CHAPTER 29

REPRESSION, RESISTANCE AND REBELLION

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29.1 Introduction

This chapter is about the extreme outer limits of law's Empire, the borderlands where the rule of law ends, and the primal need to defend the political order begins. In other words, it is concerned with the legal and ethical issues connected with the repression of serious threats from within to the Roman political order, specifically sedition, conspiracies, riots and provincial revolts. On occasions, of course, the repression of such threats took place entirely outside law's realm. The real or perceived gravity of the situation would unleash the state's capacity for overwhelming violence, and order would be restored by massacres, mass enslavements and beatings—apparently without serious challenges to the legal (or ethical) propriety of the response. But on other occasions, law was very relevant. Judicial institutions and legal categories were employed to legitimate repressive action; conversely, legal rights and conventions were invoked to limit and critique such crackdowns.

Two concerns therefore run through this chapter. The first is to reconstruct the legal underpinnings of repressive responses to fundamental threats to the political order, insofar as such underpinnings existed. This involves consideration of substantive rules of criminal law, of judicial processes and of coercive powers inherent in certain offices. A second concern is to outline the various types of limitations on state power that were routinely invoked in relation to acts of repression. Some of these limitations were embedded in positive law, for instance the right of appeal (*provocatio*) and citizen immunity from torture. Others were more the product of custom and practice, such as the expectations of a public trial and of a clearly formulated charge. It is also important to notice various ethical discourses that were used to try to restrain the full force of the law, discourses including those of *clementia* ("mercy"), *crudelitas* ("cruelty") and *saevitia* ("harshness"). Such discourses were instances of wider Roman society—especially aristocratic society—attempting to influence the uses to which legal powers and processes were put.

29.2 Sedition in the Republic

During the Republic, the senate and magistrates faced three fundamental problems in dealing with sedition in the city of Rome. The first related to manpower: there was no standing army, and in any case the exercise of military command was prohibited within the *pomerium*.[1] A second problem emerged from the rights of *provocatio* and tribunician intercession. Certainly from 300 BC, and perhaps earlier, citizens in civilian life had a legal right to appeal to the people against a magistrate's decision to execute or scourge them using his powers of summary discipline (*coercitio*)—at least in political cases.[2] There was also a separate but possibly related right, namely the *ius auxilii*: the right of the tribune of the plebs to intervene and protect a citizen from harsh treatment by a magistrate. Thirdly, whilst the *iudicium populi* and (in the late Republic) the *quaestiones de vi* and *maiestatis* provided judicial fora in which charges of rioting and sedition could be brought, they were not always sufficiently expeditious to deal with serious threats, and could be coerced or entirely shut down by a hostile crowd.

At least according to the Romans' own traditions about their early history, an initial response to such problems was to use the office of dictator. Dictators were reportedly appointed to deal with sedition on occasion during the early Republic.[3] If these reports are true, the dictatorship was probably attractive for this purpose because the office was immune from *provocatio* (Liv. 2.29, 4.13, 8.33–35; Festus 198M). There were also the facts that dictators had no colleagues to interfere with their work, and that they were apparently immune from tribunician *auxilium* (Liv. 2.18.8; Plut. *Fabius Maximus* 9, with Drogula 2007, 446). But there are no reports of the dictatorship being used to deal with domestic unrest in the third century BC or later. The *lex Valeria* of 300 BC is reported to have removed dictators' immunity from *provocatio*;[4] if this is correct, then the utility of the dictatorship for repressing sedition would have henceforth been limited.

The legal issues involved with repressing sedition came to the fore again thanks to the activities of Ti. Gracchus and his supporters in 133–132 BC. The initial crackdown on Gracchus was little more than a lynching, with only some very vague appeals to legal principle. But then an inquiry involving the consuls of 132 and a *consilium* was established following a decree of the senate—although the legality of this was very questionable too.[5] The *lex Sempronia* of 123, passed by Tiberius' brother Gaius, put this question beyond doubt by requiring a vote of the people before a capital sentence could be pronounced.[6] Henceforth,

[1] Drogula 2007, 435–442 with earlier literature.

