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REDESCRIBING “MAGIC”: DISCOURSE, ALTERITY, AND RELIGION IN THE ROMAN
WORLD

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ANDREW FRANCIS DURDIN

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For Kelly

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Abstract

Scholars have roundly criticized “magic” as a category for academic analysis in the social sciences and humanities for more than a century. Yet, despite these persistent criticisms, and especially for scholars of the ancient Mediterranean world, magic still enjoys wide currency and has even received renewed interest over the past few decades. *Redescribing “Magic”* engages these issues from two perspectives. First, from a theoretical and methodological perspective, this dissertation explores how and why scholars of the ancient Mediterranean world have justified continuing to use magic even in the face of a long tradition of criticism. In general, I argue that by confounding the distance between ancient, first-order descriptions and modern, second-order terms of analysis, scholars of antiquity can deflect criticisms of magic’s descriptive and analytic utility. They are thus able to (re)affirm the historical reality of magic in antiquity even without clearly delimiting its conceptual boundaries. I indicate the specific idioms in which this methodological confounding has operated, and the theoretical postulates that have underpinned its workings.

Second, from a historical perspective, and to illustrate the above issues, I turn to ancient Roman literature from the Late Republic and Principate periods, especially those texts that classical scholars frequently construe as evidence in historical articulations of Greco-Roman magic. Specifically, I examine the use of Latin *magia* in these sources, endeavor to contextualize its ideological work, and offer critical redescriptions of these sources without appeal to magic as a substantive category. I argue that such texts can be more usefully read as an indication of the Roman ruling class’s broader preoccupation with construing, negotiating, and contesting religious alterity in the context of acquiring and managing a Mediterranean empire. The Latin

term *magia* and its cognates thus became simply one of several indices with which Roman intellectuals dealt with the cultural diversity fostered by Rome's own imperial ambitions.

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Introduction

“I see little merit in continuing the use of the substantive term ‘magic’ in second-order, theoretical, academic discourse. We have better and more precise scholarly taxa for each of the phenomena commonly denoted by ‘magic’, which among other benefits, create more useful categories for comparison.”

-J.Z. Smith¹

“It may be, then, that the entire corpus of what is considered magic in classical antiquity needs rethinking...”

-C.R. Phillips²

“Magic does not exist, nor does religion. What do exist are our definitions of these concepts.”

-H.S. Versnel³

This dissertation is about magic in the Roman world, but it is not really about magic at all. Let me explain. The chapters that form the core of the following thesis start from a general sentiment—one that I see shared by scholars positioned on different disciplinary and methodological fronts—that magic, as a modern concept for academic analysis, has, since its inception in the nineteenth century, largely obfuscated more than it has clarified and might ultimately prove to be more trouble than it is worth to preserve in scholarly discourse. Such a sentiment is not new and has been around almost as long as magic has been a scholarly term of art—far longer, in fact, than recent critical treatments of the category of religion. Over the course of about a century, scholars have registered in different idioms their dissatisfaction with “the price the term ‘magic’ insidiously exacts,”⁴ namely that as a descriptive category it has proven generally useless, as an analytic tool it has shown little comparative value, and at an interpretive

¹ Smith, *Relating Religion*, 218.

² Phillips, “*Nullum Crimen sine Lege*,” 267.

³ Versnel, “Some Reflections on the Relationship Magic-Religion,” 177.

⁴ Gordon, “Gods, Guilt and Suffering: Psychological Aspects of Cursing in the North-Western Provinces of the Roman Empire,” 256.

level it has persistently smuggled in a number of unexamined and, more often than not, pernicious assumptions that tilt analysis in advance.

Yet, despite more than a century of critique, magic remains—especially in ancient Mediterranean studies—an active area of scholarly research and writing. Bernd-Christian Otto has astutely summarized this situation:

[T]o date, the term “magic” still serves as a concept widely used to signify and classify specific source material in the Study of Classical Antiquity. Substantive applications of the concept of “magic” appear so regularly even in works aiming at a critical discussion or deconstruction of modern definitions that an implicit conviction of (at least the majority of) Classicists becomes apparent: it might be problematic or even impossible to define “magic” in a coherent way, but, nevertheless, “magical” rites were indeed performed in Classical Antiquity. Beyond the words and independent of academic controversies, ancient “magic” is (and was, respectively) real and, as such, needs to be properly investigated.⁵

Based on this assessment, the theoretical and methodological position that I adopt in the subsequent chapters is that the critical literature has not gone far enough in its criticism of magic. The situation described above stems from what I perceive as an enduring interpretative pathology in classical scholarship, i.e., that the same people who have produced critiques of magic and those who cite these nevertheless continue to subscribe to the very conceptual fallacies they denounce. It is what Naomi Janowitz has elsewhere called the “Yes, but” form of critique, where scholars have affirmed that magic is a problematic and controversial category, but end up using it anyway.⁶ My goal in this thesis then is to explore precisely this theoretical limbo: i.e. both to identify and explain these impediments—the unwillingness of scholars to pursue the logical and even radical implications of magic’s critical tradition—and, more importantly, to offer suggestions for how we might follow through on this tradition of critique, to

⁵ Otto, “Towards Historicizing ‘Magic’ in Antiquity,” 310.

⁶ Janowitz, *Icons of Power*, xiii.

take magic's shortcomings seriously and pursue different historical ends. In short, I aim to redescribe magic.

I borrow the term "redescription" from Jonathan Z. Smith, and I will discuss the methodological implications of this term below. In short, by redescribing magic I undertake a critical enterprise that attempts to disaggregate those various sources, practices, and figures long placed together under the signifier magic and to examine them instead in different terms that evoke different, as it were, "non-magical" contexts. Such a procedure prefers to reorganize these ancient materials under different analytic rubrics (e.g. execration, shamanism, healing, cosmology, and potentially even witchcraft and sorcery), each of which implies different questions, different problematics, and generates different sorts evidence. Specifically, I focus in the following chapters on categories related to constructing and contesting cultural alterity and how certain ancient sources often understood as evidence for ancient magic might be more usefully understood purely in terms of discursive acts of othering. The result will reveal frequently occluded contextual clues for those sources—often isolated by the category magic—that maintain a more sustained relationship with other areas of ancient discourses.

I situate my theoretical and methodological goals on a semantic study of the Latin word *magia*, and I take the ancient Roman elites as my specific field informants. In an effort to dispense with magic as an interpretive framework for reading certain ancient sources, I take aim at the ancient term from which we derive our modern term and use it to deconstruct certain materials often perceived as important to constructing a history of Greco-Roman magic. Specifically, I trace the articulation of the Latin *magia* word cluster in different discursive locales in order to set into relief those moments of modern theoretical confusion, naturalization, and elision where the category magic tends to overrun a more nuanced interpretation of

particular sources.⁷ Or, put differently, I attempt a careful reading of the ways *magia* is bound up in different ancient vocabularies in order to expose the slippages in scholarly discourse between descriptive and analytic terminology: that is, those points of equivocation and ambiguity that often get obscured in the false friendship presumed when “our” word (i.e. magic) is derived from “their” word (i.e. *magia*). It is at such junctures, as we will see, where modern magic blurs with ancient *magia* and magic becomes indemnified as a discrete ancient reality that is in need of study. In the following, I chart how the Latin *magia* word cluster and its cognates came to function as items of discourse in Roman antiquity and seek to understand its use not as part of the continuous and cumulative development of a discourse of magic in antiquity (and which eventually rolled over into modern Western discourse), but instead as part of the Roman elite’s broader attempts to imagine, negotiate, and contest their own forms of cultural belonging in the context of acquiring and managing a Mediterranean empire.

To this end, a focus on the ancient Romans is not incidental, but provides a wider historical and ethnographic context for both disrupting larger narratives and conceptions of ancient magic as well as for attempts at its redescription. The general consensus in accounts of ancient magic has been that Roman magic is so “overlaid” with Greek conceptions as to, at times, be indistinguishable.⁸ After all, magic—so it goes—was essentially a Greek invention. The Greek terms *magus* and *mageia* (borrowed from the Old Persian *maguš*, “priest”) were coined and codified in 5th century Athens in the context of the Greco-Persian wars where it acquired its familiar, dual meaning of foreign priests and itinerant charlatans—meanings that would stick with it throughout antiquity. The Romans are usually understood simply to have

⁷ For discussion on the Latin word *magia* see Graf, *Magic in the Ancient World*, 36–41; more recently see Rives, “*Magus* and its Cognates in Classical Latin,” 53–77.

⁸ Gordon, “Imagining Greek and Roman Magic,” 178.

adopted this term and its conceptual baggage, with their translation of *magia* adding little of significance to it. At best, as we will see, Rome is thought to have only intensified the legal proscriptions against those who practiced *magia* and in this way prefigured later Medieval and modern attitudes toward magic. Based on this consensus, it is unsurprising that few studies have focused concertedly on the translation of *mageia* into Latin *magia*, its conceptual remodulation into Roman culture, and the more specific politics of alterity to which it was put to use. Impeding things further is also a persistent notion that the derivation of a Roman concept of *magia* from a Greek concept was simply a single instance of larger interpretative posture, namely, that Roman cultural production, in general, was basically Greek. In other words, encoded in the common binary “Greco-Roman” is not an innocent designation of parity but rather an implied hierarchical and normative relationship that privileges the primacy, originality, and authenticity of the Greeks over and against the secondary, parasitic, and inauthentic cultural coopting of the Romans. To be sure, this Hellenocentric view of antiquity in its most explicit forms is no longer dominant, but certain interpretive conventions can be hard to shake, and this dynamic can often slip in unsuspected as it has in the study of ancient magic.⁹

By contrast, the general social, cultural, and political context that orients this thesis is based on recent studies highlighting not only the transformation of the ancient Mediterranean world by Roman imperialism but also how these changes traced themselves on Rome itself, in its politics and culture, inciting the Roman ruling classes to increased levels of self-consciousness and introspection both in theory and in practice. This general movement Andrew Wallace-Hadrill has called Rome’s “cultural revolution,” which ranged roughly from 200 BCE-200 CE.¹⁰ The result was not further decline into decadence and degeneracy under a deluge of Hellenistic

⁹ See Chapter 2 for a more detailed account.

¹⁰ Wallace-Hadrill, *Rome’s Cultural Revolution*.

cultural forms, as prior generations of scholars thought, but instead a surge of creativity that saw Roman thinkers adapting and redeploying elements of Hellenic thought in innovative ways as they attempted to situate their own Roman traditions in a world fundamentally altered through their own imperialism. My contention is that it was precisely in the context of these adaptations and reorientations that the dynamics of cultural alterity became focused issues, and boundaries of normativity and deviance, legitimacy and illegitimacy, and ultimately Roman and non-Roman (or anti-Roman) were continually drawn and redrawn in different registers against the shifting demographics and cultural perceptions caused by Roman military and administrative activities. It is in this general context that I maintain we might find suggestive evocations for redescribing magic, those that might point us toward different contextual horizons and more proximate historical concerns.

The road ahead (or, the plan of the dissertation)

I focus in the following chapters mostly on the first century BCE and the first two centuries of the Principate (c. 60 BCE-200 CE). In the final two chapters, with their emphases on Roman law, I venture a bit further afield to examine the so-called laws against magic from the third and fourth centuries CE. I do this specifically to try and curb an anachronistic tendency that I often perceive to use these later laws to interpret earlier legal situations. I should also add that this study makes no pretense at being comprehensive: i.e. I do not analyze every Latin text that uses the word *magia* or some version thereof. Rather, I have selected my sources in order to highlight certain representative issues of theory and method that to my mind have persistently underpinned and reinforced a disciplined, scholarly study of ancient magic. I offer my readings in an effort to point up the various tropes and techniques that have served to shore up a discrete

concept of ancient magic in classical studies and then suggest other contexts that might prove more useful in understanding these sources.

Chapters 2-5 are best understood as variations on a set of themes. I lay out these themes in **Chapter 1** where I describe, in more detail than above, the general tradition of critique around magic in the humanities and social sciences. I argue that although a great deal of ink has been spilled defending and deriding magic as an academic category, the logic of critique has been relatively simply and resolutely incisive. Put simply, magic—and its close association with religion and science—has been seen to fail at both a descriptive level, in terms of helping to capture a set of first-order distinctions of the people(s) being studied, as well as at an analytic level, offering little use in generalizing from these distinctions for second-order comparative purposes. These two failures are compounded in no small part due to the persistent negative valences associated with magic whereby magic has frequently been framed as the conceptual and structural other to religion and science, making its content relative and flexible but its signification consistently pejorative and stigmatizing. In response, defenders of magic have attempted to hone and rehabilitate magic in different ways, but the same logic of critique follows these attempts around and has remained valid in whatever register these defenses occur. This endless dialectic has also traced itself in the study of Greek and Roman cultures, and (taking Otto's cue above) I examine the various tropes scholars of antiquity often employ to deflect criticism and to underwrite their continued confidence in magic as an ancient as well as cross-cultural category.

The remaining chapters illustrate how these tropes have been deployed in the particular readings of Latin texts often taken as important in conceiving of the development of a Roman concept of magic. **Chapter 2** takes up the idea that there was a discrete concept of magic that

facilitated the translation of Greek *mageia* into Latin *magia* as well as ensured the transmission of its corresponding conceptual baggage. I argue that accounts of the origins of such a concept in Athenian Greece and its later, successful transmission to Rome are premised on a set of constructivist tendencies that reinforces a simple correspondence between words and concepts and operates on a monolithic notion of society. To illustrate these more general views (or really, to change the subject), I turn to Cicero's use of *magus* in the Late Republic. Scholars agree that his and other late republican uses of this term bear no resonance with what we might call magic. I thus attempt to set into relief the specific work the term *magus* does for him in thinking through relations of alterity, and without any pressure to mention magic as a burgeoning category in the Late Republic.

In **Chapter 3**, I offer a reading of Pliny the Elder's history of the *magicae vanitates*, with which he opens book 30 of his hefty *Natural History*. This text has been instrumental for scholars in coordinating the development of a strong conception of ancient and Roman magic. Indeed, Pliny's text offers an origin of magic and attempts to trace its development all the way up to his own day in the first century CE. The results appear to construct and reflect an expansive and robust category of magic in the first century CE. Yet, I argue that by calling this magic, one misses the cultural work performed by Pliny's specific attempt to theorize and historicize the ancient term *magia*. I offer a reading that situates Pliny's idiosyncratic discursive project as part of the political and social world of the first century CE, and as one of the most focused pieces of pre-Christian Roman evidence that endeavors to define not just the non-Roman, but also the anti-Roman.

In **Chapter 4**, I begin from the observation that those specific evocations of *magia* that we most basically associate with our term magic by and large exist in the world of Roman

poetry. In this literary genre (itself varied and nuanced), poets portray a fantastical and mystical world where the adjective *magicus* is used in a robust vocabulary to describe the exploits of witches and wizard (*sagae* and *venefici*), who employ their spells (*carmina/cantiones*) and potions (*veneficia/amatoria*) in order to bind the minds of wayward lovers, disrupt the normal rhythms of nature, and bend the gods to their will. Yet, the world that emerges in the discourse of Roman poetry has its own particular, albeit complex, socio-political interests and the occult semiotics of this discourse help fulfill these interests. It should not be taken as representative of larger structures of Roman thinking, and I suggest that the finer nuances of these interests tend to get lost in glossing the whole as magic. Further, I argue that when we step outside this genre, we see that terms like *saga* and *veneficium* are employed in other discursive projects that explore other social problems in different contexts. This chapter attempts to show a level of thought, nuance, and debate among Romans over the various terms they use to examine social marginality and the attendant cultic and legal issues that are lost when the equivocation *magic-qua-magia* is taken as a controlling category.

Chapter 5 focuses specifically on Roman law and magic, and the scholarly narratives of these two that attempt to illustrate how magic became illegal under the Roman Empire. As I mentioned above, Rome is generally not attributed much in the way of contributing to a concept of ancient magic. The exception is Rome's legal legacy in magic: a general sentiment among scholars is that Rome took the Greek concept magic, already an object of de facto suspicion, and intensified these negative attitudes and formalized specific laws against the practice of magic. These formalized strictures thus became essential to later European views condemning heretics, pagans, and witches. In this chapter, I complicate this narrative by tracing *magia* through those sources used by scholars to construct a legal development of magic in Roman law. I examine

four moments considered definitive in the development of magic in Roman law (the Late Republic, Tacitus record of “magical” accusations, the trial of Apuleius, and the relevant laws in the Theodosian and Justinian codes). Overall, I argue that in the realm of law, *magia* never becomes a dominant category for circumscribing religious deviance generally, but was rather one particularly pernicious form of divination among others—notably astrology—that became increasingly suspect over the course of the Principate, subject to legal interdictions under categories such as *vaticinatores* or *malefici*, and under Christian emperors these rubrics were expanded to include soon to be out-of-work Roman priests (*haruspices*).

In the **Conclusion**, I attempt to outline possibilities for further research—both ancient and modern—that might be possible when magic does not get in the way, specifically when one takes those source usually seen as evidence of “magical rites” as part of larger and more robust conceptions of alterity that are always being contested and keyed to contemporary situations. Here I suggest not only a more detailed reading and description of those sources usually seen as magical or attesting to ancient magic, but also a more dynamic process by which we generate and deploy second order categories in interpreting these descriptions.

This is where I am going with all this. However, there are a few issues mentioned above, which deserve more elaboration, clarification, and justification in order to make clear the broader impact of my theoretical and methodological contribution. In the balance of this introduction I will turn to a few initial objections to what I am about to undertake, expand on what I mean by redescription, and discuss some implications for understanding redescrbing ancient magic in terms of issues of alterity.

On words, definitions, and abandonment issues

To be clear, my goal in the following is not to belabor old arguments for the imprecision of magic as a category, nor to highlight the questionable evaluative assumptions that have often accompanied its use, nor even admonish scholars to discontinue its use. That is, I do not set about my task simply for the self-righteous pleasure of deconstructing a category, or to make proclamations for terminological abstinence. All these points have been made, and I am more interested in examining these issues in terms of *why*, in light of persistent criticisms, magic has remained a prominent category. I wish to offer considerations that might prompt a change in our theoretical habits, or lead us, as Tomoko Masuzawa has put it, toward “being historical differently.”¹¹

As it happens, many who identify the conceptual problems surrounding magic seem unwilling to forego using this category. The precise motivations driving their persistence in using the term are unclear, but such expressions often take the form of something less than direct arguments and are more often appeals to expediency, or some version of a slippery slope fallacy when it comes critiquing scholarly categories.

First, I am struck that the unease shown by some toward critiques of magic seems to be fueled by a more general annoyance (or hostility) at the supposed unbridled decadence of postmodernist critique.¹² I suspect that this frustration is based on the perception that those who have offered critiques of the term have not offered any substantial theoretical alternative in its place. As such, this kind of scholarship is often derided as unserious in that it “allows one to appear progressive and brilliant at very little cost” and invites critique only “for the beauty of the

¹¹ Masuzawa, *The Invention of World Religions*, 21.

¹² For a general criticism of the theoretical power of postmodernism in religious studies see Segal, “All Generalizations are Bad,” 157-171.

gesture itself.”¹³ Critics of such supposed pretensions seem to see this sort of scholarship as lacking in more rigorous forms of “scientific” investigation. At times, these critics devolve into prophesizing something like a post-apocalyptic intellectual landscape where the logical extremes of deconstructivist acts have come to pass; where in the wake of the mass deconstruction of scholarly terms there is a complete breakdown in forming coherent research projects (or perhaps even using language).¹⁴ These alarmist renderings rather miss the point. It is indeed the case that magic, religion, or whatever other term one might wish to evoke are not special, nor are they more broken or indelibly tainted than other words. To assume so presumes an untenable theory of language where the ideological histories and contingently accreted meanings of our terms and vocabularies become immutable, fixed features of them. Terms can be (and are) refined, redefined, reversed, and redeployed all the time in both scholarly and non-scholarly idioms. That said, I would point out, especially with magic, that if “sanitizing” a term for more objective or neutral academic purposes means excising overt negative connotations, then one must explain how, after this is done, said term can still retain any sort of specific place in academic discourse. My suspicion is that once shorn of its polemical valences, magic is formally indistinguishable from wider conceptions of religion or discourses on cultural deviance.

¹³ Scheid, *The Gods, the State, and the Individual*, 2. Here Scheid is specifically speaking of those who have criticized “civic religion,” but the basic sentiment against postmodern critique, as we will see, is the same for magic.

¹⁴ For Versnel, we must continue to use substantive and functionalist definitions “if we do not wish simply to abolish all communication on concepts of magic and religion,” “Some Reflections on the Relationship Magic-Religion,” 184; Hoffman wryly responds to different critiques of the definition of magic that “when taken to their logical conclusion, [they] preclude the use of language, which is an unacceptable position for those of us who depend upon language to convey information,” “Fiat Magia,” 188; Bohak on Jewish magic: “In other cases, however, the excision or deconstruction of the term ‘magic’ brought about a complete confusion as to what it is that we are trying to study and how we should go about studying it,” 61.

I also readily concede that to recognize, as many have, a postmodern view of language entails accepting a position where labeling is ultimately an arbitrary activity, and that terms have no ontological connection to the things to which they refer. In that case, can we not use whatever terms we like for scholarly research as long as we self-consciously work to control them? And, in principle, even if magic is imprecise as a modern construction, doesn't it still serve an important function and instrumental role in demarcating a general area of study that might be useful in explaining aspects of human culture? I would note, however, that when one reviews the scholarly literature, various attempts to frame magic as only a "heuristic" instrumental category have still ended up naturalizing magic as a cross-cultural aspect of human societies. That is, as it turns out, magic may, of course, be different things in different cultures, but a heuristic category of magic still apparently gives us a lens to help pick out and bring together in an analytic unity certain texts, artifacts, and cultural phenomena, even if the peoples we study do not pick these out as significant or give them explicit thought in these terms. For example, take Gideon Bohak's defense of using magic as heuristic category in his study of ancient Jewish culture: "By classifying certain Jewish texts and practices as 'magic,' we are saying nothing about their truth-value, their significance, or their origins; we are only saying that they deserve to be studied as a group, because they resemble each other more than their resemblance with other types of Jewish texts and practices."¹⁵ Each statement here, to my mind, needs further explanation. Why do these "deserve" to be taken together? Based on what standard of affiliation do these texts and practices "resemble" one another? Most importantly, magic, as a mode of cultural classification, has historically been exactly the sort of category that explains why certain cultural items are taken together: i.e. magic makes claims (even if tacitly) about its contents' truth-value (false), cultural

¹⁵ Bohak, *Ibid.*, 62.

significance (stigmatized), and origins (primitive). To make magic a useful heuristic category it is not enough to assert that we can control this classification, but one must also offer an explanation as to how this redeemed category functions better than the previous explanations which justified it as an organizing category. To this end, as I said, I am skeptical magic would prove useful in this capacity.

A more area-specific objection—but along the same lines—takes issue with my problematizing of the ancient terms *mageia* and *magia*: i.e. is magic not a perfectly adequate English translation for both?¹⁶ After all, Greek and Roman culture gave the modern West its term magic and “our” modern term still seems to retain a number of the semantic associations of the ancient terms: e.g. magic as false illusions, prestidigitation, and a desire for unmediated power to affect the world. My basic response to this is that while magic might indeed carry some of the nuances of *magia*, a self-evident translation of *magia* as magic risks eliding important and interesting differences in the manner the ancient terms were used. But more importantly, this question hinges on the extent to which we are willing to explain the unknown by the known, the far in terms of the near, the surprising in terms of the unsurprising, and, all said, “them” in terms of “us.” In terms of magic, I suggest that its use as a heuristic term has not proved profitable in studying ancient sources, but rather has served as a means to incorporate and assimilate Greek and Roman antiquity to our own modern episteme. Classical culture has always enjoyed a privileged place in the West’s history of itself, and much of our modern terminology—religious and otherwise—is an inheritance of Latin. Yet, I would venture that disrupting this position and the sense of morphological familiarity we have with Latin terms might realign how we

¹⁶ Such “arguments” tend to be couched in terms of the “convenience” of magic as an already generally accepted term. See Chapter 1 for more on how this sentiment affects issues of definition.

understand the Romans' position in antiquity and their relation to the modern world. Relieving ancient terms, like *magia*, from the historicist and teleological conceptions that have them culminate in "our" present might attune us to unanticipated and novel ways of doing historical research and different comparative possibilities. To this end, I agree with the recent affirmation of Carlin M. Barton and Daniel Boyarin that "the necessity and potential for comparisons is increased, not decreased, by abandoning as many of the predetermined abstract categories of the scholar as possible."¹⁷

The main problem then, as I see it, is not one of refining or even necessarily reshuffling the nomenclature but of reconsidering the supposed referents of our terminology—i.e. the things we are supposed to be able to see when we use our modern analytic categories, like magic. For instance, I do not propose some version of replacing B.C. and A.D. with B.C.E. or C.E. I have no interest in suggesting better definitions of magic, or substitutes, or replacing old, offensive, and loaded words with new and respectful ones that ultimately cover the same ground. Rather I wish to explore the impediments to more general reconceptualizations that, when surmounted, might eventually recalibrate how we understand certain ancient sources *as* evidence in the first place. The goal here is to attempt to dissipate the modern abstraction magic and the theoretical confusions it masks in order to reassess the specific articulations and conceptual classifications of ancient authors, and then attempt to analyze and theorize these in more interesting and instructive ways. This suggests a much more dynamic process, again as Barton and Boyarin have recently pointed out: "[M]uch is systematically occluded when the categories of analysis that are

¹⁷ Barton and Boyarin, *Imagine No Religion*, 7.

mobilized are not produced inductively but simply deployed without being subject to constant revision in face of the words and categories of the cultures being studied.”¹⁸

As a final (related) point, it is worth emphasizing further that in this study, I resist any attempt to offer my own definition of magic as an abstract concept. To be sure, I will discuss the ways others have defined magic, and offer reasons why these definitions are insufficient for what they purport to do. I do this to reinforce the sentiment from the opening paragraph; namely, that magic conceived as a modern category has time and time again been shown to hinder scholarly analysis. Therefore, based on these past failures, I would rather not engage in such an exchange of terms and definitions that claim to be a better “fit” to this or that perceived (ancient) reality.¹⁹ I am more interested in the interests, motivations, and strategies of those who are committed to such things as the “correct” study of (ancient) magic, and the subtext implied by those who hold out hope that such a social domain exists and is recognizable prior to and even despite our ability to clear signify it.²⁰ Then again, this project is not really about magic; it is about ancient Roman conceptions of alterity and how the Latin word cluster *magia* operates within these. To this end, I attempt to offer a fuller discussion of alterity in the final section. Before this, however, there is more to say about the more constructive aspects of this study.

Redescription as methodology

I have found Jonathan Z. Smith’s use of redescription valuable in defining my methodological technique in the chapters that follow. For Smith, the procedure of redescription

¹⁸ Barton and Boyarin, *Ibid.*, 6.

¹⁹ For instance, despite a sufficiently critical perspective Otto and Stausberg’s recent reader nevertheless concocts a needlessly meta-discussion of “patterns of magicity,” which only confuses things further, *Defining Magic*, 10ff.

²⁰ This point has been persistently made about the category of “religion” (e.g. see McCutcheon, “The Category ‘Religion’ in Recent Publications: Twenty Years Later,” 119-141, esp. 120).

is generally “to construe one thing in terms of another,” usually that which is unknown or unfamiliar (or less so) in terms of that which is known and familiar (or more so).²¹ The result is that we might end up seeing both terms in a potentially new and unexpected manner. This general posture has issued in two related but distinct strategies in Smith’s work. First, he has discussed redescription as a result of comparison. This approach attempts to rectify normal academic categories and defamiliarize those well-read sources along with the normal interpretative assumptions we make about these and the goals that govern their use as evidence. Here the first step is to generate a detailed description of two specific cultural exempla in their respective social and historical contexts (both in their production and receptions). Only then can they be compared in terms of some more general academic interest, category, theory, or question. The result of such a controlled mode of comparison is “the redescription of the exempla (each in light of the other) and rectification of the academic categories in relation to which they have been imagined.”²² Smith’s second redescriptive strategy he frames around issues of translation, explanation, and interpretation, with an emphasis on familiarizing what is unfamiliar. The important sentiment here is “surprise,” which Smith takes as the main provocation for efforts at explanation and interpretation on the part of scholars, i.e. efforts to reduce surprise “by bringing the unknown into relations of the known.” The process by which this takes place is translation: a “proposal that the theoretical second-order language appropriate to one domain (the known/the familiar) may translate the theoretical second-order language appropriate to another domain (the unknown/the unfamiliar).”²³

²¹ Smith, *Relating Religion*, 29. Each of the quotes here I draw from Smith’s intellectual autobiography “When the Chips are Down,” 1-60.

²² Ibid.

²³ Smith, *Ibid.*, 30.

For my purposes, I slide between both strategies of redescription (the distinction between the two is, after all, fluid and a matter of perspective). To my mind, both strategies hold potential use for the work of defamiliarizing our modern category of magic. On the one hand, by framing things in terms of alterity and attendant scholarly issues around practices of othering, I hope to invite further discussion of those ancient Roman sources usually understood as sharing similarities by inserting difference and incongruity among them. On the other hand, I also want to translate the theoretical language of magic in terms of the theoretical language of alterity.²⁴ Namely, while scholars of magic routinely speak of magic existing in some relation to matters of “the Other,” they often stop short (as we will see) of pursuing these connections. More often than not, discussions of magic and alterity preserve the former’s essence in terms of the latter: magic is usually accorded some special, albeit isolated, place within or perhaps adjacent to matters of alterity but also seems to have some social remainder or comprises a set of issues that extend beyond such issues.²⁵ By bringing the theoretical vocabulary of alterity to bear on that of magic, I want to affect a remodulation of the latter in terms of the former and draw attention to the necessary reconfigurations and reorientations that might domesticate those sources typically conceived as magical to the conceptual constellation of othering, without leaving a remainder.

²⁴ Magic, on Smith’s translational perspective, could potentially be either the known or unknown, I take it here as the unknown. For example, see Smith’s discussion of Durkheim’s project in *Elementary Forms of the Religious Life* as essentially translating the language of religion (unknown) into the language of society (known), Smith, *Ibid.*, 106.

²⁵ For example, Dorthea Baudy, in her study of religious proscriptions in antiquity, says of terms like “atheism” and “superstition” that they “are not used for analytic purposes but serve to stigmatize undesirable behavior.” Yet, in a footnote on the same page she says, “I treat magic here as a special case of religion.” She does not specify this special-ness, but one gets the impression that over and above its stigmatizing capacity, magic—more so than atheism or superstition—is, for her, useful for general descriptive and analytic purposes. See “Prohibitions of Religion in Antiquity,” 104.

Smith has specifically engaged the category of magic in his article “Trading Places,” which still stands as one of the most insightful and unapologetic assessments of the analytic drawbacks of magic as an academic category. In fact, I would propose that what Smith calls “trading places” is but another way of engaging in redescription. In this brief article, Smith critiques both magic as a substantive category as well as its more recent reinvention in a sociological idiom that emphasizes accusations and acts of social name-calling. Here I quote the key passage at length:

For these (and for other) reasons, I see little merit in continuing the use of the substantive term “magic” in second-order, theoretical, academic discourse. We have better and more precise scholarly taxa for each of the phenomena commonly denoted by “magic” which, among other benefits, create more useful categories for comparison. For any culture I am familiar with, we can trade places between the corpus of materials conventionally labeled “magical” and corpora designated by other generic terms (e.g., healing, divining, execrative) with no cognitive loss. Indeed, there would be a gain in that this sort of endeavor promises to yield a set of middle-range typologies—always the most useful kind—more adequate than the highly general, usually dichotomous, taxa commonly employed... Similarly, such mid-range taxa would be more adequate than the highly specific categories employed for particular cultures, usually constructed either anthropologically by function, or philologically by native vocabulary, formulae, or text-type.²⁶

As Otto has commented, those who have engaged with Smith’s critique here (and other critiques like his) have generally resorted to “crude patterns of argumentation.”²⁷ That is, usually Smith’s “reasons” are emphasized, i.e. the deconstructive aspect of his argument, but scholars tend not to entertain the fact that he also gives us a constructive protocol as well as an example for how to proceed in the wake of the inadequacies of magic.²⁸

²⁶ See note 1 for citation.

²⁷ Otto, “Toward Historicizing ‘Magic’ in Antiquity,” 318.

²⁸ For example, Kimberly Stratton puzzlingly says of Smith’s argument: “Smith’s approach represents one of the most sophisticated and nuanced within magic studies—recognizing magic’s social function, on the one hand, while endorsing the search for a cross-cultural heuristic

The act of trading places emphasizes an important aspect of Smith's overall conception of redescription: "the cognitive power of distortion, along with concomitant choice of map over territory."²⁹ Both strategies above are premised on keeping a self-conscious distance and separation between model and data; between the vocabularies that scholars use to describe their data versus the way those who are the data (here, the Romans) describe themselves. As I argued above, there is much to say for the reciprocal process in how one's analytic model coordinates what does or does not count as evidence in the sources. Yet, when one is cognizant of such matters there is much explanatory power that is gained from deploying carefully derived analytic terms that highlight incongruity with the data examined. In the language of "trading places" and magic, I take Smith to be saying, on the one hand, that "the highly general, usually dichotomous, taxa" such as magic/religion have been wholly unhelpful in producing useful descriptive or analytic distinctions, and I would add, given the negative valences of magic, has perhaps distorted too much to be of much use. On the other hand, the use of "highly specific categories employed for particular cultures" do not maintain a sufficient distance from the data to provide any sort of interesting comparative map or distort the data in any useful way.³⁰ For Smith, these latter categories are essentially "paraphrases" that emerge from privileging emic terminology and theorizing these by situating native lingos in relation only to one another.³¹ For example, in theorizing magic in the ancient Mediterranean world, late 19th and early 20th century scholars found magic and religion quite useful for comparative purpose, especially in terms of placing the Romans in the explanatory realm of "primitive religion." Indeed, for all that these concepts were

definition of magic, on the other." To the latter part, Smith does no such thing. See *Naming the Witch*, 10.

²⁹ Smith, *Relating Religions*, 31.

³⁰ *Ibid.*, 218.

³¹ *Ibid.*, 30; cf. 221.

rife with problematic presuppositions, they were forged in the wider discipline of anthropology and made possible comparative and cross-cultural study when adopted by classicists. More recently, in an effort to respond to the critical tradition toward magic and the problematic conceptual baggage of these earlier categories, scholars of antiquity have made efforts to become more thoroughly acquainted with the ancient emic terminology and to theorize ancient magic “on its own terms.” Yet, such a procedure masquerades the “data writ large” as a substitute for a sufficiently removed theoretical model, or put another way, rendering a first-order category of Greco-Roman magic is often taken as sufficient for use as if it were a theoretical second-order category.³² As I will argue in Chapter 1 (and through out the subsequent chapters), much of this confusion is based on different slippages between distinctions such as emic/etic, first-order/second-order, descriptive/redescriptive, our terms/their terms that often reinstates, covertly, much of what was considered objective and objectionable about prior theories of magic. By contrast, for Smith, trading places produces “middle-range typologies.” For Smith, to trade places in terms of magic is first and foremost to redistribute those bodies of evidence that have been persistently grouped under the rubric magic into other “generic terms” (Smith uses healing, divining, cursing—but we might also add othering). From these generic classifications Smith asserts that it might be possible “to yield” a mezzanine set of categories, which are “always the most useful kind.”³³

If this all sounds too abstract, Smith provides a concrete example in the balance of his article. He treats what are often called the “Greek Magical Papyri,” a body of texts that hold a paradigmatic position as evidence for ancient magic. But, for Smith, the adjective “magical” is a “distraction.” Instead, he examines this large body of ritual texts in terms of issues of space,

³² Ibid., 209.

³³ Ibid., 218.

miniaturization, and portability—issues that “have little to do with issues of ‘magic’ as conventionally perceived.”³⁴ Rhetorically, Smith does not sync up the two sections of “Trading Places,” the critique in part one is cued in part two, but he does not walk the reader step by step through the finer points of the implications of his critique for his chosen case. This discontinuity I take as important, if not intentional on his part. I read Smith’s example and his method in reading it as usefully, but abruptly, changing the subject, and shifting vocabularies entirely to highlight a different theme that he hopes will pay useful analytic dividends. He does not ease us from one vocabulary to another, but rather sharply changes from one way of talking to another.³⁵

What Smith illustrates in “Trading Places” is that redescription works better by showing rather than telling. In the following chapters, I want to give a sense of the possibilities disclosed by using one critical vocabulary that might be foreclosed by using another. My intentions might be characterized as experimental in nature. I take it that one of the historian’s central tasks is to evoke a telling context in understanding one’s sources *as* evidence. I also find the creative and detailed task of extracting a particular idea from its perceived common idiom (especially if its fit there is less than comfortable) and attempting to (re)describe it in another, less familiar, context a valuable invitation to research and an incitement to critical thought. I hope that in the preceding it has become clear that by criticizing a familiar scholarly term I am not claiming that there is a better vocabulary available, or one that better “fits” the ancient sources in some definitive way. The readings I offer and the analytic framework I employ are intended to make different ways of talking about, thinking through, and organizing sources look attractive and offer patterns and

³⁴ Ibid., 222.

³⁵ In Chapter 2, I follow Smith’s rhetorical structure in critiquing the idea of an “ancient concept of magic” and then shifting to read a text often implicated in such a concept by means of an entirely different vocabulary, one that emphasizes alterity.

strategies that might prove useful to others for their undertakings in studying antiquity and for those in the critical study of religion.

To put my own cards on the table, I prefer that we should drop the category of magic and see how we get on without it. But this is only my preference; a recommendation, not an argument, and no explicit argument will be given for this recommendation in the following chapters. As I said, redescription works pragmatically rather than programmatically. It begins from a position that insists on stopping doing things one way and tries doing them some other way: it asks one to “try thinking of this thing in this way,” or even, “let’s do our very best to give up these tired questions that have long proved frustrating and circular, and substitute for these new potentially more fruitful questions.”³⁶ To this end, Masuzawa has characterized Smith’s notion of redescription as a form of exegesis, “a work of ingenuity that is at once faithfully compliant with pre-given limits and, at the same time, pushes the envelope to cope with the new and unprecedented.”³⁷

Magic’s others: alterity and deviance

Let me approach the issue of alterity from two, perhaps indirect, perspectives.

First, Thomas Kuhn’s notion of a paradigm shift offers a useful analogy for what I have been trying to articulate here. That is, a standard paradigm summarized in the term “magic” has set the agenda for a disciplined area of study and delimited a range of evidences that justify such an area—i.e. it has defined “normal science.” In fact, magic has proved remarkably malleable as

³⁶ These questions point to Richard Rorty’s broader philosophical (and moral) vision of redescription, which operates in the background of this project, especially as he discusses these issues in *Contingency, Irony, and Solidarity*.

³⁷ Masuzawa, “Reader as Producer,” 331.

a paradigm, able to incorporate revised evidences and adjustments in method and theory. At the same time, magic has been shown to contain a number of inconsistencies and shortcomings in defining its analytic scope and delimiting its evidence, along with assumptions that tend to cover over these problems.³⁸ These can be readily seen when one peruses the “source books” on magic in antiquity—for instance, George Luck’s standard text and more recently Daniel Ogden’s—and compare the differences in inclusion and exclusion of content, and their explicit criteria for their choices and rubrics of classifications.³⁹

To my mind, the most interesting essay that has gestured toward the need for such a paradigm shift in the theoretical arena dubbed “magic” is Richard Gordon’s “Imagining Greek and Roman Magic.”⁴⁰ Gordon’s essay is a tour de force study of Greek and Roman representations, images, and issues traditionally circumscribed in terms of magic. For Gordon, the result of the controversies over magic in the last century-plus has been useful insights such as, for example, understanding magic as a “medium for thinking” or as “living praxis.” Of course Gordon also nods to the fact that things are still not settled, noting that the “most urgent current debate” is over whether the “Frazerian ghost can be exorcized fully without embracing some more or less objectionable form of cultural relativism.”⁴¹ Indeed, in one sense, Gordon takes good faith measures to avoid a static view of magic as an object of study. He premises his

³⁸ My thoughts here are adapted from Smith’s suggestion on the value of Kuhn as a model for thinking through redescription in his essay “Dayyeinu,” 483.

³⁹ Luck, *Arcana Mundi*; Ogden, *Magic, Witchcraft, and Ghosts in the Greek and Roman Worlds*. Also see Phillips’s review of Luck, which highlights the general problems of source books for a subject like magic, “In Search of the Occult,” 151-169.

⁴⁰ Gordon, “Imagining Greek and Roman Magic,” 161-269. This is an expanded version of an earlier piece, “Aelian’s Peony,” 59-95. It is worth noting my debt to Gordon’s work on the subject; it has provided giant intellectual shoulders for my own work to try and stand on.

⁴¹ Gordon, “Imagining Greek and Roman Magic,” 161. I take this statement to be another iteration of the more general suspicions of “postmodernism” that I discussed above. I also wonder if Gordon would find my positions more or less objectionable.

analysis on the observation that magic *is*, but magic *is not one*: “[T]here was no single ‘ancient view of magic.’ Rather, a whole gamut of representations and claims competed in the marketplace, each with its own agenda. It is this variety of representations, and the ideological functions they served, that I denote by the phrase imagining magic.”⁴² Further, rather than pursue a narrative historical account, which he sees as a “discursive mode inept for cultural history and the history of ideas” as it “constantly naturalizes the objects of its discourse,” Gordon proceeds to engage four different contexts for understanding certain ancient representations, their ideological projects, and the different historical circumstances that animated these.⁴³ Yet, while narrative is avoided, Gordon nevertheless coordinates these contexts and themes on a general trajectory that maps the development of ancient magic as becoming gradually “disembedded” from a range of other (less marked) representations, and traces its emergence and ramifications as a discrete and at times explicit object of ancient thought and discourse.⁴⁴ For Gordon, we see this process begin in ancient Greece with the emergence of the city-state and its philosophically minded ruling classes’ attempts to monopolize the “legitimate forms of religious capital.”⁴⁵ The process congeals in the Hellenistic period with the development of a “strong view of magic,” a central development in Gordon’s account, and it is with this set of representations in mind that, for Gordon, the Romans criminalized magic under the pressures of the autocratic Principate.⁴⁶

Yet, if ancient magic as a historical object of study crystalized “discontinuously” and “with everybody talking at once,” does magic really cover all these disparate locales or usefully

⁴² Ibid., 162.

⁴³ Ibid., 166-167.

⁴⁴ Gordon employs Bourdieu’s categories of “objective” and “intentional” profanation in describing this development of magic. Ibid., 178-179; also 265-266.

⁴⁵ Ibid., 162-163.

⁴⁶ I will look more closely at Gordon’s “strong view of magic” in Chapter 3 and criminalization in Chapter 5.

trace all these cacophonous conversations?⁴⁷ Gordon’s enumeration of his data, magic’s different uses and its changing forms, assures us of some continuity and coherence among his diverse sources or, at least, some utility in taking these as of a kind, despite the fact that he is explicit that “no concise definition can do justice to such diversity.”⁴⁸ For Gordon, magic might be “good to think with” but beneath the façade of its various representations magic was not really about magic. Instead, there were more fundamental questions at stake:

Where are we to locate the boundary between the possible, the marvelous, and the sheerly impossible, the fantastic? Between belief and credulousness? How far can we trust common sense? Can people control the inhabitants of the Other World? Can gods harm? If so, ought they to do so? What are the limits of the power of utterance? Is magical power part of nature, or is it a human invention or skill? Where lies the boundary between legitimate and illegitimate use of the Other World?⁴⁹

Magic then is holding together all manner of subjects and problematics that would repay careful study on their own terms. Or in Kuhn’s terms, magic is a paradigm stretched too thin, struggling to cover and assimilate all its supposed data. Gordon seems at once resigned to adopting this paradigm but also drops hints along the way as to its limits. In fact, Gordon’s theoretical framings—e.g. objective/intentional profanation; “religion of everyday”/“religion of the special case”—give us a useful model for how we might think more broadly about how ritual deviance was represented from the center of the polis, and how such representations of deviance could be reappropriated and valorized as forms of social power by those not committed to the center’s moral view of the world. Further, each of Gordon’s contexts is suggestive in and of itself for further analysis, and the chapters that make up my thesis are a provisional step in pursuing some of these. For example, his discussion of the marvelous attunes us to the wider social practices

⁴⁷ Ibid.

⁴⁸ Ibid., 167.

⁴⁹ Ibid., 162.

and moral stakes involved in shifting from simply noting unusual aspects of the world toward evaluating these, and the implied normative standards and interests that inform these processes.⁵⁰ Or, those groups that Gordon designates as “magical practitioners” we might inquire of individually or ask if there is something distinct about magical practitioners from others who claim “negatively-marked symbolic power.”⁵¹ Gordon gives the most pages to magic as “good to think with,” which touches on a range of subjects, but generally raises questions of how the ancients produced explanations for social anxieties and misfortunes, as well as for natural and non-natural forms of causation.⁵² Gordon’s final discussion of the criminalization of magic also touches on important issues and themes, which speak to the increased perception of ritual deviance in the high empire and in late antiquity, but for which magic as a controlling category might be more of a distraction than an aide.⁵³

In all of this, and especially in the timeframe of the Late Republic and Principate, I take a common theme to be a preoccupation of elite Romans in defining normative Roman-ness—itsself a shifting category—against variously imagined others who were construed on a notional range of exclusionary logics and perceived social dangers. The range of representations and images that feature in Gordon’s study and those that feature in mine, and their specific ideological dynamics, I argue, can generate useful explanations precisely when situated in terms of various logics of contesting and negotiating alterity.

A second way of describing how notions of alterity figure into redescribing magic here is to say that in the following chapters I want to radicalize the sociological view of magic. This view theorizes magic as a third person designation, usually an accusation, and analyzes the social

⁵⁰ Ibid., 168-178.

⁵¹ Ibid., 181.

⁵² Ibid., 191-243.

⁵³ Ibid., 243-266.

situations in which such accusations arise and the relationship between the accuser and the accused. On this view, magic noticeably lacks substance, and intentionally so, since it is offered as an alternative to substantive attempts to designate clear criteria for classifying this or that prayer, ritual, or intention as magical. As we will see in Chapter 1, much of the attempts to rehabilitate magic in light of its persistent critique contend with how to square these two views of magic. Yet, along with Smith, I hold that these views are mutually exclusive, which, to my mind, renders impossible the effort to produce a coherent theoretical view of magic.⁵⁴ However, the general mode of harmonizing these views among defenders of magic has been to say that the sociological view was not exhaustive of how magic was conceptualized and operated in antiquity. Namely, accusations of magic in ancient sources are—on this view—seen merely as the specific operationalized manifestations of a more basic and pervasive set of substantive representations.⁵⁵ By contrast, when I say I want to “radicalize” the sociological view, I mean to say that I wish to carry the sociological view of magic to its logical extremes with no a priori presumption of a coherent or monolithic conceptual substance that grounds nominal accusations. In doing so, the sociological view shows itself useful in outlining various notions of ritual or “religious” deviance and emphasizes the various nomenclatures that labeled these distinctions (e.g. *superstitio*), but it makes little sense to refer to the entirety of these terms as magic in any pervasive manner. Even in those moments where ancient authors, like Pliny the Elder or

⁵⁴ Smith, *Relating Religion*, 220: “One cannot have it both ways. The shift to a social understanding of the relations between the accuser and the accused forbids any attempt at a substantive, theoretical definition of ‘magic.’ ... I wish I could share the confidence of some scholars that, although a substantive definition of ‘magic’ is rendered impossible by a sociological approach, the sorts of social fissures and conflicts revealed by the accusations are generalizable.”

⁵⁵ More in Chapter 1, but for a quick example, Versnel: “[T]his social function of magic by no means precludes the existence of more concrete ‘substantive’ implications of the term. As I shall argue ... apart from an aspect of social illegitimacy there were also more formal characteristics associated with magical practice,” “Some Reflections on the Relationship Magic-Religion,” 183.

Apuleius of Maudura, seem to theorize *magia* or something like our concept magic, we should take their work as the product of contingent social situations, not as representing baseline and stable cultural concepts. In my view, social conflict goes *all the way down*: the substance of *magia* does not reside apart from social functions generally; it is not separate from the contexts and contingencies in which the term is implicated and deployed, nor can it be distinguished from its utility in construing various views of “self” and measuring the distance between “us” and “them.” A great deal of the critical impact of the chapters that follow hinge on a simple question posed to those who posit a certain aspect of Roman society as magic: says who? And, relatedly how much credence should we give to this speaker as being representative of a general Roman concept or mentality?

Two authors in particular have gestured in this direction and their influence will resonate in the following chapters. First, Charles Robert Phillips has offered several contributions to understanding magic simply in terms of its sociological, polemical aims. He has also made at least an overture toward reconsidering magic—“a small subset”—as part of the larger category he frames as “unsanctioned religious activity.”⁵⁶ For Phillips, scholarly classifications of certain ancient sources as magic has run roughshod over the finer nuances of the ways in which Roman elites have variously understood and signified deviance (“religious” and otherwise) and the degrees to which such deviance was seen to merit legal interventions. Classical scholars have long been entrenched in a mode of 19th century German-inspired empiricism and positivism that elides the conceptual models that give form and interest to their data in the first place. In addition, this has been coupled with the adoption of the Anglo-anthropological conception of magic, which “is either ‘bad’ religion or ‘bad’ science—that ‘magic’ represents a ‘primitive’

⁵⁶ See Phillips, Charles Robert, “The Sociology of Religious Knowledge in the Roman Empire to A.D. 284,” 2677–2773. Much of this is abridged in “*Nullum Crimen sine Lege*.”

worldview that has not evolved.”⁵⁷ The combination of these views has been variously felt in the field of classical studies, but has often influenced modern scholars to uncritically adopt ancient elite standards on what and who counts as magic in their scholarly analyses, and this in turn has been misrecognized as a monolithic conceptual system that unilaterally influenced ancient classifications.⁵⁸ To be sure, Phillips presented these arguments some thirty years ago. Yet, the ramifications underlying these presuppositions have been slow to be diagnosed and replaced, and my underlying argument is that often such presuppositions have merely been reshuffled and reinscribed rather than reconsidered and rejected. And these are worth bringing to light. Phillips concedes that “magic” has utility for ancient study only if scholars attend to the contexts of the person employing it: i.e. “the social locations of accuser and accused, the criteria for accusation and rebuttal as a function of that location, and the implications of the ways all that information was transmitted both across classical antiquity and into modern times.”⁵⁹ In other words, magic has analytic use only as a term reflecting certain social polemics.⁶⁰ Phillips also argues that the

⁵⁷ Phillips, “*Nullum Crimen sine Lege*,” 260.

⁵⁸ Phillips, “In Search of the Occult,” 156.

⁵⁹ Phillips, “The Sociology of Religious Knowledge in the Roman Empire to A.D. 284,” 2717.

⁶⁰ Cf. Smith, *Relating Religion*, 219: “[I]t becomes essential for the interpreter to explain the charge. Note that this presents a set of extraordinary documentary problems which have been overcome in only a relatively few areas of research. Pay attention to one Africanist's research protocol which catalogues the kinds of data required:

The significant point about a given instance of accusation is not that it is made . . . but that it is made in a given field situation. (An account of) this situation would include not only the structure of the groups and sub-groups to which the accuser and accused belong but also their extant division into transient alliances and factions on the basis of immediate interests, ambitions, moral aspirations, and the like. It would also include as much of the history of these groups, subgroups, alliances and factions as would be considered relevant to the understanding of the accusation It would further include . . . demographic data about subgroup and factional fluctuations over the relevant time period together with information about the biological and sociological factors bearing on these such as epidemics, rise and fall in the birth and death rates, labor migrations, wars and feuds

diffuse, polytheistic nature of ancient cult resisted forming pervasive and encompassing ideologies, or “omnibus definitions,” in terms of proper and improper “religion” and those aspects subject to prosecution—at least until the fourth century.⁶¹ Rather, the important issue at stake for Phillips, which tends to be covered over by blunt, modern notions of magic, is “the presumed source of the power and its utilization” and the range of legitimizing and delegitimizing strategies that different individuals and groups use to valorize their use of this power, and condemn others’ use.⁶² In this context then: “a charge of magic represented a persuasive way to denigrate one’s theological opposition: the opposition would have to ‘prove’ that its alleged powers derived from the ‘right’ cosmic forces.”⁶³

Naomi Janowitz has also contributed two books that supplement Phillips arguments and draws out the logical extremes of the sociological view of magic. In *Magic in the Roman World*, Janowitz argues that magic turns out to be *only* negative judgments leveled by one group or person against others, and these tell us less about a formal and stable concept of magic that grounds such accusations, but instead reveals various “social tensions, internecine battles, competition for power, and fear that other people have special powers.”⁶⁴ Janowitz’s opening chapter on concepts of Roman, Christian, and Jewish magic is particularly telling in its refusal to let moments of supposed conscious theorizing about “magic” in antiquity stand as some definitive conceptual substance or touch point outside the realm of accusation and pejorative

Due, in large part, to the absence of the sorts of data required, I know of no convincing application of this interpretative strategy, for example, to ancient accusations of magic.”

⁶¹ Phillips, “*Nullum Crimen sine Lege*,” 269. I disagree with Phillips that Christianity’s nature as monotheistic means it was better able to create monolithic conceptions in general; perhaps, they were only able to make more persuasive claims about the unity of their conceptions that more effectively effaced its contingency among the plurality of competing conceptions about the gods.

⁶² *Ibid.*

⁶³ Phillips, “The Sociology of Religious Knowledge in the Roman Empire to A.D. 284,” 2717.

⁶⁴ Janowitz, Naomi, *Magic in the Roman World*, 1.

labeling that might help anchor these and reinforce a pervasive concept of ancient magic. While Janowitz uses “magic” in her prose, her subsequent chapters invite us to see those areas usually drawn under a category of magic instead “illustrat[ing] some aspect of the late antique artifice of employing supernatural powers.”⁶⁵ In all of this though, Janowitz gives voice to the intellectual posture that I argued for adopting above, namely, that such an investigation requires that “we will have to set aside the habits and training of our own imaginations.”⁶⁶ In a second book, *Icons of Power*, Janowitz complements these insights in an attempt to disarticulate ancient logics of ritual efficacy and the desire for access to divine power from the constraints that a category of magic has long placed on them. For Janowitz, at best, magic represents “only one small piece of a complex of ideas about how and why some rituals work and why others are less effective, less suitable, or wrong,” and at worst it has “limited our engagement with them.”⁶⁷ Instead, Janowitz situates her study against the rich modern anthropological literature that has investigated various notions of ritual efficacy and causation. I take up Janowitz’s emphasis on ritual efficacy in attempting to reframe debates over *venenum* and *veneficium* in Chapter 4.

A further goal in reading texts, representations, and images in the Roman world usually seen as magic in terms of alterity is to help to erase the distinction between magic and religion.⁶⁸ This binary has been one of the most basic but stock ways of succinctly designating “us” from “them.” As Phillips suggests, modern scholars have often aligned their own conceptions of “us” with the Roman elite notions of “us” in terms of religion, and conversely, aligned their perceived “others” with Roman “others” via magic. Further, although magic has been subject to critique for quite some time by modern scholars, at least one line of this critique has often naturalized

⁶⁵ Ibid., 6.

⁶⁶ Ibid., 2

⁶⁷ Janowitz, Naomi, *Icons of Power*, xiii-xiv.

⁶⁸ I focus in the following on this distinction more so than magic and science.

religion in order to criticize magic. In other words, if at least one popular solution to the drawbacks of magic in the mid-20th century was to argue that magic was not a separate category from religion, but merely a type of religion, the governing assumption in this shift was that religion was a more well-defined, stable, and adequate category for scholarly analysis. In the past few decades though, the critical literature proliferated on the category of religion has made such an assumption less sure. And if, as Randal Styers has argued, magic was instrumental in constructing a decidedly modern category of religion, then it stands to reason that one cannot consider redescribing magic without giving some thought as to how religion figures into this equation.⁶⁹ Much of what I said above about scholarly terminology applies equally to religion as it does magic. Yet, with a focus on cultural conceptions of alterity, I attempt to disrupt religion as a background for situating and stabilizing magic in order to investigate: 1) the broader contexts in which Roman elites reflected on gods (and other more-than-human beings), the human practices that secured their favor or assistance, and the ontological and epistemological distinctions explicitly or implicitly presumed in these; 2) the ways in which Roman elites generated evaluative distinctions and vocabularies regarding these practices and the figures who engaged in them; and 3) how Roman elites used these evaluative distinctions as tools to assess, control, and constrain the social, political, and cultural tensions they encountered in acquiring and administrating their empire. For the sake of expediency, when I use “religion” or “religious” in the following chapters (although, in general, I try not to), I am usually referring to matters surrounding ritual practice. Yet, in Chapters 2 and 3, I use religion to refer to the abstract, philosophical, and provincial theoretical reflections of Roman elite writers on their traditional cult practices and the perceived relation of these to other individuals’ and groups’ forms of

⁶⁹ For more detail on all this see Chapter 1. Also see Styers, Randall, *Making Magic: Religion, Magic, and Science in the Modern World*.

accessing more-than-human power. In general, I have made every effort to not lean on religion as a critical or explanatory tool for any of my interpretations and instead I attempt to highlight other constructive, creative, and contingent features of Roman elite cognition.

As cultural theorists have noted, “otherness” is a rather ambiguous category that has the potential to become unmanageably large and unwieldy. In one sense, otherness seems to be a constitutive element of the social itself and is perhaps as old as human society and thought. Thus issues of perceived differences and distinctions between “us” and “them” proliferate everywhere from the macro to the micro levels of society. However, there are also those historical moments of rupture—political and otherwise—in human societies where such issues of otherness get thrown into stark relief; namely, circumstances that result in moments of “cognitive shock”⁷⁰ and are perceived, usually by those with the highest stake in maintaining the status quo, to challenge traditional forms of authority and power and its concomitant forms of ideology and knowledge within their imagined community. It is such groups who I am calling “elites,” although the general designation “Roman elites” is a shifting and contested category through much of Roman history. But such disruptive moments raise otherness as an explicit concern; often setting such matters into relief as candidates for concerted thought. Of the various cultural sites and indices around which alterity can be negotiated and contested in situations of social upheaval, matters related to the gods and other more-than-human beings, their relationship to the community, the adequacy and efficacy of their worship, and the successful securing of their favor are of particular interest here. Gordon lists five periods in Greco-Roman history where legitimate forms of such knowledge “were forced to adapt to new politico-social conditions:” 1) the Archaic

⁷⁰ I borrow this phrase from Jonathan Z. Smith, whose three essays on difference and alterity collected in *Relating Religion* are particularly informative, 230-322. Although it may be an insignificant editorial decision, I find it interesting that these three pieces on alterity follow after “Trading Places.”

period with the advent of the polis, 2) the shift towards Hellenistic kingdoms, 3) the establishment of the Roman Principate, 4) the crisis of the third century which led to the collapse of the Principate, and 5) the transformation of Rome's empire to a Christian empire in the fourth century. As Gordon notes, “[p]art of the process of establishing new understandings of legitimate religious knowledge during these periods was the creation of images of forbidden or illicit knowledge, of which magic is one.”⁷¹ Indeed, my interest here is in homing in on the circumstances surrounding the third period. But not just the establishment of the Principate, I also explore the tumultuous end of the Republic, how the Principate and its authorized forms of legitimate knowledge were perpetrated, and how the effects of empire and shifting contingencies of managing an empire came to mark discourses of alterity. The Roman elite conceived of and reconceived of their own imagined community—specifically in terms of how they negotiated their beliefs and practices toward the gods—in the wider context of the remarkable political, military, and ideological changes brought about by Rome's acquisition of a Mediterranean empire.

Finally, contrary to certain trends in Greco-Roman ethnographic scholarship that have tended toward theorizing the historical details of ancient alterity on a stricter, monolithic notion of self/other (e.g. Greco-Roman/Barbarian), I use alterity here as a relational category, one that trades in degrees rather than strict delineations.⁷² It is situational and deals in the spaces in between shifting social positions of those who speak authoritatively on behalf of the ruling classes and their imagined addressees. In this regard, otherness is not simply a matter of some disinterested perceived degree of similarity but rather is animated and reinforced by issues of politics and rhetoric. While the basic step of “them” as fundamentally “not us” was always

⁷¹ Gordon, “Imagining Greek and Roman Magic,” 192.

⁷² For example, Gruen, *Rethinking the Other in Antiquity*.

operative in some implicit measure, the explicit negotiation of that division and distance took place differently at different social registers at different times and involves different cultural indices. In other words, while we will see that *magia* in elite Latin sources always implies some kind of exclusion, this is rendered in different degrees and different registers, making certain sociological models of defining in-group versus out-group a more complicated process (again, “according to whom?”). Some “others,” like women or slaves, were more spatially and conceptually proximate to the Romans than say the Indian Brahmins or the Persian *magi*. Particular situations produced conceptions of alterity that contained explicit and implicit reflections on differently inflected notions of “exclusion,” “inclusion,” and those potential positions in between. In tracing *magia* through these conceptions I hope to provide more useful and dynamic distinctions than a basic inclusion/exclusion binary, or even the closely related classification religion/magic.

Chapter 1

Magical persistence: toward redefining alterity in antiquity

“[F]reedom from obsessive concern with definitions [of magic] produced some excellent work during the latter part of the 1990s. But perhaps it is time now to pause...”

-Sarah Iles Johnston¹

“[A]n implicit conviction of (at least the majority of) Classicists becomes apparent: it might be problematic or even impossible to define “magic” in a coherent way, but, nevertheless, “magical” rites were indeed performed in Classical Antiquity. Beyond the words and independent of academic controversies, ancient “magic” is (and was, respectively) real and, as such, needs to be properly investigated.”

-Bernd-Christian Otto²

Introduction

For those engaged in the critical study of religion, my intentions outlined in the introduction should not seem all that puzzling or problematic. After all, scholars of religion have undertaken a similar procedure with the category religion over the course of the last few decades. Not only have they proliferated studies provincializing religion and demonstrating its modern, European, and Christian origins and biases, and offered suggestions for its discontinuation, but a handful of these studies have also attempted to account for its continuance and various ramifications in scholarly discourse in light of these considerations. For example, authors such as Timothy Fitzgerald, Russell McCutcheon, Daniel Dubuisson, and Tomoko Masuzawa (to name only a few) have examined the diverse rhetorical machinations of scholars of religion in establishing and maintaining an autonomous discipline of religious studies as well as the

¹ Johnston, “Describing the Undefinable,” 51.

² Otto, “Towards Historicizing ‘Magic’ in Antiquity,” 310.

ideological entailments of taking its central category religion as a neutral and descriptive cross-cultural concept.³

In the field of ancient Mediterranean studies, Brent Nongbri has recently applied this style of argumentation to the notion of “ancient religion.” Among other things, Nongbri insightfully illustrates how the trope “embeddedness” often functions for scholars as a specific rhetorical device that papers over the conceptual incongruences of using the modern category of religion to read ancient evidence. Put simply, scholars of antiquity often use the idea of “embedded religion” in order to adumbrate a descriptive situation attested in the ancient sources, namely, that religion was there even if it was dispersed and fragmented across other social systems and subsystems, and not explicitly recognized by ancient authors as a distinct sphere. The goal of historical scholarship then is to find and study those far-flung religious aspects of a given ancient society, and even thematize them as a comparative aggregate called “ancient [Roman, Greek, etc.] religion.” The result is that scholars can at once disavow that the ancients had a discrete concept of religion—which would be anachronistic given the above critical work—while continuing to act as if they did.⁴

The trope of embeddedness I take as a particular result of more general naturalizations and universalizations that can occur when descriptive and redescriptive categories—i.e. the categories of our source materials versus the terms we use to analyze these sources—are confused. With respect to the academic category “magic,” I see similar forms of confusion, especially as these relate to reading ancient Mediterranean sources. In this chapter then (and following Nongbri’s lead), I investigate rhetorical strategies scholars of magic use subtly (and

³ Fitzgerald, *The Ideology of Religious Studies*, also *Discourse on Civility and Barbarity*; McCutcheon, *The Discipline of Religion*; Dubuisson, *The Western Construction of Religion*; Masuzawa, *The Invention of World Religions*.

⁴ Nongbri, “Dislodging ‘Embedded Religion’,” 440-460; also Nongbri, *Before Religion*, 132-153.

sometimes perhaps unconsciously) to mitigate criticism of their central object of study, and justify their continued use of magic as an analytic category and area of research even in light of a long tradition of criticism. Much of the difficulty comes from muddling the difference between the closely corresponding pairs of emic/etic, first-order/second-order, and descriptive/redescriptive categories.

An endless dialectic of critique

Attempts to critique magic are almost as old as attempts to define it. And over the last century or so, the basic dynamics of critiquing and reviving of magic have been exposed as both relatively simple but also dialectical in their movement. Critics have usually indicted magic and its frequent connection with both science and especially religion in two ways. First, at a descriptive level, critics point out that magic does not contribute to theoretical distinctions that cash out in concrete ethnographic contexts. The different features offered as candidates for distinguishing religion from magic have included various distinctions surrounding intent, function, ends, rationale, different sorts of rituals, their implementations and aims, and assorted kinds of trafficking with divine powers. As Dorothy Hammond summarizes in reference to applying Frazer's, Durkheim's, and Malinowski's respective theories of magic: "When applied to ethnographic data, none of these theories completely differentiates magic from religion even in regard to the selected critical trait. Nor do they correlate with one another; the increase ceremonies of the Arunta are classed as religion by Durkheim but magic by Frazer, and Trobriand garden rituals, which Malinowski terms magic, would be religion according to Durkheim. If more features are taken into account, the line blurs all the more."⁵ None of these

⁵ Hammond, "Magic," 1351.

features—whether privileged individually or in relation to one another, or, whether seen as formal features or merely situational in their deployment—has proved particularly helpful in making sense of any but a small arena of social relations, namely that of the modern West. And even in the realm of Western culture, some doubt whether magic has any particular theoretical use. For these critics, the variety of magic’s uses in modern western sources does not add up to a particularly revealing category.⁶

Second, at an evaluative level, critics push matters further, noting that magic is not only descriptively useless, but it actually biases scholarly interpretation. That is, the very act of identifying, privileging, and freezing a set of social relation as “magical” is premised on an a priori, normative, Christian scheme. Olof Pettersson gives clear voice to this sentiment:

[T]he scientific debate over the relation between “magic” and “religion” is a discussion of an artificial problem created by defining religion on the ideal pattern of Christianity. The elements of man’s beliefs and ceremonies ... which did not coincide with the ideal type of religion was—and is—called “magic.” ... “Magic” became—and still becomes—a refuse-heap for the elements which are not sufficiently “valuable” to get a place within “religion.”⁷

In other words, what might we say is the difference, either formally or in terms of function, between two religious rituals (however “religious” is defined here) and between either of those rituals and a so-called magical ritual?⁸ Critics of magic argue that whatsoever difference has

⁶ For example, scholars of Western esotericism have recommended dropping the category as a stable object of study and settle on studying its various invocations in the Western historical sources. See Otto and Stausberg, *Defining Magic*, 195-196.

⁷ Pettersson, “Magic—Religion,” 119.

⁸ Smith, *Relating Religion*, 216: “[M]any phenomena that we unhesitatingly label ‘religious’ or understand to be ‘religions’ (notwithstanding the long and tortured debates over how those terms are to be defined) differ among themselves, on some scale of absent or excessive characteristics, at least as much, if not more, than ‘magic’ does from ‘religion’ in many theories. What privileges the characteristics chosen for the ‘magic/religion’ duality? Or, to ask this question another way, if the purpose of a model in academic discourse—if the heart of its explanatory power—is that it does not accord exactly with any cluster of phenomena (‘map is not territory’), by what

been selected in order to divide magic from religion, or to position the former as a subset of the latter, have usually been coordinated on an underlying Christian set of evaluations—with magic always denoting the socially stigmatized and religion the socially salubrious. Under close scrutiny, critics argue, these proposed differences end up dissipating into situated subjective assessments and end up devolving onto questions of who is evaluating whom in a particular social context and what their motives are in doing so. The analytic distinctions between magic and religion used in specific ethnographic instances end up revealing themselves as simply the evaluative and othering ritual vocabulary of a particular faction of a given society under study that has been aggrandized by the analyst to the level of objective distinction and then uncritically squeezed into the interpretive binary of religion and magic. To be fair, defenders of magic have tended to insist that such evaluative baggage is not necessary and that magic might be decontaminated for the purposes of academic analysis. In other words, we can control out terms. Yet, despite scholarly efforts at coming to grips with the normative implications of past theories of magic, especially in conceding the similarities between so-called “magical” and “religious” practices, the negative connotations of magic show no signs of dissipating.⁹

These are the two basic lines of critique when it comes to magic, and they have been repeated in different idioms. But even in the face of such basic criticism, scholars have continued to rehabilitate magic in different registers in the hope that eventually one of these might better

measurement is the incongruency associated with those phenomena labeled ‘magical’ by scholars (rather than, say, ‘religious’) judged to be so great as to require the design and employment of another model?”

