Instituta* is addressed to the bishop Primasius, who later held the see of Hadrumetum and asked Junillus about Greek exegesis during a 541/42 visit to Constantinople.⁴⁶ The date of Primasius’ visit means Junillus almost certainly completed the

³⁸ *PLRE* 3 Junillus.

³⁹ For the quaestor’s role: Cassiodorus, *Variae* 6.5; Harries, “Roman Imperial Quaestor,” pp.148–72; Honoré, *Tribonian*, pp.8–9; Maas, *Exegesis and Empire*, pp.1–2.

⁴⁰ Procopius, *SH* 20.19. For a stylistic argument that Junillus had been succeeded by September 548, see Honoré, *Tribonian*, pp.239–40. Most retain Procopius’ dating: Bjornlie, *Politics and Tradition*, p.98; S. Adamiak, “African Authors in the East in the Times of Justinian: Their Works and Sources,” *Res Gestae* 5 (2017), p.42; F. Winkelmann, Review of M. Maas, *Exegesis and Empire in the Early Byzantine Mediterranean: Junillus Africanus and the Instituta Regularia Divinae Legis*, *BZ* 97 (2004), p.602.

⁴¹ Bjornlie, *Politics and Tradition*, p.66; J. P. Conant, *Staying Roman: Conquest and Identity in Africa and the Mediterranean, 439–700* (Cambridge, 2012), p.340. On the Vandals: A. Merrills & R. Miles, *The Vandals* (Chichester, 2010).

⁴² S. T. Stevens, “The Circle of Bishop Fulgentius,” *Traditio* 38 (1982), p.336; Maas, *Exegesis and Empire*, p.29; P. W. Martens & A. Bass, “Junillus Africanus’ Hermeneutics: Antioch and Beyond,” *Patristic Theories of Biblical Interpretation: The Latin Fathers*, ed. T. Toom (Cambridge, 2016), p.148. Junillus’ own letters do not survive but see Ferrandus, *Ep.* 12 = *PL supp.* 4.39–40; Fulgentius, *Letter* 7.2.

⁴³ *discipulis interrogantibus et magistro respondente*. Junillus, *Instituta* pr. Discussion: T. E. Hunt, “Junillus Africanus: *Instituta Regularia Divinae Legis*,” *Handbuch der Bibelhermeneutiken: Von Origenes bis zur Gegenwart*, eds. O. Wischmeyer & M. Durst (Berlin, 2016), pp.85–88, 92; Y. Papadoyannakis, “Instruction by Question and Answer: The Case of Late Antique and Byzantine *erotapokriseis*,” *Greek Literature in Late Antiquity: Dynamism, Didacticism, Classicism*, ed. S. F. Johnson (Aldershot, 2006), pp.91–106.

⁴⁴ In the west: H. Kihn, *Theodor von Mopsuestia und Junilius Africanus als Exegeten: Nebst einer kritischen Textausgabe von des letzteren Instituta regularia divinae legis* (Freiburg im Breisgau, 1880), pp.299–311; M. L. W. Laistner, “Antiochene Exegesis in Western Europe,” *HTR* 40 (1947), pp.24–31; Maas, *Exegesis and Empire*, pp.32–33, with Cassiodorus, *Inst.* 1.10.1. In Constantinople: G. Cavallo, “La circolazione libraria nell’età di Giustiniano,” *L’imperatore Giustiniano: Storia e mito*, ed. G. G. Archi (Milan, 1978), pp.202–40; Martens & Bass, “Junillus Africanus’ Hermeneutics,” pp.147–48.

⁴⁵ Maas, *Exegesis and Empire*, pp.1–117; M. Maas, “Junillus Africanus’ *Instituta Regularia Divinae Legis* in its Justinianic Context,” *The Sixth Century: End or Beginning?*, eds. P. Allen & E. Jeffreys (Brisbane, 1996), pp.131–44. Note critical responses to Maas: A. H. Becker, “The Dynamic Reception of Theodore of Mopsuestia in the Sixth Century,” *Greek Literature in Late Antiquity: Dynamism, Didacticism, Classicism*, ed. S. F. Johnson (Aldershot, 2006), pp.29–47; Winkelmann, Review of Maas, *Exegesis and Empire*, pp.602–3; Hunt, “Junillus Africanus,” p.92.

⁴⁶ Junillus, *Instituta* pr.; E. Stein, “Deux questeurs de Justinien et l’emploi des langues dans ses nouvelles,” *Opera Minora Selecta* (Amsterdam, 1968), pp.379–81.

text while in office.⁴⁷ He likely did so prior to Justinian's condemnation of the Three Chapters in 543/44.⁴⁸ This is not because Junillus could not have expressed his alleged 'Nestorian tendencies' after this date.⁴⁹ Justinian would hardly have trusted a Nestorian to draft edicts on 'the true and faultless faith' even if Junillus had only revealed his heterodoxy before the condemnation.⁵⁰ In fact, scholars cannot agree how orthodox the *Instituta* is and this ambiguity situates the text in the period of doctrinal 'compromise' that preceded the condemnation.⁵¹

Primasius requested an exegetical text from 'anyone among the Greeks'.⁵² Junillus frames his response as a dynamic translation of the *Rules* of Paul, 'a Persian who was taught at the Syrian school in the city of Nisibis'.⁵³ Michael Maas's suggestion that this was the same 'Paul the Persian Christian' who had engaged in a 527 public disputation with a Manichaean in Constantinople is the most plausible of various identifications because this Paul alone shares both dates and a known link to Constantinople with Junillus.⁵⁴ This association with a well-known debater immediately places the *Instituta* in an empire-wide

⁴⁷ Contrast Honoré, *Tribonian*, p.239.

⁴⁸ See: R. Price, "The Three Chapters Controversy and the Council of Chalcedon," *The Crisis of the Oikoumene: The Three Chapters and the Failed Quest for Unity in the Sixth-Century Mediterranean*, eds. C. Chazelle & C. Cubitt (Turnhout, 2007), pp.16–37; P. Gray, "The Legacy of Chalcedon: Christological Problems and Their Significance," *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.215–38; Grillmeier, *CCT* 2.2, pp.411–62.

⁴⁹ Honoré, *Tribonian*, p.238. Stein, "Deux questeurs," p.379.

⁵⁰ τῆς ἀληθοῦς καὶ ἀμωμήτου... πίστεως. J. Nov. 132, personally drafted by Junillus: Honoré, *Tribonian*, pp.126, 237.

⁵¹ On 'compromise': Becker, "Dynamic Reception," p.37; Gray, "Legacy of Chalcedon," p.230. For the orthodox, neo-Chalcedonian position: R. Devreesse, *Essai sur Théodore de Mopsueste* (Vatican City, 1948), pp.273–74; Maas, "Junillus Africanus' *Instituta*," pp.138–40; Maas, *Exegesis and Empire*, pp.11–12. For the heterodox, Nestorian position: Honoré, *Tribonian*, p.238; W. A. Bienert, "Die *Instituta regularia* des Junilius (Junillus) Africanus: Ein nestorianisches Kompendium der Bibelwissenschaft im Abendland," *Syrisches Christentum weltweit: Studien zur Syrischen Kirchengeschichte: Festschrift für Prof. W. Hage*, eds. M. Tamcke, W. Schwaigert & E. Schlarb (Münster, 1995), pp.307–24; J. Lössl, Review of M. Maas, *Exegesis and Empire in the Early Byzantine Mediterranean: Junillus Africanus and the Instituta Regularia Divinae Legis*, *JTS* 56 (2005), p.237; Becker, "Dynamic Reception," pp.37–38; Hunt, "Junillus Africanus," p.89; Martens & Bass, "Junillus Africanus' Hermeneutics," pp.136–47.

⁵² [al]iquis... inter Graecos. Junillus, *Instituta* pr.

⁵³ *Persam genere, qui Syrorum schola in Nisibi urbe est edoctus*. Junillus, *Instituta* pr.; Martens & Bass, "Junillus Africanus' Hermeneutics," pp.138–39; Maas, *Exegesis and Empire*, p.19; Becker, "Dynamic Reception," p.35.

⁵⁴ Παύλου τοῦ Πέρσου τοῦ Χριστιανοῦ. *PG* 88.529a; Maas, *Exegesis and Empire*, pp.16–17. See also: S. Hayati, "Knowledge and Belief in the Letter of Paul the Persian," *Syrische Studien: Beiträge zum 8. Deutschen Syrologie-Symposium in Salzburg 2014*, ed. D. W. Winkler (Vienna, 2016), pp.63–69; B. Bennett, "Paul the Persian," *Elr*; P. Bruns, "Wer war Paul der Perser?," *SP* 45 (2010), pp.263–68; A. Izdebski, "Cultural Contacts between the Superpowers of Late Antiquity: The Syriac School of Nisibis and the Transmission of Greek Educational Experience to the Persian Empire," *Cultures in Motion: Studies in the Medieval and Early Modern Periods*, eds. A. Izdebski & D. Jasiński (Kracow, 2014), p.201; L. van Rompay, "Pawlos the Persian," *GEDSH*; L. van Rompay, "Pawlos of Nisibis," *GEDSH*; D. Gutas, "Paul the Persian on the Classification of the Parts of Aristotle's Philosophy: A Milestone between Alexandria and Baghdad," *Der Islam* 60 (1983), p.238 n.14.

public debate context. Its preface carefully presents the text as drawn from a Syrian intellectual background, written in Constantinople, and distributed in North Africa, an ideological statement of cross-cultural imperial unity that must be read against the legal and political practice of the court where it was composed.

Marcellinus comes⁵⁵

Like Justinian, Marcellinus was a native Latin speaker from Illyria who moved to Constantinople around 500.⁵⁶ He was already rhetorically educated and a ‘person of some consequence’, since Cassiodorus identifies him as the dedicatee of a book by the patriarch of Alexandria in the 490s.⁵⁷ In the capital, he joined a large community of Latin-speaking, orthodox Illyrians, for whom he wrote a Latin continuation of Jerome’s chronicle focused on Constantinople and Illyria.⁵⁸ He nonetheless received a wider readership. In c.550, Cassiodorus recommended him as one of the ‘historians’ suitable for ‘Christian studies’.⁵⁹

Cassiodorus provides most of Marcellinus’ known biography. Marcellinus travelled abroad to compose a topography of Constantinople and Jerusalem and a treatise ‘on the nature of events and locations of places’, of which one fragment survives.⁶⁰ Not before 520, he was appointed Justinian’s *cancellarius*, an official who ‘control[led] access to [the employer’s] court’ and was closely involved in court business.⁶¹ Marcellinus’ court service occurred entirely prior to Justinian’s accession. Cassiodorus states that he ‘was previously the patrician Justinian’s *cancellarius*, but under [Justinian’s] better condition [as emperor],

⁵⁵ *PLRE 2* Marcellinus 9.

⁵⁶ As suggested by the emergence of an eyewitness character to Constantinopolitan events in his chronicle: B. Croke, *Count Marcellinus and his Chronicle* (Oxford, 2001), p.22. For Marcellinus’ self-description as a Latin speaker: Marcellinus 496.

⁵⁷ Bjornlie, *Politics and Tradition*, p.90. Compare Cassiodorus, *Inst.* 1.17.2 with 1.4.3. On Marcellinus’ education, see R. Jakobi, “Die Chronik des Marcellinus Comes: Text, Praetext und Intertext,” *Mnemosyne* 74 (2021), pp.662–65.

⁵⁸ Marcellinus pr.; Croke, *Count Marcellinus*, pp.78–102; B. Croke, *The Chronicle of Marcellinus, Translation and Commentary* (Sydney, 1995), p.xx.

⁵⁹ *relatores temporum / studia Christiana*. Cassiodorus, *Inst.* 1.17.1. On the text: O’Donnell, *Cassiodorus*, pp.202–14.

⁶⁰ *de temporum qualitibus et positionibus locorum*. Cassiodorus, *Inst.* 1.25.1, 1.17.1. The fragment is appended to Marcellinus 518. For discussion, see B. Croke, “Marcellinus on Dara: A Fragment of his Lost *De Temporum Qualitibus et Positionibus Locorum*,” *Phoenix* 38 (1984), pp.77–88.

⁶¹ Jones, *Later Roman Empire*, p.603. Justinian first became entitled to a *cancellarius* in 520: Croke, *Count Marcellinus*, pp.25–28. On the role, in a military context, see Agathias, *H.* 1.19.4.

the loyal Marcellinus extended his work', implying that Marcellinus was no longer *cancellarius* by 527.⁶²

The work to which Cassiodorus refers was a chronicle that appeared in two editions. All sixteen manuscripts contain only the updated version.⁶³ Fortunately, it was uncommon for authors to amend instead of merely add to their previous edition.⁶⁴ The first edition ran from 378 to Anastasius' death in 518. Bjornlie considers it to have been published while Marcellinus was at court, on the grounds that the titles *comes* and *vir clarissimus* appear in the preface, but these were probably inserted with the second edition.⁶⁵ The first edition lacks any mention of Justin or Justinian, so was likely not a court text but appeared shortly after Anastasius' death.⁶⁶ In retirement, Marcellinus 'furthermore supplied another 16 years and affixed them to my unadorned work', taking his chronicle down to the Vandal triumph of 534.⁶⁷ This update was itself continued by other chroniclers; one continuation survives anonymously.⁶⁸ Though Marcellinus neither published at court nor served Justinian as emperor, his literary production is bound up with the court's logic. Justinian was motivated to appoint him by his earlier writing and his later writing was motivated by political allegiance to the emperor.

⁶² *adhuc patricii iustiniani... egisse cancellos, sed meliore conditione devotus... opus suum... perduxit.* Cassiodorus, *Inst.* 1.17.2.

⁶³ Croke, *Count Marcellinus*, p.34.

⁶⁴ Compare Procopius, *Wars* 8.1.1; Malalas 18.8.

⁶⁵ Bjornlie, *Politics and Tradition*, p.90.

⁶⁶ Croke, *Count Marcellinus*, pp.25–28. On the editorial mistake underpinning the old view that Marcellinus wrote his whole chronicle after his court service, see B. Croke, "The Misunderstanding of Cassiodorus *Institutiones* 1.17.2," *CQ* 32 (1982), pp.225–26.

⁶⁷ *itemque alios sedecim annos... suffeci... et meum rusticum opus subposui.* Marcellinus pr. On the translation, see Michael Whitby, Review of B. Croke, *The Chronicle of Marcellinus, Translation and Commentary*, *EME* 5 (1996), p.222. For the triumph: Procopius, *Wars* 4.9; H. Börm, "Justinians Triumph und Belisars Erniedrigung: Überlegungen zum Verhältnis zwischen Kaiser und Militär im späten römischen Reich," *Chiron* 43 (2013), pp.63–91; B. Hoffmann, "Belisarius' Triumph and Justinian's Equestrian Statue: Justinian as a New Augustus?," *Ad Vallum: Papers on the Roman Army and Frontiers in Celebration of Dr Brian Dobson*, ed. A. Parker (Oxford, 2017), pp.99–102; M. McCormick, *Eternal Victory: Triumphal Rulership in Late Antiquity, Byzantium, and the Early Medieval West* (Cambridge, 1986), pp.125–29. Further context: M. Beard, *The Roman Triumph* (Cambridge, MA, 2007); C. Ando, "Triumph in the Decentralized Empire," *Der römische Triumph in Prinzipat und Spätantike*, eds. F. Goldbeck & J. Wienand (Berlin, 2016), pp.397–418; G. Halsall, "The Decline and Fall of the Ancient Triumph," *Der römische Triumph in Prinzipat und Spätantike*, eds. F. Goldbeck & J. Wienand (Berlin, 2016), pp.555–68.

⁶⁸ Croke, *Count Marcellinus*, pp.216, 237.

Paul the Silentiary⁶⁹

Paul belonged to an aristocratic family with a recent history of prominent court service.⁷⁰ It is unsurprising that his own progress at court was relatively straightforward. His career culminated among ‘the first of the officials who oversee the maintenance of silence around the emperor’.⁷¹ He was therefore either the *primicerius* or one of the three *decuriones* who led the palatine corps of silentiaries, the court ushers who, among other tasks, convened meetings.⁷² These were prestigious and wealthy offices. They bestowed *illustris* rank and it was no coincidence that Anastasius I was the *primicerius* before he succeeded Zeno in 491.⁷³

Paul pursued personal literary interests. He composed classicising epigrams, many of which were published in the *Cycle*, an anthology compiled by his friend Agathias.⁷⁴ His homoerotic poetic subjects included fetishtic bathers and hypermasculine barbarians, highlighting the ease with which powerful sixth-century men could privately participate in subversive poetry without harming their careers.⁷⁵ The *Cycle*’s concern with themes of gender, sexuality, and power means that Paul was not engaged in ‘mere literary exercises’ but in ‘impish responses to the more obviously public poetry and narratives that had become commonplace in sixth-century Constantinople’.⁷⁶

However, Paul was himself responsible for some of that ‘more obviously public poetry’. Justinian selected this active court poet to compose a hexameter ekphrasis, the *Description of the Hagia Sophia*, for performance on Epiphany 563, the final day of a two-week

⁶⁹ *PLRE* 3 Paulus 21.

⁷⁰ Agathias, *H.* 5.9.7. Paul’s grandfather was *comes rerum privatarum* from 531 to 536: *PLRE* 3 Florus 1; Malalas 18.89.

⁷¹ τὰ πρῶτα τελῶν ἐν τοῖς τῆς ἀμφὶ τὸν βασιλέα σιγῆς ἐπιστάταις. Agathias, *H.* 5.9.7.

⁷² Whitby, “On the Omission of a Ceremony,” p.483; Jones, *Later Roman Empire*, pp.571–72.

⁷³ F. Haarer, *Anastasius I: Politics and Empire in the Late Roman World* (Cambridge, 2006), pp.2–4, 189. On the *illustris* rank, see Jones, *Later Roman Empire*, pp.528–42.

⁷⁴ G. Viansino, *Paulo Silenziario Epigrammi* (Turin, 1963).

⁷⁵ See: S. D. Smith, “Agathias and Paul the Silentiary: Erotic Epigram and the Sublimation of Same-Sex Desire in the Age of Justinian,” *Sex in Antiquity: Exploring Gender and Sexuality in the Ancient World*, eds. M. Masterson, N. Sorkin & J. R. Rabinowitz (London, 2014), pp.500–16; Smith, *Greek Epigram*. For anti-homosexuality legislation, see further: J. Nov. 77, 141; R. Scott, “Malalas, the *Secret History*, and Justinian’s Propaganda,” *DOP* 39 (1985), p.103; R. Betancourt, *Byzantine Intersectionality: Sexuality, Gender, and Race in the Middle Ages* (Princeton, NJ, 2020), pp.83–86.

⁷⁶ First quote: Mary Whitby, “The Occasion of Paul the Silentiary’s Ekphrasis of S. Sophia,” *CQ* 35 (1985), p.215. Second quote: Smith, *Greek Epigram*, p.240.

rededication festival for the Hagia Sophia after its dome had collapsed in 558.⁷⁷ Paul's performance was well-received; Justinian invited him to compose a second *Description* for the later completion of the Hagia Sophia's ambo.⁷⁸ The *Description* was ritualised. Its first 80 lines, a panegyric for Justinian, were performed in the imperial palace before Paul and his distinguished audience moved to the patriarchal palace.⁷⁹ This movement is recorded by a lemma original to the single surviving tenth-century manuscript.⁸⁰ It was plausibly inserted by Paul himself when he later prepared his poem for written publication, to which Agathias testifies when he praises the *Description* for enabling its readers to visualise the church 'no less so than those who walk around and examine everything in it'.⁸¹ Paul's poem is therefore a hybrid text, a written version of a court poet's oral performance at a carefully planned festival of imperial legitimacy.

Corippus⁸²

Like Junillus, Corippus (or Gorippus) was born in Vandal North Africa.⁸³ He composed a Latin epic, the *Iohannis*, in celebration of the *magister militum* John Troglita shortly after his triumphal entrance into Carthage in 548.⁸⁴ Here, he describes himself as 'an ignorant [poet] who once recited verses in the countryside'.⁸⁵ The manuscript of his other extant work refers

⁷⁷ Whitby, "The Occasion of Paul the Silentiary's Ekphrasis," p.216; R. Macrides & P. Magdalino, "The Architecture of Ekphrasis: Construction and Context of Paul the Silentiary's Poem on Hagia Sophia," *BMGS* 12 (1988), p.65. On the festival, see below, 1.IV.B.

⁷⁸ Whitby, "The Occasion of Paul the Silentiary's Ekphrasis," p.216 n.8.

⁷⁹ *Ibid.* pp.217–18; Bell, *Three Political Voices*, p.82.

⁸⁰ Heidelberg MS Cod. Pal. gr. 23, f.14r; Paul, *DHS* 80–81; C. A. Trypanis, *Fourteen Early Byzantine Cantica* (Vienna, 1968), p.139; Whitby, "The Occasion of Paul the Silentiary's Ekphrasis," pp.215, 217 nn.14–15; E. M. van Opstall, "On the Threshold: Paul the Silentiary's *Ekphrasis of Hagia Sophia*," *Sacred Thresholds: The Door to the Sanctuary in Late Antiquity*, ed. E. M. van Opstall (Leiden, 2018), p.33.

⁸¹ οὐ μείον ἢ οἱ θεὰ ἐν αὐτῷ περιπάτους ποιούμενοι καὶ ἅπαντα διασκοποῦντες. Agathias, *H.* 5.9.8. Emphasis added. See also Macrides & Magdalino, "Architecture of Ekphrasis," p.49. On the rhetorical technique of *periegesis* to which Agathias is referring, see E. M. van Opstall, "The Works of the Emperor and the Works of the Poet: Paul the Silentiary's *Ekphrasis of Hagia Sophia*," *Byzantion* 87 (2017), pp.389–93.

⁸² *PLRE* 3 Fl. Cresconius Corippus.

⁸³ On the name: P. Riedlberger, *Philologischer, historischer und liturgischer Kommentar zum 8. Buch der Iohannis des Goripp nebst kritischer Edition und Übersetzung* (Groningen, 2010), pp.28–33; P. Riedlberger, "Again on the Name Gorippus – State of the Question – New Evidence – Rebuttal of Counterarguments – The Case of the *Suda*," *Corippe, un poète latin entre deux mondes*, ed. B. Goldlust (Lyon, 2015), pp.243–71.

⁸⁴ A. Merrills, "Corippus' Triumphal Ethnography: Another Look at *Iohannis* II.28–161," *LS* 50 (2019), pp.153–63. On the performance of the *Iohannis*: Cameron, *In laudem*, p.1; Corippus, *Iohannis* pr.1. For the single surviving manuscript: *Codex Trivultianus*, Milan MS Cod. Triv. 686, ff.1r–68r; F. D. R. Goodyear, "Notes on the *Iohannis* of Corippus," *VC* 16 (1962), p.34; For Troglita and his victory, see especially Y. Modéran, "Jean Troglita," *EB* 25 (2003), pp.3866–70, and also: *PLRE* 3 Iohannes (*qui et* Troglita); R. B. Hitchner, "Troglita, John," *ODB*; Procopius, *Wars* 4.28, 45; Jordanes, *Romana* 385; Marcellinus 547.6.

⁸⁵ *ignarus, quondam per rura locutus... carmina*. Corippus, *Iohannis* pr.25–26.

to him as ‘Gorippus the African *grammaticus*’.⁸⁶ On these bases, Corippus is generally considered to have been ‘a small-town teacher’ in provincial North Africa.⁸⁷ Whether this is true or not, he certainly received an expansive education. His poetry contains numerous allusions to both classical and biblical literature and innovations in form and genre.⁸⁸

The *Iohannis* both panegyricised Troglita and aimed at ‘persuading the existing population of [Africa] of the blessings of Byzantine rule’.⁸⁹ It demonstrates Corippus’ early interest in building a career by combining praise for powerful men with arguments that advanced the Roman imperial project. By the 560s, his career had reached the Constantinopolitan court, where he composed another hexameter poem, *In Praise of Justin II*.⁹⁰ Its first three books treat Justin’s accession in November 565 and its incomplete fourth his consular inauguration in January 566.⁹¹ As with the *Iohannis* and Troglita’s triumph, much of *In Praise*’s detail was drawn from observation of these ceremonies, so it was likely composed early in Justin’s reign.⁹² It mostly proceeds from the narrative perspective of the senators present when Justin was anointed and contains an array of ‘miniature panegyrics’ for court officials; its audience was probably constituted similarly to Paul’s.⁹³

⁸⁶ GORIPPI AFRICANI GRAMATICI. Madrid BNE MS Matritensis 10029, f.36r.

⁸⁷ Cameron, *In laudem*, p.1, and also: Conant, *Staying Roman*, p.259; F. Haarer, “Corippus,” *EAH*; H. Hofmann, “Corippus as a Patristic Author?,” *VC* 43 (1989), p.362. For an alternative theory that Corippus was a wandering poet, see B. Baldwin, “The Career of Corippus,” *CQ* 28 (1978), pp.372–76, with a rebuttal at Averil Cameron, “The Career of Corippus Again,” *CQ* 30 (1980), pp.534–39. On the wandering poets, see Alan Cameron, *Wandering Poets and Other Essays on Late Greek Literature and Philosophy* (Oxford, 2016), pp.1–35.

⁸⁸ Classical allusions: Alan Cameron, “The Vergilian Cliché of the Hundred Mouths in Corippus,” *Philologus* 111 (1967), pp.308–9; J. Blansdorf, “Aeneadas rursus cupiunt resonare Camenae: Vergils epische Form in der *Johannis* des Corippus,” *Monumentum Chilonense: Festschrift E. Burek*, ed. E. Lefèvre (Amsterdam, 1975), pp.524–45; B. Baldwin, “Corippus and Ennius,” *ICS* 13 (1988), pp.175–82; P. Hajdu, “Corippus’s Attempt at Writing a Continuous Narrative Again,” *Latomus* 60 (2001), pp.167–70; C. O. Tommasi Moreschini, “Exegesis by Distorting Pagan Myths in Corippus’ Epic Poetry,” *Poetry and Exegesis in Premodern Latin Christianity: The Encounter between Classical and Christian Strategies of Interpretation*, eds. W. Otten & K. Pollmann (Leiden, 2007), pp.175–77. Biblical allusions: Hofmann, “Corippus as a Patristic Author?,” pp.361–77. Both: Averil Cameron, “Corippus’ Poem on Justin II: A Terminus of Late Antique Art?,” *AnnPisa* 5 (1975), pp.133–5; V. Zarini, “Entre tradition classique et références bibliques: l’éloge des grands chez un poète latin de l’antiquité chrétienne,” *SEA* 108 (2008), pp.115–26. Literary innovations: Hajdu, “Corippus’s Attempt,” pp.167–75.

⁸⁹ Averil Cameron, “Corippus’ *Iohannis*: Epic of Byzantine Africa,” *PLLS* 4 (1984), p.169. See further: Hofmann, “Corippus as a Patristic Author?,” pp.366–67; Averil Cameron, “The Byzantine Reconquest of North Africa and the Impact of Greek Culture,” *Graeco-Arabica* 5 (1993), p.153; Conant, *Staying Roman*, pp.252–72, 359, 376; C. O. Tommasi Moreschini, “Between Dissent and Praise, between Sacred and Secular: Corippus against the African Background of the Three Chapters Controversy,” *RSLR* 53 (2017), p.202.

⁹⁰ J.-L. Charlet, “L’hexamètre de Corippe dans la *Johannide* et dans le *Panégyrique de Justin II*,” *Corippe, un poète latin entre deux mondes*, ed. B. Goldlust (Lyon, 2015), pp.337–46.

⁹¹ Cameron, *In laudem*, p.1.

⁹² Cameron, “Corippus’ Poem,” pp.129–65; Cameron, *In laudem*, p.5; Merrills, “Corippus’ Triumphal Ethnography,” pp.153–63.

⁹³ Cameron, *In laudem*, p.5; Cameron, “Corippus’ Poem,” p.158; Baldwin, “Career of Corippus,” p.375. For the miniature panegyrics, see: on the *praepositus sacri cubiculi* Callinicus, Corippus, *In Praise* 1.76–88; on the

The miniature panegyrics are advertisements. *In Praise's* manuscript contains a second preface 'in praise of Anastasius, the quaestor and *magister [officiorum]*'.⁹⁴ This preface was excised from a separate, non-extant panegyric.⁹⁵ It refers to 'a decree [that] commends your servant to you [Anastasius], under whose name I conduct my duty for the emperor'.⁹⁶ Cameron showed that Corippus must therefore have been appointed to a post in Anastasius' bureau by the emperor.⁹⁷ While his career spanned the empire, two imperial reigns, and both the court and civil service, its logic was consistent. Corippus was a professional panegyrist who extracted a livelihood from his literary talent for praise and for advancing his client's agendas. Even in his panegyric for the emperor, the pinnacle of his career, he tempted attendees to commission him for their own panegyrics.

1.1.B: The Bureaucracy

Procopius reports that Constantinople was home to thousands of civil servants.⁹⁸ He underestimated.⁹⁹ These skilled, educated men performed essential government functions: collecting tax, distributing goods and documents, managing state finances, and keeping records.¹⁰⁰ Their membership of the imperial administration also accultured them to an ideology of state service.¹⁰¹ The rapid growth and centralisation of the late antique administration ensured that, for a certain class, wealth and influence could best be derived from imperial office-holding.

comes excubitorum Tiberius, 1.212–25; on the *spatharius* Narses, 3.220–30; on the urban prefect Julian, 4.3–7. Notes at Cameron, *In laudem*, pp.132, 138, 189–90, 194.

⁹⁴ *IN LAUDEM ANASTASII QUESTORIS ET MAGISTRI*. Madrid BNE MS Matritensis 10029, f.20r. For Anastasius, see *PLRE* 3 Anastasius 14.

⁹⁵ H. Hofmann, Review of S. Antès, *Éloge de l'empereur Justin II*, *Mnemosyne* 40 (1987), pp.209–19; H. Hofmann, "Überlegungen zu einer Theorie der nichtchristlichen Epik der lateinischen Spätantike," *Philologus* 132 (1988), pp.104–5, 112–13.

⁹⁶ *tibi sanctio vestrum commendat famulum... sub cuius nomine gesto principis officium*. Corippus, *In Praise Pan. Anast.* 45–48; Cameron, "Career of Corippus Again," p.537.

⁹⁷ Cameron, "Career of Corippus Again," pp.537–38.

⁹⁸ Procopius, *SH* 24.15–29.

⁹⁹ Bjornlie, *Politics and Tradition*, p.46; Michael Whitby, "The Late Roman Empire Was Before All Things a Bureaucratic State," *Empires and Bureaucracy in World History from Late Antiquity to the Twentieth Century*, eds. P. Crooks & T. H. Parsons (Cambridge, 2016), p.139. See further C. Kelly, "John Lydus and the Eastern Praetorian Prefecture in the Sixth Century," *BZ* 98 (2005), p.454 n.92.

¹⁰⁰ Bjornlie, *Politics and Tradition*, p.44; Jones, *Later Roman Empire*, pp.563–606; J. Caimi, *Burocrazia e diritto nel De magistratibus di Giovanni Lido* (Milan, 1984), pp.16–45.

¹⁰¹ Heather, "New Men for New Constantines?," pp.184–97; Bjornlie, *Politics and Tradition*, p.44.

Evidence for the bureaucracy's organisation is primarily derived from the late fourth-century *Notitia Dignitatum*, Lydus' sixth-century *On Powers*, and relevant constitutions.¹⁰² These sources give the impression of a bureaucracy subject to rigid hierarchies and clearly defined rules of promotion by seniority. In practice, career progression was affected by internal networks of patronage, just as at court.¹⁰³ The court and bureaucracy were connected institutions; the emperor appointed court officials to run bureaucratic departments staffed by career civil servants.¹⁰⁴ Yet their differences in modes of appointment, as well as the vast number of civil servants, has led many scholars to treat the bureaucracy as an 'insulated' intellectual culture.¹⁰⁵ This model of bureaucratic culture as élite, conservative, and relatively homogenous depends on a narrow selection of bureaucratic representatives, especially Zosimus and Lydus.¹⁰⁶ Both are introduced here, but so too is Malalas, who shared their background and careers but not their ideas. The bureaucracy was itself the site of vigorous internal debate.

Zosimus¹⁰⁷

Zosimus was 'the last vocally pagan' Roman author.¹⁰⁸ The ninth-century bibliographer Photius calls him 'Zosimus comes, the *ex-advocatus fisci*'.¹⁰⁹ *Advocati fisci* were senior barristers at each prefectural bar, acting as crown counsel in proceedings involving the

¹⁰² On the *Notitia Dignitatum*, see: J. C. Mann, "What Was the *Notitia Dignitatum* For?," *Aspects of the Notitia Dignitatum: Papers Presented to the Conference in Oxford, December 13 to 15, 1974*, eds. R. Goodburn & P. Bartholomew (Oxford, 1976), pp.1–10; P. Brennan, "The *Notitia Dignitatum*," *Les littératures techniques dans l'antiquité romaine: statut, public et destination, tradition: sept exposés suivis de discussions*, ed. C. Nicolet (Geneva, 1996), pp.147–78; M. Kulikowski, "The *Notitia Dignitatum* as a Historical Source," *Historia* 49 (2000), pp.358–77.

¹⁰³ Kelly, *Ruling*, pp.38–44. Still, for the later Byzantine bureaucracy: J. Shea, *Politics and Government in Byzantium: The Rise and Fall of the Bureaucrats* (London, 2020), pp.7–8.

¹⁰⁴ T. F. Carney, *Bureaucracy in Traditional Society: Romano-Byzantine Bureaucracies Viewed from Within* (Lawrence, KS, 1971), vol.1, pp.104–5, vol.2, pp.77–79; Kelly, "John Lydus," pp.436–37.

¹⁰⁵ Bjornlie, *Politics and Tradition*, pp.48–53; M. Maas, *John Lydus and the Roman Past: Antiquarianism and Politics in the Age of Justinian* (London, 1992), pp.25–26, 35–37; Carney, *Bureaucracy*, vol.2, pp.77–90.

¹⁰⁶ e.g. Maas, *John Lydus*, pp.40–44.

¹⁰⁷ *PLRE* 2 Zosimus 6.

¹⁰⁸ Kruse, *Politics*, p.24. Also: W. E. Kaegi, *Byzantium and the Decline of Rome* (Princeton, NJ, 1968), p.101 n.4; Alan Cameron, "The Date of Zosimus' *New History*," *Philologus* 113 (1969), p.106; D. C. Scavone, "Zosimus and his Historical Models," *GRBS* 11 (1970), p.58.

¹⁰⁹ Ζωσίμου κόμητος ἀπὸ φισκοσυνηγόρου. Photius, *Bibl.* cod.98; Kruse, *Politics*, p.11. On Photius and his text, see: W. Treadgold, *The Nature of the Bibliotheca of Photius* (Washington, D. C., 1980); W. Treadgold, "Photius Before his Patriarchate," *JEH* 53 (2002), pp.1–17; N. G. Wilson, "The Composition of Photius' *Bibliotheca*," *GRBS* 9 (1968), pp.451–55; T. Hägg, "Photius at Work: Evidence from the Text of the *Bibliotheca*," *GRBS* 14 (1973), pp.213–23.

public treasury.¹¹⁰ These were prestigious, well-remunerated positions limited to one- or two-year terms immediately before retirement.¹¹¹ Only *advocati fisci* at the eastern praetorian prefect's bar in Constantinople automatically became *comites* at the end of their service.¹¹² Zosimus likely worked, retired, and wrote in the capital.

Zosimus' only extant text, the *New History*, narrates the decline of the Roman empire in the fourth and early fifth centuries. It survives in a single tenth- or eleventh-century manuscript that breaks off abruptly in 410.¹¹³ Photius' ninth-century copy and possibly Evagrius' sixth-century copy ended at the same point and the text exhibits other features of a draft text, like an inconsistent treatment of Stilicho; these details support Treadgold's characterisation of the text as 'obviously unfinished'.¹¹⁴ Yet Zosimus probably intended to finish his account with the 410 sack of Rome, given its thematic importance to the theme of Roman decline.¹¹⁵ His narrative is nearly complete, if unrefined.

The *New History*'s standard date range, 498–510, is too narrow. The *terminus post quem* is easily provided by Zosimus' reference to the abolition of the *chrysargyron*.¹¹⁶ The *terminus ante quem* is only provided by Evagrius' report that Eustathius used Zosimus as a source.¹¹⁷ Eustathius' non-extant chronicle broke off in 503, but was most likely written after 518, assuming that he intended to follow the chronographical convention of concluding 'at the end of the preceding imperial reign'.¹¹⁸ Eustathius in turn was cited by Malalas in c.527.¹¹⁹ The *New History* therefore only needs to have been written early enough for Eustathius to read it and Malalas in turn to have read Eustathius. It could be dated as late as the reign of

¹¹⁰ Jones, *Later Roman Empire*, p.509; P. A. Brunt, "The 'Fiscus' and its Development," *JRS* 56 (1966), pp.84–85. On the *fiscus* or public treasury more generally, see *ibid.* pp.75–91; F. Millar & G. Burton, "Fiscus," *Oxford Research Encyclopedia of Classics*.

¹¹¹ Jones, *Later Roman Empire*, pp.509–10; *CJ* 2.7.8–13, 20–26.

¹¹² *CJ* 2.7.8; Jones, *Later Roman Empire*, p.510.

¹¹³ Vatican BAV MS Vat. gr. 156; Kruse, *Politics*, p.11.

¹¹⁴ Photius, *Bibl. cod.*98; R. C. Blockley, "Was the First Book of Zosimus' *New History* Based on More than Two Sources?," *Byzantion* 50 (1980), p.394; W. Treadgold, *The Early Byzantine Historians* (Basingstoke, 2007), p.108; Kaegi, *Decline of Rome*, p.100 n.3.

¹¹⁵ R. T. Ridley, "Zosimus the Historian," *BZ* 65 (1972), p.283; Kruse, *Politics*, pp.17–43.

¹¹⁶ Zos. 2.38. For the logic, but misdated to 501, see: F. Rühl, "Wann schrieb Zosimos?," *RhM* 46 (1891), pp.146–47; T. Mommsen, "Zosimus," *BZ* 12 (1903), p.533. The correct date is 498: T. Nöldeke, "Die Aufhebung des Chrysargyrum durch Anastasius," *BZ* 13 (1904), p.135. See also: E. Stein, *Histoire du bas-empire 2: de la disparition de l'Empire d'Occident à la mort du Justinien* (Paris, 1949), p.708 n.1; W. Goffart, "Zosimus, the First Historian of Rome's Fall," *AHR* 76 (1971), p.421.

¹¹⁷ Evagrius, *HE* 5.24.

¹¹⁸ Treadgold, *Early Byzantine Historians*, pp.114–15. Eustathius' death is misdated to 503 by Evagrius, *HE* 3.37, followed by L. Mendelssohn, *Zosimi comitis et exadvocati fisci Historia Nova* (Leipzig, 1887), p.viii in dating Zosimus to the fifth century. See W. Treadgold, "The Byzantine World Histories of John Malalas and Eustathius of Epiphania," *IHR* 29 (2007), pp.725–26.

¹¹⁹ Malalas pr. For dates, see below.

Justin I. While Alan Cameron's grounds for a narrow 498–502 range have been comprehensively refuted, most scholars continue to prefer 498–c.510, which is simply a hangover from previous early datings.¹²⁰ Whatever his dates, Zosimus was certainly more in touch with 'the Justinianic intellectual milieu' than this range supposes.¹²¹ His ideas were current enough to demand an official response early in Justinian's reign.

John Malalas¹²²

Malalas was born in Syria during Zeno's reign (474–491).¹²³ His Syriac epithet translates the Greek *rhetor*, indicating rhetorical and legal training.¹²⁴ He composed an eighteen-book chronicle, centred on the Incarnation and detailing human history from creation until at least Justinian's death, though it breaks off in 563.¹²⁵ To judge from his Antiochene focus, the nature of his archival sources, and his technical vocabulary, Malalas was a 'middle to high ranking official in the imperial bureaucracy at Antioch – probably in the office of the *comes Orientis*'.¹²⁶ He may even have been another *advocatus fisci*.¹²⁷ In the late 520s or early 530s, Malalas moved to Constantinople. The focus of his final book shifts accordingly.¹²⁸ Since he lived at least 30 years more, continued to access similar source material, and wrote in a

¹²⁰ Cameron, "The Date of Zosimus' *New History*," pp.106–10. For refutations, see: Goffart, "Zosimus," p.422; Ridley, "Zosimus the Historian," pp.279–80; F. Paschoud, *Cinq études sur Zosime* (Paris, 1975), p.5 n.2.

¹²¹ Kruse, *Politics*, p.29, making the same redating on different logic.

¹²² *PLRE* 3 Ioannes Malalas 50.

¹²³ Malalas pr.; B. Croke, "Malalas, the Man and his Work," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), p.4.

¹²⁴ G. Greatrex, "Lawyers and Historians in Late Antiquity," *Law, Society, and Authority in Late Antiquity*, ed. R. W. Mathisen (Oxford, 2001), pp.150–51. For a Greek writer referring to John as *rhetor*: Evagrius, *HE* 1.16, 2.12, 3.10, 28, 4.5. For *malalas*: John of Damascus, *On Holy Images* 3.124 = *PG* 94.1369. See also: Croke, "Malalas, the Man and his Work," p.3; W. Witakowski, "The Transmission of Malalas' Chronicle: Malalas in Syriac," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), pp.305–6.

¹²⁵ Croke, "Malalas, the Man and his Work," pp.18–22; P. Blaudeau, "Malalas and the Representation of Justinian's Reign: A Few Remarks," *Die Weltchronik des Johannes Malalas: Autor – Werk – Überlieferung*, eds. M. Meier, C. Radtke & F. Schulz (Stuttgart, 2016), pp.77–90.

¹²⁶ Croke, "Malalas, the Man and his Work," p.11. See also: M. Jeffreys, "The Language of Malalas: Formulaic Phraseology," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), p.225; R. Scott, "Diplomacy in the Sixth Century: The Evidence of John Malalas," *Byzantine Diplomacy: Papers of the Twenty-Fourth Spring Symposium of Byzantine Studies*, eds. J. Shepard & S. Franklin (Aldershot, 1992), p.165, revising R. Scott, "Malalas and Justinian's Codification," *Byzantine Papers: Proceedings of the First Australian Byzantine Studies Conference*, eds. E. Jeffreys, M. Jeffreys & A. Moffatt (Canberra, 1981), p.23; E. Jeffreys, "The Beginning of Byzantine Chronography: John Malalas," *Greek and Roman Historiography in Late Antiquity: Fourth to Sixth Century A.D.*, ed. G. Marasco (Leiden, 2003), p.512; G. Greatrex, "Malalas and Procopius," *Die Weltchronik des Johannes Malalas: Autor – Werk – Überlieferung*, eds. M. Meier, C. Radtke & F. Schulz (Stuttgart, 2016), p.175.

¹²⁷ Greatrex, "Lawyers," p.151.

¹²⁸ Croke, "Malalas, the Man and his Work," p.22; Treadgold, "Malalas and Eustathius," p.716.

broadly unchanging style, Malalas probably took up another bureaucratic post in the capital, though this stage of his professional career has hardly been examined.¹²⁹

Malalas published at least one edition of his chronicle before he moved. Evagrius refers to a copy that ended in 526.¹³⁰ Malalas' entry for 528 responds to criticism of an earlier edition, confirming the existence of at least two early editions, but the chronicle's change in focus does not occur until 532, engendering a scholarly debate about how many early editions existed.¹³¹ It is at least certain that Malalas produced one major update in old age, shortly after Justinian's death, to extend his final book until at least 565.¹³²

A 'hermeneutics of suspicion governs most research' on Malalas.¹³³ This includes Greatrex's claim that Malalas' chronicle is 'as much a product of the attitudes of... intervening scribes as of a sixth-century *mentalité*'.¹³⁴ The Greek text survives only in a lacunose, eleventh- or twelfth-century manuscript.¹³⁵ The seventh-century Tusculan Fragments prove that this manuscript abbreviates a fuller text.¹³⁶ While dependent chronographers, tenth-century excerpts in the *De insidiis*, and a parallel Slavonic tradition provide more complete witnesses to Malalas' chronicle in parts, the modern text remains mostly abridged.¹³⁷ Yet this does not mean that inauthentic material was inserted nor that Malalas' own thought is inaccessible. The extant text relates strongly to the themes of

¹²⁹ E. Jeffreys, "Malalas' Sources," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), pp.212–13.

¹³⁰ Evagrius, *HE* 4.5.

¹³¹ For one edition, ending 532: Croke, "Malalas, the Man and his Work," pp.18–20, which does not reconcile Malalas 18.8 and Evagrius, *HE* 4.5. For editions in 527, 528, and 533: Treadgold, "Malalas and Eustathius," pp.716–18, based on shifts in geographical focus. For the simultaneous circulation of multiple editions, see E. Jeffreys, "The Manuscript Transmission of Malalas' Chronicle Reconsidered," *Die Weltchronik des Johannes Malalas: Autor – Werk – Überlieferung*, eds. M. Meier, C. Radtki & F. Schulz (Stuttgart, 2016), pp.142–44.

¹³² Blaudeau, "Malalas and the Representation of Justinian's Reign," pp.77–80; Croke, "Malalas, the Man and his Work," pp.22–25.

¹³³ van Nuffelen, "Chronographic Tradition," p.261.

¹³⁴ Greatrex, "Malalas and Procopius," p.171.

¹³⁵ Oxford MS Baroccianus 182; E. Jeffreys, "The Transmission of Malalas' Chronicle: Malalas in Greek," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), pp.245–47.

¹³⁶ Jeffreys, "Malalas in Greek," p.251; Jeffreys, "Beginning," p.503.

¹³⁷ On chronicles dependent on Malalas: J. Howard-Johnston, *Witnesses to a World Crisis: Historians and Histories of the Middle East in the Seventh Century* (Oxford, 2010), pp.37–41; P. van Nuffelen, "John of Antioch, Inflated and Deflated, or: How (Not) to Collect Fragments of Early Byzantine Historians," *Byzantion* 82 (2012), pp.437–50; Witakowski, "Malalas in Syriac," pp.299–310. On the *De insidiis*: B. Flusin, "Les *Excerpta Constantiniana* et le *Chronographie* de Jean Malalas," *Recherches sur la Chronique de Jean Malalas*, ed. J. Beaucamp (Paris, 2004), pp.119–36; U. Roberto, "Byzantine Collections of Late Antique Authors: Some Remarks on the *Excerpta historica Constantiniana*," *Die Kestoi des Julius Africanus und ihre Überlieferung*, eds. M. Wallraff & L. Mecella (Berlin, 2009), pp.71–84; A. Németh, *The Excerpta Constantiniana and the Byzantine Appropriation of the Past* (Cambridge, 2018). On the Slavonic Malalas: S. Franklin, "The Transmission of Malalas' Chronicle: Malalas in Slavonic," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), pp.276–87.

debate in both sixth-century Antioch and Constantinople, not least in relation to a millenarianism that was chronologically specific to Malalas' own time.¹³⁸ Where this contemporary currency is identifiable, the chronicle's legible arguments may be taken as genuine reflections of Malalas' own political thought.

John Lydus¹³⁹

Lydus wrote an autobiography.¹⁴⁰ He was born in Philadelphia in Lydia, where he must have received a standard rhetorical education, and moved to Constantinople aged 21 in 511.¹⁴¹ While waiting for an opportunity to launch a court career, he enrolled at Agapius' philosophical school to study both 'the fundamentals of Aristotelian teaching' and 'Platonic philosophy'.¹⁴² When his compatriot Zoticus became praetorian prefect later that year, Lydus capitalised on this newly available patronage by enlisting in the civil service.¹⁴³ Besides a brief secondment as a court secretary, Lydus spent his whole, accelerated career on the judicial side of the prefecture, eventually attaining the highest rank available by promotion, the *cornicularius*.¹⁴⁴ In the early 540s, Justinian appointed him to a Latin professorship concurrent with his civil service.¹⁴⁵ By the time Lydus retired in 551/52, he was a senior civil servant, deeply embedded in bureaucratic culture, with a demonstrated talent for securing the patronage of court officials, the emperor included.¹⁴⁶

¹³⁸ S. A. Harvey, "Remembering Pain: Syriac Historiography and the Separation of the Churches," *Byzantion* 58 (1988), pp.295–308; E. Jeffreys, "Malalas' Use of the Past," *Reading the Past in Late Antiquity*, ed. G. W. Clarke (Rushcutters Bay, 1990), pp.121–46; R. Scott, "Malalas and his Contemporaries," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), p.82; W. Brandes, "Anastasios ὁ Δίκωρος: Endzeiterwartung und Kaiserkritik in Byzanz um 500 n. Chr.," *BZ* 90 (1997), pp.25–32; P. Blaudeau, "Ordre religieux et ordre public: observations sur l'histoire de l'église post-chalcédonnienne d'après le témoignage de Jean Malalas," *Recherches sur la Chronique de Jean Malalas*, eds. S. Augusta-Boularot, J. Beaucamp, A.-M. Bernardi & E. Caire (Paris, 2006), p.255.

¹³⁹ *PLRE* 2 Ioannes Lydus 75.

¹⁴⁰ Lydus, *Powers* 3.26–30; Maas, *John Lydus*, pp.24–31; Kelly, *Ruling*, pp.11–17.

¹⁴¹ Lydus, *Powers* 3.26.

¹⁴² τὰ πρῶτα τῶν Ἀριστοτελικῶν διδαγμάτων / Πλατωνικῆς φιλοσοφίας. Lydus, *Powers* 3.26.

¹⁴³ Lydus, *Powers* 3.26–27.

¹⁴⁴ E. Stein, *Untersuchungen über das Officium der Prätorianpräfektur seit Diokletian* (Vienna, 1922), p.29; Caimi, *Burocrazia e diritto*, p.82; Kelly, *Ruling*, pp.13, 45–46. For the alternative argument that Lydus retired as *primiscrinus*, the second-highest office, see Maas, *John Lydus*, p.31. However, *primiscrinii* who had been enrolled among the *Augustales*, as Lydus had, automatically became *cornicularii*: Lydus, *Powers* 3.9; Kelly, "John Lydus," pp.431–58. On the prefecture, see further: Jones, *Later Roman Empire*, pp.370–72, 448–62; R. Morosi, "L'officium del prefetto del pretorio nel VI secolo," *Romanobarbarica* 2 (1977), pp.103–48; W. Ensslin, "Praefectus Praetorio," *RE*, pp.2391–2502.

¹⁴⁵ Lydus, *Powers* 3.29; Maas, *John Lydus*, pp.29–30.

¹⁴⁶ Stein, *Histoire du bas-empire* 2, pp.838–39.

Like Corippus, Lydus secured professional advancement by writing. He composed panegyrics for Zoticus and Justinian and a book of poems, though none survive.¹⁴⁷ Justinian requested that he write a history of the Persian war down to the 530 battle of Dara, though this is the only one of his non-extant texts that Lydus never outright admits to composing.¹⁴⁸ His only surviving works are three antiquarian treatises, which can be dated relatively thanks to Lydus' penchant for cross-referencing. He first wrote *On the Months*, an account of the ancient Roman calendar and festivals, then *On Signs*, a survey of ancient divination techniques, and finally *On Powers*, a continuous history of the offices of the Roman state that describes itself as a sequel to *On the Months*.¹⁴⁹ Since only *On Powers* places Lydus' civil service in the past, the other treatises were likely published before Lydus' retirement.¹⁵⁰ The manuscripts are fragmented and lacunose.¹⁵¹ *On Powers* breaks off abruptly and repeats itself, suggesting that Lydus had not refined his text.¹⁵²

On Powers is the most political of Lydus' treatises. It is a manifesto for the restoration of the offices of the Roman state to their traditional, ancient form.¹⁵³ Yet all Lydus' antiquarian work was politically motivated, providing the knowledge required for his regenerative project and participating in a culture where competing models of the Roman past were vigorously debated.¹⁵⁴ He wrote for both personal and political gain in a bureaucratic reflection of Corippus' court career.

¹⁴⁷ Lydus, *Powers* 3.27–29; Maas, *John Lydus*, p.7.

¹⁴⁸ Lydus, *Powers* 3.28. Some argue that Lydus did write this history: Maas, *John Lydus*, p.7; Kaldellis, "Republican Theory," p.10. For reserved judgment, see Cameron, *Procopius*, p.19.

¹⁴⁹ Lydus, *Months* 4.22; Lydus, *Signs* 7, 45; Lydus, *Powers* pr., 1.8–9, 2.4, 12–13, 3.42, 61. See also A. C. Bandy, *On Powers or the Magistracies of the Roman State (De magistratibus reipublicae Romanae)* (Lewiston, NY, 2013), pp.21–22. For an absolute dating, see Stein, *Histoire du bas-empire* 2, pp.839–40, rightfully treated with caution by Maas, *John Lydus*, p.8.

¹⁵⁰ Lydus, *Powers* 3.30.

¹⁵¹ *Codex Caseolinus*, Paris BNF MS supp. gr. 257 at *Months* 1.1, *Signs* 1, *Powers* 1.49, 3.12, 3.70–73, 3.76 onwards. See A. Kaldellis, Review of A. C. Bandy, *Ioannes Lydus: The Three Works of Ioannes Lydus*, *BMCR* 2014.01.09 (2014). Another incomplete manuscript was destroyed in 1917: Bandy, *On Powers*, pp.39–41. For a more substantial transmission of *Months*: Vatican BAV MS Cod. Barb. gr. 194, ff.1r–34r; E. Zingg, "The Fragments of John Lydus, *On the Months*, Preserved in Anastasius Sinaites and John Sardinianus (Lyd. mens. 2.2, 2.6, 2.9, 3.4, 3.11, and 3.12)," *Byzantinoslavica* 77 (2019), pp.26–60.

¹⁵² Lydus, *Powers* 2.11–12 = 3.41–42; *Codex Caseolinus*, Paris BNF MS supp. gr. 257, ff.58v–59r = 82v–83r. Contrast Kaldellis, "Religion of Ioannes Lydos," p.308.

¹⁵³ M. Dubuisson, "Jean le Lydien et les formes de pouvoir personnel à Rome," *Cahiers du Centre Gustave Glotz* 2 (1991), pp.55–72; Maas, *John Lydus*, esp. p.72; Kaldellis, "Republican Theory," pp.1–16; S. Dmitriev, "John Lydus' Political Message and the Byzantine Idea of Imperial Rule," *BMGS* 39 (2015), pp.1–24.

¹⁵⁴ R. Praet, "Antiquarianism in the Sixth Century AD: Easing the Shift from Rome to Constantinople," *Revue Belge de Philologie et d'Histoire* 95 (2018), p.1025; Praet, *From Rome to Constantinople*, pp.1–28, 238–316.

1.1.C: The Church

The sixth-century church was not just a religious institution and a site of theological scholarship and debate but also a political, governmental, and administrative structure parallel to the court and bureaucracy.¹⁵⁵ Churchmen distributed, advertised, and enforced laws, participated in the judicial system, and performed important administrative roles for the imperial government.¹⁵⁶ The church needed strategies for attracting ‘human capital’ to act as administrators and lawyers, in addition to the priests through whom the vast majority of late Romans learned about and interacted with Christianity.¹⁵⁷ Churchmen therefore routinely confronted political and economic realities, became enmeshed in power struggles, and were generally educated members of political society more broadly.¹⁵⁸

This overlap between the secular and ecclesiastical spheres was a feature of sixth-century life. Even Procopius, a layman without a doctrinal mindset who criticised Justinian for his theological interests, expressed an unfulfilled intention to write an ecclesiastical history.¹⁵⁹ Many clergymen were invested in lay political debates and developments and were capable of comprehending the highly classicising literature in which some of these debates took place. Many laymen had the same attitude towards ecclesiastical debates and literature. In Justinian’s Constantinople, men like Procopius directly engaged with the contributions to contemporary debate made by the two churchmen introduced here.

Agapetus

The full extent of Agapetus’ biography is provided by the acrostic of his *Advice to the Emperor*, ‘the humblest deacon Agapetus, to our most godly and pious emperor

¹⁵⁵ Whitby, “Before All Things,” p.138.

¹⁵⁶ e.g. J. Nov. 3, 5, 6, 7, 8, 9, 16, 42, 55, 56, 57, 67, 79, Edict 1, App.2, App.3. See also: N. Underwood, “Lawyers and Inquisitors: Reassessing the Role of the *Defensor ecclesiae* in Late Antiquity,” *JRS* (forthcoming); C. Humfress, “A New Legal Cosmos: Late Roman Lawyers and the Early Medieval Church,” *The Medieval World*, eds. P. Linehan, J. L. Nelson & M. Costambeys (London, 2018), pp.653–73; Humfress, *Orthodoxy and the Courts*, pp.179–95; Harries, *Law and Empire*, pp.191–211.

¹⁵⁷ N. Underwood, “Labouring for God: The Clergy and Human Capital in the Later Roman Empire,” *Capital, Investment, and Innovation in the Roman World*, eds. P. Erdkamp, K. Verboven & A. Zuiderhoek (Oxford, 2020), pp.357–80; J. Tannous, *The Making of the Medieval Middle East: Religion, Society, and Simple Believers* (Princeton, NJ, 2018).

¹⁵⁸ Harris, “Institutional Settings,” pp.27–36; Roggo, “The Deposition of Patriarch Eutychius,” pp.433–46.

¹⁵⁹ Criticism: Procopius, *SH* 13.7; Procopius, *Wars* 7.32.9, 35.11; Averil Cameron, “The ‘Scepticism’ of Procopius,” *Historia* 15 (1966), p.481; Frendo, “Three Authors,” p.126; Greatrex, “Perceptions,” pp.86, 97. The ecclesiastical history: Procopius, *Wars* 8.25.13; A. Kaldellis, “The Date and Structure of Prokopios’ *Secret History* and his Projected Work on Church History,” *GRBS* 39 (2009), pp.585–616. Note the objections of J. Signes Codoñer, “One History... In Several Instalments: Dating and Genre in Procopius’ Works,” *RSBN* 54 (2017), pp.17–18.

Justinian'.¹⁶⁰ One of the *Advice's* three manuscript traditions identifies Agapetus as the deacon at the Hagia Sophia, but this uncorroborated claim should be rejected.¹⁶¹ It is a later exaggeration of his institutional importance, like the 'fanciful' idea that Agapetus tutored Justinian.¹⁶² Agapetus was indeed rhetorically and classically educated, exhibiting debts to Isocrates and Plato as well as to patristic thinkers, but this was not unusual for clerical members of political society.¹⁶³ Agapetus can be no more precisely located than an unspecified church in or near Constantinople, since he had access to a collection of Isidore of Pelusium's letters held at the *akoimetoι* library.¹⁶⁴

The *Advice's* date is similarly unclear. It was written between Justinian's accession in 527 and Theodora's death in 548, because it refers to both as alive and ruling.¹⁶⁵ Frohne dates it after 532 by identifying references to the Nika insurrection and Eternal Peace of that year.¹⁶⁶ Bell objects that Agapetus can only have expressed his philosopher-king model before the 529 closure of the Athenian school, but this overstates the importance of the closure in a Constantinopolitan milieu – if it happened at all.¹⁶⁷ Frohne's dating therefore remains appealing. Most scholars date the text close to 527 on the basis that advice is best offered early in a reign, but this misunderstands the *Advice's* literary nature.¹⁶⁸ Agapetus' 72 precepts for ruling the empire were not a personal offer of advice to Justinian. Instead, address to the emperor was a literary frame for a text with 'a wider public in mind'.¹⁶⁹ The

¹⁶⁰ τῷ θειοτάτῳ καὶ εὐσεβεστάτῳ βασιλεῖ ἡμῶν Ἰουστινιανῷ Ἀγαπητὸς ὁ ἐλάχιστος διάκονος. Agapetus, *Advice* 1–72; P. Henry III, "A Mirror for Justinian: The *Ekthesis* of Agapetus Diaconus," *GRBS* 8 (1967), p.283.

¹⁶¹ Against Henry III, "Mirror for Justinian," p.282. See instead: G. Bellomo, *Agapeto Diacono e la sua scheda regia* (Bari, 1906), pp.40–44; I. Ševčenko, "Agapetus East and West: The Fate of a Byzantine 'Mirror of Princes,'" *RESEE* 16 (1978), pp.3–4.

¹⁶² Bell, *Three Political Voices*, p.9. The later popularity of the *Advice* may explain the need for a more impressive backstory: Ševčenko, "Agapetus East and West," pp.3–44; K. Krumbacher, *Geschichte der byzantinischen Litteratur von Justinian bis zum Ende des oströmischen Reiches* (Munich, 1897), p.457.

¹⁶³ Bell, *Three Political Voices*, pp.27–39; Dvornik, *Political Philosophy*, pp.712–14; K. Prächter, "Der Roman Barlaam und Joasaph in seinem Verhältnis zu Agapets Königsspiegel," *BZ* 2 (1893), pp.444–60; Henry III, "Mirror for Justinian," pp.282–95; Ševčenko, "Agapetus East and West," p.6; B. Keil, "Epikritische Isokratesstudien," *Hermes* 23 (1888), pp.367–69.

¹⁶⁴ R. Frohne, *Agapetus Diaconus: Untersuchungen* (St Gallen, 1985), pp.199–208, 245–46, 251; Bell, *Three Political Voices*, p.9.

¹⁶⁵ Agapetus, *Advice* 72; Bell, *Three Political Voices*, pp.18–19.

¹⁶⁶ Frohne, *Agapetus Diaconus*, pp.160–61.

¹⁶⁷ Bell, *Three Political Voices*, p.19. See: E. Watts, "Justinian, Malalas, and the End of Athenian Philosophical Teaching in A.D. 529," *JRS* 94 (2004), pp.168–82; Watts, *City and School*, pp.111–42.

¹⁶⁸ Bell, *Three Political Voices*, pp.18–19; Henry III, "Mirror for Justinian," p.284; I. Kapitánffy, "Justinian and Agapetus," *Acta Antiqua et Archaeologica* 26 (1984), p.65; Ševčenko, "Agapetus East and West," pp.5–6.

¹⁶⁹ Kapitánffy, "Justinian and Agapetus," pp.65–66. Also P. Odorico, "Les miroirs des princes à Byzance: une lecture horizontale," *L'éducation au gouvernement et à la vie: La tradition des 'règles de vie' de l'Antiquité au Moyen-Âge*, ed. P. Odorico (Paris, 2009), p.233.

Advice aimed not at persuading Justinian of a particular course of action but at bringing pressure to bear on the emperor by mobilising a broader readership of imperial subjects. It is a radical work of political literature closely in touch with the themes of contemporary debate.

Romanos Melodos¹⁷⁰

Romanos was the Roman world's most celebrated hymnwriter. Four later hagiographies in the *Synaxaria* preserve his biography.¹⁷¹ He was born in Emesa in Syria, was ordained as a deacon in Berytus, moved to Constantinople during Anastasius' reign, and held a position at a church of the Theotokos in the Kyros suburb.¹⁷² He moonlighted elsewhere, often at another church of the Theotokos in Blachernae, but crucially 'was *not* a deacon of Hagia Sophia'.¹⁷³ This mistaken assumption is based on a single reference to a presbyter named Romanos in one set of synodal acts.¹⁷⁴ This was not the melodist. Romanos' acrostics only locate him at Kyros and his only identifiable imperial appointment is the commission of one hymn in the wake of the Nika insurrection.¹⁷⁵ The automatic tendency to associate prominent church writers with the Hagia Sophia should be resisted.

¹⁷⁰ *PLRE* 3 Romanos 2.

¹⁷¹ Texts: J. Grosdidier de Matons, *Romanos le Mélode et les origines de la poésie religieuse à Byzance* (Paris, 1977), pp.161–62. Discussion and use: L. A. Paton, "A Note on the Vision of Romanos," *Speculum* 7 (1932), p.554; E. C. Topping, "St. Romanos: Ikon of a Poet," *GOTR* 12 (1966), p.92; Krueger, *Writing and Holiness*, p.166; A. Luzzi, "Synaxaria and the Synaxarion of Constantinople," *The Ashgate Research Companion to Byzantine Hagiography*, ed. S. Efthymiadis (London, 2014), pp.197–209; S. Gador-Whyte, *Theology and Poetry in Early Byzantium: The Kontakia of Romanos the Melodist* (Cambridge, 2017), pp.7–8; T. Arentzen, *The Virgin in Song: Mary and the Poetry of Romanos the Melodist* (Philadelphia, PA, 2017), p.1.

¹⁷² Grosdidier de Matons, *Romanos et les origines*, pp.161–62; P. Maas, "Die Chronologie der Hymnen des Romanos," *BZ* 15 (1906), pp.1–44; W. L. Petersen, *The Diatessaron and Ephrem Syrus as Sources of Romanos the Melodist* (Louvain, 1985), pp.2–3.

¹⁷³ D. Krueger, "Writing and Redemption in the Hymns of Romanos the Melodos," *BMGS* 27 (2003), p.40 n.105. Emphasis original. For Romanos in Blachernae: Topping, "St. Romanos," p.34; A. Lingas, "The Liturgical Place of the Kontakion in Constantinople," *Liturgy, Architecture, and Art in the Byzantine World: Papers of the XVIII International Byzantine Congress (Moscow, 8–15 August 1991)*, ed. C. C. Akentiev (St Petersburg, 1995), p.51; J. Koder, "Romanos Melodos und sein Publikum: Zur Einbeziehung und Beeinflussung der Zuhörer durch das Kontakion," *AnzWien* 134 (1999), p.67.

¹⁷⁴ Mansi 8.934e–935b; Maas, "Chronologie," p.30; Cameron, *Procopius*, p.256.

¹⁷⁵ Romanos 54; J. Koder, "Imperial Propaganda in the Kontakia of Romanos the Melode," *DOP* 62 (2008), p.278; "Romanos und sein Publikum," p.67; Varghese, "Kaiserkritik in Two Kontakia," p.396.

Romanos composed at least 59 extant kontakia.¹⁷⁶ These hymns blend Syriac metrical genres with Greek homily and oratory.¹⁷⁷ They primarily survive in eleventh-century anthologies.¹⁷⁸ Since they are saturated with rhetorical techniques taught by the *progymnasmata*, Romanos must have been rhetorically educated.¹⁷⁹ He possibly moved to Berytus to pursue a legal education, but it was the rhetorical devices learned in Emesa that endowed Romanos with a mass communicative skillset.¹⁸⁰ His hymns belong to the context of the night vigil, ‘popular events attended by the urban laity’ that included relevant scriptural readings on which the kontakia expanded.¹⁸¹ They were therefore compelling dramas with large and repeated audiences, providing excellent opportunities for the distribution of mass ‘propaganda’.¹⁸² Their influence on contemporary debate was amplified by the size of their audience.

Dating Romanos’ kontakia requires the identification of topical allusions that not all the hymns contain.¹⁸³ On this basis, Paul Maas placed the hymns between the 532 Nika insurrection and a 555 earthquake in Constantinople, though he overlooked another

¹⁷⁶ Accepting only the ‘genuine’ kontakia identified by P. Maas & C. A. Trypanis, *Sancti Romani melodi cantica: cantica genuina* (Oxford, 1963); *Sancti Romani melodi cantica: cantica dubia* (Oxford, 1970). On later imitators, see Maas, “Chronologie,” pp.33–42. On the unsettled question of Romanos’ composition of the Akathistos Hymn, see, arguing for: Trypanis, *Fourteen Early Byzantine Cantica*, pp.24–25; P. F. Krypiakiewicz, “De hymni Acahisti auctore,” *BZ* 18 (1909), pp.371–80; E. Wellesz, “The Akathistos: A Study in Byzantine Hymnography,” *DOP* 9–10 (1956), pp.148–56; A. F. Gove, *The Slavic Akathistos Hymn: Poetic Elements of the Byzantine Text and its Old Church Slavonic Translation* (Munich, 1988), pp.7–9. Arguing against: T. Arentzen & D. Krueger, “Romanos in Manuscript: Some Observations on the Patmos Kontakarion,” *Proceedings of the 23rd International Congress of Byzantine Studies, Belgrade, 22–27 August 2016*, eds. B. Krsmanović & L. Milanović (Belgrade, 2016), p.651; L. M. Peltomaa, *The Image of the Virgin Mary in the Akathistos Hymn* (Leiden, 2001), pp.41–48; R. A. Fletcher, “Three Early Byzantine Hymns and their Place in the Liturgy of the Church of Constantinople,” *BZ* 51 (1958), p.65.

¹⁷⁷ S. Gador-Whyte, “Playing with Genre: Romanos the Melodist and his Kontakion,” *Approaches to Genre in the Ancient World*, eds. M. Borg & G. Miles (Newcastle, 2013), pp.159–75; W. L. Petersen, “The Dependence of Romanos the Melodist upon the Syrian Ephrem: Its Importance for the Origin of the Kontakion,” *VC* 39 (1985), pp.171–75, 183–84.

¹⁷⁸ Gador-Whyte, *Theology and Poetry*, p.17; Grosdidier de Matons, *Romanos et les origines*, pp.108–18. Two manuscripts together contain 56 of the kontakia: Patmos 212; Patmos 213. Lost folia explain the absences: Arentzen & Krueger, “Romanos in Manuscript,” pp.648–49.

¹⁷⁹ Gador-Whyte, *Theology and Poetry*, p.9; D. Krueger, “The Internal Lives of Biblical Figures in the Hymns of Romanos the Melodist,” *Adamantius* 19 (2013), p.292; Gador-Whyte, “Playing with Genre,” pp.167–70.

¹⁸⁰ Krueger, “Writing and Redemption,” p.3; Gador-Whyte, *Theology and Poetry*, p.8; H. Hunger, “Romanos Melodos, Dichter, Prediger, Rhetor – und sein Publikum,” *JÖB* 34 (1984), pp.39–42. For Berytus’s legal culture: L. J. Hall, *Roman Berytus: Beirut in Late Antiquity* (London, 2004), pp.195–220.

¹⁸¹ Krueger, “Writing and Redemption,” pp.15–16. For the evidence: Romanos 11.1; Gador-Whyte, *Theology and Poetry*, pp.14–15; Grosdidier de Matons, *Romanos et les origines*, p.104. See also: Lingas, “Liturgical Place of the Kontakion,” pp.50–52; G. Frank, “Romanos and the Night Vigil in the Sixth Century,” *Byzantine Christianity*, ed. D. Krueger (Minneapolis, MI, 2006), pp.61–66.

¹⁸² Koder, “Imperial Propaganda,” pp.275–91.

¹⁸³ Grosdidier de Matons, *Romanos et les origines*, p.243.

earthquake that places Romanos' compositions as early as 502 in Berytus.¹⁸⁴ Like Corippus, therefore, Romanos was already an established writer when he moved to the capital. Dating his hymns is fortunately inessential. Each kontakion occupies a precise place in the liturgical calendar and was performed on a routine, annual basis.¹⁸⁵ Hymns could be updated during their performed lives, indicated by the survival of multiple proemia for the same hymn, but a kontakion that appeared in the 520s continued to shape the religious, cultural, and political consciousness of Constantinople's urban laity at the end of Justinian's reign.¹⁸⁶

1.1.D: Other Writers

The need for this closing miscellany further problematises the mapping of political onto institutional categories. Not all the key political writers of the age of Justinian can be securely located in an institutional category. For some, not enough biographical information is available. Others pursued independent careers, as lawyers or authors. The three men introduced here made important contributions to Justinianic political debate without a firm association with the court, bureaucracy, or church.

Procopius¹⁸⁷

Procopius is the major historian of Justinian's reign.¹⁸⁸ He was born in the commercial Palestinian port of Caesarea and initially worked as an advocate, having received a rhetorical and legal education.¹⁸⁹ In the late 520s, he was appointed *assessor* to Belisarius for his North

¹⁸⁴ Maas, "Chronologie," pp.2–9; P.-L. Gatier, "Un séisme, élément de datation de l'œuvre de Romanos le Melodes," *JSav* (1983), pp.229–38; J. H. Barkhuizen, "Romanos Melodos, *On the Ten Virgins* (48 Oxf. = 51 SC)," *AC* 36 (1993), p.39.

¹⁸⁵ Grosdidier de Matons, *Romanos et les origines*, pp.67–107.

¹⁸⁶ M. Carpenter, *Kontakia of Romanos, Byzantine Melodist 1: On the Person of Christ* (Columbia, MO, 1970), p.35.

¹⁸⁷ *PLRE* 3 Procopius 2.

¹⁸⁸ P. Heather, *Rome Resurgent: War and Empire in the Age of Justinian* (Oxford, 2018), pp.10–18; Greatrex, "Perceptions," p.82.

¹⁸⁹ Procopius, *Wars* 1.1.1; G. Greatrex, "Procopius: Life and Works," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.61–69; C. Whately, *Battles and Generals: Combat, Culture, and Didacticism in Procopius' Wars* (Leiden, 2016), pp.38–67. For commercial activity in Caesarea: K. Holum, "Inscriptions from the Imperial Revenue Office of Byzantine Caesarea Palaestinae," *The Roman and Byzantine Near East: Some Recent Archaeological Research*, ed. J. H. Humphrey (Portsmouth, RI, 1995), pp.333–45; K. Holum, "Caesarea in Palestine: Shaping the Early Islamic Town," *Le Proche-Orient de Justinien aux Abbassides: peuplement et dynamiques spatiales*, eds. A. Borrut, D. Pieri & J.-P. Sodini (2011), pp.169–86. For Procopius' legal career: Menander Protector pr.; Evagrius, *HE* 4.12, 4.19, 5.24; Greatrex, "Lawyers," p.150; C. Lillington-Martin, "Procopius, πάρεδρος / Quaestor, *Codex Justinianus*, 1.27 and Belisarius' Strategy in the Mediterranean," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.158–59. For rhetorical and classical knowledge: Kaldellis, "Classicism of

African campaign.¹⁹⁰ Armed with eyewitness material, he had returned to Constantinople by 542, when he witnessed the city's plague outbreak.¹⁹¹ He settled in the capital to pursue a successful literary career, beginning with the publication in c.551 of the *Wars*, seven books on Justinian's campaigns against the Persians, Vandals, and Goths.¹⁹² It was read at least as far as Antioch and its popularity encouraged a one-book update in c.553.¹⁹³

The *Wars* is the centrepiece of a problematic triptych. Procopius also composed a panegyric for Justinian, the *Buildings*, and an 'unpublished' polemic, the *Secret History*.¹⁹⁴ The *Buildings* survives in short and long recensions.¹⁹⁵ Montinaro's recent characterisation of the short recension as Procopius' initial draft, based on 'interventions in the first person unique to the short redaction and, conversely, unmistakable signs of updating in the long one', has been generally accepted.¹⁹⁶ However, Turquois's ongoing literary analysis of the

Procopius," pp.339–54. For an alternative argument that Procopius was an engineer: J. Howard-Johnston, "The Education and Expertise of Procopius," *AT* 9 (2000), pp.19–30. Procopius' engineering interests in fact have a rhetorical explanation: E. Turquois, "Technical Writing, Genre and Aesthetic in Procopius," *Shifting Genres in Late Antiquity*, eds. G. Greatrex & H. Elton (Farnham, 2015), pp.219–32.

¹⁹⁰ Procopius, *Wars* 1.12.24, 1.1.3. Lillington-Martin, "Procopius, πάρεδρος," pp.159–61; Greatrex, "Procopius: Life and Works," p.64. For the assessor (a legal advisor who drafted his employer's communications and managed a large administrative staff): *CJ* 1.27.20–32. For Belisarius, see *PLRE* 3 Belisarius 1, and soon D. Parnell, *Belisarius and Antonina* (Oxford, forthcoming).

¹⁹¹ The plague: Procopius, *Wars* 2.23.1–3; P. Sarris, "The Justinianic Plague: Origins and Effects," *C&C* 17 (2002), p.172. Autopsy: Procopius, *Wars* 1.1.3; L. Mecella, "Procopius' Sources," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.178–93.

¹⁹² Greatrex, "Perceptions," p.97; P. Rance, "*Wars*," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), p.72.

¹⁹³ Antioch: Evagrius, *HE* 4.12. Update: Procopius, *Wars* 8.1.1; Greatrex, "Procopius: Life and Works," p.68; Rance, "*Wars*," p.87.

¹⁹⁴ Ανέκδοτα. *Suda* P2479. Overviews: Michael Whitby, "Procopius' *Buildings* and Panegyric Effect," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.137–52; R. Pfeilschifter, "The *Secret History*," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.121–36.

¹⁹⁵ Long recension: J. Haury, *Procopii Caesariensis opera omnia* 4 (Leipzig, 1964), based on Vatican BAV MS Vat. gr. 1065. Short recension: B. Rhenanus, *Procopii Caesariensis de rebus Gothorum, Persarum ac Vandalorum libri VII, una cum aliis mediorum temporum historicis* (Basel, 1531), based especially on: Milan MS A 182 sup. (gr. 75), ff.171r–206v; Athens Benaki MS 4; Münster HAB MS Cod. Guelf. Gud. gr. 70. See F. Montinaro, "Byzantium and the Slavs in the Reign of Justinian: Comparing the Two Recensions of Procopius's *Buildings*," *The Pontic-Danubian Realm in the Period of the Great Migration*, eds. V. Ivanišević & M. Kazanski (Paris/Belgrade, 2012), p.91. An edition of the short recension, parallel to the long, is available in Montinaro's unpublished doctoral dissertation, which has proven inaccessible: F. Montinaro, *Études sur l'évergétisme impérial à Byzance*, Ph.D. dissertation (École pratique des hautes études, 2013). On cross-contamination between the traditions: J. Bardill, "The Date, Dedication, and Design of Sts Sergius and Bacchus in Constantinople," *JLA* 10 (2017), p.69.

¹⁹⁶ F. Montinaro, "Power, Taste and the Outsider: Power and the *Buildings* Revisited," *Shifting Genres in Late Antiquity*, eds. G. Greatrex & H. Elton (Farnham, 2015), p.193. Also: Montinaro, "Byzantium and the Slavs," pp.89–114; G. Downey, "The Composition of Procopius, *De aedificiis*," *TPAPA* 78 (1947), pp.171–83. For cautious acceptance: Cameron, "Then and Now," p.14; Croke, "Search for Harmony," pp.33–34; J. Pickett, "Water and Empire in the *De aedificiis* of Procopius," *DOP* 71 (2017), p.95 n.1; G. Greatrex, "The Date of Procopius' *Buildings* in Light of Recent Scholarship," *Estudios Bizantos* 1 (2013), pp.22, 28–29.

short recension is re-establishing that it is a later epitome. The crucial evidence is verbs in the short recension whose subjects can only be found in the long recension.¹⁹⁷ Only the long recension therefore belongs to Procopius. It is conventionally dated to c.554, though minority opinion prefers c.559.¹⁹⁸ The earlier date is more likely on the balance of probabilities. The most compelling evidence is that Procopius describes Artabanes and others who plotted against Justinian in 548/49 as being ‘still Roman generals’, but Artabanes is only attested in Agathias’ military narrative until 554.¹⁹⁹

The *Secret History*, meanwhile, has been dated to c.550 or c.559 depending on when the ‘32 years [that] have worn on since [Justinian began to] administer the state’ began.²⁰⁰ In this instance, the arguments against the later date are authoritative.²⁰¹ They are largely obviated by Battistella’s new suggestion of c.553, the earliest year in which Pelagius could have assumed the archdeaconship that Procopius attributes to him.²⁰² The debate over dates is perhaps largely intractable because both the *Buildings* and the *Secret History* are works in progress. The *Buildings* is a draft that descends into lists; only its first book, on Constantinople, is certainly complete.²⁰³ The *Secret History* is a disjointed collection of two

¹⁹⁷ e.g. *Buildings* 1.1.46. Presented as E. Turquois, “Reworking the *Buildings*: The Shorter Recension as a Later Epitome,” Late Antique and Byzantine Studies Seminar, University of Oxford, January 2022, under the Deutsche Forschungsgemeinschaft project “Prokop und die Sprache der Bauten”. The findings support B. Flusin, “Remarques sur la tradition manuscrite du *De aedificiis*,” *AT* 9 (2000), pp.9–17.

¹⁹⁸ Early dating: Greatrex, “Date of Procopius’ *Buildings*,” pp.13–29; G. Greatrex, “The Dates of Procopius’ Works,” *BMGS* 18 (1994), pp.107–14; P. Cesaretti & M. L. Fobelli, *Santa Sofia di Constantinopoli* (Milan, 2011), pp.15–19. Later dating: Michael Whitby, “Justinian’s Bridge over the Sangarius and the Date of Procopius’ *De Aedificiis*,” *JHS* 105 (1985), pp.141–48; D. Roques, *Procopée de Césarée: Constructions de Justinien Ier* (Alessandria, 2011); Whitby, “Procopius’ *Buildings*,” pp.137–38.

¹⁹⁹ Procopius, *Buildings* 1.1.6; *PLRE* 3 Artabanes 2; Agathias, *H.* 2.9–10; J. A. S. Evans, “The Dates of Procopius’ Works: A Recapitulation of the Evidence,” *GRBS* 37 (1996), p.310; Greatrex, “Date of Procopius’ *Buildings*,” p.14 n.1. For other arguments from silence in support of the earlier date: Stein, *Histoire du bas-empire* 2, p.720; Evans, “Dates of Procopius’ Works,” pp.304–5; J. Elsner, “The Rhetoric of Buildings in the *De Aedificiis* of Procopius,” *Art and Text in Byzantine Culture*, ed. L. James (Cambridge, 2007), p.35.

²⁰⁰ ἐξ ὅτου δὲ ἀνὴρ ὅδε διωκῆσαστο τὴν πολιτείαν... χρόνου δύο καὶ τριάκοντα ἐνιαυτῶν τριβέντος. Procopius, *SH* 24.29. Counting from Justinian’s accession in 527: B. Croke, “Procopius’ *Secret History*: Rethinking the Date,” *GRBS* 45 (2005), pp.405–31. Counting from the accession of Justinian’s uncle, Justin I, in 518: Kaldellis, “Date and Structure,” pp.585–616, relying on Justinian being the power behind Justin’s throne. See Croke, “Justinian under Justin: Reconfiguring a Reign,” pp.13–56.

²⁰¹ Kaldellis, “Date and Structure,” pp.585–616; Signes Codoñer, “One History,” p.17.

²⁰² Procopius, *SH* 27.17; F. Battistella, “Zur Datierung von Prokops Geheimgeschichte,” *Byzantion* 89 (2019), pp.37–57. For the counter-argument that this attribution was simply a mistake, see Pfeilschifter, “*Secret History*,” p.131 n.29.

²⁰³ Cameron, *Procopius*, pp.83–85; Elsner, “Rhetoric of Buildings,” pp.33–50; Montinaro, “Byzantium and the Slavs,” p.105. On the book divisions, see: B. Croke, “Procopius, from Manuscripts to Books: 1400–1850,” *Histos* 9 (2019), pp.1–173; Downey, “Composition of Procopius,” pp.172–73.

or three stylistically and thematically distinct pamphlets.²⁰⁴ It was possibly intended as a continuation or ‘ninth book of the *Wars*’.²⁰⁵ In any case, historians must work with the text in its extant state. Its preface frames the *Secret History* as the *Wars*’s tell-all companion and refers to Justinian’s death in the past, which strongly implies that Procopius would have published it (in whatever form) if he had outlived the emperor.²⁰⁶ It is therefore plausible that Procopius drafted most of his texts by their conventional datings but continued to update them in response to new information or ideas until his death, resulting in inconsistent internal datings.²⁰⁷

This speculative location of Procopius’ texts as ongoing products of ‘the historian’s workshop’ rightly represents Procopius as a professional writer in the first instance.²⁰⁸ He operated independently of the state infrastructure and was known to his contemporaries simply as a *rhētor*, though his literary success ensured a measure of fame and he cultivated an authorial persona based on proximity to important events and access to privileged information, from hidden court practices to foreign campaigns.²⁰⁹ His texts do not need to have formed ‘a single ambitious historiographical project’ in order to be relatively unified limbs of a coherent political project.²¹⁰

Agathias²¹¹

Agathias was born in Myrina in Asia in c.530.²¹² His birth is datable from the 551 earthquake in Berytus; Agathias witnessed its aftermath while sailing from Alexandria, where he completed his rhetorical education, to Constantinople to begin his legal training.²¹³ At law

²⁰⁴ For two texts, in early and late 550: Kaldellis, “Date and Structure,” pp.598–616. For three texts, stitched together in the tenth century: K. Adshead, “The *Secret History* of Procopius and its Genesis,” *Byzantion* 63 (1993), pp.5–28. Note alternatively Signes Codoñer, “One History,” pp.3–26.

²⁰⁵ Croke, “Procopius, from Manuscripts to Books,” p.6.

²⁰⁶ Procopius, *SH* 1.2, 1.5; Battistella, “Zur Datierung,” pp.39, 56; Pfeilschifter, “*Secret History*,” p.131. Note also Procopius, *SH* 30.34, with Signes Codoñer, “One History,” p.9.

²⁰⁷ See Montinaro, “Power, Taste and the Outsider,” p.105; Signes Codoñer, “One History,” pp.3–26.

²⁰⁸ Montinaro, “Byzantium and the Slavs,” p.104.

²⁰⁹ Cameron, *Procopius*, p.11; G. Greatrex, “Procopius the Outsider?,” *Strangers to Themselves: The Byzantine Outsider*, ed. D. C. Smythe (Aldershot, 2000), pp.215–28; A. J. Ross, “Narrator and Participant in Procopius’ *Wars*,” *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), p.86; I. Colvin, “Reporting Battles and Understanding Campaigns in Procopius and Agathias: Classicising Historians’ Use of Archived Documents as Sources,” *LAA* 8 (2013), pp.571–97.

²¹⁰ Signes Codoñer, “One History,” p.17. On the ‘unity’ of Procopius’ oeuvre: Cameron, *Procopius*, pp.262–63.

²¹¹ *PLRE* 3 Agathias.

²¹² Agathias, *H.* pr.14.

²¹³ Agathias, *H.* 2.15–16. Dating: R. C. McCail, “The Earthquake of A.D. 551 and the Birth-Date of Agathias,” *GRBS* 8 (1967), pp.241–47; Cameron, *Agathias*, pp.1, 138–39. Education: B. Baldwin, “Four Problems in

school, he began to compose epigrams. His earliest extant poem requests the archangel's aid in the upcoming fifth year of his course, which suggests strongly that Agathias was a Christian.²¹⁴ After graduation, he worked as an advocate in Constantinople.²¹⁵ He eventually left the city and is later attested as Smyrna's *pater civitatis*, a municipal official responsible for overseeing construction in the city.²¹⁶ Though his legal career in the capital seems not to have involved any state or church employment, he mixed socially and professionally in courtly, bureaucratic, senatorial, and ecclesiastical circles while compiling his *Cycle* and composing his *Daphniaca*, nine books of erotic hexameters.²¹⁷

The *Cycle* epigrams survive scattered in the *Palatine Anthology*, so many of Agathias' editorial decisions are now invisible.²¹⁸ The precise date of his compilation is controversial because Agathias' preface panegyricises a nameless 'emperor'.²¹⁹ Most scholars, following the Camerons, agree that the emperor in question is Justin II even if they consider 'the ethos of Agathias's poetry' to be 'intensely Justinianic'.²²⁰ The Camerons base their argument on their inclusion among the *Cycle* epigrams of some poems in the *Anthology* that can date no earlier than 567/68, but these are not certainly *Cycle* epigrams; they could be later compositions.²²¹ The internal evidence of the preface also does not fully support the Camerons' claim that Agathias 'writes of territories won rather than of their winning'.²²²

Agathias," *BZ* 70 (1977), pp.295–97; R. C. McCail, "'The Education Preliminary to Law': Agathias, *Historiae*, II, 15, 7," *Byzantion* 47 (1977), pp.364–67.

²¹⁴ Against Kaldellis, "Historical and Religious Views," pp.206–52. See: Agathias, *Ep.* 7 = *AP* 1.35; R. C. McCail, "On the Early Career of Agathias Scholasticus," *REB* 28 (1970), pp.141–51; R. C. McCail, "The Cycle of Agathias: New Identifications Scrutinised," *JHS* 89 (1969), pp.95–96.

²¹⁵ Agathias, *H.* pr.14; John of Epiphania fr.1; Greatrex, "Lawyers," p.149.

²¹⁶ Agathias, *Ep.* 48 = *AP* 9.662. On the *pater civitatis*, normally selected locally, see: L. A. Curchin, "The End of Local Magistrates in the Roman Empire," *Gerión* 32 (2014), pp.283–84; J.-H. W. G. Liebeschuetz, *The Decline and Fall of the Roman City* (Oxford, 2001), p.110.

²¹⁷ Prosopography: Averil Cameron & Alan Cameron, "The Cycle of Agathias," *JHS* 86 (1966), pp.8–20; *AP* 5.292–93; Smith, *Greek Epigram*, pp.1–2; H. A. Schulte, *Paralipomena Cycli: Epigramme aus der Saammlung des Agathias: Text, Übersetzung, Kommentar* (Trier, 2006), pp.10–11. For the largely non-extant *Daphniaca*: *AP* 6.80; Agathias, *H.* pr.7–8; Cameron, *Agathias*, p.5 nn.9, 12.

²¹⁸ The *Palatine Anthology*: Heidelberg MS Cod. Pal. gr. 23; Paris BNF MS supp. gr. 384; Alan Cameron, *The Greek Anthology: From Meleager to Planudes* (Oxford, 1993); A. S. F. Gow, *The Greek Anthology: Sources and Ascriptions* (London, 1958); M. Lauxtermann, "The Anthology of Cephalas," *Byzantinische Sprachkunst: Studien zur byzantinischen Literatur gewidmet Wolfram Hörandner zum 65. Geburtstag*, eds. M. Hinterberger & E. Schiffer (Berlin, 2007), pp.194–208. Greek poetic anthologies in general: K. Gutzwiller, *Poetic Garlands: Hellenistic Epigrams in Context* (Berkeley, CA, 1998).

²¹⁹ τοῦ βασιλέως. Agathias, *Ep.* 1.43 = *AP* 4.3.43.

²²⁰ McCail, "Cycle of Agathias," p.96. See also: Cameron & Cameron, "The Cycle of Agathias," pp.6, 21–25; Cameron, *Agathias*, pp.12–15; Frendo, *Agathias: The Histories*, p.ix; Smith, *Greek Epigram*, pp.1–2.

²²¹ As admitted at Averil Cameron & Alan Cameron, "Further Thoughts on the Cycle of Agathias," *JHS* 87 (1967), p.131. See: B. Baldwin, "The Date of the *Cycle* of Agathias," *BZ* 73 (1980), pp.334–35; Baldwin, "Four Problems," pp.298–301.

²²² Cameron & Cameron, "The Cycle of Agathias," p.23.

Agathias uses the active perfect to eulogise the emperor for ‘having encircled the world with his sovereignty’, picking out Justinian’s victories in Libya, Italy, Iberia, and Persia in particular.²²³ Contrary to conventional thinking, Justin II had his own early successes to celebrate.²²⁴ This makes Justinian the obvious choice for the preface’s emperor. The absence of his name may be explained by his age or its awkward scansion.²²⁵ Justinian was old by 565; Agathias may have carefully composed a preface suitable both for the incumbent emperor and an imminent but unknown successor. A date late in Justinian’s reign should, on balance, be preferred for the *Cycle*.

Agathias later turned to history, composing a sequel to Procopius’ *Wars*.²²⁶ He began writing his *Histories* ‘after Justinian had died’ and published the text between Chosroes’ death in 579, which he mentions, and Maurice’s accession in 582, which he does not.²²⁷ Like Justinian, Junillus, Marcellinus, Paul, Lydus, and Procopius, Agathias was demonstrably comfortable writing in multiple genres and styles. His poetry and history formed a coherent cultural and political project and must be read together.²²⁸

The Author of the *Dialogue on Political Science*

The *Dialogue* is a fragmentary, anonymous text. Only parts of its fourth book, on military science, and most of its fifth book, on political science, survive in a ninth- or tenth-century palimpsest.²²⁹ These fragments are identifiable with an anonymous six-book ‘dialogue about politics’ recorded by Photius.²³⁰ It takes the form of a conversation between Menodorus and Thaumasius, Platonised versions of the names given by Photius, Menas (the urban and then praetorian prefect of the late 520s) and Thomas (a *referendarius* who might also be the quaestor executed as a pagan in 529).²³¹ Several scholars suppose that the author remained

²²³ κυκλώσατο κόσμον κοιρανίη. Agathias, *Ep.* 2.49–50.

²²⁴ S. Lin, “Justin under Justinian,” *DOP* 75 (2021), pp.121–42. Also, especially, a paper presented as “A Slayer of Tyrants: Celebrating Victory at the Court of Justin II,” Workshop, *Securing Power in the Sixth-Century Roman Empire*, University of Cambridge, December 2021.

²²⁵ McCail, “Cycle of Agathias,” p.96; Alan Cameron, “Some Prefects Called Julian,” *Byzantion* 47 (1977), p.48 n.15; Mary Whitby, “The St Polyeuktos Epigram (*AP* 1.10): A Literary Perspective,” *Greek Literature in Late Antiquity: Dynamism, Didacticism, Classicism*, ed. S. F. Johnson (Aldershot, 2006), p.178.

²²⁶ Agathias, *H.* pr.22.

²²⁷ Ἰουστινιανοῦ τεθηκότος. Agathias, *H.* pr.21; Cameron, *Agathias*, p.10.

²²⁸ Kaldellis, “Agathias on History and Poetry,” pp.295–305.

²²⁹ Vatican BAV MS Vat. gr. 1298; C. A. Behr, “A New Fragment of Cicero’s *De republica*,” *AJP* 95 (1974), pp.141–49; Bell, *Three Political Voices*, p.9.

²³⁰ περὶ πολιτικῆς ὡς ἐν διαλόγῳ. Photius, *Bibl. cod.* 37; Bell, *Three Political Voices*, p.11.

²³¹ Photius, *Bibl. cod.* 37; D. J. O’Meara, “The Justinianic Dialogue *On Political Science* and its Neoplatonic Sources,” *Political Philosophy and the Human Soul: Essays in Memory of Allan Bloom*, ed. K. Ierodiakonou

anonymous because of the risks of free political expression under Justinian.²³² In fact, many late antique writers of dialogues wrote anonymously.²³³ Anonymity was a tactic for shifting the ‘authorial persona’ onto a dialogue’s main character.²³⁴ In the *Dialogue*, Menas plays the Platonic role of Socrates, the author’s mouthpiece, and Thomas is the minor interlocutor.²³⁵ The author was more likely inflating his credentials by adopting the persona of a former high office-holder than putting dangerous political ideas to paper.

The characters give the text a dramatic setting in the late 520s but it was certainly written later in Justinian’s reign.²³⁶ It frequently refers to the themes of legislation issued in the 530s and 540s.²³⁷ It also expresses strong concerns about an aging emperor, advising specifically that emperors should retire aged ‘fifty-seven’.²³⁸ This suggestive comment might place the *Dialogue*’s composition in c.539/40, when Justinian was 56, though it would retain its political force even if Justinian were into his seventies by emphasising the length of time since the emperor had been a suitable age to rule. Since the *Dialogue* shares numerous political views and tactics with Procopius and Lydus, their period of literary activity in the 550s provides another suitable date range for the *Dialogue*.²³⁹ Only a broad, late range of c.539 onwards is possible.

Through Menas, the author proposes a new constitution that empowers a class of *aristoi*.²⁴⁰ This perspective, especially in its defence of landholding, broadly reflects that of a wealthy aristocrat, perhaps a senator.²⁴¹ The text’s political theory is Neoplatonic, indicating

(Lanham, MD, 2002), p.51; L. S. B. MacCoull, “Philosophy in its Social Context,” *Egypt in the Byzantine World, 300–700*, ed. R. S. Bagnall (Cambridge, 2007), p.73; Bell, *Three Political Voices*, pp.11–13; M. Rashed, “Menas, préfet du prétoire (528–9) et philosophe: une épigramme inconnue,” *Elenchos* 21 (2000), pp.89–98; *PLRE* 2 Menas 5, 3 Thomas 3.

²³² A. S. Fotiou, “Dicaearchus and the Mixed Constitution in Sixth Century Byzantium: New Evidence from a Treatise on *Political Science*,” *Byzantion* 51 (1981), p.547; Bell, *Three Political Voices*, p.11.

