

Command and Consilium: On Infrastructures of Decision-Making in Roman Culture¹

Ulrich Gotter

The aim of the following considerations is to demonstrate why decision-making processes can profitably be understood as infrastructures of political space. This is not self-evident, and we should not, without distinction, label every formation of political opinion an infrastructure. However, what forms decision-making processes according to culturally modelled understandings, by virtue of their defining the decision-making spaces, modalities, and participants, might be called infrastructure, indeed. Those decision-making processes are not due to chance, but manifestations of the regular and repeatable within the framework of a specific political culture. Ancient Rome is a particularly rewarding test-case because Roman decision-making processes appear to have been characterised by contradictory principles. In the following, I will argue that this supposed paradox was in fact none, as those contradictory principles were mediated by the interplay of visibility and concealment. Visibility therefore emerges as a category that should be central to our thinking about infrastructures.

In the following, I will first characterise the essential elements of the Roman decision-making regime before outlining, in a second section, the returns that I believe can be derived from applying the framework of “infrastructure.”

A Roman Paradox?

There is probably no other political culture in the ancient world that would have been so concerned, at all levels, about holding individuals accountable for their actions. Every action required authorisation, which assigned it to a specific person. This strict model of representation was not only a deliberative setting that followed the logic of the political sphere; it was, moreover, a fundamental cultural disposition that applied in other segments of society as well. According to the Roman conception, every group, and every organisation needed a representative, an *auctor*, so to

1 For helpful discussions of the text, I like to thank Andreas Bendlin (University of Toronto).

speak, who could act on behalf of the group—and who afterwards stood for the success or failure of his action. Under these circumstances, the ability to act effectively was limited to comparatively few people, each of whom was granted an almost uncanny decision-making authority. This began with the father and ended with the civil servant. The *paterfamilias*, the oldest member of the agnatic line, not only had the authority of a clan elder often observed in the Mediterranean; at least nominally, he also held near to absolute power over the other members of his family.² Curiously, his powers extended least of all to his wife, who was, over the course of the middle and late Republic, less and less frequently transferred from her original family to that of her husband (by means of the so-called *manus*-marriage) but remained formally under the *potestas* of her father.³ Over his children, however, the *paterfamilias* could claim almost unlimited power. As long as he lived, he remained the sole owner and only person entitled to dispose of the family property. This applied even to sons who had long since grown up and were Roman office holders. The fact that he was formally authorised to have his children killed (the so-called *ius vitae necisque*) completes this picture, even if this last decision was apparently only taken when state matters were at stake and any examples of this right seem to have been paradigmatic stories of exemplary behaviour rather than lived reality. All the same, the father's authority was often recounted precisely because it signalled personal power in Roman culture unlike anything else.⁴

This scenario is confirmed by the political arena: It is *communis opinio* among scholars that no Greek magistrate was granted the scope of action a Roman *consul* or *proconsul* had. In the Greek perception, Roman magistrates were compared more to monarchs than to political officials.⁵ They could act outwardly with extreme forms of violence, start wars, conclude treaties, decree naturalisations, while at home their competence was more than considerable as well. Without them, as heads of the executive, little was possible: neither the people's assembly nor the senate could meet,

2 Cf. with a wider scope Jochen Martin, "Zwei Alte Geschichten. Vergleichende historisch-anthropologische Betrachtungen zu Griechenland und Rom," *Saeculum* 48 (1997): 2–3.

3 Jochen Martin, "Die Bedeutung der Familie als eines Rahmens für Geschlechterbeziehungen," in *Bedingungen menschlichen Handelns in der Antike*, ed. Winfried Schmitz (Stuttgart: Steiner 2009), 343–344; Beryl Rawson, "Adult-Child Relationships in Roman Society," in *Marriage, Divorce, and Children in Ancient Rome*, ed. Beryl Rawson (Oxford: Oxford University Press, 1991), 18.