⁹ To quote Randal Styers: “[D]espite the efforts by various contemporary scholars of religion to disclaim the excesses of earlier theories of religious evolution, and despite the repeated recognition by various scholars of important commonalities between religion and magic, the traditional evaluative connotations of the terms remain secure in popular and academic discourses. As Donate Pahnke concludes, ‘It is at least strongly to be doubted that any suggestion of renaming the science of religion as ‘science of magic’ would have any prospect of succeeding,’” *Making Magic*, 96.

track with on-the-ground ethnographic observations and possess none of the usual negative evaluations. This hope is paired with a reticence of critics of magic to follow through on the two-pronged critical logic sketched above. We might speak to some extent of the present situation as anthropologists Murray and Rosalie Wax noted of the situation in anthropological literature in 1963, namely, that the overall impact of critiques of magic has been minimal: “Their attack had only a small effect, for today we find texts and textbooks stating and elaborating the distinctions set forth by Durkheim and Frazer, as if these approaches to the phenomena were still of scientific value.”¹⁰

In terms of general anthropological theory on magic, the literature is not all that extensive. The main works that still set the terms for individual studies of magic (even if implicitly) are Bronislaw Malinowski’s *Coral Gardens and their Magic* (1935) and his essays comprising *Magic, Science, and Religion* (1954) along with E.E. Evans-Pritchard’s *Witchcraft, Oracles and Magic among the Azande* (1937).¹¹ One might also add Marcel Mauss and Henri Hubert’s essay *Outline for a General Theory of Magic* (1902), which influenced Emile Durkheim’s later position in *Elementary Forms of the Religious Life* (1912).¹² These authors were all—to borrow a phrase—at once both critics *and* caretakers of magic as an analytic category.¹³ These essays—at least the first two—were written at a time when the evolutionary agenda that had framed E.B. Tylor and James George Frazer’s theories of magic was on the wane and each work significantly contributed more or less explicitly to the dismantling of this

¹⁰ Wax and Wax, “The Notion of Magic,” 495.

¹¹ David Graeber makes in similar point in *Toward an Anthropological Theory of Value*, 241; Malinowski, *Coral Gardens and their Magic; Magic, Science and Religion, and Other Essays*; Evans-Pritchard, *Witchcraft, Oracles and Magic among the Azande*. It’s also worth citing Evans-Pritchard’s *Theories of Primitive Religion*, in which he discusses how magic has figured into prior scholarly treatments of primitive peoples.

¹² Mauss, *A General Theory of Magic*; Durkheim, *The Elementary Forms of Religious Life*.

¹³ See McCutcheon, *Critics not Caretakers*.

framework (Mauss and Hubert's essay, although written earlier when this agenda was more entrenched, was also generally critical of evolutionary understandings of magic). On these grounds, their critiques were not really of magic per se, but of the evolutionary trajectory on which magic, religion, and science had been aligned. In other words, these theorists questioned merely the deployment of magic as an interpretive category rather than its overall adequacy. Animating their theories of magic was a confidence that when magic was shifted from diachronic development to synchronic structure, it would prove a more useful tool with which to study human cultures, pushing even these critics of magic to continue searching for better differentiations.¹⁴ These early critics were forerunners of a broader mid-20th century move toward structural and functional modes of analysis whereby magic was reconstrued as a species of the genus religion rather than seen as a separate category. The challenge for this mode of analysis was mainly how to place magic in a coherent way in the wider religious sphere.¹⁵ These efforts tended only to recalibrate the problems surrounding the binary of magic and religion rather than solve them—e.g. the evaluations of “backward” primitive practices became recoded

¹⁴ Both Durkheim and Mauss at various points acknowledge where these two categories are hard to keep distinct: Durkheim comments in a note: “This is not saying that there is a radical discontinuity between religious and magic prohibitions. To the contrary, there are some whose true nature is ambiguous,” *The Elementary Forms of Religious Life*, 305, n. 5. Mauss has difficulty in attempting to explain “medical magic” taking place in public, since the hallmark of his definition is that magic is not a public phenomenon: “Having been so careful to separate religion from magic and having stayed constantly within the field of magic, we now find ourselves surreptitiously drawn into religion. However, we can tackle this problem by emphasizing that the facts involved are not exclusively religious,” *A General Theory of Magic*, 167.

¹⁵ E.g. Hammond, “Magic,” 1350, “The real problem is what is the place of magic in religion; how does the part fit into the whole?” Or, 1355, “Magic would serve as a denotation for one type of ritual behavior, and thus belong to the set of terms in that category, such as prayer or sacrifice. With these propitiatory rites it is contrastive, not with religion.”

as anti-social behaviors and deviant practices, and their intellectual errors were now seen to serve some symbolic function.¹⁶

To be fair, some critics did—and still do—question the adequacy of magic in making useful distinctions and some even called for dropping the category. But none have, for the most part, pursued the full implications of their critique toward other lines of analysis. Instead, a number of theoretical suggestions simply deflected the problems. Several early and mid-century anthropologists such as R.R. Marett, Clyde Kluckhohn, Alexander Goldenweiser, Robert Lowie, and A.R. Radcliffe-Brown saw quite clearly how misleading magic's binaries were for their own work but nonetheless reverted, sometimes begrudgingly, into using these terms anyway.¹⁷ Those who did call for magic's discontinuation did so usually with the qualification that this moratorium last only until such a time as a consensus could be established. For instance Clyde Kluckhohn commented, "[a]nyone can make a definition that will separate magic from religion; but no one has yet found a definition that all other students accept."¹⁸ Or as A.R. Radcliffe-Brown's suggestion in his essay on "Taboo":

¹⁶ This shift was based on the groundwork laid by the Durkheimians, who in asserting the ontological priority of the social and society, and characterizing religion as fundamentally a collective phenomenon that is constitutive of and integrates society, actually reversed Frazer's order and posited magic as secondary and derivative to, and deviating from, religion. Later structuralists, like Claude Levi-Strauss and Mary Douglas added a symbolic underpinning to various social forms seen as magic. But the symbolic power of magic was still anathema to the logically coherent system scholars aimed to uncover (after all, magicians were bricoleurs, not scientists) and which religion helped produced.

¹⁷ In general, see Wax and Wax, "The Notion of Magic," 495-518. For a particular example, Styers says of R.R. Marett: "Marett rejects this abstract differentiation [between magic and religion] but concurs that over time the human response to the magico-religious is moralized and shaped by social customs into a chastened, humble mode, and humility thus becomes a distinguishing mark of religion. So even as Marett stresses the fundamental continuity of the magico-religious realm, he states that he prefers to use magic primarily as a designation for condemned practices," *Making Magic*, 87.

¹⁸ Kluckhohn, Clyde, "Universal Categories of Culture," 518.

Seeing that there is this absence of agreement as to the definitions of magic and religion and the nature of the distinction between them, and seeing that in many instances whether we call a particular rite magical or religious depends on which of the various proposed definitions we accept, the only sound procedure, at any rate in the present state of anthropological knowledge, is to avoid as far as possible the use of the terms in question until there is some general agreement about them.¹⁹

In general, such talk allowed anthropologists to continue on with their work, with all due caution, but ultimately they could be optimistic that eventually and through careful empirical work, they would get straight on the proper theoretical distinctions or happen upon the proper methodological context in which the difference between magic and religion would finally become significant. Such sentiments speak to these scholars' explicit refusal to turn the indeterminacy of this distinction into an analytic virtue, but it also holds out some hope that if scholars can get clear on just precisely what they mean by magic and religion then its reinstatement might be desirable. To this end, Stanley Tambiah's confidence in philosophical linguistics to clarify things—of interpreting “magical spells” as performative speech acts— and whose work has been influential for recent anthropological discussions of magic is only the most recent and influential expression of this dialectic. He hoped that “[t]he now puzzling duality of magic will disappear only when we succeed in embedding magic in a more ample theory of human life.”²⁰ Even now though, it seems difficult to point to a particular consensus. Since about the 1970s various elaborations and interpretations of magic seem to be “discourses that to a great extent operate in isolation from each other.”²¹ Or as Dorothy Hammond has put it: “The consensus on some distinction between magic and religion is limited to the idea that there *is* a

¹⁹ Radcliffe-Brown, A.R., *Structure and Function in Primitive Society*, 138.

²⁰ Tambiah, Stanley J., *Magic, Science, Religion, and the Scope of Rationality*, 82–83.

²¹ Otto and Stausberg, *Defining Magic*, 194.

distinction.”²² The rhetoric of hope in a coming consensus among scholars seems to me a common trope, or coping strategy, used to get past the thorny problems of definition and theory and on to the work at hand.

One popular move for mid-century scholars in order to mitigate critiques of magic was the “continuum” model of religion and magic. This model uncoupled the magic/religion binary and placed them at different ends of a spectrum whereby any given cultural data might be placed on this spectrum, but the data need not conform exactly to either end of the range nor match up one-to-one with any of the points in between. This model allowed, on the one hand, analysts to efface hard boundaries between magic and religion, but on the other, still identify the clear and distinct strands of both as they overlapped and entangled with each other in different contexts. R.R. Marett had already suggested such an approach in his critique of Frazer’s strict bifurcation of magic and religion, and posited instead the continuous sphere of the “magico-religious.”²³ But it was William Goode who gave it a more rigorous form.²⁴ He laid out eleven “ideal types” of magic suggested by the anthropological tradition between the dual poles of magic and religion. As Otto and Stausberg have noted of Goode: “This made it possible to synthesize various earlier definitions, but at the same time undermined the pursuit of a clear-cut distinction between ‘religion’ and ‘magic’.”²⁵ Moreover, as we will see below, Goode’s assertion of a fluid continuum resonates with the Wittgensteinian idea of family resemblances, which has been used more recently by scholars to define both magic and religion in order to avoid at least putatively essentialist definitions.

²² Hammond, “Magic,” 1350. Original emphasis.

²³ Marett, *Threshold of Religion*, xxix-xxx

²⁴ Goode, “Magic and Religion,” 172-182. Also, Benedict, “Religion,” 627-665.

²⁵ Otto and Stausberg, *Defining Magic*, 126.

The pressing question in all this then is how do we account for scholars' drive to clarify magic but their unwillingness to pursue its critique into other avenues of analysis? Randal Styers's study of magic in modern theoretical literature offers a compelling answer, taking his point of departure precisely in the dialectic discussed above:

More than a century of thwarted attempts to reify and define magic—to contain and circumscribe this phenomenon—by many of the West's most prominent cultural theorists would seem to provide a rather clear indication that this enterprise might be suspect. But despite that troubled legacy, scholars continue in this endeavor. *This very persistence signals that more than mere intellectual curiosity may be at stake in these debates.*"²⁶

Styers argues that magic's sticking power in academic theorizing has not been due to honing its analytic value, but rather its utility in marshaling up the West's own modern and normative image of itself. Theorizing magic then has been fundamentally a task in imagining alterity and especially useful in functioning as a non-modern "foil" for circumscribing what counts as distinctively modern—theorists have tended to see magic as endemic to peoples and practices perceived as separate from modern Western selfhood. Thus, the dual criticism of magic, both of its lack of descriptive and evaluative utility, turn out to be no criticism at all, but the very premise for magic's continued evocation in scholarly literature. Where magic's defenders represent their hopeful dialectic as trying to understand better the Other(s), the reality seems just the opposite: reasserting the theoretical importance of magic has instead been driven by a desire of Western theorists to define their own important cultural distinctions and evaluations.

The case of Greek and Roman magic

If forged and refined primarily in anthropology, this dialectic surrounding magic has replicated itself in various disciplines, including classical studies and the larger study of ancient

²⁶ Styers, *Making Magic*, 8. My emphasis.

Mediterranean religions. Like anthropologists, classicists who deny the validity of magic in one register want to revive it in another, especially as they belatedly moved from evolutionary models toward more structural and functional approaches.

To begin with, Greek and Roman culture (which is still problematically contracted to “Greco-Roman” as though they formed some natural continuity) has always occupied an honored position in the West’s image of itself. Since at least the Renaissance, Europeans saw “classical culture” as the antecedent of some of their highest achievements and aspirations: “Among the Greeks we feel ourselves immediately at home,” Hegel said of classical culture in his *Lectures on the Philosophy of History*.²⁷ By contrast then, to whatever extent magic was practiced in Greek and Roman cultures, it could be potentially seen as something of an embarrassment, with “primitive” homegrown magic tacitly threatening to contaminate the purity of “chapter one” in the story of the modern West’s ascendant civilization.

Perhaps unsurprisingly, classical scholars have often treated the “darker side of classical religion” with contempt.²⁸ Harold Remus has noted that with regards to attitudes toward ancient “magical” papyri and lead curse tablets—widely considered the *materia magica* par excellence in antiquity—there were only a few late 19th and early 20th century scholars who “weren't captive to prejudices against the papyri as the miserable products of uneducated, crassly superstitious lower-class social strata.”²⁹ He continues:

Whatever else these strange documents and tablets and amulets were, they were not deemed to be “literature” ... They were not the Greece and Rome that educated Europeans learned to parse in school, the Greece of “greatness, nobility, simplicity, and serenity of soul” that Winckelmann perceived in Greek art and revealed to the grateful eyes of eighteenth-century Europeans...., the classic

²⁷ Hegel, *The Philosophy of History*, 243.

²⁸ Salway, *Roman Britain*, 679.

²⁹ Remus, Harold, “‘Magic,’ Method, Madness,” 260. Here Remus is paraphrasing Karl Preisendanz from the preface of his 1928 collection *Papyri Graecae Magicae*.

truth and beauty extolled in Keats's Ode on a Grecian Urn, or "the glory that was Greece/And the grandeur that was Rome" which, for Edgar Allan Poe, constituted "Holy Land" (To Helen).³⁰

This sentiment is premised on a stratigraphic metaphor that both underwrote the integrity of classical heritage as the West's most proximate other, safely feeding the West's triumphant sense of self, and naturalized magic as a cross-cultural phenomenon. This depth image, which was often implicated in the broader evolutionary models of the late 19th and early 20th centuries, posited a continuous upper elite stratum of erudition against a lower stratum of the uneducated and superstitious masses. The ancient literati, with whom modern scholars implicitly or explicitly saw themselves and their bookish tendencies aligned, comprised this higher stratum. They bore along the elements of civilization—including "literature"—through the centuries, and their texts were a bulwark against the perpetual danger of degradation of these cultural forms by the superstitious lower classes.³¹ Further, at the same time that this metaphor insulated the classical antecedents of Western culture, it also served to naturalize magic as a universal anthropological category. Those superstitious elements of classical culture were useful in fortifying "the virtual growth industry" of primitive studies by offering a known comparandum with which to interpret those unknown cultures known from missionary journals and colonial administrator reports.³²

That Frazer was first and foremost a trained classicist positioned him as an ideal mediator

³⁰ Ibid.

³¹ Of course Christian Europe was highly selective about what elements of Greek and Roman culture were "classical" and could be cultural precursors versus those that were "pagan" and endemic to the superstitious masses. For instance as C. Robert Phillips III puts it: "The Renaissance marked an expanded interest in classical antiquity, especially after Greek texts reappeared widely. Interest devolved on the traditional mythologies, especially those useful for fine art and literature, or on the necessary processes of finding and restoring the widely scattered texts (often in a deplorable state of preservation)," "Approaching Roman Religion," 17. Or, Francis Schmidt: "[T]he introduction of ancient gods into Renaissance art was due only to a break in style. As for content, the gods continued to be interpreted in medieval terms: serving as instruments, they remained in the service of Christian thought," "Polytheisms," 11.

³² Phillips, C. Robert III, "In Search of the Occult," 152.

between classical culture and those non-western, non-modern cultures that were the subject of early anthropology.³³ Ultimately, with 19th century interest in all things “primitive,” many concluded that the differences between different sets of “savages,” whether foreign outsiders (i.e. non-Europeans, non-Westerns), contemporary backward rural and urban peasants (i.e. “the savages within”), or peoples of the pre-modern European past (i.e. ancient Germans, Greeks, and Romans), were superficial, and the characteristics of this lower stratum were not only everywhere but also everywhere the same.³⁴ C.R. Phillips has succinctly summed up the position of 19th and early 20th century British anthropology: “Magic, in its view, was a ‘primitive’ mode of thought, primitive defined as that which did not accord with the reasonableness that the socio-economic elite attributed to itself and its institutions.”³⁵

For most classicists of the late 19th and early 20th centuries then, magic was a self-evident category that needed little definition. In fact, prior to anthropology’s formalizing of Darwin’s biological theory of evolution into a model of social and cultural development, classical philologists, informed by a generous dose of (German) Romanticism and Hegelian historicism, were already at work dragging curse tablets and papyri for evidence of, if not magic, an earlier stratum of ancient religion, and identifying even in high classical literature vestiges of archaic practice. This made it all the easier, following the publication of Tylor’s and then Frazer’s work

³³ Tylor also lectured extensively on classical culture, see Phillips, “In Search of the Occult,” 153-154.

³⁴ As Styers puts it: “Frazer offers a remarkable metaphor to describe the lurking, tectonic dangers of magic. There are relatively superficial differences, he tells us, in the religious practices of various groups (mainly affecting the ‘intelligent and thoughtful part of the community’). But lurking beneath this surface is a pervasive and ominous ‘menace to civilization’.” Styers then goes on to quote Frazer in his own word: “One of the great achievements of the nineteenth century was to run shafts down into this low mental stratum in many parts of the world, and thus to discover its substantial identity everywhere,” *Making Magic*, 199.

³⁵ Phillips, “In Search of the Occult,” 152.

(and the popularity of the “primitive religions” paradigm generally), for subsequent generations of classical scholars, who continued work in these areas, to align their findings and presuppositions with the broader theoretical postulates of an evolutionary trajectory. W. Warde Fowler said of Tylor’s contribution:

If we consider the writings of eminent scholars who wrote about Greek and Roman religion and mythology before the appearance of Dr. Tylor’s *Primitive Culture*— Klausen, Preuner, Preller, Kuhn, and many others, who worked on the comparative method but with slender material for the use of it—we see at once what an immense advance has been effected by that monumental work, and by the stimulus that it gave to others to follow the same track.³⁶

For example, the main preoccupation of early scholars of Roman religion was to reconstruct the archaic rituals of ancient Rome, prior to their being overrun by Hellenist thought, by identifying these primitive “survivals” in the later literature of the Hellenized Roman elite. For scholars like W. Warde Fowler or H.J. Rose, including the Romans in *la mentalité primitive* could help parse out more cleanly those legitimate archaic elements from which later public cult would benefit from those illegitimate “magical” forms that would persist in an arrested state into later times.³⁷ Thus, the theoretical tools of anthropology gave to classicists grounding and further justification for their pre-existing philological stratigraphic method. As such, the view that magic was separate from religion both conceptually and developmentally remained a mainstay of classical scholarship well into the 20th century.³⁸

Eventually, similar concerns about distinguishing between magic and religion came to the fore for classicists as they had for anthropologists. A cluster of critical essays were written in the 1980s as a delayed attempt by scholars of antiquity to key the methodological achievements of

³⁶ Fowler, *The Religious Experience of the Roman people*, 19.

³⁷ See above for Fowler, Rose, *Ancient Roman Religion*.

³⁸ See Graf, *Magic in the Ancient World*, 1-19.

structuralism and functionalism, and a focus on a sociological view of magic, to ancient materials.³⁹ The treatments worked out the problems surrounding magic primarily along two (overlapping) lines. The first dealt with the polemical circumstances under which charges of magic were made in antiquity, that is, how one delimited “magic” versus “miracle” (especially as these distinctions related to Jesus’s teachings and early Christianity).⁴⁰ The second line of critique from these essays focused on the “Greek magical papyri,” and a more careful reading of these texts. A.D. Nock’s 1933 article “Paul and the Magus” was ahead of its time and proved influential on these later critiques of magic and religion. Prompted by Paul’s encounter with a *magus* in Acts 13.6-12, Nock traced changes in the meaning and application of the Greek term *magos* and concludes “[t]here is not [in antiquity], then, as with us, a sphere of magic in contrast to the sphere of religion.”⁴¹ From this observation, Nock raises the possibility that accusations of persons as magicians, previously considered objective observations, might instead indicate an agonistic context in which religious authority was being disputed: an actor might use the label “magic” as way to ridicule and undermine an opponent’s claim to the effectiveness of their divine power. D.E. Aune’s lengthy article on magic in early Christianity (1980) sought to move away from a substantive binary of religion and magic as separate spheres defined as a difference in “attitude toward supernatural power” and towards a “structural-functional” analysis where

³⁹ The delay was at least in part due to classicists’ mid-century suspicion of what they saw as the excesses of the comparative enterprise of British anthropology with its burgeoning social-scientific models. English speaking classicists turned instead toward the more German empirical method of collecting, compiling, editing, and refining the “hard” facts of ancient sources. Yet, as Phillips has pointed out, these facts that could supposedly would “speak for themselves” from the ancient sources without the burden of modern frameworks, were concealing the very anthropological models they attempted to avoid, along with negative evaluations that were attendant to these. See Phillips, “In Search of the Occult,” 154-155.

⁴⁰ My sense here is that several of these are responding to and engaging with Morton Smith’s recently published book *Jesus, the Magician*, which broached the subject of the influence of Greco-Roman magic on early Christianity.

⁴¹ Nock, Arthur Darby, “Paul and the Magus,” 170.

magic is taken as socially deviant and illegal behavior. Aune quite usefully writes: “In view of the general illegality of magic in the Roman empire, the accusation of magic is, among other things a form of social control used by those within the dominant social structure to label and exert control on those in the ambiguous and unstructured areas of society.”⁴² Similarly, Harold Remus (1983) investigated on what grounds the terms “magic” and “miracle” (*μαγεία/magia* versus *σημεῖον/signum* or *θαῦμα/miraculum*) might be substantively distinguished from each other in the second century CE. Much like Aune, Remus finds that the negative attribution to magic and positive to miracle are situational in their deployment and he looks to the possible criterion for making such a distinction in the second century: “Practices that the ancients label with a term associated with what we call ‘magic’ may in another context be ascribed to divine power, i.e. regarded as ‘miracle.’ The criteria put forward by moderns to distinguish magic from miracle or from religion often reveal little more than the fact that ‘magic’ has many ‘religious’ elements, and vice-versa.”⁴³ Alan Segal attempted to complicate the standard binary of magic and religion in his 1981 article, “Hellenistic Magic: Some Questions of Definition,” in which he essentially argues that there is no universal definition of magic possible or able to be articulated prior to examining the dynamics of religion and magic within particular sources and cultures. Here, Segal draws on Malinowski’s definition that religion is expressive whereas magic is manipulative and illustrates how such a harsh distinction is not so clear-cut in examining Hellenistic sources. Thus, Segal, “[i]n order to address the real meaning of ‘magic’ in the Hellenistic world,” reads a number of sources from antiquity attempting to trace how each negotiates these matters. Most importantly he attempts to sort out the so-called “Greek Magical

⁴² Aune, David E., “Magic in Early Christianity,” 373, 375, 384. For all that he emphasizes the situational aspects of magic, it is disappointing and a bit baffling that he refers to all religions as having this as a “substructure.”

⁴³ Remus, Harold, “Magic or Miracle,” 129.

Papyri” (PGM), which he saw as a *mélange* of magical and religious elements, “of different phenomena collected and written by people who saw no distinction between the various sections”.⁴⁴ C.R. Phillips’s essay “The Sociology of Religious Knowledge in the Roman Empire to AD 284,” rounded out the 1980s and, as we saw above, thoroughly criticized substantive uses of the term magic in scholarly discourse on the ancient world and also pushed the sociological view of magic to its logical end.⁴⁵

These studies all recapitulated through ancient exempla the serious interpretive difficulties of magic as an interpretative category that were expressed earlier in the field of anthropology. Yet, as with anthropology, these critiques were premised on better deployments rather than assessing the overall interpretative adequacy of magic (and religion). While raising the issue of the imprecision of magic, they nevertheless still continued to express (implicitly and explicitly) support for it by adapting the ancient sources to some form of a quasi-Durkheimian structural-functionalist position that sublimated to itself the negative valences from earlier evolutionary theories of magic.

In the context of this critical literature on magic in classical antiquity, and their different attempts to reconfigure magic along structural and functionalist lines, one might have expected Jonathan Z. Smith’s penetrating critique, published in 1995 (and which I outlined above), to have elicited a great deal of discussion both in theory and practice. But this was not the case. In general, scholars have paid lip service to his (and other such) critical considerations in their introductions and footnotes, only then to evoke some sense of “caution” or “convenience” as a

⁴⁴ Segal, Alan F., “Hellenistic Magic,” 352.

⁴⁵ Phillips, “The Sociology of Religious Knowledge in the Roman Empire to A.D. 284,” 2677–2773.

watchword, and then dispense with these issues in order to get to the real business at hand.⁴⁶ At least one reason for this lack of engagement might be that Smith's critical position was staked out in the midst of a "dramatic resurgence of interest" in ancient magic that emerged in the 1980s and 1990s.⁴⁷ A key element responsible for this uptick in interest in ancient magic in these decades was the concerted effort of scholars who worked to make available updated collections of certain (non-literary) ancient sources—e.g. curse tablets, papyri, amulets, etc.—that had previously been obscured and understudied. Such efforts inspired a proliferation of studies reassessing magic in antiquity, both its theory, method, and its putative sources. Yet, where the influx of fresh data might have incited scholars toward renewed imagination to issues of terminology, signification, and taxonomy, which might in turn have produced different questions and problematics, instead, new theoretical treatments of this data, which are now standard in the field, ultimately retained the term magic as an interpretive category. To be sure, these papers question the conventional triad of magic, science, and religion, acknowledging the difficulties and controversies of their applicability to ancient materials. But disputing the adequacy of magic did not issue in any sort of reassessment of the data or its organization. Rather it resulted only in cautionary calls for self-consciousness, some scattered but evanescent suggestions for alternative terminology, the reaffirming of magic as a controllable etic category—especially its conjunction

⁴⁶ Such rhetorical circumvention, i.e. getting done with theory and getting down to real business, might be characterized as a form of "inoculation"—to invoke Roland Barthes's term—where a small amount of critical subversion (namely that such criticism exists and has been made by persons smart enough or credentialed enough not to be ignored) is admitted in order to "immunize," and thereby protect, the term magic against the full brunt of such subversion. See Barthes, Roland. *Mythologies*, 151-152.

⁴⁷ Meyer and Miercki, *Ancient Magic and Ritual Power*, 1. This was one of the few texts, along with John Gager's *Curse Tablets and Binding Spells from the Ancient World* that offered alternative theoretical positions rather than reasserting some updated version of magic, science, and religion.

with religion—and the (sometimes tacit) admission that efforts to achieve alternative terminology and better definitions would ultimately be more trouble than they were worth.⁴⁸

In the context of this enthusiasm, Smith’s criticism was something of a critical wet blanket. But over and above general enthusiasm, I contend, there were other assumptions, tropes, conventions, and narratives that curbed attempts to appreciate the full brunt of Smith’s critique and the critical tradition he represented. In the balance of this chapter, I outline two such strategies (there are surely more). I separate them out here only for the purpose of analysis: the first regards a general refusal to explicitly define magic and the second takes up the privileging of the material sources as the evidence par excellence for ancient magic.

The devil is in the definition (somewhere)

Ideally, one might assume that any analytic endeavor would begin with a definition of its subject matter—even if preliminary—and discussion of why it is a worthwhile object of study. Indeed, after over fifty years of critical theory (whatever one’s assessment of it is), I hope it would be relatively uncontroversial to say that every descriptive and analytic endeavor always implies certain definitions, and by extension theory, even where not explicitly signaled, or where merely upheld by tacit consensus, or especially where verbosely disavowed. Even the most mundane descriptions are premised on certain a priori evaluative assumptions about relevance and coherence, which themselves are based on various larger notions about how society and human beings work. As David Graeber puts it, “the real choice then is between thinking about such questions explicitly, or leaving them implicit—in which case, one will inevitably end up

⁴⁸ For a sense of the extensive writing done on ancient magic in the last 30 plus years, see “Magic in the Ancient Greco-Roman World,” Radcliffe Edmunds, *Oxford Bibliographies* (accessed through www.oxfordbibliographies.com).

drawing on one's own culture's unstated folk beliefs."⁴⁹ When historians of antiquity have perceived this as a choice when thinking about magic (and they often have not), their decision has been clear: they prefer to leave their folk categories in tact and the interpretative pitfalls of this choice unexamined.

Many classical scholars often express a low-level of irritation at issues of theory or the obligation of definition in reference to magic.⁵⁰ Some see these procedures as "irrelevant."⁵¹ Or these matters are just as often left to implicit or to "intuitive" definitions.⁵² Sometimes even the persistence of failed or confused attempts to define magic are presented as reason enough to avoid the task entirely, out of "sheer exhaustion."⁵³ The sentiment underlying these dismissals

⁴⁹ Graeber, *Toward an Anthropological Theory of Value*, 21.

⁵⁰ Matthew Dickie states at the opening of his chapter on the development a concept of Greek magic, "There will be those who feel that such preliminaries can be dispensed with, since they are largely irrelevant to the real business in hand. These are feelings with which I can sympathize, since my own reactions on coming across yet another attempt at defining the notion of magic is dismay combined with a sense of foreboding," *Magic and Magicians in the Greco-Roman World*, 18.

⁵¹ Collins, *Magic in the Ancient Greek World*: "One of the longest-running debates in anthropology and the history of magic concerns the definition of 'magic' itself. Despite the lively and at times brilliant contributions to this debate, it will become evident already in the first chapter of this book that I think that debate is largely irrelevant, at least to the extent that it focuses on defining the meaning of the modern term 'magic' ... Ancient Greek terms for 'magic' ... from which our modern term 'magic' itself derives, do have an interesting and culturally diverse history ... But as I hope to establish early on, a focus on particular historically attested practices is a more productive way to explore ancient behavior, and doing so often draws into question what to earlier generations of scholars had seemed clearly to be, for instance, either magic or religion," xi-xii.

⁵² Bohak, *Ancient Jewish Magic*: "Here, then, we must decide what it is that we wish to study. If we decide to focus on the magical dimensions of Jewish religion, we may certainly adopt any intuitive definition of magic and search for all aspects of Jewish culture which fall under that definition. But if we wish to study Jewish magic, we must adopt a somewhat different strategy, in order to separate Jewish magic from Jewish religion. Luckily, this is not so difficult, for there exists an extensive body of ancient Jewish texts which would fall under our intuitive category of 'magic,' and which certainly were not a part of the standard (or 'normative') Jewish religion at the time, or even that of some specific inner-Jewish group or sect," 65.

⁵³ Rives: "There has been much debate over the extent to which this word helps or hinders our understanding of the Graeco-Roman world, a debate that is perhaps now dying down not as the

generally reasserts a certain “work-a day common-sense positivism”⁵⁴ whereby magic is assumed to have a certain self-evidence about it, that we know it when we see it, and the endless back and forth over matters of definition has tended to overcomplicate matters with needless philosophical speculation to the detriment of common sense and good solid source work.

For instance, in his theoretical contribution to a set of papers on ancient magic, Einar Thomassen notes that magic has been subjected to criticism in what he calls an “age of deconstruction.” Thomassen registers his disapproval of such procedures insofar as he perceives difficulty for “our descriptive work” without magic in our critical vocabulary: “[t]here still is, it appears, something we want to call ‘magic,’ although we no longer think we have a clear idea of what it is.”⁵⁵ Thomassen proceeds to give a theoretical account of magic that attempts to synthesize formalist, insider (e.g. curse tablets and papyri) and functionalist, outsider (e.g. Apuleius of Maudura’s trial) approaches to magic arguing that magic is essentially an appropriative form of ritual that inverts normal, communal forms of ritual for personal ends. It is a clever argument, but one that participates in precisely the dialectic I refer to above—magic just needs to be better applied. Yet, for Thomassen the value in defending magic against the excesses of deconstructionists by finding better applications is based on pure intuition. The dialectic of scholars criticizing magic, but then still using it, is, for him, not reason to doubt the utility of the term, but rather it affirms we know *something* is there, we just aren’t sure precisely how to talk about it anymore—i.e. critics have obscured what scholars of antiquity apparently all know, that magic was indeed a substantive and recognizable phenomenon (not just a polemic) in the ancient Mediterranean world.

result of any resolution but through sheer exhaustion among the participants,” “*Magus* and its Cognates in Classical Latin,” 53.

⁵⁴ Smith, *Relating Religion*, 221.

⁵⁵ Thomassen, “Is Magic a Subclass of Ritual?” 55.

Underlying such a view are tacit definitions and commitments, criteria for identification that make it possible to see magic as a discrete aspect *in* or *as part of* religion in different degrees and in whatever specific context one is looking. Such a view allows scholars to affirm that magic *is*, but also that magic also *is not one*. It speaks to what Daniel Dubuisson has recently called the “troubling paradox” of magic in modern scholarship, that it is at once considered a coherent and unified system while also remaining scattered, disparate, and confused.⁵⁶ This can also be seen as part of the “postmodern” move away from global definitions toward close attention to local contexts and specific traditions, and how the dynamics of magic and religion get construed in such particular milieus. As one anthropologist puts it:

While certain scholars continue to engage with general theoretical definitions of magic, and some perhaps even still seek to produce them, for the most part attempts at overarching systematization have given way to careful attention to particular contexts... Academics in many disciplines now focus on historically and culturally specific understandings of magic, seeking to clarify not how we might distinguish between magic and religion, or between magic and science, but rather how a given society drew these or other distinctions at some particular moment.⁵⁷

While a retreat from global theories and definitions to small-scale studies is a reasonable reaction to the overindulgences of previous comparative exercises, it is not ideologically free. The underlying assumption posits that magic is somehow more evident *in situ* than as a general theoretical concept: i.e. while magic may not be able to be defined coherently at the macro theoretical level it can apparently be identified and explained at a micro level, on a particular case-by-case basis. Again the criteria of identification are usually not specified and when they are, or when one carefully reads between the lines, it ends up that the old, widely criticized, definitions of magic as distinct from religion both descriptively (e.g. coercion, automaticity) and

⁵⁶ Dubuisson, *Magic and Religion in Western Culture*, 13.

⁵⁷ Bailey, “The Meanings of Magic,” 5.

at an evaluative level (e.g. social deviance) have been reinserted, sometimes covertly, sometimes not, at a local level. The effect is that magic (and its relation or not to religion, or whatever other term) may look different depending on the social and cultural context but even in its fragmented, dispersed, and embedded state magic is still a pervasive, if not universal, feature of human societies.

In studies of ancient magic, the suspicion of grand definitions has issued in a turn toward an emic analysis that putatively discards modern definitions of magic in favor of ancient terminology and usage. This approach is generally premised on the fact that modern definitions are themselves the problem, and that such anachronisms end up eclipsing the specific cultural dynamics of ancient magic. This scholarship is, as Matthew Dickie words it, an attempt “to understand the Greeks and the Romans in their own terms.”⁵⁸ Such an approach has no doubt proven valuable. Attention to ancient lexis has allowed scholars to exercise more care in parsing out ranges of terminology and has made possible more precise analysis of certain kinds of social practices in the ancient world, from cursing (*defixiones*) and herbal remedies (*remedia*) to wearing amulets (*bullae*) and chanting incantations (*cantiones*). Yet, despite the close scrutiny of these ancient terms, the emic approach does not generally reconsider the relations among the bodies of evidence these terms evince with other ancient sources. It rather views these individual terms and vocabularies as part of a semantic constellation evidencing an underlying concept of magic in antiquity. Each terminological part reveals some aspect of the conceptual whole: the task of getting clear on the individual constituents of Greek and Roman “magical” vocabulary

⁵⁸ Dickie, *Magic and Magicians in the Greco-Roman World*, 19.

then is sufficient to reveal a clear ancient concept of magic, intelligible and sufficiently coherent without need for distorting modern definitions.⁵⁹

For example, Fritz Graf's introduction to *Magic in the Ancient World* provides a thorough rundown of the theoretical drawbacks of early anthropologists, and throughout his text Graf wants to resist the shortcomings of these approaches, but the opening line of the book still asserts "the practice of magic was omnipresent in classical antiquity."⁶⁰ For Graf, when it comes to defining magic, there are "only two possible attitudes: either a modern definition of the term is created and the ancient Frazerian notions are resolutely cast aside, or the term *magic* is used in the sense that the ancients gave it, avoiding not only the Frazerian notions, but also all the other ethnological notions of the term. I shall choose the second way..." For Graf, modern definitions have distorted the ancient sources, resorting as they did to "artificial terminology." The solution is attention to "indigenous discourse," which reveals a set of terms and associated practices that constitute a stable object of study throughout antiquity—and Graf takes it as unproblematic that magic was a concept of some sort that ancients gave different senses to. However, other than an appeal to "scrupulous analysis of the ancient terminology," Graf offers little in the way of explanation of how this is so.⁶¹

Despite explicit denunciations of modern theories of magic within recent scholarship, something like a modern definition is sometimes reasserted nonetheless. For instance, Matthew Dickie focuses on constructing a social history of magic by placing a premium on the figure(s) of

⁵⁹ See Chapter 4 for a fuller discussion of this.

⁶⁰ Graf, *Magic in the Ancient World*, 1; As C.R. Phillips put it in his Bryn Mawr review of Graf's book, this opening line, coupled with the overall thematic and ultimately atemporal structure of his subsequent analysis, indicates an "overall conceptualization of magic—that despite differences of practitioner and method and time and place, there exist enough constants about magic so that a study of those constants will be profitable to the point of skirting historical considerations," (<http://bmcr.brynmawr.edu/1998/98.3.15.html>).

⁶¹ Graf, *Magic in the Ancient World*, 18-19.

the Greco-Roman magician derived from emic terminology. For the most part Dickie steers away from issues of theory and method, but in his introduction he cautions against the standard modern definitions of magic, focusing attention away from universal notions of magic toward an emphasis on magic as “the product of a particular set of historical circumstances.”⁶² However, we are met later in his text with such statements as: “The overarching category so formed is surely to be identified with a concept that denotes much the same set of activities as does our concept of magic” and “[t]he concept of magic, present in the Greek world of the fifth century BC and particularly in Athens, that emerges when we bring the disparate pieces of information about it together, tallies in large measure but not entirely with the concept of magic with which the Western world is familiar.”⁶³ Two points are, I think, important here. The first is that it is unclear what “our concept of magic” refers to. Despite Dickie’s distaste for modern definitions, this notion of “our concept” does some work for him, but its use in an implicit and intuitive manner leaves its precise meaning unclear. Second, given Dickie’s emphasis on magic as developing in particular historical contexts, we would like to know more as to why Dickie himself is disposed to see the similarities, differences, and overlaps which make for his comparisons between the contingent moments of, say, ancient Greece and “our” world and its conceptions. Some substantive but unarticulated notion of magic undergirds and gives form to his object of study, enabling him to bind together his analysis of magic in the “Greco-Roman world” (which assumes an underlying continuity ranging from 5th century BCE Greece to the 7th

⁶² Dickie, *Magic and Magicians in the Greco-Roman World*, 18; Otto has also pointed to these passages as problematic, “Towards Historicizing ‘Magic’ in Antiquity,” 310.

⁶³ *Ibid.*, 34, 21, 40.

century CE Christian Roman Empire) and to make comparisons and contrasts between the ancients and “our” conceptions of magic.⁶⁴

Turning to emic or “native” terminology does not clarify matters in the way hoped for by modern scholars of antiquity. It does not reveal a peculiarly ancient concept of magic underneath the artifices of modern definition, but rather that such artifices are still at work, simply working more covertly than a century ago. How ancient words and concepts “correspond” should be taken as contingent, historical moments of articulation and innovation rather than simply as continuity and replication. The privileging of the Greeks and Romans on their own terms only raises further questions of “what terms?”, “whose term were they?”, “used in what contexts?”, and “in what way are we to take them”?

In contrast to emic approaches, other scholars of ancient magic have emphasized the importance of etic categories and offered heuristic distinctions for magic that they argue avoid the usual theoretical hazards and criticisms. Here I have in mind the influential essays produced by H.S. Versnel and C.A. Hoffman as well as Kimberly Stratton’s more recent attempt to render magic as a social discourse.⁶⁵ Versnel attempts to cut through the conceptual “knots” in trying to define magic by recognizing that modern historical scholarship inevitably starts from its own concepts and terms. Versnel argues for the importance of doing cultural research by means of broad, “polythetic” definitions—modeled on Wittgenstein’s “family resemblances”—in order to test the presence or absences of “our” notions of magic against “theirs.” Based on a similar logic as that of the continuum model mentioned above, the loose assemblage of features that for

⁶⁴ Dickie: “Very much the same types of person continue to practice magic under a Christian Empire as before,” *Magic and Magicians in the Greco-Roman World*, 263. See my discussion of this in more detail in Chapter 2.

⁶⁵ Versnel, H.S., “Some Reflections on the Relationship Magic-Religion,” 177-197; Hoffman, C.A., “Fiat Magia,” 179-194; Stratton, Kimberly, *Naming the Witch*, 1-38.

modern scholars compose our category of magic should, at least provisionally, direct our analytic gaze when we study other cultures. No one aspect of the analyzed culture need match all the family resemblances for magic, but only a sufficient number. Further, this approach should entail a feedback loop, which leaves our definition of magic open to revision and addition based on careful analysis of the range of family members. For Versnel, when this procedure is applied to Greco-Roman materials we discover a great deal of overlap, and this frequent correspondence indicates a clear enough ancient concept, and is enough reason to continue with the term magic, at least for Greek (and Roman) cultures.⁶⁶

C.A. Hoffman's essay concurs with Versnel's support of using magic as an etic category, but is less interested in shoring a specific etic definition of magic than refuting those who would question the coherence of the etic notion of magic we already have. For Hoffman, magic has been a reasonably clear analytic category since at least Frazer. The main problem, as he sees it, is that subsequent analysts failed to apply Frazer's distinctions consistently—even if some progress has still been made.⁶⁷ Hoffman's more general mode of argumentation is to show that critics of magic have framed critiques that are too strong and that their proposed alternatives to the concept magic fail on precisely the same grounds as magic itself is seen to fail. For instance, to the charge that magic is linguistically imprecise, Hoffman replies that language is "congenitally vague... the stock and trade of the humanities consists of imprecise, ambiguous,

⁶⁶ Versnel, "Some Reflections on the Relationship Magic-Religion," 188: the Greeks had a stable "perception of the deviant forms of religion or outside religion and the practices they were consistently associated with. And it is this ancient representation of the magical attitude which often closely corresponds with what we call magic."

⁶⁷ The perpetual critique that Frazer's analysis smacks of Christianizing (or, at least Protestant) assumptions is in Hoffman's view case and point and he proceeds to show that such usual elements of magic as coercion or *ex opere operato* are firmly rooted in non-Christian and pre-Christian sources. Moreover, good scholarly work on magic has paid off in refining and strengthening the category and Hoffman is optimistic about its future prospects.

and indefinable concepts and or terms.”⁶⁸ To expel the magic on these grounds would set a precedent that no term could stand against. Hoffman explains that the emphasis should instead be on refining magic via precise and consistent usage, noting that the proposed alternative options to magic are simply glosses for those things we already call magic: i.e. terms such as “ritual power” or “unsanctioned religious activity” are simply “magic by a different name” or “merely a euphemism, albeit cast rather broadly.”⁶⁹

The problem with these etic approaches is that they operate on the same circular logic as emic approaches do; they end up articulating definitional criteria that help them find exactly what they are looking for, which then attribute as an emic feature of Greek and Roman societies. If emic approaches mask definitional commitments via some notion of cultural embeddedness, etic approaches are by and large operating on a realist view of society where the voyeuristic scholar is constantly attempting to get a better peek by framing better means of seeing. The analyst’s job is to hone and calibrate his terms, which act as lenses, to get at what is already there, but poorly viewed for whatever ethnocentric reasons—in this case, the magical qualities of ancient culture. For Versnel, the large and welcoming family of magic allows him to defer problems of essentialism that have often dogged attempts at definition; yet, by what means does one distinguish the magic family from other cultural ideological families?⁷⁰ Who is and is not part of the family depends entirely on the role of the observer and his criteria for membership in the family. It is not clear to me that scholars even have an agreed up on range of things we call

⁶⁸ Hoffman, “Fiat Magia,” 189.

⁶⁹ Ibid., 192.

⁷⁰ For a critique of “family resemblance” along these lines see Fitzgerald, Timothy, “Religion, Philosophy, and Family Resemblances,” 215-236. Much of his argument regarding religion also applies equally well to magic.

magic, i.e. a stable emic concept of our own.⁷¹ More importantly, allowing a seat at the table to a host of common sense notions does nothing much to incite scholars to reconsider the data of magic (or religion for that matter), even in the face of careful cross-cultural research. Instead, it generally reaffirms the usual things we already consider magic since they fall within a family that anyone familiar with the study of magic already knows to be magic.

Hoffman is far more set on beating the deconstructionists at their own language games. Hoffman concedes that the words and labels we use to refer to things—like magic—have no inherent connection to each other, but he also insists that ancient concepts and practices exist that objectively merit the signification magic, “regardless of what we call it.”⁷² For example, in assessing Tambiah’s critique of Keith Thomas’s *Religion and the Decline of Magic*, Hoffman states: “Tambiah’s unease with Thomas’ failure to investigate the matter [i.e. magic] from Tambiah’s own perspective is surely the equivalent of arguing the merits of the metric over the English system of measurement. The physical objects of measurement in such an instance remain the same, while the tools chosen for measuring necessarily yield different data.”⁷³ For Hoffman, it doesn’t really matter what term we use because really we are describing the same cultural objects, which he has analogically construed as a physical objects with objective properties that can be observed and measured. We are simply looking at them from different vantage points. With this subtle analogy, Hoffman can at once affirm the contingency of human language while

⁷¹ Bohak, *Ancient Jewish Magic*, 8: “Unfortunately, the decision to adopt an etic definition does not yet solve our problem, for a quick glance at the relevant literature will reveal that scholars and lay-persons alike can hardly agree on what we mean by ‘magic,’ that is, on the emic definition of this term within our own culture.”

⁷² Hoffman., 180.

⁷³ Ibid.

at the same time positing some objective touchstone that turns the various social constructions of human language into merely different perspectives on the same stable objects.⁷⁴

Finally, it is worth mentioning Kimberly Stratton's recent framing of ancient magic in terms of Michel Foucault's notion of "discursive practice" at the outset of her book *Naming the Witch*. For Stratton, the promise of understanding magic in terms of discourse is that it "bridges the gulf" between those who have rejected modern definitions, highlighting emic terminology and the sociological view of magic, and those who have attempted to construct broad, heuristic definitions that return some substance to the concept of magic as an analytic category.⁷⁵ In other words, the utility of discourse for Stratton is that it might harmonize seemingly incompatible views of magic. As a baseline, Stratton pinpoints:

[A] new discourse of alterity that emerged in Greece in the fifth century BCE and persisted as a marginalizing strategy until the modern period. . . . In its origin this discourse employed a combination of terms designating foreign, illegitimate, subversive, or dangerous ritual activities and integrated them into a powerful semantic constellation. Through the repeated combination of these terms with each other, the discourse drew on and amplified connotations of each term so that the use of one could harness or invoke a network of meaning created by association with the others. I designate this constellation with the English term magic.⁷⁶

Yet, she is also attuned to how this discourse and its stereotypic reservoir are keyed to specific historical circumstances and social issues in a local set of representations. The bulk of her book focuses on the differently instantiated "patterns of representations" of this magic discourse, with

⁷⁴ Our words are arbitrary as Hoffman says, but the cultural objects we describe are equally as arbitrary. This is precisely what Foucault was getting at with the notion of discourse, which emphasizes the social practices that create the objects of which one speaks. In this case then (to use Hoffmann's example), magic is not a windmill viewed differently and respectively by Don Quixote (emic) versus Sancho (etic), 190, but whatever substance magic might have is a matter of using language to quilt together a number of disparate things in particular contingent, historical contexts. But I am not so convinced we can or should want to give substance to something called magic in antiquity.

⁷⁵ Stratton, *Naming the Witch*, 16.

⁷⁶ *Ibid.*, 2.

an emphasis on gender, in the Greek, Roman, early Christian, and Rabbinic literary imagination, and she explores the specific social and historical situations that account for these particular patterns. Stratton argues that magic is “constructed through shared belief,” and once constructed it is perpetuated throughout other parts of a given culture.⁷⁷ That is, magic attains a life and power all its own; it imposes itself on the consciousnesses of social actors, but is also consciously deployed by these actors in different ways in contesting various dynamics of social power and in various relationships with other social discourses. Magic discourse sets certain terms, but these terms are at once reimagined, redeployed, and reinforced through the particular ways it gets ramified in different social contexts: “As we will see, the specific discursive strategies in which magic is employed vary from culture to culture in the ancient world. There is no one single definition or understanding of magic.”⁷⁸

The concept of discourse does a great deal of methodological, theoretical, and evidentiary work for Stratton, and here is not the place to engage in debates over what Foucault meant by “discourse” at various places in his writing and different times in his career. In general, I find discursive analysis a useful approach and employ it in these pages, but I am wary that magic was a discrete system of othering in antiquity that takes on a life of its own and variously instantiates itself on specific social and economic circumstances according to its own governing logic, or that it proves useful to see it as such. When the values entailed by a discursive analysis are pursued—e.g. emphasizing a discourse’s social construction, provincial context, and agonistic features—magic proves of little explanatory value either for the specific and concrete representations derived from literature—e.g. the strange, mysterious, and dangerous world of Roman poetry—or in adducing social and historical context from which these representations emerge. In contrast to

⁷⁷ Ibid., 11.

⁷⁸ Ibid., 17.

Stratton, in the following chapters, I pursue something more like Bernd-Christian Otto's approach of not speaking "of 'magic' as ancient discourse (in the end, it is a term, not a discourse) but rather of *μαγεία/magia* as terms within ancient discourses."⁷⁹ While ancient people developed a shared vocabulary to discuss foreigners, their ritual practices as well as marginal and itinerant figures, who proffered certain practices looked on with suspicion, I am leery of calling this constellation or its social production, as a whole across space and time, magic.

We might sum up by making explicit the implied ocular image in attempts to define magic. Like one adjusts lenses for better and more precise viewing, so scholars—so it goes—need only to adjust and tweak their terms to get at the magical aspects of antiquity. They are there to be found, and can be with the proper tools. But perhaps more useful would be to reconsider the coherence of the areas of life we think we are looking at (or for) and the presuppositions that lead us to assume that such an area exists as a unity and is available to be gazed at. To my mind, all the efforts at fine-tuning magic have less to show for themselves because the lenses themselves have been poorly prescribed and uncritically grounded.

The material evidence of magic

At least since Marx, there has been a tradition of understanding religion that has seen it as an important cipher for uncovering larger machinations of ideology and exposing how humans can become alienated from the material factors of social life. In fact, insofar as early theorists of magic saw it as different from religion, a key difference was often that magic implied the specter

⁷⁹ Otto, "Toward Historicizing "Magic" in Antiquity," 312-313; Otto's considerations are a condensed version of some of his research from his Ph.D. Thesis, *Magie: Rezeptions-und diskursgeschichtliche Analysen von der Antike bis zur Neuzeit* (Walter de Gruyter, 2011).

of non-alienation, a set of techniques—albeit primitive—that could affect the natural and social world in direct and unmediated ways that circumvented religion’s divine and priestly bureaucrats. Such a view of magic was surely influenced by the “natural magic” of the Renaissance, but was given a critical polish in Romanticist criticisms of the perceived extravagances, entanglements, and upheavals of the modern world. Both magic and religion could represent a yearning for an unmediated and pristine vision of *in illo tempore* that essentially reversed the narrative of Enlightenment progress championed by Marx, Tylor, and Frazer: i.e. those “primitives” were not backwards, infantile, and superstitious precursors but those who experienced an unspoiled, direct, and authentic relationship with their land, their language, and their god(s) free of the tangled mediations of later priestly religion. Perhaps unsurprisingly, this nostalgic gaze backward toward a simpler, more pristine past could function—implicitly and explicitly—as a moral template for the present and as a conduit for various political (conservative) nationalist agendas.

While classical scholarship has at times been pressed into the service of such primordial Romanticist visions—especially the Classical Greeks and Imperial Romans—these days one does not see such nakedly political conservative visions operating in ancient studies.⁸⁰

Nevertheless, in studies of ancient magic, an analogous view of social mediation still operates, at least tacitly, to mark off certain privileged bodies of evidence that confirm the reality of magic in antiquity. Namely, magical practices are not to be found in the highly mediated literary pretensions of elite writings—or at least not directly—but in less mediated social practices of individual magicians or evidenced in the uncomplicated and unadorned texts and artifacts that give direct instruction for or are a product of certain rituals. Where elite texts offer literary

⁸⁰ For such visions, see Fleming, “Fascism,” 342-354.

fantasies about and smug condescension toward magic, the concrete nuts and bolts of actual practices performed by magicians are putatively revealed in these stripped down, didactic “documents.” The most basic assumption here is that authentic magical practices are found in wider realm of ritual practice. A related assumption though is that while Greco-Roman elites might talk about magic or be rumored to practice it here and there (or accused of it), there is an undeniable association in scholarly literature of actual magical practice belonging to the other echelons of society—not just the lower classes (*plebs sordidia*) but also, with the advent of the Principate, a newly emergent (or maybe just more amplified) “market-place” of ritual peddlers composed of, for instance, out-of-work work foreign priests of now defunct temple cults (thanks to “Romanization”). In this final section, I consider how a set of source materials has been constructed as *the* data for magic in the ancient world, and what is at stake in stipulating it thus: namely, the physical evidence of magic—primarily curse tablets, magical papyri, amulets, and other “material” sources. I am specifically interested in how such ritual texts, i.e. this “odd collection of the recitation of nonsense syllables, certain verbal formulas (commands), some negative behaviors such as cursing and the use of material objects in rites” has been construed in a privileged way.⁸¹

Let me begin with two general points. First, I’ve alluded already in this chapter to the scholarly work and enthusiasm of the “magical 1990s” and the efforts among translators to make available bodies of ancient sources that had not theretofore been available.⁸² I have also gestured to the fact that the incitement to such enthusiasm was a result of the theoretical and

⁸¹ Janowitz, *Magic in the Roman World*, 5.

⁸² For example: Betz, *The Greek Magical Papyri in Translation, including the Demotic spells. Vol. 1*; Jordan, “A Survey of Greek Defixiones not included in the Special Corpora,” 151–97; Jordan, “New Greek Curse Tablets (1985–2000),” 5–46; Tomlin, “The Curse Tablets: Roman inscribed tablets of tin and lead from the Sacred Spring at Bath”; Gager, *Curse Tablets and Binding Spells from the Ancient World*; Kotansky, *Greek Magical Amulets*.

methodological move from formal to functionalist methods for studying magic, which set magic as part of religion and raised the question among contemporary scholars of the relation of this part to the whole. The relation given by scholars to this latter issue has drawn upon the physical evidences to argue that magic is precisely that part of religion to which curse tablets, papyri, and other such material sources point: ritual practices from the “margins” of society or those that inverted normative public cult and existed in some discrete fashion in the wide gap between sanctioned and unsanctioned practices in antiquity, and which although not strictly illegal were often evaluated as suspicious, deviant, and illegitimate.⁸³

In one sense, in the scholarly literature from the 1990s, one detects cognizance of a potential opportunity to produce a watershed moment in the study of Greek and Roman culture. These understudied sources represented a moment of rupture whereby the critical voices directed toward magic and religion from the 1980s could be followed through toward new and more “mature” vistas of analysis.⁸⁴ Smith’s critical essay appeared first in Meyer and Mirecki’s edited volume intended on raising potential alternatives to conceptualizing magic (i.e. “ritual power”). Faraone and Obbink’s influential edited volume *Magika Hiera* was premised on the need to revamp the field and its methods in light of “enlargements” and “refinements” in the data, which required new investigations from revised methodological perspectives.⁸⁵ John Gager also introduces his translation of ancient Greek and Latin curse texts by explicitly resisting a binary distinction between magic and religion since, for him, it gave no real insight into this body of texts.⁸⁶ Yet, these glimmers of novelty only shone briefly before the trend of scholarship returned

⁸³ The fact that these practices are considered marginal is premised on a polis or civic model of religion, which I appraise critically in Chapter 4.

⁸⁴ Meyer and Mirecki, *Ancient Magic and Ritual Power*, 2.

⁸⁵ *Magika Hiera*, vi.

⁸⁶ See above for references.

to the more familiar and comfortable scheme of magic and religion. As Sarah Iles Johnston said of Meyer and Mirecki's phrase "ritual power," and so with other attempts to move past magic and religion: the "reactionary favor" it enjoyed began to "retreat" as scholars of magic "were getting back to business as usual, which meant tilting once again at the old enemy."⁸⁷ And this "old enemy" found renewed life in its new material data set. Scholars' theoretical considerations during this time then often amounted to an explanation of how the material evidences of magic were able to justify the continuing use of magic as a category.

My second general point returns to what is sometimes implied in the term "material" and its use in phrases like "material evidence" or "material culture." Scholars of ancient society have sometimes taken the social implications of "material culture" as signifying non-literary forms of writing, found on stone or lead or the physical relics of archaeology, and these are often seen as providing more direct or clearer access to the less ideological, literary aspects of ancient religion and society. As John Gager says of curse tablets: "They come to us largely unmediated by external filters; unlike ancient literary texts, they are devoid of *the distortions* introduced by factors such as education, social class or status, and literary genres and traditions."⁸⁸ Indeed, this juxtaposition between the unmediated practices of curse tablets and the highly mediated literary productions of, say, Vergil or Plato, operates as a general orienting framework in the study of magic that sets into relief and authorizes the authenticity of the former's information over the latter's. On the one hand, recent scholars of magic have rightly pointed to the problems inherent in relying on ancient literature for evidence of "magical rituals." In contrast to the methods of

⁸⁷ Johnston, "Describing the Undefinable," 54.

⁸⁸ My emphasis. Gager follows this up with: "Of course, we are not so naive as to believe that the *defixiones* were uninfluenced by cultural forces: their language is highly formulaic, and clients were often limited by the recipes that the local *magos* had available in his or her collection of recipes," *Curse Tablets and Binding Spells from the Ancient World*, v.

mid-century classicists, they have emphasized that texts like Theocritus's second *Idyll* and its adaptation in Vergil's *Eclogue* 8, or the *sagae* ("witches") in the Augustan poets, such as Ovid's extravagant depiction of Medea in Thessaly, are written by those of the ruling classes with no small amount of wealth, privilege, leisure, and education, and should not be taken as "documents" of actual ritual practice but instead as literary conceits, i.e. highly mediated, self-reflexive, and ideologically loaded cultural productions.⁸⁹ For these scholars, the literary and generic features of these texts, which are related to previous literary (Greek/Hellenistic) representations and traditions, are not a disposable veneer concealing the *bruta facta* of magical practice underneath.⁹⁰ Of course writing practices are themselves a social practice, and we might want to ask: if these texts are not evidence for "magic" then just what are they evidence for? On the other hand, the realization that these texts do not provide a window (or even necessarily a mirror) into the an identifiable set of practices in antiquity did not lead scholars to question the viability of the signification "magical practices" as something to be found in the first place, but rather incited efforts to look elsewhere—to look for sources that get "under" the ideologies in the literature. In other words, that scholars correctly affirmed that elite literary texts were not straightforward evidence for magical practice had the effect of both highlighting directly the ideological biases of these sources and their distorting influence on former scholarship, while also setting up the new, recently available physical evidences as free (or less constrained) from such biases and more authentic evidences for magic. To be sure, curse tablets and other materials do provide evidence for ritual practices that are occluded and sometimes derided in the literature

⁸⁹ Representative of the older generation are Eitrem, "La magie comme motif littéraire chez les Grecs et les Romains", 39-83, or Tupet, *La magie dans la poésie latine*, 1.

⁹⁰ As Fritz Graf has said, "[w]orks of literature have their own laws, and it is always risky to disregard laws," *Magic in the Ancient World*, 175. Or, see Gordon, "Magic as a Topos in Augustan Poetry: Discourse, Reality and Distance," 209-228.

of the ancient elite and, until recently, in classical scholarship. However, the problem is, to aggregate these under the concept magic potentially forecloses a more robust view of how these rituals might relate to other ancient rituals, their practice and aims, and implicit “theologies.”

Let me offer examples for these above points.

In a contribution to *The World of Ancient Magic* (one of the several international conferences held in the 1990s which were later published), Jens Braarvig’s essay attempts to deal with the standard conceptual problems surrounding the category of magic.⁹¹ Braarvig offers a three-fold interpretive schema for understanding magic: “intratextual,” “intertextual,” and “extratextual.” The first attends to matters of self-definition; in this case magic is recognized as such by those who practice it. The second is more relational insofar as it accounts for the polemical labeling of one group by another. The third refers to the perspective of the historical scholar who assesses matters of magic from a disinterested, analytic distance. To test this schema, Braarvig adduces a handful of usual exempla from Greco-Roman antiquity (e.g. Empedocles, Gorgias, Hippocratic texts, Apuleius, theurgy) and a cross-cultural case from China, each of which produces interesting readings and highlights the possible utility of his model. Yet, despite the useful complexities of his schema over and against more monothetic definitions of magic, he ends up essentializing curse tablets as the prime evidence for magic. In his conclusion, Braarvig undercuts the potential usefulness of his model by privileging one perspective over the others: “We are lucky, then, to have the lead curse tablets and the magical papyri ... for most of them give evidence of what I would contend magic really *is*, and present it in an intra-textual way, with no theoretical reflections or metaphysics of the Frazerian or even Theurgic and Ficinian type.” Here, for Braarvig, the intratextual perspective, a group’s own

⁹¹ Braarvig, Jens, “Magic: Reconsidering the Grand Dichotomy,” 21-54.

definition of itself, is to be privileged as the real stuff of magic; for Greco-Roman antiquity, this points to the body of curse tablets and papyri. For Braarvig, the issue is precisely one of mediation: these sources *present* but do not *represent*. They offer a clear window into magical practice without the excessive layers of intellection and polemical misrepresentations of ancient and modern thought: “[T]he message they [curses and papyri] transmit—hate, lovesickness, jealousy, the spirit of having lost the game, greed pettiness and stinginess—is related to human nature,” that which is presumably most basic and unmediated (or less so). For Braarvig, magic as part of the binary magic and religion helps us to understand those darker aspects of human nature that are so often imposed on “the other,” but often end up telling us more about “the selves” doing the judging and what constituted them as “us.” Thus by appeal to an unadorned notion of human nature, Braarvig can claim that these less reputable dispositions, “a phenomenon most aptly called magic,” can be called such and studied as such because “the phenomenon is there in the material when interpreted, because the word and its cognates are found in the literature of antiquity, and because the phenomenon is also found in many other cultures both as rumour and a self-defining reality.” Yet, for all magic is propped up here as cross-cultural object of study “to be found,” it is those darker, unmediated realities of human nature that, for Braarvig, we find precisely and clearly within the *defixiones* and papyri.⁹²

To take a second example, in his opening paragraph on magical discourse and Roman law, Hans Kippenberg provides a disclaimer for the literary sources he is about to investigate:

Dealing with magic in Roman law, I risk being criticised for falling back on second-rate sources. Since the discovery and publication of magical papyri, curse tablets and inscriptions, literary sources have lost their function as main sources for the history of magic. Today we are in a much better situation than students of previous generations who had to rely on reports by ancient historians, politicians, theologians, philosophers, and lawyers. Their biased descriptions

⁹² Ibid., 51.

have meanwhile been replaced by genuine voices. So it might appear odd to base research again on clearly dispensable evidence for a proper understanding of the phenomenon.⁹³

Kippenberg draws a clear distinction here between those sources that speak about magic from an elite distance and those that describe and were deployed *in* actual magical rituals, as though such practices constituted an unproblematic, self-evident set. But he also offers a normative evaluation of this distinction. For Kippenberg, the ancient sources that reflect on the subject of magic are not simply secondary sources but “second-rate,” of inferior quality and value. These sources are produced by elites in a variety of genres, which Kippenberg classifies in the gloss “literary sources,” indicts them for their “biased descriptions,” and deems them “dispensable” in light of the “genuine voices” of the newly available media. For Kippenberg, the underlying issue here is one of mediation. There is apparently a “phenomenon”—ancient magic—for which there is a “proper understanding,” and some of our evidences come closer than others to describing it accurately. In other words, Kippenberg has articulated the binary of an “outsider” versus an “insider” perspective both of which putatively reflect on the same cultural object, and this object apparently remains stable apart from either description, although it is better represented by (i.e. in closer proximity to) the latter ancient sources than the former. Kippenberg’s disclaimer at the start of an article dedicated to Roman “civil discourse” on magic ultimately is meant to excuse his engagement with just those “dispensable” sources because “the issue of understanding magic has not been settled, even though genuine sources are now available.” The binary Kippenberg constructs in this opening passage highlights the even further remove that modern Western interpreters occupy as inheritors of this biased, outsiders perspective on magic. Yet, while the necessity of starting from our “a prejudiced view of magic” might be unavoidable, such a view,

⁹³ Kippenberg, Hans G., “Magic in Roman Civil Discourse,” 137.

for Kippenberg, can be revised and corrected against the more direct, authentic, and proper evidence for ancient magic.

Richard Gordon and Francisco Marco Simón have recently made a potentially more useful and nuanced distinction of the sort above in the introduction to their edited volume on magical practice in the Western Roman Empire:

One of the basic heuristic distinctions to be made in this field is between magical practice, which is in principle contextual, local, and goal-oriented, and the cultural discourse about magic, which, at any rate in a complex society covering hundreds, if not thousands, of local traditions, like that of the Empire, is general and protean, constraining and suggestive. The major value of such a distinction is to caution against the naïve use of literary accounts of magic and magicians, witchcraft and witches, as though they were straightforward evidence for historical practice, quasi-ethnographic documents, rather than heavily mediated representations whose real historical value lies in what they can tell us about the nature of the discourse about magic and the complex socio-political functions it fulfilled.⁹⁴

The editors provide a compelling rationale as a corrective for distinguishing between discourse(s) about magic and historically situated magical practices. Moreover, Gordon and Simón single out a cultural discourse on magic as a compelling answer for just what should be done with literary sources if reconstructing historical ritual practice from these is misplaced—i.e. one should investigate “the nature of the discourse about magic and the complex socio-political functions it fulfilled.” Still, one wonders how far their heuristic distinction is useful. Are magical practices able to be identified and assessed apart from larger cultural discourses? In fairness, the editors affirm that such a distinction is incomplete, but it remains unclear what we learn from magical practices that are distinguished only “heuristically.”⁹⁵ It would be difficult to sustain the

⁹⁴ Gordon, Richard and Francisco Marco Simón, “Introduction,” 5.

⁹⁵ Ibid.: “At the same time, it is obvious that there was a dialectical relationship between practical action and the social discourse, albeit of a limited kind, inasmuch as features or aspects of the discourse provided hints and suggestions to those who felt impelled to invoke magical help in a given situation, and practice, notably in the context of iatro- and apotropaic magic, fed into the discourse. The distinction, though necessary, is thus not complete.”

category “magical practices,” which could reveal itself as a stable entity, apart from the culturally inflected and “heavily-mediated representations” entrenched in literary sources.⁹⁶

Elsewhere, Gordon has argued that while magic is a practice it is also “a child of the imagination,” and its locus is primarily in the realm of narrative. He writes:

In my view it is much too easy to be distracted by the archaeological survival of curse- and vindicative- tablets, and the remains of Greco-Egyptian magical receptaries (grimoires), from the essential point, which that the true home of magic is in a body of narrative, what Cicero calls ‘old women’s tales’, which construct the social knowledge to which any event, real or supposed, fearful or peculiar, may be referred and in terms of which, if need be, explained. Literary texts, emanating from an élite educated within a rationalistic philosophy, supply us by default, with elaborate and distanced, often ironic, examples of such tales as well as images of witches and magicians. But negotiations with magic also took place in variety of literary modes and genres.”⁹⁷

As I argued in the introduction, at a general level I agree with Gordon, but I find the concept of magic as embracing these acts of imagination to be of little use. This “body of narrative” and the “social knowledge” it constructs to my mind might be understood based on different categories and models, which in turn might bring out different nuance and evocations. But the accent of Gordon’s sentiment here admits to the general scholarly posture of privileging certain material evidences as a point of pride in construing and studying ancient Greek and Roman magic.

As I mentioned above, the orienting premise for much of the material evidence for magic is that magic is a subset of ritual over and against acts of narrative and social imaginings. This is not a new suggestion. In studies of ancient magic, this focus on religion, ritual, and magic’s place in this hierarchy has been pursued in carving out a special place for magical practice by way of the

⁹⁶ Yet, for all that the editors affirm the importance of carefully (re)assessing the “cultural discourse” of magic in antiquity, the remaining essays in their volume skew decidedly towards material evidence as the privileged evidence for magic—the “documents” of ancient magical practice. Explicit justification, theorization, and definition of magic are limited to a footnoted reference to Hoffman’s essay (above)—definitions and theories of magic appear unimportant to the editors.

⁹⁷ Gordon, “Imagining Greek and Roman Magic,” 167.

material evidences. In particular the work of Stanley Tambiah on ritual and performativity has provided a ready-made method for scholars of ancient magic to read and find magical elements in these documents. For Tambiah: “Magical acts, usually compounded of verbal utterance and object-manipulation, constitute ‘performative’ acts by which a property is imperatively transferred to a recipient object or person on an analogical basis.”⁹⁸ Here is neither the time nor the place to delve into the debates around Tambiah’s writings on this topic. I would only note that the standard (yet poignant) critique of Tambiah is that for whatever set of performative utterances one might mark off as “magic,” it is difficult to hold these as separate in some telling way from a whole range of human utterances that are also performative, including those often deemed “religious.”⁹⁹ More to the point is how Tambiah has been useful to scholars of magic in trying to reassert their principal object of study. With Kippenberg above, after he valorizes the “material” sources as the privileged evidence of magic, he juxtaposes Malinowski’s conception of magic as certain rites performed in contexts of uncertainty to a “second model available... for a proper understanding of magic.”¹⁰⁰ For Kippenberg, this model is Tambiah’s reading of J.L. Austin’s *How to Do Things with Words* and his application of it to the anthropological study of rituals. The “genuine sources” of magical practice thus provide a genuine method for identifying them and studying them. More recently, Amina Kropp has employed a combination of Tambiah’s as well as John Searle’s interpretations of Austin in her reading of Latin curse-tablets.¹⁰¹ Working within this framework, especially with an eye to performative utterances, Kropp argues for a novel category of “transformative” utterances (a subclass of declaratives) of

⁹⁸ Tambiah, *Culture, Thought and Social Action*, 60.

