

Thesis for Research Master Ancient History

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Anchor-Shaping and *Romanitas*

The Role of Law and Education in Sixth-Century Communication about Roman Tradition
in the Ostrogothic Kingdom

Contents

1.	Introduction	
	a.	Questioning tradition in the <i>Variae</i> 3
	b.	Anchoring innovation 4
	c.	Theoderic, Cassiodorus and Ennodius 7
2.	Tradition and education	
	a.	Cassiodorus' <i>Variae</i> 11
	b.	Ennodius' <i>Paraenesis didascalica</i> 17
	c.	Cassiodorus' <i>Institutiones</i> 22
3.	Tradition and the law	
	a.	Cassiodorus' <i>Variae</i> 30
	b.	Ennodius' <i>Panegyricus</i> 36
	c.	<i>Edictum Theoderici</i> 43
4.	Conclusion	50
	Bibliography	54

1. Introduction

1a. Questioning tradition in the *Variae*

Virtually all scholars writing about the reign of Theoderic (AD 493-526) note the friction between old and new, between conservation and innovation, of this Ostrogothic king who presented himself as both Roman and Gothic, ruling over what once was the beating heart of the Roman Empire.¹ Whether or not Theoderic and his subjects experienced their age as a continuation of the Roman tradition or were merely hoping for their culture to remain the same, is a question to which the sources do not provide an answer – although probably both options come close to the truth.² Prior to this we might ask ourselves how they created this sense of continuity, in other words: how they anchored their innovations in tradition. Instead of wondering *if* there was “anchoring innovation” around the court at Ravenna, this study asks the question of *how* this ideological process took shape. It is an exploration of the tools or “anchors” used by sixth-century intellectuals to portray their king as a traditionalist.

Modern scholars distinguish two important traditional factors in sixth-century Italian culture: education on the one hand and Roman law on the other.³ The most influential shaper of these anchors for our image of Theoderic is his administrative servant Flavius Magnus Aurelius Cassiodorus Senator (c. AD 485-585), who created in his *Variae* “a coherent traditionalist personality for Amal governance”.⁴ The *Variae* is a collection of letters written in the name of the Ostrogothic kings and directed to their subjects, the Senate and other rulers. The collection contains, instead of personal letters, a range of official governmental communication, two prefaces to the audience, a twelfth philosophical book on the nature of the soul (*De anima*) and an “encyclopaedic range of digressive material”.⁵ Historians agree that the *Variae* are an important and unique historical source. Their consensus, however, raises a different and crucial question: how representative are Cassiodorus’ letters for the intellectual culture around the court of Theoderic?

A recurrent theme in the *Variae* is the concept of *Romanitas*. In order to underline the traditional Roman character of Amal government, Cassiodorus makes use of a set of ideologically coloured key words. He mentions “*antiquitas*” several times, usually when comparing the deeds or works of his contemporaries with their predecessors,⁶ and stresses the importance of “*iuridici mores*” for the non-Romans and the Roman supremacy in education and rhetoric.⁷ The theme of education unites the tension between *antiquitas*, barbarians and Romans with the relationship between Church, State and “the priceless knowledge of literature”.⁸ Lastly, the term *civilitas* plays an important role, expressing “[t]he notion that tradition bound a society in peaceful harmony (...)” – a society that was represented especially by “(...) respect for legal and administrative traditions.”⁹

¹ Moorhead 1992, 253; Amory 1997, 43; Bjornlie 2013, 329; Arnold 2014, 8 and 42.

² Arnold 2014, 27; Lozovsky 2016, 316.

³ Moorhead 1992, 253 and 257-8; Amory 1997, 3; Lafferty 2013, 18 and 54; Bjornlie 2013, 219.

⁴ Bjornlie 2013, 216. Cf. Van den Besselaar 1945, 160 and Lozovsky 2016, 324.

⁵ Bjornlie 2013, 4.

⁶ *Variae* I.45.4; IV.51.2; IX.24.8; XI.1.9.

⁷ *Variae* III.17; II.1; III.23; III.46; IX.21.

⁸ *Variae* XI.1.7; V.4.1; VI.5.3; X.3.4-5.

⁹ Bjornlie 2013, 252.

Bjornlie argues that the traditionalism in the *Variarum* served a very specific polemical purpose: it was supposed to contrast the innovative policy of Justinian in Constantinople.¹⁰ Other scholars have come with different explanations of Cassiodorus' political purposes: they read the *Variarum* either as a nonpolemical work of reconciliation between Ostrogoths and Romans,¹¹ a provocative compilation written in a polemical context,¹² a legitimization of Italian civil servants,¹³ or an apology of the Gothic regime.¹⁴ We may, with Arnold, "(...) conclude (...) that the work served many purposes."¹⁵ The source itself does not give a clear insight in the mind of its creator, but rather shows how the Ostrogothic elite coped with Roman tradition. In his thorough and provocative analysis of the *Variarum*, Bjornlie shows perfectly how Cassiodorus' "innovative traditionalism" provides "a model for how authority mediated and safeguarded the cultural heritage of *antiquitas* and *mos maiorum*."¹⁶ He argues, however, that the intellectual culture in Ravenna was not necessarily as focused on tradition as were the letters of this Calabrian quaestor:

"(...) the discourse concerning the suitability of antiquity as a model was far more complicated in Ravenna than the rhetoric of the *Variarum* suggests. If the concept of *novitas* lingered in Ravenna as a positive cultural force, particularly in relation to the history of Ravenna as a new capital, then this may provide yet another reason to locate the rhetoric of the *Variarum* more securely in an eastern polemic."

This study takes Bjornlie's statement as an invitation for more research on the subject of traditionalism (or, as I will explain below, anchoring innovation) and its functioning in the primary sources stemming from the Italian peninsula. What I will study, more specifically, is the working of legal and educational tradition in these sources. It is my hypothesis that traditional language on the subject of education and Roman law can tell us more about the longing for continuity of the Italian elite and their positioning in a changing society.¹⁷ This comparison uncovers the different flavours of *antiquitas* in sixth-century Ravenna, clarifying the "discourse concerning the suitability of antiquity" in Ravenna and putting Cassiodorus' so-called "innovative traditionalism" in its historical and literary context.¹⁸

1b. Anchoring innovation

Tradition and innovation are the two key words for the methodological framework of my research. The acceptance of change, according to some, depends on the existence of a so-called "shared field of

¹⁰ Bjornlie 2013, 331-2.

¹¹ O'Donnell 1979.

¹² Mazza 1986.

¹³ Lafferty 2013, 12.

¹⁴ Arnold 2014, 47.

¹⁵ Arnold 2014, 47 n. 36.

¹⁶ Bjornlie 2013, 329 and 244.

¹⁷ Lozovsky 2016, 316. Thus, I will also challenge the decline-and-fall perspective on law and education in "barbaric" times. Cf. Van den Besselaar 1945, 133: "*Tezamen met het "recht", werde de cultus van de schoone letteren het symbool van den Romeinschen geest van beschaving in tegenstelling tot de ongeletterdheid der barbaren.*"

¹⁸ However, it should be noted that the literary sources used in this study focus more on Theoderic than on his capital city. Deliyannis 2010, 116: "This complete absence of praise for a capital city in the context of a lively literary culture is surprising (...). Either Theoderic's attempts to create an imperial capital completely failed to convince the Roman aristocracy; or Theoderic's audience was really the Goths and nonaristocratic Italians, who seem to have had no role in Rome, little incentive to take up seats in the Senate to which they were entitled, and whose focus was on Ravenna."

experience”, which can be created by the process of “anchoring innovation”, a concept “used to describe a broader mental process that gives people cognitive footholds to adapt to new contexts”.¹⁹ The concept of anchoring innovation has been placed on the classical research agenda by Sluiter, who explains why, “[b]y looking at the “human factor” in innovation” it will “contribute to the dialogue between scholarly disciplines, and between academia and society.”²⁰ In my opinion, it is imperative that we study “newness” and “tradition” in their original context and use these labels with extreme caution, since we cannot know what was truly experienced as “new” in a certain period. When tracing diachronic developments, the historian should be aware of the fact that historical sources are usually not reflecting on continuity or tradition in the same way as we do. Just like ancient etymology, every form of ancient communication “is all about synchrony (...) the explanations it comes up with are not intended to give us insight into the past.”²¹ Moreover, the meaning of “newness” and “tradition” can differ greatly between different groups in society. Therefore, the historian should best demarcate her subject chronologically: “anchoring innovation” should be about the historical perception and presentation of tradition in a synchronic context. The *Variae* of Cassiodorus offer a perfect case study for this perspective, since they re-create Roman tradition and connect it to the person of the Gothic ruler. As mentioned earlier, I will focus on the themes of law and education in this work and compare the *Variae* with other contemporary works that used the same authoritative shapers of tradition to create their own stories about society.

For both parts of my research, Cassiodorus’ *Variae* (2a and 3a) will be the starting point. The first part, on tradition and education, compares the *Variae* with Ennodius’ *Paraenesis didascalica* and Cassiodorus’ *Institutiones*.²² In the *Paraenesis didascalica* of Ennodius (2b), grammar and rhetoric are praised as “the subjects that formed the necessary foundation of liberal studies and fostered Roman morals and Christian virtues”.²³ It is intimately connected to the broader Christian debate on the value of pagan literature, but I will read it from the more abstract perspective of anchoring innovation: what does the *Paraenesis didascalica* say about the personal attitude of their author towards Roman tradition? I will apply this same question to Cassiodorus’ *Institutiones* (2c), which was written on behalf of the monks in Vivarium so that they could learn “where both the salvation of the soul and the secular erudition come from.”²⁴ The *Institutiones* are divided into two books, one about the *scripturae divinae* and the other about the *saeculares litterae*. This second book, as well as the introductions of both books, gives more information about Cassiodorus’ personal views on the status of traditional education. The *Institutiones* work “on placing classical learning within the framework of Christianity.”²⁵ Both sources also give some hints about the role of law in the discourse on Roman tradition. For example, Ennodius uses legal language in the *Paraenesis didascalica* and names *iuris peritia* as one of the daughters of rhetorica.²⁶ Thus, the traditionalism of these educational sources serves as a cultural framework for the juridical *Romanitas* around Theoderic, which will form the second part of my thesis.

¹⁹ Hekster 2017, 17 and 29.

²⁰ Sluiter 2017, 15.

²¹ Sluiter 2015, 3.

²² For an introduction to the works of Ennodius see Kennell 2000, 44-84 and Schröder 2007, 20-63.

²³ Lozovsky 2016, 318.

²⁴ Cassiodorus, *Institutiones* I.23-25 (ed. Mynors 1937): (...) *unde et salus animae et saecularis eruditio provenire* (...). My translation.

²⁵ Lozovsky 2016, 339.

²⁶ Ennodius, *Paraenesis didascalica* 17.10-11.

The legal part of my research will start with the *Variae* as well, but then move on to two other sources about the role of Roman law in the rhetorical self-fashioning of Theoderic and his elite: Ennodius' *Panegyricus dictus clementissimo regi Theoderico* (3b) and the *Edictum Theoderici* (3c). Neither of these sources contains direct statements about the legal character of tradition; nevertheless, both allude to this theme in a way that is not only revealing about the status of Roman law at the Ostrogothic court in Ravenna, but also has a close connection to the rhetorics of Cassiodorus' *Variae*, which I will explain here briefly. According to Arnold, Ennodius' "extremely traditional" Panegyric shows his "very traditional sentiments", "believing that Italy, and more specifically Rome, was the heartland of Roman civilization."²⁷ In the Panegyric, the term *civilitas* occurs multiple times. Each instance gives a specific juridical flavour to the term, which Rota explains in his commentary as "the virtue which characterizes Theoderic as invested with power; this [power] (...) will later be characteristic for his reign and can be interpreted as "moderation, clemency", which bases itself on the "respect for the laws" and guarantees it."²⁸ *Civilitas*, with its juridical implications, is one of the main building blocks of the Ostrogothic-Roman traditionalism in the *Variae* of Cassiodorus. An in-depth comparison of this term in both sources will show how Cassiodorus and Ennodius use the traditional anchor of Roman law in a surprisingly similar way.

Lastly, I will study the practical application of Roman tradition in the *Edictum Theoderici* (3c).²⁹ The legal provisions of this compilation, which were mostly gathered from existing Roman law, show continuity but also structural weaknesses in the Ostrogothic kingdom. According to Lafferty, they were "practical solutions (...) during a time of profound (...) change".³⁰ As a whole, this document is as a testimony to the importance of Roman law in the traditional self-positioning of the Ostrogothic elite and their king. For my purposes, the prologue and epilogue of the Edict are most revealing, as they clearly state the intention of its compilers.³¹ At first sight, these passages give the impression that the ideology of the Edict is dominated by the opposition Roman-barbarian. Although the Edict explicitly includes Romans *and* barbarians, the sheer mentioning of these two distinct social groups implicates an ideological, and to some extent practical, division. I will relate the Edict's vocabulary to the works of Cassiodorus and Ennodius, with a special attention to its conception of *Romanitas* and nobility. I will study the Edict both on the level of the document in its entirety, analyzing especially the prologue and epilogue, and on the level of the individual statutes. Thus, this intriguing document will reveal the pluriformity of "anchoring innovation" around the court of Theoderic from yet another perspective.

To reiterate: the story of Theoderic's reign is constantly recreated by our interpretation of the primary sources, which (according to modern scholars) seem to indicate very traditional and conservative standpoints regarding Roman law and education. However, how exactly this traditionalism functioned in the different Italian sources has not yet been discussed in a comparative study. Bjornlie's work serves as the perfect stepping stone to research of this nature, as he has analysed the traditionalism of the *Variae* in a creative and admirable, albeit not uncontested, way. In order to understand the strong ideological message of this sixth-century source we need to take a closer look

²⁷ Arnold 2014, 13, 14 and 33.

²⁸ Rota 2002, 278: "(...) *la virtù che caratterizza Teoderico investito del potere; essa (...) sarà poi distintivo del suo regno e può essere intesa come "moderazione, clemenza", che si fonda sul "rispetto delle leggi" e lo garantisce.*"

²⁹ Lafferty 2013, 52.

³⁰ Lafferty 2013, 20, 52 and 100.

³¹ Lafferty 2013, 46-7.

at the traditionalist ideology of other contemporary voices. This study contributes to the debate by looking at the two most influential pillars of Roman tradition: education on the one hand and law on the other. This approach sheds a new light on the conservative (or innovative) atmosphere around the “town of Goths and bureaucrats” and demonstrates how people around Theoderic “couched his activity as a veneration of *antiquitas*”.³²

1c. Theoderic, Cassiodorus and Ennodius

The sources of this study were all produced by authors who lived under the reign of Theoderic I. Each in his own way presents this reign as self-evident and authoritative. Nothing could be less true for the Ostrogothic victor of Italy, who chose to break the highest laws of hospitality and kill his opponent at the dinner table in order to secure his monarchy. Theoderic, who claimed to be of Amal descent, spent his youth as a hostage at the court of Constantinople.³³ He became the leader of the Ostrogoths, a military band of mixed ethnic descent living in the Balkan, in 473.³⁴ Meanwhile, Odoacer – the infamous East-Germanic barbarian who dethroned Western Roman Emperor Romulus Augustulus in 476 – had won the trust of the Roman Senate and ruled over Italy as a Roman emperor.³⁵ The Emperor of the Eastern Roman Empire, Zeno, initially supported Odoacer, but eventually desired to get rid of this dangerous potentate. In 488, Zeno gave Theoderic and his Ostrogoths permission to march against the over-powerful Odoacer.³⁶ Theoderic was to restore Eastern Roman rule in Italy, governing over the peninsula as a deputy monarch for Zeno. From 489 to 493, the opponents battled fiercely over the dominion of Italy, each supported by their part of the Italian elite. In 490, the Roman Senate, perhaps presenting the eventual outcome of the war, placed itself on the side of Theoderic. Three years later the bishop of Ravenna successfully lobbied for a truce. Theoderic invited his newly-made ally for a dinner party, where he ended the life of Odoacer by slicing his throat with his own hands. Thus, Theoderic the “warlord” became king of the Ostrogothic kingdom in Italy (in 500, he was officially recognized by the Senate and the pope in Rome) and reigned for a peaceful thirty years.³⁷ During this reign, Theoderic never changed his title to Emperor, but the unspecified *rex* did everything he could to become more than king of the Goths. His policy breathed *Romanitas* and his military, architectural and legal strategies were all aimed at “elevat[ing] his rank ever closer to that of an emperor.”³⁸

For us to understand Theoderic’s written image, we must first consider the background and identity of the two main characters who shaped his story, both influential power players in Italian secular and religious politics, whom Arnold justly characterized by their provincial roots: Cassiodorus “the Calabrian” and Ennodius “the Ligurian”.³⁹ Flavius Magnus Aurelius Cassiodorus Senator, “Senator” for intimi, was born in the province of Lucania and Bruttium between 484 and 490.⁴⁰ Originally, his family came from Syria, but the four generations of Cassiodori whom we know from the genealogical *Ordo generis Cassiodorum* all lived and prospered in Calabria, modern Squillace. Although relatively new to the aristocratic scene, the Cassiodori adapted well to the turbulent politics of the fifth century

³² First citation: Moorhead 1992, 142; second citation: Costambeys 2016, 250.

³³ Deliyannis 2010, 109: “This was standard diplomatic procedure.”

³⁴ For the question of Ostrogothic identity, cf. Heather 2007 and Wiemer 2018, 61-107.

³⁵ Wijnendaele 2013, 218-9.

³⁶ Wijnendaele 2013, 221.

³⁷ Deliyannis 2010, 110; Wijnendael 2013, 223-5; Wiemer 2018, 15-21.

³⁸ Giardina 2010, 117. For Theoderic’s building policy in Rome and Ravenna cf. Deichmann 1969 and Augenti 2010.

³⁹ Arnold 2014. Cf. Giardina 2010, 101: “The most significant aspect of the late antique history of Italy is its provincialization (...).”

⁴⁰ O’Donnell 1979, 23.

and always chose the side of those in power (probably stimulated by the fact that the highest Italian aristocracy did not have a very supportive attitude towards Odoacer and Theoderic).⁴¹ Most of all our Cassiodorus: he climbed every step of the *cursus honorum*, serving under the Ostrogothic kings between 504 and 537/8 as a consiliarius, quaestor, consul, corrector, master of offices and praetorian prefect. Cassiodorus had had a rhetorical training, but was also interested in religious matters.⁴² When the political landscape changed drastically due to Justinian's reconquest of Italy, Cassiodorus – after a short residence in Constantinople – changed his toga for a habit and founded the monastery “Vivarium” in his place of birth in southern Italy. There he dedicated the second half of his long life to studying, writing and educating his fellow brothers in Christ. However, in the sixth century monastic life was not free from the polemics of contemporary politics. On the contrary: bishops played an important role in political negotiation and secular rulers were constantly engaged in the settling of doctrinal controversies. Countless church councils and imperial edicts kept the theological discussion alive and led to a complete fragmentation of ideologies on the Italian peninsula.⁴³

What, now, was Cassiodorus' perspective? Before we dive into the depths of the *Variae* (which were written in the name of the Ostrogothic monarchs and therefore convey only to a limited extent the opinion of their Calabrian servant) and the *Institutiones* (written by Cassiodorus the monastic leader, so expressing a more personal and humble kind of authority), a word of caution is in place. Cassiodorus' life spanned almost a full century. The faithful servant, prolific writer and incredibly successful networker lived through times of war, peace and renewed struggles, never knowing for sure which master would prove to be victorious. He outlived king Theoderic, who died peacefully in 526 (Cassiodorus was by then about 41 years old), queen Amalasantha, who was murdered in her bath around 535 (while Cassiodorus was reaching his golden middle age), Theodahad, who was killed by his successor Witigis a year later, and Witigis who died childless in 542. By the age of 80, Cassiodorus even saw the parting of the victorious Eastern Roman emperor Justinian I (AD 565). It is hard to imagine how his views on life must have changed throughout the years. However, a clear-cut gap of thought between secular Ravenna and religious Vivarium would be too simplistic, as his works exemplify. The thirteenth book of the *Variae* is a philosophical treatise on the soul (*De anima*), and it was in Ravenna that Cassiodorus took up the idea to write a commentary on the Psalms following the rules of rhetoric.⁴⁴ This indicates that his beliefs had a certain continuity: in all his extant works, the theme of educated rhetorical finesse is omnipresent, connected to respectively secular and religious authority. Therefore, I would suggest that there did not take place any fundamental change of thought in Cassiodorus' mind during his living century, although he was continually adapting his practical attitude to the politics of the day. Whether he was living in Ravenna, Constantinople or the monastic solitude of his hometown, the author we are studying was first and foremost Cassiodorus the man of Traditional Culture.

Magnus Felix Ennodius was a crucial decade older than his Calabrian contemporary. Different from Cassiodorus, whose conscious life started together with the reign of Theoderic (493-526), Ennodius was sixteen years old when Theoderic and his troops arrived in Italy and could therefore follow the disruptive warfare around him with his own eyes.⁴⁵ His birth date is estimated around 473/4 and he died in 521, well before the end of Theoderic's golden age. From the viewpoint of political circumstances, then, Ennodius and Cassiodorus were each other's opposites: where the first grew up in turbulent years but concluded his life in a peaceful kingdom, the other rose tranquilly to the highest

⁴¹ Van den Besselaar 1945, 8-11; O'Donnell 1979, 19.

⁴² Arnold 2014, 38.

⁴³ Wiemer 2018, 621: “Um 580 war Italien nicht nur politisch, sondern auch kirchlich zersplittert.”

⁴⁴ Wiemer 2018, 621-2.

⁴⁵ Kennell 2000, 6.

offices of Ostrogothic bureaucracy before Eastern Roman victories compelled him to leave for Constantinople, which might have inspired him to make his ecclesiastical career switch. Whatever this may imply for the attraction of clerical occupations in times of trouble, it certainly shows how life experiences can differ greatly in times of complicated political events. Nevertheless, both Cassiodorus and Ennodius reached the highest circles of aristocratic Italian politics and had to work hard to get there.

According to Rohr, Ennodius represents the higher aristocracy of late-antique Italy.⁴⁶ Orphaned as a child (probably in Arles), he grew up with his aunt in Ticinum and started his clerical career at an early age; a career which included a classical rhetorical education.⁴⁷ The exact details of his rise to religious power are unknown to us, but apparently the young Ennodius showed enough talent to be taken seriously by his mentors. In 494 he accompanied the sainted bishop Epiphanius on an embassy to Lyon.⁴⁸ Nearly all Ennodius' extant works date from his diaconate for the Church of Milan (AD 503-513). His perspective, then, is thoroughly Catholic (under an Arian king) and Ligurian,⁴⁹ while at the same time just as traditionally Roman and diplomatic as Cassiodorus'.⁵⁰ According to Arnold, Ennodius saw a polarizing gap between Romans and barbarians, describing the Roman Empire as a degrading society until Theoderic came and restored it all.⁵¹ This may be true for the Panegyric (see part 3b), but Ennodius' letters show a more subtle variety of arguments and viewpoints. Basing her arguments on Ennodius' letter collection, Gianni sketches his many faces: she sees a professor of rhetorics, a master of morality, an ecclesiastical jurist and theologian, a diplomate, a secretary and an advocate.⁵²

Whether or not Ennodius was a teacher in the traditional sense of the word, with his own students in the *artes liberales* comparable to the earlier sophists in the Eastern Roman Empire,⁵³ is a matter requiring further research. He certainly played an important role in writing letters of recommendation, but presented himself as a spiritual "father" rather than a common professor (see part 2b).⁵⁴ Following the classicification of seventeenth-century editor Jacques Sirmond, Ennodius wrote 28 "*Dictiones*" with a rhetorical character, seven of which were dedicated to everyday life at school.⁵⁵ The inscription on Ennodius' epitaph adds an interesting detail to this:

"Powerful in eloquence, noble (*nobilis*) in the art of teaching (*doctrina*)
he brought innumerable peoples back to Christ."⁵⁶

Clearly, Ennodius was famous for his hybrid personality, combining his rhetorical talents with a Christian form of education. I will return to this in part 2b. For now, we will shift our focus from the main characters of this study to the sources.

