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The Prayers of *Evocatio* and *Devotio*:

Between Religious Ritual and Roman Law

Summary: This paper, which is a work in progress and a continuation of previous articles that were published on the Roman concepts of *evocatio* and *devotio*, will explore a new approach: the juridical context and implications of these religious and magical rituals. After reminding briefly the traditional interpretation (religious prayers pronounced only in a context of war) and the results of our previous articles[1] (*evocatio* was not limited to military context, and *evocatio* and *devotio* included magical elements very similar to formulas of execration (*defixiones*), we will ask questions that seem to be innovative: on the one hand, "can we compare these prayers with juridical contracts?", and on the other hand, "had these rituals juridical and political consequences?", such as the loss of status of a person (in this case, the *devotio* of enemies) and the loss of status of a place/city (in the case of *evocatio*). Were these religious rituals a way of making possible the symbolical destruction of a territory and the transfer of a divinity's statue to Rome, and consequently a way of making possible the real destruction of this territory and justifying its conquest? To carry out this study, we will analyze different texts that mention *evocatio* and *devotio,* and we will contrast them with texts that refer to juridical concepts (such as *consecratio capitis et bonorum, exsecratio, bellum iustum,* and *damnatio memoriae*). We will also analyze the case of cities (Veii, Praeneste, Falerii Veteres, and Carthago) that probably lost their juridical and political status after a war and after religious rituals such as *evocatio* and *devotio*. It would not be the first time that religion was used for political reasons, to justify Roman imperialism.

Key words: evocatio; devotio; Rome; religion; law; war; imperialism; political status; territory; transfer; consecratio capitis et bonorum; bellum iustum; damnatio memoriae; Veii; Praeneste, Falerii Veteres; Carthago

Introduction

Religion and law are not often studied together. It is this approach, little explored, that I will use here in order to study the famous Roman prayers of *evocatio* and *devotio*.

First of all, let us summarize very shortly the traditional definitions of the Roman rituals of *devotio and evocatio*.[2] Both of them are generally defined as religious formulas pronounced by a Roman general in time of war[3] and accompanied by a ritual with the aim of conquering the enemy's city without committing sacrilege towards enemy gods.[4] According to this traditional approach, *evocatio* took place *before the battle,* contrary to *devotio* that took place during or at the end of the battle. *Evocatio* consisted in asking the enemy gods to move to Rome, while *devotio* consisted in cursing people: *devotio* could be

applied to enemies who were devoted to gods of death *(devotio hostium)* or it could refer to the suicide of the Roman general who ran into the enemy lines to make the Roman victory possible *(devotio ducis).*

Secondly, let me summarize very briefly the personal results that I established in previous research[5] and that contradict the traditional conception of *evocatio/devotio:*

– *Evocatio was not limited to a military context:* it was also used in a context of peace. We know for example the case of the king Tarquinius Superbus who wanted to *evocare* the god Terminus and the goddess Iuventas from the Capitoline hill in order to build the temple of Jupiter Capitolinus; the final result is well known: according to Livy and Servius, the god Terminus refused to move.[6] Another example was the case of the temple of the god Vulcanus, who was *evocatus* by rituals outside the walls of a city to avoid risks of fire.[7]

– *The prayers of evocatio and devotio included magical elements* that we can find in formulas of execration (the so-called *defixiones*). I dedicated a whole article to list all the mentions of these two words in magical contexts and I found similarities between the prayers of *evocatio/devotio* and the magical formulas of *defixiones*[8] – although their contexts are different –:[9] for instance, the invocation of divinities related to death, the will to instil in the enemy a state of extreme fear, the power of a word, or some linguistic techniques.

Similarities between *evocatio/devotio* and juridical concepts

1. The prayers of *evocatio* and *devotio* are formulated like contracts with divinities

This article will focus on other aspects of these prayers and has another objective as my previous research: demonstrating how similar Roman religion and law are. The first text that we can mention is the prayer of *evocatio* that the general Camillus would have pronounced before besieging the city of Veii in 396 BC. It begins with a promise to Apollo to give him one-tenth of "the spoils and a promise to Juno Regina to give her a new temple in Rome". Camillus, therefore, is making a pact with the divinities of the enemy city: in this regard, it should be noted that he is using the verb *precor* ("I request"), which is appropriate for contracts.[10] Here is the text:

Tuo ductu, inquit, **Pythice Apollo***, tuoque numine instinctus pergo ad delendam urbem Veios, tibique hinc* **decimam partem praedae voveo***. Te*

*simul, **Iuno Regina**, quae nunc Veios colis, **precor** ut nos victores in nostram tuamque mox futuram urbem sequare, ubi te dignum amplitudine tua templum accipiat". Haec precatus, superante multitudine ab omnibus locis urbem adgreditur, quo minor ab cuniculo ingruentis periculi sensus essset. Veientes, ignari se iam a suis vatibus, iam ab externis oraculis proditos, iam in partem praedae suae **vocatos deos, alios votis ex urbe sua evocatos** hostium templa novasque sedes spectare, seque ultimum illum diem agere,...*[11]

"**Pythian Apollo**, he said, 'guided and inspired by thy will I go forth to destroy the city of Veii, and **a tenth part of its spoils I devote** to thee. Thee too, **Queen Juno**, who now dwellest in Veii, **I beseech**, that thou wouldst follow us, after our victory, to the City which is ours and which will soon be shine, where a temple worthy of thy majesty will receive thee'. After this prayer, finding himself superior in numbers, he attacked the city on all sides, to distract the enemies'attention from the impending danger of the mine. The Veientines, all unconscious that their doom had already been sealed by their own prophets and by oracles in foreign lands, that **some of the gods had already been invited** to their share in the spoils, whilst **others, called upon in prayer to leave their city,** were looking to new abodes in the temples of their foes; all unconscious that they were spending their last day, …" (translation by C. Roberts, 1905)

The second document is the prayer of *evocatio* that Scipio Aemilianus pronounced in 146 BC before the conquest of Carthage.[12] The general begins his prayer with the formula *si deus, si dea est* in order to be sure not to leave out any god or goddess,[13] and then uses the same verb *precor*; after that, he mentions the different religious spaces twice with great precision *(loca, templa, sacra, urbs),* as if it were a juridical text.[14] Finally, he tells the divinities of Carthage that if they accept to come to Rome and let him know that this is their will, he promises them that he will build temples and celebrate games for them: this promise is formulated as a contract based on an exchange ("If you do this, we will do that"). Here is the text:

***Si deus, si dea est,** cui populus civitasque Cathaginiensis est in tutela, teque maxime, ille qui urbis huius populique tutelam recepisti, **precor** venerorque veniamque a vobis peto ut vos populum civitatemque Carthaginiensem deseratis, **loca templa sacra urbemque** eorum "relinquatis, absque his abeatis eique populo civitati metum, formidinem, oblivionem iniciatis, proditique Romam ad me meos veniatis, nostraque vobis **loca templa sacra urbs** acceptior probatiorque sit, mihique populoque Romano militibusque meis praepositi sitis. **Si <haec> ita feceritis ut sciamus intelligamusque, voveo vobis templa ludosque facturum**.*[15]

"**To any god, to any goddess,** under whose protection are the people and state of Carthage, and chiefly to thee who are charged with the protection of

this city and people, **I make prayer** and do reverence and ask grace of you all, that ye abandon the people and state of Carthage, forsake **their places, temples, shrines, and city,** and depart therefrom; and that upon that people and state ye bring fear and terror and oblivion; that once put forth ye come to Rome, to me and to mine; and that **our places, temples, shrines, and city** may be more acceptable and pleasing to you; and that ye take me and the Roman people and my soldiers under your charge; that we may know and understand the same. **If ye shall so have done, I vow to you temples and solemn games**" (translation by P. Vaughan Davies, Columbia University Press, 1969**)**.

