

Confession in the Greco-Roman world:
a social and cultural history

Justine Potts

Balliol College, University of Oxford

DPhil in Ancient History

Trinity Term, 2019

Word count, including citations: 101'912
Word count, excluding citations: 99'288

Confession in the Greco-Roman world: a social and cultural history

Abstract

This thesis presents a history of confession in the Greco-Roman world, focusing on literary, papyrological and epigraphic evidence from beyond the Judeo-Christian tradition. It provides a typology of confession of wrongdoing, identifying two originally distinct practices – divine-justice confession and autoscopic confession – in operation in the period from Aristotle to Augustine, and also it offers an account of development over time. It argues that its history is best explained not by a model of cultural transfer from East to West, as previous scholars have seen it, but by socio-political changes in the wider structure of Greco-Roman society which encouraged practices of confession. This thesis therefore challenges the work of previous commentators, from Foucault to those who have understood confession as ‘un-Greco-Roman’ and the product of ‘oriental’ religious influence. For autoscopic confession, the key turning point was the development of philosophical schools in the Hellenistic age and the Epicurean invention of ethical injunction. Its practice was exhorted, routine and governed by a discourse of self-improvement. For the ‘divine-justice’ form, a number of factors fostered its practice which were contingent upon how divine interests and expectations were conceived, and which might be explained over time by four main trends: a shift from silence to speech in what was expected of the accused; the introduction of new paradigms of terrestrial justice and legal realities under the Principate; a competitive religious marketplace where theodical anxiety encouraged vocality; and transformation in concepts of wrongdoing, culpability and regimes of divine justice. These findings change the way we ought to understand early Christian confession, from the autoscopic practices of monasticism to the divine-justice confessions of the Shepherd of Hermas, to even the work of Augustine himself. Ultimately, it was the political transformation from Republic to Empire which provided the climate in which Foucault’s ‘confessing animal’ could thrive.

Table of Contents

ABSTRACT.....	2
INTRODUCTION	6
DEFINING THE INQUIRY	6
HISTORIOGRAPHY	9
THE NATURE OF THE EVIDENCE.....	15
TERMINOLOGY	16
THE ARGUMENT	17
CHAPTER OUTLINE	18
CHAPTER ONE: CONFESSION IN THE GRECO-ROMAN WORLD.....	22
BEYOND <i>LOCI CLASSICI</i>	22
CONCEPTS OF CONFESSION AND LEXICAL EXPRESSION.....	25
<i>From Homologesis to Exomologesis</i>	25
ὁμολογέω/ὁμολογία	28
The rise of exomologesis	31
<i>Beyond ὁμολογ* cognates in the Greek lexicon</i>	41
ἐξαγορεύω.....	41
λέγω, συγγινώσκω, μηνύω	51
<i>The Latin Lexicon</i>	52
<i>'Feci. confiteor': performative surplus</i>	53
<i>Non-verbal Confession</i>	55
<i>Vicarious Confession</i>	59
<i>Objects of Confession in Greek and Latin Expression</i>	61
Praise and thanksgiving	62
Faith, belief and testifying to the divine	67
Wrongdoing, fault, error, character flaws, and that which reflects negatively on the self.	69
Love	73
Identity and status	77
VALENCES.....	79
<i>Shame, servility, insanity, defeat and humiliation</i>	79
<i>The counter-cultural</i>	81
<i>Truth and honesty</i>	82
CHAPTER TWO: A TYPOLOGY OF CONFESSIONAL PRACTICE	84
TYPE 1: DIVINE JUSTICE CONFESSION.....	85
<i>Form and Function</i>	85
<i>Attributes</i>	88
Divine coercion: demons, dreams and disease	88
Punishment and Healing	92
Dreams, commands and oracles.....	98
Publicity	104
Divine “Greatness” and Landed Lords	105
Self-abasement and penance	108
Self-accusation and self-punishment	109
Sin and debt.....	112
The nature of culpability	114
TYPE 2: AUTOSCOPIIC CONFESSION.....	122
<i>Epicurean confession: guilt in the garden</i>	124
<i>Accounting for the development of Epicurean confession:</i>	128
Episcopic Epicurus and community living	128

The competitive marketplace of morality	130
<i>Stoic confession: Seneca and diurnal declaration</i>	130
<i>Autoscopic confession: beyond philosophy</i>	135
CATEGORIZING CONFESSION	142
CHAPTER THREE: RETHINKING CONFESSION IN THE SO-CALLED ‘ORIENTAL CULTS’: ISIS, MAGNA MATER AND THE DEA SYRIA	146
DIVINE JUSTICE: ISIS, MAGNA MATER AND THE DEA SYRIA AS ARCHETYPES	149
<i>The Mainz tablet: new evidence for confession in a western cultic setting</i>	150
<i>Confessing galli: a case for routine confession?</i>	154
<i>Auricular confession</i>	158
<i>Heteropraxy and orthodoxy: divine justice confession</i>	160
<i>Confessional paths not taken</i>	163
THE ‘ORIENTAL’ QUESTION: PERCEPTIONS OF ALTERITY?	167
CONCLUSION	172
CHAPTER FOUR: CONFESSION IN ROMAN LAW	174
CONFESSION IN ROMAN LAW	177
<i>Roman Civil Law</i>	180
<i>Roman Criminal Law</i>	185
Confession in Criminal Law of the Republic	188
Judicial Plurality and Manoeuvres of Mercy	202
Mercy and Monarchy: Confession in Roman Criminal Law under the Empire	205
<i>Confession and rhetorical strategy: confessing non-crimes</i>	220
<i>“The Dark Twins of History”: Confession and Torture</i>	223
<i>Confession in the future tense: judicial negotiation and the ventriloquism of power</i>	228
<i>Confession and Contract: Homologia</i>	231
CONCLUSION	234
CHAPTER FIVE: COMPARING CONFESSION IN REGIMES OF HUMAN AND DIVINE JUSTICE	241
PARADIGM SHRIFT	242
THE CONFESSION <i>STELAI</i> OF ASIA MINOR	246
<i>Further Linguistic and Conceptual Echoes</i>	253
<i>Cheirographic dispositivity: tablets, ὁμολογία and writing wrongdoing</i>	259
<i>Cognitive Frameworks</i>	263
<i>Chronological Convergence</i>	265
BEYOND ASIA MINOR: DIVINE JUSTICE CONFESSIONS AND ROMAN LAW	266
<i>Qui s’accuse, s’excuse</i>	269
<i>Conspicuous Confession</i>	270
<i>Dealing with Denial</i>	271
CONCLUSION	273
CONCLUSION: THEMES, TRENDS AND TRANSFORMATION: THE MATURATION OF THE ‘CONFESSING ANIMAL’	275
CONFESSION IN THE GRECO-ROMAN WORLD	275
THE STORY OVER TIME	279
<i>From Aristotle to Augustine</i>	279
<i>Augustine at the end of a confessional tradition</i>	289
TRENDS	293
<i>From silence to speech act</i>	293
<i>Theodicy, anxiety and the competitive religious market place</i>	296
<i>Towards self-inculpation and self-accusation</i>	296
TRANSFORMATIONS: TOWARDS A HERMENEUTIC OF THE HISTORY OF CONFESSION	298
APPENDIX OF CITATIONS DISCUSSED	303

DESCRIPTIVE CATALOGUE: THE CORPUS OF ANCIENT SOUTH ARABIAN CONFESSION	
INSCRIPTIONS	309
INVENTORY OF INSCRIPTIONS.....	309
ABBREVIATIONS	313
BIBLIOGRAPHY	314

Introduction

Defining the inquiry

*dieo. fateor.*¹

This was not only a slip of the stylus. The scribe who, on the cusp of completing the written record of a contract, took time to correct the error of writing *dico* instead of *fateor* indicates how significant it was that the preceding statement was not merely *said* but that it was *confessed*. As in the modern world, confession terminology had performative force.² It provided descriptive surplus; a label which, when applied to a speech act, made it something more than a mere speech act. Just one brief word, or even a non-verbal act, deemed a ‘confession’, might in devastating disproportion seal an entire fate. Its power as a liminal act to condemn, to acquit or to change a life forever is one reason why the study of confession has attracted the attention of sociologists, anthropologists, and historians alike.³ Another reason is its prominence in the modern world, whether as a religious practice or as a social discourse of self.⁴ For Foucault more than any other modern thinker confession had unique hermeneutical value; in his later thought, he presented confession as the *sine qua non* of the exercise of modern power, and at the time of his death he was working on an entire volume concerning its early Christian practice.⁵ He even described the contemporary western individual as a

¹ *TPSulp.* 51 Tab.I. pag.3. 1.7 (AD 37, Puteoli); (Camodeca 1999) 136.

² Performative functions in linguistic theory: (Austin, Urmson, and Sbisà 1976) 85-6; (Austin 1961).

³ Notably: Foucault, see (Tell 2010); (Mauss 1969) 640-2 (exemplifying a tendency to begin the history of confession with Christianity); Derrida, *eg.* (Derrida and Kamuf 2002) 80; Ricoeur, *eg.* (Ricoeur 1967); (Rakopoulos 2018); (Rumsey 2008); (Abercrombie, Hill, and Turner 1986); (Hepworth and Turner 1982); (Cornwell 2014); (Wood 2005); (Dulong 2001).

⁴ As reflected in, *eg.* (Sorace 2019); (Grobe 2017); (Docherty 2014); (Sun 2013); (Brooks 2000).

⁵ Recently published though unfinished: (Foucault and Gros 2018). For Foucault’s early thoughts on confession: (Foucault and Hurley 1990) vol. 1, 58ff; for how this thought developed over time: (Tell 2010).

‘confessing animal’.⁶ Yet confession’s nature as a subjective label, its ability to exist in the eye of the beholder, is one reason why it makes a slippery topic of historical inquiry.

Historians of confession have tended to retroject modern criteria for ‘confession’ onto ancient evidence in the delineation of inquiry.⁷ Not only does this methodology prevent ancient concepts coming to light, but it is hazardous because confession is particularly susceptible to the tyranny of metonymy, which Nietzsche identified as so epistemologically problematic.⁸ Metonymy occurs when an abstract cause is substituted for a concrete appearance, so in the example of someone blushing, we might label the blush as embarrassment, even though it is only a blush.⁹ Varro thought speech functioned metonymically, defining *loquor* as the bringing forth of what was in the spirit.¹⁰ Likewise, confession risks being mistaken for an indication of an interior state of mind such as guilt or repentance, or truth. This ability to function metonymically in the ancient world was the source of its power. Yet this means the historian of confession must navigate a safe course between rhetoric and reality.

Furthermore, the employment of modern criteria for confession risks finding a homogeneity in the evidence which masks, beneath the surface, a heterogeneous plurality of practices. By approaching the subject of inquiry as broadly as possible, attempting to define confession from the evidence up, we find that what begins as a search for the monochrome becomes a kaleidoscopic vision. The first chapter presents the results of this broad inquiry, a lexical survey of confession terminology, which demonstrates a spectrum of concepts and expressions of confession in Greco-Roman society. Furthermore, instead of finding one monolith of

⁶ (Foucault and Hurley 1990) vol. 1, 59; also, *ibid.*: “we have since [the Middle Ages] become a singularly confessing society”.

⁷ See p.8.

⁸ (Murphy 2001) 167.

⁹ (Nietzsche et al. 1989) 59.

¹⁰ Varro, *Ling.* 6.56

‘confession’ capable of being subjected to historical analysis over time, two distinct types emerge, each with its own form, function and genealogy. Chapter two presents these.

The central focus of this thesis is the confession of wrongdoing in the Greco-Roman world from the Hellenistic period to Late Antiquity. Whilst Jewish and Christian confession have been considered in research and discussion, the analytical spotlight here falls on the world beyond the Judeo-Christian tradition. This is for three reasons: considerations of space, because confession in these traditions has received disproportionate attention already, and because the historiographical hinterland of non-Judeo-Christian confession has much to offer in contextualizing these more familiar traditions. Confession here is broadly defined as the revelation of previously undisclosed or hidden information.

This inquiry began with confession defined as the verbalization of self-authored wrongdoing. It also took as its intended focus primarily the phenomenon of *religious* confession to the divine. However, it became apparent that confession – in ancient terms - could be non-verbal, it could be performed vicariously, and it might not be a statement of wrongdoing *per se* but it could be a statement which manifests the punishing power and the justice of the divine. Furthermore, it also became apparent that studying ‘religious’ confession in isolation from ‘non-religious’ confession obscures a significant aspect of the former’s history, and is anyway to employ a modern dichotomy which had little purchase in the Greco-Roman world.¹¹ Therefore, although a better understanding of ‘religious’ confession remains the main aim of this thesis, it has adopted an inclusive approach, examining wider social and legal practices.

¹¹ See (North 2014).

At stake is not only a history of confession itself, as the topic of confession also offers a lens onto the wider intellectual history of the Greco-Roman world. It reveals several other histories: of rhetorical response, where speech triumphs over silence in the face of wrongdoing, of technologies of negotiation in contexts of power disparity, of self-identification, of belief (which can only ever be a history of *verbalized* belief), of cognitive frameworks of culpability, of conceptions of the divine, and of the impact of legal change. Fundamentally, this is a history of *mentalité* as much as it is of a practice.

Historiography

The centre of recent scholarly attention concerning ancient confession has been epigraphic. Published by Petzl as *Beichtinschriften* in 1994 and subsequently augmented by many more coming to light since, the corpus of ‘confession’ *stelai* from Roman Asia Minor is both well-known to scholars of the ancient Mediterranean and extensively studied.¹² Less well-known is the corpus of ancient South Arabian inscriptions, in bronze and on stone, which has received fewer but highly important treatments.¹³ Not many of these treat the corpus as a whole, and those originating from the Jawf have received more attention than those from the Hadramawt. These have never been collated as a corpus, so the ‘descriptive catalogue’ here provides an inventory of all those published or accessible.¹⁴

¹² (Petzl 1994), with more recently discovered inscriptions in: (Ricl 1997); (Petzl 1997); (Petzl 1998); (Malay 2003); (Malay 1999) no.217; (Malay and Sayar 2004); (Ricl and Malay 2006); (Herrmann and Malay 2007) (henceforth ‘ND’); (Öztürk and Tanriver 2009); (Malay and Petzl 2017) (henceforth ‘NRT’); (Schwertheim, Güllü Schwertheim, and Petzl 2018). A possible example from Jerusalem: (Ricl 2006). For the most recent summary of bibliography: (Hughes 2017) 151 n.1.

¹³ (Ryckmans 1945); (Jamme 1962); (Ryckmans 1972); (Robin and Ryckmans 1988); (Sima 1999); (Sima 2000b); (Kropp 2002); (Maraqten 2006); (Arbach and Audouin 2007); (Agostini 2012); (Prioletta 2014).

¹⁴ p.309.

The Anatolian *stelai* in particular have often been seen as strange and ‘other’ to the Greco-Roman world.¹⁵ Indeed, these two pockets of epigraphic survival have been understood to reflect a reality of *only* two geographically-defined religious cultures (beyond Christianity, Judaism and “oriental cults”) with practices of confession – and, in one interpretation, with particularly fearful *mentalités* - unlike the rest of the Greco-Roman world.¹⁶ This thesis therefore looks more widely at Greco-Roman society, beyond and including these areas, to re-contextualize the *stelai* in the confessional landscape of the Mediterranean. Even set alongside ‘religious’ comparanda we can find parallels elsewhere, which this thesis groups as the category of ‘divine justice confessions’, and, moreover, if we look beyond the artificial category of ‘religious’ to evidence from the sphere of Roman law, the *stelai* exhibit a practice of confession consistent with ‘Greco-Roman’ behaviour.

The perceived absence of confession in the rest of the Greco-Roman world is partly a legacy of the conclusions of earlier, monumental efforts of scholarship which treated confession in the ancient world systematically. The most renowned contribution is Pettazzoni’s magisterial *La confessione dei peccati* of 1929 and his subsequent article on ‘The confession of sins and the Classics’ of 1937, which marked the peak of productive energy devoted to the subject since the turn of the century.¹⁷ Since then, although there have been important contributions in a French collected volume of 1986 on confession in antiquity and the middle ages, containing

¹⁵ Eg. “A very different world opens up in Anatolia...” (Graf 2015) 510; “The confession *stelai*, with their deadly seriousness, thus appear as the expression of a very different worldview, much closer to the plague prayer of the Hittite king Mursilis – and the background of Iliad 1 – than to the world mirrored in the *iamata* from Epidaurus and elsewhere”: *ibid.* 512; For confession as ‘un-Greek’: (Latte et al. 1968) 32 n.42, unchallenged by (Parker 1983) 254; for the confession *stelai* showing the influence “either of indigenous Anatolian religions or of oriental cults..., as the sin- and guilt-culture of, for instance, the cult of Atargatis, including sackcloth and ashes, seems to be related”: (Versnel 1998) 668; “the whole complex has an undeniably Eastern, non-Greek character”: (Riel 1997) 37 n.16; (Steinleitner 1913).

¹⁶ For *stelai* and fear: (Arnold 2005a) 443-4.

¹⁷ (Pettazzoni 1929); (Pettazzoni 1937). Earlier: (Steinleitner 1913); (Reitzenstein 1920); (Latte 1920-1). Subsequently, but less comprehensive than Pettazzoni: (Wilhelm-Hooijbergh 1954); (Kudlien 1978); (Merkelbach 1987).

key treatments of confession in Roman law, and a study of confession in Roman society by Carlin Barton in *Roman Honour*, there has been no systematic, monograph-length study of confession.¹⁸ As Jane Lightfoot observed, “it is high time someone reopened this whole dossier”.¹⁹

This thesis therefore attempts that reopening, in addition to an updating of the dossier itself. Not only have more confession inscriptions from Anatolia and Arabia come to light, but there is a curse tablet from Mainz in which, like the Cnidian ones, a victim wishes for a culprit to confess, and papyrological evidence of which Pettazzoni seems to have been unaware. Furthermore, by adjusting the parameters of the search away from a strict quarry of ‘religious’ episodes, we can find much overlooked literary evidence which illuminates confession to the divine. Unlike in Pettazzoni’s three volumes, however, space cannot be afforded here for direct analysis of Ancient Near Eastern evidence for confession, although it has played an informative role in background research.

The dominant question addressed by much of the existing, though now out-dated, scholarship concerns the extent to which confession as a religious practice was an ‘oriental’ phenomenon.²⁰ This was borne out of the tendency of historiography on confession to concern itself with the task of distinguishing between cultures which confessed and those that did not. The ethnographic nature of Pettazzoni’s *Confessione dei peccati*, which presented examples of

¹⁸ (Barton 2001); (École française de Rome 1986); Roman law: (Thomas 1986); (David 1986). Pettazzoni subsequently faced criticism from the Viennese school, mainly for his ‘evolutionist’ view of religious development: (Boccassino 1958) 285-90. Scholars such as Schulien and Walk, as well as Boccassino, disagreed with his argument that confession among “primitive” cultures was a magic act, and his suggestion that confession evolved from being based on magic to having a theistic base in more ‘sophisticated’ societies: (Schulien 1930); (Walk 1936). His work on classical confession, however, has not faced direct challenge.

¹⁹ (Lightfoot 2003) 79.

²⁰ See ch.3; also: “it [confession] is widely regarded as un-Greek, indeed, typically ‘Oriental’. Yet I wonder what a meaning a term like that has, either, in a context as complicated as the one we encounter here. Is ‘Orientalisation’ a better model?” (Lightfoot 2003) 78.

confession in chapters devoted to different cultures, including a volume on the ancient Americas, Japan, China, Brahmanism and Jainism, both reflected and crystalized this tendency. The Greco-Roman world came out of this test as an example of a non-confessing culture, with Pettazzoni categorizing the several examples of religious confession found therein as belonging to ‘oriental’ religions.²¹ At stake with the binary of confessing and non-confessing societies was also the sociological and anthropological question of whether confession was an innate and invariable condition of humanity, or whether it was culturally contingent. The consequent conclusion that the delineation of confessing cultures was indeed possible, and that the Greco-Roman world was not one of them, had an impact on modern sociological thought. For Foucault, this meant that the non-confessing Greco-Roman world could be a foil to the Christian world. In turn, he could conclude that Christianity was an oppressively alethurgical force which determined the eventual, medieval product of the ‘confessing animal’.²²

The scholarship of the early 20th century also had an impact on more recent work concerning topics peripherally concerned with confession; without the time to reopen the dossier, some more recent scholars have unquestioningly adopted the notion that confession was ‘un-Greco-Roman’.²³ In particular, it has had implications for those studying the so-called oriental cults, some of whom have perpetuated the idea that confession was a distinctive tenet of their

²¹ “the confessional practices attested by them [classical writers] belong neither to Greek nor to Roman religion, but to various oriental religions and, more precisely, to three, which are all, it should be noted, religions of a great female divinity: Egyptian Isis, the Anatolian Great Mother, and the Dea Syria.” (Pettazzoni 1937) 9.

²² (Foucault and Hurley 1990) 59 (“confession became one of the West’s most highly valued techniques for producing truth... The most defenceless tenderness and the bloodiest of powers have a similar need of confession”); (Foucault et al. 2005) 390-1 for Christianity’s alethurgical drive. Derrida researched the history of confession: “I did my homework” (Caputo and Scanlon 2005) 31. It is clear that Ricœur had an ethnographic model in mind, centred on ‘Greeks’ and ‘Jews’, when thinking about the history of ‘consciousness of fault’ in his ‘Phenomenology of “Confession”’: (Ricœur 1967) 21. For Foucauldian influence, in turn, on the anthropology of confession: (Rumsey 2008) esp. 456.

²³ See ch.3 n.1, p.146. “foreign to Greco-Roman religion”: (Gaertner 2001) 124; (Frisch 1983) 45. Taken for granted: (Wilhelm-Hooijbergh 1954) 91; (Versnel 1990) 66; (Donalson 2003) 55; (Alvar Ezquerra and Gordon 2008) 181; (Heyob 1975) 66.

religious practice, and have taken it for granted as a practice in ‘oriental cults’.²⁴ In her study of the *De Dea Syria*, Lightfoot considered evidence for the cult’s near eastern nature; the fact that she discussed the problematic possibility of confession being such evidence goes to show the potential danger of circular argument: confession’s perceived presence in ‘oriental’ cults imbues it with an ‘orientalness’, and its perceived ‘orientalness’ imbues the cult with ‘oriental’ aspects.²⁵ Therefore the findings of this thesis have an impact on our understanding of these cults and their place in Greco-Roman religious landscape, as well as the exact nature of confessional practice associated with them.

Behind the problem of confession’s ‘oriental’ origin, is the larger question of the nature of historical change and the transmission of religious ideas and practice. Many earlier historians, such as Cumont and Turcan, saw confession as a result of the direct cultural transfer of ‘oriental’ religious ideas into the Greco-Roman world.²⁶ More recently, there has been some dissatisfaction with the idea of ‘oriental inheritance’, although a systematic case against it has never been put forward.²⁷ Chaniotis, nevertheless, affirmed that “direct transfer of ideas can most likely explain the convergence of mentality that has been observed in the ‘confession inscriptions’ and in New Testament and patristic sources”.²⁸ In the main he seems to see ritual transfer behind the similarities in the Mediterranean landscape of confession and divine justice, although he also suggests that, simply, responses to similar religious needs and experiences were at work in some instances.²⁹ In addition to historical models of direct transfer or independent responses to similar circumstances, cultural survival has also been employed to

²⁴ See ch.3 n.1, p.146.

²⁵ (Lightfoot 2003) 78-80.

²⁶ “nous voyons ici s’introduire en Europe l’ascétisme oriental” (Cumont 1929) 37; “Il semble que l’Égypte ait enseigné à l’Occident ...” (Turcan 1989) 13. See ch.3 n.1, p.146.

²⁷ (Lightfoot 2003) 80; (Chaniotis 2009) 145.

²⁸ (Chaniotis 2009) 144.

²⁹ *Ibid.*

explain the confession *stelai* and the practice of confession in the ‘oriental’ cults.³⁰ Several scholars account for the confession in the *stelai* as a continuation of Hittite religious ideas, or indigenous, older Anatolian religions.³¹ Similarly, the confession inscriptions from New Kingdom Thebes have been invoked to potentially explain confession in the cult of Isis, or even the *stelai*.³²

Cultural influence as the historical model of choice is an understandable way to join up superficially similar dots, but by combining close readings of the evidence and contexts with a wide-angle perspective of different groups of evidence this thesis proposes consideration of another model. It suggests that cultural influence on its own is not enough to explain confession. Instead, it argues that confession is also determined by structural conditions - social, cognitive, and legal – which facilitated its employment. This is not to deny a role to the transfer of ideas, but it is to add another historical model to the account. Difficulty arises because the problem of confession is rarely studied in the round, at least not since Pettazzoni. Instead, scholars have tended to focus on a certain distinct body of evidence, whether the Anatolian *stelai*, the South Arabian inscriptions, confession in literature, in the ‘oriental’ cults, in Jewish prayer, in the New Testament and Christian traditions, in Roman law, or in Epicureanism.³³ The synthetic treatment proposed here therefore adopts an overarching perspective and is based on the survey of a wide range of evidence available from the Greco-Roman (and Arabian) world.

³⁰ Also discussed by (Chaniotis 2009) 146ff; considered carefully by (Lightfoot 2003) 78-80.

³¹ (Versnel 1998) 668.

³² (Lightfoot 2003) 80; (Reitzenstein 1920) 140; (Pettazzoni 1937) 1. For the Theban *stelai*: (Pettazzoni 1929) vol.2, 24-38.

³³ Epicurean confession receives only sporadic analysis, and in relative isolation: (Schmid 1962) 740-7; (Sudhaus 1911). (Nussbaum 1994) 134-5; (Sorabji 2014) 24-5, 74.

The nature of the evidence

Writing the history of a speech act is innately problematic: many confessions will have evaporated into the air without trace. However, other verbal media – inscriptions, literature, curse tablets, papyri – reflect and constitute confessional practice. Additionally, evidence which shows the confessional path not being taken is just as valuable as evidence for confession being performed. This enables us to paint a picture over time and place, and to better understand the forces in operation which governed the performance or non-performance of confession. In essence, the positive evidence for confession falls into four categories: evidence which self-identifies as confession; descriptions of confessional performance; commentary on or about confession as a practice and concept; and evidence which we decide is ‘confession’.

The confession inscriptions from Anatolia and South Arabia provide a rich seam of evidence in the first, second and fourth categories. Some of these self-identify as ‘confessions’ themselves, but some also refer to the act of confessing or having ‘confessed’ (using confession terminology), and some also narrate either in general or in detail wrongs committed, so they contain statements which meet modern criteria for ‘confessions’.³⁴ We know from literary evidence that avowals of wrongdoing were considered confessions, and confession vocabulary played a performative role: this is clear from literary evidence spanning the period, such as when Pontia in Juvenal says *feci, / confiteor, puerisque meis aconita paravi...* or from Euripides’ ὁμολογῶ σὲ ἀδικεῖν.³⁵ In the second category, we have descriptions or accounts of confession observed or narrated, such as when Ovid describes seeing two Isiac transgressors confessing, or Apuleius narrates (even fictionally) a *gallus* confessing. In the third, there is a

³⁴ Self-reference as confession: CIH 546, CIH 547, Y.92.B.A.29, Y.03.B.A.1, Al Jawf 04.9, MAFRAY Darb aṣ-Ṣabī 5, 16, 26, 30, 32. And the confessing associated with inscribing a stele, *eg.*: Petzl 109, 111, 112.

³⁵ Juv. *Sat.* 6. 638-9; Eur. *Fr.* 265.1.

surprising range of evidence which comments on the nature or function of confession, such as definition from Varro, descriptions of what confession ‘is’ from Cicero, and Ps.-Hermogenes, in a handbook of advice for forensic rhetoric, even devotes a chapter to Περὶ ὁμολογουμένων ἀδικημάτων.³⁶ The fourth category tends towards inclusiveness, including everything from a declaration of *feci*, to silence, or not-explicit confession, such as when in the *Iliad* Antilochus is challenged to swear an oath that he did not cheat in the race with Menelaus after denying doing so, but when he does not take the oath, his response is clearly taken as an admission of guilt even though he does not do so explicitly through confession.³⁷ The breadth of evidence in this category allows us to trace trends in responses to wrongdoing, so that the response of verbal confession in particular can be placed in historical context; thereby the history of confession becomes a history of when speech is preferable to silence, as well as to outright denial, or the history of when an act of merely saying ‘I did it’ becomes self-inculpation. Our definition of confession therefore must be flexible.

Terminology

Confession is a problematic term. It carries baggage which might differ from person to person according to their own experience of confession. Nevertheless, its overarching capacity to mean different but similar things allows us to get a sense of what is important within the spectrum of difference. For example, this inquiry is not about self-inculpation, for much confession in the evidence is not about *culpa*, and sometimes confession is not about self-authored acts, but keeping confession as the umbrella term allows us to see when, where and how confession does become self-inculpation. The definition of confession used in this thesis

³⁶ “Hermogenes”, Περὶ Μεθοδου Δεινοτητος 32. (Hermogenes, Rabe, and Kennedy 2005) 256-7.

³⁷ Hom. *Il.* 23.262-652. We might even count *CIL* IV.4957: “we have wet the bed; I know, o host, we were wrong. If you ask why, there was no urinal”.

is therefore broad: an act of revealing information which was previously hidden about the character, thoughts or actions of an individual.

The argument

This thesis proposes that confession in the Greco-Roman world can be found conceptualized in various ways (chapter one), but as a religious and spiritual practice it took two main forms (chapter two): divine justice confession and autoscopic confession. Although divine justice confession has been seen as un-Greco-Roman and a practice which was introduced by ‘oriental religions’ this thesis deconstructs this argument to show that we cannot claim it was ‘practised in’ the cults of Isis, Magna Mater and the Dea Syria as an inherited ritual, but rather that these deities were recipients of confession as a result of *ad hoc* responses of individuals faced with certain circumstances. It was not a cult-wide routine ritual injunction in any cult. Furthermore, confession does not appear with any valence of ‘alterity’ or ‘orientalness’ in Greco-Roman literature (chapter three).

This thesis also suggests that the apparent increase in the practice of confession over time, especially by the Late Empire, is not merely the result of the introduction or spread of the idea of it by Christianity. Rather, by studying confession in Roman law (chapter 4) we can better understand confession’s role in wider society, just as chapter one had exposed its prevalence in Greco-Roman expressions and concepts at large. This exposes the extent to which confession could play a more advantageous role in Roman law than has previously been emphasized, with legal changes over time resulting in a context more conducive to the practice of confession. By comparing divine justice confession and terrestrial confession in Roman law several parallels emerge which suggest that the one did not develop or operate in isolation from the other

(chapter five). Overall, this thesis argues that structural changes in the transformation of society from Republic to Empire led to conditions which encouraged the development of Foucault's 'confessing animal'. This is not the simple story of the spread of an idea, or the rise of the 'self'. Legal, political, social and cognitive realities created conditions which facilitated the performance of confession.

Chapter outline

Chapter 1 focuses attention on confession in mostly literary and papyrological evidence from the Greco-Roman world, advocating a shift away from binary thinking about confession as an 'oriental' and 'un-Greco-Roman' phenomenon. A summary of lexical research reveals different types of confession and various verbal expressions. Confession emerges as a non-verbal act as well as a speech act. Contrary to Carlin Barton's account in *Roman Honour*, this chapter proposes that we cannot identify a single way in which *the* Romans conceived of confession, or state that "the Romans did not confess"; rather, a number of forms, functions and connotations come to light.³⁸ Difference in interpretations is partly a result of previous lack of clarity around what is meant by confession. Rather than imposing a modern idea of what it means to 'confess' and selecting only examples which fit those criteria, this chapter exposes the variety of ways in which 'confession' appears lexically in our evidence, and the different ways in which it was conceptualized by various authors.

Chapter 2 turns to practice, proposing a typology of confession in practice. Beyond the casual confessions of everyday discourse, two main types of distinct confessional practice emerge:

³⁸ (Barton 2001) 146.

confession made in contexts of divine justice (Type 1), and ‘autosopic’ confession borne of philosophical contexts (Type 2). The one was a technology for the appeasement of a divine judge by individuals accused, often through physical torment, and performed on an *ad hoc* basis when the situation arose. To this category we can assign the confession inscriptions of Anatolia and South Arabia, and confessions to the judging and punishing deities of Isis, Magna Mater and the Dea Syria, as well as some instances of confession in classical sources and Jewish sources and scripture. The second category concerns confessions made in community contexts as a method of correction and self-improvement, according to philosophical or religious exhortations. It was a routine, doctrinally-driven practice, resulting in essence more from the ethical exigencies of a philosophical school with a moral reputation to uphold than from anxiety about the divine. To this category belongs the sort of confession practiced in Epicurean and Stoic circles, together with Christian and Jewish contexts, such as is evidenced in the New Testament, the *Didache*, in monastic circles and in the Qumran scrolls.

Chapter 3 examines the evidence for confession in the cults of Isis, Magna Mater and the Dea Syria. It addresses the question of what exactly it means to say that there was a practice of confession. Confession emerges as a highly personal, *ad hoc*, response to wrongdoing in a context of divine justice. Confession as a part of ritual penance appears to have been performed by *galli*, but for other adherents of the goddesses, confession appears to have been a personal choice – instances of divine justice confession - rather than a routinized institution. This chapter thus revises previous interpretations of the nature of the practice of confession in these cults, and challenges an assertion that Isiac priests played a routine role in auricular confession. Finally, a review of confession in Greco-Roman literary sources shows that confession was not employed as a tool to ‘orientalize’ a scene; it appears to have no particular ethnic connotations. We therefore find that confession was not conceptualised as ‘other’ by Greco-Roman writers.

Chapter 4 explores confession in Roman law, with a chiefly twofold purpose: to gain a more granular understanding of the nature of confessional practice in Roman law, and to lay the ground for examination of its implications for the study of religious confession in Chapter 5. This first of all involves questioning the idea suggested by existing legal scholarship that Roman juridical process allowed little room for confession as a forensic response. Forensic confessional practice, together with the sublunary world of the Roman contract, of legal trials and of practices of torture, emerges as a hermeneutical key for both the nature and development of religious confession. Civil law and criminal law are explored separately, giving rise to several conclusions: the principle of *confessus pro iudicato est* proves an unhelpful simplification of the reality and variety of confessional practice in Roman civil law, and, if we rely too heavily on the voices of the Digest which propose this ‘rule’, we lose sight of the positive incentives to confess in civil law and the ramifications of this. Secondly, Roman criminal law of the Republic was more permissive to confession than has sometimes been thought, particularly when it came to the confession of *indices*, but nevertheless it seems more restrictive than Roman criminal law under the Empire. Thirdly, what determined the permissibility or not of confession was chiefly the nature of the judicial authority: *iudicia* were particularly hostile fora for choosing to confess, whereas, at the other extreme, adjudication by an individual judge, particularly the proconsul or the emperor, was favourable. It ultimately proposes that the shift in the nature of the Roman system of criminal law from being ‘adversarial’ to ‘inquisitorial’ created an environment which encouraged the perception of confession as an advantageous strategy, and thus the performance of confession in society at large.

Chapter 5 compares confession in human and divine regimes of justice. It highlights parallels between confessional practice in Roman law and to the divine. In some cases, it is proposed that Roman law provided a cognitive model for confession in some contexts of divine justice, accounting for why they took the shape that they did. By highlighting the extent to which confession in Roman legal practice appears to be a cognitive model for confession in religious contexts, it becomes apparent that the history of confession is not a tale of the simple transfer of a religious practice from one culture to another, or from certain religions to others, as the dominant narrative of scholarship has had it. It was framed and shaped in the context of Roman jurisdiction. The coming of the Empire and the increasingly autocratic nature of juridical practice in Roman criminal law fostered an intellectual world which welcomed confession more than ever before.

The conclusion draws these observations together to suggest a model for interpreting the story of confession over time. It also charts the contours of the development of confession from Aristotle to Augustine, focusing on discernible shifts and themes in the evidence.

Chapter one: Confession in the Greco-Roman world

Beyond *loci classici*:

*quae quaerimus exempla maiora: vir sapientissimus atque haud sciam an omnium praestantissimus peccatum suum, quod celari posset, confiteri maluit quam haerere in re publica religionem, consules summum imperium statim deponere quam id tenere punctum temporis contra religionem.*¹

*... quae vestra, Sorores, / orgia Pieriae, quas incestavimus aras? / dicite; post poenam liceat commissa fateri.*²

There are indications in literary and epigraphic evidence, as occasional lamps to the fog, which suggest the generalisation that confession is ‘un-Greco-Roman’ is deeply misleading and obscures important aspects of Greco-Roman intellectual realities. The wise man extolled for confessing his religious error in the first citation is Tiberius Gracchus, consul of Rome. Furthermore, this act of confession of religious infraction, performed by letter to the Senate – Rome’s intermediary with the divine – was praised by the character of the Stoic spokesperson Balbus, as penned by Cicero. Conversely, censure was due whoever concealed their crimes: Horace scorned the man who, whilst he appeared good, sacrificing to Apollo in the forum, secretly prayed to Lavinia to conceal his *peccata et fraudes*.³ Even explicitly verbal confession to appease the divine following transgression is found: addressing the Muses in prayer and grieving over the death of his step-son, the Neapolitan poet of the mid-first century AD, Statius,

¹ Cic. *Nat. D.* 2.11

² Stat. *Silv.* 5.5.3

³ Hor. *Epist.* 1.16.57-62: *vir bonus, omne forum quem spectat et omne tribunal, / quandocumque deos vel porco vel bove placat, / “Iane pater!” clare, clare cum dixit, “Apollo!” / labra movet metuens audiri: “pulchra Laverna, / da mihi fallere, da iusto sanctoque videri, / noctem peccatis et fraudibus obice nubem.”* cf. Juv. *Sat.* 13.

begged the Muses to reveal his transgressions so that he could confess them.⁴ The *stelai* of Anatolia likewise reveal many a desperate dedicator who had inquired of an oracle when they faced a similar state of ignorance about their wrongdoing, knowing only by their being punished that the divine had been angered.

In a lighter scene, Petronius has Encolpius confess in prayer to the deity Priapus and beg for forgiveness ‘for a light offence’, rhetorically foregrounding mitigation of culpability as a number of the *stelai* do.⁵ In Rome, the divine was conceived to exact confessions through torment, just as in the *stelai*: Radamanthus of Virgil’s *Aeneid* forced confessions from those he physically punished in the underworld; Ovid, in his curse poem the *Ibis*, desired that his enemy should live among the guilty in the afterlife where one of the Furies should tear his side with a whip to make him confess his many crimes; and a number of literary instances expose the belief that culprits of crimes were thought driven to confess by divine compulsion.⁶ Curse tablets found as far apart as Mainz and Cnidus reveal victims’ hopes that the divine should drive culprits to the sanctuary to confess.⁷

Wrongdoings written up and publicly displayed, and even written confessions, played a more prominent role in Roman responses to sublunary crime than would be suggested by the absence of archaeological trace: Cicero had the confessions of the Catilinarian conspirators recorded, copied and dispersed throughout Italy and the provinces, and a poor slave of Caligula, condemned for stealing silver strips from couches, would bear a written statement of his crime for all to see.⁸ Like the bronze tablet from ancient South Arabia bearing the confession of ‘ly,

⁴ Stat. *Silv.* 5.5.3

⁵ Petron. *Sat.* 133

⁶ Vir. *Aen.* 566-9; Ov. *Ibis* 184: *ut sceleris numeros confiteare tui*. For divine compulsion to confess crime: Sen. *Controv.* 8.1; Dion. Hal. *Ant. Rom.* 54. 2-3; Juv. *Sat.* 13.218-22.

⁷ (Blänsdorf 2010) no.16; *I.Knidus.* 147; 148; 150; 153 (= *DT* 1, 2, 4, 8).

⁸ Cic. *Sull.* 40-44; Suet. *Cal.* 32; also: Dio Cass. 54.3.5

on which the image of two intertwined bodies hints at the nature of his transgression, this may have hung around the slave's neck.⁹ Written wrongdoings were therefore not peculiar to Asia Minor or South Arabia, nor was the practice of writing accounts of divine healthcare in the context of confession. The Epidaurian miracle cure inscriptions to Asklepios include accounts which can be counted as confession narratives themselves.¹⁰ Thus conventionally circumscribed confessional cultures, such as that of epigraphically-energetic inland Anatolia, become suddenly less 'strange'. In not one of these examples do we get the sense that confession was thought to be unusual, excessive or 'other' to 'Greco-Roman' society.¹¹

The confession inscriptions from Anatolia and ancient South Arabia, together with literary evidence concerning the so-called "oriental" cults, have exerted inexorable gravitational pull on the attention of scholars interested in the subject of confession. This chapter proposes to redirect focus beyond these onto the Greco-Roman world at large. The resulting panorama presents a world in which confession was neither alien, nor un-Greco-Roman, but which would be a response to wrongdoing in various contexts, including the religious. Extending back to the nineteenth century, traditional as well as recent studies have suggested a very different picture: most recently, Barton comments that "the Romans did not confess", referring to Roman society in general and, most consistently of all, confession has been deemed "foreign to Greco-Roman religion".¹² The widened scope not only challenges these views but also, more importantly, it allows specific contexts which fostered confession, as well as key historical turning points, to come to light.

⁹ Munich/Völkerkundemuseum Inv.nr. 9-317 880

¹⁰ (LiDonnici 1995) 89 (A4), 91 (A7), 113 (B16), 121 (C4) = *SIG*³ 1168 cures 4, 7 and 36; *IG* IV² 123 cure 47. Possibly also C11 and C15, where *ὁμολόγησε* is preserved too fragmentarily to obtain its meaning.

¹¹ For further discussion: ch 3.

¹² (Barton 2001) 146; (Pettazzoni 1937) 9.

Disparity of interpretation is partly a result of previous lack of clarity around what is meant by confession. Rather than imposing a modern idea of what it means to ‘confess’ and selecting only examples which fit those criteria, this chapter first exposes the variety of ways in which ‘confession’ appears lexically in our evidence, and the different ways in which it was conceptualized by various authors. Once this conceptual backdrop is elucidated, the next chapter then turns to practice, proposing a typology of religio-spiritual confession. A principal argument of this thesis is that, beyond the casual confessions of everyday discourse, two main types of distinct confessional practice emerge: confession made in contexts of divine justice (Type 1), and ‘autosopic’ confession borne of philosophical contexts (Type 2). The one was a technology for the appeasement of a divine judge by individuals accused through physical torment, performed on an *ad hoc* basis when the situation arose. The latter was a routine, doctrinally-driven practice for self-improvement, resulting more from the ethical exigencies of a philosophical school with a moral reputation to uphold than from anxiety about the divine. Before presenting this typology in the next chapter, we shall first survey the ways in which ‘confession’ was conceptualised.

Concepts of Confession and Lexical Expression

From Homologesis to Exomologesis

... καὶ τοῖς ὁμολογοῦσι καὶ μεταμελομένοις· ὡς γὰρ ἔχοντες δίκην τὸ λυπεῖσθαι ἐπὶ τοῖς πεπονημένοις παύονται τῆς ὀργῆς. σημεῖον δὲ ἐπὶ τῆς τῶν οἰκετῶν κολάσεως· τοὺς μὲν γὰρ ἀντιλέγοντας καὶ ἀρνούμενους μᾶλλον κολάζομεν, πρὸς δὲ τοὺς ὁμολογοῦντας δικαίως κολάζεσθαι παύομεθα θυμούμενοι. αἴτιον δ’ ὅτι ἀναισχυντία τὸ τὰ φανερὰ ἀρνεῖσθαι, ἢ δ’ ἀναισχυντία ὀλιγωρία καὶ καταφρόνησις· ὧν γοῦν πολὺ καταφρονοῦμεν, οὐκ αἰσχυρόμεθα. καὶ τοῖς ταπεινουμένοις πρὸς αὐτοὺς καὶ μὴ ἀντιλέγουσιν· φαίνονται γὰρ ὁμολογεῖν ἥττους εἶναι, οἱ δ’ ἥττους φοβοῦνται, φοβούμενος δὲ οὐδεὶς ὀλιγορεῖ. ὅτι δὲ πρὸς τοὺς ταπεινουμένους παύεται ἡ ὀργή, καὶ οἱ κύνες δηλοῦσιν οὐ δάκνοντες τοὺς καθίζοντας. καὶ τοῖς σπουδάζουσι πρὸς τοὺς σπουδάζοντας.¹³

¹³ Arist. *Rh.* 1380a. For discussion see (Konstan 2010) 23ff.

Aristotle here expounds the reason why *homologesis* might be considered effective. Agreeing to a charge and adopting a self-abasing countenance served to assuage the anger of someone who was in a position of superior power. What is foregrounded cognitively is future consequence, its function to effect an outcome and affect a person. Confession in this sense is foremost a revelation of an interior attitude of submissiveness and appeasement, not of truth of past action or even accepted responsibility for wrongdoing. Although Aristotle stands at the beginning of our inquiry, this concept of confession, intended to appease the anger of an individual, whether human or divine, continually appears throughout our period. Examples belonging to the ‘divine justice’ category of confession, as well as confession in Roman law and in inscriptions, and even in communal circles, work on the basis of this concept. One Anatolian confession inscription from AD 238/9 explicitly states that the setting up of the *stèle*, on which the dedicator confessed to having transgressed a boundary unlawfully, served as a *θυμολυσία* to achieve the dissolution of anger “which the gods usually attain”; another presents in association the acts of *ἐθυμολύ[τη]σα* and *στηλογράφησα Θεῶν*.¹⁴ It is significant that the relationship paradigm in Aristotle is one of disparity: he gives the example of punishing a household slave and describes how anger ceases with those who confess the justice of punishment. For many in the Greco-Roman world, the divine became the master for whom this servile best-practice was applied. As we shall see, in cases both human and divine, confession would also occur after punishment, justifying the actions of the punishing authority.

On close re-reading of many of the instances of confession made prominent in previous studies, we find that the act of confession did not necessarily constitute self-inculpatory avowal of responsibility for wrongdoing. An example which makes this particularly clear is provided by Ovid: he presents Claudia Quinta praying to Magna Mater and offering to confess if the

¹⁴ Petzl 6; NRT 120.

goddess condemns her for unchastity, even though she *knows* she is chaste.¹⁵ There is a logic in operation which jars with modern sensibilities: a supposedly devout worshipper offers a deity an apparently ‘false’ confession, in the sense that she does not think it is true. We should not dismiss this as Ovidian playfulness. It seems, from other instances also, it was divine pronouncement judging an individual to be responsible for wrongdoing which chiefly determined the cognition of being responsible for wrongdoing; self-awareness of having done wrong was of secondary importance for determining culpability. This is not to claim that everyone behaved as Ovid imagined Claudia Quinta, not least because Ovid was under constraint in portraying her as an epitome of deferential humility, legendary Roman matron that she was, but we also must not merely for this reason dismiss his value in giving voice to latent Roman assumptions. The primarily appeasing function of confession that appears here, as in Aristotle’s sense of *homologesis*, is consistent with the picture provided by other examples of confession. This example also paradigmatically underlines the key role played by initial accusation - in the form of punishment or oracle - from the divine, and the function of confession as foremost an act of appeasement rather than revelation of self-authored guilt. Evidence from across the Greco-Roman world reveals a perception that humankind was profoundly limited in its ability to be aware of wrongdoing against the divine (*qua* ‘that which angered the gods’), so it is to be expected that gods were on the whole relied upon to reveal their displeasure. We therefore must unthink modern assumptions that confession, even in contexts of divine justice, was tantamount to sincere self-inculpation, or revelation of an inner attitude of guilt. It has been all too readily assumed that the process behind the Anatolian *stelai* began with individuals being aware of having transgressed.¹⁶ This is an important reason why

¹⁵ Ov. *Fast.* 4.321

¹⁶ Eg. (Chaniotis 2009) 117; (Riel 1995); (Rostad 2002); (Gordon 2004)

the reconsideration of confession inscriptions in context is required, together with a reassessment of confession in society at large.

ὁμολογέω/ὁμολογία

In classical Greece and the Hellenistic and Roman worlds, ὁμολογέω/ὁμολογία cognates were key terms for confession when it came to avowing transgression, especially in the sense of agreeing with a charge.¹⁷ Its semantics of agreement – literally, ‘saying the same thing’ – also account for its use as a key diplomatic term in treaties, as a legal term in contracts, as well as in philosophical dialogues.¹⁸ This was agreement as publicly declared, not necessarily privately believed.¹⁹ The wider semantic usage of the term must be understood when considering the confession of wrongdoing: it was verbal signal of concession and concord above all, and not necessarily revelation of inner guilt.

¹⁷ The earliest explicit use as avowal of wrongdoing seems to be ὁμολογῶ σὲ ἀδικεῖν: Eur. *fr.* 265. Or perhaps Andoc. 1.68: οὗτοι μὲν ἔφυγον δι’ ἐμέ, ὁμολογῶ. Also found in Alexis, *fr. Athis*, 27: ἀδικεῖν ὁμολογῶ καὶ παραβαίνειν τὸν νόμον. This is also the default word for confession to a charge in the orators: eg. Lys. 32.28; Dem. *Or.* 42.20. It is used in the Septuagint 12 times in total (never in the Torah or the Early Prophets, once in the Later Prophets, twice in the Writings without Chronicles, and nine times in the books outside of the Hebrew Bible: (Lust, Eynikel, and Hauspie 2003) 437). Eg. Jer 51(44),25; Jb 40,14; Est 1,10; 1 Ezr 4,60; 5,58. Its use for confession is explicit in Sir 4,26: μὴ αἰσχυνθῆς ὁμολογήσαι ἐφ’ ἁμαρτίας σου καὶ μὴ βιάζου ῥοῦν ποταμοῦ. The noun ὁμολογία is used a total of seven times (twice in the Torah, never in the Early Prophets, four times in the Later Prophets, never in the Writings without Chronicles and once in the books outside of the Hebrew Bible: (Lust, Eynikel, and Hauspie 2003) 437): eg. Lv 22,18; Dt 12,17; Jer 52(44), 25; Ez 46,12. Am 4, 5. For speculation on the history of the term: (Pringsheim 1950) 26ff. Other ὁμολογ* words which connoted confession were: ἀνθομολογέομαι, ἀϋθομολογέομαι, καθομολογέω, προσομολογέω, συνομολογέω. These are not given individual treatment here because for the most part they were used in the same sense as ὁμολογέω, but with their respective prefixes sometimes providing various emphases but not always. Eg. Diodorus Siculus 1.70 (describing the ritual of the Egyptian king who employed negative confession every day) and Ps 78, 13 use ἀνθομολογέομαι with no indication they mean anything different from ἐξομολογέομαι. For discussion of παρομολογέω: pp.221-2.

¹⁸ For revisionism of the semantic development of the term: (Maffi 1986) 7ff, who distinguishes between *homologesis* as contractual contract (including diplomatic ones) and as judicial confession avowing a crime. For the classic discussion of the term in Greek legal contracts: (Pringsheim 1950) 26ff. See also (Gagliardi 2014), with primary sources for ὁμολογία κυριαί; (Wallace 2014); Dem. 42.12. Also in the sense of a societal contract: Pl. *Cri.* 52a7-8; d1-2; (Bornkamm 1936) 378. For use in philosophical contexts: (Brown 2018); (Bornkamm 1936). Plato uses the verb prolifically, more so than any other Greek author: 602 times, according to the TLG count. For *homologesis* in diplomatic contexts, eg.: Thuc. 4.132 (ὁμολογίαν ποιεῖται); (Guarducci 1987) 91ff.; Hdt. 1.150.1-2 (the first recorded treaty between Greeks, whereby the Aeolians and Ionians made a ὁμολογίη for the occupation of Smyrna); Hdt. 9.7.2: ὁμολογέειν τῷ Πέρσῃ μᾶλλον ἢ περ πολεμέειν; IG XII 3, 1259; Dem. *Or.* 19.62.

¹⁹ (Brown 2018) 19, on the term in Plato.

Importantly too, the term ὁμολογέω/ὁμολογία was used to describe acts without implying belief in the truth of the statement. That is, unlike modern English where to say that ‘x confessed that x was ignorant’ implies that the speaker agrees with the idea that x was ignorant, the Greek term merely describes the verbal act without making any claim about the truth of its content. Lesley Brown is right to read ὁμολογέω in this way in Plato, and to infer that when Aristotle says of Socrates ὁμολόγει οὐκ εἰδέναι, he is not endorsing Socrates’ lack of knowledge.²⁰ This aspect of ‘confession’ is consistent with the usage of the verb throughout this period. Importantly, this also seems to be true when confession verbs were used in the first person: that is, ‘to say the same thing as’ did not necessarily imply that the speaker believed the homologous statement to be true.

As a philosophical notion, ὁμολογία had positive connotations. Cicero translated the important Stoic concept of ὁμολογία as *constantia* and *convenientia*.²¹ In this resided, Cicero thought, *id bonum quo omnia referenda sunt, honeste facta ipsumque honestum, quod solum in bonis ducitur, quamquam post oritur, tamen id solum vi sua et dignitate expetendum est, eorum autem quae sunt prima naturae propter se nihil est expetendum*.²² Zeno’s formula for The End was ὁμολογουμένος τῇ φύσει ζῆν, which Cleanthes, Posidonius and Hecaton also followed.²³ As such, ὁμολογία was a central ethical imperative of Stoicism; it meant to live in accordance with nature and to have one’s reason accord with the cosmos.²⁴ Diogenes Laertius stated that virtue, according to the Stoics, was a διάθεσις ὁμολογουμένη.²⁵ Chrysippus even wrote a Περὶ

²⁰ Arist. *Soph. El.* 183b7-8; (Brown 2018) 19, citing Men. *Samia* 524; Pl. *Theaetetus* 171a9; Plato *Symp.* 201b9.

²¹ *Convenientia*: Cic. *De Fin.* III.21: *quod cum positum sit in eo quod ὁμολογίαν Stoici, nos appellemus convenientiam. Constantia*: (Graver 2002) 136.

²² Cic. *De Fin.* III.21

²³ Diog. Laert. 7.87; cf. Stob. *Ecl.* II p.75, 11 W.

²⁴ *Stoicorum Veterum Fragmenta (SVF)* III.3 = Stob. *Ecl.* II, p.76, 16 W: ὡς τὴν ὁμολογίαν λέγουσι τέλος εἶναι. Cf. Plut. *Mor. De stoicorum repugnantiis* 1033a, highlighting the inconsistency of the supposed ὁμολογία.

²⁵ Diog. Laert. 7.89.

ἀνομολογίας.²⁶ Posidonius held that ἀνομολογία was equivalent to the πάθη which were the sure way to the unhappy life, and challenged the Chrysippean interpretation of how exactly to achieve τῆ φύσει ζῆν ὁμολογουμένως.²⁷ For Galen, it was to live in accordance with the better part of the soul which achieved this End.²⁸ Although its precise definition was debated, ὁμολογία was, for the Stoics, the purpose of life itself.²⁹

As can be deduced from the etymological appearance of the word, implicit in ὁμολογέω is the sense of a prior statement, whether a philosophical premise, an initial accusation, or a judge's decision. In Athenian legal procedure, the parties were obliged to respond to each other's questions.³⁰ Affirmative concession to an accuser's question was thus literal ὁμολογία, and so constituted avowal of wrongdoing if that was what the initial statement implied.³¹ Thus Lysias urges judges to condemn τοὺς ὁμολογοῦντας παρανομεῖν.³² However, it is clear from the orators, in their casual first person use of ὁμολογέω, that strictly speaking the initial charge need not always have been vocalised. For example, when Aeschines reported Demosthenes confessing that he was timid and afraid of danger from afar (ὁμολογῶ μαλακὸς εἶναι καὶ τὰ δεινὰ πόρρωθεν δεδιέναι) Demosthenes was not responding to a real verbalised accusation despite the use of ὁμολογέω.³³ Likewise, when Philostratos describes the perjurers at the water of Asbama, sacred to 'Zeus of the Oath', they are said to be ὁμολογοῦντες ἃ ἐπιώρκησαν, but they are not obviously replying to any explicit verbal accusation.³⁴ Confession thus was not invariably a response to an initial *verbal* accusation, but accusation, of at least a tacit sort, was

²⁶ Plut. *De Virt.* 450 c; *SVF* III.390

²⁷ Fr. 187.5ff.; 13ff.: (Edelstein and Kidd 1972) 170

²⁸ Fr. 187.19-20 (Edelstein and Kidd 1972) 170

²⁹ For Posidonius' definition of the Stoic interpretation of ὁμολογία: (Edelstein and Kidd 1972) vol II(ii) 674-83; cf. (Long and Sedley 1987) vol.1 408-10.

³⁰ Dem. *Or.* 46.10

³¹ Eg. Arist. *Ath. Pol.* 52; Dem. 19.114.

³² Lys. 22.17

³³ Aeschin. 2.106.

³⁴ Philostr. *VA* 1.6

strongly implied by the etymology of the term. There is, nevertheless, no evidence for self-instigated confession which was damaging – ie. beyond the likes of someone casually admitting to be scared - until the Roman period where we find the language used (*'se accusari'*) reflecting the perception of irrationality of such an act. The sense of initial accusation, whether verbalised or not, was an important aspect of ὁμολογέω's conceptual baggage. The verb ἐξομολογέομαι, however, seems to have more often conveyed a greater sense of independently self-instigated action, without the implication of an external accusatory catalyst, and emphasises more explicitly – as the prefix suggests - audible vocalisation.

The rise of *exomologesis*

ἐξομολογέομαι is never used in classical Greek literature, but appears as a product of the Hellenistic age. Whereas ὁμολογέω is used by Demosthenes 250 times, and by Isocrates 92 times, the verb and its corresponding noun are never prefixed with ἐξ in any classical author. Yet ἐξομολογέομαι becomes a key term for confession in the late Hellenistic and Roman period, used not only in the Septuagint, the New Testament and Christian authors, but also in the Anatolian *stelai*, in legal papyri, and by a number of Roman period authors. Those confessing their sins before baptism in the river Jordan in the Gospels are described as ἐξομολογούμενοι τὰς ἀμαρτίας, and Tertullian, though writing in Latin, explicitly stated that the act of externalising the repentance felt in the conscience is 'usually expressed' and 'commonly spoken of' under the term ἐξομολόγησις "whereby we confess our sins to the lord".³⁵

³⁵ Matt. 3:6; Mark 1:5; Tert. *De Paen.* 9.

The earliest appearance of the term outside of the Septuagint occurs in a papyrus record of a judicial summons from Herakleopolis dated to 282-274 BC.³⁶ The creditor addresses their debtor directly in the second person: “you did not give back the debt, nor were you willing to acknowledge the debt to the collector” (οὐκ ἀ-[ποδίδ]ωις οὔτε τῶι πράκτορι ἠβούλου ἐξομο-[λογήσ]ασθαι).³⁷ For this reason, we are told, the creditor has begun a prosecution against the debtor for 1’500 drachmae on top of the 1’500 loaned.³⁸ Thus the earliest precisely datable usage of this term occurs in the sense of ‘acknowledge a debt’.

The earliest extant epigraphic use of ἐξομολογέομαι dates from 112/111 BC, found in inscriptions recording the famous arbitration by Magnesia on the Meander and Rome of a territorial dispute between two Cretan polities, Itanos and Hierapytna.³⁹ In l.95, it mentions ...[τῶ]ν Ἱεραπυτνίων ἐξομολογημένας εἶχεν τὰς ἀποδείξ[εις], apparently referring to ‘acknowledged’ proofs of (or by) the Hierapytnians.⁴⁰ That the addition of the prefix is meaningful, rather than ἐξομολογέομαι just being an equivalent term for ὁμολογέω, is suggested by the fact that ὁμολογέω cognates also occur in the text: ὁμολογῶ ἡμερᾶ (l.26) and ἐφ’ὁμολογουμενοῖς (l. 85). From context, it seems the ὁμολογέω cognates carry a sense of mutual agreement above all, whereas ἐξομολογέομαι does not, instead emphasising verbally explicit declaration, and acknowledgement by one party.

A usage contemporary to this can be found in a papyrus probably from Kerkeosiris, dating to around 125-100 BC.⁴¹ This is a petition to a *komomisthotes* from a farmer concerned by abuse

³⁶ P.Hib. I 30.

³⁷ ll. 17-9

³⁸ ll. 19-21

³⁹ SIG³ 685 = *I.Cret* III.iv.9 = (Ager 1996) no. 158. Magnesia 160, found in Caria, is identical, with ἐξομολογημένας εἶχεν τὰς ἀποδείξ[-εις] at l. 67.

⁴⁰ l.95.

⁴¹ P.Tebt. I 183

from officials, in which we find the genitive absolute τοῦ κω[μάρχ]ου ἐξωμολογησαμένου ἕκαστα. This seemingly refers to a village official (the *komarch*) having acknowledged some claims of the petitioner. The next occurrence, chronologically, of the term is found in legal parchments from Parthian Avroman, of c.88 BC, which concern the sale of a vineyard.⁴² The legal model employed is, like the language, Greek. The verb occurs three times in the same formula - ἐπὶ τῶν ὑπογεγραμμένων μαρτύρων, ἐξωμολογήσατο καὶ συνεγράψατο... - and once outside of it.⁴³ In parchment I we find that “before the witnesses hereunder written, acknowledgement (ἐξωμολογήσατο) and agreement were made by Baraces and Sobenes, the sons of Maiphorres, that they had received from Gathaces, the son of Oipates, in coined money thirty drachmae the price of a vineyard ...”.⁴⁴ In the second parchment the verso and recto contain identical texts which state that a certain Aspomaces ἐξωμολογήσατο καὶ συνεγράψατο that ‘he had received from Denes son of Gathaces fifty five drachmae in money as a price and had given him a vineyard...’. The other usage describes a certain Asthartes ‘acknowledging’ to act as a guarantor. All these usages in the Avroman parchments reflect verbal acknowledgement for the purpose of contract-making, where their context is very much a legal one, as is invariably the case in all these late Hellenistic documentary usages.⁴⁵

The Septuagint is the earliest literary text in which we find ἐξομολογέομαι, where it was used most regularly to translate the Hebrew forms of *ydh*, which could connote both ‘praise’ and ‘confess’.⁴⁶ The semantics of praise and giving of thanks have long been recognised behind the

⁴² (Minns 1915).

⁴³ I. 1.8; II.A. II.4-5; II. B. II.4-5. And II.B. 1.11: ὃς καὶ πάρων ἐξωμολογήσατο βεβαιώσῃν δύο κοτύλας προγεγραμμένας.

⁴⁴ Trans. (Minns 1915) 31

⁴⁵ For further discussion and bibliography: (Pringsheim 1950) 78-9.

⁴⁶ ἐξομολογέομαι is used a total of 137 times in the Septuagint (once in the Torah, 17 times in the Early Prophets including 1 and 2 Chronicles, twice in the Later Prophets, 79 times in the Writings without Chronicles, and 38 times in the books outside of the Hebrew Bible: (Lust, Eynikel, and Hauspie 2003) 217): eg. Gn 29,35; 2 Sam 22, 50; 1 Kgs 8, 33.35; 1 Chr 16, 4. Confession of *sins* is most clearly expressed in Dan 9, 20 καὶ ἕως ἐγὼ ἐλάλουν προσευχόμενος καὶ ἐξομολογούμενος τὰς ἀμαρτίας μου καὶ τὰς ἀμαρτίας τοῦ λαοῦ μου Ἰσραηλ. 2 Ma 7,37 uses it to denote confession of faith, after divine torture, that there is only one God: ἐπικαλούμενος τὸν θεὸν Ἰλεως

ὁμολογ* cognates of the Septuagint, but it has been a matter of puzzlement for scholars as to why the word group might also be able to connote something so apparently different as ‘confession of sin’.⁴⁷ Tov assigns responsibility to the Hebrew for what he terms the “two basically different meanings” of ὁμολογ- cognates, holding that, with *ydh* able to connote both ‘give thanks’ and ‘confess’, the Greek word chosen to convey the Hebrew adopted this dual possibility, even though the sense of ‘give thanks’ was not originally there in the Greek.⁴⁸ Tov argued that ὁμολογ* cognates’ “special meaning” of ‘give thanks’ was not evidenced outside the realm of the Septuagint including the New Testament and literary sources dependent upon it, although he accepts that other scholars differ by pointing to the use of χάριν ὁμολογεῖν in documentary texts.⁴⁹ Consequently, he vainly sought a “middle path” in Biblical Hebrew.⁵⁰ Yet we need not look to the Hebrew; the middle path can be found in the world beyond the Septuagint. ‘Give thanks’ might not be explicit in the near contemporary Greek usage, but it seems that ‘acknowledge receipt’ certainly was.⁵¹ The external documentary evidence thus suggests that the middle path can be found in the sense of ‘acknowledge’, which bridges the apparent dichotomy.

When, for example, Psalm 73(74), 19 has ψυχὴν ἐξομολογουμένην σοι, it is worth considering that we are looking at a metaphor in which the soul is essentially made to do the same act as

ταχὺ τῷ ἔθνει γενέσθαι καὶ σὲ μετὰ ἐτασμῶν καὶ μαστίγων ἐξομολογήσασθαι διότι μόνος αὐτὸς θεὸς ἐστίν. The noun ἐξομολογησις occurs a total of 26 times (never in the Torah, three times in Early Prophets including 1 and 2 Chronicles, twice in the Later Prophets, ten times in the Writings without Chronicles and 11 times in the books outside of the Hebrew bible: (Lust, Eynikel, and Hauspie 2003) 217): eg. Jos 7,19; 1 Chr 25,3; 2 Chr 20,22; Is 51,3; Jon 2,10.

⁴⁷ For ‘praise’ vocabulary: (Ledogar 1967).

⁴⁸ (Tov 1990) 97, 104. Tov criticises Ledogar for seeing ἐξομολογεῖν as ‘praise’ rather than, as he thinks is more accurate, ‘give thanks’: (Tov 1990) 102-3; (Ledogar).

⁴⁹ (Tov 1990) 103. Eg. PRyl II 114, 32 (AD 280).

⁵⁰ (Tov 1990) 100-1.

⁵¹ Indeed, it is evident that existing translations of Luke 22, 6 (καὶ ἐξομολόγησεν, καὶ ἐζήτει εὐκαιρίαν τοῦ παραδοῦναι αὐτὸν ἄτερ ὄχλου αὐτοῖς) ought to be revised: having been given money by the chief priests and captains to betray Jesus, most translations posit that Judas ‘agreed and...’ (or ‘promised’, according to the KJV). But the verb here ought to be understood as ‘acknowledged receipt of’ or ‘accepted’; in this sense it constituted a promise. The CSB comes closest with ‘accepted the offer’.

the likes of Baraces and Sobenes when they made their contract for the purchase of the vineyard: gratefully acknowledging the receipt of something of worth. Or, when the Psalmist poses the question to God τίς ἐξομολογήσεται σοι; in the realm of the dead (because no one can remember him (οὐκ ... μνημονεύων σου)) there is also the sense that we are talking about the acknowledgement of receipt of things given. This meaning makes more precise sense of the verb used in other instances too, where ‘give thanks’ has hitherto been considered its primary meaning.⁵² The semantic step, after all, from ‘acknowledge receipt of’ to ‘give thanks’ is a small one. Its other sense found in the papyri, of acknowledge debt, works when applied to the concept of ‘sin’ in the bible, which was regularly conceptualised as debt.⁵³ The confession inscriptions and other examples of divine justice confession, in which divine punishment always plays a prominent role, also provide an important hermeneutical key: to confess sin (after, or in anticipation of, punishment) was tantamount to acknowledging the power - and thus existence – of the divine. Thus *confessio peccati* and *confessio fidei*, now conceptually distinct, could be conceived of as the same act.⁵⁴ To confess was thus also to praise and to acknowledge receipt from the divine (of punishment, a state of sinfulness, or of debt *qua* wrongdoing). ἐξομολογέομαι therefore seems imbued with a sense of ‘acknowledging’ even in the Septuagintal instances when it *unambiguously* concerned sins committed (only twice, in Daniel), and thereby also constituted acknowledgement that the divine act of punishment was, or would be, justified.⁵⁵

A recent lexicon of the Septuagint tentatively suggests that ἐξομολογέομαι might be a neologism, introduced to the Greek language by the Septuagint.⁵⁶ This seems highly unlikely

⁵² Eg. Gen 29, 35; 2 Sam 22,50; 1 Chr 16,4; 2 Chr 20,22; 2 Chr 25,3.

⁵³ (Anderson 2009) 27ff.

⁵⁴ Explicitly visible as one speech act constituting both sin-avowal and praise are, eg.: the anatolian *stelai*, Augustine’s *Confessions*, Tert. *De Paen.* 9, LXX Dan 9,4.

⁵⁵ LXX Dan 9,4; 9,20

⁵⁶ (Lust, Eynikel, and Hauspie 2003) 217.

given its appearance in the sense of ‘acknowledge a debt’ in *P.Hib* I 30 in the first quarter of the third century BC, the century which saw the initial production of the Septuagint, and then again, in only the next century, in *P.Tebt.* 183 where it connotes acknowledged claims, and in the contemporary Magnesia verdict, when it seems to connote acknowledgement of proofs. We can hardly imagine the arbitrators from Rome and Magnesia seeking to employ a biblical term, the scriptural valence of which, if introduced only around a century previously, would likely not have been lost by then. Then less than a generation later it appears as a legal term in the Avroman parchments.⁵⁷ It therefore seems most likely that the Septuagint employed a term which developed in the Hellenistic period to denote acknowledgement in legal contexts. The addition of prefixes onto the simplex forms of verbs was, after all, a Hellenistic trend.⁵⁸

Dionysius of Halicarnassus was the first to use the verb in classical literature, followed thereafter by a number of Roman period authors.⁵⁹ Dionysius employed it outside of a legal context, in the sense of acknowledging an opinion/positive characteristic of another person: Titus Lartius, he narrates, divided a crowd into those who were indignant at his re-opening up of grievances, and others who ‘acknowledged that he concealed no part of the truth’ (τῶν δ’ ἐξομολογήσεις ὡς οὐδὲν τῶν ἀληθῶν ἀποκρυπτομένου).⁶⁰ In classical Greece, such concession to an argument would have been expressed simply with ὁμολογέω, as it was in philosophical dialogues. Dionysius’s addition of the ἐξ here perhaps reflects an intended emphasis on vocality and spontaneity, rather than tacit agreement and response to an externally posed question. Three other authors used the term in the same sense as we find here in Dionysius, to

⁵⁷ We might also add the slightly later *P. Flor* I 86 (soon after 86 BC) describing a woman as ἐξομολογουμένη τὴν πίστιν τῶν αὐτῶν τριῶν συγγραφῶν.

⁵⁸ For examples of the “large number” of new formations on existing stems: (Lee 1983) 85ff.

⁵⁹ Philo, Strabo, Josephus, Plutarch, Alexander of Aphrodisias, Galen, Lucian, Sextus Empiricus, Vettius Valens, Diogenes Laertius, and Heliodorus, to name the key non-Christian authors (although Heliodorus’ Christianity is disputed).

⁶⁰ *Dion. Hal. Ant. Rom.* 6.81.4

denote concession to an academic point; all these three were either philosophers or writing about philosophy.⁶¹

Philo, as we might expect, employed it in a sense much more closely aligned to those Septuagintal usages which relate to ‘confessing thanks’: he states that the wise ascetic ‘confesses that he feels gratitude towards him who has bestowed good ungrudgingly’ (ὁ γὰρ τῆς τοῦ θεοῦ φρονήσεως ἀσκητῆς ἐξομολογεῖται εὐχαριστικῶς τῷ τὸ ἀγαθὸν ἀφθόνως δωρησαμένῳ).⁶² Once again, we can here identify a valence of gratefully acknowledging receipt, as we find in the Avroman parchments. In the same chapter, he refers to Judah as τοῦ μὲν οὖν ἐξομολογουμένου ὁ ... σύμβολον, echoing Leah’s ἐξομολόγησις of Gen 29,35 in calling her son ‘Judah’ (Hebrew *ydh*: a literal confession); his other uses of the term are similarly in reference to Judah.⁶³ Never does he use it to unambiguously describe confession of sin.

Strabo, however, uses the term with a connotation of admitting something which reflects negatively on the self, specifically of authors admitting to be conveying fiction rather than fact.⁶⁴ He also uses it of positive acknowledgment, describing inscriptions which ‘acknowledge’ the kinship of the Eleians and Aitolians (ἐξομολογουμένων ἀμφοῖν οὐ τὴν συγγένειαν μόνον ἀλλὰ καὶ τὸ ἀρχηγέτας ἀλλήλων).⁶⁵ Finally he used the term as a simile for a non-speech act, in the sense of admitting something negative: in discussing unusual amatory

⁶¹ In Sextus Empiricus, rhetoricians confess that history is a chronicle without method; elsewhere Pyrrho and Epicurus ‘confess’ the necessity of grammar: Sext. Emp. *Math.* 1.269; 1.272. Similarly, the term’s one occurrence in Diogenes Laertius, in the life of Pyrrho of Elis, refers to the concession of a philosophical point: Diog. Laert. *Vit.* 9. 104. Confession to a philosophical point is also the sense of the one use of the term in Alexander of Aphrodisias: (Alexander and Bruns 1887) 168, 15-16; Sharples translates this as ‘agree’: (Alexander and Sharples 2004) 197. In the classical period, these would simply have been ὁμολογέω.

⁶² Philo *Leg. All.* 1.80.2

⁶³ Philo *Leg. All.* 1.82-3; similarly at 2.95-6; 3.36.

⁶⁴ Strabo *Geogr.* 1.2.30; 35.

⁶⁵ Strabo *Geogr.* 10.3.3

customs, he states that when the friends of a chosen boy hide him away before his ritual abduction by a lover it is ὡς ἐξομολογουμένοις ὅτι ἀνάξιος ὁ παῖς εἶη τοιοῦτου ἐραστοῦ.⁶⁶ Strabo is thus the first classical author to use ἐξομολογέομαι in the sense of ‘admit’ something negative.

Josephus employs a similarly negative function for ἐξομολογέομαι and, unlike Philo, uses it for the confession of sin. Whereas Philo’s ἐξομολογέομαι always constituted avowal of something positive (as praise or gratitude), Josephus’ ἐξομολογέομαι is invariably used for the avowal of negative statements.⁶⁷ In recounting the words of God to Solomon in his sleep, the way for the Hebrew people to atone, Josephus states, is ‘by confessing sins and transgressions of ancestral laws’ (ἐξομολογουμένων τὰς ἀμαρτίας αὐτῶν καὶ τὰς τῶν πατρίων νομίμων παραβάσεις).⁶⁸ We also find it used in the sense of confession that God might justly turn away from sinners, of confessing to be a slave (twice), a confession to Varus (“ἐξομολογοῦμαί σοι, Οὔαρε, τὴν ἐμαυτοῦ φρενοβλάβειαν”), and to describe how God is easily reconciled to ἐξομολογουμένοις καὶ μετανοοῦσιν.⁶⁹ His most colloquial usage is found in the episode in which, during the siege of Jerusalem, a boy ‘confesses his thirst’ to Roman soldiers (τὸ δίψος ἐξωμολογεῖτο); seemingly the sense here is of reluctantly admitting a negative fact.⁷⁰

Of Plutarch’s total seven uses of the verb, one closely resembles that of P.Hib I 30 in its sense of acknowledge something legally owed; just as the debtor of P.Hib I 30 was unwilling to

⁶⁶ Strabo *Geogr.* 10.4.21

⁶⁷ Of a total of 8 uses.

⁶⁸ Joseph. *AJ* 8.129.

⁶⁹ Joseph. *AJ* 8.256; 16.156 and 5.443; 1.625; 5.416 respectively. The first of these provides an example of confession after the punishment: Rehoboam and his people, barricaded in Jerusalem, entreated God, but when he remained ‘turned away’ they hurried to confess (ἐξομολογεῖσθαι) that God might justly (δικαίως) turn away from them; Josephus describes God seeing them in this state of mind ‘confessing (ἀμαρτίας ἀνθομολογουμένους) their sins’. The δικαίως aspect recalls the content of the confession which, we saw above, Aristotle says mitigates the anger of a master against a slave.

⁷⁰ Joseph. *AJ* 6.319.

acknowledge his debt, according to Plutarch Romulus was unwilling to acknowledge his (unjust) taking away of land belonging to others: μὴ βουλευθέντος ἐξομολογήσασθαι τῷ μέτρῳ τοῦ οἰκείου τὴν ἀφαίρεσιν τοῦ ἀλλοτρίου.⁷¹ Together with papyrological evidence which shows continued use of ἐξομολογέομαι in legal contexts into the High Empire and beyond, this testifies to the continued semantic purchase of this legal valence of the verb in the Greek speaking Empire.⁷² Elsewhere Plutarch uses the term in reference to confessing truth under torture, for the revelation of an opinion and of a feeling (not necessarily negative), for the acknowledgement of something which reflects negatively on the self (cowardliness, unmanliness, inconsistency), and for defeat in war.⁷³ The reluctant acknowledgement of something negative, then, tends to be what the verb conveys in Plutarch, matching the uses to which *confiteor* was put in Latin. The sole use of the verb by Lucian also conveys the sense of acknowledging a negative fact about the self.⁷⁴ Galen likewise tells of medical practitioners who confessed (ἐξομολογήσαντο) to him that they now perceived the absurdities of their sect: here too the verb evidently denotes the revelation of an otherwise hidden, negative, statement.⁷⁵ Elsewhere he uses it in a legal metaphor, describing a hypothetical calling to witness and interrogation of Tyrtaeus and Steisichorus as if on trial, who ‘would confess’ (ἐξομολογήσαντο) that they were not aware of any doctrines.⁷⁶ He adds that they would not expect, he imagines, to provide proof themselves (ἀποδεικνύειν). It is interesting that here, as in the verdict of Magnesia, legal proof (ἀποδείξις) is associated with the act of ἐξομολογέομαι; it was still by the second century AD an evidential speech act of a witness under questioning.

⁷¹ Plut. *Vit. Num.* 16.2

⁷² Eg. P.Mich 2 121 (AD 42) P.Dura 13 (AD 76-100); Chr.Mitt. 247 (AD 86); Pap.Choix 7 (AD 138); BGU 5 1210 (AD 149); Psi 15 1527 (AD 161); P.Warr 1 (AD 164); Psi. 10 1104 (AD 175); P.Oxy 12 1473 (AD 201); P.Dura 31 (AD 204); P Dura 32 (AD 254); sb 12 11039 (AD 301-500); P.Petra 1 2 (AD 538); P.Petra 3 29 (AD 582-92).

⁷³ Respectively: Plut. *Vit. Ant.* 59.5; *Comparatio Lycurgi et Numae* 3.2; *Vit. Coriolanus* 4.6; *Mor. De laude ipsius* 544a; *Mor. De stoicorum repugnantibus* 1042a; *Vit. Eumenes* 17.7.

⁷⁴ Lucian *Hermotimus* 75 (confession by philosophers of ‘playing children’s games’ despite old age).

⁷⁵ Gal. *de methodo medendi* XIV vol. 10 p.114.

⁷⁶ Gal. *De placitis Hippocratis et Platonis* 3.4.32

In Roman period authors, therefore, ἐξομολογέομαι connoted a speech act whereby argument, opinion, fact about the self, or philosophical point was declared. In philosophical contexts the verb is used as ὁμολογέω had been in the classical period to express acknowledgement of an argument or point, without necessarily reflecting negatively on the speaker.⁷⁷ In all cases it constituted affirmative surplus, whether for facts and opinions which reflected negatively on the speaker, or for those which conveyed a positive impression about someone else or no valence at all. Whereas ὁμολογέω was still employed in this later period to convey agreement and concord as well as, still, concession to points, ἐξομολογέομαι was an act which did not need two to make, nor a proposition with which to accord: the ἐξ could convey spontaneity, independence of agency behind the speech act, and above all something which was verbally pronounced out loud rather than conceded silently. ἐξομολογέομαι therefore does not replace ὁμολογέω, but the rise of the term from the Hellenistic period onwards corresponds to a significant historical shift towards independently-instigated confession (rather than instigated by accusation), and explicitly vocalised confession (rather than tacit) being increasingly employed.⁷⁸ Between Aristotle's *homologesis* and Tertullian's *exomologesis* the concept of appeasement of a superior power still provided the basis on which confession operated, but by the second century AD the instigatory circumstance of confession was not invariably one of external provocation by an angry power made manifest; instead, *exomologesis* might be taken into one's own hands, self-instigated and routine. A key turning-point in this was the invention of self-introspective confession (type 2) as a pedagogical technique in the Hellenistic Epicurean school. Nevertheless, Aristotle's *homologesis* provides a hermeneutical key to understanding

⁷⁷ When concession was to the detriment of the speaker καθομολογέω was used: Pl. Cri 49d; Grg.499b.

⁷⁸ These trends and themes will be explored further in chapter five.

confession's continuing function as a technology of appeasement in circumstances of divine justice (type 1), which continued to operate into late antiquity.

Beyond ὁμολογ* cognates in the Greek lexicon

ἐξαγορεύω

The most obvious 'confession' term beyond ὁμολογέω cognates is ἐξαγορεύω, and its corresponding nouns ἐξαγορευσις and ἐξαγορία, which were used for speech acts of declaration, and from classical times onwards for revealing a secret and avowing wrongdoing. For Foucault, *l'exagorèse* was the counterpart of *l'exomologèse*, the two being the *actes de vérité* which he distinguished in his study of confession in the church fathers.⁷⁹

Unlike ἐξομολογέομαι, however, ἐξαγορεύω has no double meaning of 'praise'. It first appears in the *Odyssey*, when each wife and daughter of famous men in the underworld declares her stock to a questioning Odysseus: ἐκάστη ὄν γόνον ἐξαγόρευεν.⁸⁰ Herodotus used it in the sense of speaking out the name of a god which it would be impious to mention (Osiris).⁸¹ And of revealing truth about a past battle which would have constituted the revelation of something which ought to remain hidden for security reasons, as well as of declaring to a general a piece of military intelligence about enemy disposition.⁸² Pausanias' one use of the verb is likewise in the sense of someone refusing to divulge the names of the gods.⁸³ Lucian has it in the sense of declaring forbidden things of (or perhaps, interestingly, *to*) the two goddesses, apparently denoting revelation of the mysteries: ἐξαγορεύοντα ταῖν θεᾶν

⁷⁹ (Foucault and Gros 2018) vi; *passim*.

⁸⁰ Od. 11.234. There is also a sense of declaring identity in Philostr. VA 3.38.

⁸¹ Hdt. 2.170

⁸² Hdt. 9.89; 9.47.

⁸³ Paus. 8.44.6

ἀπόρρητα.⁸⁴ Revelation of mysteries is most certainly the sense elsewhere, or the blabbing of things about the gods which ought to remain secret.⁸⁵ In another dialogue it is used of somebody blabbing about events at a private party, in a way thought improper to do so; what happened at the symposium stays at the symposium.⁸⁶ The sense of verbal betrayal of other people's private behaviour, when one ought to keep it secret, is also clearly behind uses of ἐξαγορεύω in The Ignorant Book Collector and On Salaried Posts in Great Houses.⁸⁷ But once the sense is just of the declaration of something which reflects badly on the speaker.⁸⁸ It is also used in Pseudo-Dionysius of Halicarnassus for betrayal of a hidden fact.⁸⁹ Always it is a speech act, the opposite of silence.⁹⁰ Thus, after Homer, the word beyond the context of confessing sin seems to convey a sense of informing, betrayal, or revelation of something which one ought not reveal in speech.

From the Hellenistic period onwards, it was one of the key terms denoting the confession of transgression. The Septuagint mainly employed ἐξαγορεύω in instances where the Hebrew *ydh* unambiguously connoted confession of sin, with the exception being the book of Daniel which uses ἐξομολογέομαι for sin.⁹¹ It is also the word used by Plutarch for describing the 'god-fearing' person who ἐξαγορεύει τινὰς ἁμαρτίας αὐτοῦ καὶ πλημμελείας, whilst sitting outside his house wearing sackcloth and rolling in the mire.⁹² Curiously, these accompanying actions

⁸⁴ Luc. *Pisc.* 33.

⁸⁵ For mysteries: Luc. *Demon.* 11; *Salt.* 15; *Navigium* 11 (about love but using metaphor of revealing the mysteries). For hidden things about the gods: Luc. *Menippus* 2. Saying things about the gods is also the sense in Diog. Laert. 1.5.

⁸⁶ Luc. *Symp.* 3

⁸⁷ Luc. *Adversus indoctum et libros multos ementem* 25; *De mercede conductis potentium familiaribus* 41. Or an attribute which ought not to be broadcast: Luc. *Dialogi deorum* 18.2.

⁸⁸ Luc. *De mercede conductis potentium familiaribus* 1.

⁸⁹ Dion. Hal. *Rhet.* 8.14

⁹⁰ Eg. Ael. *VH.* 12.15

⁹¹ Only Daniel uses ἐξομολογέομαι when the context is unambiguously one of confession of sin: LXX Dan. 9.4; 9.20. ἐξαγορεύω is used a total of 12 times in the Septuagint (four times in the Torah, once in the Early Prophets including 1 and 2 Chronicles, never in the Later Prophets, six times in the Writings without Chronicles and once in the books outside the Hebrew Bible: (Lust, Eynikel, and Hauspie 2003) 209): eg. Lv 5,5; 16,21; 26,40; Nm 5,7; 1 Kgs 8,31. ἐξαγορία is used only once in PSal 9,6.

⁹² Plut. *Mor.* 168D

closely echo those accompanying confession in Tertullian's description of *exomologesis*.⁹³ What, then, if any, might be the difference between the act of *exagoreusis* and *exomologesis*? The ninth Psalm of Solomon offers the substantives of the two verbs side-by-side, suggesting a close association but not synonymity: καθαριεῖς ἐν ἀμαρτίαις ψυχὴν ἐν ἐξομολογήσει, ἐν ἐξαγορίαις, ὅτι αἰσχύνῃ ἡμῖν καὶ τοῖς προσώποις ἡμῶν περὶ πάντων.⁹⁴ Foucault argued that, for early Christianity, the distinction was sharp: *exomologesis* denoted sacramental confession, whereas *exagoreusis* occurred in the monastic tradition and constituted the disclosure of a subject's thoughts (*logismoi*) to a spiritual father; thus the former, he thought, had no precedent in 'pagan' antiquity but the latter could be seen as a continuation of an earlier philosophical tradition.⁹⁵ The question of precedent will be treated below, but for now it should be pointed out that no stark distinction can be made for wider Greco-Roman society. There is a difference but it is a matter of semantic nuance: ἐξαγορεύω is always a specific speech act of revelation, whereas an act of ἐξομολογέομαι has a wider possible range of employment given its connotations of 'acknowledgement'. Thus the whole penitential act Plutarch describes, rolling in the mire included, might in its entirety have been thought of as *exomologesis*, as Tertullian's clearly was (*haec omnia exomologesis*), but for the specific act of verbal avowal he chose ἐξαγορεύω, even though he could plausibly have used ἐξομολογέομαι without any change in meaning.⁹⁶ Thus ἐξομολογέομαι had the wider semantic range, so could sometimes be used of acts of ἐξαγορεύω, but ἐξαγορεύω could not always be used of acts of ἐξομολογέομαι.

Significantly, Plutarch appears to be the only non-Judeo-Christian classical author to use ἐξαγορεύω unambiguously for the confession of fault and wrongdoing, whether concerning

⁹³ Tert. *De Paen.* 9: *mandat sacco et cineri incubare, corpus sordibus obscurare...*

⁹⁴ *Ps. Sol.* 9.6

⁹⁵ (Foucault et al. 2016) 56; (Foucault and Burchell 2015) 220-1; (Foucault and Gros 2018) 95 for Foucault's support for a defined ritual of *exomologesis*.

⁹⁶ Tert. *De Paen.* 9; Foucault recognised that *exomologesis* had a broad semantic range and could refer to more than the specific avowal of sin: (Foucault and Gros 2018) 89-95.

religious transgression, as in his account of ‘the superstitious man’ and in a simile comparing Colotes to ‘those who transgress against the divine and publicly confess their own wrongdoings’ (περὶ τὸ θεῖον πλημμελήσαντες ἐξαγορεύων τὰ ἑαυτοῦ κακὰ), or concerning character failings.⁹⁷ The man making true progress in virtue, he says, takes as his example Hippocrates who ‘confessed and recorded in writing’ (ἐξαγορεύσαντα καὶ γράψαντα) his failure to apprehend the facts about cranial structures.⁹⁸ Thus the man trying to save his soul in life should have the courage to submit to questioning and confess (ὁμολογεῖν) his fatuity and ignorance. Plutarch is here advocating – using both verbs - the sort of autoscopic confession which we shall go on to see constituted Type 2 confession. Furthermore, this passage brings out the distinction, for Plutarch at least, between ἐξαγορεύω and ὁμολογῶ: the former seems to be a spontaneous speech act, whereas the latter is – as the etymology would have us expect – a response to an initial speech act posed in challenge. This distinction emerges also from a passage in *De garrulitate*: a temple robber confesses (ὠμολόγησεν) following interrogation by a suspicious crowd, but the murderers of Ibycus, because they inadvertently revealed culpability by pointing out the avenging cranes, confessed the murder (ἐξαγορευῶσαι τὸν φόνον) as if their own tongues were Erinyes or avenging spirits; in the latter case they were confessing independently, outside of interrogation.⁹⁹ Plutarch thus uses ἐξαγορεύω for non-interrogative confession not only of crimes and wrongdoings against the gods (type 1 confession), but also of character faults (type 2 confession); ἐξαγορεύω is used for the divulging of secret faults of family members (αἰτίας τινὰς ἀπορρήτους ἐξαγορεύοντες) which flatters do to make others feel better about their own family.¹⁰⁰ Whilst he therefore uses the word for wrongdoings and character flaws in a way unprecedented by any non-Judeo-Christian classical author, Plutarch also uses ἐξαγορεύω in senses we have seen in other classical authors: of revealing things

⁹⁷ Plut. *Mor.* 168D (superstitious man); 1124D (divine offender).

⁹⁸ Plut. *Mor.* 82D-E.

⁹⁹ Plut. *Mor.* 509E-510A.

¹⁰⁰ Plut. *Mor.* 54A.

which ought not be declared, as well as for revealing a matter of military intelligence which ought to remain secret.¹⁰¹

ἐξαγορεύω-cognates also had particular application in astrology. Confession of transgression appears to be the sense of the noun in a curious passage of Ptolemy's *Tetrabiblos* regarding the involvement of the different planets/gods in the causing and curing of disease: 'when maleficent planets are angular in the east and beneficent planets are setting, they cause diseases including, in the case of demonic seizures or water on the brain, possession (ἐνθουσιασμος), confession (ἐξαγορία), torments, and similar manifestations; the places of Venus, specifically, cause divine possession (θεοφορία) and confession (ἐξαγορία)'.¹⁰² He also used ἐξαγορία shortly before this passage in saying that Venus, through oracles and pronouncements of the gods, makes diseases treatable by divine healing, but "if Saturn is close by the healing will be accompanied by exhibition and confession (παραδειγματισμῶν καὶ ἐξαγοριῶν)".¹⁰³ Then he mentions ἐξαγορευται, 'people who confess'. In certain positions, he says, Saturn turns his subjects into various negative types: mad, easily-frightened (ψοφοδεεῖς), superstitious (δεισιδαίμονας), frequenters of shrines (ἱεροφοιτῶντας), confessors (ἐξαγορευτάς), and the list goes on.¹⁰⁴ Ptolemy's uses of ἐξαγορεύω cognates explicitly occur in contexts where the speech act is far from voluntary. Indeed, these are confessions performed under compulsion by various planetary/divine forces. It would be reasonable to infer, therefore, that ἐξαγορεύω is used here because it only connoted the speech act, whereas using ἐξομολογέομαι might have risked conveying a more autonomous process of acknowledgement. It may also be that Ptolemy's

¹⁰¹ Plut. *Publicola* 17.4; *Eum.* 6 (although not military intelligence *per se*, Eumenes is said not to have avoided the frequent impulse to reveal (ἐξαγορεύσαι) a fact about an upcoming battle revealed to him by the divine in a dream).