⁴⁶ Rohr 1996, 15: "*Als Vertreter der spätantik-italischen Hocharistokratie lebt er unter ostgotischer Herrschaft.*"

⁴⁷ Arnold 2014, 11.

⁴⁸ Kennell 2000, 11-13.

⁴⁹ Arnold 2014, 12.

⁵⁰ Arnold 2014, 14-15.

⁵¹ Arnold 2014, 25-28.

⁵² Gianni 2006, XXIII.

⁵³ Cf. Cribiore 2007.

⁵⁴ Ennodius, *Letters* I.10.4 (ed. Gianni 2006): *Ore te parentis stimulo (...)*. "I stimulate you with the voice of a father (...)." Ennodius uses this same language in a letter to a friend who already was "*senator et doctus*" (*Letters* I.24.3): *Ego te ore parentis stimulo, quia tibi et proposito meo uocem debeo castigantis*. "I stimulate you with the voice of a father, since I owe you as well as my profession the voice of a corrector." My translation.

⁵⁵ Rohr 1996, 9.

⁵⁶ *pollens aeloquio dvctrinae nobilis arte / restitvit Cristo innvmeros popvlos*. See lines 13-14 in figure 1. Cf. Gianni 2006, CLXXXII-CLXXXV.

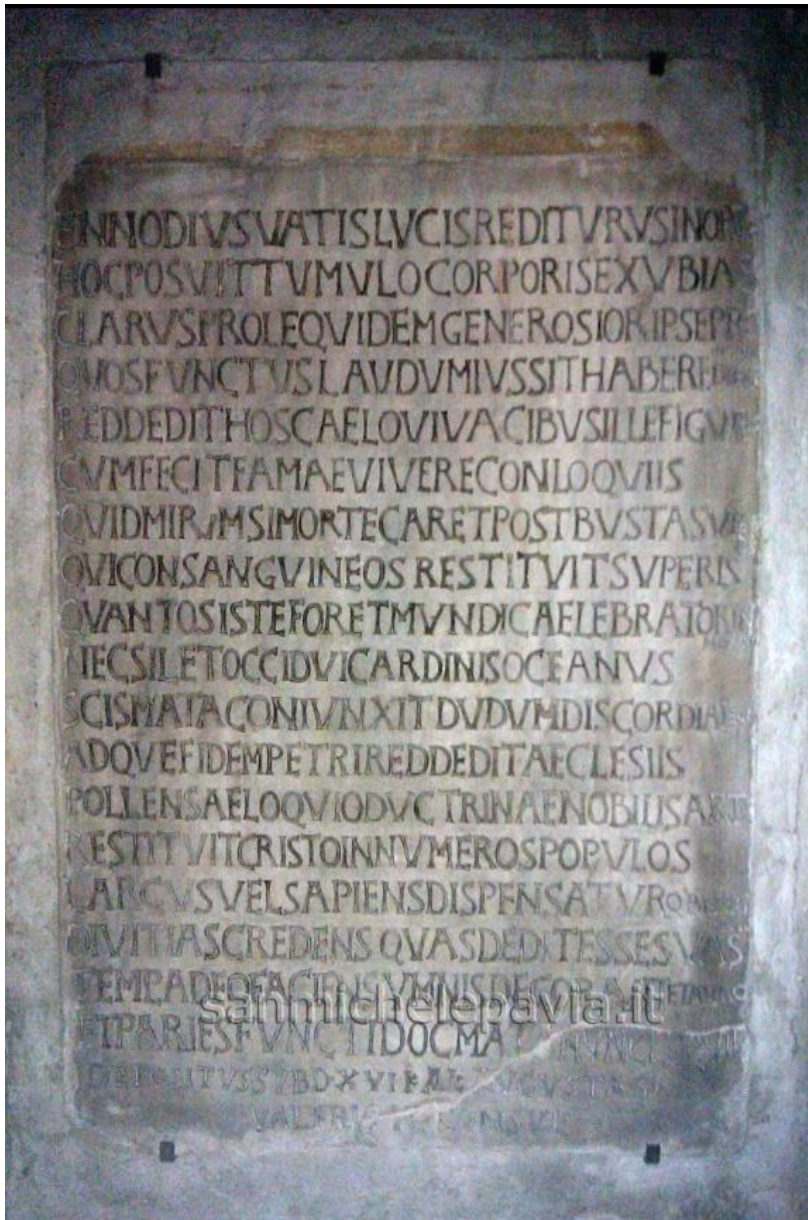


Figure 1. Epitaph of Ennodius, dating from around his death on July 17, 521 (sanmichelepavia.it)

2. Tradition and education

2a. Cassiodorus' *Variae*

The *Variae*, its name foreshadowing the variety of its content, is a personal selection of letters written under and in name of Ostrogothic royal authority by Cassiodorus, who also edited and published the collection. The original dates of the letters are easy to track, but the moment of publication can only be the result of an educated guess. Most scholars argue for a dating just before Justinian's reconquest of Italy, since the *Variae* contain such a positive message about Ostrogothic rule. Others regard the collection as an apologetic work written by an exiled Cassiodorus who wanted to convince the elite in Constantinople of the virtues and aristocratic Roman quality of the Ostrogothic reign in Italy. In both cases, the *Variae* would have to convince their audience. Not all Italian aristocrats, especially not the "true" noblemen, were as happy with their non-Roman rulers as Cassiodorus. In Constantinople, the common opinion on the Ostrogoths must have been even worse. The rhetorical elegance of these official letters, with their literary digressions and excessive erudition, had to add a golden rim to a time which memory was rapidly deforming into a dark barbaric age.

In this section I will analyze eight letters from the Theodericean books of the *Variae* which contain allusions to tradition and education. My analysis starts with two texts that are most clearly testimonies of Cassiodorus' self-representation, since they were written under his own name:⁵⁷ the first *Praefatio* (there is another one introducing the last two books of the *Variae*) at the beginning of book one, and letter 6.5, the *formula quaesturae*. Cassiodorus, for whom his quaestorship from AD 507 to (at least) 511 under Theoderic was the first big step in his political career,⁵⁸ uses his introduction to tie his work to Roman tradition and to create an anchor for posterity. Letter 6.5 is a model letter for the appointment of new quaestors and shows how the quaestor played a key role in the Ostrogothic bureaucracy by providing his king with the two essential elements of Roman tradition: literary education and knowledge of Roman law. Cassiodorus' individual letters written in the name of Theoderic pick up these themes as well, albeit in a more indirect and sometimes confusingly varied way. I have chosen one letter containing another eulogy on the quaestor (5.4), two letters that show the differences in tradition and education between Roman noblemen and *homines novi* (3.6 and 3.11) and three letters spelling out the role of the jurists in the *Variae*'s ideology on education and personal virtue (3.33, 5.21 and 5.22). This selection will demonstrate how the *Variae* present Roman tradition – accessible through birth, literary education or juridical knowledge – as the foundation of *dignitates* and *virtutes* on a personal level and of *civilitas* for the Ostrogothic kingdom as a whole.

Cassiodorus introduces his letter collection by explaining how he came to the decision to publish these letters written by someone who was always led by "excessive speed" (*festinatio nimia*)⁵⁹ due to his public profession. He was, he explains, urged to do so by his eloquent friends in the hope "that future generations may appreciate both the difficulties of my labours, undertaken for the public good, and the unmercenary conduct of an upright man".⁶⁰ After describing their plea, Cassiodorus confesses: *victus sum*, "I am conquered".⁶¹ Then he explains the title of his collection, which is

⁵⁷ Giardina 2006, 32.

⁵⁸ Giardina 2006, 22.

⁵⁹ *Var.Praef.4* (trans. Barnish 1992).

⁶⁰ *Var.Praef.1: ut ventura posteritas et laborum meorum molestias, quas pro generalitatis commodo sustinebam, et sinceris conscientiae inemptam dinosceret actionem*. Trans. Barnish 1992, 1.

⁶¹ *Var.Praef.12* (trans. Barnish 1992, 3).

characterized by the variety of rhetorical styles used.⁶² “But, since I am to be read”, Cassiodorus concludes, “this illegitimate defence in advance must cease. For it is unfitting to be thus disputing about myself; I should rather submit to your judgment.”⁶³

In this *Praefatio*, the theme of education is omnipresent. The main reason for Cassiodorus to publish his letters lies in the fact that he is a *doctus*, and that these letters, with their unusually high literary quality, will show what level of education their author possesses. “Speech is our common gift: it is only style that shows up the uneducated.”⁶⁴ Not only will the *Variae* construct the image of an educated Cassiodorus, they will also be a means of education themselves: “(...) your work may inoffensively educate uncultivated men who must be trained for the service of the state in conscious eloquence (...).”⁶⁵ Tradition, on the other hand, is a reason for publication as well, since it demands praise of virtuous men to be shared with the world: “If you hand down their fame to posterity, in accordance with ancestral custom (*consuetudine maiorum*), you have nullified death for those who perished gloriously.”⁶⁶

After admitting that he has been convinced by the arguments of his friends to publish his work, Cassiodorus exposes its content. He explains the presence of books 6 and 7, thus connecting his work both with the past and the future, since he has written these model letters or *formulae* for the benefit of posterity: “In this way, what I said about people in the past also suits those to come (...).”⁶⁷ The variety in the *Variae* of rhetorical styles is a result of tradition: it is dictated by the “fine rule of our ancestors, that you should speak with (...) fitness (...).”⁶⁸ *Antiquitas*, Cassiodorus explains, has defined three modes of speaking: *humile*, *medium* and *summum*. “[A]s I have evidently received these modes from the ancient rules (*regulae ... antiquae*)”, he hopes they may “unlock the merits of the promised composition”.⁶⁹ So antiquity, i.e. tradition, and education are both markers of quality for Cassiodorus’ literary production. By naming first Cassiodorus’ cultivated mind and the educational merits of his work and then the importance and influence of *antiquitas* on his literary production, the author puts the theory right into practice. His digression about rhetorical styles is a strategical one, and the message is clear: being educated means having knowledge of the wisdom of the (Roman) ancestors (*maiori*) and Cassiodorus is an educated man. Thus, the *Variae* are introduced as both a product and a means of traditional education.

Letter 6.5, the *formula* for the appointment to the quaestorship, is according to Giardina “one of the primary keys to the reading of the whole work”,⁷⁰ while it adds an innovative element to the traditional praise of the functions of the quaestor.⁷¹ In this *formula*, the king takes the quaestorship

⁶² Cf. Giardina 2006, 31.

⁶³ *Var.Praef.18: Verum tamen sileant praesumptiones illicitae, qui legendi sumus. Incongruo namque nostras de nobis disputationes ingerimus, qui vestra potius iudicia sustinemus.* Trans. Barnish 1992, 5.

⁶⁴ *Var.Praef.3: Loqui nobis communiter datum est: solus ornatus est, qui discernit indoctos.* Trans. Barnish 1992, 1.

⁶⁵ *Var.Praef.8: (...) quod rudes viros et ad rem publicam conscia facundia praeparandos labor tuus sine aliqua offensione poterit edocere (...).* Trans. Barnish 1992, 2.

⁶⁶ *Var.Praef.9: Quos si celebrandos posteris tradas, abstulisti, consuetudine maiorum, morientibus decenter interitum.* Trans. Barnish 1992, 3.

⁶⁷ *Var.Praef.14: (...) ita quae dixi de praeteritis conveniunt et futuris (...).* Trans. Barnish 1992, 4.

⁶⁸ *Var.Praef.16: (...) maiorum pulchra definitio est (...) apte dicere (...).* Trans. Barnish 1992, 4.

⁶⁹ *Var.Praef.17: Sed utinam, sicut ista regulis accepisse probamur antiquis, ita eadem promissae resignent merita dictionis.* Trans. Barnish 1992, 4.

⁷⁰ Giardina 2014, 128: ‘(...) una delle chiavi di lettura primarie dell’intera opera.’

⁷¹ Giardina 2006, 33.

“whole-heartedly” to himself, since the quaestor is “the voice of his tongue”.⁷² The quaestor is the “store-room of the laws” (*armarium legum*); he must be “more eloquent” (*facundior*) than the orator, “imitate the ancients with intelligence”, “correct the morals of others, and preserve his own with due integrity”.⁷³ These are all traditional elements – again, as interpreted by Giardina – but what follows is a new concept: “[l]egal skill and cautious speech must accompany him, so that no one shall criticise what the prince may happen to decide.”⁷⁴ In Giardina’s eyes, this phrase is crucial to the understanding of Cassiodorus’ political message: the quaestor’s *scientia iuris* and *cautela sermonis*, both “specific elements of the Roman tradition”, make it possible for the Ostrogothic king to master the desired state of *civilitas*.⁷⁵ With this, Cassiodorus would not be trying to equate Romans and Goths, but rather give them a separate (hierarchical) role within the same system: whereas the *templum civilitatis* remained Roman, the Goths had been given the task of *custodia civilitatis*.⁷⁶ Indeed, in letter 6.5 Cassiodorus describes the quaestorship as “the glory of letters, the temple of social order (*templum civilitatis*), the begetter of every honour, the home of self-restraint, and seat of all virtues”.⁷⁷ Thus, both form and content of the *Variae* show how the quaestor is the guardian of Romanness in the Ostrogothic kingdom.

The fourth letter of book five is a presentation letter to the Senate of Honoratus, the new *quaestor sacri palatii*.⁷⁸ The letter starts with a general eulogy on the function of the *quaestor*, followed by a personal panegyric for Honoratus with an excursus on the merits of his deceased brother Decoratus, a famous advocate in Rome and better known to the Senate than his provincial sibling. The introduction of letter 5.4, which in Giardina’s opinion contains a traditional representation of the quaestorship (as opposed to the new concept presented in letter 6.5),⁷⁹ emphasizes the importance of education for the quaestor. However, whether or not “*dignitas litterarum*” should be taken literally here is a debated question. Barnish translates the first sentence of the letter as follows: “It is certain, fathers of the Senate, that your council flourishes with men of wisdom, but the presence amongst you of *literary distinction* is clearly also an outstanding feature” (emphasis added).⁸⁰ Giardina, on the other

⁷² *Var. 6.5.1: Aliis enim pecuniae publicae committimus procurationem, aliis causas concedimus audiendas, aliis patrimonii nostri iura delegamus: quaesturam toto corde recipimus, quam nostrae linguae vocem esse censemus.* Trans. Barnish 1992, 96: “For to others I entrust the procurement of the public revenues, to others the hearing of law-suits, to others the rights of my estates. The Quaestorship I value as the words of my tongue, and take it whole-heartedly to myself.”

⁷³ *Var. 6.5.3: Si quid dubitamus a quaestore requirimus, qui est thesaurus famae publicae, armarium legum, (...). Nam si oratoris est proprium graviter et ornate dicere ut possit animos iudicum commovere, quanto facundior debet esse qui ore principis populos noscitur ammonere, ut recta diligant, perversa contemnant, bonos sine fine laudent, pessimos vehementer accusent? (...) Sit imitator prudentissimus antiquorum, mores et alienos corrigat et suos debita integritate custodiat.* Trans. Barnish 1992, 96: “If I am in any doubt, I ask the Quaestor, who is a treasury of public reputation, a store-room of the laws (...). For, if it is the proper part of the orator to speak with gravity and style that he may move the minds of the judges, how much more eloquent must he be who is known to admonish the people with their prince’s mouth that they should love the right, hate the wrong, praise good men without ceasing, and zealously denounce the evil. (...) He must imitate the ancients with intelligence; he must correct the morals of others, and preserve his own with due integrity.”

⁷⁴ *Var. 6.5.4: Adesse debet scientia iuris, cautela sermonis, ut nemo debeat reprehendere quod principem constiterit censuisse.* Trans. Barnish 1992, 97.

⁷⁵ Giardina 2006, 35 (n. 73).

⁷⁶ Giardina 2006, 38.

⁷⁷ *Var. 6.5.5: (...) gloriam litterarum, civilitatis templum, genetricem omnium dignitatum, continentiae domicilium, virtutum omnium sedem (...).* Trans. Barnish 1992, 97.

⁷⁸ Giardina 2014, 409.

⁷⁹ Giardina 2006, 41 n. 89.

⁸⁰ *Var. 5.4.1: Certum est, patres conscripti, prudentibus viris vestrum florere consilium, sed et hoc probatur egregium quod vobis permiscetur dignitas litterarum.* Trans. Barnish 1992, 84.

hand, contends that *dignitas litterarum* is used in the *Variae* as a synonym to the *quaestura sacri palatii*, explaining this phrase as an introduction to the *adlectio inter consulares* of Honoratus, who carries the function of *quaestor*.⁸¹ He therefore translates: “(...) but this too is a proof of excellence, that *the literary function* inserts itself between you” (emphasis added).⁸² Be as it may, education is clearly essential for the *doctissimi quaestores* serving under Theoderic; more important, even, than possessions or family background: “The office is not to be achieved by riches, nor by birth alone; but only education joined with wisdom can claim it.”⁸³ The quaestor’s education should be a combination of *doctrina* and *prudencia*, of literary and legal knowledge. In the subsequent paragraph, Theoderic adds something “more precious than any treasure” to the quaestor’s legal skill (*legum peritia*): it is the *penes civilitatis*, “the fame of my good order” that “rests in his hands”.⁸⁴

According to 5.4.3, the quaestorship is a *locum (...) virtutibus plenum*, an “office full of virtue”, but just like we will see in letter 3.33, this *dignitas* is fruit of education alone. As most Ostrogothic quaestors, the provincial jurist Honoratus is not a member of the highest levels of Roman aristocracy.⁸⁵ This could be an explanation for the fact that Cassiodorus’ praise shifts from noble blood (letter 3.11, see below) to education (letters 5.4 and 3.33, see below), and maybe also for his recognition (or creation?) of the ancient roots of the *scientia litterarum*. I agree with Giardina that the quaestor is presented here as the key to Roman tradition thanks to his literary and juridical education, but I doubt whether letters 6.5 and 5.4 present the king as specifically Ostrogothic. Yes, Theoderic needs Roman tradition to acquire a higher or more cultivated level of government (letter 6.5), but so do his quaestors (letter 5.4). Why would the king be more Gothic or less Roman than his bureaucratic servants? The next two letters, written to a Roman nobleman and a *homo novus* respectively, will show that social differences in the Ostrogothic kingdom were probably defined by genealogy rather than ethnicity.

In letter 3.6, Theoderic introduces the patrician Inportunus to the Senate. Inportunus is the offspring of an influential aristocratic family, the Decii,⁸⁶ which explains the great emphasis on nobility and natural virtue in this letter. “This noble strain has produced great men through the ages of its existence; mediocrities can never be born to it; all its offspring are distinguished (...).”⁸⁷ This time, tradition takes the form of a splendid family tree, but its virtuous fruits are decorated by education too. “At the same time, he [Inportunus] has adorned these natural goods with the insignia of learning (*bona litterarum*), so that, sharpened on the whetstone of the great arts, he may shine the more in the sanctuary of the intellect.”⁸⁸ Cassiodorus shows here the sophisticated difference between *personae novae* and “those who are born from the actual glory of the Senate”.⁸⁹ For the noble Romans, personal

⁸¹ Giardina 2014, 409.

⁸² Giardina 2014, 141: ‘(...) *ma anche questo è prova di eccellenza, che si inserisca tra voi la carica letterata.*’

⁸³ *Var.5.4.1: (...) dignitas quae nec divitiis nec solis natalibus invenitur, sed tantum eam doctrina cum coniuncta potest impetrare prudentia.* Trans. Barnish 1992, 84.

⁸⁴ *Var.5.4.2: Ab ipso legum peritia postulatur, illuc vota confluunt supplicentem et, quod est omni thesauro pretiosius, penes ipsum civilitatis nostrae fama reponitur.* Trans. Barnish 1992, 84.

⁸⁵ Giardina 2014, 410.

⁸⁶ The family of the Decii, hostile to the house of the Anicii, was one of the nine Roman *gentes* forming part of the Senate. The powerful Decii were loyal to Theoderic and often received a privileged treatment by the sovereign, who even condoned their support of anti-pope Lawrence. Cracco Ruggini 2003, 376-379.

⁸⁷ *Var.3.6.2: (...) saeculis suis producit nobilis vena primarios. Nescit inde aliquid nasci mediocre: tot probati quot geniti (...).* Trans. Barnish 1992, 50.

⁸⁸ *Var.3.6.3: Verum haec naturae bona litterarum decoravit insignibus ut cote magnarum artium detersus mentis penetralibus plus luceret.* Trans. Barnish 1992, 50.

⁸⁹ *Var.3.6.1: qui de ipsa curiae claritate nascuntur (...).* Trans. Barnish 1992, 49.

and literary past overlap: their own genealogy is the subject of traditional education. “From the books of the men of old (*libri veterum*) he has learnt of the ancient Decii, a noble race, still living through their glorious deaths. Certainly, he was lucky in the toil at his studies: it was his fortune to learn the poetry of the past through his ancestors, and to educate his young breast from the first in the glory of his forbears.”⁹⁰ The senatorial class had direct access to the Senate, whereas *homines novi* had to climb the steps of the *cursus honorum* for many years before reaching this desired position.⁹¹ After reading this letter, one gets the impression that education under Theoderic did not create traditional roots for everyone in the same way. This is not surprising: the Ostrogothic king needed the loyalty of the eminent Decii and communicated with them in the most flattering way possible. In letters to other addressees, where the power balance was different, Theoderic (and Cassiodorus in his name) had the opportunity to insert a more prominent role for education.

Letter 3.11, dating from AD 510, presents a good example of an addressee who did have to climb the social ladder to obtain his position. Argolicus is granted the post of *praefectus urbis* for the fourth indiction,⁹² which means that he will remain part of the administration of Rome, “of which it is hard to become only a member”.⁹³ All depends on virtue, since “virtue could receive no higher praise than when Rome is rightly administered.”⁹⁴ Whereas Inportunus was assumed to be a virtuous man, Argolicus is under the judgment of the “noble crowd” (*nobilis turba*). Nevertheless, he is trusted to have the right qualities for this profession because of his education: “That you can grasp these things with your soul and express them in clear actions make credible to us the literary studies (*studia litterarum*), where you have learned everything that is proper and where, doubtlessly under the guidance of the masters, you have formed your soul to the practice of a glorious life. May thus doctrine flee from crime. It is for the uneducated soul to be pulled towards vices: he who is instructed by books does not give rise to reprobations, because what is acquired in tender years is kept in adulthood.”⁹⁵ We may gather from this letter that education is the way to virtue and therefore to the status of a noble Roman. For the nobleman Inportunus, education was merely a decorative addition to his inborn qualities, for Argolicus the *homo novus* it is the only road to a virtuous life and therefore to social mobility. According to this letter, education creates a moral anchor in the life of the individual, with a special emphasis on its influence on lawful conduct (*Fugiat ergo doctrina delictum*), but most importantly connects the ambitious subject to the administrative chain of Roman tradition. The following letters add another ingredient to the desired qualities for a public career: it is the finishing touch of juridical experience that proves the true virtue of Theoderic’s subjects.

