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978-0-521-51751-5 - Prison, Punishment and Penance in Late Antiquity

Julia Hillner

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PRISON, PUNISHMENT AND PENANCE IN LATE ANTIQUITY

This book traces the long-term genesis of the sixth-century Roman legal penalty of forced monastic penance. The late antique evidence for this penal institution runs counter to a scholarly consensus that Roman legal principle did not acknowledge the use of corrective punitive confinement. Dr Hillner argues that forced monastic penance was a product of a late Roman penal landscape that was more complex than previous models of Roman punishment have allowed. She focuses on invigoration of classical normative discourses around punishment as education through Christian concepts of penance, on social uses of corrective confinement that can be found in a vast range of public and private scenarios and spaces, as well as on a literary Christian tradition that gave the experience of punitive imprisonment a new meaning. The book makes an important contribution to recent debates about the interplay between penal strategies and penal practices in the late Roman world.

JULIA HILLNER is Senior Lecturer in Medieval History at the University of Sheffield. She is co-editor, with Kate Cooper, of *Religion, Dynasty, and Patronage in Early Christian Rome, 300–900* (2007).

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For Jan, con amore

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Acknowledgements

The bulk of this book was written in the shadow of the Justizvollzugsanstalt III, a prison for female and young delinquents in Frankfurt-Preungesheim, while I was holding a Humboldt research fellowship at the Goethe Universität in Frankfurt and living in this suburb. The proximity of the prison, which has an international reputation for the quality of its rehabilitative programmes but so far may have prevented full gentrification of this neighbourhood, was a subtle reminder of how much we take the prison penalty for granted as an integral part of modern society, but also with how many conflicting expectations we burden its penal aims. A BBC Radio 4 programme, aired on 23 January 2012, suggested that modern society wants prisons to make serious criminals ‘disappear’, but at the same time turn less serious ones into fully functioning members of society again and in this way help to reduce crimes rates (‘Start of the Week’, with Andrew Marr, John Podmore, Simon Stephens, Mike Hough and Shami Chakrabarti). It argued further that the former aim often seems to take over in public discourses at least in contemporary Britain, with the result that alternatives to the prison penalty are rarely discussed. Writing this book has taught me that, perhaps because the late Roman empire did not know an institution towering over the penal landscape similar to the modern prison, defining, justifying and enforcing penal strategies opened up equally profound moral but different practical dilemmas.

Punishment is a complex theme with legal, social, cultural and philosophical ramifications. During the period of research for and the writing of this book I wandered down countless of these avenues. Looking back, I can see that each of these were valuable to figure out what this book is about, even though I could not explore them all as thoroughly or perfectly as I or my readers may have wished. As a distinguished academic once said to me, ‘A sign of quality in academic work is also that it gets finished’, and I have now heeded this advice. For having reached this point, a round of profound thanks is in order.

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Acknowledgements

Over a decade ago Tina Sessa suggested the topic of late Roman prisons to me. Even though the book probably has turned out to be very different from the one she envisaged, I owe so much to her thoughtful advice and friendship. Several colleagues have accompanied the book's genesis throughout and I would like to thank them all for their guidance along the way. First and foremost, I literally would not be where I am without Kate Cooper and Conrad Leyser, and I hope they are aware of the infinite depths of my gratitude. Jill Harries and Caroline Humfress have read various drafts of this book, from its inception to the final version. I feel truly blessed having been able to benefit from their wisdom beyond their published work, which in itself has been such a great influence on this book. While I was in Frankfurt, Hartmut Leppin read a draft of the first four chapters. I would like to thank him for saving me from errors of fact and thought and more generally for being such an inspiring and generous host. The various members of the ever-changing 'late antiquity group' at the University of Manchester have endured reading drafts of chapters over many years and I need to thank all of them, but in particular Marios Costambeys, Anne Kurdock, Andrew Marsham, Clare Pilsforth, Dirk Rohmann, Martin Ryan, Hannah Williams and Jamie Wood. As an 'honorary' member of this group, Renate Smithuis has been a terrific source of advice on anything to do with Scripture.

