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## Chapter 7

### **'Washed by the Waves'. Fighting against Shipwrecking in the Later Roman Empire**

*Emilia Mataix Ferrándiz*

#### **Abstract**

The enormity and wildness of the sea has always evoked an aura of mystery and uncertainty.<sup>1</sup> In the ancient world, where there was not such a thing as a socio-political imperative to save the lives of those who were shipwrecked, the attitudes towards a sinking ship and the shipwrecked relied on social and political conceptions. Therefore, these interpretations established the limits of legality and what was considered to constitute violence. For the Republic and the High Empire there are many sources, ranging from public texts on statutes to private accounts, that reveal how these sources guided and reflected the imperialistic efforts of Rome. For Late Antiquity, the sources available for the management of sea hazards in the private sphere are largely composed of legal remedies that were previously accepted and have survived because they were compiled in later codes. This can be generally attributed to the type of legal sources available for the study of this period, but it also reflects a continuity in the remedies employed to address the issue of privateers. A question to be asked here is how these remedies and their conceptualization of plundering fit into the socio-political situation of the Late Antique Mediterranean. The diverse nature of the sources available in late antiquity helps to characterize the complexities of managing sea hazards in a Mediterranean environment that was changing from that of *mare nostrum*, which had symbolised the Roman political expansion and governance of the sea.

**Keywords:** shipwreck, Roman law, Mediterranean Sea, legal codes, imperialism.

## **Introduction**

For the Romans, their relationship to the land had a legible history of law and politics that was violently inscribed through territorial lines, borders, and divisions, while the sea was perceived of and positioned outside the realm of governance of Roman civil legality.<sup>2</sup> While land could be fenced in and enclosed, and so was fair game for conquest and control, flowing water and the sea lay outside the threshold of individual patrimony, and were seen as belonging to humanity at large.<sup>3</sup> In that respect, shipwrecks appear as events that bridge the legal gap between the land and the sea, because of the different legal remedies provided to deal with these catastrophes, which in turn enlarged the scope of land-based legal rulings. Indeed, the imperialistic efforts of Rome were first translated into treaties, and later into statutes that little by little allowed them to increase their power throughout the Mediterranean. In addition, private remedies such as edicts and advice from jurists also reflect the Roman propaganda of a Mediterranean Sea that was peaceful thanks to their rule. Later, imperial jurisdiction, manifested through imperial constitutions, also reflected how the authority of Rome was translated into the governance of events occurring at sea, overseen by an all-powerful emperor.<sup>4</sup>

## **Shipwrecking throughout Roman History (in a Nutshell)**

*Before the establishment of the Roman hegemony throughout the Mediterranean*<sup>5</sup>

The archaic conception of shipwrecking was unavoidably linked with the ancient understanding of the sea and its shores. In a Mediterranean embedded in a semi-permanent state of war, the *ius naufragii* constituted a practice by which a shipwreck or its remains, when reaching a foreign coast outside a trading hub recognized as such, belonged to those who took them as their own.<sup>6</sup> This practice was initially conceived of as an individual right, but later developed into a right of the diverse communities around the Mediterranean,<sup>7</sup> whose governments supported it since they found in this activity a means of subsistence and

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enrichment as well as an affirmation of their power.<sup>8</sup> The potential limitations on the *ius naufragii* were based on exercising power, negotiating, or simply threatening each other.<sup>9</sup>

In contrast, piracy constituted acts of threatening or looting,<sup>10</sup> performed by groups acting outside the law of war and its limitations as established by the state.<sup>11</sup> Since acts of piracy were considered as operating outside the law of war, when indeed that seems to have been the permanent state of affairs in the archaic Mediterranean, it is thus quite difficult to establish the nuances of the term in that period.<sup>12</sup> To make this picture even blurrier, merchants and pirates were not only entangled in an intricate interdependence,<sup>13</sup> but were also psychologically and practically parts of a single, age-old historical structure, the 'raid mentality', which essentially represented a specific mode of economic activity.<sup>14</sup>

Overall, the *ius naufragii* was practiced outside areas that were either labelled as commercial hubs or identified by the authorities as safe spaces by public declaration. The latter highlights the political dimension of this practice in the archaic Mediterranean, where the safe spaces were designated by public authorities and thus indicated their connections (or their absence) with individual populations. What is significant here is the link between violence and space since suppression is necessarily connected to the establishment of control over territory and trade routes.<sup>15</sup> The latter can be perceived in the treaties or agreements between different populations that established limitations on the practice of wrecking, as well as the legitimacy or unlawfulness of violence at sea.<sup>16</sup> These treaties may have prevented the exercise of *ius naufragii* between political communities that were united by a consensual commitment of their members to a shared conception of law and rights, and were thus bound by a common purpose.<sup>17</sup>

### *The emergence of the idea of prosecuting violence during the Roman Republic*

The late Republic was a period known for its violent events,<sup>18</sup> and in the case of seafaring the data provided by underwater archaeology have been interpreted as proofs of the intensity of piracy during the first century BCE.<sup>19</sup> During that time, Cicero referred to pirates as

'enemies of all mankind',<sup>20</sup> and not specifically of the Roman people.<sup>21</sup> That qualification legally justified that combating pirates was an obligation of all countries, who could take the measures that they considered appropriate, even justifying crossing borders and jurisdictions.<sup>22</sup>

The legal problem with suppressing piracy was a question of jurisdiction,<sup>23</sup> to which the Romans responded in different ways, for example, by classifying provinces in different ways and establishing their rule of law.<sup>24</sup> The *lex de provinciis praetoris* (which survives in three inscriptions, two from Delphi and one from Cnidos),<sup>25</sup> the *Lex Gabinia de bello pirático* (67 BCE),<sup>26</sup> and the *Lex Manilia* (66 BCE).<sup>27</sup> These legal sources are indicative of the will and need of the Romans (and their allies) to legally change the Mediterranean maritime landscape to provide safe spaces in which to navigate. That was obviously a political act, but within that act, there was a conceptual spatial change that bridged the gap between the civilised land and the 'unruly' sea.

