

Some remarks on the *lex de provinciis praetoriis*

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Introduction

Between 1893 and 1896 three blocks, forming three courses of the monument of Lucius Aemilius Paulus¹ were discovered in Delphi. These blocks carry a Greek inscription – first edited by Pomtow² as late as 1921, but we find references to the inscription before that date³ –, containing the translation of a Roman statute dating from 100BC⁴. For a long period of time, the inscription was

¹ For a discussion of the monument in terms of archeology and art history see the recent essay L.-M. GRUBER, *L. Aemilius Paullus und „sein“ Pfeilerdenkmal in Delphi*, in: *Rom und der griechische Osten* (FS H. H. Schmitt), Stuttgart 1995, 81-85 (with literature).

² H. POMTOW, *Delphische Neufunde*, in: *Klio* 17 (1921), 153-203, whence J. J. E. HONDIUS, *SEG* I (1923), 161. Further editions followed: G. COLIN, *Traduction grecque d'une loi romaine (de la fin de 101 av. J.-C.) (projets de politique orientale des démocrates et de Marius?)*, in: *BCH* 48 (1924), 58-96, whence *SEG* III, 378; G. COLIN, *Traduction grecque d'une loi romaine*, *FdD* III, 4 (1930), 34-52; A.H.J. GREENIDGE/A.M. CLAY, *Sources for Roman History 133-70 B.C.*, Oxford 1960², 279-281; S. RICCOBONO, *FIRA* I², Firenze 1968, 121-131; W. BLÜMEL, *Die Inschriften von Knidos*, Teil I, Bonn 1992, 13-32 (with the text from Cnidos); M.H. CRAWFORD (ed.), *Roman Statutes*, vol. I, London 1996, 231-270 (also contains the inscription from Cnidos).

³ E.g. T. HOMOLLE, *BCH* 21 (1897), 623; P. FOUCART, *Journal des Savants* 1906, 569; A. WILHELM, *Urkunden aus Messene*, in: *JÖAI* 17 (1914), 1-120, 98; G. COLIN, *Rome et la Grèce de 200 à 146 avant Jésus-Christ*, Paris 1905, 659.

⁴ After a longer debate (cf. eg. G. COLIN, *op. cit.*, in: *BCH* 48 (1924), 58-96 (74ff); *Id.*, *op. cit.*, *FdD* III, 4 (1930), 34-52 (50ff.); A. W. LINTOTT, *Notes on the Roman Law Inscribed at Delphi and Cnidos*, in: *ZPE* 20 (1976), 65-82 (66ff.); A. GIOVANNINI/E. GRZYBEK, *La lex de piratis persequendis*, in: *MH* 35 (1978), 33-47), Ferrary most convincingly argued for February 100 (J.-L. FERRARY, *Recherches sur la législation de Saturninus et de Glaucia*, in: *Melanges d'archéologie et d'histoire de l'Ecole française de Rome* 89.1 [1977], 619-60

referred to as *lex de piratis* or *lex de piratis persequendis*⁵, because of a passage containing provisions to fight piracy in order to guarantee common safety.

In 1970 however, excavators discovered a very similar Greek inscription in Cnidos, which was first edited in 1974 by Hassall, Crawford and Reynolds⁶. The editors then identified the Delphi and the Cnidos text as translations of the identical statute⁷.

The Cnidos-copy fortunately provides us with important new information about the content of the statute. This allows us to make the following points:

As far as the substance of the enactment is concerned, we find a variety of measures and provisions dealing with the organization of the provinces of Asia and Macedonia. Due to the fact that the province of Macedonia and the province of Cilicia are assigned and since the underlying idea of the enactment seems to be to promote the stability of those Roman possessions in the East, the statute is commonly referred to as *lex de provinciis praetoriis*⁸.

Nevertheless, having a closer look at the issue of that times piracy is important in order to interpret the statute and to see what intentions the Romans had when they passed it.