Another document is the prayer of *devotio* that Scipio Aemilianus recited during the same battle of Carthage. In this text we first find an invocation addressed to divinities related to death and then the expression *sive vos quo alio nomine fas est nominare* ("or with any name by which it is allowed to name you"),[16] which is a variation of the formula *sive deus, sive dea*. As the name of the gods and goddesses is not known or not sure, this generic paraphrase is a way of including necessarily all the divinities and of "forcing" them somehow to feel invoked.[17] This formula also indicates the will for extreme caution and juridical precision that we find in several other prayers and in different contexts in which it is not clear which divinity has to be invoked: the uprooting of a tree having grown on the roof of a temple, an earthquake, the cutting of trees in a field, etc.[18] In this prayer of *devotio,* the juridical precision is confirmed by the triple repetition of the different categories of people and territories that will be cursed (*exercitum, hostes, homines, urbes, agros,...*)[19] and also by the expression "*laws* (in the sense of rules) according to which enemies are cursed" (*ollis legibus quibus ... hostes devoti),* which is mentioned in the middle of the prayer. Moreover, at the end of the prayer, we can identify the expression *Si ita feceritis, voveo: si haec ita faxitis, tunc [...] recte factum esto*, whose structure is very similar to that of juridical texts because in both cases the pronounced words have to be extremely precise in order to have the power of immediate application.[20] Here is the full text of the prayer:

Dis pater, Veiovis, Manes, **sive vos quo alio nomine fas est nominare,** *ut omnes illam urbem Carthaginem exercitumque quem ego me sentio dicere fuga formidine terrore compleatis quique adversum legiones exercitumque nostrum arma telaque ferent, uti vos* **eum exercitum eos hostes eosque homines urbesque agrosque eorum et qui in his locis regionibusque agris urbibusque habitant** *abducatis, lumine supero privetis* **exercitumque hostium urbes agrosque eorum** *quos me sentio dicere, uti vos eas* **urbes agrosque capita aetatesque eorum devotas consecratasque habeatis ollis legibus quibus** *quandoque sunt maxime* **hostes devoti.** *Eosque ego vicarios pro me fide magistratuque meo pro populo Romano exercitibus legionibusque nostris do* **devoveo,** *ut me meamque fidem imperiumque legions exercitumque nostrum qui in his rebus gerundis sunt bene salvos siritis esse.* ***Si haec ita***

faxitis ut ego sciam sentiam intelligamque, tunc quisquis votum hoc faxit ubiubi faxit recte factum esto ovibus atris tribus. Tellus mater teque Iuppiter obtestor.[21]

"Father Dis, Veiovis, and ye spirits of the world below, **or by what other name ye should be called,** do all of you fill with panic and fear and terror that city of Carthage and the army whereof it is my purpose now to speak and those who shall bear arms and weapons against our legions and army; take away and deprive of the light of day **that army, those enemies, those people, their cities and lands, and those who dwell in these places and parts, fields and cities;** and **the army of the enemy, the cities and fields** of those of whom it is my purpose now to speak; **hold devoted and doomed those cities and fields, the lives, of whatever age, of those people**, in accordance with **the terms whereby** at any time **enemies are** most surely **devoted**; [11] and I for myself, by my honor and in virtue of my office, on behalf of the Roman people, our armies and legions, give and **devote them** in our place; so that ye allow me, and my honor and authority, our legions and army, who are herein engaged, to be well and safe. **This if ye shall so have done that I may know, perceive, and understand the same, then, whoever shall have made this vow, wherever he shall have made it, let it have been rightly made with three black sheep. O Mother Earth, and thee, Jupiter, I call to witness**" (translation by P. Vaughan Davies, Columbia University Press, 1969).

The fact that the prayers of *evocatio* and *devotio* are formulated like contracts is confirmed by other similarities with Roman private law. For instance, the transfer of a property, called *traditio*, is based on two principles: the first one is the "fair cause" *(iusta causa)*, that is, the "requirement of good faith" during the transfer:

Numquam nuda traditio transfert dominium, sed ita, si venditio aut aliqua **iusta causa** *praecesserit, propter quam traditio sequeretur.*[22]
"The bare delivery does not transfer ownership but only if sale or some other **motivating cause** precedes the act of delivery."

The second principle is the will of the giver (*voluntas domini*):

Per traditionem quoque iure naturali res nobis adquiruntur: nihil enim tam conveniens est naturali aequitati, quam **voluntatem domini, volentis rem suam in alium transferre**, *ratam haberi.*[23]

"Things are likewise obtained by us by natural law through delivery; for
nothing more accords with natural justice than to confirm the **desire of an
owner to transfer his property to anothe**r."

What is important in private law is the "intention to convey on the part of the transferor and
the intention to receive on the part of the transferee", which is called *animus transferendi et
acquirendi dominii*.[24] In a similar way, we can mention another juridical principle which
consists in asking a question to the transferor and in listening to his/her answer in order to
validate a contract (*obligatio verbis contracta*);[25] for this reason, all the contracts of
voluntary transmission (not only the *traditio* but also the *mancipatio* and the *in iure cessio*)
give great importance to oral formulation because it is the word that creates a juridical
state.[26]

All of these juridical aspects are visible in the *evocatio*, although they have hardly
ever been analyzed in recent scholarship.[27] With this new approach we now understand
why it was so important for the Romans to explain to the divinity that the reasons of the
conquest were justified and to ask the divinity if she or he agreed to be transferred: let me
remind the reader, for instance, that in the prayers of *evocatio* and *devotio* pronounced in
Carthage, the general asked the divinities to show explicitly their will to come to Rome; we
can also mention the famous text of the *evocatio* of Juno Regina from Veii in 396 BC:
according to Livy, one young Roman asked her "Do you want to come to Rome", and the
goddess nodded.[28]

2. Loss of juridical status of places, objects and people in some circumstances

The second similarity that we can identify between religious rituals and law is the
importance given to the status of objects, of places and of people. Status was very important
for Romans and we know that objects and people could lose their status in some
circumstances.

*a) A sacred place[29] could lose its sacred character in time of war but also in time of
peace:*

First, in time of war: we know from Cicero,[30] and above all from the Digest of the
emperor Justinian, that sacred places stopped being sacred when they were taken by
enemies, in the same way as free people became slaves:

> ***Cum loca capta sunt ab hostibus, omnia desinunt religiosa vel sacra esse,***
> ***sicut homines liberi in servitutem perveniunt****: quod si ab hac calamitate*
> *fuerint liberata, quasi quodam postliminio reversa pristino statui*
> *restituuntur.*[31]
> "**When places have been captured by the enemy, they all cease to be**
> **religious or sacred, just as when free men come into slavery**: because if
> they will have been liberated from this calamity, they are as if restored to a
> certain rank and privilege."

The same Digest explains that places which stopped being sacred were considered "pure places," that is, free of any religious function:

> *Purus autem locus dicitur, qui neque sacer neque sanctus est neque*
> *religiosus, sed **ab omnibus huiusmodi nominibus vacare videtur**.*[32]
> "A place is called 'pure' which is neither sacred nor has been sanctified nor is
> religious, but **seems to be void of all names of this sort**."

Consequently, as the emperor Trajan reminds Plinius, who was governor of Bithynia-Pontus, in his answer to Plinius'letter, the soil of an alien country that had been conquered previously was not capable of consecration according to Roman law and therefore there were no legal consequences for the destruction of sacred sites:

> *Potes, mi Secunde carissime, sine sollicitudine religionis, si loci positio*
> *videtur hoc desiderare, aedem Matris Deum transferre in eam quae est*
> *accommodatior; nec te moveat, quod lex dedicationis nulla reperitur, cum*
> ***solum peregrinae civitatis capax non sit dedicationis, quae fit nostro***
> ***iure***.[33]

"You may, my dear Pliny, without any religious scruples, if the site seems to require the change, remove the temple of the Mother of the Gods to a more suitable spot, not need the fact that there is no record of legal consecration trouble you, for **the soil of a foreign city may not be suitable for the consecration which our laws enjoin**" (translation by J. B. Firth, 1900).

It can be concluded that the statues of enemies became profane when their territory was conquered by Romans, and that then these statues could be transported into the Roman territory. I therefore suggest that in time of war, *evocatio* was used to put an end to the

sacred character of foreign religious places, that is, to justify the Roman conquest as *evocatio* made possible the departure of enemy gods from this place to Rome – if necessary, as we will see later – or simply allowed the enemy gods to stay in their city, after having accepted Roman domination and a new juridical frame.

