

## The Paradox of Roman Eunuchism: A Juridical-Historical Approach

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Known to the Greeks at least since Herodotus' time, eunuchs are first mentioned by Greek and Latin sources in connection with the Assyrian and Persian civilizations.<sup>1</sup> During the early Empire, Roman writers mention the use of eunuchs as slaves in rich households within Roman society.<sup>2</sup> A major change occurs in sources of the fourth century, providing information concerning individual eunuchs who held high positions in the army and the courts of Constantinople and Ravenna. In spite of their high position, eunuchs are described by the authors of this period mostly in negative terms. They are perceived as a negative foreign phenomenon. This attitude changes in the fifth and sixth centuries when authors stop treating them as a peculiar and a negative phenomenon.

The subject of the use of eunuchs in Roman society has been studied widely.<sup>3</sup> The present paper addresses a paradox embedded in this phenomenon, which has, by and

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<sup>1</sup> A. Hug, 'Eunuchen', *RE*, Suppl. 3:449-455. P. Guyot, *Eunuchen als Sklaven und Freigelassene in der griechisch-römischen Antike* [Stuttgarter Beiträge zur Geschichte und Politik 14] (Stuttgart, 1980).

<sup>2</sup> Tac. II, 71. Suet. *Divus Titus*, 7, 1. Plin. *HN*, VII, 129. Lucian, *Eunuchus*. Juvenal, *Satire*, XIV, 91. Martial, *Epigram*. II, 60, 3; VI, 2, 67; VIII, 44, 15. Terentius' *Eunuchus* is probably based on an earlier Greek play. For an analysis, see C.S. Dessen, 'The Figure of the Eunuch in Terence's *Eunuchus*', *Helios* 22/2 (1995), 123-139. For a summary of the use of eunuchs in Roman society under the early Empire, see: Ch.L. Murison, 'Cassius Dio on Nerva Legislation (68.2.4): Nieces and Eunuchs', *Historia: Zeitschrift für Alte Geschichte* 53/3 (2004), 343-355, 349-351.

<sup>3</sup> K.M. Ringrose, 'Living in the Shadows: Eunuchs and Gender in Byzantium', in *Third Sex Third Gender. Beyond Sexual Dimorphism in Culture and History*, ed. G. Herdt (New York, 1996), 85-109 (notes pp. 507-518). Ead., *The Perfect Servant. Eunuchs and the Social Construction of Gender in Byzantium* (Chicago-London, 2003). Ead., 'Eunuchs in Historical Perspective', *History Compass* 5/2 (2007), 495-506. M. Kuefler, *The Manly Eunuch. Masculinity, Gender Ambiguity, and Christian Theology in Late Antiquity* (Chicago, 2001). Sh F. Tougher, 'Images of Effeminate Men: the Case of Byzantine Eunuchs', in *Masculinity in Medieval Europe*, ed. D.M. Hadley (London-New York, 1999), 89-100. Id. ed., *Eunuchs in Antiquity and Beyond* (London, 2002). Id., *The Eunuch in Byzantine History and Society* (Abingdon - New York, 2008). H. Scholten, *Der Eunuch in Kaisernähe. Zur politischen und sozialen Bedeutung des praepositus sacri cubiculi im 4. Und 5. Jh. N. Chr.* (Frankfurt am Main, 1995). G. Sidéris, 'Les eunuques de Byzance (IVe-XIIe siècle): de la société de cour à la société urbaine', in *Dynamiques sociales au Moyen Âge en occident et en Orient*, ed. E. Malamut (Aix-en-Provence, 2010), 89-116. Guyot, *op. cit.* W.N. Stevenson, 'The Rise of Eunuchs in Greco-Roman Antiquity', *Journal of the History of Sexuality* 5(4) (1994-1995), 495-511. F.P. Retief, L. Cilliers, 'The Eunuchs of Early Byzantium', *Scholia* 13 (2004), 108-117. D.F. Caner, 'The Practice and Prohibition of Self-Castration in Early Christianity', *VC* 51 (1997), 396-415. K.M. Hopkins, 'Eunuchs in Politics in the Late Roman Empire',

large, been overlooked in modern scholarship. While the use of eunuchs becomes increasingly prevalent within Roman society, Roman legislators took harsh measures to prohibit castration of male human beings (both men and boys). The peculiar feature of “Roman eunuchism” (i.e. the phenomenon of the use of eunuchs in Roman society) is the acceptance of the use of eunuchs alongside a total prohibition of castration. Starting from the first century A.D. and up to the sixth century, the castration of boys and men was prohibited under Roman law by a legislative process that became more and more severe. The perseverance of imperial legislation reveals a basic paradox: the harsher the prohibition became, the more eunuchs were employed by the very same authority that initiated and enforced this prohibition. In other words, the development of the imperial use of eunuchs stands in complete contradiction to the repeated attempts by the same emperors to stop their “production”.

This contradiction has not been studied thoroughly in modern scholarship. In regards to the prohibition of castration, most of the studies on this matter are satisfied with stating the prohibition without examining it as a legislative process that had social consequences. In what follows, we shall examine the different stages of the juridical development in the prohibition of castration as well as the eunuchs’ status. We shall analyze the paradox embedded in this phenomenon from a juridical perspective in order to draw some conclusions about the question that made eunuchs socially important, a question which is still debatable.<sup>4</sup> As we shall see, the analysis of the juridical data is particularly relevant to this question.

### The Juridical Evidence

Before their employment in imperial service, eunuchs were used for domestic functions in the houses of high Roman society as teachers, messengers and personal servants of confidence.<sup>5</sup> Other sources describe them as their owners’ sexual objects, a kind of a sexual luxury.<sup>6</sup> Eunuchs were a highly appreciated commodity and were considered a luxurious possession.<sup>7</sup> Their price was much higher than that of non-castrated slaves

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*Proceedings of the Cambridge Philological Society* 189 (1963), 62-80 (repr. in Id., *Sociological Studies in Roman History*, vol. 1, *Conquerors and Slaves* (Cambridge, 1978). For a summary of the questions that this subject evokes see Sh.F. Tougher, ‘Byzantine Eunuchs: An Overview, with Special Reference to Their Creation and Origin’, in *Women, Men and Eunuchs. Gender in Byzantium*, ed. L. James (London-New York, 1997), 168-184.

<sup>4</sup> Starting from Hopkins, *op. cit.* For a summary see: Tougher, *Eunuchs in Antiquity and Beyond*, *op. cit.* 42-53.

<sup>5</sup> Cass. Dio, LXXVI, 14, 4. Julian, *Antiochicus vel Misopogon*, 352, par. 22 (ed. Ch. Lacombrade). Lib. *Ep.* 233; Proc. *Anecd.*, III, 2. See Stevenson, *op. cit.*

<sup>6</sup> Martial, *Epig.* III, 58; III, 82; VI, 67; VIII, 44; X, 92. Plin, *HN*, VII, 129. Suet. *Divus Titus*, 7, 1. See the sexual use of eunuchs mentioned in a law cited by Marcian: *Dig.*, XLVIII, 8, 3.

<sup>7</sup> Cass. Dio, LXXVI, 14, 4; *SHA, Divus Aurelianus*, 49, 8. Basil, *Ep.* CXL, *LCL*, 229. See Ammianus Marcellinus’ description of the possession of eunuchs as characteristic of the decadence of the high Roman society: Ammian. XIV, 6, 17.

(double or even more).<sup>8</sup> One of the reasons for their high price was that the slave elected for castration did not always survive the operation.<sup>9</sup>

However, the main reason for this difference in price was the prohibition of castration under Roman law. Indeed, Suetonius, who is our earliest source for the prohibition of castration, states that Domitian originally prohibited castration of males, and also acted in order to prevent a high price for eunuchs who had been left in the hands of slave traders.<sup>10</sup> The high price was therefore a consequence of the prohibition of castration.

Prohibition of the act of castration (*castratio*) of a human being<sup>11</sup> is emphasized in Roman law in all the references that deal with such an act from the first century A.D. up to the sixth century. The first reference attributes the prohibition to Domitian, while Cassius Dio mentions Nerva as responsible for this legislation.<sup>12</sup> The *Digest* states that ‘he who hands over a slave for castration will be fined half his property’, and attributes this to the Consulship of Annianus Verus and Neratius Priscus (both consuls in 97).<sup>13</sup> These measures were the beginning of a long legislative process that attempted to eliminate castration of a human being.

The Lex Cornelia, attributed to Hadrian and quoted by Ulpian, states that it is prohibited that ‘eunuchs should be made’ (*ne spadones fierent*).<sup>14</sup> The punishment is severe. In fact, the Lex Cornelia equates the punishment for castration to that for homicide, applying castration to both slaves and free men, ‘whether forced or voluntary’ (*neque quis se sponte castrandum praebere debet*). Moreover, it punishes the person who practices the operation as well as the person who initiates the act. The law adds that a castrated slave could be heard before the governor of the province, an exceptional right since slaves had no claim and no access in any legal matter.<sup>15</sup> A special sentence deals

<sup>8</sup> *CJ*, VI, 43, 3, 1; VII, 7, 1, 5.

<sup>9</sup> It is important to note that the prices quoted in the *CJ* (previous note) do not fit the information from novella 142 of Justinian, which liberated all eunuch slaves in the Empire. It indicates that out of ninety operations of castration only three ended with the patient not dead. If that were true, we would have expected much higher prices. For the surgery itself and its different methods, see Tougher, *The Eunuch in Byzantine History and Society*, *op. cit.*..., ch. 3.