¹⁰² Ptol. *Tetr.* 170 (3.14). Hephaestion repeated these uses of ἐξαγορία in his early fifth century *Apotelesmatica*: (Hephaestion and Pingree 1973) 152.

¹⁰³ Ptol. *Tetr.* 154 (3.12 end).

¹⁰⁴ Ptol. *Tetr.* 158.

ἐξαγορίαι are verbal rantings of madness rather than avowal of transgressions specifically. However, given the reference to healing accompanied by confession here, and other evidence which reveals a connection between confession and healing, we might judge that we are indeed talking about the confession of transgressions here, and when we find it in another work of astrology.¹⁰⁵

In a discussion of the twelve parts of the zodiac, Rhetorius, the sixth century compiler of earlier astrological writings, records that the Moon (Selene) causes a number of bad effects if it is in the third region during daytime, producing those who ἐν ἱεροῖς ἀδοξοὺς ἢ δουλικὰς ἔχουσι πράξεις. ἢ θεῶν προσπλόκουσ ἢ ἐξαγορευόντας, καὶ μάλιστα ὅταν ὑπὸ κακοποιῶν Ἀφροδίτη ὀραθῆ.¹⁰⁶ That is, the moon caused people to perform unworthy and servile actions in temples, to be divinely possessed, or to confess, ‘especially whenever Aphrodite was seen under the malefics’.¹⁰⁷ When the moon was in the tenth part during daytime it produced those who ἐν ἱεροῖς ἀδόξως ἀναστρεφομένους ἢ δουλικοὺς ἢ θεοπλόκουσ καὶ ἐξαγορευτάς, μάλιστα Ἄρεωσ ἢ Κρόνου ὀρώντων.¹⁰⁸ Once again, then, we find the a planet causing people to confess, but instead of the participle now it is the same noun (ἐξαγορευτάς) we found in Ptolemy, otherwise unattested.¹⁰⁹ Nowhere else in Rhetorius do we hear of ἐξαγορεύω; no other planet but the moon causes people to confess. Although there are striking resemblances between these and the Ptolemy passages, Ptolemy’s comments were in the context of healing and disease, whereas

¹⁰⁵ There is no need to see ἐξαγορευτάς as ‘confessors of ailments’ as Robbins does (Loeb, 1940) 343, given what the Anatolian *stelai* reveal: confession of illness *qua* punishment and confession of wrongdoing went hand in hand. There is nothing in Manilius which discusses the exagoreutic effect of the planets. His only mention of confession is at 4.117, not in the sense we have been discussing: *nec refert scelus unde cadat, scelus esse fatendum*. Dorotheus of Sidon uses ἐξαγορεύω but apparently in the sense of concede a point: *Hephaestion Apotelesmatica* 2.19.23-4. Vettius Valens does not mention ἐξαγορεύω cognates but does use ἐξομολογέομαι probably in the sense of acknowledge deeds done: Vett. Val. *Anthologiae* V.8.113. He also uses ὁμολογέω for describing astrologers or authors who admit their scientific errors of judgement: 9.1; 6.3.

¹⁰⁶ (Kroll et al. 1898) vol. 8.4, 148. See (Pettazzoni 1929) vol.3. 38ff.

¹⁰⁷ κακοποιῶν probably refers to Mars and Saturn, which were generally known by this term.

¹⁰⁸ (Kroll et al. 1898) vol.8.4, 166.

¹⁰⁹ Ptol. *Tetr.* 158

these are in the context of discussion of the twelve regions of the zodiac; Rhetorius seems to have compiled this material from a source other than Ptolemy, which cannot be identified exactly.¹¹⁰ The two different scenarios in Rhetorius have different enough consequences to show the author was not merely repeating the one for the other, but in both, like in Ptolemy, confession is consistently a negative consequence. It is associated with regular frequenters of temples (probably the meaning of ἀναστρεφόμενους; likely a parallel of Ptolemy's ἱεροφοιτῶντας), servile abasement, and possession by the divine (θεῶν προσπλόκους/θεοπλόκους). Therefore, confession is here perceived not as an act of choice. It was performed under compulsion, not only with a planet at root cause, but also with a sense of inexorable impulse as the immediate catalyst. We shall go on to see that this perceived agency at work is not confined to astrological contexts, but was an important way in which confession was conceptualised in the wider Greco-Roman world: for example, when Dionysius of Halicarnassus tells the story of the Tarquin brothers confessing their plot to overthrow the new Republic, they are driven to do so by divine powers.¹¹¹ Elsewhere, from Juvenal to the confession inscriptions of Ancient South Arabia and Anatolia, apparitions in dreams or commands from the gods constituted the confessional catalyst.¹¹² The matter is also illustrated by a passage of Philo.

Whereas Philo never used ἐξομολογέομαι for sin, unlike Josephus, he does use ἐξαγορεύω, likely a result of passive influence from, or active adherence to, the Septuagintal tendency to do so (Daniel excepted).¹¹³ Authorial idiosyncrasy and preference therefore also seems to have

¹¹⁰ It was likely later than Pettazzoni's misdating of the Hermetic corpus to the second-first century BC, but much earlier than Rhetorius himself, probably early or high imperial: (Pettazzoni 1929) vol.3, 39.

¹¹¹ Dion. Hal. *Ant. Rom.* V. 54. 2-3: ...ὕπὸ θείας ἀνάγκης βιαζόμενοι

¹¹² Juv. *Sat.* 13. 21-2. See p.189ff.

¹¹³ Especially likely given a few sentences previously he has quoted Leviticus 5.4-5, which has ἐξαγορεύσει τὴν ἁμαρτίαν.

determined the use of one term rather than another. For Philo, like Plutarch, it constituted an act of self-abasement:

ἐὰν οὖν τὸ παλμῶδες καὶ παφλάζον τοῦ νοσήματος ἄρξῃται χαλᾶν, τὰ τῆς ὑγείας ἐμπυρεύματα κατ' ὀλίγον ἐκζωπυρούμενα βιάσεται τὸ μὲν πρῶτον ἐξαγορεύσαι τὸ ἀμάρτημα, τὸ δ' ἐστὶ κακίσαι ἑαυτήν, εἶτα πρὸς βωμοῖς ἰκέτιν γενέσθαι, ποτνωμένην λιταῖς καὶ ἐνχαῖς καὶ θυσίας αἷς ἀμνηστίας μόναις ἐπιλαχεῖν ἔστιν.¹¹⁴

Interestingly, this speech act once again occurs, as we have just seen it did around a century later in Ptolemy, in the context of a medical analogy about recovering health. Here too, as in Ptolemy and Rhetorius, we find it is not voluntary, but forced (βιάσεται). We might here bring to mind the curse tablets from the temple of Demeter at Cnidus which, as we shall see, reveal the wishes of victims for their respective culprits to be driven by divine power to come to the sanctuary and confess, where the verb used is likewise ἐξαγορεύω.¹¹⁵ Once again, ἐξαγορεύω seems to be used here to connote just the humiliating speech act, whereas ἐξομολογέομαι would have risked connoting a more autonomous process of acknowledgement and praise which the angry victim would not wish for their culprit to do, and once again too it is associated with a speech act of revelation performed under a certain degree of divine compulsion. The driving force of confession in these instances thus ultimately was considered external to the self.¹¹⁶

Foucault, having focused mainly on ἐξαγορεύω terms in Cassian and Christian monasticism, would have found in this semantic pre-history much fuel for his argument that the exagoreutic practice of confession was essentially a coercive one operating according to 'alethurgical' agenda.¹¹⁷ After all, what better indication of the coercive nature of the practice than the employment of a term for it which had existing connotations of forced speech acts? But this would be a misleading inference; it is most likely that the verbalised bearing out of the interior

¹¹⁴ Philo *De Somniis* 2.299.

¹¹⁵ *I.Knidos*. 148; 150; 153 (= *DT* 2, 4, 8), except for ἐξομολογέομαι in *I.Knidos*. 147

¹¹⁶ See p.189ff.

¹¹⁷ (Foucault and Hurley 1990) 59; cf. (Foucault and Gros 2018).

mind which Foucault equated with monastic *exagoreusis* was considered ‘forced’ in the same medical sense as these examples; coerced by the state of illness. This is not least because, as we shall see, monastic confessional *praxis* closely followed philosophical traditions in which the medical analogy, particularly concerning the healing of the soul, was prominent. We shall go on to see that the two main types of confession which this thesis distinguishes – divine justice confession and autoscopic confession – had in common the concept of confessing illness in order to be cured. Both Philo and Ptolemy’s examples here belong to the divine justice sort, where confession is catalysed by divine action, whether interference (Ptolemy) or punishment (Philo). Thus these confessions, as well as many others, were considered ‘forced’ but not in the same way as Foucault imagines confession in Christianity to have been forced. It is Dodds, rather than Foucault, who helps us most towards a better understanding of the cognized agency at work.¹¹⁸

Papyrological evidence opens a window onto two separate cases of ἐξαγορεύω serving as topographical reference points in the religious landscape of two Greco-Roman cities. From the second century AD until late antiquity a handful of papyri testify to the existence of a θοηρείον ἐξαγορείων in Oxyrhynchus, and two papyri testify to a δρόμου ἐξαγορευτικοῦ Ἀφροδείτης θεᾶς μεγίστης in Memphis.¹¹⁹ The former was one of several shrines in Oxyrhynchus dedicated to Thoeris, the city’s patron deity who was identified with Athena, and the latter was the processional approach to the temple of Aphrodite, referred to by Strabo as ‘Greek’ Aphrodite.¹²⁰ This constitutes evidence, hitherto neglected, for confession’s prominence in the religious fabric and spatial experience of civic life. Importantly, it also suggests that certain

¹¹⁸ (Dodds 1951).

¹¹⁹ Oxyrhynchus: P. Lond. Inv. 2554; P. Heid IV 334.4-5 (2nd c AD); P.Mert I 26.4-5 (AD 274); PSI III.215.6 (AD 338); (Roberts 1934); (Sarri 2013). Memphis: P.Oxy Hels 23 ll.29-32 (AD 213); P.Mich 21 862 (2nd c AD), where ἐξαγορευτικοῦ is the likely reconstruction. On the difficulty translating the former ἐξαγορευτικοῦ see (Llewelyn and Horsley 1992) 95-99.

¹²⁰ (Quaeghebeur, Clarysse, and Van Maele 1985) 218ff.; (Roberts 1934) 23; Strabo 17.31. cf. Hdt 2.112.

religious spaces might be more specialist in confessional activity than others. However, scholarship to date has dismissed the idea that ‘confession’ is to be understood behind these phrases: ἐξαγορείων has been taken to refer to ‘Revealing gods’ who had oracular power, or to ‘proclaimers/proclamations’, as in town criers, but there is much to support revision of these interpretations by seeing ἐξαγορ(ε)ίαι (‘confessions’), as in Ptolemy, as the nominative behind ἐξαγορείων.¹²¹ Likewise, the Memphite *dromos* of Aphrodite should be seen as being associated with confession (that is, declarations of the powers of the divine together with wrongdoing, following illness and divine punishment), rather than a promenade of niches for oracular activity.¹²² Ptolemy’s *Tetrabiblos*, with its planet Venus-prompted confessions (ἐξαγορ(ε)ίαι), produced in the second century AD contemporary with the first mention of the θοηρείων ἐξαγορείων in Oxyrhynchus, likely provides a hermeneutical key; it may be no coincidence, after all, that a three-day religious festival to the planet Venus was celebrated in Oxyrhynchus.¹²³ There are also grounds to attribute functions relating to divine justice to both of these religious landmarks. The verb used for confession in most curse tablets from the sanctuary of Demeter at Cnidus was likewise ἐξαγορεύω. Whilst these papyri provide the only instances we have of confession functioning as a topographical marker, we need not conclude that this was an Egyptian peculiarity. We should bear in mind that the papyrological evidence offers significantly more information for Roman Egypt because that is where it survives most abundantly; similar inadvertent mentions of religious spaces associated with confession are less likely to have survived from elsewhere in the Empire.

¹²¹ Revealing gods: (Roberts 1934) 25, repeated by (Turner 1952) 82; (Frankfurter 1998) 153; (Lane Fox 1988) 580. Oracle gods: (Kramer et al. 1986) 239-42. Proclaimers/proclamations (“as a stop-gap until we have more evidence”): (Rea 1989) 202. The papyri require re-interpretation; technical discussion is reserved for forthcoming publication.

¹²² (Henri 2015) 69.

¹²³ Immediately following the festival of the *Iseia*: P.Oxy.IV. 731 (AD 8-9), therein referred to by its alternative name ‘the stars of Hera’; (Whitehorne 1995) 3087.

λέγω, συγγινώσκω, μηνύω

Verbs with a general sense of saying and revealing were also used in Greek to convey what we would now translate as ‘confess’. In scenes of torture in classical Greece, for example, confession tended to be expressed simply by λέγειν.¹²⁴ This is unlike Latin, where *confiteor* rather than *dicere* was used for contexts of torture. In classical Greek literature, συγγινώσκω too could express acknowledgement of a point or opinion, and also shared recognition, and confession, of error.¹²⁵ Even the verb μηνύω (‘to reveal’) is important for our inquiry.

The verb used by Philodemus to describe the act whereby the good Epicurean would reveal his faults to his teacher and fellow students - the sort of Type 2 confession, as we shall see - was μηνύω.¹²⁶ That μηνύω could have a close semantic relationship with admitting a self-authored wrongdoing is suggested as early as the Homeric *Hymn to Hermes*: in mendacious denial addressed to Zeus, Hermes protests that he never stole any cattle, but Apollo “brought no witnesses with him nor any of the blessed gods who had seen the theft, but with great violence ordered me to confess (μηνύειν δ’ ἐκέλευεν)”.¹²⁷ In situations of revealing wrongdoing *not* catalysed by initial accusation (unlike ὁμολογέω), μηνύω served to connote the revelation of something hidden or unknown, even to the divine. A Delphic inscription from 272 BC names individuals rewarded for their actions in revealing stolen temple-money to the god; they χρήματα τῷ θεῷ ἐμάνυσαν, identifying the robbers also.¹²⁸ Thus it connoted verbal revelation of something hidden or unknown, but absent is a sense of initial accusation or formal legal context.

¹²⁴ Eg. Ar. *Ran.* 626

¹²⁵ Concede a point: eg. Hdt. 9.122; Thuc. 7.73; Pl. *Leg.* 717E. Confess error of judgement: Hdt. 7.13. Also to share in making an error: Thuc. 8.24. And to recognise a wrongdoing in the sense of forgive: Eur. *Andr.* 840.

¹²⁶ Phil. *Peri Parrhesias* Fr. 42.7-8; 49.6.

¹²⁷ Hom. *Hymn Herm.* 373

¹²⁸ SIG³ 417

The Latin Lexicon

*hinc (a 'fari') fassi et confessi, qui fati id quod ab his quaesitum.*¹²⁹

The main lexical signifiers of confession in Latin were *fateor* and *confiteor*, but the possible range of semantically similar words was wide, including *admitto*, *concedo*, *profiteor*, and – unhelpfully for the lexical surveyor – *dico*. No discernible overarching distinction operated between *fateor* and *confiteor*, although *con-* conveyed more emphatically the sense of saying something in response to a charge and with detrimental effect. They were particularly interchangeable in poetry. We know from the existence of the bore in Athenaeus' *Deipnosophistae* who incessantly enquires into whether words occurred in ancient authors in the sense used 'now' that there was an awareness that meanings of words might change over time, yet the modern bore can find no such semantic shift over time in the meanings of these words: Latin confession words remained consistent in their semantic service.¹³⁰ That which constituted the objects of these confession verbs ranged from crimes, errors, transgression against the divine, to praise, thanks, hope, identity, philosophical arguments, character flaws, and even just opinions made emphatic. The objects of confession in both Greek and Latin will be discussed further below.

As the above quotation from Varro shows, *fateor* and *confiteor* were conceived of as speech acts made in response to an accusation or interrogation in the first century BC.¹³¹ The author

¹²⁹ Varro *Ling.* 6. 55.

¹³⁰ The character Ulpian: Ath. *Deipnosophistae passim*. This is true at least until the 5th century AD: Isidorus' claim, if we take it to reflect general understanding in the 6th century, that *inter fatemur et confitemur, confiteri proprii arbitrii est; nam fateri coacti est animi non voluntatis*, cannot work for the Roman Empire: Isid. *Diff.* 1.232.

¹³¹ Eg. the accusation and answer exchange culminating in *fateor*: Plaut. *Pseud.* 360ff.

of the Lesser Declamations suggests this understanding survived well into the Principate: *enuntiare vero aliud esse quam confiteri nemo adeo ignarus est loquendi ut nesciat. enuntiatio voluntatem habet et animum non coactum, confessio expressam dolore multo necessitatem.*¹³² Confession was thus more than mere speech, it was performed in a context of discomfort and difficulty. But there does seem to be a conceptual distinction with *profiteor*, which was seemingly used for the most independently-instigated acts of verbal avowal. In the *Pro Caecina* Cicero questioned: *quid confitetur, atque ita libenter confitetur, ut non solum fateri sed etiam profiteri videatur?*¹³³ The distinction is summed up most succinctly by Nonius: *hoc distat, quod profiteri voluntatis est, confiteri necessitatis et coactus... honestius profiteri quam confiteri.*¹³⁴ However, whilst this distinction may be taken to apply as a general rule, it was not invariably the case that *fateor* and *confiteor* were always provoked by initial accusation; sometimes we find them used for verbal avowal outside of a context of interrogation. The terms also had application in philosophy. For Lucretius, *fateor* and *confiteor* served indistinguishably as the verbs by which philosophical arguments were avowed; equivalents, it seems, to what would have been ὁμολογέω in classical Greek philosophy. All of his usages of these verbs occur with a sense of obligation to concede his point, almost always in the form *fatere/confiteare necesse est.*¹³⁵

‘feci. confiteor’: performative surplus.

*‘nihil peccavi’ et ‘nihil feci’. Immo nihil fateris.*¹³⁶

¹³² Ps-Quint. *Decl. Min.* 272.5

¹³³ Cic. *Caec.* 9.24

¹³⁴ Nonius Marcellus 5 (*de differentia similium significationum*) (p.434M, ll.22-6) = (Lindsay 1901) vol.3, 700.

¹³⁵ Lucr. 216; 470; 578; 624; 627; 691; 826; 866; 963; 974; 1064; 1074; 1084.

¹³⁶ Sen. *De Ira* 28

There are a number of indications that the simple statement ‘*feci*’, or other such acts of avowal without explicit confession words, was conceived of as ‘confession’ by Roman standards. This is indicated by the addition of paratactic confession words which served to identify concomitant statements as confessions. It adds what would be called, according to the linguistic theories of Austin and Searle, performative force.¹³⁷ The confession word makes a claim about the function of the statement. Therefore, we can be assured that the interpretation of the phrase ‘I did it/*feci*’ as a ‘confession’, in a suitable context, is not only a modern cognitive leap; it was an ancient one too. Whilst confession statements in Greek were also performative (eg. Euripides’ ὁμολογῶ σὲ ἀδικεῖν), examples of confession vocabulary serving to label a confessional statement such as, in Demosthenes, ‘ἐργαζόμενος συνελεξάμην· ὁμολογῶ.’ are rarer.¹³⁸ Except, that is, in philosophical dialogues where an avowal of a proposition might be followed by ὁμολογέω to signal performative power of the speech act as concord. The only example regarding transgression which comes close to this is from the book of Daniel, where confession vocabulary signals the confessional performativity of the main statement: ‘I confessed (ἐξωμολογησάμην) and said: ...we have sinned and done wrong and have been wicked...(ἡμάρτομεν, ἠδικήσαμεν, ἠσεβήσαμεν)’.¹³⁹ Therefore, although the evidence is harder to come by in Greek, we can infer that declarations about wrongdoing could at least at times be considered ‘confessions’ in the Greco-Roman world and we are thus not projecting modern expectations back onto the historical material. In the above example, Seneca makes it clear that statements of *peccavi* and *feci* were considered confession (*fateri*). Such an association is clear even from early Latin literature: Terence has a character declare ‘*peccavi, fateor*’.¹⁴⁰ According to Juvenal too, Pontia the Poisoner declared ‘*feci. confiteor. puerisque*

¹³⁷ (Austin 1975) *passim*; 85 for ‘admit’ as an expositive; (Searle 1989).

¹³⁸ Dem. Or. 42.20

¹³⁹ LXX Dan. 9.4

¹⁴⁰ Ter. Haut. 644: *peccavi fateor*.

meis aconita paravi...'.¹⁴¹ The possible statements, therefore, that constituted confession could take a variety of forms. The corollary of this labelling flexibility of confession vocabulary, and confession's wide range of possible forms, is that verbal statements which were not intended as confessions could be labelled as such by others with hostile agenda. Cicero exploits this tactic particularly effusively.¹⁴² However, 'confession' was not always, by Greco-Roman criteria, a speech act.

Non-verbal Confession

*erubui, gremioque pudor deiecit ocellos;
haec satis in tacita signa fatentis erant.*¹⁴³

*...confessus tacite...*¹⁴⁴

*quoniam taciturnitas imitatur confessionem.*¹⁴⁵

Silence, absence of defence and non-verbal acts could be conceived of as confession. This seems to have been particularly the case in the republic and early Empire; that is, over time there appears to have been an increasing tendency to expect verbalised confession of wrongdoing.¹⁴⁶ An increased tendency, too, to expect a defendant simply to speak when faced with accusation. The example of C. Iunius Silanus on trial in AD 22 under an incessantly inquisitorial Tiberius exemplifies the reason behind this: *saepe etiam confitendum erat ne frustra quaesivisset.*¹⁴⁷ Silence became offensive. What had, in the republic, been semaphore for shame became a sinister act of obstinacy. Not only before the emperor; according to Ulpian, to keep silent before the praetor was to show contempt for him (*contemnere*).¹⁴⁸ The shift from

¹⁴¹ Juv. *Sat.* 6. 638-9

¹⁴² Eg. Cic. *Phil.* 3.21; Cic. *Mil.* 15; *Pro Tullio* 1-2; Cic. *Ver.* 2.1.94; Cic. *Ver.* 2.3.176; Cic. *Cael.* 66.3; Cic. *Red. Sen.* 4; Claudius interpreted Asiaticus' defence counsel's request that he be allowed to choose the manner of his death as a confession, although it was not intended to be: Tac. *Ann.* 11.3.1.

¹⁴³ Ov. *Her.* 11.36

¹⁴⁴ Stat. *Theb.* 11.667

¹⁴⁵ Cic. *De Inv.* I. 54.

¹⁴⁶ Confession could be non-verbal in Greek law: (Maffi 1986) 11

¹⁴⁷ Tac. *Ann.* 3.67

¹⁴⁸ Dig. 11. 1. 11. 4 = Ulp. 22 *ad ed.*

silence to speech act is ultimately bound up with the transformation of Republic to Empire and concomitant developments in Roman law.

A well-attested response to high-level criminal prosecution in the republic was simply to take to voluntary exile. *Interdictio ignis et aquae*, which effectively meant exile, was a key form of punishment for criminal matters, so voluntarily going into exile removed the need and possibility to verbally confess; disappearing was tantamount to confessing.¹⁴⁹ Catiline, according to Sallust, had to explicitly point out that his going into exile was not to be taken as a confession.¹⁵⁰ This suggests that exile was by default understood to mean confession. People who, unlike Catiline, intended to confess had no need to perform a speech act; exile avoided the psychological and reputational expense of trial, as well as a potentially worse punishment if the odds were stacked against the defendant, innocent or guilty. Their actions are therefore lost to the silence of time, and they leave no trace. It was also convenient for the prosecuting party and judicial authorities for anyone who might otherwise have confessed to take to their heels instead.¹⁵¹ Thus ‘confession’ could be signalled simply by lack of defence, or elective exile.

In specific trials, too, we find that non-verbal acts could be understood as confession. The silence and passive behaviour of the Catilinarian conspirators before the senate is emphasised by Cicero as indications of their guilt. He implies that they confessed one after the other but when we look carefully we find that Cethegus was silent (*debilitatus atque abiectus conscientia repente conticuit*); Gabinius ‘did not deny it’ (*nihil ex iis, quae galli insimulabant, negavit*); and

¹⁴⁹ (Bauman 1996) 13-18 (exile); 12ff. (*interdictio*); (Kelly 2006) 25ff.

¹⁵⁰ Sall. *Cat.* 34.2, although a confession word is not used: *non quo sibi tanti sceleris conscius esset*.

¹⁵¹ Claudius was prone to decide in favour of the party present at trial no matter what the reason for the other’s failure to appear: Suet. *Claud.* 15.2.

it is not clear whether a non-verbal act was likewise behind Statilius' *'confessus est'*.¹⁵² Although Cicero is clearly driven to augment the certainty of their guilt, this nevertheless reveals that the assimilation of silence with 'confession' had purchase at the time of Cicero, and probably in the republic generally. When the sons of Brutus were on trial their silence in the face of thrice-repeated accusations was understood as clear indication of their guilt in Plutarch's account.¹⁵³ Although silence could be taken as confession, they were not for Cicero identical concepts. Some distinction was upheld between silence and confession in the case of the Catilinarian conspirators because Cicero claims that silence was even 'more certain' proof of guilt than their confessions.¹⁵⁴ He also illustrates how, in the *Pro Sestio*, 'not denying' could appear to be 'confessing': *qui... tacendo loqui, non infitiando confiteri videbantur*.¹⁵⁵ He evidently thought this from his youth, claiming in the *De Inventione* that: *taciturnitas imitatur confessionem*.¹⁵⁶ Then even as late as the third Philippic he pointedly suggests that silence was confession.¹⁵⁷ Silence was therefore *like* confession and could be understood to be such, with the same consequences. A scholiast on Cicero's *Verrines* therefore seems to be accurate in claiming that, in cases of extortion, silence led to immediate estimate of the financial penalty:

cum... in ius vocatus esset, dicebat accusator apud praetorem reo: "aio te Siculos spoliasse" Si tacuisset, lis ei aestimabatur ut victo; si negasset, petebatur apud magistratum dies inquirendorum eius criminum et instituebatur accusatio.¹⁵⁸

¹⁵² Cic. *Cat.* III. 10

¹⁵³ Plut. *Publicola* 6. Silence was no doubt considered the more dignified response over confessing, so we can expect Plutarch or the legend he was citing to have narrated as virtuous a response as possible for Brutus' sons, thus potentially undermining the reliability of his account. But whether historical reality or not, it reveals the cultural expectation that silence was enough to signal confession, and this was likely an accurate reflection of Republican sentiments rather than Plutarchian retrojection.

¹⁵⁴ Cic. *Cat.* III.13: *denique unius cuiusque confessio, tum multo certiora illa, color, oculi, vultus, taciturnitas. Sic enim obstupuerant, sic terram intuebantur, sic furtim non numquam inter sese aspiciebant, ut non iam ab aliis indicari, sed indicare se ipsi viderentur.*

¹⁵⁵ Cic. *Sest.* 40

¹⁵⁶ Cic. *De Inv.* I. 54.

¹⁵⁷ Cic. *Phil.* 3.21: *cum de illo tacuerit, se hostem confessus sit?* For silence implying guilt, see also: Cic. *Or.* 129.

¹⁵⁸ Ps. Asconius at *In Verr.* I.5 = (Stangl 1964) 207.

It is significant that the only two options countenanced here are silence or outright denial; verbal confession was unnecessary when silence had this effect. Frequently, we find acts which we might deem ‘confession’ expressed in Latin by the double negative ‘*non...negare*’: not-denial.¹⁵⁹ In glimpses onto the decision making process of those who had stolen objects or defaulted on money, revealingly the choice appears to have been between restoring the money or object, or verbally denying it. That is, confession was not automatically the other side of the coin from denial. For example, there is the story of Glaucus the Athenian who allegedly consulted the Pythian oracle as to whether he should restore a deposit, or deny on oath that he had ever received it.¹⁶⁰ Merely a refusal to adopt the *contravindicatio* (the counter-claim) was tantamount to a confession to the adversary’s claim according to the jurist Gaius: *praetor interrogat eum qui cedit an contra vindicet; quo negante aut tacente tunc ei qui vindicaverit eam rem addicit*.¹⁶¹ Once again, here in a civil case, we see that being silent was considered a means of concession. Why speak, when guilt could be acknowledged silently? The answer to this question, to be explored later, strikes at the heart of the history of confession. This also has significant implications for what ‘confession’ constituted in Greco-Roman religion; the return of a stolen cloak was probably on the whole considered ‘confession’ enough.

The concept of non-verbal confession did not remain confined to the legal sphere, but was applied to behaviour in society at large. Blushing was one physiological response, along with downcast eyes, imbued with confessional semiotics. So when, in Ovid’s *Heroides*, quoted above, Canace is accused by his nurse of being in love his response is conceptually equated

¹⁵⁹ Eg. Plaut. *Asin.* 650; *Most.* 1024; *Stich.* 639; Ter. *Haut.* 18; *Eun.* 31; *Adelph.* 484; 798; Cic. *Rosc. Am.* 107.3; *Verr.* 2. 1.12.10; 2.1.78.13; 2.2.44.2; 2.2.48.8; 2.3.132.1; 2.3.137.7; 2.4.19.18; 2.4.150.13; 2.5.47.10; 2.5.133.4; *Pro Tullio* fr.1a2; fr.1.a.5; *Font.* 21.7; *Caecin.* 32.2; 32.4; 49.2; 91.5; *Flac.* 68.7; *Dom.* 97.2; *Cael.* 23.9; *Prov. cons.* 43.8; *Mil.* 81.2; *Marcell.* 26.1; *Phil.* 2.32.7; 13.24.4; 13.24.6; *Inv.* 2.129.2-3; *Or.* 1.137.7; 1.250.11-2; 2.124.4; *Luc.* 73.9; *Fin.* 2.24.18; *ad. Att.* 13.5.1.5; *QFr.* 3.6.4.4; *Rhetorica ad Herrenium* 1.25.2; *Tib.* 2.3.80.

¹⁶⁰ *Hdt.* 6.86.; *Pausan.* 2.18; 8.7; *Juv. Sat.* 13.202.

¹⁶¹ *Gai. Inst.* 2. 24; (Greenidge 1901a) 252

with a confession, yet he speaks no words.¹⁶² Aspects of appearance might also ‘confess’ things about a person, such as Ovid’s Deaneira: *fortunam vultu fassa decente suam*.¹⁶³ Such non-verbal confession can be found throughout Latin literature, used to describe countenance or non-verbal actions which revealed something detrimental.¹⁶⁴ Obeying orders might be a ‘confession’ of servitude.¹⁶⁵ Similarly, in Statius, Creon’s fear at the sight of Oedipus and his checking of his anger seems to justify the description of him as having ‘silently confessed to be the lesser man’: *seseque minorem confessus tacite*.¹⁶⁶ The use of *tacite* here suggests *confiteor* was by default thought of as a speech act. Indeed, *confiteor* and *fateor* seem always to have remained primarily associated with the speech act that forms their etymological core, but silence and confession could nevertheless be assimilated. This remained the case even for our most audible confessant of late antiquity: *confessio itaque mea, deus meus, in conspectu tuo tibi tacite fit et non tacite*.¹⁶⁷ Indeed, *res confessae* constituted anything that was obvious.¹⁶⁸ We ought to be aware, then, that what constituted confession to a Roman mind might not always map directly onto modern standards.¹⁶⁹

Vicarious Confession

¹⁶² Ov. *Her.* 11.36

¹⁶³ Ov. *Her.* 9.126

¹⁶⁴ Eg. Livy 36.17.10.1: confessing by flight in war.

¹⁶⁵ Sen. *Suas.* 5.3.4

¹⁶⁶ Stat. *Theb.* 11.667

¹⁶⁷ August. *Conf.* 10.2.2

¹⁶⁸ Cic. *Ver.* 3.130; Sen. *Ep.* 113.15. cf. Col. 2.2.14; Plin. *Nat.* 20.116.

¹⁶⁹ The author of the *Rhetorica ad Herennium*, for example, explains that Orestes ‘confessed’ (*confitetur*), even though we might disagree: *Rhetorica ad Herennium* 1.26.5. Similarly, Pseudo-Hermogenes understood Helen of the Iliad to have confessed wrongdoing (ὁμολογεῖ τὴν ἀδικίαν) to Priam, by which he seems to mean that she showed signs of acknowledging that she had been the cause of the war: “Hermogenes”, Περὶ Μεθοδου Δεινοτητος 32. (Hermogenes, Rabe, and Kennedy 2005) 256-7.

This is also true of vicarious confession. That is, confession by Greco-Roman criteria could also be when somebody ‘confesses’ not their own wrongdoing but that of somebody else.¹⁷⁰ The person making the confessional statement did not always need to be responsible for, or be negatively affected by, the speech act in order to linguistically justify the use of confessional vocabulary. They are, however, associated with the wrongdoer in some way, whether as their family, slaves or another sort of affiliation. When slaves, for example, were put to torture in trials concerning crimes committed by others (often their masters), their affirmatory speech acts were nonetheless called ‘confessions’.¹⁷¹ Ulpian stated that a rescript of Trajan allowed for masters to be implicated by the confession (*confessio*) of slaves, but subsequent constitutions had disallowed this.¹⁷² In the trial of Verres, Cicero described Verres’s attempt to obtain exonerating written statements from naval captains who had in fact witnessed his misconduct; even though their statements were false, and concerned not their own acts but those of Verres, Cicero refers to them as *confessio*.¹⁷³ When Apuleius was on trial for sorcery, his accusers alleged that a woman ‘confessed’ (*confessa est*), again in a letter, that his magical practices had made her go insane and fall in love with him.¹⁷⁴ She was not conceding anything that was detrimental to her; this was vicarious confession. An informer, too, even if not implicated in the wrongdoing concerned, might also be said to ‘confess’.¹⁷⁵ The defence counsel for a slave on trial might ‘confess’ many crimes of his client, the slave, and masters might ‘confess’ when their slaves commit wrongdoing.¹⁷⁶ In the Anatolian *stelai* also, the families of those who had committed the transgressions are sometimes the ones writing setting

¹⁷⁰ Not only as in modern ‘secondary confessions’ whereby an individual reveals a confession which they heard from the accused themselves (eg. (Wetmore, Neuschatz, and Gronlund 2014)), but also confession by virtue of simply being aware of the author of a wrongdoing.

¹⁷¹ Eg. *Dig.* 48.18.18.5.1: *servo qui ultro aliquid de domino confitetur*

¹⁷² *Dig.* 48.18.19.1.

¹⁷³ *Cic. Verr.* 2.5.103

¹⁷⁴ *Apul. Apol.* 78. 16

¹⁷⁵ Eg. *Livy* 39.12. 3-5: *fatenti*. Secondary confessions of this sort could be heavily incentivised: a graffito painted above the door of a house in Pompeii declares that ‘a bronze vessel has disappeared from this house: there is a 65 sesterce reward for its return and another 20 for the name of the thief’: *CIL* IV.64.

¹⁷⁶ *Sen. Controv.* 3.9.1.3; *Cic. Pro Tullio* 40.

up the *stelai* and performing the propitiatory acts, although there is no explicit evidence that such confessional terms were used to describe their acts.¹⁷⁷ This means that one of the modern aspects of confession – that it is a statement about the self – is not always true of ancient confession. Nevertheless, its primary connotation does seem to be a statement concerning the self: Ps.Quintilian, in arguing against the point that confession in Roman law must come from a sane man, declares that his only criterion for calling a statement a confession is that someone pronounces against the self: *ego... confessionem existimo qualemcumque contra se pronuntiationem*.¹⁷⁸ In this sense, the close association of confession with the self was there in the Greco-Roman world too, but it is telling that the orator felt this needed to be said; confession as *self*-pronouncement was not invariably taken for granted by all. When we come to observe the practice of Epicurean confession whereby students would confess their own faults as well as those of others in an expectation of communal frank speech, this sense of vicarious confession helps to explain what to us are two distinctive and disjointed practices.

Objects of Confession in Greek and Latin Expression

What exactly was confessed in the Greco-Roman world? Although this thesis focuses on the confession of wrongdoing, understanding the wider usages of confessional terms helps us define what exactly it meant to confess. It is important, for example, that confession terms in Latin could be used of thanks and praise, just as ἐξομολογέομαι might. Therefore the dual aspect of confession - *confessio peccati* and *confessio laudis* – thought to be particular to early Christianity and an especially novel aspect of Augustine’s *Confessions*, has much more in common with the conceptual world beyond Christianity than has previously been

¹⁷⁷ Eg. Petzl 24: an offering for a sin committed by the dedicant’s father; Petzl 34: various members of a family ‘erect a stele, write up the powers of the god and give praise’ on behalf of a relation who committed perjury.

¹⁷⁸ Ps.Quint., *Decl. Min.* 314.6.

recognized.¹⁷⁹ So when Hilary of Poitiers explained in his commentary on the Psalms that ‘*confessio duplex... invenimus enim confessionem duplici ratione tractandam esse: unam confessionem peccatorum, ... aliam laudationis Dei....*’, and Augustine similarly said *cum confitemur deo, duobus modis dici solere, vel peccatorum, vel laudis*, they were making a distinction which was not the sole preserve of scripture.¹⁸⁰

Praise and thanksgiving

χάριν δὲ ὁμολογῶ τοῖς θεοῖς, ὅτι μοι τὸ σφάλμα εἰς ἄλλο μακρῶ αἰσιώτερον περιετράπη καὶ εἰς τὸ ἄμεινον παρώλισθον...¹⁸¹

*Confessionem peccatorum omnes noverunt; laudis autem confessionem pauci adverterunt.*¹⁸²

Augustine makes it clear here and elsewhere that the default understanding of confession, at least among the ecclesiastical community he was addressing, was that of wrongdoing. This was so much so, he says, that just the statement ‘we confess’ had people immediately take to beating their breasts.¹⁸³ This sense is also evident in Hilary of Poitiers: *prima ergo illa et superior confessio peccatorum esse credenda est maxime quae praedicationi propheticae atque*

¹⁷⁹ *Contra* (Ratzinger 1957), esp. 376; (O'Donnell 2012) vol.2, 3; (Marion and Kosky 2012) 55 overlooks the wider context.

¹⁸⁰ Hilary of Poitiers *In Psalmos* 66, 6: *Invenimus enim confessionem duplici ratione tractandam esse: unam confessionem peccatorum, ubi in deserto Jordanis confitebantur peccata sua esse: aliam laudationis Dei, ubi Dominus loquitur ad Patrem, Confiteor tibi, Domine pater coeli et terrae, quoniam abscondisti haec a sapientibus, et revelasti ea parvulis. Prima ergo illa et superior confessio peccatorum esse credenda est maxime quae praedicationi propheticae atque apostolicae connectitur: sequens haec laudationis Dei intelligenda est populorum, deinde omnium, id est, gentium universarum; et ob id, quia terra fructum suum dederit; August. En Ps. 137, 2 = PL 37, 1174. Augustine highlights this duality a number of times: *En. Ps.* 141.19 **see n. x**. Origen is the earliest church father to make the distinction: ἡ ἐξομολόγησις τὴν εὐχαριστίαν καὶ δοξολογίαν σημαίνει. κέῖται δὲ καὶ ἐπὶ τῆς ἐξομολογήσεως τῶν ἁμαρτιῶν: *In Ps.* 135.2. See (O'Donnell 2012) vol.2, 4.*

¹⁸¹ Lucian *pro lapsu inter salutandum* 15

¹⁸² August. *En. Ps.* 137, 2 = PL 37, 1174.

¹⁸³ *Ibid.*: *nam ita nota est confessio peccatorum ut in quocumque scripturarum loco auditum fuerit 'confitebor tibi domine' aut 'confitebimur tibi' continuo ad pectus tunendum; usque adeo non solent homines intelligere confessionem esse nisi peccatorum. Elsewhere: duobus autem modis confessio intellegitur, et in peccatis nostris, et in laude dei. In peccatis nostris nota est confessio, et ita nota omni populo, ut quando auditum fuerit nomen confessionis in lectione, sive in laude dicatur, sive de peccatis dicatur, currant pugni ad pectus: August. En. Ps. 141.19. See also August. En. Ps. 29.22; 144.13; Serm. 29.2; 67.1.*

*apostolicae connectitur....*¹⁸⁴ And when commenting upon Psalm 6.6, encountered earlier (‘who will praise you in hell?’), Jerome felt the need to explain that: *confessioque in hoc loco non pro paenitentia, sed pro gloria et laude accipitur.*¹⁸⁵ Hilary, Jerome and Augustine indicate that the primary meaning of *confessio* was of wrongdoing among their circles, but *confiteri* translated ἐξομολογέομαι in its dual senses. It is clear from Augustine in particular that the secondary sense of confession as praise was to be discovered by paying close attention to scripture, only noticed therein (*adverterunt*) by the few. He repeats this sentiment so often that the pleasure he took in having excavated such a learned point for the education of the less erudite is palpable. Hilary and Augustine may have been unaware of the full heritage of the concept of confession as praise outside of scripture, or overlooked it because it related to colloquial usage not to the religious institution of ‘confession’ that they were interested in, but we should not do as other scholars have done and infer from them that confessional terminology did not connote praise and thanksgiving outside of scripture.¹⁸⁶

In fact, we find confession vocabulary used for statements which constituted praise of others, as well as thanksgiving to others, including the divine. The Lucian quote above provides an example of the latter. The statement χάριν δὲ ὁμολογῶ τοῖς θεοῖς is from Lucian himself, and comes just after he confesses that his slip of the tongue in greeting someone with a word for goodbye was indeed an error and not done deliberately; he confesses thanks to the gods for the happy outcome of it.¹⁸⁷ Later in the essay, χάριν ὁμολογῶν occurs again, referring this time to thanks addressed, interestingly, to the emperor Augustus after he had given a verdict of

¹⁸⁴ Hilary of Poitiers *In Psalmos*. 66, 6

¹⁸⁵ Jerome *In Isaiam prophetam* 2, 39 = *PL* 24, 409;

¹⁸⁶ (Verheijen 1949); (Ratzinger 1957). The context emphatically reveals the discussion is about the practice according to scripture specifically: August. *En. Ps.* 137, 2: *commemero vos confessionem in scripturis....*

¹⁸⁷ Lucian *pro lapsu inter salutandum* 14-15

acquittal in a trial.¹⁸⁸ It can also be found elsewhere in classical literature.¹⁸⁹ Papyrological evidence reveals that *χάριν/χάριτας ὁμολογῶ* was a term employed more widely when addressing those of superior status.¹⁹⁰ It also occurs in an epigraphic petition from Skaptopara in Thrace to Gordian III in AD 238 in which petitioners hoped the emperor would order the writing up of his *θεῖα γραμματα* so that they could confess their gratitude (*χάριν ὁμολογεῖν*) to his Genius.¹⁹¹ Similarly, a female petitioner from the Fayum wrote around AD 280 to the Prefect lauding him in highest terms, detailing the crimes she had been the victim of, and culminating in the wish she might be able to confess thanks to him.¹⁹² Confessing thanks, it seems, was always an act performed within a framework of significant power disparity.

It is also the case in Latin that *confessio* could be a confession of gratitude, to someone more powerful. Valerius Maximus narrates the story of Terentius Culleo who, having been imprisoned by the Carthaginians and brought back by Scipio Africanus, followed behind the latter's triumphal chariot wearing a cap of liberty; thereby he returned a '*confessio beneficii accepti* to the author of his liberty as if Scipio were his master'.¹⁹³ Again, *confessio* is used of a non-verbal act, here too connoting an act of thanksgiving. We find confession words governing statements of thanksgiving elsewhere in Latin literature also; *fateor* was used more often than *confiteor* for such purpose although not exclusively.¹⁹⁴ Sulla's 'confession'

¹⁸⁸ *Ibid.* 18. We shall go on to see that a parallel is evident between confessional behaviour to a divine judge and that to the emperor as judge.

¹⁸⁹ *Eg. Dem. Or.* 19.314; *Arr. Historia Indica* 36.7 (προσωμολόγει); *Plu. Aem.* 11 (ἀνθομολογέομαι); *Joseph. AJ* 5.13; 5.30; 7.208; 15.216; 16.61; 17.201; 20.30; *Jos. Vita* 325.5; *Ach. Tat.* 3.10.6; *App. Mac.* 9.4.14; *Heliod. Aeth.* 3.17.3; 7.19.8; *Muson.* 8.133; *Lib. Ep.* 738.3; 1366.4.

¹⁹⁰ *Eg. P. Mich.* 5 338 (AD 45; receipt of a deed); *P.Vindob. G* 15067 1.16 (AD 231, petition to appoint an *epitropos*); *P.Amh.* 2.142 (AD 321); *P.Oxy.* 1.36 (AD 338, property dispute): σοῦ τῆ τύχῃ χάριτας ὁμολογήσωμεν; *P.Neph* 9 (4th century AD): *χάριν ὁμολογῶ τῇ θεῖᾳ προνοίᾳ*. For *χάριν ὁμολογῶ* as a standard formula in Egyptian papyri particularly of the third and fourth centuries: (Boehm 2011) 69.

¹⁹¹ *SIG³ II* 888: (Hauken 1998) 74-139. See p.261f.

¹⁹² *P.Ryl.* 2.114.32 = *P.Sakaon* 36: ὅπως . . . τῇ τύχῃ σου χάριτας ὁμολογεῖν δυνηθῶ.

¹⁹³ *Val. Max.* 5.2.5.

¹⁹⁴ *Eg. Plaut. Per.* 734: *fateor, habeo gratiam*; *Poen.* 133-4: *fateor deberi tibi... multas grates gratias*. *Cic. Planc.* 91.2: *fateor et laetor et tibi etiam in hoc gratulor*; *Livy* 34.23.4: *fateri potius praeteritorum gratiam deberent*; *Scribonius Largus Compositiones* ep.14.1: *fateor itaque libenter unicas me tibi gratias agere*; *Sen. Controv.* 2.5.10: *ingratum esse qui ne fatetur quidem se accepisse beneficium*. *Sen. Ben.* 4.16.1: *idem isti gratiam referre*

(*confessus est*) that Italy had been liberated with the help of Pompey, is a further example of concession to a point which reflected positively on someone else.¹⁹⁵ In the *Metamorphoses*, Ovid has Jason ‘confess’ his debt of gratitude to Medea.¹⁹⁶ Another story in Valerius Maximus reveals how putting up a monument and an inscription in thanksgiving could be understood as an act of confession. Panapius, master of a slave who was killed after having swapped clothes with him to save him from being killed for adultery ‘confessed’ (*confessus est*) how much he owed to the slave by *ei faciendo monumentum ac testimonium pietatis grato titulo reddendo*.¹⁹⁷ This concept was not confined to the community of the Anatolian confession *stelai*, which frequently self-identify as monuments of ‘thanksgiving’.¹⁹⁸ Thus we also see from this and the literary examples that *confiteor/fateor* in Latin conveyed the same sense of ‘gratefully acknowledging receipt of something’ as ἐξομολογέομαι did. Confessing error and confessing gratitude are also found intertwined in Greco-Roman culture beyond the *stelai*: Galen advises that rebuke for shortcomings must be invited and, when a wiser man points out an error, it must firstly be met with gratitude before the process of self-censure begins; and when Marcus Aurelius lists the things for which he is thankful to the gods in the prologue to the *Meditations*, he adds that he stills falls short ‘through his own fault’.¹⁹⁹

Thanksgiving was semantically and conceptually close to praise, and was encompassed together with ‘praise’ in the ἐξομολογέομαι which the Church Fathers’ *confiteri* was translating, but even concerning praise specifically there is evidence that ‘confession’ in the

ipso fatentur; 1.1.4: *qui ne confessione quidem grati sunt*; Tac. *Ann.* 2.13: *laudibus ferrent reddendamque gratiam in acie faterentur*. Curt. 7.1.19 “*qualiscumque*” inquit “*exitus nos manet, rex, confitemur prosperum tibi debituros, tristiores fortunae imputaturos*”. <https://latin.packhum.org/loc/1351/5/93/354-358,370-373@1>

¹⁹⁵ Cic. *Leg. Man.* 30

¹⁹⁶ Ov. *Met.* 7.165: *o cui debere salute confiteor*.

¹⁹⁷ Val. Max. 6.8.6

¹⁹⁸ Petzl 10, 12, 21, 73-4, 76, 94, 114.

¹⁹⁹ Galen *De animi passionibus et erroribus* 3; M. Aur. *Med.* 1.17.5.

Greco-Roman world could be applied to such statements, and to those which conveyed something positive about another. For example, Seneca argues that even those who would not call the Gracchi good men will confess (*fatebitur*) that they were great men (*bonos viros*).²⁰⁰ Likewise, in praising Laterensis, Cicero says: *Laterensis nostri et fidem et animum singularem in rem publicam semper fatebor*.²⁰¹ The subsequent ‘but’ is palpable: the sense in both of these examples is of concession to a fact, and it is in this way that *fateor/confiteor* seems to be used of sentiments of praise, or of a positive fact about another.²⁰² Similarly, Demosthenes ‘confessed’ that Meidias showed himself the most distinguished citizen of Athens, before going on to comment on his boresome boasts.²⁰³ But confession of praise was not always reluctant or insincere; it could also be used sincerely: in praising Augustus, Horace describes how Romans bestow honours upon him, set up altars to swear by on his name, and ‘confess (*fatentes*) that no one alike will ever arise or has arisen’.²⁰⁴ This resembles, as we shall soon see, the usage of confession vocabulary for a statement of belief concerning the divine. Similarly, Ovid has Caesar, apotheosized by Venus, ‘confess’ from heaven that Augustus’s deed are greater than his own (*fatetur / esse sua maiora et vinci gaudet ab illo*).²⁰⁵ Along with concessions, then, it could convey declarations of unreservedly positive statements, such as hope, in the case of Plancina during the trial of Piso: *confiteretur se omnem spem in misericordia(m)/principis nostri et senatus habere*.²⁰⁶ In summary, confessional statements could be positive as well as

²⁰⁰ Sen. *Dial.* 6.8.3

²⁰¹ Cic. *Fam.* 10.23.4.2

²⁰² Also eg.: Cic. *Orat.* 31.5-6: *laudatus est ab omnibus. fateor*; Livy 30.35.5.1-2: *confessione etiam Scipionis omniumque peritorum militia illam laudem adeptus singulari arte aciem eo die instruxisse*; Ps. Quint. *Decl. Mai.* 16.3.9: *nec ulli umquam tam plena confessione laudantur*; Mart. *Ep.* 4.49.10: *confiteor: laudant illa*.

²⁰³ Dem. 21.153

²⁰⁴ Hor. *Epist.* 2.1.17: *nil oriturum alias, nil ortum tale fatentes*. We might recall the Greek of *RG* 6: τῆς τε συνκλήτου καὶ τοῦ δήμου τοῦ Ῥωμαίων ὁμολογούντων, ἵνα ἐπιμελητῆς τῶν τε νόμων καὶ τῶν τρόπων ἐπὶ τῇ μεγίστῃ ἐξουσίᾳ μόνος χειροτονηθῶι (although the Latin has *consentior*, we find see more than mere agreement in ὁμολογέω here).

²⁰⁵ Ov. *Met.* 15.850.

²⁰⁶ *Senatus consultum de Cn. Pisone Patre* ll.110-11.

negative. There was precedent and parallel in the non-Judeo-Christian Greco-Roman world for confession in the sense of thanksgiving and praise.²⁰⁷

Faith, belief and testifying to the divine

*...poena gaudebis amara
nominis inuisi tandemque fatebere laetus
nec surdum nec Teresian quemquam esse deorum.*²⁰⁸

*Haec et innumerabilia ex eodem genere qui videat nonne cogatur confiteri deos esse? Quorum enim interpretes sunt eos ipsos esse certe necesse est; deorum autem interpretes sunt; deos igitur esse fateamur.*²⁰⁹

Confession vocabulary was also used of statements about the divine, and even confessional statements that the gods existed.²¹⁰ The illocutionary act, to use J.L. Austin's concept, of both these *fateor*-governed statements is: 'the gods exist'.²¹¹ The same illocutionary act is behind the inscriptions of the Anatolian and South Arabian *corpora*. Confession as testimony to both the nature and existence of the divine, and particularly to their punishing powers, was a concept which stretched beyond these regions and Judeo-Christian cultures too. In the first citation, Juvenal is concluding his consolation to his friend Calvinus who has been the victim of default on a loan. His argument is that Calvinus will be glad to find the culprit punished by divine justice, and so will 'confess' that the gods *do* hear and see. The context of the Cicero citation likewise concerns divine justice, and behind it, as its confident tone suggests, lies the very real question of whether the gods exist and have an interest in mortal affairs. It is put, by Cicero,

²⁰⁷ cf. LXX Job 40.14: ὁμολογήσω ἄρα ὅτι δύναται ἡ δεξιὰ σου σῶσαι.

²⁰⁸ Juv. *Sat.* 13.247-9.

²⁰⁹ Cic. *Nat. D.* 2.12.

²¹⁰ It was also used for the 'confession' of faith/belief/trust (πιστις) not concerning the divine in Greek documents. For example, papyri use ἐξομολογέομαι of πιστις in the sense of confessing trust in authenticity of documents: Chr. Mitt. 247.11 (AD 86); P.Mil.Volg.1.25.32 (AD 127). *Confessio/confiteor* was also used of confessing faith/trust in Latin in non-religious contexts: Ps.-Quint. *Decl. Min.* 319.7.3: *fiduciam in hoc esse confessus sum*; Tac. *Hist.* 1.71.8: *fidei crimen confessus*. According to the Gnomon of Idios Logos, inheritances left in trust (κατὰ πίστιν) were confiscated, under Vespasian, unless they were confessed (ἐξωμολογησάμενοι), in which case half could be kept.

²¹¹ See (Smith and McClendon 1972) 55-6

into the mouth of Balbus, the dialogue's Stoic spokesperson and is the conclusion he comes to after citing the examples of augurs who identify religious errors, such as the one which prompted Tiberius Gracchus's confession. Confession of the divine justice type, as we shall see, was a tool for dealing with the sort of theodical anxiety so neatly on show in these examples, most explicitly in Juvenal.²¹² Hence confession of faith in the gods could be bound up with confession of having done wrong: the latter was tantamount to the former, and was the product of a theodically insecure world. In declaring transgressions and subsequent divine punishment the inscriptions from Anatolia and Arabia are ultimately statements of belief in the divine's existence and power. Many even sum up what they are doing as 'writing up the powers of the gods on a stele'.²¹³ This aspect of divine justice confession is made especially clear in Lucian's account of the queen Semiramis' wrongdoing against the Dea Syria. After the goddess inflicted a plague on her people in punishment for Semiramis having pretending to be divine, the queen erects a statue to propitiate the goddess which confesses that the Dea Syria, not she, is the goddess: θεὸν οὐκέτι ἑωυτὴν ἀλλ' ἐκείνην ὁμολογέουσα.²¹⁴ This was a confession of faith – using confession vocabulary – which served to externalise the otherwise dangerously unspoken 'belief' in the divinity of a god. Confession of faith and belief was not the preserve of Judeo-Christian tradition.

As in philosophy, *fateor* is employed in the Latin examples cited above as it would be for any concession of a fact or argument.²¹⁵ This should highlight that confession of belief for Christianity had a precedent which went beyond the judicial context of persecution;

²¹² The earliest example of confession as in 'statement made concerning the divine' may be found in the words of the Athenian stranger in Plato's *Laws* who describes how people 'say the gods exist by artifice, not by nature but by some laws/conventions, and are different in different places, according to the statements different peoples made (συνωμολγησαν) among themselves when laying down laws': Pl. *Leg.* 889e-890a.

²¹³ Petzl 3, 14, 33, 35, 37-9, 47, 55, 69.

²¹⁴ Lucian *Syr. D.* 39.

²¹⁵ Cf. Similarly, Lucretius on admitting (*fateri*) facts about the nature of the universe: p.53.

‘confession’ constituted the statement of an intellectual position. But this was a ‘religious’ statement too: in the *De Haruspicum Responsis* Cicero suggests that it would be impious *not* to confess that the gods were prophesying a destiny for the Romans: *quis ... tam impius qui hoc tam novo tantoque motu non magnum aliquid deos populo Romano praemonstrare et praecinere fateatur?*²¹⁶ To confess this about the gods would be a pious act. Confession in this sense of positive statement about divine power also seems to have been something which gave the gods delight. In the second eclogue of Calpurnius Siculus, the shepherd Idas declares that if any god might bring him his beloved Crocale, he will confess (*fatebor*) the god to be sole ruler of earth and stars.²¹⁷ He adds that he will consecrate a grove and say: *sub arbore numen hac erit; ite procul – sacer est locus – ite profani*. These are evidently all actions thought to be pleasing to the god. It is therefore significant that a positive ‘confession’ of the god’s unparalleled rulership should be included in these actions of praise. It recalls the words of Horace, encountered above, confessing (*fatentes*) Augustus’ unparalleled status as ruler.²¹⁸ It is worthy of note that the deities to whom confessions of wrongdoing were addressed were on the whole jealous ones. The increasing popularity of cults which put store in the supremacy of their god or goddess above others naturally resulted in a greater degree of vocalization about the powers of the divine. The history of belief is, by necessity, a story of *vocalised* belief.

**Wrongdoing, fault, error, character flaws, and that which reflects
negatively on the self.**

*fateor peccavisse et me culpam commertum scio*²¹⁹

²¹⁶ Cic. *Har. resp.* 20

²¹⁷ Calp. *Ecl.* 2.53: *hunc ego terris, / hunc ego sideribus solum regnare fatebor.*

²¹⁸ Hor. *Epist.* 2.1.17. cf. LXX 2 Mac. 7.37: καὶ σὲ μετὰ ἑτασμῶν καὶ μαστιγῶν ἐξομολογήσασθαι, διότι μόνος αὐτὸς Θεός ἐστιν.

²¹⁹ Plaut. *Aul.* 738

ἀδικεῖν ὁμολογῶ καὶ παραβαίνειν τὸν νόμον²²⁰

*non mihi, qui poenam fateor meruisse, sed illi parcite*²²¹

More familiarly, confession vocabulary was applied to a range of statements which reflected negatively on the speaker. Those statements could constitute admission to crime, offence against the divine, mistakes made inadvertently, being the cause of ill, character flaws, shortcomings, or negative facts, thoughts or emotions. Transitively, therefore, the verbs might govern a range of concepts such as ἁμαρτία, πλεμμελεια, ἀδικία, *crimen, facinus, scelus, error, peccatum, culpa* and *vitium*.²²² The verb also occurs intransitively in the sense of confessing wrongdoing: for example, ‘*ignosce fatenti*’, or variations thereon, was used from the Augustan period onwards, where that which was being confessed was not specified but pardon for the confessor was nevertheless being sought.²²³ There was a spectrum, therefore, ranging from the most serious confessions, such as that of Pontia the poisoner, who declared “*feci, confiteor, puerisque meis aconita paravi, quae deprensa patent, facinus tamen ipsa peregi*” to that of Cicero colloquially confessing in a letter to Metellus to having been eager for praise from him, which must have been a rather open secret.²²⁴ Such colloquial confession of this latter sort abounds, especially in Latin. Confession of personal failings was often met with praise: Celsus lauded Hippocrates for confessing that he was deceived by sutures on the skull, which saved subsequent physicians from error.²²⁵ This sort of confession was also considered a way of dealing with envy, whether divine or human. Plutarch, in his treatise on ‘On Inoffensive Self-

²²⁰ Alexis, *Athis* fr. 27

²²¹ Ov. *Trist.* 5.5.63-4

²²² Eg. πλεμμελεια: Isoc. 5.129 (ὁμολόγουν ἂν πλημμελεῖν); τὰς ἁμαρτίας: Plut. 2.168D.

²²³ Ov. *Am.* 3.9.35: *ignoscite fasso* (although the implied wrongdoing is saying there are no gods); *Pont.* 3.9.45: *confesso ignoscite*; Tib. 1.6.29: *ignosce fatenti*; Lucan *Bell. Civ.* 5.777: *ignosce fatenti*.

²²⁴ Juv. *Sat.* 6. 638-9; Cic. *Fam.* 5.2.2.5-6: *non in te sed magis in errorem meum et quod me abs te cupisse laudari aperte atque ingenue confitebar*.

²²⁵ Celsus *Med.* 8.4.4.4: *simplex ueri [erroris] confessio*

Praise' suggests that the confession of a negative character fault, such as poverty, difficulty or low-birth, alongside self-praise can nullify the envy of others.²²⁶

A development in lexical expression of confession occurred in the Augustan period with the particularly Ovidian use of *mereor* to avow that punishment for wrongdoing was deserved. *Mereor* occurred in the sense of deserving ill in Plautus, but it was Ovid who employed the term particularly profusely in the sense of deserving punishment.²²⁷ So many times when a character had transgressed, Ovid used *mereor*-confession to portray their miserable state, as well as tactic for negotiation. Writers of the first century AD continued to express confession in this way, albeit to a much lesser degree.²²⁸ *Mereor*-confession was ultimately a way of justifying the actions of the judge.

Importantly, these and other statements of wrongdoing are not straightforwardly tantamount to an assumption of responsibility or an externalisation of an interior emotion of guilt. The citation from Plautus above, for example, where the Athenian youth Lyconides states *fateor peccavisse et me culpam commertum scio* should not be taken to be an assumption of responsibility, because just prior to this he has said *deus impulsor mihi fuit, is me ad illam inlexit*; a god has been the cause. Most confessions in the Greco-Roman world were not self-inculpations in the sense of avowal of unqualified personal responsibility for wrongdoing. Chapter X will treat the development of self-inculpation in greater detail.

²²⁶ Plut. *Mor. De laude ipsius* 544A-B, *esp.*: πολλοὶ δὲ καὶ πενίας καὶ ἀπορίας καὶ νῆ Δία δυσγενείας ἐξομολόγησιν ἔστιν ὅτε τοῖς ἐγκωμίους παρεμβάλλοντες ἀμβλυτέρῳ τῷ φθόνῳ χρῶνται.

²²⁷ Ov. *Met.* 8.127, 492; *Fast.* 4.321; 6.193; *Trist.* 3.1.51; 5.5.63; *Pont.* 1.1.54; 2.2.19; 3.1.79. Also, *eg.* Plaut. *Mil. Glor.* 547.

²²⁸ Sen. *Med.* 462; *Stat. Theb.* 9.891.

Lightfoot raised the possibility that there might be a distinction in operation between the confession of sins and of sinfulness; the former, she posited, was more characteristic of confession in the Hellenistic cults, whereas confession in the Ancient Near East tended to concern general sinfulness.²²⁹ Whilst on the whole the confession of specific sins is more prominent in the evidence Greco-Roman period (which is at any rate more abundant, and from a broader socio-economic spectrum), there are too many exceptions to support the idea that there was a simple shift in confessional priorities: confessions of sinfulness can be found alongside sins in the Greco-Roman period. However, the distinction sins vs. sinfulness works at a general level between divine justice confession and autoscopic confession not in terms of what was confessed but in terms of overarching confessional catalyst. Divine justice confessions might either specify the sin or offer a general statement of sinful state, such as Ovid's Isis penitents, one of whom *numen violasse fatentem*, and the other *clamabat se meruisse*, or Aelian's attendant of the sacred servant who confesses his specific crime (εἰπὼν δὲ ὅσα εἶδε) and to general impiety (ὡς ἠσέβησεν), but the catalysts for divine anger were always specific infractions.²³⁰ Despite this, the remedy for it was a self-abasement which might include a declaration of general sinfulness.²³¹ Likewise, specific character failings or transgressions of ethical rules were the objects of confession in autoscopic confession, but conversely it was borne out of a sense that all individuals were flawed: what we might call a sense of general sinfulness. Such confession was therapy for the soul, but this was an ongoing process for an ongoing state of being. Therefore, in both types of confession there was no strict dichotomy between the confession of sins and of sinfulness; both were equally employed to produce the effect of self-abasement and self-improvement.

²²⁹ (Lightfoot 2003) 79

²³⁰ Ov. *Pont.* 1.51-4; Ael. *NA.* 11.17.

²³¹ The difference between 'sins' and 'sinfulness' is anyhow conceptually blurred: declaration of specific sins is compatible with cognizing a sinful state, and is 'peccavi' or 'feci' to be treated as one or the other?

Love

*acrius invitos multoque ferocius urget,
quam qui servitium ferre fatentur, Amor.
en ego, confiteor, tua sum nova praeda, Cupido;
porrigimus victas ad tua iura manus.
nil opus est bello: veniam pacemque rogamus;*²³²

The Augustan period witnessed an explosion in confessions of love. By this, we mean not confession as a modern label applied to that which to us satisfies our criteria for it, but confession as referred to in such terms by Greek and Roman poets themselves. The motif of *servitium amoris* has long been recognised to be a powerful innovation of the Augustan elegists, but the motif of *confessio amoris* has been overlooked.²³³ Its function was the same as that of *servitium amoris*, as well as of *militia amoris*: it served to disempower the lover-confessor and signal relationship disparity in which the poet was the inferior party. Confession's place in this tricolon crescendo of self-deprecation, which paradoxically empowers because it disempowers, has not been recognised by scholarship because confession's connotations in Roman society of the first century BC have not yet been fully explicated. It connoted servility, defeat in war, collapse under torture, and concession to mental compulsion by divine forces. Thus, the metaphor of confession worked within a larger metaphorical framework: because it was the product of torture and servitude, which Love offered aplenty, confession was apt. By virtue of these negative connotations, it could channel the power of the counter-cultural so forcefully that confession became yet another weapon in armoury of the lover-poet. The wider historical significance of this will be treated further below in the discussion on valences, but a brief survey of its history is first required.

²³² Ov. Am. 1.2.17-21

²³³ *Servitium amoris*: (Copley 1947). Counter-cultural subversion: (Hallett 1973).

Prior to the Augustan age, love was ‘confessed’, using confession vocabulary, only relatively infrequently in literature. Terence has the young Athenian Pamphilis confess his love for Glycerium, announcing to his father: *ego me amare hanc fateor. si id peccarest, fateor id quoque*.²³⁴ He immediately follows this with language of surrender: *tibi, pater, me dedo*. A precedent for confession of love is found in a fragment of Menander, with which Terence may well have been familiar: ἤρων γάρ, ἤρων, ὁμολογῶ. καὶ νῦν δ' ἐρῶ.²³⁵ An ostrakon dating to around the second to first century BC carries lines of a mime in which a drunkard declares ὁμολογῶ φιλεῖν, ἐρᾶν amidst a wider confession that the gods of wine and love have set his heart aflame.²³⁶ But such confession is hard to find in Hellenistic elegy: a poem ascribed to Asklepiades uses ὁμολογῶ but only in the sense of a lover agreeing to come at night to make love.²³⁷ Catullus likewise does not employ the language or motif of confession as we find it in the next generation of elegists. We find him confessing (*confiteor*) that Quintia is radiant, tall and upright, but this is partial concession to the view of the many who think she is beautiful, not a confession of love.²³⁸ A Pompeian poet, Tiburtinus, of Cicero’s time, is the first we know about who employs the rhetoric of ‘*da veniam*’, which Ovid later employed for many a confessing character.²³⁹ A few of his lines are preserved on the wall between the stage and the proscenium of the Small Theatre: *sei quid amor veleiat nostei, sei te hominem scis / commiseresce mei, da veniam, ut veniam / flos Veneris mihi de [...]*.²⁴⁰ Although Tiburtinus does not explicitly confess, he seeks forgiveness, presumably from his lover.

²³⁴ Ter. An. 898

²³⁵ Men. Fr. 859

²³⁶ Loeb vol. 74, Anonymous, 332; (Reinach, Ricci, and Spiegelberg 1905); (Powell 1925) 181.

²³⁷ *Anthologia Palatina* 5.150

²³⁸ Catull. 86

²³⁹ Eg. Ov. Her. 4.156; *ibid.* 19.4

²⁴⁰ CIL IV.497 = CIL I.2540c

The Augustan poets, however, confess as never before. We often find the lover himself fashioned as a confessor. Tibullus confesses to Delia's husband that he did not injure him on purpose, but was compelled by the god Love, against whom it is impossible to fight; it was he that his dog was barking at: *non ego te laesi prudens: ignosce fatenti: / iussit Amor. contra quis ferat arma deos? / ille ego sum, nec me iam dicere vera pudebit, / latrabat tota cui tua nocte canis.*²⁴¹ Confession of wrongdoing is what the lover is easily driven to: Propertius claims that the lover pleads at once when scorned and confesses to have done wrong when injured: *contemptus rogat et peccasse fatetur laesus.*²⁴² The lover might even find confession therapeutic, rare evidence that confession was ever considered cathartic in the Greco-Roman world: *quare, si pudor est, quam primum errata fatere: / dicere quo pereas saepe in amore levat.*²⁴³

Tibullus also uses *fateor* to convey confession of the sorrow caused by love, or the repentance at neglect of the lover.²⁴⁴ For Propertius it is used of confession of Cynthia's deceit towards him, or simply for an interjection that he is confessing the truth in the course of describing his being shipwrecked in a veritable Aegean sea of passion.²⁴⁵ But it is Ovid, once again, who contributes the most evidence. In the *Amores* citation above, he employs the imagery of servitude and defeat in war in confessing that he is Cupid's plunder.²⁴⁶ The deity Amor is often invoked as the compulsive force behind confession.²⁴⁷ In the *Metamorphoses*, for example, love is the compelling force in Byblis' confession of love: *poterisne loqui? poterisne fateri? /*

²⁴¹ Tib. 1.6.29-32

²⁴² Prop. 2.25.19-20.

²⁴³ Prop. 1.9.33

²⁴⁴ Tib. 3.2.7: *nec mihi vera loqui pudor est vitaeque fateri / tot mala perpessae, taedia nata meae*; Tib. 3.18.4: *si quicquam tota commisi stulta iuventa, cuius me fatear paenituisse magis*. Ovid has Vulcan 'confess' his regret at his affair: *Ars am.* 2.591.

²⁴⁵ Prop. 3.26A.3; 3.24.12.

²⁴⁶ *Ov. Am.* 1.2.17-21

²⁴⁷ *Ov. Am.* 1.2.17-21; *Ov. Met.* 9.514-6; 561 (*miserere fatentis amorem, / et non fassurae, nisi cogeret ultimus ardour*); Tib. 1.6.29-32.

*coget amor, potero! vel, si pudor ora tenebit, / littera celatos arcana fatebitur ignes.*²⁴⁸

Eventually, she writes down her declaration of love on tablets which is, interestingly, still described by Ovid as an act of ‘confession’: *superata fateri / cogor, opemque tuam timidis exposcere votis.*²⁴⁹ Confession of love, for Ovid, was not always a speech act, as the eyes could sometimes do the talking: *oculos oculis spectare fatentibus ignem.*²⁵⁰ And Canace in the *Heroides* explains that she confessed through body language to the suggestion that she was in love: *erubui, gremioque pudor deiecit ocellos; / haec satis in tacita signa fatentis erant.*²⁵¹ Other times, Ovidian confession could indeed be verbal, such as when he threatens to turn informer and confess his love with Cypassis, Corinna’s maid, to Corinna.²⁵²

Many characters in the *Metamorphoses* and the *Heroides* ‘confess’ their love. Myrrha tries several times to confess her love to her nurse in vain: *pectora nutricis conataque saepe fateri.*²⁵³ Iphis, too, madly in love with Anaxarete, overcomes his hesitation and goes to her door: *nutrici miserum confessus amorem.*²⁵⁴ In the *Heroides*, Phaedra begs Hippolytus to forgive her confession of love (again, written in a letter): *da veniam fassae duraque corda doma!*²⁵⁵ Having declared that he was on fire from love, Paris asks Helen: *parce, precor, fasso.*²⁵⁶ Hero’s statement to Leander that she cannot be patient for love is similarly preceded with *da veniam fassae.*²⁵⁷ Acontius tells Cydippe: *si noceo, quod amo, fateor, sine fine nocebo.*²⁵⁸ Even the

²⁴⁸ Ov. *Met.* 9.514-6.

²⁴⁹ Ov. *Met.* 9.545-6

²⁵⁰ Ov. *Ars am.* 1.573. cf. Prop. 2.32.6: *facti lumina crimen habent*

²⁵¹ Ov. *Her.* 11.36

²⁵² Ov. *Am.* 2.8.25: *index anteacta fatebor*

²⁵³ Ov. *Met.* 10.420

²⁵⁴ Ov. *Met.* 14.703. Further examples: *Met.* 2.836; 8.53; 12.407; 14.353.

²⁵⁵ Ov. *Her.* 4.156

²⁵⁶ Ov. *Her.* 16.11

²⁵⁷ Ov. *Her.* 19.4

²⁵⁸ Ov. *Her.* 20.35

divine ‘confess’ in Ovid: Fortuna her loves, and Vulcan his regret at his affair.²⁵⁹ Interestingly, it is in the *Heroides* where Ovid reveals his understanding that Callimachus and Catullus were, in their verses, ‘confessing’ their loves.²⁶⁰ However, those earlier poets themselves did not self-identify as confessors; this seems to be an Ovidian retrojection of a particularly Augustan interest in confession.²⁶¹

Identity and status

καὶ ὠμολόγησεν καὶ οὐκ ἠρνήσατο, καὶ ὠμολόγησεν ὅτι Ἐγὼ οὐκ εἰμι ὁ Χριστός.²⁶²

This is the record of John (the Baptist), whose confession ‘not to be Christ’ is jarring to a modern ear. In what sense is ‘I am not Christ’ a confession, when John has never pretended to be? This is explained by the fact that ὠμολογέω and other confession words were used to express statements of identity and status. Lucian’s queen Semiramis, having angered the Dea Syria for making her subjects worship her as a goddess, likewise confessed that she was mortal: θνητὴν ἐωυτὴν ὠμολόγηεν.²⁶³ The statue she erected in propitiation, we are told, served to ‘confess’ that the Dea Syria, and not she, was the god: θεὸν οὐκέτι ἐωυτὴν ἀλλ’ ἐκείνην ὠμολογέουσα.²⁶⁴ Confession was a means of performing status, and so was particularly important for those whose status might otherwise be thought to rival the divine. In the early period of the South Arabian inscriptions the dedicators often were kings, and the evidence for Hittite and Babylonian confession comes from royal contexts.²⁶⁵ This is one reason why we should avoid assuming that Hittite confession was a feature of religion across all social strata,

²⁵⁹ Ov. *Ars am.* 2.591 (Vulcan); Ov. *Fast.* 6.573 (Fortuna): *dea furtivos profitetur amores. Profiteor* may be used here instead of *confiteor* because, being a goddess, she was not under compulsion, although Ovid uses the same verb of love in the *Amores* for declarations of love: Ov. *Am.* 1.7.33; 2.18.19; 2.639.

²⁶⁰ Ov. *Her.* 2.368: *delicias versu fassus es ipse tuas* (Callimachus); *Her.* 2.430: *Multos vulgavit amores / in quibus ipse suum fassus adulterium est* (Catullus).

²⁶¹ Cf. Livy 1.58.3.3, describing Tarquin confessing his passion.

²⁶² John 1.20.

²⁶³ Lucian *Syr. D.* 39.

²⁶⁴ *Ibid.*

²⁶⁵ See (Pettazzoni 1936); (Pettazzoni 1929) vol.2 (Babylon); vol.3 (Hittites).

and thus a long-standing element of local piety made manifest in the anatolian *stelai*; kings had particular need to humble themselves before the gods.

The average mortal in the Greco-Roman world did not, it seems, bother to confess lack of divinity, but revelation of status and identity in general was performed through confession terminology. We might recall that the earliest use of ἐξαγορεύω occurred in the Odyssey, when each wife and daughter of famous men in the underworld declares her stock to a questioning Odysseus: ἐκάστη ὄν γόνον ἐξαγόρευεν.²⁶⁶ In Philostratus, a demon speaking through a boy whom it had possessed ‘confessed’ (ἐξηγόρευσεν) who he was; the ghost of a man who had died in war.²⁶⁷ After Commodus became initiated into the Eleusinian mysteries an inscription records him ‘confessing’ to be a Eumolpid.²⁶⁸ Confessional vocabulary was also used for the confession of identity and status in Latin. Martial confessed his poverty and rank in an exposition of his status: *sum, fateor, semperque fui, Callistrate, pauper, sed non obscurus nec male notus eques*.²⁶⁹ In response to a taunt that he came from a municipal town, Cicero confesses (*fateor*).²⁷⁰ Furthermore, the Digest and the Codex are replete with examples of those who ‘confess’ to be heirs, relations, slaves and freedmen in various legal contexts.²⁷¹ Foucault argued for Christian confession that *les rites d’exomologèse assurent la rupture d’identité*, yet for Greco-Roman confession, at least, it was quite the opposite: confession in all its forms constructed identity.²⁷² Uniting all the usages of confession vocabulary we find a common purpose of status-affirmation, usually of an inferior identity. It was thereby a tool in mediating disparity; confession’s negative valence constituted the very source of its power.

²⁶⁶ Od. 11.234.

²⁶⁷ Philostr. VA 3.38

²⁶⁸ I.Eleusis 513 ll.10-11: ἐξ ἐκείνου δίκαιος \ ἄν εἶην ὁμολογῶν καὶ τὸ \ Εὐμολπίδης εἶναι.

²⁶⁹ Mart. Ep. 5.13.1-2

²⁷⁰ Cic. Sull. 22

²⁷¹ Eg. Dig. 1.5.27: *libertinum esse fatetur*; cf. Sen. Suas. 5.2.4: *confessio servitutis*.

²⁷² (Foucault and Gros 2018) 105

Valences

Shame, servility, insanity, defeat and humiliation

*non peccat, quaecumque potest peccasse negare, / solaque famosam culpa professa facit.*²⁷³

*nihil erit peius quam confessio.*²⁷⁴

*turpis enim est et periculosa confessio.*²⁷⁵

In *Roman Honor*, the most systematic study of Roman confession to date, Carlin Barton makes the case for confession's overwhelmingly negative connotations. Her generalised portrait suggests it went against the grain of what it meant to be Roman: "the Romans did not confess defeat in war... Nor did Romans of the Republic confess in criminal trials... The Romans did not confess because they did not want to live at the whim and will, at the mercy of another".²⁷⁶ It is true that much evidence goes to show the negative valence of confession in the Greco-Roman world. It connoted defeat in war, and defeat in general.²⁷⁷ The association of confession with shame is made explicit by the way a number of authors speak. We might find the interjection 'shameful to confess!', or conversely, the insistence that it does *not* shame someone

²⁷³ Ov. *Am.* 3.14.5-6.

²⁷⁴ Quint. *Inst.* 5.13.8

²⁷⁵ Cic. *Verr.* 2.3.71.165

²⁷⁶ (Barton 2001) 137, 138, 146.

²⁷⁷ Ov. *Met.* 5. 214-222: Phineas confessing defeat to Perseus; Livy. 3.28.10: Aequi being made to go under yoke so that they confessed; Livy 36.27.6.2: L. Valerius Flaccus tells Aetolians their only hope of safety is confessing *culpa*; Livy 37.1.2-3: senate questioning Aetolians in order to press confession: *confessionem magis noxae quam responsa experimentum*. Romans as not confessing: Livy 9.4.3: *quoniam ne victi quidem ac capti fortunam fateri scirent, inermes cum singulis vestimentis sub iugum missurum*. Seneca admiring the Spartan ban from any sports where they would have to confess defeat: Sen. *Ben.* 5.3.1.

to confess (suggesting a natural assumption might be otherwise).²⁷⁸ It could also be an act of madness.²⁷⁹ Particular association was made with servility, probably because slaves were more exposed to power disparity where confession was beneficial, and more often accused and put to torture.²⁸⁰ Barton's exposition of these negative valences of confession is deeply important, but it offers a potentially misleading story.²⁸¹

The contexts of many of her citations need consideration. Cicero may well call confession *turpis* but it suits his purpose at that moment; it is a clever rhetorical trick to explain away his opponent's lack of confession.²⁸² It is clearly not what he thinks at other times, nor does it stop him employing confession at times when it did suit him.²⁸³ Likewise, Quintilian might say there was nothing worse than confession, but he means in terms of strategy for persuasive defence in the course of a defence argument already begun. Elsewhere, he will advocate confession, and Cicero even suggests *deprecatio*, of which confession was a part, was performed 'often' in the senate and in *consilia*.²⁸⁴ Likewise, the citation that *non est confessio nisi cum accusator eruit, negat rea, tortor expressit* cannot be taken to represent 'the' Roman

²⁷⁸ Eg. Shame: Ov. *Trist.* 3.14(15).45: *turpe fatere!*; Ov. *Trist.* 5.7.57: *En pudet et fateor!*; Ov. *Met.* 9.514: *si pudor ora tenebit*; Ov. *Ars Am.* 2.556: *fassus ab ore pudor*; Ov. *Her.* 11.33; Ov. *Her.* 21.241; Stat. *Achil.* 1.635: *factum aut dictum turpe*; Cic. *Phil.* 2.61.3: *quam miserum est id negare non posse quod sit turpissimum confiteri!*; Joseph. *Ap.* 2.246; Heliod. *Aeth.* 2.25.2: Αἰσχύνομαι λέγειν ἀλλ' εἰρήσεται. No shame: Ach. *Tat.* 5.26.3: ἀλλ' οὐκ αἰσχύνομαι τὰ τοῦ Ἐρωτος ἐξαγορεύουσα μυστήρια; Lucian *Nigr.* 14: ὅτι δ' οὐκ αἰσχύνονται πενίαν ὁμολογοῦντες; Lib. *Or.* 22.1: τοῦθ' ὁμολογοῦντες οὐκ αἰσχύνονται; Ps. Cic. *Sall.* 16: *non puduerit palam nobis audientibus adulterium confiteri* (assumption that confessing adultery is shameful); Cic. *Pro Tullio* 40: *domini impudentissime confiteantur*; Cic. *Arch.* 12-3.

²⁷⁹ Eg. Ov. *Am.* 3.14.7-8: *quis furor est, quae nocte latent, in luce fateri / et quae clam facias facta referre palam?*; *Am.* 2.4.4 - *in mea nunc demens crimina fassus eo*; Ps. Quint. *Decl. Min.* 314.7.1: *immo ea natura est omnis confessionis ut possit videri demens qui de se confitetur.*

²⁸⁰ Eg. Quint. *Inst.* 4.2.69.4-5: *cum etiam serui nostri de peccatis suis mollius loquantur*; Val. Max. 5.2.5; Sen. *Suas.* 5.2.4: *confessio servitutis*; Ov. *Am.* 1.2.18: *qui servitium ferre fatentur*; Sen. *Controv.* 3.9.1.3: *plura servi crimina confitemur.* Although Barton quotes many citations involving the confessions of slaves the point that there was especial connection between servility and confession is not emphasised.

²⁸¹ Barton implicitly suggests confession could have positive valences by describing strategic confession, but her account leaves the overall impression that it was considered 'un-Roman': (Barton 2001) 152-8.

²⁸² Cic. *Verr.* 2.3.71.165. Likewise, he is making a hostile point when he says *O patrem Cornelium sapientem qui, quod praemi solet esse in indicio, reliquerit, quod turpitudinis in confessione, id per accusationem filii susceperit!*: Cic. *Sull.* 51.

²⁸³ Eg. Cic. *Rab.* 5.

²⁸⁴ Quint. *Inst.* 7.4.18: *in senatu vero et apud populum et apud principem et ubicumque iuris clementia est habet locum deprecatio*; *Ibid.* 4.2.69.4-5; Cic. *De Inv.* II. 105.

opinion; these are the words of a son trying to save his mother's life, arguing that her confession to sacrilege should not be interpreted as such.²⁸⁵ Therefore, there is the equally important flip-side of confession to consider; in certain circumstances, it was useful, and even considered noble.²⁸⁶ Romans who confessed and self-abased were praised: Valerius Maximus extolls Q. Terrentius Culleo for confessing his having been taken as prisoner by Carthaginians and then freed, and Cicero's Balbus, as we saw at the beginning of this chapter, praises the consul Tiberius Gracchus for confessing his unwitting religious infraction.²⁸⁷ We are not talking about Roman values vs. non-Roman values, but different value sets within the same society and sometimes even within the same person according to the exigencies of different circumstances. For example, when it came to the practice of donning the *sordida vesta* and asking for mercy when accused on a capital charge, Cicero had one response, the Claudii had another.²⁸⁸ Situational ethics could govern the appropriateness or otherwise of confession.²⁸⁹ The case that it was indeed a 'Roman' thing to do is won by the parade of Romans who we know confessed.²⁹⁰

The counter-cultural

If we take dominant Roman cultural values to be not yielding, not surrendering, not being servile, not pleading and not being so shameless as to verbally declare culpability (silence in the face of accusation is a different matter), which we have grounds to do, then confession was

²⁸⁵ Sen. *Controv.* 8.1

²⁸⁶ Barton acknowledges 'strategic confession' but this does not seem to change her line that it was un-Roman, going only so far as to say "confession, then, could be a way of entrusting, of honoring others, of voluntarily admitting them into one's secret or protected sphere": (Barton 2001) 154.

²⁸⁷ Val. Max. 5.2.5; Cic. *Nat. D.* 2.11.

²⁸⁸ Suet. *Tib.* 2.4: *ne capitis quidem quisquam reus apud populum mutare vestem aut deprecari sustinuerat.*

²⁸⁹ See (Langlands 2011) for situation ethics as a prominent feature of Roman *mentalité*.

²⁹⁰ Eg. Q. Sosius, *splendidus eques Romanus ex agro Piceno*, to setting fire to the record office (*fecisse confessus est*): Cic. *Nat. D.* 3.30 (74); or Lucan (*facile enim confessus*): Suet. *Vita Luc.* end.

a counter-cultural act.²⁹¹ This is precisely why it could be so powerful. Christianity, philosophy and Roman elegy turned weakness into strength, poverty into wealth and yielding into conquering. It is no accident that these were the main confessional contexts of the Greco-Roman world. The counter-cultural capital of confession was mined by philosophy, religion and Roman elegy. On the micro scale, confession's very efficacy lay in its shaming effect: the reason why it could work to appease (either god or human) is because of its debilitating effect on the confessor. This is essentially the same principle of *homologesis* as encountered above in Aristotle. Like Plutarch suggesting confession can nullify the envy of others, Quintilian advises partial confessions even in trials because it can mitigate the hatred caused by the opponent's accusation: *in his quoque confessionibus est aliquid quo invidia quam expositio aduersarii fecit detrahi possit, cum etiam serui nostri de peccatis suis mollius loquantur.*²⁹² Confession was a means by which one could self-servilify. Barton points out that Cicero's donning of *sordida vesta* met with derision, but that was the very purpose of the self-abasement. In that, there was strength, and hope of salvation.

Truth and honesty

*si tamen in media deprensa tenebere culpa,
et fuerint oculis probra videnda meis,
quae bene visa mihi fuerint, bene visa negato!
concedent verbis lumina nostra tuis.
. . . sit modo "non feci" dicere lingua memor.*²⁹³

Barton employs this citation among a number of others to illustrate the point that the Romans did not confess, but a wealth of evidence suggests that, on the contrary, such denial was

²⁹¹ By dominant cultural values, we mean values espoused as ideals by those most vocally engaged in discourse about values.

²⁹² Quint. *Inst.* 4.2.69.4-5

²⁹³ Ov. *Am.* 3.14.43-46, 48.

considered wrong. Anxiety around the concealment of crime is palpable: Juvenal, consoling Calvinus who has had 10'000 defrauded, imagines his wrongdoer denying the crime at first, although eventually his guilty conscience brings him to confess.²⁹⁴ Horace likewise pours scorn on the seemingly good man who sacrifices to Apollo in the forum but who under his breath prays to Laverna, the goddess of thieves, to conceal his *peccata et fraudes*.²⁹⁵ Just as denial had negative connotations, so, conversely, voluntary confession – as long as it did not follow a period of denial – could have positive connotations, and we occasionally find it taking ‘truth’ as an object in a way which signals it was seen as a positive act.²⁹⁶

In summary, confession was far from alien to the Greco-Roman world. Its utility was broad and its semantic range went beyond the merely negative. At the level of concept and discourse, it was employed in a variety of ways, yet was still unified by the sense of revelation of something undisclosed. Even in the act of confessing receipt of thanks, as conveyed by ἐξομολογέομαι, importance lay in the performative force of speech over silence, and in *confessing* rather than *saying*. Against the backdrop of the concepts and cognitive worlds outlined in this chapter, we can now bring into focus a typology of confession performed in religious and spiritual contexts.

²⁹⁴ Juv. *Sat.* 13

²⁹⁵ Hor. *Ep.* 1.16.57ff.

²⁹⁶ App. Verg. *Ciris* 55: *nam verum fateamur: amat Polyhymnia verum*; Sen. *Ep.* 108.12.1: *ad confessionem veritatis adducimur*; Val. Max. 5.1.3.9: *simplex veritatis confessio*; Gell. *NA* 1.6.6.2: *confessus eaque confessione fidem sedulitatis veritatisque commeritus*. See also examples and discussion in (Barton 2001) 152ff.

Chapter two: A typology of confessional practice

Having surveyed the varieties of concepts behind, and the semantic range of, confession-vocabulary, we now turn to practice. Whereas the previous chapter exposed the forms of confession conceived by Greco-Roman minds, this chapter attempts to construct an organisation framework for the evidence for confessional performance. Two principal types of confession can be identified in the Greco-Roman world: divine justice confession and autoscopic confession.¹ A third sort of confession can also be distinguished which might be called magical confession, whereby the speech act constituting the avowal of religious wrongdoings was thought to physically transfer the wrongdoings and associated impurity from the person speaking (or from the collective on whose behalf they were confessing) onto something else. This sort of confession was that which was commanded in Leviticus to be performed by Aaron over the head of the scapegoat on behalf of Israel, and performed thereafter annually.² The sins were thought, by the act of confession, to be transferred to the goat, whose sending into the wilderness ensured the removal of sins from Israel.³ The evidence for this type of confession in the Greco-Roman world, however, is scant; with the possible exception of an Anatolian confession inscription, the example of the scapegoat ritual at Yom Kippur is the only one that exists.⁴ For this reason, we shall focus here on two main types.

¹ The term ‘autoscopic’ has been used to avoid unwanted implications of terms such as self-improvement, or self-revelation. Unlike ‘divine justice’ confession where the context-descriptor suffices over the period, the adjective ‘philosophical’ would be appropriate for the early form, but misleading when it is identified in, *eg.*, Qumran or early Christianity (and would imply an false dichotomy between philosophy and religion). Autoscopic can assume the meaning conveyed by this discussion, whilst also capturing the self-examinatory, inward-looking concept at its centre.

² Lev. 16:21-22.

³ Lev. 16:21.

⁴ Petzl 5

Type 1: Divine Justice Confession

Form and Function

*talia caelestes fieri praeconia gaudent,
ut sua quid valeant numina teste probent.
saepe levant poenas ereptaque lumina reddunt,
cum bene peccati paenituisse vident.*⁵

ἐξειλασάμενοι τοὺς θεοὺς, καὶ ἀπὸ νοῖν εὐλογοῦμεν στηλλογραφήσαντες τὰς δυνάμεις τῶν θεῶν.⁶

*Fatetur aliquis se peccasse et sui delicti veniam petit.*⁷

Divine justice confession is the sort which is found in the inscriptions from Anatolia and South Arabia, in examples of confession pertaining to Isis, Cybele and the Dea Syria, in curse tablets from Mainz and Cnidus, in Epidaurean healing inscriptions, and in ‘Roman’ religious contexts reflected in literary texts. It constituted the verbal avowal of transgression against the divine in a context where divine punishment was considered either already exacted, or owing. The divine was conceptualised as a judge who could be appeased and persuaded to be merciful, whether through ceasing to be angry and thus ceasing the infliction of punishment, which often took the form of physical malady, or by nullifying the debt of the punishment owed. Its ultimate function was thus divine appeasement, but to achieve this it had to serve the interim and necessary function of abasing the transgressor and manifesting divine power. The core verbal act which served to manifest divine powers was not invariably the enunciation of transgressions, that is ‘confession of wrongdoing’, but it could consist of a declaration of the greatness of the deity together with a statement of having been punished. For example, a number of *stelai* of the Anatolian corpus have only a declaration of having been punished,

⁵ Ov. *Pont.* I.55-8.