Letter 3.33 dates from the same year and is addressed to the same person as letter 3.11. In it, Theoderic demands Argolicus to introduce two new members to the Senate: Armentarius and

⁹⁰ Var. 3.6.3-4: *In libris veterum Decios cognovit antiquos nobilemque progeniem gloriosae mortis beneficio viventem. Felicissimus profecto studiorum labor cui priscorum carmen contigit discere per parentes et de avita laude primordia teneri pectoris erudire.* Trans. Barnish 1992, 50.

⁹¹ Giardina 2014, 204.

⁹² Var. 3.11.1: (...) *per indictionem quartam praefecturae urbanae infulas tibi copiosa liberalitate largimur (...)*

⁹³ Var. 3.11.2: (...) *ubi est arduum vel ipsum obtinere collegium.*

⁹⁴ Var. 3.11.3: *Nusquam maiore laude virtus agitur quam si recte Roma tractetur.*

⁹⁵ Var. 3.11.4-5: *Haec te et animo concipere et rebus evidentibus explicare credibile apud nos faciunt studia litterarum, ubi cognivisti omne quod deceat et ad usum vitae gloriosae animum doctorum nimirum institutione formasti. Fugiat ergo doctrina delictum. Indocilis est animi ad vitia trahi: aedificatus libris locum non relinquit iniuriis, ubi in teneris annis acquiritur quod matura aetate servetur.*

Superbus.⁹⁶ Cassiodorus makes the king motivate his choice, again, with educated arguments: “The Curia is open to the disciplines of the ancients (*disciplini veterum*), and any pupil of the liberal arts (*bonae artes*) cannot be declared an outsider.”⁹⁷ Argolicus is supposed to make sure that the two men exhibit “that which old antiquity (*cana ... antiquitas*) demands from those who wish to enter the Curia”.⁹⁸ Armentarius, apparently, has a juridical profession: “Because what could be more dignified than that the gowned profession (*togata professio*) clothes itself in the senatorial honour (...)?”⁹⁹ According to Giardina, the image of the toga is used throughout the *Variae* as a “distinctive symbol of romanness”; the *mores togati* or *iuridici mores* would derive their Roman meaning from “an idea of romanness ordered by the *iura*”.¹⁰⁰ I will return to the importance of jurists for Late Antique *Romanitas* in section 3a. Here it is important to notice the close connection between jurists, Roman identity, social mobility and education: the praise of the *togata professio* is immediately followed by a digression on the moral and practical effects of the *scientia litterarum*. “Glorious, therefore, is the science of the letters, because it purges that which is first in a man, his customs (*mores*); it supplies the grace of words (*gratia verborum*), which is second: thus, wonderful for either benefit, it decorates both the silent and the speakers.”¹⁰¹ Armentarius and Superbus, the letter concludes, will doubtlessly succeed in passing the admission procedure to the Senate thanks to their rhetorical and juridical background: “For how could he not convince the senators who was able to bend the mind of a judge?”¹⁰²

Letters 5.21 and 5.22 can best be analyzed together, since they were written at the same time and treat the same subject matter. The first is directed to Capuanus, senator of Rome and advocate, informing him that he will be granted some special senatorial privileges, including the task to introduce *homines novi* to the Senate.¹⁰³ In his praise of Capuanus, Cassiodorus uses a peculiar expression: “But we believe that you have understanding of all virtues, you who have deserved to practice in the war of the letters (*militia litterarum*).”¹⁰⁴ According to Giardina, the *militia litterarum* refers to Capuanus’ forensic activity. Although advocacy never became part of Late Antique bureaucracy, and therefore never was a real *militia*, it was regulated by the Ostrogothic government and its members followed a “parabureaucratic” career; becoming an advocate usually led to a bureaucratic function and therefore entrance to the *militia* as well.¹⁰⁵ As we have seen before, the term *litterae* is closely connected to education and its traditional values. This letter shows that for Cassiodorus, education not only involved the *mores maiorum* but also a good knowledge of the prevailing law. Letter 5.22, directed to the Senate and designed as an introduction of Capuanus’ new function to the Curia, again equates the rhetorical skills of this famous Roman advocate to the *litterae*: “Where, in fact, can the eloquent man have a

⁹⁶ Var.3.33.1: *Atque ideo illustris magnificentia tua in clarissimo Armentario atque Superbo eius filio ea faciat exhiberi quae circa referendos curiae cana dictat antiquitas.*

⁹⁷ Var.3.33.1: *Curia namque disciplinis veterum patet, nec ei iudicari potest extraneus qui bonarum artium est alumnus.*

⁹⁸ Var.3.33.1: *...quae circa referendos curiae cana dictat antiquitas.*

⁹⁹ Var.3.33.2: *Nam quid dignius si et senatorio vestiatur honore togata professio (...)?*

¹⁰⁰ Giardina 2014, 262: ‘Cassiodoro gioca con la suggestione dell’immagine della toga, assunta come simbolo distintivo della romanità. Il valore di togato come metonimia per romano sembrerebbe suffragato dalle ricorrenze dell’aggettivo *togatus* nelle *Variae* (...) i *mores togati* sono contrapposti ai *mores alieni*, e sono poi identificati con i *iuridici mores* (...), secondo un’idea di romanità ordinata dagli *iura* (...).’

¹⁰¹ Var.3.33.3: *Gloriosa est denique scientia litterarum, quia, quod primum est in homine, mores purgat; quod secundum, verborum gratiam sumministrat: ita utroque beneficio mirabilis ornat et tacitos et loquentes.*

¹⁰² Var.3.33.3: *Quid ergo patribus imponere non possit qui flectere animum iudicantis evaluit?*

¹⁰³ Giardina 2014, 428 and 441.

¹⁰⁴ Var.5.21.1: *Sed omnium crederis intellegentiam habere virtutum, qui exerceri meruisti militia litterarum.*

¹⁰⁵ Giardina 2014, 429.

more worthy success than in the city of the letters (*civitas litterarum*)? (...) thus the eloquent Curia desires the well-spoken.”¹⁰⁶ Cassiodorus concludes his eloquent compliments to Capuanus with a remark on the importance of virtue: “We declare these things now for this reason, that you may know that we are grateful for the virtues of our subjects (...).”¹⁰⁷ Virtue implies literary education and the *litterae*, as we may conclude from the letters analyzed until now, include legal skills as well. In section three, the juridical aspects of Roman tradition in the *Variae* will be discussed more amply. For now, we will turn to the themes of education and Roman tradition in two different sources: the *Paraenesis didascalica* written by Ennodius, bishop of Pavia, and Cassiodorus’ *Institutiones*.

2b. Ennodius’ *Paraenesis didascalica*

In the last months of AD 511, Ennodius – then deacon of Milan, later bishop of Pavia (see part 1c) – wrote a letter of instruction to the young men Ambrogius and Beatus, who had asked him for advice on the continuation of their education in Rome. Ennodius answers with a *pagina (...) concinnationis didascalicae*, written partly in prose, partly in verse.¹⁰⁸ This letter has come to be known as the *Paraenesis didascalica* because of its exhortative character (Ennodius refers to an *admonitio* in the introduction of the letter¹⁰⁹). The title “*Paraenesis didascalica*” was an invention of editor Jacques Sirmond, “*paraenesis*” meaning “adhortation” (from the Greek παραίνεσις). In a more recent study, Moretti has convincingly argued that we should rather see it as a letter of instruction, for which *Epistula didascalica* would be a more suitable title.¹¹⁰ Before recommending his pupils some illustrious male and female teachers in Rome, Ennodius explains the main elements of education for any Christian student. These are Modesty (*Verecundia*), Chastity (*Castitas*), Faith (*Fides*), Grammar (*Grammatica*) and finally Rhetorics (*Rhetorica*). Every part of the programme is first lauded in prose and then addresses the reader as a personification (prosopopeia) in verse.

I will discuss six themes connected to education which appear in the *Variae* and can be found in the *Epistula didascalica* as well: religion, tradition, Romanness, virtue, *mores* and *nobilitas* and juridical studies. Before analyzing specific passages, however, let us consider the process of anchoring innovation in the work as a whole. Both style and content of the *Epistula didascalica* are an interesting mixture of new and old: Ennodius’ personification of Christian virtues marries Greco-Roman with Christian-biblical tradition, whereas the main elements of the educational programme, grammar and rhetorics, are classical examples of Roman tradition.¹¹¹ The combination of verse and prose might be a continuation of the Menippean satire and earlier prosimetric letters, but at the same time entails a metamorphosis of the genre to the doctrinal prosimetrum (also employed by Ennodius’ contemporary Boethius in his famous *De consolatione philosophiae*), a form devoid of any satirical components that would become very popular in the Middle Ages.¹¹² Thus, the work as a whole, just like that of

¹⁰⁶ *Var.5.22.1: Ubi enim dignius eloquens quam in civitate proficiat litterarum? (...) sic curia facunda [desiderat] disertum.*

¹⁰⁷ *Var.5.22.4: Quae nunc ideo declaramus, ut cognoscatis subiectorum gratas nos habere virtutes (...).*

¹⁰⁸ Ennodius, CDLII.1-3 (ed. Vogel 1885).

¹⁰⁹ Ennodius, CDLII.3: (...) *quia et praecipientem decet fortis elocutio et pressis admonitione mentibus mollioris stili cura subvenitur* (ed. Vogel 1885).

¹¹⁰ Moretti 2001, 71.

¹¹¹ Rallo Freni 1981, 24 and 26. Cf. Rohr 1996, 8: “(...) handelt es sich doch um eine Zeugnis, wie in der Ostgotenzeit heidnisch-nationalrömische und christliche Bildung zusammenflossen.”

¹¹² Moretti 2001, 72-78.

Cassiodorus, plays with Roman tradition and transforms it to suit the subjects of Theoderic's Christian semi-Roman kingdom.

Religion forms the basis of Ennodius' educational programme and for the paternal care for his addressees. In the introduction of his letter, Ennodius gives a religious explanation for his concern about the education of Ambrogius and Beatus: "for to procreate is also a testimony of lust (*libido*), whereas it is an expression of piety (*pietas*) to have educated someone."¹¹³ *Pietas* is the incentive for and the basis of Ennodius' educational programme. As we have seen, the *Epistula* starts with three personified Christian virtues, but when Ennodius' educational programme moves on to the two elements that can actually be put in practice, grammar and rhetoric, the subject of religion is not mentioned at all. For Ennodius' idea of education, Christianity is nothing more than an ideological and somewhat symbolic fundament (this in contrast with Cassiodorus' *Institutiones* – see part 2c). The practical content of his programme consists of pagan tradition. It is only in the last part of his instruction that Ennodius refers to Christianity again: when lauding the virtues of the female teacher Stefania, "brilliant light of the Catholic church",¹¹⁴ and at the very end of the *Epistula* where Ennodius admits that his (clerical) profession did not allow him to write a "dignified speech".¹¹⁵ Ennodius leaves the modern reader with the impression that Christianity and liberal studies can both be building blocks for the temple of the mind, but will never truly melt into a homogeneous whole.

Tradition is only explicitly mentioned in the parts dedicated to grammar and rhetorics. Grammar, according to Ennodius, brings the minds of the adolescents (*adulescentium mentes*) "to the Tullian ardor" (*ad Tullianum calorem*),¹¹⁶ a clear reference to Cicero, the traditional Roman master of speech. In the verses of the personified Grammar, "that greater age" (*aetas illa maior*) is the judge on the quality of Ennodius' mental parenthood:

"That greater age has said that we are the best parents,
because we think out of our love that they are our children,
to whom gave birth the belly, swelling up with the seeds of the learned,
and lust (*libido*) has not subjected the rights (*iura*) of a radiant heart."¹¹⁷

Again, Ennodius emphasizes the moral superiority of a spiritual father above biological parents, but this time explicitly states that the quality of education is not for contemporaries to determine: tradition decides what is best for the late-antique youth.¹¹⁸

Notwithstanding the victory of *pietas* over *libido*, the *Epistula didascalica* pays a remarkable amount of attention to sexuality. This is neither unique for Ennodius' own work nor for that of his brothers in Christ: the contrast between *libido* and *pietas* is a recurrent theme in late-antique Christian literature. Ennodius' conviction that education brings virility to its students is in line with the beliefs of

¹¹³ Ennodius, CDLII.5: (...) *generare etenim et libidinis testimonium est, erudisse pietatis.*

¹¹⁴ Ennodius, CDLII.25: *Est illic etiam Stefania, splendidissimum catholicae lumen ecclesiae (...).*

¹¹⁵ Ennodius, CDLII.26: *ergo si pomposa oratione non valui, oratione vos memor professionis adiuv.*

¹¹⁶ Ennodius, CDLII.11.

¹¹⁷ Ennodius, CDLII.13: *Nos parentes dixit aetas illa maior optimos,
Quod favore computamus esse nostra pignora
Quae dedit venter tumescens litterati seminis,
Nec libido subiugavit iura clari pectoris.* My translation.

¹¹⁸ Cf. Kennell 2000, 164: "She [Grammar] and Rhetoric, her successor, represent patterns of thought and language essential to virility and Romanity (...)."

his Christian contemporaries. According to Shaw, “[f]emaleness is that which must be overcome to achieve male rank (...).”¹¹⁹ On the other hand, Christian discourse could also have undermined traditional gender distinctions, as Cooper argues: “(...) we have yet to understand whether ascetic ideals in fact served to erode Roman ideas of legitimate male authority.”¹²⁰ In his other works, Ennodius expresses himself quite inconsistently, which indicates that sixth-century Christians could have very unchristian ideas as well. Ennodius’ epigrams are even more explicit than the rather innocent allusions to fertility in the *Epistula didascalica*.¹²¹ Conversely, his pamphlet in defence of pope Symmachus (*Libellus adversus eos qui contra synodum scribere praesumpserunt*) lists “fornication” as one of the vices of the heretics.¹²² All in all, this topic shows how Ennodius merged pagan and Christian traditions in a sometimes ambiguous marriage. Perhaps he did not find this paradox as striking as we do, since he understood rhetorics as “morally neutral”.¹²³

Whereas tradition is only linked to *Romanitas* in a metaphorical allusion, rhetorics are explicitly the property of the Romans and imply eternal power. Ennodius lets *Rhetorica* explain this herself:

“Wherever he is, the Roman pays attention to my profit. (...) We govern kingdoms and give wholesome orders to who is in command. What to say, then, about the fact that the delight of our declamations conquers everything they know and that the opinion which we win over is eternal! Before the official staffs and the consular robes comes the solemn oratory. About the deeds of strong men is believed what we want; no one values the deed on which we are silent: noble germs (*nobilis germina*) brought forth by us irradiate the whole world with the sun of brilliant perfection. Poetics, legal expertise (*iuris peritia*), dialectics and arithmetics, since they use me like a mother, have worth only because I have planted them.”¹²⁴

This passage is interesting because it not only shows that education is perceived as a Roman business, derived from tradition and helpful for a mighty future, but also why it is so important for students to become Roman through studying: rhetorical ability is the tool they need to “govern kingdoms” (*regna regere*). Like we have seen in the *Variae*, ethnic Romans deserve extra praise: the *matrona* Barbara (a slightly ironic name?) is a “flower of the Roman race” (*Romani flos genii*) and shows in her face “the brightness of her blood” (*lux sanguinis*). However, Barbara is not praised for her eloquence or rhetorical skills but for her “trustworthy modesty” (*confidens verecundia*).¹²⁵ This preference for virtue over the power of words could indicate a moral hierarchy, but probably finds its explanation in the different roles of men and women in late-antique society.¹²⁶

¹¹⁹ Shaw 1998, 252-3.

¹²⁰ Cooper 2009, 199.

¹²¹ Kennell 2000, 120: “(...) Ennodius (...) is undeniably intrigued by the structural implications of copulation and sexual difference.”

¹²² Kennell 2000, 199.

¹²³ Kennell 2000, 52.

¹²⁴ Ennodius, CDLII.16-17: *ad meum compendium ubicumque est Romanus invigilat. (...) Nos regna regimus et imperantis salubria iubemus. Quid quod declamationum nostrarum oblectatio vincit universa quae sapiunt et opinionem quam conciliamus aeterna est! Ante scipiones et trabeas est pomposa recitatio. De virorum fortium factis quod volumus creditur; actum nemo aestimat quod silemus: nobilia germina ex nobis fusa orbem totum sole clarae perfectionis inradiant. Poetica, iuris peritia, dialectica, arithmetica, cum me utantur quasi genetrice, me tamen adserente sunt pretio.* My translation.

¹²⁵ Ennodius, CDLII.23.

¹²⁶ For more on gender distinctions in Late Antiquity, cf. Cooper 2009.

The Christian virtue of Barbara brings us to the next omnipresent theme in the *Epistula didascalica*: the relationship between education and virtue. As we have seen in the previous chapter, virtue plays a vital role in the upbringing of the Italian elite. But where the *Variae* choose a political and almost pagan approach,¹²⁷ Ennodius makes ample space for the three main Christian virtues (*Verecundia, Castitas, Fides*). Nevertheless, without the liberal studies even these would be nothing:

“As to the aforesaid virtues (*virtutes*), let us avoid that the diligence of the liberal studies is absent, through which the good of the divine things shine as if in the light of a precious necklace, because imperfect beauty does not part much from ugliness, and he who has not sufficiently strived for the heights of the great, has barely left the lowest of the miserable.”¹²⁸

Every virtue is preceded by grammar, which is “like a nurse of the other [arts]” (*quasi nutrix ceterarum*).¹²⁹ “For nurtured by practice (*usus*), virtue grows and from education (*institutio*) the endurance of perils is born.”¹³⁰

What in principle does not grow by practice, but is innate in a person’s origin, are his or her customs or manners (*mores*). At the end of the letter, recommending several good teachers in Rome, Ennodius praises the *mores* of Probinus and Stefania. Probinus learned his *mores* from his educated family:

“There is also the patrician Probinus, the tested splendour of the offshoot (*germen*) of Placidus, whom the perfect *mores* of a family of educated men (*eruditorum familia*) brought up, who drew from the well of both his father and his father-in-law what is upright.”¹³¹

Remarkably, it is not the family’s *nobilitas* itself that has given Probinus his perfection: the germs of education have done the work. This is a striking parallel to the *nobilis germina* brought forth by *Rhetorica* already discussed above. It demonstrates that *mores* are always a result of tradition, but do not merely depend on the noble quality of someone’s blood; rather, rhetorical education *creates* the customs of an outstanding family tradition. This gains extra meaning given the social background of Ennodius the orphaned Gaul. For our author, although brought up in the higher circles of Ligurian aristocracy, education was the essential start of his blooming ecclesiastical career (see part 1c). I will return to this in my conclusion.

In the case of Stefania the picture becomes a bit more blurred, while her way of doing is “innate” (*ingenita*) and comes from her “blood” (*sanguis*). Be that as it may, she is still capable of outshining her family’s light by her own *mores*:

¹²⁷ For political virtue cf. the connection of virtue and the administration of Rome in *Var.3.11.3: Nusquam maiore laude virtus agitur quam si recte Roma tractetur*. As to the pagan aspect of Cassiodorean virtue, cf. the description of the quaestorship as a ‘temple’ in *Var.6.5.5: (...) gloriam litterarum, civilitatis templum, genetricem omnium dignitatum, continentiae domicilium, virtutum omnium sedem (...)*.

¹²⁸ Ennodius, CDLII.10: *De praefatis virtutibus facessat studiorum liberalium deesse diligentiam, per quam divinarum bona rerum quasi pretiosi monilis luce sublimentur, quia non multum a foeditate seiungitur imperfecta formositas, et qui non sufficienter magnorum tetendit ad culmina, miserorum infima vix reliquit*. My translation.

¹²⁹ Ennodius, CDLII.11.

¹³⁰ Ennodius, CDLII.12: *usu enim virtus nutrita grandescit et de institutione nascitur periculorum tolerantia*.

¹³¹ Ennodius, CDLII.20: *est etiam Probinus patricius, Placidi germinis examinata claritudo, quem eruditorum familiae mores ad unguem ducti contulerunt, qui et de patris et de soceri hausit fonte, quod mundus est*. My translation.

“And there is also Stefania, brilliant light of the Catholic church, whose family (*natales*) is made dark by a greater light, if you look at the *mores*, like when the sun, the eye of the world, overshadows a torch; if you distinguish the rays of her innate way of doing, nothing will outshine her blood.”¹³²

It seems like Ennodius is advocating a self-made *nobilitas* that broadens the original Roman patrician nobility to embrace all well-educated young men, whatever their ethnic or social background may be. What he states about the virtue of Modesty can be applied to his educational programme as a whole: it “either increases the goodness of nobility (*nobilitas*), or supplies it”.¹³³ Interestingly, Ennodius’ epitaph (see figure 1 on page 10) applies this function of education to our author as well: the late bishop of Pavia was “noble in the art of teaching” (*doctrinae nobilis arte*).¹³⁴

The *Epistula didascalica* has been written by a cleric with a literary background, yet contains many juridical terms as well. In his verses, Ennodius frequently mentions *leges*, *iura*, judges and defendants,¹³⁵ and he includes *ius peritia* in his list of liberal arts inspired by rhetorics (CDLII.16). There are several explanations possible for this legal presence in a thoroughly non-legal text. First of all, it shows the importance of legal studies for late-antique education; its rhetorical core could not do without a juridical component. The growing importance of law for education and social mobility can be explained by the expansion of Late Roman bureaucracy. But for the Ostrogothic bureaucracy in particular, Roman law was much more than accidental custom: law created tradition, gave its practitioners the intrinsically Roman *iuridici mores* (see part 2a) and ultimately resulted in worldly power. Ennodius attributes this practical power also to Grammar and Rhetorics. First of all, he compares grammatical instruction with the training of soldiers for the battlefield: nobody goes into battle without previous exercise, since “the camp of Mars receives the prepared”.¹³⁶ That rhetorics help to *regna regere* has been discussed already, but in the verses of the personified *Rhetorica* this is underlined even more: “Who dedicates himself to our studies, soon dominates the world. / Not afraid of any doubt, art has given me kingdoms.”¹³⁷

All in all, Ennodius’ educative ideology follows the authoritative *Variae* in many ways. He underlines virtue, social mobility and the power of words, adding to these a Roman and juridical flavour. Maybe nobility was more subject to social mobility for Ennodius than it was for Cassiodorus and Theoderic, yet both the *Variae* and the *Epistula didascalica* underline the decisive influence of education in the development of a virtuous nobleman. Superficially, the biggest difference between Cassiodorus and his contemporary seems to be the role attributed to the Christian religion in the upbringing of students, but this could be also due to the official and religiously neutral character of the *Variae*, which Cassiodorus wrote as a Catholic in the name of an Arian king. Whether or not divine and secular learning could practically be combined in an educational programme, and what effects this would have

¹³² Ennodius, CDLII.25: *est illic etiam Stefania, splendidissimum catholicae lumen ecclesiae, cuius natales ita maiore luce fuscantur, si mores intellegas, ac si facem mundi oculus sol obumbret; si ingenitae conversationis radios seponas, plus eius sanguine nil lucebit.*

¹³³ Ennodius, CDLII.6: (...) *nobilitatis vel amplificat bona vel suggerit.*

¹³⁴ See part 1c.

