



The Hebrew University of Jerusalem

Syllabus

The State of Emergency in Ancient Rome - 39857

Last update 11-09-2023

HU Credits: 2

Degree/Cycle: 2nd degree (Master)

Responsible Department: History

Academic year: 0

Semester: 2nd Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Matthias Schmidt

Coordinator Email: matthias.schmidt@mail.huji.ac.il

Coordinator Office Hours: Tuesday 15:00 - 16:30

Teaching Staff:

Course/Module description:

Crisis and crisis management are essential issues for every political entity - today as well as in the Roman Republic. Public emergencies such as civil wars, natural disasters, and economic crises test the theoretical and practical commitments of constitutional rights and civil liberties. The declaration of a state of emergency is the most extreme scope of governments to respond to collective internal or external crises; but before a state of emergency is declared there exists a whole scale of "constitutional" measure available for the authorities to solve situations of instability and threats to public order and security. The seminar will look into key incidents in the history of the Roman Republic which were defined as extraordinary crisis events threatening the stability of the governing system. The institutional response mechanism which were invented or employed by the governing institutions in Rome to resolve several crises will be analysed. The interpretation will focus on the tension between the constitutionally available measures of emergency management and the temporary or permanent suspension of individual and collective rights and liberties which Romans qua citizens were guaranteed - like the right to bodily integrity, prohibition of torture and the guarantee of fair juridical investigations and trials, freedom of worship and movement as well as the protection of individual security and private space. In the theoretical framework and background of the seminar the modern discourse about the protection of human rights and civil liberties in a state of emergency when international law permits states to suspend many human rights in order to safeguard national security will be discussed.

Course/Module aims:

Students will study key incidents of Roman history which were defined as crisis events - like external military threats; internal social, religious and political unrests; threats to state stability; class upheavals, and threats of civil war; they will learn the factors which defined a crisis in the Roman Republic. Students will get insights into the procedures of crisis management in the Roman Senate and will familiarize themselves with the "constitutional" available measures to combat a crisis - like gaining political compromises and the reform of political participation, suspending all non-war related business, conducting special military drafts, ordering extraordinary wide-scaled religious measures and religious rituals, nominating a dictator or declaring a state of emergency - and will learn to differentiate these from "non-constitutional" measure - like creating new extraordinary institutions of political and military powers, changing the legislative processes and procedures of political decision making or the structure of composition of the judiciary in the law courts. They will check the consequences of these measures of crisis management on the regular life and individual civil rights of Roman citizens. Students will understand the "frequent" use of the state of emergency as one of the causes for

the destruction of the republic on one hand, and the establishment of a permanent state of emergency under a military dictatorship disguised as monarchy. Students will acquaint themselves with the central question if the declaration of a state of emergency might suspend basic civil/constitutional rights of the citizens or even human rights and will discuss these issues against the corresponding discourse in contemporary theories and societies.

Learning outcomes - On successful completion of this module, students should be able to:

*Recognize the diversity of crisis incidents in ancient Rome;
Observe the different forms of declaration of a state of emergency;
Understand and describe multiple concepts and measures of crisis management;
Analyse the nature of crisis events towards the means of the crisis management;
Differentiate between constitutional and unconstitutional measures of crisis management;
Analyse the consequences and meaning of different mechanisms of crisis management for individual civil liberties and rights;
Describe the consequences of crises and crisis management on the political, cultural and religious structures in ancient Rome in general;
Understand the influence of crisis management on the stability of the system in a long-term perspective;
Realize the connection between emergency measures and the accumulation of extraordinary powers as causes for a regime change;
Understand the Roman Revolution and the transfer to monarchy as the establishment of a permanent state of emergency for the Roman Republic and Empire;
Follow the discourse on the protection of the State of Law in a state of emergency in antiquity and present time;
Be able to use different source material (texts, archaeology, coins, inscriptions, iconography) for the reconstruction of a state of emergency;
Synthesize material from lectures and recommended primary sources and secondary literature to use in oral and written discussions of set topics.*

Attendance requirements(%):

100

Teaching arrangement and method of instruction: Reading, analysis and interpretation of literary and visual primary sources and secondary literature; presentation and discussion of research literature; preliminary readings for each session will be circulated and must be prepared in advance. In the seminar,

lectures, power point presentations, class room discussions, group work and student presentations will alternate.