The first century BCE saw the enactment of the *edictum de naufragio*, which set limitations on the conduct described in the *ius naufragii*. As for the provision itself, the Digest states:

D. 47.9.1pr. (Ulp. 56 *ad ed.*) The praetor says: 'Of those of whom it was said they have looted or wrongfully received anything from a fire, a building that has collapsed, a wreck, a storm-wrecked raft or ship, or to have inflicted any loss on such things, I will give an action for fourfold against them in the year when proceedings could first be taken on the matter and, after that year, for the simple value of the things. I will likewise give an action against a slave or household of slaves'.<sup>28</sup>

The *edictum de naufragio* includes a civil action that, addressed cases of *rapere* (violent theft), *recipere* (take) and *damnum dare* (causing damage) performed at the same time and in the same place as a catastrophe occurred (*incendio, ruina, naufragio*).<sup>29</sup> In turn, the edict also applied when these behaviours occurred when a ship had been assaulted,<sup>30</sup> and during the assault.<sup>31</sup> The edict changed the paradigm of shipwreck as a legal concept so that it was perceived as an event from which the subject must be protected, both in terms of their integrity

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and property rights.<sup>32</sup> Although these behaviours may already have been considered wrongful by some prior to the enactment of the edict,<sup>33</sup> the essential aspect set out in this disposition was that shipwrecking was to be considered an act of private violence that must be legally targeted.<sup>34</sup> In the context of the edict's enactment, *vis* (violence) became an ethical label adjudged by social practice and the political notions that identified not only the act of shipwrecking as violent but also the actions deriving from it.<sup>35</sup>

An essential feature of this edict is its persistence through time. While approved during the late Republic, it was included in the perpetual edict of Hadrian (131 BCE),<sup>36</sup> which is why Ulpian and other authors could comment on it, as can be appreciated in the different fragments compiled in the title *de incendio ruina naufragio rate nave expugnata* (D. 47.9).<sup>37</sup> The edict was also considered by the emperors or their secretaries when writing their rescripts, which in turn extended its original scope. Finally, the edict was preserved in later compilations, which highlights that this disposition was applied in different social and political circumstances from when it was enacted.<sup>38</sup>

### *The (apparent) Calm and Peace of the High Empire*

In the Earlier Imperial era, the whole 'world' was Roman, so there was no point in maintaining the pretence of an international prosecution of piracy.<sup>39</sup> Augustan propaganda,<sup>40</sup> as well as the *princeps'* creation of magistracies to survey the sea,<sup>41</sup> have convinced some scholars that shipwrecking and piracy were practically extinct during the Roman Empire, and especially during the *Pax Augusta*.<sup>42</sup> However, although seafaring and trade were safer during the high imperial period due to several factors,<sup>43</sup> small-scale, opportunistic piracy persisted.<sup>44</sup> In addition, piracy became a more serious problem during the third-century crisis, forcing the Roman authorities to take extraordinary measures to suppress it.<sup>45</sup>

Many provinces that became Roman had long tradition of practicing shipwrecking and piracy, which at some point was even strongly linked to the formation of their communal identity and power.<sup>46</sup> In addition, since the formation of the empire implied a progressive

conquest, while some of the provinces that were taken in by the Romans may have tried to eradicate piracy within their boundaries, other neighbouring areas might have just kept on committing raids against these newly Roman provinces.<sup>47</sup> In these cases, many attacks would not have been carried out solely as a way of obtaining booty, but also as a defensive act against piracy committed by others against them.<sup>48</sup>

Some fragments included in the title *de naufragio* reveal different ways in which the scope of the *edictum de naufragio* was extended to the provinces.<sup>49</sup> One last example –even if it does not belong to the *edicto de naufragio*- would be a fragment of Marcian's *Institutes*<sup>50</sup> in which the jurist first refers to the punishment for shipwrecking, first by the *lex Iulia de vi privata*, and later by the *cognitio extra ordinem*, as mentioned in an imperial constitution from Antoninus Pius.<sup>51</sup> By including these references to the punishment for shipwrecking in his book, Marcian was detaching them from their statutory or casuistic origin and raising them as abstract principles of general applicability.<sup>52</sup>

Regarding these fragments, on the one hand, there is the advice provided to provincial magistrates by Ulpian in his books, as he was himself part of the imperial chancellery during Caracalla's reign,<sup>53</sup> and therefore, represents the official narrative of the Empire. On the other hand, there are the rescripts compiled and commented on by Paul in his book 54 on the commentary on the edict,<sup>54</sup> and in the second book of *quaestiones* from Callistratus.<sup>55</sup> Both of them were assuredly well acquainted with the imperial archives when they included these observations in their books, as they were expanding their impact and promoting the values of the Empire regarding how to punish shipwrecking in the provinces.<sup>56</sup>

### **Shipwrecking, Law, and the Socio-political Landscape of the Later Empire**

Many epigraphical and literary sources demonstrate that piracy became a more serious problem during the third century and later.<sup>57</sup> These inscriptions and texts should not be interpreted as an evidence of a maritime 'crisis' *per se*, but as references to run-of-the-mill activities, indicating the continuity of piracy and plundering activities all throughout Roman

History. However, one key element here is that many of the measures taken happen to come from the beginnings of a period of political instability and somewhat before the Gothic raids of the middle of the third century CE.<sup>58</sup> These raids were serious and damaging for the eastern provinces of the Empire, but they do not indicate a complete breakdown of the framework that had helped Rome to keep piracy at reasonable levels during the previous centuries. However, these were just the beginning of more damaging invasions to come later (Saxons,<sup>59</sup> Vandals, Visigoths and later the Arabs).<sup>60</sup>

These events, and the subsequent measures taken by the Romans to counter them, reveal an Empire in transition, threatened by external forces that were testing the strength and power of the Roman Empire. To these pirate attacks committed by populations alien to the Empire, we need to add the plundering activities from privateers and subjects belonging to the Roman Empire, which did not cease during this period.

#### *Plundering in Late Antique Legal Sources*

This section mostly deals with sources which, some in a more direct manner than others, refer to shipwrecks, and give evidence of the unstable and changing political situation of the Empire. One of the limitations of the sources from this period is that they are scattered throughout different codices and private law compilations, and that all of these legal works were constructed following a particular aim, which in some ways could cover up the socio-political reality lying behind them.

The first text studied is an imperial constitution compiled in the *Codex Iustinianus* (CI) from the age of Diocletian paraphrasing the *edictum de naufragio*:

CI 6.2.18. The emperors Diocletian and Maximian to Dionysodorus. The rule of the Perpetual Edict declares that an action for fourfold damages is available for a year to him, whose property is lost, against him, who is said to have taken or caused any loss to property from a shipwreck

or fire, and after that time an action lies for the simple value, apart from the existing statutory penalty. (transl. Corcoran *et al.* in Frier's edition)

This is a rescript dated to the thirtieth of December of 294 CE, in which the two *Augusti* and Caesars were replying to one Dionysodorus from Nicomedia (in modern Turkey), who was probably asking about a ruling on the law concerning a property loss due to a shipwreck or fire. Since we only have the reply, it is impossible to know which of these catastrophes was mentioned by the petitioner, but perhaps the fact that the shipwreck was mentioned first indicates that this was the unfortunate event suffered. If that was the case, it would imply that, as I have mentioned in the previous section, even if the official discourse established the unlawfulness of stealing from a wreck, as well as plundering, these events nevertheless kept occurring in every period of Roman history.