¹³⁵ Ennodius, CDLII.3: *Quod lex praecipiens tenere fluxum / Resolvat studio iubente fortes*; CDLII.9: *Ille nec legem patitur sepulcri / Nec mala vitae*; CDLII.13: *Iudicem tenemus aequum, si quid errat parvulus / (...) Nec libido subiugavit iura clari pectoris*; CDLII.17: *Et reus et sanctus de nostro nascitur ore / Dum loquimur, captum ducitur arbitrium.*

¹³⁶ Ennodius, CDLII.11: *fabricatum Martius campus militem suscipit (...).*

¹³⁷ Ennodius, CDLII.17: *Qui nostris servit studiis, mox imperat orbi. / Nil dubium metuens ars mihi regna dedit.*

on the traditional and Roman character of late-antique education, will become clearer in the next part, where Cassiodorus' *Institutiones* will be the object of my analysis.

2c. Cassiodorus' *Institutiones*

Around the year 554 AD, Cassiodorus Senator retired from his public career and became a monk.¹³⁸ His conversion was not as drastic as it may seem: by the sixth century AD, Italian society had become entirely Christian – a fact that remained unchanged with the reign of the Arian yet religiously tolerant Ostrogoths. Whether elite members became high-ranking officials or bishops in the Church, was a matter of choice.¹³⁹ “Conversion” in the late-antique sense was usually not a radical turn towards a new faith, but rather a conscious choice to exchange public or military service for “a more explicitly religious way of life”.¹⁴⁰ Cassiodorus was a Catholic Christian before he founded the monastery of *Vivarium* and already wrote about religious topics during his political career.¹⁴¹ After his career switch, he never ceased to be a prominent man in Italian society and engaged with contemporary politics also in his later religious writings.¹⁴² Therefore, this study includes a work from Cassiodorus' religious career as well, attributing to it the same ideological relevance as the works of Ennodius, his politically active clerical contemporary. Whereas Ennodius had passed away during the relatively quiet years of Theoderic's reign, Cassiodorus' decision to found a monastery must also have been caused by the radical political changes after he wrote the last letters published in the *Variae* in 537 AD. When Justinian's commander Belisarius captured Ravenna in 540 AD, its function as Ostrogothic capital was over. After a short stay in Constantinople, the loyal servant of the “barbarian” kings and former praetorian prefect had to find himself a new occupation, which he created near his birthplace Squillace.¹⁴³

While ruling the *Vivarium* monastery, Cassiodorus continued to have a high literary output. The main theme of his work changed from politics to religion, but education remained high on his agenda. The work under scrutiny here is the *Institutiones divinarum et saecularium litterarum*, which contains two books, on “divine” and “secular” learning respectively. By analyzing both prefaces, the introducing paragraphs to the second book, the parts on grammar and rhetoric and the general conclusion, I will show how Roman tradition has become even more important for Cassiodorus than before, but that he uses it here for the creation of a different kind of *nobilitas* than in the *Variae*. In the *Institutiones*, Cassiodorus has given himself the “resolutely unoriginal” task to connect Roman law and literature to another normative body of texts: the Bible.¹⁴⁴ This had been done before: after more than two centuries of Christian *Romanitas* and creative intellectual effort on precisely this subject, Cassiodorus is most of all repeating and emulating the words of great names like Augustine and Jerome. Cassiodorus presents himself as their successor, anchors his educational project in the authority of

¹³⁸ O'Donnell 1979, 107.

¹³⁹ Halporn & Vessey 2004, 11-12. See also O'Donnell 1979, 190-1 and Troncarelli 1998, 14.

¹⁴⁰ O'Donnell 1979, 111.

¹⁴¹ Wiemer 2018, 621.

¹⁴² Bjornlie 2013, 24-25; Wiemer 2018, 622. Bjornlie uses this argument to date both the *Variae* and the *De anima* to Cassiodorus' stay in Constantinople, where he “had the opportunity and incentive to revise and arrange the *Variae* as an idealizing model of western palatine service under the Amals.” *Contra* O'Donnell 1979 who saw in the *De anima* “a document of his “conversion” from the life of a public statesman to that of private man of religion.” (O'Donnell 1979, 107.)

¹⁴³ O'Donnell 1979, 103-5 and 131-6.

¹⁴⁴ Halporn & Vessey 2004, 11-12.

tradition and creates a new, Christian *persona* for himself. There is an interesting parallel in self-representation between the *Variae* and the *Institutiones*. Both works have been finished around the end of a career, and both display Cassiodorus' efforts (whether as a court bureaucrat or a spiritual leader) in an all-encompassing way. The intelligent ex-quaestor completed his two careers with two literary monuments of knowledge and political finesse, which gives them both an autobiographic touch. His personal innovation for the education of monks lies in the distinction made between sacred and secular books (already mentioned by him in the thirteenth book of the *Variae*, the philosophical treatise *De anima*).¹⁴⁵ But it is exactly this distinction which makes the *Institutiones* so complicated for historical analysis, since its two books have had separate traditions.

Basing their conclusions on the distinct manuscript traditions during the Middle Ages, modern scholars assume that there must have been a separate "Book of Cassiodorus Senator on Human Learning, concerning the Arts and Disciplines of Secular Studies".¹⁴⁶ Cassiodorus would have started working on this book just after the conquest of Italy by Justinian, combining it with his Explanation of the Psalms (*Expositio Psalmorum*) to create a new synthesis between Graeco-Roman and Christian literature.¹⁴⁷ The complete *Institutiones*, containing two books with added prefaces and a general conclusion, was the "result of a redactional process that clearly stretched over decades" and only came to its final version towards the end of Cassiodorus' life (c. 580).¹⁴⁸ As a result, we are dealing with manuscripts that not only present copies of different versions of the text, but also derive from originals which were intended for different audiences. According to Troncarelli, the book on secular learning (now the second book of the *Institutiones*) was initially written for the Latin-speaking secular and ecclesiastical aristocracy.¹⁴⁹ With the addition of its religious counterpart, the work became "part of a larger "introduction" to Christian textual science" for all members of the Vivarium, regardless of their former position in society.¹⁵⁰ The fact that the second book used to have an audience of laymen as well, lifts this monastic enterprise to a higher level of relevance for this study. Originally it may have been written for Cassiodorus' unsuccessful project to found a Christian school in Rome,¹⁵¹ which broadens its intended public from a small group of provincial clerics to potentially all Christian elite youth who sought their education in Rome. Therefore, the *Institutiones* can be analyzed – just like the *Variae* and Ennodius' *Paraenesis didascalica* – as a representation of Italian aristocratic values stemming from the (former) subjects of an Ostrogothic king.

Let us turn now to the contents of the *Institutiones*. First, I will give a short overview of both books, with some remarks on the internal hierarchy between book one and two. After that follows an analysis of various passages about education, which I have organized according to roughly the same themes which appeared in the previous sources: religion, tradition, *Romanitas*, *nobilitas* and virtue,

¹⁴⁵ Cassiodorus, *De anima* 1: (...) *amicorum me suaue collegium in salum rursus cogitationis expressit, postulans ut aliqua quae tam in libris sacris quam in saecularibus abstrusa compereram de animae substantia uel de eius uirtutibus aperirem* (...). "Yet the sweet throng of my friends has once again urged me out into the sea of thought, asking that since I have the ability to disclose the mysteries of matters so great, I should clarify certain obscurities that I had found *both in sacred and secular literature* about the substance and activities of the soul" (emphasis added). Trans. Halporn & Vessey 2004, 237; Halporn & Vessey 2004, 22.

¹⁴⁶ Halporn & Vessey 2004, 40; Troncarelli 1998, 12-21.

¹⁴⁷ Halporn & Vessey 2004, 41.

¹⁴⁸ Halporn & Vessey 2004, 38-42.

¹⁴⁹ Troncarelli 1998, 14: "(...) *per dare agli ultimi rappresentanti dell'aristocrazia latina e alla Chiesa degli strumenti di lavoro o dei modelli in cui identificarsi* (...)." See also Halporn & Vessey 2004, 40.

¹⁵⁰ Halporn & Vessey 2004, 41.

¹⁵¹ *Inst.* 1 praef. 1.

legal skills and (civil) power. In my conclusion I will compare the ideology of the *Institutiones* with that of the *Variae* and the *Paraenesis didascalica* in order to paint a more nuanced picture of the process of “anchoring education” in sixth-century Italy. The first book of the *Institutiones* is subdivided into thirty-three paragraphs, of which the first twenty-four are dedicated to a bibliography of accepted Bible commentaries and Church Fathers. The last seven paragraphs have a more miscellaneous character: they introduce the second book and contain a digression about the situation of the monastery at Vivarium, an address to the abbots and the monastic community and a final prayer.¹⁵² The second book is categorized according to the seven liberal arts: grammar, rhetoric, dialectic, arithmetic, music, geometry and astronomy. The choice of these *artes* is traditional and marks a line of continuity between (Late) Antiquity and the Middle Ages: originating from the Greek Platonism of the second and third centuries AD, they would form the standard curriculum at medieval universities (in which the *Institutiones* played an important role).¹⁵³ Cassiodorus treats every *ars* systematically, giving first a definition of the discipline, then a summary of the main elements and finally a bibliography for students who would like to consult other books available at Vivarium.¹⁵⁴

The first question to be answered is about the desired relationship between religion and education. What comes first, the Bible or the *litas*? Although divine learning is discussed in the first book, the internal hierarchy and desired order of religious and secular education is different from what might be expected at first glance. According to Cassiodorus, all secular knowledge finds its origin in spiritual wisdom (*spiritalis sapientia*), and for that reason adds to the understanding of Divine Scriptures.¹⁵⁵ Therefore, Christian students should best start their studies in the secular sphere before continuing with the higher wisdom of the Bible. So all wisdom from the second book is based in the first book, but the preferred course of education starts with the second book. This background information makes Cassiodorus’ personal career and his working order (first the book on “liberal arts”, then the whole *Institutiones*) more understandable as well. He stresses, however, that this claim is supported by the authority of tradition: “If anyone perchance deigns to read this work after reading such great commentators he will understand (as the other Fathers also unassailably claimed) that Sacred Scripture (*Scripturae divinae*) is the source of what the teachers of secular letters (*doctores saecularium litterarum*) afterwards transferred to their field.”¹⁵⁶ Cassiodorus writes down what the *alii Patres* already created before him: an integrated place for the secular arts in the Christian curriculum. But the worldly studies can never be the end goal of the educated monk: “Thus, although he occupies himself with secular works (*libri saeculares*) {for some time}, the monk returns, instructed, to holy work (*opus sanctum*).”¹⁵⁷ This *caveat* explains the actual order of books one and two, which apparently is a

¹⁵² Halporn & Vessey 2004, 63.

¹⁵³ Momigliano 1955, 208. Halporn & Vessey 2004, 64-5.

¹⁵⁴ Halporn & Vessey 2004, 69.

¹⁵⁵ *Inst.* 1 praef. 6: *quicquid autem in Scripturis divinis de talibus rebus inventum fuerit, praecedenti notitia melius probatur intellegi. constat enim quasi in origine spiritualis sapientiae rerum istarum indicia fuisse seminata, quae postea doctores saecularium litterarum ad suas regulas prudentissime transtulerunt; (...).*

Trans. Halporn & Vessey 2004, 108: “Whatever has been found in Divine Scripture on such matters will be better understood if one has prior acquaintance with them. It is well-known that, at the beginning of spiritual wisdom, information on these subjects was sowed, as it were, that secular teachers afterwards wisely transferred to their own rules (...).”

¹⁵⁶ *Inst.* 1.4.2: *Quem si aliquis dignatus fuerit post tales viros fortasse relegere, cognoscat, sicut et alii Patres sententia indubitata dixerunt, de Scripturis divinis emanasse quod doctores saecularium litterarum ad sua studia postea transtulerunt.* Trans. Halporn & Vessey 2004, 120.

¹⁵⁷ *Inst.* 2.2.16: *sic instructus in opere sancto redditur, quamvis aliquantulum libris saecularibus occupetur.* Trans. Halporn & Vessey 2004, 187.

matter of holiness instead of practicality. As a “converted” monk, Cassiodorus preferred putting divine learning first in the moral hierarchy of his *Institutiones*.

Tradition is mentioned often in the *Institutiones* since it grants authority to Cassiodorus’ educational project. He is trying to present everything he writes as unoriginal and therefore traditional, so that the proposed curriculum will be accepted by his audience. The title in itself is already an indication of traditionalism, since it emulates two classical milestones of rhetorical and legal education: the first-century *Institutio oratoria* written by Quintilian, and Gaius’ *Institutiones*, a textbook for law students dating back to the second century. Interestingly, the latter served as the main source for Justinian’s *Institutiones* which were published as part of the Emperor’s codification project around the same time as Cassiodorus’ *Institutiones*. The intended public of the *Institutiones* is not only to accept its two curricula as authoritative, but also embrace the pagan tradition within a new Christian tradition of education. At the very beginning of this work, Cassiodorus explains that his dream of a Christian school in Rome has not worked out, but that his innovative idea has remained the same:

“When I realized that there was such a zealous and eager pursuit of secular learning, by which the majority of mankind hopes to obtain knowledge of this world, I was deeply grieved, I admit, that Holy Scriptures should so lack public teachers (*magistri publici*), whereas secular authors (*mundani auctores*) certainly flourish in widespread teaching. (...) I was moved by divine love to devise for you, with God's help, these introductory books to take the place of a teacher. Through them I believe that both the textual sequence of Holy Scripture and also a compact account of secular letters may, with God's grace, be revealed.”¹⁵⁸

By repeating the words of those before him (*dicta priscorum*) instead of commending his own teaching (*propria doctrina*),¹⁵⁹ Cassiodorus assures himself of the approval of his readers - which in this case must have been not only the monks of the Vivarium monastery, but also leaders of the Church who stood higher in ranking than Cassiodorus. Probably, there was a need for this former courtier of the Ostrogothic kings to carefully reclaim his position as an influential spokesman of Italian elite identity, even though he had “disappeared into the monastic life in a remote corner of the continent”.¹⁶⁰ Why else would he have had this pressing need for authority?

¹⁵⁸ *Inst.* 1 praef. 1: *Cum studia saecularium litterarum magno desiderio fervere cognoscerem, ita ut multa pars hominum per ipsa se mundi prudentiam crederet adipisci, gravissimo sum, fateor, dolore permotus ut Scripturis divinis magistri publici deessent, cum mundani auctores celeberrima procul dubio traditione pollerent. (...) ad hoc divina caritate probor esse compulsus, ut ad vicem magistri introductorios vobis libros istos Domino praestante conficerem; per quos, sciut aestimo, et Scripturarum divinarum series et saecularium litterarum compendiosa notitia Domini munere panderetur- (...).* Trans. Halporn & Vessey 2004, 105.

¹⁵⁹ *Inst.* 1 praef. 1: (...) *in quibus non propriam doctrinam sed priscorum dicta commendo, quae posteris laudare fas est et praedicare gloriosum, quoniam quicquid de priscis sub laude Domini dicitur, odiosa iactantia non putatur.* Trans. Halporn & Vessey 2004, 105-6: ‘I commend in them not my own teaching, but the words of earlier writers that we justly praise and gloriously herald to later generations. For learning taken from the ancients in the midst of praising the Lord is not considered tasteless boasting.’

¹⁶⁰ O’Donnell 1979, 177.

In the subsequent paragraphs, the importance of tradition is underlined over and over again,¹⁶¹ especially in the fields of grammar and rhetoric,¹⁶² and novelty gets, where mentioned, a pejorative flavour:

“Hence it can happen that something is treated by ancient teachers (*magistri antiqui*) that could not be provided by modern ones (*novelli*). Therefore it will be enough to point out to you the most learned commentators (*tractatori doctissimi*); when you are sent to such writers you find the proper and full measure of teaching (*plenitudo ... doctrinae*). It will also be better for you not to be drinking in striking novelty (*praesumpta novitas*) but to satisfy yourself at the spring of the ancients (*priscorum fons*).”¹⁶³

Famous names like Cicero, Virgil and Quintilian are mentioned with pride,¹⁶⁴ but Fortunatianus, a contemporary author for Cassiodorus, always receives the cautionary label that he is only a *novellus*.¹⁶⁵ The traditional character of secular education is crucial for Cassiodorus’ strategy to create a common ground for divine learning and the *artes liberales*. The fact that this endeavor has become traditional in itself reinforces his argument even more:

“Many of our Fathers, schooled in secular learning and abiding in the law of the Lord (*lex Domini*), reached true wisdom (...). (...) Let us imitate these men and let us carefully but without hesitation, hasten to read both kinds of teaching (*utraeque doctrinae*) if we can – for who would dare to hesitate with the example of so many such men before us? – with the full knowledge, as has often been said already, that the Lord can give good and true wisdom.”¹⁶⁶

¹⁶¹ *Inst.* 1.27.2: *Sit ergo antiquorum labor opus nostrum, ut, quae illi latius plurimis codicibus ediderunt, nos brevissime, sicut iam dictum est, secundo volumine collecta pandamus, et quod illi ad exercendas versutias diriverunt, nos ad veritatis obsequia laudabili devotione revocemus; (...)*. Trans. Halporn & Vessey 2004, 159: “Let my subject, therefore, be the effort of writers of previous generations – what they have set forth broadly in many books let me present briefly in the collection contained in the second book mentioned above. Let me in laudable devotion call back to the service of truth the achievements they attained from the exercise of their cleverness.”

¹⁶² *Inst.* 2.1.1: *grammatica vero est peritia pulchre loquendi ex poetis illustribus auctoribusque collecta; (...)*. Trans. Halporn & Vessey 2004, 175: “Grammar is the skill of speaking stylishly gathered from famous poets and writers; (...).” *Inst.* 2.1.3: *nunc ad artis rhetoricae divisiones definitionesque veniamus; quae sicut extensa atque copiosa est, ita <a> multis et claris scriptoribus tractata dilatatur*. Trans. Halporn & Vessey 2004, 178: “Now let us go on to the divisions and definitions of the art of rhetoric, which, being a wide-ranging and abundant discipline, has been extensively treated by many famous authors.”

¹⁶³ *Inst.* 1 praef. 4: *(...) unde fieri potest ut per magistros agatur antiquos quod impleri non potuit per novos. quapropter tractatores vobis doctissimos indicasse sufficiet, quando ad tales misisse competens plenitudo probatur esse doctrinae; nam et vobis erit quoque praestantius praesumpta novitate non imbui sed priscorum fonte satiari*. Trans. Halporn & Vessey 2004, 107.

¹⁶⁴ For example in *Inst.* 2.2.7: *(...) sicut ait Cicero (...)*; *Inst.* 2.2.10: *Haec licet Cicero, Latinae eloquentiae lumen eximium, per varia volumina copiose nimis et diligenter effuderit (...)* Quintilianus tamen, doctor egregius, qui post fluvios Tullianos singulariter valuit implere quae docuit, (...). Trans. Halporn & Vessey 2004, 183-4: “Although Cicero, the chief light of Latin eloquence, set these matters out fully and carefully in various books, (...) nevertheless [also] Quintilian, an outstanding teacher after the flood of eloquence of Cicero, very ably expanded his teaching.”

¹⁶⁵ *Inst.* 2.2.1: *secundum Fortunatianum, artigraphum novellum, (...)*. Trans. Halporn & Vessey 2004, 179: “According to Fortunatianus, a recent writer on the art (...).” *Inst.* 2.2.10: *Fortunatianum vero, doctorem novellum, (...)*. “Fortunatianus, however, a recent teacher (...).” My translation.

¹⁶⁶ *Inst.* 1.28.4: *Multi iterum Patres nostri talibus litteris eruditi et in lege Domini permanentes ad veram sapientiam pervenerunt, (...). (...) quos nos imitantes cautissime quidem sed incunctanter utrasque doctrinas, si possumus, legere festinemus – quis enim audeat habere dubium, ubi virorum talium multiplex praecedit*

Thanks to the good example of the fourth- and fifth-century *Patres sanctissimi* it is possible for Cassiodorus to present the value of secular learning for Christians as an accepted truth,¹⁶⁷ but he goes a step further when he attributes an immortal quality to classical education. There are seven liberal arts, he explains, because this number “is always used there where perpetual time is to be understood.”¹⁶⁸ Thus, tradition gives Greco-Roman education a place in eternity – although Cassiodorus stresses in his general conclusion that the *lex divina* is still the only key to eternal life.¹⁶⁹

Now what is this “eternal” education supposed to establish? In the *Variae*, it awards the Ostrogothic elite the status of Romans and creates a new *nobilitas* based on the virtues of erudition (see part 2a); in the *Paraenesis didascalica*, it provides a self-made *nobilitas* as well, including a Christian morality and thoroughly Roman rhetorics (see part 2b). The *Institutiones* pay relatively little attention to *Romanitas*: the Italian origin of its readers are only mentioned where Cassiodorus explains his preference for Latin instead of Greek writers.¹⁷⁰ This could be explained by the changed political circumstances, which did not allow anymore for an independent Romano-Gothic identity. When Cassiodorus was writing and editing the *Institutiones*, times had changed and education had come to serve a different purpose than in his previous work. Book two might have been written for the same aristocratic public as before, but the final edition of the work was supposed to elevate all Vivarium monks, regardless of their background or intellectual capacities, to the divine level of a Christian nobility. His educational guidebook was not merely meant for aristocrats: “All who are able [Anyone who is eager] to read may, with the guidance of this summary, understand the words of the earlier writers more clearly.”¹⁷¹ For those brothers who were too much bothered by their *simplicitas*, the basic outlines of the *Institutiones* should be enough and would make them erudites thanks to their “strong motivation” (*fervida mentis intentio*): “Then a blessed perseverance may make scholars (*eruditi*) of

exemplum? – scientes plane, sicut saepe iam dictum est, rectam veramque sapientiam Dominum posse concedere, (...).

¹⁶⁷ *Inst.* 1.28.3: *Verumtamen nec illud Patres sanctissimi decreverunt, ut saecularium litterarum studia respuantur, quia non exinde minimum ad sacras Scripturas intellegendas sensus noster instruitur (...).*

Trans. Halporn & Vessey 2004, 160: “On the other hand, the holy Fathers have not decreed that the study of secular letters should be rejected either, since to a considerable degree it is by this that our minds are equipped to understand Sacred Scripture.” *Inst.* 2. concl. 3: *et ideo, sicut beatus Agustinus ait et alii doctissimi Patres, scripturae saeculares non debent respui.* Trans. Halporn & Vessey 2004, 230: “As blessed Augustine and other most learned Fathers say, secular writings should not be rejected.”

¹⁶⁸ *Inst.* 2. praef. 2: *Merito ergo ibi semper commemoratur, ubi perpetuum tempus ostenditur.* Trans. Halporn & Vessey 2004, 172.

¹⁶⁹ *Inst.* 2. concl. 3: *legem vero divinam convenit, sicut scriptum est, die noctuque meditari, quia illinc interdum aliquarum rerum honesta notitia comparatur, hinc autem aeterna vita percipitur.* Trans. Halporn & Vessey 2004, 230: “It is right, however, as Divine Scripture says, to “meditate on the law day and night”, because from time to time we gain from secular letters commendable knowledge of some matters, but from divine law we gain eternal life.”

¹⁷⁰ *Inst.* 1. praef. 4: *(...) ut quoniam Italis scribimus, Romanos quoque expositores commodissime indicasse videamur. dulcius enim ab unoquoque suscipitur quod patrio sermone narratur, (...).* Trans. Halporn & Vessey 2004, 107: “Since I am writing for Italians so it has seemed most appropriate to point out Roman commentators, for everyone accepts more easily what is reported in his native language.” *Inst.* 2.3.1: *(...) Aristoteles (...) quem nostri non perferentes diutius alienum, translatum expositumque Romanae eloquentiae contulerunt.* Trans. Halporn & Vessey 2004, 188: “And Roman writers [litt. “ours”, *nostris*], refusing to let him [Aristotle] remain a foreigner, have conveyed him to Roman eloquence by translation and commentary.”