²³³ A. Rigolio, *Christians in Conversation: A Guide to Late Antique Dialogues in Greek and Syriac* (Oxford, 2019), p.5 n.19.

²³⁴ A. Peterson, “Lucian in Byzantium: The Intersection of the Comic Tradition and Christian Orthodoxy in the Anonymous *Patriot*,” *JLA* 10 (2017), p.257.

²³⁵ MacCoull, “Menas and Thomas,” p.304; R. Kraut, “Introduction,” *The Cambridge Companion to Plato*, ed. R. Kraut (Cambridge, 1992), pp.27–30.

²³⁶ MacCoull, “Menas and Thomas,” p.301.

²³⁷ Bell, *Three Political Voices*, pp.19–27, responding to C. M. Mazzucchi, *Menae patricii cum Thoma referendario De scientia politica dialogus* (Milan, 1982), pp.xiii–xv.

²³⁸ τὸ ἐξηκοστὸν τριῶν δεόντων. *DPS* 5.167. See also MacCoull, “Menas and Thomas,” p.308.

²³⁹ Below, 1.II and 4.V.

²⁴⁰ Especially *DPS* 5.22–39, 50–52, 88–96.

²⁴¹ Bell, *Three Political Voices*, pp.73–74; Cameron, *Procopius*, p.251.

a philosophical education that MacCoull locates in the intellectual culture of Alexandria.²⁴² The anonymous author likely moved from Egypt to Constantinople before he wrote, however, because the capital is at the centre of his political worldview.²⁴³ He argues specifically that the *aristoi* should be housed ‘on the acropolis [of Constantinople], next to the imperial palace’, and describes the capital as ‘the mother and queen’ of cities.²⁴⁴ The author is broadly contemporary with Procopius and Lydus in place as well as time.

1.1.E: The Makeup of Political Society

This is a cast of similar characters on a shared stage. All are men.²⁴⁵ All received a standard rhetorical education and so possessed the required financial means, even if they were not the landholding magnates who formed the empire’s highest social stratum. (Almost) all were born in the provinces but are later attestable, and wrote their texts, in Constantinople.²⁴⁶ The capital, a cultural and intellectual melting-pot and the centre of imperial power, was the obvious destination for ambitious men with the resources to travel.²⁴⁷ Variations on this theme exist. Cassiodorus, Jordanes, John of Ephesus, and Peter the Patrician all fit the same pattern, but Menander Protector was born and wrote in Constantinople, Evagrius left the capital to compose his ecclesiastical history in Antioch, the city that Malalas had left behind, and Cosmas travelled widely from his base in Alexandria.²⁴⁸ Generally speaking,

²⁴² Neoplatonism: D. J. O’Meara, *Platonopolis: Platonic Political Philosophy in Late Antiquity* (Oxford, 2003), pp.171–84. Alexandrian background: MacCoull, “Menas and Thomas,” pp.302, 310, with important social context at Sarris, *Economy and Society*.

²⁴³ Against MacCoull, “Philosophy in its Social Context,” p.73.

²⁴⁴ ἐν τῇ ἀκροπόλει περὶ τὸ βασιλείον. *DPS* 5.35. τὴν μητέρα καὶ βασιλίδα. 5.109

²⁴⁵ See further: S. Lebecq, “Sur les femmes et leurs éventuels pouvoirs au premier Moyen Âge: conclusions du colloque,” *Femmes et pouvoirs des femmes à Byzance et en Occident (VIe–Xe siècles): colloque international organisé les 28, 29 et 30 mars 1996 à Bruxelles et Villeneuve d’Ascq*, eds. S. Lebecq, A. Dierkens, R. le Jean & J.-M. Sansterre (Lille, 1999), pp.251–56; L. Brubaker, “The Age of Justinian: Gender and Society,” *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.427–47; M. Stewart, *Masculinity, Identity, and Power Politics in the Age of Justinian* (Amsterdam, 2020); Betancourt, *Byzantine Intersectionality*.

²⁴⁶ C. Rapp, “Literary Culture under Justinian,” *The Cambridge Companion to the Age of Justinian*, ed. M. Maas (Cambridge, 2005), pp.379–82.

²⁴⁷ Croke, “Justinian’s Constantinople,” pp.60–86; Pfeilschifter, *Kaiser und Konstantinopel*.

²⁴⁸ Bjornlie, *Politics and Tradition*, pp.11–33; A. Amici, “Cassiodoro a Constantinopoli: da *magister officiorum* a *religiosus vir*,” *VetChr* 42 (2005), pp.215–31; S. Doležal, “Who Was Jordanes?,” *Byzantion* 84 (2014), pp.145–64; S. A. Harvey, *Asceticism and Society in Crisis: John of Ephesus and the Lives of the Eastern Saints* (Berkeley, CA, 1990), pp.28–30; T. Banchich, *The Lost History of Peter the Patrician: An Account of Rome’s Imperial Past from the Age of Justinian* (London, 2015), p.1; B. Baldwin, “Menander Protector,” *DOP* 32 (1978), pp.101–3; P. Allen, *Evagrius Scholasticus, the Church Historian* (Leuven, 1981), pp.1–4; W. Wolska-Conus, *La Topographie Chrétienne de Cosmas Indicopleustes* (Paris, 1962), pp.1–11, 28.

however, sixth-century political debates, as filtered through the eyes of these literate men, were centred on the capital.

From this underlying template, the authors diverge. For some, rhetorical education was a precursor to specialised legal, philosophical, or biblical instruction.²⁴⁹ These educations equipped them to pursue different careers within (or outside) different institutions. They held different views on politics, history, education, culture, social and class dynamics, and other important issues of the day. They wrote in different genres and languages. Nonetheless, they were all demonstrably in conversation. Lydus and Malalas used each other's texts, Agathias published Paul's epigrams and continued Procopius, Procopius explicitly criticised Junillus, Marcellinus reimagined Zosimus' fall of the western empire, the *Dialogue* rejected Agapetus' call for wealth redistribution, Romanos absorbed the slogans of Justinian's theological edicts and letters, and most paid close attention to the *Novels*.²⁵⁰

These men represent sixth-century political society, the class that participated in the literate political debate that remains visible. This class is marked by shared biographical patterns *and* varied institutional and intellectual positions; Bjornlie's sharp division between the court and the bureaucracy is unsustainable when Malalas is included among the civil servants and Procopius is not. Political society constituted a relatively stable and uniform "debating class" that was nonetheless intellectually and politically diverse, deeply invested in conflicting ideas, trained to deploy an array of literary and rhetorical tactics in advancing those ideas, and argued within something like a non-institutionalised public sphere.

²⁴⁹ Not always distinct categories: E. Szabat, "Late Antiquity and the Transmission of Educational Ideals and Methods: The Greek World," *A Companion to Ancient Education*, ed. W. M. Bloomer (Chichester, 2015), pp.267–78. Legal education: H. J. Scheltema, *L'enseignement de droit des antécédents* (Leiden, 1970). Philosophical education: O'Meara, *Platonopolis*, pp.61–72; Watts, *City and School*. Biblical education: Maas, *Exegesis and Empire*, pp.75–111; L. I. Larsen & S. Rubenson, eds., *Monastic Education in Late Antiquity: The Transformation of Classical Paideia* (Cambridge, 2018); M. W. Champion, "Tradition and Habituation in Rhetorical and Monastic Education at Gaza," *Learning Cities in Late Antiquity: The Local Dimension of Education*, ed. J. R. Stenger (London, 2018), pp.212–29. General treatments: Marrou, *Histoire de l'éducation*, with methodological objections at Y. L. Too, "Introduction: Writing the History of Ancient Education," *Education in Greek and Roman Antiquity*, ed. Y. L. Too (Leiden, 2001), pp.1–21; A. D. Booth, "Elementary and Secondary Education in the Roman Empire," *Florilegium* 1 (1979), pp.1–14; M. Bloomer, "Schooling in Persona: Imagination and Subordination in Roman Education," *CA* 16 (1997), pp.57–78; R. Criboire, *Gymnastics of the Mind: Greek Education in Hellenistic and Roman Egypt* (Princeton, NJ, 2001).

²⁵⁰ Lydus and Malalas: Praet, *From Rome to Constantinople*, pp.334–35. Procopius and Junillus: Procopius, *SH* 20.17–19; Honoré, *Tribonian*, p.237. Marcellinus and Zosimus: Kruse, *Politics*, p.175; Bjornlie, *Politics and Tradition*, pp.90–97, 239–40. The *Dialogue* and Agapetus: Bell, *Three Political Voices*, pp.73–74. Romanos and Justinian: Maas, "Chronologie," pp.15–16; J. Koder, "Positionen der Theologie des Romanos Melodos," *AnzWien* 143 (2008), p.34; J. Koder, "Oikonomia in the Hymns of Romanos the Melode," *Reading in the Byzantine Empire and Beyond*, eds. T. Shawcross & I. Toth (Cambridge, 2018), pp.255, 260–62. The *Novels*: below, 2.I.

1.II: Traditionalist Opposition

The debates that are central to this study revolve around a conflict between the Justinianic régime and its conservative critics. Justinian's most vocal political opponents organised around tradition. They criticised perceived innovations in the operation of the Roman state and advocated restorations of traditional forms of Roman political practice that so happened to serve as constraints on the exercise of imperial authority. This intellectual current produced the most trenchant, enduring opposition to Justinian and therefore occupied the argumentative attention of the régime and its supporters. It was also a flexible current; its proponents must be understood as a loose grouping with diverse interests and agendas, not a tightly-knit dissident party.²⁵¹

1.II.A: Procopius, Lydus, and the *Dialogue*

Justinian's identifiable traditionalist critics were Procopius, Lydus, and the author of the *Dialogue*. These men shared an anti-innovation ethic that is most explicit in the *Secret History*'s condemnation of Justinian and Theodora's 'innovations in the state'.²⁵² Procopius paints a conscious project of harm, 'as though [Justinian] took up the imperial dress on the condition that he should change everything into some other dress'.²⁵³ These innovations were endlessly varied: new laws, new officials, new ceremonies, the abolition of ancient structures like the public post, and more.²⁵⁴ Kaldellis suggests that this was esoteric criticism, claiming that one of Procopius' Thucydidean quotations 'carefully omitted the damning word "innovation"', but this is not quite right.²⁵⁵ Procopius' lifted phrase is merely adjacent to the word in Thucydides' text; the allusion lacks the jarring experience of ellipsis that might signal deeper meaning.²⁵⁶ The same traditionalist critique of Justinian's rule also appears openly, though less polemically, from the very first book of the *Wars*.

Procopius counts a tendency to innovate among the vices of the Persian kings Kavadh and Khusro.²⁵⁷ He also ascribes it to Justinian during the proposed adoption of Khusro by

²⁵¹ Against Kaldellis, "Identifying Dissident Circles," pp.1–17.

²⁵² τῶν... ἐπὶ τῇ πολιτείᾳ νεοχρωθέντων. Procopius, *SH* 30.21.

²⁵³ ὡςπερ ἐπὶ τούτῳ κεκομισμένος τὸ τῆς βασιλείας σχῆμα, ἐφ' ᾧ ἅπαντα μεταλλάσσοι ἐφ' ἕτερον σχῆμα. Procopius, *SH* 11.1.

²⁵⁴ See especially *SH* 11, 30.

²⁵⁵ Kaldellis, *Procopius*, p.49.

²⁵⁶ Procopius, *Wars* 3.9.25; Thuc. 1.70.2.

²⁵⁷ Procopius, *Wars* 1.5.1, 1.23.1.

Justin I, which both Romans would have accepted ‘if [Justin’s quaestor] Proclus had not prevented it’.²⁵⁸ Proclus’ speech against the adoption begins with a statement that ‘seems to reflect Procopius’ own views’.²⁵⁹

‘I am not accustomed to attempting innovatory deeds. I fear them more than all others, for I know well that, in the face of innovations, security is by no means protected.’²⁶⁰

Procopius clearly marks his approval of Proclus’ attitude in the authorial voice, describing him as ‘both just and completely incorruptible by bribes’.²⁶¹ Modern readers of this speech have been concerned with extracting Procopius’ foreign policy views or assessing Proclus’ political astuteness.²⁶² Its tactical function upon publication in 550/51, however, was to destabilise the propaganda built up by Justinian over the intervening decades to represent himself as a deliberative ruler and restorer of tradition.²⁶³ This episode presents Justinian as inclined to rush into ‘innovatory deeds’ without considering their consequences. He only ever resists Proclus’ traditionalist advice and disappears silently from the deliberations before Justin comes round to Proclus’ view.²⁶⁴ Shortly after, the *Wars* polemicises Justinian’s own quaestor Tribonian in precisely opposite terms to its praise for Proclus.²⁶⁵ The first book of the *Wars* is an argument for traditionalist ministers. It contrasts Justinian, who did not appoint or consult such ministers, unfavourably with his predecessor. This criticism might be more polite than in the *Secret History* but it is hardly obscure or esoteric.

Procopius’ statement that it was ‘on account [of Proclus being just] that he neither easily proposed a law nor was willing to change any part of the established constitution’

²⁵⁸ εἰ μὴ Πρόκλος ἐκώλυσεν. Procopius, *Wars* 1.11.11. Proclus: *PLRE* 2 Proculus 5; *AP* 16.48; C. Pazdernik, “The Quaestor Proclus,” *GRBS* 55 (2015), pp.221–49.

²⁵⁹ *scheinen Prokops eigene Ansichten widerzuspiegeln*. H. Börm, *Prokop und die Perser* (Stuttgart, 2007), p.315. Also Signes Codoñer, “Kaiserkritik in Prokops Kriegsgeschichte,” p.221.

²⁶⁰ νεωτέροις μὲν ἐγχειρεῖν πράγμασιν οὔτε εἴωθα καὶ ἄλλως δέδοικα πάντων μάλιστα, εὖ εἰδὼς ὅτι ἐν τῷ νεωτεροποιῷ τό γε ἀσφαλὲς οὐδαμῶς σώζεται. Procopius, *Wars* 1.11.13.

²⁶¹ δίκαιός τε καὶ χρημάτων διαφανῶς ἀδωρότατος. Procopius, *Wars* 1.11.11. See Frenzo, “Three Authors,” pp.125–26.

²⁶² In a foreign policy light: Lounghis, “Die kriegerisch gesinnte Partei,” pp.25–26; M. Cesa, “La politica di Giustiniano verso l’Occidente nel giudizio di Procopio,” *Athenaeum* 59 (1981), p.404; Greatrex, “Perceptions,” p.94. In a legalistic light: Honoré, *Tribonian*, pp.230–31, refuted at Pazdernik, “The Quaestor Proclus,” p.246 n.47, p.248 n.54; J. A. S. Evans, *The Age of Justinian: The Circumstances of Imperial Power* (London, 1996), p.115; Börm, *Prokop und die Perser*, pp.315–16; Pazdernik, “The Quaestor Proclus,” pp.242–46.

²⁶³ See: *J. Nov.* 8.pr, and also 46, 80, 81, 86, 93, 114; Croke, “Sleepless Emperor,” pp.103–8; M. Maas, “Roman History and Christian Ideology in Justinianic Reform Legislation,” *DOP* 40 (1986), pp.17–31.

²⁶⁴ Procopius, *Wars* 1.11.10–30.

²⁶⁵ Procopius, *Wars* 1.24.16.

approximates the core of contemporary traditionalist thought.²⁶⁶ Both Lydus and the *Dialogue* express the same values in similar vocabulary. In the first instance, *On Powers* considers it ‘characteristic of the emperor [as opposed to the tyrant] never to shake any of the laws of the government’.²⁶⁷ The *Dialogue* is likewise concerned for ‘the political laws and their wholly unshakeable guarding’.²⁶⁸ This thematic and lexical intertextuality reveals the organisation of traditionalist thought around the idea that Justinian’s responsibility was to preserve, not modify, the inherited legal tradition. This was the most fractious ideological issue of sixth-century politics.²⁶⁹

The legal aspect of Procopius’ praise for Proclus is the sharp edge of its generalised second aspect: justice entails not ‘changing any part of the established constitution’.²⁷⁰ Lydus agrees. When discussing how the first-century emperor Domitian ‘rejoiced in innovations’, he claims that ‘it is characteristic of tyrants to overturn constitutions established long ago’.²⁷¹ Lydus’ predominant political concern is accordingly for the renewal of ‘the formerly destroyed characteristics of the state’, especially the department of the praetorian prefecture.²⁷² The *Dialogue* is governed by the same anti-innovation ethic, even though it proposes a new Roman constitution that rejects ‘the old customs’, which ‘will [only] prevail until the new political law appears in the cities’.²⁷³ These ‘old customs’ are not ancient but are contemporary, soon-to-be-abolished practices that suffer from a propensity for change. The *Dialogue* disparages imperial officials as ‘seasonal magistrates’ and argues that ‘changes of magistrates are liable to alter and degrade the bonds of the political order and particularly the consistency of ways of living’.²⁷⁴ It proposes not an administrative restoration but a rebalance of power towards *aristoi* embedded permanently in their localities and tasked with scrutinising the behaviour of magistrates and citizens against traditional *mores*.²⁷⁵ The result, the *Dialogue* argues, will be a ‘more firmly established’ constitution than

²⁶⁶ διὸ δὴ οὔτε νόμον τινὰ εὐπετῶς ἔγραψεν οὔτε τι τῶν καθεστώτων κινεῖν ἠθέλεν. Procopius, *Wars* 1.11.12.

²⁶⁷ ἴδιον δὲ βασιλέως ἐστὶ τὸ μηδένα καθάπαξ τῶν τοῦ πολιτεύματος νόμων σαλεύειν. Lydus, *Powers* 1.3.

²⁶⁸ τῶν πολιτικῶν νόμων καὶ τῆς ἐπ’ αὐτοῖς πάμπαν ἀσαλεύτου φυλακῆς. *DPS* 5.21.

²⁶⁹ See below, Chapter 4.

²⁷⁰ For the supply of *constitution* to καθίστημι: *LSJ* s.v. A.II.2.b, B.6.

²⁷¹ τοῖς νεωτερισμοῖς ἔχαιρεν· ἴδιον δὲ τυράννων ἀνατρέπειν τὰ πάλαι καθεστηκότα. Lydus, *Powers* 2.19. Note also: Lydus, *Months* 4.4, 4.9; Lydus, *Signs* 1.

²⁷² τὰ τῆς πολιτείας γνωρίσματα πρὶν ἐξολωλότα. Lydus, *Powers* 2.5. See further: Dubuisson, “Pouvoir personnel,” p.72; Maas, *John Lydus*, pp.6, 72–79, 97–100; Kaldellis, “Republican Theory,” p.12.

²⁷³ τοῦ πολιτικοῦ νόμου... τὰ παλαιὰ κρατεῖν ἕως ἂν ταῖς πόλεσιν ἐγγένηται. *DPS* 5.22.

²⁷⁴ τῶν κατὰ καιρὸν ἀρχόντων / αἱ μὲν γὰρ τῶν ἀρχόντων ἀμείψεις δειναὶ μεταποιεῖν καὶ ἐξαλλάττειν τό τε συνεχὲς τῆς πολιτικῆς τάξεως καὶ μάλιστα δὴ τὴν τῶν βίων ταυτότητα. *DPS* 5.92–93.

²⁷⁵ *DPS* 5.88–96.

presently existed.²⁷⁶ Like Lydus and Procopius, the *Dialogue* eulogises a stable, ‘traditional’ society, though one only recoverable by restoring a specific aristocratic past prior to the rise of the imperial aristocracy of service.²⁷⁷

Just as the *Wars*’s generalised anti-innovation ethic and its specific concern about legal innovation are shared by Lydus and the *Dialogue*, so too is its willingness to express openly the view that Justinian’s rule did not meet these traditionalist standards. Like the *Wars*, *On Powers* draws an unflattering comparison between Justinian and Justin, who ‘led his life in stillness and invented nothing new’.²⁷⁸ The *Dialogue* contains numerous criticisms of Justinian’s disruptions.²⁷⁹ The three texts all agree that innovations must be prevented or reversed and that Justinian had failed to do so.

It would be unfair to remark, as Cameron does of Procopius, that ‘insofar as [the traditionalists have] a general political stance, it is one of *blind* resistance to any kind of innovation’.²⁸⁰ Their opposition to innovation was a product of a genuine commitment to tradition as a politically stabilising and socially cohesive force. It also furnished them with a useful vocabulary for defending social and class hierarchies against imperial interventions. Procopius, Lydus, and the *Dialogue* all criticise high taxation and the confiscation of aristocratic estates, while the latter two show a particular concern for traditional markers of status.²⁸¹ The *Dialogue* even proposes rules ‘about haircuts and styles of dress and everything to do with the fashion of clothes, so that it will not be allowed for any of the other citizens to change over time the appearance suitable for their station’.²⁸² This concern for ‘station’ was formulated in dialogue with Justinian’s attempts to limit the power of the aristocracy. The *Novels*’ descriptions of cases suggest that ‘public authority was being progressively undermined by the private economic and social influence of aristocratic

²⁷⁶ εὐσταθέστερον. *DPS* 5.92.

²⁷⁷ Bjornlie, *Politics and Tradition*, p.102; Bell, *Three Political Voices*, p.164 n.87. The aristocracy of service: Heather, “New Men for New Constantines?,” pp.184–97.

²⁷⁸ Ἰουστίνου ἐν ἡσυχίᾳ βιοῦντος καὶ μηδὲν νεώτερον ἐξευρόντος. Lydus, *Powers* 2.28. See below, 3.II.D.

²⁷⁹ Bell, *Three Political Voices*, pp.73–76.

²⁸⁰ Cameron, *Procopius*, p.62. Emphasis added.

²⁸¹ Lydus, *Powers* 3.59; Procopius, *SH* 23, 30.2–11; *DPS* 5.37. See also H. Ziche, “Historians and the Economy: Zosimos and Prokopios on Fifth- and Sixth-Century Economic Development,” *Byzantine Narrative: Papers in Honour of Roger Scott*, ed. J. Burke (Leiden, 2006), pp.462–73; Bell, *Three Political Voices*, pp.73–74; Maas, *John Lydus*, p.18; P. Sarris, “Landownership and Rural Society in the Writings of Procopius,” *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.238–50.

²⁸² τὸ κουρᾶς πέρι καὶ ἀμπεχόνης καὶ ὄλου τοῦ περὶ τὴν ἐσθῆτα σχήματος, ὡς ἂν μὴ ἐξεῖη μηδὲ τῶν ἄλλων πολιτῶν τι κατὰ καιροὺς τὸ πρὸς ἀξίαν ἐκάστου ἀμείβειν σχῆμα. *DPS* 5.48.

landowners'.²⁸³ Justinian rhetorically distanced the state from the aristocracy and sought to curtail the abuses of both landowners and the provincial administrators who enabled them.²⁸⁴ Yet the problems reported by the *Novels* also reveal how heavily the imperial state depended on the 'consent' of these men in order to exert itself on a 'local level'.²⁸⁵ Traditionally-minded thinkers living in Constantinople, however, were not necessarily aware of the irregularity with which the imperial state was capable of actually changing practices on provincial great estates.²⁸⁶ Their vocabulary of tradition, and therefore of "traditional" class and material interests, contested the imperial court's vision of how, in whose interest, and for what goals the Roman empire should function.

1.II.B: The Traditionalist Retrospective

These three traditionalists do not only share an anti-innovation ethic with a sharp legal edge and a concern for defending the material interests of the Roman aristocracy. They also share debate tactics that were a specific product of when they wrote, in or around the 550s. Each offers a retrospective on a reign that had, from a traditionalist perspective, been initially satisfactory. By 537, Justinian had drawn up the Eternal Peace with Khusro (following a major victory at Dara and a defeat at Callinicum), granted a triumph to his general Belisarius for the reconquest of Vandal North Africa, overseen the recapture of Ostrogothic Sicily, Naples, and Rome, completed the legal codification project, suppressed the Nika insurrection that aimed at replacing him with Anastasius' nephew, and capitalised on the accompanying urban destruction to restore an array of Constantinople's buildings, not least the Bronze Gate and the Hagia Sophia, as monuments to imperial legitimacy.²⁸⁷ These achievements largely could be, and were, represented as acts of restoration.

²⁸³ Sarris, *Economy and Society*, p.149.

²⁸⁴ *Ibid.* pp.149–76, 200–27.

²⁸⁵ P. Sarris, *Empires of Faith: The Fall of Rome to the Rise of Islam, 500–700* (Oxford, 2011), p.162.

²⁸⁶ Sarris, *Economy and Society*, pp.12–130, 166–76; G. Ruffini, *Life in an Egyptian Village: Aphrodito Before and After the Islamic Conquest* (Cambridge, 2018), p.213.

²⁸⁷ Persia: G. Greatrex, *Rome and Persia at War* (Leeds, 1998), pp.168–224; Greatrex & Lieu, *Roman Eastern Frontier*, pp.88–97. Africa: Procopius, *Wars* 4.9; Marcellinus 534; Hoffmann, "Belisarius' Triumph," pp.99–102; Heather, *Rome Resurgent*, p.142. Italy: *ibid.* pp.147–79. Nika: Marcellinus 532; Romanos 54; Procopius, *Wars* 1.24; Procopius, *Buildings* 1.1.21–22; Lydus, *Powers* 3.70; Malalas 18.71; J. B. Bury, "The Nika Riot," *JHS* 17 (1897), pp.92–199; G. Greatrex, "The Nika Riot: A Reappraisal," *JHS* 117 (1997), pp.60–86; M. Jeffreys, "Bury, Malalas and the Nika Riot," *The Sixth Century: End or Beginning?*, eds. P. Allen & E. Jeffreys (Brisbane, 1996), pp.42–51; M. Meier, "Die Inszenierung einer Katastrophe: Justinian und der Nika-Aufstand," *ZPE* 142 (2003), pp.273–300; W. Brandes, "Der Nika-Aufstand, Senatorenfamilien und Justinians Bauprogramm," *Chlodwigs Welt: Organisation von Herrschaft um 500*, eds. M. Meier & S. Patzold (Stuttgart, 2014), pp.239–68. Urban

Despite the further conquest of the southern coast of Visigothic Spain, this was not the prevailing climate of the age of Justinian from around 540, when the Persian sack of Antioch was traumatically received by Procopius and Lydus in Constantinople.²⁸⁸ From 541, the plague pandemic had severe economic and demographic consequences.²⁸⁹ Mass mortality concentrated tax burdens among fewer individuals and hindered the state's ability to finance and recruit for campaigns.²⁹⁰ The Romans suffered Moorish insurgencies in North Africa until 548, Ostrogothic resistance in Italy until 554, and intermittent hostilities with Persia until 562, including regular exactions of tribute that performed the cosmological superiority of the Persian state.²⁹¹ These intractable military campaigns mirrored the ongoing Christological conflicts that broke out into concerted resistance with the condemnation of prominent Miaphysites in 536 and the Three Chapters in 543/44.²⁹² This later period of Justinian's rule

reconstruction: Boeck, *Bronze Horseman*, pp.38–40. The Bronze Gate: Procopius, *Buildings* 1.10.11–20; C. A. Mango, *The Brazen House: A Study of the Vestibule of the Imperial Palace of Constantinople* (Copenhagen, 1959); Elsner, "Rhetoric of Buildings," pp.41–42. The Hagia Sophia in a legitimacy context: Bell, *Social Conflict*, pp.319–36; B. V. Pentcheva & J. S. Abels, "Icons of Sound: Auralizing the Lost Voice of Hagia Sophia," *Speculum* 92 (2017), pp.S355–60. The Hagia Sophia more generally: R. J. Mainstone, *Hagia Sophia: Architecture, Structure, and Liturgy of Justinian's Great Church* (New York, NY, 1988); N. Schibille, *Hagia Sophia and the Byzantine Aesthetic Experience* (Farnham, 2014); B. V. Pentcheva, *Hagia Sophia: Sound, Space, and Spirit in Byzantium* (University Park, PA, 2017); N. B. Teteriatnikov, *Justinianic Mosaics of Hagia Sophia and their Aftermath* (Washington, D. C., 2017).

²⁸⁸ Spain: Heather, *Rome Resurgent*, p.298. Antioch: Procopius, *Wars* 2.8–9; Lydus, *Powers* 3.54; G. Downey, "The Persian Campaign in Syria in A.D. 540," *Speculum* 28 (1953), pp.340–48; J. A. S. Evans, "Justinian and the Historian Procopius," *G&R* 17 (1970), p.221.

²⁸⁹ See now P. Sarris, "New Approaches to the 'Plague of Justinian,'" *P&P* 254 (2022), pp.315–46, including discussion of earlier debate. Crucial archaeological and palaeogenetic evidence for the reach and impact of the plague, against L. Mordechai & M. Eisenberg, "Rejecting Catastrophe: The Case of the Justinianic Plague," *P&P* 244 (2019), pp.1–50, includes: M. McCormick, "Tracking Mass Death during the Fall of Rome's Empire (I)," *JRA* 28 (2015), pp.325–57; M. McCormick, "Tracking Mass Death during the Fall of Rome's Empire (II)," *JRA* 29 (2016), pp.1004–46; M. Keller, M. A. Spyrou *et al.*, "Ancient *Yersinia pestis* Genomes from Across Western Europe Reveal Early Diversification during the First Pandemic (541–750)," *PNAS* 116 (2019), pp.12363–72. Comprehensive bibliography: J. Roosen & M. H. Green, *The Mother of All Pandemics: The State of Black Death Research in the Era of Covid-19 – Bibliography*, pp.86–106.

²⁹⁰ Sarris, "Justinianic Plague," pp.175–78; Sarris, *Economy and Society*, pp.218–25; M. Meier, "The 'Justinianic Plague': The Economic Consequences of the Pandemic in the Eastern Roman Empire and its Cultural and Religious Effects," *EME* 24 (2016), pp.267–92.

²⁹¹ Heather, *Rome Resurgent*, pp.237–68; Downey, "Persian Campaign in Syria," pp.340–48; Greatrex & Lieu, *Roman Eastern Frontier*, pp.102–34; Payne, "Cosmology," pp.15–20.

²⁹² Miaphysites: Menze, *Making of the Syrian Orthodox Church*, pp.195–208; P. Wood, *"We Have No King But Christ": Christian Political Thought in Greater Syria on the Eve of the Arab Conquest (c.400–585)* (Oxford, 2010), pp.168–255; N. Kavvadas, "Severus of Antioch and Changing Miaphysite Attitudes toward Byzantium," *Severus of Antioch: His Life and Times*, eds. J. D'Alton & Y. Youssef (Leiden, 2016), pp.124–37. Chalcedonians: Grillmeier, *CCT* 2.2, pp.411–62; Price, "Three Chapters Controversy," pp.16–38; Sarris, *Empires of Faith*, pp.163–68.

is marked by unsuccessful plots, notably one in favour of installing Germanus in 549 and a bankers' plot in 562.²⁹³

This division between 'success and achievement' in the 530s but 'only troubles' and 'disappoint[ment]' thereafter provides the blueprint for standard accounts of Justinian's reign.²⁹⁴ Kruse argues that this modern view has been unwittingly formed on the basis of the carefully constructed 'narrative trajectory' of the *Wars*, which Procopius organised by military theatre to create the 'illusion' of a smooth arc from 'early success' to 'frustration and failure'.²⁹⁵ Even leaving aside the historicity of this trajectory, which Kruse himself concedes, it remains significant that so much traditionalist literature appeared late in Justinian's reign.²⁹⁶ Procopius, Lydus, and the author of the *Dialogue* were neither the only nor the first traditionalists active in Constantinople. Cassiodorus collated the *Variae* in the capital in the mid-540s, in response to traditionalist ideas already being articulated there, and other traditionalists who did not write extant texts moved in the same circles.²⁹⁷ *Novel* 60 testifies to traditionalist criticism voiced as early as 537. Yet it was only from around 550 that traditionalist thought hardened into discontent that merited concrete expression in literary form. During the 540s, the rate of reconquest had slowed and the régime's interest in deploying traditionalist rhetoric declined, while the volume of new legislation remained unusually high, especially in 541–544.²⁹⁸ Justinian's efforts to constrain the aristocracy continued. It is unsurprising that traditionalists who, in the 530s, may have done no more than criticise Justinian in social conversation should have become sufficiently alienated to put pen to paper by 550.

The 'narrative trajectory' identified by Kruse in the *Wars* was not fashioned out of thin air. It took account of Justinian's early successes in a way that served these alienated perspectives and made sense of a built environment permanently marked by visual

²⁹³ 549: Procopius, *Wars* 7.32; Stewart, *Masculinity*, pp.163–92. 562: Malalas 18.141; Paul, *DHS* 24–40; W. Brandes, "Eine Verschwörung gegen Justinian im Jahre 562 und Johannes Malalas," *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtki (Stuttgart, 2017), pp.357–92.

²⁹⁴ Maas, "Roman Questions," pp.7–8.

²⁹⁵ M. Kruse, "Justinian's *Laws* and Procopius' *Wars*," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), p.197.

²⁹⁶ *Ibid.* p.200.

²⁹⁷ Bjornlie, *Politics and Tradition*; Greatrex, "Procopius the Outsider?," pp.223–28. Dating the *Variae*: A. Gillett, "The Purposes of Cassiodorus' *Variae*," *After Rome's Fall: Narrators and Sources of Early Medieval History*, ed. A. C. Murray (Toronto, 1998), pp.46–47; Bjornlie, *Politics and Tradition*, pp.19–33. The older dating tradition places the *Variae* in c.538: T. Mommsen, *Cassiodori senatoris Variae* (Berlin, 1894), pp.xxx–xxxi; *PLRE* 2 Cassiodorus 4; J. Vanderspoel, "Cassiodorus as *patricius* and *ex patricio*," *Historia* 39 (1990), p.499.

²⁹⁸ *J. Nov.* 107–10, 112–20, 122, 124–25, 130, 132, 135, 153, 157–58, App.2–3, App.5, Edict 7. See further below, 3.I–II and 4.II, IV.

reminders of Justinian's victories. Mosaics on the Bronze Gate depicted Justinian and Theodora 'celebrating triumphs over the emperors of the Vandals and the Goths'.²⁹⁹ An equestrian statue in the hippodrome commemorated 'the Mede-slaying emperor' after victory over the Persians at Dara in 530.³⁰⁰ Even the brickstamps of the Hagia Sophia, sometimes visible *in situ*, bore the epithet 'Justinian the victorious'.³⁰¹ By arranging the *Wars* in a way that intensifies both the early successes and the later disappointments, Procopius co-opts Justinian's monuments to the former as testaments to the latter.

Lydus and the *Dialogue* shared in the development of tactics for explaining and co-opting Justinian's early reign. Procopius was on fertile ground when he turned Proclus into a traditionalist foil for Justinian the innovator. *On Powers* breaks off during extensive praise for Phocas, the praetorian prefect of 533, a traditionalist through whom 'the political order was revived' but who only accepted the prefecture because 'it was dangerous to shun the demand of an emperor such as [Justinian]'.³⁰² The *Dialogue*, meanwhile, places its traditionalist constitution and its authoritative discussion of military science in the voice of Menas, the urban and praetorian prefect of the late 520s.³⁰³ These officials of Justinian's rise to power and early reign may or may not have actually held and voiced the traditionalist politics that these later texts attribute to them. As literary characters, they simply provide a useful canvas for casting criticism of Justinian back in time, representing him as an innovator from the start. Their function is to associate the most successful period of Justinian's rule with traditionalist office-holders and its later decline with the emperor's turn from employing to persecuting traditionalist ministers. From their vantage point in the 550s, alienated by the events of the preceding decade, these traditionalists formulated shared tactics for writing critical retrospectives of Justinian's reign, mobilising his own victories, monuments, and officials against him. Careful tactical thought, the weaponisation of literary production, and vibrant communication within Constantinople's traditionalist circles are all recurrent themes in this study.

²⁹⁹ νικητήρια ἐορτάζουσιν ἐπὶ τε τῷ Βανδύλων καὶ Γόθων βασιλεῖ. Procopius, *Buildings* 1.10.17.

³⁰⁰ βασιλεῦ Μηδοκτόνε. *AP* 16.62. On the identification of the statue, see Cameron, "Some Prefects," p.43.

³⁰¹ Ἰουστινιανοῦ νικητοῦ. C. A. Mango, "Byzantine Brick Stamps," *AJA* 54 (1950), p.23; D. Feissel, "Les édifices de Justinien au témoignage de Procope et de l'épigraphie," *AT* 8 (2000), p.91; J. Bardill, *Brickstamps of Constantinople* (Oxford, 2004), p.7.

³⁰² ἡ δὲ τάξις... ἀνέλαμψε / οὐδὲ γὰρ ἀσφαλὲς βασιλέως αἴτησιν παρακρούσασθαι τοιοῦτου. Lydus, *Powers* 3.76. See also below, 4.1.

³⁰³ Rashed, "Menas," pp.89–98.

1.II.C: Zosimus the Traditionalist

Traditionalist thought in Constantinople was submerged in the city's oral culture until, as a result of its proponents' alienation from the régime, it surfaced as a literary phenomenon in the final two decades of Justinian's reign. Procopius, Lydus, and the *Dialogue* were therefore not the originators of the anti-innovation ethic. In fact, they inherited a political and intellectual tradition that stretched back to Zosimus, whose *New History* was structured by remarkably similar ideas. This claim contradicts most scholarship on Zosimus, which only occasionally concedes his 'traditionalist' views and even then considers them incidental to his pagan belief.³⁰⁴ Early interpretations of the *New History* as a republican manifesto have been rightly corrected but wrongly subsumed into Zosimus' 'vast enterprise of historical apology for paganism'.³⁰⁵ Since Paschoud made this statement in 1975, Christianisation has been the only permissible cause of imperial decline in the *New History*. The Zosimus reflected in modern scholarship stated 'absolutely unambiguously' that 'the abandonment of the ancient religion... caused the fall of the empire'.³⁰⁶ The Zosimus of the *New History*, however, made a much wider argument that ascribes imperial decline to the abandonment of all forms of tradition, not just pagan rites.

Religious readings of the *New History* correctly identify the text as a decline narrative, sharing a perspective on the western empire that was common and even official in Justinian's Constantinople.³⁰⁷ Zosimus represents himself as an inverse Polybius who will 'tell of how [the Romans] destroyed [their empire] by their own wickedness'.³⁰⁸ He directly states that 'the cause of these things should be considered... the will of the gods'.³⁰⁹ His historical process is consequently driven by divine interventions.³¹⁰ Too many close readings stop here. These divine interventions operate according to explicit and fixed rules. They are

³⁰⁴ e.g. Treadgold, *Early Byzantine Historians*, p.114; Kruse, *Politics*, p.43.

³⁰⁵ *vaste enterprise d'apologie historique du paganisme*. Paschoud, *Cinq études*, p.22. For the republican readings: E. Condurachi, "Les idées politiques de Zosime," *Revista Clasica* 13–14 (1941–1942), pp.115–27; Z. Petre, "La pensée historique de Zosime," *StudClas* 7 (1965), pp.263–72. For a succinct rebuttal: Ridley, "Zosimus the Historian," pp.282–83.

³⁰⁶ Respectively: J.-H. W. G. Liebeschuetz, "Pagan Historiography and the Decline of the Empire," *Greek and Roman Historiography in Late Antiquity, Fourth to Sixth Century A.D.*, ed. G. Marasco (Leiden, 2003), p.207; H. Cichocka, "Zosimus' Account of Christianity," *Siculorum Gymnasium* 43 (1990), p.174. Also Treadgold, *Early Byzantine Historians*, p.109.

³⁰⁷ Goffart, "Zosimus," pp.431–41.

³⁰⁸ ὅπως... σφῆσιν ἀτασθαλίῃσιν αὐτὴν διέφθειραν ἔρχομαι λέξων. Zos. 1.57.1. For Polybius in the *New History*, see also Zos. 2.7.1 with Kruse, *Politics*, pp.25–26.

³⁰⁹ τούτων... ἄν αἰτιάσαιτο... θεοῦ βούλησιν. Zos. 1.1.2.

³¹⁰ Zos. 1.5.1, 3.9.5, 4.4.3, 4.18, 5.21.5–6, 5.38.1–5; Ridley, "Zosimus the Historian," pp.287–88. On Zosimus' providentialism, see: Paschoud, *Cinq études*, p.209; Petre, "Pensée historique," pp.264, 271.

straightforwardly ‘favourable to us when our actions are consistent with justice’, so it is *human* actions that ‘impose a series of causes on future events’.³¹¹ The text’s conception of justice is not purely religious. The emperor Julian ‘administered justly’ by rewarding Antiochene aristocrats with an expanded senate, the prefect Auxonius ‘was just when exacting taxes’, and the *comes Orientis* Lucianus ‘was famous for his justice’ because he ‘had nothing in mind except what the law instructed’.³¹² While Zosimus’ preface lays out a providentialist theory of imperial decline, it is a theory underpinned by human causes relating to a more expansive array of ‘political and religious duties’ than the observation of pagan practices.³¹³

This is evident in Zosimus’ digression on the Secular Games mandated by the gods in the archaic past.³¹⁴ Zosimus states that, as long as the Games ‘were practised according to the gods’ direction’ by being held every 110 years, ‘the Roman empire persisted intact’.³¹⁵ On this timetable, ‘it was necessary for the festival to be celebrated according to customary practice’ in 313 but the emperors Constantine and Licinius neglected their duty.³¹⁶ Zosimus is unequivocal about the consequences:

‘When the festival was neglected after Diocletian gave up his rule, the empire slipped away in size and was, unnoticed, wholly barbarised... Because this [festival] was not maintained, it was inevitable that our affairs would come to their present, contracted state of misfortune’.³¹⁷

He integrates this digression carefully into the *New History*’s larger schematic, which measures imperial decline against criteria of size and barbarisation.³¹⁸ The case of the Secular Games can therefore serve as a litmus test for Zosimus’ historical analysis. Crucially, it is essential to Zosimus’ project that Constantine ‘still performed the ancestral rites’ for twelve years after his neglect of the Secular Games.³¹⁹ The *New History* places Constantine’s

³¹¹ ἐφ’ ἡμῖν μετὰ τὸ δίκαιον ἀκόλουθον οὖσαν. ταῦτα γὰρ εἰρμόν τινα αἴτιον τοῖς ἐσομένοις. Zos. 1.1.2.

³¹² διακίως οἰκονομήσας. Zos. 3.11.5. περί τε τὴν τῶν εἰσφορῶν εἰσπραξιν δίκαιος ἦν. 4.10.4. ἐπὶ δικαιοσύνη... διαβόητος ἦν... οὔτε ἕτερόν τι κατὰ νοῦν ἔχων, πλὴν ὧν ὁ νόμος ὑπηγόρευεν. 5.2.2.

³¹³ Kruse, *Politics*, p.34.

³¹⁴ Zos. 2.1.1–2.1. The full digression is 2.1–7.

³¹⁵ κατὰ τὸν ὑψηγμένον παρὰ τοῦ θεοῦ τρόπον ἐπράττετο... διέμεινεν ἡ ἀρχὴ Ῥωμαίων ἀλβώητος. Zos. 2.5.5.

³¹⁶ ἔδει τὴν ἑορτὴν κατὰ τὸ νενομισμένον ἀχθῆναι. Zos. 2.7.2.

³¹⁷ ἀμεληθείσης δὲ τῆς ἑορτῆς ἀποθεμένου Διοκλητιανοῦ τὴν βασιλείαν, ὑπερρῆ κατὰ βραχὺ καὶ ἔλαθε λατὰ τὸ πλέον βαρβαρωθεῖσα... τούτου δὲ μὴ φυλαχθέντος ἔδει γ’ ἄρ’ εἰς τὴν νῦν συνέχουσαν ἡμᾶς ἐλθεῖν τὰ πράγματα δυσκληρίαν. Zos. 2.7.1–2.

³¹⁸ Zos. 1.58.4. See also Kruse, *Politics*, pp.25–26.

³¹⁹ ἐχρήτο δὲ ἔτι καὶ τοῖς πατρίοις ἱεροῖς. Zos. 2.29.1.

conversion after his accession as sole emperor in 324 to show that ‘he went on to accomplish not a single war successfully’ while practising Christianity.³²⁰ This redating from 312 renders the text an ‘anti-ecclesiastical history’, demonstrating Christianity’s incompatibility with worldly success.³²¹ The pivotal moment in Zosimus’ decline narrative, therefore, occurred when an emperor who could only be a practising pagan because he had not yet won all his wars abandoned ‘customary practice’.³²² Tradition, not pagan belief or practice *per se*, defines Zosimus’ historical and political analysis.

The *New History* repeatedly confirms this analysis of the Secular Games digression. In the first instance, Zosimus understands pagan rites like ‘sacrifices’ to be important precisely because they ‘had been practised by custom for eternity’.³²³ Custom permits no deviation. Even the bishop of Rome’s proposed performance of secret pagan rites would have no providential bearing because, ‘unless the customary rites were done at public expense’ as tradition demanded, the city could not be saved.³²⁴ In Zosimus’ thought, pagan belief and worship are only consequential in their relation to tradition. In addition, non-religious innovations play a significant load-bearing role in the *New History*’s decline narrative. Zosimus claims that Constantine ‘provides the starting point and origins of the destruction of affairs that has taken place down to today’ but he does not make this statement in the context of Constantine’s conversion.³²⁵ It occurs immediately after Constantine reverses Diocletian’s well-established frontier policy.³²⁶ In turn, this passage follows Zosimus’ account of how Constantine ‘threw into confusion the ancient, established magistracies’ by dividing the prefecture into four, which explicitly ‘caused great ruin to the fortunes of the state in both peace and in war’.³²⁷ As Zosimus’ promised ‘series of causes’ unfolds, it becomes clear that Christianisation is simply one innovation in religious tradition, a subsidiary of the larger problem. The *New History* takes aim at all innovation; the text is a traditionalist manifesto.

³²⁰ διετέλεσεν πόλεμον οὐδένα κατωρθωκῶς. Zos. 2.31.3.

³²¹ *une «antihistoire» ecclésiastique*. Paschoud, *Cinq études*, p.213. See also L. Cracco Ruggini, “Pubblicistica e storiografia bizantina di fronte alla crisi dell’impero romana,” *Athenaeum* 51 (1973), p.166.

³²² τὸ νενομισμένον. Zos. 2.7.2.

³²³ θυσίας... τὰς ἐξ αἰῶνος νενομισμένας. Zos. 4.37.3.

³²⁴ εἰ μὴ δημοσίᾳ τὰ νόμιζόμενα πραχθεῖη. Zos. 5.41.3. For the antiquity of this custom: 4.59.1–3

³²⁵ τῆς ἄχρι τοῦδε τῶν πραγμάτων ἀπωλείας αὐτὸς τὴν ἀρχὴν καὶ τὰ σπέρματα δέδωκε. Zos. 2.34.2.

³²⁶ Zos. 2.34.1.

³²⁷ συνετάραξεν δὲ καὶ τὰς πάλαι καθεσταμένας ἀρχάς. Zos. 2.32.1. ὅ τι δὲ τοῦτο καὶ τοῖς ἐν εἰρήνῃ καὶ τοῖς κατὰ πόλεμον ἐλυμήνατο πράγμασιν. 2.33.4. See also 1.5.3 and Paschoud, *Cinq études*, pp.15–17, though in a religious context argued against here.

Zosimus was indeed the last ‘vocally pagan’ author of Roman history.³²⁸ Yet this characterisation places him at the end of an intellectual tradition, rather than within a broader sixth-century political discourse to which his connections have long been recognised but only recently elaborated in any detail.³²⁹ Recognising Zosimus’ concerns about innovation reveals the existence of a current of traditionalist thought in Constantinople throughout Justinian’s reign, even if its literary expression reoccurred only after a slow process of alienation. From Zosimus, through the invisible critics of *Novel* 60, to Procopius, Lydus, and the author of the *Dialogue*, traditionalists organised around an anti-innovation ethic and formed a significant constituency in the city’s political culture.

1.II.D: Inflected Traditionalisms

The prevalence of traditionalist thought throughout the age of Justinian does not, however, mean that the traditionalists formed a tightly knit political party or intellectual school. The vocabulary of tradition was just that: a vocabulary. The *New History*’s explicit paganism, set against Procopius’ classicising Christianity, indicates how traditions could be inflected to serve different goals. These four traditionalists shared an anti-innovation ethic but were preoccupied with different kinds of innovation, arrived at their analyses by different methods, and argued for different political outcomes. For example, Zosimus, the legally trained advocate, charged particular emperors and officials with innovating while Lydus, who considered himself a philosopher, drew his model of decline from Aristotle’s theory of time.³³⁰ These varied intellectual approaches produced opposing metaphysics of tradition and conceptions of the imperial role.³³¹ Lydus’ vision of the restoration of the magistracies, a concern that he shares with Zosimus even as he declines to advocate the return of pagan practices like sacrifice, would have resulted in an enlarged and empowered praetorian prefecture, reassuming competences long spun off into other offices.³³² The *Dialogue*, conversely, argues for the diminution of imperial magistracies and the elevation of a class of

³²⁸ Kruse, *Politics*, p.24; Bell, *Three Political Voices*, p.73; Cameron, “The Date of Zosimus’ *New History*,” p.106.

³²⁹ Goffart, “Zosimus,” p.423; Maas, *John Lydus*, pp.49–51; Bjornlie, *Politics and Tradition*, pp.85–94; Kruse, *Politics*, pp.12, 23–43 and throughout.

³³⁰ Maas, *John Lydus*, pp.84–85. See further below, 3.II.A and 4.V.B.

³³¹ Below, 3.II.A.

³³² Lydus, *Powers* 2.5–6. See further: Maas, *John Lydus*, pp.5, 98; Goffart, “Zosimus,” pp.423–24.

aristoi over them.³³³ All these traditionalists shared a vocal opposition to innovation, to new legislation, and to Justinian, but they also debated among themselves.

It is important to recognise how easily tradition could be inflected for divergent aims because it has routinely been subsumed into other categories of analysis. Among older scholarship, for example, Mazzarino glossed the ‘ancient dispute between pagans and Christians’ as that ‘between traditionalists and revolutionaries’, a wholly insufficient equation even just on the basis of the *New History*, let alone of Procopius’ Christianity.³³⁴ In the most recent detailed exposition of traditionalism, Bjornlie qualified it as ‘classical traditionalism’, a closely-knit cultural phenomenon that expressed itself through ‘engagement with the classical literary education’.³³⁵ Yet there were multiple classical pasts and classical texts for traditionalists to select. Lydus put Aristotle to a bureaucratic use, while the *Dialogue* put Plato and Cicero to an aristocratic (and anti-bureaucratic) use.³³⁶ As the next section shows, writers who shared a commitment to classical culture could find themselves on opposing sides of political debates. Traditionalism, while the primary intellectual current of opposition to Justinian’s rule in Constantinople, was a highly malleable and diverse current defined only by its anti-innovation ethic and vocabulary.

1.III: Mapping the Culture War

Political debate between the régime and the traditionalists did not take place in an isolated sphere of high politics, administrative technicalities, and legal theory. It was shaped by an ongoing ‘culture war’ between proponents of classical and biblical culture, which, at this point in the *longue durée* of Christianisation, had entered into sharp confrontation in Justinian’s Constantinople.³³⁷ These cultural forms provided different frameworks for understanding both the past and the present. For some Romans, these frameworks were flexible and reconcilable. For others, on the well-populated extremes of Constantinople’s cultural matrix, they were in competition.

³³³ *DPS* 5.88–96.

³³⁴ S. Mazzarino, *The End of the Ancient World* trans. G. Holmes (London, 1966), p.99.

³³⁵ Bjornlie, *Politics and Tradition*, pp.48–50.

³³⁶ Bell, *Three Political Voices*, pp.64–72, 136 n.46; O’Meara, “The Justinianic Dialogue,” pp.49–62; Fotiou, “Dicaearchus,” p.537; A. S. Fotiou, “Plato’s Philosopher King in the Political Thought of Sixth-Century Byzantium,” *Florilegium* 7 (1985), pp.17–29.

³³⁷ P. Sarris, *Byzantium: A Very Short Introduction* (Oxford, 2015), p.104.

1.III.A: Competing Cultural Frameworks

Sixth-century literary modes were routinely allusive and referential. This was not a solely classicising phenomenon. By late antiquity, ‘Christian texts work[ed] in many of the same ways’ as classical texts because ‘their writers [were] living in the same world’, connected by a shared rhetorical education that prized the learning, imitation, and imaginative reuse of classical models.³³⁸ Some writers, like Corippus, happily blended classical and patristic allusions but others preferred to operate within more strictly classical or biblical frameworks, requiring readers to parse their references in order to derive literary and historical meaning from their texts. The cases of Malalas and Procopius demonstrate how literary meaning was constructed referentially and the stylistic consequences of maintaining this referential framework.³³⁹

On the biblical side of sixth-century culture, Malalas’ historical narrative is comprehensible only by reference to the Bible.³⁴⁰ Odorico has shown how ‘the text is constructed on the basis of associative thought’:³⁴¹

‘[Malalas expresses] an idea of the world that takes the Bible as its referent and that, alone, can explain everything because it supplies a total framework for humanity. The chronicle was designed to yield an interpretive key capable of justifying and explaining human history as an homogenous, compact unfolding of divine will, a history without mutation or change in the realisation of Providence’s plan, a framework in which every event is explicable by taking Scripture as the fundamental motif.’³⁴²

Odorico’s reading is best showcased by Malalas’ treatment of earthquakes, which suddenly become frequent in his final book and are to be understood through their arrangement.³⁴³

³³⁸ Finkelpearl, “Pagan Traditions,” p.90.

³³⁹ Sarris, *Byzantium*, pp.104–5.

³⁴⁰ Ibid. p.98. On chronographical narrative: H. V. White, *The Content of the Form: Narrative Discourse and Historical Representation* (Baltimore, MD, 1987), pp.6–25; R. W. Burgess & M. Kulikowski, *Mosaics of Time: The Latin Chronicle Traditions from the First Century BC to the Sixth Century AD* (Turnhout, 2013), p.33.

³⁴¹ *la construction de ce texte est faite sur las base de la pensée associative.* P. Odorico, “La Chronique de Malalas entre littérature et philosophie,” *History as Literature in Byzantium: Papers from the Fortieth Spring Symposium of Byzantine Studies, University of Birmingham, April 2007*, ed. R. Macrides (Farnham, 2010), p.278.

³⁴² *une idée du monde qui a comme point de repère la Bible, qui seule peut expliquer tout, parce qu'elle fournit un cadre total pour l'humanité. La Chronique a été imaginée pour donner une clef d'interprétation qui puisse justifier et expliquer l'histoire de l'homme en tant que développement homogène et compact de la volonté divine, une histoire sans mutation et sans changement au vu de la réalisation du plan de la Providence, un cadre où tout événement peut être expliqué en prenant les Ecritures comme motif de fond.* Ibid. p.288. For objections, dealt with above at 1.I.B: Greatrex, “Malalas and Procopius,” p.173.

³⁴³ M. Meier, “Natural Disasters in the *Chronographia* of John Malalas: Reflections on their Function – An Initial Sketch,” *MHJ* 10 (2007), p.251.

One entry reports bishops ‘having sex with men’ in Pompeiupolis.³⁴⁴ The next immediately relates how ‘half the city and its inhabitants were swallowed up’ in an earthquake.³⁴⁵ While Malalas offers no explicit analysis of this earthquake’s cause, the entries bear an obvious relationship to the destruction of Sodom and Gomorrah.³⁴⁶ This biblical theme of divine punishment for ‘acts against nature’ then structures the rest of the book.³⁴⁷ An earthquake follows John the Cappadocian’s murder of the bishop of Cyzicus.³⁴⁸ Most truces with the Zoroastrian Persians have similar associations.³⁴⁹ Malalas’ reader can therefore only decode his political argument against paying tribute to Persia by identifying the implicit, biblically mediated relationship between earthquakes and sin.

This identification is not to be taken for granted; various interpretations of earthquakes were available in the sixth century. Syriac millenarians considered them indications of the apocalypse, Junillus didactic tools that sometimes affected good Christians, and Lydus omens with natural-scientific causes.³⁵⁰ Confronted with these plural options, Malalas clues his readers into his expectation that they identify which Roman behaviours triggered divine anger by explaining that each ‘earthquake’ was caused ‘by God’s wrath’.³⁵¹ This process requires recognition of the underlying biblical referent.

On the classical side of sixth-century culture, meanwhile, Procopius’ *Wars* depends for its meaning on classical allusions. Its preface relies on Herodotus, Thucydides, and a classicising use of archers as a metaphor for authors.³⁵² In the narrative, Pazdernik identifies a sustained referentiality between Procopius’ Belisarius and Thucydides’ Brasidas.³⁵³ The similarity between these characters is not the product of literary affectation or of a rigid generic template. Instead, it meaningfully ‘shapes expectations and colors the reader’s

³⁴⁴ ἀρσενοκοιτούντες. Malalas 18.18.

³⁴⁵ ἐχάωθη τὸ ἥμισυ τῆς πόλεως μετὰ τῶν οἰκούντων. Malalas 18.19.

³⁴⁶ Genesis 18:16–19:29.

³⁴⁷ *actes “contre nature”*. Odorico, “La *Chronique* de Malalas,” p.284.

³⁴⁸ Malalas 18.89, 93.

³⁴⁹ Odorico, “La *Chronique* de Malalas,” pp.282–83.

³⁵⁰ Harvey, “Remembering Pain,” p.302; Brandes, “Anastasios ὁ Δίκωρος,” pp.24–63; Junillus, *Instituta* 2.13; Lydus, *Signs* 4, 14, 17, 26.

³⁵¹ e.g. ὑπὸ θεομηνίας... ὁ... σεισμός. Malalas 18.27. Meier claims that Malalas prefers the term θεομηνία to σεισμός: “Natural Disasters,” p.255. In fact, Malalas uses them in conjunction.

³⁵² Kruse, “Archery,” pp.381–406; F. Basso & G. Greatrex, “How to Interpret Procopius’ Preface to the *Wars*,” *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.59–72.

³⁵³ C. Pazdernik, “Procopius and Thucydides on the Labors of War: Belisarius and Brasidas in the Field,” *TAPA* 139 (2000), pp.149–87.

reaction to the unfolding of the narrative'.³⁵⁴ The parallel amplifies Procopius' political message that Justinian's African campaign did more harm than good.³⁵⁵ Procopius constructed his narrative and political arguments in a classical framework, as Malalas did in a biblical framework.

Classical referentiality demanded a particular style. Procopius wrote a Christian history that, though less theologically inclined interested than Malalas' chronicle, still conveys a complex message about the incomprehensibility of God's creation.³⁵⁶ However, to sustain the classical style that deepens the *Wars's* analysis, this message is articulated through an array of circumlocutions, substitutions, and long-winded definitions of any Christian terminology absent from Procopius' classical models.³⁵⁷ Where Malalas directly invokes God, Procopius substitutes the classicising personification of Tyche.³⁵⁸

Malalas and Procopius therefore testify to two different sixth-century modes of literary referentiality and style. This was once easily explicable. Malalas' chronicle used to be regarded as a popular text written by and for members of a lower social stratum than the élites who appreciated classicising historiography.³⁵⁹ It is now recognised that Malalas and Procopius in fact received similar educations and operated within 'a similar bureaucratic milieu'.³⁶⁰ Procopius even omits or condenses events recorded in Malalas' chronicle, with which he assumes his readers' familiarity.³⁶¹ This overlap is evidence for the wide literary

³⁵⁴ Ibid. p.182.

³⁵⁵ Ibid. pp.170–71. See also P. Wood, "Being Roman in Procopius' *Vandal Wars*," *Byzantion* 81 (2011), pp.424–47; Procopius, *Wars* 4.28.52.

³⁵⁶ P. van Nuffelen, "The Wor(l)ds of Procopius," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.40–56. Compare Procopius, *Wars* 5.3.5–8 with Mal. 18.42. Doctrinal concerns in Malalas: E. Jeffreys, "Literary Genre or Religious Apathy? The Presence or Absence of Theology and Religious Thought in Secular Writing in the Late Antique East," *Religious Diversity in Late Antiquity*, eds. D. Gwynn & S. Bangert (Leiden, 2010), pp.511–22; V. H. Drecoll, "Miaphysitische Tendenzen bei Malalas?," *Die Weltchronik des Johannes Malalas: Autor – Werk – Überlieferung*, eds. M. Meier, C. Radtki & F. Schulz (Stuttgart, 2016), pp.45–57; P. Allen, "Malalas and the Debate over Chalcedon: Tendencies, Influences, Sources," *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtki (Stuttgart, 2017), pp.185–200. Contrast Sarris, *Byzantium*, p.104.

³⁵⁷ Cameron, *Procopius*, pp.115–19.

³⁵⁸ Gador-Whyte, "Procopius and Justinian's Propaganda," pp.109–20.

³⁵⁹ Treadgold, "Malalas and Eustathius," pp.709–14. For a monastic audience, see Krumbacher, *Geschichte der Byzantinischen Litteratur*, pp.326–28, refuted by H.-G. Beck, "Zur byzantinischen 'Mönchschronik'," *Speculum historiale: Geschichte im Spiegel von Geschichtsschreibung und Geschichtsdeutung*, eds. C. Bauer, Böhm & M. Müller (Freiburg, 1965), pp.188–97. For a generally under-educated audience, see: Maas, "Roman Questions," p.18; J. M. Thesz, "Die christliche Paideia des Johannes Malalas," *Die Weltchronik des Johannes Malalas: Autor – Werk – Überlieferung*, eds. M. Meier, C. Radtki & F. Schulz (Stuttgart, 2016), pp.27–44.

³⁶⁰ Greatrex, "Malalas and Procopius," pp.174–75. Also Averil Cameron, "Culture Wars: Late Antiquity and Literature," *Libera curiositas: mélanges d'histoire romaine et d'Antiquité tardive offerts à Jean-Michel Carrié*, eds. C. Freu, S. Janniard & A. Ripoli (Turnhout, 2016), p.307.

³⁶¹ Greatrex, "Malalas and Procopius," p.175.

diets of sixth-century Christians but it does not preclude any conflict between Malalas and Procopius. To read the texts as smoothly complementary mistakes referential frameworks, which convey deeply significant ideas about how the past and present should be understood, for ideologically neutral codes.

Some of Procopius' readers, and certainly his implied reader, prized the excavation of classical intertextualities.³⁶² The exegesis of classical literature flourished in this intellectual culture, as the extensive scholia in the margins of a sixth-century papyrus of Callimachus show.³⁶³ The rhetorical curriculum encouraged precisely such study of (and imaginative play with) classical texts.³⁶⁴ A famous sixth-century scholion on Thucydides from Gaza demonstrates that this exegetical practice went hand-in-hand with the analysis of contemporary events:

‘Compare Brasidas and his army, in the time of the Hellenes, and Belisarius, in our own times, with the present passage.’³⁶⁵

This anonymous scholiast read Thucydides in a mission ‘to relate contemporary events and figures to the monuments of the past’.³⁶⁶ The *Wars*'s preface expressly states that later readers will find the same benefit in Procopius' writing.³⁶⁷ While Pazdernik considers the scholion a ‘powerful independent testimony’ to Procopius' practice, its author in fact seems to have known the *Wars* because he uses strikingly similar phrases.³⁶⁸ The scholion provides specific evidence that Procopius' readers recognised, internalised, and studied Procopius' use of classical models to condition his narrative. They used classical literature to understand their present.

As Procopius retains a commitment to the classical canon's explanatory power, Malalas insists that history unfolds on a strictly biblical pattern. His chronicle's vertical line of symmetry is provided by Christ's Incarnation, with nine books either side.³⁶⁹ The historical

³⁶² See W. Iser, *The Implied Reader: Patterns of Communication in Prose Fiction from Bunyan to Beckett* (Baltimore, MD, 1974).

³⁶³ *P. Oxy.* 2258; E. Lobel, E. P. Wegener & C. H. Roberts, *The Oxyrhynchus Papyri* 20 (London, 1952), pp.69–107; N. G. Wilson, *Scholars of Byzantium* (London, 1996), p.35.

³⁶⁴ Webb, “*Progymnasmata* as Practice,” pp.289–316.

³⁶⁵ ἐν μὲν τοῖς Ἑλλήσιν τὸν Βρασίδαν καὶ τὴν αὐτοῦ στρατιάν, ἐν τοῖς ἡμετέροις δὲ Βελισάριον εἰς παράστασιν τοῦ παρόντος λόγου παραβαλλόμεν[ος]. *Scholia in Thuc.* 4.83.3. See also Pazdernik, “Labors of War,” p.151.

³⁶⁶ Pazdernik, “Labors of War,” p.152.

³⁶⁷ Procopius, *Wars* 1.1.1.

³⁶⁸ Pazdernik, “Labors of War,” p.152. See instead G. Greatrex, “Stephanos, the Father of Procopius of Caesarea?,” *Medieval Prosopography* 17 (1996), p.130, citing J. Balázs, *A Gazai iskola Thukydides – Tanulmányai / Gli studi Tucididei della scuola di Gaza* (Budapest, 1940), pp.40–41.

³⁶⁹ Malalas 10.1.

centrality of the Incarnation is so fundamental to the chronicle's worldview that, when Malalas came to update his chronicle, he did not add a new book, as Procopius had done, but simply inserted his updates into the eighteenth book. The disproportionate length of the final book was a suitable price to pay for retaining the Incarnation's position in sacred time. Malalas' euhemerising approach serves a similar function, assimilating the classical past into this 'Old Testament and Christian framework'.³⁷⁰ This was not a polemic against active pagan cults but a 'vision of the Greco-Roman past prefiguring the Christian present', asserting the coherence of a dominantly biblical interpretation of human history.³⁷¹ Malalas defuses the classical canon's value as a store of knowledge. Procopius' conscious decision to look to this canon for explanations of contemporary events, for the benefit of the same audience as Malalas, was a direct challenge to this anti-classical worldview, reaffirming that Christians could still find Thucydides analytically useful.

1.III.B: Romanos and the Culture War

Most scholars emphasise the compatibility of Procopius and Malalas, and of classicising and "Christian" literature more broadly.³⁷² There is, however, clear evidence for vociferous cultural conflict on these lines. Procopius' literary production was not just a challenge to Malalas but also a defence against a cultural polemic being repeatedly launched at Constantinople's night vigils. Romanos turned his rhetorical talents and mass participatory dramas to (mis)representing classicising writers like Procopius as pagans.³⁷³

Romanos' kontakion *On Pentecost* dramatises the biblical episode of speaking in tongues.³⁷⁴ It concludes with a clear turn to the present, signalled by the tripartite repetition

³⁷⁰ E. Jeffreys, "Malalas' World View," *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), p.62. See also B. Garstad, "Euhemerus and the *Chronicle* of John Malalas," *IHR* 38 (2016), pp.900–29.

³⁷¹ D. Gwynn, "The Religious World of John Malalas," *Reading in the Byzantine Empire and Beyond*, eds. T. Shawcross & I. Toth (Cambridge, 2018), p.251. For the anti-pagan interpretation, see: B. Garstad, "Hero into General: Reading Myth in Dionysius of Halicarnassus, Nonnus of Panopolis, and John Malalas," *Preternature* 3 (2014), pp.248–51; B. Garstad, "The Account of Thoulis, King of Egypt, in the *Chronographia* of John Malalas," *BZ* 107 (2014), pp.74–75.

³⁷² Greatrex, "Malalas and Procopius," pp.178–79; R. P. Formisano, "Towards an Aesthetic Paradigm of Late Antiquity," *AT* 15 (2007), pp.277–84; L. van Hoof, "Greek Rhetoric and the Later Roman Empire: The Bubble of the 'Third Sophistic,'" *AT* 18 (2010), pp.211–24; Cameron, "Culture Wars," pp.307–16.

³⁷³ On classical culture and paganism, see M. Vessey, "The End of the Pagan Classics?," *JRA* 25 (2012), pp.939–47, reviewing Alan Cameron, *The Last Pagans of Rome* (Oxford, 2011).

³⁷⁴ Acts 2:1–15.

of the temporal marker ‘now’.³⁷⁵ The ensuing strophes contrast straight-talking Christians, the ‘former fishermen’, with classicising *rhetors*:³⁷⁶

‘Now, those who used to stitch together their nets unwind the *rhetors*’ webs and, with a simpler word, make them worthless. For they say one word instead of many; they proclaim one God not one among many; they worship the One as One... Why do the Hellenes puff and buzz? Why do they show off Aratus the thrice-accursed? Why do they stray towards Plato? Why do they love Demosthenes the feeble? Why don’t they understand that Homer is a fruitless dream? Why do they prattle on about Pythagoras when rightly he is to be muzzled? And why do they not run, believing, to those to whom has appeared *the All-Holy Spirit*?³⁷⁷

The Greek is littered with mocking puns that amplify Romanos’ polemic against the Hellenes and *rhetors*. These are defined targets. *Rhetors* were not only orators but also the class of legally trained men who happened to produce almost all late antique historiography, largely in a classicising style.³⁷⁸

On Pentecost therefore has a sharp contemporary edge that has been overlooked. Carpenter considered the concluding polemic to be a ‘rhetorical device’ for eulogising Christ’s disciples and Topping read it as a celebration of ‘the triumph of Christian *paideia* over classical culture’ following the (over-emphasised) 529 closure of the Athenian school.³⁷⁹ Yet *On Pentecost* does not conclude on a triumphal note. Its present-tense questions invoke an ongoing conflict, not a victory achieved, and the classical writers on whom Romanos puns were all highly current in the city’s literary and intellectual cultures. The Anastasian poet, consul, and prefect Marianus wrote iambic paraphrases of Aratus, who was also one of Lydus’ sources for *On Signs*.³⁸⁰ Plato and Pythagoras were essential to the Neoplatonic

³⁷⁵ νῦν... νῦν... νῦν. Romanos 33.16.1–4. Such epilogues are a common feature of Romanos’ kontakia: J. H. Barkhuizen, “Romanos the Melodos and the Composition of his Hymns,” *Hellenika* 40 (1989), pp.70–73.

³⁷⁶ οἱ ἀγρευταὶ τὸ πρῶην. Romanos 33.16.1. See Mark 1:16–20 and Luke 5:1–11.

³⁷⁷ οἱ τὸ πρῶτον καταρράπτοντες τὰ δίκτυα νῦν πλοκάς ῥητόρων λύουσιν καὶ εὐτελίζουσιν ἀπλουστέρῳ τῷ ῥήματι ἓνα λόγον γὰρ λέγουσιν ἀντὶ πολλῶν, ἓνα θεὸν κηρύττουσιν οὐ μετὰ πολλῶν τὸ ἓν ὡς ἓν προσκυνοῦσιν... τί φυσῶσιν καὶ βομβέουσιν οἱ Ἑλληνες; τί φαντάζονται πρὸς Ἄρατον τὸν τρισκατάρατον; τί πλανῶνται πρὸς Πλάτωνα; τί Δημοσθένην στέργουσι τὸν ἀσθενῆ; τί μὴ νοοῦσιν Ὅμηρον ὄνειρον ἀργόν; τί Πυθαγόραν θρυλλοῦσιν τὸν δικαίως φιμωθέντα; τί δὲ μὴ προστρέχουσιν πιστεύοντες οἷς ἐνεφανίσθη |: τὸ πανάγιον πνεῦμα; :| Romanos 33.16.3–17.9. Italics mark Romanos’ refrains.

³⁷⁸ Greatrex, “Lawyers,” pp.148–52.

³⁷⁹ Carpenter, *Kontakia of Romanos 1*, p.360; E. C. Topping, “The Apostle Peter, Justinian and Romanos the Melodos,” *BMGS* 2 (1976), p.12.

³⁸⁰ Marianus: *Suda* M194; *PLRE* 2 Marianus 3; Averil Cameron, “Notes on the Sophiae, the Sophianae and the Harbour of Sophia,” *Byzantion* 37 (1967), p.15 n.6; Cameron, *Wandering Poets*, p.14. Lydus: C. Bezold & F. Boll, “Reflexe astrologischer Keilinschriften bei griechischen Schriftstellern,” *SHAW* 7 (1911), pp.36–37; Z. Misiewicz, “Mesopotamian Lunar Omens in Justinian’s Constantinople,” *The Circulation of Astronomical Knowledge in the Ancient World*, ed. J. M. Steele (Leiden, 2016), p.353.

thought that underpins both the *Dialogue* and Lydus' treatises.³⁸¹ The *Dialogue* twice names Demosthenes, who was integral to the rhetorical curriculum.³⁸² Homer's epics were the bread and butter of sixth-century allusivity from Zosimus to Paul.³⁸³ *On Pentecost's* message is, as should be expected, directly relevant to Romanos' present. This message is that 'the rhetors' webs' were designed to conceal their worship of 'many' gods, not 'one'. Engaging with classical authors was therefore not merely 'fruitless' (as the overarchingly biblical framework of Malalas' chronicle implies) but actively incompatible with Christian 'believing'.

Romanos was not the first to make such an accusation.³⁸⁴ In the early fifth century, the Egyptian monk Shenoute invaded the estate of an avowedly Christian aristocrat. He described what he found, in an open letter, as 'the image of Kronos and the images of the other demons, [the aristocrat] not having content himself with the images of effeminate men and lewd and licentious women'.³⁸⁵ A late fifth-century hagiography of Shenoute celebrates his destruction of pagan 'idols'.³⁸⁶ These monks were not exposing crypto-pagans but 'raiding the sculpture gardens of well-to-do Christians' for works of 'classical art [that were] not clearly the objects of pagan worship'.³⁸⁷ It is not always the case, though, that 'uneducated monks were not... able to distinguish between cult statues and mythological art'.³⁸⁸ Shenoute was as skilful a rhetorician as Romanos.³⁸⁹ He was using the same tactics.

³⁸¹ O'Meara, "The Justinianic Dialogue," pp.49–62; O'Meara, *Platonopolis*, pp.171–84; Maas, *John Lydus*, pp.75–76. For Pythagoras in late antique Neoplatonism, see D. J. O'Meara, *Pythagoras Revived: Mathematics and Philosophy in Late Antiquity* (Oxford, 1990).

³⁸² *DPS* 4.70, 5.42. For Demosthenes in the *progymnasmata*, see e.g. Aelius Theon, *Progymnasmata* throughout; Webb, "Progymnasmata as Practice," p.301.

³⁸³ e.g. Zos. 4.57.4. See also F. Paschoud, *Histoire Nouvelle de Zosime: texte établi et traduit* (Paris, 1971–1989), p.xxxix; Ridley, "Zosimus the Historian," p.281; B. Baldwin, "Zosimus and Asinius Quadratus," *CP* 74 (1979), p.58. On Homer in Paul's *Description*, see below, 1.IV.B.

³⁸⁴ For the discussions in this chapter of Shenoute and of the pagan persecutions, I am indebted to my colleague Silvio Roggo, who shared ideas, drafts, and references.

³⁸⁵ Shenoute, *In Our Eyes* fr.1.3, following the translation of S. Emmel, "Shenoute of Atripe and the Christian Destruction of Temples in Egypt: Rhetoric and Reality," *From Temple to Church: Destruction and Renewal of Local Cultic Topography in Late Antiquity*, eds. J. Hahn, S. Emmel & U. Gotter (Leiden, 2008), p.182. The relevant Coptic text is edited at p.190.

³⁸⁶ *Life of Shenoute* 125, following D. N. Bell, *The Life of Shenoute: Introduction, Translation, and Notes* (Kalamazoo, MI, 1983), p.77. This *Life* is generally attributed to Shenoute's successor: K. H. Kuhn, "A Fifth-Century Egyptian Abbot: Besa and his Background," *JTS* 5 (1954), pp.36–48. The surviving Bohairic text is a later translation from an earlier Sahidic version: N. Lubomierski, "The Coptic Life of Shenoute," *Christianity and Monasticism in Upper Egypt 1: Akhmim and Sohag*, eds. G. Gabra & H. N. Takla (Cairo, 2008), pp.91–98. On Shenoute, see further A. G. López, *Shenoute of Atripe and the Uses of Poverty: Rural Patronage, Religious Conflict, and Monasticism in Late Antique Egypt* (Berkeley, CA, 2013).

³⁸⁷ Alan Cameron, "Poets and Pagans in Byzantine Egypt," *Egypt in the Byzantine World, 300–700*, ed. R. S. Bagnall (Cambridge, 2007), p.41; Emmel, "Shenoute of Atripe," p.172.

³⁸⁸ Cameron, "Poets and Pagans," p.41.

³⁸⁹ H. Behlmer, "'Do Not Believe Every Word Like the Fool...!': Rhetorical Strategies in Shenoute, Canon 6," *Christianity and Monasticism in Upper Egypt 1: Akhmim and Sohag*, eds. G. Gabra & H. N. Takla (Cairo, 2008),

Classical culture furnished *some* Christians with a non-biblical ideological system for deriving meaning from the world; some other Christians desired its elimination. They justified their project by associating classicism with paganism, whatever the religious self-understanding of the “Hellenes”.

On Pentecost dramatically reiterates Shenoute’s accusation, a century later and in a different place and language. Romanos’ concern to make this accusation was not limited to his early career, when explicit pagans like Zosimus were active in the capital. In c.547, he composed *On the Mission of the Apostles*, in which he uses the voice of Christ to whip up a culture war against the classicisers:³⁹⁰

‘I do not take pleasure in the Platonisers, for I have loved the simple of the world, *I alone who recognise what is in the heart!*... Your people will scare off Demosthenes, and the Athenians will be defeated by the Galileans. Henceforward, Cephias will end literary writing by making me known. May the word “Maranatha” put an end to speeches and stories without measure. Nazareth shakes Corinth. You chatter and I persuade, *I alone who recognise what is in the heart!*’³⁹¹

On the Mission recapitulates *On Pentecost*’s themes. It makes the same pun on Demosthenes’ name, insists on the same ‘simple’ confession of Christian faith in a single ‘word’, and again figures classicising ‘literary writing’ as a pagan act. Romanos’ prosecution rests on the referential framework and circumlocutionary style that are Procopius’ two most substantive cultural departures from Malalas.

On the Mission is not just an accusation. It frames a culture war between two defined, named groups: ‘the Athenians’ and ‘the Galileans’ (or ‘Corinth’ and ‘Nazareth’). Its refrain not only models Christ’s exposure of classical culture’s secret paganism but actively involves the congregation in the performance of this act. The constancy of the refrain

pp.1–12; J. Timbie, “The Education of Shenoute and Other Cenobitic Leaders: Inside and Outside of the Monastery,” *Education and Religion in Late Antique Christianity: Reflections, Social Contexts and Genres*, eds. P. Gemeinhardt, L. van Hoof & P. van Nuffelen (London, 2016), pp.34–46. On patterns of education and belief in rural societies similar to Shenoute’s Egypt, see Tannous, *Making of the Medieval Middle East*.

³⁹⁰ Dating: J. Grosdidier de Matons, *Romanos le Mélode: Hymnes: introduction, texte critique, traduction et notes* (Paris, 1964–1981), vol.5, pp.72–75; Koder, “Imperial Propaganda,” p.283.

³⁹¹ οὐ χαίρω τοῖς πλατωνίζουσι· τὰ μωρὰ γὰρ τοῦ κόσμου ἠγάμησα |· ὁ μόνος γινώσκων τὰ ἐγκάρδια·| ... δῆμος ὑμῶν σοβεῖ Δημοσθένην, καὶ ἠττῶνται δὲ Ἀθηναῖοι Γαλιλαῖοι παύσει λοιπὸν συγγραφὰς ὁ Κηφᾶς ἐξαγγέλλων ἐμέ ἀμέτρους λέξεις καὶ μύθους ἀμαυροῖ τὸ ῥητὸν τοῦ Μαριναθά ἢ Ναζαρέτ δονεῖ Κόρινθον· οἱ λαλοῦντες ὑμεῖς, καὶ ὁ πείθων ἐγώ, |· ὁ μόνος γινώσκων τὰ ἐγκάρδια·| Romanos 31.15–16.

between strophes allows the audience to sing it back to the cantor.³⁹² The tenor of Christ's encouragement, calling on Christians to 'scare off', 'defeat', and 'shake' the classicisers, is a militant incitement. This is inflammatory cultural polemic, produced by a prominent public figure and oriented towards the generation of a large lay constituency hostile to the stylistic and referential characteristics of classical culture.

In place of classical referentiality. Romanos' kontakia argue that 'all the pious Christian needed was his Bible' and the ability to conduct biblical exegesis.³⁹³ The penitential hymn *On the Sinful Woman* dramatises the story of a New Testament 'sex worker'.³⁹⁴ She renounces her sinful livelihood after recognising her parallels to the Old Testament sex worker Rahab, who 'gained the reward of life because she was faithful'.³⁹⁵ As Krueger puts it, Romanos' sex worker 'within her own thoughts... engages in the practice of typological exegesis'.³⁹⁶ The hymn does not just explain the typological relationship between the Testaments but also offers its sex worker-exegete as a model for emulation. This exemplarity is pre-constructed by the kontakion for the preceding day in the liturgical calendar, in which Christ announces that 'I received the weeping sex worker favourably', and affirmed at the end of *On the Sinful Woman*, when Christ directs the Pharisee Simon to 'perceive the sex worker at whom you look to be just like the church'.³⁹⁷ By consistently modelling a personal exegetical practice for their audiences, Romanos' kontakia affirm that Christian life should be understood and patterned on the Bible.

As an argument for personal exegetical practice, *On the Sinful Woman* participates in the culture war in much the same way as Malalas' chronicle does. The hymn is simultaneously a direct rejection of the classicising worldview of the *progymnasmata*.³⁹⁸

³⁹² Gador-Whyte, *Theology and Poetry*, pp.6, 11; Koder, "Oikonomia in the Hymns of Romanos," p.255; Koder, "Imperial Propaganda," pp.288–91. On Romanos' use of his prooemia to introduce the refrain to the audience, see Barkhuizen, "Romanos the Melodos," pp.69–70.

³⁹³ Sarris, *Byzantium*, p.98, discussing Malalas.

³⁹⁴ ἡ πόρνη. Romanos 10.1.2. On this kontakion, see J. H. Barkhuizen, "Romanos Melodos, Kontakion 10 (Oxf.): *On the Sinful Woman*," *AC* 33 (1990), p.35. The relevant Gospel stories are Luke 7:36–50, Matthew 26:6–13, and Mark 14:3–9. See Smith, *Greek Epigram*, p.7.

³⁹⁵ τὸν μισθὸν ὡς πιστὴ εὖρε ζωὴν. Romanos 10.7.2.

³⁹⁶ Krueger, "Internal Lives of Biblical Figures," p.293.

³⁹⁷ κλαύσασαν τὴν πόρνην ἐδεξάμην ἐυμενῶς. Romanos 47.25.3. For the position of these two hymns in the liturgical calendar: Carpenter, *Kontakia of Romanos 1*, p.97; *Kontakia of Romanos, Byzantine Melodist 2: On Christian Life* (Columbia, MO, 1972), p.151. Romanos often relied on his congregation recalling the previous day's readings and hymns: Gador-Whyte, *Theology and Poetry*, p.18. ἴδε τὴν πόρνην ἣν βλέπεις καθάπερ τὴν ἐκκλησίαν. Romanos 10.17.9. Christ's address to Simon is implicitly an address directly to Romanos' congregation: Barkhuizen, "Romanos the Melodos," pp.66–68, 74–75.

³⁹⁸ Webb, "Progymnasmata as Practice," pp.289–316.

Romanos rewrites a rhetorical exercise by Libanius, the famous pagan sophist who taught rhetoric in Antioch between 355 and c.393.³⁹⁹ The model answers that he produced as teaching aids for the *progymnasmata* became the largest, most renowned, and most widely circulated such collection.⁴⁰⁰ Romanos almost certainly encountered them during his rhetorical education in Syria. These model answers include an *ethopoeia* prompted by the question ‘what would a sex worker say when she gained self-control?’.⁴⁰¹ This short speech is classicising (framing the anonymous sex worker’s decision to renounce her livelihood as ‘fleeing from Aphrodite’ and preferring to ‘love Athena’s virtue’) and moralising (advocating sexual self-control and marriage for Libanius’ young male students).⁴⁰² Yet it does not explain *why* or *how* the sex worker ‘gained self-control’. Amato and Ventrella describe this model exercise as one of only two extant speeches in the character of a sex worker.⁴⁰³ On a more expansive understanding of the *ethopoeia*, Romanos’ rewritten character study provides a clear answer to question that Libanius overlooks: the sex worker renounces her practice, a choice that both authors agree is worthy of celebration, by conducting ‘typological exegesis’. In dialogue with the classicising *progymnasmata*, Romanos insists that biblical, not classical, culture furnishes the useful patterns for sixth-century life.

For listeners who had never encountered the *progymnasmata*, *On the Sinful Woman’s* basic didactic function would still register. For those familiar with ethopoetic techniques in general or Libanius’ model exercise in particular, however, Romanos’ argument becomes a direct rejection of rhetorical and classical education in favour of exegetical practice. The

³⁹⁹ C. A. Gibson, *Libanius’s Progymnasmata: Model Exercises in Greek Prose Composition and Rhetoric* (Atlanta, GA, 2008), p.xviii. On Libanius, see R. Criboire, *Libanius the Sophist: Rhetoric, Reality, and Religion in the Fourth Century* (Ithaca, NY, 2013). Libanius probably counted among his students Aphthonius, the author of the most widely used *progymnasmata* by the sixth century: R. Criboire, *The School of Libanius in Late Antique Antioch* (Princeton, NJ, 2009), pp.59–60; R. F. Hock & E. N. O’Neil, *The Chreia in Ancient Rhetoric: The Progymnasmata* (Atlanta, GA, 1986), pp.212–16.

⁴⁰⁰ Gibson, *Libanius’s Progymnasmata*, p.xxii; G. A. Kennedy, *Progymnasmata: Greek Textbooks of Prose Composition and Rhetoric* (Atlanta, GA, 2003), p.xii; C. A. Gibson, “Libanius’ *Progymnasmata*,” *Libanius: A Critical Introduction*, ed. L. van Hoof (Cambridge, 2014), pp.129–30.

⁴⁰¹ τίνας ἂν εἴποι λόγους πόρνη σωφρονήσασα; Libanius, *Progymnasmata* 9.18. For authenticity: Gibson, “Libanius’ *Progymnasmata*,” p.130. On *ethopoeiae* (speeches in character): E. Amato & J. Schamp, eds., *ἩΘΟΠΟΙΙΑ: la représentation de caractères entre fiction scolaire et réalité vivante à l’époque impériale et tardive* (Salerno, 2005).

⁴⁰² φεύγω τὴν Ἀφροδίτην, φιλῶ τῆς Ἀθηνᾶς τὴν ἐπιείκειαν. Libanius, *Progymnasmata* 9.18; Gibson, “Libanius’ *Progymnasmata*,” pp.140–43.

⁴⁰³ E. Amato & G. Ventrella, “L’*éthopée* dans la pratique scolaire et littéraire: répertoire complet,” *ἩΘΟΠΟΙΙΑ: la représentation de caractères entre fiction scolaire et réalité vivante à l’époque impériale et tardive*, eds. E. Amato & J. Schamp (Salerno, 2005), p.217, restated at Gibson, *Libanius’s Progymnasmata*, p.403. The other example is a thematically unrelated speech by Procopius of Gaza.

hymn is therefore an engagement in a contemporary ‘debate on education’.⁴⁰⁴ Well-resourced Romans had numerous options after completing their rhetorical training.⁴⁰⁵ Many travelled for the express purpose of attending an ‘intellectual center’, like Alexandria’s philosophical school, Berytus’s law school, or Gaza’s centre of classical scholarship.⁴⁰⁶ Instruction in exegesis did not operate within the Roman empire on the same scale but was available, especially in monastic settings or even simply at church services, and could be modelled after prominent non-Roman institutes like the Syrian school of Nisibis.⁴⁰⁷ Such instruction offered a kind of education rooted in scripture, not classical *paideia*. This array of options therefore gave rise to pedagogical questions that were simultaneously ideological and political.⁴⁰⁸ The *Dialogue* insists on a rhetorical and philosophical education for the *aristoi*, who act as educational models for the classes beneath them.⁴⁰⁹ Justinian authored a legal textbook, legislated against pagan teachers, and employed a quaestor who wrote a handbook for students of exegesis.⁴¹⁰ While the lines between distinct educational cultures were blurred in all these cases, Romanos unblurs them.⁴¹¹ He rejects the *progymnasmata* and mandates instruction in exegesis alone, even as he draws on his own rhetorical education to construct his compelling dramas.

Without Romanos’ testimony, the cultural frameworks of Malalas’ chronicle and Procopius’ *Wars* might indeed seem harmlessly compatible. A full understanding of these texts in their political culture, however, requires them to be read in the context of the kontakia

⁴⁰⁴ Maas, *Exegesis and Empire*, pp.13, 75.

⁴⁰⁵ Jones, *Later Roman Empire*, pp.1005–7; Szabat, “Late Antiquity and the Transmission of Educational Ideals and Methods,” pp.267–78.

⁴⁰⁶ E. Watts, “Student Travel to Intellectual Centers: What Was the Attraction?,” *Travel, Communication and Geography in Late Antiquity: Sacred and Profane*, eds. L. Ellis & F. Kidner (Burlington, VT, 2004), pp.13–23; Jones, *Later Roman Empire*, p.1007.

⁴⁰⁷ Timbie, “Education of Shenoute,” pp.34–46; E. Watts, “Teaching the New Classics: Bible and Biography in a Pachomian Monastery,” *Education and Religion in Late Antique Christianity: Reflections, Social Contexts and Genres*, eds. P. Gemeinhardt, L. van Hoof & P. van Nuffelen (London, 2016), pp.47–58. For Nisibis: A. Vööbus, *History of the School of Nisibis* (Louvain, 1965); A. H. Becker, *The Fear of God and the Beginning of Wisdom: The School of Nisibis and Christian Scholastic Culture in Late Antique Mesopotamia* (Philadelphia, PA, 2006); Izdebski, “Cultural Contacts,” pp.185–204.

⁴⁰⁸ P. Gemeinhardt, “Education and Religion: A New Research Centre at Göttingen,” *ZAC* 16 (2012), pp.56–61.

⁴⁰⁹ *DPS* 5.23, 36, 131, 165.

⁴¹⁰ *CJ* 1.11.10.

⁴¹¹ D. King, “Education in the Syriac World of Late Antiquity,” *Education and Religion in Late Antique Christianity: Reflections, Social Contexts and Genres*, eds. P. Gemeinhardt, L. van Hoof & P. van Nuffelen (London, 2016), pp.176–77. See also: K. McVey, “The *Chreia* in the Desert: Rhetoric and the Bible in the *Apophthegmata Patrum*,” *The Early Church in its Context: Essays in Honour of Everett Ferguson*, eds. A. J. Malherbe, F. W. Norris & J. W. Thompson (Leiden, 1998), pp.245–55; P. Rönnegård, *Threads and Images: The Use of Scripture in Apophthegmata Patrum* (Winona Lake, IN, 2010), pp.172–82; Sarris, *Byzantium*, pp.97–102.

routinely and repeatedly performed at Constantinople's popular night vigils. These kontakia construct clear cultural divisions, favouring biblical over classical culture in every aspect, and incite their audiences to an anti-classical fervour. Cameron speaks of 'culture wars' among modern readers of late antique literature.⁴¹² Sarris rightly applies the same term to the polemical dynamics of sixth-century Constantinople itself.⁴¹³

1.III.C: Agathias' Compromise

Romanos' culture war died out over the next four centuries. In the continually used kontakaria from Patmos, *On Pentecost* survives only in abbreviated form.⁴¹⁴ Its closing polemic against the classicising *rhetors* lost relevance, fell out of active use, and consequently out of the Patmos manuscripts, while Romans persisted in the reading, studying, and referencing of classical literature for almost a millennium.⁴¹⁵ Without the advantage of hindsight, however, proponents of classical culture in Justinian's Constantinople had no reason to feel unthreatened in the face of militant polemics like *On the Mission*. The vitality of the culture war is evident from the care with which Procopius' fellow *rhetor* Agathias, who arrived in Constantinople during the height of Procopius' literary activity, worked around Romanos' criticisms in his sequel to the *Wars*.

Agathias is the archetypal example of a classicising Christian. His *Cycle* is a collection of classicising epigrams that frequently refer to pagan gods. In part, it is a literary project of compromise and reconciliation. One epigram seeks 'a unified, common ground between the classical and the Christian', borrowing from Malalas a joint treatment of Jacob and Hesiod.⁴¹⁶ It is also subversive. In response to the common hagiographical theme of the repentant 'harlot', a *Cycle* epigram by Paul celebrates *unrepentance* and mocks 'the poverty of monogamy'.⁴¹⁷ The poem is densely embedded with classical references and rejoices in

⁴¹² Cameron, "Culture Wars," pp.307–16.

⁴¹³ Sarris, *Byzantium*, p.104.

⁴¹⁴ Carpenter, *Kontakia of Romanos 1*, p.359. Only the first nine strophes survive in Patmos 212 and 213. The full kontakion survives in two manuscripts from Grottaferrata, MS Corsinianus 366 and MS Vindobonensis, suppl. gr. 96. See Maas & Trypanis, *Cantica genuina*, pp.xxvi–xxvii.

⁴¹⁵ See e.g. P. Buckley, *The Alexiad of Anna Komnene: Artistic Strategy in the Making of a Myth* (Cambridge, 2014); L. Neville, *Anna Komnene: The Life and Work of a Medieval Historian* (Oxford, 2016); B. van den Berg, *Homer and Rhetoric in Byzantium: Eustathios of Thessalonike on the Composition of the Iliad*, Ph.D. thesis (University of Amsterdam, 2016).

⁴¹⁶ Smith, "Classical Culture," pp.44–45; Agathias, *Ep.* 49 = *AP* 9.653.

⁴¹⁷ πενίη... οιογάμῳ. *AP* 5.232. On the 'harlot' *topos*: P. C. Miller, "Is There a Harlot in This Text? Hagiography and the Grotesque," *JMEMS* 33 (2003), pp.419–35.

exactly the sin that Romanos had called on his congregation to renounce.⁴¹⁸ In the *Histories*, however, Agathias self-consciously distances his ‘indispensable’ new endeavour from the *Cycle*’s ‘useless toil at fiction’.⁴¹⁹ This claim to utility implies a more practical project. While the *Cycle* operates beneath the surface of public norms, the *Histories* makes careful proposals for the survival of classical culture, framed directly against Procopius’ refusal to yield ground to Romanos’ militant polemic.

Cameron considers it ‘wrong’ to read Agathias ‘in contrast with Procopius’ because their historical approaches are ‘totally different’.⁴²⁰ Yet Agathias invites precisely this reading by framing himself as Procopius’ continuator. His preface summarises the events ‘of the history by Procopius *rhetor*’ and states that ‘I intended from the beginning to relate the events that follow, and now I will’.⁴²¹ Agathias establishes Procopius as his historiographical model by consistently praising his ‘accuracy’ and exempting him alone from the charge that contemporary historians were mere panegyrists.⁴²² The *Histories* then proceeds in the same classicising mode as the *Wars*, using Procopius’ vocabularies, circumlocutions, and references.⁴²³ Since Agathias so frequently deploys precisely the same intertextualities as Procopius, Cameron ‘suspect[s] that Procopius was even... the source’ of these references, rendering the *Histories* a ‘trivial and linguistic’ imitation of the *Wars* rather than the product of independent engagement with classical literature.⁴²⁴ Yet Agathias enters into such imaginative and playful relationships with classical models in the *Cycle* that his decision to hew so closely to the *Wars*’s classicising framework must have been a conscious choice to engage with Procopius rather than an incapacity for anything but derivative composition. The *Histories* adapts the *Wars* to show how Christians should write classicising literature in a culture war.

Agathias explicitly states his providential view of history at the start of the first book. He ‘does not think that the cause of events, as many people say, is the passage of the stars

⁴¹⁸ Smith, *Greek Epigram*, pp.7–11, placing Paul’s epigram in direct dialogue with *On the Sinful Woman*. For sensuality in Romanos, see Arentzen, *The Virgin in Song*, especially pp.49–52.

⁴¹⁹ ἀναγκαῖον / μυθολογία τε καὶ περιττῶ πόνω. Agathias, *H.* pr.11, with Kaldellis, “Agathias on History and Poetry,” pp.295–305.

⁴²⁰ Cameron, *Agathias*, p.11.