⁶ Petzl 69 ll.31-4.

⁷ Cic. *Mur.* 62

without elucidating the wrongdoing.⁸ Many are explicit about their purpose: στηλλογράφειν τὰς δυνάμεις τῶν θεῶν.⁹ We therefore come up against two potential concepts of ‘confession’: one the hermeneutic category of verbal ‘confession of wrongdoing’ which makes sense to the modern inquirer and is familiar as an independent phenomenon, the other being a broader category, of which verbally confessing wrongdoing was a sub-genre, which could be summarised as ‘testifying to divine power through the manifestation of wrongdoing and punishment’. In one sense, the act of erecting the stele as a token of having been divinely punished was as much a confessional statement as the specific declaration of wrongdoing in the text. To focus solely on the sub-genre and thereby become blind to the wider *genus*, it may be argued, is a distorting consequence of historical inquiry, whereby modern criteria for a phenomenon amputates an arbitrary limb from a once articulated whole.

Through this wide-angle lens, with confession defined as ‘the manifestation of the power of the gods through a narrative of wrongdoing and divine punishment’, divine justice confession appears in unfamiliar guises. Classical Athenian drama can be seen as ‘confession’ in this way: the plays of the great dramatists offered paradigmatic narratives of human ἀμαρτία and divine punishment, manifesting the power of the gods in the context of a religious festival. If tragedies are put side by side with the Anatolian (and South Arabian) confession *stelai*, their substance appears the same: both constitute accounts of human error and divine power and punishment, testifying to the divine. They have never previously been assimilated because of the apparent difference we *infer* from the respective documents: scholars have been content infer guilt in the individuals behind the confession *stelai*, but Oedipus, for example, tends not to be thought to confess culpability, even though he gouges out his own eyes. We are misled by the weight

⁸ Petzl 41, 42, 75, 83-91, 94, 96, NRT 77, 82, (Malay 1999) no.217.

⁹ Petzl 3, 14, 33, 35, 37, 38, 39, 47, 55, 69.

we give to a speech act revealing an inner state of mind over a non-verbal act or silence. Whereas drama has the advantage of being able to physically portray the narrative, such as Oedipus being shown to kill his father, the direct confessions of wrongdoing in the *stelai* are necessary for the narration of the story of divine power – including wrongdoing and punishment - to be articulated. The difference, then, was at least partly a matter of rhetorical necessity. Although we might identify a divine justice confession in Cadmus' statement to Dionysus in Euripides' *Bacchae* - Διόνυσε, λισσόμεσθά σ', ἠδικήκαμεν - there is indeed a crucially important difference in the greater preponderance of *verbal* confessional statements of wrongdoing in the *stelai* compared with tragedy, but this can be said to be the result of a difference in *how* individuals went about manifesting divine power through narratives of wrongdoing, not in what they were trying to achieve, nor even in divergent psychologies.¹⁰

This difference essentially reflects a diachronic trend. Evidence for *verbal* divine justice confession of wrongdoing increases over time: nothing survives for the classical Athens of the tragedians beyond Cadmus' confession to Dionysus, it exists scantily for the Hellenistic age, but then most examples, including the *stelai*, belong to the Roman Empire from the Augustan age onwards. Divine justice confession had a significant pre-history in the Ancient Near East and New Dynasty Egypt. This was also true of Ancient South Arabia, where the epigraphic practice of writing up divine justice confessions on stele and tablets continued into the period of the High Empire.¹¹ In the Hellenistic era, evidence for divine justice confessions survives in epigraphic form: two inscriptions from Epidaurus constitute confessions, and curse tablets from the sanctuary of Demeter at Cnidus invoke the goddess to bring culprits to justice and make them confess. A relative explosion of literary and epigraphic evidence then occurs in the

¹⁰ Eur. *Bacch.* 1344.

¹¹ See Descriptive Catalogue p.309ff.

Roman period, mostly in contexts associated with Isis, Cybele and the Dea Syria, but not exclusively so. As we have seen, Statius, believing himself punished, begged the Muses to let him know his transgressions so that he could confess them, and Encolpius confesses to Priapus in the *Satyricon*.

On the one hand, these confessions were calculated to move the divine to mercy and mitigate divine wrath, as is reflected explicitly in literary and epigraphic evidence. However, in the case of curse tablets seeking confession from the culprit, it is clear that confession was not held to serve a primarily expiatory, or reconciliatory, function: the victim writing the curse tablet wanted the culprit not only to identify themselves, but also for them to suffer and be humiliated. It signalled an acceptance of inferiority. Whilst it might gratify a victim, the self-abasing effect of confession also served to benefit the culprit because it could mitigate divine anger in the same way that Aristotle argued *homologesis* assuaged human anger. A number of inscriptions explicitly refer to the aim of mitigating divine anger: in Petzl 21 Ammia ἐθυμολύτησε κὲ ἐστηλογράφησε, and in ND 41 Tiberios Claudios Traianos Stratoneikianos ἐθυμολύτησεν, ἐστηλογράφησεν. The mitigating power of confession continued to be conceptually important when it came to appeasing the Christian god.¹²

Attributes

Divine coercion: demons, dreams and disease

¹² Tert. *De Paen.* 9: *sed quatenus satisfactio confessione disponitur, confessione paenitentia nascitur, paenitentia deus mitigatur*

*Confessio conscientiae vox est. Confessio coacti et quae fecit agnoscentis verbum est. Omnium vox erat: "sacrilegus latere non poterit; quisquis est, non ipse bonum exitum faciet, non quisquam suorum; etsi nemo fuerit accusator, ipse narrabit."*¹³

*... tua sacra et maior imago
humana turbat pavidum cogitque fateri.
hi sunt qui...
praeterea lateris vigili cum febre dolorem
si coepere pati, missum ad sua corpora morbum
infesto credunt a numine: saxa deorum
haec et tela putant.*¹⁴

A common characteristic of divine justice confessions is that they were considered coerced, whether by a god or *daimon*, by punishment as psychological and/or physical torment, or by divine command through oracle or dream.¹⁵ As such, there was on the whole no default routine ritual of this sort of confession; it was an *ad hoc* response to a particular set of circumstances. From the time of Augustus onwards in particular, we find the idea of the culprit of a crime being divinely driven to confess. This is clear in Seneca the Elder in the above citation: a prosecutor quotes ‘everyone’ as saying that the person who commits *sacrilegium* will not be able to stay hidden and he and his family will come to a bad end; even if no one accuses him, he himself will tell all (*ipse narrabit*).¹⁶ This was because confession was the word of someone compelled (*coacti*). The defendant of the trial, he points out, likewise came forth ‘as if the gods were harrying her’ declaring ‘I did it’.¹⁷ Therefore, he urges them to exact punishment from a woman whom the gods had long since begun to punish.¹⁸ Similarly, the culprit who defrauded Calvinus’ of 10’000 sesterces, and who perjured himself too, is likewise imagined by Juvenal to be tormented by his conscience, unable to eat or drink even the finest wine. Upon finally

¹³ Sen. *Controv.* 8.1.

¹⁴ Juv. *Sat.* 13.221-32.

¹⁵ The appreciation of the externally-instigated nature of confession has an impact on the interpretation of ἐξαγορευτής in Ptolemy’s *Tetrabiblos* 158, which was translated by Liddell and Scott as ‘one who confesses his sins’; Roberts thought this “hardly suits the context” because it was employed in a deprecatory sense, so saw it as ‘reveal a mystery’.¹⁵ But its deprecatory nature makes sense if we appreciate how it was conceptualised as something done under compulsion, and something with a sometimes negative valence.

¹⁶ Sen. *Controv.* 8.1.

¹⁷ *Concita processit, velut diis ipsis persequentibus; "feci" inquit.*

¹⁸ Sen. *Controv.* 8.1, end.

falling asleep, he sees images of the offended deity's temple and altar, and then of Calvinus himself, larger than life, which is the ultimate catalyst for his confession.¹⁹ 'These people', Juvenal stereotypes, are those who consider thunder and lightning a divine judgement on the earth, and if they suffer a pain in the side or a fever in their sleep they believe the sickness to have been inflicted upon them by the offended power (*numen*).²⁰ Such were, in their eyes, the stones and weapons of the gods.²¹ According to Dionysius of Halicarnassus writing on the early Republic, the Tarquin brothers, driven by divine torment to confess their conspiracy (ὕπὸ θείας ἀνάγκης βιάζόμενοι) to the consul, underwent a similar process: frightful visions haunted them in their dreams whenever they slept, threatening them with punishments; they thought δαίμονες pursued them, and imagined their eyes gouged out among other torments; consequently they would wake with fear and became unable to sleep.²² Eventually, divination and a soothsayer forecast a shameful end unless they desisted, so they revealed their plot to the consul.

So far with each of these three examples, the divine was considered the compelling force, but the confession itself is conceived of as taking place before a terrestrial legal authority.²³ At first, we might think this discounts them from eligibility for the divine justice category, because the confession was not performed to, or before, a deity. But in fact there are grounds for seeing these examples as belonging to the same type of confession as other instances which show the culprit being compelled, usually through divinely-inflicted illness, to confess before the divine at a sanctuary or an altar or a public place. What determined the location of the confession as a sanctuary or before an altar was the nature of the crime and its circumstances. The curse tablets of the sanctuary of Demeter at Cnidus in the late Hellenistic period, and a tablet from Mainz

¹⁹ Juv. *Sat.* 13.211-22

²⁰ Juv. *Sat.* 13.224-32

²¹ Juv. *Sat.* 13.232-3

²² Dion. Hal. *Ant. Rom.* V. 54. 2-3

²³ Though unspecified for Calvinus' wrongdoer it would have likely occurred in a civil law forum for redress of *dolus malus* and *fraus*.

roughly contemporary with Juvenal, reveal a world where curses would bring down divine wrath and force culprits to go to the sanctuary to confess. Such a system of divine justice is also behind the confession *stelai* of Anatolia. In these contexts, the resolution of the victims' grievances had to take place at the sanctuaries concerned because that is where the case was opened, the deity was the prosecutor in chief (in the absence of any other legal authority), and some curses even stipulate that that is where the culprit needed to appear.²⁴ Moreover, literary examples exist in which divine compulsion does make the culprit end up at the sanctuary or altar to confess before the divine. One of Ovid's Isiac penitents confesses before an altar of Isis to having offended her *numen*, another, blinded 'on account of a similar crime', confesses in the middle of the street.²⁵ What all the examples have uniting them is that the individual, having offended a divinity and being compelled by them, ended up confessing somewhere where judicial procedure took place. It is a modern distinction to call a sanctuary 'religious' but the law court where the woman in Seneca confessed to *sacrilegium* not; a Roman court responsible for trying *sacrilegium* was a 'religious' location too.

It helps to adopt the perspective of the gods to understand this. If *sacrilegium* can be punished in a Roman court, or Calvinus' culprit's debt can be confessed to and paid back in a civil court, or the Tarquin's conspiracy needs to be addressed by the consul of Rome, it is to these *loci* of punishment that the gods will drive the respective criminals to confess. If, however, the infraction is a religious transgression of a cultic rule, some other offence against the divine, or it is perjury - which is a matter for the gods because it is their name which is sworn upon, their responsibility to punish, and only they can know about an oath's falseness - the confession has to take place where the divine is the main audience, most probably in a sanctuary setting. Mortals, too, thought

²⁴ *Eg.* (Blänsdorf 2010) 173-5: no.8. ll. 2-4.

²⁵ *Ov. Pont.* 1.51-4.

in this way, seeing no need to punish if it were a matter for the gods. Hence Tiberius's response to a case of perjury, when someone had sworn falsely on the *numen* of Augustus (interestingly, using the same language – *violare numen* – as Ovid's Isiac transgressor) that the 'gods must look to their own wrongs'.²⁶ Given that a forum existed for the punishment of sacrilege, the gods, efficiently, were thought to drive the culprit there; they had no need to bring every wrongdoer to their sanctuary if other mechanisms for punishment existed. This interlinking of 'forensic' and 'religious' fora for justice is one reason why the history of confession requires an understanding of how confession operated in Roman law, which forms the substance of chapters four and five. If, on the other hand, the infraction necessitated purely divine redress, the divine was thought to drive the culprit to confess before *them*, usually by means of the imposition of illness or divine command and dream. Therefore, the imagined confession of Calvinus' perjuring wrongdoer, or that of the woman in the *Controversiae* confessing to *sacrilegium*, can be said to be no less a divine justice confession, and no less 'religious', than that of the Isiac devotee before the altar of Isis.

Punishment and Healing

Of confessions performed before the divine, most were thought compelled by means of physical punishment. This feature unites divine justice confessions across a range of contexts. We have already observed how Ovid's Isiac penitent was blinded; other literary reflections of divine justice confessions also present punishment as catalyst. In Lucian's story of Semiramis, the Dea Syria inflicted a plague on her people, prompting her to confess herself mortal and set up a statue which 'confessed' the deity to be a god and not her. Aelian's sacred servant who deliberately looked upon a serpent-god in Metelis went out of his mind (ἔκφρων), told what he

²⁶ Tac. *Ann.* 1.73.4: *deorum iniurias dis curae*.

had seen and confessed his impiety (ὡς ἠσέβησεν ὁμολογήσας), and became dumb (ἦν ἄφωνος), shortly before falling down dead.²⁷ When Ovid depicted Claudia Quinta promising to confess to Cybele if she proved unchaste, he included her expectation to be punished with death: *si tu damnas, meruisse fatebor; / morte luam poenas iudice victa dea*.²⁸ In the Satyricon, Encolpius' prayer for mercy ("*deprecates sum numen adversum*") to Priapus, including a confession ("*facinus non toto corpore feci*") is made because he is suffering from erectile dysfunction.²⁹ When Statius prays to the Muses to reveal whatever transgressions he might have committed so that he could confess them, it is clearly after having been punished with the death of his step-son: *dicite; post poenam liceat commissa fateri*.³⁰ We shall shortly see the importance of divine communication through dream, command and oracle, in facilitating confessions. Divine punishment also forms the immediate narrative context of many of Ovid's characters who confess.³¹ A number of literary instances show that divine torture, specifically, brought about confession. The Jewish god in Maccabees is invoked to torture Antiochus to confess 'that he alone is god'.³² Radamanthus of Virgil's Aeneid forced confessions from those he physically punished in the underworld, and Ovid, in his curse poem the *Ibis*, hoped his enemy, living among the guilty in the afterlife, would be whipped by the Furies to the point of confession.³³

Epigraphic material reflects much the same cognitive framework as these literary episodes.

Most *stelai* of the Anatolian corpus of confession inscriptions mention punishment having been

²⁷ Ael. NA. 11.17. cf. Ps.-Plut. *De Fluviis* 9: a general offended the mother of the gods by giving his troops offerings that were due to her and so was 'deprived of his reason' (τῶν σωφρονούντων λογισμῶν αἰφνιδίως ἀπαλλοτριωθείς) before killing his wife and son, driving him to repent (εἰς μετάνοιαν), although he was restored to sanity after propitiating the goddess.

²⁸ Ov. Fast. 4.321-2.

²⁹ Petron. *Sat.* 133

³⁰ Stat. *Silv.* 5.5.3

³¹ See p.170.

³² 2 Ma 7, 37.

³³ Vir. *Aen.* 566-9; Ov. *Ibis.* 184: *ut sceleris numeros confiteare tui*.

inflicted in the form of physical illness, some with details of its nature, others only generally. A number of transgressors were even killed, like Aelian's serpent-attendant, and some made to go mad.³⁴ The infliction of punishment is less explicit in the South Arabian corpus on the whole; many inscriptions do not make mention of it. Some, however, do, according to a statistically significant diachronic trend: none of the earlier inscriptions of the archaic period mention any illness or punishment, and only one from the Hellenistic period (4th-1st century BC) unambiguously mentions punishment, in the form of illness and death.³⁵ From the first century BC onwards, however, there is a stark increase in those that do. Of these, most are specific; punishments include irrigation problems, illness and death of a child, being exposed on a mountain, paying a financial penalty, illness of a daughter, 'vengeance exacted' on a molar tooth, and a six-month-long contagious disease which no one could cure.³⁶ Another mentions punishment but is vague about its nature.³⁷ This chronological pattern is curiously in line with the picture in the Greco-Roman Mediterranean where the practice of confession after divine punishment is especially well documented from the first century BC onwards.

On the instigating side of the divine justice equation, we find victims conceiving of their culprit's suffering as the means by which confession could be exacted. The writer of the Mainz tablet invoked Magna Mater to make sure that their wrongdoer *cr[ucietur] / et dicat se admisisse nef[as]*; it was through suffering the torture of divine torment that they were imagined to confess.³⁸ Likewise the writers of curse tablets at the sanctuary of Demeter in Cnidus specified that their culprits be 'burnt internally with fever' (πεπρημένος) and confess.³⁹

³⁴ Eg. Petzl 28, 34, 37, 68, 72, 80; ND 51; NRT 116. Petzl 57: μανῆναι ἐποίησεν.

³⁵ Y.03.B.A.1, from Baraqish: (Agostini 2012).

³⁶ CIH 547 (Haram 10); YM 23643; Bonhams London 23/10/2013; NAM 2494 = CIAS II 41 = CIAS 39/11 / o3 no.6; Ja 702; Ja 720.

³⁷ RES 3957 (Haram 36): 'the evil against dhu-Samawi led to her punishment'

³⁸ (Blänsdorf 2010) no.16, ll.15-16.

³⁹ *I.Knidos*. 148; 150; 153 (= *DT* 2, 4, 8). Transl. of πεπρημένος: (Versnel 2002) 14.

In one, which constitutes an oath of denial, the writer exhorts that, *if* she has poisoned or performed evil against Asklapiadas, may she ‘be burnt internally with fever’ and confess.⁴⁰ Like Ovid’s Claudia Quinta, she curses herself to confess and pay the physical penalty, *if* she has done wrong. The wider context of the history of confession supports those who have argued for a later date, of the first century BC, for the Cnidian curse tablets.

Divine justice confession does, however, survive from the Hellenistic period among the narrative accounts of miracle cures from the sanctuary of Asklepios at Epidaurus.⁴¹ In each of the four narratives in which transgression against the god is confessed, punishment has been inflicted from the god. One woman from Athens mocked the idea that the god could really have cured the lame and the blind only through dreams, so the god made her pay a fee and dedicate a silver pig in the sanctuary as a ‘memorial to her ignorance’ (ὕπόμναμα τᾶς ἀμαθίας), before proceeding to cure her.⁴² Another account tells of someone who had taken money from a certain Pandaros in order to make a dedication to the god at Epidaurus but did not.⁴³ When the god appeared to this man in a dream and asked him if he had taken the money from Pandaros to make a dedication, he denied it, and so subsequently suffered the imposition of the marks on his forehead which had been previously healed from Pandaros. Furthermore, a certain Kaphisias laughed at the treatments of Asklepios so ‘suffered punishment for this outrage’ (τᾶς ὕβριος ποινὰς λαμβάνων): he was trampled on by his horse so that he was much worse off than before.⁴⁴ Once he earnestly prayed to the god, he became well. The most spectacular account of punishment, however, is found in the tale of the fishmonger Amphimnastos. Having brought some fish into Arcadia, he vowed that he would give a tenth of his profit to Asklepios but

⁴⁰ *I.Knidos*. 147

⁴¹ (LiDonnici 1995) 89 (A4), 91 (A7), 113 (B16), 121 (C4) = *SIG*³ 1168 cures 4, 7 and 36; *IG* IV² 123 cure 47. Possibly also C11 and C15, where ὁμολόγησε is preserved too fragmentarily to obtain its meaning.

⁴² (LiDonnici 1995) 89, A4, l. 39.

⁴³ (LiDonnici 1995) 91, A6-7.

⁴⁴ (LiDonnici 1995) 113, B16.

defaulted on his promise. Suddenly, in the agora in Tegea, the fish were struck by lightning and began to burn up. Amphimnastos confessed (δηλοῖ) his deception towards Asklepios in front of a large crowd who gathered round this spectacle. Having supplicated the god, the fish began to live again and Amphimnastos dedicated a tenth part to Asklepios.⁴⁵ In all these instances, it was the god who had been wronged: either mocked or deprived of money.⁴⁶ Thus it was the god's business to exact vengeance, and the written narrative of the wrongdoing served protreptically to manifest his power. It is only explicit in the latter case that oral public confession helped to appease and thereby overturn the divine punishment, although all of them testify to the role played by 'confession' in the sense of written narratives of wrongdoing and divine theodicy.

Following punishment, confession could take place either after healing, in thanksgiving, or in the hope of it. Across literary and epigraphic evidence there is variation: the dedicator of Petzl 1 only had his muteness absolved and began to speak again after having been told to set up a *stèle*, but clearly before having written it. Some explicitly mention having recovered their health.⁴⁷ Others, however, make no mention of healing and seem to anticipate it.⁴⁸ In the case of the South Arabian corpus, we likewise occasionally get the sense of healing having taken place, but on the whole they seem to indicate that it was hoped for.⁴⁹ Philo seems to be familiar with a practice of confession following recovery from an illness in using a metaphor in the context of someone realizing they had believed falsehoods about the working of the universe.⁵⁰

⁴⁵ (LiDonnici 1995) 121, C4.

⁴⁶ Mockery and disbelief in the gods is a recurring transgression in the Anatolian corpus also: *eg.* Petzl 10; 12; 79.

⁴⁷ *Eg.* Petzl 43, 94.

⁴⁸ *Eg.* Petzl 41

⁴⁹ Ja 720 for 'unhappiness removed from his person'.

⁵⁰ Philo *De Somniis* 2.299

Confession in anticipation is evident in literature, where there is conversely no indication that it was performed after recovery; Ovid's Isiac penitent, for example, seems to have been in a state of blindness as he confessed.

Blindness and eye maladies, it has often been commented upon, are the most frequently found disease in cases of divine justice.⁵¹ This is also true of the Anatolian corpus.⁵² So far explanation has concerned the prevalence of eye maladies in unsanitary conditions and because they had no obvious cause.⁵³ But if we think about perjury, of which the concomitant punishment was blindness, then we might have our answer. Swearing could be done on the eyes: Giton, in Petronius' *Satyricon*, touches his eyes before making an oath: *tetigit puer oculos suos conceptissimisque iuravit verbis*.⁵⁴ The prevalence of eye maladies probably accords with the fact that perjury appears to be a very prominent catalyst of divine anger for two reasons: perjury itself must have been frequently encountered, either as a mere fear, or as a fact; anxiety around perjury abounds.⁵⁵ A sacred pool was dedicated to trial by immersion for suspected perjurers near Tyana in Cappadocia; the cool but bubbling water would attack their eyes, hands and feet and impart a wasting disease. Thus in torment, perjurers would be unable to move from the side of the well where they confessed their perjury: ὁμολογοῦντες ἃ ἐπιώρκησαν.⁵⁶ It is also a frequent transgression in the epigraphic evidence, as well as in literature: Calvinus' wrongdoer did it, and it seems to be the sense of *violare numen* in Ovid's Isiac examples. Secondly, the reason why oath-taking was employed was because of the very connection

⁵¹ (Chaniotis 1995) 327, and for further bibliography.

⁵² Whether eye-maladies represent half of the illnesses mentioned: *Ibid.*

⁵³ *Ibid.*

⁵⁴ Petron. *Sat.* 133

⁵⁵ eg. Juv. *Sat.* 13; Lib. *Or.* 22.1: Εἰσὶ τινες, οἱ τοῦθ' ἐν μέγιστον ἀγαθὸν ἀνθρώπωνομιζοῦσι χρήματα καὶ τὸ πλουτεῖν καὶ διὰ τοῦτο κἂν δι' ἐπιρκίας τουτὶ λαβεῖν οὐκ ἀποκνοῦσιν, ἀλλ' εἰ καὶ πείσονταί τι κακὸν ἐντεῦθεν ὕστερον, οὐκ ἀποτρέπονται.

⁵⁶ Philostr. *VA* 1.6

between swearing on divine *numina* and incurring divine wrath by breaking the oath, and the gods, unlike humans, knew if it had been committed.⁵⁷

Dreams, commands and oracles

It was not always obvious that misfortune or malady signalled transgression, divine wrath and the need for propitiation. Another common feature behind divine justice confessions, across a variety of contexts, is divine communication through dreams, oracles or ‘commands’ to notify individuals of their misdeeds and indicate what ought to be done. Uncertainty over whether transgression had been committed is easily understandable in a world where adverse events occur seemingly senselessly; even poets displayed their anxiety: Tibullus asks whether he has offended Venus (*numen violare*, again) in speech, and whether his tongue is now being punished, or whether he wickedly broke in to an abode of the gods and plucked a garland from its holy altar. If so, he vows to prostrate himself before her temple kissing the ground, to crawl on suppliant knees and strike his head against the door posts.⁵⁸ And we have already seen that Statius asks the Muses ‘*quae vestra orgia Pieriae, quas incestavimus aras?*’, urging them to tell him so that he can confess.⁵⁹ Uncertainty over transgression appears to be behind inquiries to the gods in epigraphic sources also, and in some cases constituted the first step on the road to confession. Chryseros and Stratonikos, for example, inquired (ἠρώτησαν) about known and unknown sins, before the god revealed them through an *angelos*; they were also asked by the native gods for a 100 denarii fine.⁶⁰

⁵⁷ Eg. Juv. *Sat.* 13: the divine might be slow to get angry, but it is taken for granted that the gods were thought aware of infraction: eg. *ut sit magna, tamen certe lenta ira deorum est.*

⁵⁸ Tib. 1.2.81-7

⁵⁹ Stat. *Silv.* 5.5.3

⁶⁰ Petzl 38, 1-7.

Not all, but many of the inscriptions from Anatolia reveal the importance of divine communication. Petzl 3 tells us that, when a thief brought back a stolen cloak and confessed, the god ordered through a messenger (ἐκέλευσε δι' ἀγγέλου) that the cloak be sold and that the powers of the god be written up on a stele (στηλλογραφῆσαι τὰς δυνάμεις).⁶¹ The narrative of Petzl 5 is prefaced as being 'according to the enlightenment of the gods' (κατὰ τὸ ἐφρενωθεῖς ὑπὸ τῶν θεῶν).⁶² Sometimes the god simply 'commands' (ἐκέλευσε), such as Menophilos who was told by the god that his son should redeem his father's guilt, or those ordered to στηλλογραφῆσαι τὰς δυνάμεις τῶν θεῶν.⁶³ Or gods 'demand' (ἐπεζήτησαν), as in when they asked the wife of a transgressor to perform the writing up of a stele.⁶⁴ Elsewhere we find action happening 'according to the command' (κατ' ἐπιταγὴν) of the divine, such as a thank-offering in *New Documents* (ND) 61, or the dedication for known and unknown sins of Petzl 53.⁶⁵ Sometimes the nature of divine intervention is ambiguous: a god 'caused them' (ἐποίησεν) to write up a report.⁶⁶

Most do not specify who the instigating party of the communication was, but in some cases we know that it was a mortal who began the inquiry. Petzl 57 makes the human question and divine answer sequence clear: ἠρώτησε ... καὶ ἐκέλευσεν στηλλογραφηθῆναι νέμεσιν καὶ καταγράψαι ἔμαυτήν ἰς ὑπερεσίαν τοῖς θεοῖς.⁶⁷ Petzl 74 narrates that a son asked about an offering after his mother transgressed, presumably because it was not obvious what ought to be done.⁶⁸ Gods often appear to have been consulted: in Petzl 5 the god responds after being 'asked' by the council, and a number mention 'asking' the divine.⁶⁹ Their response, although not stated, is

⁶¹ Petzl 3, 8-11.

⁶² Petzl 5, 2-3.

⁶³ Petzl 9, 7-10 (Menophilos); Petzl 47, 9-11; Petzl 65, 5-6 (ἐγγράψαι τὰς δυνάμεις τοῦ θεοῦ).

⁶⁴ Petzl 15, 4-8. And: Petzl 35, 16-end; Petzl 78, 4-5; Petzl 89, 3-4 (ἐπειζητηθεῖσα); NRT 177, 5-6.

⁶⁵ Also NRT 178, 12-4: ἐστηλλογράφησαν καθ' ὃ ἐπεζήτησαν οἱ θεοί.

⁶⁶ Petzl 59, 20.

⁶⁷ Petzl 57, 7-14. Repetitive question and response is also clear in (Riel and Malay 2006).

⁶⁸ Petzl 74, 4-5.

⁶⁹ Petzl 5, 22: ἠρωτημαίνος. Petzl 17, 13; Petzl 38; Petzl 97; Petzl 74.

obvious in Petzl 97 when Aurelios declares that ‘having asked’ he set up a stele for the mother of the gods. The divine could instigate communication also: when Tatiane promised a bull for her siblings but could not offer one, the god ‘inquired’ and declared a willingness to accept a stele instead.⁷⁰ More rarely, the gods intervene in other ways, such as asking someone not to do something, or asking for participation in mysteries.⁷¹

We also find the gods giving instructions in dreams. The dedicator of Petzl 1 declares that the god appeared to him in a dream and told him to set up a stele and write up what he had suffered. Once he did so he began to speak again. Another god, in NRT 118, appears in a dream to demand a *stele*.⁷² Likewise, Athenaios declares he was summoned in a dream (ὕπὸ ὄνειρου), after having received many punishments to set up a *stele* and write on it the powers of the gods.⁷³ Previously, Athenaios indicates, he had been unaware of his ἀμαρτείας. Dreams could therefore serve as communication devices both in cases of ignorance about transgression and in cases of conscious transgression, as in Calvinus and the Tarquin examples above. Sometimes the god is said merely to ‘appear’, such as when the god παρέστη καὶ ἀπήτησεν / αὐτὸν στήλλην to a certain Poplianus.⁷⁴

In the South Arabian corpus too, oracles and divine commands operate as catalysts.⁷⁵ The formula *b-mrh w-mrḏwhy* (by the command and with the approval of) occurs in a number of

⁷⁰ Petzl 61

⁷¹ Petzl 106; Petzl 108.

⁷² NRT 118.

⁷³ Petzl 11, 5-8.

⁷⁴ ND 71, 3-4.

⁷⁵ The majority do not mention divine communication or are incomplete. Those that do: CIH 546 (Haram 8) (oracle made ‘before this confession’); CIH 547 (Haram 10) (confession took place by the command (*b-‘mr*) of Ḥalfān); Y.92.B.A.29 (this confession took place by the command and with the approval of Nakrah in an oracular consultation in the *gwb*.); Y.03.B.A.1 (this confession was made by the command and with the approval of S²hr and M’n, the goddess,...); Al Jawf 04.9 (this confession took place by the command of Nakrah); GOAM 314 (by the command and with the approval of Nakrah); MAFRAY Darb aṣ-Ṣabī 5 (this confession took place by the command and with the approval of Nakrah in an oracular consultation in the *gwb*); MAFRAY Darb aṣ-Ṣabī 16 (this confession took place by the command and with the approval of Nakrah in an oracular consultation in the

inscriptions before the name of a god.⁷⁶ In almost all cases which mention divine command, it is ‘confession’ which is performed *b-mrh w-mrḏwhy* of the gods. In only three of 18 inscriptions referring to divine communication is the object of the command not ‘confession’: in one, Almaḡah commanded through an oracle the dedication of a statue; in another, a goddess requests someone to seek help; in another, the command is for an inscription, made through a goddess’s priest. This latter document suggests a context of functioning oracular activity; the transgression apparently concerned the absence of ‘priestess or dream-interpreter, contrary to the command’, when the goddess Dāt Ba’dānim made a pronouncement (three times) in the temple.⁷⁷ The inclusion or not of divine command appears to have been contingent on local sanctuary custom. Every inscription from the Temple of Nakraḡ at Darb aṣ-Ṣabī (near Baraḡish) includes the *b-mrh w-mrḏwhy* formula. This is also true of all those (published) from the Temple of Nakraḡ at Yathill/Baraḡish. On the other hand, no inscription from the Temple of Yḡrw in Wadi Ṣuḡayf mentions divine communication or oracular activity, nor do any inscriptions from any other sanctuary in the Jawf, except for one of the eight from Haram and one from an unknown location. At other sanctuaries, however, the rhetoric of divine communication is inconsistent. Furthermore, there is little discernible pattern over time other than that mention of divine command is absent in the archaic period inscriptions but present sporadically from the Hellenistic period until the third century AD.

gwb); MAFRAY Darb aṣ-Ṣabī 26 (this confession took place by the command and with the approval of Nakraḡ in an oracular consultation in the *gwb*); MAFRAY Darb aṣ-Ṣabī 30 (fragmentary but likely: this confession took place by the command and with the approval of Nakraḡ in an oracular consultation in the *gwb*); MAFRAY Darb aṣ-Ṣabī 32 (this confession took place by the command and with the approval of Nakraḡ in an oracular consultation in the *tml*); DhM 399 (he confessed by the command of Wadd and the approvals of Nakraḡ); Bonhams London 23/10/2013 (mention of oracle); Aṣ-Ṣilwī 2005 (she enquired at the *ḡrr* in his place so she humiliated and afflicted herself); NAM 2494 (now Almaḡah has commanded them in his oracle that they should dedicate a statue); Rb 1/89 n.291 (she (the goddess) made a request to him that he should seek their help); Nami 74 (Dāt Ba’dānim ordered through her priest the setting up of this inscription); RÉŚ 3706 (according to the command of the divinities of Ma‘in through a payment...).

⁷⁶ Sometimes it might be by one god’s command, and with another’s approval: DhM 399

⁷⁷ Nami 74.

In both South Arabia and Anatolia, the overwhelming concern of the gods' communication was about the sort of offering they were to receive. A superficial difference is observable between the Arabian and the Anatolian corpora: whereas in South Arabia 'confessions' are said to be made by divine command, not once does the divine in the Anatolian corpus order anyone to confess their wrongdoing *tout court*. Rather, the order is almost always to *stelographein* or words to that effect, which constituted the writing up of divine 'powers' or 'nemesis': that is, the story of wrongdoing and punishment and divine involvement. But in reality there is no difference: the presence in the Arabian corpus of inscriptions which refer to 'this confession' indicate that the inscription itself was in some cases considered a 'confession'. That is, in both corpora the gods overwhelmingly tend to command the dedication of the inscription itself. In many other inscriptions from South Arabia beyond the confession corpus, 'statues' or simply 'inscriptions' were dedicated 'by divine command'.⁷⁸ Thus, when the inscription itself was conceived of as a 'confession', that is why 'confession was made by divine command'.

When the gods of the Anatolian corpus make demands, they almost always want the writing of a *stèle*.⁷⁹ Confession of wrongdoing was a part of the narrative project involved, but it was not, independently of manifesting the gods' powers, the primary divine concern. Indeed, oral confession seems to have happened independently of divine consultation: in Petzl 3 the cloak thief confessed before any divine command (to *stelographein*). The main divine concern was for votives which served to narrate and memorialize. This also seems true of the Epidaurean material: in the first narrative discussed above Asklepios does not ask the woman to confess, but instead he demands she dedicate a silver pig in the sanctuary as a 'memorial to her

⁷⁸ Eg. YM 28488, (Arbach and Audouin 2007) 58-9.

⁷⁹ Only once does the required response for transgression, according to the gods, not explicitly involve a *stèle*: in Petzl 9 the demand is to 'redeem the guilt of the father'. In Petzl 3 they want the cloak sold, but also ask for a *stèle*.

ignorance’, and to pay a fee.⁸⁰ It seems the gods of Anatolia might also ask for something other than a *stèle*: when Tatiane could not offer a bull, the god settles for a *stèle* instead.⁸¹ When people offended the divine by defaulting on ordinary ex-votos, they were made to dedicate a confession inscription as a penalty.⁸² Therefore, there seems to have been a range of propitiatory votive options available, not all of which were *stelai*.⁸³ The same gods who were listening to prayers to heal and offered ex-votos in return, were also those who became angry at transgression: Men Ouranos Artemidorou had ‘listened’ (ἐπήκουεζ) to the dedicator of ND 55, but when they failed to return an ex-voto the god punished her.⁸⁴ We ought to dismiss idea that the confession *stelai* are the product of an isolated thought world, independent from that which produce other ex-voto material of the region.⁸⁵ The idea that sacrifice, votives and prayer is sufficient for atoning for wrongdoing can be found in Hippocrates. In arguing against magical purification of wrongdoing, he states that people ‘stained with crimes’ and malefactors ought to sacrifice and pray, and, bringing gifts to the temples, supplicate the gods.⁸⁶ Gods do not cause disease, he argues, but “it is the divinity which purifies and sanctifies the greatest of offenses and the most wicked, and which proves our protection from them”. Diverging on the matter of divine causation of illness, the confession *stelai* of Anatolia introduced a next level of propitiatory offering for the purpose of healing, namely the manifestation of divine powers through narratives of wrongdoing and punishment. Remaining silent was, as Petzl 59 puts it, to hide the power of the god.⁸⁷

⁸⁰ (LiDonnici 1995) 89, A4, l. 39.

⁸¹ Petzl 61

⁸² Eg. Petzl 45, 61, 62, 65, 101, 113, ND 55, NRT 118, (Malay and Sayar 2004).

⁸³ For the idea of a hierarchy of propitiatory epigraphy: (Potts 2017) 29-31.

⁸⁴ ND 55, 5-8.

⁸⁵ See (Potts 2017).

⁸⁶ Hippoc. *Morb. Sacr.* 1

⁸⁷ Petzl 59. We should not take this as a sign that priests were the driving forces behind the *stelai*, as the rhetorical prominence of divine commands suits the average dedicator too, to signal that they were not performing such a shameful act voluntarily. Petzl 59 is a strong indication of the ignominy that went with dedicating a *stèle*: the mother of one young thief asked the victim to remain silent about the resolution of the matter and so not to give the god his due.

Publicity

*Narrabo omnia mirabilia tua.*⁸⁸

A defining feature of divine justice confessions was their public nature; all were performed publicly. The inscriptions of Anatolia and South Arabia were public monuments physically present on the sanctuary landscape, and literary evidence suggests the invariably public performance of oral divine justice confession.⁸⁹ Reminiscent of the στελ(λ)ογράφειν of the Anatolian stelai, seven of the Psalms are titled, in the Septuagint translation, as στελογραφία, suggesting a once physical, public *Sitz im Leben*.⁹⁰ It is clear from curse tablets that the culprit was expected to confess publicly. The very point of divine justice confession was to publicize the existence and justice of the divine. There was also reputation to lose if divine punishment of a transgressor went unannounced: Diagoras of Melos became a prominent atheist because of a loan he never received back.⁹¹ Advertisement also served to advantage the sanctuaries in a competitive medical marketplace.⁹² The dedicator of ND 84 proclaims that he could not be cured by anyone, but could be cured by the god.⁹³ In one South Arabian inscription, we learn that a mother had, on pilgrimage, promised Almaqah that if her daughter recovered from her breast illness she would bring her daughter back on pilgrimage to Almaqah.⁹⁴ However, the daughter ended up ‘turning aside’ to Almaqah’s sanctuary of Awwam ‘in the vicinity of Ṣan ‘ā’ instead, so was punished. Divine justice confession is very much the product of a

⁸⁸ Ps. 9.2

⁸⁹ Ov. *Pont.* 1.51-4; Plut. *Mor.* 168D; Apul. *Met.* 8.27-8; Lucian *Syr. D.* 39end; Firm. *Mat. Err. Prof. Rel.* 4.2.

⁹⁰ Ps. 16, 56-60.

⁹¹ (Meijer 1981) 218-9.

⁹² (Petzl 2006).

⁹³ ND 84, 13-4: καὶ ὑπὸ μηδενὸς δυνάμενος θαρα- / πευθῆναι ἐθαραπεύθην ὑπὸ τοῦ θεοῦ.

⁹⁴ NAM 2494 = CIAS II 41 = CIAS 39/11 / o3 no.6

world of competition, in which reputation mattered, and where gods, like humans, were thought to delight in public testimonies of their greatness and power. In saying *talia caelestes fieri praeconia gaudent ut sua quid valeant numina teste probent*, Ovid explicitly describes what is easily perceptible from the inscriptions, most evident from the likes of Petzl 59 where the god Men becomes angry at the cover up of his intervention to restore a stolen object and punish the culprit.

Divine “Greatness” and Landed Lords

Another parallel among divine justice confessions was the acclamation of a deity as being “great”. The Anatolian corpus abounds with ‘megatheistic’ acclamations, with many inscriptions beginning in the manner of “Great is Men Axiottenos who rules over the Tarsi” or “Great is Zeus from Twin Oaks and his power!”.⁹⁵ Or they might conclude with a statement such as “great are the *nemeseis* in Perkos!”.⁹⁶ Given papyrological evidence testifying to a θοηρείον ἐξαγορείων in Oxyrhynchus, it is interesting to note that Thoeris was also known as Taweret, which means “great one” in Egyptian and which was a common pacificatory address to dangerous deities.⁹⁷ Furthermore, the main deities confessed to in literary evidence – namely Isis, Magna Mater and the Dea Syria – all share the attribute of being ‘supreme’ deities, at least at times, according to external evidence.⁹⁸ In the hymns of Isidorus to Isis, for instance, she is Ἴσι μεγίστη, and μεγαλώνυμε Ἴσι, Διοῖ ὑψίστη, and Isidorus declares he will not cease to sing of her μεγάλην δύναμιν.⁹⁹ The third hymn begins ὑψίστων μεδέουσα θεῶν ... μεγάλη,

⁹⁵ Petzl 3 and 9. Other examples of gods being “great”: Petzl 3, 5, 6, 7, 9, 10, 11, 37, 39, 40, 47, 54, 55, 68, 69, 72, 73, 74, 79, 109, (Malay 2003), ND51, ND52, ND71, ND83, NRT123. Petzl 4 has ‘eternal’.

⁹⁶ Petzl 7.

⁹⁷ (Pinch 1994) 39.

⁹⁸ For ‘theological monopoly’ and the Dea Syria: (Bilde 1990) 172. For ‘megatheism’: (Chaniotis 2010), esp. 132-8. The very name of Magna Mater speaks to her case. For the Anatolian *stelai* and their similarity with aretalogies: (Hoz 2009).

⁹⁹ (Vanderlip 1972) Hymn 1, 2-3, 25,-6; Hymn 2, 1 (μεγαλώνυμε Ἴσι μεγίστη); Hymn 4, 4 (Διοῖ ὑψίστη).

μεγαλώνουμε Διοῖ.¹⁰⁰ Furthermore, she is ‘queen of the gods’ repeatedly, as well as ‘great’, in the Philae hymns, and in the priest Hor’s invocations to Isis she is the ‘great goddess of the whole land’.¹⁰¹ In the South Arabian corpus, however, divine greatness is never explicitly acclaimed. Rather, deities are often referred to as being ‘lord’ (*b‘l*) of a place, usually the deity’s sanctuary.¹⁰² Similarly in the Anatolian *stelai*, we find gods ‘holding’ (κατέχων) territory. The Cymaeian aretology (1st century BC to 1st century AD) begins with Isis declaring herself ἡ τύραννος πάσης χώρας.¹⁰³ Both the ‘greatness’ of gods – that is, that they were ‘supreme’ gods who at times were subjects of henotheistic and megatheistic cult - and the fact that they were conceived of as ruling over land suggest two facilitating conditions of confession, and help us to ascertain why some gods were expected to delight in confession when others were not.

The deities receiving divine justice confessions were listeners and communicators, irascible and able to be appeased, judges, punishers and healers of malady. Additionally, the attributes of greatness and ruling over territory were structurally helpful in fostering a practice of confession. Firstly, the concept of divine landed lord meant that there was little room for ambiguity as to who should be appeased if a transgression was committed in *their* territory. Thus the cognitive process of confessional response is relatively easy compared with a scenario where a multitudinous possibility of gods might be offended. Secondly, they were gods who demanded supremacy, such as YHWH of the Old Testament. As is clear from the commandment ‘thou shalt have no other gods before me’ and elsewhere in the Old Testament such as Elijah’s challenge: “if YHWH is god, follow him, if Baal is god, follow him”, the Old

¹⁰⁰ (Vanderlip 1972) 49. Curiously, the first hymn also invokes her other names, including Magna Mater and *Thiouis*, as ‘the Egyptians call her’, which is the same as Thoeris/Taweret above.

¹⁰¹ (Žabkar 1988) Hymns 1-8; *O. Hor.* 10: (Kockelmann 2008) 11ff.

¹⁰² *Eg.* YM 10.703; CIH 568; CIH 533; RÉS 3956; RÉS 3957; Munich/Völkerkundemuseum Inv.nr. 9-317 880; FB-Wādī Shuḍayf 3.

¹⁰³ *IK Kyme* 41, 5.

Testament god was operating in a competitive religious environment.¹⁰⁴ Likewise, the Hellenistic and Roman periods in which the cults of Isis, Magna Mater and Dea Syria flourished was an intensely competitive religious environment.¹⁰⁵ This context throws into relief the role and importance that confession could play in not only meeting the needs of a deity who desired to stand out, but also in socially signalling to others that the individual worshipper was ‘on message’. Confession offered a deity a significant marketplace advantage.¹⁰⁶

This is not to say that confession was a top-down cult creation; the *perceived* divine drive to be top god meant that confession would have been thought by the individual adherent to be a source of divine pleasure, and thus a sensible strategy of appeasement. The decree recording the miracle of Zeus Panamaros at Stranonikeia illustrates that a request for forgiveness was considered a plausible impulsive reaction to the sudden manifestation of divine wrath, even by those not belonging to the local community of its cult. During the invasion of Labienus in 40 BC, the sanctuary of Zeus was attacked, but the god manifested his anger by killing and injuring the attackers in a storm.¹⁰⁷ Many assailants deserted whilst shouting for forgiveness (τῶν συνγνώμην φωνούντων) and ‘in a loud voice’ they cried Μέγαν εἶναι Δία Πανάμαρον.¹⁰⁸ The inclusion of a request for forgiveness by the soldiers may not have been faithful representation of historical reality, but even if it is a projection onto the event by wishful-thinking Stratonikeians, the decree nevertheless reveals that such confessional reaction was considered a plausible response, and important to record. It also provides another example of an

¹⁰⁴ Exod. 20:2; Deut. 5:6; 1 Kings 18:21. YHWH as ‘Number One’: (Lane Fox 2006) 56.

¹⁰⁵ (Chaniotis 2010) esp. 113ff.; (North 2010); (Belayche 2010).

¹⁰⁶ This is not to say that confession was a top-down cult creation; the *perceived* divine drive to be top god meant that confession – that is, advertisement of divine power and justice – was thought by the individual adherent to be a source of divine pleasure.

¹⁰⁷ *IStranoikeia* 10; (Roussel 1931).

¹⁰⁸ *IStranoikeia* 10, 13.

appeasement strategy which rhetorically foregrounded the greatness of the deity. As such, confession served as part of a wider act of social positioning, signalling the inferiority of the transgressor and the superiority of the god.

Self-abasement and penance

Divine justice confession tended to be the verbal part of a greater whole that was self-abasement and penance. A number of examples point to a concomitant act of physical lowering: Ovid's Isiac penitent is sitting whilst confessing, Plutarch's is also sitting, dressed in sack cloth and ashes in filth the middle of the street, and a relief image of a kneeling individual is found in the Anatolian corpus.¹⁰⁹ The formula 'x confessed and did penance' (*tnhyt w-tnḍrn*) frequently begins the South Arabian inscriptions from Al-Jawf; indeed only around a quarter of those complete enough to tell have either *tnhyt* or *tnḍrn* alone instead of the two in tandem. This seems to have been not only a technique of positioning the self as inferior to the god but also a persuasion technique to arouse pity through signalling repentance. Ovid declares that *caelestes* often lift the divine punishment once they see sincere repentance for wrongdoing (*cum bene peccati paenituisse vident*).¹¹⁰

It seems, however, that confession was not always a necessary or conceptually prominent feature of repentance: a number of descriptions of divine justice penance make no mention of confession. Tibullus declares that, if he has caused offence to Venus, he would prostrate himself before her temple kissing the ground, crawling 'on suppliant knees' and strike his head against the door posts.¹¹¹ In *De Vita Beata*, when Seneca describes the futility of thinking that

¹⁰⁹ Ov. *Pont.* 1.1.52; Plut. *Mor.* 168D; Petzl 38

¹¹⁰ Ov. *Pont.* 1.1.58.

¹¹¹ Tib. 1.2.81-7

hi qui aras everterunt do harm to the gods, he ridicules the credulousness of those who engage in acts such as crawling along a road on the knees, and cutting one's arms and shoulders because they believe a god to be angry.¹¹² Juvenal suggests that the main components of securing Osiris' pardon in the case of a woman who had not abstained from sex on a sacred day when it was forbidden were the tears and careful mumurs of the Isiac priest wearing an Anubis mask.¹¹³ This suggests two possibilities for the role of confession in divine justice penitence in the early Empire in Rome: either it was not considered remarkable enough for comment by Seneca, Tibullus and Juvenal and was thought assumable, or it was neither a prominent nor a fixed feature of penitential response to divine justice. Either way, we can say that we are not here dealing with a monolithic and immovable ritual practice of confession which was central to the way divine justice penance was always performed, at least in the thought-worlds of Tibullus, Seneca and Juvenal. For Ovid, however, confession played a more prominent role in the penitential actions of *Ex Ponto* 1.1, whereas he makes no mention of accompanying physical penance. We might argue that this purely verbal confession offered a way of performing repentance without so stark a sense of excess and despicability. So when Ovid plays at self-abasing before Augustus in *Ex Ponto* 1.1, he does so with a degree of relative penitential restraint.

Self-accusation and self-punishment

*Immo ea natura furore impulsus est: alius ebrietate, alius errore, alius dolore, quidam quaestione, nemo contra se dicit, nisi aliquot cogente.*¹¹⁴

¹¹² Sen. *De Vita Beata* 26.8: *cum sistrum aliquis concutiens ex imperio mentitur, cum aliquis secandi lacertos suos artifex brachia atque umeros suspense manu cruentat, cum aliqua genibus per viam repens ululat laurumque linteatus senex et medio lucernem die praeferens conclamat iratem aliquem deorum, concurritis et auditis ac divinum esse eum, invicem mutum alentes stuporem, adfirmatis.* Similarly, without mentioning a verbal act of confession, Menander described a penitent who sits out in the road in a sack, head covered with filth and τὴν θεὸν / ἐξιλάσαντο τῷ τε ταπεινοῦσθαι σφόδρα: Fr. 544, vol IIIB p.782: (Edmonds et al. 1957).

¹¹³ Juv. *Sat.* VI 535-541

¹¹⁴ Ps. Quint. *Decl. Min.* 314.7.1

The catalytic sequence that has so far been illustrated of transgression-punishment-confession seems to be typical for divine justice confessions. However, there is some indication that this was not invariably the case. *Galli* appear to have had a tradition of performing physical penance along with confession in a routine way which cannot have been catalysed by individual impositions of punishment in response to specific transgression, from at least the second century AD. In Apuleius's *Metamorphoses*, *galli* perform itinerant alms collections, going round houses, which is the context for their dramatic and bloody self-laceration, self-flagellation with the distinction knock-bone whip, and confession (*se...accusari*).¹¹⁵ Firmicus Maternus later claimed that *galli* could be seen in their temples confessing in a similar frenzy of penance, and curse tablets from second-century Mainz invoke analogies with *galli* and priests of Magna Mater and Bellona as if their lacerations were regularly visible spectacles.¹¹⁶ The impression is therefore that such penance was routine. This would make sense given that, in being *galli*, they were imitating Attis in an ongoing way. In Ovid's version, Attis went mad, attacked his body with a sharp stone, dragging his hair in the dust, then: *voxque fuit 'merui! meritas do sanguine poenas'*.¹¹⁷ This *furor* constituted an example (*venit in exemplum*), Ovid says, for Attis' followers.¹¹⁸ Recurring penance and confession would have been a way to re-enact his suffering.¹¹⁹

The association of confession with a desire to be whipped can also be found in cases of human-to-human confession in the second century AD. Earlier in the *Metamorphoses*, Photis, Lucius' lover, confesses: *ego... ipsa, confiteor ultro, ego origo tibi huius molestiae fui*.¹²⁰ She then begs

¹¹⁵ Ap. Met. 8.27-8. Cf. Plat. Resp. 2.364b-c.

¹¹⁶ Firm. Mat. *De errore Profanarum Religionum* 4.2

¹¹⁷ Ov. Fast. 4.239

¹¹⁸ Ov. Fast. 4.243-4

¹¹⁹ Ov. Fast. 4.243-4

¹²⁰ Ap. Met. 3.13

Lucius to whip her with a strap.¹²¹ Galen offers testimony beyond Apuleius to suggest that whipping could accompany confession. He narrates how an angry friend of his from Gortyna had lost his temper and severely injured two servants.¹²² His repentant friend, ‘heaping charges on his own head’, afterwards took Galen to a house, stripped naked and asked Galen to whip him. Galen responded to his repeated begging with laughter, instead ‘flogging him’ metaphorically with a lecture on the need to train the self against anger. Unless we take the *μαστιγοῦν με δεῖν νομίζει* of fr. 83 of Philodemus’ *Peri Parrhesias* to refer to literal whipping, in which case it could be seen as an accompaniment of Type 2 autoscopic confession, there is little evidence before this for a practice of confession and concomitant whipping. However, this is not true for Ancient China: the phrase *fujing qingzui* (“to humbly apologize by bringing a bramble to ask for punishment”) originates from the Warring States period (475–221 BC) and features prominently in the legend of a paradigmatic display of repentance and apology.¹²³

The overwhelming weight of evidence for divine justice confessions points to the normative sequence of events being transgression-punishment/manifestation of divine wrath-penance/confession.¹²⁴ That is, with the exception of the *galli*, the confessional response required external accusation first. Nowhere else in the evidence for divine justice confession do we find individuals as self-accusers.¹²⁵ Furthermore, given this three-stage association it is understandable that punishment might be taken into the individual’s own hands, either before the divine had inflicted transgression-specific punishment as in the case of *galli*, or after the

¹²¹ *Ibid.*

¹²² Galen, On the passions and errors of the soul (*An. Aff.*) 4.

¹²³ (Sima and Watson 1993); (Sorace 2019) 155.

¹²⁴ Some South Arabian and Anatolian inscriptions, as well as literary examples, do not specify whether punishment had already been exacted, leaving open the possibility that confession was sometimes performed before the manifestation of divine anger, although this is not positive proof: Anon. *Carmen ad quendam senatorem* vv.35-8. Although there is no mention of confession specifically, we do not know whether the woman on whose behalf the priest of Isis, wearing an Anubis mask, seeks forgiveness in Juvenal is in a state of having been punished: *Juv. Sat.* VI 535-541.

¹²⁵ For autoscopic confession, however, self-accusation was characteristic.

god's anger had been made manifest. Thus self-laceration with knives, self-flagellation, crawling on knees, rolling in filth, and fasting was a way of taking control of divine punishment, paying off at least some if not all of the debt owed. Confession too can be seen as another aspect of repayment through self-assailment. Indeed, it is possible that the entire phenomenon of divine justice confession was essentially, along with penance, a way of transferring the infliction of punishment from divine to human hands. Instead of responding to the manifestation of divine wrath with sacrifice and/or resignation, confession and penance were technologies which could help to reset the account books. Instead, that is, of the *do ut des* of the *expiatio* of Roman state religion after a prodigy, behind divine justice confession was a concept of *do ne sumas*.¹²⁶

Sin and debt

In the divine justice framework of thought, wrongdoing appears explicitly conceived of as debt; transgression meant that a penalty was owing. The language of debt is applied explicitly in some cases, such as when Ovid's Claudia Quinta promises to confess and says *morte luam poenas*.¹²⁷ In others, such as in cases of ἐξομολογέομαι, it was implicit in the use of a term often employed for confession of debt.¹²⁸ Or, as is revealed by epigraphic sources, the cognitive association is crystallized because transgression often necessitated the payment of a financial fee along with the costly erection of an inscription.¹²⁹ In wider Roman society confession seems to have been particularly associated with cases of debt; that is, most evidence for confession in Roman law applies to debt. In the Twelve Tables, for example, the term *confessus* is only used

¹²⁶ It is relevant that to be punished in Latin is '*do poenas*'.

¹²⁷ *Ov. Fast.* 4.321-2.

¹²⁸ See p.31ff.

¹²⁹ *Eg.* ND 70; *CIH* 546 (Haram 8); *CIH* 568 (Haram 56). The female transgressor in Epidauros was asked for a fine and a votive pig: (LiDonnici 1995) 89, A4, l. 39.

to denote the avowed debtor, who would be exhibited publicly for three consecutive market days with the amount that they owed declared publicly.¹³⁰ This degree of publicity is reminiscent of the response to divine justice transgression. Furthermore, a large number of divine justice transgressions seem to have concerned offence to *numina* through defaulting on a loan. Thus the association between offending the divine and being in a state of debt is further explicable.

Debt in the ancient world was not always repaid in money, but the body itself could be requisitioned. Thus the transgressor might, through wrongdoing, become a slave. Epigraphic material from Anatolia testifies to the practice of hierodoulism in the same contexts as confessions.¹³¹ Furthermore, a possible translation of the Cnidian curse tablets could render the request, found in a handful of curses, for the culprit to go up to Demeter *πεπρημένα|ων* *ἐξομολογουμένα|ων* as to ‘be sold into slavery and confess’.¹³²

These observations are significant in light of the wider history of ‘sin’ as debt. Gary Anderson argued that a shift over time was perceptible in the Jewish tradition from sin as a burden or stain to, in the Second Temple period, sin as debt.¹³³ This, he posits, was a Jewish revolution in thought which was later assumed by the Christian tradition.¹³⁴ The idea of sin as debt in the Christian tradition has also received concentrated study.¹³⁵ Even Augustine’s use of language in talking of sin *per originem* has been associated with a category of financial liability which existed from the time of the Diocletianic reforms.¹³⁶ However, the wide-angle perspective

¹³⁰ *XII Tab.* 3.5 (Loeb edition, as hereafter).

¹³¹ Petzl 49 mentions a *hierodoulos* by name, as does ND 84; Petzl 77 is dedicated by a *hierodoulos*. Many *katagraphai* exist from the temple of Apollo Lairbenos, where many confession inscriptions were found: (Öztürk 2009); (Öztürk and Tanriver 2008).

¹³² *I.Knidos* 148; 150; 153 (= *DT* 2, 4, 8). If from *περνομι*; transl. *contra* (Versnel 2002) 14.

¹³³ (Anderson 2009)

¹³⁴ (Anderson 2009) 111ff.

¹³⁵ (Fredriksen 2012).

¹³⁶ (Elm 2017).

taking into account divine justice confession, and confession in Roman society at large, shows that the reality is more complex than the simple transferal of an idea from Judaism to Christianity in isolation from the rest of the Greco-Roman world. A panoptic reconsideration of the nature of religious transgression in this period would be beneficial.

The nature of culpability

It is significant that many mentions of confession in the context of divine justice concern perjury. This was an offence against humans, as well one against the divine on whom the oath was sworn, which was always, by its nature, committed advertently. One simply could not be unaware of lying on oath; it was by definition a voluntary transgression. It is worthy of note that all the human-human crimes which are confessed were advertent crimes of which the culprit had to be aware, such as theft or not returning lost property. When it comes to transgressions against the divine, however, whether cultic or purity transgressions or offences against sacred property, we find that most transgressions are presented as inadvertent. In the Anatolian confession *stelai*, for example, transgressions against the divine are often accompanied by mitigating excuses, such as the case of Metrodorus who ‘accidentally’ broke a small stele of the gods when a child.¹³⁷ When Statius wonders whether altars have been polluted, before asking to be told if so in order to confess, he is clearly unaware that a transgression has been committed.¹³⁸ The same framework applies to Tibullus offering to perform penance for Venus; his is a *num* question.¹³⁹ Encolpius’ confession to Priapus is heavily mitigated: he did it *non toto corpore* and begs forgiveness ‘for a minor offence’.¹⁴⁰ The servant of the sacred snake in Metelis confessed his impiety, according to Aelian, after

¹³⁷ Petzl 78.

¹³⁸ Statius, *Silvae*, V.5.3

¹³⁹ Tib. 1.2.81-7

¹⁴⁰ Petron. *Sat.* 133

inadvertently looking upon the snake-god.¹⁴¹ By confessing in analogy to the Isiac penitent confessing to *numen violari*, it seems Ovid may be emphasising that he transgressed inadvertently against the divine *numen* of Augustus: it was indeed an *error*.¹⁴²

However, some transgressions against the divine must also have been considered deliberate, such as perjury and Semiramis' pretending to be divine. Other cases are ambiguous: Plutarch's superstitious penitent confessed sins and transgressions of eating and drinking, and taking a route forbidden by the conscience, but it is unclear whether these were advertent or inadvertent.¹⁴³ So transgression against the sacred appears to have merited confession whether inadvertent or advertent, but only advertent human-human transgressions were confessed. This is significant in light of other evidence.

Philo commented that the authority behind Leviticus rated involuntary sin in the sacred sphere equal to voluntary sin in the human.¹⁴⁴ As an example of voluntary sin, Philo invokes someone who lies about a partnership or a deposit or a robbery or as to finding the lost property of someone else and who swears, on oath, to deny it.¹⁴⁵ If this person, having got away with it from his accusers, is afterwards convicted inwardly by his conscience and makes a confession (ἐνδον ὑπὸ τοῦ συνειδότος ἐλεγχθείς, καὶ κακίση μὲν ἑαυτὸν ὧν ἠρνήσατο καὶ ἐπιώρκησεν, ὁμολογῶν δ' ἄντικρυς τὸ πραχθὲν ἀδίκημα συγγνώμην αἰτῆται), then he should be forgiven provided that he restores the property and adds a fifth of its value.¹⁴⁶ Jacob Milgrom observed, from Jewish priestly sources, that deliberate sins needed to be confessed, whereas for

¹⁴¹ Ael. NA. 11.17.

¹⁴² Ov. *Pont.* 1.1.54ff. Famously: Ov. *Trist.* 2.207. For error as inadvertent mistake:

¹⁴³ Plut. *Mor.* 168D

¹⁴⁴ Philo *Leg.* 1.238(248): ὁ γὰρ ἐν τοῖς ἀγίοις ἀκούσιον ἀμάρτημα ἰσότημον ἀπέφηνε τῷ περὶ τὰ ἀνθρώπινα ἔκουσίῳ.

¹⁴⁵ Philo *Leg.* 1.235-6

¹⁴⁶ Philo *Leg.* 1.236

involuntary sins confession was not necessary. He concludes: “the priestly authors took a postulate of their own tradition, that god mitigates punishment for unintentional sin, and powered it with a doctrine, that the voluntary repentance of a deliberate crime transforms the crime itself into an involuntary act”.¹⁴⁷ These two ideas of, firstly, divine mitigation for involuntary sin, and secondly of confession serving to lessen the degree of seriousness of a voluntary sin (downgrading it to involuntary) fit neatly onto the pattern of evidence for divine justice confession just observed. It seems significant that confession of involuntary sin against the sacred is so prominent in the examples of divine justice confession, given the attested importance of emphasising involuntariness to secure mitigation, and that confession of advertent human crimes is also so prominent, given its attested function in making deliberate transgression forgivable. This system of thought maps squarely onto the evidence discussed above.

We need not conclude, however, that all instances of divine justice confession therefore derived from, or bore a relationship to, Jewish thought. The confessions found in the Old Testament, with the exception of the scapegoat ritual, are all of the divine justice type. It therefore more sound to conclude that divine justice confessions appear to have operated according to a consistent logical framework.¹⁴⁸ Indeed, Philo’s emphasis on lying on oath about a crime and the particular sequence of the conscience then intervening to make him confess despite having got away with it echoes near contemporary evidence from the wider Greco-Roman world that reveals the association of perjury and the catalytic force of the conscience towards confession. The resemblance with Juvenal Satire 13 is especially striking: Calvinus’ defrauder denies receiving money (*quos abnego nummos*), though a believer in the gods and at first unbothered

¹⁴⁷ (Milgrom 1976) 123

¹⁴⁸ Inadvertent wrongdoing is also confessed in Hittite sources so Jewish examples are not even the most antiquated. For example in *CTH 378.2B*, Mursili accepts the blame for any crime the gods hold against him although he feels himself innocent: (Bachvarova 2006) 131.

by the thought of divine *lenta ira*, but is then eventually so tormented that he confesses.¹⁴⁹ Throughout the satire Juvenal suggests that a guilty conscience intervenes to convict, and we have reviewed similar examples above.¹⁵⁰ Milgrom puzzled over where Philo might have derived his sequential interpretation of perjury followed by intervention of conscience followed by confession, dismissing as conjectures existing conclusions which settled on Philo's originality or on Jewish tradition.¹⁵¹ He posits that Philo might have had Lev 5:21 in mind, where, though the perjury was deliberate, with confession the sin was absolved through sacrifice, which was usually only permitted for involuntary sins.¹⁵² But there is no explicit role in Leviticus for the conscience, and Milgrom admits this remains only a theory.¹⁵³ On this matter, in light of Greco-Roman comparanda, Philo might be more a product of his age and Greco-Roman context than has previously been thought.

Not only do Jewish thought-worlds expose likely cognitive frameworks for divine justice confession evidence, but so do Roman ones. In both Roman law and religion the intentionality and unintentionality of transgression mattered.¹⁵⁴ When Q. Mucius Scaevola was consulted about impiety, he considered whether a distinction should be drawn between a Roman praetor who would intentionally violate the interdiction to do official business on *dies nefasti*, and the one who would do it unintentionally.¹⁵⁵ He concluded: *praetor qui tum (i.e. die fasto) fatus est, si imprudens fecit, piaculari hostia facta piatur; si prudens dixit, Q. Mucius aiebat eum expiari ut impium non posse*. Here, sacrifice was enough for expiation, like for the unintentional sin in early Jewish law. The passive verbs suggest that the agency of the expiatory action was not

¹⁴⁹ Juv. *Sat.* 13. 211-223.

¹⁵⁰ Juv. *Sat.* 13.2-3: *se iudice nemo nocens absolvitur*; 13.237-9.

¹⁵¹ (Milgrom 1976) 112-3.

¹⁵² (Milgrom 1976) 113.

¹⁵³ (Milgrom 1976) 113.

¹⁵⁴ For Roman law: eg. (Paschalidis 2008). Also important in Athens: Dem. *Tim.* 24.67.

¹⁵⁵ Varro *Ling.* 6.30

proscribed. Cicero adopts a similar distinction between expiable and non-expiable transgressions in his Laws: *sacrum commissum, quod neque expiari poterit, impie commissum esto; quod expiari poterit, publici sacerdotes expianto... periurii poena divina exitium humana dedecus... impius ne audeto placare donis iram deorum.*¹⁵⁶

The idea in Roman thought that unintentional sins could be expiated but intentional ones could not can also help to explain the pattern in the evidence. That is, confession was necessary if one wanted to emphasize that a transgression had been committed unintentionally. It was impossible to flag intention without admitting to have done the act. This is likely why many of the confessions are accompanied by declarations or illocutionary acts conveying the unintentionality of the transgression. The dichotomy between expiable and unexpiable crimes for unintentional and intentional acts respectively was not always upheld; sometimes it is just the case that intentional transgressions needed greater reparation. The *lex luci Spoletina* records that, if someone broke the injunction not to violate or take something away from the grove of Jupiter, they must offer a *piaculum* of an ox to Jupiter, but if they did this intentionally (*cum dolo malo*, as the legal term) then in addition to the ox they must pay a fine of 300 asses.¹⁵⁷ In the eyes of Mommsen, Wissowa and S. P. C. Tromp, this evidenced a softening of Roman religion in the second to first centuries BC: the giving way of archaic severity to the *mildere Praxis* of a different age, although this cannot be upheld given the paucity of evidence for comparison to be meaningful.¹⁵⁸ Either way, whether intentional transgression was inexpiable or just needed a harsher penalty, what seems to be a undisputedly ‘Roman’ framework of thought provided incentive to confess an unintentional transgression.

¹⁵⁶ Cic. *Leg.* 2.9.22

¹⁵⁷ (Pancieria 2006) 905.

¹⁵⁸ (Scheid 2006) 22-3 argues against the idea of *mildere Praxis*.

In bemoaning the general disinclination to confess bad faults, Epictetus states that excuses tend to be given for involuntary faults, such as passion as an excuse for anger, and these are more readily confessed.¹⁵⁹ Injustice, however, is considered voluntary and, he claims, is never confessed.¹⁶⁰ The involuntariness/voluntariness of action is also a concern in the republican rhetorical handbooks. In *De Inventione*, for example, Cicero suggests that the confessing man should say: “that he did what he did not out of hatred or cruelty but out of folly or the instigation of someone or from some honourable or plausible reason”.¹⁶¹ He might lament his fortune: *non culpa, sed vi maiore quadam acciderit, et de fortunae potestate et hominum infirmitate et uti suum animum, non eventum considerent*.¹⁶² In the same work, he states that in all matters intent should be looked into.¹⁶³ Even 40 years later, in the *Topica*, and in speeches meanwhile, the distinction between voluntary and involuntary wrongdoing remained important.¹⁶⁴ Cicero also considered that disturbances of mind or sudden impulse count as absence of intention and deserve lesser penalty.¹⁶⁵ Although this sentiment is found prominent already in Cicero, there seems to have been a gradual increase in the perceived importance of the issue of intent over time in law. It was not until the time of Hadrian that the *voluntas* of transgression was taken into account for all major crimes.¹⁶⁶ No public criminal law tailored its *poena legis* to diminished responsibility until the Antonine discretionary penalties.¹⁶⁷

In sum, not all divine justice confessions constituted self-inculpation. This is also reinforced by the prevalence of evidence for the belief that transgression and divine punishment might be

¹⁵⁹ Arr. *Epict. Dis.* 2.21

¹⁶⁰ *Ibid.*

¹⁶¹ Cic. *De Inv.* 2.106

¹⁶² Cic. *De Inv.* 2.102

¹⁶³ Cic. *De Inv.* 2.101. cf. *Rhet. Her.* 1.25

¹⁶⁴ Cic. *Top.* 63-4; *Tull.* 51; *Mil.* 11.

¹⁶⁵ Cic. *Off.* 1.27; *Top.* 64; cf. *Pl. Leg.* 866d-867b; *Off.* 1.28

¹⁶⁶ *Dig.* 48.8.14

¹⁶⁷ (Bauman 1996) 30.

determined by external agents such as fate or an ill-omened star at birth.¹⁶⁸ Manilius, the Stoic poet, stated that the wicked were ‘created for’ guilt and punishment: crime should still be confessed (*fatendum*) as crime no matter its origins.¹⁶⁹ Lucius’s punishment of being transformed into an ass in Apuleius’ *Metamorphoses* is not linked with any intentional fault of his but, rather, is put down to ill fortune. He characterises his salvation by Isis as his overcoming savage Fortune, and sees fate as the cause of his many disasters.¹⁷⁰ This is further reinforced by the words of the priest, who speaks of Lucius having been driven by *magnis Fortunae tempestatibus*, before reaching the *portum Quietis et aram Misericordiae*.¹⁷¹ The priest suggests that Lucius’ *curiositas* is responsible for what has happened to him, earning him a *praemium sinistrum*.¹⁷² The priest’s subsequent sentence elucidates this as Fortune’s hand is again stressed: *sed utcumque Fortunae caecitas, dum te pessimis periculis discruciat, ad religiosam istam beatitudinem improvida produxit malitia*.¹⁷³ Lucius’ initial lack of adherence to Isis seems to be characterised more as an erring through ignorance, as the priest urges: *videant irreligiosi, videant et errorem suum recognoscant*.¹⁷⁴ Unbelief, then, seems to be classed as an ‘error’ fostered by not being able to ‘see’, a literal ‘wandering’ from the true path. Lucius appears not to be aware of any wrongdoing, like the examples met above, ending his prayer to Isis with: *ac si quod offensum numen inexorabili me saevitia premit, mori saltem liceat, si non licet vivere*.¹⁷⁵ The nearest Lucius comes to ‘confessing’, which Griffiths calls “tantamount to a confessional statement”, is his narration to his friends, slaves and relatives

¹⁶⁸ Petzl translates one inscription as having a birth star be the explanation for suffering: Petzl 1997.

¹⁶⁹ Manilius, *Astronomica* 4.117

¹⁷⁰ Apul. *Met.* 11. 12: ... *quod tot ac tantis exanclatis laboribus, tot emensis periculis, deae maximae providentia alluctantem mihi saevissime Fortunam superarem*; Apul. *Met.* 11.1: *fato scilicet iam meis tot tantisque cladibus satiato*. The fact that his troubles are called *clades*, also at XI.14 (*cunctis cladibus meis*), further suggests that he had no agency in the way that they befell him.

¹⁷¹ Apul. *Met.* 11. 15.

¹⁷² *Ibid.*

¹⁷³ *Ibid.*. This is probably what led Festugière to think that Lucius was transformed into an ass for having been engaged in magic in his youth, but the link between the two seems to be one of cause and effect rather than offence and punishment; certainly Lucius does not see himself to blame.

¹⁷⁴ Apul. *Met.* 11.15

¹⁷⁵ XI.2 end.

not of conscious wrongdoing but of previous *aerumnae* ('troubles').¹⁷⁶ Lucius thus employs the same technique we find advocated by Cicero in *De Inventione* for a defendant confessing an act but not *culpa*: *in quibus omnibus conquestionem suarum aerumnarum et crudelitatis adversariorum indignationem inesse oportebit*.¹⁷⁷ Yet nowhere does Lucius explicitly confess to an even inadvertent transgression unless we count the *si quod offensum numen inexorabili* of his prayer. His request to the priest Mithras to *dare veniam* sets up the expectation of a confession, but it is (perhaps comically) thwarted by the admission of his being unable to pay back Mithras' kindness.¹⁷⁸ Nevertheless, the *Metamorphoses* indicates that divine punishment was associated with inadvertent transgression, and offers an example of how responsibility for religious *error* was conceived of as resulting from an external agency.

This analysis of degrees of culpability behind the crimes confessed reinforces the point that divine justice confession was first and foremost a technology of mitigation, tailored to specific circumstances which gave rise to the requirement for divine appeasement. It was fundamentally an act of negotiation. Unlike autoscopic confession, it operated in a dynamic relationship between at least two perceived parties, the confessor-transgressor and the divine judge. Furthermore, this was no product of a way of life, no ritual routine, unlike autoscopic confession. Although it might look like an exposing of the self, often we find divine justice confession was less a matter of revealing that which was done wrong, than making a claim about the nature of that which was done wrong.

¹⁷⁶ Apul. *Met.* 11.19; (Apuleius and Griffiths 1975) 271. Griffiths proceeds immediately to cite the Ovid *Ex Ponto* 1.1 to support his claim. He seems to soften his interpretation in a later discussion: "*such a narrative must of course be imagined as more superficial and factual than the confessional statement made to the priest* [as inferred by Griffiths, n.X supra]": (Griffiths, Bianchi, and Vermaseren 1982) 195.

¹⁷⁷ Cic. *De Inv.* 2.102

¹⁷⁸ Apul. *Met.* 11.25 end

In the wider thought-world behind divine justice confessions, we also find that children might pay for the transgressions of an earlier generation, although they themselves were responsible for no injustice. This sentiment is also found in Latin literature, especially of the Augustan age and early Principate.¹⁷⁹ Virgil in the *Georgics* envisaged an age-old transgression of perjury committed by Trojan Laomedon as causing the inherited guilt which led to the punishment of the civil wars: *satis iam pridem sanguine nostro / Laomedontae luimus periuria Troiae*.¹⁸⁰ The confession simply of having been punished, as we find in so many of the Anatolian *stelai* without the surplus elaboration of the nature of the crime committed, was not confession of culpability but it was nonetheless confession in the sense that it was a manifestation of the power of the god in order to appease. Additionally, it served to show that penalty had been paid, illocutionarily functioning as a rational argument that the suffering ought now be complete. Divine justice confession thus looked more to consequences, to effect future outcomes, whereas autoscopic confession was more a reflection of past action and present ethical attitude.

Type 2: Autoscopic confession

The seed of this type of confession was first planted in the Epicurean garden. Philodemus' *Peri Parrhesias* is the earliest source to demonstrate that the exhortation to confess, in the sense of verbally revealing offences, transgression and character flaws, was an aspect of Epicurean teaching. According to its title page, the treatise is an epitome from the lectures of Zeno of Sidon, which Philodemus had attended in Athens sometime in the early first century BC.¹⁸¹ It cannot be concretely proven that its injunctions date back to Epicurus himself; in the extant

¹⁷⁹ (Thome 1992) 89-92.

¹⁸⁰ Verg. *G.* 1.501-2.

¹⁸¹ (Konstan 1998) 8

writings of Epicurus, there is no full discussion of *parrhesia* that survives.¹⁸² However, Epicurus is invoked as an *exemplum* and authority for frank speaking. It is clear from Philodemus that Epicurus was believed to have indicated his approval of the confession of students' shortcomings: Heraclides was praised because he supposed the criticisms he would incur as a result of what was going to come to light were less important than the benefit he would get from them, and so informed Epicurus of his mistakes.¹⁸³ Philodemus probably had Epicurus' letters as evidence of this behaviour.¹⁸⁴ Seneca's attribution of the quote "*initium est salutis notitia peccati*" to Epicurus also reflects the perception that Epicurus himself was concerned with the revelation of wrongdoing.¹⁸⁵ It is therefore likely that the injunction to confess in this way was fruit of the original garden. No similar practice can be found in Greek philosophical tradition prior to this point.

This Epicurean practice of confession has not gone unnoticed by scholarship on Hellenistic philosophy, although there it has tended to receive little more than passing mention or is treated as if a unique product of the Epicurean school without a wider history in the ancient world.¹⁸⁶ We shall see, however, that the phenomenon can be traced after this point into the Roman Empire, exhibiting continuity and some change in Seneca's Stoicism, and beyond in Epictetus. It also seems that some instances of confession in the Christian tradition and monasticism in particular belong to this type. The *long durée* phenomenon of philosophical, self-examination confession as a tradition spanning various contexts and ages has not previously been identified. Nussbaum provided the most cogent discussion of Epicurean confession, highlighting its

¹⁸² Except for mention of the term at Sent. Vat. 29, where it is contrasted with conforming with popular opinion to win praise: (Earler and Schofield 1999) 673.

¹⁸³ Phld. *Peri Parrhesias* Fr. 49

¹⁸⁴ (Earler and Schofield 1999) 673.

¹⁸⁵ Sen. *Ep.* 28.9

¹⁸⁶ "we find in the [Epicurean] school the first record, in the Greek philosophical tradition, of an institution of confession or personal narrative" (Nussbaum 1994) 134, arguing Sudhaus assimilated the practices too closely with Christian confession "from which it is important to distinguish them".

therapeutic nature. Scholars have either seen this as anticipation of the Catholic confessional, or, like Nussbaum, of Freudian analysis.¹⁸⁷ Foucault's focus fell on the Stoic tradition, making no mention of Epicurean confession and failing to identify Stoic concern with self-improvement through *parrhesia* as belonging to a broader phenomenon. He seems to have been unaware of the content of Philodemus' *Peri Parrhesias*, particularly as he died before any modern translation of it was produced. Although he was familiar with Epicurean (along with Stoic and Pythagorean) self-examination, he does not specifically mention Epicurean confession.¹⁸⁸ This sub-chapter therefore constitutes an attempt to complete what has so far been a jigsaw of only one or two pieces.

Epicurean confession: guilt in the garden

Much of the *parrhesia* which Philodemus' treatise encourages concerns frank speech by fellow students and friends about one another's faults (usually ἀμαρτίαι) for mutual betterment.¹⁸⁹ The exhorted *parrhesia* also governs the confession of one's own faults. This dual aspect of frank speech – about others and about the self - is clear from the title found in Fr. 53: 'whether they will declare things of their own and of one another to their fellow students'. The Epicurean is encouraged to confess faults in order to achieve correction and self-improvement, and not to conceal them. For example, Fragment 40 states:

Χρή γὰρ αὐτῶι δεικνύειν ἀνυποστόλως τὰς διαμαρτίας καὶ κοινῶς εἰπεῖν ἐλαττώσεις. εἰ γὰρ ἡγησάμενος ἕνα τοῦτον ὀδηγὸν ὀρθοῦ καὶ λόγου καὶ ἔργου, ὃν φησι σωτῆρα μόνον, καὶ ἐπιφωνήσας τὸ 'τούτου γ' ἐσπομένοιο', παρέδωκεν ἑαυτὸν θεραπεύειν πῶς οὐχὶ μέλλει ταῦτ', ἐν οἷς δεῖται θεραπεύσεως, δεικνύειν αὐτῶι καὶ νοουθήτησιν προσδέχεσθαι;

¹⁸⁷ (Schmid 1962) 740-7; (Sudhaus 1911). (Nussbaum 1994) 134-5; (Sorabji 2014) 24-5, 74.

¹⁸⁸ (Foucault 2000) vol. 3, 310.

¹⁸⁹ Eg. Phld. *Peri Parrhesias* Fr. 50: "He [the leader] will not think someone who desires his friend to receive correction an informer, when he is no such thing, but rather a person who loves his friend".

The next fragment declares that it is unfriendly to act in secret, because one who does not report errors is clearly covering up these things from the wise man, and there is to be no advantage in this.¹⁹⁰ Shortly afterwards, we are told that many of the companions will voluntarily disclose their secrets, without even the teacher interrogating them: καὶ τῶν συνήθων δὲ πολλοὶ μὲν γὰρ ἐθέλονταί πως, οὐδ' ἀνακρίνοντος τοῦ καθηγουμένου διὰ τὴν κηδεμονίαν καὶ καθόλου τέλειαν αἴρεσιν ὡς...¹⁹¹ Nussbaum interprets Fr. 83 as the speech of one student who declares that “I fell of my own will into the ignorance of youth; and on account of that he had to give me a whipping”.¹⁹²

The confessions seem at least sometimes to be performed before a teacher who listens and watches: ἀκούσει μᾶλλον, ἅμα καὶ θεωρῶν ἡμᾶς καὶ ἑαυτῶν γινομένους κατηγορούς, ὅταν τι διαμαρτάνωμεν.¹⁹³ As this fragment has it, the Epicurean students become *self-accusers*. But it also seems that the confession could be made in front of fellow students, given the title in Fr. 53 concerning declarations πρὸς τοὺς συνκατασκευαζομένους. This section might have discussed the advantages and disadvantages of frank speech in front of others, as it begins by urging caution in speaking of one's ignorance to fellow students. Fragment 55 also implies that students would present their own faults (τὰ περὶ αὐτοῦς) for frank criticism in the presence of students “to be put before Epicurus and for the sake of correction”. The activity seems to be collective, with Epicurus and the teacher as additional figures of guidance and authority. A plural audience is also implied by the wording of the title: ‘whether a wise man will communicate his own [errors] to his friends with frankness’.¹⁹⁴

¹⁹⁰ *Ibid.* Fr. 41

¹⁹¹ *Ibid.* Fr. 42.

¹⁹² (Nussbaum 1994) 42; cf. Plut. *Col.* 1124D; *Mor* 566F; Apul. *Met.* 3.13

¹⁹³ Phld. *Peri Parrhesias* Fr. 51.1-5.

¹⁹⁴ *Ibid.* Fr. 81 = 83N.

Amongst the objects of confession and censure we can infer a range of mostly ambiguous faults: ἀγνοίαι (fr. 53); ἀμαρτίαι (fr.1; 40; 49; 79N; col. XVa; col. XXIIIb); ἀμαρτημα (fr.9; 76; 77; 79; col. XVb); ‘κακῶς ποεῖς’ (fr. 11); ἐν οἷς διέπεσον (fr. 20); blame after someone is slighted (fr.35); φιλάργυρον ἢ ἐρῶντα (fr. 42; love also in fr.57); κακία (fr. 43; 57). Fr. 56 implies a ‘slip’ is anything preventing perfection. Therefore, we can discern a no doubt once helpful ambiguity of what counted as transgression. Significantly, there is no sign that this concerned confession of serious crime or intentional wrongdoing. These seem to be faults, errors and character flaws. Indeed, Fr. 9 states that the wise man will sometimes ‘transfer to himself’ an intemperate error of his youth: ἐπεὶ καὶ μετάξει ποτ’ ἐφ’ ἑαυτὸν ὁ σοφός θ’ ἀμαρτημ’ ἄνετον ἐν τῇ νεότητι γεγονέναι. The stakes do not seem to have been particularly high, and there seems to have been an acceptance that humans were prone to err.¹⁹⁵ Nevertheless, the things confessed must have had to reflect relatively negatively on the transgressor because it is clear that the purpose of such censure was humiliation.¹⁹⁶ As Roitto argues for Christian confession of sins, risking shame was the cost of the ritual and as such it functioned a ‘costly signal of commitment’ to the group.¹⁹⁷ Thus, confession could serve to strengthen community bonds and, in testing commitment, as ‘identity maintenance’ of the group.¹⁹⁸

Highly significantly, we find a medical analogy served to illustrate the way in which confession was conceptualised. Medical analogies permeate the Epicurean tradition as a metaphor generally.¹⁹⁹ Here too, the idea of the doctor-confessor and the confessing patient operates as a crucial metaphor to explain why confession was necessary. As fr. 40 makes clear, the patient

¹⁹⁵ *Ibid. col.XVIIa*

¹⁹⁶ *Ibid. Fr. 15; 18*

¹⁹⁷ (Roitto 2019) 433

¹⁹⁸ (Roitto 2019) 437

¹⁹⁹ (Nussbaum 1994) 116; (Galen et al. 2013) 214.

who has given themselves over to be treated must reveal to the doctor the things which need treating, otherwise the healing cannot take place.²⁰⁰ The therapy of the soul that was at the heart of the Epicurean project is one reason, it seems, why the confession error was considered necessary. Nussbaum argued that “this passage, not used by Sudhaus, shows us that concepts of sin and absolution are not the most revealing tools for the understanding of Epicurean “confession”, which is a matter of bringing the symptoms into the open for analysis and diagnosis. It is close to some of the ideas and procedures of modern psychotherapy”.²⁰¹ To force the dichotomy is to retroject a modern idea that religious sin and absolution were not also conceived of matters of medical healing, but the point that this served a therapeutic function is important.²⁰² A further consequence of this doctor-confessor, patient-confessant dynamic is that once again, as in divine justice confession, there is power disparity at work. This time, however, instead of seeking to appease a judge, the inferior party is trusting in the superior party to heal an ongoing state of illness. Thus, rather than a one-off event, the scenario of the patient-confessant is much more an ongoing state requiring routine intervention. This confession is above all a feature of the Epicurean project of self-improvement.

The figure of the spiritual leader adopts a paternal role also. Philodemus expects three things of the leader: he must not have the faults which he criticizes in others so that he is their moral superior. He must have the practical knowledge requisite for correction or therapy. He will speak to his pupils with the sort of love a parent has for their child.²⁰³ This is perhaps significant in light of the tactic that Cicero used in the *Pro Ligario*, where his confession to Caesar is presented as if confession to a *paterfamilias* who might bestow his sympathy. Cicero was most

²⁰⁰ Cf. Hdt. 1.197: the ill were publicly exposed in Babylon so that they might learn from passers-by what might be done, which involved asking what he ailment was. Thus there was a long precedent even beyond medical professionals for verbal question and answer about illness.

²⁰¹ (Nussbaum 1994) 134-5

²⁰² Confession of a general blunder is called *medicina* in *epistula ad Octavianum* 8.1

²⁰³ (Earler and Schofield 1999) 671.

likely acquainted with Philodemus, or at least was certainly acquainted with Philodemus' friends as well as with his writings.²⁰⁴ There might be a further echo of this type of confession in Ovid's musing on whether it does any good (*prodest*) to confess sins, and not to conceal them: *non ego mendosus ausim defendere mores / falsaque pro vitiis arma movere meis / confiteor – siquid prodest delicta fateri; in mea nunc demens crimina fassus eo.*²⁰⁵ He is not confessing because he is punished by an angry god, but out of a consciousness that mendaciously defending immoral behaviour is no good, whereas confessing might be. This is imbued with curiously similar sentiments to Philodemus' proscription.

In summary, introduced in this brief survey of *Peri Parrhesias* are fundamental attributes of self-examination confession which remain defining characteristics over time. Firstly, its communal setting is key: the students are conceived of as individuals acting in a collective. The speech act of confession itself also is performed before fellow students, friends and teachers. Secondly, its purpose was one of self-improvement. Like the patient confessing symptoms to a doctor, confession was necessary for the healing of the soul. Thirdly, although the Epicurean is exhorted to confess, the catalyst is ultimately the Epicurean themselves; it was supposed to be a product of self-examination. Fourthly, this was a routine practice to address an ongoing state of being, not an *ad hoc* response to an event of transgression requiring resolution.

Accounting for the development of Epicurean confession:

Epicurean Epicurus and community living

*Sic fac...omnia tamquam spectet Epicurus.*²⁰⁶

²⁰⁴ Cic. *Pis.* 68-72. cf. Cic. *Fin.* 1.5.14: *Epicurum...unum vidisse verum maximisque erroribus animos hominum liberavisse* (Lucius Manlius Torquatus talking to Cicero, as Cicero depicts it in *De Finibus*).

²⁰⁵ Ov. *Am.* 2.4.3

²⁰⁶ Sen. *Ep.* 25.5

*nec tamen Epicuri licet oblivisci, si cupiam, cuius imaginem non modo in tabulis nostri familiares, sed etiam in poculis et in anulis habent.*²⁰⁷

A striking characteristic of Epicureanism is the episcopic power accredited to Epicurus himself. He was thought to see far and wide, as the above quotations reflect. Also significant, and related to this, is that Epicureanism emphasised a prohibitory ethical regime. The unique concept of *ataraxia* required having a sense of what behaviour to avoid in order to secure freedom from disturbance.²⁰⁸ That is, more than ever before there was a moral code of what not to do, unlike in the Academy or Lycaeum which were more orientated towards equipping students for independence. Epicurus stated: “let us altogether chase out our bad habits, like evil men who have long done us great harm”.²⁰⁹ This meant that the perfection of the Epicurean wise man required the purgation of behaviour or character traits which compromised this ethical standard. This in turn facilitated the conditions in which a medical analogy of confession of illness to heal the soul was perfectly apt.

The nature of the communal life of Epicureanism is, I suggest, another key reason why this sort of confession was encouraged to develop in this context. We find the injunction to confess phrased in the negative – that is, *not to conceal* fault – several times in Philodemus, which arguably betrays a wider anxiety about verediction. We can plausibly put this down to anxieties arising from membership of an ethical community.²¹⁰ In a communal environment concealed faults become dangerous. Not only does it bring into question the safety of other individuals in the community, but it also undermines the wider integrity of the ethical project. It is significant

²⁰⁷ Cic. *Fin.* 5.3; cf. Pliny *NH* 35.5.

²⁰⁸ (Nussbaum 1994) 124.

²⁰⁹ *VS* 46; (Nussbaum 1994) 125.

²¹⁰ (Konstan 1998) 8.

that when we find this type of confession later, in Stoicism, in Qumran, in Christian scriptural and monastic circles, the community, whether imagined or real, is invariably its *sitz im leben*.