Secondly, in time of peace: we know also from the *Digest* that sacred places could be freed of their religious character:

> *Illud notandum est aliud esse sacrum locum, aliud sacrarium. Sacer locus est locus consecratus, sacrarium est locus, in quo sacra reponuntur, quod etiam in aedificio privato esse potest, et* **solent, qui liberare eum locum religione volunt, sacra inde evocare**.[34]
>
> "A noteworthy point is that a sacred place is one thing, but a *sacrarium* is quite another. A sacred place is one which has been consecrated; a *sacrarium* is a place in which sacred things are laid up, as can be the case even in a private building, and **those who wish to free such a place from its religious tie do so customarily by evocation of the sacred things therefrom**."
> (translation by Alan Watson, Philadelphia, 1998)

We have already mentioned some examples, like the one of Terminus and Iuventas who did not want to be *evocati* from the Capitoline hill,[35] or the case of Vulcanus, who was *evocatus* by rituals from the inside of their cities.[36] But there are more examples like the one of the old curiae that were *evocatae* (but not all of them) in order to build new curiae:

> **Novae curiae** *proximae compitum Fabricium aedificatae sunt, quod parum amplae erant veteres a Romulo factae, ubi is populum et sacra in partis triginta distribuerunt, ut in is ea sacra curarent, quae cum ex veteribus in novas* **evocarentur**, *quattuor curiarum* **per religiones evocari non potuerunt**.[37]
>
> "**New Curiae** were built near the Compitum Fabricium because the old ones were not large enough, having been made by Romulus; the people and the cults were distributed into thirty sections where people could take care of those cults, but when **they were summoned** from the old into the new ones, four of the curiae **could not be summoned by their ceremonial rites.**"
> (translation of mine – AB)

In all these cases, it is interesting to note that the concept of *evocatio* was closely associated with the ritual of *exauguratio*, which was carried out so that a place could no longer be used for public and religious activities.[38] We can observe it, for instance, in the text of Livy about the *evocatio* of Terminus,[39] and also in two texts of Servius: the first one mentions the cases of *evocatio* in context of war and the importance of the name of the Roman gods that remained secret in order not to be "exaugurated":

*Excessere: quia ante expugnationem **evocabantur** ab hostibus numina propter vitanda sacrilegia. Inde est, quod Romani celatum ese voluerunt, in cuius dei tutela urbs Roma sit. Et iure pontificum cautum est, ne suis nominibus dii Romani appellarentur, ne **exaugurari** possint.*[40]

And the second text explains that the ritual of *exauguratio* was symmetric to the ritual of foundation of cities:

*Nam ideo ad **exaugurandas** vel diruendas civitates aratrum adhibitum, ut eodem ritu, quo conditae, subvertantur.*[41]
"For in the same way was the plough applied **to desecrate** or to destroy states, so that they would be overturned by the same rite by which they were founded."

b) People and objects could lose their status, so why not cities?

There are two juridical concepts related to the loss of status of people and objects that I consider very similar to the rituals of *evocatio* and *devotio*:

First, the ***consecratio capitis et bonorum*** consisted of excluding a person from the community and seizing his or her possessions, that is, of punishing someone who had committed acts that offended divinities or threatened the community.[42] In archaic times it was considered a sacrifice whose purpose was to compensate for damage made to a tribune but later it became a political weapon without any religious meaning and was used to attack political rivals, as Cicero explains it;[43] the same author also refers to *consecratio* in the case of lands that were captured by a general in time of war:

*Sed quia **consecrabantur aedes**, non privatorum domicilia, sed quae sacrae nominantur, **consecrabantur agri**, non ita ut nostra praedia siui vellet, sed ut imperator **agros de hostibus captos consecraret**, ...*[44]

"But because **buildings were consecrated**, —I do not mean the licenses of private persons, but those which are called sacred buildings, — and because **lands were consecrated**, not in such a way that any one who chose might consecrate our farms, but **that a general might consecrate lands taken from the enemy**; …" (translation from Perseus digital Library at Tufts: http://perseus.uchicago.edu/).

In other texts, Cicero mentions the cities where lands were sold (Attalia, Olympus, Macedonia, Corinth, Carthagena), and especially Carthage, for which Cicero explicitly uses the verb *consecrare*:

*(…) Iubent venire agros Attalensium atque Olympenorum quos populo Romano <P.> Servili, fortissimi viri, victoria adiunxit, deinde agros in Macedonia regios qui partim T. Flaminini, partim L. Pauli qui Persen vicit virtute parti sunt, deinde agrum optimum et fructuosissimum Corinthium qui L. Mummi imperio ac felicitate ad vectigali a populi Romani adiunctus est, post autem agros in Hispania apud Carthaginem novam duorum Scipionum eximia virtute possessos; tum vero ipsam **veterem Carthaginem** vendunt quam P. Africanus nudatam tectis ac moenibus sive ad notandam Carthaginiensium calamitatem, sive ad testificandam nostram victoriam, sive oblata aliqua religione ad aeternam hominum memoriam **consecravit**.*[45]

Second was the "*capitis deminutio*", which was a reduction in status that the lawyer Gaius compared with death;[46] it consisted of the loss of freedom or the loss of citizenship or the loss of the family rights:

*Est autem **kapitis diminutio** prioris status permutatio: eaque tribus modis accidit: nam aut maxima est kapitis diminutio aut minor, quam quidam mediam vocant, aut minima. **Maxima est kapitis diminutio**, cum aliquis simul et civitatem et libertatem amittit; quae accidit incensis, qui ex forma censuali venire iubentur. Quod ius, qui contra eam legem in urbe Roma domicilium habuerint; item feminae, quae ex senatus consulto Claudiano ancillae fiunt eorum dominorum, quibus invitis et denuntiantibus cum servis eorum coierint. **Minor sive media est kapitis diminutio,** cum civitas amittitur, libertas retinetur; quod accidit ei, cui aqua et igni interdictum fuerit. **Minima est capitis diminutio,** cum et civitas et libertas retinetur, sed status hominis conmutatur; quod accidit in his, qui adoptantur, item in his, quae coemptionem faciunt, et in his, qui mancipio dantur quique ex mancipatione*

manumittuntur; adeo quidem, ut quotiens quisque mancipetur aut manumittatur, totiens capite diminuatur".[47]

"The **loss of civil rights** is a change of former condition, and this takes place in three ways; it is either greatest, or less, which some call intermediate, or least. (160) **The greatest loss of civil rights** occurs when anyone forfeits at the same time both his citizenship and his freedom, which happens to those who are not inscribed on the register of the census, and are in consequence ordered to be sold; which rule has for some time been abolished by disuse. Under the terms of the Lex Ælia Sentia, *dediticii* are liable to the same penalty for violation of its provisions if they have established their domicile in the City of Rome. It also takes place where, under the Claudian Decree of the Senate, free women become the slaves of the owners of other slaves with whom they have cohabited against the consent and protest of their masters. (161) **Less, or intermediate, loss of civil rights** occurs when citizenship is forfeited but freedom is retained, which happens when anyone is interdicted from fire and water. (162) **The least loss of civil rights** results when both citizenship and freedom are retained, but a man's domestic condition is altered; which happens to those who are adopted, as well as to women subject to coemption, and also in the case of those who are given in mancipation and are afterwards manumitted; so that as often as anyone is mancipated, or remancipated, or manumitted, he suffers a loss of civil rights." (translation by http://thelatinlibrary.com/law/gaius1.html).

In my opinion, these two juridical concepts can be applied to religious rituals in case of war: my idea is that *devotio* was a *consecratio* (in the negative sense of 'execration') of people (the enemies, in the case of *devotio hostium*) or a *consecratio* (in the positive sense) of the general (in the case of the archaic practice of *devotio ducis*).[48] And if we apply these juridical concepts to cities, we can explain why the cults and statues of enemy gods were transferred to Rome: my interpretation is that the conquered city had lost its political status because Rome punished a city that had resisted fiercely by granting it the lowest status, as we know it by Siculus Flaccus, the land surveyor and writer of the 2nd c. AD:

Quidam enim populi pertinaciter aduersus Romanos bella gesserent, quidam experti uirtutem eorum seruauerunt pacem, quidam cognita fide et iustitia eorum se eis adiunxerunt et frequenter aduersus hostes eorum arma tulerunt. Leges itaque pro suo quisque merito acceperunt: **neque enim erat iustum ut his qui totiens admisso periurio rupere pacem ac bellum intulere Romanis, idem praestari quod fidelibus populis**.[49]

"Some peoples have waged stubborn wars against Rome, some, having recognized its loyalty and justice, have associated with it and have frequently carried arms against its enemies. That is why they each received laws according to their merits: **and, in fact, it would not have been right that to**

**those who so many times had committed perjury, broken the peace and
taken the initiative of the war against Rome, was guaranteed the same
status as the loyal peoples**" (adaptation of the translation by J.-Y.
Guillaumin, 2010)