⁴²¹ Προκοπίω... τῷ ῥήτορι... τῆς ξυγγραφῆς... ἐγὼ δὲ ἐς τὰ ἐχόμενα τούτων, ἐφ’ ἅπερ καὶ τὴν ἀρχὴν ὠρμήθην ἶέναι, καὶ δὴ ἐπὶ ταῦτα εἶμι. καὶ δὴ ἔχομαι τῶν πραγμάτων. Agathias, *H.* pr.32.

⁴²² ἀκριβὲς. Agathias, *H.* pr.22, and also 2.19.1, 4.15.1, 4.26.4, diverging from this praise only at 4.30.5, on the grounds that he had access to documents unavailable to Procopius. Note further praise at 4.26.4. For Agathias’ critique of contemporary historians: pr.16–20.

⁴²³ Cameron, *Agathias*, pp.25, 67, 75–111; “Herodotus and Thucydides in Agathias,” *BZ* 57 (1964), pp.33–52.

⁴²⁴ Cameron, *Agathias*, pp.60–61.

and fate and other incalculable forces'.⁴²⁵ Instead, he attributes a defining role to 'human decisions and free will'.⁴²⁶ When humans choose sins like 'greed and injustice', they are consequently punished by 'God'.⁴²⁷ Agathias' narrative consistently bears out his 'sin-punishment' framework'.⁴²⁸ While, after the Roman defeat at Onoguris, 'someone might say that the visible and most obvious cause of this [defeat] was that... unsuitable plans were made', Agathias in fact argues that the cause was divine punishment for the sinful Roman assassination of Gubazes, asking 'how could it not be completely clear that, because of the unholy murder, some wrath of God overthrew the mass of Romans' by ensuring that 'they settled on the very worst plans'.⁴²⁹ The *Histories* folds the kind of historical causes that abound in classical models, like good or bad planning, into a Christian providential scheme by attributing them to a prior, divine cause.⁴³⁰

This is not, as Cameron suggests, a 'totally different approach' to the *Wars*.⁴³¹ Procopius sets out the same relationship between bad planning and divine will:

'Nothing terrible meets with those men on whom the breath of Tyche blows a fair wind. Though they make the worst plans, a divine power twists them into being wholly suitable. But, I think, good judgment is never present in the man not favoured by Tyche... If at some point he plans something necessary, Tyche nevertheless blows on him from the opposite direction immediately after he has made his plans, inverting his good judgment for the sake of the most terrible of results.'⁴³²

Like the *Histories*, the *Wars* bears out this analysis of historical causation in its narrative. In direct speech, Procopius has Belisarius attribute a Roman victory 'only to forethought and planning'.⁴³³ Yet Belisarius' in-character claim is bookended by refutations in the

⁴²⁵ αἴτιον δὲ οἶμαι τούτων οὐχ, ὅπερ οἱ πολλοὶ φασιν, ἀστέρων τε πορείας καὶ τὸ μεμορμένον καὶ τινὰς παραλόγους ἀνάγκας. Agathias, *H.* 1.1.3.

⁴²⁶ τῶν ἀνθρώπων τὸ προαιρετὸν καὶ ἐκούσιον. Agathias, *H.* 1.1.3.

⁴²⁷ πλεονεξίαν τε καὶ ἀδικίαν. Agathias, *H.* 1.1.5. τὸ θεῖον. 1.1.4.

⁴²⁸ Cameron, *Agathias*, pp.54–56.

⁴²⁹ τούτου δὲ τὸ μὲν ἐμφανὲς καὶ προχειρότατον αἴτιον ἀνανδρίαν εἶποι τις ἂν καὶ τὸ μὴ τὰ προσήκοντα βεβουλευῆσθαι. Agathias, *H.* 3.10.1. This is stated in the voice of the barbarian Aietes but confirmed in the narrative voice at 3.6.4–8, 8.2. πῶς οὐ λίαν ἀρίδηλον, ὡς θεῖόν τι μῆνιμα τοῦ ἀνοσίου αἵματος ἕκατι τὰ Ῥωμαίων ἔσφηλε πλήθη, οἳ γε ἐβουλευσαντό τε τὰ χεῖριστα. Agathias, *H.* 3.8.2.

⁴³⁰ On planning in Thucydides, see L. Edmunds, *Chance and Intelligence in Thucydides* (Cambridge, MA, 2013), with further bibliography at p.212 n.16.

⁴³¹ Cameron, *Agathias*, p.11.

⁴³² οἷς μὲν γὰρ ἐπιπνεῖ ἐξ οὐρίας τὸ πνεῦμα τῆς τύχης καὶ τὰ χεῖριστα βοθλευομένοις οὐδὲν ἀπαντιάσει δεινόν, ἀντιπεριάγοντοσ αὐτὰ τοῦ δαιμονίου ἐς πᾶν ξύμφορον· ἀνδρὶ δέ, οἶμαι, κακοτυχοῦντι εὐβουλία οὐδαμῆ πάρεστι... ἦν δὲ τι καὶ βουλευῆσθαι ποτε τῶν δεόντων, ἀλλὰ πνέουσα τῷ βουλευῆσαντι ἀπ' ἐναντίας εὐθύς ἡ τύχη ἀντιστρέφει αὐτῷ τὴν εὐβουλίαν ἐπὶ τὰ πνηρότατα τῶν ἀποβάσεων. Procopius, *Wars* 7.13.16–18.

⁴³³ προνοία δὲ μόνη καὶ βουλή. Procopius, *Wars* 6.18.14.

authoritative narrator's voice. In the preceding narrative of the battle, Procopius describes the Roman plan as so poorly thought-out that, had they been braver, the Goths 'could have slain almost all their enemies and ended the whole war there and then'.⁴³⁴ In the following chapter, he asserts that Belisarius 'had contrived impossible plans' but 'was favoured by Tyche as he planned these things'.⁴³⁵ Once Tyche is recognised as a classicising substitution for the Christian God, Procopius' and Agathias' views of historical causation begin to converge.

Agathias therefore uses the same classicising style, often exactly the same classical referents, and the same historical model as Procopius. He signposts these similarities by framing the *Histories* as a continuation of the *Wars* and singling out Procopius as the only accurate historian of the age of Justinian. Yet he also modifies Procopius' literary method by explicitly naming God, where Procopius substitutes Tyche, and expressly representing divine interventions as punishments for human sin. In these respects, Agathias combines Malalas' providential analysis with Procopius' classicising cultural framework, all the while extremely alert to Romanos' polemical insistence on the 'simple' confession of Christian faith. The *Histories* are not simply a 'deliberate protest against the abandonment of [Agathias'] cultural ideals' or an historical accident arising out of the 'gradual emergence of more expressly Christian forms of classicizing history' but an argument, framed against Procopius, that classical culture should find space for explicit Christian confession in order to survive the culture war.⁴³⁶ This was a question of survival in the face of the militant opposition to classical culture that Romanos sought to incite.

1.IV: Navigating the Culture War

The extent of Agathias' alertness to Romanos' polemic suggests that the culture war was not a fringe phenomenon. *On the Mission's* ideas and militancy are extreme but evidently represented the views of a substantial enough subsection of Constantinople's population for Agathias to dedicate careful thought to their accommodation. This culture war cut across institutional lines. At court, classicising writers like Paul the Silentiary worked alongside

⁴³⁴ πλείστους τε ἂν τῶν πολεμίων... ἔκτειναν καὶ ξύμπας ἐνταῦθα ἂν ὁ πόλεμος ἐτελεύτησε. Procopius, *Wars* 6.17.23–24.

⁴³⁵ τὰ ἀμήχανα ἐπινοεῖν... ταῦτα βουλευομένων εὐτύχημα. Procopius, *Wars* 8.19.8, 11.

⁴³⁶ First quote: Kaldellis, "Agathias *Mythistoricus*," p.299. Second quote: Sarris, *Byzantium*, pp.104–5.

proponents of biblical culture like Junillus. The same is true of the bureaucracy, where Malalas and John Lydus crossed paths, and even of the church, where Romanos ridiculed the ‘Platonisers’ at the same time that his fellow deacon Agapetus represented the age of Justinian as ‘the age of wellbeing that one of the ancients [Plato] foretold’.⁴³⁷ These dynamics also do not map onto the distribution of political support for the régime. Procopius and Agathias, for example, exhibit the same classicising style but very different attitudes towards Justinian.

The culture war’s conflicts over the utility of classical referents for understanding the world and the compatibility of classical expression and Christian belief therefore permeated Constantinople’s political society sufficiently to leave Justinian without any obvious base of cultural support to cultivate. Too strong a commitment to either side might risk alienating proponents of classical culture at court and in the aristocracy or fomenting dangerous dissent among Romanos’ audiences, especially since fears about an imperial Antichrist were already current.⁴³⁸ Caught between these competing cultural interest groups, the Justinianic régime sought to navigate the culture war by pursuing a policy of ‘compromise’ that might accommodate proponents of both classical and biblical culture to Justinian’s rule.⁴³⁹

1.IV.A: Junillus in the Culture War

Maas rightly situates Junillus’ *Instituta* in a ‘debate on education’ that centres on a conflict between classical *paideia* and biblical instruction.⁴⁴⁰ He wrongly, however, argues that Junillus and Justinian aimed at ‘displacing classical *paideia*’.⁴⁴¹ This argument depends on Junillus’ discussion of the exegetical school at Nisibis:

[Paul the Persian] was taught at the Syrian school in the city of Nisibis, where divine law is taught by public teachers just as grammar and rhetoric are taught among us in worldly schools: in an orderly and regular way... I had read certain rules with which [Paul] was used to filling the minds of his

⁴³⁷ τῆς εὐζωΐας ὁ χρόνος, ὃν προεἶπέ τις τῶν παλαιῶν. Agapetus, *Advice* 17. On the referent, see: Bell, *Three Political Voices*, p.105 n.27; Henry III, “Mirror for Justinian,” pp.295–96, noting the combination of Plato with Proverbs.

⁴³⁸ Dagron, *Empereur et prêtre*, pp.192, 200; Harvey, “Remembering Pain,” pp.301–2. See also: Varghese, “Kaiserkritik in Two Kontakia,” p.393; Rubin, “Antichrist,” pp.55–63; Migdał, “Magic, Demons and Apocalypse,” pp.127–56.

⁴³⁹ ‘Compromise’ is borrowed from discussions of Justinian’s theological policy: Gray, “Legacy of Chalcedon,” p.230; Becker, “Dynamic Reception,” p.37.

⁴⁴⁰ Maas, *Exegesis and Empire*, pp.13, 75.

⁴⁴¹ *Ibid.* p.13. For a similar argument, see Bjornlie, *Politics and Tradition*, pp.60–63.

students, who were instructed in the surface of the divine Scriptures before he explained their depths, so that they would learn the intent and order of those causes found in the divine law and so that each separate thing would be taught regularly, not in a scattered and turbulent way.⁴⁴²

For Maas, this passage exaggerates the distance between biblical and rhetorical education, firmly suggesting that Romans should only receive instruction in exegesis.⁴⁴³ In fact, Junillus emphasises a shared pedagogic method. The techniques by which Christians teach exegesis at Nisibis are ‘just as grammar and rhetoric are taught among us’, rooted in a shared order and regularity that also recalls Justinian’s reforms to the legal curriculum.⁴⁴⁴ Both Syrian exegesis and Roman rhetoric, in other words, are taught in a suitable fashion.

Junillus proves his point by lifting conceptual vocabulary directly from classical handbooks. The definition of allegory was contested in exegetical circles, but Junillus sidesteps the debate altogether by supplying a definition lifted from the Roman rhetorical tradition instead of Theodore of Mopsuestia, the School of Nisibis’ foundational thinker.⁴⁴⁵ He also adopts a pedagogical structure derived from Aristotle’s *Categories*, which structured late antique philosophical curricula but had not previously been applied to exegetical instruction.⁴⁴⁶ A reader attuned to Romanos and the *Dialogue*’s arguments for the monopolies of specific forms of education would find, in the *Instituta*, a statement of their possible coexistence.

In addition to asserting the compatibility of biblical and classical education, Junillus minimises the importance of exegetical practice and provides ample space for non-exegetes to live just as lawfully as Romanos’ reformed sex worker. He constructs a multi-level schematic of ‘particular government, by which individual things, especially rational beings,

⁴⁴² *Syrorum schola in Nisibi urbe est edoctus, ubi divina lex per magistros publicos, sicut apud nos in mundanis studiis grammatica et rhetorica, ordine ac regulariter traditur... legissem regulas quasdam, quibus ille discipulorum animos divinorum scripturarum superficie instructos, priusquam expositionis profunda patefaceret, solebat inbuere, ut ipsarum interim causarum, quae in divina lege versantur, intentionem ordinemque cognoscerent, ne sparsim et turbulente, sed regulariter singula docerentur.* Junillus, *Instituta* pr.

⁴⁴³ Maas, *Exegesis and Empire*, pp.76–78.

⁴⁴⁴ Compare J. Digest C. Omnem pr., 1, 6.

⁴⁴⁵ Compare: Junillus, *Instituta* 1.5; Quintilian, *Institutio Oratoria* 8.6.44; *Rhetorica ad Herennium* 4.34.46; Theodore of Mopsuestia, *Commentary on the Epistles of St Paul* 1.79.5–7. See: Becker, “Dynamic Reception,” pp.118–19; R. Copeland & A. Bass, “Cassiodorus’ Hermeneutics: The Psalms and the Arts of Language,” *Patristic Theories of Biblical Interpretation: The Latin Fathers* (Cambridge, 2016), p.178; F. G. McLeod, *The Roles of Christ’s Humanity in Salvation: Insights from Theodore of Mopsuestia* (Washington, D. C., 2005), pp.36–37; F. G. McLeod, *Theodore of Mopsuestia* (London, 2009), pp.19–20.

⁴⁴⁶ Maas, *Exegesis and Empire*, p.25; P. Bruns, “Bemerkungen zur biblischen Isagogik des Junilius Africanus,” *SEA* 68 (2000), pp.401–3; Becker, “Dynamic Reception,” pp.41–42; Martens & Bass, “Junillus Africanus’ Hermeneutics,” p.136; O’Meara, *Platonopolis*, pp.62–63.

are governed by God'.⁴⁴⁷ Much of this government operates by 'natural distinction' in such a way that 'gentiles, who do not have the law, naturally do things that belong to the law'.⁴⁴⁸ In the *Instituta*, natural law is a mechanism by which even non-Christians may behave according to 'divine law'. The other forms of particular government by God are not innate but rely on 'law established from without'.⁴⁴⁹ Junillus splits this category equally between the law of 'words' and the law of 'works, that is, recompense for actions'.⁴⁵⁰ The latter subcategory functions as 'a kind of substantial and material law, as it were'.⁴⁵¹ In other words, God demonstrates 'the distinction between good and evil' not through scripture but by bestowing 'punishments and rewards, through which he holds [humans] back from evil deeds (in return for which punishments are inflicted) and impels them towards good deeds'.⁴⁵² Finally, even in the subcategory of the law of 'words', Junillus admits that some divine instructions do not need any exegesis to comprehend because they are 'understood just as they sound'.⁴⁵³ A substantial portion of the *Instituta* is dedicated to the elaboration of a schematic that limits the need for most Romans to conduct the kind of typological exegesis that Romanos models in *On the Sinful Woman*.

Junillus' *Instituta* was written to speak across cultural divides. On the educational front of the culture war, it carefully signposts an intellectual debt to rhetorical, exegetical, and philosophical pedagogic traditions. In response to Romanos' specific argument that only exegetical instruction was necessary, it methodically demonstrates that exegetes and non-exegetes had equal access to most of the forms in which divine law was communicated to humans. Even if the *Instituta* was not read in Constantinople's Latin circles, though it seems likely that this is where Cassiodorus became familiar with the text, it nonetheless reflects ideas and strategies formulated at the imperial court. The *Instituta* combines an affected neutrality in the culture war with a legal theory that 'enhanced and legitimized Justinian's status as a lawgiver within a fully Christian plan', supporting the emperor's contested right

⁴⁴⁷ *gubernatio specialis... per quam singula et maxime rationabilia gubernantur a deo*. Junillus, *Instituta* 2.3.

⁴⁴⁸ *naturalem discretionem... gentes quae legem non habent naturaliter quae legis sunt faciunt*. Junillus, *Instituta* 2.6.

⁴⁴⁹ *extrinsecus constituta lex*. Junillus, *Instituta* 2.6.

⁴⁵⁰ *verba / opera id est actuum retributionem*. Junillus, *Instituta* 2.6.

⁴⁵¹ *velut quandam substantialem ac materialem legem*. Junillus, *Instituta* 2.7.

⁴⁵² *in discretionem boni ac mali... poenas et praemia... per haec enim a malis prohibet, propter quae ingeruntur, et ad bona... inpellit*. Junillus, *Instituta* 2.7.

⁴⁵³ *sicut sonant intelleguntur*. Junillus, *Instituta* 2.8.

to intervene freely in the Roman legal tradition and doctrinal disputes.⁴⁵⁴ Junillus sought to cast as wide a net as possible over the culture war in the interests of accommodating its competing interest groups to a shared ideological framework of imperial authority.

1.IV.B: The Rededication of the Hagia Sophia

Two decades after Junillus composed the *Instituta*, the Justinianic régime continued to deploy the same tactic, seeking an ideological accommodation of disparate cultural positions. In late 557, an earthquake damaged the Hagia Sophia, resulting in the collapse of its eastern arch and most of its dome in May 558.⁴⁵⁵ Divine displeasure was a common, though not the only, explanation for natural disasters in Constantinople's intellectual milieu.⁴⁵⁶ The collapse of the monumental cornerstone of Justinianic legitimacy was therefore a problem for the régime. The damage was extensive, as both Agathias and Malalas report, even if it did not quite cause 'the whole base of the city's foundations to leap up', as Paul's poetic eulogy for Justinian's reconstruction claims.⁴⁵⁷ Following this delegitimising collapse, the régime needed to make a broadly intelligible reassertion of its right to rule.⁴⁵⁸ Caught between two warring cultural factions, Justinian chose to commission two separate poetic performances to bookend a two-week rededication festival from Christmas Eve 562 to Epiphany 563. These bookends are separate, culturally distinct expressions of praise, one in a biblical and one in a classical referential framework.

On the first day of the festival, a Greek kontakion in the shortened form of 18 strophes was sung.⁴⁵⁹ The acrostic supplies the title of this anonymous *Hymn on the Inauguration*.⁴⁶⁰ The *Hymn's* English translator suggests that 'the author must have been the best living composer of *kontakia*', Romanos, or a pupil of his.⁴⁶¹ The *Hymn's* modern editor, however,

⁴⁵⁴ Maas, *Exegesis and Empire*, pp.69–71. For resistance to Justinian's doctrinal and ecclesiastical authority, see e.g. Pontianus, *Letter to the Emperor Justinian on the Three Chapters* = PL 67.997a; Ferrandus, *Ep.* 6.8 = PL 67.926d; Facundus, *In Defence of the Three Chapters* 12.3 = PL 67.838b–c.

⁴⁵⁵ Agathias, *H.* 5.9.3; Theophanes AM6051.

⁴⁵⁶ See 1.III.A, above, and M. Meier, "Perceptions and Interpretations of Natural Disasters during the Transition from the East Roman to the Byzantine Empire," *MHJ* 4 (2001), pp.179–202.

⁴⁵⁷ Agathias, *H.* 5.9.1–2; Malalas 18.28. πάντα δ' ὑπεσκήρτησεν ἐν ἄστει βάθρα θεμείων. Paul, *DHS* 189.

⁴⁵⁸ See Bell, *Social Conflict*, pp.319–36.

⁴⁵⁹ A. Palmer, "The Inauguration Anthem of Hagia Sophia in Edessa: A New Edition and Translation with Historical and Architectural Notes and a Comparison with a Contemporary Constantinopolitan *Kontakion*," *BMGS* 12 (1988), p.138.

⁴⁶⁰ ΤΩΝ ΕΓΚΑΙΝΙΩΝ Ο ΥΜΝΟΣ. *Hymn on the Inauguration* 1–18.

⁴⁶¹ Palmer, "Inauguration Anthem," p.138.

considers it stylistically distinct from Romanos' kontakia.⁴⁶² Whomever Justinian commissioned to compose it, the *Hymn* serves a clear political and cultural function: it mediates praise for Justinian through biblical references by drawing parallels with the Book of Exodus. The *Hymn* proclaims that 'we have this divinely-built temple as our Tabernacle' and 'puts forward our faithful emperor for Bezalel's office'.⁴⁶³ It sets out very clearly the significance of this comparison. Bezalel 'was allotted wisdom by God' to enable him to 'construct with all kinds of skill the things set out in images, just as God willed when he spoke'.⁴⁶⁴ The *Hymn* uses this Old Testament allusion to make the same statement of Justinian's divine inspiration that both Procopius and Paul work into their classicising panegyrics.⁴⁶⁵ The content of the *Hymn's* message was nothing out of the ordinary. In its style and referentiality, however, the *Hymn* represents a state-sponsored claim that the patterns that explain Justinian's reconstruction of the Hagia Sophia are to be found in the Bible.

Paul's *Description of the Hagia Sophia*, ceremonially performed on the last day of the festival, instead embeds its praise for Justinian in a wide-ranging framework of classical referentiality. Fobelli and Bell have catalogued much of this praise, from an initial allusion to Aristophanes to invocations of Callimachus' Telchines, the Sirens as Muses, the Furies, the river Lethe, and Homer's Pelion, Ossa, and Mygdonia.⁴⁶⁶ Paul represents himself as a new Homer, asking 'who will sing, with the loud-thundering voice of Homer, of the marble meadows?' before immediately proceeding to recount all the quarries that Justinian had tamed with 'steel-toothed mining tools'.⁴⁶⁷ His implication is that it requires a Homer to express the heights of Justinian's achievements. Paul also deploys many of Procopius'

⁴⁶² Trypanis, *Fourteen Early Byzantine Cantica*, p.139.

⁴⁶³ ἡμεῖς... σκηνήν παναγίαν τὸν θεάρμοστον ἔχομεν τοῦτον ναόν, ἐν Βεσελεὴλ βασιλέα πιστὸν προβαλλόμενοι. *Hymn on the Inauguration* 12.1–2. For Bezalel, see Exodus 31, 36–39.

⁴⁶⁴ κληρωσάμενον σοφίαν ἐκ θεοῦ... ἐκ παντοίων τεχνῶν κατασκευάσαντα τὰ ἐν τύποις διαφραθέντα, ὡς διέταξεν ὁ λαλήσας θεός. *Hymn on the Inauguration* 10.5–7.

⁴⁶⁵ Procopius, *Buildings* 1.1.70–71, 2.2.8–10, 2.3.8–15; Paul, *DHS* 144. See further: Elsner, "Rhetoric of Buildings," pp.39–40, 46–47; Turquois, "Technical Writing," p.228; Bell, *Social Conflict*, p.325.

⁴⁶⁶ Aristophanes: Paul, *DHS* 124; M. L. Fobelli, *Un Tempio per Giustiniano: Santa Sofia di Costantinopoli e la Descrizione di Paolo Silenzario* (Rome, 2005), p.123. The Telchines: Paul, *DHS* 195; Bell, *Three Political Voices*, p.197 n.46. The Sirens: Paul, *DHS* 205; Fobelli, *Un Tempio per Giustiniano*, p.126. The Furies: Paul, *DHS* 221; Fobelli, *Un Tempio per Giustiniano*, p.127; Bell, *Three Political Voices*, p.200 n.49. The Lethe: Paul, *DHS* 180–81; Bell, *Three Political Voices*, p.198 n.43. Pelion and Ossa Paul, *DHS* 303–5; Fobelli, *Un Tempio per Giustiniano*, p.130. Mygdonia: Paul, *DHS* 931; Bell, *Three Political Voices*, p.208 n.82.

⁴⁶⁷ τίς ἐριγδούποισι χανῶν στομάτεσσιν Ὀμήρου μαρμαρέους λειμῶνας... ἀείσει. Paul, *DHS* 617–18. μεταλλευτήρι χάλυψ... ὀδόντι. 621

classicising substitutions.⁴⁶⁸ He was already, by this point, a prolific composer of classicising epigrams. Given all these facts, Mary Whitby is right to state that Justinian commissioned Paul's ekphrasis 'to link his city and his reign with the splendours of the classical past'.⁴⁶⁹ The rededication of the Hagia Sophia began with a biblical hymn and ended with a classicising poem.

As was true of Procopius and Malalas, Paul and the composer of the *Hymn* have been interpreted as writing for different social strata. The *Hymn* must have been 'the "popular" counterpart', targeting a less educated social group, to which the *Description* aimed at 'reconciling sophisticated opinion'.⁴⁷⁰ This logic is, again, no longer sound. Men of the same social standing found themselves in opposing camps of the culture war between classical and biblical culture, so the *Hymn* and the *Description* are best understood as official offerings to different cultural interest groups. These separate occasions of praise attempted to ensure that even the culture war's most polemical participants might be accommodated to the legitimising programme of the rededication festival.

1.IV.C: Persecuting the Culture War

As it navigated the culture war, the Justinianic régime consistently chose to speak in multiple cultural codes at once. Justinian sometimes shared in Romanos' polemical discourse, making *On Pentecost*'s hostile puns on Plato's name in the 542/43 edict against Origen, and sometimes aligned himself with a classicising intellectual culture, representing himself in the *Novels* as a reader of ancient historians and praising and promoting the philosophically-minded Lydus.⁴⁷¹ The régime certainly had its own cultural and ideological preferences. No court writers produced model rhetorical exercises like Junillus composed an exegetical textbook. While the *Inauguration Hymn* 'makes no concessions to any conventions of classical culture', Paul's *Description* describes Justinian's rule as an overtly Christianised intercession for his subjects' salvation.⁴⁷² At most, however, Justinian applied a gentle pressure to the classical side of the culture war. Cultural polemic was the preserve of writers

⁴⁶⁸ Whitby, "The Occasion of Paul the Silentiary's Ekphrasis," p.217.

⁴⁶⁹ Ibid. p.228.

⁴⁷⁰ Trypanis, *Fourteen Early Byzantine Cantica*, p.139; Macrides & Magdalino, "Architecture of Ekphrasis," pp.77–78.

⁴⁷¹ Biblical: *PG* 86.949c; Maas, "Chronologie," p.21; Amelotti & Zingale, *Scritti teologici*, p.66. Classicising: Lydus, *Powers* 3.29; Maas, *John Lydus*, pp.29–30. For Justinian as an ancient historian, see below, 3.I.B.

⁴⁷² Macrides & Magdalino, "Architecture of Ekphrasis," p.78; Paul, *DHS* 54–65.

beyond the court, like Romanos and the author of the *Dialogue*. The régime pursued an accommodatory approach to maintain as broad a base of support as possible.

However, on the acceptance model of imperial power, not all social forces or lobbyists could be defused in this way. As a tactical resource for achieving concrete action against classical culture, the abbot Shenoute had at his disposal a team of ‘monks... mounted on beasts’.⁴⁷³ Romanos, by contrast, had a mass audience of laypeople capable of exerting pressure on a persecuting imperial state. Justinian’s three pagan persecutions in Constantinople, in 528/29, 545/56, and 562, play essential roles in the scholarly understanding of his reign. The general consensus, even among historians who do not consider Justinian a repressive tyrant, is that the persecutions were excuses for the removal of political opponents.⁴⁷⁴ Imperial policy in this area, however, is marked by the inconsistencies symptomatic of a régime caught in a culture war.

Only Justinian’s first ‘great persecution of Hellenes’, which targeted several high officials, saw ‘many have their property confiscated’, and accompanied a flood of anti-pagan legislation, seems to have been a planned product of Justinian’s genuine zeal for a universally orthodox empire as well as an opportunity to dispose of early opponents.⁴⁷⁵ The fervour of these early years soon died down. If the notable Thomas who died in this persecution is the same ‘Thomas of glorious memory’ referenced in an imperial constitution of 535, Justinian was rehabilitating convicted pagans within years of their execution.⁴⁷⁶

The second persecution occurred only at the express ‘encouragement’ of John of Ephesus, a Miaphysite monk who held significant leverage over a régime intent on advancing an orthodox oikoumene because he was the architect of mass conversion

⁴⁷³ *Life of Shenoute* 125, following Bell, *Life of Shenoute*, p.77. On religious militancy, see T. Sizgorich, *Violence and Belief in Late Antiquity: Militant Devotion in Christianity and Islam* (Philadelphia, PA, 2009).

⁴⁷⁴ D. J. Constantelos, “Paganism and the State in the Age of Justinian,” *CHR* 50 (1964), pp.372–80; P. Lemerle, *Le premier humanisme byzantin* (Paris, 1971), pp.68–73; Cameron, *Procopius*, p.142; Kaldellis, *Procopius*, pp.167–68; Sarris, *Empires of Faith*, p.167; Bell, *Social Conflict*, pp.235–46.

⁴⁷⁵ διωγμός... Ἑλλήνων μέγας, καὶ πολλοὶ ἐδημεύθησαν. Malalas 18.42. For anti-pagan legislation: *CJ* 1.3.54.9, 1.5.12, 1.5.18–19, 1.5.21, 1.10.2, 1.11.10; S. Corcoran, “Anastasius, Justinian, and the Pagans: A Tale of Two Law Codes and a Papyrus,” *JLA* 2 (2009), pp.183–208; S. Corcoran, “From Unholy Madness to Right-Mindedness: Or How to Legislate for Religious Conformity from Decius to Justinian,” *Conversion in Late Antiquity: Christianity, Islam, and Beyond*, ed. A. Papaconstantinou (Farnham, 2015), pp.89–94; Cameron, *Wandering Poets*, pp.255–56. For Justinian’s ‘orthodox republic’: P. Sarris, “At the Origins of the ‘Persecuting Society’? Defining the ‘Orthodox Republic’ in the Age of Justinian,” *T&M* 26 (2022), pp.407–22.

⁴⁷⁶ *Thomae gloriosissimae recordationis*. *J. Nov.* 35.pr. Malalas 18.42 lists a Thomas among the notable victims of the persecution. See Bell, *Three Political Voices*, p.12. On similar dynamics, see C. W. Hedrick, *History and Silence: Purge and Rehabilitation of Memory in Late Antiquity* (Austin, TX, 2000).

campaigns in Asia Minor.⁴⁷⁷ Its single named victim (and perhaps, therefore, John's particular target) was Phocas.⁴⁷⁸ It is no coincidence that Romanos composed *On the Mission* within a year of this purge. John's account speaks to the possibility of even Miaphysites, after their post-536 "local turn" away from imperial politics, manoeuvring imperial policy into more hardline directions.⁴⁷⁹ Romanos capitalised on what John had proven possible by writing an inflammatory kontakion that pushes an even more expansive category of "pagan", encompassing all proponents of classical culture. State persecution provided the tactical framework for Romanos' culture war; the greater the number of Constantinopolitans who believed that classical culture and paganism went hand-in-hand, the more incumbent it became on the régime to take firm, public action against pagans.

The fruits of Romanos' labour are evident in the final persecution:

'Imprisoned Hellenes were paraded around and their books, idols, and statues of their foul gods were burned in the Kynegion.'⁴⁸⁰

The targets recall Shenoute's victims. They were probably classicising aristocrats whose 'books, idols, and statues' made them suspect in a city where Romanos' polemics were routinely performed. Malalas offers no clues about the episode's instigators, but the public nature of the pagan parade and the burning of supposed cult objects suggest that the purge was designed to pacify popular opinion. Both the second and third Constantinopolitan persecutions, therefore, seem to have been official responses to pressure exerted by ecclesiastical leaders and radically anti-classical sections of the urban population.

Within six months of the third persecution, however, Justinian had commissioned a public performance – about the Hagia Sophia, no less – by a poet who wrote classicising epigrams for statues of pagan gods.⁴⁸¹ Paul even claims that the rededication festival was

⁴⁷⁷ John of Ephesus, *Ecclesiastical History*, as preserved in the *Zuq̄n Chronicle*, translated from Syriac at W. Witakowski, *Pseudo-Dionysius of Tel-Mahre, Chronicle, Part III: Translated with Notes and Introduction* (Liverpool, 1996), pp.71–72. See further Michael Whitby, "John of Ephesus and the Pagans: Pagan Survivals in the Sixth Century," *Paganism in the Later Roman Empire and in Byzantium*, ed. S. Maciej (Cracow, 1991), pp.111–31. On John and his texts, see J. J. van Ginkel, *John of Ephesus: A Monophysite Historian in Sixth-Century Byzantium* (Groningen, 1995). John is the sole source for this persecution.

⁴⁷⁸ *Zuq̄n Chronicle* at Witakowski, *Pseudo-Dionysius of Tel-Mahre*, pp.71–72.

⁴⁷⁹ Wood, *We Have No King But Christ*, pp.132–264; Kavvadas, "Severus of Antioch," pp.124–37; MacCoull, "Philoponus' Letter to Justinian," p.399.

⁴⁸⁰ συσχεθέντες Ἕλληνας περιεβώμισθησαν καὶ τὰ βιβλία αὐτῶν κατεκαύθη ἐν τῷ Κυνηγίῳ καὶ εἰκόνες τῶν μουσεῶν θεῶν αὐτῶν καὶ ἀγάλματα. Malalas 18.136. Malalas and his dependents are the only sources for this persecution.

⁴⁸¹ e.g. a dedicatory epigram for a statue of Pan: *AP* 6.57, with discussion at Smith, *Greek Epigram*, pp.141–43.

only extended to include the *Description* because ‘all the people, senators, and those who strive for a safe and moderate life’ had lobbied the emperor.⁴⁸² Whenever the régime embarked on a persecution of pagans, it did not only satisfy those cultural interest groups clamouring for such purges but also triggered a reaction from the opposite side of the culture war, whether men embedded in classical culture or opposed to religious intolerance. The Thomas persecuted in 528/29 possibly became the *Dialogue*’s minor interlocutor.⁴⁸³ Phocas became Lydus’ exemplary prefect.⁴⁸⁴ These men may really have been traditionalist political opponents persecuted by Justinian, but it is more likely that later writers simply reinvented them as unjustly persecuted models of good governance partly in order to resist Romanos’ advocacy for further purges.

Viewed in this light, the cultural and persecutory patterns of the age of Justinian crystallise. The régime vacillated between executing and rehabilitating accused pagans, between putting classicising aristocrats on parade as pagans and putting them on stage as mouthpieces of imperial legitimacy, between mocking Plato and patronising Neoplatonic philosophers, and so on. It did so not because Justinian kept changing his mind but because it was caught in the midst of a culture war that it could not control. For the political actors on each side of the culture war, the question was how best to inflate the pressures to which the régime was subject. Romanos’ answer was to inculcate among his mass audience an expectation that Justinian would persecute classical culture by associating it with secret pagan belief, capitalising on the precedents offered by previous purges. The imperial régime, on the other hand, simply sought to survive by speaking in as many cultural codes as it could and occasionally submitting to the pressure to persecute.

1.V: Layers of Debate

In class terms, sixth-century Constantinople’s political society was a relatively closed shop. In intellectual terms, it was remarkably diverse and fluid. The period’s thirteen most significant political authors shared various biographical patterns and operated in the same political culture, but took up varied professional careers and argued publicly about an array of political and cultural issues. A rhetorically educated man from the eastern Mediterranean

⁴⁸² ἄπας ὁ δῆμος εὐθύς, ἡ γερουσία, οἱ τὸν μέσον ζηλοῦντες ἀσφαλῆ βίον. Paul, *DHS* 75–76.

⁴⁸³ O’Meara, *Platonopolis*, p.183.

⁴⁸⁴ Lydus, *Powers* 3.72–76. See further Maas, *John Lydus*, pp.67–70, and below, 4.I.

could end up in Constantinople writing classicising historiography that criticised the emperor or polemical hymns calling for the persecution of classical culture. Should he have become a civil servant, he may have spent his spare time expressing discontent with Justinian's rule in antiquarian and philosophical treatises or distributing imperial propaganda within a biblical framework of human history. Romans in the capital encountered all these different texts and views, paying significantly less notice to generic boundaries than modern scholars have, and engaged in the oral debates that sit behind the literary evidence introduced here.⁴⁸⁵ Justinian ruled in a political culture of vigorous debate and little consensus.

It is irrelevant to ask why these authors came to hold the views they did, since the answer depends on unrecoverable biographical details about intellectual formation, social circles, libraries, and material interests. The 'unaffiliated intellectual fluidity' of sixth-century Constantinople precludes any neat, determinative associations between education, social class, profession, and ideas.⁴⁸⁶ Procopius, for instance, vigorously defends the interests of the senatorial and landed classes but was probably not a senator nor held any substantial, traceable landholdings.⁴⁸⁷ More than why these key authors settled on the content of their arguments, this study is concerned with how they made their arguments and why they made their tactical choices.

The answers to these questions are shaped by changing intellectual, political, and social contexts. These contexts were deeply interwoven, with the result that the régime frequently found itself implicated in unwanted debates. When Justinian reignited his persecutions of alleged pagans in the capital at John of Ephesus' 'encouragement', Romanos redoubled his tactical efforts to associate classical culture with paganism so as to mobilise his mass audience as a source of political pressure. At the same time, traditionalists like Lydus began to criticise the emperor by turning persecuted officials into exemplars. Stuck in the middle and seeking to accommodate the polemical divisions between its subjects as far as possible, the régime lurched from staging public bonfires of

⁴⁸⁵ For an over-focus on genre, see e.g. Burgess & Kulikowski, *Mosaics of Time*, pp.1–62. Compare Mullett, "Madness of Genre," pp.233–43.

⁴⁸⁶ A. Kaldellis, "Epilogue," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), p.266.

⁴⁸⁷ See especially *SH* 11–12, 19, with discussion at: Sarris, *Economy and Society*, pp.5–7; Kaldellis, *Procopius*, p.47; Greatrex, "Procopius the Outsider?," pp.223–27; Whately, *Battles*, pp.40–43; Greatrex, "Procopius: Life and Works," p.61.

aristocrats' classical statues to commissioning propaganda from an epigrammatist whose classicising dedications adorned those statues.

These debates functioned laterally, with Romanos smearing Procopius as a pagan and Procopius refuting the claim by writing a trenchantly classicising Christian history, and vertically, with both men seeking to construct and impose different cultural and political expectations on their emperor. Each engagement in these complex, layered, and interconnected debates generated new possibilities and demands elsewhere in the city's tactical field. This study is the story of how thirteen men navigated and manipulated this field.

Propaganda Networks

Justinian's vacillations between persecuting and patronising classical culture are symptomatic of his continual need to maintain the acceptance of competing interest groups. The primary discursive means for any régime to secure acceptance, win support for particular policies, or dampen the influence of dissent is the dissemination of propaganda. Propaganda theorists, however they define the term, generally agree that it is a type of mass discourse that aims at an organised 'saturation' of a given public's thought-world.¹ For most, propaganda is therefore 'a modern technique' that 'really began with World War I' and the advent of mass communication technology.² In Justinian's Constantinople, however, large crowds congregated to watch imperial processions, to spectate in the hippodrome, and to listen to (and participate in) sermons and hymns. They lived in the shadows of monuments and inscriptions, handled coins stamped with imperial legends and iconography, and 'belonged to a fundamentally bibliophile culture' where oral performances and visual representations enabled the widespread consumption of literature even by the less literate.³ The conditions for mass communication existed in the late antique city; as this study will see, political debate was partly a process of amplifying, inflecting, and contesting imperial propaganda.

Constantinople's literature is replete with propaganda themes found in official imperial texts like laws. Lydus 'reproduces themes of imperial omnipresence and omnicompetence that originate... in the emperor's own propaganda'.⁴ Romanos' hymns 'contain elements of

¹ Kruse, *Politics*, p.152, and especially J. Ellul, *Propagandes* (Paris, 1962). For 'publics', see Warner, *Publics and Counterpublics*. For a systematic definition: Ellul, *Propagandes*. An epistemological definition: S. B. Cunningham, *The Idea of Propaganda: A Reconstruction* (Westport, CT, 2002). An instrumental definition: G. S. Jowett & V. O'Donnell, *Propaganda and Persuasion* (Los Angeles, CA, 2018). Contrast the simplistic P. M. Taylor, *Munitions of the Mind: A History of Propaganda from the Ancient World to the Present Day* (Manchester, 2003), pp.6–7.

² First quote: *une technique moderne*. Ellul, *Propagandes*, p.15. Second quote: Cunningham, *Idea of Propaganda*, p.2. For the same view: H. D. Lasswell, *Propaganda Technique in the World War* (London, 1927), p.2; E. L. Bernays, *Propaganda* (New York, NY, 1928), pp.24–28; Jowett & O'Donnell, *Propaganda and Persuasion*, pp.47–86, 151–330.

³ T. Shawcross, "Byzantium: A Bookish World," *Reading in the Byzantine Empire and Beyond*, eds. T. Shawcross & I. Toth (Cambridge, 2018), pp.29–30. On literacy: W. V. Harris, *Ancient Literacy* (Cambridge, MA, 1989), pp.285–322.

⁴ Pazdernik, "Justinianic Ideology," p.194.

imperial propaganda' that had 'an immediate influence on the faithful masses'.⁵ Agapetus' *Advice*, 'by listing the ruler's virtues and duties', participates in 'court propaganda'.⁶ Malalas' chronicle 'is derived from the Emperor's own propaganda'.⁷ Even Justinian's opponents were embedded in this propaganda culture. Procopius carefully manipulates the emperor's laws in all his works, with the result that he 'approach[es] the régime through its own terms'.⁸ For some historians, this propaganda culture is an obstacle to historical facts.⁹ From an intellectual history perspective, it is a phenomenon to be explained.

One explanation has been widely supplied: the Justinianic state was a 'propaganda machine' that saturated public discourse.¹⁰ This model is indebted to Rubin's 1960 monograph, still the most recent systematic analysis of how Justinian distributed propaganda.¹¹ Rubin imagined the 'fully automatic fire of propaganda... pouring out over the capital and territory of a world empire by a thousand means no longer verifiable today'.¹² He worked under no longer tenable assumptions about 'absolute' imperial power and its unconstrained political possibilities.¹³ Nevertheless, his ideas have endured. As Kruse puts it, 'scholarship on late antiquity [still] frequently presents the literate and intellectual classes of the empire as genuinely accepting and dutifully echoing imperial ideology and propaganda'.¹⁴ Hence, in Koder's analysis, Romanos incorporated official ideas into his

⁵ Koder, "Imperial Propaganda," p.285. See also: L. Silvano, "Echi di propaganda giustiniana in un contacio di Romano il Melodo (no 54 Maas-Trypanis)," *Porphyra* 3 (2004), pp.50–62; P. Magdalino, "The History of the Future and its Uses: Prophecy, Policy and Propaganda," *The Making of Byzantine History: Studies Presented to Donald M. Nicol*, eds. R. Beaton & C. Roueché (Aldershot, 1993), p.9.

⁶ Kapitánffy, "Justinian and Agapetus," p.66.

⁷ Scott, "Malalas, *Secret History*," p.99.

⁸ Kaldellis, *Procopius*, p.159. See further pp.153–54, 223–28, and also: Scott, "Malalas, *Secret History*," pp.99–109; Gador-Whyte, "Procopius and Justinian's Propaganda," pp.109–20; Greatrex, "Perceptions," p.101; U. Roberto, "Procopius and his Protagonists," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), p.356.

⁹ Bell, *Social Conflict*, p.38; A. Sarantis, "Diplomatic Relations between the Eastern Roman Empire and the 'Barbarian' Successor States, 527–565," *History Compass* 16 (2018), p.2.

¹⁰ Varghese, "Kaiserkritik in Two Kontakia," p.393.

¹¹ For a later period: A. P. Kazhdan, "Certain Traits of Imperial Propaganda in the Byzantine Empire from the Eighth to the Fifteenth Centuries," *Prédication et Propagande au Moyen Age: Islam, Byzance, Occident*, eds. G. Makdisi, D. Sourdél & J. Sourdél-Thomine (Paris, 1983), pp.13–28.

¹² *des propagandistischen Dauerfeuers / sich auf tausend heute nicht mehr kontrollierbaren Wegen über Stadt und Land eines Weltreichs ergoß*. Rubin, *Das Zeitalter Iustinians*, pp.140, 145. Rubin was a 'neo-Nazi', notorious outside the academy for his fascist organising: P. Stelzel, *History After Hitler: A Transatlantic Enterprise* (Philadelphia, PA, 2018), p.117. Note: *Das Zeitalter Iustinians*, p.xii; the unhelpful euphemism at I. G. Tompkins, Review of B. Rubin, *Das Zeitalter Iustinians: zweiter Band*, *Journal of Roman Studies* 87 (1997), p.311. When engaging with his work, it should be remembered that contemporaries judged Rubin's academic esteem to have helped legitimise his politics: "Tirili Tirala," *Der Spiegel*, 9 June 1968.

¹³ Jones, *Later Roman Empire*, p.321.

¹⁴ Kruse, *Politics*, p.219.

hymns because he was ‘at least partially a “victim” of [Justinian’s] policy of propaganda and (dis)information’.¹⁵ Yet the previous chapter saw that Romanos’ inflammatory cultural polemics aimed at manoeuvring the régime out of its accommodatory policy towards the culture war and this chapter will see that his manipulation of imperial propaganda was fundamental to this strategy. The propaganda machine model cannot account for Romanos’ autonomy.¹⁶

In place of this model, this chapter reassesses how the Justinianic régime produced propaganda and how its subjects in turn set imperial propaganda to work for their own interests. The vast majority of the régime’s discursive output was not public but internal to its administration. A devolved network of willing propagandists took up these internal representations, distributing them further in the oral and literary discourse of political society. The structure of these networks permitted the régime to tailor its propaganda to different media and publics. It also enabled various imperial subjects to inflect propaganda as they reproduced and distributed it. In the course of political debates and of his reliance on the reproductive dynamics of Constantinople’s propaganda culture, Justinian would often find that he could not control his own messages.

2.1: The Novels as Propaganda

The propaganda machine model overstates the saturational potential of Justinianic propaganda because it is founded on a conception of the *Novels* as public texts. Rubin himself differentiated between the readerships of different laws. While only ‘lawyers and justice-seekers took notice of private law’, or the general body of *Novels*, major constitutions like edicts were propaganda instruments in the strongest sense, since ‘the publicity of all these documents was the greatest conceivable’.¹⁷ The latter category has since subsumed the former. Maas describes the constitutions on provincial administration as ‘deliberate propaganda’ that ‘dealt with the presentation of the reforms to *the public*’.¹⁸ Kaldellis considers Justinian’s general ‘image’ to have been ‘powerfully and persuasively projected’

¹⁵ Koder, “Imperial Propaganda,” p.291.

¹⁶ See also G. W. Dobrov, “A Dialogue with Death: Ritual Lament and the *θηρῖνος Θεοτόκου* of Romanos Melodos,” *GRBS* 35 (1994), pp.385–405.

¹⁷ *die Publizität war bei allen diesen Dokumenten die denkbar größte / vom Privatrecht... die Juristen und Rechtsuchenden Kenntnis nahmen.* Rubin, *Das Zeitalter Iustinians*, pp.144–45.

¹⁸ Maas, “History and Ideology,” p.25. Emphasis added.

by the *Novels*.¹⁹ Bjornlie offers the strongest recent statement of ‘the visibility of the *Novel[s]* in public life’.²⁰ He claims that ‘each successive *Novel*... was posted at stational locations in Constantinople’ and that the *Novels* were ‘the most widely distributed and publicly visible documents of Justinian’s legal programme’.²¹ This is a world of ubiquitous imperial legislation with a mass public audience, creating propaganda ‘victim[s]’ by saturating public discourse. The evidence for this world, however, is slim. The *Novels* were administrative documents. For their themes to circulate more broadly, they relied on the autonomous judgment of civil servants involved in the display process and on the access and engagement of a narrow public of readers.

2.1.A: The *Novels* as Administrative Letters

Rubin took the claims of Justinian’s edicts to public readerships at face value, explaining that their ‘publicity’ was ‘specifically guaranteed by headings like “to the senate and all the people”’.²² Yet Procopius too claims that his *Secret History* would be read by ‘all those who chance to survive these times’, and it likely went unread for centuries.²³ While the *Novels* engage in a substantial volume of repetitive, persuasive, representational discourse, they are not propaganda for the general public.²⁴ Millar’s authoritative analysis of the fifth-century laws of Theodosius II complicates any notion of straightforward public readerships for imperial constitutions:

‘The Imperial pronouncements which we normally (and contemporaries sometimes) refer to as “laws” (*leges*) were in form, with only the rarest of exceptions, *letters*, almost always addressed to officials, occasionally to the Senate... The entire body of “legal” material... consists of internal communications within the administration... We are not speaking, in this context, of “laws” published as such to the public.’²⁵

¹⁹ Kaldellis, *Procopius*, pp.153–54. See also D. Parnell, “Justinian’s Clemency and God’s Clemency,” *Byzantina Symmeikta* 30 (2020), pp.11–30.

²⁰ Bjornlie, *Politics and Tradition*, p.256.

²¹ *Ibid.* pp.218, 256.

²² *im einzelnen durch Überschriften wie „an den Senat und alle Völker“ gesichert.* Rubin, *Das Zeitalter Justinians*, p.144.

²³ ὅσοι τῆνικάδε περιόντες τύχῳσι. Procopius, *SH* 30.34.

²⁴ H. Hunger, *Prooimion: Elemente der byzantinischen Kaiseridee in den Arengen der Urkunden* (Vienna, 1964); Lanata, “Vocabulaire de la loi,” pp.37–48.

²⁵ F. Millar, *A Greek Roman Empire: Power and Belief under Theodosius II (408–450)* (Berkeley, CA, 2006), p.7.

Justinian inherited these legal instruments and their associated communicative structures. There are 175 unique and separate constitutions in Justinian's name among the modern corpus of *Novels*.²⁶ 169 are letters on Millar's terms, addressed to various ministers, provincial officials, generals, patriarchs, and once to the senate.²⁷ Only six are edicts addressed and displayed directly 'to the Constantinopolitans'.²⁸

The 159 extant epilogues to the epistolary constitutions contain further directions for their addressees. 86 instruct their recipient only to enforce or execute their provisions, not to distribute them further. A further 20 envisage a limited, specific circulation excluding the city of Constantinople, like to specific bureaux or Sicilian judges.²⁹ In the entire corpus, only 59 *Novels* (6 edicts and 53 other letters) contain internal evidence for their own public display in Constantinople. Bjornlie's claim that 'each successive' *Novel* was encountered 'in public life' in the capital over-extrapolates from a far smaller number of publication instructions attached to laws that were really administrative letters.

2.1.B: Novel 8 and its Publics

Even when constitutions were displayed to the general public, their extant texts 'are not examples' of public communications 'as they stand'.³⁰ *Novel 8* clearly demonstrates the variations that a single constitution could undergo. It is a raft of measures against administrative malpractice and a new oath of loyalty for provincial governors that together formed the 'cornerstone' of Justinian's reform programme in the 530s.³¹ It survives with a bundle of appended 'notices' that preserve traces of its publication process.³² These notices are the different faces that *Novel 8* took on for different publics.

²⁶ 168 ordinary *Novels*, 9 "appendices", and 13 further "edicts", of which 9 are in the name of a different emperor or official (J. Nov. 140, 144, 148–49, 161, 163–64, 166–67) and 6 are duplicates of other constitutions in the collection (J. Nov. 34=32, 104=75, 143=150, Ed.1=8.App.1, Ed.5=111, Ed.6=112).

²⁷ All copied to the praetorian prefect (the named addressee in a majority 97 cases): CJ 12.60.7.8; J. Nov. 152.

²⁸ Κωνσταντινουπολίταις / *Constantinopolitanis*. J. Nov. 13, 14, 69, 77, 132, 141. Also e.g. Justinian, *On the Right Faith*.

²⁹ J. Nov. 35.ep, 75.ep.

³⁰ Millar, *Greek Roman Empire*, p.7.

³¹ D. Miller & P. Sarris, *The Novels of Justinian: A Complete Annotated English Translation* (Cambridge, 2018), p.127. See further C. Pazdernik, "'The Trembling of Cain': Religious Power and Institutional Culture in Justinianic Oath-Making," *The Power of Religion in Late Antiquity*, eds. A. Cain & N. Lenski (Farnham, 2009), p.149, and below, 3.I.D.

³² Quote only: Scott, "Malalas and Justinian's Codification," p.29.

Novel 8 itself is a letter ‘to John [the Cappadocian], the praetorian prefect’.³³ It instructs him to ‘provide for all these [measures] to become known in all the subject provinces by sending the customary ordinances to all the provincial governors’.³⁴ As Scott points out, ‘given the length of this novel (fourteen pages), one might well wonder how often it was read right through or indeed even inscribed in its full length at all’.³⁵ He dismisses this concern, concluding that *Novel 8* must have been displayed in full ‘in the church or in some other public place’ on the basis of Malalas’ familiarity with the text.³⁶ Malalas, however, has since been recognised as a bureaucrat.³⁷ He may therefore have encountered *Novel 8* on his desk or in an administrative archive rather than in a public space.³⁸ Indeed, Justinian’s letter does not direct John to communicate any part of *Novel 8* to the general Roman public.

This is unusual. Most *Novels* destined for display across the empire delegate to their addressees the task of ‘making the measures explained by this divine law known to all through public decrees displayed in all the customary places in the imperial city and by making them clear to all the provincial governors’.³⁹ In this case, the imperial palace retained responsibility for advertising *Novel 8* ‘to the Constantinopolitans’ by producing its own publication decree.⁴⁰

‘The law just set down by us shows much care we have taken for all our subjects. We addressed the law to our most illustrious prefects, but it is fitting that you too know of the care that we have for all people. Therefore, we have also displayed the law in the form of an edict so that you may justly send up hymns to our Lord God and to our Saviour Jesus Christ and to our Sovereignty for our having undertaken every labour for your benefit.’⁴¹

³³ Ἰωάννη ἐπάρχῳ πραιτωρίων. J. Nov. 8.pr.

³⁴ ταῦτα... πάντα μανθάνουσα ἐν πᾶσι τοῖς ἔθνεσι τοῖς ὑποτεταγμένοις φανερὰ παρασκευασάτω γενέσθαι, κατὰ τὸ νενομισμένον προστάγμασι χρωμένη πρὸς πάντας τοὺς τῶν ἐπαρχιῶν ἡγουμένους. J. Nov. 8.ep.

³⁵ Scott, “Malalas and Justinian’s Codification,” p.19.

³⁶ Ibid.

³⁷ First established by Croke, “Malalas, the Man and his Work,” pp.10–11. First accepted by Scott at “Diplomacy,” pp.159–65.

³⁸ Against, still, R. Scott, “Malalas’s Sources for the Contemporary Books,” *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtke (Stuttgart, 2017), pp.217–34.

³⁹ τὰ... διὰ τοῦδε τοῦ θεοῦ δηλούμενα νόμου... διὰ προθεμάτων κατὰ τοὺς συνήθεις τόπους τῆς βασιλίδος πόλεως προτιθεμένων εἰς γνῶσιν πάντων ἀγαγεῖν... καὶ καταφανῆ ποιῆσαι τοῖς τῶν ἐπαρχιῶν ἡγουμένοις. J. Nov. 137.ep. See also the epilogues to J. Nov. 47, 60–61, 66, 73, 78, 94, 109, 112–19, 125, 127, 130, 134, 142, 145.

⁴⁰ Κωνσταντινουπολίταις. J. Nov. 8.App.2.

⁴¹ ὅσην ἀπαντων τῶν ὑπηκόων ἐθέμεθα πρόνοιαν, δείκνυσιν ὁ παρ’ ἡμῶν ἔναγχος τεθεὶς νόμος, ὃν δὴ πρὸς τοὺς ἐνδοξοτάτους ἡμῶν ἐπάρχους ἐγράψαμεν. ἀλλὰ προσήκόν ἐστι καὶ ὑμᾶς αὐτοὺς εἶδέναι τὴν ἡμετέραν πρόνοιαν, ἣν περὶ πάντας ἀνθρώπους ἔχομεν. καὶ διὰ τοῦτο τὸν νόμον αὐτὸν καὶ ἐν ἰδίκτου προτεθείκαμεν σχήματι· ὥστε ὑμᾶς τῷ δεσπότῃ θεῷ καὶ σωτῆρῃ ἡμῶν Ἰησοῦ Χριστῷ δικαίως ἀναπέμπειν ὕμνους, καὶ τῇ ἡμετέρῃ βασιλείᾳ, ὅτι πάντα διὰ τὸ ὑμέτερον συμφέρον αἰρούμεθα πόνον. J. Nov. 8.App.2.

This is the full extent of the decree. Even if it was displayed alongside another document explaining the normative content of ‘the law just set down by us’, this was implausibly the verbatim text of Justinian’s letter to John. The decree values brevity but would have been dwarfed on any noticeboard by *Novel* 8 and would have expended valuable words on repeating rhetorical content from the constitution’s preface. Scott was surely right to imagine the existence of ‘abbreviated versions’ of *Novels*.⁴² For Constantinople’s general public, *Novel* 8 was a publication decree and epitome. Most surviving publication decrees are composed in the voice not of the emperor but of various officials and governors.⁴³ The rarity of direct written communications from the emperor to his subjects amplified their rhetorical impact, which presumably motivated Justinian to produce a decree in his own name in this important case.

For provincial publics, meanwhile, *Novel* 8 was something else. Justinian delegated its provincial display not to the prefecture nor to the governors, but to an alternative administrative structure: ‘the God-beloved bishops and the most holy patriarchs in all parts of the world’, to whom he addressed another letter with the full ‘law appended’.⁴⁴ He instructed these bishops to ‘watch closely over these matters and inform us if any offence is committed by the magistrates’ and to ‘inscribe [the law] either on tablets or on stones in the porticoes of the most holy church, making the reading and knowledge of the legislation readily accessible to everyone’.⁴⁵ As with the palace’s production of the Constantinopolitan publication decree, this use of ecclesiastical networks testifies to the sensitivity and importance of *Novel* 8. Justinian chose not to rely on the men whom he was trying to rein in to communicate and enforce his legislation against abuses of office.

This was a pre-emptive solution to the recurrent problem of provincial interference in the operations of imperial law. Scott states that ‘it is not altogether clear exactly what the bishops were expected to publish’.⁴⁶ The answer is simply that those responsible for

⁴² Scott, “Malalas and Justinian’s Codification,” p.19.

⁴³ See e.g. J. Nov. 159.ep, with 3.III, below; SEG 35.1360; M. Amelotti & G. I. Luzzatto, *Le costituzioni Giustiniane nel papiri e nelle epigrafi* (Milan, 1972), no.14, with W. H. Buckler, “Un discours de consulate sous Justinien,” *Byzantion* 6 (1931), pp.367–68, and N. van der Wal, Review of M. Amelotti & G. I. Luzzatto, *Le costituzioni Giustiniane nel papiri e nelle epigrafi*, *Revue Belge de Philologie et d’Histoire* 42 (1974), pp.129–30.

⁴⁴ τοῖς ἀπανταχοῦ τῆς θεοφιλεστάτοις ἐπισκόποις καὶ ὀσιωτάτοις πατριάρχαϊς / ὑποτεταγμένον νόμον. J. Nov. 8.App.1.pr = Ed.1.pr.

⁴⁵ ταῦτα παρατηρεῖν, καὶ εἴ τι παραβαίνοιτο παρὰ τῶν ἀρχόντων, εἰς ἡμᾶς μηνύειν / αὐτὸν ἐγκολάψαντες ἢ σανίσιν ἢ λίθοις ἐν ταῖς στοαῖς τῆς ἀγιωτάτης ἐκκλησίας ἀναγράψαιτε, πρόχειρον παρεχόμενοι πᾶσι τὴν τῶν νομοθετηθέντων ἀνάγνωσιν τε καὶ κτήσιν. J. Nov. 8.App.1.pr = Ed.1.pr.

⁴⁶ Scott, “Malalas and Justinian’s Codification,” p.29.

advertising *Novels* always exercised some autonomous judgment. *Novels* intended for display generally instruct their addressees to ‘make [this law] clear to all in the customary way, by public notices *of your own*’, implying the production of secondary decrees rather than verbatim copies of the initial letter.⁴⁷ Constitutions drafted at court therefore passed through various editorial filters before they reached the general public. These filters offered opportunities for the insertion of local and private interests. Sometimes, these were simply financial interests. On two occasions in the mid-540s, Justinian would assume direct control over the publication of a *Novel* in the provinces to prevent ‘harm to the taxpayers’.⁴⁸ Governors had evidently been levying additional charges to cover the cost of (or profit from) their obligations to advertise Justinian’s constitutions; the régime was aware that they might take a less than whole-hearted approach to promoting *Novel* 8.

More routinely, and more importantly from a propaganda perspective, these editorial filters allowed for imperial law to be inflected to suit local needs in provinces where the central imperial state was inconsistently present at best. Like previous emperors, Justinian had frequently sought to prevent the private use of armed retainers.⁴⁹ The ‘impotence of the Roman state’ in rural provinces nonetheless enabled powerful landholders to transgress with impunity.⁵⁰ A Justinianic inscription from rural Paphlagonia, addressed from ‘John, by God’s grace the *skribon* of the sacred great palace,’ to ‘the landholders, present and future, of Hadrianoupolis in Honoria’, attempted instead a local compromise.⁵¹ It authorised landholders to employ ‘five unarmed men’ as retainers.⁵² The law on private retainers presented epigraphically to the landholders of Honoria was therefore not the same as the law contained in the *Novels*, perhaps different again from the law in force in other regions, and different a third time from whatever “law” actually governed social relations in practice.⁵³

⁴⁷ κατὰ τὸ σύνηθες διὰ προγραμμάτων οἰκείων φανερά πᾶσι καταστησάτω. J. Nov. 39.ep. Emphasis added.

⁴⁸ τῆς τῶν συντελεστών βλάβης. J. Nov. 120.ep. Also 131.ep. Again, in an undated constitution: CJ 12.60.7.9.

⁴⁹ CJ 9.12.10; J. Nov. 30.5, 116; Sarris, *Economy and Society*, pp.162–75; J. Banaji, *Exploring the Economy of Late Antiquity: Selected Essays* (Cambridge, 2016), pp.58–59; P. Rance, “The Farmer and the Soldier Should Be Friends: Justinian’s Legislation on the Provisioning of Soldiers (*Novel* 130),” *JLA* 12 (2019), pp.380–421.

⁵⁰ S. Mitchell, *A History of Later Roman Empire, AD 284–641* (Chichester, 2015), p.369.

⁵¹ Ἰωάννης σὺν Θεῷ σκρίβων τοῦ θίου μεγάλου παλατίου τοῖς... κτήτορι τοῖς τε νῦν οὔσιν καὶ μετὰ ταῦτα ἔσομένοις ταύτης τῆς Ἀδριανουπολιτῶν πόλεως τῆς Ὀνοριάδος ἐπαρχίας. SEG 35.1360. For the *skribon*: D. Feissel & I. Kaygusuz, “Un mandement impérial du VIe siècle dans une inscription d’Hadrianoupolis d’Honorade,” *Travaux et Mémoires* 9 (1985), pp.404–5.

⁵² τῶν πέντε ἀνθρώπων... ἄνευ ὄπλου. SEG 35.1360.

⁵³ See Humfress, “Law in Practice,” pp.377–91. Note e.g. the admission at J. Nov. 129.pr that the provisions of J. Nov. 45 had not been enforced.

John's inscription shows that when the *Novels* direct their addressees to advertise the law through 'public notices of your own', the 'publication decree[s]' that officials consequently set up were products of their own editorial choices.⁵⁴ The normative content of the law that John claims to be in force matches the content of the 'mandates' he describes receiving from Justinian (though perhaps some provincial officials capitalised on their arm's-length distance from the central imperial state to modify legal provisions).⁵⁵ Yet he still needed to make a series of compositional choices about the presentation of this content, informed by his assessment of how best to achieve compliance in local circumstances.⁵⁶ He describes his receipt and authorisation of his mandates, lays out the new provisions, and refers carefully to the various stakeholders: Justinian, himself, the local bishop, the landholders, and the private retainers or 'club-wielding horsemen'.⁵⁷ Most importantly, he invokes only local ecclesiastical and military authorities rather than either the central or provincial state, from which John's audience could (and knew that they could) generally operate independently.⁵⁸ John tailored his mandates to the realities of imperial power on the ground before he presented them epigraphically to the public.

All *Novels* published through the civil or ecclesiastical bureaucracies passed through similar editorial filters. Every bishop who received Justinian's letter and a copy of *Novel 8* will have displayed to their public different texts, selecting and adapting rhetorical material from the original constitution's template. The *Novel 8* that Justinian sent to his prefect was therefore different from the decree and epitome that appeared in Constantinople, from the notices and inscriptions that appeared to provincial publics, and from whatever reworked or repackaged document was circulated by the prefecture to provincial governors. While *Novel 8* is exceptional in terms of the direct control exercised by the imperial court over its publication, it is entirely ordinary in its subjection to editorial filters at every stage of its distribution. The extant versions of the *Novels* are pristine texts caught out of time, yet to pass through these filters and yet to reach their publics. As a result, even the comparatively few constitutions that were displayed were not displayed as the texts that modern scholars read today.

⁵⁴ κατὰ τὸ σύνηθες διὰ προγραμμάτων οἰκείων φανερὰ πᾶσι καταστησάτω. J. Nov. 39.ερ. τοῦ προθέματος. SEG 35.1360.

⁵⁵ θίου... κομονητουρίου. SEG 35.1360; Feissel & Kaygusuz, "Un mandement," p.417.

⁵⁶ A point made more generally by Lanata, "Vocabulaire de la loi," pp.37–48.

⁵⁷ ξυλοκαβαλλαρίου. SEG 35.1360.

⁵⁸ Mitchell, *History*, p.369; Feissel & Kaygusuz, "Un mandement," p.418.

2.I.C: Reading the *Novels*

The fact remains that most of this study's key authors exhibit 'familiar[ity] with the *Novels*' in their texts.⁵⁹ The propaganda machine model contends that this familiarity resulted from literate Constantinopolitans' inability to escape the very public *Novels*. In reality, it was born of a proactive dynamic of access to and engagement with the *Novels*, in administrative settings, on the part of some sections of political society.

Though the *Novels* appeared only intermittently and in varied forms to the general public, they received a remarkably uniform distribution within the imperial and judicial administrations even though Justinian's planned official collection never materialised.⁶⁰ They were epitomised by the law professor Julian in Constantinople in 556/57, the jurist Athanasius in Emesa in c.572, and the practitioner Theodorus Scholasticus in Hermopolis in c.575.⁶¹ A *kata podas* translation, the *Authenticum*, was created in the mid-sixth century, perhaps in Constantinople or Italy.⁶² All these compilations of *Novels* exhibit minor variations in number and arrangement but are nonetheless the products of access to a substantially identical body of law.⁶³ These teachers and professionals must therefore have worked with archived copies of the original constitutions.⁶⁴ The *Novels* refer to these archives when they direct their addressees to have their texts 'entered into the books of laws'.⁶⁵ The details of

⁵⁹ Kruse, *Politics*, p.123.

⁶⁰ Kearley, "Creation and Transmission," pp.379–80, 383–91, citing for the planned official compilation J. *Nov.* App.7.11, though an even clearer and earlier expression of Justinian's intent is *CJ C. Cordi* 4.

⁶¹ Julian, text: G. Hänel, *Iuliani epitome latina novellarum Iustiniani* (Leipzig, 1873). Discussion: Kearley, "Creation and Transmission," pp.383–85; F. A. Biener, *Geschichte der Novellen Justinians* (Berlin, 1824), pp.70–84; P. Noailles, *Les collections de Nouvelles de l'empereur Justinien* (Paris, 1912), pp.149–60; W. Kaiser, *Die Epitome Iuliani: Beiträge zum römischen Recht im frühen Mittelalter and zum byzantinischen Rechtsunterricht* (Frankfurt am Main, 2004). Athanasius, text and discussion: D. Simon & S. Troianos, *Das Novellensyntaxma des Athanasios von Emesa* (Frankfurt am Main, 1989). Theodorus, text: K. E. Zachariae von Lingenthal, *Anekdotia: Theodori Scholastici breviarium novellarum* (Leipzig, 1843). Discussion: Kearley, "Creation and Transmission," pp.390–91; Noailles, *Les collections de Nouvelles*, pp.181–83. On epitome and paraphrase in law schools: Z. Chitwood, *Byzantine Legal Culture and the Roman Legal Tradition, 867–1056* (Cambridge, 2017), pp.152–62.

⁶² Scheltema, *L'enseignement*, pp.52–57; Kearley, "Creation and Transmission," pp.385–87. See also: Noailles, *Les collections de Nouvelles*, pp.160–78; G. Lanata, "Le *Novelle* Giustinianee e la traduzione dell'autentico: a proposito del *Legum Iustiniani imperatoris vocabularium*," *Byzantion* 49 (1979), pp.239–65; F. Briguglio, "Sull'origine dell'*Authenticum*," *AG* 219 (1999), pp.501–51; T. Wallinga, "*Authenticum* and *Authenticae*: What's in a Name? References to Justinian's *Novels* in Medieval Manuscripts," *LHR* 77 (2009), pp.43–45. On *kata podas* translations: N. van der Wal, *Les commentaires grecs du Code de Justinien* (The Hague, 1953), pp.49–63.

⁶³ Compare the disorganisation of fifth-century legal archives: E. Posner, *Archives in the Ancient World* (Cambridge, MA, 1972), pp.210–11.

⁶⁴ Noailles, *Les collections de Nouvelles*, p.59.

⁶⁵ τοῖς τῶν νόμων ἐγγραφησομένου βιβλίοις. *J. Nov.* 40.ep. See also *J. Nov.* 17.16, 24.6.1, 25.ep, 26.5.1, 93.ep.

these ‘books’ are contested but their existence is uncontroversial.⁶⁶ After all, ‘petitioners’ must reasonably have been able to produce the constitutions that they ‘had the right to exhibit in every court’.⁶⁷

This chapter has already seen that some bureaucratic actors, both civil and ecclesiastical, routinely engaged with the *Novels* in the course of their quotidian labour, distributing them within the administration or preparing them for display. Lawyers, too, encountered constitutions in their professional work. Even beyond these contexts, though, a literary culture of consulting administrative sources prevailed. Both Procopius and Agathias grafted their military narratives onto bureaucratic documents like letters between Justinian and his agents, reports from battles or inquiries, and citations for bravery.⁶⁸ These documents were internal to the administration, were accessible to those who sought them out but not publicly displayed, and endeavoured to craft their authors’ images and justify their actions.⁶⁹ In other words, they were similar texts to the *Novels*, just without their legal force. In a political culture where ideological questions about Justinian’s use of Roman law were strongly debated, it is unsurprising that some members of political society should have kept a close eye on the content of imperial constitutions in particular. If any discursive arena in Constantinople was ‘saturated’ with official representations, therefore, it was the city’s bureaucratic culture, the site of circulating and archived documents that attracted the attention of professionals and other politically engaged Romans.

The public of the *Novels* was not only much smaller than the general public that Bjornlie imagines but also narrower than the literary public that comprised the audience for Malalas’ and Procopius’ referential competition.⁷⁰ A mistranslation has given the opposite impression. Greatrex identifies an ‘oblique criticism’ of Justinian’s legislation in the *Wars*’s explanation that ‘they call some of the Pisidians Wolfskulls because the mountain that rises there is

⁶⁶ Biener, *Geschichte der Novellen*, pp.39–40; H. Bresslau, “Die *Commentarii* der römischen Kaiser und die Registerbücher der Päpste,” *ZSSR* 6 (1885), pp.242–60; Noailles, *Les collections de Novelles*, pp.31–58; L. von Wenger, *Die Quellen des römischen Rechts* (Vienna, 1953), pp.441–42, 652–54; Posner, *Archives*, pp.210–12; A. A. Schiller, *Roman Law: Mechanisms of Development* (The Hague, 1978), p.39; S. Puliatti, “Le costituzioni tardoantiche: diffusione e autenticazione,” *SDHI* 74 (2008), pp.99–133; Kearley, “Creation and Transmission,” pp.381–82; M. Cellurale, “Romani y Gothi en Italia: la comunión de derecho en la república unida de Justiniano,” *RDP* 21 (2011), p.23 n.7.

⁶⁷ ἀδείας οὐσης τοῖς ἰκέταις ἐν παντὶ δικαστηρίῳ... ἐμφανίζειν. *J. Nov.* Ed.7.ep.

⁶⁸ Colvin, “Reporting Battles,” pp.571–97.

⁶⁹ *Ibid.* p.586.

⁷⁰ See further B. Croke, “Uncovering Byzantium’s Historiographical Audience,” *History as Literature in Byzantium: Papers from the Fortieth Spring Symposium of Byzantine Studies, University of Birmingham, April 2007*, ed. R. Macrides (Farnham, 2010), pp.25–54.

called the Wolf's Helmet'.⁷¹ He contrasts Procopius' etymology with *Novel* 24, which had apparently argued that Pisidia needed a new praetor because of the 'greed and dishonest voracity' of a population that has 'on [that] account... been called Wolfskulls'.⁷² The *Wars* therefore appears to reject this imperial justification for reform by presenting an alternative etymology. This interpretation requires Procopius to have considered his readers sufficiently *au fait* with the *Novels* to recognise a contested intertext in the body of a constitution that was well over a decade old when he wrote.

Unfortunately, Greatrex's reading depends on Maas's adaptation of Scott's deeply flawed 1932 translation of the *Novels*.⁷³ In fact, *Novel* 24 claims that the demonym "Wolfskulls" was derived from 'a mountain ridge called the Wolf's Head'.⁷⁴ The text bears almost no relation to Scott's version. With minor lexical variations, it is identical to the etymology given in the *Wars*. Procopius was not contesting the *Novels* for an audience familiar with them but expanding on a passing reference in Malalas' chronicle, which mentions the 'Wolfskulls' but leaves the intriguing demonym unexplained.⁷⁵ For curious readers, Procopius supplies an etymology sourced directly from *Novel* 24. He was writing from a position of unusual, not shared, familiarity with the *Novels*.

Procopius' recapitulation of *Novel* 24's etymology for Malalas' audience reveals that, broadly speaking, three publics overlapped in Constantinople. The *Novels* and other internal administrative documents spoke directly to a narrow public, the professionals and politically engaged men who involved themselves in administering or scrutinising imperial government and who played essential roles in the distribution of *Novels*. This narrow subsection of political society then moved in wider social circles and wrote literature that engaged in performative debate, seeking to influence political sentiment in the broader literary public. In turn, this public was a further subsection of the general public, comprised of all

⁷¹ Λυκοκρανίτας καλοῦσι τῶν Πισιδῶν τινας... ὅτι Λύκου Κράνος τὸ ὄρος ἐκλήθη ὃ ταύτη ἀνέχει. Procopius, *Wars* 7.27.20; Greatrex, "Procopius and the Past," pp.980–81.

⁷² Greatrex, "Procopius and the Past," p.980, quoting from *J. Nov.* 24.1.

⁷³ Greatrex, "Procopius and the Past," p.980; Maas, "History and Ideology," pp.17, 20–21; S. P. Scott, *The Civil Law, including the Twelve Tables, the Institutes of Gaius, the Rules of Ulpian, the Opinions of Paulus, the Enactments of Justinian and the Constitutions of Leo* (Cincinnati, OH, 1932), vol.16, pp.145–46. See: T. G. Kearley, "The Enigma of Samuel Parsons Scott," *RLT* 10 (2014), pp.1–37; T. G. Kearley, "From Rome to the Restatement: S. P. Scott, Fred Blume, Clyde Pharr, and Roman Law in Early Twentieth-Century America," *LLJ* 55 (2016), pp.55–76.

⁷⁴ τινος ἀκρωρείας Λύκου κεφαλῆς καλουμένης. *J. Nov.* 24.1.

⁷⁵ Λυκοκρανίτας. Malalas 18.34. On Procopius' and Malalas' shared readerships, see above, 1.III.A, and Greatrex, "Malalas and Procopius," pp.169–86.

Constantinople's inhabitants. The unabbreviated, full *Novels* were 'propaganda... deal[ing] with the presentation of [laws *not*] to the public' but to the narrowest of three publics.⁷⁶

2.II: The Propaganda Ecosystem

The Justinianic régime interacted with these three publics, and the publics with each other, in a way that produced a propaganda ecosystem, not a propaganda machine. Many of these interactions were quotidian social phenomena. Some men of political society conducted close readings of the *Novels*, for professional or political reasons, and others presumably became aware of their themes through word of mouth. *Novel* 159, for instance, describes a gossip-worthy inheritance dispute in a prominent Antiochene family. Other interactions, however, were more calculated and deliberate. The régime used different media to tailor its propaganda to different publics and made judicious use of alternative channels of dissemination within the administration to navigate potentially fractious issues. The essential machinery of imperial propaganda was therefore a devolved network of autonomous propagandists who, in conversation or in written texts, reproduced and distributed imperial propaganda in broader political society. By its devolved nature, this network gave imperial propaganda a vibrant life of its own.

2.II.A: Propaganda Channels

The imperial administration was the site of representational contests, including but not limited to those in which the *Novels* engaged.⁷⁷ The importance of these contests was heightened by the further dissemination of their themes in broader political society. Malalas' use of sources clearly demonstrates how this distributional mechanism operated. His preface sharply distinguishes his historical and contemporary sources. In the former case, he admits to producing 'an abbreviation of some things from the books of the Hebrews and from... many other industrious chronographers and poets and learned men'.⁷⁸ This admission has driven the enduring 'hermeneutics of suspicion' that treats him as an

⁷⁶ Maas, "History and Ideology," p.25.

⁷⁷ Colvin, "Reporting Battles," p.586.

⁷⁸ τὸ ἀκρωτηριάσαι τινὰ ἐκ τῶν Ἑβραϊκῶν κεφαλαίων... καὶ ἀλλῶν πολλῶν φιλοπόνων χρονογράφων καὶ ποιητῶν καὶ σοφῶν. Malalas pr.

unoriginal or inaccurate writer.⁷⁹ Whatever the merits of this view, it bears no relation to his compositional method for sixth-century events. Here, he states simply that his goal is ‘to tell you with all truth the things that happened in my own times’.⁸⁰ This truth claim is important because Malalas’ information was drawn directly from administrative (and propagandising) documents.⁸¹

Malalas makes detailed use of an array of administrative documents. His consistently formulaic turns of phrase suggest that he composed his final book by adapting bureaucratic material according to his own fixed rules of quotation and abbreviation.⁸² This material includes diplomatic reports, from which Malalas derives his insights into Roman-Persian relations.⁸³ Borsch and Radtki argue that Malalas acquired this information orally, through personal acquaintances with envoys, but he sometimes replicates documentary sources in full.⁸⁴ For example, he reports that ‘the *magister* Hermogenes returned from the Persians and brought the Persian emperor Koades’ reply to the Roman emperor Justinian’ and then immediately provides the whole text of the letter.⁸⁵ Malalas further exhibits exactly the same pattern of ‘recourse to official reports’ as the non-bureaucrats Procopius and Agathias, contrary to Kulikowski’s suggestion that he quotes only texts that crossed his desk.⁸⁶ This is strong evidence for Malalas’ use of administrative archives. His chronicle distributes narrowly bureaucratic documents to a broader audience.

Malalas’ original sixth-century text was even more replete with verbatim copies of administrative documents than is apparent from its medieval abridgement. An entry for the year 532 bears clear signs of scribal intervention:

⁷⁹ van Nuffelen, “Chronographic Tradition,” p.261. For examples, see: P. H. Bourier, *Über die Quellen der ersten vierzehn Bücher des Johannes Malalas* (Augsburg, 1899); A.-M. Bernardi, “Regards croisés sur les origines de Rome: la fête des *Brumalia* chez Jean Malalas et Jean Lydos,” *Recherches sur la Chronique de Jean Malalas*, eds. S. Augusta-Boularot, J. Beaucamp, A.-M. Bernardi & E. Caire (Paris, 2006), p.65; Treadgold, “Malalas and Eustathius,” p.715. See also G. W. Most, “The Rise and Fall of *Quellenforschung*,” *For the Sake of Learning: Essays in Honor of Anthony Grafton*, eds. A. Blair & A.-S. Goering (Leiden, 2016), p.951.

⁸⁰ ἐκθέσαι σοι μετὰ πάσης ἀληθείας τὰ συμβάντα... ἐν τοῖς ἐμοῖς χρόνοις. Malalas pr.

⁸¹ As, broadly, Scott, “Malalas, *Secret History*,” pp.99–109.

⁸² Jeffrey, “Formulaic Phraseology,” pp.225–31; Scott, “Malalas and Justinian’s Codification,” pp.14–17.

⁸³ Scott, “Diplomacy,” pp.159–65.

⁸⁴ J. Borsch & C. Radtki, “Diplomaten und Anekdoten: Mündliche Quellen bei Malalas?,” *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtki (Stuttgart, 2017), pp.235–60. Note the response of G. Greatrex, Review of L. Carrara, M. Meier & C. Radtki, *Die Weltchronik des Johannes Malalas: Quellenfragen*, *BMCR* 2017.11.51 (2017).

⁸⁵ Ἐρμογένης ὁ μάγιστρος ὑποστρέψας ἐκ τῶν Περσικῶν... ἀνήγαγεν ἀποκρίσεις παρὰ Κωάδου, βασιλέως Περσῶν, πρὸς Ἰουστινιανόν, βασιλέα Ῥωμαίων. Malalas 18.44.

⁸⁶ Greatrex, “Malalas and Procopius,” p.175, with Colvin, “Reporting Battles,” pp.571–97; M. Kulikowski, “Malalas in the Archives,” *Die Weltchronik des Johannes Malalas: Quellenfragen*, eds. L. Carrara, M. Meier & C. Radtki (Stuttgart, 2017), pp.207–16.

‘The same emperor Justinian dispatched to each city sacred ordinances containing the following: “Edict concerning the orthodox faith and against ungodly heretics”. And it was displayed in the churches in each city.’⁸⁷

The *Chronicon Paschale*, which is partially dependent on Malalas, provides fuller witness to this entry and includes a verbatim copy of the relevant edict.⁸⁸ The chronicle’s abridgement distorts its text in a way that simply pares back much of its wholesale replication of imperial propaganda and other administrative documents.

Even despite this interference, Malalas reveals how the representations of actors and events constructed within administrative documents made their way into broader narratives of Justinian’s rule. Early in his final book, Malalas discusses three Roman *magistri militum* who had been sent ‘with a mighty Roman auxiliary army’ to defend Lazica from the Persians.⁸⁹ The Romans suffered a humiliating defeat. Malalas explains that ‘the Roman emperor was angry with the generals because, envious among themselves, they had betrayed each other to the enemy’.⁹⁰ This excuse absolves Justinian of any strategic blame for the defeat by rendering him a victim of his generals’ rivalries and ‘betrayal’. It is also an excuse drawn directly from administrative sources; Malalas explicitly acknowledges that his information was derived firstly from a Lazican letter to Justinian requesting military aid and then from Justinian’s mandates to a replacement *magister militum* sent to Lazica after the defeat. In these mandates, Justinian had evidently offered a rationalisation of the defeat that, true or not, made its way via Malalas’ chronicle into the literary public’s information field. The chronicle was sufficiently widely read in Constantinople for Procopius to choose not to repeat any of its narrative, a fact that shows clearly how it dramatically expanded the public of administrative propaganda like the exculpatory mandates.⁹¹ This is not an isolated occurrence. For instance, Malalas also reports on Justinian’s mercy towards a proven slanderer at a senate meeting, relying on minutes that were no longer published by the sixth century.⁹²

⁸⁷ ὁ αὐτὸς βασιλεὺς Ἰουστινιανὸς ἐν ἐκάστη πόλει κατέπεμψε θείας προστάξεις περιεχοῦσας οὕτως· ‘ἤδικτον περιέχον περὶ τῆς ὀρθοδόξου πίστεως καὶ κατὰ ἀσεβῶν αἰρετικῶν.’ καὶ προετέθη ἐν ἐκάστη πόλει ἐν ταῖς ἐκκλησίαις. Malalas 18.78.

⁸⁸ *Chronicon Paschale* 630–33; *CJ* 1.1.6; Jeffreys, “Malalas in Greek,” pp.252–52; P. Carolla, “Priscus of Panion, John Malalas and the *Chronicon Paschale* (CP): A Complex Relationship,” *Byzanz und das Abendland IV: Studia Byzantino-Occidentalia*, ed. E. Juhász (Budapest, 2016), pp.51–70.

⁸⁹ μετὰ πολλῆς βοήθειας Ῥωμαϊκῆς. Malalas 18.4.

⁹⁰ ὁ βασιλεὺς Ῥωμαίων ἠγανάκτησεν κατὰ τῶν στρατηλατῶν, ὅτι φθόνῳ φερόμενοι πρὸς ἑαυτοὺς οἱ στρατηλάται Ῥωμαίων προεδώκασιν ἀλλήλους. Malalas 18.4.

⁹¹ Greatrex, “Malalas and Procopius,” pp.177–78.

⁹² Malalas 18.22; B. Baldwin, “The *Acta Diurna*,” *Chiron* 9 (1979), p.203.

Scott is therefore right to state that Malalas' chronicle is 'based on propaganda', even if it was not strictly 'a strange hotchpotch' of public notices, but not to deny that 'the chronicle itself is propaganda'.⁹³ Malalas does not just replicate propaganda but uses his chronographical structure to enhance it. For example, he includes a brief notice that 'the office of the night prefect was abolished and a praetor was established in its place'.⁹⁴ His referent is *Novel* 13, a policing reform that justified itself on the basis that the new praetors would be 'appointed to preserve public order and capable of putting down the indiscipline of the population'.⁹⁵ The reform met traditionalist criticism; the *Secret History* claims that the praetorship enabled the 'even more efficient torture of innocent men's bodies'.⁹⁶ Writing his update after this backlash, Malalas instead deploys the associative logic of his chronicle to frame the praetorship as the fulfilment of Justinian's post-Nika restorative project. His account of the insurrection ends with Justinian's promise to 'devote himself to rebuilding the places that had been burned down'.⁹⁷ He then purposefully misdates *Novel* 13, a document to which he had access and could date accurately, from 535 to 538.⁹⁸ The misdating sandwiches this constitution on 'public order' between the completion of Justinian's two most significant reconstructions, the Hagia Sophia and the Bronze Gate.⁹⁹ Malalas thereby associates the fulfilment of the emperor's promise to rebuild Constantinople with the dawn of a new régime of public order that might prevent recurrences. Indeed, all the further factional disturbances recorded in the chronicle are swiftly put down without consequence.¹⁰⁰ Malalas distributes the content of administrative documents but also reassembles it into an associative narrative of Justinian's reign (from quelling Nika, to rebuilding Constantinople and issuing *Novel* 13, to decades of firmer control over factional unrest) that goes above and beyond his propaganda sources.

⁹³ Scott, "Malalas, *Secret History*," p.107.

⁹⁴ περιηρέθη δὲ... ἡ τοῦ νυκτεπάρχου ἀρχή, καὶ ἐγένετο ἀντ' αὐτοῦ πραίτωρ. Malalas 18.85.

⁹⁵ τοὺς ἐπὶ τῇ φυλακῇ τε καὶ εὐταξίᾳ τεταγμένους καὶ τὴν δημῶδη καθιστᾶν ἰσχύοντας ἀταξίαν. *J. Nov.* 13.1.1. See further: C. J. Fuhrmann, *Policing the Roman Empire: Soldiers, Administration, and Public Order* (Oxford, 2012), pp.56–58; A. Gkoutzioukostas, "The Administration of Constantinople," *The Cambridge Companion to Constantinople*, ed. S. Bassett (Cambridge, 2022), pp.234–35.

⁹⁶ πολλῶ ἔτι θάσσον τῶν οὐδὲν ἐπταικότων ἀνθρώπων τὰ σώματα αἰκίζοιτο. Procopius, *SH* 20.8. See Kruse, *Politics*, pp.96–100.

⁹⁷ ἐπιβαλλόμενος κτίζειν τοὺς καυθέντας τόπους. Malalas 18.71.

⁹⁸ See further J. W. Torgerson, *The Chronographia of George the Synkellos and Theophanes: The Ends of Time in Ninth-Century Constantinople* (Leiden, 2022), especially p.395.

⁹⁹ Malalas 18.85–86.

¹⁰⁰ Malalas 18.99, 105, 108, 121, 132, 146, 150–51.

The régime was alert to the distributional mechanisms by which administrative representations of actors and events filtered into the wider discourse of political society. Very few administrative documents beyond the constitutions survive, but the literary evidence remains marked by traces of this internal propaganda culture. Bureaucratic memoranda provided the régime with alternative, greyer propaganda channels that explain a notable problem with Justinian's legislation on brothels and sex work.¹⁰¹ Malalas describes the 528 proscription of brothel-keeping as an example of 'the pious Theodora adding to her other good deeds', making no mention at all of Justinian.¹⁰² His contemporaries all follow suit; Theodora was universally recognised, in and after her own time, as a Christian advocate for women in the sex trade.¹⁰³ Only one Justinianic constitution on brothels survives, *Novel* 14 of 535, which reiterates the provisions described by Malalas.¹⁰⁴ A further constitution, *Novel* 51 of 537, also releases women from oaths that forced them into sex work.¹⁰⁵ In these constitutions, the inverse situation prevails. As Foss puts it, 'curiously, neither mentions Theodora, whose name rarely appears in the laws'.¹⁰⁶ There is a discrepancy between the legal evidence, which attributes the legislation against brothel-keeping to Justinian alone, and the literary tradition, which understands this legislation to have been formulated under Theodora's aegis.

It was not a generic convention of constitutions to avoid mention of the empress. In the same year as *Novel* 14, *Novel* 8 represents Justinian as 'making our most pious consort, given to us by God, a partner in our deliberations' and mandates that provincial governors swear an oath of loyalty to both 'Justinian and Theodora'.¹⁰⁷ It is also not the case that the régime was reluctant to construct propaganda around Theodora in the way that it did around Justinian. A public inscription celebrates Theodora's 'unsparing struggle to feed the destitute'.¹⁰⁸ She is depicted in mosaics, notably on the Bronze Gate in Constantinople and

¹⁰¹ "Grey" propaganda: Cunningham, *Idea of Propaganda*, pp.71–72.

¹⁰² ἡ εὐσεβῆς Θεοδώρα μετὰ καὶ τῶν ἄλλων αὐτῆς ἀγαθῶν ἐποίησε. Malalas 18.24. On Theodora: C. Diehl, *Théodora impératrice de Byzance* (Paris, 1904); H.-G. Beck, *Kaiserin Theodora und Prokop* (Munich, 1986); D. Potter, *Theodora: Actress, Empress, Saint* (Oxford, 2015).

¹⁰³ Procopius, *Buildings* 7.31; Procopius, *SH* 17.5–6; Procopius, *Buildings* 1.9.2–10; John of Nikiu, *Chronicle* 93.3; L. Garland, *Byzantine Empresses: Women and Power in Byzantium, AD 527–1204* (London, 2002), pp.15–18; J. A. S. Evans, *The Empress Theodora: Partner of Justinian* (Austin, TX, 2002), pp.30–34.

¹⁰⁴ *Malkom* 18.24.

¹⁰⁵ *J. Nov.* 51.pr.

¹⁰⁶ C. Foss, "The Empress Theodora," *Byzantion* 72 (2002), p.150 n.39.

¹⁰⁷ κοινωνὸν τοῦ βουλευμάτος παραλαβόντες τὴν ἐκ θεοῦ δεδομένην ἡμῖν εὐσεβεστάτην σύνοικον. *J. Nov.* 8.1. Ἰουστινιανῶ καὶ Θεοδώρῃ. *J. Nov.* 8.*iusiur.* See also C. Pazdernik, "'Our Most Pious Consort Given Us by God': Dissident Reactions to the Partnership of Justinian and Theodora, A.D. 525–548," *CA* 13 (1994), p.266.

¹⁰⁸ ἀκτεάνων θρεπτήρες ἀφειδέες εἰσὶν ἀγῶνες. *CIG* 4.8639.

at San Vitale in Ravenna.¹⁰⁹ Various settlements around the empire were renamed in her honour as well as in Justinian's.¹¹⁰ The régime was specifically reluctant to invoke Theodora in its sex work-related legislation.¹¹¹

It is possible that Malalas read praise for Theodora's piety in a non-extant constitution on brothel-keeping; he is occasionally the only witness to Justinianic legislation of the late 520s.¹¹² Yet if this is so, the régime's failure to acknowledge Theodora's influence in an almost identical constitution in 535 becomes even stranger. A far more likely source for Theodora's widespread association with anti-brothel-keeping legislation is the vast corpus of administrative documents to which Malalas had access but which no longer survive. *Novel* 152, sent to the praetorian prefect in 534, testifies to the circulation of memoranda alongside constitutions:

‘We decree that, henceforward, each divine directive... will be sent to your excellency's court and thereby despatched into the provinces appended to your excellency's own ordinances.’¹¹³

These prefectural ordinances are not the sum total of the *Novels*' paratextual memoranda. Justinian's tailored letter to the bishops, prefacing *Novel* 8, is another rare witness to the generally invisible contexts and paratexts that structured bureaucratic encounters with imperial law. It is wholly plausible that *Novel* 14 and similar constitutions were accompanied by memoranda that eulogised Theodora for her role in their formulation. This theory fits the known details of Malalas' compositional method and explains why the first extant statement of Theodora's association with this legislation appears in the early edition(s) of Malalas' chronicle.

¹⁰⁹ S. MacCormack, *Art and Ceremony in Late Antiquity* (Berkeley, CA, 1981), pp.74–78, 259–66; I. Andreescu-Treadgold & W. Treadgold, “Procopius and the Imperial Panels of S. Vitale,” *AB* 79 (1997), pp.708–23; A. McClanan, *Representations of Early Byzantine Empresses: Image and Empire* (New York, NY, 2002), pp.121–48; S. Bassett, “Style and Meaning in the Imperial Panels at San Vitale,” *AeH* 29 (2008), pp.49–57.

¹¹⁰ For Theodora: U. Unterweger, “The Image of the Empress Theodora as Patron,” *WJK* 60 (2012), pp.100–1. For Justinian: Turlej, *Justiniana Prima*, pp.99–103; Boeck, *Bronze Horseman*, pp.40–41. More generally: A. Kindler, “Akko, a City of Many Names,” *BASOR* 231 (1978), p.51.

¹¹¹ Though note the later refuge for former sex workers, associated with Theodora, outside Constantinople: Procopius, *Buildings* 1.9.10; Potter, *Theodora*, pp.182–83; L. O. Vilimonović, “Byzantine Feminisms in the Age of Justinian,” *Identities: Proceedings of the Seventh International Symposium “Days of Justinian I”, Skopje, 15–16 November, 2019*, ed. M. B. Panov (Skopje, 2020), pp.112–13.

¹¹² e.g. Watts, “The End of Athenian Philosophical Teaching,” pp.168–82.

¹¹³ Θεσπίζοντες τοῦ λοιποῦ ἕκαστον θεῖον πραγματικὸν τύπον... ἐμφανίζεσθαι τῷ δικαστηρίῳ τῆς σῆς ὑπεροχῆς, καὶ οὕτως εἰς τὰς ἐπαρχίας πέμπεσθαι προταπτόμενον μετὰ προσταγμάτων... τῆς σῆς ὑπεροχῆς. *J. Nov.* 152.1.

The use of these paratextual memoranda to communicate Theodora's policy advocacy was a propaganda tactic suited to a gendered political culture.¹¹⁴ Stage women in the sixth century were subject to a sexualised stigma.¹¹⁵ Procopius' viciously polemical account of Theodora's stage career is a clear but not unique example.¹¹⁶ Justinian's marriage to Theodora in the early 520s had only been enabled by Justin's repeal of a prohibition on marriages between actresses and senators.¹¹⁷ This legislation and the particular union that it had clearly been designed to facilitate caused a stir in Constantinople.¹¹⁸ The *Secret History* suggests some overlap between the constituencies most opposed to an actress's elevation to Roman high society and those most concerned about Justinian's active legislating. Given this intersection of opposition, a constitution that acknowledged Theodora's responsibility for interventions in legal tradition on behalf of sex workers may have stirred up a hornets' nest of criticism. By relying on paratextual memoranda, the régime was able to fix Theodora's reputation as a pious advocate for sex workers while still affecting sensitivity to its opponents' social views. Potter suggests that the *Buildings*'s comment on Theodora's activism 'reads very much like a quotation from a law on the subject'; from the régime's perspective, the point was precisely to avoid using laws to eulogise the empress for her work in this area.¹¹⁹

The distributional activity of men like Malalas resulted in the circulation of a greyer kind of propaganda, a generally diffused sense of Theodora's pious advocacy for anti-brothel-keeping legislation without this message being identifiably (and controversially) communicated in the legislation itself. When Procopius composed his assault on Theodora's professional and sexual past, he was responding not to any propaganda that he encountered in imperial constitutions himself but to a representation of the empress constructed within the bureaucracy and reflected in Malalas' chronicle. Crucially, however,

¹¹⁴ Brubaker, "Age of Justinian," pp.424–47; Betancourt, *Byzantine Intersectionality*.