The text refers to the penalty established in the *edictum de naufragio*, meaning the private *actio*, as well as to the existence of a statutory penalty that should be the *quaestio de naufragii*,<sup>61</sup> which occupied one title from the *Codex Theodosianus* (13.9) and another from the *Codex Iustinianus* (11.6).<sup>62</sup> The text appears compiled in the title dealing with theft (*de furtis*), which would correspond to title 47.2 of the Digest, and that indicates that this rescript was probably included because the compiler was associating the ideas, and not because he knew the specific action. Since the rescript was quoting the *actio de naufragio*, that would have been the legal remedy indicated and not the *actio* available for theft, the penalty for which was double the value of the things stolen.<sup>63</sup> The distinction between theft and robbery is not always crystal-clear. In that sense, §5 from the title *de naufragio* contains a text in which Gaius establishes some differences between ordinary theft or robbery and stealing from shipwrecks.<sup>64</sup> According to the fragment, someone who took something from the shore that was rescued from a shipwreck was liable for theft or robbery, if it happened sometime after the wreck. However, if that same person took the object from a sinking ship, a vessel under attack, or from the coast as the wreck was happening, or knew that the thing came from a wreck, then the *edictum de naufragio* applied. However, when this rescript was enacted most

actions had lost their individuality, which is the reason why the compilers' arrangement may not have seemed strange.

Another compilation in which we can find references to the *edictum de naufragio* are the *Pauli Sententiae*, an anthology compiled about 300 CE<sup>65</sup> from various works of Paul's by an unknown hand.<sup>66</sup> The fragment belongs to the title addressing issues taking place during a tumult (*de his quae per turba fiant*), and says:

PS 5.3.2. Where any property obtained from a fire, the ruin of a building, shipwreck, or the plunder of a vessel, has been stolen or concealed, and whoever concealed, hide, or rob with violence, can, within a year, be sued for fourfold damages, and, after the lapse of a year, for simple damages. (transl. Scott, with amendments)

The *Pauli Sententiae* probably represented a tool to remedy the existing chaos in the sources available for solving cases and studying the law, offering a decisive synthesis of jurisprudential doctrines and imperial constitutions.<sup>67</sup> The inclusion of this fragment in the *Pauli Sententiae* indicates that it was going to be studied by law students, and also used to solve cases in trials. In addition, the general validity of this compilation was extended in time and authoritatively validated in one Constitution of Constantine.<sup>68</sup> Therefore, the inclusion of this fragment indicates the importance of the *edictum* and could be probably linked to the persistence of the practice of plundering in late antiquity.<sup>69</sup>

The fragment includes some differences with respect to the original text of the *edictum de naufragio*. The fragment addresses the behaviours of *suppresserit* (sink, make disappear) and *celauerit* (to hide from), that were not included in the original phrasing of the *edictum*.<sup>70</sup> The use of these two verbs is something that needs further attention, since in the first part, *supprimere* refers to a ship, and therefore needs to be read as 'sink'. However, in the second part its meaning contrasts with that of the verb *celare*, and it makes me think whether it could not only be referencing the concealment of booty, but also the ransom of people, since the verb has been associated with the *plagium*, and these terms are mentioned in the *Lex Fabia* (64

BCE).<sup>71</sup> That hypothesis fits well with the fact that the text was inserted in a title labelled *turba* (tumult).

By including the behaviour targeted by the *edictum de naufragio* in the title regarding *turba*, it may seem that these conducts needed to be committed when taking advantage of an element of disorder or disturbance created by a crowd.<sup>72</sup> One characteristic element of the *actio de naufragio* with respect to other similar legal remedies concerning violent robbery is that the behaviours targeted in this disposition were not conditioned upon being committed by a gang.<sup>73</sup> The latter points in two related directions; the first is that the disposition will target the behaviours indicated in the fragment when committed by a group of people, and the second is that it will also address situations when they are conducted so as to take advantage of the confusion created by a tumult, for example when a ship is being attacked. The latter was referred to by Ulpian in his extensive comment on the *edictum de naufragio*,<sup>74</sup> but it is unsure whether that was the scope of the original edict when it was enacted in the first century BCE. The text indicates that the original scope of the *edictum de naufragio* was enlarged in the *Pauli Sententiae*, by including the concealment of people or booty in addition to the robbery of salvaged goods, and also encompassing behaviours committed individually or in groups. The latter could be a reflection of the social reality, or not, but what it probably indicates is that the author of the *Pauli Sententiae* knew the context of the *edictum de naufragio* and its connections with other unlawful behaviours besides those in the Digest's title. That seems to be what the authors of the *Libri Basilicorum* were following, summarising Ulpian's commentary of the edict in a single text.<sup>75</sup>

The first fragment from the *CP*'s title *de naufragiis* includes a rescript from Caracalla, in which the emperor indicated that a wrecked ship washed to shore by the waves still belonged to the original owner(s):

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CI 11.6.1. The Emperor Antoninus A. Maximo. If at any time a ship has been pushed to the shore as a shipwreck, or if at any time it reaches the land abandoned, it shall belong to the owners. (transl. Kehoe *et al.* in Frier's volume).

The latter followed the principle that goods salvaged from a wreck could only be subject to appropriation if the original owner abandoned them.<sup>76</sup> That was the general trend of the title *de naufragio*, and was promoted in other imperial texts, which indicated that the archaic custom of the *ius naufragii* was - at least, officially - not allowed by law in the Roman world. In addition, the emperor underlined that the Roman treasury did not have any right to the wrecked ship or the salvaged goods.<sup>77</sup> The latter fit well with other Digest' texts forbidding the interference of public authorities with a wreck or its remains.<sup>78</sup> Ulpian was probably referring to this same imperial constitution in *D. 47.9.12pr.* (Ulp. 8 *de off proc.*), a fragment belonging to book twelve on the duties of proconsuls, therefore setting the text in a provincial context,<sup>79</sup> and referring to any kind of ship and to anyone interacting with the remains of a wreck.<sup>80</sup> These fragments underline that at the time of Caracalla, it seems that the *fiscus* can demand the payment of toll taxes but had nothing to do with wrecked cargoes.<sup>81</sup> Solazzi interpreted this fragment as the emperor being forced to take the tone of a preacher, to reiterate to his agents from the *fiscus* (and I am imagining to the common people too) that they should not interfere with the remains of a wreck.<sup>82</sup>

One fragment of Fortunatianus' *Ars Rhetorica* (from before the fourth century CE) indicates the opposite view, what can perhaps be considered a sign of a change in Caracalla's policy, which was again in force during Justinian's reign and was included in his codex.<sup>83</sup> Otherwise, it could be considered either as ignorance on the part of the writer of the actual practice in force, or simply a reflection of the activity of the *publicani* as witnessed by the writer, who considered such actions to be lawful (even if the *publicani* may have simply been abusing their power).<sup>84</sup>