As a true friend, Rosa Vidal Doval long ago and entirely unsolicitedly gifted me with copies of Pavón Torrejón's *La cárcel y el encarcelamiento en el mundo romano* and of Torallas Tovar and Pérez Martín's *Castigo y reclusión en el mundo antiguo*, as such opening up a whole world of previously unknown Spanish scholarship to me. The same momentous intervention is true of Peter Liddle, who lent me a copy of Allen, *The World of Prometheus*, and of Eric Pratt, who gave me Mackenzie's *Plato on Punishment*, both of which have been eye-openers. I hope Peter can forgive me that I took a long time to return his book, and Eric that I still haven't done so. Countless other kind people have provided me with comments and bibliographical references over the years, often as members of the many sympathetic audiences I have encountered at conferences and research seminars where I presented parts of this book. I need to single out Guy Geltner, Elisabeth O'Connell, Richard Sowerby and Kevin Uhalde, who have all shown an untiring interest in my research.

All my colleagues at the University of Sheffield have been outstanding in their support. I would like to thank Gilly Sharpe from the School of Law for giving me directions in the field of modern criminology. In the Department of History most thanks go to Charles West, who heroically

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read the entire manuscript, but I am also immensely grateful to Helena Carr, Simon Loseby, Amanda Power and Martial Staub for creating such a congenial work atmosphere in the 'medieval section' and to Julie Gottlieb for keeping me sane. Hannah Probert has provided tremendous assistance with the maps and the index. The various students who have taken my MA course 'Crime and Punishment in Late Antiquity' since 2010 have created a paramount forum for the discussion of many ideas presented in this book. A succession of head of departments, Mike Braddick, Bob Moore and Mary Vincent, have patiently waited for the completion of this book, and I would like to thank them for their trust and for granting me a semester of study leave in 2010, as well as allowing me to take up secondment at the University of Frankfurt in 2011–2012. The year in Frankfurt was funded by the Alexander-von-Humboldt Foundation, while the early stages of the research for this book were supported by a British Academy Postdoctoral Fellowship. I am very grateful for having had backing from two institutions that are academic pillars of their respective countries.

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I owe most thanks to my children, Karl and Antonia, who first taught me the terrifying responsibility that lies with those who have the power to punish (or, to use a more modern term of 'parenting', to 'point out consequences'); to my husband for many conversations on how to manage precisely this responsibility in theory and in practice (and for correcting my many errors of language in this book); and to my parents, who, as I understand in retrospect, managed it artfully. It is good custom to apologise for the length of time a book has taken to be written. Yet, one of the reasons for the long making of this book was my choice to spend most of my evenings, holidays and weekends with my family, without, happily, thinking too much about punishment, prison or penance.

*March 2015**Manchester*

Abbreviations

AASS	<i>Acta Sanctorum</i> (Antwerp, Brussels: Société des Bollandistes, 1643–)
ACO	E. Schwartz (ed.), <i>Acta Conciliorum Oecumenicorum</i> , 2 tomes (Berlin: De Gruyter, 1914–1940)
ANRW	<i>Aufstieg und Niedergang der Römischen Welt</i>
Barrow	R. H. Barrow (ed.), <i>Prefect and Emperor: The Relations of Symmachus, AD 384</i> (Oxford: Clarendon Press, 1973)
BIDR	<i>Bullettino dell'Istituto di Diritto Romano</i>
BHL	<i>Bibliotheca Hagiographica Latina</i> (Brussels: Société des Bollandistes, 1898–)
BHG	<i>Bibliotheca Hagiographica Graeca</i> (Brussels: Société des Bollandistes, 1895–)
BHO	<i>Bibliotheca Hagiographica Orientalis</i> (Brussels: Société des Bollandistes, 1910)
Brev.	<i>Breviarium Alarici</i> (in CTh, vol. 1.1)
Blockley	R. Blockley (ed.), <i>The Fragmentary Classicising Historians of the Later Roman Empire. Eunapius, Olympiodorus, Priscus and Malchus</i> (Liverpool: Cairns, 1983)
Boon	A. Boon (ed.), <i>Pachomiana Latina</i> (Louvain: De Meester, 1932)
ByzZ	<i>Byzantinische Zeitschrift</i>
CAH	<i>Cambridge Ancient History</i>
Callu	J. Callu (ed.), <i>Symmaque: Lettres</i> , vols. 1–2 (Paris: Les Belles Lettres, 1993)
Charles	R. H. Charles (transl.), <i>The Chronicle of John (c. 690AD), Coptic Bishop of Nikiu</i> (London, Oxford: Oxford University Press, 1916)