¹¹⁵ D. R. French, "Maintaining Boundaries: The Status of Actresses in Early Christian Society," *VC* 52 (1998), pp.293–318; Garland, *Byzantine Empresses*, pp.9–58; Potter, *Theodora*, pp.39–60; Betancourt, *Byzantine Intersectionality*, pp.59–88; Cameron, *Procopius*, pp.66–82. For background: A. Duncan, "Infamous Performers: Comic Actors and Female Prostitutes in Rome," *Prostitutes and Courtesans in the Ancient World*, eds. C. A. Faraone & L. K. McClure (Madison, WI, 2006), pp.252–73; A. Duncan, "Female Performers in the Greco-Roman World: An Introduction," *The Palgrave Handbook of the History of Women on Stage*, eds. J. Sewell & C. Smout (Basingstoke, 2020), pp.9–20.

¹¹⁶ Procopius, *SH* 9; Betancourt, *Byzantine Intersectionality*, pp.59–88.

¹¹⁷ *CJ* 5.4.23; D. Daube, "The Marriage of Justinian and Theodora: Legal and Theological Reflections," *CULR* 16 (1967), pp.380–400.

¹¹⁸ Garland, *Byzantine Empresses*, p.14; Procopius, *SH* 6.17, 9.47.

¹¹⁹ Potter, *Theodora*, p.182.

Malalas was not commissioned for this purpose. Scott and Greatrex have both recently suggested that Malalas was ‘under imperial pressure’ or subjected to ‘direct imperial prompting’ to write his chronicle.¹²⁰ The most obvious counter-argument is that he published most of his narrative of Justinian’s reign after the emperor had died. Malalas was a civil servant who took it upon himself to disseminate the propaganda that the régime channelled through the bureaucracy.

2.II.B: Tailored Messages

The régime’s use of administrative propaganda channels is complemented by its differentiated use of mass public media. The nature of the first- and second-hand audience of the *Novels*, Constantinople’s administrative and literary publics respectively, enabled the régime to tailor its messaging output further. The *Novels* contain large volumes of propagandising discourse that, for the general public, never saw the light of day. For example, the full text of *Novel* 8 contains the most developed iteration of Justinian’s self-representation as ‘the sleepless emperor’, perhaps the central propagandising motif of his reign:¹²¹

‘It has fallen to me to spend all my days and nights, with complete sleeplessness and thoughtfulness, deliberating at all times about how I might grant something both useful and pleasing to God to my subjects. I do not take this sleeplessness lightly; I expend it on deliberations like these every waking hour, using both nights and days alike.’¹²²

The publication decree retains references to Justinian’s ‘care’ and ‘labour’ but has excised this rhetoric of sleeplessness.¹²³ *Novel* 8 did not just take on different faces for different publics but represented the emperor in a different propagandising vocabulary each time.

Constantinople’s general public nonetheless remained a public worth propagandising, even if the *Novels* did not perform this task directly. The old claim that late Roman rulers

¹²⁰ Scott, “Malalas’s Sources for the Contemporary Books,” pp.218–19, 227–30; Greatrex, Review of Carrara, Meier & Radtki, eds., *Quellenfragen*.

¹²¹ βασιλῆος ἀκοιμήτοιο. *CIG* 4.8639. See: Croke, “Sleepless Emperor,” pp.103–8; below, 2.III.A.

¹²² ἀπάσας ἡμῖν ἡμέρας τε καὶ νύκτας συμβαίνει μετὰ πάσης ἀγρυπνίας τε καὶ φροντίδος διάγειν ἀεὶ βουλευομένοις, ὅπως ἂν χρηστόν τι καὶ ἀρεσκόν θεῷ παρ’ ἡμῶν τοῖς ὑπηγόοις δοθεῖη. Καὶ οὐ πάρεργον τὴν ἀγρυπνίαν λαμβάνομεν, ἀλλ’ εἰς τοιαύτας αὐτὴν ἀναλίσκομεν βουλὰς διημερεύοντές τε καὶ νυξὶν ἐν ἴσῳ ταῖς ἡμέραις χρώμενοι. *J. Nov.* 8.pr.

¹²³ πρόνοιαν / πόνον. *J. Nov.* 8.App.2.

were ‘largely indifferent to the opinion of the general public’ has rightly been abandoned.¹²⁴ Justinian himself had likely witnessed a prolonged riot against Anastasius in 512 and been almost deposed by a popular insurrection in 532.¹²⁵ He also had access to discursive resources suited for mass public communication. Rubin pointed to various propaganda instruments with much broader publics than the *Novels*, like architecture, coins, and a ‘state bulletin’ comprised of ‘official notices in the cities of the Roman empire’.¹²⁶ Rubin’s regular ‘state bulletin’ did not in fact exist any later than the fifth century, but sixth-century emperors continued to advertise laws and other news through *ad hoc* notices on public noticeboards, though for as few as ‘ten days’ at a time.¹²⁷ Architecture and coinage offered additional modes of public communication. The 532 insurrection independently presented Justinian with the opportunity to reshape the built environment of central Constantinople.¹²⁸ Justinian also multiplied the empire’s operational mints, which produced coins that enjoyed long lives in circulation as part of a mass currency.¹²⁹ In all these ways and through ceremony, the Justinianic régime engaged in mass communication beyond the *Novels*.¹³⁰

Justinian used these public media to express direct, simple, and repeated messages for general public consumption. Hence, his coins communicate straightforward motifs like his God-given victories or his harmonious co-rule with Justin I.¹³¹ The *Novels*, in turn, supply additional layers of more complex representations, requiring greater textual development and specifically suited to the debates taking place in political society. In addition to the simple themes of public media, the constitutions also justify themselves to a public that

¹²⁴ A. R. Bellinger, “The Coins and Byzantine Imperial Policy,” *Speculum* 31 (1956), p.71. See instead: Kaldellis, “How to Usurp the Throne,” pp.43–56; Kaldellis, *Byzantine Republic*; Greatrex, “Emperor, People, Urban Violence,” pp.389–405.

¹²⁵ On the 512 riots, see: Malalas 16.19; Evagrius, *HE* 3.44; Marcellinus 512; P. Charanis, *Church and State in the Later Roman Empire: The Religious Policy of Anastasius the First, 491–518* (Thessaloniki, 1974), pp.78–79; Haarer, *Anastasius I: Politics and Empire in the Late Roman World*, pp.156–57. For popular aspects of the 532 Nika insurrection, see Greatrex, “Emperor, People, Urban Violence,” p.405.

¹²⁶ *die Staatszeitung, die amtlichen Bekanntmachungen in den Städten des Römerreiches*. Rubin, *Das Zeitalter Iustinians*, pp.140–42.

¹²⁷ δέκα ἡμέρας. J. Nov. 120.ep. Baldwin, “*Acta Diurna*,” pp.189–203. For the noticeboards: J. Nov. 17.15, 28.5.1; Biener, *Geschichte der Novellen*, pp.28–29; Scott, “Malalas and Justinian’s Codification,” pp.17–18.

¹²⁸ Boeck, *Bronze Horseman*, pp.38–40.

¹²⁹ D. R. Sear, *Byzantine Coins and their Values* (London, 1987), p.19; Banaji, *Exploring the Economy*, pp.110–27. See also Haldon, “Economy and Administration,” p.37. On the administration of mining and minting, see Jones, *Later Roman Empire*, pp.426–45; R. Delmaire, *Largesses sacrées et res privata: l’aerarium impérial et son administration du IVe au VIe siècle* (Rome, 1989).

¹³⁰ Ceremony: Dagron, *L’hippodrome*; MacCormack, *Art and Ceremony*. See also: L. van Hoof & P. van Nuffelen, “Monarchy and Mass Communication: Antioch A.D. 362/3 Revisited,” *JRS* 101 (2011), pp.166–83; C. Geertz, “Centers, Kings, and Charisma: Reflections on the Symbolics of Power,” *Local Knowledge: Further Essays in Interpretive Anthropology* (New York, NY, 1983), pp.121–46.

¹³¹ Dumbarton Oaks, BZC.1956.6.61; BZC.1960.92.

often contested the emperor's authority to legislate by retelling Roman history, supplying etymologies, or recounting details of ongoing litigation. Such propagandising discourse was beyond the scope of a coin or a short, temporary public notice.

The 534 reconquest of North Africa is an acute example of tailored messages. Roman leaders had always launched campaigns abroad with an eye to how victories might serve their domestic political needs.¹³² Both Pazdernik and Wood claim that Justinian used the African victory to represent himself in Constantinople as a liberator of Romans from barbarian rule.¹³³ Such a complex message required more than the traditional iconography of conquest could supply: reference to the Roman identities of the subject Vandal population and the re-establishment of distinctively Roman government and legal rights in the province. It also required an audience invested not just in Roman imperialism but specifically in the Roman identity of a population on the other side of the Mediterranean. The discourse of liberation was accordingly not a 'public' message that the régime 'trumpeted' for all to hear in the capital.¹³⁴

Belisarius' triumph in 534 presented the victory to the watching crowd as an enslavement of barbarians and a source of Roman wealth. Spoils were displayed in the hippodrome and then distributed by Belisarius 'to the people' of Constantinople, captives were paraded with even 'Gelimer himself among the slaves in the triumph', and both Gelimer and Belisarius 'performed proskynesis' to Justinian as his 'suppliant[s]'.¹³⁵ There were layers of meaning even to this ceremony. For Procopius in the 550s, attuned to the valences of the Roman past, Justinian's choice to grant a traditional triumph to his general encoded a restoration of practices from 'the old days'.¹³⁶ Whether or not the assembled crowd in 534 also grasped this significance, the triumph clearly emphasised the material gains that had accrued to Romans through Justinian's enslavement of the Vandals.

¹³² Heather, *Rome Resurgent*, p.121; J. Bennett, *Trajan: Optimus Princeps* (London, 1997), pp.104–5; J. Rich, "Fear, Greed and Glory: The Causes of Roman War-Making in the Middle Republic," *War and Society in the Roman World*, eds. J. Rich & G. Shipley (London, 1995), pp.38–68; N. S. Rosenstein, "War, Failure, and Aristocratic Competition," *CP* 85 (1990), pp.255–65; K.-J. Hölkenskamp, "Conquest, Competition and Consensus: Roman Expansion in Italy and the Rise of the *Nobilitas*," *Historia* 42 (1993), pp.12–39.

¹³³ Pazdernik, "Labors of War," pp.153–59; Wood, "Being Roman," pp.435–36.

¹³⁴ Respectively: Wood, "Being Roman," p.436; Pazdernik, "Labors of War," p.153.

¹³⁵ τῷ δήμῳ. Procopius, *Wars* 4.9.4–5, 15–16. ἀνδράποδα δὲ ἦν τοῦ θριάμβου Γελίμερ τε αὐτός. 4.9.10. προσκυνεῖν... ἰκέτης. 4.9.12. The spoils: R. S. Boustán, "The Spoils of the Jerusalem Temple at Rome and Constantinople: Jewish Counter-Geography in a Christianizing Roman Empire," *Antiquity in Antiquity: Jewish and Christian Pasts in the Greco-Roman World*, eds. G. Gardner & K. L. Osterloh (Tübingen, 2008), pp.327–72. Gelimer had been king of the Vandals since 530: *PLRE* 3 Gelimer.

¹³⁶ τοῖς ἄνω χρόνοις. Procopius, *Wars* 4.9.1.

The same themes of Gelimer's enslavement, Belisarius' role as a subservient agent of Justinian, and spoils accruing to the Romans recur in the mosaics that Justinian installed on the Bronze Gate, one of Constantinople's most central and visible monuments:

'The emperor Justinian is winning victories through the general Belisarius, and the general is returning to the emperor, bringing his whole army unharmed, and is giving him spoils: kings and kingdoms and all the most extraordinary earthly things. In the middle stand the emperor and the empress Theodora, both seeming to be rejoicing and celebrating triumphs over the emperors of the Vandals and of the Goths, coming to them as war captives to be delivered into bonds.'¹³⁷

Justinian additionally minted an ornamental gold medallion generally associated with the triumph.¹³⁸ It depicts Justinian mounted, armed, and led by a winged angel of victory, alongside a legend proclaiming 'the salvation and glory of the Romans'.¹³⁹ In both its unusual size and weight and its large Constantinopolitan mint-mark, the medallion is a striking material representation of the wealth that Justinian's conquests had generated for the city.¹⁴⁰ The equestrian statue erected in the Augustaion in 543 in turn represented a mounted Justinian wearing a triumphal headdress that recognisably recalled the medallion.¹⁴¹ Ceremonies need to be repeated or remembered to take lasting symbolic effect and Justinian span a web of visual anchors to structure Constantinople's collective memory of the triumph.¹⁴² In this public web, the emperor is consistently an enslaver of Vandals whose wars brought material benefits to the capital.

¹³⁷ καὶ νικῶ μὲν βασιλεὺς Ἰουστινιανὸς ὑπὸ στρατηγοῦντι Βελισαρίῳ, ἐπάνεισι δὲ παρὰ τὸν βασιλέα, τὸ στράτευμα ἔχων ἀκραιφνές ὅλον ὁ στρατηγός, καὶ δίδωσιν αὐτῷ λάφυρα βασιλείς τε καὶ βασιλείας, καὶ πάντα τὰ ἐν ἀνθρώποις ἐξαισία. κατὰ δὲ τὸ μέσον ἐστᾶσιν ὁ τε βασιλεὺς καὶ ἡ βασίλις Θεοδώρα, εἰκότερες ἄμφω γεγηθῶσι τε καὶ νικητήρια ἐορτάζουσιν ἐπὶ τε τῷ Βανδύλων καὶ Γότθων βασιλεῖ, δορυαλώτοις τε καὶ ἀγωγίμοις παρ' αὐτοὺς ἤκουσι. Procopius, *Buildings* 1.10.16–17.

¹³⁸ M. Restle, *Kunst und byzantinische Münzprägung von Justinian I. bis zum Bilderstreit* (Athens, 1964), pp.147–49; MacCormack, *Art and Ceremony*, pp.77–78; Hoffmann, "Belisarius' Triumph," p.101.

¹³⁹ *SALUS ET GLORIA ROMANORUM*. British Museum, BZ1 (25).

¹⁴⁰ Mint-marks have, it seems, only ever been studied for administrative details, not communicative potential: e.g. A. Alföldi, "On the Foundation of Constantinople: A Few Notes," *JRS* 37 (1947), pp.10–16; M. H. Crawford, "Control-Marks and the Organization of the Roman Republican Mint," *PBSR* 34 (1966), pp.18–23; J. van Heesch, "Control Marks and Mint Administration in the Fourth Century AD," *RBN* 158 (2012), pp.161–78; L. Ramskold & G. Gautier, "Constantine's FELICITAS ROMANORVM Donatives: Dynastic Propaganda and the First Miliarensis," *JNG* 67 (2017), pp.1–58.

¹⁴¹ A. Grabar, *L'empereur dans l'art byzantine: recherches sur l'art officiel de l'Empire d'Orient* (Paris, 1936), p.47; S. Papadaki-Oekland, "The Representation of Justinian's Column in a Byzantine Miniature of the Twelfth Century," *BZ* 82 (1989), pp.230–31; C. A. Mango, *Studies on Constantinople* (Aldershot, 1993), XI p.4.

¹⁴² Relatedly: M. Popkin, *The Architecture of the Roman Triumph: Monuments, Memory, and Identity* (Cambridge, 2016). On collective memory and spatial environments, see: M. Halbwachs, *La mémoire collective* (Paris, 1968), pp.130–68; J. Assmann, "Kollektives Gedächtnis und kulturelle Identität," *Kultur und Gedächtnis*, eds. J. Assmann & T. Hölscher (Frankfurt am Main, 1988), pp.10–12.

The motif of liberation is conspicuously absent. In all the propaganda produced directly by the imperial state in Constantinople, this motif is limited to three legal documents.¹⁴³ A Latin constitution of 534, addressed ‘to Archelaus, the praetorian prefect of Africa’, claims that ‘Africa has regained its liberty’ as a result of Justinian’s divinely sponsored rule.¹⁴⁴ It was incorporated into the second edition of the *Code*, but while its rhetorical content was important enough not to be left on the cutting room floor, it seems never to have been displayed in Constantinople.¹⁴⁵ Likewise, *Novel* 8 contains a short reference to liberation that certainly did not make it into the publication decree.¹⁴⁶ This informs how *Novel* 78 of 539 should be read. Like *Novel* 8, it contains an indication of public display in the capital and briefly mentions Justinian ‘undertaking such great wars in Libya and the West... for the sake of our subjects’ liberty’.¹⁴⁷ However, this comment is buried in the fourth of five chapters of a long constitution on the legal statuses of manumitted slaves. There is no reason why *Novel* 78’s abbreviator should have prioritised it for display over the preface’s more extensive discussion of manumission.

Justinian therefore specifically represented himself as a liberator of western Romans in administrative texts that spoke only to a narrow public and, from there, to political society. It was only in this context that he needed ‘an unimpeachable motive for a policy of military aggression’ that ‘resonated particularly with those who felt a deep investment in the specifically Roman character of the state’.¹⁴⁸ Ideas about the barbarisation of the western empire and possibly about the ethics and costs of campaigning were current in the city’s literature.¹⁴⁹ Political society demanded and received a developed justification for Roman wars while for the general public, to protect the simplicity of his messaging, Justinian straightforwardly conquered and enslaved for his subjects’ material gain.¹⁵⁰

¹⁴³ Contrast a 565 inscription near *Rome*, not Constantinople: *CIL* 6.1199a.

¹⁴⁴ *Africa... reciperet libertatem / a. Archelao PP. Africae. CJ* 1.27.1.1, ep. Cited as liberation propaganda by: Wood, “Being Roman,” p.435; Heather, *Rome Resurgent*, pp.121, 147; Croke, *Chronicle of Marcellinus*, pp.126–27; Rubin, *Das Zeitalter Iustinians*, p.161.

¹⁴⁵ For cutting rhetorical content: *CJ* C. Haec 2; Humfress, “Law and Legal Practice,” p.174. On the second *Code*: Corcoran, “Justinian and his Two Codes,” pp.73–111; Corcoran, “The *Novus Codex*,” pp.424–44.

¹⁴⁶ *J. Nov.* 8.10.2.

¹⁴⁷ ἐπὶ Λιβύης καὶ ἐπὶ τῆς Ἑσπέρας τηλικούτους ἠράμεθα πολέμους... ὑπέρ τε τῆς τῶν ὑπηκόων ἐλευθερίας. *J. Nov.* 78.4.1. Cited as liberation propaganda by: Wood, “Being Roman,” p.436; Gador-Whyte, “Procopius and Justinian’s Propaganda,” pp.116–17; Pazdernik, “Labors of War,” p.156.

¹⁴⁸ Pazdernik, “Labors of War,” p.158.

¹⁴⁹ Goffart, “Zosimus,” pp.412–41; Greatrex, “Perceptions,” pp.92–96.

¹⁵⁰ See also, in a Persian context, *AP* 16.62–63.

A focus on the different limitations and differentiated audiences of Justinian's propaganda instruments requires a departure from Kruse's flat model of imperial propaganda:

'Only a small fraction of the written texts have survived to modern times. The consistency and emphasis placed on Justinian's Roman revival in the laws of 535 almost certainly corresponded to a broader program of imperial propaganda across a variety of media... Glimpses of Justinian's program survive, in particular the lavish triumph he celebrated over Gelimer... even if many other specific aspects of it cannot always be recovered. We can discern the shape of Justinian's propaganda program, or at least a key part of it, from the features of his reign that are emphasized in the... *Novels*.'¹⁵¹

There is no firm basis for Kruse's suppositions that the propaganda content of the *Novels* 'almost certainly corresponded to a broader... variety of media' or that the *Novels* preserve the overarching 'shape of Justinian's propaganda'. These are convenient conclusions, since the *Novels* are the richest extant body of Justinianic propaganda, but they obscure a more complex reality. Different imperial texts reached different publics and the régime used them accordingly to express different propaganda messages, tailored to the possibilities and requirements of each audience and form of communication.

2.II.C: The Propaganda Response to the Nika Insurrection

The régime applied similar tactics in its propaganda response to the 532 Nika insurrection, which it put down by slaughtering thousands of its own subjects in the hippodrome.¹⁵² Violence was common among the circus factions but such a massacre was an aberration.¹⁵³ Romanos' kontakion *On Earthquakes and Fires*, commissioned by Justinian and first performed during the reconstruction of the Hagia Sophia, testifies to the mnemonic fractures that resulted.¹⁵⁴ It recalls how 'the memory [of the insurrection] took our minds and thoughts

¹⁵¹ Kruse, *Politics*, p.152.

¹⁵² Malalas 18.71. See further: Bury, "The Nika Riot," pp.92–119; Jeffreys, "Bury, Malalas and the Nika Riot," pp.42–51; Greatrex, "Nika Riot," pp.60–86; Meier, "Die Inszenierung einer Katastrophe," pp.273–300, with A. Hasse-Ungeheuer, *Das Mönchtum in der Religionspolitik Kaiser Justinians I* (Berlin, 2016), pp.227–28; Pfeilschifter, *Kaiser und Konstantinopel*, pp.179–210.

¹⁵³ Alan Cameron, *Circus Factions: Blues and Greens at Rome and Byzantium* (Oxford, 1976); Michael Whitby, "The Violence of the Circus Factions," *Organised Crime in Antiquity*, ed. K. Hopwood (London, 1999), pp.229–53; Michael Whitby, "Factions, Bishops, Violence and Urban Decline," *Die Stadt in der Spätantike: Niedergang oder Wandel?*, eds. J.-U. Krause & C. Witschel (Stuttgart, 2006), pp.441–61; Greatrex, "Emperor, People, Urban Violence," pp.389–405.

¹⁵⁴ Commission: Koder, "Romanos und sein Publikum," p.67; Varghese, "Kaiserkritik in Two Kontakia," p.396; Koder, "Imperial Propaganda," p.278. Date: Maas & Trypanis, *Cantica genuina*, p.xix. For an over-precise

prisoner and made our tongues more hesitant to recount it' and how 'lamentation became pointed on account of those destroyed by swords'.¹⁵⁵ Lydus, too, would later bitterly remember that 'the city was uninhabitable from the dust, the smoke, and the foul smell of charcoaled wood, inciting a pitiable panic in those who saw it'.¹⁵⁶ Since 'popular opinion' was a powerful force in Justinian's Constantinople, the collective memory of the insurrection needed to be managed.¹⁵⁷

On Earthquakes played an integral role in this process. It is an encomiastic hymn.¹⁵⁸ It also, as Nickau argues astutely, absolves any particular actor of blame by framing the insurrection as a disaster sent by God to correct the communal sinfulness of the Constantinopolitans, Justinian included.¹⁵⁹ Romanos prefigures his discussion of the insurrection by explaining that 'the Creator inflicted a second disaster because he discovered that humanity had become not better but worse' in response to previous divine warnings in earthquake form.¹⁶⁰ Nickau claims that Romanos' emphasis on the didactic will of God 'subjects the Nika riot to a radically new interpretation'.¹⁶¹ His reference point is the general consensus that Justinian sounded a triumphant note after putting down the insurrection.¹⁶² This consensus relies heavily on Malalas' report that, in the immediate aftermath of the insurrection, 'the emperor declared his victory and the slaughter of the

dating to the ceremony marking the start of construction in 532/33, see E. C. Topping, "On Earthquakes and Fires: Romanos' Encomium to Justinian," *BZ* 71 (1978), p.23, and J. H. Barkhuizen, "Romanos Melodos: On Earthquakes and Fires," *JÖB* 45 (1995), p.1, but note the past tense reference to the start of construction at Romanos 54.22–23. For another over-precise dating to the dedication of the Hagia Sophia, see Maas, "Chronologie," pp.2–7, but note the anticipation of the future completion of the church at Romanos 54.24.3–5. The dating to Lent 537, at Koder, "Imperial Propaganda," p.278, is based on a misinterpretation of Barkhuizen, "On Earthquakes," p.1.

¹⁵⁵ ἡμήμη τὸν νοῦν αἰχμαλωτίζει καὶ τὴν διάνοιαν ἡμῶν, καὶ ὀκηροτέραν καὶ γλῶτταν τὴν ἡμῶν ποιεῖ πρὸς τὴν διήγησιν / ὄδυρμός πικρὸς γὰρ ἐγγόνει διὰ τοὺς ἀναιρεθέντας ξίφεσιν. Romanos 54.15.1–3, 19.3. See further G. Frank, "Memory and Forgetting in Romanos the Melodist's *On the Newly Baptized*," *Between Personal and Institutional Religion: Self, Doctrine, and Practice in Late Antique Eastern Christianity*, eds. B. Bitton-Ashkelony & L. Perrone (Turnhout, 2013), pp.37–55.

¹⁵⁶ ἦν ἡ πόλις... κόνει καὶ καπνῶ καὶ δυσωδία τῶν ἀποτεφρουμένων ὑλῶν ἀρίκητος, φόβον ἐλεεινὸν τοῖς θεωμένοις ἐνσείουσα. Lydus, *Powers* 3.70.

¹⁵⁷ Kaldellis, "How to Usurp the Throne," pp.43–56.

¹⁵⁸ Topping, "On Earthquakes," p.22; Barkhuizen, "On Earthquakes," p.2.

¹⁵⁹ Romanos 54.14–17, with K. Nickau, "Justinian und der Nika-Aufstand bei Romanos dem Meloden: Zum *Kontakion* 54 M.–Tr. (=54 Gr.)," *BZ* 95 (2002), pp.603–20.

¹⁶⁰ μίαν δευτέραν τὴν πληγὴν ὃ κτίστης ἐπιφέρων, ἀνθρώπους δὲ εὐρίσκων κρείττους μὴ γινομένους, ἀλλὰ καὶ χείρους. Romanos 54.14.1–2.

¹⁶¹ *unterwirft den Nika-Aufstand einer radikal neuen Deutung*. Nickau, "Justinian und der Nika-Aufstand," p.618.

¹⁶² Kaldellis, *Procopius*, p.126; Bury, "The Nika Riot," p.93; Greatrex, "Nika Riot," p.80.

tyrants in all the cities'.¹⁶³ For Nickau, Romanos undercuts the propaganda that celebrated the massacre by implicating the régime in the sinfulness that caused the insurrection.¹⁶⁴

On Earthquakes should instead be understood as one arm of the régime's tailored propaganda response to Nika. The declaration of victory recorded by Malalas was almost certainly not displayed to the general public of Constantinople. Malalas' phrase 'in all the cities', preserved as the variant 'in all the cities subject to [Justinian's] imperial rule' in the *Chronicon Paschale*, is an administrative formula that imperial constitutions often deploy to refer to *provincial* cities managed by *provincial* governors:¹⁶⁵

'Every law that is to be displayed is to be shown to the prefects beforehand... Then the governor is to hasten to make the laws visible in *all the cities* subject to him through ordinances of his own.'¹⁶⁶

'If [constitutions] have not yet been despatched to all the provinces... the provincial governors will send them *to all the cities* assigned to each province.'¹⁶⁷

Justinian's triumphant declaration of victory over the 'tyrants' (that is, the usurpers) was likely intended to warn urban *provincial* populations against their own riots.¹⁶⁸ It used similar administrative formulae to constitutions, moved along the same channels of distribution, and was available to Malalas as an archived copy when he came to update his chronicle. The declaration's original reference to the provincial governors has seemingly been excised either by Malalas himself or his later abridgers.

This document's appearance in Malalas' chronicle demonstrates that it fits into the same patterns as the constitutions on the liberation of Africa and the paratextual memoranda on Theodora's advocacy for sex workers. It was not just a communication to provincial

¹⁶³ ὁ δὲ αὐτὸς βασιλεὺς ἐσήμανεν τὴν ἑαυτοῦ νίκην ἐν πάσαις ταῖς πόλεσι καὶ τὴν ἀναίρεσιν τῶν τυράννων. Malalas 18.71. See also Jordanes, *Romana* 364.

¹⁶⁴ Nickau, "Justinian und der Nika-Aufstand," pp.610, 614–18.

¹⁶⁵ ἐν πάσαις ταῖς πόλεσι. Malalas 18.71. εἰς τὰς ὑπὸ τὴν αὐτοῦ βασιλείαν πόλεις πάσας. *Chronicon Paschale* 628.18.

¹⁶⁶ πᾶς δὲ νόμος ἐμφανιζόμενος ὀφείλει πρότερον γίνεσθαι τοῖς ἐπάρχοις καταφανής... τὸν δὲ ἄρχοντα σπουδάζειν διὰ προστάξεων οἰκείων *πάσαις ταῖς πόλεσι* ταῖς ὑφ' ἑαυτὸν φανεροῦς καθιστᾶν τοὺς νόμους. *CJ* 12.60.7.8. Emphasis added.

¹⁶⁷ εἰ δὲ οὐπω καὶ νῦν ἐν πάσαις ταῖς ἐπαρχίαις ἐξεπέμθη... τοὺς δὲ πῶν ἐπαρχιῶν ἡγουμένους αὐτοὺς στείλαι... ἐν πάσαις ταῖς πόλεσι ταῖς ἐφ' ἑκάστη ἐπαρχίᾳ τεταγμέναις. *J. Nov.* 66.3. Emphasis added.

¹⁶⁸ Tyrants as usurpers: T. D. Barnes, "Oppressor, Persecutor, Usurper: The Meaning of *Tyrannus* in the Fourth Century," *Historia Augustae Colloquium Barcinonense*, eds. G. Bonamente & M. Mayer (Bari, 1996), pp.55–65; V. Neri, "Usurpatore come tiranno nel lessico politico della tarda antichità," *Usurpationen in der Spätantike: Akten des Kolloquiums "Staatsstreich und Staatlichkeit"*, 6.–10. März 1996, Solothurn/Bern, eds. F. Paschoud & J. Szidat (Stuttgart, 1997), pp.71–86; Szidat, *Usurpator*, pp.27–29; Omissi, *Emperors and Usurpers*, pp.30–31.

publics but also a representation to be picked up by men like Malalas and disseminated in political society. It suited the régime to sound a triumphant note for this public because, across various political and cultural divides, the literary classes of the capital exhibit a class-marked hostility to the rioting factions. Lydus blames the insurrection on ‘the people, or rather the barbarous and merciless mob,’ who ‘preferred being off work to reasonable toil’.¹⁶⁹ In the *Buildings*, Procopius recounts how ‘the men of the common herd, the whole rabble... raised arms in revolt not only against the emperor but, being impious, no less against God’.¹⁷⁰ Marcellinus refers to ‘a mob of seditious men’ made up of ‘criminal citizens running amok with inimical disloyalty and impiety’.¹⁷¹ None of these writers affect any of *On Earthquakes*’s grief for the dead, whom they distinguish by class even from the senators accused of involvement in the insurrection.

To engage with the general public, large numbers of whom had lost friends and family to the state violence perpetrated in the hippodrome, the régime commissioned Constantinople’s most famous hymnographer (with an established mass audience) to strike a reconciliatory tone. At the same time, it catered to the expectations of political society by crafting instead a narrative of the just suppression of the insurrection. The bureaucracy, and the bureaucrats who took up the propaganda themes they encountered at work, provided suitable channels for communicating specifically to the class of Constantinopolitans who perceived the massacre to have been no bad thing.

The processes of tailoring and differentiation outlined here may further advance some other scholarly debates. For example, Pottier’s argument that ‘busts with deformed faces’ on copper coins from 541–43 depict Justinian as a plague victim, sharing in his subjects’ general suffering during the pandemic, remains controversial.¹⁷² Meier primarily objects that ‘this kind of offensive thematization by the emperor of his own illness would also have appeared in places other than just in numismatic evidence’.¹⁷³ Yet this is not necessarily true. Few texts would have been better suited than copper coins for the communication of

¹⁶⁹ ῥαθυμειν μάλλον ἢ κάμνειν σωφρόνως... ὁ μὲν δῆμος, μάλλον δὲ τὸ βάρβαρον καὶ ἀνελεὲς πλῆθος. Lydus, *Powers* 3.70.

¹⁷⁰ ἄνδρες ἀγελαῖοί ποτε καὶ ὁ σφρετὸς ὄλος... οὐκ ἐπὶ τὸν βασιλέα μόνον, ἀλλ’ οὐδέν τι ἦσσαν ἐπὶ τὸν θεὸν ἄτε ἀποφράδες τὰ ὄπλα ἀντήραν. Procopius, *Buildings* 1.1.20–21. Likewise in the *Wars*: G. Greatrex, “Procopius, the Nika Riot, and the Composition of the *Persian Wars*,” *T&M* 26 (2022), forthcoming.

¹⁷¹ *seditiosorum turba... sceleratos cives... discursantes hostili impietate*. Marcellinus 532.

¹⁷² *bustes au visage déformé*. H. Pottier, “Justinien et la pandémie de peste à Constantinople (542),” *BSFN* 64 (2009), pp.86–87; H. Pottier, “L’empereur Justinien survivant à la peste bubonique (542),” *Travaux et Mémoires* 16 (2010), pp.685–92. For Justinian’s illness: Procopius, *Wars* 2.22.17.

¹⁷³ Meier, “Liturgification and Hyper-Sacralization,” p.239 n.92.

a simple message, that Justinian had been affected like his subjects, to the broad social base of the plague's victims.¹⁷⁴

2.II.D: Literary Propagandists and the Court

The Justinianic régime relied, for the distribution of those propaganda themes tailored to political society, on the oral and literary activities of Constantinople's narrow administrative public. This dynamic was not coincidental; Justinian was alert to the potential for such men to set friendly narratives in the city's wider political discourse and consistently went out of his way to patronise writers or attract them to court service. He hired both Marcellinus and Corippus after they had published a chronicle and epic poem respectively, commissioned poetic performances from both Paul and Romanos, requested a panegyric and history from Lydus, and permitted both Junillus and Peter the Patrician to compose literary works while holding senior palatine offices, not to mention Paul's transgressive epigrams.¹⁷⁵ The rededication of the Hagia Sophia demonstrates clearly how literary patronage and commissions fit into broader imperial strategies for navigating debate.

Marcellinus is an especially acute example of Justinian's alertness to this literary potential. The first edition of his chronicle makes no mention of Justin or Justinian but anticipates many of the later themes of Justinianic propaganda.¹⁷⁶ In particular, it sets up the claim that western campaigns were wars of liberation. It identifies 476 as the year when 'the western empire of the Roman people perished' but nonetheless describes Anastasius' 508 raid on Italy as 'a disgraceful victory that Romans seized from Romans with the audacity of pirates'.¹⁷⁷ If the political subjects of the Goths retained Roman identities, it follows that these Romans could be liberated from barbarian rule. Marcellinus' literary and political track record, in addition to his shared Illyrian background with Justinian, can only have endeared him to his future employer. Accordingly, when it came to his second edition, Marcellinus made himself 'Justinian's propagandist' through a panegyric use of content, allusion, and

¹⁷⁴ See P. Sarris, "Climate and Disease," *A Companion to the Global Early Middle Ages*, ed. E. Hermans (Leeds, 2020), pp.525–26.

¹⁷⁵ Contrast Rance, "Wars," p.118.

¹⁷⁶ Kruse, *Politics*, p.175; Bjornlie, *Politics and Tradition*, pp.90–97, 239–40.

¹⁷⁷ *hesperium Romanae gentis imperium... periit*. Marcellinus 476.2. *inhonestam victoriam, quam piratico ausu Romani ex Romanis rapuerunt*. Marcellinus 508. See also: Kruse, *Politics*, p.175; B. Croke, "AD 476: The Manufacture of a Turning Point," *Chiron* 13 (1983), pp.81–119; Goffart, "Zosimus," pp.412–41.

structure and by participating in the distribution of liberation propaganda that, as this chapter will see, would later escape the régime's control.¹⁷⁸

It was Africa, rather than Italy, that first presented Marcellinus with the opportunity to publish an update. The reconquest provides the very final entry of his text:

'The province of Africa, which in the division of the world is placed by most in the third part, was liberated by the will of God. So was its capital Carthage, in the 96th year of its ruin. After the Vandals had been expelled and subjugated and their king Gelimer captured and sent to Constantinople in the emperor Justinian's fourth consulship, Carthage was received back under his government and restored to its fatherland more firmly than it had been before.'¹⁷⁹

This entry is constructed around the twin themes of restoration and liberation that, in turn, structure the Latin constitution of 534 on the reorganisation of Africa:

'Through us, Africa has regained its liberty in so short a space of time, having been taken captive 105 years previously by the Vandals... With what speech or labours are we able to give appropriate thanks to God, who deemed it worthy for the injuries of his church to be avenged and for the people of so many provinces to be delivered from the yoke of servitude by me, his utmost servant?'¹⁸⁰

The texts display an overarching thematic intertextuality: divinely sponsored nature of the victory. They also exhibit specific lexical intertextualities. Marcellinus lifts the constitution's verb *vindico*, used in its valence of vengeance, and reapplies it in its valence of liberation. Whether or not Marcellinus was working with the text of this constitution, his literary production in retirement remained exceptionally attuned to the tenor of the propaganda communicated by the régime to political society.

There is no need to suppose that Marcellinus was instructed or commissioned to update his chronicle in retirement. He was a partisan of the régime, an Illyrian writing about

¹⁷⁸ *des Iustinian... Propagandist*. Jakobi, "Chronik des Marcellinus," p.656.

¹⁷⁹ *provincia Africa, quae in divisione orbis terrarum a plerisque in parte tertia posita est, volente deo vindicata est. Carthage quoque civitas eius anno excidionis suae nonagesimo sexto pulsus devictisque Vandalis et Gelimer rege eorum capto et Constantinopolim misso, quarto Iustiniani principis consulatu, ipsius moderatione est recepta, sua cum patria firmitus, quam dudum fuerat, redintegrata*. Marcellinus 534. On the translation, see Whitby, Review of Croke, *Chronicle of Marcellinus*, p.224.

¹⁸⁰ *Africa per nos tam brevi tempore reciperet libertatem, ante centum et quinque annos a vandalis captivata... quo ergo sermone aut quibus operibus dignas deo gratias agere valeamus, quod per me, ultimum servum suum, ecclesiae suae iniurias vindicare dignatus est et tantarum provinciarum populos a iugo servitutis eripere?* CJ 1.27.1.1, 5. For restoration, see also J. *Inst.* pr.1.

an Illyrian emperor for an Illyrian community.¹⁸¹ On occasions, he may even be too partisan. It seems unlikely that, when Justinian was preparing to limit the importance and expenditure of consuls, he should have directly prompted Marcellinus to update a chronicle structured solely by consular dates that celebrated his 521 consulship as ‘the most famous of all’ on the basis of its spectacular largesse.¹⁸²

Like Malalas, Marcellinus was not a mere stenographer.¹⁸³ As Jakobi notes, his entry on the reconquest of Africa lifts an almost exact quotation from Sallust’s *Jugurtha*, ‘the authoritative text that reports the beginning of imperial control over Africa’.¹⁸⁴ Marcellinus shared his conception of a fallen western empire with Zosimus, but whereas Zosimus narrates Roman imperial decline on Polybius’ template, Marcellinus narrates Roman imperial restoration on Sallust’s template.¹⁸⁵ Through his similar intertextual use of the historiography of Roman expansion, Marcellinus takes up Justinian’s propaganda claim to have restored and liberated Africa and frames it as the reinvigoration of a Roman past that the traditionalist Zosimus considered lost.

The structure of Marcellinus’ chronicle plays an essential role in his historical narrativisation of imperial propaganda. Chronicles convey meaning not only through what they say but also through their selection and arrangement of material, deploying chronology to communicate ‘contemporary ideology and thinking about the nature and meaning of time’.¹⁸⁶ Hence, for example, the symmetrical construction of Malalas’ chronicle around the

¹⁸¹ Croke, *Count Marcellinus*, pp.78–102.

¹⁸² *famosissimum*. Marcellinus 521. For Justinian’s consulship: Cutler, “Making of the Justinian Diptychs,” pp.102–4; Croke, *Count Marcellinus*, p.134; Croke, “Justinian under Justin: Reconfiguring a Reign,” p.37. For Justinian’s later policy on the consulship: J. *Nov.* 47, 105, with Kruse, *Politics*, pp.102–47. For Marcellinus’ chronography: Croke, *Chronicle of Marcellinus*, p.xxii; Croke, *Count Marcellinus*, p.174; Burgess & Kulikowski, *Mosaics of Time*, pp.35–57. Compare the lack of consular dating in Malalas: E. Jeffreys, “Chronological Structures in Malalas’ *Chronicle*,” *Studies in John Malalas*, eds. E. Jeffreys, B. Croke & R. Scott (Sydney, 1990), pp.111–66.

¹⁸³ Against Kaldellis, *Procopius*, p.126.

¹⁸⁴ *der maßgebende Text, der von dem Beginn imperialer Kontrolle über den Raum Afrika... berichtet*. Jakobi, “Chronik des Marcellinus,” pp.663–64. Compare Sallust, *Jugurtha* 17.3.

¹⁸⁵ Goffart, “Zosimus,” pp.412–41; Croke, “AD 476,” pp.81–119; Kruse, *Politics*, pp.25–26. On the extent to which Marcellinus correctly read Sallust as a Roman imperialist, see: L. de Blois, “The Perception of Expansion in the Works of Sallust,” *Latomus* 47 (1988), pp.604–19; J.-M. Claassen, “Sallust’s *Jugurtha*: Rebel or Freedom Fighter? On Crossing Crocodile-Infested Waters,” *CW* 86 (1993), pp.273–97; E. Adler, “‘A Deep-Seated Lust for Empire and Riches’: Sallust’s *Epistula Mithridatis*,” *Valorizing the Barbarians: Enemy Speeches in Roman Historiography*, ed. E. Adler (Austin, TX, 2011), pp.17–36; E. Shaw, “Sallust, the *Lector Eruditus* and the Purposes of History,” *Reading History in the Roman Empire*, eds. M. Baumann & V. Liotsakis (Berlin, 2022), pp.13–34.

¹⁸⁶ Croke, *Count Marcellinus*, p.8. See also: Averil Cameron, “The Perception of Crisis,” *Settimane di studio* 45 (1998), pp.17–18; White, *Content of the Form*, pp.1–25; Odorico, “La *Chronique* de Malalas,” pp.275–88; Burgess & Kulikowski, *Mosaics of Time*, pp.33–35; van Nuffelen, “Chronographic Tradition,” pp.261–72; Torgerson, *The Chronographia of George*.

Incarnation served a crucial argumentative function in eschatological debate. Malalas aimed to refute the Syriac millenarian view that the seventh millennium and the apocalypse that it heralded was already underway.¹⁸⁷ He idiosyncratically redated the Incarnation to AM5967, departing from the conventional Eusebian date of AM5500, in order to align the onset of the seventh millennium with Christ's crucifixion.¹⁸⁸ The structural organisation of the chronicle plays as important a role in this argument as any explicit chronographical statements. Dissenting from Malalas' dating of the millennium would, by disrupting the chronicle's symmetry, decentre the Incarnation in human history. Malalas marshals literary structure as well as content to engage in millenarian debate.

Marcellinus' chronicle works similarly, though in continuing from where Jerome left off in 378 he does not engage structurally with sacred time in quite the same way. Conventionally, chronicles concluded with an imperial death; both Marcellinus' first edition and Jerome's chronicle observe this rule.¹⁸⁹ Marcellinus' decision to update his chronicle and conclude instead with the triumphant restoration and liberation of Africa is therefore a powerful statement of historical significance. It identifies the reconquest as the conclusion of the historical currents already underway with the divided empire, Arian heretics, and barbarians with which the chronicle begins.¹⁹⁰ Marcellinus' allusion to Sallust traces these currents even further back to the original period of Roman expansion. According to Marcellinus, Justinian's liberation of Africa is the glorious historical culmination of the rise, fall, and rise again of the Roman empire. This is not an argument made by the imperial constitutions, which make historical references only to the Vandal conquest and not any broader narratives. Instead, Marcellinus fashions a new historical framework for the reconquest, enhancing imperial propaganda for a Latin literary public in a manner directly complementary to the *New History's* political and historical thought.

As a literary 'propagandist', therefore, Marcellinus turned his talents to the willing reproduction, enhancement, and distribution of propaganda contained in imperial constitutions. The historical narrative that he constructed around the liberation of Africa engendered a vigorous later debate.¹⁹¹ It was also sceptically received in light of his close

¹⁸⁷ Jeffreys, "Malalas' Use of the Past," pp.121–46; J. Daniélou, "La typologie millenariste de la semaine dans le Christianisme primitif," *VC* 2 (1948), pp.1–16; Brandes, "Anastasios ó Δίκροπος," pp.25–32.

¹⁸⁸ Harvey, "Remembering Pain," p.296.

¹⁸⁹ Treadgold, *Early Byzantine Historians*, pp.114–15.

¹⁹⁰ Marcellinus 379–81.

¹⁹¹ 2.II.E.

political relationship to the régime. Cassiodorus' c.555 recommendation of Marcellinus' chronicle has so far only been mined as a storehouse of biographical information.¹⁹² It also casts aspersions on Marcellinus' political credibility:

‘The loyal Marcellinus extended his work, with the Lord’s help, from the time of the emperor [Justin] until the gates of Justinian Augustus’ triumphal reign. As a result, he who, beforehand, had been grateful to undertake service fully revealed himself, afterwards, to be completely enamoured of [Justinian’s] rule.’¹⁹³

This is a unique comment in the *Institutiones*, by an author deeply attuned to traditionalist opposition to Justinian but writing ‘to [his] monks at Vivarium’, newly distant from imperial power.¹⁹⁴ Cassiodorus had both the opportunity and the ability to read Marcellinus' chronicle while in Constantinople in the 540s.¹⁹⁵ He attributes its content to Marcellinus' fawning ‘loyalty’ to the emperor. (By contrast, he presents Marcellinus' predecessor Jerome as having written ‘prudently’ about Theodosius.)¹⁹⁶ Cassiodorus thereby draws a direct line of causation between Marcellinus' service at Justinian's court, for which the *Institutiones* is the principal source, and the composition of his chronicle as a political text in support of the régime. Marcellinus was a propagandist and his contemporaries knew it.

The literary production of Justinian's court indicates a general awareness of the scepticism that awaited writers close to Justinian. Croke notes that ‘when Marcellinus acted as *cancellarius* to Justinian we find nothing special in the chronicle to reflect this closer proximity to events and personalities’.¹⁹⁷ Marcellinus' choice not to hint at his own intimate involvement in his narrative of the 520s is a tactical construction of authorial persona. It aims to lend greater political credibility to Marcellinus' assessment of the régime by obscuring his own past closeness to it. Other court writers made similar movements. Junillus gives such little indication of his court position that the identification of the author of the *Instituta* with Justinian's quaestor required careful proof.¹⁹⁸ Paul, in the *Description*, positions himself

¹⁹² Croke, “Misunderstanding,” pp.225–26.

¹⁹³ *Marcellinus... devotus a tempore principis usque ad fores imperii triumphalis Augusti Iustiniani opus suum Domino iuvante perduxit, ut qui ante fuit in obsequio suscepto gratus, postea ipsius imperio copiose amantissimus appareret.* Cassiodorus, *Inst.* 1.17.2.

¹⁹⁴ Averil Cameron, “Cassiodorus Deflated,” *JRS* 71 (1981), p.183.

¹⁹⁵ Amici, “Cassiodoro a Constantinopoli,” pp.215–31; P. Stoppacci, “Between Constantinople and Vivarium: Greek and Latin Sources in the *Comment to the Psalms* by Cassiodorus,” *Euphrosyne* 44 (2016), pp.103–26.

¹⁹⁶ *prudenter.* Cassiodorus, *Inst.* 1.21.2.

¹⁹⁷ Croke, *Count Marcellinus*, p.134.

¹⁹⁸ Kihn, *Theodor und Junilius als Exegeten*, pp.241–44.

outside Justinian's inner circle, among 'all the people [who] begged [Justinian] to extend the days of the festival' at short notice.¹⁹⁹ His performance frames itself not as a commission but as a product of spontaneous, popular desire to celebrate the emperor. Court writers pretended *not* to be 'intimate participants in [Justinian's] production of a language of legitimacy', whereas the arch-bureaucrat Lydus freely confesses his 'bureaucratic identity'.²⁰⁰ In Constantinople's political culture, court writers were recognised as willing propagandists for imperial power and Justinian's opponents were sensitive to the (mis)representations of imperial propaganda.

2.II.E: The Afterlife of Liberation

Even as they cast aspersions on its political motivations, Justinian's opponents did not otherwise leave court literature and its narratives to circulate uncontested in political society. In the panegyric that opens the third book of *On Powers*, Lydus challenges the historical framework in which Marcellinus had set the liberation of Africa:

'Libya has been returned to us – and it is no small possession, but the largest part of Europe, for it shares the west as Asia alone offers up the whole east – and Rome herself, the mother of our affairs, has by imperial sweat been set free from barbarian chains and authority.'²⁰¹

This passage rejects the models of historical causation present in Justinian's constitutions and Marcellinus' chronicle. Justinian claims that Africa had been liberated 'by me' with God's aid and Marcellinus attributes the liberation wholly to 'the will of God'.²⁰² For Lydus, however, the liberation should be ascribed to 'imperial sweat' alone. The corporality of 'sweat' emphasises the absence of the divine from this historical achievement. Lydus may have been engaging specifically with Marcellinus, since he knew Latin and shares the chronicle's concern for Africa's geographical prominence, though he strips out the Sallustian allusion.²⁰³ Even if not, Marcellinus' chronicle remains indicative of the narratives of divinely

¹⁹⁹ ἅπας ὁ δῆμος... τὰς τῆς ἑορτῆς ἡμέρας ἐπεξάγειν ἤτουν. Paul, *DHS* 75–77.

²⁰⁰ Bjornlie, *Politics and Tradition*, p.83; D. Rockwell, "Bureaucratic Identity in John Lydus," *Identities: Proceedings of the Seventh International Symposium "Days of Justinian I", Skopje, 15–16 November, 2019*, ed. M. B. Panov (Skopje, 2020), pp.65–81. See also 3.III.C, below.

²⁰¹ Λιβύης ἡμῖν ἀποδοθείσης – οὐ μικρὸν δὲ τὸ κτῆμα –, τῆς δὲ Εὐρώπης τὸ πλεῖστον – κοινωνεῖ γὰρ αὕτη τοῦ ζεφύρου, καθὸ τὸν εὐρον ὅλον δίδωσιν ἢ Ἀσία καὶ μόνη – καὶ αὐτῆς δὲ Ῥώμης, τῆς τῶν πραγμάτων μητρός. ἀπαλλαγείσης ἰδρῶτι τῆς βασιλείας δεσμῶν καὶ βαρβαρικῆς ἐξουσίας. Lydus, *Powers* 3.1.

²⁰² *per me*. *CJ* 1.27.1.1, 5. *volente deo*. Marcellinus 534. See Jakobi, "Chronik des Marcellinus," p.656.

²⁰³ S. Dmitriev, "John Lydus' Knowledge of Latin and Language Politics in Sixth-Century Constantinople," *BZ* 111 (2018), pp.55–70.

sponsored liberation emerging from the court. Procopius makes a similar challenge to Justinian's claims to divine favour and Lydus makes subtle use of this artifice of praise to contest them.²⁰⁴

In fact, the *Wars* makes an even more direct challenge to the historical significance that Marcellinus attached to the liberation of Africa. It repeats the motif in the context of Belisarius' moderation towards the local population:

'All the Libyans had originally been Romans and involuntarily became subject to the Vandals. They have suffered many unholy deeds at the hands of barbarian men. It was on this account that the emperor went to war with the Vandals. It would be unlawful for any calamity to be wrought by [the Roman army] against the people whose liberty they had made the pretext for waging war against the Vandals.'²⁰⁵

Procopius immediately reports that Belisarius 'entered Carthage and, since no enemy appeared to [the Romans], went up to the palace and sat in Gelimer's throne'.²⁰⁶ The episode restates the final entry of Marcellinus' chronicle: Carthage had been reclaimed from occupying Vandals for the sake of Roman liberty.

In Procopius' version of the episode, however, 'liberty' is only a 'pretext' fashioned by invading Romans, not demanded by the subject population. As soon as Belisarius arrives in Carthage, he is greeted not by the celebrations of liberated Romans but by simple demands that he prosecute a thief, a task at which he fails with comic naïveté.²⁰⁷ By burying the liberation of Carthage in an ongoing (and startlingly mundane) narrative, Procopius dismantles its apparent historical significance. Indeed, the intractable insurgencies detailed in the rest of the narrative prove that the "liberation" was just one moment in a longer war. The narrative finally concludes, fourteen years down the line, on a bitter note:

'And so it happened that, at long last and after great toil and pain, some measure of peace arose for those few, completely destitute Libyans who had survived.'²⁰⁸

²⁰⁴ Gador-Whyte, "Procopius and Justinian's Propaganda," pp.109–20; Wood, "Being Roman," pp.424–47.

²⁰⁵ Λίβυας γὰρ ἅπαντας Ῥωμαίους τὸ ἀνέκαθεν ὄντας γενέσθαι τε ὑπὸ Βανδίλοις οὐτι ἐθελουσίους καὶ πολλὰ πεπονθέναι πρὸς ἀνδρῶν βαρβάρων ἀνόσια. διὸ δὴ καὶ βασιλέα ἐς πόλεμον καταστήναι Βανδίλοις, εἶναί τε οὐχ ὅσιον ξυμβῆναί τι πρὸς αὐτῶν ἄχαρι ἐς ἀνθρώπους ὧν τὴν ἐλευθερίαν ὑπόθεσιν ποιησάμενοι ἐπὶ Βανδίου ἐστράτευσαν. Procopius, *Wars* 3.20.19–20.

²⁰⁶ ἔς τε Καρχηδόνα εἰσήλθε καί, ἐπεὶ πολέμιον σφίσιν οὐδὲν ἐφαίνετο, ἐς τὸ Παλάτιον ἀναβάς ἐν τῷ Γελίμερος θρόνῳ ἐκάθισεν. Procopius, *Wars* 3.20.21.

²⁰⁷ Procopius, *Wars* 3.20.22–25.

²⁰⁸ οὕτω τε Λιβύων τοῖς περιγενομένοις, ὀλίγοις τε καὶ λίαν πτωχοῖς οὖσιν, ὁψὲ καὶ μόλις ἡσυχίαν τινα ζυνηχέθη γενέσθαι. Procopius, *Wars* 4.28.52.

For Marcellinus, Carthage was liberated after 96 years of ‘ruin’. For Procopius, the liberation of Carthage was only the start of its ruin. The grateful, liberated Romans of imperial propaganda had become Libyans impoverished by a decade and a half of further war.

These two texts have rarely been placed in dialogue. One is a brief, Latin, explicitly Christian chronicle, the other a lengthy, Greek, classicising history. Yet this study has already seen that the *Wars*’s ‘narrative trajectory’ was partly designed to reinterpret a built environment permanently marked by monuments to Justinian’s early victories.²⁰⁹ Marcellinus’ chronicle is a *literary* monument to the 534 victory, building the imperial claim to have liberated Africa into an historical dénouement. Procopius turns this firm conclusion into a gateway for precisely the kind of ‘ruin’ that Marcellinus considered to have come to an end. The same idea is possibly latent in Cassiodorus’ statement that Marcellinus’ chronicle ends ‘at the gates of Justinian Augustus’ triumphal reign’.²¹⁰ Traditionalists in Constantinople demonstrate a consistent alertness to the historical thought percolating around imperial propaganda in court-adjacent circles.

Both Pazdernik and Wood have shown that Procopius uses the theme of liberty to construct an even broader and more thoroughgoing critique of Justinian’s representation of the African campaign.²¹¹ This critique was sufficiently compelling to produce a peculiar state of affairs: it forced the régime and its supporters to abandon the theme of liberation altogether. As the Moorish insurgencies dragged on and opponents like Procopius organised their criticism against the idea of liberation, the régime fell back on the simpler representations of the victory that, having been communicated to the general public, were predominant elsewhere in the capital’s propaganda ecosystem.

In 563, like Marcellinus’ chronicle in the 530s, Paul’s *Description* explicitly celebrates Justinian’s ‘western or Libyan victory’.²¹² Unlike Marcellinus, however, he studiously avoids the theme of liberation. Instead, he prefers the motif of ‘barbarian peoples brought under our yoke’ expressed in the *Institutes*, the ceremonial triumph, and the Bronze Gate mosaics.²¹³ In his panegyric preface, Paul asks the emperor ‘have you not held every Libyan as a slave since long ago?’²¹⁴ When he switches to the hexameter metre that evokes

²⁰⁹ Kruse, “Justinian’s *Laws*,” p.197. See above, 1.II.B.

²¹⁰ *ad fores imperii triumphalis Augusti Iustiniani*. Cassiodorus, *Inst.* 1.17.2.

²¹¹ Pazdernik, “Labors of War,” pp.149–87; Wood, “Being Roman,” pp.424–47.

²¹² νίκην ἔσπερον ἠὲ Λίβυσσαν. Paul, *DHS* 135.

²¹³ *barbaricae gentes sub iuga nostra deductae*. J. *Inst.* pr.1.

²¹⁴ Λίβυν δὲ πάντα δοῦλον οὐκ ἔχεις πάλα; Paul, *DHS* 16.

the heroic deeds of epic poetry, he immediately proclaims that Justinian has ‘fitted yoke-straps to the peoples of the world’ and ‘enslaved barbarian hordes with his shield-piercing spear, so that they bend their unbroken necks to your yoke-straps and cower at the yoke of your justice’.²¹⁵ This is sophisticated propaganda; the ‘yoke of justice’ recalls the mutually supporting relationship between ‘arms and laws’ that structures much of Justinian’s propaganda.²¹⁶ Yet it is specifically ‘the type of imperial propaganda pertinent to the end of the reign of Justinian’.²¹⁷ In the *Description*, barbarians are enslaved but no Romans are freed. This was a performance for political society, performed to an audience of Constantinople’s dignitaries, set in a classicising cultural framework similar to the *Wars*, and then circulated as a written poem in the city’s literary culture. It reveals that, in the face of Procopius’ critique and for Procopius’ public, court propagandists carefully shifted away from the complex message of liberation and towards the simpler message of subjugation.

Literary propagandists beyond the court were alert to this dynamic and made the same movement. Malalas updated his chronicle, very shortly after Justinian’s death, to shape the emperor’s legacy.²¹⁸ In this update, despite his access to imperial constitutions that described the African victory as a liberation and a track of record of reproducing such propaganda wholesale, Malalas prefers to invoke the simpler representation of the Bronze Gate mosaics:

‘The king of Africa was taken prisoner, with his wife, by Belisarius. They were brought into Constantinople. While the races were being held, they were brought in, with the spoils of war, as captives.’²¹⁹

Malalas’ thematic choice to emphasise the enslavement of the Vandals and the distribution of spoils complements the surrounding entries on Justinian’s consular largesse, the completion of the Bronze Gate mosaics, and the confiscation of Arian churches.²²⁰ It is also

²¹⁵ σὸν ζυγόδεσμον ἐφήρμοσεν ἔθνεσι γαίης / ῥινοτόρῳ δούλωσεν ἀπείρονα βάρβαρον αἰχμῆ, ὄφρα τεοῖς ἀδμήτα λόφον κλίνειε λεπάδνοισ καὶ θέμιδος πτήξειε τεῆς ζυγόν. Paul, *DHS* 147, 158–60. On hexameter: C. Ware, *Claudian and the Roman Epic Tradition* (Cambridge, 2012), p.19; Mary Whitby & M. Roberts, “Epic Poetry,” *A Companion to Late Antique Literature*, eds. S. McGill & E. J. Watts (New York, NY, 2018), p.228.

²¹⁶ θέμιδος... ζυγόν. Paul, *DHS* 160; ὄπλων τε καὶ νόμων. J. *Nov.* 24.pr. Also J. *Inst.* pr.

²¹⁷ Whitby, “The Occasion of Paul the Silentiary’s Ekphrasis,” p.215.

²¹⁸ Witakowski, “Malalas in Syriac,” pp.299–310; Blaudeau, “Malalas and the Representation of Justinian’s Reign,” pp.77–90.

²¹⁹ Παρελήφθη ὁ ῥῆξ Ἀφρικῆς μετὰ τῆς αὐτοῦ γυναικὸς ὑπὸ Βελισαρίου· καὶ εἰσηνέχθησαν ἐν Κωνσταντινουπόλει· καὶ ἵπποδρομίῳ ἀγομένου εἰσηνέχθησαν αἰχμάλωτοι μετὰ καὶ τῶν λαφύρων. Malalas 18.81.

²²⁰ Malalas 18.80, 84–85. See also G. Greatrex, “Justin I and the Arians,” *Historica, Biblica, Theologica et Philosophica: Papers Presented at the Thirteenth International Conference on Patristic Studies*, eds. M. F. Wiles & E. J. Yarnold (Leuven, 2001), pp.79–80.

attuned to the failure of the discourse of liberation by Justinian's late reign. Paraded barbarian slaves remain paraded (and distributed spoils remain distributed) even if new barbarians spring up where the old ones had been. Liberated Romans, however, do not remain liberated in any meaningful sense if their province is again devastated by war.

Marcellinus' anonymous continuator, writing in Latin shortly after 548 (to judge from when the sixth-century manuscript breaks off), makes the same movement.²²¹ He was, like Marcellinus, an orthodox resident of Constantinople but almost certainly had no affiliation with the régime.²²² His Italian focus suggests that he may have been, like Cassiodorus, a refugee in the capital in the 540s, but, unlike Cassiodorus, the continuator 'adopts or reflects a set of pro-Justinianic attitudes'.²²³ His literary project was to adapt Marcellinus' political message in light of the critique being formulated concurrently by Procopius.

The very act of continuing Marcellinus' text deprives his political message of its historical and eschatological force. The manuscript runs directly on from Marcellinus' update without any alterations or indications of a change in author. This affected continuity renders Marcellinus' historical dénouement just one moment in a broader narrative. Chronicles were nonetheless 'living texts' always intended to be continued.²²⁴ The continuator additionally uses his opening clause to rewrite Marcellinus' final entry:

'After Carthage and Libya, with their king Gelimer, had been subjugated by Belisarius, the emperor deliberated about Rome and Italy.'²²⁵

The first word of the continuation, 'after', highlights immediately that Marcellinus' triumphant conclusion was no such thing. The whole entry reinterprets Marcellinus' liberation and subjugation as *only* a subjugation, defaulting to the simpler representation of the victory in public mass media. The continuator goes on to narrate, as Procopius does, the enduring 'civil war [that] sprang up in Africa' after 534.²²⁶ In this context, like Paul and Malalas, he recalibrates the imperial propaganda surrounding the reconquest, abandoning the complex narrative of liberation so comprehensively dismantled by Procopius' *Wars*. Bell states that 'Justinian's reconquest of former Roman territories [was] milked for its propaganda value

²²¹ *Codex Tilianus*, Oxford MS Auct. T. 11.26; Croke, *Chronicle of Marcellinus*, p.xxv.

²²² Croke, *Count Marcellinus*, pp.225–26.

²²³ *Ibid.* p.232.

²²⁴ Greatrex, "Malalas and Procopius," p.180. For an explicit anticipation of continuators, see Malalas pr.

²²⁵ *postquam Carthago Libyaque suo cum rege Gelimero per Belisarium est subiugata, de Roma Italiaque deliberat imperator.* Marcellinus 535.1.

²²⁶ *in Africa civile bellum exoritur.* Marcellinus 535.1. Also 536.2, 537.3, 540.4, 541.3, 543.3, 545.2, 547.6.

throughout his reign'.²²⁷ This claim is correct but obscures the sharp development in this propaganda as both the wars and the domestic debate about their impact continued.

The problem for a régime that did not directly propagandise its literary public but relied on a devolved network of willing propagandists, however, was that not all of these propagandists hewed so closely to the official line as they made arguments in favour of the régime. Once a propaganda theme had made its way into political society and become subject to the currents of argument and riposte that characterised this political culture, the régime lost control over its own representations. The lawyer and poet Agathias, like Marcellinus and Malalas, freely took it upon himself to write in support of the régime and to reproduce its propaganda. In the panegyric that prefaces the *Cycle*, Agathias makes a clear argument that proponents of classical culture should be grateful to Justinian for his military successes:

‘So now, since everything has become full of lovely calm, since the hopes of both foreign and domestic combat have been shattered by our emperor, come, blessed Theodoros, let us set up a clever contest and put in motion the performances of the poet’s dance... Let me first recite for you, competing with the ancients, whatever the parents of new poetry have written as offerings to former gods, for it was right to maintain the skill of imitating ancient writing.’²²⁸

This is a response to men like Procopius, whom Agathias had certainly read and who used classical style and referentiality to criticise Justinian. The *Cycle* contends that engaging in ‘clever contest[s]’ and ‘imitating ancient writing’ had only been enabled by the ‘calm’ ushered in by Justinian’s successes. The whole panegyric is itself intensely classicising. Where Procopius’ *Buildings* made a plausibly critical comparison between Justinian and Achilles, Agathias instead sets out to ‘celebrate in song the hard-won returns of our wide-ruling emperor’ through a series of allusions with ‘the labours of the Pagasaeon hero [Jason]’.²²⁹ The *Cycle* preface is a classicising translation of Justinian’s achievements. By locating itself in a dinner party setting, it injects even the ‘intimate spaces of private homes’

²²⁷ Bell, *Three Political Voices*, p.190 n.8.

²²⁸ τοῦνεκεν, ὀππότε πάντα φίλης πέπληθε γαλήνης, ὀππότε καὶ ξείνιοι καὶ ἐνδαπίοιο κυδοιμοῦ ἐλπίδες ἐθραύσθησαν ὑφ’ ἡμετέρῳ βασιλῆϊ, δεῦρο, μάκαρ Θεόδωρε, σοφὸν στήσαντες ἀγῶνα παίγνια κινήσωμεν ἀοιδόπολοιο χορείης... πρῶτα δέ σοι λέξαιμι, παλαιγενέεσσιν ἐρίζων, ὅσαπερ ἐγράψαντο νέης γενετῆρες ἀοιδῆς ὡς προτέροις μακάρεσσιν ἀνειμένα· καὶ γὰρ ἐώκει γράμματος ἀρχαίοιο σοφὸν μίμημα φυλάξαι. *AP* 4.4.52–70.

²²⁹ καμάτους μέλψειε πολυσκήπτρου Βασιλῆος... πόνους ἥρωος... Παγασαίου. *AP* 4.4.17–20; Kaldellis, *Procopius*, p.53. See further below, 4.III.

with support for Justinian.²³⁰ Aware of his audience's non-uniform political views, Agathias apologises for 'bringing to the table a meal that borrows from new flavours' (by which he might mean both his propensity for scriptural allusions and his political attitude).²³¹

In this respect, Agathias fits the pattern of other autonomous propagandists. His argument that Justinian's rule had enabled classical culture to flourish was a useful one for a régime that, even in its final years, was still trying to accommodate the culture war. To make his argument, however, Agathias sets propaganda themes in transgressive, erotic vocabularies that complement many of the *Cycle's* epigrams. Smith has shown how 'Agathias transforms a celebration of Imperial reconquest into a fantasy of the sensual body's release from the constraints that have denied him pleasure'.²³² The panegyric section of the preface opens with an eroticised image of enslaved barbarians, recalling the image on the Bronze Gate mosaics of 'the emperors of the Vandals and of the Goths, coming to [Justinian and Theodora] as war captives to be delivered into bonds'.²³³

'Let no barbarian, slipping from the bondage of the leather strap around his neck, strain a violently fighting eye towards the violently fighting emperor, nor still an impotent Persian woman, lifting her veil, gaze straight at him. Cowering bent-kneed upon the land and bending down her proud neck, let her subject herself unbidden to Ausonian scales.'²³⁴

The 'leather strap', as Smith points out, is elsewhere in Agathias' epigrams a fetishtic 'instrument of restraint'.²³⁵ The imagery here is laden with heteroerotic and homoerotic fantasies of domination. It sets up Agathias' later 'styli[sation] of Roman military victories... as liberation from barbarian tyrants'.²³⁶

'You, handmaid Hesperia, to the edge of Cadiz, the Iberian strait, and Oceanic Thule, may you breathe freely... There is no longer any space off-limits to me, but in the sea of the bay of Hyrcania and to the deeps of Ethiopia, calm water is rowed by Italian ships. Go now unguarded, crossing the whole continent, Ausonian traveller – leap!... For the abodes of foreign

²³⁰ Smith, "Classical Culture," p.35.

²³¹ δειπνον ἡρανισμένον ἤκω προθήσων ἐκ νέων ἡδυσμάτων. *AP* 4.4.19–20.

²³² Smith, *Greek Epigram*, p.74.

²³³ τῷ Βανδύλων καὶ Γόθων βασιλεῖ, δορυαλώτοις τε καὶ ἀγωγίμοις παρ' αὐτοῦς ἤκουσι. Procopius, *Buildings* 1.10.16–17.

²³⁴ μή τις ἐπαυχενίοιο λιπῶν ζωστήρα λεπάδνου βάρβαρος ἐς Βασιλῆα βιημάχον ὄμμα τανύσση· μηδ' ἔτι Περσὶς ἀναλκὶς ἀναστειλάσα καλύπτρην ὄρθιον ἀθρήσειεν· ἐποκλάζουσα δὲ γαίῃ καὶ λόφον ἀυχήεντα καταγνάμπτουσα τενόντων Αὐσονίοις ἄκκλητος ὑποκλίνοιτο τάλαντοις. *AP* 4.4.1–6, following in places the translation of Smith, *Greek Epigram*, p.75.

²³⁵ Smith, *Greek Epigram*, p.78. See e.g. *AP* 5.285.

²³⁶ Smith, *Greek Epigram*, p.84.

lands will not have received you, but you will enter the possessions of a wise emperor wherever you dart, since he has encircled the world with his sovereignty.²³⁷

The ‘handmaid’, who appears frequently in the *Cycle*’s erotic contexts, is a slave who doubles as the western provinces that may now ‘breathe freely’ after Justinian’s conquests.²³⁸ Agathias organises this section of the preface around a newly realised Roman liberty not just to travel across the restored empire but also to indulge in sexual fantasy. The reclaimed imperial ‘possessions’ recall the enslaved, fetishised barbarians of the opening lines; Agathias’ chosen verb, to ‘enter’, is a double entendre that escaped even Smith’s notice.²³⁹

Smith’s analysis of the preface’s erotic themes is astute but it overlooks both the propaganda background and political argument of the panegyric. Agathias’ motifs of enslavement and liberation are not constructed in isolation or against merely ‘conventional’ imagery.²⁴⁰ Agathias was a lawyer who had studied Justinian’s legislation in detail; indeed, the preface’s dominant is not just the Roman emperor but also the ‘scales’ of Roman justice.²⁴¹ Justinian had originally used imperial laws and the act of reintroducing Roman legal structures to the reconquered territories to celebrate his liberation of Africa. Agathias inflects this propaganda theme in several ways wholly absent from the constitutions. In the *Cycle* preface, liberty means the liberty of reconquered Roman provinces, the liberty to write in a classicising style, and the liberty to indulge in transgressive sexualities, including fantasies of subjugation and domination by the emperor. Justinian’s own legislation against homosexuality instantiates some of these transgressions.²⁴²

This eroticised retelling of imperial propaganda, even as it reinforces Agathias’ argument about the flourishing of classical culture, reveals the régime’s lack of control over its propaganda. In precisely the period when both the régime and many of its independent propagandists were trying to row back from the discourse of liberation, Agathias chose to

²³⁷ ἔσπερήν θεράπαινα, σὺ δ’ ἐς κρηπίδα Γαδείρων καὶ παρὰ πορθμὸν Ἰβηρα καὶ Ὠκεανίτιδα Θούλην ἦπιον ἀμπνεύσειας... οὐκέτι μοι χῶρός τις ἀνέμβατος, ἀλλ’ ἐνὶ πόντῳ Ὑρκανίου κόλποιο καὶ ἐς βυθὸν Αἰθιοπῆα Ἰταλικαῖς νήεσσιν ἐρέσσειται ἡμερον ὕδωρ. ἀλλ’ ἴθι νῦν ἀφύλακτος ὄλην ἠπειρον ὁδεύων, Αὐσόνιε, σκίρτησον, ὁδοιπόρε... οὐδὲ γὰρ ὀθνεῖς σε δεδέξεται ἡθεα γαίης, ἀλλὰ σοφοῦ κτεάνοισιν ὁμιλήσεις Βασιλῆος, ἔνθα κεν αἰξείας, ἐπεὶ κυκλώσατο κόσμον κοιρανίη. *AP* 4.4.7–50, with Smith, *Greek Epigram*, pp.84, 95.

²³⁸ Smith, *Greek Epigram*, pp.84–85.

²³⁹ See *LSJ* s. ὁμιλέω 4; *CGL* s. ὁμιλέω 8.

²⁴⁰ Smith, *Greek Epigram*, p.76.

²⁴¹ Contrast *ibid.* pp.75–83. For ταλάντων in this sense, see e.g. *Homeric Hymns* 4.324.

²⁴² See *J. Nov.* 77, 141; Scott, “Malalas, *Secret History*,” p.103; Smith, “Agathias and Paul,” pp.501–3; Betancourt, *Byzantine Intersectionality*, pp.83–86.

reinvigorate this discourse in poetry that made a political and cultural argument in support of Justinian's achievements but also imputed to them a transgressive, often homoerotic subtext. A propaganda discourse that began with a triumphant liberation of Africa in 534 became, by 565 and despite the régime's best efforts, an unwanted 'fantasy of constraint and release'.²⁴³

2.II.F: Devolved Propaganda Networks

A fuller description of how imperial propaganda operated in the age of Justinian, in place of the 'propaganda machine' model, is emerging. The imperial régime used public mass media to disseminate propaganda for the general public but was limited, for most of its messaging output, to administrative documents with a narrow public like the *Novels*. It used this administrative propaganda to communicate messages too complex for mass media, like the liberation of Africa, or not suited to general public dissemination, like the celebration of Nika. While the régime benefited from its use of these propaganda channels, however, it was also dependent on a devolved network of propagandists to disseminate its representations to the wider public of political society. Much of this dissemination happened orally and is now invisible, but some occurred in literary form. The régime's literary propagandists were often men with whom it had no formal relationship: a retired court staffer, a Syrian civil servant, an advocate-turned-poet. As expressions of political support, they took up the régime's propaganda and span it into even more compelling narratives, mobilising all their literary talents to do so. Since at least some circles of sixth-century political society were sceptical about the literary production of men associated with the court, the régime accrued significant discursive advantages from having writers like Malalas and Agathias willing to go to bat for it. It also saw its propaganda undergo further processes of tailoring and distribution; Agathias' preface artfully explains why classical culture and political support for Justinian should go hand-in-hand in a way that the emperor himself, navigating a fractious culture war, could not.

This was a widespread propaganda culture. In addition to the authors treated so far, both Agapetus and Romanos engage in the same dynamic of reproduction and enhancement. The former claims, among various other panegyric *topoi*, that the emperor's

²⁴³ Smith, *Greek Epigram*, p.73.

divine favour has resulting in ‘your pious empire becoming unconquerable by the missiles of your enemies’.²⁴⁴ In its succession of imperatives, the *Advice* idealises the imperial image, turning the qualities that Justinian claimed to possess into the qualities that an ideal emperor should possess. Romanos, meanwhile, is not quite the propagandist of neo-Chalcedonian orthodoxy imagined by Koder, since he never touches on the issue at stake in contemporary Christological debate, the mode of Christ’s union of natures.²⁴⁵ Yet he does propagandise various ethical and political principles from the *Novels*, in the highly compelling dramas that gave his cultural polemics such currency.²⁴⁶

Traditionalist opponents, especially within the civil administration where so much routine labour was dedicated to communicating imperial propaganda, turned their critiques on these dynamics.²⁴⁷ Even so, this propaganda culture did not always operate according to the régime’s intent, as Marcellinus’ partisan treatment of Justinian’s consulship and Agathias’ eroticised retelling of Roman liberation both show. The narratives fashioned by these devolved propagandists were debated. As opponents like Procopius levelled compelling challenges to the claim that Africa had been liberated, some supporters of the régime adjusted their output accordingly, picking up alternative propaganda motifs from the city’s built environment, but others still found that imperial propaganda furnished them with suitable vocabularies for their own literary projects. The communicative structure of imperial propaganda, like the battle-lines of the culture war, was vertical and lateral, as Romans engaged both with the state’s production of propaganda and with each other’s reproductions.²⁴⁸ The means of representation were accordingly not always in the hands of the régime.

2.III: Using Propaganda

One problem remains. If the sixth-century state was unable to condition or ‘victim[ise]’ its literate subjects by relentlessly disseminating propaganda, the choices of so many subjects

²⁴⁴ ἡ εὐσεβῆς δὲ βασιλεία ὑμῶν... ἀήττητος γίνεται τοῖς τῶν ἐχθρῶν βέλεσιν. Agapetus, *Advice* 58. The *topoi*: Kapitánffy, “Justinian and Agapetus,” pp.66–69; Odorico, “Miroirs,” p.230.

²⁴⁵ Koder, “Positionen der Theologie,” p.26; Koder, “Imperial Propaganda,” pp.275–91; Koder, “*Oikonomia* in the Hymns of Romanos,” pp.255, 260–62. For Romanos’ avoidance of Christology: Romanos 28.4, with Maas, “Chronologie,” p.23. For the issue at stake: *CJ* 1.1.7; Gray, “Legacy of Chalcedon,” p.231.

²⁴⁶ Koder, “Imperial Propaganda,” p.282. Compare e.g. Romanos 55 with *J. Nov.* 5, 123.36, 133.

²⁴⁷ Below, 3.II.

²⁴⁸ Above, 1.V.

to reproduce and enhance that propaganda become unexplained. Some, of course, wrote out of genuine support for their emperor. The partisan Illyrian Marcellinus is a clear example. Others wrote for financial gain; Paul's *Description* and Romanos' *On Earthquakes* were commissions for specific occasions. These are not total explanations. *On Earthquakes* is Romanos' only commission but not the only hymn in which he reproduces imperial propaganda.

The dynamics of political debate must now fully re-enter the analysis. Many writers reproduced imperial propaganda for tactical reasons. Both Malalas and Agathias, for example, do so to affirm the validity of a certain interpretation of Justinian's reign shortly before or after Justinian's death. Malalas inserts propaganda from administrative documents into the overarching associative structure of his chronicle, thereby suggesting that Justinian's rule had unfolded on a biblical plan. Agathias instead pegs Justinian's military achievements to a classical referent, Apollonius' *Argonautica*, and draws a direct connection between the reconquests of the 530s and the flourishing of classicising literary production. He argues that proponents of classical culture could interpret Justinian's reign on their own terms. For both, the reuse of imperial propaganda was a tactic for advancing their own cultural frameworks, demonstrating how they explained the recent past. Justinian's willing propagandists therefore derived their own argumentative advantages from taking up positions in the régime's propaganda networks. The writers who took this approach were alert to the fissures in these networks, the moments of discursive weakness when imperial propaganda could be inflected to mean something new.

2.III.A: Repackaging the Sleepless Emperor

The web of visual reminders surrounding the 534 triumph demonstrates the care with which the Justinianic régime pieced its public propaganda campaigns together.²⁴⁹ The triumph is not a unique example. Justinian communicated his more general claim to have received military success from God through the *globus cruciger* held by his equestrian statue in the Augustaion, the unprecedented frequency with which the same image was depicted on bronze and gold coins, and written statements in legal documents, publication decrees,

²⁴⁹ Above, 2.II.B.

public notices, and inscriptions.²⁵⁰ These intertextual constructions aimed, as far as possible, at achieving the ‘saturation’ on which ‘effective messaging depended’.²⁵¹ By the very nature of their intertextuality, however, these propaganda webs were disruptable, vulnerable to the insertion of different meanings.

The dedicatory inscription of the church of Sts Sergius and Bacchus, which Justinian built at Hormisdas in the late 520s or early 530s, was a particularly fertile site of contestation:²⁵²

‘Other emperors have honoured dead men whose labour was unprofitable. Our sceptred Justinian, who fosters piety, honours with a radiant house the servant of Christ the All-Father, Sergius. Neither burning, fiery fumes nor the sword nor any other violent torture disturbed him; he submitted to martyrdom in the name of Christ our God and gained a home in heaven through his blood. Let him guard the sovereignty of the sleepless emperor in all things and augment the power of God-crowned Theodora, whose mind is lit up by piety and whose labour is always an unsparing struggle to feed the destitute.’²⁵³

The inscription demonstrates some general constraints on sixth-century mass media. It is located above the nave of the church and its letters are large enough to be visible from the floor, so the volume of inscribable text is limited.²⁵⁴ Its primary function is to explain the church’s dedication to Sergius in the context of Constantinople’s ‘competitive’ built environment.²⁵⁵ The church is a response to Anicia Juliana’s church of St Polyeuktos, built in 518–522 to model Juliana in royal terms.²⁵⁶ Bardill doubts the relationship between the

²⁵⁰ Procopius, *Buildings* 1.2.11; Boeck, *Bronze Horseman*, p.31; J. *Inst.* pr.1; J. *Nov.* 159.ep; Feissel, “Les édifices,” p.91 no.10(bis); *AP* 16.62–63.

²⁵¹ Kruse, *Politics*, p.152.

²⁵² Mango, *Studies on Constantinople*, XIV pp.385–92; J. Bardill, “The Church of Sts Sergius and Bacchus in Constantinople and the Monophysite Refugees,” *DOP* 54 (2000), pp.1–11; B. Croke, “Justinian, Theodora, and the Church of Saints Sergius and Bacchus,” *DOP* 60 (2006), pp.25–63; Bardill, “Date, Dedication, and Design,” pp.62–130.

²⁵³ ἄλλοι μὲν βασιλῆες ἐτιμήσαντο θανόντας ἀνέρας, ὧν ἀνόνητος ἔην πόνος· ἡμέτερος δὲ εὐσεβίην σκηπτοῦχος Ἰουστινιανὸς ἀέξων Σέργιον αἰγλήεντι δόμῳ θεράποντα γεραίρει Χριστοῦ παγγενέταο· τὸν οὐ πυρὸς ἀτμὸς ἀνάπτων, οὐ ξίφος, οὐχ ἑτέρα βασάνων ἐτάραξεν ἀνάγκη, ἀλλὰ θεοῦ τέτληκεν ὑπὲρ Χριστοῦ δαμῆναι αἵματι κερδαίνων δόμον οὐρανόν. ἀλλ’ ἐνὶ πᾶσιν κοιρανίην βασιλῆος ἀκοιμήτοιο φυλάξει καὶ κράτος αὐξήσειε θεοσεφέος Θεοδώρης, ἧς νόος εὐσεβίη φαιδρύνεται, ἧς πόνος ἀεὶ ἀκτεάνων θρεπτήρες ἀφειδέες εἰσὶν ἀγῶνες. *CIG* 4.8639.

²⁵⁴ Connor, “Epigram,” p.511; A. van Millingen, *Byzantine Churches in Constantinople* (London, 1912), pp.73–74.

²⁵⁵ Boeck, *Bronze Horseman*, pp.32–35. See e.g. J. Geysen, “Presentations of Victory on the Theodosian Obelisk Base,” *Byzantion* 68 (1998), pp.47–55.

²⁵⁶ Connor, “Epigram,” pp.479–527; Croke, “The Church of Saints Sergius and Bacchus,” pp.53–62; Bell, *Social Conflict*, pp.320–21; I. Garipzanov, *Graphic Signs of Authority in Late Antiquity and the Early Middle Ages, 300–900* (Oxford, 2018), pp.164–75. Essential works on St Polyeuktos: R. M. Harrison, “The Church of St Polyeuktos,” *Excavations at Saraçhane in Istanbul*, ed. R. M. Harrison (Princeton, NJ, 1986), pp.405–20; R. M.

churches on the grounds that, ‘about a decade after St. Polyeuktos’, Justinian did not need to respond to a rival who had already died.²⁵⁷ Yet monuments are permanent structures that tend to outlast their builders. It is unsurprising that, in a city where the church of St Polyeuktos continued to frame the Anicii as an imperial family, the Nika insurrectionists chose Juliana’s relative Hypatius as their replacement for Justinian in 532.²⁵⁸ Marcellinus, too, was alert to this problem. He denies any epithets beyond the formal titles Augustus, Caesar, *princeps*, and *imperator* to all emperors except ‘the emperor Justinian the Victor’, elevating Justinian’s triumph over all the successes that he reports from the preceding 156 years.²⁵⁹ The Sergius and Bacchus inscription’s opening reference to ‘other emperors’ marks Justinian’s competitive engagement with a cityscape that came preloaded with permanent, unhelpful messages.²⁶⁰

Having expended most of its words on this competition, the inscription is left with little space to perform other kinds of propagandising work. The closing lines fully describe Theodora’s ‘piety’ and ‘labour’ and can therefore make only a shorthand reference to ‘the sleepless emperor’. This key propaganda phrase is not quite a ‘floating signifier’ but its meaning was not concretely fixed.²⁶¹ It relies on an intertextual activation of its viewers’ pre-existing conceptions of imperial sleeplessness. For political society, the *Novels* provide a developed definition: conscientiousness in the public interest.²⁶² For the general public, however, abbreviated and temporary publication decrees might exclude the motif of sleeplessness, as in *Novel 8*’s case.²⁶³ For a *Novel*-less general public, Bardill suggests that the inscription consciously evokes the Akoimatoi, a monastic community in Constantinople with a ‘reputation for ceaseless prayer’ through the night.²⁶⁴ Yet it is not necessarily obvious

Harrison, *A Temple for Byzantium: The Discovery and Excavation of Anicia Juliana’s Palace-Church in Istanbul* (London, 1989); C. A. Mango & I. Ševčenko, “Remains of the Church of St. Polyeuktos at Constantinople,” *DOP* 15 (1961), pp.243–47; J. Bardill, “A New Temple for Byzantium: Anicia Juliana, King Solomon, and the Gilded Ceiling of the Church of St. Polyeuktos in Constantinople,” *Social and Political Life in Late Antiquity*, eds. W. Bowden, A. Gutteridge & C. Machado (Leiden, 2006), pp.339–70. Its dedicatory epigram: *AP* 1.10; Whitby, “The St Polyeuktos Epigram,” pp.159–88.

²⁵⁷ Bardill, “Date, Dedication, and Design,” pp.86–87.

²⁵⁸ Alan Cameron, “The House of Anastasius,” *GRBS* 19 (1978), pp.259–76; *PLRE* 2 Hypatius 6.

²⁵⁹ *victor Iustinianus princeps*. Marcellinus 528; Croke, *Count Marcellinus*, pp.175–76. Compare Marcellinus 390.3, on a *statue* of Theodosius I.

²⁶⁰ See P. Ricoeur, *Memory, History, Forgetting* trans. K. Blamey & D. Pellauer (Chicago, IL, 2004), p.150.

²⁶¹ *signifiant flollant*. C. Lévi-Strauss, “Introduction à l’œuvre de Marcel Mauss,” *Sociologie et Anthropologie* (Paris, 1966), pp.xlix–x.

²⁶² *J. Nov.* 8.pr, 15.6, 36.pr, 37.pr, 114.pr.

²⁶³ Above, 2.II.B.

²⁶⁴ Bardill, “Date, Dedication, and Design,” p.23. Quote: J. Crow, “Water and Late Antique Constantinople: ‘It Would Be Abominable for the Inhabitants of this Beautiful City to Be Compelled to Purchase Water,’” *Two*

that sleepless monks and sleepless emperors are sleepless in the same way. Furthermore, while sleeplessness was a traditional imperial virtue, specifically in Latin literature, it had always been a peripheral virtue; its centrality under Justinian was new.²⁶⁵ The inscription's shorthand reference to the sleepless emperor was ripe for contestation because it does not 'fix the meaning' of the term.²⁶⁶

Agapetus redeploys the motif of the sleepless emperor to inflect imperial propaganda towards a radical policy outcome. The *Advice* is a manifesto for wealth redistribution organised on anti-poverty principles:²⁶⁷

'It seems wholly, utterly monstrous to me that the rich and the poor suffer the same harm from different things. For the rich burst with satiety but the poor perish from hunger. The rich possess the ends of the earth but the poor have not even somewhere to set the sole of their foot. So that both may be healthy, you must treat them with subtraction and addition. You must turn inequality into equality.'²⁶⁸

Agapetus tactically reuses imperial propaganda to build pressure on the régime towards redistributive ends. He specifically reproduces Justinian's sleepless self-representation:

'As a steersman, the many-eyed mind of the emperor is continually sleepless, steadfastly holding the rudder of good order and forcefully repelling the torrents of lawlessness so that the ship of the universal state does not founder in the waves of injustice.'²⁶⁹

Here, Agapetus reinforces Justinian's propaganda by setting the sleepless emperor in the idealised framework of his advice to the ruler. The *Advice*, however, is constructed through

Romes: Rome and Constantinople in Late Antiquity, eds. L. Grig & G. Kelly (Oxford, 2015), p.125. See also H. Bacht, "Akoimeten," *LTK*, pp.244–45; G. Dagron, "La Vie ancienne de saint Marcel l'Acémète," *AB* 86 (1968), pp.271–321; P. Blaudeau, *Alexandrie et Constantinople: de l'histoire à la géo-ecclésiologie* (Rome, 2006), pp.481–88; N. Barkas, *Sleep and Sleeplessness in Byzantium* (Piscataway, NJ, 2016), pp.123, 128.

²⁶⁵ Croke, "Sleepless Emperor," pp.103–8; M. Dewar, "Corippus on the Wakefulness of Poets and Emperors," *Mnemosyne* 46 (1993), pp.219–20. See e.g. Virgil, *Aeneid* 1.305; Pliny, *Panegyricus* 10.3, 31.1; *Panegyrici Latini* 3.13.3, 7.11.6; Claudian, *On Stilicho* 1.309–10.

²⁶⁶ R. Webb, "Ekphrasis, Amplification and Persuasion in Procopius' *Buildings*," *AT* 8 (2000), p.70.

²⁶⁷ Agapetus, *Advice* 4, 6–7, 16, 38, 44–46, 51, 53, 58, 60–63, 67.

²⁶⁸ σφόδρα μοι δοκεῖ ἀτοπώτατον εἶναι, ὅτι πλοῦσιοι καὶ πένητες ἄνθρωποι ἐξ ἀνομοίων πραγμάτων βλάβην πάσχουσιν ὁμοίαν· οἱ μὲν γὰρ ὑπὸ τοῦ κόρου διαρρήγνυνται, οἱ δὲ ὑπὸ τοῦ λιμοῦ διαφθεῖρονται· καὶ οἱ μὲν κατέχουσι τοῦ κόσμου τὰ πέρατα, οἱ δὲ οὐκ ἔχουσι ποῦ στήσαι τὰ πέλματα. ἵνα τοίνυν ἄμφω τῆς ὑγείας τύχωσιν, ἀφαιρέσει καὶ προσθέσει τούτους θεραπευτέον καὶ πρὸς ἰσότητα τὴν ἀνισότητα μετενεκτέον. Agapetus, *Advice* 16. For the medical metaphor, compare Topping, "On Earthquakes," pp.26–27.

²⁶⁹ ὡς κυβερνήτης ἀγρυπνεῖ διαπαντός ὁ τοῦ βασιλέως πολυόμματος νοῦς, διακατέχων ἀσφαλῶς τῆς εὐνομίας τοὺς οἴακας καὶ ἀπωθούμενος ἰσχυρῶς τῆς ἀνομίας τοὺς ρύακας, ἵνα τὸ σκάφος τῆς παγκοσμίου πολιτείας μὴ περιπίπτῃ κύμασιν ἀδικίας. Agapetus, *Advice* 2.

associations of ideas and themes.²⁷⁰ The quoted precept packages imperial sleeplessness up with the ship of state.²⁷¹ A later precept than defines the destination to which the imperial steersman must guide the ship of state:

‘Everyone in need of pity takes anchor in the harbour of your calm. Having been delivered from the waves of poverty, they send grateful hymns up to you.’²⁷²

A sleepless emperor, by association, must captain the ship of state towards the eradication of poverty by subtracting from the rich in order to ‘provide everybody with the things they ask for in order to live’.²⁷³ Delp argues that Agapetus’ *Advice* turns Christian virtues into imperial ‘instrument[s] of power retention’, but it does so only for an emperor who conforms to the text’s policy expectations.²⁷⁴

Recognising these tactics requires liberating the *Advice* from the straitjacket of conventionality. For Dmitriev, ‘Agapetus’ words... carried a general idea that formed a part of the Byzantine image of the ideal ruler’.²⁷⁵ Bell goes further in accepting Agapetus’ ‘radicalism’ but still maintains that ‘Christian writers... expressed similar concerns for the poor to Agapetus throughout late antiquity’.²⁷⁶ However, mainstream patristic solutions to poverty – like private philanthropy, the personal renunciation of wealth, and the responsible management of ecclesiastical finances – were purposefully blind to the coercive potential of imperial power.²⁷⁷ Hence, the fourth-century church father Basil of Caesarea funded his *xenodocheion* through the emperor Valens’ donation of a personal estate, as though he were

²⁷⁰ Compare J. H. Barkhuizen, “Association of Ideas as a Principle of Composition in Romanos,” *Hellenika* 39 (1988), pp.18–24.

²⁷¹ A motif to which this study returns, below, 4.IV–V.

²⁷² τῷ λιμένι τῆς σῆς γαληνότητος πάντες προσορμῶσιν οἱ ἐλέους δεόμενοι καὶ τῶν κυμάτων τῆς πενίας ἀπαλλαττόμενοι εὐχαριστηρίους ὕμνους σοι ἀναπέμπουσιν. Agapetus, *Advice* 52, borrowing the non-literal anchor metaphor from the translation of Bell, *Three Political Voices*, p.116 on the grounds that it fits Agapetus’ nautical semantic field.

²⁷³ πᾶσι παρέχων τὰς πρὸς τὸ ζῆν αἰτήσεις. Agapetus, *Advice* 63.

²⁷⁴ *Instrument des Machterhalts*. D. Delp, “*Philanthrōpia* im Kontext von *agápē* und *mímēsis theou* bei Agapet,” *JEAC* 3 (2021), p.47.

²⁷⁵ Dmitriev, “Lydus’ Political Message,” p.14.

²⁷⁶ Bell, *Three Political Voices*, p.105 n.27, p.118 n.72.

²⁷⁷ P. Brown, *Poverty and Leadership in the Later Roman Empire* (Hanover, NH, 2002); P. Garnsey, *Thinking about Property: From Antiquity to the Age of Revolution* (Cambridge, 2007), pp.59–83; G. Merianos & G. Gotsis, *Managing Financial Resources in Late Antiquity: Greek Fathers’ Views on Hoarding and Saving* (Basingstoke, 2017). For similar ideas in the heterodox Pelagian movement: J.-H. W. G. Liebeschuetz, “Did the Pelagian Movement Have Social Aims?,” *Historia* 12 (1963), pp.227–41; J. Morris, “Pelagian Literature,” *JTS* 16 (1965), pp.26–60; J. H. Beck, “The Pelagian Controversy: An Economic Analysis,” *AJES* 66 (2007), pp.681–96; P. Brown, *Through the Eye of a Needle: Wealth, the Fall of Rome and the Making of Christianity in the West, 350–550 AD* (Princeton, NJ, 2012), pp.308–20.

any other private philanthropist.²⁷⁸ Perhaps on the understanding that no ‘genuine radical movement’ arose in late antiquity, Agapetus is frequently placed in this broad tradition.²⁷⁹ Yet he does not just valorise the donations of an emperor who ‘has to give to the poor’.²⁸⁰ He also calls for the imperial state to ‘subtract’ from the rich, offering a fleeting crystallisation, in Constantinople’s vibrant arena of debate, of a late antique undercurrent of Christian radicalism. The mistaken impression of Agapetus’ conventionality governs how he has been judged to interact with imperial propaganda. It is widely recognised that the *Advice* ‘present[s] the same concepts, the same ideas, the same conception of power’ as ‘other pieces of Justinianic propaganda’ but the typical explanation for this is that the text is a rendition of ‘the traditional elements of the Christianized ideology of ruling’.²⁸¹ In fact, Agapetus reproduces imperial propaganda in order to align its idealised representation of the emperor with the specific, radical, unconventional policy outcome of coercive wealth redistribution.

