

Lukas Lemcke: *Bridging Center and Periphery. Administrative Communication from Constantine to Justinian*. Tübingen: Mohr Siebeck 2020. XII, 342 p. € 69.00. ISBN: 978-3-16-158944-7.

Lukas Lemcke's book intends to answer the following question: "What form did (potentially institutionalized) communication channels within the Later Roman regional administration take and how did they develop from the early 4th century to the death of Justinian?", adding that the "focus rests on 'formal communication,' [...] communication whose flow is determined by an organization's structure and officially imposed communication channels," (p. 3) i.e., the thing we Germans would call *Dienstweg* but for which there is apparently no handy English term.

The structure of Lemcke's book is straightforward enough: after two introductory chapters ("1. *Illustris magnificentia tua legis tenorem ad omnium notitiam faciet pervenire*: Government and Communication", pp. 1–13; "2. Means of official Communication and imperial Constitutions", pp. 15–38), he first investigates communication toward the center ("3. *Omnia libellis ad nostrum comitatum mittantur*: Communicating from Periphery to Center", pp. 39–85), then communication outgoing from the center ("4. *Omnia omnibus manifesta fiant*: Communicating from Center to Periphery", pp. 87–132). Taxation (on which there is much evidence) receives its own chapter ("5. Centripetal and centrifugal Communication in Action: The Case of Taxation", pp. 133–165), as a case study for administrative communication. Finally, two chapters detail the chronological development ("6. Patterns of centrifugal and centripetal Communication: Developments and historical Contextualization", pp. 167–186) and present the conclusions of the book ("7. Communication Patterns in the Late Roman Administration: Summary and Outlook", pp. 187–191). There are four appendices, "Emendation of select Constitutions" (pp. 195–211), "Data for centripetal Communication (ch. 3)" (pp. 213–219), "Data for centrifugal Communication (ch. 4.3.1)" (pp. 221–232; the subsection referred to is entitled "Communication to a limited number of recipients", pp. 102–114), and "Data for centrifugal Communication (ch. 4.3.2)" (pp. 233–297; this provides evidence for a subsection on "Communication to a large number of recipients", pp. 114–129). The habitual backmatter (bibliography, indices) concludes the book (pp. 302–342). The careful registers (including an *index locorum*) deserve specific praise.

The chapter on incoming communication (i.e., from the emperor’s perspective, pp. 39–85) could be summarized as follows: Lemcke accepts three fragments contained in CTh. 1.15 as defining the official channels. According to CTh. 1.15.3 (date unclear), governors had to send their *relationes* not directly to the emperor but through vicars in order to relieve the state post system. CTh. 1.15.4 is a Julianic law which requires governors “to have the vicars involved” (*vicarios esse participandos*) with all *relationes* that go “to Us or to Your [the prefect’s] notice.” Finally, with CTh. 1.15.8 Gratian informs the Pretorian Prefect that he (Gratian) wants to have all vicarial *relationes* forwarded of which he will personally take care, while he is also happy to hear *relationes* from *iudices* (any judge including lowly governors)<sup>1</sup> in order not to appear aloof. Lemcke reads these fragments like sections of a modern law code (i.e., directly referring to and complementing one another), and construes a firm system: before CTh. 1.15.3, governors could write directly to the emperor and the prefect, whereas from CTh. 1.15.3, vicars forwarded governors’ mail to the emperor. From CTh. 1.15.4 onward, vicars forwarded governors’ mail to prefects, too.<sup>2</sup> Finally, from CTh. 1.15.8 onward, vicars still forward governors’ mail to both prefect and emperor but have to route their own reports through prefects. Indeed, Lemcke claims (p. 85) that vicars directly dispatch letters to the emperor whenever they contain reports of their subordinates, but these vicarial letters may not include their own reports (which must reach the emperor indirectly via the prefect). This is a prime example of what can occur if one reads the Theodosian Code in an anachronistic manner.

Yet it should under no circumstances be forgotten that these texts were only much later – at the time of the compilation of the CTh. – shortened to their current brevity and arranged one next to the other. When the original

1 Lemcke (p. 42) does not give the original Latin here, nor does he discuss the meaning of *iudices* in this passage (which he takes to refer to the vicars, not to other judges). Given the key importance of this passage for much of his claims a thorough discussion would have been in order. For several reasons, I believe an understanding of *iudices* in the sense of “any governor” is more likely: (i) it is the literal meaning; (ii) the case of vicars was already discussed (in their case, any *relatio* must be forwarded); (iii) the case of governors is an addition with different content (“while I insist to see any vicarial *relatio*, you may also pass on *relationes* from mere governors”).