Bearing in mind the role of this fragment, and considering the title in which it is included, the first thing to acknowledge is that the title includes several imperial constitutions ranging

from 372 until 412 CE, by which the emperors provided responses for issues concerning the *annona*'s food supply to different *praefecti pretorii*, *navicularii*, and even the Senate. This title needs to be considered in parallel with title 13.9 (also entitled *de naufragiis*) from the *Codex Theodosianus* (*CTh*), and from which many fragments were copied to be included in the *CI*. However, that our fragment 11.6.1 is included in this title does not mean that the text was only referring to ships involved in public supply. What could be the significance of including this fragment in the title *de naufragiis* from the *CI*? The fragments of this title refer to an investigation (*quaestio de naufragii*) that was meant to determine whether a wreck causing the loss of a public cargo was caused by weather conditions, by lack of diligence or expertise in navigation, or by fraud. The different particularities appear to be first described in title 13.9 of the *CTh*, from which many texts were copied, modified, and adapted into title 11.6 of the *CI*.<sup>85</sup> The fragments from both titles describe the procedure to carry out the investigation of a shipwreck, and none of them describe the case of a public authority interacting with the remains. However, the rescript of Caracalla does not appear to be mentioned in the *CTh*, which could make one consider whether the behaviour of the imperial agents and local privateers with respect to wrecks was more reckless during Justinian's reign, thus motivating the compilers to include this text in the title. But the latter should be justified by the different nature of both compilations, being that the *CTh* was restricted to laws of general efficacy (*edicta*) versus the *rescripta*, which would have been compiled in the previous *codices Hermogenianus* (*CH*) and *Gregorianus* (*CG*), and which were tacitly recognised in the *CTh*.<sup>86</sup> Perhaps the texts dealing with plundering in the private sphere were compiled in these codes, which titles also followed the sections of the Praetor's Edict,<sup>87</sup> in which the *edicto de incendio ruina naufragio rate nave expugnata* was compiled.<sup>88</sup>

In addition, several fragments of title five from the *Codex Theodosianus* (*de naviculariis*) also refer to frauds committed while transporting cargoes on behalf of the *annona*.<sup>89</sup> The interest in establishing these measures regarding the *annona* supply should not be simply justified by the increasing importance of the state management of the *annona* during the Later Empire, since the shippers derived benefits from working for the state but were not completely

dependent on it.<sup>90</sup> These texts describe the process of demonstrating and proving that the wreck by which a public cargo was lost was caused by natural forces. Corresponding with the historical context of the fragments, the procedure followed was the *cognitio extra ordinem*.<sup>91</sup> The investigation was led by the provincial governor from the area where the wreck took place, but the decision on the matter was then transferred, depending on the historical context, to the praetorian prefect,<sup>92</sup> or to the prefect of the *annona*.<sup>93</sup> In one constitution from 380, the emperors Gratian, Valentinian, and Theodosius establish guidelines for the type of evidence that can be used by sailors to facilitate their revindications, and include the stipulation that their close kin can be called as witnesses in cases when the shipper has not survived.<sup>94</sup> In case it was demonstrated that the shipwreck occurred due to natural causes, the shipper was to be exempted from having to compensate for the lost cargo, but the finding would not offer to make up for the damage suffered by the ship.<sup>95</sup> However, it seems that quite frequently the shippers actually caused the wrecks,<sup>96</sup> taking advantage of the fact that the state was assuming the risk for the transport.<sup>97</sup>

From my point of view, these texts reflect the need to establish a special rule for cases of *stellionatus* (swindling), which did not have any specific penalty and therefore needed to be fixed *extra ordinem*.<sup>98</sup> Even if that was not the aim, however, Ulpian does provide an extensive list of the conducts targeted in this category (perhaps such a list was unnecessary and restrictive),<sup>99</sup> and the jurist actually mentions 'In particular, a person who conceals merchandise can be charged with this offense',<sup>100</sup> which is indeed quite illustrative and fits with other similar topics addressed by the Severan jurist in his book eight on the duties of the proconsul.<sup>101</sup> Concretely, the fragment *D. 47.11.6pr.* (Ulp. 8 *de off. proc.*) addresses the problem of fraud committed by subjects working for the corn supply and refers to *merces supprimunt*.<sup>102</sup> In his text, Ulpian indicates that this problem was addressed by imperial constitutions and *mandata*, however it seems to me that these may have not been efficient enough to control these behaviours, and therefore later emperors needed to enact further imperial decrees to deal with these cases.

These texts highlight the importance of the documentation used to declare what was actually loaded on and unloaded from a vessel, and in relation to this several texts talk about the corruption of provincial officers who committed fraud in these matters.<sup>103</sup> Some fragments prescribe that the shipper should provide proof about the circumstances that could have caused damage to the cargo, a serious reduction of the expected load, or the jettisoning of part of the goods to avoid wreckage.<sup>104</sup> The latter is justified because the shippers could say that they have jettisoned part of the load, and instead keep it somewhere in order to sell it for a profit. However, some fragments from an imperial constitution compiled in 409 CE reflect the warranties provided by the imperial constitutions for cases involving shippers working in the eastern part of the empire, and indicate that when their fault in a case of shipwreck was proven the guilt would be shared amongst the entire council of shipowners.<sup>105</sup> In that way, these subjects would not aim to commit fraud so as to avoid confrontation with their peers and losing the privileges of being part of the council.<sup>106</sup>

One of the first thoughts that comes to mind when reading the sources is why the authors kept copying the *edictum de naufragio* and its related texts, while other sources which may have also addressed these events only appear in the Digest but not in other private compilations.<sup>107</sup> The *edictum de naufragio* was part of the perpetual edict, and in that sense, it would have been a source accessible to the different authors writing their compilations. But here we must differentiate between private compilations and the codes that gathered and organised imperial constitutions. In the first type, we can see authors at work, compiling the sources available to create manuals that aimed at teaching and explaining the law,<sup>108</sup> which is why these sources did not always need to be up to date, meaning that they were an existing element in the legal framework presented, but were not necessarily in use at the time. For example, the penalties included for the behaviours targeted by the *edictum* were fixed *extra ordinem* when these writers were compiling the texts. Notwithstanding that, the persistence of this edict probably indicates the importance of this source as symbolizing the changes in the paradigm of *ius naufragii* since the Roman Republic.