¹⁷¹ *Inst.* 2. praef. 5: *(...) ut qui studiose legere voluerint, quibusdam compendiis introducti lucidius maiorem dicta percipiant.* Trans. Halporn & Vessey 2004, 174.

those at first frightened off by profound study.”¹⁷² But if he truly lacked the intellect to be “completely educated” (*perfecte ... erudiri*), a monk could spend his daily energy on the cultivation of the monastery’s garden, provided that he was “supported by a certain elementary kind of knowledge (*aliqua ... scientiae mediocritate suffultus*)”.¹⁷³ It was clearly Cassiodorus’ aim to provide the whole clergy with the fruits of *scientia*. Cassiodorus was a pioneer in anchoring monastic education in the Graeco-Roman literary tradition, but his efforts would prove very fruitful indeed: the *Institutiones* became one of the guidebooks for medieval *scriptoria*, whose manuscript traditions have been crucial for the preservation of Latin and Greek literature.

If we compare the *Institutiones* with the *Variae*, it appears that Cassiodorus has kept his faith in education as the bringer of virtue and merely changed his loyalty from an earthly kingdom to a heavenly one.¹⁷⁴ Just like Ennodius, he sees grammar as the “origin and basis of the liberal letters” (*origo et fundamentum liberalium litterarum*),¹⁷⁵ and rhetorics as the necessary tool for legal cases.¹⁷⁶ He even admits that “all the noble arts and disciplines of letters” (*cunctae artes ac disciplinae nobilium litterarum*) are necessary “for the defence of the entire state” (*ad defendendum totius civitatis*).¹⁷⁷ Are these the words of a converted cleric who has abandoned all social engagement? The striking ideological similarities between these sources do not only show that Cassiodorus was writing for others than just his “soldiers of Christ” (*milites Christi*),¹⁷⁸ but also that his contemporary Ennodius had more

¹⁷² *Inst.* 1.28.1: *Quod si quorundam simplicitas fratrum non potuerit quae sunt in sequenti libro deflorata cognoscere, quia paene brevitatis omnis obscura est, sufficiat eis summatim earum rerum divisiones, utilitates virtutesque perpendere, ut ad agnoscendam legem divinam fervida mentis intentione rapiantur. (...) tunc salutaris assiduitas eruditos efficiat, quos in prima fronte profunditas lectionis exterruit.* Trans. Halporn & Vessey 2004, 159: “But if some simple brothers cannot learn what has been anthologized in the following book because almost all brevity is obscure, let it suffice for them to consider the basic divisions of these matters, their uses and their excellences, so that they may be drawn to the knowledge of divine law by strong motivation. (...) Then a blessed perseverance may make scholars of those at first frightened off by profound study.”

¹⁷³ *Inst.* 1.28.5: *quod si alicui fratrum, ut meminit Vergilius, ‘Frigidus obstiterit circum praecordia sanguis’, ut nec humanis nec divinis litteris perfecte possit erudiri, aliqua tamen scientiae mediocritate suffultus eligat certe quod sequitur: (...) quia nec ipsum est a monachis alienum hortos colere, agros exercere et pomorum fecunditate gratulari.* Trans. Halporn & Vessey 2004, 161: “But if in some of the brothers, as Virgil reminds us, ‘cold blood stands like a barrier around their hearts’ [Virgil, *Georgics* 2.484] so that they cannot be completely educated in either human or divine letters, let them be supported by a certain elementary kind of knowledge and choose clearly what follows: (...). It is quite appropriate for monks to cultivate gardens, to plough fields, and to rejoice in the harvest of fruits.”

¹⁷⁴ Cf. Van den Besselaar 1945, 137: “Cassiodorus daarentegen is ook na zijn “conversio” (...) in cultureel opzicht een rhetor gebleven.”

¹⁷⁵ *Inst.* 2. praef. 4 (trans. Halporn & Vessey 2004, 172-3).

¹⁷⁶ *Inst.* 2. praef. 4: *secundo de arte rethorica, quae propter nitorem et copiam eloquentiae suae maxime in civilibus quaestionibus necessaria nimis et honorabilis aestimatur.* Trans. Halporn & Vessey 2004, 173: “Second, we will discuss the art of rhetoric, which we consider entirely indispensable and honourable particularly in civil cases because of its brilliance and eloquence.” *Inst.* 2.2.1: *ars autem rethorica est, sicut magistri tradunt saecularium litterarum, bene dicendi scientia in civilibus quaestionibus.* Trans. Halporn & Vessey 2004, 178: “The art of rhetoric, as the teachers of secular letters teach, is the knowledge of speaking effectively in civil cases.” *Inst.* 2.2.4: *status causarum aut rationales sunt aut legales.* Trans. Halporn & Vessey 2004, 179: “The issues of cases are either those <arising out of circumstances and> involving reasoning, or legal <having to do with statutory law and documents>.”

¹⁷⁷ *Inst.* 2.2.10: *Quintilianus tamen, doctor egregius, (...) per cunctas artes ac disciplinas nobilium litterarum erudiendum esse monstravit, quem merito ad defendendum totius civitatis vota requirerent.* Trans. Halporn & Vessey 2004, 183-4: “Quintilian, an outstanding teacher, (...) has shown that the orator must be educated in all the noble arts and disciplines of letters if he is to be the right choice of the entire state for its defence.”

¹⁷⁸ *Inst.* 1 praef. 3.

in mind than Christian faith while writing his didactic epistle. In the sixth century, writing about education was an act of social engagement. Education had to be anchored in tradition because it was a means of power, and power needs authority to be sustainable. So it is not the differences but the similarities that should amaze us most: that a bishop and a civil servant used the same language when talking about education and that the civil servant held on to his belief in the power of knowledge – even after his rulers were conquered, the rules of the political game had been changed and he himself had converted to a monastic life.¹⁷⁹

¹⁷⁹ This is also an argument for not splitting up Cassiodorus into two persons or dividing him between two disciplines because of his career switch. *Contra* Van den Besselaar 1945, V.

3. Tradition and the law

3a. Cassiodorus' *Variae*

Roman law stands for *civilitas*. The connection in the *Variae* between traditional Roman law and Theoderic's "social harmony"¹⁸⁰ has led scholars to divergent conclusions. Whereas Van den Besselaar still contrasted the "Roman spirit of civilization" with the "illiteracy of the barbarians",¹⁸¹ Krautschick underlined Theoderic's aim to ensure a peaceful coexistence of Romans and Goths, while both legal orders were accepted in his kingdom.¹⁸² Later authors saw the *Variae* more as a product of the Roman mind of Theoderic's quaestor than of the Ostrogothic king himself and mainly heard the voice of Cassiodorus in the published letters.¹⁸³ It was the quaestor, according to Giardina, who gave his king "dominion over *civilitas*" through Roman tradition, which included a legal system that had already reached perfection and *therefore* did not need any inventions.¹⁸⁴ Bjornlie, on the other hand (as we have seen in the introduction), interpreted Cassiodorus' emphasis on tradition as a polemic stance against the overwhelming novelty of Justinian's codification project.¹⁸⁵ Noting this same friction, Pergoli Campanelli mentioned that Cassiodorus represented "without doubt" the newer Roman elite which was interested more in the sustaining of the Ostrogothic government than in "an anachronistic reunion with the Eastern Empire".¹⁸⁶ In this part, I will show how exactly the *Variae's* ideology connects Roman law with *civilitas*. This will give more insight in the way in which Cassiodorus, in the name of Theoderic, coped with tradition. In conclusion, I will return to the possible political motivations behind this ideology. Moreover, I will stress the importance of Roman *mores* and therefore education for the *Variae's* discourse on Roman legal tradition.

Basically, the outline of the digressions on *civilitas* and legality in the *Variae* is as follows: antiquity (*antiquitas*), which includes the preservation of the laws (*custodia legum*) and reverence for those who came before (*reverentia priscorum*), but excludes novelty (*novitas*), peasant life (*agrestis vita*) and to a certain extent arms and violence, leads to *civilitas*. *Civilitas* equals Roman *mores*, gives authority and will ultimately result in Italian unity and justice for all. Let us disentangle these elements in order to reconstruct what the *civilitas* ideology says precisely about the role of Roman law for the re-creation of Roman tradition in the Ostrogothic kingdom.

Letter 4.33, directed "to all the Jews in Genua" (*universis Iudaeis Genua constitutis*), gives a concise summary of the *Variae's* main ideology:

"Custody of the laws (*Custodia legum*) is a sign (*indicium*) of *civilitas*, and reverence for earlier rulers proves an example of our devotion. For what can be better than a people wanting to live under the rule of justice (*sub praecepto ... iustitiae*), so that the union of many who are ready

¹⁸⁰ Costambeys 2016, 255.

¹⁸¹ Van den Besselaar 1945, 133.

¹⁸² Krautschick 1983, 119.

¹⁸³ Bjornlie 2017, 243.

¹⁸⁴ Giardina 2006, 35-44.

¹⁸⁵ Bjornlie 2013, 216-229.

¹⁸⁶ Pergoli Campanelli 2013, p. 4 n. 8: "Indubbiamente Cassiodoro rappresentò quella parte della nobiltà romana di formazione più recente che, in quanto tale, aveva maggior interesse nel sostenere il regno dei Goti, a differenza dei patrizi romani appartenenti alle gentes più antiche, i quali auspicavano un anacronistico ricongiungimento all'impero d'Oriente." – "Qualcosa di straordinariamente nuovo e, al contempo, in piena coerenza col passato."

for discipline may result in a union of wills? For this has brought peoples together, away from a peasant life (*agrestis vita*) towards the rule of human association (*humana conversatio*).¹⁸⁷

According to this letter, *civilitas* and the rule of law are two sides of the same coin, both leading to justice and therefore social harmony. The letter goes on telling about the Jewish request for the preservation of their old privileges (a traditionally Roman act in itself), given to them by “the antiquity of the laws” (*legum ... antiquitas*) and Theoderic’s consent based on the importance of the “practice of *civilitas*” (*civilitatis usus*). Antiquity clearly has authority – a theme that also occurs in a letter to the *dux* Ibbā (about an issue already resolved by the “*antiquus rex*” Alaric)¹⁸⁸ and another one directed to the inhabitants of Marseille, where Theoderic adds new privileges to the antique ones that he preserves as well (*antiqua circa vos beneficia custodimus*).¹⁸⁹

But what is meant exactly by the *custodia legum* which apparently the Ostrogothic king considers so important? One of the first letters of Cassiodorus’ collection, in which his father, the elder Cassiodorus, is granted the Patriciate, sheds a brighter light on this matter. “There, in military dress, you upheld the civil laws (*civilia iura custodiens*); as a judge without avarice, you weighed up both the public and the private good; neglecting your own property, making no invidious profit, you gained the riches of good character (*morum divitiae*) (...).¹⁹⁰ If an administrator upholds the law, he reaches a higher level of personal virtue. It is through *custodia legum* that Cassiodorus’ father served Italian society and that made him a man of excellent *mores*.

Not surprisingly, the *formulae* for the appointment of officials also repeat this moral aspect of loyalty to the laws. The urban prefect is the “founder of law” (*iura condens*) and thus increases the modesty (*modestia*) of the senators “so that they choose to be bound by the laws” (*ut optent se legibus teneri*), even though they are legislators themselves.¹⁹¹ This phrase is a cunning invention of Cassiodorus: he recognizes the senators’ legislative powers and their free choice, while at the same time placing them under the scepter of the urban prefect and his laws. Implicitly, this subordinates the Senate to the legislative supremacy of Theoderic. As we have seen in part 2a, the quaestor plays an even more important role in the custody of law – a quality that, again, is linked to the *mores* of himself and others: “If I am in any doubt, I ask the Quaestor, who is (...) a store-room of the laws (...). (...) [H]e must correct the morals of others (*mores ... alieni*), and preserve (*custodire*) his own with due

¹⁸⁷ Var. 4.33.1 (ed. Giardina 2014): *Custodia legum civilitatis indicium, et reverentia priorum principum nostrae quoque testatur devotionis exemplum. Quid enim melius quam plebem sub praecepto degere velle iustitiae, ut conventus multorum disciplinabilem sit adunatio voluntatum? Hoc enim populos ab agresti vita in humanae conversationis regulam congregavit.* My translation.

¹⁸⁸ Var. 4.17.1 (ed. Giardina 2014): *Definitam rem ab antiquo rege, quam tamen constat rationabiliter esse decretam, nulla volumus ambiguitate titubare, quia decet firmum esse quod commendatur probabili iussione. Cur enim priora quassemus ubi nihil est quod corrigere debeamus?*

¹⁸⁹ Var. 4.26.1 (ed. Giardina 2014): *Libenti animo antiqua circa vos beneficia custodimus, cum nova utilitatibus vestris praestare cupiamus.*

¹⁹⁰ Var. 1.3.4 (ed. Mommsen 1894): (...) *ubi sub praecinctu Martio civilia iura custodiens publica privataque commoda inavarus arbiter aestimabas et proprio censu neglecto sine invidia lucri morum divitias retulisti (...).* Trans. Barnish 1992, 6.

¹⁹¹ Var. 6.4.2 (ed. Giardina 2014): *Verum haec quoque modestia cognoscitur esse praedicanda ut optent se legibus teneri, quae ab ipsis sciuntur potuisse constitui.*

integrity.”¹⁹² For the quaestor, *custodia legum* and *custodia morum* are part and parcel of the same bureaucratic tasks.

The *mores*, in turn, are anchored in *Romanitas*:

“We would like for those to live according to Roman law (*ius Romanum*) who we wish to conquer by arms, so that our attention for moral matters (*res morales*) is no less than for matters of war. For what good would it do to have chased away the confused barbarians (*barbari*) if one does not live according to the laws (*leges*)?”¹⁹³

This letter, written in the context of Theoderic’s campaign in Gaul,¹⁹⁴ shows the strength of Roman law for Ostrogothic ideology. Apparently, one cannot become “Roman” by military victory, but only through the acceptance and adaptation of Roman tradition as expressed by the *ius Romanum*. This contrast between arms and *civilitas* is repeated often throughout the *Variae*.¹⁹⁵ The Breones, for example (a Raetian tribe living in the Alps¹⁹⁶), who were “used to military affairs” (*militaribus officiis assueti*), oppressed *civilitas* by being armed (*armati*) and could neither obey justice (*iustitia*) nor “maintain the right measure of good conduct” (*morum custodire mensuram*).¹⁹⁷ Once again Cassiodorus employs the term “*custodire*” for legal and moral matters alike.

Letter 3.24, directed to “all the barbarians and Romans in Pannonia”, expresses the same ideas on barbaric violence and Roman norms, but places the Goths at the very top of the moral pyramid since they know how to combine military and civil virtues in a “superior synthesis”:¹⁹⁸ “Or whence do you believe peace will arrive if there is fighting under *civilitas*? Surely, you should imitate our Goths (*Gothi nostri*), who know how to fight abroad while exercising moderation (*modestia*) in their own land.”¹⁹⁹ Another letter, directed to the Gothic divisions in Picenum and Samnium, goes even further: Theoderic is happy to support his troops so that “by armed men *civilitas* may be preserved (*custodiat*) intact.”²⁰⁰ In this letter, the *custodia* of society gets a militaristic plot twist. In order to convince the Gothic soldiers of civil behaviour, the letter gives them a role in Theoderic’s bureaucracy. Indeed, arms can serve the law and thus protect Roman tradition. An explanation for this remarkable inclusion of the military in the general *civilitas* ideology can be found either in the specific historical context of letter 3.24 (Theoderic begging his soldiers to behave civilly and not to disturb his peaceful kingdom),

¹⁹² Var. 6.5.3 (ed. Giardina 2014): *Si quid dubitamus a quaestore requirimus, qui est (...) armarium legum (...). (...) mores et alienos corrigat et suos debita integritate custodiat.* Trans. Barnish 1992, 96.

¹⁹³ Var. 3.43.1 (ed. Giardina 2014): *Delectamur iure Romano vivere quos armis cupimus vindicare, nec minor nobis est cura rerum moralium quam potest esse bellorum. Quid enim proficit barbaros removisse confusos nisi vivatur ex legibus?* My translation.

¹⁹⁴ Giardina 2014, 275.

¹⁹⁵ Cf. Var. 4.16.1 (to the Senate of Rome, ed. Giardina 2014): *His rebus ad nostra vota compositis et gloriam civilitatis retulit et quod inter vos didicit diligenter ostendens et bellorum insignia reportavit;* and Var. 4.17.3 (ed. Giardina 2014): *Esto contra talia omnino sollicitus, ut qui es bello clarus civilitate quoque reddaris eximius. Sic et arma tua deo iuvante corroboras si iustitiam mediocribus servare contendas.*

¹⁹⁶ Hodgkin 1886, 151.

¹⁹⁷ Var. 1.11.2 (ed. Mommsen 1894): *(...) Breones (...), qui militaribus officiis assueti civilitatem premere dicuntur armati et ob hoc iustitiae parere despiciunt, quoniam ad bella Martia semper intendunt, dum nescio quo pacto assidue dimicantibus difficile est morum custodire mensuram.* My translation.

¹⁹⁸ Giardina 2014, 244.

¹⁹⁹ Var. 3.24.4 (ed. Giardina 2014): *Aut pax esse unde creditur si sub civilitate pugnetur? Imitamini certe Gothos nostros, qui foris proelia, intus norunt exercere modestiam.* My translation.

²⁰⁰ Var. 5.26.2 (ed. Giardina 2014): *... ut ab armatis custodiat intacta civilitas.* My translation.

in a more general militarization of Theoderic's ideas after AD 520,²⁰¹ or in Cassiodorus' editorial efforts to present an ideologically consistent letter collection.²⁰² This last option seems the most plausible, given the consistency of *custodia legum* in the rest of the *Variae* and the many similarities of this ideology with contemporary works – a point to which I will return in my conclusion.

More important than actual steel is the sword of justice, which first and foremost should be upheld by the Senate,²⁰³ but for example also by the urban prefect²⁰⁴ and the *comes provinciae*, who is encouraged in his appointment *formula* to use his judicial and military tasks (an exceptional combination²⁰⁵) in a civil (*civilis*), not a warlike (*bellicus*) manner: "These are the arms of law (*arma ... iuris*), not of fury."²⁰⁶ Repeatedly, rhetorical questions underline the tension between violence and justice, emphasizing the superiority of the latter: "For what is more worthy of being meditated on day and night in continuous deliberation if not the thought that the inviolate equity (*aequitas inviolata*) guards (*custodiat*) our republic in the same way as our arms?"²⁰⁷ "How will tranquil peace be different from military confusion if disputes will be settled through violence?"²⁰⁸

Back to the Roman *mores*: what do they entail exactly? First of all, it is through Roman law that Theoderic can govern the *mores* of his subjects: "(...) I am ruling the manners (*mores*) of foreign tribes in accordance with the law (*sub lege*) (...)."²⁰⁹ Theoderic's *civilitas* is accompanied by *mores* and thus leads to virtue (*honestas*) and harmony (*concordia*).²¹⁰ Moreover, it is the exercise of virtue (*virtus*) that is presented as the reason for promotions.²¹¹ Most letters seem to equate (legal) tradition with

²⁰¹ Amory 1997, 43-78.

²⁰² Bjornlie 2017, 434.

²⁰³ *Var.* 2.24.5 (ed. Mommsen 1894): *Quod nos salva civilitate dissimulare non possumus, ut sine acerbitate belli rebus suis exuantur oppressi et illi magis pereant, qui rei publicae parere festinant.* Trans. Barnish 1992, p. 33: "While maintaining official courtesy [*civilitas*], I cannot hide this fact: that, without the cruelty of war, men are borne down and stripped of their property, and perish the more, the quicker they are to serve the state."

²⁰⁴ *Var.* 1.44.2 (ed. Mommsen 1894): *... praefecturae urbanae dedimus fasces regendos, ut, quia quorundam illicitis seditioibus civilitas turbabatur, haberent et innoxii purissimum testem et errantes iustissimum paterentur ultorem.* My translation: "(...) we have given the *fasces* to reign over the urban prefecture, so that, since the *civilitas* was being disturbed by the illicit discord of some, the harmless as well had a most pure witness and those who were erring would undergo [the verdict of] a most just avenger."

²⁰⁵ Giardina 2014, 181.

²⁰⁶ *Var.* 7.1.2 (ed. Giardina 2014): *Arma ista iuris sunt, non furoris.* My translation.

²⁰⁷ *Var.* 4.6.1 (ed. Giardina 2014): *Quid est enim dignius quod die noctuque assidua deliberatione volvamus nisi ut rem publicam nostram sicut arma protegunt aequitas inviolata custodiat?* My translation.

²⁰⁸ *Var.* 4.10.1 (ed. Giardina 2014): *Quid enim a bellica confusione pax tranquilla distabit si per vim litigia terminentur?* My translation.

²⁰⁹ *Var.* 1.27.1 (ed. Mommsen 1894): *(...) exterarum gentium mores sub lege moderamur (...).* Trans. Barnish 1992, 19.

²¹⁰ *Var.* 1.30.3 (ed. Mommsen 1894): *Sed ut honestatem omnium par libra componeret et civilitatis gratia reductis moribus conveniret, ad populum quoque praecepta nostra direximus, quae vobis reserari libenter amplectimur, ut alterutra iussione pensata resarciatur civibus scissa concordia.* Cf. Reydellet 1995, 288: "Cela nous fournit une bonne définition de la civilitas: c'est la concorde entre les citoyens."

²¹¹ *Var.* 2.28.3 (ed. Mommsen 1894): *Vocabulum principis nulla sorde maculasti, servans dignitatem nominis exercitatione virtutis. hinc est quod spectabilitatis honorem (...) praesenti tibi auctoritate conferimus (...).* My translation: "You have polluted the word of the *princeps* with no dirt, serving the dignity of his name in the exercise of virtue. Hence it is that we bestow upon you by the present authority the honour of the office of *spectabilis* (...)." *Var.* 6.5.5 (ed. Giardina 2014): *Atque ideo prudentiae vel eloquentiae tuae fama provocati quaesturam tibi (...), virtutum omnium sedem, per illam indictionem deo praestante concedimus, ut sic agas quemadmodum te parem rebus praedictis esse contendas.* Trans. Barnish 1992, 97: "And therefore, prompted by the fame of your wisdom and eloquence, for this indiction, I allot you, by God's favour, the Quaestorship, the (...) seat of all virtues; so act that you strive to be equal to the duties just described."

mores.²¹² Bjornlie contrasts this “personal character” of legal tradition in the *Variae* with “the letter of the law” as codified simultaneously by emperor Justinian in Constantinople.²¹³ According to Giardina, however, it was Theoderic’s upbringing in this very same eastern city which guaranteed “[t]hat this kingdom still belonged within the sphere of Roman *mores* (...).”²¹⁴ Did Theoderic really use the *mores* of the court in Constantinople in order to create a legal ideology that contrasted with the practices at that same court? Although a paradox, this would be a plausible reconstruction: after all, the steady anchor of tradition is more important in a new and fragile kingdom than in a long-existing (though split-up) empire.²¹⁵

Apart from its possible polemical value in the discourse between the East and West of the former Roman Empire, the “universal (...) personality (*antiquitas*)” of the law was an important marker for the Ostrogothic government.²¹⁶ Perhaps the “imperium of the *mos*” was the only escape route for the Italian late-antique elite from historical reality to a state where “the name of Rome would still be on top of everything”, as Laccetti contends.²¹⁷ But it may also have served more concrete political purposes for the Italian elite who needed Roman *mores* as a token of her superiority. Like we have seen in the previous chapter, the Roman moral quality is present especially, though not exclusively, in noblemen. For example, the senators are described as “lights of morality” (*morum lumina*),²¹⁸ and they are expected to act “with consideration for justice” (*iustitiae consideratione*), “like it befits your nobility (*nobilitas vestra*), which is always pleased with honesty (*probitas*)” – a virtue that also reveals a Christian philosophy.²¹⁹ It is suiting for men of noble origin (*generosi ... viri*) to behave according to the law, but it is also convenient for them: by acting under the moderation of *civilitas* (*sub moderata civilitate*), they avert the envy (*invidia*) of the less fortunate.²²⁰

According to Kakridi, the pride of the nobility or “*Standesstolz*” found in the *Variae* expresses two parallel tendencies: on the one hand, Roman senators had their own power base and did not need any royal support anymore; on the other hand, it shows their political weakness, since their practical

²¹² Cf. Bjornlie 2013, 227: “The preference for continuing trusted practice as opposed to beginning something new was also reinforced as an abstract principle that could be located in a person’s ethical disposition.”

