

*Spaces of Justice
in the Roman World*

Edited by *Francesco de Angelis*



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On the cover: Interior of the Pantheon, Rome. Photo F. de Angelis.

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LIST OF ABBREVIATIONS

AE	<i>L'Année Épigraphique</i>
ANRW	Hildegard Temporini (ed.). <i>Aufstieg und Niedergang der römischen Welt</i> . Berlin and New York: de Gruyter (1972 ff.).
BMCEmp	<i>Coins of the Roman Empire in the British Museum</i> . London: Trustees of the British Museum (1923 ff.).
CJud	J.B. Frey (ed.). <i>Corpus inscriptionum Judaicarum</i> . Vatican: Pont. Ist. di Arch. Cristiana (1936 ff.).
CIL	<i>Corpus inscriptionum Latinarum</i> . Berlin: Reimer (1862 ff.).
DE	Ettore De Ruggiero. <i>Dizionario epigrafico di antichità romane</i> . 5 vols. Rome: Pasqualucci (1895–1922).
DEGR	Aristide Calderini. <i>Dizionario dei nomi geografici e topografici dell'Egitto greco-romano</i> . 5 vols. Milano: Cisalpino-Goliardica (1935–1987).
DEGR Suppl.	Aristide Calderini. <i>Dizionario dei nomi geografici e topografici dell'Egitto greco-romano. Supplemento</i> . Ed. by Sergio Daris. 3 vols. Milano: Cisalpino-Goliardica (1988–2003).
Ditt., Syll.	W. Dittenberger. <i>Sylloge inscriptionum Graecarum</i> . 3rd ed. Lipsiae: Hirzel (1915–1924).
DNP	Hubert Cancik and Helmut Schneider (eds.). <i>Der neue Pauly</i> . 16 vols. Stuttgart: J.B. Metzler (1996–2003).
DS	C. Daremberg and E. Saglio (eds.). <i>Dictionnaire des antiquités grecques et romaines</i> . 5 vols. Paris: Hachette (1877–1919).
FIRA	SD. Riccobono et al. (eds.). <i>Fontes iuris Romani anteiustiniani</i> . 3 vols. 2nd. ed. Firenze: Barbera (1940–1943).
ICret.	<i>Inscriptiones Creticae</i> . 4 vols. Roma: Libreria dello Stato (1935–1950).
IEph.	<i>Inscripfen von Ephesos</i> . Bonn: Habelt (1979 ff.).
IIt	<i>Inscriptiones Italiae</i> . Roma: La Libreria dello Stato (1931 ff.).
IKnid.	W. Blümel (ed.). <i>Die Inschriften von Knidos</i> . Bonn: Habelt (1992 ff.).
ILMN	G. Camodeca and H. Solin (eds.). <i>Catalogo delle iscrizioni latine del Museo Nazionale di Napoli</i> . Vol. 1. Napoli: Loffredo (2000)
ILS	Hermann Dessau (ed.). <i>Inscriptiones Latinae selectae</i> . 3 vols. Berlin: Weidmann (1892–1916).
JRS	<i>Journal of Roman Studies</i> .
LD	Charlton T. Lewis and Charles Short (ed.), <i>A Latin Dictionary</i> , Oxford: Clarendon Press (1879).
LIMC	<i>Lexicon iconographicum mythologiae classicae</i> . 8 vols. Zürich: Artemis (1981–1998)

LSJ	H.G. Liddell, R. Scott and H.S. Jones (eds.). <i>Greek-English Lexicon</i> . Oxford: Clarendon Press (1958).
LTUR	Eva Margareta Steinby (ed.). <i>Lexicon Topographicum Urbis Romae</i> . 5 vols. Rome: Quasar (1993–1999).
MRR	T. Robert and S. Broughton. <i>The Magistrates of the Roman Republic</i> . 3 vols. New York: American Philological Association (1951–1986).
OGIS	W. Dittenberger (ed.). <i>Orientis Graeci inscriptiones selectae</i> . Lipsiae: Hirzel (1903–1905).
OLD	P.G.W. Glare (ed.), <i>Oxford Latin Dictionary</i> , Oxford: Oxford University Press (1996).
PG	Jacques-Paul Migne (ed.). <i>Patrologiae cursus completus. Series Graeca</i> . Paris: Migne
PL	Jacques-Paul Migne (ed.). <i>Patrologiae cursus completus. Series Latina</i> . Paris: Migne
PLRE	A.H.M. Jones, J.R. Martindale and J. Morris. <i>The Prosopography of the Later Roman Empire</i> . 3 vols. Cambridge: Cambridge University Press (1971–1992).
PPM	<i>Pompei, pitture e mosaici</i> . 11 vols. Roma: Ist. dell'Enciclopedia Italiana (1990–2003).
RAC	Th. Klauser et al. (eds.). <i>Reallexikon für Antike und Christentum</i> . Stuttgart: Hiersemann (1950 ff.).
RE	A.f. von Pauly, G. Wissowa, W. Kroll (eds.). <i>Realencyclopädie der classischen Altertumswissenschaft</i> . Stuttgart: Metzler (1894–1978).
RIC	Harold Mattingly et al. (eds.). <i>Roman Imperial Coinage</i> . 10 vols. London: Spink (1923–1994).
SEG	<i>Supplementum Epigraphicum Graecum</i> . Alphen aan den Rijn: Sitjhoff & Noordhoff (1923 ff.).
TH	<i>Tabulae Herculanae</i>
ThLL	<i>Thesaurus Linguae Latinae</i> . Leipzig: Teubner (1900 ff.).
TPSulp	<i>Tabulae Pompeianae Sulpiciorum</i>
ZSS	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Romanistische Abteilung</i> .