[2] On the *leges de provocatione* and the historicity of those reported for the early Republic, see von Ungern-Sternberg 1970, 31, n. 32; Lintott 1972; Bauman 1973b. On *coercitio*, see Drogula 2007, 428–430 with further literature.

[3] Dion. Hal. *Ant. Rom.* 5.70.2–3; Liv. 4.13–16; 6.11–17; *Inscr. Ital.* 13.1 (368 BC).

[4] Festus 198 M; cf. Bauman 1973b.

[5] Cic. *Amic.* 37; Val. Max. 4.7.1; Plut. *Ti. Gracch.* 20. See von Ungern-Sternberg 1970, 38–43 and Lintott 1999b, 162–3 on its legality (or lack thereof).

[6] Cic. *Rab. perd.* 12; cf. Plut. *C. Gracch.* 4, with discussion by von Ungern-Sternberg 1970, 48–54. The law did not prevent courts set up by a vote of the people from pronouncing capital sentences: Lintott 1999a, 163.

quaestiones extraordinariae of the sort used in 132 (and also in the Bacchanalian affair of 186 BC) were not legally possible.[7]

In 121 BC, therefore, the senate devised a new solution to deal with what it perceived to be another emergency situation created by C. Gracchus and his supporters: the so-called *senatus consultum ultimum* (*SCU*).[8] The senate decreed "that L. Opimius the consul should see to it that the *res publica* suffer no harm".[9] Relying on this decree, Opimius availed himself of a military force and led a lethal crackdown on Gracchus and his supporters in which several thousand people allegedly died (Plut. *C. Gracch.* 16–17). This same decree was used in a variety of other emergency situations to authorise action against those who found themselves on the wrong side of the majority of senators (Golden 2013, 104–149 for references).

Whilst various modern scholars have made quite categorical statements about the legality of the *SCU*,[10] the better view is that its legality was arguable, but that not everyone accepted the arguments. Several separate (quasi-)legal justifications are visible in the sources. First, the very wording of the decree shows that it was presented as a measure to avert harm to the Republic. When L. Opimius was prosecuted (and acquitted) in 120 BC for repressing the Gracchans, the defence was that ignoring the *lex Sempronia* had been legally justified by considerations of public safety (Cic. *D e o r.* 2 .106, 2 .132, 2 .134, 2 .165). One can perhaps see in this argument a version of a principle that is expressed in Cicero's *De legibus*: "Let the safety of the people be the highest law" (3.8: *salus populi suprema lex esto*). Secondly, Sallust refers to the *SCU* as conferring power on magistrates "in accordance with Roman custom" (*more Romano*). Since custom was viewed as the bedrock of constitutional propriety (cf. Pina Polo, ch. 7), Sallust may be reflecting an argument that, by the late Republic, the decree had been employed often enough and for long enough to legitimate it.[11]

Whatever arguments were made in support of the legality of the *SCU*, it is evident that not everyone accepted them. Opimius' prosecutors in 120 BC obviously did not. Furthermore, in 63 BC an elderly senator, C. Rabirius, was tried for *perduellio* ("treason") for his role in the repression of Saturninus in 100 BC. Both the surviving version of Cicero's speech in defence of Rabirius and also Cassius Dio's account of the incident treat it as a partisan attempt to impugn the legality of the *SCU*, an impression that is accepted by most modern scholars.[12]

Aside from the *SCU*, several mechanisms were used during the late Republic to deal with political emergencies. The *tumultus* declaration was repurposed for such ends. Originally,

[7] von Ungern-Sternberg 1970, 53–54. Bacchanalian affair and aftermath: Liv. 39.8–19; *FIRA* 1.30; cf. von Ungern-Sternberg 1970, 29–38; Lintott 1999b, 161–162.

[8] The decree is called this by Caes. *B Civ.* 1.5 and Liv. 3.4 (anachronistic), although the title was not a technical term in Antiquity.

[9] Cic. *Cat.* 1.4: *uti L. Opimius consul videret ne quid res publica detrimenti caperet*, cf. Cic. *Phil.* 8.14.

[10] e.g. Golden 2013, 148.

[11] Sall. *Cat.* 29; cf. Cic. *Mil.* 70. Note too Drogula 2007, esp. 447–451.