The passages concerning piracy

In the text, within the multitude of measures dealing with the organization of the provinces of Asia and Macedonia, we find the solemn statement that the Roman people want to ensure “that the citizens of Rome and the allies and the Latins, likewise those of the

[645-654]); assenting Crawford (M. CRAWFORD [ed.], *Roman Statutes*, London 1996, vol. 1, 236seq.); Sumner (G. V. SUMNER, *The “Piracy Law” from Delphi and the Law of the Cnidos Inscription*, in: GRBS 19 [1978], 211-225 [215]) and Pohl (H. POHL, *Die römische Politik und die Piraterie im östlichen Mittelmeer vom 1. bis zum 3. Jh. v. Chr.* [= Untersuchungen zur antiken Literatur und Geschichte, Band 42], Berlin-New York 1993, 220-224) suggest the statute dates some months later from the same year.

⁵ E.g. FIRAIT², 9, 121seq.

⁶ M. HASSALL/M. CRAWFORD/J. REYNOLDS, *Rome and the Eastern Provinces at the End of the Second Century B. C.*, in: JRS 64 (1974), 195-220. Later on, together with the inscription from Delphi edited by Blümel (1992) and Crawford (1996).

⁷ The problems arising about the identity of the two texts have been discussed by Hassall, Crawford and Reynolds (197-200); their convincing conclusion is generally accepted.

⁸ See the important observations of : J.-L. FERRARY, *op.cit.*, 619-60.

nations who are friends of the Roman people may sail in safety and obtain their rights”:

...οἴτε πολίται Ῥωμαίων οἴτε σύμμαχοι, ὀνόματος Λατίνου, ὁμοίως τε τῶν ἔθνῶν οἵτινες ἐν φιλίαι τοῦ δήμου Ῥωμαίων εἰσίν, ὅπως μετ’ ἀ[σ]φ[ι]α[λ]είας πλοίζεσθαι δύνωνται καὶ τῶ[ν] δ[ι]καίων τυγχάνωσιν.⁹

Later on¹⁰ we learn that the senior consul was to inform the peoples and states he thought fit that Cilicia had been made a praetorian province to secure the safety of navigation for Rome, its allies, the Latins and foreign nations who had a relationship of friendship or alliance with Rome. Although the pirates are not mentioned here, it is clear from the following lines that in the two copies overlap, that they represent the threat responded to:

8 [- - - ὁμοίως τε] καὶ πρὸς τὸν βασιλέα τὸν ἐν τῇ [ἡ ν]ήσῳ Κύπρῳ βασιλεύοντα καὶ πρὸς τὸν βασιλέα τὸν ἐν Ἄλε-
 9 ξανδρείᾳ καὶ Αἰγύπτῳ βασιλεύοντα καὶ πρὸς τὸν βασιλέα τὸν ἐπὶ Κυρήνῃ βασιλεύοντα καὶ πρὸς τοὺς βασιλεῖς τοὺς ἐν Συρίᾳ βασιλεύον[τας, πρὸς οὓς]
 10 φιλία καὶ συμμαχία ἐστὶ τῶι δήμῳ τῶι Ῥωμαίων, γράμματα ἀποστελλέτω καὶ ὅτι δίκαιόν ἐστιν αὐ]τοὺς φροντίσαι, μὴ ἐκ τῆς βασιλείας αὐτ[ῶν μήτε] τῆ[ς]
 11 χώρας ἢ ὀρίων πειρατῆ[ς] μηδεὶς ὀρμήσῃ μηδὲ οἱ ἄρχοντες ἢ φρούραχοι οὐκ κ]αταστήσουσιν τοὺ[ς] πειρατὰς ὑποδέχωνται, καὶ φροντίσαι, ὅσον [ἐν δυνα]τοῖς ἐσ[ταὶ]
 12 τοῦτο, ὃ δήμος ὁ Ῥωμαίω[ν ἴν]’ εἰς τὴν ἀπάντων σωτηρίαν συνεργοὺς ἔχη...

“[— And likewise] to the king ruling in the island of Cyprus and to the king [ruling at] Alexandria and in Egypt [and to the king] ruling at Cyrene and to the kings ruling in Syria [who have] a relationship of friendship and alliance [with the Roman people, he – *that is the senior consul* – is to send letters] to the effect that it

⁹ Cnidos Copy, col. II, lines 6-11. Text and translations of the *lex* are taken from M. H. CRAWFORD (1996), 253-257. I agree with Crawford's arguments for his translation "...and the allies and the Latins" (see Crawford, *op.cit.*, *ad locum*).

