All in all, a measured welcome. B. has demonstrated that despite slavery, genocide, decimation, crucifixion, the Colosseum, and so on, in a broad sense the issue of human rights was a mainstay of Roman legal–ethical discourse over centuries. This is an important point, although it will not lead many to follow him in his endorsement of Gibbon's nomination of 96–180 C.E. as the period of world history when the human race was 'most happy and prosperous'. The gap between Roman discourse about human rights and the inhumanities actually suffered under Roman rule remains largely to be considered.

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LAW AT WORK

JILL HARRIES: *Law and Empire in Late Antiquity.* Pp. ix + 235. Cambridge: Cambridge University Press, 1999. Cased, £37.50. ISBN: 0-521-41087-8.

Theodor Mommsen was furious: Otto Seeck's attempt to reconstruct the chronology of the laws of Constantine contained in the Theodosian Code (cf. *ZSS RA* 9 [1889], 1–44 and 177–251) did not meet with his approval. For Mommsen, his pupil, then professor at Greifswald University, had arbitrarily changed the preserved dates of the laws to suit his own argument. While working on his edition of the Code, Mommsen declared Seeck's article to be 'academically useless' (*ZSS RA* 21 [1900], 180 = *Gesammelte Schriften* ii.397) and, in an eruption of anger, as a *wissenschaftliche Nullität* (*ibid.* p. 185 = p. 401).

The fierce dispute between preceptor and neophyte over the intractable questions of the addressees, date, and place of issue of the laws is still subject to scholarly debate. To this issue and other technical problems Jill Harries pays little or no attention. She is more captivated by the theories of 'legal anthropology' (e.g. pp. 79f., 174). Her major concern is 'how imperial law was made, and how and whether it worked as intended' (p. vii), and she ventures 'to provide an alternative reading of late Roman Law as a source for Late Antique history' (p. 4). In spite of frequent grievances found in the sources about abuses of power, widespread corruption, official bribery, venal judges, and decline of legal education, H. stresses the efficacy of the imperial laws—'repeated laws were laws that worked' (p. 212)—and argues that 'Roman law in Late Antiquity was more frequently invoked and effectively enforced than at any previous period in Roman imperial history' (p. 98). The contemporary complaints are supposed to reflect a phenomenon called 'a culture of criticism' (pp. 5, 97) which is traced in the 'language of power' of the imperial constitutions, the speeches of orators, the works of historians, and the homilies of bishops. 'Consequently, the language of accountability became a part of the continual dialogue between the emperors and the once-sovereign *populus*. . . . The result of all this was that complaints increased in volume, and more may have been done to remedy them; what the evidence does not show is that there was actually more to complain about' (p. 97).

H. repeatedly presents her approach as an alternative to 'the traditional interpretation of Late Antiquity as lawless and ungovernable' (p. 78). I am not quite sure which modern accounts H. has in mind, and, at least with regard to continental scholarship, it is rather a dated view of current interpretations of late antiquity. Her insistence on the efficacy of law is likely to be directed against Ramsay Macmullen's hypothesis, already much questioned in the anglophone world, that the Roman

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Empire disintegrated because of the government's increasing ineffectiveness and corruption (*Corruption and the Decline of Rome* [New Haven, 1988]). Thus H. emphasizes that the law 'was used as a tool of enforcement, an expression of power, or a pawn in the endless games played out between emperor and citizen, centre and periphery, rich and poor' (p. 8). The idea, however, that imperial constitutions are to be read as rhetorical declarations of a *pouvoir rusé* which manipulates corruption and patronage for its own sake was expressed by Paul Veyne ('Clientèle et corruption au service de l'État', *Annales E.S.C.* 36 [1981], 339-60). He rejected concepts of *abus* and *corruption* as accurate descriptions of government in late antiquity.

H. in her turn argues that 'while the potential for abuse of power was real, the opportunities available to late Roman *iudices* for misbehaviour were restricted by imperial, provincial and episcopal vigilance' (p. 167). But obviously more than social watchfulness was necessary to prevent the misuse of power. The court preferred to rely on formal surveillance and, therefore, introduced *defensores plebis* (or *civitatis*), and Justinian entrusted bishops who were independent from the imperial administration with the supervision of the public judiciary. So I would still maintain that the proclamatory style and rhetoric of the laws also reflect the emperor's problems in controlling effectively an immensely expanded bureaucracy which developed its own dynamic and coherence through imperial authorization and *esprit de corps*. Comparative anthropology suggests that traditional oligarchies will have major problems in generating an efficient administrative machinery and are often characterized by corruption at least in the form of unfair competition. In these societies an official post is always used to obtain economic advantages and social authority, and bribery is an important vehicle to establish patronage networks.