In the same way, Cicero explains that some *municipia* could lose their citizenship, but that
this loss of status was exceptional, it happened, for example, at the time of Sulla's
dictatorship during a civil war:

> *Populus Romanus, L. Sulla dictatore ferente, comitiis centuriatis **municipiis***
> ***civitatem ademit**, ademit eisdem agros; ...*[50]
> "The Roman people, on the motion of Lucius Sulla, the dictator, in the
> *comitia centuriata*, **took away the rights of citizenship from the municipal**
> **towns**, and at the same time took away their lands." (translation from Perseus
> digital Library at Tufts: http://perseus.uchicago.edu/)

As gods could not be celebrated in places that lost their status, I think that the cults were
transferred to the city of Rome only in this case, exactly in the same way as the transfer of
power occurred in private law: the *pater familias* had *patria potestas* over his descendants
and if a son lost his own status (for instance if he was captured by enemies in time of war),
his property was returned to his father.[51]

As in the cases of people, the transfer of cults was exceptional because, in most of
the cases, the conquered cities were granted the status of *municipium* and the cults continued
to be practiced in these cities after their conquest by Rome, which demonstrated its power
by permitting them:[52] Festus defines these as the *municipalia sacra:*

> ***Municipalia sacra vocantur, quae ab initio habuerunt ante civitatem***
> ***Romanam acceptam**; quae observare eos voluerunt pontifices, et eo more*
> *facere, quo adsuessunt antiquitus.*[53]
> "***Municipalia sacra**: those sacra are called **municipalia** that a people had*
> **from its origin, before receiving Roman citizenship,** and which the
> pontifices wanted them to continue to observe and perform in the way in
> which they had been accustomed to perform them from antiquity."

Although the continuation of cults in the *municipia* was the most usual, and the destruction
of religious life of a city very unusual, we do have examples of cities that were destroyed
and whose divinities were transferred to Rome – obviously for political reasons (destroying
the symbol of the power of an enemy city, indicating the domination of Rome, …).[54]
These examples include Veii and its goddess Juno Regina (in 396 BC), but also Praeneste

and Jupiter Imperator (in 380), Falerii Veteres and its cults of Juno Curitis, Minerva Capta and Janus (in 241), and of course Carthage, whose *sacra* of Juno Caelestis, Apollo and Hercules were transferred in 146 to the Capitoline hill;[55] in the case of Carthage, some texts of Appian mention the ritual punishment that the city suffered.[56] Cicero explains that Romans "destroyed the cities of their enemies, but not all, just when they were motivated by hate":

> *… sed ut **hostium urbes, nec omnium hostium,** verum eorum quibuscum acerbum bellum internecivomque suscepimus, non praeda adducti, sed **odio solemus exscindere, (…).**[57]*
>
> "Still, **out of hatred we are accustomed to destroy the cities of enemies; – not of all enemies** indeed, but of those with whom we have waged any bitter and intestine war; because when our minds have been inflamed against any people by reason of their cruelty, there always appears to be some war still lingering in their abodes and habitations." (transl. from Perseus digital Library at Tufts: http://perseus.uchicago.edu/)

Moreover, Cicero mentions many cities that were destroyed, some of them "consecrated" (Carthage, Stellae).[58] We also know from Macrobius that in many other cities a *devotio* was applied:

> *In antiquitatibus autem **haec oppida inveni devota: †Stonios†, Fregellas, Gabios, Veios, Fidenas;** haec intra Italiam, praeterea **Carthaginem et Corinthum,** sed et multos exercitus oppidaque hostium **Gallorum Hispanorum Afrorum Maurorum aliarumque gentium** quas prisci loquuntur annales.[59]*
>
> "According to my research, **the following cities underwent a *devotio* in the ancient times: Stonii (?), Fregellae, Gabii, Veii, Fidenae,** which are in Italy, and, in addition, **Carthage and Corinth.** But ancient annals mention many armies and hostile settlements of **Gauls, Spaniards, Africans, Mauritanians, and other peoples**." (translation of mine – AB)

Macrobius also explains that a *devotio* always followed an *evocatio*:

> *Vrbes vero exercitusque sic **devoventur iam numinibus evocatis,** sed dictatores imperatoresque soli possunt devovere his verbis.[60]*

"In this manner **cities and armies underwent *devotio* after the *evocatio* of their gods,** but only dictators and generals can use those words to perform *devotio.*" (translation by P. Vaughan Davies, Columbia University Press, 1969).

It can therefore be inferred that the examples of *devotio* mentioned by Macrobius were also cases of *evocatio*: Stonii, Fregellae, Gabii, Veii, Fidenae, Carthage, Corinth[61] and also in Gallia, Hispania, sites in the African province,[62] and many other places. Some current researchers suggested several names of cities that seem to have been ritually destroyed throughout Roman history (Murlo, Sybaris, Marion, Volsinii, Falerii, Morgantina, Haliartus, Thebes, Praeneste, Sentinum, Perusia, Tanfana, Mona, …).[63] If the list of Macrobius is correct, which seems to be the case for most of the cities mentioned (as his information generally corresponds with what we know from other texts or through archaeology), it means that *evocatio* and *devotio* were used in much more cities than many scholars continue thinking today.[64]

Conclusion

I have tried to apply an approach that has yet to be very well explored, namely a focus on the links between Roman religion and law. First, I think that there are several similarities between the prayers of *evocatio/devotio* and the Roman contracts: for instance, the way prayers named divinities with great precision and the importance of the will of the divinity are also typical of Roman contracts called *traditiones.*

Secondly, I suggest that the principles of loss of juridical status (like *capitis deminutio* or *consecratio capitis et bonorum*) could also be applied to cities, and not only to objects and to people. I contend that the loss of juridical status of a city in time of war would explain why in some cases, the cults of a city that was conquered by Rome were transferred to Rome: the gods and goddesses could not remain in a city without any status.

Finally, if this interpretation is correct, the prayers of *evocatio* and *devotio* made possible a "just war" *(bellum iustum)*[65] and also the symbolic destruction of enemy's cities. In a certain way, these prayers justified the real destruction of a territory and its conquest. There is no finer example of the need for justification than the prayer of Camillus after the sack of Veii:

"O greatest Jupiter, and ye gods who see and judge men's good and evil deeds, ye surely know that it is not unjustly, but of necessity and in

self-defense that we Romans have visited this iniquity upon this city of hostile and lawless men."[66]

It would not be the first time nor the last one that religion and law has been used for political reasons in order to justify imperialism and colonialism. The Western world did the same with its colonies in South and central America, in Africa and in Asia for several centuries.[67]

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[1] Blomart, A.: Die *evocatio* und der Transfer 'fremder' Götter von der Peripherie nach Rom. In Cancik, H. – Rüpke, J. (eds): *Römische Reichsreligion und Provinzialreligion*. Tübingen 1997, 99–111; Blomart, A.: Religion ou magie? Les textes oubliés sur l'*evocatio* et la *devotio* romaines. In Suárez de la Torre, E. –Pérez Jiménez, A. (eds): *Mito y magia en Grecia y Roma*. Barcelona 2013, 283–298; Blomart, A.: Adapter l'ancien pour faire du nouveau: la réinterprétation de traditions païennes (evocatio et devotio) en contexte chrétien (IVe-Ve s.). *Chaos e Kosmos* (www.chaosekosmos.it) 14 (2013) 17.

[2] On *devotio (ducis et hostium),* see Sacco, L.: *Devotio. Aspetti storico-religiosi di un rito militare Romano*. Roma (2011); Ferri, G.: La devotio per un'analisi storico-religiosa della (auto)consacrazione agli dèi inferi nella religione romana. *MEFRA* 129.2 (2017). On *evocatio*, see Ferri, G.: Tutela segreta ed evocatio nel politeísmo romano. Rome 2010 [*Mos maiorum. Studi sulla tradizione romana* 4]; Strazzulla, M. J.: Gesti e parole nei riti della vittoria in età romana. In Nizzo, V. – La Rocca, L. (eds): *Antropología e archeologia a confronto: rappresentazioni e pratiche del sacro*. Rome 2012, 263–277; MUSIAL, D. and GILLMEISTER, A.: *Evocatio deorum* as an Example of a Crisis Ritual in Roman Religion. *Graeco-Latina Brunensia* 23/2 (2018) 95-107 (with a critical synthesis and an interesting anthropological approach); etc. These recent studies give an extended bibliography including the classical authors: Wissowa, Basanoff, Le Gall, Versnel, Rüpke, etc. For a commented list of the ancient sources about *evocatio* and *devotio,* see Burkert, W.: Profanation: Rituelle Massnahmen gegen Kulte und Götter. In *Thesaurus cultus et rituum antiquorum III,* Basle-Los Angeles 2005, ch. 6.h, 271–274.