²¹³ Bjornlie 2013, 224-5.

²¹⁴ Giardina 2010, 116.

²¹⁵ Cf. Bjornlie 2017, 440-442.

²¹⁶ Bjornlie 2013, 225-6.

²¹⁷ Laccetti 2014, 75: “*In tutta l’intellettualità tardoantica l’impero del mos contribuì di fatto a creare una vera e propria mistificazione: rendeva impossibile qualsiasi adattamento alla realtà dei fatti storici nella loro vividezza, ai complessi movimenti del presente, eppure questa forma immutabile e perfetta veniva esaltata come unico strumento di una realizzazione pienamente storica, dove il nome di Roma fosse ancora in cima ad ogni cosa.*”

²¹⁸ *Var.* 6.4.4 (ed. Giardina 2014): *Quis iam de obscuro vitio cogitare possit qui se inter tot morum lumina esse cognoscit?* My translation: “Who could only think of obscure vice who knows himself amidst so many lights of morality?”

²¹⁹ *Var.* 4.16.3 (ed. Giardina 2014): (...) *iustitiae consideratione* (...) *sicut nobilitati vestrae convenit agere, cui semper probitas placet.* Kakridi 2005, 373: “*In der Tradition eines philosophischen Christentums verbinden Cassiodors Urkunden das Selbstbewusstsein des Geblütsadels mit den Forderungen nach persönlicher Leistung, geistiger Kraft und moralischer Integrität.*”

²²⁰ *Var.* 4.39.5 (ed. Giardina 2014): *Generosos quippe viros omnia convenit sub moderata civilitate peragere, quia tantum potentibus laesionis crescit invidia quantum premi posse creditur qui fortuna inferior comprobatur.* For the connection between *mores* and *moderatio*, cf. *Var.* 1.44.4 (ed. Mommsen 1894): *numquam maiori damno periclitati sunt mores, quam cum gravitas Romana culpatur. reparat itaque honesta civitas moderationem suam.* My translation: “Never the *mores* are put to the test by a bigger injury, than when the Roman dignity is damaged. May thus the honest citizenship repair its moderation.”

influence was waning, and falling back on the noble roots of their inherited power was the only option they had.²²¹ This interpretation presupposes that the *Variae* represent the senatorial elite rather than the Ostrogothic king and his bureaucracy. It does not explain why Theoderic – and Cassiodorus in his name – would want to stress the importance of nobility as well. In my opinion, the *Variae*'s interest in noble roots is caused by its more programmatic strategy of propagating (legal) tradition through Roman *mores*, which were as a rule connected to the virtue of nobility. Indeed, in the *Variae* good customs are not enough: true authority comes from the law, and legal tradition ensures that senators do not forget the tasks they have received by birth.²²²

Legal tradition, we may conclude, serves as a keystone for the ideal society as depicted in the *Variae*.²²³ For sure, it is thoroughly Roman in character, but “being Roman” is not the happy ending this tale is aiming for. Rather, Italian unity and universal justice are presented as the final objectives of this ideology, set forth clearly in the very first letter of the *Variae*, which is directed to the senate of Rome: “Encourage me frequently, so that I may love the senate, embrace the laws of the monarchs (*leges principum*) with pleasure, so that I may unite the whole of Italy.”²²⁴ In another letter, Theoderic praises the Senate for bringing justice through law: “For your decrees have produced loyalty (*devotio*) in the provinces, and given laws (*iura*) to private persons; you have taught your subjects to obey justice (*iustitia*) gladly in all its parts.”²²⁵ Likewise, in letter 1.30, Theoderic's rules (*praecepta*) are said to be brought to the people so that *civilitas* with its accompanying *mores* would restore harmony (*concordia*) amongst the citizens.²²⁶ Another example is the appointment of the *comes* Marabadus, who was to bring justice for “your *civilitas*” (*civilitas vestra*), which Giardina translates here as “your civil life” (*la vostra vita civile*).²²⁷ Interestingly, Theoderic's justice is not just a protective umbrella for Goths and Romans, but also for “those who are known to err in their faith”, i.e. the Jews.²²⁸ It is literally a justice

²²¹ Kakridi 2005, 358.

²²² *Var.* 2.18.1 (ed. Mommsen 1894): *Priscarum legum reverenda dictat auctoritas, ut nascendo curialis nullo modo possit ab originis suae muniis discrepare (...)*. Cf. *Var.* 1.32.2 (ed. Mommsen 1894): *si vero senator civilitatis immemor quemquam ingenuum nefaria fecerit caede vexari, protinus relatione transmissa perennitatis nostrae multam percussus excipiat*. Reydellet 1995, 289: “La mention de la civilitas ici incite à penser que le mot s'applique particulièrement au respect de l'égalité entre citoyens, par delà les clivages sociaux.”

²²³ Cf. Kakridi 2005, 348: “Zwei von den überkommenen Werten der römischen Nobilität erfuhren in den Spätantike eine Steigerung ihrer Bedeutung und verwandelten sich zu den maßgeblichen Statussymbolen der Aristokratie: die familiäre Tradition und die rhetorische Bildung.”

²²⁴ *Var.* 1.1.3 (ed. Mommsen 1894): *Hortamini me frequenter, ut diligam senatum, leges principum gratanter amplectar, ut cuncta Italiae membra componam*. My translation.

²²⁵ *Var.* 2.24.1 (ed. Mommsen 1894): *vos enim devotionem provinciis, vos privatis iura decrevistis et ad omnes iustitiae partes subiectos libenter parere docuistis*. Trans. Barnish 1992, 32.

²²⁶ *Var.* 1.30.3 (ed. Mommsen 1894): *Sed ut honestatem omnium par libra componeret et civilitatis gratia reductis moribus conveniret, ad populum quoque praecepta nostra direximus, quae vobis reserari libenter amplectimur, ut alterutra iussione pensata resarciatur civibus scissa concordia*.

²²⁷ *Var.* 3.34.2 (ed. Giardina 2014): 3.34.2 *Proinde comitem Marabadum nobis aequitate compertum ad Massiliensem civitatem credidimus dirigendum, ut quicquid ad securitatem vel civilitatem vestram pertinet deo iuvante perficiat memorque gratiae nostrae curam possit habere iustitiae, minoribus solacium ferat, insolentibus severitatem suae distractionis obiciat, nullum denique opprimi iniqua praesumptione patiatur, sed omnes cogat ad iustum, unde semper floret imperium*.

²²⁸ *Var.* 2.27 and *Var.* 5.37.1 (ed. Giardina 2014): *Libenter annuimus quae sine legum iniuria postulatur, maxime cum pro servanda civilitate nec illis sunt neganda beneficia iustitiae qui adhuc in fide noscuntur errare*.

for all that overcomes ethnic and religious differences and has to cover the fact that Theoderic is neither Roman nor Catholic.²²⁹

Does the *Variae's* justice for all imply the creation of a single autonomous Italian nation? Viscido contends that Theoderic was a proponent of Italian autonomy and wanted to “make of the two races one autonomous people walking on the road of the traditional Roman *civilitas*, of which the Goths were recognized to be the guards.”²³⁰ Opposing this slightly anachronistic interpretation, most modern scholars conclude that the Ostrogothic reign was aiming for something else. The Italian unity of *civilitas* meant “two nations living together in peace but performing different functions”,²³¹ a traditionally Roman idea that led to “the existence of two distinct jurisdictions for the Goths and for the Romans” and therefore to “personality of the law”.²³² This brought Reydellet to the paradoxical conclusion that *civilitas* was not even an ideal for the Goths themselves.²³³ More convincing is Guidetti's view on the matter, which repeats the importance of peaceful coexistence of the two peoples and stresses that they both accepted “the government of the law”.²³⁴ However, the connection in the secondary literature between law, *civilitas* and unity remains a little confusing: is *civilitas* the same as Roman law? Or does *civilitas* mean “living together in peace”, as Amory put it, and does the law offer nothing more than an instrument for social harmony?

Here we encounter the disadvantage of mosaic source material like Cassiodorus' letter collection. The ideological elements scattered throughout the work of this diligent quaestor do not present a coherent story *per se*: they need interpretative glue, which modern scholars have used amply but always with a difference in the compositional details of the end result. In this section I returned to the primary source in order to present my own composition of *antiquitas, custodia legum, reverentia priscorum, civilitas, mores* and *iustitia*. The outcome does not differ much from earlier interpretations, but emphasizes the crucial value of Roman law as a shaper of tradition. It was more than an instrument, and defined more than anything the meaning of *civilitas*, but its authority was just one of the pillars of the *Variae's* imagined temple of justice. I would like to put more emphasis on the role of aristocratic ethics for the ideology of the *Variae*. For Roman law to function correctly in the Ostrogothic kingdom, morality and therefore nobility and therefore education mattered. I will come back to this crucial interaction between law and education in my conclusion. First, the *Variae's* ideology will be compared with two other late-antique texts on legal tradition: Ennodius' *Panegyricus* and the *Edictum Theoderici*.

²²⁹ Saitta 1993, 1-2: “L'impero del diritto, che egli costantemente persegue, non è inteso a cancellare la distinzione fra i due popoli in vista d'una possibile fusione, ma a riaffermare, al di là dei loro due diritti, la funzione di una giustizia che ne superi le differenze.”

²³⁰ Viscido 2005, 20: “In che cosa consisteva quel programma? (...) creare una convivenza pacifica, (...) fare delle due razze un popolo autonomo in cammino sul sentiero della tradizionale *civilitas* romana, di cui ai Goti si riconosceva il merito di essere custodi.”

²³¹ Amory 1997, 43.

²³² Reydellet 1995, 290; Cardini 2009, 113.

²³³ Reydellet 1995, 290: “Ces remarques nous amènent à observer que la *civilitas* n'est pas un principe d'unification du royaume. (...) rien n'indique qu'elle soit un idéal pour les Gots eux-mêmes; elle ne constitue pas un ralliement des Gots à la cité romaine. (...) il faut entendre par là que doit triompher un critère unique de justice et qu'il ne faut pas faire acception des personnes (...). Cela ne contredit donc nullement l'existence de deux juridictions distinctes pour les Gots et pour les Romains.”

²³⁴ Guidetti 2007, 241: “Teodorico non volle amalgamare i due maggiori gruppi a lui soggetti in un unico popolo (...) ma si propose che essi vivessero in pace l'uno accanto all'altro, accettando il governo della legge.”

There we will see how these other sources presented Theoderic as “the sole real herald of Romanness in the West.”²³⁵

3b. Ennodius’ *Panegyricus*

Around AD 507, Ennodius writes a panegyric for King Theoderic.²³⁶ In it, he praises the king’s military victories and exalts the imperial qualities of his ruler from every point of view. Probably, the Panegyric was not officially commissioned by Theoderic; I will return to the occasion of its composition in my conclusion.²³⁷ Before mining this text for references to law and Roman tradition, we should bear in mind Ennodius’ clerical position. According to Kennell, there was “a completely ecclesiastical context for the composition of all Ennodius’ works”.²³⁸ Even though all Ennodius’ extant works stem from his pre-episcopal years, he had started his ecclesiastical *cursus honorum* at the early age of seven and was writing his literary output during his deaconship of the Church of Milan.²³⁹ His political praise for the Ostrogothic king is remarkable exactly because it hardly differs from the ideology presented by his secular contemporary Cassiodorus. *Civilitas* and *antiquitas*, *virtus* and *nobilitas*: the keywords of the *Variae* all find their place in the lofty panegyric of this educated cleric. But is their meaning identical as well, or does Ennodius add his own perspective to the officially recognized ideology of the *Variae*? In what follows, I will explain how Ennodius connects law with *civilitas*, how *civilitas* implies education, noble virtues and *Romanitas*, and what all this means for the Panegyric’s framing of Roman tradition.

The core passage about the political meaning of Roman law can be found in XX.87:

“But as you accidentally have come to the throne in the midst of military exercises, with which you instruct everyone and gain favourable omens of victory, do you not reserve anything for the sweetness of *civilitas*? Who would believe that your heroes would not reject the fearfulness that is foreign to them, when everything is tranquil? Now, the law (*lex*) constrains their natures, which are ungovernable in battle: they bow their heads for precepts (*praecepta*) after the laurels [of victory] and after the troops of the enemy have been trampled upon; they for whom weapons have been abandoned, are dominated by decrees (*decreta*).”²⁴⁰

This passages reveals a perception of the law as the king’s weapon in times of peace. Ennodius recognizes the difficulty of keeping an army under control when the fighting is over. By lauding both the fearless attitude of the Gothic soldiers and the superior legal authority of Theoderic, he does justice to everything his king would love to hear. To have invincible troops and yet dominate them by the might of your own words is the highest praise he could give Theoderic, while Ennodius is also subtly underlining the supremacy of Roman law over Gothic victories.

²³⁵ Rohr 1996, 5; Giardina 2010, 119.

²³⁶ Kennell 2000, 124; Rota 2002, 22-25.

²³⁷ Cf. Arnold 2014, 33.

²³⁸ Kennell 2000, 16.

²³⁹ Kennell 2000, 8.

²⁴⁰ Ennodius, *Panegyricus* XX.87: *Sed inter proeliales forte successus, quibus omnes instruis et concilias omina secunda vincendi, civilitatis dulcedini nil reservas? Quis credat heroas tuos peregrinam non respuere, dum sunt tranquilla, formidinem? Nam indomita inter acies ingenia lex coerces: summittunt praeceptis colla post lareas et calcatis hostium cuneis, quibus arma cesserint, decreta dominantur.* My translation.

After having dwelt extensively upon the military bravery of the Goths, Ennodius reserves the last part of his panegyric for more civil praise: Theoderic's ability to govern, his noble birth and virtue, and finally the success of "the master of Italy" (*Italiae rector*) in uniting peace and war in a true friendship (*amicitia*).²⁴¹ *Leges, praecepta* and *decreta* rule over the victorious; it is the king's rules that force the uncivilised natures (*ingenia*) of the Gothic warriors into a state of submission. This sounds familiar to what we have read before, yet there is a crucial difference here with the *Variae*. The dichotomy between civil Romans and warlike Goths is replaced here by the image of one people, the Goths only, capable of changing its attitude according to the circumstances. Where the *Variae* attributed different functions to the two peoples of Theoderic's Italy, here the warriors simply lay down their weapons and submit themselves to the ultimate victor: the king whose rules are stronger than iron, the "delicate judge" (*subtilis arbiter*) Theoderic.²⁴²

Here, *lex* seems to have a quite straightforward meaning, as it literally refers to the precepts and decrees of the king. The other appearances of *lex* and *ius* in the panegyric are more specific, such as Theoderic's reforms of inheritance law (*hereditatis ius*),²⁴³ or more symbolic, where Theoderic and his soldiers overcome the divine laws (*caeli leges*) and the law of necessity (*necessitatis lex*) in their victory over nature.²⁴⁴ However, in a more general way, law is equal to the king's power and authority over his subjects: at Theoderic's arrival in Ravenna, "the palace itself had already put itself under your authority (*ius tuum*)".²⁴⁵ So law corresponds with power and serves *civilitas*, but is this the same *civilitas* we encountered in Cassiodorus' *Variae*? In total, there are four references to *civilitas* in Ennodius' panegyric. The other three appearances of the word put *civilitas* in the context of Theoderic's Greek education (III.11), his personal virtues (IV.15) and his building projects in a rejuvenated Rome (XI.56). I will discuss them here as a starting point for the themes of education, virtue (and nobility), and Roman identity.

When recounting the youth of Theoderic in the third paragraph of the panegyric, Ennodius makes the following remark:

"Greece, presaging what was to come, has educated you in the bosom of *civilitas*; and she instructed you who had thus entered through the door of life, so that, while until then you had the gaiety (*hilaritas*) of a boy, soon this was followed by the security (*securitas*) of a defender."²⁴⁶

This short but strong passage has some striking implications for the meaning of *civilitas*. While making *civilitas* the content of Theoderic's classical education, this phrase places its roots in the culture of ancient Greece and acknowledges its effect of awakening the military spirit of the young Theoderic.

²⁴¹ Ennodius, *Panegyricus* XX.88-XXI.93. Cf. Kennell 2000, 20 on the centrality of *amicitia* to Ennodius' works.

²⁴² Ennodius, *Panegyricus* XVI.74; Rota 2002, 418.

²⁴³ Ennodius, *Panegyricus* XVI.75.

²⁴⁴ Ennodius, *Panegyricus* II.7 and V.21. In classical Roman law, *ius* refers to "the law" in general (including common law, but excluding custom), whereas *leges* are the actual statutes that can correct or change the *ius*. Zwolve 2004, 20-21. Ennodius does not seem to make this same differentiation in his Panegyric, since he uses *lex* in a very general and symbolic way (*caeli leges, necessitatis lex*) and *ius* for a more concrete field of law (*hereditatis ius*).

²⁴⁵ Ennodius, *Panegyricus* IV.15: *Iam tunc in ius tuum se palatia ipsa contulerant (...)*. My translation.

²⁴⁶ Ennodius, *Panegyricus* III.11: *Educavit te in gremio civilitatis Graecia praesaga venturi, quem ita ingressum vitae limen erudit, ut dum adhuc de puero haberet hilaritatem, mox eam sequeretur securitas de tutore*. My translation.

Whereas the legal *civilitas* of XX.87 stood in contrast with bellicose action, here it is the education of *civilitas* that creates the qualities of a martial leader. The reference to Theoderic's youth in Constantinople is truthful yet carefully made, since the Ostrogoth did not stand on very good terms with the Roman emperor in the East.²⁴⁷ Therefore, Ennodius chooses the safer option of describing Theoderic's erudition as a result of classical Greco-Roman *paideia*. It shows, again, that education was a key element of Ennodius' mental world, just like it was for Cassiodorus.²⁴⁸ For Theoderic to be a successful king, both on the battlefield and in his governmental palace, he needed the possession of a good educational background.

What role does education play in Ennodius' panegyric? From the start, the clerical eulogist reminds his addressee that this panegyric is the result of "the exercise of languages" (*linguarum exercitia*).²⁴⁹ It is only through the work of writers that Theoderic's deeds shall conquer the mortality of old age (*vetustas*); therefore, Ennodius implores the king to give the disciplines (*disciplinae*) their peace, for it is through them that he can reach eternity (*aeternitas*).²⁵⁰ This adhortation suggests that Ennodius was well aware of the importance of literary studies, whereas Theoderic might have needed some convincing. It reminds the modern reader of the layered subjectivity of this text: in his role as panegyrist, Ennodius was inclined to (over)emphasize the power of words and therefore education, while he also needed to convince his royal addressee of the advantages and usefulness of receiving a written eulogy. Meanwhile, he really did need his personal rhetorical experience to deliver a text which was in concordance with classical tradition. For Theoderic, as we know from the *Variae* and other sources, loved tradition and sought to emphasize the continuity of his reign over Italy with its glorious and alive Roman past. Therefore, Ennodius' depiction of education as the stairway to heaven is as traditional as it is part of a persuasion strategy. Not surprisingly, Theoderic's leniency towards orators and advocates is an element of the panegyric as well. "The revered studies (*veneranda studia*) owe it to you that they are speaking [again]."²⁵¹ In contrast with his predecessors, Theoderic has brought the *litterae* back to life – a cultural richness which shows itself now that even the Church has delivered a panegyrist (*laudator*).²⁵² The fact that the deacon Ennodius has been given the opportunity to write an official laudatory text for his king is yet another proof of his king's excellence (and of Ennodius' diplomatic qualities). Again, the panegyric contains a Droste effect, deriving its arguments from its own existence.

Besides the literary education that *civilitas* treasures, the term refers to yet another theme which has appeared before: *virtus*. Ennodius depicts *civilitas* as one of Theoderic's personal qualities: "Who would have thought that this *civilitas* would live in full bloom amongst the virtues (*virtutes*) which belong to you?"²⁵³ In most passages, *virtus* is above all a military quality, as we can see for example in the words Theoderic would have spoken preceding a decisive battle. "Virtue does not

²⁴⁷ Cf. Bjornlie 2013.

²⁴⁸ Cf. the first part of my thesis on education.

²⁴⁹ Ennodius, *Panegyricus* I.2.

²⁵⁰ Ennodius, *Panegyricus* I.2: (...) *ne senescat claritudo operum, advocanda sunt linguarum exercitia. Quid egeris, ne vetustas sibi vindicet, obliget catena referentum: disciplinarum enim quietem vos tribuitis, per quas vobis continget aeternitas.*

²⁵¹ Ennodius, *Panegyricus* XVI.76: *Debent tibi veneranda studia quod loquuntur.* My translation.

²⁵² Ennodius, *Panegyricus* XVI.77: *Vide divitias saeculi tui: tunc vix fora habuere perfectos, nunc ecclesia dirigit laudatorem.*

²⁵³ Ennodius, *Panegyricus* IV.15: *Quis hanc civilitatem credat inter familiares tibi vivere plena executione virtutes?* My translation.

request a multitude: wars stride on to few, whereas the fruits of wars come to many.²⁵⁴ Moreover, the king gives his youthful subjects a military training so that they may have enough *virtus* later on.²⁵⁵ This emphasis on military courage as the definition of true *virtus* is topical yet surprising, because it would inevitably place *civilitas* in the realm of war as well. A more plausible explanation is that Theoderic's virtues have the superhuman quality of embracing both opposites which are so vital to his government: civilisation and military strength, war and peace.

In the *Paraenesis didascalica* we noted the Christian character of Ennodius' *virtutes*. How about the religious context of virtue in the panegyric? There is one clear reference to God and His influence on Theoderic's character, where Ennodius exclaims how the paradoxical unison of courage and care in the king's "twin abundance of virtues" (*gemina virtutum plenitudo*), "reveals God as his author, because there is no human being from whom he seems to have begotten what he demonstrates!"²⁵⁶ Here the diplomatic deacon succeeds in praising his king, and placing him above all other mortals, whilst simultaneously making clear that Theoderic's authority could never surpass the glory of the Christian God. He does, however, possess typically Christian virtues like *pietas* and *clementia*.²⁵⁷ The beginning of the panegyric puts it in a religious frame as well, because Ennodius starts with the prayer that his literary eloquence may be in concordance with his inner devotion to God.²⁵⁸ Other references to religion underline the tolerance of the Arian king towards the Catholic faith, which must have served Ennodius' efforts to advocate Catholic Rome's orthodoxy in a time of many theological controversies.²⁵⁹

Apart from its military and religious connotations, *virtus* is also a quality that could bring its possessors to a higher rank in society. Ennodius praises Theoderic for granting senatorial honours to those who could show "a good moral sense" (*bona conscientia*) or "excellent merits" (*splendida merita*), of which Theoderic is of course the best example.²⁶⁰ Remarkably, Ennodius does not present Theoderic's virtue as the natural fruit of his noble origins: his merits (*merita*) are the product of his own mind (*mens*), a self-made state of excellence which adds to the splendour of his genealogical tree: "Only you are made of both merits and nature, you to whose orders those courageous men obey. For your origin (*origo*) has given you royal power, but your virtue (*virtus*) assists it. The splendour of your descent has given you the scepters, but if you would not have the tokens of power (*insignia*), your natural attitude (*mens*) would have ensured you to be elected as a king."²⁶¹ From this passage we may conclude that *civilitas* as an educated virtue was, in theory, available for everyone. Theoderic's subjects did not need to claim a noble (Roman) lineage for them to become established participants in the

²⁵⁴ Ennodius, *Panegyricus* VII.32: *Virtus multitudinem non requirit: ad paucos vadunt bella, bellorum fructus ad plurimos*. My translation. Cf. also VIII.39.