[12] Cic. *Rab. perd.*; Dio Cass. 37.26–28; Suet. *Iul.* 12; cf. Lintott 1999b, 168–169; von Ungern-Sternberg 1970, 83–85.

this declaration was made in response to a pressing threat from a foreign enemy. It empowered the responsible magistrates to raise an army quickly, and to ignore the usual exemptions from military service that some citizens enjoyed on the grounds of age, occupation or priestly service.[13] In the late Republic, this decree came to be used on occasion to raise armies to deal with incidents of armed sedition.[14]

A final kind of emergency decree was the so-called *hostis* declaration.[15] This was used first in 88, when C. Marius and eleven of his supporters were declared enemies (*hostes*) in a senatorial decree and a statute passed by an assembly.[16] As the death throes of the Republic continued, the senate passed *hostis* decrees during other crises,[17] although there is no evi-dence of other occasions on which matching statutes were passed.[18]

The purported legal effect of the *hostis* decree was to declare that the targets had, at some point in the past, become *hostes* and thus had already forfeited their Roman citizenship. This meant that they had lost their right of *provocatio* and could be killed without offending the *lex Sempronia*: arguably no capital sentence on citizens had been pronounced, but rather the loss of citizens' civil rights was being declared (Bauman 1973a, 279–282). Unlike the *SCU*, the *hostis* decree expressly named the individuals at which it was directed; it also allowed them to be killed by anyone with impunity after the initial emergency had abated (Bauman 1973a, 277). The targets of the decree had almost always fled Rome by the time it was passed, thus putting them—as a practical matter—outside the reach of the magistrates and the courts in Rome.[19]

As with the *SCU*, the *hostis* declaration was controversial. We hear from Valerius Maximus that in 88 BC the aged augur Q. Mucius Scaevola refused in the senate to vote Marius a *hostis*; to judge from the fact that Sulla surrounded the *curia* with troops, Scaevola was not the only senator with misgivings (Bauman 1973a, 273). In response to the Catilinarian conspiracy of 63 BC, Cicero attempted to extend the legal analysis implicit in the *hostis* declaration and argue that the ringleaders of the conspiracy who had been apprehended in Rome (and against whom no *hostis* declaration had been passed) by their very actions were enemies of the state, and therefore had lost their citizenship automatically.[20] We learn, however, that several senators of a *popularis* persuasion stayed away from the sitting of the senate in which these conspirators were sentenced to death "lest they vote on a capital matter concerning a citizen" (Cic. *Cat.* 4.10). Moreover, after the execution of the conspirators, Cicero was immediately attacked by two tribunes for executing citizens without trial (Cic. *Fam.* 5.2.8; Cass. Dio 37.42.1), and this charge was implicit in the legislation that Clodius used to secure Cicero's exile in 58 BC (Vell. Pat. 2.45.1; Dio Cass. 38.14.4; Livy, *Per.* 103).

[13] Golden 2013, 44–45.

[14] For references and discussion, see Lintott 1999b, 153–155; Golden 2013, 42–103, 189–199.

[15] Fundamental on this decree is Bauman 1973a. See too von Ungern-Sternberg 1970, 111–122; Lintott 1999b, 155–156.

[16] Livy, *Per.* 77; Vell. Pat. 2.19; cf. App. *B Civ.* 1.60–61; Cic. *Brut.* 45.168; Val. Max. 3.8.5.

[17] For references, see Lintott 1999b, 155–156.

[18] Although note D.4.5.5.1, and the discussion of Bauman 1973a, 283–285, 291–292.

[19] Lintott 1999b, 156; cf. Bauman 1973a, 278.

[20] Cic. *Cat.* 4.10; cf. Cic. *Sest.* 39.