<sup>10</sup> Suet. *Domitianus*, 7, 1

<sup>11</sup> Henceforth the term ‘castration’ refers here to the act of castration a man/child although the same Latin word is also attributed to the castration of male animals (in that case not prohibited).

<sup>12</sup> Suet. *Domitianus*, 7, 1. Cassius Dio writes that Domitian prohibited castration everywhere in the Empire to dishonor Titus who was fond of eunuchs: Cass. Dio, LXVII, 2, 3. Cass. Dio, LXVIII, 2, 4. See the revelatory analysis of Murison, *op. cit.*

<sup>13</sup> *Is, qui servum castrandum tradiderit, pro parte dimidia bonorum multatur ex senatus consulto, quod Neratio Prisco et Annio Vero consulibus factum est* (*Dig.* XLVIII, 8, 6: ‘Whoever hands his slave over for castration is fined half his property by a *senatus consultum* given in the consulship of Neratius Priscus and Annianus Verus’). W. Eck, ‘Neratius’ i, *RE*, Suppl. 14:286.

<sup>14</sup> *Dig.* XLVIII, 8, 4. For the Latin term *spado* see below.

<sup>15</sup> A. Watson, *Roman Slave Law* (Baltimore, 1987), 128

with the possibility of a slave castrating another slave, probably in order to avoid owners castrating their slaves by means of other slaves.<sup>16</sup>

Hadrian's legislation thus puts castration on a par with homicide and not with cases of injury. Marcian notes that Hadrian's legislation distinguished between acts intended to kill and those resulting in other injuries. This law therefore found its place in *Ad Legem Corneliam de Sicariis et Veneficis*.<sup>17</sup> In quoting Hadrian himself, Ulpian and Marcian seem to point out that Hadrian had an abhorrence of the whole practice — and in trying to prevent it made no distinction between slave and free man.<sup>18</sup> A different law prohibiting the act of circumcision except in the case of Jews is quoted by Modestinus (early third century) where it has a punishment equal to that for castration: death, exile and confiscation. This clearly manifests the Roman legislator's abhorrence of any mutilation of the male genitals.<sup>19</sup> The fact that the punishment was enforced more severely over time clearly shows that the first-century legislation did not manage to prevent totally the practice even when it was enforced.<sup>20</sup> Hadrian's legislation, however, left one legal loophole for acquiring eunuchs: *i.e.* through trade. And one of the results of this legislation was indeed an increase in the import of eunuchs.<sup>21</sup>

However, legislation in the reigns of Constantine, Leo and Justinian in this respect repeats the same prohibition implying that the practice of castration had never really ceased within the Empire. Under Constantine, the law sentenced the death penalty to anyone who castrated a human being within the Empire.<sup>22</sup> The law issued under Leo forbade all property transactions within the Empire in Roman castrated slaves (*romanae gentis homines*), asserting that a very grave punishment (*poena gravissima*) would be inflicted on anyone who participated in this kind of crime. However, the same law left the trade in eunuchs of barbarian origin legal if castrated outside the Empire.<sup>23</sup> We may further note the increase in punishment inflicted also on 'the notary who provided the instrument of sale or any other form of agreement of alienation, and the person who

<sup>16</sup> This was not punishable under Domitian's prohibition.

<sup>17</sup> *Dig.* XLVIII, 1, 3

<sup>18</sup> Marcian (Caracalla's and Alexander Severus' time) repeats the same law of Hadrian adding: *...et qui hominem libidinis vel pro mercii causa castraverit, ex senatus consulto poena legis corneliae punitur* (*Dig.* XLVIII, 8, 3, 4: 'anyone who castrates a man for lust or for gain is by *senatus consultum* subject to the penalty of the *lex Cornelia*').

<sup>19</sup> *Dig.* XLVII, 8, 11. The reason therefore was not to limit the cruelty toward slaves.

<sup>20</sup> In his *Apology* Justin Martyr mentions a young man who wanted to be castrated for a religious purpose (interpreting literally *Mt.* 19:12). Since the surgeons demanded the permission of the authorities, the young man applied to Felix, the prefect of Egypt, but was refused: Justin, *Apol.* I, XXIX. This case which deals with voluntary castration obviously concerns Hadrian's legislation.

<sup>21</sup> A law from the time of Caracalla and Alexander Severus mentions the importation of Indian eunuchs (*spadones indici*) among other luxurious merchandise (such as spices, fabrics from the East, ivory, precious stones and wild animals which are all subject to a special tax): *Dig.* XXXIX, 4, 16.

<sup>22</sup> *CJ*, IV, 42, 1

<sup>23</sup> *CJ*, IV, 42, 2

received the tax of one-eighth or any other tax'.<sup>24</sup> It refers to the commercial transactions in castrated slaves, but could also indicate the practice of castration of Roman slaves outside the Empire in order to evade laws against its prohibition.<sup>25</sup>

The fact that, since Leo's legislation, import was the only legal way to acquire eunuchs in the Empire is well reflected in our sources. Most of the famous eunuchs of the fourth, fifth and sixth centuries A.D. came from Persia, Armenia and the Caucasus. A characteristic example is Ammianus Marcellinus' description of Eutherius' life story. He was born to free parents in Armenia, but was kidnapped by a hostile tribe and enslaved in childhood. He was then castrated and trafficked by Roman merchants who brought him to Constantinople. There he became the *praepositus cubiculi* of the palace.<sup>26</sup> Eutropius experienced a similar story. He was also sold as an infant, castrated by an Armenian, displayed at various markets, changed owners, and examined by physicians to prove his medical state.<sup>27</sup> Claudius Claudianus' description is part of his slander of Eutropius, and clearly reveals the stereotype of a typical life story of a eunuch in the late Roman Empire: enslavement, castration in early childhood, and trafficking.<sup>28</sup>

Other eunuchs originated from the same regions: Galanius (at the court of Leo) was from Mesopotamia.<sup>29</sup> Artaxes (who was *praepositus sacri cubiculi* in 442) was Armenian by name.<sup>30</sup> Mamas (also *praepositus sacri cubiculi* in 420) was likewise Armenian.<sup>31</sup> Judging by their names, Andreas Lausiaca and Lausus — to whom Palladius dedicated his *Historia Lausiaca* — were both from Lauzica and achieved the rank of *praepositi sacri cubiculii*.<sup>32</sup> Persia was also a possible origin for eunuchs: Antiochus who was in the service of Arcadius, and Chrysaphius, the *praepositus sacri*

<sup>24</sup> *Loc. cit.*: *tabellione videlicet, qui huiusmodi emptionis sive cuiuslibet alterius alienationis instrumenta conscripserit, et eo, qui octavam vel aliquid vectigali causa pro his susceperit.*

<sup>25</sup> *Loc. cit.* regarding the person who gets commission or tax mentioned in this law, it is probable that the law refers here to some kind of traders who supplied eunuchs for a commission. The aforementioned *tabellio* (a person who formulates — *conscripserit* — contracts) could have been responsible for a formulation of contracts. Since castration was forbidden under punishment of death within the Empire and since Leo's law was the first to prevent trade in Roman eunuchs (whose origin could have been only within the Empire), one could presume that in order to evade the prohibition of castration, Roman slaves were handed over to speculators to be castrated outside the Empire for a commission arranged in written agreements of alienation (*sive cuiuslibet alterius alienationis instrumenta*). This law therefore could enforce the prohibition precisely in such cases.

<sup>26</sup> Ammian. XVI, 7, 4-6. On the relationship between Ammianus and Eutherius, the latter being one of Ammianus' sources, see D. Woods, 'Ammianus and Eutherius', *Acta Classica* 41 (1984), 105-117.

<sup>27</sup> Claud. *In Eutropium*, I, 25ff ; 60ff

<sup>28</sup> *PLRE*, vol. 2, 442. See Jacqueline Long, *Claudian's In Eutropium. Or, How, When and Why to Slander a Eunuch* (Chapel Hill - London, 1996), especially ch. 4 (107-146), and Alan Cameron, *Claudian. Poetry and Propaganda at the Court of Honorius* (Oxford, 1970) ch. 6 : 'Eutropius' (124-155).

<sup>29</sup> *V. Dan. Styl.*, 28

<sup>30</sup> *PLRE*, vol. 2, 154. F. Justi, *Iranisches Namenbuch* (Marburg, 1895), 36-37. On the *praepositus sacri cubiculi* see below.

<sup>31</sup> *PLRE*, vol. 2, 704-705

<sup>32</sup> *PLRE*, vol. 2, p. 88, 660

*cubiculii* under Theodosius II came from Persia.<sup>33</sup> A similar case was the famous Narses (under Justinian) who was of Perso-Armenian origin.<sup>34</sup> Eunuchs were also sent from the East to the court in Ravenna: Arsacius whose name is Perso-Armenian, served in Honorius' court.<sup>35</sup> Ardaburius, who served at the court of Constantinople in the early sixth century, had an Alanian name.<sup>36</sup> The fact that eunuchs in high positions originated from the East coheres with the position they held in oriental states. In Persia, as well as in Armenia, eunuchs held high positions in the palaces, and could even fill a governor's position.<sup>37</sup> Moreover, illegal castration continued to be exercised in the Roman Empire, mainly in the eastern provinces. In fact, Constantine's legislation is specifically addressed to the Dux of Mesopotamia and the legislation of Leo to the *praefectus praetorio orientis*.<sup>38</sup>

In his description of the Caucasus, Procopius writes about the Abasgians, a people that lived near Lauzica, whose kings used to kidnap children of 'physical beauty' from their parents, castrate them and then sell them for a high price to anyone from the Roman Empire interested in buying eunuchs.<sup>39</sup> The result, according to Procopius, was that most of the eunuchs at the court of Constantinople were Abasgian by birth. Trade in eunuchs who were imported from the Caucasus into the Empire was therefore commonly accepted in the sixth century. During Justinian's reign, changes were made in this people's habits. They adopted Christianity, and Justinian personally took care to prevent castration. He sent a special envoy to their kings, Euphratus — a eunuch himself and a native Abasgian — ordering them to stop castration. According to Procopius, when the kings refused, the people rebelled with the support of Justinian's decree.

