was the enforcement of bans of excommunication by the Commonwealth's authorities. Such enforcement took place both before and after the Reformation and was by no means restricted to the excommunications issued by the Catholic Church: both Protestant consistories and rabbinic *batei din* routinely called on the secular arm to enforce their bans and collaborated with local authorities in apprehending and punishing the excommunicated. Finally, and most importantly, Teter's assumption that the dichotomies of the "church" and the "state," "sin" and "crime," and the "secular" and "religious" were evident and clearly delineated in the early modern period is, at best, highly dubious, and it might be outright anachronistic. Teter believes that, for example, heresy, desecration of religious objects, or blasphemy are, in themselves purely religious matters; "sins," which after the Reformation were hijacked by secular authorities or wrongly subsumed under the rubric of criminal law. Yet, in most of the cases discussed in her book, neither the accusers *nor* the accused shared this belief. For the pre-modern consciousness, *all* "criminals" were sinners in the first place. Most of the "heretics" and "sacrilegers" discussed by Teter denied the specific allegations raised against them. Virtually none denied that heresy or sacrileges in themselves were in fact simultaneously "sins" and "crimes."

Pawel Maciejko
The Hebrew University of Jerusalem

Clifford Ando, *Law, Language, and Empire in the Roman Tradition*, Philadelphia: University of Pennsylvania Press, 2011. Pp. 184. $49.95 cloth (ISBN 978-0-812-24354-3); $49.95 ebook (ISBN 978-0-812-20488-9).
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The subject of Clifford Ando's work is the Roman empire and the forces that held it together. In *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley: The University of California Press, 2000) he looked at ideology; in *The Matter of the Gods* (Berkeley: The University of California Press, 2008) he looked at religion; and now, in his third monograph, he looks at law. Ando has approached each subject as a chapter in the history of ideas, with a sharply rationalist bent. In one of his most acute insights, he argued that polytheistic religion was to be seen not as a matter of mute ritual as contrasted with Christian inner faith—which he showed is itself a Christianizing perspective—but as a matter of knowledge. With respect to law, Ando is interested in "not what Romans thought, but how they thought"

(x), how they accommodated law to the task of governing the empire while maintaining law's autonomy and independence.

However, this book also seems to me to mark a departure from Ando's previous work in its overall depiction of the Roman Empire. In his first book, heavily influenced by Habermas, Ando approached ideology as communicative action, and emphasized consensus and the shared political culture that emerged between ruler and ruled. Now, he places the accent on Roman domination and the heterogeneity of the empire. One of the stories he wishes to tell is how "forms of domination once exercised by Romans over others were inscribed in the workings of law at Rome, henceforth to be exercised by the Romans over themselves" (x).

The book is a set of interlinked essays that share a concern with civil law, *ius civile*, in the senses of both Roman law (as opposed to laws of other peoples) and of private law. In the first chapter, Ando shows how Rome governed its empire with a combination of legal pluralism and the use of legal fictions to extend civil law to non-Romans: "the statute and law and pleading" in the self-governing community of Irni in Spain, "is to be *as it would be if* a praetor of the Roman people had ordered the matter to be judged in the city of Rome between Roman citizens" (*Lex Irnitana*, ch. 91, quoted on p. 10, with a valuable collection of similar cases in the appendix, "Work-arounds in Roman Law: The Fiction and Its Kin," 115–32). In the second chapter, Ando shows how Romans then used legal fictions to bridge de facto residual differences in law and custom once all the inhabitants of the Empire had become de jure Roman citizens, in 212 CE.

In the next three chapters, Ando argues for the historical and logical priority of civil law with respect to public and international law. In a very neat demonstration, he shows that Roman rites for declaring war, which Romans treated as archaic, in fact derived from much older private procedures for demanding restitution (19–36).

The last chapter is polemical. The object of the polemic is the Republican or neo-Roman movement in contemporary political science, in the person of its progenitor, Quentin Skinner. Ando "indicts" (81) the doyen of the historical contextualization of works of legal and political thought for failing to appreciate context. One count of the indictment is Skinner's central positive contribution to political thought: his resurrection of the Roman conception of liberty as the condition of not being a slave. "[A]ccording to Skinner, the Romans believed that 'a *civis* or free subject must be someone who is not under the dominion of someone else, but is *sui iuris,* capable of acting in their own right. . .what it means for someone to lack the status of a free subject must be for that person not to be *sui iuris*, but instead to be *sub potestate*, under the power or subject to the will of someone else'" (89–90). Ando makes short work of this: in fact, all citizens remained *sub potestate* of their fathers so long as their fathers were alive, whereas women who were *sui*

iuris also required approval from male guardians for all financial and legal transactions. "Skinner assimilates freedom to citizenship, citizenship to legal personality, and legal personality to non-domination. Every single one of these moves is wholly and easily falsifiable" (90).

If there is criticism to be made, it is not of the substance of Ando's arguments but of their presentation. The book presents a number of obstacles to reading. One is Ando's arch, abstract, and allusive style, compounded by his use of portmanteau words ("legalitarian," 46, 79, 96, 102). Another obstacle is the structure of the book, as a set of interlinked essays rather than an organic whole, which results in a confusing chronological hopscotch. For example, in the first chapter, Ando dwells on "the early period of Roman law. . ." (1), the growth of empire, and the emergence of legal fictions in the second and first centuries BCE, and then in the last chapter suddenly reverts to Rome's conquest of Italy in the fourth century BCE (87–88; cf. 12 for a brief explanation of the origins of Latin status). As I read the book, I imagined that the "forms of domination once exercised by Romans over others. . .henceforth. . .exercised by the Romans over themselves," were the legal fictions first used to govern non-Romans (ch. 1), then used to govern new Roman citizens after 212 CE (ch. 2). But in the final chapter, I learned that Ando meant something else entirely, and that the form of domination was the Republican doctrine of the *maiestas* ("greaterness") of the Roman people with respect to other peoples, which morphed into the *maiestas* of the Roman emperor (74–75, 103–7).

The third and greatest obstacle to reading the book is Ando's penchant for paradox. Section by section, example by example, Ando uncovers gaps, anachronisms, "schizophrenia" (23), boomerang effects, and generally people doing one thing "even as" they are ostensibly doing another. Thus, with the preposition *pro*, "Gaius enabled the regular and consistent overcoming of precisely the principle he nominally upheld" (26). Chapter 1 begins, "The object of this chapter is to excavate a body of law that does not exist" (1), and chapter sections have titles such as "The Future History of Prior Law" (30) and "From Republican Empire to Imperial Republic" (77). It is as though discussion is only complete once we have reached self-contradiction. At times, one is reminded of eighteenth century *philosophes* such as Ando's beloved Gibbon, or Montesquieu in his *Grandeur et Décadance des Romains*. However, the trait also renders Ando's arguments, if not unfalsifiable, then falsifiable only with the greatest difficulty.

This work deserves the widest readership. It is, simply, one of most original and stimulating studies of Roman law ever written. But many, I fear, will give up after only a few pages.

Gregory Rowe
University of Victoria

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