Research Proposal for a D.Phil. thesis

Roman Law and Local Law in Asia Minor

For a doctoral thesis I intend to make a study of the relationship between Roman law and local law in Roman Asia Minor in the period between the establishment of Roman rule in the Pergamene kingdom and the organization of the Roman province of Asia by Manius Aquilius (133-129 BC) and the grant of Roman citizenship to the free inhabitants of the Roman Empire by Caracalla (AD 212), which created a new legal situation in this regard. I shall leave open a possibility of a further chapter on the changes in the third century AD, down perhaps to Diocletian. This study will be a continuation of a more narrow topic of research I am pursuing now for my M.Phil. degree.

Methodologically my topic lies on the border between ‘legal history’ and ‘general history’, in an area of Roman studies that was rather out of the ‘mainstream’ of scholarship, especially in the English-speaking countries, for most of the twentieth century since its flourishing in the age of Mommsen, but is now experiencing a certain revival.

The last two decades or so have been marked in the study of a ‘general’ ancient history by a tendency more active than before toward a search for sources previously unexplored or long unfashionable. In particular it has led to a return of legal sources to the area of interest of ancient historians. They have served as a basis for several important studies of social relationships in the Roman world. A lot remains to be done, however, especially as regards studying Roman legal concepts, notions and practice as such, and not just taking separate items of evidence out of the legal texts as descriptions of social realities.

On the other hand, as regards the history of Roman law, it is now also developing toward closer cooperation with Roman history in general. From the study of the concepts of great Roman jurists in their finished and perfected form that superseded in its

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1 Beginning from this point (and not from the establishment of the Principate) is in my view inevitable, since many definitive developments in the provincial organization of the region took place in the late Republican period.
2 As they are defined, e.g., by J.A. Crook in his recent article in BICS 41 (1996), p.31-36
time the study of the *usus modernus pandectarum*, the focus of scholarly attention is now shifting toward legal practice and the way things actually worked in the classical period of Roman law, before not only the Justinianic codification, but even the ‘normalizing’ work of the Severan jurists.

One of the topics that is of particular interest in this relation is that of relationship of Roman law with the local legal systems, their mutual influence and alternate use in legal practice, and of the existence of any uniform patterns in the application of Roman law in provincial litigation. It is particularly well-studied in the case of Egypt on the basis of papyrological evidence (works of R. Taubenschlag, J. Modrzejewski, H.J. Wolff), but now work on other provinces is appearing too, partly prompted by the discovery of important new evidence, such as the *lex Irnitana* in Spain and papyri from the Judaean desert and Middle Euphrates. In these studies a lot has been done to recover regional contexts and now we are much more aware of the lack of uniformity between the different regions of the Empire.

Asia Minor offers a wide range of evidence on this problem. It is almost unique in giving us full combination of legal, literary and documentary sources. Many passages in the Digest are directly relevant to the situation in Asia Minor (mainly for the second and early third centuries AD). Literary evidence includes speeches and letters of Cicero, correspondence of Pliny the Younger with Trajan, speeches of Dio Chrysostom and Aelius Aristides, *Lives of the Sophists* of Philostratus, the Acts of the Apostles and early martyrdoms (especially *Passio Polycarpi*), certain passages from the writings of Josephus, Tacitus, Plutarch, Fronto, Cassius Dio and other ancient authors. As regards documentary evidence Asia Minor is one of those regions where most new discoveries in the field are made, and the selected topic is also constantly illuminated by new inscriptions. Take, for example, the ‘Roman execution’ inscription from Claros (*AE* 1991, no.1500 with *AE* 1998, no.1328 for additional bibliography) or an inscription from Ephesos reporting a decision of the Senate in a case involving Ephesian *negotiatores* (*AE* 1998, no.1333).

In spite of this no general work on the proposed subject appeared since the epoch-making work of Ludwig Mitteis (*Reichsrecht und Volksrecht in den östlichen

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4 See on these developments the Clarendon Law Lectures of R. Zimmermann (Oxford, 2001).
Provinzen des römischen Kaiserreichs. Leipzig, 1891), who took into consideration all the Eastern provinces and did not devote much space to Asia Minor as distinct from other regions. This is now very much out of date in many particulars. There is however an extensive bibliography on many of the specific points.

My proposed subject can be roughly divided into questions of a competing Roman and local jurisdiction (which I try now to explore for my M.Phil. thesis), of application of Roman and local laws in various courts, of various personal and community statuses in Asia Minor and their meaning in the sphere of legal practice, and of mutual influence of Roman and Greek legal concepts (along the lines of L. Mitteis for the whole of Roman East, R. Taubenschlag for Egypt and more recently of M. Younie for Macedonia). Finally, I hope to reach some conclusions on comparison of the legal situation in Asia Minor with that in the other Eastern provinces of the Empire.