2 It is worth quoting (and translating) this short fragment in full. CTh. 1.15.4, *Rectores provinciarum sublimitas tua conveniat, ut cunctis de rebus, de quibus ad nos et ad vestram scientiam crediderint referendum, vicarios esse participandos sciant*, “Your Sublimity shall exhort the provincial governors so that they know that they have to involve the vicars in all matters about which they believe they must report to Us or to Your Notice.”

constitutions were authored, they had a context which may now often be suspected, but it is impossible to know the details. Additionally, one must not give in to the temptation of believing these texts have a shared context (or answer to one another) simply because they can now be found in the same CTh. title.

CTh. 1.15.3 is about ensuring the public post is not clogged (‘don’t dispatch a rider for every letter by a governor’). The precise instruction prescribed by CTh. 1.15.4 is unclear because of *participare*; the meaning is either ‘copy them in’ or, rather, ‘find out first if your line manager can help you with your issue before you pass it directly to senior executives.’ CTh. 1.15.8 is rather the contrary: ‘Dear prefect, don’t settle cases referred to you by vicars even if you could do so perfectly well yourself; this is business I, the emperor, will personally take in hand. Further, I’ll also happily concern myself with reports by governors [i.e., you are not required to pass them on, but I won’t complain whenever you do so].’ It is evident that CTh. 1.15.4 and 1.15.8 are mostly about appellate cases (which were proactively solicited by a lower judge) and only indirectly about communication patterns. Lemcke does not only read things into these texts but sometimes even disregards their clear meaning.<sup>3</sup> The rest of this chapter is devoted to various constitutions that include instructions of the type: “this cannot be resolved by a governor/vicar/prefect, please forward the matter to a vicar/prefect/the emperor.”<sup>4</sup> The result is the (unsurprising) observation that governors need to forward

3 Lemcke neither cites nor discusses the text of CTh. 1.15.8. Its first phrase is: *Relationes vicariorum, si quando usus attulerit, ad nostram mansuetudinem deferantur*, “*Relationes* by vicars, whenever standard practice makes them arrive, shall be forwarded to My Mansuetude.” I.e., these *relationes* are already “brought” by *usus* to the prefect. I cannot see how this fragment can be taken to describe an important change in communication patterns as Lemcke claims; he takes this fragment as the hinge point from which onward such reports, earlier going to the emperor, are henceforth supposed to be sent to the prefect.

4 Not everything is correct. Lemcke claims that according to CTh. 9.41.1, only the “highest-ranking officials” (*qui in summa administrationis sunt positi potestate*) may subject somebody to confiscation, while “all other judges (i.e., governors, proconsuls, and vicars)” (pp. 45–46) had to consult the emperor. Actually, the fragment explicitly mentions *moderatores provinciarumque rectores* as those who may not do so on their own, i.e., ordinary governors. This should mean that *summa potestas* is a paraphrase of *vice sacra*, which apart from pretorian and urban prefects includes vicars and proconsuls, too.

more matters than vicars who, in turn, have less judicial liberties than prefects have.<sup>5</sup>

A lot more could have been said about the subject. Right at the outset, Lemcke had acknowledged that “the results of such an approach [i.e., the CTh.-focused approach of Lemcke] (only) reflect the reality of the texts, not (necessarily) those of the practices. This is an unfortunate deficiency for which no remedy exists given the limitations of the available source material.” (p. 3) But this is less a problem of the “available” evidence but rather of the small subset of it to which Lemcke chose to limit his research. He claims that “non-ecclesiastical writers play a very minor role for the present study [...] there are relatively few of those [...] and, more significantly, they generally only offer very broad references to acts of (routine) communication within the administration.” (p. 18) This sweeping remark seems quite wrong to me.<sup>6</sup> When reading these non-ecclesiastical authors Lemcke omitted, one may observe how dignitaries are writing all the time to emperors. Just to give a few examples from the first extant book of Ammianus: there is the Pretorian Prefect Thalassius, keeping Constantius II up-to-date regarding Gallus’ excesses (14.1.10), an activity Ammianus calls ‘reporting’ (*referente Thalassio*, 14.7.9). Ursicinus, Master of the Horse, did likewise, albeit via letters which Ammianus expressly calls ‘secret’ (*occultis litteris*, 14.9.1). Should one of these two cases be called ‘unofficial communication’? Or should both be considered ‘unofficial,’ even if some of the highest dignitaries in the empire communicate to the supreme head of government, doing so ‘secretly’ out of sheer necessity? The position of vicars in the communication chain is continuously of specific interest to Lemcke. He might have discussed Libanius, or. 48.19, where Libanius mentions Apronius, vicar of Pontica, who

5 A further difficulty is created by Lemcke’s habit of describing straightforward things with unnecessarily complex terminology which do not help one’s understanding. For example, Lemcke writes: “Most remarkable is the almost complete absence of communication channels leading from governors to vicars” (p. 78); this simply translates as ‘... of extant CTh. fragments that would instruct governors to write to vicars.’ A “communication channel” might be anything, say, a dedicated team of messengers; or an instituted, monthly exchange of messages; etc.