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- CIC *Corpus Iuris Civilis*, 3 vols. (Berlin: Weidemann, 1877, 1895, 1912; repr. 1954)
- CIL *Corpus Inscriptionum Latinarum* (Berlin: Reimer et al., 1862–)
- CPh *Classical Philology*
- CQ *Classical Quarterly*
- CJ P. Krueger (ed.), *Codex Justinianus* (CIC, vol. 2; Berlin: Weidmann, 1877, repr. 1954)
- CSCO *Corpus Scriptorum Christianorum Orientalium* (Leuven: Peeters, 1903–)
- CC *Corpus Christianorum Series Latina* (Brepols: Turnhout, 1953–)
- CSEL *Corpus Scriptorum Ecclesiasticorum Latinorum* (Vienna: Österreichische Akademie der Wissenschaften, 1866–)
- CTh T. Mommsen, P. Meyer (eds.), *Theodosiani Libri XVI cum Constitutionibus Sirmondianis et Leges Novellae ad Theodosianum Pertinentes*, vols. I.1, I.2 and 2 (Berlin: Weidmann, 1905, repr. 1954)
- D P. Krueger (ed.), *Digesta* (CIC, vol. 1; Berlin: Weidmann, 1895, repr. 1954)
- de Boor K. de Boor (ed.), *Theophanis chronographia* (Leipzig: Teubner, 1883–1885)
- De Plinval G. De Plinval (ed.), *Cicéron. Traité des Lois* (Paris: Les Belles Lettres, 1959)
- Dindorf L. A. Dindorf (ed.), *Ioannis Malalae chronographia* (Bonn: Weber, 1831)
- DOP *Dumbarton Oak Papers*
- FIRA S. Riccobono, V. Arangio-Ruiz et al. (eds.), *Fontes iuris Romani anteiustiniani*, vols. 1–3 (2nd edn, Florence: G. Barbèra, 1940–1943)
- Funk F. X. Funk (ed.), *Didascalica et constitutiones apostolorum*, vol. 1 (Paderborn: Schwenigh, 1905)
- Gassò and Batlle P. Gassò, C. Batlle (eds.), *Pelagii I papae epistulae quae supersunt (556–561)* (Barcelona: In abbatia Montiserrati, 1961)
- GCS *Die griechischen christlichen Schriftsteller* (Berlin: De Gruyter, 1897–)
- Herding W. Herding (ed.), *Hieronymi de viris illustribus* (Leipzig: Teubner, 1879)

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JEH	<i>Journal of Ecclesiastical History</i>
JECS	<i>Journal of Early Christian Studies</i>
JRA	<i>Journal of Roman Archaeology</i>
JRS	<i>Journal of Roman Studies</i>
JTS	<i>Journal of Theological Studies</i>
Kroll, Skutsch, Ziegler	W. Kroll, F. Skutsch, K. Ziegler (eds.), <i>Firminus Maternus, Mathesis</i> , 2 vols. (Leipzig: Teubner, 1968)
Labourt	J. Labourt, <i>Saint Jérôme, Lettres</i> , vols. 1–8 (Paris: Les Belles Lettres, 1949–1963).
Loeb	<i>Loeb Classical Library</i> (Cambridge, Mass.: Harvard University Press, 1912–). Volumes cited, with further abbreviations : Ammianus Marcellinus, <i>Roman History</i> , 3 vols., ed. J. C. Rolfe (1939–1950); Aristotle, <i>Rhetoric</i> , ed. J. H. Freese (1926); Aristotle, <i>Nicomachean Ethics</i> , ed. H. Rackham (1926); Aristotle, <i>Politics</i> , ed. H. Rackham (1932); Aulus Gellius, <i>Attic Nights</i> (Noctes Atticae), 3 vols., ed. J. C. Rolfe (1927); Boethius, <i>Consolation of Philosophy</i> , ed. H. F. Stewart et al. (1973); Cassius Dio, <i>Roman History</i> , 8 vols., ed. E. Cary et al. (1914–1925); Cicero, <i>In Catilinam</i> (Cat.), ed. C. Macdonald (1976); Cicero, <i>On Duties</i> (off.), ed. W. Miller (1913); Cicero, <i>On the Orator</i> (de oratore), ed. E. W. Sutton et al. (1942); Columella, <i>On Agriculture</i> (De re rustica), 3 vols., ed. E. S. Forster (1941–1955); Eunapius, <i>Lives of the Philosophers</i> , ed. W. C. Wright (1921); Horace, <i>Satires</i> (Sat.), ed. H. Fairclough (1926); Julian, <i>Orations 1–5</i> (Panegyric on Eusebia), ed. J. Wright et al. (1913); Juvenal, ed. S. M. Braund (2004); Libanius, <i>Selected Orations</i> (or.), 2 vols., ed. A. F. Norman (1969–1977); Livy, <i>Roman History</i> , 14 vols., ed. B. O. Foster et al. (1919–1959); Martial, <i>Epigrams</i> , 3 vols., ed. D. R. Shackleton Bailey (1993); Plato, <i>Gorgias</i> , ed. W. R. M. Lamb (1925); Plato, <i>Cratylus</i> , ed. H. N. Fowler (1926); Plato, <i>Laus</i> , 2 vols., ed. R. G. Bury (1926); Plato, <i>Phaedo</i> , ed. H. N. Fowler

