

Patronum cooptare, patrocinium deferre: lex malacitana, 61

The vocabulary of patronage, like the institution itself, is not easily grasped, in part because the Romans used a variety of words to describe the same institution. Hence, *fides*, *clientela*, *patronatus* and *patrocinium* were employed to characterize different aspects and various aspects of the same relationship.

This problem is particularly acute when one considers c. 61 of the *lex malacitana*. The chapter in question reads:

ne quis patronum publice municipibus municipii Flavii Malacitani cooptato patrociniumve cui deferto, nisi ex maioris partis decurionum decreto...(ILS 6089=FIRA2 N° 24).

The question to be discussed here is whether the formulae *patronum cooptare* and *patrocinium deferre* refer to one or more specific kinds of patronage. Might one be considered retrospective and the other prospective in terms of the patronal services? Or, does *patronum cooptare* imply the grant of general responsibilities while *patrocinium deferre* specific ones? These questions are important, for communities employed the patronal relationship for various purposes and may have devised distinct formulae to define particular functions. The first problem to be considered is whether Roman lawgivers did employ apparently repetitious combinations of formulae in order, for example, to prevent the circumvention of the regulation or to ensure its enforcement. That they did so may be observed in another municipal charter, the *lex Ursonensis*, two passages of which are relevant for this discussion. In chapter 97, the text reads:

ne quis IIvir neu quis pro potestate in ea colonia facito neve ad decuriones referto neve decurionum decretum facito fiat, quo colonis coloniae patronus sit adoptetur praeter eum...(ILS 8087).

Though there is no reference to a distinction between *patronum cooptare* and *patrocinium deferre*, this chapter does regulate two distinct formulae (*patronus esse* and *patronus adoptari*) which were apparently being used to designate patrons in contemporary decreta. It is, however, highly unlikely that the two expressions used here were meant to produce different kinds of patrons or patrons with different functions.

In chapter 130 of the same charter, the language is more fulsome: *ne quis IIvir aedilis praefectus coloniae Genetivae Iuliae quicunque erit ad decuriones coloniae Genetivae referto neve decuriones consulito neve decretum decurionum facitio neve de ea re in tabulas publicas referto neve referri iubeto neve quis decurio de ea re, qua de ea re agetur, in decurionibus sententiam dicito neve decretum decurionum scribito, neve in tabulas publicas referto, neve referendum curato, quo quis senator senatorisve filius populi Romani coloniae Genetivae patronus adoptetur sumatur fiat nisi...*

Here again there is no reference to *patrocinium*, but three formulae are mentioned by which a patron might be designated: *patronus adoptetur*, *patronus sumatur* and *patronus fiat*. Nevertheless, the general context of this chapter indicates that the intention of this

provision (and that of c. 97) is not to distinguish between different kinds of patrons, but to regulate the various means and procedures by which the patron of a community might be designated.

To ensure the efficacy of a regulation, the lawgivers specifically mentioned the various formulae which were currently being employed in reference to a particular institution. Nor was this tendency unusual at other points in these charters. A common conclusion to the various regulations is: *cui volet cuique per hanc legem licebat actio petitio persecutio esto.*

These three words (*actio, petitio, persecutio*) are variously considered as "...eine sinnlose Häufung synonymer Begriffe" or as formal regulations "... (die) jede Lücke zu schließen und jeden Umgehungsversuch zu verhindern suchten."

Now that the principle has been established that the lawgivers employed various formulae in the charters in order to achieve one result, we may consider whether the two expressions used in the *lex Malacitana*, c. 61, refer to the same institution.

The Oxford Latin Dictionary makes the following distinctions between the words *patronus, patronatus* and *patrocinium*. The first is the person who has undertaken the protection of another, the second is defined as the status or position of the patron and the third as the exercise of the functions of a patron. It is the last of these three which comes closest to the English word "patronage". By these definitions, the formula *patronum cooptare* found in this law and on bronze *tabulae patronatus* would be equivalent to the official bestowal of *patronatus*,

i.e., the bestowal of the status or dignity would be considered *patrocinium*. Theoretically, then, there seems to be a distinction between these words.

This conclusion would appear to be supported by the fact that *patrocinium* usually refers to the activities of an advocate or, in particular, to his plea.

Hence, *patrocinium deferre* in this formula might be interpreted to mean specifically the appointment of an advocate by a community and not to the bestowal of a general patronage of the community. In this interpretation, the formula *patrocinium deferre* would appear to create a *patronus causae municipii Malacitani* and not a *patronus municipii*.

In practice, however, the theoretical distinction between *patronum cooptare* as a (general patronage) and *patrocinium deferre* (as a specific legal service of an advocate) does not appear to have been observed in the patronage of communities. Three examples illustrate this conclusion.

The *lex Malacitana* specifies that the designation of a patron of the community be confirmed by a *decretum decurionum*. A number of these honorary decrees, known as *tabulae patronatus*, have survived.