4 Jochen Martin "Die Stellung des Vaters in antiken Gesellschaften," in *Bedingungen menschlichen Handelns in der Antike*, ed. Winfried Schmitz (Stuttgart: Steiner, 2009), 94–97; Jochen Martin, "Familie, Verwandtschaft und Staat," in *Bedingungen menschlichen Handelns in der Antike*, ed. Winfried Schmitz (Stuttgart: Steiner 2009), 368–370; for the representation of the *patria potestas* in Roman discourse see Ute Lucarelli, *Exemplarische Vergangenheit. Valerius Maximus und die Konstruktion des sozialen Raumes in der frühen Kaiserzeit*, (Göttingen: Vandenhoeck & Ruprecht, 2007) with further literature.

5 See, for example, Polybios 6, 11, 12–16, 12, 9.

nor could laws be passed.⁶ From this perspective, it seems quite understandable that Theodor Mommsen placed the magistracy at the beginning of his “Staatsrecht,” far ahead of the “advisory body,” the Senate.⁷ In Rome (*domi*), Roman officials could in many places communicate with their fellow citizens in the mode of command; outside Roman territory (*militae*), this was the rule.⁸ To the development of law below the level of statutes, which was decisive for the practical Roman normative landscape, the magistrate was also instrumental. One of the Roman praetors (the *praetor urbanus*) announced at the beginning of his term of office the way in which he would dispense justice and was subsequently able to modify the Roman system of rules through individual decisions.⁹ Such a thing would have been tyranny in the context of any other polis constitution, whether Greek or Phoenician. In middle and late republican Rome (4th–1st century BCE), no one seems to ever have raised fundamental objections.

The most charismatic display of the individual’s power to act in Roman culture was the triumph.¹⁰ After the victory of an army, its commander – the magistrate with *imperium*: *consul*, *proconsul*, *praetor* or *propraetor* – was elevated above all other citizens and officials. For a one-day (or, in rare cases, three-day) ceremony the triumphator rode his triumphal chariot in the midst of his spoils and his soldiers, wrapped in the robe of the highest Roman god, his face dyed in the colour of the god’s statue. Thus, he paraded through the city before everyone’s eyes; thus, he ascended to the temple of Jupiter on the Capitol; there he redeemed the *votum* of the Roman citizenry that he had previously pledged for a victory. He was first *imperator*, then God for a day.¹¹

It has previously been noticed that the isolation and monumental exaltation of the individual general after a collective victory of the Roman people is odd.¹² The

6 For the notions of authority in Rome see Jochen Bleicken, *Zum Begriff der römischen Amtsgewalt. auspiciū – potestas – imperium* (Göttingen: Vandenhoeck & Ruprecht, 1981).

7 Theodor Mommsen, *Römisches Staatsrecht*, (Leipzig: Hirzel, 1876–1877); deals with the magistracies in volume I and II, with the senate in volume III.

8 Cf. Ulrich Gotter, “Cultural Differences and Cross-Cultural Contact: Greek and Roman Concepts of Power,” *Harvard Studies in Classical Philology* 104 (2008): 179–230, 199–204.

9 Mommsen, *Staatsrecht* II.1, 185–218.

10 For the different aspects of the Roman triumph see Hendrik S. Versnel, *Triumphus: An Inquiry into the Origin, Development and Meaning of the Roman Triumph* (Leiden: Brill, 1970); Ernst Künzl, *Der römische Triumph. Siegesfeiern im antiken Rom* (München: Beck, 1981); Mary Beard, *The Roman Triumph* (Cambridge: Harvard University Press, 2007).

11 See Jörg Rüpke, *Domi Militae. Die religiöse Konstruktion des Krieges in Rom* (Stuttgart: Steiner, 1990), 230–233.

12 Egon Flaig, “Warum die Triumphe die römische Republik ruiniert haben – oder: Kann ein politisches System an zu viel Sinn zugrunde gehen?” in *Sinn (in) der Antike. Orientierungssysteme, Leitbilder und Wertkonzepte im Altertum*, ed. Karl-Joachim Hölkeskamp, et al. (Mainz: von Zabern, 2003): 299–300.