The competitive marketplace of morality

In the competitive marketplace of Hellenistic philosophical schools, the reputation of respective ethical projects mattered. This is another reason why confession may have arisen when it did. Confession was a way of policing the moral standards of the community, both neutralising the risk of scandal or accusation of hypocrisy from outside, and reassuring the members within the community – as well as prospective members - that moral standards were high. The Hellenistic period witnessed an unprecedented level of inter-school competition. At stake was not only the reputation of the school but also its financial success. Epicurus' will mentions that pupils supported him from their own means.²¹¹ As the healing of bodies was lucrative, so was the healing of the soul, and confession was a communicative exchange which gave an impression that improvement was constantly within, and just out of, reach.

Stoic confession: Seneca and diurnal declaration

*gravis sopor etiam somnia extinguit animumque altius mergit, quam ut in ullo intellectu sui sit. Quare vitia sua nemo confitetur? Quia etiam nunc in illis est; somnium narrare vigilantis est, et vitia sua confiteri sanitatis indicium est.*²¹²

Seneca here exhorts a sort of confession which can be categorised as belonging to the autoscopic type. He implies that confession of *vitia* was a virtuous act. The ill patient is more likely to declare diseases of the body the worse they get, but it is the opposite for diseases of

²¹¹ DL 1

²¹² Sen. Ep. 53 7-8.

the soul; the worse one is the less one perceives them.²¹³ Confession, then, rather than being an integral aspect of extreme ‘un-Roman’ behaviour, was in itself actually so far removed from that consideration that Seneca could call it an *indicium sanitatis*: a ‘proof of sound mind’. This was a religio-spiritual exercise, and once again we find it conceptualized with a medical analogy. In letter 83, having been asked by Lucilius for an account of his day, Seneca begins by suggesting that there would be many things to hide from the telling, except that that is exactly how one ought to live, as if we lived in the plain sight of everyone. Indeed, he goes on to say that nothing is shut off from the sight of god. Seneca’s god is episcopic, and a witness to souls. Nevertheless, his daily activity, Seneca reveals, is to keep watch over himself. He goes further in *De Ira*, stating that every day he assumes the role of judge over himself: *cotidie apud me causam dico*.²¹⁴ This comes immediately after having praised Sextius’ practice of ‘putting questions’ to his soul, such as: what faults have you healed today? What vice have you resisted? In what way are you improved? Thus, as never before, Seneca seems to suggest that his confessional self-introspection is a routine, daily practice. There is no hint of such routine in the confessional practice of Philodemus’ Epicurean community, although we know that it was Pythagorean practice, attested first by Cicero, to every evening run over in the mind all that was said and done during the day, blaming what was wrong and rejoicing in what was right.²¹⁵

Seneca employs the metaphor of being judge over the self also in epistle 28, where he explicitly urges the self-accusation of wrongdoing in order to achieve self-improvement.²¹⁶ It is telling that he begins this thought with a quote from Epicurus:

²¹³ *Ibid.* 6-7.

²¹⁴ Sen. *De Ira* 3.36.3

²¹⁵ Cic. *Sen.* 11.8; Arr. *Epict. Dis.* 3.10.3; 4.6.33 provides the verses.

²¹⁶ Sen. *Ep.* 28.9-10.

*“Initium est salutis notitia peccati.” Egregie mihi hoc dixisse videtur Epicurus. Nam qui peccare se nescit, corrigi non vult; deprehendas te oportet, antequam emendes. Quidam vitiis gloriantur; tu existimas aliquid de remedio cogitare, qui mala sua virtutum loco numerant? Ideo quantum potes, te ipse coargue, inquire in te; accusatoris primum partibus fungere, deinde iudicis, novissime deprecatoris. Aliquando te offende.*²¹⁷

Whilst it is not clear that this daily practice of self-accusation involved an audible practice of fault recitation, it clearly entailed at least a silent confessional act whereby faults were acknowledged and charges of specific faults were brought too. For Seneca this is an interlocutory act of self-on-self. The individual is part of an imagined community of fellow self-improvers and philosophers, but the practice was private; a communal one only in the conceptual context of the Stoic brotherhood. This stands in contrast to both the Epicurean evidence which presented an above all public practice before the collective, and a later version of the daily self-improvement regime as articulated by Galen. In *On the Passions and Errors of the Soul*, Galen exhorts that the company of an older, wiser, good man should be sought out so that he will help him by disclosing his every action which is wrong.²¹⁸ He urges the person seeking improvement to summon such a man and, in private, to ask him to reveal straightaway any negative faults he sees in them, telling him that he will be regarded as more than a saviour from bodily illness if he does so.²¹⁹ Although Galen encourages reflection on avoiding passion every morning on getting out of bed, and also every evening, his default concept is of another person performing the accusation.²²⁰ He is not oblivious to the idea of self-introspection but, quoting Aesop’s idea that we have two bags strapped round our necks, one with other people’s wrongs in front of us, another with our own wrongs behind us, he appears to think external accusation more reliable.²²¹ His idea of the mature person who can see vices and ‘reveal with frankness all our errors’ is much like the practice we find in Epicureanism, and the daily routine

²¹⁷ *Ibid.*

²¹⁸ (Galen et al. 2013) 244ff. = *Aff. Dig.* 7Kff; 281ff = 55Kff.

²¹⁹ (Galen et al. 2013) 245-6 = *Aff. Dig.* 8-9K.

²²⁰ (Galen et al. 2013) 245 = *Aff. Dig.* 8K; (Harkins and Riese 1963) 48.

²²¹ (Galen et al. 2013) 243 = *Aff. Dig.* 6-7K.

reflection which he encourages is as we find in Seneca and previous Pythagorean tradition, but unlike Seneca and Epicureanism he makes no mention of self-instigated confession of wrongdoing. For Galen, it requires an external act of bringing the fault to attention before the individual can apply censure and work on it so as to ‘remove the roots from the soul’.²²²

Seneca seems to be inspired by Epicurean tradition for his concept of *vitia confiteri* in epistle 53 where he presents it together with the Epicurean medical analogy of confessing in order to recover health. Although Cicero states that the Stoics, particularly Chrysippus, drew an analogy between diseases of the soul and of the body, the connection of confession which recovering health particularly echoes Philodemus.²²³ Furthermore, the fact that Seneca quotes Epicurus before urging the routine self-accusation of fault shows a close association and familiarity with Epicurean ethical doctrine, which is also revealed elsewhere in his writings: we know that Epicurean ethics were a particular interest of Seneca’s.²²⁴ But at the same time, he seems to have added the daily routine and the private dimension that had been previously associated with a Pythagorean practice of deed-reflection at the end of every day. Importantly, though, for Seneca this was no mere act of contemplation, but verbal *vitia confiteri* was the sign of health. It was an elenctic act of self against self which relied upon confession as the hinge around which self-improvement revolved. Seneca’s particular contribution, then, was to emphasise both the autonomous nature of self-examination confession and its association with a daily ethical regime.

The importance of confession for self-improvement also appears to have been promoted by Epictetus. At the beginning of a discussion ‘on inconsistency’, he complains that people do not

²²² (Harkins and Riese 1963) 54. Plutarch’s discussion of frank speech also concerns only the pointing out of errors by a friend: Plut. *Mor.* 59D; 74D. cf. Philo *Quis heres* 19, 21; *De migr.* 116–117.

²²³ Cic. *Tusc.* 4.10: (Graver 2002) 136.

²²⁴ (Earler and Schofield 1999) 674: Sen. *Ep.* 25.4-6; 11.8; 28.9; 97.15; (Schmid 1957).

tend to confess what they consider base, and if they do confess it tends to be something that does not reflect negatively or can be mitigated by avowing attendant passions which suggest the error was involuntary.²²⁵ Implicit in this is Epictetus's exhortation to confess all faults. Separately, he advocates daily reflection of Pythagorean verses including the things done amiss, and causes for blame, at breakfast, in the bath and in bed.²²⁶ Such an attitude to the desirability of confession and self-improvement seems to have been shared by his student Arrian, who includes at the end of his *Anabasis* a discussion of Alexander's faults, declaring that he was sure Alexander was the only ancient king who repented of his errors.²²⁷ He adds that the majority of men, even if they become conscious that they have committed an error, make the mistake that they can conceal their wrongdoing by defending their error as if it had been a just action. Arrian then states that the only cure for wrongdoing is for the wrongdoer to confess it and to be visibly repentant in regard to it: μόνη γὰρ ἔμοιγε δοκεῖ ἴσσις ἀμαρτίας ὁμολογεῖν τε ἀμαρτόντα καὶ δῆλον εἶναι ἐπ' αὐτῷ μεταγιγνώσκοντα.²²⁸ Arrian implies this has two functions: it will make the person who has been offended feel better, and it instilled the hope for the future that the wrongdoer will not commit a similar sin. Thus here we find confession is still closely associated with the goal of self-improvement. Unlike divine justice confession, it was not first and foremost a technology of appeasement, but it was above all an externalization of an interior attitude in a context orientated towards the care of the self.²²⁹ For Arrian, as for Seneca, it was a positive act which indicated virtue.

Here both Arrian and Epictetus (as recorded by Arrian) make explicit what we have observed earlier in this chapter, but this time as specifically applied to autoscopic confession: it was a

²²⁵ Arr. *Epict. Dis.* 2.21

²²⁶ Arr. *Epict. Dis.* 3.10.3; 4.6.33

²²⁷ Arr. *Anab.* 7.29

²²⁸ Arr. *Anab.* 7.29.2

²²⁹ cf. (Hadot 1969)

counter-cultural act. They perceived that most people's tendency was not to engage in the confession of faults. As such, the philosophical practice was imbued with greater capital; it encouraged behaviour which was different from the mainstream and in being extraordinary, and difficult to the point of undesirable, it could become a marker of virtue. As a group-defining activity it therefore helped to forge a unifying sense of spiritual superiority.

Autoscopic confession: beyond philosophy

ἐξομολογεῖσθε οὖν ἀλλήλοις τὰς ἀμαρτίας καὶ εὐχεσθε ὑπὲρ ἀλλήλων, ὅπως ἰαθῆτε.²³⁰

This exhortation to confess sins is found in the New Testament epistle of James who, like Philodemus, originated from near the sea of Galilee. The sort of confession being encouraged here conforms to the autoscopic type; it is collective (ἀλλήλοις), it is not designed for a one-off need to appease, and its purpose is spiritual healing (ὅπως ἰαθῆτε). This is a world away from divine justice confession. The similarity of this passage and Philodemus has been noted before, not for the purpose of suggesting Philodemus' influence on James, which is untenable, but rightly highlighting commonality.²³¹ Both James and the originator of Philodemus's injunctions had the practical requirement of community formation in mind; for James, his was of course a burgeoning Christian community, whom he addresses as ἀδελφοὶ μου.²³² In attempting to trace linear development, Nock saw this practice of open confession of sins in James as a natural concomitant of the sort of church discipline exemplified in Paul's first epistle to the Corinthians, and declares defeat at ever being able to determine whether it 'was encouraged' by the Phrygian practice of confession evidenced in the *stelai* or confession in the

²³⁰ James 5.16

²³¹ (Kok 2013).

²³² James 1.2

cult of Isis “or the like”.²³³ Rousing ourselves away from such defeatism, we can now more confidently assert that there are no grounds at all for seeing a direct relationship of influence between the *stelai* and Isiac examples (that is, divine justice confessions) and this practice exhorted by James; on the contrary, it seems to belong to a different confessional tradition entirely. We also find confession of a routine communal sort in the assembly of worshippers, cosmetically different to divine justice confession, exhorted by the first century Christian rule for good ecclesiastical praxis, the Didache: ἐν ἐκκλησίᾳ ἐξομολογήση τὰ παραπτώματά σου.²³⁴ Unlike the one-confession-per-transgression nature of divine justice confession, the Didache’s ideal practice was regular, to be performed every Sunday: κατὰ κυριακὴν δὲ κυρίου συναχθέντες κλάσατε ἄρτον καὶ εὐχαριστήσατε, προεξομολογησάμενοι τὰ παραπτώματα ὑμῶν, ὅπως καθαρὰ ἡ θυσία ὑμῶν ἦ.²³⁵

In illustrative contrast, we might here compare the sort of confession found in the mid second century Shepherd of Hermas. Unlike the Jamesian and Didachean autocratic type of confession, the confession practiced in the Shepherd of Hermas appears to belong to the divine justice sort. Although Hermas initially kneels and begins to confess his sins seemingly of his own accord, the main narrative consists of his being notified of his sins from external visions, like the *imagines* coming in dreams in Greco-Roman examples above.²³⁶ The first vision of the ‘Lady’ announces she is there to convict him of his sins before the Lord.²³⁷ She then informs him that God is angry with Hermas because he had sinned against her.²³⁸ Hermas is astonished and plainly unaware of such a sin, claiming it a false accusation.²³⁹ She suggests that, if he prays to

²³³ (Nock and Stewart 1972) 119.

²³⁴ *Didache* 4.14; (Niederwimmer, Maloney, and Attridge 1998) 2.

²³⁵ *Didache* 14.1

²³⁶ Kneeling: *Pastor* 1.1.6; 3.1.5.

²³⁷ *Pastor* 1.1.5

²³⁸ *Ibid.* 1.1.6

²³⁹ *Ibid.* 1.1.7

God, God will heal his sins and those of his household.²⁴⁰ Hermas' reaction is curious. He does not know what to do, questioning how he might go about propitiation for such sins. For our study, this is telling: clearly confession of sin was not considered the obvious panacea. Next a vision of an aged Lady appears, confirming that a thought did indeed enter his heart concerning her, but the 'evil conquering of his devout spirit' is described in such a way as to suggest Hermas himself was not responsible for the sin but that it came from an external force.²⁴¹ She adds that God is angry with Hermas because he converted his family but without admonishing them for their sins.²⁴² In his narrative of the second vision, when he kneels on his way to Cumae his sins are not known to him but God makes his former sins known: ἐγνώρισέν μοι τὰς ἁμαρτίας μου τὰς πρότερον.²⁴³ He learns from writing in a book that his children had sinned.²⁴⁴ The instruction follows for Hermas to let his family know and, if they repent, they will be forgiven.²⁴⁵ In the allegorical vision of the tower that is the church, in the third vision, Hermas asks whether the rejected stones would ever, with repentance, fit in the tower, the response comes that they can go somewhere more humble but not until they have undergone torments.²⁴⁶ The revelation of the Lord is even associated with Hermas laying aside an illness and becoming strong again.²⁴⁷ In the fourth vision, God saves him from a beast so the lady church bids Hermas go and declare to the church elect his 'mighty works': ὅτι τὸ θηρίον τοῦτο τύπος ἐστὶν θλίψεως τῆς μελλούσης τῆς μεγάλης.²⁴⁸ So Hermas duly announces:

πιστεύσατε τῷ κυρίῳ, οἱ δίψυχοι, ὅτι δίψυχοι, ὅτι πάντα δύναται καὶ ἀποστρέφει τὴν ὀργὴν αὐτοῦ ἀφ' ὑμῶν καὶ ἐξαποστέλλει μάστιγας ὑμῖν τοῖς διψύχοις. οὐαὶ τοῖς ἀκούσασιν τὰ ῥήματα ταῦτα καὶ παρακούσασιν· αἰρετώτερον ἢν αὐτοῖς τὸ μὴ γεννηθῆναι.²⁴⁹

²⁴⁰ *Ibid.* 1.1.9

²⁴¹ *Ibid.* 1.2.4

²⁴² *Ibid.* 1.3.1

²⁴³ *Ibid.* 2.1.2

²⁴⁴ *Ibid.* 2.2.2

²⁴⁵ *Ibid.* 2.2.4

²⁴⁶ *Ibid.* 3.7.6

²⁴⁷ *Ibid.* 3.12.3

²⁴⁸ *Ibid.* 4.2.5

²⁴⁹ *Ibid.* 4.2.6

This recalls the explicit advertisements of divine power as well as the proclamations of warning found on the Anatolian stelai.²⁵⁰

Furthermore, Hermas's ethical regime is one that has set, finite regulations: the shepherd, the 'angel of repentance', who appears to Hermas in the fifth vision, commands him to note them down. This is not a Pauline, or even a Philodemian ethical regime where there is a wide scope and ambiguity about what fault consists of; or, rather, where a 'slip' might consist of anything which prevents perfection. This is a religion of regulations, as we find evident in many sanctuary codes from the Greco-Roman world. In the sixth parable Hermas meets the angel of punishment, who punishes those who wander away from god 'with fearful and various punishments' as they deserve.²⁵¹ Those who are not aware of their evil deeds are 'afflicted with every kind of affliction', and so are delivered over to that angel; if they repent, they glorify god, *saying that he is a just Judge* and that they suffered justly each according to his doings: ἐὰν δὲ μετανοήσωσι, τότε ἀναβαίνει ἐπὶ τὴν καρδίαν αὐτῶν τὰ ἔργα ἃ ἔπραξαν πονηρά, καὶ τότε δοξάζουσι τὸν θεόν, λέγοντες, ὅτι δίκαιος κριτὴς ἐστὶ καὶ δικαίως ἔπαθον ἕκαστος κατὰ τὰς πράξεις αὐτοῦ.²⁵² Consequently, they cease suffering 'any evil thing'. Hermas' writing down of his vision is similarly commanded, just as many of the Anatolian transgressors are told to *stelographein*. Hermas declares in parable 10 that he will declare to everyone the great works of the lord and the shepherd replies with the imperative: *omni homini indica magnalia domini*.²⁵³ Therefore, in the Shepherd of Hermas we find all the ingredients of divine justice confession: an angry God, an inadvertent devotee, messengers appearing in visions to explain

²⁵⁰ Warnings: Petzl 27; 106; 111; 112; 120; 121; NRT 118.

²⁵¹ *Ibid.* Parable 6.3.3-4 It seems also from Parable 6.3.4. that the length of torment mattered, matching the length of time man was in a state of sin. This is interesting in light of Anatolian stelai which specify how long punishment lasted: Petzl 1; 5; 108; ND 84. The rare mention of physical malady in the South Arabian corpus also specifies the length of time of suffering: Ja 720. Furthermore, there is a curious overlap in the nature of crimes which the god of Parable 6 is offended by and those found in the Anatolian corpus.

²⁵² *Ibid.* Parable 6.3.6

²⁵³ *Ibid.* Parable 10.4.1

the fact and nature of the wrongdoing committed, as well as how to go about propitiation, and a framework of accusation and response before a judging God according to a judicial model, and even the concept of family sin and ἄγγελοι (which we find also in the Anatolian *stelai*). Even the way to remedy the punishment inflicted for sin (whether financial suffering, maladies, insults from others: Parable 6.3.4) is repentance and glorifying God by stating verbally that he is a just judge: manifesting the power of god and appeasing through advertisement of just theodicy.²⁵⁴ The model is ultimately a judicial one, and represents one of the two types of confession – divine justice confession - which continues alongside autoscopic confession in the early Christian tradition.

Communal confession of a different nature can be found in the Qumran community. Although God appears as a judge, the confession stipulated by the Community Scroll is a routine ritual, a formula to be recited by the initiates entering the community, as a collective.²⁵⁵ As Russell Arnold has observed, this confession is different to biblical examples and to other prominent Second Temple prayers.²⁵⁶ Unlike the Deuteronomic cycle of sin-punishment-repentance-deliverance, the confession in the Community Scroll omits the repentance stage. Arnold also notes a striking absence of fasting and penitential practices in wider penitential prayer at Qumran.²⁵⁷ The confession stipulated for recital by the initiates in the Community Scroll may have as its origin a biblical divine justice sort of confession, but the way in which it is not tailored to an individual circumstance of divine wrath for specific offence in a context of *ad hoc* propitiation suggests it cannot fit nearly in the divine justice category. In purpose and form it more closely resembles autoscopic confession, although as a ritual ceremony its instigatory force was injunction and collective expectation, not individual conscience. This is interesting

²⁵⁴ *Ibid.* Parable 6.3.6

²⁵⁵ 1QS 1.24-3.1.

²⁵⁶ (Arnold 2005b) 524ff.

²⁵⁷ *Ibid.* 525.

in light of another scroll which very closely resembles the Epicurean practice of confessing *other people's* faults. In the Register of Rebukes (4Q477), we find the names of Community members together with their faults. The list would be read out by the 'Guardian' (*mebaqqer*), based on offences which had been reported to them.²⁵⁸ It seems significant that we find these practices, together with a more routinized, collective expression of confession, in a setting where the Community is king. Direct influence from Epicureanism need not be adduced to explain this, as it is likely a by-product of communal living according to high ethical standards.

This point is supported by the example of Nuer religious practice, as relayed by Evans-Pritchard. Serious sickness was the most common occasion of sacrifice and was attributed to an infraction, and a *duer*, or fault, of any kind might bring about divine punishment.²⁵⁹ Even when it was not clear what the infraction may have been, sacrifice was performed so that unknown causes might be covered, and such causes included moral faults such as meanness, disloyalty, dishonesty, slander, lack of deference to seniors. Evans-Pritchard described the custom of confession at certain sacrifices "when it is necessary to reveal all resentments and grievances a man may have in his heart towards others. This may be rather a peculiar form of confession, that of other people's short-comings, but the point is that the faults together with the feelings they have engendered are placed onto the victim and flow away into the blood".²⁶⁰ Except for the sacrifice, this bears a striking resemblance to Epicurean practice of the vocalization of others' faults, but few would be content to attribute it to a story of Epicurean influence. Instead, we should expect that spiritual communal living exerted a pressure on verbal expression of fault, both concerning the self and others, as both alike might threaten the purity,

²⁵⁸ (Vermès 2011) 244.

²⁵⁹ (Evans-Pritchard 1956) 192-3

²⁶⁰ *Ibid.*

and therefore safety, of the community, as well as social concord. It was a product, at least in part, of living in a community concerned with purity.

It is no surprise, therefore, to find that elements of autoscopic confession are discernible in early Christian monastic thought. For example, Cassian stated that: “not only all our actions but even all our thoughts should be offered to the inspection of the elders, so that, not trusting in one’s own judgement, one may submit in every respect to their understanding”.²⁶¹ He goes on to explain that the revelation of a wicked thought means it loses its power, and relates the story of a biscuit-stealing monk, Abba Serapion, who spontaneously confessed whilst hearing a lecture on gluttony to the elder Abba.²⁶² Later, John Climacus saw the confessor as a doctor who healed with ‘surgery, bandaging and cauterization’, and envisaged a model of confession which was therapeutic rather than judicial.²⁶³ John Chrysostom recommended the examination of the conscience by referring to philosophers and citing Pythagoras.²⁶⁴ In the homilies of the *de diabolo tentatore* he speaks of the conscience as the inward self-accuser, which he exhorts should be awakened so that it rather than the Lord in judgement can perform the accusation.²⁶⁵

Confession in the Christian monastic tradition was not entirely of this sort. In the *Epistula Ammonis*, for example, we find a spiritual superior, Theodore, able to see into the hearts of men. Ammon himself witnessed Theodore accuse a certain Amaeis of sinning.²⁶⁶ Amazed, Amaeis fell to the ground repenting and asking Theodore to pray for him. In response Theodore prayed for God to give him the ability to judge himself truly, although Amaeis ended up dying after having confessed his sins. The dynamic of spiritual authority accusing another member

²⁶¹ Cassian *Conferences* 2.10.1

²⁶² *Ibid.* 2.11.4

²⁶³ Climacus *Ladder of Ascent* 5.130; 38

²⁶⁴ 17th Homily on Matthew, 7 = PG 57.263

²⁶⁵ Chrysostom *de diabolo tentatore* 1.6-7

²⁶⁶ *Epistula Ammonis* 17

of the community of sin naturally recalls Philodemic frank speech, except that it also features the revelation of a sin by an external source, as in divine justice confession. Furthermore, in another eyewitness case, Theodore corrects erring monks who are made known to him by an angel.²⁶⁷ He interrogates one young monk who remains silent at first, but when Theodore narrates the nature of his act the monk begs to be expelled from the community; Theodore then took him to the assembled multitude of brethren where he confessed that God had indeed revealed his deeds to Theodore and that the expulsion order was justly done. Then, privately, at night, he went to each of the other monks accused by the angel and reported to them their sins. Consequently, the monks were keen to confess to the group in public but Theodore held them back because those weaker in Christ might rebuke them, so they confessed privately to holy men. Evident here, then, are the attributes familiar to divine justice confession of public confession to justify the act of a judicial authority (here Theodore) and God's power, and accusation through an external divinely-inspired medium. But the frank speech and the importance of confessing before the assembled multitude recalls Epicurean confession. This was not the appointment of the conscience as inward accuser, as Chrysostom exhorts, but it was confession according to external catalyst of a divine justice sort. Therefore not all examples will fall neatly into the divine justice or the autoscopic confessional category, but in the Christian tradition aspects of both types can be seen differently so in different contexts and at different times. A fuller exposition of this is, however, beyond the scope of this thesis.

Categorizing confession

Although I have set these out as two distinct types, these forms do not necessarily belong to separate thought-worlds. In one sense, these two types are opposed in that fear of the gods was

²⁶⁷ *Epistula Ammonis* 20

by Epicurean standards considered one of the anxieties that destroyed human happiness.²⁶⁸ Cicero, for example, jokes to Gaius Trebatius Testa, who has just turned to Epicureanism: “how can it please you to “swear by Jupiter Lapis” since you know that Jupiter cannot feel anger against anyone?”.²⁶⁹ On the other hand, these were not invariably the property of two distinct thought-worlds. For example, Cicero states that the Stoics, particularly Chrysippus, drew an analogy between diseases of the soul and of the body.²⁷⁰ We can thus see the easy cognitive association to be made: if confession is catalysed by physical disease (in the thought-world of divine justice), then so too should diseases of the soul instigate confession. Furthermore, just as the δαίμων appears as a factor in the divine justice confession of Plutarch’s superstitious man, playing an admonitory role, the δαίμων also appears closely associated in Stoic discussion of ὁμολογία: according to Posidonius, not following one’s daimon led to ἀνομολογία and a κακοδαίμονος βίος.²⁷¹ And it is not clear that Chrysippus dismissed the idea of divine justice, as Plutarch points out among his alleged Stoic self-contradictions; Chrysippus censured the Platonic Cephalus for holding the fear of divine chastisement to be a deterrent from injustice, yet asserted that this was the purpose for which the divine chastises the wicked.²⁷² The role of the conscience as judge is also a shared attribute, as even is the idea that torture might exact confession.²⁷³ For example, not in a divine justice setting but thinking about the therapeutic benefits of confession, Seneca declared that, if someone were allowed the breathing space to commune with himself, he would confess truths to himself, after having been put to the torture by his own self.²⁷⁴ Furthermore, the same language is used of the two acts, such as in Plutarch who employs ἐξαγορεύω for divine confession and confession for self-improvement.²⁷⁵

²⁶⁸ (Konstan 1998) 8

²⁶⁹ Cic. *Fam.* 7.12.

²⁷⁰ Cic. *Tusc.* 4.10: (Graver 2002) 136.

²⁷¹ Fr 187. 5-9.ff. (Edelstein and Kidd 1972)

²⁷² Plut. *Mor.* 1040A-C = *De stoicorum repugnantibus* ch. 15

²⁷³ And legal metaphors related to the conscience: (Marietta 1970)

²⁷⁴ Sen. *De Vita Beata* 2.

²⁷⁵ Plut. *Mor.* 168D (superstitious man); 1124D (divine offender). Autoscopic confession: Plut. *Mor.* 82D-E. Also the language of self-accusation is shared among philosophical, legal and divine justice contexts: Cicero describes

Nevertheless, the distinction of these two types is of exegetical value in enabling us to discern with greater precision, firstly, what it means to talk about confession of wrongdoing in the Greco-Roman world, and secondly in getting us closer to a sense of when, where, how and why it developed as it did. In his study of early Christian confession, Foucault came close to identifying these two categories by distinguishing between two types – *exomologèse* and *exagorèse* – which he used to convey, respectively, a practice of physical penance and a practice of verbal self-exposure following introspective examination.²⁷⁶ The problem is that linguistically the distinction cannot work: Plutarch, for example, uses *exagorèse* language to describe what Foucault would call an act of *exomologèse* and this disjunct occurs in Christian examples also.²⁷⁷ As we have glimpsed, the distinction in the Christian tradition is sometimes rather blurred.

The findings of this chapter also caution us against translating modern assumptions onto ancient evidence. For example, whilst the rhetoric of truth-telling seems important in the philosophical tradition, confession does not appear to have been cognized as a product of alethurgy in divine justice or Roman legal settings. Verediction is important to Plutarch on the grounds that, he states, the more each man denies the more deeply he becomes involved in vice.²⁷⁸ And Horace mocks the hypocrisy of someone who looks pious sacrificing in the forum but prays to the goddess of thieves to conceal his crimes.²⁷⁹ But the recipient of divine justice is often unaware of the truth of past action, requiring it to be revealed by external means.

Lentulus confessing as *se indicare*; Apuleius has the *galli* perform wailing and penance whilst confessing (*se accusari*); the jurist Paul describes confession as *quodammodo sua sententia damnatur*.

²⁷⁶ (Foucault and Gros 2018) 93-145.

²⁷⁷ He seems to be following Hausherr whom he frequently footnotes and who implies that *exagoreusis* means ‘revelation of thought’ by adding this interpretation in parentheses: eg. (Hausherr 1990) 60.

²⁷⁸ Plut. *Mor.* 82D

²⁷⁹ Hor. *Ep.* 1.16.57ff.

Instead, for them it served as a technology of appeasement, not of self-exposure. This is important in light of wider scholarship on confession as a sociological phenomenon. It undermines the Foucauldian inference, although it was formulated regarding Christian confession, that confession was a tool of oppression.²⁸⁰ Sometimes it could indeed be so, especially in Epicurean confession where it seems to have been a means of community control, but it is important to understand that, as judicial confession, it could also be a source of empowerment, putting into the hands of the weak – whether the accused, the impoverished, the flawed or the desperate poet in love – a means of strength.

²⁸⁰ (Foucault and Hurley 1990) 59; cf. (Foucault 2018)

Chapter three: Rethinking confession in the so-called ‘oriental cults’: Isis, Magna Mater and the Dea Syria.

Since the early twentieth century, the notion that confession was ‘oriental’ and ‘un-Greco-Roman’ has been intertwined with the idea that it was practised in the so-called ‘oriental’ cults.¹ The identification of their ‘confessional’ nature has served to support the idea that the practice of confession was itself an ‘oriental’ one, and the perceived ‘oriental’ nature of confession has served to affirm the idea that these cults had ‘oriental’ features, and would have had a practice of confession.² Yet no confessional evidence has ever been associated with conventionally considered ‘oriental’ cults such as Mithras or Jupiter Dolichenus, but only with Isis, Magna Mater and the Dea Syria. The disentanglement of this dangerously unhelpful and misleading

¹ A time-line reveals the persistence of the idea: 1910: “I combine some shorter studies of Hellenistic cult practice which can only be derived from the Orient... for our point of departure I chose the institution of confession and penance” trans. (Reitzenstein 1978); 1929: “nous voyons ici s’introduire en Europe l’ascétisme oriental” (Cumont 1929) 37; 1937: “the confessional practices attested by them [‘the classic writers’] belong neither to Greek nor to Roman religion, but to various oriental religions ...” (Pettazzoni 1937) 9; 1954: “confession is not restricted to the oriental cults, but the difference is that in these cults one confessed to the priest as intermediary...” (Wilhelm-Hooijbergh 1954) 91; 1973: “der Anwärter auf eine Mysterienweihe musste beichten, bevor er zur Initiation zugelassen wurde.” (Merkelbach 1973) 82; 1975: “It was especially in this aspect of religion that Roman matrons who were devotees of Isis displayed their devotion to the priests. The priest was not so much one who intervened for the sinner but an actual substitute for her, the priest himself doing the weeping and begging and perhaps the very confessing of the sin” (Heyob 1975) 66; 1983: “Beweise für die einst im gesamten Orient verbreitete Sitte öffentlichen, schriftlichen Sündenbekenntnisses”: (Frisch 1983); 1989: “Il semble que l’Égypte ait enseigné à l’Occident une certaine spiritualité dans l’observance et le recueillement. Avec la discipline horaire allait de pair le sens de l’ascèse et de la règle.” (Turcan 1989) 13; 1990: “In her [Isis’s] cult too, confession of sins plays a part” (Versnel 1990) 66; 1998: the confession *stelai* show the influence “either of indigenous Anatolian religions or of oriental cults..., as the sin- and guilt-culture of, for instance, the cult of Atargatis, including sackcloth and ashes, seems to be related” (Versnel 1998) 668; 2001: “the Romans did not confess...” (Barton, 2001) 146; 2003: “it [confession] is widely regarded as un-Greek, indeed, typically ‘Oriental’” (Lightfoot 2003) 124; 2003: “... the well-known practice of confession in the cult of the Dea Syria, which she shares especially with Isis” (Lightfoot 2003) 78; ... “Too often it is simply assumed that these [confessions in the cults of Isis, Cybele and Dea Syria] are just static survivals of a pan-Oriental practice of public confession” (Lightfoot 2003) 79; 2003: [Isiac priests were] “doubtlessly called upon for confession by individual Isiac worshippers. There are three ways in which this might come about. First the devotee could approach the priest of his or her own volition for the emotional release and security, to which even today those in confessional religions attest. Second, the priest as the deity’s agent, could no doubt call for a confession. Third, a dream sent by a deity could command such a confession” (Donalson 2003) 55; 2005: “the idea of repentance and self-accusation as a means to regain divine favour is foreign to Greco-Roman religion and features primarily in near-eastern cults, in particular that of Isis” (Ovid and Gaertner 2005) 124; 2008: “What seems specific to the cult of Isis here, however, is the open confession of the cause of their misfortunes, presumably the result of a consultation of the priests” (Alvar Ezquerro and Gordon 2008) 181.

² An attempted but discarded hermeneutic tool in (Lightfoot 2003) 78ff.

conceptual knot is but one of the issues at stake in this ‘reopening of the dossier’, to which we can add a number of overlooked sources.³ From Reitzenstein, in his study of Hellenistic mystery religions, choosing ‘the institution’ of confession as a case study of ‘cult practice which can only be derived from the Orient’ to much more recent promulgation of the idea that confession was “foreign to Greco-Roman religion”, the nature of confession, and its relationship with such cults, has never been systematically reconsidered, despite revisionism of the concept of ‘oriental cults’.⁴ When Lightfoot called for the dossier of confessional evidence to be reopened, her concern was about the question of oriental inheritance, not its practice in the cults of Magna Mater, Isis and the Dea Syria. Many works on these cults, especially on Isis, take the practice of confession as given.⁵ The vast majority of scholars also suggest it was practised *exclusively* by these cults.⁶ Yet there has been no attempt to explain what it means to say that confession was practised. Indeed it is readily assumed that it was a monolithic ‘institution’, a cult-wide ritual practice, and even a routine which involved a priest hearing a confessant whenever they required ‘emotional release’.⁷ This chapter therefore aims above all to clarify the nature of ‘the practice’ of confession in these cults. The notion of divine justice confession plays an important role in refining our understanding of the nature of the practice, as it is to this type which most of the evidence belongs. Secondly, this chapter examines confession’s perception by classical writers, particularly by questioning whether the act ever carried a valence of ethnicity or alterity. In both these inquiries, we find that there is no justification for confession to be deemed ‘oriental’ or ‘other’ to the Greco-Roman world.

³ (Lightfoot 2003) 79. Additional sources: the Mainz tablet; Juv. *Sat.* 13; the *Carmen ad quendam senatorem*; and the *De Fluviis*.

⁴ See n.1. p.146. Revisionism: eg. (Belayche 2000); (Kaizer 2006) esp. 26-8. Reaction: (Alvar Ezquerra and Gordon 2008).

⁵ (Lightfoot 2003) 78, 124; (Gaertner 2001) 125; (Versnel 1998) 668.

⁶ See n.1. p.146.

⁷ Priests: (Donalson 2003) 55; (Alvar Ezquerra and Gordon 2008) 181; (Heyob 1975) 66; (Wilhelm-Hooijbergh 1954) 91; ‘emotional release’: (Donalson 2003) 55.

The question of whether and how confession was practised in these cults has import not only for the history of confession but also for our understanding of the cults themselves and their inherent unity, as well as for the history of Greco-Roman religious change. Some accounts of Roman religion have proposed that these cults appealed by virtue of their greater ethical dimension than ‘traditional’ Greco-Roman religion, and so filled a spiritual gap in society at large.⁸ The case-study of confession, however, supports revisionist critiques of this interpretation: we cannot circumscribe these three as uniquely confessional cults, nor was confession an invariable feature of their cult practice. What determined confession was not cult-type or the transference of a monolithic ritual of eastern origin, but rather the situation of divine justice: these three deities were the archetypes of heavenly judges.

These cults did not have an institutionalised practice of confession which constituted normative feature of cultic behaviour, to the extent that it would be misleading to claim without qualification that confession was “practised in the cult of x”. It would be more accurate to say that these deities were thought to be appeased by public confessions made in contexts of divine judgement imposed by them. Confessions would be performed before these deities, but not as a uniform cult-specific practice. It was an *ad hoc* choice made by the individual, and apparently not one prescribed by cult routine. This is a subtle but important nuance, which urges revision of existing ideas about both the nature and extent of confession, reiterated especially but not exclusively by scholarship on the cult of Isis. When Donaldson, for example, claimed that Isiac priests were “doubtlessly called upon for confession by individual Isiac worshippers” or when Versnel proposed that “the sin- and guilt-culture of, for instance, the cult of Atargatis, including sackcloth and ashes” seemed to be related to the confession *stelai*, what is implied is a cult-

⁸ (Cumont 1929) 29ff.; (Alvar Ezquerro and Gordon 2008) esp.143ff.. Cf. (Nagel, Quack, and Witschel 2017) esp.6-8.

wide ethical system and a monolithic ritual common to all devotees. Part of the conceptual problem is, one suspects, the very idea of a circumscribable ‘cult’ or ‘religion’ which fosters expectations of uniformity. The study of confession elucidates the weaknesses of such a model. Boundaries between cultic identities were at any rate fluid in the Roman world: the same person, with the same religious behaviour, might identify as an adherent of a number of different cults, not only the ones in this chapter’s title.⁹ Individual worshippers engaged with the divine according to the exigencies of their personal circumstance and their decision to treat the deity as an avenging but biddable judge.¹⁰ Not only is it difficult to identify which of Isis, Magna Mater or the Dea Syria is being associated with confession in some significant cases, but also there are no apparent idiosyncracies of confessional practice between them. With the rejection of the category of ‘oriental cults’, we are left not with three independent categories of delineated religious rules pertaining to Isis, Magna Mater and the Dea Syria respectively, but rather with a body of evidence that is unified above all by the circumstances of divine justice.

Divine Justice: Isis, Magna Mater and the Dea Syria as Archetypes

In Juvenal’s attempt to advise his friend Calvinus after having 10’000 HS defrauded, he imagines the interior monologue of the wrongdoer. The culprit is portrayed as boldly declaring: *decernat quodcumque volet de corpore nostro / Isis et irato feriat mea lumina sistro, dummodo vel caecus teneam quos abnego nummos.*¹¹ The anger of the gods is slow, he consoles himself.¹² Calvinus’ wrongdoer has had the opportunity to confess the fact that he received the money

⁹ The inter-cultic nature of Roman religious behaviour is illustrated by epigraphy: *eg.* Lucius Pacilius Taurus as a priest of Magna Mater, the Dea Syria and Isis: *CIL IX 6099*.

¹⁰ Except *galli*: p.154.

¹¹ *Juv. Sat.* 13.92-4

¹² *Juv. Sat.* 13.100-105.

because, we are told, he has denied it. This detail is easily overlooked, but behind *quos abnego nummos* lurks a crucial aspect of the framework of divine justice confessions: initial accusation. It also reveals that he has committed perjury, perhaps challenged to *ius iurandum*, or in the context of a sanctuary trial.

Juvenal then imagines Calvinus attempting to bring his wrongdoer to sanctuary justice, but the criminal accuses his victim before he can be accused himself. Eventually, as he is trying to sleep, a nocturnal vision of the altars of the angered divinity and of Calvinus himself forces the culprit to confess.¹³ If this imagined confessor is the same as the one initially scornful of Isis's avenging power, we are dealing with someone who confesses not *qua* worshipper of Isis – he explicitly discounts her power – nor because of an particular affiliation to ‘oriental cults’ – he would otherwise sacrifice to the *Lares*, were it not futile – nor because of his ethnicity – he is given no ethnic characterisation other than what might be inferred from his attempted imbibing of ‘Setian wine’, ‘ageing Alban vintages’ and ‘the finest Falernian’, which were the choice drinks of an educated Roman and certainly not indicators of ‘otherness’. He is an everyman, who confesses because he is embroiled in the world of divine justice, familiar from literary, epigraphic and material evidence found throughout the Mediterranean.¹⁴ There, confession provided a way for both the criminal and the victim to manage their predicaments.

The Mainz tablet: new evidence for confession in a western cultic setting

Like Calvinus, the person who inscribed their petition for justice on the lead tablet that is here referred to as ‘the Mainz tablet’ was a victim of fraud.¹⁵ Similarly, the dedicator of this tablet

¹³ *Ibid.* 13. 216-22 (*cogitque fateri*).

¹⁴ Epigraphic ‘prayers for justice’: (Versnel 1991); (Versnel 2010) For a regional study of divine justice (Chaniotis 2004)

¹⁵ The tablets seem to have been produced by private individuals: (Blänsdorf 2010) 163.

went to seek divine help at the sanctuary. The tablet's age, too, is nearly, if not exactly, contemporary with the satire.¹⁶ However, this invocation of divine justice was found in a joint sanctuary to Isis and Magna Mater located in Mogontiacum, the only such sanctuary to the two goddesses in the Empire, and where Magna Mater is unprecedentedly invoked in curse texts.¹⁷ Of a total 34 *defixiones*, of which 18 are legible, no.16 is unique in this corpus for expressing the dedicator's desire to have the culprit confess. The petitioner makes an elaborate appeal to *Mater deum* to avenge a crime of *dolus malus*.¹⁸ With imagistic flourish, the petitioner requests that neither offerings nor money may free, restore or redeem the culprit, that his mental faculties be paralysed, that he may die in public, that his limbs be dissolved in salt water, and, climactically, that: *Cr[ucietur] / et dicat se admisisse ne[fa]s*.¹⁹

The merciless imprecations for so many unpleasant afflictions makes it impossible to imagine the victim requesting anything beneficial for the culprit. Confession did not serve a chiefly expiatory function, otherwise the victim would not have requested it. In fact, confession was beneficial to the victim, publicly confirming that they were not making a false accusation like Calvinus' wrongdoer. The petitioner seems a Juvenilian pessimist, clearly concerned by the possibility that the culprit might go without punishment: "*if he says he has not committed...let him not redeem himself...*".²⁰ It is also significant that the petitioner requests the culprit is unable to be exonerated 'through offerings and money'.²¹ This request also occurs in two other tablets and testifies to at least a perception that criminals, after denying their crime, could

¹⁶ The foundation of the sanctuary can be dated to c. AD 71-80, and the deposits were covered by tiles around AD 130: (Blänsdorf 2010) 141-3.

¹⁷ (Blänsdorf 2010) 145. Two roughly contemporary curse tablets invoked Attis (from Groß-Gerau: (Blänsdorf 2007); from Setúbal: (Marco Simón 2004)). An inscription from Malcesine, Italy, dating to the 1st-2nd centuries AD was dedicated to Mater deum and Isis (Bricault *RICIS* 515/0901; *CIL* V 4007 (Mommsen); *ILS* 4102; *SIRIS* 633). This implies the existence of another temple sacred to both goddesses.

¹⁸ Isis is never appealed to in any of the tablets: *Ibid* p.164.

¹⁹ ll.15-16.

²⁰ ll. 7-10: *[ne]que se admisise...*

²¹ ll. 9-10.

escape divine punishment through dedicating offerings and/or money to the sanctuary, without explicitly confessing.²² It is significant that the petitioner states ‘*if he says he has not committed...*’ as it suggests that there would have been a direct accusation and opportunity for the culprit to only either deny or confess the crime. The petitioner of tablet n. 8 of the Mainz corpus prays “... *in megaro eum rogo te, M<a>/t<e>r Magna, megaro tuo re- | cipias*”, suggesting that the ideal outcome for the victim involved the culprit ending up at the sanctuary.²³ This is consistent with contexts of divine justice in general, where trials took place in sanctuaries overseen by officials.²⁴ Enabling shame in the sanctuary, confession was a harsher punishment.²⁵ Nor was it a default means of expiation; dedicating offerings to the goddess was the primary *modus piandi*.²⁶

If favourable, the goddess herself would have been credited with bringing about the confession. Divinely-compelled confession is a common feature of divine justice confessions where physical malady was a confessional catalyst.²⁷ Our iussive petitioner had a similar picture of divine causation in mind: ‘*crucietur*’ occurs in the same breath as the confession request; the crucifying pain forces the confession. For other criminals who denied their wrongdoing and appeased the goddess with offerings, as the Mainz petitioner fears might happen in their case, confession was a dispensable stage of the expiatory process. This demonstrates that confession

²² no.s 2; 16. Roughly 100 sacrificial pits for burning offerings were found, together with 15 sacrificial areas with stone revetments containing remains of offerings 18 tons of spoil: (Blänsdorf 2010) 143.

²³ 8. II. 2-4.

²⁴ (Chaniotis 2004) 3 and n.8.

²⁵ An emphasis on the public demonstration of the culprit’s guilt is “*typical of prayers for justice*” (Versnel 2010) 307 n.106, with a number of them stipulating punishment before an audience (the Cnidian curses tablets: (Audollent 1904) 1, 2a, and 4); (LiDonnici 1995) 121 (C4)); (Chaniotis 2004) esp.11-22 ; (Covey and Maresch 2001) nos. 1, 10, 11, 12.

²⁶ Calvinus’ wrongdoer imagines the divine *numen* might be *exorabile* despite denial: *Sat.* 13. 102. British curses often stipulate that the punishment manifested in illness shall only cease when the culprit returns the stolen object or never at all, except in return for the culprit’s life: (Versnel 2010) 307-8, 308 n.107.

²⁷ Cf. (Chaniotis 2004) 3 n.7.

did not play a fixed role in the process of repentance and reconciliation: the wrongdoer might deem the confession dispensable until they are compelled to consider it necessary.

Key *comparanda* are curse tablets from the sanctuary of Demeter at Cnidus which similarly call for the culprit to be struck by illness and to publicly confess in the sanctuary.²⁸ These and the Mainz tablet constitute only a minority of *defixiones* from the Mediterranean at large which specify the culprit's confession among their requests.²⁹ They must represent only a fraction of total confessions which were performed in reality, as the evidence for this verbal act necessarily perishes on the air. But we can also say that in many corpora confession never explicitly features among the petitioners' *desiderata*. This could be because public confession was taken for granted as an invariable consequence of suffering, but it seems more likely that the manifestation of wrongdoing by merely turning up to the sanctuary to return the stolen object, as a non-speech act, was self-inculcation enough in many instances.³⁰

The petitioner's choice of expression suggests that they were probably familiar with the operations of the cult, showing a curious awareness of the behaviour, or perceived behaviour, of *galli* by way of three vivid magical analogies.³¹ Tablets n. 17 and n.18 also contain analogies to the *galli* and the priests of Bellona, expressed in a similarly formulaic way.³² Confessions of the *galli* in literary sources appear as part of a dramatic penitential ritual imitating the self-castrated Attis, and which involved loud wailing and lamentation, self-accusations, self-

²⁸ (Audollent 1904) 1, 2a, and 4. The Maroneian aretology of Isis explicitly identifies Isis with Demeter (*RICIS* 114/0202); cf. Diodorus Siculus 1.13.1: τὴν δὲ Ἴσιν ἔγγιστά πως Δήμητραν; Herodotus *Histories* II. 171.2-3; (Tobin 1991); and Dunand, F. 'Le Syncrétisme Isiaque à la fin de l'époque Hellénistique' in (Dunand et al. 1975).

²⁹ Echoes in literary examples: Ov. *Ibis* 184: *ut sceleris numeros confiteare tui*; Judges 17.1-3, cf. (Fox 1914); (Faraone, Garnand, and López-Ruiz 2005). In epigraphy: Petzl 60 reports that a slandered Artemidorus gave a *πιττάκιον*, resulting in the god punishing Hermogenes 'who has propiated the god'; and Petzl 69 tells us that Tatias 'drew up a sceptre and placed curses (*ἀραί*) in the temple as if to show that she was not guilty of the transgressions attributed to her, although she was aware of her guilt'.

³⁰ Eg. Uley 72, 12; the culprit of Uley 4 is sought to bring the stolen item *in templo mercurii* (ll.9-10).

³¹ Ll. 5-15.

³² Blänsdorf no. 17 ll. 6-11; n. 18 ll.3-5.

flagellation and self-laceration.³³ It seems the analogies in the tablets work because *galli* (and the priests of Ma and Bellona) were the most extreme penitents imaginable.³⁴ The Mainz tablet demonstrates that the idea of *galli* behaving excessively had purchase among the worshippers themselves.

Confessing *galli*: a case for routine confession?

The main source for confession performed by *galli* is Apuleius' *Metamorphoses*, where they appear to confess in the course of frenzied penance during their itinerant alms collections. Around two centuries later Firmicus Maternus suggests *galli* can be seen *in ipsis templis* lacerating themselves and confessing *contaminati corporis vitium cum maxima delectationis macula*.³⁵ A third source associated a different sort of confession with *galli*: P.Oxy.3010 provides a literary scene in which someone, having initiated himself as a *gallus* to 'help' Iolaus, reveals secrets that he has knowledge of, finally telling Iolaus therefore not to hide anything from him: ὥστε μηδὲ ἔν με κρύβε πιστ....³⁶ Among these, no orthopraxy of confession emerges: one suggests private confession, but two suggest public; in one it occurs as a voluntary action, in another it seems to be ordered; and the locations vary from sanctuary-settings to itinerant confession in public. There is ambiguity in each source as to which goddess, Magna Mater or

³³ For their wildness: Sen. *Ep.* 108.7; Val. Flacc. *Argon.* 7.635-6; Juv. *Sat.* 6. 511-21. For blade-hacked arms: Sen. *Agamem.* 687-92; Mart. *Epig.* 11. 84.3-4; (together with flagellation) Stat. *Theb.* 10.170-5. Material evidence supports the idea that flagellation was not an invention of the Roman authors but was a practice amongst *galli*: n. 422 in *CCCAq* is a marble cippus from Ostia (second century AD) bearing an image of a *gallus* with high pointed cap, holding a *flagellum* in his right hand. Interestingly, he is a priest of both goddesses, Isis and Magna Mater. Furthermore, n. 466 in *CCCAq* is a marble relief of a *gallus* holding a whip.

³⁴ Bellona and *galli*: Apul. *Met.* 8.25; Lucan *Pharsalia* 1.565-67; Valerius Flaccus *Argonautica* 7.635-6; Juv. *Sat.* 6.511-21; Lactantius *Divinae Institutiones* 1.21.16. Inscriptions describe Bellona as *dea pedisequa* of Magna Mater: eg. *CIL* vi. 3674a. For the assimilation between Ma and Bellona: (Fishwick 1967) 145; (García y Bellido 1956) 472-3. An image of Bellona stood in the temple of Magna Mater at Corfinum (*CIL* ix 3146). There is therefore evidence beyond this tablet to suggest grounds for determining overlap in reality in the practices of the priests of Bellona and Magna Mater: 26 n.70. Not much is known about the *Magali* as followers of Ma distinct from the *Bellonarii*: (Blänsdorf 2010) 158, 183.

³⁵ Firm. Mat. *De Errore Profanarum Religionum* 4.2

³⁶ l. 31: (Merkelbach 1973) reads it as certainly implying a confession.

the Dea Syria, the *galli* adhere, probably reflecting genuine ambiguity in reality: both these cults were known to have *galli* as priests of the goddesses and they seem, in light of a number of other sources, to be indistinguishable.³⁷ Apuleius suggests that the *galli* revered both Magna Mater and the Dea Syria, among other deities.

The itinerant *gallus* in Apuleius engages in the same sort of extreme penitential behaviour alluded to in the Mainz tablet.³⁸ This is the only hint we find of confession not being instigated by specific instances of divine punishment but being performed on a routine basis. It is also unusual for being a scene in which the human anticipates divine punishment by taking on the task of physical harm themselves. With a cognitive framework which encouraged the association of transgression with owing a physical penalty, self-inflicted penance would have been a logical response in order to take control of the suffering owed. Although no other evidence indicates *galli* would invariably confess whilst out on these rounds, it seems reasonable to expect that confession regularly accompanied performances of physical self-harm, as such a spectacle must have benefitted from explanation.³⁹ Furthermore, public confession enables the deity to be aware of which debts for which transgressions are being paid off by the punishment being inflicted. Leaving room for ambiguity would have been risky. A number of themes common to divine justice are identifiable here. Firstly it is understood to have been brought about by divine force (*velut numinis divino spiritu repletus*). Secondly that force is deemed to have a deleterious effect on the health of the recipient (... *debiles effici vel aegroti*). Thirdly, the declaration is loud and public; the power of the divinity is being

³⁷ (Latham 2012) 133; (Lightfoot 2003) 62.

³⁸ *Ap. Met.* 8.28

³⁹ We might compare Plato's description of wandering priests and diviners who go from door to door offering to "remedy with rejoicings and religious celebrations any injustice which the wealthy man himself or his ancestors may have committed": Plato *Resp.* 2.364b-c. The gallic rites of self-laceration and castration are public spectacles in Lucian *De Dea Syria* 50.

publicised. It is significant that the confession is not referred to as ‘the’ or ‘a’ confession, but its performance is bound up with the self-destructive acts of self-imposed physical punishment.

If we can take Firmicus’ description of *galli* being able to be seen (*videre est*) confessing *in ipsis templis* as describing a speech act of confession, rather than a merely metaphorical one of the proud publicizing of mutilated genitalia, we have further evidence for confession by *galli*.⁴⁰ His hostility towards the *galli* is apparent, but given that confession was an important practice in Christianity by this time, Firmicus here hints at how Christian confession might have distinguished itself from ‘pagan’ confession in his appeal to the propriety of shame. Although its setting is *in ipsis templis*, this is clearly a public declaration of fault easily visible and audible (*videre est; cum publico gemitu*).⁴¹ The publicizing (*publicant*) of their crimes may have been a revelation of their body parts rather than a speech act, but the confessing (*vitium... confitentur*) of the sin of their polluted bodies seems audible rather than metaphorical, as *vitium* would be an odd word otherwise. Firmicus’ use of the expression *vitium... confiteri*, which is employed to denote confession of sin in Christian contexts, is significant: it shows that he, a Christian, deemed what the *galli* were doing in their temples to be ‘confessing’. That is, although differences were apparent, he must have considered the behaviour of these metroac confessors similar enough to Christian practice that he used the same term. Confession was therefore not regarded by a Christian as the preserve of Christianity.

⁴⁰ Firm. Mat. *De errore profanarum religionum* 4.2, on *Assyrii et pars Afrorum*. Again, there is no certainty about to which cult these *galli* adhere.

⁴¹ Stressed also by word order. Archaeological evidence supports the idea that *galli* might simultaneously be in the temple and publicly visible: eg. the temple of Atargatis at Delos (*fl.* 146 - 88 BC) and that at Dura Europos (built c. AD 150 - 182) were of the ‘open-court’ type (Will and Schmid 1985).

A papyrus fragment, *P.Oxy.3010*, suggests an altogether different sort of confession – auricular - encouraged by a *gallus*.⁴² This apparent satire concerns an initiate who, instructed in mystic rites, becomes a *gallus* in order to help a certain Iolaus, and so, he instructs him in the mystic rites.⁴³ The new *gallus* professes a number of things that he “knows”, before commanding Iolaus ‘to conceal nothing from him’, which appears to be an invitation to confess: ὥστε μηδὲ ἔν με κρύβε πιστ....⁴⁴ Parsons considers the *gallus*’ revealed knowledge to concern an account of Iolaus’ history rather than sacred knowledge, given the personal nature of some of the items in the list.⁴⁵ The request taken on its own does not prove that it is a call for confession, as the ἔν not to be concealed might refer to a body part or Iolaus’ possessions. However, in the context of the “*sensational story of bastardy, lamentation and intended amours*” leading to the ὥστε, that which the *gallus* is asking not to be concealed likely concerns Iolaus’ past behaviour.⁴⁶ This recalls the practice of charismatic spiritual leaders of Christian monastic communities who would publically reveal transgressions of individuals, prompting them to confess.⁴⁷ The *gallus* is Iolaus’ spiritual superior, and the metre of the address conveys mystic authority. Divine justice has no place here, and no god is addressed. Instead, the confession exhorted is closer to autoscopic confession and the sort which the *Apophthegmata Laconica* suggests was practised in the cult of the Cabeiri in Samothrace, performed probably for purity concerns and for socio-personal bond formation.⁴⁸ Nevertheless, although this source suggests that gallic initiations involved confessions, it cannot be concrete proof that it was standard practice, and nor can it support Merkelbach’s assertion that “*der Anwärter auf eine Mysterienweihe musste*

⁴² (Parsons 1971); *P.Oxy.XLII 3010*. The handwriting seems to date from the second century AD, its accepted date (Parsons 1971) 53.

⁴³ The identity of the cult is not clear: (Parsons 1971) 53. Parsons and Astbury see the rites as those of Cybele: (Parsons 1971) 55, 59; (Astbury 1977).

⁴⁴ l. 31. Merkelbach, reconstructing it as ...πιστ[ος εφον πιλωος σοι], thinks it certainly implies confession: (Merkelbach 1973).

⁴⁵ (Parsons 1971) 60.

⁴⁶ (Parsons 1971) 60.

⁴⁷ Such as can be found in Pachomian monasticism of the mid-fourth century: eg. *Epistula Ammonis* 17 (Ammon and Goehring 1985).

⁴⁸ Ps.-Plutarch *Apophthegmata Laconica* 217D; (Pettazzoni 1937) 12.

beichten, bevor er zur Initiation zugelassen wurde".⁴⁹ One parallel which has not yet been considered is the Septuagint's rendering of Joshua 7,19 in which Joshua tells Achan to make confession to the lord (ἐξομολόγησιν), to tell him (Joshua) what he had done and "don't hide anything from me": μὴ κρύψῃς ἀπ' ἐμοῦ. Achan goes on to confess not only a sinful state but also precisely what he had done wrong.⁵⁰ The language is not similar enough to be a direct allusion, but it is a parallel example of a religious leader employing such a sentiment in eliciting confession. In sum, we cannot impute a tradition of auricular confession to the *galli* on this papyrus fragment alone, but it does suggest the possibility of involvement in confession by spiritual superiors. Unless further evidence comes to light, the idea of the *gallus*-initiate having to confess must be considered a possibility rather than a fact.

Auricular confession

Some scholars have assumed that auricular confession to a priest was practised in the cult of Isis, and even "in the oriental cults", but there is little justification for this.⁵¹ These interpretations seem to be based, firstly, on the idea that confession was an aspect of cult ritual, and secondly, on a passage from Juvenal *Satires* which portrays a woman asking a priest of Isis to intervene for forgiveness from Osiris following a cultic transgression, although at no point does she confess to the priest.⁵² Juvenal relates how the *derisor Anubis* - a priest of Isis who would wear the mask of Anubis - seeks forgiveness on behalf of a wife.⁵³

⁴⁹ (Merkelbach 1973) 86. Juv. *Sat.* 6.511-21 has a eunuch, among 'a troupe of frenzied Bellona and Mother of the Gods', instruct a woman that, and how, she should purify herself before the arrival of September. This indicates that *galli* could play a role in religious instruction regarding purification, but not that they were confessors.

⁵⁰ LXX Josh. 7,20-1.

⁵¹ (Donalson 2003) 55; (Alvar Ezquerro and Gordon 2008) 181. (Heyob 1975) 66; (Wilhelm-Hooijbergh 1954) 91.

⁵² Juv. *Sat.* VI 535-541

⁵³ For Anubis-mask wearing priests: Apul. *Met.* 11.11; (Donalson 2003) 67.

535. *ille petit veniam, quotiens non abstinet uxor
concubitu sacris observandisque diebus
magnaue debetur violato poena cadurco.
ut movisse caput visa est argentea serpens,
illius lacrimae meditataque murmura praestant*
540. *ut veniam culpaue non abnuat ansere magno
scilicet et tenui popano corruptus Osiris.*

This passage, though satirical, is significant evidence that the priest might intercede in the process of divine appeasement. Juvenal describes what the priest was known to do *in general* (*quotiens*). It suggests that in Juvenal's Rome they had authority to ask the god for pardon on behalf of a wrongdoer, performing the penitential behaviour vicariously: *lacrimae meditataque murmura praestant*.⁵⁴ We cannot, however, take this as evidence for auricular confession. Firstly, in the eyes of the *uxor* it was not the priest intervening, but Anubis; the priest as mere priest was not deemed to be the authoritative intermediary, but it was 'Anubis' who could assume this intercessory power. Secondly, we know from multiple sources for divine justice confessions that the individual often has to be told what they have done wrong by the divine, whether through an oracle or a dream. Therefore, we might imagine the wife being informed of her wrongdoing, rather than going to the priest to confess it. Indeed, we find the divine makes the first move: 'Anubis' intervenes 'when the silver serpent is seen to have moved its head', which was a signal of the god's anger.⁵⁵ It was only following this indication of divine disfavor that the priest goes about petitioning for the wife's forgiveness. Moreover, the channels of communication between worshippers of Isis, not least 'Anubis', and the divine are very much open: of the devotee of Isis described immediately preceding this account, Juvenal remarks: *en animum et mentem cum qua di nocte loquantur. ergo... Anubis*.⁵⁶ In Apuleius'

⁵⁴ Spiritual elders would undergo vicarious penance on behalf of a sinner in later Christianity: Eg. Abba Lot urged a monk: "confess it to me and I will carry it": *Apophthegmata*. Lot 2 65: 256B-C: (Ward 1984).

⁵⁵ (Nadeau 2011) 287.

⁵⁶ vv. 522-31. At first, *ergo* seems out of place, but if we accept Nadeau's suggestion (p.285 (Nadeau 2011)) and take the *animum et mentem* to belong to a priestess of Isis, the implication is that Anubis, like the priestess of Isis, is thought to be in direct communication with the goddess, hence his taking the highest honour in speaking to the divine to petition for the uxorial miscreant's pardon.

Metamorphoses, the priest of Isis does not need to be told Lucius' misfortunes because he had already been made aware of them by divine communication: *sacerdos utcumque divino monitu cognitis ab origine cunctis cladibus meis*.⁵⁷ It is very probable, then, that powers of direct *communio loquendi* with the divine were imputed onto the priest playing 'Anubis'. Furthermore, the extensive evidence of prayer direct to Isis, from various parts of the Greco-Roman world, and of the goddess speaking directly to her devotees, strongly implies that worshipers conceptualised a direct channel of communication between themselves and the deity.⁵⁸ Especially given the extent to which Isis was renowned as 'hearer', it would be strange for the priest to be seen as necessary communicative tool for confession.⁵⁹ It is more likely that the rigorous asceticism demanded of Isiac priests gave them moral and spiritual authority to intervene in penance.⁶⁰ We should also recall that Ovid's Isiac penitents in the *Ex Ponto* confess openly, not privately to a priest.⁶¹ Therefore, we cannot assume that confession to 'Anubis' was regarded a pre-requisite for seeking *venia* in the cult of Isis, nor can we conclude that auricular confession to a priest was practised in any of these cults.

Heteropraxy and orthodoxy: divine justice confession

The remaining literary snapshots which constitute the evidence for confession in the cults of Isis, Magna Mater and the Dea Syria all concern confessions of the divine justice type. They have for the most part received treatment by previous commentators and cannot be analysed individually here for reasons of space.⁶² Yet, if we re-read these examples with the

⁵⁷ Ap. *Met.* 11.14

⁵⁸ Isiac dream epiphanies: (Apuleius and Griffiths 1975) 139.

⁵⁹ Επικκοος was a common epithet of Isis.

⁶⁰ For rigorous priestly life: Porphyry *De Abstinencia* VI 6-8 quoting Chaeremon the Stoic (van der Horst fr. 10).

⁶¹ Significantly, in *Amores* II.13 Ovid prays to Isis to save Corinna saying: "*per tua sinistra precor, per Anubidis ora verendi*". *Anubidis ora* suggests Ovid has an intercessor in mind, but again this seems to be for the purpose of obtaining of divine favour, not for confession.

⁶² As (Pettazzoni 1937).

framework of divine justice confession in mind, all but the *galli* examples emerge as instances of a practice which was not an exclusive ritual routine of these cults but which belonged to a behaviour which was applied to other deities as well. Confession seems to have been particularly conditioned by the fact that these deities were thought to be irascible punishers, enforcers of justice, and biddable by confession. Perhaps most importantly they were thought to delight in the publicization of their power.⁶³ We might recall Hippocrates describing how people attribute diseases to different gods: ‘if the patient imitates a goat, roars or suffers pain on the right side, the Mother of the Gods is to blame, if he utters a loud cry like a horse, Poseidon is to blame, should he pass excrement the surname Enodia is applied, and if it be diarrhoea it is Apollo Nomius, if he foams and kicks it is Ares...’.⁶⁴ These three goddesses did not have a monopoly on punishment, just as they had no monopoly on confession, but it seems that by the time of Augustus they were goddess who were thought to especially delight in publicity, probably as a result of a particularly intense competitive religious marketplace.

Overall, the examples present a uniform picture when it comes to the structure of divine punishment, confession, anger mitigation and manifesting the power of the gods. Yet there is no discernible orthopraxy: some confessions take place in sanctuaries, others in the middles of roads, some after punishment, some in anticipation of it, nor is there set formula for its expression. The only consistent performative necessity, it seems, was that the confession was public: it needed to manifest the powers of the gods. In Ovid’s eyewitness account of the visible (*vidi ego*) performance of confession before an altar of Isis, and also in the street following the

⁶³ Archaeological and epigraphic material from the Mediterranean supports this: cf. (Vidman 1969) 310, a bronze plaque with two ears incised; likewise, *Vidman* 143 and 744. *Vidman* CE 187 is an ex-voto from ‘Diogenes’: under two bronze ears the legend describes the object as an Ἴσιδι ἐπηκόωι εὐχην. For the omniscience of Isis and Osiris: (Pettazzoni 1955) 18: “Osiris has many eyes according to the etymology of his name given by Diodorus Siculus and Plutarch and Isis also is πολυόφθαλμος in an Oxyrhynchus papyrus”. The epithet ἐπήκοος was also applied to the Dea Syria (in Ptolemais Accho) and Levantine, Anatolian, Egyptian deities in general: (Lightfoot 2003) 49 n.114; (Weinreich 1916).

⁶⁴ Hipp. *Morb. Sacr.* 1.21-33.

punishment of blindness, he explains the function of such practice: *talia caelestes fieri praeconia gaudent / ut sua quid valeant numina teste probent. saepe levant poenas ereptaque lumina reddunt, cum bene peccati paenituisse vident.*⁶⁵ Although he is recounting the acts of individuals before Isis, it is not just she but *caelestes* who rejoice.⁶⁶ Furthermore, the use of the term *teste* recalls that not only was the wrongdoer on trial, but divine potency was as well. Close association between confessing the power of the gods and confessing wrongdoing is also apparent in Lucian's *De Dea Syria*.⁶⁷ This account includes two episodes of confession, one concerning Semiramis who confesses to be mortal following divine punishment, and the other applies to the statue itself. It is said to indicate to visitors that the goddess should be propitiated, which implies that it was through Semiramis' confession, as well as the dedication of a statue, that the goddess was propitiated. The statue of Semiramis in this account parallels the Anatolian *stelai* in a particularly striking way. Like the *stelai*, the statue was a monument of error on the visual and theological landscape of the sanctuary, reminding people of how the goddess punishes wrongdoing, but also that (and how) she can be propitiated. Yet other instances reveal confession being performed in other locations, with different formulations of expression. It seems there was no topographical proscription on when and where to confess as long as it was public.

To the evidence for confession relating to these cults already presented by Pettazzoni we can add another example, in addition to the Mainz tablet. A priest imagined confessing, and directly addressing the goddess, can be found in the fourth century *Carmen ad quendam senatorem*, addressed invectively to a senator who had briefly changed his religious allegiance to Christianity only to turn back to Isis and Magna Mater again.⁶⁸ In repentance the senator is

⁶⁵ Ov. *Pont.* 1.1.55-8.

⁶⁶ Ov. *Pont.* 1.1.55-6

⁶⁷ Luc. *De Dea Syria* 39 end.

⁶⁸ (McLynn 2015)

reported to have confessed (*dixisse*): “*dea, erravi, ignosce, redivi*”.⁶⁹ We are told that he believes Magna Mater is a goddess and has swapped Roman caliga for *Gallica*, the sandals of *galli*.⁷⁰ His association with the cult of Isis, too, is made clear by the author’s declaration that the senator’s religion has made him bald and that he is now no Consul, but a priest of Isis, whose portrait bears the mask of Anubis and the sistrum where once were the fasces.⁷¹ The author, a Christian, is clearly hostile, but rather than ignore the idea that he might have confessed to the goddess (to which of the two it is unclear), he undermines the practice by questioning its efficacy.⁷² It may be argued that the author projected his own Christian expectations of repentant behaviour onto the scene, but this would be unlikely: it would be much easier to attack the senator if he was not expected to confess and repent, as in the Christian manner, so it strongly indicates that confession was practiced and a deferential penitential attitude was known to be held amongst Isiac and metroac devotees. As such, he has to undermine its efficacy, rather than ridicule the fact itself. The language of the confession need not be seen as a Christian projection rather than genuinely Isiac. This suggests that confession by the end of the fourth century was the most important part, more so than sacrifice at least, of seeking pardon in the cults of these goddesses.

Confessional paths not taken

Importantly, we find that individuals associated with these cults did not always confess when faced with contexts of wrongdoing or physical malady. This strongly suggests that confession was not an invariable feature, nor an institutionalised ritual found in the cult *qua* cult. Instead,

⁶⁹ Ps.Cyprian CSEL 3.3. p.302ff: *Carmen ad senatorem ex Christiana religione ad idolorum servitutum conversum* v.36. Dated to 393/4: (Bloch 1945) 232.

⁷⁰ vv.7-8 and v.24.

⁷¹ *Ibid.* v.23; v.28; vv.32-3.

⁷² *Ibid.* vv. 38-9.

it was dependent on personal responses governed by cognitive frameworks whereby illness was divine punishment and the deity was conceptualized as a judge who delighted in confession.

At the beginning of book XI, Lucius, still in the form of an ass, prays to Isis to relieve him of his suffering. The process whereby Lucius is transformed back into human form, as ordained through epiphanies of Isis in dreams to both Lucius and the priest, is presented as a miracle healing ceremony led by the priest. At no point, however, does Apuleius portray Lucius confessing.⁷³ Nevertheless, there have been scholarly attempts to read confession into the account.⁷⁴ There is no reason to see confession to the priest in the background of the narrative. Given the level of detail otherwise expounded by the character Lucius, simply omitting to mention confession is unlikely. Furthermore, the *aerumnae* which he narrates in ch.19 to his friends, slaves and relatives, refer to his previous *troubles* not his wrongdoings: he simply tells them the story of the travails he has been through.⁷⁵ Griffiths is therefore mistaken to call this “*tantamount to a confessional statement*”.⁷⁶

On the surface, Lucius’ confessional silence might seem problematic: it might be thought that if confession were generally practiced by the Isiac devotee we should expect to find it

⁷³ Winkler saw the *Metamorphoses* in its entirety as a ‘confession’: (Winkler 1985) 233-4; 238-41.

⁷⁴ Griffiths argues: “*Although no reference is made to an act of confession by Lucius, one is strongly urged to assume that this will have taken place and that it was a constant procedure in the Isiac Mysteries before a candidate was accepted for initiation. It is true that in ch. 14 we are told that the priest had by divine communication, as ever, become acquainted with all my misfortunes from the start... A detailed confession punctuated by question and response would seem to be the indispensable basis for such a spiritual examination and judgement... The likely quality of the confession can be assessed by the description that follows, in ch.19, when Lucius tells how he took a lodging within the precinct of the temple although he still had no official standing and had not yet been accepted as a candidate for initiation...a sense of uncertainty and withdrawal is nevertheless conveyed at this point.*” (Griffiths, Bianchi, and Vermaseren 1982) 194-5. Cf. “*er erzählt also sein Leben, das heisst, er beichtet öffentlich*”: (Merkelbach 1973) 87-8.

⁷⁵ The word is used again in the priest’s speech in XI.15: ‘*en ecce pristinis aerumnis absolutus Isidis magna providentia gaudens Lucius de sua Fortuna triumphat.*’ where it conveys his former ‘troubles’.

⁷⁶ (Apuleius and Griffiths 1975) 271: Griffiths cites Ov. *Pont.* 1.1 in support.

mentioned above all in Apuleius. To hold such expectation for confession is to misunderstand its place in Isiac religiosity. The absence of confession here fits with the idea that confession was not an invariable aspect of cult practice, but it occurred in individual contexts of divine punishment in which the confessant is thought divinely punished. In the *Metamorphoses*, however, Isis is not portrayed as a punishing divinity and Lucius does not appear to think he has committed an offence. Therefore, we should not expect to find a confession. Lucius' prayer to Isis, before which he purifies himself submerging his head 'seven times in the waves', is indeed desperate and lachrymose, but it is not repentant. Only in the last line of the prayer does he come close to recognition of fault: *ac si quod offensum numen inexorabili me saevitia premit, mori saltem liceat, si non licet vivere.*⁷⁷ The idea that he *might* have unwittingly offended some divine power (not necessarily Isis) is thus countenanced, but he cannot confess because he does not yet know that he has offended a *numen*. He is in a similar situation to Claudia Quinta, who was likewise unaware of wrongdoing but nevertheless offered to confess *if* she received divine punishment and to 'pay the penalty with her death'. At the time of his prayer, Lucius does not know if his suffering is divine punishment, but then he implicitly receives the 'all clear': in the goddess's subsequent communication with Lucius she does not reply that he had offended any *numen*. In fact, Lucius' troubles seem to be attributed to the cruelty of fate rather than any fault of his.⁷⁸ The absence of confession in Book XI suggests that it was not an integral part of worshiping, submitting to, and even being 'saved' by the Isis; rather, the practice was contingent on a framework of divine justice. Confession does not appear to be a normative part of ritual behaviour in the cult unless it had to be (that is, compelled by a feeling of having offended the divine, or by a divine message revealing offence). Behind

⁷⁷ Ap. Met. 11.2 end.

⁷⁸ See p.120.

the silence of ex-votos praising the goddess as ‘saviour’ or ‘hearer’ we should not automatically assume confession.

The absence of confession in the *Sacred Tales* of Aelius Aristides also points to confession’s necessary intellectual framework of divine accusation, offence, and punishment. Despite being afflicted with illness, and thus in the same state as many dedicants of the anatolian *stelai*, at no point does Aelius Aristides confess wrongdoing. We should not attribute this to the fact that he adhered to the cult of Asklepios rather than one of the cults in this chapter’s title, because throughout the *Tales* it is clear that he praises and marvels at other gods who ‘save’ him also.⁷⁹ Isis herself commands him ‘at the beginning of his sickness’ to sacrifice two geese to her, which he duly does at the temple of Isis in AD 144/5; her response to his malady is not that he should confess and repent.⁸⁰ Aelius also mentions that he sacrificed to Sarapis and Isis at the temple of Isis in Smyrna in AD 14, and the divine duo even appear to him in an oracle in July AD 152. The chronology therefore indicates that Aelius had more than a fleeting dalliance with the goddess.⁸¹ It is also once again clear that the divine is not perceived as a punisher. At the outset Aelius talks of ‘submitting to the god as to a doctor’; the divine continually acts as a benevolent healer.⁸² Aelius undergoes ‘purifications’ but they appear to be medicinal rather than ablutions of sin, and certainly he does not behave penitentially during them.⁸³ Aelius simply did not perceive his illness as a result of having offended the gods. Therefore, we can see once again how in the absence of either divine punishment or recognition of responsibility for an offence, confession does not have a place.

⁷⁹ Confession is anyway not unknown in the cult of Asklepios: IG IV² 123.67, 91.

⁸⁰ *Hieroi Logoi* III.45

⁸¹ *Ibid* III.49; IV.97

⁸² *Ibid* I.1end

⁸³ For example at *ibid* IV.6

A bad conscience, even, does not seem to have invariably provoked a ritualised response of confession. In Heliodorus' *Aethiopica*, Calasiris, a priest of Isis from Memphis, recounts to Cnemon the tale of his having to leave the sanctuary of Isis at Memphis on account of a misdemeanour. He was serving at the sanctuary when a beautiful young woman from Thrace arrived, and the old man committed a 'sin of intention'; but the gods kept him from turning his lustful thoughts into action. He narrates what has happened to Cnemon, but he does not confess before the divine.⁸⁴ We are told Calasiris decided to inflict punishment upon himself.⁸⁵ He makes it clear that he had *not yet* profaned the temple; his λογισμὸς became his judge, not a deity. It seems that, because there was no need to 'testifying to the power of the gods' at Memphis, as Isis had not punished him, Heliodorus had no need to portray Calasiris confessing.

Therefore, the criteria for confessional behaviour were cognitive not cultic, contingent on personal circumstances and intellectual frameworks not on ethnic association. None of these goddess were thought to expect confession as a routine feature of their worship. These are but a few examples where confessional silence speaks volumes.

The 'oriental' question: perceptions of alterity?

The nature of the confessional examples pertaining to these cults shows it was a practice which conformed to the wider Greco-Roman practice of divine justice confession, and although we find this sort of behaviour most commonly associated with these deities, it was not the preserve of their cults. The fact that there is no indication in Greco-Roman sources that confession was perceived as 'oriental' or 'other' also supports the conclusion that confession was not perceived

⁸⁴ Heliod. *Aeth.* 2.25.2.

⁸⁵ Heliod. *Aeth.* 2.25.3-4

to be ‘other’. This point should also help the interpretation of our evidence for these cults as a whole. Lightfoot questioned how ‘oriental’ the presence of confession in the *De Dea Syria* made the cult, and whether the cult had undergone a process or ‘orientalization’.⁸⁶ In the eyes of Greco-Romans, it seems confession could not be used to ‘orientalize’ a scene, nor for that matter a cult.

When confession is described as the behaviour of a particular type of person, that person is never described in terms of their ethnic association or religious identity. The well-known example of Plutarch’s δεισιδαίμων, who sits outside in filth and sack-clad confessing his errors and transgressions, and ὡς τόδε φαγόντος ἢ πίνοντος ἢ βαδίσαντος ὁδὸν ἦν οὐκ εἶα τὸ δαιμόνιον, is conventionally taken as support for confession in the cult of the Dea Syria.⁸⁷ However, there is no strong reason to support this.⁸⁸ Between 168D and 170D, when Plutarch references, separately, those who conceive of the *Dea Syria* as a punisher, Plutarch mentions other deities such as Artemis, Apollo, Aphrodite and Hera. There is no association with the Dea Syria, and no indication that this was behaviour pertaining to a particular cult, or type of cults. Indeed, it is significant that the irrationality of the elaborate behaviour is framed not in terms of ‘oriental’ vs. ‘Greek’, but rather δεισιδαίμων vs. ἄθεος. This was no discourse of alterity, judgmental though it is. His outrage at the absurdity of this behaviour may well have been glossed with reference to ethnic or even cultic identity; instead, it is perceived as a matter of religious mentality.

This is the case for Juvenal too. When he talks of the imagined wrongdoer who addresses their thoughts to Isis, as quoted at the beginning of this chapter, he makes it clear that he is

⁸⁶ (Lightfoot 2003) 78.

⁸⁷ Plutarch *Mor.* 168D (= *De Superstitione* 7); (Pettazzoni 1937) 8; (Lightfoot 2003) 78.

⁸⁸ Pettazzoni uses Menander to support the association but this offers no more hermeneutical help than Tert. *De Paen.* 9. Plutarch did not need to assign a religious identity to the δεισιδαίμων, and neither do we.

contrasting not a 'Roman' with an 'Isis-worshiper' specifically, but rather people who '*in fortunae casibus ponant et nullo credant mundum rectore moveri natura volvente vices et lucis et anni, atque ideo intrepidi quaecumque altaria tangunt*' with someone who '*metuens ne crimen poena sequatur, hic putat esse deos*', and the Isis-worshiper is merely an example of the latter. So again it is framed in terms of the degree of religious belief, rather than in terms of the *type* of cult adhered to. This is made yet clearer toward the end of the satire when Juvenal talks of the man who has trouble eating and sleeping through his guilt of having committed a crime (not necessarily the same person as the imagined self-justifier who speaks of Isis).⁸⁹ This man is not given an ethnic characterisation other than what might be inferred from his attempted imbibing of 'Setian wine', 'ageing Alban vintages' and 'the finest Falernian', which were the choice drinks of any educated Roman and certainly not indicators of 'otherness'.⁹⁰

Juvenal goes to a great degree of effort throughout the satire to explain the *type* of person who would behave like this ('*hi sunt qui...*'), but it is always framed in terms of what sort of religious beliefs, and conscience, the wrongdoer might have; nowhere is this behaviour characterised as the preserve of certain cults (Isis's invocation is merely an example) or of certain ethnic groups. There is nothing to suggest that the imagined confessor of Satire XIII is not as 'Roman' as Calvinus. Indeed, it is implied by ll.232-5 that the wrongdoer might otherwise make offerings to the Lares or perform a sacrifice, but given that they see such acts as futile because they consider themselves guilty and thus beyond reprieve, they do not. The paradigm of 'oriental' vs 'Roman' confession discussed above would lead us to expect the confessor to be worlds apart from the worship of the Lares, which one might call a 'typically Roman' religious practice. In the end they choose not to sacrifice because of their circumstances, and their

⁸⁹ The slowness of divine punishment is a theme in Greco-Roman literary tradition: Plut. *De sera numinis vindicta* acknowledges that it dates from long ago, quoting Eur. *Orest.* 420.

⁹⁰ Juv. *Sat.* 13. 209-35

theological interpretation of those circumstances, not because of their cult identity. These observations go to show that rather than thinking about the development of confession in terms of cultic influence spreading from one area to another, we should think about it in terms of mentalités which straddled cultic and ethnic boundaries.

Therefore, the Romans themselves, it seems, did not see confession as the preserve of the ‘oriental’ cults nor did they ascribe to it ‘orientalness’ in general. This is also borne out by the fact that many literary characters not associated with ‘oriental’ ethnicity are depicted as confessing. Although many of Ovid’s Phrygian characters or scenes set in Asia do involve confession, he does not confine such behaviour to these.⁹¹ For example, in the story of Cephalus and Procris, the setting is Athenian and neither of them have any associate with an ‘oriental’ cult, yet Cephalus confesses and pleads for pardon in the same repentant way as his Phrygian characters.⁹² We are not told to whom Cephalus is *orans*, but the use of this word suggests a religious prayer. Furthermore, especially if *haec mihi confessio* has a causal force, it is suggested that the confession was significant in bringing about Procris’ return, or at least that its execution was important for remedying the situation. Even the Roman god Vulcan is imagined to confess.⁹³ Furthermore, in the most famous Roman epic, the Aeneid, Radamanthus exacts confessions from the guilty in the underworld, without any sense it was a “foreign” idea.⁹⁴ Likewise, in his curse poem the *Ibis*, Ovid desires that his enemy should live among the

⁹¹ Eg. Midas to Bacchus: Ov. *Met.* 11.134ff.; Dido’s wishful-thinking of Aeneas confessing: Ov. *Her.* 7.68-72; and her own confession at *Her.* 7. 85-6 and 104-5; Byblis and Myrrha both confess following their incestuous loves: Ov. *Met.* 9.448-53; 10.484-7. However, Niobe never confesses even after all her children are killed, although in a thoroughly Anatolian setting: *Met.* 6.146ff. Nor does “Maeonian Arachne”, famous *Lydas... per urbes*, try to confess or appease the goddess, but on losing to Athena immediately proceeds to hang herself: *Met.* 6.32ff. Therefore, Ovid did not specifically associate Phrygian behaviour with anxiety about transgression and divine punishment, as the characterisation of Niobe and Arachne is in sharp contrast with the overly-nervous ‘god-fearers’ whom Juvenal and Plutarch depict confessing.

⁹² Ov. *Met.* 7.747

⁹³ Ov. *Ars Am.* 2.591-2

⁹⁴ Vir. *Aen.* 6. 566-9. For the argument that *commissa piacula* refers to crimes rather than atonement and that confession of these was delayed: (Witton 1930), calling for “an exposition of the full implications of Vergil’s Doctrine of the Confession of Sins”.

guilty in the afterlife where one of the Furies will tear his side with a whip *ut sceleris numeros confiteare tui*.⁹⁵ Such lack of valence of ‘alterity’ is evident even before the Augustan period. In Terence’s *Self-Tormentor*, set in a village in the countryside of Attica, Menedemus (the eponymous self-tormentor) who sent his son away to be a soldier following an illicit passion is full of regret for his harsh actions. He confesses: *ita res est, fateor. Peccatum a me maxumest*.⁹⁶ As an Athenian nobleman, there is nothing to suggest that Menedemus is associated with an ‘oriental’ identity either in this version or the lost original by Menander. Despite its penitential framework, this scene of confession is thoroughly Greek. It should be noted, however, Menedemus does not seem to conceive of his self-punitive act as a means to propitiate the divine. He does not want to leave the field when Chremes insists he have some rest because *non convenit, qui illum ad laborem impepulerim, nunc me ipsum fugere*.⁹⁷ Nevertheless this goes to show that confession in itself did not always carry an ‘orientalizing’ force.

Roller sees the ecstatic behaviour attributed to the Phrygian cult “as a reflection of ‘orientalising’ prejudice on the part of classical peoples about behaviour appropriate to eastern religions”, but confession cannot be included in this.⁹⁸ Moreover, extreme penitence overall was contingent on divine justice contexts rather than “eastern religions” *tout court*. To describe the transformation of these cults in the Mediterranean world as ‘orientalization’ would be as misleading as Lightfoot predicts. In fact, the model of confessional and penitential practices being transferred to the Roman world by means of ‘oriental influence’ cannot do justice to the complex historical processes at work.⁹⁹ The rest of this thesis will now attempt to explore those

⁹⁵ Ov. *Ibis* 184.

⁹⁶ Ter. *Heaut.* 158.

⁹⁷ *Ibid.* 165-6.

⁹⁸ (Roller 1999) 22-4.

⁹⁹ cf. (Turcan 1989) 113.

processes by examining the sublunary legal background against which divine justice confession was performed.

Conclusion

This chapter has proposed that there is no support for the idea that confession was a normative, monolithic institutional practice in these cults. What created the conditions for confession was not membership of these cults and the performance of confession as a cult rule, but rather it was a product of individual religiosity, whenever someone found themselves in circumstances in which they considered confession advantageous. In this way, it is problematic to say that ‘confession was practised in the cult of ...’. Instead, we find these goddesses being addressed, like other deities of the Greco-Roman world, as judges and punishers who might be appeased through confession. Except for confession performed by *galli*, whether in the context of routine alms collection, or in a form resembling autoscopic confession made during initiation, all the examples pertaining to these goddesses belong to the divine justice category and were *ad hoc* performances. It therefore cannot be taken for granted that confession was a normative feature of cultic life.¹⁰⁰ Furthermore, we cannot attribute a practice of auricular confession, or even priestly involvement in confession, to any of these cults.¹⁰¹ Men as well as women number among the confessants.¹⁰² The examples of devotees associated with these goddesses but who do not confess further indicate that it was conditioned by *mentalité* and personal circumstance more than cultic affiliation. Secondly, this chapter has also argued that confession was not perceived as ‘oriental’ or ‘other’ to the Greco-Roman world. The Mainz tablet at least shows

¹⁰⁰ *Contra* (Donalson 2003) 55. (Witt 1997) 135.

¹⁰¹ *Contra* (Donalson 2003) 55; (Alvar Ezquerro and Gordon 2008) 181; (Heyob 1975) 66; (Wilhelm-Hooijbergh 1954) 91.

¹⁰² *Contra* (Heyob 1975) 64: “*The Isiac religion provided a further emotional outlet particularly for female followers in its penitential aspect*”

that it was not a practice confined to the eastern Empire. On the grounds both of confession's nature and its lack of valence of alterity, we cannot support the idea that confession to these goddesses was "un-Greco-Roman". This becomes yet further apparent when we contextualize this evidence against the background of Roman law.

Chapter four: Confession in Roman Law

The boundary between law and religion in the Roman world was fluid.¹ Even after legal practice moved out of the hands of the college of pontiffs in the mid Republic and a group of legal experts emerged, law and religion were not confined to separate domains.² The ‘secular’ inhabited ‘religious’ space, and *vice versa*: at the time of the Neronian fire, 3’000 bronze *tabulae* promulgating laws and treaties hung on the walls of the Capitolium, and the crime of *sacrilegium* would be tried in the court of a Roman magistrate.³ The overlap between law and religion is one reason why a consideration of confession in Roman law is vital for any attempt to understand the development of religious confession in Greco-Roman society. There emerges a startling correspondence of form, fact and development between legal and religious spheres. This comparative exercise is indeed so striking that it exposes the methodological shortcoming of any study focused exclusively on ‘religious’ evidence and invites us to reconsider the broader history of confession. The parallels between confession in religious contexts and legal practice indicate that with divine justice confession we are not dealing with the simple transfer of a monolithic ‘un-Roman’ religious practice from one culture to another, or from certain religions to others, as the dominant narrative of scholarship has had it.

¹ Recent work on law and Roman religion has problematized the traditional understandings of the secular nature of Roman law: cf. (Tellegen-Couperus 2012)

² On the role of the pontiffs: (Watson 1992). Parallels in roles and remits between *pontifex* and jurist remained strong: eg. like jurists in the interpretation of Roman civil law in the Republic, *pontifices* commented only on a *votum*’s formula: (Scheid 2006) 21.

³ Suet. *Vesp.* 8.5 for *tabulae*; that they were likely on display: (Williamson 1987) 165 n.17. For *sacrilegium*: Sen. *Controv.* 8.1; *Dig.* 48.13; (Robinson 1973); Cic. *Att.* 1.13.3 (for the senatorial decree behind the formal trial of the perpetrator of the Bona Dea sacrilege); regarding the shrine of Liberty built upon the site of Cicero’s house, the *pontifices* had conducted the inquiry: Cic. *Har. Resp.* 7.13; *Att.* 4. 2. 4. Cf. Seneca on religious activity on the Capitol: Aug. *De Civ. D.* 6.10. Temples could be built from penalty fines from criminal prosecutions by aediles: Livy 10.31.9; 24.16.19. It is telling that the example of wrongdoing posited by Cicero’s *De Inventione* as being able to be defended by *purgatio* (a plea of ignorance, but without denying the fact of the action) was the case of some sailors who sacrificed a bull-calf to Diana as an *ex-voto* on safely arriving at a port, without knowing that the people in that shrine’s community prohibited the sacrificing of a bull-calf to Diana (Cic. *De Inv.* II. 95). What we might term ‘religious’ transgression was not always delineated from the realm of ‘law’.

The bulk of evidence for non-Judeo-Christian confession in the Greco-Roman world already studied by scholars, and labelled as belonging to ‘oriental’ cults or ‘Hittite-influenced’ *stelai* of Asia Minor, in fact shows close affinity to Roman law.⁴ Whether the precise nature of confession to the divine was decided upon by the individual, or at the institutional level by religious authorities, the central point stands, which is that this was not an oriental practice surviving in isolation from the Greco-Roman world, but quite the opposite.⁵ It was framed and shaped in the context of Roman jurisdiction. Confession was at both the intellectual and the rhetorical level a thoroughly Greco-Roman phenomenon: intellectually, because we see several aspects of the situation – the wrongdoing, the relationships between judge, culprit and victim, the punishment, and even the very efficacy of confessional response – conceptualised as if pertaining to a Roman, terrestrial forensic context, and at the rhetorical level because the expression of religious confession employs the language of Roman legal process. We shall find that the sublunary world of the Roman contract, of legal trials and of practices of torture constitute a backdrop which forms the hermeneutical key to expressions of confession to the divine.