Romanos makes substantially the same movement, though with a different policy outcome in mind. His *kontakia* infrequently mention the emperor but are often laden with intertextual parallels to Justinian’s propaganda. The closing strophe of *On the Man Possessed with Devils* recalls the Sergius and Bacchus inscription, the *Novels*, and Agapetus’ *Advice* all at once:

‘Let us call on our steersman, so that we may pass happily through the waves of life. We know that he has a sleepless eye watching over us and, through the Theotokos’ prayers, he brings us safely into a calm and excellent harbour, *he who is the master of all.*’²⁸²

Romanos is ostensibly referring to Christ. He does so in a vocabulary shared with imperial propaganda, repeating exactly the same adjective for Christ’s sleeplessness as the Sergius

²⁷⁸ Theodoret, *Ecclesiastical History* 4.16. See also Brown, *Poverty*, p.41. The *xenodocheion* was a ‘charitable “multiplex” for the sick, the paralyzed, lepers, and strangers’: P. Horden, “The Earliest Hospitals in Byzantium, Western Europe, and Islam,” *JIH* 35 (2005), p.366.

²⁷⁹ Brown, *Poverty*, p.37.

²⁸⁰ P. van Nuffelen, “Social Ethics and Moral Discourse in Late Antiquity,” *Reading Patristic Texts on Social Ethics: Issues and Challenges for Twenty-First-Century Christian Social Thought*, eds. J. Leemans, B. J. Matz & J. Verstraeten (Washington, D. C., 2011), p.50. Also V. Nicolini, “Vertus de l’empereur et idéologie chrétienne dans l’*Ekthesis* d’Agapet le diacre,” *Byzantinoslavica* 76 (2018), pp.5–23.

²⁸¹ First quote: *présentent les mêmes concepts, les mêmes idées, la même conception du pouvoir*. Odorico, “Miroirs,” p.230. Second and third quotes: Kapitánffy, “Justinian and Agapetus,” pp.66, 70.

²⁸² παρακαλέσωμεν τὸν κυβερνήτην ἡμῶν, ἵνα καλῶς τὸν τοῦ βίου παρέλθωμεν κλύδωνα οἴδαμεν δὲ ὡς ἀκοίμητον ἔχει τὸ ὄμμα φρουροῦν ἡμᾶς καὶ ταῖς εὐχαῖς τῆς θεοτόκου διασώζει ἡμᾶς εἰς λιμένα τὸν εὐδίων καὶ ἀγαθὸν |: ὁ πάντων δεσπότης :| Romanos 11.25.4–9.

and Bacchus inscription uses for Justinian's sleeplessness. This alignment serves a useful propagandising function for the régime in a political culture that generally expected its emperor to rule in imitation of the divine.²⁸³ It also, however, delimits the 'calm and excellent harbour' at which the sleepless steersman aims. As the previous chapter saw, Romanos' *kontakia* further use the voice of Christ to call for a culture war against a category of pagans expansive enough to include all classicising *rhetors*.²⁸⁴ By pegging Justinian's self-representation to the image of Christ and then communicating a cultural polemic in Christ's voice, Romanos' *kontakia* package imperial propaganda up with a persecution of 'the Platonisers' and 'the Athenians' just as the *Advice* packages it up with the redistribution of wealth.²⁸⁵

Agapetus and Romanos therefore both inhabit Justinian's propaganda discourse of sleeplessness and participate in the same dynamic of reproducing and enhancing imperial propaganda as Marcellinus, Malalas, and even Agathias, but they inflect it as they go. Both men wrote for broader publics than the average sixth-century author. Romanos' dramas are the archetypal example of mass communication in Justinian's Constantinople.²⁸⁶ The *Advice* is comprised of 72 short, relatively pithy precepts well suited to oral recital. Its themes presumably further reflect the radical content of the sermons that Agapetus preached as a deacon.²⁸⁷ For this more general public, these authors repeated imperial propaganda but connected it to the specific outcomes of redistribution and persecution. Their goal was to shape the popular expectations of the sleepless emperor that imperial propaganda like the Sergius and Bacchus inscription proclaimed Justinian to be. In this way, the repackaging of imperial propaganda became a political tactic that capitalised on Justinian's need to cater

²⁸³ See e.g. Eusebius, *In Praise of Constantine* 1.5–6, with: J. Whittaker, "Christianity and Morality in the Roman Empire," *VC* 33 (1979), pp.219–22; O'Meara, *Platonopolis*, pp.150, 172–78; G. E. Sterling, "Imitatio Dei (Eph 5:1–2): The Soteriological Basis for Ethics," *Sōtēria: Salvation in Early Christianity and Antiquity: Festschrift in Honour of Cilliers Breytenbach on the Occasion of his 65th Birthday*, eds. D. S. du Toit, C. Gerber & C. Zimmermann (Leiden, 2019), pp.345–60; Delp, "Philanthrōpia im Kontext," pp.26–51.

²⁸⁴ Above, 1.III.B.

²⁸⁵ τοῖς πλατωνίζουσι / Ἀθηναῖοι. Romanos 31.15–16.

²⁸⁶ Koder, "Romanos und sein Publikum," pp.63–94; Koder, "Imperial Propaganda," pp.275–91; G. Frank, "Crowds and Collective Affect in Romanos's Biblical Retellings," *The Garb of Being: Embodiment and the Pursuit of Holiness in Late Ancient Christianity*, eds. G. Frank, S. R. Holman & A. S. Jacobs (New York, NY, 2020), pp.169–90.

²⁸⁷ A contested issue, but the activity of Ephrem the Syrian proves that deacons, despite some opposition, did preach sermons in late antiquity: R. P. Symonds, "Deacons in the Early Church," *Theology* 58 (1955), pp.408–14; S. Griffith, "Ephraem, the Deacon of Edessa and the Church of the Empire," *Diakonia: Studies in Honor of Robert T. Mayer*, eds. T. Halton & J. P. Williman (Washington, D. C., 1986), pp.22–52; O. F. Cummings, *Deacons and the Church* (New York, NY, 2004); G. D. Dunn, "Deacons in the Early Fifth Century: Canonical Developments under Innocent I," *SEA* 117 (2010), pp.331–40.

to his subjects' expectations and focused on especially contestable pressure points in its public webs, turning official representations into promises to rule in a very particular manner.

These inflections of imperial propaganda were active for other publics too. Political society, as Agathias' alertness to Romanos' polemic shows, remained attentive to the themes of more popular literature. For a public with access to the *Novels*' more developed discourse of sleeplessness, Agapetus deepens his tactical engagement with imperial propaganda. The full constitution of *Novel* 8 (but not the publication decree) represents the sleepless emperor as 'deliberating at all times about how I might grant something both useful and pleasing to God to my subjects'.²⁸⁸ The *Advice* similarly recommends that Justinian 'deliberate slowly over what must be done' and 'search precisely for the things that will benefit the world'.²⁸⁹ As it reproduces this instance of imperial propaganda, of course, it also reveals which specific policies would 'benefit the world'. Just as Malalas and Agathias attempt to place imperial propaganda in certain cultural frameworks, Agapetus and Romanos attempt to inflect it towards certain practices of rule. Some of the régime's devolved propagandists took up their roles in order to redirect how Justinian represented himself as ruling.

2.III.B: Reviving Theodora

The case of Sergius and Bacchus's sleepless emperor speaks to one kind of vulnerability in sixth-century public propaganda webs, their intertextual construction of meaning across limited mass media resources. The built environment, by virtue of its visibility and stability, was at the centre of these webs.²⁹⁰ Nonetheless, it was subject to another vulnerability: buildings do not always convey the messages intended by their architects.²⁹¹ The monuments that dominated Constantinople's built environment were (relatively) permanent structures that accrued new meanings over time as their viewing contexts developed.²⁹² The

²⁸⁸ ἀεὶ βουλευομένοις, ὅπως ἂν χρηστόν τι καὶ ἀρεσκόν θεῷ παρ' ἡμῶν τοῖς ὑπηγόοις δοθείη. J. Nov. 8.pr.

²⁸⁹ βουλευού μὲν τὰ πρακτέα βραδέως / ἐξερευνᾶν ἀκριβῶς τὰ συνοίσοντα τῷ κόσμῳ. Agapetus, *Advice* 25.

²⁹⁰ See further M. P. Canepa, *The Iranian Expanse: Transforming Royal Identity through Architecture, Landscape, and the Built Environment, 550 BCE–642 CE* (Berkeley, CA, 2020).

²⁹¹ L. James, "Pray Not to Fall into Temptation and Be on Your Guard': Pagan Statues in Christian Constantinople," *Gesta* 35 (1996), p.13; A. Wallace-Hadrill, "Rome's Cultural Revolution," *JRS* 79 (1989), pp.162–63, reviewing P. Zanker, *The Power of Images in the Age of Augustus* (Ann Arbor, MI, 1990). See also Kaldellis, "Making of Hagia Sophia," pp.347–66.

²⁹² Boeck, *Bronze Horseman* presents an excellent example. See further: N. Goodman, "How Buildings Mean," *CI* 11 (1985), pp.642–53; W. Whyte, "How Do Buildings Mean? Some Issues of Interpretation in History of

message of Justinian's first equestrian statue, erected in the hippodrome to celebrate 'the Mede-killing emperor' after the 530 victory at Dara, can only have rung hollow following the 540 sack of Antioch a decade later.²⁹³ This development explains Justinian's second equestrian statue, a repurposed statue of Theodosius II erected in the Augustaion in 543.²⁹⁴ Several scholars have wondered which 'particular victory' occasioned the statue, given its appearance during a period of military reverses.²⁹⁵ However, it may have been precisely these defeats, not victories, that motivated the régime to renew (in a more protective tenor) the damaged propaganda claims of the first equestrian statue in the form of a second equestrian statue that 'commanded the barbarians [in Persia] to stay home'.²⁹⁶ The early Justinianic régime had to mark its entrance onto the 'daunting stage' of Constantinople's built arena; the later Justinianic régime found itself navigating the 'inelastic' claims that its own monuments had made.²⁹⁷

Some of those claims related to Theodora. While the régime trod carefully in associating her with sex workers, it had no qualms about propagandising the imperial couple otherwise. *Novel* 8, as already seen, describes Theodora as Justinian's 'partner in deliberation' and mandates that provincial governors swear an oath of 'slavery' to the imperial couple.²⁹⁸ In turn, Justinian and Theodora were together the 'slaves' of Christ in an inscription on the Hagia Sophia's altar, restored in 562 but likely faithful to the original.²⁹⁹ They were the centrepiece of the Bronze Gate mosaics (and possibly other portraits besides).³⁰⁰ At Sergius and Bacchus, in addition to the inscription that invoked divine favour for both emperor and empress, a large number of monograms were displayed:

'These monograms were carved side by side so that they could be decoded together: "of emperor Justinian" and "of Augusta Theodora"... They were

Architecture," *H&T* 45 (2006), pp.153–77; D. Bell & B. Zacka, "Introduction," *Political Theory and Architecture*, eds. D. Bell & B. Zacka (London, 2020), pp.1–18.

²⁹³ βασιλεῦ Μηδοκτόνε. *AP* 16.62; Cameron, "Some Prefects," p.43.

²⁹⁴ Mango, *Studies on Constantinople*, XIV pp.12–13; Boeck, *Bronze Horseman*, pp.45–46.

²⁹⁵ Mango, *Studies on Constantinople*, X p.2. Also Boeck, *Bronze Horseman*, pp.56–57. For the 543 defeat in Persarmenia: Procopius, *Wars* 2.24–25; Greatrex & Lieu, *Roman Eastern Frontier*, p.116.

²⁹⁶ ἐγκελεύεται τοῖς ἐκείνη βαρβάροις καθῆσθαι οἴκοι. Procopius, *Buildings* 1.2.12.

²⁹⁷ First quote: Boeck, *Bronze Horseman*, p.37. Second quote: Kruse, *Politics*, p.152.

²⁹⁸ κοινωνὸν τοῦ βουλευματος. *J. Nov.* 8.1. δουλείαν. *J. Nov.* 8.*iusiur.*

²⁹⁹ οἱ δοῦλοι... Ἰουστινιανὸς καὶ Θεοδώρα. *CIG* 4.8643; S. G. Mercati, "Due probabili iscrizioni ritmiche di Santa Sofia," *Collectanea Byzantina* (Bari, 1970), pp.264–67; Feissel, "Les édifices," p.90.

³⁰⁰ R. J. Standley, "The Role of the Empress Theodora in the Imperial Panels at the Church of San Vitale in Ravenna," *Representations of the Feminine in the Middle Ages*, ed. B. Wheeler (Cambridge, 1993), pp.165–68.

intended... to represent accessible and unambiguous signs of authority for the new imperial couple.³⁰¹

Similar messages are embedded in the display and distribution of imperial monograms in the Hagia Sophia and the Hagia Eirene, on capitals elsewhere in Constantinople like the Hebdomon, and in provincial cities.³⁰² In short, imperial propaganda, across legal documents and the built environment, consistently represented the imperial couple as a united front.

In response, both Procopius and Lydus portray Theodora as compensating for Justinian's failings in two episodes set in 532. In the *Wars*'s account of the Nika insurrection, Procopius claims that Justinian was considering 'taking flight'.³⁰³ He then attributes a famous speech to Theodora, who rejects 'the idea that a woman must not be courageous among men or bold among those who shrink back in fear'.³⁰⁴ Her insistence that 'imperial rule is a fine burial-shroud' is directly responsible for a newfound 'courage coming upon all the men', including Justinian.³⁰⁵ Lydus, meanwhile, concludes his account of the prefect John the Cappadocian's crimes with a sharp contrast between Justinian and Theodora:

'Our gentlest emperor knew about none of these [crimes]... His wife alone, who in her sleeplessness was mightier than any of those men who have ever been sharp-witted and sympathetic to the wronged, and who could no longer bear to observe the ruining of the polity, strode up to the emperor armed with intemperate words and taught him about everything that was escaping his notice.'³⁰⁶

Lydus demands that the emperor be sleepless in the restoration of the offices of the Roman state; this argument will be more fully treated later.³⁰⁷ Here, it is already apparent that Theodora, not Justinian, emerges as the real 'sleepless emperor' of the Sergius and Bacchus inscription. Just as Procopius' Theodora restored Justinian's missing courage, Lydus' Theodora supplied his absent sleeplessness.

³⁰¹ Garipzanov, *Graphic Signs*, p.174.

³⁰² Feissel, "Les édifices," p.90; Garipzanov, *Graphic Signs*, pp.167–86; F. Stroth, *Monogrammkapitelle: Die justinianische Bauskulptur Konstantinopels als Textträger* (Wiesbaden, 2021).

³⁰³ ἐς φυγὴν. Procopius, *Wars* 1.24.32.

³⁰⁴ τὸ μὲν γυναῖκα ἐν ἀνδράσι μὴ χρῆναι τολμᾶν ἢ ἐν τοῖς ἀποκνοῦσι νεανιεύεσθαι. Procopius, *Wars* 1.24.33.

³⁰⁵ καλὸν ἐντάφιον ἢ βασιλεία ἐστὶ / θάρσος τε τοῖς πᾶσιν ἐπεγένετο. Procopius, *Wars* 1.24.37–38.

³⁰⁶ τοῦ γὰρ ἡπιωτάτου βασιλέως μηδὲν τούτων ἐπισταμένου... μόνη ἡ ὁμόζυγος γυνή, κρείπτων τῶν ὄντων ὅτεδῆποτε ἐπὶ συνέσει καὶ συμπαθείᾳ τῶν ἀδικουμένων ἀγρυπνοῦσα, μὴ φέρουσα τὸ λοιπὸν περιορᾶν τὴν πολιτείαν βυθιζομένην, οὐ μετρίοις λόγοις ὡς τὸν βασιλέα ὀπλισθεῖσα διαβαίνει, ἅπαντα αὐτὸν τὰ τέως διαλανθάνοντα διδάσκουσα. Lydus, *Powers* 3.69. Similarly: Procopius, *Wars* 1.25.4–30; Pazdernik, "Our Most Pious Consort," pp.268–70.

³⁰⁷ Below, 3.II.

There are various options for interpreting the speech that Procopius invents for Theodora in the *Wars*.³⁰⁸ It has been taken as an historical account of ‘the key role Theodora’s courage played’ in the events, as a rhetorical emasculation of a timid emperor, as esoteric criticism of the tyrannical régime, and as a set-piece that gives both members of the imperial couple their moment in the spotlight, since it is Justinian who is ultimately responsible for quashing the insurrection.³⁰⁹ Only Pazdernik emphasises that *On Powers* shares the same dynamic, ‘in which a puzzling inactivity on the part of the emperor... is compensated for by enlarging the part of the empress’.³¹⁰ He considers this dynamic ‘to affirm the unity of the imperial couple’.³¹¹ Yet his reading, in common with competing interpretations of Theodora’s speech, overlooks the fundamentally important point that Theodora had died in 548, before either the *Wars* or *On Powers* was published.

Theodora’s death, like her life, was monumentalised in the built environment. She was the first and, at the time, only inhabitant of the new mausoleum adjoining the Church of the Holy Apostles.³¹² It was also ceremonialised; in at least one later imperial procession, Justinian detoured to her tomb.³¹³ New messages about Theodora’s memory emerged alongside the permanent statements of the imperial couple’s unity embedded in the built environment. This presented Lydus and Procopius with an opportunity to mobilise past propaganda against an emperor now visibly ruling alone. If the emperor had always been one of a team of two, and if in fact his partner had been solely responsible for some of the qualities and actions on which the whole régime was founded, then his fitness to rule without her should be questioned.

This parallel between *On Powers* and the *Wars* demonstrates that both men were searching for the tactical advantages that Theodora’s death might bring them.

³⁰⁸ Invented speeches: J. Marincola, “Speeches in Classical Historiography,” *A Companion to Greek and Roman Historiography*, ed. J. Marincola (Oxford, 2007), pp.118–32.

³⁰⁹ Evans, *The Empress Theodora: Partner of Justinian*, pp.46–47; Pazdernik, “Our Most Pious Consort,” pp.270–72; Kaldellis, *Procopius*, pp.36–37; M. Meier, “Zur Funktion der Theodora-Rede im Geschichtswerk Prokops (BP 1,24,33–37),” *RhM* 147 (2004), pp.88–104; Greatrex, “Procopius, Nika Riot, Composition,” forthcoming.

³¹⁰ Pazdernik, “Our Most Pious Consort,” p.272, briefly cited by Greatrex, “Procopius, Nika Riot, Composition.”

³¹¹ Pazdernik, “Our Most Pious Consort,” p.272.

³¹² Procopius, *Buildings* 1.4.9–24; G. Downey, “The Tombs of the Byzantine Emperors at the Church of the Holy Apostles in Constantinople,” *JHS* 79 (1959), p.44; P. Grierson, C. Mango & I. Ševčenko, “The Tombs and Obits of the Byzantine Emperors (337–1042): With an Additional Note,” *DOP* 16 (1962), pp.29–31; N. Karydis, “Justinian’s Church of the Holy Apostles: A New Reconstruction Proposal,” *The Holy Apostles: A Lost Monument, a Forgotten Project, and the Presentness of the Past*, eds. M. Mullett & R. Ousterhout (Washington, D. C., 2020), pp.99–130.

³¹³ *Book of Ceremonies* 497–98; Croke, “Justinian’s Constantinople,” pp.60–63; Potter, *Theodora*, pp.1, 203.

Independently or in conversation, they found those advantages in the fissure between Justinian and Theodora's monograms and Theodora's sole occupancy of the new mausoleum. As with the equestrian statue in the hippodrome, the permanent public propaganda of monograms and inscriptions about the imperial couple read differently at different points; if Theodora could be represented, at Justinian's expense, as both the brains and the brawn of the régime, the couple's united and enduring public image could be turned into a weakness for Justinian after she was dead. The problem with this propaganda from the régime's perspective was exactly the same as its advantage. Its visibility and permanence, through shifting historical contexts, could work for opponents who co-opted it as much as for the state that produced it.

This is a tactical reading of these two texts. While Lydus and Procopius both describe their writing as 'history', they were not just concerned with the past.³¹⁴ They sought to win contemporary debates for traditionalist ideas and engaged in political manoeuvres related, at their sharpest edge, to conspiracies against the emperor.³¹⁵ Heather's claim that 'the régime... by 550 could use Nika to celebrate the courage of Justinian's imperial consort' relies, quite apart from its blindness to the implications of Theodora's death, on an assumption that the *Wars* reflects official talking points and had been endorsed by the régime.³¹⁶ This holdover from closed models of a repressed political culture can no longer be maintained. Both Procopius and Lydus did indeed set out to make Theodora a 'heroine' and 'to underline her importance... for the entire régime', though this need be no more accurate a representation of the empress than the *Secret History*'s polemical biography, but they did so in ways and for reasons that suited their opposition to the Justinianic régime at a particular stage in its existence.³¹⁷ They reinvented Theodora much as they reinvented persecuted officials like Phocas. In their afterlives, these characters became useful sticks with which to beat the emperor. The *Wars*'s account of the Nika insurrection looks like a set-

³¹⁴ ἱστορία / συγγραφή. Procopius, *Wars* 1.1.4, 8.1.1; Procopius, *Buildings* 1.1.1; Procopius, *SH* 1.8; Lydus, *Powers* 2.7.

³¹⁵ Frenzo, "Three Authors," pp.126–27; J. Signes Codoñer, "Prokops *Anecdota* und Justinians Nachfolge," *JÖB* 53 (2003), pp.58–68.

³¹⁶ Heather, *Rome Resurgent*, pp.113–14.

³¹⁷ J. A. S. Evans, "The 'Nika' Rebellion and the Empress Theodora," *Byzantion* 54 (1984), p.382; Greatrex, "Procopius, Nika Riot, Composition." Theodora in the *Secret History*: M. Angold, "Procopius' Portrait of Theodora," *Philellēn: Studies in Honour of Robert Browning*, ed. C. N. Constantinides (Venice, 1996), pp.21–34; S. A. Harvey, "Theodora the 'Believing Queen': A Study in Syriac Historiographical Tradition," *Hugoye* 4 (2001), pp.212–13; H. Ziche, "Abusing Theodora: Sexual and Political Discourse in Procopius," *Byzantiaka* 30 (2013), pp.311–23; S. Grau & O. Febrer, "Procopius on Theodora: Ancient and New Biographical Patterns," *BZ* 113 (2020), pp.769–88.

piece; it is misdated and largely unrelated to the surrounding narrative.³¹⁸ Perhaps this was not because it was a detachable ‘display piece’ intended for performance but because it was drafted later than most of the *Persian Wars*, to the point of being written and inserted only after Theodora’s death made her an attractive heroine for an oppositional narrative of Justinian’s reign.³¹⁹

2.III.C: (Re-)Fixing Meaning

Paul’s *Description* responds to the traditionalist mobilisation of Theodora’s death:

‘Does he not take up arms against God himself, he who does not wish this emperor to rule, this mild and pleasant emperor who is a benefactor to both friends and not-friends? These things are your salvation; mightiest emperor, these things make the soul of the empress – the most blessed, all-excellent, noble, all-wise empress – speak freely to God on your behalf. When she was alive, you had her as your pious collaborator; since she has passed, she has provided your subjects with an oath of assistance.’³²⁰

In this instance, Paul seeks to salvage the propaganda around Justinian and Theodora’s unity by transforming the empress’s role. Rather than a ‘collaborator’ in Justinian’s deeds, she has become a heavenly intercessor for both Justinian and his subjects. Paul denies that Theodora’s death has left the Romans with *only* Justinian and turns her death into a blessing just as Lydus and Procopius had turned it into a weapon by suggesting that the imperial régime had become capable of ‘speaking freely to God’.

This was not Paul’s only response to oppositional co-options of Justinian’s built propaganda. This study has already seen how traditionalists hinged their narratives of Justinian’s reign on the shift from early success to later disappointment.³²¹ This retrospective

³¹⁸ Cameron, *Procopius*, pp.69, 153; H. Börm, “Procopius and the East,” *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), p.310; Greatrex, “Procopius, Nika Riot, Composition”; but compare L. V. Baptista, “Exploring the Structure of *Persian War*: Amplification in Procopius’ Narrative,” *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.98–101.

³¹⁹ Greatrex, “Procopius, Nika Riot, Composition.” See also, for a similar argument but a different dating for the composition of this set-piece, G. Greatrex, “The Composition of Procopius’ *Persian Wars* and John the Cappadocian,” *Prudentia* 27 (1995), pp.1–13.

³²⁰ οὐχὶ πρὸς αὐτὸν τὸν θεὸν ἐξοπλίζεται ὁ τὸν βασιλέα τοῦτον οὐ θέλων κροτεῖν, τὸν ἡμερον, τὸν ἡδύν, ἐν τῷ μετρίῳ εὐεργετοῦντα καὶ φίλους καὶ μὴ φίλους; σῶζει σε ταῦτα· ταῦτα τὴν ψυχὴν ποιεῖ τῆς βασιλίδος, κράτιστε, τῆς εὐδαίμονος, τῆς πανταρίστης, τῆς καλῆς καὶ πανσόφου, ἔχειν ὑπὲρ σοῦ πρὸς θεὸν παρρησίαν, ἣν ζῶσαν εἶχες εὐσεβῆ συνεργάτιν, ἐπεὶ δὲ μετῆλθε, παρέσχε τοῖς ὑπηκόοις ὄρκον βοηθόν. Paul, *DHS* 54–64. Supply the variant κροτεῖν for κροτεῖν, indicated in the critical apparatus of C. de Stefani, *Paulus Silentarius: Descriptio Sanctae Sophiae Descriptio Ambonis* (Berlin, 2011).

³²¹ Above, 1.II.B.

turned Justinian's monuments, like his liberation propaganda, into symbols of unfulfilled potential. Paul engages specifically with these early monuments. He celebrates Justinian's 'Mede-slaughtering deeds', invoking the 'Mede-killing emperor' inscribed on the first equestrian statue in the hippodrome.³²² With respect to this statue, Paul imitates in 563 the movement that Justinian had made in 543 when he erected a second equestrian statue. The new monument dealt with a changing military context by promising to protect Constantinople from the Persians. Paul consequently imagines a direct address by Justinian to the personification of Constantinople in which the emperor proclaims that 'no barbarian spear has broken your firm spirit'.³²³ As the statue, so the *Description*.

Paul organises his entire *Description* around the motif of the 'city-protecting emperor':³²⁴

'Victory – first from here, and then in turn from somewhere else – has set a graceful garland upon your head for your successful toils in war and your labour in protecting the city. For when, sceptre-bearer, by the life-giving will of your mind you appointed the great initiate [the patriarch Eutychius] to your temple, the assault of the wicked-minded Devil immediately collapsed. Immediately, you put to flight the dangerous battle-lust of all our passions. Immediately, you won a victory crown for your labour in protecting the city.'³²⁵

This passage occurs in the *Description*'s closing panegyric and Whitby rightly considers it a 'rhetorical climax'.³²⁶ Her interest is in its relationship to the upcoming praise for Eutychius. Paul is also, however, looking back on the preceding verses, Justinian's address to Constantinople and the reconstruction of the Hagia Sophia, which Paul represents as the pinnacle of the emperor's 'city-protecting struggles'.³²⁷ Here, he combines the theme with Justinian's sleeplessness. After the dome's collapse, his emperor 'could not bear to rest' but 'shot to the work of rebuilding the church'.³²⁸ In this way, the *Description* defines the

³²² Μηδοφόνων... έργων. Paul, *DHS* 138. βασιλεῦ Μηδοκτόνε. *AP* 16.62.

³²³ οὐδέ τις ἄλλη ἄκλονον ἐστυφέλιξε τετὴν φρένα βάρβαρος αἰχμῆ. Paul, *DHS* 249–50.

³²⁴ ἀστυόχου βασιλῆος. Paul, *DHS* 162.

³²⁵ νίκη γὰρ ἀμοιβαδὸν ἄλλοθεν ἄλλη εὐππολέμοις καμάτοισι καὶ ἀστυόχοις ἐπὶ μόχοις ὑμετέροις στέφος ἀβρὸν ἐπεστήριξε καρήνοισ. καὶ γὰρ ὅτε, σκηπτοῦχε, νόου βιοδώτορι βουλῇ ὑμετέροις τεμένεσσι μέγαν κληρώσαο μύστην, εὐθύς ἀλιτρονόοιο κατήριπε δαίμονοσ ὄρμη, εὐθύς ὄλων παθέων χαλεπὴν ἐτρέψαο χάρμην, εὐθύς ἐπ' ἀστυόχοις καμάτοις ἀνεδήσαο νίκην. Paul, *DHS* 970–77.

³²⁶ Mary Whitby, "Eutychius, Patriarch of Constantinople: An Epic Holy Man," *Homo Viator: Classical Essays for John Bramble*, eds. Michael Whitby, P. Hardie & Mary Whitby (Bristol, 1987), p.300.

³²⁷ πολισσούχοισιν... ἀέθλοισ. Paul, *DHS* 141.

³²⁸ ἡρεμέειν τέτληκεν... πρὸς δὲ πόνους ἤϊξε παλινδωμήτορας οἴκου. Paul, *DHS* 216–18.

sleepless emperor of the Sergius and Bacchus inscription as a ruler who tirelessly protects his city.

Sleeplessness, in turn, furnishes Paul with a vocabulary for expressing his own retrospective on Justinian's reign. He draws a coherent line between Justinian's earliest and latest architectural projects:

'And so the night has finished, the guide of the well-footed dawn, calling on good cheer. Plato, the immortal herald of God, has received the crescendo of the sleepless choir in his youthful divine temple, where the men of life-giving Christ gladly shouted hymns all night long, with a mystical sound and unbroken songs.'³²⁹

As Bell notes, Paul here refers to the church of St Plato in Constantinople, which Justinian had restored during his uncle's reign.³³⁰ Paul calls attention to this regeneration by describing the temple as 'youthful'. He then immediately describes a procession from St Plato to the Hagia Sophia, representing Justinian's patronage of the former in the 520s and the rededication of the latter in 562/63 as complementary bookends on a seamless intervening narrative, all couched in a nocturnal setting and the established propagandising vocabulary of 'sleeplessness'.³³¹ Where the traditionalists developed a binary and fractured narrative structure, turning the built environment into a testament to the inadequacies of Justinian's later reign, Paul insists instead that the urban landscape of Constantinople expresses one coherent image of the emperor as the city's protector.

Justinian's actual procession from the church of St Plato to the Hagia Sophia, like the actual equestrian statue in the Augustaion, aimed at expressing similar ideas about the protection of the city and the consistency of his rule. Paul's *Description* extracts these narratives from the built environment. As Webb's astute studies show, ekphrases often aim 'to make explicit the spiritual and political meanings that may have been implicit in their subjects' and 'to fix the meanings of things'.³³² In the *Description*'s case, Paul is not only seeking to fix meaning but to *re-fix* it in the face of various challenges to the messages embedded in the built environment. As Agapetus and Romanos repackaged imperial

³²⁹ καὶ δὴ νύξ τετέλεστο προηγέτις εὐποδος ἡοῦς εὐφροσύνην καλέουσα, θεοῦ δ' ὑπεδέξατο κήρυξ ἄμβροτος ἀγρῦπνοιο χέων κελάδημα χορείης θεσπεσίοις τεμένεσσι νέοις, ὅθι μύστιδι φωνῇ παννουχίου Χριστοῦ βιαρκέος ἄνερρες ὕμνους ἀσπασίως ἐβόησαν ἀσιγήτοισιν ἀοιδαῖς. Paul, *DHS* 331–36, following the supply of Πλάτων for χέων at Fobelli, *Un Tempio per Giustiniano*, p.54.

³³⁰ Procopius, *Buildings* 1.4.27–29; Bell, *Three Political Voices*, p.206 n.74.

³³¹ Paul, *DHS* 337–49.

³³² R. Webb, *Ekphrasis, Imagination and Persuasion in Ancient Rhetorical Theory and Practice* (Farnham, 2009), p.174; Webb, "Ekphrasis, Amplification and Persuasion," p.71.

sleeplessness with new policies, as Procopius and Lydus turned Justinian and Theodora's monograms into questions over Justinian's fitness to rule alone, and as various traditionalists turned monuments to early victories into symbols of disappointment, the emperor commissioned an ekphrastic to impose a different narrative on his urban propaganda. Paul's opening catalogue of Justinian's achievements is bookended by the arms and the laws, reproducing the central thesis of imperial propaganda, but the *Description* then folds it all into one 'city-protecting' framework that explains Justinian's rule from start to finish.³³³ Paul's alertness to problems of meaning in the built environment and to the kinds of narratives that needed to be rebutted reveals that the architecture of Constantinople was not just about 'demonstrating imperial legitimacy'.³³⁴ Imperial subjects put it to work for their own politics and the régime turned to its literary propagandists to reclaim the meaning of what was supposed to be 'the emperor's city'.³³⁵

2.IV: Propaganda and Debate

This chapter began by noting the widely recognised propaganda culture of Justinian's Constantinople. Various sixth-century authors appear to be reproducing and reinforcing the terms in which the régime represented itself. This propaganda culture was not, however, a result of the régime's strict control of the means of representation. Imperial subjects consistently interpreted Justinian's propaganda in unintended modes, finding an erotic subtext to the Bronze Gate mosaics or a promise to persecute classical culture in the Sergius and Bacchus inscription. These tactical interactions with imperial propaganda were enabled by the political system of the late Roman empire. The crowds who chanted, acclaimed, or rioted in Constantinople, like the senators, generals, and officials who might plot against the emperor or lobby for certain policies, brought preconstructed expectations to their encounters with the emperor. These expectations were mediated through the devolved network of propagandists who amplified and inflected the régime's own self-representation – in other words, debated with it.

Most of this study will return to the narrower two publics that made up sixth-century political society. Even here, "propaganda" remains a useful term to denote the state-

³³³ Paul, *DHS* 6–9.

³³⁴ Bjornlie, *Politics and Tradition*, p.41.

³³⁵ τὴν βασιλέως πόλιν. Agathias, *H.* 2.29.1.

produced texts that seek to justify Justinian's rule, whether they were internal to the imperial administration or on public display. In this context, though, propaganda was not a mass conditioning force that saturated political discourse on any level. It was one of many entries into Constantinople's arena of debate and rarely went uncontested. It operated through literary and oral dynamics of distribution, inflection, and riposte, in various different channels and for various different publics. Imperial propaganda furnished tools and a language for political debate, and for that reason it sits 'at the nexus' of contemporary debate, but it was routinely tactically manipulated even by writers who appear to be reproducing it.³³⁶

³³⁶ Kruse, *Politics*, p.9.

Propaganda and Tradition

Both the emperor and his subjects derived discursive advantages from the propaganda ecosystem detailed in the previous chapter. For the régime, propagandists like Malalas performed a discourse-laundering function, enabling Justinian to use administrative channels of propaganda to establish Theodora's pious advocacy for sex workers in a less controversial medium than imperial constitutions. Within the civil service, the reproduction and dissemination of imperial propaganda was even more routine, as bureaucrats prepared *Novels* for display, circulated and archived various administrative documents, and chattered about the official ideas they encountered. This propaganda culture was at its most intense in the halls of Constantinople's bureaux. The rote professional labour that took place within them became itself a subject of debate among the administrative public.

Both the traditionalists and the bureaucracy have been introduced already. This chapter follows the development of traditionalist thought and argument, primarily within the bureaucracy, through the age of Justinian. The associated debates were active at the start of Justinian's reign and unresolved at its close, but gradually became characterised by an interplay with imperial propaganda. Justinian's early *Novels* were specifically tailored to the traditionalist ideas expressed in Zosimus' *New History*. In the 550s, Lydus performatively engaged in the reproduction of imperial propaganda to call for greater scrutiny of a dissimulatory régime, an argument directed even against men with whom he demonstrably shared an office. In the 560s, the legacy of Lydus' arguments informed Corippus' panegyric for Justinian's successor.

3.I: Zosimus and Justinian

Zosimus was the first writer of the age of Justinian. For Bjornlie, the *New History* stands 'at the threshold of the debate'.¹ For Kruse, it 'introduces and foreshadows' later debates.² Both are correct. The *New History* reflects traditionalist ideas that encouraged responses from

¹ Bjornlie, *Politics and Tradition*, p.85.

² Kruse, *Politics*, p.24.

every quarter of Constantinople's political society. Supporters and opponents of the régime engaged with Zosimus' representation of Constantine, his construction of Roman identity, his dating of the western empire's fall, and his arguments against administrative innovation.³

Zosimus was a focal point for debate because he became one of late antiquity's most controversial writers. In a church history written in Antioch almost three decades after Justinian's death, the lawyer Evagrius responds directly to the *New History*.⁴ He rebukes Zosimus as 'one of those, from the accursed and unclean cult of the Hellenes,' and promises 'that I will expose his lies at once'.⁵ He then launches into a hostile polemic, addressing Zosimus directly in the second person and displaying detailed knowledge of the *New History*'s contents. Evagrius may have been religiously motivated but he does not levy solely religious complaints. For example, he charges Zosimus with an inconsistent treatment of Constantine's tax policies, representing him sometimes as 'so generous and munificent' and sometimes as 'such a miserly bean-counter'.⁶ As Bjornlie points out, 'the fact that Evagrius would find Zosimus' account so worthy of rebuke... reveals that Zosimus' history had maintained currency in the popular political discourses of Constantinople [and beyond]'.⁷ The Justinianic régime, alert to the intellectual currents behind the text, accordingly used its early propaganda to construct its image around the traditionalist themes of the *New History*.

3.1.A: Zosimus on Traditional Knowledge

More than any of this study's other sources, the political thought of the *New History* requires careful independent study because some of its essential aspects remain unexcavated, despite a large body of scholarship. This is true of Zosimus' traditionalism, which colours even his treatment of pagan practice.⁸ It is also true of his attitude towards monarchic rule. The *New History*'s undeniable scepticism about monarchic rule was organised around a deeper-lying concern for the relationship between traditional knowledge and governmental power. By virtue of Justinian's propaganda response, this concern set the stage for later debate.

³ Ibid. pp.12–56, 175; Bjornlie, *Politics and Tradition*, pp.85–99; Goffart, "Zosimus," pp.412–41.

⁴ On Evagrius: Allen, *Evagrius*, pp.1–20.

⁵ Ζωσίμῳ, ἐνὶ τῶν τῆς ἐξαγίστου καὶ μιαρᾶς τῶν Ἑλλήνων θρησκείας... καὶ ὡς μὲν καὶ ταῦτα ψευδῆ παρὰ πόδας δεῖξω. Evagrius, *HE* 3.40–41.

⁶ οὕτως φιλότιμον, οὕτως μεγαλόδωρον... καὶ οὕτω μικρολόγον καὶ φειδωλόν. Evagrius, *HE* 3.41.

⁷ Bjornlie, "Constantine in the Sixth Century," p.94.

⁸ Above, 1.II.C.

Zosimus has sometimes been represented as an antimonarchist.⁹ He has more frequently been read as an opponent of specifically Christian monarchy, happily supporting pagan emperors.¹⁰ Neither position captures the intricacies of Zosimus' thought. He was not concerned with constitutional questions but with the empowerment of traditional knowledge. The *New History's* clearest statement of political theory is its 'antimonarchic digression', where it diagnoses monarchy with a lack of structural, moderating limits on the emperor:¹¹

[The Romans], entrusting the whole government to the will of this man [Octavian], were unaware that they were throwing the dice with respect to the hopes of all people by trusting the impulse and power of one man with such a great empire... If, doing away with the limits of monarchic rule, he should run off into tyranny, throwing the magistracies into confusion, overlooking transgressions, exchanging justice for money, and considering subjects to be slaves – and most, or rather all but a few, of the autocrats have been of this sort – then everything will prove that the incommensurable power of a sovereign is a public misfortune.¹²

Paschoud correctly notes that 'the theoretical portrait of the bad emperor corresponds exactly to the portraits of two emperors who played an essential role in the triumph of Christianity, Constantine and Theodosius', but he then concludes that 'this confirms our idea that Zosimus' antimonarchic tirade was written very precisely in the context of his polemic against Christianity'.¹³ This imputes to Zosimus an historical analysis that he does not make. It is integral to his argument that Constantine was still a practising pagan when he 'doomed' the empire by neglecting tradition.¹⁴ While Zosimus charges both Constantine

⁹ Condurachi, "Les idées politiques," pp.115–27; Petre, "Pensée historique," pp.263–72; briefly, by Kaldellis: "Republican Theory," p.13; "Byzantine Historical Writing, 500–920," *Oxford History of Historical Writing 2: 400–1400*, eds. S. Foot & C. Robinson (Oxford, 2012), p.208; *Byzantine Republic*, p.29.

¹⁰ Especially Paschoud, *Cinq études*, pp.15–22.

¹¹ *la digression antimonarchique*. Ibid. p.1.

¹² τῆ τούτου γνώμη τὴν πᾶσαν διοίκησιν ἐπιτρέψαντες ἔλαθον ἑαυτοὺς κύβον ἀναρρίψαντες ἐπὶ ταῖς πάντων ἀνθρώπων ἐλπίσιν καὶ ἐνὸς ἀνδρὸς ὀρμῆ τε καὶ ἐξουσίᾳ τοσαύτης ἀρχῆς λαταπιστεύσαντες κίνδυνον... εἴτε διαφθεῖρων τῆς βασιλείας τοὺς ὄρους εἰς τυραννίδα ἐξενεχθείη, συνταράττων μὲν τὰς ἀρχάς, περιορῶν δὲ τὰ πλημμελήματα, χρημάτων δὲ τὸ δίκαιον ἀλλαττόμενος, οἰκέτας δὲ τοὺς ἀρχομένους ἡγούμενος, ὅποιοι τῶν αὐτοκρατόρων οἱ πλείους, μᾶλλον δὲ πάντες σχεδὸν πλὴν ὀλίγων γεγόνασι, τότε δὴ πᾶσα ἀνάγκη κοινὸν εἶναι δυστύχημα τὴν τοῦ κρατοῦντος ἄλογον ἐξουσίαν. Zos. 1.5.2–3.

¹³ *le portrait théorique du mauvais prince correspond exactement aux portraits de deux empereurs qui ont joué un rôle essentiel dans le triomphe du christianisme, Constantin et Théodose, ce qui nous confirme dans l'idée que la tirade antimonarchique de Zosime s'inscrit très précisément dans le contexte de sa polémique contre le christianisme*. Paschoud, *Cinq études*, p.18.

¹⁴ ἔδει. Zos. 2.7.2. Above, 1.II.C.

and Theodosius with the first symptom of the theoretical tyrant, administrative innovation, it does not necessarily follow that he does so because they were Christians.¹⁵

The antimonarchic digression is a reproduction of some *topoi* of late antique political theory. Zosimus predicates the distinction between the good emperor and the tyrant on the ruler's personal will. So too does the earlier *Historia Augusta*, which concludes that the answer to 'the question of what makes rulers bad' was, 'in the first instance, unrestrained liberty' and only 'then' a host of other vices.¹⁶ Themistius also defines the good emperor, in opposition to the tyrant, as a ruler who is 'just even though he has the power to commit many injustices'.¹⁷ Later, the same idea is expressed by Lydus, the *Dialogue*, and Agapetus, who exhorts Justinian to 'impose on yourself the necessity of preserving the laws, as you have nobody on earth capable of compelling you to do so'.¹⁸ These are all texts with diverse political theories and conceptions of imperial rule despite their shared subscription to this *topos*. The same is true of Zosimus' connected idea that the unrestrained emperor was unavoidably a behavioural model for Roman subjects. When Theodosius adopts a 'luxurious mode of life', Zosimus does not criticise him on purely moralistic grounds.¹⁹ Instead, he laments that Theodosius' subjects 'emulated the emperor's behaviour', including his 'folly', and that consequently 'the state was dragged down into great ruin'.²⁰ Agapetus and the *Dialogue* conduct similar analyses.²¹

Zosimus' recapitulation of these *topoi* locates the *New History* in a long tradition of conventional (and monarchic) political thought. His articulation of a mainstream analysis was all the more important because he was writing an explicitly pagan text for a largely Christian literary public. Nonetheless, it was possible to voice these anxieties about structural restraints within a firmer commitment to monarchy.²² Zosimus' claim that even one tyrant

¹⁵ Zos. 2.32.1, 4.27.1.

¹⁶ *quaeritur quidem, quae res malos principes faciat: iam primum... licentia, deinde... HA Aurelian 43.1. See further M. Haake, "In Search of Good Emperors: Emperors, Caesars, and Usurpers in the Mirror of Antimonarchic Patterns in the *Historia Augusta*: Some Considerations," *Antimonarchic Discourse in Antiquity*, ed. H. Börm (Stuttgart, 2015), pp.289–91.*

¹⁷ δικαίου πολλά ἀδικεῖν δυναμένου. Themistius, *Or.* 1.6a. See further C. Greenlee, "The Ideology of Imperial Unity in Themistius (*Or.* 1) and Libanius (*Or.* 59)," *The Sons of Constantine, AD 337–361: In the Shadows of Constantine and Julian*, eds. N. Baker-Brian & S. Tougher (Cham, 2020), p.142.

¹⁸ σαυτῷ τὴν τοῦ φυλάττειν τοὺς νόμους ἐπίθεος ἀνάγκην, ὡς μὴ ἔχων ἐπὶ γῆς τὸν δυνάμενον ἀναγκάζειν. Agapetus, *Advice* 27; Lydus, *Powers* 1.3; *DPS* 5.46. See further below, 4.I.

¹⁹ ἢ τῆς τρυφῆς ἄσκησις. Zos. 4.33.4.

²⁰ τὰ τοῦ βασιλέως ἐζήλουν ἐπιτηδεύματα... τὴν... ἄνοιαν ζηλώσαντας εἶναι, εἰς τοσαύτην κατενεχθέντος διαφθορὰν τοῦ πολιτεύματος. Zos. 4.33.3–4.

²¹ Agapetus, *Advice* 49; *DPS* 5.131.

²² As e.g. Agapetus, *Advice* 16.

would ‘prove that the incommensurable power of a sovereign is a public misfortune’ troubled later writers, who responded carefully to the co-ordinates of the *New History*’s antimonarchic scepticism.

Zosimus’ imperialist outlook was concerned with measuring the Roman empire. He argues that succession was one of monarchy’s structural fragilities because it reset the clock on whatever the progress the previous emperor had made against ‘barbarisation’.²³ In Zosimus’ view, this problem was generated by the empire’s size, large enough that a single emperor is ‘unable to help immediately those subjects who had settled furthest away’.²⁴ Monarchic rule therefore depends, as the (temporary) success of the pagan emperor Julian reveals, on the ruler’s reputation:

‘The barbarians beyond the Rhine feared the name of the Romans and were content if nobody troubled them while they stayed in their own land, but when news of Julian’s death was delivered, they immediately rose up, left their customary homes, and prepared for war against the Romans.’²⁵

In this way, the narrative of the *New History* develops the antimonarchic digression’s claim that the empire was too large for one ruler. Zosimus argues that barbarian invasions were only dissuaded by fear and that this fear dissipated with each successful emperor’s death. Later authors responded to this argument by reimagining how fear restrained barbarians, detaching it from the instability of imperial successions. Malalas states that ‘the Huns’ chose not to invade Justinian’s empire because they ‘were terrified of the Romans’, not of the emperor.²⁶ Procopius concludes that there is ‘no method for making the barbarians keep faith with the Romans except through fear of the soldiers who repel assaults’.²⁷ Both supporters and opponents of Justinian’s rule reinforced the broader discourse of monarchy against Zosimus’ critique by identifying less changeable objects of barbarian fear.

The *New History* hints at an alternative political model to monarchy in its treatment of the senate. Kruse perceives in Zosimus’ account of the foundation of Constantinople an argument that ‘those institutions upon which legitimate Roman government was understood

²³ βαρβαρωθεΐσα. Zos. 1.58.4. Also 2.7.1.

²⁴ τοῖς πορρωτάτω που διακειμένοις ἐπικουρῆσαι μὴ δυνάμενος ἐξ ἐτοίμου. Zos. 1.5.3.

²⁵ τῶν δὲ ὑπὲρ τὸν Ῥῆνον βαρβάρων... τὸ Ῥωμαίων ὄνομα δεδιότων, ἀγαπώντων τε εἰ μηδεὶς αὐτοῖς κατὰ χώραν μένουσιν ἐνοχλοῖη, τῆς τούτου τελευτῆς ἀγγελθείσης ἀπανέστησαν αὐτίκα τῶν οἰκείων ἡθῶν καὶ πρὸς τὸν κατὰ Ῥωμαίων παρεσκευάζοντο πόλεμον. Zos. 4.3.4. This idea is repeated at 4.9.1

²⁶ οἱ αὐτοὶ Οὐννοὶ... πτοηθέντες Ῥωμαίους. Malalas 18.14.

²⁷ βαρβάρους ἅπαντας οὐδεμία μηχανὴ διασώσασθαι τὴν ἐς Ῥωμαίους πίστιν ὅτι μὴ δέει τῶν ἀμυνομένων στρατιωτῶν. Procopius, *Wars* 1.19.33.

to be based' were 'the senate and people of Rome'.²⁸ This overstates the role of the 'people of Rome', who rarely appear in the text. In fact, Zosimus writes them out of the republican past. He frames his text as the inverse to Polybius' account of the empire's rise, but while Scavone claims that Zosimus straightforwardly 'subscribed' to Polybius' mixed constitution, the *New History* actually reimagines Polybius' republic as a period 'when the aristocracy prevailed'.²⁹ This is not because Zosimus was ignorant of Polybius or of Roman history but because he actively chose to reattribute the rise of Rome to hereditary senatorial rule.³⁰ The Roman past was a political battleground in the sixth century. In Zosimus' rewritten, bipartite historical narrative, Rome rose under an hereditary aristocracy and fell under imperial rule.

The senate plays a very particular role in this embedded aristocratic argument. It appears to be the bedrock of 'legitimate Roman government' specifically because it is the most persistent source of traditional knowledge, whereas emperors neglect its advice and therefore tend to introduce harmful innovations. Theodosius' most developed contribution to imperial decline in Zosimus' lengthy narrative of his reign is not, as Paschoud thought, his especially Christian mode of rule but his refusal to heed the Roman senate's traditionalist analysis:

'Having convened the senate, which remained true to the ancestral customs transmitted from the beginning... [Theodosius] exhorted the senators to give up their previous error, as he put it, and to choose the Christian faith... Nobody obeyed his request or chose to withdraw from the ancestral customs transmitted from the foundation of the city, for they, while preserving those customs, had inhabited a city which by now had not been sacked for almost 1200 years... Theodosius then said that the public treasury was weighed down by expenditure on rites and sacrifices and he wanted to strike them off, both because he did not approve of what was being done and also because more money was needed for military use. And despite the senate's assertions that it was contrary to divine law for rites to be performed other than at public expense, the sacrificial law was repealed, other rites of ancestral tradition neglected, and thanks to this the dominion of the Romans has been diminished bit by bit and become a home for barbarians.'³¹

²⁸ Kruse, *Politics*, p.38.

²⁹ First quote: Scavone, "Zosimus and his Historical Models," p.61. Second quote: ὅτε τὰ τῆς ἀριστοκρατίας ἐφυλάττετο. Zos. 1.5.2. Polybius: Zos. 1.57.1; Kruse, *Politics*, p.27.

³⁰ Against Paschoud, *Cinq études*, pp.6–7; Ridley, "Zosimus the Historian," p.282. For the properly hereditary nature of senate membership: Zos. 3.11.5.

³¹ συγκαλέσας δὲ τὴν γερούσιαν τοῖς ἄνωθεν παραδεδομένοις ἐμμένουσιν πατρίοις... παρακαλῶν ἀφιέναι μὲν ἦν πρότερον μετήσαν, ὡς αὐτὸς ἔλεγε, πλάνην, ἐλέσθαι δὲ τὴν τῶν Χριστιανῶν πίστιν... μηδενὸς δὲ τῆ παρακλήσει πεισθέντος, μηδὲ ἐλομένου τῶν ἀφ' οὐπερ ἢ πόλις ὠκίσθη παραδεδομένων αὐτοῖς πατρίων

Zosimus' emphasis on the public funding of pagan rites reiterates the importance of the perfect observance of tradition.³² It simultaneously frames the senate as the site of traditional knowledge and correct historical analysis. Only the senators understand that Rome has never been sacked because it has always observed its 'ancestral customs', foreshadowing the 410 sack that was plausibly the *New History's* intended dénouement.³³ The senate's inability to have its advice implemented and Theodosius' flawed assumption that a well-funded military would defend Rome more effectively than public sacrifices leads to the fall of the empire.

Despite the senate's starring role, the *New History* does not make a republican argument. The dynamic between Theodosius and the senate frequently recurs with other actors in other contexts; the senate is not the *New History's* only source of traditional knowledge and emperors are not the only powerful individuals to ignore traditionalist advice. When the Huns threaten Rome, the bishop Innocentius, having deliberated with the urban prefect Pompeianus, decides to 'place the safety of the city before his personal belief and permit [the pagan priests] to do in secret what they knew to be right'.³⁴ In response, 'the priests' make the same argument as the senators: the rites must not be performed secretly but publicly, at public expense, as tradition dictated.³⁵ Innocentius and Pompeianus reject their request and 'turn to flattering the barbarians' with gifts funded by melting statues, just as Theodosius funded the army over the sacrifices.³⁶ Zosimus clearly states the consequences of this decision. He soon reveals that 'whatever manliness and virtue existed among the Romans was extinguished, as those learned in divine matters and ancestral rites had predicted'.³⁷ In this episode, Zosimus replays Theodosius' interaction with the senate but substitutes a bishop and some pagan priests for its main characters.

ἀναχωρήσαι... (ἐκεῖνα μὲν γὰρ φυλάξαντας ἤδη διακοσίους καὶ χιλίους σχεδὸν ἔτεσιν ἀπόρθητον τὴν πόλιν οἰκεῖν...), τότε δὴ ὁ Θεοδοσίος βαρύνεσθαι τὸ δημόσιον ἔλεγε τῇ περὶ τὰ ἱερὰ καὶ τὰς θυσίας δαπάνῃ, βούλεσθαι τε ταῦτα περιελεῖν, οὔτε τὸ πραττόμενον ἐπαινοῦντα, καὶ ἄλλως τῆς στρατιωτικῆς χρείας πλειόνων δεομένης χρημάτων. τῶν δὲ ἀπὸ τῆς γερουσίας μὴ κατὰ θεσμόν εἰπόντων πράττεσθαι τὰ τελπύμενα μὴ δημοσίου τοῦ δαπανήματος ὄντος, διὰ τοῦτο τότε τοῦ θηηπολικοῦ θεσμοῦ λήξαντος καὶ τῶν ἄλλων ὅσα τῆς πατρίου παραδόσεως ἦν ἐν ἀμελείᾳ κειμένων, ἡ Ῥωμαίων ἐπικράτεια κατὰ μέρος ἐλαττωθεῖσα βαρβάρων οἰκητήριον γέγονεν. Zos. 4.59.1–3.

³² Above, 1.II.C.

³³ Ridley, "Zosimus the Historian," p.283; Kruse, *Politics*, pp.17–43.

³⁴ τὴν τῆς πόλεως σωτηρίαν ἔμπροσθεν τῆς οἰκείας ποιησάμενος δόξης λάθρα ἐφῆκεν ποιεῖν αὐτοῖς ἅπερ ἴσασιν. Zos. 5.41.2.

³⁵ τῶν ἱερατικῶν. Zos. 5.41.1–3.

³⁶ ἐτράπησαν δὲ εἰς τὸ θεραπεῦσαι τὸν βάρβαρον. Zos. 5.41.3.

³⁷ ὅσα τῆς ἀνδρείας ἦν καὶ ἀρετῆς παρὰ Ῥωμαίους ἀπέσβη, τοῦτο τῶν περὶ τὰ θεῖα καὶ τὰς πατρίους ἀγιστείας ἐσχολακῶν... προφητευσάντων. Zos. 5.41.7.

The same dynamic again informs Zosimus' treatment of Julian's downfall. Even pagan emperors could fail to identify correct, traditionalist advice. Paschoud suggests that the antimonarchic digression was partly an apology for Julian, explaining why even he had not protected the empire.³⁸ Yet Zosimus understood Julian's Persian defeat in 363 within the same analytical paradigm, of the disempowerment of traditional knowledge, as Theodosius' and Innocentius' actions.

Scholars have been puzzled by Zosimus' failure to praise Julian's religious policies.³⁹ They were simply different kinds of pagans. While Zosimus took his cues from traditional Roman practice, Julian's theology was 'strongly characteristic of both Mithraism and Neoplatonism', 'foreign to the classical world', and 'in fact [broke] completely with the religious and political patterns of the ancient world'.⁴⁰ Zosimus was directly or indirectly familiar with Julian's theological writings because he defers to 'his speeches and letters' for a better understanding of his character and offers a reading of Julian's *Misopogon* as 'a most refined speech'.⁴¹ He also introduces Julian as 'a student of the philosophers from Athens', so was certainly cognisant of the Neoplatonic character of Julian's theology.⁴²

Zosimus notes that Julian 'set out from Antioch [for his 363 campaign] even though the sacrifices were not auspicious'.⁴³ This is the first moment in the *New History's* narrative when Julian acts incorrectly; Paschoud overlooks it when he claims that Zosimus erases any hint of Julian's faults.⁴⁴ Instead of explaining Julian's decision, Zosimus adopts a policy of knowing silence, telling his reader that 'I know how this happened but will pass over it'.⁴⁵ His sources, though, suggest that Zosimus bore the same complaint against Julian as he did against Theodosius and Innocentius. Zosimus derived his information for the Persian campaign either directly from Ammianus Marcellinus or from their common source Eunapius.⁴⁶ Ammianus reports that Julian received rival interpretations of the auspices from Etruscan *haruspices* and Neoplatonist philosophers:

³⁸ Paschoud, *Cinq études*, p.15.

³⁹ R. T. Ridley, "Eunapius and Zosimus," *Helikon* 9–10 (1969–1970), pp.586–90; A. Marcone, "Pagan Reactions to Julian," *A Companion to Julian the Apostate*, eds. H. U. Wiemer & S. Rebenich (Leiden, 2020), p.354.

⁴⁰ P. Athanassiadi, *Julian: An Intellectual Biography* (London, 1992), p.191.

⁴¹ τοῖς λόγοις... τοῖς αὐτοῦ καὶ ταῖς ἐπιστολαῖς. Zos. 3.2.4. λόγον ἀστειότατον. 3.11.5

⁴² ἐκ τῶν Ἀθηνῶν... τοῖς αὐτόθι φιλοσοφοῦσι συνόντα. Zos. 3.2.1, lifted from Eunapius fr.28.5.

⁴³ ἐξώρμησε τῆς Ἀντιοχείας, οὐδὲ τῶν ἱερείων αἰσίων αὐτῷ γενομένων. Zos. 3.12.1.

⁴⁴ Paschoud, *Cinq études*, p.191.

⁴⁵ τὸ δὲ ὅπως εἰδὼς ὑπερβήσομαι. Zos. 3.12.1.

⁴⁶ W. R. Chalmers, "Eunapius, Ammianus Marcellinus, and Zosimus on Julian's Persian Expedition," *CQ* 10 (1960), pp.152–60; R. T. Ridley, "Notes on Julian's Persian Expedition," *Historia* 22 (1973), pp.317–30; R. T. Ridley, *Zosimus, New History: A Translation with Commentary* (Sydney, 1982), p.175.

‘The Etruscan *haruspices* were not believed when they often tried to prevent this campaign, but were scorned by the philosophers who opposed them, whose authority was then revered though they continually erred and persevered for a long time in things about which they were insufficiently knowledgeable.’⁴⁷

To Zosimus’ mind, a theologically innovative, Neoplatonist emperor had ignored the advice of the traditional *haruspices* in favour of the fallible analysis of the philosophers, just as Theodosius and Innocentius had ignored the senators and priests. As a direct result, Julian was defeated and the empire barbarised. Zosimus preserves the simplicity of his pagan narrative, tailored to a predominantly non-pagan audience, by not criticising Julian directly. Yet his hinted familiarity with Ammianus’ account makes sense of the *New History*’s lukewarm attitude to Julian. Once more, Zosimus was concerned with the relationship between power and traditional knowledge.

Throughout this recurring dynamic, Zosimus displays a nuanced and practical understanding of power. He highlights the capacity of bishops to take important governmental decisions; Innocentius is the senior party in the consultation with the prefect Pompeianus. His conception of the empire’s political machinery was not limited by a bureaucratic or constitutional outlook. At the same time, however, he exhibits a deeply fatalistic attitude towards the capacity of those excluded from the instrumental operation of power to bring any discursive influence to bear on its use.⁴⁸ The senators, priests, and (behind the text) *haruspices* all offer historically informed and rhetorically sophisticated arguments. Roman emperors and bishops nonetheless consistently prefer other, flawed analyses.

The *New History* therefore attributes imperial decline to the disempowerment of traditional knowledge. This remains a somewhat antimonarchic critique, insofar as ‘antimonarchic discourse’ relates to ‘hierarchies of power’ as much as to ‘constitutional aspects’.⁴⁹ Zosimus’ problem with imperial rule was its historical tendency to relegate sources of traditional knowledge to a position on the outside looking in. This was a multivalent problem, related not solely to whether emperors or senators should govern but

⁴⁷ *Etrusci tamen haruspices... cum illis procinctum hunc saepe arcentibus non crederetur... sed calcabantur philosophis refragantibus, quorum reverenda tunc erat auctoritas, errantium subinde, et in parum cognitibus perseverantium diu.* AM 23.5.10–11.

⁴⁸ See further Brown, *Power and Persuasion*.

⁴⁹ H. Börm, “Antimonarchic Discourse in Antiquity: A Very Short Introduction,” *Antimonarchic Discourse in Antiquity*, ed. H. Börm (Stuttgart, 2015), p.9.

to questions of how emperors constituted their advisory cabinets, why unrestrained emperors freely chose to reject traditionalist advice, and whether traditionalists could possibly hope to persuade the powerful. The *New History* does little more than diagnose this problem. Its argument, though, represents the early roots of the *Dialogue's* more developed proposal for the constitutional elevation of a traditionalist class of *aristoi* into imperial government. This model is implied by the organisation of the *New History* around the structural disempowerment of traditional knowledge; the *Dialogue's* retention of an emperor demonstrates that the *New History's* critique was not incompatible with monarchy. In between these two texts, however, Justinian inserted a careful propaganda response tailored precisely to Zosimus' concerns about the disconnect between traditional knowledge and imperial government.

3.1.B: Justinian on Traditional Knowledge

Justinian famously represented his innovative reforms of provincial administrations as acts of traditional restoration, supported by spurious historical data.⁵⁰ *Novel* 24, for example, argues that 'we are restoring antiquity to our polity with a greater blossom' by creating a praetor of Pisidia.⁵¹ This restorational rhetoric underpins all six provincial reforms from 535, four of the five from 536, and an additional seven *Novels* on other topics between 535 and 538.⁵² Four of these seven relate to further offices: the *praetor plebis*, the *defensor civitatis*, honorary prefectures and curial status, and the consulship. Maas offers a generalised explanation for the régime's use of this rhetoric, stating that 'the Romans habitually gave high value to precedent and discredited and avoided innovation'.⁵³ Yet other *Novels* make explicit claims to innovation. A constitution of 538 describes the provisions introduced by *Novel* 5 in 535 as having been 'innovated by our holy constitution'.⁵⁴ In the propaganda

⁵⁰ Maas, "History and Ideology," pp.17–31; Pazdernik, "Justinianic Ideology," pp.185–212.

⁵¹ τὴν παλαιότητα πάλιν μετὰ μείζονος ἄνθους εἰς τὴν πολιτείαν ἐπαναγαγόντες. J. Nov. 24.1.

⁵² 535: J. Nov. 24 (Pisidia), 25 (Lycaonia), 26 (Thrace), 27 (Isauria), 28 (Helenopontus), 29 (Paphlagonia). 536: J. Nov. 30 (Cappadocia), 41/50 (Caria, Cyprus, the Cyclades, Moesia, and Scythia), 102 (Arabia), 103 (Palestine). The exception is J. Nov. 31 (Armenia). The additional seven: J. Nov. 4 (debt recovery, 535), 13 (the *praetores plebis*, 535) 15 (the *defensor civitatis*, 535), 59 (funeral expenses, 537), 70 (curial obligations, 538), 71 (*procuratores*, 538), 105 (the consulship, 537). Later provincial reforms, without restorational rhetoric: J. Nov. Edict 8 (Pontica, 548), which restores a much more recent past; Edict 13 (Egypt and Alexandria, c.538/39), on which see Maas, "History and Ideology," p.24. J. Nov. 75/104 (Sicily, 537) uses similar rhetoric but is not itself an administrative reorganisation. For a list of constitutions dealing with provincial reforms, see Honoré, *Tribonian*, p.19 n.177.

⁵³ Maas, "History and Ideology," p.28.

⁵⁴ παρὰ τῆς θείας ἡμῶν... ἐκαινίσθη διατάξεως. J. Nov. 76.1. For the measures, see J. Nov. 5.5.

communicated to political society, the régime's use of the discourse of restoration was limited in two ways. It was predominantly mobilised in administrative contexts and it was concentrated in the first decade of Justinian's reign. It therefore catered not to any general resistance to innovation but to the specifically administrative traditionalism not long previously expressed by the *New History*, which listed 'throwing the magistracies into confusion' as the foremost symptom of tyrannical rule.⁵⁵

Justinian's interaction with Zosimus' ideas is more precise still. These *Novels* consistently represent the emperor himself as the primary source of traditional knowledge, defusing the *New History*'s concerns about its disassociation from imperial power. They do so implicitly, by expressing antiquarian information in the emperor's voice, but also explicitly. For example, *Novel* 30 argues that Cappadocia merited its proconsular status because:

'The adherents of ancient learning are not ignorant of how great both the name and people of Cappadocia are, nor of how they caused troubles for the Romans in establishing their rule there... It so impresses the emperor that a magistracy appropriate to our possessions there should be established.'⁵⁶

This claim aligns Justinian with 'the adherents of ancient learning', figuring him as a ruler who listens to traditionalist advice just as the *New History*'s emperor did not. Related constitutions then sharpen the point by representing Justinian as personally conducting historical research:

'Since we have accordingly examined closely its whole previous history, we are eager to recover the better rank, the ancient dignity, and the good order of this office [of the *praetor plebis*].'⁵⁷

The statement of Justinian's 'close examination' of history follows an extended description of the ancient praetorship, 'not only in the time when the emperors ruled but also further back still', and of its need to be restored because it had been 'changed into a different title

⁵⁵ συνταράπτων... τὰς ἀρχάς. Zos. 1.5.3.

⁵⁶ ὅποσον ἐστὶ τὸ Καππαδοκῶν ὄνομά τε καὶ ἔθνος, καὶ ὅπως τὴν ἀρχὴν ἵνα κτηθεῖη πράγματα παρέσχε Ῥωμαίοις, οἱ τῆς ἀρχαίας πολυμαθείας οὐκ ἠγνοήκασιν ἐρασταί... οὕτως ἀρέσασα τῇ βασιλείᾳ, ὡς καὶ ἀρχὴν ἐπιστήσαι ταῖς ἐκεῖσε κτήσεσιν ἰδιαν. J. Nov. 30.pr.

⁵⁷ ἐπειδὴ τοίνυν ἡμεῖς πάντα διερευνώμενοι τὰ γενόμενα πρόσθεν σπεύδομεν εἰς καλλίονα τάξιν καὶ τὴν ἀρχαίαν σεμνότητα καὶ τὴν τούτου τοῦ πράγματος ἐπαναγαγεῖν εὐκοσμίαν. J. Nov. 13.2.

and rank'.⁵⁸ Justinian founded his provincial reforms on personal research in Roman tradition.

This theme continually recurs. The reorganisation of Lycaonia is justified because 'we have paid attention to the earliest beginnings of its establishment, which the ancient historians have described and transmitted to us'.⁵⁹ Given the 'weak' and 'spurious' nature of this *Novel's* information about Lycaonian history, it is unsurprising that Justinian mentions no specific texts or sources.⁶⁰ All these constitutions represent a unanimous and unified tradition, hence *Novel* 26's description of the 'native and ancestral' characteristics of Thrace as 'widely agreed'.⁶¹ They also all represent Justinian as the historian capable of deciphering tradition, hence his prohibition on refusing an appointment as *defensor civitatis* on the grounds that 'we have discovered that this [rule] prevailed and was customary during the times of our ancestors'.⁶²

Even constitutions that do not deploy the discourse of restoration make the same claims to research. *Novel* 97, a 539 constitution on dowries, states that:

'The idea lately occurred to us to inquire closely and to understand the purpose of the ancient law on dowry contracts... And we have contemplated and inspected something else concerning matrimonial contributions, by which we mean enhancement. For statements concerning enhancement have been made both by lawgivers before us and by us ourselves, and a great volume of study, which is not easy to quantify, has been conducted by us into such statements and into antiquity.'⁶³

Justinian's claim to have studied historical and legal sources mobilises his broader discourse of conscientiousness.⁶⁴ The 530s *Novels* consistently represent the emperor as curious about ancient tradition, satisfying his curiosity through demanding intellectual labour, and legislating on the basis of the traditional knowledge thereby acquired. This is a

⁵⁸ ἐπὶ τῶν χρόνων οὐ μόνον οὐς οἱ αυτοκράτορες ἔσχον, ἀλλὰ καὶ τῶν ἔτι πορρωτέρω. J. Nov. 13.1.2. εἰς ἀλλοίαν μετέστη προσηγορίαν καὶ τάξιν. J. Nov. 13.pr.

⁵⁹ ἀποβλέποντες εἰς τὰς πρώτας ἀρχὰς ὅθεν αὐτὸ συστήναι παρέδοσαν ἡμῖν οἱ τὰ παλαιὰ συγγράφοντές τε καὶ διηγούμενοι. J. Nov. 25.pr.

⁶⁰ Maas, "History and Ideology," p.19; Miller & Sarris, *Novels*, p.285.

⁶¹ τῶν ἀνωμολογημένων / ἐγγενῆ τε καὶ πάτρια. J. Nov. 26.pr.

⁶² τοῦτο γὰρ δὴ κἀν τοῖς ἔμπροσθεν χρόνοις κρατεῖν τε καὶ πολιτεύεσθαι μεμαθήκαμεν. J. Nov. 15.1.

⁶³ ἔννοια γέγονεν ἡμῖν ἔναγχος πολυπραγμονῆσαι καὶ μαθεῖν, τί δὴποτε βουλόμενος ἡμῖν ὁ παλαιὸς νόμος ἐπὶ τῶν τῆς προικὸς συμβολαίων... καὶ ἕτερον δέ τι τῶν περὶ τὰς γαμικὰς ἐπιδόσεις γινομένων ἐθεωρήσαμεν τε καὶ κατεσκευάσαμεθα, φαμεν δὲ τὸ περὶ τῆς ἐπαυξήσεως. ἐπειδὴ γὰρ καὶ τοῖς πρὸ ἡμῶν νομοθέταις καὶ ἡμῖν αὐτοῖς τὰ περὶ τῶν ἐπαυξήσεων εἴρηται, πολλὰ δὲ παρ' ἡμῶν περὶ τῶν τοιούτων καὶ οὐδὲ ἀριθμηθῆναι ῥάδια κἀν τούτοις πρὸς τὸ παλαιὸν πεφιλοσόφηται. J. Nov. 97.pr, 2.

⁶⁴ See especially J. Nov. 8.pr.

very different kind of ‘emperor-as-historian’ to the early Roman *principes*, who composed autobiographical histories.⁶⁵ Justinian turned the propagandising potential of his early legislation to his self-representation as an historian of Roman antiquity.

This self-representation serves the internal logic of the reforms, buttressing their invented historical content with an intellectual authority. It is also a careful response to Zosimus’ location of traditional knowledge beyond the domain of governmental power. Justinian inhabits the same analytical framework and traditionalist assumptions as the *New History*, which identifies a return to the practices of Polybian imperialism as the key to future Roman success. The Pisidian *Novel* does likewise:

‘We do not believe that even the ancient Romans would ever have been able to create so large a polity from small, even negligible, origins and, from those origins, to take control of and set in order the whole world, so to speak, without exhibiting their greater majesty through the higher-ranking magistrates sent into the provinces, to whom the Romans granted authority over both arms and laws.’⁶⁶

The republican period of territorial expansion was not the only available historical template for Zosimus’ respondents. Evagrius, for example, dates Rome’s exemplary successes to a period of stable, good emperors starting ‘from when the all-celebrated Constantine took over the empire’.⁶⁷ In this instance, the Justinianic régime chose to accept rather than reframe the terms of debate set by Zosimus.

Justinian elected to cater to Zosimus’ critique by presenting himself as the *New History*’s implied ideal emperor.⁶⁸ He even went further. Zosimus’ objections to imperial rule were rooted in its apparent disassociation from traditional knowledge; his implied ideal emperor moderates himself and accepts the advice of senators, priests, and other traditionalists. Justinian, however, usurped the role of these advisors and represented himself and his court as the sites of traditional knowledge. If the emperor himself was an

⁶⁵ M. Durry, “Les empereurs comme historiens, d’Auguste à Hadrien,” *EAC* 4 (1958), pp.215–235. For these autobiographical fragments, consult H. Peter, *Historicorum Romanorum reliquiae* 2 (Leipzig, 1906), though note R. G. Lewis, “Imperial Autobiography, Augustus to Hadrian,” *ANRW* 2 34 (1993), pp.629–707, especially pp.629–30 n.1.

⁶⁶ καὶ τοὺς πάλαι Ῥωμαίους πεπιστεύκαμεν οὐκ ἂν ποτε δυνηθῆναι τοσαύτην πολιτείαν ἐκ μικρῶν καὶ ἐλαχίστων ἀρχῶν συστήσασθαι καὶ πᾶσαν ἐξ αὐτῆς τὴν οἰκουμένην, ὡς εἰπεῖν, προσλαβεῖν τε καὶ ἐπαρχίας πεμπομένοις σεμνότεροί τε ἐντεῦθεν ἐφάνησαν καὶ παρέσχον αὐτοῖς ἐξουσίαν ὄπλων τε καὶ νόμων. *J. Nov.* 24.pr.

⁶⁷ ἐξ ὅτου δὲ Κωνσταντῖνος ὁ παναοίδιμος παρείληφετὴν ἀρχὴν. Evagrius, *HE* 4.31; Kaegi, *Decline of Rome*, pp.219–21.

⁶⁸ For the technique of extracting a depiction of the ideal emperor from inverse depictions of the tyrant in late antique histories, see Börm, “Antimonarchic Discourse,” pp.10–11.

unparalleled authority on Roman tradition, the dislocation of traditional knowledge and imperial power in the *New History* might be entirely elided into a single identity, brooking little traditionalist dissent on its own terms. This was a powerful argumentative movement that would wholly alter the rhetorical landscape of traditionalist politics.

3.1.C: Zosimus on Imperial Service

For Kruse, the *New History* is a ‘fundamentally optimistic’ text because its causes of decline are not ‘definitive or irreversible’.⁶⁹ Such a reversal of imperial fortunes, however, would require a government far more amenable to traditionalist advice than any that Zosimus had found in the preceding centuries. In this context, Zosimus’ advice is markedly more pessimistic. In his retirement, offering a retrospective on a long and successful legal career in the bureaucracy, he simply suggests that imperial servants should withdraw from participation in the state under non-traditionalist rulers. He does so in an episode little discussed by scholars, the cautionary tale of Theodosius’ assassinated *magister militum* Promotus.⁷⁰

Zosimus initially portrays Promotus as a Roman hero who holds back ‘the barbarisation of the Roman empire’.⁷¹ In other words, the *New History* consistently establishes Promotus’ exemplarity within the same framework by which it measures imperial decline. During a 384 invasion by the Grothingi, Promotus’ strategic ingenuity ensured that ‘the whole barbarian army was destroyed at its peak’.⁷² In 391, ‘the emperor himself would have been killed’ were it not for Promotus’ bravery in ‘asking the emperor to save himself while he took care of the barbarians by doling out the justice befitting their madness’.⁷³ At the start of his account of Promotus’ assassination, Zosimus then reveals that Promotus had oriented his sense of duty towards an abstracted Roman polity. He was one of only two Roman generals who had been willing to ‘face such great dangers on behalf of the polity’.⁷⁴ Zosimus’ Promotus is a kind of Roman patriot, motivated by this commitment rather than his support for Theodosius,

⁶⁹ Kruse, *Politics*, pp.29–34.

⁷⁰ *PLRE* 1 Flavius Promotus.

⁷¹ ἡ Ῥωμαίων ἀρχὴ... βαρβαρωθεῖσα. Zos. 1.58.4.

⁷² τοῦ δὲ ἀκμάζοντος παντὸς ἐν τοῖς βαρβάροις διαφθαρέντος. Zos. 4.39.4.

⁷³ συνανήρητο δ’ ἄν... ὁ βασιλεὺς αὐτός / τὸν μὲν βασιλέα περισώζειν αὐτόν... ἡξίου· τῶν γὰρ βαρβάρων αὐτῷ μελήσειν, ἀξίαν τῆς αὐτῶν ἀπονοίας ἐπιθήσονται δίκην. Zos. 4.49.2–3.

⁷⁴ τοσοῦτους ὑπὲρ τῆς πολιτείας κινδύνους. Zos. 4.51.1. On translating πολιτεία, see Kaldellis, *Byzantine Republic*, pp.xiii–xiv.

the tyrant who helps to destroy the Roman empire by ignoring the senate's traditionalist advice.⁷⁵

Zosimus then abruptly undermines Promotus' exemplarity. He issues a damning obituary after recounting the fatal barbarian ambush set by the ambitious *magister officiorum* Rufinus:

'The [barbarians] awaited the signal, attacked [Promotus], who suspected nothing, and murdered a man who surpassed any desire for riches, who furnished sincere service to the polity and to the emperors, but was provided with the punishment befitting his devotion, seeing that he served those who managed public affairs so carelessly and impiously.'⁷⁶

Zosimus' claim that Promotus deserved his fate is a sudden and unexpected departure from the preceding characterisation. In other cases, like the presentation of Stilicho, Zosimus' abruptness has been ascribed to his unpolished use of sources.⁷⁷ Here, it serves a clear literary purpose, dramatically puncturing the expectations constructed by the foregoing narrative, and conveys a coherent political message. The service 'on behalf of the polity' that Promotus imagines himself to have been conducting is revealed, after his murder, to have been service both 'to the polity and to the emperors'. Regardless of Promotus' motivations, he had aided and abetted emperors who ruled 'carelessly' (with respect to tradition) and 'impiously' (with respect to pagan practice). He therefore deserved his death penalty.

This episode is tailored towards men who shared Promotus' mode of thought, rationalising their service as a duty to abstracted entities rather than to the emperor. This ideology of public service permeated the late Roman bureaucracy. The *Notitia urbis Constantinopolitanae*, a register of Constantinople's buildings and officials plausibly composed by a retired member of the urban prefect's staff in the mid-420s, describes urban

⁷⁵ On Roman patriotism: J.-H. W. G. Liebeschuetz, "Citizen Status and Law in the Roman Empire and the Visigothic Kingdom," *Strategies of Distinction: The Construction of Ethnic Communities, 300–800*, eds. W. Pohl & H. Reimitz (Leiden, 1998), pp.151–52; D. Kapust, "Roman Patriotism," *Handbook of Patriotism*, ed. M. Sardoč (Cham, 2020), pp.47–68.

⁷⁶ οἱ δὲ τὸ σύνθημα δεξάμενοι, μηδὲν προῖδομένῳ τοιοῦτον ἐπιθέμενοι, κατασφάζουσιν ἄνδρα πλοῦτου μὲν κρείττονα γεγονότα, χρησάμενον δὲ τῇ πολιτείᾳ καὶ τοῖς βασιλεύσιν εἰλικρινῶς, ἄξια δὲ τῆς προαιρέσεως ἐπίχειρα κομισάμενον, ὅτι τοῖς οὕτως ἐκμελῶς καὶ ἀσεβῶς τὰ κοινὰ πράγματα διαθεῖσιν ὑπηρετήσατο. Zos. 4.51.1–3.

⁷⁷ Goffart, "Zosimus," p.419; Blockley, "More than Two Sources?," pp.395–96; Treadgold, *Early Byzantine Historians*, p.109.

administrators as ‘serving the city’.⁷⁸ While Zosimus was writing, Christian officials across the empire were reimagining administration as a service rendered to God and the Christian community.⁷⁹ The *Notitia dignitatum*, like Lydus and the *Novels*, describes bureaucratic careers as the same ‘service’ as that performed by troops for the empire.⁸⁰ These ideological terms permitted imperial servants to perform their duties without considering who their emperor was and how they ruled.

Zosimus rejects this prevailing conception of imperial service. He expresses Promotus’ misplaced ideals in the exact same vocabulary of ‘furnishing service’ as Lydus, steeped in bureaucratic tradition, repeatedly uses to describe the nature of work in and for the praetorian prefecture.⁸¹ Zosimus’ obituary for Promotus was therefore directed against those of his former colleagues who justified their participation in the Roman state on these terms. At the same time as he laments the ‘marginalisation of the aristocracy’, he also insisted that imperial servants of all kinds should avoid furnishing service to a state consistently governed by non-traditionalist emperors.⁸² It is also telling that Zosimus situates the *New History*’s sources of traditional knowledge entirely outside the architecture of the Roman state. The piece of bureaucratic literature most contemporary with the *New History*, after all, is Malalas’ chronicle, which euhemerises the pagan past and sets it in a sacred historical framework.⁸³ Zosimus bemoans a bureaucratic culture in which he saw too few traditionalists and antiquarians and which he perceived to be too willing to serve emperors under the false illusion of serving the Roman polity. His bureaucratic reader is left to wonder whether they should be participating in imperial government at all.

⁷⁸ *eidem inservientium*. NUC pr.229, with the antecedent *urbis... Constantinopolitanae*, as shown by H. Fuchs, “Die Vorrede: zur *Notitia Urbis Constantinopolitanae*,” *MH* 26 (1969), p.60. On authorship and date: J. B. Bury, “The Date of the *Notitia* of Constantinople,” *EHR* 31 (1916), pp.442–43; J. Matthews, “The *Notitia Urbis Constantinopolitanae*,” *Two Romes: Rome and Constantinople in Late Antiquity*, eds. L. Grig & G. Kelly (Oxford, 2015), pp.83–84; M. Havaux, “Théodose II, Constantinople et l’empire: une nouvelle lecture de la *Notitia Urbis Constantinopolitanae*,” *RH* 681 (2017), pp.3, 6–9.

⁷⁹ R. Whelan, “An Ascetic State? Fashioning Christian Political Service Across the Early Sixth-Century Mediterranean,” *SLA* 2 (2018), pp.385–418.

⁸⁰ *militia*. ND 39–44; ἐν στρατείαις. J. Nov. 8.6; Lydus, *Powers* 3.10, 3.76. See also: Carney, *Bureaucracy*, vol.1, p.100; F. S. Pedersen, “On Professional Qualifications for Public Posts in Late Antiquity,” *Classica et Mediaevalia* 31 (1975), p.207; Rockwell, “Bureaucratic Identity,” pp.17–18.

⁸¹ Lydus, *Powers* 2.16, 2.22, 3.10, 3.76.

⁸² Kruse, *Politics*, p.34.

⁸³ Garstad, “Euhemerus,” pp.900–29.

3.I.D: Justinian on Imperial Service

The imperial régime relied on its aristocracy of service both for the functional administration of the empire and for the socialisation of a powerful class of subjects to imperial power.⁸⁴ Nonetheless, despite Lydus' complaints about his income and the difficulty of promotion, the civil service was an attractive and well-paid proposition for many young men of political society. To judge from how much space the development occupies in *On Powers*, the régime encountered little difficulty staffing the administration with an increased number of trained accountants, less wedded to the competitive literary culture with which Lydus identifies.⁸⁵ As a result, it did not find Zosimus' equation of service 'on behalf of the polity' with 'service [both] to the polity and to the emperors' to be a dangerous form of dissent. Instead, Justinian embraced the idea, fashioning a new model bureaucracy that deprived Zosimus' obituary for Promotus of its essential literary tactic, the puncture of inflated reader expectations.⁸⁶

The previous chapter encountered the new 'oath sworn by those taking up the office [of provincial governor]' in the context of Justinian and Theodora's united front.⁸⁷ The oath is also notable for its conception of imperial service. In addition to promising to administer Christian orthodoxy, governors were to swear that they 'will observe genuine slavery to our most godly and pious masters, Justinian and Theodora'.⁸⁸ This Christian-infused vocabulary of 'slavery', more than simply service, was wholly new in an administrative context and was unpopular in oppositional circles for its centralising conception of government.⁸⁹ Hence, a couple of decades later, Lydus walks his reader through the significance of the language:

'It is hateful and alien to Roman liberty to call the rulers masters but not emperors, since the title of master is shared by them and those who possess a single fugitive slave, while the title of emperor is theirs alone... Sorry flatterers defame the majesty of emperors by introducing them, out of ignorance, as the leader of slaves... But the reasonableness of our mildest emperor also suffers to be called master, like an excellent father. It is not

⁸⁴ Bjornlie, *Politics and Tradition*, p.44; Heather, "New Men for New Constantines?," pp.184–97.

⁸⁵ Below, 3.III.C; Carney, *Bureaucracy*, vol.2, pp.157–58; Bjornlie, *Politics and Tradition*, pp.63–65.

⁸⁶ ὑπὲρ τῆς πολιτείας / χρησόμενον δὲ τῇ πολιτεία καὶ τοῖς βασιλεύσιν εἰλικρινῶς. Zos. 4.51.1–3.

⁸⁷ ὄρκος διδόμενος παρὰ τῶν τὰς ἀρχὰς λαμβανόντων. J. Nov. 8.*iusiur.*

⁸⁸ γνησίαν δουλείαν φυλάξω τοῖς θειοτάτοις καὶ εὐσεβεστάτοις ἡμῶν δεσπόταις Ἰουστινιανῶ καὶ Θεοδώρῃ. J. Nov. 8.*iusiur.* Orthodoxy: M. Wuk, "Constructing Christian Bureaucrats: Justinian and the Governor's Oath of Office," *JLA* 15 (2022), forthcoming.

⁸⁹ Pazdernik, "Trembling of Cain," pp.146–48; Kelly, *Ruling*, pp.71–81.

that he delights in it, but rather that it makes him blush to seem like he does not submit to those who think they are honouring him.⁹⁰

Several scholars have noted this passage's similarity to the *Secret History*, which claims that Justinian and Theodora insisted on being called 'master', but none have placed these passages in dialogue with the *Novel 8* oath.⁹¹ The intertexts are clear. In *On Powers*, Lydus alleges not that Justinian had revealed his tyranny by permitting himself to be likened to a slaveholder but that the provincial governors' oath was, in characterising the imperial couple as 'masters' and the governors as 'slaves', an abasement of the imperial office's dignity.⁹² For a bureaucrat so committed to monarchy and invested in traditional insignia and titles, this was a grave offence; its blame lay both with the 'sorry flatterers' on whose initiative the vocabulary appeared and with the emperor too timid to protect imperial tradition from an encroaching, over-Christianised alternative.

Lydus' passage demonstrates two helpful points. The *Novel 8* oath registered widely, beyond the group of governors who were to swear it. This was as the régime intended, partly to hold its governors accountable; *Novel 8* was expanded by further mandates, issued the following day, which the governors were to display universally 'so that everyone knows the terms on which you have received your office'.⁹³ The oath also caused enough of a stir in traditionalist bureaucratic circles for Lydus to dedicate so prominent a passage of his magnum opus to a traditionalist critique of its language. Oaths were, after all, a long established site of political and cultural contest.⁹⁴

In this context, the oath represents a striking and widely comprehended attempt to refashion imperial service not just on the terms of Christian orthodoxy but also on the terms of the *New History*. After framing Justinian and Theodora as 'masters', the oath goes on to insist that the governors 'will undertake every toil and labour loyally, with goodwill and

⁹⁰ μισητόν γὰρ καὶ Ῥωμαϊκῆς ἐλευθερίας ἀλλότριον, δεσπότης, ἀλλὰ μὴ βασιλέας, τοὺς κρατοῦντας ὀνομάζειν· καθότι δεσπότης ὄνομα κοινόν ἐστὶν αὐτοῖς καὶ τοῖς ἕνα δραπέτην κεκτημένοις, τὸ δὲ βασιλέων αὐτῶν καὶ μόνων... καταρρίπτουσι τὴν βασιλέων μεγαλειότητα οἱ πονηροὶ κόλακες, ἐξ ἀμαθείας δούλων αὐτοὺς πρωτεύειν εἰσάγοντες... ἀλλ'... ἀνέχεται ἡ τοῦ βασιλέως ἡμῶν ἐπιείκεια... καὶ δεσπότης, οἷον πατὴρ ἀγαθός, ὀνομάζεσθαι· οὐχ ὅτι χαίρει, ἀλλ' ἐρυθρῶ μᾶλλον, τοὺς τιμᾶν οἰομένους δοκεῖν μὴ προσίεσθαι. Lydus, *Powers* 1.6.

⁹¹ Procopius, *SH* 30.25–30; Dubuisson, "Pouvoir personnel," p.65; Pazdernik, "Our Most Pious Consort," p.271; Kaldellis, "Identifying Dissident Circles," p.7; Kaldellis, "Republican Theory," pp.4–5; A. Kaldellis, "Political Freedom in Byzantium: The Rhetoric of Liberty and the Periodization of Roman History," *HEI* 44 (2018), pp.805–6.

⁹² Against Kaldellis, "Republican Theory," pp.4–5.

⁹³ ὥστε ἅπαντας γινώσκειν ἐφ' οἷς παρέλαβες τὴν ἀρχήν. *J. Nov.* 17.16.

⁹⁴ M. Wuk, "Provincial Negotiation of Religious Tensions: Late Antique Oath-Formulae in the Greek Documentary Papyri," *ZPE* 215 (2020), pp.237–56.

without any craftiness, on behalf of their rule and polity'.⁹⁵ This lexical intertextuality with Zosimus' obituary for Promotus is significant; *Novel 8* was part of the legislative programme that responded so carefully to the *New History's* ideas. Promotus conceived of his service as being 'on behalf of the polity' and merited his assassination because he did not realise that this was unavoidably also service to his emperors.⁹⁶ Justinian's governors swore to conduct their own service 'on behalf of [Justinian and Theodora's] rule and polity'.⁹⁷ This identity of service to polity and ruler collapses the literary vehicle by which Zosimus had articulated his argument against imperial service; Promotus' obituary loses its edge of surprise if he is always understood to be serving the emperors. It also shows that the régime did not simply cater to the *New History's* traditionalist logic. Zosimus' way of thinking about imperial service, even if framed against the dominant bureaucratic ideology, was attractive to and deployed by a régime that was concerned with administrative malpractice and altering the makeup of its civil service.

While the régime found itself on safe ground refashioning the bureaucracy in this way, Zosimus' implication that imperial servants should be alert to their emperor's activities and withdraw from service if they were not sufficiently traditionalist remained unhelpful. Bureaucrats played essential roles in the functioning and representation of imperial government. Accordingly, the leading court propagandist of Justinian's early reign, Marcellinus, generates an alternative historical model to Promotus. He selects another *magister militum*, from the reign of Zeno, to be a hero of the Roman past:

'Sabinianus Magnus, having been made commander of both Illyrian services, either assisted the fragile senate when the just census of the state had collapsed and it was terrified or protected it when it relied on him. He was thereafter the best director and enforcer in military science, so much so that he is comparable to ancient Roman commanders. The same Sabinianus deterred king Theodoric, who was raging wildly in Greece, more by cleverness than by strength.'⁹⁸

⁹⁵ πάντα πόνον καὶ κάματον μετ' εὐνοίας ἀδόλως καὶ δίχα τέχνης τινὸς ἀναδέξομαι... ὑπὲρ τῆς αὐτῶν βασιλείας καὶ πολιτείας. J. Nov. 8.iusiur.

⁹⁶ ὑπὲρ τῆς πολιτείας. Zos. 4.51.1.

⁹⁷ ὑπὲρ τῆς αὐτῶν βασιλείας καὶ πολιτείας. J. Nov. 8.iusiur.

⁹⁸ *Sabinianus Magnus Illyricanae utriusque militiae ductor creatus curiam fragilem conlapsamque iustum rei publicae censum vel praepaventem fovit vel dependentem tutatus est. disciplinae praeterea militaris ita optimus institutor coercitorque fuit, ut priscis Romanorum ductoribus comparetur. Theodoricum idem Sabinianus regem apud Graeciam debacchantem ingenio magis quam virtute deterruit.* Marcellinus 479.1–2.

This representation of Sabinianus is tightly formulated against Zosimus' anti-barbarian sentiment, traditionalism, and senatorial sympathies. It also distorts Sabinianus' career. He is nowhere else associated with a census, the most likely goal of which was to reconstitute the *curiae* of Illyrian cities.⁹⁹ This would have imposed obligations on drafted *curiales*, a frequent bone of contention among late Roman aristocrats; Zosimus accordingly complains about similar burdens.¹⁰⁰ Yet Marcellinus writes any antagonism between Sabinianus and the Illyrian senatorial classes out of his narrative. Instead, he simplifies the *magister militum* into a Roman hero reminiscent of Promotus. Marcellinus' Sabinianus would not have been out of place in the *New History*.

The distortions continue with Sabinianus' death. The seventh-century writer John of Antioch makes the widely accepted claim that the emperor Zeno 'treacherously murdered Sabinianus'.¹⁰¹ John's source was almost certainly Candidus, a Greek historian writing in Constantinople around the time of Marcellinus' arrival.¹⁰² This tradition was presumably available to Marcellinus. Nonetheless, though he was seemingly aware that Sabinianus 'died prematurely', his entry is vague:¹⁰³

'Death, which rightly overhangs this sinful world, carried off Sabinianus Magnus before he could bring fresh aid to an exhausted state.'¹⁰⁴

In response to Zosimus' Promotus, Marcellinus constructs an extremely similar historical character but insists that his early death was only a product of how 'this sinful world' worked under a Christian God. The characterisation denies that any practical lessons about imperial service can be drawn from the deaths of past generals. To think otherwise was to reject the Christian framework of Marcellinus' chronicle. As with the *Novel* 8 oath, Christian ideas and vocabulary furnished Marcellinus with tools for blunting (or co-opting) Zosimus' call for imperial servants to assess their roles.

⁹⁹ Croke, *Chronicle of Marcellinus*, p.102.

¹⁰⁰ *Ibid.*; J. Nov. 70; Zos. 2.38.

¹⁰¹ δολοφονήσας... Σαβινιανόν. John of Antioch fr.236. See further: *PLRE* 2 Sabinianus Magnus 4; van Nuffelen, "John of Antioch," pp.437–50.

¹⁰² P. Sotiroudis, *Untersuchungen zum Geschichtswerk des Johannes von Antiocheia* (Thessaloniki, 1989), pp.141–42; Treadgold, *Early Byzantine Historians*, p.314; S. Mariev, *Ioannis Antiocheni fragmenta quae supersunt omnia* (Berlin, 2008), pp.40–41, 434. On Candidus, see further: R. C. Blockley, "The Development of Greek Historiography: Priscus, Malchus, Candidus," *Greek and Roman Historiography in Late Antiquity: Fourth to Sixth Century A.D.*, ed. G. Marasco (Leiden, 2003), pp.312–14; Treadgold, *Early Byzantine Historians*, p.105.

¹⁰³ *PLRE* 2 Sabinianus Magnus 4.

¹⁰⁴ *Sabinianum Magnum mors, quae huic peccanti mundo merito imminet, ante ademit quam integrum defetigatae rei publicae subsidium ferret.* Marcellinus 481.2.