²⁵⁵ Ennodius, *Panegyricus* XIX.83: (...) *agitur vice spectacula quod sequenti tempore poterit satis esse virtuti*.

²⁵⁶ Ennodius, *Panegyricus* XI.59: *O geminam in uno principe virtutum plenitudinem, quae deum resignat auctorem, quia non habet inter homines a quo videatur sumpsisse quod exhibet!*

²⁵⁷ Ennodius, *Panegyricus* II.5 and IX.48.

²⁵⁸ Ennodius, *Panegyricus* I.3-4.

²⁵⁹ Ennodius, *Panegyricus* II.8 and XVII.80; Kennell 2000, 38-9.

²⁶⁰ Ennodius, *Panegyricus* XI.57: *Huc accedit, quod coronam curiae innumero flore velasti. Nullum de honoribus tetigit desperatio, quem iuverunt deprecantem bona conscientiae. Nescit de effectu petitionis dubitare, qui splendidis inops meritis non rogavit. Aut boni sumus proposito nostro aut tuo informamur exemplo*.

²⁶¹ Ennodius, *Panegyricus* XX.88: *Solus es meritis et natura conpositus, cuius magnanimi iussa sectentur. Origo te quidem dedit dominum, sed virtus adseruit. Sceptra tibi conciliavit splendor generis, cuius si deessent insignia, eligi te in principem mens fecisset*. My translation.

Italian high society: a good education or military training, leading to the right virtues, was enough. Or was it?

Despite the just cited victory of nurture over nature, Theoderic's *nobilitas* and family background play their own role in the panegyric. "It was hardly up to a few to rise to nobility from a humble background (*degenerare nobiliter*), while for your family you must nobly (*nobiliter*) guard (*custodire*) the accomplishments of your kind."²⁶² Comparable to the *Variae's custodia legum*, Theoderic has the duty to preserve (*custodire*) his family tradition. Apparently, it is not impossible to become noble without the proper genealogical roots, but this is the exception to the rule that *nobilitas* is the continuation of a privileged origin. Theoderic's noble state is contrasted by the humble origins of his defeated enemy Odoacer, whose "awareness of his lowest lineage" made him "fear to be feared".²⁶³ Nobility implies virtue, here represented by awe and courage (and beautiful clothes²⁶⁴) – but the custody of these virtues requires action: "there must be fought with weapons, so that the glory of the forefathers (*avorum decora*) will not perish through me."²⁶⁵ Clearly, family tradition is more than a passive pride, and burdens its descendants with a duty to continually prove their noble virtues.

Notwithstanding its traditional connotations, nobility can also be found amongst the bravest Goths (*Gothorum nobilissimi*),²⁶⁶ which brings us to the third question regarding Ennodius' *civilitas*: Roman identity.

"I see that an unexpected charm has arisen from the ashes of the cities and that under the abundance of *civilitas* the palace roofs are reddening. I see buildings finished before their arrangement had even reached my ears. She herself, the mother of all cities (*civitates*), Rome rejuvenates by cutting off her decayed members of old age. Be favourable, holy rudiments of the spirits (*genii*) of Luperca! it is more to drive back decay than to have initiated beginnings."²⁶⁷

According to this exultant passage, *civilitas* is the power behind Theoderic's building projects in Rome;²⁶⁸ a power that not only works as an anti-age serum for the *urbs aeterna*, but also reawakens the pagan *genii* – a peculiar remark for our Catholic panegyrist. Interestingly, restoration ("to drive back decay", *occasum repellere*) is deemed more important than new building projects ("to have initiated beginnings", *dedisse principia*). This idea is very close to that of the *Variae*, where the ideology of restoration plays an important role.²⁶⁹ For Cassiodorus and Ennodius, restoration is intrinsically connected with the *urbs aeterna*. Throughout the panegyric, Theoderic is depicted repeatedly as the

²⁶² Ennodius, *Panegyricus* IV.17: *Vix paucos contigit degenerare nobiliter, cum familiae tuae debeas actus generis nobiliter custodire*. My translation.

²⁶³ Ennodius, *Panegyricus* VI.24: (...) *et quotiens praelatos convenit conscientia stirpis ultimae et illud metuunt, quod timentur*.

²⁶⁴ Ennodius, *Panegyricus* XXI.89: *Exhibete, Seres, indumenta, pretioso murice quae fucatis, et non uno aeno bibentia nobilitatem tegmina prorogate*.

²⁶⁵ Ennodius, *Panegyricus* VIII.43: (...) *telis agendum est, ut avorum per me decora non pereant*. My translation.

²⁶⁶ Ennodius, *Panegyricus* XII.62.

²⁶⁷ Ennodius, *Panegyricus* XI.56: *Video insperatum decorem urbium cineribus evenisse et sub civilitatis plenitudine palatina ubique tecta rutilare. Video ante perfecta aedificia, quam me contigisset disposita. Illa ipsa mater civitatum Roma iuvenescit marcida senectutis membra resecano. Date veniam, Luperca! genii sacra rudimenta: plus est occasum repellere quam dedisse principia*. My translation.

²⁶⁸ Cf. Deliyannis 2010, 112: "Patronage of public buildings and infrastructure was an important aspect of *civilitas*, a highly visible reminder of good government."

²⁶⁹ Pergoli Campanelli 2013, 3.

saviour of Rome: he has re-lighted the torch of the Roman curia (*Romanae fax curiae*),²⁷⁰ Rome begged him for her restoration (*reparatio*),²⁷¹ and as her master (*dominus*) Theoderic showed clemency (*clementia*) towards Rome by protecting her from military devastation.²⁷² Part of this narrative is also the Roman identity of the Ostrogothic king himself: “I would not detract anything from the elder, whom *antiquitas* held to be excellent, if not the renewed pride of the Roman name (*Romanum nomen*) had produced you.”²⁷³ Theoderic is more than a restorer of Roman tradition, he is also a Roman himself. But what to do with the Goths in this story?

As we have seen in the *Variae*, the official ideology around the Ostrogothic court is one of Italian unity. Ennodius picks up this theme in his own way, stressing the uniting force of his king on various occasions in the text. Theoderic’s soldiers go to battle as one clan (*gens una*), even though it is “divided over innumerable peoples” (*innumeros diffusa per populos*).²⁷⁴ In the panegyric, all people living in Italy are still united under a Roman name, called the “Roman territories” (*Romana regna*) at one point and the “Roman possession” (*Romana possessio*) at another.²⁷⁵ The Goths are destined to be part of a Roman Italy, and subjects of the highly praised “ruler of Italy” (*Italiae rector*).²⁷⁶ And of course, as a Roman ruler, Theoderic guards and emulates Roman tradition. For the old Romans were good, but the present king is even better.

“Why,” Ennodius exclaims, “o monuments of old (*prisca monimenta*), have you praised Cato, for conducting his army over the Libyan Syrtes, even though he made human death the mockery of snakes or when he experienced the cold of their poison, which was fed by the heat of the air, without the reward of its valour (*virtus*)?”²⁷⁷ Cato and his troops died before realizing they were bitten by snakes, and therefore their strength (*fortitudo*) and wisdom (*sapientia*) are incomparable with Theoderic’s. “He [Cato] conducted the rage of civil war, whereas Rome, she who rules the world (*orbis domina*), begged you to restore her to her [former] condition.”²⁷⁸ In contrast to the famous Cato, who was only adding to the destructive violence of war, Theoderic – who is following ancient custom (*mos veterum*)²⁷⁹ – is a builder and restorer of Roman peace. *Antiquitas* has praised the fame of classical big men like Alexander the Great, using eloquence (*facundia*) to grow their deeds to greater heights, but “the merits of our king do not ask for the solace of a narrator: though the deeds of the old have been augmented by fiction, they are less than the real actions of him [our king]. You have simulated, poets,

²⁷⁰ Ennodius, *Panegyricus* V.22: *Cursim multa transcendo, ne pigrioris stili vitio serus advenias, ne Romanae fax curiae diu in umbram coacta tardius elucescat.*

²⁷¹ Ennodius, *Panegyricus* VII.30: (...) *te orbis domina ad status sui reparationem Roma poscebat.*

²⁷² Ennodius, *Panegyricus* IX.48: *Agnosce clementiam domini tui: saporem te voluit haurire triumphorum, quam dubia elegit nescire certaminum.*

²⁷³ Ennodius, *Panegyricus* XVII.79: *Nihil detraho senioribus, quos praecipuos habuisset antiquitas, nisi Romani nominis erectio te dedisset.* My translation.

²⁷⁴ Ennodius, *Panegyricus* VI.26: *Tunc a te conmonitis longe lateque viribus innumeros diffusa per populos gens una contrahitur.*

²⁷⁵ Ennodius, *Panegyricus* XII.69 and XV.72.

²⁷⁶ Ennodius, *Panegyricus* XXI.92.

²⁷⁷ Ennodius, *Panegyricus* VII.30: *Quid Catonem extulistis, prisca monimenta, quod per Libycas Syrtes duxit exercitum, dum humanas neces ludibria faceret esse serpentum vel cum sine virtutis pretio educatum caeli vaporibus veneni frigus expertus est?* My translation.

²⁷⁸ Ennodius, *Panegyricus* VII.30: *Illum civilis belli furor agitabat, te orbis domina ad status sui reparationem Roma poscebat.* My translation.

²⁷⁹ Ennodius, *Panegyricus* XII.69.

great things, but it suits you to admit that the present ruler has realized greater deeds.”²⁸⁰ Those heroes of the past were only pagans, whereas here stands a man of the right religion: a “worshipper of the highest God” (*summi dei cultor*).²⁸¹ “In vain our predecessors (*maiores nostri*) called those divine and priests, to whom the scepters were granted!”²⁸² Theoderic is surpassing the ancients in his faith and his actions, as he is not searching for empty words but uses his *mores* to serve the truth.²⁸³ Thus, he has created a new (Augustean) golden age (*aureum saeculum*).²⁸⁴ Ironically, his Catholic panegyrist does not mention the delicate matter of Theoderic’s Arian beliefs. For the scope of this eulogy, it is enough (and cautiously diplomatic) to praise the king’s submission to the same God as his Christian contemporaries. Ennodius the politically engaged deacon knows what is best to say and what to leave unsaid given the tense circumstances of the Laurentian schism, where the Arian Theoderic chose to support Ennodius’ favourite pope. I will come back to this in my conclusion.

In sum, Ennodius adopts many central themes of the *Variae*’s ideology in praise of his king. *Civilitas*, as the content of education and virtue and the key to a united Italy and a restored Rome, is the other side of Theoderic’s medal. The first side is his military glory, which receives ample recognition in the Panegyric, but the martial milestones of Theoderic are supplemented by his virtuous excellence in times of peace. Ennodius is aware of the paradox of this twin praise yet stresses the unifying result of it: thanks to Theoderic’s warfare and civil conduct, the Italian people act as one. Nowhere in this encomium a clear distinction is made between Goths and Romans, and this is not necessary either, because the authority of the king ensures the capability of the Gothic warriors to behave as Romans when they lay down their weapons. It is the power of the king that submits the Goths to *civilitas* – an aemulated state of ancient tradition – and in order to apply this power, Theoderic does not use arms but the compelling and righteous words of the law. All subjects have to obey Theoderic’s *lex*, which makes it the ultimate instrument for his powerful and centralized kingdom of *civilitas*.

3c. *Edictum Theoderici*

The last source under scrutiny for this study is less rhetorical, more practical and yet harder to interpret than the other ones. The *Edictum Theoderici* (*ET*), a compilation of 154 laws, is a legal source which bears all the interpretative difficulties of a normative text; moreover, its provenance is hardly known and therefore highly debated. Pierre Pithou, a sixteenth-century humanist, added an edition of the *ET* to a broader corpus including the *Variae* of Cassiodorus, stating that he had retrieved its text from two different manuscripts. He attributed the collection to Theoderic, king of the Ostrogoths, because of its closing formula “*Explicit Edictum Theoderici Regis*”.²⁸⁵ Since the manuscripts are no longer extant, modern scholars have to choose between following Pithou’s attribution, searching for a different Theoderic, or giving up and covering the provenance and historical context of this late-antique law

²⁸⁰ Ennodius, *Panegyricus* XVII.78: *Eat nunc et coturnatis relationibus Alexandrum iactet antiquitas, cui famae opulentiam peperit dos loquentium, ut per adiutricem facundiam videatur crescere rebus mendica laudatio. Regis nostri merita solacium non postulant adserentis: minora sunt eius veris actibus, quamvis aucta sint veterum gesta mendaciis. Simulastis, poetae, grandia, sed fateri vos convenit praesentem dominum gessisse potiora.* My translation.

²⁸¹ Ennodius, *Panegyricus* XVII.80.

²⁸² Ennodius, *Panegyricus* XVII.81: *Frustra maiores nostri divos et pontifices vocarunt, quibus scepra conlata sunt!* My translation.

²⁸³ Ennodius, *Panegyricus* XVII.81: *Ut divus vitam agat ex fructu conscientiae nec requirat pomposae vocabula nuda iactantiae, in cuius moribus veritati militant blandimenta maiorum.*

²⁸⁴ Ennodius, *Panegyricus* XXI.93.

²⁸⁵ Lafferty 2013, 24.

code with the dark veils of oblivion. In the 1950s and '60s, Vismara argued for the second option, explaining why the Ostrogothic Theoderic, who would never use the term "*barbari*" for his Goths and did not even have the authority to promulgate laws (as he was formally acting under the jurisdiction of the Eastern Roman Emperor), was not the responsible monarch for the *ET*.²⁸⁶ Pithou's choice would be a case of humanist wishful thinking: their utopian view of classical culture would have led humanists to believe that the *ET*, as a witness of Greco-Roman culture, could effectuate Italian cultural unity (parallel to the creation of law codes amongst other barbaric peoples) when everything else was falling apart.²⁸⁷ Instead, Vismara proposed Theoderic II, King of the Visigoths (AD 453-466) as the most probable lawgiver in this case. The *ET* would represent the cultural unity of Western Europe, but not of the shattered society on the Italian peninsula.²⁸⁸ It is unclear how this attribution would survive Vismara's own arguments against Pithou. Moreover, all sixth-century sources that have appeared in this study so far express exactly the same desire for Italian cultural unity, however wishful this thinking might have been.

In 2013, two scholars synchronically re-opened the discussion, each taking in the opposite stance, which resulted in two remarkably similar conclusions. Lafferty, writing for an anglophone public, presents the *ET* as drawing "[a] much different and more accurate picture" of sixth-century Italian society than the *Variae* of Cassiodorus.²⁸⁹ He refutes Vismara's arguments for the Visigothic Theoderic II and places the Edict firmly under the reign of our Theoderic. The various correspondences between the Edict and the *Variae* (most importantly concerning the treatment of the Jews²⁹⁰), and the references to Rome and long-haired barbarians (*capillati*) leads Lafferty to the conclusion that "the *ET* was drafted in Italy sometime during Theoderic's reign."²⁹¹ The Italian scholar Licandro, on the other hand, uses everything in his power to prove that this text was not written under the authority of Theoderic. Not only would the Ostrogothic king and his governing class never have called their Gothic subjects "*barbari*", and does no other late-antique source refer to the *ET*, its design of fusion between Roman and Goths would not fit Theoderic's general policy of profound dualism between these two peoples.²⁹² In other words, Licandro argues against the scholarly consensus that Theoderic was striving for unity between Goths and Romans, and uses this to show how this king would never have ordered for an idealistically unifying document like the *ET*. According to Licandro, the term "*barbari*" refers to all non-Romans in general and is present in the *ET* due to its principle of personality of law (the principle that people with different backgrounds fall under different jurisdictions).²⁹³ Ironically, however, these opposed opinions lead Licandro and Lafferty to a very similar conclusion on the authorship of the *ET*. Lafferty attributes it to "experienced Roman jurists",²⁹⁴ Licandro to "*un anonimo romano*".²⁹⁵ Thus, both scholars locate the source in sixth-century Italy and confirm its practical value.

²⁸⁶ Vismara 1955, 416-418.

²⁸⁷ Vismara 1967, 188.

²⁸⁸ Vismara 1967, 190.

²⁸⁹ Lafferty 2013, 13. One could question why a compilation of earlier laws like the *ET* would be more accurate a picture than the active lawgiving in the *Variae*, albeit there were of course practical differences between the use and application of both texts.

²⁹⁰ Lafferty 2013, 32.

²⁹¹ Lafferty 2013, 37.

²⁹² Licandro 2013, 111.

²⁹³ Licandro 2013, 104-6.

²⁹⁴ Lafferty 2013, 41-2.

²⁹⁵ Licandro 2013, 115.

For my study and interpretation of the *ET* the question of its authorship is relevant, but not crucial. Actually, the uncertainty of Theoderic's influence on its content is nothing new: the *ET*, the *Variae* and Ennodius' *Panegyric* all stand on a sliding scale of influence and approval from the court at Ravenna. Cassiodorus' *Variae*, with their direct consent and royal signature, are closest to the top of the pyramid, whereas the *Panegyricus* only has the king as its subject and official addressee, depending only indirectly on the approval of Theoderic whilst more on the self-censorship of his faithful servant Ennodius. I would place the *ET* somewhere in the middle of these extremes: it is neither a text originating completely from the mind of a private Roman, nor is it a law code drafted at the court of Ravenna with consequentially a direct royal authority. In my opinion, the *ET* uses the term "barbari" too prominently to have been ordered by Theoderic or his successors. The most plausible option would be that Lafferty's and Licandro's anonymous Roman jurist, working under Amal jurisdiction but holding on to his own opinion about the barbaric Goths, arranged these laws in a single document for judicial practice. However, the *ET*'s practical function does not diminish the fact that it presents norms which derive their power from the highest legal authority in the kingdom: Theoderic. Even if Theoderic never knew about the *ET* during his lifetime, its normative value in everyday practice was still based on his (constricted) jurisdiction. For these reasons, I will read the source as presenting an ideology if not coming directly from the mouth of Theoderic, then still attributed to him by the same Roman elite present in the other sources of this study.

The most telling parts for the main goal of the *ET* are its prologue and epilogue. The opening words of the compilation explain its societal function in making the law known to both Romans and barbarians, so that they may have "the respect due to the public laws" (*iuris publici reuerentia*) and preserve the laws (*seruare leges*) with devotion (*deuotio*).²⁹⁶ Thus, as is repeated in the closing formula, there will be security (*securitas*) and "peace of the state" (*generalitatis quies*).²⁹⁷ The goal of *seruare leges* resembles the *Variae*'s emphasis on *custodia legum* quite a lot (see part 3a). In the legal text itself, there are two laws which mention the idea of generality in different words. *ET* 24, on the obligations of the fisc for inheritance law, concludes with the remark: "And We desire, just as the Emperors willed also that this [property] law be universal (*ius (...) esse comune*)."²⁹⁸ In *ET* 71, the archbishop is ordered to compel debtors who have fled to a church to leave again. "Unless he does this, let the archdeacon be compelled to pay the debt: this is of great interest to the public good (*utilitas publica*)."²⁹⁹ These two edicts underline once more the importance of a universal law that favours the interests of the whole Italian society. There is a (Christian) moral quality to this as well, as *ET* 153 on legal procedure – not surprisingly one of the last laws included in the *ET* – indicates: "A wife must not be sued in place of her husband; in accordance with the prudence and moderation of the

²⁹⁶ *ET* praef. (ed. Baviera 1940): (...) *ut salua iuris publici reuerentia et legibus omnibus cunctorum deuotione seruandis, quae barbari Romanique sequi debeant super expressis articulis, edictis praesentibus euidenter cognoscant*. Trans. Lafferty 2013, 248: "(...) so that both barbarians and Romans, while maintaining the respect due to the public laws and dutifully preserving in their entirety the rights of everyone, may clearly know what they are obligated to follow concerning the items specified in the present edicts."

²⁹⁷ *ET* praef.: (...) *nos tamen cogitantes generalitatis quietem (...)*. Trans. Lafferty 2013, 248: "We, taking into consideration the [desired] peace of the state (...)." *ET* ep.: *Quia quod pro omnium prouincialium securitate prouisum est, uniuersitatis debet seruare deuotio*. Trans. Lafferty 2013, 294: "For it is the duty of the whole to uphold that which has been provided for the security of all provincials."

²⁹⁸ *ET* 24: *Nobis enim, sicut et principes uoluerunt, ius cum priuatis uolumus esse commune*. Trans. Lafferty 2013, 256.

²⁹⁹ *ET* 71: *Quod nisi fecerit, quanti interest utilitatis publicae, archidiaconus cogatur exsoluere*. Trans. Lafferty 2013, 271.

laws (*legum prudentia et moderatione seruata*), only his property or espousal largesse shall be demanded for his financial liability.”³⁰⁰ But how exactly are the prudent and moderate laws to be preserved?

For the *ET*'s interpretation of *leges seruare*, there are four points to be made. First of all, it stresses general obedience to the law and creates or maintains a power hierarchy. Secondly, this hierarchy stretches out to religious matters as well. A third factor is the central role of the judges (*iudices*), and finally, the authority of the law is an active process, involving old as well as new laws and judicial practice. I will now explain these four aspects one by one, starting with the rhetoric of obedience. For a prescriptive legal compilation like the *ET*, it is not surprising that it states that “the rule of law must also be observed”.³⁰¹ In the normative hierarchy the *ET* creates, the king is the highest authority, whereas the judges are the guardians (*custodes*) of the decrees. *ET* 10, on the legal procedure for landholders (*possessores*), offers the clearest illustration of this principle:

“We command all those judges, appointed in the provinces or in the Venerable City (*urbs uenerabilis*), and their staffs, to be guardians (*custodes*) of this just and lawful decree, in such a manner that if there is any reason they should think themselves incapable of exacting the penalty referred to above, they shall send their report to Our bureaux [i.e. the *magister officiorum*] so that, if reason demands it, the penalty may be exacted more strictly by Us.”³⁰²

Apparently, Theoderic is the highest judge in the kingdom and the strongest upholder of the law. But the *ET*'s class distinction does not stop at the level of jurisdiction: its subjects receive a different treatment according to their status as *nobiles*, *honestiores* or *humiliores*. For example, those who accuse another with any crime should “be held in similar custody until the outcome of the trial has been reached; unless either the charges are minor, in which cases a guarantor must be produced, or the accused is sufficiently noble or of distinguished enough honour (*adeo nobilis uel splendidi honoris sit*) that he ought to be entrusted to his rank (*dignitas*).”³⁰³ Nobility implies privilege, and almost becomes a justification in a remarkable law on the rape of a virgin which was “in profound opposition to earlier Roman law on the subject, which generally applied the maximum penalty in all instances, regardless of the rank or wealth of the accused”.³⁰⁴

“Anyone who forcibly defiles a freeborn virgin, should he be supported by a suitable patrimony and is of noble rank (*genus nobilis*), shall be compelled to accept her as his wife; (...). (...) But

³⁰⁰ *ET* 153: *Uxor pro marito non debet conueniri: res eius aut sponsalis munificentia pro mariti obnoxietate poscatur, legum prudentia et moderatione seruata*. Trans. Lafferty 2013, 293.