6 Later on, Lemcke claims that “there are only two sufficiently detailed literary testimonies with bearing on communication directed to a limited number of recipients” (p. 108) referring to the only two passages he found in Socrates and Sozomen. The problem is that at this point Lemcke no longer indicates his artificial restriction to ecclesiastical authors, thus making an extraordinary claim which is clearly wrong.

had contacted the emperor in order to request remedy for the city councils. The oration is (probably) of 388 although the Apronius episode could have happened years earlier (still, given that according to Lemcke, vicars were not permitted to contact the emperor from 377 onward, the passage should have been discussed). In Sozomen (one of the few authors Lemcke expressly scrutinized, although he does not mention the following passage), Romanus, Comes of Egypt, and Evagrius, the *praefectus Augustalis* (i.e., the Egyptian version of a vicar), together inform the emperor when rioting in Alexandria got out of hand in AD 391 (Soz. 7.15.5, cf. 7.15.7). One wonders how this would fit in the purportedly strict communication rules post AD 377. Another feasible approach would have been to analyze the introductions of full constitutions: they often refer to prefectorial reports as triggers but also to letters by bishops or petitions from private citizens, but I cannot think of one such introduction mentioning a governor's report (note however that I did not perform a systematic search). This very much suggests that input from governors was indeed collected and possibly indirectly forwarded (i.e., in newly written reports) by the prefects. On the other hand, what does it mean when emperors choose to enact legislation by writing themselves directly to governors? Do they thus answer direct letters (perhaps forwarded by prefects?) of which we otherwise know nothing? Or do these imperial enactments indirectly answer prefectorial communication (i.e., a prefect had told the emperor about the governor's question). Either way, it is striking that in the rare cases (e.g., Sirm. 5, Consultatio 9.4, 9.7) when such constitutions are (more or less) fully extant, emperors do not care to add an introduction of the type we usually get in full-blown constitutions addressed to (e.g.) prefects.

Lemcke's second core chapter analyzes (from the emperor's perspective) outgoing communication (pp. 87–132). One might expect a mirrored version of the first chapter (i.e., who can write to whom? Do emperors write to governors or vicars directly? In which cases? Do these texts differ from letters to prefects, and if so, how? Etc.), but the plan is different. There are two main subheadings, "to a limited number of recipients" and "to a large number of recipients," the former containing cases in which the recipients are specifically named, the latter those in which the recipients are mentioned as a group. The "limited number" part is mostly on constitutions with more than one person indicated as recipients, while the "large number" part is mostly devoted to the publication orders included in numerous constitutions; two helpful appendices give chronological overviews of the individual

fragments (not all of these are actually discussed in the text body, however).<sup>7</sup> Apart from the juristic fragments, both sections have a few pages each on epigraphical and “literary” (i.e., according to Lemcke’s self-imposed limitation, ‘ecclesiastical’) material. Adding up the page ranges (pp. 108–110, 117–120) of both subchapters, the discussion of “literary” sources covers about five pages and is restricted to a few passages contained in Lactantius, Eusebius, Socrates, and Sozomen.

The “large number” part treats a very different kind of “communication” when compared to the rest: while Lemcke is otherwise interested in the *Dienstweg*, the “large number” section is rather on publication mechanisms, culminating in the posting of edicts to inform the population. One wonders why then the first chapter did not investigate how the population could communicate toward the emperor. As much as the structure of the book indicates a systematic approach, I felt more than once that the various parts do not really interlock.

The already mentioned appendices contain some highly peculiar cases which seem particularly interesting but are not really discussed. For example, CTh. 8.1.12 (pp. 242–243) is addressed to all provincial governors, but to nobody else. The constitution’s content is of interest to governors only, which makes the choice of recipients quite understandable. But is it not curious that this time, the emperor apparently refrains from involving prefects and vicars? A similar case is presented by CTh. 1.15.12 (p. 244), addressed exclusively to all vicars. Again, the content is of interest only to them, but the apparent decision to exclude prefects as recipients might deserve some discussion (or should at least be pointed out clearly). Or take CTh. 11.6.1 (p. 243; also mentioned on p. 162, without however discussing the recipients in detail) which is addressed to “the proconsuls, the vicars and all governors [*rectores*],”<sup>8</sup>

7 I did not check the details of this appendix, but by browsing I noticed a mistake: “The prefect was to make this constitution known by sending letters prefixed to the imperial constitution to all [...] as well as by posting edicts: [...] *quod illustris magnificentiae tuae praelatum litteris, proponendum edictis, in omnium volumus notitiam pervenire.*” (p. 253) Yet *quod* refers to both *praelatum* and *proponendum*; *quod*, the content of the imperial enactment, is to be prefixed to a letter and to be published by way of edicts. As always in Late Antiquity, the imperial text takes the position of honor (i.e., the first) in the dossier.