Scholarship has tended to afford little scope for confession in Roman legal process, which has fitted neatly with the generalisation that confession was ‘un-Greco-Roman’. This chapter, however, exposes the nuances which not only complicate this picture, but actively challenge it. It also aims to explore the relationship between forensic confession and religious confession.

⁴ That religious expression in contexts of divine justice should draw from societal judicial practice is not unparalleled: for example, Bronze Age Akkadian prayers and Hittite *arkuwars*, as well as Iron Age Anatolian, Greek and Latin curses show a wide-spread conflation of prayer and forensic speech, the forms of which develop interdependently over time: (Bachvarova 2006).

⁵ The lack of doctrinal blueprint and the heterogeneous nature of divine justice confession and the degree of individualism evident in the Anatolian corpus, does suggest that it was the individual who mapped a Roman legal practice onto their relationship with the divine, rather than the result of a top-down proscription for confessional behaviour.

Much might be seen to hinge on the question of the efficacy of confession in Roman law. If confession led automatically to punishment, had no mitigating effect, and was seldom employed for this reason, we might expect a concomitant religious system that gave little room to confession. A Vyshinskian climate of automatic condemnation and unmitigated punishment, where ‘confession is the queen of judicial proofs’, is unlikely to foster a wider thought-world which holds *voluntary* confession to be an attractive recourse for the accused. The effects of Stalinist judicial theory can still be seen extra-legally in the countries of the former USSR. Conversely, if confession were routinely employed to reduce punishment or even secure clemency and acquittal in forensic contexts, one might imagine that this would facilitate a confessional attitude to the divine.

That there might be a relationship at all between the legal and the religious is not presumed here, but what emerges is in fact strongly suggestive of interdependency. Despite the general perception that confession in Roman law was nothing but damning and thus seldom employed, this chapter highlights that confession could be, and was, employed advantageously in certain circumstances of Roman civil process and, more exceptionally and predominantly under the Empire, in criminal process also.⁶ It nevertheless also posits that the general tendency for confession to lead to automatic punishment in Republican trials, and to be otherwise disadvantageous to the confessor, in part explains its relative lack of employment in the face of divine judgement, particularly under the Republic. That is, the defendant was generally left without either room or incentive to confess, except in two crucial circumstances: in civil actions (whether, depending on the period, in an *legis actio*, in formulary process, or in a *cognitio extra*

⁶ *Contra* “confession resulted automatically in punishment” (Barton 2001) 141. In his book on Sallust and the execution of the Catilinarian conspirators Drummond makes an important contribution to the study of confession in Roman law by re-evaluating the extent to which we can take the implication of Cato’s speech, according to Sallust, to be that *confessi* were always condemned to execution in criminal law as a rule. His caution informs the argument developed here: (Drummond 1995) 64-72.

ordinem), or before a judicial authority able to grant clemency, whether in the form of complete acquittal or a mitigated penalty. These are two key contexts for confession which find parallel in two contexts of religious confessions: their tendency to concern delict-type offences rather than criminal ones, and their performance before a singular divine judge with a capacity for clemency as well as punishment. These permissive contexts for confession, this thesis suggests, in part account for the story of confession to the divine. It seems no mere coincidence that the sort of transgressions confessed in religious circumstances are the sort of transgressions which would find legal solution in actions of civil law – civil law being where confession could be advantageous - whereas crimes of a more serious, specifically criminal, nature appear not to have been confessed religiously, just as they tended not to be in actions of criminal law where confession was highly disadvantageous. After reconsidering the place of confession in Roman law, and relevant legal developments, this chapter goes on to show, using epigraphic and literary evidence, that confession in Roman law may help explain how and why religious confession appears when, where and as it does. The fact that judicial confession could, in certain circumstances, be advantageous suggests a possible answer to why religious confession was not or was practised in Roman society at any given time, and even why it may have been increasingly practised – as the evidence indicates it was - during the imperial period.

Confession in Roman Law

Studies of confession in Roman law have centred on the principle, articulated by the jurist Paul, that *confessus pro iudicato est, qui quodammodo sua sententia damnatur*.⁷ That is, the person who confessed was as good as sentenced.⁸ This principle finds similar echoes in other excerpts

⁷ *Dig.* 42. 2. 1.

⁸ The chief matter of debate being whether such confession *in iure* caused an immediate halt to proceedings or whether it needed to be followed by a pronouncement of the sentence by a judge cf. (Scapini 1973) 9, nn.5-6.

collected in the same chapter (42.2: *De Confessis*) and others of the Digest, in the *Codex* (7.59: *De Confessis*), and in the Twelve Tables, which likely constituted the jurists' point of departure.⁹ These pronouncements specifically concern confession in civil law, which at the time of the formulary procedure could be before the praetor (*confessio in iure*) in the first stage of the two-part process, or before the judge (*confessio apud iudicem*) in the second.¹⁰ Some scholars have nevertheless used *confessus pro iudicato est* as support for the existence of a broader rule, applicable to criminal cases and Roman law generally, by which a confessor would automatically be condemned.¹¹ Other scholars have rightly highlighted that it was never initially meant to apply to all actions of Roman law, but only to civil actions, and may even have applied *in iure* but not *apud iudicem*.¹² Indeed, Paul's statement cannot on its own be used to conclude that in all cases confession automatically resulted in conviction. The stipulation of good practice by the jurists and in imperial rescripts is evidence more for the existence of a concept than for its implementation. For example, that a rescript should be written from

⁹ Dig. 42. 2. 3 (Paulus 1. 9 ad Plaut.): *Julianus ait confessum certum se debere legatum omnimodo damnandum*; and Dig. 42. 2. 5 (Ulp. 1. 27 ad ed.): *Qui Stichum debere se confessus est, sive mortuus iam Stichus erat sive post litis contestationem decesserit, condemnandus est; XII Tab. 3.1-2: aeris confessi rebusque iure iudicatis XXX dies iusti sunt. Post deinde manus iniectio esto; Cod. Iust. VII.59: confessos in iure pro iudicatis haberi placet. Quare sine causa desideras recedi a confessione tua, cum et solvere cogaris*. Also cf. Paulus, *Sent.* 2, 1, 5: *si qui de debito quocumque modo confessus docetur, ex ea re actio creditori non datur, sed ad solutionem compellitur*.

¹⁰ For *confessio in iure* generally: (Demelius 1880); (Collinet 1905) 171 ff.; (Betti 1914-5) 1453 ff.; (Püschel 1924); (Wlassak 1934); (Di Paola 1952); (Scapini 1973); (Litewski 1976) 252-267; (David 1986); (Thomas 1986). For emphasis on the *in iure* and *apud iudicem* distinction: (Scapini 1973).

¹¹ (Demelius 1880); (Kunkel 1968) 111-133 (for application to penal law also: 118-24); (Zumpt 1865) 169-82 and 397-416; (Mommsen 1899). Barton places misleading emphasis on the phrase to support statements about penal law, despite a recognition elsewhere that confession in penal contexts was distinct from that in civil contexts: (Barton 2001) 141: "To the extent that the judge operated within and was bound by the rule of law, confession resulted automatically in punishment. A *confessus* is like a *iudicatus*...". In quoting both David and Thomas, Barton mistakenly implies that these authors see *confessus pro iudicato* working as a rule for penal law as well, when in fact they point out that the rule was *not* applicable to all legal contexts but only civil actions *in iure*. However, Barton later makes the crucial distinction between civil and criminal law, 152: "The confession, while rare in criminal proceedings in the Republic, was common in civil suits, especially in the "confession of debts" (*confessio aeris*), where confession functioned in its contractual aspect, creating a contingent and contextual truth". For revisionism that any rule applies to criminal law: (Drummond 1995) 67-72.

¹² (David 1986) 69; (Thomas 1986) 99-100. That *confessus pro iudicato est* was the case *in iure* but probably not strictly applied *apud iudicem* in the sense of immediately halting proceedings: (Scapini 1973) 10.

Caracalla to a certain Iulianus in AD 211 to reiterate the point suggests that ‘the rule’ was not always obvious and assumed in practice.¹³

Scholarship has gone some way to qualifying how the principle should be understood. Yan Thomas has shown that it cannot be taken at face value for application to Roman law generally by arguing that there was no equivalent judicial ‘rule’ for criminal law, but that nevertheless confession amounted to self-condemnation in criminal law as it did in civil law. He does not however question its practical application in private law.¹⁴ Nor does Jean Michel David dispute that Paul’s maxim in theory applies to ‘absolute confession’ in civil law in the Republic, exceptional and desperate though he argues such instances would be (in contrast to the minor ‘partial confessions’ of facts conceded in the process of determining a *constitutio*, to which the rule would not apply). He too posits that the principle found an echo in the practice of criminal law in that it was ‘almost impossible’ to confess a crime in the Republic.¹⁵ Both of these authors have thus rightly sought to qualify the statement that the *confessus* was *pro iudicato* in Roman law generally, but there is still further to go. Here, I argue that the principle should not be uncritically transferred to criminal law, nor should it be taken at face value even for civil law, in two key respects: that it should not mean that confession always led immediately to sentencing, nor that there was little incentive to confess.¹⁶ For criminal law there is more to be explored and qualified, particularly with regard to the impact of Empire. But before turning attention to this, we shall first see that in private actions it was in reality not always as terminal as Paul’s maxim implies it was, and then we shall see that there was in fact advantage to be

¹³ *Cod. Iust.* VII.59

¹⁴ Thomas’ account is largely followed by (Drummond 1995) 64-7, esp. 64 n.89.

¹⁵ (David 1986) 69: “A Rome, à la fin de la République, avouer un crime était quasiment impossible. D’abord parce que certaines règles de droit faisaient que qui confessait était assuré d’être condamné. *Confessus pro iudicato est...*”

¹⁶ There has been little previous discussion of the incentives for confession, but there are those who have seen confession in the formulary process leading not to the immediate execution of a sentence but to further proceedings: (Crook 1987) 40; (Laffi 1986) 34; (Kaser 1966) 201-4; (Wlassak 1934) 15-25; (Pugliese 1963) 212-5. Thomas points out that confession was preferable to denial but he does not draw out the importance of this against the overwhelming impression he gives of confession being self-condemnatory: (Thomas 1986) 95.

gained by confessing, not only for the confessor. To call confession self-condemnatory, which has been the common conclusion of all previous scholars on the topic, suggests that it was a mindless act and indeed not much of an option for the defendant at all, but evidence reviewed in this chapter urges us to reconsider: in some cases confession of a certain sort could be beneficial. The Digest and other evidence reveals expectations that confession would not infrequently be made in civil actions of a financial nature; a strange fact if confession was always so foolishly self-condemnatory.

Roman Civil Law

Support for the authority of the *confessus pro iudicato est* rule by some scholars has been so steadfast that it has even caused doubt to be cast over an apparently contradictory primary source: the *Lex Rubria* itself.¹⁷ Chapters XXI and XXII of this law constitute crucial evidence for the place of confession in civil law. In ch. XXI ll. 5-6, the *lex* implies that the *confessus in iure* to a debt may either pay the debt or make a *sponsio* and accept a *iudex*, as the next step of the formulary procedure would have it:

sei is eam pecuniam dare oportere debereve se confessus erit... neque id quod confessus erit solvet satisve faciet, aut se sponsione iudicioque utei oportebit se defendit

On the surface, this is perplexing: Frederiksen highlights “but it is a familiar fact that in the praetor’s court the *confessus* was reckoned as a *iudicatus...*”.¹⁸ How therefore could the *confessus* go on to defend themselves before a judge? Beseler found this so problematic that he put it down to an error in drafting, opting for deleting of the clause, and others have bent the

¹⁷ *CIL I*² 592

¹⁸ (Frederiksen 1964) 130.

interpretation to the point that it simply cannot fit with the tenses of the verbs used.¹⁹ A similar curiosity is chapter XXII's implication that a *confessus* may defend themselves by a *iudicium* in the praetor's court at Rome.²⁰

The *Lex Rubria* is clearly in tension with the idea that confession led, simply and invariably, to immediate sentencing. Frederiksen proposed that the problem be overcome by supposing that the *confessus* might plead an *exceptio*, which could, if the judge found it favourable, result in the acquittal of the defendant of the need to pay the sum.²¹ Greenidge found little problem in reconciling *confessus pro iudicato est* with chapters XXI and XXII of the *Lex Rubria* because he envisaged that a confession *in iure* could be withdrawn when it came to the *iudicium*.²² Though the latter seems implausible, these are potential ways to reconcile the evidence. There is, however, a more attractive possibility: even though the action is *certa pecunia credita*, a confession *in iure* might be to the fact of the debt, with the process *apud iudicem* to decide on the further particulars, such as the amount to be paid. An excerpt from Ulpian supports this, demonstrating that proceedings before the judge would seek to estimate the precise liability for a confessed delict:

*Notandum, quod in hac actione, quae adversus confitentem datur, iudex non rei iudicandae, sed aestimandae datur: nam nullae partes sunt iudicandi in confitentes.*²³

Furthermore, outside of the formulary process, an imperial constitution dating most probably

¹⁹ *Ibid.*

²⁰ *Lex Rubria* XXII.50

²¹ (Frederiksen 1964) 130

²² (Greenidge 1901b) 254.

²³ *Dig.* 9.2.25.2 (Ulp. 18 ad ed.): "It should be noted that when an action is given against someone who admits liability, the *iudex* is appointed not to decide the issue (of liability), but to evaluate the loss; for there is no room for deciding (the issue of liability) against persons who admit liability" (tr. Frier). Though the action here is one under the *Lex Aquilia* (about property value) rather than *certa pecunia credita*, it reveals a logic that would apply to pecuniary matters in general. Also in support, *Dig.* 9.2.26 (Paul 22 ad ed.): *Putat enim, quod qui convenitur fateatur se occidisse et paratus sit aestimationem solvere, et adversarius magni litem aestimat* ("For suppose that the defendant admits having slain and is ready to pay the evaluation, and his adversary evaluates the claim at an amount that is (excessively) high"). A *confessum certum*, on the contrary, would settle the case, leaving nothing further to be decided. cf. (Thomas 1986) 92 n.14.

to the reign of Hadrian and concerning the public bank of Pergamon offers a glimpse of an instance when confession to a delict led not to immediate condemnation but to further argument in defence.²⁴ This was so persuasive that the emperor granted subsequent acquittal. Confession, it seems, was not universally the emergency stop button that the jurists suggest it was. The *Lex Rubria* shows that even specifically in the praetor's court acceptable practice was not so straightforwardly reducible to the maxim of *confessus pro iudicato est* in a sense which leaves no room for further bargaining possibilities. *Confessio in iure* could in fact provide an opportunity to reduce a liability or to offer an *exceptio* to cause the case to be dismissed. In such circumstances, it was far from foolish to confess. On the whole, however, that the confessor should be considered sentenced does seem to have been the principle governing confession *in iure* to liabilities which were of an undisputed amount, leading to immediate conviction unless an *exceptio* was argued or further details of liability required judgement.²⁵

Importantly, confession in civil actions could in fact be advantageous to the confessor.²⁶ The riskier option in some circumstances was to deny the charge, only then to be found guilty, or then to confess, before the judge. This would incur a penalty in addition to the punishment of repaying the debt or covering the costs of stolen or damaged property, depending on the action in question. In actions under the *Lex Aquilia*, for example, the penalty for defendants who denied the charge *in iure* was double the worth of the property:

*Lege Aquilia capite primo cavetur: 'ut qui servum servamne alienum alienamve quadrupedemve pecudem iniuria occiderit, quanti id in eo anno plurimi fuit, tantum aes dare domino damnas esto': (1) et infra deinde cavetur ut adversus infitiantem in duplum actio esset.*²⁷

Agimus autem interdum ut rem tantum consequamur, interdum ut poenam tantum, alias ut rem....(9) rem vero et poenam persequimur velut ex his causis ex quibus adversus infitiantem

²⁴ (Oliver 1989) 208-15, no.84 ll. 31-41: ...μόνον μέντοι ὁμολόγουν τῷ Ὑπερβερεταίῳ μηνὶ δίδοσθαι ἕαν \ τῶς τὸ εἰς τὸν Ἑρμῆ λεγόμενον... This likely took place as a *cognitio*, rather than as part of the formulary process.

²⁵ (Scapini 1972) ch. 1

²⁶ (Drummond 1995) 70 notes this but does not draw out its implications.

²⁷ *Dig.* 9.2.2 pr.-1 (Gaius VII *ad ed. prov.*).

*in duplum agimus; quod accidit per actionem ... damni iniuriae legis Aquiliae....*²⁸

*Haec actio [si dolo servus occisus sit] adversus confitentem competit in simplum, adversus negantem in duplum.*²⁹

The penalty of double for denial in property matters had in fact been stipulated as early as the Twelve Tables, and did not only apply to Aquilian actions; Cicero argues for it in the case of a vendor of land denying the existence of defect.³⁰ However, there were some exceptions: according to Ulpian, in actions in which someone maliciously persuaded a slave whom he thought to be free to commit an act the defendant was tried for double even if they confessed.³¹ Cases of theft may also have constituted exceptions to the rule that confession avoided further penalty, although the evidence is contradictory: Gaius records that a fourfold penalty applied to manifest theft, double penalty to non-manifest theft and threefold penalty when the stolen property has been handed to a third party *sive quis neget sive fateatur*.³² But Ulpian records that in the case of minors who were convicted for theft or damage to property but who had not confessed, they would be let off having to pay the penalty of double or quadruple that confession would otherwise have meant they avoided.³³ So Gaius implies confession is irrelevant to the matter of further penalty but Ulpian implies confession could avoid it. Differences of opinion should naturally be expected from the jurists; the key point here is that at least *sometimes* confession was thought beneficial in cases of theft. Ulpian also reveals here not only that the penalty for denial could be as much as quadruple that which would be applied in the case of confession, but also that leniency for not confessing could be granted on the basis

²⁸ Gai. *Inst.* IV.6, 9

²⁹ *Dig.* 9.2.23.10.

³⁰ *XII Tab.* 6.2. Cic. *De Off.* III. 16. 65. Gaius states that actions for double penalty '*adversus infitiantem*' occur in actions: to recover a judgment debt, expenses paid for a principal, or damages for injury under the *Lex Aquilia*; and to recover legacies, or a certain sum which has been bequeathed by condemnation (Gai. *Inst.* IV. 9). For further discussion of the penalty of double or multiple: (Thomas 1986) 96 n.25.

³¹ *Dig.* 11.3.5.2.

³² Gai. *Inst.* IV. 173.

³³ *Dig.* 4.4.9.2. Incidentally, Ulpian here reveals that leniency for not confessing could be granted on the basis of age, as if the minor lacked the maturity and sense to confess. This too suggests confession was thought of as a calculated response.

of age, as if the minor lacked the maturity and sense to confess. This too suggests confession could be considered a well-calculated response. With the exceptions, then, of actions which involved minors, corrupted slaves, and perhaps sometimes theft too, confession in Roman civil law could bring an advantage and a degree of protection to the accused. Rather than being a senseless option never to be seriously considered by any right-thinking Roman because it led to automatic condemnation, it would have in fact been an attractive option to the guilty and innocent alike in certain legal cases. The importance of this for our understanding of the confession *stelai*, and consequently for our understanding of the story of religious confession in the Greco-Roman world, will be illustrated in the discussion below.

Confessio in iure offered benefits not only to the accused and to the victim, who would have found relief in settling the matter and in being protected from a possible charge of false accusation, but also to the praetor and the bureaucrats overseeing imperial jurisdiction. In an Empire under ever increasing strain of jurisdictional demand the greater the number of civil actions which could be settled easily *in iure* without the need to uptake the considerable burden of appointing a judge for a second stage, so much the better. In some cases both parties had to agree on the *iudex*, and where disagreement arose the situation could be painfully protracted.³⁴ It is therefore no wonder that confession was incentivised, in that denial was punished. The *communis opinio* of confession as self-condemnatory all too easily obscures this reality of how confession could operate in the Roman world. Roman forensic forces did not work to make confession unthinkable in all contexts: when it came to civil actions, confessions were sensible. But it is important to note what these were confessions of.

In civil law, confession was not of fault, guilt or wrongdoing, but of a debt owed. In cases of debt or damage caused by someone or something the defendant owned, the confessor did not

³⁴ (Birks 1988)

admit to having committed a wrongdoing *per se*.³⁵ This apparently strange aspect of confessional semantics will be discussed further in the section below on confession and contract. It is perhaps too stark to claim that invariably “*l’aveu n’opère pas au plan de la faute*” because in Aquilian actions in which damage was caused by the defendant themselves a confession of liability may have been cognitively tantamount to an admission of having committed a fault. Nevertheless, this was secondary and apparently unimportant at the level of expression. With fault as pecuniary debt, intentionality of past action was not important at least at the rhetorical level. Nor was a sense of past wrongdoing embedded in the primary semantics of confessional terminology. This is apparent from the function of confession in the world of contract, and as a future promise.³⁶ The themes of mitigation, financial delict, contract, future promise and confessions not of intentionality or guilt, but of debt, will find parallels when we examine the contexts in which we find religious confessions. The overlap has significant implications for our understanding of ‘confession’ in ‘religious’ contexts.

Roman Criminal Law

Confession in Roman criminal law was unlike confession in civil law. Thomas views them as ‘antitheses’, arguing that confession created a contractual obligation in civil actions which constrained the judge to adhere invariably to the rule of *confessus pro iudicato est*, whereas in criminal law confession had no juridical efficacy; a greater degree of autonomy was thus available to the judge(s) in a criminal trial.³⁷ This is to give extraordinary weight to the idea that *c.p.i.e.* always operated and was always observed by magistrates in cases of civil law continuously from the early Republic to the Late Empire, rather than being a reflection of an

³⁵ This reflects the lexical range of confession in society more widely: the fact that someone could ‘confess’ an infraction of a third party, as discussed above, mirrors how the defendant in an Aquilian action would confess liability regarding damage done by a third party under their control (whether slave, animal or property).

³⁶ See p.231.

³⁷ (Thomas 1986) 97, 99.

ideal or mere norm of practice particularly vocalised in the Severan age.³⁸ On the whole, however, aside from its effect on the judge, the contractual nature of confession in civil law is a significant distinction to make to illuminate its function: there, confession constituted a contractual undertaking of financial reimbursement and/or penalty. This was above all a question of agreement to a future financial obligation, to which questions of true culpability, fault, or past action were secondary, if even relevant at all. Unless the prosecution was specifically interested in a delict committed *dolo malo*, what mattered was the contract agreed; there would have been no need to establish guilt. Especially given that confession might be undertaken in order to avoid additional penalty, it did not necessarily imply responsibility for the deed committed. This is an important point, to which we shall return, for understanding the

³⁸ There is a curious chronological convergence of the evidence for the principle of *confessus pro iudicato est*. Treatments have overlooked this, extending its practical application indiscriminately from the time of Twelve Tables to the time of the Digest itself. But although the Twelve Tables mention the *confessus* and *res iudicatae* in close conjunction and suggest that both actions led to the same juridical outcome, they do not exactly stipulate that the *confessus* was to be held *iudicatus*. Also, the implication of *-que* is ambiguous: that thirty days should be given to confessed debt *and* to matters judged in court could mean that both conditions - confessed debt and judgement - need to be fulfilled (*XII Tab.* 3.1-2: *Aeris confessi rebusque iure iudicatis XXX dies iusti sunt*). Exhortations to *confessus pro iudicato est*, in fact, occur closely in time. The only imperial rescript to refer to it and the only one to be listed under 'De Confessis' in the *Codex* is the one quoted above, dating to AD 211. Is it a coincidence that the only two voices of the Digest which urge the principle belong to Ulpian and Paul, contemporaries who both served Caracalla? Indeed, there is a strong likelihood that one of them actually wrote the rescript attributed to Caracalla. The eight excerpts quoted in the Digest's title *De Confessis* all belong to Paul or Ulpian except for one (Africanus: *Dig.* 42.2.7). The principle of *confessus pro iudicato est* therefore appears to be a particular vocalisation of the early third century. We know, too, that Severan jurists looked back to the Twelve Tables for guidance, so we need not assume a continuous legal practice between the Twelve Tables and the age of Caracalla.³⁸ It is easy, after all, to see how the Severan jurists would have read the Twelve Tables and found grounds for treating confessed debt and judged matters as equivalents. But to what extent was a similar rule in place in the interim? The only other echo we get is from the reign of Marcus Aurelius: in a lengthier stipulation of the *confessus pro iudicato* principle than Paul's (*Dig.* 42.2.6), Ulpian urges that the praetor should 'follow the provision of a speech of the Divine Marcus' in that *quis confessus est, pro iudicato habere*. Instead of being evidence for its continued application since the Twelve Tables, however, this again might imply that the principle was not something that was a well-known and widely accepted principle during his reign either. There are therefore grounds for caution in assuming that the principle had a continuous application *as a rule* in legal practice from the time of the Republic to the Late Empire, although other evidence does suggest that confession to the charge generally resulted in the assumption of liability. We can infer from the *Lex Aquilia*, which stipulates that the *confessus* would be exempt from additional penalty, that from the time of its promulgation in the mid Republic to the High Empire of the jurists who affirm its continued application the *confessus* would be judged liable. This is one of the best pieces of evidence for the continuity of the effect of confession, but we should be aware that the picture is fragmentary. Elsewhere, the absence of discussion of *confessio in iure* is inconclusive: for instance, the apparent fact that no guidance was given in the *lex Irmitana* on how to handle confession may mean that the rule might have been taken for granted as existing, or no such rule applied (cf. M. Lemosse, 'Loi municipale et droit latin', *IURA* 41 (1990), 92). The most likely scenario is that the confessor to a charge at all periods would be judged liable to repay the amount, and the particular audibility of the Severan jurists simply reflects the audibility of their legal pronouncements more generally, as brought down to us in the Justinianic *Corpus* at least.

otherwise baffling conceptual logic behind the peculiar expressions of some religious confessions. In criminal law, on the other hand, the nature of a confession would have necessarily been different: it would have been to a crime – an unlawful act committed in the past, not to a future undertaking - and the potential price to pay was not merely pecuniary.³⁹ The degree of arbitrary freedom afforded to the judge(s) also constitutes grounds for distinction if we see *c.p.i.e.* as widely applied. Like Thomas, Crook affords the judiciary greater autonomy in a criminal case, but for him the implication was that confession could then mean immediate sentencing, unlike in civil cases which could be protracted.⁴⁰ Greenidge also argued that the principle of *confessus pro iudicato est* did not hold for criminal proceedings in the time of Cicero: confession during the initial *interrogatio* did not halt proceedings; the matter had to go before the *quaestio* for judgement and one magistrate did not have the power to decide the case. Nevertheless, Greenidge imagines that the eventual trial would only be only a summary one, with the judges bound to condemn and unable to offer a mitigated punishment.⁴¹ That confession would lead to conviction is never questioned. The consensus in recent scholarship sees confession as equally self-condemnatory in criminal law as in civil law; although no rule, either of *c.p.i.e.* or ‘of manifest guilt’ operated in criminal law, nevertheless it has been concluded that ‘absolute’ confession to the charge “*n’avait pas lieu d’être; il n’avait pas de nom*”.⁴² But did confession really have neither place nor name in criminal procedure? The inquiry first requires two crucial distinctions to be made: between types of confession, and between Republic and Empire, when significant changes occur in the system of criminal justice. First, we shall consider the Republic, which has received closer scholarly focus.

³⁹ David emphasises the distinction in terms of admitting a fault vs. admitting a crime: (David 1986) 69.

⁴⁰ (Crook 1987) 40.

⁴¹ (Greenidge 1901b) 465

⁴² (David 1986) 71. On manifest guilt, see (Crook 1987). Also, (Thomas 1986) 99: “*le droit pénal romain ne reconnaît aucune place à l’aveu*”; (Barton 2001) 138: “Nor did the Romans of the Republic confess in criminal trials”.

Confession in Criminal Law of the Republic

David distinguishes between ‘absolute’ and ‘partial’ confessions, finding no room for the former – a confession that one had intentionally committed what they knew to be a crime, as a desperate last-hope - in the Republican criminal system, and scant evidence.⁴³ ‘Partial’ confessions, on the other hand, were made in the process of establishing the nature of the case, the *constitutio*.⁴⁴ Citing the *Rhetorica ad Herennium* - *constitutio est prima deprecatio defensoris cum accusatoris insimulatione coniuncta* - and relying on evidence from Cicero and Quintilian, David infers that the process would involve the prosecution making charges, with the defence agreeing to some and contesting others.⁴⁵ This highlights an important point which is also clear from Cicero’s speeches: confessing *facts* was a familiar occurrence, and not necessarily problematic.⁴⁶ The crux of the case would thus be determined, eventually revealing a main charge which David terms ‘unconfessable’. However, closer reading of the handbooks reveals that ‘absolute’ confession was in fact considered as a possibility, and a subject about which the advocate ought to be advised. While scholarly consensus is right to conclude that the republican criminal system on the whole afforded little room for confession, the evidence suggests that it occurred more than we might think, and that we can be more precise about when and why it was employed.

⁴³ (David 1986) 71 and *passim*. For David, ‘absolute’ confession was to admit that one had intentionally committed what they knew was a crime.

⁴⁴ (David 1986) 70.

⁴⁵ (David 1986) 70. *Rhet. Her.* I, 18; cf. 26; II, 46. Cic. *De Inv.* I.10; *Top.* 93. Quint. III. 6, 7; 11; VII, 1, 6

⁴⁶ According to the *De Inventione*, a *constitutio* could be contested in terms of the facts themselves (*coniecturalis*) or in terms of whether those facts constituted a crime (*definitiva*), or it might be discounted for tribunal incompetence (*translativa*) or the value of the acts committed might be disputed (*generalis*): Cic. *De Inv.*, I, 10-16. These facts could even be serious, such as in the case of Antonius’ example given in the *De Oratore* (Cic. *De Or.* II. 106) of Carbo defending L. Opimius by admitting that he killed Gaius Gracchus, but justifiably so on grounds of public safety, or the example of Antonius’ own defence of Norbanus, denying that his client’s actions constituted ‘treason’ according to a certain definition.

The *Rhetorica ad Herrenium* and Cicero's *De Inventione* suggest that 'absolute' confession does indeed have both a place and a name in rhetorical practice, but a question remains over where exactly it might be employed. The author of the *Rhetorica* has it under the category of 'assumptive' issues, which are those 'when the defence itself is weak and extraneous matter is drawn upon'.⁴⁷ Of these there are four subtypes: acknowledgement of the charge (*concessio*), rejection of the responsibility (*remotio criminis*), shifting of the question of guilt (*translatio criminis*) and comparison with the alternative course (*comparatio*). It is the first of these which interests us here, as *concessio est cum reus postulat ignosci*.⁴⁸ *Concessio* was further subdivided into *purgatio* and *deprecatio*.⁴⁹ *Purgatio* was when the defendant denied that they had acted with intent.⁵⁰ If they had acted through ignorance, accident or necessity, the defence would fall under this category. But it is in the act of *deprecatio* that we are to find 'absolute' confession. The author explains: *deprecatio est cum et peccasse se et consulto fecisse confitetur, et tamen postulat ut sui misereantur*.⁵¹ We are then told that 'in the courts this is rarely practicable': *hoc in iudicio fere non potest usu venire*.⁵² At first sight this may seem to support the idea that confession had little place in legal process generally, yet it is worth noting the exceptions which follow. What the author goes on to say reveals to what extent there was room for it, and it becomes apparent that the emphasis falls on the *iudicium* as a specifically problematic legal context. The first exception concerns the character of the defendant: ... *nisi quando pro eo dicimus multa recte facta extant*. For a good person, then, confession can be effective, and the reader is offered an example of how the advocate might help in that case.⁵³ The

⁴⁷ *Rhet. Her.* I. 24ff.

⁴⁸ *Ibid.* cf. Cic. *De Inv.* II. 94

⁴⁹ Cicero identically so: *De Inv.* II. 94

⁵⁰ *Ibid.*: *Purgatio est cum consulto negat se reus fecisse*.

⁵¹ *Ibid.* Cicero's two definitions in the *De Inventione* differ only slightly in words rather than sentiment: *deprecatio est cum et peccasse et consulto peccasse reus se confitetur et tamen ut ignoscatur postulat* (Cic. *De Inv.* I. 15); *deprecatio est in qua non defensio facti, sed ignoscendi postulatio, continetur* (Cic. *De Inv.* II. 104).

⁵² *Ibid.*: *hoc in iudicio fere non potest usu venire*

⁵³ *Ibid.* *hoc modo in loco communi per amplificationem iniciemus: "quodsi hoc fecisset, tamen ei pro pristinis beneficiis ignosci conveniret; verum nihil postulat ignosci"*.

author then concludes that such an issue cannot therefore come before the court (*iudicium*), but offers further exceptions: it can come before the senate, or a general, or a *consilium*.⁵⁴ It appears that it is specifically the *iudicium* which is unsuitable for *deprecatio*.

This passage, together with Cicero's point in the *De Inventione* that *hoc genus [deprecatio] vix in iudicio probari potest, ideo quod peccatorum vindex esse debet, ut ignoscat, impetrare*, has been taken to support the claim that confession was impossible when it came to criminal trials.⁵⁵ Yan Thomas, for example, inferred from these comments in the rhetorical handbooks that we are dealing with confession in the context of a political decision, not in criminal legal process.⁵⁶ He also concluded that *deprecatio* and confession belong to the realm of deliberative, rather than judicial, rhetoric. Yet these are unfounded assumptions. Cicero himself tells us that *quicquid enim de homino probando aut improbando dicitur, cum ad eam dictionem sententiarum quoque ratio accommodetur, id non, si per sententiae dictionem agitur, deliberativum est; sed quia de homine statuitur, iudicale est habendum*.⁵⁷ Just because an issue is tried in the senate or in the field of war does not make it less a matter of criminal law, nor of judicial rhetoric. Moreover, closer attention to the distinction between *iudicium* vs. senate, general, and *consilium*, reveals that the distinction between confessional danger zone and safe space does not divide neatly along the lines of criminal and civil law. Those cases which were tried by the senate, by a general, or involving a *consilium* could be classed as criminal as well.⁵⁸ The *De Inventione*, like the *Rhetorica*, mentions the permissive contexts for *deprecatio* as being the senate and a *consilium*,

⁵⁴ *Ibid. ergo in iudicium non venit, at in senatum, ad imperatorem et in consilium talis causa potest venire.*

⁵⁵ Cic. *De Inv.* II. 104. As is *De Inv.* I. 15: *quod genus perraro potest accidere.* cf. “une telle confession était impossible”: (David 1986) 72.

⁵⁶ (Thomas 1986) 106: “La *deprecatio* et l’aveu préparent donc à la décision politique plutôt qu’au jugement”. Barton dichotomises by deeming confession as rare in criminal cases but common in civil suits: (Barton 2001) 152.

⁵⁷ Cic. *De Inv.* II.110. It transpires from the discussion of *deprecatio* soon after, in II. 111, and its polarisation with a plea for reward, that this applied to *deprecatio*.

⁵⁸ A criminal version of *legis actio sacramento*, for example, would take place before a praetor with a *consilium*; the defendant’s person, rather than a sum of money was at stake: (Bauman 1996) 17.

although unlike the *Rhetorica* it does not mention the *imperator*.⁵⁹ Also unlike the *Auctor*, Cicero helpfully gives two historical examples of *deprecatio* in action. The first is the case of Syphax, an African prince and alleged turncoat in the Second Punic War, who arrived in Rome to have his case heard in the senate.⁶⁰ The second concerns a long speech about Q. Numitorius Pullus made *apud L. Opimum et eius consilium*. Pullus had betrayed his native Fregellae to Opimius, the Roman commander, in 125 BC, and it resulted in the plea for mercy prevailing.⁶¹ These were criminal issues of treason.

It is worth, then, shifting focus onto just how possible, rather than impossible, these handbooks reveal confession to have been. The *iudicium* was where confession was especially ill-advised, but after saying that *deprecatio* can hardly be recommended in a *iudicium*, Cicero does not in fact rule it out altogether. Rather, he advises that it can be partially used, as long as the entire case is not resting on it.⁶² It was not impossible, it just needed to be accompanied by a strong defence. He gives an example of how the advocate might intercede, in which – crucially – he addresses the audience as *iudices* (ie. the imagined setting is a criminal *iudicium*):

“*quodsi, iudices, hic pro suis beneficiis, pro suo studio, quod in vos semper habuit, tali suo tempore multorum suorum recte factorum causa uni delicto ut ignosceretis postularet, tamen dignum vestra mansuetudine, dignum virtute huius esset, iudices, a vobis hanc rem hoc postulante impetrari*”.⁶³

He goes on to elaborate that, as the *Rhetorica* also advised, evidence of good character helps the defence, as well as honourable past deeds and noble kin. He adds that a promise never to do it

⁵⁹ Cic. *De Inv.* II. 105: *Quare hoc genus, quamquam in iudiciis non versatur nisi quadam ex parte, tamen, quia et pars haec ipsa inducenda nonnunquam est et in senatu aut in consilio saepe omni in genere tractanda, in id quoque praecepta ponemus.* This suggests that the statement *quod genus perraro potest accidere* of I. 15 must refer to unqualified *deprecatio* in the *iudicium*.

⁶⁰ Cic. *De Inv.* II. 105; Livy XXX. 17

⁶¹ Cic. *De Inv.* II. 105

⁶² Cic. *De Inv.* II. 104.

⁶³ *Ibid.*

again is a good idea too, and offers further tactics to mitigate the situation.⁶⁴ This was qualified confession, then, but it was confession nonetheless.

Beyond the realm of the hypothetical case, we can also find in the historical record rare snapshots of confessions actually made in the Republic, but once again attention must be paid to their nature and form. David finds two examples of “*aveu explicite d’un crime reconnu tel*” in the Republic, but these are not straightforwardly ‘absolute confessions’. The first is found in the story of Fecennia Hispala who revealed the Bacchanalian conspiracy to the consul Sp. Postumus in 186 BC, according to Livy.⁶⁵ Throughout Livy’s narration it is clear that Hispala is considered an informer, an *index*.⁶⁶ The use of *fateri* by Postumus to describe the act of her divulging to him, even though he knew she was not one of those currently involved, is not a surprise, as we saw above that confession verbs were used of those who were merely witnesses providing evidence in a case rather than the accused themselves: the vicarious confession.⁶⁷ She is not the only individual to ‘confess’: care was taken to arrest the ringleaders immediately who, we are told, made ‘complete confession’: *fassique de se nullam moram indicio fecerunt*.⁶⁸ Once again Livy uses the verb *fateri* and associates the confession with the act of the *index*. The ringleaders, though, were clearly the main accused, but Livy’s use of *fessi* rather than *confessi* suggests that they were quick to divulge on being arrested; they became informers themselves. Luckily, Livy preserves the fact that the matter of what to do about the informers was brought forward by the consul and made the subject of a decree. The fate of one of the ringleaders, Minius Cerrinius was to be imprisoned in Ardea and put on suicide-watch. In light of the fact that the death penalty was decreed for all those who had continued to take part in the rites beyond mere initiation, this

⁶⁴ Cic. *De Inv.* II. 106

⁶⁵ Livy 39. 12. 3-5

⁶⁶ eg. *peracto indicio*: 39. 14. 1; *indicibus... alios indices...*: 39.14; *de iis, quos pro indicibus*: 39. 19. 1

⁶⁷ See p.60.

⁶⁸ Livy 39. 17.

seems a mitigated penalty for a ringleader. Hispala and her lover P.Aebutius, who first alerted the consul, were rewarded handsomely with 100'000 ases out of the treasury and guarantees of safety, with property and marital rights, and exemption from military service, being granted respectively.

To call Hispala's act 'absolute confession', as David does, needs qualification: she is above all an informer, and it being called an act of *fateri* is consistent with the verb being used of third-party witnesses to crimes and of informers. His second example, that of the Catilinarian conspirators, seems at first sight to be much more straightforwardly evidence of confession by the accused in the case of a crime. In Cicero's third Catiline oration he narrates how, during the interrogation of the conspirators in the senate, they confessed one after the other: Cethegus acknowledged that the seal on the letters was his (*signum cognovit*), and when the letters were read out his previous tone of denial changed: *debilitatus atque abiectus conscientia repente conticuit*.⁶⁹ Statilius acknowledged both his own seal and his hand on the letters and again when his letters were read out: *confessus est*.⁷⁰ When Gabinius was introduced he at first responded stubbornly, but following the testimony of the Allobroges *nihil ex iis, quae Galli insimulabant, negavit*. The various acts here which Cicero calls confessions have so far been rather passive: Cethegus' silence, and Gabinius' 'not denying', and Statilius's uncertain act behind '*confessus est*' which may have been non-verbal too. This is where Lentulus' confession stands out: at first he nodded assent (silently) when shown his seals, and once his letters were read out and Cicero had asked if he had anything to say on the matter: *negavit*. But after the end of the examination and an exchange with the Gauls *subito scelere demens quanta conscientiae vis esset ostendit. nam, cum id posset infitiri, repente praeter opinionem omnium confessus est*. This was clearly

⁶⁹ Cic. *Cat.* III. 10

⁷⁰ *Ibid.*

a verbal act. Cicero comments that in this moment Lentulus' oratorical skill, his impudence and his wickedness (*impudentia... improbitasque*) deserted him. This implies, curiously, that Cicero now thinks it would have been impudent and wicked *not* to have confessed. When it suits him, then, confession is not always *turpis*.⁷¹

Lentulus' example is, more so than the others', straightforwardly one of 'absolute confession'. Interestingly, this took place before the senate, one of the handbooks' confessional safe spaces, and not before a criminal court. Examples of absolute confession to a criminal charge in *iudicia* are absent from the record. Still, these various acts were termed 'confession' by Cicero, as at the end of his narration of the examination he declares:

*ac mihi quidem, Quirites, cum illa certissima visa sunt argumenta atque indicia sceleris, tabellae, signa, manus, denique unius cuiusque confessio, tum multo certiora illa, color, oculi, vultus, taciturnitas. Sic enim obstupuerant, sic terram intuebantur, sic furtim non numquam inter sese aspiciebant, ut non iam ab aliis indicari, sed indicare se ipsi viderentur.*⁷²

Unlike Cicero, Sallust does not dwell on individual confessions. All we are told in the narrative is that *omnes signa sua cognovisset*: acknowledgement is confined to the matter of the seals.⁷³ At first he has Lentulus deny his guilt, but only indirectly implies that he did not object when presented with evidence against him.⁷⁴ However, Sallust has Cato sum up his argument for capital punishment with reference to confessions having been made: *cum... indicio T. Volturci et legatorum Allobrogum convicti confessique sint caedem, incendia aliaque se foeda atque crudelia facinora in civis patriamque paravisse, de confessis, sicuti de manifestis rerum capitalium, more maiorum supplicium sumundum.*⁷⁵ And in Caesar's speech prior to this, though he makes no explicit reference to confession, Caesar is characterised as clearly considering

⁷¹ Cic. *Verr.* 2.3.71.165

⁷² Cic. *Cat.* III. 13

⁷³ Sall. *Cat.* 47. 2

⁷⁴ Sall. *Cat.* 47. 2

⁷⁵ Sall. *Cat.* 52. 36

Lentulus and the others unproblematically convicted.⁷⁶ We can expect that Sallust would have had Caesar mention any hint of denial if indeed there had been any question over whether they had confessed or not, as it would likely have helped his argument. All in all, then, the fact that the conspirators did confess before the senate seems credible. Moreover, the care which Cicero takes to elaborate on the confessions shows how important confession was at the level of rhetoric, especially rhetoric before the people. We even know that, in what seems to be a boldly unprecedented move, Cicero had the trial recorded verbatim, presumably including the statements of confession, and had copies of these records disseminated not only through Italy but also into every province.⁷⁷ Cicero seems to have anticipated the importance of possessing a record of the informants' statements, and the confessions, for the exoneration of his own actions. As Cato's speech in Sallust also suggests, confession helped to justify the execution of the conspirators without formal trial, although it is important to note that there was no rule in place which legally sanctioned the immediate infliction of punishment on the *confessus*; Cato's point was debatable.⁷⁸ Confession, then, could be seized upon by an opponent to achieve a damning effect through rhetoric, but it was not always the case that confession had this effect. For, Cicero tells of another confession without terming it such: when Volturcius is introduced to the senate, Cicero promises him pardon if he *ea quae sciret sine timore indicaret*. And so, we are told, *ille dixit*. Volturcius, though he was the person assigned to introduce the Gauls to Catiline, a messenger between Lentulus and Catiline, and who tried to fight his way out of the interception, is here spared the language of confession. He had become an *index*. Together with the Allobroges he was even voted rewards, like Hispala. The danger or not of confession depended on when exactly, in the trajectory of being found out, it was made.

⁷⁶ Sall. *Cat.* 51. esp.7-9

⁷⁷ Cic. *Sull.* 40-44

⁷⁸ Thomas is right to challenge interpretation of this Cato passage as evidence that the *confessi* were as a rule treated in the same way as the *manifesti* in Roman criminal law. (Thomas 1986) 101; cf. also (Crook 1987) 39ff.

A passage of Dionysius of Halicarnassus on the conspiracy of the Tarquins in 500 BC provides a third example of confession to crime in the Republic, and once again it concerns confession of *indices* and takes place outside of a court of law.⁷⁹ The brothers P. and M. Tarquinius, leaders of the conspiracy, confess to the consul Sulpicius. Dionysius at length paints a picture of their unceasing divinely-inflicted torments, their frightful dream visions that kept them awake, their vain propitiatory and expiatory sacrifices, their being driven to consult a diviner, and the diviner's unfavourable reply.⁸⁰ All this dramatically suggests motive enough to confess, but Dionysius, with revealing superfluity of explanation, adds a more mundane reason: δείσαντες μὴ φθάσωσιν αὐτοὺς ἕτεροι τὰ κρυπτὰ εἰς φῶς ἐξενέγκαντες.⁸¹ They were afraid that someone else might crack first. Consequently, they themselves revealed it (μηνύται) to the consul at Rome. Once again it seems significant that the less charged verb - μηνύω - is used in place of explicit confession language. And once again, as informers the brothers are met with commendation and promise of reward. The fear of someone else confessing first is an underappreciated factor which must have lain behind many more confessions - of the *index* type - than history has cared to record.⁸²

A striking parallel to these examples of confession in criminal matters, not discussed by David or Thomas, is the confession of C. Memmius before the senate in 54 BC. There, he revealed the corrupt pact of bribery made between himself and his co-candidate for the consulship of 53 on the one hand and the consuls of 54 BC on the other. We do not know the language that Memmius himself used for his declaration but Cicero tells us that he *pactionem in senatu recitavit*.⁸³ This

⁷⁹ Dion. Hal. *Ant. Rom.* 54; cf. (David 1986) 75 for discussion, although he does not explicitly add this example to that of Hispala and the Catilinarians as those which represent confession of a crime (cf. *Ibid.* 72: *deux cas qui...*).

⁸⁰ Dion. Hal. *Ant. Rom.* 54. 2-3.

⁸¹ Dion. Hal. *Ant. Rom.* 54

⁸² Another further is Vettius who 'confessed' (although Cicero suspects it was all a ploy) before the Senate to a plot to assassinate Pompey, and asked for the right of protection as an *index*: Cic. *Att.* II.24 (AD 59).

⁸³ Cic. *Att.* IV. 17. 2

compact provided that, if Memmius and his fellow candidate Domitius were elected they would furnish three augurs who would state that they had been present at the passing of a *lex curiata*, which had never in fact been passed, and two consulars who would state that they had witnessed a senatorial decree making provision for consular provinces, although the Senate had not met; if they failed to do this they would each forfeit the sum of HS 4'000'000 to the consuls. Memmius even produced the *tabulas* on which the names and full details of many people involved were written. Cicero does not call this a *confessio* but refers to it as '*illam enuntiationem*'.⁸⁴ Elsewhere, he describes Memmius' action as *pactiones... patefecit*.⁸⁵ It was clearly an oral declaration which reflected negatively on Memmius, among others, with the result that Caesar was furious and Memmius never became consul, taking to exile instead. Cicero likely did not use a *confiteor* cognate to describe the act because of its implicit sense of being a response to an accusation: the 'con' of *confessio* implies a prior accusation, which was not the case here. And again the use of either *fateri* or *confiteri* would constitute emotive language which would promote negative feelings towards those whose actions were described in such terms; when Cicero is wanting to prove his opponent's culpability in court he alleges 'confession', but clearly he does not wish to talk of Memmius here as if an opponent in court. Cicero decides to use non-emotive language to describe the action, but it was confession nonetheless.

Memmius' motive for the "public confession", as Sumner calls it, has been much debated.⁸⁶ Some scholars have imagined Memmius as pawn of Pompey operating with various degrees of passivity, but there is no need to see Pompey as master of the whole act.⁸⁷ Cicero's description of the tablets as *prolata a Memmio est nominibus inductis auctore Pompeio* certainly does not suggest this and is at any rate ambiguous, as it may mean that Pompey was behind bringing out

⁸⁴ Cic. *Att.* IV. 17. 3

⁸⁵ Cic. *QFr.* III.1

⁸⁶ Though this has not stopped speculation: cf. (Sumner 1982) 138-9 for a summary.

⁸⁷ *Contra* (Meyer 1963) 196f.; (Gelzer 1968) 146; (Gruen 1969) 316f.; (Seager 1979) 135.

the *tabelas*, or behind only the erasure of the names (following Shackleton Bailey's translation of *inductis* as 'cancelled'), or in fact behind the exhibition of the names, given the alternative meaning of *induco*.⁸⁸ Sumner, however, sees Memmius intent on winning the consulship, so when three augurs and two consulars were looking hard to come by he may have decided that the money be put to better use in the electoral campaign; a dramatic way of wriggling out of his financial commitment.⁸⁹ Sumner conjectures that his plan was then to have elections delayed, until at least after Caesar's return from campaign. Although it seems implausible that Memmius would have imagined making such a swift and speedy rebound into high-flying politics, Sumner nevertheless seems to come closest to evoking Memmius' motive by pointing out that he was ultimately acting in his own interests. This was no political kamikaze on behalf of Pompey. In late July, as Sumner points out, Cicero shows knowledge of a *pactio* which he 'dares not commit to letter'.⁹⁰ This is therefore most likely to have been a pre-emptive strike. Memmius, like Volturcius in the Catilinarian example, decided to turn *index*. And, like the Tarquin brothers, he probably feared someone else cracking first. The precedents discussed above show that it would have been reasonable for him to think that he would not only escape punishment, but that he would be rewarded for his actions, and eventually able to make a return to politics, or at least not come off too badly. This seems more plausible than the previous suggestions of motives and the only other, more curious, possibility: given what we know about the exhortation to confess faults and critically expose those of others in Epicurean teaching, Memmius may have decided to try a practical experiment based on his philosophy. Montesquieu, convinced of the corrupting effect of Epicureanism, attributed the chaos of 54 BC to Memmius's philosophy.⁹¹ Perhaps he was right about Epicureanism's role in 54 BC, but not at all for the reasons he thought.

⁸⁸ Cic. *Att.* IV. 17. 2

⁸⁹ (Sumner 1982) 138

⁹⁰ (Sumner 1982) 139

⁹¹ Montesquieu *Considérations* 97

The Memmius example and those of other *indices* suggests that such confession was a way of saving face, of retaining a degree of power in the face of danger, perhaps even bolstering reputation.⁹² And all of these accounts reveal that ‘confession’ was in the eye of the beholder. Although in the act of ‘confessing’ both the informer and the accused perform the same act - verbally avowing to having been involved in criminal activity - the timing of the latter makes it an act of ‘informing’, ‘revealing’ or merely ‘telling’ in non-hostile eyes whereas the act of the latter is called ‘confession’. This further indicates the extent to which this act of avowal is not entirely about past action, but just as importantly it was about forming a relationship with the prosecuting authority. The timing of the act of confession determines this relationship. This is important background when we consider confessions which anticipate divine punishment in the epigraphic and literary record.

David ends up treating the ‘confessions’ of informers as if these constituted the principal examples of criminal confession in Republican Rome, but while these are prominent in the written record they were not the only form that confession took. It is important to maintain the distinction between the confession of an informer and the confession of the accused on trial. Of the latter type we cannot find any examples of confession without further defence. *Deprecatio* is the nearest we get, but even then the defendant or their advocate is encouraged to embellish with defensive arguments, such as elucidating good character. There are, in addition, instances of confession to the fact of the charge, but with exculpatory justifications to prove that the defendant should not be deemed guilty. Cicero’s *Pro Rabirio* is a case in point.⁹³ Cicero confesses that Rabirius took up arms with the intention to kill Saturninus.⁹⁴ He even wishes that in Hortensius’ prior defence the charge of killing him had not been denied, declaring that, if it had been him

⁹² Gruen imagines Pompey hoping that Memmius “might emerge with renewed reputation”: (Gruen 1969) 316.

⁹³ Cic. *Rab. Perd.* 18-19.

⁹⁴ Cic. *Rab. Perd.* 19.

defending Rabirius then, he would have confessed that Rabirius had killed Saturninus.⁹⁵ As it is, then, he cannot now change the denial of killing Saturninus to an admission, although he wishes he could. His rhetorical game hinges on the argument that killing Saturninus was a good and necessary thing to do in the circumstances. This is what the handbooks might call *translatio criminis*. And, as we have seen earlier, other types of confession were possible under the *genus* that the handbooks call *concessio*, including *deprecatio*. We are at pains to find further concrete examples of *deprecatio* to add to the two given in the *De Inventione*. It would be wrong to count among these Naevis's so-called apology in 206 BC which secured his release from imprisonment by the tribunes.⁹⁶ This was in fact a 'watering down' – a retraction, we might suppose - of his slanderous remarks which had caused him to be imprisoned in the first place, and anyway took place after sentencing, so was not technically *deprecatio*. Beyond this we are blind to any confessional behaviour which occurred after sentencing in the Republic.

Confession, then, was not completely alien, either in theory or practice, to criminal cases in the Roman Republic, despite the misleading impression given by previous accounts of confession in Roman law. Whilst it is significant that Cicero should state that a defendant who confesses is *quod est accusatori maxime optandum*, this is rhetoric which ought to be treated with caution.⁹⁷ It no doubt signifies a general principle that confession was advantageous to the prosecutor hitherto in Republican criminal law, but not that it was never done. Furthermore, pre-conceived ideas that confession would have immediately stopped proceedings and resulted in condemnation have sometimes been imposed without justification. A case in point here concerns the nature of the Republican tribunician trial. According to Bauman, at the end of each of the three public *contiones* which made up the *anquisitio* procedure prior to final trial by assembly of the people

⁹⁵ Cic. *Rab.* 18.

⁹⁶ (Bauman 1996) 17; Gell. *NA* 3.3.15.

⁹⁷ Cic. *Lig.* 2. The context of this is further reason to be cautious: Cicero is offering up his own defendant as a *confitentem reum* so he is wanting to emphasise his audacity for rhetorical effect.

(whether as the *comitia centuriata* or *comitia tributa/concilium plebis* depending on the nature of the penalty), “the tribune announced a penalty and asked the accused whether he admitted his guilt. If he did, the tribune sentenced him without any more ado, as a *confessus*”.⁹⁸ But in actual fact this is not a valid inference from Cicero, the primary source for the process.⁹⁹ He says nothing about repeated occasions on which the accused was asked whether they confess. Rather, Cicero points out merely that plenty of opportunity is given to the defendant to please the prosecutor or to excite pity, which suggests that qualified *deprecatio* could in fact have been a help to such cases. His tone implies it was not beyond the realms of possibility.¹⁰⁰ This is evidence for confession’s efficacy for mercy, rather than its invariable condemnatory force. Indeed, Livy’s account of the tribunician trial of Scipio in 187 BC is revealing: the events are narrated in detail and it is clear that no such confession opportunity caps off each day. It is therefore important to redress the idea that there was an institutionalised process for confession extraction in the Republican tribunician *anquisitiones*.

The Livy passage provides a neat correlation with the handbooks: Scipio responds to his accusation by making no reference to the charge but by describing his good character and all that he had done for the state, resulting in Tiberius Sempronius Gracchus using his tribunician veto to abort the trial. He makes no verbal confession but is silent on the matter of whether he was actually guilty of the charge or not.¹⁰¹ It is impossible to tell how often this type of response would have been employed, even beyond the tribunician process. Pompey’s banning in 52 BC of character evidence in trials of *ambitus* suggests that many might have got off the hook by

⁹⁸ (Bauman 1996) 10.

⁹⁹ Cic. *Dom.* 45

¹⁰⁰ *Ibid:* *tum multa etiam ad placandum atque ad misericordiam reis concessa sunt, deinde exorabilis populus, facilis suffragatio pro salute, denique etiam, si qua res illum diem aut auspiciis aut excusatione sustulit, tota causa iudiciumque sublatum est.*

¹⁰¹ See p.55ff..

confessing or not refuting the charge and speaking to greatness of character, as the handbooks recommend, instead.

There is therefore nuance to be appreciated which complicates ideas that confession was invariably impossible in Roman criminal procedure. Nevertheless, confession was clearly not a commonplace response on the part of the accused or the criminal wrongdoer, and it is right to conclude that on the whole Republican criminal procedure left little room for confession. This is important background against which to view confession in Roman society, and to appreciate how it might have been imbued with a counter-cultural charge; as an act of self-condemnatory madness, occasions on which it was actually employed could be used to powerful effect. This is important for situating not only religious, particularly Christian, confession but also the confessions of the Latin love poets.¹⁰² We have already observed that the distinction between permissive and non-permissive contexts for confession does not divide straightforwardly down the line of civil law vs. criminal law. So there remains the question of what determined confessional permissibility, and why *iudicia* should be particularly restrictive.

Judicial Plurality and Manoeuvres of Mercy

It turns out to hinge on the judge(s) capacity for mercy. Across cases of hypothetical confessions recommended in the handbooks, as well as real-life instances, there is invariably a common feature: the judgement was in the hands of an arbiter able to dispense mercy. For confession (in the form of *deprecatio*) to have been employed there had to be the possibility of *clementia*. Not only does evidence documenting where confession was and was not employed suggest this, but also Quintilian himself strongly implies that this was the defining aspect of those circumstances

¹⁰² See p.72ff.

which allowed *deprecatio*: *quod genus causae plerique negarunt in iudicium umquam venire... in senatu vero et apud populum et apud principem et ubicumque sui iuris clementia est, habet locum deprecatio*.¹⁰³ We should note that, in a departure from the handbooks of the Republic, Quintilian here includes two unprecedented *deprecatio* safe-spaces: trial before the people and before the *princeps*. The latter is an addition we would of course expect, given that Quintilian was writing under the Principate unlike the authors of the handbooks on whom he is so clearly relying, but the additional mention of *populus* is much more curious, and significant. Surely the handbooks of the Republic would have mentioned judgement *apud populum* as a realm of safety for *deprecatio* if it had been one. And given that Quintilian echoes the turn of phrase and structural composition of the discussions of the handbooks, and so seems to be using them as points of reference, what he adds can be counted as meaningful updates. A problem arises, however, as trials *apud populum* are thought to have become obsolete after the 50s BC.¹⁰⁴ It is possible that Quintilian is archaising here, although it seems strange for him to update the handbooks by adding *apud principem* whilst also adding a, by his time, obsolete point which was in the first place unmentioned by the handbooks. Perhaps he has in mind the *Pro Rabirio*, in which Cicero uses confessional tactics.¹⁰⁵ Or perhaps he is referring to provincial practice. What exactly he means by *apud populum* remains obscure.

Elsewhere, Quintilian states that *deprecatio* without justification can be made only before judges who are not limited to pronounce a certain type of verdict.¹⁰⁶ In the same passage it is clear that he has primarily a single judge in mind as the most permissive context for such *deprecatio*: if one day was allotted ‘to say, before the emperor or some other person who has power to decide whichever way he wishes, that the man for whom we are speaking does indeed deserve death,

¹⁰³ Quint. *Inst.* VII. 4. 17-8

¹⁰⁴ (Brennan 2000) vol.2, 370-1.

¹⁰⁵ esp. Cic. *Rab.* 5.

¹⁰⁶ Quint. *Inst.* V. 13. 6-7

but that it is right for a merciful judge to spare even a man like this then, first, we shall not now be dealing with an opponent but with the judge; secondly, we shall be adopting the form of a deliberative rather than a forensic subject, for we shall be persuading him to seek a reputation for humanity rather than the pleasure of revenge. With judges who are bound to pronounce sentence according to law, it is of course absurd to offer advice about the treatment of admitted guilt'.¹⁰⁷

Although the senate, the people and *consilia* are all plural bodies included in the list of permissive judicial contexts for *deprecatio*-confession, there must have been no greater scope for *clementia* than when judgement rested in the hands of one individual. Pluralities might disagree. They might likely find resolution only by following straightforward principles, such as that of wrongdoing requiring punishment. The rewards for being seen to be merciful are not so easily reaped by a plurality, and the reputational risks of excessively harsh punitive measures, or even injustice, can be helpfully borne by the conceptual mass. An individual judge, on the other hand, has much more to gain from confession and much more to lose from the lack of it. It is the contention of this thesis that the increasingly mono-judicial nature of trials from the early Principate onwards led to greater employment of confession in criminal forensic procedure overall. This trend correlates with the development of *parrhesia* before the emperor. Moreover, this shift in judicial practice had effect on the religious and intellectual landscape of the Empire: it offered confession to the divine an environment in which to flourish. More will be said on this in part II, but now, having explored the evidence for confession in Republican criminal procedure, let us turn more closely to the matter of confession in Roman criminal law under the Empire.

¹⁰⁷ *Ibid: quod si quando apud principem aliumve cui utrum velit liceat dicendum erit dignum quidem morte eum pro quo loquemur, clementi tamen servandum esse vel talem, primum omnium non erit res nobis cum adversario sed cum iudice, deinde forma deliberativae magis materiae quam iudicialis utemur: suadebimus enim ut laudem humanitatis potius quam voluptatem ultionis concupiscat. apud iudices quidem secundum legem dicturos sententiam de confessis praecipere ridiculum est.*

Mercy and Monarchy: Confession in Roman Criminal Law under the Empire

causas, Caesar, egi multas, equidem tecum, dum te in foro tenuit ratio honorum tuorum, certe numquam hoc modo: "Ignoscite, iudices, erravit, lapsus est, non putavit, si umquam posthac...". ad parentem sic agi solet; ad iudices: "non fecit, non cogitavit; falsi testes, fictum crimen". dic te, Caesar, de facto Ligari iudicem esse, quibus in praesidiis fuerit quaere; taceo, ne haec quidem colligo quae fortasse valerent etiam apud iudicem: "legatus ante bellum profectus, relictus in pace, bello oppressus, in eo ipso non acerbus, totus animo et studio tuus". ad iudicem sic, sed ego apud parentem loquor: "erravi, temere feci, paenitet; ad clementiam tuam confugio, delicti veniam peto, ut ignoscatur oro". si nemo impetravit, adroganter; si plurimi, tu idem fer opem qui spem dedisti.¹⁰⁸

Cicero's *Pro Ligario* marks a turning point in the history of confession. Although it dates to the what is still the Republic, our analysis of confession under the Principate begins with it because it sets the tone for what is to come. It illustrates a conceptual framework and a rhetorical strategy which continued to operate long into the imperial period. The passage quoted above also indicates the overall tendency, which we have observed above, for defence pleas in criminal cases of the Republic not to involve confession to fact nor culpability of the crime. Cicero states that this sort of behaviour is employed before a parent, but not before judges, and we have seen that we have reason to take him at his word. The *principes* of the Roman Empire who followed in Caesar's footsteps would similarly assume, it seems, the role of confession-friendly parent. Caesar had arrogated sole jurisdiction to himself for certain cases, including the case of Ligarius, which he heard in the forum in 46 BC. Cicero now did not have *iudices* to appeal to but rather a man to flatter. The *Pro Ligario* shows us what might happen to defence pleas when a powerful authority operates as sole judge. Such language is starkly unprecedented in Ciceronian, and Roman forensic rhetoric: *erravi, temere feci, paenitet... delicti veniam peto*. The rules of the game had drastically changed.

¹⁰⁸ Cic. *Lig.* 30-1

Confession became a technology by which the imperial judge could win the glorious virtue of *clementia*, and by which the accused could secure safety. It was mutually beneficial. It is telling that Quintilian, in discussing *deprecatio* and after detailing three of the most effective arguments which aid the defence (the good character of the defendant's previous life; their future useful and crime-free life; and a sufficiently-paid penalty or repentance), stipulates that the highest hope of all is to be pinned on *deprecatio*'s power to appeal to the judge: *in eo tamen qui cognoscit plurimum ponendum est; laus enim misericordis potius quam repressio dissoluti consecutura est.*¹⁰⁹ Quintilian makes a similar point elsewhere: in the case of a plea for mercy before the emperor or a judge who has the ability to dispense mercy, 'we shall be persuading him to seek a reputation for humanity rather than the pleasure of revenge'.¹¹⁰

We can sense that things have changed in the course of time which separated Quintilian from the handbooks which he was clearly using as references. For one thing, he distances himself from the claim that the *iudicium* is no place for confession by saying that this is what 'many' have claimed.¹¹¹ Still more significant is that he goes on to then say that: *verum et in iudiciis etiam si non toto genere causae, tamen ex parte magna hic locus saepe tractatur.*¹¹² The *saepe* is telling, and makes this a rather different scenario from that proposed by the handbooks. He claims a 'frequent' argument was 'even if he did do it, he should have been pardoned', 'all' epilogues develop the same theme and 'sometimes' the whole nub of the case rests on this.¹¹³ But here we must be careful: we cannot use this as evidence for criminal *iudicia*, as the example he goes on to give, concerning a father disinheriting his son on the grounds of the son's assignations with a prostitute, is a matter for the centumviral court, and so a private lawsuit. Here, we are most likely

¹⁰⁹ Quint. *Inst.* VII. 4. 19

¹¹⁰ *Ibid.* V. 13. 6

¹¹¹ *Ibid.* VII. 4.17

¹¹² *Ibid.* VII. 4. 19

¹¹³ *Ibid.* VII. 4. 19-20.

dealing with a slight shift in *deprecatio*'s effectiveness before a civil court.¹¹⁴ Nevertheless, Quintilian stresses the role of *deprecatio* in flattering a judge like no commentator before him, and this general point can be taken to be applicable to legal cases, both civil and criminal, and reflective of the times in which he lived. From the time of Augustus onwards the emperor was the supreme legal authority of the Roman world, and thus the epitome of the biddable judge.¹¹⁵

The idea that confession was a viable strategy for securing the mercy of the emperor, being beneficial to both the emperor-judge and the defendant alike, is supported by a number of historical examples in which the emperor appears as the adjudicator of criminal cases. Before examining these, let us first treat the earliest and the most problematic case. One of only a few instances of an emperor presiding over a criminal case in which he dispenses mercy but not in response to explicit confession is found in the story of Augustus judging a trial of *parricidium*.¹¹⁶ As Suetonius narrates, Augustus pointedly asked the defendant “surely you did not kill your father?”, shutting down the confessional avenue in order to allow acquittal. Although on the surface this example might seem to undermine the idea that having the emperor as judge allowed room for confession as never before, there is a significant point implicit. It reveals that the defendant confessing was considered, at least by Augustus, a real possibility. It may have been that the *princeps* as sole judge invited the defendant to take the *deprecatio* approach, and this anecdote reflects a real risk. This is key evidence that confession was at least considered possible at this time, in this setting. These were the early days of the Principate and *parricidium* was considered one of the most heinous crimes of all. Acquitting a confessed parricide would have called Augustus’ judicial authority into question. This example therefore does not undermine the

¹¹⁴ This might imply that the new third option of pardon introduced to a jury by Augustus in a case of a forged will (Suet. Aug. 33.2) was a precedent for a more consistently employed practice after this time, and was not a one-off instance.

¹¹⁵ For a recent treatment of the emergence of the emperor as supreme judge from Augustus onwards: (Tuori 2016) *passim*.

¹¹⁶ Suet. Aug. 33.1

point shown by later examples that imperial judicial authority allowed especial room for confession to flourish, because this was an exceptional trial by a novice emperor-judge on thin ice.

It does neatly highlight, however, the risk of *clementia*: acquitting a confessed criminal might be seen to undermine an emperor's *iustitia*. It had to be employed wisely. The fact that the rhetoric of imperial *clementia* tended to be much louder than that of imperial *iustitia* probably says something about the general climate of fear. That it was more important to extoll clemency than justice, as appears to have been the case at least for the emperors of the first century AD, likely reflects the sense that the condemnation of the innocent was more greatly feared than the acquittal of the guilty.¹¹⁷ Nevertheless, there was an implicit tension in the act of *clementia*. Like the questions being asked about divine justice in the imperial period, it would have been reasonable to ask how the emperor could have been both merciful and just. Confession served in fact to ease this tension.¹¹⁸ Although it would not have eased it in the case of Augustus and the parricide above, confession does seem to help navigate this dilemma for subsequent emperors. Being clement to those who were lacking remorse would have been politically foolish, whilst acquitting those who simply denied the charge constituted the reckless loss of opportunity to claim *clementia*. The confessed defendant, however, allowed the emperor-judge to show at the same time both his justice, in identifying the culprit and having his laws justified, and his mercifulness. Given that adjudication was a central task of the emperor, this was a tension he would have frequently had to face.¹¹⁹ Juries had no such problem of to-pardon or not-to-pardon, as the choice was either the finding of the defendant innocent, or condemnation, or at least they usually did not. Augustus' novel introduction of a third-way option - tablets for 'pardon', in addition to the

¹¹⁷ (Dowling 2006) ch. 2-5 on Julio-Claudian clemency.

¹¹⁸ More will be said about the parallel roles of confession in mercy-justice tightrope walking for both divine and human authorities in Chapter 5.

¹¹⁹ (Tuori 2016) 6: for further bibliography.

two he had distributed for acquittal and condemnation – to a jury in the case of a forged will under the Cornelian law betrays his own concerns and a new legal world.¹²⁰

The case of Otho, insecure in his newly acquired imperial power and seeking somebody to whom to be merciful, is symptomatic. Otho was keen to act immediately ‘as befitted the imperial position’. Tacitus tells us that ‘he wished to obtain the credit of being merciful by his treatment of a distinguished man whom his party hated’.¹²¹ So he called Marius Celsus, the consul-elect, to the Capitol. There, Celsus confessed: *constanter servatae erga Galbam fidei crimen confessus, exemplum ultro imputavit*. This is one example among many which goes to show that confession, even in what might superficially seem dangerous circumstances, was an elected response before the emperor. The reason why this could work was thanks to the drive for, as Tacitus puts it, a *clementiae titulus*. This drive appears to have been shared by most ‘good’ emperors, and even in the reigns of those who were ‘bad’ emperors according to Roman historiographers elites of the Empire promoted *clementia* as a quality to be desired by the autocrat.¹²² The striving after a *clementiae titulus* - both on the part of the emperor to acquire it and nervous elites to bestow it - from the time of Augustus onwards opened up the ground for confession to become a more frequently employed device of self-defence, as a voluntary, explicit speech act in the face of accusation. Moreover, the pardoning of the *confessus* was conceptualised as the act of a magnanimous king.¹²³

¹²⁰ Suet. *Aug.* 33.2

¹²¹ Tac. *Hist.* I. 71: *clementiae titulus e viro claro et partibus invisio petebatur*.

¹²² (Dowling 2006) 194-5 (on Nero); 220 (on the ineffectual attempt to bestow the title on Nero, Domitian, Commodus and Septimius Severus). Rewards for *clementia* could be obtained extra-judicially too: eg. Augustus’ pardon of Rufus, on his begging for mercy in the forum, for having declared his wish that Augustus not return safe from a journey (Sen. *Ben.* 3.27).

¹²³ On confession before Alexander: Curt. 7.1.18 -2.10. Croesus and Priam: Hermogenes, *Περὶ Μεθοδου Δεινοτητος* 32. (Hermogenes, Rabe, and Kennedy 2005) 256-7.

In the light of the paradoxical attractiveness of confession before a judicial authority in whose interests it was to dispense mercy, the actions of M. Terentius on trial under Tiberius seem less reckless than we might otherwise think.¹²⁴ Implicated in *maiestas* in AD 32 through association with Sejanus, M. Terentius effectively confesses before the senate, which is ultimately acting on behalf of Tiberius: *utcumque casura res est, fatebor et fuisse me Seiano amicum et ut essem expetisse et, postquam adeptus eram, laetatum*.¹²⁵ We are told that the senate duly acquitted him, and Tiberius concurred with them.¹²⁶ The senate, as we know from the legal handbooks from *De Inventione* to Quintilian, was a confession-friendly forensic forum. We should not fall for Tacitus' rhetorical strategy of presenting this as an exceptional strategy of defence.¹²⁷ It is also worth noting, in light of Tacitus' emphasis on Terentius' *constantia*, that the word ὁμολογία was considered the Greek equivalent of *constantia*.¹²⁸ Confession was the means by which *constantia* could be displayed. Examples of confession in Roman law already reviewed in this chapter show that the apparent audacity of such a confessional approach in fact fostered its chances of success.

A *clementiae titulus* was high up on Tiberius's agenda, or at least considered a key *desideratum* of his by those wanting to please him.¹²⁹ In his banishing of astrologers from Rome, he pardoned those begging for mercy (*deprecantibus*) and who promised to give up their art.¹³⁰ The *Senatus Consultum de Cn. Pisone Patre* stresses Tiberius and the Senate's mercy in the aftermath of the Piso conspiracy. In that document, only one act of confession is referred to: that of Piso's wife, Plancina. Importantly, we are told that it was *because* she *confessed* to being hopeful of the

¹²⁴ Tac. *Ann.* 6.8. cf. "hardly without risk": (Tacitus and Woodman 2017) 122.

¹²⁵ Tac. *Ann.* 6.8. For future tense confessions: p.228. Dio reports the same instance at Dio Cass. 58.19.1-5, in such similar terms that scholarly consensus has taken Dio to be using Tacitus: (Tacitus and Woodman 2017) 121. However, Dio does not include Terentius's statement of promised confession (*fatebor...*) in his quoted speech and does not describe his actions with confession terminology: "οὐκ ἠρνήσατο, ἀλλὰ καὶ ἔφη...".

¹²⁶ Dio Cass. 58.19.5

¹²⁷ (Tacitus and Woodman 2017) 120-1

¹²⁸ (Graver 2002) 136

¹²⁹ (Dowling 2006) 170-84 on Tiberian clemency.

¹³⁰ Suet. *Tib.* 36

emperor and senate's pity – in the manner of *deprecatio* - (and because Tiberius pleaded for her, on the instigation of his mother) that her penalty was waived: *quod ad Plancinae causam pertineret, quoniam plurima et gravissima crimina / obiecta essent, quoniam confiteretur se omnem spem in Misericordia[m] principis nostris et senatus habere...*¹³¹ The *quoniam* is emphatic. Once again we find the triangulation between merciful actor (or actors: Plancina hopes for pity *principis nostris et senatus*), the possible recipient of punishment, and a confessional act. That this was a confession not of wrongdoing but of hope does not detract from the point that a *confiteor*-act is paraded, and it amounts to *deprecatio*. After all, we have seen above that individuals were deemed to be culpable and liable to punishment for crimes of their relatives, so to Roman eyes Plancina was capable of 'confessing' even if it was not her own transgression.¹³² Moreover, the fact that the Senate were minded to state this deprecatory response so explicitly in this public document, to be displayed throughout the Empire, is indicative of both its rhetorical importance and its role in the propagation of imperial power. This deprecatory *exemplum* was not confined to the city of Rome, but, like the confessions of the Catilinarian conspirators less than a century beforehand, was available for communal mastication across the width and breadth of the Empire.¹³³

A yet more telling example of confession before an emperor, also resulting in acquittal, occurred in the case of Valerius Licinianus, accused by Domitian in a trial of *incestum* with Cornelia the vestal virgin.¹³⁴ Pliny tells us that Licinianus *confessus est quidem incestum, sed incertum utrum quia verum erat, an quia graviora metuebat si negasset.*¹³⁵ Once again we are confronted with the idea that confession might bear no relationship to truth of past action, or sincerely

¹³¹ *SC de Cn. Pisone Patre* ll.109-111. (Eck, Caballos, and Fernández 1996) 46.

¹³² See p.60.

¹³³ For dissemination of the verbatim record of the Catilinarian trial: *Cic. Sull.* 40-44.

¹³⁴ *Plin. Ep.* 4.11

¹³⁵ *Plin. Ep.* 4.11.5

acknowledged responsibility. Pliny was clearly comfortable with the idea that a confession could be false. Domitian had incurred hatred for his excessive cruelty in both sentencing Cornelia to be buried alive, condemning her in absence, unheard and improperly from his palace, and also in ordering the public flogging of Celer, a Roman knight, who had repeatedly denied the charge; Pliny suggests it seemed apparent that both had been innocent. And so Domitian arrested the senator Licinianus, who was advised by those who cared for him *ad confessionem confugeret quasi ad veniam*.¹³⁶ So he did: Herennius Senecio spoke for him in his absence, announcing that Licinianus had withdrawn his defence. Pliny then describes Domitian's delight: *gratum hoc Domitiano adeo quidem ut gaudio proderetur, diceretque: 'absolvit nos Licinianus'*.¹³⁷ In reward (*velut praemium*), he was granted easy conditions of exile, allowed to gather up the possessions he wanted before his property was confiscated, and later Nerva allowed him to move to Sicily, where he became a teacher. Here we have explicit evidence that, firstly, singular adjudicators might be thought to be 'on trial' themselves in the exercising of justice – the burden of judgement was both heavy and public – and secondly that confession could serve to alleviate this problem, thus being beneficial to both judge and defendant alike. In the light of Domitian's declaration of '*absolvit nos Licinianus*', the emphatic final words of Terentius' speech '*et te, Caesar, et nos absolvit*' gain even greater significance: Terentius's argument hinges on the point that, if friendship with Sejanus is the grounds for condemnation, Tiberius too would need pardoning, but this works additionally to signify that the pardoning of Terentius would acquit the senate and Tiberius from a charge of injustice.¹³⁸

¹³⁶ Plin. *Ep.* 4.11.11

¹³⁷ Plin. *Ep.* 4.11.13. Suetonius likewise states that Licinianus was allowed the mitigated penalty of exile because he confessed in such uncertain circumstances: *dubia etiam tum causa et incertis quaestionibus atque tormentis de semet professo...*: Suet. *Dom.* 8.4

¹³⁸ There are indications elsewhere of the scrutiny felt by the emperor as judge: Tacitus tells us that Nero was unable to absolve Celer, charged in AD 57 by the province of Asia for the murder of Junius Silanus (whom Agrippina wanted dead), presumably because of how unjust it would have looked, so he put the case in abeyance until Celer died of old age: Tac. *Ann.* 13.33. We are also told that, when L. Caesar came to Julius Caesar as a suppliant, the latter avoided a trial because he did not want to be seen to condemn him, so had him killed secretly: Cass. Dio 43.12.3; Suet. *Iul.* 75.4.

Literary-historical examples such as those of M. Terentius, Marius Celsus and Licinianus, to which we might also add that of Lucan, confessing to Nero and engaging in ‘abject entreaties’ when the conspiracy of Piso was uncovered, shed light on the operation of confession in practice which is consistent with the picture suggested by the treatments of legal theory (*viz. De Inventione*, the *Rhetorica* and Quintilian), but which would be entirely missed if we had only the legal codes of Late Antiquity to rely on.¹³⁹ Although Roman historians are limited in their ability to indicate normative practice, we can go some way to working out patterns in the evidence for confession before the emperor.¹⁴⁰ Thanks to the work of Kaius Tuori, we are able to interrogate all the known instances of imperial adjudication.¹⁴¹ Three key questions can be asked: in how many of these instances do we know that a chance for confession was provided? In how many of those did the accused confess? How many of those instances resulted in pardon? Most of the examples are mentioned too briefly to indicate whether or not the accused even had a chance to confess: of 73 mentioned instances of imperial adjudication from Caesar to Vitellius, 59 do not furnish enough information to tell us even whether the defendant *could* confess. Of the 14 remaining cases it is unclear in three of them whether the defendant confessed or not. So of the 11 cases where we have enough information, confession was most often opted for, with only two out of 11 cases showing the defendant denying the charge: one of these, on an inscription, concerned a murder charge in Knidos where the accused offered good reason not to be found guilty, the other concerned the dispute between the Greeks and Jews of Alexandria as recorded in the third century *Acta Isidori*.¹⁴² Therefore, a majority of nine of 11 cases feature confession as the accused’s response. Three of these involve initial denial followed by silent or explicit

¹³⁹ Suet. *Luc.* end

¹⁴⁰ *Eg.* Tacitus implies his discussion of M. Terentius’s trial is one of many things *digna cognitu quamquam ab aliis incelebrata*: Tac. *Ann.* 6.7 end.

¹⁴¹ (Tuori 2016) 299ff. ‘Appendix’

¹⁴² *IG XII 3.174* for the murder at Knidos. On the *Acta*: (Tuori 2016) 151-4; BGU II 511, P.Lond.Inv. 2785, POxy. 42. 3021, P.Berol.8877, and P.Cairo 10448.

confession.¹⁴³ Most (six) explicitly feature confession as the defendants' response.¹⁴⁴ Of these, only 2 did not result in pardon or mitigated penalty: L. Caesar came to Julius Caesar as a voluntary suppliant but the latter avoided the trial as he did not want to be seen to condemn, and so had him killed secretly; Claudius executed Silius and Vettius Valens in the wake of alleged conspiracy and infidelity with Messalina.¹⁴⁵ The latter provides the only example of a Julio-Claudian emperor willing to publically condemn, without mitigated penalty, a *confessus*. Tabulating these instances tells us that, on the whole, confession and pardon was the forensic route opted for in cases before the emperor in the Julio-Claudian period.

In the trial following the conspiracy of Murena and Caepio in 22BC, it is significant that neither Murena nor Caepio were physically present, and that the trial took place before the *quaestio de maiestate*, with Tiberius presiding.¹⁴⁶ This rather eased Augustus' burden of condemnation and execution; it is hard to know whether they elected to be absent or whether they had little choice. Also in the case of Cornelius Gallus, accused of hubris, Augustus is spared the burden of condemnation in that the senate is the authority which eventually tries and punishes him.¹⁴⁷ The tabulated instances of imperial adjudication allow us to see that this was generally the rule: when it came to situations in which condemnation was the desired outcome emperors could escape potential reputational damage by referring the case to a different judicial authority. Or, they could avoid to be seen to condemn publicly either by delaying the trial (in the case of Nero and Celer) or by having the accused secretly killed (as Julius Caesar in the case of L. Caesar). This suggests that instances of confession and condemnation *in judgement before the emperor* would have been fewer than we might think, and that confession as a defence strategy was not rare. Given that the

¹⁴³ The 19th, 58th and 70th example in Tuori's Appendix: (Tuori 2016) 305, 313, 316 respectively.

¹⁴⁴ The 2nd, 3rd, 6th, 8th, 54th, 55th in Tuori's Appendix: (Tuori 2016) 300, 300, 301, 302, 313, 313 respectively.

¹⁴⁵ L. Caesar: Cass. Dio 43.12.3; Suet. *Iul.* 75.4. Messalina: Tac. *Ann.* 11.34–5.

¹⁴⁶ Cass. Dio 54.3.4; Suet. *Tib.* 8

¹⁴⁷ Dio 53.23.5–24.1; Suet. *Aug.* 66; Suet. *De Gramm.* 5 (16)

more scandalous, condemnatory imperial trials are more likely to have been recorded, and so Roman historians are unlikely to have omitted cases of confession and condemnation, these figures seem reasonable reflections of reality.

The rise of the emperor-judge had Empire-wide import. Owing to the rescript system, imperial justice was available to petitioners from the length and breadth of the Empire. Even when it was not the emperor himself who was administering justice, it was often an individual of the imperial legal bureaucracy who was administering it conspicuously *on the emperor's behalf*, yet still appeals to the emperor himself could be made.¹⁴⁸ Many more instances of imperial adjudication occurred than are explicitly recorded in our sources, as adjudication constituted a central task of the emperor: “by the early third century, the emperor would by some estimates handle several cases per day, resulting in an annual tally of perhaps over a thousand”.¹⁴⁹ Even early in the Principate, the number of cases adjudicated by the emperor appears to have been high: Dio tells us that Tiberius dispensed justice from a public tribunal in the forum, holding court himself but also attending the courts presided over by the magistrates both when invited and when not invited, making remarks as an ‘assessor’.¹⁵⁰ Tiberius would try cases ‘almost every day’ and ‘very few’ were the cases he turned over to other courts.¹⁵¹ Claudius took measures to limit the excessive burden of pending lawsuits.¹⁵² Nevertheless, one of Nero’s promises on succeeding Claudius, to ‘avoid recent sources of hatred’, was that *non enim se negotiorum omnium iudicem fore*.¹⁵³ Imperial adjudication was thus a prominent and an accessible feature of life in the city of Rome as well as in the provinces. Furthermore, *exempla* were made of those who confessed before the emperor, and it is worth bearing in mind that the actions of the accused were matters

¹⁴⁸ The classic study: (Millar 1977).

¹⁴⁹ (Tuori 2016) 8-9

¹⁵⁰ Cass. Dio 57.7.2-6

¹⁵¹ Cass. Dio 60.4.3

¹⁵² Cass. Dio 60.28.6

¹⁵³ Tac. *Ann.* 13. 4

of public knowledge.¹⁵⁴ It was not only epigraphic recordings of proceedings such as the *SC de Cn. Pisone Patre* which could advertise the attractiveness of the confessional option across the breadth of the Empire, but also the examples found in Roman historians and Valerius Maximus, who devoted a whole section of the *Facta et Dicta* to examples of acquittals, would have propagated the confessors as *exempla*.¹⁵⁵

The existence of the emperor-judge also changed the expectations of forensic discourse in a way which ultimately fostered confession. We saw in Chapter One that silence or lack of defence was considered tantamount to confessing in the Republic, but with the emperor as presiding judge, and inquisitor in chief, lack of response was unacceptable. Tacitus narrates an example which neatly highlights the exigencies: in the trial of C. Iunius Silanus, Tiberius himself incessantly questioned the defendant with angry voice and demeanor, without allowing him to rebut or evade the questions: *eo quod ipse creberrime interrogabat, neque refellere aut eludere dabatur, ac saepe etiam confitendum erat ne frustra quaesivisset*.¹⁵⁶ It is telling that Tacitus explicitly states that Silanus ‘often *had to confess* so that the emperor’s questions were not in vain’. Not responding was clearly considered offensive to the emperor, and therefore a dangerous move. This encapsulates the way in which imperial power necessarily caused a shift towards verbalised response in trials. In the Republic, the choice was between denial/defence and silence/not adopting defence, but now the choice was between vocal denial or vocal confession, thus making confession itself more prominent on the legal landscape.

¹⁵⁴ Inversely, this was true of the Republic, with declarations of punishing confessors issued: Cic. *Att.* II.24: *fit senatus consultum ut Vettius, quod confessus esset se cum telo fuisse, in vincula coniceretur*.

¹⁵⁵ Confession/*deprecatio* and acquittal in Val. Max: 8.1.1 (Horatius justified in killing his unchaste sister); 8.1.2 (Ser. Galba: *pro se nam nihil recusans*); 8.1.6 (L. Piso: during self-abasement at jury’s feet a rainstorm causes his mouth to fill with mud (it was the pitiful sight which led to the acquittal)); 8.1.12 (Calidius of Bononia: *crimen libidinis confessio intemperantiae liberavit*). Tacitus perhaps allusively states that Marius Celsus *fidei crimen confessus, exemplum ultro imputavit*: Tac. *Hist.* 1. 71.

¹⁵⁶ Tac. *Ann.* 3.67

The rise of imperial adjudication changed the shape of Roman criminal law, and likely had a significant impact on the intellectual world of the Empire, on conceptions of justice, mercy and strategies of appeasement. On the other hand, not every criminal trial was presided over by either the emperor or a magistrate acting on his behalf: confession-unfriendly *quaestiones* continued to operate both in Rome and in the provinces, although the date at which they ceased to operate is much debated.¹⁵⁷ There was also a shift over time in the respective functions of the courts. Quintilian tells us that *complex* cases, namely those in which different matters would be tried, such as a case of homicide and *sacrilegium*, now no longer arose in *iudiciis publicis*, but were frequent in the imperial and senatorial *cognitiones*.¹⁵⁸ Given what the handbooks and historical examples suggest about the particular permissibility of confession in imperial and senatorial courts, this has import for a study of confession: it means that the option to confess presented itself for these types of crime as never before.

The association between acts of confession and the pardon of kings remained strong in the Roman *imaginaire* throughout the span of the Empire. In his collection of examples of *clementia*, forming an entire chapter of his work, Valerius Maximus mentions only one case in which verbal confession led unambiguously to the granting of clemency. This, we find, was bestowed by a king: after being spoken of disrespectfully at a dinner party, a *simplex veritatis confessio* turned king Pyrrhus' anger into laughter.¹⁵⁹ This may have been a model for Augustus' alleged pardoning of Rufus, who came to him begging for mercy the day after a dinner party at which he

¹⁵⁷ (Garnsey 1967), 56-60. The *quaestiones* survived in provinces into the Trajanic-Hadrianic period at least: (Kantor forthcoming); Plin. *Ep.* 10.58.1; Dio Chrys. *Or.* 40.10; (Sherwin-White 1966) 639-40; Dio Chrys. *Or.* 38.26 (τὰς πόλεις τὰς συντελούσας τὸ παρ' ἐκείνοις δικαστήριον). For Asia: *ILS* 6286, ll. 7-8; 7789, ll. 6-8; *I.Didyma* 272, l. 19; *IGRR* IV 618, l. 14; Phil. *VS* 1.22.524. Achaia: *IG* V.i 541, ll. 17-19; *SEG* LVIII 330; *SEG* LXI 607. For *quaestio maiestatis* still in action under Tiberius: (Richardson 1997), 510-18. For the *iudices quaestiones* still appointed in the third cent: (Jones 1972) 96 and 135 notes 51-52. The latter, as Kantor notes, may have been a purely honorific title.

¹⁵⁸ Quint. *Inst.* 3.10.1: *quod nunc in publicis iudiciis non accidit, quoniam praetor certa lege sortitur, principum autem et senatus cognitionibus frequens est et populi fuit.*

¹⁵⁹ Val. Max. V.1.3a.

spoke disrespectfully to the emperor.¹⁶⁰ In his history of Alexander probably likewise written in the first half of the first century AD, Curtius Rufus had Amyntas confess to king (*rex*) Alexander a charge of friendship with the conspirator Philotas: *adeo non eo in fitias, ut expetisse quoque nos magnosque ex ea fructus percepisse confitear*.¹⁶¹ His youngest brother, Philemon, brought back to trial from flight, also assumed responsibility, although only for causing suspicion by running away and for sinning against his brothers, not for the charge of conspiracy or association.¹⁶² With the crowd moved to pity and interceding for their pardon, Alexander acquits them both.¹⁶³ Whether a true or not, Curtius' construction of this episode reveals the way in which confession, or rather partial confession, was understood to be rhetorically effective in the encouragement of autocratic clemency, once again in the context of conspiracy. It seems that non-Roman figures who accept confession in return for mercy are, in the Roman imagination, magnanimous kings.