Course/Module Content:

1. Introduction: Crisis Management, State of Emergency and Civil Liberties
 - 1.1 Conceptional Elements, Definitions, Sources, Approaches, Questions
 - 1.2 SPQR - The Roman Political Institutions as a imaginary "Constitution"
 - 1.3 Multiple Crisis Events as Threats for Safety Stability of the Roman Republic
2. The Development of Crisis Response during the Republic
 - 2.1 Dictatorship as a Constitutional Measure of Crisis Management
 - 2.2 Declarations of an Emergency:
 - 2.2.1 The tumultus Declaration
 - 2.2.2 The iustitium Edict
 - 2.2.3 The Senatus Consultum Ultimum (SCU)
 - 2.3 Other Events of Crisis Management
 - 2.3.1 The Import of the Cult of the Magna Mater to Rome in 205/4 BCE
 - 2.3.2 The Bacchanalian Affair of 186 BCE
 - 2.3.3 The Tribune of Tiberius Gracchus in 133 BC
 - 2.4 The anomalous Reinvention of the Dictatorship by Sulla in 82 BCE
 - 2.5 The imperium extraordinarium of Pompeius of 73 BCE
 - 2.6 The Ultimate Declaration of an Emergency - The Putsch of Catilina and the SCU in 63 BCE
 - 2.7 The Eternal Dictator - Caesar between 49 and 44 BCE
 - 2.8 The Triumvirate of 43 BCE as Military Dictatorship
 - 2.9 The Principate as a Permanent State of Emergency and the End of the Free Republic
3. Conclusion: Civil Liberties and the State of Emergency in Rome - A Message to Modern Societies

Required Reading:

The following list includes research publications and case studies on topics of crisis management and emergency powers during the Roman republic as well as contribution to the contemporary discourse on Human Rights and Civil Liberties in a State of Emergency. These items will serve as a basis for discussion of the different topics during the seminar and are considered as a pool of "required reading" in the a broad sense. The actual "reading" required for the meetings scheduled throughout the seminar will be determined in relation to the specific topics of the course contents and will be posted in due course in the different topics of the moodle.page in chronological order according to the speed of our work capacity in the seminar.

1. Crisis Management and Powers of Emergency in the Roman Republic and the Early Principate

Ernst Badian, "'Crisis Theories' and the Beginning of the Principate", in: Johannes Heinrichs, Karl-Heinz Schwarte, Gerhard Wirth (eds.), *Romanitas - Christianitas: Untersuchungen zur Geschichte und Literature der römischen Kaiserzeit*. Johannes Straub zum 70. Geburtstag am 18. Oktober 1982 gewidmet, Berlin Boston: de Gruyter, 2011, pp. 18- 41.

Richard A. Bauman, "The Lex Valeria de provocatione of 300 B.C.", in: *Historia. Zeitschrift für Alte Geschichte* 22.1 (1973), pp. 34-47.

Robert T. Bonner, "Emergency Government in Rome and Athens", in: *The Classical Journal* 18.3 (Dec 1922), pp. 144-152.

Paul J. Burton, "The Summoning of the Magna Mater to Rome (205 B.C.)", in: *Historia. Zeitschrift für Alte Geschichte* 45.1 (1996), pp. 36-63.

Walter Eder, "Republicans and Sinners. The Decline of the Roman Republic and the End of a Provisional Arrangement", in: R. W. Wallace, E. M. Harris (eds.), *Transitions to Empire. Essays in Greco- Roman History 360-146 B.C., in honor of E. Badian*, Norman London: University of Oklahoma Press, 1996, pp. 439-461.

Walter Eder, "Augustus and the Power of Tradition: The Augustan Principate as a Binding Link between Republic and Empire", in: Kurt A. Raaflaub, Mark Toher (ed.), *Between Republic and Empire. Interpretations of Augustus and His Principate*, Berkeley Los Angeles Oxford: University of California Press 1990, pp. 71-122.

Kurt von Fritz, "Emergency Powers in the Last Centuries of the Roman Republic", in: idem, *Schriften zur griechischen und römischen Verfassungsgeschichte und Verfassungstheorie*, Berlin New York: de Gruyter, 1976, pp. 387-406.