⁹⁹ Smith, *Relating Religion*, 217.

¹⁰⁰ Kippenberg, “Magic in Roman Civil Discourse,” 137.

¹⁰¹ Kropp, “How Does Magical Language Work? The Spells and Formulae of the Latin *Defixionum Tabellae*,” 357-80.

which the main token would be unmediated utterances of magical causation (i.e. *ex opere operato*, e.g. the evil eye). Effectively, Kropp's argument is an attempt to dispense with the more general critique of Tambiah (above) and to clearly mark out a space for magical utterances over and against other types of performatives she perceives in Latin *defixiones*. To their credit, the editors of the volume in which Kropp's essay appears express misgivings about this approach, and they find more promising the "rhetorical approach" she pursues in her contribution in the same volume with Faraone.¹⁰²

I am not arguing that *defixiones* and other material evidence are not interesting or important. Rather, I would want us to take seriously Dennis Feeney's point that "[e]ach medium has its own priorities and interests, and its own semiotics" so that the dynamics of representation will differ between "literary" sources and "material" sources, and even within these rather vague categories.¹⁰³ Different sources that employ different writing practices are not always easily read through and against each other or easily commensurable into a coherent view of the ancient world, much less of a social reality or stereotype called "magic." In fact, promising recent work on *defixiones*—for instance—has shown that these writings had much more intricate connections in ancient culture and life than merely residing in the darker anti-social recesses of ancient minds and communities. For example, in her study of Greek curse tablets from the shrine at Dodona, Esther Eidinow has argued, drawing on models from behavioral psychology (and echoing Malinowski), that these practices of execration are better understood in terms of reducing risk

¹⁰² Gordon and Marco Simón, "Introduction": "Kropp's strategy seems to try and preserve the specificity of the category magic by identifying a core or 'real' form that effects real-world changes *ex opere operato*.... In some ways, this rhetorical approach seems to us perhaps a more promising way forward than the idea of performativity, picking up as it does Tambiah's suggestion that magic typically exploits the expressive properties of language, notably metaphor and metonymy," 27-28.

¹⁰³ Feeney, *Literature and Religion at Rome*, 24.

and as tactics for mitigating uncertainty rather than in terms of their supposed “magical” qualities.¹⁰⁴ Similarly for Julia Kindt, “magic” becomes a form of religious discourse in ancient Greece not because it is a discrete classificatory category with its own “essence,” but rather because it is located within a “common symbolic universe” of Greek society and religion. What is more, cursing (*katadesmoi*) illustrates one particularly instructive aspect for Kindt of how social practices and the worlds they evoked were mutually constitutive of each other and reinforce each other in understanding ancient Greek culture.¹⁰⁵ In both sets of studies then, magic is not completely dropped from usage, but rather it becomes a secondary term and concept, subsidiary and incidental to other more central theoretical issues, namely conceptions of the various ways in which humans create locative schemas within their contingent social worlds.

Recent interpretations of the Greek magical papyri also provide telling cases. Taking these documents on their own terms has further shown that the adjective “magical” is a distraction (as Smith said), diverting attention from the social contexts of these documents. For example, Kyle Fraser, while accepting the development of a general concept of magic in the Roman Principate, has offered a significant challenge to the “marketing” context in which the Greek papyri are often situated. As opposed to the view that the authors of the papyri intentionally amplified the esoteric and exotic elements and appropriated the sinister Greco-Roman stereotypes of magic in order to market themselves to an external clientele that fetishized that sort of thing, Fraser has argued instead that these features should be taken as internal markers of attempts at positive self-definition, “ways of imagining and constructing an ‘authoritative tradition’” within Egyptian priestly circles.¹⁰⁶ Bernd-Christian Otto has argued

¹⁰⁴ Eidinow, *Oracles, Curses, and Risk among the Ancient Greeks*.

¹⁰⁵ Kindt, Julia, *Rethinking Greek Religion*, 90-122.

¹⁰⁶ Fraser, Kyle A., “Roman Antiquity,” 121.

along similar lines that the papyri do not give us an insider view into some discrete set of ancient magical practices, but into yet another iteration of the pervasive logic of ancient ritual practice and the attendant theologies it presumes.¹⁰⁷ Otto has essentially reiterated in ancient historical terms the basic criticism that there is no formal distinction between religion and magic (he even dusts off Tylor’s old definition of religion as belief in spiritual beings to help make this point). The papyri differ from a more general logic of ancient cult and ritual only in their eclecticism, and by degree, not kind.¹⁰⁸ Thus, the most interesting work on the Greek papyri does not address the oddness of the rituals they contain or of the ingredients they list, but consider who the writers of these documents were, who their intended audience was in writing them, and what these texts tell us about the general ritual landscape of the imperial period. But such debates are possible—i.e. the ability to explore the more intricate connections of these with other social practices and contexts—largely by decentering these documents from their main signification of magic.¹⁰⁹ Again, as Otto notes: “[T]he most important semantic aspect of Graeco-Egyptian *μαγεία* is contemporaneously vivid in established religions of the Ancient Mediterranean, here being detached from the concept of ‘magic’ and, thereby, of devaluation and stigmatization. That said,

¹⁰⁷ “Towards Historicizing ‘Magic’ in Antiquity,” 334: “[p]erceived from this point of view, Graeco-Egyptian *μαγεία* is not a unique, curious case in the history of ancient religions. Instead, it is characterized by a set of common — if not classical — ideas widespread in the religious world of Classical Antiquity.”

¹⁰⁸ Ibid., 334-335, “[T]hat the gods are responsible for human fate and can be ritually addressed, in one way or the other, to influence the latter... the Graeco-Egyptian *mágoi* could find role models for almost everything they did in the majority of religious texts circulating in the Ancient Mediterranean. Hence, it is only the highly syncretistic approach of the *PGM* and, especially, certain ritual means used to gain the favor of the gods that seem to differ from the major religious traditions of Antiquity. In the regard, the use of so-called *voces magicae*, of powerful signs (*χαρακτῆρες*) and of material artifacts seem to be quite unique aspects of the *PGM*. However, as the *voces magicae* have been identified as being nothing more than alternative, efficacious names for the invoked gods, one could again argue that the term *μαγεία* in the *PGM* refers to “religion” in its purest sense.”

¹⁰⁹ Both Fraser and Otto do this to some extent, but they both also tend to continue to theorize about magic.

the Graeco-Egyptian ‘magician’ loses his aura of uniqueness in Antiquity even more. Rather, he appears as being part of a wide spectrum of ancient ritual practitioners.”¹¹⁰

I am not arguing here for some sort of formalism or evidentiary solipsism in reading these ritual texts. But I am on guard against an uncritical “historicism” that cobbles together these with other literary sources in order to posit the development of a stable synchronic notion of magic that can then be used reflexively as a baseline for calibrating a history of ancient magic. As Denis Feeney has argued, such a binary between formalism and historicism might be a poor way to think about things, and it is perhaps “more useful to think in terms of a range of cultural practices that are interacting, competing, and defining each other in the process.”¹¹¹ On this view entities like Roman magic and religion are neither discrete entities nor do they have clear referents that are easily picked out in the world. Rather there are a number of cultural discourses that get labeled as magic or religious. My point is that we should be clearer about *who* is doing the labeling. The choice to quilt together certain discourses, as “magic,” is more often our decision rather than the ancients’. In the chapters that follow I will look at key moments where the ancient Romans used *magia* to label and evaluate certain cultural practices, and where they do not when we might expect them to. They also used other terms and designations, which lose their nuance and social importance in our analyses when we call them “magical.” The material evidences then are thus not privileged evidence for ancient magic. In fact, they are not evidence for magic at all. Put starkly, if there can be said to exist any such thing as “magic” in the ancient world, it will exist primarily in elite textual productions, i.e. in the ideological and imaginative

¹¹⁰ Ibid., 337.

¹¹¹ Feeney, *Literature and Religion at Rome*, i. Also see Feeney’s discussion in “On Not Forgetting the ‘Literatur’ in ‘Literatur Und Religion’,” 173-202.

products of those given to acts of abstraction, intellection, generalization, and rationalization about their own cultural milieu and the exclusion of others seen as not belonging.

Conclusion

Most of these tropes and the rhetoric discussed in this chapter, used to shore up the study of magic, will reappear in the chapters that follow in different ways. To conclude this chapter and summarize, despite numerous critical assaults on magic in the study of antiquity, the term remains in heavy use. This is not because the critiques of a prior generation have been answered satisfactorily, or because new definitions and consensuses have emerged among scholars in the booming field of ancient magic. On the contrary, those who study ancient magic seem content to leave matters of definition unaddressed and evade or defer questions of definition, privileging empirical data as “given” over developing explicit theoretical and methodological grounds for investigating such data. As these scholars claim, it seems that “we” all sort of know what we are talking about anyway, and even if we do not quite know what we mean by magic, the ancients surely knew what they meant by magic: they had a word and therefore surely some shared definition of what constituted magic.

In contrast to this tradition, I argue that to take seriously the long-suffering critiques of magic as an abstract category or substantive term does not lead to intellectual paralysis or rampant deconstruction of academic terms. Rather, it leads us back to the ancient sources themselves. To question the term magic is not simply to reconsider issues of nomenclature or to substitute another word for magic in order to designate the usual magic-like things. Instead, questioning magic invites us to reconsider the data itself and ask under what conditions certain artifacts, rituals, and texts come to be constituted as evidence in the first place. Returning to

these sources without a substantive notion of magic forces us to ask: to what broader discourse(s) did the Romans enjoin the term *magia*? For what purpose(s) was the term employed? How did this change over time? Why were certain practices, typically designated by other terms, say, *superstitio*, articulated using the term *magia* at certain moments but not others? In other words, giving up magic as an analytic category precludes us from prejudging our source in advance. It enables us to see the broader, contingent discursive formations of ancient peoples and explore the social and historical conditions of their production. When issues surrounding the term magic are recalibrated (rather than reshuffled) in this way, my hope is that different, perhaps more interesting, and more useful contexts and categories will present themselves for scholarly purposes of redescription and comparison.

Chapter 2

On missing words and manifest concepts: the formation and transmission of a concept of “magic” in antiquity

“It is said that the location of the original flowerbeds of Thomas Jefferson’s garden at Monticello was rediscovered by shining car-headlights over the lawn at night. But no amount of serendipity of this archaeological kind will rediscover for us the reality of ancient magic. It might seem, for example, that the emergence of the word itself might provide a decisive insight into the nature of that reality. But that is not so.”

-Richard Gordon¹

“Practically no one escapes moments of reduced concentration when they suddenly fall into unsophisticated common sense concepts, though they sometimes betray their awareness of the lapse by putting the term magic between inverted commas or adding ‘so-called’. One problem is that you cannot talk about magic without using the term magic. Using a term entails having a concept, even if to reject its applicability. Another problem is that magic is not always magic.”

-H.S. Versnel²

“There now appears [in the Late Republic] the formerly missing word *magus*...”

-Fritz Graf³

Introduction

The Latin *magia* word cluster first appears around the middle of the first century BCE. The noun *magus* is not attested in Latin before the 50s BCE, first appearing in Catullus’s 90th poem and in the works of Cicero. The adjective *magicus* did not appear until about a decade later, in Vergil’s eighth *Eclogue*, and the actual abstract noun *magia* was not attested until much later in Apuleius of Madaura’s *Apologia* from the latter part of the second century CE. As James Rives has pointed out, Latin texts reveal some interesting and suggestive patterns of divergence between usages of the noun and adjective: namely, until roughly the end of the Julio-Claudian

¹ Gordon, “Imagining Greek and Roman Magic,” 163.

² Versnel, H.S., “Some Reflections on the Relationship Magic-Religion,” 181.

³ Graf, Fritz, *Magic in the Ancient World*, 41.

period, the agentive noun *magus* was used primarily in prose literature as an ethnographic descriptor for Persian ritual specialists, whereas the adjective *magicus* was largely absent from prose but used widely in poetry to designate a range of activities that we might categorize today as “witchcraft” or “sorcery.”⁴

The Latin noun *magus* seems to be clearly and directly derived from prior Greek usage, especially in historical and philosophical texts from the Classical and the later Hellenistic world. In fact, most Greek writers of the 5th and 4th centuries BCE, especially prose writers, used the Greek term *magos* (μάγος) to denote the *magi*, priests of the Persian court, and wrote texts with them as the (or a) central subject.⁵ The more polemical usages of *magos* in 5th century Greece—e.g., to denote various itinerant ritual specialists—are notable because they are not the norm.⁶ The evidence of early Latin derivation of the Greek noun *magos* is sparse but the instances that remain indicate Roman interest not in “magic” as a discrete set of practices, variously glossed as witchcraft or sorcery, but rather in the wisdom and ritual practices of the Persian Magi and their founder, Zoroaster.

However, as Rives points out, the adjective *magicus* is a different case. First, the use of *magicus*, especially in the Latin poets starting with Vergil, does seem to refer to certain phenomena we might classify as witchcraft and sorcery—often alongside a motley crew of homegrown itinerant figures variously called *sagae* or *venefici* and engaged in marvelous and

⁴ For the details of this distribution see Rives, “*Magus* and its Cognates in Classical Latin,” 53-77.

⁵ See De Jong, *Traditions of the Magi: Zoroastrianism in Greek and Latin Literature*; for Hellenistic traditions attributed to the Magi: Beck, “Thus Spake not Zarathustra: Zoroastrian Pseudepigrapha in the Greco-Roman world,” 491-565.

⁶ In addition to Rives (see above), for a succinct run down of *magos/mageia* in the Greek Classical period see Bremmer, “The Birth of the Term ‘Magic’,” 1-12 (also appears in Bremmer and Veenstra, *The Metamorphosis of Magic from Late Antiquity to the Early Modern Period* and Bremmer, *Greek Religion and Culture, the Bible, and the Ancient Near East*).

marginal practices without explicit linking to Persia, but sometimes in reference to the proximate eastern Greek area of Thessaly, or to other central Italian peoples such as the *Sabelli*, *Marsi*, or *Peligni*.⁷ Second, over and above obvious morphological similarities to the Greek term, it is much more difficult to establish precise derivation of *magicus* from earlier Greek usage. In fact, the Greek adjective *magikos* (μαγικός) is only securely attested in the first century BCE, with no clear attestations from the Classical Period. What is more, in later Hellenistic poetry, where one would expect to find *magikos* or even perhaps some cognate of *mageia* in general, such signification is nowhere to be found.⁸

⁷ For an instructive overview of central Italian peoples both in terms of Roman stereotypes as well as the material evidence, see Emma Dench's *From Barbarians to New Men*. For a quite extensive overview of various possible marginal and itinerant figures in Latin texts see Matthew Dickie's *Magic and Magicians in the Greco-Roman World*, especially Chapters 5-8.

⁸ For example, when in his *Argonautica*, Apollonius of Rhodes describes the various machinations of Medea, he does not describe them with *magikos*, but rather as *pharmakeia*. Or, take Theocritus's second *Idyll*, the *Pharmakeutria*, in which Simaetha ends her lovelorn ritual and incantation proclaiming that the *kaka pharmaka* ("evil potion") she learned was not from a *magos* but rather an "Assyrian stranger" (*Assuriō para xeinoio*). On the absence of *mageia* in extant Hellenistic poetry see Rives, "Magus and its Cognates in Classical Latin," 71. We might ask of Vergil's use of *magicis...sacris* in his eighth *Eclogue* (again the first instance of the adjective in Latin), which is based on Theocritus's second *Idyll*, why he would choose this word and not some other to adapt and render Theocritus's genre of *bucolic*. There was no dearth of Greek or Latin terms available for drawing attention to marginal religious figures and practices. *Magicus* does not seem like a blatantly obvious choice. Rives notes that given the paucity of Hellenistic Greek poetry, it is entirely possible that the adjective *magikos* was widely used in such contexts and would have been a natural choice for Latin poets but simply happens not to be represented in the surviving texts, *Ibid*. Indeed, such a cautioning principle might be raised for any observation regarding the distribution of ancient terms. Richard Gordon suggests that Varro Atacinus probably used some cognate of *magia* around the mid-40s BCE to "transpose" Apollonius's of Rhodes's *Argonautica* into Latin. For Gordon, Varro "linked Medea's name to Persia through the homonymity of Medus, her son by Aegus, king of Athens, and the land of Media." For Gordon, such an etymology was redundant if Varro had not already thought of Medea in terms of the Persian origins of magic (for Gordon a Hellenistic concept), and thus as a magician, "Imagining Greek and Roman Magic," 165. Further, we might ask if in addition to the *incantamentorum amatorum imitatio* of Theocritus and Vergil, whether Catullus, who is listed by Pliny between them (*NH* 28.19), used the term *magikos* in this lost work. Again, Gordon has suggested that Catullus's lost *imitatio*, most likely from the early 50s BCE, was a poem "which was probably one important source of much of the specific imagery of (Italian) witchcraft we

These two streams of usage seem to converge in the first century CE, and I will discuss the implications of this in Chapter 3. Yet, for the Late Republic, Rives's distribution intrigues and is worth considering further—as with all statistical data, it demands further investigation, contextualization, and explanation. To be sure, tracking semantic changes might be relatively straightforward, but tracking the accompanying conceptual changes can be more difficult.⁹ Among scholars of ancient magic, however, it is clear that for republican Romans neither *magus* nor its adjectival form clearly connote what we might understand as magic. As Fritz Graf puts it: “In the language of the Romans of the republican era, *magus* and *magia* ... did not refer to magic. The words began their career as ethnographic terms in the prose of Cicero, and then as learned Hellenistic expression in the poetry of the early years of Augustus and referred, at least in Virgil, to the exotic rites already beloved of Alexandrians.”¹⁰ Yet, as Graf goes on to argue, the lack of an abstract term signifying magic does not entail the lack of a concept of magic or that the Romans “refused to isolate a domain specific to magic.”¹¹ Matthew Dickie puts this sentiment more starkly: “We should not make the mistake when we come to deal with the notion of magic amongst the Romans of supposing that, before an idea can exist and be expressed, an

find in the Augustan poets, and in which he may well have used the adjective *magicus*,” Ibid. Gordon's considerations might be set against Rives's own—equally speculative—scenario that *magicus* was a Latin poetic innovation (perhaps Vergil's): “The fact that Horace does not make use of this word-group in his earlier poetry, even in places where we might expect it, but only in his poetry of the 20s and 10s, might indicate that he adopted it only after his friend had set the example; certainly the practice of the elegists and later poets can be explained on the basis of the Vergilian precedent,” “*Magus* and its Cognates in Classical Latin,” 71.

⁹ Even Rives notes, “[a]lthough the patterns for the use of this word-group in our evidence are clear enough, their significance is not,” “*Magus* and its Cognates in Classical Latin,” 74; or, elsewhere, “Although it is fairly easy to trace these semantic developments, it is more difficult to chart the conceptual shift that presumably lay behind them,” Rives, *Magic in Roman Law*, 322.

¹⁰ Graf, *Magic in the Ancient World*, 39.

¹¹ Ibid.

abstract term has to exist with which to name it.”¹² This view of the relation between words and concepts generally underlies treatments of ancient magic, and though seldom discussed, it has interesting and important implications for historical method. Namely, that the conceptual domains of the peoples we study can operate on them and through them independently of the their ability to give explicit voice to these concepts. In other words, scholars are licensed to call certain aspects of Roman republican culture magical, and posit a conceptual unity (e.g. magic before magic) or teleological development (e.g. what will become magic) among these, despite the fact that the Romans themselves did not and often used different terms and gave different descriptions. To be clear, my issue here is not with uncovering cultural subtext or context, nor is it with analyzing a carefully collected set of “their” emic terms by means of “our” etic categories. In fact, I would not deny that modern sociological and historical methods often provide a broader view of a given society than would have been available to an insider. Rather, my concern relates to a form of scholarly methodology where, in the words of David Graeber, “[authoritative] statements must be treated as a window onto ‘concepts,’ and concepts treated—through a form of ‘radical constructivism’—as if they were themselves realities of the same ontological standing as ‘things,’ or indeed, constitutive of the world itself.”¹³ The result of such procedures is the operative notion that stable, monolithic conceptual systems and representational complexes existed in antiquity, persisted over time with only superficial adjustments, and essentially set the terms in advance for the possibilities of ancient discourse. But if the peoples under consideration give no explicit inkling or hint of the operation of the supposed underlying concept or set of concepts within their language, what difference is there

¹² Dickie, *Magic and Magicians in the Greco-Roman World*, 131.

¹³ Graeber, David, “Radical Alterity Is Just Another Way of Saying ‘Reality,’” 20.

then between discovering an unconscious cultural *mentalité* versus imposing our own modern conceptual grids on these peoples at an emic level?

The goal of this chapter is to unpack the implications of this view of language and society as it has operated in the study of ancient magic. In the first section below, I examine how scholars—namely, Graf and Dickie—have generally imagined a “concept” of magic as *mageia/magia* forming in Athenian Greece and then how it was supposedly disseminated and adopted in toto by Late republican Roman authors. Here I show that the terms usually taken for magical practice are often supposed by scholars (often implicitly) to correspond to and taken as evidence of some stable concept of magic formed in 5th century Athens, which can be signified with *mageia*. This underlying concept is presumed to hold within it a set of discrete perceptions, associations, and stereotypes; i.e., it constitutes something of a system of knowledge, with which those who possess and wield it can classify and evaluate certain cultural information, often in negative ways, in the wider realm of religion. Further, these meanings are supposed to be fully and successfully transmitted in particular semantic clusters from Greece to Rome, then continuing in Western history until the modern period. On each count, however, dubious theoretical and methodological assumptions give reason to question the emergence of such a conceptual unity and its successful transmission.

In the balance of this chapter, I then attempt to examine *magus* in its early Latin usages without assuming some underlying concept of magic. In section two, in order to tease out my initial and more general considerations, I offer concrete examples of how *magus* was used in Roman intellectual discourses imagining alterity and against the challenges of cognizing their acquisition of a Mediterranean empire.¹⁴ Specifically, I examine the early instances of *magus* in

¹⁴ I examine the adjective *magicus* more closely in Chapter 4.

Cicero in reference to Persians and attempt to elaborate the broader notions of cultural translation to which *magus* is being put to work, not as a subject in itself but as an ancillary concept. In this section, I quite abruptly change the subject (see discussion of Smith above); *magus* opens my discussion but then drifts to the margins as the larger point that it helps bring out comes to the fore.

A Greco-Roman concept of magic?

To begin with, it is worth noting three general issues at stake in discussing how scholars have imagined the formation and transmission of a concept of magic in antiquity. First, there is the discursive power of the seemingly innocuous phrase “our concept of magic,” or some variation thereof. In accounts of the formation of a concept of magic, very often the perceived (Greek) evidence for magical practice is correlated more or less with what “we” as modern peoples think magic to be. Yet, this is hardly a benign or self-evident assertion nor is it indicative of consensus among modern scholars as to a standard etic definition. Rather it serves as a “common sense” notion and thereby a flexible standard of assessment and measurement, rarely defined or defended, in dominant scholarly models for the formation and transmission of something called “magic” in antiquity. In terms of strict etymology, we can confidently trace our modern word “magic” back to the classical world. The English word “magic” along with its cognates in other European languages (e.g. *magie*, *magia*) derives from the Greek word *magos/magikos* (μάγος/μαγικός) and its Latin rendering *magus/magicus*, which was borrowed from the Persians (Old Persian *maguš*). Yet, within Greek and Roman antiquity especially, scholars often lean on the fact that the modern European term for magic is derived from ancient terminology to account for the view that magic was a social reality in the ancient world and must

be named and explained. In other words, the translation of *magus* or *magos* as “magician” thus takes on a certain self-evidence when scholars exploit these “false friends,” playing across the gap between ancient and modern, assured that magic in its origin and derivation from the ancient terms maintains the stability of its conceptual content across time and space.¹⁵ As Barton and Boyarin have said of translating *religio* as religion (so with *magia* and magic), the latter “has often been used as a shortcut—a ‘worm hole’—to carry the reader quickly and safely from an often very alien world back into our own.”¹⁶ The result of this jump effectively congeals an ancient concept into existence by defining the historical parameters for its development into a modern concept; that is, by setting down the two poles of origin and culmination between which the specific historical formations of magic can be identified, coordinated, and tracked as they ebb and flow from ancient neologisms (*mageia/magia*) to modern coining.

However, the assumption that the word itself always meant the same thing when iterated in different vocabularies across space and time should be *explanandum* rather than *explanans*. It is more worthwhile to focus on the specific articulations of *mageia/magia* in different cultural idioms, media, and discourses without *a priori* conceptions of what it should mean based on the standards of “our concept”—whatever those turn out to be. Put differently, if “we” perceive similarity cross-culturally in how *mageia/magia* is used, should we not give some thought as to why this perception seems so self-evident? Why are we so easily disposed to see the similarities, differences, and overlaps, which make for our comparisons between the contingent moments of ancient Greece or Rome and “our” world?

A second issue that is important here is the fact that in most accounts of the formation and transmission of magic (few as they are) Rome is not often given to forming an independent

¹⁵ Rives, “*Magus* and its Cognates in Classical Latin,” 53.

¹⁶ Barton and Boyarin, *Imagine No Religion*, 2.

concept of magic. Rather, the Romans are more often seen as adopting, domesticating, imitating, stealing and/or naturalizing an already extant concept from the Greeks. This posture is part of a much more general attitude about the derivative nature of Roman culture. In essence, this attitude is what Denis Feeney has termed the “myth of imitative impotence.”¹⁷ In past generations of scholarship, where this idea was more nakedly operative, the Romans were seen as culturally impoverished and intellectually inept. They were seen as possessing practical know-how (say, in state-craft and juridical matters) but lacking in creativity enough to generate their own novel forms of cultural production (e.g. mythology). As a result, in the course of their expansion and interaction with the Hellenistic world, they were seduced into adopting and appropriating the local traditions of Greek culture that had been dispersed widely via Alexander the Great’s conquest. Although this decidedly Hellenocentric view has been critiqued on several fronts, it occasionally still peeks through in the underlying suppositions of ancient scholarship: in treatments of the “Greco-Roman” world, often the former comes off better and the latter comes up lacking.¹⁸

In fact, when a Roman conception of magic is discussed it is often done in terms of the ponderous notions of “Romanization” (or “Latinization”) and/or “Hellenization.”¹⁹ This is not to say that the Romans did not have their own nomenclature for describing non-normative or

¹⁷ Feeney, *Literature and Religion at Rome*, 8.

¹⁸ A bibliography on the critique of Roman cultural derivation from the Greek world would be vast since it has taken place in many argumentative idioms in classical scholarship. However, worth citing is C.R. Phillips’s Bryn Mawr review of Fritz Graf’s *Magic in the Ancient World* where he charges Graf with a “Hellenocentric outlook” that smacks of the position that “the scholar who understands the Greeks understands the Romans,” (<http://bmcr.brynmawr.edu/1998/98.3.15.html>).

¹⁹ Quite useful renderings of both these terms have been given by Wallace-Hadrill, *Rome’s Cultural Revolution*, 17-28 and in Rüpke’s *Religion in Republican Rome*, 209-212 (working from Wallace-Hadrill’s considerations). More will be said about these matters below but the important issue is that there should be understood a “mutual interdependency” between these concepts.

marginal religious personnel and practices. They surely did.²⁰ But very often scholars have treated *magiea/magia* and its cognates as a ready-to-hand cluster of terms concomitant with a certain classification system with which the Romans could easily give voice *post factum* to their more diffuse and dispersed notion of “sorcery”—their unmarked “magic before magic”²¹—while at the same time incorporating more complex ideas from the Greek east (e.g. astrology).

Unsurprisingly then, more scholarly energy has gone into accounts of how the Athenian Greeks of the 5th century BCE created a discrete concept of magic than the Romans’ later take over of it. Scholars cast this moment of formation as not only a novel turning point in Greek history, different from what came “before” and having indelible effects thereafter, but also a major turning point in Western history more generally. Rome, in some sense then, is merely the first stop in a trajectory of transmission of a concept that extends—in perhaps different but still recognizable forms—into the modern period. Built into this understanding are a number of unarticulated assumptions regarding the stability and coherence of the Greeks’ 5th century BCE concept that enable its mobility across time and space, ensuring its arrival and domestication in Rome and its eventual transformation into “our category of magic.”

Finally, a third issue, which I mentioned at the top of the chapter: some scholars presume that, prior to the rather late adoption of the Latin term *magia* and its linked concept, an inchoate notion of magic was already operative in Roman thinking, albeit tacitly, unconsciously, and intuitively, despite the fact that the Romans had no term with which to designate this conceptual whole. This view argues that one can have an idea of something’s significance without being able to talk about that something’s significance. While I do not wish to address the different

²⁰ See Chapter 4.

²¹ Gordon, “Imagining Greek and Roman Magic,” 178. Gordon uses this phrase of Archaic Greece, but it applies equally well to archaic, early and mid republican Rome. Graf uses the idea of “sorcery” to indicate a Roman time before Greek magic, *Magic in the Ancient World*, 26.

perspectives in the philosophy of language regarding this particular issue, I would simply point out that scholars of ancient magic very often posit a concept of magic that takes language as merely posterior and expressive of experience and reality rather than constitutive of it, thereby neutralizing issues of power, contestation, and negotiation in which the term *magos/magus*, *mageia/magia* might have been implicated. Two things follow from this. First, as we will see, scholars who posit the formation of a concept of magic in 5th century Athens (and elsewhere) often follow a similar logic as those 19th century editors attempting to compile text critical editions: they gather all the instances, prioritizing and highlighting those instances which seem more or less historically “accurate” or “authoritative” (by whatever standard), and then work backwards to a harmonized account that minimizes variants; claims to be definitive and authoritative (i.e. paradoxically both original and artificial at the same time); and, most importantly, becomes a standard lens through which these same sources are read and re-read. Already a certain unity is presumed and naturalized at the outset, making the undertaking a circular affair. Second, I do not wish to deny that terms in ancient Greek and Latin texts are not bound up with more general concepts; I only want to point out that, more often than not, the scholarly procedure of aggregating and naturalizing nominal instances into a concept (of magic) generalizes to all Greek and Roman society. We should rather ask for whom in ancient Greece did *magos/mageia* have certain associations? In sum, scholars of ancient magic have imagined “magic” as a unitary and discrete background *mentalité* rather than as part of and coexistent with broader knowledge systems and subsystems of alterity positioned on various social fronts, with vested interests, within Greek and Roman societies.

Formation

With these three preliminary points in mind, we might ask what precisely is the nature of this supposed “concept of magic” formed in 5th century Athens, and who or what had a role in its formation? How is it understood to migrate to Rome? The models put forth respectively by Fritz Graf and Matthew Dickie—the authors of the two major synthetic works on Greco-Roman magic—offer two representative ways of thinking about both.²²

First there is the exemplary historical position of 5th century Athens in forming a concept of magic. Graf gives quite a bit of attention to the factors that led to the development in the Greek Classical Period that resulted in the emergence of magic, or *mageia*, as an “autonomous domain within religious practice.”²³ For Graf, there were two main factors at play and each sought to rationalize traditional practice, which amounted to a re-conceptualization of the relationship between humans, gods, and nature. The first factor was the development of philosophical theology (e.g. Plato’s *Republic*), which “purified” and “spiritualized” “traditional theology,” essentially seeking to monopolize the means of communication between humans and gods and to moralize the divine realm.²⁴ Those ritual specialists who engaged in traditional forms of practice that fell outside of this normative, civic-centered schema could be stigmatized and looked upon with suspicion. The same goes for the second factor: science, or more precisely, the nascent ancient medical discourse that is evidenced in the Hippocratic corpus. “The Doctor” of *On the Sacred Disease* inflects a theological critique of traditional healers not only via accusations of fraud, but also in the very discussion of illness itself and its supposed causes. The

²² See citations above.

²³ Graf, *Magic in the Ancient World*, 34.

²⁴ *Ibid.*, 27; Richard Gordon offers a similar account of the “disembedding” and “moralizing” of certain religious practices with the advent of the city-state and the development of the intellectual exercise of philosophy, “Imagining Greek and Roman Magic,” 161-168.

imagined view of nature as a closed, self-contained system set into relief in this medical discourse foreclosed the efficacy of divine healing and looked instead to natural remedies. Indeed, both rationalizing discourses took aim at a rather amorphously and for the most part anonymously defined group of itinerant specialists and traditional forms of religious practice that Graf labels “non-civic,” in which he includes Bacchic mysteries, certain forms of private cult, and healing practices. Thus, magic, for Graf, is essentially defined on the normative model of polis religion, where *mageia* comes to cordon off a separate sphere: “the separation of an original unity—religion—into two opposing domains—magic and religion—where ‘magic,’ *mageia* is not identical with *what we call magic*, but encompasses a whole series of noncivic religious forms.”²⁵ For Graf then, *mageia* becomes co-extensive with non-normative, non-civic Greek religion but is still measured by an undefined and implicit notion of “our concept” of magic.

That Graf sees a conception of magic forming by way of the cognitive efforts of specific groups of peoples —i.e. philosophers and physicians—stands in contrast to the much more ex-nominated formation of a concept of magic that Matthew Dickie imagines. Dickie’s general posture, which emphasizes social history and the figure of the magician over an ideational and intellectual focus, might explain the lack of specific actors involved in his account of the formation of a concept of magic. Dickie privileges the mundane over the abstract in accounting for a concept of magic. It is not an intellectual affair but rather an organic one: “the complex concept that is magic was not the product of conscious shaping and defining, but was a spontaneous and ever evolving creation.”²⁶ Magic was not “tightly defined;” different criteria were used at different times in applying it, and the Greeks developed a certain “intuition” about classifying something as magical. For Dickie, there was “fluidity” to the notion of magic, which

²⁵ Graf, *Magic in the Ancient World*, 34, my emphasis.

²⁶ Dickie, *Magic and Magicians in the Greco-Roman World*, 26.

our extant sources from the period are simply reflecting and applying.²⁷ In other words, the Greeks operated *on* a concept of magic, and this apparently underpinned their various cultural productions, be they the philosophical and medical texts of Plato and the Hippocratic corpus or the tragic poems of Sophocles or Euripides. The more philosophical and prosaic sources such as Plato, who seemed to give conscious thought to certain “magical” practices, should be seen as “applications” of a prior and broader concept instead of confused with it. For Dickie, there is nothing exclusive about this concept that should make it a product of intellectual deliberations: “[T]ragic and comic playwrights appeal to it in such a way as to suggest that it was widely understood and accepted. That suggests that what the author of the Hippocratic tract *On the Sacred Disease* and Plato have to say about magic does not play a decisive role in shaping the concept; they merely articulate and, in the case of the medical writer, draw out the implications of ideas that are already there.” Dickie insists:

Long before there is any evidence of philosophers or doctors trying to give definition to the notion of magic, the disparate practices, lacking any common thread to tie them together, that were later held to constitute magic were already being treated as of a piece, were already exposed to the same moral condemnation to which they were later subjected, were already viewed as being at odds with accepted religious practice and were already thought to be able to upset the normal course of nature. That would seem to be sufficient evidence to posit the emergence in the fifth century of a concept with *a close resemblance to our concept of magic*.²⁸

Dickie’s point is that over and above the concerted and conscious efforts of specific social groups (as elaborated by Graf), a concept of magic emerged by “an organic growth fostered by strains and tensions within the religious life of Greece.... Magic is better viewed as the creation

²⁷ Ibid., 25-26.

²⁸ Ibid., 26-27, my emphasis.

of a very special set of circumstances in which different forms of religious practice came into conflict.”²⁹

Based on these two models, initial critiques might probe certain unexplained gaps in the formation process. Both authors describe the process as an “evolution,” taking place roughly over the course of fifth century BCE. The final product was a bounded and discrete concept that seems to cut across Greek religious practice and operated ubiquitously in Greek society in general. But how did this happen? On Graf’s schema, the idea of magic emerged at the margins of Greek society: that is, neither philosophers, nor doctors, nor their itinerant targets constituted the civic center. Yet, Graf gives no account of how these peripheral discourses became the discourse of the polis. How did the polemics of the margins become the knowledge of the center?³⁰ For Dickie, there is the more general problem of describing the causes of and conditions under which a concept “organically” takes shape. Indeed, for him, none of the extant Greek sources seem to have had a conscious hand in generating a concept of magic but are rather applications riffing upon something more fundamental—they are mere testimonies of an underlying concept. Furthermore, for all that Dickie wants to insist on the formation of a

²⁹ Ibid.

³⁰ Here, I want to be clear that I am using Graf’s idiom: “This differentiation at first did not concern the polis; originally it was a debate among specialists at the *margin* of society. After all, in the final analysis, philosophers and doctors are no less *marginal* and less itinerant than the purifiers and beginning priests. These philosophers and these doctors have their own associations, as we know; and the theology of the philosophers is not the civic theology with whose cults it is often enough at odds,” Graf, *Magic in the Ancient World*, 35, my emphases. It is unclear to me what constitutes the “margins” and the “center” for Graf. Such categories could be differently situated and various parties calibrated differently depending on whether one is speaking of the intellectual, political, etc. life of the city. Plato, for instance, for all that he engaged in the rather contentious practice of philosophy does seem to have been very well connected politically and quite influential; the Hippocratic physicians, on the other hand, perhaps lacked political standing but were central to intellectual developments of the time. See my note below on polis religion and its problematic margins.

concept of magic, his resistance to privileging intellectualist or general definitional schemas for this concept manifests in a rather vague vocabulary for describing its limits. What precisely constitutes this category, when it is “not tightly defined,” when it is partly in “the eye of the beholder” but also not strictly “subjective,” when it is “fluid,” a “matter of intuition,” “not self-conscious,” “a spontaneous and ever evolving creation” which was “open-ended”? We are left wondering, at least for the sake of analytic clarity, what definitional boundaries we might posit for this concept in order to recognize it. As with Graf, Dickie essentially resorts to measuring the final product via an ill-defined notion of “our concept of magic” in order to round out and specify the indeterminate boundaries of the term’s conceptual evolution.

Indeed, what both Graf and Dickie seem to be driving at is a magical *mentalité* developing in fifth century Athens. Specifically, they see the emergence of a semantic constellation of related and partial overlapping terms deployed by various factions of Athenian society as evidence of a unitary concept that underpinned and informed these specific usages and which can be labeled *mageia*. Yet, neither fully explains how it came to be dominant. Rather, each in his way assumes an essentially consensual understanding of society where between the beginning and end of a given process, everyone ends up, eventually, over the course of about a century, agreeing (whether consciously, i.e. Graf, or unconsciously, i.e. Dickie) on what constitutes magic, *mageia*, and seem quite comfortable wielding the concept in various genres.³¹

³¹ One possible objection to my reading of Graf and Dickie is that both are merely asserting more of a vague consensus around which there were variously nuanced Athenian views, or that these terms had sufficient family resemblances (in a Wittgensteinian sort of way) to justify Athenians grouping them together. While this might be, I argue that Graf and Dickie go one step further: they assert that these family resemblances correspond to some more stable concept available not just for whatever particular group (e.g. philosophers, doctors, etc.) is using these terms for whatever strategic purpose, but rather one that is ready-to-hand across Athenian (possibly Greek) society more generally. Put rather crudely, a shared semantic constellation does not imply some shared discrete and corresponding concept. To the somewhat dubious purposes that some

Yet, what social and institutional factors might account for the ubiquity and stability of such a concept across political and class lines? These assessments leave unexamined the idea that such an object “out there” corresponds to and is refracted in the various sources. The result is that they foreclose issues of power and disparities always at play in cognitive acts of theorizing, defining, or reflecting. It is these very disparities that are themselves interesting and instructive.

Rather than consider *mageia* as a concept designating a background system of classification, instead, I am interested in what *mageia* can tell us as a term available among a broader vocabulary for marking religious difference and as it developed as part and parcel of an emerging discourse on alterity and religious normativity amidst the changing social dynamics of fifth-century Athens. I would note that in many of the early Greek sources in which *magos* or *mageia* appear, these terms appear as part of a list or are paired with other terms designating marginal or itinerant religious practice. Since the Greeks are not my main subjects here I will limit myself to a single example. One of the earliest, if not the earliest use of *magos* in Greek, was in a list attributed to the philosopher Heraclitus, where *magoi* appears among other derided characters: “Against whom are Heraclitus the Ephesian’s prophesies addressed? Wanderers of the night: *the magi*, the bacchanates, the maenads, the initiates ...”³² This passage has elicited a great deal of discussion from scholars over issues such as its authenticity (since it comes from a much later Christian source) and its internal structure; that is, the specific sequence of the names are thought to give insight into the rationality behind the order in which they appear.³³ My goal

contemporary scholars are putting Wittgenstein’s notion of “family resemblance” see my discussion in Chapter One on attempts to define magic as substantive, academic category.

³² Clement of Alexandria, *Protrepticus* 2.22.2–3.

³³ Mainly there has been discussion among scholars about whether *magoi* was a later addition or part of the original words of Heraclitus. There have been views arguing both sides with more recent scholarship seeming to take it as authentic whether by explicit argument or mere tacit assumption. See Graf’s note on this passage at *Magic in the Ancient World*, 247 as well as

here is not to evaluate the merit of these debates, but I would simply point out that whatever the internal relation among the members of this list might be, scholars agree that *nuktipoloi* (“nightwalkers”) is the governing category to which those included in the ensuing list are subordinated as examples; i.e., *magoi* are part of a broader taxonomy of nightwalkers, one species of a broader genus that brings together (in whatever supposed relationship) worshippers of Dionysius and those who seek initiation (e.g. perhaps at Eleusis). *Magos* does not itself appear to be a discrete organizational category.

Other examples could be adduced,³⁴ but the general point is that while the term *magos/mageia* appears in a number of texts, often as an option for labeling marginal or suspicious religious figures and practices, it appears as but one option among many, and not as a privileged metonymic term signifying general fifth-century conceptual divisions and distinctions that were indicative of illegitimate religious practice. For a number of scholars (following Graf and Dickie), the practice of aggregating such terms from their various textual locales is

Dickie’s note in *Magic and Magicians in the Greco-Roman World* at 313. See also, Gordon, “Imagining Greek and Roman Magic,” 164.

³⁴ Other examples: Sophocles’s juxtaposition in *Oedipus the King* (387-389) of *magos* with *dolion agurtai* (“crafty begging priest”); the anonymous author of *On the Sacred Disease* (2) lists *magoi* with *kathartai* (“purifiers”), *agurtai* (“begging priests”), and *alazones* (“wandering charlatans”)—as a group, these figures are first given to attributing the illness under consideration to the gods and are also given to excessive religiosity and being general know-it-alls. Also, the instances of the verb *mageō* (3-4) I take as referring to the practices of these figures, since this verb is paired with *perikathairō* (“to purify completely,” cf. 21 *katharmōn kai mageiēs*) and *thuō* (“to sacrifice”) respectively; in Euripides’s *Iphigeneia* (1338), the titular character prepares sacrifice “while she sang barbarous songs like a *magos*” (*barbara melē mageuous*) and in *Orestes* (1497) a slave characterizes the escape of Hellen as the act of *pharmakoisin* (“sorcerers”) or *magōn texnais* (“the skills of *magoi*) or *theōn klopais* (“theft of the gods”); Finally, by the end of the fifth century, there is Gorgias’s *Encomium of Helen* (10), an extended mediation on rhetoric, in which he draws attention to the power of words to trick the “soul” (*psyche*) and notes in this regard that “[t]wo methods of *goēteias* and *mageias* are to be found: errors of soul and deceptions of opinion”; Plato (*Republic* 572e) speaks of “terrible *magoi* and *tyrannopoiōi* (“tyrant-makers”). There are other instances that do not necessarily correspond to this pattern, but they are fewer: see Bremmer, Jan N. “The Birth of the Term ‘Magic’.”

tantamount to demonstrating the formation of a single, broader underlying concept to which all these individual terms correspond. These scholars misrecognize a composite concept, drawn from the various terminologies, genres, and the supposed groups or figures these represent, as a substantive first-order concept that underpinned and animated Greek thinking on religious difference. Yet, to mistake a nominal part of this semantic constellation of religious alterity as a label for the whole—or to see a single term of discourse, *magos*, constituting an underlying concept—is anachronistic: it is to naturalize the term as a general, rather than a specific marker and thus one from which we can measure the distance to and differences from our own ill-defined notion of magic. Further, it enables us to justify the reality and thereby continued use of our term magic. Put differently, “our concept of magic” therefore permits scholars to perceive and give initial shape to convergences and patterns forming in the ancient Greek society, thereby reinforcing the perception of this historical moment as the beginning and grounding of “our concept of magic,” and from there on in, such a concept provides a set of poorly calibrated indices to track this pattern as it expands and contracts in different empirical situations down through Western history and into the modern period. By contrast, my interest in the variety of attestations to *magia* is not historical confirmation that such a concept existed, but rather the specific articulations, argumentations, and ratiocinations to which the terms were subjected and how this changed over time. To my mind, such articulations in the sources cannot be taken as corresponding to some actual cultural situation “on the ground.” Rather, they should be understood as rhetorical practices meant as polemics and potential interventions that, while part of a shared vocabulary, are not necessarily representative of an objective or coherent set of circumstances.

Before turning to issues of transmission, I would add the final point that the idea of a concept of *mageia* as being coextensive with non-civic Greek religion has recently been further weakened by the work of a handful of scholars of Greek religion, who have endeavored to reintroduce the notion of power and contestation back into the religious field of ancient Greece against the functional and structural premises that have defined it. They have done this primarily by challenging the regnant model of “polis religion” that has been so foundational to classical studies for the past generation. On this model, as we saw in Graf, the religion of the polis constitutes and is coextensive with Greek religion, making whatever falls outside deviant and dangerous almost by definition. Yet, those such as Jan Bremmer, Esther Eidinow, Julia Kindt, and Robert Parker have made compelling cases that the margins of Greek religion are much more complicated: what counts as normative versus non-normative, central versus marginal, and the authority on which these systems operate is a much more complex affair.³⁵ Such marked distinctions between normative and non-normative were situated assessments from various interested parties in the Greek world. The fact that civic religion constituted but one set of practices—a highly authorized and influential one, no doubt—in the wider religious field problematizes the idea of any single underlying concept of “magic” or “unlicensed religion”

³⁵ See Bremmer, “Manteis, Magic, Mysteries and Mythography: Messy Margins of Polis Religion?,” 13-35; Eidinow, *Oracles, Curses, and Risk among the Ancient Greeks*; eadem, “Networks and Narratives: A Model for Ancient Greek religion,” 9-38; Kindt, *Rethinking Greek Religion*, especially her considerations on magic in chapter four, p. 90-122; Parker, *Polytheism and Society at Athens*, especially p. 116-135. Parker aptly points to the set of issues I am concerned with: “Even a definition of magic as ‘socially condemned religious practices’ does not create a category which can then be superimposed on Greek attitudes without some friction,” 123. Also, in some ways my wider point has already been approached by G.E.R. Lloyd’s classic text *Magic, Reason, and Experience: Studies in the Origins and Development of Greek Science*, insofar as, Julia Kindt notes that he “illustrated the role that magic played within the argumentative and evaluative contexts of critical inquiry.” However Kindt adds to this (and I agree), “[u]nfortunately, the implications of his argument for the study of Greek religion were never fully grasped,” *Rethinking Greek Religion*, 93.

operating as a discrete category for all Greeks, much less one set against a separate sphere of civic religion. It suggests that terms such as *pharmakos*, *goēs*, *magos*, *epōdē*, etc. did not function interchangeably and harmoniously to break up some more “organic unity” of neutral religious practice, attesting to and operating on a broader concept of magic.³⁶ Rather, these terms were bound up in broader discursive contestations over the politics of identification, and by extension, authority and alterity in 5th century Athens.³⁷

Transmission

Such considerations already complicate the idea that the Romans merely took over Greek *mageia* as *magia*. There is little to suggest that a concept of magic came along with Greek culture or was any one sort of thing. Normally, the “coming” to Rome of *mageia* is conceived of as a thoroughly Hellenizing affair that assumes a certain notion of Hellenization. Set against a larger context of the general and intensive transfer and adoption of Greek culture by the Romans from the second century BCE, Hellenization is usually taken as a mechanism for transmission insofar as *mageia* was a specific instance of a much wider set of cultural processes. Thus, any possible finer points—the dynamics of such a transfer, various deployments and patterns of translation or adoption—are not usually pursued. Scholars, for the most part, assume that the Roman elites “took over” Hellenistic ideas of “magic,” as they did with so much else and, more importantly, as though these ideas formed a well-bounded concept.³⁸

³⁶ See my discussion in Chapter 4.

³⁷ Kimberly Stratton’s chapter on ancient Greece in her book *Naming the Witch* has recently done a great deal of constructive work in setting the formation of “magic discourse” among the broader contours of alterity which were incited by the political and social changes in fifth century Athens. See my discussion of and reservations to her approach in Chapter 1.

³⁸ “Took over,” is borrowed here from Graf’s notion of transmission, see below.

In fairness, it is indeed doubtful whether any mechanisms of transmission specific to *mageia* can be isolated and analyzed apart from other more general trends of Hellenistic cultural transmission, especially given the sparseness of ancient evidence. And if there was no unified conceptual baggage that went with *mageia*, no one avenue of transmission should be expected and no attempt made to isolate it. The transmission and translation of the cluster *mageia* to Rome was to some extent part of broader processes of cultural change. However, my goal here and in the balance of this chapter is to problematize and nuance still prevailing theories of Hellenistic influence on Roman culture (Hellenization) and Roman appropriation of Greek ideas (Romanization) and to destabilize notions of a wholesale adoption of Greek concepts at Rome. In this case, Hellenization serves a similar function for the transmission of a concept of magic as “Greek society” did for its formation insofar as it indemnifies the successful transfer and domestication of a presumably discrete concept—in this case an aggregate, albeit historically stable, Greek concept of magic—to Rome. Implicit in this understanding is a model of Hellenization that portrays Rome as passive, deemphasizing the ways in which the Romans came to consciously situate the Greeks, Greek language, and Greek forms of thought in order to orient their own self-presentations. Such a model masks more specific modes or strategies of appropriation and translation across various contexts that are evidenced in the late republican sources—as we will see below. In other words, to assume such a model (as do Dickie and Graf) is to privilege at the outset contact with the Greek world as *the* decisive factor in Roman cultural change, including the adoption of a “Greek concept of magic”—i.e. it is further confirmation that the Romans became more and more Greek in their thinking. Yet given the evidence we have of the influence of Greek culture in Roman society—of different degrees and durations—as far back as we have evidence for, it seems unlikely that the formation, transmission, and integration

of a Greek concept of magic as a result of an intensified Greek presence in the Late Republic could alone suffice as an adequate explanation for why and how the Romans came to use *magia* as a term of discourse. As Jörg Rüpke puts it: “This presence itself [of Greek culture], is part of the larger problematic. The question of the relationship to all things Greek thus takes on a specific coloring through the concept of discourse: it arises as a question of the production and intention of images of self and other in the face of the impending collapse of tradition. In the process, Greekness comes into view both as an influence and as a construct but loses its monopoly as a means of explanation.”³⁹

In anticipation of my discussion in the next section on the position of *magus* in Latin discourse, here I want to elaborate on a few very general contexts in which transmission took place. None of these should be read as assuming a unitary concept of magic encoded variously in Greek cultural products or as ensuring its transmission and “proper” reception by the Romans. One perhaps rather obvious avenue by which the Romans would have encountered this set of terms was by way of their adoption of the Greek language and literature as part of their increased military confrontation with the Greek world from the second century BCE. Education in Greek literature via rhetorical training became standard in the Late Republic for upper class Romans, often taught by Greek slaves in their own households, and outside these upper echelons, Greek ideas were also expressed in Latin adaptations of Greek plays.⁴⁰ Moreover, at a higher level of intellection and learning, *mageia* might have also been transmitted in Hellenistic

³⁹ Rüpke, *Religion in Republican Rome*, 149. Rüpke’s assessments of Hellenization owes a great deal to Wallace-Hadrill’s arguments for the “mutual interdependency” Hellenization and Romanization, “the complexity of the interplay of Hellenistic and Roman developmental vectors,” 206; for Wallace-Hadrill’s discussion see *Rome’s Cultural Revolution*, 17-32.

⁴⁰ See Dickie’s discussion of such matters in *Magic and Magicians in the Greco-Roman World*, 120-123. Further Gordon’s above comments above on Vergil’s and Catullus’s use of *magicus*, placing a primacy on transmission of these terms by way of the performative and poetic appropriations of Greek literature.

pseudographical texts such as the Pseudo-Democritean works, a tradition of texts ascribed to exotic and ancient personalities and composed on the natural world, which thematized and catalogued the putative miraculous properties of a variety of plants, animals, and stones. I will turn to this tradition in the next chapter, but for now, it is enough to say that from the fragmentary evidence of these texts, it is not clear to me that such presumed marvelous characteristics of the natural world were classified under an abstract concept of “magic,” signified by *mageia* in whatever inflected form; it seems more likely that *magos* would have been still associated with the Persian specialists and their various cultural practices.

In addition to these more general considerations, both Dickie and Graf also offer some helpful hints on issues of transmission. These are infused with their above presuppositions concerning a “concept of magic” in antiquity, which does not discount them as a means of transmission but encourages us to consider just what exactly was transmitted, and how it was received. Dickie’s social-historical focus attempts to spurn more intellectualist imaginings. He attributes increased Roman contact with Greek culture to a set of more mundane circumstances, primarily the mobility of Greek itinerants—whether peddlers, jugglers, soothsayers, or what have you—who brought with them to Rome new and different forms of religious practice and belief. Indeed, as with Dickie’s ultimately vague account of the formation of a concept of magic, his account of transmission too lacks analytical specificity. Dickie’s “imaginative” context (which he warns can be dicey in historical studies) offers a “guess” that involves a scenario where a representative Roman-on-the-street puzzled by a foreign conjuror is “enlightened” by a Greek-speaking bystander’s explanation of the odd practice. For Dickie, it is such humdrum interactions that we might imagine led Romans “eventually to an understanding of what magic was”—these

interactions more so than “by some more intellectual and abstract process.”⁴¹ Yet, a great deal of Dickie’s fifth chapter (“Magic as a distinct category in Roman thought”) is given to how the Romans “naturalized” a Greek concept of magic. Prior to the appearance of *magus/magicus* in Latin, Dickie points to the bits and pieces of material evidence and early Latin literature, such as curse-tablets and mentions of amulets and *philtrea*, in order to suggest that the Romans indeed had a concept of magic underlying and holding together these various practices; namely, that “they are operating with the same concept of magic as the Greeks, whether or not they label what they are talking about under the heading *magia*.”⁴² Yet, as I have argued above, to deduce a stable, pervasive, and underlying concept from such sparse evidence amounts to positing and misrecognizing a part for the whole and eliding the issues of power and contestation that become evident when *magia* is taken in its specific textual evocations.

Finally, the idea of a diffuse concept preceding a unified term with which to talk about it informs Graf’s account of the “historical evolution” of magic at Rome. Graf identifies two stages of magic at Rome, which correspond more or less with the transition from Republic to Principate. In the first stage, set in the mid-to-late Republic, the Roman ruling classes began to express anxiety over certain forms of ritual action that had the perceived ability both to harm as well as to heal. In fact, it was precisely the perceived ambiguity of these practices in terms of

⁴¹ Dickie, *Magic and Magicians in the Greco-Roman World*, 123; also, while I find Dickie’s account of itinerancy rather vague, there are several interesting studies that have examined the social factors that created itinerancy in the ancient world. Specifically, focusing on priestly bodies that must adjust to the loss of royal patronage and recalibrate their wares as commodities able to be sold to others in non-temple contexts. See “Wisdom and Apocalyptic” and “The Temple and the Magician,” both in Smith, *Map is Not Territory*, 67-87 and 172-89, respectively; Grottanelli, “Healers and Saviors of the Eastern Mediterranean in Preclassical Times,” 649-70, and Burkert, “Itinerant Diviners and Magicians,” 115-19; for the situation in Egypt see Frankfurter. *Religion in Roman Egypt*. For a recent assessment of the Magi see Lincoln, “From Ritual Practice to Esoteric Knowledge.”

⁴² Dickie, *Ibid.*, 131.

their effects that incited such anxiety. Specifically, these practices were designated with terms such as *veneficium/veneficia* and *cantio/malum carmen*. Rightly, Graf emphasizes that 1) these practices were not condemned, but their resulting harmful effects (e.g. crop disappearance and/or sudden death) were proscribed in the laws of the Twelve Tables and later (at least *veneficium* was condemned) in the *Lex Cornelia de sicariis et veneficiis*; and, 2) that these sorts of practices were not labeled collectively *magia*, qualified by the term *magicus*, nor were the perpetrators called *magi*. Yet, as mentioned above, for Graf, it is not to be inferred that the Romans had no specific “domain” for magic simply because they are missing a term for it. Indeed, throughout his subsequent discussion of Latin terminology, Graf points out how each of these above terms is congruent or not to what “we” as modern peoples would call magic, which aids in his adumbrating the contours of a republican notion of magic.⁴³ To Graf, the Greeks offered a more comprehensive and robust notion of magic. The second stage thus emerges in the Julio-Claudian period where he sees a Hellenized, educated Roman elite engaging the Greek term *magos/magikos* in Latin form, *magus/magicus*, by extending its applicability to encompass both more indigenous Italic terms – i.e. *veneficia* and *malum carmen* – as well as other less familiar and perhaps more complicated practices such as astrology. Moreover, during this time the meaning of term *magia* breaks towards identifying certain practices considered malevolent in

⁴³ Ibid., 39, Concluding his discussion of the Twelve Tables, “[I]ts limits do not match up with either our own [notion of magic] or those we have just found in Classical Greece,” 42; a few pages later he comments of Cato the Elder’s remedy for healing a dislocation that “*cantio* for us is pure magic,” and still later in the same section, “[t]he important thing is that we find a rite that has all the features of what we would call ‘magic,’ but that was not seen as such by Cato or Pliny,” 44, 46. Perhaps telling is that no claim of this sort appears in his discussion on *veneficium/veneficius*, but he does say “[w]e glimpse a state of things well known to ethnologists: in traditional cultures, every sudden death is liable to be interpreted as the result of magical acts,” 47.

their intent and not simply their effect.⁴⁴ Overall, Graf explains that the elite “took over” the Greek terms for “magic,” which ultimately “met the demands of an individualized elite that was cut off from its traditions and thereby from its old system of divination.”⁴⁵ Ultimately, Graf’s assessment of the Roman elite’s appropriation of *magus/magicus* as meeting a demand for those who had been “cut off” from their tradition aligns with the notion of the derivative nature of Roman society in reference to Greek society: how the decline of traditional ritual essentially created a “vide des âmes,” inciting an interest in magic among the Roman elite to compensate for this psychological lack.⁴⁶

Thus, what exactly was it that “came” to Rome with the terms *magos* and *mageia*?

Indeed, no blanket explanation will do in terms of a discrete concept with fixed items of

⁴⁴ Graf’s main informant here is Pliny the Elder’s history of magic in *Natural History* 30.1-18, which will be my main point of departure in the next chapter.

⁴⁵ *Ibid.*, 56-57.

⁴⁶ Marcel Le Glay represents well the tradition Graf nods toward: “Ainsi - on n’en peut douter – c’est bien au dernier siècle de la République que la magie, sans pour autant acquérir droit de cité à Rome, s’est infiltrée dans les mœurs de la nouvelle classe dirigeante et du demi-monde en formation, tandis que la sorcellerie, toujours cantonnée dans les cimetières et le quartier mal famé de Subure, excitait de plus en plus la « curiosité » et l’intérêt des Romains de toutes les catégories sociales. Question de mode? Peut-être. Il est souvent difficile de faire la part de la mode et celle des réalités psychologiques profondes. Fronde? Ou déjà désir d’aller au-delà des limites de la connaissance permise? Un peu de tout cela sans doute. Mais dans une période - qui à plus d’un égard ressemble à la nôtre par le besoin d’évasion qui anime les hommes - où le goût du merveilleux et du surnaturel se manifeste dans la littérature, où l’illusionisme triomphe dans l’art, où le déclin des dieux traditionnels, que ne compense pas encore l’afflux des religions orientales, crée un certain «vide des âmes», sinon des esprits, on peut comprendre que la magie et la sorcellerie aient trouvé leur place. L’attrait nouveau qu’elles provoquent constitue pour cette époque ce qu’on appelle aujourd’hui un fait de mentalité collective,” “Magie et sorcellerie à Rome au dernier siècle de la république,” 549-550. While it is true that many late republican sources lament the proliferation of superstition, the altars being empty, and the gods having abandoned Rome, it seems to me that such lamentations provide little in terms of a useful historical and analytic framework. Rather such psychological sentiments might be taken as part of the break down of certain forms of subjectivity in light of internal and external imperial violence and the eventual interpolation of new forms of subjectivity based on the Roman structures of empire. I discuss this a bit more below, but also see Ando, “Cities, Gods, Empire,” 51-57.

reference. Rather, a more careful attention must be given to the discourses to which *magus* was being put to work in the various contexts of its usage. Dickie has the right idea when he notes that we should be less concerned with the Romans having a passive knowledge of certain Greek concepts (i.e., magic) and should instead focus on those specific concepts that became part of Roman life. Yet, his substantive view of magic precludes him from fully elaborating the discourses and practices he evokes—instead they are always already magical in some way, i.e., already evidence of some more pervasive concept of magic. We might rephrase Dickie’s sentiment thusly: rather than thinking in terms of what specific ideas of Greek magic came to be woven into Roman thought, we might ask, what thoughts were Roman authors attempting to articulate by means of translating the Greek terms *magos/mageia* into Latin, and why? In this light, there are only a handful of instances of *magus* in the Late Republic that one could consider. Specifically, in the next section, I turn to Cicero’s usage of *magus* and attempt to redescribe these with no presumption of an underlying, substantive, or stable concept on magic but rather try to outline the discourses that found *magus* a useful term with which articulate themselves. In other words, I try to appreciate the early ethnic uses of this term without tying them to a burgeoning idea of “magic.”

What the barbarians knew: Cicero’s *magi*

The first uses of the Latin noun *magus* are in explicit reference to Persian ritual specialists. What is more, this usage remains relatively consistent until the mid to latter part of the first century CE. Thus, Latin prose authors seem to adhere very closely to the traditions about the Persian Magi that had been established in earlier Greek writings. However, while this continuity of meaning is often noted, it is little pursued in terms of its significance. To be sure,

the noun *magus* is relatively rare in late republican and early Principate texts, yet its rhetorical usage is significant, especially when set against the overall context of the late republican intellectual development at Rome. In this section, I argue that Cicero evoked the *magi* among other “barbarian philosophers” as distant Others, whose practices were sufficiently different, distant, foreign, and exotic to set into relief through comparison and contrast Roman positions on certain cultural matters.

Yet, three initial points are worth making before proceeding. The first is that by invoking *magus* in reference to Persian *magi*, the Romans are not engaging in something like a politics of recognition, as we might understand such matters. They were trading in fabrications, not observations from field research. For all the hints and traces of actual practice we might detect, or the slight variations and adjustments over time in motif that perhaps gesture to more recent points of contact, the Romans were dealing mostly in stereotypes and fantasies that were for the most part inertial, getting perpetuated and re-perpetuated for centuries despite the increased cognizance of actual cultural difference and practice. Nonetheless, the cognitive power of these was substantial for the Roman elite self-identification and in discursively shoring up their boundaries and justifications that naturalized their own superiority and right to rule.⁴⁷

Secondly, while the *magi* were often subjects of sustained inquiry in Classical Greek and later Hellenistic literature, extant late republican texts indicate they were given little substantive treatment. References to the *magi* are made by Roman authors as anecdotal asides and examples in discussions of larger issues. For example, in the preface to his eighth book on water, Vitruvius frames his discussion based on past opinions on the subject by mainly Greek philosophers. Yet, he notes that among the Pre-Socratics naturalists, who saw water as a primordial metaphysical

⁴⁷ See Woolf, Greg, *Tales of the Barbarian*.

element, he adds “the priests of the Magi” maintained the original cause of all things to be water and fire—a combination of Thales’s position that water was ontologically prior to all and Heraclitus’s that it was fire.⁴⁸ Further, the early Principate writers Valerius Maximus and Seneca the Younger both mention the *magi* to make more general points.⁴⁹

Following from this point, the specific examples of the *magi* used in Roman writing are at least of two different kinds, that is, of two different traditions. Yet, Roman authors do not distinguish between these different traditions of *magi* and use both traditions, sometimes together, when it suits their purposes. Some uses of the noun *magus* during this time were fairly conventional allusions to moments in Achaemenid Persian history, told and retold in Greek literature since at least the fifth century BCE. Specifically, I have in mind Darius’s putting down of the usurping *magi* and anecdotes about the *magi* during Xerxes’s march on Greece.⁵⁰ There are also evident in these early Latin invocations traditions of the *magi* as fabricated through the exoticizing lenses of prior Hellenistic interpretations. Here the *magi* were less strictly associated

⁴⁸ Vitruvius, *De Architectura* 8. pr. 1.

⁴⁹ Valerius mentions the *magi* as foreign examples in the service of such topics as prodigies, bravery, and cruelty while Seneca evokes Darius and the *magi* as part of his discussion on kings and the effects of anger; Valerius Maximus, *Facta et Dicta*, 1.6.ext.16, 3.2.ext.2, 7.3.ext.2, 8.7.ext.2, 9.2.ext.6; Seneca, *Epistulae*, 58.31; *De ira* 3.16.3.

⁵⁰ For example, on the usurping *magi*, see relevant passages cited in note 5 from Seneca and Valerius Maximus. They are also seen as experts in divination and ritual lore they were often remembered as advising and cautioning the Persian kings: for instance, Cicero recounts the historian Dinon’s story of the *magi*’s interpretation of Cyrus’s dream (*De divinatione* 1. 46-47) and Valerius Maximus tells the cautionary tale of the *magi* who tried to divert Xerxes’s invasion of Greece based on a bad omen, to no avail. Curtis Rufus makes three mentions of the customs and sayings of the *magi* in his history of Alexander the Great (3.3.10, 4.6.6[?], 5.1.22), and Velleius Paterculus offers a brief but more contemporary mention of the *magi* that highlights their savvy in divination albeit in a non-Achaemenid, first century BCE context (2.24.3). Justin’s epitome of Pompeius Trogus presents difficulty: the date of Justin’s epitome of Trogus and the extent to which it reproduces the terminology of the original Augustan-era *Historiae Philippicae* are not clear. In Justin, *magus* appears mostly in account of the false Smerdis (1.9-10) and a *magus* warns Alexander not to enter Babylon (12.13). See Rives, “*Magus* and its Cognates in Classical Latin,” 54; 65-66.

with the priestly class of Persia and were seen more as part of a wider group of non-Greek peoples considered fonts of “alien wisdom.”⁵¹ That is, the *magi* were considered wise barbarians or barbarian philosophers among those such as Egyptians, Chaldeans, and later Gymnosophists (or Brahmins) and Druids, whom the Greeks considered antecedent to themselves and thus to have ancient customs, which gave them a certain priority and authority. Such a position is attested already in the Classical period.⁵² Yet, in the wake of Alexander the Great’s conquests and the array of cultural interactions that it fostered, such appeal to non-Greek authorities and their traditions became amplified and intensified, intended as “a bid for authority and a fount of legitimizing alien wisdom.”⁵³ As Gordon has put it: “Whereas in the Archaic and Classical periods the barbarian Other constituted a stock of tropes from the exploitation of Hellenic norms, appeal to alien wisdom in the Hellenistic world often was a means of legitimating new values in the broadest sense religious. What the ‘wise nations’ in general had to offer the Greeks was privileged access to whole spectrum of non-civic forms of religiosity.”⁵⁴ This increasing appeal to non-Greek authorities and the concomitant value of a premium on the obscure and exotic resulted in the issuing of a number of pseudonymous texts: forgeries that, while perhaps at some remove based on genuine non-Greek sources, were largely an exercise in “orientalizing” and were attributed to the great figures of the past such as Zoroaster, as well as Democritus and

⁵¹ Arnaldo Momigliano coins this phrase for his set of published lectures of the same name, *Alien Wisdom*.

⁵² For example, in book 2 of Herodotus’s *Histories* he notes the derivation of Greek religious practices from more ancient and pristine Egyptian practices (2.50-52). Further, there are traces of this also in contemporary philosophical circles, especially Platonic and Peripatetic philosophy: Aristotle lists the *magi* among other foreign proto-philosophers in dealing with first principles (*Metaphysica* 1091b). Also see Phillip Sidney Horky, “Persian Cosmos and Greek Philosophy,” 47-103.

⁵³ Beck, Roger. “Thus Spake not Zarathustra,” 491.

⁵⁴ Gordon, Richard, *Quaedam Veritatis Umbrae*,” 132.

Pythagoras, who were imagined to have traveled to the East to learn magian wisdom.⁵⁵ We see this tradition in Latin texts as well, in which are preserved such Hellenistic claims to privileged points of contact between East and West that authorize certain traditions and intellectual lineages. Figures such as Pythagoras and Democritus (even at times Plato) act in this tradition as a mobile link that aligns the learning of the East—first Egypt then Persia—with Greece and also these movements give an account for the transmission of Eastern wisdom into Greek thought and, as we will see, to Rome.⁵⁶

From these observations it is possible to gesture to a third point, namely a certain broad historical context to which this rhetorical technique was engaged and which becomes the occasion for this *bricolage* of traditions and motifs; that is, one that guides us past the superficial tallying of examples toward the very issues of identity at stake in the intellectual development of the Late Republic. It has been common among scholars of Roman culture to investigate the effects of empire as a proximate cause for the intellectual development of the Late Republic.⁵⁷ In fact, the general contexts depicted above as to how Romans might have been exposed to the Greek terms *magos/mageia* as well as the general critique of a wholesale notion of Hellenization are intelligible only against the wider realities of empire, as effects of empire. By the mid-first century BCE, Roman imperialism had been underway for roughly four centuries. It was the rapid social changes promoted by their own imperial action that created the preconditions for Roman

⁵⁵ For details see Beck, Roger. “Thus Spake not Zarathustra.”