Justinian's Novella 142 from the same period deals at large with the act of castration and eunuchs.<sup>40</sup> It is the longest and most detailed of all the laws promulgated in this matter. The novella begins by stating that despite previous measures taken in this matter, the act of castration had not ceased. On the contrary, it had become common and the number of eunuchs had increased. Moreover, many who had submitted to this surgery died during the operation ('it is known, from survivors that out of ninety barely three survive').<sup>41</sup> It states that those found guilty, whether men or women, will be liable 'to the same act' and will be sentenced to exile for life with their property confiscated.

<sup>33</sup> *PLRE*, vol. 2, 101. See G. Greatrex, J. Bardill, 'Antiochus the *Praepositus*: A Persian Eunuch at the Court of Theodosius II', *DOP* 50 (1996), 171-198.

<sup>34</sup> *Proc. BP*, I, 15, 31

<sup>35</sup> *PLRE*, vol. 2, 151-152.

<sup>36</sup> *PLRE*, vol. 2, 137. M. Schönfeld, *Wörterbuch der altgermanischen Personen- und Völkernamen* (Heidelberg, 1965) p. 24. The 'Seythe' nickname of Mardonius clearly indicates his origin: Julian, *Antiochicus vel Misopogon*, 352 (par. 22 in ed. Ch. Lacombrade).

<sup>37</sup> *Zos.* II, 27. *Soz. HE*, II, 9-10. *Ammian.* XXVII, 12, 5-14. See *Liv.* XXXV, 15, for eunuchs in the Seleucid court.

<sup>38</sup> *CJ*, IV, 42, 1. *CJ*, IV, 42, 2. *PLRE*, vol. 2, 1179. *CJ*, XII, 5, 4. *PLRE*, vol. 2, 930.

<sup>39</sup> *Proc. BG*, IV, 3, 12-21.

<sup>40</sup> *Nov. Just.* 142.

<sup>41</sup> Cf. J.L. Burckhardt, *Travels in Numibia*, London, 1819, pp. 294-296 (quoted by Bernard Lewis in *Race and Slavery in the Middle East. An Historical Enquiry* [New York - Oxford, 1990], 76-77).

Moreover, the novella states that anyone who helps in the process, by, for example, providing shelter, would be considered an accomplice to be punished in the same manner. Women would be sentenced to exile and their property confiscated. Asserting that any such people had been caught and were to be punished, the novella appoints bishops and magistrates as responsible to enforce the law. Both get the permission to emancipate castrated slaves who turned to them. Unlike previous legislation, the novella does not distinguish between Roman and non-Roman, although it does mention that castrated slaves had been liberated in the past, probably referring to Leo's legislation.<sup>42</sup>

Besides liberating all eunuchs within the Empire the novella is also directed to all others (*barbari*) who may wish to follow the Roman ways in prohibiting castration.<sup>43</sup> However, alongside his description of the measures taken by Justinian to stop foreign castration, Procopius also writes that Abasgian eunuchs were common even in the imperial court of Constantinople.<sup>44</sup> This reveals the paradox embedded in this phenomenon, which the present study aims at understanding: the imperial measures taken to eliminate the act of castration even in foreign lands, if successful, would stop the supply of eunuchs to the imperial court. This contradiction demands a closer examination. The key to understanding this lies in the fact that most eunuchs were originally slaves.

There could have been freeborn children castrated by their parents, or freemen who castrated themselves to fill state positions, as happened later in Byzantium and in imperial China.<sup>45</sup> However, in the Roman Empire there were no high political positions specifically created for eunuchs that we know of prior to the fourth century. Moreover, castration of a male human being was severely punished. Hence, there was no reason to castrate freemen or freeborn children except for trafficking. In Roman society eunuchs started as slaves.<sup>46</sup> By prohibiting castration, Roman imperial authorities intervened in a relationship over which they had no authority until the first century A.D.: the relationship between the owner and his slave. It was not the cruelty towards the slave that attracted the attention of the legislators of the first century as this did not play a role until later in Hadrian's reign.<sup>47</sup> Hadrian's legislation indeed presents the same attitude towards owners who either castrate or kill their slaves. But, unlike dead slaves, castrated slaves were given the legal means to approach the authorities and were encouraged to do so.

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<sup>42</sup> *CJ*, IV, 42, 2.

<sup>43</sup> *Nov. Just.* 142.

<sup>44</sup> *Proc. BG*, IV, 3, 12-21.

<sup>45</sup> Tougher, *The Eunuch in Byzantine History and Society*, *op. cit.*, ch. 5. See Mary M. Anderson, *Hidden Power: The Palace Eunuchs of Imperial China* (Buffalo, 1990). T. Mitamura, *Chinese Eunuchs. The Structure of Intimate Politics*, trans. Ch.A. Pomeroy (Rutland Ve. - Tokyo, 1970). Sh.-sh.H. Tsai, *The Eunuchs in the Ming Dynasty* (New York, 1996). M.H. Dettenhofer, 'Eunuchs, Women, and Imperial Courts', in *Rome and China: Comparative Perspectives on Ancient World Empires*, ed. W. Scheidel (Oxford, 2009), 83-99.

<sup>46</sup> For a different view see Stevenson, *op. cit.* See the castration of a hundred Romans citizens by Septimius Severus destined to serve his daughter: *Cass. Dio*, LXXVI, 14, 4-6.

<sup>47</sup> Watson, *op. cit.*, 123.

It was precisely this legislative intervention that was later used, in the fourth and fifth centuries, to procure eunuchs for imperial use. Constantine's legislation repeats Hadrian's prohibition adding one particular distinction. Hadrian's legislation adds to the punishment of the death penalty for an owner who has castrated a slave that his property be also confiscated (*bona merito fisco meo vindicari debere*).<sup>48</sup> Constantine's legislation replaces the word *bona* (goods) with *mancipio* (slave) .....*confiscando*.<sup>49</sup> The confiscation of the castrated slave, unclearly stated in Hadrian's legislation, is clarified in Constantine's legislation. These laws show that the legislation had not changed the legal status of the castrated slave. His owner could be accused and punished, but the eunuch still remained a slave. Constantine's legislation explicitly states confiscation of this slave by the authorities. He could be confiscated to the *fiscus*, or even passed on to the imperial service. In fact, Constantine's legislation is perfectly in accord with the period in which eunuchs start to fill positions in the palace, and when a new and unprecedented Roman imperial court is created in Constantinople.

In another law of Leo from 465 concerning privileges of *cubicularii* (chamberlains) we find explicit evidence for the transfer of eunuchs from the private to the imperial sphere.<sup>50</sup> The law deals with slaves donated to the imperial court where they are used as *cubicularii*. The law gives them the status of freeman and concludes that 'all this shall be diligently observed when someone has freely and voluntarily given a eunuch for service in the imperial chamber'.<sup>51</sup> Voluntary donation of eunuch slaves to the imperial court is well-attested here and destined them to be devoted chamberlains (*devotissimis cubiculariis fuerint sociato*).<sup>52</sup> Just five years earlier, Leo decreed that eunuch slaves of Roman origin cannot be sold, and are hence non-transmissible property.<sup>53</sup> We may observe here how this legislation directs slave owners to donate their eunuch slaves to the imperial court.<sup>54</sup> If a eunuch slave runs away and joins the imperial court of his own accord, the law affirms his freedom and potentially offers him a personal career at court. Only in case of a non-castrated slave, does this law set a short prescription period of five years for the owner to claim his slave back (along with his *peculium*). The same law states that dead eunuchs will have equal status with that of freeman, ensuring that their accumulated property would stay in imperial hands, and thus cannot be reclaimed by their previous owners.

This law attests to a very important change in the position of eunuchs: in the private sector they were slaves; at the imperial court they became freedmen. Moreover, apart from legislative sources, we do not hear much about eunuch slaves in the private sector after the fourth century. Finally, Justinian's legislation liberated all eunuch slaves throughout the Empire, aiming at putting an end to the existence of eunuch slaves

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<sup>48</sup> *Dig.* XLVIII, 8, 4.

<sup>49</sup> *CJ*, IV, 42, 1

<sup>50</sup> *CJ*, XII, 5, 4

<sup>51</sup> *CJ*, XII, 5, 4, 3: *Haec omnia tunc diligenti observatione volumus custodiri, cum sponte suaque voluntate quis dederit eunuchum sacri cubiculi ministeriis adhaesurum.*

<sup>52</sup> *CJ*, XII, 5, 4, 1.

<sup>53</sup> *CJ*, IV, 42, 2.

<sup>54</sup> This legislation proves that eunuchs were still in private ownership in the fifth century.



altogether. Eunuchs thereafter could remain only in imperial service, where a professional career was open to them.