[3] See for instance Dubourdieu, A.: Nommer les dieux: pouvoir des noms, pouvoir des mots dans les rituels du *votum,* de l'*evocatio,* et de la *devotio* dans la Rome antique. *Archiv für Religionsgechichte* 7 (2005) 183–197, esp. 183: "L'*evocatio* et la *devotio* se trouvent uniquement en contexte guerrier: (…)". As regards the protagonism of the general at the time of reciting these prayers, it is clear from

the texts of Liv. 5. 21. 1–5 *(evocatio* of Juno Regina from Veii by Camillus: see n. 11) and Macr. *Sat.* 3. 9. 7–11 *(evocatio* and *devotio* of divinities from Carthago by Scipio Aemilianus: see n. 15 and n. 21), although one author gives the leading role to the priests: Plin. *Nat.* 28. 18: *In obpugnationibus ante omnia solitum a Romanis sacerdotibus evocari deum, cuius in tutela id oppidum esset, promittique illi eundem aut ampliorem apud Romanos cultum.*

[4] Serv. *Aen.* 2. 351: *EXCESSERE quia ante expugnationem evocabantur ab hostibus numina propter vitanda sacrilegia;* "THEY ABANDONED because before being taken by storm they were summoned out by the enemy in order to avoid violation of the gods."

Macr. *Sat.* 3. 9. 2: *Constat enim omnes urbes in alicuius dei esse tutela moremque Romanorum arcanum et multis ignotum fuisse ut cum obsiderent urbem hostium eamque iam capi posse confiderent, certo carmine evocarent tutelares deos, quod aut aliter urbem capi posse non crederent aut etiam si posset, nefas aestimarent deos habere captivos:* "We know that all the cities are under protection of a god and that a secret custom of existed among the Romans – unknown to the many – consisting in summoning with a certain incantation the protector gods out of a city of enemies when they were confident to conquer it. They supposed that it was impossible to conquer it by another means or that the imprisonment of gods was a sacrilege" (translation by P. Vaughan Davies, Columbia University Press, 1969).

The Romans wanted to avoid a sacrilege and to legitimate their conquest, and therefore did a dedication, games, or a *votum* (as in the famous inscription of Isaura Vetus, which has generally been interpreted as an *evocatio*): about this question, see Tarpin, M.: Morale ou droit? La capture des objets sacrés à Rome. In Ferriès, M.-C. – Delrieux, F.: *Spolier et confisquer dans les mondes grec et romain*. Chambéry 2013, 97–98; about the inscription of Isaura Vetus and the commentary, see *AE* (1977) 816; Blomart (n. 1, 1997) 101 and Ferri, G.: Una testimonianza epigrafica dell'*evocatio*? Su un'iscrizione di *Isaura Vetus.* In Antolini, S. – Arnaldi, A. – Lanzillotta, E. (eds): *Giornata di Studi in onore di Lipidio Gasperini*. Rome 2010, 183–194: *Serveilius C(aii) f(ilius) imperator,/ hostibus victeis, Isaura Vetere/ capta, captiveis venum dateis,/ sei deus seive deast, quoius in/ tutela oppidum vetus Isaura/ fuit,* vac. *votum solvit.*

[5] Blomart (n. 1, 1997) 99–111; Blomart (n. 2) 283–298.

[6] Liv. 1. 55. 3–4: *nam, cum omnium sacellorum exaugurationes admiterrent aves, in Termini fano non addixere; idque omen auguriumque ita acceptum est non motam Termini sedem unumque eum deorum non evocatum sacratis sibi finibus firma stabiliaque cuncta portendere:* "(…) for whilst the omens were favourable for the deconsecration of all the other shrines, they were unfavourable for that of the fane of Terminus. This was interpreted to mean that as the abode of Terminus was not moved and he alone of all the deities was not called forth from his consecrated borders, so all would be firm and immovable in the future empire" (translation by C. Roberts, 1905: https://en.wikisource.org/wiki/From_the_Founding_of_the_City); Serv. *Aen*. 9. 446: *DOMUS FAMILIA. CAPITOLO INMOBILE SAXUM ACCOLET: in urbe* Roma Iovis templum *non fuit. Quod cum iam devotum a Prisco Tarquinio vellet Superbus Tarquinius aedificare, coepit auguriis captare qui mons huic templo esset aptissimus. Et cum in omnibus Tarpeius esset inventus, in quo errant multa diversorum numinum sacella, actum est, ut exinde ad alia templa numina evocarentur sacrificiis, quo posset libere et sine piaculo templum Iovis exaedificare*: "In the city of Rome, there was no temple of Jupiter. And when Tarquin the Superb wanted to build one, which had already been promised by Tarquin the Elder, he began to question the omens to find out which hill was the most suitable for this temple. And when all the omens indicated that it was the Tarpeian hill, where were scattered many chapels dedicated to many deities, it was made to evoke the gods to other temples, by

sacrifices, so that he (Tarquin the Superb) could build the temple of Jupiter on a liberated site and without committing impiety" (translation of mine – AB).

[7] Vitr. 1. 7. 1: *Id autem etiam Etruscis haruspicibus disciplinarum scripturis ita est dedicatum, extra murum Veneris, Volcani, Martis fana ideo conlocari, uti non insuescat in urbe adulescentibus seu matribus familiarum veneria libido, Volcanique vi e moenibus religionibus et sacrificiis evocata, ab timore incendiorum aedificia videantur liberari.* "It is moreover shown by the Etruscan diviners in treatises on their science that the temples of Venus, Vulcan, and Mars should be situated outside the walls, in order that the young men and married women may not become habituated in the city to the temptations incident to the worship of Venus, and that buildings may be free from the terror of fires through the religious rites and sacrifices which call the power of Vulcan beyond the walls" (translation by M. Hicky Morgan, 1914).

[8] Blomart (n. 1, 2013) 17.

[9] Of course, as Ferri (n. 2, 2017) n. 157–161 reminds us that there are obvious differences between *devotio* and *defixio* (for instance, the first one is a public ritual, and the second one a private ritual, …) but nonetheless, the magic spirit and the magic concepts that both rituals use are very similar.

[10] Dumézil, G.: *Idées romaines*. Paris 1969, 247: "Le mot semble avoir conféré à l'exposé de la demande un caractère plus rationnel: l'usage de Caton montre, en tout cas, qu'il convient au style des contrats."

[11] Liv. 5. 1. 2–5.

[12] Macr. *Sat.* 3. 9. 7–8.

[13] On the formula *sive deus, sive dea*, see Alvar, J.: Matériaux pour l'étude de la formule *sive deus, sive dea*. *Numen* 32/. (1988) 236–273, esp. for the inscriptions; Guittard, Ch.: *Sive deus, sive dea:* les Romains pouvaient-ils ignorer la nature de leurs divinités? *REL* 80 (2002) 25–54; De Martino, M.: *L'identità segreta della divinità tutelare di Roma. Un riesame dell'affaire Sorano*. Rome 2011, esp. 36–43 and n. 43 (for the bibliography).

[14] Guittard, Ch.: La destruction des villes "dévouées" dans le rituel guerrier de l'*evocatio-devotio*: la représentation du conflit dans les formules de prières. In Ménard, H. – Sauzeau, P. – Thomas, J.-F. (eds): *La pomme d'Eris. Le conflit et sa représentation dans l'Antiquité*. Montpellier 2012, 349–363, esp. 356–357 details the meaning of each word of this list and explains that a such precision is not usual in the other prayers, which seems to me to confirm that the prayers of *evocatio* and *devotio* have a strong juridical character.

[15] Macr. *Sat.* 3. 9. 7–8.

[16] Macr. *Sat.* 3. 9. 10.

[17] On the power of a divinity's name (when it is explicitly expressed), see Dubourdieu (n. 3) 189: "Cette appropriation de la personne divine par l'énoncé du nom peut être interprétée comme une opération située à mi-chemin de la sphère juridico-religieuse et de celle de la magie, comme la *defixio.*" On the periphrastic formula, see Dubourdieu (n. 3) 191: "Ce qui désigne les dieux dans cette formule est non leur nom propre ou une simple formule de précaution très vague, mais une périphrase qui les entoure, les enserre, les enferme dans l'ensemble dont elle définit les contours et dont cette définition même les empêche de s'échapper."