⁵⁶ See Cicero, *De Finibus* 5.87; Valerius Maximus, *Facta et Dicta* 8.7 ext. 2.

⁵⁷ Scholarship on the effects of empire on Roman religion and/or certain (changing) religious realities as the effects of empire has provided a promising analytic framework for dealing especially with religion in the Roman world. The ones that have contributed the most to my thinking and discussion here have been Beard, North, and Price, *Religions of Rome*; Ando, *The Matter of the Gods*, see also his articles “The Ontology of Religious Institutions,” 54-79 and “Cities, Gods, and Empire,” 51-57; Rüpke, *Religion in Republican Rome* and *From Jupiter to Christ*; Finally, Gordon, Richard. “From Republic to Principate: Priesthood, Religion and Ideology,” 177-199.

reflection on their traditional practices and offered them the tools with which to reflect.

Widespread imperialism not only brought the Romans into more intensified contact with other peoples, but also facilitated an increased diversity and plurality. Violent military conquest that often deracinated and relocated previously situated peoples, coupled with the implementation of more pervasive imperial infrastructure that allowed an increase in human mobility, had the effect of bringing previously isolated peoples and their cultural forms into more sustained contact with one another. The Romans themselves were not exempt from these effects of empire. As the hub of empire, they were a major destination (both voluntary and involuntary) for a number of these uprooted and mobile groups, and by the first century BCE, Rome was home to a number of non-Roman groups and their practices. Further, the exportation of Romans to these far-flung territories also ensured that the knowledge of a wide range of various non-Roman practices eventually made their way back to Rome. Internally, among the ruling elites of Rome, the Roman political landscape was growing more intense, with increased elite competition for wealth and prestige, ultimately culminating in the civil wars and leading to the collapse of the Republic. Such internal strife, which was a direct consequence of the rapid territorial expansion of Rome, was frequently lamented in the literature of the time as evidence that the gods—whom the Romans imagined were responsible for their imperial success due to their scrupulous attention to cult—had been neglected and thereby had abandoned their favor of the Romans. With such varied and complex processes of change, many areas of Roman life that had previously remained undefined or tacitly defined became obtrusive, “disembedded,” in need of explanation—as it were, “liquid”—and Roman intellectuals sought to make some sense of this intensified plurality and internal violence and the risk it posed to their city-centered traditions. Particularly through Greek forms of knowledge, the Romans undertook the task of collecting and

collating their traditions and carving out a place for themselves in a world enlarged, upset, but also interconnected by their own imperial ambitions.⁵⁸

Greek modes of thought, especially philosophy, offered new techniques of argumentation, systematization, and recontextualization, found in a range of different genres, with distinctive textual structures and linguistic forms, which had been adapted and readapted to fit specific circumstances in the Greek world. Roman intellectuals did not take over these forms of argumentation in any uniform way. On the contrary, Greek texts served as a resource that enabled the Romans to conceptually locate themselves, their city, and their traditions in a wider set of narratives, chronologies, and taxonomies. Yet, in addition to the Romans' utilization of Greek philosophical genres to order knowledge, it is worth examining their more ad hoc uses of elements of Greek thought. For all that Romans adopted larger structures of Greek knowledge in their acts of intellection, so too did they employ smaller aspects of Greek rationality in certain situations, wherever they were useful. So is the case with *magus*. As already mentioned, the use of the noun *magus* was by no means substantive; the Romans readily used various ethnographic information relating to the Persians, specifically the *magi*, in the service of some more general argument unrelated to its original context. Specifically, references to the *magi* were invoked as part of a discourse in which the wise nations of humanity could help justify (or criticize) this or that point of deliberation under consideration by a given Roman author. In light of the upheaval of traditional elements of Roman society, the appeal to barbarian wisdom provided by Hellenistic thought could serve as a useful de-localizing technique, and its claims to universality aided

⁵⁸ The term of “disembedded” is used by Beard, North, and Price in their decidedly structural-functional assessment of cultural differentiation in the Late Republic in *Religions of Rome*, 149-156; “Liquid” I borrow from Rüpke in his discussion of Varro’s *tria genera theologia* in *Religion in the Republican Rome* as part of his deployment of Weber’s notion of rationalization to religious change in the Late Republic, 172-185 (also 144-151).

Roman intellectuals in adapting and situating certain now obtrusive, “disembedded” cultural practices into broader Hellenistic networks of knowledge and significance.

To illustrate these issues, I focus on Cicero as my primary example. Cicero’s aspiration to translate Greek philosophy into Latin resulted in a set of texts that were carefully formed to reach a Roman audience. His rendering of Greek philosophy involved domesticating and reorienting Greek patterns of thought in order to make them conceivable within the dynamics of Roman thought. At least one way he did this was through the use of specific Roman examples within the broader framework of the Greek philosophical conventions that shaped his texts. As Rüpke has explained, this practice subjected Rome’s own culture “to exogenous forms of rationalization and critique.”⁵⁹ Yet, that Roman examples could be set alongside barbarian examples—a juxtaposition Cicero often makes—as further confirmatory evidence for a given assertion assumed that Rome’s institutions and practices were comparable with those of the wise nations, in addition to Greece. That is, the cultural issues of Rome were not simply the parochial problems of a peculiar polis located on the margins of the Hellenistic world, but rather universally pervasive issues that could be negotiated and assessed by looking to examples of other wise nations. Thus Cicero’s project of translation and its attendant adjustments and calibrations of idiom both assume and further render Rome’s ideas and institutions as candidates for broader comparisons with others.⁶⁰

The earliest instance of *magus* appears in Cicero’s *On the Laws* (c. 50s BCE) in the second book, which he devoted to *leges de religione*. After an opening meditation on the ideal

⁵⁹ Rüpke, *Religion in Republican Rome*, 145.

⁶⁰ In fact, this kind of juxtaposition is not limited to Cicero. The bifurcation of domestic versus foreign examples is a dominant structuring device in Valerius Maximus’s *Facta et Dicta* as well: the *magi* appear in foreign examples of a given topic after Valerius has dispensed with comparable Roman examples.

alignment of Natural Law with any specific code of law, Cicero enumerates his specific *leges*, each of which he immediately follows with a commentary. In the third law he raises the issue of specific locations of worship given to the gods: “In cities they shall have shrines; they shall have groves in the country and abodes for the Lares” (*In urbibus delubra habento; lucos in agris habento et Larum sedes*). Cicero initially frames his subsequent commentary on this law in terms of the negative example of the Persian *magi* (*magos Persarum*), who are said to have advised Xerxes to burn down Greek temples during his march because the Greeks close up the gods inside these spaces. Unlike the Greeks, the *magi* understood the whole world to be the gods’ temple and home (*mundus omnis templum esset et domus*) and believed that all areas dedicated to them should be open and free. Cicero then turns to the better (*melius*) manner in which the Greeks and Romans have conceptualized temple worship: in order that piety toward the gods might be augmented, they desired the gods to dwell in the cities with them. Then, moving from Pythagoras to Thales, Cicero argues that having the gods close at hand inspires a pious disposition in people towards them that is useful to the state and, further, such local focus attunes worshippers to the wider fact that nature is full of divinity: “For it is believed that perception of the gods is possible to our eyes as well as to our minds.” Thus Cicero invokes the *magi* here—in their Achaemenid guise—to make a contrastive point in order to clarify a particular logic of temple worship; namely, that the civic nature of the gods does not diminish the wider appreciation and apprehension of divinity in nature as the *magi* claim but instead is a condition of possibility for these grander conceptions of deity. Here Cicero’s opening discussion of Natural Law versus the law of any given community of people is illustrated in a particular statute; he squares a philosophical point about the universality of the gods with the civic practices of Roman

religion. Cicero claims this same logic applies to deities in the country groves as well as in the worship of Lares in the domestic sphere.⁶¹

Similar juxtapositions, subtle but telling, occur elsewhere in Cicero. In his *Tusculan Disputations*, written a decade or so later, Cicero invokes the *magi*'s burial practices in order to highlight his discussion of death and what is owed to the dead by the living. The structure of the argumentation is significant insofar as the *magi* are mentioned (along with the Egyptians) as part of the “errors” of the nations (*nationum varios errores*) and follows directly after the “errors” of individual Greek philosophers and mythological accounts (*singulorum opiniones*).⁶² Further, in *On the Nature of the Gods*, the next work in Cicero's translation project, Velleius, the Epicurean spokesman in this dialogue, is able to frame Epicurus's epistemological breakthrough by invoking the *magi*—again, in addition to the Egyptians and popular opinion: “With the errors of the poets may be classed the portentous doctrines of the Magi and the insane mythology of Egypt, and also the popular beliefs, which are a mere mass of inconsistencies sprung from ignorance.” Velleius's comparison segues into his discussion of Epicurus's notion of *prolepsis*, a preconception imprinted on the minds of all humans, which accounts for the universal conception of the gods and their nature: “For what nation or kind of peoples is there that does not have a certain preconception of the gods without teaching?”⁶³

Cicero's appeal to the nations and his claim to knowledge of their practices highlights the most important trope of barbarian wisdom in Cicero's writings: the appeal to the *consensus omnium*, especially in his dialogue between himself and his brother Quintus in *On Divination*, where the *magi* are examples among others. Cicero uses this rhetorical trope in his introduction

⁶¹ Cicero's commentary is located at *De leg.*, 2.26-27.

⁶² *Tusc. disp.*, 1.108.

⁶³ *De natura deorum*, 1.43.

in propria persona to elaborate the general importance of the addressing the topic of divination as well as one the main structuring principles of Quintus's argument in Book 1. He begins: "There is an ancient opinion, handed down to us even from mythical times and firmly established by the general agreement of the Roman people and of all nations, that divination of some kind exists among humans."⁶⁴ Here the Roman consensus regarding this ancient opinion, which could be and was subjected to all manner of critical pressure given its mythical origins, is juxtaposed to the agreement of all nations. In fact, it is this juxtaposition that forms the trajectory for the first portion of Cicero's introduction to book one. He begins with a general appeal to the nations and then moves both spatially and temporally towards Rome and Roman times, following a similar movement to what we saw above: from the East, beginning with Assyrians and Chaldeans,⁶⁵ to Greece.⁶⁶ For Cicero knows of "no people, however refined and learned or however savage and ignorant" that do not believe that they can in some way foretell the future based on signs. From here, Cicero turns to Rome, "laying aside other nations," since the Romans themselves are no exception, practicing different forms of divination in public and private. Romulus not only founded the city of Rome in obedience to the auspices; he was also an augur (like Cicero). The Roman kings also availed themselves of augurs (e.g., Attus Navius), and even after the expulsion of the kings from Rome no business was undertaken either at home or abroad without first consulting the auspices. Cicero continues: divination was thought to have "great efficacy in seeking for omens and advice, as well as in cases where prodigies were to be interpreted and their effects averted" to such an extent that the Romans "gradually introduced that art in its entirety from Etruria, lest it should appear that any kind of divination had been disregarded by

⁶⁴ *De div.*, 1.1

⁶⁵ Cicero begins with the Assyrians, noting they are those with the "authority of the most distance past" (*ab ultimis auctoritatem repetam*).

⁶⁶ *Ibid.*, 1.2-3.

them.”⁶⁷ For Cicero, divination is an interesting and worthy subject because everyone has perennially practiced it, from ancient peoples to the Greeks; even the Romans have taken great interest in these practices. Thus Cicero aligns the Romans in a long tradition of different peoples stretching back to antiquity.⁶⁸

Through Quintus’s argument over the course of Book 1, Cicero reiterates and extends this strategy, grounding Quintus’s argument, as well as the general taxonomy on which the rest of the text operates, on the *consensus omnium*. Quintus begins his defense by deferring. There is after all nothing new in Quintus’s views; they are quite old and agreed on by all nations.⁶⁹ Further, such consent affirms two kinds of divination: that dependent on art and that of nature. For Quintus, there is no nation that disregards either type, whether of art, “prophecies of soothsayers, or of interpreters of prodigies and lightnings, or of augurs, or of astrologers or of oracles” or of nature, “the forewarnings of dreams, or of frenzy.”⁷⁰ Thus, in addition to using the consensus of all nations as a device for framing the universal interest in divination as a topic, Cicero also has Quintus use it as evidence in support of his position, focusing his argument not on the *causas* (“causes”) of divination but rather the *eventa* (“occurrences”). Thus Quintus mobilizes the full weight of temporality and the past in his defense of divination. This is a decidedly empirical method: he strings together example after example and lines up anecdotes, one after another, until his reader—it is hoped—has to admit that the repeated observation across time and space of countless instances where the same results have been preceded by the same signs verifies the truth and power of divination. For Quintus, issues of why divination happens or how it works are

⁶⁷ Ibid., 3-4.

⁶⁸ Cicero adds weight to this trajectory by following it with a coterie of philosophers who also had taken up divination as an object of study, *ibid.*, 5-7.

⁶⁹ Ibid., 1.11.

⁷⁰ Ibid., 1.12.

irrelevant to the grand testimony confirmed through historical experiences of everyone, philosopher and non-philosopher, throughout history.

A significant portion of Book 1 has Quintus specifically adduce evidence from barbarian wisdom, which is added to the barrage of examples. In 1.90, Quintus, having described a number of “mythological soothsayers,” mostly citing Homer (87-89), proclaims that divination also is not neglected among “barbarian peoples.” The *magi* are included here after Druids and are then followed by a number of other peoples, many of whom Cicero mentioned in the introduction. The only information we are given is, “[a]mong the Persians the augurs and diviners are the Magi, who assemble regularly in a sacred place for practice and consultation, just as formerly you augurs used to do on the Nones. Indeed, no one can become king of the Persians until he has learned the theory and the practice of the Magi.”⁷¹ Here the *magi* do not simply fulfill offices and roles recognizable to what the Romans have, Cicero (via Quintus) draws a *specific* point of similarity to Roman augurs. Cicero describes the Persian *magi* via Roman cultic vocabulary. Yet, Quintus moves on quickly: there are also other peoples who dedicate whole families to the practice of divination, certain nations look particularly to the flight of birds, and he closes this section by invoking ancient environmental theory and applying it as an explanatory framework to account for the different forms of divination takes among different peoples.⁷² In 1.97 Quintus transitions back to Roman examples (*ad nostra iam redeo*), yet in the prior section (95-96) he comments: “But who fails to observe that auspices and all other kinds of divination flourish best in the best regulated states?” Here he turns specifically to the intermediate examples of the Athenians and Spartans, thus completing his trajectory ranging from mythical examples

⁷¹ ...et in Persis augurantur et divinant magi, qui congregantur in fano commentando causa atque inter se conloquendi, quod etiam idem vos quondam facere Nonis solebatis; nec quisquam rex Persarum potest esse, qui non ante magorum disciplinam scientiamque perceperit.

⁷² Ibid., 91-94

represented in Homer, to the barbarian nations, and finally to the organized practice of Greece before returning to the Romans. All in all, Cicero has, in the voice of Quintus, both repeated and expanded certain themes in his introduction but has followed its temporal course as well. In both locales, the lining up of foreign examples from mythical to Roman times has helped to set the subject of divination into relief. Yet, in Quintus's argument it has also now become positive evidence in the service of an argument, a pervasive and well-stacked inductive argument that purports to confirm the truth of divination.

If the *magi* have come and gone without much fanfare, this, I would argue, is notable in itself. They are a singular example in the service of a much broader argument. They are mentioned only once more, as dream interpreters for Cyrus, and, just as above where Cicero uses the *magi* as part of a set of barbarian examples for the practice of divining signs—that is, by art—this second mention is offered as an example of the other main category of divination, by nature, specifically the mode of dreams. The transition is as above clearly marked in the text: starting with, “But come now and let us return to foreign instances,” and ending with “But enough of Indians and Magi” (1,46-47). The result is the same: a combination of mythical, barbarian, Greek, and Roman examples weaves Roman traditions into a larger set of concerns, debates, chronologies, and narratives. The *magi*, while part of the *consensus omnium*, are by no means given priority or substance over any other wise nation.

On Divination has widely been regarded by scholars as one of the most important sources that bears witness to the cultural development of the Romans in the Late Republic as discussed above. Cicero integrated external Hellenistic forms of thought with traditional Roman practices, problems, and examples. In the debate over divination, Cicero's use of philosophical dialogue and his use of Roman examples of this practice are seen by scholars—among fragments

of other writers—as evidence of an era of wider creativity and vibrancy, rather than a period of cynical decline. Some thirty years ago Mary Beard argued that divination had become, for the first time in this text, an object of discourse, something we might call “religion.”⁷³ Although subject to refinement, Beard’s thesis has been influential on recent reassessments of Roman religion.⁷⁴ If Cicero’s deliberations on divination represent the circumscribing of something like “religion” as a distinct object, my goal here has been to highlight the particular rhetorical devices through which such an object could be bounded and formed in the first place. Specifically, at levels below those larger forms of argument highlighted by Beard: e.g. an argument in two parts and the open ended nature of ancient dialogue which issues in Cicero’s suspension of final judgment on the subject. Cicero relies on other rhetorical forms, perhaps more subtle and less formal, to generate, set into relief, and authorize divination as discrete object, namely his appeal to the wise nations, including Persia and their *magi*. As we have seen, the fact that barbarian peoples could have authority has already been shown as an intellectual inheritance from the Hellenistic world. Yet, Cicero’s use of the general rhetorical device of the *consensus omnium* proved critical in setting divination into relief as an object of knowledge of universal interest and therefore worthy of debate; his appeal to the *consensus omnium* also provided evidence of the veracity of divination.⁷⁵

In Book 2 of *On Divination*, Cicero has Marcus (a literary characterization of himself) thoroughly criticize Quintus’s arguments, including the reasoning of *consensus omnium*. Marcus argues that appealing to foreign peoples is implausible on principle and ultimately too strong an

⁷³ Beard, “Cicero and Divination: the formation of a Latin Discourse,” 33-46.

⁷⁴ Recently Rüpke has addressed it in *Religion in Republican Rome*, 186-204. Also see Santangelo, *Divination, Prediction and the End of the Roman Republic*, 10-36.

⁷⁵ For issues of Greek precedents and Cicero’s originality in using this device, see Guillaumont, *Le De divinatione de Cicéron et les théories antiques de la divination*, 134-53.

argument—giving too much weight to the opinion of the masses and all manner of superstitious practices as evidence for divination.⁷⁶ Still, Cicero’s many appeals to the foreign practice of the wise barbarians and the reasons offered for and against this trope make one thing clear: foreign peoples were good to think with for Cicero. Although Cicero treated them as other and exotic and even sometimes described them in less than flattering terms, he still saw foreign peoples as useful in acts of Roman self-identification and affiliation. For Cicero, wise barbarians were not particularly dangerous, nor did they constitute the realm of illegitimate or subversive religious knowledge. In remaining exotic, they remained distant, inadaptable to Roman practice, and thus able to occupy a distant point in the comparative triangulation of Roman identity among Greek, Roman, and barbarian cultures.

However, we do get some sense of what constituted the limits of acceptable practice, but it is not formulated around *magus*. At the end of Book 1, Quintus briefly provides examples of those forms of divination he does not recognize: generally he lists “fortune-tellers, or those who prophesy for money, or necromancers, or mediums”⁷⁷ and more specifically he mentions “Marsian augurs” (*Marsum augurem*), “village soothsayers” (*vicanos haruspices*), “astrologers from around the circus” (*de circo astrologos*), Isiac diviners (*Isiacos coniectores*), and the interpreters of dreams (*interpretes somniorum*). Quoting from Ennius’s *Telamon*, Quintus offers a fragment of the poet condemning “superstitious *vates* and shameless *harioli*” who are lazy frauds only interested in making money. There are editorial issues with this passage;⁷⁸ and it should not be taken as listing discrete characters corresponding to the diversity of practitioners of divination at Rome in the Late Republic. Much like fifth century Athenian sources discussed

⁷⁶ E.g. *De. Div.*, 2.28.

⁷⁷ *Ibid.*, 1,132.

⁷⁸ See Pease, *M. Tulli Ciceronis de Divinatione*, 2 vol., 336 (the commentary on the whole section of text is also quite helpful and begins on 332).

above, which list and pair various marginal figures, we should see this as a polemical rather than an objective attempt to discern and distinguish.⁷⁹ It is worth mentioning that none of Quintus's or Ennius's listed characters is a *magus*. While those figures listed are non-Roman, they are not the kind of foreign peoples that have been invoked in the above discussion. They are not exotic others, they are more proximate others who wander and haunt the landscape of the city of Rome peddling questionable divination on demand, for a price, which could at times make them objects of suspicion. What this passage affirms in particular, and what *On Divination* confirms more generally, is that divinatory practice was diverse and contested, but even at the boundaries of acceptable divination, *magia* was not used as a classificatory category for such matters.

Such boundaries, for Cicero, were conceptualized with *superstitio*. At the end of Book 2, Marcus, having dispensed with his critique of dream divination, slides into more general summation remarks. Marcus recognizes that superstition has affected the minds of all nations, and his main task was to preserve *religio* by uprooting *superstitio*, a task he sees as a form of service to his fellow citizens. Ultimately, for Cicero, in every act of cult there is the possibility of superstition and its potential for upsetting the mind with its excesses. Here the potential pervasiveness of *superstitio* must be disentangled and distinguished from *religio*, which is closely bound to the knowledge of nature. Thus, for Cicero, the boundaries of legitimate and illegitimate religious knowledge are aligned on this binary, though, as I hope to show in subsequent chapters, this is not exhaustive. *Magus* was marginal and subordinate in late republican discourse in general and not at all operative in *On Divination*'s delineation of

⁷⁹ In fact, Quintus tells us Ennius's own bias was that while there are gods, they do not care for humans. In fact, the work done in situating this fragment from Ennius shows that at least from his own day (c. late 3rd, early 2nd century BCE) there was already debate over distinguishing between viable and misguided forms of divination

normative versus non-normative practice towards the gods. Unlike the modern distinction of religion and magic, *religio* versus *magia* was not an operative distinction.⁸⁰

Conclusion

Cicero's usage of *magus* does not exhaust all the instances of this noun in Late Republican literature. However, his does represent the general mode to which the term was put to use during this time. *Magus* was used in its ethnic valences to negotiate various ideas of difference in terms of the Romans, the Greeks, and other barbarian nations. It was not a particular title applied to those figures and practice considered deviant to more normative notions of religion. What is more, *magus* as derogatory title such as is later connoted by "magician" was not a term applied to any particular (known) Roman person, nor was it a self-description of any Roman of this period.⁸¹

Yet, it is relatively clear that *magus* in later centuries came to be a label used to disqualify and stigmatize those who were considered suspicious and dangerous to the social order. Evidence from the fifth century BCE onward reveals that the term *magos* could already be deployed to mark social marginality. In Late Antiquity, such marginal connotations to this word cluster become amplified. However, I have argued here that despite the changes in the usage and meaning of *magia* and its cognates within Greek and Roman antiquity, we cannot assume that these correspond to some stable modern notion of "magic" as a discrete set of practices. *Magia* remained a mobile and flexible signifier. In the next chapter I will investigate how *magia*

⁸⁰ Ibid., 2.149. On the term *superstitio* (as with *religio*) a quite extensive bibliography exists that traces its changes in meaning and semantic range across antiquity, but also the continued complexities and instabilities of its usage. For the important contributions to this literature see Chapter 4.

⁸¹ The possible exception is Nigidius Figulus; see Chapter 5 for a discussion.

transitioned from an index of affiliation to one of alienation from the first century BCE to the end of the first century CE and the possible broader contexts of alterity to which such a transition might be understood. Yet, already in the Late Republic there are perhaps indicators of this shift. Thus to conclude I briefly offer a segue, or perhaps, something of a complication to my above argument.

In a fragment attributed to Marcus Varro, a near contemporary to both Cicero, the cognitive distance with which Cicero sets apart the Persians and their *magi* for the sake of intellection is partially collapsed:

Numa ... was compelled to do hydromancy, whereby he would see the images of the gods in the water... by these he would hear what he ought constitute and observe in sacred matters. This kind of divination, the same Varro says, was introduced by the Persians, and recalls that it was used both by Numa himself and after that by Pythagoras the philosopher; whereby, by adding blood it granted to consult the dead and this the Greeks call *nekoumantia*, which whether it be called *nekoumanteia* or *nekromanteia* it is the same thing, where the dead are supposed to foretell future things... It was because Numa Pompilius drew, that is, carried out the water to perform hydromancy, that he is said to have had the nymph Egeria as a wife—an explanation given in the book of Varro previously cited... Hence it was by hydromancy that the Roman king, filled with curiosity, learned the rites, which the pontiffs were to preserve in their books and the origins (*causas*) of these.⁸²

Here the Persians (and the *magi* are not explicitly mentioned) are not the distant and exotic others with their own idiosyncratic practices; rather, they provide the origin and specific divinatory mechanism for Rome's traditional *sacra*. First, the religious founder and second king

⁸² Burkhardt Cardauns has collected the extant fragments of Varro's *Divine Antiquities* in *M. Terentius Varro: Antiquitates rerum divinarum*. This particular fragment (Fr. IV= Aug. *De civ.* 7.34) Cardauns appends to book one as a possible fragment of Varro's lost *Logisticorus*, *Curio de cultu deorum* (p. 35-38) For commentary see Burkhardt Cardauns, *Varros Logisticorus uber die Gotterverehrung (Curio de cultu deorum)*. As with most of the fragments of and testimonies about Varro, this passage comes from a later source; namely, from Augustine of Hippo's 5th century CE text *City of God*. As such, the potential for distortion in trying to reconstruct Varro's work and thought through these later texts is always live and has been well cautioned in the literature.

of Rome, Numa Pompilius, is associated with necromancy, a practice toward which late republican sources show some ambivalence at this time and within the next century would become viewed as a socially dangerous practice. Second, Pythagoras, the often-privileged point of contact between East and West and the putative student of the *magi* in Hellenistic tradition, is also connected with Numa. In fact, already during the Late Republic the connection between these two men was present and contested. That Numa here is said to precede Pythagoras might point to the disputed affiliation between these two men at this time.⁸³

With Cicero's above juxtapositions of the *magi* with other barbarian examples, their value was as a thought experiment, a foil to clarify Roman positions on their own practices: these peoples could be marveled at by Roman authors in all their peculiarity (or perversity) and used for comparison, contrast, theorization, and generalization to set off Roman practice, with no anxiety over issues of appropriation or these practices' integration into or contamination of Roman practice, as often was the case with Greek practices (e.g. rhetoric). These practices were

⁸³ In the passage above Varro intimates that Numa's use of hydromancy preceded Pythagoras's, perhaps implying the latter was not the teacher of the former; yet there were those who thought—as did the earlier first century BCE historian Valerius Antias—that Numa was the pupil of Pythagoras. By contrast, Livy goes out of his way in recounting the contribution of Numa to the founding of the city to downplay this argument: “The teacher to whom he owed his learning was not, as men say, in default of another name, the Samian Pythagoras... It was Numa's native disposition, then, as I incline to believe, that tempered his soul with noble qualities, and his training was not in foreign studies, but in the stern and austere discipline of the ancient Sabines, a race incorruptible as any race of the olden time.” (118.2, 4; for Antias's view see 40.29.7). Already in the second century BCE debates over Numa's legacy occurred. In 181 BCE, it is recorded that, while work was being done on the Janiculum hill, the tomb of Numa and certain volumes he penned were discovered. Different versions of this narrative contain different details on the whole ordeal and particularly, especially different opinions on the number and nature of the texts Numa composed. Generally, there is agreement among the sources that there were two sets of texts, one in Greek and containing Pythagorean philosophy, and the other in Latin and containing items relevant for pontifical law. Yet, all but one telling of these events ends with these texts being burned due to their potential to undermine religion (Valerius Maximus tells us that the Latin portion was spared); see Livy 40. 29; Valerius Maximus 1.1.12; Pliny *NH*, 13. 84; Plutarch *Life of Numa*, 22. 5-8; Augustine, *De civ.* 7.34 (=Cardauns Fr. III).

clearly other people's practices. Yet, the fragment above points to a different logic that attempts to mitigate the perceived distance and exoticness of the Persians (and presumably their *magi*), and functioned to render them comparable in more imminent ways. In other words, to draw them into the messy process of recognizing affiliation without ignoring foreignness—a feat to which the Romans could be remarkably adept.⁸⁴ Varro's fragment pushes this logic to the opposite extreme of Cicero's conceptual distance: i.e. the tradition of Numa as the originator of a great bulk of Roman religious practice and knowledge, a tradition widely accepted by ancient authors, is here deferred to Persian origins.⁸⁵ To recognize the origins of Roman practices *in* the Persians was at once to conceptually reposition the Persians less as mere external points of comparison, designed to set this or that point into relief, and to recognize potentially broader cultural dependencies, diffusions, and entanglements.

This potential collapsing of cultural difference could be used in positive ways, as above, but could also incite anxiety. Thus, that the poet Catullus, in his 90th poem, uses the term *magus*

⁸⁴ See Orlin, Eric. *Foreign cults in Rome*: “This phenomenon—accepting a foreign element as Roman in a technical sense, as a valued part of the religious system, and at the same time utilizing it as a cultural foil and presenting it as non-Roman in a social sense—recurs repeatedly in regard to the Roman treatment of foreign religious traditions,” 98. Also see Gruen, *Rethinking the Other in Antiquity*.

⁸⁵ Other than the languages and general indications of the topics of Numa's volumes, there is little that is told about the contents of these books. This is perhaps unsurprising if they were in fact burned. However, there is a potentially telling detail mentioned in the Varro fragment above as well as in a fragment recounting the events of 181, also attributed to Varro, that is not mentioned elsewhere. According to these fragments, Numa recorded in these books not just descriptions of Roman rites but also the origins (*causas*) of these rites, namely, perhaps the Persian origins. Of course it is only pure speculation, but a record of Roman *sacra* as depending in some part on foreign Persian techniques might supplement the only other reason given for the above texts' destruction, that they contained the philosophy of Pythagoras—part of the contesting of Hellenistic tradition that valorized eastern origins for western practice. The Romans were often open to outside influence, but their openness could ebb and flow. With the beginning of more sustained contact with the Greek east in second century BCE, it has been suggested more than once that the particular kind of openness to foreign ideas and practice that marked the fourth and third centuries BCE, were altered. See Orlin, *Foreign Cults in Rome*, 162-163 for the relevant bibliography and his own assessment.

(around the same time as Cicero's first use in *On the Laws*) as part of a well-crafted insult against a certain Gellius. This poem invokes the *Persicum haruspicium*, Persian soothsaying, and the *Persarum impia religio*, the impious religion of the Persians, and seems to push back from the closeness in Varro toward a different kind of difference and distance—one less benign than in Cicero's imagining.⁸⁶ In crafting his invective, Catullus could not only “see” Roman institutions in Persia but it invited a rather negative comparative subtext for his poetic practice. An impious *religio* must be set at a distance; it cannot offer origins and influence in terms of Roman *sacra*, but it can also not be an innocent point of contrast. Indeed, *impia* connotes many of the notions of contamination and separation that will eventually get wrapped up in *magia* and the social anxieties to which it gives voice. Raeffela Garosi was perhaps correct when she called Catullus's poem “an intermediate moment,” one where the exotic, though mostly benign, *magi* start to become cast more in terms of social danger, their practice seen as a threat from outside.⁸⁷ And with Pliny the Elder in the next chapter, the fear of foreign contamination will reach a fevered pitch.

⁸⁶ The label *magus* here is not yet a generic label but rather refers to specific ethnic stereotypes surrounding the supposed incestuous relations of the Persian *magi*, which date back to at least Xanthus of Lydia in the 5th century BCE. Further, Catullus is not calling Gellius a *magus* but rather the product of the incestuous union in called a *magus*.

⁸⁷ Garosi, Raffaella, “Indagine sulla formazione del concetto di magia nella cultura romana,” 54.

Chapter 3

Theorizing and historicizing “magic”: Pliny’s *magicae vanitatae* and elite anxiety in the early Principate

“It is worth the trouble to take a closer look at these chapters of Pliny, because we shall see that he develops a conception widely different from that of Republican Rome.”

“There is something surprising in Pliny’s position. The two functions that magic fulfills... do not correspond either to what we have just examined for the Republican era... or to the Greek facts of the fifth and fourth century... Nor do these functions correspond to magic in the imperial epoch according to the image we get from the papyri and inscriptions.”

-Fritz Graf¹

“History proves inadequate to the task of definition [of magic]. It produces an object detestable but undefinable, criminal but vain, absurd yet monstrous. His [Pliny’s] theoretical scheme swells and strains to accommodate indigestible facts. We might almost say that his historical scheme acquires the character of the reality it purports to represent, superficial clarity concealing contradictions, dualities, and vacancy.”

-Richard Gordon²

“To choose ... Pliny and his ideas as a field of investigation ... [h]is long discourse on magic, which is also the first theoretical treatment we received on the subject, presents a double interest. There are a large number of collected data, so that it constitutes a kind of summary of a Roman tradition on magic. This is not embalmed erudition, but a living and effective cultural tool that Pliny exposes and discusses, and at the same time actualizes. Of this author it is often said that he is a compiler, but here one does not have to do with a pile of indiscriminate data, but with a conscious choice of material. Therefore it would seem to be justified to say that here Pliny really makes *historia*. The author will then be considered as a source of data, and especially as a witness of a certain measure of a current tradition of magic.”

-Raffaella Garosi³

¹ Graf, Fritz, *Magic in the Ancient World*, 49-50; 52.

² Gordon, Richard, “Aelian’s Peony,” 77.

³ Garosi, Raffaella, “Indagine sulla formazione del concetto di magia nella cultura romana,” 17.

Introduction

Pliny the Elder's history of the *magicae vanitates* has often been an important passage for scholars of antiquity. For Iranists and Classicists, especially those working in late 19th and early 20th centuries, Pliny's history offered a densely packed trove of details that, when combined with other ancient sources, could contribute to reconstructing Greek traditions of the East.⁴ More recently, classical historians have similarly found Pliny's history useful as evidence in building surveys of Greco-Roman magic. Much like the positivist tendencies of earlier Iranists and Classicists, placing Pliny's history in the context of ancient magic also positioned it to be ransacked for various bits of information that could be pursued variously, and often uncritically, in conjunction with other literary descriptions of magic and/or the material evidences to reconstruct some aspect of the history of Greek and Roman magic.⁵ To this end, such analyses focus primarily on what Pliny's encyclopedic efforts have preserved from prior periods and from lost works, rather than Pliny as an author, how he shaped his sources, or the contemporary historical conditions in which he produced his text.

However, other readings of Pliny's history in the context of ancient magic have addressed these latter issues, investigating the text for its overall rhetorical, discursive, and ideological

⁴ For a general overview on the position of Greek and Roman texts in Zoroastrian studies see De Jong, Albert, *Traditions of the Magi: Zoroastrianism in Greek and Latin Literature*, 5-38. I will cite more specific titles in the course of my discussion, but the standard set of texts is still contained in Bidez and Cumont, *Les Mages Hellénisés*. Also see Festugière, *La révélation d'Hermès Trismégiste I*; More recently, Momigliano, *Alien Wisdom*, especially Chapter 6, "Iranians and Greeks," 123-150; Beck, Roger, "Thus Spake not Zarathustra," 491-565; Ribichini, "'Fascino' dall' Oriente e prima lezioni di magia," 103-15; West, *Early Greek Philosophy and the Orient*; various works of Peter Kingsley such as "Meetings with Magi: Iranian themes among the Greeks, from Xanthus of Lydia to Plato's Academy." *Journal of the Royal Asiatic Society* 5, no. 2 (1995): 173-209.

⁵ The most extensive social history of ancient magic is Dickie, *Magic and Magicians in the Greco-Roman World*.

dimensions—and for its utility as a product of the first century CE Roman culture in which it was produced.⁶ An important early contribution to this approach comes from Raffaella Garosi, who used Pliny’s history of magic to anchor her more general study of magic in Roman culture. Garosi characterized Pliny’s text as “the first theoretical treatment” of magic (*la prima trattazione teorica*): his history testified to the culmination of “a mature tradition” (*una tradizione matura*) of Roman magic for which she explores the “modules” of its formation. As shown in the previous chapter, Fritz Graf also used Pliny’s history as a guiding testimony to elaborate a second stage of the evolution of magic at Rome. For Graf, Pliny represents the first moment in the early Principate in which a Greek concept of magic comes to inflect and supplement the indigenous Latin concepts from the republican period. More recently still, Francisco Marco Simón argues for Pliny’s history as the culmination (*culminado*) of a system of alterity that had developed since the Late Republic. Resonating with Garosi, Simón argues that Pliny offered “a theoretical treatment (*un tratamiento teórico*) of the *magicae vanitates* in Rome” as part of “the emergence of magic as an anti-system” to Roman *mos maiorum*.⁷

These more holistic approaches to Pliny’s history operate on a substantive and often unarticulated concept of magic that I have critiqued previously, but they nonetheless offer analytic promise. For instance, analyses of this kind have highlighted the terminology and traditions surrounding *mageia/magia* as slippery and historically contingent, setting into relief problematic notions of the category of magic that linger from 19th and 20th century

⁶ See, for example, Garosi, “Indagine sulla formazione del concetto di magia nella cultura romana,” 17-31; Graf, *Magic in the Ancient World*, 49-56; Gordon, “Imagining Greek and Roman Magic,” 229-231; Simón, Francisco Marco, “La emergencia de la magia como sistema de alteridad en la Roma del siglo I d. C.,” 105-132.

⁷ Garosi, “Indagine sulla formazione del concetto di magia nella cultura romana,” 17, 33; For Graf see discussion in Chapter 2; Marco Simón, “La emergencia de la magia como sistema de alteridad en la Roma del siglo I d. C.,” 109.

anthropology. In fact, one of the most important contributions of this approach has been its appreciation of how Pliny formulates *magia* as a substantive yet synthetic category in his text, a fixed yet empty signifier of sorts. *Magia*, in this view, becomes an ideological category that makes up for in flexibility what it lacks in conceptual clarity. Pliny used the term *magia* to quilt together a wide array of heterogeneous practices, which, once so aggregated, could then be stigmatized and dismissed.⁸ While this important insight orients much of my subsequent analysis and I try to further contextualize it, the holistic approach to Pliny has nonetheless been limited by the same stubborn presuppositions I criticized in the previous chapter. Many analyses (like the ones above) within this tradition have not only (mis)taken Pliny's history as evidence of a Romanized notion of Greek magic, but also posited his history as a teleological end point to a longer development: a culmination of a larger tradition of Greco-Roman magic and a watershed moment in the history of Western magic.⁹ These studies aggregate moments from different kinds of literary texts in order to posit an underlying cultural and ideological process related to

⁸ Ogden puts this point as such: "One of the most important aspects of this discussion [NH 30.1-20] is its explicit unification within the same category — whatever that category is — of figures of very different varieties [. . .]. Compared, explicitly or implicitly, to the mages (of Persia, Medea, Babylon, Assyria, and even Armenia, all closely identified [. . .]) are: Circe, the Sirens, Proteus, Thessalian witches, Carian Telmessus (known for various forms of divination), Orpheus, Pythagoras, Empedocles, and Democritus, as well as Jewish, Cypriot (Cyprus is identified as a particular home for magic in later sources), Latin, and Gallic sorcerers. For all that magic spread over the entire world, it is presented as fundamentally external and antithetical to Roman Culture." *Magic, Witchcraft, and Ghosts in the Greek and Roman Worlds*, 44. What I find appealing about Ogden's articulation is the way it urges us to consider Pliny's text in terms of alterity—i.e., non-Romanness or those things antithetical to Roman culture—without the explicit mention of "magic." Ogden leaves open the nature and status of Pliny's subject—*magicae variates* ("whatever that category is"). Also see Gordon, "Aelian's Peony," 79: "The category 'Persian magic' enabled the elite to represent the most widespread forms of popular religion, medico-magical healing, charms and amulets against illness, informal kinds of divination, assistance in love and crisis, gambling magic and the rest, as somehow inferior to, or alien to, the civic rituals. Their genuine roots in popular tradition could be derided and ignored."

⁹ See my discussion and critique in Chapter 2.

“magic” as a concept that carves out a niche in Roman “religious” discourse for which Pliny’s text is taken as the “mature” “culmination” of this process in a strong and self-conscious form.

Therefore, in this chapter, I offer another exercise in reading outside of this interpretative paradigm. If in the last chapter I tried to change the subject, as it were, from the usual discussions of magic in early Rome, here I do the same for Pliny’s text as a plot point in a larger tradition of Greek and Roman magic. In the following, I redescribe the value of this text as evidence for Roman society of the first century CE by evoking alternative contexts that demonstrate the work’s wider ideological and cultural elements and how they relate to Roman concerns about alterity. Generally, I want to situate Pliny as part of the continued intellectual effort of Romans to cognize and theorize the plurality and diversity of their empire. For all that scholars have plundered Pliny’s history for data and characterized him as the culmination of a larger cultural process of Roman magic, they have not considered Pliny alongside other Roman theorists of culture, nor have they evaluated his history in regard to competing notions of otherness. This chapter treats Pliny’s writings as an ideological extension of late republican efforts to think through issues of cultural difference in systematic ways beginning in the Late Republic.

Specifically, I make two claims. First, I argue that Pliny offered the first and perhaps only attempt to fully historicize the term *magia* in antiquity, and that the historiographic form of theorizing he gives to his text is related to its ideological power. While there were earlier etiologies, narratives, and traditions associated with the word cluster *mageia/magia* in the Greek and Hellenistic world, I claim that Pliny weaved these into an extended chronological narrative, positing *magia* as a historical subject that could be tracked in its development across time and space. Pliny amplified this term into a mobile epithet that signified all manner of peoples and

practices deemed un-Roman by whatever criteria and guaranteed that they originated from a single foreign origin. Second, I argue that Pliny's history of the *magicae vanitates* can be usefully read as a specific meditation on the plurality and diversity that resulted from Rome's imperial action. Pliny's history reflects a common anxiety among the ruling classes regarding the potentially unchecked movement of perceived foreign peoples and their cultural practices across the empire and, particularly, to Rome. He uses *magia* to evaluate this perceived situation and at once domesticates and disarms it while also multiplying and amplifying the potential anxieties attendant to it. Pliny's history of *magia* thus represents an attempt to historicize the term as a rather vicious contribution to Rome's vocabulary of alterity.

Pliny as a theorist

In eighteen densely written sections at the opening of book 30 of his *Natural History*, Pliny the Elder offers what classical scholars often casually call a "history of magic." More specifically, it is a history of the *magicae vanitates* (NH 30.1-18), the precise nature and content of which, as we will see, remain elusive, perhaps strategically so on Pliny's part. Yet, in this rather brief section of text—especially when compared to the 37-book tome in which it appears—Pliny attempts to elaborate on the nature of this "most fraudulent of arts" (*fraudentissima artium plurimum*) and trace its historical trajectory from its ancient eastern origins in Persia under Zoroaster toward the west to its putative suppression by the violent *humanitas* of the Roman Empire in Pliny's own time.

That the above studies have described Pliny's history as a theoretical treatment and Pliny as a theorist is quite the promotion for both, especially given scholars' usual assessments of this work. As Aude Doody has explained: "The paradox is that although the *Natural History* is quite

unlike anything else that survives from antiquity, its author is a byword [among scholars] for pedantic unoriginality.”¹⁰ Scholars of antiquity usually do not count Pliny as one of the leading lights of Roman intellectual life. This has to do both with the content of the *Natural History* and with Pliny’s reputation as a writer. To the former, Pliny’s text consists of long lists of dry information, offered with little comment, alongside frequent and rather counterintuitive drifts between subjects. This has not endeared the *Natural History* to scholars as anything more than a reference tool until recently. In fact, most scholars continue to treat the *Natural History* as an encyclopedia in the modern sense of the word: a source of ready-to-hand information that can be used for a variety of purposes, often to illuminate some better-attested aspects of ancient history or society. As Doody has noted: “Pliny has had a long career in the footnotes of major historical studies.”¹¹

Second, Pliny’s reputation as a passive compiler—one who deals merely in data collection with little or no critical thought to its shaping—has contributed significantly to his status as a second-class intellectual. However, recent research on the *Natural History* strongly challenges this reading of Pliny, characterizing him instead as an active literary agent who constructed his vast encyclopedia in particular and sensitive ways. In this view, Pliny’s text becomes a literary production of the first century CE rather than a reservoir for bits of cultural information. Analyses of this kind see the *Natural History* as a response to a world expanded by Roman power and an attempt to organize and delimit knowledge about this power. Pliny

¹⁰ Doody, *Pliny’s Encyclopedia*, 13. See note for recent bibliography on Pliny’s *Natural History* below.

¹¹ *Ibid.*, 2.

employs a variety of literary strategies, modes of argumentation, and genres in shaping his sources and constructing his text, to which he adds his own, often subtle, nuance.¹²

This reading of Pliny's *Natural History* as a "cultural artefact" has motivated recent scholars to reevaluate how this text relates to other ancient texts.¹³ A handful of studies on Roman imperial literature have recently highlighted forms of technical writing following "a broadly 'compilatory' aesthetic" for information management, which seem indicative of a discursive form characteristically imperial. These studies have situated Pliny's *Natural History* in this broader literary context, historicizing the genre of encyclopedism, and highlighting Pliny's strategies of compilation alongside those of other Roman imperial writers who sought to "textualize" empire by trying "to impose order on the extra-textual world." Of particular value, these studies offer a renewed critique of the idea that Roman cultural production is merely derivative of Greek/Hellenistic models and is thus less important, a decidedly modern perspective on the difference between originality and derivation. To quote from Jason König and Tim Whitmarsh, to see imperial compilers as merely derivative "underestimates the potential for innovativeness in compilatory styles of composition, as well as fail[s] to examine ... key questions of synchronic cultural analysis."¹⁴

¹² There has been of late a great deal of scholarly output on Pliny the Elder's *Natural History*. I list only a few, all of which have more extensive bibliographies. Two classic treatments are Beagon, *Roman Nature the Thought of Pliny the Elder* and Conte, "The Inventory of the World: Form of Nature and Encyclopedic Project in the Work of Pliny the Elder," 67-104. More recently though a set of texts has emerged that has explored the relations between empire and encyclopedism, power and knowledge: see Nass, *Le projet encyclopédique de Pline l'Ancien*; Carey, *Pliny's Catalogue of Culture*; and Murphy, *Pliny the Elder's 'Natural History': The Empire in the Encyclopedia*. For a useful set of recent essays on various aspects of the *Natural History* see Gibson, Roy, and Ruth Morello, eds., *Pliny the Elder: Themes and Contexts*. Finally, for an instructive reception history see Doody, *Pliny's Encyclopedia*.

¹³ This phrase is borrowed from Murphy, see above note.

¹⁴ König, and Whitmarsh, eds. *Ordering Knowledge in the Roman Empire*, 3, 4, 9. Also see, König and Woolf, eds. *Encyclopaedism from Antiquity to the Renaissance*.

When Pliny's encyclopedic work is seen in the discursive context of compilation and information management, it seems in good company with the work of other Roman writers often taken as evidence of a Roman "cultural revolution" in the Late Republic and early Principate.¹⁵ As indicated in the last chapter, Greek structures of thought were instrumental to Roman elites in managing and systematizing the dizzying amount of information produced in the context of empire. The Romans' numerous rationalizing texts frequently deployed strategies of compilation in their theoretical enterprises. In reading Cicero's *On Divination* I have already pointed out that it depended in large part on collecting instances of foreign, Greek, and Roman divination for the purposes of characterizing and assessing the efficacy of this practice. Or, further, take Varro's *Divine Antiquities*, from the same period, where in sixteen tightly organized books he constructs Roman civic cult as an object of inquiry among other discourses on the gods not least through the continuous enumeration of Roman antiquarian detail.¹⁶

In addition to the genres of philosophy and antiquarianism, historiography, or at least basic temporal ordering, could also be a common strategy used in broader compilatory texts to organize information. To stick with my above examples, Cicero begins his account of divination with a brief chronological account of divination, one which starts in the east, in most ancient times, moves west, and terminates in discussing Roman divination practices, thereby aligning Rome in this larger history. Such a temporal account helps to set off the subject of divination as distinct as well as reinforces it as a universally important topic. What is more, Cicero's temporal ordering goes beyond simple chronology. He coordinates his chronology with a geographical movement from east to west. These alignments also continue to organize his larger text outside his introduction. Jörg Rüpke has recently argued for the presence of a historical account of

¹⁵ Wallace-Hadrill, *Rome's Cultural Revolution*, especially 213-258.

¹⁶ North, J.A., "The Limits of the 'Religious'," 225-245.

Roman cult in the opening book of Varro's *Divine Antiquities*, which frames his subsequent encyclopedic work. The extant fragments of Varro's work discuss in chronological order figures like Romulus, Titus Tatius, and Numa and the gods they introduced, to which Varro also adds information on temple foundations, and extends the history down to more recent attempts by the Roman authorities to expel certain cults from public worship (e.g. Bacchus and Isis).¹⁷ As we will see, Pliny makes use of these same strategies to set into relief his subject, justify its pervasive importance across time and space, and organize information relating to it.

Outside the opening of book 30, Pliny often uses temporality and geography to organize his material. For example, take Pliny's discussion of the rather mundane topic of various sorts of cheese in *NH* 11.239-242:

It is remarkable that the foreign races that live on milk for so many centuries have not known or have despised the blessing of cheese, at most condensing their milk into agreeable sour curds and fat butter.... Of cheese from the provinces the most highly praised at Rome, where the good things of all nations are estimated at first hand, is that of the district of Nimes, coming from the villages of La Lozère and Gévaudan.... A larger number belong to the Apennines: these send Coebanum cheese from Liguria, chiefly made of sheep's milk, Sarsina cheese from Umbria, and Luni cheese from the borderland of Tuscany and Liguria.... [N]earest to Rome is the Vestinian, and the kind from the Caedician Plain is the most approved. Herds of goats also have their special reputation for cheese, in the case of fresh cheese especially when smoke increases its flavour, as with the supremely desirable cheese made in the city itself; for the cheese of the Gallic goats always has a strong medicinal taste. But of cheeses from over seas the Bithynian is quite famous. That pastures contain salt, even where it is not visible, is chiefly detected from the fact that all cheese as it gets old turns saltish, just as cheeses steeped in vinegar and thyme undoubtedly return to their original fresh flavour. It is recorded that Zoroaster in the desert lived for twenty years on cheese that had been so treated as not to be affected by age.¹⁸

¹⁷ Rüpke, Jörg, "Historicizing Religion," 246-268.

¹⁸ *Mirum barbaras gentes, quae lacte vivant, ignorare aut spernere tot saeculis casei dotem, densantes id alioqui in acorem iucundum et pingue butyrum... laus caseo Romae, ubi omnium gentium bona comminus iudicantur, e provinciis Nemausensi praecipua, Lesurae Gabalicoque pagis... numerosior Appennino: Cebanum hic e Liguria mittit ovium maxime lacte, Sassinatem ex Umbria mixtoque Etruriae atque Liguriaie confinio Luniensem magnitudine conspicuum... proximum autem urbi Vestinum eumque a Caedicio campo laudatissimum. et caprarum gregibus*

This passage describes where certain cheeses come from, the different varieties, their flavors and how to preserve them. It also contrasts cheese with barbarians what make—curds and butter—and ends with a brief note on Zoroaster in the desert, establishing the age defying effects of cheese. In his important study on the *Natural History*, Trevor Murphy cites this passage in part to illustrate how Pliny locates Rome as a central node around which knowledge is organized and flows.¹⁹ To this I add that Pliny succeeds in designating Rome as the focus only by demarcating a wider imperial geography for his cheese data: Pliny maps out the different types of cheese on a geographical trajectory from west to east, from one end of the empire to the other, with Rome as the central point. Pliny's geographical boundaries, with which he buttresses cheeses on either side, are the barbarians (*barbaras gentes*) in the west and Zoroaster in the east. In between these extremes, Pliny moves from the west and Gaul into northern and central Italy, ever closer to Rome (*proximum urbi*), and then to the east (*trans maria*) towards Bithynia, ending with Zoroaster.

Like the passage above, Pliny's history in book 30 also presents and structures information, shaping it into a specifically organized body of knowledge. Pliny charts a similar geographic course as above in discussing the *magicae vanitates*, reversing directions and beginning with Zoroaster in the east. Pliny also overlays a temporal trajectory onto this geographic spread and synchronizes the two. This is what constitutes the passage as historiographic. In essence, Pliny traces the spread of *magica* across the world from east to west,

sua laus est, in recenti maxime augente gratiam fumo, qualis in ipsa urbe conficitur cunctis praeferendus; nam Galliarum sapor medicamenti vim optinet. trans maria vero Bithynus fere in gloria est. inesse pabulis salem, etiam ubi non detur, ita maxime intellegitur, omni in salem caseo senescente, quales redire in musteum saporem aceto et thymo maceratos certum est. tradunt Zoroastren in desertis caseo vixisse annis XX ita temperato, ut vetustatem non sentiret.

¹⁹ Murphy, *Pliny the Elder's Natural History*, 19-20.

from its Persian origins under Zoroaster to Britain, moving from the most ancient, mythological times, about which less is known, to more recent times of the Principate, in which Pliny relates information with much more surety. In doing so, Pliny demarcates not just a wider, imperial geography but also a wider imperial history where Rome appears in a central position textually, geographically, and morally.

Natural History 30.1-18: A history of...?

To give a historical account of a phenomenon presumes at least three conditions: first, that the phenomenon is a discrete enough subject that it can be recognized in its temporality, contingency, and dependency on other parts of particular political and cultural systems. Second, that the phenomenon has identifiable attributes but is not fully transparent, that it is ambiguous in such a way as to require clarification, namely a historicizing one. Third, that the phenomenon in question develops and changes over time, such that establishing its chronological sequence and how its unfolding interacts with other important events will be important for understanding it. In reading Pliny's text as historical account, I will attempt to bring out each of these conditions.

For ancient writers, historiography could serve as a form of explanation. For instance, historians such as Livy or Polybius took as their subject the city of Rome and its gradual (Livy) or meteoric (Polybius) rise to power—often connecting and coordinating important moments in its ascension to broader Hellenistic narratives and events.²⁰ Indeed, the transpersonal subject of

²⁰ Denis Feeney has offered an important set of remarks on localized conceptions of time in antiquity and the ways ancient authors sometimes attempted to synchronize these various temporal schemas in *Caesar's Calendar*. A related issue here is that of genre. While scholars sometimes raise such issues of genre in regards to Pliny's text and his subject, these are little pursued and even perhaps evaded by characterizations of it as merely polemical. Discussions of genre in ancient literature—especially in matters of historiography—can often still lean toward rigid characterizations, and the possibility of entertaining historiography and more schematic

the ancient city was a favorite subject of ancient historians, who produced accounts of the political and military intrigue of cities, the *res gestae* of the men who participated in such intrigue, and the kings and empires that often animated their struggles. Additionally, Hubert Cancik has convincingly argued that matters of culture were also subject to historical accounts in antiquity. For instance, Herodotus's account of Greek religion as historically dependent on Egypt, Lucretius's discussion of human origins from lower forms of life to higher and their gradual invention of more refined elements of culture, and Tacitus's accounts of German and Jewish religion along with the cult of the emperor all take temporal and developmental views of discrete cultural objects.²¹ I suggest that we read Pliny's account of the *magicae vanitates* in the same way: as a history, embedded within drifting encyclopedic lists, which Pliny uses not only to organize information, but also to hierarchize (and naturalize) certain relations of alterity.

Forming a historical subject

We might start then with Pliny's stated subject: the *magicae vanitates*. As mentioned at the top of this chapter, this subject is and remains somewhat opaque despite Pliny's elaborations in *Natural History* 30.1-18. Further, to analyze the *magicae vanitates* illustrates at the most basic level the persistent tensions and gaps in Pliny's historical account. Yet, we can appreciate that at the outset he attempts to give the whole a sense of unity. He begins:

In the previous part of this work I have often refuted the *magicae vanitates*, whenever the subject and the occasion required it, and I shall continue to expose them. In a few respects, however, the theme deserves to be enlarged upon, were it

forms of compilatory listing interacting and overlapping in interesting ways is often eclipsed from scholarly interest in the pursuit of more pure forms of historiography and encyclopedism. On a more flexible framing of genre see Conte, *Genres and Readers*, especially 105-138; Feeney, "On Not Forgetting the 'Literatur' in 'Literatur Und Religion'," 173-202; and Marincola, "Genre, Convention, and Innovation in Greco-Roman Historiography," 281-324.

²¹ Cancik, *Religionsgeschichten*, 3-61.

only because the most fraudulent of arts has held complete sway throughout the world for many ages. Nobody should be surprised at the greatness of its influence, since alone of the arts it has embraced three others that hold supreme dominion over the human mind, and reduced them into one.²²

Natural History 30.1-2 offers an introduction of sorts to Pliny's overall history and marks Pliny's first attempt to render his subject as a coherent, unified object. Here Pliny brings together a previously undefined set of themes that have appeared in the preceding text (*antecedente operis parte*) and will continue to feature (*detegemusque etiamnum*) in his final seven books. Pliny claims to have often refuted (*saepius coarguimus*) the *magicas vanitates* as they have arisen in the contexts of dealing with other matters (*ubicumque causae locusque posecebant*).²³ Of course, his refutations of the *magi* and/or the *magicae artes* are markedly inconsistent: very often Pliny notes or recommends their prescriptions without hint of condemnation. Yet, at the opening of book 30 he takes the opportunity to give a concerted discussion of these scattered references, since few things deserve to receive a fuller treatment (*in paucis tamen digna res est, de qua plura dicantur*). Here Pliny thematizes not only *magica* but also his spotty disdain for it, *vanitas*. For Pliny, the universality of these matters makes them deserving of such a discussion. Indeed, Pliny's references to *magica* in various contexts throughout the *Natural History* are not simply important as marginal asides or associative anecdotes to other more salient issues, but also as indicators of a more pervasive and pernicious phenomenon that "has held complete sway throughout the world for many ages" (*in toto terrarum orbe plurimisque saeculis valuit*). At the

²² 30.1: *Magicas vanitates saepius quidem antecedente operis parte, ubicumque causae locusque poscebant, coarguimus detegemusque etiamnum. in paucis tamen digna res est, de qua plura dicantur, vel eo ipso quod fraudulentissima artium plurimum in toto terrarum orbe plurimisque saeculis valuit. auctoritatem ei maximam fuisse nemo miretur, quandoquidem sola artium tres alias imperiosissimas humanae mentis complexa in unam se redegit.*

²³ *Magicae vanitates*: NH 26.18.1; 27.57.6-7; 29.81.4; 30.1; 37.118.5.

beginning of book 30 Pliny seeks to treat these seemingly dispersed and disparate issues as a singularity.

Yet, Pliny's singularity does not hold together coherently. This is evident for us in the difficulty of translating *magicae vanitates*. It can be translated in at least two ways: a first translation might be the "nullities of magic;" a second more active and substantial translation could be the "deceptions of magic."²⁴ These two nuances are at odds, yet both reveal aspects of Pliny's overall understanding of his subject. To the former, which highlights the idea of *vanitas*, elite authors often signified certain practices as a vacant show to emphasize their absurdity.²⁵ Pliny is no exception; he uses the Latin word *vanitas* throughout the *Natural History* in a variety of contexts, not least in reference to the Greeks and various items that have emerged from their learning.²⁶ In fact, Pliny concludes his overall history by emphasizing this aspect of his subject (30.14-17), noting that *magica* is "detestable, insignificant, and void" (*intestabilem, inritam, inanem*) with its power deriving from "poisoners" (*veneficas*) but not from *magicas*. In other words, the potency of *magica* is but a specious façade, confused with a concrete set of skills used to manipulate the elements of nature, proper to root-cutters and old women.²⁷ In the same set of passages, Pliny argues that proof that *magica* is "vain and false" (*vana falsaque*) can be found in

²⁴ Gordon's reading of Pliny in "Aelian's peony," 74-78 has been influential on my own reading here.

²⁵ Gordon, "Imagining Greek and Roman Magic," 210-220.

²⁶ *Graecae vanitates*: *NH* 2.248, 3.152, 19.86, 28.112, 37.31, 37.195.

²⁷ Thus, insofar as magic has any positive substance, this derives from the tangible techniques of the *veneficus*. Throughout the *Natural History*, Pliny considers *artes magicae* at least partly as the perversion of *medicina*, the use of natural elements for improper purposes. As James Rives points out Pliny closely aligns "*magus* and its cognates with a more traditional Latin word-group that had similar connotations, *venenum* and *veneficium*," Rives, "*Magus* and Its Latin Cognates, 63. For example, Rives give *NH* 25.127: "Next after these plagues come the poisons (*venena*) that humans invent for themselves. Against all of these and the magian arts (*magicas artes*) will be first and foremost the famous moly of Homer, next the antidotes of Mithridates, and also scordotis." But it should also be noted that Pliny does not see *venena* and *magicas artes* as synonyms here but aligned insofar as the same remedies can counteract both.

the emperor Nero's zealous but aborted attempt to acquire the skills of *magica*. Pliny assures us of Nero that "no one ever favored any art more" (*nemo umquam ulli artium validius favit*) and that, given his status, he had no impediment to pursuing these practices. He even had a *magus*, who came to Rome as his teacher. Thus, according to Pliny, Nero's ultimate rejection of *magica* "is a boundless, and indubitable example of this false art" (*inmensum, indubitatum exemplum est falsae artis, quam dereliquit Nero*).

The second possible translation of *magicae vanitates* emphasizes the more active notion of deception. For such a putatively empty concept, Pliny attributes to *magica* a great deal of agency; for Pliny, it is a keenly destructive force that has worked with stealth. It has a spectral quality in that it haunts, inhabits, and possesses more distinct (and reputable) disciplines. *Magica* is there, but not really, and it hides behind and insinuates itself covertly into the arts of medicine, religion, and astrology:

Nobody will doubt that it first arose from medicine, and that professing to promote health it insidiously advanced under the disguise of a higher and holier system; that to the most seductive and welcome promises it added the powers of religion, about which even today the human race is quite in the dark; that again meeting with success it made a further addition of the mathematical arts (i.e. astrology), because there is nobody who is not eager to learn his destiny, or who does not believe that the truest account of it is that gained by watching the skies. Accordingly, holding men's emotions in a three-fold bond, magic rose to such a height that even today it has sway over a great part of mankind, and in the East commands the Kings of Kings.²⁸

In shifting his emphasis from vacancy to the activities of *magica*, Pliny undercuts the rhetorical power of simply calling it *vanitas*—his attempt to give substance to that which is empty further

²⁸ 30.2: natam primum e medicina nemo dubitabit ac specie salutari inrepsisse velut altiore sanctioremque medicinam, ita blandissimis desideratissimisque promissis addidisse vires religionis, ad quas maxime etiam nunc caligat humanum genus, atque, ut hoc quoque successerit, miscuisse artes mathematicas, nullo non avido futura de sese sciendi atque ea e caelo verissime peti credente. ita possessis hominum sensibus triplici vinculo in tantum fastigii adolevit, ut hodieque etiam in magna parte gentium praevaleat et in oriente regum regibus imperet.

complicates identifying what *it* is. If *magica* were merely an empty artifice easily reducible to the nonsense of poison makers and other marginal peoples, then no further explanation of it would be necessary. But in highlighting the active and destructive nuances of *magica*, Pliny joins the ranks of those Greco-Roman writers who did not simply dismiss the marginal and illicit but instead stigmatized them by placing them at the periphery of a larger explanatory framework that served to establish the boundaries of normal and legitimate knowledge.²⁹ For Pliny, although *magica* is vain, there is something more to it: this vanity has persisted across time and space and threatens the moral and political order of the Roman Empire. It is a phenomenon that needs to be domesticated, legally and intellectually.

Pliny tells us that *magica* “alone has embraced the three other arts that possess most power over the human mind, reducing them into one.” Those commenting on this passage have often discussed what might constitute the precise content of these three arts (medicine, religion, mathematics) that were haplessly coopted by the *magicae vantitates*.³⁰ Less discussed is the fact that this account, as part of his introduction, also forms the outline of a theory. It is an analytic matrix that should be set alongside his geographical and temporal matrices.³¹ Pliny’s subject—whatever it ends up being—is not just composed of these three arts mentioned above, nor does it simply engulf them. It also *changes* them by reducing them into one (*in unam se redegit*). In this sense *magica* becomes something of a cultural alloy: a (con)fusion of different items that creates durability but also lessens the value of the whole. The movement of *magica* across these three arts is itself worth noting. Pliny informs us that *magica* was born (*natam*) from the practice of medicine and “crept” (*inrepsisse*) into the appearance of health (*salutari*). From medicine,

²⁹ Gordon, “Imagining Greek and Roman Magic,” 220-243.

³⁰ Graf, *Magic in the Ancient World*, 49-51.

³¹ Gordon, “Imagining Greek and Roman Magic,” 231.

magica adopted alluring language and, with the most “seductive and desirous promises” (*blandissimis desideratissimisque*), added (*addidisse*) to itself the “powers of religion” (*vires religionis*)—a fact, Pliny notes, that even now most humanity is unaware of, or darkened to (*caligat*). Finally, Pliny explains, in finding success (*successerit*), *magica* became mixed up (*miscuisse*) in mathematics (*artes mathematicas*). This progression of *magica* provides Pliny with a justification for identifying it as the most “fraudulent of arts”: whatever *magica* is or has become, it has worked through slink, dimly viewed annexation, and admixture to form a pervasive unity across time and space. Thus *magica*, as an agent, has built itself a certain cultural hegemony below the level of conscious civilization. This, I would argue, is fundamental to understanding Pliny’s text. For Pliny, medicine, religion, and astrology are not the only three specific and discrete categories that have fallen victim to *magica*’s machinations (even though elements of them persist throughout his history). Here Pliny argues that *magica*—whatever it is—is fundamentally parasitic and vampiric in its targeting and feeding on other cultural goods, its perpetual self-aggrandizement, and its migration and circulation.³² Pliny explains that this three-fold bond (*triplici vinculo*) reached prominence in his own day (*hodieque*) among many peoples (*in magna parte gentium*) due to the way in which it ensnared the human mind—not simply by creating ignorance, a darkening (*caligat*), but also by infecting (*infecto*) or alluring (*dulcedinem*) the whole Greek and Roman world, producing a madness (*rabiem*).

So far I have focused on the *what* of Pliny’s subject. It is also useful to highlight briefly *to whom* he might be referring: who were the presumed practitioners of such a duplicitous art? *Magicae vanitates* can translate equally well as “the nullities/deceptions of the *magi*/magicians.”

³² For example, one might cite Asclepiades’s use of the *magicae vanitates* in his medical practices to destroy all confidence in herbal remedies. Pliny says that Asclepiades’s practices reached a level of absurdity above even that of the *magi*. See below.

As mentioned in the last chapter, Latin uses of *magia* were drawn from two overlapping traditions: first, the *magi* as official priests of the Achaemenid Empire of the Classical Greek world; and second, the Hellenistic barbarian philosophers whose wisdom could be seen as an antecedent to Greek philosophy. Yet, more needs saying about the tradition of writing responsible for the latter, and the Hellenistic transformation of these Persian priests into barbarian philosophers.

Often called the Pseudo-Democritean tradition, this set of texts, surviving only in fragments, contains a number of fantastical instances from the natural and human worlds, often relating to healing and agricultural practices. These reports were taken most likely from the Peripatetic tradition and Greek geographical accounts of the east: the former enumerating already processed accounts of the practices of rooter-cutters and wise-folks (thus already shorn of their original cultural wrapping, e.g. criteria of collection and possible incantatory elements) and the latter containing strange tidbits from the ethnographic accounts of various exotic peoples (which, while perhaps indirectly related to genuine eastern materials, were nonetheless thoroughly filtered through a Greek cultural lens). The writers of these texts brought together these scattered examples under a particular understanding of “nature” (*physika*), which presumed nature not just as an enclosed system with its own regular rhythms and rules, but also offered their range of odd examples as an argument for an inherent power in the often rationalized and deterministic views of nature held by naturalist philosophical tradition.³³

³³ For earlier studies of this tradition see: Wellmann, “Die ΦΥΣΙΚΑ des Bolos Demokritos und der Magier Anaxilaos aus Larissa”; Festugière, *La révélation d'Hermès Trismégiste I*; Fraser, *Ptolemaic Alexandria*, especially volume 1, 434-444 on Alexandrian “pseudo-sciences” and volume 2, 636-645. For more recent treatments see: Beck, “Thus Spake not Zarathustra”; Gordon, “*Quaedam Veritatis Umbrae*,” 128-152, especially 134-139; Gordon, “Imagining Greek and Roman Magic,” 232-239; Dickie, “The Learned Magician and the Collection and

The *magi* were the putative authors of a subgroup of texts within this corpus, often referred to under the names of Zoroaster and Ostanes, and often through intermediary works attributed to Pythagoras and Democritus.³⁴ That none of these were genuine works is now generally taken for granted. Yet, in the final fifteen books of the *Natural History* Pliny prominently features the Hellenistic tradition and the remedies ascribed to and prescribed by the collective authority of the *magi*. But the contours of this group still remain vague. As expected, the *magi* are sometimes very closely associated with the Persian state, the king, and their priestly functions in this context.³⁵ However, Pliny shows that the *magi* can designate non-Persians. For example, in book 25, Pliny speaks of works by Pythagoras and Democritus that had been inspired by their travels to “the Magi of Persia, Arabia, Aethiopia, and Egypt.”³⁶ Here we not only see again the narrative of Pythagoras and Democritus traveling to the *magi*, but now there are distinct *magi* from four separate regions, Persia being but one among these. Further still,

Transmission of Magical Lore,” 163-193; Węcowski, “Pseudo-Democritus, or Bolos of Mendes (263).”