29.3 Conspiracies against the Emperor

The coming of the Principate brought with it a new kind of fundamental threat to the political order in the form of conspiracies to assassinate the emperor and to usurp the purple. When such plots were discovered (or allegedly discovered) before anything had happened to the emperor, the praetorian guard could now in theory and (mostly) in practice be used to apprehend conspirators who were in the immediate vicinity of the emperor himself. In these cases, there was therefore no need to legitimate the creation of an informal posse by passing the *SCU*. The *hostis* declaration was, however, still used in the Principate on a few occasions when it was not possible to apprehend immediately a rebel or an emperor who had been toppled.[21]

Once conspirators were in custody, the charges they faced were obvious enough: conspiring to kill a magistrate or a holder of *imperium* or *potestas* fell within the definition of *maiestas* (D.48.4.1.1). Moreover, from the time of Augustus onwards, acts (and sometimes words) that diminished the majesty of the emperor and his family were interpreted as amounting to treason as well (see Williamson, ch. 26). There are some reports from the early Principate of conspirators being tried by jury courts (e.g. Suet. *Tib.* 8.1; Dio Cass. 54.3.5–6) or before an emperor exercising his judicial powers (e.g. Tac. *Ann.* 15.58). Once the senate was fully established as a court, conspirators were sometimes tried before it (e.g. *Inscr. Ital.* 13.1, p. 205, cf. SHA *Ant. Pius* 7.4). Certain emperors attempted to make a virtue of the fact that they left such trials to the senate (e.g. SHA *Hadr.* 7).

The process of repressing alleged conspiracies against the emperor prompted heated debate. While some authors admit that the punishment of people who plotted against the emperor was at times warranted,[22] it is frequently claimed that emperors punished alleged conspirators out of paranoia and with inadequate evidence of guilt,[23] or that they did so for ulterior motives or having been duped by devious informers or courtiers.[24] Moreover, there were often concerns that the emperor and his supporters had transgressed certain expectations about proper legal process. The concerns centred less on the denial of *provocatio*, which would not have helped conspirators much, since ultimate appeal was now to the emperor—the very target of the conspiracy and, quite often, the leader of the repression.[25] There were, however, other, more relevant rights. In the wake of some conspiracies, Roman citizens—even high-status ones—were tortured, in spite of the traditional prohibition on torturing free people; such cases are generally reported with shock by our sources for the Principate.[26] Some emperors are criticised for executing putative conspirators without charge or proper trial.[27] On other occasions, the complaint was that the

[21] e.g. Suet. *Tib.* 54; *Calig.* 7 (Nero Julius Caesar and Drusus Julius Caesar, 29 and 30 AD); Suet. *Ner.* 49; Dio Cass. 63.27.2b (Nero, 68 AD); SHA*Marc.* 24.9, *Avid.Cass.* 7.6 (Avidius Cassius, 175 AD); Dio Cass. 74(73).8.5 (Falco, 193 AD). See too D.4.5.5.1.

[22] Amm. Marc. 19.12.17; Dio Cass. 55.18.1.

[23] e.g. Amm. Marc. 29.1.18; Tac. *Ann.* 15.73; cf. Dio Cass. 55.19; Sen. *Clem.* 1.20.

[24] Ulterior motives: Dio Cass. 55.18.5, 59.21.4, 69.2.5; SHA *Hadr.* 4.3; Tac. *Ann.* 15.73. Courtiers and informers: Dio Cass. 55.18.6, 61(60).29.4– 6a; Tac. *Ann.* 2.27– 28, 11.1– 3, 16.18; Suet. *Claud.* 37.

[25] Appeal under the Empire: Santalucia 1998, 219–221, 270, 275–276; Garnsey 1966.

[26] e.g. Dio Cass. 57.19.2, 60.15.6; Sen. *Ira* 3.18, cf. Dio Cass. 59.25.5b. See too Garnsey 1970, 141–147, 213–216.

[27] e.g. Iuv. 10.69–72; Tac. *Ann.* 15.69, 16.18; cf. Dio Cass. 55.19.2.

accused was condemned in a secret hearing, which offended the convention that trials should be held in public.[28]

As the Imperial period progressed and the emperors' autocracy became more absolute, legal limitations (both formal and conventional) on the process of repressing conspiracies were eroded. The expectation of publicity in trials faded around the turn of the second century AD.[29] Moreover, by the early fourth century, citizens were no longer legally immune from torture in treason cases.[30] Ammianus Marcellinus, writing in the second half of the century, assumes that it is entirely reasonable to torture people of all statuses if a conspiracy against the emperor is being investigated.[31]