In the case of codes such as those of *Theodosianus* and the *Iustinianus*, they also compiled sources which were hand-picked by the compilers, thus forming a subjective whole. However, even though these imperial constitutions were edicts or rescripts (with their subsequent applicability and impact), the result would be the same, since their inclusion in these codes extended their effects to become general rules. Many of these sources concerning plundering were probably included in the codes because they needed to remind that the behaviours included in these rulings were still being committed, and existing laws were being violated or avoided, or there was a need to reclassify these practices from merely anti-social or inconvenient behaviour to legal offences. Either way, the repetition of the laws added strength to the imperial anti-plundering crusade that was a constant throughout different periods, despite the variations in the activity of both privateers and gangs.<sup>109</sup>

### **Concluding Thoughts**

For what can be seen in the analysed texts, it seems that the criminalization and prosecution of *ius naufragii* and piracy in antiquity was based on unilateral solutions arrived at in response to specific situations. Thus it was closely related to the notion of, if not Empire, at least a politically organised community.<sup>110</sup> This was the general trend followed by the official rulings since Rome's hegemonic governance of the Mediterranean basin after their victory in the Punic wars and its progressive imperialistic expansion.

In that sense, the guiding principle appears to have been that violence and acts of war at sea should be avoided, but that the exercise of private violence was perhaps more difficult to control. Thus, we need to bear in mind that while there may have been an official or established framework of understanding regarding certain practices that depended on the power of the central government, other traditions and customs could and would have remained in force and interfered with these generalised principles. In that sense, for the people for whom looting had always been part of their economic income, it would have been difficult to be told that this practice was not acceptable anymore.<sup>111</sup> Therefore, this perspective needs to be considered

when examining the culturally diverse Mediterranean regions. After all, any landscape is made up of multiple ideological and interrelated components, which are best understood by considering their previous inhabitants.

In addition, the later Empire witnessed several threatening invasions and events which, as we know, would eventually destroy the framework of Roman control, first in the west, and later in the east (although this is another story). In that general environment of disorder and violence it was even more difficult to control plundering, something that many shippers working for the *Annona* would have taken advantage of. In addition, many areas of the Empire, being threatened by external forces, may have gone back to plundering not only as a way to overcome piracy, but also perhaps as a defensive measure against assailants in general.<sup>112</sup> In that way, even if it may seem to be a cliché, the later empire and its sources regarding plundering leave an image of a fragmented political community reflecting the decline in imperial stability, and the progressive disappearance of the *mare nostrum* and its social and political significance for the Roman world.

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<sup>1</sup> Nicolet 1991: 5; and Lampinen in this volume.

<sup>2</sup> Tuori 2018: 204-214.

<sup>3</sup> See *D.* 1.8.2pr-1 and *D.* 1.8.4pr-1 (*Marc.* 14 *inst.*). Also, *D.* 43.8.3.1 (*Celsus* 39 *dig.*) 'the sea, like the air, is for the common use of humankind'.

<sup>4</sup> See also Minale in this volume.

<sup>5</sup> Following the original title of one paper written by Rougé 1966: 1467-1479.

<sup>6</sup> *Hdt.* 3.137-138; *Polyb.* 2.8; *Strab.* 5.4.2, 89.5.2, 17.3.20; *Plin. HN* 2.73 (71) and 7.57.11; *Apollod. Epit.* 6.7; *Dionys. Per.* 47-49; *Amm. Marc.* 15.2.2-3. The existence of coastal areas with a large number of wrecks sunk near the sandy shores probably indicates that wrecking vessels by attracting them to the coast with signs was a common practice, see *D.* 47.9.10 (*Ulp.* 1 *opin.*); *Purpura* 1986: 156.

<sup>7</sup> *Andrich* 1904-11; *Rougé* 1966: 109; *Moschetti* 1977; *Velissaropoulos-Karakostas* 1980: 162.

<sup>8</sup> *Chic García* 2013: 17.

<sup>9</sup> *Rougé* 1966, quoting remedies such as the ἀνδρολεψία, σύλαν (right of reprisal), or the use of συμβολά (objects symbolising a relationship between two parties). For an overview, see: *Dem. De cor.* 21.82; 23.82.4; *Polyb.* 8.50-51; *Lexeis Rhetorikai in Lex. Seg.* 213-30. 214.2; *Bravo* 1981; *Macdowell* 1963: 27-28; *Velissaropoulos-Karakostas* 1980: 141-150 (ἀνδρολεψία); *SEG* II<sup>2</sup> 1132; *SEG* IV<sup>2</sup> 1.68; *FD* III 2.68; *SGDI* II 2506; *CID* IV 12; *CID* IV 114; *SEG* IX 1<sup>2</sup>; *SEG* IX 2.573; *SEG* XII 9.191; *IMT* Skam/NebTaeler 192; *SEG* II 533; *SEG* XL 609. *Purpura* 2002; *Bravo* 1980; *Pritchett* 1991: 68-132; *Garlan* 1999: 108; *Cassayre* 2010; *Dillon and Garland* 2010: 164; *Cecarelli* 2013: 38 (σύλαν), and *Velissaropoulos-Karakostas* 1977; *Cataldi* 1983; *Herman* 1987; *Zuccotti* 1992: 305-439; *Purpura* 1995: 468-9 (συμβολά).

<sup>10</sup> *Hom. Od.* 3.69.12; 3.71-74; *Thuc.* 1.4-5; *Dem.* 53.3; *Lys.* 22.14; *Arist. Pol.* 1.1256; *Eur. Hel.* 765-769; 1125.9; *Apollod. Bibl.* 2.1.5; *Polyb.* 2.8-9; 2.4-5.

<sup>11</sup> *Gabrielsen* 2001: 225; *Arnaud* 2016: 24.

<sup>12</sup> As indicated by *Ormerod* 1997: 59-73. It is different in later periods, when the state of war is something exceptional, and then it is easier to establish differences between privateer and private, between prize and booty. Privateers would seize spoils and are justified by being part of a just war, while pirates only act for their own good and their acts find no legal justification. The latter is the approach as phrased by *Grotius*, see, *Kempe* 2009: 393-395.

<sup>13</sup> *De Souza* 1999: 22, 56, 201-2; *Alonso-Núñez* 2007.

<sup>14</sup> *Cassola* 1968: 28; *Gabrielsen* 2001: 237; *Bresson* 2016: 418, referring as using the 'economic rationality of violence'.

<sup>15</sup> Vlassopoulos and Xydopoulos 2015: 8-9.

<sup>16</sup> Frezza 1949: 29; Bederma 2001: 192; Ando 2020: 123. Some examples of these sources were six treaties agreed between Rome and Carthage from 509-279 BCE (Polyb. 3.22.4-7); or the treaties concluded by Maroneia from 167 BCE (*SEG* XXXV 823. ll.6-11) and Astypalaia from 105 BCE (*SEG* XII 3.173. ll.26-29 (=IGRR IV 1028)).