8 This inscription is, by the way, another piece of evidence that by rank, proconsuls were above vicars and should in no way be confused with lowly governors (*rectores*, *praesides* etc.). See below in this review.

again omitting prefects. Given the emphasis Lemcke puts on the question of who-can-write-to-whom in the first core chapter, his lack of interest in this kind of evidence now surprises. My personal conviction is that of numerous constitutions, there were multiple copies addressed to different recipients (of which copies, however, only one was exploited for the Theodosian Code, excepting for editorial mistakes) and/or they were forwarded in the original form (i.e., with the original recipient indication) to other recipients as well, as an attachment to a cover letter (‘Dear prefect, FYI see what I wrote to all governors’). Both ideas remain impossible to prove, but it is feasible to research them, the former by studying extant distribution lists, the latter by studying extant cover letters. In a book on late antique administrative communication, one might especially expect an exhaustive discussion of these distribution lists.<sup>9</sup> But even CTh. 6.28.8 of 435, containing one of the most impressive of all such lists,<sup>10</sup> is hardly mentioned, garnering only a note (p. 128, n. 137) as the last chronological example for an emperor writing to a vicar, a “lone chronological outlier” in Lemcke’s words. The constitution for some reason or other is absent from the appendices. That this distribution list was not removed during the redaction process when the CTh. was compiled is a glitch of a highly infrequent kind. If this rare blunder provides us with one “lone [...] outlier,” we may wonder what the situation would look like if we had many more such distribution lists extant.

The main results of these second core chapter (pp. 129–132) are, with respect to the “limited recipients”, that petitions directly made to the emperor were answered by a direct reply to the petitioners plus an indirect rescript to a relevant official, while a request indirectly forwarded by some dignitary on behalf of others was answered with a letter to said dignitary. This is hardly surprising and could have been established based on the epigraphical material alone (cf. pp. 107–108). In fact, Lemcke concludes at the end of his two pages concerned with literary sources that “these two accounts thus exemplify communication as a result of a matter not [!] brought to the emperor’s

9 For my own tentative observations, see P. Riedlberger: *Prolegomena zu den spätantiken Konstitutionen. Nebst einer Analyse der erbrechtlichen und verwandten Sanktionen gegen Heterodoxe*. Stuttgart-Bad Cannstatt 2020, pp. 71–75.

10 The extant fragment is addressed to the *magister officiorum*, while its subscription ends in: *Eodem exemplo Isidoro praefecto praetorio, Regino praefecto praetorio Illyrici, Leontio praefecto urbi, Theodoto comiti Aegypti, Abthartio comiti Orientis, Cleopatro praefecto Augustali, Hesybio procons. Achaiae, Eustathio vicario Asiae, Nectario vicario Ponticae*.

attention by petitioners approaching the court either directly or indirectly.” (p. 110) I therefore fail to understand how his result at the end of the section devoted to the juristic sources can be: “this section corroborates the epigraphic and literary [!] ones in those cases which were raised by a petition: If petitioners approached the emperor directly, they would receive a direct reply.” (p. 113) One must add that his section on juristic material mentions in actuality no more than three cases (pp. 110–111) which have to do with petitions; in all (numerous) other cases “it is impossible to tell whether a constitution was directly prompted by a report or a petition” (p. 111). In other words: while I think that Lemcke’s unsurprising result (that emperors answered the people who wrote to them in the first place, i.e., directly to petitioners if they had approached the emperor directly, assisted by an indirect rescript to a dignitary), his claim to have derived this not only from epigraphical, but also from literary and juristic sources seems not to be borne out by these sections themselves.

With respect to “large number” communication, Lemcke concludes that “between the 380s and the early 5th century [...], the direct connection between emperors and vicars ended,” (p. 131) something he visualizes with a diagram that shows the emperor writing to prefects and governors (but not to vicars) while prefects could write to vicars and governors, a situation which the caption calls the “dissemination pattern around the turn from the 4th to the 5th century.” (p. 132) This is intrinsically most unlikely and also contradicted by the distribution list of CTh. 6.28.8 (see above). Ignoring this crucial piece of evidence is an unsound approach; because its mere survival is a rare random event, we must suspect (and at any rate cannot exclude) that the countless other, lost distribution lists also contained vicars. A legitimate observation would have been that the vast majority of fragments in the CTh. with a vicar as recipient belong to the fourth century, a fact that can be explained by various possible conjectures (among various extant versions, the compilers preferred to use the prefectorial one as *Urtext*; in the archives used by compilers, it was usually the prefectorial version that was cited; vicars were only copied in and did really not receive personal correspondence; one can come up with several more similar explanations without too much thinking).