¹⁰ Cnidos Copy, col. III, lines 28-37.

is right for them both to see that [no] pirate [use as a base of operations] their kingdom [or] land or territories [and that no officials or garrison commanders whom] they shall appoint harbour the pirates and to see that, insofar as [it shall be possible,] the Roman people [have (them as) contributors to the safety of all¹¹”].

Further the *praetor/proconsul* of Asia is to send letters to the kings mentioned above and to others, to whom the *consul* thinks it proper to write to, informing them about the content of the whole statute and he is to take care that the sent letters are openly published (engraved on a bronze tablet, a marble slab or just a whitened board) in the cities they are sent to¹².

First evaluation and ensuing questions

So at first sight the statute suggests that the activities of pirates in those days meant a serious threat for the stability of the Roman state, in respect of its possessions in the East, and for Rome’s friends and allies.

Still, the first impression may be misleading: One might also think of the possibility that not the stability of those (Eastern) parts of the Roman empire was at stake, but simply the economic interests of Roman men of business¹³, or that Roman politics referred to piracy as a mere pretext, that piracy was just a figleaf for imperialistic expansions.

In order to understand how these interests interacted and whose and which interests were the crucial ones for passing the statute it is important to see, in what scale one has to think of piracy in those days. Then one can judge the necessity and adequacy of the measures taken by Rome and – having answered this question – try to find out the main intention behind the statute.

¹¹ Delphi Copy, Block B, lines 8-12.

¹² Delphi Copy, Block B, lines 20-27.

¹³ Sources report of 80 000 Italian men of business in the province of Asia before the first Mithridatic war, for detailed information see T.R.S. BROUGHTON, *Roman Asia Minor*, in: T. Frank (ed.), *An economic survey of Ancient Rome*, vol. IV, New York 1959, 543.

Cilician piracy by the end of the second century BC

The reconstruction of facts about Cilician piracy in the second half of the second century BC proves difficult due to the lack of contemporary sources. More than that, later sources tend to describe the history of Cilician piracy in a certain mainly moralistic ideology and, respectively or, to portray it as continuously growing until the bigger-than-life-figure of Pompey saves the world, as Philip de Souza¹⁴ correctly observed in his recent work about piracy in the Graeco-Roman World.

Therefore most events one first recalls when thinking of the Cilician pirates are set in the 80s and 70s BC, when they certainly saw a climax of their forces. But how big was the pirates' fleet, three decades before they promised to bring 2000 slaves, led by Spartacus, from Italy to Sicily¹⁵? How threatening were their forces, some twenty, thirty years before they joined forces with Mithridates and fought Rome¹⁶, captured illustrious towns like Samos, Clazomenae and Samothrace¹⁷ and plundered the temples of Didyma, Hermione and Epidauros¹⁸? How menacing were the predecessors of the men, who, with 1000 ships in service, captured more than 400 towns¹⁹, even attacked Italy, raided Ostia²⁰, captured two praetors with their lictors on Italian soil²¹ and took many

¹⁴ P. DE SOUZA, *Piracy in the Graeco-Roman World*, Cambridge 1999, 97.

¹⁵ Plut. Crass. 10, 6-8; Flor. 2, 8.

¹⁶ The nature and extend of the pirates' collaboration with Mithridates is still in dispute; See for example E. MARÓTI, *Die Rolle der Seeräuber in der Zeit des Mithridatischen Krieges*, in: *Ricerche storiche ed economiche in memoria di Corrado Barbagallo*, a cura di Luigi de Rosa, vol. 1, Napoli 1970, 479-493, and the discussion of his thesis by de Souza, 116 seqq. In the end it cannot be said more than Ormerod did about 80 years ago (H.A. ORMEROD, *Piracy in the Ancient World*, Liverpool 1924, 210-212).

¹⁷ App. Mithr. 63; Cic. Manil. 33 reports that also Knidos and Kolophon were raided.

¹⁸ Plut. Pomp. 24, 5. Plutarch *l.c.* furthermore names the temples of Claros and Samothrace, the sanctuaries of Poseidon at the Isthmus, at Taenarum and at Kalauria, those of Apollo at Actium and Leucas and those of Hera at Samos, at Argos and at Lacinium.