Not all the restraints advocated by the elite on the emperor's handling of conspiracies related to process: some fell more into the category of internal, ethical limitations. Repressive actions against political conspiracies that were regarded as in some sense excessive or too widely directed are condemned as examples of *crudelitas* and *saevitia*.[32] On the other hand, *clementia* towards conspirators is loudly praised. In the *De clementia*, Seneca recommends that the young Nero should show mercy to conspirators and other wrongdoers partly for utilitarian reasons, claiming that it will increase the popularity of the *princeps*, and hence his ultimate security. He also argues that extenuating circumstances often reduce conspirators' culpability and that some are capable of reform (Sen. *Clem.* 2.7). In the third century, this issue was still sufficiently important to prompt Cassius Dio to use a tradition about Augustus' mild response to a particular conspiracy as an opportunity to invent a lengthy dialogue between Augustus and Livia in which the latter successfully advocates the benefits of *clementia* (Dio Cass. 55.14–22; cf. Sen. *Clem.* 1.9–10). Later still, Ammianus Marcellinus also forcefully expressed the view that it is preferable for an emperor to find reasons for pardoning conspirators, not opportunities for punishing them (Amm. Marc. 19.12.17).[33]

29.4 Riots in the Imperial Period

During the Principate, the authorities in the city of Rome had far greater resources to cope with rioting than their Republican counterparts, since there were now permanent military forces in the form of the praetorian guard and urban cohort. There were also permanent military forces available to put down riots in several of the other large cities of the Empire.[34] If the need arose, soldiers were dispatched to smaller cities in which order

[28] e.g. Tac. *Ann.* 11.2; cf. Tac. *Ann.* 13.4. For publicity and criminal trials, see generally Crook 1955, 106; Lintott 1972, 253–254.

[29] Santalucia 1998, 218–219.

[30] D.48.18.10.1; cf. CTh.9.5.1pr = C.9.8.3 (a. 314); CTh.9.35.1 = C.9.8.4 (a. 369); Sent.Paul.5.29.2; cf. Garnsey 1970, 141–147, 213–216.

[31] Amm. Marc. 19.12.17, with Garnsey 1970, 143.

[32] e.g. Sen. *Ira* 3.18–19; Suet. *Tib.* 61.

[33] For other statements about clemency for conspirators, see Dio Cass. 59.26.4; SHA *Marc.* 24–25; *Avid. Cass.* 7–14; Tac. *Ann.* 2.31.

[34] For a classic discussion of urban unrest, see MacMullen 1966, 163–191. Sünskes Thompson provides a list of disturbances, including riots, in the Severan period (1990, 21–44), with analysis (1990, 95–166). Aldrete 2013 provides a recent treatment of riots in Rome, with bibliography. Kelly 2007 discusses source problems and the process of repressing riots.

had broken down.[35] In the later Empire, the standing military presences in Rome and the new capital of Constantinople were somewhat limited, which made riot repression more difficult, although troops could still be brought in (Nippel 1995, 98–100).

When troops were unleashed, this could result in the beating and killing of rioters (sometimes a few, sometimes a large number) until the disturbance stopped.[36] On other occasions, the arrest of at least some rioters is mentioned.[37] This was done with a view to punishing them, either summarily or after a trial. There are also a few clear references to people being tried for participation in a riot.[38]

The juristic sources make clear the legal underpinnings of the prosecution of rioters before courts. Rioting was an offence under both the *lex Iulia de vi* and the *lex Iulia maiestatis*, so rioters in Rome could be prosecuted before the courts established by these statutes.[39] A charge could also be brought before a magistrate or governor exercising *cognitio* using the offence categories of these statutes. By the Severan age, there was also a legal regime in place relating to the repression of urban youth violence: according to Callistratus, governors should initially deal with the turbulent behaviour of those commonly called the *iuvenes* ("the youths") with admonishments and beatings; recidivists, however, must be exiled or even punished capitally, especially if they too often behaved seditiously and riotously (*seditiose et turbulente*).[40]

From various juristic sources we learn that the rights of people convicted of rioting were somewhat abridged. According to the *Sententiae Pauli*, the penalties that governors and other officials faced for ignoring a citizen's attempt to appeal to the emperor did not apply if the convicted person had been imprisoned for committing a crime against public order (*disciplina publica*) (Sent.Paul.5.26.1–2). In usual criminal cases, the governor could refuse to allow the accused to appeal to the emperor, but was required to write to the emperor to confirm this decision before the punishment could be carried out. But by a pronouncement of Marcus Aurelius, this requirement was waived in cases of sedition and bloody factional strife (*factio cruenta*) to avert an imminent threat (D.28.3.6.9; cf. D.49.1.16pr).