³⁴ As I noted in the last chapter, these two philosophers were part of a Hellenistic tradition that posited them travelling to the east to learn from the *magi* and then making these teachings part of their philosophy—a tradition that we will see is repeated in Pliny’s history.

³⁵ For instance, in book six Pliny sets forth the geography of Media and Parthia, commenting that “To the east of Laodicea is the fortress Phrasargis, occupied by the Magi, which contains the tomb of Cyrus; and another place belonging to the Magi is the town of Ecbatana which King Darius transferred to the mountains” (*NH* 6.116). Further in discussing both qualities of certain plants and stones, their uses, and where they are found, Pliny aligns the *magi* closely with Persia and their priestly duties. For instance “the Magi and the kings of Parthia employ this plant [Nytegreton] in their ceremonies when they make a vow to perform an undertaking” (*NH* 21.62). Further by means of the plant “aglaophotis” (which grows in Arabia near Persia) the *magi* can summon gods into their presence (*NH*. 24.160) and “theangelis” (which grows among other places in Persia) imparts to the same *magi* the powers of divination (*NH* 24.164). Finally, the *magi* and kings of Persia are in the habit of using a plant called “heliocallis” to anoint bodies (*NH* 24.165) and on Mount Acidane in Persian there is small, silver, and pleasant smelling stone called “atizoe” that the *magi* require at the consecration of a king (*NH* 37.147).

³⁶ *NH* 25.13: ... Pythagoras clarus sapientia primus volumen de effectu earum composuit, Apollini, Aesculapio et in totum dis immortalibus inventione et origine adsignata; composuit et Democritus, ambo peragratis Persidis, Arabiae, Aethiopiae, Aegypti Magis, adeoque ad haec attonita antiquitas fuit, ut adfirmaverit etiam incredibilia dictu.

Pliny extends this idea of specific, non-Persian *magi* outside of the East. In discussing mistletoe, he parenthetically comments that the term “Druids” was the name Gauls “call their *magos*.”³⁷ Here *magos* is not serving in the capacity of interpreting or translating some aspect of Gallic culture; it is not a gloss for Druids. Rather, *druidae* are a kind of *magi*: it is the native term for what the Gauls call their *magi*. There are for Pliny specifically Gallic *magi*.³⁸ It is *magi* in this more international sense that designates the “who” in Pliny’s history, with Persian *magi* serving as a baseline from which other non-Persian groups of *magi* emerge and can be presumably traced back to, even when their connection to Persia is uncertain and unlikely.³⁹

Temporalizing magica

Having looked closely at Pliny’s introduction and the issues at stake in articulating his historical subject, we can turn now to how he tracks his subject across space and time and coordinates it with other various historical moments in antiquity. For all that *magica* has dragged itself up from its humble origins and today appears larger than life, for Pliny, more precision can be had in pointing to its specific origins. In fact, if Pliny’s introduction opens with a rather

³⁷*NH* 16.249: Non est omittenda in hac re et Galliarum admiratio. nihil habent Druidae — ita suos appellant magos — visco et arbore, in qua gignatur, si modo sit robur, sacratius.

³⁸ In fact, since the earliest references to the Druids date to the first century BCE, the extension of this Hellenistic tradition to include the peoples of the western empire was probably fairly recent.

³⁹ Pliny’s harangue against the first century BCE Greek physician, Asclepiades of Bithynia in book 26.12-18 also deserves note. As Pliny records, Asclepiades was a rhetor who abandoned this field for medicine and through persuasion rather than careful, traditional medical skill managed, through “empty artifice,” (*artificio inani*) to sway “almost the entire human race to himself just as if he had arrived having been sent from heaven” (*universum prope humanum genus circumegit in se non alio modo quam si caelo demissus advenisset*). For Pliny, Asclepiades’s success was not owed primarily “to the many distressing and crude features of ancient medical care” (*multa in antiquorum cura nimis anxia et rudia*) but above all to the aid of the *magicae vanitates*, which for Pliny prevailed to such a degree that they ended up destroying all trust in the power of herbs. (cf. 29.6).

general rendering of the *magicae vanitates*, his final line of 30.1-2 focuses the reader's attention on where to begin: the east, namely Persia. As Pliny notes, while *magica* holds sway over a large part of humanity, it specifically rules over the kings of the east (*in oriente regum regibus imperet*).⁴⁰

Pliny's next sections (30.3-11) are by far the longest and most dense in his examination of the *magicae vanitates*. Sections 3-7 contain elements of a mythic prehistory, which begins with an origin account. Pliny tells us that no one doubts (*sine dubio*) that *magica* arose in Persia under Zoroaster, but controversy does exist among Greek historians over how many Zoroasters there were (*sed unus hic fuerit an postea et alius, non satis constat*).⁴¹ This debate seems to have revolved around precisely when Zoroaster was said to have lived and with what historical events his life could be synchronized in Greek history.⁴² For instance, Aristotle and Eudoxus, writing in the fourth century BCE, agreed that Zoroaster was born six thousand years before the birth of Plato. However, Hermippus, writing in the third century BCE, claims that Zoroaster lived five thousand years before the Trojan War (30.2-4). From Diogenes Laertius's third century CE preface to his philosopher biographies, we learn that at least one other historical moment could also be a candidate for situating Zoroaster in Greek history: Xerxes's march on Greece, which Xanthus of Lydia sets 6,000 years after Zoroaster (Diog. Laert. Pr. 2). A few lines later, Pliny tells us that "more attentive observers" (*diligentiores*) have posited a second Zoroaster

⁴⁰ As Garosi has pointed out there seems to be little doubt Pliny is referencing the Persian/Parthian state religion, "the dynasty of these regum reges being heirs of βασιλεύς βασιλέων of Greek texts that translates the Achaemenid titles," "Indagine sulla formazione del concetto di magia nella cultura romana," 20.

⁴¹ Of note here is that Pliny's initial presentation of Zoroaster does not attribute him a specific locale other than Persia nor is a status given. Cf. with later *diligentiores* in 30.8 that posit a Zoroaster from Proconnesus, or the tradition much more prominent in later writers (emerging perhaps from Ctesias, see Arnobius 1.52) that Zoroaster was a Bactrian King.

⁴² Feeney, *Caesar's Calendar* on synchronizing historical time, 7-67.

(*Zoroastren alium*), a native of Proconnesus, who lived around the time of Xerxes's march. Yet, despite Pliny's certainty that *magica* originated in Persia with Zoroaster, for us, his prehistory raises other questions. More than how many Zoroasters, if Zoroaster was the first *magus*, then what are we to make of Hermippus also naming Zoroaster's teacher, the otherwise unattested figure of Agonaces, and does this undermine Zoroaster's status as the progenitor of *magica*?⁴³ Furthermore, as several commentators have realized, Pliny also seems to have inadvertently smuggled into his account yet another name for Zoroaster: Zaratus, a Greek doublet for Zoroaster, whom he lists among the few whose names have been passed down as experts in *magica*.⁴⁴

In fact, these names in Pliny's source(s) cause him further problems in accounting for *magica* (30.5). If Pliny's sources demonstrate a clear origin of *magica* with Zoroaster as its founder, data on its continuation and transmission are limited. Pliny is initially surprised (*mirum hoc in primis*) to learn that *magica* has existed for so long without a clearly identifiable group of

⁴³ "... praeceptorem, a quo institutum diceret, tradidit Agonacen..." The lack of pronoun here makes uncertain the subject of *diceret*, i.e. who had been instructed by Agonaces? Zoroaster or Hermippus? To my mind the context makes a relation between Agonaces and Zoroaster the more likely reading. On Agonaces: De Jong calls this a "mysterious passage," *Traditions of the Magi*, 252-253. Different manuscripts have different variations of this name (see Ribichini, "'Fascino' dall' Oriente e prima lezione di magia," 106, n. 20). De Jong notes that there have been a number of scholars that have associated this name as a corruption of the Zoroastrian god Ahura Mazda. Plato's *Alcibiades I 1.122A* is the earliest occurrence of Ahura Mazda in Greek literature where Zoroaster is μαγείαν... τὴν Ζωροάστρου τοῦ Ὠρομάζου. Bidez and Cumont say of this passage that Zoroaster is the "fils spirituel ou disciple d'Ahura-Mazda," *Les Mages Hellénisés*, 12 n. 6, on Agonaces in Pliny, also see 22 n. 2. However, Apuleius, who cites *Alcibiades I* in his *Apologia* (26.2), simply refers to them as the *auctores* of magian practice with no hint of familial relation. De Jong has commented on the claim that Agonaces was a corruption Ahura Mazda: "It is difficult to see how such a corruption could have taken place. The name as transmitted has an Iranian ring to it and Pliny (or Hermippus) seems to refer to a teacher of Zoroaster. If this had been based on the formulation of Greater Alcibiades, it is likely that the name Ahura Mazda would have been preserved. If, however, this is an independent tradition, the name can derive from a variety of backgrounds, not even necessarily Iranian," *Ibid.*

⁴⁴ On the various names attributed to Zoroaster and the debate over the corresponding persons, see De Jong, *Traditions of the Magi*, 317-324 and Beck, "Thus Spake not Zarathustra," 521-539.

adepts to keep its memory and practice alive through continuous writing. Again, all Pliny has found are names—Aposorus and Zaratus of Media, Marmarus and Arabantiphocus of Babylonia, and Tarmoendas of Assyria—but names for which no other information or texts (*monumenta*) exist. Modern scholars are at as much of a loss as Pliny here, since other than Zaratus these names are not clearly attested elsewhere.⁴⁵ What sort of custodians were these? The most obvious answer might be that they were *magi*: hereditary priests of Persia, who claimed to be descendants of Zoroaster. But the sources also include references to two Babylonians and one Assyrian, raising the possibility that these are *magi* of later Hellenistic tradition.⁴⁶ Without further information, these options are all speculative. Whatever the case may be though, Pliny's surprise at the durability of this *memoriam artemque* over such a long period speaks to the spectral autonomy and mobility he attributes to *magica* in his opening sections: it has no continuous priesthood or scribal tradition, but somehow continues on and grows independently of these tangible means of transmission.

When Pliny turns to specifically Greek myth and prehistory (30.5-7), these also seem to lack good information on his subject, especially how *magica* managed to enter into the Greek world. He is especially surprised (*maxime tamen mirum est*) that the *Iliad* makes no mention of *magica* but the *Odyssey* is rife with such information: “the whole work consists of nothing else

⁴⁵ See Bidez and Cumont, *Mages*, 12 and Ribichini, “‘Fascino’ dall’ Oriente e prima lezioni di magia,” 106.

⁴⁶ Other observations/options: 1) Greek authors were interested to trace the succession of the Persian Magi in discussing Persian history. Xanthus of Lydia “reckons 6000 years from Zoroaster to the expedition of Xerxes, and after that event he places a long line of Magians in succession, bearing the names of Ostanas, Astrampsychos, Gobryas, and Pazatas, down to the conquest of Persia by Alexander” (Diog. Laert. Pr. 2). However, this account only gives names starting in the fifth century, leaving a large gap between Zoroaster to Xerxes. 2) If Zaratus the Median is a gloss for Zoroaster the Median, the originating *magus*, it might be reasonable to infer that Aposorus the Median, the name paired with Zaratus, was also a *magus*. 3) Finally, perhaps this data reflects not the act of priestly *custoditam* but rather the work of eastern scholars who, like Greek authors, took interest in this ethnic priesthood as an object of study.

(*totum opus non aliunde constet*) if indeed they [*magis?*] desire that Proteus and the song of the Sirens be understood not otherwise in his [Homer's] writings, and certainly this alone in Circe and the bringing up the dead by evocation." Pliny's conditional framing of the first part of this phrase (*siquidem*) and his more assured framing of the second (*utique...hoc solum*) betrays hermeneutic disparities in his assessment of this material. Pliny seems to know what he is looking for in terms of *magica*, and these episodes from Homer's *Odyssey* are, for him, obvious examples: shape-shifting Proteus, the seductive song of the Sirens, the power of Circe's words to turn Odysseus's men into pigs, and even Odysseus's consultation with the dead.⁴⁷ Yet Pliny's own testimony confirms that these items seemed to be understood otherwise in Homer's writings and are only evidence of *magica* if they were interpreted as such by the *magi*. In other words, these excerpts *could* be interpreted magically, but they could also be taken other ways.

Pliny also expects to find an account of how *magica* came to Telmessus, a most religious city (*religiosissimam urbam*),⁴⁸ and in later times how it then passed to the Thessalian women, a group Pliny sees as long associated with his subject. Pliny registers surprise that the Thessalian women became emblematic figures of *magica* given what he knows of Thessalians' aversion to

⁴⁷ Cf. 30.18, Pliny's anecdote on Apion: "Someone may ask what lies the old mages (*mentiti veteres Magi*) told, in view of the fact that when we were young we saw Apion, by trade a grammarian, proclaim that the herb dog-head (*cynocephalia*), which was called the "Osiris-herb" (*osiritis*) in Egypt, enabled divination (*divinam*) and was proof against all poisonings (*veneficia*), but that one died if one pulled it up whole. He also proclaimed that he had called forth ghosts (*evocasse umbras*) in order to ask Homer about the land of his birth and his parents. However, he did not dare to tell the reply he claimed to have received." For a discussion of Apion and Homer see Rives, "Apion περί μάγου and the Meaning of the Word μάγος," 121-134.

⁴⁸ Cicero notes in *De Div.* 1.91 that Telmessus is renowned for its cultivation of soothsayers. See Chapter 2 for a fuller discussion of this passage in Cicero. It is also worth noting that Cicero does not use the term *magia* in his designation but rather *haruspicum disciplina*, and the Telmessians serve as an example of *genera quaedam et nationes huic scientiae deditas*, i.e. to divination.

it.⁴⁹ For Pliny, it is indeed surprising (*miror equidem*) that a people under the charge of Achilles developed such a long-lasting reputation for *magica*—so much so that it became the subject of the playwright Menander’s comedy, *Thessala*, which featured the famed trick of these women to draw down the moon. Pliny also suspects that Orpheus (the healer) may have been responsible for carrying *magica*, which again, emerged from medicine, from his native Thrace to the Thesslians. But Pliny seems to know (somehow) that Thrace was free (*expers*) of *magica* at the time. Once again, the sources for *magica* in Greek myth and prehistory seem to sit uncomfortably with Pliny’s preconceived notions of *magica* and the evidence he expects to find in tracing the *magicae vanitates*, especially with respect to its transmission from the east to the Greek west.

It is only with Xerxes’s march on Greece (c. 480-79 BCE) that Pliny can adduce a concrete historical event that accounts for *magica*’s transmission from east to west, and in sections 8-11 he turns to events from Greek historical times. Pliny states here that Xerxes was accompanied by a certain *magus*, Ostanēs, who not only wrote the first treatises on this subject, notable insofar as Pliny has told us that such custodianship was rare, but also spread this art among Greeks (30.8).⁵⁰ To these, Pliny uses the language of infection (*infecto*) and madness (*rabiem*) to describe Ostanēs’s activities, and these are conterminous with the movement of Persian imperial power, and the effects of his scattering “the seeds of this monstrous art” (*semina artis portentosae*).

⁴⁹ Pliny’s connecting the Thessalian women to the *magicae vanitates* speaks to broader issues of how discourses of the marvelous, the strange, and otherness were gendered in antiquity. See my discussion in Chapter 4.

⁵⁰ Ostanēs is, next to Zoroaster, probably the most famous *magus* of antiquity. On the identity and figure of Ostanēs see Bidez and Cumont, *Les Mages Hellénisés*, 168-212 and Beck, “Thus Spake not Zarathustra,” 553-564.

Pliny uses Xerxes's march to explain the movement of *magica* into the Greek world, but he complicates matters in the very next section by invoking the Hellenistic philosophers travel theme (30.9). Ostanes may have raised the fervor for *magica* to a fevered pitch, but Pythagoras, Empedocles, Democritus, and Plato were perhaps more tempered in their acquisition of these arts, possessing simply an "eagerness for this knowledge" (*aviditatem scientiae eius*) rather than the more general madness spread by Ostanes among the Greek people (*Graecorum populos*). Pliny notes that in antiquity "the highest point of celebrity and of literary renown" was sought from this knowledge. These philosophers "crossed the sea in order to learn this [*magica*]" and returned to teach it, holding it as one of their great mysteries (*hanc in arcanis habuere*). It is important to note that Pliny plays on this Hellenistic travel theme, casting it as an exile rather than a mere journey (*ad hanc discendam navigavere exiliis verius quam peregrinationibus susceptis*). In fact, a key part of Pliny's history and its overall polemic is that he does not engage in the fetishization of his Hellenistic sources; instead he turns their romantic, exotic, and—for him—spurious imaginings against their stated purpose. He takes the zeal with which his Hellenistic sources sought the origin and nature of eastern teaching as a fount of pristine wisdom, antecedent to Greek wisdom (*presbyteron kreitton*), and uses this instead as evidence for *magica*'s pernicious and empty nature invading the Greco-Roman world from outside.⁵¹

Homing in specifically on Democritus, Pliny notes how extraordinary it is that this otherwise respectable philosopher was a purveyor of magical books. Pliny relates a story of how,

⁵¹ For example, Pliny says of Eudoxus (and Aristotle): "He desired that this art [*magica*] be understood as the most distinguished and useful among philosophical sects (*inter sapientiae sectas clarissimam utilissimamque eam intellegi voluit*). Or of Hermippus, Pliny says: "He wrote about the whole art in a very careful way" (*de tota ea arte diligentissime scripsit*). That these authors were probably not discussing *magica* as conceived by Pliny is discussed in the next section. Of course not all Greek writers (or even just philosophers) fetishized the east: e.g. Heraclitus, who first mentions the *magi* (see my discussion of his passage in Chapter 2).

in order to expound the works of Apollobex of Coptos and Dardanus the Phoenician (also obscure but not unknown names), Democritus went grave-robbing, entering the latter's tomb to obtain his works and thereafter basing his own work on them.⁵² Pliny's incredulity reaches a climax when he proclaims the most surprising thing of all (*in vita mirandum est*) is that these works of Democritus were accepted by anyone at all and even passed on to others. Pliny notes that some have attempted to distance Democritus from these texts by claiming he did not author them, but he is unconvinced.⁵³ Yet another surprising matter (*plenumque miraculi et hoc*) for Pliny is that Democritus's texts flourished at the same time as Hippocrates's medicinal practices became prominent. Pliny tells us that this parallel occurred during the time of the Peloponnesian war—and here Rome enters the picture for the first time. He synchronizes Rome into his history, explaining that the activities of Democritus and Hippocrates and the Peloponnesian war occurred in “the three hundredth year of our city” (3.10).⁵⁴

At this point *magica* seems to start popping up everywhere, even when a clear, linear derivation from Persia is obscure (3.11). Pliny mentions different factions such as the Jews (*alia magices factio*), who had Moses, Jannes, and Lotapea—names that attest to Jewish “magic” but also indicate an Egyptian influence.⁵⁵ Pliny notes that Jewish factions emerged many centuries after Zoroaster lived (but which one?), but in more recent times a branch emerged in Cyprus.

⁵² On these names see Ogden, *Witchcraft, and Ghosts in the Greek and Roman Worlds*, 44-45 and Ribichini, “‘Fascino’ dall’ Oriente e prima lezioni di magia,” 108. Apollobex and Dardanus are also mentioned together in Apuleius's *Apologia* 90 along with two other pairs: Carmendas and Damigeron, and Moses and Jannes.

⁵³ On matters of Democritean authorship, attribution, and forgery see Gordon, “*Quaedam Veritatis Umbrae*,” 134-135.

⁵⁴ Cf. *NH* 29.4ff: Hippocrates, and Pliny's history of the art of medicine.

⁵⁵ Some of the key sources for this tradition are *2 Timothy* 3.8, Apuleius's *Apologia* 90, and Eusebius's *Praeparatio Evangelica* 9.8. For a fairly extensive rundown of these and related traditions see Albert Pietersma, *The Apocryphon of Jannes and Jambres the Magicians*, especially Chapter 3, 24-35. See also Ribichini, “‘Fascino’ dall’ Oriente e prima lezioni di magia,” 106.

Here Pliny tries to hold on to his fragmenting data. He ends this portion by commenting that just as Ostanes accompanied Xerxes, so a second Ostanes (*secundus Osthanes*) accompanied Alexander the Great on his conquests. The doubling here, as with the two Zoroasters, may point to a broader debate among those Greek authors who wrote on such matters, but, at the very least, it signals Pliny's or his sources' attempt to rationalize and harmonize gaps and tensions through such parallelisms: just as the Persian general offered a causal and material mechanism for the spread of *magica* from east to west, so does the Macedonian general for the rest of the world.

In sections 12-18, Pliny takes up his history in Italy and the western provinces, continuing into Roman times. His specific turn to Italy requires an excursus (30.12). Pliny does not tell us how *magica* arrived in Italy; he simply notes: "Among the existing tribes in Italy there remain vestiges of this [*magica*] in our Twelve Tables and in other evidences, which I set forth in a prior volume" (*Extant certe et apud Italas gentes vestigia eius in XII tabulis nostris aliisque argumentis, quae priore volumine exposui*). Most scholars have read "in a prior volume" as Pliny deferring to his discussion at the beginning of book 28 on the effectiveness of words (28.10-21ff), due to Pliny's reference to the statutes in the Twelve Tables restricting certain uses of words in songs at 28.17—"those who sing away (*excantassit*) crops" and "those who incant an evil song" (*malum carmen incantassit*). For scholars working to elaborate a Roman concept of magic, this passage from book 28 has offered a useful supplement, helping to establish what Garosi called a "mentalità magica" for Rome. By "mentalità magica," Garosi means an underlying reality of a "magical" way of thinking, "a type of logic" (*un tipo di logica*), or "the common denominator (*il denominatore commune*) for various practices and types of behavior," which operated at an unconscious level of Roman culture. In fact, she distinguishes the "practice of magic" from a "magical mentality" insofar as the latter was "perpetuated in traditional cultural

forms and trivial forms, popularized in every social stratum” but lacked the “technicalization” of the former. The difference between magic as a mentality versus as a technical exercise is, for Garosi, precisely the difference between Pliny’s discussion in books 28 and 30: the former is autochthonous and not of itself objectionable, while the later is a rationalizing scheme that denies the Romanness of certain practices, grounding them elsewhere in a foreign source. Yet, establishing a magical mentality at Rome identifies a reality that framed Roman life without the Romans being aware of it. As I argued in the last chapter, this move has allowed scholars, including Garosi, to embrace arguments against anachronistic modern definitions of magic at play in ancient studies, but it has also let them continue to speak of the Romans as having their own idea of something like that which modern scholars identify as magic, although prior to the pejorative and xenophobic associations of the latter, operating beneath a conscious level of engagement.⁵⁶

While language and institutions do operate over and above the explicit cognizance of individuals in a given society, such implicit matters are neither uniform nor pervasive but contested in differently performed social practices. Each is a part of the social field, discursively represented as the whole; each is merely a particular claimant to a pervasive and universal status. Before assuming any ubiquitous backdrop mentality, one must get clear on the categories that are being explicitly thematized in a particular source that might be evidence for this. First, Pliny’s discussion in book 28 is neither framed by *magica* nor does any version of that word appear in these chapters. Pliny’s manifest discussion is on whether or not human utterances of words have power (*polleantne aliquid verba et incantamenta carminum*). Second, Pliny references the examples of the “magic-like” chanting away of crops from the Twelve Tables in order to

⁵⁶ Garosi, “Indagine sulla formazione del concetto di magia nella cultura romana,” 41-42.

enumerate this theme along with many other examples mostly drawn from Roman sacrificial practice and, later, popular practices. These include a set of Roman historical events in which the timely and proper enunciation of prayers and utterances was of utmost importance for certain rituals (28.11). When Pliny discusses these rituals, he offers little distinction between what we might call “magic” as an improper or unauthorized set of practices and “religion” as proper, established, or traditional behavior toward the gods. His references to the *devotiones* of the Decii, the utterances of the *quindecimviri* in burying (alive) war captives (28.12), the calling down (*devocare*) of Jupiter by King Tullus Hostilius (a ritual the king found in the books of Numa) (28.14),⁵⁷ the rite of *evocatio*, or the singing away of crops (28.19-20), are simply examples from the history of Roman ritual practice where the proper recitation of words mattered at a crucial juncture. If some underlying mentality is at work here, there is nothing particularly “magical” about it; rather, it is indistinguishable from the general mentality of cult that animated Roman ritual practice.

Further, Pliny’s passage on the effectiveness of words in book 28 is part of a larger attempt to elaborate remedies that derive from humans for the aid of humans (28.4-9). But for Pliny, this general topic needs initial qualification. He makes clear in the opening chapters of book 28, before turning to the effectiveness of words, that he will refrain from discussing certain horrible acts such as drinking human blood and consuming parts of the human body. Pliny considers such remedies revolting and ineffective, and he condemns them with the same harsh rhetoric he has reserved for discussing the *magicae vanitates*.⁵⁸ Yet, the point here is that this

⁵⁷ Interestingly, he was struck down not because it was illicit, but rather he performed the rite incorrectly: *quoniam parum rite quaedam fecisset, fulmine ictum* (NH 28.14).

⁵⁸ In fact, Pliny invokes Ostanus in this denunciation. See NH 28.5-6: Pliny’s denunciations could very well have framed his considerations in book 30, especially his shift toward human sacrifice in the latter part of his history (as we will see). For editorial issues pertaining to the

contemptuous tone is dispensed with by the time Pliny commences his discussion on the effectiveness of words. Whether or not words have power is the first example he turns to in highlighting those potentially *positive* remedies derived from humans, not those horrid practices of which he refuses to write. In one sense then, rather than his turn to Italy gesturing back to book 28, Pliny defers a fuller treatment of human sacrifice in book 28 until 30.12.

Yet, the question remains: if 28.17 is not really about the *magicae vanitates*, then what does Pliny refer back to when he turns to Italy in 30.12? Or, in other words, how do we read *vestigia*? To my mind, scholars have placed too much emphasis on the first part of Pliny's transitional phrase (i.e. *vestigia eius in XII tabulis nostris*) in his turn to Italy in book 30 and not enough on the latter part (i.e. *vestigia ... aliis argumentis*). I agree that Pliny's reference is indeed to book 28, but why have scholars privileged only his references to the Twelve Tables? What about the "other evidences"? Pliny has already alerted us to the fact that *magica* can infect and disfigure other more reputable disciplines. In principle then, this could perhaps include the effective use of words in ritual settings.⁵⁹ We have already seen that Pliny interpreted several moments from Homer (the Sirens) and the tricks of the Thessalian women, both dependent on language, as magical. Of the instances in book 28 and 30, we might ask: what is the substantive difference between Thessalian women calling down the moon (*detrahentium lunam*) and King Tullus Hostilius using Numa's ritual to call down (*devocare*) Jupiter? What is the difference between incanting away (*excantassit*) crops versus the Pontiffs' evoking away (*evocatio*) an enemy god or goddess during war? Or finally, what is the difference between *devotiones* of the

arrangement of material in books 28-30, see the relevant commentary by Capitani, Umberto and Ivan Garofolo in Conte, *Plinio: Storia naturale: IV, Medicina e farmacologia, Libir 28-32*.

⁵⁹ In fact, in Greek and Roman discussions of rhetoric such as those found in Gorgias or Quintillian, the seductive yet empty language of *magi* could be a topic in its own right, set against other forms of more substantive and persuasive speech.

Decii, and the handful of examples in Roman history of sacrificing pairs of Greeks and Gauls in the midst of war,⁶⁰ versus those practices of human sacrifice banned in 97 BCE by the senate (30.12), or the practices of the Druids in the early Principate (30.13), or that activity most agreeable to Nero's excitement for *magica* (30. 16, *homines immolare ... gratissimum*)? On Pliny's logic there was minimal formal difference. But the nature of the vanity of the "magian arts" is that it needles its way from outside into legitimate and traditional civic forms of state sacrifice and corrupts and deforms these to its own uses, in the latter case confounding the practice of animal sacrifice, the centerpiece of ancient civic worship.

Returning to book 30, at a literary level and in noting that there were *vestigia* of *magica* in the Twelve Tables then registering the date of the senate's banning of human sacrifice, Pliny gestures to the central place of Rome in the remainder of his account: namely, its concerted attempt to abolish such practices. *Magica* might have run rampant on the Greeks' watch, but with the advent of Rome it would be subject to repression and expulsion. While thus far Pliny has rendered the precise content of *magica* somewhat vaguely, from here on, human sacrifice becomes a favored example of the *magicae vanitates*. He offers human sacrifice as an extreme case and its suppression an ideal resolution to an ongoing problem. Pliny frames his turn to the West with Rome's continued efforts to suppress human sacrifice at home and in the provinces; these become events in his history. He tells us that in 97 BCE the senate banned human sacrifice, which had been widely practiced until this time. Pliny notes that in more recent times, Tiberius Caesar had repressed this practice among the Druids in the Gallic provinces: he destroyed "this kind of soothsayer and medical practitioner" (*sustulit... hoc genus vatium medicorumque*) (30.13). The Druids had not always been associated with human sacrifice, but, with Rome's ongoing

⁶⁰ For a telling discussion of the three famous instances of this kind of rite and its relationship to *NH* 30.12 see North, John, "Disguising Change in the First Century," 58-84, especially 61-63.

quest to tame the western Mediterranean, the standard stereotype of human sacrifice often attributable to (northern) barbarians proved a useful tool to stigmatize this traditional Gallic priesthood as un-Roman, or better, anti-Roman. Pliny's alignment of Druidic religion with human sacrifice—and thus with *magica*—further orients these in a long historical tradition of destructive practices that trace back to the barbaric practices of Persia, which the Greeks first attempted to manage. This unfinished task now passed to the Romans.⁶¹

The final stop in Pliny's historical trajectory is Britain, which constitutes the other end of the world from Persia (30.13). Pliny admits that in the present times (*hodie*), *magica* had crossed the ocean into the empty space of nature (*ad naturae inane*) and that the Britons had become enamored with this art. Here Pliny's linear, temporal history comes full circle as it were, and the origin of *magica*, which he dealt with in the opening chapters, takes on a final layer of complexity. Britain has adopted *magica* with such zeal *ut dedisse Persis videri possit*. Do we take *Persis* here as an ablative or dative? As either “that it seems to have been given *to* the Persians” or “that it seems to have been given *from* the Persians” The latter interpretation lines up with Pliny's wish to connect a Persian origin to all manner of dispersed and disparate practices—Britain would then be the capstone in his, at this point desperate, attempt to trace a linear history of the *magicae vanitates*. However, the former interpretation rhetorically amplifies the intensity with which the Britons have taken up the *magicae vanitates* while simultaneously complicating Pliny's whole attempt to ground the origins of the *magicae vanitates* in Persia.⁶² At

⁶¹ For discussions of the Druids in the context of Roman imperialism see Webster, Jane. “At the End of the World,” 1-20. Also see, Woolf, Greg, *Becoming Roman*, 206-237.

⁶² Recent commentaries have tended to agree with this interpretation. Ogden: “The Britain of today performs the rites of magic in manic fashion and with such elaborate ceremonies that you would think it was they who had given magic to the Persians,” *Magic, Witchcraft, and Ghosts in the Greek and Roman Worlds*, 32; Loeb: “Even today Britain practices magic in awe, with such grand ritual that it might seem that she gave it to the Persians,” translated by W.H.S. Jones in

the end of this trek (and at the edge of the world), *magica* resists the fact that seemed to ground its fragmented, disjointed history—a Persian origin—as reflected in Pliny’s statement that “so much those who practice *magica* in the whole world agree yet are at discord and unknown to each other” (*adeo ista toto mundo consensere, quamquam discordi et sibi ignoto*). In either case, Pliny gestures toward *magica* reenergized in its exile on the western edge of the civilized world, thriving as it did at its origins, but perhaps even more amplified (*adtonita*) in the present. However, the takeaway here, for Pliny, is the greater service of Rome to humanity in ridding the civilized world of *magica*: “It is not able to be valued enough how much is owed to the Romans, who destroyed the monstrosities, in which it was a most religious (*religiosissimum*) act to slay a man, and considered most healthy (*saluberrimum*) to eat his flesh.”

The concluding sections of Pliny’s history (14-18) return us to the center, Rome itself, and take up Nero’s failed experiment with *magica*. These sections deal explicitly with recent events while also implicitly questioning the effectiveness of Rome’s exiling of *magica* to the edges of the civilized world. Pliny opens Section 14 with a direct comparison of Nero to the *magus* Osthanes, adding certain kinds of divination and necromancy to the list of practices contained by *magica*: “As Osthanes said, there are several forms of this [*magica*]. He professes to divine from water, globes, air, stars, lamps, basins, axes, and many other methods. Further, to converse with ghosts and those in the underworld. All of these, in our generation, the emperor Nero discovered to be lies and frauds.”⁶³ Pliny also tells us that Nero also relished (*gratissimum*)

Pliny, *Natural History*, Volume VIII: Books 28-32, Loeb Classical Library 418, 286 ; Capitani and Garofolo: “Britain still stunned celebrates the magic ceremonies such that you would think that she gave it to the Persians” (*La Britannia ancor oggi celebra attonita la magia cerimonie tali che si potrebbe pensare che lei le diede ai Persiani*), in *Plinio: Storia naturale. IV. Medicina e farmacologia. Libir 28-32*, 404-405.

⁶³ These forms of divination, which Pliny attributes to Osthanes, resonate noticeably with a fragment Servius attributes to Varro: “Varro mentioned four kinds of divination: earth, sky,

sacrificing humans (cf. NH 28.5-6). Nero's ultimate rejection of *magica* came about from a hands-on trial and error approach that resulted in a body count. Nero also brought in a tutor, Tiridates of Armenia, to help him cultivate his corrupt and violent desires.

The coming of Tiridates to Rome is a verifiable historical occurrence in Roman history. Other Roman historians mention it and provide details of his visit to Rome and of Roman relations with Armenia, a territory often contested with Parthia. For Tacitus, Suetonius, and Cassius Dio, Tiridates was the aspiring king of Armenia, a subordinate of Rome, who appeared before Nero in order to have his rule legitimated by the head of the Roman state.⁶⁴ Pliny saw things otherwise. He is the only author who calls Tiridates a *magus* and sees his coronation as a pretense. Pliny argues that the power dynamic was in reality one of teacher to student. Under the guise of solidifying a political alliance between Rome and a subjected nation, a foreign teacher and *magus*, Tiridates, comes to Rome, the heart of civilization, to initiate as a student the emperor, the symbolic paragon of Roman power in those very practices supposed to have been pushed to the margins of the civilized world. In Nero and Tiridates, Pliny can collapse into a single episode the claims concerning *magica* he has made throughout his history, thus not only distilling and clarifying by exemplar a number of themes, but also leaving his reader unsettled on

water, fire—earth diviners, air diviners, water diviners, and fire diviners” (*Varro autem quattuor genera divinationum dicit: terram, aerem, aquam, ignem: geomantis, aeromantis, pyromantis, hydromantis*), Serv. *Aen.* 3.359. In its current place in Burkhart Cardauns standard collection of fragments this passage is part of the appendix to book three (*De auguribus*) of Varro's *Divine Antiquities*. Again, as with Cicero's mention of Telmessus these practices are not framed by the signifier *magia*. (See my discussion hydromancy in Chapter 2).

⁶⁴ Suetonius, *Nero* 13: focuses briefly on the pomp of Tiridates coming to Rome and its positive public relations for Nero. Suetonius mentions in 34.4 that Nero had *magi* perform rites but does not mention Tiridates; Tacitus, *Ann.* 15.29 and in general book 15: Tacitus gives a great deal more detail on the circumstances and negotiations leading up to Tiridates's coming and in general Roman, Armenia, and Parthian relations. Tacitus comes closest to calling Tiridates a *magus* when tells us that he was detained *sacerdotii religione* (15.24); Dio Cassius *Epitome* 62.23 gives similar details to Tacitus.

the status of this art. On the one hand, Nero represents the inversion of the good emperor who was responsible for the well being of Rome and for ensuring favor with the gods. The emperor was supposed to be the model of proper sacrifice, yet here we see him engaged in foreign and destructive rites. Tiridates was an example of not only *magica*'s vain nature but also its mobile, covert, and deceptive nature. Rather than exiled to the margins of the world, *magica* again came from the east to Rome in the appearance of an official political envoy—a would-be king traveling to the center of imperial power, armed with latent and nefarious purposes rather than simple diplomacy. For Pliny, despite Rome's best efforts, the margins continue to plot against the center, barbarism still conspires against civilization, and *magica* signifies these dangers in all of their unsuspected guises. To this point I will return in the final section.

Whose history of *magia*?

In the introduction I briefly outlined two ways Pliny's history has been read in the context of ancient magic. The first looks past Pliny to his sources from earlier periods. The second seeks to understand the ideological work of Pliny's text in the historical moment of its production. I want to focus on the most important recent interpretation of Pliny's history that essentially takes the first position so I can highlight Pliny's innovation to the semantic range of *magia* and lay the groundwork for understanding this text outside a substantive view of magic. I refer here to Richard Gordon's assessment of Pliny's history in his overall account of "imagining magic" in the Greek and Roman worlds.⁶⁵

⁶⁵ For my discussion of Gordon I draw both from his earlier article "Aelian's Peony," 74-80 as well from his later discussion in "Imagining Greek and Roman Magic," 229-239. See above for citations. Also, in this section I start to use "magic" rather than *magica*. This reflects Gordon's language not mine.

Gordon's account of ancient magic argues for prioritizing the Hellenistic value of Pliny's history over its Roman imperial value. In Gordon's view, Pliny is not a culmination of a strong view of magic, as he was in, say, Garosi, but his sources gesture backwards toward such a moment. For Gordon, a strong view of magic developed in the Hellenistic period, for which a key piece of evidence is the first part of Pliny's history (30.1-11). It is the only remaining account of a narrative that was likely Hellenistic in its provenance. Yet, Gordon claims that Pliny contributes little to this source material, simply extending the narrative to Roman times and adding some local and contemporary color. To be sure, Gordon's account is laudable both because he takes the historiographic dimension of this text seriously and makes it an integral part of his developmental account of magic in antiquity. However, Gordon is less interested in the possible significance of this Hellenistic paradigm as rendered in a first century CE Roman context: why would Pliny employ such a framework? To what ends? What cultural work does extending and synchronizing a Hellenistic paradigm into a Roman imperial context accomplish?

Gordon is not alone in his assessment of Pliny's text. The early twentieth century saw several detailed, if overambitious, philological studies that attempted to isolate the no-longer-extant source(s) on which Pliny drew. Most presumed that Pliny was using a prior historical template, an earlier account of magic in his own discussion. These studies attributed such a template variously to Anaxilaus of Larissa from the time of Augustus; the early imperial writer Apion and his lost work, *Peri Magou*; sometimes Varro's *Divine Antiquities* (which was thought to discuss matters of divination and superstition, drawing on Posidonius's also lost work on divination); and even some non-specified work of Nigidius Figulus.⁶⁶ To be sure, Pliny did draw

⁶⁶ Further, through rather uncertain Quellenkritik that dealt in and made much of sparse fragments and testimonies, such studies attempted to establish some line of transmission from even earlier authors like Hermippus of Smyrna's lost *Peri Magōn* (c. 3rd century BCE) to the

on works from these authors as is indicated in the preface to the *Natural History* when listing the *auctores* for book 30. Yet, it is harder to isolate, short of Pliny telling us, where, when, and what work he employed by a certain author. Despite the value of these earlier studies, their focus on origins and philological source hunting divided Pliny's text schematically, privileging the earlier part (1-11) as depending on a single Stemma and sectioning off the later sections (12-18) as a mere appendix (Anhang) based on different unrelated sources.⁶⁷ The result is that few scholars considered the overall contemporary value of Pliny's history, nor the reasons why he would want to extend this account or even the interpretative commitments that entitled him to do so. To be sure, Gordon's assessment of the evidence avoids some of the overreaching of past studies, and, given the state of the evidence, he rightly determines that precision on such matters is unlikely. Nonetheless, he concludes plausibly that the gist of Pliny's history likely derives from Hermippus of Smyrna's *Peri Magōn*, written in the early third century BCE with the aid of the Persian histories produced after Alexander's conquest of the Persian Empire.

Gordon is likely correct. There is little doubt that Pliny is working with prior sources and literary templates here, as he does in much of the *Natural History*. But I would caution against emphasizing merely the Hellenistic value of Pliny's history. First, as a rule of evidence, if Pliny is our only source for such a narrative, then the weight Gordon puts on this text in his account of

works of Bolos of Mendes (c. 2nd century BCE) to the figures above with variously suggested "switching sources" (Vermittlungsquellen) in between such as Sextius Niger and Xenocrates of Aphrodisias that completed the line to Pliny. In general, for late 19th and early 20th century authors there was a tendency to see Pliny's *Natural History* as depending heavily on a single author, see Gaillard-Seux, "Sympathie et antipathie dans l'Histoire Naturelle de Pline l'Ancien," 122, n. 71. In reference to the Quellenforschung on Pliny's history in book 30, some notable suggestions were in Münzer, *Beiträge zur Quellenkritik der Naturgeschichte des Plinius*, 130; Geffcken, "Die Hirten auf dem Felde," 321-351, especially 347ff; Wellmann, "Die ΦΥΣΙΚΑ des Bolos Demokritos und der Magier Anaxilaos aus Larissa," 62ff; Messina, *Der Ursprung der Magier und die zarathuŝtrische Religion*.

⁶⁷ Here I am using specifically Wellmann's terminology.

ancient magic seems unjustified without further corroboration. While Gordon (rightly) avoids a straightforward historical narrative of magic, he does outline a progression of magic's gradual disembedding in antiquity: the process begins in the archaic Greek period when items later known as magical simply co-existed alongside other representations; magic then moved into the classical world of the city state, which moralized previously situated practices as licit and illicit; and the process culminated in the "strong view of magic" of the Hellenistic period. Gordon ascribes a strong view of magic to two overlapping developments: first, the development of a "natural magic" attributable to Pseudo-Democritean tradition (specifically Bolos of Mendes); and second, and more importantly, the articulation of magic as the object of a historical narrative as evidenced in Pliny. Gordon sees this historical account as a reworked version of an older idea in Greek culture that magic originated from Persia, where during the Greek and Persian wars, Persian religion was a "proper metaphor" for bad religious practice. By the Hellenistic period, Gordon argues, "a process of catachresis" rendered *magos* the basis of a historical account of magic, in which ideological features outlined above in Pliny's text—abstraction, amalgamation, and recontextualization—could function.⁶⁸ For Gordon, Pliny's history is the sole source for this step, stating: "[w]e will not go far wrong in seeing this (pseudo-) historical scheme as the key step in the formation of a strong view of magic in antiquity."⁶⁹

I do not doubt that there were Greek histories of the priestly *magi* and their ritual practices, or that some posited Zoroaster as their founder. As shown above, by Pliny's time Zoroaster was already seen as the first in a lineage of ethnic Persian priests called the *magi*, whose distinctive ritual practices and cosmology Greek authors had found intriguing for some time. However, I do doubt that a full historical account for *magia* as a discrete object existed

⁶⁸ Gordon, "Aelian's peony," 79.

⁶⁹ Gordon, "Imagining Greek and Roman Magic," 230.

prior to Pliny and that, prior to Pliny, *mageia/magia* operated as a general framework that subsumed such a wide array of cultural practices. Regarding my first doubt, there are four authors who might be considered candidates for writing a history of *magica* or alluding to such history prior to Pliny (Nigidius Figulus, Apion, Hermippus, and Pompeius Trogus). But none of these clearly attest to an origin and history of the insidious *ars* of which Pliny speaks.⁷⁰

Regarding my second doubt, even if Gordon is correct about “Persian magic,” an etiology does not make a history. Conceding for the moment that a process of catachresis or metonymy had, by the Hellenistic period, broken *mageia/magia* out of its classical Greek semantic constellation and rendered it as a technical umbrella term, I am not convinced that *magia* was the subject of its own history. The fragmentary remains of Hellenistic writings composed by pseudepigraphic writers and those who used their work offer no direct evidence that *mageia* in fact provided a general theoretical framework in which the ethnic priests of Persia (and other figures) fit together

⁷⁰ The first two, the late republican intellectual Nigidius Figulus and Greek grammarian Apion, have been tapped as likely candidates for writing about magic. To the former, given what we know of him and his writings from the small number of extant fragments, his interests seem to have resonated with Hellenistic pseudepigraphic writing and thus perhaps the *magi*. But only on an a priori notion of “magic” could one frame this evidence as a precursor to Pliny, e.g. Beard, North, and Price, *Religions of Rome*, 155. Also see my discussion of Nigidius in Chapter 5. To the latter, there is a late *testimonium* from the Suda (a 10th century CE Byzantine encyclopedia) that Apion composed a text titled *Peri magou* (“On the magician”), but this title is basically all we have from this lost text. It’s possible this is referring to the general term for a prestidigitator or charlatan, which had been a common use since the 5th century BCE. See Rives, “Apion περί μάγου and the Meaning of the Word μάγος.” As to Hermippus and Justin, both seem more interested in the Persian *magi* rather than magicians. To Hermippus, Diogenes (1.8) mentions he wrote *Peri magōn* (“On the Magi”) and discussed the *magi*’s dualistic cosmology. But over and above his clear expertise on Zoroaster (also mentioned in Arnobius 1.52), the precise contents of this text are unclear (see Rives supra). Justin’s epitome (c. 2nd century CE) of Pompeius Trogus’s first century BCE *Historiae Philippicae* offers potential evidence of an etiology of *magica* when he recounts that Zoroaster (king of Bactria) invented (*invenisse*) the *artes magicas* (1.1.9). This account is a passing comment though in the story Ninus the Assyrian king, which forms the prehistory to larger Greek and Roman world history. Further, the way *magia* appears in what Justin preserved of Trogus’s work indicates that he focused by and large on the ethnic priests of Persia, the magian arts. See Rives, “*Magus* and its Cognates in Classical Latin,” 54, 65-66.

with the powers attributed to nature, much less the “mass of disparate materials, some drawn from the religious traditions of complex civilizations in the Fertile Crescent, some from local practices encountered by the Greeks in Asia Minor, and some relating simply to traditional Greek marginal religion.”⁷¹ Some of these had lingered in the Greek imagination for centuries and some had entered the Greek imagination after Alexander’s conquests, but it seems likely that the texts issuing from Hellenistic nature discourse were intended mostly as scientific or medical interventions. In his commentary on *NH* 30.7-11, Felix Jacoby has argued that this passage was not a fragment of larger text but rather a summary of different Pseudo-Democritean sources blended together.⁷² I see no reason not to extend this reasoning to the whole of Pliny’s history, which highlights Pliny’s innovation to the tradition. I argue that very likely Pliny was the first to frame this body of material with *magia* (*magicae vanitates*). Or, more provisionally, his text is the first clear evidence for *magia* as such an expansive category and as a discrete topic of a history: Pliny changed the received patterns of Hellenistic classifications, amplified the polemic by significantly expanding the semantic range of *magica*, and exerted a considerable influence over the selection of sources and sequencing of his account. When Pliny says of Hermippus in 30.4, “he wrote most diligently about this whole art (i.e. *magica*),” Pliny is reinterpreting him rather drawing on Hermippus’s own classifications.

In the last chapter, I introduced James Rives’s observations on the distribution of the noun and adjective of *magia* and the differences in the range of their meanings. Rives argues further that this pattern begins to break down in the first century CE, resulting in a gradual semantic convergence of the flexible and wide ranging adjective *magicus* with the more stable

⁷¹ Gordon, “Imagining Greek and Roman Magic,” 230.

⁷² Jacoby, Felix. “(Pseudo-)Demokritos von Abdera (263).”

ethnic valences of *magus*. In the century or so that separated Cicero's use of *magia* (50s and 40s BCE) and Pliny's history of the *magicae vanitates* (c. 70 CE), *magia* appears inflected in various ways in different kinds of Latin writing. Much like in early Greek sources, *magia* is often enumerated with a set of familiar terms (e.g. *venefici* or *Thessala*) in lists and pairs, and in different contexts referring to marginal and suspicious figures, forming a decidedly Latin semantic constellation of alterity. *Magus* could continue to refer to Persian priests, but in keeping with 5th century Greek usage, the term *magia* also frequently appeared as part of a general polemic, without specific reference to Persians. However, in contrast to past Greek usage, *magia* begins to take on a much more explicit and determinate set of conceptual baggage in the first century CE. If Cicero used *magia* to refer incidentally to other more thematized issues, then those after him began to thematize *magia* more substantively. We find hints of this in Lucan's *Bellum Civile*, in which the *magi* of Persia (*Babylon Persea*) and Egypt (*secreta Memphis*) compete with the Thessalian women and the arch-witch Erichtho: even though these eastern peoples "unlock every sanctum of their ancient magi" the murmur of Erichtho "will call the gods away from all altars but her own" (6.460).⁷³ It is also possible that Apion's *Peri magou* also fits into this trend. But Rives identifies Pliny's *Natural History* and specifically his history of the *magicae vanitates* in Book 30 as the definitive source in collapsing these differences in semantic range: "[F]or Pliny the semantic range of *magus* [in Book 30] and its cognates was by no means limited to what we find in earlier prose, or even to what we find in the rest of the *Natural History*, but was almost indefinitely extendable."⁷⁴

Rives argues that the main reason for Pliny's extension of the semantic range of *magia* was to incorporate the Hellenistic pseudepigraphic texts into his *Natural History*. But in

⁷³ For more detail on poetic uses of *magia* see Chapter 4.

⁷⁴ Rives, "*Magus* and its Cognates in Classical Latin," 65.

extending *magia*'s semantic range, I would emphasize that Pliny shifted the taxonomies used to organize his sources. For Pseudo-Democritean writers, Alexander's imperial action created wide-ranging cultural contacts with non-Greeks and expanded the imaginative horizons of Greek writers. These writers sought to process these cross-cultural contacts with their own traditions.⁷⁵ In the same way, Rome's imperial action created its own widening horizons and a set of social and cultural puzzles to which Romans put their own intellectual efforts. As I argued in Chapter 2, Roman intellectuals certainly brought Greek forms of thought and Greek literary genres to bear on these issues, but these influences were always adjusted, skillfully deployed and keyed to specific situations.

Yet, Pliny's encyclopedism was already operating on a preexisting Hellenistic encyclopedic tradition, which itself drew from already textually compiled "field information" from Hellenistic texts. Like Hermippus, Pliny drew on a large number of texts that were themselves not necessarily direct reports of eyewitness practice. Encyclopedia as a genre is fundamentally a second-order form of book production that not only assumes the existence of other books but also claims authority in its comprehensiveness over and against specialized and fragmented forms of knowledge. As a result, any attempt to encompass all knowledge on X subject—especially in the imperial circumstances of Alexander and Rome respectively—would have forced a recalibration of the taxonomic apparatuses used to manage such information, adjusting the priorities of selection and emphasis.⁷⁶ The Hellenistic Pseudo-Democritean authors excised strange happenings from prior texts in order to reframe and recalibrate earlier sources around standards of contemporary science in order to widen these standards. Likewise, Pliny compiled his *Natural History* in an attempt to draw together information at an even higher level.

⁷⁵ See Momigliano, *Alien Wisdom*.

⁷⁶ On this Woolf and König, *Encyclopedia from Antiquity to the Renaissance*, 1-20.

Rome's imperialism had upped the ante and underlies Pliny's ambitious claim to offer a compendious account of the whole world (*rerum natura, hoc est vita*). Nature may be his general organizing principle, but in constructing his encyclopedia, Pliny bucked against the idea of subsuming his work within any prior literary tradition; he seemed to find no "master plan" in any of his sources. He found Pseudo-Democritean writers useful as guides for encyclopedic construction as it related to nature, but in drawing them into his project, he reframed and recalibrated these and their hierarchies of classification to his own purposes. *Magica* is but one example. Thus Pliny adjusted *magia* to a new set of imperial circumstances: he expanded and amplified it as an explicit genus to which there were identifiable species, in order to fit it to the intellectual and cultural circumstances of the first century CE.⁷⁷

Mobilizing *magia*

I want to be precise about just what cultural circumstances I am referring to. In this final section, I wish to give fuller attention to the project of grappling with diversity and alterity and more carefully specify how Pliny approaches this project differently from his peers. Gordon says of Pliny's text that it is "a case of evidence crying out for a paradigm shift." That is, Gordon is unconvinced that Pliny's framework is suited to the vast diversity of the Roman world in the first century CE. That Pliny does not shift his paradigm indeed makes for a text that "swells and

⁷⁷ See section one for references on ancient encyclopedism and Pliny's relationship to this genre. In general, I have found quite useful in writing these above two paragraphs Greg Woolf's several essays on the subject knowledge production and ordering in Roman Empire. See also his published Blackwell Bristol Lectures, *Tales of the Barbarians: Ethnography and Empire in the Roman West*. Woolf provides a useful and fresh discussion on issues of ancient ethnographic tropes of *alterité*, the authors who employed them (including Pliny), and their intersections with Rome's imperialism. Also see, Patricia Gaillard-Seux, "Sympathie et antipathie dans l'Histoire Naturelle de Pline l'Ancien," 113-128.

strains to accommodate indigestible facts.”⁷⁸ But he does attempt to accommodate an array of widely different facts and extend his research to his own time. This effort at compilation and harmonization, while clunky, nonetheless makes for a fruitful line of study. Pliny is not the first, nor the last, Roman thinker to grapple with issues of diversity and alterity in the context of empire—but he is the only thinker to historicize them behind *magia*. I argue here that we might profitably see Pliny’s history not as the conclusion of a long tradition of Greek and Roman magic—in fact, the term magic has been a distraction—but rather as the continuation of Roman efforts to cognize and theorize plurality, diversity, and ultimately alterity. Pliny’s history reflects the beginning of a growing intellectual preoccupation moving into the high empire of the second century CE with human and cultural movement across the empire and to Rome—a mix of awe and anxiety that took Rome’s seat as the center of empire, to which all things flowed, as a point reflection.

Returning briefly to Cicero and Varro in the Late Republic, recent scholarship on these authors has suggested that their writings can be understood as sustained theorizing on cultural differences that arose as a result of empire. For example, the theological writings of both authors, from different angles, asserted the ontological primacy of individual communities (*civitates*), which, like Rome, would have had their own historically particular dynamics of worship authorized and assessed by their own traditions.⁷⁹ Such reasoning issued from thinking through the peculiarity of Roman civic cult authorized as it was in the *mores maiorum* in conjunction with the universalizing impulses of Greek philosophy and the latter’s tendency to provide foundational reasons in first principles and definitions. Both writers employed theoretical structures that would provide a wider framework for the plurality of local and contingent

⁷⁸ Gordon, “Aelian’s Peony,” 75, 77.

⁷⁹ Ando, “The Ontology of Religious Institutions,” 54-79.

configurations of cult. For instance, the notion *tria genera theologia* (“the three kinds of theology”) situated such a premium on civic cult among other kinds of theological speculation prominent at the time (e.g. mythical and philosophical).⁸⁰

In the first and second century CE though, Rome’s empire became a highly integrated political entity and issues of movement and mobility (travel, migration, tourism, and communication) facilitated by relative peace across the empire appeared frequently as themes in high imperial literature. For instance, many authors perceived Rome as a city composed of all nations, to which all the goods of the world flowed. In the first century CE, Seneca wrote: “[e]very class of person has swarmed into the city that offers high prizes for both virtues and vices.”⁸¹ Pliny too takes up the idea of Rome as hub to which all things gravitate, and where peace is the condition for this movement.⁸² In the following century, Aelius Aristides observed that people flow to Rome like rivers to the sea, yet Rome ever preserves its integrity.⁸³ Many authors gave the impression that Rome drew the highest quality of people, especially the learned,

⁸⁰ Varro’s *tria genera theologia* has received a fair amount of treatment lately. I have found John North’s recent argument on this subject persuasive. His article “The Limits of the ‘Religious’ in the Late Republic” provides a useful bibliography on the subject as well. Also, while I do not want to push the comparison too far, close attention to this three-fold theological scheme reveals similarities in the writings of Varro and Pliny: Varro introduces the *tria genera theologia* in the first book of his *Divine Antiquities* to set off *theologia civile* as distinct from other forms of worship. Pliny, writing a century later, similarly employs a three-fold characterization of the *magicae vanitates* in his effort to unify the various practices he perceives across Greco-Roman history under the heading of *magica*. The three-part schema functions differently for each author—Varro uses this construction to clarify and authorize his object, while Pliny employs it to denigrate and deride his—but in each case, the schema’s various categories overlap in such a way as to set into relief a phenomenon that can encompass different forms and that have not previously been made explicit. For both authors, this schema inspires further discussion and (historical) elaboration of the central object of study

⁸¹ *Ad Helviam* 6.2-3.

⁸² See his passage on different cheeses referenced above. In addition, the civilizing effects of empire could include such items as commerce of plants (*NH* 27.2-3, *immensa maiestate Romanae pacis*) or could be credited in bringing together the diversity of peoples along with their languages and rites (*NH* 3.39).

⁸³ *Or.* 26.61.

and from the first century CE onward, Rome sees the increased presence of provincial senators and ultimately emperors.⁸⁴

However, as common as the image of flowing was to describe cultural motion, especially to Rome, it was not always put to benign ends. Juvenal famously laments the presence of Greek migrants into Rome: “[t]he Syrian Orontes flows into the Tiber and dumps therein its language and customs.”⁸⁵ Tacitus, a near contemporary, also opines “every sort of crime and disgraceful activity flows from everywhere into the city and is celebrated.”⁸⁶ In the first century CE, Lucan laments the ravages of war and the inability of cities to supply themselves with their own inhabitants and therefore: “a single city [Rome] contains us all.” He also speaks of Italian fields being tilled by “bound workers” (*vincto fossore*), concluding that Rome is no longer “peopled by her own citizens but swarmed with the refuse of humanity.”⁸⁷ In other words, many writers characterized this inflowing of people and cultures as producing a cesspool that threatened Roman purity. Such voices dissented from an ideology of openness that marked a certain vector of Roman self-representation, and these voices refused to see as a virtue that Rome’s greatness was due to embracing the outsiders of society or foreigners.⁸⁸ In fact, David Noy reminds us that positive statements on the part of our sources regarding the movement of foreigners to Rome were not only rare “but are all written by people who were neither natives of nor permanent immigrants to Rome.”⁸⁹

Lucan’s “bound workers” is likely a reference to slaves, which raises the issue that not all movement to Rome and across the Roman world was voluntary: Rome’s empire also facilitated

⁸⁴ Noy, *Foreigners at Rome*, 32.

⁸⁵ 3.62.

⁸⁶ *Ann.* 15.44.3.

⁸⁷ 7.400-6.

⁸⁸ See for the ideology of openness see, Orlin, *Foreign Cults in Rome*.

⁸⁹ Noy, *Foreigners at Rome*, 31.

mass human enslavement. A vast number of slaves from different origins and cultures were housed in Rome and Italy, often part of Roman spoils of war. Josephus tells us that 97,000 slaves resulted from the Jewish war.⁹⁰ Further, the enslaved were a ubiquitous part of Roman society, from the level of imperial administration and public rites (*kalatores*) to the very intimate quarters of the Roman home (*familiae*). At times this caused hints of anxiety among the ruling classes who owned and operated these bodies. In the rule of Nero, Tacitus proclaimed, in the voice of Cassius Longinus after the murder of the urban prefect by one of his slaves, that many Roman households contained “entire nations of slaves, practicing diverse cults and foreign rites.”⁹¹ Tacitus later tells us that under Tiberius, the Senate exiled 4,000 *libertini* considered “infected” (*infecta*) with Jewish and Egyptian religious rites to Sardinia.⁹²

The actual demographics and the concrete dynamics of mobility across towns, cities, and frontiers—whether due to migration, trade, or tourism— were far more complicated than what we get in the testimony of elite sources. This massive mobility of peoples raised complex practical issues for Roman administrators, such as regulating borders and identifying those who might seek to cross them. Our contemporary concerns with the cultural politics of identity and identification should not distract from the fact that in the Roman Empire, identity was rarely sought or claimed in a total manner: identities were fluctuating, arbitrary, and easy to fabricate, and an official form of identification did not exist across the empire. In fact, the Roman state seemed to have no interest (much less the means) to identify all its inhabitants. To be sure, the Romans had the capacity to police and expel those whom they saw as threats to public order, but

⁹⁰ *Bell. Iud.* 6.420.

⁹¹ *Ann.* 14.44.3.

⁹² *Ann.* 2.85.5.

such matters lacked concerted unity and regularization in the first and second centuries CE.⁹³

Yet, the deracinating and mobilizing effects of empire further complicate matters of identity and identification: the very social networks—often proximate and local—that served to situate and identify certain peoples became dislocated by imperial impositions and reconfigured in different ways, with different indices of identification adopted in relation to the different collectives that a group could find themselves now living.⁹⁴

While the literary sources lack details on the complexities of mobility, and instead rely on flattening and stereotyped categories to describe these processes, these texts do nonetheless represent a situated, partial, and indirect interpretation of this state of imperial movement. Elites' own movement as part of the wider imperial military and governing machinery likely invited totalizing interpretations of the empire and of Rome's relation to its conquered lands and peoples, however inaccurate or naïve.⁹⁵ Here I argue that Pliny's history offers one such interpretation of these issues of mobility and identification.

In one respect, we might wish that we had, for *magia*, an account similar to what Tacitus offers for the word *Germani*: namely, an ancient account of how the term was perceived to have changed from a situated, singular name for a specific group to an umbrella term—*invento nomine*—for a wider group of peoples and practices (*Ger.* 2). Of course nothing like this exists for *magia*; in Pliny, “*magi*” was already a name for the class of which it was at the same time a

⁹³ For all these issues of movement and identification see Moatti, “Translation, Migration, and Communication in the Roman Empire,” 124: “[P]assage was not absolutely free, and the frontiers not completely delimited ...but the control depended on people, on period, and also on political situations. This Roman conception has to do with the conception of the foreigner, which was not territorial, and with the existence of pluri-territoriality inside the empire. It is the reason why controls were neither permanent nor systematic, and were not only the fact of central authorities.”

⁹⁴ For these issues see Ando, Clifford, “Cities, Gods, Empire,” 51-57.

⁹⁵ Rüpke, Jörg, “Religious Pluralism,” 760-761.

member.⁹⁶ While Pliny's history itself represents a shift from a singular to a collective signifier, Pliny did not explicitly thematize this shift in his text. But we might take a lesson from Tacitus's ethnographic account of the Germans and the tropes used to articulate ancient *alterité* more broadly in approaching Pliny's history. As Woolf says, "[e]thnographic material can intrude almost anywhere."⁹⁷ Here I argue that the unrestrained and fluid nature that had traditionally been attributed to (northern) barbarians (whether Germans or Gauls) and that sparked such anxiety for the Romans might help to characterize what Pliny means with *magica*. On the one hand then, Pliny's history is an attempt to contain—even if in thought only—the “nomadic” threat, once attributable to certain barbarian ethnic groups, that now swings free of such ethnic connections in the trans-ethnic space of empire. Yet, on the other hand, this attempted containment enables the utility of Pliny's *magica* as a more precise exclusionary weapon, one expanded in its potential applicability to any number of perceived enemies: i.e., “magicians,” like “communists” or “terrorists” (to use more recent examples), could be anyone and anywhere.⁹⁸

⁹⁶ Porphyrius, in commenting on Horace's poems in the 3rd or 4th century CE, gives an etymology of *magus* from *magnus*, since *magi* do great things, Porph. *Ep.* 2.2.208-209.1-5. But he does not elaborate in a way comparable to Tacitus, see Chapter 5.

⁹⁷ Woolf, *Tales of the Barbarians*, 82; Woolf also invites a comparison of Pliny's history of magic to Tacitus's *Agricola* and ethnographic accounts more generally: “Tacitus' ethnography is an inversion of that of Pliny the Elder. Pliny had presented the majesty of the Roman peace for driving magic (including the human sacrifice attributed to the Druids) to the margins of the world. Tacitus offers the image of Domitianic Rome as a cancer extinguishing freedom as it grows. The theme had been done before. Sallust's *Jugurtha* had presented the corruption of the Numidian prince as contagion from the corruption of the *nobiles* in Rome, making a foreign war into one episode in a narrative of domestic decline. But where Sallust's ethnography, like Caesar's, had been allocated a more traditional place in the text, Tacitus breaks down the barriers between ethnographic and narrative modes and the set-piece speeches contained within the text,” 91.

⁹⁸ I am appreciative of Bruce Lincoln's suggesting this parallel.

It is well known that Tacitus adopted and redeployed a number of motifs common from Greek ethnographic writing, but Tacitus also adds a feature from this genre that seems previously not to have been applied to the Germans. He gives them an origin—both a divine founder and circumscribed country.⁹⁹ In the literary world of the ancient ruling classes, fixing a phenomenon with an origin had strong ideological and political ramifications. Genealogical etiologies offered Roman (and Greek) authors a rather adaptable method for characterizing and circumscribing different peoples, linking certain factions to stories of migrations, extending sets of relationships over considerable distances, and explaining close relations between distant peoples.¹⁰⁰ Prior to Tacitus, Roman literary sources portrayed the Germans (and northerners in general) as an amorphous and mobile group of barbarians whose lack of definite boundaries made them dangerous and unpredictable to the Romans. For Tacitus, positing a divine origin figure for the Germans was part of an extended argument for the durability and integrity of German resistance to Rome—it helped explain their adamant defiance to Roman occupation and civilization. What sort of people could have resisted Rome for so long? Not a generic and nomadic group of barbarians always on the move, but an unspoiled people cultivated in their native land, linked to the soil by an earth-born god, and possessing their own traditions and unique disposition toward freedom.

Like the pre-Tacitean Germans, *magica* is also notoriously mobile for Pliny; it flows across time and space, mostly unidentifiable, and respects no borders. While Pliny insists that *magica* has for many ages held sway over humans' minds, the precise content of this subject remains remarkably ambiguous and resistant to circumscription. It seems to perpetuate itself,

⁹⁹ Pliny lists five races of Germans that correspond quite closely to Tacitus list of the sons of Mannus (*NH* 4.99-100). Yet, Pliny lists no etiology to organize this information as Tacitus does.

¹⁰⁰ See Woolf, *Tales of the Barbarians*, p. 38-44. For a classic account of origin accounts see Bickermann, "*Origines gentium*," 65–81.

even though it lacks normal means of transmission. Pliny's effort to pin down the origin of *magica* by rooting it in a Persian origin is analogous to Tacitus's effort to explain German power: both are attempts to exert control over a dangerous and unpredictable phenomenon, and domesticate it. For Pliny, this is a rather more difficult undertaking. He tries to chart the movement of *magica* across time and space by syncing it with historical events, and here Greek and Roman historical events provided the signposts for an otherwise difficult course to chart. Yet, a strict linear transmission and development of *magica* eludes Pliny: from its origin to its transmissions from pre-history to Greek history and then Roman history, Pliny is ultimately forced to admit that *magica*, while it is a worldwide phenomenon, is nonetheless hopelessly fragmented, the various factions unaware of one another (*discordi et sibi ignoto*). Richard Gordon has likened *magica*'s mobile yet fragmented nature to a Huygens construction: "local magical practices, deriving of course ultimately from Persia, could nevertheless be seen as spreading in their own range—which explains, say, why Greek magicians were not dressed as Persians."¹⁰¹ And to add to this—why Jewish, Cypriot, Italian, Gallic, and British "magicians" seemed the same but yet different from Persians.

Holding all of this together is a Persian origin, but as I have suggested, even this becomes strained in Pliny's history. The weight of Pliny's detail bends this single etiology to the breaking point. In positing an origin for the Germans, Tacitus is dealing with a people, a *gens* with their own *mores*. But Pliny's object is a set of practices (*ars*) whose practitioners composed dispersed and disconnected *factiones* that cut across the boundaries of more defined groups of people. In some sense, as Pliny has framed it, *magica* is a different sort of invading horde that has been unrecognized for what it is. More to the point, Tacitus employs the rhetoric of origins in the

¹⁰¹ Gordon, "Imagining Greek and Roman Magic," 230-231.

service of casting a pure, unspoiled German people, isolated and indemnified from contamination by outsiders both geographically and genealogically. Pliny, on the other hand, characterizes *magica* as precisely a polluting agent that infects and spoils. *Magica* has an origin and is grounded in a geographic region, but unlike Tacitus's Germans, it spreads, outbidding its original borders, contaminates, and intermixes—and this has only increased its strength and influence, not weakened it.

The issues of movement without borders and clear group dynamics return us to processes of identification. In prior sources, Roman authors could quibble over the differences between Gauls and Germans but nonetheless reapply stereotyped physical characteristics and other “primitive” features for northerners available from prior traditions. The image of the northern barbarian was a mainstay of the period of Roman expansion and the violence that marked the end of the Republic. Barbarian accounts figure rather prominently into Diodorus's, Strabo's, and Caesar's first century BCE accounts. Yet, “the spectre of the ‘barbarian’” does not figure as prominently in an age of Roman administration and in managing their geographical acquisitions, which marked the first and second century CE. When the rhetoric of Rome's empire as coterminous with the world emerged, the conquered barbarians ceased to be a threat.¹⁰² Even for Tacitus, the Germans were not as threatening as the northern peoples had been for Rome in the fourth century BCE. But given the fluidity of *magica*, the difficulty in tracing it across time and space, from east to west, and its ability to appear unexpectedly and distort other more stable cultural forms and positions, how does one identify this danger that, on Pliny's account, is potentially everywhere but nowhere in particular, vaguely associable with an ancient Persia origin? In Pliny, the ethnographic tropes of containment have been transposed onto a different

¹⁰² Shaw, Brent D, “Rebels and Outsiders,” 374.

sort of threat: a set pernicious practices potentially wielded by diverse groups and individuals within the immense landmass composing the Roman Empire, which harbored hundreds, if not thousands, of different societies. In other words, in Pliny's discourse, the anxiety of the barbarian outsider was (re)distributed variously on the inside, and *magica* could be useful in identifying distributions of communities whose movements and activities were often unsuspected and sometimes troubling.