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- (1914); Plato, *Protagoras*, ed. W. R. M. Lamb (1924); Plato, *Republic*, 2 vols., ed. C. Emlyn-Jones et al. (2013); Plato, *Timaeus*, ed. R. G. Bury (1925); Pliny, *Natural History*, 10 vols., ed. W. H. S. Jones et al. (1938–1962); Pliny, *Letters* (ep.), *Panegyricus*, 2 vols., ed. B. Radice (1969); Plutarch, *Lives*, vol. 10: Tiberius and Gaius Gracchus, ed. B. Perrin (1921); Procopius, *Buildings*, ed. H. B. Dewing (1940); Procopius, *Secret History*, ed. H. B. Dewing (1935); Procopius, *History of the Wars*, vol. 1: Persian War, ed. H. B. Dewing (1914); Quintilian, *The Orator's Education* (Inst.), 5 vols., ed. D. A. Russell (2002); Rutilius Namatianus, *De Reditu Suo*, *Minor Latin Poets*, vol. 2, ed. J. Wight Duff (1934); *Scriptores Historiae Augustae* (SHA), 3 vols., ed. D. Magie (1921–1932); Seneca, *Epistles* (ep.), 3 vols., ed. R. M. Gummere (1917–1925); Seneca, *Moral Essays*, vol. 1: De Constantia (de const.), De Ira, De Clementia (de clem.), ed. J. W. Basore (1928); Seneca, *Moral Essays*, vol. 2: De Consolatione ad Helviam (cons. Helv.), ed. J. W. Basore (1932); Seneca (the Elder), *Declamations*, 2 vols.: *Controversiae* (Contr.), ed. M. Winterbottom (1974); Sidonius Apollinaris, *Letters* (ep.), ed. W. B. Anderson (1936); Suetonius, *Lives of the Caesars*, vol. 1: Tiberius, ed. J. C. Rolfe (1914); Valerius Maximus, *Memorable Doings and Sayings*, 2 vols., ed. D. Shackleton Bailey (2000); Xenophon, *Cyropaedia* (Cyr.), ed. W. Miller (1914)
- LP L. Duchèsne (ed.), *Le Liber Pontificalis*, vol. 1 (2nd edn, Paris: De Boccard, 1955)
- Mariev S. Mariev (ed.), *Ioannis Antiocheni fragmenta quae supersunt* (Berlin, New York: De Gruyter, 2008)