³⁰¹ *ET* 124: (...) *seruari debere legum ratio persuadet*. Trans. Lafferty 2013, 286.

³⁰² *ET* 10: *Cuius decreti iusti atque legitimi omnes per prouincias iudices et urbe uenerabili constitutos uel eorum officia iubemus esse custodes: ita ut si aliquid extiterit, quo se putent exigendae mulctae superius comprehensae pares esse non posse, relationem ad scrinia nostra transmittant, ut a nobis, si ratio poposcerit, districtius uindicetur*. Trans. Lafferty 2013, 251-2.

³⁰³ *ET* 13: (...) *et usque ad euentum iudicii, tam reus quam accusator aequali custodiae sorte teneantur. Nisi forte aut minora sint crimina, in quibus fideiussor praeberi debeat, aut reus adeo nobilis uel splendidi honoris sit, ut suae committi debeat dignitati*. Trans. Lafferty 2013, 53: “And let both the accused and the accuser be held in similar custody until the outcome of the trial has been reached; unless either the charges are minor, in which cases a guarantor must be produced, or the accused is sufficiently noble or of distinguished enough honour that he ought to be entrusted to his rank.”

³⁰⁴ Lafferty 2013, 267 n. 89.

the oppressor and violator of freeborn modesty shall be afflicted with the most extreme punishment if he is not supported either by a suitable patrimony or nobility (*nobilitas*).³⁰⁵

This is one of the few instances where the *ET* deviates from earlier Roman law and is therefore all the more interesting. Apparently, the author of this law had the power to change Roman law and to favour the noble upperclass. This could be interpreted as an innovation, were it not that the class distinction between *honestiores* and *humiliores* is traditionally Roman in itself. By contrast, ethnic descent does not play any distinguishing role. The *ET* is addressing Romans and barbarians alike, only differing between the two groups when necessary according to the principle of personality of law. The two laws in the *ET* specifically addressing barbarians regulate the freedom of making wills for soldiers (*ET* 32) and the penalty for those *capillati* who do not show up in court upon being summoned (*ET* 145). The other recurrences of *Romani barbarique* merely confirm the applicability of these laws to both ethnic groups.³⁰⁶ Throughout the document, economic rather than ethnic differences prevail as the decisive factor for differentiation, for example in *ET* 43 and 44, which apply to all powerful (*potentes*) Romans and barbarians. Where real differences in penalty occur, it is always between *humiliores* and *honestiores*, for instance *ET* 91: “Anyone who bribes witnesses so that they commit perjury (...), those who are *humiliores* shall be punished capitally; those who are *honestiores* shall suffer the deprivation of their possessions.”³⁰⁷

Secondly, the laws of the *ET* extend even to the clerical layers of society, but allow the Jews to have their own laws and judicial system. “Clerics and religious persons” (*clerici religiosaeque personae*), according to *ET* 26 on inheritance law, are to “act according to the laws” (*secundum leges facere*).³⁰⁸ For the Jewish community, *ET* 143 orders that “[t]he privileges conferred by the laws (*priuilegia legibus delata*) upon Jews shall be preserved (*seruare*): when disputes arise between those Jews who live in accordance with their own laws, they must have as judges those whom they consider to be teachers (*praeceptores*) of their observance.”³⁰⁹ This passage closely resembles *Variae* 4.33 (to all the Jews living in Genua), where Cassiodorus, in Theoderic’s name, summarizes the main legal ideology of the *Variae*.³¹⁰ “(...) [Y]ou demand that the privileges have to be preserved (*servari*) for you which prescient antiquity (*provida ... antiquitas*) has determined for the Jewish institutions: and We willingly approve this, because We wish that the laws of the ancients (*iura veterum*) are kept for our honour (*nostra ... reuerentia*).”³¹¹ *Leges seruare, reuerentia*, and a little further on in the letter also *deuotio*: regarding the Jewish community, the ideological language of the *Variae* seems to be similar if not equal to the

³⁰⁵ *ET* 59: *Qui ingenuam uirginem per uim corruerit, si idoneo patrimonio gratulatur, et est genere nobilis et eandem accipere cogatur uxorem; (...). (...) Si autem nullo patrimonio aut nobilitate fulcitur oppressor et uiolator pudoris ingenui, supplicio adficiatur extremo.* Trans. Lafferty 2013, 267.

³⁰⁶ *ET* 34, 43 and 44.

³⁰⁷ *ET* 91: *Qui testibus pecuniam dedit, ut falsum testimonium dicant, (...) humiliores capite puniantur, honestiores bonorum suorum amissione multentur.* Trans. Lafferty 2013, 276. See also *ET* 83 and 89.

³⁰⁸ *ET* 26: *Clericos religiosasque personas intestatas deficientes, quotiens defuerit qui iure succedat, locum ecclesiae suae secundum leges facere debere praecipimus.* Trans. Lafferty 2013, 257: “We prescribe that clerics or religious persons who become intestate whenever a lawful successor has died are to bequeath their belongings to their church in accordance with the laws.”

³⁰⁹ *ET* 143: *Circa Iudaeos priuilegia legibus delata seruentur: quos inter se iurgantes, et suis uiuentes legibus, eos iudices habere necesse est, quos habent obseruantiae praeceptores.* Trans. Lafferty 2013, 290.

³¹⁰ Cf. part 4 of this study.

³¹¹ *Var.* 4.33.2 (ed. Giardina 2014): *Oblata itaque supplicatione deposcitis priuilegia uobis debere seruari quae Iudaicis institutis legum prouida decreuit antiquitas: quod nos libenter annuimus, qui iura veterum ad nostram cupimus reuerentiam custodiri.* My translation.

ET. This is another argument for attributing the *ET* to the reign of Theoderic and against Licandro's stance that the *ET*'s style would not match the official policy of the Ostrogothic kingdom.³¹²

The third characteristic of the *ET* is its emphasis on the role of the judge. As *custos* or *seruator legum*, he holds the dignity (*dignitas*) of his office,³¹³ renders judgments in accordance with justice (*iustitia*),³¹⁴ and, most importantly, holds authority (*auctoritas*).³¹⁵ The judge can also bestow authority upon others, as in the case of individuals who wish to seize a pledge on their own.³¹⁶ Clearly, the judge is supposed to play an active role in the legal system of the Ostrogothic kingdom. This role is comparable to that of the quaestor in the *Variae*, who as a drafter of laws is presented by Cassiodorus as the spider in the web of *custodia legum*. The *ET* holds on to the same ideology, but places a different official in the spotlight. Unfortunately we have no knowledge about the way in which sixth-century quaestors and judges co-operated or competed for authority, but their common goal and functions in the Ostrogothic kingdom would make a close cooperation a logical assumption.

From this follows a fourth observation, namely that law in the *ET* is more than a rigid corpus of simplified laws which should be treasured for its antiquity. Old laws hold authority, but new ones as well, and the authoritative influence of the judges implies a living body of active interpretation. The *ET* mentions the authority of the laws (*legum auctoritas*) in general,³¹⁷ but also puts "ancient and recent laws" (*antiquae uel nouellae leges*) on the same level of force,³¹⁸ while sometimes mentioning only old laws (*leges ueteres*) or a new law (*nouella lex*).³¹⁹ Nevertheless, the *ET*'s frequent copying of earlier laws affirms its thoroughly traditional character.³²⁰

Under the reign of Theoderic, law is Roman tradition. The late-antique legislation compiled in the *ET* communicates this and ensures the king's legal authority in all layers of society, creating a

³¹² Cf. Lafferty 2013, 32-3.

³¹³ *ET* 3 (on the penalty for judges who abuse their *dignitas*).

³¹⁴ *ET* 7: *iudex discussis utriusque partis suggestionibus atque documentis id solum iudicare debet, quod iuri et legibus uiderit conuenire*. Trans. Lafferty 2013, 250: "When the claims and proofs of each party have been examined, a judge must render a decision only on that which he perceives to be in accordance with justice and law." *ET* 91: *Qui (...) iudici praemium dederint, ut sententiam contra iustitiam dicat (...)*. Trans. Lafferty, 2013, 276: "(...) those who bribe a judge so that he renders a judgment contrary to justice (...)."

³¹⁵ *ET* 88, 131, 145.

³¹⁶ *ET* 123.

³¹⁷ *ET* 29: (...) *scituris testibus et scriptore praecipue testamenti, quod si quis falsitatis extiterit, sub cognitione decursa se supplicium euadere non posse, quod circa falsarios legum dictat auctoritas*. Trans. Lafferty 2013, 257-8: "But let witnesses, and particularly the testator himself, know that if, under examination [of the document], anything should be proven false, they shall not be able to avoid the punishment which is stipulated by the authority of the laws concerning forgers."

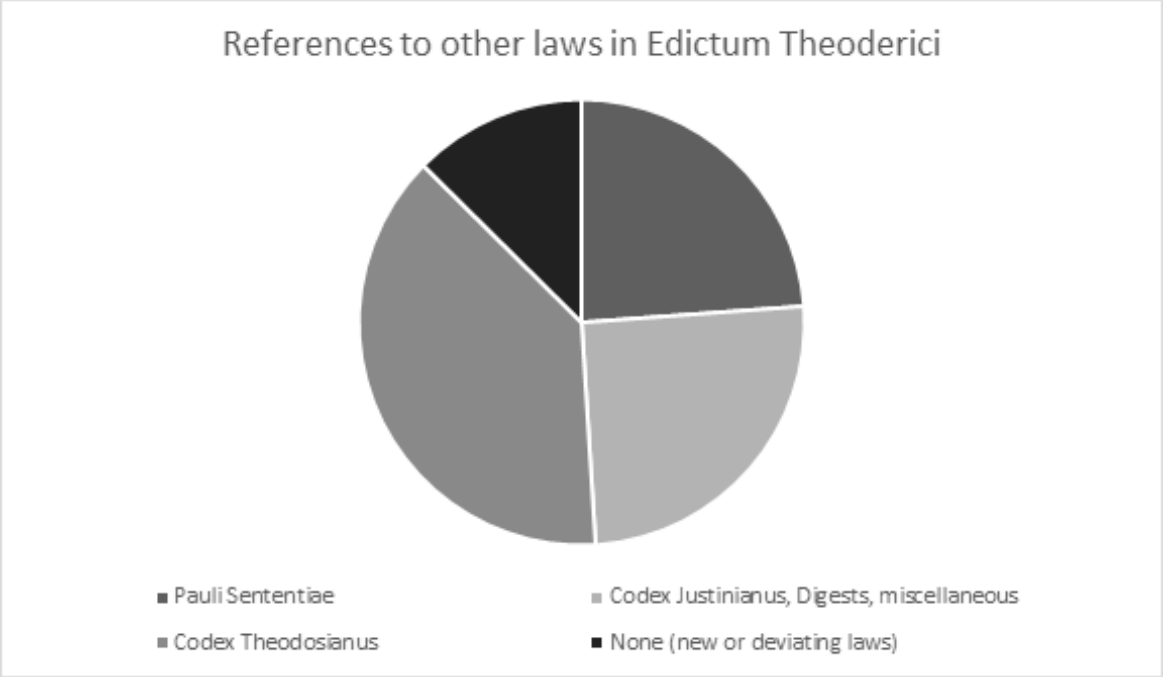
³¹⁸ *ET* 12: (...) *ita ut circa pupillarem aetatem priuilegia antiquis uel nouellis legibus concessa seruentur (...)*. *Cui casui quinquennii beneficium nouella lega probamus adiectum*. Trans. Lafferty 2013, 252: "There is this restriction: the exemptions granted by ancient and recent laws (*antiquae uel nouellae leges*) with regard to wards under puberty are to be preserved (...). In this instance We approve the privilege of a five year extension as added in a recent law."

³¹⁹ *ET* 24: (...) *secundum legum ueterum constituta (...)*. Trans. Lafferty 2013, 256: "In accordance with the precepts of the ancient laws (...)." *ET* 68: (...) *seruato nouellae legis tenore (...)*. Trans. Lafferty 2013, 269: "(...) in keeping with the tenor of the new law (...)."

³²⁰ Following the references of Lafferty 2013, only 19 of the 154 laws in the *ET* are not identical or similar to other legal sources. This means a mere 12% of the compilation could be deserving the label "innovative" (provided that they do not derive their content from earlier laws which have not been preserved – a possibility which should never be excluded for the scarce legal evidence of Late Antiquity.) About 38% of the *ET* is copying the *Codex Theodosianus*. See figure 2.

specific hierarchy. Again, the most striking characteristic found here is the emphasis on economic rather than genetic nobility. Wealthy subjects, whether Roman or barbarian, always come out ahead, and the *ET* allows them to base their claims on (presumed) legal tradition. Because of its doubtful and debated provenance, we cannot assume that the *ET* was part of Theoderic’s active unifying policy as expressed in the legislative *corpus* of the *Variae*. However, what we can do is interpret it as another textual witness of elite self-positioning in a society with many non-Roman newcomers. The *ET* also puts the ideological terms employed by Ennodius and Cassiodorus into perspective, as these same terms occur here in a more technical and practical context. Notwithstanding their embeddedness in juridical jargon, these words were used within the same powerful social group. Since all sources studied here stem from the same socio-political context, I would like to argue that this specific vocabulary lends itself to comparison with the works of Cassiodorus and Ennodius – even if the *ET* contains mainly legislation that can also be found in legal texts like the *Codex Theodosianus* and the *Pauli Sententiae*. As we have seen before, traditionalism does not impede novelty, nor does it stop its readers from interpreting second-hand words in an innovative or rather contemporary way. I will return to this in my conclusion.

Figure 2. References to other laws in *ET* according to Lafferty 2013.



4. Conclusion

In this study we have encountered three Italian aristocrats (Cassiodorus, Ennodius and the anonymous author of the *Edictum Theoderici*) who all used a similar ideology to anchor their texts in authority. A jurist, a cleric and a man who did it all: for these power players in the Ostrogothic kingdom, authority was not a given but had to be conquered through hard work, lots of networking and uttering the right words in the right place. For Cassiodorus, a thorough rhetorical education had been the key to his political career under the Amal kings. It was the basis of his own authority, assuring him of a speedy secular *cursus honorum* at the court of Ravenna and, when political circumstances changed, helping him to organize his own monastic community at Vivarium. Law, on the other hand, was a tool and a conceptual weapon for him and his Ostrogothic masters. The *Variae* demonstrate Cassiodorus' legal practice, as they display the normative texts he designed for Theoderic and his successors. The strong and relatively steady ideology of this letter collection,³²¹ which tied law and education to an idealized state of *civilitas*, created a traditional anchor for the aristocracy that bore the approval of the highest authority on the Italian peninsula.

However, this authority was not as natural as our sources present it. Theoderic had come to the throne by killing his opponent Odoacer, who had ruled over Italy for nearly twenty years after deposing the last Western Roman emperor Romulus Augustulus in 476. Officially, Theoderic's authority depended on the Eastern Roman Emperor in Constantinople. He was an invader, a "barbarian", and yet communicated like an educated erudite who mastered the Latin language in all its details. His close contact with the still-existing Roman Senate and the pivotal role herein of bureaucratic officials like Cassiodorus indicate how much Theoderic depended on the approval of the Roman aristocracy and in turn, how much they needed him. For the functioning of the Italian elite, being Roman had always been important, especially when the aristocrats could not base their power claims on genetic nobility.³²²

It should come as no surprise that Cassiodorus, whose family had Syriac roots, and Ennodius, who was born in Gaul, needed *Romanitas* to form a coherent governing elite. If we accept, as I would like to argue, that all sources used in this study (the *Variae*, the *Paraenesis didascalica*, the *Institutiones*, the *Panegyricus* and the *Edictum Theoderici*) are the product of the same interest group, the parallels between their ideologies becomes less striking and more comprehensible. All three authors expressed themselves as Roman aristocrats and knew this was the way to sustain and strengthen their social position – both in a secular and in an ecclesiastical context. Besides, they had an ardent wish to convince Theoderic of the utility of Roman tradition for his governance. Unfortunately, the authentic voice of the Gothic elite in Ravenna has not been preserved in our sources, but their preference for the military is clear enough. Theoderic could have opted for the Gothic approach to government and use only the force of arms to unite his subjects, but his social environment induced him to take up the armour of words as well. Law and education functioned as weapons in the power struggle between different interest groups in sixth-century Italy.

³²¹ Amory (1997, 43-78) notes a militarization of Theoderic's ideology in the *Variae* after AD 520. Cf. Deliyannis 2010, 113. Nevertheless, the idea of *civilitas* in itself remains largely the same throughout Cassiodorus' selection of official letters.

³²² Cf. Conant 2014, 160-161: "At least among members of the ruling class, then, Romanness mattered." (...) "Foreign origins were no impediment: it was loyalty and service to the empire that made the Roman."

What these supportive sources, whether as officially accepted propaganda or as diplomatic praise, concealed, were two painful yet obvious facts: Theoderic was an Ostrogoth and an Arian. By contrast, Ennodius had built his identity around being Roman and Catholic. During his ecclesiastical career he had become a representative of Italian aristocracy and “one of the most influential ecclesiastical diplomats in Italy”. Why, then, would he write “a flattering eulogy” on the Ostrogothic king who was “not even Catholic”?³²³ Modern scholarship has found two possible diplomatic occasions for the Panegyric. In the first scenario, Ennodius came to Ravenna to thank Theoderic for his intervening in the Laurentian schism, a quarrel about papal succession which Theoderic had ended by promulgating an edict which confirmed the authority of pope Symmachus, because the latter had more supporters than his opponent Laurentius (AD 498). This would give a very practical twist to Ennodius’ praise on the legal weapons of the king (see part 3b). Another option places the Panegyric against the background of Ennodius’ involvement with the destiny of his influential friend Faustus, a patrician who was eventually rehabilitated by Theoderic.³²⁴ Either way, this eulogy functioned as political honey and therefore contained cultural ideas that were common to the highest aristocratic circles around the Ostrogothic king.

Ennodius’ educational letter of instruction has a more personal character than the Panegyric. Having been written outside the circle of royal Arianism, it gives aristocratic culture a spiritual base in Christian virtues, just like Cassiodorus’ *Institutiones*. The *Paraenesis didascalica* present Christian values as a moral basis for the practical side of education, which only consists of grammar and rhetorics. Seventy years later, the *Institutiones* go two steps further: they offer a practical guide for a Christian schooling based on holy texts while at the same time reconfirming the importance of traditional education – even for the most humble and apolitical monk. In both cases, writing about education is an act of social engagement. Cassiodorus and Ennodius – and other Italian aristocrats with them – never stopped believing in the power of knowledge. Their works breathe general acceptance rather than revolution; Roman tradition was a matter of common ground, even in times when the Ostrogothic youth received a training in much more physical arts.³²⁵ What the *Variae* show as well is that education (including juridical skills) leads to a self-made form of nobility, which implies worldly power. Moreover, it is the quaestor’s *doctrina* and *prudentia* that enables the Ostrogothic kings to master *civilitas*.

For the anonymous author(s) of the *Edictum Theoderici*, a thorough legal education was a necessary precondition for gathering and summarizing the relevant laws for this compilation. Most of the laws included in the *ET* are traditional by their very nature (as copies from the *Codex Theodosianus* and *Pauli Sententiae*), but the *ET* creates a form of *custodia legum* which surpasses the rigidity of an antiquarian collection. The law code is a practical tool for sixth-century judges and grants them the authority to keep both old and new laws in force as a living body of active interpretation. Directed to Romans and Goths, the *ET* hardly differentiates according to ethnicity. Rather, it uses the traditional distinction between *humiliores* and *honestiores* to give legal effect to economic differences. Central to this all is the concept of *custodia legum*: the act of protection and preservation of traditional Roman morality through Roman law, which is central to the *Variae*’s *civilitas* and appears in Ennodius’ *Panegyricus* as well. *Custodia legum* is the ideological scepter in the hands of the Ostrogothic king.

³²³ Rohr 1996, 15: “(...) einer der einflußreichsten kirchlichen Diplomaten in Italien.” “(...) eine schmeichlerische Lobrede auf einen Gotenkönig, der nicht einmal katholisch ist (...).”

³²⁴ Rohr 1996, 22-3.

³²⁵ Cardini 2009, 115.

The *Variae*, the *Panegyricus* and the *ET* all base their doctrinal power on the approval of Theoderic. Without him, the legal armour of these texts would be useless. Even if these sources seem to present Theoderic as dependent on the might of Roman tradition, in reality they plead for the support of the Ostrogothic ruler. Noble origins and lofty rhetorics mean nothing if they do not lead to political influence, so it is Theoderic who determines the rule of the game. Apparently he likes to be associated with *Romanitas*, and probably the Roman aristocrats surrounding him emphasize this as much as they can because it is their only cultural link with the new ruler. These sources are the natural product of a very fragile network that, from the perspective of the Roman upper class, needs Roman law and rhetorical education as fundamental edges. Cassiodorus, Ennodius and the anonymous compiler of the *ET* are pleading for the centrality of their own identity-building heritage. As far as we can deduce from these subjective sources, the king – aware of the fact that military dominance alone could not lead to a smoothly functioning kingdom – happily agreed with these honey-smearing tactics of the well-educated provincial aristocracy. He needed these bureaucratic performers and they needed him for convincing the taming yet persisting higher aristocracy of the Roman Senate. Theoderic, Ennodius and Cassiodorus were brought up with enough Greco-Roman *paideia* to extract from it at least one vital lesson: when in Rome, do as the Romans do.

How did sixth-century authors around the court of Theoderic use law and education as traditional anchors for their contemporary *Romanitas*? In sum, they used these concepts (whether as a conscious strategy or simply as a result of their common *paideia*) to form a strikingly coherent ideology that had a double effect. On the one hand, it helped them to please their king and to prosper in the diplomatic arena of political and religious conflicts. On the other hand, it helped Theoderic to rule over Italy not just as a triumphant warlord, but with the moral authority of a Roman Emperor. The health of his kingdom depended on the cooperation of interest groups that had always based their authority on the old. Traditional education created Roman *mores* and therefore provided a new form of nobility to those in search of social power. Likewise, Roman law preserved ancient *mores* and thus based the power of Theoderic and his governing aristocrats in justice. What this study contributes to our understanding of sixth-century mentality is how exactly Italian aristocrats used legal and educational tradition to create a new nobility based on Roman and Christian *mores*. Hopefully, this synchronic and comparative case study on the functioning of anchoring innovation under Theoderic will inspire others to investigate how this Italian mentality lived on in legal practice and monastic schools during later Late Antiquity.

Last but not least, the parallel between law and education shown in this study forms a methodological contribution to the framework of “anchoring innovation”. Legal norms expressed in the *Variae* and the *Edictum Theoderici* and prescriptive texts on education like the *Paraenesis didascalia* and the *Institutiones* could function as anchors for power claims because they formed a mental space where their norms commanded the shape of the Roman elite. The thus created “shared field of experience” not only helped to accept change, but also consolidated social power. Further research on the social functioning of normative texts could increase our understanding of the power of tradition in rhetorical communication and the possibilities of this “prescriptive negotiation” for social networks.

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