Pliny's history of the *magicae vanitates* represents certain anxieties and urgencies among the ruling classes and provides a useful ideological tool with which to channel and disarm these same sentiments. Pliny's rendering of the *magicae vanitates*—which moved covertly *sua volenta* but also along with invading armies, wise philosophers, and official envoys—resonates with an increasingly diverse and plural world where peoples and their cultural practices moved across vast territories as official personnel, soldiers, tourists, refugees, or captives, largely unidentified and with little regulation. This vast territorial expansion and the plurality and mobility it fostered forced the ruling classes to redefine their imagined community beyond Rome, beyond Italy, and ultimately beyond to the whole empire, especially in 212 CE when the emperor Caracalla decreed all free inhabitants of the empire to be citizens. This gradual extension of citizenship and other modes of enfranchisement expanded and diversified the ranks of the ruling classes to include those not of Italian origin, and as a result relativized a great deal of the determinate traditional content that might count as “proper” civic practice. If a term like *superstitio* could represent a full range of elite dispositions towards different sorts of practices (foreign and otherwise), *magica* in Pliny marks an extreme limit of such “toleration,” designating full

estrangement.¹⁰³ In this respect, *magica* became an outer boundary, especially in terms of the geographical space of the empire. But if foreigners and their practices were “out there,” they were also “in here.” The term *magica* could also draw any number of internal frontiers within the empire and among various groups in the service of whatever speaker took it up in an attempt to stake out a claim to demarcating and authorizing the boundaries of normative practices.¹⁰⁴ In Pliny’s rendering, *magica* could cover all manner of sins and could indicate new ones now and in the future. Like its mobile history, the term itself was moveable to new contexts where peoples and practices might become objectionable to the ever fluid Roman ruling classes (or some ambitious faction therein). Ultimately, Pliny’s history provides a model for the handling of diversity: his account of *magica* demonstrates how an objectionable practice might be set in a long historical trajectory, enabling those in power to pass judgment on its origin and affiliate practices (regardless of what they actually were or where they came from) and to justify violent suppression in the guise of civilization.

Conclusion

In the last chapter, I argued that in classical Greek sources and in its earliest Latin uses, *magia* was not an umbrella term for a certain set of figures and practices. Cicero uses *magia* only to discuss other more pressing issues. Here I show that in Pliny we seem to have something like that which scholars of magic are searching for in terms of a “concept of magic.” It appears that the Romans were in the process of developing a discrete concept of magic within a century or so

¹⁰³ For many of these issues as they relate to *superstitio* see Gordon, Richard, “*Superstitio*, Superstition and Religious Repression in the Late Roman Republic and Principate (100 BCE–300 CE)” 72-94. I will deal with the relationship of *magia* and *superstitio* in the next chapter.

¹⁰⁴ For example, in Tacitus, we see the ruling class of Rome accusing one another of practicing *magia* variously aligned with foreign practices as part of the jockeying for position in the early years of the Principate. See Chapter 5.

after Cicero's earliest uses—that *magia* does start to designate a wider semantic constellation of otherness.

Yet the claim that the Romans were forming a substantive notion of *magia* or theorizing this term in whatever way is different from the claim that they were developing and operating with a modern concept of magic. It would be much like saying, as those in current debates on *religio* often do, that Cicero's and Varro's substantive conceptions of *religio* amounted to a concept of religion that in certain ways overlaps with ours. These are two different sets of interpretative questions. To confuse the historically contingent processes of theorizing *magia* by labeling it "magic" speaks to the issues of definition and of tacitly perceiving continuity between ancient and modern concepts of magic, as discussed in previous chapters. To the former, scholars have often adumbrated their analyses on implicit and amorphous definitions of magic even as they have explicitly tried to avoid anachronism by critiquing modern definitions of magic. The result reinscribes a modern notion of magic as a substantive reality in antiquity at best and as a universal and identifiable aspect of human experience at worst. To the latter, that ancient Latin provides the modern West with a large portion of its religious vocabulary does not license scholars to immediately and a priori see the germs of "our" concepts in "theirs."

To be sure, Pliny attempted to provide a coherent account of a term that had been used in a wide range of literary contexts but that lacked a clear semantic referent by his own day. The procedure was little different from Cicero's attempt to articulate *religio*, or *divinatio*, Varro's attempt to historically fortify *theologia civile*, or as I will examine in the next chapter, Seneca's attempt to theorize *superstitio*. But what sort of object did Pliny concoct? If Cicero's use of *magia* to evaluate differences between Romans and barbarians remained at the level of intellectual comparison without hints of contamination, Pliny raised in a startling way the

transgressing of the frontier between Greek/Roman practice and barbarian practices. *Magia* for Pliny might be an organizational category, but its content was always open. As a signifier it could be exceedingly mobile, just as it had always been. In fact, Pliny's articulation of a mobile *magia* has an interesting afterlife: his influence is felt in, if not outright lifted into, later Christian authors such as Augustine of Hippo and Isidore of Seville, who, for example, mobilized *daemones* into the range of *magia*. But, as to his pagan predecessors, he has no heirs.

Yet, to see the unproblematic historical snowballing of a cumulative concept of magic in the West that ultimately terminates in, say, the natural magic of the Renaissance, or an authorized term in the field of early anthropology, is to elide the wider contingent discursive formations that *magia* gets bound up in and the shifts in meaning that occur as it moves from *magia* into *Magie* (German), *magie* (French), *magia* (Spanish, Italian), and magic. Looking for modern notions of magic in this enterprise masks the ideological work that Pliny undertook in adding and arranging *magia* in Rome's vocabulary of otherness.

Chapter 4

Witchcraft, sorcery, and a Latin “magical” vocabulary

“Although these terms [for magic] have very different origins, they come to be used interchangeably to refer to the same people.”

-Matthew Dickie¹

“[W]e simply do not know how many of the words denoting some sort of magical practitioner referred to distinguishable skills rather than acting as general designations for persons claiming negatively marked symbolic power... A close examination of the vocabulary... is urgently needed. As it is, we can scarcely navigate even the most rudimentary distinctions.”

-Richard Gordon²

“There is not, then, as with us, a sphere of magic in contrast to the sphere of religion [in antiquity]. Further, the words used to designate magical acts do not for the most part possess a precise and technical meaning.”

-A.D. Nock³

Introduction

Looking up “magic” and “witchcraft” in a standard English dictionary can be a frustratingly circular affair. In Merriam-Webster, one of the definitions given of magic is “a power that allows people (such as witches and wizards) to do impossible things by saying special words or performing special actions.” Unfortunately, no clarity comes from looking up the operative terms “witches” and “wizards” (or “sorcerers”): these are simply people who wield and are skilled in “magical powers” (often by tapping “evil spirits”). Nor does looking up the substantives “witchcraft” and “sorcery” illuminate matters much—these terms denote the use of “magic powers” by witches and sorcerers.⁴ Even area-specific academic reference works offer

¹ Dickie, *Magic and Magicians in the Greco-Roman World*, 12.

² Gordon, “Imagining Greek and Roman Magic,” 181.

³ Nock, “Paul and the Magus,” 170.

⁴ These definitions were accessed through <http://www.merriam-webster.com/>. I have reproduced the definitions for English language learners. The primary definitions for English speakers often

little help distinguishing these terms: in scholarly encyclopedia articles, distinctions between magic, witchcraft, and sorcery—and their practitioners—are often asserted as a matter of theoretical form, only to be undercut, deferred, and ignored in the mind-numbing enumeration of the “data.” The *Encyclopedia of Religion* opens its entry on magic by stating that it is “a word with many definitions” and “has usually been without any agreed detailed content of belief and behavior.” The author insists that there is a “general consensus,” but this turns out to be another tired attempt to place magic tentatively amidst science and religion. As for witchcraft, the author notes that while there are theoretical distinctions between this and sorcery in relation to magic, in practice these very often do not cash out.⁵ Finally, and more to the point for the classical world, most searches for witchcraft, sorcery, and related terms in the online *New Pauly* lead back to the entries on “Magic/Magi,” in much the same circuitous way as above.⁶

Admittedly, dictionaries and reference works are easy targets for such criticism. But especially with area-specific reference works, a few important implications do follow for thinking about defining magic and its attendant vocabulary. First, magic has not ceased to be a natural category in these volumes, despite scholars’ considerable critical work in historicizing and relativizing the term and the widely known drawbacks to its use. It still functions as an organizing lemma and interpretative concept that can be ramified into subcategories or correlates like “witchcraft” or “sorcery” and identified in different social locales. For example, the articles above are often organized by disciplinary approach to magic and witchcraft (i.e. sociology,

exchange “magical” for “supernatural”/ “extraordinary” power to indicate these terms’ causal influence.

⁵ Middleton, John. “Magic: Theories of Magic,” 5562; Russell, Jeffrey Burton, and Sabina Magliocco. “Witchcraft: Concepts of Witchcraft,” 9768.

⁶ Wiggermann, Frans et al., “Magic, Magi.” Magical papyri; Magic dolls; Magical spells are the exceptions. But the discussions of these do not designate precisely what makes them magic, but link back to the main article on “magic.”

anthropology) and discuss these approaches in and across various religions (e.g. Islam) and regions (e.g. Africa). However—and this is the second implication—while the entries above often speak explicitly to the difficulties of defining magic and/or witchcraft and the failure of general theoretical distinctions in practice, they nonetheless provide lists of its contents, as if such lists are the true test in persuading readers of its cross-cultural utility. Such items (apparently) need no theory. The sentiment seems to be: never let a well-circumscribed definition get in the way of the sheer mass of what is already known to be the data of magic. Thus, in defining magic, its constitutive terms get stuck in a closed system, always referring back to each other but never themselves explained, and this self-referential loop conjures (the appearance of) stability while allowing enough flexibility to recognize magic whenever one (imagines one) sees it.

While in the previous two chapters I examined Latin *magia* in different discursive locations, the goal of this chapter is to examine other Latin words Romans used to trivialize, marginalize, exclude, and stigmatize various persons and practices and illustrate if and how these related to *magia*. The *magia* word cluster was one of many words that Roman elites had at their disposal to indicate social or cultural deviance and mark peoples and their practices on a notional range of exclusion. In arguing for a more robust conception of alterity in antiquity, it is important to understand more fully the terms Roman elites used to construe this range, the vocabularies in which these terms were constellated, the preferred contexts of their uses, and how *magia* was articulated in such contexts. In other words, this chapter is an attempt to imbricate *magia* more firmly in a Latin “nomenclature of marginalization” rather than as a substantive, interpretative, or catchall category for Roman religious deviance.⁷

⁷ I borrow this phrase from Robert Orsi, *Religious Studies News*, 15.

To accomplish this deflation of magic as a substantive term for religious deviance, in this chapter, I want to highlight *magia*'s general absence in a number of contexts and debates that we might easily identify as "magical" or expect its use. As I did with *magia* in Chapter 2, I focus primarily on a set of terms usually associated with magic in order to bring out their use in contexts and knowledge regimes that might get elided by confining them to this mystical and mystifying realm. Specifically, I examine the words often translated as "witch"/"sorcerer," and "witchcraft"/"sorcery," respectively Latin *saga/veneficus* and *veneficium*. In reviewing these terms usually associated with the concept of magic, what becomes clear is that the uncanny and mystical valences attributed to these words are mostly confined to the narrow realm of poetry.⁸ For this reason, as we will see below, scholars of Roman magic have often pointed to Roman (i.e. Augustan) poetry as the privileged genre in which to identify an inchoate concept of Roman magic. In a departure from this approach, I argue that the world of Roman poets was neither hegemonic nor total in governing Roman thinking—it was not representative of an all encompassing reality or mentality. In fact, no one faction of Roman society can be taken as the uniform standard for how terms get used, although different authors claimed more authority than others in their writing.⁹ The poems of the likes of Ovid and Horace evoke a particular social and cultural agenda, for which appeals to marvelous and occult powers wielded by *magi*, *venefici*, and *sagae/veneficae* were "bonnes à penser." Yet, when we step outside this set of interconnected figures and themes and look to other Latin sources, we can see that the concatenation of these terms was neither unproblematic nor taken for granted. To be sure, poetic literature had an undeniable influence on Roman thought, popular culture, and literature, but

⁸ Roman fictional novels also present a repertoire for such images as well; e.g. Apuleius's *Metamorphoses*. These will not be the focus here.

⁹ This line of thought draws on Denis Feeney's argument in *Literature and religion at Rome*.

outside of poetic writing, Roman prose authors found the terms and concepts introduced above interesting for more explicit, detailed, and mundane investigations into and theorization of other matters of social and cultural significance.¹⁰ This chapter investigates these prosaic, non-magical contexts in which *veneficus/ium* and *saga* were implicated, namely in the realms of divination and law.

Yet, this chapter aspires to more than a wordlist or registering different shades of meaning found in standard Latin dictionaries/databases. My interest here is in the concrete forms of cognition and deliberation that Romans exerted over their words for marking particular kinds of alterity. Over and above the peculiar interests of modern philologists in ironing out the niceties of grammar, syntax, and the historical semantics of Latin literature, the Romans themselves put a great deal of care into thinking and arguing about the semantic nuances of their words and the structure of their language, and they did so for perhaps very different reasons than those which might align with our interests. As in the last two chapters, in the following the politics of words will lead to the politics of texts, which Roman elites used to justify their own social position. Indeed, if, in the words of Duncan Kennedy, “[w]ords are the principal medium through which meaning acts to develop, enact, and sustain relationships of power,” then exploring the nuances of these words in the concrete discursive situations in which they are deployed and debated will take us into the contested social practices of articulating relationships

¹⁰ My intent here is not juxtapose prose and poetry as a relationship between the former representing—more or less—rational, objective perspectives on social reality and the latter dealing in whimsical fantasy. A great deal of ancient literature of all stripes—including historiography—tends to refuse this modern distinction. Rather I wish to emphasize the different cognitive work accomplished in the representational capacities of different genres. As Feeney notes, “Each medium has its own priorities and interests, and its own semiotics,” *Religion and Literature at Rome*, 24.

between cultural selves and others.¹¹ The debates I elaborate using putatively magical terms end up having less to do with magic and more to do with how Roman elites described and enumerated persons and practices in relation to their own imagined hegemony and the social order it presumed. The goal here is to go beyond simple semantic enquiry and examine the operational aspects of certain so-called magical words: how they are used in different argumentative contexts, what social anxieties and conflicts are implied in these contexts, and the imagined boundaries different deployments of these terms are used to delimit and regulate.

“Magic” in/and Roman religion

It might be helpful to frame these opening remarks in a more theoretically concrete manner before moving on to discuss particular terms in the latter part of this chapter. The first part of this chapter then addresses two theoretical concerns. First, I will examine the paradigms and presuppositions that scholars of Roman culture have operated on to demarcate normative “religious” figures and practices from those considered fringe, and sometimes by extension, “magical.” This line of inquiry will briefly take us into recent debates on the “civic model” of religion and its supposed others (i.e. *superstitiosi-a*). Second, I will further historicize my above focus on a Latin terminology of otherness. This involves returning to and expanding on an argument I made in Chapter 2. The goal is to understand certain “magical” and marginalizing labels as an effect of empire and part of a more general Roman interest in knowledge production, specifically language, terminological distinctions, and the importance of each.

¹¹ Kennedy, Duncan F., “‘Augustan’ and ‘Anti-Augustan’: Reflections on Terms of Reference,” 29.

Roman religion, inside and out

To begin with, and perhaps surprisingly, magic in the study of Roman religion has rarely been theorized. For classicists of the late 19th and early 20th centuries who uncritically consumed anthropology's primitivist theories, magic was a useful and rather unproblematic category: it enabled scholars to sift through and distinguish the various strata of archaic Roman ritual data and reconstruct the Romans' presumed pristine and indigenous ritual life.¹² With the mid-century shift toward structuralist and functionalist approaches to Roman religion, and away from the operative binary of primitive/civilized, the category of magic became denaturalized and in greater need of explanation. In this context, magic began to be interpreted not as a primitive group of intentions and practices (temporally or logically) prior to religion, but instead as *a part* of religion—i.e., negatively marked practices that were potentially part of every normative religious system. Thus, earlier problems once delimited by an evolutionary model were moved, as it were, “in house.” Accordingly, this move raised a set of conceptual problems vis-à-vis the relation of the part, magic, to the whole, religion. How and where were scholars entitled to locate and/or inscribe magic within the religious field? The Durkheimian model of religion as co-extensive with the integrative function of the social, and magic signified as disintegrative anti-social forces, set the wider terms for an uncritical inside/outside binary where scholars situated magic in the “darker” corners of religion, at the margins of or outside the bounds of the normative, public, and organized community of the social whole, and where ritual was used for private, individualistic, suspicious, and/or outright nefarious purposes. For the most part then, magical action remained coterminous with “bad religion” or, more precisely, religious deviance,

¹² Take for instance Fowler, *The Religious Experience of the Roman people* Rose, *Ancient Roman Religion*.

but intentions once called “primitive” were recalibrated as part of a synchronic social structure rather than in a diachronic development.¹³

The attempts to distinguish magic and religion in the intellectual climate of structural and functional analysis set the rules of play for ancient studies as well. The set of theoretical considerations variously termed “polis-religion” (for Greeks) or the “civic model of religion” (for Romans) represent classicists’ attempts to apply structural and functional modes of analysis to ancient evidence. Briefly put, the civic model of religion attempted to free analysis of ancient religion from the burdensome presuppositions and anachronistic categories of Protestant historiography and situate these practices in the communal and institutional context of the ancient city. The watchwords of this approach are often “homology” and “embeddedness,” where scholars emphasize the interconnectedness of Greek and Roman rituals as symbolic systems with other social systems, subsystems, and everyday concerns that constituted the communal configuration of the ancient city (*civitas*).¹⁴ Further, as with more general structural and functional analyses, civic model advocates counted the public religion of the *civitas* and of the elite as the normative standard for assessing ancient religion while that which fell outside, below, or to one side of “official” civic religion could be considered unsanctioned and even suspicious. Yet, while the civic model has been immensely important over the last few decades, the same general problems of locating magic, specifically as a category denoting religious

¹³ As I argued in Chapter 1, these redeployments of magic that avoided explicitly evolutionary framings set the terms for different scholarly variations for much of the next century.

¹⁴ The bibliography is fairly large on this subject. The classic formulations are (for Greece) Sourvinou-Inwood, “What is polis religion?,” 295-322, and (for Rome) Gordon, “From Republic to Principate: Priesthood, Religion and Ideology,” 177-199. Critics of this model have included Woolf, “Polis-religion and its alternatives in the Roman provinces,” 71-84; and Bendlin, “Looking Beyond the Civic Compromise: Religious Pluralism in Late Republican Rome,” 115-135. John Scheid has recently reasserted the case for the civic/polis model in *The Gods, the State, and the Individual: Reflections on Civic Religion in Rome*.

deviance, within the normal integrating function of the social whole (i.e. the city) have instantiated themselves in this model. Scholars of ancient religion have rightly noted that the lingering definitional elements of Frazerian magic (even shorn of their evolutionary valences) do not apply in the polytheistic systems that animated much of Greek and Roman ritual systems—and that the very boundaries between normative and non-normative religious practices more generally were a rather fluid affair.¹⁵ Such boundaries were constantly being negotiated, especially at Rome, where several centuries of rapid imperial expansion upset the notions of civic ordering systems, occasioned an extraordinary diversity of ritual and cult, and called into question what counted as ideologically Roman, non-Roman, or even anti-Roman. Thus, in an attempt to avoid the definitional and objectivist pitfalls of prior generations, recent scholarly preference for theorizing magic as an etic category has understood this concept as a situational naming strategy: an evaluative term used in specific polemical situations to designate certain practices regarded by certain speakers with disapproval, and, more generally, a term that might summarize the notional aggregation of these negative opinions.¹⁶

However, the development of this “nominalist” approach to magic potentially obscures the wider range of terms, classifications, and nuances that elites could utilize in construing and contesting the other, the marginal, or the deviant.¹⁷ As James Rives has noted of this view, “[i]f we pursue the nominalist insight to its logical conclusion, we should dispense with ‘magic’ altogether, and focus instead on issues of religious deviance.”¹⁸ On the one hand, the nominalist use of magic as a catchall for Roman “religious” deviance risks eliding the nuances of the

¹⁵ See Phillips III, C. Robert, “*Nullum Crimen sine Lege*,” 260-76.

¹⁶ For the bibliography on this “nominalist” view of Roman magic see Rives, “Magic in Roman Law,” 315.

¹⁷ As far as I can tell, Rives coined the term “nominalist” to describe this trend.

¹⁸ Rives, “Magic in Roman Law,” 315. Rives opts not to do this though for reasons I will look at below.

contexts and struggles in which certain persons and activities become perceived as deviant and the specific terminologies used to characterize these. On the other hand, while the nominalist view of magic might shed light on those moments of deviance that are connected to the term *magia*, it also risks confusing contingent and situational polemics with a more concrete and substantive set of distinctions in the wider realm of perceived deviant activities that is unable to be clearly distinguished either analytically or empirically in the wider religious field. In either case, the question “deviance according to whom?” ought to loom large. In terms of the Greek and Roman world, the ruling elite’s view of the ancient social order, its relation to matters cosmic and divine, and perceived deviations from this order, is, of course, important and prominent in the ancient sources. Yet, this framework for measuring deviance was neither singular nor monolithic, and outside of elite sources, we also get alternative and dissenting views of normative versus non-normative rituals.¹⁹ In fact, even when one begins with the voices of the Greco-Roman elite, one encounters a variety of terms to designate what we might call social, cultural, legal, and ritual deviance, used in different ways. It is doubtful—as J.Z. Smith has argued—that these can be domesticated cleanly or even usefully to our category of magic.²⁰ Indeed, even the ancient term *mageia/magia*, when used for social name-calling and occasionally when it is theorized rarely attests to a coherent and consistent set of features.²¹

¹⁹ In recent years, Jörg Rüpke has attempted to fashion a study of “individual religion” in antiquity in order to examine just those aspects of religious life that fall outside the stereotyped representations of elite religion. See his edited volume, *The Individual in the Religions of the Ancient Mediterranean*; more recently his monograph, *On Roman Religion*; also in terms of religious deviance see, *Religious Deviance in the Roman World*.

²⁰ Smith, *Relating Religion*, 219.

²¹ As I argued in Chapter 3, Pliny’s text is a rather interesting case in expanding *magia*, which does more extensive cultural work than is captured in designating it by the modern term magic (and I will argue something similar about Apuleius’s view of *magia* in the next chapter). I also suggested that it is not clear that Pliny’s considerations served as an apriori, baseline concept for his near contemporaries, nor as a clear culmination of certain republican trends.

As it happens, the Romans had their own rather capacious term for designating deviance (“religious” or otherwise), namely *superstitio*, and this term was not only the dominant emic term used to conceive of the general ideological “others” of civic religion, but it also functioned rhetorically for the Romans much like a nominalist conception of magic does for modern scholars. *Superstitio*, along with its Greek correlate *deisidaimonia* and its converse term *religio*, has garnered much scholarly attention.²² Specifically, Richard Gordon’s recent study highlights the essentially flexible nature of *superstitio* in Latin discourse. On this view, *superstitio* did not indicate certain behaviors or beliefs as true or false, effective or ineffective (as in its later Christian and modern renderings), but signified a whole set of cultural practices and figures that generally fell short of criminality but nonetheless offended elite cultural sensibilities. It could (depending on the speaker) cover a range of perceived deviant dispositions and actions stretching from the uncouth anxieties and rituals of the rural masses to strange and distasteful foreign practices. Specifically, Roman sources often described behavior as *superstitiosus/a* when it was perceived as issuing from a mental lack, i.e., a *levitas animi* or an overabundance of *credulitas* that was often thought endemic to women, slaves, and foreigners. That is, the baseline for measuring cultural deviance on this term (which includes cult among other items) implies some marked departure from a certain self-representation of a proper Roman elite: an adult male citizen of discerning mental acuity and well regulated by proper virtue.

²² See Grodzynski, “Superstitio,” 36-60, Sachot, “Religio/Superstitio,” 355-394. For more recent studies see Martin, *Inventing Superstition*, and Gordon, “*Superstitio*, Superstition and Religious Repression in the Late Roman Republic and Principate,” 72-94. Martin delves into the shifting theological and philosophical content attendant to the notion of ancient “superstition,” focusing mostly on Greek *deisidaimonia* and Christian reception of these terms. By contrast, Gordon focuses primarily on Latin *superstitio*, deciding instead to emphasize its social and political function over its intellectual content.

This flexible range of *superstitio* was a historical development. As Gordon has argued, the ideological utility of *superstitio* lies in its ability to demarcate the “frontiers” of the Roman elite’s normative imagined community; and as the perceived (conceptual and territorial) boundaries of this community expanded, so did the conceptual non-normative space potentially encompassed by *superstitio*.²³ In fact, at roughly the same time as Pliny the Elder was conceiving of an expanded range of *magia* in his history of the *magicae vanitates* in the first century CE (see Chapter 3), we have some indication that *superstitio* was undergoing a similar expansion and explicit theorization via the imperial writer Seneca’s *De superstitione*, which seems to have cast *superstitio* in equally expansive terms, both conceptually and geographically. It is difficult to interpret the precise significance of the this text since it is no longer extant and the only remaining pieces are transmitted to us in Augustine of Hippo’s 4th century CE anti-pagan *City of God*.²⁴ But Augustine’s text offers a few suggestions. First, at a conceptual level, it is interesting to note that Augustine tells us that Seneca couched at least part of his discussion and criticism of *superstitio* in relation to Varro’s late republican comparative apparatus of the “the three kinds of theologies,” *tria genera theologiae*. Varro wrote in his *Antiquitates rerum divinarum* (which also comes to us in fragments, again largely from Augustine) that there was a mythical theology (*mythicon*), which was attendant to poets and the stage; natural theology (*physicon*), which was linked to philosophers; and civic theology (*civile*), which was the purview of citizens and the public priests. But whereas Varro had aimed his critical ire at mythical theology, Seneca exercised a greater liberty (*libertas*) and criticized civic theology—the very theology Varro coined and prioritized as his preferred object of study—and did so even more vigorously than

²³ Gordon, Richard, “*Superstitio*, Superstition and Religious Repression in the Late Roman Republic and Principate (100 BCE–300 CE),” 75.

²⁴ *De civitate dei*, 6.10-11. Beard, North, and Price, *Religions of Rome*, 217-218.

Varro had attacked mythic theology.²⁵ In terms of the details of Seneca's text, he seems to have mocked Rome's civic cults, the "fantasies" (*somnia*) of its mythic founders, and the perceived excesses of the masses in relation to the gods. Most striking is Seneca's description of the *dementia*, *furor*, and *insania* that occurs once a year at the very heart of Roman civic cult: the Capitol. Yet, Seneca's attack on *superstitio* was not only aimed at the civic practices of Rome, but those of others as well, such as rites concerning Egyptian deities (Isis and Osiris) and especially those of Jews (e.g. the Sabbath), which he notes had spread all over the world: "[T]hose conquered had given laws to the conquerors" (*victi victoribus leges dederunt*).²⁶

It is unclear (and ultimately impossible to tell) whether *magia* figured into Seneca's theorization of *superstitio*. It does not appear in the surviving fragments, but then again this small number of fragments cannot be taken as representative of the lost whole of his text. We might look to the similarly titled Greek text by Seneca's near contemporary Plutarch (*Peri deisidamonia*), who mentions that the unsettled mind of a superstitious person might look to "begging priests and charlatans" (*agurtas kai goētas*), and might call on an "old woman" who performs "magical purifications" (*perimaktrian*).²⁷ Later in the text Plutarch also lists "wizardry and magic" (*kai goēteiai kai mageiai*) in a longer litany of superstitious actions and beliefs.²⁸ But there is no way to tell if Seneca used such nomenclature in his Latin text, even if available. Yet, this does raise the question as to the relationship between *superstitio* and *magia* during this time. As mentioned above, Seneca and Pliny are near contemporaries who are each elaborating

²⁵ For recent work on Varro, which contains bibliographic references to earlier scholarship, see Ando, "Ontology of Religious Institutions," North, "The Limits of the 'Religious' in the Late Roman Republic," and Rüpke, "Historicizing Religion."

²⁶ From Augustine's presentation, Seneca seems to have positioned the *sacramenta Iudaeorum* "among the other superstitions of civic theology" (*inter alias ciuilibus theologiae superstitiones*).

²⁷ *Peri deisidamonia* 166a.

²⁸ *Peri deisidamonia* 171b.

explicitly on a traditional term of opprobrium, and they are doing so under similar pressures to expand Roman cognition in the context of managing a far-flung empire. Further, modern scholars who have investigated the emergent dynamics of Roman thinking about “religious” deviance and the “boundaries” of Roman religion during this time have envisioned an increased intertwining of “magic” and “superstition.” For instance, by the end of the first century CE, Beard, North, and Price characterize “magic” as the “ultimate superstition,” and as *intensissima superstitio* it served as a marker for measuring *superstitio*’s semantic expansion and amplified polemical bite.²⁹ Gordon operates on a similar view where *superstitio* under the Principate shifted its emphasis toward foreign practices, coming “to register new types of inappropriate behaviour, and indeed sometimes to become virtually synonymous with the terms that mark the negative pole of the continuum of religious belief-and-practice, impiety, atheism, and magic.”³⁰

But the evidence for this extreme positioning of magic in a notional hierarchy of *superstitiones* is not supported semantically. In the Late Republic and first two centuries CE, *magia* and *superstitio* do not appear in tandem all that often. In fact, the only clear instance I have found of *magia* linked with *superstitio* is when Tacitus speaks to a charge of *magicas superstitiones* made against Statilius Taurus in 53 CE.³¹ I will look at this phrase more carefully in the next chapter, but for now it is worth saying that it is not at all obvious what Tacitus means by this phrase. With Pliny, as we saw in Chapter 3, he raises the possibility of Orpheus carrying *magica* to the west as a *superstitio* originating in medicine, which squares with his initial account of *magica* rising from medicine and embracing “the powers of religion” (*vires religionis*) and astrology. Based on this then it seems Pliny characterizes *magica* as a type of *superstitio*.

²⁹ Beard, North, and Price, *Religions of Rome*, 218.

³⁰ Gordon, “*Superstitio*, Superstition and Religious Repression in the Late Roman Republic and Principate (100 BCE–300 CE),” 78.

³¹ Tac. *Ann.* 59

However, this is his only mention of *superstitio* in his discussion of the *magicae vanitates*. Further, if we hold to Graf's interpretation of "powers of religion" (*vires religionis*) in Pliny as a gloss for *superstitiones*, then rather than *magica* being subordinate to a larger category of *superstitio*, we have quite the opposite situation—*magica* encompassed *superstitiones* as part of its rise to universal dominance. This would be another tension in an already strained text.³² We might also approach this from another perspective and note that *magia* and *superstitio* do not appear in places we might expect them to if in fact their semantic ranges were beginning to overlap. For example, we might look in Lucan's account of Erichtho in his *Bellum Civile*, which is often taken as evidence of a concept of magic in the Roman world.³³ In the 400 plus verses that he dedicates to this surreal scene that imagines the limits of human sociability, Lucan utilizes *magia* several times but nowhere does he feel the need to utilize the term *superstitio*. The same goes for Apuleius in his *Apologia* from the second century CE. In the course of Apuleius's lengthy defense of himself against charges of *magica maleficia* he never once appeals to *superstitio*. Even into late antiquity, the relationship between these categories is not always clear. For instance, Augustine situates the *magicae artes* as a type of *superstitio* along with divination and astrology. Yet, it is less than clear that he understood *magicae artes* as an "ultimate" or privileged sort of *superstitio* rather than a particular example of human communion with demons, which itself was one of thousands of empty practices (*milia inanissimarum observationum*) that fall under *superstitio*.³⁴ Further, in legal discourse, *magia* (or its putative synonym *maleficium*) does not figure into the "religious" laws of the *Codex Theodosianus* book

³² See Chapter 3 for my discussion of Pliny's history. Specifically note Graf's interpretation of Pliny's triad in *Magic in the Ancient World*, 50-51.

³³ Beard, North, and Price, *Ibid.*, 219-220.

³⁴ *De doctrina Christiana*, 2.30ff.

sixteen, which makes extensive use of *superstitio* in discussing such subjects as heretics, apostates, pagans, and sacrifice.³⁵

While *superstitio* was a malleable and expansive term, it does not cover the entire set of discourses that we might call ancient religious deviance. In this regard, the Romans had no discrete category for “religious deviance” and different rituals, rites, and their practitioners were subject to different forms of cultural ridicule or legal restraint for different reasons, and these were situated in different registers of social discourse.³⁶ *Superstitio* was not a term whose range was confined only to describing religious activity (at least in a modern sense); especially in terms of foreigners, it could be used to describe certain aspects of traditional customs.³⁷ As I will discuss more in the next chapter, when it came to describing irregular ritual actions, the Romans could avail themselves of other terminology than *superstitio*: e.g. *profanus*, *impietas*, *nefas*, *sacrilegium* were all applicable to the violations of public rituals, but were also extendable to evaluating wider social relationships and making various moral judgments.

That modern scholars perceive a convergence of magic into the range of superstition with little semantic evidence gestures to the general confounding of analytic and descriptive categories, a confusion that I have been trying to identify in its various operative ways throughout this thesis. For example, Beard, North, and Price offer Pliny’s history of the *magicae vanitates* and Lucan’s verses on Erichtho as evidence for this merging, but neither writer, as we saw, is all that interested in the relationship of *superstitio* to their discussions. In functionalist

³⁵ The one exception is the mention of *crimen maleficii* at 16.5.34.1. For the construction of *maleficium* as legal category see Chapter 5.

³⁶ It has been widely argued, for some time, that ancient Rome had no unified notion of religion comparable to our modern notion. For succinct expositions of the theoretical issues relevant to this see, Ando, *Roman Religion*. Rives also notes that there was no legal category for religious deviance, “Magic, Religion, and Law,” 64-67. For more on the problems relating to the category of ancient religious deviance and law see Chapter 5.

³⁷ For instance, Jews: see Apuleius, *Florida* 6; Philostratus, *Vit. Apollon. Tyan.* 5.33.

interpretations, which underlie the nominalist approach, magic as an analytic category is adopted for interpreting a given situation of religious deviance but ends up getting elided with *magia*, a particular element of the larger situation of religious deviance under description. Or there is a move from partial and contingent Roman attempts to clarify and expand their terms and concepts to having these stand in as general models for how to understand the more intricate and nuanced dynamics of ritual deviance: namely, particular acts of labeling, demarcating notions of exclusion and inclusion, the creation of otherness, and their specific marking as deviance.

In recent years, if the model of civic religion has come under fire, the impetus of these critiques has been that the “civic-compromise” is simply one ideologically driven ordering system in the ancient Mediterranean world, and that when scholars adopt it as a dominant and normative model it obscures other historical dynamics of Roman ordering and evaluating of ritual and cult, sets of beliefs, and theological literatures—their own and others. Given the heightened diversity wrought by Rome’s imperialism, which brought differently situated peoples into increased contact with one another, in principle we might imagine the Romans developed a more detailed language of alterity with which to construe and evaluate insiders and outsiders.³⁸ Indeed, the Romans did expand traditional Latin words and concepts like *superstitio*, and reinterpreted Greek words like *magia*, applying these to social situations likely unimaginable in these terms’ original coinings. Yet, rather than trace the broad continuities of these, which tends toward assuming a relatively stable meaning over time, a better approach might be exploring the social situations that incited these expansions and reinterpretations and the means by which these were brought about. The latter would entail a closer look at the specific changes in articulations

³⁸ Rüpke has done some useful work on this in terms of general Roman terminology for religious diversity; see “Religious Pluralism,” 748-766.

of words and the ensuing shifts in vocabularies as well as the forms of rhetorical figuration that make these changes and shifts possible.

The Romans in their own words

This chapter begins to redress this situation by examining further a few of the Latin words usually construed as “magical” in the context of increased intellectual complexity and sophistication in the Late Republic and early empire. Andrew Wallace-Hadrill has called this Rome’s “cultural revolution,” and at least in part, it was a situation in which the technical details of language were explored as part of larger epistemological issues and informed the navigating of wider boundaries of cultural normativity, marginality, and exclusion.³⁹ In Chapter 2, I explored Latin *magus* in this context and emphasized late republican intellectual efforts to render their own forms of cultural identification with Greek tools of learning. Here I want to amplify these considerations to problematize the standard vocabulary for Roman magic. Rather than draw conclusions by aggregating terms from across different usages and contexts already pre-judged as magical, I suggest instead that we examine Romans’ own interest in these terms.

To do this requires challenging the way in which scholars typically view words that converge into larger concepts in studies of ancient magic. I dealt with some of the basic presuppositions surrounding the idea of terminological convergence in Chapter 2. This approach posits that the different ancient terms that come to designate a concept of magic do so because, at a certain point and under more or less determinate social pressures, they converged into a unified “semantic constellation” and became “interchangeable” with one another—or at least virtually so—despite their earlier individual etymologies and meanings. Unsurprisingly, the process of

³⁹ Wallace-Hadrill, *Rome’s Cultural Revolution*.

convergence is more detailed for the presumed Greek origins of magic. On this account, terms such as *goēs*, *magos*, *epōdē*, and *pharmakon* indicated, prior to the fifth century BCE, different kinds of persons and objects.⁴⁰ Yet, by the fifth century BCE, especially in Athenian sources, these earlier nuances were either gone or overshadowed by a larger concept of magic: songs could now be spells, remedies could be potions, and Persian priests, magicians, and altogether these terms operated interchangeably to form a general concept of magic that abstractly connoted social danger, ranging from foreignness and illegitimacy to unsanctioned modes of accessing divine powers.⁴¹

This process of convergence in Rome is a variation on this theme, and “something resembling magic discourse”⁴² is usually first perceptible in the language of song in the Twelve Tables (i.e. *malum carmen*, *incantassit*, and *excantassit*), and later can be detected in late republican law, the *Lex Cornelia de Sicariis et Veneficiis* (i.e. *venena mala*). As I argued in Chapter 2, scholarly accounts of the general transmission of a discrete concept of magic from Greek to Roman culture depends on a set of abstract and ahistorical suppositions. At a lexical level, this procrustean set of suppositions coordinates, a priori, a perceived “likeness” between Greek terminologies for magic and a set of associated Latin terms. For instance, it is more often

⁴⁰ For discussions of the pre-classical origins and referents of these terms see Graf, *Magic in the Ancient World*, 20-35; Dickie, *Magic and Magicians in the Greco-Roman World*, 12-14, 18-45; See Stratton, *Naming the Witch*, 16-30.

⁴¹ For different accounts premised on the convergence position, see Graf, *Magic in the Ancient World*, 20-35; Dickie, *Magic and Magicians in the Greco-Roman World*, 1-45; also more recently see Stratton, *Naming the Witch*, 16-30 and Chapter 2. Also, I am grateful to Chris Faraone for pointing out to me how texts such as the *Getty Hexameters* might be taken as counterevidence for the loss of individual nuances of these terms: see Faraone and Obbink, *The Getty Hexameters*. I base my reading of the sources in this chapter around a general conviction that there are no true synonyms, but always fine-grains of difference between near equivalent words. Whether we can discern them or not in any given text is an open question, but questions over specific meanings and usages in particular discursive settings are my usual points of departure.

⁴² Stratton, *Naming the Witch*, 30.

posited than critically discussed that Latin *venenum* and its derivatives *veneficus* and *veneficium* translates Greek *pharmakon*, *pharmakos*.⁴³ That is, the peculiarity of this Latin term, and the specific ways it gets associated in Latin writers is less often emphasized. While it is undoubtedly true that at an abstract lexical level *venenum* is a perfectly good translation for *pharmakon*, the relation of Latin words to Greek words should be investigated concretely as a matter of contingent historical articulation rather than as a product of natural translation.⁴⁴ Carlin Barton and Daniel Boyarin have argued recently (for *religio* and *thrēskeia*) for a more inductive and associative approach that “traces the connections of one meaning to another without assuming a common checklist of characteristics that will fit all instantiations,” rather than the usual practice of lexicographical semantics where the “essence” of a word is sought by distilling “the overlying abstract concept that generates all the specific instance of its usage.”⁴⁵ With respect to *venenum*, I suspect that the larger subtext that seems to justify (without much comment) scholars’ close association of it to *pharmakon* as near synonymous terms designating magical activity is the sometimes subtle shift in register they make from noting the *specific* lexical translation of one term to the other to the fact that this one-to-one translation also apparently carried a more *general* and wider set of associations (e.g. the often ambiguous distinction between its meaning as poison or magic potion). This shift gives the impression that there is a baseline conceptual meaning across languages, and that other chains of association are merely secondary derivatives to this more primary “essence.” Yet, when Latin writers meditate explicitly on this translation—

⁴³ See, for example, Dickie’s discussion of “magical” terminology, in *Magic and Magicians in the Greco-Roman World*, 12ff, where he asserts matter-of-factly that variations of *veneficus/veneficium* and *pharmakos/pharmakon* refer to the same sorts of people and things.

⁴⁴ *Lewis and Short*’s entry for *venenum* starts with observation that this term is “like” *pharmakon*. Although it is also worth noting that under the lemma for *pharmakon* in LSJ, *venenum* is not mentioned as like *pharmakon*.

⁴⁵ Barton and Boyarin, *Imagine No Religion*, 2 n.6.

which they did not often do—they “are consciously and explicitly conforming *venenum* to *φάρμακον*,” and not necessarily expressing common or accepted articulations.⁴⁶ In other words, Roman authors are constructing connections between *venenum* and *pharmakon* when invoking the former term; the former is not a natural or given translation of the latter. Furthermore, aspects of the Greek term *pharmakon* never seem to get rendered by *venenum*, and at times Latinized versions of *pharmakon* appear with other Latin words to signify relevant distinctions.⁴⁷ In fact, C.A. Hoffman has argued that the long-noted ambiguity of meaning attributed to *venenum*—as poison or magic potion—should be understood as a historical development rather than as a baseline valence of the term.⁴⁸ By contrast, the other important term for Latin magic is *maleficium*, and scholarly narratives of its development deviate somewhat from the above considerations. I will take up *maleficium* in the next chapter, but it is worth noting generally here that this Latin term is positioned in Late Antiquity as the culmination of legal discourse on

⁴⁶ Hoffman, *The Idea of Magic in Roman Law*, 76. For example, Gaius in *Dig.* 50.16.236: “Those who speak of poison (*venenum*), should add whether it is good or bad, for medicines are poisons, and they are so called because they change the natural disposition of those to whom they are administered. What we call poison the Greeks style *pharmakon*; and among them noxious drugs as well as medicinal remedies are included under this term, for which reason they distinguish them by another name. Homer, the most distinguished of their poets, informs us of this, for he says: ‘There are many kinds of poisons, some of which are good, and some of which are bad.’” Also see Serv. *Georg.* 1.129.

⁴⁷ See Collins, *Magic in the Ancient Greek World*, 144: “Now it is important to stress that the ambivalence observed in the use of *venenum* ‘poison/magical drug’ in Latin is roughly equivalent to that found in the Greek term *pharmakon* – roughly, because the Latin term does not include the meaning ‘purification’ as *pharmakon* does in Greek medical texts.” Also see Graf, *Magic in the Ancient World*, 46, where he notes the wider semantic range of *venenum* and *veneficium*.

⁴⁸ Specifically, Hoffman argues that the uncertainty over *venenum* seems to be the result of the competitive environment of the rhetorical schools under the Principate, *The Idea of Magic in Roman Law*, 76-80. Rives has also discussed the supposed ambiguity of *venenum*, adding that the problem is also due to the anachronistic assumptions of modern scholars, “Magic in Roman Law,” 319-320. Hoffman’s position informs mine, and I will look more at Rives’s position below.

magic, and this culmination emerges from the semantic ranges of *magia* and *veneficium* converging with its general notion of “evil deeds.”⁴⁹

Over and above scholars’ assumptions concerning the crystallization of a standard Greek and Latin vocabulary for magic, I would press further the Romans’ own interest in their words, these words’ relationship with words in other languages (notably Greek), and the often proposed etymologies, definitions, and distinct uses of terms in order to clarify their meanings. Focusing on these proposals might shift the frame of analysis, especially for thinking about those terms normally associated with magical activity.⁵⁰ We can observe Roman philological interest in the nuances of language as early as the beginning of the first century BCE, when Aelius Stilo subjected Latin to linguistic analysis, influenced by Alexandrian and Stoic models. Stilo interpreted the difficult and antiquated wording of the *Carmen Saliare* (the Salian song), explicated on the language and application of the Twelve Tables, and commented on books of pontifical law.⁵¹ Stilo’s work influenced the later Roman philological efforts of Cicero and Varro, both of whom proposed and assessed etymologies and definitions of words. Varro composed twenty-five books *De lingua Latina* (“On the Latin Language,” only six books survive). This text represented a true Roman achievement in grammatical knowledge and

⁴⁹ See Rives, “Magic in Roman Law,” 322: “By the time of Apuleius, however, it [*maleficium*] and its cognates had apparently become closely identified with *magus* and its cognates, and by the fourth century CE had even started to displace them.”

⁵⁰ I am not interested here in whether Romans authors’ proposed etymologies are correct or not. Even if these are spurious and never rise to the standards of modern philology, the very fact of ancient authors proposing etymologies—even if historically dubious—reveals how the Romans saw themselves producing authoritative knowledge.

⁵¹ Varro, *De ling. lat.* 7.2; Cic. *De or.* 1.193.

influenced later grammarians such as Verrius Flaccus, Sextus Pompeius, and fourth and fifth century CE commentators such as Servius, Macrobius, and Nonius, among others.⁵²

Roman preoccupation with words was not simply an isolated interest; it was an aspect of larger problems of cultural difference at Rome. Romans' antiquarian desire to collect and preserve Roman traditions, along with their interest in self-consciously thinking about what might count as Romanness, often resulted in their careful scrutiny of Latin (and Greek) terms—both as to their form and meaning. In other words, Roman interest in philology and grammar was in part simply another effect of empire—of absorbing Greek intellectual tools and critically applying them to Roman cultural matters. In general, the Late Republic witnessed increased attention to the definitions of concepts and the proliferation of more precise linguistic divisions, which resulted in more diverse terminology. These efforts occurred within a number of domains, including philosophy, poetry, and law.⁵³ In particular, Rome's perceived relation to its gods elicited intense focus from Roman thinkers, who delved deeply into the finer philological points of Roman cultic terminology and its normative value during this time. For example, in *On the Nature of the Gods*, Cicero (via the Stoic Balbus) provides us with etymologies of *religio* and its opposing category *superstitio*. The former he sees as coming from *relegare* (“to retrace” or “to re-read”), which connects it to other Latin terms for “picking out” (*legere*; e.g. *eligere*, *diligere*, *intellegere*) and refers to those who those who diligently (*diligenter*) go over the details of worship offered to the gods. The latter he sees as emerging from *superstites*, meaning “survivors;” it applied to those who would compulsively pray and offer sacrifice in hope that

⁵² For a brief run down of ancient philology see Varro, Marcus Terentius, *De lingua Latina*, translated by Daniel J. Taylor, 10-18.

⁵³ See Chapter 2.

their children would outlive them—the *superstitiosi*.⁵⁴ Cicero matter-of-factly asserts the binary of *religio/superstitio* and authorizes it by noting that this distinction was long held by Roman ancestors and philosophers. However, distinguishing and evaluating the repetitive behavior common to both *religio* and *superstitio* into clearly defined opposites seems still to be a point of contention in Cicero’s own day. That this binary was asserted and reasserted in various degrees of difference by his contemporaries, and even that *religio* appeared as a synonym for *superstitio* at times indicates efforts to settle this knowledge rather than to recall already settled knowledge.⁵⁵

It is important to emphasize how Cicero carves out his general rendering of *superstitio* over and against *religio*. In concluding *On Divination*, Cicero (via Marcus) speaks to his perceived dual duty to both “extend religion (*religio propaganda*) ... and to weed out every root of superstition” (*superstitionis stirpes omnes eligendae*).⁵⁶ These two procedures are closely related for him because the line between *religio* and *superstitio* must be carefully maintained; Cicero insists that destroying the latter does not mean destroying the former. The pursuit of *religio*—“protecting the institutions of the ancestors by retaining their rites and ceremonies” (*nam et maiorum instituta tueri sacris caerimoniisque retinendis*)—can nonetheless be hindered because *superstitio* “pursues and urges you on, and it follows you at every turn” (*instat enim et urget et, quo te cumque verteris, persequitur*). He continues:

It is with you when you listen to a prophet (*vatem*), or an omen; when you offer sacrifices or watch the flight of birds; when you consult a Chaldean or a soothsayer (*si Chaldaeum, si haruspicem*); when it thunders or lightens or there is

⁵⁴ *De nat.* 2.72.

⁵⁵ For an assessment of Cicero’s etymology and the different uses of *religio* in its opposition to *superstitio*, see Sachot, “Religio/Superstitio,” 364-372; also see Casadio, “Religio versus Religion,” 301-326 for further discussion of how Latin authors used *religio* and how (he argues) modern scholars should understand the concept.

⁵⁶ *De div.* 2.148-149.

a bolt from on high; or when some so-called prodigy is born or is made. And since necessarily some of these signs are nearly always being given, no one who believes in them can ever remain in a tranquil state of mind.

For Cicero, the proper or improper degree of scruple is always at stake in acts of cult. It is telling that in this example, the context in which this is at stake is private divination. In the Late Republic, composite lists of itinerant and freelance ritual specialists give some idea of those (*vates*) the Romans thought facilitated contexts that were rife for *superstitio*. Cato forbids his slave overseer (*vilicus*) to consult “a haruspex, an augur, or a diviner, or a Chaldean” (*haruspicem, augurem, hariolum, Chaldaeum*).⁵⁷ Cicero places in the mouth of the Epicurean Velleius the superstitious implications of adhering to divination and subordinating oneself to “haruspices, augurs, soothsayers, prophets, and seers” (*haruspices, augures, harioli, vates, coniectores*).⁵⁸ Further, Cicero’s list, via Quintus, at the end of *On Divination* book 1 lays out unacceptable purveyors of divination: “fortune-tellers” (*sortilegos*), “necromancers” (*psychomantia*), “Marsian augurs” (*Marsum augurem*), “village haruspices” (*vicanos haruspices*), “astrologers who hang out around the circus” (*de circo astrologos*), “Isis-seers” (*Isiacos coniectores*), or “dream interpreters” (*interpretes somnium*).⁵⁹ Of course, this is not to say that these lists were an accurate index of the actors and ritual options in the religious “marketplace.” Rather, the very act of creating such lists indicates Roman efforts to cognize a certain level of complexity and refinement in distinguishing between public elite cultic interests (*religio*) and those of other ritual specialists, who offered their services in private (*superstitio*). These lists represent efforts to “distinguish them from respectable diviners” of Roman public cult

⁵⁷ *De agr.* 5.4.4.

⁵⁸ *De nat.* 1.55.

⁵⁹ *De div.* 1.132. Other composite lists: Cicero: *De div.* 2.105; *De part. orat.* 6.9; Quintilian 5.7.36.

by bringing out their “alienness.”⁶⁰ At a semantic level, the lists of diviners reinforce Cicero’s distinction between *religio* and *superstitio* and create a concrete context for the latter.

This reading of Cicero does not reflect the oft-assumed trajectory of convergence, where certain words lose determinate meanings as they merge with others as synonyms or near synonyms and form into more capacious yet discrete concepts. On the contrary, the issue at hand for Roman philological thinking was instead one of dealing with perceived ambiguity and ambivalence; it was the difficulty of making clear distinctions between what seemed to be interchangeable and synonymous words and dispositions. Like Cicero, other Roman writers often attempted to parse and stabilize perceived confusions by exploring possible nuances and differences in the meanings of words and distinguishing these from similar words and concepts. The value in making more precise nuances was in creating a larger, varied, and more supple vocabulary able to handle the reorientation of Roman society and culture to the context of a wider Hellenistic, Mediterranean world—a world that the Roman military machine had run roughshod over, but also one that Romans cognized more slowly and unevenly. And this reorientation should not be thought of as Romans merely receiving and sharpening otherwise sloppy or poorly defined Greek or archaic Latin terms, but rather it was that “[t]he translation across languages . . . required a modulation or transposition in style and a self-conscious reorientation of metaphor that domesticated the thought of the Greeks to a new language even as they rendered its content thinkable within new habits of mind.”⁶¹

Of course, Roman interest in and reflection on terms did not necessarily result in clearer differentiation or univocal consensus. Such matters remained contested. As I will discuss more at

⁶⁰ For example, see Slater, “The Market in Sooth,” 345-61 and Nice, “Ennius or Cicero?,” 153-166.

⁶¹ Ando, “The Ontology of Religious Institutions,” 65. This quote is in specific reference to Cicero’s adoption of Greek philosophy into a Roman idiom.

length in Chapter 5, there was a certain ideological value—a certain “wobble room” as it were—in leaving categories open-ended and vague when enumerating who and what counted as deviant (and later proscribed). Still, Roman philological efforts to establish greater linguistic precision should caution us against accepting a simple notion of the cultural convergence of words into a stable underlying concept and the continued coherence of such a concept through time. The relation of words to concepts is a much more contingent affair. Inquiring into ancient vocabularies is a historical problem and one located not simply in one place and time, by extrapolating from particular instances of usage, but in different places, different times, and different discursive contexts.

With these issues in mind, in the following sections I examine Romans’ own reflections on a set of terms usually deemed by scholars to be “magical” in order to illustrate the other operative, non-magical contexts in which these appeared. My treatment of *saga* and *veneficium* respectively is not exhaustive, and advisedly so. I want to examine their use in concrete argumentative situations where their definition is explicitly at issue among Roman authors and refrain from making pronouncement as to any general semantic range these terms have outside of such specific contexts. In the next section, I review and engage modern scholars’ prioritization of poetic contexts in circumscribing Roman magic. Specifically, I examine the figure of the *saga* and her ritual implications outside the poetic “witch” tradition. In the final section, I investigate the place of *venena/veneficus/veneficium* in Roman legal-rhetorical discourse and trace the explicit contours of debate over distinctions between what counted as a “poisoning” versus other more nefarious means of mystical attack.

The Roman poet's witch

Scholars of ancient magic have frequently looked to Roman poetry as a privileged locus for observing their object of study. In Roman poetry they often see a nascent category of Roman magic or these texts revealing a panoply of magical practices.⁶² We might start there. Two passages from Tibullus provide a standard catalog of magical language:

Has some old woman (*anus*) bound (*devovit*) you with her songs (*carminibus*) or pallid herbs (*pallentibus herbis*), in the silent hours of night? Song (*cantus*) draws (*traducit*) the crops from a neighbor's fields; song (*cantus*) stops the path of the angry snake; song (*cantus*) tries to draw (*deducere*) the moon down from her course, and would, were it not for the sound of echoing bronze. Why do I, in misery, complain that song (*carmen*) harms, alas, or herbs (*herbas*) do so? Beauty needs no help from magical auxiliaries (*magicis auxiliis*): but touching of bodies (*corpus tetigisse*) hurts us, as does giving drawn-out kisses, and thigh entwined with thigh.⁶³

Here Tibullus expounds on the issues of desire and love. He uses the category of “magical auxiliaries” in this context as a foil to set into relief the basic, unadorned, and ultimately material attraction that one lover feels for another. An old woman (*anus*) wields these auxiliaries, and their elements consist of herbs (*herbas*) and especially songs (*carmina*), ritually deployed (*devovit*) under the clandestine cover of night. Her harmful songs and herbs could change the course of nature, affect external objects in the world, and, as the contrast here implicitly suggests, influence the desires of the human mind. Tibullus presents a similar image elsewhere:

Still, your husband won't believe them, the truthful old woman (*verax saga*) promised me that, with her magic service (*magico ministerio*). I've seen her drawing stars down from the sky: her song (*carmine*) turns back the course of the flowing river. Her song (*cantu*) splits the ground, brings forth (*elicit*) ghosts from

⁶² E.g. Garosi, “Indagine sulla formazione del concetto di magia nella cultura romana,” 13-93; or Tupet, *La magie dans la poésie latine*, 1.

⁶³ 1.8.17-26: num te carminibus, num te pallentibus herbis devovit tacito tempore noctis anus? cantus vicinis fruges traducit ab agris, cantus et iratae detinet anguis iter, cantus et e curru Lunam deducere temptat, et faceret, si non aera repulsa sonent. quid queror heu misero carmen nocuisse, quid herbas? forma nihil magicis utitur auxiliis: sed corpus tetigisse nocet, sed longa dedisse oscula, sed femori conseruisse femur.

the tomb and summons (*devocat*) dead bones from the glowing funeral pyre: now she holds the infernal crew with magical hissing (*magico stridore*), now sprinkling milk orders them to retreat. As she wishes, she dispels the cloud from the somber sky: as she wishes, calls up snows to a summer world. They say she alone possesses Medea's evil herbs (*malas herbas*); only she has fully tamed the savage hounds of Hecate.⁶⁴

Here a young paramour has employed the “magical service” of a for-hire old woman—this time called a *saga*—to hide his affair from discovery by his lover's husband. Again, this use of *magica* includes the elements of song and herbs. The additional element here is necromancy: the ability of her song—now referred to as “magical hissing”—not only to reverse the normal rhythms of nature but also to penetrate into the world of the deceased, to bring forth and control the dead.

Tibullus's image of the Roman “witch,” and her abilities, reflects several general themes used by other Roman poets. This stock old woman could be called by various names: *anus*, *saga*, or *lena* (“procuress,” “bawd”) and possessed different variations on the above powers.⁶⁵ But as Tibullus's second passage indicates, she often bore more concrete names: Medea and/or Circe, the mythical exemplars of Greek witches, both of whom possessed similar herbalist and sonic skills in Classical and Hellenistic literature, and both of whom ended up as mainstays in Roman poetry. Both were also associated at times with the broader and nebulous group known from Greek literature as the Thessalian (Haemonian) women, who were famous in antiquity for their

⁶⁴ 1.2.41-52: nec tamen huic credet coniunx tuus, ut mihi verax pollicita est magico saga ministerio. hanc ego de caelo ducentem sidera vidi; fluminis haec rapidi carmine vertit iter. haec cantu finditque solum manesque sepulcris elicit et tepido devocat ossa rogo; iam tenet infernas magico stridore catervas, iam iubet aspersas lacte referre pedem. cum libet, haec tristi depellit nubila caelo: cum libet, aestivo convocat orbe nives. sola tenere malas Medeae dicitur herbas, sola feros Hecatae perdomuisse canes.

⁶⁵ For a good summary of these traits see Ogden, *Magic, Witchcraft, and Ghosts in the Greek and Roman worlds*, 115-145, esp. 124-25. Dickie extensively discusses “witches” and other female diviners in *Magic and Magicians in the Greco-Roman World*, 77-92, 158-162, 169-185. More recently see Spaeth, “From Goddess to Hag: The Greek and Roman Witch in Classical Literature,” 41-70.

“trick” of drawing down the moon.⁶⁶ Roman poets added their own witches with similar characteristics to these Greek women, but these figures bore much more gruesome and predatory qualities than their Greek predecessors. For instance, Ovid names his *lena* Dipsas (“snake”) and enumerates the familiar set of powers that we saw in Tibullus but also adds an additional power, shape-shifting.⁶⁷ Or, Horace gives us Canidia, Sagana (derived from *saga*), Veia, and Folia, who trolled about graveyards at night foraging for ingredients for their deadly concoctions.⁶⁸ As Horace explains in his alarming fifth *Epode*, these ingredients could include body parts taken from the corpses of murdered Roman boys. And then there is Lucan’s description of the witch Erichtho, in which he collapses all prior witch themes into a single terrifying image of the “universal night-witch.”⁶⁹ Lucan’s detailed account successfully renders Erichtho as the imagined antithesis of normative, civic Roman culture: he not only subtly contrasts her with the more mundane and recognizable female herbalist-for-hire figure, but also insists that Erichtho’s necromantic aspirations, which included canvassing battlefields for unburned body parts from recently dead Roman soldiers to perform her rites, went well beyond the malevolent songs and deadly herbs of even the exemplars of Circe, Medea, and their Thessalian cohort. To my mind, the rhetorical terror of the stereotyped Roman witch hinged, at least in part, on her ability to push familiar and everyday remedies, lore, and female stereotypes to new, unexpected, and dangerous extremes.⁷⁰ Notable here is that the term *magia* is not used as a direct descriptor for Erichtho. In

⁶⁶ For their reputation, see Phillips, “The Witches’ Thessaly,” 378-385.

⁶⁷ *Amores* 1.8.2; esp. verse 14: *hanc ego nocturnas versam volitare per umbras suspicor et pluma corpus anile tegi.*

⁶⁸ *Sermones* 1.8.23-50.

⁶⁹ *Bellum Civile* 6.413-830. Here I am using Gordon’s term and engaging with his overall interpretation, see “Lucan’s Erichtho,” 231-41.

⁷⁰ E.g.: “These criminal rites and malpractices of an accursed race fierce Erichtho has judged too pious (*hos scelerum ritus, haec dirae crimina gentis effera damnarat nimiae pietatis Erichtho*) and had turned her impure art into new rites (*inque novos ritus pollutam duxerat artem*),” 6.507-509.

fact, of the times that Lucan employs the term *magia* in this section of his text, it generally signifies a (male) group similar to the Thessalians, both of whom she has surpassed in the intensity and deviance of her activities and rites.

A previous generation of classicists took Tibullus's supposed eyewitness account (*ego vidi*) of his *saga*'s machinations as so much evidence for the ultimately ethnographic nature of poetic descriptions.⁷¹ On this view, Roman poets apparently were describing, to some degree and perhaps condescendingly, the empirical everyday realities of the Italian demimonde where individuals consulted magicians and witches who hung out in moonlit graveyards and mixed for them love potions using occult pharmacology. These observations were enshrined in their poems, often tangled up in a great deal of imaginative and literary flourish. The task of the modern scholar was thus to peel away the literary embellishments of these works, reveal this historical world, and thereby discover a veritable trove of Italian folklore and magical practice. This view no longer carries much sway.⁷² Rather than seeing these poetic texts as potential documents for "on the ground" ritual practice, more recent scholars have characterized these texts as highly mediated and learned cultural productions, which replicated and innovated on previous Greek literary modes, mythic content, and local lore while simultaneously putting these to different social and political work.⁷³

⁷¹ For instance Eitrem, "La magie comme motif littéraire chez les Grecs et les Romains," 39-83, or A.M. Tupet, *La magie dans la poésie latine*.

⁷² Dickie comes closest to this view with his rather credulous reading of ancient literary and poetic texts in *Magic and Magicians in the Greco-Roman World*.

⁷³ Graf comments, "Works of literature have their own laws, and it is always risky to disregard laws," *Magic in the Ancient World*, 175; Gordon gives a run down of the problems with the older view in "Magic as a Topos in Augustan Poetry," 209-228.

The *magia* word cluster appears frequently in Roman poetry in relation to the above set of themes. In fact, most instances of the adjective *magicus* are found in poetry.⁷⁴ This has often been evidence enough for scholars of Roman magic to privilege Roman poetry as the inchoate beginnings of a Roman concept of magic.⁷⁵ But in terms of the discourses it served and the nouns it modifies, *magicus* figures differently in different poetic deployments.⁷⁶ Setting aside the ideological agendas of specific poetic works, at the level of grammar and syntax I have perceived four broad patterns of use for *magicus* in Roman poetry. Tibullus already demonstrated the first: *magicus* can serve as a more general signifier for the combinations of songs (“spells” *carmina/cationes*) and herbs (*herbas*) that old women (*ani/sagae*) employ for ritual purposes (*devovere*). This use dimly approximates Pliny’s more expansive use of the term, which we saw in Chapter 3.⁷⁷ Second, *magicus* could also qualify or gloss one or the other of the terms for “songs” or “herbs,” rather than signify both together. Regarding songs, *magicus* frequently accompanies *cantus* (“song”), and the ablative of means *magicis cantibus* is a common construction. Grattius’s *Cynegeticon*, for instance, includes “herbs aided by magical songs” (*magicis adiutas cantibus herbas*) in a list of old-fashioned contrivances.⁷⁸ Regarding herbs, *magicus* can also serve as a gloss for these and other substances, as well as their physical manipulation, in juxtaposition to song. In Vergil’s eighth *Eclogue*, Alpheisiboeus summarizes the

⁷⁴ The discussion here is deeply indebted to Rives, “*Magus* and its Cognates in Classical Latin,” 53-77, especially 67-70.

⁷⁵ See note on Garosi and Tupet above.

⁷⁶ As recent studies of the intersection of Roman literature, religion, and magic have pointed out, at a general level, the contingent roles for certain words and concepts in the poets could vary depending on the ideological nuances of a given context. For instance see Feeney, Denis. *Literature and Religion at Rome* or “Magic as a Topos in Augustan Poetry.”

⁷⁷ Also see Valerius Flaccus, *Arg.* 6.448-449; Vergil *Aen.* 4. 493.

⁷⁸ Also see Columella, 10.367, *magicis sopitum cantibus*; Lucan, 4.533: *missa magicis e cantibus*; Seneca *Med.* 684: *magicis cantibus*. For other variations see Seneca’s *Hercules Oet.* 452ff, *artibus magicis fere coniugia nuptae precibus admixtis ligant* and *carmine mago*, 467.

acts of bringing water, wreathing altars, and burning incense and herbs as *magica sacra*, but indicates these are incomplete without the use of songs (*carmina*). Here song is a separate element, which is added to those mixtures and actions denoted by *magica sacra* in order to render them effective.⁷⁹ Third, *magicus* can function on its own, as a separate category, modifying actions and items belonging to a collective group called the *magi*; in this form, *magicus* does not encompass other terms surrounding it nor is it synonymous with these but simply exists in collocation with these other terms. For example, Lucan sets off Thessalian songs (*carmen Thessalidum*) from Erichtho's song and shows that these were different from and more potent than the songs of magicians (*cantata magos*) and unknown to their gods (*magicis deis*).⁸⁰ Or, we might note the different categories of vice Horace lists in parataxis that one could aspire to be free from: "dreams, magical terrors, marvels, witches, ghosts of night, Thessalian portents" (*somnia, terrores magicos, miracula, sagas, nocturnos lemures portentaque Thessala*). Each of these functions as a different vice; *magicus* paired with *terror* is but one and is not offered as a general term to encompass the set, nor are we told what "magical terrors" are.⁸¹ Fourth, *magicus* appears frequently in reference to the exotic and indeterminate domain of the East in Roman literary imagination. In this regard, it is not clear to me that in every case *magicus* should be translated "magical" and not "magian" (in reference to Persia). That is to say, while magicians are a group often mentioned with no specific reference to Persia, *magicus* is frequently rendered in discursive contexts that highlight geographical and ethnic foreignness, often of the East (e.g., Pontus, Persis, Aea, Phasis, Colchis, Hiberia, but cf. Vergil's Massylian priestess and Pliny's

⁷⁹ The importance of song is also the topic of the second stanza of *Eclogue* 8, and the refrain *mea carmina* draws attention to its efficacy in enacting the ritual procedures.

⁸⁰ *Bellum Civile* 6.575, 767. Erichtho promises to her un-dead medium her protection from the songs of the magicians in return for his participation in divining the future.

⁸¹ *Epistles* 2.204-209

Druids as Gallic *magi*). Ovid seems to indicate precisely this when he uses a modified (and rare) adjectival form of *magus*, saying of Dipsas: “She knows the Magian arts and Aeaeon incantations (*illa magas artes Aeaeaque carmina novit*).⁸² Horace also evokes a general eastern otherness in extolling the value of lamenting love and heavy drinking: “What *saga*, what *magus* with Thessalian drugs, what god will be able to set you free” (*quae saga, quis te solvere Thessalis magus venenis, quis poterit deus*)?⁸³ To ignore these ethnic valences and presume a priori a more general, ubiquitous notion of “magician” seems suspect, especially given the semantic fluidity of this word cluster emphasized in the prior two chapters.

In general, at the level of grammar, syntax as well as translation, such matters should be kept in mind for all of the terms discussed below regardless of genre. These terms are translated variously and sometimes inconsistently—and such translations often say more about what a given translator considers “magical,” and obscures the nuances of Roman discourse. Many modern scholars seem to know a magical context when they see one, but in so knowing, they overlook the contingent—and varied—roles for certain words in specific discursive contexts.⁸⁴

⁸² *Amores* 1.8.5 Also seen Seneca *Her* O 467: *mago carmine*; this form is based on the nominative form *magus* which more often than not refers to magians rather than magicians. Rives has shown that this form is rare, “Magus and its Cognates in Classical Latin,” 58.

⁸³ *Carmina*, 1.27.21-22.