### Eunuchs in the Late Roman Imperial Service

A few eunuchs are mentioned very briefly at the courts of Claudius, Nero, Titus and Domitian.<sup>55</sup> The *Scriptores Historiae Augustae* describing the transition from Elagabalus to Alexander Severus mention eunuchs in Elagabalus' court, a change which probably reflects a fourth-century reality (possibly the transition from Constantius II to Julian who is said to have disliked eunuchs and removed them from the imperial court).<sup>56</sup> These are general remarks. However, from the beginning of the fourth century A.D., historians refer more specifically to eunuchs in the imperial service. Ammianus gives an example of a career opened for eunuchs in the imperial court.<sup>57</sup> Certain eunuchs who served in the palace had the title *cubicularii*. They were personal attendants to the emperor, responsible for his bedchamber, his clothing, and also accompanied him on his travels.<sup>58</sup> Not all *cubicularii* were eunuchs, but most of them are certainly mentioned as such. Their position placed them physically close to the emperor.<sup>59</sup> Eunuchs also served as educators to the imperial family.<sup>60</sup>

Two titles, the *praepositus cubiculi* (henceforth *p.c.*) and the *praepositus sacri cubiculi* (henceforth *p.s.c.*), become more and more frequent starting from the fourth century, but probably refer to the same function of a person responsible for the emperor's service.<sup>61</sup> This new office seems to be part of the development of the imperial

<sup>55</sup> Juvenal, *Satire*, XIV, 91. Tac. II, 71. Suet. *Claudius*, 28; *Titus*, 7. For Earinus, the favorite of Domitian see: Ch. Henriksen, 'Earinus: An Imperial Eunuch in the Light of the Poems of Martial and Statius', *Mnemosyne* ser. 4, 50/3 (1997), 281-294.

<sup>56</sup> *SHA, Alexander Severus*, 23, 7. Alexander Severus being the "good Emperor" in contrast to Elagabalus the "bad Emperor". Julian, *Antiochicus vel Misopogon*, 352 (par. 22 in ed. Ch. Lacombrade). Ammian. XXII, 4. Lib., *Ort.* 18, 130. For eunuchs in *SHA* see Alan Cameron, 'Eunuchs in the Historia Augusta', *Latomus* 24 (1965), 155-158.

<sup>57</sup> As a child the eunuch Eutherius arrived at the court, was educated and served there until he was found wise enough to become advisor to Constantius II, and afterwards to Julian: Ammian. XVI, 7, 4-6.

<sup>58</sup> Ammian. XXVII, 10, 11. Malal. 332. *Chron. Pasc.* 551.

<sup>59</sup> Against this background the motif of the emperor's last night developed: the emperor dreams a bad dream, wakes up, sends for the eunuchs who attend him, and dies the next day. The same story is told about Anastasius, and about Julian (who died in war). Malal. 332 ; p. 408. *Chron. Pasch.* 551; 610. Malalas attests probably the reality of his time (the end of the sixth century) since the *spatharii* he mentions around Julian's bed were not yet present in the fourth century (*infra*). When Zeno escapes Constantinople at night during Basiliscus' plot, he takes with him the empress and a few eunuchs to accompany him to Isauria. And according to Malalas, Theodosius II was very fond of his beautiful *cubicularius* Chrysaphius (Malal. 363).

<sup>60</sup> Antiochus was specifically brought from the Persian court to educate Theodosius II: Priscus, frag. 7. *PLRE*, vol. 2, 101.

<sup>61</sup> For a detailed analysis of the imperial positions created for eunuchs and the dignities they acquired in the fourth-sixth centuries see: Scholten, *op. cit.* Retief, Cilliers, *op. cit.* Tougher, *The Eunuch in Byzantine History and Society, op. cit.*..., ch. 4, and ch. 5 for the changes that

court in Constantinople.<sup>62</sup> The first *p.s.c.* to be mentioned is Eusebius, whose influential position in the court of Constantius II is described by Ammianus and Julian.<sup>63</sup> He was used by the emperor as a personal envoy, handling political affairs and controlling all the emperor's interviews. In fact, Eutherius was Julian's *p.c.* when he was Caesar prior to his becoming Augustus, just as Gorgonius had been the *p.c.* when Gallus was Caesar.<sup>64</sup> Most likely the Caesars had a court of attendants, among whom one of the most important was the *p.c.* This position was probably filled with eunuchs of the imperial court at Constantinople. Eutherius, for example, was raised in the palace of Constantinople).<sup>65</sup> One of the functions that the *p.c.* held was to be the emperor's personal and reliable envoy for secret political missions.<sup>66</sup> Our sources provide many examples of the great political power held by the *p.c.*<sup>67</sup>

The *p.c.* or *p.s.c.* is not the only office occupied by eunuchs. Our fifth-century sources give specific details about other offices too. The most important sources for this subject are the *Codex Theodosianus* and the *Notitia Dignitatum*. The law, *De praepositis sacri cubiculi* from the year 422, awarded the *p.s.c.* the same rank as the *praefectus praetorio* and the *praefectus urbis*, and gave him the same authority as the *magister militum* 'so there will be no difference in their positions on retirement'.<sup>68</sup> The same law grants the title *vir illustris* to all former officials who had been *p.s.c.s.*<sup>69</sup> In the *Notitia Dignitatum* the *p.s.c.* of the East and of the West are ranked immediately after the *magistri militum* and before the *magistri officiorum*. In both oriental and occidental courts they receive the dignity *vir illustris*.<sup>70</sup>

The second most important office that eunuchs held in the palace was the *primicerius sacri cubiculi* (henceforth *primicerius s.c.*). In the *Notitia Dignitatum*, in both courts it is noted right after the *comes domesticorum* and is titled *spectabilis*.<sup>71</sup> The *primicerius s.c.* had staff under his control as explicitly noted in the *Notitia Dignitatum: sub dispositione.....primicerii..*, although this list has not survived for either of the courts.

The next important office for which we have evidence in the *Notitia Dignitatum* and occupied by eunuchs is the *castrensis* (the official title: *comes et castrensis sacri*

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occurred in this array of positions since the seventh century. For the *p.s.c.* in particular see J.E. Dunlap, *The Office of the Grand Chamberlain in the Later Roman and Byzantine Empires* (Univ. of Michigan, 1924).

<sup>62</sup> It is possible that the *p.c.* served a Caesar while the *p.s.c.* an Augustus. It is also possible that the *p.s.c.* is a title used later (sources of the fourth and fifth centuries tend to use *p.c.* while later sources use *p.s.c.*, just as *sacer cubiculum* replaces *cubiculum*. *CJ*, XII, 5, 4.

<sup>63</sup> Ammian. XVI, 7, 2. Julian, *Epistula ad senatum populumque Atheniensem*, 274. A.P. Kazhdan, 'Praepositus Sacri Cubiculi' in *Oxford Dictionary of Byzantium*, 3:1709.

<sup>64</sup> Ammian. XV, 2, 10; XVI, 7, 2.

<sup>65</sup> Ammian. XVI, 7, 4-6. Under Valentinian, the *p.s.c.* Rhodanos was a senior eunuch, head of the other eunuchs in court and a person of great influence (Malal. 13, 3).

<sup>66</sup> Ammian. XX, 8, 19; XX, 8, 2; XIV, 7, 2-3; XIV, 10, 5; XV, 3, 2. Soz. *HE*, VII, 22. See also *V. Porph.*, 44. *V. Dan. Styl.* 48; 56. Socr. *HE*, VI, 16.

<sup>67</sup> Ammian. XVIII, 4, 4-6; XX, 2, 3. Zos. II, 55; IV, 28. *Chron. Pasc.* p. 558. Scholten, *op. cit.*

<sup>68</sup> *CTh.* VI, 8, 1.

<sup>69</sup> For the development of these dignities see: Scholten, *op. cit.* Retief, Cilliers, *op. cit.*

<sup>70</sup> *Not. Dig. Or.* X; *Not. Dig. Occ.* VIII.

<sup>71</sup> *Not. Dig. Or.* XVI; *Not. Dig. Occ.* XIV.

*palatii*), listed just below the *primicerius*.<sup>72</sup> The *castrensis* was responsible for the administration of the palace and its maintenance, receiving the dignity *spectabilis*.<sup>73</sup> The fifth century witnessed a duplication of all these offices in the court of Ravenna and moreover we encounter separate offices of a *praepositus*, *primicerius* and *castrensis* to the empress (she had a personal *primicerius* and *castrensis* definitely from 423, yet according to the *Notitia Dignitatum* had no *p.s.c.* of her own).<sup>74</sup>

As J.E. Dunlap notes, according to the *Notitia Dignitatum*, the *comes sacrae vestis* and the *silentiarii*, both served under the *p.s.c.* The first was in charge of the imperial wardrobe and the gifts donated to the emperor. The second were in charge of the ceremonies and court assemblies.<sup>75</sup> As for the *castrensis*, the *Notitia Dignitatum* (East and West) notes: *sub dispositione viri spectabilis castrensis: 1. paedagogia, 2. ministerialis dominici, 3. curae palatiorum*.<sup>76</sup> The *paedagogini* were pages who entered the imperial service in their youth and lived in the palace. The *ministeriales* were entrusted with special temporary positions, and the *curae palatii* were charged with the function and maintenance of the palace.<sup>77</sup> All the offices under the supervision of the *castrensis* were not necessarily occupied by eunuchs, but they were under the control of eunuchs since the *castrensis* and the *primicerius* were positions traditionally held by them.<sup>78</sup> In relation to professional careers open to eunuchs we learn much from the case of Theodore, described by John of Ephesos. Theodore began serving in Justinian's *cubiculum* after service in the house of Misael (the *ex-p.s.c.* of Ansthasius).<sup>79</sup> After only two years of service, he requested the emperor's permission to retire. His retirement, approved by Justinian, awarded him the rights and privileges of a *praepositus*.<sup>80</sup>

Eutropius is the first and only known eunuch to have been a consul prior to the sixth century. A law of 17 August 399 deprived him of the consulate and his dignity as *patricius*.<sup>81</sup> Eutropius was not, however, the only eunuch to receive the dignity of *patricius*, e.g., there was Lausus under Arcadius and Antiochus under Arcadius and Theodosius II.<sup>82</sup> Priscus writes that when Theodosius deprived Antiochus of the title, he

<sup>72</sup> *Not. Dig. Or.* XVIII; *Not. Dig. Occ.* XV.

