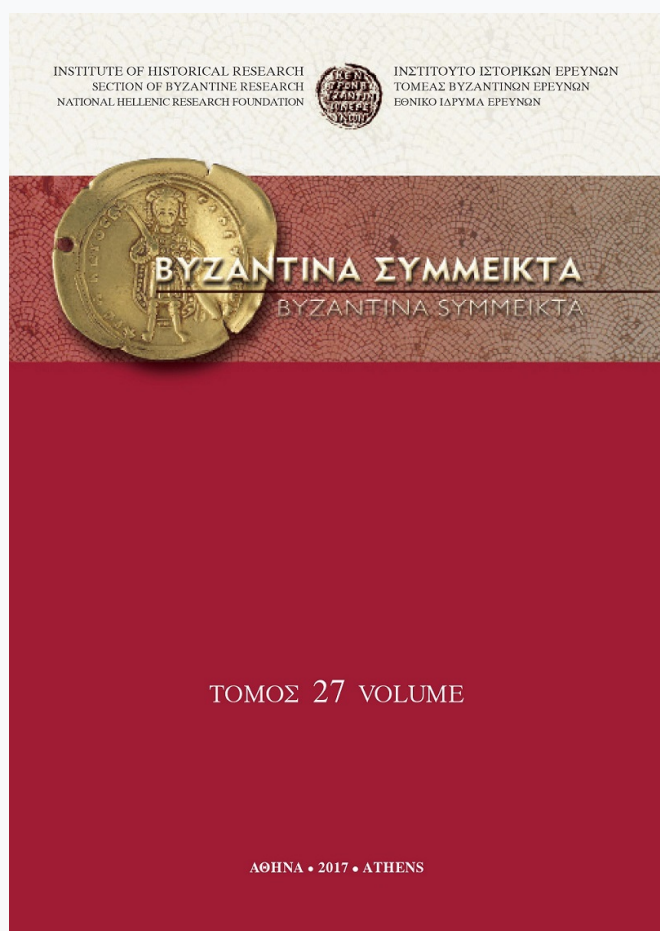


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Book Review: Dimitra Karamboulas, Von Diokletian zu Iustinian. Kontinuität und Legitimität in der Beziehung zwischen Kaisern und Untertanen [Byzantinische Studien und Texte, 5], Münster 2015, 352 pp, ISBN 978-3-643-12319-0

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DIMITRA KARAMBOULA, *Von Diokletian zu Iustinian. Kontinuität und Legitimität in der Beziehung zwischen Kaisern und Untertanen* [Byzantinische Studien und Texte, 5], Münster 2015, 352 pp., ISBN 978-3-643-12319-0

The author has chosen as timeframe of her study the period between the reign of Diocletian and that of Justinian. It is the period usually designated as a period of transition from antiquity to medieval times. As a matter of fact, it is the last period of the antique world that has often been studied from various viewpoints. Late Antiquity is indeed a period that presents researchers with special interest and this is reflected in modern scholarly research¹.

The subtitle of the work makes clear the two focal points on which the author concentrates regarding the relations of the Emperor with his subjects: legitimacy and continuity of imperial authority. Throughout Roman and Byzantine history these two elements acted as the pillars upon which a new ruler's authority was based. Constitutional history shows the means and the ways which assured continuation and legitimacy². A study analyzing specifically these constitutional aspects during Late Antiquity represents a much-needed contribution shedding light on a crucial period from a concrete viewpoint.

The reign of Diocletian with which the study begins, marked a turning point in Roman history. His structural reforms in the administration inaugurated a

1. Cf. for instance, the fundamental study by A. DEMANDT, *Die Spätantike. Römische Geschichte von Diokletian bis Justinian 284-565 n. Chr.*, München 1989. Late Antiquity has been interpreted in many different ways as Demandt points out: "Die Spätantike ist geradezu ein Lehrstück für den Wandel, dem ein Geschichtsbild unter veränderten Rahmensbedingungen ausgesetzt ist". On the discussion related to tracing a distinction of historical periods between antiquity and Middle Ages, cf. P. EGON HÜBINGER (ed.), *Zur Frage der Periodengrenze zwischen Altertum und Mittelalter*, Darmstadt 1969.

