

# Lawyers in Late Antique Palestine\*

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A review of lawyers for our honorand hardly needs justification, nor is the choice of country inappropriate. Needless to say persons with some pretence to professional attainments must have appeared in the courts of law of Graeco-Roman Palestine in all periods. Nevertheless, by the chances of survival of our sources it is only from Late Antiquity that we have explicit evidence of people defined as lawyers.<sup>1</sup>

An appraisal of members of the profession in Late Antique Palestine also presents a good opportunity to consider one aspect of higher education in this country. Lawyers appearing in court and speaking there had to be trained speakers, and accordingly they went through the usual stages of Greek education, including study with a *grammaticus*, and later a rhetor or sophist: not only the numerous pupils of the famous rhetors Aeneas of Gaza<sup>2</sup> and Procopius of Gaza,<sup>3</sup> but also their friends and colleagues who appear in their correspondences provide excellent examples for this. The next stage was study in a

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\* I discussed the subject in a different context in my GEIGER 2012, 66-71.

<sup>1</sup> For an overview see DAN 1982; see also DAN 1978.

<sup>2</sup> His correspondence in MASSA POSITANO 1962.

<sup>3</sup> See his relevant writings and on him, most recently, AMATO 2010.

School of Law, and it so happens that the famous School of Berytus (Beirut)<sup>4</sup> was easily accessible, though some people went as far as Constantinople to study. However, one did not have to go even so far, since a School of Law operated also in this country. Yet, the only safe fact concerning a School of Law in Caesarea is Justinian's prohibition of 533 of teaching there:

... quia audivimus etiam in Alexandrina splendidissima civitate et in Caesariensium et in aliis quosdam imperitos homines devagare et doctrinam discipulis adulterinam tradere: quos sub hac interminatione ab hoc conamine repellimus, ut, si ausi fuerint in posterum hoc perpetrare et extra urbes regias et Berytensium metropolim hoc facere, denarum librarum auri poena plectantur et reiciantur ab ea civitate, in qua non leges docent, sed in leges committunt.<sup>5</sup>

I shall not elaborate on the School of Caesarea,<sup>6</sup> nor on its possible influence on the legal studies of the Rabbis there,<sup>7</sup> but a most interesting observation follows from the prosopographical list below: though we know of a number of people attested to have studied in Beirut, and some who went on to study or practice in Constantinople, not one is known to have studied in Caesarea. I find it difficult to attribute this exclusively to the chances of survival: perhaps Justinian's *homines imperiti* and *doctrina adulterina* were not entirely unwarranted. Nevertheless, one cannot dismiss the possibility that we are aware only of the people at the top of their profession, not of those who studied at inferior institutions.

Latin was an important aspect of the study of law, which consisted mainly in the study of legal texts in that language – little wonder that the Antiochean rhetor Libanius was worried about losing pupils to this competition.<sup>8</sup> Not a few intellectuals in Palestine must have been bilingual, not necessarily limiting themselves to legal texts, so that it is hardly surprising that Caesarea was home, among others, to the Latin historian Eutropius and to the grammarian Priscian.<sup>9</sup>

In Late Antiquity lawyers were as a rule referred to as *scholastikoi*<sup>10</sup> and in the following prosopography I will list them first (abbreviated as sch.), and

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<sup>4</sup> SCHEMMEL 1923, 236-240; COLLINET 1925.

<sup>5</sup> CIC, *Constitutio omnem*, 7.

<sup>6</sup> See SCHEMMEL 1925.

<sup>7</sup> Cf. LIEBERMAN 1970-1971.

<sup>8</sup> WOLF 1952, 53-55.

<sup>9</sup> See on these GEIGER 1999.

<sup>10</sup> See CLAUS 1965. Beside the ecclesiastical writers Eusebius of Caesarea, Socrates and Zacharias only Burichius, Iohannes (2), Nestorius and Dionysius, appear from the present collection in his list, at 20-39.

then I shall proceed and list those for whom legal studies or legal activities are credibly attested. The annotation will be kept to the bare minimum.