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PREFACE

The papers in this volume all derive from a conference of the same name that took place at Columbia's Center for the Ancient Mediterranean on November 17th and 18th, 2007. I should like to express my warmest thanks to all the contributors for their cooperation, and to my colleague William Harris, the Director of the Center, for his help in organizing and funding the conference. I also wish to thank both the Editorial Board and its anonymous readers for making it possible to publish this collection in the series *Columbia Studies in the Classical Tradition*. My research assistant and Columbia Ph.D. candidate, Patch Crowley, has provided invaluable help with the indexing and editing of the bibliography.

August 27th, 2010
Francesco de Angelis

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IUS AND SPACE: AN INTRODUCTION

FRANCESCO DE ANGELIS

Ius pluribus modis dicitur: [...]. Alia significatione ius dicitur locus in quo ius redditur, appellatione collata ab eo quod fit in eo ubi fit. Quem locum determinare hoc modo possumus: ubicumque praetor salva maiestate imperii sui salvoque more maiorum ius dicere constituit, is locus recte ius appellatur. (Dig. 1.1.1.11 [Paul., 14 Ad Sab.])

The term *ius* is used in several senses: [...]. By quite a different usage *ius* is applied to the place where the law is administered, the reference being carried over from what is done to the place where it is done. That place we can fix as follows: wherever the praetor has determined to exercise jurisdiction, having due regard to the majesty of his own *imperium* and to the customs of our ancestors, that place is correctly called *ius*.

(Transl. D.N. MacCormick, slightly modified)

Long before any “spatial turn”, Roman jurists were well aware of the strong relationship existing between their law and space. In Roman juridical thinking as well as linguistic use, *ius* could be a *locus*, a place. Consequently, *ius* was not simply connected with space—*ius* produced space, it *was* space. In this sense, the study of the Roman spaces of justice is something more than the mere reconstruction of the stage (to use a term often employed in this context) on which judicial proceedings unfolded and the protagonists played their roles; it implies the establishing of a vantage point from which to gain a privileged insight into the nature of Roman law, and particularly into its place within ancient life.¹

The space of *ius* was of a very peculiar kind; it originated from the presence of the magistrate and was not defined *a priori* in architectural or topographical terms. In principle, *ius* had no fixed place. It was the magistrate’s jurisdictional activity that called judicial space into being.

¹ Spatial turn: see Bachmann-Medick (2006) 284–328; Döring and Thielmann (2008) (with appropriate remarks on pp. 12–13 about the spatial dimension inherent in the fashionable metaphor of the “turn”); Warf (2009).

Ius as a *locus* emanated from him and his *imperium*.² This centripetal character lent special force to the visible signs of the magistrate's power—the *toga praetexta*, the *fasces* carried by the lictors, the *sella curulis*—whose symbolic charge is most evident for us on funerary monuments of magistrates, where they occur either in the context of judicial scenes or, more often, in isolation, as pure manifestations of *imperium*.³ Even more fundamentally, it was the person of the magistrate himself—his posture, his location *vis-à-vis* the other participants—that defined the space of *ius*. Whether the praetor was still or in movement, sitting or standing, on ground level or raised on a podium, were all factors that affected judicature and had clear spatial implications. More than that, they determined a hierarchy of spaces. Only acts pertaining to the voluntary jurisdiction were accomplished *in transitu* or *in itinere*, i.e., in absence of a predetermined spatial setting.⁴ More complex proceedings required that the magistrate stay in a set place not only for practical, but also for symbolic reasons: motionlessness enhanced his dignity—and that of the case. Even then distinctions could be made, however: a standing position on the ground (*stans*, or *de plano*) was less dignified than a seated one *pro tribunali*, and was admitted only for certain types of cases.⁵ The *tribunal* was of particular import in this context: by elevating the sitting magistrate above the level of the other participants, it set a clear vertical accent within the judicial space and visualized in a simple but very effective way the *maiestas imperii*.⁶ Significantly, not even the seated position on the podium constrained the magistrate to the same static location over time. The *sella*—a personal belonging of the magistrate—

² On the space created by the presence of the magistrate, cf. also David (2006). In order to avoid undue generalizations, it is worth keeping in mind that in the formulary procedure the actual decision concerning a case was taken in a second phase, not by the magistrate himself but by a private *iudex* appointed by him; it therefore did not take place *in iure* (see also below, p. 14).