2. Cf. H. BELLEN, *Grundzüge der römischen Geschichte. Die Spätantike von Constantin bis Justinian*, Darmstadt 2003.

new era which defined the future development of the Roman state. After the crisis of the third century the Roman Empire consolidated and the new era, that came to be known as the time of Late Antiquity, begun. At the same time the form of governance introduced by Diocletian deviated from the traditional Roman patterns. Ideological patterns during the period of the Roman history known as “Kaiserzeit” altered and the excessive adoration of the imperial authority in ceremonial and ideological perception was the most obvious expression of this change. As far as state administration is concerned the establishment of 100 provinces and 12 middle size administrative districts paved the way to the Roman provincial administration in a pattern which would also be adapted by the Byzantine administration.

Two important law collections from the time of Diocletian, the *Codex Gregorianus* and the *Codex Hermogenianus* compiled together the Roman *Constitutiones*, the legal pronouncements of the imperial time. Dr Karamboula has exhaustively studied the material of these collections and treated these legal documents in a most adequate way³.

The book here reviewed, greatly enriches our understanding of law in conjunction with social history and sheds light on the history of Late Antiquity from an interdisciplinary perspective.

The author follows research methodology that she has already put into practice in her Ph. D. thesis⁴. She delineates the development of key notions which determine the ideological foundations of the state institutions in the context of historical developments. These crucial concepts are important indicators. Through the evolution and implementation of these crucial key concepts the State Authority was secured and enforced. Relevant historical material could also be brought at the center of interest, but the author made a wise choice of topics.

The book is divided into three parts, each one divided in chapters dealing with distinct elements aiming to contribute to the fuller apprehension of State authority which is understood by the author in terms of legitimacy and continuity of imperial power.

The first part sums up the political history of Late Antiquity; the second part examines the legal history from Diocletian and Constantine to the codification of Justinian establishing patterns which indicate that the evolution in the political

3. D. KARAMBOULA, *Die Rechtsentwicklung in der Zeit Diokletians und die ersten offiziellen Rechtssammlungen*, Athens 2008.

4. D. KARAMBOULA, *Staatsbegriffe in der frühbyzantinischen Zeit*, Vienna 1993.

history and the subsequent changes are reflected in the development of the legal order. The third part traces a turning point in the history of the era, and more specifically the transformation of a law-state to a state of social care. The conclusions of the author are expanded in the fourth part, which constitutes the epilogue of the study.

The author, following Gisewski, *Zur Normativität und Struktur der Verfassungsverhältnisse in der späteren römischen Kaiserzeit*, München 1988 (Introduction, p. 3, n. 1.), clearly points out in her introduction that in law history the time of Late Antiquity is marked by the change in the *res publica*, that is the main component, which constituted the foundation of the *Kaiserzeit*. The *res publica* as basic constitutional element consolidated and legitimized the constitutional state rule in the previous imperial era. This republican element, the *res publica*, either did not exist or was used only nominally in Late Antiquity. The crisis and the changes in Roman history started during the period of the so-called “soldiers-emperors” while a new era was introduced through the administrative changes of Diocletian and during the reign of Constantine the Great. Furthermore, at the end of Late Antiquity, Justinian sealed the evolution of this realm of public life, thus –according to some historians- inaugurating the Byzantine period.

The change also affected military affairs. Dealing with external relations and warfare, the author unfolds the military activity of Diocletian, at the beginning of Late Antiquity and concludes her presentation with Byzantine actions in the battlefield at the time of Justinian at the end of the period; in both cases a new order was established.

The author discusses thoroughly two fundamental ideological elements of the Roman imperial authority, the *orbis Romanus* and the *orbis terrarum*, which delineated the contents of Roman power both at a realistic and ideological level. Also, with reference to Justinian’s war actions she puts emphasis on the pivotal idea of restoration which is the key element, the ideological basis, behind the emperor’s military activity.

The crucial changes apparent in the history of Late Antiquity are not only reflected in the ideological perceptions. The state administration was profoundly affected and the transfer of imperial power resulted to apparent changes and was reflected in the new balance.