Given that I am convinced neither by the choice of evidence nor the methodology of the two crucial chapters of the book, I will not go into the further chapters (the taxation case study and the chronological reasoning). However,



I will point out some further problems as my concerns are not restricted to what might be deemed a matter of opinion (scope, methods, etc.); there are also quite a few shortcomings with respect to verifiable details.

In his conclusion, Lemcke claims that his approach “has demonstrated that any study making use of the legal *corpora* must be based on meticulous *Quellenkritik* to address the challenges inherent to this group of sources.” (p. 189) While I share the notion that one must understand the specific peculiarities of the legal sources, I feel that for a book based almost exclusively on them there are too many misconceptions in their respect. For example, he claims that the Sirmondians “consist of 18 full-length constitutions [...]. Of these 18, 12 are retained in abridged form in the Theodosian Code.” (p. 22) In actuality, nos. 17 and 18 are not full-length constitutions, but citations *from* the Theodosian Code (they have been tentatively reinserted there by Theodor Mommsen as CTh. 1.27.1 and 1.27.2). And not “12,” but only ten CTh. fragments may be compared with Sirmondians (which are, furthermore, not always the specific version which served as *Urtext* for the CTh. excerpt).<sup>11</sup> Lemcke distinguishes between “official law codes [...] and unofficial collections.” (p. 22) While he correctly assigns the Sirmondians to the latter group, he wrongly believes that the post-Theodosian Novels (whose current collection goes back to modern editors) and Justinianic Novels were “official law codes.” He calls them “appended to the Theodosian Code,” which is correct as long as it is clear that it was only modern editors like Gustav Friedrich Hänel and Mommsen/Paul M. Meyer who appended this collection to the full Theodosian Code.<sup>12</sup> Strangely, only a few lines after this erroneous distinction between official and unofficial collections, Lemcke correctly states (p. 23) that the Justinianic Novels were *not* issued officially but brought together and published by individuals. Later (p. 45), he compares the CTh. and CI. version of a specific fragment. The CI. version is directly and exclusively derived from the CTh. version and was reworked during the Justinianic

11 See Riedlberger (n. 9) pp. 49–50 n. 58, p. 199.

12 To be very precise: already in Alaric’s Breviary, a collection of post-Theodosian Novels (which is a subset of the selection Meyer edited) was appended (*inter alia*) to the small selection of excerpts taken over from the Theodosian Code. See P. Riedlberger/I. Niemöller: Paul Krüger, Theodor Mommsen, and the Theodosian Code. In: Roman Legal Tradition 17, 2021, pp. 1–112, p. 106 n. 282.

compilation;<sup>13</sup> it is hardly legitimate to call such a derived and deliberately rewritten text “the copy preserved in the Justinian Code.”

Lemcke (pp. 195–196) argues that CTh. fragments exclusively extant in the Visigothic Breviary can be trusted to be transmitted unchanged. While this is correct, his argument is awkward: Lemcke points to the Visigothic commentaries added to each fragment and believes their sheer existence proves the text has not been touched (“it is difficult to fathom why else the editors [...] would have added interpretations when they could have simply changed the text”). In actuality, the case for the Breviary’s textual reliability is incomparably stronger. Given that the Breviary covers the whole CTh., we can, beyond book 5, simply compare the Breviary texts with the texts transmitted in the full manuscripts. And even for book 1 to 5 (where the main manuscripts fail), chiefly the Turin palimpsest but also other sources allow for comparisons. The invariable result is that Breviary fragments transmit the unchanged CTh. text (except in cases when it was shortened; these cases are however pointed out in the Breviary interpretations). Lemcke further compares the textual transmission of the Theodosian and Justinian codes and claims with regard to the latter: “Krüger’s text is based on a much better manuscript tradition, resulting in a largely complete version of the second edition of the Code published originally in 534, although some textual corruption, *lacunae*, and problems with dating, names, and titles persist.” (p. 196) Far from it. Lemcke’s optimism is probably a consequence of his use of Krüger’s stereotype edition (p. 316, second entry from above) which almost dispenses with an introduction, and leaves out most of the apparatus. When working on the textual transmission, only Krüger’s *editio maior* of 1877 with its circumstantial preface and full apparatus is to be used. The textual transmission of the CI. could rapidly be described as follows: there is only one palimpsest which gives us parts of the full CI.; otherwise, we have to rely on various sources to reconstruct the *Latin* portions of the CI., with inscriptions and subscriptions remaining quite dubious. For the *Greek* portions, the situation is appalling, as we often do not know whether the bits we take over from later Byzantine legal works are really verbatim citations or merely paraphrases of the original CI.<sup>14</sup>

13 See e.g. Riedlberger/Niemöller (n. 12), pp. 5–8.

14 See S. Corcoran: Anastasius, Justinian, and the Pagans. A Tale of Two Law Codes and a Papyrus. In: *Journal of Late Antiquity* 2:2, 2009, pp. 183–208, pp. 189–193; S. Corcoran: The Codex of Justinian: The Life of a Text through 1,500 Years. In:

I found Lemcke's appendix (pp. 201–211) in which he proposes new dates or other emendations for several constitutions more than once unconvincing; the underlying problem here indeed is a lack of familiarity with the specific (and often unintuitive) properties of the legal sources. For example, in the case of CTh. 14.4.3 (transmitted date: 9 December 363, although its alleged sender is Julian), Otto Seeck corrected it by changing the consulate, i.e., he changed the date to 9 December 362. Lemcke (p. 204) argues philologically: instead of changing the names of both the consuls, modifying the month from December to January or February would require a much gentler intervention. But this business is a lot more complicated. Lemcke seems ignorant of Seeck's argument, namely that there are several laws within a short period of time whose transmitted date is one year too late,<sup>15</sup> and in one case it can be proven beyond doubt that it is the year (not the month) that is wrong.<sup>16</sup> Apparently, the proposition year was confused with the *datum* year, a mistake which we can prove happened in other cases as well.

For CTh. 8.5.7 (transmitted date: 3 August of 354 with a minor adjustment), Mommsen suggested the year 360 based on the tenure of the sender and slight changes of the consulate indication; taking into account the sender's (i.e., Constantius II's) itinerary, Seeck corrected this to the postconsulate of Mommsen's consuls, i.e., to 361. Lemcke (pp. 202–203) observes that the emperor Constantius II should have known by August 361 the consuls of 361; that it is therefore unconvincing to have him indicate a postconsulate instead of the correct consulate; that the subscription must therefore be changed even more, namely by substituting *acc.* for *dat.*, with the indicated date giving the moment of arrival at the recipient (the African proconsul). Again, things are more complicated. It would not be sufficient to change from *dat.* from *acc.*, as the subscription also includes a place (namely *Antiochae*) which would need to be replaced by an African city as well. Crucially, however, while one would naively expect postconsulates to be indicated only

The Codex of Justinian. A New Annotated Translation, with Parallel Latin and Greek Text. Ed. by Bruce Frier. Volume I. Cambridge 2016, pp. XCVII–CLXIV, pp. CXXXVI–CXLVI.

- 15 O. Seeck: *Regesten der Kaiser und Päpste für die Jahre 311 bis 476 n. Chr. Vorarbeit zu einer Prosopographie der christlichen Kaiserzeit*. Stuttgart 1919, pp. 83–84.
- 16 Seeck (n. 15), p. 82, ll. 11–16: there is a case of several CTh. fragments excerpted from one and the same original full constitution, yet with different transmitted consuls.

during the first months of a year, they actually crop up combined with *any* month,<sup>17</sup> an admittedly surprising piece of information, which however must be clear to anybody wishing to tinker with CTh. dates.

Seeck is not the only one getting criticized for no good reason. With reference to the Kasai dossier, Lemcke (p. 106) dedicates a whole paragraph to correcting Denis Feissel. This dossier consists of three texts, in this sequence (a) a rescript by Zenon to petitioners from Kasai in which the emperor confirms an enactment issued by his *magister officiorum* (who was charged orally by the emperor to look into the case), (b) the said enactment by the *magister officiorum* including an order to the local governor to publish it, and (c) the local governor's publication edict, the conclusion of which starts with Πρὸς τὸν οὖν εἰδ[έναι ὑμᾶς] τὰ θειωδῶς θεσπισθέντα καὶ μεγαλοφυῶς προσταχθέντα τῷ παρόντι ἡδ[ί]κτῳ ἐχρησάμην, “By way of the present edict, we make you know the imperial statement and the *magister officiorum*'s enactment,”<sup>18</sup> which is clear enough and faithfully repeats the sequence in which the two preceding texts can be found carved into the stone. Given that governor not only mentions (and publishes) the *magister*'s enactment, but also the imperial rescript, it must have reached him somehow, “probablement”<sup>19</sup> from the Kasai petitioners (after all, the rescript is addressed to them). Lemcke deems Feissel's interpretation “not convincing” as by the cited phrase (which Lemcke oddly gives only in Feissel's French translation) “the governor simply acknowledged that he knew that the *magister*'s orders had been seen and confirmed by the emperor, making it *de facto* an imperial utterance” (p. 106); according to Lemcke, it was the local authorities of Kasai (not the governor) who created the tripartite dossier. This is not only far-fetched but also in clear contradiction to

17 Seeck (n. 15), p. 15. Here Seeck also gives his tentative explanation for this strange observation (namely, that the dates are taken over from archival books in which the year was, at the start of a new year, indicated by a postconsulate, which was sometimes not updated when the actual consulate was known). Whether this is true or not, the fact stands that postconsulates can be found combined with any month.