scene on the Capitol makes it clear where at least the discursive legitimisation for the concentration of agency in Roman culture is to be located. Indeed, the conclusion of the greatest day of a Roman aristocrat is the resolution of the *votum vis-à-vis* Jupiter Optimus Maximus; thereafter, the triumphator becomes a citizen again. By analogy, his term of office begins with an inaugural *auspicium* (i.e., divination) and sacrifice, and only when this has been successful is he capable of acting for the community.¹³ Even before every important official act—the people's assembly or senate meeting—he convenes, he must perform the sacrifice that legitimises the event and, on the other hand, stops the event if the sacrifice was not successful. The inevitable sacrifice before a military campaign and before each battle also heaps enormous responsibility on the commander. In this way, he concludes a contract with the gods for all to see. In extremis, even his own sacrifice to the gods (*devotio*) came not entirely unexpected, correcting as it does any potentially negative result of his inquiring of the gods.¹⁴ What applies on a large scale also applies on a small scale. Just as the general binds the Roman people through his actions, the *paterfamilias* binds his family. He performs the sacrifices for the well-being of all and vows or redeems the *votum* for divine support.¹⁵ One could thus formulate that the extreme agency of individuals in Roman culture was legitimised by the personal capacity to act towards the gods.

Under these circumstances, Roman decision-making should have been autocratic in the extreme, mitigated at best by the regular change of office holders. The fact that this is by no means the case becomes apparent only at a closer look. Taking solitary decisions in Rome was not in conformity with the norms, or to put it differently: decisions, especially those of great consequence, were secured by an intensive collective consultation process (*consilium*). To understand the significance of this phenomenon, one must first note its ubiquity. *Consilia* are present in almost all areas since the beginning of documented evidence. They were involved in the decisions of private citizens, in those of magistrates in internal politics, and in decisions in the external (military) sphere.¹⁶ The *paterfamilias* discussed with his confidants not only rigid punitive measures against his sons, but also marriages, divorces, dona-

13 Rüpke, *Domi militiae*, 44–47.

14 Andreas Bendlin, "Anstelle der anderen sterben. Zur Bedeutungsvielfalt eines Modells in der griechischen und römischen Religion," in *Stellvertretung. Theologische, philosophische und kulturelle Aspekte*, eds. J. Christine Janowski, Bernd Janowski, and Hans P. Lichtenberger (Neukirchen-Vluyn: Neukirchener-Verl., 2006): vol. 1, 25–30.

15 John Scheid, *An Introduction to Roman Religion* (Edinburgh: Edinburgh University Press 2003), 165–170.

16 Cristina Rosillo-Lopez, "The Consilium as Advisory Board of the Magistrates at Rome during the Republic," *Historia* 70 (2021): 396–436.

tions, and bequests.¹⁷ The *praetor urbanus* discussed the changes he introduced in his edict, especially if they had some weight, with confidants who had a understanding of the matter—if only to make sure that the norms proclaimed by him were acceptable and not reversed by his successor.¹⁸ The *consilium* was of particular importance in the military field,¹⁹ of course, where human lives and, in extreme cases, the existence of the state were at stake. This phenomenon of a consultative superstructure did not change during the principate. It was particularly prominent at the level of rotating provincial commanders and procurators,²⁰ but imperial action and what we commonly refer to as the imperial central administration were also inconceivable without advisory councils.²¹

At this point another characteristic of the Roman consultative process (and a pertinent research problem) becomes obvious. Not even for the most prominent of all advisory councils, that of the emperor (*consilium principis*), we are well informed about its composition, meeting modalities, and formats of communication. The *consilia* of the Roman Republican and Imperial period are a black box not only because for a long time they have not been adequately studied, but also because as institutions they have very limited visibility in our sources. Although we know just enough to realise that the consultative structures were of fundamental importance to the Roman decision-making regime, we know far too little about how these structures worked in practice. And there is a system in our ignorance. For the *consilia* were and remained institutionally underdetermined. Scholarship on Roman law in particular has seen this as a childhood disease of the republican and early imperial state (4th century BCE–1st century CE), which was increasingly replaced, in a somewhat teleological process, by a more desirable institutionality. Thus, it was assumed that in the second century CE, under Hadrian or Marcus Aurelius, the *consilium principis* was consolidated in terms of personnel and formalised in its function.²² Something

17 See Lucarelli, *Exemplarische Vergangenheit*, 46, 59, 79–80, 86, 163, 204–205, 212, 281; Susan Treggiari, *Terentia, Tullia, Pubilia: The Women of Cicero's Family* (New York: Routledge 2007), 83–95, 118–142.