Although the texts of the individual *tabulae* vary considerably, they generally record that the community coopted someone as its patron and that he has received the community in *fidem clientelamque suam*. A *tabula* from *Maretania* dating to the reign of Nero reads:

Q. Julius Q. f. Qui Secundus legatus pro/praetore hospitium fecit cum/decurionibus et colonis colonia/Julia Augusta Legionis VII  
Tupusuctu sibi/liberis posterisque suis eosque pa/trocinio suo  
tuendos recepit...

What is interesting here is that patrociniūm is employed where fides clientelae normally appears and that it is considered the complement of hospitium. Hence, it is very likely that patrociniūm here refers to a general, rather than to a specific patronage.

In an inscription from Peltuinum in Italy, a decretum decurionum for Nummia Vaia is recorded in which the following formulae appear together:

...ut merito debeat ex consensu universorum patrona praefecturae nostrae fieri...placere universis conscriptis Nummiae Variae...pro splendore dignitatis suae patrociniūm praefecturae nostrae deferri...et singulas universosque nos remque publicam nostram in clientelam domus suae recipere dignetur...(CIL X, 3429)

Here too it is probable that the authors of the decree considered patrona deferri and in clientelam recipere to describe the same relationship.

A third example is an inscription from Banansa in Mauretania which dates to A.D. 162. It reads:

Aurelii Banasitani ex decreto splendidissimi ordinis Q. Claudium Ferocem Q. Filium ??? Aeronium Montanum patronum sibi liberisque ac posteris suis cooptaverunt Q. Claudius Ferox, Q. fil. Aeronius Montanus item patrociniūm in se recepit...(AE 1948, 115)

This inscription is particularly important because it specifies, as required by the lex Malacitana, that the cooptation of the patron result from a decretum decurionum. Most significant for this discussion is, however, the emphasis given by the expression item patrociniūm in se recepit as an exact complement of patronum cooptare.

These three examples show conclusively that, in regard to the patronage of communities, the Romans did not in practice make a clear distinction between the status of the patron and the exercise of the duties implied by the assumption of the status. In this context, both formulae refer to the bestowal of a general patronage.

Even if one accepts that the two formulae are linguistic variations which describe one phenomenon, it is possible that patronum cooptare and patrociniūm deferre might refer to different aspects of a general patronage. In this case, the former might be viewed as retrospective, "for services rendered" and the latter prospective, that is for "services to be rendered". There is, however, no evidence for such a meaning in the context of the patronage of communities.

Among the tabulae patronatus there is no indication the patrociniūm has this prospective meaning. Rather, it appears to be the case that patronum cooptare also included both the prospective and retrospective services. For, in the one case in which such a

distinction is made (...ut omnis aetas curae eius merito gratias agere debeat, futurumque ut tantae virtutis vir auxilio sit ?? municipio nostro), namely in the decree coopting Pomponius Bassus as patron of Ferentinum (ILS 6106), the community requests Bassus to accept it (i.e., the community) in his clientela and allow himself to be coopted patron. Moreover, Pliny the Younger, in referring to his cooptation as patron of Tifernum (me patronum cooptavit) states that he was paene adhuc puerum at the time (IV, 1.4) indicating that the community was anticipating services in the future rather than rewarding those of the past.

In summary, there is, first, no reason to think that, of the two

formulae discussed here, one has a general meaning and the other a specific or that one is retrospective and the other prospective. In the context of the patronage of communities, the two are synonymous.

Secondly, it is manifest that the vocabulary of patronage must be treated with considerable caution. In the context discussed here, the two formulae refer to the same institution, but, in other situations, they clearly do not.

The *leges Ursonensis* and *Malacitana* mention a variety of patronal relationships. The title was given to individuals (and to their descendants) who had founded the colony, who distributed land among the citizens (ILS 6087, c. 97) and to those who acted as *patroni causae* in internal affairs (ILS 6089, c. 67). Moreover, special regulations affected the designation of *patroni* of senatorial status (ILS 6087, c. 130).

Cf. *lex Ursonensis* cc. 125-6; 128-132; the *lex Salpensa* (ILS 6088) c. 26 and the *lex Malacitana*, cc. 62, 67.

On this problem, see F. Sturm, *Stipulatio Aquiliana*, Munich, 1972, 147-49, a57 ff. and 163.

On the *tabulae*, cf. ILS 6094 ff. and below.

Cf. *Plin. epp.* VI, 21.1; IX, 7.1 and *Cod.* II, 7.9 and the references in the OLD.

Such a *patronus causae* would represent the community in external relations; the appointment of a *patronus causae* for internal affairs is regulated in c. 67.

On this form, R. Cagnat, *Cours d'Epigraphie latine*<sup>4</sup> Paris 1914, 330, and L. Harmand, *Le Patronat sur les collectivités publiques*, Paris, 1957, 332 ff.

CIL VIII, 8837. The date of this and of the two following inscriptions is assured by the mention of the relevant consuls at the beginning of the inscription. They and the names of the *legati* who were appointed to implement the decree, have been omitted here.

On this letter, see Nicols, "Pliny and the Patronage of Communities" *Hermes* ??