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MGH	<i>Monumenta Germaniae Historica</i> (Cologne: Böhlau, Hanover: Hahnsche, Stuttgart: Hiersemann, Munich: MGH, 1826–) AA Auctores Antiquissimi LL Leges SRM Scriptores Rerum Merovingicarum
MEFR/A Musurillo	<i>Mélanges de l'École française de Rome/Antiquité</i> H. Musurillo (ed.), <i>The Acts of the Christian Martyrs</i> (Oxford: Clarendon Press, 1972)
NMai	Novels of Majorian (in CTh, vol. 2)
NPNF	<i>Nicene and Post-Nicene Fathers</i>
NTh	Novels of Theodosius II (in CTh, vol. 2)
NVal	Novels of Valentinian III (in CTh, vol. 2)
NJust	R. Schoell, W. Kroll (eds.), <i>Novellae</i> (CIC, vol. 3) (Berlin: Weidmann, 1912, repr. 1954)
P&P	<i>Past & Present</i>
Paschoud	F. Paschoud (ed.), <i>Zosime, Histoire Nouvelle</i> , 3 vols. (Paris: Les Belles Lettres, 1971–1989)
PBSR	<i>Papers of the British School at Rome</i>
PCBE	<i>Prosopographie chrétienne du Bas-Empire</i> (Paris : CNRS, 1982–)
PL	J. Migne (ed.), <i>Patrologia Latina</i> (Paris: Imprimerie Catholique, 1844–1865)
PLRE	J. Martindale et al. (eds.), <i>Prosopography of the Later Roman Empire</i> , 3 vols. (Cambridge: Cambridge University Press, 1971–1992)
PLS	<i>Patrologia Latina Supplementum</i> (Brepols: Turnhout, 1900–)
PG	J. Migne (ed.), <i>Patrologia Graeca</i> (Paris: Imprimerie Catholique, 1856–1866)
PO	<i>Patrologia Orientalis</i> (Brepols: Turnhout, 1904–)
RAC	<i>Reallexikon für Antike und Christentum</i>
RE	<i>Real-Enzyklopädie der klassischen Alterthumswissenschaften</i>
RechAug	<i>Recherches Augustiniennes</i>
RHD	<i>Revue historique de droit français et étranger</i>
RIDA	<i>Revue internationale des droits de l'antiquité</i>
SC	<i>Sources chrétiennes</i> (Paris: Les Éditions du Cerf, 1941–)

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SDHI	<i>Studia et Documenta Historiae et Iuris</i>
Sirm.	<i>Sirmondian Constitutions</i> (in CTh, vol. 2)
Veilleux	A. Veilleux (transl.), <i>Pachomian Koinonia</i> , 3 vols. (Kalamazoo: Cistercian Publications, 1982)
Vives	J. Vives (ed.), <i>Concilios visigóticos e hispano-romanos</i> (Barcelona, Madrid: Consejo Superior de Investigaciones Científicas, 1983)
ZPE	<i>Zeitschrift für Papyrologie und Epigraphik</i>
ZKG	<i>Zeitschrift für Kirchengeschichte</i>
ZSR	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte</i> (kan.) (kanonistische Abteilung) (rom.) (romanistische Abteilung)

In the footnotes and appendices, titles of primary sources are usually cited in full in Latin or English, with bibliographical references in brackets. Where abbreviations of titles are used, these generally follow the conventions of PLRE and/or *Der Neue Pauly*. Almost all papyri references are drawn from the online Duke Data Bank of Documentary Papyri (via papyri.info) and employ the abbreviations used there.

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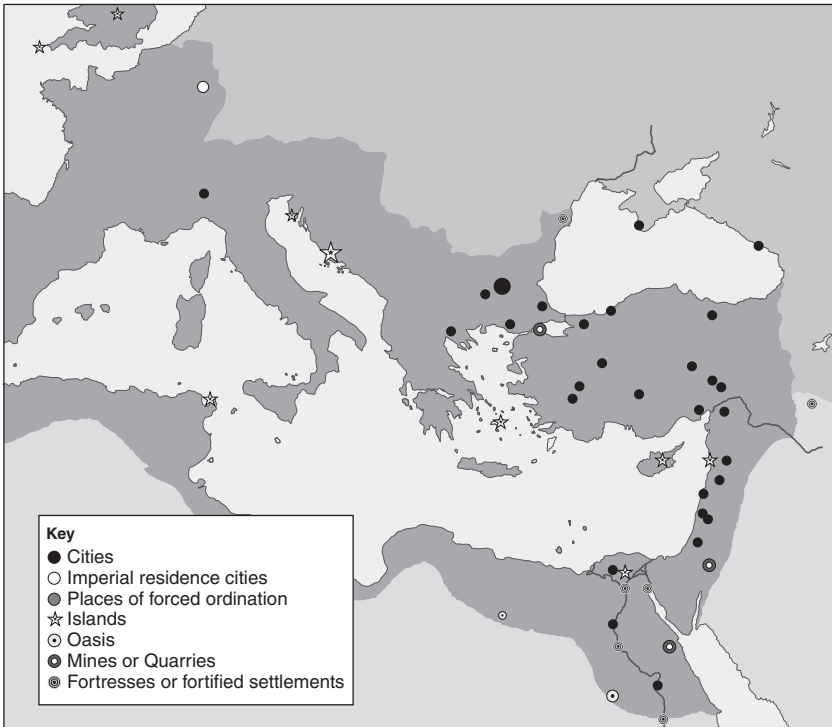
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Places of forced residence, fourth to sixth centuries (excluding monastic confinement).