³ See Schäfer 1989 (judicial scenes: *ibid.*, 150–160; 238 no. 2; 248–258 nos. 6–12).

⁴ Kaser and Hackl (1996) 187, 201. Cf. Gai. 1.20: *in transitu* [...] *veluti cum praetor aut pro consule in balneum vel in theatrum eat; Dig. 40.2.7: cum aut lavandi aut gestandi aut ludorum gratia prodierit praetor aut proconsul legatusve Caesaris*; see also Dig. 1.7.3 (Paul., 4 *Ad Sabin.*): *apud semet ipsum* (cf. *ibid.* 1.14.2).

⁵ Kaser and Hackl (1996) 201 n. 5.

⁶ At the same time it compensated the loss in height that the seated posture entailed. In the aforementioned trial scenes on funerary monuments (above, n. 3), the *tribunal* is either omitted or represented as an extremely low dais, most likely due to the constraints of the figural field. The magistrate's *maiestas* is nevertheless maintained through isoccephaly, by depicting his head at the same level as those of the standing characters. On the *tribunal*, see Chapot (1919); Weiss (1937); Bablitz (2008).

was a portable item, and the wooden *tribunal* was not a permanent fixture either. In the Forum Augustum, to which the praetors' seats were eventually displaced at the beginning of the Imperial period, no *tribunal* in marble or stone was apparently planned to host them—and this in an age when architectural treatises like that of Vitruvius explicitly allowed for the building of monumental *tribunalia* in the basilicae.⁷ In a sense, *ius* moved and stood with the magistrate.⁸

The absence of any physical characterization of justice as a *locus* in the *Digest*, however, should not lead us to believe that the concrete spatial context of *ius* was irrelevant. The relationship between the exercise of justice and its setting was by no means an arbitrary one. Paul himself acknowledges as much in the passage quoted at the beginning by mentioning the *maiestas imperii* of the praetor and the *mos maiorum* as crucial factors for the proper establishment of a place as *ius*. The space of justice had to be compatible with the dignity of the magistrate's office; moreover, it could not be in contrast with the criteria of ancestral tradition. The reference to the *maiestas imperii* is particularly significant, since in ancient texts this expression also occurs in relation to architecture. None other than Vitruvius, at the very beginning of his treatise, praises Augustus for making sure that the *maiestas* of Rome's *imperium* is reflected in the prestigiousness of its public buildings (*ut maiestas imperii publicorum aedificiorum egregias haberet auctoritates*); similarly, Suetonius links the Augustan transformation of Rome from a city of bricks into one of marble to the idea that the *maiestas imperii* should be matched by the level of the urban decoration.⁹ Observance of the *mos maiorum*, for its part, ensured that the praetor's freedom in the choice of location did not acquire revolutionary traits. This was all the more relevant in a memory-laden environment such as Rome, where each place and each monument had its particular connection with the past, be it mythical or historical.¹⁰ Therefore, even though neither architectural nor topographical features are expressly mentioned in the passage of the *Digest*, we can safely assume

⁷ Vitr. 5.1.8 (on this passage, see below, pp. 11–12).

⁸ Cf. also Dig. 11.1.4.1 (Ulp. 22 Ad ed.): *Quod ait praetor: "Qui in iure interrogatus responderit" sic accipiendum est apud magistratus populi Romani vel praesides provinciarum vel alios iudices: ius enim eum solum locum esse, ubi iuris dicendi vel iudicandi gratia consistat, vel si domi vel itinere hoc agat.*

⁹ Vitr. 1 pr. 2, on which see Zaccaria Ruggiu (1995) 124–131; Gros et al. (1997) 61 (A. Corso). Suet., Aug. 28.3: *Urbem neque pro maiestate imperii ornatam et inundationibus incendiisque obnoxiam excoluit adeo, ut iure sit gloriatu marmoream se relinquere, quam latericiam accepisset.* Such ideas were not unknown in the time of Paul: cf. Dio 56.30.4.

¹⁰ Cf. Stein-Hölkeskamp and Hölkeskamp (2006).

that the appearance of a place as well as the associations attached to it played an important role in the determination of a space as a judicial space.