[18] On the extreme caution of prayers (visible in the mention of all the possible circumstances, in the repetitions of verbs, …), see Valette-Cagnac, E.: *Anthropologie de la lecture dans la Rome antique*. Paris 1993, 390 and 409. On the different prayers mentioned above, see the analysis of Guittard (n. 13) 28–32: for the sacrifices offered *sive deo sive deae* in the case of the uprooting of a tree that had grown on the roof of a temple and also in the case of the lightning strike of several trees in a grove, see three imperial inscriptions of the Arvalian Brothers *(CIL* VI 32386, 32388, 32390, dating respectively from 183, 218 and 224; for the commentary, Scheid, J.: Hiérarchie et structure dans le polythéisme romain: façons romaines de penser l'action. *Archiv für Religionsgeschichte* 1.2 [1999] 184–203, esp. 186–189); for the prayer that should be recited *si deo si deae* when an atoning sacrifice was offered after an earthquake, see Gell. *Noct. Att.* 2. 28. 2; for the prayer said by a farmer who wanted to cut some trees in order to open a field, see Cato, *Agr.* 139: *Si deus si dea es, quoium illud sacrum est, uti tibi ius est porco piaculo facere illiusce sacri coercendi ergo harumque rerum ergo, sive ego sive quis iussu meo fecerit, uti id recte factum siet.*

[19] See Guittard (n. 14) 355.

[20] See Dubourdieu (n. 3) 194 about the final formula of the *devotio*: "On trouve du reste une structure syntaxique très proche de celle des textes de loi dans les textes rituels: *'Si ita feceritis, voveo: si haec ita faxitis, tunc […] recte factum esto'*. De façon générale, la prière romaine a un caractère performatique qui rend indispensable l'exactitude scrupuleuse des paroles prononcées, car, à peine sorties des lèvres de l'orant, elles sont exécutoires."

[21] Macr. *Sat.* 3. 9. 10–11. Cf. Bonnet, C.: Les connotations sacrées de la destruction de Carthage. In Devijver, H. – Lipinski, E. (ed.): *Punic wars*. Leuven 1989, 290–305, esp. 295.

[22] *Dig.* 41. 1. 31 (Paulus 31 ad ed.). For the translation, see Metzger, E.: *A Companion to Justinian's Institutes*. London 1998, 53, n. 25 and 56 (for the requirement of good faith); see also Evans-Jones R. – Maccormack, G. D.: Iusta causa traditionis. In Birks, P. (ed.): *New Perspectives in the Roman Law of Property*. Oxford 1989, 99-109, as well as W. M. Gordon: The importance of the *iusta causa* of *traditio*. In Birks 123–135.

[23] *Inst. Iust.* 2. 1. 40. See also *Inst. Iust.* 2. 1. 42: *Nihil autem interest, utrum ipse dominus tradat alicui rem, an voluntate eius alius* "It makes no difference whether the owner of the property himself delivers it to another, or someone else does this with his *consent* (translation by S. P. Scott [The Civil Law *II*. Cincinnati 1932]). See Pugh, G.: *Traditio* in the civil law. *Louisiana Law Review* 22.2 (1962) 422–425, n. 30–31; Ellul, J.: Histoire des institutions 1–2. In *L'Antiquité*. Paris 1970, 474–475 (who also mentions the other two kinds of voluntary transmission of property, *in iure cessio* and *mancipatio*); Talamanca, M.: *Elementi di diritto privato romano*. Milan 2001 226.

[24] Metzger (n. 22) 52.

[25] See Dalla D. and Lambertini, R.: *Istituzioni di diritto romano*.Turin 2006, 339.

[26] Both contracts, which refer to the transmission of assets, use a solemn formula. In the case of high-value assets (lands, slaves, animals), see *mancipatio* in Wikipedia : (https://es.wikipedia.org/wiki/Mancipatio; https://fr.wikipedia.org/wiki/Mancipatio). For assets of lesser value, see *in iure cessio* in Wikipedia (https://es.wikipedia.org/wiki/In_iure_cessio). On the juridical function of the word, see Dubourdieu (n. 3) 186: "(…) il semble que c'est la parole qui crée un nouvel état de droit, cependant que le geste n'en est pas un redoublement, mais un complément, indiquant les limites à l'intérieur desquelles le droit s'applique."

[27] Few authors mention the juridical frame of the prayer (its similarity with contracts and its formal aspect): mainly, Dumézil (n. 10) 247; Scheid, J.: *Romulus et ses frères. Le collège des Frères Arvales, modèle du culte public dans la Rome des empereurs*. Paris–Rome 1990, 340; and Dubourdieu (n. 3) 184, but they do not study in depth this juridical similarity.

[28] Liv. 5. 22. 5: *Dein cum quidam, seu spiritu divino tactus seu iuvenali ioco: "Visne Romam ire, Iuno?" dixisset, adnuisse ceteri deam conclamaverunt.*

[29] Let us recall that, for a place or a building to be considered "a sacred place", a senatorial or popular mandate is necessary, that is, a public consecration; see Cic. *De domo sua* 127–128; Liv. 9. 46–47; *Dig.* 1. 8. 6 2–3 (Marcian, *Institutiones*, book 3); and for the commentary, A. Watson: *The State, Law and Religion of Pagan Rome*. Athens 1992, 55–56; Ando, C. – Rüpke, J.: *Religion and Law in Classical and Christian Rome*. Stuttgart 2006, 10.

[30] Cic. *Verr.* 2. 4. 122 (where he confronts the respectful attitude of the general Marcellus in time of war with the disrespectful one of Verres in time of peace): *Marcellus, cum omnia victoria illa sua profana fecisset, tamen religione impeditus non attigit: iste [Verres], cum illa propter diuturnam pacem fidelitatemque populi Syracusani sacra religiosaque accepisset, omnis eas tabulas abstulit, parietes quorum ornatus tot saecula manserant, tot bella effugerant, nudos ac deformatos reliquit.*

[31] *Dig.* 11. 7. 36 (Pomponius 26 ad Quintum Mucium Scaevolam, lawyer of the 2nd c. BC).

[32] *Dig.* 11. 7. 2. 4 (Ulpianus 25 ad ed.). On the juridical concept of "pure" places, see Thomas, Y.: La valeur des choses: le droit romain hors la religion. *Annales: Histoire, Sciences Sociales* 57.6 (2002) 1446–1447 and n. 44.

[33] For the commentary, see Rutledge, S.: The Roman destruction of sacred sites. *Historia. Zeitschrift für alte Geschichte* 56.2 (2007) 179.

[34] *Dig.* 1. 8. 9. 2 (Ulpianus 68 ad ed.).

[35] Liv. 1. 55. 3–4 and Serv. *Aen.* 9. 446: see n. 6 for the text and the translation.

[36] Vitr. 1. 7. 1: see n. 7 for the text.

[37] Fest. *s. v. Novae curiae* (p. 180L).

[38] On the distinction between *evocatio* and *exauguratio*, see Catalano, P.: *Contributi allo studio del diritto augurale*. Turin 1960, 281–287.

[39] Liv. 1. 55. 3–4: see n. 6. On Terminus, see for example De Sanctis, G.: *La logica del confine. Per un'antropologia dello spazio nel mondo romano*. Rome 2015, 36–49.

[40] Serv. *Aen*. 2. 351 (see n. 4 for translation).

[41] Serv. *Aen*. 4. 212. On *inauguratio*, see for instance G. De Sanctis (n. 39) 132–135.

[42] Salerno, F.: *Dalla consecratio alla publicatio bonorum*. Naples 1990, 9 f., esp. 12 and 16–17. In his (critical) summary of Salerno's book, Hinard, H.: Consécration et confiscation des biens dans la Rome républicaine. *Kentron* 9 (1993) 11–23, esp. 13 recalls the definition of *consecratio capitis et bonorum* according to the author ("la forme la plus ancienne d'exécution sur l'individu et/ou le

patrimoine, […]") and mentions its fields of application: the sacred character of the tribunate, the offenses to Jupiter, etc.

[43] Cic. *Dom.* 47. 123–124 mentions several examples of *consecratio bonorum* carried out against political enemies; see also the commentary of P. Wuilleumier in his edition (Paris, Belles Lettres 1952) 157, n. 1.

[44] Cic. *Dom.* 49. 128.