On the fifth-century map, the outline of the Roman empire represents the situation after the Vandal entry into North Africa in 429, and on the sixth-century map the outline is that of the Roman empire under Justinian after 535, even though some exile places date to an earlier period in the respective centuries. Some locations of exile places are approximate.



Map 1: Fourth century.

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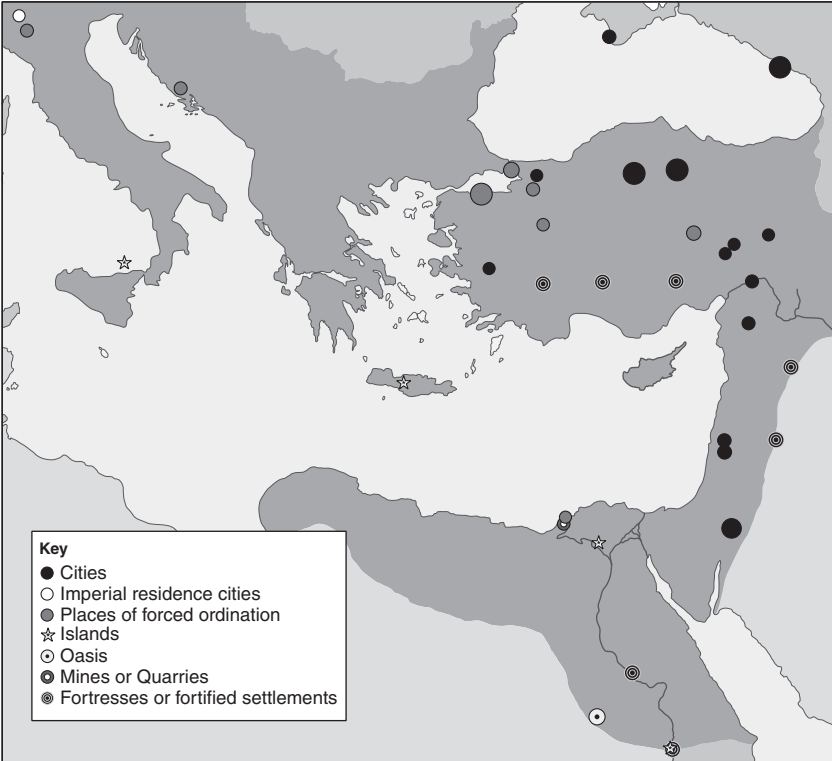
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Map 2: Fifth century.

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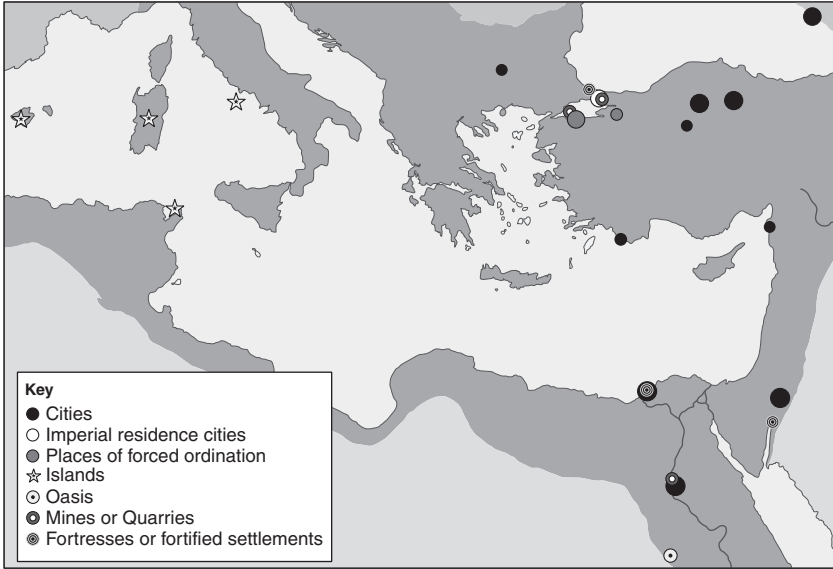
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Map 3: Sixth century.