Of great importance for Late Antiquity has been the integration of barbarians in the Roman State. Barbarian soldiers and peasants were peacefully established in Roman soil. The Roman army was germanized during the time of Diocletian and the peaceful integration of the Goths was indispensable in fifth century’s Roman policy.

All these changes, added to many other essential developments are analysed in the study as elements in which the “transformation of the Roman world” can be detected⁵.

The Roman power was perceived as a “unique *imperium*” and in foreign relations this concept was contrasted to the authority of the Persian State. Until the sixth century the universal claim of the Roman State was lapidary in its self determination. In a more realistic perception, the terminus *imperium* was occasionally used to describe the Persian State and the significance of the establishment of the Armenian State as a pondering factor in power constellation of the time is also taken into consideration in the study (pp. 34ff., 74, 80 etc.).

In the fourth part of the first chapter of the book the author discusses the elements which enabled the transformation of the roman State from a state composed of communities to an imperial state. Attention is also paid in the institutional changes of the state, and especially in the relationship of the central authority with the cities/*poleis*, the self-governed unities, as well as the changes the administrative model underwent in the various periods of Late Antiquity. The communal model changed along with other parameters aiming to the imposition of the central authority and especially the army. During this transformation process, citizenship rules were renovated and the power of religious administration in local communities grew. Spiritual identity and state authority became the elements which signaled the unity of the Empire while in Justinian’s time the eastern part of the Empire acquired a distinct self-confidence.

The fundamental elements of internal administration, which determined the developments during this formative time, are examined in the seventh part of the first chapter (Die inneren Verhältnisse, pp. 59ff.). Diocletian’s reform in state administration initiated a parallel change in the fiscal system of the Roman Empire. This was equally important and introduced new methods and models to secure the state revenues needed to accommodate the transformed administration. Diocletian’s price policy, coupled by a necessary monetary policy, was, among other factors, especially significant for the state economy. In addition, important elements such as the state monopolies and the integration of guilds in the Roman separation of power economy proved to be crucial instruments in social and economic life.

The separation of power between the main pillars of state authority, military and civil administration, deemed to cope better with the new administrative model,

5. Cf. for instance, L. WEBSTER and M. BROWN (eds.), *The Transformation of the Roman World AD 400-900*, London 1997.

introduced by Diocletian. At top constitutional level the tradition was strengthened by the use of the acclamation by the army to legitimize the imperial authority.

The ceremonial aspect as well as the sanctification of the emperor's person, which indicated these changes (pp. 104ff.), have been often discussed by researchers. In a radically changing state and society, Diocletian's contribution, probably related to his low social origin, has promoted changes in the makeup of the Roman aristocracy.

The long second part of the book (pp. 115-212) is devoted to the evolution of the Roman legal system from the time of Diocletian and Constantine until the time of Justinian and his unprecedented impact on the codification and the transformation of the Roman law. At this point the author offers an original reading that surpasses her previous contributions. She follows the legal development from the two anteceding essential codifications, the codices Gregorianus and Hermogenianus, through the Theodosian Code, till the epochal turn, the Justinianian codification.

The authority of the emperor is examined in depth throughout the duration of the period in question in law-giving as well as his function in law administration. The author also analyzes the main elements of his legal competence, such as *constitutiones*, *leges*, *consistorium* etc which she follows in their generic and evolutionary process. She discusses in detail the emperors of the time who initiated reforms, as well as the law experts who contributed and the content of the concrete changes they have introduced.

The vulgarization of the law, which was simultaneously countered by a tendency to restore the classical law form, and which found its best expression in Justinian's codification is extensively treated. Two other remarkably opposed tendencies, the provincial expression of vulgar law and the central administration's effort to consolidate the imperial law as expression of the empire's consciousness, define the development of this era.

Various elements determine the outcome and the final product. The local administrators were crucial for the application of the legal directives and they were there to receive and follow the citizens' petitions. Loyalty or courage and personal authority in each case could lead to different results. Notions familiar in judicial practice, such as the antiquity of a practice or the moral gravity of an applied rule were valid guidelines and elements influencing a court's or a judge's verdict. Within the general development and under pressure by opposed tendencies some Hellenistic legal elements disappeared during the process of Romanization in the eastern provinces.