[45] Cic. *Leg. Agr.* 1. 5. See also Cic. *Leg. Agr.* 2. 50–51 who repeats the same cities of Corinth, Olympus, Macedonia, Attalia and Carthagena but also mentions other places (Phaselus, Agera, Orindia, Gedusa, Bithynia, Cyrenaea, Paphlagonia, Pontus, Cappadocia) and uses the same verb *consecrare* when he mentions the destruction of Carthage: *(...) et in Africa ipsam veterem Carthaginem vendit, quam videlicet P. Africanus non propter religionem sedum illarum ac vetustatis de consili sententia consecravit, nec ut ipse locus eorum qui cum hac urbe de imperio decertarunt vestigia calamitatis ostenderet, (...);* Suet. *Iul.* 20 relates that the plain of Stellae (at Eastern Campania), which had been consecrated, was divided by Julius Caesar among twenty thousand citizens: *Campum Stellatem maioribus consecratum agrumque Campanum ad subsidia rei publicae vectigalem relictum divisit extra sortem ad viginti milibus civium, (...).*

[46] Gaius, *Inst.* 3. 153: *Dicitur etiam capitis diminutione solui societatem, quia ciuili ratione capitis deminutio morti coaequatur; (...)*

[47] Gaius, *Inst.* 1. 159–162. About *capitis deminutio*, see among others Ellul (n. 23) 473 (who reminds us that "vers le milieu du IIIe siècle, on assimilera cette *capitis deminutio* à une mort civile"); Villers, R.: *Rome et le droit privé*. Paris 1977, 239; etc.

[48] The few scholars who compared the *devotio hostium* with the *consecratio capitis et bonorum* are Fugier, H.: *Recherches sur l'expression du sacré dans la langue latine*. Paris 1963 and Versnel, H. S.: Two types of Roman *devotio*. *Mnemosyne* ser. 4, 29.4 (1976) 401 who mentions this idea. But none of these authors goes further in the juridical implications of this comparison.

[49] Sic. Fl. Cond. agr. 7–8 (translation by J.-Y. Guillaumin [*The Roman surveyors. II. Hygin, Siculus Flaccus.* Paris 2010, 32–33]). I would like to thank Prof. Marc Mayer of University of Barcelona for drawing my attention to the fact that *capitis deminutio* could not be applied to enemy cities, but that these cities could be destroyed physically or juridically and lose their status.

[50] Cic. *Dom.* 30. 79. On the proscriptions and confiscations of land carried out by Sulla, see Gonzales, A.: Du *praedium* au *fundus*. Proscriptions, expropriations et confiscations chez les *Agrimensores* romains: problèmes techniques et juridiques. *MEFRA* 127.2 (2015) 1–25, esp. 16–19.

[51] *Dig.* 28. 2. 31 (Jul. Paul. *Ad Sabinum).* On the link between public and private law, see Sacco, L.: Nota su alcuni aspetti storico-religiosi dell'*evocatio*. *Mythos: Rivista di Storia delle Religioni* 5 (2011) 131–147, esp. 137 where he reminds that Roman lawyers often compared the change of status of a territory with the change of status of a man: see below in this article, n. 31.

[52] Humbert, M.: *Municipium et civitas sine sufragio. L'organisation de la conquête jusqu'à la guerre sociale*. Paris (1978) 307 and n. 79 reminds the religious autonomy of the *municipia* (referring to the *municipalia sacra*) and associates *evocatio* with cities that were destroyed juridically (Veii) or restored as federated cities (Volsinii, Falerii), but he does not develop this idea. On the power that Rome demonstrated by preserving the cults of conquered cities, see Bolder-Boos, M.: Tutelary deities in Roman citizen colonies. In

Pelgrom, J. (ed.): *Roman Republican Colonization. New Perspectives from Archaeology and Ancient History.* Rome 2014, 289.

[53] Festus, p. 146 L. Translated and illustrated with many examples by Ando, C.: The Rights of Others. In Edmondson, J. – Keith, A. (eds): *Roman Literary Cultures: Domestic Politics, Revolutionary Poetics, Civic Spectacles.* Toronto 2016, 254–277, esp. 259. For a recent bibliography of this text, see Cappelletti, L.: *Municipalia sacra*. I sec. AC: Festus, https://www.arcait.it/lista-documenti/municipalia-sacra-sec-c-festus/

[54] This thesis, that was already mentioned by S. Alcock (*Graecia capta. The landscapes of Roman Greece.* Cambridge 1993, 179–180), is developed in my article "Die *evocatio* und der Transfer 'fremder' Götter …" (n. 1) 103–108, where a long list of cases is analyzed as well as the political motivations. Recently, Rutledge (n. 33) 185 arrived at the same conclusion: "Indeed, only on the rare occasion did the Romans genuinely try to 'stamp out' entirely the religious life of a people, as was the case with the Druids for example, yet that was exceptional;" in 184–193, he also mentions possible causes for destruction: destruction of a center of political resistance, political control of a cult, …

[55] On Veii (loss of its political autonomy and division of its territory), see Liv. 5. 30. 8 and 6. 5. 8; Strab. 5. 2. 9. On Praeneste (transfer of its statues): Liv. 6. 29. 6–9. On Falerii Veteres (destruction, loss of its territory and reconstruction of a new city): Polyb. 1. 65. 2; Liv. *Per.* 20. 1; Val. Max. 6. 5. 1b; Eutrop. 2. 28; Oros. 4. 11. 10; *CIL* I², p. 47. On Carthage (transfer of the statues): Serv. *Aen.* 12. 841 (Juno Caelestis); Plut. *Flam.* 1. 1 (Apollo); Plin. *Nat.* 36. 39 (Hercules). For more examples and more details on the transfers of the cults to Rome, see Blomart (n. 1, 1997) 104–106. It should also be noted that we cannot see things in black and white because, in spite of the transfer of these cults to Rome, archaeology demonstrates that in some cases, as in Veii and in Falerii, the old cult places continued to be in use, even though the city had been moved: see *RE* 6 (1909) 1969–1971, *s. v.* Falerii (Chr. Hülsen); *PECS* 323–324, *s. v.* Falerii Veteres (L. Richardson); Edlung-Berry, I. E. M.: Ritual destruction of cities and sanctuaries. In De Puma, R. – Small, P. P. (eds): Murlo and the Etruscans. Art and Society in Ancient Etruria. Madison 1994, 16–28, esp. 18.

[56] App. *B. civ.* 1. 24 mentions the curse *(epèrásato)* pronounced by Scipio against anyone who would like to rebuild Carthage; App. *Pun.* 136. 647: "(…) and his son Augustus, finding this memorandum, built the present Carthage, not on the site of the old one, but very near it, in order to avoid the ancient curse *(tò epáraton)* (translation by Horace White, 1913, Loeb library)."

[57] Cic. *Dom.* 23. 61.

[58] For the cities qualified as "consecrated", see Cic. *Leg. agr.* 1. 5 and 2. 51 (Carthage); Suet. *Iul.* 20. 3 (Stellae in Campania): see texts in n. 45.

[59] Macr. *Sat.* 3. 9. 13.

[60] Macr. *Sat.* 3. 9. 9. This explicit connection between *devotio* and *evocatio* makes it difficult to accept the idea of G. Ferri (n. 2, 2017) n. 97–98, who considers that *devotio* was not always preceded by an *evocatio*; on the other hand, I think now that Ferri is right that *evocatio* was not necessarily followed by a *devotio*, because it depended on the attitude of the enemies towards Romans.