Though one can never be too careful with figures and statistics in Antiquity, it seems that the number of lawyers attested in Palestine is rather high and their spread across the country may approach something that is not too far from representing the situation in the various cities. But there is much more to this list than an enumeration of lawyers. One must imagine their teachers, fellow students, the teachers of Latin, and last but not least, the public in the courts of law, part of which at any rate would be able to understand the Greek speeches and even appreciate the finer points of language, style and argument. Thus an enumeration of the known lawyers in Late Antique Palestine reveals for us at least one aspect of classical civilisation there.

## I. SCHOLASTIKOI

### **Aelianus**

Christian sch., late 5<sup>th</sup> c., Elusa.

Paulus Helladicus, *Acta S. Theognii* 18 = *Analecta Bollandiana* 10, 1891, p. 100; *PLRE* II, no. 3.

### **Alexander**

Christian sch., Ascalon; it is suggested that he may be identical with the Head of the Monastery often referred to in the *Pratum spirituale*.

Paulus Helladicus, *Acta S. Theognii* 18 = *Analecta Bollandiana* 10, 1891, pp. 97-98; *PLRE* II, no. 13.

### **Bur(r)ichius**

Sch. from Ascalon and self-described admirer of Plato, visited in the 4<sup>th</sup> c. the royal tombs of Egyptian Thebes; in one of his three inscriptions he mentions his brother **Sapricius**, also a sch. There is absolutely no warrant to connect the name, attested already in Hellenistic times, with the Semitic root B-R-KH, as suggested in *DPhA* II, no. 57

BAILLET 1920-1926, II, nos. 1266, 1279, 1405.

### **Dionysius**

Monophysite sch. in Gaza, second half of 5<sup>th</sup> c.

*PLRE* II, no. 9.

**Diodorus**

Sch. from Gaza, successful in Caesarea, addressee of letters by Aeneas and Procopius of Gaza, accordingly late 5<sup>th</sup> or early 6<sup>th</sup> c.

*PLRE* II, no. 3; DAN 1984, 180.

**Dionysius**

Pious Christian sch. from Gaza.

Zach. *HE* II, App. II, p. 268.

**Euty chius**

Or Euty chianus, and ‘sch.’ are tentatively offered in deciphering a stamp from Caesarea, 6-7<sup>th</sup> c.

*CIIP* II, 1772.

**Iohannes (1)**

Sch. from Scythopolis and author of a theological work, second half of 5<sup>th</sup> c.

*PLRE* II, no. 27.

**Iohannes (2)**

Sch. from Scythopolis, ‘son of the tax-farmer’, attested 518 and 528 (Cyril Scyth., *VSab* 61, 70).

*PLRE* II, no. 64

**Isidorus**

Sch. and friend of Procopius of Gaza, apparently also from Gaza.

*PLRE* II, no. 6

**Iulianus (1)**

Stamp of sch. in Caesarea, 5-6<sup>th</sup> c.

*CIIP* II, 1782.

**Nestorius**

Sch. and councillor of Gaza, mid-5<sup>th</sup> c.

Zach. *HE* App. II, p. 267; *Vis* 5; *PLRE* II, no. 5.

**Noesius**

or Anoesius. Sch. in Scythopolis, known from dedicatory inscription in the monastery, 536/537.

*PLRE* III, s.v.

### **Sapricius**

Mentioned as sch. by his brother **Bur(r)ichius**, see there.

### **Stephanus**

Sch. who died in Eleutheropolis, apparently in 555.

*SEG* 8, 1937, no. 301.

### **Theodorus**

Sch. who became a monk, and eventually succeeded Petrus the Iberian as Head of the Monastery, mid-5<sup>th</sup> c.

*PLRE* II, no. 28; *RE* VA, col. 1914, no. 173.

### **Zacharias**

of Gaza, the Church historian and eventually bishop of Mytilene, who also studied law in Berytus, is referred to as Z. rhetor or scholasticus, see attestation and on him, most conveniently, J. RIST, *Biogr.-Bibliogr, Kirchenlex.* s.v. Zacharias, 14, 1998, pp. 303-307 (also in Internet).

## II. LAWYERS AND STUDENTS OF LAW NOT EXPRESSLY REFERRED TO AS *SCHOLASTIKOI*

### **Aeneas**

Known from two letters, including a letter of recommendation, of Procopius of Gaza; he had legal training and was *defensor civitatis* of a number of towns.