The perspective of 'legal anthropology' is central to H.'s thesis, but this concept is never clearly defined. The reader would welcome a straightforward explication of what she understands by a highly controversial approach. H. seems to agree with Jürgen Habermas, Niklas Luhmann, and others that a legal system is constituted through social communication about justice and injustice. But perhaps she overemphasizes 'the determination of the bureaucracy at Constantinople . . . to impose order, generality and system on all the diversities of Empire' (p. 216), since not only the specialists of legal interaction, i.e. the lawyers, but also non-professionals like historians, orators, and philosophers reflecting about juridical categories, participate in the foundation of a system of laws, as Marie Therese Fögen has shown in her important study, *Die Enteignung der Wahrsager. Studien zum kaiserlichen Wissensmonopol in der Spätantike* (Frankfurt am Main, 1993).

H. picks up many threads from the papers given at a conference on the Theodosian Code held at St Andrews in 1990 (proceedings edited by H. and Ian Wood, *The Theodosian Code. Studies in the Imperial Law of Late Antiquity* [London and New York, 1993]). Participants will remember John Matthews and Boudewijn Sirks disagreeing on the question of how the *Codex Theodosianus* was compiled, and Brian Croke's illuminating remarks on Mommsen's encounter with the Code. Continental scholarship, however, is less prominent in H.'s bibliography. It is perhaps understandable that she does not discuss the question investigated by Italian experts, of whether or not the Code contains material for a palingenesis of late imperial constitutions. But in a study stressing 'the separateness of law as a discipline, with its own assumptions and intellectual tradition' (p. 4) and analysing the language of law throughout, one would have expected at least an allusion to W.E. Voß's work on the rhetorical language of the constitutions and the consequences for their historical interpretation resulting from that rhetoric (*Recht und Rhetorik in den Kaisergesetzen der Spätantike. Eine*

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Untersuchung zum nachklassischen Kauf- und Übereignungsrecht [Frankfurt am Main, 1982]).

Notwithstanding these objections, H. does have much that is useful to say about the legal heritage of late antiquity, the functioning of the imperial consistory, the regulations on civil litigation, court proceedings, criminal law, the continuous erosion of legal privilege, the diversified system of punishment, and the *episcopalis audientia*. Thus all students of late antiquity will certainly have this book in their rucksack while 'travelling hopefully' (p. vii) through the difficult field of late Roman law.

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GREEK PHILOLOGY

H.-G. NESSELRATH (ed.): *Einleitung in die griechische Philologie,* unter Mitwirkung von W. Ameling et al. (Einleitung in die Altertumswissenschaft). Pp. xvi + 773, 106 ills, (loose in pocket) 3 maps, foldout chart. Stuttgart and Leipzig: B. G. Teubner, 1997. Cased, DM 86. ISBN 3-519-07435-4.

This is the companion piece to an equally massive *Einleitung in die lateinische Philologie* edited by Fritz Graf, which appeared a few months earlier in 1997 (I was first asked to review this book in January 2000). The pair of volumes is meant to be a modern replacement of an old standby of German classical scholarship, the three-volume *Einleitung in die Altertumswissenschaft* edited by Gercke and Norden, the parts of which appeared in three or four editions from 1910 to the 1930s. That work has a firm place in introductory bibliographies of classical studies, but the parts probably best known to many English-speaking scholars are the portions (new in the third edition) which have appeared in English: Paul Maas's dauntingly concise introductions to Greek textual criticism and Greek metre, and Wilamowitz's brief history of classical scholarship. Whereas in the earlier work some sections covered Greek and Roman aspects together, the new work separates the two cultures (with some inevitable exceptions), reflecting both the disciplinary trend toward greater recognition of the uniqueness of Roman culture and the institutional environment in which Latin/Roman studies tend to have more numerous connections with other areas of the Western European university and school systems. Of the twenty-six contributors, four are British, two Italian, and the rest active in German-speaking universities (including A. Kambylis): a much more international team than for Gercke–Norden, but with no French, Spanish, or North American contributors. (One may note in passing that all the contributors are male. The Latin volume includes a couple of North Americans and two women among its contributors.)

The purpose of the *Einleitung* is to provide a comprehensive overview and an introduction to separate subfields that will be of use to advanced German students of classics, to Gymnasium teachers, and to students and scholars in allied disciplines. Most of the contributors seek to provide not only a basic brief coverage of their topic but also guidance to fuller authoritative treatments, naturally with varying degrees of bias toward material written in German. Yet the compression required was clearly frustrating to some authors, and different strategies produced different levels of bibliographic assistance and different degrees of accessibility to the intended users.

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