[61] Stonii is not attested as a city name, but it was suggested to read Histonios (inhabitants of Histonium), Solonios (inhabitants of Solonium) or Thurios (inhabitants of Thurii, city of Great Greece): see Guittard, Ch.: *Macrobe, Les Saturnales*. Paris 1997, 338–339. Thurii, which is the most

accepted correction, was taken over by the Lucanians, and later by the Tarentines, and did not oppose Roman dominion in Southern Italy; moreover, Strabo 6. 1. 13 does not mention any violent destruction, and archaeology does not give any sufficient information in this regard: see also App. *Hann.* 9. 57; *RE* 2, 6th ser. (1937) 646–652, *s. v.* "Thurioi" (H. Philipp). Fregellae: was destroyed and the temples devastated after its revolt in 125 BC; the temple of Aesculapius stopped existing rather abruptly, and a small village (Fabrateria Nova) was established subsequently on an adjoining hill, serving as a center for markets and religious activities (see Strab. 5. 3. 6 and 5. 10; Liv. *Per.* 60; see also three books of Coarelli, F.: *Fregellae*. Rome 1981; *Fregellae 2: il santuario di Esculapio*. Rome 1986; *I santuari del Lazio in età repubblicana*. Rome 1987, 25–26). Gabii, to the East of Rome: after its defeat against Rome during the Latin War (in 338 BC) declined from its former glory and became a depopulated village at the time of Cicero but there is no direct indication that it had been destroyed in a war: see Prop. 4. 1. 34; Hor. *Ep.* 1. 11. 7–8; *RE* 7 (1912) 420–422, esp. 421 *s. v.* Gabii (J. Weiss). Veii: was reduced in size after its defeat by Rome, but continued to exist; we know from pottery and coins that the Portonaccio temple in the west of the city was still in use, while the large-scale terracotta statues of Apollo, Herakles and other divinities had been taken down from their original place and buried in a trench near the temple: see n. 55 and Santangelo, M.: Per la storia di Veio fra la conquista romana ed il *Municipium Augustum Veiens'. RendLinc* ser. 8, 3 (1948) 454–464; Ward-Perkins, J.: Veii. The Historical Topography of the Ancient City. *BSR* 29 (1961) 52–57; Colonna, G. in *Arezzo* (1985) 101; Edlung-Berry (n. 55) 20–22. Fidenae: was conquered by Rome in 435 BC but still revolted after the Gallic attack on Rome; the city continued to exist but on modest scale: see Liv. 4. 22; 4. 31–34; Macr. *Sat.* 1. 11. 37; *RE* 6 (1909) 2278–2279, *s. v.* Fidenae (Chr. Hülsen); Quilici, L. – Quilici Gigli, S.: Fidenae. Rome (1986) 396. On Carthage: see n. 55 as well as Plut. *C. Gracch.* 10–11; App. *Pun.* 8. 20 and 136. 647; *B. civ.* 1. 24 (for the last two texts, see n. 56); C. Bonnet (n. 21) esp. 301–303. Corinth: the city was razed in 146 BC and its temples looted (see Polyb. 39. 2; Strab. 8. 6. 23; Liv. *Per.* 52 and 60; Vell. Pat. 1. 13. 1). For all these commentaries, see Guittard (n. 61) 339; Rutledge (n. 33) 184–191.

[62] The places of Gallia, Hispania and Africa could refer to the conquests of Entremont, Numantia and the war against Jugurtha, according to Le Gall, J.: Evocatio. In *Mélanges J. Heurgon. Italie préromaine et la Rome républicaine I.* Rome 1976, 524.

[63] Edlung-Berry (n. 55) 16–18 mentions several examples of ritual destruction demonstrated by archaeology: first, in Poggio Civitate (ancient Murlo, which was a "political sanctuary"), in the last quarter of the 6th century BC, "the demolition of the building, the construction of the mound, and the burial of the architectural decoration some distance away from the building suggest that the destruction was intentional and ritual in purpose" (p. 17); secondly, Sybaris, in southern Italy, was destroyed in 510 BC and later re-founded as Thurii by the Greeks, and as Copia by the Romans (see *Der Kleine Pauly* 5, 439–440, *s. v.* Sybaris (G. Radke); 802–803, *s. v.* Thurioi (K. D. Fabian); in third place, the city of Marion in Cyprus was completely destroyed in 312 BC, the sanctuary of Zeus and Aphrodite burnt, the inhabitants moved to Paphos, and a new city, Arsinoe, was later founded on or near the site of Marion (see Diod. Sic. 19. 79. 4; *Der Kleine Pauly* 3, 1029–1030, *s. v.* Marion (E. Meyer); Childs, W. A. P.: First Preliminary Report on the Excavations at Polis Chrysochous by Princeton University. *RDAC* 2 (1988) 121–130. Besides, Guittard (n. 61) 339 suggests, for example, cities like Volsinii (whose cult of Voltumna-Vertumnus was transferred to the Aventine Hill in Rome after its defeat in 264 BC: see Varro, *Ling.* 5. 46; Prop. 4. 2. 4; Putnam, M. C. J.: The shrine of Vortumnus. *Amer. Journ. Arch.* 71.2 [1967] 177–179; *Oxford Classical Dictionary* 3rd ed. (1996) 1589, *s. v.* Vertumnus (Vortumnus) (H. J. Rose and J. Scheid) and also Falerii (whose cults of Juno Curitis and Minerva *capta* came to Rome in 241 BC: see n. 55 and *RE* 6 (1909) 1909–1971, *s. v.* Falerii (Chr. Hülsen); *PECS* 323–324, *s. v.* Falerii veteres (L. Richardson). Moreover, Rutledge (n.

33) analyzes several cases of religious destruction, that could be cases of *devotio* and that we summarize here chronologically: Morgantina in Sicilia (destroyed by Marcellus in 211 BC along with its four shrines to Demeter and Kore, as it was a political center of resistance: see Allen, H. L.: Excavations at Morgantina (Serre Orlando) 1967-69. *AJA* 74 (1970) 354–383); Haliartus in Boeotia (destroyed in 171 by C. Lucretius Gallus with the temple of Athena, which had a political significance: see Polyb. 27. 6. 5; 30. 21; Liv. 42. 44. 1; 42. 46. 9; 42. 56. 3–5; 42. 63. 3 and 11; Paus. 9. 33. 5–6; for the archaeology, see Fossey, J. M.: The cities of the Kopaïs in the Roman Period. *ANRW* 2.7.1 [1979] 549–591); Thebes (destroyed in 146 by Mummius: see Roesch P.: *Thèbes de Béotie. La civilisation grecque de l'Antiquité à nos jours II* [1969] 377–388); Praeneste (the temple of Fortuna sacked in 82 by Sulla, who built a bigger one later: see App. *B. civ.* 1. 94); Sentinum (destroyed in 41 by Salvidienus Rufus, an adherent of Octavian, with its temples, which were later reconstructed: see Dio 48. 13. 2. 5; App. *B. civ.* 5. 30; Pagnani, A.: *Sentinum. Storia e monumenti.* 2nd ed. (1957) 62-63); Perusia (destroyed by fire by Octavian in 40 with only the temple of Vulcan and a statue of Juno saved (see Dio 48. 14. 5–6); and finally two sacred sites, which were centers of political resistance: the temple of Tanfana in Germania (destroyed in AD 14 by Germanicus: Tac. *Ann.* 1. 51) and the Mona island, containing sacred groves that were destroyed by Paulinus because a number of Britons who revolted against Romans had taken refuge there, along with their Druidic leader in 59 (Tac. *Ann.* 14. 30). Finally, the conquest of Jerusalem by Titus in 70 has been mentioned as another possible case of *evocatio*, as Tacit and Flavius Josephus talk about God's leaving the temple: see J.S. KLOPPENBORG, *Evocatio deorum* and the date of Mark. *JBL* 124/3 (2005) 434-450 and MUSIAL-GILLMEISTER (n.2) 101-103.

[64] For instance, Guittard (n. 13) 33: "(…) le général qui prononce la formule d'*evocatio* est dans une situation exceptionnelle, puisque le rituel ne fut mis en œuvre qu'en de rares occasions, à Véies, Carthage ou Numance."

[65] On the concept of *bellum iustum,* see Hausmanninger, H.: *Bellum iustum* und *iusta causa belli* im älteren römischen Recht. *Österreichische Zeitschrift für öffentliches Recht, NF* 11 (1961) 335–345; Albert, S.: *Bellum iustum: Die Theorie des "gerechten Krieges" und ihre praktische Bedeutung für die auswärtigen Auseinandersetzungen Roms in republikanischer Zeit.* Kallmünz 1980. On the justification of war by Romans, see recently Vallette-Cagnac, E.: 'Écoute Jupiter, Écoutez Frontières...'. Rituels d'entrée en guerre dans la Rome républicaine. In Baty-Delalande, H. – Trevisan, C. (eds): *Entrer en Guerre*. Paris 2016, 15–32 who reminds that "just war" (*bellum iustum*) is "celle qui a été 'commencée et terminée dans les règles' (Liv. 30. 16)."

[66] Plut. *Cam.* 5. 7 (translation of Loeb Classical Library, 1914).

[67] See for instance Togores, L. E.: Imperialismo, relaciones internacionales y derecho internacional en Extremo Oriente (Filipinas) 1830-1898/1914. *Quinto Centenario* 16 (1990) 141–172.