18 See Olga E. Tellegen-Couperus, "The So-Called Consilium of the Praetor and the Development of Roman Law," *Tijdschrift voor Rechtsgeschiedenis* 11 (2001): 11–20.

19 See Pamela Delia Johnston, *The Military Consilium in Republican Rome* (Piscataway: Gorgias Press, 2013).

20 See for example Eckhard Meyer-Zwiffelhofer, *Politikos archein. Zum Regierungsstil der senatorischen Statthalter in den kaiserzeitlichen griechischen Provinzen* (Stuttgart: Steiner, 2002), 223–267.

21 John A. Crook, *Consilium Principis. Imperial Counsellors from Augustus to Diocletian* (Cambridge: Cambridge University Press, 1955); Francesco Amarelli, *Consilia principum*, (Napoli: E. Jovene, 1983); Werner Eck, "The Emperor and His Advisers," in *The Cambridge Ancient History vol. 11: The High Empire, AD 70–192*, eds. Alan K. Bowman, Richard Garnsey, and Dominic Rathbone (Cambridge: Cambridge University Press, 2000).

22 For the discussion cf. Crook, *Consilium principis*, 56–76.

similar has been proposed for the legal *consilium* of the *praetor urbanus*. However, as recent research has found, neither assumption is supported by our sources.²³ On the contrary, most data fail to suggest a standardised affiliation of certain positions or ranks to *consilia*.²⁴ This is arguably so where the evidence is best: in the military *consilia* of the Republican period. While there is isolated evidence that quaestors, prefects, and tribunes could belong to the commander's *consilium*, the nature of the evidence contradicts the idea that they did so automatically and regularly.²⁵ The circle of participants in a *consilium* was apparently not ritually prefigured. The few records of *consilia* we have make at least one thing very clear: members did not have to be peers. In the *consilia* of governors we find not only the *quaestor* and senatorial friends (*amici*) of the governor, but also Roman knights and other Roman citizens and, which is particularly surprising, local provincials.²⁶ Centurions (mostly *primipilares*, the highest-ranking centurions of a legion) were always present in the military *consilia* of the Republic and the imperial period, and there are also indications of the participation of non-Romans.²⁷ What is interesting for our question is that these centurions were usually careerists from within the army, i.e., they were definitely not knights or senators.

In summary, consultative processes in Roman culture had the following characteristics: they were ubiquitous but remained largely invisible and weakly institutionalised; participation and debate behaviour were not standardised; it was not rank but expertise and the relationship of trust with the decision maker that determined their composition.

"Infrastructures" as a Means of Cross-Cultural Comparison

In contrast to "structure" as a central category of analysis, "infrastructure" directs the attention to what is concealed or seems self-evident. This is particularly attractive when one examines cultural differences since they, especially the attribution of meaning and social perception by those involved, usually lie beyond perception or discourse. Thus, examining infrastructures contours cultural fingerprints, which can be compared to each other in a second step. Comparing infrastructures operates pragmatically at an intermediate level between comparing holistic cultures on the one hand and individual cultural patterns on the other.