After Constantine, the protection of the Christian faith became fundamental for the imperial legal system. Imperial constitution provided the instrument to persecute heretics and consolidate the Christian doctrine in the one Orthodox form, approved and observed by the Emperor. Of course the religious leadership had the ambition to influence and dictate the content of imperial laws pertaining not only to doctrinal, but also to social matters and the balance in many cases has not been easy.

In parallel to this practical evolution which affected the perception of the law by the common people, the central government and the imperial court developed the ideological arsenal to strengthen the visibility of the emperor's law as universal and as the expression of the supreme power, the imperial authority, as a grace handed over to the ruler by God himself «Gottesgnadentum»⁶.

The third part of the book looks into the law sources and the constitutional order of the time as the basis of the social policy of the Roman Empire. The codification of the imperial *constitutiones* was perceived as actualization of the valid legal order and the codices formed the instrument which served to introduce the imperial authority in everyday life. The equality of the citizens and the theoretically equal treatment of all imperial subjects by law were fundamental elements for the state authority. They were important for the prevention of social disorder and contributed to the establishment of harmony and concord in the state.

The Christian influence which promoted the ideal equality of all human beings and thus the need for their equal treatment by the law increased. Especially the Christian ideal of all people being free resulted to social changes that were reflected in the evolution of the law. The ideal imperial image in numerous literary sources integrated classical and Christian elements, and described a ruler working in his office performing his duties to the benefit of his subjects. Among others, philanthropy and benefaction were qualities highly praised and characteristics exemplifying the ideal emperor. In this ideological environment the Christian church represented the mechanism promoting the imperial policy for social welfare and its rhetoric and preaching incorporated benevolence and care for the poor's need in the social attitude and people's thinking. In response, the social approach was expressed in legal norms.

Dr Karamboula summarizes the most important findings of her research in the epilogue (pp. 247-252) which forms the last part of this innovative and pivotal

6. This perception delivered the ideological and constitutional basis of the medieval monarchies. Cf. F. KERN, *Gottesgnadentum und Widerstandsrecht im früheren Mittelalter. Zur Entwicklungsgeschichte der Monarchie*, Darmstadt 1980 (ed. R. BÜCHNER).

piece of work. A full index of proper and geographic names and two registries, one indicating inscriptions and papyri referred to as well as a second including sources' references make the book user friendly.

The evolution of the legal order in Late Antiquity from Diocletian to Justinian documented in the preceded discussion the most important changes, which determined the developments in the legal order after the crucial institutional change in 284 and the acclamation of Emperor Diocletian as Augustus. During Diocletian's reign as an absolute monarch the legal production was not uncontrolled. Legal documents were formulated in strict terms and the contribution of the famous lawyers of that time, Papian, Paulus and Ulpian is obvious in the laws promulgated to govern the new administration system introduced by the Emperor. The application of the law in all domains of social life remained a state privilege.

The changes which occurred between 260 p. C. and 565 reflect social and cultural developments, which were present, in part, already before the time of Diocletian. The Christian religion added a moral element and the administrative reforms during Late Antiquity produced the administrative apparatus necessary to support a functional legal state system.

At the time of Constantine vulgar elements were introduced in the legal expression and in the legal order and the differentiation of the provincial law became more apparent. Even the concession of the Roman citizenship to every free person in 212 could not cumber the influx of the vulgar law and the end of the imperial authority in the western part of the Empire in 476 definitely established different ways for the two parts, East and West. Justinian with his work on codification and the establishment of the law schools re-oriented the development in the classical spirit.

The author's comprehensive assessment is important for historians, since it underlines how the general political developments were reflected in the shift of the legal order. The collapse of the Roman Empire coincided with the disappearance of the specialized law schools and the reviving of the Roman tradition and a new Roman, Byzantine Empire under Justinian went, once again, hand in hand with the restoration of the professional law teaching⁷.

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7. P. 250: "Wie der Niedergang des römischen Reichs ... sich recht genau mit dem Erlöschen des Fachjuristentums in der Geschichte der römischen Rechtswissenschaft spiegelt, so zeigt sich auch der Versuch der Wiederbelebung des *Imperium Romanum* unter Justinian an erster Stelle in seiner Gesetzgebung".