¹⁹ Plut. Pomp. 24, 4.

²⁰ Cassius Dio 36, 22, 2.

²¹ Cic. Manil. 32; App. Mithr. 93; Plut. Pomp. 24, 6 provides us with the names of the praetors: Sextilius and Manilius.

members of the Roman nobility hostages, among them Antonia, the daughter of Antonius Orator, and most prominently Caesar²²?

While Cicero, Plutarch, Appian, Strabo, Diodor and others provide us with sufficient evidence for these actions, we have to rely almost exclusively on Strabo as far as the origins of piracy in Cilicia are concerned. According to him, everything started with a man called Diodotus Tryphon, who led a revolt against the Seleucids in the late 140s BC and had his base at Korakesion in Cilicia Tracheia, “Rough Cilicia²³”. The rebel encouraged Cilicians to carry out piratical raids and they did not stop after his final defeat, the decline of Seleucid power favouring their new “profession”. Strabo tells us that Scipio Aemilianus, the leader of a senatorial fact-finding mission to the Eastern Mediterranean around 140 BC, blamed the Seleucids for the problem of piracy²⁴. The Ptolemaic kings of Egypt and Cyprus on the other hand, seeing their rivals weakened by pirate attacks, did little to hinder the Cilicians. They even cooperated with them, while the Rhodians, even if they had wanted to, could do very little to stop the pirates’ tyranny, since their maritime power of former days was gone.

So, according to Strabo, piracy prospered and the pirategangs represented a constant threat to the people in the East. Namely the profitable slave-trade was an important factor for the growth of piracy that time as pointed out in text four. Here Strabo reports that in Delos an enormous number of slaves could be traded in one single day²⁵, and his report is supported by the excavations in Delos, where a slave-market not smaller than 6.000 square-metres was discovered²⁶. So we have to think that pirates regularly made a big number of slaves.

It is worth stopping here and having a closer look at the issue of enslavement. The slaves robbed by the pirates face the jurist only with the problems arising about *res furtivae*. But what about the

²² App. Mithr. 93 generally speaks of women of the Roman nobility being captured; for Antonia see Plut. Pomp. 24, 6; for Caesar Plut. Caes. 2, Suet. Iul. 4, 1seq., Val. Max. 6, 9, 15 and the slightly differing version Vell. 2, 41seq.

²³ Strabo 14, 5, 2.

²⁴ Strabo, l.c.

²⁵ Strabo, l.c.

²⁶ Cf. L. SCHUMACHER, *Sklaverei in der Antike: Schicksal und Alltag der Unfreien*, München 2001, 51-54.

captured free people that were made slaves by the pirates? If not regarded as captured by a foreign state or people they could not lose their *status libertatis*. Did Rome regard the pirates as a sort of state-like entity or did Rome simply not care about them and their activities as long as not affected herself? Especially nowadays it is interesting to investigate in what terms the Romans thought of the phenomenon the pirates represented and how their view developed when the menace grew until it finally reached Italy. Most strikingly Pompeys special command in 67BC, often referred to as “war” by Roman writers²⁷, shows parallels to the “war on terrorism” proclaimed by the United States of America after September 11th.

Further evidence

However, let us return to this paper’s main question. An interesting inscription from Astypalaia²⁸, dating from around 105 BC, supplies us with important further evidence. It reports of a pirate raid on Ephesian territory –Ephesos was part of the province of Asia at that time– and the subsequent successful challenge of the pirates by the people of Astypalaia, who after 105 BC had a treaty of alliance with Rome. It says (ll. 14-25):