23 Telegen-Couperius, "Consilium of the Praetor," 12–18.

24 Rosillo-Lopez, "The Consilium as Advisory Board," 421, 427–28.

25 Cf. Johnston, *Military Consilium*, 6–19.

26 Rosillo-Lopez, "The Consilium as Advisory Board," 421.

27 Johnston, *Military Consilium*, 17–18.

I will try to demonstrate the potential benefits of this approach with my sketched example. If one does not concentrate on the individual aspects of Roman decision-making management (i.e., the *consilium* or the role of the *paterfamilias*, etc.), as research has done until now, but shifts the focus to the infrastructures of decision-making as a whole, a new configuration emerges; the task is then to relate the seemingly divergent patterns (utmost concentration of decision-making power vs. expectation of collective deliberation) to each other and integrate them into a comprehensive model. That consultation is not part of the decision (as Cristina Rosillo Lopez argues²⁸) because it is not the advisory board that decides but the individual who convened it, is in my opinion formalistic eyewash: for if the *consilium* had played no role in the decision, the magistrate would not have convened it. And the social expectation that the one representing the decision should consult with others beforehand would also be inexplicable. Therefore, the *consilium* is undoubtedly an important part of the decision-making process. In my opinion, the continuous oscillation between sole responsibility and inevitable collective consultation can be best explained by the distinct levels of visibility of the two. While the formal decision by the public official is visible, attributable, and demonstrative, the collective body of consultation disappears behind a screen. There is clearly a method to the fact that we learn so little about the techniques of deliberation in the *consilium*. My explanation would not be that this mirrored a deficient level of institutionality, but that it was part of a complex exchange of gifts. What the emperor, magistrate, commander, or governor gave to the members of his council was open discussion of his actions, and participation in important decisions. This is particularly remarkable since it also concerned persons (such as centurions) who could not usually claim to participate on the public stage. Their *gratia* for this *beneficium* (i.e., their retribution for the privilege granted) was, in my opinion, twofold: first, they accepted that all honours and public profits were legitimately taken by the official representative, and secondly, they kept silent about their shares in the successful decisions of the incumbent. Both sides of the gift exchange required a considerable degree of self-restraint on the part of those involved, as well as a thorough reflection of the cultural script that underpinned the decision-making regime in Rome.

This solution entails further questions. If the cost of negotiation was so high, in communicative terms, why did the Roman élite cling to it for centuries? This question immediately opens another horizon of perspectives. One could formulate it as follows: only *consilia* made a strong and successful executive à la Rome possible, because a strong executive was only acceptable if it remained limited in time. In this respect, the annual or biennial rotation of offices was a sacred cow, and justly so. Little changed in the imperial period (after 27 BCE): beyond the stable position of the emperor, elite officeholders continued to rotate. However, this necessarily meant that

28 Rosillo-Lopez, "The Consilium as Advisory Board," 428.

key positions were filled by functionaries who were not or not sufficiently trained for the job. One could almost say that until late antiquity political decisions, and thus also all administrative acts, tended to be carried out and answered for by high-ranking amateurs. Officials often had to make far-reaching decisions under great time pressure and in a state of personal ignorance. This was almost always the case for Roman provincial governors, who ruled unknown territories almost omnipotently with a minimal core of administrative personnel. The same was true, and particularly problematic, for military commands, which were held predominantly, and not only in imperial times, by inexperienced senatorial commanders.²⁹ That someone without decades of military training should be entrusted with the command of several thousand, occasionally several tens of thousands of men, seems at first sight absurd and is not a particularly safe path to success. It was precisely at this point that *consilia* ensured that the inexperience of the State's omnipotent representatives caused as little damage as possible: hence the enormous pressure on officeholders to practice consultative procedures, hence the agreement that persons of whatever social status with experience should be appointed to a *consilium*. A military professional of centurion rank could thus ensure that the aristocratic amateur would not carelessly put the lives of those under his command at risk. At the same time, the *consilium* functioned as a training program for the senatorial novice, so that his competence grew for the next challenges. Above all, however, the *consilium*, as a standardised prerequisite for decision-making, carved out the social distribution of roles in this process and imparted to Roman leaders the need to listen to subordinates and not to treat lower-ranking expertise with arrogance.³⁰ The virtuosity of the commander to collect and handle his *consilium* paved the way to his individual success.