⁸⁴ The issue here relates to translations that employ the term “magic,” or commentaries that describe a text as referring to a “magical” feature, without such texts using some version of *magia*. The implication seems to be that the appearance of the term *magia* is sufficient but not necessary for scholars to identify a wider concept of magic and its particularities. The issue of translation can be seen in the standard Loeb volumes. Even as earlier translations have been updated, a review of the Loeb digital library reveals numerous instances of English “magic” used not only to translate *magia*, but other Latin terms such as e.g. *scientia* (Horace, *Ep.* 17.1) and *miraculum* (Ovid, *Met.* 5.181). English “magic” is also often interpolated into translations as an intensifying adjective for the Latin term being translated, e.g. in renderings of *herba* (Prop. 3.25) or *carmen* (Luc. 6.646-648). In terms of commentary, the source books compiled for magic in the ancient world (e.g. Luck, *Arcana Mundi* and Ogden, *Magic, Witchcraft, and Ghosts in the Greek and Roman Worlds*) include material lacking the term *magia* within the purview of magic, often either without clear inclusion criteria (e.g. Ogden, 5) or with a general definition of magic

To my mind, it is not always clear when, say, a *carmen* or *cantio* or *cantus* is a “spell” or an “incantation” rather than a “prayer” or just a “song”—other lexical and contextual indicators must be taken into account. For instance, what is the social position and gender of the singer, and where and when is this *carmen/cantus/cantio* being sung? The patterns of use of *magicus* in Latin poetry show that this genre contained a number of fairly consistent images and themes to which the term was often conjoined, but *magicus* is neither univocally nor consistently employed to characterize this constellation as a whole or to quilt together these themes and images into a single, standard concept. Rather, these sets of terms, often highlighting the Roman witch, signaled and explored the perceived tensions, ambiguities, and possibilities of cult practices and modes of divine access considered marvelous, marginal, unsanctioned, aggressive, and “other,” primarily in relation to the themes of personal and erotic relations of love, lust, and loss. As Richard Gordon has recently argued, while the common *topos* of “magic” in Roman (i.e. Augustan) poetry does not detail an actual, factual social world of Italian and eastern witches and sorcerers, the use of these themes in Roman poetry might reflect—albeit indirectly—the social dynamics of a specific part the social world familiar to these poets, especially “the world of the brothel and the courtesan.”⁸⁵ Yet, a literary interest in the exotic and strange, the erotic and libidinal, was a small part of the world and less than representative of the wider interests that other Roman authors had with issues of women, songs, herbs, and the potential danger these could pose.

The other, non-poetic locales of such themes can be illustrated by homing in on the character to which poets so often give agency in plying uncanny forms of power by means of

that would—if taken to its logical conclusion—lead one to expect much more than is included could be included (e.g. Luck, 33).

⁸⁵ Gordon, “Magic as a Topos in Augustan Poetry,” 19.

songs and herbs: the old woman (*anus*), or *saga*. While the figure of the old woman as *saga* appears mostly in poetry, Cicero, *in persona* of his brother Quintus, proposes an etymology for this term in book 1 of *On Divination*. In defending dreams as a form of accurately knowing the future, Quintus states:

Now *sagire* means to have a keen (*acute*) perception. Accordingly certain old women (*anus*) are called *sagae*, because they are assumed to know many things (*multa scire*) and dogs are said to be ‘sagacious.’ And so one who has knowledge of a thing before it happens is said to ‘presage,’ that is, to perceive the future in advance.⁸⁶

In this context, the relevant issue is mental acuity (*acer*). The use of *sagio* (*sagax*, *sagacis*) in this and other non-dream related contexts follows this theme. As the above quote indicates, animals could also be considered sagacious: many Latin texts reveal frequent references of this kind to dogs and their sense of smell (useful for hunting), and Pliny the Elder uses this term to describe the ways that animals perceive the natural world that elude human perception.⁸⁷ But the “sagacious mind” of humans was also of greatest interest to Roman authors. It was a quality that, in part, separated animals from humans—or at least what Roman elites counted as humans. Lucretius notes that an *animus sagicum* was able to know of those things that were not readily apparent to the other senses.⁸⁸ Elsewhere, Cicero philosophizes that *sagax* was an aspect of

⁸⁶ *De div* 1.65.7-10: *Sagire enim sentire acute est; ex quo sagae anus, quia multa scire volunt, et sagaces dicti canes. Is igitur, qui ante sagit, quam oblata res est, dicitur praesagire, id est futura ante sentire. Quintus’s comments are responding to a specific doubt; namely, that even if dreams give knowledge of the future, they are often nonsense. How then does one ensure the quality of this knowledge? Drawing on philosophical theories of the soul, Quintus argues that if the body is in an unstimulated resting state, the soul—which possesses a divinely endowed quality of praesagatio—is in a better position to have clearer and truer dreams and even perceive the future (Inest igitur in animis praesagatio extrinsecus iniecta atque inclusa divinitus. Ea, si exarsit acrius, furor appellatur, cum a corpore animus abstractus divino instinctu concitatur, 1.66)*

⁸⁷ See Pease’s commentary on this passage, *M. Tulli Ciceronis: De Natura Deorum*, 210ff; see more recently, David Wardle’s commentary in *Cicero: On Divination Book 1*, 270.

⁸⁸ *Lucr. De nat.* 2.840

human *ratio* (“reason”).⁸⁹ Finally, given the close connection of ancient philosophical notions of humanity with elite male ideals, sagacity could also be a valued and praiseworthy attribute in public life and in military affairs.⁹⁰ It follows that the potential danger of sagacity was that it might be found in non-elite, non-male humans, and it could be as dangerous as if it were found in non-domesticated animals.⁹¹

Yet, if Quintus (via Cicero) invites us to see old women and dogs as two like examples of *praesagire*, the dogs end up coming off better. As it turns out, for Cicero, old women do not know “many things” at all, and the different measures of sagacity attributed to men and animals sit quite to one side of the *superstiones* attributed to old women. In book 2 of *On Divination*, Marcus (Cicero’s depiction of himself) uses the image of old women to deride and marginalize divinatory forms of knowledge (argued for by Quintus). Marcus argues that the very word “fate” is “full of superstition” and “old woman’s credulity” (*anile sane et plenum superstitionis fati nomen ipsum*).⁹² Or, with respect to Quintus’s above argument, while some people believe that dreams foretell the future, others “despise them and think that such a belief is the superstition of a feeble, old woman’s mind” (*superstitionem inbecilli animi atque anilis putent*).⁹³ In fact, Cicero (*in propria persona*) frames his whole dialogue on divination by situating the acceptance or rejection of divinatory practices between two unacceptable extremes: on the one hand, to neglect them relativizes public cult and risks impiety (*impia*) against the gods, but, on the other hand, to approve them without due consideration risks engaging in “old woman’s superstition”

⁸⁹ Cic. *De finibus* 2.45: Along with the qualities of complexity, keenness, and memory (*multiplex, acutum, memor*) and entailed an active intellect able to draw complex inferences about cause and effect, “connecting the future with the present” (*cum praesentibus futura copulet*).

⁹⁰ E.g., Valerius Maximus 7.4.4.2.

⁹¹ Note that Pliny says of the *magi*, *Magorum sollertia occultandis fraudibus sagax*, NH 29.53.

⁹² *De div.* 2.19.11.

⁹³ *Ibid.* 2.125.3-5.

(*anili superstitione*).⁹⁴ Thus Quintus's example of *saga* amounts to little more than a rhetorical pillar in Cicero's overall critique of divination: in general, old women lacked the mental acuity attributed to men and even to animals; those who were credulous enough to accept the sagacity of old women were also those who saw divination as legitimate form of knowledge and not superstitious nonsense. Indeed, this sentiment only reinforced a more widespread bias that proper, normative religion laid with men, more specifically able-bodied, adult, citizen males.

Some two centuries later, grammarian Sextus Pompeius Festus included Cicero's etymology in his encyclopedic *De verborum significatione* ("On the Meaning of Words"). This text was itself an abridged version of the first century BCE grammarian Verrius Flaccus's work of the same name.⁹⁵ Under the lemma *sagaces* Festus includes usual references to mental acumen, but also records an entry for *saga*, which reads: "a *saga* also is called a woman skilled in sacred matters (*perita sacrorum*)."⁹⁶ This view is much different than that of Cicero. Rather than an old woman exemplifying her social marginality in foolish beliefs and immoderate practices, *saga* is defined here as a skillful practitioner, and not merely in low-level, ad hoc, and ultimately fungible forms of divination, but in *sacra*. The language of cult replaces the language of *superstitio*.⁹⁷ In fact, elsewhere Festus continues to use *saga* in the language of normative cult.

⁹⁴ Ibid., 1.7.15. Cicero's etymology (via Balbus) of *superstitio* in *De natura deorum* (see above) does not mention women specifically, but the anxious mindset and compulsive activities attributed to the superstitious was easily encompassed by *anilis superstitio*. Seneca also includes women among the superstitious throng who occupy the Capitol and perform the most inane acts for the gods.

⁹⁵ For a recent discussion of the layers of complication involved in reconstructing Festus's text see Glinister, Woods, North, and M. H. Crawford, *Verrius, Festus, & Paul: Lexicography, Scholarship, & Society*.

⁹⁶ For the entry *sagaces* see Fest. *Verb.* 321.29-42; esp. 39-42 for *saga*.

⁹⁷ Further, it is telling that Festus clarified how one might adjust the inflection and pronunciation of the term itself so as to properly and clearly refer to a male: "In *sagus* we make long the first syllable, perhaps to avoid any ambiguity," (... et *sagus*> sapiens, pro<ducta prima syllaba,> forsitan prop<ter ambiguitatem> evitandam).

Under the entry for *piatrix*, Festus defines this woman as a priestess (*sacerdos*) “accustomed to perform expiations” (*quae expiare erat solita*), and “who some also called a *simulatrix*, others a *saga*, and still others an *expiatrix*.”⁹⁸ The important take away here is that *saga* is rendered in the semantic range of a priestess who expiates. Expiation suggests a more official role: the term *expiatrix*, one who performs the extremely valuable task—especially in Roman ritual—of purification complements the idea of *saga* as a figure skilled in a set of normative ritual techniques.

Numerous complications and problems surround Festus’s text, and this might give us pause in drawing such ambitious conclusions from two admittedly scant passages. The precise details of such purgative rituals are unknown and, as far as I can tell, Festus’s text contains the only instance of the terms *piatrix* and *expiatrix*.⁹⁹ One other instance of *simulatrix* (i.e. “shape-shifter,” or more literally “counterfeiter”) can be found in the poet Statius’s *Theibad*, in reference to Circe and her transforming Odysseus’s men into pigs, a reference that points back to the poetic “witch” discourse that *saga* often accompanied with its emphasis on deceitful and dangerous female figures.¹⁰⁰ However, to evoke a wider context that might illuminate these passages, I would point to Rebecca Flemming’s recent essay, which included these passages in a persuasive reassessment of the role of women in Roman sacrificial activity.¹⁰¹ Flemming challenges John Scheid’s argument for female “sacrificial incapacity,” which has long been seen as authoritative in studies of Roman religion. On this view, “Roman women were characterized

⁹⁸ Fest. *Verb.* 213.23-27: <Piatrix dicebatur sacerdos, quae expiare erat solita,> quam quidam simulatricem, alii sagam, alii expiaticem vocant; et piamenta, quibus utitur in expiando, alii purgamenta.

⁹⁹ Rebecca Flemming has suggested that such expiatory rituals were likely conducted under the purview of the *decemviri*, “Festus and the Role of Women in Roman Religion,” 106-107.

¹⁰⁰ Statius, *Theibad*, 4.551.

¹⁰¹ Flemming, “Festus and the Role of Women in Roman Religion,” 87-108.

by a series of religious incapacities and disabilities which forced them to the edges of Roman religious practices: into subordinate ritual functions and a kind of sacred ‘passivity,’ or into ‘suburban sanctuaries and the temples of foreign gods’, and even into ‘deviant’ religious activity and thought.”¹⁰² For Flemming, that this view rests on uncritical and ahistorical notions of gender is second to the more important fact that the evidence offered in support of this view is misconstrued. The ancient testimony (including Festus) actually attests to a more complex picture of women’s integration and participation in Roman public cult. The proof texts for female exclusion, drawn from the likes of Plutarch, Festus, and Gellius, constitute, in each case, exceptions rather than norms, and, at times, include male ideals rather than reflections of realities. Further, Flemming offers evidence that women who conducted rites were in some sense assumed (e.g. Varro’s *rica*), rather than being the exception to the rule (e.g. Vestals, Bona Dea). On Flemming’s reassessment then, the information gleaned from Festus as to the positioning of *saga* among the names of other female *sacerdotes*, when taken with other female figures from Rome, some better known than others—e.g. *Vestales*, *simpulatrices*, *flaminicae*, *sacerdotes Cereris*—offers a different view that suggests closer proximity of *sagae* to the normative center of Roman cult than is reflected in poetic renderings of these women.¹⁰³

Of course the Romans were not modern feminists by any stretch, and all this is not to deny that *sagae*, and women in general, were often negatively portrayed in various aspects of Roman life. In fact, the poetic images of the evil *sagae* were ramified in other, non-poetic cultural media. For example, in his agricultural handbook, Columella admonishes Roman

¹⁰² Ibid., 87.

¹⁰³ Flemming’s finding can be corroborated by the recent publication of Meghan J. DiLuzio’s *A Place at the Altar*, esp. Ch. 3, 79-118.

farmers not to allow their slave overseers to consult *haruspices* and *sagae*.¹⁰⁴ No details are given about these figures, but if this binary is simply used to represent the general duality of illicit male versus female ritual specialists, then it is telling that *saga* is the word of choice for the female half of this generalization. Further, a first century epitaph commemorating the unexpected death of a three-year-old boy by *saga manus* seems to allude to Horace's depiction of child murder by his *sagae* in *Epode* 5.¹⁰⁵ Kimberly Stratton has rightly argued that while elite Roman women enjoyed a fairly favorable economic and legal status, a "wicked woman" discourse was also a staple of Roman culture starting from the third century BCE. This discourse picked up intensity and converged with "magic discourse"—especially in a poetic idiom (and popular literature)—in the early years of the Principate.¹⁰⁶ Still, Flemming has offered evidence that this discourse, a "wider discourse about female morality and wifely good conduct," was not hegemonic. For example, the interdictions regarding women and wine, which would bar women from conducting rituals, was based "on a deep-seated expectation, or custom, of female moderation in this respect," rather than any actual rule.¹⁰⁷ Careful readings of those texts like Plutarch's *Quaestiones Romanae* and Festus's lexicon, which sought to explore the contemporary and antiquarian quirks of Roman culture and ritual, gesture toward female participation and performance in cult as given rather than exceptional, and, for them, it was the fact of the exception itself that deserved further comment.

In fact, while Stratton's instructive analysis of women in Roman literature is situated against larger political, economic, and legal factors as well as historical changes at Rome (e.g. women's ability to attain wealth, Augustus's moral and religious reforms), one wonders

¹⁰⁴ Columella *De re rust.* 11.1.22 (cf. 1.8.6).

¹⁰⁵ CIL VI, 3, 19747.

¹⁰⁶ Stratton, Kimberly, *Naming the Witch*, 71-106.

¹⁰⁷ Flemming, "Festus and the Role of Women in Roman Religion," 94.

specifically how emphasizing the persistent social fact of Roman women's performance and participation in public cult might have influenced the anxieties animating the "wicked woman" discourse and informed how the witch gets named.¹⁰⁸ I would argue, in light of the accruing evidence, that the given-ness of women in public cult makes more sense out of the Roman witch discourse than the incapacity of these women. What reason would there be to amplify the terror of the witch, and specifically the gruesomeness of her rites, if women practitioners posed only an imagined threat to certain Roman cultural ideals of normative, male, ritual space, and that the real issues were largely economic and legal? On the one hand, it might be argued that in a patriarchal society like Rome, often defined by scholars on an uncritical and monolithic notion of gender and male space, women ritual practitioners could be seen as either marvels or dangers—both exceptional, and the latter likely more common. On the other hand, at Rome, and based on the evidence above, one could draw instead a notional trajectory of representations of women's ritual practices spanning from the female *sacerdotes* at the normative center of Roman civic and cultic life (e.g. the Vestal virgins, or even the lesser known Salian virgins) to depictions of a woman like Erichtho, who represented the imagined limit of total exclusion from all human and humane forms of ritual and social life. Envisioning women's role in ritual on a continuum may suggest a more nuanced interpretation of what constituted gendered space for Romans and might enable us to chart the role of women in Roman religious life from normative to exceptional, rather than across different valences of exceptionality and marginality. We might map the *sagae* as at once full members of the mystical and marvelous world of Roman poetry but also in some

¹⁰⁸ Although Stratton theorizes her work in terms of gender, she seems to take female ritual "incapacity" as given. For her, the concrete social roles of women against which the stereotypes of magic discourse get represented in Roman society are legal and economic, not cultic or ritual.

capacity part of the wider world of Roman civic cult, with the specific circumstances of any given representation an open question for further research.

Finally, it should not be missed that, even in Roman poetry, whether a woman was a witch or wise was also still contested at times. Vergil's Massylian woman, from whom Dido learns her *artes magicae*, comes off much better as a barbarian *sacerdos* plying her "strange rites" (*novis sacra*) at the far corners of the world (and she works in a temple rather than a graveyard), than the screeching "hags" that populate the works of Lucan and Horace.¹⁰⁹ Or, there is the figure of the wise old Sibyl, and one of the Sibylline oracles preserved by Phlegon of Tralles calls for rites to be performed by "sacrificially knowledgeable old women."¹¹⁰

Poisoning and witchcraft, near and far

In Tibullus, the *saga* carried out her plans by employing herbs and songs. The herbs especially could be possessed of different qualities but were often mixed into synthetic fusions for some manipulative end. The word cluster implied with *herbas* and most often associated with "magic" in classical studies is the agentive noun *veneficus* and its abstract *veneficium*. These are most commonly and simply translated as "poisoner" and "poisoning." Both derive from Latin *venenum* ("poison"), which connoted any sort of substance thought to significantly alter the physical or mental state of the person to whom it was applied.

However, it becomes readily apparent upon consulting most Latin dictionaries and reviewing the scholarly commentary on these terms that this cluster contains certain semantic ambiguities, perceived by both ancients and moderns. Two ambiguities merit discussion here. First, while modern scholars translate *venenum* simply as "poison," implying harmful effects,

¹⁰⁹ Verg. *Aen.* 4.478-498.

¹¹⁰ ἐπισταμένως θυσίαν γραῖται (Mir. 10.22–3 Diels)

Romans could also apply this term more generally to galenicals with more benign effects. Thus, Romans evaluated these concoctions both positively and negatively: in legal practice, *venena* were usually *mala venena*, but in principle these could also be used for salubrious ends, closely related to *medicamenta* and *remedia*. Second, the translations of the clearly pejorative terms *veneficus* and *veneficium* are not consistent. In addition to “poisoner/poisoning,” modern scholars often also translate these terms as “witch/witchcraft” and “sorcerer/sorcery,” and *venenum* here becomes a “magic potion.” These translations indicate more than simple poisoning, suggesting something equally sinister but less clear in its circumscription. To qualify a potion as “magic” punts on a question that ancient pharmacologists and philosophers often grappled with and that legal rhetoricians often exploited: how were such concoctions understood to achieve their effects?¹¹¹

James Rives has recently argued that, in deciding between these translation options, scholars usually observe a distinction between “poison” and “magic potion” that depends on a modern scientific binary of natural and supernatural, which was foreign to Roman thinking. The natural indicates the explainable and empirically discoverable effects of some substance. The latter would then be the unexplainable, obscure, or supernatural effects: the “magical,” or for that matter, the “religious” or “sacred” powers of certain substances. For Rives, the (deadly) effects of *venena* might result from unknown and hidden causes, but such effects were not necessarily beyond ancient conceptions of nature.¹¹² Accordingly, when this interpretative bias is removed, Rives argues there is little ambiguity at all: *venenum* is simply “any natural substance that had an

¹¹¹ For a representative bibliography of the ambiguity surrounding these terms see Rives, “Magic in Roman Law,” 319 n. 20.

¹¹² For a general anthropological discussion of the problems of “supernatural” as a category for scholarly use see the set of articles in *Anthropological Forum*, Vol. 13, No. 2 (2003). In terms of antiquity, Martin in *The Corinthian Body* has usefully discussed the modern construction natural and supernatural and its potential inapplicability to ancient sources.

occult or uncanny power to affect something else,” and *veneficium* is a “wrongful death effected through occult and uncanny means.” To track this theme at an etic level, Rives suggests that we use “magic” to indicate something more like “witchcraft,” in the tradition of E.E. Evans-Pritchard and Clyde Kluckhohn—i.e., to emphasize mysterious deaths carried out by occult powers with malevolent intents—rather than to refer to religious deviance more generally.¹¹³

Rives’s broad common denominator of “occult and uncanny” is an important corrective, especially as it pertains to Roman law, his main area of discussion. And in one sense he is right: there was no ambiguity in deploying the agentive *veneficus*. It was squarely a term of condemnation. Whatever determinate contents the Romans may have imparted to the crime, the term itself could also be used simply for name-calling. Plautus’s plays, which contain the earliest instances of this term, attest to a variety of insults and indicate the targets of such expressions of frustration. Plautus frequently places *veneficus* (often in the vocative), the feminine *venefica*, and a specifically intensive form, *triveneficia*, in the mouths of social superiors chastising and intimidating social inferiors such as slaves and women (sometimes both at the same time) and includes it also in the repertoire of insults that slaves could hurl at each other.¹¹⁴ Even in later centuries, *veneficus* retained its value as mere ammunition for name calling in Latin.¹¹⁵

However, with respect to *venena* and the substantive *veneficium* in legal discourse, the Romans often explored complexities and ambiguities raised by specific cases of poisoning. They entertained distinctions that did not necessarily fall along a simple notion of natural and supernatural, but focused instead on issues of the efficacy of these substances and the rituals they

¹¹³ Rives, “Magic in Roman Law,” 319-320. It is worth noting that in a previous article on the Twelve Tables, Rives was much more critical of the etic use of magic. See Rives, “Magic in the XII Tables revisited,” 270-290. Also see my discussion of Rives in Chapter 5.

¹¹⁴ Plautus *Aul.* 86; *Truc.* 762; *Mos.* 218; *Epid.* 221; *Bac.* 813; *Per.* 278; *Rud.* 1112; *Rud.* 987; *Am.* 1043; *Ps.* 872.

¹¹⁵ Cic. *Cat.* 2.7.6.

where used in. In this section, I want to unpack the metaphysical claims that tacitly conditioned Roman approaches to what we call poisoning and witchcraft (both signified by *veneficium*), the laws that the Romans devised to deal with these issues, and the rhetorical debates that ensued within these legal parameters. The history of Roman law and debate on *venenum* and *veneficium* shows that Romans perpetually expanded and contracted the scope of the law on these matters, and constantly reevaluated whether such laws should include merely simple poisoning by ingestions (*potio, bibere*, or physical contact) or also actions that might cause remote harm and death, such as songs (*carmina*), binding rituals (*devotiones*), or love charms (*amatoria*).

Let me begin by re-framing these issues. First, Rives's useful invocation of witchcraft might be redescribed as part of a larger category of *remote causation*, especially as it pertains to removing the idea of magic from the range of modern notions of religious deviance. Scholarly uses of magic and/or witchcraft often generally assume three definitional aspects that comprise these phenomena, even if not often stated or defended explicitly. The first pertains to the dispositions involved in magic and/or witchcraft; i.e., practicality, solving immediate goals, or in more sophisticated articulations alleviating tense social situations. The remaining two definitional aspects are more metaphysical, with the second involving some conception of non-material causation and the third that this conception is activated by an automatic or mechanical relationship between cause and effect. For instance, E.E. Evans-Pritchard's classic account of "witchcraft" (*mangu*) among the Central African Azande has been rightly lauded for its detailed portrayal of the social dynamics at play in explanations of unexpected human misfortune, its focus on the social dynamics of accusation, and the contingent circumstances by which these situations were handled. Yet, witchcraft here—and in classical anthropological theory—also assumes an ontological schema in order to operate, namely some version of "mystical

causation.” Again, we can recall that for Evans-Pritchard witchcraft is initially and most basically a “psychic emanation” that emerged from one person and had harmful material effects and physical manifestations on another person from a distance (e.g. *mbisimo mangu*, “the soul of witchcraft”).¹¹⁶ In fact, though Evans-Pritchard’s work among the Azande has influenced later theories of magic and witchcraft, the terms magic and witchcraft fail to capture the whole set of social relations for which he attempts to account. John Middleton’s summary of Evans-Pritchard’s work is illuminating in this capacity: “His book deals with Zande views on mystical causation in the contexts of accusations of witchcraft, of the use and working of oracles and divination to determine the identity of witches, and of the recourse to magic and the performances of magicians.”¹¹⁷ Here mystical causation is not conterminous with witchcraft or magic; rather, the latter terms offer an informative context for understanding something about Zande philosophy and its general conceptions of mystical causation. Implicit in (Azande) witchcraft is a general cultural conception of causation in which one’s proximate and immediate thoughts and actions could produce not only physical and up-close effects on the external world, but also more distant and directed effects, intentionally or unintentionally.

I propose using *remote causation* rather than “mystical causation” to describe this phenomenon. The main reason for doing so is that the notion of mystical—pre-logical, prescientific, or a magical mode of thought or worldview used in earlier anthropological studies of magic (e.g. Levy-Bruhl’s *la mentalité primitive*)—encodes precisely the distinction between natural and supernatural that Rives exposed as problematic. Rather than treat immaterial systems of causation in juxtaposition to material systems, instead I suggest evaluating these systems with an emphasis on the notions of distance, proximity, efficacy, and overlap that these systems of

¹¹⁶ Evans-Pritchard, *Witchcraft, Oracles, and Magic among the Azande*, esp. Chapter 1.

¹¹⁷ Middleton, “Magic: Theories of Magic,” 5567.

thought entailed. The utility of the concept of distance here is that it allows us to avoid falling back on the natural/supernatural dichotomy.

Of interest here is how Romans themselves pondered such issues—issues of remote causation that often went beyond what we might call witchcraft. Unlike in modern science, there was no generally accepted theory of causation in antiquity. Roman intellectuals could engage such issues in a number of idioms, often in thinking through Greek metaphysical systems: e.g. Stoic sympathy/antipathy (e.g. Pliny the Elder), the role of *daemeones* (e.g. Apuleius, and later Augustine), Democritean atomic theory (e.g. Lucretius), or later debates around “theurgy” (e.g. Plotinus, Iamblichus).¹¹⁸ What we call witchcraft and translate approximately with *veneficium*—e.g., the effect of harm caused covertly and from afar, as in the logic of distance implied in binding rituals (*defigere, devovere*) or the evil eye (*ophthalos baskania/fascinum*)—is but one nefarious species of this genus. For ancient Romans (and Greeks), the universe was a finely calibrated and integrated whole: in the words of Liebeschuetz, “[i]f the universe was conceived as one huge living and feeling organism of which each part was aware of what happened in every other, changes in one area could induce reactions elsewhere even at a great distance.”¹¹⁹

An understanding of *veneficium* in terms of notions of near, far, and remote causation is evident in Pliny the Elder’s lists of various recipes in his *Natural History*. The metaphysical schema of sympathy and antipathy, adapted from Stoicism, provided a general background and guiding principle for much of the selection, compilation, and shaping of Pliny’s encyclopedia.¹²⁰

¹¹⁸ See Phillips, “*Nullum Crimen sine Lege*,” 264. See also Dickie, “Talos Bewitched,” 267-96.

¹¹⁹ Liebeschuetz, *Continuity and Change in Roman Religion*, 36. This quote concludes a more general discussion of the influence Greek philosophy, specifically Stoicism, would have on later Roman thinking about ritual and the gods.

¹²⁰ The theory sympathy and antipathy saw the interconnectedness and harmonization of the cosmos at both the macro and micro, seen and unseen levels. The result was that there were

The Hellenistic Pseudo-Democritean tradition's interpretations of sympathy and antipathy especially influenced Pliny.¹²¹ The Democritean occultist tradition extended the idea of "influence" (Greek: *dynamis*, Latin: *vis*) by expanding the meaning from the notion of a "property" inherent to an object (as we find in the Greek pharmacological tradition) to the notion of a "power" of one thing to extend outward and effect another thing.¹²² It was on such an expanded semantic range that Pliny compiled his lists of concoctions (derived from various sources and authorities, and given different levels of approval) and mingled two core ideas: one, that plants, animals, and stones (or at least their parts) could possess properties that affected the human body and mind in more or less proximate ways through ingestion and physical application; and two, that these objects also contained the power to affect remotely external objects in the world. Regarding the former, Pliny discusses the use of certain substances and their effects if, say, drunk, eaten, sprinkled, inhaled, etc. For example, if bear brains were imbibed or the hippomanes was inhaled, both caused madness.¹²³ Regarding the latter, Pliny shows that certain objects, parts of objects, or mixtures and actions performed with these objects could influence other objects at a distance. For instance, in book 28, Pliny discusses humans who have extraordinary powers (*hominum monstificas naturas et veneficos aspectus*) by devoting a section to those whose whole bodies are beneficial: "All these peoples [e.g. Marsi], so strong their natural antipathy (*insita repugnantia*, literally "innate resistance") can, as is well known, effect a cure by their very arrival."¹²⁴ Later in book 28 Pliny notes that fresh bull's blood is a

different registers of cause and effect that could be exploited in different ways for different ends. See the above Liebeschuetz quote.

¹²¹ See Gaillard-Seux, "Sympathie et antipathie dans l'Histoire Naturelle de Plin l'Ancien," 113-128.

¹²² See Gordon, "*Quaedam Veritatis Umbrae*," 128-158, 138-139.

¹²³ *NH.* 8.163.3; 8.130.4.

¹²⁴ *NH.* 28.30.1-2.

poison (*venenum*), except in Aegira when the priestess of the earth (*sacerdos Terrae*) drinks (*bibit*) bull's blood before going down into a cave to prophesize (*vaticinatura*). Pliny adds, "So strong is that famous sympathy (*sympathia*) I speak of that it sometimes becomes active under the influence of a rite (*religione*) or a place (*loco*)."¹²⁵ Pliny's concise prose makes the reasoning hard to follow here. But I would interpret this episode as follows: not only is a usually poisonous substance neutralized in this context, but also the power of sympathy is so great in this circumstance (perhaps because the priestess of the earth has descended into the earth itself) that it can activate the relevant properties of the ingested *venenum* for the purposes of prophecy. Further, Pliny often uses *veneficium* in the context of discussing certain apotropaic and amuletic concoctions.¹²⁶ In fact, many of Pliny's citations of the *magi* and their art (*ars magica*) mention either their own remedies for warding off *veneficia* or ways to keep away the *veneficia* of the *magi* themselves.¹²⁷

Proximity and distance are somewhat mixed up in Pliny and the world of ancient philosophy and pharmacology, but in the realm of Roman legal thinking, the notion of *veneficium* as remote causation remained an open question and sat uneasily in terms of the limits and scope of Roman law. Interestingly, early Roman law seems to have evoked the terms *venena* and *carmina* in order to proscribe acts of remote causation. Pliny tells us that in the early second century BCE, C. Furius Chresimus, a former slave, was accused of *veneficia* when the crop

¹²⁵ *NH.* 28.147.1-6.

¹²⁶ There are several prescriptions for apotropaic defenses against the effects of *veneficia*. For instance, if one planted asphodel or a holly before farm gates, or hung the muzzle of a wolf on the same gates, it was said to keep off the noxious effects of *veneficia* (*NH.* 28.157); Pliny also mentions that one was considered guilty of *veneficia* if sitting in the presence of a pregnant woman, or a patient being given medicine, with one's fingers interlaced (especially around one's knees) (*NH.* 28.59).

¹²⁷ E.g. *NH.* 28.47; 29.66.

output of his relatively modest sized farm exceeded that of the larger estates of his neighbors.¹²⁸ The charge of *veneficia* here consisted of his enticing away (*pellicere*) his neighbors' crop into his own field. Chresimus defended himself by displaying in the forum before his accusers his material means of success—i.e. his farming tools, his healthy slaves—as a challenge to the charges of non-physical causation raised against him, proclaiming before the court, “These are my *veneficia*!” He was unanimously acquitted. Chresimus was likely tried under a specific statute in the Twelve Tables that forbids chanting away crops from another's fields (*qui fruges excantassit*); the statute uses the uncommon verb *excantare*, which seems to denote drawing something from one place to another by the non-physical means of song.¹²⁹ Chresimus's case is the only instance we have of such a trial, although mystical crop transfer is mentioned elsewhere.¹³⁰ But Pliny's account of the trial offers evidence for at least two important matters: first, that this statute was still in use in the second century BCE, some 300 years or so after the Twelve Tables were apparently written; and second, that this law dealt in some way with *veneficium*—that *veneficium* and non-physical crop removal were related in some manner. Simple poisoning is not on the table here.

This conclusion has its limitations. First, *venenum* and *veneficium* do not appear in any extant fragments of the Twelve Tables. That later Roman jurists discuss *venena* in their commentaries on the Twelve Tables suggests that the term appears in the original legal code, but

¹²⁸ *NH.* 8.41-43. Taken from second century annalist Calpurnius Piso. My reading here engages Graf's classic reading of Chresimus, *Magic in the Ancient World*, 62-65

¹²⁹ See Rives, James, “Magic in the XII Tables revisited,” 270-290.

¹³⁰ Vergil, *Ecl.* 8.95-99; Tibullus 1.8.19; Seneca, *Nat. Quaes.*, 4b.7.2.8; Ovid *Rem* 255; Apuleius, *Apol.* 47; Augustine, *De Civ* 8.19; Servius, *Ecl.* 8.99 (cf. 8.66). This tradition is note worthy because it explicitly gets bound up with the term *magia* in later writers.

this is far from certain without further evidence.¹³¹ Second, even if the presence of *venenum* in the Twelve Tables can be inferred indirectly, the relation between it and *carmina* is unclear. Pliny's rendering of the law indicates singing, as we saw in the last chapter. For the Romans, singing was a powerful means of affecting changes in the physical world, and this was not simply the case for witches casting "spells" in Roman poetry.¹³² Yet, Pliny does not refer to song in Chresimus's case of crop removal. He uses the verb *pellicere* instead of *excantare*.¹³³ Previous scholars have tried to account for these different verbs in terms of the original wording of the law. Some have tried (unsuccessfully) to distinguish *excantare* and *pellicere* as different sorts of intents (i.e. the intent to destroy versus to steal crops), and others have interpreted these verbs as referring to two different kinds of magical acts.¹³⁴ Rives has recently argued that these verbs were likely two clauses in the same law and referred to two separate means of crop removal by non-physical force—*excantare* referring to removal by *carmina* and *pellicere* by *venena*. While Rives's argument makes good sense of the verbal differences present in the sources, his conclusions run counter to the entwined relationship between the herbal and verbal techniques

¹³¹ It is also equally likely that later jurists created this comparison rather than repeated it based on their own contemporary interpretations. Rives disagrees, "Magic in the XII Tables Revisited," 275. Rives also raises an excellent question as to what the quality of information later authors would have had about the Twelve Tables, *Ibid.*, 272-273.

¹³² In addition to Pliny's treatment of the subject, some of the earliest Latin sources show that *cantare* (or *canere*) could refer to verbal formulae thought to be able to affect certain external objects. For example, Cato the Elder offers in his farming manual (c.160 BCE) both a verbal formula (*cantio*) and an accompanying set of actions to be performed to heal a sprained or broken limb, *De agr.* 160.1 (Pliny the Elder calls this rite a *carmen auxiliare* *NH.* 28.21.4).

¹³³ *Pellicere* means to deceive and defraud or to entice away, but not necessarily by song. Fourth century CE commentator Servius also uses this verb in referring to the same law while expositing Vergil's eight *Eclogue*, glossing the whole matter as *magicae artes*. Also, in his second century CE legal defense, Apuleius uses *illecebras* ("enticement"), a cognate for *pellicere*, in his reference to this law, which also does not invoke song as the means of removal. See Rives, *Ibid.*, 274ff.

¹³⁴ Each has their drawbacks. The former struggles to cast the meanings of *excantare* and *pellicere* onto a binary of destruction versus theft, which results in an uncomfortable fit, and the latter depends on debunked primitivist notions of "magic," Rives, *Ibid.*, 276.

assumed in both ancient pharmacology and ritual performance: physical substances could acquire the ability to produce effects at a distance, but only when this was activated through song (i.e. incantation or prayer).¹³⁵ In other words, the frequent articulation of *veneficia* with *cantiones* (*carmina*) and also *devotiones* that we will see in subsequent centuries indicates the relationship of a ritual unit indicating the verbal formulae that certain herbal manipulations involved. I suggest that Pliny has likely conflated *veneficia* and *carmina* in describing the charges against Chresimus and simply neglects to mention the latter.¹³⁶ To be sure, later writers like Pliny could often misunderstand or misrepresent such matters and their significance based on their own contemporary interests and biases.

By the Late Republic, a shift had occurred in charges of *veneficium*.¹³⁷ Rather than remote, non-physical crop removal, charges of *veneficium* had instead become focused on murder by clandestine means. How and why this shift occurred is hard to say given the limited evidence, but information about *veneficium* trials from the Late Republic and early Principate makes two issues apparent: first, these were cases in which accusations of *veneficium* implied death caused by ingesting harmful substances; second, it was rather difficult to prove a charge of *veneficium*, by any means. But the sources reveal hints here and there that poisoning charges were numerous, a cause for concern, and, by the time Sulla formalized the charge of *veneficium* under the *Lex Cornelia de sicariis et veneficiis* c. 80 BCE, Roman authorities had plenty of

¹³⁵ Rives, *Ibid.* Also, while Rives explains a number of important distinctions (e.g. bodily harm and non-bodily harm caused by words) he does not tell us why Romans would have distinguished between two different kinds of non-physical forces.

¹³⁶ Graf gives credence to this when he assumes the charge against Chresimus was related to *incantamenta*, *Magic in the Ancient World*, 63-64.

¹³⁷ For more detail on the cases I discuss in the following pages see Dickie, *Magic and Magicians in the Greco-Roman World*, 137-155, and Rives, "Magic, Religion, and Law."

experience in dealing with accusations of *veneficium*.¹³⁸ If Livy's account of the first *veneficium* trial at Rome in 331 BCE is any indication, he understood poisoning to be maliciously and clandestinely dosing someone with harmful substances.¹³⁹ This particular rationale seems to underpin the Lex Cornelia, which condemned *venena mala*, and those who prepared, distributed, and applied (*dedit*) these poisons with the intent to kill someone.¹⁴⁰ Since the text of the law is now lost, it is unclear if specific provisions clarified how to establish intent, the scope of *venena mala*, or even different means of delivering *venena*. In fact, the only detailed case of *veneficium* from the late republic is Cicero's defense of Aulus Cluentius Habitus in 66 BCE. Cicero's brief treatment of the circumstances surrounding *veneficium* indicates nothing particularly mystical about the proposed means of delivering the poison: it is simply given in drink (*in mulso... bibisse*) or in food (*datum sit in pane*).¹⁴¹ That Cicero speaks little on this particular charge is strategic, since for him the standards of proof—intent, means, and opportunity—were obviously absent. Under scrutiny, the narratives implicating Cluentius were purely circumstantial and could neither establish intent, tie him to the crimes, nor show that the victims had definitively died of poisoning.

Richard Gordon has suggested that in the shift from the Twelve Tables to the Lex Cornelia in the first century BCE we can see that “Republican law had deliberately intended a narrow definition of ‘poison.’” The large number of trials of *veneficium* in the second century BCE and the inevitable investigative complexities of each case “led to a decision that only one

¹³⁸ From Livy's books covering the second century BCE, (around the same time as Chresimus), we know of a flurry of charges of *veneficium* in the rural areas outside Rome (especially Sardinia): e.g. 39.38.3.3; 39.41.5.4; 40.37.4.2; 40.43.2.2; 40.44.6.2. For legal developments, including the Lex Cornelia, see Brunt, *The Fall of the Roman Republic and Related Essays*, 194-239.

¹³⁹ 8.18.

¹⁴⁰ For the reconstruction of the law see Crawford, *Roman Statutes*, 749-753.

¹⁴¹ *Pro Cluentio*, 166.3; 169.6.

term of the hendiadys ‘drugs and incantations’ should be punishable.”¹⁴² That is, to expand on Gordon’s observation, only those cases of simple poisoning by ingestion were prosecutable. Given the already cumbersome task of proving cases of simple poisoning through ingestion, it would be nearly impossible to show that other more remote powers would have had any direct effect in bringing about death, such as by *carmina*.

Yet, if Gordon is correct—if Roman law limited charges of *veneficium* to cases of ingested poison—this did not stop people from making charges that tested this limit. *Veneficium* and *cantio* appear together for the first time in the first century BCE, when Cicero recalls that while C. Scribonius Curio was prosecuting a woman named Titinia, he suddenly forgot his lines and blamed his loss of memory on the *veneficia et cantiones* of the same Titinia.¹⁴³ Curio’s frustration toward Titinia seems unrelated to any formal charges, but by the first century CE, formal charges of *veneficia* conjoined with *carmina*, including rituals of remote binding such as *devotiones*, appear frequently.¹⁴⁴ Tacitus records a number of cases that involve the ritual unit of *carmina* and *veneficia*, with the addition of *devotiones* (binding rituals). In 24 CE one Numantina was suspected of using *carmina* and *veneficia* to incite madness in her ex-husband, praetor Plautius Silvanus, who then defenestrated his current wife.¹⁴⁵ Two years later, in 26 CE, Claudia Pulchra, grandniece of the emperor Augustus, was accused of a litany of crimes, including an attempt to murder the emperor by *veneficia* and *devotiones*.¹⁴⁶ And in 54 CE, during the reign of Nero, Tacitus relates an accusation against Domitia Lepida, who was also accused of making an

¹⁴² Gordon, “Imagining Greek and Roman Magic,” 256.

¹⁴³ *Brutus* 217-218.

¹⁴⁴ On *devotio* see Rives, “Magic, Religion, and Law,” 47-67, especially 56-57. See also my discussion in Chapter 5.

¹⁴⁵ *Ann.* 4.22.

¹⁴⁶ *Ann.* 4.52.

attempt on the emperor's life by *devotiones*.¹⁴⁷ As with late republican cases, Tacitus provides us very few details on these accusations. The circumstances of such charges and how effective they were in achieving specific convictions are also uncertain. In the agonistic context of the early imperial court, accusations of poisoning and/or performing nefarious rituals seem to have been, if not effective in themselves, at least a convenient way to initiate trial proceedings. Most of the above were convicted, but it is not always clear on which counts.¹⁴⁸

The case of Cn. Calpurnius Piso's alleged poisoning of Germanicus Caesar in 19 CE offers an instructive example of the potentially uncomfortable juxtaposition of illicit ritual acts and poisoning charges. At first glance, this case seems to be something more akin to witchcraft as remote causation. Tacitus, who of the ancient sources gives the fullest account, tells us that in addition to the effects of *venenum*, a search of Germanicus's abode revealed "the remains of human bodies, spells and curses (*carmina et devotiones*), the name of Germanicus inscribed on lead tablets, half-burnt cinders smeared with blood, and the other nefarious things (*aliaque malefica*) by which it is believed that souls are dedicated to the infernal deities" (*quis creditur animas numinibus infernis sacrari*).¹⁴⁹ Yet, the relationship between this ghastly discovery and its role in Piso's trial is unclear. Tacitus tells us that during the trial the prosecution invoked both *venena* and *devotiones* as the means by which Piso murdered Germanicus, alleging also that he

¹⁴⁷ *Ann.* 12.65

¹⁴⁸ Numantina was acquitted as soon as it became apparent to the emperor Tiberius that more proximate evidence of foul play pointed to Silvanus's guilt. And of the list of charges against Claudia Pulchra, the phrase *Pulchra et Furnius damnantur* indicates that perhaps she was only convicted of adultery. The case of Domitia Lepida does not mention *veneficium* in concert with *devotiones*. She was also accused of having unruly slaves who were threatening the peace in Italy, and she was sentenced to death for her crimes.

¹⁴⁹ *Ann.* 2.69.11-15. While his above list is the most lurid, third century CE historian Cassius Dio relates a similar set of discoveries and Tacitus's near contemporary Suetonius says Germanicus became aware that he was being attacked by *veneficia* and *devotiones*.

engaged in “impious rites and sacrifices” (*sacra et immolationes nefandas*).¹⁵⁰ But all other details from the trial point to a normal case of ingested poison. The body showed the usual postmortem signs of poisoning (e.g. dark spots), and when the body was cremated, the heart did not burn up. Of the cluster of charges made against Piso, Tacitus tells us that treason (*maiestas*) was the only charge able to get any traction. In fact, the prosecution’s case wavered on all counts, ultimately resting on a mundane narrative in which Piso supposedly poisoned Germanicus’s food (*infectos manibus eius cibos arguentes*) while seated above him at a dinner party.¹⁵¹ Even Tacitus finds this scenario *absurdum*. Given that this story was deemed circumstantial—and therefore unconvincing—then what narrative could have convincingly showed that the binding ritual accouterments were a smoking gun? In fact, with the discovery of the *senatus consultum de Cn. Pisone patre*, we see that Piso was indeed blamed for Germanicus’s death, but there is reference neither to a charge of *veneficium*, nor to the role of Piso’s binding rituals on the trial.¹⁵² Perhaps Tacitus, in crafting a compelling *historia*, added or rehearsed the salacious occult details that were, or became, part of the popular story of Germanicus’s death told among family and friends. If so, it seems reasonable to assume that these details, while perhaps used as pretense for the trial along with poisoning and treason charges, stayed mostly confined to the realm of rumor and suspicion.

Modern commentators have taken the Lex Cornelia as the legal basis for proscribing magic in Roman law. Specifically, that if the law initially forbid clandestine killing either by assassination or simple poisoning, the trials listed above give evidence for the expansion of this

¹⁵⁰ *Ann.* 3.13.13.

¹⁵¹ *Ann.* 3.14.6.

¹⁵² Potter, D.S. and Cynthia Damon, “The ‘Senatus Consultum de Cn. Pisone Patre’,” 18: ... morientem Germanicum Caesarem, cuius mortis fuisse caussam Cn. Pisonem patrem ipse testatus sit.

law from the Late Republic into the early Principate to matters of cult that were intended to murder others remotely. Yet, explaining this expansion on the basis of extant sources has been difficult. In the first place, while *veneficium* is a specific charge, the Lex Cornelia is never mentioned in the cases above. One strategy for scholars has been to adduce various hypothetical *senatus consulta* that split the distances between the extant sources and help move the criminalization process along.¹⁵³ Evidence from the third century CE jurist Modestinus of an earlier *senatus consultum* indicates that the Lex Cornelia eventually condemned anyone who “has or performs evil sacrifices” (*mala sacrificia fecerit habuerit*).¹⁵⁴ Unfortunately, Modestinus does not say when this law was passed or what is constituted as having or performing *malum sacrificium*. The *devotiones* from Tacitus’s accounts seem likely enough candidates for such a sinister ritual, and Richard Gordon has drawn attention to the notion that the possession (*habuerit*) of *sacrificia* must indicate that there were certain ritual items that it was now illegal to carry on one’s person.¹⁵⁵ Further, in the *Sententiae* attributed to the jurist Paulus, *magia* as well as ritual binding and human sacrifice were all interdicted under the rubric of the Lex Cornelia. Yet, none of this is sufficient to argue the Lex Cornelia as legal basis for “magic.” Gordon already expressed doubt, but in a set of recent articles, James Rives has weighed the evidence and convincingly argued that if the Lex Cornelia was extended, it was done so conservatively

¹⁵³ On magic in Roman law, Mommsen admitted not knowing precisely “when and how this concept was introduced into criminal law,” but supposed a *senatus consultum* was passed in the Late Republic that made magic illegal into the Principate, *Römische Strafrecht*, 639-643. This has been an influential position. As Gordon notes, Mommsen also discussed the Lex Cornelia separately, “Imagining Greek and Roman Magic,” 259. Francesca Lamberti argues that there was likely a *senatus consultum* passed some time in first century CE that could account for Apuleius’s charge of *crimen magiae*, “III. De magia als rechtsgeschichtliches Dokument,” 344–346. I will give a more concerted discussion of the narratives around Roman law and magic in Chapter 5.

¹⁵⁴ *Dig.* 48.8.13. On the dating of the *senatus consultum* see Rives, “Magic, Religion, and Law,” 58.

¹⁵⁵ Gordon, “Imagining Greek and Roman Magic,” 258.

and in a very limited manner, and was by no mean a wholesale statutory basis for condemning magic.¹⁵⁶

I would argue that this limited expansion of the Lex Cornelia could at least in part be attributed to wider cultural debates over just what counts as a *venenum* and its mode of application. So far, I have demonstrated the Romans' continued hesitancy over the possibility of legally prosecuting the ritual unit of substances and speech acts in covertly causing harm. This unit had been condemned in early Roman law and pragmatically separated in the Late Republic. The ambivalence resulting from the first century CE charges above influenced debate into the early second century as to whether this separation should or could hold. These issues were explicitly debated in the legal-rhetorical schools of the Flavian and Nerva-Antonine dynasties. Specifically, the rhetorical instruction of Quintilian's late first century CE *Institutio Oratoria* and the hypothetical legal scenarios of Pseudo-Quintilian's *Declamationes Minores* (probably written slightly later, c. early second century CE) reveal debates over the legal ramifications of *veneficium* as remote causation versus ingested poison. Both texts provided a discursive locale to explore "what-if" situations surrounding *veneficium* that might arise in real court situations (Pseudo-Quintilian) and to highlight particular ambiguities in more general legal-rhetorical principles for use in different argumentative contexts (Quintilian).

Much of the debate in Quintilian and Pseudo-Quintilian focuses on standard issues of the intent and the effect (*animus et effectus*) of applying *venena*. For example, could simple cold water be considered a *venenum* if it is given with the intent and result of death? Or could a

¹⁵⁶ Gordon holds to a limited expansion but still sees the Lex Cornelia as crucial for legal history of Roman magic, "Imagining Greek and Roman Magic," 258. Yet, both Rives, "Magic in Roman Law" and "Magic, Religion, and Law" argue for the limited importance of the Lex Cornelia in discussions of Roman magic, and the latter argues a much more dynamic legal process in the development of an idea of religious deviance and a charge of magic. See Chapter 5.

sleeping potion be considered a *venenum* even though the intent and effect were not homicide? In both Pseudo-Quintilian cases the answer is yes. To the former, the issue is the effects of the substance rather than its composition. To the latter, while the substance did not cause death (*mortiferum*), the prosecution argued that it was a *venenum* because it affected something in a way that was contrary to nature.¹⁵⁷ Quintilian cites a similar argument (from a certain Celsus) that one is guilty of *veneficium* when he destroys not just life (*vita*) but also the mind (*mens*)—although it is unclear if Quintilian avows this line of thought.¹⁵⁸ Nothing particularly uncanny is at work here: the hypothetical victims were affected by the direct ingestion (*bibere, potio*) of harmful substances.

The classification of love charms (*amatoria*), however, raised certain difficulties when set against the standards of intent and effect. Quintilian brings up issues related to *venena* and *amatoria* at several points:

Assume the law: a woman poisoner (*venefica*) shall be liable to capital punishment. A wife gave a love potion (*amatorium*) to a husband who regularly beat her. She also divorced him. She was asked by relatives (as intermediaries) to go back; she did not. Her husband hanged himself. She is charged with poisoning (*veneficium*). The strongest prosecution line is that a love potion is a poison. This will be a definition. If it proves too weak, we shall virtually drop the previous contention and come to a syllogism: should she be punished exactly as if (*ac si*) she had poisoned her husband?¹⁵⁹

To bring out the link between definition (*finitio*) and syllogism (*syllogismos*) and their argumentative utility, Quintilian distinguishes between arguing for an equivalent relationship between *venena* and *amatoria* versus making an analogical extension of the former to the latter: namely, it depends on how effectively the prosecution can argue a direct versus indirect link between intent and effect. Further, Quintilian offers as an example of a *sententia*: “Do you wish

¹⁵⁷ *Decl. Min.* 350, 246.

¹⁵⁸ *Inst.* 9.2.104.

¹⁵⁹ *Inst.* 7.8.2.

to be told that a love potion is a poison? The man would still be alive if he had not drunk this.”¹⁶⁰

Or to illustrate arguments derived from contraries he asks, “whether or not a love-potion is a poison, on the ground that a poison is not a love-potion” and asks elsewhere “whether two things are both to be called by the same name, when both have names of their own, like ‘love-potion’ and ‘poison’.”¹⁶¹

A particularly telling instance of this debate comes from a Pseudo-Quintilian case where a pimp (*leno*) sues a lovestruck customer for damages (*damni iniuria*). The pimp accuses the customer of *veneficium* because he gave an *amatorium* to one of his prostitutes (*meretrix*).¹⁶² To this charge, the defense raises an interesting set of doubts as to the general efficacy of love charms:

Here we ask whether a love potion (*amatorium*) has any effect (*effectum*). What if an ugly fellow gives it (*det*), or one disabled, or a blind man, or for somebody absent (*si pro absente*)? For can a drug take instructions (*numquid enim mandata medicamentum accipere*)? And this first: how could something change the mind which does not harm the body through which it passes, and so change the mind as to prescribe affection (*et mutet animum*)? In this the pimp holds riches in his hand.¹⁶³

The underlying question here is: how are substances assumed to achieve their effects (if at all)? Specifically, to what degree do they have an influence on external objects? The set of questions parses out the effectiveness of application (*det*) of an *amatorium*, possibilities not explored—as

¹⁶⁰ *Inst.* 8.5.31.

¹⁶¹ *Inst.* 7.3.31, 7.3.10.

¹⁶² *Decl. Min.* 385. Note the puzzlement of the defense: “You sue for loss and charge poisoning?” (*Damni agis et veneficium obicis?*).

¹⁶³ The general rhetorical posture here is premised on educated mockery of popular beliefs in the effects of folk remedies. The boy is portrayed here as well meaning a rube, part of the ignorant rural masses (*miseros*), who employs such concoctions without reason (*sine ratione*). The defense here even tells us he learned to make such a potion (*potionem*) by seeking out a knowledgeable old woman (*anus*). In fact, the defense continues, if such remedies worked then why does the pimp not use them to fix his own problem, and, more generally to secure his financial situation: i.e. create *amatoria* in order to have men regularly fall in love with his prostitutes?

far as we can tell—in the Lex Cornelia. The implicit distinction on which these questions rest is between a drug (*medicamentum*) given by imbibing and its imminent, indiscriminate, and deteriorating effects versus the possibility of more remote and targeted effects by these concoctions: those taking place when the target is not physically present (*si pro absente*), or that can be directed (*mandata*) to bypass bodily effect (even if passing through the body) and target only the mind. At first sight, the distinction seems pretty close to what modern translators have in mind when they render *veneficium* as witchcraft rather than simple poisoning. The main difference in the case above for the defense is that there was no intent to harm. It was quite the opposite. After all, we are told that our smitten customer seems to have put little premeditation into the act: he was approached by an old woman (*anus*) who showed him how to make the concoction, and he also tried (*bibisse*) the potion first to make sure it was not detrimental. The lack of malice in this scenario and the doubts raised as to the general efficacy of *amatoria*, seems to position such a substance outside the Roman legal definition of being a *venenum*.

Quintilian also alerts us to another telling distinction and, interesting for our purposes, does so using the term *magia*. Again discussing definitions (*finitiones*), Quintilian asks: “[I]s a suicide a homicide? Is the man who drives a tyrant to death a tyrannicide? Do songs of magi (*carmina magorum*) amount to poisoning (*veneficium*)?”¹⁶⁴ The general goal here is to classify different means of death. The question for Quintilian—in keeping with his interest in marking nuances between words—is whether the deadly effects of *carmina magorum* should be considered similar to the homicidal effects of *veneficium*. For each of his examples, he decides in the negative: “The facts here are clear (*res manifesta*), and it is understood that killing oneself is not the same as killing someone else, killing a tyrant is not the same as driving him to death, and

¹⁶⁴ *Inst.* 7.3.3.

songs (*carmina*) are a different thing (*non idem*) from a potion causing death (*mortiferam potionem*).” This is only a passing example in Quintilian’s larger discussion and not part of a longer *declamatio* as it might have been in Pseudo-Quintilian. He does not return to it, and we should perhaps not take too much from it. One would have liked Quintilian to do more than simply disarticulate these terms. Do they relate at all? If so, under what general category do they fall? If not, to what respective categories (legal or otherwise) do they belong? If we were to imagine these in a *declamatio*, Quintilian’s distinction could only hold water if the imagined audience or jury could already easily perceive a *carmen* as similar or related to a *veneficium* in some way: i.e., that the power of words could—like *venena*—affect the mind and/or body of someone in a way as to bring about death. Already above we saw that in early Roman law, song and substance were related, and in the Late Republic the latter appears an issue and not the former, but in the early Principate *devotiones* and *carmina* appear with charges of *veneficium*. Thus, I argue that to deny, as Quintilian does, such a similarity and instead contrast *carmen* to *veneficium* is to reassert the practical separation known under the Republic and that was blurred during the first century CE, in which he was writing. The wording perhaps hints at such a purpose: the initial juxtaposition was between *carmina magorum* and *veneficium*, but in its negative recapitulation Quintilian concludes that a *carmen* is a different sort of thing than a “potion causing death” (*mortiferam potionem*). That is, *veneficium* is glossed as simple poisoning, a *potio*, an imbibed substance physically administered, which is set apart from a *carmen* that was effective from afar based only on its uttered words. As in the second century BCE, given the uptick in charges of *veneficia* and *carmina* or *devotiones*, perhaps under the Lex Cornelia and definitely in a context of *delatores* in the imperial court, Quintilian is suggesting

that it was still expedient to separate the verbal from herbal aspects in terms of handling these charges in a legal context.

Both Quintilian and Pseudo-Quintilian show that even if the legal principles of secrecy and malicious intent were clear in theory, they could be debated and reassessed on a case-by-case basis. In fact, the very possibility of such legal quibbles over distinctions between *venena*, *carmina*, and *amatoria*, and the contestation over their implicit metaphysical claims perhaps indicate that no specific *senatus consultum* had been issued on this matter in the late first and early second centuries CE. It is entirely possible that the *senatus consultum* mentioned by Modestinus on condemning *mala sacrificia* clarified matters. By the third century CE, matters do seem clearer for the jurist Marcianus: he notes that while *venena mala* might be an “ambiguous phrase,” *amatoria* designed to kill people were against the law, even if unintentional.¹⁶⁵ The emphasis here though is not on remote, incantatory elements but rather the traditional ambiguity over the limits of *mala venena* and those concoctions that are excluded from it. In this regard, Marcianus is representative of later classical and post-classical Roman jurists’ opinions’ on crimes related to *veneficium*. They also assumed simple ingestion of poisons, and dealt with standard issues of intent to harm and resulting death. They do not seem to deal with rites intended to harm. For instance, most opinions in the Justinian *Corpus Iuris Civilis* assume simple poisoning; only a few flag any ambiguity with *venena* and this is related to the distinction between harmful and non-harmful *venenum*.¹⁶⁶ A century before Marcianus, Gaius stated: “Those who speak of poison, should add whether it is good or bad.”¹⁶⁷ There was no ambiguity over method of means of delivery. Roman jurists made distinctions between killing someone by

¹⁶⁵ *Dig.* 48.8.3.2: *nomen medium est*.

¹⁶⁶ The only exceptions: *Just. Inst.* 4.18, *Dig.* 10.2.4.1 (Ulpian), *CJ* 9.18.1.

¹⁶⁷ *Dig.* 50.16.236pr.

violence versus by poison, killing by secret means (*clam*) of which poison was *one* sort, and even administering poison by physical force (*per vim*)—but none of these assume anything other than simple poison by ingestion or other physical means.¹⁶⁸ For example, the jurist Ulpian: “Where anyone, either by force (*per vim*) or persuasion (*suasum*), administers a drug (*medicamentum ... infundit*) to another, either by the mouth (*ore*), or by injection (*clystere*), or rubbed (*unxit*) him with some poisonous substance (*malo veneno*); he will be liable under the Lex Aquilia.”¹⁶⁹ Add to this a concern in these commentaries over the legal ramifications of house slaves murdering their masters using, among other means, poison. At least one assumption was that house slaves’ close proximity to their masters provided them with more opportunities to slip them poison.

Finally, among the different ways Rives dismantled previous arguments that took the Lex Cornelia as the legal basis for Roman magic, he showed specifically that for later Roman jurists—after Paulus and Modestinus—(what I am calling) remote acts accomplished by rituals were not generally classified under the rubric for the Lex Cornelia.¹⁷⁰ By the third century CE, other jurists seem to have begun framing different legal rubrics that gesture toward a divide between poisoning and ritual enchantment. For instance, in Gregorianus’s compilation of imperial rescripts from roughly Hadrian’s rule down to 291 CE, he used the heading of the Lex Cornelia as an organizing category, but reclassified remote ritual acts under the different designation *De maleficis et Manichaeis* (“On evildoers and Manicheans”).¹⁷¹ This shift anticipated the later and more expansive legal categorization *De maleficis et mathematicis et ceteris similibus* (“On evildoers, astrologers, and other similar persons”) that appears in the

¹⁶⁸ *Dig.* 29.5.1.19. *Dig.* 29.5.1.18.

¹⁶⁹ *Dig.* 9.2.9.1. The most common verb used for the action of applying a poison in this code is the general verb *dare*, but there are more specific variations such as *bibere* and *infundere*.

¹⁷⁰ Rives, “Magic, Religion, and Law,” 66.

¹⁷¹ *Mosaicarum et Romanarum legum collatio* 15.3; also note Ulpian’s rubric collected in the *collatio* (15.2), *de mathematicis et vatincinatoribus*.

Codex Theodosianus and *Codex Justinianus* where practitioners of such invisible and imperceptible means of causing harm implied in the ritual unit of *veneficia* and *carmina/devotiones* were combined with other proscribed diviners.¹⁷² Poisoning and its perpetrators, by contrast, remained in fourth and fifth century law codes limited in scope to clandestine murder by ingested substance.¹⁷³ *Venefici* are proscribed persons and appear elsewhere along with the other standard Roman criminals: *adulteror* and *homicida*, and the more recently coined category *maleficus*—the latter now a criminal category distinct from *veneficium*. Included under this new heading were the likes of *mathematici*, *haruspices*, *harioloi*, *augures*, and *magi*.¹⁷⁴ In other words, the awkward issue of death by remote means, what we might call witchcraft, had been reconfigured away from poisoning and codified instead in the range of divination—in Roman law, the *carmen magorum* ended up separate from *veneficium*. The ambiguity seems to have been solved; these were legally different means of murdering someone.

Conclusion

For those keeping score, in the preceding sections, *magia* has rarely come up. Further, the terms surrounding *saga* and *veneficium* were more specific and the contexts more varied than what we might simply call “magic.” And even in poetry *magicus* was not persistently used as an expansive category to signify the scope of mysterious and uncanny figures and rites. For both *saga* and *veneficium* I have traced the various nuances of their use in larger historical debates about law and religion, and the way the Romans navigated these debates by distinguishing the

¹⁷² *CJ* 9.18, *CT* 9.16

¹⁷³ The first law of this section contains a second century statute of Antoninus Pius expressing briefly that to kill a man by poison (*veneno extingueri*) is worse than to kill him by a sword (*occidere gladio*), *CJ* 9.18.1. Yet, there is no other mention of poison.

¹⁷⁴ See Chapter 5.

finer valences of these terms. In each case, the interpretative category magic and the Latin term *magia* have not revealed a clear and distinct semantic field; the contexts surrounding *veneficium* and *saga* have rather turned in different and more detailed directions. My general point is that when scholars have more fully described the semantic nuances of the terms above (and others), we might still ask: what redescriptive definition of magic would give us a useful analytic and comparative purchase in interpreting these nuances as part of ancient culture and society? Or, why subject these carefully traced semantic fields to a term with little track record of analytic clarity?

A final thought: I do not wish to give the impression that the representational fields of Latin poetry and prose were hermetically distinct, or that there were fixed lines between different areas of culture. With the figure of the *saga* I have insisted on two competing and contemporary representations of her. In terms of *veneficium*, as Quintilian demonstrates, figures from poetry and fiction could be useful in making broader points about theorizing rhetoric. As Feeney notes, Roman culture was not a fragmented set of practices with no communal meaning; these areas had “foreign policies” that allowed them to interact.¹⁷⁵ In the next chapter, I will read Apuleius’s self defense against a *crimen magiae* as an argument against such literary contamination in a real-world court case. Yet, it was precisely this sort of tracking back and forth between poetry and prose that fortified and refortified *magia* with substance. If space allowed, there is much to be said for the scholiast tradition as an agent in knitting together certain terms around *magia* that we as moderns might take as precursors to our own concept of magic.¹⁷⁶ The renderings of those later expositors of Roman poets—like Servius on Vergil, or Porphyry on Horace—into prose

¹⁷⁵ Feeney, *Literature and Religion at Rome*, 21

¹⁷⁶ Also worth pursuing are Christian appropriations of *magia* in generating a discourse stigmatizing “paganism.”

commentary almost inevitably makes *magia* and its use in the marvelous and uncanny world of Roman poets a term in need of explanation and discourse, and in Roman antiquarian fashion, these expositors seek historical precedents to justify their explanations of this term.¹⁷⁷ But such contingent articulations should be taken to reinforce the essential flexibility of the signifier “magian arts” and its ability to evoke in different discursive contexts, along with other terms, the mystical, exotic, and dangerous. These usages should not be taken as settling or sedimenting its semantic range. In fact, even into the Medieval and Byzantine worlds ambivalence remained around *magia* and its associated terms. For instance, the Suda entries for *mageia*, *goēteia*, *pharmakeia*—which might reflect traditions closer in time to the later Principate—stipulates that these terms are not synonyms (*diapherousin*): the first (*mageia*) is used for invoking spirits for some *good purpose*, the second (*goēteia*) is used to invoke evils spirits, and the third (*pharmakeia*) is used for creating lethal concoctions given “as a potion or otherwise by mouth to someone.”¹⁷⁸

¹⁷⁷ The staple Roman fact that got articulated with *magia*—as we already saw in Pliny—in this process was the Twelve Tables, specifically mystical crop transferring, and from this interpretive tradition latter Roman commentator like Servius could claim that Romans always condemned *magia* in their laws. See Serv. *Aen.* 4.493.

¹⁷⁸ On this passage see, Otto and Stausberg, *Defining Magic*, 46-47. Also see Graf, “Victimology or: How to Deal with Untimely Death” in *Daughters of Hecate*, 392.

Chapter 5

Rome's legal legacy in "magic"

"[A]lthough the Romans adopted many rites (*sacra*), they always condemned those of magic (*semper magica damnarunt*)."

- Maurus Servius Honoratus¹

"Magic ... extended beyond the realm of purely divinatory methods. Eventually therefore Roman Law distinguished three types of magic: (1) black magic, outlawed at all times, (2) white magic, chiefly of a pharmaceutical character, (3) divinatory magic."

-Fredrick Cramer²

"[E]very society designates illegal rituals. But in contrast to most other societies, the Romans made the category part of their legal tradition."

- Hans Kippenberg³

Introduction

Across the previous chapters, I have examined different theoretical and methodological junctures in the study of ancient magic where I perceive modern, redescriptive, and etic uses of magic to have become confused with descriptive accounts of the ancient Roman emic term *magia*. This confusion has led to a two-fold tendency in modern scholarship on magic in antiquity. First, by subtly aligning and collapsing the flexible denotations and connotations of modern "magic" with ancient Roman *magia*, modern readers have tended to naturalize the former as a substantive interpretative lens for studying ancient culture. Second, their endorsement of a substantive notion of magic in antiquity reinforces a procrustean view of ancient magic-qua-*magia* as developing over time into a coherent yet also dispersed concept in antiquity (and one that eventually transforms into "our" Western concept of magic). The goal of

¹ Serv. *Aen.* 4.493.

² Cramer, Fredrick, *Astrology in Roman Law and Politics*, 276.

³ Kippenberg, "Magic in Roman Civil Discourse," 138.

this chapter is to illustrate these two issues one final time, in one final idiom, by way of addressing the putative legacy of Roman law in scholarly assessments of ancient magic. Specifically, I explore the claim—sometimes more or less explicit in modern scholarship—that the Romans’ primary contribution to a concept of ancient magic lay in their gradual criminalization of this concept.⁴

A number of modern scholars have tended to agree with Servius (quoted above) that Romans made magic perennially illegal. An older generation unreservedly affirmed Servius’s claim, as they considered magic to be an unproblematically objective category.⁵ Magic was a historical constant; the different legal statutes instituted against magic at different times were the important historical variables.⁶ More recent scholars have offered more nuanced views of magic, attempting to highlight the specific historical and ideological intersections of magic and Roman law. At a general level, overviews of ancient magic often note Rome’s harsh legislation against magic as a veritable benchmark of difference to that of the Greeks’ more indifferent legal posture.⁷ That is, if, at a cultural level, and as we saw in Chapter 2, the Romans acted simply as a conduit for transmitting a decidedly Greek concept of magic, and contributed little in the way of

⁴ In this chapter, I build on the cursory considerations on Roman law that I discussed in Chapter 4.

⁵ See Rives, “Magic in Roman Law,” 314-315.

⁶ Mommsen, *Römisches Strafrecht*, 1899, 639-642, set tone for older scholarship. See also Tavenner, *Studies in Magic from Latin Literature*, 12.