One function of Marcellinus' tactic was to compress the *New History's* audience. Zosimus had tried to explain to his predominantly Christian readership why it was worth caring about the observation of traditional pagan rites. He argues that they functioned, even in non-religious terms, as social glue that 'held together the human race' by virtue of their antiquity.¹⁰⁵ Marcellinus undermines these efforts by providing explicitly Christianised alternatives to the *New History's* characterisations, for a literary culture accustomed to deriving political arguments from such characterisations, as the traditionalist uses of Proclus, Menas, and Phocas later in Justinian's reign demonstrate.¹⁰⁶

Marcellinus' entries on Sabinianus were part of his first edition published, probably, after the *New History* but prior to his own court service. His response to Zosimus' ideas, like his emphasis on the Roman identity of Italy, made his employment even more attractive to Justinian. The force of these entries was nonetheless renewed by their inclusion in the second edition of c.532, re-emphasising them at the same time as his former employer was about to capitalise on Zosimus' conceptualisation of imperial service while remaking the provincial administration. Marcellinus' sensitivity to Zosimus' arguments and Justinian's goals is consistently evident. Shortly after Sabinianus' death, Marcellinus notes that his son was appointed to the same post and led the Romans to a catastrophic defeat against the Goths.¹⁰⁷ This notice had a sharp political edge in light of Zosimus' stress on the importance of hereditary aristocracies and of Justinian's attempts to undo the networks of family ties and patronage that shaped bureaucratic career progression.¹⁰⁸ In the propaganda response to the *New History's* ideas, therefore, Justinian had at his disposal not just constitutions and an ability to enact oaths of 'slavery' but also the carefully deployed literary talents of his court propagandists.

3.1.E: The Debate by 540

In line with the general progression of scholarship on Zosimus, which elevates his relevance to later debate, Justinian and Marcellinus exhibit even closer engagement than previously identified with the *New History's* arguments about monarchy, tradition, and service. The

¹⁰⁵ τὰ συνέχοντα τὸ ἀνθρώπειον γένος. Zos. 4.3.3.

¹⁰⁶ Above, 1.II.A. This point is absent from but complements Krallis, "Historiography as Political Debate," pp.599–614.

¹⁰⁷ Marcellinus 505.

¹⁰⁸ Bjornlie, *Politics and Tradition*, pp.63–64.

imperial propaganda of the 530s knitted these arguments together into a coherent response. Justinian's representation of the imperial court as the site of antiquarian research deflates Zosimus' diagnosis of a disassociation between power and traditionalist knowledge and enables him to accept the *New History's* model of imperial service. If the emperor was himself the source of tradition, any imperial servants inclined to take Zosimus' advice would find no reason to withdraw from their participation in the state. This movement testifies to the régime's concern for massaging bureaucratic opinion.

The participants in this debate so far all operated freely. They could invent and manipulate historical facts like the date of Constantine's conversion, the details of Sabinianus' career, and the traditional form of the provincial administrations, so long as they buttressed these distortions with well constructed claims to intellectual or analytical authority. Despite this fluidity, the *New History* still demanded a concerted response that the Justinianic régime developed over several years, at least in its administrative legislation. In the broader context of long-term developments in bureaucratic culture, Christianised ideologies of service were being vigorously discussed in epistolary circles from the early sixth century and received a powerful impetus from reforms like *Novel 8*.¹⁰⁹ The *New History* was both framed against these developments, rebuking its author's former colleagues for their uncritical service commitments, and representative of a strong enough current of traditionalist administrative thought to register at court. The bureaucracy of Constantinople was therefore a site of internal debate and contest. The works of John Lydus emerged out of this context in every respect.

3.II: Lydus and Imperial Propaganda

Lydus' *On Powers* shares both a background and a fundamentally traditionalist analysis with the *New History*. Both were the magna opera of retired civil servants (probably) in the praetorian prefecture, prioritise the political goal of restoring the Roman magistracies, and express a hierarchical bureaucratic vision centred on the praetorian prefecture. Zosimus laments how 'the prefecture used to be considered second only to the imperial sceptre' until 'Constantine disturbed this well-established structure by breaking up the one office into

¹⁰⁹ R. Whelan, "Mirrors for Bureaucrats: Expectations of Christian Officials in the Theodosian Empire," *JRS* 108 (2018), pp.74–98; Whelan, "An Ascetic State?," pp.385–418; Wuk, "Constructing Christian Bureaucrats."

four'.¹¹⁰ This is the primary substance of Zosimus' charge that Constantine 'threw the ancient, established magistracies into confusion'.¹¹¹ Justinian would mobilise this precise critique with his praetorships, which combined civil and military competences.¹¹² Yet Lydus would still lament that 'many individual and probably superfluous magistracies were born from the dissolution of the greatest magistracy', the prefecture.¹¹³

Despite these similarities, Lydus departs from Zosimus in numerous ways, including in his conception of decline, his solution to it, and the role that he imagined for Roman bureaucrats. This is partly a consequence of the dramatically altered political landscape in which traditionalists operated in the second half of Justinian's reign. The *New History's* traditionalism had been baked into Justinian's propaganda from the early days of his rule. This discursive movement prompted traditionalists like Lydus, who had a particular interest in the administrative topics where this propaganda predominated, to think harder about how to engage with imperial propaganda and to produce a critique of the bureaucracy's propaganda culture, in which civil servants performed the integral tasks of distributing imperial texts, archiving them for consultation, and disseminating their motifs in their literary works. Consequently, while the *New History* exhibits little interest in the representative themes and tactics of imperial régimes, *On Powers* is and had to be a book about propaganda.

3.II.A: Lydus on Imperial Restoration

In its most immediate and important divergence from the political theory of the *New History*, *On Powers* explicitly articulates a 'theory of imperial restoration':¹¹⁴

'Time is skilled at both eating up and overturning the things allotted both generation and corruption simultaneously, but the emperor's virtue is something so great that the formerly destroyed characteristics of the state await their regeneration through it.'¹¹⁵

¹¹⁰ ἡ γὰρ τῶν ὑπάρχων ἀρχὴ δευτέρα μετὰ τὰ σκῆπτρα νομιζομένη... Κωνσταντῖνος δὲ τὰ καλῶς καθεστῶτα κινῶν μίαν οὐσαν ἐς τέσσαρας διεΐλεν ἀρχάς. Zos. 2.32.2–33.1.

¹¹¹ συνετάραξεν δὲ καὶ τὰς πάλαι καθεσταμένας ἀρχάς. Zos. 2.32.1.

¹¹² As above, on J. Nov. 24.pr.

¹¹³ τῆς μεγίστης ἀρχῆς καταλυομένης πολλαὶ τινες καὶ τάχα περιτταὶ ἀνέφυσαν ἀρχαί. Lydus, *Powers* 2.7. See further: Maas, *John Lydus*, pp.5, 98; Goffart, "Zosimus," pp.423–24.

¹¹⁴ Maas, *John Lydus*, p.72.

¹¹⁵ δεινὸς δὲ ὁ χρόνος ἐκφαγεῖν τε καὶ ὑπεργάσασθαι τὰ γένησιν ἅμα καὶ φθορὰν εἰληχότα ἀλλ' ἡ βασιλέως ἀρετὴ τοσαύτη τίς ἐστίν, ὥστε παλιγγενεσίαν δι' αὐτοῦ τὰ <τῆς πολιτείας γνωρίσματα> πρὶν ἐξολωλότα караδοκεῖν. Lydus, *Powers* 2.5.

On Powers is widely understood as a manifesto for the restoration of the Roman state, especially the praetorian prefecture.¹¹⁶ This clear statement that imperial virtue is the mechanism of restoration is compelling evidence against Dubuisson and Kaldellis's republican readings of the text. So too is Lydus' repeated use of the Homeric quotation 'the rule of many is not good; let there be one ruler', for which Kaldellis never accounts.¹¹⁷ *On Powers* further testifies to the closing-down of antimonarchic discourse in the decades after the *New History* by expressing a concretely imperial solution to the decline of the Roman state.

This imperial vision rejects the stability of the *New History's* worldview. Zosimus expressly maintains scope for traditions to rumble along unharmed even under hostile emperors. In his digression on the *pontifex maximus*, he records that 'all the autocrats appeared to receive the honour very gladly and made use of this title'.¹¹⁸ Even Constantine, the arch-tyrant and 'origin of the [empire's] destruction', is explicitly included in this list.¹¹⁹ Eventually, Gratian 'rejected the request [that he wear the *pontifex's* dress] because he considered the robe unlawful for a Christian to wear'.¹²⁰ The emperor's rationale for abandoning this tradition may be overtly religious but Zosimus' narrative reconnects it to the antimonarchic digression; the passage is an illustration of how monarchy's lack of structural restraints left traditions hostage to the whim of any given emperor. Nonetheless, it also suggests that the traditional practices that sustained the Roman empire could continue for as long as emperors refrained from innovating. It is partly on these grounds that Zosimus was able to advocate for withdrawal from service to non-traditionalist emperors. If only the state could be left well enough alone, Roman tradition would survive.

Lydus, like Zosimus, identifies innovative historical tyrants.¹²¹ These tyrants are Zosimus' primary villains and their absence is sufficient to protect tradition. *On Powers*, however, represents decline as a natural function of the passage of time. This philosophical theory is developed in an Aristotelian vocabulary of generation and corruption but its

¹¹⁶ Dubuisson, "Pouvoir personnel," p.72; Maas, *John Lydus*, pp.72–79, 97–100; Kaldellis, "Republican Theory," pp.1, 12.

¹¹⁷ οὐκ ἀγαθὸν πολυκοιρανίη· εἷς κοίρανος ἔστω. Lydus, *Powers* 2.7 (in full), 1.37 (without the second clause). The republican positions: Dubuisson, "Pouvoir personnel," pp.55–72, esp. 72; Kaldellis, "Republican Theory," pp.1–16.

¹¹⁸ οἱ... πάντες αὐτοκράτορες ἀσμενέστατα φαίνονται δεξάμενοι τὴν τιμὴν καὶ τῇ ἐπιγραφῇ χρησάμενοι ταύτῃ. Zos. 4.36.4.

¹¹⁹ τῆς... ἀπωλείας... τὴν ἀρχὴν. Zos. 2.34.2.

¹²⁰ ἀπεσεύσατο τὴν αἴτησιν, ἀθέμιτον εἶναι Χριστιανῶ τὸ σχῆμα νομίσας. Zos. 4.36.5.

¹²¹ e.g. Domitian at Lydus, *Powers* 2.19.

historical consequences are plain.¹²² The praetorian prefecture ‘wastes away in time’, ‘time has changed’ the prefect’s traditional insignia, the cavalry commandership ‘was wiped away by time’, and the tribuneships are ‘worn out by old age’.¹²³ *On Powers* is saturated with offices subjected to the degrading agency of time.¹²⁴ Its metaphysics therefore depart from the *New History* and its stable traditions. For Lydus, the absence of innovation is not enough; the maintenance and restoration of tradition demands an active agent to oppose the destructive influence of time.

In Lydus’ hierarchical political vision, this agent is the emperor. *On Powers* twice opposes the virtuous emperor to the corruptive force of time, once in the passage quoted above and once again in the third book:

‘Time, which is destructive by nature, either completely extinguished the many useful and well-ordered features of the department subordinate to the prefect or changed them to such an extent that it preserved afterwards only a faint footstep of its once admired qualities... and the prefecture will slip into almost entire dissolution should God and this wholly good emperor not help it.’¹²⁵

Lydus may have been genuinely more ideologically committed to monarchy than Zosimus or he may simply have made a pragmatic assessment of the lack of alternatives. Either way, the imperial logic of *On Powers* is consistent. The passage of time inevitably degrades the traditional structure of the magistracies and the only stated or implied counterbalance is ‘the emperor’s virtue’. Lydus writes from the perspective of a bureaucrat who is powerless to effect restoration without the emperor.

¹²² Maas, *John Lydus*, pp.76, 83–88.

¹²³ διαρρέουσιν τῷ χρόνῳ. Lydus, *Powers* 3.1. ὁ χρόνος ἐναλλαγίς. 2.19. ἀπαλιφεῖσα... τῷ χρόνῳ. 2.23. γήρα κάμνουσι. 3.9.

¹²⁴ For too positive an interpretation of change in *On Powers*, contrast A. J. Tóth, “John Lydus – Pagan and Christian,” *Pagans and Christians in the Late Roman Empire: New Evidence, New Approaches (4th–8th Centuries)*, eds. M. Saghy & E. M. Schoolman (Budapest, 2018), p.67.

¹²⁵ ὁ χρόνος λυμαντικός ὢν κατὰ φύσιν τὰ πολλὰ τῶν τῆς πειθομένης τῆ ἀρχῆ τάξεως, χρειώδη ἅμα καὶ κόσμια, ἢ παντελῶς ἔσβεσεν ἢ τοσοῦτον ἐνήμειψεν, ὡς ἴχνος ἀμυδρὸν τῶν ποτε θαυματομένων τὸ λοιπὸν διασώζειν... τῆς δὲ τάξεως – εἰ μὴ θεὸς καὶ βασιλεὺς οὗτος ὁ πάντα καλὸς ἐπεκούρει – ἐγγὺς εἰς παντελῆ κατάλυσιν ὀλισθαινούσης. Lydus, *Powers* 3.39.

3.II.B: Lydus' Treatise *On Propaganda*

In his otherwise effective rebuttal of Kaldellis's republican reading, Dmitriev treats 'the ruler's personal and political virtues' in *On Powers* as a flat category, all as good as each other.¹²⁶

In fact, Lydus privileges one particular virtue in the mechanics of his theory of restoration:

'It remains, then, to explain the reasons for the diminution of and such great alteration in [the prefecture's] affairs, although it is perhaps possible to see that this office is even now greater and more famous than itself because of the emperor's sleeplessness, for there is no limb of the whole government which the emperor, inspecting and surveying, has not restored with goodness to grandeur and powerful might in its entirety.'¹²⁷

On Powers's whole project turns on this essential passage. It highlights the relevance of imperial propaganda to the text and locates Justinian's propaganda claim to sleeplessness at its logical centre.

The passage's comparative construction must first be clarified. Kaldellis misreads it as a statement that 'the prefecture has been made greater and more famous than *before*'.¹²⁸ He consequently misidentifies Lydus' strategy for securing the prefecture's restoration, understanding *On Powers* as an example of 'ask[ing] a ruler for a favour' by 'prais[ing] him for having already done it'.¹²⁹ Such a tactic belongs to cultures where direct political speech is dangerous. Yet Lydus is not comparing the current and past prefectures when he describes the department as 'greater than itself'. As Maas correctly notes, he is actually comparing how the prefecture 'currently seems' with how it 'really is'.¹³⁰ Hence, it is merely 'perhaps possible to see', rather than to experience, a restored prefecture. Lydus is implying a discrepancy between representation and reality more than between past and present. This interpretation of the passage resolves the problem raised by Kaldellis, that the image of a restored prefecture is irreparably undermined by other images of the department in a state of disrepair.¹³¹ If the restoration belongs only to the realm of representation, not reality, this contradiction ceases to exist. *On Powers* frames itself as a commentary on representation

¹²⁶ Dmitriev, "Lydus' Political Message," p.23.

¹²⁷ ὑπόλοιπον ἄρα τυγχάνει τὰς αἰτίας τῆς ἐλαττώσεως καὶ τῆς τοσαύτης τῶν πραγμάτων παραλαγῆς ἀποδοῦναι, κὰν εἰ τυχὸν αὐτὴν τὴν ἀρχὴν ἑαυτῆς καὶ μείζονα καὶ κλεινοτέραν τῇ βασιλέως ἀγρυπνία ἔτι καὶ νῦν ἔστι συνιδεῖν, οὐδὲ γὰρ μέλος ἐστὶ τῆς ὅλης πολιτείας ὃ μὴ καθ' ὅλου εἰς ὕψος τε ἅμα καὶ δύναμιν ἰσχυρὰν ὁ βασιλεὺς μετὰ καλοῦ ἀνέστησεν, περινοστώων ἅμα καὶ περιθεώμενος. Lydus, *Powers* 3.39.

¹²⁸ Kaldellis, "Republican Theory," p.11. Italicisation mine.

¹²⁹ Ibid.

¹³⁰ Maas, *John Lydus*, p.73.

¹³¹ Kaldellis, "Republican Theory," p.12.

and specifically on propaganda, which more than most kinds of discourse operates in the fissure between representation and reality.

At the same time, this passage remains logically consistent with the rest of *On Powers*'s political theory. Lydus had established the need for an active imperial agent to undo and prevent the corruptive influence of time on the Roman state. The model of the sleepless emperor here satisfies that need by making restoration contingent on the emperor's sleepless watch over his government, identifying and reversing the loss of its traditional features.¹³² The same book bears this model out by frequently attributing the decline of a particular office to a lack of vigilance, watchfulness, or care.¹³³ *On Powers*'s 'key to restoration' is therefore the sleeplessness of a traditionalist emperor, rather than simply 'knowledge of the past' as Maas suggests.¹³⁴ From this point, an intertextually constructed argument about the disconnect between imperial propaganda and political reality emerges.

3.II.C: Propaganda Paradoxes

The centrality of sleeplessness to Lydus' theory of imperial restoration mimics the centrality of the same virtue to Justinian's self-representative propaganda.¹³⁵ This study has already seen that Justinian represented himself as a sleepless emperor in an array of epigraphic, legal, and architectural texts. The *Novels* routinely describe Justinian as operating 'with complete sleeplessness' or 'being vigilant'.¹³⁶ The Sergius and Bacchus inscription refers to him as 'the sleepless emperor'.¹³⁷ The equestrian statue in the Augustaion 'watches eastwards against the Persians'.¹³⁸ The motif, in turn, was further distributed in Agapetus' and Romanos' policy packages.¹³⁹ Lydus also appears to participate in this propaganda network, but his was a pointed literary performance that culminates in a collision between Justinian's sleeplessness and the demonic prefect John the Cappadocian. The function of

¹³² Dmitriev, "Lydus' Political Message," pp.5–7.

¹³³ Lydus, *Powers* 3.11, 39, 55, 58, 66, 69.

¹³⁴ Maas, *John Lydus*, pp.80–82.

¹³⁵ Croke, "Sleepless Emperor," pp.103–8.

¹³⁶ μετὰ πάσης ἀγρυπνίας. J. Nov. 8.pr, 15.pr. *invigilat*. J. Nov. 114.pr. Also e.g. J. Nov. 36, 37, 64.

¹³⁷ βασιλῆος ἀκοιμήτοιο. *CIG* 4.8639.

¹³⁸ βλέπει δὲ πρὸς ἀνίσχοντά που τὸν ἥλιον... ἐπὶ Πέρσας. Procopius, *Buildings* 1.2.10. See P. Yoncaçı Arslan, *Christianizing the Skyline: The Appropriation of the Pagan Honorary Column in Early Constantinople*, Ph.D. dissertation (University of California, 2015), pp.140–42, 160, 263–64.

¹³⁹ Above, 2.III.A.

this collision is to show that uncritical subscription to imperial propaganda fails to make any sense of the reality of Justinianic rule.

On Powers consistently reproduces Justinian's propagandising discourse of sleeplessness. Lydus describes Justinian as 'the most sleepless of all emperors'.¹⁴⁰ His claims that Justinian is 'sleepless to the greatest extent against enemies' and sleeplessly 'inspects and surveys' his state mirror the theme of the second equestrian statue and the *Novels*' representations of the emperor as a personal investigator of bureaucratic malpractice.¹⁴¹ Lydus further sets himself within contemporary propaganda networks by enhancing this discourse, mimicking the movement of writers like Malalas. He presents sleeplessness as the animating structure for Justinian's attitude towards his own subjects, claiming that the emperor 'imagined that he would lose his own life unless everybody was sleepless in the same way as he was'.¹⁴² Lydus confirms that Justinian sought to inculcate and reward the virtue of sleeplessness among his subjects by noting that he himself was appointed to his teaching post because 'the emperor recognised my sleepless attitude towards learning', rather than, for example, because he had composed a panegyric.¹⁴³ In these ways, *On Powers* superficially performs the same function as many other texts in Constantinople's devolved propaganda networks. This is not 'pro forma' praise idly absorbed from the emperor's own self-representation.¹⁴⁴ It is a thoroughgoing and sophisticated transposition of the most distinctive term by which Justinian legitimised his rule.

However, Lydus preconfigures his entire reproduction of Justinian's sleeplessness with a clear intertextual reference to imperial dissimulation. *On Powers*'s first reference to sleeplessness claims that:

'The dissembler is also [called] a consul, because he thinks ahead and stays awake by himself, mulling over the public interest.'¹⁴⁵

¹⁴⁰ τὸν πάντων βασιλέων ἀγρυπνότατον. Lydus, *Powers* 3.55.

¹⁴¹ τὰ πλείστα κατὰ πολεμίων ἀγρυπνῶν. Lydus, *Powers* 2.15. Bureaucratic malpractice: especially *J. Nov.* 13.4. See further Kruse, *Politics*, p.99.

¹⁴² ζημίαν τῆς οἰκείας ζωῆς ᾗτε συμβαίνειν αὐτῷ εἰ μὴ πάντες κατ' αὐτὸν ἀγρυπνοῖεν. Lydus, *Powers* 3.55.

¹⁴³ γνοὺς δὲ ὁ βασιλεὺς τὴν ἐμὴν περὶ τοὺς λόγους ἀγρυπνίαν. Lydus, *Powers* 3.28.

¹⁴⁴ Kaldellis, "Republican Theory," p.11; Pazdernik, "Justinianic Ideology," p.194.

¹⁴⁵ καὶ κόνσουλ ὁ κρυψίνους ἀπὸ τοῦ προνοεῖν καὶ καθ' ἑαυτὸν ὑπὲρ τῶν κοινῶν σκεπτόμενον ἀγρυπνεῖν. Lydus, *Powers* 1.30.

Lydus' term for 'dissembler' bore thoroughly negative connotations for contemporaries.¹⁴⁶

Novel 8 provides an obvious imperial intertext:

'It has fallen to me to spend all my days and nights, with complete sleeplessness and thoughtfulness, deliberating at all times as to how something which is both useful and pleasing to God might be granted to my subjects by me. I do not take this sleeplessness lightly, but I expend it on deliberations such as these every waking hour, using both nights and days alike.'¹⁴⁷

While this propaganda content was cut from *Novel 8*'s publication decree, members of political society paid close attention to it. This study has already seen both how highly charged the term 'sleepless' was and how *Novel 8* was a particularly contested text among a legal corpus of contested texts. At the time of Lydus' composition, the consular and imperial offices were also functionally equivalent.¹⁴⁸ Hence, when Lydus wrote that consuls practise sleeplessness in the public interest and were for this reason dissemblers, a significant proportion of his readers, especially in the narrow public that handled the *Novels*, will have recognised that he was levelling the same charge against Justinian.

This clear intertextuality anchors *On Powers*'s relationship with imperial propaganda. It also walks the reader through the most glaring contradiction in *On Powers*. John the Cappadocian, who was praetorian prefect from 531 to early 532 and then again from late 532 to 542, is *On Powers*'s primary character villain.¹⁴⁹ The text recounts a litany of John's crimes, ranging from the violent, such as torture, to the obscene, like the scatological defilement of the praetorium, to the innovative, like the abolition of the grain-fund and other 'custom[s that] have prevailed since antiquity'.¹⁵⁰ Lydus assures his reader of the veracity of these heightened and colourful accounts by affirming that 'I know about these things because I was an eyewitness and present when they were carried out'.¹⁵¹ He thereby mobilises his authorial persona as a bureaucratic insider to support his conclusion about

¹⁴⁶ Hesychius, *Lexicon* 4263.

¹⁴⁷ ἀπάσας ἡμῖν ἡμέρας τε καὶ νύκτας συμβαίνει μετὰ πάσης ἀγρυπνίας τε καὶ φροντίδος διάγειν ἀεὶ βουλευομένοις, ὅπως ἂν χρηστόν τι καὶ ἀρεσκόν θεῷ παρ' ἡμῶν τοῖς ὑπηκόοις δοθείη. καὶ οὐ πάρεργον τὴν ἀγρυπνίαν λαμβάνομεν, ἀλλ' εἰς τοιαύτας αὐτὴν ἀναλίσκομεν βουλὰς διημερεῦοντές τε καὶ νυξὶν ἐν ἴσῳ ταῖς ἡμέραις χρώμενοι. *J. Nov.* 8.pr.

¹⁴⁸ *J. Nov.* 105; Kaldellis, "Republican Theory," pp.7–8; Kruse, *Politics*, pp.102–47.

¹⁴⁹ Maas, *John Lydus*, p.75; G. Greatrex, Review of C. Kelly, *Ruling the Later Roman Empire*, *Phoenix* 60 (2006), p.178; Bjornlie, *Politics and Tradition*, p.115; Dmitriev, "Lydus' Political Message," p.20. For John: *PLRE* 3 Fl. Ioannes 11 (the Cappadocian); Greatrex, "Nika Riot," p.65.

¹⁵⁰ νόμος ἄνωθεν ἐκράτησε. Lydus, *Powers* 3.61. Also 2.20–22, 3.38, 3.57–62.

¹⁵¹ τούτων... ἐγὼ δὲ οἶδα θεωρὸς γενόμενος καὶ παρῶν τοῖς πραπτομένοις. Lydus, *Powers* 3.57.

John: Justinian's two-time prefect was a 'demon' under whose stewardship 'the prefecture was diminished'.¹⁵²

It was always possible in late antiquity to criticise an emperor 'indirectly through his officials', especially officials who had fallen out of favour.¹⁵³ Lydus' demonological polemic against John was even more hostile than that of Procopius' *Wars*, where the prefect is uneducated, irreligious, drunk, and greedy but nonetheless still human.¹⁵⁴ Nonetheless, the function of *On Powers*'s invective was not straightforwardly to criticise Justinian for the crimes which his prefect had committed. Instead, Lydus attempts to 'absolve Justinian of responsibility'.¹⁵⁵ He remarks that 'our gentlest emperor knew about none of these things'.¹⁵⁶ As the previous chapter saw, this excuse was a tactic for attributing to the deceased Theodora alone one of the virtues that imperial propaganda had repeatedly ascribed to Justinian. It also, however, generates a difficult paradox. Lydus had consistently represented Justinian as sleepless and had placed imperial sleeplessness, in the form of a continual process of 'inspecting and surveying' the state, at the heart of his theory of imperial restoration. To claim that Justinian was wholly ignorant of blatant crimes committed against his own subjects and against Roman tradition by a prefect whom he appointed twice was to contradict Lydus' own characterisation of the emperor.

No resolution to this glaring contradiction has yet been advanced which does Lydus justice. Tsirpanlis makes no attempt.¹⁵⁷ Maas considers it a product of Lydus' analytical inability to describe the relationship between a good emperor and a bad official.¹⁵⁸ Dmitriev suggests that it is intended to demonstrate Justinian's 'magnanimity and trust' towards his officials, underscoring the extent to which he fits the model of the virtuous emperor.¹⁵⁹ If so, this would mean that Lydus accidentally undermines his own argument, by attributing the deterioration of the prefecture to the virtuous imperial rule that he had set out to advocate. In both Maas and Dmitriev's interpretations, traces of Stein's old assessment that '*On Powers* is very poorly written' and 'betrays the doddering clumsiness and carelessness of

¹⁵² ὁ Δαίμων. Lydus, *Powers* 3.12. Δαιμόνιον. 3.57. τῆς ἀρχῆς ἐλαττωθείσης. 2.22.

¹⁵³ Kaldellis, *Procopius*, p.126.

¹⁵⁴ Procopius, *Wars* 1.24.11–16.

¹⁵⁵ Kruse, *Politics*, p.147.

¹⁵⁶ τοῦ γὰρ ἡπιωτάτου βασιλέως μηδὲν τούτων ἐπισταμένου. Lydus, *Powers* 3.69.

¹⁵⁷ C. N. Tsirpanlis, "John Lydos on the Imperial Administration," *Byzantion* 44 (1974), p.482.

¹⁵⁸ Maas, *John Lydus*, pp.74–75.

¹⁵⁹ Dmitriev, "Lydus' Political Message," p.19.

its author' may still be discerned.¹⁶⁰ Kaldellis is correct to insist instead on interpretations of Lydus that avoid suggestions of 'confusion or carelessness when the panegyric passages seem incoherent or are contradicted elsewhere'.¹⁶¹

On Powers's revival of Theodora is one such interpretation. In the case of Justinian's sleeplessness, Kaldellis's criterion is further satisfied by recognising that *On Powers* is thematically concerned with the gap between representation and reality and that its praise for Justinian's sleeplessness is an intertextual reproduction of Justinian's own propaganda rather than Lydus' independent assessment of his rule. The collision between this propagandising discourse, the characterisation of John the Cappadocian, and the degradation of the Roman state exposes how uncritical subscription to imperial propaganda, as Lydus himself performatively exhibits, fails to make any coherent sense of the reality of Justinianic rule and lets its villains off the hook. This is not an indirect argument. Its intertexts towered above the city, were monumentally inscribed, and saturated the *Novels* which themselves furnished political society with a contestable vocabulary for political debate. Lydus also signposts his argument throughout the text, identifying a gap between how the prefecture seems and how it really is and prefiguring his treatment of sleeplessness with a connection to dissimulation. *On Powers* is a dramatic performance of the paradoxes generated by imperial propaganda. It directs this argument not so much at the emperor but at imperial subjects who reproduced propaganda, especially in the civil service.

3.II.D: Lydus on Justinian's Restorations

The mismatch between Justinian's propaganda and the reality of his rule structures *On Powers* throughout. It operates alongside Lydus' contestations of Justinian's historical and etymological data, which Kruse has recently described.¹⁶² The charge of fallibility or inaccuracy could be powerful and difficult to defend against in a culture where claims to traditional knowledge were highly politicised. Malalas' chronicle demonstrates the potential effectiveness of Lydus' charges that the *Novels*' data are inaccurate. Its counterargument to Syriac millenarian apocalyptic depended on an idiosyncratic chronology.¹⁶³ Readers of

¹⁶⁰ *les Magistratures sont tres mal rédigées... l'ouvrage trahit une maladresse et une négligence séniles*. Stein, *Histoire du bas-empire 2*, p.734.

¹⁶¹ Kaldellis, "Republican Theory," p.12.

¹⁶² Kruse, *Politics*, pp.96–98.

¹⁶³ Jeffreys, "Malalas' Use of the Past," pp.121–46; Harvey, "Remembering Pain," p.298.

Malalas' first edition evidently objected to his chronology; in a later edition, he responds to their criticism:

'It is essential not to count the span of the earlier emperors according to the number provided above for their reigns, because two used to rule at once, and likewise fathers used to crown their children and rule with them from childhood. The chronographer therefore needs to record the period for which each emperor ruled, but those who read chronicles need to focus on the total sum of the years which have passed and not only on the reigns of all those recorded above.'¹⁶⁴

For Treadgold, Malalas' need to clarify his chronology indicates his 'careless and obtuse' method.¹⁶⁵ The fact of his clarification, though, shows how much more value Malalas placed on being seen to be infallible than on making reader-friendly corrections. It is also notable that Evagrius mounts his attack on Zosimus by alleging that he had 'either read none of the ancient writers or was wilfully hostile to the truth'.¹⁶⁶ It was to pre-empt charges of inaccuracy that sixth-century political writers, Justinian included, dedicated so much thought to the construction of their intellectual authority.

Yet Lydus does not just limit himself to 'rejecting' the antiquarian data that support the *Novels*.¹⁶⁷ He specifically argues that Justinian's restorational rhetoric was a dissimulatory front for innovation, as in his reference to *Novel* 41:

'Justin led his life in stillness and invented nothing new. His nephew who came after, hurrying to secure everything that was advantageous to the public and appealing to all the pride of its ancient form, first invented the so-called prefect of Scythia.'¹⁶⁸

This translation diverges from Bandy's and Maas's renditions, which prefer to render Justinian as 'attempting to recall' and 'aiming to summon back' the ancient magistracy.¹⁶⁹ These translations impute to ἀνακαλέω a connotation of genuine intent that it does not

¹⁶⁴ τῶν ἀρχαίων δὲ βασιλέων τοὺς χρόνους οὐ δεῖ ψηφίζειν κατὰ τὸν προειρημένον ἀριθμὸν τῆς βασιλείας αὐτῶν διὰ τὸ καὶ δύο ἅμα βασιλεῦσαι. ὡσαύτως δὲ καὶ τὰ τέκνα αὐτῶν ἐκ παιδότην ἔστερπον οἱ πατέρες καὶ μετ' αὐτῶν ἐβασίλευον. ὁ οὖν χρονογράφος ἀνάγκη ἔχει γράφειν τοὺς χρόνους ὅσους ἐβασίλευσεν ἕκαστος βασιλεὺς. δεῖ οὖν τοὺς ἀναγινώσκοντας χρονικὰ συγγράμματα τῇ ποσότητι προσέχειν τῶν διαδραμόντων χρόνων καὶ <οὐ> μόνον ἐπὶ τῆς τῶν προγεγραμμένων πάντων βασιλείας. Malalas 18.8. For the addition of the negation in the final sentence: C. E. Gleye, "Beiträge zur Johannesfrage," *BZ* 5 (1896), p.425.

¹⁶⁵ Treadgold, "Malalas and Eustathius," pp.721–22.

¹⁶⁶ ἢ οὐδὲν τῶν παλαιότερων ἀνεγνώκως ἢ πρὸς τὴν ἀλήθειαν ἐθελοκακῶν. Evagrius, *HE* 3.41.

¹⁶⁷ Kruse, *Politics*, p.147.

¹⁶⁸ Ἰουστίνου ἐν ἡσυχίᾳ βιοῦντος καὶ μηδὲν νεώτερον ἐξευρόντος ὁ μετὰ ταῦτα, ἀδελφιδοῦς αὐτῷ γενόμενος, πᾶν ὅτι χρήσιμον περιποιεῖν τοῖς κοινῶς ἐπειγόμενος ὄλην τε τὴν ὄφρυν τῆς ἀρχαίας ὄψεως ἀνακαλούμενος, πρῶτον μὲν ἐξεῦρε τὸν λεγόμενον τῆς Σκυθίας ὑπαρχον. Lydus, *Powers* 2.28.

¹⁶⁹ Bandy, *On Powers*, p.199; Maas, *John Lydus*, p.80.

necessarily bear. The translation offered here is not just equally admissible from the Greek but makes more coherent sense of the whole passage: Lydus is exposing the highly rhetorical nature of Justinian's restorational claims. *Novel* 41 survives only in epitomes, of which Julian's reveals that the original text justified its institution of a *quaestor exercitus* on the basis that 'the office of quaestor was doubled in ancient custom'.¹⁷⁰ Lydus' clear opposition between Justinian's invention and Justin's refusal to invent demonstrates that the emperor's claim to be restoring ancient custom only obscured an innovation. In other words, *On Powers's* analysis of Justinian's *Novels* is identical with that made by Maas almost one-and-a-half millennia later.¹⁷¹

3.II.E: The Debate by 560

By Lydus' time, traditionalists were facing a problem of a qualitatively different order to that which Zosimus had confronted. It was no longer suitable to claim that emperors were disinterested in tradition, nor to attribute Roman decline to the absence of traditional knowledge in the corridors of power and the inefficacy of traditionalist persuasion. Justinian had invested a substantial volume of discursive resources into representing himself in Lydus' circles as the *New History's* implied ideal emperor. The alienated traditionalists of the 550s therefore saw in Justinian's innovations a question not just of traditional knowledge but also of imperial dissimulation.

Lydus sharpens his critique through several further departures from Zosimus. For one, he represents the age of Justinian as a period when antiquarianism could flourish. Maas claims that Lydus set out 'to preserve threatened knowledge'.¹⁷² In fact, Lydus wrote *On Signs* because 'it would be absurd for so much labour, committed to writing by the ancients in their texts on these topics, to stay unnoticed forever'.¹⁷³ Traditional knowledge was not at risk of eradication but was newly emerging from its languish, as Lydus' own oeuvre proves. Lydus even copies out his imperial letter of appointment to his teaching post, in which

¹⁷⁰ *more antiquo duplex erat quaestorum magistratus*. J. Nov. 41. On the office: S. Torbatov, "Quaestura Exercitus: Moesia Secunda and Scythia under Justinian," *Archaeologica Bulgarica* 1 (1997), pp.78–87; J. Wiewiorowski, "Quaestor Iustinianus Exercitus – A Late Roman Army Commander?," *Eos* 93 (2006), pp.317–40.

¹⁷¹ Maas, "History and Ideology," pp.17–31.

¹⁷² Maas, *John Lydus*, pp.80–82.

¹⁷³ ἄτοπον... εἶναι τὸ πόνους τοσοῦτος, τοῖς ἀρχαίοις καταβεβλημένους εἰς τοὺς περὶ τούτων λόγους, ἄχρι παντὸς μείναι λανθάνοντας. Lydus, *Signs* 1.

Justinian praises ‘the supremely learned John’s expansive *paideia* in words, his exactness in writing, his grace among poets, and his great learning in other regards’.¹⁷⁴ This passage is not just an indication of Lydus’ ‘unabashed pride’.¹⁷⁵ It has rhetorical functions, reinforcing Lydus’ own intellectual authority and representing Justinian as an emperor who sought to encourage and reward the display of *paideia* among his subjects even if his own grasp on traditional knowledge was flimsy and dissimulatory.

In part, this passage is another intertextually constructed collision, this time between Justinian’s own claims to value traditional knowledge and *On Powers*’s contestation of the official histories and etymologies offered by the *Novels*. It also demonstrates that the tools for holding the emperor to his propaganda existed among traditionalist and bureaucratic audiences. In Lydus’ literary performance, his detailed knowledge of Rome’s administrative history enables him to expose the falsehoods and dissemblances in Justinian’s propaganda. *On Powers* therefore advocates a far more active conception of the bureaucrat’s role than the *New History* had done. The text is an exemplar for civil servants, who might also scrutinise imperial propaganda, expose its contradictions, and ‘furnish service’ to the Roman polity by holding its ruler to account. Lydus’ unstable metaphysics of tradition underscores this point. While Zosimus’ bureaucrat could simply retire, Lydus’ bureaucrat knew that the Roman state was going to decline, no matter what its servants did, unless it could really be ruled by the sleepless, traditionalist emperor of Justinian’s propaganda.

The major linguistic development at this point in the debate about Roman tradition was a new ideological charge to the term ἀγρυπνία, which provides the substance of Lydus’ intertextual argument against the reproduction of imperial propaganda. Justinian’s propaganda response to Zosimus had turned the traditionalist question into one of parsing the emperor’s dissimulations rather than one of persuading the emperor of the importance of tradition; Lydus moved the goalposts by selecting and manipulating the most distinctive motif in Justinian’s propaganda.

¹⁷⁴ Ἰωάννη τῷ λογιωτάτῳ πολλὴν... τὴν ἐν λόγοις παιδείαν τὴν τε ἐν γραμματικοῖς ἀκρίβειαν τὴν τε ἐν ποιηταῖς χάριν καὶ τὴν ἄλλην αὐτοῦ πολυμάθειαν. Lydus, *Powers* 3.29.

¹⁷⁵ Kelly, *Ruling*, p.13.

3.III: Propaganda in the Prefecture

Lydus wrote in a propaganda culture. Various literary contemporaries turned their pens to the reproduction and distribution of imperial propaganda, including Malalas, who overlapped with Lydus in Constantinople's civil service. This propaganda culture was not limited to literary production. The *Novels* generally passed through editorial filters at numerous points within the empire's bureaucracies before they were displayed. For its written communication with the general public, the régime therefore depended on bureaucrats performing their routine editorial labour. The same civil administration was at the forefront of Lydus' writing. It was the subject of his historical inquiry, his chosen source of traditional knowledge, and (given the nature of his material) his implied readership.

There is very little direct evidence for the everyday nature of the bureaucratic labour that supplanted Lydus' professional and literary context. Historians have had to rely on literary (and politicised) descriptions like Lydus' treatises, Cassiodorus' *Variae*, and letters between officials. Even the slightest direct glimpse of internal bureaucratic practices is therefore extremely valuable, especially since imperial propaganda was distributed through these channels more than anywhere else. One such glimpse is provided by the chance survival of the publication decree of *Novel* 159, which reveals Lydus' own colleagues engaging in the reproductive propaganda culture to which *On Powers* devotes its criticism and situates Lydus both in and against his bureaucratic culture.

3.III.A: The Novel/ 159 Publication Decree

Novel 159 is a rescript promulgated in 555 in response to an aristocrat's petition concerning an inheritance dispute over two Antiochene properties. It establishes a four-generation limit on the period for which testators could prohibit alienations and directs the praetorian prefect to publish the constitution in Constantinople. Its appearance in the epitomes of Athanasius and Theodorus demonstrates that it was a wholly ordinary constitution, sent to the prefect and archived around the empire.¹⁷⁶ In the *Greek Collection*, however, a further text is appended:

‘And now the mightiest emperor's polity enjoys a sharp exactness about the lawful share. For, by settling clearly the substitutions that arise in

¹⁷⁶ *Epitome Athanasii* 9.11; *Epitome Theodori* 162.

childlessness, a clarity present in this law that shines with light, he has given confidence to the dying that nobody will disturb their intentions and to the living that they can settle such matters between each other without disputes or litigations. Having corrected one case and extended his reasoning to everybody in common, he has granted his kindness not to the stated persons but to all his subjects as one. We do not need to urge you, the citizens, to pray for his victory, because you have already been shown to be doing so. It is clear that God, who is great, having accepted such pious and just proceedings on our part, will grant that our common master add victory to victory for a yet fuller length of time. We, P.P. Fl. John and Curicus, the *ab actis*, have offered up this [text].¹⁷⁷

This text is the *Novel's* 'publication decree'.¹⁷⁸ It survives in the Venetian manuscript, the only manuscript to retain all the subscriptions to the *Novels*, but is absent from the *Authenticum's* version of *Novel* 159.¹⁷⁹ This suggests that copies of publication decrees were filed with their constitutions in legal archives but excised as irrelevant in pedagogical contexts. The decree's address to 'you the citizens' shows that it was also displayed in Constantinople.¹⁸⁰ This is the document produced in the prefecture to comply with the emperor's request that the prefect 'display [the law] throughout this all-blessed city'.¹⁸¹ In other words, it is this document, not *Novel* 159 itself, that 'was posted at stational locations at Constantinople' and was 'publicly visible'.¹⁸²

No specifics are known about the decree's co-authors, John and Curicus, the two *ab actis* of 555.¹⁸³ According to Lydus, *ab actis* were 'responsible for financial transactions' and for 'managing financial lawsuits' at the prefect's court.¹⁸⁴ They also handled various official records, sometimes including, as this decree shows, the 'advertisement' of imperial

¹⁷⁷ καὶ νῦν ἡ πολιτεία τῆς τοῦ κρατίστου βασιλέως περὶ τὸ νόμιμον μέρος ἀκριβείας τε καὶ ὀξύτητος ἀπολαύει. τὰς γὰρ ἐπ' ἀπαιδίᾳ γινομένης ὑποκαταστάσεις διακρίνας σαφῶς, ὡς ἔνεστι τῷ προλάμποντι νόμῳ, δέδωκε καὶ τοῖς τελευτῶσι θαρρεῖν, ὡς οὐδεις ἂν αὐτῶν τὰς γνώμας παρακινήσειε, καὶ τοῖς περιοῦσιν ἀμφισβητήσεων καὶ διαδικασιῶν χωρὶς τὰ τοιαῦτα πρὸς ἀλλήλους διατιθέναι, μίαν μὲν ὑπόθεσιν ἐπανορθώσας, κοινῇ δὲ πρὸς ἅπαντας τὸν λόγον ἐκτείνας, καὶ τὴν εὐεργεσίαν οὐ ῥητοῖς προσώποις, ἀλλὰ πᾶσι τοῖς ὑπηκόοις ἐν ἐνὶ χαρισάμενος. προτρέπειν μὲν οἶν εἰς τὰς ὑπὲρ τῆς αὐτοῦ νίκης εὐχὰς οὐδὲν δεόμεθα τοὺς πολίτας ὑμᾶς· ἤδη γὰρ τοῦτο ποιοῦντες ἐδείχθητε· πρόδηλον δὲ ὡς ὁ μέγας θεὸς τὰ οὕτως εὐσεβῶς καὶ δικαίως προϊόντα καὶ πρὸ τῶν ἡμετέρων εὐχῶν ἀποδεχόμενος ἐπὶ πλέον χαρίζεται χρόνου μῆκος τὸν κοινὸν δεσπότην ἡμῖν νίκας ἐπὶ νίκαις συνάπτοντα. *PP. Fl. Iohannes et Curicus ab actis optulimus*. *J. Nov.* 159.ep.

¹⁷⁸ J. H. A. Lokin, "Ad Novellam 159," *SG* 4 (1990), p.133; Stein, "Deux questeurs," p.379; Miller & Sarris, *Novels*, p.998.

¹⁷⁹ Venice MS Gr. 179; Noailles, *Les collections de Nouvelles*, pp.5–83.

¹⁸⁰ τοὺς πολίτας ὑμᾶς. *J. Nov.* 159.ep.

¹⁸¹ προθεῖναι κατὰ ταύτην τὴν πανευδαίμονα πόλιν. *J. Nov.* 159.ep.

¹⁸² Bjornlie, *Politics and Tradition*, pp.218, 256.

¹⁸³ *PLRE* 3 Fl. Iohannes 65; 3 (Fl.?) Curicus.

¹⁸⁴ τὸν τοῖς χρήμασι πραττομένοις ἐφεστῶτα... τὰς χρηματικὰς ὑποθέσεις τρακτεύειν. Lydus, *Powers* 3.20.

legislation sent to the prefecture.¹⁸⁵ At least one of John and Curicus would have been Lydus' professional colleague; they were only seven years behind Lydus, who himself was *ab actis* in 548.¹⁸⁶ The *ab actis* was one of five doubled posts at the top of the prefecture, a technique for easing career progression in a bottle-necked, competitive structure.¹⁸⁷ One *ab actis* took the conventional route through the *scholae* and the other had been fast-tracked, like Lydus, by enrolment among the Augustales.¹⁸⁸ Each year, the prefecture's nine senior officials selected three *adiutores* each from among the Augustales.¹⁸⁹ Hence, while Lydus was holding his senior posts, either John or Curicus was up for selection as his assistant. Nothing proves that they indeed worked so closely together, but they were at least professional acquaintances. The nature of John and Curicus' bureaucratic work therefore informs the general culture in which Lydus was embedded and possibly some specific interactions which motivated his writing.

3.III.B: Reconstituting Propaganda in the Prefecture

Lokin understands John and Curicus' decree to be 'a summary' of 'the contents of the *Novel*'.¹⁹⁰ As in the case of *Novel* 8's publication decree, this is not quite so. The decree details the topic of the law but not its normative content. It may have been displayed alone, directing readers with a personal or professional interest in 'the lawful share' to the legal archives, or alongside an epitomised recension of *Novel* 159. The text, after all, begins with a conjunction. Miller and Sarris's description of the decree as 'a panegyric or encomiastic note' is preferable.¹⁹¹ An intertextual analysis against imperial propaganda further confirms this judgment. John and Curicus integrate *Novel* 159 into the justificatory architecture of Justinian's legislative project more comprehensively than did the quaestor, Constantinus, who drafted the constitution.¹⁹² The following chapter develops this context more fully, but the essential point is that the *Novels* needed to justify their measures because the act of

¹⁸⁵ Miller & Sarris, *Novels*, p.998. See also: Cassiodorus, *Variae* 11.22; *CJ* 1.27.1.26, 2.7.26.3.

¹⁸⁶ Kelly, "John Lydus," pp.431–58. The initialism *PP* likely indicates John and Curicus' bureau: Miller & Sarris, *Novels*, p.998. Alternative suggestions: Lokin, "Ad Novellam 159," pp.132–33; Stein, "Deux questeurs," p.380.

¹⁸⁷ Kelly, "John Lydus," pp.449–50, 457–58.

¹⁸⁸ Lydus, *Powers* 3.9; Kelly, "John Lydus," p.456.

¹⁸⁹ Lydus, *Powers* 3.9; Kelly, "John Lydus," p.451.

¹⁹⁰ Lokin, "Ad Novellam 159," p.133.

¹⁹¹ Miller & Sarris, *Novels*, p.998.

¹⁹² Honoré, "Some Constitutions," p.108.

promulgating law was ideologically contested by some members of political society who kept a close eye on Justinian's legislation.

In this context, *Novel* 159 itself explains why the emperor was turning a response to a petition about one inheritance dispute into 'this general law'.¹⁹³ This was a necessary explanation. Having criticised Justinian for being too 'accessible' to his subjects, Procopius' *Secret History* goes on to discuss imperial rescripts and laments that there were 'auction-houses in the palace where not only court judgments but also legislation were up for sale'.¹⁹⁴ The promulgation of general laws in place of rescripts was sometimes welcomed as a limit on the emperor's arbitrary power to dispense favours, but traditionalists retained concerns about such general interventions in the Roman legal tradition.¹⁹⁵ Procopius presents generalised rescripts such as *Novel* 159 as an acute form of imperial corruption. Judges selling single decisions was one thing; emperors selling legislation was quite another.

The justificatory argument of *Novel* 159 itself is narrowly related to the dispute at hand and the need to avoid further delays in the litigation process.¹⁹⁶ John and Curicus make three important movements to refine this argument. In the first instance, they introduce a discourse of clarity that was absent from the text of *Novel* 159 but acceptable to traditionalist thought.¹⁹⁷ They do so by modifying the constitution's verbs. The body of *Novel* 159 explains why its judgment should be extended into general legislation:

'We have deemed it necessary to place our decision about the suit in a law, not a simple judgment, so that we may settle the current dispute and prevent strife on such matters hereafter.'¹⁹⁸

Under John and Curicus' influence, the key verb 'settled' becomes a claim to have 'settled *clearly*' the dispute.¹⁹⁹ This is neither accidental nor insignificant in a political culture that paid such close attention to the specific lexical units of imperial propaganda. The same movement recurs with the related motif of 'exactness'. The *Novel* applies this term only to the private case:

¹⁹³ κοινὸν... τοῦτον... τὸν νόμον. J. Nov. 159.3.

¹⁹⁴ εὐπρόσιτον. Procopius, SH 13.1. ἐκ Παλατίου... προὔτίθετο οὐ δικαστικῆς μόνον, ἀλλὰ καὶ νομοθετικῆς πωλητήρια. Procopius, SH 14.10.

¹⁹⁵ Harries, *Law and Empire*, pp.27–31, 213.

¹⁹⁶ J. Nov. 159.pr.

¹⁹⁷ Below, 4.II.

¹⁹⁸ οὐ φιληὶ κρίσει νόμῳ δὲ περιλαβεῖν τὴν τῆς ὑποθέσεως τομὴν ἡγησάμεθα δεῖν, ὡς ἂν τὴν τε παρούσαν ἀμφιβήτησιν διακρίνωμεν τοῖς τε λοιποῖς προανέλοιμεν τὴν περὶ τῶν τοιούτων φιλονεικίαν. J. Nov. 159.1. Also J. Nov. 159.3

¹⁹⁹ διακρίνας σαφῶς. J. Nov. 159.ep. Emphasis added.

‘We have inspected the whole case with as much exactness as needed... [These] considerations gave us sufficient grounds for such judgment and legislation.’²⁰⁰

John and Curicus modify this key term and broaden its scope; their emperor has not simply been ‘exact’ in his dealing with a single case but has blessed ‘the polity’ with a ‘sharp exactness’ on the recurrent legal issue of alienations. The publication decree is, in part, an attempt to shape *Novel* 159 around the discourse of clarity that is present in many *other* constitutions.²⁰¹ The *ab actis* were evidently in touch with contemporary political debate and its charged semantic field, drawing their vocabulary from imperial legislation at a time when traditionalist opposition to Justinian was hardening into alienated literary production.

In the second instance, John and Curicus borrow a justification for general legislation from another, earlier rescript. *Novel* 159’s motivation for turning a petitionary response into a general law is relatively prosaic, wishing to avoid ‘committing [future] litigants to a long delay’ by having their private suits ‘brought to court’.²⁰² The constitution’s opening line frames this as an expression of imperial ‘*philanthropia*’.²⁰³ John and Curicus develop this theme. They claim that Justinian, ‘having corrected one case and extended his reasoning to everybody in common, has granted his kindness not to the stated persons but to all his subjects as one’.²⁰⁴ Their source for this justification was a constitution sent to the prefecture two years earlier:

‘We believe that it would be petty and unworthy of the imperial office to bestow some acts of munificence upon each individual who approaches us... but not to bestow some great act in common on all our subjects.’²⁰⁵

Noting *Novel* 159’s failure to develop a full justification for generalising a rescript, the *ab actis* either recalled or researched how the imperial régime had previously defended its rescripts and reproduced its prior rejection of special treatment for those who approach the emperor.

²⁰⁰ κατασκευάμενοι δὲ τὴν ὅλην ἡμεῖς μεθ’ ὅσης ἐχρῆν ἀκριβείας ὑπόθεσιν... τῶν... λογισμῶν πρὸς τὴν τὴν τοιαύτην ἡμῖν ἀρκούντων κρίσιν τε καὶ νομοθεσίαν. J. Nov. 159.2–3.

²⁰¹ e.g. J. Nov. 7, 31, 82, 87, 91, 97, 112.

²⁰² εἰς δικαστήριον φερομένην μακρᾶ τοὺς ἀμφισβητοῦντας παραδιδόναι τριβῆ. J. Nov. 159.pr.

²⁰³ φιλανθρωπίας. J. Nov. 159.pr.

²⁰⁴ μίαν μὲν ὑπόθεσιν ἐπανορθώσας, κοινῇ δὲ πρὸς ἅπαντας τὸν λόγον ἐκτείνας, καὶ τὴν εὐεργεσίαν οὐ ῥητοῖς προσώποις, ἀλλὰ πᾶσι τοῖς ὑπηκόοις ἐν ἐνὶ χαρισάμενος. J. Nov. 159.pr.

²⁰⁵ μικρὸν καὶ βασιλείας ἀνάξιον εἶναι νομίζομεν τὸ περὶ τοὺς ἐκάστοτι προσιόντας ἰδικὰς τινὰς φιλοτιμίας ποιεῖσθαι... ἀλλὰ μὴ μέγα τι καὶ κοινὸν ἐπὶ πᾶσι τοῖς ὑπηκόοις ποιήσασθαι. J. Nov. 147.pr.

In the third instance, the decree is both thematically and linguistically structured by the content of imperial propaganda from other sources. The decree slides seamlessly, without changing register, between legal and military themes, performing the conceptual coherence of arms and laws on which imperial propaganda insisted. The Pisidian *Novel* refers to ‘authority over both arms and laws’, the *Institutes* opens with a declaration that ‘imperial majesty should not only be graced with arms but also armed with laws, so that, in times of both war and peace, the state is able to be governed rightly’, and *Novel* 78 frames Justinian’s manumission legislation as performing the same act of liberation for Romans within the empire as the western campaigns had done for Romans under barbarian rule.²⁰⁶ *Novel* 159, however, never approaches any military themes. John and Curicus have structured their publication decree not around the thematic content of the constitution in front of them but have internalised or consciously reproduced a mode of thought about the nature, tools, and functions of Justinian’s rule drawn from his other administrative propaganda. They also deploy a common political vocabulary of imperial praise and propaganda. The ‘mightiest emperor’ was a routine formulation for both Justinian and foreign sovereigns.²⁰⁷ The theme of light offered flexible propagandising uses, but the decree’s specific motif of the shining law appears elsewhere as Justinian’s ‘light of justice’.²⁰⁸ The *Novels* routinely exhort Justinian’s subjects to ‘pray for our rule’, which the decree represents as a successful exhortation.²⁰⁹ The celebration of Justinian’s victories and the idea that they were granted by God were common in various propaganda media.²¹⁰ Crucially, none of these *topoi* appear in the text of *Novel* 159, which John and Curicus carefully set in the context of propaganda themes reconstituted from other sources.

This apparently nondescript notice demonstrates the degree to which civil servants in the praetorian prefecture routinely reproduced imperial propaganda and were in touch with the justificatory logic of Justinian’s legislative programme. John and Curicus were

²⁰⁶ ἐξουσίαν ὄπλων τε καὶ νόμων. J. Nov. 24.pr. *imperatoriam maiestatem non solum armis decoratam, sed etiam legibus oportet esse armatam, ut utrumque tempus et bellorum et pacis recte possit gubernari.* J. Inst. pr.

²⁰⁷ τοῦ κρατίστου βασιλέως. J. Nov. 159.ep. Compare: Agapetus, *Advice* 11; Paul, *DHS* 73; Lydus, *Powers* 3.35, 76; Procopius, *Wars* 2.3.47, 2.11.29, 2.26.33, 7.12.3; C. Pazdernik, “‘The Great Emperor’: A Motif in Procopius of Caesarea’s *Wars*,” *GRBS* 57 (2017), p.218.

²⁰⁸ *lumen iustitiae.* J. Nov. 62.1.2. See also J. Inst. pr.3. For the propagandising use of the theme of light in other contexts, see AP 1.8, 1.98, 9.811; Schibille, *Hagia Sophia*, pp.37–41; B. V. Pentcheva, “Hagia Sophia and Multisensory Aesthetics,” *Gesta* 50 (2011), pp.93–111.

²⁰⁹ τῆς ἡμετέρας ὑπερέχεσθε βασιλείας. J. Nov. 13.ep.

²¹⁰ J. Inst. pr.1; Feissel, “Les édifices,” p.91 no.10(bis); AP 16.62–63; Malalas 18.71.

confronted with an instruction to advertise a general rescript at a time when traditionalist opposition was partially mobilising around accusations of corruption in precisely this context. They utilised an array of propagandising motifs and arguments to turn the concerns expressed in the *Secret History* on their head. This contextually informed reconstitution of propaganda in one brief text proves Lokin's observation that 'composing such a decree is more than a mere formality and requires an independent ability for formulation'.²¹¹ Even so, there is no reason to suspect that John and Curicus were doing anything unusual. Comparisons are admittedly difficult; for no other *Novel* is an original publication decree produced by the praetorian prefecture in Constantinople fully extant.²¹² As the *skribon* John's Honorian inscription shows, surviving provincial decrees were locally inflected in different ways. Another inscribed decree from Sardis, produced in 535, only loosely relates to the rhetorical content of *Novels* 8 and 17, preferring to emphasise the violent penalties for transgression.²¹³ Yet John and Curicus were still only two of hundreds of civil servants who attained such high offices in the age of Justinian, all demonstrating sufficient rhetorical and administrative skills to escape the bureaucracy's lower ranks. The emperor, quaestor, and praetorian prefect all felt comfortable delegating the production of propaganda to such men.

By 555, this system of delegation was working well enough to allow Constantinus to draft only the briefest rhetorical preface and trust the *ab actis* to develop it into a coherent piece of propaganda, carefully tailored to the discursive requirements of contemporary debate. The resultant decree, both temporarily displayed to the general public and evidently filed alongside the constitution in the archives, spoke simultaneously to both the narrowest and broadest of imperial propaganda's publics; a general public convinced of the need to generalise rescripts might form an effective buffer against traditionalist opposition to the same legislation in political society. Civil servants like John and Curicus therefore occupied important positions and were implicated in a political choice. Either fully convinced of Justinian's legitimacy or entirely socialised into the propaganda culture of the administration, they turned their substantial rhetorical talents to the refinement and dissemination of the propaganda that crossed their desks close to the peak of their careers. Lydus himself may have done the same when he was tasked with advertising legislation as an *ab actis* in 548.

²¹¹ Lokin, "Ad Novellam 159," p.133.

²¹² *Ibid.* p.132.

²¹³ Buckler, "Un discours de consulat," pp.365–70; Amelotti & Luzzatto, *Le costituzioni Giustinianee*, no.14; van der Wal, Review of Amelotti & Luzzatto, *Le costituzioni Giustinianee*, p.129.

Accordingly, when he retired, he directed *On Powers's* counter-argument to the uncritical reproduction of imperial propaganda against precisely this attitude.

3.III.C: Lydus the Outsider?²¹⁴

Lydus was deeply embedded in bureaucratic culture.²¹⁵ He affects a persona as an expert administrator writing out and down to an audience of ‘outsiders’:

‘In order that matters concerning this division not be unknown by outsiders – for every day the people ignorantly ask questions, having been confused by the aforementioned names – I will now explain the reason for splitting the one body [of speedwriters] into two.’²¹⁶

Kelly’s capable treatment of this insider self-representation shows how Lydus’ claims to ‘greater experience and superior expertise were a twofold shield which separated the judicial staff of the Prefecture both from the world outside and from others serving in the imperial administration’.²¹⁷ Lydus’ ‘bureaucratic solidarity’ was constituted on departmental grounds.²¹⁸ He reserves his respect only for a certain kind of colleague, appropriately skilled in rhetoric, literature, and the nuances of civil administration. The *scrinarii* on the financial side of the prefecture, who increased in number under Justinian and John the Cappadocian’s reforms, were to be disdained.²¹⁹ Hence, Lydus exhibits admiration for the precise compositional ability of some *adiutores* to the *ab actis*:

‘The most learned of the *adiutores* would periphrastically communicate the decisions in Latin with such detail that even if, by chance, a decision should ever happen to be lost, it was able to be restored from the paraphrase alone, a mere outline. I myself remember this happening.’²²⁰

²¹⁴ Compare Greatrex, “Procopius the Outsider?,” pp.215–28.

²¹⁵ Rockwell, “Bureaucratic Identity,” pp.65–81.

²¹⁶ ὅπως δὲ μὴ καὶ τοὺς ἔξωθεν λάθῃ τὰ τῆς διαιρέσεως – καὶ γὰρ ὁσημέραι ἀγνοοῦντες μάτην ζητοῦσιν οἱ πολλοὶ πρὸς τὰς εἰρημένας προσηγορίας ταραττόμενοι – τὴν αἰτίαν τῆς εἰς δύο τοῦ ἐνὸς σώματος τομῆς ὑποδείξω. Lydus, *Powers* 3.9.

²¹⁷ Kelly, *Ruling*, p.31.

²¹⁸ W. E. Kaegi, “Some Perspectives on Byzantine Bureaucracy,” *The Organization of Power: Aspects of Bureaucracy in the Ancient Near East* (Chicago, IL, 1991), p.136.

²¹⁹ Lydus, *Powers* 2.18, 3.9, 3.35–36; Bjornlie, *Politics and Tradition*, p.63; Kelly, “John Lydus,” p.30; Carney, *Bureaucracy*, vol.1, p.158.

²²⁰ τὰς γὰρ διαγνώσεις περιέφραζεν Ἰταλιστὶ ὁ τῶν βοηθῶν λογικώτατος οὕτω κατὰ λεπτόν, ὥστε κὰν [εἰ τυ]χ[ὸν] παραπολέσθαι τὴν διάγνωσιν συνέβη ποτέ, ἐξ αὐ[τῆς] μόνης τῆς παραφράσεως καὶ ὡς ὑποτυπώσεως αὐθις δύνασθαι στήναι τὴν διάγνωσιν· καὶ τοῦτο συμβὰν ἐγὼ αὐτὸς διαμέμνημαι. Lydus, *Powers* 3.20.

He may even have had John or Curicus in mind. Behind his superlatives, however, lies a rising resentment at changes to the make-up of the prefectural staff. Lydus leaves his reader to infer that not all *adiutores* could compose effective paraphrases of judicial decisions. *On Powers* does not hold back in its judgment of the new generation of bureaucrats:

‘Men who lack *paideia* and have acquired no experience of the court of justice are approaching matters which were formerly barely even administered by the most experienced... For it was a custom, not by mere speech but set down in writing, permitting nobody at all to attain the office of *adiutor* without being equipped with the proper heritage and a preparation in liberal education.’²²¹

In the eyes of this retired senior bureaucrat in the 550s, the predominant culture of the praetorian prefecture had become lacking in the skills that were traditionally necessary requirements for a service career.

This complaint poses a problem for situating Lydus in bureaucratic culture. His departmental solidarity was in part a product of the insular, cloistered, and spatially constructed community of the prefecture. Its praetorium, unlike those of the urban prefect and *magister officiorum*, was located up to a mile north of the city centre, on top of the acropolis in the old Forum of Leo.²²² Sixth-century Romans gave serious thought to these spaces of power.²²³ Lydus himself exhibits an emotional attachment to the praetorium.²²⁴ At the same time, however, this relative physical detachment from other departments and the city centre produced an intense bureaucratic experience that heightened not only sentiments of collegiality and solidarity but also political and cultural fractures within the community. In his complaints about the skills, outlook, and politics of the men around whom he lived and worked, it is not to be taken for granted that Lydus is representative of the typical prefectural employee of the 550s.

²²¹ ἀπαιδεύτων... καὶ μηδεμίαν πείραν δικαστηρίου παραειληφότων ἐπεμβαινόντων τοῖς ποτε μόγις πρὸς τῶν ἐμπειροτάτων... νόμος γὰρ ἦν οὐ φιλόσ ἀλλ’ ἐν γράμμασι μηδενὶ παντελῶς ἐπιτρέπων ἐπὶ τὸ τοῦ βοηθοῦ ἀναβαίνειν φρόντισμα, πρὶν ἂν γένους τε μετριότητι καὶ λόγων ἐλευθερίων παρασκευῇ κοσμούμενος. Lydus, *Powers* 2.18; also 3.9, 14. See further Kelly, *Ruling*, p.30.

²²² Only textual evidence: Lydus, *Powers* 2.20–21; *Chronicon Paschale* 662; Mango, *Studies on Constantinople*, Addenda, pp.1–3; J. Kosteneć, “Observations on the Great Palace at Constantinople: the Sanctuaries of the Archangel Michael, the Daphne Palace, and the Magnaura,” *Reading Medieval Studies* 31 (2005), pp.44–46; K. R. Dark & A. L. Harris, “The Last Roman Forum: The Forum of Leo in Fifth-Century Constantinople,” *GRBS* 48 (2008), p.59; N. Westbrook, “The Account of the Nika Riots as Evidence for Sixth-Century Constantinopolitan Topography,” *JAEMA* 7 (2011), pp.44–46.

²²³ J. Patrich, *Studies in the Archaeology and History of Caesarea Maritima: Caput Judaeae, Metropolis Palaestinae* (Leiden, 2011), pp.212–13; Holum, “Inscriptions from the Imperial Revenue Office,” pp.333–45.

²²⁴ Lydus, *Powers* 2.20–21, 3.70.

Instead, the thinker closest to Lydus in these respects was the trained lawyer and historian Procopius. Both contest the official histories and etymologies contained in the *Novels*.²²⁵ Both puncture imperial propaganda by calling Justinian a ‘dissembler’.²²⁶ Both apply the theme of demonic government to Justinian’s rule, Lydus by representing John the Cappadocian as a demon and his crimes as ‘demon-sent’, Procopius by routinely referring to Justinian as ‘the prince of demons’ or ‘some strange demonic apparition’.²²⁷ Procopius then proves Justinian’s demonic nature by asking rhetorically ‘how could this man not be a sinful demon, since he never had sufficient sleep, but went around the palace at an untimely hour of the night?’.²²⁸ Like Lydus, he takes aim at Justinian’s sleepless self-representation. This study has also already seen that Procopius and Lydus developed shared tactics for debate, making Justinian’s early officials into traditionalist foils for their characterisation of the emperor and attributing to the deceased Theodora some of the qualities that Justinian claimed to possess. These concordances need not indicate that Lydus and Procopius knew each other and read each other’s texts but might simply result from common participation in the political culture of a large and vibrant city.²²⁹ Themes like dissemblance and demonic government were productive co-ordinates in the conceptual field of traditionalist opposition to Justinian.

Despite these similarities, Lydus and Procopius deploy these shared themes in distinctive ways. Procopius’ manipulation of imperial propaganda is commonly and correctly described as an ‘inversion’.²³⁰ The *Novels* frame Justinian’s sleeplessness as pious and in the public interest; the *Secret History*’s Justinian ‘made it his duty to be awake constantly for the sake of nothing other than to contrive for his subjects, always and every day, the most painful misfortunes’.²³¹ Kruse describes Lydus’ approach, too, as ‘inverting the logic of Justinian’s rhetoric’, but this elides a strategic distinction from Procopius.²³² The *Secret History* directly inverts Justinian’s sleepless propaganda to make a polemical point, part of

²²⁵ Kruse, *Politics*, throughout.

²²⁶ ἔιρων. Procopius, *SH* 8.24, 27.2, 29.1; ὁ κρυφίνους. Lydus, *Powers* 1.30.

²²⁷ θεηλάτοις. Lydus, *Powers* 2.15, 3.56. τῶν δαιμόνων ἄρχων. Procopius, *SH* 30.34. φάντασμά τι... δαιμόνιον ἄηθες. 12.20.

²²⁸ πῶς δὲ οὐκ ἔμελλεν ὄδε ὁ ἀνήρ δαίμων τις ἀλιτήριος εἶναι, ὅς γε... ὕπνου εἰς κόρον οὐδέποτε ἦλθεν, ἀλλ’... ἀωρὶ νύκτωρ περιήρχετο τὰ βασιλεία; Procopius, *SH* 12.27.

²²⁹ Against Kaldellis, “Identifying Dissident Circles,” pp.1–17.

²³⁰ Sarris, *Economy and Society*, p.7; Kaldellis, *Procopius*, p.159; Croke, “Sleepless Emperor,” p.107; Scott, “Malalas, *Secret History*,” p.99.

²³¹ ἐγρηγορέναι τε γὰρ διηνεκὲς... οὐκ ἄλλου του ἔνεκα ἔργον πεποιήται ἢ ὥστε κοπωδεστέρας ἀεὶ καθ’ ἐκάστην τοῖς ὑπηκόοις ἐπιτεχνᾶσθαι τὰς συμφοράς. Procopius, *SH* 13.32. Also 18.1.

²³² Kruse, *Politics*, p.138.

an ultimately unfulfilled project to recast Justinian as a repressive tyrant after his death.²³³ Lydus performatively reproduces Justinian's propaganda in order to expose the resultant paradoxes, specifically for the bureaucrats who routinely engaged in this kind of reproduction.

Procopius and Lydus consequently assembled the building blocks of their arguments about Justinian's dissimulation in different ways. Procopius' demon is Justinian himself, while Lydus' demon is the prefect whom he enabled. This is not a product of a political culture where the line of permissible criticism fell precisely between demonologies of the emperor and of his prefect. Instead, it hints at an oral political culture in which traditionalist opponents actively discussed the régime and developed shared but flexible vocabularies for understanding and opposing it. It may indeed be the case that they saw 'literally no other way of explaining [Justinian] than by supposing that he was actually inspired by the Devil', but whether or not they believed what they wrote, it remains significant that they developed distinctive argumentative strategies, to suit the different goals of polemicising the emperor himself and convincing his delegated propagandists of the dissimulatory nature of their work, out of the same political vocabularies.²³⁴

Lydus is therefore more comfortably situated at literary salons and private homes where traditionalist writers came together than in the praetorian prefecture. His vocabulary, themes, and analysis are all indicative of the former social setting and are assembled against particular concerns about administrative tradition and the uncritical reproduction of propaganda generated in the latter. The dominant bureaucratic attitude to imperial propaganda may therefore be better represented by John and Curicus' routine publication decree and Malalas' compositional method than by Zosimus' and Lydus' literary texts. *On Powers* is clearly hostile to propaganda networks operating not just through courtiers like Marcellinus but also through the everyday labour of Lydus' former colleagues. Its argument is suggestive of a minority, dissenting position within the bureaucracy, since Malalas' literary output demonstrates that the civil service as a whole was not a united front of traditionalist opposition to Justinian.²³⁵ Together, Lydus, John, and Curicus reveal that the prefecture in particular was also a site of internal political conflict.

²³³ Below, 4.III.

²³⁴ Cameron, *Procopius*, p.262.

²³⁵ Against Bjornlie, *Politics and Tradition*, p.83.

3.IV: Corippus and the Legacy of Debate

The debate about tradition and propaganda described here was not settled by the end of Justinian's reign. In c.566, Corippus wrote *In Praise of Justin II* partly to respond to Lydus' argument for the greater scrutiny of and resistance to imperial propaganda by those who were reproducing and distributing it. This argument was, in one sense, a contest over the operation of sleeplessness. As Lydus exposes the dissimulations of Justinian's claims to sleeplessness, he frequently applies the same virtue to bureaucrats of various stripes.²³⁶ *On Powers* is a call for men like Lydus to direct their own sleepless vigilance against the imperial régime, scrutinising its propaganda and holding it to account. In turn, *In Praise* seeks to defuse Lydus' challenge to the operation of imperial propaganda networks. It promises that Justin would be the sleepless emperor that Justinian had failed to be and simultaneously circumscribes sleeplessness as the sole preserve of the emperor.

A problem of translation is introduced by Corippus' choice to write in Latin, his native tongue and the prestigious language of panegyric.²³⁷ Corippus' Latin term *vigilantia* was the standard contemporary translation (as shown by the *kata podas* translations of the Greek *Novels*) for the Greek ἀγρυπνία that had gained such a political charge.²³⁸ Ideas of sleeplessness, watchfulness, and vigilance were inseparable in the semantic fields of both words. Corippus duly includes Justin's 'sleepless care for affairs' among a list of his virtues, picking up on the vocabulary of Justinian's constitutions.²³⁹ His audience would therefore have understood Corippus' *vigilantia* to correspond to ἀγρυπνία.

3.IV.A: Corippus' Poem On Sleeplessness

In Praise is organised around the theme of sleeplessness. Of all its scholarly readers, however, only Dewar has dedicated any significant space to an analysis of the theme.²⁴⁰ Corippus introduces Justin as a habitually sleepless man until the night of Justinian's death:

²³⁶ Lydus, *Powers* 1.12, 1.23, 3.7, 3.8, 3.15, 3.28, 3.69.

²³⁷ Cameron, *In laudem*, pp.4–5.

²³⁸ Dewar, "Corippus on Wakefulness," p.213.

²³⁹ *rerum custos vigilantia*. Corippus, *In Praise* 1.55.

²⁴⁰ Dewar, "Corippus on Wakefulness," pp.211–23. It goes largely unaddressed in the commentary of Cameron, *In laudem*, pp.118–211.

‘Sleep pressed down on his wet eyes, and this rest, I reckon, did not come without the will of the highest divinity: sleep had come in order to show him images of his future benefits and to teach him the mysteries of things.’²⁴¹

Justin, in other words, sleeps only when God wishes to communicate with him. This was a well understood indication of piety.²⁴² Justin’s vision of Mary accordingly fills the next 34 lines. As soon as ‘the virgin had said these things, calm sleep abandoned his eyes’ and the senators arrive to proclaim him emperor.²⁴³ Justin then travels ‘in the middle of the night’ to the palace; the nocturnal setting enables Corippus to deploy expansive analogies between dawn and the new reign.²⁴⁴ As this study will shortly show, the same sleeplessness becomes integral to Justin’s rule and the promises that he makes to his subjects. Dewar even puts it mildly when he states that, in comparison to previous Latin poetry, ‘the idea [of sleeplessness] is applied in a regular and far more systematic way which undoubtedly is intended to be read as having greater significance’.²⁴⁵

The prominence of this theme has not so far been explained. Cameron suggests that Corippus favoured it for its wordplay possibilities. *In Praise* takes advantage of the connection between the virtues of justice, wisdom, and sleeplessness and the names of Justin, his wife Sophia, and his mother Vigilantia.²⁴⁶ This was a favourite literary device of his; he also uses the *iota* to praise Justin’s uprightness and connect him to his two immediate predecessors.²⁴⁷ Yet this does not sufficiently explain Corippus’ treatment of the theme. Neither justice or wisdom occupy the same thematic prominence in the poem despite Justin and Sophia being more frequent and important characters than Vigilantia. A different logic than the purely literary underpins *In Praise*.

Dewar instead argues that the theme is ‘the basis of [Corippus’] claim to consideration and reward’ from Anastasius and Justin.²⁴⁸ Corippus certainly composed panegyrics in the

²⁴¹ *umentes oculos pressit sopor. haut sine summi numinis auspicio reor hanc venisse quietem: signa futurorum sopor ostentare bonorum venerat ille viro, rerumque arcana docere.* Corippus, *In Praise* 1.28–31.

²⁴² Compare Romanos 43.2.

²⁴³ *dixerat haec virgo, placidus cum lumina somnus deseruit.* Corippus, *In Praise* 1.66–67.

²⁴⁴ *media... nocte.* Corippus, *In Praise* 1.190; Zarini, “Entre tradition classique et références bibliques,” p.123; V. Zarini, “Poésie officielle et arts figurés au siècle de Justinien: images du pouvoir dans la *Iohannide* de Corippe,” *REL* 75 (1997), pp.222–23. For Corippus’ dawn imagery, note particularly *In Praise* 1.197–201, 2.1–3, 2.88–94. Compare Paul, above, 2.III.C.

²⁴⁵ Dewar, “Corippus on Wakefulness,” p.220.

²⁴⁶ Corippus, *In Praise* pr.21–25, 1.55–56, 2.190–92; Cameron, *In laudem*, p.121.

²⁴⁷ Corippus, *In Praise* 1.353–56, 2.139–49; Cameron, *In laudem*, p.147.

²⁴⁸ Dewar, “Corippus on Wakefulness,” p.223.

expectation of material benefits.²⁴⁹ In the final book of *In Praise*, Justin distributes consular largesses to the ‘orators [whose] eloquence in the twin languages sang the brilliant praises of the consul Augustus’.²⁵⁰ Corippus glosses the orators’ work as a nocturnal labour, stating that ‘their sleeplessness at night earned this reward’.²⁵¹ In his separate panegyric for Anastasius, he also describes his imperial appointment as the payment that ‘my fruitful, foreseeing sleeplessness through wakeful nights with weary Muses has earned me’.²⁵² Dewar accordingly relates Corippus’ self-characterisation to the long literary tradition of the sleepless poet dating back to Callimachus.²⁵³ By showing that the literary *topos* is ‘so conventional as to be entirely unmistakable’, Dewar connects Corippus to the orators of *In Praise* and therefore establishes how this professional panegyrist made a case for his own remuneration.²⁵⁴

This is a sophisticated and insightful reading of the poem. It does not, however, contextualise Corippus’ treatment of the emperor’s sleeplessness as well as his own. Dewar simply notes that sleeplessness was a conventional imperial virtue.²⁵⁵ This does not account for the centrality of the theme to the poem, for the new importance of this imperial virtue in Justinian’s propaganda, or for a political culture in which imperial sleeplessness was an endlessly inflected and contested motif. Corippus’ audience would have immediately related *In Praise*’s discussion of sleeplessness not just back to Callimachus but also to the architectural, epigraphic, and legal claims to sleeplessness present in contemporary political discourse and the built environment around them. Once more, a political logic is required for Corippus’ decision to write a poem about sleeplessness.

3.IV.B: Corippus on Sleepless Emperors

In Praise contains extensive and sustained eulogies for the late Justinian organised around only two themes, his military triumphs and his piety. Justinian had ‘conquered the globe’

²⁴⁹ On the dynamic: P. M. Blau, *On the Nature of Organizations* (New York, NY, 1974), pp.212–14; A. L. Spisak, *Martial: A Social Guide* (London, 2007), p.64.

²⁵⁰ *oratorum geminae facundia linguae egregias cecinit... laudes consulis Augusti*. Corippus, *In Praise* 4.154–55. For resolving the text, see Cameron, *In laudem*, p.200.

²⁵¹ *vigilantia noctis hoc meruit*. Corippus, *In Praise* 4.182–83.

²⁵² *fessis provida Musis alma per insomnes meruit vigilantia noctes*. Corippus, *In Praise* Pan. Anast. 42–43.

²⁵³ Dewar, “Corippus on Wakefulness,” pp.212–13.

²⁵⁴ *Ibid.* p.214.

²⁵⁵ *Ibid.* pp.219–20.

and ‘when the emperor Justinian ruled the Roman empire, God led him on the right path’.²⁵⁶ Since neither theme was an uncontested aspect of Justinian’s reign, Corippus therefore engages in some defence of Justinian’s legacy, primarily in order to mobilise Justin’s dynastic legitimacy.²⁵⁷ In one crucial regard, however, he validates Procopius and Lydus’ criticism. He concedes that Justinian had not been the sleepless, vigilant ruler represented in both the *Novels* and *On Powers*.

This concession depends on the metaphor of the body politic that runs throughout the text:

‘One animal is composed of many limbs, but it is the head that rules the limbs... And in order for the limbs to be ruled, wisdom was joined to the head [by God], which, occupying the summit of the body, watches the limbs with bright eyes so that it may heal whichever of the lower body’s limbs it may see, with expertly sleepless light, suffering from sickness... The Roman empire is well regarded as one body made up of multiple limbs.’²⁵⁸

This extended metaphor states explicitly that the imperial office’s primary function is to watch over the body politic ‘with bright eyes’ and ‘expertly sleepless light’. It represents sleeplessness as a skill in which expertise can be acquired. It also aligns neatly with Lydus’ theory of imperial restoration, which requires a sleepless emperor constantly ‘inspecting and surveying’ the state.

Shortly afterwards, Corippus has Justin voice an admission of his predecessor’s faults:

‘Many things were too neglected when my father was alive, which is how the exhausted treasury collected so many debts. Moved by piety, I am preparing to restore these debts to those in distress. May the world rejoice that what was not done or transacted on account of my father’s old age will be corrected in the age of Justin! There were no longer any concerns for the old man: already totally cold, he only burned with love for another life. His entire mind was in heaven. Already, heedless of this body, he thought he had passed beyond this world.’²⁵⁹

²⁵⁶ *vicerit orbem*. Corippus, *In Praise* 1.238. Also 1.276–93, 2.121–27, 3.121–25, 3.380–89. *Romanum princeps cum Iustinianus haberet imperium... recto deus ordine duxit*. 4.265–68. Also 1.50–51, 1.240–47, 2.126, 3.28–36.

²⁵⁷ Note also Corippus, *In Praise* 1.353–56, 2.139–49.

²⁵⁸ *pluribus ex membris animal componitur unum, sed caput est quod membra regit... utque regantur, coniuncta est capiti sapientia, corporis arcem quae retinens oculis speculetur membra serenis, ut quoscumque videt vigilantum lumine sollers peste laborantes subiecti corporis artus, sanat... Romanum imperium corpus bene ponitur unum compositum multis*. Corippus, *In Praise* 2.186–96.

²⁵⁹ *plurima sunt vivo nimium neglecta parente, unde tot exhaustus contraxit debita fisco, reddere quae miseris moti pietate paramus. quod minus ob senium factumve actumve parentis, tempore Iustini correctum gaudeat orbis. nulla fuit iam cura seni: iam frigidus omnis alterius vitae solo fervebat amore. in caelum mens omnis erat*.

This passage endorses the conventional narrative, heavily reliant on Procopius' polemic, that Justinian's régime had become a 'gerontocracy' by the 550s and that Justinian withdrew from active government into theological reflection as an old man.²⁶⁰ Given the preceding context of the body politic metaphor, however, Corippus' admission that Justinian had been 'heedless of this body' is not purely directed against his preference for the spiritual over the temporal but also concedes that Justinian had failed to be the sleepless emperor watching over the Roman body politic 'with expertly sleepless light'. Corippus limits this accusation in scope to Justinian's late reign, the period of alienation which produced so many oppositional texts, but nonetheless accepts part of Lydus' and Procopius' critiques.

In tandem with this admission, Corippus carefully portrays Justin as the restorer of lapsed imperial sleeplessness. Having been introduced as a habitually sleepless man, Justin's first promise to his subjects after his accession is that 'now, after your hard labours, there shall be leisures for the populace and expert sleeplessness for me'.²⁶¹ This 'expert sleeplessness' explicitly reinvokes the head of the body politic, watching 'with expertly sleepless light' over the empire that Justinian had neglected. Then, in a set-piece designed to affirm that Justin was 'more generous than his father', Corippus proves that Justin was already 'correct[ing]' the mistakes born of Justinian's negligence.²⁶² He recounts at length how, having received an 'exhausted treasury', Justin 'paid off his father's debts and took his bonds back'.²⁶³ The new emperor may have been crowned by God, but his right to rule was nonetheless also founded on his capacity to be the sleepless emperor that Justinian had ceased to be in his old age.²⁶⁴

iam corporis huius inmemor hanc mundi faciem transisse putabat. et licet exhausti vacuarit commoda fisci, illa tamen sancti mecum est benedictio patris, quae totum reparare potest et lapsa novare. Corippus, *In Praise* 2.260–71.

²⁶⁰ Evans, *Age of Justinian*, pp.193–202.

²⁶¹ *iam post duros... labores otia sint plebi, nobis vigilantia sollers.* Corippus, *In Praise* 2.337–38.

²⁶² *largior... patre.* Corippus, *In Praise* 2.399.

²⁶³ *debita persolvit genitoris, cauta recepit.* Corippus, *In Praise* 2.389. For the full set-piece: 2.357–406. On the context of the 562 bankers' plot: Malalas 18.141; Paul, *DHS* 24–40; Brandes, "Eine Verschwörung gegen Justinian," pp.357–92. Note the close intertextualities to a 566 constitution of Justin: *J. Nov.* 148.

²⁶⁴ Corippus, *In Praise* 1.366–67; V. Zarini, "L'éloge de l'empéreur Justin II et de l'impéreatrice Sophie chez Corippe et chez Venance Fortunat (*Poèmes*, Appendice 2)," *Camena* 11 (2012), p.2. See also Kaldellis, *Byzantine Republic*.

3.IV.C: Corippus' Response to Lydus

Corippus' limited concession to Procopius' and Lydus' traditionalist critique of Justinian's sleeplessness was designed to obviate the need for the emperor and his propaganda networks to be scrutinised or resisted as Lydus advocates. Having allayed concerns about Justin's attitude to his predecessor, Corippus proceeds to circumscribe the operation of sleeplessness, vigilance, and watchfulness as the practices of the emperor alone. Justin's promise that 'there shall be leisures for the populace and expert sleeplessness for me', made in a hippodrome speech to the entire population of Constantinople, is fulfilled at a feast in the following book.²⁶⁵ While the attendees continue to celebrate, Justin and Sophia display their moderation by returning home, where they 'did not release their hearts to lazy sleep, but their minds, whose pious charge it is to rule, were sleepless'.²⁶⁶ Here, Corippus continues to depict Justin in the role of the sleepless emperor at the head of the body politic and represents his sleeplessness in distinction to all Justin's subjects, whose role is to enjoy the fruits of the emperor's generosity while he watches over his empire.

The role of the men of political society, meanwhile, was not to hold the emperor to account but to aid him in the management of the empire. In the body politic metaphor, 'the senators, the breast and arms of this head' play an additional role.²⁶⁷

'The ultimate concern for managing affairs is entrusted to me, but because it is for me to arrange the subject world, I entrust care for the world to you also.... Preserve the limits of the law and equal justice for all the people in common. Administer the people, as it is proper for the real fathers of the empire to administer, and cherish them like your own feet and lower limbs.'²⁶⁸

Corippus directs the attention of this class of men downwards, towards the 'people' who represent the lower limbs of the body politic. While the senators are subject to the 'expertly sleepless' scrutiny of the emperor, therefore, they cannot rightly return this imperial gaze.

²⁶⁵ *labores otia sint plebi, nobis vigilantia sollers.* Corippus, *In Praise* 2.337–38.

²⁶⁶ *non in segnes solverunt pectora somnos: invigilant animi, quibus est pia cura regendi.* Corippus, *In Praise* 3.138–39.

²⁶⁷ *conscripti patres... vos estis pectus, vos brachia verticis huius.* Corippus, *In Praise* 2.201–2.

²⁶⁸ *summa regendarum cura est mihi credita rerum. at quia subiectum nostrum est disponere mundum, nos etiam vobis curas conmittimus orbis... iustitiam populis generaliter omnibus aequam et iuris servate modos. disponite plebes, ut decet imperii veros disponere patres, utque pedes proprios et membra minora fovete.* Corippus, *In Praise* 2.205–19.

Corippus almost entirely circumscribes sleeplessness and scrutiny as imperial operations. Cameron's translation seems to attribute similar virtues to officials like the 'watchful Tiberius', the *comes excubitorum*, but the Latin term used in these cases is not *vigilantia* and does not imply the same sense of scrutiny.²⁶⁹ Only one other group of characters ever displays the virtue of sleeplessness in *In Praise*. These are the orators, Corippus included, whose 'brilliant praise' was the product of their 'sleeplessness at night'.²⁷⁰ Dewar was correct to note that this poetic sleeplessness underpins Corippus' claim to payment for his services as a professional panegyrist. In the political context of traditionalist opposition to Justinian, however, it served another function. While Lydus had argued that civil servants and other members of political society should scrutinise the emperor in order to identify his dissimulations and hold him to his propaganda claims, Corippus instead insists that their role was to help govern the Roman people rather than to watch over the emperor. Should they ever turn their gaze upwards, their only purpose would be to produce precisely the sort of uncritical praise that had motivated Lydus to compose his anti-propaganda treatise in the first place. This argument depended on conceding a particularly common traditionalist criticism of Justinian and proposing a new political contract on that basis.

3.IV.D: Closing the Debate

Justin owed his succession to well-executed senatorial support.²⁷¹ *In Praise's* most immediate function political function, by virtue of the prominent role that senators play in the poem's events and political theory, was to express gratitude for (and consequently reinforce) this support. Corippus is therefore also responding to the *Dialogue's* strand of aristocratic thought. *In Praise* re-subjects to imperial control the loose class of *aristoi* for whose elevation over the emperor the *Dialogue* had argued. While Corippus allots an important governmental role to the senators, he also insists that 'the ultimate concern for managing affairs is entrusted to [the emperor]'.²⁷² He smooths this dynamic over by figuring Justin as precisely the kind of reluctant emperor that the *Dialogue* had advocated.²⁷³ He also accommodates

²⁶⁹ *providus Tiberius*. Corippus, *In Praise* 1.213; Cameron, *In laudem*, p.91.

²⁷⁰ *egregias... laudes*. Corippus, *In Praise* 4.155. *vigilantia noctis*. 4.182.

²⁷¹ Cameron, *In laudem*, p.126.

²⁷² *summa regendarum cura est mihi credita rerum*. Corippus, *In Praise* 2.205.

²⁷³ Corippus, *In Praise* 1.160–72; *DPS* 5.47.

Zosimus' old critique by accepting that 'the polity made use of [the senators'] advice and labours when it conquered peoples and subdued kingdoms'.²⁷⁴ *In Praise* communicates a wide-ranging set of promises about how Justin would rule, including a commitment to receive senatorial advice in just the way that the *Dialogue* demands and that the *New History's* emperors consistently refused to do.

Even while the group that Corippus calls senators take centre stage in *In Praise*, however, the poem also represents a response to fractious debates about sleeplessness that marked Justinian's reign inside and outside the civil administration. These debates are essential context for understanding why *In Praise* is thematically structured around *vigilantia*. Corippus' audience, after all, was made not only of senators but also of other senior officials, courtiers, and churchmen.²⁷⁵ Senators themselves often held bureaucratic and court positions.²⁷⁶ Corippus is accordingly clear that he envisages the senators performing an integral role in 'administering' imperial rule, orienting his argument against Lydus as well as the *Dialogue*.²⁷⁷ As a poet who worked both at court and in the bureaucracy, it is unsurprising that he should have composed a panegyric in touch with opposition from various quarters of political society.

In Praise is an attempt to draw a line under the debate detailed in this chapter. Its treatment of sleeplessness, a motif inverted by Procopius to represent Justinian as a demon and performatively reproduced by Lydus to argue for bureaucratic resistance to imperial propaganda networks, validates one of the most vociferous lines of traditionalist attack on Justinian. At the time of Corippus' writing, Justinian's legacy was being contested in a way that prompted Malalas to write his own update and impose a biblicalising interpretation on Justinian's propaganda.²⁷⁸ By conceding ground in this contest, Corippus denies that there was any need for Justin to be scrutinised on Lydus' terms. He also tries to move the political ground away from the previous reign's debates; *In Praise* does not engage at all with the questions of traditional knowledge that had structured Justinian's early propaganda and that remained fraught by Lydus' time.

²⁷⁴ *quorum consiliis quorumque laboribus usa publica res domuit gentes et regna subegit*. Corippus, *In Praise* 2.203–4.

²⁷⁵ Cameron, *In laudem*, p.5; Cameron, "Corippus' Poem," p.158; Baldwin, "Career of Corippus," p.375.

²⁷⁶ Haldon, "Economy and Administration," p.39; P. Heather, "Running the Empire: Bureaucrats, Curials, and Senators," *A. H. M. Jones and The Later Roman Empire*, ed. D. Gwynn (Leiden, 2007), pp.102–4.

²⁷⁷ *disponere*. Corippus, *In Praise* 2.216–17.

²⁷⁸ Above, 2.III, and Blaudeau, "Malalas and the Representation of Justinian's Reign," pp.77–90.

Corippus therefore aims to usher in a fresh start after a reign marked by debate and resistance. Dewar's analysis remains viable; there would have been few better ways for Corippus to make his case for further reward than by willingly shielding Justin from the traditionalist opposition that had so marked his predecessor's rule. This movement was matched by Justin's own tactics, seeking to place some distance between himself and Justinian.²⁷⁹ These are proofs of the impact of Lydus' ideas. Whether or not *On Powers* was widely read, *In Praise* shows that concerns about imperial propaganda, sleeplessness, and the direction of scrutiny in the body politic all registered strongly enough at Justin's court to merit a poem dedicated to closing down this long-term debate.

3.V: Traditionalist Attitudes to Imperial Propaganda

This chapter is about a sprawling debate. It was launched by Zosimus' *New History*, which structures its political analysis around the disassociation of imperial power and traditional knowledge. It reflects powerful enough ideas for Justinian to devote a significant volume of propaganda to representing himself as Zosimus' implied ideal emperor, a ruler who was himself the source of traditional knowledge. Even as he did so, traditionalists became sceptical about the volume of new legislation. By the 550s, alienated by the apparent failure of the régime to live up to its own restorational image, they were paying very close attention to the disjuncture between the representations of imperial propaganda and the reality of Justinian's rule, between what 'seems' and what 'is', and were seeking to dismantle their propaganda culture.²⁸⁰ Both Lydus and Procopius levelled charges of dissimulation against Justinian in the 550s. The former, having spent his career in a bureaucratic department that was also the site of a culture of reproducing, refining, and distributing propaganda, expressed his dissent as a call for a more critical attitude to imperial propaganda. When Justinian died with this dissent still active, Corippus turned his panegyric talents to accommodating and defusing this traditionalist critique of propaganda.

At every stage and level of this debate, its charged terms mutated under the pressures exerted by both imperial propaganda and traditionalist opposition. Justinian used his propaganda to represent himself as an ancient historian, only to find traditionalists

²⁷⁹ J. Nov. 140, 144, 148; Averil Cameron, "The Early Religious Policies of Justin II," *SCH* 13 (1976), p.54.

²⁸⁰ Maas, *John Lydus*, p.73.

mobilising around the alternative motif of sleeplessness. Other ideas, too, were reshaped by the flow of debate. Zosimus, resigned to non-traditionalist emperors whom he perceived to be the only source of harm to Roman tradition, argued that imperial servants should withdraw from their participation in the state. As Justinian accepted and redeployed Zosimus' conception of imperial service, Lydus began to articulate a far less passive model of the bureaucrat's role. He argued that the empire would inexorably decline unless Justinian could be held to his propaganda promises to be a sleepless restorer of the state and provided scope for bureaucrats to enact service to the Roman polity, not just the Roman emperor, by scrutinising imperial propaganda. Corippus then re-establishes that the administrator's task was to help govern the empire according to the emperor's will. All these movements are predicated on the importance of opinion to a régime that could be pressured and manoeuvred into policies like the persecution of alleged pagans.

This debate reveals the intellectual and political diversity of bureaucratic culture. Traditionalist opposition was not located primarily within the administration; indeed, both Zosimus and Lydus frame their arguments *against* their professional milieu. Instead, it was constituted in social circles that cut across bureaucratic employment. These circles discussed tactics for resisting the Justinianic régime that their members applied idiosyncratically to their own personal concerns. Those tactics that are still observable, because they were deployed in literary form, proceeded through intertextualities, literary performances, paradoxes, inversions, elisions, metaphors, reader expectations, characterisations, and more. Yet these are only the extant edge of a no less vigorous culture of oral political debate, faint traces of which survive. John and Curicus' response to the criticism of imperial rescripts articulated in Procopius' unpublished polemic shows that the *Secret History* reflects a debate that took place more openly.