When the author mistaken for Hermogenes wrote his rhetorical handbook 'On the Method of Speaking Forcefully' containing advice and examples for easy deployment in forensic oratory, it is telling that the only two examples he presents in the chapter *Περὶ ὁμολογουμένων ἀδικημάτων* revolve around the mercy-bestowing kings Priam and Croesus respectively.¹⁶⁴ This work cannot be securely dated but given that it seems to draw upon the Hermogenic corpus it most likely dates to the third or perhaps fourth century.¹⁶⁵ It is highly significant for our study of confession that he includes a chapter *Περὶ ὁμολογουμένων ἀδικημάτων* at all. The *Rhetorica* and *De Inventione*, and even Quintilian, would not have conceived of such a chapter of such form. It is clear that the immediate context for use was imagined to be one in which an individual judge might be

¹⁶⁰ Sen. *Ben.* 3.27

¹⁶¹ Curt. 7.1.26. The similarity between this episode and that of M. Terentius in Tacitus is noted in (Tacitus and Woodman 2017) 120ff.

¹⁶² Curt. 7.2.2: "*nihil pro me deprecor...meum crimen sit*"; 7.2.7: *ille pecasse sese gravius in fratres... fatebatur*.

¹⁶³ Curt. 7.2.8

¹⁶⁴ "Hermogenes", *Περὶ Μεθόδου Δεινότητος* 32. (Hermogenes, Rabe, and Kennedy 2005) 256-7. For this probably not being authored by Hermogenes: *Ibid.* 201-3.

¹⁶⁵ Syrianus attributes the thesis to Hermogenes by the fifth century: (Hermogenes, Rabe, and Kennedy 2005) 203.

persuaded to bestow mercy in a manner befitting of a good king, and relies heavily on the assumption that pity could provoke pardon. There is no obvious concern for how to deal with the tricky issue of ὁμολογουμένων ἀδικημάτων before a jury or crowd, or anyone unconcerned with the acquisition of regal virtue. This is consistent with the idea found first in *De Inventione*, that *deprecatio* is most effective before an authority capable of dispensing mercy, but this is a world away from the legal environment of the Republic.

Pseudo-Hermogenes opens his chapter with the rather tautological advice that τῶν ὁμολογουμένων ἀδικημάτων μία παραμυθία ἢ ὁμολογία καὶ ἀπολογία. He then tells us that Homer taught this and Herodotus imitated him.¹⁶⁶ His first confessor-exemplum is Helen, ‘the cause of all evils for the Trojans’, who ‘denounces herself and confesses her crime, and this becomes not only defence to her but also a source of pity and compassion’ (κατηγορεῖ καὶ ὁμολογεῖ τὴν ἀδικίαν, καὶ τοῦτο οὐ μόνον αὐτῇ ἀπολογίας, ἀλλὰ καὶ ἐλέου καὶ παραμυθίας ἄτιον γίγνεται). His second confessor is Adrastus who inadvertently kills Croesus’ son on a hunt and who ‘denounces himself and demands to be put to death’ (κατηγορεῖ ἑαυτοῦ καὶ ἀποκτεῖναι κελεύει). What is most striking about this chapter to a modern observer, although crucially it would not be to the likes of Quintilian and Cicero, is that these ‘confessors’ have *in fact* done no wrong by certain standards, despite the language of ἀδικία. This is clear from their respective stories and made even clearer by Priam and Croesus’ responses. Both kings declare to their respective confessors: “you are not, I think, the cause; it is the gods who are the cause”.¹⁶⁷ This is therefore ὁμολογία in the sense of declaring oneself to be the cause of trouble, but crucially in circumstances where they caused wrong *involuntarily*, and where it is not clear that they were in fact responsible. These are pitiful characters who have suffered through no design of their own.

¹⁶⁶ A likely indication of its post-Second Sophistic context

¹⁶⁷ Hom. *Il.* 3.164; Hdt. 1.35ff.

Indeed, their actions of self-abasement are admirable and a source of pity precisely because they could have argued it the other way. This is consistent with the rhetorical strategy found in Roman legal thought, discussed further below, and to be seen in examples already discussed.¹⁶⁸ In addition, like most instances of confession from the Roman Republic – namely, those of *indices* whose plots are feared exposed already – these are scenarios of error which have already become apparent: ἀδικημάτων which are already ὁμολογουμένων. Helen is well known to be the ‘cause’ of the Trojan war, and Adrastos, prophesied to be Atys’ killer, was the manifest perpetrator. These are not confessions of secret transgressions, nor ones for which the confessors themselves were in fact responsible.

Confession and rhetorical strategy: confessing non-crimes

That same act – electing to confess something which is not necessarily wrong and which could otherwise be, in fact, defended – is also to be found behind the confessions of M. Terentius and Amyntas. Their confessions of friendships with Sejanus and Philotas respectively, which they argued would make their judges equally guilty, is a form of *concessio* which the handbooks might call ἀντικατηγορία or *translatio criminis*. This was far from *deprecatio*, and they were not assuming *culpa* for wrongdoing. Curtius Rufus’ Philemon, brought back to trial from flight, similarly assumes responsibility *only* for causing suspicion by fleeing and for sinning against his brothers but, importantly, not for the charge of conspiracy or association.¹⁶⁹ Pseudo-Hermogenes’ labelling of Helen’s behaviour as ὁμολογία is jarring because there is nothing that we would recognise as her ‘confession’ to be found in Homer. Helen never ‘confesses’ in the sense of verbally admitting wrongdoing; the closest she comes is declaring her sorrow at not

¹⁶⁸ eg. Licinianus, M. Terentius, Plancina, M. Celsus.

¹⁶⁹ Curt. 7.2.2: “*nihil pro me deprecor...meum crimen sit*”; 7.2.7: *ille pecasse sese gravius in fratres... fatebatur*.

having killed herself.¹⁷⁰ However, a speech act by which the speaker uses confessional terminology to admit to a non-crime was a powerful rhetorical strategy. The apostle Paul, on trial before Felix, employed such device according to the author of Acts:

ὁμολογῶ δὲ τοῦτό σοι, ὅτι κατὰ τὴν ὁδὸν ἦν λέγουσιν αἴρεσιν οὕτω λατρεύω τῷ πατρῷ Θεῷ, πιστεύων πᾶσι τοῖς κατὰ τὸν νόμον καὶ τοῖς ἐν τοῖς προφήταις γεγραμμένοις, ἐλπίδα ἔχων εἰς τὸν Θεὸν ἦν καὶ αὐτοὶ οὗτοι προσδέχονται, ἀνάστασιν μέλλειν ἔσεσθαι νεκρῶν, δικαίων τε καὶ ἀδίκων.¹⁷¹

What he confesses is not a crime in the eyes of Roman law, but by confessing to something at least, his denials are made all the more credible. This is a form of *paromologia*: partial admittance.¹⁷² Quintilian states that there are three figures of speech similar to those, such as irony, which call something that which something it is not: confession of a kind that can do no harm (*confessio nihil nocitura*), or concession when we seem to declare something damaging to ourselves, which serves to prove our trust in our cause (*concessio cum aliquid etiam iniquum videmur causae fiducia pati*), or, thirdly, agreement (*consensio*). He claims that the latter is more effective when we agree to something (*alicui rei assentimur*) which actually works in support of our cause.¹⁷³ The second of these is employed in one of the lesser declamations, where the advocate admits his client committed an injury, but one which had been deserved.¹⁷⁴ Partial confessions could take the form of any one or more of these three types. A key example of partial confession in which, similar to the examples of Tacitus and Curtius Rufus, guilt for the charge is

¹⁷⁰ Hom. *Il.* 3.173

¹⁷¹ Acts 24:14-15

¹⁷² Quintilian claims that *παρομολογία* was added as a figure of thought by the rhetorician Rutilius and claims to ‘say the same’ as him, but offers no independent treatment: Quint. *Inst. Or.* 9.3.99. At 1.19, Rutilius describes *παρομολογία* as *cum aliquot res adversario concedimus, deinde aliquid inferimus, quod aut maius sit quam superiora, aut etiam omnia quae posuimus infirmet*, and then quotes Hyperidis. As a verb *παρομολογέω* is rare: it is what, according to Polybius, Fabius Cunctator forces people to do when he wants them to admit that his strategy of delay was the best one: Polyb. 3.89.3. The use of the noun in OSI 607.7, dating to AD 156/7, is curious: a father and his two sons dedicate an altar and *παρομολογίαν ἐποίησαν το Διὶ μεγίστῳ Ἡλιοπολείτῃ τῷ κυρίῳ* (Jupiter Optimus Maximus Heliopolitanus) on behalf of the emperor. Dittenberger is right to find unsatisfactory the view that in *παρ-* there is a sense of the brothers acting *against* the father, but his solution to see it merely as an agreement ignores the force of *παρ-*. It may carry a sense of being beside, next to, meaning that they performed *ομολογία* next to the altar. In which case, this inscription begs many questions.

¹⁷³ Quint. *Inst. Or.* 9.2.51.

¹⁷⁴ Ps-Quint. *Declamationes Minores* 250.9: *cecidit te; fecit iniuriam, confitebimur. probabimus tamen istud iure accidissee. quanta diffidentia in te causae est, qui post ista trepidas, et in nobis quanta fiducia...*

transferred to the accuser, can also be seen at the beginning of the *Pro Ligario* where Cicero uses confession to create a rollercoaster ride of uncertainty about where he might be taking his argument next.¹⁷⁵

*Habes igitur, Tubero, quod est accusatori maxime optandum, confitentem reum, sed tamen hoc confitentem, se in ea parte fuisse, qua te, qua virum omni laude dignum, patrem tuum. Itaque prius de vestro delicto confiteamini necesse est, quam Ligarii ullam culpam reprehendatis.*¹⁷⁶

Confession's shape-shifting ability was the source of its rhetorical and social power. We have seen how the legal handbooks illustrate the various forms which admission might take – concession to a charge, rejection of responsibility, shifting the question of guilt, comparison with alternative action, denying intent and claiming action through ignorance, accident or necessity, or admitting intent, or arguing that the action behind the charge was honourable.¹⁷⁷ All this was conceptually compatible with asking for pardon.¹⁷⁸ Furthermore, Quintilian calls a type of (*quaedam*) *confessio* a species of πρόληψις by which one anticipates the charge of the opponent.¹⁷⁹ He presents the example of Cicero in the *Pro Rabirio Postumo* where Cicero confesses his own opinion that his client lent money to the king.¹⁸⁰ Cicero himself discusses a form of agreement to an opponent's charge which could be humorous in the *De Oratore*.¹⁸¹ Confession could therefore be put to strategic use as a technology of defence. Although it is associated with being an act which reveals the truth, it was also used to obscure and deceive. Such is the paradox of the confessional act.

¹⁷⁵ This may have been Tacitus' and Rufus' model.

¹⁷⁶ Cic. *Lig.* 2. Other examples of *paromologia*: Xen. *Hell.* 1.7.16-19; Lib. 36.28; 44.57-9; Val. Max. 8.1.12; Maximus of Tyre 3.4.

¹⁷⁷ *Rhet. Her.* I. 24ff; Cic. *De Inv.* II. 94; Quint. *Inst. Or.* 7.4.

¹⁷⁸ *Rhet. Her.* I. 24ff: *concessio est cum reus postulat ignosci*

¹⁷⁹ Quint. *Inst. Or.* 9.2.17.

¹⁸⁰ Cic. *Rab. Post.* 1 and 9; Quint. *Inst. Or.* 9.2.17

¹⁸¹ Cic. *Or.* 2.286

Variability is to be found not only in the shape that confession might take but also in how it might be interpreted, and therefore how it might also be a technique of accusation. As the metonymical expression of μεταμέλεια or *paenitentia*, on the one hand it could signal the unashamed attitude of a dangerous offender likely to reoffend, and on the other the reconciliatory repentant attitude of someone for whom punishment is unnecessary. This duality is why forensic confession was a gamble. The advocate could use either of these interpretations to his own advantage. This also means that evidence taken from forensic speeches cannot be used uncritically for understanding the concept of confession. For example, Cicero's statement that *turpis enim est et periculosa confessio* cannot be taken to represent his own view of *confessio*, and much less 'the Roman' view of it.¹⁸² The label of confession could therefore be used as a strategy of accusation also. Although it was conceptualised as bearing a relationship to the reality of past action, it was well recognised that it was not always about truth, even in the context of torture, where confession played its most consistently prominent role in Roman society.

“The Dark Twins of History”: Confession and Torture¹⁸³

The primary *Sitz im Leben* for vocalised confession in the Greco-Roman world was torture.¹⁸⁴ As a persistent feature of Roman criminal and civil legal practice in the Republic and throughout the Empire, torture meant that confession too played a prominent role in this form in legal process; those who deny a place for confession in Roman law have not factored in the voices of

¹⁸² Cic. *Verr.* 2.3.71.165; *Contra* (Barton 2001) 138. Also, it is likely that by *confessio* Cicero here means confession to the question he has just put about whether Verres earned profit of public money, rather than confession in general.

¹⁸³ (Foucault and Hurley 1978) 59.

¹⁸⁴ Eg. P. Ant 87 (AD 275-299) provides record of a trial in which prisoners confessed 'because they were tortured', l.14: διὰ τὰς βασάνους τὰς πολλὰς εἰρηκαμεν.

the tortured.¹⁸⁵ These voices were primarily those of slaves, as Roman citizens were not by law allowed to be tortured.¹⁸⁶ Yet despite this rule, which came to be reiterated throughout Republic to Empire, citizens were occasionally tortured.¹⁸⁷ Some scholars have argued that over the course of the Empire *honestiores* increasingly came to be tortured, although the exact nature of the change is debated.¹⁸⁸ Nevertheless, it is clear that, once condemned, a citizen could be tortured for the revelation of further information useful to authorities, such as names of accomplices or for post-fact justification, and this was the practice even before the Severan age.¹⁸⁹ Condemnation meant exposure to *servitus poenae* if the crime had been serious enough.¹⁹⁰ Therefore, both pre- and post-sentencing, confession - or the pursuit of it - was an important feature of jurisdiction.

Legal sources and numerous examples in literature attest to a normative practice of eliciting confessions from slaves on the torturer's rack.¹⁹¹ Roman comedy derives humour from such scenes, whilst, conversely, legal sources show considerable anxiety around the use of such confessions as evidence. Despite the continuing practice of torture throughout the Empire, it was recognised at least by some that it could result in false confession. Quintilian discusses torture as an external proof which, he states, some style an infallible method of discovering the truth, while

¹⁸⁵ (Thomas 1986) 98-9 discusses torture but declares that *ce type d'aveu n'entre pas dans mon propos*.

¹⁸⁶ Stipulated by the *lex Iulia de vi*: *Dig.* 48.6.7; *Paul Sent.* 5.26.1. But only as long as the citizen was not condemned: (Pölonen 2004) 228. For bibliography on whether the evidence of tortured slaves was admissible in court or in fact obviated the need for trial: (Shelfer 2010) 101 n.271.

¹⁸⁷ Apparently from the time of Sulla onwards: *Dion. Hal.* 5.77.5. When Augustus suspected Quintus Gallius of having a dagger under his cloak he tortured him: *seruilem in modum torsit ac fatentem nihil iussit occidi* (*Suet. Aug.* 27.4.1-7). On the maintained prohibition of torturing the freeborn: (Pölonen 2004) 218, n.2 for further bibliography.

¹⁸⁸ (Pölonen 2004) 218-9, and 218 n.3 for further bibliography.

¹⁸⁹ (Pölonen 2004) 219-21.

¹⁹⁰ (Pölonen 2004) 219-21.

¹⁹¹ *Eg. Dig.* 48.18 *passim*; *Cic. Mil.* 57; *Plautus Praedones* 219: *si non strenue fatetur ubi sit aurum / membra exsecemus serra*. The slaves plotting to kill Galba are tortured and confess in *Suet. Galb.* 10-11. The use of torture in legal cases and comedy stretches back to classical Athens: (MacDowell 1978) 245-7; *Ar. Nu.* 620; *Pax* 452; *Plut.* 876-7; *Antiph.* 1.12; 5.30; *Andoc.* 1.43f.; *Plut. Nic.* 30.2; *Anac.* 21.9; *Dem.* 29.35; 29.40; 53.24; *Lys.* 4.14; 13.54; *Pl. Resp.* 361e. In the fourth century BC, Anaximenes of Lampsacus defined torture as ὁμολογία: Βάσανος δέ ἐστι μὲν ὁμολογία παρὰ συνειδέτοϋ, ἄκοντος δέ (*Rhetorica ad Alexandrum* 1432a 16.2); and Aristotle defined it as testimony (μαρτυρία) under compulsion (*Rhet.* 1.15).

others allege it results in false confessions.¹⁹² He adds that speeches of ‘both ancient and modern orators are full of this topic’. For a character in Seneca the Elder’s *Controversia* 8 at least, confession was not confession unless it were obtained through torture: *non est confessio nisi cum accusator eruit, negat rea, tortor expressit*.¹⁹³ Although this sentiment was rhetorically motivated for the purpose of argument – by a son trying to stop his mother being put to death because, wanting to die, she had falsely confessed to a crime for which she was not responsible – this must have been an argument which had at least a small chance of working: only torture produced *proper* confession. Pliny thought the main way to ascertain ‘the truth’ in his investigations into the Christians was by torturing two slaves.¹⁹⁴ Similarly, Ulpian declared that trust should not always be put in someone who *voluntarily* confesses.¹⁹⁵ Curtius Rufus has the conspirator Philotas puzzle why he has to be tortured even when he has already confessed; Crateras, the general in charge of the inquiry, replies that he ought to confess under torture what he had already confessed.¹⁹⁶ It is significant, especially in light of evidence indicating this was a conscious decision, that we rarely hear of slaves confessing outside a context of torture.¹⁹⁷

Nevertheless, Ulpian illustrated that trust should not always be put in torture, citing imperial constitutions which called its evidence weak, dangerous and inimical to the truth.¹⁹⁸ Valerius Maximus, likewise, knew that torture was fallible, devoting a chapter to interrogations which

¹⁹² Quint. *Inst. Or.* 5.4.1. Augustus ruled that an interrogation should not begin with torture and that confidence should not be overly placed in it (*Dig.* 48.18.1pr); Hadrian wrote that torture of slaves should be a last resort (*Dig.* 48.18.1) and evidence given under torture was not always to be believed (*Dig.* 48.18.1.21). In AD 314, however, a Constantinian law deemed confession from torture solid grounds for conviction: *Cod. Theod.* 9.40.1.

¹⁹³ Sen. *Controv.* 8.1

¹⁹⁴ Pliny *Ep.* 10.96.8. Similarly, the plaintiff of Ps. Quint. *Declamationes Maiores* 7 argues that torture produced credible evidence.

¹⁹⁵ *Dig.* 48.18.1.27.

¹⁹⁶ Curt. 6.11.14-5: “*quid cessatis... regis inimicum, interfectorem confitentem occidere? Quid quaestione opus est? cogitavi. volui.*” *Cratere exigere, ut, quae confiteretur, in tormentis quoque diceret.*

¹⁹⁷ An exception possibly being the slave referred to in the imperial rescript of *Dig.* 48.18.1.27, where torture is not explicitly mentioned. In Demosthenes, *Against Olympiodorus*, 16 the slave Moschion voluntarily confesses before torture, but then he goes on to be tortured and makes further confession (18: προσωμολόγησε).

¹⁹⁸ *Dig.* 48.18.1.23.

were wrongly believed or disbelieved.¹⁹⁹ One slave accused of killing another was tortured by his master and confessed, and duly put to death, only for the slave thought murdered to return home shortly afterwards.²⁰⁰ Another slave was tortured six times, always denying the crime, but was convicted nonetheless and crucified.²⁰¹ Likewise, when his master was on trial, a slave said nothing incriminating despite being tortured eight times, yet still his master was convicted.²⁰² In the first example, we can see that torture (and confession) was not just a forensic process, but could be applied by the *paterfamilias* in his jurisdiction of the *domus*. Furthermore, it shows that for Valerius Maximus and his imagined reader the conventionally assumed relationship between confession and revelation of true fact was worthy of doubt. This is reflected in discussion of a similar case in later jurists: Ulpian quotes Julian as saying that confession only relieves the plaintiff of having to prove that the defendant killed, but still the slave had to have been slain by someone, so in such a case the defendant was not liable despite having confessed.²⁰³ The use of slaves to provide evidence in actions in which they were not the defendant also reminds us that the terminology of confession was not reserved for self-incrimination: incriminating ‘evidence’ of slaves under torture were deemed ‘confessions’. Unlike in modern usage, vicarious confession about the guilt of another individual was possible in Roman law and wider society.

With torture practised in both forensic and domestic legal contexts, it would have been the main vehicle by which confessions were produced and heard.²⁰⁴ A corollary of this is that confessions would have been associated particularly with the utterances of slaves. This close association of confession servility as well as with torture, I argue, finds an echo in its uptake as a motif by the

¹⁹⁹ Val. Max. 8.4

²⁰⁰ Val. Max. 8.4.1.

²⁰¹ Val. Max. 8.4.2.

²⁰² Val. Max. 8.4.3.

²⁰³ Dig. 9.2.23.11, 25 pr.

²⁰⁴ Putting a slave to torture is treated as nothing unusual: eg. Sen. *Controv.* 8.3.

love poets of the Augustan age: confession was a by-product of their *servitio amoris* and of the scourges of love.²⁰⁵ Confession was seen to be, at least at times, a servile act.

Importantly for our inquiry, it was *also* the utterance of the condemned citizen.²⁰⁶ It appears that this became increasingly the case over time and, by the Severan period, the distinction between torture before and after condemnation had already begun to erode.²⁰⁷ The experience of torture and confession was therefore not the preserve of slaves. Seneca inadvertently reveals this assumption in a letter when he imagines people, whom we have no reason to think are slaves, who have denied the usefulness of philosophy finally changing their minds as a result of misfortune and ‘when the torturer commands them to stretch forth their hands’.²⁰⁸ Furthermore, as early as the Julio-Claudian period a citizen might be tortured if suspected of treason against the emperor.²⁰⁹ The crucial implication of confession after condemnation, or in a context of torture for suspected treason, is that a defendant’s confession could play a role in justifying the actions of the judge. The erosion of pre- and post-condemnation torture-for-confession is suggestive of an increasing drive on the part of judicial authorities for justificatory confession. We have already seen in the above discussion of imperial adjudication how confession was, and was recognised as being, in the interests of the judge. There could be considerable scrutiny on their decisions, especially if they had chosen to condemn, and anxiety about getting it wrong is palpable.²¹⁰ The fact that many confessions are expressed in the language of *mereri* is indicative

²⁰⁵ Suetonius describes Augustus’ torture of Quintius Gallius, whom he suspected of concealing a dagger in his cloak, as *servilem in modum*: Suet. *Aug.* 27.4.1-7

²⁰⁶ Eg. Sen. *Controv.* 9.6. Although this was not invariably the case: Antoninus Pius stipulated that a *confessus* was not able to be tortured again in order to implicate others: *Dig.* 48.18.16.1.

²⁰⁷ (Pölonen 2004) 220: “In order to effectively implement the imperial criminal policies, the governors were more and more inclined to bend the rule of law prohibiting torture of freemen before condemnation by readily condemning suspects in order to have them formally tortured to reveal accomplices but so also to make them confess their own crimes”.

²⁰⁸ Sen. *Ep.* 82.7

²⁰⁹ (Garnsey 1970) 145: “when treason was the charge, no man was safe from torture”. Also see Sen. *Controv.* 2.5 and (Pagán 2008/2008).

²¹⁰ Ps.-Quint. *Declamationes Minores* 300.4: *male audire plerumque iudicium nimia severitas solet, nec umquam in convicium nisi asperae sententiae veniunt. Ideo absolutos publica illa acclamatio prosequitur; a damnato tristes*

of this, as it was a way of explicitly indicated that the judgement and punishment was justified.²¹¹ Furthermore, if Pölönen is right to conclude that the torture of citizens increased over time, then citizens became increasingly exposed to the idea of confession as a technique of judicial appeasement.²¹² Even early in our period, however, we find that the nature of confession was shaped by this context. Although overlooked by existing scholarship, the formulation of certain confessions can reveal much about the thought-worlds from which they emerged. One such apparently strange but now understandable feature of many expressions of confession to both divine and terrestrial judges is the use of the future tense.

Confession in the future tense: judicial negotiation and the ventriloquism of power

....*si tu damnas, meruisse fatebor*....²¹³

Although easily overlooked, a number of examples of confession, whether made to the divine, to terrestrial judges or to critical friends, reveal that the confessional act could be

recedunt, et victricis quoque partis silentium est. Cicero makes the point explicitly: '*non animadvertunt*', *inquit, 'omnia di, ne reges quidem.' quid est simile? reges enim, si scientes praetermittunt, magna culpa est; at deo ne excusatio quidem est inscientiae:* Cic. *Nat D.* 3.37 (90). See also Dolabella and his *consilium* where 'no one dared cast their vote in so doubtful a case': Gell. *NA* 7.7. And Gellius' own anxiety over his role as judge: Gell. *NA* 14.2.1ff. Ovid's boasts are also revealing, Ov. *Tr.* 2.95-6: *res quoque privatas statui sine crimine iudex, deque mea fassa est pars quoque victa fide.* This anxiety is even retrojected narratologically: it is telling that, in the story about Horatius' trial for killing his sister, Livy adds that the king summoned an assembly of the people so as to avoid passing such a harsh sentence: *Rex ne ipse tam tristis ingratusque ad vulgus iudicii ac secundum iudicium supplicii auctor esset, concilio populi advocato. "Duumuiros" inquit, "qui Horatio perduellionem iudicent, secundum legem facio* (Liv. 1.26). In this episode, it is also worth noting that Livy is aware, and cares to comment, that this was a particularly limited forum for dispensing confession: *hac lege duumuii creati, qui se absolvere non rebantur ea lege ne innoxium quidem posse, cum condemnassent, tum alter ex iis "Publi Horati, tibi perduellionem iudico" inquit.* Livy might here be retrojecting a particularly Augustan sensitivity around the perception of overly harsh punishment.

²¹¹ This may also reflect literal ὁμολογία of the judge because *mereri* would be a term which featured in their pronouncements: a tablet placed around the neck of a statue of Nero along with a sack, as if the sentence of a judge, read: *ego egi quod potui. sed tu cullum*[%0aL/Roman/Texts/Suetonius/12Caesars/Nero*.html - note51](http://www.ancientrome.org/Roman/Texts/Suetonius/12Caesars/Nero*.html-note51) *meruisti* (Suet. *Ner.* 45).

²¹² (Pölönen 2004) 220 and *passim*. Other techniques of appeasement were also in operation, such as can be seen towards Caracalla in the Dmeir inscription, who was praised as being "the most pious king and judge" (l. 38): SEG 17. 759.

²¹³ Ov. *Fast.* 4.321

contingent above all on the decision of the judge. The example from Ovid quoted above defies modern logic. Claudia Quinta, a Roman matron, knows that she is chaste despite accusations against her, yet in this prayer to Magna Mater she promises to confess *if* the goddess condemns her. The confessional act then is predicated not on her sense of her own wrongdoing, but on the sentence of the divine judge. The confession here envisaged would have occurred after condemnation, just as might happen in a situation of post-condemnatory torture (in the next line Claudia imagines the punishment as death), and serves to justify the divine judge (*iudice victa dea*). Such a cognitive framework did not operate behind all confessions, but a range of other examples reveal the implicit idea that the act of confession depended above all on the actions and wishes of the judge. Moreover, the anticipatory advertisement of confessional possibility by the defendant was a tactic of negotiation and influence. Appian has the defeated Carthaginians say to the Romans:

Εἰ δὲ καὶ ὧς ἀδικεῖν ὑμῖν δοκοῦμεν, οὐκ ἀτυχεῖν, ὁμολογοῦμεν, καὶ δι' αὐτὸ καὶ παρακαλοῦμεν. ἔστι δὲ τῶν μὲν οὐδὲν ἀμαρτόντων δικαιολογία, τῶν δ' ἀμαρτόντων παράκλησις.²¹⁴

They offer to confess only *if* the Romans judge them to have done wrong. Furthermore, we have seen that the confession of M. Terentius was formulated in the future tense: *utcumque casura res est, fatebor et fuisse me Seiano amicum et ut essem expetisse*.²¹⁵ Implicit in the *utcumque*... clause is the idea that offers of confession might otherwise depend on the outcome of the trial. Similarly, in Major Declamations 18, a *controversia* most likely dating to the second century AD, a woman defending her actions declares: *si quid feci, si quid amissi, fatebor*.²¹⁶ The verbs, importantly, are indicative. Even in social exchange between friends, Ovid inadvertently reveals the concept of confession as conditioned first and foremost by the action of the critical

²¹⁴ App. *Pun.* 8.51

²¹⁵ Tac. *Ann.* 6.8

²¹⁶ Ps-Quint. *Declamationes maiores* 18.17.5

party: he playfully says to the dedicatee of his poem that, if he frowns (in displeasure at having a poem as repayment for indebtedness) Ovid will confess to have sinned: *sive trahis vultus, equidem pecasse fatebor*.²¹⁷ Once again this confession would bear no relationship to his own opinion of having done wrong; on the contrary, he thinks he is in the right: *delicti tamen est causa probanda mei*.²¹⁸ Moreover, we frequently find the casual use of *fatebor* instead of *fateor*, suggesting that there was an inherent semantic of promise associated the speech act. Modern English idiom is familiar with the present sense of future verbs of saying – “I will confess that...” - but it is worth bearing in mind that declaring that one *will* confess was, in the Greco-Roman world, the way to halt torture, as Philotas did despite having confessed already: *tormentis adhibituri modum essent, dicturum se quae scire expecterent pollicetur*.²¹⁹ In this way, confession was a means to relieve suffering.²²⁰ The promise to confess, moreover, was a weapon of negotiation in the hands of the helpless. The harsh reality of Roman socio-legal experience formed a formative backdrop to confessions, whether made in prayers or in exchanges between friends. At the same time, we also glimpse the extent to which confession was a powerful juridical tool in the interests of, and desired by, the judicial authority. As such, criminal justice in imperial Rome was not unlike many judicial regimes of history which sought justification in the confessions of those it condemned, such as Qing China.²²¹

²¹⁷ Ov. *Pont.* 4.1.5:

²¹⁸ Ov. *Pont.* 4.1.6

²¹⁹ Curt. 6.11.17. Although not all future-tense confession had connotations of torture or of post-condemnation justification: eg. in Ps-Quint. *Declamationes Minores* 300.9 the promise seems to be simply to confess in the course of a trial: *si crimina in me exples... plura confitebor...*; or *confitebor inbecilitatem meam*: Sen. Ep. 7.1.2.

²²⁰ This might be confession from the person being tortured or from a third party who wants to stop the torture: eg. in Ps-Quint. *Declamationes Maiores* 18.13 the advocate suggests that a mother will soon confess if her son is tortured.

²²¹ (Sorace 2019) 147: “During Qing rule, if voluntary confession took place prior to the demonstration of guilt, punishment could be waived or mitigated. If a person refused to confess but was proven guilty, torture was authorized to extract a confession. The extraction of confession became necessary after guilt had been established by the court.”

Confession and Contract: *Homologia*.

While torture was one of the principle generative contexts of verbal confession in Greco-Roman society, the world of the contract was another, and one in which confession, as *homologia*, might also be recorded in writing. With this, we are back in the world of civil law. Earlier we saw that confession/*homologia* might be performed in civil trials concerning unfulfilled contracts, where it was primarily an agreement to future contractual obligation but also tantamount to agreement to a charge concerning past behaviour, such as not having paid a debt. Here, however, we examine the sort of *homologia* that was the verbal process by which contracts would initially be made. Business transactions, especially those left with the *agoranomoi*, and *cheirographa* would often be introduced with a clause in which one or both parties ὁμολογέιν.²²² We know about the written form of *homologiai* thanks to the survival of the contracts themselves, which sometimes self-identify as a ὁμολογία, but we also have descriptions of the forms that verbal exchanges took.²²³ The most important verbal contract was the *stipulatio*, which existed in one form as *sponsio*.²²⁴ Gaius described its form in the second century AD:

*Verbis obligatio fit ex interrogatione et responsione, velut: DARI SPONDES? SPONDEO, DABIS? DABO, PROMITTIS? PROMITTO, FIDEPROMITTIS? FIDEPROMITTO, FIDEIUBES? FIDEIUBEO, FACIES? FACIAM. Sed haec quidem verborum obligatio, DARI SPONDES? SPONDEO, propria civium Romanorum est; ceterae vero iuris gentium sunt, itaque inter omnes homines, sive cives Romanos sive peregrinos, valent. et quamvis ad Graecam vocem expressae fuerint, velut hoc modo: δώσεις, δώσω. ὁμολογεῖς, ὁμολογῶ. πίστει κελεύεις, πίστει κελεύω. ποιήσεις, ποιήσω, etiam hae tamen inter cives Romanos valent, si modo Graeci sermonis intellectum habeant. et e contrario, quamvis Latine enuntientur, tamen etiam inter peregrinos valent, si modo Latini sermonis intellectum habeant. at illa verborum obligatio, DARI SPONDES? SPONDEO, adeo propria civium Romanorum est, ut ne quidem in Graecum sermonem per interpretationem proprie transferri possit, quamvis dicatur a Graeca voce figurate esse.*²²⁵

²²² (Thür 2006)

²²³ Examples of the use of the ὁμολογέω-related terms in papyri are numerous; contracts both self-identify as ὁμολογία and the verb ὁμολογέω is used to denote the speech act which they record: eg. P.Oxy.275 (AD 66) begins ὁμολογοῦσιν ἀλλήλοις.

²²⁴ (Zimmermann 1996) 68; (Meyer 2004) 115.

²²⁵ Gai. *Inst.* 3.92-3

Ulpian also described the *stipulatio*, pointing out that it had to be made verbally between two parties who were present and who could speak and hear, and it had to be an uninterrupted act.²²⁶ Moreover, if someone asked “will you pay on the *kalends*?” and someone replied “I will pay on the *ides*” it was not binding (*non obligatur*).²²⁷ The fact that verbal asymmetry was considered invalid underlines the importance of *homologia*, literally ‘saying the same word’. It was verbal *homologia* which made the contract binding.²²⁸ An abstract affirmation of ‘yes’, which Latin has no simple equivalent for, would leave too much ambiguity; *homologia* in the form of *sponsio* provided precision in a world which took *certa verba* seriously.²²⁹ As such, confession in the sense of *homologia* was bound up with a sense of promise and future obligation. It was also thus bound up in the world of *fides*.²³⁰

Stipulation would also be recorded in writing: witnessed *tabulae* survive and are referred to by jurists.²³¹ The writing of tablets was one concomitant ritual gesture among several, such as libation, the extension of the right hand, and the holding or breaking of reeds.²³² The objects of such contracts might be marriage, but often they would be used for the lending and borrowing of money. Separately from stipulation, acts of *homologia* – ie. using the verb ὁμολογέω - constituted the usual form of a contract of sale in the Roman world when expressed in Greek, following formulae such as: Ὁμολογεῖ A to B πεπρακέναι αὐτῷ κατὰ τήνδε τὴν ὁμολογίαν (object) καὶ ἀπέχειν - τὴν συγκεχωρημένην τιμὴν -- καὶ βεβαιώσσειν --.²³³ The use of the verb for the making

²²⁶ *Dig.* 45.1.pr

²²⁷ *Dig.* 45.1.3

²²⁸ Roman *stipulatio* was explicitly equated with ὁμολογία: eg. in the Babatha archive (PYadin); (Thür 2006).

²²⁹ (Zimmermann 1996) 69. *Certa verba*: Plin. *NH* 28.11; (Meyer 2004) 62, esp. n. 51 for further references. *Homologia* in the sense of ‘saying the same words’ was also a feature of judicial confession: even in the example of Hyperidis’ use of *paromologia* – partial confession - given by the rhetorician Rutilius there is verbal echo: *scripsisti ut servis libertas daretur? scripsi ne liberi servitatem experirentur...* (Rutilius 1.19).

²³⁰ (Meyer 2004) 133. Cicero even claimed that the term *fides* seemed to derive from *fit quod dicitur*: *Cic. Rep.* 4.7

²³¹ (Meyer 2004) 117 and 117 nn.106-8.

²³² Although by the second century AD most of the ceremony had probably disappeared (Meyer 2004) 117-8.

²³³ (Pringsheim 1950) 109.

of a contractual agreement is found in classical Greece, where it was also used for a verbal acknowledgement that an obligation had been fulfilled.²³⁴ Subsequent disputes concerning *sponsiones* would naturally open up ground for what might be considered a different sort of *homologia* entirely: that of admitting a charge of wrongdoing or liability.²³⁵ To the modern mind, person ‘A’ confessing a debt before the praetor and person ‘B’ agreeing to a contract appear to be engaged in fundamentally different activities. Indeed these superficially seem to be two different ‘types’ of *homologia*: the former an agreement to liability or wrongdoing based on past behaviour, and the latter an agreement to a future obligation, the difference being essentially a matter of temporal concern.²³⁶

There has been debate about the nature of *homologia*’s semantic development in Greek law over time. Pringsheim argued for linear development in three stages: at first there was judicial confession whereby, once an agreement was made, the judicial process itself came to an end; then extrajudicial confession developed, whereby settlements could be made outside of judicial proceedings; thirdly, contractual *homologia* emerged from the fact that acknowledgements of debt were confessions which carried a binding effect.²³⁷ This theory was convincingly disputed by Alberto Maffi who argued that Pringsheim’s third phenomenon had to be expunged from the story because this type of *homologia* was fundamentally of a different nature: it was a promise, not an admission of debt analogous to judicial confession.²³⁸ He thus rightly discounted the idea of linear development of contractual *homologia* from judicial *homologia*.²³⁹ However, his own conclusion that judicial *homologia* was above all about absence of contestation – that is,

²³⁴ Eg. Dem. Or. 30.22 (for debt). For acknowledgment of extinguished liability: Dem. Or. 27.18; 48.47; 45.41.

²³⁵ Eg. Cic. *QRosc.* 14: *datam non esse Fannius confitetur*

²³⁶ (Maffi 1986) 7

²³⁷ (Pringsheim 1950) 26-7. Partsch, according to Maffi ((Maffi 1986) 8), took contractual *homologia* as derivative of *homologia* in the – he thought – ‘original’ sense of judicial confession: (Sethe and Partsch 1920) 518 (*non vidi*).

²³⁸ (Maffi 1986) esp. 8.

²³⁹ And, in a reversal of Pringsheim’s order, argues extra-judicial confession came before judicial: (Maffi 1986) 11.

about agreement, even if not an explicit speech act – undermines the point that they were considered separate phenomenon after all; contractual *homologia* was also about agreement, albeit to a future obligation.²⁴⁰ Eliding this dichotomy helps us to better illuminate the Greco-Roman concept. The *homologia* to debt in the course of a civil trial amounted to the agreement to a new contractual undertaking, as discussed earlier, such as liability to repay a sum owed. It could *also* be tantamount to *homologia* of delict, in the sense of having not paid a debt. This was different, however, for cases other than debt: in the cases of the *Athenaion Politeia*'s three types of *kakourgoi* – thieves, kidnappers and clothes stealers – *homologia* would mean agreement to the charge itself, but not to a future promise of repayment because, we are told, their act of *homologia* would lead to their execution.²⁴¹ Greek unproblematically used the same term for *homologia* both to a contract and to a charge because, it seems, both actions were deemed to fundamentally share a sense of agreement above all.²⁴² Concord, rather than concession, was the important factor rhetorically. *Homologia* in one form enabled the making of contracts, and in another redressed the breaking of them.

Conclusion

The cumulative effect of previous inquiries into the role of confession in Roman law has been to leave an impression of a legal system which considered confession as the ‘queen of judicial proofs’ and so gave next to no room for confession to operate in the interests of the defendant. The *Athenaion Politeia*'s statement that confessed thieves, kidnappers and cloak stealers would

²⁴⁰ (Maffi 1986) 18

²⁴¹ *Ath. Pol.* 52.1

²⁴² Dismissed by Pringsheim as improbable, Maschke argued that “oral agreement” was the primary meaning of *homologia*, and “confession, admission” was secondary: (Maschke and Latte 1926) 163; (Pringsheim 1950) 26 n.2. Pringsheim found this “incompatible with the evidence of Herodotus”, but “oral agreement” does indeed work behind the sense of *homologia* in Herodotus. For a summary of the debate between the ‘consensualists’ (those thinking consensual promise were grounds for contract) and the ‘realists’ (who think that assets had to be exchange for the making of the contract) and a sensible clarification of the meaning of the term in fourth century Athens see: (Carawan 2006).

be put to death if they confessed, or Cato's speech in Sallust that the confessed need be punished *more maiorum*, or the magistrate in Seneca's *Controversia* 8.1 wanting to punish the defendant *tamquam confessa* cannot be taken to reflect the Greco-Roman attitude.²⁴³ There was more opportunity in confession than these sources suggest, and certainly no invariable 'rule'. For if we examine where confession was employed, and in what form, and how it might in fact be effective, a more faithful picture of reality emerges. Civil law appears to have frequently been the context of confession, and we have seen that it would not have been wholly disadvantageous. Likewise, there was room for confession in criminal law: in the form of partial confession as rhetorical technique, in the confession of an *index*, and even in the absolute confession to a charge and plea for mercy (*deprecatio*). In the Republic, we have plenty of evidence of the first and second of these, but we only know that *deprecatio* was an option thanks to the handbooks, and that this was only possible in certain contexts. Under the Empire, however, examples of confession to the charge and *deprecatio* come to light as never before, and the confession of the *index* and partial confession continue to operate. Even confession to the crime of *parricidium*, considered the worst of all crimes, might lead to leniency contrary to the standard historical interpretation; given the anecdote in Suetonius about Augustus asking 'surely you did not kill your father did you?' when judging a case of parricidium, historians have thought confession to parricide would have meant certain death by *poena cullei*, but under Antoninus Pius a confessed parricide was merely sent to a desert island.²⁴⁴ Also throughout Republic to Principate, confession under torture, either of defendants themselves or witnesses, was a persistent feature of legal process as was those of slaves to their masters. Scholarship is right to underline the many disadvantages of, and constraints on, the practice of confession, and this remains highly significant, but an appreciation of where, why and how it could be advantageous sharpens the accuracy of the account. Only with

²⁴³ *Ath. Pol.* 52.1; *Sal. Cat.* 52.36; *Sen. Controv.* 8.1; *Quint. Decl.* 314. (Greenidge 1901b) 464 rightly questions the validity of a 'rule' suggested by the latter two. Indeed, the strangeness of Cato's stance on never granting pardon for crimes is highlighted for its extreme nature by Cicero: *Cic. Mur.* 62.

²⁴⁴ *SHA Pius* 8.10; (Bauman 1996) 117; 105, 159 for *poena cullei* as rule.

this can we begin to consider the relationship of forensic confessional practice to the religious practice of confession.

The Principate marked a shift in confession's role in criminal law and *cognitio* procedure. With a singular judge presiding, whether emperor or imperial magistrate, and albeit with a *consilium* in attendance, the confessional strategy previously the domain of a child to their father, or slave to paterfamilias, which finds precedent as early as Terence, was translated into public trials.²⁴⁵ There was also now need to provide a verbalised response, not merely the silent lack of defence that was tantamount to confession in the Republic. The idea of the emperor as supreme adjudicator cleared new and dangerous ground for a greater need than ever before of justification of his decisions, in light of jurisdictional scrutiny with increased risk; a judge making a bad decision could risk his local reputation, but for the emperor damage to personal authority was of greater political and Empire-wide import. Confession was a tool in the armoury of both the powerful and the powerless to negotiate the tension between the values of justice and mercy, and to justify the actions of the powerful. It also meant that *verbalised* confession could function to the advantage of the accused and powerless as never before. Whereas in the Republic, taking to one's heels was often safest, in the Principate there was increased scope for this being a more dangerous way to confess, as imperial reach meant greater risk of quiet bumping off. So turning up to court and verbally confessing in fact put the emperor, or the magistrate, in more of a bind, because condemnation in these circumstances risked reflecting badly on the judicial authority if they chose not to magnanimously dispense mercy. Two key factors which facilitated confession were that it was in the interests of the judge, and that they were capable of dispensing mercy, which became the case for criminal law under the Empire. Ulpian declares that "nowadays" a judge hearing criminal cases *extra ordinem* may lawfully pass whatever sentence he pleases,

²⁴⁵ Eg. Ter. An. 898

heavier or lighter, provided that it was not excessive in either direction.²⁴⁶ The Principate also gave room as never before for conspiracies, which led to two key consequences for confession: in contumacious form it could become the tool of defiance in the hands of Stoic *exempla* of *constantia*, such as Subrius Flavius eventually embracing the *confessionis gloriam*, as Tacitus puts it, by responding to Nero with “I hated you...”.²⁴⁷ Secondly, at another extreme, it meant increased role for *indices* and so also for their confessions.²⁴⁸ When Nero and Poppaea were conniving to get his wife Octavia condemned, it was decided that a false accusation was needed (*ergo confessionem alicuius quaeri placet*), so Nero coerced Anicetus into confessing to adultery with Octavia before a group of the emperor’s friends *velut consilio*.²⁴⁹ Banished to Sardinia, Aniceta enjoyed exile without death, no doubt providing another public example of the mercy-merits of confession.²⁵⁰ The Principate thus also meant that there were opportunities for stage-managing justice as never before, and confession was crucial to the successful spectacle.

Comparison with other regimes of justice from different historical periods suggests that confession plays a much greater role in inquisitorial as opposed to adversarial systems. For understandable reasons: in adversarial systems the trial is agonistic between two adversarial parties, with the judiciary as an impartial arbiter. In such a context, all-out confession only serves to lose the case; defence and negotiation wins the day. In inquisitorial regimes, however, the prosecutor is also the judicial authority.²⁵¹ As such, there is understandable incentive to concede

²⁴⁶ *Dig.* 48.19.2.13

²⁴⁷ *Tac. Ann.* 15.67: *confessionis gloriam amplexus*. The form of such confession must be qualified for the Stoics in that this was not contrite: the actions Sulpicius Asper, for example, would be misleadingly described simply as ‘confession’: Nero asked why he had conspired to murder him and he replied that it was the only service that could be rendered for his many infamies: *Tac. Ann.* 15.68.

²⁴⁸ *Eg.* in the Neronian persecution of Christians *correpti qui fatebantur, deinde indicio eorum multitudo ingens...* or the Piso conspiracy: *accensis indicibus ad prodendum Faenium Rufus... mox eorundem indicio Subrius Flavius tribunus perveritur*: *Tac. Ann.* 15.44; 66-7.

²⁴⁹ *Tac. Ann.* 14.62

²⁵⁰ *Ibid.*

²⁵¹ Regarding the modern French system, (Soubise 2018) 399: “With the inquisitorial system, confession becomes more absolute, less a strategy of negotiation... Whereas such negotiation [the charge- and fact- bargaining system of England and Wales] is natural in the dispute model of an adversarial system where the parties can shape the

the claims of those who are also sitting in judgement, and less room for negotiation overall.²⁵² Modern Japan is a case in point: its judicial system has an astonishingly high rate of confession and is also inquisitorial in nature.²⁵³ Other examples might also be cited.²⁵⁴ It is therefore significant that, as Pölonen convincingly argues, “the Principate from Augustus to the Severan age witnessed a gradual shift from accusatorial to inquisitorial criminal process”.²⁵⁵ The Greco-Roman story of confession is thus consistent with a wider historical picture. As in the two types of plea bargaining (charge or fact) in England and Wales, the accusatorial/adversarial process of Republican Rome allowed negotiation: confession to a lesser charge, whilst offering mitigating circumstance or arguments in favour of a lesser sentence – as the handbooks so strikingly suggest for the option of *deprecatio*, or as speeches show by the employment of partial confessions – was a way forward.²⁵⁶ This gave little room to absolute confession without qualification, which is why rhetorical mitigations are described as being so essential to successful *deprecatio*. Before the emperor or his representative, however, there was less room for bargaining with truth. An assize documented by Libanius offers a further example of the way in which individual magistrates had a reputation on the line in adjudication and the extent to which confession was highly desirable on the part of the judge, to enable not condemnation, but mercy.²⁵⁷

Libanius wrote his Oration 22 in praise of Ellebichus, a pagan commissioner with a military background, who had been appointed to investigate the so-called ‘riot of the statues’ in Antioch in 387. Ellebichus, we are told, tried to get each person to confess the origin of the crime (εἰς

remit of the passive decision maker, it is unacceptable in principle in an inquisitorial system where the truth cannot be bargained with or compromised”.

²⁵² (Soubise 2018) 399

²⁵³ (Wolferen 1989) 247-51; 292-3 (confession as ‘king of evidence’ (*shoko no o*)).

²⁵⁴ *Eg.* Soviet Russia: (Wood 2005); modern France: (Soubise 2018).

²⁵⁵ (Pölonen 2004) 229; see also (Robinson 2007) 64 n.58.

²⁵⁶ No matter what the crime. For no unpardonable crimes in both the Republic and Principate: (Robinson 2001) 117.

²⁵⁷ *Lib. Or.* 22.

ὁμολογίαν ἕκαστον τοῦ τῆς ἀδικίας) by threatening torture on anyone who might provide this information if they did not agree, and urged bystanders to get the man in the dock to make confession (τὸν κρινόμενον εἰς ὁμολογίαν ἐνάγειν).²⁵⁸ Initially, his purposes were misunderstood: everyone thought he was out to condemn and execute rather than – his primary motivation - out to find the culprits in a way which could stand up to criticism and dispense mercy. For, between the voice of a witness and that of the defendant himself, Libanius muses, there was no comparison; no one could make a plea following the latter. Libanius explicitly states that this was Ellebichus' real reason for insisting on confession 'out of the defendants' own mouths' (ταῦτα αὐτῷ τὸ τοῖς ἑαυτῶν στόμασιν ὁμολογεῖν ἀδικεῖν τοὺς αἰτιαθέντας ἐδύνατο). In other words, confession made Ellebichus' life much easier. The outcome was a happy one: no executions, only mild property confiscations and imprisonment, and they were even allowed to keep the council they presumed they had lost.²⁵⁹ Indeed, Libanius' portrait of Ellebichus as saviour is almost Christ-like, especially in chapter 22. Here he is described devoting himself to the mother of a young man being examined who had loosed her hair, ran to his bosom, and pleaded with tears dripping onto his feet. In turn, he clasped her hair, his tears ran over her head and 'he so devoted himself to her long-drawn prayers that he seemed to be superhuman. One imagines that many more judges than survive in the record were, or at least aimed to be, an Ellebichus. To act thus was a form of euergetism, and one way in which elites of the mid-to-late Empire could earn much coveted yet increasingly harder-won praise.

Over time, then, the Empire offered judicial confession, in criminal process, scope for employment like never before. Never before had the ventriloquism of power been allowed to operate on such a scale. The Empire, and its concomitant employment of inquisitorial-style

²⁵⁸ Lib. *Or.* 22.23-24.

²⁵⁹ Lib. *Or.* 22.24.

jurisdiction, thus provided an unprecedentedly confession-conducive environment, against which backdrop the religious ideas of the new millennium were forged and reshaped.

Chapter five: Comparing Confession in Regimes of Human and Divine Justice

Parallels between confession in Roman law and what might be classed ‘religious’ confession to the divine urge a reconsideration of the nature of ‘religious’ confession itself.¹ Instead of being an isolated or peripheral practice, confessional behaviour was embedded in socio-legal norms of Roman society. Significant work has already been done to demonstrate overlap between the confession *stelai* of Asia Minor and aspects of Roman law in a stimulating thesis by Lochlan Shelfer, to which this discussion owes a great debt, but there is still further to go: additional points of correspondence can be identified, and their implications explored.² What is more, his thesis overlooks the fact that confession itself was an aspect of Roman law, and yet another facet of legal behaviour which the *stelai* shared. One implication of this is that the act of ὁμολογέω/ἔξομολογέομαι, which some *stelai* explicitly mention, may not have been conceptually distinct from an act performed in the making of a contract or the settling of a debt in the mundane contexts of Empire-wide civil litigation, and so does not connote an archaic religious ritual explicable only by Hittite precedent.³ This makes the ‘confession’ of the *stelai*, and their intellectual context, far less peculiar than has ever been previously considered. Other evidence for confession, on the contrary, has never been examined in light of legal practice. This is most probably because these confessions have, historiographically, been deemed to belong to the ‘oriental cults’ and so compartmentalised from the Greco-Roman world. It also

¹ That is confession performed in contexts of divine justice

² (Shelfer 2010)

³ cf. (Riel 1997) 36-7 n.16: regarded “confessional practice in late Hellenistic and Roman Anatolia as descended from the analogous beliefs and practices of Hittite Anatolia” and having “an undeniable Eastern, un-Greek character: Greek religion had no institutional framework for confessional rituals”. This she attributes to “unbroken religious continuity from the second into the first millennium BC”.

likely results from binary thinking about ‘religious’ and ‘non-religious’ categories. On close inspection, however, parallels with Roman legal practice and wider society can be seen in these too. We can thus move beyond Asia Minor; it is the divine justice type of confession generally which, whether reflected through Ovid witnessing Isiac practice or evidenced in inscriptions from Asia Minor, shares form, context, language and conceptual frameworks with confession in Roman law and its concomitant structures. Consequently the story of confession supports the idea that law and religion operated fluidly on a continuous spectrum rather than as two separate spheres.

Paradigm Shift

Re-examining even the most prominent piece of evidence for religious confession in the Roman world through the lens of Roman law brings a new picture into focus. Ovid’s eyewitness account of Isiac confession in the *Ex Ponto* has been taken as the main evidence for the practice of confession in the cult of Isis, and is often cited as the primary reference for confession’s role in the ‘oriental cults’ as a whole.⁴ Its prominence in the historiography of religion has thus encouraged it to be viewed as an example of purely religious ritual in action:

51. *vidi ego linigerae numen violasse fatentem*
 Isidis Isiacos ante sedere focos.
 Alter ob huic similem privatus lumine culpam,
 clamabat media se meruisse via.

⁴ Ov. *Pont.* 1.51ff. There is also Juvenal’s account of a woman speaking her transgressions to Anubis, although this specifies the god to be appeased as Osiris. Nevertheless, Ovid has been foregrounded by scholarship referencing the practice in the cult of Isis: eg. (Alvar Ezquerro and Gordon 2008) 180-1; Pettazzoni begins his exploration with this: (Pettazzoni 1937).

However, the act of confessing before an altar was not confined to the cult of Isis, nor strictly to the sphere of ‘religion’: it was an act which could be, and was, performed by those involved in civil law disputes. A *vadimonium* – a promise to appear for trial – recorded on a tablet from the Sulpicius archive reveals that the altar of Mars Ultor in the *Forum Augustum* “next to the steps, at the fourth hour” was to be the location for C. Publicius Carus and Q. Castricius Fructus to convene for litigation.⁵ Similarly, *testationes sistendi* – attestations of appearance – record that civil legal proceedings took place in the forum of Puteoli *ante aram Augusti*.⁶ It is even unjustified to see a strict distinction in addressee – one divine, one human – between Ovid’s example and these, for the purpose of convening at an altar was to sanction the words and acts of the litigants, so the divine was in some way thought present at Publicius and Castricius’ convention too. Equally, there may have been a human prosecutor present by the *Isiacos focos*. In light of this comparison, our image of the confessional act transforms from being a fossilised remnant of an age-old ‘oriental’ practice into a counterpart of normative and contemporary confessional practice in forensic contexts of Rome and Italy.

Furthermore, we might at first sight attribute the punishment of being blinded firmly to the realm of divine justice, but that is until we recall Ulpian, preserved in the Digest, on the crime of peculation: “whoever enters a sanctuary by day or by night, and removes any sacred property therefrom, shall be blinded”.⁷ This was, then, a punishment according to Roman law. It is significant that perjury is the most frequently attested offence in the *stelai*, and eye maladies are the most frequently attested punishment.⁸ That ‘secular’ Roman legal thought held that

⁵ *TPSulp.* 15. Conditions for *vadimonia* were discussed in the praetor’s edict: Gai. 4.184-7; this was an agreement made between parties without interference from a magistrate: (Meyer 2004) 134.

⁶ *TPSulp.* 16-17 (both AD 51); 18 (undated).

⁷ *Dig.* 48.13.11.1. (trans. Scott).

⁸ On eye maladies: Chaniotis (1995) p. 327-8. Phil. VA 1.6: those who fail the test of dipping in Zeus’ pool near Tyana are so overcome with suffering that they stay by the pool ὁμολογοῦντες ἃ ἐπίωρκησαν, specifically. This suggests the pool only dealt with perjury.

confession or the lack of it at the point of oath was also a divine matter is attested not only by the Digest but also by other commentators: among the legal pronouncements in *De Legibus* is the injunction: *periurii poena divina exitium, humana dedecus*.⁹ When an individual was accused of violating the deity of Augustus (*violatum... numen*) by perjury, Tiberius, according to Tacitus, responded that the gods must look to their own wrongs.¹⁰ Furthermore, a rescript of Severus Alexander held that the divine vengeance was enough for whomever holds the respect of an oath in contempt.¹¹ The association with eye maladies is likely, I argue, connected to the fact that oaths could be sworn on the eyes.¹² The key point here is that divinely inflicted blindness was an aspect of Roman law. What is more, it was a central aspect of it, as frequently litigants would attempt to resolve disputes by means of *ius iurandum*. Taking the oath constituted denial, meaning that the prosecutor had to seek more formal judicial measures if they wanted to resolve the case. As such, condemnation of the defendant at the second stage naturally convicted them of perjury in addition to their liability, and so the divine would intervene in civil disputes also. Therefore the experience of Ovid's second penitent, too, was not detached from the conceptual world of Roman law.

Additional aspects of overlap operate at the linguistic and the conceptual level. According to Pliny a hubristic emperor might think their *numen violari* by those conspiring against him in *maiestas*, just as the offence to Isis' *numen* committed by Ovid's first confessor.¹³ Equally, the language of sublunary law might be applied to situations of confession to the divine. He terms these 'confessions' *praeconia*: the shouts of the town crier.¹⁴ The metaphor not only connotes loud volume but also the realm of legal process: the *praeco* would announce the charges and

⁹ Cic. *Leg.* 2.22

¹⁰ Tac. *Ann.* 1.73.4: *deorum iniurias dis curae*.

¹¹ *Cod. Iust.* 4.1.2: *iurisiurandi contempta religio satis deum ultorem habet*

¹² Eg. Plaut. *Menaech.* 5.9.1; Ov. *Am.* 2.16.44

¹³ Plin. *Pan.* 33.4

¹⁴ Ov. *Pont.* 1.54

names of those against whom legal proceedings had been instigated.¹⁵ And he imagines the judges delighting in these as if judges eager for justification: *talia caelestes fieri praeconia gaudent / ut sua quid ualeant numina teste probent*.¹⁶ Similarly, Ovid invokes the theme of witnessing (*teste*), and the context of torture (*torqueor*) as the generative impulse behind his own speech act. It may be argued that these parallels of language may be nothing more than a metaphorical slant performed by Ovid himself. This is unlikely because other divine justice confessions, especially the *stelai*, show the gods to be conceptualised as judges who are pleased by proclamations of their powers by way of confession, and generally echo Roman legal structures also. Nevertheless, even if this is mere poetic metaphor, it is of historical import in revealing the way in which Isiac confessions were perceived by Ovid.

Among the parallels which can be identified between the *stelai*, other divine justice confessions, and Roman law, we can assign three different categories of evidential import: first, similarity of language can often indicate nothing more than a choice to frame behaviour to the divine in human terms, or *vice versa*, without indicating direction of conceptual influence. This might be said of those linguistic echoes of Ovid just discussed. Then there are parallels at the level of concept and practice, but where it is impossible to say that religious practice was specifically modelled on legal practice or *vice versa*, such as confessing before an altar, or when both the accused of Roman law and Plutarch's confessing 'superstitious man' don *sordida vesta* to publicly demonstrate their sorry state, or when the defendant who does not confess is faced with a penalty fine in both civil law and in the system of justice of the Anatolian confession *stelai*. Finally, we also have evidence of people approaching a situation of divine justice with technologies of action which must have originated from the terrestrial legal sphere:

¹⁵ (de Libero)

¹⁶ Ov. *Pont.* 1.55-6

when individuals from Asia Minor chose to construct their epigraphic communications in the form of a petition, they were drawing on a human legal model. This was more than just a matter of rhetorical style; behind such actions was a conceptual world in which a divine judge was thought able to be engaged and persuaded in the same way as a human judge. All of these three types of correspondence are valuable with regard to intellectual history, but the latter is of particular import because it challenges the isolationist reading of confession in Roman history.

The confession *stelai* of Asia Minor

It has long been recognised that the confession *stelai* are replete with legal vocabulary. On the basis of this, historians have attempted to reconstruct their generative contexts of divine justice.¹⁷ Some have seen the jurisdiction of the temples as operating as distinct from, and in opposition to, Roman law, but Shelfer has convincingly challenged this assumption.¹⁸ His ground-shifting work, based on the first systematic analysis of the legal vocabulary and comparison with wider evidence, has brought to light a bottom-up practice of locals who “imposed Roman legal categories onto their religious system”.¹⁹ The *stelai* were not the

¹⁷ Steinleiter and Zingerle both thought the contexts for the *stelai* involved tribunals run by priests in the temple: (Steinleiter 1913) 90-95; (Zingerle 1926) cols. 29-49. For Buckler, however, such language suggested that the proceedings which gave rise to these inscriptions took place in a law-court in the presence of a judge: (Buckler 1914) 179. Rostovtzeff ((Rostovtzeff and Fraser 1957) 656 n.6) considered the jurisdiction of the temples as mostly religious, but subsequent to Zingerle consensus holds that there was no such powerful temple-court and little priestly involvement: (Eger 1939) 289-90; (Varinlioğlu 1989) 37-40 (legal language used metaphorically); (Lane 1971) vol.III, 31-2; (Ricl 1995) 69-71. Petzl ((Petzl 1988) and (Petzl 1994) 7-11) defended the idea that priests conducted trials and imposed fines, but most scholars continue to see the legal terminology as metaphorical and no temple-court in operation: (Versnel 1991) 70; (Ricl 1995); (Chaniotis 1997); (Chaniotis 2004).

¹⁸ (Shelfer 2010), following Chaniotis’ initial tempering of the opposition: (Chaniotis 1997) 370. *Contra* (Ricl 1995) 69-71; (Ricl 2003) 100-1; (Versnel 1991) 68.

¹⁹ (Shelfer 2010) 16. Varinlioğlu assumed that priests composed the inscriptions, Rostad thought experts did, and Chaniotis argued that the legal knowledge was in the hands of the temple priests, but Shelfer is right to find against these theories: Gordon has convincingly suggested the local population had familiarity with Roman legalisms; Paz de Hoz, following Brixhe’s lexical observations, equally convincingly saw the composition of the *stelai* as being in the hands of the transgressors themselves, in conditions of widespread literacy; and analysis of the wider productive contexts of the *stelai* also supports this: (Varinlioğlu 1989) 37; (Chaniotis 1997) 356-60; (Rostad 2002) 145-8; (Gordon 2004); (Hoz 2006); (Brixhe 2001); (Potts 2017).

product of a top-down superimposition of Roman legal structures, nor the independent reaction of a hostile, isolated world. They were attempts to imbue the divine with the power and efficacy of Roman imperial jurisdiction.²⁰

Crucially, Shelfer demonstrated that there was significant adoption of, and familiarity with, Roman legal structures by the inhabitants of these regions of Asia Minor, who were eager to take their cases to imperial courts.²¹ Without this point established on external evidence, identified parallels between Roman law and the *stelai* would be of uncertain import. As it is, however, the *stelai* appear to constitute further testimony to the permeation and influence of Roman legal institutions. Shelfer highlights a number of parallels: the conception of the gods as Roman governors or emperors; the idea of the heavenly council as a senate; the dedicators' strategies for diminishing guilt, just as might be performed in a human court, which assume the deities have a specifically Roman understanding of legal responsibility; the 'torture' of dedicants in order to extract confessions, just as in Roman legal procedure.²² He also highlighted the presentation of their "Confessions and Praises in a form that directly paralleled that of the inscribed secular petitions found throughout the region".²³ Two essential points transpire: the divine was imagined to operate as if a human judge, and consequently the same strategies of negotiation which were used in Roman legal defence were also used in relation to the divine.

There is, however, a further, crucial parallel: confession itself was common to both Roman legal behaviour and the *stelai*. Referring to "this confessional cult", Shelfer seems to make a

²⁰ (Shelfer 2010) 16.

²¹ (Shelfer 2010) ch.2; 71; 206. He also holds that the extent of interaction between Roman soldiers and locals has been underestimated: 71.

²² For torture: (Shelfer 2010) 97-104. Even age might be cited as a mitigating factor as it was in Roman law: *eg.* Petzl 58 explaining why the lesser penalty of 9 obols was paid: (Shelfer 2010) 183.

²³ (Shelfer 2010) 16; ch.3-5.

category mistake in regarding their confessions as exclusively religious in nature. Yet like the strategy of pleading diminished responsibility which he identified in the *stelai*, confession too was a strategy of negotiation in Roman courts, especially in civil cases.²⁴ And it is especially civil law which the *stelai* echo.²⁵

Three further parallels relate to confession specifically. Firstly, initial responses of not confessing would be met with a penalty in the *stelai*, just as we saw was the case in Roman civil law.²⁶ When Hermogenes Valerius promised he had not handed over sheep he was responsible for, and “because he was unaware” (ἀγνοήσας οὖν) swore an oath to the god denying it, the god “punished Hermogenes and made a penalty for him, killing his sheep, an ox, and a donkey”.²⁷ He maintained defiance, so his daughter was killed. In a similar case concerning the theft of pigs we are told that the gods showed an abundance of power because the culprits were not confessing.²⁸ Likewise, when certain Syntuche borrowed some wheat but delayed repaying it ‘until this day’ her stele stipulates that she paid back interest on top of the full amount owed.²⁹ The first of these examples also brings to light the second parallel: the practice of oath-swearing, which also played a significant role in Roman legal practice as the *ius iurandum*.³⁰ Taking the oath constituted denial.³¹ It is telling that perjury is the most frequently attested transgression in the *stelai*.³² Not taking the oath would amount to a

²⁴ (Shelfer 2010) 71

²⁵ Eg. overlap in offences: Petzl 3 (AD 164/5) tells us that a sceptre had been set up in case someone stole something from the baths, and this is reflected in the Digest devoting a chapter *de furibus balneariis*: Dig. 47.17. Similarly a chapter in the same book (Dig. 47.7) is devoted to the cutting of trees by stealth, an offence which surfaces in the *stelai*: Petzl 10 (AD 194/5), 4 (AD 200/1) and 76 (AD 235/6).

²⁶ p.182-3.

²⁷ Petzl 34, ll. 8-11: ὁ θεὸς ἀνέδιξεν τὰς εἰδίας δυνάμεις καὶ ἐκόλασεν τὸν Ἑρμογένην | καὶ ζημίας αὐτῷ ἐπόησεν ἀποκτίνας αὐτῷ τὰ κτήνη βοῦν κὲ ὄνον.

²⁸ Petzl 68 ll.17-20: μὴ ὁμολογησάντων αὐτῶν ἢ | θεὸς οὖν ἔδειξεν τὰς ἰδίας δυνάμεις, καὶ ἰλάσοντο αὐτὴν τελευτήσαντος τοῦ Ἑρμογένου

²⁹ Petzl 63

³⁰ See (Nicholas 1970); (Greenidge 1901a) 259-63.

³¹ As in ND 51: Ammion and her daughter took 4 denarii, and denied it on oath, so “the god killed”.

³² (Paz de Hoz 2017) 101-2: eg. Petzl 2, 15, 27, 34, 52, 53, 54, 58, 110, 120.

confession, and may even have relieved the confessant of the need to write up a *stela*. The making of a *stela* appears to be an extra penalty for the denial-infractio: a number of *stelai* suggest that *stelographēin* was a surplus act, which either they had been told to perform, or which they realised was required.³³ Petzl 46 explicitly mentions that the outstanding 25 *denarii* would be repaid twice, at the request of the god, “so that the *stela* might be set up by them”.³⁴ It is interesting that this is a penalty of double, as for denial in civil cases.³⁵

Thirdly, additional information provided by the inscriptions shows that we are often dealing with contracts having been broken, situations of debt unpaid, or of financial liability resulting from Aquilian-type delict. The offence of ND 55 was not keeping contractual fidelity (πιστις) on the human scale.³⁶ Were it not for the intimation of divine punishment the *stela* would appear as if simply a legal record of dispute belonging to civil process. ND 70 enumerates precise figures of goods paid as extra penalties following a land dispute, such as a legal document might record, and many *stelai* concern confessions of financial liability.³⁷ Even in the case of unfulfilled ex-votos the transgression is spoken about in terms of broken obligations to the

³³ Eg. Petzl 3, 14, 33, 35, 37, 38, 39, 47, 55, 57, 69

³⁴ Pl. 4-6: ...διπλαῖ, ἵνα ἐξ αὐτῶν γενήσεται | ἡ στήλλε.

³⁵ p.182-3

³⁶ ND 52: Μέγας [M] Μίς Τιαμου Ἀρ<τε>μιδώπου | Ἀξιοττα κατέχων καὶ ἡ δύναμις αὐτοῦ . Ἀ<φ>φιάς συνέθετο γάμου κοινω|νίαν Γαιεῖου Ἰουλίαν Κόσμου θυγατέραν, | [ἡ]τις οὐκ ἐτήρησε τὴν πίστιν τῷ Γαιεῖω ἀλλ' ἐξήμαρτεν. μέγας οὖν ΟΠΩΝ ὁ θεός, ἐκόλασεν αὐτή|ν ... cf. *P.Mil.Vogl.* 25 (3.32-4) for confession of πίστις ‘by the divine’: παρὰ τοῦ Δεῖου ἐξομολογουμένου τὴν πίστιν τὸ χιρόγραφον εἴληφας.

³⁷ ND 70 (AD 180/1): Μηνὶ Ἀξιοττηνῶ, ἐπειδὴ ὁ Γλύκων ἐκολάσθη ὑπὲρ παπικῶν ἐνγαίων, ἅτινα Ἄτταλος, παρευχερίσας τὰ τοῦ θεοῦ ἐνγεα, ἐν|επορεύετο ἐξουθενήσας τοὺς θεοὺς τοὺς ἐν Νον|νου. ἃ παραδίδει Γλύκων τῷ | θεῷ χωρὶς δόλου πονηροῦ | δαπανήσ(ας) πυ(ρῶν) κύ(πρους) δ' <, ὄινου πρ(όχους) δ>', ἐλαίου κοτύλην - σθνεβάλε|το Μαρκία Ἀμφίας, τῆς ἀδελφῆς μου ἐγένετο δὲ καὶ ἡ | προάπαρσις ἐξ ἐννεαφώνου; Petzl 54 (AD 118/9): [---]ων καὶ ἡ δύ|ναμις αὐτοῦ---] Ἀπολλώνιος | [---]ΤΟ. Ἀπολλωνίῳ [--- χαλκ]οῦ Χ μ'. εἶτα ἀπα[ι]τοῦντος τοῦ Ἀπολλωνίου τὸν χαλκὸν παρὰ τοῦ Σκόλλου ὤμοσε τοὺς | προγεγαμένους θεοὺς ἰς προ|θεσμίαν ἀποδοῦναι τὸ συνα|χθὲν κεφάλαιον. μὴ τηρήσαντος | αὐτοῦ τὴν πίστιν παρεχώρησεν | τῇ θεῷ ὁ Ἀπολλώνιος. Κολασθέν|τος οὖν τοῦ Σκόλλου ὑπὸ τῶν θεῶν ἰς θανάτου λόγον μετὰ τὴν τ[ε]λευτήν αὐτοῦ ἐπεζητήθη ὑπὸ τ[ῶν] | θεῶν. Τατίας οὖν ἡ θυγάτηρ αὐτοῦ | ἔλοισε τοὺς ὄρκους καὶ νῦν εἰλα|σαμένη εὐλογεῖ Μητρὶ Ατιμιτι | καὶ Μηνὶ Τιαμου...; Financial liability: Petzl 46; NRT 178 (AD 242/3): εἰς θεοὺς Τα|[ζην]οὺς καὶ ἐπιζη|[τη]σαντων αὐτῶν, | κολασθείσης τῆς | θυγ<α>τρὸς αὐτῆς Ἰ|[ο]υλίας ἰς τὰ σπλάν|χνα <ἀ>ναδεξαμένης | αὐτῆς τὴν μητέρα | ἀπέδωκεν ἡ Ὀνησί|μη θεοῖς Ταζηνοῖς καὶ | ἐστηλογράφησαν | καθ' ὃ ἐπεζήτησαν οἱ | θεοί...; Petzl 79: Μέγας Μίς Ἀρτεμιδώρου Ἀξί|ο]ττα κατέχων καὶ ἡ δύνα|μις αὐτοῦ. “Ἐπὶ Τατια Νεικηφό|ρου Μοκαδδηνῆ ἐδάνεισε Γα|[ί]φ καὶ Ἀφρια τῇ γυναικὶ αὐτοῦ Μ|[ο]κ|αδδηνοῖς χαλκὸν προειποῦσα | [".]ΤΗΞΡΟ δανίζω", ὁ Γάιος οὖν ἐχρ[ε]οκ|όπησεν αὐτήν. ἡ Τατίας οὐ[ν] χρε|οκ|οπηθεῖσα ἐπεκαλέσετ[ο] κατ' αὐ|τοῦ τὸν θεόν. Μέγας οὐ[ν]---|--- τ]ὸν Γάιον καὶ Ε[.---|---χ]αρκὸν Ο[---].

gods: the dedicator of ND 55 disregarded their obligation to give Men an ex-voto immediately in return, was punished, and so erected a stele advertising the powers of the gods.³⁸ Given that in the terrestrial worlds of contract, debt, and Aquilian liability, confession/*homologia* was a key term and practice, this provokes a reconsideration of what the nature of confession in the *stelai* really was, and how it was perceived.³⁹ The possibility that, just as in civil law, the speech act of ὁμολογέω/ἔξομολογεομαι carried connotations of promise to future liability (the making of a stele as a penalty) or to a dispute/contract having been settled, cannot be discounted.⁴⁰ Early Ptolemaic papyri use the term ὁμολογέω for a settlement which avoided proceedings in court, and the cases here are also clearly extra-judicial.⁴¹ Even its use to acknowledge receipt of something owed or deserved, seems to be paralleled in the *stelai*, where it seems to constitute acknowledgement of receipt of punishment.⁴² Confession functioning as a declaration of receipt of deserved punishment is found also in other evidence beyond Asia Minor, as is often

³⁸ ND 55: [--]\IPOPA Συνόδου Σαίτη[νὴ ἐπεὶ ---]αγωγουμ<έ>νων αὐτῆς [τῶν---]ων ἐπεύξατο Μῆνα Οὐρ[ά]νιον Ἀρ[τε]μιδώρου Ἀξιοττα κατέ[χ]οντα, καὶ ὡς πᾶσιν ἐπήκουες| [μου ?] καὶ παρενθυμηθείσης | [μου π]αράθερμον ἀποδοῦναι | [τὴν] εὐχὴν, ἐκόλασέ με. διὸ ἔσ[τη]α τὴν στήλη<v> καὶ ἐπιγέγρα|[φα] τὰς τοῦ θεοῦ δυνάμεις καὶ ἀ|[π]ὸ νῦν εὐλογῶ.

³⁹ Examples of the use of the ὁμολογέω-related terms in papyri are numerous; contracts both self-identify as ὁμολογία and the verb ὁμολογέω is used to denote the speech act which they record: eg. *P.Oxy.275* (AD 66) begins with ὁμολογοῦσιν ἀλλήλοις... This is consistently the case throughout our period: even a flute-player in AD 322 uses ὁμολογῶ in acknowledging when and where he must turn up for his gig, and stipulates that he agreed his fee in answer formal questioning (ἐπερωτηθεὶς ὁμολόγησα): *Stud. Pal.* xiii. p.6.

⁴⁰ Cf. (Pringsheim 1950) 32-4. A sense of settling a dispute might fit the use of the term in: Petzl 68; 3; 100; 106; 109; 111; 112; 116; ND 66, and in many more where the term is not explicitly used. The idea that it would entail a promise to future financial liability is suggested by the cost which would be associated with erecting a stele and further sums required as penalty payment: eg. Petzl 58: ... Χάριν [ἔ]δωκαν οἱ θεοὶ Εὐδόξω, ἵνα μὴ λουμ[έ]νων ὄρκων τῆς Ταρσηνῆς λύει Εὐδοξὸς ὑπὲρ τῆς ἰδίας γυναικός, ἐπεὶ | ὤμοσεν Σάρδιον καὶ παρώρησεν, διὰ τοῦτο -μήπω οὐσα ἐνήλιξ [ουσα]- δαπανήσας ὁ Εὐδοξὸς ἐννέα ὀβολοὺς ἔλυσε τοὺς ὄρκους καὶ ἐστηλλογ[γ]ράφησε | καὶ εὐχαριστεῖ. Ἴνα λύονται οἱ ὄρκοι τῶ | ὀνόματι τοῦ Ἀξιοττηνοῦ, ὥστε ὁ | λύων ὄρκους δαπανήσει δηνάρια ἑκατὸν ἑβδομήκοντα πέντε. τεμῆ|ν δὲ λήμψεται ἀφ' αὐτῶν, ἣν ἂν ἐπερωτήσι, εἰ ταῦτα δικαίως γ[ι] εγρ|αμμλενα εἰσί, ἵν' ἀνέσστησεν | στήλην. ὁ λύων σκῆπτρον θήσ|ει ἐπὶ τὸ ἱερὸν δηνάρια ἑκατὸν ἑβδομ[ή]κοντα πέντε {ι}, καὶ λέλυται τὸ σκῆπτ(ρον?) | δικαίως ΕἰΝΡΟΛΥΣΙΝΑΙ λελυμέν<ο>υς|ς τοὺς θεοὺς κατὰ ὡς ἐπέκρεια<v> α| ὑτοί.; Petzl 71: ... Ἀπολλώνιος Ἀπολλωνίου μεγαλορημονήσα|ς Μῆνα Ἀξιεττηνὸν καὶ | ἐκολάσθη. Ἐκέλευσεν | αὐτοῦ τοῖς ἰδίοις ἀναστ[ῆ-]σαι τὸν θεὸν Μῆνα Τιανο[υ]- | καὶ τὴν Ἀναετιν. Παρελκύ|σαντος δὲ αὐτοῦ χρόνον | καὶ μὴ ἀποδιδόντος αὐτοῦ | τὰ μέρη ἐκολάσето τὴν Ἀπ[φ]ίαν, ἵνα στηλογραφήσει κ[α]|| τὰ μέρη παραδώσει. καὶ νῦν ἀποδίδει τὸ μέρος τῶν ἀνπέ|λων ἐπὶ ταῖς Παγάσι, ὅς ἐμέρ[ι]σε τόπος Κλαύδιον Μίλωνα, γει|τονία Ἀμύντα καὶ Ὀνησᾶ. Ἐπὶ | ἱερέως Ἀλεξάνδρου Μοῦρ|κου.

⁴¹ (Pringsheim 1950): *P. Col. Zen.* 54, 55 (250 BC); *P. Mich. Zen.* 66 (245/244 BC); *P. Petr.* 1, 16, 2 (230 BC); *P. Ent.* 14.8; 20, 10; 25, 16 (222-1 BC); *P. Cair. Zen.* 59651, 16-18 (3rd c BC).

⁴² Eg. ND 83, where the two verbs (ἐκολάσθη καὶ ἐξομολογή-) are found in proximity. For ὁμολογέω used in contracts to acknowledge receipt there are many examples in papyri, such as *P.Tebt.* 104 (92 BC), *PHib* 1.97.5 (3rd c BC); *CPR* 229.3 (3rd c AD), and eg.: *Dem Or.* 56.1: λαβὼν γὰρ ἀργύριον φανερόν καὶ ὁμολογούμενον.

found, in Ovid in particular, with the verb *mereor*.⁴³ In addition, many of the *stelai* concern purity infractions which seem to have involved behaviour which transgressed sanctuary rules, as if the breaking of a contract of behaviour.⁴⁴ We do not know whether the specific sanctuaries of the confession *stelai* required declared commitment to a contract to abide by religious regulations, but a *lex sacra* from Philadelphia in Lydia, where confession *stelai* have been found, suggests that the requirement to declare fidelity to such contracts of behaviour could be expected in this region.⁴⁵ In this case, confession may have had the force of acknowledging a broken contract, just as it had in civil law. If we count purity transgressions as contractual infractions, then the vast majority of all the transgressions of the *stelai* concern delicts of a civil law nature. In the whole corpus, there is only one example of the term confess/confession not able to be interpreted in the same way as ὁμολογέω in legal contexts: when the father of ND 85 is said to have been ‘confessing the powers of the gods’. But this too, being confession of a positive characteristic of another, is a usage found in wider Greco-Roman society.⁴⁶ The others may be seen as avowing a future financial obligation, settling a dispute or contract, acknowledging receipt of punishment, or undertaking a contract. Indeed, the only use of the noun ὁμολογία in the Petzl corpus seems to have a sense not of confession of wrongdoing but of ‘agreement’ or ‘contract’: a dedicant [ὁμο]λογίαν ἡμά-/[ρησεν]: they erred concerning an agreement.⁴⁷ All this does not make the confession of the *stelai* any less ‘religious’ but it

⁴³ This is shared in Latin uses of confession associated with the word *mereor*, where declarations of having deserved punishment are prominent: p.70.

⁴⁴ Eg. Petzl 1, 123 (eating); 6, 19, 36, 43, 55, 72, 107, 112, 115, 116, 120, ND 83 (entering a sanctuary in state of impurity).

⁴⁵ (Paz de Hoz 2017). This inscription (TAM V 3 1539) shows that individuals – “men, women, free persons and slaves” - were required to swear that they would follow the norms written up on the stele, erected near the image or altar of Agdistis, when they entered the association or cult enclosure; there was an *imprecatio* against them if they did not. They also had to declare that they were observers of these rules, on the occasions of the yearly and monthly festivals, whilst touching the stele itself, so that those who had not obeyed the rules would ‘become manifest’.

⁴⁶ See p.63.

⁴⁷ Petzl 118 ll.7-8.

certainly encourages us to remove modern glasses and observe the phenomenon through a more contemporary lens.

Consequently, these observations affect how we might interpret the nature of the ‘confessional ritual’ itself. Rather than denoting a centuries-old arcane religious ritual, the confession verbs in the *stelai* might justifiably be interpreted as ‘agreed to the charge’, ‘acknowledged receipt of punishment’ or ‘agreed to financial liability’ with much the same semantic charge as in a secular legal context.⁴⁸ As such, the spectre of confession as an un-Greco-Roman remnant of Hittite religion dissolves as instantaneously as the eyes of perjurers who dared to dip in the pool of oath-guarding Zeus near Tyana.⁴⁹ Whilst there has been debate about the suitability of the term “confession” to describe the *stelai*, the points outlined above have never been cited as reasons to discard it, although they would further the arguments of those who disagree with its suitability.⁵⁰ These do urge reflection on the term and caution around extrapolation from it, but there are significant grounds to keep the term. The act of verbalising wrongdoing is a central aspect of the *stelai*, so there is still confession in this sense, and the ὁμολογέω act performed by the dedicants themselves may still be translated as ‘confess’ even though it should connote forensic confession rather than penitential ritual. Therefore an interpretation of ὁμολογέω as having legal connotations need not affect the judgement that confession, in the sense of verbalising specific wrongdoings, is a chief characteristic of the *stelai*. Although Hittite confessions mention perjury and murder as possible offences, it is the confessant’s sinful state which is emphasised above all. Such general sinfulness is hardly foregrounded in the *stelai*, which instead expatiate wrongdoings as if forensic ὁμολογία to the charge put before them. This difference in form of confession is further reason to question the Hittite inheritance theory. Besides, the Hittite evidence is relatively scant and thus of narrow import: it originates from

⁴⁸ Confession as initially oral performance, later written up: (Chaniotis 2009) 135.

⁴⁹ *Contra* (Ricl 1997) 36-7 n.16; Phil. VA. 1.6

⁵⁰ For debate on the term: (Potts 2017) 21 n.1

royal contexts, and no such corpus affords us the chance to explore how other socio-economic groups would have responded to wrongdoing. The question of Hittite derivation will be discussed further in the Epigraphic Chapter. In sum, we must accept the polyvalence of the confessional term and act, rather than discard it all together.

Further Linguistic and Conceptual Echoes

Many parallels have been comprehensively analysed by Shelfer and so require no further comment here, but some carry implications which have been overlooked, and other parallels have gone without note.

Linguistic and conceptual aspects of the corpus evoke contexts associated with *deprecatio* in Roman legal practice. Several inscriptions term the council of the gods a Σύγκλητος, which in this period frequently denoted the Roman Senate, and one refers to the Ζυνᾶτος in direct transliteration.⁵¹ This observation is especially significant in light of the senate's consistent role in Roman legal theory as being an appropriate context for the performance of *deprecatio*.⁵² Shelfer notes that the divine senate acts in relation to the god Men as the Roman Senate does to the emperor "acting as an advising and supporting council" but the parallel thus operates at another level: the senate of the gods, like the terrestrial senate, are the paradigmatic audience for, and actors of, mercy.⁵³ Furthermore, it is important to note that the senate played an intercessory role not only with the emperor but also with the divine.⁵⁴ It was the principal focus

⁵¹ Petzl 5 (AD 235/6) ; ND 85 (AD 205/6)

⁵² p.190

⁵³ (Shelfer 2010) 77. It is profitable, also, to recall Quintilian (*Inst.* 3.10.1) on the difference in remit of various courts: it was in cases brought before the senate (and before the emperor) that a number of different charges might be dealt with at once, whereas in the *quaestiones perpetuae*, only charges within that court's remit could be adjudicated.⁵³ The divine court too dealt with a number of charges at once, necessarily so. Conceptualising it as a senate therefore suited the wide variety of transgressions which it had to judge.

⁵⁴ (Shelfer 2010) 77

of mediation and communication between the people of Rome and the gods.⁵⁵ Therefore the *stelai* also evoke contexts associated with divine intercession in Roman legal custom.

Shelfer also discusses the term παράκλητος, used to describe Zeus in Petzl 5, arguing that it was a *calque* for *advocatus*.⁵⁶ To his examples might be added Appian's use of ἀμαρτόντων παράκλησις, which occurs in the context of Carthaginians' speech of *deprecatio* to the Romans.⁵⁷ The Carthaginians, who confess (ὁμολογοῦμεν), called παράκλησις more appropriate for their sorry situation, contrasting it with ἀμαρτόντων δικαιολογία. As such it seems to be not mere defence, but defence of a sort whereby the defendant is acknowledged as being ἀμαρτων. Given Origen's statement that *utrumque enim significat in graeco paracletus, et consolator, et deprecator*, it seems reasonable to add to Shelfer's definition by seeing a παράκλητος as an advocate who performs *deprecatio* on behalf of someone else.⁵⁸ We thus find another resonance in the *stelai* relevant to *deprecatio*.

In addition, the *stelai* evoke contexts of confession of slaves to the *paterfamilias*, which was feature of domestic jurisdiction in the Roman world. The verb κολάζειν appears in over half of the inscriptions of the corpus.⁵⁹ Whilst this verb can be found in local epigraphy denoting the punishment imposed by Roman judicial authorities, it particularly connoted the punishment exercised by the head of the family on his dependents, especially on slaves.⁶⁰ We saw above that the confessions of slaves to the *paterfamilias*, also in contexts of torture, was embedded in Roman socio-legal culture, so once again we find conceptual structures surrounding the confession of the *stelai* which mirror the structural contexts of confession in wider society.

⁵⁵ (Beard 1990) 33.

⁵⁶ (Shelfer 2010)

⁵⁷ App. VIII. 51

⁵⁸ Origen, *De Principiis* 2.7.4.

⁵⁹ (Shelfer 2010) 96-7.

⁶⁰ (Mactoux 1986) 37; (Gernet 1917) 118-9.

There are further echoes of Roman legal culture. In Petzl 67, the dedicator of a statue of Men declares that he did so having been ‘put in a yoke’ by Men.⁶¹ Most commentators have taken this as a metaphor for the incapacitation of his punishment, but the yoke had long played a role in Roman law. Livy has Horatius’ father ask the Romans if they can envisage his hero son *sub furca vinctum inter verbera et cruciatus*.⁶² Although acquitted, Horatius had murdered someone in broad daylight. It was deemed that such a crime needed expiation so the father was commanded to make atonement for his son at the cost of the state. He offered expiatory sacrifices and erected a beam across the street, making his son pass under it ‘as under a yoke’ with his head covered.⁶³ The *passum sub iugum* thus constituted more than mere humiliation; it was expiatory. It was also associated with confession: in Livy, after the defeat of the Romans at Caudine forks, it is suggested that the Romans pass under the yoke because they are incapable of admitting (*fateri*) defeat, as if it acted as a confessional proxy.⁶⁴ When the evidence is juxtaposed in this way the world of Roman criminality and the allegedly isolated world of inland Anatolia come closer together. In light of the other allusions to Roman law, this parallel seems yet again suggestive of a shared socio-legal thought-world.

Furthermore, there is rhetorical overlap between some *stelai* and Roman legal documents such as petitions and court records, noted by Shelfer, but a particular comparison is illuminating.⁶⁵ Shelfer discusses Petzl 5, noting references to a divine senate, to παράκλητος, and to a πλετώριον; its strategy of offering mitigating circumstances; and its frequent changes of voice, which previous scholars have seen as constituting a purposeful allusion to a record of trial.⁶⁶

⁶¹ 1. 3.

⁶² Livy 1.26.10.5

⁶³ Livy 1.26 end.

⁶⁴ Livy 9.4.3

⁶⁵ (Shelfer 2010) 75 and ch. 4.

⁶⁶ (Chaniotis 1997) 357; (Chaniotis 2004) 27.

The Dmeir inscription's epigraphic court minutes, of a trial presided over by Caracalla himself, offers a parallel.⁶⁷ Recorded on the ante and podium of a temple in Dmeir, Syria, and dating to AD 216 it precedes Petzl 5 by around 20 years. The two advocates apparently provided from Caracalla's retinue – Egnatius Iulianus and Lollianus Aristaenetus – were not local; both had connections to Anatolia. The former became a consul and was proconsul of Asia three consecutive times in the mid third century, and the later was likely from Byzantium and may have been governor of Bithynia and Pontus.⁶⁸ Whereas the extant parts of the Dmeir inscription record the debate of the advocates, pre-sentencing, Petzl 5 records the god's post-condemnation judgement on Theodorus, his wrongdoings, and the penalty paid for each of them. But the similarities are worthy of note: like Petzl 5, the inscription records the changes of voices to denote different speakers. The presentation of Caracalla is similar to that of the divine, and flattery serves similarly as a tool of persuasion: Lollianus argues that the peasants whom he is representing are confident because the contest is a matter of piety and he is 'the most pious emperor and judge'.⁶⁹ The peasants, as Lollianus presents them, have a humble plea (δέησις) and supplicate the emperor. A significant parallel might be found in Lollianus explicitly stating the adversary's 'first wrongdoing': τοῦτο πρῶτον ἀδίκημα.⁷⁰ For Theodorus, similarly, we are told of his first (and second, and third) ἁμαρτία. Furthermore, Lollianus seems to go on to describe other wrongdoings, before the text breaks off: we hear of someone who has proclaimed themselves a priest of Zeus, enjoys exemption from liturgies, wears the golden crown, and holds a sceptre. Sceptres and crowns feature prominently in the *stelai*; the erection of which would signify the beginnings of the trial procedure, and accompanying reliefs depict priests holding sceptres and crowns.⁷¹ Like Men, Caracalla's judgement was supreme, he was

1997 357 and 2004 27.

⁶⁷ *SEG* 17. 759

⁶⁸ *PIR*² E 36; (Haensch 2006); (Drew-Bear, Taşlıalan, and Christol 2003); Philostr. VS 2.11.