At the same time, the consultative processes made it possible to cope with failure, and this is another important observation revealed by focusing on the infrastructures of decision-making. In contrast to what might happen at Carthage or in a Greek polis, a Roman commander could be reintegrated into the community after military defeat,³¹ at least if he adhered to the mechanism of consultation. If decision-making was collectivised, he was able to survive even a serious defeat

29 See Egon Flaig, *Den Kaiser herausfordern. Die Usurpationen im Römischen Reich* (Frankfurt: Campus 1992), 144–152.

30 This socially rehearsed mindset has been convincingly explored by Martin Jehne, “Jovialität und Freiheit. Zur Institutionalität der Beziehungen zwischen Ober- und Unterschichten in der römischen Republik,” in *Mos maiorum. Untersuchungen zu den Formen der Identitätsstiftung und Stabilisierung in der römischen Republik*, eds. Bernhard Linke and Michael Stemmler (Stuttgart: Steiner, 2000), 207–235.

31 Nathan Rosenstein, *Imperatores Victi. Military Defeat and Aristocratic Competition in the Middle and Late Republic* (Berkeley: University of California Press, 1990), 179–203, has the impressive list of Roman magistrates who suffered defeat and returned to Rome; his explanation for this evidence (esp. 170–78) differs from mine.

with many casualties. On the other hand, in the tension between decision and consultation, a different and more dramatic option was possible: A commander could decide either not to consult a council or to disregard the council's advice in a sovereign manner. According to what has been established above, he thereby took a considerable risk, which was not desirable within the framework of the Roman political order. However, the acceptance of this risk was also a source of charismatic leadership. The individual, whose insight was greater than that of the collective, could claim an exceptional position for himself if he was successful. It is therefore probably no coincidence that C. Julius Caesar, who of all Romans of the last generation of the Roman Republic played most penetratingly on the keyboard of charisma, in his narratives constantly belittles the benefits of *consilia* in contrast to his own expertise.³² In the same vein, Augustus claimed in his *Res Gestae* (of 13 CE) that he had decided *privato consilio*, i.e., without the intervention of others, to take up arms to free the Republic from Antony and his followers.³³ The lonely decision thus became the cornerstone of his charismatic authority.

Examining Roman decision-making processes from an infrastructural perspective offers innovative options for culturally sensitive plots: If one radically exploits its benefits, even the Roman "administration" as a whole might be reconceptualised.³⁴ The starting point would be to reconsider the lack of institutionality discussed above. If you decide not to understand it in the modern sense, i.e., as a deficiency that hinders rational administrative action, but as a programmatic epiphenomenon of Roman decision-making processes, Roman governance gains a different contour. For institutionality in the modern sense would have prevented two things: first, the radical freedom in composing the consultative bodies, which allowed for the integration of non-peers and thus for an unrivalled aggregation of competence; and second, the enormous personalisation of decision-making, which guaranteed pyramidal hierarchy and centrality, both elementary to the Roman Republic as well as the Empire.

32 In his two Commentaries on the Gallic War and on the Civil War, Caesar transmits very few of his own *consilia* (see Johnston, *Military Consilium*, 5–6), not even where they would necessarily have been expected, as after the lost battle of Dyrrhachium. The Caesar of the text essentially decides alone; his *consilium*, on the other hand, when it conflicts with his authority, is openly criticised by him (Caes. bell. Gall. 1, 40); war councils of his subordinate generals and especially the *consilia* of his opponents in civil war appear essentially dysfunctional and lead to catastrophes (bell. Gall. 5, 28–34; bell. civ. 1, 19; 3, 82–83; 3, 86–87; 3, 104).

33 Augustus res gest. 1; Nicolaus of Damascus (18) supports this interpretation of *privato consilio* by narrating, most probably in reference to Augustus' first memoirs, that the young Octavian acted against the advice of those closest to him.

34 It is striking, indeed, that while massive doubts have been voiced against the notion of statehood in antiquity, the key feature of the modern state, administration, continued to be enormously popular in research, especially on the Roman Empire.

Governance à la Rome obviously consisted of alternating zones of de-personalisation (within the framework of the *consilium*) and subsequent re-personalisation by the officeholder. Administration in this sense was not an autonomous process, but a carefully balanced sequence of changing visibilities of authorship. This alternative explanation for the low administrative institutionality of the Roman Empire should then call for a macro-level theory of the emergence of cultural preferences.