<sup>73</sup> According to Seeck, 'Castrensis' in *RE*, 3, 2:1774-1775 from 319. *Not. Dig. Or.* XV. *Not. Dig. Occ.* XIV. Unlike the *praepositus* and the *primicerius*, whose full title was *sacri cubiculi*, the *castrensis* was titled *sacri palatii*. If those titles are meaningful, the *castrensis* might not have served in the emperor's *cubiculum*, which might place him less close to the emperor. For the entire range of functions and roles of these dignities see R. Guiland, *Recherches sur les institutions byzantines*, 2 vols. (Berlin, 1967) vol. 1, 275 ff. Dunlap, *op. cit.*

<sup>74</sup> G. Clemente, *La « Notitia Dignitatum »* (Calgliari, 1968) 98-99.

<sup>75</sup> Dunlap, *op. cit.* 98-99, 218-219.

<sup>76</sup> *Not. Dig. Or.* XV. *Not. Dig. Occ.*, XIV

<sup>77</sup> Dunlap, *op. cit.* 211-215.

<sup>78</sup> See Jones, *LRE*, vol.2, 571. Such were Amentius, the *Castrensis* of Eudoxia (*V. Porph.* 37), Scholasticus (*PLRE*, vol.2, 982) and Secundus (*Nil. Ep.* II, 281).

<sup>79</sup> *PLRE*, vol. 3, 892

<sup>80</sup> *PLRE*, vol. 3, 892, 1244-1245.

<sup>81</sup> *CTh.* IX, 40, 17. For a full discussion see Long, *op. cit.* 181-184.

<sup>82</sup> Priscus, frag. 7. Dunlap, *op. cit.* 196-197

prohibited eunuchs from being appointed senators and *patricii*.<sup>83</sup> Nonetheless, we continue to encounter them as senators.<sup>84</sup> Fifth century legislative and non-legislative evidence indicates an increase in the authority, dignity and position that eunuchs held in the imperial courts. As senators, *patricii* and consuls, eunuchs were part of the social elite.

### Eunuchs in Military Roles

Not many sources mention eunuchs in military service. The *Scriptores Historiae Augustae* present an imaginary correspondence between Gordian III and his father-in-law Timesitheus who congratulates Gordian for removing eunuchs from military positions.<sup>85</sup> Gordianus replied that he assigned Felicio and Serapammon (both eunuchs in this context) to lead the praetorian guard and the fourth legion, but, on his father-in-law's advice, he understood that this was a mistake.<sup>86</sup> While this is certainly not a genuine imperial correspondence it may be taken as reflecting the time of its composition (the end of the fourth century). Firstly, we learn that eunuchs did attain high positions in the Roman army. Secondly, we learn that this was a new phenomenon — and thirdly, that it encountered strong opposition. As for the military campaign of Eutropius in 398 in which he repulsed the Huns over the Caucasus, this could have been part of Eutropius' victorious campaign in Armenia in the framework of the responsibilities he received from Arcadius at a time of political crisis.<sup>87</sup> Thus, he is made responsible for the army in the spring of 398 during the revolt in Phrygia, where he appoints commanders and sends them to oppress the revolt.<sup>88</sup>

Eutropius was not the only example of a eunuch who was given a political mission that required military command. Honoria, Valentinian's sister, entrusts the eunuch Hyacinthus with the mission to act against her brother (who was responsible for her imprisonment) and persuades Attila to come to her rescue, a mission that costs Hyacinthus his life.<sup>89</sup> Arsacius and Terentius, both eunuchs at the court of Honorius, are sent on a mission to assassinate Stilicho's son and to bring the empress back safely.<sup>90</sup>

During the fifth century we notice the eunuchs being given a new function: as a *spatharios*, literally 'sword bearer' (i.e. a bodyguard). There were imperial *spatharii* as well as private ones.<sup>91</sup> The imperial *spatharii* were part of the *cubicularii* and were most

<sup>83</sup> Priscus, frag. 7. Malalas' version regarding the same circumstances is different. According to him, Theodosius passed a law according to which *ex-praepositi* could not hold the title *patricius* (Malalas, 361; Greatrex and Bardill, *op. cit.* 180-181).

<sup>84</sup> Jones, *LRE*, vol. 2, 570; vol. 3, 163, n. 11.

<sup>85</sup> *SHA, Tres Gordiani*, 24

<sup>86</sup> *SHA, Tres Gordiani*, 25

<sup>87</sup> Claud. *In Eutropium*, I, 234-286. *PLRE*, vol. 2, 442 after Claud. *In Eutropium*, Praef. 55-56. Claudius Claudianus indeed mocks Eutropius' command (*ibid.* II, 62ff).

<sup>88</sup> Zos. V, 13-15. Eunapius writes that Eutropius commanded all the legions (Eunapius, frag. 65, 8).

<sup>89</sup> Priscus, frag. 17.

<sup>90</sup> Zos. V, 37.

<sup>91</sup> Malal. 385.

probably eunuchs.<sup>92</sup> The first *spatharios* we know of was the eunuch Chrysaphius under Theodosius II.<sup>93</sup> This office probably developed into a guard of eunuchs.<sup>94</sup> Besides comprising the bodyguard, the *spatharii* were sent on military missions.<sup>95</sup>

The most famous eunuch to hold military command in the history of the Roman Empire was Narses. The wars he commanded in Italy are described at length by Procopius and by Agathias. He was raised in the ‘pleasant atmosphere of the imperial court’, and was probably educated in the course of the *cubicularii*.<sup>96</sup> His name indicates that he was of Persian-Armenian origin.<sup>97</sup> The command in Italy was not his first military role. In 532 he took part in oppressing the Nika riots in the Hippodrome as a *spatharios*, and in 535 he was sent to replace the Catholic bishop of Alexandria and stayed there for eleven months to control the civil campaigns.<sup>98</sup> In 541 he was sent with guards to bring back John the Cappadocian, and in 545 to persuade the Eruli’s leaders to support Justinian in his campaign in Italy.<sup>99</sup> In 538 he commanded a force of five thousand soldiers in Italy, and in 551 he replaced Belisarius as chief and only commander of the military campaign in Italy.<sup>100</sup> This appointment proved to be extremely successful. He put up a well-organized army, trained it himself and succeeded in holding on his own the campaign in Italy for ten years (551-562), with the result of victories over the Goths and the conquest of Italy.<sup>101</sup> Narses was not the only eunuch to hold a high military office. So was Scholasticus who, in 551, was sent against Totila as a chief commander of a military expedition.<sup>102</sup>

Not much evidence exists for military service of eunuchs before the sixth century. There is, however, more for the fifth century than for the fourth. Eunuchs were introduced to military positions probably at the end of the fourth century, and during the fifth century two palatial bodyguards were established: the *excubitores* under the *magister militum* and the *spatharii*. The later probably developed around the position of the *spatharios* — a eunuch in a high position who received the emperor’s trust and was appointed to political and military missions. The military practice of using *spatharii* opened for the imperial eunuchs the possibility of developing a military career. So, although eunuchs shared the same offices as non-eunuchs in the army, they were given

<sup>92</sup> Tougher, *The Eunuch in Byzantine History and Society*, *op. cit.* 40-42. A.P. Kazhdan, ‘Spatharios’, in *Oxford Dictionary of Byzantium*, 3:1935-1936.

<sup>93</sup> *Ibid.* vol. 1, 297.

<sup>94</sup> We note that under Leo another type of guard was appointed, the *excubitores*. There was also a palatine guard under the command of the *magister militum* (Jones, *LRE*, vol.2, 658-659; vol.3, 203, n. 117). For a comparison with other military functions in the palace, especially with the *candidati* see M. Whitby, ‘On the Omission of a Ceremony in Mid-Sixth Century Constantinople: *Candidati*, *Curopolatus*, *Silentiarii*, *Excubitores* and Others’, *Historia. Zeitschrift für alte Geschichte* 36/1 (1987), 462-488.

<sup>95</sup> Zach. VI, 2-3. Evag. *HE*, III, 22. *PLRE*, vol. 2, 1182.

<sup>96</sup> Agathias, I, 16.

<sup>97</sup> Proc. *BP*, I, 15, 31.

<sup>98</sup> *Chron. Pasch.* 626-627. *PLRE*, vol. 3, 913.

<sup>99</sup> Proc. *BP*, I, 25, 24. *BG*, 3, 21. *PLRE*, vol. 3, 915.

<sup>100</sup> Proc. *BG*, IV, 26. Agathias, II, 2. *PLRE*, vol. 3, 914-916.

<sup>101</sup> Agathias, I, 9-15; I, 22; II, 9. Proc. *BG*, IV, 26-32.

<sup>102</sup> Proc. *BG*, III, 40, 35. *PLRE*, vol. 3, 1117.

military offices only thanks to their high position in court, where they held offices specifically created for them.