When it came to the more direct repression of rioters by troops, a detailed legal justification would in many cases have been unnecessary. The governor had a general duty to maintain the peace in his province (D.1.18.13pr). Prior to 212 AD, riots in provincial cities would have mostly involved peregrines who did not enjoy the right to appeal to the emperor, and would have been repressed by governors with *imperium* who could punish crimes quite summarily and with few restraints.[41] Of course, rioting

[35] e.g. Suet. *Tib.* 37; Tac. *Ann.* 13.48.

[36] e.g. Tac. *Ann.* 14.61; Sen. *Oct.* 846– 850 (Rome, 62 AD); Joseph. *BJ* 2.494– 498 (Alexandria, *c.*66–68 AD); Hdn. 1.12.6– 9 and Dio Cass. 73(72).13.4– 5 (Rome, 190 AD); Euseb. *Hist. eccl.* 8.14.3 (Rome, 311 AD). In other cases, it is clear that soldiers were at least used to cow the crowd into submission: Tac. *Ann.* 12.43 (Rome, 51 AD); Tac. *Ann.* 14.45 (Rome, 62 AD).

[37] e.g. Vett. Val. 5.6.120–121 [ed. Pingree].

[38] *CPJ* 158 a & b, 435; Joseph. *AJ* 20.118–136; Joseph. *BJ* 2.232–246; *P.Oxy.* XXII 2339; Tac. *Ann.* 14.17; Vett. Val. 5.6.120-121 [ed. Pingree]; cf. *IEph.* 2.215 = *IMagn.* 114; Cic. *Verr.* 2.1.73– 85.

[39] D.48.4.1.1; D.48.6.3pr–48.6.3.3; D.48.6.5pr; D.48.6.10pr.

[40] D.48.19.28.3; cf. Rodriguez 2012 on the relevance of this legal regime to Caracalla's massacre of the Alexandrians in 216 AD.

[41] On the governor's *imperium*, see Richardson ch. 9. In practice, governors often opted to try peregrines for crimes using procedures that were quite similar to those used with Roman citizens. Furthermore, there is the complication that the magistrates of some cities might have retained some level of local criminal jurisdiction; see Roselaar ch. 10.

crowds in Rome or Italy would have contained many Roman citizens; so too with any rioting crowd elsewhere in the Empire after 212. In these instances, killings carried out by troops who had been commanded directly by the emperor would be unproblematic. In other cases, one imagines that soldiers could claim that they had beaten or killed rioters in self-defence. But the fact that rioters in the Imperial period (unlike some during the late Republic) were mostly lower class probably meant that nobody enquired into these questions too closely. Our surviving sources are certainly rather uninterested in them.

This lack of interest in legal niceties does not mean, however, that our Imperial authors thought that there should be no restraints on the actions of emperors, magistrates and governors faced with riotous situations. But the restraints that they urged were more of an internal, ethical nature.[42] There was often a feeling that authority figures (and especially emperors) should avoid responding to riots punitively, and instead show mercy. Libanius enunciates this in relation to a riot in Antioch in 387 AD: rioters are demented, and the appropriate way to treat the insane is with medicine, not punishment; it is incumbent on the emperor to show clemency towards them (Lib. *Or.* 19.8–24).

This is not to say that the violent and punitive repression of riots was ruled out altogether: this was sometimes thought to be a sad necessity. In some reports of riots, however, authority figures of whom the author basically approves are presented as trying other methods of defusing the situation first before finally resorting to military force. When military repression was used, there was often (albeit not invariably) a feeling that only tyrannical emperors would repress non-violent crowds for verbal unruliness at the chariot races, gladiatorial games or other spectacles. Thus, for example, disapproving accounts survive about Caligula's summary execution of members of a crowd who protested verbally in the Circus Maximus against his tax regime (Joseph. *AJ* 19.24–26; cf. Dio Cass. 59.28.11). As Josephus notes in his account, the people of Rome generally expected emperors to respond positively to shouted petitions at spectacles. The general aversion to responding with massacres to verbal protests and requests is encapsulated in Libanius' anecdote about how Constantine I judged it as "appropriate to a ruler" (βασιλικός) to tolerate verbal unruliness from a crowd (Lib. *Or.* 19.19).