Kurt von Fritz, "The Reorganisation of the Roman Government in 366 B.C. and the so-called Licinio-Sextian Laws", in: idem, *Schriften zur griechischen und römischen Verfassungsgeschichte und Verfassungstheorie*, Berlin New York: de Gruyter, 1976, pp. 329-373.

Gregory K. Golden, *Crisis Management during the Roman Republic. The Role of Political Institutions in Emergencies*, Cambridge: Cambridge University Press, 2013.

Oren Gross, "Violating Divine Law: Emergency Measures in Jewish Law", in: Clement Fatovic, Benjamin A. Kleinermann, *Extra-Legal Power and Legitimacy*, Oxford: Oxford University Press, 2013, pp. 52-74.

Erich S. Gruen, "The Advent of the Magna Mater", in: idem, *Studies in Greek Culture and Roman Policy*, Leiden: Brill, 1990, pp. 5-33.

Erich S. Gruen, "The Bacchanalian Affair", in: idem, *Studies in Greek Culture and Roman Policy*, Leiden: Brill, 1990, pp. 34-78.

Marianne Elizabeth Hartfield, *The Roman Dictatorship: Its Character and Development*, Ph.D. Diss. Berkeley, Berkeley ProQuest Dissertations Publishing, 1982. 8312839.

Nomi Claire Lazar, "Prerogative Power in Rome", in: Clement Fatovic, Benjamin A. Kleinermann, *Extra-Legal Power and Legitimacy*, Oxford: Oxford University Press, 2013, pp. 27-51.

Christian Meier, "C. Caesar Divi filius and the Formation of the Alternative in Rome",

in: Kurt A. Raaflaub and Mark Toher (eds), *Between Republic and Empire. Interpretations of Augustus and His Principate*, Berkeley Los Angeles Oxford: University of California Press 1990, pp. 54-70.

Thomas N. Mitchell, *Cicero and the Senatus "consultum ultimum"*, in: *Historia. Zeitschrift für Alte Geschichte* 20.1 (1971), pp. 47-61.

Francisco Pina Polo, "SPQR. Institutions and Popular Participation in the Roman Republic", in: Paul J. Du Plessis, Clifford Ando, Kaius Tuori (eds.), *The Oxford Handbook of Roman Law and Society*, Oxford: Oxford University Press, 2016, pp. 85-97.

Francisco Pina Polo, "Appointment of a dictator", in: idem, *The Consul at Rome. The Civil Functions of the Consuls in the Roman Republic*, Cambridge: Cambridge University Press, 2011, pp. 188-191.

Saskia T. Roselaar, "Roman State Prisoners in Latin and Italian Cities", in: *The Classical Quarterly. New Series* 62.1 (2012), pp. 89-200.

Benjamin Straumann, "Constitutional Thought in the Late Roman Republic", in: *History of Political Thought* 32.2 (2011), pp. 280-292.

Marc de Wilde, "The Dictator's Trust: Regulating and Constraining Emergency Powers in the Roman Republic", in: *History of Political Thought* 33.4 (2012), pp. 555-577.

Marc de Wilde, "The Dictatorship and the Fall of the Roman Republic", in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Romanistische Abteilung* 130.1 (231), pp. 1-39.

2. State of Emergency and Human Rights/Civil Liberties in Present Times

Evan J. Criddle, "Protecting Human Rights During Emergencies. Delegation, Derogation, and Defence", in: idem (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016, pp. 32-55.

Oren Gross, "The Normless and Exceptionless Exception: Carl Schmitt's Theory of Emergency Powers and the Norm-Exception Dichotomy", in: *Cardozo Law Review*, 21.5-6 (2000), pp. 1825-1868.

Richard B. Lilich, "The Paris Minimum Standards of Human Rights Norms in a State of Emergency", in: *The American Journal of International Law* 79.4 (1985), pp. 1072-1081.

John P. McCormick, "The Dilemmas of Dictatorship: Carl Schmitt and Constitutional Emergency Powers", in: *Canadian Journal of Law and Jurisprudence* 10.1 (1997), pp. 163-187.

William E. Scheuerman, "Human Rights Lawyers v. Carl Schmitt", in: Evan J. Criddle (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016, pp. 175-201.