... ἐ[πι]-
 [π]λευ[σάντων δὲ μετὰ ταῦτα τῶν π]ειρατῶν καὶ ἐπὶ τὴν ἡ-
 [μ]ετ[έραν χώραν τὴν ἔφοδον π]ο[ιη]σαμένων ἐκ τῆς Φυγ[ε]-
 λίδος [καὶ σώματα ἐκ τοῦ] ἱε[ρ]οῦ τῆς Ἀρτέμιδος τῆς Μ[ουνι]-
 χίας [ἀγαγόντων ἐλ]εύθερά τε [καὶ δοῦλα, διαρπασάν[των]
 δὲ καὶ τὰ [σκεύη τῶν σ]ωμάτ[ων κα]ὶ τῶν ἐν τῷ χωρίῳ [καὶ]
 τοῖς περι[κειμέν]οις τόποις, [οἱ Ἀστ]υπαλαιεῖς στ[οιχοῦν]-
 τεσ τοῖς [ὑπὸ τῶν Ἐφεσί]ων προπα[ρηγγε]μένους ἐπέπλ[ευσαν]
 ἐπ’ αὐτοὺς καὶ παραβαλόμ[ενοι τῷ] βίῳ οὔτε σ[ώματος]
 οὔτε [ψ]υχῆς ἐφείσαντο, δια[κινδυν]εύσαντε[ς δὲ πρὸς]
 τοὺς πειρατὰς ἐκ τοῦ γεγ[ενημένου] ἀγῶνος [ἔ]τρεψαν τὸ
 πᾶν τῶν ἐναν[τί]ων

“... and after the pirates sailed here and made an attack on our territory at Phygela and carried off persons from the shrine of Artemis Mounichia, both free people and slaves, and plundered their property and many places in the surrounding area, the

²⁷ E.g. Flor. 1, 51; Cic. Flacc. 30.

²⁸ IG XII³, 171.

Astypalaia, drawn up for battle in response to the earlier reports from the Ephesians, sailed out against the pirates and, risking their lives, sparing no effort of mind or body, but exposing themselves to great danger in the ensuing fight, put to flight all their opponents...²⁹

So the inscription testifies to the plundering of a coastal area, the attack on a temple and the enslavement of people in the last decade of the second century BC.

The first military action taken against the pirates by Rome is the campaign of Marcus Antonius the orator, grandfather of the triumvir, in 102 BC, two years before the statute was passed. The sources give little evidence about it; the epitomator of Livy reports a pursuit of the pirates into Cilicia³⁰, while Julius Obsequens says that they were destroyed³¹. In any case Marcus Antonius was accorded a triumph because of his success. However, this success can hardly have been a big one, as the vitality of piracy in the following decades shows. More than that, we learn from our inscription that even the people of Rome did not regard Antonius' campaign as a full success that brought piracy to an end – for what reasons should they have pleaded to the kings of the East to give pirates no room for action on their territory, if these pirates did not exist anymore?

Conclusion

So after all we can say that the pirates were not only a problem, but a serious problem and menace, as reflected in the statute. Furthermore, we have evidence that the territory of the province of Asia was attacked. The inscription of Astypalaia shows that fleets capable of capturing cities existed, just as Strabo wrote. That in this case the Astypalaia were able to defeat the pirates on their own does not mean that Rome's support was not necessary to successfully challenge piracy in general. As de Souza points out, the most effective way to deal with pirates was to tackle them on land, taking away their bases of operation³². Pursuing and defeating

²⁹ The translation is taken from de Souza, 100seq.

³⁰ Liv. per. 68.

³¹ Obseq. 44.

³² de Souza 114 *et al.*

a single band of pirates is quite a different thing from searching out piratebases and successfully defeating them.

The fact that cities and ships were regularly attacked and that not few but many people lost their freedom and were traded as slaves indicates that pirates presented a challenge for the state. We recognize that not only the economic interests of Roman merchants, but the empire itself was at stake, when we consider that Roman territory of the province of Asia was attacked. In fact, there was a risk that cities and possibly even whole (coastal) regions of the province would be depopulated. Moreover, even if we take in regard Cicero's exaggeration in his speech *de imperio Gnaei Pompei*, the economic importance of the province of Asia must be thought of as "very high" at least³³.

In order to defeat piracy it was necessary to attack the pirates at their bases of action. Thus, making Cilicia a province seems quite an adequate measure.

Therefore it is at least possible that Rome intended primarily to suppress piracy by means of the measures documented in the statute. To what extent imperialistic intensions also played a role, whether the statute aimed at a certain propaganda-effect – why was it published in Delphi? –, to what scale economic interests were taken into concern are some of the open questions about the statute I hope to discuss productively in my doctoral thesis.

³³ Cic. Manil. 14-16.