29.5 Provincial Revolts

If the ancient sources show minimal interest in the legalities of riot repression, this observation applies *a fortiori* to provincial revolts.[43] Presumably, those guilty of rebelling against Roman rule in a province could have been brought before the relevant

[42] For a fuller treatment of the arguments in this and the following paragraph, see Kelly 2007, 160–167 with further references.

[43] On the causes of provincial revolts, see Dyson 1971 and 1974, now to be read with Woolf 2011. Pekáry 1987 and Sünskes Thompson 1990, 21– 44, 176– 190 provide catalogues of revolts and some analysis. Gambash (2009, 2012 and 2013) focuses on the Roman responses to the revolt of Boudica and the Jewish revolt of 66– 73/ 4 AD. MacMullen 1966, 192– 241 discusses provincial revolts, *inter alia*.

provincial governor and (at least from the late Republic) charged with *maeistas* or *vis*. Reports of such judicial responses to provincial revolts are, however, exceedingly rare.[44]

The reasons for this rarity are not difficult to fathom. Provincial revolts were generally serious military emergencies, and as such provoked the sort of large-scale retributive measures that the Romans often visited on defeated foreign enemies. Thus, once the rebels were worsted in pitched battle, a number of unpleasant fates could await them and their people. Men of fighting age, and sometimes whole communities, were massacred.[45] In the case of other revolts against Roman rule, mass enslavements are reported, as is the destruction of rebel settlements and crops.[46] There is scant sign in the surviving sources of any legal qualms concerning the massacre or enslavement of populations, or the incineration of crops and settlements. The reasons are doubtless similar to those suggested in relation to riots: before 212 AD the vast majority of rebels were peregrines and hence subject to unlimited gubernatorial *coercitio*; and even in the late Empire, most rebels were of low socio-economic status.

This is not to say that more subtle and constructive responses to the problem of revolts by subject people were impossible, either in the wake of revolts, or even in anticipation of them. In some cases, populations who had revolted or had tendencies in this direction were disarmed by the Roman authorities.[47] When revolts did break out and were repressed, hostages were sometimes then taken to ensure future good behaviour.[48] Some lucky rebels were given land on which to start a new, more prosperous, and—in theory—less disruptive life.[49] The same perceived connection between landscape and rebelliousness is also visible in M. Vipsanius Agrippa's policy of relocating populations from the mountains to the plains following the Cantabrian revolt of 19 BC—although not before he massacred the men of military age and disarmed everyone else (Dio Cass. 54.11.5). It has also recently been suggested that in the aftermath of the Boudican revolt, the initial slaughter gave way to a rather nuanced Roman policy of mollifying local resentment, designed to prevent another flare-up in Britain.[50] Since oppressive behaviour by Roman provincial administrators was often seen as a factor in provoking revolts, the *quaestio repetundarum* (cf. Richardson, ch. 9) was regarded by some as restraining riots and rebellions, since it gave outraged provincials a non-violent means of redress (Cic. *Verr.* 2.1.82).

These more nuanced responses to the problem of provincial revolts were no doubt partly the result of pragmatism, but ideology probably had a role. There are traces in the sources of ethical reservations about the harsh treatment of rebellious populations: such treatment was, after all, not especially congruent with the claim that the Romans ruled their Empire

[44] The few examples of such reports include App. *Hisp.* 38, Caes. *B Gall.* 6.44, Joseph. *BJ* 2.77 (cf. *AJ* 17.298), and Tac. *Hist.* 4.13.

[45] e.g. App. *Hisp.* 68; Tac. *Ann.* 14.37.

[46] e.g. Enslavements, App. *Hisp.* 68, 98; Dio Cass. 54.31.3, 54.34.7; Liv. 34.21. Destruction of settlements and crops, App. *Hisp.* 71, 87, 98; Flor. 1.33.9; Liv. 34.9.