⁶⁹ ll. 36-7

⁷⁰ l.41

⁷¹ (Chaniotis 2009) 124 (on sceptres); Petzl 11 (AD 263/4), 12 (AD 253/4), 3 (AD 164/5).

above the law and his actions were discretionary, but equally he was biddable.⁷² In sum, aspects of this trial presided over by Caracalla himself, at the epicentre of Roman law, find echoes in Theodorus' account of divine judgement at the hands of a merciful (εἰλεος) Men. The world of Roman law found in the *stelai* is not a reflection of a local variant of it, but something with purchase across a span of Roman territory.

It is clear from Shelfer's work that gods would sometimes be conceptualised as if imperial adjudicating officials, and relating to this we can note additional points of correspondence. Similar to the way in which petitions had to grab the attention of the authorities, there is good reason to see a hierarchy of propitiatory epigraphy in the confession *stelai*.⁷³ In the Dmeir inscription, that particular case was chosen by Caracalla as being worthy of judgement (*suscipere dignatus est*).⁷⁴ Both human and divine judges, it seems, had to have matters brought to their attention, and could not be relied upon to address an unpublicised or unworthy cause. This was another way in which, it seems, the gods were conceptualised as if human judges. Furthermore, as with human judges, showing contempt of divine judges was an egregious wrongdoing and a manifest anxiety in both the *stelai* and legal sources. Many inscriptions end with a warning not to disrespect the gods.⁷⁵ Furthermore, in Petzl 36 Elpis's defiling of Men's podium has shown disdain for the god: κατευτελίσασα Μῆνα.⁷⁶ Ulpian, according to the Digest, stated that keeping silent was to *contemnere* the praetor.⁷⁷ The association of vocalisation – that is, confession – and the avoidance of *contemnere* appears to be significant. Confession is one of many strategies of contempt-avoidance evident in the *stelai*.

⁷² (Stolte 2003)

⁷³ (Potts 2017) 29-31

⁷⁴ l. 5

⁷⁵ Eg. Petzl 7; 106; 111; 112; 120; 121; 27; NRT 188.

⁷⁶ cf. *non temnere divos*: *Aen.* 6.620

⁷⁷ *Dig.* 11. 1. 11. 4.

We saw above that one of the main ways in which confessions appear in the record of Roman criminal law is through being the act of the *index*: someone who divulged privileged knowledge about a crime.⁷⁸ Similarly, in the confession *stelai*, there is concern around merely knowing about a crime. In Petzl 35, for example, we find the verb ἐπιβουλεύειν, where it refers to the act of plotting something secret against the orphans who are the dedicators of the *stela*. In this case, the orphans reveal the plot of conspirators. The same verb also occurs in a *lex sacra* from Lydia, where accomplices (συμβουλεύειν) are considered offenders together and anyone who is aware of the offences (συνιστορεῖν) must bring them to light (ἐμφανιεῖν, μὴ παρασιωπήσειν).⁷⁹ Having knowledge of an offence (συνείδησις) is also mentioned as transgression in Petzl 69 and 107 and ignorance is appealed to as an extenuating circumstance.⁸⁰ Confession in the sense of avowing a wrongdoing is - in the *stelai* as in Roman law – something that might be performed by someone revealing an otherwise secret plot.

In constituting the confessions of those who merely knew about a crime, and also in being the words not of the transgressor themselves but their relatives, the confessions of the *stelai*, just as in Roman law, might be performed by those other than the actor of the transgressive deed: people who were not the culprits could be behind the confessional act.⁸¹ Petzl 34, for example, makes it clear that Hermogenes has been responsible for transgressing, yet the *stela* was set up by a number of named individuals and their children who were likely his family. The *stelai* and Roman law both correspond with regard to vicarious confession.

⁷⁸ See p.192ff.

⁷⁹ (Paz de Hoz 2017) 99. ll. 19, 21–22, 24–25, 27–31

⁸⁰ On ignorance as extenuating circumstance: (Shelfer 2010) 169-72; (Paz de Hoz 2017) 101

⁸¹ Eg. *Dig.* 9.2.25.1: *si procurator aut tutor aut curator aut quivis alius confiteatur aut absentem vulnerasse, confessoria in eos utilis actio danda est; Dig.* 11.1.20

Cheirographic dispositivity: tablets, ὁμολογία and writing wrongdoing.

Significant parallels operate with regard to the culture of written wrongdoing in Roman legal contexts. Shelfer posits the plausible suggestion that the τάβλαι of Petzl 36 is a transliteration of the Latin *tabulae*.⁸² If so, it would be further evidence that written tablets were part of this world, and may have constituted the formal way in which judicial proceedings were instigated in the first place.⁸³ Riel convincingly imagines many such written documents hanging on the walls of the temples.⁸⁴ We have already seen above that the *tabula* was the medium for the Roman *stipulatio*, which involved literal *homologia*, a question and answer involving the same word, and for records of legal confessional acts themselves. As in the world of the *stipulatio*, we find that oral declaration of agreements (ὁμολογία) were also behind the *stelai*. Petzl 79 makes a point of recording that Tatia lent money whilst saying “I lend to...” (δανίζω). That her statement is quoted reflects the importance of the oral agreement, the formality of the words spoken, that was the basis for contract law in the Roman world. Many papyri contain similar records of ὁμολογία.⁸⁵ The verbal declaration of Ammias is likewise recorded, though fragmentary, in Petzl 95: it states that she swore (ὄμοσε) that “I now... because not with my own awareness...”.⁸⁶ Just like many legal documents of the Roman world, of various media, the *stelai* served to record oral statements made in contexts of negotiation. There is also the sense that the inscriptions are themselves dispositive, recording transfers of property as if, ontologically, legal acts themselves.⁸⁷ Indeed the jurist Paul indicates that forensic confession

⁸² (Shelfer 2010) 141

⁸³ The πιττάκιον of Petzl 60 has been seen as a petition, curse tablet or prayer for justice; in Egypt a πιττάκιον could be any sort of legal note: (Shelfer 2010) 134-42.

⁸⁴ (Riel 2002) 101.

⁸⁵ Eg. A long list in P. Mich. 2.121 (AD 42)

⁸⁶ ll. 6-9

⁸⁷ On dispositive documents: (Meyer 2004) 18. Eg. Petzl 71: Ἀπολλώνιος Ἀπολλω|νίου μεγαλορημονήσα|ς Μῆνα Ἀξιετηγόν| καὶ | ἐκολάσθη. Ἐκέλευσεν | αὐτοῦ τοῖς ἰδίοις ἀναστ[ῆ-]|σαι τὸν θεὸν Μῆνα Τιανο[υ]- | καὶ τὴν Ἀναειτιν. Παρελκύ|σαντος δὲ αὐτοῦ χρόνον | καὶ μὴ ἀποδιδόντος αὐτοῦ | τὰ μέρη ἐκολάσετο τὴν Ἀπιφίαν, ἵνα στηλογραφῆσει κ[α]|ἰ τὰ μέρη παραδώσει. καὶ νῦν ἀ|ποδίδει τὸ μέρος τῶν ἀνπέ|λων ἐπὶ ταῖς Παγάσι, ἅς ἐμέρ[ι]|σε τόπος Κλαύδιον Μίλωνα, γει|τονία Ἀμύντα καὶ Ὀνησᾶ...

was not only a speech act, but could be done also with writings in Roman courts: *confiteri quis in iudicio non tantum sua voce, sed litteris et quocumque modo potest...*⁸⁸ As such confession in the form of written record firmly belonged to the nexus of Roman law, as well as to the *stelai*.

In an anecdote of Diogenes Laertius we hear of the Cynic philosopher Crates provoking Nicodromos the citharode into giving him a black eye; Crates then put a *πιττάκιον* on his forehead on which it was written ‘Nicodromos did this’.⁸⁹ But the joke was not about the act of writing up the wrongdoing, which was an uncomedic practice found in wider Roman society. We saw earlier that, after the conspiracy of Murena and Caepio in 22 BC, Caepio’s father led a slave who had betrayed his son “through the middle of the forum *with a notice proclaiming the reason why he was to be executed*” before crucifying him.⁹⁰ Similarly, Suetonius tells us that a slave who had stolen a strip of silver from couches was handed over by Caligula to the executioners ‘with orders that his hands be cut off and hung from his neck upon his breast, and that he then be led about among the guests, *preceded by a placard giving the reason for his punishment*’.⁹¹ The INRI placard of Christ is the most famous of such a written statement of criminality.⁹² In these examples, there is no sense of electivity about the written declaration; these were statements forced upon the condemned. At first sight this might seem to be a discrepancy with the Anatolian corpus. The *stelai*, however, were in fact also unelective in the sense that they often specify being the result of a command to *stelographein*. It is also true, nevertheless, that the dedicants of the *stelai* appear to have greater autonomy in writing up their wrongdoings; they themselves seem to be behind their composition.⁹³ The chirographic nature

⁸⁸ P.S. 5, 5 a, 3 :

⁸⁹ Diog. Laert. 6.89; (Shelfer 2010) 139.

⁹⁰ Dio Cass. 54.3.5

⁹¹ Suet. *Cal.* 32

⁹² Matthew 27:37; Mark 15:26; Luke 23:38; John 19:19.

⁹³ See p.103 n.19. Command to *stelographein*: eg. Petzl 3, 14, 33, 35, 37-9, 47, 55, 69.

of many of them – that is, the use of the first person – echoes chirographic Roman legal documents in which the individual behind the act voluntarily records the act even if the circumstances were thrust upon them.⁹⁴ In fact, it need not always suggest that the subject of the ‘I’ declaration was operating with full autonomy as, after all, the reasons for punishment of Caepio’s and Caligula’s slaves may have been written as a first-person statements, although we cannot be sure. We even know about the records of verbal confessions being written up and disseminated not only throughout Italy but also to the provinces in the case of Cicero’s Catilinarian trial.⁹⁵ Whether the confessions of the *stelai* were fully elective or not, the sight of wrongdoings written up for public spectacle was very much part of the Roman landscape, even if it now leaves little trace. Where graffiti is preserved, we find accusation written even on public walls of the town, such as, from Pompeii: “Lucius Staius Philadelphus, freedman of Gaia, is a thief”.⁹⁶ The written confessions of the *stelai* constituted self-accusations, which the dedicants agreed to and assumed for themselves, in a similar way to the criminal on whom the written statement of crime was thrust.

A particularly illuminating comparison can be made with the petition from Skaptopara, Thrace, to Gordian III in AD 238.⁹⁷ Shelfer noted that the *stelai* resemble imperial petitions, but this petition offers especial parallel: it reveals that the petitioners hoped the emperor would *order* the writing up of his θεῖα γράμματα so that they could confess their gratitude (χάριν ὁμολογεῖν) to his Genius. This is an important parallel, which Shelfer overlooks.⁹⁸ It shows that, as the gods in the *stelai*, the emperor would give an order for his divine writing to be ‘written up on

⁹⁴ On chirograph-style documents: (Meyer 2004) 133, 140, 148, 151-2, 159, 208.

⁹⁵ Cic. *Sull.* 40-44

⁹⁶ *CIL* IV.3990

⁹⁷ *SIG*³ II 888: (Hauken 1998) 74-139.

⁹⁸ Despite using it as an example of petitioners failing to receive address for the abuses of soldiers, as in Lydian petitions: (Shelfer 2010) 144.

a *stele* and set up in public’ (ἐν στήλῃ ἀναγραφέντα δημοσία προφανεῖσθαι).⁹⁹ This also implies that the writing up of a *stele* was a way to express thanks, as in the sense of ‘confess thanks’ found in the Psalms and beyond; the entire act of *stelographein* was χάριν ὁμολογεῖν.¹⁰⁰ The *stelai* suggest that their having been written up constituted a similar expression of gratitude to the divine, expressed most explicitly by χάρις and εὐλογία/εὐλογέω terms.¹⁰¹ This raises the possibility, then, that ὁμολογέω/ἔξομολογέομαι, might also signify ‘express thanks’ so that when, for example, Sophron writes ἔξομολογησάμενος εἰστηλογράφησα it carries a sense of gratitude, and need not exclusively connote the confession of sins which has been imputed to the corpus as a whole.¹⁰² The fact that the petitioners took care to stipulate that they would display the record *publicly* is telling also, paralleling the public nature of the *stelai* and the concern, revealed by their rhetoric, for wide readership.

The *stelai* stood prominently in sanctuary grounds, and functioned on the assumption that they would be seen widely: some even offer warnings to others.¹⁰³ Public display of the condemned was also a feature of Roman law. In the case of debtors, the Twelve Tables stipulated that the confessed would be exhibited in the public market place for three days, with the amount that they were liable for declared publicly.¹⁰⁴ Moreover, it was customary for the accused *reus* to go about in an unkempt state with dishevelled hair and clothes: Suetonius describes how Augustus dealt with a congested criminal roll by striking off the names of long-time defendants ‘from whose humiliation nothing was to be gained except the gratification of their enemies’.¹⁰⁵

⁹⁹ II.101-106.

¹⁰⁰ Not confined to Judeo-Christian tradition: Lucian, *pro lapsu inter salutandum* 15: χάριν δὲ ὁμολογῶ τοῖς θεοῖς.

¹⁰¹ Eg. Petzl 58 (χάριν ἔδοκαν); 102 (χάριν). Petzl 10: εὐχαριστῶν ἀνέθηκεν, with similar expression in Petzl 12 (εὐχαριστοῦσα στήλῃν ἀνέθηκα), 21 (εὐχαριστῶν ἀνέθηκεν), 22 (εὐχαριστοῦντες ἀνέθηκαν), 94 and 114 (εὐχαριστοῦσα ἀνέθηκα). For other uses of εὐχαριστέω: Petzl 11, 17, 19, 38, 58, 73-4, 122, 4. For εὐλογία/εὐλογέω: Petzl 16, 20, 33, 34, 36, 37, 44, 54, 62-4, 68-9, 80, 96-7, 101, 43, 118.

¹⁰² Petzl 109 II.11-12.

¹⁰³ Eg. Öztürk and Tanrıver n.2; Petzl 27, 106, 111, 112, 120, 121.

¹⁰⁴ *XII Tab.* 3.5.

¹⁰⁵ Suet. *Aug.* 32.2

Cicero famously describes wearing the garb of the *reus* and being an object of public spectacle when he is accused by Clodius, and friends of the accused might also partake in change of appearance; Plutarch describes Cicero's supporters who do this as συνικετεύοντες.¹⁰⁶

Cognitive Frameworks

There are also identifiable overlaps with regard to cognitive frameworks. We saw above that confession in Roman legal contexts would be offered as a promised action *if* the defendant were condemned.¹⁰⁷ The same logical framework seems to operate behind the confession of the *stelai*. We have no evidence of any *stelai* being erected in anticipation of punishment. Indeed, a large proportion explicitly state that the stelographic action was happening after having been punished, and many of those that do not state it verbally allude to a punished body part in their choice of image.¹⁰⁸ In this sense the dedicants of the *stelai* have already been condemned by the time that they confess their wrongdoing explicitly or by erecting a *stela*.

Furthermore, transgression constituting debt is a feature of overlap. The dedication of a *stela* constituted a financial penalty. Thus, in a world which expected *stelai* in return for wrongdoing, the act of confessing to a wrongdoing in this way was tantamount to confessing to liability for a debt. This finds a strong echo in the function of confession in Roman civil law, where confession is most often discussed in cases of debt and where it was tantamount to acknowledging financial liability.

¹⁰⁶ Plut. *Cic.* 31.1. Also: Q. Metellus Celer: “*in luctu et squalore sum*” in response to his brother's accusation (*Ad Fam.* 1.1).

¹⁰⁷ See p.263.

¹⁰⁸ (Potts 2017) 24-9.

Beyond specifically *legal* thought, there is overlap with concepts of divine justice held by those in Rome, such as the ideas of inherited sin and divine omniscience. In *De Natura Deorum*, for example, Cotta (Cicero's *porte-parole*) mocks the idea that even if a person escapes divine punishment by dying, the punishment will be visited upon his children, their grandchildren and their descendants.¹⁰⁹ This is a view attributed his interlocutor Balbus, the advocate for Stoicism. The very fact that Cicero/Cotta takes time to dismiss this suggests that it was an argument taken seriously by some. The same idea occurs in the *stelai*: Petzl 6 (AD 238/9), for example, takes care to specify that they have appeased the gods to the time of their children's children and their grandchildren's children.¹¹⁰ This therefore need not be explained by Jewish cultural transfer.¹¹¹ It may not be a tenant in Roman law, but it is nevertheless a feature of the way in which some in the Roman world conceived of divine justice. In the same passage, Cotta, following Balbus, juxtaposes the human and the divine judge by saying that, as the latter cannot possibly be ignorant of wrongdoing, the gods would be culpable if they left transgression unpunished. The human judge, on the other hand, can be forgiven if they fail to condemn the guilty as they have no means of knowing everything. This idea that the gods were omniscient about wrongdoings committed, suggested also by the confession *stelai*, reveals the expectation that the gods were on trial themselves, with consequential theodical anxiety: human demonstration of divine power was important for allaying the charges that the likes of Cotta might propose.¹¹² Without the idea of omniscience, the divine would not be so exposed, and they therefore would not have required such justificatory rhetoric.

¹⁰⁹ Cic *Nat. D.* 3.90. While this idea occurs in Greek tragedy and literature, Cicero's discussion of it here suggests it was considered as a serious theological proposition: cf. 3.91.

¹¹⁰ cf. Petzl 41; 9.

¹¹¹ (Chaniotis 2009) 144; Eg. Exodos 34: 6-7.

¹¹² Eg. ND 51 describes Men as κρ[ι]- τῆς ἀλάθητος ἐν οὐρανῶ.

Chronological Convergence

Change over time is not considered in Shelfer's thesis, but it may be significant that the quantity of surviving confession inscriptions peaks around the turn of the 3rd century, when Roman legal activity in Asia Minor, and the direct involvement of governors and other imperial officials in civic life, appears more prominently than ever before.¹¹³ Under Septimius Severus, there seems to have been increased involvement of the state across the Empire, and in Asia specifically large confiscations of land took place which increased imperial property and thus also the degree of the central government's control over the region.¹¹⁴ Also from the early third century onwards, imperial officials become increasingly present in high numbers in the province.¹¹⁵ Interestingly, most known petitions to emperors by provincials complaining of local maltreatment by landlords, soldiers, or imperial personnel cluster roughly in the period 181–249, as the *stelai* do.¹¹⁶ This chronological correspondence is most probably down to the patterns in epigraphic habit and increasing exploitation of the quarries from the mid second century onwards, but the fact that legal and confessional epigraphic rhetoric are in step shows that the confession *stelai* followed wider trends, rather than existing in isolation.¹¹⁷ Although some of the *stelai* that show the closest verbal echoes with Roman law date to the period of post-Severan intensity (such as Petzl 5) those *stelai* which reveal parallels with Roman law are not confined to this period: scenarios of debt and perjury are found early in the corpus, as is the penalty for not confessing. Overall, then, we cannot conclude that there was a particular point in time at which the *stelai* became more influenced by Roman law than previously. The

¹¹³ Although, already by Cicero's day the governor's duty in Asia consisted entirely in jurisdiction: Cic. QFr. 1.1.20. For third century shift: (Zuiderhoek 2009) 40.

¹¹⁴ (Zuiderhoek 2009) 45-6.

¹¹⁵ (Mitchell 1993) 232.

¹¹⁶ (Zuiderhoek 2009) 49 n 41.

¹¹⁷ (Potts 2017) 33

correlation, then, is one of production, and is suggestive of a common context of epigraphic creation.

Beyond Asia Minor: divine justice confessions and Roman law

The evidence for confession other than the epigraphic – whether literary echoes of ‘oriental cult’ confession long known to scholarship or examples newly presented in this thesis – share a number of the above parallels with both Roman law and the *stelai*: conceptualising gods as judges, the importance of public display, and cognitive frameworks, find parallels in literary evidence also. We shall now turn to elucidating these aspects with regard to other divine justice type confessions, and consequently will find further ways in which the *stelai* echo Roman law. Divine justice type confessions from across the Mediterranean appear to share a uniform cognitive framework and one which, in turn, has much in common with Roman legal practice and thought.

There are identifiable overlaps with regard to cognitive frameworks. Like confession in Roman law, the *stelai* and divine-justice confessions indicate that an awareness of having done wrong was not a prerequisite of confession. Individuals might confess *despite* being unable to comprehend the causes of their current suffering. Following the death of his step-son, Statius sought to understand what he had done wrong to merit such a punishment, pleading with the Muses to allow him to confess the wrongdoing.¹¹⁸ Similarly, many dedicators of the *stelai* betray their lack of ability to independently comprehend causality. Some *stelai* explicitly speak of “known and unknown” faults. The dedicator of Petzl 11 declares that they were “punished

¹¹⁸ Stat. *Silv.* 5.5.3

for an unknown fault”, and those of Petzl 38 inquired about known and unknown wrongs (ἐξ εἰδότην καὶ μὴ εἰδότην) which the native gods revealed to them through an ἄγγελος of Men.¹¹⁹ This demonstrates the extent to which confession in some instances was a technology of reconciliation more than it was a matter of revealing a concealed truth.

Likewise in Roman law and wider Greco-Roman society, we see that confession need not have borne any relationship to consciousness of responsibility. We saw above that mechanisms in Roman law facilitated confessions which were not borne from a sense of culpability. These false confessions, as we might term them, were fostered not only by the practice of torture (both pre- and post-sentencing) but also by penalties for denial in civil law. The fear that Arnold implies was particularly acute among the dedicants of the *stelai*, and so a reason why they would have been glad to meet the Christian message, was undoubtedly felt just as acutely by those having to face the vagaries of Roman justice.¹²⁰ The Digest reveals a great deal of concern for false confession.¹²¹ In wider society too, we find echoes of confessions operating more for the appeasement of the offended party, than as revelations of truth about culpability. For example, in the case of Ovid’s Claudia Quinta, who offers to confess *if* condemned by Magna Mater, she is unaware of being unchaste, but is willing to admit it nonetheless.¹²² The idea can be found in Hellenistic poetry also. To appease his jealous mistress, a slave in Herodas’ Mimiamb 5 confesses despite his known innocence, and, happily for us, is explicit about his design:

ΓΑΣΤΡΩΝ
Βίτιννα, ἄφες μοι τὴν ἁμαρτίην ταύτην
ἄνθρωπός εἰμι, ἥμαρτον...

¹¹⁹ Petzl 51 and 53 mention payment of a ransom for “known and unknown sins” also.

¹²⁰ (Arnold 2005a) 440: “They had lived every single day of their lives fearing the consequences of sinning against their gods. Paul’s gospel would have been news of extraordinary and incredible freedom.”

¹²¹ Eg. *Dig.* 48.18.1.27; 11.1.13; 42. 2. 4.

¹²² *Ov. Fast.* 4.321

...
ἀποκτενεῖς, Βίτιννα, μ' οὐδ' ἐλέγξασα
εἴτ' ἔστ' ἀληθέα πρῶτον εἶτε καὶ ψευδέα;

BITINNA
ἃ δ' αὐτὸς εἶπας ἄπι τῇ ἰδίῃ γλάσῃ
'Βίτινν', ἄφες μοι τὴν ἀμαρτίην ταύτην';

ΓΑΣΤΡΩΝ
τὴν σευ χολὴν γὰρ ἤθελον κατασβέσσαι.¹²³

This is a comedic scene, but nonetheless it is an example of the way in which confession might bear little relation to the revelation of known truth, whether to the gods, to a master, or to a Roman magistrate.

The examples just quoted also reveal the way in which confessions might be delivered in response to judgement. Claudia Quinta declares that she will confess to have deserved the punishment *if* Magna Mater condemns her (268*pons damnas...*); Statius begs the muses to allow the confession of wrongdoing *post poenam*.¹²⁴ Confession in some Roman legal cases and in the *stelai*, as we saw above, would similarly be delivered only following condemnation. This finds echoes also in confessions of literature, such as when Terence's character Pamphilus confesses his love of Glycerium to his father: *si id peccarest, fateor / tibi, pater, me dedo*.¹²⁵ 'Ifs' played a prominent role in speech acts of Roman law. It was the way in which the *formulae* at the heart of the formulary system were expressed: 'if x was committed, then...'.¹²⁶ The newly Isis-worshipping Lucius of Apuleius' *Metamorphoses* 11 addresses the goddess and betrays his ignorance of the reason for his previous suffering in declaring: *ac si quod offensum numen inexorabili me saevitia premit, mori saltem liceat, si non licet vivere*.¹²⁷ Furthermore, when the

¹²³ Herod. *Mim.* 5.26-39

¹²⁴ Ov. *Fast.* 4.321; Stat. *Silv.* 5.5.3.

¹²⁵ Ter. *An.* 898

¹²⁶ A typical one being: "Let Titius be *iudex*. If it appears that N.N. ought to pay 10'000 HS to A.A. let the *iudex* condemn N.N. to pay 10'000 HS to A.A. If it does not so appear let the *iudex* absolve him": Gai. *Inst.* 4.39-43; (Galsterer 1996) 398.

¹²⁷ Apul. *Met.* 11.2

defeated Carthaginians address their *deprecatio* to the Romans, according to Appian, they begin with what to us seems an unnatural hypothetical: Εἰ δὲ καὶ ὥς ἀδικεῖν ὑμῖν δοκοῦμεν, οὐκ ἀτυχεῖν, ὁμολογοῦμεν....¹²⁸ If the Romans judge them to have done wrong, then they confess. This was a clever rhetorical ploy which enabled the defendant to show submissive and appeasing behaviour, whilst at the same time leaving open the possibility for exculpation; this example encourages the Romans to think that the Carthaginian's fortune might, after all, be a case of ἀτυχεῖν without guilt. Although this 'if' is jarring to a modern ear, it seems to have been a way of framing confessional behaviour which kept a degree of power in the defendant's hands, whilst leaving the burden of judgement as the key confessional determinant. Once again we see confession functioning as a strategy of defence more than an exposure of truth.

Qui s'accuse, s'excuse

Furthermore, the ways in which the *stelai* displayed liability-mitigating strategies similar to those advised in Roman law can also be seen in these examples.¹²⁹ By letting confession be dependent above all on external judgement, and by suggesting lack of awareness of the wrongdoing itself, the liability of the defendant is diminished. The avowal is devoid of a sense of culpability independent of what is decided by external adjudication. So just like the dedicants of the *stelai*, and the imagined defendant in Roman law, advised in their *deprecatio* approach by the handbooks to focus on positive qualities and defence, acknowledgement of full moral culpability is absent. Instead, a strategy of defence is foregrounded.

¹²⁸ App. 8. 51

¹²⁹ For mitigation of liability in the *stelai*: (Shelfer 2010) ch.5.

Another strategy of defence in Roman law, we are told, lay in emphasising the fact that penalty had already been paid.¹³⁰ Human judges might be moved to mercy if it was established that the defendant had already suffered enough. This point is missed by Shelfer, but it may explain the heavy rhetorical emphasis on declaring punishment in the *stelai*. Some *stelai* included in the *corpus* are solely declarations of having been punished.¹³¹ The highlighting of punishment already suffered is prominent also in literary divine-justice confessions. One of Ovid's confessants is *privatus lumine*; the attendant of the serpent-god in Aelian is made insane before confessing; as a result of Semiramis' hubris, according to Lucian, a plague is inflicted on her people before she confesses; and the *galli* of Apuleius include self-laceration in their penitential ritual along with confession, as if to anticipate a worse divine one: *iustas poenas noxii facinoris ipse de se suis 270ponsio exposcere*.¹³² Although the rhetorical strategy of emphasising punishment is less obvious through the filter of literature than it is in the primary evidence of the inscriptions themselves, there is still a sense that the mentioning of having been punished might serve to strengthen the case for mercy.

Conspicuous Confession

Some aspects of divine-justice confessions parallel the way in which the publicly manifest nature of *deprecatio* was an important feature of Roman law and the *stelai*, as explored above. Just as the accused *reus* of Roman law wore their soiled dark garments in supplication and humiliation, so the penitent believer in divine justice, according to Plutarch, wears 'sackcloth and filthy rags' as he confesses 'different sins and errors of his eating this or drinking that, or walking in a path forbidden by his conscience'.¹³³ Moreover, like the judges of imperial trials,

¹³⁰ Quint. *Inst.* 7.4

¹³¹ Eg. Petzl 42, 83.

¹³² Ov. *Pont.* 1.53; Ael. *NA* 11.17; Luc. *Syr. D* 39 end; Apul. *Met.* 8.28.

¹³³ Plut. *Mor.* 168D (= *De Superstitione* 7).

who would be exonerated by the confessions of the accused/condemned, so the gods, as they seem to have been conceived, delighted in the public proclamation of their power through the confessions of the punished transgressors. As Ovid puts it, following his eye-witness account of Isiac confession: *talia caelestes fieri praeconia gaudent / ut sua quid ualeant numina teste probent*.¹³⁴ Just as Cicero had the confessions of the interrogations of the Catiline trial before the senate copied down and disseminated not only throughout Italy but also to every province, the writing up of confessions of the *stelai* was important for justifying the actions of the divine adjudicators.¹³⁵ A number of the sources reflecting divine-justice confession stress the public location of the penitent exclaimers. Plutarch's confessant is sat outside in the street; one of Ovid's Isiac penitents is shouting *media via*.¹³⁶ The confessing *galli* of Apuleius perform their ritual penitence itinerantly, and according to Firmicus Maternus *galli* can be seen (*videre est*) confessing in temples.¹³⁷ All in all, there is a consistent sense that confessions of divine justice owed their potency to their nature as public proclamations, as this is what would satisfy the divine judge. As such the divine was conceptualised as operating with the same concerns as human judges, whose adjudication anxieties we discussed above.

Dealing with Denial

The multi-stage nature of Roman civil litigation must be understood in order to appreciate that disputants would regularly be faced with confessional choices, and also that divine justice could intervene even in civil disputes. The first and least burdensome stage of ascertaining a defendant's guilt was often the act of *iusiurandum*, or the making of a *sponsio*, whereby the

¹³⁴ Ov. *Pont.* 1.55-6

¹³⁵ Cic. *Sull.* 42

¹³⁶ Ov. *Pont.* 1.54; Plut. *Mor.* 168D (= *De Superstitione* 7).

¹³⁷ Apul. *Met.* 8.27-8; Firm. *Mat. Err. prof. rel.* 4.2

accused had an opportunity to confess or deny.¹³⁸ The choice not to confess at this stage meant that, as these acts constituted binding oaths, the offence of perjury would have been committed if they were later condemned in court proceedings. As perjury was the special subject of divine justice, even according to Roman law, the gods were necessarily concerned with the polarities of confession and denial. A trope in the narrating of confession seems to be initial denial followed by confession: this can be seen in both *stelai* and literary evidence.¹³⁹ Petzl 34 and 68 present cases where, disastrously, ‘not confessing’ led to further trouble, and ND 51 explicitly states that Ammion and her daughter, having taken 4 denarii, denied it on oath, so “the god killed”. In the wider Roman world, it seems that initial denial followed by guilt was deemed to strengthen the reliability of the confession in contexts of torture.¹⁴⁰ Initial silence or denial of the Catilinarian conspirators, followed by confession, also appears to reinforce their guilt in the eyes of Cicero.¹⁴¹ In Juvenal Satire 13, a culprit is imagined first to deny having received money lent to him, swearing on a number of divine attributes including, interestingly, a lance of Mars and a spear of Minerva, which recall the sceptres of the *stelai*.¹⁴² He imagines another wrongdoer being initially unconcerned with being made blind by Isis’ angry *sistrum* as long as he could hold onto the money he denied receiving: “*quos abnego nummos*”.¹⁴³ But then Juvenal offers the consolation that, once a deed is committed, the denying culprit is eventually tormented into confessing.¹⁴⁴ Thus, in the ‘if’ confessions we might find reflected a coping mechanism for insecurity arising from the two-stage nature of Roman civil litigation: at the initial, informal stage, the defendant had a lot to lose from outright confession, but also much

¹³⁸ The *Pro Caecina* offers a salient example. Caecina was suing Aebutius in consequence of a *sponsio* made by Aebutius after being challenged by Caecina for failing to comply with a decree of the praetor. If Caecina had succeeded in the action he would have been entitled to damages if Aebutius was condemned, unless the judge specified otherwise.¹³⁸ The action could have been tried without a wager, but according to Gaius 4.163 refusal to take the *sponsio* would have amounted to confession on liability on Aebutius’ part: (Lintott 2008) 74.

¹³⁹ Also, eg. Tac. *Ann.* 15.66-78.

¹⁴⁰ Eg. Sen. *Controv.* 8.1: *non est confessio nisi cum accusator eruit, negat rea, tortor expressit*

¹⁴¹ Cic. *Cat.* 3.10-11; Sall. *Cat.* 47. 2

¹⁴² Juv. *Sat.* 13.76-80

¹⁴³ Juv. *Sat.* 13.94

¹⁴⁴ Juv. *Sat.* 13.221: *cogitque fateri.*

to lose from outright denial, both in the form of penalty or divine vengeance after perjury. The hypothetical statement was a way of navigating this dangerous dilemma. Deferring the commitment to confessional response until after judgement was a way of avoiding self-sabotage whilst avoiding a charge of *contemnere*.

Conclusion

The conceptual barriers which have separated the cultures of the Anatolian inscriptions and of other divine justice confessions from the rest of Greco-Roman society crumble catastrophically when we undertake comparative analysis. One of the consequences of the overlap discussed in this chapter is that the confession *stelai* of Anatolia were not products of an isolated intellectual world nor ought be compartmentalised as “part of the traditional mentality and practice of the local peoples”.¹⁴⁵ This is not to say that *Roman* law specifically is the sole cause of the nature of the *stelai*: the blurring of legal and religious concepts and practices had precedent in Hellenistic Lydia, in Hittite culture and the Near east in general.¹⁴⁶ However, it does seem to be a necessary but not sufficient condition for them taking the form which they did. There is therefore no need to single out the Hittites as the source of concepts of divine justice and reconciliation practices, when they were pervasive in the Roman Mediterranean at large.¹⁴⁷

If we must occupy ourselves with the quest for precedent, it is more appropriate, if unexpected, to look to Cicero rather than the Hittites. For it seems that he was responsible – although he

¹⁴⁵ (Arnold 2005a) 435.

¹⁴⁶ (Shelfer 2010) 46-7 for Lydian tendency to address gods with legal concerns and forms.

¹⁴⁷ *Contra* Riel, who argued that two prayers of the Hittite king Muršiliš II “prove beyond doubt that the contemporary Hittite religion was already familiar with developed conceptions of slow, but inescapable divine revenge for transgressions against gods or men, of inherited sin and its removal by confession and sacrifices”: (Riel 1995) 68.

claims divine inspiration – for first recording verbatim statements in a trial, including confessions, and distributing copies of the records throughout Italy and the provinces.¹⁴⁸ No doubt these would have been publicly displayed confessions, and it is highly likely that such an act on such a scale was unprecedented. This therefore constitutes one of the first politically expedient uses of confession in history. It is confession as a technology of public persuasion, whereby the actions of authority are justified, and an example of the ventriloquism of power.

We cannot conclude that Roman legal ideas were invariably mapped onto the divine in all cases, for often it is impossible to discern the direction of influence between similar concepts. Similarity of language and style between legal and religious acts permeated the Roman Mediterranean.¹⁴⁹ In these cases, we can but identify a shared intellectual world.¹⁵⁰ Certainly, not all aspects of Roman legal thought find echoes in the *stelai*: Cicero through Cotta, for example, mocked the idea that the principle of owed punishments passing from parents to children might ever be a sensible notion to apply in Roman law.¹⁵¹ However, as argued above, some aspects of overlap, such as the *stelai*'s conformity with legal petitions, strongly suggest that in at least some cases Roman socio-legal practice provided the model for human-divine negotiation.

¹⁴⁸ Cic. *Sull.* 40-44; 36. cf. Plut. *Vit. Cat. Min.* 36. On the exceptional nature of this, and regular senatorial minutes not being introduced until 59 BC: (Berry 1996) 217; Suet. *Iul.* 20.1.

¹⁴⁹ (Meyer 2004) ch.3.

¹⁵⁰ The comparison of human and divine pardoners is not merely a modern take: Valerius Maximus imagines Punic envoys to have declared that the clemency of the Roman Senate was equal to the beneficent actions of the divine: Val. Max. V.1.1.

¹⁵¹ Cic *Nat. D.* 3.90. The very fact of his characters' parallelism of human and divine judges, and human and divine regimes of law, shows again that such conceptual juxtaposition had intellectual purchase, even in the Republic. The second book of *De Legibus* shows that it was as important to consider divine law as it was natural law.

Conclusion: Themes, trends and transformation: the maturation of the ‘confessing animal’

Confession in the Greco-Roman world

This thesis claims that two main forms of confession of wrongdoing existed in the Greco-Roman world: divine justice confession and autoscopic confession. Scholarship has sometimes seen a model of direct cultural transfer in operation behind the spread of a confessional practice which was ‘oriental’, but which, in fact, was a product of the Greco-Roman world and is here categorized as ‘divine justice confession’. This thesis proposes that we can apply another model to explain historical change, in which the factors at play are structural: legal and social realities facilitated the practice of this form of confession. Furthermore, we have seen that a second type of confession, originating in the Epicurean philosophical schools of the Hellenistic period, should also be considered part of the history of confession, although traditionally scholars have focused only on the divine justice sort in the attempt to understand religious practice. Autoscopic confession can be more justifiably seen as a result of the transfer of a particular idea, exhorting for the purposes of self-improvement, but here too there is value in a hermeneutic which considers the immediate necessary and sufficient structural conditions which determined its practice. This conclusion will end by outlining, as an elementary foundation upon which further research will have to build, a hermeneutic for understanding why, and in what circumstances, confession of both the divine justice and the autoscopic type were performed. It will also provide a summary account of confession over time.

In addition to outlining the concepts (chapter one) and practices (chapter 2) of confession, this thesis has also sought to redress a tendency in scholarship which views confession as belonging to ‘oriental religions’ which was transferred into Greco-Roman society through the spread of a cult practice (chapter three). We have found that confession did not exist as a monolithic ritual practice in any cult; what determined its practice was the attitude of the individual to the divine and the particular circumstances they faced, not a cult-wide routine ritual. This is why it is problematic to say that ‘confession was practised in the cult of’ a deity. As such, the practice was not the marker of a religious group associated with ‘orientalness’ but it was a response of individuals conditioned by their environment and time. This thesis has also sought to elucidate those conditions of environment and time by examining confession in Roman law, finding that legal and political changes over time, and certain juridical circumstances, produced an environment more conducive to confession as a response to accusation (chapter four). Further exploration of parallels between confession to the divine and in Roman law highlight the extent to which similar cognitive frameworks governed the performances of confession in both ‘religious’ and legal contexts (chapter five). The absence in literary reflections of a sense of alterity or ethnic association of confession further supports the point that, at the time too, confession was not perceived as foreign or ‘un-Greco-Roman’. It might be the act of a ‘superstitious’ person in the eyes of the likes of Plutarch, but it was as much product of the Greco-Roman world as sacrifice. It seems it was not as normative, but the range of evidence which reflects its practice from the Augustan period onwards suggests it was widespread.

Through the lens of confession, we find other aspects of Greco-Roman *mentalités* illuminated. Confession bears closely on related subjects of guilt, forgiveness, and repentance. Despite the starting point and the route of this research differing from that of historians of related matters, what the confessional evidence reveals about the conceptualization of wrongdoing supports the

conclusions of other major studies. David Konstan has shown that forgiveness in the Greek and Roman worlds, even in Judaism and Christianity, did not exist in its more familiar modern form, which developed only recently.¹ Significantly, part of this story is that there was no forgiveness of *wrongdoing*; that which was forgiven was harm or injury, not deliberate moral wrong.² This accords strikingly with the way in which divine justice confession was a technology of anger mitigation and appeasement, not self-inculcation to achieve moral forgiveness. It also concurs with the concept of wrongdoing which has often emerged in this thesis. Wrongdoing confessed tended not to be deliberate.³ We in fact find that the object of the confession was conceived of as a debt which could be nullified, not an injustice to be forgiven. Or, it was conceived of as an injury which had offended. That is why confession in this period is largely not self-inculcation in the sense that it is now understood. The nature of the cognition of ‘wrongdoing’ thus can be seen to determine the nature of confession. In addition, Konstan’s work, like this analysis, demonstrates that Jewish and Christian thought and practice in these matters were not confined to those religions, but they belonged to a cognitive context which was common to different religious identities and was widespread in society at large.

David Lambert argued that the idea of repentance is a development of the Hellenistic period which did not exist at the time of the composition of the Old Testament. The type of ‘*shuv*’ repentance which he identifies in the Bible and describes as ‘cessation of sin’ is an important concept to think with when reviewing the evidence for divine justice confession. In Lambert’s view, what is exteriorized in scenes conventionally thought of as ‘repentance’ is not internal

¹ (Konstan 2010).

² (Konstan 2010) *esp.* 3-4.

³ *cf.* (Konstan 2010) 4: “What turns the harmful effect into a matter of wrongdoing is the deliberateness of the action on the part of the offending party”

repentance but suffering.⁴ He also presents a study of confession which demonstrates its function of “packaging affliction”, of being closer to suffering than to repentance, and in serving to mitigate divine condemnation through self-condemnation.⁵ This is entirely consistent with the apparent nature of divine justice confessions in the Greco-Roman period. Therefore, the evidence presented herein suggests that Lambert’s strictly diachronic reading is overdrawn, a criticism which has been voiced in reviews but without specific *exempla*.⁶ The story of confession shows that, whilst the Hellenistic period was a turning point and an epoch when new concepts surfaced, it did not mark a rupture and new ideas did not simply replace ‘old’ ideas. More continuity is evident than Lambert suggests.

If the frameworks of thought identified by Konstan and Lambert, which can be applied to what we here term divine justice confession, were not concerned with a modern notion of remorse and inner change, or the response to an invitation to a new life, then the distinction between divine justice and autoscopic confession becomes all the more significant because this latter type can be said to be much more about these features: unlike divine justice confession, it concerned the transformation of the self.⁷ Late Antiquity is often seen as a moment heralding a transformation of the self, and Augustine’s *Confessions* is frequently invoked to justify such a claim. Yet the story of autoscopic confession problematizes this picture. Vernant, in reference to the holy man in Late Antiquity, claimed that “a new form of identity takes shape at this moment: it defines the human individual by way of his most intimate thoughts and secret imaginings, nocturnal dreams, sinful drives... Here is the point of departure for what we perceive as the modern self”.⁸ As this thesis has indicated, confession was employed to define

⁴ (Lambert 2018) 15-16.

⁵ (Lambert 2018) 61, 56, 64.

⁶ *eg.* (Kynes 2019)

⁷ (Konstan 2010) 166.

⁸ (Vernant and Zeitlin 1991) 332, citing (Brown 1978) 90ff.

the self in these ways from the Hellenistic period onwards. What might be called the rise of the ‘self’ was not straightforwardly the product of the ruptured world of Late Antiquity.

The story over time

From Aristotle to Augustine

Whilst the limited quantity of surviving evidence precludes the writing of a detailed diachronic narrative, we can nevertheless discern contours in the history of confession over time. Autoscopie confession first appears in the Hellenistic period, most likely with Epicurus himself, so that by the time of the early first century BC it is transmitted as an ideal of Epicurean practice by Philodemus, and perhaps also by other pupils of Zeno of Sidon. We know that Philodemus was associated with senior figures of Roman politics, so it was an idea that could at least in theory permeate elite levels.⁹ In the same period, papyrological evidence shows that ἐξομολογέομαι begins to be employed in legal contexts with a sense of verbally acknowledging something received, and confession to debt. Unlikely to be a Septuagintal invention, as previously suggested, the term and its semantic similarity across papyri and the Septuagint points to a likely widespread, common legal background.¹⁰ This is especially significant in light of the radical change which occurred during the Second Temple period towards a new concept of sin as debt.¹¹ The Hellenistic period and mid-Republic is also when we find a number of examples of confessions by slaves to masters and in contexts of torture in literature, and also by non-servile characters confessing human-to-human in Plautus and Terence.¹² The

⁹ The senator L. Calpurnius Piso Caesoninus (see Cic. *Pis.* 68-72, 74; Asconius ad 68) and the consul C. Vibius Pansa Caetronianus (addressee of fourth book of his *Rhetoric*). See (Castner 1988).

¹⁰ p.33ff.

¹¹ (Anderson 2009) 27ff.

¹² Eg. Herod. *Mim.* 5.26-39.

eponymous self-tormentor of Terence's *Heautontimorumenos* declares *ita res est fateor, peccatum a me maximum est* in regret at banishing his son, and in *Phormio* Chremes's actions in appeasing his wife are: *orat confitetur purgat*.¹³ Aristotle, bookending this period opposite Augustine, explicated the power of this sort of confession to assuage rage, pointing to the example of how masters are appeased when their slaves confess.¹⁴ Specifically and significantly, he elaborates that appeasement is achieved when slaves confess the justice (δικαίως) of their punishment.¹⁵ Divine justice confession evidence found in 'religious' contexts of the Hellenistic period, namely the Epidaurian inscriptions and as wished for by the dedicators of Cnidian curse tablets, as well as inscriptions from ancient South Arabia, appear to have functioned on this basis, by signalling that the punishing actions of the divine were justified. This continued to be a feature of divine justice confessions into the Late Empire.

The Augustan age heralded a turning point in the history of confession. An explosion of confession as well as general discourse about *peccatum* and *culpa* occurs towards the end of the first century BC, which is yet to be fully explained.¹⁶ Ovid, in particular, has both himself and his characters confess to an extent unparalleled by any other classical author. His expressions of confession are often formulated with *mereor*, further indicating confession's nature as a justificatory act of appeasement occurring after punishment.¹⁷ He also claims to be an eyewitness to divine justice confession at an Isiac altar, and portrays Claudia Quinta offering a confession to Magna Mater, which is absent in other references to her legend.¹⁸ Pettazzoni questioned why Ovid should have been so interested in confession, concluding that it was

¹³ Ter. *Haut.* 158; *Phorm.* 1035. Likewise, Plaut. *Aul.* 738: *fateor peccavisse...*

¹⁴ Arist. *Rh.* 1380a.

¹⁵ *Ibid.* 1380a17-9.

¹⁶ For a 'consciousness of sin' developing particularly in the Late Republic: (Thome 1992) esp. 88, 92.

¹⁷ Ov. *Met.* 8.127, 492; *Fast.* 4.321; 6.193; *Trist.* 3.1.51; 5.5.63; *Pont.* 1.1.54; 2.2.19; 3.1.79.

¹⁸ Livy *AUC* 29.14; Cic. *Cael.* 14.34; *Har. Resp.* 13.27; Prop. 4.10.51-2; Val. Max. 1.8.11.

because he was an exiled sinner himself.¹⁹ But this cannot explain it, as his pre-exilic poetry is littered with as much confession as the *Tristia* and *Ex Ponto*. Although he has no rival in the employment of confession terminology, the language of wrongdoing (*culpa/peccatum/error*) features in his contemporaries Horace and Virgil, and Propertius and Tibullus likewise confess.²⁰ He seems to be a particularly expressive product of his time. Indeed, as we have seen, the Latin elegists employed confessional motifs unlike any poets before them. In doing so, they used confession, with its existing connotations of servile-to-master, punished-to-deity relations, to strengthen themes of *servitium amoris* and position themselves inferior to the divinity of the beloved. Thus a symptom of servility became a source of strength. Christianity therefore came into a world already familiar with both divine justice confession and the introspective, autoscopic avowal of wrongdoing, and could channel the power of this already provocative phenomenon.

The early Principate to High Empire offers evidence for continuity and change concerning both types of confession. The Mainz tablet of the late first or early second century AD shows that confession could still, as in Cnidus around two centuries previously, be expected of a transgressor brought to a sanctuary by a curse and consequent divine justice. It also demonstrates the way in which divine justice confession had a human-to-human function: it was not only beneficial to the transgressor in appeasing the divine, and to the divine (and sanctuary's) reputation in advertising, justifying and confirming divine power, but also it served to benefit the victim. We might imagine that confessions were silently expected behind other curse corpora from the West, but the Mainz tablet at least shows that explicit documentary evidence for confession is not confined to the eastern Empire. Roughly contemporary to this,

¹⁹ (Pettazzoni 1937) 6

²⁰ See (Wilhelm-Hooijbergh 1954).

we find Juvenal indicating that in Rome priests of Isis, in the guise of Anubis, would intercede with tears for pardon from a woman who had broken a cultic commitment, and that the direction for the need for appeasement would come from a divine nod (in the form of a serpent's head).²¹ Direct communication from the divine, guiding the appeasement process, is a consistent feature of divine justice confession both before this period and afterwards. This passage is, however, unique in indicating the intercessory role played by an Isiac priest, although we cannot take this as evidence for auricular confession because, as we have seen, sometimes the transgressor is unaware of having committed an infraction and is informed by divine communication, so therefore would not even be in a position to approach a priest with confession.

In the early second century AD we also find the ideal of autoscopic confession reflected in the thought of Epictetus and in Arrian. The exhorted practice is consistent with Senecan advice of around a half century earlier, to confess that which reflected badly for the purposes of self-improvement. Seneca had marked a point of innovation, or is at least the earliest surviving evidence to reflect one, by urging the same sort of autoscopic confession which Philodemus encouraged for self-improvement but formulating it as a daily practice, and one which did not need to be community-based or public. That is, it appears as if a merging of the existing Pythagorean practice of individual daily reflection with the Epicurean exhortation to avow transgression and character flaws. At the same time, he spoke contemptuously of religious penance which saw devotees ululating, crawling on bleeding knees and rattling sistra, although he does not mention divine justice confession in this mix, perhaps because of his positive view of the benefits of confession as an *indicium sanitatis*.²² The divine justice context thus appears

²¹ Juv. *Sat.* 6.537

²² Sen. *Ep.* 53. 7-8

in tension with autoscopic confession, which is a tension which will appear again later in Christianity.

A fundamental change defining this period was the presence of the emperor as the most powerful person, and judge, in the Greco-Roman world. Already under Tiberius, the difference trial by emperor made to expectations of verbalization of wrongdoing is clear from a passage of Tacitus: the accused Silanus ‘often had to confess so that the emperor’s questions were not in vain’.²³ At the opposite end of the first century, we find Domitian delighting in a confession from an innocent senator Licinianus because it absolved him and found solution to a doubtful case. According to Pliny: *gratum hoc Domitiano adeo quidem ut gaudio proderetur, diceretque: ‘absolvit nos Licinianus’*.²⁴ This encapsulates the way in which imperial power necessarily caused a shift towards verbalized response in trials, as well as in general, with the emperor eager for affirmation and suspicious of hidden thoughts in those around him. A general shift from an accusatory to an inquisitorial judicial system encouraged the performance of confession in society at large. Trial by one person, rather than a jury, will have increased the incentive for, and advantageous consequences of, the confessional option, with judges eager to uphold their reputation for justice and to avoid difficulty. In civil law, confession could be a beneficial option for the accused, in avoiding the risk of extra penalty, and for the authorities, in avoiding the cost of further judicial time and expense. The further extension of Roman civil process to the provinces under the Empire will have expanded the number of people who experienced the way in which confession could be an attractive solution to social dispute. Indeed, the confession *stelai*, the earliest of which dates to AD 57/8, and other divine justice confessions, suggest that there

²³ Tac. *Ann.* 3.67

²⁴ Plin. *Ep.* 4.11.13. cf. Suet. *Dom.* 8.4. Recalling the *caelestes* who ‘delight’ (*gaudent*) in confessions, according to Ovid: *Ov. Pont.* 1.1.55-6.

was much conceptual and practical overlap between confession performed in legal contexts and confession to the divine.²⁵

Divine justice confession again remained consistent in this period, with Statius offering to confess to the Muses in the now familiar framework of being unaware of transgression but relying on divine communication to let him know.²⁶ In Jewish writers of this period, too, we see the continued importance of divine justice confession. Philo offers crucial evidence for its role in lessening the severity of an offence, and the way in which human-divine offence is considered alongside human-human offence. Unprecedentedly in Jewish writing, and an reflection of his age, Philo discusses the role of the conscience in provoking confession in a context of perjury, as we find so strikingly similarly later in Juvenal and perhaps earlier in Ovid, if we take *numen violare* to mean perjury in his account of the confessing Isiac.

The role of conscience in driving people to confess is also found beyond these in Greco-Roman literature.²⁷ Perjury appears as a widespread issue that was a particular concern, and subject of confession, in numerous contexts of this period, from Philo's Alexandria to Juvenal's Rome, from Mainz (with the curser's anxiety that his culprit will deny it) to Anatolia. Josephus also reveals that confession in Jewish tradition was still conceptualised according to the divine justice framework: in his account of Rehoboam and his people, barricaded in the temple, we find the same sequence of offence-divine punishment-confession as elsewhere. Significantly their confession is that God had acted justly (δικαίως) in turning away from them.²⁸ Later in Anatolia, Petzl 58, of AD 166/7, likewise credits the gods for acting δικαίως. By the end of the first century AD and into the second, therefore, we find Aristotle's principle playing out in the Roman world

²⁵ Petzl 56.

²⁶ Stat. Silv. 5.5.3

²⁷ See p.89ff.

²⁸ Jos. AJ. 8.255ff.

on a wide scale: whether to god or emperor, the mitigation of anger could be achieved by confession, as if a slave to a master confessing him to have acted δικάϊως.

Greek writers of the second sophistic, Plutarch and Lucian testify to a familiarity with the concept of confession, and both provide evidence for confession in practice. Lucian narrates the *aition* for the statue of Semiramis at Hierapolis: the queen had been worshipped as if divine so in punishment the *Dea Syria* inflicted disease on her people, resulting in Semiramis's confession that she was mortal. Lucian interestingly describes her statue as 'confessing' that she was not a goddess but the Dea Syria was.²⁹ This reflects the way, which is so evident in the Anatolian and South Arabian epigraphic corpora, that a monument in the grounds of a sanctuary served to memorialize and testify to the power of a punishing deity, and that this was a central function of confession. Plutarch describes the person fearful of the punishing power of the divine as sitting outside in the street, wearing sackcloth and covered in filth, confessing sins and infractions of eating or drinking, or doing something forbidden by his conscience.³⁰ The deity being confessed to is not specified, which indicates something in itself: a spectrum of deities might be feared and thus propitiated in this way. Moreover, he is speaking in general terms. His categorisation is binary: the δεισιδαίμονος is contrasted with the ἄθεος. If such behaviour were well-known to be confined to one cult and not others, Plutarch could not have written this passage as he did. As is apparent in the near contemporary Juvenal, these are *types* of people (*hi sunt qui...*) who are identified as a group by what they think - compelled to confess through a perception of divine wrath - not people categorized along lines of cultic or ethnic identity.³¹ In contrast to Plutarch and Lucian, Aelius Aristides seems to have shown no interest in confession, despite being permanently ill, which might have made others at least consider

²⁹ Luc. *Syr. D.* 39end

³⁰ Plutarch *Mor.* 168D (= *De Superstitione* 7).

³¹ Juv. *Sat.* 13.221-32.

it. What becomes apparent is that he does not conceive of himself as having transgressed, nor does he receive any divine communication to indicate that he has transgressed, nor is the divine, for him, an explicitly punishing force. As a result, his relationship with Asclepius, and other gods along the way, is characterised through a dynamic of praise and thanksgiving in the hope of, and after the gift of, healing. He does not confess, not because he belongs to a non-oriental cult, but because there is no divine anger for confession to mitigate. This therefore highlights the extent to which circumstantial and cognitive frameworks could determine confession.

Confession as a routine aspect of behaviour among *galli* comes explicitly to light for the first time in Apuleius. He portrays one *gallus*, in itinerant alms collection from house to house, making a spectacle of himself by engaging in extreme self-laceration and penance, including confession (*se ... incessere atque criminari*).³² This is the only indication we have of any sort of routine associated with divine justice confession. Itinerant journeying to collect money recalls Plato's description of begging priests and seers who went round rich men's houses claiming to be able to cure any misdeed by a man or his ancestors.³³ A significant difference, however, is that his priests did so 'with pleasures and festivals', claiming to have acquired power from gods 'through sacrifices and spells'; confession and penance is nowhere implied. The *galli* of the Roman Empire, however, and certainly Apuleius' *gallus* seem to have derived power from having suffered. This reflects a sea-change since Plato's Athens. Under the Roman Empire we find increasing evidence for physical penitential behaviour. Early accounts such as Tibullus crawling on his knees to Venus's temple and bashing his head on her doorposts, or Seneca's description of a woman howling whilst crawling on her knees and of a man skilled in slashing his arms and shoulders, suggest the intervention of self-administered punishment

³² Ap. *Met.* 8.25ff; Sen. *De Beata Vita* 26.8.

³³ Pl. *Resp.* 2.364b-c.

occurred *after* the gods had become angry.³⁴ This continues to be the case, as is evident from Plutarch's account of the δεισιδάιμονος implying penance was begun only after he thought the god had been angered. But there is also the sense from this episode in Apuleius that it could be routinely employed without being the response to a specific perception of the divine having been angered. This is further inferred from the fourth century account of Firmicus Maternus who implies that *galli* can be regularly seen (*videre est*) in their temples 'publicizing their crimes and confessing the sin of their polluted bodies with the greatest stain of delight'.³⁵ In addition, the addressee of the invective *Carmen ad quendam senatorem*, after having changed his religious allegiance to Christianity only to turn back to Isis and Magna Mater again, is reported to have exclaimed "*dea, erravi, ignosce, redivi*".³⁶ But he appears to do so before any punishment has been imposed. The thought-world revealed by divine justice confession can help to explain the development. Over time, we would expect that the natural consequence of a concept of divine punishment and payment through physical suffering would be that people begin to anticipate punishment by paying off the debt of suffering at their own hands.

Late Antiquity signalled momentous change for the history of confession, most obviously by virtue of the Christianization of the Roman Empire from AD 312. This meant that the confessional practice encouraged by Judeo-Christian scripture, crystallised by the martyrs and exhorted by early church thinkers was expected of society at large. But the Church had no need to impose such expectations with any force. The practice of confession within a Christian Empire constituted the canalization of already existing streams. Already combined within it were aspects of autoscopic confession, such as in James, and divine justice confession, such as

³⁴ Tib. 1.2.85-8.

³⁵ Firm. Mat. *Err. Prof. Rel.* 4.2.

³⁶ Ps.Cyprian CSEL 3.3. 302ff: *Carmen ad senatorem ex Christiana religione ad idolorum servitute conversum* v.36.

in the Shepherd of Hermas, which remained in dialogue until the Fourth Lateran Council codified confessional practice in AD 1215.

By the end of the fourth century, Anatolian *stelai* had ceased to be produced for over a century, and South Arabian inscriptions had stopped roughly around two centuries previously. Beyond the accounts of Firmicus and the author of the *Carmen* we get little reflection of non-Judeo-Christian confession. Nevertheless, these accounts reveal both continuity and change in the non-Judeo-Christian religious landscape. Both of these authors were Christians, so their respective portraits of *galli* and an Isiac/metroac priest confessing seem credible; why otherwise credit other religious behaviour, to which they were hostile, with a practice of such importance to Christianity? On the one hand, therefore, there was continuity in confession not being the preserve of Christianity. On the other, it is significant that the author of the *Carmen* does not imagine the senator doing anything other than confessing, such as sacrificing, which would have been in the interests of the author to suggest given sacrifice's 'pagan' charge at this time.³⁷ This, combined with the lack of mention of divine punishment, suggests that confession was now not thought instigated by punishment nor accompanied by physical suffering nor performed alongside an offering or sacrifice. This tantalysingly hints, although cannot do more than that, that confession by the end of the fourth century was the most important part of seeking the pardon of Isis and/or Magna Mater.

Meanwhile in the desert, monastic communities provided communal contexts for confession like philosophical schools had previously.³⁸ For Foucault, Christian monasticism provided for an important shift in confessional practice, in being the context of an 'exagoreutic' practice

³⁷ See (Ullucci 2012); (Bradbury 1995).

³⁸ Eg. *Epistula Ammonis*.

which he saw as distinct from an ‘exomologetic’ practice.³⁹ The former he glosses as the revelation of interior thoughts, and the latter as a penitential practice of propitiation.⁴⁰ The distinction is, however, a false one, as it cannot operate along the lines of a term (as both *exagoreusis* and *exomologesis* can be applied to penitential acts which are not the revelation of inner thoughts). But there is a distinction to be made between autoscopic confession, which is closest to the monastic practice of Foucauldian ‘*exagoreusis*’, and divine justice confession, which maps onto his idea of ‘exomologetic’ confession. As is apparent from his footnotes, Foucault seems to have been misled by relying on Hausherr who describes the ‘revelation of inner thoughts’ as *exagoreusis* in parentheses.⁴¹ The revelation of inner thoughts was not, however, an invention of monasticism, but in fact was a function of autoscopic confession and had been performed in community contexts of the pre-Christian Greco-Roman world. Indeed we have a glimpse that the two types of confession could even be in tension: “How is it that some can say “We see visions of the angels?” The Old Man said; “happier by far is he who can see his own sins at all times”.⁴² In this way, the stance of monks was not straightforwardly a “crushing rebuke to the religious style of the pagan world”.⁴³

Augustine at the end of a confessional tradition

At the end of this period stands one of history’s most famous confessants: Augustine. He is often viewed as the instigator of a new confessional tradition, or even the originator of the modern notion of ‘the self’, but the work of this thesis allows us to see him re-contextualized at the end of a tradition. Those scholars who have inquired about Augustine’s confessional

³⁹ (Foucault and Gros 2018) 93-145.

⁴⁰ *Ibid.*

⁴¹ (Hausherr 1990) 60.

⁴² Quoted by (Brown 1978) 93.

⁴³ (Brown 1978) 93.

precedents have tended to confine themselves to *comparanda* from Christian tradition, with the exception of Joseph Ratzinger who explored the concept in Greco-Roman literature and Frisch who all too briefly compared the *Confessions* with the Anatolian *stelai*.⁴⁴ Employing the distinction between *confessio laudis* and *confessio peccatis* - a duality which has come to typify scholarship's approach to comprehending confession in Augustine - Ratzinger argued that the sense of *confessio laudis* is alien to the use of term in classical Latin.⁴⁵ He highlighted precedents in the Church fathers and in scripture of the distinction between the two senses, and argued that the originality of Augustine's *Confessions* lay in its distinctive combination of the two. Along with Verheijen's study of *confiteor* cognates, which lists confessional usage in scripture, this has established the tradition of viewing Augustine's *Confessions* as *sui generis* with regard to its 'unusual' combination of confession in the sense of praise and of sin, apparently unknown to the Roman world.⁴⁶ O'Donnell repeats this ascription of distinctiveness in his commentary.⁴⁷ But this fails to take account of the association of confession and praise, faith, and thanksgiving, that was indeed present in the Greco-Roman world either explicitly in expression, as we saw in chapter one, or in the illocutionary act of a *stela* declaring divine punishment; a declaration of having been punished was an illocutionary way of declaring belief in the divine and their power. Therefore the autobiographical books 1-9, the exploration of memory in book 10, and then the detailed exegesis on the first chapter of Genesis in books 11 to 13 all form part of confession in its wide sense of 'manifesting the power of the divine'.

Although no epigraphy survives from North Africa of the likes of the Anatolian or Arabia inscriptions, Augustine himself seems to have been particularly exercised to encourage a practice of public record making and propagation of god's works through words. He describes

⁴⁴ (Ratzinger 1957); (Frisch 1983).

⁴⁵ (Ratzinger 1957).

⁴⁶ (Verheijen 1949)

⁴⁷ (O'Donnell 2012) II.3-7. Augustine's innovation of the form assumed: *Ibid.* I.xlvii, xlix.

himself as being ‘indignant’ that a healing miracle had been kept quiet: a woman called Innocentia had suffered from breast cancer but was healed by the sign of the cross being made on her breast. Augustine admonished her for not broadcasting this more widely, and goes on to say: “*I have been concerned that such accounts should be published because I saw that signs of divine power like those of older days and I felt that they should not pass into oblivion, unnoticed by the people in general*”.⁴⁸ Augustine therefore instituted the practise of recording the healing miracles that were occurring at shrines in public documents called *libelli*. In the course of two years he says that 70 were produced, although he knew of some undocumented.⁴⁹ Augustine also relates the story of seven brothers and three sisters from Caesarea who had been cursed by their mother: “divine chastisement came upon them and they were all afflicted with a frightful trembling of the limbs”.⁵⁰ They couldn’t bear the shame so travelled away from Caesarea. Two of the children arrived at Hippo the night before Easter and during Augustine’s sermon on Easter morning a healing miracle saw the young boy fall on the grating of the holy shrine containing the martyr’s relics, after which the boy stood up, cured. Augustine then tells how he had breakfast with the boy who ‘gave a detailed account of the whole tragic history of himself, his brothers and sisters and his mother’. Augustine promised that an official record would be made. Three days after Easter Sunday he made the two children stand on the steps of the bishops throne while the narrative was read out. Augustine was clearly minded to *publicize* divine grace in a way which did not come naturally to his congregation. The tone of thanksgiving, and the testimonial nature of the *libellus* – being a witness to the healing power and mercy of the divine – very strongly resembles attitudes to divine healing and punishment found divine justice confessions.

⁴⁸ Aug. *De Civ. D.* 22.8

⁴⁹ *Ibid.*

⁵⁰ Aug. *Serm.* 322

In this way, although Frisch pointed out some aspects of overlap between the anatolian *stelai* and the *Confessions*, we can go further. Moreover, there are grounds for viewing Augustine as provoked into his monumental confession through suffering a malady, just as we find typically in divine justice confession. He describes himself as sick (*vulnera mea non abscondo: medicus es, aeger sum*), and calls god *medicus meus intime*, who prepared the remedy of faith and spread it over the ills of the world.⁵¹ If Lane Fox is right in arguing that the work was composed in one go in the Easter of 397, then we know that at that time, or at least shortly before it, Augustine was suffering from pain and swelling of *rhagadis vel exochadis* – that is, haemorrhoids or anal fissures – as was first proposed by O’Donnell.⁵² Lane Fox also adduced the evidence from a recently discovered sermon on ‘health’ in which Augustine refers to suffering and concludes: “I must still spare my all too recent scar, which is perhaps not yet fully completed and shut-over”.⁵³ The date marks Augustine’s return to preaching for Easter week after having composed the confession; in the sermon he thanks God for his congregation’s thanksgiving.⁵⁴ Moreover, Augustine would have been aware from reading 1 Samuel that haemorrhoids were a divinely-inflicted punishment for sin: the Philistines who stole the Ark of the Covenant ask ‘priest and diviners’ what their sin-offering should be, and they are told to dedicate five golden haemorrhoids and five mice, to match the plague that had been inflicted on them.⁵⁵ In light of the type of divine justice confession illustrated here, Augustine’s *Confessions* seem to share attributes of this type. But what becomes strikingly different between his work and previous examples is the nature of the wrongdoing which Augustine elucidates. For him it was no accidental knocking over of a *stèle* of the god’s which was confessed but his was a sinfulness which had pervaded his life and reached deep into his

⁵¹ Aug. *Conf.* 10.28.39; 10.3.4; 6.4.6.

⁵² Aug. Ep. 38; (Lane Fox 2015) 519-21.

⁵³ (Lane Fox 2015) 554; Aug. S Dolbeau 28 (S. 20B) 11: (Dolbeau 1996).

⁵⁴ (Lane Fox 2015) 554

⁵⁵ 1 Sam 6.4-5

being. The shift which occurs with Augustine therefore concerned the nature of the concept of sinfulness, not the practice of confession. This new, differently conceived nature of wrongdoing no doubt owed much to philosophical explorations of human shortcoming that looked, as autoscopic confession did, to examine the self for character flaws and culpable actions.⁵⁶ Unlike in the work of his fellow Madaurian, Apuleius' *Metamorphoses*, there was no place in Augustine's autobiographical narrative for assigning responsibility for suffering to the hands of fate. Augustine's confession therefore might best be categorized as a blending of the two types of confession into something which becomes self-inculpation, the shift towards which is one of a number of trends observable over time.

Trends

From silence to speech act

By Late Antiquity, the Greco-Roman world had become a playground of confession as never before; confession's place in the society of the fourth century AD was vastly different to its place in that of the fifth century BC. It would be easy to attribute this wholly to the rise of Christianity, and influence from Judaism. But an implication of the work put forward in this thesis is that wider structural changes helped to facilitate a more confessional world. A key question in attempting to understand the history of confession is when and in what circumstances practices of verbalisation began to change. As we have seen, silence, particularly in the Republic, could serve to indicate guilt. Returning a stolen cloak, sacrificing in expiation, staying silent in the face of accusation, all served perfectly well as non-verbal ways of

⁵⁶ For Augustine's concept of sin: (Mann 2001).

admitting wrongdoing in the Greco-Roman world. We might recall Antilochus' cheating in the funeral games of Patroclus, beating Menelaus into second place.⁵⁷ Menelaus accuses him directly and challenges him to swear by Zeus that he had not cheated. This provokes Antilochus into conceding, but there was no need for him to verbally confess by saying he had indeed cheated, because his not taking up the oath and his returning of the prize to Menelaus was enough to signal his culpability. When Glaucus the Spartan inquired of the Pythian oracle what he should do about having taken a deposit, his proposed options are either restore the deposit or lie on oath; confession is not countenanced because it does not need to be; restoration was indication enough.⁵⁸ Therefore the question becomes about the circumstances which make the performative surplus of verbal avowal necessary. This seems not to be the story, as some previous commentators have thought, of the rise of a guilty conscience, a more ethically concerned world, or changes in the importance of the 'self'. Instead, the key catalysts can be found in the socio-economic exigencies of human relationships, and changes in the perceived needs of the audience of such revelatory acts. In the Roman Law chapter we saw that contexts of juridical and theodical anxiety, especially before a single judging authority, are key determinants in fostering the vocalisation of culpability by the accused. Legal change over time and its concomitant impact on intellectual frameworks were a significant factor in encouraging a confessional world.

Whereas silence could initially serve as grounds to consider a defendant *confessus* in the Roman Republic, by the time of the jurist Paul confession is deemed an explicitly verbal act: the Digest makes it clear that verbal response carried different legal implications than silence and *stipulatio* was not considered binding unless the response was verbal.⁵⁹ The question

⁵⁷ Hom. *Il.* 23.514ff.

⁵⁸ Herod. 6.86; Pausan. 2.18, 8.7; Juv. *Sat.* 13.202..

⁵⁹ *Dig.* 11.1.19; 45.1.1.2.

formulated in Gaius as *id postulo aies aut neges* is indicative of an anxiety concerning, and desirability for, a defendant not to be silent.⁶⁰ Trajan pronounced that anyone absent from a trial could not be convicted of a crime, marking a change from the days when Claudius would simply decide in favour of whoever turned up.⁶¹ The Augustan age marked a significant turning point in the audibility of confession in the literary evidence. It became increasingly clear under the Principate that silence in place of vocality before the emperor was deeply unwise. The history of confession and the history of *parrhesia* are closely intertwined. This movement towards increased verbalisation is suggestive for thinking about theodicy in the Roman world, as well as the history of belief (which ultimately cannot be distinguished from the history of *verbally expressed* belief). The work of this thesis thus supports the idea that the apparently amplified discourse of belief in this period reflects more a shift in the priorities of rhetoric than a shift in intellectual reality.

Another factor in accounting for a more confessional world may be the gradual obsolescence of the *ius iurandum* system in settling disputes. A greater shift towards a witness culture occurs. Consequently, the agency of establishing truth was taken out of the hands of the accused and put under the control of others. Therefore, it would have been all the more difficult for a lie to mean successful defence, and there would have been increased vulnerability in being subject to the truth-telling of others. With the erosion of the defence mechanism of simply lying, confession was a way of regaining a degree of control. And instead of looking to the gods for validation of truth, by relying on the punishment of perjury, the only other place to look for truth-testing was the defendant themselves.

⁶⁰ *eg. Gai. Inst.* 4.17.

⁶¹ *Dig.* 48.19.5; *Suet. Claud.* 15.2:

Theodicy, anxiety and the competitive religious market place

The Hellenistic world and Roman Empire were unparalleled in the extent to which they were highly competitive religious environments, where individuals exerted choice over religious identities which were on the whole not exclusive.⁶² The way in which we find divine justice confession serving to publicize the punishing power of the deity, and by consequence also divine existence and efficacy, is best understood in the context, especially as this was also a world in which divine justice was doubted.⁶³ Isis as the recipient deity of confession is not a surprise when we consider the wider evidence relating to the advertisement of her power; for good reason did Bricault call a chapter *le culte propagandiste*.⁶⁴ Every deity confessed to in the context of divine justice is justified by the confession. Confession thus can be seen to be one aspect of a discourse which developed to serve an ‘Empire of honour’.⁶⁵

Towards self-inculpation and self-accusation

We have seen that divine justice confessions tended not to constitute assumption of responsibility and that the typical framework was one whereby initial accusation came from without. Any ‘guilt’ confessed appear to have concerned admitting the hurt or offence caused; it did not constitute an admission of intended action.⁶⁶ Thus the examples of τῶν ὁμολογουμένων ἀδικημάτων in Hermogenes are two characters who caused much harm, but without any intention: Homer’s Helen and Herodotus’ Adrastus.⁶⁷ Typically in divine justice confessions, accusation was indicated by divine communication, physical suffering or a

⁶² (Ando 2010) 54; (North 1992); (Chaniotis 2010).

⁶³ Doubts expressed *eg.* in Juv. *Sat.* 13; Plut. *De sera numinis vindicta*.

⁶⁴ (Bricault 2013) 72-84.

⁶⁵ (Lendon 1997).

⁶⁶ *cf.* (Carawan 2000) 213

⁶⁷ A likely indication of its post-Second Sophistic context

human-made curse or, in the case of the Anatolian stele, the setting up of a sceptre at the temple. This was also the case in the justice system generally where accusation would naturally be the catalyst of trial. Only in the *Gnomon* of the *Idios Logos* do we get the sense that individuals might be expected to step forward to confess (ἐξωμολογησάντες, inheritances left in trust, but confiscated by Vespasian) without initial accusation, but for mitigation of financial loss.⁶⁸ But the tradition of autoscopic confession seems from the very beginning to have encouraged the devolvement of initial accusation to the self. In the ideal Epicurean school of the *Peri Parrhesias*, every individual was encouraged to accuse others of their shortcomings, but it was also true that individuals were expected to come forward to accuse themselves after self-reflection. Only occasionally in the context of divine justice confession is there room – by virtue of an absence of indication otherwise - to interpret a scene as constituting self-accusation before any external accusation: this is the case for Apuleius' *galli* and for Plutarch's superstitious penitent. Then in Heliodorus' *Aethiopica*, when the Isiac priest Calasiris flees following a 'sin of intention' of viewing a beautiful woman, he describes having appointed his λογισμος as judge. Similarly, the senator addressed in the *Carmen* seems to turn of his own accord, without divine accusation, to declare *dea, erravi, ignosce, redivi*.⁶⁹ There is a sense, then, that gradually over time divine justice confession adopted the tendency, that was always present in autoscopic confession, of being catalyzed by self-accusation rather than external compulsion. There has been no scope to explore in depth the relationship between attitudes towards culpability and confession in this thesis, but the subjects of self-inculcation and self-accusation would merit further investigation.

⁶⁸ *BGU* V 1210; *P.Oxy.* XLII 3014.

⁶⁹ Ps.Cyprian *CSEL* 3.3. 302ff: *Carmen ad senatorem ex Christiana religione ad idolorum servitute conversum* v.36.

Transformations: towards a hermeneutic of the history of confession

This thesis has attempted to illuminate the nature of confession in the Greco-Roman world, and it has also sought to expose the conditions which can help explain why individuals confessed. The existing picture of ‘religious’ confession in the Greco-Roman world presents a phenomenon which was a ritual monolith, an idea which might be transferred from one culture to another with the migration of peoples. This thesis challenges such a model of cultural contagion. Instead, it has demonstrated how confession of various forms had functional potential. This potential was realized only in certain conditions: social, political, legal and cognitive. The fact that Foucault’s ‘confessing animal’ is much more manifest in the individual of the fourth century AD than ever before is not merely the result of cultural transfer from Christianity or ‘oriental religions’ but it was down to structural changes in Greco-Roman society. Aristotle acknowledged a potential function of confession, but except for the circumstances in which slaves found themselves before angry masters, it seems that in religion and society free individuals did not normatively find advantage in such behaviour for themselves before this period. We can identify certain structural conditions which determined confession, some of which are external – that is, conditions of social environment – some of which are internal – that is, structures of thought which were necessary and sufficient conditions to perform confession.

Firstly, power disparity was a necessary but not sufficient circumstantial condition of both types. Aristotle neatly illustrates the way in which confession mitigated the anger of a more powerful entity, and this principle applies to all divine justice confessions. Similarly, the performance of autoscopic confession constituted the subordinating of the self, whether directly to a spiritual superior such as the Epicurean teacher, or an older, wiser spiritual guide, or to a greater force as in Seneca’s daily but individual confession. However, power disparity

was not enough, the circumstances had to be such that particular advantage came from *verbalized* confession. Whether justification of a divine power, or the advertisement of commitment to principles of philosophical ideology and group identity, confession had to serve in the interests of the inferior, confessing, party, but also in the interests of the superior party before whom it was performed. Thus, legal conditions in which justice is performed by a singular judge, or in the context of an inquisitorial system, or where confession avoided the risk of further penalty created a conducive confessional environment.

We also see that a frequent condition for confession was injunction, whether explicitly in the case of autoscopic confession being exhorted for the purpose of self-improvement, or divine justice confession being considered the expectation of an angry deity, sometimes through direct divine command to confess. The fact that injunction is so prominent at the level of discourse goes to show that confession in this period is consistently divorced from something which is done eagerly and willingly without difficulty.

Related to this, is the apparently necessary structural condition of community expectation. This point is evident in the case of philosophical schools, where the injunctory nature of the practice suggests it was expected, but this also seems to be true for divine justice confession whereby, at least after the god's anger had been communicated, appeasement of this sort was thought to be expected. The Anatolian and Arabian confession inscriptions, particularly in light of anthropological comparanda, suggest that community expectation played a role in the practice. A hierarchy of propitiatory epigraphy in Anatolia hints at a potential background of competitive piety, and this is further suggested by anthropological parallels. In a study of the Kwaio of the Solomon Islands, David Akin illustrated how women together with the community might be informed, through the communication of an ancestor by way of

divination, of their guilt in having committed a taboo.⁷⁰ As in divine justice confession, they would be unaware of transgression, or sometimes even deny the ancestors' claims at first, but often this process would lead to confession and sacrifice, which relieved the community of other-worldly anger.⁷¹ As the ancestor's anger would be manifested through illness, it was in the community's interests for the culprit to confess. Divination would reveal the transgression which had caused the anger.⁷² Without confession, ancestors will prevent the sick person's recovery.⁷³ There thereby arose social pressure to confess, which women keenly felt. It became preferable to confess to something which was not committed, than to risk the social shame of keeping silent about a community suspicion. Crucially, if a woman confesses quickly to an act found to have angered the ancestors, she is praised as a "good woman" who kept her family safe. This demonstrates, therefore, the extent to which confession might convey positive social capital. This provokes the possibility of a radical re-reading of the context of the *stelai* of Asia Minor: instead of being the products of a fearful and isolated population, they were created by piety hunting individuals in pursuit of social capital and status, much like the forces behind the euergetic epigraphy of the cities. Wherever the emphasis of social relations lie, we can infer that community expectations of the sanctuary and the philosophical school alike were important conducive conditions of a confessional *mentalité*.

In addition to these, we can also identify certain internal conditions of thought. Firstly, confessional *mentalité* was determined by conceptions of culpability and wrongdoing. Aelius Aristides invariably views the divine as beneficent, so the confessional option is not there for him as long as he maintains that attitude. Nor is he aware of having committed wrong. Divine justice confession required a conception of the gods which held them to be capable of anger,

⁷⁰ (Akin 2003)

⁷¹ (Akin 2003) 387.

⁷² (Akin 2003) 383-4.

⁷³ (Akin 2003) 388.

punishment and of being appeased. Moreover, the thought worlds behind both Epicurean autoscopic confession and divine justice confession suggest that a capacity for episcopic knowledge was invested in either the divine, or the spiritual instructor. The regime of divine justice tended to be structured upon a framework of specific prohibitions which, if transgressed, angered the divine. Therefore, the link between transgression and divine offence was occasional and required an *ad hoc* response. When it came to Pauline Christianity, however, the ethical injunction of ‘do unto others...’ opened up almost infinite possibilities for error. As in philosophical contexts, where autoscopic confession was routine, ethical behaviour became much more about state of being and an ongoing quest, than a response to individual transgressions. The new regime of justice offered by Christianity thus allowed for the routinization of divine justice confession as never before.

When the relative silence of confessional evidence at the time of Aristotle is compared with the vociferousness of confession in Augustine’s world, where even a Roman emperor, Theodosius, would dramatically confess his sins in public, we are left with an historical puzzle.⁷⁴ We might be tempted to burden the rise of ‘confessional’ religions, such as Christianity, with responsibility for the cause of such a transformation. Yet it is hoped that this thesis has demonstrated, firstly, that it would be a mistake to view confession as confined to certain delimited ‘religions’ in an otherwise confession-absent world, and, secondly, that wider, more complex forces of transformation were at work. That is not to deny that the spread of ideas can help to explain historical change. Behind the tradition of autoscopic confession, for example, was an ideal, exhorted practice, which was doubtlessly disseminated by virtue of being an idea which served a goal of self-improvement. Divine justice confession, however, required a certain cognitive framework, and certain physical circumstances, before conditions

⁷⁴ (McLynn 1994) 328

were ripe for its performance. Our historical model, therefore, looks beyond a simple explanation based on cultural contagion. The development of confession was determined by the political, legal and social shifts of the Greco-Roman world, where ultimately a context of Empire gave it a functional utility as never before.⁷⁵

⁷⁵ Further work is required to explore the precise relationship of confession to wider contexts, cognitive and structural, and to examine how the history of confession fits in to other histories of, for example, culpability, power negotiation, debt, servility and cognition of justice. This would also benefit from the incorporation of a more comprehensive analysis of Jewish and Christian confession, so that a long durée portrait of confession might be provided for the period. It is not yet time to re-close the dossier.

Appendix of citations discussed (exempted from word count, duplicated here)

Chapter one and two:

*quae quaerimus exempla maiora: vir sapientissimus atque haud sciam an omnium praestantissimus peccatum suum, quod celari posset, confiteri maluit quam haerere in re publica religionem, consules summum imperium statim deponere quam id tenere punctum temporis contra religionem.*¹

*vir bonus, omne forum quem spectat et omne tribunal, / quodcumque deos vel porco vel bove placat, / "Iane pater!" clare, clare cum dixit, "Apollo!" / labra movet metuens audiri: "pulchra Laverna, / da mihi fallere, da iusto sanctoque videri, / noctem peccatis et fraudibus obice nubem."*²

... καὶ τοῖς ὁμολογοῦσι καὶ μεταμελομένοις· ὡς γὰρ ἔχοντες δίκην τὸ λυπεῖσθαι ἐπὶ τοῖς πεπονημένοις παύονται τῆς ὀργῆς. σημεῖον δὲ ἐπὶ τῆς τῶν οἰκετῶν κολάσεως· τοὺς μὲν γὰρ ἀντιλέγοντας καὶ ἄρνούμενους μᾶλλον κολάζομεν, πρὸς δὲ τοὺς ὁμολογοῦντας δικαίως κολάζεσθαι παυόμεθα θυμούμενοι. αἴτιον δ' ὅτι ἀναισχυντία τὸ τὰ φανερὰ ἀρνεῖσθαι, ἢ δ' ἀναισχυντία ὀλιγοῦσα καὶ καταφρόνησις· ὧν γοῦν πολὺ καταφρονοῦμεν, οὐκ αἰσχυνόμεθα. καὶ τοῖς ταπεινουμένοις πρὸς αὐτοὺς καὶ μὴ ἀντιλέγουσιν· φαίνονται γὰρ ὁμολογεῖν ἥττους εἶναι, οἱ δ' ἥττους φοβοῦνται, φοβούμενος δὲ οὐδεὶς ὀλιγορεῖ. ὅτι δὲ πρὸς τοὺς ταπεινουμένους παύεται ἡ ὀργή, καὶ οἱ κύνες δηλοῦσιν οὐ δάκνοντες τοὺς καθίζοντας. καὶ τοῖς σπουδάζουσι πρὸς τοὺς σπουδάζοντας.³

ἐὰν οὖν τὸ παλμῶδες καὶ παφλάζον τού νοσήματος ἄρξηται χαλᾶν, τὰ τῆς ὑγείας ἐμπυρεύματα κατ' ὀλίγον ἐκζωπυρούμενα βιάσεται τὸ μὲν πρῶτον ἐξαγορευῆσαι τὸ ἀμάρτημα, τὸ δ' ἐστὶ κακίσει αὐτήν, εἶτα πρὸς βωμοῖς ἰκέτιν γενέσθαι, ποτιωμένην λιταῖς καὶ ἐυχαῖς καὶ θυσίαις αἷς ἀμνηστίας μόνας ἐπιλαχεῖν ἔστιν.⁴

*cum... in ius vocatus esset, dicebat accusator apud praetorem reo: "aio te Siculos spoliasset" Si tacuisset, lis ei aestimabatur ut victo; si negasset, petebatur apud magistratum dies inquirendorum eius criminum et instituebatur accusatio.*⁵

*Invenimus enim confessionem duplici ratione tractandam esse: unam confessionem peccatorum, ubi in deserto Jordanis confitebantur peccata sua esse: aliam laudationis Dei, ubi Dominus loquitur ad Patrem, Confiteor tibi, Domine pater coeli et terrae, quoniam abscondisti haec a sapientibus, et revelasti ea parvulis. Prima ergo illa et superior confessio peccatorum esse credenda est maxime quae praedicationi propheticae atque apostolicae connectitur: sequens haec laudationis Dei intelligenda est populorum, deinde omnium, id est, gentium universarum; et ob id, quia terra fructum suum dedit.*⁶

*nam ita nota est confessio peccatorum ut in quocumque scripturarum loco auditum fuerit 'confitebor tibi domine' aut 'confitebimur tibi' continuo ad pectus tunendum; usque adeo non solent homines intelligere confessionem esse nisi peccatorum.*⁷
*duobus autem modis confessio intellegitur, et in peccatis nostris, et in laude dei. In peccatis nostris nota est confessio, et ita nota omni populo, ut quando auditum fuerit nomen confessionis in lectione, sive in laude dicatur, sive de peccatis dicatur, currant pugni ad pectus.*⁸

¹ Cic. Nat. D. 2.11

² Hor. Epist. 1.16.57-62

³ Arist. Rh. 1380a.

⁴ Philo De Somniis 2.299

⁵ Ps. Asconius at In Verr. I.5 = (Stangl 1964) 207.

⁶ Hilary of Poitiers In Psalmos 66, 6

⁷ August. En. Ps. 137, 2 = PL 37, 1174

⁸ August. En. Ps. 141.19

*acrius invitos multoque ferocius urget, / quam qui servitium ferre fatentur, Amor. / en ego, confiteor, tua sum nova praeda, Cupido; / porrigimus victas ad tua iura manus. / nil opus est bello: veniam pacemque rogamus;*⁹

*si tamen in media deprensa tenebere culpa,
et fuerint oculis probra videnda meis,
quae bene visa mihi fuerint, bene visa negato!
concedent verbis lumina nostra tuis.
. . . sit modo “non feci” dicere lingua memor.*¹⁰

*Confessio conscientiae vox est. Confessio coacti et quae fecit agnoscentis verbum est. Omnium vox erat: “sacrilegus latere non poterit; quisquis est, non ipse bonum exitum faciet, non quisquam suorum; etsi nemo fuerit accusator, ipse narrabit.”*¹¹

*... tua sacra et maior imago
humana turbat pavidum cogitque fateri.
hi sunt qui...
praeterea lateris vigili cum febre dolorem
si coepere pati, missum ad sua corpora morbum
infesto credunt a numine: saxa deorum
haec et tela putant.*¹²

Εἰσὶ τινες, οἳ τοῦθ' ἐν μέγιστον ἀγαθὸν ἀνθρώπωνομιζοῦσι χρήματα καὶ τὸ πλουτεῖν καὶ διὰ τοῦτο κἂν δι' ἐπιπορκίας τοῦτι λαβεῖν οὐκ ἀποκνοῦσιν, ἀλλ' εἰ καὶ πείσονται τι κακὸν ἐντεῦθεν ὕστερον, οὐκ ἀποτρέπονται.¹³

*cum sistrum aliquis concutiens ex imperio mentitur, cum aliquis secandi lacertos suos artifex
bracchia atque umeros suspense manu cruentat, cum aliqua genibus per viam repens ululat
laurumque linteatus senex et medio lucernem die praeferens conclamat iratam aliquem deorum,
concurritis et auditis ac divinum esse eum, invicem mutum alentes stuporem, adfirmatis.*¹⁴

*sacrum commissum, quod neque expiari poterit, impie commissum esto; quod expiari poterit, publici
sacerdotes expianto... periurii poena divina exitium humana dedecus... impius ne audeto placare
donis iram deorum.*¹⁵

Χρῆ γὰρ αὐτῶι δεικνύειν ἀνυποστόλως τὰς διαμαρτίας καὶ κοινῶς εἰπεῖν ἐλαττώσεις. εἰ γὰρ ἡγησάμενος ἓνα τοῦτον ὀδηγὸν ὀρθοῦ καὶ λόγου καὶ ἔργου, ὃν φησι σωτῆρα μόνον, καὶ ἐπιφωνήσας τὸ 'τούτου γ' ἐσπομένοιο', παρέδωκεν ἑαυτὸν θεραπεύειν πῶς οὐχὶ μέλλει ταῦτ', ἐν οἷς δεῖται θεραπεύσεως, δεικνύειν αὐτῶι καὶ νουθέτησιν προσδέχεσθαι;¹⁶

*gravis sopor etiam somnia extinguit animumque altius mergit, quam ut in ullo intellectu sui sit. Quare vitia sua nemo confitetur? Quia etiamnunc in illis est; somnium narrare vigilantis est, et vitia sua confiteri sanitatis indicium est.*¹⁷

⁹ Ov. Am. 1.2.17-21

¹⁰ Ov. Am. 3.14.43-46, 48.

¹¹ Sen. Controv. 8.1.

¹² Juv. Sat. 13.221-32.

¹³ Lib. Or. 22.1

¹⁴ Sen. De Vita Beata 26.8

¹⁵ Cic. Leg. 2.9.22

¹⁶ Philod. Peri Parrhesias, fr. 40

¹⁷ Sen. Ep. 53 7-8.