*PLRE* II, no. 4; DAN 1984, 105-106, 107.

### **Antonius**

Alexandrian rhetor and fervent defender of the Old Religion in mid-5<sup>th</sup> c. Gaza. Advocate in a number of cases, including that of his sister – this came to be settled in Constantinople. He dedicated himself to religion and charity.

Dam. frg. 186 = Suda A 2763; *PLRE* II, no. 3; SZABAT 2007, no. 22 (she conjectures that he may have entertained Damascius and Isidorus in Gaza).

### **Arrianus**

A ten verse funerary inscription from Petra<sup>11</sup> refers to him as an expert on Roman law: Αὐσονίων... θεσμῶν; 3<sup>rd</sup>-5<sup>th</sup> c.

MERKELBACH & STAUBER 2002, p. 447, no. 22/71/03.

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<sup>11</sup> Although this paper is confined to Western Palestine I include Petra, at one time capital of Palaestina Tertia.

### **Castor**

Procopius of Gaza, *ep.* 73, mentions him as a person capable of defending in court; if the case took place in the capital he may have been active in Caesarea. *PLRE* II, no. 3.

### **Craterus**

The ‘first’ (ὁ τότε πρωτεύων)<sup>12</sup> among the people of Ascalon, he appeared as orator in court (ὑπεραγωνίζεται), probably in the 3<sup>rd</sup>-4<sup>th</sup> centuries. *Suda* E 3770.

### **Dorotheus**

Lawyer, pupil of Procopius of Gaza and Gessius of Petra; for chronological reasons not to be identified with Dorotheus of Gaza, the correspondent of the ‘Great Old Man’ Barsanuphius of Egypt.<sup>13</sup> *RE* V, col. 1571, no. 17.

### **Epiphanius**

Pupil of Procopius of Gaza, lawyer and eventually governor of an unidentified province. *PLRE* II, no. 4; *RE* VI, col. 196, no. 9.

### **Eudaemon**

Grammaticus or sophist who also wrote poetry, from Pelusium and active in Elusa, the town of his cousin **Eunomus**; attested also as lawyer; second half of 4<sup>th</sup> c. The *Suda* mentions his τέχνη γραμματική and ὀνοματική ὀρθογραφία (perhaps one work); was perhaps also the author of a περὶ διαλέκτων. *SEECK* 1906, 131; *KASTER* 1988, no. 55; *PLRE* I, no. 3; *RE* VI, col. 885; *SIVAN* 2008, 80-81.

### **Eunomus**

Rhetor and lawyer in Elusa, cousin of **Eudaemon**, mentioned by Libanius *ep.* 315 (of 357) and 164 (of 360). *PLRE* I, no. 2.

### **Eustochius**

Lawyer in Palestine, known from many letters of Libanius between 360 and 390. *PLRE* I, no. 3; *SEECK* 1906, p. 149, no. 1.

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<sup>12</sup> See on the meaning of this *LANIADO* 2002, 201-211.

<sup>13</sup> See on him *BROWN* 1991, 232-235.

### **Helpidius**

Sophist, apparently from Palestine, perhaps Caesarea, known from letters of Libanius from 357 on; studied in Athens and in 361 moved to Bithynia and Constantinople, where he was active as a lawyer.

*RE* VIII, col. 208, no. 4; SEECK 1906, p. 171, no. 3.

### **Hierius**

Latin grammaticus of Gaza who moved to Daphne near Antioch (Proc., *ep.* 13). His expertise in Latin and Procopius' recommending him (*ep.* 145) to a provincial governor make legal training probable; also recipient of *ep.* 32 by Diogenes of Antioch.

*PLRE* II, no. 8; KASTER 1988, no. 75.

### **Iohannes (3)**

Lawyer from Gaza, πρεσβευτής.

Zach. *KG* 7.1

### **Iulianus (2)**

The architect of Ascalon, part of whose treatise Τοῦ Ἀσκαλωνίτου Ἰουλιανοῦ τοῦ ἀρχιτέκτωνος ἐκ τῶν νόμων ἤτοι ἐθῶν τῶν ἐν Παλαιστίνῃ is extant, may have had legal training and not just an architect's ad hoc interest in laws relevant to buildings.