[47] *Chrest. Wilck.* 13 (with Philo *In Flacc.* 92–93; cf. 86–91, 94); Dio Cass. 54.31.3; 60.21.4; Tac. *Ann.* 12.31.

[48] e.g. App. *Hisp.* 38, 41.

[49] App. *Hisp.* 43–44, 75; Livy *Per.* 55.

[50] Gambash 2012; cf. Gambash 2013, 182–183.

for the benefit of their subjects. Occasionally, one even sees such a beneficent ideology at work in cases in which defeated rebels were afforded *clementia*.[51]

More often, though, ancient authors were forced to grapple with the ideologically inconvenient truth that rebellions were repressed with merciless brutality. One response to this awkward reality was to emphasise the rebels' bad faith and trickery toward their Roman overlords and allege that they had committed lurid atrocities during the revolt.[52] Sometimes, too, provincial revolts (and also slave rebellions) were assimilated with *latrocinium* ("banditry") (Grünewald 2004, 33–71), an activity whose perpetrators by definition forfeited many conventional protections afforded by morality and law. Another discursive strategy was to treat the provincial rebels not as pacified *peregrini* but rather as foreign *hostes*. This is perhaps most clearly seen with the Jewish revolt of 66–73/4 AD, in the wake of which a triumphal procession was held in Rome and coins were struck with the legend "Judaea captured" (*Judaea capta*)—responses usually reserved for victories over foreign enemies.[53] One can see a similar tendency in narratives of other revolts. Rebels are routinely called *hostes* and the authors' labelling of particular uprisings slides between the language of rebellion (e.g. *rebello*, ἀφίστημι) and that of war (*bellum*/πόλεμος).[54] In some narratives of military action, standard ethnographic stereotypes attached to particular barbarian groups are stressed to emphasise the otherness of the rebels—and hence their exclusion from the Romans' moral realm.[55]

29.6 Conclusion

The threats to the Roman political order with which this chapter has been concerned were quite diverse, as were the Roman authorities' repressive responses to them. But a number of connecting themes have emerged. One is the ongoing tension during all periods of Roman civilisation between, on the one hand, ideas about the appropriate legal and ethical limitations on the exercise of state violence against the individual, and, on the other hand, the perceived need to deal with fundamental political threats efficiently. Another theme relates to status: the sources, perhaps unsurprisingly, show a great deal more concern about the propriety of repressive acts against high-status individuals—both in the sense of those enjoying higher civic status, and also in the more general sense of those with higher socio-economic status. Furthermore, status was in some senses malleable, since there were attempts to declare—either legally or discursively—the seditious or the rebellious to be *hostes*, thereby excising them from the citizen body or the peregrine population of the Empire. A final point relates to the impact of autocracy. While both legal and ethical discourses about the limits of state repression exist in all periods of Roman history, the

[51] Caes. *B Gall.* 7.41; Suet. *Tib.* 20 (cf. Dio Cass. 56.16; Vell. Pat. 2.114); Tac. *Ann.*1.57.

[52] Bad faith and trickery: Liv. 28.24, 28.32; Polyb. 11.29, 11.31, 3.40, 3.67; Vell. Pat. 2.118–119; Tac. *Ann.* 1.58. Atrocities: App. *Hisp.* 96; Dio Cass. 62.7; Tac. *Ann.* 14.33; Val. Max. 7.6 ext. 2.

[53] Gambash 2013, 183–187.

[54] e.g. Dio Cass. 56.18–25, 62.2, cf. 62.9; Suet. *Tib.* 16; Tac. *Ann.* 1.57; cf. Tac. *Ann.* 2.88, 14.29–39; Tac. *Agr.* 14–16; Vell. Pat. 2.110–112, 2.118–119.

[55] e.g. Dio Cass. 62.11; Liv. 35.5.

increasingly autocratic system of the later Empire prompted a stronger focus on the ruler's ethical response to various threats, especially on his exercise of *clementia* and avoidance of *crudelitas*. This preoccupation was very different from the fierce emphasis on citizens' rights in the late Republic.

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