This still leaves much leeway with respect to the nature of the link between *ius* and its *loci*. The relationship between the administration of justice and its context is definitely not a binary in which function simply mirrors the concrete features of the setting, or vice versa. To deduce the judicial use of a building, an architectural complex, or an urban area from archaeological evidence alone is a near-impossible task; architectural and urbanistic typologies are not a sufficiently precise guide in this regard. Likewise, trying to reconstruct *ius* as a spatial experience based solely on the explicit indications of the written sources risks leaving out some of the main features that added to the creation of the distinctive atmosphere of a trial, especially when these features have no direct relationship with the sphere of justice. Such a situation evidently requires an interdisciplinary effort. Of course the real challenge—methodologically, historically, and intellectually—does not lie in the erudite combination of different kinds of evidence *per se* (although the value of erudition is indisputable, here as elsewhere). Rather than a simple reconstruction of ancient conditions “as they were”, the ultimate aim of such an enterprise should be to use these results in order to understand the place of law within the landscape of ancient life—how it was related to (or distinct from) other realms of human activity, and how it interacted with them. In recent years, several studies have been published on the spatial settings of modern (Western) lawcourts—on their architecture, on their relationship with changing judicial procedures as well as with developments in the notions of law and justice.¹¹ In comparison, the knowledge we can hope to achieve about ancient Roman courts will necessarily remain a fragmentary and hypothetical one.¹² This situation need not be a disadvantage. On the contrary, the problematic nature of our evidence can foster a particular methodological and theoretical sharpness. Especially if we understand

¹¹ See, e.g., *Justice en ses temples* (1992); Taylor (1997); Graham (2003); McNamara (2004).

¹² Scholarship on the spaces of justice in Rome has typically focused on the Republican Forum, and in particular on the tribunal of the praetor: cf. Mommsen (1863); Gioffredi (1943); Welin (1953) 9–129; Richardson (1973); Coarelli (1983a) 119–160; (1985) 22–87, 166–199; David (1995). The evidence of the wax tablets from Herculaneum and Pompeii has allowed the inclusion of the Forum Augustum into the discussion: cf. Camodeca (1986); Carnabuci (1996) and (2006); Ventura Villanueva (2006). For a more comprehensive picture, see now Bablitz (2007) 13–50 (concerning the first two centuries of the Empire), and the synthetic overview in Coarelli (2009b).

space as the result of an *interaction* between human activity and its environment, Rome's *ius* provides an excellent test case for examining how authority and power relationships manifest themselves in space, both shaping it—ideally and concretely—and being affected by it.

The present volume, which stems from a conference held at Columbia in November 2007, attempts to move in this direction. Besides contributing to the topic in their own right, the papers gathered here also aim at collectively providing a broad overview both of the issues at stake in the study of the spaces of Roman justice and of the possible ways of approaching them. The resulting picture does not claim to be a complete and systematic coverage of the theme. It would be all too easy to think of additional chapters on further issues, from the site of the *praefectura urbana* to the treatment of space in Cicero's speeches, from the topography of imprisonment and punishment to the function of basilicae in the provinces—not to speak of the developments in late antique Rome.¹³ Instead, the present volume emphasizes the variety of ways in which space—and the spaces of justice in particular—can be understood and investigated: e.g., focusing on the locations of the historical actors; trying to recover the concrete spatial conditions of ancient judicial venues; conjuring up the impalpable but distinctive atmosphere that determined the experience of the places of law; underscoring the coexistence of justice with other spheres of social life in the same contexts; addressing the transposition of the spaces of justice into literary chronotopes; and so on. The chapters have been organized so as to start with the protagonists involved in judicial cases—the litigants, the jurists, the advocates—and with their relationship to the spaces of justice. Subsequently, the focus moves towards Rome and its topography, first with a stress on the main judicial authorities (the praetor, the emperor), and then concentrating on the spaces themselves (the Forum Augustum, the Forum Iulium, the Basilica Iulia). In the last part, the scope broadens to encompass the provinces, exploring both concrete cases (Egypt, for example, whose

¹³ On the *praefectura urbana*, see Coarelli (1999d), with previous bibliography; Caruso and Volpe (2000) 53–56; La Rocca (2000) 70–71; Carnabuci (2006) 182–192; Amoroso (2007); Bablitz (2007) 39–40; Marchese (2007); Coarelli (2009b) 9–13. On punishing and prisons, see David (1984); Coleman (1990); Rivière (1994); Krause (1996) 248–270; Rivière (2004). On provincial basilicae, cf., e.g., Gros (1995); Luni and Cellini (1999); Hesberg (2002); Gros (2005); Luni (2007).