<sup>17</sup> That was the main point of Cic. *Rep.* 1.39; Cic. *Parad.* 27.

<sup>18</sup> E.g. Lintott: 1999.

<sup>19</sup> Parker 1992: fig.3, Parker's graph shows a progressive increase in the number of known wrecks from about 600 BCE to 200 BCE, followed by a rapid rise to a peak in the first century BCE; Parker 1992: 84, 196. However, although archaeological evidence can indicate that a wrecked ship suffered a violent attack, it does not necessarily mean that these violent marks on the ship correspond to a pirate assault, Arnaud 2016: 22.

<sup>20</sup> Cic. *Off.* 3.107 *pirata non est ex perduellium numero definitus, sed communis hostis omnium, cum hoc nec ides debet nec ius iurandum esse commune*: '...for a pirate is not included in the number of lawful enemies but is the common foe of all the world; and with him there ought not to be any pledged word nor any oath mutually binding' (transl. W. Miller).

<sup>21</sup> Which would have implied a series of procedures in terms of declaring war according to the *ius fetialis*, such as the *ius iurandum* as indicated in Cic. *Off.* 3.108. See also, Catalano 1964; Loreto 2001: 69-73; Bederma 2001: 55-57.

<sup>22</sup> Tarwacka 2009; *ead.* 2012, 70, 73; *ead.* 2018: 302, 309; Policante 2015: 26-50.

<sup>23</sup> Anderson 1995: 178.

<sup>24</sup> Str. 10.5.4; 14.5.2; Ando 2020: 119.

<sup>25</sup> *SEG*.XXVI 1227.

<sup>26</sup> Asc. *Corn.* 72a-c; Cass. Dio. 36.

<sup>27</sup> Cic. *Leg Man.* 56: *itaque una lex, unus vir, unus annus non modo nos illa miseria ac turpitudine liberavit, sed etiam effecit, ut aliquando vere videremur omnibus gentibus ac nationibus terra marique imperare*. 'And the result was that one law, one man, and one year not only set you free from that distress and that reproach, but also brought it to pass that you seemed at last in very truth to be holding empire over all nations and peoples by land and sea.' (transl. H. Grose Hodge.)

<sup>28</sup> Lenel thought that the last phrase was an interpolation, see Lenel 1889: 765-766 (§ 189); 1927, 396. For more details on the origin, chronology, and features of the disposition, see Mataix Ferrándiz 2019: 153-195,

<sup>29</sup> Being fire, collapse of a building or wreck. *D.* 47.9.1.2-5 (Ulp. 56 *ad edict.*); *D.* 47.9.2 (Gai. *Inst.* 21 *ad edict prov.*).

<sup>30</sup> *D.* 47.9.3.1. (Ulp. 56 *ad ed.*) *Deinde ait praetor 'rate navi expugnata'. Expugnare videtur, qui in ipso quasi proelio et pugna adversus navem et ratem aliquid rapit, sive expugnet sive praedonibus expugnantibus rapiat.*

<sup>31</sup> *D.* 47.9.4pr. (Paul 54 *ad ed.*).

<sup>32</sup> Some fragments of the Jerusalem Talmud show that this conception is not shared in other cultures, see Talmud of Jerusalem, *Schequalim.* VII.2.; Talmud of Jerusalem, *Baba Qama.* X.2.

<sup>33</sup> Indeed, Plautus' comedy *Rudens* refers to the unlawfulness of seizing property coming from a wreck (esp. 955-1065) and it was probably written in 181-180 BCE.

<sup>34</sup> Balzarini 1969; Vacca 1972.

<sup>35</sup> Labruna 1971: 10-11; *id.* 1972: 528; *id.* 1986: 11.

<sup>36</sup> Lenel 1927: 391-396, § 189. On the perpetual edict, see Tuori 2006: 219-237 for a review of the literature available.

<sup>37</sup> Esp. Ulpian's book 56 and Paul's book 54, both on the praetorian edict.

<sup>38</sup> For a similar kind of issues concerning text transmission, see Minale in this volume.

<sup>39</sup> This principle was interpreted differently by Grotius to help his own interests. See Grotius 2009: 26-27; Straumann 2015: 130-165; Tuori 2018: 214.

<sup>40</sup> Augustus indeed claimed to have stopped piracy in the Mediterranean, proclaiming 'I freed the sea of pirates' (*mare pacavi a praedonibus*), see *CIL* III.2.769 (=RGDA 25.1). However, the line alludes to his rival Sextus Pompey, see Livy *Per.* 123; 127-128, and Fuhrmann 2012: 95 n. 23. Other sources that claim the benefits of the *Pax Augusta* are, Hor. *Carm.* 4.5.17; Str. 3.25; Philo *Leg.* 146; Plin. *HN* 2.118; Prop. 3.4.1; 3.4.11; 3.4.59; Suet. *Aug.* 22.

<sup>41</sup> Purpura 1985: 106.

<sup>42</sup> Ormerod 1997: 257; Braund 1993: 106-107; Noy 2000: 142. For example, the wreck 'Cabrera D' (1-15 CE) included helmets in its cargo, something that according to Parker could only be justified by the presence of soldiers on board and not on the self-defence of the crew, since this wreck dates to the *Pax Augusta*. see: Parker 1992: 84.

<sup>43</sup> For a general view, Wilson 2011: 33-39; 54.

<sup>44</sup> De Souza 1999: 205-213. However, the boast had some merit: piracy did not become a serious problem again until Late Antiquity, see Moschetti 1983: 873-910.

<sup>45</sup> De Souza 1999: 218-224.

<sup>46</sup> E.g. Cilicia and Crete, see Shaw 1997: 199-233; Avidov 1997: 5-55. For the case of the Roman take-over of the Ptolemaic kingdom of Pontus in 63 CE, see Tac. *Hist.* 3.47-48 and De Souza 1999: 208-209.

<sup>47</sup> See the case of the Chauci, who carried out raids into Gaul in the first century CE (Tac. *Ann.* 11.18).

<sup>48</sup> The Frisians attacked some ship from the Usipi, crewed by men who had deserted the Roman army in Scotland in 83 CE and sailed across the North Sea to the German coast, Tac. *Agr.* 28; Cass.Dio.56.20. Judea was widely known as

an area where piracy was perpetrated before the Roman occupation of the province, as when Pompey attacked the area in 63 BCE, Joseph. *BJ.* 2.9.2; 2.12.1; 3.9.2; 3.414-417; De Souza 1999: 209.

<sup>49</sup> See §10; §4.1; §7 and §12pr.

<sup>50</sup> Marcian's book was a kind of sourcebook written in the late Severan period and probably in an oriental province, see Andres Santos 2004, with bibliography.