The Emperor and the Law

The propaganda networks of this study's second chapter implicated civil servants, in particular, in political choices about how far and how critically to engage with the imperial representations that began life in administrative documents and filtered out from there into political society. John and Curicus' publication decree suggests that many of those implicated in these choices did not merely work to contract but went above and beyond by reconstituting imperial propaganda in new contexts. This engendered a debate within bureaucratic culture about what attitudes civil servants should adopt towards the propaganda with which they worked. For Justinian's traditionalist opponents, across political society, it also enhanced the importance of responding to the propaganda and arguments that supported the régime and were being widely reiterated by both bureaucratic and literary propagandists.

Traditionalists directly contested some of the justificatory claims made by the *Novels*. Lydus, as the previous chapter saw, alleged in plain speech that Justinian's establishment of the *quaestor exercitus* in Scythia was an invention obscured by an appeal to Roman tradition. Yet the contours of contemporary debate were deeper and broader still. The régime and its opponents entered into debate not only about the logic and representation of specific policies but also about the legitimate extent of imperial authority. While the available avenues for questioning the necessity of a single ruler closed down after Zosimus, irreconcilably different conceptions of the imperial role retained vibrant lives in Constantinople's political culture.¹ The political question most vocally and consistently debated in the age of Justinian's surviving sources concerned the extent of imperial authority to change Roman law. The fervour of this debate is unsurprising. Justinian's *Institutes* represent his rule as a fundamentally legal operation:²

¹ Kaldellis, *Byzantine Republic*, p.5.

² Also Honoré, *Tribonian*, p.30.

‘Barbarian peoples brought under our yoke recognise our labours in war... but it is by the laws that we have already promulgated and collected that all people are ruled.’³

This statement communicates to the New Justinians, first-year law students, that their future roles were political and governmental.⁴ It also participates in a propaganda project aimed at entrenching among the next generation of advocates and bureaucrats one model of the emperor’s relationship to the law, authorising the extensive and frequent use of promulgations as the primary mechanism of imperial rule.

Before and after the *Institutes*, Justinian was a consistently active legislator.⁵ He issued constitutions to constrain aristocratic power, censure official malpractices, distribute propaganda, engage in debate, settle points of law on principle, and more.⁶ Using the law for such varied, if overlapping, purposes required a social and political contract that accepted frequent promulgations as a legitimate act of government, especially in a political system where imperial power depended on its subjects’ acceptance. Justinian’s traditionalist opponents applied their anti-innovation ethic in ways that forcefully disrupted this contract:

‘On account [of the quaestor Proclus’ justice], he neither easily proposed a law nor was willing to change any part of the established constitution.’⁷

‘It is characteristic of the emperor never to shake any of the laws of the government.’⁸

‘The fifth [proposed law] concerns the political laws and the wholly unshakeable guarding of them.’⁹

The extent of Justinian’s authority to change Roman law was therefore an ideological battleground. This was not a battle over the claim that ‘it is permitted for the emperor alone

³ *et bellicos quidem sudores nostros barbaricae gentes sub iuga nostra deductae cognoscunt... omnes vero populi legibus iam a nobis vel promulgatis vel compositis reguntur.* J. *Inst.* pr.1.

⁴ Also J. *Inst.* pr.7. For the epithet: J. *Digest* C. Omnem 2.

⁵ For pre-534 legislation, note Bjornlie, *Politics and Tradition*, pp.217–18, and, on the Fifty Decisions between the first *Code* and the *Digest*, see further: C. Russo Ruggeri, *Studi sulle Quinquaginta Decisiones* (Milan, 1999); Corcoran, “Justinian and his Two Codes,” pp.73–111; Honoré, *Tribonian*, pp.142–46; T. Honoré, “The Background to Justinian’s Codification,” *Tulane Law Review* 48 (1973–1974), p.874.

⁶ On his legal agenda: Sarris, “At the Origins,” pp.417–18.

⁷ διὸ δὴ οὔτε νόμον τινὰ εὐπετῶς ἔγραφεν οὔτε τι τῶν καθεστῶτων κινεῖν ἤθελεν. Procopius, *Wars* 1.11.12.

⁸ ἴδιον δὲ βασιλέως ἐστὶ τὸ μηδένα καθάπαξ τῶν τοῦ πολιτεύματος νόμων σαλεύειν. Lydus, *Powers* 1.3.

⁹ πέμπτος περὶ τῶν πολιτικῶν νόμων καὶ τῆς ἐπ’ αὐτοῖς πάμπαν ἀσαλεύτου φυλακῆς. *DPS* 5.21.

to make laws and to interpret laws', which affirms an imperial 'monopoly of legislation'.¹⁰ Even those traditionalists who were legally trained *rhetors* did not argue for alternative, jurisprudential sources of legislative authority. Instead, the conflict concerned when, why, and if at all the emperor could exercise his 'authority to promulgate law'.¹¹ The stakes of this debate went beyond the accuracy of imperial propaganda to the definition of imperial authority itself. Its urgency was inflated by the sheer volume of Justinian's legislative activity.

This debate speaks to the existence of 'rival ideas and theories of kingship' in the sixth century.¹² This chapter first sets the debate in an ideological context, showing how writers subscribed to and simultaneously inflected a Roman discourse of lawfulness. It then defines the terms of the debate, demonstrating how Procopius and Lydus turned the codification project against Justinian's new legislation and explaining Procopius' political project. Finally, it turns to the dominant justificatory discourse of the *Novels* and the nimble manipulations of imperial propaganda that Justinian's opponents practised in response. Though this debate spans the age of Justinian, this chapter cannot be structured chronologically. *Novel* 60's response to traditionalist criticism of Justinian's legislative project is legible at an earlier point in the source record than any written iteration of that criticism. Fortunately, this debate operated by attrition, along entrenched intellectual battlelines. Supporters and opponents of the régime dialectically developed new tactics to advance their unchanging conceptions of the emperor's relationship to the law.

4.1: The Discourse of Lawfulness

Debate about the emperor's relationship to the law was structured by a deeply entrenched ideology of Roman lawfulness. Sixth-century writers vocally committed themselves to the same value framework and vocabulary as their political opponents. This significant degree of rhetorical uniformity underpins the old assumption that late Romans simply 'took for granted' their politics.¹³ In this case, however, a shared discourse was itself the site of

¹⁰ *leges condere soli imperatori concessum est, et leges interpretari. CJ 1.14.12.3*; B. H. Stolte, "'Law is King of All Things'? The Emperor and the Law," *The Emperor in the Byzantine World: Papers from the Forty-Seventh Spring Symposium of Byzantine Studies*, ed. S. Tougher (London, 2019), p.177.

¹¹ *promulgandae... legis auctoritatem. J. Nov. 143.pr.*

¹² D. G. Angelov, *Imperial Ideology and Political Thought in Byzantium, 1204–1330* (Cambridge, 2007), p.13.

¹³ Barker, *Social and Political Thought*, p.20.

contest. Political writers played on powerful, preconstructed expectations of the lawful Roman emperor to amplify their own political demands.

4.1.A: Romanness and Lawfulness

Lawfulness was a deep-seated component of Roman identity. It served the useful ideological function of distinguishing the ‘lawful state’ of the Romans from a ‘barbarian muster’.¹⁴ Zosimus defines ‘barbarisation’ on these terms, depicting the Nisibenes as desperate ‘not to [be] abandoned and restored to the trial of barbarian customs when they had lived so long under Roman laws’.¹⁵ Justinian capitalised on this division, justifying *Novel* 21’s integration of Armenia into the empire by opposing its prevalent ‘barbarian customs’ to ‘the laws that the Romans practise’.¹⁶ Romans admittedly did not maintain a discursive monopoly on lawfulness, frequently conceding this quality to Persia and sometimes others, but non-Roman lawfulness was not of mere ethnographic interest.¹⁷ It could be used to subvert the ideological markers of Romanness for political purposes. Zosimus’ characterisation of Fravitta, for example, demonstrates the perversity of a situation in which Romans were less capable of preserving their own traditions than this barbarian, while Procopius blurs the distinctions between Vandals and Romans to criticise Justinian’s campaign.¹⁸ These destabilisations only derived rhetorical force from their orientation against the dominant ideological construction of Romanness. Agathias’ statement that ‘the Franks’ were unlike other barbarians because they had ‘a largely Roman state and the same laws’ shows that, in Roman literature, barbarians did not generate alternative or independent

¹⁴ πολιτεία ἔννομος... βαρβαρική ἄθροισις. *DPS* 4.47–48.

¹⁵ βαρβαρωθείσα. Zos. 1.58.4. μὴ προέσθαι σφᾶς μηδὲ εἰς πείραν καταστήσαι βαρβάρων ἡθῶν, τοσαύτη ἐτῶν ἑκατοντὰς τοῖς Ῥωμαίων νόμοις ἐντετραμμένους. Zos. 3.33.2.

¹⁶ τὸ βαρβαρικὸν ἔθος (and βαρβαρικώτερον... ἐνομίσθη) / θεσμούς... οὐς Ῥωμαῖοι νομίζουσιν. *J. Nov.* 21.pr. See further M. Maas, “‘Delivered from their Ancient Customs’: Christianity and the Question of Cultural Change in Early Byzantine Ethnography,” *Conversion in Late Antiquity and the Early Middle Ages: Seeing and Believing*, eds. K. Mills & A. Grafton (Rochester, NY, 2003), pp.169–71.

¹⁷ S. McDonough, “Were the Sasanians Barbarians? Roman Writers on the ‘Empire of the Persians,’” *Romans, Barbarians, and the Transformation of the Roman World: Cultural Interaction and the Creation of Identity in Late Antiquity*, eds. R. W. Mathisen & D. R. Shanzer (Farnham, 2011), pp.55–66; J. W. Drijvers, “A Roman Image of the ‘Barbarian’ Sasanians,” *Romans, Barbarians, and the Transformation of the Roman World: Cultural Interaction and the Creation of Identity in Late Antiquity*, eds. R. W. Mathisen & D. R. Shanzer (Farnham, 2011), pp.67–76. See also Canepa, *Two Eyes*.

¹⁸ Zos. 5.21.5–6, with E. A. Thompson, “The Visigoths from Fritigern to Euric,” *Historia* 12 (1963), pp.108–10; Wood, “Being Roman,” pp.424–47.

matrices of lawfulness but simply became like the Romans.¹⁹ Romanness and lawfulness went hand-in-hand in sixth-century political society.²⁰

This ideological identity shaped how sixth-century writers thought of their society and consequently how they engaged in political debate. They conceived of the distinctively Roman lawful society as ‘a civilization in which social relationships are governed by rules and procedures [and in which] the citizen has access to law courts and judges’.²¹ Justinian, describing the ‘great state of lawful integrity’ that his codification of the laws had established, accordingly rooted it in the accessibility of justice:

‘Let [everyone] henceforward have laws as direct as they are brief, readily available to all, and in easily acquirable books, so that... their easy procurement may, at the cheapest price, be equally available to rich and to poor. Great legal learning should be purchased at minimal cost.’²²

Traditionalists demonstrate a similar concern for equality before the law. Zosimus recounts approvingly how the *magister militum* Generidus resisted an imperial offer of exemption from a law forbidding non-Christians to hold office because ‘a law [that] prevailed over all other people’ should prevail over him too.²³ Romans of different political stripes agreed in principle on the shape of lawful Roman society.

This provided a framework for criticising Justinian. The *Secret History* directly inverts the imperial concern for equal access to the law by alleging that ‘the scales of justice fluctuated and meandered in whichever direction the greater weight of gold, weighing down

¹⁹ οἱ Φράγγοι... πολιτεία ὡς τὰ πολλὰ χρώνται Ῥωμαϊκῇ καὶ νόμοις τοῖς αὐτοῖς. Agathias, *H.* 1.3.2, with Averil Cameron, “Agathias on the Early Merovingians,” *AnnPisa* 37 (1968), pp.95–140. See further: Procopius, *Wars* 1.3.2–7; A. Angelov, “In Search of God’s Only Emperor: *Basileus* in Byzantine and Modern Historiography,” *JMH* 40 (2014), pp.130–31; Kaldellis, *Byzantine Republic*, pp.66–67; J. Wiesehöfer & R. Rollinger, “The ‘Empire’ of the Hephthalites,” *Short-Term Empires in World History*, eds. R. Rollinger, J. Degen & M. Gehler (Wiesbaden, 2020), pp.317–329.

²⁰ See further: Stouraitis, “Roman Identity,” pp.172–220; A. Kaldellis, “The Social Scope of Roman Identity in Byzantium: An Evidence-Based Approach,” *Byzantina Symmeikta* 27 (2017), pp.173–210; G. Greatrex, “Roman Identity in the Sixth Century,” *Ethnicity and Culture in Late Antiquity*, eds. S. Mitchell & G. Greatrex (London, 2000), pp.267–92; Kaldellis, *Romanland*, especially p.87. For a developmental view: H. Inglebert, “Citoyenneté romaine, romanités et identités romaines sous l’Empire,” *Idéologies et valeurs civiques dans le monde romain: hommage à Claude Lepelley*, ed. H. Inglebert (Paris, 2002), pp.241–60. For a rational-legal view: C. Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley, CA, 2000), but note the objection at Stouraitis, “Roman Identity,” p.179, hence the reference here only to ‘political society.’

²¹ G. Dagron, “Lawful Society and Legitimate Power: ἔννομος πολιτεία, ἔννομος ἀρχή,” *Law and Society in Byzantium: Ninth–Twelfth Centuries*, eds. A. Laiou & D. Simon (Washington, D. C., 1994), p.28.

²² *quantam... legitimam veritatem / legesque in posterum habeant tam directas quam compendiosas omnibusque in promptu positas et ad possidendi libros earum facilitatem idoneas: ut... vilissima pecunia facilis eorum comparatio pateat tam ditioribus quam tenuioribus, minimo pretio magna prudentia reparanda.* J. *Digest* C. Tanta 12(13).

²³ ἐπὶ μὲν τοῖς ἄλλοις ἅπασιν τὸν νόμον κρατεῖν. Zos. 5.46.4.

on them, was able to drag them'.²⁴ As a result, 'while the Romans were ruled by [Justinian], no law remained lasting, no transaction safe, no contract binding'.²⁵ This criticism is founded on the same model of lawful society as imperial propaganda. Both subscribe to a common socio-legal value framework; they simply contest whether or not Justinian's rule had actualised these values.

4.1.B: Shared Discourse, Competing Practices

Procopius' polemic reveals the connection between the social and political elements of Roman lawfulness. In order for the Roman empire to be a lawful state, it needed a lawful emperor. Hence, Romanos' *On Repentance* uses the voice of 'the emperor' to exhort God to 'test only me and take pity on everyone else if I, the ruler, have acted unlawfully'.²⁶ But while lawful rule was a key ideological coordinate in sixth-century political culture, it did not entrench any particular politics. Authors instead sought to inflect it by connecting it to different sets of outcomes by which lawfulness could be judged.

Pazdernik derives a basic 'concept of "lawful Roman emperorship" in which the will of the sovereign is firmly subordinated to the law' from Agapetus, Lydus, and the *Dialogue*.²⁷ He accurately describes *one* aspect of their political thought. The *Dialogue*'s constitutional order mandates the 'execution of imperial rule according to the established law' and imposes a special obligation on 'the good emperor' to obey the laws, since he should 'consider <the violation> [of the political laws] more dreadful for him than for his subjects'.²⁸ Agapetus likewise insists that the emperor is 'ruled by the laws' and should 'respect them himself sooner than anyone else'.²⁹ While Lydus does not subject the emperor to this more stringent obligation, he nonetheless notes that the lawful emperor 'accomplishes nothing outside the laws by his authority', since arbitrary rule 'by authority' is tyranny.³⁰

²⁴ ἐπλανᾶτο περιφερομένη πανταχόσε ἢ τῆς δίκης ῥοπή ὅπη ἂν αὐτὴν βαρήσας ὁ πλείων χρυσὸς ἀνθέλκειν ἰσχύοι. Procopius, *SH* 14.10.

²⁵ ἔμεινέ τε αὐτοῦ Ῥωμαίων ἄρχοντος... οὐ νόμος ὄχυρός, οὐ πράξις βεβαία, οὐ συμβόλαιον οὐδέν. Procopius, *SH* 13.23.

²⁶ ὁ βασιλεύς... εἰ ἐγὼ ὁ ἀνάσων ἠνόμησα, ἐμὲ μόνον ἔτασον καὶ τοὺς πάντας ἐλέησον. Romanos 52.6.1, 7.3–4.

²⁷ Pazdernik, "Justinianic Ideology," pp.194–96.

²⁸ τὴν βασιλείαν ὑπεισιόντος κατὰ τὸν τεθέντα νόμον. *DPS* 5.163. οἶσθαι γὰρ βασιλεὺς ἀγαθὸς φοβερωτέραν οἱ αὐτῷ ἢ τοῖς ἀρχομένοις εἶναι τὴν ἐπὶ... *DPS* 5.21, accepting the reading of Bell, *Three Political Voices*, p.150 for the lacuna. τῶν πολιτικῶν νόμων is here supplied from the preceding main clause. See further O'Meara, "The Justinianic Dialogue," pp.58–61.

²⁹ ὑπὸ τῶν... βασιλευόμενος νόμων. Agapetus, *Advice* 1. αὐτὸς πρὸ τῶν ἄλλων τούτους αἰδούμενος. 27.

³⁰ μηδὲν μὲν κατ' αὐθεντίαν ἔξω τῶν νόμων πράττειν / κατ' ἐξουσίαν. Lydus, *Powers* 1.3.

All these authors operated within a well-established ideological framework. The classic distinction between emperor and tyrant was that ‘the law is the way of the emperor but the tyrant’s temper is the law’.³¹ Hence, the *Secret History* claims that Theodora participated in Justinian’s tyranny by ‘laying claim to the regulation of everything in the polity by acting on her own judgment’.³² In conventional Roman thought, the arbitrary tyranny of personal rule could only be avoided by the emperor’s self-restraint. Roman law had, after all, enshrined the principle that ‘the emperor is not bound by the laws’.³³ Accordingly, the emperor who was seen to submit voluntarily to the laws could derive legitimacy from abiding by these conventional ideas about tyranny.

However, Pazdernik’s shorthand definition of lawful rule does not capture its complexities. As Kaldellis notes, lawful cannot only have consisted in ‘imperial law-abidingness’ because emperors routinely exercised their authority by promulgating new laws, granting privileges, showing lenience, and so on.³⁴ Kaldellis proposes that Roman emperors were broadly authorised to act extralegally if they did so in the public good:

‘This is the crucial point[:] *never in the Roman and Byzantine tradition was the view accepted that the emperor could act beyond the law for any reason other than to benefit the Roman people...* The overriding criterion was not that of the written law; it was the good of the republic... Legitimacy was maintained when emperors cultivated the perception that they were governing in the interests of all the Romans.’³⁵

Here, a debate emerges. No two Romans had identical conceptions of ‘the interests of all’.

A slight correction to Kaldellis is necessary. In at least the sixth century, extralegal action was legitimated not simply by ‘the good of the republic’ but by the consent of and collaboration with advisors. Lydus, for example, provides a full definition of lawful rule in which advice and law-abidingness are equal components:

³¹ βασιλέως μὲν ἔστι τρόπος ὁ νόμος, τυράννου δὲ ὁ τρόπος νόμος. Synesius, *On Ruling* 6 = PG 66.1061a. Note echoes: Lydus, *Powers* 1.3; *DPS* 5.46. See further: Kaldellis, *Byzantine Republic*, p.72; J. Bregman, *Synesius of Cyrene, Philosopher-Bishop* (Berkeley, CA, 1982); T. D. Barnes, “Synesius in Constantinople,” *GRBS* 27 (1986), pp.93–111.

³² αὕτη ἅπαντα πρυτανεύειν αὐτογνωμονοῦσα τὰ ἐν τῇ πολιτείᾳ ἡξίου. Procopius, *SH* 17.27.

³³ *princeps legibus solutus est*. J. *Digest* 1.3.31. See further: D. Wyduckel, *Princeps legibus solutus: eine Untersuchung zur frühmodern Rechts- und Staatslehre* (Berlin, 1979); K. Pennington, *The Prince and the Law, 1200–1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley, CA, 1993), especially pp.20–21, 77–90.

³⁴ Kaldellis, *Byzantine Republic*, p.75.

³⁵ *Ibid.* pp.78–80. Emphasis original.

‘[The lawful emperor] accomplishes nothing outside the laws by his authority and ratifies with his own vote whatever satisfies the best men of the government... But the tyrant will do by his authority, without reason, whatever he wants. He does not think it fit to honour the laws nor suffers to write them with advice.’³⁶

The characteristics of the lawful emperor and of the tyrant together show that lawful rule partly consists in the implementation of the ‘advice’ of ‘the best men of the government’. Lydus’ phrasing is a direct mirror of the *Digest*’s principle that ‘what satisfies the emperor has the force of law’.³⁷ The *Dialogue* provides a very similar full definition:

‘I consider lawfulness, Thomas, to mean that no citizen claims power for themselves by making free use of the laws when others are unwilling or ignorant... This is the way of a tyrant, not of a political community... I affirm that lawfulness is this and is produced in this way:... through the consent of subjects but the advice of the *aristoi*.’³⁸

As for Lydus, advice is integral to the *Dialogue*’s conception of lawful rule – yet here, the text restricts the body of imperial advisors to the *aristoi* who lay privileged claim to political knowledge.

This discourse of advice-based rule cut across the politics of tradition. Agapetus represents his whole *Advice* as an exposition of lawful rule by opening with the statement that ‘you are ruled by the laws and you rule lawfully over those subject to you’.³⁹ The construction implies that ‘ruling lawfully’ and being ‘ruled by the laws’ are not identical processes; Agapetus expects more of the lawful emperor than his law-abidingness. He accordingly uses the terms ‘lawful’ and ‘unlawful’ to mark certain social and political behaviours, offering both ‘sinning’ and ‘failing to impede sinners’ as examples of unlawful rule.⁴⁰ By tracing these associations of ideas, the *Advice*’s conception of lawful rule may be

³⁶ ἕτερον γὰρ τὸ τῆς ἐννόμου βασιλείας καὶ ἕτερον τὸ τυραννίδος... ἀξίωμα... καὶ μηδὲν μὲν κατ’ αὐθεντίαν ἔξω τῶν νόμων πράττειν, τὸ δὲ τοῖς ἀρίστοις τοῦ πολιτεύματος συναρέσκον ψήφοις οἰκείαις ἐπισφραγίζειν... ἀλλ’... ὁ τύραννος... πράξει δὲ κατ’ ἐξουσίαν ἀλόγως, εἴτι καὶ βούλεται, μηδὲ νόμους τιμᾶν ἀξιῶν μηδὲ γράφειν μετὰ βουλῆς ἀνεχόμενος. Lydus, *Powers* 1.3.

³⁷ *quod principi placuit, legis habet vigorem*. J. *Digest* 1.4.1.

³⁸ νόμιμον μὲν οἶμαι – ὦ Θωμάσιε – τὸ μηδένα πολιτῶν αὐτονομία χρώμενον, ἀκόντων τῶν ἄλλων ἢ καὶ ἀγνοούντων... ὃς δὴ τυράννου τρόπος καὶ οὐ πολιτικός... νόμιμον μὲν τότε εἶναι φημι καὶ οὕτω γιγνόμενον... τῇ μὲν γνώμῃ τῶν βασιλευομένων, τῶν δὲ ἀρίστων γίνεσθαι βουλῆ. *DPS* 5.46–49. The excluded parts of this passage relate to the emperor’s acquisition of power. The *Dialogue* elsewhere develops a system of election by divine lot from among nominated *aristoi* to ensure the ‘lawful proclamation’ of the emperor: τῆς ἐννόμου... ἀναρρήσεως. *DPS* 5.17. See also 5.52; Dagron, “Lawful Society,” p.30; Fotiou, “Dicaearchus,” p.438; Bell, *Three Political Voices*, pp.10, 156.

³⁹ ὑπὸ τῶν αὐτοῦ βασιλευόμενος νόμων καὶ τῶν ὑπὸ σὲ βασιλεύων ἐννόμως. Agapetus, *Advice* 1.

⁴⁰ πλημμελεῖν... μὴ κωλύειν τοὺς πλημμελοῦντας / ἐνθέσμως / ἀθέσμως. Agapetus, *Advice* 28.

extracted. The themes of consent and advice are both essential to preventing rule by personal authority, culminating in the clear instruction to Justinian that ‘when you hear a useful idea, you must put it into practice’.⁴¹

The lawful emperor was therefore distinguished from the personal tyrant not only by his law-abidingness but also by his willingness to receive and act on advice. This conception of lawful rule, more expansive than Pazdernik’s and more precise than Kaldellis’s, was the product of a strikingly constant vocabulary of lawfulness, tyranny, personal will, consent, and advice. This study has already highlighted political debates about imperial ministers and advisors.⁴² The sources offered here show that this debate was a result of the role that advice played in constituting the lawfulness of imperial rule. Advisors, after all, were essential participants in the formulation and communication of imperial legislation.⁴³ However, this shared rhetoric of lawful rule masked radically different, competing models of lawful imperial practice. The common association between advice and lawfulness enabled political writers, by circumscribing legitimate forms of advice, to fix the outcomes of lawful rule.

On Powers initially refuses to elaborate on the measures that ‘satisfy the best men of the government’ but later provides character studies of precisely these ‘best men’ and their inverses, supplying a framework for judging the lawfulness of an emperor’s rule by its practical outcomes. Scholarly readings of the most developed study, of the prefect Phocas, have mostly concerned its religious tenor, given that Phocas committed suicide when accused of paganism in the mid-540s.⁴⁴ The literary use of persecuted men was undeniably loaded with dissent, but this could be a Christian dissent from politically convenient charges of paganism or a classicising dissent from Romanos’ expansive category of pagans, not necessarily pagan dissent from a Christian régime. Leaving aside this question, Lydus’ encomium for Phocas undeniably models him as one of ‘the best men of the government’ by representing his prefecture in opposite terms to its history of decline.⁴⁵ Having previously claimed that ‘time [almost] completely extinguished’ the prefecture, he asserts that, under Phocas, ‘the civil administration, just like when somebody pours plenty of oil over an almost

⁴¹ λόγον ἀκούσας ὠφελῆσαι δυνάμενον... πράξει διαδέχου. Agapetus, *Advice* 57. Also 12, 22, 30–32, 35.

⁴² Above, 1.II.A and 3.II.C.

⁴³ Stolte, “Law is King?,” p.176.

⁴⁴ *PLRE* 2 Phocas 5. See: Maas, *John Lydus*, pp.67–70; Kaldellis, “Making of Hagia Sophia,” pp.347–66; Tóth, “John Lydus,” pp.63–64.

⁴⁵ For Phocas as a foil for the Cappadocian: Maas, *John Lydus*, p.67. Maas does not give the point made here about Phocas’ relationship to previous Roman decline.

extinguished flame, was revived'.⁴⁶ This is artificial, inflated praise (Phocas was prefect for only a few months), but it is intended as an exemplary model, not an accurate account.⁴⁷

By depicting Phocas as one of 'the best men of the government', *On Powers* encodes a traditionalist, bureaucratic set of interests in its definition of lawful rule. As Maas notes, 'in Phocas, Lydus idealized aristocratic competition, learning, public generosity, and the independent performance of such services... most often described in the period as the prerogative of emperors or churchmen'.⁴⁸ Importantly, Lydus also highlights that Phocas' staff were amply remunerated.⁴⁹ He explicitly connects this praise to his earlier treatment of lawfulness by marking the 'profits [that] accrued to those who furnished service' as 'moderate and pleasing to the law'.⁵⁰ The manuscript breaks off during this passage but its original content is suggested by Lydus' studies of other good and bad prefects. His treatments of Zoticus, Petrus, and the Cappadocian all prioritise respect for tradition and the hiring of talented and learned administrators, which may therefore have been additional items in Phocas' encomium.⁵¹ *On Powers*'s initially conventional definition of lawful rule as the enactment of 'what satisfies the best men of the government' has become, by the end of the text, the re-enactment of Phocas' (exaggerated) accomplishments. This practical redefinition serves Lydus' material, political, and cultural interests.

The *Dialogue* and the *Advice* deploy similar tactics. The *Dialogue* uses Lydus' term, *aristoi*, to define an advisory class that had little to do with administrative tradition at all. Instead, the text encodes the interests of a class that 'must be as far as possible from (or, better, carried as high as possible above)' the roles of state officials.⁵² There are no concerns for bureaucratic pay lurking in the *Dialogue*'s model of lawfulness. Agapetus meanwhile distinguishes between 'those who desire to offer useful advice' and 'those who are always eager to flatter'.⁵³ The lawful emperor shuns flatterers as he takes advice, of which Agapetus'

⁴⁶ ὁ χρόνος... παντελῶς ἔσβεσεν. Lydus, *Powers* 3.39. ἡ δὲ τάξις, καθάπερ εἰ τις σβεννυμένης ἤδη φλογὸς ἔλαιον ἀφθόνως ἐπιπέσει, ἀνέλαμψε. 3.76.

⁴⁷ Maas, *John Lydus*, pp.28–29; C. Pazdernik, "Fortune's Laughter and a Bureaucrat's Tear: Sorrow, Supplication and Sovereignty in Justinianic Constantinople," *Tears in the Graeco-Roman World*, ed. T. Fögen (Berlin, 2009), p.410.

⁴⁸ Maas, *John Lydus*, pp.69–70.

⁴⁹ Lydus, *Powers* 3.76.

⁵⁰ κέρδη σώφρονα καὶ φίλα τῷ νόμῳ τοῖς ὑπηρετοῦσιν ἠκολούθει. Lydus, *Powers* 3.76. See further Kelly, *Ruling*, pp.64–68.

⁵¹ Lydus, *Powers* 2.8, 2.26, 3.9, 3.26–29, 3.35–36, 3.61–62. Contrast Kaldellis, "Making of Hagia Sophia," p.363, imagining a lost discussion of the Hagia Sophia; Lydus in fact has already moved on from this topic.

⁵² ὡς ἀπωπάτω γίνεσθαι ἢ μάλλον ἀνωπάτω φέρεσθαι χρήναί. *DPS* 5.88–93.

⁵³ τοὺς τὰ χρηστὰ συμβουλευεῖν ἐθέλοντας... τοὺς κολακεύειν ἐκάστοτε σπεύδοντας. Agapetus, *Advice* 22.

text is a performative instantiation. Agapetus then points out that he can only do so by ruling through ‘goodwill’ and that ‘nothing so attracts [goodwill] as the grace of beneficence given to the needy’.⁵⁴ Through his association of ideas, Agapetus claims that the proof of lawfulness is the emperor’s care for the poor. He therefore embeds a philanthropic and redistributive practice, rather than a bureaucratic or aristocratic one, in his definition of lawful rule.

4.1.C: Political Writing as Political Practice

These tactics were bidirectional. For the emperor, they generated certain expectations that might constrain how he ruled. For imperial subjects, they provide concrete criteria by which an emperor could be judged lawful or tyrannical. Pazdernik notes that Roman emperors generally acted in line with ‘public expectations and the traditions of their office’ and that these expectations, ‘as some of their subjects were aware, had changed over the course of time’.⁵⁵ Agapetus, Lydus, and the author of the *Dialogue* were not only aware of but consciously attempted to shape those changes.

These shared tactics collapse Dagron’s distinction between the *Dialogue* and other texts. He notes the apparent ‘rarity of [Byzantine] attempts to ground the exercise of imperial power in law’, citing only the *Dialogue* because *On Powers* and the *Advice* operate on a court-centred, unrestrained understanding of imperial power.⁵⁶ Lydus indeed acknowledges that the emperor appoints his own prefects and Agapetus that Justinian alone can scrutinise his own advisors. Only the *Dialogue*’s fixed constitutional order, which preconfigures the identities of imperial advisors, legally restrains the emperor. Yet the *Dialogue* is not an abstract expression of political theory or even a realistic constitutional proposal. Instead, it engages in contemporary debate just as *Advice* and *On Powers* do. Authors make political arguments to produce movements, even slight movements, in their audience’s intellectual conceptions and consequently in the horizons of political action. To claim straightforwardly that ‘restraint [is] at the heart’ of a text like the *Advice*, and that it therefore did not describe or advocate for any external limits on imperial behaviour, is to overlook how this political writing (and the political speech behind it) functioned as political practice.⁵⁷

⁵⁴ πρὸς εὔνοιαν ἐφέλκεται ὡς εὐποΐας χάρις διδομένη τοῖς χρήζουσιν. Agapetus, *Advice* 19.

⁵⁵ Pazdernik, “Justinianic Ideology,” p.189.

⁵⁶ Dagron, “Lawful Society,” p.30.

⁵⁷ Pazdernik, “Justinianic Ideology,” p.195.

The *Advice* aims not at persuading the emperor to restrain himself but at generating external restraints on his behaviour. Its precept on revolution has a sharp edge:

‘Understand that you rule securely when you are the ruler of willing people. For the unwilling subject who gets the chance revolts, but the subject ruled by the bonds of goodwill maintains a steadfast obedience to the ruler.’⁵⁸

The admission that unwilling subjects could revolt, whether written before or after Nika, is loaded with political potential. For Bell, it is ‘an (elegant) survival manual for an embattled emperor’, for Kaldellis an ‘ominous’ threat to Justinian.⁵⁹ Yet as a literary performance of address to the emperor for a broader public, it in fact encourages violent resistance to any régime that did not cultivate ‘goodwill’. This is a charged term in the *Advice*. Agapetus suggests that his readers should feel goodwill towards the régime when it cares for the poor, which was simultaneously proof of its lawfulness. It consequently argues that Justinian’s subjects should revolt if wealth redistribution did not materialise. This is political writing as political practice.

Imperial régimes were attuned to the ebbs and flows of popular sentiment in Constantinople.⁶⁰ The *Advice* therefore also aims at generating a restraining force on an imperial office that, on paper, was unrestrained. Its advocacy of revolution perhaps reveals the lack of institutionalised power wielded by Agapetus’ constituencies but their expectations of care for the poor still provide important context for Justinian’s constructions of hospitals, shelters, and refuges.⁶¹ All three of these texts work similarly. Since imperial counsel was generally publicly inscrutable and subject to an *ad hoc* fluidity, these writers curate a set of practical outcomes by which subjects might assess how lawfully their emperor was ruling. Justinian could not uniformly be considered a lawful Roman emperor if he was seen to receive Agapetus’ *Advice* without redistributing wealth, *On Powers* without patronising literary culture in the bureaucracy and increasing officials’ wages, or the *Dialogue* without empowering *paideia*-bearing men in local government. Each text encountered limits on its efficacy as political practice in its collisions with these competing expectations but, in turn, the discourse of lawful rule was pulled in numerous directions at

⁵⁸ νόμιζε τότε βασιλεύειν ἀσφαλῶς, ὅταν ἐκόντων ἀνάσσης τῶν ἀνθρώπων· τὸ γὰρ ἀκουσίως ὑποταπτόμενον στασιάζει καιροῦ λαβόμενον, τὸ δὲ τοῖς δεσμοῖς τῆς εὐνοίας κρατούμενον βεβαίαν ἔχει πρὸς τὸ κρατοῦν τὴν εὐπειθειαν. Agapetus, *Advice* 35.

⁵⁹ Bell, *Three Political Voices*, p.47; Kaldellis, *Byzantine Republic*, p.88.

⁶⁰ See especially Dagron, *L’hippodrome*.

⁶¹ Compare Bell, *Three Political Voices*, p.118 n.72.

once and rendered Justinian's lawful self-representation a balancing act. Sixth-century writers chose to inflect this discourse for the same reasons that Agapetus and Romanos repackaged the motif of the sleepless emperor. It was an easier and more powerful political tactic to co-opt and manipulate highly visible, widely shared ideological language than to contest it.

This was true also of the 'imperial idea', which Kaldellis considers an 'ex post facto theological interpretation' that obscures the republican 'workings of power'.⁶² At moments of usurpation, the divine favour of the old emperor could be summarily abandoned and the new one imagined as God's chosen replacement.⁶³ This discourse too was inflected and contested. Agapetus and the *Dialogue* both conceive of an emperor appointed by God to rule in his image but disagree about what he had been appointed to do.⁶⁴ The *Dialogue's* emperor 'must always continue to order and arrange only the connecting offices and the initial causes of political affairs', leaving the remaining work of government to the *aristoi*.⁶⁵ Agapetus' emperor, instead, 'will execute your good rule in the best way if you zealously oversee everything'.⁶⁶ The texts again display an alertness to entrenched ideological terms and the possibilities for their inflection towards certain practical models of imperial rule. The apparent rhetorical straitjackets of sixth-century political theory were, under the surface, sites of debate.

4.II: Defining the Debate

In a culture where rhetorically similar but practically opposed conceptions of lawful imperial rule circulated, Constantinople's traditionalists offered a clear, fixed answer to the question of when the emperor should exercise extralegal authority: never. The traditionalist emperor could do no more than clarify the existing legal tradition. In this framework, the *Novels* were contested while the codification became another useful stick with which to beat Justinian.

⁶² Kaldellis, *Byzantine Republic*, p.172. For the imperial idea (a set of theocratic ideas about the emperor, especially that he had been selected by God), see pp.165–73 and Angelov, *Imperial Ideology*, pp.8–15.

⁶³ W. Treadgold, Review of A. Kaldellis, *The Byzantine Republic: People and Power in New Rome*, *JLA* 8 (2015), p.449, responding to Kaldellis, *Byzantine Republic*, pp.165–98.

⁶⁴ Agapetus, *Advice* 1; *DPS* 5.45, 51.

⁶⁵ μόνας τὰς συνεκτικὰς ἀρχὰς τε καὶ πρώτας αἰτίας τῶν πολιτικῶν πραγμάτων... τιθεῖσα καὶ κοσμοῦσα διατελείτω αἰεὶ. *DPS* 5.58. The 'connecting offices' are plausibly the top-level, palatine offices that "connect" the imperial court to the bureaucracy.

⁶⁶ ἄριστα διοικήσεις τὴν ἀγαθὴν σου βασιλείαν, εἰ πάντα σπουδάζεις ἐφορᾶν. Agapetus, *Advice* 26. Bell, *Three Political Voices*, 158 n.61 makes the connection between these passages.

Because the codification was the most acceptably traditionalist element of Justinian's legal programme, it too, just like the western reconquests, could be used to write a public narrative of his reign as a betrayal of its early traditionalist principles.

4.II.A: 'Not a Single Law'⁶⁷

Traditionalists mobilised around Justinian's unusually active promulgations of law. In the first instance, their opposition to new constitutions was grounded in opposition to their normative content, from measures against the aristocracy to innovations in provincial administrations. To enact this opposition, however, the traditionalists did not limit themselves to arguing against specific reforms. They insisted that *all* imperial legislation was fundamentally illegitimate because it intervened in the legal tradition. In a passage more fully treated below, Cassiodorus sets out the traditionalist position: ancient Romans had set the law in order and contemporary Romans had no need to do anything but preserve their legal inheritance.⁶⁸

The simplest traditionalist tactic was to express publicly a model of legitimate, praiseworthy rulership that avoided issuing new legislation. Procopius' *Wars*, which had already praised Proclus for never 'easily proposing a law', furnishes an even more expansive encomium for Theoderic in the voice of Gothic ambassadors attempting to persuade Belisarius of the Roman character of their state:

'Having undertaken the rule of Italy, we preserved both the laws and the state in a worse fashion than not one of those who were ever its emperors, and there exists not a single law, written or unwritten, of Theoderic or any of his successors to the Gothic sovereignty.'⁶⁹

Procopius leaves his reader in little doubt that the speech reflects his own ideal that 'not a single law' should be promulgated.⁷⁰ His narrative voice praises Theoderic for 'firmly preserving the laws' and, partly on this account, being a Roman 'emperor by nature'.⁷¹ The

⁶⁷ νόμος τὸ παράπαν οὐδεὶς. Procopius, *Wars* 6.6.17.

⁶⁸ Cassiodorus, *Variae* 11.8.1.

⁶⁹ παραλαβόντες τὴν τῆς Ἰταλίας ἀρχὴν τοὺς τε νόμους καὶ τὴν πολιτείαν διεσωσάμεθα τῶν πώποτε βεβασιλευκότων οὐδενὸς ἦσσαν, καὶ Θεουδερῖχου μὲν ἢ ἄλλου ὅτουσιν διαδεξαμένου τὸ Γότθων κράτος νόμος τὸ παράπαν οὐδεὶς οὐκ ἐν γράμμασιν, ἄγραφός ἐστι. Procopius, *Wars* 6.6.17.

⁷⁰ Kaldellis, *Procopius*, pp.159–60; Cameron, *Procopius*, p.55 n.53.

⁷¹ τοὺς νόμους ἐν τῷ βεβαίῳ διεσώσατο / τῷ φύσει βασιλεῖ. Procopius, *Wars* 5.1.26–27.

text's rendition of Gothic history from Theoderic onwards is similarly positive.⁷² Procopius' Theoderic serves numerous functions. He is mostly interpreted an exemplary foil for Romans who lacked his qualities.⁷³ However sincere and informed this representation was, it contributes to the text's consistently traditionalist framework.⁷⁴ In both Roman and non-Roman polities, Procopius unfailingly describes new legislation as acts of harm and the preservation of laws as an imperial duty, even as he draws complex, nuanced portraits of the rulers involved. Few characters emerge unscathed from Procopius' narrative, but the *Wars* has a politics of its own.

This traditionalist framework is an 'indirect indictment' of Justinian's frequent legislation, articulating an oppositional conception of the emperor's relationship to the law without passing direct comment on Justinian.⁷⁵ Legal theory is understandably secondary to the campaign narratives of this military history. In his other texts, Procopius develops this blanket resistance to all new legislation in greater detail. The *Buildings* praises Justinian for having eliminated confusion in the laws:

'Finding that the laws were obscure because they had become more numerous than was necessary and were manifestly confused because they contradicted themselves, [Justinian] preserved them by cleansing them of their mass of subtleties and by most securely gaining control over those that disagreed with each other.'⁷⁶

The *Secret History*, meanwhile, accuses Justinian of introducing the same confusion:

'So when Justinian took up imperial rule, he was immediately able to confuse everything because he introduced into the state things previously prohibited by the law, tearing down every custom as if had taken up the imperial dress on the condition that he should change everything else into another dress.'⁷⁷

⁷² M. Stewart, "Contests of *Andreia* in Procopius' *Gothic Wars*," *Parekbolai* 4 (2014), pp.24–26. See also Kasperski, "Jordanes versus Procopius," pp.1–23.

⁷³ Kaldellis, *Procopius*, pp.159–60; C. Pazdernik, "Reinventing Theoderic in Procopius' *Gothic War*," *Procopius of Caesarea: Literary and Historical Interpretations*, eds. C. Lillington-Martin & E. Turquois (Abingdon, 2018), pp.137–54; Cameron, *Procopius*, p.267; Stewart, "Contests of *Andreia*," pp.23–26. Contrast M. Cristini, "Theoderic's ἀγνωμοσύνη and Herodotus' *Getae* (Procop. *Goth.* 2.6.24," *GRBS* 59 (2019), pp.287–94.

⁷⁴ Note the lack of reference to the *Edictum Theoderici*: S. Lafferty, *Law and Society in the Age of Theoderic the Great: A Study of the Edictum Theoderici* (Cambridge, 2013), pp.24–25.

⁷⁵ Kaldellis, *Procopius*, p.160.

⁷⁶ πρὸς δὲ καὶ τοὺς νόμους λαβὼν τῷ τε παμπληθεῖς οὐ δέον γεγονέναι σκοτεινοὺς ὄντας καὶ ξυγχεομένους διαφανῶς τῷ ἀπ' ἐναντίας ἀλλήλοις ἶναί, καὶ τοῦ μὲν ὄχλου αὐτοὺς τῆς τερθρείας ἀποκαθάρας, τὸ δὲ ἐς ἀλλήλους διχοστατεῖν βεβαιότατα κρατυνόμενος διεσώσατο. Procopius, *Buildings* 1.1.10.

⁷⁷ ἐπειδὴ οὖν Ἰουστινιανὸς τὴν βασιλείαν παρέλαβε, συγγεῖν ἅπαντα εὐθύς ἴσχυσεν. ἃ γὰρ ἔμπροσθεν νόμῳ ἀπορρηθέντα ἐτύγγανεν ἐς τὴν πολιτείαν εἰσήγε, τά τε ὄντα καὶ ξυνειθισμένα καθελὼν ξύμπαντα, ὥσπερ ἐπὶ

The circle is easily squared. Both passages operate on the same principles that the legal tradition must be protected from confusion and that new legislation is the primary source of this confusion. The Procopian corpus consistently expresses this idea, further proving its intellectual ‘unity’.⁷⁸ In this case, the ‘real’ Procopius is in all three of his texts.⁷⁹

As so often, Lydus articulates the same ideas in the same way. His brief panegyric for Justinian at the start of the third book of *On Powers* concludes with the emperor’s clarification of the laws:

‘The laws have been delivered from tumult and overburdened confusion, and it is quite plain what justice is, and the litigious regret their former sleepless pursuit of rivalries because no quarrels henceforward remain, thanks to the clarity of the laws. The emperor’s virtue is greater than all praise.’⁸⁰

This invocation of ‘the emperor’s virtue’ recalls Lydus’ earlier assertion that the Roman state could be (but had not been) restored by this mechanism. This panegyric is not sincere praise, since it is frequently contradicted later in the same book, but a statement of the actions compatible with imperial restoration. Both *On Powers* and the *Buildings* agree that the emperor could legitimately intervene in the legal tradition to clarify it so long as he did not issue new laws to confuse it.

In addition to this pointed praise for clarifying the laws, opponents of the régime publicly criticised Justinian for issuing new legislations. The ‘criticism’ of ‘the great number of laws promulgated daily by us’ to which *Novel* 60 responds is invisible but must have been expressed at least orally and perhaps in pamphlets.⁸¹ Zachariah records, in his refutation of the document in question, that some Manicheans reacted to Justinian’s decree against them by ‘hurling a pamphlet into the palace bookshop in Constantinople and running away’.⁸² It is surely unlikely that no parallel culture of political pamphleteering, in which the constituent

τούτῳ κεκομισμένος τὸ τῆς βασιλείας σχῆμα, ἐφ’ ᾧ ἅπαντα μεταλλάσσοι ἐφ’ ἕτερον σχῆμα. Procopius, *SH* 11.1–2.

⁷⁸ Cameron, *Procopius*, p.265.

⁷⁹ *Ibid.* p.112; Kaldellis, *Procopius*, pp.52–53.

⁸⁰ οἱ τε νόμοι θορύβων καὶ πολυφόρτου συγχύσεως ἀπηλλάγησαν, καὶ προφανές ἐστὶ τὸ δίκαιον, καὶ μεταμέλει τοῖς φιλοδίκους τὸ πρὶν ἐναγρυπνήσαι ταῖς φιλονεικίαις, μάχης οὐδεμιᾶς τὸ λοιπὸν διὰ τῆς τῶν νόμων καθαρότητος ὑπολιμπανομένης. καὶ κρείττων μὲν ἡ βασιλέως ἀρετὴ ἐπαίνου παντός. Lydus, *Powers* 3.1.

⁸¹ μέμψεις... τῷ πλήθει τῶν νόμων τῶν καθ’ ἐκάστην παρ’ ἡμῶν προτιθεμένων. *J. Nov.* 60.pr.

⁸² ἐν Κωνσταντινουπόλει, εἰς βιβλιοπρατεῖον, διακείμενον ἐν τῇ βασιλικῇ, ἔρριψαν τὸν τοιοῦτον χάρτην καὶ ἀνεχώρησαν. Zachariah Rhetor, *Antirrhesis* pr. See further: S. N. C. Lieu, *Manichaeism in Mesopotamia and the Roman East* (Leiden, 1994), pp.219–23; G. Greatrex, R. R. Phenix *et al.*, *The Chronicle of Pseudo-Zachariah Rhetor: Church and War in Late Antiquity* (Liverpool, 2011), p.19; E. Honigmann, *Patristic Studies* (Vatican City, 1953), p.198.

parts of the *Secret History* are often hypothetically located, existed.⁸³ However it was expressed, this criticism of imperial legislation was conspicuous enough to register at court as early as 537, so traditionalists clearly had not been afraid to advocate openly a model of the emperor's relationship to the law in which new legislation was unlawful. This was most pressingly a question about general legislation (though Procopius and Zosimus still represent rescripts and pragmatic sanctions as symptoms of corruption that dissolve the bonds of lawful Roman society).⁸⁴ Justinian's opponents publicly criticised the volume and frequency of new legislation, argued in plain view that the laws became 'confused' when they were too 'numerous', and praised Romans and non-Romans for *not* legislating.

The potency of the *Wars* as a tool for shaping expectations of the emperor ought not to be underestimated. It was an influential, widely circulated history premised on the illegitimacy of new legislation. The *Buildings*, too, provides a model of an acceptably traditionalist emperor. This point requires some proof. In addition to the clarification of the laws, the catalogue of praise in the preface contains five further panegyric themes: Justinian 'added many places to the Roman empire', 'stood doctrine about God firmly on the foundation of a single faith', 'dropped charges against plotters' who 'are still alive and possess their own property', 'married the polity to a prosperous life', and 'strengthened the Roman empire with a multitude of soldiers and fortresses'.⁸⁵ All these themes receive critical mirror images in the *Secret History*.⁸⁶ The political thought of the two texts is consistent: the *Buildings* praises the emperor for accomplishments that Procopius would have supported and the *Secret History* criticises the emperor for their inverses. In neither case is veracity all that important. For Procopius, the basic goal was to articulate a traditionalist model of the good emperor.

On most counts, this should be an uncontroversial argument. It is generally accepted that Procopius supported the idea of reconquest, was concerned about barbarian

⁸³ Cameron, *Procopius*, p.65; Adshead, "The *Secret History* of Procopius," p.19; Evans, *Age of Justinian*, p.5; Grau & Febrer, "Procopius on Theodora," p.769.

⁸⁴ Above, 4.I.A. For the distinction: *CTh* 1.2.2–3; *CJ* 1.22.6; Kaldellis, *Byzantine Republic*, pp.75–76.

⁸⁵ πολλάς... προσεποίησεν ἤδη τῇ Ῥωμαίων ἀρχῇ. Procopius, *Buildings* 1.1.8. τὴν ἀμφὶ τῷ θεῷ δόξαν... ἐν τῷ βεβαίῳ τῆς πίστεως ἐπὶ μιᾶς ἐστάναι κρηπίδος. 1.1.9. τοῖς μὲν ἐπιβουλεύουσιν... τὰς αἰτίας ἀφείξ / βιοτεύοντες ἐς τότε τοῦ χρόνου καὶ τὰ σφέτερα αὐτῶν ἔχοντες. 1.1.10, 16. εὐδαίμονι βίῳ τὴν πολιτείαν ξυνόκισεν. 1.1.10. τὴν Ῥωμαίων ἀρχὴν στρατιωτῶν τε πλήθει ἐπέρρωσε καὶ ὀχυρωμάτων. 1.1.11.

⁸⁶ On conquests: Procopius, *SH* 6.25. On doctrine: *SH* 13.23. On the confiscation of innocent men's property: *SH* 8.9. On impoverishing the empire: *SH* 8.33. On barbarian raids: *SH* 11.8.

incursions, and defended the material interests of the propertied classes.⁸⁷ Maintaining the position that the *Buildings* praises imperial behaviour that Procopius really did consider praiseworthy, however, requires an explanation of Procopius' views on Christian doctrine. The *Secret History* criticises Justinian for leaving 'neither faith in nor doctrine about God steadfast'.⁸⁸ The *Buildings*, again, praises Justinian for the opposite achievement:

'Discovering that doctrine about God was previously straying about and being compelled to go in many directions, [Justinian] shattered all the roads leading astray and managed to stand [doctrine about God] firmly on the foundation of a single faith.'⁸⁹

Yet the *Wars* clearly argues that doctrinal disputes are pointless because God is incomprehensible.⁹⁰ An apparent inconsistency in the underlying political arguments of the Procopian corpus emerges.

The inconsistency may be resolved by noting that, for Procopius, 'faith' and 'doctrine' are distinct phenomena. Christian piety, community, and faith are all important in his texts, but doctrine is not; God intervenes throughout the *Wars* to punish the Romans and favour the Vandals, despite their Arian heresy.⁹¹ Furthermore, Procopius does not consider strong doctrinal commitments to be a problem *per se* (though too great an interest in the incomprehensible is).⁹² The *Secret History* makes one startling concession to Justinian, noting regretfully that he 'seemed to have a firm doctrine about Christ but *even this* led his subjects into suffering.'⁹³ Procopius' objection arises only with the imposition of orthodoxy. Justinian had long incentivised orthodox conformity by rendering non-Christians and heretics second-class citizens who bore obligations but not rights.⁹⁴ The *Secret History* criticises both Justinian's refusal to restrain subjects who were violent towards these groups

⁸⁷ Reconquest: D. Brodka, "Prokopios von Kaisareia und Justinians Idee 'der Reconquista,'" *Eos* 86 (1999), pp.243–55; Greatrex, "Perceptions," p.93, objecting to Cesa, "La politica di Giustiniano verso l'Occidente," pp.389–409, though note p.403 for barbarisation. Property: Sarris, *Economy and Society*, pp.5–7; Kaldellis, *Procopius*, p.47; Greatrex, "Procopius the Outsider?," pp.223–27; Whately, *Battles*, pp.40–43.

⁸⁸ οὐ πίστις ἢ δόξα πρὸς θεὸν ἀσφαλῆς. Procopius, *SH* 13.23.

⁸⁹ πλανωμένην δὲ εὐρῶν τὴν ἀμφὶ τῷ θεῷ δόξαν τὰ πρότερα ἐς πολλὰ τε ἀναγκαζομένην ἰέναι, συντρίψας ἀπάσας τὰς ἐπὶ τὰς πλάνας φερούσας ὁδοὺς, διεπράξατο ἐν τῷ βεβαίῳ τῆς πίστεως ἐπὶ μιᾶς ἐστάναι κρηπίδος. Procopius, *Buildings* 1.1.9.

⁹⁰ Procopius, *Wars* 5.3.6; van Nuffelen, "Wor(l)ds," pp.40–56.

⁹¹ Gador-Whyte, "Procopius and Justinian's Propaganda," pp.109–20; Wood, "Being Roman," pp.424–47. On Vandal religion: Merrills & Miles, *Vandals*, pp.177–203.

⁹² Procopius, *SH* 18.29.

⁹³ δόξαν δὲ βέβαιον ἀμφὶ τῷ Χριστῷ ἔχειν ἐδόκει, ἀλλὰ καὶ τοῦτο ἐπὶ φθόρῳ τῶν κατηκόνων. Procopius, *SH* 13.4. Emphasis added.

⁹⁴ Sarris, "At the Origins," pp.407–22.

and the inefficacy of his coercive techniques of conversion, which simply produced dissemblers who ‘lay claim to the name of the Christians under the constraint of law’ without believing.⁹⁵ Where Justinian imagined ‘the empire as a community of *orthodox* faith’, Procopius’ works consistently maintain the sufficiency of ‘faith’ regardless of doctrinal alignment.⁹⁶ In fact, the *Buildings*’s ‘roads leading astray’ should even be understood as doctrinal demands for a particular kind of faith.⁹⁷ Procopius desired a Christian emperor who would avoid ‘dividing the Christians’ by pursuing orthodoxy and who would instead, exactly as the *Buildings* states, ‘stand doctrine firmly on the foundation of a single faith’ shared across confessional divides.⁹⁸ In this little recognised aspect of Procopius’ religious thought, the pattern holds: Procopius, like Lydus, praises Justinian selectively to define what good emperors did and did not do. They certainly did not legislate.

4.II.B: The Reception of the Codification

Justinian’s ‘codification’ and ‘new laws’ are often conflated under the shared banner of his ‘legal activity’, resulting in an understanding of the *Code* as ‘one of the most politically charged topics of the day’.⁹⁹ Yet traditionalist praise for legal clarifications and criticism of new legislation suggests that the *Novels* were far more controversial than the *Code* or *Digest*. After all, the latter texts spoke mostly in the voices of earlier emperors and jurists. Both the régime and its opponents considered codification and promulgation to be qualitatively different uses of imperial authority, but scholars have been misled by the *Code*’s historical significance into overlooking the extremely muted reception of the codification.¹⁰⁰ Justinian’s supporters barely celebrated it and his opponents found little reason to criticise it.

To support his claim that the ‘compilation [of the first *Code*], in so short a period, was regarded as an outstanding achievement’, Honoré cites two chroniclers of the early 530s, Marcellinus and Malalas.¹⁰¹ He correctly notes that the first *Code* ‘left a deeper impression

⁹⁵ ὀνόματος δὲ τοῦ Χριστιανῶν ἀντιλαμβανόμενος ἀνάγκη τοῦ νόμου. Procopius, *SH* 27.26. Also 11.14–31, 27.7.

⁹⁶ Maas, “Roman Questions,” p.16. Emphasis added.

⁹⁷ See Michael Whitby, “Religious Views of Procopius and Agathias,” *Electrum* 13 (2007), pp.73–93.

⁹⁸ τοὺς Χριστιανοὺς διαναστήσαντε. Procopius, *SH* 10.15.

⁹⁹ Bjornlie, *Politics and Tradition*, pp.216–19. See also G. Lanata, *Legislazione e natura nelle novelle Giustiniane* (Naples, 1984), pp.4–5.

¹⁰⁰ See Radding & Ciaralli, *The Corpus Iuris Civilis in the Middle Ages*.

¹⁰¹ Honoré, *Tribonian*, p.46.

on the chroniclers' than the second *Code* or *Digest* because it is the only part of the codification that they mention at all.¹⁰² Even then, however, neither treated even this achievement as especially useful for their purposes as autonomous literary propagandists.

Marcellinus' entry reads simply that 'in [531], the *Justinianic Code* was promulgated'.¹⁰³ This is unusually brief; Marcellinus found much greater potential for glorifying Justinian in his consulship, the Nika insurrection, and the Vandal triumph.¹⁰⁴ Strikingly, he misdates the codification. It was 'significant enough... to warrant notice' but little more.¹⁰⁵ Marcellinus places the *Code* two years after the first edition and three years before the second. Croke tentatively imagines an 'unrecorded promulgation' of the *Code* in this year but concludes that Marcellinus had simply made a mistake.¹⁰⁶ This would be quite some amnesia; Marcellinus was writing only one year later! A more generous solution is that Marcellinus simply had nothing else to mention. He reports no events from 531 at all. In order to avoid leaving any empty indictions during Justinian's reign, he settled on the codification as a suitably minor, movable event.

Malalas, meanwhile, does record the codification twice, firstly in 528:

'[Justinian] renewed the laws decreed by earlier emperors and, having made new laws, sent them to each city.'¹⁰⁷

The entry goes on to list some headline new legislation. In 529, Malalas reports much the same:

'In this year, the recodification of the ancient laws happened. And, having made his own laws, [Justinian] despatched them to all the cities so that litigants not fall into adversity and losses but encounter swift release from their suits. And, having prepared them as a single book, he sent it to Athens and Beirut.'¹⁰⁸

¹⁰² Ibid.

¹⁰³ *his consulibus codex iustinianus promulgatus est*. Marcellinus 531.

¹⁰⁴ Marcellinus 521, 532, 534.

¹⁰⁵ Croke, *Chronicle of Marcellinus*, p.125. Also Honoré, *Tribonian*, p.46.

¹⁰⁶ Croke, *Chronicle of Marcellinus*, p.125.

¹⁰⁷ ὁ δὲ αὐτὸς βασιλεὺς ἀνενέωσε τοὺς νόμους τοὺς ἐκ τῶν προλαβόντων βασιλέων θεσπισθέντας, καὶ ποιήσας νεαροὺς νόμους ἔπεμψε κατὰ πόλιν. Malalas 18.20.

¹⁰⁸ ἐν αὐτῷ δὲ τῷ χρόνῳ ἀνακωδίκευσος ἐγένετο τῶν παλαιῶν νόμων· καὶ ποιήσας ἰδίους νόμους κατέπεμψεν ἐν πάσαις ταῖς πόλεσι πρὸς τὸ τοὺς δικαζομένους μὴ περιπίπτειν θλίψεσι καὶ ζημίαις, ἀλλὰ ταχεῖαν ἔχειν τὴν ἀπαλλαγὴν· ὅπερ μονόβιβλον κατασκευάσας ἔπεμψεν ἐν Ἀθήναις καὶ ἐν Βηρυτῷ. Malalas 18.38.

These are not the two *Codes* but, as Scott suggests, the announcement and publication respectively of the first *Code*.¹⁰⁹ Scott also identifies a non-existent problem. He notes the ‘apparent contradiction between the *Code* being sent to “all the cities” and the *monobiblon* going to Athens and Beirut’ in the second passage.¹¹⁰ In fact, this entry is not only about the codification. The documents sent to ‘all the cities’ to streamline litigation were Justinian’s ‘own laws’, bookended by references to the *Code*.

Scott’s final analysis remains plausible. He argues that the legislation with which Malalas combines the codification was packaged that way by the régime itself in order to provide ‘solid practical evidence of the value of Justinian as a legislator’.¹¹¹ Such packages were needed because ‘the codification might well have seemed a fine achievement to Justinian’ but ‘failed to capture the imagination of the ordinary Greek-speaking citizen’.¹¹² This is exactly right. The codification produced specialist, technical, largely Latin texts.¹¹³ It was announced as a project that would streamline litigation.¹¹⁴ To demonstrate his fulfilment of this promise, Justinian issued freestanding constitutions to this end alongside the *Code* in 529 and Malalas drew his material from these, not the *Constitutio haec*.¹¹⁵ The *Code* itself was simply unremarkable. Justinian’s bundles of constitutions, Malalas’ greater interest in the new legislation than in the codification, and Marcellinus’ use of the *Code* to plug a hole in his record all contradict the claim that contemporaries considered the codification to be an ‘outstanding achievement’ (or, for that matter, a contested act that needed to be defended).

Some traditionalists, like Lydus and Procopius, still possessed one or both of the Latin and legal training required to engage with the *Code*.¹¹⁶ If, to them, the codification represented an unlawful use of imperial authority, traces of their criticism should be expected. There was indeed much in the project to anger traditionalists. The legal commission was authorised to ‘add to and take away from [constitutions], even changing their words when the convenience of the matter demands it’ and directed to reject

¹⁰⁹ Scott, “Malalas and Justinian’s Codification,” pp.13, 20.

¹¹⁰ Ibid. p.21.

¹¹¹ Ibid. p.14. Also Scott, “Malalas’s Sources for the Contemporary Books,” pp.217–34.

¹¹² Scott, “Malalas and Justinian’s Codification,” p.14.

¹¹³ Hence, contrast the *Code*’s currency in Italian political discourse: Bjornlie, *Politics and Tradition*, p.224.

¹¹⁴ *CJ C. Haec. pr.*–1.

¹¹⁵ Against Scott, “Malalas and Justinian’s Codification,” p.20.

¹¹⁶ On Procopius’ Latin: Evans, “Justinian and the Historian Procopius,” p.220; Lillington-Martin, “Procopius, πάρεδρος,” p.167. On Lydus’ Latin: Maas, *John Lydus*, pp.25–27; Dmitriev, “Lydus’ Knowledge of Latin,” pp.55–70.

‘contradicted constitutions voided by a subsequent promulgation’, privileging newer over older laws.¹¹⁷ The codification was also a theoretical arrogation of legal power to the imperial centre. This ‘imperial claim to regulate the lives of all [its] subjects’ came ‘almost certainly at the expense of an independent juristic science’ practised by lawyers like Procopius.¹¹⁸ Admittedly, the codification did not transform legal or social practice in the Roman empire, preserving wealth-based patterns of access to the judicial system, the identities of the men who sought and administered justice, and the responsive, petitionary nature of imperial legislation.¹¹⁹ Yet the same is often true of the *Novels*, against which the capital’s traditionalists often fought political and economic arguments for a provincial landholding class that seems not to have been much affected on the ground. In Constantinople, theory could matter as much as practice.

There is no evidence that any opposition to the codification materialised. Neither Lydus nor the *Dialogue* makes even an obliquely critical reference to it. Procopius directs the *Secret History*’s most sustained accusation entirely against the *Novels*, claiming that Justinian ‘constantly and daily interfered with the laws of the Romans’ in the corrupt pursuit of profit.¹²⁰ The worst he has to say about the codification is that Justinian stamped his name on a tradition that predated him:

‘[Justinian] abolished the existing magistracies and set new ones over public affairs, and did the same to the laws... not led to do this by its utility but so that everything could be new and bear his name – and if he was not at all able to change something right away, he still placed his name upon it.’¹²¹

The most prominent intertext is the announcement of the *Code*:

‘We have decided to curtail the interminability of lawsuits... by compiling one code, under the auspicious designation of our name, in which shall be

¹¹⁷ *adicientes quidem et detrahentes, immo et mutant verba earum, ubi hoc rei commoditas exigebat. CJ C. Haec 2. contrariis constitutionibus, quae posteriore promulgatione vacuatae sunt. CJ C. Summa 1.*

¹¹⁸ Humfress, “Law in Practice,” p.390. Contrast Harries, *Law and Empire*, p.10.

¹¹⁹ Humfress, “Law in Practice,” pp.377–91.

¹²⁰ ταῦτα δὲ... ἐς τοὺς νόμους αἰεὶ καὶ καθ’ ἐκάστην εἰργάζετο τοὺς Ῥωμαίων. Procopius, *SH* 28.16. Examples: 7.31, 8.11, 8.31, 9.51, 12.1–5, 13.21, 14.1–23, 21.9–19, 24.27, 27.33, 28.1–15.

¹²¹ ἀρχὰς τε γὰρ τὰς μὲν οὐσὰς ἀνήρει, τὰς δὲ οὐκ οὐσὰς ἐφίστη τοῖς πράγμασι· τοὺς τε νόμους... ταῦτο τοῦτο ἐποίησε... οὐδὲ τῷ ξυμφόρῳ ἐς τοῦτο ἡγμένος, ἀλλ’ ὅπως δὴ ἅπαντα νεώτερά τε καὶ αὐτοῦ ἐπώνυμα εἶη. ἦν δὲ τι καὶ μεταβαλεῖν ἐν τῷ παραυτίκα ἴσχυσεν, ἀλλὰ τούτῳ γε τὴν ἐπωνυμίαν τὴν αὐτοῦ ἔθετο. Procopius, *SH* 11.1–2.

collected both the constitutions of the three mentioned codes and the new constitutions published afterwards.¹²²

Procopius destabilises Justinian's concern for streamlining litigation by claiming that the emperor was really driven by his egotism. Nonetheless, he admits that some of the things to which Justinian gave his name were not 'changed' at all. Even this limited criticism had a range of targets. *Novel 47*, for example, mandated a regnal dating system because 'the most revered of all contracts, records, or whatever else... is that which adorns itself by mention of the imperial power'.¹²³ The *Buildings* levels similar criticism at the eponymous cities that Justinian either built or renamed.¹²⁴ If Procopius had the codification in his sights at all, it was at most as part of a bundle of non-innovatory actions dealt with in a single throwaway phrase.

The *Wars*'s outright invective against the codification's chief commissioner also turns on the same set of corrupt legislative activity for which the *Secret History* criticises Justinian:¹²⁵

'Tribonian was so demonically zealous in his pursuit of money that he always sold justice for profit. Every day, without fail, he repealed some laws and composed others, selling either action according to the advantage of those who requested it.'¹²⁶

Like Lydus, Procopius demonises Justinian's former ministers. Afforded an opportunity in c.551 to publish a hostile assessment of Tribonian, however, Procopius targets his routine composition of new legislation as quaestor rather than his integral role in the codification. While the traditionalists consistently devoted careful thought to opposing the *Novels*, they did not adopt the same attitude towards the codification.

¹²² *censuimus et prolixitatem litium amputare... uno autem codice sub felici nostri nominis vocabulo componendo, in quem colligi tam memoratorum trium codicum quam novellas post eos positas constitutiones oportet. CJ C. Haec pr.*

¹²³ ἐκεῖνο πάντων εἶναι σεμνότατον καὶ συμβόλαιον καὶ ὑπόμνημα καὶ εἴ τί περ... ὅπερ καὶ αὐτῇ κοσμεῖται τῇ βασιλείας μνήμη. *J. Nov. 47.pr.*

¹²⁴ Boeck, *Bronze Horseman*, p.79; M. Ritter, "Justinianus Eponymus: Überlegungen zur letzten Glanzzeit kaiserlicher Namensverleihungen an Städte," *BZ* 115 (2022), pp.287–340.

¹²⁵ Tribonian is the sixth listed commissioner at *CJ C. Haec 1* but chief commissioner for the second phase: Honoré, *Tribonian*, pp.40–69.

¹²⁶ Τριβουνιανός... ἐς δὲ φιλοκρηματίαν δαιμονίως ἐσπουδακῶς οἶός τε ἦν κέρδους ἀεὶ τὸ δίκαιον ἀποδίδοσθαι, τῶν τε νόμων ἡμέρα ἐκ τοῦ ἐπὶ πλείστον ἐκάστη τοὺς μὲν ἀνήρει, τοὺς δὲ ἔγραφεν, ἀπεμπολῶν τοῖς δεομένοις κατὰ τὴν χρεῖαν ἐκάτερον. Procopius, *Wars* 1.24.16.

Procopius' attitude to the codification has rarely ever been discussed.¹²⁷ This is straightforwardly because he almost never mentions it. It was not simply the case that traditionalists had come to consider the codification a non-issue by the 550s; Theodora was another non-issue who posthumously performed a useful political function for them, but the *Secret History* still dedicates a graphic invective to her.¹²⁸ Instead, the best explanation for Procopius' silence is that traditionalists considered the codification neither a threatening overreach of imperial authority nor an innovation in the legal tradition.

4.II.C: Mobilising the Codification

Though it made little impact at first, the codification indeed became 'politically charged' by the end of Justinian's reign, thanks to Lydus' and Procopius' highly selective praise for Justinian's clarification of the confused laws.¹²⁹ This praise mobilised the *Code* against the codifier. Lydus and Procopius lifted their vocabulary of 'confusion' and 'clarity' directly from the constitutions that announced and published the *Code* and *Digest*. These constitutions shared the *Novels'* public even as the dense codified volumes themselves did not; a Greek version of at least the *Constitutio tanta* was produced.¹³⁰ They contain a discourse of clarification that developed slowly over the course of the project and then swiftly fell dormant.

When the *Code* was announced in 528, Justinian expressed his desire to 'make the meaning [of the laws] clearer' in the service of streamlining litigation.¹³¹ He only implicitly described the laws as confused, referring to the existence of contradiction, repetition, and verbosity.¹³² When the first *Code* appeared in 529, the régime had begun to justify its project by reference to a 'fogginess' settled over the laws.¹³³ It was only in the project's final phase, with the *Digest's* announcement in 533, that imperial propaganda was making strong claims about the confusion of the laws:

'We found every branch of the laws that have been handed down from the foundation of the city of Rome and the times of Romulus to be so confused

¹²⁷ See the extremely brief treatment at Kaldellis, *Procopius*, p.153.

¹²⁸ Above, 2.III.B.

¹²⁹ Bjornlie, *Politics and Tradition*, p.216.

¹³⁰ Honoré, *Tribonian*, pp.42–43.

¹³¹ *sensum earum clariorem efficientes*. CJ C. Haec 2. For the project's streamlining purpose: C. Haec pr.–1.

¹³² CJ C. Haec 2.

¹³³ *caliginem*. CJ C. Summa 1.

that they are endlessly extended and are not within the comprehension of any human nature. It was our first desire to start from the most revered emperors of the past, to free their constitutions from faults, and to hand them down in a clear manner.¹³⁴

Between the start and end of the project, additional justifications were layered over the initial concern for judicial efficiency. The progressive intensification of this discourse, representing Justinian as a reviver of Roman legal tradition, reveals a régime increasingly encountering its most trenchant source of opposition; the *Novels* would soon be concerned with representing Justinian as Zosimus' implied ideal emperor. To judge from the swiftness with which the project was launched, Justinian planned the codification before his accession but only finetuned its representation later.

The discourse of clarification had a limited scope and remained largely attached to the codification. The handful of *Novels* that justify themselves as clarifications of points of law largely do so by reference to the *Code*.¹³⁵ In 535, only a year after the codification project was complete, Justinian modelled *Novel 7* as the *Code* in miniature:

'We have always made it one goal to clarify everything, should anything seem to have been previously imperfect or confused... Having done this for all the legislation, we also considered it necessary to collect all the previous laws in one on the subject of alienations of sacred property.'¹³⁶

The text imagines a repetitive relationship between the *Code* and the *Novels*: *Novel 7* does for the law on alienating church property what the *Code* had done for the whole body of law. The inescapable logical problem is that the *Code* already contained legislation on church alienations; *Novel 7* has to admit that the *Code* had 'abandoned [some] disorganised matters'.¹³⁷ Reusing the discourse of clarity ran the risk of undermining the codification. Accordingly, the régime began to represent the confusion of the laws as an inevitably recurring phenomenon:

¹³⁴ *repperimus autem omnem legum tramitem, qui ab urbe Roma condita et Romuleis descendit temporibus, ita esse confusum, ut in infinitum extendatur et nullius humanae naturae capacitate concludatur: primum nobis fuit studium a sacratissimis retro principibus initium sumere et eorum constitutiones emendare et uiae dilucidae tradere.* J. *Digest* C. Deo auctore 1.

¹³⁵ J. *Nov.* 7, 31, 82, 87, 97, 112. Note also 159.ep.

¹³⁶ ἕνα σκοπὸν αἰεὶ τοῦτον ἐθέμεθα τὸ πᾶν εἶ τι πρότερον ἀτελὲς ἢ συγκεχυμένον ἐδόκει, τοῦτο καὶ ἀνακαθάραι... ὅπερ καὶ ἐπὶ τῆς ὅλης νομοθεσίας ποιήσαντες, ἡγούμεθα χρῆναι καὶ ἐπὶ τῶν ἐκποιήσεων τῶν γινομένων ἐπὶ τοῖς ἱεροῖς πράγμασιν ἐνὶ περιλαβεῖν νόμῳ τοὺς ἔμπροσθεν ἅπαντας. J. *Nov.* 7.pr.

¹³⁷ τὰ δὲ ἀκόσμητα κατελίμπανεν. J. *Nov.* 7.pr. The relevant constitution of Anastasius is CJ 1.2.17.

‘This fluctuation in human affairs, which have never yet been capable of remaining in one state but always come into being and never remaining, introduces a confusion into the laws.’¹³⁸

Imperial propaganda moved from a claim that Justinian had clarified the laws to an argument that the laws were constantly being subject to new confusions and that frequent legislation was required to keep up. John and Curicus could therefore refer to ‘a clarity present in this law’ but not to clarity present in the laws as a whole.¹³⁹ When, in the 550s, Procopius and Lydus praised Justinian for clarifying the laws, they were reaching back in time to reanimate a retired propaganda discourse, from a project that barely registered in Constantinople’s political culture, that had been kept just enough alive by further constitutions like *Novel 7* to be recognisable. The selectivity of this praise communicates a political message: Procopius and Lydus could find no other way to praise Justinian’s legal programme than to recall these technical, specialist texts.

They combined this selective praise with critical references to new legislation. Lydus would soon ask ‘who could bear to stay tearless’ at the present state of the law, placing the blame squarely on Justinian’s government and its use of constitutions to ‘invent’ new offices.¹⁴⁰ The *Buildings* makes a similar, sharper point. Procopius almost immediately prefaces his praise for Justinian’s clarification of the laws with the pointed statement that ‘the [emperor] is not unpractised at creating states that are different’.¹⁴¹ As he praises the codification with his left hand, he points to Justinian’s innovations with his right.

Traditionalists thereby turned the codification into a discursive weapon against the emperor. It was an uncontroversial project; even Procopius considered it an acceptable curation of legal tradition. As a selective topos of praise, it threw Justinian’s subsequent constitutions into sharp relief, constructing a disappointing trajectory of his reign to match the western insurgencies and the revival of Theodora. Sixth-century writers knew that not all praise is equal; carefully selecting what was praised and what was not could help advance political agendas against the praised subject. In response, the Justinianic régime largely abandoned the codification to the traditionalists. Bell finds in Paul’s *Description* a claim that

¹³⁸ τὸ ρευστὸν δὴ τοῦτο καὶ ἀνθρώπινον καὶ μένειν ἐπὶ ταύτου μηδεπώποτε δυνάμενον, ἀλλὰ γινόμενον μὲν αἰεὶ μένον δὲ οὐδέποτε, καὶ ταῖς νομοθεσίαις εἰσάγει τινὰ παραχίην. J. *Nov.* 49.pr.

¹³⁹ σαφῶς, ὡς ἔνεστι τῷ... νόμῳ. J. *Nov.* 159.ep.

¹⁴⁰ οὐκ ἔξω δακρύων τις διατελῶν ὑπομένοι. Lydus, *Powers* 3.11. For discussion of this passage, see Pazdernik, “Fortune’s Laughter,” pp.397–418. ἐξεῦρε. Lydus, *Powers* 2.28.

¹⁴¹ ὁ δὲ δὴ οὐκ ἀμελέτητός ἐστιν ἐμπορίζεσθαι πολιτείας ἐτέρας. Procopius, *Buildings* 1.1.8.

the ‘codification... was one of the greatest achievements of Justinian’.¹⁴² He, too, has been misled by the *Code*’s modern reputation. The line he cites has nothing to do with the codification at all but praises Justinian for actively ‘promulgating laws’.¹⁴³ Paul contests traditionalist ideas not by resisting their mobilisation of the codification but by articulating a different conception of the emperor’s relationship to the law.

4.III: Procopius’ Political Project

The *Buildings*’s claim that Justinian ‘is not unpractised at creating states that are different’ raises the possibility that the text is an exercise in ‘veiled criticism’ as well as an expression of an acceptable model of the emperor.¹⁴⁴ The question of the text’s sincerity remains important to scholars.¹⁴⁵ Kaldellis considers it an ‘insincere and possibly coerced work of flattery’ that ‘mentions the bare minimum of imperial virtues required’; his position continues to attract rebuttals.¹⁴⁶ The lack of a fully established consensus is understandable. If the question of sincerity is “did Procopius mean what he wrote?”, the answer is both “yes” and “no”. He praises Justinian for achievements that he considered praiseworthy, even if he did not consider Justinian actually to have achieved them. The question of sincerity, though, is only a precursor to a more important question, the political function of Procopius’ writing. If indeed the *Buildings* contains ‘veiled criticism’, this can only have been as a part of a project to fix Justinian’s historical legacy as a tyrant by manufacturing strict limits on acceptable speech.

¹⁴² Bell, *Three Political Voices*, p.202 n.58.

¹⁴³ νομοθετῶν. Paul, *DHS* 7.

¹⁴⁴ οὐκ ἀμελέτητός ἐστιν ἐμπορίζεσθαι πολιτείας ἑτέρας. Procopius, *Buildings* 1.1.8; Boeck, *Bronze Horseman*, p.87. For the same term in relation to the *Wars*: Cameron, “The ‘Scepticism’ of Procopius,” p.482; Evans, “Justinian and the Historian Procopius,” p.222; H. Börm, “Procopius, his Predecessors, and the Genesis of the *Anecdota*: Antimonarchic Discourse in Late Antique Historiography,” *Antimonarchic Discourse in Antiquity*, ed. H. Börm (Stuttgart, 2015), p.314; F. Curta, *The Long Sixth Century in Eastern Europe* (Leiden, 2021), p.6.

¹⁴⁵ Greatrex, “Perceptions,” pp.103–4. Contrast: Cameron, *Procopius*, pp.83, 87–88; Cameron, “Then and Now,” p.16 n.25.

¹⁴⁶ Kaldellis, *Procopius*, p.55. Contrast e.g. Elsner, “Rhetoric of Buildings,” pp.33–50; Stewart, *Masculinity*, p.57.

4.III.A: Figured Speech in Context

Kaldellis and Boeck offer the two major readings of the *Buildings* as a critical text.¹⁴⁷ Both consider Procopius' praise to be primarily a veil for his criticism.¹⁴⁸ The rehabilitation of Procopius' praise, as tactically selective, does not otherwise impinge on the logic of their readings. It is possible that the *Buildings* both advances one model of the praiseworthy traditionalist emperor and contains a subversive critique of Justinian's actual rule.

Kaldellis's brief analysis of the *Buildings* revolves wholly around its allusions to classical literature and to the *Secret History*. Boeck supplies a more sustained reading of the *Buildings* as 'figured speech' on its own terms, buttressing Kaldellis's case with a raft of additional evidence.¹⁴⁹ In figured speech, 'what seems to be said is different from what is actually said'.¹⁵⁰ Boeck's figures are an array of 'carefully chosen allusions, strategic silences, and ambiguous messages'.¹⁵¹ These include Kaldellis's intertextualities, the most notable of which centres on Achilles and the autumn star:¹⁵²

'[Justinian's statue] has been dressed in the image of Achilles... One might say poetically that it is that autumn star.'¹⁵³

The poetic comparison, signalled deictically, apparently points to the *Iliad*:

'The autumn star... is the brightest, but is wrought as a sign of evil and brings much fever for wretched mortals. So shone the bronze around the chest [of Achilles] as he ran.'¹⁵⁴

Whether or not this allusion really is intended to associate Justinian with Homer's 'sign of evil', and whether or not it does so effectively for a sixth-century audience, is contestable.¹⁵⁵

The catalogue of subtleties and nuances with which Boeck reinforces Kaldellis's argument

¹⁴⁷ Boeck, *Bronze Horseman*, pp.72–97; Kaldellis, *Procopius*, pp.45–61.

¹⁴⁸ Kaldellis, *Procopius*, pp.55–59; Boeck, *Bronze Horseman*, pp.75–77, though note here also the discussion of strategic overpraise.

¹⁴⁹ Boeck, *Bronze Horseman*, p.75. For figured speech in the *Wars*, see: Kruse, "Archery," pp.381–406; Kaldellis, "Epilogue," p.262.

¹⁵⁰ *aliud simulatur dici quam dicitur*. Quintilian, *Institutio Oratoria* 9.1.14.

¹⁵¹ Boeck, *Bronze Horseman*, p.76.

¹⁵² Kaldellis, *Procopius*, p.53; Boeck, *Bronze Horseman*, pp.88–89. Contrast G. Downey, "Justinian as Achilles," *Transactions and Proceedings of the American Philological Society* 71 (1940), pp.68–77.

¹⁵³ ἔσταλται δὲ Ἀχιλλεὺς ἡ εἰκῶν. Procopius, *Buildings* 1.2.7–9.

¹⁵⁴ ἀστέρ'... ὅς ῥά τ' ὀπώρης εἴσιν... λαμπρότατος μὲν ὃ γ' ἐστί, κακὸν δὲ τε σῆμα τέτυκται, καί τε φέρει πολλὸν πυρετὸν δειλοῖσι βροτοῖσιν· ὥς τοῦ χαλκὸς ἔλαμπε περὶ στήθεσσι θεόντος. Homer, *Iliad* 22.26–32.

¹⁵⁵ G. Greatrex, "Recent Work on Procopius and the Composition of *Wars* VIII," *BMGS* 27 (2003), pp.63–64; Whitby, "Procopian Polemics," p.650; Pazdernik, Review of Kaldellis, *Procopius*, p.36; Cameron, Review of Kaldellis, *Procopius*, p.1621.

is therefore significant. For Boeck, the *Buildings* pointedly gestures to Justinian's heroic 'costume', the 'useless gratification' of building colossuses, the gilded but deceiving 'impression' of his column, and the contrast between the divine Hagia Sophia and Justinian's vain equestrian statue, 'Justinian's monument to Justinian's great monument'.¹⁵⁶ Boeck's minor errors, like an incorrect claim that Procopius distinguishes the 'well-sized' Hagia Sophia with the 'over-sized' equestrian state, are insufficient to discredit her argument, which this chapter has in fact already reinforced by identifying another 'strategic silence' with a critical subtext in the *Buildings*'s preface.¹⁵⁷

The following excursus does not aim to prove or disprove these critical readings of the *Buildings*, which are both disputable and plausible, even designed to be plausibly deniable. Instead, it develops a logical flaw in these readings: their argumentation stops too soon. In her political analysis, Boeck makes no advance on Kaldellis, using Strauss to conclude that Procopius 'practises the art of concealment' because his message could not safely be expressed in the 'peculiar cultural climate of persecution' of Justinian's Constantinople.¹⁵⁸ This is no longer a tenable model of Justinianic political culture, but it did suit Procopius to cast Justinian as a repressive tyrant in this way. From the apparent 'veiled criticism' in the *Buildings*, Boeck concludes exactly what Procopius would have wanted his readers to conclude.

Boeck centres her literary interpretation of the *Buildings* on 'the disjunction between image and reality'.¹⁵⁹ The equestrian statue's bronze veneer masks the inferior material and innovatory techniques underneath, 'exposing the deceptive appearance and hollowness of Justinian's power'.¹⁶⁰ This would have been a powerful critique because the *Buildings* is a prose re-enactment of Justinian's construction projects. On the local level, it describes each building in an order dictated by its engineering, working up and out from foundations and only offering a view of the whole monument after it has been built.¹⁶¹ On the global level, the whole work is 'centripetal'.¹⁶² The first book concerns Constantinople, the centre of the

¹⁵⁶ τὸ σχῆμα. Procopius, *Buildings* 1.2.8; χάριν... ἀνόνητον. 2.1.3; τὸν τύπον. 1.2.3; Boeck, *Bronze Horseman*, pp.75–76, 80–82, 86–89, 96. Quote at p.96.

¹⁵⁷ εὐμεγέθης / ὑπερμεγέθης. Boeck, *Bronze Horseman*, pp.81–82. For the former term applied to both structures: Procopius, *Buildings*, 1.1.38, 1.2.2.

¹⁵⁸ Ibid. p.77, with Strauss, *Persecution*, pp.22–37.

¹⁵⁹ Boeck, *Bronze Horseman*, p.90.

¹⁶⁰ Ibid. p.89.

¹⁶¹ Turquois, "Technical Writing," pp.219–32.

¹⁶² Elsner, "Rhetoric of Buildings," p.49.

empire, and the later books move outwards around the frontiers, beginning with those closest to the capital. Each book, in turn, starts with an ekphrasis of a centrepiece, like the Hagia Sophia, and then moves outwards through the region's churches and then other buildings.¹⁶³ The order that Procopius imposes on Justinian's monuments implies claims about their significance, centrality, and interrelationships.¹⁶⁴ It equally performs, from the ground up and centre out, the reconstruction of Constantinople. If Boeck's reading is correct, then the Justinianic city rebuilt in the *Buildings* is a dissimulatory city, a place where architectural propaganda obscures reality.

The problem is that Boeck and Kaldellis both draw their interpretive frameworks, via Ahl's model of 'safe criticism', from ancient rhetorical handbooks.¹⁶⁵ The Hellenistic rhetorician Demetrius, writing in the first century BC, recommends figured speech for safely engaging with tyrants:¹⁶⁶

'Often, when arguing with a tyrant or another violent man and eager to criticise, necessity demands that we use figured speech... [in which] almost the whole narrative leaves it difficult to know whether it is admiration or irony... To flatter is shameful, to censure is dangerous; the middle path – figured speech – is best.'¹⁶⁷

Demetrius imagines the figured message to be beyond the limits on acceptable discourse.¹⁶⁸ Yet Boeck's analysis never deduces any 'dangerous' criticism. Lydus makes precisely the same critique as the *Buildings* in plain, published speech by alleging that Justinian 'first invented the so-called prefect of Scythia by appealing to all the pride of its ancient form'.¹⁶⁹ If any of the *Secret History* was unsafe to express in the open, therefore, it was certainly not its depiction of Justinian as a 'dissembler'.¹⁷⁰ As much as the currency of these concerns about representation, reality, and propaganda in contemporary circles supports the notion

¹⁶³ Ibid. pp.33–50.

¹⁶⁴ Michael Whitby, "Pride and Prejudice in Procopius' *Buildings*: Imperial Images in Constantinople," *AT* 8 (2000), pp.65–66; Boeck, *Bronze Horseman*, pp.79–82.

¹⁶⁵ Ahl, "Art of Safe Criticism," pp.174–208.

¹⁶⁶ Date: D. M. Schenkeveld, "The Intended Public of Demetrius's *On Style*: The Place of the Treatise in the Hellenistic Educational System," *Rhetorica* 18 (2000), pp.29–48.

¹⁶⁷ πολλάκις δὲ ἢ πρὸς τύραννον ἢ ἄλλως βίαιόν τινα διαλεγόμενοι καὶ ὀνειδίσαι ὀρμῶντες χρῆζομεν ἐξ ἀνάγκης σχήματος λόγου... πᾶσα γὰρ σχεδὸν ἢ... διήγησις ἀπορίαν παράσχοι ἂν εἴτε θαυμασμὸς εἴτε χλευασμὸς ἐστὶ... τὸ μὲν οὖν κολακεύειν αἰσχρόν, τὸ δὲ ἐπιτιμᾶν ἐπισηφαλές, ἄριστον δὲ τὸ μεταξύ, τοῦτ' ἐστὶ τὸ ἐσχηματισμένον. Demetrius, *On Style* 289–94.

¹⁶⁸ Ahl, "Art of Safe Criticism," pp.185–87.

¹⁶⁹ ὄλην τε τὴν ὄφρυν τῆς ἀρχαίας ὄψεως ἀνακαλούμενος, πρῶτον μὲν ἐξεύρε τὸν λεγόμενον τῆς Σκυθίας ὑπαρχον. Lydus, *Powers* 2.28. Above, 3.II.D.

¹⁷⁰ ἔιρων. Procopius, *SH* 8.24, 27.2, 29.1.

that the same concerns are hidden in the *Buildings*, it also shows that Procopius did not use figured speech to veil this criticism ‘out of necessity’.¹⁷¹

When applying *On Style*, Kaldellis and Boeck both make the interpretive misstep of taking rhetorical handbooks to provide neutral hermeneutics that can be mined for advice on reading ancient literature. The authors and readers of this literature were themselves deeply enculturated in the handbooks’ world.¹⁷² Even those polemicists who wholly disavowed the ‘webs of the *rhetors*’ had received a rhetorical education, of which figured speech was a part.¹⁷³ Demetrius’ definition was widely shared by various renowned handbooks and was subject to an active tradition of commentary in the sixth century.¹⁷⁴ The scope and use of figured speech was vigorously debated by late antique rhetoricians.¹⁷⁵ Libanius, whose model *progymnasmata* were common enough for Romanos to structure a *kontakion* around them, also produced a model declamation by a son exposing his father’s adultery in figured speech.¹⁷⁶ Sixth-century political society had been trained to identify and produce figured speech as a matter of course.

The court was no exception. Kaldellis and Boeck both rely on the idea that Procopius’ criticism was incomprehensible to the repressive régime.¹⁷⁷ Yet Justinian’s own *Novels* and theological texts sometimes gloss deception as ‘speaking in figures’.¹⁷⁸ The courtiers Paul and Corippus both exhibit a deep knowledge of classical allusion and rhetorical theory in their poetry and were incentivised by the nature of court politics to seek Justinian’s favour. Much the same goes for Peter the Patrician, and Romanos too had ample motive and ability to denounce Procopius to the régime.¹⁷⁹ In Justinian’s Constantinople, any criticism of the

¹⁷¹ ἐξ ἀνάγκης. Demetrius, *On Style* 289.

¹⁷² Webb, “*Progymnasmata* as Practice,” pp.289–316.

¹⁷³ πλοκάς ῥητόρων. Romanos 33.16.4; Gador-Whyte, *Theology and Poetry*, p.9.

¹⁷⁴ e.g. Hermogenes, *On Invention* 4.13; Aristotle, *Rhetoric* 1418b23–33. See also: Ahl, “Art of Safe Criticism,” pp.185–92; L. Pernot, “Greek ‘Figured Speech’ on Imperial Rome,” *Advances in the History of Rhetoric* 18 (2015), p.136. For *On Style*’s sixth-century commentator: H. Gärtner, “Zur byzantinischen Nebenüberlieferung von Demetrios, Περὶ ἐρμηνείας,” *Kyklos: Griechisches und Byzantinisches*, eds. H.-G. Beck, A. Kambylis & P. Moraux (Berlin, 1978), p.78.

¹⁷⁵ M. Heath, “Pseudo-Dionysius *Art of Rhetoric* 8–11: Figured Speech, Declamation, and Criticism,” *AJP* 124 (2003), pp.81–105.

¹⁷⁶ Libanius, *Declamation* 39. Webb, “*Progymnasmata* as Practice,” p.304; D. A. Russell, *Imaginary Speeches: A Selection of Declamations* (London, 1996), p.10; R. J. Penella, “Libanius’ *Declamations*,” *Libanius: A Critical Introduction*, ed. L. van Hoof (Cambridge, 2014), pp.107–27.

¹⁷⁷ Boeck, *Bronze Horseman*, pp.75, 87–88; Kaldellis, “Thematic Trajectories,” pp.13–22.

¹⁷⁸ σχηματίζω. Justinian, *Letter to the Alexandrian Monks* 66, 87; *J. Nov.* 7.12, 97.2.

¹⁷⁹ See also Greatrex, “Perceptions,” p.96 n.81.

emperor expressed in figures must have been within the bounds of safe discourse because the régime, as much as anyone, was capable of decoding it.

While Boeck rightly recommends that historians be ‘mindful of the gap between ancient rhetorical practice and habits of modern discourse’, this must involve more than an uncritical application of the insights of the rhetorical handbooks that furnished sixth-century political society with a shared code even across sharp political and cultural differences.¹⁸⁰ In context, figured speech was more likely to amplify than to veil criticism. If it was widely understood that figured speech was the sort of speech used to address tyrants, then a ruler addressed in figures must be a tyrant. Critical readings of the *Buildings* can, at best, turn Procopius’ writing into a literary game, playing on rhetorical expectations shared among the literary public to inflate a wholly acceptable critique into a clever accusation of tyranny.

4.III.B: The Representation of Tyranny¹⁸¹

In both the *Wars* and the *Secret History*, Procopius took pains to obscure the fact that Justinian’s court was a site of classical and rhetorical learning:

‘The prefect John the Cappadocian... never received a liberal education or *paideia*, for he learned nothing at primary school beyond his letters.’¹⁸²

‘[The quaestor] Junillus... was not one of the *rhetors*. He knew Latin very well but, as far as regards Greek, had never attended a primary school nor was able to speak the language itself correctly.’¹⁸³

Among all Justinian’s officials, Procopius only ever attributes any *paideia* to Tribonian.¹⁸⁴ While the *Secret History*’s similar allegation that Justin I was illiterate is independently corroborated by Malalas, these quoted passages produce a highly distorted image of Justinian’s court.¹⁸⁵ Junillus, for example, read and translated Greek literature to produce the *Instituta*, worked rhetorical terminology into his textbook, and drafted constitutions in Greek. One function of Procopius’ consistent discourse of rhetorical ignorance is to

¹⁸⁰ Boeck, *Bronze Horseman*, p.76.

¹⁸¹ Compare Kaldellis, *Procopius*, Chapter 4.

¹⁸² ἔρπαρχος Ἰωάννης... ὁ Καππαδόκης... λόγων μὲν τῶν ἐλευθερίων καὶ παιδείας ἀνήκοος ἦν. οὐ γὰρ ἄλλο οὐδὲν ἐς γραμματιστοῦ φοιτῶν ἔμαθεν, ὅτι μὴ γράματα. Procopius, *Wars* 1.24.11–12.

¹⁸³ Ἰούνιλον... οὐδὲ τῶν ῥητόρων τις ἦν, γράμματα δὲ Λατῖνα μὲν ἐξεπιστάμενον, Ἑλληνικῶν μέντοι ἔνεκα οὐδὲ πεφοιτηκότα πρὸς γραμματιστοῦ πώποτε οὐδὲ τὴν γλῶσσαν αὐτὴν ἐλληνίζειν δυνάμενον. Procopius, *SH* 20.17.

¹⁸⁴ Procopius, *Wars* 1.24.16, 25.3.

¹⁸⁵ Procopius, *SH* 6.11–16; Malalas 17.1; B. Baldwin, “Illiterate Emperors,” *Historia* 38 (1989), pp.124–26.

(mis)represent the imperial court as the sort of place where figured speech would have passed unnoticed.