“Initium est salutis notitia peccati.” Egregie mihi hoc dixisse videtur Epicurus. Nam qui peccare se nescit, corrigi non vult; deprehendas te oportet, antequam emendes. Quidam vitiis gloriantur; tu existimas aliquid de remedio cogitare, qui mala sua virtutum loco numerant? Ideo quantum potes, te ipse coargue, inquire in te; accusatoris primum partibus fungere, deinde iudicis, novissime deprecatoris. Aliquando te offende.¹⁸

πιστεύσατε τῷ κυρίῳ, οἱ δίψυχοι, ὅτι δίψυχοι, ὅτι πάντα δύναται καὶ ἀποστρέφει τὴν ὀργὴν αὐτοῦ ἀφ’ ὑμῶν καὶ ἐξαποστέλλει μάστιγας ὑμῖν τοῖς δίψυχοις. οὐαὶ τοῖς ἀκούσασιν τὰ ῥήματα ταῦτα καὶ παρακούσασιν· αἰρετώτερον ἦν αὐτοῖς τὸ μὴ γεννηθῆναι.¹⁹

Chapter three:

540. *ille petit veniam, quotiens non abstinet uxor
concubitu sacris observandisque diebus
magnaue debetur violato poena cadurco.
ut movisse caput visa est argentea serpens,
illius lacrimae meditataque murmura praestant
ut veniam culpae non abnuat ansere magno
scilicet et tenui popano corruptus Osiris.*²⁰

Chapter four:

*Lege Aquilia capite primo cavetur: ‘ut qui servum servamne alienum alienamve quadrupedemve pecudem iniuria occiderit, quanti id in eo anno plurimi fuit, tantum aes dare domino damnas esto’: (1) et infra deinde cavetur ut adversus infitiantem in duplum actio esset.*²¹

*Agimus autem interdum ut rem tantum consequamur, interdum ut poenam tantum, alias ut rem....(9) rem vero et poenam persequimur velut ex his causis ex quibus adversus infitiantem in duplum agimus; quod accidit per actionem ... damni iniuriae legis Aquiliae....*²²

“quodsi, iudices, hic pro suis beneficiis, pro suo studio, quod in vos semper habuit, tali suo tempore multorum suorum recte factorum causa uni delicto ut ignosceretis postularet, tamen dignum vestra mansuetudine, dignum virtute huius esset, iudices, a vobis hanc rem hoc postulante impetrari?”²³

*Quare hoc genus, quamquam in iudiciis non versatur nisi quadam ex parte, tamen, quia et pars haec ipsa inducenda nonnunquam est et in senatu aut in consilio saepe omni in genere tractanda, in id quoque praecepta ponemus.*²⁴

*ac mihi quidem, Quirites, cum illa certissima visa sunt argumenta atque indicia sceleris, tabellae, signa, manus, denique unius cuiusque confessio, tum multo certiora illa, color, oculi, vultus, taciturnitas. Sic enim obstupuerant, sic terram intuebantur, sic furtim non numquam inter sese aspiciebant, ut non iam ab aliis indicari, sed indicare se ipsi viderentur.*²⁵

¹⁸ *Ibid.*

¹⁹ *Ibid.* 4.2.6

²⁰ *Juv. Sat.* 6.535-541

²¹ *Dig.* 9.2.2 pr.-1 (*Gaius VII ad ed. prov.*).

²² *Gai. Inst.* IV.6, 9

²³ *Ibid.*

²⁴ *Cic. De Inv.* II. 105:

²⁵ *Cic. Cat.* III. 13

*cum... indicio T. Volturci et legatorum Allobrogum convicti confessisque sint caedem, incendia aliaque se foeda atque crudelia facinora in civis patriamque paravisse, de confessis, sicuti de manifestis rerum capitalium, more maiorum supplicium sumundum.*²⁶

tum multa etiam ad placandum atque ad misericordiam reis concessa sunt, deinde exorabilis populus, facilis suffragatio pro salute, denique etiam, si qua res illum diem aut auspiciis aut excusatione sustulit, tota causa iudiciumque sublatum est.

*quod si quando apud principem aliumve cui utrum velit liceat dicendum erit dignum quidem morte eum pro quo loquemur, clementi tamen servandum esse vel talem, primum omnium non erit res nobis cum adversario sed cum iudice, deinde forma deliberativae magis materiae quam iudicialis utemur: suadebimus enim ut laudem humanitatis potius quam voluptatem ultionis concupiscat. apud iudices quidem secundum legem dicturos sententiam de confessis praecipere ridiculum est.*²⁷

*causas, Caesar, egi multas, equidem tecum, dum te in foro tenuit ratio honorum tuorum, certe numquam hoc modo: "Ignoscite, iudices, erravit, lapsus est, non putavit, si umquam posthac...". ad parentem sic agi solet; ad iudices: "non fecit, non cogitavit; falsi testes, fictum crimen". dic te, Caesar, de facto Ligari iudicem esse, quibus in praesidiis fuerit quaere; taceo, ne haec quidem colligo quae fortasse ualere etiam apud iudicem: "legatus ante bellum profectus, relictus in pace, bello oppressus, in eo ipso non acerbus, totus animo et studio tuus". ad iudicem sic, sed ego apud parentem loquor: "erravi, temere feci, paenitet; ad clementiam tuam confugio, delicti ueniam peto, ut ignoscatur oro". si nemo impetrauit, adroganter; si plurimi, tu idem fer opem qui spem dedisti.*²⁸

ὁμολογῶ δὲ τοῦτό σοι, ὅτι κατὰ τὴν ὁδὸν ἣν λέγουσιν αἴρεσιν οὕτω λατρεύω τῷ πατρώῳ Θεῷ, πιστεύων πᾶσι τοῖς κατὰ τὸν νόμον καὶ τοῖς ἐν τοῖς προφήταις γεγραμμένοις, ἐλπίδα ἔχων εἰς τὸν Θεὸν ἣν καὶ αὐτοὶ οὗτοι προσδέχονται, ἀνάστασιν μέλλειν ἔσεσθαι νεκρῶν, δικαίων τε καὶ ἀδίκων.²⁹

*Habes igitur, Tubero, quod est accusatori maxime optandum, confitentem reum, sed tamen hoc confitentem, se in ea parte fuisse, qua te, qua virum omni laude dignum, patrem tuum. Itaque prius de vestro delicto confiteamini necesse est, quam Ligarii ullam culpam reprehendatis.*³⁰

Εἰ δὲ καὶ ὡς ἀδικεῖν ἡμῖν δοκοῦμεν, οὐκ ἀτυχεῖν, ὁμολογοῦμεν, καὶ δι' αὐτὸ καὶ παρακαλοῦμεν. ἔστι δὲ τῶν μὲν οὐδὲν ἁμαρτόντων δικαιολογία, τῶν δ' ἁμαρτόντων παράκλησις.³¹

*Verbis obligatio fit ex interrogatione et responsione, velut: DARI SPONDES? SPONDEO, DABIS? DABO, PROMITTIS? PROMITTO, FIDEPROMITTIS? FIDEPROMITTO, FIDEIUBES? FIDEIUBEO, FACIES? FACIAM. Sed haec quidem verborum obligatio, DARI SPONDES? SPONDEO, propria civium Romanorum est; ceterae vero iuris gentium sunt, itaque inter omnes homines, sive cives Romanos sive peregrinos, valent. et quamvis ad Graecam vocem expressae fuerint, velut hoc modo: δώσεις, δώσω. ὁμολογεῖς, ὁμολογῶ. πίστει κελεύεις, πίστει κελεύω. ποιήσεις, ποιήσω, etiam hae tamen inter cives Romanos valent, si modo Graeci sermonis intellectum habeant. et e contrario, quamvis Latine enuntientur, tamen etiam inter peregrinos valent, si modo Latini sermonis intellectum habeant. at illa verborum obligatio, DARI SPONDES? SPONDEO, adeo propria civium Romanorum est, ut ne quidem in Graecum sermonem per interpretationem proprie transferri possit, quamvis dicatur a Graeca voce figurate esse.*³²

²⁶ Sall. Cat. 52. 36

²⁷ Quint. Inst. V. 13. 6-7

²⁸ Cic. Lig. 30-1-

²⁹ Acts 24:14-15

³⁰ Cic. Lig. 2. Other examples of *paromologia*: Xen. Hell. 1.7.16-19; Lib. 36.28; 44.57-9; Val. Max. 8.1.12; Maximus of Tyre 3.4.

³¹ App. Pun. 8.51

³² Gai. Inst. 3.92-3

Chapter five:

Petzl 34, ll. 8-11: ὁ θεὸς ἀνέδιξεν τὰς εἰδίας δυνάμεις καὶ ἐκόλασεν τὸν Ἑρμογένην | καὶ ζημίας αὐτῷ ἐπόησεν ἀποκτίνας αὐτῷ τὰ κτήνη βοῦν κὲ ὄνον.

Petzl 68 ll.17-20: μὴ ὁμολογησάντων αὐτῶν ἢ | θεὸς οὖν ἔδειξεν τὰς ἰδίας δυνάμεις, καὶ ἰλάσσοντο αὐτὴν τελευτήσαντος τοῦ Ἑρμογένου.

ND 52: Μέγας [M] Μίς Τιαμου Ἀρ<τε>μιδώπου | Ἀξιοττα κατέχων καὶ ἡ δύναμις αὐτοῦ . Ἀ<φ>φιάς συνέθετο γάμου κοινωνίαν Γαιείου Ἰουλίαν Κόσμου θυγατέραν, | [ἦ]τις οὐκ ἐτήρησε τὴν πίστιν τῷ Γαιεῖω ἀλλ' ἐξήμαρτεν. μέγας οὖν ΟΠΩΝ ὁ θεὸς. ἐκόλασεν αὐτή|v ...

ND 70 (AD 180/1): Μηνὶ Ἀξιοττηνῷ, ἐπειδὴ ὁ Γλύκων ἐκολάσθη ὑπὲρ παππικῶν ἐγγαίων, ἅτινα Ἄτταλος, παρευχερίσας τὰ τοῦ θεοῦ ἔννεα, ἐνπορεύετο ἐξουθενήσας τοὺς θεοὺς τοὺς ἐν Νονίον. ἃ παραδίδει Γλύκων τῷ | θεῷ χωρὶς δόλου πονηροῦ | δαπανήσ(ας) πυ(ρῶν) κύ(πρους) δ' <, ὄνου πρ(όχους) δ>', ἐλαίου κοτύλην - σθνεβάλετο Μαρκία Ἀμφίας, τῆς ἀδελφῆς μου ἐγένετο δὲ καὶ ἡ | προάπαρσις ἐξ ἐννεαφώνου.

Petzl 54 (AD 118/9): [---]ων καὶ ἡ δύ[ναμις αὐτοῦ---] Ἀπολλώνιος | [---]ΤΟ. Ἀπολλωνίῳ [--- χαλκ]οῦ X μ'. εἶτα ἀπα[ι]τοῦντος τοῦ Ἀπολλωνίου τὸν χαλκὸν παρὰ τοῦ Σκόλλου ὤμοσε τοὺς | προγεγαμένους θεοὺς ἰς προθεσμίαν ἀποδοῦναι τὸ συναχθὲν κεφάλαιον. μὴ τηρήσαντος | αὐτοῦ τὴν πίστιν παρεχώρησεν | τῇ θεῷ ὁ Ἀπολλώνιος. Κολασθέντος οὖν τοῦ Σκόλλου ὑπὸ τῶν θεῶν ἰς θανάτου λόγον μετὰ τὴν τ[ε]λευτήν αὐτοῦ ἐπεζητήθη ὑπὸ τ[ῶν] | θεῶν. Τατίας οὖν ἡ θυγάτηρ αὐτοῦ | ἔλοισε τοὺς ὄρκους καὶ νῦν εἰλασαμένη εὐλογεῖ Μητρὶ Ατιμιτι | καὶ Μηνὶ Τιαμου...; Financial liability:

NRT 178 (AD 242/3): εἰς θεοὺς Τα[ζην]οὺς καὶ ἐπιζη[τη]σαντων αὐτῶν, | κολασθείσης τῆς | θυγα<α>τρὸς αὐτῆς Ἰ[ο]υλίας ἰς τὰ σπλάνχνα <α>ναδεξαμένης | αὐτῆς τὴν μητέρα | ἀπέδωκεν ἡ Ὀνησίμη θεοῖς Ταζηνοῖς καὶ | ἐστηλογράφησαν | καθ' ὃ ἐπεζήτησαν οἱ | θεοί...;

Petzl 79: Μέγας Μίς Ἀρτεμιδώρου Ἀξι[ι]οττα κατέχων καὶ ἡ δύναμις αὐτοῦ. Ἐπὶ Τατια Νεικηφόρου Μοκαδδηνῆ ἐδάνεισε Γα[ί]ω καὶ Ἀφφια τῇ γυναικὶ αὐτοῦ Μ[ο]κ[α]δδηνοῖς χαλκὸν προειπούσα | [".]ΤΗΞΡΟ δανίζω", ὁ Γάιος οὖν ἐχρη[ε]κόπησεν αὐτήν. ἡ Τατίας οὖν χρε[ο]κοπηθεῖσα ἐπεκαλέσεται ο κατ' αὐτοῦ τὸν θεόν. Μέγας οὖν [---]τὸν Γάιον καὶ Ε[---]χ[α]ρκὸν Ο[---].

ND 55: [---]ΠΡΟΡΑ Συνόδου Σαῖττη[ν]ῆ ἐπεὶ [---]αγαγουμ<έ>νων αὐτῆς [τῶν] [---]ων ἐπεύξατο Μῆνα Οὐρ[ά]νιον Ἀρ[τε]μιδώρου Ἀξιοττα κατέ[χ]οντα, καὶ ὡς πᾶσιν ἐπήκουες[ι] [μου ?] καὶ παρενθυμηθείσης | [μου] παρὰθερμον ἀποδοῦναι | [τὴν] εὐχὴν, ἐκόλασέ με. διὸ ἔσ[τη]σα τὴν στήλην<v> καὶ ἐπιέγρα[φα] τὰς τοῦ θεοῦ δυνάμεις καὶ ἀ[π]ὸ νῦν εὐλογῶ.

Petzl 58: ... Χάριν [ἔ]δωκαν οἱ θεοὶ Εὐδόξω, ἵνα μὴ λυομ[έ]νων ὄρκων τῆς Ταρσηνῆς λύει Εὐδοξὸς ὑπὲρ τῆς ἰδίας γυναικός. ἐπεὶ | ὤμοσεν Σάρδιον καὶ παρῶρησεν, διὰ τοῦτο -μῆπω οὖσα ἐνήλιξ [ουσα]- δαπανήσας ὁ Εὐδοξὸς ἐννέα ὀβολοὺς ἔλυσε τοὺς ὄρκους καὶ ἐστηλογ[ρ]άφησε | καὶ εὐχαριστεῖ. Ἴνα λύονται οἱ ὄρκοι τῷ | ὀνόματι τοῦ Ἀξιοττηνοῦ, ὥστε ὁ | λύων ὄρκους δαπανήσει δηνάρια ἐκατὸν ἑβδομήκοντα πέντε. τειμῆν δὲ λήμψεται ἀφ' αὐτῶν, ἦν ἂν ἐπερωτήσι, εἰ ταῦτα δικαίως γ[ι] ἐγραμμενα εἰσί, ἵν' ἀνέστησεν | στήλην. ὁ λύων σκῆπτρον θήσκει ἐπὶ τὸ ἱερὸν δηνάρια ἑκατὸν ἑβδομήκοντα πέντε {ι}, καὶ λέλυται τὸ σκῆπτ(ρον?) | δικαίως ΕΙΝΡΟΛΥΣΙΝΑΙ λελυμέν<ο>υς τοὺς θεοὺς κατὰ ὡς ἐπέκρινε<v> α>| ὑτοί.;

Petzl 71: ... Ἀπολλώνιος Ἀπολλωνίου μεγαλορημονήσας Μῆνα Ἀξιεττηνὸν καὶ | ἐκολάσθη. Ἐκέλευσεν | αὐτοῦ τοῖς ἰδίοις ἀναστ[ῆ]-σαι τὸν θεὸν Μῆνα Τιαμο[v]- | καὶ τὴν Ἀναειτίν. Παρεκλύσαντος δὲ αὐτοῦ χρόνον | καὶ μὴ ἀποδιδόντος αὐτοῦ | τὰ μέρη ἐκολάσαστο τὴν Ἀπφίαν, ἵνα στηλογραφήσει κ[α]τὰ τὰ μέρη παραδώσει. καὶ νῦν ἀποδίδει τὸ μέρος τῶν ἀνπέλων ἐπὶ ταῖς Παγάσι, ἃς ἐμέρι[σε] τόπος Κλαύδιον Μίλωνα, γειτονία Ἀμύντα καὶ Ὀνησᾶ. Ἐπὶ | ἱερέως Ἀλεξάνδρου Μούρ[κ]ου.

Petzl 71: Ἀπολλώνιος Ἀπολλωνίου μεγαλορημονήσα|ς Μῆνα Ἀξιεττηνὸν καὶ | ἐκολάσθη.
Ἐκέλευσεν | αὐτοῦ τοῖς ἰδίοις ἀναστ[ῆ-]|σαι τὸν θεὸν Μῆνα Τιανο[υ]- | καὶ τὴν Ἀναειπιν.
Παρελκύ|σαντος δὲ αὐτοῦ χρόνον | καὶ μὴ ἀποδιδόντος αὐτοῦ | τὰ μέρη ἐκολάσετο τὴν Ἀπ|φίαν, ἵνα
στηλογραφήσει κ[α.]ῖ τὰ μέρη παραδώσει. καὶ νῦν ἀποδίδει τὸ μέρος τῶν ἀνπέ|λων ἐπὶ ταῖς Παγάσι,
ἃς ἐμέρ[ι]|σε τόπος Κλαύδιον Μίλωνα, γει|τονία Ἀμύντα καὶ Ὀνησᾶ...

ΓΑΣΤΡΩΝ

Βίτιννα, ἄφες μοι τὴν ἀμαρτίην ταύτην
ἄνθρωπός εἰμι, ἥμαρτον...

...

ἀποκτενεῖς, Βίτιννα, μ' οὐδ' ἐλέγξασα
εἴτ' ἔστ' ἀληθέα πρῶτον εἴτε καὶ ψευδέα;

BITINNA

ἃ δ' αὐτὸς εἶπας ἄπι τῇ ἰδίῃ γλάσση
'Βίτινν', ἄφες μοι τὴν ἀμαρτίην ταύτην';

ΓΑΣΤΡΩΝ

την σευ χολὴν γὰρ ἤθελον κατασβέσσαι.³³

³³ Herod. *Mim.* 5.26-39

DESCRIPTIVE CATALOGUE: The Corpus of Ancient South Arabian Confession Inscriptions

Inventory of inscriptions

<u>Origin</u>	<u>Inscription</u>	<u>Date</u>	<u>Language</u>	<u>Material</u>	<u>Principle publication/discussion</u>
The Jawf					
Haram	CIH 523 (Haram 40)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992)
	CIH 546 (Haram 8)	Period C	Sabaeen	Stone (incised)	(Robin et al. 1992)
	CIH 547 (Haram 10)	Period C	Sabaeen	Stone (incised)	(Robin et al. 1992)
	CIH 533 (Haram 34)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992)
	CIH 532 (Haram 33)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992)
	CIH 568 (Haram 56)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992)
	RES 3956 (Haram 35)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992);
	RES 3957 (Haram 36)	Period C	Sabaeen	Bronze Tablet	(Robin et al. 1992)
Temple of Ygrw in Wadi Šuḍayf	aš-Šilwī 1	Period C	Sabaeen	Bronze Tablet	(Bron 1997)
	YM 10.703	Period C	Sabaeen	Bronze Tablet	(Sima 2000a)
	Munich/Völkerkundemuseum Inv.nr. 9-317 880	Period C	Sabaeen	Bronze Tablet (incised)	(Sima 1999)
	FB-Wādī Šuḍayf 2	? Period B	Sabaeen	Bronze Tablet	(Bron 1997)
FB-Wādī Šuḍayf 3	? Period D	Sabaeen	Bronze Tablet	(Bron 1997)	
Shaqab al-Manaṣṣa Al-Sawdā' (Nashshân)? Baraqish/Yathill	RES 2980 (Shaqab 19)	Period A	Sabaeen	Stone (incised)	(Jamme 1972); (Gnoli and Robin 1993)
	YM 23643	Period C to D	Sabaeen	Stone (incised)	(Arbach and Audouin 2007)
	Y.92.B.A.29	Period B	Minaic	Stone (incised)	(Gnoli 1996)
	Y.03.B.A.1	Period B	Minaic	Stone (incised)	(Agostini 2012)
Al-Jawf 04.9	Period B/c.2nd C BC	Minaic	Stone (incised)	(Arbach, Schiettecatte, and Unesco 2006)	

MORE UNPUBLISHED:

Y.90.B.A.6*
 Y.90.B.A.10*
 Y.90.B.A.16 + Y.86.B.ext.1 *
 Y.90.B.ext.1*
 Y.90.B.ext.4 *
 Y.90.B.ext.6 *
 Y.92.B.A.1*
 Y.92.B.A.4*
 Y.92.B.A.14*
 Y.92.B.A.29*
 Y.92.B.5*
 Y.92.B.A. 54*

From Ma'in? (or Yathill)	YM 26106	Period A/ 4th c BC	Minaic	Stone (incised)	(Arbach and Audouin 2007)
Darb aṣ-Ṣabī (near Baraqish)	GOAM 314	Period A/ 4th c BC	Minaic	Stone (incised)	(Arbach and Audouin 2007)
	MAFRAY-Darb aṣ-Ṣabī 5	Period B	Minaic	Stone (incised)	(Robin and Ryckmans 1988)
	MAFRAY-Darb aṣ-Ṣabī 16	Period B	Minaic	Stone (incised)	(Robin and Ryckmans 1988)
	MAFRAY-Darb aṣ-Ṣabī 26	Period B	Minaic	Stone (incised)	(Robin and Ryckmans 1988)
	MAFRAY-Darb aṣ-Ṣabī 30	Period B	Minaic	Stone (incised)	(Robin and Ryckmans 1988)
	MAFRAY-Darb aṣ-Ṣabī 32	Period B	Minaic	Stone (incised)	(Arbach 1994)

MORE UNPUBLISHED

Kamna	YM. 10.886	Period B/ 4th - 3rd C BC	Minaic	Stone (incised)	(Vogt and Robin 1997)
	Fr-Ṣan'a' 5	Period B/ 3rd - 2nd C BC	Minaic	Stone (incised)	(Frantsouzoff 2010)
Unknown from the Jawf	DhM 399	Period B	Minaic	Stone (incised)	Dhamār Museum 399, published on DASI online ¹
	YM 24905	Period A/ 7th -6th c BC	Minaic	Stone (incised) (Alabaster)	(Arbach and Audouin 2007)
	Aṣ-Ṣilwī 2005	?	Sabaeen	Bronze Tablet	(Al-Silwī 2009)
	CIH 678	Period A/ 7th-mid 5th c BC	Minaic	Stone (incised)	(Ryckmans 1945); (Ryckmans 1972); (Sima 1999).
	Ṣan'a' 2004-1	?Period B/ 2nd c BC	Sabaeen	Bronze Tablet	(Prioletta 2012)
	Bonhams London 23/10/2013	Period C	Sabaeen	Bronze Tablet	Unpublished; sold at auction 23/10/2013, Bonhams, London

Temple of Awām,	Ja 702	Not stated	Sabaeen	Stone (incised)	(Jamme 1962); (Ryckmans 1972)
--------------------	--------	---------------	---------	--------------------	----------------------------------

¹http://dasi.cnr.it/index.php?id=dasi_prj_epi&prjId=1&corId=0&colId=0&navId=954192101&recId=699 (as of 8th Oct 2019).

MAḤRAM BILQĪS (near Marib)	Ja 720	Not stated	Sabaeen	Stone (incised)	(Jamme 1962); (Bron 1988)
	YM 441 = CIAS I 87 = CIAS 39.11/rl	Period D (c. AD 235-260)	Sabaeen	Stone (incised)	(Beeston, Pirenne, and Robin 1977)
	NAM 2494 = CIAS II 41 = CIAS 39/11 / o3 no.6 At least 4 more by 2006	Period D	Sabaeen	Stone (incised)	(Beeston, Pirenne, and Robin 1977)
Raybūn I (Temple of ǧt Ḥmym ǧt Rḥbn)	Rb I/89 n.291 etc.	Not stated	Hadramitic	Stone (incised)	(Frantsouzoff 1995)
	Rb I/89 n.298, 300.	Not stated	Hadramitic	Stone (incised)	(Frantsouzoff 1998)
	Rb I/88 n.130	Period B	Hadramitic	Stone (incised)	(Frantsouzoff 1998)
	Rb I/84 n. 178+174a- b+175+177+176+181	Period B	Hadramitic	Stone (incised)	(Frantsouzoff 1995)
	Rb I/84 n.183 etc. (= 183 + 184 a-b +185 + 182 a-b).	Not stated	Hadramitic	Stone (incised)	(Frantsouzoff 1995)
	Rb I/84 n. 196a-d+201a-b	Not stated	Hadramitic	Stone (incised)	(Frantsouzoff 1995)
	Rb I/84 n.197a-e	Period B / 2nd - 1st C BC	Hadramitic	Stone (incised)	(Frantsouzoff 1997)
	Rb I/84 n. 198a-f	Period B / 2nd - 1st C BC	Hadramitic	Stone (incised)	(Frantsouzoff 1997)
Raybūn V (Temple of Kafas/Na‘mān)	Rb V/91 no. 61 + 52 + 54 + 62 + 67 + 60 + 53 + 57	Period B	Hadramitic	Stone (incised)	(Frantsouzoff 1998); (Frantsouzoff, Vinogradov, and Sedov 2007)
Na‘it	Nami 74	Period C	Sabaeen	Stone (incised)	(Müller 1987)
Unknown (not from the Jawf)	Ja 525	Period C	Sabaeen	Bronze Tablet	(Jamme 1955)
	CIH 504	Period C	Sabaeen	Stone (incised)	(Sima 1999)

Al-‘Ulā, North Arabia	RÉS 3706 (=M 366) (=Jaussen 30)	Period B	Minaic	Stone (incised)	(Jaussen and Savignac 1914) (Ryckmans 1972); (Sima 1999)
	Jaussen Mission Archéologique no.28	Not stated	Minaic	Stone (incised)	(Jaussen and Savignac 1914)
	Jaussen Mission Archéologique no.32	Not stated	Minaic	Stone (incised)	(Jaussen and Savignac 1914)

Periodization here follows the online Digital Archive for the Study of pre-Islamic Arabian Inscriptions (DASI) as per:

“The suggested periodization (phases A–E), applies to and is to be used only for Ancient South Arabian (ASA) inscriptions. It corresponds to the various broad periods into which the history of South Arabia is traditionally divided:

A – early first millennium to the fourth century BC (predominance of Saba);

B – fourth to first centuries BC (predominance of Qataban and Hadramawt, and their alliance with Main). The B Qatabanic period has been further divided into the two periods B1 (fourth to third centuries BC) and B2 (third to first centuries BC) (A. Avanzini, *Corpus of South Arabian Inscriptions, I-III*, Pisa, 2004, 27-30);

C – first century BC to early second century AD (alliances between the tribes of the high plateau and the ASA kingdoms);

D – late second to late third centuries AD (wars among the Himyar, Saba and Hadramawt)”²

² <http://dasi.cnr.it/index.php?id=109&prjId=1&corId=27&colId=0&navId=0> (as of 8th Oct 2019).

Abbreviations

DASI	Digital Archive for the Study of pre-Islamic Arabian Inscriptions (online): dasi.cnr.it.
c	Century
CCCAq	Vermaseren, M. J. 1977. <i>Corpus cultus Cybelae Attidisque (CCCA)</i> . 7 vols, <i>Etudes préliminaires aux religions orientales dans l'Empire romain</i> . Leiden: Brill.
CIAS	Beeston, Alfred F.L., Pirenne, Jacqueline and Robin, Christian J. 1977- 1986. <i>Corpus des inscriptions et antiquités sud-arabes</i> : <i>Vol. I (1977): Tome 1. Inscriptions. Tome 2. Antiquités</i> ; <i>Vol. II (1986): Le Musée d'Aden. Tome 1. Inscriptions. Tome 2. Antiquités</i> . Louvain: Peeters. [Académie des Inscriptions et Belles-lettres]
CIH	<i>Corpus Inscriptionum Hebraicarum</i>
CIL	<i>Corpus Inscriptionum Latinarum</i>
c.p.i.e	<i>confessus pro iudicato est</i>
DT	Audollent, Auguste. 1904. "Defixionum tabellae quotquot innotuerunt : tam in Graecis orientis quam in totius occidentis partibus praeter Atticas in Corpore inscriptionum Atticarum editas." Thesis, Paris University, in aedibus Alberti Fontemoing.
Ja	Jamme, A. 1955. "Inscriptions sud-arabes de la collection Ettore Rossi." <i>Rivista degli Studi Orientali</i> 30:103-130; Jamme, A. 1962. <i>Sabaeen inscriptions from Maḥram Bilqīs (Mārib)</i> , <i>Publications of the American Foundation for the Study of Man</i> . Baltimore: Johns Hopkins Press
ND	Herrmann, Peter, and Hasan Malay. 2007. <i>New documents from Lydia</i> , <i>Denkschriften / Österreichische Akademie der Wissenschaften Philosophisch- Historische Klasse</i> . Wien: ÖAW, Verlag der Österreichischen Akademie der Wissenschaften.
NRT	Malay, Hasan, and Georg Petzl. 2017. <i>New religious texts from Lydia</i> , <i>Denkschriften (Österreichische Akademie der Wissenschaften. Philosophisch-Historische Klasse) ; 497. Bd</i> . Wien: Verlag der Österreichischen Akademie der Wissenschaften.
Petzl	Petzl, G. 1994. "Die Beichtinschriften Westkleinasiens." <i>Epigraphica Anatolica</i> 22.
RES	<i>Répertoire d'Épigraphie sémitique</i>
TPSulp.	Camodeca, Giuseppe 1999. <i>Tabulae Pompeianae Sulpiciorum (TPSulp.)</i> : edizione critica dell'archivio puteolano dei Sulpicii

Bibliography

- Abercrombie, Nicholas, Stephen Hill, and Bryan S. Turner. 1986. *Sovereign individuals of capitalism*. London: Allen & Unwin.
- Ager, Sheila L. 1996. *Interstate arbitrations in the Greek world, 337-90 B.C.* Berkeley ; London: University of California Press.
- Agostini, Alessio. 2012. "New perspectives on Minaean expiatory texts." *Proceedings of the Seminar for Arabian Studies* 42:1-12.
- Akin, David. 2003. "Concealment, Confession, and Innovation in Kwaio Women's Taboos." *American Ethnologist* 30 (3):381-400.
- Al-Silwī, I.M. 2009. "Naqsh jadīd min nuqūsh al-i 'tirāf al-'alanī (naqsh min ma 'bad 'dnn). Dirāsah fī dalālātihi al-lughawīyah wa-al-dīniyyah." In *Sabaeen studies : archaeological, epigraphical and historical studies in honour of Yusuf M. Abdallah, Alessandro de Maigret, Christian J. Robin on the occasion of their sixtieth birthdays*, edited by Amida Sholan, Sabina Antonini, Mounir Arbach, Yūsuf Muḥammad 'Abd Allāh, Alessandro De Maigret and Christian Robin, lxxv, 520, 182 p. : ill. ; 24 cm. Paris: De Boccard.
- Alexander, and Ivo Bruns. 1887. *Alexandri Aphrodisiensis Praeter commentaria scripta minora*. Edited by Königlich Preussische Akademie der Wissenschaften zu Berlin. 2 vols, *Supplementum Aristotelicum*. Berolini: Typis et impensis Georgii Reimer.
- Alexander, and R. W. Sharples. 2004. *Supplement to 'On the soul', Ancient commentators on Aristotle*. London: Duckworth.
- Alvar Ezquerro, Jaime, and R. L. Gordon. 2008. *Romanising Oriental Gods : myth, salvation and ethics in the cults of Cybele, Isis and Mithras*. Leiden: Brill.
- Ammon, and James E. Goehring. 1985. *The letter of Ammon and Pachomian monasticism, Patristische Texte und Studien*. Berlin: De Gruyter.
- Anderson, Gary A. 2009. *Sin : a history*. New Haven, Conn. ; London: Yale University Press.
- Ando, Clifford. 2010. "The Ontology of Religious Institutions." *History of Religions* 50 (1):54-79.
- Apuleius, and J. Gwyn Griffiths. 1975. *The Isis-book : (Metamorphoses, book XI)*. Leiden: Brill.
- Arbach, M. 1994. "Inscriptions sudarabiques." *Raydān* 6:5-16.
- Arbach, M., and Rémy Audouin. 2007. *Sana National Museum: collection of epigraphic and archaeological artifacts from al-Jawf sites, part II*. 3 vols. Vol. 2. Yemen: Print Art; UNESCO.
- Arbach, Mounir, Jérémie Schiettecatte, and Unesco. 2006. *Catalogue des pieces archeologiques & epigraphiques du Jawf au Musee National de San'a*. San'ā': Centre français d'archéologie et de sciences sociales de San'a'.
- Arnold, C. E. 2005a. "'I Am Astonished That You Are So Quickly Turning Away' (Gal 1.6) Paul and Anatolian Folk Belief." *New Testament Studies* 51 (3):429-449.
- Arnold, Russell C. D. 2005b. "Qumran Prayer as an Act of Righteousness." *The Jewish Quarterly Review* 95 (3):509-529.
- Astbury, Raymond. 1977. "Petronius, P. Oxy. 3010, and Menippean Satire." *Classical Philology* 72 (1):22-31. doi: 10.2307/267646.
- Audollent, Auguste. 1904. "Defixionum tabellae quotquot innotuerunt : tam in Graecis orientis quam in totius occidentis partibus praeter Atticas in Corpore inscriptionum Atticarum editas." Thesis, Paris University, in aedibus Alberti Fontemoing.
- Austin, J. L. 1961. "A Plea for Excuses." In *Philosophical Papers*, edited by J. L. Austin, J. O. Urmson and G. J. Warnock. Clarendon Press.

- Austin, J. L. 1975. *How To Do Things With Words: The William James Lectures delivered at Harvard University in 1955*. Oxford: Oxford University Press.
- Austin, J. L., J. O. Urmson, and Marina Sbisa. 1976. *How to do things with words : the William James lectures delivered at Harvard University in 1955*. 2nd ed, *William James lectures*. Oxford: Oxford University Press.
- Bachvarova, Mary. 2006. "Divine Justice across the Mediterranean: Hittite Arkuwars and the Trial Scene in Aeschylus' Eumenides." *Journal of Ancient Near Eastern Religions* 6 (1):123-153.
- Barton, Carlin A. 2001. *Roman honor : the fire in the bones*. Berkeley: University of California Press.
- Bauman, Richard A. 1996. *Crime and punishment in ancient Rome*. London: Routledge.
- Beard, M. 1990. "Priesthood in the Roman Republic." In *Pagan priests : religion and power in the ancient world*, edited by M. Beard and J. North, 19-48. London: Duckworth.
- Beeston, A., J. Pirenne, and C. Robin. 1977. *Corpus des inscriptions et antiquités sud-arabes*. 4 vols. Louvain: Éditions Peeters.
- Belayche, Nicole. 2000. "« DEAE SVRIAE SACRVM » La romanité des cultes « orientaux »." *Revue Historique* 302 (3 (615)):565-592. doi: 10.2307/40956714.
- Belayche, Nicole. 2010. "Deus deum ... summorum maximus (Apuleius): ritual expressions of distinction in the divine world in the imperial period." In *One God: Pagan Monotheism in the Roman Empire*, edited by Peter Van Nuffelen and Stephen Mitchell, 141-166. Cambridge: Cambridge University Press.
- Berry, D. H. 1996. *Pro P. Sulla oratio, Cambridge classical texts and commentaries*. Cambridge: Cambridge University Press.
- Bilde, Per. 1990. *Religion and religious practice in the Seleucid Kingdom*. Aarhus: Aarhus University Press.
- Birks, Peter. 1988. "New light on the Roman legal system: the appointment of judges." *Cambridge Law Journal* 47 (1):36-60.
- Bloch, Herbert. 1945. "A New Document of the Last Pagan Revival in the West, 393-394 A.D." *The Harvard Theological Review* 38 (4):199-244. doi: 10.2307/1508228.
- Blänsdorf, Jürgen. 2007. "'Würmer und Krebs sollen ihn befallen': Eine neue Fluchtafel aus Groß-Gerau." *Zeitschrift für Papyrologie und Epigraphik* 161:61-65. doi: 10.2307/20191287.
- Blänsdorf, Jürgen. 2010. "The defixiones from the sanctuary of Isis and Magna Mater in Mainz." In *Magical practices in the Latin West: papers from the international conference held at the University of Zaragoza, 30 Sept - 1 Oct. 2005*, edited by R. L. Gordon and Francisco Marco Simón. Leiden; Boston: Brill.
- Boccassino, Renato. 1958. *Etnologia religiosa : introduzione generale : le scuole evoluzioniste, e le scuole storiche*. Torino: Società editrice internazionale.
- Boehm, Ryan. 2011. "Petition to Appoint an "epitropos": A New Document from the Archive of Aurelius Adelphios." *The Bulletin of the American Society of Papyrologists* 48:61-70.
- Bornkamm, Günther. 1936. "ΟΜΟΛΟΓΙΑ: Zur Geschichte eines Politischen Begriffs." *Hermes* 71 (4):377-393.
- Bradbury, Scott. 1995. "Julian's Pagan Revival and the Decline of Blood Sacrifice." *Phoenix* 49 (4):331-356. doi: 10.2307/1088885.
- Brennan, T. Corey. 2000. *The praetorship in the Roman Republic*. Oxford: Oxford University Press.
- Bricault, Laurent. 2013. *Les cultes isiaques dans le monde gréco-romain, La roue à livres/Documents*. Paris: Les Belles Lettres.

- Brixhe, C. 2001. "Individu, langue et communauté sociale: à propos des confessions païennes du Moyen Hermos." In *Norma e variazione nel diasistema greco. Atti del Quarto Incontro Internazionale di Linguistica Greca (Chieti-Pescara 1999)*, edited by C. Consani and L. Mucciante, 101-118. Alexandria.
- Bron, François. 1988. "Inscriptions du Maḥram Bilqīs (Mârib) au Musée de Bayhân." *Raydān* 5:39-52.
- Bron, François. 1997. "Quatre inscriptions sabéennes provenant d'un temple de Dhū-Samawī." *Syria* 74:73-80. doi: 10.2307/4199197.
- Brooks, Peter. 2000. *Troubling confessions : speaking guilt in law & literature*. Chicago ; London: University of Chicago Press.
- Brown, Lesley. 2018. "Rethinking Agreement in Plato." In *Virtue, Happiness, Knowledge: Themes from the Work of Gail Fine and Terence Irwin*, edited by David O. Brink, Susan Sauvé Meyer and Christopher John Shields, 18-32. Oxford: Oxford University Press.
- Brown, Peter. 1978. *The making of late antiquity, Carl Newell Jackson lectures*. Cambridge, Mass ; London: Harvard University Press.
- Buckler, W. H. 1914. *Some Lydian propitiatory inscriptions*. London: MacMillan.
- Camodeca, Giuseppe. 1999. *Tabulae pompeianae Sulpiciorum (TPSulp.) : edizione critica dell'archivio puteolano dei Sulpicii*. 2 vols. Rome: Edizioni Quasar.
- Caputo, John D., and Michael J. Scanlon. 2005. *Augustine and Postmodernism : Confessions and Circumfession*. Bloomington: Indiana University Press.
- Carawan, Edwin. 2000. "Deianira's Guilt." *Transactions of the American Philological Association* 130:189-237.
- Carawan, Edwin. 2006. "The Athenian Law of Agreement." *Greek, Roman and Byzantine Studies* 46:339-374.
- Castner, Catherine J. 1988. *Prosopography of Roman Epicureans from the second century B.C. to the second century A.D., Studien zur klassischen Philologie*,. Frankfurt am Main ; New York: P. Lang.
- Chanotis, Angelos. 1995. "Illness and cures in the Greek propitiatory inscriptions and the dedications of Lydia and Phrygia." In *Ancient Medicine in its socio-cultural context: papers read at the congress held at Leiden University, 13-15 April 1992*, edited by Ph J. van der Eijk, H. F. J. Horstmannshoff and P. H. Schrijvers. Amsterdam: Amsterdam : Rodopi.
- Chanotis, Angelos. 1997. "Tempeljustiz im kaiserzeitlichen Kleinasien: Rechtliche Aspekte der Sühneinschriften Lydiens und Phrygiens." In *Symposion 1995. Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Korfu, 1.-5. September 1995)*, edited by Gerhard Thür and J. Vélissaropoulos-Karakostas, 353-384. Cologne, Weimar, Vienna: Böhlau.
- Chanotis, Angelos. 2004. "Under the Watchful Eyes of the Gods: Aspects of Divine Justice in Hellenistic and Roman Asia Minor." In *The Greco-Roman East : politics, culture, society*, edited by Stephen Colvin. Cambridge: Cambridge University Press.
- Chanotis, Angelos. 2009. "Ritual performances of divine justice: the epigraphy of confession, atonement and exaltation in Roman Asia Minor." In *From Hellenism to Islam: cultural and linguistic change in the Roman Near East*, edited by H. Cotton, 115-153. Cambridge: Cambridge University Press.
- Chanotis, Angelos. 2010. "Megatheism: the search for the almighty god and the competition of cults." In *One God: Pagan Monotheism in the Roman Empire*, edited by Peter Van Nuffelen and Stephen Mitchell, 112-140. Cambridge: Cambridge University Press.
- Copley, Frank Olin. 1947. "Servitium amoris in the Roman Elegists." *Transactions and Proceedings of the American Philological Association* 78:285-300.

- Cornwell, John. 2014. *The dark box : a secret history of confession*. London: Profile Books.
- Cowey, James M. S., and Klaus Maresch. 2001. *Urkunden des Politeuma der Juden von Herakleopolis (144/3-133/2 v. Chr.) (P. Polit. Iud.) : Papyri aus den Sammlungen von Heidelberg, Köln, München und Wien, Abhandlungen der Nordrhein-Westfälischen Akademie der Wissenschaften Sonderreihe Papyrologica Coloniensia*,. Wiesbaden: Westdeutscher Verlag.
- Crook, J. A. 1987. "Was there a 'Doctrine of Manifest Guilt' in the Roman Criminal Law?" *Proceedings of the Cambridge Philological Society* 33:38-52.
- Cumont, Franz Valery Marie. 1929. *Les religions orientales dans le paganisme romain : conférences faites au Collège de France en 1905*. 4. éd., revue, illustrée et annotée / ed. Paris: P. Geuthner.
- David, Jean-Michel. 1986. "La faute et l'abandon: théories et pratiques judiciaires à Rome à la fin de la République." In *L'aveu. Antiquité et Moyen Âge. Actes de la table ronde de Rome (28-30 mars 1984)*. 69-87. Rome: École Française de Rome.
- de Libero, Loretana. "Praeco." In *Brill's New Pauly*, 11:750. Brill.
- Derrida, Jacques, and Peggy Kamuf. 2002. *Without alibi, Meridian, crossing aesthetics*. Stanford, Calif. ; Great Britain: Stanford University Press.
- Docherty, Thomas. 2014. *Confessions : the philosophy of transparency*. London: Bloomsbury Academic.
- Dodds, E. R. 1951. *The Greeks and the irrational, Sather classical lectures ; v. 25*. Berkeley ; London: University of California Press.
- Dolbeau, François. 1996. *Vingt-six sermons au peuple d'Afrique, Collection des études augustiniennes. Série Antiquité ; 147*. Paris: Institut d'études augustiniennes.
- Donalson, Malcolm Drew. 2003. *The cult of Isis in the Roman Empire : Isis Invicta*. Lewiston, N.Y. ; Lampeter: E. Mellen Press.
- Dowling, Melissa Barden. 2006. *Clemency & cruelty in the Roman world*. Ann Arbor: University of Michigan Press.
- Drew-Bear, Thomas, Mehmet Taşlıalan, and Michel Christol. 2003. "Lucius Egnatius Victor Lollianus, proconsul d'Asie." *Anatolia Antiqua* 11:343-359.
- Drummond, Andrew. 1995. *Law, politics and power : Sallust and the execution of the Catilinarian conspirators, Historia (Wiesbaden, Germany) Einzelschriften*. Stuttgart: Franz Steiner.
- Dulong, Renaud. 2001. *L'aveu : histoire, sociologie, philosophie, Droit et justice*.
- Dunand, Françoise, Pierre Lévêque, Centre de recherches d'histoire ancienne., and Université des sciences humaines de Strasbourg. Centre de recherches d'histoire des religions. 1975. *Les Syncrétismes dans les religions de l'antiquité : colloque de Besançon, 22-23 octobre 1973*. Leiden: E. J. Brill.
- Earler, Michael, and Malcolm Schofield. 1999. "Epicurean Ethics." In *The Cambridge History of Hellenistic Philosophy*, edited by Keimpe Algra, Jonathan Barnes, Jaap Mansfield and Malcolm Schofield, 642-674. Cambridge: Cambridge University Press.
- Eck, Werner, Antonio Caballos, and Fernando Fernández. 1996. *Das Senatus consultum de Cn. Pisone patre, Vestigia*. München: Beck.
- Edelstein, Ludwig, and I. G. Kidd. 1972. *Posidonius*. 3 vols, *Cambridge classical texts and commentaries*. Cambridge: Cambridge University Press.
- Edmonds, J. M., August Meineke, Theodor Bergk, and Theodor Kock. 1957. *The fragments of Attic comedy after Meineke, Bergk and Kock*. 3 vols. Leiden: Brill.
- Eger, O. 1939. "Eid und Fluch in den maionischen und phrygischen Sühne-Inschriften." In *Festschrift für Paul Koschaker, Band III.*, 281-293. Weimar.
- Elm, Susanna. 2017. "Sold to Sin per origo: Augustine on the Slave Trade." *Studia Patristica* 24:1-21.

- Evans-Pritchard, E. E. 1956. *Nuer religion*. New York ; Oxford: Oxford University Press.
- Faraone, C. A., B. Garnand, and C. López-Ruiz. 2005. "Micah's Mother (Judg. 17:1–4) and a Curse from Carthage (KAI 89): Canaanite Precedents for Greek and Latin Curses against Thieves?" *Journal of Near Eastern Studies* 64 (3):161-186. doi: 10.1086/491573.
- Fishwick, Duncan. 1967. "Hastiferi." *The Journal of Roman Studies* 57 (1/2):142-160. doi: 10.2307/299351.
- Foucault, Michel. 2000. *Power, Essential works of Foucault, 1954-1984*. London: Allen Lane.
- Foucault, Michel. 2018. *Les aveux de la chair*.
- Foucault, Michel, and Graham Burchell. 2015. "Parrhēsia." *Critical Inquiry* 41 (2):219-253.
- Foucault, Michel, Henri-Paul Fruchaud, Daniele Lorenzini, and Graham Burchell. 2016. *About the beginning of the hermeneutics of the self : lectures at Dartmouth College, 1980*. Chicago ; London: The University of Chicago Press.
- Foucault, Michel, and Frédéric Gros. 2018. *Histoire de la sexualité 4: les aveux de la chair, Bibliothèque des histoires*. Paris: Gallimard.
- Foucault, Michel, Frédéric Gros, François Ewald, and Alessandro Fontana. 2005. *The hermeneutics of the subject : lectures at the Collège de France, 1981-1982*. New York: Palgrave-Macmillan.
- Foucault, Michel, and Robert Hurley. 1978. *The history of sexuality. Vol.1, The will to knowledge*. London: Penguin.
- Foucault, Michel, and Robert Hurley. 1990. *The history of sexuality, Penguin books*. Harmondsworth: Penguin books.
- Fox, W. Sherwood. 1914. "Old Testament Parallels to Tabellae Defixionum." *The American Journal of Semitic Languages and Literatures* 30 (2):111-124. doi: 10.2307/528203.
- Frankfurter, David. 1998. *Religion in Roman Egypt : assimilation and resistance*. Princeton, N.J.: Princeton University Press.
- Frantsouzoff, S. A., IŪ G. Vinogradov, and A. V. Sedov. 2007. *Raybūn : Kafas/Na'mān, temple de la déesse Dhāt Himyam*. Paris Rome: Académie des inscriptions et belles-lettres ; Istituto italiano per l'Africa e l'orientale.
- Frantsouzoff, Serge A. 1997. "Regulation of conjugal relations in ancient Raybūn." *Proceedings of the Seminar for Arabian Studies* 27:113-127.
- Frantsouzoff, Serge A. 2010. "Once more on the interpretation of mṭl in Epigraphic South Arabian (a new expiatory inscription on irrigation from Kamna)." *Proceedings of the Seminar for Arabian Studies* 40:161-170.
- Frantsouzoff, Serguei. 1995. "The Inscriptions from the temples of Dhat Himyam at Raybūn. With a Postscript by Alfred F. L. Beeston." *Proceedings of the Seminar for Arabian Studies* 25:15-28.
- Frantsouzoff, Serguei. 1998. "A Parallel to the Second Commandment in the inscriptions of Raybūn." *Proceedings of the Seminar for Arabian Studies* 28:61-67.
- Frederiksen, M. W. 1964. "The Lex Rubria: Reconsiderations." *The Journal of Roman Studies* 54:129-134.
- Fredriksen, Paula. 2012. *Sin : the early history of an idea*. Princeton ; Oxford: Princeton University Press.
- Frisch, P. 1983. "Über die Lydisch-Phrygischen Sühneinschriften und die "Confessiones" des Augustinus." *Epigraphica Anatolica* 2:41-5.
- Gaertner, Jan Felix. 2001. "A commentary on Ovid Epistulae ex Ponto I.1-6." D Phil, University of Oxford.
- Gagliardi, Lorenzo. 2014. "La legge sulla ὁμολογία e i vizi della volontà nei contratti in diritto ateniese." In *Symposion 2013 : papers on Greek and Hellenistic legal history*

- (Cambridge MA, August 26-29, 2013) = *Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Cambridge MA, 26.-29. August 2013)*, edited by Michael Gagarin and Adriaan Lanni, 177-214. Wien: Verlag der Österreichischen Akademie der Wissenschaften.
- Galen, P. N. Singer, Daniel Davies, and Vivian Nutton. 2013. *Galen - psychological writings, Cambridge Galen translations*. Cambridge: Cambridge University Press. still image.
- Galsterer, H. 1996. "The Administration of Justice." In *The Cambridge Ancient History: the Augustan Empire 43 BC - AD 69*, edited by A. Bowman, E. Champlin and A. Lintott. Oxford: Oxford University Press.
- García y Bellido, Antonio. 1956. *El culto a Ma-Bellona en la España Romana*. Madrid,.
- Garnsey, Peter. 1970. *Social status and legal privilege in the Roman Empire*. Oxford: Clarendon Press.
- Gernet, L. 1917. *Recherches sur le développement de la pensée juridique et morale en grece*. Paris.
- Gnoli, Gherardo. 1996. "Una nuova iscrizione minea di Barāqish sulla confessione dei peccati." In *Alle soglie della classicità : il Mediterraneo tra tradizione e innovazione : studi in onore di Sabatino Moscati*, edited by Enrico Acquaro and Sabatino Moscati, 1145-59. Pisa: Istituti editoriali e poligrafici internazionali.
- Gnoli, Gherardo, and Christian Robin. 1993. *Inventario delle iscrizioni sudarabiche. Tomo 2, Shaqab al-manaṣṣa / Gherardo Gnoli ; [pubblicato a cura di Christian Robin], Inventaire des inscriptions sudarabiques*. Parigi : Roma: Distribuzione de Boccard ; Distribuzione Herder.
- Gordon, R. L. 2004. "Raising a Sceptre: Confession narratives from Lydia and Phrygia." *Journal of Roman Archaeology* 17:117-196.
- Graf, Fritz. 2015. "Healing." In *The Oxford handbook of ancient Greek religion*, edited by Esther Eidinow and Julia Kindt, 505-18. Oxford: Oxford University Press.
- Graver, Margaret. 2002. *Cicero on the emotions : Tusculan disputations 3 and 4*. Chicago ; London: University of Chicago Press.
- Greenidge, A. H. J. 1901a. *The legal procedure of Cicero's time*. Oxford: Clarendon Press.
- Greenidge, Abel Hendy Jones. 1901b. *The Legal Procedure of Cicero's Time*. Oxford: Clarendon Press.
- Griffiths, J. Gwyn, Ugo Bianchi, and M. J. Vermaseren. 1982. *The concept of divine judgement in the mystery religions*. Leiden: E.J. Brill.
- Grobe, Christopher. 2017. *The art of confession : the performance of self from Robert Lowell to reality TV*. New York: New York University Press.
- Guarducci, Margherita. 1987. *L'epigrafia greca dalle origini al tardo impero*. Roma: Istituto poligrafico e Zecca dello Stato : Libreria dello Stato.
- Hadot, Ilsetraut. 1969. *Seneca und die griechisch-römische Tradition der Seelenleitung, Quellen und Studien zur Geschichte der Philosophie*. Berlin: De Gruyter.
- Haensch, Rudolf. 2006. "L. Egnatius Victor Lollianus: la rhétorique, la religion et le pouvoir." In *Pouvoir et religion dans le monde romain. Autour de l'œuvre de Jean-Pierre Martin* edited by B Klein, X. Loriot and A. Vigourt, 289-302. Paris: Presses de l'Université Paris-Sorbonne.
- Hallett, Judith P. 1973. "The Role of Women in Roman Elegy: Counter-Cultural Feminism." *Arethusa* 6 (1):103-124.
- Harkins, Paul W., and Walther Riese. 1963. *Galen on the passions and errors of the soul*. Columbus: Ohio State University Press.
- Hauken, Tor. 1998. *Petition and response : an epigraphic study of petitions to Roman emperors, 181-249, Monographs from the Norwegian Institute at Athens*,. Bergen Jonsered, Sweden: Norwegian Institute at Athens ;

- Distributor, P. Åströms förlag.
- Hausherr, Irénée. 1990. *Spiritual direction in the early Christian East, Cistercian studies series ; no.116*. Kalamazoo, Mich: Cistercian Publications.
- Henri, Oceanne Maureen. 2015. "Théonymes grecs et panthéon égyptien: enquête sur les mécanismes de l'interpretatio graeca. Thèse de doctorat. Univ Genève. 2015. n. L 833." Doctorate, Geneva (L 833).
- Hephaestion, and David Pingree. 1973. *Hephaestionis Thebani Apotelesmaticorum, Bibliotheca scriptorum graecorum et romanorum Teubneriana Scriptores Graeci*. Leipzig: B.G. Teubner.
- Hepworth, Mike, and Bryan S. Turner. 1982. *Confession : studies in deviance and religion*. London ; Boston: Routledge & Kegan Paul.
- Hermogenes, Hugo Rabe, and George A. Kennedy. 2005. *Invention and method : two rhetorical treatises from the Hermogenic corpus, Writings from the Greco-Roman world ,.* Leiden ; Boston: Brill.
- Herrmann, Peter, and Hasan Malay. 2007. *New documents from Lydia, Denkschriften / Österreichische Akademie der Wissenschaften Philosophisch-Historische Klasse*. Wien: ÖAW, Verlag der Österreichischen Akademie der Wissenschaften.
- Heyob, Sharon Kelly. 1975. *The cult of Isis among women in the Graeco-Roman world, Etudes préliminaires aux religions orientales dans l'Empire romain*. Leiden: Brill.
- Hoz, Maria Paz De. 2006. "Literacy in Rural Anatolia: The Testimony of the Confession Inscriptions." *Zeitschrift für Papyrologie und Epigraphik* 155:139-144.
- Hoz, Maria Paz de. 2009. "The Aretalogical Character of the Maionian Confession Inscriptions." In *Estudios de epigrafía griega*, edited by Ángel Martínez Fernández, 357-367. Santa Cruz de Tenerife: Universidad de La Laguna.
- Hughes, Jessica. 2017. *Votive body parts in Greek and Roman religion, Cambridge classical studies*. New York: Cambridge University Press.
- Jamme, A. 1955. "Inscriptions sud-arabes de la collection Ettore Rossi." *Rivista degli Studi Orientali* 30:103-130.
- Jamme, A. 1962. *Sabaeen inscriptions from Maḥram Bilqīs (Mārib), Publications of the American Foundation for the Study of Man*. Baltimore: Johns Hopkins Press.
- Jamme, Albert. 1972. *Miscellanées d'ancien arabe III*. Washington.
- Jaussen, Antonin b, and Raphaël Savignac. 1914. *Mission archéologique en Arabie: II. El-'Ela, d'Hégra à Teima, Harrah de Tebouk*. Paris: Paul Geunther.
- Kaizer, Ted. 2006. "In Search of Oriental Cults. Methodological Problems concerning 'the Particular' and 'the General' in near Eastern Religion in the Hellenistic and Roman Periods." *Historia: Zeitschrift für Alte Geschichte* 55 (1):26-47. doi: 10.2307/4436797.
- Kaser, Max. 1966. *Das römische Zivilprozessrecht, Handbuch der Altertumswissenschaft*. München: C. H. Beck'sche Verlagsbuchhandlung.
- Kelly, Gordon P. 2006. *A history of exile in the Roman republic*. Cambridge ; New York: Cambridge University Press.
- Kockelmann, Holger. 2008. *Praising the goddess : a comparative and annotated re-edition of six demotic hymns and praises addressed to Isis, Archiv für Papyrusforschung und verwandte Gebiete Beiheft*. Berlin: Walter de Gruyter GmbH.
- Kok, Jacobus. 2013. "A comparison between James and Philodemus on moral exhortation, communal confession and correctio fraterna." *HTS Theological Studies* 61:1-8.
- Konstan, David. 1998. *On frank criticism, Texts and translations*. Atlanta, Ga.: Scholars Press.
- Konstan, David. 2010. *Before forgiveness : the origins of a moral idea*. Cambridge ; New York: Cambridge University Press.

- Kramer, Bärbel, Dieter Hagedorn, Heidelberger Akademie der Wissenschaften. Philosophisch-Historische Klasse., and Universität Heidelberg. Papyrus-Kommission. 1986. *Griechische Texte der Heidelberger Papyrus-Sammlung (P. Heid. IV)*. Heidelberg: Winter.
- Kroll, Wilhelm, Alexander Olivieri, Franz Boll, Franz Cumont, Emidio Martini, Domenico Bassi, Josef Heeg, Ch Em Ruelle, Pierre Boudreaux, Stefan Weinstock, A. Delatte, C. O. Zuretti, Mstislav Antoninevich Shangin, Ae Boer, Porphyry, and Académie royale des sciences des lettres et des beaux-arts de Belgique. 1898. *Catalogus codicum astrologorum Graecorum*. 12 vols. Bruxellis: In aedibus H. Lamertin.
- Kropp, Manfred. 2002. "Individual public confession and pious ex voto, or stereotypical and stylized trial document and stigmatizing tablet for the pillory? The expiation texts in Ancient South Arabian." *Proceedings of the Seminar for Arabian Studies* 32:203-208. doi: 10.2307/41223734.
- Kudlien, F. 1978. "Beichte und Heilung." *Medizinhistorisches Journal* 13:1-14.
- Kynes, Will. 2019. "How Repentance Became Biblical: Judaism, Christianity, and the Interpretation of Scripture. By David A. Lambert." *The Journal of Theological Studies* 70 (1):356-359. doi: 10.1093/jts/flz004.
- Laffi, U. 1986. "La Lex Rubria de Gallia Cisalpina." *Athenaeum* 64:5-34.
- Lambert, David A. 2018. *How repentance became biblical*. New York: Oxford University Press.
- Lane, Eugene N. 1971. *Corpus monumentorum religionis dei Menis (CMRDM), Etudes preliminaires aux religions orientales dans l'Empire romain t.19*.
- Lane Fox, Robin. 1988. *Pagans and Christians*. London: Penguin.
- Lane Fox, Robin. 2006. "The unauthorized version : truth and fiction in the Bible." In. London ; Ringwood, Vic.: Penguin,.
- Lane Fox, Robin. 2015. *Augustine : conversions and confessions*. London: Allen Lane an imprint of Penguin Books.
- Langlands, Rebecca. 2011. "Roman Exempla and Situation Ethics: Valerius Maximus and Cicero de Officiis." *The Journal of Roman Studies* 101:100-122.
- Latham, Jacob. 2012. "'Fabulous Clap-Trap': Roman Masculinity, the Cult of Magna Mater, and Literary Constructions of the galli at Rome from the Late Republic to Late Antiquity." *The Journal of Religion* 92 (1):84-122. doi: 10.1086/662205.
- Latte, Kurt. 1920-1. "Schuld und Sünde in der griechischen Religion." *Archiv für Religionswissenschaft* 20:254-298.
- Latte, Kurt, Wolfgang Buchwald, Olof Gigon, and Wolfgang Kunkel. 1968. *Kleine Schriften zu Religion, Recht, Literatur und Sprache der Griechen und Römer*. Munich: Beck.
- Ledogar, Robert J. "Verbs of Praise in the LXX Translation of the Hebrew Canon." 48 (1):29-56.
- Ledogar, Robert J. 1967. "Verbs of Praise in the LXX Translation of the Hebrew Canon." *Biblica* 48 (1):29-56.
- Lee, John A. L. 1983. *A lexical study of the Septuagint version of the Pentateuch, Septuagint and cognate studies series*. Chico, CA: Scholars Press.
- Lendon, J. E. 1997. *Empire of honour : the art of government in the Roman world*. Oxford: Clarendon Press.
- LiDonnici, Lynn R. 1995. *The Epidaurian miracle inscriptions : text, translation, and commentary, Texts and translations*. Atlanta, Ga.: Scholars Press.
- Lightfoot, J. L. 2003. *Lucian, On the Syrian goddess*. Oxford: Oxford University Press.
- Lindsay, Wallace Martin. 1901. *Nonius Marcellus' dictionary of republican Latin, St Andrews univ publ*. Oxf. &c.

- Lintott, A. W. 2008. *Cicero as evidence : a historian's companion*. Oxford: Oxford University Press.
- Llewelyn, S. R., and G. H. R. Horsley. 1992. *New documents illustrating early Christianity : a review of the Greek inscriptions and papyri published in 1980-81*. N.S.W: The Ancient History Documentary Research Centre, Macquarie University.
- Long, A. A., and D. N. Sedley. 1987. *The Hellenistic philosophers*. 2 vols. Cambridge: Cambridge University Press.
- Lust, J., Erik Eynikel, and K. Hauspie. 2003. *A Greek-English lexicon of the Septuagint*. Rev. ed. Stuttgart: Deutsche Bibelgesellschaft.
- MacDowell, Douglas M. 1978. *The law in classical Athens, Aspects of Greek and Roman life*. London: Thames and Hudson.
- Mactoux, Marie-Madeleine. 1986. "Les pratiques discursives comme stratégie de reconnaissance (Lysias XXX, <i>Contre Nicomachos</i>)." *Antiquité et Moyen Âge. Actes de la table ronde de Rome (28-30 mars 1984)*. edited by Ecole française de Rome, 7-26. Rome.
- Malay, H. 2003. "A praise on Men Artemidorou Axiottenos." *Epigraphica Anatolica* 36:13-18.
- Malay, H., and M.H. Sayar. 2004. "A New Confession to Zeus "from Twin Oaks".
Epigraphica Anatolica 37:183-4.
- Malay, Hasan. 1999. *Researches in Lydia, Mysia and Aiolis : with 246 figures and a map, Denkschriften / Österreichische Akademie der Wissenschaften, Philosophisch-Historische Klasse*. Wien: Vlg. d. Öst. Akad.
- Malay, Hasan, and Georg Petzl. 2017. *New religious texts from Lydia, Denkschriften (Österreichische Akademie der Wissenschaften. Philosophisch-Historische Klasse) ; 497. Bd*. Wien: Verlag der Österreichischen Akademie der Wissenschaften.
- Mann, William E. 2001. "Augustine on evil and original sin." In *The Cambridge Companion to Augustine*, edited by Eleonore Stump and Norman Kretzmann, 40-48. Cambridge: Cambridge University Press.
- Maraqten, Mohammed. 2006. "Legal documents recently discovered by the AFSM at Maḥram Bilqīs, near Mārib, Yemen." *Proceedings of the Seminar for Arabian Studies* 36:53-67. doi: 10.2307/41223881.
- Marco Simón, Francisco. 2004. "Magia y cultos orientales: acerca de un defixio de Alcácer do Sal (Setúbal) con mención de Attis." *International Journal of Research on Ancient Magic and Astrology (MHNH)* 4:79-94.
- Marietta, Don E. 1970. "Conscience in Greek Stoicism." *Numen* 17 (3):176-187.
- Marion, Jean-Luc, and Jeffrey L. Kosky. 2012. *In the self's place : the approach of Saint Augustine, Cultural memory in the present*. Stanford, California: Stanford University Press.
- Maschke, Richard, and Curt Latte. 1926. *Die Willenslehre im griechischen Recht*. [Edited by Curt Latte.].
- Mauss, Marcel. 1969. *Oeuvres. Vol. 2, Représentations collectives et diversité des civilisations*. Paris: Éditions de Minuit.
- McLynn, Neil. 2015. "Poetry and Pagans in Late Antique Rome: The Case of the Senator "Converted from the Christian Religion to Servitude to the Idols".
In *Pagans and Christians in Late Antique Rome: Conflict, Competition, and Coexistence in the Fourth Century*, edited by Marianne Sághy, Michele Renee Salzman and Rita Lizzi Testa, 232-250. Cambridge: Cambridge University Press.

- McLynn, Neil B. 1994. *Ambrose of Milan : church and court in a Christian capital, Transformation of the classical heritage ; 22*. Berkeley ; London: University of California Press.
- Meijer, P. A. 1981. "Philosophers, intellectuals and religion in Hellas." In *Faith, Hope and Worship: Aspects of Religious Mentality in the Ancient World*, edited by H.S. Versnel, 216-263. Leiden, The Netherlands: Brill.
- Merkelbach, R. 1973. "Fragment eines satirischen Romans: Aufforderung zur Beichte." *Zeitschrift für Papyrologie und Epigraphik* 11:81-100. doi: 10.2307/20180497.
- Merkelbach, Reinhold. 1987. *Die Unschuldserklärungen und Beichten im ägyptischen Totenbuch, in der römischen Elegie und im antiken Roman, Universitätsbibliothek Giessen. Kurzberichte aus den Giessener Papyrussammlungen ; 43*. Giessen: [Universitäts-Bibliothek].
- Meyer, Elizabeth A. 2004. *Legitimacy and law in the Roman world : tabulae in Roman belief and practice*. Cambridge: Cambridge University Press.
- Milgrom, Jacob. 1976. *Cult and conscience : the Asham and the priestly doctrine of repentance, Studies in Judaism in late antiquity*. Leiden: Brill.
- Millar, Fergus. 1977. *The emperor in the Roman world (31 B.C.-A.D. 337)*. London: Duckworth.
- Minns, Ellis H. 1915. "Parchments of the Parthian Period from Avroman in Kurdistan." *The Journal of Hellenic Studies* 35:22-65.
- Mitchell, Stephen. 1993. *Anatolia : land, men, and Gods in Asia Minor*. 2 vols. Oxford: Clarendon Press.
- Murphy, Tim. 2001. *Nietzsche, metaphor, religion*. Albany: State University of New York Press.
- Müller, Walter W. 1987. "Zwei Sabäische Motivinschriften an die Sonnengöttin Nami 74 und Yemen Museum 1965." In *Şayhadica : recherches sur les inscriptions de l'Arabie préislamique offertes par ses collègues au professeur A.F.L. Beeston*, edited by A. F. L. Beeston, Muḥammad Bâfaḳīh and Christian Robin. Paris: P.Gauthier.
- Nadeau, Yvan. 2011. *A commentary on the sixth satire of Juvenal, Collection Latomus*. Bruxelles: Éditions Latomus.
- Nagel, Svenja, Joachim Friedrich Quack, and Christian Witschel. 2017. *Entangled worlds: religious confluences between East and West in the Roman Empire : the cults of Isis, Mithras, and Jupiter Dolichenus, Orientalische Religionen in der Antike ; 22*. Tübingen, Germany: Mohr Siebeck.
- Nicholas, B. 1970. "Iusiurandum." In *The Oxford Classical Dictionary*, edited by N. G. L. Hammond and H. H. Scullard, 560. Oxford: The Clarendon Press.
- Niederwimmer, Kurt, Linda M. Maloney, and Harold W. Attridge. 1998. *The Didache : a commentary*. Minneapolis: Fortress Press.
- Nietzsche, Friedrich Wilhelm, Carole Blair, Sander L. Gilman, and David J. Parent. 1989. *Friedrich Nietzsche on rhetoric and language*. New York ; Oxford: Oxford University Press.
- Nock, Arthur Darby, and Zeph Stewart. 1972. *Essays on religion and the ancient world*. 2 vols. Oxford: Clarendon Press.
- North, J. A. 2014. "The Limits of the "Religious" in the Late Roman Republic." *History of Religions* 53 (3):225-245.
- North, John. 1992. "The development of religious pluralism." In *The Jews among pagans and Christians in the Roman Empire*, edited by Judith Lieu, John North and Tessa Rajak, 174-193. London: Routledge.

- North, John. 2010. "Pagan ritual and monotheism." In *One God: Pagan Monotheism in the Roman Empire*, edited by Peter Van Nuffelen and Stephen Mitchell, 34-52. Cambridge: Cambridge University Press.
- Nussbaum, Martha Craven. 1994. *The therapy of desire : theory and practice in Hellenistic ethics*. Princeton: Princeton University Press.
- O'Donnell, James Joseph. 2012. *Confessions, Augustine, Confessions*. Oxford: Oxford University Press.
- Oliver, James Henry. 1989. *Greek constitutions of early Roman emperors from inscriptions and papyri*. Philadelphia: American Philosophical Society.
- Ovid, and Jan Felix Gaertner. 2005. *Epistulae ex Ponto, Book I, Oxford classical monographs*. Oxford: Oxford University Press.
- Pagán, Victoria Emma. 2008. "Teaching Torture in Seneca *Controversiae* 2.5." *The Classical Journal* 103 (2):165-182.
- Panciera, Silvio. 2006. "La lex luci spoletina e la legislazione sui boschi sacri in età romana." In *Epigrafi, epigrafia, epigrafisti : scritti vari editi e inediti (1956-2005) con note complementari e indici*, edited by Silvio Panciera, 903-919. Roma: Edizioni Quasar.
- Parker, Robert. 1983. *Miasma : pollution and purification in early Greek religion*. Oxford: Clarendon Press.
- Parsons, Peter. 1971. "A GREEK SATYRICON?*" *Bulletin of the Institute of Classical Studies* 18 (1):53-68.
- Paschalidis, Paschalis. 2008. "What Did Iniuria in the Lex Aquilia Actually Mean?" *Revue internationale des droits de l'antiquité* 55:321-363.
- Paz de Hoz, Maria. 2017. "The regulations of Dionysus in the so-called lex sacra from Philadelphia in Lydia: elevated moral code or current civil behavioural norms." *Epigraphica Anatolica* 50:93-108.
- Pettazzoni, Raffaele. 1929. *La confessione dei peccati, Storia delle religioni*. Bologna: N. Zanichelli.
- Pettazzoni, Raffaele. 1936. "Confession of Sins in Hittite Religion." In *Occident and Orient : being studies in Semitic philology and literature, Jewish history and philosophy and folklore in the widest sense, in honour of Haham Dr. M. Gaster's 80th birthday*, edited by Bruno Schindler, Arthur Marmorstein and Jewish history and philosophy and folklore in the widest sense *Occident and Orient : being studies in Semitic philology and literature, in honour of Haham Dr. M. Gaster's 80th birthday*, 467-471. London: Taylor's Foreign Press.
- Pettazzoni, Raffaele. 1937. "Confession of Sins and the Classics." *The Harvard Theological Review* 30 (1):1-14. doi: 10.2307/1508288.
- Pettazzoni, Raffaele. 1955. "On the Attributes of God." *Numen* 2 (1/2):1-27.
- Petzl, G. 1994. "Die Beichtinschriften Westkleinasiens." *Epigraphica Anatolica* 22.
- Petzl, G. 2006. "God and Physician: Competitors or Colleagues?" In *Medicina e società nel mondo antico*, edited by Arnaldo Marcone, 55-62. Udine.
- Petzl, G. 1988. "Sünde, Strafe, Wiedergutmachung." *Epigraphica Anatolica : Zeitschrift für Epigraphik und historische Geographie Anatoliens* 12:155-166.
- Petzl, G. 1997. "Neue Inschriften aus Lydien (II). Addenda und Corrigenda zu "Die Beichtinschriften Westkleinasiens"." *Epigraphica Anatolica* 28:69-79.
- Petzl, G. 1998. "Ein Zeugnis für Sternenglauben in Lydien." *Chiron* 28:65-75.
- Pinch, Geraldine. 1994. *Magic in ancient Egypt*. London: British Museum Press.
- Potts, J. 2017. "Corpora in Connection: anatomical votives and the confession stelai of Lydia and Phrygia." In *Bodies of evidence : ancient anatomical votives past, present and future*, edited by Jane Draycott and Emma-Jayne Graham, 20-44. London; New York: Routledge.

- Powell, J. U. 1925. *Collectanea Alexandrina : reliquiae minores poetarum graecorum aetatis ptolemaicae, 323-146 A.C., epicorum, elegiacorum, lyricorum, ethicorum. Cum epimetris et indice nominum edidit Iohannes U. Powell.* Oxonii: e typographeo Clarendoniano.
- Pringsheim, Fritz. 1950. *The Greek law of sale.* Weimar: H. Böhlaus Nachfolger.
- Prioletta, Alessia. 2012. "Evidence from a new inscription regarding the goddess 'ṭ(t)r and some remarks on the gender of deities in South Arabia." *Proceedings of the Seminar for Arabian Studies* 42:309-318.
- Prioletta, Alessia. 2014. "Towards a Ḥaḍramitic Lexicon: lexical notes on terms relating to the formulary and rituals in expiatory inscriptions." *Proceedings of the Seminar for Arabian Studies* 44:101-110.
- Pugliese, Giovanni. 1963. *Il processo civile romano.* Vol. 2.
- Pölönen, Janne. 2004. "Plebeians and Repression of Crime in the Roman Empire: From Torture of Convicts to Torture of Suspects." *Revue Internationale des Droits de l'Antiquité* 51:217-57.
- Quaegebeur, J., W. Clarysse, and Beatrijs Van Maele. 1985. "Athêna, Nêith and Thoêris in Greek Documents." *Zeitschrift für Papyrologie und Epigraphik* 60:217-232.
- Rakopoulos, Theodoros. 2018. "The Social Life of Mafia Confession: Between Talk and Silence in Sicily." *Current Anthropology* 59 (2):167-191. doi: 10.1086/697237.
- Ratzinger, J. 1957. "Originalität und Überlieferung in Augustins Begriff der confessio." *Revue d' Etudes Augustiniennes et Patristiques* 3:375-392.
- Rea, John R. 1989. "On κηροκίβη: P.Heid.IV 334, P.Köln VI 279, and CPR I 232." *Zeitschrift Für Papyrologie Und Epigraphik* 79:201-206.
- Reinach, Théodore, Seymour de Ricci, and Wilhelm Spiegelberg. 1905. *Papyrus grecs et démotiques recueillis en Égypte.* Paris: E. Leroux.
- Reitzenstein, Richard. 1920. *Die Hellenistischen Mysterienreligionen : nach ihren Grundgedanken und Wirkungen : Vortrag ursprünglich gehalten in dem Wissenschaftlichen predigerverein für Elsass-Lothringen den 11. November 1909.* Zweite umgearbeitete Aufl. ed. Leipzig: B.G. Teubner.
- Reitzenstein, Richard. 1978. *Hellenistic mystery-religions : their basic ideas and significance.* Pittsburgh: Pickwick Press.
- Ricl, M. 1995. "The appeal to divine justice in the Lydian confession-inscriptions." In *Forschungen in Lydien*, edited by Elmar Schwertheim, 67-76. Bonn: R. Habelt.
- Ricl, M. 1997. "CIG 4142: A Forgotten Confession Inscription from north-west Phrygia." *Epigraphica Anatolica* 29:31-43.
- Ricl, M. 2002. "The cult of the Iranian goddess Anähitä in Anatolia before and after Alexander." *Žika antika* 52:197-210.
- Ricl, M. 2003. "Society and Economy of Rural Sanctuaries in Roman Lydia and Phrygia." *Epigraphica Anatolica: Zeitschrift für Epigraphik und historische Geographie Anatoliens* 35:77-101.
- Ricl, M. 2006. "A Confession Inscription from Jerusalem?" *Scripta Classica Israelica* XXV:51-6.
- Ricl, Marijana, and Hasan Malay. 2006. "A new dedication from the Katakekaumene." *Epigraphica Anatolica* 39:84-6.
- Ricœur, Paul. 1967. *The symbolism of evil.* New York London: Harper & Row.
- Roberts, C. H. 1934. "Two Papyri from Oxyrhynchus." *The Journal of Egyptian Archaeology* 20 (1/2):20-28. doi: 10.2307/3854996.
- Robin, Christian, Académie des inscriptions, belles-lettres ., and Istituto italiano per il Medio ed Estremo Oriente. 1992. *Inventaire des inscriptions sudarabiques. Tome I, Inabba', Haram, Al-Kāfir, Kamna et Al-Ḥarāshif.* 2 vols. Paris Rome: De Boccard ; Herder.

- Robin, Christian, and J Ryckmans. 1988. "Le Sanctuaire Minéen de NKRH à Darb aş-Şabî (environs de Barâqiş). Rapport Préliminaire (seconde partie)." *Raydân* 5:91-158.
- Robinson, O. F. 2007. *Penal practice and penal policy in ancient Rome*. London: Routledge.
- Robinson, Olivia. 1973. "Blasphemy and sacrilege in Roman law." *Irish Jurist* 8 (2):356-371.
- Robinson, Olivia. 2001. "Unpardonable crimes: fourth century attitudes." In *Critical studies in ancient law, comparative law and legal history*, edited by Alan Watson, John F Cairns and Olivia Robinson, 117-. Oxford: Hart.
- Roitto, Rikard. 2019. "Rituals of Reintegration." In *The Oxford Handbook of Early Christian Ritual*, edited by Risto Uro, Juliette J. Day, Rikard Roitto and Richard E. DeMaris, 426-443. Oxford: Oxford University Press.
- Roller, Lynn E. 1999. *In search of god the mother : the cult of Anatolian Cybele*. Berkeley, Calif. ; London: University of California Press.
- Rostad, A. 2002. "Confession or reconciliation? The narrative structure of the Lydian and Phrygian "Confession Inscriptions"." *Symbolae Osloenses* 77:145-64.
- Rostovtzeff, Michael Ivanovitch, and P. M. Fraser. 1957. *The social and economic history of the Roman Empire*. 2nd ed. 2 vols. Oxford: Oxford University Press.
- Roussel, Pierre. 1931. "Le miracle de Zeus Panamaros." *Bulletin de correspondance hellénique* . 55:70-116.
- Rumsey, Alan. 2008. "Confession, Anger and Cross-Cultural Articulation in Papua New Guinea." *Anthropological Quarterly* 81 (2):455-472.
- Ryckmans, Gonzague. 1945. "La confession publique des péchés en Arabie méridionale préislamique." *Le Muséon* 58:1-14.
- Ryckmans, Jacques. 1972. "Les confessions publiques sabéennes: le code sud-arabe de pureté rituelle." *Annali dell'Istituto Orientale di Napoli* 31:1-15.
- Sarri, Antonia. 2013. "Two Instances of an Oxyrhynchite Amphodon." *Zeitschrift Für Papyrologie Und Epigraphik* 185:212-213.
- Scapini, Nevio. 1973. *La confessione nel diritto romano, Università di Torino. Memorie dell'Istituto giuridico. ser. 2 memoria 149, etc.*
- Scheid, John. 2006. "The Formation of Sacred Law in Rome." In *Religion and law in classical and Christian Rome*, edited by Clifford Ando, 14-33. Stuttgart: Franz Steiner.
- Schmid, W. 1962. "Epikur." *Reallexicon für Antike und Christentum* 5:743ff.
- Schmid, Wolfgang. 1957. "Constitutio Und 'Ultima Linea Rerum' in Neuen Epikureischen Texten." *Rheinisches Museum für Philologie* 100 (4):301-327.
- Schulien, M. 1930. "La confessione dei peccati." *Il Pensiero Missionario* 2:171ff.
- Schwertheim, Elmar, Nilüfer Güllü Schwertheim, and Georg Petzl. 2018. *Epigraphica : Lydien, Mysien, Türkei der Sammlung Yavuz Tatuş, Lydien, Mysien, Türkei der Sammlung Yavuz Tatuş*. İzmir: Drucklegung-Haut (Metro Matbaacılık).
- Searle, John R. 1989. "How Performatives Work." *Linguistics and Philosophy* 12 (5):535-558.
- Sethe, Kurt, and Josef Partsch. 1920. *Demotische urkunden zum ägyptischen bürgschaftsrechte vorzüglich der ptolemäerzeit, Königlich Sächsische Gesellschaft der Wissenschaften Abhandl Philologisch-historische Klasse Bd 32*. Leipzig: B. G. Teubner.
- Shelfer, Lochlan. 2010. "The temple as courtroom: The confession stelai of imperial Lydia." PhD, The Johns Hopkins University (UMI no. 3440741).
- Sherwin-White, A. N. 1966. *The letters of Pliny : a historical and social commentary*. Oxford: Clarendon Press.

- Sima, Alexander. 1999. Kleinasiatische Parallelen zu den altsüdarabischen Büß- und Sühneinschriften. In *Altorientalische Forschungen*.
- Sima, Alexander. 2000a. "Die sabäische Buss- und Sühneinschrift YM 10.703." *Le Muséon* 113 (1-2):185-204.
- Sima, Alexander. 2000b. "Die Sabäische Buss- und Sühneinschrift YM 10.703." *Le Muséon* 113:185-204.
- Sima, Qian, and Burton Watson. 1993. *Records of the Grand Historian. Han dynasty*. Rev. ed. 2 vols. Hong Kong
New York: Research Centre for Translation
Columbia University Press.
- Smith, James M., and James Wm McClendon. 1972. "Religious Language after J. L. Austin." *Religious Studies* 8 (1):55-63.
- Sorabji, Richard. 2014. *Moral conscience through the ages : fifth century BCE to the present*. First ed. Oxford, United Kingdom: Oxford University Press.
- Sorace, Christian. 2019. "Extracting Affect: Televised Cadre Confessions in China." *Public Culture* 31 (1):145-171. doi: 10.1215/08992363-7181871.
- Soubise, Laurène. 2018. "Guilty Pleas in an Inquisitorial Setting – An Empirical Study of France." 45 (3):398-426.
- Stangl, Thomas. 1964. *Ciceronis Oratorum scholiastae : Asconius, Scholia Bobiensia, Scholia Pseudasconii Sangallensia, Scholia Cluniacensia et recentiora Ambrosiana ac Vaticana, Scholia Lugdunensia sive Gronoviana et eorum excerpta Lugdunensia. Commentarii*. Hildesheim: G. Olms.
- Steinleitner, Franz Seraph. 1913. *Die Beicht im Zusammenhange mit der sakralen Rechtspflege in der Antike : ein Beitrag zur näheren Kenntnis kleinasiatisch-orientalischer Kulte der Kaiserzeit*. Leipzig: Theodor Weicher.
- Stolte, Bernardus H. 2003. "Jurisdiction and Representation of Power or, the Emperor on Circuit." In *The Representation and Perception of Roman Imperial Power. Proceedings of the Third Workshop of the International Network Impact of Empire (Roman Empire, ca. 200 B.C.-A.D. 476)* edited by L. de Blois, 261-268. Amsterdam: Gieben.
- Sudhaus, E. S. 1911. "Epikurs als Beichtvater." *Archiv für Religionswissenschaft* 14:647-8.
- Sumner, G. V. 1982. "The Coitio of 54 BC, or Waiting for Caesar." *Harvard Studies in Classical Philology* 86:133-139.
- Sun, Feiyu. 2013. *Social suffering and political confession : suku in modern China, Peking University series on sociology and anthropology*. Singapore ; Hackensack, NJ: World Scientific.
- Tacitus, Cornelius, and A. J. Woodman. 2017. *The annals of Tacitus. Books 5-6, Cambridge classical texts and commentaries*. Cambridge: Cambridge University Press.
- Tell, Dave. 2010. "Rhetoric and Power." 43 (2):95-117.
- Tellegen-Couperus, O. E. 2012. *Law and religion in the Roman republic, Mnemosyne Supplements*. Leiden: Brill.
- Thomas, Yan. 1986. "Confessus pro iudicato (l'aveu civil et l'aveu pénal à Rome)." In *L'aveu. Antiquité et Moyen Âge. Actes de la table ronde de Rome (28-30 mars 1984)*. edited by Ecole française de Rome, 89-117. Rome.
- Thome, Gabriele. 1992. "Crime and Punishment, Guilt and Expiation: Roman Thought and Vocabulary." *Acta Classica* 35:73-98.
- Thür, Gerhard. 2006. "Homologia." In *Brill's New Pauly*, 6:467. Brill.
- Tobin, Vincent Arie. 1991. "Isis and Demeter: Symbols of Divine Motherhood." *Journal of the American Research Center in Egypt* 28:187-200. doi: 10.2307/40000579.

- Tov, Emanuel. 1990. "Greek Words and Hebrew Meanings." In *Melbourne Symposium on Septuagint and Lexicography*, edited by Takamitsu Muraoka, 83-125. Atlanta: Scholars Press.
- Tuori, Kaius. 2016. *The emperor of law : the emergence of Roman Imperial adjudication, Oxford studies in Roman society & law*. Oxford: Oxford University Press.
- Turcan, Robert. 1989. *Les cultes orientaux dans le monde romain, Histoire*. Paris: Belles Lettres.
- Turner, E. G. 1952. "Roman Oxyrhynchus." *The Journal of Egyptian Archaeology* 38:78-93.
- Ullucci, Daniel C. 2012. *The Christian rejection of animal sacrifice*. New York, Oxford: New York Oxford : Oxford University Press.
- Vanderlip, Vera Frederika. 1972. *The four Greek hymns of Isidorus and the cult of Isis, American studies in papyrology*. Toronto: A. M. Hakkert.
- Varinlioglu, E. 1989. "Eine Gruppe von Sühneinschriften aus dem Museum von Uşak." *Epigraphica Anatolica: Zeitschrift für Epigraphik und historische Geographie Anatoliens*. 13:37-50.
- Verheijen, Melchior. 1949. *Eloquentia pedisequa : observations sur le style des Confessions de saint Augustin, Latinitas Christianorum primæva*. Nijmegen: Dekker & van de Vegt.
- Vermès, Géza. 2011. *The complete Dead Sea scrolls in English*. 50th anniversary ed. London: Penguin.
- Vernant, Jean-Pierre, and Froma I. Zeitlin. 1991. *Mortals and immortals : collected essays*. Princeton: Princeton University Press.
- Versnel, H. S. 1990. *Inconsistencies in Greek and Roman religion*. 2 vols, *Studies in Greek and Roman religion*,. Leiden ; New York: E.J. Brill.
- Versnel, H. S. 1991. "Beyond Cursing: The Appeal to Justice in Judicial Prayers." In *Magika Hiera: ancient greek magic and religion*, edited by C. A. Faraone and Dirk Obbink. New York; Oxford: Oxford University Press.
- Versnel, H. S. 2002. "Writing mortals and reading gods: appeals to the gods as a strategy of social control." In *Demokratie, Recht und soziale Kontrolle im klassischen Athen*, edited by David Cohen, Elisabeth Müller-Luckner and Stiftung Historisches Kolleg Germany, 37-76. München: R. Oldenbourg.
- Versnel, H. S. 2010. "Prayers for Justice, East and West." In *Magical practice in the Latin West: papers from the international conference held at the University of Zaragoza, 30 Sept - 1st Oct 2005*, edited by R. L. Gordon and Francisco Marco Simón. Leiden; Boston: Brill.
- Versnel, H.S. 1998. "Sin." In *The Oxford Companion to Classical Civilization*, edited by Simon Hornblower and Antony Spawforth, 666-669. Oxford: Oxford University Press.
- Vidman, Ladislav. 1969. *Sylloge inscriptionum religionis Isiacæ et Sarapiacæ, Religionsgeschichtliche Versuche und Vorarbeiten*. Berolini: apud Walter de Gruyter.
- Vogt, Burkhard, and Christian Robin. 1997. *Yémen : au pays de la reine de Saba' : exposition présentée à l'Institut du monde arabe du 25 octobre 1997 au 28 février 1998*. Paris: Flammarion.
- Walk, Leopold. 1936. "Pettazzoni, Raffaele's 'La Confessione dei peccati,'." *Anthropos* 31:969-972.
- Wallace, Robert. 2014. "Did Athens have consensual contracts? A response to Lorenzo Gagliardi." In *Symposion 2013 : papers on Greek and Hellenistic legal history (Cambridge MA, August 26-29, 2013) = Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Cambridge MA, 26.-29. August 2013)*, edited by

- Michael Gagarin and Adriaan Lanni, 215-221. Wien: Verlag der Osterreichischen Akademie der Wissenschaften.
- Ward, Benedicta. 1984. *The sayings of the Desert Fathers : the alphabetical collection*. Rev. ed, *Cistercian studies series*. Kalamazoo, Mich: Cistercian Publications.
- Watson, Alan. 1992. *The state, law and religion : pagan Rome*. Athens ; London: University of Georgia Press.
- Weinreich, Otto. 1916. "Noch einmal AKOAI." *Hermes* 51 (4):624-629. doi: 10.2307/4473599.
- Wetmore, Stacy Ann, Jeffrey S. Neuschatz, and Scott D. Gronlund. 2014. "On the power of secondary confession evidence." *Psychology, Crime & Law* 20 (4):339-357.
- Whitehorne, John. 1995. "The Pagan Cults of Roman Oxyrhynchus." In *Aufstieg und Niedergang der römischen Welt*, edited by Wolfgang Haase, 3050-3091. Berlin; New York: De Gruyter.
- Wilhelm-Hooijbergh, Anna Elizabeth. 1954. "Peccatum : sin and guilt in ancient Rome." Proefschrift, J. B. Wolters, Utrecht.
- Will, Ernest, and Martin E. Schmid. 1985. *Le sanctuaire de la Déesse Syrienne*. Paris: Diffusion de Boccard, dépositaire.
- Williamson, Callie. 1987. "Monuments of Bronze: Roman Legal Documents on Bronze Tablets." *Classical Antiquity* 6 (1):160-183.
- Winkler, John J. 1985. *Auctor & actor : a narratological reading of Apuleius' Golden ass*. Berkeley: University of California Press.
- Witt, R. E. 1997. *Isis in the ancient world*. Baltimore ; London: Johns Hopkins University Press.
- Witton, W. F. 1930. "Commissa Piacula (Vergil, Aeneid VI. 569)." *The Classical Review* 44 (5):171-173. doi: 10.2307/698027.
- Wlassak, Moriz. 1934. *Konfessio in Jure und Defensionsweigerung nach der Lex Rubria de Gallia Cisalpina*. Munich.
- Wolferen, Karel Van. 1989. *The enigma of Japanese power : people and politics in a stateless nation*. London: Macmillan London.
- Wood, Elizabeth A. 2005. *Performing justice : agitation trials in early Soviet Russia*. Ithaca, N.Y. ; London: Cornell University Press.
- Zimmermann, Reinhard. 1996. *The law of obligations : Roman foundations of the civilian tradition, Clarendon paperbacks*. Oxford: Clarendon Press.
- Zingerle, Josef. 1926. *Heiliges Recht, Jahreshfte des Österreichischen Archäologischen Instituts*. Wien: Hölder.
- Zuiderhoek, Arjan. 2009. "Government Centralization in Late Second and Third Century a. d. Asia Minor: A Working Hypothesis." *The Classical World* 103 (1):39-51.
- Žabkar, Louis V. 1988. *Hymns to Isis in her temple at Philae*. Hanover ; London: Published for Brandeis University Press by University Press of New England.
- École française de Rome, Centre national de la recherche scientifique (France). 1986. *L'Aveu, antiquité et moyen-âge : actes de la table ronde, Collection de l'École française de Rome*. Rome, Italie: Ecole française de Rome.
- Öztürk, E.A and Tanriver, C. 2009. "Some New Finds from the Sanctuary of Apollon Lairbenos." *Epigraphica Anatolica* 42:87-96.
- Öztürk, E.A, and C. Tanriver. 2009. "Some New Finds from the Sanctuary of Apollon Lairbenos." *Epigraphica Anatolica* 42:87-96.
- Öztürk, Esengül Akinci, and Cumhur Tanriver. 2008. "New Katagraphai and Dedications from the Sanctuary of Apollon Lairbenos." *Epigraphica Anatolica* 41:91-111.