<sup>51</sup> *D.* 48.7.1-2 (Marc. 14 *Inst.*).

<sup>52</sup> Coriat 1997: 649-652.

<sup>53</sup> Dell'Oro 1960: 119; Honoré 1962: 209.

<sup>54</sup> Written during Caracalla's reign. see. Honoré 1962: 224; Klami 1984: 1834, while Maschi 1976: 676, locates his work in a broad chronological timeline, between Commodus and Severus Alexander.

<sup>55</sup> Probably written under Septimius Severus, Honoré 1962: 216.

<sup>56</sup> This phenomenon has been described as the 'maximation of imperial constitutions' and involved an extensive knowledge of the archives of the imperial chancellery. See: Archi 1986: 161; Volterra 1971: 832; Palazzolo 1980; Coriat 1997: 635-664; Varvaro 2006: 381.

<sup>57</sup> *BE* 1946-7: 337-8; *IGRRP* 4.1057 lines 11-20; *IGRRP* 3.481 lines 8-10; *CIL* VI.1638; SHA. *Tyr. trig.* 26.2; *Pan. Lat.* VIII.12.1, VIII.18.1; *Amm. Marc.* 14.2; 16.9; 19.13; 27.9; *Zos.* 1.71; De Souza 1999: 218-224.

<sup>58</sup> *Zos.* 1.27-28; 1.32; 1.34; 1.42; 1.46; SHA. *Claud.* 6-12; 9.7; *Gall.* 12.6; 13; 13.6.

<sup>59</sup> On the Saxons, Sid. Apoll. *Ep.* 8.14, *ad hoc exercent illos naufragia, non terrent. est eis quaedam cum discriminibus pelagi non notitia solum, sed familiaritas. nam quoniam ipsa si qua tempestas est huc securos efficit occupandos, huc prospici vetat occupaturos, in medio fluctuum scopulorumque confragosorum spe superventus laeti periclitantur.* 'Moreover, shipwreck, far from terrifying them, is their training. With the perils of the sea they are not merely acquainted—they are familiarly acquainted; for since a storm whenever it occurs lulls into security the object of their attack and prevents the coming attack from being observed by victims, they gladly endure dangers amid billows and jagged rocks, in the hope of achieving a surprise.' (Transl. W. B. Anderson)

<sup>60</sup> For a summary, see De Souza 1999: 225-240.

<sup>61</sup> Manfredini 1986: 135-148.

<sup>62</sup> Even if *CI* 11.6.1 includes a rescript from Caracalla that refers to the interference of public authorities in case of shipwreck, therefore not dealing with a *quaestio*, and placing itself in line with §7 from the title *de naufragio*.

<sup>63</sup> *Gai. Inst.* 4.37.

<sup>64</sup> *D.* 47.9.5 (Gaius libro 21 *ad ed. prov.*) *Si quis ex naufragio vel ex incendio ruinave servatam rem et alio loco positam subtraxerit aut rapuerit, furti scilicet aut alias vi bonorum raptorum iudicio tenetur, maxime si non intellegebat ex naufragio vel incendio ruinave eam esse. Iacentem quoque rem ex naufragio, quae fluctibus expulsa sit, si quis abstulerit, plerique idem putant. Quod ita verum est, si aliquod tempus post naufragium intercesserit: alioquin si in ipso naufragii tempore id acciderit, nihil interest, utrum ex ipso mari quisque rapiat an ex naufragis an ex litore.* 'If someone removes or seizes something salvaged from a wreck, fire, or collapse of a building and put it in another place, they will be liable on the action for theft or that for things taken by force, even though they were unaware that it comes from a wreck, fire, or collapse of building. Many are of the opinion that where someone appropriates from a wreck something which is lying washed up by the waves, the same applies. This is true if some time has elapsed since the wreck; but if what happens occurs at the very time of the wreck, it is irrelevant whether the seizure be made from the sea itself, the wreck or the shore.'

<sup>65</sup> The dating of the work has been a very discussed issue, summarised by Ruggiero 2017: 20-49.

<sup>66</sup> The authorship of the work has also been a debated question, of which Ruggiero 2009: 270-276, summarises the literature available.

<sup>67</sup> For further details on the context of this work, see Ruggiero 2009: 288-291.

<sup>68</sup> *CTh* 1.4.2.

<sup>69</sup> Moschetti 1977: 551; De Souza 1999:218-240.

<sup>70</sup> However, these behaviours are mentioned in other fragments related to the purpose of the *edictum*, see *D.* 47.9.3.8 (*Ulp. 56 ad ed.*); *D.* 48.8.3.4 (Marc. 14 *inst.*).

<sup>71</sup> *Cic. Rab. perd.* 8.7; 5; *D.* 48.15 (*De lege Fabia de plagiaris*); *Coll.* 14.2-3 (14.2.1 = *Paul. Sent.* 5.37.1-2; Molè 1971: 74 n.1; Lambertini 1980: 77-84; Manfredini 1984: 2219-220.

<sup>72</sup> *D.* 47.8.4 (*Ulp. 56 ad ed.*), also Bianchi Fossatti Vanzetti 1995: 106, interpreting the first text of the title as referring to *multitudine* (crowd).

<sup>73</sup> Balzarini 1969: 262-264; Vacca 1972: 48-51, as happened with the *edictum* of Lucullus.

<sup>74</sup> *D.* 47.9.1.5 (*Ulp. 56 ad ed.*) *Item ait praetor: 'Si quid ex naufragio'. Hic illud quaeritur, utrum, si quis eo tempore tulerit, quo naufragium fit, an vero et si alio tempore, hoc est post naufragiumque: nam res ex naufragio etiam hae dicuntur, quae in litore post naufragium iacent. Et magis est, ut de eo tempore* 'The praetor also says: "if anything from a shipwreck." Here one may ask whether this concerns someone who takes something when the wreck happened or also at another time, that is, after the wreck; for things are said to come from a wreck which lie on the shore after the wreck. And it is true that the edict applies to the time,'

<sup>75</sup> *B.* 53.3.25.

<sup>76</sup> D. 41.2.21-2 (Iav. 7 ex Cassio); D. 41.1.58 (Iav. 11 ex Cass.); D. 41.7.7 (Jul 2 ex Minicio); D. 14.2.8 (Jul 2 ex Minicio); D. 41.1.9.8 (Gaius 2 rer. cott. aur.); D. 14.2.2.7 (Paul 34 ad ed.); D. 47.2.43.11 (Ulp. 41 ad Sab.); D. 41.7.2.1 (Paul, 54 ad ed.); D. 47.2.43.5 (Ulpian, 41 ad Sab.).