18 Cf. D. Feissel: Les brevitalia de Kasai en Pamphylie. Un jugement du maître des offices sous le règne de Zénon. In: R. Haensch (ed.): Recht haben und Recht bekommen im Imperium Romanum. Das Gerichtswesen der Römischen Kaiserzeit und seine dokumentarische Evidenz. Warschau 2016, pp. 659–737, p. 676, ll. 56–57. My translation is perhaps less literal than others would prefer, but it should give the precise meaning; μεγαλοφυῶς refers to the grade of dignity (*magnificentia*) held by the *magister officiorum*.

19 Feissel (n. 18), p. 688.

what the inscription says (“we make you know the imperial statement”); anyway, such things must be discussed based on the original text.

Further infelicities crop up here and there: “In a constitution from 362 [i.e., CTh. 1.15.4], he [i.e., Julian] commanded *Musonianus, PPo Italiae, Africae et Galliae*, to [...]” (p. 41). Musonianus was PPO of Oriens in the 350s; the dignitary in question is Mamertinus. His jurisdiction in 362 encompassed Italy, Africa and Illyricum, but not Gaul, which was a separate prefecture (at that point in time, under Sallustius). The famous *oratio* by Valentinian III of 426 is assigned by Lemcke to 436 (p. 88). Worse, Lemcke passes over the fact that the bit of the *oratio* under discussion is transmitted only in the CI; no matter what was once contained in the original *oratio*, anything could, and probably was, adapted to the (then much changed) situation under Justinian. Provincial governors did not “prefix” (p. 100) their own edicts to documents received from higher ranking dignitaries, but strictly kept to the order of precedence, i.e., adding them after imperial and/or prefectorial letters.<sup>20</sup> Lemcke claims that Constantius II “nominated a Caesar to act as his deputy in the west and ruled the east directly. The first Caesar, Constantius Gallus was executed [...]. Julian succeeded him in 355.” (p. 171) Yet Gallus acted as deputy in the East, from his residence at Antioch, while Constantius II was in the West.

Contrary to the legal sources, Lemcke does not distinguish the lofty proconsuls (ranking higher with respect to honor than vicars) and the much lowlier other governors; these should always clearly be kept apart. For example, CTh. 1.15.3, requiring “governors” to send mail through vicars in order not to choke the post, actually uses the term *rectores* which (contrary to, say, *iudices*) does not include proconsuls. It remains unclear where the proconsuls really should be in Lemcke’s diagrams. However that may be, Lemcke’s conflation of proconsuls and lowly governors is conscious. He (p. 11 n. 57) claims that the only evidence for proconsuls being independent from prefects comes from the *Notitia Dignitatum* and is therefore unreliable. He overlooks an explicit statement to this effect in Eunap.<sup>21</sup> It is praiseworthy that Lemcke defines the types of enactments occurring in Late Antiquity; but

20 Riedlberger (n. 9), p. 57. As cases in point, see the dossiers Lemcke himself discusses (p. 105: Kasai, pp. 106–107: Didyma, p. 107: Miletus), invariably with the governor’s edict at the end.

21 Eun. vit. soph. 7.65–66 [= 7.5.5 G. Giangrande], see Riedlberger (n. 9), pp. 55–56.

there were no *mandata* in Late Antiquity before they were artificially resurrected by Justinian,<sup>22</sup> and Lemcke's definition of pragmatic sanction, "issued [...] in response to petitions from cities, guilds, or other associations [...] usually valid in a wider geographic radius and not applicable to the petitioners alone," together with his further remark that "only edicts and letters containing (general) legislation or answering petitions are relevant for this study because they moved through different ranks of the administration to reach their destination" (p. 16) is paradoxical. Lemcke's definition is (without acknowledgment) based on CI. 1.23.7 § 2 from Zeno's time. It does not match earlier (or later) examples of pragmatic sanctions which are not based on petitions of corpora, and these texts did indeed move "through different ranks of the administration to reach their destination."<sup>23</sup> Nor does it match the later procedure of Lemcke himself who analyzes pragmatic sanctions just like any other type of constitution, without however acknowledging this explicitly.<sup>24</sup> Lemcke claims that "Valentinian [...] informed the Carthaginians in an edict that [...]" (p. 54). The reference to the passage is lacking (but can be reconstructed from Lemcke's citation: CTh. 11.30.32), and this is not an "edict" to the "Carthaginians," but rather a letter to the Council of Carthage.