Additional Reading Material:

The titles in the following list are considered additional reading beyond the specific publications of "required reading". The list includes: (a) general introductions into

Rome's history and political culture recommended for reading to get a more comprehensive understanding of the contexts and background information (b) general items in the context of the contemporary debate on the matter of a state of emergency and human rights/civil liberties in present. In case that certain sections/chapters/articles of the mentioned publications/compendia will turn into obligatory reading they will be posted on the moodle.page.

1. General introductions into Roman history and political culture

Mary Beard, Michael Crawford, *Rome in the late Republic. Problems and Interpretations*, Ithaca: Cornell University Press, 1985.

Mary Beard, *SPQR. A History of Ancient Rome*, London: Profile Books, 2015.

Klaus Bringmann, *A History of the Roman Republic*, Cambridge: Polity Press, 2007 (dt. *Geschichte der römischen Republik: Von den Anfängen bis Augustus*, Beck: München, 2002.)

Paul J. Du Plessis, Clifford Ando, Kaius Tuori (eds.), *The Oxford Handbook of Roman Law and Society*, Oxford: Oxford University Press, 2016.

Erich S. Gruen, "The Exercise of Power in the Roman Republic", in: Anthony Molho, Kurt Raaflaub, Julia Emlen (eds.), *City-States in Classical Antiquity and Medieval Italy*, Ann Arbor: University of Michigan Press, 1991, pp. 251-167.

Peter Jones, Keith Sidwell, *The World of Rome. An Introduction to Roman Culture*, Cambridge: Cambridge UP, 1997.

Andrew Lintott, *The Constitution of the Roman Republic*, Oxford: Clarendon Press, 1999.

Thomas N. Mitchell, *Cicero: The Senior Statesman*, New Haven, CT: Yale University Press, 1991.

Robert Morstein-Marx, Nathan Rosenstein, "The Transformation of the Republic", in: Nathan Rosenstein, Robert Morstein-Marx (eds.), *A Companion to the Roman Republic*, Hoboken, NJ: Wiley-Blackwell 2007 (paperback 2010), pp. 625-637.

John A. North, "The Constitution of the Roman Republic", in: Nathan Rosenstein, Robert Morstein-Marx (eds.), *A Companion to the Roman Republic*, Malden, MA: Blackwell Publishers, 2006, pp.256-277.

Francisco Pina Polo, *The Consul at Rome. The Civil Functions of the Consuls in the Roman Republic*, Cambridge: Cambridge University Press.

Andrew Wallace-Hadrill, "Mutatio morum: the idea of a cultural revolution", in: Thomas Habinek, Alessandro Schiesaro (eds.), *The Roman Cultural Revolution*, Cambridge: Cambridge University Press, 1997, 3-22.

2. State of Emergency and Human Rights/Civil Liberties in Present

Bruce A. Ackerman, *Before the Next Attack: Preserving Civil Liberties in an Age of Terrorism*, New Haven, Conn., London: Yale University Press, 2007.

Subrata Roy Chowdry *The Rule of Law in a State of Emergency: The Paris Minimum Standards of Human Rights Norm in a State of Emergency*, New York: St. Martin's Press, 1989.

Evan J. Criddle (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016.

M. Katherine B. Darmer, Robert M. Baird, Stuart E. Rosenbaum (eds), *Civil Liberties vs. National Security: in a post 9/11 World*, Amherst, NY: Prometheus Books, 2004.

Daniel O'Donnell, *States of Emergency: Their Impact on Human Rights: A Study*, Geneva: International Commission of Jurists, 1983.

Michael Freeman, *Freedom or Security: The Consequences for Democracies using Emergency Powers*, Westport, Conn: Praeger, 2003.

Gerald L. Neuman, "Constrained Derogation in Positive Human Rights Regimes", in: Evan J. Criddle (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016. pp. 15-31.

James W. Nickel, "Two Models of Normative Frameworks for Human Rights During Emergencies", in: Evan J. Criddle (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016, pp. 56-80.

Thomas Poole, "The Law of Emergency and Reason of State", in: Evan J. Criddle (ed.), *Human Rights in Emergencies*, New York: Cambridge University Press, 2016. pp. 148-174.

Grading Scheme:

Essay / Project / Final Assignment / Home Exam / Referat 90 %

Active Participation / Team Assignment 5 %

Attendance / Participation in Field Excursion 5 %

Additional information:

In this seminar classical literature and sources are studied in English or Hebrew translations. Knowledge of Greek and Latin is not required.