<sup>77</sup> CI 11.6.1 *fiscus meus sese non interponat. Quod enim ius habet fiscus in aliena calamitate, ut de re tam lucreosa compendium sectetur.* 'My treasury must not interpose itself. For what right does the treasury have in another's calamity, that it gain a profit from that grievous a situation?' (transl. Kehoe).

<sup>78</sup> D. 47.9.7 (Call. 2 quaest.); D. 47.9.12pr. (Ulp. 8 de off. proc.); D. 39.4.16.8 (Marc l. sing de delat.).

<sup>79</sup> Dell'Oro 1960: 51-60.

<sup>80</sup> D. 47.9.12pr. (Ulp. 8 de off. proc.) *Licere unicuique naufragium suum impune colligere constat: idque imperator Antoninus cum divo patre suo rescripsit.* 'It is established that it is lawful for anyone to collect with impunity his wrecked property; so ruled the Emperor Antoninus and his deified father in a rescript.'

<sup>81</sup> Ferrarini 1963; Solazzi 1939: 254; Purpura 1976: 72.

<sup>82</sup> Solazzi 1939: 254-255.

<sup>83</sup> Fortunat. *Ars. Rhet.* 1.13. *Quae est simplex definitio? Cum unam rem simpliciter definimus ut: naufragia ad publicanos pertineant. Cuiusdam naufragae corpus cum ornamentis ad litus expulsus harena obrutum est, id publicanos eruerunt.*

<sup>84</sup> Solazzi 1939: 254-255, who thinks that the abuses of the *publicani* may have forced Caracalla to use that sentimental tone in his rescript compiled in CI 11.6.1 (*Quod enim ius habet fiscus in aliena calamitate, ut de re tan lucreosa compendium sectetur?*).

<sup>85</sup> CTh 13.9.3 (=CI 116.2); CTh 13.9.3 (=CI 11.6.3); CTh 13.9.4 (=CI 11.6.4); CTh 13.9.6 (=CI 11.6.5); CTh 13.5.32 (=CI 11.6.6; CI 11.2.4).

<sup>86</sup> Matthews 1993: 25-26; Connolly 2010: 8-9; Corcoran 2013: 4.

<sup>87</sup> Corcoran 2013: 4-5.

<sup>88</sup> Mataix Ferrándiz 2019: 178-181.

<sup>89</sup> E.g. CTh 13.5.26; CTh 13.5.34.

<sup>90</sup> Broekaert 2009: 169-173; *contra*, Sirks 1992: 158-168.

<sup>91</sup> Several scholars have remarked on incoherencies among the fragments as to the time available for presenting the evidence to a judge, which seems to have been settled at two years. Cuiacius 1758, *ad CI* 11.6.2, highlighted some incoherencies, later refuted by Manfredini 1986: 138-148 and Solazzi 1939: 258; De Salvo 1992: 356-357. It may have been one year to make the accusation from the date that the wreck happened, and one year more for the investigation.

<sup>92</sup> CTh 13.9.1 (=CI 11.6.2); CTh 13.9.4 (=CI 11.6.4).

<sup>93</sup> One fragment refers to the praefect of the Annona of Africa in CTh 13.9.2 (372 CE); while later (397 CE), CTh 13.9.5 mentions the *praefectos annonae* from Rome.

<sup>94</sup> CI 11.6.3.

<sup>95</sup> Solazzi 1939, 256; De Salvo 1992, 361-362.

<sup>96</sup> CTh 13.9.1 (=CI 11.6.2); CTh 13.9.3.1 (=CI 11.6.3); CTh 13.5.32 (=CI 11.6.6); CTh 13.9.4.1.

<sup>97</sup> CTh 13.9.5.

<sup>98</sup> D. 47.20.3.2 (Ulp. 8 ad off. proc.); Mentxaka 1988: 306-313.

<sup>99</sup> Harries 2007: 31-32.

<sup>100</sup> D. 47.20.3.3. (Ulp. 8 ad off. proc.) *Qui merces suppressit, specialiter hoc crimine postulari potest.* Mentxaka 1988: 312-313.

<sup>101</sup> Lenel 1927: 981-984.

<sup>102</sup> D. 47.11.6pr. (Ulp. 8 de off. proc.) *Annonam adtemptare et vexare vel maxime dardanarii solent: quorum avaritiae obviam itum est tam mandatis quam constitutionibus. mandatis denique ita cavetur: "Praeterea debebis custodire, ne dardanarii ullius mercis sint, ne aut ab his, qui coemptas merces supprimunt, aut a locupletioribus, qui fructus suos aequis pretiis vendere nollent, dum minus uberes proventus exspectant, annona oneretur". Poena autem in hos varie statuitur: nam plerumque, si negotiantes sunt, negotiatione eis tantum interdicitur, interdum et relegari solent, humiliores ad opus publicum dari.* 'In particular, forestallers and regraters, speculators generally, interfere with and disturb the corn supply, and their avarice is confronted both by imperial instructions and by enactments. By imperial instruction, it is provided: "You must further ensure that forestallers and regraters, speculators generally, indulge in no commerce and that the corn supply is not incommoded either by those who conceal what they have bought or by the wealthier who do not wish to sell their merchandise at a fair price because they anticipate that the next harvest will be less fruitful." The penalties for such persons are varied; for, generally, if they be merchants, they are only banned from trading or, in some cases, relegated to an island, while those of the lower, orders are condemned to forced labour.' See also Pollera 1991: 406-418.

<sup>103</sup> CTh 13.5.38; CI 11.2.5; CTh 13.5.29. See also Sirks 1998, 331, 341.

<sup>104</sup> CTh 13.9.4; CTh 13.9.5.

<sup>105</sup> CTh 13.5.2 (=CI 11.2.4; CI 11.6.6).

<sup>106</sup> See for example CTh 13.8.

<sup>107</sup> For example, one rescript released by Antoninus Pius and compiled by Marcian referred to the *Lex Iulia de vi privata* to address the theft of salvaged goods (*D.* 48.7.1.1-2 (*Marc. 14 Inst.*)).

<sup>108</sup> For example, for the case of the *Collatio Legum Mosaicarum et Romanarum*, see: Frakes 2011: 66-98. Also, on the role of the jurists as masters, see Mantovani 2018: chapter 4.

<sup>109</sup> Harries 2009: 80, 82, 86.

<sup>110</sup> Benton 2011: 239-240.

<sup>111</sup> Raids were a source of economic income in the archaic Mediterranean for several Mediterranean populations, such as Dalmatia, Cilicia and Liguria, see: *Diod. Sic.* 5.39.8; *Str.* 4.203.

<sup>112</sup> As appears to be referred to for an earlier period in *Petron. Sat.* 114.14 and *Macrob. Sat.* 3.6.11.