### Attitudes Toward Eunuchs

Early references to eunuchs from the first to the third centuries generally show no special attitude towards the phenomenon. They mention a few eunuchs who become part of Roman society when Rome conquered the East. They describe the functions of eunuchs in the private sector only briefly. From the fourth century on authors specifically discuss the phenomenon of 'eunuchism'.<sup>103</sup> Ammianus, Libanius, Julian and the *Scriptores Historiae Augustae* all refer to eunuchs. All of them describe the use of eunuchs very negatively.<sup>104</sup> Ammianus treats them as part of the decadence of Roman society when scorning the parades of Roman aristocracy in which eunuchs took part.<sup>105</sup> He blames the eunuchs in Constantius II's court for being responsible for the emperor's hatred of Julian.<sup>106</sup> He also quotes Ursicinus stating: 'as long as the Emperor is supported by eunuchs' advice refusing to hear about matters concerning Amida, he will not be able to get Mesopotamia back.'<sup>107</sup> Eusebius, the *p.c.* of Constantius is described both by Ammianus and Libanius very negatively as are all the other eunuchs in the imperial court.<sup>108</sup> For these authors every eunuch is by definition a negative person and the exception proves the rule.<sup>109</sup> The most characteristic example is *In Eutropium* of Claudius Claudianus. Eutropius is presented as a model of what a eunuch is supposed to be, and his being a very negative person coheres with his being a eunuch.<sup>110</sup> However, we must not be misled by the attitude expressed by these authors.<sup>111</sup> As Julian himself writes on the term 'eunuch': 'so respected just twenty months ago it is now used as an insult.'<sup>112</sup>

<sup>103</sup> For the use of the term 'eunuchism' in reference to the Roman world see: J.L. Lightfoot, 'Sacred Eunuchism in the Cult of the Syrian Goddess', in *Eunuchs in Antiquity and Beyond*, ed. Sh. Tougher (London, 2002), 71-86 and Retief, Cilliers, *op. cit.*

<sup>104</sup> See Tougher, *The Eunuch in Byzantine History and Society, op. cit.*..., ch. 2: 'Approaching Eunuchs: Attitudes, Studies and Problems', who shows the hostile attitude that eunuchs received also from modern writers. See *SHA, Alexander Severus*, 23, 7.

<sup>105</sup> Ammian. XIV, 6, 17.

<sup>106</sup> Ammian. XVII, 11, 1; XVI, 12, 6-7. Julian, *Epistula ad senatum populumque Atheniensem*, 274.

<sup>107</sup> Ammian. XX, 2, 4.

<sup>108</sup> Ammian. XV, 2, 10; XVI, 6, 1-3. Lib. *Ort.* 14, 3; 18, 102; 18, 149.

<sup>109</sup> Ammian. XVI, 7, 4-6. Lib. *Ep.* 136. For the literary influence on Ammianus' descriptions of eunuchs see G. Sidéris, 'La comédie des castrats. Ammien Marcellin et les eunuques, entre eunucophobie et admiration', *Revue belge de philologie et d'histoire* 78 (2000), 681-717.

<sup>110</sup> Claud. *In Eutropium*, I, 98ff; 230ff; 335.

<sup>111</sup> See in particular the opposite attitudes of Christian writers: M. Horstmanhoff, 'Who Is the True Eunuch? Medical and Religious Ideas about Eunuchs and Castration in the Works of Clement of Alexandria', in *From Athens to Jerusalem: the Love of Wisdom and the Love of God*, ed. St.R.L. Clark (Oxford, 2000), 101-119.

<sup>112</sup> Julian, *Antiochicus vel Misopogon*, 352 (par. 22 in ed. Ch. Lacombrade).

In the fifth century we can detect a change in attitude. Although some authors still see eunuchs with a bad eye, most of the sources do not express a hostile attitude at all. In fact, if a eunuch is described negatively, this is not in respect to his being a eunuch.<sup>113</sup> Moreover, some of the writers do not mention the fact that a certain person is a eunuch at all.<sup>114</sup> The same goes for the writers of the sixth century.<sup>115</sup>

In Justinian's days, Procopius and Agathias do not pay any special attention to the fact that Narses was a eunuch.<sup>116</sup> Both describe the admiration he received from his soldiers. Procopius, who found Narses's success difficult to accept, reports a prophecy in the city of Rome that a day will come when the city will be liberated by a eunuch.<sup>117</sup> Only once does Agathias show a negative attitude in quoting two Alamanni who fought Narses. 'They thought', says Agathias, 'that Narses would not last their first attack since he was a eunuch and should be used not in battle but in bed.'<sup>118</sup> The traditional view that saw the eunuch as a sexual slave no longer corresponds to the major change in his position in society whether political, imperial or military. Moreover, in the sixth century, this traditional prejudice is thus attributed to the enemy.<sup>119</sup>

In fact, the sources show that eunuchs were incorporated into the aristocracy. The fact that they were hated by Ammianus and Libanius could thus be seen as part of their negative attitude toward the new Constantinopolitan aristocracy. Gilbert Dagron in his *Naissance d'une capitale* examines the negative attitude that these writers had towards the new creation of the imperial court in the fourth century.<sup>120</sup> Moreover their negative attitude can be understood as directed against the foundation of Constantinople itself as a new capital. Although Constantinople was established under Constantine, it was only

<sup>113</sup> Zos. II, 55; V, 24. Priscus, frag. 7; 11, 1; 15. 5. Eunapius, frag. 44, 3; 65, 7-8; 67, 9. Soz. HE, II, 9-10; VIII, 24; VII, 22. Other examples: John Chrysostom, *Ep.* 189; 190; 231. V. Porph. 38; 49; 52 (for the date see *ibid.*, xxxvi-xxxvii). PLRE, vol. 2, 105, 426, 460, 660. Jones, *LRE*, vol. 2, 569. Ammian. XVI, 7, 6.

<sup>114</sup> Cf. V. Dan. Styl. 31 for Chrysaphius (for the date see also A.P. Kazhdan and N.P. Ševčenko, 'Daniel the Stylite', *Oxford Dictionary of Byzantium* 1:585).

<sup>115</sup> Malalas does not mention the fact that Chrysaphius, Antiochus and Andreas Lauzicus were eunuchs: Malal. 361, 363, 410. Evag. HE, I, 10; II, 2.

<sup>116</sup> Although Agathias mentions that Narses's fine qualities were surprising in a eunuch: Agathias, I, 16.

<sup>117</sup> Proc. BG, IV, 21, 16; IV, 21. See Averil Cameron, *Procopius and the Sixth Century* (Berkeley, 1985) 201.

<sup>118</sup> Agathias, I, 7.

<sup>119</sup> G. Sidéris, "'Eunuchs of Light". Power, Imperial Ceremonial and Positive Representations of Eunuchs in Byzantium (4<sup>th</sup>-12<sup>th</sup> centuries AD)', in *Eunuchs in Antiquity and Beyond*, ed. Sh. Tougher (London, 2002), 161-175, displays positive and negative representations of eunuchs all along the period and shows how they depended on the ideological context of the representation.

<sup>120</sup> G. Dagron, *Naissance d'une capitale. Constantinople et ses institutions de 330 à 451* (Paris, 1974), 77-96. According to Sidéris (previous note) the positive representation of eunuchs is connected to their image as power related. This goes very well with the negative representation of people like Ammianus and Libanius who perceived very negatively the creation of the new type of imperial power.

under Theodosius I when its actual function as an imperial capital was realized.<sup>121</sup> As Dagron explains, the formation of a new capital was also the formation of a new imperial elite that changed the social fabric of the East.<sup>122</sup> The new Senate was composed of the local aristocracy of the Eastern provinces but also from ‘*des nouveaux venus du fonctionariat*’, where both had to be sufficiently rich to pay for their position. This new aristocracy, formed in contrast to the traditional Roman elite, had to become, as Dagron calls it, an “imperial aristocracy”, crystallized in Constantinople around and for the emperor. In order to incorporate this “newly made” elite into the palace, a totally new array of offices was thus created.

As for the eunuchs, they did not take positions traditionally occupied by the aristocracy.<sup>123</sup> In fact, eunuchs were part of this new aristocracy created for Constantinople, or, in reality, for the emperor. We saw that eunuchs were part of this new aristocracy from the offices, privileges, titles and power, property and wealth they acquired.<sup>124</sup> Some were endowed with dignities such as *patricius*, *vir illustris* and *spectabilis*. Others were appointed senators. It seems clear that the dynamic process of planning a new aristocracy in Constantinople during the fourth and fifth centuries, specifically included eunuchs. They did not replace others because the offices they held were created especially for them as part of a totally new array of offices, mostly not held by eunuchs but whose aim was to establish the absolute authority of the emperor.<sup>125</sup> The key question remains: what could eunuchs offer to the imperial service that no one else could?

#### **Between Prohibition and Accumulation: The Paradox of Roman ‘Eunuchism’ Explained**

Eunuchs arrived at the imperial court from the private sector. There they served mainly in aristocratic circles where they held high positions.<sup>126</sup> Constructing a new array of offices in the new imperial court demanded highly qualified men, *i.e.* persons who were not only educated, but also had experience in administration, finance and politics, and no less importantly, persons who were used to work as servants. To create a new “civil

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<sup>121</sup> Dagron, *op. cit.* pp. 94-96. The imperial palace that was founded in 337 started to function as such only under Constantius II (337-361) (*ibid.*, 77-80).

<sup>122</sup> *Ibid.*, Ch. IV (119-212).

<sup>123</sup> In contrast to Hopkins, *op. cit.*

<sup>124</sup> Though Zosimos and Evagius describe the methods by which eunuchs acquired their money very negatively (Zos. V, 24; Evag. *HE*, II, 2), other references speak of different possibilities open for eunuchs in high positions to acquire property. In the fifth century the *p.s.c.* received privileges that enabled him to accumulate money: Dunlap, *op. cit.*, 198. Jones, *LRE*, vol. 2, 569; see Greatrex and Bardill, *op.cit.* 193-196 for the Palace of Antiochus near the Hippodrome in Constantinople. In the sixth century he could also sell his office (Jones, *LRE*, vol. 2, 568-569). Wealthy eunuchs had vast domains, and some contributed their lands to the church: Soz. *HE*, VII, 21. *V. Dan. Styl.* 25; 89. *PLRE*, vol. 2, 67, 519, 254, 659-660, 1188-1190.