GEIGER 1992.

### **Macarius**

Studied law, probably in Berytus, and formerly rhetoric with Procopius (*ep.* 153).

### **Orion**

Pupil and correspondent of Procopius, went on to study law in Berytus and continued to Constantinople, probably to practice there.

*PLRE* II, no. 3

### **Petrus**

Caesarean, after studying rhetoric there went on to study law in Berytus and became a monk, late 5<sup>th</sup> c.

Zach. *VSev.* p. 26; DAN 1984, 162.

### **Philippus**

Lawyer and brother of Procopius of Gaza; his high office in Constantinople is not specified.

*PLRE* II, no. 7.

**Ponton**

Studied rhetoric with Aeneas of Gaza, and went on to study law and to an administrative career.

*PLRE II*, s.v.

**Priscio**

Pupil and correspondent of Libanius together with the son of the latter,<sup>14</sup> attested 390-393. After practicing law he became a sophist in Palestine, perhaps Caesarea; adherent of the Old Religion.

SEECK 1906, 245; *PLRE I*, s.v.

**?Procopius**

We have no direct evidence for the legal training of the great historian from Caesarea, though this seems probable from the offices he carried – and the town had a School of Law.

**Severus**

Lawyer from Gaza and eloquent monk, author of ecclesiastical treatises: Zach. *HE* 7.10, pp. 131-132; not to be confused with Severus of Antioch.

**Sosianus**

Lawyer in Caesarea and correspondent of Procopius of Gaza, perhaps assessor of the governor.

*PLRE II*, s.v.; DAN 1984, 180-181.

**Zenodorus**

Lawyer from Gaza, studied in Berytus and practiced in Constantinople.

*PLRE II*, no. 3.

**Zosimus**

Pupil of Procopius in Gaza, studied law, probably in Berytus.

*PLRE II*, no. 5.

**Anonymus (1)**

Judge, probably governor of Palaestina Prima, brother of **Anonymus (2)**.

Chor. 7, *Or. Funebr. in Mariam*, 5; 8; 21; 22; *PLRE III*, Anon. no. 49.

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<sup>14</sup> PETIT 1957, 34, 39, 46.



### **Anonymus (2)**

Brother of **Anonymus (1)**, studied rhetoric and law.

Chor. 7, *Or. Funebr. in Mariam*, 5; 8; *PLRE III*, Anon. no. 63; DAN 1984, 100.

### **Anonymus (3)**

Studied rhetoric in Gaza and carried letter 143 of Procopius to Constantinople, on his way to study law there.

DAN 1984, 176.

### **Anonymus (4)**

Lawyer and father of pupil of Choricus (6.36).

## APPENDIX: JEWS AND SAMARITANS

### **Elasius**

Or Gelasius, known from a Greek inscription in the synagogue of Diocaesarea (Sepphoris); he was sch., *comes* and λαμπρότατος (*vir clarissimus*). It is not clear whether he was the donor or the official in whose time the donation was made, and accordingly it cannot be decided whether he was a Jew or not. The synagogue is 5<sup>th</sup> c.; if Elasius was Jewish the inscription must be pre-438, when Jews were not allowed such distinctions<sup>15</sup> – perhaps strengthening the preference for a non-Jewish official.

*PLRE II*, s.v.; *CIJ* no. 991; ROTH GERSON 1987, 104-105, no. 24.

### **Arsenius<sup>16</sup>**

**Arsenius** and his two sons, **Sallustius** and **Silvanus**, all three scholastikoi, are mentioned in an inscription at Scythopolis from 500/1 or 515/6, see DiSEGNI 1999, 625-642 at 638-640. They (viz., **Arsenius** and **Silvanus**, and implicitly **Sallustius**) are known as Samaritans, though not as scholastikoi, from Cyril of Scythopolis, *Vita Sabae* 61, 71.

### **Sallustius**

See on **Arsenius** above.

### **Silvanus**

See on **Arsenius** above.

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<sup>15</sup> *CIC Nov.* 3.2.

<sup>16</sup> I have been alerted to him (and the two next entries) by the kindness of Yoram Tsafir.

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