A remarkable line in the *Secret History* makes this explicit. The standard objection to critical readings of the *Buildings* is that the ancient panegyric mode is alien to modern political sensibilities: panegyrics are not necessarily flattery or mockery but ‘can be sincerely written’.¹⁸⁶ But even if most panegyrics really are panegyrics, not *all* have to be sincere. There is a fine line between seeking to inhabit a past culture’s specific literary mode and denying its people’s capacities for literary and tactical ingenuity. The *Secret History* reveals Procopius’ awareness of the possibility of subversive panegyric by claiming that Justinian ‘would consider praises that were really gibes in accordance with the steadfastness of his mind’.¹⁸⁷ The same comment implies, to a reader familiar with both the *Secret History* and the *Buildings*, that the latter text’s subversions were illegible to an emperor who was neither able nor inclined to recognise when he was being criticised in figures.

Procopius’ manufactured impression of the imperial court was targeted at later generations, as the *Secret History* reveals in its preface and final line:

‘For the men of today, who are fully knowledgeable witnesses to these deeds, will be trustworthy transmitters of the faithfulness of these [records] to the coming age.’¹⁸⁸

‘When Justinian either dies, being human, or gives up his life, since he is the Prince of Demons, all those who chance to survive these times will know the truth.’¹⁸⁹

These passages show that Procopius did not intend to publish whatever pamphlets make up the *Secret History* until Justinian was no longer ‘still alive’.¹⁹⁰ The preface, perhaps originally meant for the aetiological essay on Justinian and Theodora in the middle of the modern text and partially reused as the preface to the final book of the *Wars*, explains the delayed publication:¹⁹¹

¹⁸⁶ B. Baldwin, “Greek Historiography in Late Rome and Early Byzantium,” *Hellenika* 33 (1981), p.58, discussed by Greatrex, “Perceptions,” p.103. Also Elsner, “Rhetoric of Buildings,” pp.34–35.

¹⁸⁷ τοὺς ἐπαίνους ἦτοι σκώμματα ἐν τῷ τῆς διανοίας ἐποιεῖτο βεβαίῳ. Procopius, *SH* 13.12; Kaldellis, *Procopius*, p.59.

¹⁸⁸ οἱ γὰρ νῦν ἄνθρωποι δαημονέστατοι μάρτυρες τῶν πράξεων ὄντες ἀξιόχρεω παραπομποὶ ἐς τὸν ἔπειτα χρόνον τῆς ὑπὲρ αὐτῶν πίστεως ἔσονται. Procopius, *SH* 1.5.

¹⁸⁹ ὀπηνίκα οὖν ἢ ἄνθρωπος ὢν ὁ Ἰουστινιανὸς ἀπέλθῃ τοῦ βίου, ἢ ἄτε τῶν δαιμόνων ἄρχων ἀπολύσῃ τὸν βίον, ὅσοι τῆσδε περιόντες τύχῳσι, τάλῃθές εἴστοναι. Procopius, *SH* 30.34.

¹⁹⁰ Signes Codoñer, “One History,” pp.3–26; Pfeilschifter, “*Secret History*,” p.131.

¹⁹¹ Adshead, “The *Secret History* of Procopius,” p.28; Signes Codoñer, “One History,” pp.15–17.

‘It was impossible, while those who performed these deeds were still alive, for them to be recorded in the necessary way, for it was impossible either to escape the notice of the mass of spies or to avoid suffering the most miserable death once discovered.’¹⁹²

This, of course, is not an accurate representation of Procopius’ political conditions. Traditionalists openly criticised Justinian from at least 537 without discernible consequence.¹⁹³ Indeed, the ‘considerable risk’ that Procopius took in drafting the *Secret History* was perhaps less the risk of being executed and more the risk of *not* being executed, which would inconveniently have exposed his fears of a ‘most miserable death’ as unfounded.¹⁹⁴

Codoñer and Pfeilschifter posit a contradiction between the preface, which presents Justinian as no longer ‘still alive’, and its closing line, which anticipates the emperor’s future death.¹⁹⁵ This position assumes that merely writing down a narrative, without sharing it, would qualify for Procopius as having ‘recorded’ it ‘in the necessary way’.¹⁹⁶ Ἀναγράφω, however, literally refers to the act of writing *up* (not down), generally implying something placed on public record. The *Secret History* retains a consistent dramatic setting and voice. Procopius frames it as an account written down during Justinian’s reign, so that later readers may be certain of its autoptic accuracy, but only circulated afterwards, to protect Procopius from the retribution of a tyrant who imposed stringent limits on his subjects’ speech. The theme of acceptable speech therefore unites the *Secret History* with the critical readings of the *Buildings*. Procopius surely planned to publish his panegyric before Justinian’s death, expressing a wholly acceptable critique of his rule in figured speech, and then his polemic after Justinian’s death, misrepresenting his earlier figured speech as beyond the limits on acceptable speech (by casting Justinian as a tyrant at the head of a surveillance state) and beyond the comprehension of the régime (by depicting the court as a black hole of rhetorical learning). Post-Justinianic readers with access to Procopius’ whole oeuvre would therefore encounter portrayals of Justinian as a tyrant and Procopius as a brave dissident, not only in the *Secret History*’s direct accusations but also in the work of acceptable criticism that Procopius pretends only to have been able to write in figured speech. Codoñer argues that

¹⁹² οὐχ τε ἦν περιόντων ἔτι τῶν αὐτὰ εἰργασμένων ὅτῳ δεῖ ἀναγράφεσθαι τρόπῳ. οὔτε γὰρ διαλαθεῖν πλήθη κατασκόπων οἷον τε ἦν οὔτε φωραθέντα μὴ ἀπολωλέναι θανάτῳ οἰκτίστῳ. Procopius, *SH* 1.2.

¹⁹³ J. Nov. 60.pr.

¹⁹⁴ Greatrex, “Perceptions,” p.89. Against also Kaldellis, *Procopius*, p.49.

¹⁹⁵ Signes Codoñer, “One History,” pp.8–9; Pfeilschifter, “*Secret History*,” p.131.

¹⁹⁶ ὅτῳ δεῖ ἀναγράφεσθαι τρόπῳ. Procopius, *SH* 1.2.

Procopius planned to merge his texts into ‘one history’; in fact, their separation was a tactical choice.¹⁹⁷

This authorial strategy weaponises publication timings around Justinian’s anticipated death, in a period when the emperor was already old enough for the *Wars* to present his régime as a ‘gerontocracy’.¹⁹⁸ Marcellinus had already deployed a similar tactic by updating his chronicle immediately after the triumph of 534. The strategy aimed at fixing Justinian’s historical legacy as a tyrant. The *Secret History* expresses hope that Justinian will not ‘be emulated’, since ‘it will be clear to future tyrants that their deeds and habits will be recorded for eternity’.¹⁹⁹ Its litany of innovations represents an attempt to secure traditionalist policies from later emperors invested in avoiding comparisons to Justinian. Stock tyrants like this were always useful anti-models; as Lydus explains in relation to Domitian and Caracalla, ‘things established by those who ruled badly must be disdained’.²⁰⁰ Justinian’s longevity scuppered Procopius’ plan, since he died with the *Buildings* unfinished and the *Secret History* never put together. In the long run, though, he succeeded. Critical readers of the *Buildings* claim to see through Procopius:

‘By making [the] *Buildings* appear to be a very straightforward case of commissioned sycophancy Prokopios displays his formidable skills and craftsmanship; he has persuaded most modern historians that [the] *Buildings* is a work of praise.’²⁰¹

In peeling back his figured speech, however, they encounter only another layer of the Procopius onion. Boeck’s reading of the *Buildings* is testament to Procopius’ successful misrepresentation of the age of Justinian as an age of tyranny and dissidence.

Critical readings of the *Buildings* remain minority positions, but most of the argument presented here can stand without them. The absence of a critical subtext to the *Buildings* would remove Procopius’ dissident persona from the equation but, for its hypothetical post-Justinianic readership, the *Secret History*’s claims about the surveillance of political speech cultivate much the same impression. Through careful intertextualities, the *Secret History*

¹⁹⁷ Signes Codoñer, ‘One History,’ pp.3–26.

¹⁹⁸ Evans, *Age of Justinian*, p.199. See especially Procopius, *Wars* 7.39.

¹⁹⁹ ζηλωτὰ γίνεσθαι / τοῖς ἐς τὸ ἔπειτα τυραννήσουσιν ἐνδηλον ἔσται ὡς... ἔπειτα δὲ καὶ ἀνάγραπτοι αὐτῶν αἱ πράξεις καὶ οἱ τρόποι ἐς αἰὶ ἔσσονται. Procopius, *SH* 1.6–8.

²⁰⁰ τὰ γὰρ παρὰ τῶν κακῶς βασιλευκότων γεγόμενα... καταφρονεῖσθω. Lydus, *Powers* 1.49.

²⁰¹ Boeck, *Bronze Horseman*, p.76.

reveals the inaccuracies of the *Buildings*'s praise.²⁰² It also casts a different light on the *Buildings*'s self-presentation as an imperial commission or 'the known wish of the emperor'.²⁰³ Lydus had also found it productive to represent Justinian as an emperor who could not be refused, since 'it was dangerous to shun the demand of such an emperor'.²⁰⁴ Lydus shapes his own dissident image by referring to a commissioned history that he never wrote.²⁰⁵ In Procopius' case, his later release of the *Secret History* would cast the author of the *Buildings* as an opponent compelled not to speak his mind by a tyrant. The *Buildings* does not need to contain veiled criticism for Procopius, in his oeuvre as a whole, to be representing Justinian as a tyrant whose traditionalist policies are not to be imitated.

One intriguing avenue for further investigation may come to support the critical readings. A primary objection to these readings is that later Roman readers of the *Buildings*, equally capable of decoding figured speech and recognising classical allusions, 'do not share [or discern] the animus of Prokopios towards Justinian'.²⁰⁶ The short recension of the *Buildings* suggests that this may not be uniformly true. Most of Kaldellis's allusions and Boeck's figures are absent from this epitome.²⁰⁷ Some of these absences are specific enough not to seem coincidental. Of the comparison between Justinian and Achilles, for example, only the hostile allusion to Homer's autumn star has been removed.²⁰⁸ So too has the abridger replaced the preface's selective praise and its reference to Justinian's skill at innovating with a new statement of his *philanthropia*.²⁰⁹ The epitomiser's pro-Justinianic activity is particularly acute in the relationship between the Hagia Sophia and the equestrian statue. While explaining how the divinely inspired emperor solved architectural problems beyond the Hagia Sophia's master-builders, Procopius remarks:²¹⁰

²⁰² See especially a chapter by A. Wallace-Hadrill, "The City Embattled: Procopius and Justinian's Urban World", in his forthcoming *The City after Antiquity*.

²⁰³ Βασιλεῖ ἐξεπιστάμεθα βουλομένῳ. Procopius, *Buildings* 1.3.1. Discussion and additional passages at Montinaro, "Power, Taste and the Outsider," pp.202–3.

²⁰⁴ ἡ δὲ τάξις... ἀνέλαμψε / οὐδὲ γὰρ ἀσφαλὲς βασιλέως αἰτήσιν παρακρούσασθαι τοιοῦτου. Lydus, *Powers* 3.76.

²⁰⁵ Lydus, *Powers* 3.28. Also above, 1.1.B.

²⁰⁶ Boeck, *Bronze Horseman*, p.82.

²⁰⁷ For Kaldellis's allusions: Montinaro, "Power, Taste and the Outsider," pp.203–4. Boeck's figures required independent verification against Rhenanus, *Procopii Caesariensis*.

²⁰⁸ Procopius, *Buildings* 1.2.7–10.

²⁰⁹ Procopius, *Buildings* 1.1.16, short recension only.

²¹⁰ On Justinian's divine inspiration, see Elsner, "Rhetoric of Buildings," p.46. On the architects, see R. Ousterhout, *Master Builders of Byzantium* (Princeton, NJ, 1999).

‘If the account were without testament, I know well that it would seem to be wholly untrustworthy flattery.’²¹¹

A few lines later, he concludes that ‘the emperor has a witness to his work as follows’ and launches into the ekphrasis of the apparently dissimulatory equestrian statue.²¹² In other words, the ‘testament’ that proves Procopius’ praise not to be flattery is the emperor himself, watching over (or surveilling) the city. A reader familiar with *On Style* may recognise here that Demetrius’ alternative to ‘shameful flattery’ is figured speech, in which Procopius thereby implies that he engages. This subversive interplay has been wholly excised by the epitomiser – but in this section of the text, little else has. Perhaps at least one later Roman recognised a critical text in the *Buildings* and chose to remove it.

4.IV: Arguing from the Imperial Court

Procopius’ efforts to represent the age of Justinian as an age of tyranny spoke directly to the emperor’s relationship to the law. The *Secret History* is partly a commentary on Justinian’s legal innovations and corruption, while the tyrant and the lawful emperor were negative images in sixth-century political thought. In Procopius’ traditionalist worldview, which he openly articulated for the Justinianic literary public in at least the *Wars*, no new legislation was permitted of the lawful emperor. Such a radical traditionalist argument aimed to generate, by shaping the expectations of this public, highly restrictive impositions on the régime.

To operate more freely, Justinian needed tactics for cultivating a political contract that authorised the promulgation of laws. In turn, this contract required a critical mass of imperial subjects, weighted by cultural and political influence, to accept the necessity or utility of new legislation. Justinian therefore attempted to speak across the culture war. Even as he ‘promot[ed] a thoroughly Christianised legal cosmos... in which even the texts of Roman law explicitly invoke the Christian God as their author and patron’, he also represented his legal programme in classicising and philosophical terms.²¹³ Not every imperial tactic for pacifying and defusing opposition to Justinian’s legislative authority were successful, but

²¹¹ καὶ εἰ μὲν ὁ λόγος ἀμάρτυρος ἦν, εὖ οἶδα ὅτι κόλαξ τε ἂν ἔδοξεν εἶναι καὶ ἄπιστος ὅλως. Procopius, *Buildings* 1.1.72.

²¹² δὲ τι καὶ μαρτύριον ὁ βασιλεὺς τοῦ ἔργου τοιόνδε. Procopius, *Buildings* 1.1.78.

²¹³ Humfress, “New Legal Cosmos,” p.668. For law in the culture war, see below, 4.IV.D.

one in particular enjoyed a long and productive life. This section charts the logic and tactics of the régime's argument from mutable nature, the primary grounds on which it justified its exercise of imperial authority over the law.

4.IV.A: The Animate Law Trial Balloon

The Justinianic régime crafted its propaganda not in a vacuum but in a dialectical relationship with contemporary opposition, sometimes intensifying successful themes (as in the case of the codification's discourse of clarification) and sometimes strategically readjusting. In this dynamic process, Justinian trialled numerous tactics for generating the political space for frequent legislation. His most abortive tactic has exercised an outsized influence on the historiography of his age:

‘The emperor [more properly, the imperial office] was now to be seen as the *nomos empsychos*, the living law... for Justinian the concept provided an ideological rationale for autocracy.’²¹⁴

The imperial claim to be ‘animate law’, a concept with an established prehistory and a vigorous afterlife, was not this crystallisation of legislative autocracy.²¹⁵ It was an unsuccessful trial balloon that Justinian floated precisely once.

The claim is buried at the end of a lengthy constitution restricting consular expenditure:

‘The imperial office, to which God subjected the laws themselves when he sent it down to humanity as the animate law, is excepted from everything we have just said.’²¹⁶

Contemporaries found more pressing aspects of this constitution to contest.²¹⁷ It deploys the concept of the animate law only to justify the emperor's exemption from his own measures. Other legal principles were available for this purpose. In this sense, *Novel* 105 testifies to the normative restraining power of contemporary expectations of lawfulness. While theoretically above the law, the emperor still needed to mark his exemption from

²¹⁴ Atkinson, “Justinian and the Tribulations,” pp.18–19. For a similar point: Maas, “History and Ideology,” p.29. For the crucial distinction between emperor and office, see Dagron, *Empereur et prêtre*.

²¹⁵ G. J. D. Aalders, “ΝΟΜΟΣ ΉΜΨΥΧΟΣ,” *Politeia und Res Publica: Beiträge zum Verständnis von Politik, Recht und Staat in der Antike*, ed. P. Steinmetz (Wiesbaden, 1969), pp.315–29; E. H. Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton, NJ, 1957), pp.127–47.

²¹⁶ πάντων δὲ δὴ τῶν εἰρμένων ἡμῖν ἢ βασιλέως ἐξηρήσθω τύχη, ἧ γὰρ καὶ αὐτοῦς ὁ θεὸς τοὺς νόμους ὑπέθηκε νόμον αὐτὴν ἔμψυχον καταπέμψας ἀνθρώποις. *J. Nov.* 105.2.4.

²¹⁷ Kruse, *Politics*, pp.118–23.

specific constitutions with an unusual clause implying a deviation from the norm.²¹⁸ Rather than revealing that ‘for practical purposes the *basileus* was the *nomos*’, Justinian’s reference to the animate law highlights the practical limits on imperial power.²¹⁹

The claim still carried potential, unactivated implications for the emperor’s freedom to legislate, but it had ‘never been made by an emperor before’ and Justinian never made it again.²²⁰ The brevity of this concept’s sixth-century intrusion into Roman law suggests a régime testing strategies for navigating contemporary opposition. *Novel* 105 arrived only four weeks after *Novel* 60’s direct response to critics of new legislation. While there exists no direct evidence for traditionalist opposition in the late 530s, only reflections in imperial texts, the fact that the animate law appeared at this moment of visible conflict and was immediately retired despite its ideological potential implies strong oral resistance to the concept. Justinian operated within political realities that prevented him from simply declaring himself to wield an untrammelled, God-given authority to legislate. He had to sing for his supper.

4.IV.B: The Argument from Mutable Nature

To generate and protect his authority to change the law, Justinian required a more persuasive justificatory discourse. His chosen discourse was already in use and about to accelerate when the animate law trial balloon was inflated and burst in December 537. On the promulgations of the *Digest* in 533 and the second *Code* in 534, the Justinianic régime wrote itself a cheque:

‘Since nature hastens to produce many new forms, we have not renounced the thought that later matters will arise that are not already entangled in the snare of the laws. If any such thing should come to pass, let a remedy be sought from the Augustus.’²²¹

²¹⁸ For criticism of Justinian’s transgression of his own laws: Procopius, *SH* 21.9–19.

²¹⁹ Stolte, “Law is King?,” pp.176–77.

²²⁰ Pazdernik, “Justinianic Ideology,” p.202.

²²¹ (*multas etenim formas edere natura novas deproperat*), *non desperamus quaedam postea emergi negotia, quae adhuc legum laqueis non sunt innodata. si quid igitur tale contigerit, Augustum imploretur remedium.* J. Digest C. Tanta 18.

‘No other constitution outside of the body of this code is to be read, unless the mutable nature of affairs gives rise to something new that demands our decree.’²²²

The *Novels* repeatedly cash this cheque. Their dominant justificatory discourse, the primary grounds on which Justinian engaged with traditionalist opposition to new legislation, was the mutability and unpredictability of the temporal world. *Novel* 60 offers ‘circumstances unexpectedly produced by nature’ as a direct response to critics.²²³ On the imperial logic, the ‘periodic fluctuations’ of nature ‘affected human behaviour’ in ways that demanded new legal solutions.²²⁴ The political implication is clear. If nature was ‘always coming into being but never remaining the same’, it followed that the emperor needed to legislate just as often in order to ‘make the laws agree with circumstances’.²²⁵

This argument is concentrated in time. The first *Novel* to make it was promulgated in 535 and refers to ‘the variation of human nature’ as a partial justification for changes to the codified law on alienations.²²⁶ In the following year, a second *Novel* used ‘the fluctuation and variation of human nature’ to justify dowry reform.²²⁷ ‘This fluctuation in human affairs’ and ‘the variation of supervening affairs’ then appear in one of the two relevant constitutions of 537 before a flood of four constitutions in one month of 538.²²⁸ This explosive intensification of the discourse of mutable nature was plausibly a response to the failure of the animate law trial balloon in the last days of 537.²²⁹ The discourse then tails off, surfacing three times in 539, once in 541, and a final time with a reference to ‘the mutability of human affairs’ in 542.²³⁰ It likely did not disappear altogether from imperial propaganda, the production of which was so often delegated to staff in the praetorian prefecture. The volume and frequency with which mutable nature figured in the *Novels* in the 530s and early 540s was not a brief burst but an injection into the propaganda ecosystem.

²²² *nulla alia extra corpus eiusdem codicis constitutione legenda, nisi postea varia rerum natura aliquid novum creaverit, quod nostra sanctione indigeat.* CJ C. Cordi 4.

²²³ τῶν... παραδόξως ἀναφυσόμενων. J. Nov. 60.pr.

²²⁴ Bjornlie, *Politics and Tradition*, p.267.

²²⁵ γινόμενον μὲν αἰεὶ μένον δὲ οὐδέποτε. J. Nov. 49.pr. συμφώνους τοῖς πράγμασι τιθέναί νόμους. J. Nov. 60.pr.

²²⁶ τὸ τῆς ἀνθρωπίνης φύσεως ποικίλον. J. Nov. 7.pr.

²²⁷ τὸ ῥευστὸν καὶ πεποικιλμένον τῆς ἀνθρωπίνης φύσεως. J. Nov. 39.pr.

²²⁸ τὸ ῥευστὸν δὴ τοῦτο... ἀνθρώπινον / ἢ τῶν ἐπισυμβάντων ποικιλία πραγμάτων. J. Nov. 49.pr. The other constitution of 537 is J. Nov. 60. The constitutions of 538 are J. Nov. 67, 69, 73, 74.

²²⁹ On the compatibility of the two ideas, compare Lanata, *Legislazione e natura*, p.181, cited approvingly at Maas, “History and Ideology,” p.29 n.95.

²³⁰ τὸ τῶν ἀνθρωπίνων πραγμάτων εὐμετάβλητον. J. Nov. Edict 7.pr. For 539: J. Nov. 84, 98, 133. For 541: J. Nov. 107. For a different list: Bjornlie, *Politics and Tradition*, p.267 n.60.

Several scholars have conducted insightful studies of this argument on its own terms.²³¹ It was triangulated to shift the traditionalist charge of innovation away from the emperor. The *Novels* very occasionally characterise themselves as the source of innovations.²³² More routinely, Justinian insists that ‘we make nothing new’ and lays the blame instead at the door of ‘nature, which everywhere produces many innovations in affairs’.²³³ Justinian’s legislative task was ‘merely... to maintain pace’ with innovations occurring in the temporal world around him.²³⁴ The discourse of mutable nature was itself an innovation. Lanata emphasises its roots in classical, Neoplatonic, and patristic (even if not jurisprudential) thought.²³⁵ Her connections conceal the radical, important departure highlighted by Bjornlie. In both Christian and non-Christian traditions, nature had long been understood as the site of an underlying moral harmony from which philosophers or exegetes could derive guidance.²³⁶ Hence, Bjornlie quotes Valerianus of Cimelium’s fifth-century Latin sermon *On Good Discipline*, which illustrates the fixed, decipherable rules of nature in its opening gambit:²³⁷

‘There is so great a system of discipline that the march of the constellations is driven on, through the alternating changes of their unwearied journey, within the limits of intervals prescribed by law... Is it without discipline that the tides of so great a sea are restrained by the low-lying coast of the earth, that the waves, frequently whipped up taller than a mountain by the winds, are enclosed in their basin? Surely, senseless nature would be confusing everything unless a system of discipline governed the world. We decided to set out these facts so that you may learn to obey the precepts of the Gospels and submit to the divine commandments. When a man sees that even the elements are subject to the sacred laws of discipline made by God’s will, he will easily be able to understand what is advantageous to a rational creature made in the image of God.’²³⁸

²³¹ Especially: Lanata, *Legislazione e natura*, pp.165–87; W. Thurman, “A Juridical and Theological Concept of Nature in the Sixth Century AD,” *BSI* 32 (1971), pp.77–85; Maas, “History and Ideology,” pp.29–31; Bjornlie, *Politics and Tradition*, pp.254–82.

²³² e.g. *J. Nov.* 76.1.

²³³ οὐδὲν καινίζομεν. *J. Nov.* 22.1, 28.1, 49.1.1, 56.1, 98.2.2; πολλοῖς πανταχόθεν ἡ φύσις καινουργήμασιν ἐν τοῖς πράγμασι χρωμένη. *J. Nov.* 84.pr–pr.1. See Honoré, *Tribonian*, pp.27–28.

²³⁴ Bjornlie, *Politics and Tradition*, p.267.

²³⁵ Lanata, *Legislazione e natura*, pp.189–246. See also Maas, “History and Ideology,” p.29.

²³⁶ Bjornlie, *Politics and Tradition*, pp.254–67.

²³⁷ *Ibid.* pp.264–65.

²³⁸ *tanta est disciplinae ratio, ut intra temporum metas lege conscriptas ita indefessi itineris alternis vicibus siderum cursus agitetur... numquid sine disciplina est, quod tanti maris fluctus humili terrarum littore continentur, et in suo sinu frequenter incitata ventis altior aggere unda concluditur? omnia profecto insipiens natura confunderet, nisi mundum disciplinae ratio gubernaret. haec ideo proposuimus dicere, ut disceretis obedire evangelicis praeceptis et caelestibus obtemperare mandatis. quid autem rationale animam et ad Dei*

Bjornlie provides an array of other examples of nature's role in moral, political, and legal instruction.²³⁹ Justinian therefore did not need to invent a conceptual vocabulary of nature. He also, however, did not have access to a substantial reservoir of thought about its unpredictability. The *Novels* respond to the ideas presented in Valerianus' sermon by contending that no such 'system of discipline' furnished the natural world with decipherable patterns. If nature's innovations could not be 'foreseen or foretold', imperial legislation needed to be frequent and responsive.²⁴⁰ To make this argument effectively, the régime needed to shift a deeply entrenched ideological conception of the fixity of the natural, temporal world.

4.IV.C: The Structural Tactics of the *Novels*

While scholars have paid sufficient attention to the logical and intellectual complexities of the *Novels*' argument from mutable nature, they have displayed less interest in the discursive tactics by which that argument was advanced. As a body of texts, the *Novels* are constructed according to considered literary principles. They operate within a recursive structure that mobilises constitutions as evidence for their own necessity.

The bluntest literary tactic of the *Novels* is repetition. Justinian uses a constant vocabulary of nature's 'variation' across numerous constitutions.²⁴¹ Such repetition, often in emotive language with minor inflections that maintain an arresting relevance, was a useful tool for marking important rhetorical content to the officials who composed publication decrees and for communicating with those subjects who received the *Novels* in abbreviated, oral, and temporary forms.²⁴² For political society, engaging closely and routinely with written constitutions in Constantinople's administration and archives, repetition also served an ideologising function. The more subjects were exposed to and influenced by the insistence that legislation needed to respond to nature's fluctuations, the less effective it became for traditionalists simply to reassert that nature did not fluctuate.

imaginem factam expediat, facile potest homo intelligere, cum videt sacratis per voluntatem Dei constitutionibus disciplinae etiam elementa servire. Valerianus, *Homily* 1.1–2 = PL 52.692c–d. On Valerianus, see R. W. Mathisen, "Petronius, Hilarius and Valerianus: Prosopographical Notes on the Conversion of the Roman Aristocracy," *Historia* 30 (1982), pp.364–86.

²³⁹ Plato, Aristotle, Cicero, Pliny, Porphyry, Plotinus, Ambrose, and Fulgentius, all at Bjornlie, *Politics and Tradition*, pp.254–67.

²⁴⁰ προῖδέσθαι... οὔτε προειπεῖν. J. Nov. 69.4.1.

²⁴¹ ἡ... ποικιλία. e.g. J. Nov. 107.pr. As noted by Lanata, *Legislazione e natura*, p.170.

²⁴² Lanata, "Vocabulaire de la loi," pp.43–45.

Novel 84, late in the cycle of *Novels* that mention nature, draws attention to the régime's use of repetition to make explicit its underlying claim:

'Nature, which everywhere produces many innovations in affairs (this preface has already often been pronounced in the laws and will be pronounced again as long as nature achieves her characteristic effects), has put us in need of many laws.'²⁴³

The existence of *Novels* self-consciously becomes evidence for the mutable conception of nature that they themselves were ideologising. This recursive framework even assimilated politically inconvenient repeals.²⁴⁴ Five of the six late *Novels* that repeal earlier *Novels* mark themselves as repeals, partly to enable legal professionals to conduct their work, partly to reinforce the mutability of nature.²⁴⁵ The *Novels*' intratextual citational practice aims at absorbing even moments of weakness, Justinian's repeals of Justinian's laws, into the overarching argument that nature's fluctuations inevitably demanded changes to the law.

The petitions, cases, and suggestions that were routinely referred to the imperial court and incorporated into rescripts serve a similar function.²⁴⁶ The drafters of constitutions reframed these documents to suit the régime's argumentative needs. After its opening reference to nature's repetitive innovations, *Novel* 84 describes an unresolved inheritance case and returns again to the theme of nature:

'Such was the innovation invented by nature. It is possible, since such a starting point has been given to us by nature, to think of other cases that are capable of causing a problem like this.'²⁴⁷

The triangulation of the argument from mutable nature is clear here. Lydus would later allege that Justinian had 'invented' a prefecture; Justinian lays the same charge at nature's door.²⁴⁸

²⁴³ πολλοῖς πανταχόθεν ἡ φύσις καινουργήμασιν ἐν τοῖς πράγμασι χρωμένη (εἰρημένον ἤδη τοῦτο πολλάκις ἐν τοῖς νόμοις τὸ προοίμιον, εἰρήσεται δὲ καὶ αὐθις ἕως ἂν ἐκείνη τὰ ἑαυτῆς πράττη) πολλῶν ἡμᾶς εἰς χρεῖαν καθίστησι νόμων. *J. Nov.* 84.pr.

²⁴⁴ Criticised at Procopius, *SH* 14.10.

²⁴⁵ *J. Nov.* 111.pr, 119.10, 127.pr, 136.pr, Edict 8.pr. The sixth repeal is Edict 7.

²⁴⁶ See especially F. Millar, *The Emperor in the Roman World (31 BC – AD 337)* (London, 1992), pp.537–49; Millar, *Greek Roman Empire*, p.216; Harries, "Roman Imperial Quaestor," pp.150–52. See further: D. Feissel, "Pétitions aux empereurs et formes du rescript dans les sources documentaires du IV^e au VI^e siècle," *La Pétition à Byzance*, eds. D. Feissel & J. Gascou (Paris, 2004), pp.33–52; D. Feissel & J. Gascou, eds., *La pétition à Byzance* (Paris, 2004); Lemcke, *Bridging Center and Periphery*, pp.4–5; C. Ando, "Petition and Response, Order and Obey: Contemporary Models of Roman Government," *Governing Ancient Empires*, eds. M. Jursa & S. Procházka (Vienna, forthcoming).

²⁴⁷ ὁ μὲν ἐξεύρηται τῇ φύσει καινούργημα, τοιοῦτό πως ἦν· ἕξεσι δὲ τοιαύτης ἀρχῆς δεδομένης ἡμῖν παρ' αὐτῆς καὶ ἕτερα προσεπινοήσῃ θέματα τοιοῦτο τι φέρειν δυνάμενα. *J. Nov.* 84.pr–pr.1.

²⁴⁸ ἐξεύρε. Lydus, *Powers* 2.28.

Novel 84's topping and tailing presents the inheritance case as a confrontation between the emperor and nature, justifying the need for a new constitution, which itself evidences the mutability of nature, and so on. This is argument by accumulation. Much as Agapetus and Romanos repackaged imperial propaganda, the court repackaged the documents it received as evidence for its conception of nature and then distributed them into its propaganda networks.

Justinian and his ministers thought carefully about how to maximise the argumentative potential of the primary discursive resource, the constitution, that they had inherited from the Roman past. Their high-level view of the *Novels*, maintained across quaestorships, developed a recursive literary structure that turned each new constitution into its own justification.

4.IV.D: Nature across the Culture War

Legislation was implicated in the culture war because different referential frameworks provided different models for what the normative content of the law should be. On the biblical side of the culture war, for example, Malalas sets imperial lawgiving in the same scriptural schematic as 'acts against nature' and natural disasters.²⁴⁹ His association between the detection of bishops 'having sex with men' across the empire and the earthquake in Pompeiopolis is not only rooted in the biblical episode of Sodom and Gomorrah but also punctured by imperial legislation.²⁵⁰ Malalas first reports the discovery of the bishops, then Justinian's decree punishing the bishops, then the earthquake. He thereby implies that an exegetical emperor may even have recognised and implemented the necessary legislation beforehand. Zosimus also accepts the divine origin of law but understands it to have been handed down by the gods to the early Romans, who faithfully observed it during their imperial rise.²⁵¹ The proper normative content of the law, such as the legally enshrined execution of sacrifices at public expense or the 'law' mandating the regular observance of the Secular Games, may therefore be understood from ancient historians like Polybius.²⁵² The *New History's* senators, priests, and other traditionalists base their legal proposals on this authority.

²⁴⁹ See above, 1.III.A.

²⁵⁰ ἄρσενοκοιτοῦντες. Malalas 18.18.

²⁵¹ Zos. 4.2.2, 4.18.3, 4.59.1–4.

²⁵² ὁ θεσμός. Zos. 2.4.2.

Justinian presented himself as a legislator on Zosimus' ideal terms, as an ancient historian in his own right. He did the same on Malalas' terms, as *Novel* 141 shows:

'Having learned from the divine scriptures, we know what kind of just retribution God long ago brought upon the inhabitants of Sodom because of their passion for this kind of sex, so that, even now, that land is being burned by inextinguishable fire. God educates us in this way, so that we turn away from this unholy practice.'²⁵³

Novel 77 makes the same argument. These passages represent Justinian's legislative process as one of identifying and implementing specific measures from the Bible. Both constitutions are replete with scriptural quotations and, tellingly, are edicts addressed to the Constantinopolitans.²⁵⁴ The régime tailored its discursive output to its audience, speaking in biblical code for a general public conditioned by Romanos' hymns.

By speaking sometimes in classicising and sometimes biblicising codes, basing the normative content of legislation on different authorities accordingly, the régime continued to manage the culture war. The argument from mutable nature was partly intended as an escape from this paradigm: if nature continually produced wholly unforeseeable circumstances, the required legislative response was not necessarily to be found in pre-existing textual authorities. To make this central argument in the first place, however, and to uproot a widely entrenched ideology of natural fixity, the régime still had to speak in parallel codes for competing cultures.

Junillus adduces an exegetical basis for Justinian's argument from mutable nature. The *Instituta* sets out a schematic of general and particular government that is shot through with the 'chance occurrences of nature' and the 'chance occurrences of will'.²⁵⁵ It explicitly excludes from the category of generally governed phenomena 'not subject to these occurrences' both humanity and individual humans, whom God 'instructs... on diverse occasions'.²⁵⁶ In the subcategory of particular government 'by humans for their own sake', Junillus then asserts that 'government befits all according to their nature' and presents a

²⁵³ ἴσμεν γὰρ ἐκ τῶν θείων γραφῶν διδασκόμενοι, ποίαν ὁ θεὸς κόλασιν δικαίαν ἐπήγαγε τοῖς ἐν Σοδόμοις πρώην οἰκήσασι διὰ τὴν περὶ τὴν μίξιν ταύτην μανίαν, ὥστε μέχρι τοῦ νῦν ἐκείνην τὴν γῆν ἀσβέστῳ πυρὶ κατακαίεσθαι, τοῦ θεοῦ διὰ τοῦτου παιδαγωγῶντος ἡμᾶς ὥστε τὴν ἀνοσίαν ταύτην ἀποστρέφεισθαι πράξιν. *J. Nov.* 141.1.

²⁵⁴ On the rise of scriptural references in Justinian's legislation: Sarris, "At the Origins," pp.414–15.

²⁵⁵ *accidentibus naturae... accidentibus voluntati*. Junillus, *Instituta* 2.11–12.

²⁵⁶ *his passionibus non subiacentia*. Junillus, *Instituta* 2.4. *diversis occasionibus erudit*. Junillus, *Instituta* 2.3.

substantial catalogue of ‘the chance occurrences of nature’ to illustrate the variability of the temporal world:²⁵⁷

‘Nothing happens by chance to divine nature. Since it is incomprehensible and keeps itself always in the same condition, it does not admit the diversity of chance occurrences... [but] these are the things that happen by chance to creatures:... being generated and corrupted, good health and sickness, beauty, position, and the capacity for skills and studies happen by chance...’²⁵⁸

In the subsequent discussion of ‘the chance occurrences of will’, the diversity of nature produces a similar variability in human behaviour:

‘Will is the inviolable, spontaneous force of mind according to which diverse, contrary thoughts and works come to pass... There is a certain natural distinction between good and evil in us, but a spontaneous movement in those things that, having already been distinguished, are to be accomplished.’²⁵⁹

These passages occur immediately after Junillus explains his tripartite model of human government, in which all matters above the household are reserved for imperial authority.²⁶⁰ The political consequences are plain. Humans must be governed by their emperor as ‘befits... their nature’. Since temporal and human nature produce ‘spontaneous movement[s]’ in what is ‘to be accomplished’, the emperor must continually adjust for the same ‘unexpected’ developments cited by the *Novels*.²⁶¹

Junillus’ legal theory is therefore even more in touch with the *Novels* than either Maas or Bjornlie suggest.²⁶² Both focus on Junillus’ subordination of Roman civil law to ‘a painstakingly elaborated Christian hierarchical scheme of divine law explained in the Bible’.²⁶³ They conclude that Junillus represents the emperor as the ‘chief exegete of the

²⁵⁷ *hominum propter se ipsos gubernatio... convenit cunctis enim secundum suam naturam*. Junillus, *Instituta* 2.10.

²⁵⁸ *divinae quidem naturae nihil accidit: cum enim sit incomprehensibilis et semper eodem modo se habens, non recipit accidentium diversitatem... quae... accidunt creaturis... generari, corrumpi, sanitas, aegritudo, forma, positio, artium disciplinarumque capacitas*. Junillus, *Instituta* 2.11. Only an indicative one-third of the catalogue is quoted here.

²⁵⁹ *est voluntas... vis animi inviolata sive spontanea, secundum quam diversae atque contrariae cogitationes efficiuntur et opera... naturalis est in nobis quaedam boni malique discretio; spontaneus autem motus in his quae iam discreta exsequenda sunt*. Junillus, *Instituta* 2.12.

²⁶⁰ Junillus, *Instituta* 2.10; Maas, *Exegesis and Empire*, p.70.

²⁶¹ παραδόξως. J. Nov. 60.pr. Note that the discussion of ‘order’ at Hunt, “Junillus Africanus,” pp.92–94 relates to political hierarchies, not nature.

²⁶² Against Winkelmann, Review of Maas, *Exegesis and Empire*, pp.602–3.

²⁶³ Maas, *Exegesis and Empire*, pp.67–70.

empire, making him a prophetic reader of divine will and granting him the authority to rescind former laws'.²⁶⁴ This authority was in fact carefully constructed against the mutability of nature. Junillus does not simply argue that the Bible furnishes a body of divine law that should be implemented in place of Roman civil law. He argues that it furnishes an imperial, legislative authority – that it teaches the mutability of the natural world and the necessity of frequent legislation to keep pace with its variations. This is counter-exegesis to the mode of Christian thought represented by Valerianus, who found in the Bible a 'system of discipline' that left little scope for continual legislation.²⁶⁵ Lanata suggests that the argument from mutable nature belonged to Tribonian's quaestorship; the *Instituta* shows that it persisted.²⁶⁶

Junillus' exegetical basis for the mutability of nature was unacceptable to Romans who subscribed to the authoritative frameworks of texts other than the Bible. Classicising writers in Constantinople vehemently delegitimised Junillus:

'Junillus had not even so much as heard of the law... and was not able to speak Greek correctly. In fact, when he often tried hard to produce a Greek sound, he was laughed at by his subordinates. And in demonic fashion, he often acted on his greed. He was not ashamed at all to sell imperial documents in public, nor would he refrain from extending a hand to anyone he met for the sake of a single gold coin. For this period of no less than seven years, the state was a laughing stock.'²⁶⁷

Procopius' polemic aligns Junillus with Justinian by reproducing the accusations of demonism and corruption and distances him from his 'subordinates', who are inflated by their unified laughter into a coherent bureaucratic and legal culture. For those later generations who would look back on Justinian's tyranny through the *Secret History*, the passage casts Junillus as an outsider to this culture with an inadequate legal theory. The *Instituta* maintained its efforts to reach across the aisle in the culture war, but despite its receptivity to the merits of traditional rhetorical education, its offer was flatly rejected.²⁶⁸ The negative reception of the *Instituta* in Constantinople might partly explain why, by the 560s,

²⁶⁴ Bjornlie, "Elephants," p.155. Also Maas, *Exegesis and Empire*, pp.67–70; Bjornlie, *Politics and Tradition*, p.99.

²⁶⁵ *disciplinae ratio*. Valerianus, *Homily* 1.1 = PL 52.692c.

²⁶⁶ Lanata, *Legislazione e natura*, pp.221–46.

²⁶⁷ 'Ιούνιλον... νόμου μὲν οὐδὲ ὅσον ἀκοὴν ἔχοντα... οὐδὲ τὴν γλῶσσαν αὐτὴν ἐλλήνιζεν δυνάμενον (πολλάκις ἀμέλει φωνὴν Ἑλληνίδα προθυμηθεὶς ἀφεῖναι πρὸς τῶν ὑπηρετούντων γέλωτα ὦλθεν), ἐς δὲ τὴν αἰσχροκέρδειαν δαιμονίως ἐσπουδακότα, ὅς γε γράμματα μὲν τὰ βασιλέως ἐν δημοσίῳ ἀπεμπολῶν ὡς ἥκιστα κατεδύετο. ἐνὸς δὲ στατήρος χρυσοῦ ἕνεκα τὴν χεῖρα ὀρέγειν τοῖς ἐντυγχάνουσιν οὐδαμῆ ὠκνεῖ. οὐχ ἥσσόν τε ἢ ἐπτά ἐνιαυτῶν χρόνον τοῦτον ἡ πολιτεία τὸν γέλωτα ὦφλεν. Procopius, *SH* 20.17–19.

²⁶⁸ Above, 1.IV.A.

the Justinianic régime had rethought its policy for managing the culture war and commissioned wholly separate classicising and biblicising performances for the rededication of the Hagia Sophia.²⁶⁹

The *Instituta* was not primarily an attempt to speak to men like Procopius. To uproot the conception of nature embedded in classical culture, the régime turned to different authorities. The *Constitutio tanta* offers a jurisprudential history of the idea that nature's variations require a legislative 'remedy'.²⁷⁰

'This was not first said by us but descends from our ancient forefathers. Julian himself, the most precise composer of laws and of the Perpetual Edict, stated in his own books that, if anything should be discovered to be imperfect, it should be amended by imperial decree. And not only he, but also the divine Hadrian...'²⁷¹

Lanata and Maas both rightly note that Julian 'did not say anything about the force or agency of Nature in the original passage'.²⁷² Justinian took an authentically Julianic principle and recontextualised it to manufacture a classical, jurisprudential tradition for the ideology of mutable nature. The *Constitutio tanta* fashions a spurious classicising basis for nature's variations to match the *Instituta*'s exegetical basis.

The consistent nautical vocabulary of the *Novels* unites these parallel codes. *Novel* 98 of 539, for example, carefully assembles a comparison between the emperor and a steersman:

'Things that are always the same have no need of variable laws. They possess an unbroken simplicity, untainted by all variation, and are furnished with laws that are eternal, divine, and need no correction. But that which is enclosed within the tumultuous waves of our world needs the skill of a steersman, by means of the laws, to be applied to its affairs.'²⁷³

²⁶⁹ Above, 1.IV.B.

²⁷⁰ *remedium*. J. Digest C. Tanta 18.

²⁷¹ ... *hoc non primum a nobis dictum est, sed ab antiqua descendit prosapia: cum et ipse Iulianus legum et edicti perpetui subtilissimus conditor in suis libris hoc rettulit, ut, si quid imperfectum inveniatur, ab imperiali sanctione hoc repleatur. Et non ipse solus, sed et divus Hadrianus...* J. Digest C. Tanta 18.

²⁷² Maas, "History and Ideology," p.29. See also Lanata, *Legislazione e natura*, p.169.

²⁷³ τὰ μὲν αἰεὶ καὶ ὡσαύτως ἔχοντα νόμων οὐ δεῖται ποικίλων, τὸ ἀπλοῦν τε καὶ πάσης ποικιλίας ἀμιγῆς διηνεκῶς κεκτημένα καὶ χρώμενα νόμοις αἰώνιοις τε καὶ θείοις καὶ οὐδεμιᾶς ἐπανορθώσεως δεομένοις· τὸ δὲ καθ' ἡμᾶς ἐν τῇ τῆς παλιρροίας ἀπειλημένον ταραχῇ κυβερνητικῆς δεῖται σοφίας ἐκ τῶν νόμων ἐπιγινομένης τοῖς πράγμασιν. J. Nov. 98.pr.

This preface is founded on the same distinction between stable divine and mutable temporal nature as the *Instituta*. Its metaphor operates on a profound shift of narrative perspective from Valerianus' sermon, which looks upon the sea from the land:

‘Is it without discipline that the tides of so great a sea are restrained by the low-lying coast of the earth, that the waves, frequently whipped up taller than a mountain by the winds, are enclosed in their basin?’²⁷⁴

Valerianus proves his ‘system of discipline’ by observing the breaking of the waves. *Novel* 98 reconfigures the analogy, locating the temporal world wholly ‘within the tumultuous waves’ and out of sight of the shore, so that the ‘system of discipline’ that renders nature predictable is fully unintelligible to humans. Careful wordplay enhances the point. The ‘simplicity’ of the divine is only an aspiration mark away from ‘unseaworthiness’.²⁷⁵ The variable sea belonged to the human perspective only.

This perspective shift is accomplished by the metaphor of the ship of state. The *Novels* frequently represent the emperor as a ‘steersman’ or in the process of ‘steering’.²⁷⁶ This was a distinctively Platonic metaphor.²⁷⁷ *Novel* 98 therefore implicitly suggests that a philosophy inquiry into the natural world would contradict Valerianus’ idea that it was possible for humans, not just God, to know *how* ‘the waves... are enclosed in their basin’ or predict their patterns.²⁷⁸ In 536, *Novel* 39 had already introduced this idea and vocabulary:

‘The fluctuation and variation of human nature requires remedy after remedy and cannot otherwise return to a good state, even if somebody should have steered it from its first principles, without quelling each one of its swells and thereby calming it into an state of stillness, tranquillity, and conformity with the law. Something of this sort that has just happened has brought us to the necessity of this law.’²⁷⁹

²⁷⁴ *numquid sine disciplina est, quod tanti maris fluctus humili terrarum littore continentur, et in suo sinu frequenter incitata ventis altior aggere unda concluditur?* Valerianus, *Homily* 1.1 = PL 52.692c.

²⁷⁵ τὸ ἀπλοῦν. J. *Nov.* 98.pr.

²⁷⁶ κυβερνήσειεν. J. *Nov.* 39.pr. κυβερνᾶν. 69.4.1. κυβερνητικῆς. 98.pr.

²⁷⁷ D. Keyt, “Plato and the Ship of State,” *The Blackwell Guide to Plato’s Republic*, ed. G. Santas (Oxford, 2006), pp.189–213.

²⁷⁸ *in suo sinu... unda concluditur?* Valerianus, *Homily* 1.1 = PL 52.692c.

²⁷⁹ τὸ ρευστὸν καὶ πεποικιλμένον τῆς ἀνθρωπίνης φύσεως καὶ τῆς κατὰ μικρὸν δεόμενον θεραπείας οὐκ ἄλλως εἰς τὸ καλῶς ἔχον ἐπανελθοῖ, κἂν εἰ τὰς πρώτας τις αὐτοῦ κυβερνήσειεν ἀρχάς, εἰ μὴ καὶ τὸ κατὰ μέρος αὐτοῦ ἐπανιστάμενον διαλύων οὕτως αὐτὸ καθισταίῃ πρὸς τὸ γαληνὸν τε καὶ ἀτάραχον καὶ νόμῳ πρέπον. ὅποιον δὴ τι καὶ νῦν ἐπελθὸν εἰς νόμου χρεῖαν ἡμᾶς κατέστησεν. J. *Nov.* 39.pr.

The vocabulary of ‘first principles’ is philosophical.²⁸⁰ *Novel* 39 argues that not even a philosopher-ruler, of the kind that the *Dialogue* would later advocate, could read the natural world sufficiently to prevent the need for frequent, responsive legislation. According to the Justinianic régime, nature was the same, variable, unpredictable sea, whether viewed through an exegetical, classicising, or philosophical lens.

As in the case of the rededication of the Hagia Sophia, the régime applied pressure to the classical side of the culture war. Justinian had mandated that ‘not a single judge... is to suffer proceedings to start unless the Holy Scriptures have first been placed before the judicial seat’ so that judges ‘will settle disputes with divine aid, knowing that they do not judge others more than they themselves are judged’.²⁸¹ He had also banned heretics from becoming advocates because ‘they more than most should understand the divine doctrines correctly, since their livelihood consists in words’.²⁸² This is not a claim that ‘knowledge of Roman legal techniques would lead to a correct understanding of Christian Scripture’.²⁸³ The association runs in the other direction; an incorrect understanding of scripture would cause legal incompetence. Even as Justinian theologised Roman law and legal practice, lawyers who studiously avoided doctrinal questions, like Procopius, would encounter no obstacles to practice on such grounds.²⁸⁴ As the régime promoted a Christianised legal cosmology, it also ensured that its justifications for frequent legislation retained traction in classicising and traditionalist circles.

4.V: Arguing to the Imperial Court

Justinian found great discursive potential in the *Novels*’ adaptable nautical vocabulary. *Novel* 69 of 538, for example, depicts nature as a meandering river:

²⁸⁰ τὰς πρώτας... ἀρχάς. *J. Nov.* 39.pr. See further: E. Rodriguez, “Aristotle’s Platonic Response to the Problem of First Principles,” *JHP* 58 (2020), pp.449–69; J. L. Zainaldin, “The Philosophical Justification for the Equant in Ptolemy’s *Almagest*,” *Phronesis* 62 (2017), pp.417–42.

²⁸¹ *omnes omnino iudices... non aliter litium primordium accipere, nisi prius ante iudicalem sedem sacrosanctae deponantur scripturae... ex maiore praesidio lites diriment scituri, quod non magis alios iudicant, quam ipsi iudicantur.* *CJ* 3.14.1–2.

²⁸² οὐ μὴν οὐδέ τοῖς σοφωτάτοις συντετάχθαι τῶν δικῶν ῥήτορσιν αὐτοὺς ἐῷμεν, οἷς οἰκειότερόν ἐστιν ἢ κατὰ τοὺς πολλοὺς τὸ τῶν θεῶν δογμάτων ὀρθῶς αἰσθάνεσθαι, ὅσπερ καὶ τὸν βίον ἐν λόγοις ἔχουσιν. *CJ* 1.5.12.8.

²⁸³ Humfress, “New Legal Cosmos,” p.655.

²⁸⁴ Sarris, “At the Origins,” pp.407–22.

‘Nature is always flowing, unfolding into many irresistible turns that are neither foreseen nor foretold easily. Only God, and following God the emperor, is capable of steering through these bends moderately and fairly.’²⁸⁵

This vocabulary routinely falls out of English translations but is essential to understanding how political debate about the emperor’s relationship to the law took place in the sixth century.²⁸⁶ Because the mutability of nature formed such a repeated and powerful justificatory discourse, imperial subjects sought to co-opt, harness, and resist it. As in the cases of the discourse of lawful rule, the imperial idea, and Justinian’s sleeplessness, Romans found it preferable to operate with and within the terms of imperial propaganda than to reject them. Agapetus, Lydus, Procopius, and the *Dialogue* all tactically manipulated the *Novels*’ argument from mutable nature for their own political ends.

4.V.A: Repackaging the Ship of State in the Advice

In its attempts to ideologise a mutable conception of nature, the régime found support from its most prolific devolved propagandist, Romanos. *On the Raising of Lazarus II* begins its final strophe with a call that ‘we should all hate fluctuating matter’ and hasten instead to Christ.²⁸⁷ *On Life in the Monastery*, composed at the height of the *Novels*’ campaign to establish nature’s variability, insists that ‘the temporal world is always changing’.²⁸⁸ The temporal world is therefore distinct from the ‘unchangeable’ divine, represented by ‘the seal of Christ’ and ‘the joy of the psalm’.²⁸⁹ Romanos’ kontakia were exegetical endeavours and, taking their cue from the *Novels*, began to perform exegesis that underscored the régime’s conception of the temporal world in the 530s.²⁹⁰

Agapetus further disseminated the *Novels*’ mutable conception of nature. He advises that the emperor display a personal constancy in the face of the temporal world’s instability:

²⁸⁵ ῥέει δὲ ἡ φύσις ἀεὶ εἰς πολλὰς καὶ ἀμηχάνους ἐξελιπτομένη τροπὰς, ἃς οὔτε προῖδέσθαι ῥάδιον οὔτε προειπεῖν, θεοῦ μόνου καὶ βασιλέως ἀκολουθοῦντος θεῷ ταύτας κυβερνᾶν μετρίως τε καὶ ἐπιεικῶς δυναμένου. *J. Nov.* 69.4.1.

²⁸⁶ Scott, *Civil Law* preserves none of the nautical vocabulary. J. H. Blume, *Justinian Novels* ed. T. G. Kearley (Laramie, WY, 2010) preserves only a ‘stream’ in *Novel* 69. Miller & Sarris, *Novels* preserves only the river of *Novel* 69 and the waves of *Novel* 98.

²⁸⁷ Romanos 15.18.1. Compare Carpenter, *Kontakia of Romanos 1*, p.156 n.18, which notes the lack of a biblical intertext for the passage but does recognise the contemporary intertexts in the *Novels*.

²⁸⁸ ὁ γὰρ κόσμος ἐκάστοτε τρέπεται. Romanos 55.2.1. Dating: Arentzen, *The Virgin in Song*, p.78.

²⁸⁹ σφραγίδα Χριστοῦ / ἀπαράλλακτος γὰρ ἡ χαρὰ τοῦ ψαλμοῦ. Romanos 55.3.5, 4.5.

²⁹⁰ Lingas, “Liturgical Place of the Kontakion,” pp.50–52; Frank, “Romanos and the Night Vigil,” pp.59–78.

‘A wheel of human affairs runs round and round, carrying them sometimes one way and then back another. The inequality in these affairs is because nothing presently current will stay in the same state. So it is necessary, mightiest emperor, that within the rapid changes of these affairs you keep your pious reasoning unchanged.’²⁹¹

At the same time, however, Agapetus repackages this conception of the temporal world with his redistributionist politics. His somewhat awkward insertion of ‘inequality’ into this passage, which Bell terms a ‘puzzling choice of words’, is intended to foreshadow his later proposal for ‘turning inequality into equality’.²⁹² In passages already analysed in relation to imperial sleeplessness, the *Advice* further agrees that Justinian was the steersman of the ship of the state:

‘As a steersman, the many-eyed mind of the emperor is continually sleepless, steadfastly holding the rudder of good order and forcefully repelling the torrents of lawlessness so that the ship of the universal state does not founder in the waves of injustice.’²⁹³

Here, Agapetus redefines some of the constituent elements of Justinian’s metaphor. While the emperor remains a steersman, his task was not just to use the law to steer the ship through the ‘tumultuous waves of our world’ but specifically through the ‘waves of injustice’. Agapetus glosses these waves even more pointedly when he depicts Justinian as having safely brought the ship to port:

‘Everyone in need of pity takes anchor in the harbour of your calm and, having been delivered from the waves of poverty, they send grateful hymns up to you.’²⁹⁴

The *Advice* continues to reproduce imperial propaganda, as with the notion of praying hymns for Justinian, but it is repackaged and redefined propaganda.²⁹⁵ Agapetus capitalises on Justinian’s self-representation as a steersman grappling with the waves of mutable nature to offer the emperor a safe route through the ‘waves of poverty’ and into ‘harbour’.

²⁹¹ κύκλος τις τῶν ἀνθρωπίνων περιτρέχει πραγμάτων, ἄλλοτε ἄλλως φέρων αὐτὰ καὶ περιφέρων· καὶ τούτοις ἀνισότης ἐστὶ τῷ μηδὲν τῶν παρόντων ἐν ταυτότητι μένειν. δεῖ οὖν σε, κράτιστε βασιλεῦ, ἐν τῇ τούτων ἀγχιστρόφῳ μεταβολῇ ἀμετάβλητον ἔχειν τὸν εὐσεβῆ λογισμόν. Agapetus, *Advice* 11.

²⁹² πρὸς ἰσότητα τὴν ἀνισότητα μετενεκτέον. Agapetus, *Advice* 16; Bell, *Three Political Voices*, p.104 n.22.

²⁹³ ὡς κυβερνήτης ἀγρυπνεῖ διαπαντὸς ὁ τοῦ βασιλέως πολυόμματος νοῦς, διακατέχων ἀσφαλῶς τῆς εὐνομίας τοὺς οἴακας καὶ ἀπωθούμενος ἰσχυρῶς τῆς ἀνομίας τοὺς ρύακας, ἵνα τὸ σκάφος τῆς παγκοσμίου πολιτείας μὴ περιπίπτῃ κύμασιν ἀδικίας. Agapetus, *Advice* 2.

²⁹⁴ τῷ λιμένι τῆς σῆς γαληνότητος πάντες προσορμῶσιν οἱ ἐλέους δεόμενοι καὶ τῶν κυμάτων τῆς πενίας ἀπαλλαττόμενοι εὐχαριστηρίους ὕμνους σοι ἀναπέμπουσιν. Agapetus, *Advice* 52.

²⁹⁵ Hymns: e.g. J. Nov. 8 Edict 2.

For the third time in this study, Agapetus' readers encounter Justinian's own propaganda as a promise to deliver his subjects from poverty by redistributing the wealth of the rich.

4.V.B: Time over Nature in *On Powers*

Lydus built his theory of imperial restoration on an unstable metaphysics of tradition, demanding a more active, sleepless emperor than Zosimus had:

'Time is skilled at both eating up and overturning the things allotted both generation and corruption simultaneously, but the emperor's virtue is something so great that the formerly destroyed characteristics of the state await their regeneration through it.'²⁹⁶

This theory of time is drawn from Aristotle's treatise *On Generation and Corruption*, which Maas claims Lydus 'did not understand'.²⁹⁷ Maas's primary objection is that Lydus incorrectly attributes Aristotelian 'substance' to human institutions like magistracies.²⁹⁸ Yet Lydus knowingly signals his departure from Aristotle in his statement of philosophical 'operating principles'.²⁹⁹ He claims that, from a historical perspective, Aristotle's temporal cycle of generation and corruption has indeed turned out to apply directly to 'the archetypal pattern of our state'.³⁰⁰ *On Powers* is not a misinformed attempt at Aristotelian philosophy. It is self-consciously a politically and historically inflected development on Aristotle.

The relationship between *On Powers* and *On the Months* makes this inflection clear. Aristotle's generation and corruption occur in a cyclical, 'continuous' relationship driven by the passage of time, concurrent with non-cyclical process of 'alteration'.³⁰¹ *On the Months* reproduces this theory relatively faithfully in its first extant passage, where 'time is simultaneously the father and destroyer of those things that it produces' and, separately, 'loves to change things'.³⁰² In *On Powers*, however, time is only the 'destroyer' of 'the things allotted both generation and corruption'.³⁰³ This is not an inconsistency or development in

²⁹⁶ δεινὸς δὲ ὁ χρόνος ἐκφαγεῖν τε καὶ ὑπεργάσασθαι τὰ γένησιν ἅμα καὶ φθορὰν εἰληχότα ἀλλ' ἢ βασιλέως ἀρετὴ τοσαύτη τίς ἐστίν, ὥστε παλιγενεσίαν δι' αὐτοῦ τὰ τῆς πολιτείας γνωρίσματα πρὶν ἐξολωλότα καταδοκεῖν. Lydus, *Powers* 2.5.

²⁹⁷ Maas, *John Lydus*, p.85.

²⁹⁸ Ibid. pp.84–85.

²⁹⁹ Ibid. p.75.

³⁰⁰ τὴν ἀρχέτυπον τῆς καθ' ἡμᾶς πολιτείας ὄψιν. Lydus, *Powers* 2.23.

³⁰¹ συνεχόως. Arist. *GC* 337a25. ἀλλοίωσις. 319b6–320a8.

³⁰² τὸν χρόνον πατέρα τε ἅμα καὶ ὄλεθρον τῶν ὑπ' αὐτοῦ φυομένων γίνεσθαι... φιλεῖ γὰρ ὁ χρόνος ἐναμείβειν τὰ πράγματα. Lydus, *Months* 1.1–2.

³⁰³ τὰ γένησιν ἅμα καὶ φθορὰν εἰληχότα. Lydus, *Powers* 2.5.

Lydus' thought. *On the Months* is not a cultural or religious treatise 'without a political message' but a prequel to *On Powers*.³⁰⁴ It is described in the preface to *On Powers* as a study of 'the former priests [who] later became the magistrates of the Roman government'.³⁰⁵ Since Lydus had already treated these archaic offices, 'it therefore remains to discuss the political offices and how they changed from a priestly order into a political form'.³⁰⁶ *On Powers* then describes itself as a 'history'.³⁰⁷ *On the Months* is a snapshot of the start of Roman history, when time worked as Aristotle had claimed; *On Powers* then proves from a historical narrative that time is really a force of corruption.

Lydus roots his licence to develop Aristotle in a carefully constructed philosophical authority, all the more important given his cursory training.³⁰⁸ His earlier treatises frequently merge his own opinions with those of 'the philosophers' or 'the natural philosophers', often in contradistinction to the incorrect speculations of other groups.³⁰⁹ *On Powers* establishes an intellectual genealogy linking Lydus with 'the most important philosopher of the Athenian school', Proclus.³¹⁰ It quotes Christodoros' assessment of Lydus' teacher, Agapius, as 'the very first of all men' in a now lost text '*On the Pupils of Proclus the Great*'.³¹¹ Even readers not *au fait* with Neoplatonic celebrity, therefore, were clearly presented with Lydus' (exaggerated) heavyweight philosophical credentials.

Lydus' authoritative historicisation of *On Generation and Corruption* supports his modification of Zosimus' stable metaphysics of tradition and his argument for a sleepless, restoring emperor. It was also a response to Justinian's insistence that legal innovations were caused by nature. The régime partially made its case through its own rethinking of Aristotle; Junillus had counted 'being generated and corrupted' among 'the chance occurrences of nature'.³¹² Lydus claims instead that an expert Aristotelian and historian (such as himself) should understand that corruption was a function of decline over time, not variation in nature. The consequence of this analysis is that the emperor should be restoring

³⁰⁴ Maas, *John Lydus*, pp.55–56; also Kaldellis, "Religion of Ioannes Lydos," p.311.

³⁰⁵ ἱερέας γενέσθαι τὸ πρὶν τοὺς ὕστερον ἄρχοντας τοῦ Ῥωμαίων πολιτεύματος. Lydus, *Powers* pr.

³⁰⁶ ὥστε ὑπόλοιπον περὶ τῶν πολιτικῶν ἀφηγήσασθαι ἐξουσιῶν καὶ ὅτι ἀπὸ ἱερατικῆς τάξεως ἐπὶ τὸ πολιτικὸν μετεφύησαν σχῆμα. Lydus, *Powers* pr.

³⁰⁷ τῆς ἱστορίας. Lydus, *Powers* 2.7.

³⁰⁸ Lydus, *Powers* 3.26–27; Kelly, *Ruling*, pp.45–46.

³⁰⁹ οἱ φιλόσοφοι. Lydus, *Months* 4.70. οἱ φυσικοί. *Months* 4.27. See also: *Months* 2.6, 4.62, 4.78, 4.144; *Signs* 4, 23.

³¹⁰ O'Meara, *Platonopolis*, pp.19–20.

³¹¹ Ἀγάπιος... πρῶτιστος ἀπάντων / Περὶ τῶν Ἀκροατῶν τοῦ Μεγάλου Πρόκλου. Lydus, *Powers* 3.26.

³¹² *accidentibus naturae... generari, corrumpi*. Junillus, *Instituta* 2.11.

corrupted traditions, based on ancient data, and not producing new legislation in response to new problems.

Procopius makes the same movement:

‘The great span of time that has passed since those [ancient histories] were written down and that always produces innovations in affairs has been able to change many formerly established conditions into something new.’³¹³

This attribution of innovation to the passage of time mirrors Lydus’ philosophy and locates an authoritative version of the Roman state and laws in antiquity. Together or independently, Lydus and Procopius settled on the use of time to contest the imperial régime’s use of nature. Their tactic was not lost on the trained lawyer and classicising poet Agathias, who makes an oblique, negative comment about their argument in an otherwise erotic epigram:

‘Slender Melite, on the threshold of long old age, has not stowed away the grace of her youth, but her cheeks still gleam and her eye has not forgotten how to beguile. Her decades are not few but she retains a girlish pride. From this, I have learned that time is incapable of prevailing over nature.’³¹⁴

The closing line makes sense both on its own terms and in a sixth-century tradition of erotic poetry about women named Melite.³¹⁵ Yet given the political charge attached to the terms χρόνος and φύσις, it also reads as a claim that the imperial argument from mutable nature had withstood its Aristotelian assault.³¹⁶ Agathias’ literature, after all, is a project of compromise that routinely combines imperial politics and erotic themes.

4.V.C: Looking Out the Window in the Buildings

The *Wars*’s emphasis on the innovations of time is logically consistent with its praise for Theoderic ‘firmly preserving the laws’.³¹⁷ For Lydus and Procopius, laws did not need to be updated to keep pace with nature but preserved in their original state against the influence of time. While Procopius’ oeuvre is relatively unified in terms of its political thought, however,

³¹³ μέγας αἰὼν μετὰ τοὺς ἐκεῖνα ἀναγραψαμένους ἐπιγενόμενος αἰεὶ τε συννεωτερίζων τοῖς πράγμασι τὰ πολλὰ τῶν καθεστώτων τὰ πρότερα νεοχμῶσαι ἴσχυσεν. Procopius, *Wars* 8.1.11. See also 3.11.4 and Greatrex, “Procopius and the Past,” pp.71–72.

³¹⁴ ἡ ῥαδιὴ Μελίτη ταναοῦ ἐπὶ γήραος οὐδῶ τὴν ἀπὸ τῆς ἡβῆς οὐκ ἀπέθηκε χάριν, ἀλλ’ ἔτι μαρμαίρουσι παρηΐδες, ὄμμα δὲ θέλγειν οὐ λάθε· τῶν δ’ ἑτέων ἢ δεκάς οὐκ ὀλίγη· μίμνει καὶ τὸ φρούαγμα τὸ παιδικόν· ἐνθάδε δ’ ἔγγων ὅτι φύσιν νικᾶν ὁ χρόνος οὐ δύναται. Agathias, *Ep.* 78 = *AP* 5.282.

³¹⁵ Smith, *Greek Epigram*, pp.214–16.

³¹⁶ χρόνος and φύσις: Greatrex, “Procopius and the Past,” p.71.

³¹⁷ τοὺς νόμους ἐν τῷ βεβαίῳ διεσώσατο. Procopius, *Wars* 5.1.26–27.

its different components attempt different tactics for resisting the régime's argument from mutable nature. The *Buildings* invites Constantinople's residents to look out their windows upon the Golden Horn, a peaceful body of water that disproves the *Novels'* claims about the 'tumultuous waves of our world':

'You might suppose yourself to gaze at a stream, moving before you with a gentle current... This bay is ceaselessly calm and nature has not at all disposed it to being disturbed, as if boundaries had been fixed right here for the waves and all turbulence shut out of the bay in the city's honour. In winter, should crashing winds happen to assault the open seas and the strait, ships, whenever they come to the entrance of the bay, cover the remaining distance without a steersman and come to anchor without forethought. For the perimeter of the bay extends more than forty stades and every inch is a safe harbour, so that when a ship is anchored there, the stern is lifted upon the sea and the prow sits upon the land, as if the elements were competing with each other over which one would be more able to furnish service to the city.'³¹⁸

This passage manages the transition from the central to the suburban churches; water is 'a significant structuring element within and between set pieces' in the *Buildings*.³¹⁹ It is also intertextually constructed against the justificatory discourse of the *Novels*. Procopius makes this explicit by noting that 'nature has not at all disposed [the bay] to being disturbed'.

The passage's claim that the reader who looks out to sea would see 'a stream... with a gentle current' rejects *Novel* 69's invitation to imagine 'nature' as a river 'always flowing into many irresistible turns'.³²⁰ Its insistence that the bay is 'ceaselessly calm' and without 'turbulence' rejects *Novel* 39's claim that the 'swells' of nature's waves must be actively 'quelled' by legislation.³²¹ Its statement that, from Constantinople, it is possible to see that 'boundaries had been fixed right here for the waves' corrects *Novel* 98's adjustment of Valerianus' metaphorical perspective.³²² Justinian's metaphor locates the whole temporal

³¹⁸ δόξαις ἂν ποταμὸν τεθεᾶσθαι ἐπίπροσθεν προσηνεῖ τῷ ρεῖθρῳ ἰόντα... πραΰνεται δὲ διηνεκὲς ὁ κόλπος οὗτος καὶ ἀναθλοῦσθαι οὐδαμῆ πέφυκεν, ὥσπερ ὀρίων τῷ κλύδωνι κειμένων ἐνταῦθα καὶ σάλου τὸ ἐνθένδε παντὸς τῆς πόλεως εἰργομένου τιμῆ. χειμῶνος δὲ, ἂν οὕτω τύχη, καὶ ἀνέμων σκληρῶν τοῖς τε πελάγεσι καὶ τῷ πορθμῷ ἐπιπεσόντων, ἐπδειδὰν ἐς τὴν εἴσοδον ἴκωνται τοῦ κόλπου αἱ νέες, ἀκυβέρνητοί τε τὸ λοιπὸν ἴασι καὶ ἀπροβουλεύτως ὀρμίζονται. ἐς σταδίου μὲν γὰρ πλεῖν ἢ τεσσαράκοντα τὸ περίμετρον τοῦ κόλπου διήκει, λιμὴν δὲ ὅλος πανταχῆ ἐστίν· ὥστε ἀμέλει ὀρμιζομένης ἐνταῦθα ἡνὸς ἢ μὲν πρύμνα τῆς θαλάσσης ἐπῆρται, ἢ δὲ πρῶρα ἐν τῇ γῆι κάθηται, ὥσπερ ἀλλήλοισ τῶν στοιχείων ἀμιλλωμένων, ὁπότερον ἂν αὐτοῖν δύναιτο μᾶλλον τὴν ἐς τὴν πόλιν ἐνεργολαβεῖν ὑπουργίαν. Procopius, *Buildings* 1.5.7–13.

³¹⁹ Pickett, "Water and Empire," p.105.

³²⁰ ποταμὸν... προσηνεῖ τῷ ρεῖθρῳ. Procopius, *Buildings* 1.5.7. ῥέει δὲ ἡ φύσις αἰεὶ εἰς πολλὰς καὶ ἀμηχάνους ἐξελιπτομένη τροπὰς. J. Nov. 69.4.1.

³²¹ πραΰνεται δὲ διηνεκὲς / σάλου. Procopius, *Buildings* 1.5.11. ἐπανιστάμενον διαλύων. J. Nov. 39.pr.

³²² ὀρίων τῷ κλύδωνι κειμένων ἐνταῦθα. Procopius, *Buildings* 1.5.11.

world within the sea, with no coast in sight. The *Buildings* makes the sardonic response, to a notoriously sedentary emperor, that the coast was visible from the city. Since Justinian's justification for his frequent legislation could be disproved so easily, there was no need for an imperial 'steersman' to wield the laws so actively. Procopius indeed points to ships sailing through the bay 'without steersmen'.³²³

Procopius found Constantinople's bays to be productive discursive sites of resistance. The *Secret History* treats them as sites of waste, as Justinian squanders wealth on coastal buildings, and of extraction, as imperial officials plunder cargo ships in the course of collecting customs duties.³²⁴ In this case, however, it is the *Buildings* that engages more closely with the *Novels*. Justinian had twice legislated to prohibit construction that blocked the 'sea view' of existing homes on the grounds that this would 'make other people's homes lack all delight for their owners'.³²⁵ These measures associate the régime with the aesthetics of Constantinople's propertied classes and offer an image of an emperor who gazed onto the bay himself. The *Buildings* highlights a tension between this version of the emperor and the steersman of the ship of state, pointing out that the nature seen by the former was so stable that the latter's justification for frequent legislation was unfounded.

Like Lydus, Procopius was highly alert to the fissures, inconsistencies, and dissimulations in imperial propaganda and to how they might be exposed in political literature. The *Buildings* crafts a traditionalist image of the praiseworthy emperor in its selective praise, represents Justinian as a tyrant to posterity through its relationship with the *Secret History*, and resists the justificatory discourse of the *Novels* through a description of the Golden Horn. Significantly, Procopius' epitomiser appears to have recognised the oppositional message of this description; he strips out all references to the bay's calmness and unsteered ships, leaving only a brief description of how the bay 'beautifies the city'.³²⁶ The epitomiser seems to have been in touch enough with Justinianic debate to recognise Procopius' intertextual tactic for puncturing imperial propaganda, even when this was a tactic as simple as asking readers to look out the window (albeit only onto a carefully crafted political vista).

³²³ ἀκυβέρνητοί. Procopius, *Buildings* 1.5.12.

³²⁴ Procopius, *SH* 8.7–8, 25.1–10, 26.23.

³²⁵ θαλάττης ἄποψις / πάσης τέρψεως ἀλλοτρίας τὰς τῶν κεκτημένων καθιστᾶσιν οἰκίας. *J. Nov.* 63.pr. Also 165, an epitome of a further constitution on the subject.

³²⁶ καλλωπίζουσι... τὴν πόλιν. Procopius, *Buildings* 1.5.3, short recension. Text: Rhenanus, *Procopii Caesariensis*, p.6 of the appended edition of the *Buildings*.

4.V.D: Co-Opting Propaganda in the *Dialogue*

As Bjornlie shows, the *Dialogue* constructs a fixed model of nature capable of guiding lawgiving.³²⁷ It expresses its argument within the logical structure and vocabulary of the *Novels*. In its discussion of the capacity of the ‘farmer’, the ‘herdsman’, and ‘even animals without reason’ to read and predict the patterns of the natural world, the *Dialogue* turns explicitly to the steersman:³²⁸

‘It would be paradoxical for the steersman to be able to take the rising and setting of stars, and furthermore the generation of clouds, as a sign of a storm or a calm sea or of more violent or weaker winds... but the steersman of the state, there being some natural foresight in the others, not to have something by which he could foresee the movements and changes of the state.’³²⁹

Like the *Buildings*, the *Dialogue* describes a practically observable phenomenon, the navigational ability of sailors, that contradicts the régime’s claims about the unpredictable mutability. At this point, the texts diverge. Procopius describes ships ‘without steersmen’ and ‘without forethought’.³³⁰ The *Dialogue*, meanwhile, develops a case for a philosopher-ruler through whom political knowledge might be mediated from the divine to imperial subjects.³³¹ It accordingly deploys the ‘natural foresight’ of farmers and sailors to demonstrate that a suitable emperor must possess the same quality.³³² The *Dialogue* therefore accepts that nature undergoes ‘movements and changes’ but denies their unpredictability, returning to Valerianus’ fixed, decipherable patterns of nature. It does so within the nautical rhetorical framework that the *Novels* had generated to uproot these patterns.

As with Procopius’ and Lydus’ praise for Theodora and Justinian’s legal clarifications, the *Dialogue* mobilises imperial propaganda against the régime. The *Novels* that mention nature insist that its innovations cannot be ‘foreseen or foretold’.³³³ In other constitutions,

³²⁷ Bjornlie, *Politics and Tradition*, pp.266–67.

³²⁸ γεωργόν... βουκόλον... καὶ ζῶων ἀλόγων. *DPS* 5.141–43.

³²⁹ ἄτοπον γὰρ... σημεῖον ποιεῖσθαι... κυβερνήτην δὲ χειμῶνος καὶ γαλήνης ἀνέμων τε σφοδροτέρων καὶ πραοτέρων ἀστέρων γε μὴν ἐπιτολάς τε καὶ κρύψεις, ἔτι δὲ καὶ νεφῶν γενέσεις... ἄλλα ἐπ’ ἄλλοις φυσικὴν τινα πρόγνωσιν, πολιτείας δὲ κυβερνήτην μὴ ἔχειν ὅτῳ τὰς τῆς πολιτείας προορῶν κινήσεις τε καὶ μεταβολάς. *DPS* 5.140–43.

³³⁰ ἀκυβέρνητοί... ἀπροβουλεύτω. Procopius, *Buildings* 1.5.12.

³³¹ O’Meara, “The Justinianic Dialogue,” p.54.

³³² φυσικὴν... πρόγνωσιν. *DPS* 5.143.

³³³ προῖδέσθαι... οὔτε προειπεῖν. *J. Nov.* 69.4.1.

however, Justinian sometimes proclaims his ‘foresight’ as a justification for preventative legislation.³³⁴ By attributing foresight to its philosopher-emperor, the *Dialogue* targets this inconsistency in Justinian’s self-representation. It confronts its reader with the same question latent in *On Powers*’s collision between Justinian’s sleeplessness and John’s crimes or in the *Buildings*’s contradiction between the emperor who admired a sea view and the imperial steersmen who never saw the shore. From the *Dialogue*’s perspective, the emperor either did not possess the foresight (or, for Lydus, the sleeplessness) that he claimed to possess, in which case he was not fit to be the *Dialogue*’s philosopher-ruler (or Lydus’ agent of regeneration), or did possess it, in which case he had maliciously concocted plots against tradition by legislating on dissimulated grounds (or turning a blind eye to his prefect’s innovations). The traditionalists of the 550s exhibit a variety of political positions, intellectual methods, and preferred traditions but they embarked on shared literary projects, each tracing paradoxes and fissures in imperial propaganda. Their Constantinople was home to a vibrant intellectual culture in which men opposed to the régime formulated joint strategies for resisting and deflating imperial propaganda.

4.V.E: Debating within a Propaganda Framework

The traditionalist response to Justinian’s mutable conception of nature was therefore not quite as simple as Bjornlie suggests. He argues that Cassiodorus reasserts the natural fixity that the régime had tried to dismantle.³³⁵ The *Variae* reproduce Zosimus’ stable legal tradition in which emperors must not intervene:

‘The custom of the ancients was to determine new laws so that they might supply whatever seemed neglected to those who came after, but now it is completely sufficient to preserve in good conscience the ancients’ decrees. Earlier humans subject to this novelty were distressed when they realised that the regulation of their lives depended on the will of another man, but now everything not doubted by the ancients to have been completely satisfactorily established has been recognised as fixed. The laws are therefore sufficient for us, should the exceptional will not be found wanting.’³³⁶

³³⁴ e.g. ἡ ἡμετέρα πρόνοια. J. Nov. 112.2.

³³⁵ Bjornlie, *Politics and Tradition*, pp.268–82.

³³⁶ *priscorum mos fuit nova iura decernere, ut succedenti populo aliquid quod omissum videbatur adiungerent; nunc autem sufficiens satis conscientiae veterum decretal servare. erat ante genus hominum sub hac novitate sollicitum, dum regulam vitae suae in aliena cognoscerent voluntate pendere; modo vero unusquisque novit*

This passage occurs at the start of an edict in Cassiodorus' name, addressed to the Gothic provinces. Like all *Variae*, it was heavily edited to sell 'the political rehabilitation of the Italian élite' to Constantinople's traditionalists.³³⁷ In Cassiodorus' historical thought, the expulsion of the kings and the republican pruning of royal legislation represents the moment at which all new legislation became illegitimate. The emperor must not tamper with an inherited legal tradition that fixed nature has not at all disrupted between antiquity and the present.

This edict embeds a stark accusation against the legislating emperor. The 'exceptional will' in the closing protasis refers back to the 'will of another man' rejected by the early Romans.³³⁸ The constitutionally unrestrained emperor's will shall be 'found wanting' if it interferes with the legal tradition. The proper Roman response to new legislation, therefore, is to repeat the regicide that occurred when 'earlier humans were distressed' by their dependence on a single ruler. The *Variae* partially establish Cassiodorus' traditionalist and Roman credentials by arguing, like the *Buildings*, that active legislation was a mark of tyranny and should be resisted accordingly.

The *Variae* offer the most direct rebuttal of the *Novels*' argument for frequent legislation. Cassiodorus, however, could operate with relative freedom outside the framework of imperial propaganda, because, for most of his career, he was distant from the imperial centre. In Constantinople, where the *Novels* furnished a conception of mutable nature that was reproduced and ideologised by various literary propagandists and held the attention of political society, Romans found ways to resist or apply pressure to the régime from within its propaganda discourses. Agapetus, Procopius, and the *Dialogue* all develop different tactics for co-opting the imperial ship of state and putting it to work for their own ends. Even as it resisted and redirected them, sixth-century political debate was cued in by the *Novels*.

fixum, quod ab antiquis plenissime non dubitat constitutum. sufficiunt ergo vobis iura, si non desit voluntas eximia. Cassiodorus, *Variae* 11.8.1.

³³⁷ Bjornlie, *Politics and Tradition*, p.5.

³³⁸ *voluntas eximia / aliena... voluntate.* Cassiodorus, *Variae* 11.8.1, against all three of Bjornlie's different translations: Bjornlie, "Elephants," p.156 (omitted); Bjornlie, *Politics and Tradition*, p.226 ('if only that particular inclination should be found lacking'); M. S. Bjornlie, *The Variae: The Complete Translation* (Berkeley, CA, 2019), p.439 ('if their intent should not be exceedingly unclear').

4.VI: Same Ideas, Different Tactics

The sixth-century debate about the emperor's relationship to the law is marked by the trenchant nature of its battlelines. Zosimus and Cassiodorus share a view of the legal tradition across several decades and most of Justinian's rule. By the end of the codification project, the régime had already come to realise how much it needed a justificatory discourse for legislative activity that could subdue traditionalist opposition. The criticism of new legislation that was voiced in the 530s and reflected in *Novel* 60, however, continued to be voiced by Procopius, Lydus, and the author of the *Dialogue* in and around the 550s. The attempts that Justinian made to establish the mutability of nature in multiple cultural codes early in his reign mirror the parallel performances that he commissioned for the rededication of the Hagia Sophia in his old age. This debate did not develop towards a compromise on political ideas, in part due to the self-conscious nature of literary production; Procopius' oeuvre shows how sixth-century writers composed their texts with one eye on how they were representing themselves and their age to posterity's potential emulators. The régime and its most vocal opponents subscribed to two unchanging conceptions of the emperor's relationship to the law, one which expanded and one which minimised imperial authority over the legal tradition.

Instead, this debate developed towards new tactics for expressing and advancing these models of imperial authority. As the *Novels* generated a new, highly accessible discourse of nature to justify their project, so too did opponents of that project come to speak in the same discourse even as they resisted, obstructed, and exposed it. This political debate, in its legible literary form, was a process of co-opting, repackaging, and manipulating. Accessible discourses, whether brought to life by the discursive resources of the state (as in the case of the mutability of nature and all the other specific representations of Justinian's propaganda) or already embedded in the political and intellectual life of the late Roman empire (as in the case of the ideology of lawfulness), were the contested core of these processes of debate.

Much as Procopius successfully represented the age of Justinian as an age of tyranny to some modern scholars, so too were the traditionalists successful in the short term at shaping the reign of Justinian's successor. Corippus' *In Praise* presents its own sea view in response to Procopius' description of the Golden Horn:

‘One part [of the Sophiae palace] looks out onto the open sea, and another looks back onto the harbour, the harbour that the arms of the twin shores embraces, with walls alongside. The arms make the harbour disdain the rapid winds and calm the open sea inside the bay. They break the sea’s swells with a marble obstacle and, with their narrow throat, restrain the waves as they recede. That place, from which they were accustomed to gaze at the waves gently rolling in the strait and the curved keels of the ships carrying all the trades of the twin worlds, was beloved by the imperial couple.’³³⁹

Cameron suggests that Corippus describes this harbour ‘as a compliment to [its architect] Justin’.³⁴⁰ In a political culture where waves, sea views, and the bays of Constantinople had become so charged, however, Corippus’ rendition of Procopius’ view out the window onto a calm bay serves a further purpose. It was another attempt to draw a line under Justinianic debate, a promise to re-adopt the fixed conception of nature that suited the traditionalists.

Justin carefully formulated his legislative image against Justinianic debate, as a reported inscription from a statue before a law court reveals:

‘Domninus [built this statue of] divine Justin, the pure guardian of the laws, in the pure porticoes of Justice.’³⁴¹

The promise to be a ‘guardian of the laws’, recalling the traditionalist expressions of the emperor’s relationship to the law with which this study began, testifies to the discursive success of Justinian’s opponents (and to Cassiodorus’ astute political judgment in tailing the *Variae* to their sensibilities).³⁴² In the 550s, Justinian was still legislating enough to encourage the production of traditionalist literature. On his death, the oppositional statements of the *Wars*, the *Buildings*, *On Powers*, and the *Dialogue* took up new places in Justin’s own propaganda.

³³⁹ *pars prospicit una inmensum pelagus, pars respicit altera portum, portum quem geminae complexant brachia ripae moenibus adpositis, rapidos contemnere ventos et faciunt, praebentque salum statione quietum: aequoreos frangunt obiecto marmore fluctus, et prohibent refluxas angustis faucibus undas. gratior ille fuit dominis locus, unde solebant undivagum spectare fretum curvasque carinas omnia vectantes gemini commercia mundi.* Corippus, *In Praise* 1.102–11. See further Cameron, “Notes on the Sophiae,” pp.11–20.

³⁴⁰ Cameron, “Notes on the Sophiae,” p.14.

³⁴¹ θεῖον Ἰουστίνον, καθαρὸν φρουρήτορα θεσμῶν, Δομνίνος καθαροῖς ἐν προθύροισι Δίκης. *AP* 9.812.

³⁴² Above, 1.II.A.

Conclusion

It is not many years since it was *de rigueur* to proceed as if Romans in the age of Justinian did not debate their politics. In part, such assumptions are products of the orientalising mindset of “Byzantinism”, that modern artifice that has historically reserved Romanness and its attendant (masculine) virtues ‘exclusively [for] western, Latin-based cultures and institutions’ and that led Edward Gibbon to describe ‘the subjects of the Byzantine empire’ as a ‘dead uniformity’.¹ Political and intellectual servility are essential components of orientalism. Nonetheless, this study inclines towards a rather more sympathetic assessment of those architects of the narrow model of late Roman political culture left behind almost three hundred pages ago. When Barker proclaimed in 1957 that ‘the record of Byzantium in the field of social and political theory is a record of limited achievement’ and that imperial power was ‘sufficient to prevent any public discussion’, he was misled by but still speaking to a genuine quality of Roman political debate, at least in the sixth century.² The texts studied here routinely reiterate the talking points of Justinian’s propaganda and the standard ideological vocabulary of their culture.

They do so not, however, out of servility to power but as tactical engagements in political debate. Before this study, even under the newly recognised openness of Justinianic political culture, sixth-century political debate has primarily been understood to have operated through thematic correspondences, as writers offer different views on the same issue in an indirect dialogue. Only Procopius has made more tactical intrusions into the picture by inverting Justinian’s propaganda, whether casting his sleeplessness as a symptom of the demonic or attributing the divine sponsorship that Justinian claimed for himself to the Vandals from whom he had apparently liberated western Romans.³ By the end

¹ Kaldellis, *Byzantine Republic*, p.8; E. Gibbon, *The History of the Decline and Fall of the Roman Empire* (London, 1776–1788), vol.5, p.3. See further: E. Said, *Orientalism* (New York, NY, 1978); S. Runciman, “Gibbon and Byzantium,” *Daedalus* 105 (1976), pp.103–10; Averil Cameron, “Byzance dans le débat sur l’orientalisme,” *Byzance en Europe*, ed. M.-F. Auzépy (Paris, 2003), pp.232–50; P. Marciniak, “Oriental like Byzantium: Some Remarks on Similarities between Byzantinism and Orientalism,” *Imagining Byzantium: Perceptions, Patterns, Problems*, eds. A. Alshanskaya, A. Gietzen & C. Hadjiafxenti (Mainz, 2018), pp.47–54; L. Neville, *Byzantine Gender* (Amsterdam, 2019); Y. Stouraitis, “Is Byzantinism an Orientalism? Reflections on Byzantium’s Constructed Identities and Debated Ideologies,” *Identities and Ideologies in the Medieval East Roman World*, ed. Y. Stouraitis (Edinburgh, forthcoming).

² Barker, *Social and Political Thought*, pp.5, 19.

³ Scott, “Malalas, *Secret History*,” pp.99–109; Pazdernik, “Labors of War,” pp.149–87; Gador-Whyte, “Procopius and Justinian’s Propaganda,” pp.109–20; Croke, “Sleepless Emperor,” pp.103–8; Wood, “Being Roman,” pp.424–47.

of this study, the catalogue of sixth-century writers' tactical engagements in debate has dramatically expanded. To serve their political agendas, these writers repackaged and co-opted imperial propaganda, set it in new frameworks, continued and epitomised each other's texts, performed dramas in Christ's voice, traced the paradoxes and tensions of imperial propaganda, spoke in multiple cultural codes at once, carefully chose past Romans to characterise as heroes and villains, hid acceptable criticism behind figures of speech, selectively praised the emperor, described observable phenomena in pointed vocabularies, invented data backed up by well-crafted authoritative personas, mobilised aspects of structure, form, and genre, inflated and punctured their readers' expectations, cast aspersions on each other's motives, and did much more besides. Constantinople's political culture was marked by highly tactical, creative uses of discourse.

This is and can only be a distorted snapshot. It may be expanded to take account of other writers from various quarters of the capital's political society, like Jordanes, Leontius, and Peter the Patrician, but it must remain a textual study and therefore a study of tactical representations. Perhaps, in the invisible oral culture behind the sources, the 'rational debate' that Agathias valorises in his *Histories* really did take place. It is at least evident that likeminded men like Lydus and Procopius, through however many degrees of separation in a busy city of half a million people, came together in conversation to express their political views and formulate tactics for resisting, defending, or applying pressure to the imperial régime.⁴ Yet the reader of this study may by now suspect that Agathias, a proponent of compromise and reconciliation on both cultural and political questions, had more than just one pseudo-philosopher in mind when he criticised Uranius for 'not allowing the discussion to proceed in good order'.⁵ Agathias arrived in Constantinople in the 550s, at the height of a highly polemical and tactical debate between Justinian and the traditionalists, and remained in the capital to witness the public parade of classicising "pagans" in 562. Looking back on the period decades later, having given up his own subversive poetic endeavours, Agathias' project in part had become an anti-polemical campaign.

Whatever the nature of Constantinople's face-to-face political conversations, its texts belong to patterns of tactical manipulation and riposte. If one widely applicable conclusion may be drawn from this study, therefore, it should be the unavoidable necessity of

⁴ Population: A. Kaldellis, "The People of Constantinople," *The Cambridge Companion to Constantinople*, ed. S. Bassett (Cambridge, 2022), pp.50–51.

⁵ οὐ ξυνεχώρει ἐν κόσμῳ ἰέναι τὸν λόγον. Agathias, *H.* 2.29.6.

intertextual and contextualist readings of the source material. No other approach can make adequate sense of, for example, the defining contradiction in *On Powers* or Corippus' choice to structure *In Praise* around the theme of sleeplessness. Only in the recognition of the *Novels'* nautical vocabulary can the obvious political charge to Procopius' description of ships 'without steersmen' in a 'ceaselessly calm bay' emerge. The recent *Companion to Procopius* edited by Meier and Montinaro contains chapters on Procopius' classical allusions, later successors, and characterisations of contemporaries but no dedicated situation of the author himself in the traditionalist political current of his own time.⁶ It makes only a handful of references, all to illustrate limited points, to the man who in almost every respect was Procopius' political and tactical ally, John Lydus. Sixth-century scholars continue to feel more comfortable reading literary sources diachronically, where the lines of development, appropriation, and influence are reasonably clear, but it is in the messy synchronicities that the choices, motives, and vibrant debates that informed literary production most fully materialise.

In this tactical culture of debate, the range of contested issues was broad. Romans debated various domestic and foreign policies, cultural frameworks, types of discourse, questions of imperial authority, and yet more still; this is a study of process and not an exhaustive treatment of content. Zosimus may have written the final pagan history of the ancient world and articulated an antimonarchic scepticism that quickly became inoperative – even the *Dialogue* retains space for an emperor in its clearly aristocratic constitution – but his *New History* raises rather than lowers the curtain.⁷ On the first count, the progressive Christianisation of the Roman world left outright pagans marginalised or eradicated but produced by the sixth century a culture war between different kinds of Christians. On the second, Justinian's subjects agreed, out of ideological commitment or pragmatic realism, that the Roman state must have a lawful emperor but disagreed about what kind of an emperor he should be, how far his authority should stretch, what he should aim to achieve, and to whom he should listen. In both cases, Romans made tactical uses of discourse to advance their own conceptions of Christianity and imperial rule over those of their competitors.

⁶ Kaldellis, "Classicism of Procopius," pp.339–54; M. Jankowiak, "Procopius of Caesarea and his Byzantine Successors," *A Companion to Procopius of Caesarea*, eds. M. Meier & F. Montinaro (Leiden, 2021), pp.231–52; Roberto, "Procopius and his Protagonists," pp.355–73. Compare Cameron, *Procopius*, pp.244–63.

⁷ On the *Dialogue*, contrast Fotiou, "Dicaearchus," pp.533–47.

Unsurprisingly for a culture whose literary record is so dominated by the legally trained and which defined itself as Roman partially by its lawfulness, the law was the dominant site of debate in Justinian's Constantinople.⁸ Affected commitments to the legal tradition, whether rooted in sincere conceptions of its social and political value, objections to the specific uses to which Justinian put his legislation, or an appreciation of the potential of the vocabulary of tradition for resisting the growth of imperial authority, were the central organising principle of traditionalist opposition to Justinian. In turn, Justinian used his constitutions to justify his legislative activity to political society, morphing the field of political debate as he did so. *Novel* 60 responds to Justinian's opponents as if they had failed to consider the mutability of nature. Those opponents registered the argument and began to debate within its rhetorical framework. In this respect, imperial propaganda frequently set the terms of debate; Cassiodorus could operate with a freedom not available to those traditionalists more deeply embedded in the propaganda culture of the capital. Yet imperial propaganda, by virtue of the discursive resources available to the régime and its need to tailor and channel its messaging output, operated through an ecosystem of competing influences that generated its own debate, especially within the imperial administration, and took imperial representations out of the régime's hands. The dialectical development of political debates warped both their subject matter and their vocabularies.

In the end, the stars of the show have been those Romans from whom this study has not heard a word. The men who play visible roles in this study share backgrounds. Power was so distributed in the sixth-century Roman empire as to enable and encourage well-resourced men to acquire educations, move to Constantinople, and take up various professional, political, and cultural positions in the capital. The thirteen men studied here used their texts to debate among themselves but not to persuade each other. They engaged instead in highly tactical performances for the benefit of their reading and listening publics, predominantly the literary public that made up political society, though some writers with more popular or populist concerns sought to harness general public opinion too. These, therefore, were publics that mattered in late Roman politics.

Pfeilschifter's model of the late Roman political system, comprised of interest groups that could bring pressure to bear on their emperor through the latent threat of withdrawing

⁸ Greatrex, "Lawyers," pp.148–61.

their acceptance of his rule, has recently become widely adopted among historians.⁹ This study shows how clear these dynamics were to sixth-century Romans themselves. In Romanos' polemical conflation of Justinian's self-image with an anti-classical culture warrior, in Lydus' exposé of the dissimulations of imperial propaganda, in Procopius' representation of Justinian as a tyrant for the benefit of posterity, and in Corippus' concern to speak to and accommodate the dead emperor's traditionalist opponents lies a shared sense that if only enough Romans could be won round to a certain view, imperial policy would (and could only) follow. Justinian's pagan persecutions, the hasty withdrawal of the animate law claim in the face of now-invisible dissent, and the tenor of Justin II's own propaganda all suggest that this was an astute prognosis. The Justinianic régime was engaged in managing and navigating a vibrant culture of political debate. If Procopius' famous statement that he risked execution for his writing resembles his reality at all, therefore, it was not directly imperial espionage and a tyrannical régime that sustained the threat, but men on the opposite side of debate whose discursive tactics might manoeuvre the emperor into action.

⁹ Pfeilschifter, *Kaiser und Konstantinopel*; Greatrex, "Emperor, People, Urban Violence," pp.389–405.

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