<sup>125</sup> Dagron, *op. cit.* Cf. T. Mitamura (*op. cit.*) and Sh-sh.H. Tsai (*op. cit.*) who show how, in China too, eunuchs formed an indispensable part of the Chinese system of absolute rule.

<sup>126</sup> As all the sources noted above show. A characteristic example: Ammian. XIV, 6, 17.



service”, highly qualified employees were needed. Eunuchs could meet these requirements very well. Moreover, while Roman legislation prohibiting castration interfered with the relationship between an owner and his slave, it proved to be a means to secure entrance for eunuchs into the imperial service.

Eunuchs could thus offer two things. Firstly, they were in high demand as slaves in the private sector, but were not used for the functions of other slaves. They were among the elite in private service. Nevertheless, they still kept the status of slaves, a juridical status which the imperial authorities controlled and could manipulate to their own advantage, as the legislative process in this matter clearly indicates. The traditional Roman legislative prohibition of castration, thus, proved to be a means for the legislative authority both to acquire eunuchs and make their acquisition exclusive.

The use of eunuchs in imperial and royal courts is not unique to the late Roman Empire and Byzantium. This was a well-known phenomenon in the Persian and Armenian courts of this time as it had been in the Assyrian and Hittite courts at a much earlier period.<sup>127</sup> Later, the Arab Caliph’s court in Baghdad, the Ottoman court and the imperial Chinese court are all known for the important functions allotted to eunuchs.<sup>128</sup> A traditional explanation for this phenomenon was dependent on the assumption that eunuchs cannot be sexually active, which would have made them the perfect guards of a ruler’s harem. This is, of course, a totally inappropriate explanation for the Constantinopolitan court. If we examine other studies on this matter, for instance David Ayalon’s study of the Caliph’s court in Baghdad, Karlheinz Deller’s of royal eunuchs in Assyria, or Shih-shan Henry Tsai’s of the Chinese court of the Ming dynasty, they all show that eunuchs were not at all limited to guarding or attending women. Quite the contrary, just as in Constantinople they controlled the administration, the guard and the service within the palace, and were in charge of training others who were not necessarily eunuchs, to a range of offices including military ones.

The common characteristic of eunuch functions in any court is their inability to procreate, a quality that makes them, as Ayalon put it, a non-hereditary aristocracy.<sup>129</sup>

<sup>127</sup> *Ibid.*, ch. 1. P.O. Scholz, *Eunuchs and Castrati: a Cultural History* (Princeton, 2001). For Armenia see Zos. II, 27; Soz. *HE*, II, 9-10; Ammian. XXVII, 12, 5-14; for a summary of the works on eunuchs in the Ancient Near East see A. Kirk Grayson, ‘Eunuchs in Power. Their Role in the Assyrian Bureaucracy’, in *Vom Alten Orient zum Alten Testament. Festschrift für Wolfram Freiherrn von Soden zum 85. Geburtstag am 19. Juni 1993*, ed. D. Manfred, L. Oswald [Alter Orient und Altes Testament 240] (Darmstadt, 1995), 85-97. For Eunuchs in Achaemenid Persia see L. Llewellyn-Jones, ‘Eunuchs and the Royal Harem in Achaemenid Persia (559-331 BC)’ in *Eunuchs in Antiquity and Beyond*, ed. Sh. Tougher (London, 2002), 19-49. For Persian eunuchs in Late Antiquity see *supra*, n. 75. For Assyria see especially K. Deller, ‘The Assyrian Eunuchs and Their Predecessors’, in *Priests and Officials in the Ancient Near East*, ed. K. Watanabe (Heidelberg, 1999), 303-311, which gives exact parallels for the royal use and position of eunuchs in Assyria (308 sqq.) and the tax exemptions and grants they received (306-308). For the Hittite empire see *ibid.*, 309-311.

<sup>128</sup> D. Ayalon, *Eunuchs, Caliphs and Sultans. A Study in Power Relationships* (Jerusalem, 1999); E.R. Toledano, ‘The Imperial Eunuchs of Istanbul’, *Middle Eastern Studies* 20 (1984) pp. 379-390; Tsai, *op. cit.*; Anderson, *op. cit.*

<sup>129</sup> Ayalon, *op. cit.* 31-32. Ayalon explains their importance in their inability both to procreate and to endanger a woman’s chastity. He explains their importance in Arab society in being

The same goes for the late Roman court: the accumulation of eunuchs by the emperor is thus seen as a creation of a new kind of aristocracy, which could not leave the palace. The development of imperial legislation in the prohibition of castration shows that it served to appropriate the private use of eunuchs, and to transfer the use of slave eunuchs in private service to that of imperial service. This could also have been advantageous to their previous owners. Instead of a buffer zone between the emperor and the late Roman aristocracy, we should consider eunuchs as a link between the two. This elite was considered a part of the general aristocracy since it originated in it and shared the same titles, honors and privileges, but could never extend itself beyond its specially defined position. It is again imperial legislation from the second to the sixth centuries that provides a confirmation to this theory. It was specifically promulgated in order to limit the possibilities of eunuchs to acquire family lineage for themselves.

### Family Status of Free Eunuchs: Marriage, Adoption, Inheritance

Before looking at the legislation dealing with eunuchs of free status, a general observation should be made regarding the relevant terminology. The Latin term equivalent to the Greek *eunouchos* is *spado*. Yet, the two terms do not completely overlap. The difference between the two is important since it is the Latin term that is mainly used by the Roman jurists. The Greek *eunouchos* refers to a castrated man or a castrated boy.<sup>130</sup> The same does not apply to the Latin *spado*, which is a term used in Roman law to designate any sterile man.<sup>131</sup> Ulpian (under Caracalla and Alexander Severus) explains that the term *spado* is a general one which refers to those who are born as such by nature, those who were operated, as well as any other kind.<sup>132</sup> Indeed, the legislation of the first half of the third century clarifies that the term *spado* does not have an exclusively unique legal meaning. For example, in the case of a *spado* who wishes to liberate his female slave to marry her, the jurist explains that he will not be able to do so, if he is castrated.<sup>133</sup> This distinction between the castrated and non-castrated *spado* exists in another law from the third century, which concerns marriage.<sup>134</sup> We see how in the first half of the third century jurists affirm that the term *spado* in the written laws is unclear and that there is a need to distinguish a eunuch from a non-castrated *spado*. The earliest reference of such an observation is attributed to Proculus (second half of the first century) who is quoted by Ulpian from Julian (first half of the second century). The citation explains that a *spado* could appoint himself a *postumus* (an

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the communication channel between the court women and the Mamluks in what he calls “the Great Triangle”.

<sup>130</sup> For the Greek word see Guyot, *op. cit.*, 20. For its Hebrew equivalent term, *saris*, see Grayson, *op. cit.* 89, n. 23.

<sup>131</sup> *Dig. XXVIII*, 2, 6; L, 16, 128.

<sup>132</sup> *Spadonum generalis appellatio est: quo nomine tam hi, qui natura spadones sunt, item thlibiae thlasiae, sed et quod aliud genus spadonum est, continentur (Dig., L, 16, 128). Thlibiae thlasiae* literally ‘by crushing’ refers to the surgical procedure. See Stevenson, *op. cit.*, 497-498. Murison, *op. cit.*, p. 348. Kuefler, *op. cit.* 33.

<sup>133</sup> *Dig. XL*, 2, 14.

<sup>134</sup> *Dig. XXIII*, 3, 39 (on marriage *infra*).

heir, unknown by name) unless he had been castrated.<sup>135</sup> This quotation refers back to the first century A.D. but appears in the writings of a jurist from the third century (and is in fact a quotation within a quotation). Thus, most of the jurists who distinguish between a castrated and non-castrated *spado* are from the third century. In later legislation (starting from the fourth century), the Latin term is replaced and instead of *spado* 'who is castrated' (*qui castratus est*) we find the Greek term in Latin transcription: *eunuchus*. Two important facts should be underlined: firstly, all the laws that refer to the castrated *spado* deal with family matters (marriage, adoption and inheritance); secondly, eunuchs are specifically deprived of what other *spadones*, sterile men, are allowed.

### Marriage

Although a citation from Cassius (Claudius' time) and from Javolenus (under Antoninus Pius) affirms that a *spado* may marry,<sup>136</sup> the jurist who quotes it, Ulpian (under Caracalla and Alexander Severus), notes his restriction elsewhere: 'If a woman marries a *spado*, a distinction must be drawn between castrated and non-castrated, so that in case of the castrated you may say that there is no dowry; but in case of a non-castrated one, there can be a dowry and action of dowry since there is matrimony.'<sup>137</sup> The same goes for a *spado* who frees his female slave in order to marry her. According to the commentary of Marcian (contemporary with Ulpian), this does not apply to a castrated *spado*.<sup>138</sup> All these laws show clearly that unlike other types of *spado*, eunuchs were specifically deprived of potential marriage. Moreover, these laws do not rely on an earlier legislation. Quite to the contrary, the earliest reference (that of Cassius and Javolenus) makes no distinction between a castrated *spado* and any other type of *spado*. Another reference is the joke in the *Philogelos*: 'seeing a eunuch chatting with a woman, an Abderite asked him if she was his wife. The eunuch replied that people like him could not have wives. "Ah, then she must be your daughter".'<sup>139</sup> This text, whose origin is obscure, was dated by Louis Robert to the third century.<sup>140</sup>

The definition for the term *spado* as 'someone who cannot easily procreate' (*qui generare facile non possit*), attributed to Cassius and Javolenus, does not properly apply

<sup>135</sup> 'But the question is whether someone who cannot easily procreate can make a *postumus* heir' (*Dig.* XXVIII, 2, 6).