Lemcke also discusses the role of the bishops in late antique administration. He claims that there is (at least before Justinian) "no record of an attempt to establish any formal channels of communication between either administrators and bishops or bishops and the central administration." (p. 62) This sweeping claim is contradicted by his own n. 116 in which he cites a Constantinian letter, instructing Macarius and the other Palestinian bishops to report infringements directly to him (Eus. vita Const. 3.53.2); after all, Lemcke's method of detecting "official channels of communication" consists otherwise of pointing out such "write directly to ..." instructions in imperial letters to secular officials. I cannot see any difference to the instruct-

22 Nov. Iust. 17. For details, see Riedlberger (n. 9), p. 59 n. 81.

23 There is a plethora of evidence, e.g. I. Mylasa I 611–612 (Theodosius II to the Comes Eudoxius); AE 2014, 149 (Valentinian III to the Urban Prefect); Nov. Marc. 2 (Marcian to the Pretorian Prefect; it even contains a publication order).

24 E.g., p. 159: "And, finally, another constitution of Valentinian III [...] addressed to the *CSL* Florianus commands that governors dispatch *tabularii largitionarium titulorum* to the *CSL*." The constitution in question, Nov. Val. 7.3, is a pragmatic sanction (see its § 1). Furthermore, see e.g., SEG LIX 1178 (p. 94), Nov. Marc. 2 (p. 268), Nov. Marc. 3 (p. 269), etc.

tion at hand. But there is more. If we take Africa as a case in point, we can trace the official communication between bishops and emperor (and even other “administrators”) in detail. The yearly council regularly dispatched petitions and embassies to the emperor; it succeeded in establishing a “formal channel of communication,” as it were, by having *defensores scholastici* appointed as official contacts at the dignitaries’ offices; the council tried to keep single bishops from undertaking rogue embassies to the emperor; it was in epistolary contact with the governors; and so forth.<sup>25</sup> Overlooking this evidence might happen to anyone; I find the sweeping remark denying its existence off-hand more problematic.

Given the methodological issues, Lemcke’s general results (pp. 187–191) therefore fail to convince. He has one paragraph on the “establishment of regular centripetal communication,” repeating the far-fetched conclusions he draws from the three fragments from CTh. 1.15 mentioned earlier, including the idea that “communication originating from vicars to the emperor/court was finally supposed to be routed through the prefecture, although this new regulation left their duty to forward gubernatorial communication to the court directly untouched.” (p. 187) Remember: this conclusion is drawn from one CTh. fragment (CTh. 1.15.8) which Lemcke does not cite in the original, let alone discuss (and clearly misunderstands). His claim that “at the turn from the 4th to the 5th century [...] the prefects became the key distribution points for outgoing imperial communication to all officials of the regional administration – governors and vicars – as well as into the provinces” (p. 188) is largely based on CTh. inscriptions, while ignoring the (seldom) transmitted distribution lists surviving in some subscriptions. One further result of his study is quite revealing: “This intermediary role [within communication, PR] adds an important and to date inadequately recognized functional dimension to the vicariate, which has so far mainly been associated with judicial (appeal) and control (over governors) duties.” (p. 189) Yet the *relationes* the CTh. mentions actually are mostly legal cases, in which lower levels of jurisdiction (i.e., vicars) proactively contacted higher levels (i.e., prefect or emperor).

Lemcke’s neat model (emperors write to prefects, who communicate with the rest; governors may only write to vicars, who forward the governors’ reports to prefects and emperors, but not their own, which only may go

25 See Riedlberger (n. 9), pp. 517–518, n. 40; pp. 525–526; p. 543; p. 570.

through prefects) is not only intrinsically far-fetched, but also contradicted by much of the evidence Lemcke chose not to discuss. It also ignores many other facets of communication which do not fit into this overly schematic model. What about a constitution in which the emperors tasks a *comes rerum privatarum* (Nov. Theod. 5.1) or a *magister militum* (Nov. Theod. 7.4) to publish by posting edicts? Or a *magister militum* writing directly to a governor (ACO 1.1.7, p. 119 = ACO 1.5.2, p. 358)? Or an imperial pragmatic rescript directly addressed to a *tribunus et notarius* (Coll. Carth. 1.4 = 3.29) lacking a publication order which, however, said *tribunus et notarius* nevertheless publishes by issuing an edict (Coll. Carth. 1.5)? The late antique reality is far more complicated than the simple arrow diagrams contained in the book under review suggest.

I found this book unusually difficult to review because of quite contradictory properties. On the one hand, it is clear that it is based on intensive work on the sources themselves. Accordingly, there is a multitude of new insights to be found in this book, in the text body perhaps more rarely than in an (at first sight inconspicuous) observation included in a footnote. Further, every single page demonstrates proof of the author's independent thinking. While this would make for an outstanding book, there are also grave issues. Lemcke avoids deep engagement with the texts; yet if extensive conclusions are drawn from difficult passages which are neither cited nor discussed in full, this is no sound approach. While clear statements are essential in research (because if there is nothing one may confirm or falsify, there is no contribution to the debate), there are quite a few clearly wrong sweeping statements which might lead astray those future readers who are not really familiar with the material. Although Lemcke's book is an impressive piece of work, my advice to readers would be: use with care.

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