<sup>136</sup> *Dig.* XXVIII, 2, 6.

<sup>137</sup> *Si spadoni mulier nubserit, distinguendum arbitror, castratus fuerit necne, ut in castrato dicas dotem non esse: in eo qui castratus non est, quia est matrimonium, et dos et dotis actio est* (*Dig.* XXIII, 3, 39, 1).

<sup>138</sup> Paulus (under Septimus Severus and Alexander Severus), concerning the prohibition of a master to force his slaves or freedmen/freedwomen to swear not to procreate, writes that the master will not be punished in the case of a free eunuch: *Dig.* XXXVII, 14, 6.

<sup>139</sup> *Philogelos, Der Lachfreund*, ed. Andreas Thierfelder (Munich, 1968), 70, n. 115, tr. Barry Baldwin, *The Philogelos or Laughter-Lover* (Amsterdam, 1983), 22. See also jokes n. 114 and 116 on eunuchs.

<sup>140</sup> Louis Robert, 'Epigrammes Satyriques de Lucillius', in *L'Epigramme grecque* (Geneva, 1968), 289, n. 3, cited in Baldwin, *op. cit.*, vi. For a full discussion on the date see *ibid.*, iv-ix.

to eunuchs who cannot procreate at all.<sup>141</sup> In fact, we cannot conclude that eunuchs had had permission to marry before the third century. These jurists (Ulpian, Marcian, Paulus) do not legislate, but rather interpret and comment on the existing law. In their time marriage was not possible for eunuchs, but we cannot assume that this was also the case beforehand. Marriage being defined as a legal contract between two parties for the purpose of procreation, it is clear why eunuchs who could not procreate, under any circumstance, were deprived of that institution. Nonetheless, they could adopt.

### *Adoption*

Roman law recognizes two types of adoption, explains Modestinus (222-244), and both are named *adoptio*. The first is an *adoptio* of a child who has not yet reached maturity. In this case the child passes from the *potestas* of his biological father to the *potestas* of his adoptive father. The adoption is made with the consent of both parties. The second kind of adoption is called *adrogatio*: an adoption of those *qui sui iuris sunt*, referring to the adoption of an adult who is in his own *potestas*. In this case the adoption is made following an agreement between the adoptee and the person who adopts him.<sup>142</sup>

Three laws deal with adoption by a *spado*: the first is from the *Institutes* of Gaius: ‘another feature common to both kinds of adoption is that people unable to procreate, such as *spadones*, can adopt.’<sup>143</sup> This law is quoted by Modestinus in the *Digest*.<sup>144</sup> As for *adrogatio*, Modestinus writes: ‘by *adrogatio* a *spado* can obtain himself an heir, his bodily defect is no impediment.’<sup>145</sup> This coheres with the previous law. We note that none of the two deals specifically with eunuchs. It is in the sixth century that Justinian’s *Institutes* add a small remark to Gaius: ‘this... such as *spadones*, can adopt. Castrated ones cannot.’<sup>146</sup> Gaius did not distinguish eunuchs from other *spadones* since in his time such observation did not appear in the legislation. Modestinus, who lived in a time when such observations were made, does not specify what type of *spado* he literally means, but explains that physical impediment does not prevent an *adrogatio*. Castration can in fact be considered a ‘bodily defect’ (*vitium corporale*). Nonetheless, in the sixth century, eunuchs were clearly deprived of this possibility.<sup>147</sup> The question is why.

<sup>141</sup> ‘But the question is whether someone who cannot easily procreate children can make a *postumus* heir’ (*Dig.* XXVIII, 2, 6). A *postumus* is an heir whose name is unknown when the will is drawn (such as a yet unborn child).

<sup>142</sup> *Dig.* I, 7, 1-2; Glossary.

<sup>143</sup> *Illud vero utriusque adoptionis commune est, quod et hi, qui generare non possunt, quales sunt spadones, adoptare possunt* (Gai. I, 103).

<sup>144</sup> *Dig.* I, 7, 2.

<sup>145</sup> *Spado adrogando suum heredem sibi adsciscere potest nec ei corporale vitium impedimento est* (*Dig.* I, 7, 40).

<sup>146</sup> *Illud...quales sunt spadones, adoptare possunt. Castrati autem non possunt* (*Inst. Just.* I, 11, 9).

<sup>147</sup> Both Moyle and Sandars try to explain this change. Moyle evokes the changes made in the adoption law under Justinianus, according to which adoption in *adoptio* will be valid only when the person who adopts is an *adoptio-plena* (in a direct line of parent to the adopted child — such as his grandfather or his grandfather’s father). Otherwise (related in another line to the adopted child, or someone not within the family) — *adoptio minus plena* — the

One possible explanation could be that Justinian's legislation did not want to enable eunuchs who could accumulate property and wealth through their position in the imperial court, to remove it from imperial control by establishing successors for their wealth. However, in Constantine's law, eunuchs could legally leave will.<sup>148</sup> The law dealing with *adoptio* and with *postumus* heir mentions the following note in one paragraph: 'A hermaphrodite, though, will be able to institute a *postumus* as heir, if the male characteristics in him are predominant.'<sup>149</sup> Hence, one of the criteria which determined the possibility to appoint a *postumum* heir, was his masculinity (leaving aside the exact legal definition of a hermaphrodite<sup>150</sup>). Thus, eunuchs were systematically distinguished from other *spadones* by their inability to acquire family lineage. This could be explained through imperial legislation in this matter which followed the rationale of the imperial use of eunuchs: they were to be kept as a non-hereditary aristocracy. The reason was not their property, but their family lineage.<sup>151</sup> The fact that they did not originate from within the Empire, left them with no such lineage from the start. Imperial policy had to insure that they remained in this state.

### To Conclude

The traditional Roman attitude of abhorrence to unvirilization of the male tried to eliminate the act of castration from Roman society through legislation. Castration, however, did not cease even though the laws became more stringent. Eunuchs were imported from the East to fill the demand for them, and slaves may have been sent abroad to be castrated. Due to their high price eunuchs were highly demanded slaves in the private sector, and were given important positions in their owners' households.

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child remains in his origin family under the *potestas* of his progenitor father, but gets to inherit his adopted father. This reform aims at protecting the child from losing the inheritance rights from both sides, that is if his adoptive father has released the child from the adoption after his progenitor father had died (J.B. Moyle, *Imperatoris Iustiniani Institutiones*, Oxford, 1923, pp. 138-140). According to Moyle the note added in *Inst. Just.*, I, 11, refers only to *adoptio* because eunuchs cannot adopt *adoptio-plena*. Yet no remark is found in the text that would suggest that the note refers only to *adoptio* and not to *adrogatio*. Moreover, even after the reform of Justinian, eunuchs could still adopt in *adoptio minus plena* (in this case the adopted child would get to inherit him, but stays in his progenitor father's *potestas*). Sandars explains it differently, writing that the purpose of the note added in Justinian's *Institutes* was to distinguish a *spado* who certainly will not have children from any other *spado* (T.C. Sandars, *The Institutes of Justinian*, London, 1888). Yet the text does not say *qui generare non possunt* ('who cannot procreate') but plainly *castrati non possunt* ('eunuchs/castrated ones cannot').

<sup>148</sup> *CJ*, VI, 22, 5 (Watson, *op.cit.*, 78).

<sup>149</sup> *Hermaphroditus plane, si in eo virilia praevalerent, postumum heredem instituere poterit* (*Dig. XXVIII, 2, 6, 2*).

<sup>150</sup> See L. Brisson, *Le sexe incertain: androgynie et hermaphroditisme dans l'Antiquité gréco-romaine* (Paris, 1997, Eng. trans. J. Lloyd, Berkeley, 2002).

<sup>151</sup> Karlheinz Deller argues the same thing for the Assyrian eunuchs (*op. cit.* 303) and against A.K. Grayson (*op. cit.*, 97). In any case unlike the Roman Empire castration was not prohibited in Assyria.

Nevertheless, they still had the status of slaves, a juridical status which the imperial authorities controlled and manipulated.

The phenomenon of Roman “eunuchism” maintains a contradiction: on the one hand there is the imperial prohibition of castration — and on the other the development of the imperial use of eunuchs. While modern scholarship has dealt extensively with the second aspect, it has largely overlooked its elaboration in Roman legislation. An analysis of the juridical evidence reveals the missing link necessary to explain the rationale at the basis of this phenomenon. It suggests that the juridical prohibition of castration was a means for the imperial accumulation of eunuchs and their transfer from the private to the imperial service. In the fourth and fifth centuries, they were urgently needed in order to create a new aristocratic imperial service for the new court at Constantinople.

The analysis of legislative process in the prohibition of castration reveals it as a means to create a new type of non-hereditary aristocracy of eunuchs at the expense of private slave owners, but also intended for their own benefit. What appears to be a contradiction actually makes sense. Thus, the legislative prohibition of castration enabled the imperial authorities to interfere with the relationship between owner and his slave in order to acquire highly qualified eunuchs for imperial use. Eunuchs in imperial service were regarded as part of the general aristocracy since they originated in it and shared the same titles, honors and privileges. However, thanks to their inability to procreate, eunuchs were a non-hereditary aristocracy. The imperial authorities took care to turn this biological inability into a social one by prohibiting all possibilities of eunuchs to acquire for themselves family lineage. It is again the Roman juridical evidence that clearly reveals the imperial objectives for which legislation proved to be the main device.