⁷ See the Kippenberg quote at the head of this chapter. Collins: “Unlike the sporadic concern with magic in classical period Greek law, we have evidence beginning in Republican Rome down to the late imperial period of a sustained interest in the regulation of magical activities,” *Magic in the Ancient Greek World*, 141. Richard Gordon notes that while the issue of the harm caused by certain “magical means” is “analogous” to the Greek world and the Roman Republic, the differentiator between the two was “above all recourse to mass inquisition” by the latter, “Imagining Greek and Roman Magic,” 253. Also Graf, in transitioning from discussing Greek to Roman concepts of magic, offers what amounts to an updated version of Servius’s above “always thesis” regarding magic and Roman law: “[T]he practices of sorcery had *always* been fought [at Rome] by civil authorities and, therefore, the accusation of magic was a much more serious crime than in Greece,” *Magic in the Ancient World*, 26 (my emphases).

original determinate content, then at a legal and administrative level Rome made significant contributions. Namely, the Romans cultivated an “increasing strictness” when it came to legally regulating and policing certain ritual practices, and in this capacity they considered magic an important index for tracking the “degrees” of such increases in legal restrictions of ritual.⁸ Indeed, the ultimate legacy of this intensification of Roman law in proscribing magic adumbrates the conditions for how magic is transformed from an ancient to a modern Western concept. Magic’s putative universal proscription in late antiquity becomes an important step in its development and connects the historical dots between increases in ritual legislation in late antiquity and the autos-da-fé of the Inquisition and the modern European witch trials.⁹

Yet, there are more specific and recent scholarly contributions. Important in this respect are Hans Kippenberg’s essay on the development of magic as a crime in Roman “civil discourse” and James Rives’s essays on tracing the developments of the *Lex Cornelia de sicariis et veneficiis*.¹⁰ Each author approaches his respective study through an episodic analysis of different “moments” or “steps” in the development of magic and Roman law. Taking as his centerpiece Apuleius’s second century CE trial, Kippenberg tracks the development of law in

⁸ Pharr, “The Interdiction of Magic in Roman Law”; Kippenberg, “Magic in Roman Civil Discourse,” 140.

⁹ Baudy, “Prohibitions of Religion in Antiquity,” 111. The Romans’ reputation as adepts in the practical matters of statecraft has also been an important feature of their representation in Western historiography, at least since the early modern period. Romans apparently excelled in concrete tasks such as building roads and making laws, rather than more abstract theoretical or cultural achievements, which are usually attributed to the philosophically minded Greeks (see Stein, *Roman Law in European History*, 1). Guy Stroumsa has highlighted how Enlightenment thinkers found “the public and political dimension of ancient Roman religion” useful in thinking through ideas such as “civil religion” and the ideal relationship between religion and the modern state, *A New Science*, 149-157. It is also telling that, even if only in passing, Bengt Ankarloo and Stuart Clarke, in their introductory comments to the second volume of their multi-volume *Witchcraft and Magic in Europe*, construe “classical heritage” as “primarily made up of three dominant components—Greek philosophy, Roman law, and Christian religion,” xii.

¹⁰ Kippenberg, “Magic in Roman Civil Discourse,” 137-163; Rives, “Magic in Roman Law,” 313-339, and “Magic, Religion, and Law,” 47-67

reference to magic in three steps: the 5th century BCE Twelve Tables pertaining to property damage and slander; the prohibitions against *venena* in the late republican Lex Cornelia; and the interdiction against the *ars magica* in Paulus's *Sententiae* of the late 3rd or early 4th century. For Kippenberg, the tie that binds these different stages of criminalization is the persistent suspicion of secret rites in Roman legal discourse. He argues that it was on this abiding legal basis that religion could become magic.¹¹ Rives explores many of the same moments, but, at a descriptive level, tracks these by way of the late republican Lex Cornelia. He attempts to reconstruct the operative terms and concepts of this non-extant law, namely *venena* and its premium on “uncanny actions,” and to trace later changes in meaning in the legal contexts of Apuleius and Paulus's *Sententiae*.¹² From an analytic perspective, Rives also makes a case for tracking these “shifting” emic categories by means of an etic, heuristic category of magic. For Rives, the utility of an overarching etic category helps modern scholars perceive and analyze long-term changes in the conceptualization of these emic terms. And as for magic, Rives explains: “[f]or better or worse, ‘magic’ is the most suitable and convenient label for that category. It is useful not only because it is familiar and commonly accepted, but also because it is such a fluid term, able to function as an inclusive but not rigid rubric for a shifting cluster of concerns.”¹³

Both authors have made significant contributions to this subject, and in the following pages I engage these scholars' positions and adopt their episodic approach. I also address

¹¹ Kippenberg, *Ibid.*, 155.

¹² Here I emphasize “Magic in Roman Law,” the considerations of which Rives expands on in his later essay “Magic, Religion, and Law.” In the latter, he begins with the specific laws against magic in Paulus and the vocabulary employed. He works backward to trace the shifting meanings and articulations of these terms. He concludes that while there was never a unified notion of “religious deviance” in Roman law, the later confluence of *magus* and *maleficium* in Roman law was an important development in laws against certain practitioners and their rituals. See the last section of this chapter for more on this. I will discuss finer points of Rives's essays throughout this chapter and have already discussed certain aspects of these essays in Chapter 4.

¹³ Rives, *Ibid.*, 317.

questions and potential difficulties that stem from Kippenberg's and Rives's conclusions.

Richard Gordon has indicated that Kippenberg “can offer no explanation for the development he discerns—obviously, one might think, because the same preoccupation, with clandestine ritual, is supposed to underlie all Roman official thinking in this context.”¹⁴ Drawing on Gordon's critique, I will illustrate below that moving from a general legal context that proscribes clandestine rites to identifying a specific category of magic emerging from this context is not a straightforward affair. As to Rives's argument, I concur with him on the importance of etic terms, but I am less convinced that magic's convenience and wide acceptance merits its utility as an interpretive etic term. As I have argued throughout this thesis, it is precisely magic's fluidity and generality as a heuristic term that has made it a liability. Nonetheless, Kippenberg's and Rives's emphasis on “shifts” and “degrees” in their studies of magic and law bring a much-needed sensitivity toward matters of historicism and ideological critique that were lacking in earlier scholarship.¹⁵ However, the premise that magic and law can be identified as two discrete objects and that one can tell a developmental account of their intertwining nonetheless risks becoming a means for naturalizing these objects of discourse.

By way of showing this, I argue in this chapter that the importance given to the contribution of Roman law to the history of ancient magic (and Western magic) is one such intersection of confusion that ends up fortifying magic as a substantive interpretive category while overshadowing other interesting aspects of ritual deviance, its circumscription in late

¹⁴ Gordon, Richard, “Imagining Greek and Roman Magic,” 260.

¹⁵ It is worth noting that neither Fritz Graf nor Matthew Dickie, the authors of the two general synthetic works of ancient magic, explicitly thematize a specific historical development of magic and law (at best they hint at it). Both hold in different ways an understanding of magic as a persistent and stigmatized cultural phenomenon throughout antiquity, and that those practicing magic were always already at risk of potential social and legal danger, whether under formal or informal circumstances.

antiquity, the laws that attempt to regulate it, and its underlying conceptions of alterity. In the following, I examine the usage of *magia* in four episodes thought to be watershed moments in the history of the criminalization of magic: traces of “magic” in the Late Republic, Tacitus’s records of “magical” accusations from the first century CE, the trial of Apuleius on charges of “magic” in the second century CE, and the laws against “magic” in the late antique Theodosian and Justinian Code. I argue that tracing *magia* in its various instances in Roman law reveals increasingly restrictive measures against certain forms divination, of which *magia* is always subsumed, but *magia* is never treated as a separate legal category of ritual deviance. I suggest that the conceptual and legal developments tracked by *magia* can be instructively separated and studied in different, perhaps more useful, contexts. Thus magic, as an interpretative category—even heuristically—does little to illuminate these laws and the social and historical situations from which they emerge. Rather, magic as the subject of such a historical account paints a line of continuity and tradition, where we might be better served to see innovation and rupture.¹⁶

Republican traces: “magic” and religious deviance in the Late Republic

I argued in Chapter 2 that the methodology that presumes a transmission of a Greek category of magic to Rome is based on problematic constructivist understandings of how words, concepts, and mentalities work, as well as an unarticulated understanding of what magic is and where one can find it. In short, those possessed of such a method usually find exactly what they are looking for. We might also ask similar questions of how issues of religious deviance were articulated in the Late Republic, and how scholars see these to intersect with a nascent concept of magic during this time.

¹⁶ For example, for Kippenberg, the linking of magic to deviant behavior resembles a “tradition” that is part of “the Western cultural storage,” “Magic in Roman Civil Discourse,” 138.

If I have had to belabor the problems in positing a unified concept of magic in the Roman Republic, I would hope saying that religious deviance was not a unified category would be somewhat less problematic. As has been argued on several fronts, religion was not a discrete category in republican Rome, and neither was religious deviance.¹⁷ To begin with, ritual deviance did not equal criminality, and it could emerge and be articulated in different ways. As I discussed in Chapter 4, Latin *superstitio* could cover a wide range of religious activities that elites might scoff at and warn against, but which were not subject to legal action. For instance, the practices of foreign peoples were often seen as harmless exotic quirks, but Roman authors still registered their disgust and suspicion, as when Cicero outlines the “errors” of foreign nations in how they treat their dead or when Cato forbids his *vilicus* from consulting diviners.¹⁸ Unsurprisingly, the practices of women, the lower classes, and slaves were also similarly liable to all sorts of condescending elite head shaking. Yet, among the elite as well, various political misfortunes or military blunders were often attributed to ritual irregularities. Cicero often sprinkles in various accusations of irreligion into his works, even if more for polemical effect than for making a formal charge.¹⁹

Instructive here is Clodius’s famous cross-dressing scandal in the early 60s BCE, which involved his crashing the female-only sacrifice to Bona Dea (at Caesar’s home no less). It was not only a persistent source of gossip and mockery for years to come, but also pivots our attention to those moments when deviance moved toward legal action.²⁰ Writing to Atticus, Cicero mentions that in the immediate wake of Clodius’s transgression, the Vestal Virgins

¹⁷ For succinct theoretical summaries of this and other issues attendant to the study of Roman religion see Ando (ed.), *Roman Religion*.

¹⁸ Cic. *Tusc. Disp.* 1.108; Cato *De Agri.* 5.4.4.

¹⁹ E.g.: Cic. *De Div.* 1.77; *Phil.* 2. 78-84.

²⁰ Over a century after, Juvenal still uses this salacious event to sarcastically assess a dismal landscape of worship at Rome: “[T]hese days, is there any altar without a Clodius?”, 6.345.

repeated (*instaurassent*) the sacrifice in proper form. But Cicero implies that it was less clear how to deal with Clodius.²¹ Public outcry led to the issue's discussion in the senate, but it then passed back to the college of the Pontiffs and Vestal, who only then declared it a violation (*nefas*). Eventually, after much political wrangling, a *quaestio* was formed and Clodius was charged with *incestum*, but ultimately acquitted (and for Cicero it was clearly because of underhanded dealings). The seeming uncertainty speaks to the fact that while handling perceived violations to certain rites was a high priority, there was no consistent, ready-made charge that paralleled Greek *asebeia*.²² Even that Clodius and his allies could manipulate his actions into a charge of *incestum* indicates flexibility in the jurisdiction and application of laws. Legal action that was taken against certain violations seems often to have been ad hoc and attuned to specific moments of perceived defilement of traditional rites.²³ In fact, there seem to have been few specific statutes designed to regulate rituals. There were various rules of conduct for public priests. The laws that do seem to regulate matters that we might call religious were not grouped together but rather situated in and related to a range of issues and debates including property law, regulations on inheritance, family cult, rules for feast days, and cult offered to the dead. And while the few recorded charges against Vestal Virgins for *incestum* do appear to fall more in line with something like a formal charge of impiety, they are notable because they appear to be rare, undertaken in moments of state turmoil.²⁴

²¹ Cic. *Ad Att.* 1.13.3.8

²² North, John A, "Religious Toleration in Republican Rome," 85.

²³ For a list of the relevant sources, a discussion of the Clodius incident, and a discussion of religious crimes, their perpetrations, and purifications, see Scheid, John, "Le délit religieux dans la Rome tardo-républicaine," 117-173.

²⁴ See Cornell, Tim, "Some observations on the «crimen incesti»," 27-37; most recently see Rüpke, Jörg, *Religious Deviance in the Roman World*, 12-33.

In dealing with idea of “witchcraft” in the previous chapter I have already spoken to some of the relevant issues of the Twelve Tables and the Lex Cornelia, neither of which contain laws that govern ritual action as deviance. Yet, those moments when scholars perceive treatments of religious deviance to drift toward traces of magic in the Republic, it is often in the context of Romans dealing with foreign cults in the midst of imperial expansion. The Bacchanalian affair in 186 BCE is one such moment. For scholars, this event often serves, sometimes more or less explicitly, as a nexus of religious deviance and traces of magic, but also as one possible origin for Roman legal severity toward perceived deviant rituals. Older scholarship made more explicit the connection between magic and the Bacchanalian affair,²⁵ while more recent treatments use more careful language, perceiving in the Bacchanalia only hints of what will become a later and firmer set of connections between magic, foreign cults, and persecution. Nevertheless, scholars have tended to detect three traces of magic in this event, especially within Livy’s Augustan era account in which he parades a full range of horrors and patriotically motivated repressive acts.²⁶ First, the originator of the cult is noted as a lowborn Greek, a “sacrificer and diviner” (*sacrificulus et vates*), and sometimes nimbly interpreted as “broadly akin to that of Plato’s ‘sorcerer amalgam’” (i.e. beggar-priests, *agurtai* and prophets, *manteis*).²⁷ Second, there are the repeated mentions of Bacchic festivities taking place at night, in secret, which, as Kippenberg argues, was a sure way to transform a religious ritual into a magical

²⁵ E.g. Pharr, Clyde, “The interdiction of magic in Roman law”, 281; Nock, Arthur Darby, “Paul and the Magus,” 172; Le Glay, “Magie et sorcellerie à Rome au dernier siècle de la République,” 536-537; Tavenner, *Studies on Magic from Latin Literature*, 14.

²⁶ Liv. 39.8-19.

²⁷ Ogden, *Magic, Witchcraft, and Ghosts in the Greek and Roman Worlds*, 278-279. Also see Graf, *Magic in the Ancient World*, 49. He suggests this alignment too but also cautions against pushing it too far.

ritual.²⁸ Third is a mention of *venenum*, which Matthew Dickie has interpreted as the only “passing reference” to magic in Livy’s entire surviving history.²⁹ Again, while these three elements are not sufficient to define the Bacchanalia as a “magical” event in most accounts, the episode is seen as formative in adumbrating future conceptual developments. As Daniel Ogden says of it: “The Romans were to continue to associate together magic, foreign cults, and conspiracies to overthrow the state.”³⁰

There is a lengthy bibliography on the Bacchanalian affair, which indicates a number of frames of reference in which to understand this event in legal, political, and even religious terms. But to add magic as an independent factor adds nothing at best, and obscures matters at worst. As with magic as a concept (argued in Chapter 2), so with magic as a crime: the issues generally supposed to make magic illegal did not converge on some underlying concept but rather ramified into other broader interests. For instance, Kippenberg has argued that proscribing magic in Roman law emerged from a more general aim of curtailing the performance of private rituals. Indeed, for Kippenberg, the “[e]quation of ‘illegal’ with ‘secret’ can be called a genuine Roman tradition.”³¹ Kippenberg is correct about the persistent suspicion Romans had for clandestine rituals, but the tradition of linking illegality and secrecy in Roman law is too general a context to designate the specific developments of magic he envisions, in the Bacchanalian affair or elsewhere.³² The question, then, is: if all Roman legal thinking is underpinned and inflected by illegality-qua-secrecy, how does it specifically relate to something called magic as opposed to

²⁸ Kippenberg, “Magic in Roman Civil Discourse,” 150-155, esp. 154.

²⁹ Dickie, “Magic in the Roman Historians,” 80.

³⁰ Ogden, *Ibid.*

³¹ Kippenberg, *Ibid.*, 153.

³² See my discussion of Kippenberg’s argument in the introduction of this chapter.

merely general notions of impiety or sacrilege—what makes magic a special sort of secret activity?³³

In his recent book on religious deviance from Cicero to Constantine, Jörg Rüpke denies “magic” any explanatory place in his account.³⁴ This has not been the norm in accounts of ancient religious deviance; as I have described, magic usually becomes an influential social factor beginning in the turmoil of the Late Republic.³⁵ Particularly important to scholarly accounts of the emergence of magic and its relation to Roman public life and law has been the rather enigmatic figure of Publius Nigidius Figulus. Nigidius has often been and still is ascribed by scholars the role of magician in the Late Republic, and positioned variously to demonstrate a general interest in magic among late republican elite Romans.³⁶ Yet, we know very little about him, and what we do know is from only a small set of fragments and testimonies, the bulk of which come from a much later period. Two pieces of information about Nigidius seem to have persistently situated him as specifically a magician and furthered the idea that 1) magic was indeed an operative concept in the Late Republic, and 2) that it could be considered illegal.³⁷

³³ We might describe certain actions as “magical” over and above how they were characterized in any given legal complaint, but this already tilts our interpretive hand. For example, in the Greek world, to bring suit against someone for, say, property damage by means of *pharmaka* was not to charge them with improper use of *mageia* but rather *dikē blabēs*.

³⁴ Rüpke, Jörg, *Religious Deviance in the Roman World*.

³⁵ For different views of the importance of magic in Roman religious history see Liebeschuetz, *Continuity and Change in Roman religion*, Chapter 3, 101-139 and Beard, North, and Price, *Religions of Rome*, 149-156 and 218-220.

³⁶ E.g., Fredrick Cramer calls him “a Roman Doctor Faustus,” *Astrology in Roman Law and Politics*, 65; Dickie situates Nigidius as one of two Late Republican representatives (the other being Anaxilaus of Larissa) in the context of a broader ancient magical lineage which he argues for in “The Learned Magician and the Collection and Transmission of Magical Lore.” Beard, North, and Price situate Nigidius, on the one hand, as the late republican culmination of the traces of magic found in previous Roman authors, and, on the other hand, as the “most likely candidate to have written” an account of magic that would aspire to something like Pliny the Elder’s history of *magicae vanitates* (see page numbers in above note).

³⁷ The fragments of Nigidius are collected in Swoboda, *P. Nigidii Figuli operum reliquiae*.

The first relevant piece of evidence comes from Jerome's fourth century CE translation and supplementation of Eusebius's *Chronicle*, in which he characterizes Nigidius as "a Pythagorean and *magus*."³⁸ Nigidian commentators agree that this excerpt likely is lifted from a *vita* of Nigidius contained in Suetonius's (lost) *De philosophis*. However, what is less clear is whether *both* terms appeared in Suetonius's text.³⁹ Late republican usage of *magus* seems to make this unlikely.⁴⁰ Of course, it might still be that by the second century CE *magus* was a stereotyped label Suetonius could add to his description of Nigidius as a Pythagorean. However, where Suetonius does mention Nigidius in his extant work, Suetonius characterizes him as an astrologer: Nigidius prophesizes the future greatness of the emperor Augustus at his birth. Suetonius does not mention any "magian" associations, as he does with Nero.⁴¹ Furthermore, Nigidius's astrological credentials are already explicitly affirmed previously by Lucan in the first century CE, and the largest portion of the fragments of Nigidius's work that we possess come from Aulus Gellius in the second century CE, who identifies Nigidius as an intellectual heavy weight second only to Varro and makes no mention of *magia*.⁴² A reasonable conclusion then might be that Jerome added *magus* to his rendering.⁴³

³⁸ Swoboda T8.

³⁹ For a recent overview Nigidian scholarship see Marc Mayer i Olivé, *Publius Nigidius Figulus Pythagoricus et Magus*, 237-245.

⁴⁰ See Chapter 2; Rives has suggested that if it was a contemporary label for Nigidius, it might be a mocking jab, poking fun at Nigidius's penchant for Eastern learning and in the same spirit that Appius Claudius Pulcher was given the nickname the "Pisidian" due to his abiding interest in augury. On this suggestion, calling Nigidius's a *magus* would resonate with the Hellenistic link between the Persian Magi and Pythagoras (and perhaps even its reference to Numa), rather than any association with a magician. Rives's observation is from an (as far as I can tell) unpublished lecture "The Sacrilege of Nigidius Figulus," a talk given to the Classical Association of Canada Annual Meeting in May 2005. The text is available through Rives's www.academia.edu page.

⁴¹ Suet. *Ner.* 34.4

⁴² Swoboda T13, 15; F4, 53, 79.

⁴³ It might be a stock phrase, especially since he applies the same phrase to Anaxilaus of Larissa.

As for Nigidius's Pythagorean associations, we are on somewhat more stable ground. That Nigidius was associated with Pythagoreanism is evidenced in a fragment of Cicero's *Timaeus*. Here Cicero credits Nigidius's high quality of erudition with reviving Pythagoreanism at Rome.⁴⁴ As a supplement to this contemporary fragment, scholars often add a fourth century CE commentary on Cicero's response to P. Vatinius in 56 BCE. This note mentions that Nigidius's learning attracted many, and although his group self-identified as "Pythagorean followers" (*Pythagorae sectatores*), their "critics" (*obtrectatores*) used this label against them, seeing them as a *factio*.⁴⁵ In Cicero's actual cross-examination of Vatinius he does not mention Nigidius or Vatinius, nor that they had any affiliation, but he does indicate that Pythagoras's name might be a convenient exotic label with which to launder disreputable practices. Cicero attempts to discredit Vatinius's testimony of such leveraging in order to hide his "ferocious and barbarous manners" (*immanibus et barbaris moribus*) behind the name of a respectable philosopher. Here Cicero's usual practice of invoking ritual deviance in his polemics takes a decidedly macabre tone as he lists Vatinius's supposed practicing of "unknown and mysterious rites" (*inaudita ac nefaria sacra*), "evoking spirits from the underworld" (*inferorum animas elicere*), and "sacrificing to the infernal deities with the entrails of boys" (*puerorum extis deo manis mactare*). For Cicero, these activities show Vatinius's contempt for the practice of public Roman augury, "upon which the whole state (*rem publicam*) and its authority (*imperium*) depend."⁴⁶ This passage is often cited in depictions of ancient magic in the republican period, emphasizing that the rhetorical power of Cicero's comment is in the juxtaposition of two

⁴⁴ Swoboda T9. In fact, a recent argument has suggested quite plausibly that Nigidius perhaps represented the Pythagorean position in Cicero's dialogue adapting Plato's creation myth. See Sedley, David, "Cicero and the Timaeus," 187-205.

⁴⁵ Swoboda, T10.

⁴⁶ Cicero, *In Vat.* 15.

different kinds of *sacra*, those of traditional Roman cult versus those of an unknown, foreign, and destructive sort.⁴⁷ But, it is also relevant that Cicero evokes the language of cult but does not invoke *magica* to describe the practices attributed to Vatinius. As we saw earlier, later Roman authors sometimes linked similar practices to *magica*, but that Cicero does not explicitly mention *magica* here indicates to me two possibilities: either it was not an operative concept in the Late Republic (especially as a term for ritual deviance), or conversely, it was so common that he could activate it by implicit innuendo and a few well placed allusions rather than be explicit. With evidence lacking for the latter, as I have argued here and in Chapter 2, the former seems more likely.⁴⁸

Vatinius's condemnation leads to the second piece of evidence usually attached to Nigidius as an embodiment of late republican interests in magic. A first century CE Pseudo-Ciceronian passage on Sallust suggests that whatever Nigidius et al. were up to, it was illegal: "Perhaps you may say (by Hercules!) that he [Sallust] fell through the inexperience of youth and afterwards reformed.' Not so! On the contrary, he became an associate in the sacrilege of Nigidius; he was twice hauled before the bench of a judge, he was all but condemned, and such was his escape, that he was not thought to be innocent, but the jurors to have committed perjury."⁴⁹ If one accepts Jerome's description of Nigidius as a *magus* as reflecting a common designation rather than an idiosyncratic, possibly Christianizing, interpretation, then it is perhaps

⁴⁷ E.g., see Graf, *Magic in the Ancient World*, 39-40.

⁴⁸ Matthew Dickie disagrees and sees magic implied here: "It is of no particular significance that Cicero does not use the term magic to characterize the rituals practised by Vatinius. What is significant are the terms with which the practice of magic is excoriated and the conceptual framework implicit in the use of these terms. Cicero's attitude to magic is essentially that of Plato," *Magic and Magicians in the Greco-Roman World*, 133-134.

⁴⁹ Swoboda T11: "at hercules, lapsus aetatis tirocinio postea se correxit." non ita est, sed abiit in sodalicium sacrilegi Nigidiani; bis iudicis ad subsellia attractus, extrema fortuna stetit et ita discessit, ut non hic innocens esse, sed iudices peierasse existimarentur.

a small leap to affirm in the interpretation of *sacrilegii Nigidiani* that “[t]here is little doubt that by impious and sacrilegious practices the speaker means magic.”⁵⁰ Thus if one can speak of Nigidius as a magician, of his cabal of suspect Pythagoreans, and of the fact that he was twice an accomplice prosecuted for his activities in this group, this not only reinforces the ascription of *magus* as well as the existence of a late republican concept of magic, but adds to this that magic must have also been something that was, or at a minimum could be, illegal.⁵¹

Yet, the evidence for this hangs together on dubious methodological, historical, and even textual assumptions. Already I’ve mentioned that most of our information about Nigidius comes from later sources, *magus* is a doubtful first century ascription, and even his later reputation was as an astrologer, not a *magus*. Set in his own first century context, there seems to be little difference between him and his intellectual peers, other than perhaps his being the “the most colorful” of them.⁵² What we know of his life and career is consistent with other publicly minded elite Romans. Later authors praised his intellect and explicitly compared it to Varro’s intellect, and perhaps rightly since the number of subjects he wrote on ranged from theology and divination to astronomy and natural history.⁵³ Especially when engaging with the wisdom of so-called barbarian philosophers, Nigidius shows himself consistent with his peers. The only other attestation of *magia* in Nigidius’s extant fragments and testimonies runs precisely along the lines I argued for Cicero’s use of *magia* in Chapter 2. In this case, Nigidius finds the testimony of the

⁵⁰ Dickie, “The Learned Magician and the Collection and Transmission of Magical Lore,” 171.

⁵¹ When buttressed by Cassius Dio’s third century testimony that the same prophetic activities by which Nigidius had predicted the greatness of Augustus also issued in “the charge of practicing some forbidden art,” and Nigidius becomes a veritable flashpoint for magic, its recognition, and its proscription in the Late Republic, Swoboda T24.

⁵² Momigliano, “The Theological Efforts of the Roman Upper Classes in the First Century B.C.,” 201.

⁵³ Biographical details: Swoboda T1-8. For the breadth of his scholarship Swoboda F4, F8, F53, F63; F34, F35, F48, F50, F79; F51 lauds Nigidius with no comparison to Varro.

Hellenized Persian *magi* useful, among learned barbarians (like Orpheus), to mention in characterizing and classifying the gods, their temporal domain of authority, and whether or not the *magi*'s view can be interpreted by the Stoic (not Pythagorean) conception of conflagration.⁵⁴

Further, as Federico Santangelo has recently shown, the Pseudo-Cicero passage above has its own set of issues that make its information less sure.⁵⁵ First, there is no corroborating evidence that Sallust was a Pythagorean or had any such interests, nor that Nigidius was ever tried for sacrilege.⁵⁶ In fact, given the otherwise glowing testimonials about his life and reputation, especially from Cicero, it seems odd that he would have twice been prosecuted, twice bribed his way out of it, and that there would be no other mention of it by one of his closest friends. As Santangelo points out, editors and interpreters have had different views on just what to make of the phrase *sacrilegi Nigidiani* given these initial difficulties. The rendering of *sacrilegi* is usually understood as the genitive of *sacrilegium*, but the adjective *Nigidiani* has proved more difficult to interpret. H. Jordan was the first to suggest Nigidius Figulus as the perpetrator of the *sacrilegium*. Two prior editors, though, had suggested that *Nigidiani* could refer to an otherwise unknown, but disreputable, associate of Sallust known as *Nigidianus*. Further, Santangelo also mentions that there could have been a *sacrilegium* committed by a different *Nigidius*. While both are possible, Santangelo argues plausibly that both are unlikely. A second way of understanding *Nigidiani* is based in Peiser's emendation that rearranges the first sentence, making Nigidius the accuser rather than the accused: i.e. instead of "he [Sallust] became an associate in the sacrilege of Nigidius, he was twice hauled before the bench of a judge..." (*sed abiit in sodalicium sacrilegi Nigidiani; bis iudicis ad subsellia attractus*), Peiser

⁵⁴ Swoboda F67.

⁵⁵ Santangelo, "Whose Sacrilege?: A Note on Sal. 5.14," 333-338.

⁵⁶ Possibly Swoboda T14= Cassius Dio 45.1, but Dio does not specify in what way Nigidius was charged.

suggests “he [Sallust] became an associate in a sacrilege. Twice he was hauled by the hands of the judge of Nigidius to the bench” (*sed abiit in sodalicium sacrilegi. Nigidi manibus bis iudicis ad subsellia attractus*). Santangelo notes the problem of the unattested phrase *attractus manibus* in Peiser’s emendation and problem of style and possible conceptual issues, but also argues tentatively for pursuing Peiser’s suggestion, albeit with “a significant variation.”⁵⁷ He suggests: “he [Sallust] became an associate in a sacrilege. Twice he was dragged to the bench of the judge of Nigidius” (*sed abiit in sodalicium sacrilegi. Nigidiani bis iudicis ad subsellia attractus*). For Santangelo, this suggestion holds promise based on the known legal procedures of the Late Republic, and perhaps more importantly, based on what we know of Nigidius’s public career.⁵⁸ We know that Nigidius was praetor in 58 BCE, and at least one common praetorian practice was to appoint a judge (*iudex*) as a proxy to preside over a trial in different capacities. Thus one might understand *Nigidiani iudicis* as the judge appointed by the praetor Nigidius Figulus, who was charged with overseeing two different court cases (in the same year) where Sallust was implicated in an unspecified *sacrilegium*, but due to bribery these respective judges acquitted him. Here Nigidius might be blamed for selecting poor proxies, but he was clearly on the enforcement side of the law rather than the suspect side. Santangelo notes that there are still problems with this interpretation,⁵⁹ but it is enough to cast doubt on this passage as evidence for Nigidius Figulus as the leader of sacrilegious association, much less one that practiced something associated with *magia*. Under scrutiny, the conception of Nigidius as a late republican magician

⁵⁷ Santangelo, “Whose Sacrilege?,” 336.

⁵⁸ See above biographical notes.

⁵⁹ He notes the problem of placing the adverb *bis* in-between the noun and adjective, “Whose Sacrilege?,” 338. I am also appreciative to Cliff Ando’s comment that pointed out to me there is no parallel construal of *iudicis* with the genitive of appointing a magistrate.

dissipates and his position becomes quite the reverse—he was probably something more like a run-of-the-mill elite Roman intellectual and statesman.⁶⁰

To summarize, the evidence is not strong enough to suggest that religious deviance was a unified phenomenon in the Late Republic. Further, those moments of ritual irregularity were not connected to the emic term *magia* nor does a modern etic concept of magic add much of anything in the way of interpreting such moments. Proposals suggesting otherwise tend to depend on teleological based methods: they search out certain aspects of republican culture in earlier periods and construe them as traces of magic and ritual regulation that will be part of *magia* when it finally emerges as a crime. Application of that category to those traces is an anachronism perpetrated by certain authors in the imperial period and uncritically repeated by modern scholars.

Fear and loathing in the early Principate: accusations, expulsions, and “magic”

In contrast to republican “traces,” standard accounts of magic and law in the Principate portray magic as a full-blown social reality; especially accusations of magic and the expulsion of magicians and their peers from Italy seem to have become an undeniable political force under the restructured Roman government, which rendered more practices and practitioners threatening and illegal. As Richard Gordon notes: “the transition from Republic to Principate occasioned a relatively sharp increase in the visibility of illicit religion, magic linked with private divination: such charges expressed as plainly as anything else the shift from political pluralism to

⁶⁰ There is also the additional problem of how one understands the content of the charge of *sacrilegium* here; see Santangelo, “Whose Sacrilege?,” 337ff.

autocracy.”⁶¹ Specifically, Gordon’s ocular framing expresses at least two important aspects of the putative development of magic and law that are worth pursuing further.

First are the analytic units that he sees as equaling “illicit religion;” that is, magic combined with private divination. Scholars of ancient magic often evoke magic and divination as if they were two separate forms of practice that merely took on a revised and more intimate relationship to each other under the new political conditions of the Principate. For instance, magic could be a set of practices that overlapped but was not contained by the category of divination. Cramer noted that “[m]agic . . . extended beyond the realm of purely divinatory methods” and evoked the Frazerian categories of black and white magic in addition to divinatory magic to cover Roman legal distinctions concerning magic’s various forms.⁶² Or, more recently, magic has been seen as a discrete set of practices—multifaceted to be sure—that came gradually to encompass (or conflate with) divinatory activity in the Principate and into late antiquity (e.g. the PGM encompasses divination). This is essentially Graf’s thesis, in which he argues for an “earlier, independent existence of both phenomena,” which became virtually identical under the later Christian empire.⁶³ Yet, the precise demarcations between these two independent objects remains elusive, and as Graf admits, the temporal change he wishes to mark from distinction to conflation often resists such a clean delineation: magic and divination have always had “hazy” boundaries and consisted of practices in a “tangled relationship.”⁶⁴ In this section, I argue that such persistent blurriness might attest equally well to ancient authors asserting interested distinctions as it does to their trying to collapse preexisting distinctions. More specifically, we

⁶¹ Gordon, “Imagining Greek and Roman Magic,” 166.

⁶² See citation at the beginning of the chapter.

⁶³ Graf, “Magic and Divination,” 293. For similar views see Barton, Tamsyn, *Ancient Astrology*, 195 and Johnston, Sarah Iles, *Ancient Greek Divination*, 145

⁶⁴ Graf, “Magic and Divination,” 296, 286.

might read such perceived overlap as indicative of ancient discursive acts of differentiation that were designed not to distinguish between or collapse different kinds (magic and divination), but instead to differentiate what might be perceived by them as different species (magic and astrology) of the same kind (divination).

Taking divination and magic as distinct objects has led to two different interpretative positions among scholars regarding religious deviance in the Principate. Magic is at once identified descriptively as a concrete form of ritual (*magia*) with a discrete and identifiable set of practitioners (*magi*), practiced side-by-side with others such as astrology (*mathematica*), but magic is also apparently an emerging genus (*magia*) for categorizing this situation of plural divinatory species understood as increasingly suspicious and illegal. For example, in certain contexts, magic, as Gordon notes, “really meant new forms of divination” such as in Cassius Dio’s account of Maecenas’s speech denouncing those practicing magic (*mageutas*; he also mentions *atheoi* and *goētes*) as engaging in new forms of divination (*mantikē*) that challenged traditional forms (*hieroptas* and *oiōnistas*).⁶⁵ But some scholars also share the sentiment, echoing Pliny’s view, that the divinatory *artes mathematicas* were processed under the wider, albeit tenuous, category *magicae vanitates*. As Kyle Fraser comments: “Roman imperial representations of magic assume a marked degree of coherence, certainly not that of a single concept, but that of a unified syndrome with consistent features.”⁶⁶ Indeed, even in terms of legal measures, similar views express that the “répression des pratiques privées progressivement rangées sous la label de la “magie.”⁶⁷

⁶⁵ Gordon, “Imagining Greek and Roman Magic,” 261, citing Dio, 52.36.3-4.

⁶⁶ See Chapter 3. Fraser, “Roman Antiquity,” 125.

⁶⁷ Belayche, “La législation sur la divination,” 92-93.

Gordon's comment also attunes us to a second aspect that positions magic in the history of religions of the early Principate: namely, that a shift from the Republic to Principate corresponded with a shift in the sources of anxiety over ritual deviance and a different model for criminalizing and punishing such matters. Specifically, Augustus's structural reforms to public ritual, which situated the emperor as the central focus of Roman state cult, shifted the field of vision regarding the threat of ritual deviance, resignifying the act of consulting diviners, especially in private, as a dangerous and seditious act. The emperor became both an object of worship and emblematic sacrificer, who was a normative model of proper worship and sole guarantor of divine favor for the empire.⁶⁸ But the converse of the emperor's increased symbolic responsibility was also his potential vulnerability as a lightning rod for conspiracies that might employ harmful forms of divination against him. There had long been diviners (especially foreign ones) at Rome, and Romans of all classes solicited them. And while such consultations might have been considered bad taste, especially for the ruling classes, they were not illegal. But with the political and symbolic wellbeing of the empire condensed into a single figure, the eyes of the imperial court came to focus on diviners and those who would avail themselves of their skills in private contexts. Any consultation had the potential to produce results that could portend some sort of trouble (death, disease, disorder, etc.) and might erode confidence in the ruler. This persistent destabilizing potential, more than any particular deliberate act of sedition, posed a danger.⁶⁹

It is these two ambiguous contexts, one analytic and one historical, concerning the role of diviners and divination in the power struggle among the elites and the imperial court, as well as

⁶⁸ See Gordon, "The Veil of Power: Emperors, Sacrificers and Benefactors," 201-31.

⁶⁹ On the contestation over divinatory "knowledge" in the Principate see Fögen, M.T., *Die Enteignung der Wahrsager*.

the resulting social tensions and realignments, that the evidence of first century CE magical accusations and the periodic expulsions of magicians might usefully be situated.

“Magical” accusations, divinatory accusations

Tacitus’s “magical” accusations have been of particular interest for sociological views of magic that focus on third-person attributions rather than on substantive elements. Yet, the paucity of information that Tacitus provides often makes these charges difficult to explain.⁷⁰ Nevertheless, aspects of the sociological view of magic have been usefully applied to Tacitus’s charges. As Mary Douglas argued (long ago), political situations like that of the early Principate, rife with ambiguity and competition between different groups, can lead to accusations of “magic,” which can function as potent tools in the process of contesting and negotiating normative and non-normative factional boundaries.⁷¹

If uncertain social situations can make sense of the contexts that facilitate accusations (genuine or not) against one’s peers and rivals, what sense can be made of the qualifier “magic”? Did magic constitute a distinct crime during this period that underwrote these accusations? As I discussed in the previous chapter, scholars of magic have tended to see an extended version of the late republican Lex Cornelia as a legal basis for prosecuting magic in the Principate. As James Rives has shown, however, even if we assume its extension, this law still only covered a limited number of actions, and, as I argued in Chapter 4, the Romans were often ambivalent even about these actions. More recently, Elizabeth Ann Pollard, in discussing the legal background for

⁷⁰ See the Introduction for a discussion of the general methodological problems of “explaining” magical accusations.

⁷¹ See Douglas, Mary, “Introduction: Thirty Years after *Witchcraft, Oracles, and Magic*,” xiii-xxxviii; also see Peter Brown’s essay in the same volume, “Sorcery, Demons, and the Rise of Christianity from Late Antiquity into the Middle Ages,” 17-46.

Tacitus's accusations, has attempted to frame a legal definition of the *artes magicae*.⁷² Pollard enumerates the standard Latin lexicon for magic but to give it legal force and to makes sense of first century legal realities, she appeals to these terms in the fourth century Theodosian code—presuming that the meaning of these terms and their relation to each other remained stable across four centuries of practical application and jurisprudence. As we will see, *artes magicae* was not a phrase Tacitus employed to characterize charges signified with some variation of *magia*. The so-called magical accusations Tacitus discusses usually come as part of a cluster of crimes, and in only one is *magia* the sole charge. He also does not discuss the determinate content of this charge. Nor does Tacitus explicitly say under what laws these charges fall; he only lists the charges themselves. That said, Tacitus seems particularly interested in the *lex maiestatis* (law against treason), its revival and expansion under Tiberius, and sees this law as forming a persistent background for various accusations.⁷³ At minimum then, we can say that charges of *magia* often seem to get made in the proximate legal context of charges or suspicions of *maiestas*. For Tacitus though, whatever the actual legal scope of *maiestas* was, it was also a useful literary tool to illustrate the general moral failings and cruelty of the Principate, which had enabled and normalized the grubbing and sycophancy of *delatores* and *accusatores*.⁷⁴

⁷² Pollard, "Magic Accusations Against Women in Tacitus's Annals," 183-218.

⁷³ On the *lex Maiestatis*: Tac. *Ann.* 1.72.4; 3.38.3; 4.6.2–3. The bibliography on the crime of *maiestas* and the *lex maiestatis* is quite large. For an older treatment see Rogers, *Criminal Trials and Criminal Legislation under Tiberius*, or see Cramer's attention to *maiestas* and astrology (and magic) in *Astrology in Roman Law*, esp. 248ff. Relevant to my discussions here is Richard Bauman's work, see *Crimen Maiestatis in the Roman Republic and Augustan Principate* or more recently, *Crime and Punishment in Ancient Rome*, esp. 50-65. For work published in the last few years see Markéta Melounová, "Crimen Maiestatis and the *Poena Legis* during the Principate," 407-430.

⁷⁴ For a recent enumeration of the important data of delation in the early Principate see Rutledge, *Imperial Inquisitions*. But also see Clifford Ando's review of its analytic drawbacks in *Classical Review*, "Review: Delatores."

In fact, the first “magic” trial Tacitus records against Libo Drusus in 16 CE is prioritized exactly as being representative of the dangers inherent in the expanded range of the *lex maiestatis*.⁷⁵ Tacitus does not specifically list treason as one of the charges, but he does justify giving a lengthy discussion of this affair since Libo’s putative revolutionary activities (*moliri res novas*) were the first discovery of matters that were to corrode the state for many years (*quia tum primum reperta sunt quae per tot annos rem publicam exedere*). The charges Tacitus lists are that Libo consulted Chaldeans, the rites of Magians, and even dream interpreters (*Chaldaeorum promissa, magorum sacra, somniorum etiam interpretes*). Tacitus indicates that there were perhaps other misdeeds that ensnared Libo, but it is also telling that he does not detail these, framing the account instead around specific charges of fomenting revolution via divinatory consultation.⁷⁶ Tacitus tells us that Libo’s fellow senator and friend, Firmius Catus, framed him by exploiting his interest in such divinatory practices, especially as these related to his family pedigree. For Tacitus, Libo’s consultations were harmless inquiries into his personal wealth, and Tacitus mostly finds the evidence brought against Libo to demonstrate only his naiveties.⁷⁷ Yet, *delatores* could resignify these acts into potentially treasonous acts: consulting prestigious ancestors and seeking visions of the future for personal enrichment could be interpreted as marshaling one’s material resources to fund treasonous plots, undermining the emperor’s

⁷⁵ Tacitus account of Libo’s trial: *Ann.* 2.27-32. For a detailed analysis of Libo’s trial see Shotter, D.C.A., “The Trial of M. Scribonius Libo Drusus,” 88-98; for a discussion of Libo’s case and its aftermath in terms of “magic” see Rives, “Magic, Religion, and Law,” 61-62.

⁷⁶ “...hortaturque ad luxum et aes alienum, socius libidinum et necessitatum, quo pluribus indiciis inligaret.”

⁷⁷ “He had inquired of his prophets if he would be rich enough to cover the Appian Road as far as Brundisium with money.” Tacitus comments that like this consultation, *inerant et alia huiusce modi stolidi, vana, si mollius acciperes, miseranda*. Specifically, he does mention that a list of senatorial names and members of the imperial family was presented at the trial, supposedly written by Libo, and annotated with “a set of marks, sinister or at least mysterious” (*additas atrocis vel occultas notas*). Modern scholars usually jump to interpret this as evidence of “magic” (e.g. *vores magicæ*), but it is noteworthy that Tacitus does not.

authoritative lineage, generating one's own ancestral authority to aspire to imperial power, and gauging the likely success of such a coup. Upon being charged Libo committed suicide. Yet, the senate convicted him posthumously, his estate was parceled out to his accusers, who were also awarded political appointments, and among the various honors and resolutions passed in the senate Tacitus mentions one that expelled "astrologers and magicians" from Italy (*de mathematicis magisque Italia pellendis*, more on this below).

While Libo is accused and convicted of consulting/using *magorum sacra*, there is no indication that there was a specific charge related to something called *artes magicae* (as Pollard construes it). A certain Junius, whom Libo also consulted, is specified as a necromancer, but this and the services of Chaldeans, Magians, and dream interpreters are not distinguished, only listed, and we are given only a general sense of Libo's intentions to know the future.⁷⁸ In other words, Tacitus has simply given us several species of improper, foreign divination; *magorum sacra* is here just one form in parataxis with others of its kind. Further, Tacitus's illustration of the dangers and excesses made possible by the law of treason via Libo's charges of consulting foreign diviners likely finds its legal basis in a ruling from a few years earlier in 11 CE. Cassius Dio tells us that in this year the emperor Augustus decreed that across the empire "seers (*mantesin*) were forbidden to prophesy to any person alone or to prophesy regarding death even if others should be present."⁷⁹ Suetonius indicates that Tiberius also made a similar decree (no date given) to include consultation with *haruspices* "secretly and without witnesses" (*secreto ac sine testibus*).⁸⁰ To be sure, these decrees do not make private divination illegal per se but rather proscribe certain topics of divinatory consultation and qualify what counts as an acceptable

⁷⁸ "At length, a certain Junius, solicited by Libo to raise departed spirits by incantation..."

⁷⁹ Dio. 56.25.5.

⁸⁰ Suet. *Tib.* 63.1.3.

private context. Tacitus does not mention these rulings, but it is reasonable to suppose that they lingered as the backdrop of Libo's proceedings as well as in subsequent accusations, especially since *maiestas* increasingly came to narrow to threats against the *salus* of the emperor and his family rather than more general threats against the state.⁸¹ In all this though, there is no mention of a *crimen magiae* or charges related to some illegal notion of *artes magicae*, only suspect forms of divination.

In 34 CE, Tacitus records that two *delatores* denounced Mamercus Aemilius Scaurus, "of distinguished birth," a member of the ancient and noble republican Aemili family.⁸² Tacitus tells us that his condemnation was specifically incited by the hatred of Tiberius's new praetorian prefect Naevius Surtorius Macro (Sejanus's replacement), who raised suspicion based on the plot of a tragedy written by Scaurus, which he claimed contained a number of questionable verses applicable to Tiberius. Cassius Dio gives more detail: he mentions the title of the play, and he quotes (at least one example of) the objectionable language, which Tiberius took as a personal slight. Yet, Tacitus implies what Dio claims outright, that this charge of literary slander was mere pretext for the actual charges brought against Scaurus: adultery and consulting the rites of Magians (*magorum sacra*). The phrasing used for the charge against Scaurus, as against Libo, is the same and we might also interpret this as another charge of private divination. Again, Tacitus does not stop to tell us just what makes up the content of Magian rites. It is worth mentioning

⁸¹ See Bauman, *Crime and Punishment in Ancient Rome* for the case of Albucilla in 37 CE (the final year of Tiberius rule), 63.

⁸² Tac. *Ann.* 6.29; Dio 58.24.3. He was the former husband of Aemilia Lepida who was also brought to trial in 20 CE. See Pollard's discussion of the potential rivalry between the Lepidii and Julio-Claudians, "Magic Accusations Against Women in Tacitus's Annals," 192-193.

though that Dio—for all the extra details he provides of the case—does not vouch for the charge *magorum sacra* and mentions only the count of adultery.⁸³

Accusations brought against Lollia Paulina in 49 CE highlight Tacitus's persist theme of emphasizing personal, family, and financial rivalries as the context of these accusations and as attempts by the imperial family to disarm potential political threats.⁸⁴ Agrippina Minor, the fourth wife of the emperor Claudius (as well as his niece) orchestrated charges against her. Specifically, that Lollia had consulted Chaldeans, Magians, and interrogated the image of Clarian Apollo concerning Claudius's marriage plans (*obiceret Chaldaeos, magos interrogatumque Apollinis Clarii simulacrum super nuptiis imperatoris*). Here *magos* is not given any additional qualification as in the prior two charges, but it is, as with Libo's set of charges, situated among other specifically divinatory activities, including not only the consultation of foreign diviners, but also a fairly prominent and reputable Greek oracular shrine. Tacitus tells us that in the prior year Lollia was a candidate along with two other women, one of who was Agrippina, to be Claudius's new wife. Tacitus's account implies Agrippina was motivated by strong negative emotions and lingering animosity over their rivalry, and any consultations in reference to the emperor were potentially convertible into formal charges. But perhaps it was also Lollia's excessive wealth that made the Julio-Claudian regime nervous. If Lollia bore any ill will or envy against Agrippina's ascendancy to empress, she was in a financial position to bankroll sedition. In fact, Pollard suggests, via Douglas, Agrippina's accusations were

⁸³ The same goes for Libo's trial; in general Dio does not mention these matters in the trials for which both he and Tacitus give accounts.

⁸⁴ Tac. *Ann.* 12.22

simply a convenient way of stripping Lollia of her money and thereby defusing her unchecked and unregulated advantage against the ruling family.⁸⁵

Four years later, in 53 CE, Statilius Taurus was accused of “a few acts of extortion” (*pauca repetundarum crimina*) as well as “magical superstitions” (*magicas superstitiones*), again through the contrivances of Agrippina.⁸⁶ In the case of Taurus we are told that his wealth and his gardens drew her attention. Taurus took his own life prior to the verdict. But the phrase *magicas superstitiones* is notable for at least two reasons. First, it is one of the few explicit instances in Latin of *superstitio* linked directly with *magia*. For all that modern scholars have positioned these two terms in accounts of ancient religious deviance, in Latin usage the terms do not appear frequently connected or even in the same proximity.⁸⁷ Second, using *superstitio* is a departure from the manner Tacitus has referred to *magia* elsewhere. In two instances above, he qualifies *magia* with the language of cult, using the term *sacra* in conjunction with the noun. Yet, here he uses the decidedly more negative term *superstitio* with the adjective *magicus*. As with the other instances, we are left guessing as to the details of such activities. But Tacitus employed *superstitio* often to illustrate his deep dislike for “foreign cults” (except for the Greeks) and his use of the term here with *magicas* might be yet another of the many *externae superstitiones* such as the Egyptians, Jews, Druids, Christians, and German—*and* Magians—whose rites he saw “infecting” (*infecta*) Rome.⁸⁸

⁸⁵ Pollard, *Ibid.*, 195.

⁸⁶ Tac. *Ann.* 12.59.

⁸⁷ See Chapter 4.

⁸⁸ Tac. *Ann.* 2.85.13; foreign *superstitiones*: *Ann.* 11.15.1, 13.32.4; Egyptians: *Ann.* 2.85.5, *Hist.* 1.11.1, 4.81.3; Jews: *Ann.* 2.85.5, *Hist.* 2.4, 5.8, 5.13; Druids: *Ann.* 14.30.3, *Hist.* 4.54.3; Christians: *Ann.* 15.44.4; Germans: *Hist.* 4.61.11 (See Dickie, “Magic in the Roman Historians,” 85 for a similar list of citations).

But Tacitus returns to his use of *sacra* in his final charge, here combining it with the adjectival form of *magia* to construct *magicis sacris*.⁸⁹ This charge was leveled in 65/66 CE toward Servilia, the daughter of Barea Soranus. Soranus had been accused of sedition while proconsul in Asia and Servilia was implicated on the charge of paying magicians (*pecuniam magis*) to foretell the outcome of his trial. Tacitus's account of her self-defense is interesting on at least two counts. She does not deny the allegation but argues that her consultation was harmless in both intent and execution. First, she paid magicians for future knowledge only out of care and concern for her father, not for treasonous ends. Second, she is careful to say that the method of consultation was also not illicit, i.e. it threatened no harm to anyone. She did not implore questionable gods, engage in curses, or offer harmful prayers (*impios deos, nullas devotiones, nec aliud infelicibus precibus invocavi*).⁹⁰ Servilia also makes a point to mention that the emperor figured into her consultation not as a target of harm but implored piously as a god (furthering her claim to have involved no *impios deos*). As to the *magi* themselves, Servilia claims no need to vouch for their "reputations and arts" since she had not known them prior (i.e. it was her first and only time soliciting their services) and only approached them under unusual circumstances. Cassius Dio tells us that the senate did not find her plea persuasive, and both she and her father were put to death. This case is the only accusation where Dio gives a version of events that corroborates Tacitus's inclusion of illicit divination (*mageumati tini*).

⁸⁹ Tac. *Ann.* 16.23-24, 30-31; Dio 62.26.1. This construction appears Vergil's eighth *Eclogue*, 8.66.

⁹⁰ On this part of her defense Dickie has commented that it "would have had little point, if putting curses on others were not also equally an aspect of *magica sacra*," "Magic in the Roman Historians," 88. Yet, it is just as plausible to say instead that all these elements were rather the dark, illegal side of divination and equally could be part of Chaldean, Magian, or whatever rites that sought future knowledge. It is not necessary here to take "magical rites" as a controlling category, for which Servilia is listing off particular elements.

I have argued that Tacitus's renderings of *magia* are simply charges of illegal private divination, not indicative of particular charge of *artes magicae* as Pollard has suggested. The various constructions of *magia* seem to relate only to a specific kind of private and illegal divination, which could be paired with others. And while the specific content behind his phrasing of *magia* remains unknown, that they all relate only to divination might make it possible to give an educated guess as to why Tacitus chooses his wording and structures how these trials function in his historical narrative. Put simply, framing these divinatory charges generally as potentially treasonous (in terms of the *lex maiestatis*), and specifically using the language of cult (*sacra*) in framing *magia*, gestures at Tacitus's wider concerns about Roman religion.⁹¹ Jason Davies has undermined the common view of Tacitus as the consummate pessimist, a skeptic in religious matters, and of the implicit theory of religion on which this view rests.⁹² Davies reinterprets Tacitus as a historian hopeful for the future who has carefully constructed a cautionary tale: namely, that the problems Rome experienced in the early years of the Principate were a function of not holding up the proper moral order through care of traditional rituals. Davies reads the early Flavian years in contrast to this, where the prospects of Rome become brighter, especially as represented in Tacitus's account of the scrupulous care taken to rebuild the temple of Jupiter Capitolinus after it was burned down in the turmoil of 69 CE.⁹³

It is in this discursive context that we might understand Tacitus's shaping of his divinatory accusations and its connection with treason charges. If part of the troubles that Rome

⁹¹ Dickie has argued that Tacitus's phrasing is his own, and not the language of the actual legal charge. How Dickie knows this is unclear to me. Supposing he is correct though, the most useful question seems to be: for what reasons did Tacitus "paraphrase" these as he did? See Dickie, "Magic in the Roman Historians," e.g. 97.

⁹² Davies, *Rome's religious history*, 143-226.

⁹³ Ibid., "... in religious terms it is one of the key moments of the entire account and the logical conclusion of the decline of the previous decades," 207.

experienced was due to the lapse of traditional rites, then Tacitus's view of foreign divination, and the danger he saw that it posed, could be read in contrast to the security he saw in traditional rites. Tacitus often condemns foreign cults, and worries that these superstitious *sacra* were taking the place of traditional *sacra*, and the former pose a threat to the integrity of the Roman state, especially when used in precisely the opposite way that traditional *sacra* were used: to harm the state (in this case, the emperor) rather than ensure the gods' favor. As with Cicero's rebuttal of Vatinius, the juxtaposition here is between those acceptable and salubrious forms of worship (guaranteed by the emperor) versus those foreign rites that were corrosive to the wellbeing of Rome generally (threatening to the emperor). Tacitus relates that early in Claudius's reign, the emperor approached the senate about creating a "college of haruspices" (*collegio haruspicum*) so that "the oldest art of Italy should not become extinct through their indolence" (*ne vetustissima Italiae disciplina per desidiam exolesceret*). One reason Tacitus gives us for these rites' neglect was due to "foreign superstitions" (*externae superstitiones*).⁹⁴ One set of rites was replacing the other. I would argue that it is no accident that in Tacitus's account of Libo, his first report of an accusation of treason based on divinatory misconduct, he highlights these charges over others and thematizes them as treason. Libo's case is an overture and each of the subsequent charges are so many examples of cases like his that were "to corrode the state for many years."

The who, how, and why of foreign expulsions

In accounts of magic in the ancient world, the fear of private divination and the internal accusations of magic among the elites are often causally linked to the periodic episodes of

⁹⁴ Tac. *Ann.* 11.15

expulsions of foreign diviners from Rome and Italy.⁹⁵ Taking their cue from ancient senatorial histories, modern scholars specifically emphasize the paranoia of the emperors in initiating these expulsions: i.e. the emperor's fragile psychological state made revealing and quashing conspiracies, real or imagined, insufficient, and broader measures were necessary to deny the divinatory means of inciting seditious activity in the first place. Libo's trial seems to model this exactly. Libo is accused and convicted of illicit divination, and Tacitus ends his account of this trial with the senate expelling two groups with whom Libo associated, magicians and astrologers. Tacitus also provides presumably an example of what happened to those who didn't leave (the execution of Lucius Pituanus and Publius Marcius). As Pauline Ripat has argued of this event, "Tacitus undoubtedly means us to connect the expulsion... with Tiberius' famed paranoia."⁹⁶ In fact, Ripat goes on to show that this model of causation has been taken as a general interpretative model for all such expulsions and with little justification. The cases above admit of no easy one-to-one cause and effect relationship between the accusation and the periodic expulsions of foreign diviners, and assuming such, has obfuscated questions around the wider contexts of such expulsions such as: how and why were these carried out? Who were the targets of these actions? Were groups like "astrologers and magicians" easy and unproblematic to identify?⁹⁷

⁹⁵ Graf says it explicitly: "At the beginning of the empire, at least, there existed no specific legislation against these specialists; nevertheless, they were deported from Italy *every time* that private individuals made use of their art for the purpose of meddling in the affairs of the state" *Magic in the Ancient World*, 55, my emphasis.

⁹⁶ Ripat, Pauline, "Expelling misconceptions: astrologers at Rome," 119. She adeptly outlines the above model.

⁹⁷ In the following discussion, Ripat's essay (above) along with David Noy's *Foreigners at Rome* and Laurens E. Tacoma's *Moving Romans* have been instrumental. Yet, the bibliography on expulsion of diviners and others at Rome is extensive. To name a few important discussions, see Husband, "On Expulsion of Foreigners from Rome"; Cramer, "Expulsion of Astrologers from Ancient Rome," 9-50; Cramer, *Astrology in Roman Law and Politics*; MacMullen, *Enemies of the Roman Order*, 132-134; Baldson, *Romans and Aliens*, 97-115; Barton, *Ancient Astrology*, 32-62; Beard, North, and Price, *Religions of Rome*, 231-232.

Other than Libo's case, none of the accusations given in Tacitus, except for one possible exception (discussed below), indicate that the threat of expulsion was meant to address and contain the threat of foreign or private divination. Dio's account of Libo mentions neither divinatory misconduct nor expulsion. He does mention an expulsion in 16 CE of "astrologers and magicians" (*astrologous* and *goētas*) and "such kind who engaged in similar kinds of practices," but in the context of discussing Tiberius's schooling in divination (*manteia*) by Thrasyllus (his tutor in divination).⁹⁸ Velleius Paterculus, Suetonius, and Seneca each also mention Libo's conspiracy, but none connect it to an expulsion of foreign diviners nor do they mention divination. In fact, as Ripat points out, Suetonius mentions an expulsion of astrologers (*mathematicos*), but in a set of chapters designed to highlight Tiberius's good works, not his paranoia.⁹⁹ Further, Tacitus has perhaps intentionally conflated events and redrawn the timeline to suggest causation in the case of Libo. Whereas there was likely an expulsion of astrologers in 16 CE, the expulsion of both astrologers and magicians mentioned in Tacitus's account of Libo probably took place during the following year.¹⁰⁰

In fact, Tacitus aside, no other report of the expulsion of diviners is linked with an accusation of divinatory misconduct at all in any of the relevant sources. For instance, at least one account of Vitellius's expulsion of astrologers in 69 CE is that it responded to a rumor that favorable omens had portended Vespasian's ascendancy to emperor. But of the sources that attest to his expulsion, the most telling is Dio's, which says that astrologers began speaking about his death only after the expulsion deadline.¹⁰¹ No conspiracy is mentioned in the next year when Vespasian ejects astrologers from Rome, and Dio even mentions his leniency toward one

⁹⁸ Dio 57.15.8

⁹⁹ Ripat, "Expelling Misconception," 120.

¹⁰⁰ Ibid., 118-120.

¹⁰¹ Tac. *Hist.* 2.62, 2.78; Suet. *Vit.* 14.4; Dio. 64.1.4.

practitioner in particular.¹⁰² Jerome (writing in the fourth century CE), and later the Suda, tell us that In 93 CE Domitian expelled “astrologers and philosophers” (*mathematicos et philosophos; philosophous kai mathēmatikous*) from Rome.¹⁰³ However, these are the only sources to mention astrologers; earlier sources only mention philosophers.¹⁰⁴ Domitian seems to have had a penchant for prosecuting philosophers, but he did so in response to their publishing subversive philosophical biographies; it is doubtful this was intended to be conspiratorial (perhaps just subversive) and no divinatory activity is mentioned.

Yet, if the expulsion of foreign diviners cannot be causally connected to elite accusation, then what context might offer an explanation of why these took place? Throughout the Principate, there were seventeen expulsions of various groups.¹⁰⁵ Six involved diviners. Other groups periodically expelled included gladiators, slaves, Jews, actors, and male prostitutes. This is to say nothing of the targets for expulsions that we know from republican history.¹⁰⁶ But most of the recorded instances come from the first century CE, and for the most part, they are embedded in elite literary texts that offer few details, little context, and are inconsistent. The authors are not concerned with giving detailed discussions of the causes of these expulsions; that they happened seems more important than describing them in detail. As Tacoma notes: “Precisely the fact that they are normally mentioned in passing, in a matter-of-fact way, is

¹⁰² Dio Cass. 65.9.2.

¹⁰³ Jer. *Chron.* 93–94 CE; Suda s.v. “Dometianos.”

¹⁰⁴ Suet. Dom. 10.4; Gell. *NA* 15.11.3–5; Dio. 67.13.2–3; Tac. *Arg.* 2; Plin. *Ep.* 3.11.

¹⁰⁵ See Tacoma, *Moving Romans*, 94–95. He has constructed a chart documenting expulsions under the Principate. Here I am not counting individuals who were expelled or exiled, just groups; e.g. the expulsion of Anaxilaus the magician in 28 BCE, which perhaps was connected to Agrippa’s expulsion in 33 BCE (Dio 49.43.5)—this would mean he was easily seen as an astrologer as well (see below on the fluidity nomenclature).

¹⁰⁶ See Noy, *Foreigners at Rome*, 37–39.

suggestive of the records' veracity."¹⁰⁷ Thus, one way to understand expulsions is that they were simply a regular liability in cultivating a cosmopolitan empire, in which (as we saw in Chapter 3) human movement across local and regional borders was largely unchecked.¹⁰⁸ On this interpretation, expulsions were non-events, administrative, and perhaps even symbolic measures that could alleviate fear and frustration over public disturbances and unrest by scapegoating particular groups deemed subversive and/or foreign. The decisions were ad hoc and there is no evidence for a consistent or discrete policy regarding magicians, Jews, or whomever.

At a general level this view is useful, yet also broad enough to risk losing a certain degree of explanatory power in its application. We might instead look for a model to explain these imperial expulsions somewhere between the overly narrow context of elite accusations and the general functionalism of a xenophobic release valve view. Pauline Ripat offers such a model in her rethinking of astrological expulsions in the Principate.¹⁰⁹ As I mentioned above, Ripat deconstructs the narrow cause and effect model between internal elite accusations and mass expulsion of diviners. Ripat also shifts the frame of reference from the paranoia of the emperor in targeting groups of diviners to imperial management of "public opinion" surrounding the emperor's image and authority, and diviners' potential roles in wider networks of happenings that might undermine these.¹¹⁰ On this view, diviners were targets only when they added their arts to an already simmering situation, bringing things to a potential crisis that threatened public

¹⁰⁷ Tacoma, *Moving Romans*, 95.

¹⁰⁸ *Ibid.*, 93; also note Gordon, on the rounding up of *venerarii et malefici* under Tiberius: "[T]his was no more than another routine repression of 'astrologers and magicians,'" "Imagining Greek and Roman Magic, 261ff.

¹⁰⁹ Ripat, "Expelling Misconceptions," 141-150.

¹¹⁰ As Ripat says, "Imperial concerns over the activities of popular political pot-stirrers and detractors extended beyond egocentric concerns for reputation, as the repression or avoidance of *sedition* in the public areas of the city was considered one of the emperor's duties," "Expelling Misconceptions, 142.

order, and where the emperor might have to reassert his authority with physical might. The case against Furius Scribonianus in 52 CE offers an instructive example of one such moment. Scribonianus was exiled, after being convicted of consulting Chaldeans (*per Chaldaeos*) to determine the emperor's death and, as with Libo, Tacitus ends his account noting that the senate passed "a harsh but useless" (*atrox et inritum*) decree expelling astrologers (*mathematicis*) from Italy.¹¹¹ At first glance there seems to be a relationship of cause and effect, but the two were only indirectly related. Claudius had sought to garner a reputation as merciful and punished Scribonianus only with exile. But while in exile he died, and rumors began to circulate about the cause of his death—whether by chance or by poison—which had the potential to subvert Claudius's efforts at image management. Ripat argues that it was the wide circulation of these rumors and their corrosive effect on the emperor's authority and reputation that was definitive. Tacitus tells us that in the previous year there occurred several ominous prodigies, which made the people of Rome already fearful and jittery. The most notable event that was accepted as a prodigy was a grain shortage and subsequent famine that incited a riot in the Forum and from which Claudius managed to just escape with his life.¹¹² For Ripat, rumors about Scribonianus's death added to this discord and "[b]y 52, in short, it may have been that Claudius was sufficiently concerned about his ability to command respect in the city and so to ensure public order ... the removal of rumormongering astrologers was seen as necessary."¹¹³

If all this gives clarity to the question of why expulsions happened, and even when they happened, we might further ask: who were the targets? Could one without hesitation point to a magician or an astrologer, or even distinguish cleanly between the two? The expelled groups in

¹¹¹ Tac. *Ann.* 12.52; Dio 61.33.3b also mentions the expulsion, but not with Scribonianus.

¹¹² Tac. *Ann.* 12.43: Frugum quoque egestas et orta ex eo fames in prodigium accipiebatur; for the rioting, see Suet. *Claud.* 18-19.

¹¹³ Ripat, "Expelling Misconceptions," 145-146.

the years 16 and 17 CE included some astrologers and magicians, though when Tacitus mentions the executions of Lucius Pituanus and Publius Marcius, he does not tell us whether one or both were astrologers or magicians (only that they were *quorum e numero*).¹¹⁴ Yet, if Ulpian has preserved part of the text of the *senatus consultum* from 17 CE as he claims, then we can see there are significant differences in the nomenclature of who precisely was expelled.¹¹⁵ The selection preserved from Ulpian is titled “On astrologers and soothsayers” (*De mathematicis et vaticinatoribus*) and the specific figures that Ulpian mentions as targeted for expulsion in 17 CE are *mathematici, Chaldaei, (h)arioli, et ceteris* (“astrologers, Chaldeans, prophets, and other like persons”).¹¹⁶ He also includes *vaticinatores* in his more general discussion of punitive actions. *Magi* are not included at all. If Ulpian and Tacitus are referring to the same event, and if Ulpian has given us the official language, then we see that Tacitus has done considerable interpretive work in his account of this expulsion: he has not only condensed the timeline in relation to Libo’s trial, but has also abridged several interdicted groups into the succinct gloss “astrologers and magicians.”¹¹⁷ For all the energy that might go into harmonizing these accounts, I would emphasize the fluidity used in the nomenclature.¹¹⁸ That is, we should not necessarily take these sources at their word “when it comes to positing monolithic communities of diviners.”¹¹⁹ There

¹¹⁴ If we go by Dio’s account, the fact that they were executed indicates they were foreigners by some measure. Yet, their names sound Roman, and they were executed in quite traditional ways. On their deaths see Dickie, *Magic and Magicians in the Greco-Roman World*, 192-193.

¹¹⁵ *Collatio legum Mosaicarum et Romanarum*, 15.2.

¹¹⁶ Here it would be redundant to translate *mathematici* and *Chaldaei* both as “astrologers.” See my discussion in the last section on similar nomenclature as is found in the Theodosian and Justinian Codex.

¹¹⁷ Further, assuming the *Chronicle of 354 CE* is referring to the expulsion of the same year, it gives a different set of targets: “poison-sellers and evildoers” (*venenarii et malefici*) were arrested for the first time.

¹¹⁸ Macmullen points out this fluidity of nomenclature in *Enemies of the Roman order*, 110.

¹¹⁹ Ripat, “Expelling Misconception,” 130; also Gordon: “We simply do not know how many of the words denoting some sort of magical practitioner referred to distinguishable skills rather than

is no clear, distinct, or objective dividing line between different forms of divination that can be perceived in these sources, and it is unclear whether careful attention to the vocabulary will yield any such differences between, say, magicians and other diviners.¹²⁰ For Roman elites, the differences between the practices of different diviners were not generally an object for precise knowledge but rather a target for polemic. The recurrence of joint expulsions are perhaps best seen not so much as targeting separate groups, but rather “as attempts to be comprehensive.”¹²¹ Indeed, the fact of these groups being expelled together seems to imply that the reasons had little to do with the specifics of any given set of ritual skills (i.e. “magic”), or, if it did, this probably was besides the point.

Finally, if the collective objects of expulsions were rather imprecise then it stands to reason that when these expulsions were decreed their effectiveness was only limited, and perhaps intentionally so. The Romans possessed effective means for patrolling borders and removing undesirables from the city.¹²² Yet, when it came to the logistics of enforcing mass expulsions—ensuring removal, where the expelled went, and preventing their return—details are never mentioned.¹²³ At least one method, as we saw with Vitellius, was to set a deadline for diviners to leave the city, and, as the executions Pituanus and Marcius might indicate, non-compliance could merit punishment. The reality of enforcing expulsions, like that of the targets themselves,

acting as general designations for persons claiming negatively marked symbolic power,” “Imagining Greek and Roman,” 181.

¹²⁰ Among various astrological manuals that have survived from antiquity as well as the PGM we perhaps get a view from inside various groups of ritual practitioners. But these cannot necessarily be said to be representative but rather have their own interested dynamics of self-representation, as colonial subjects might, in appealing to Romans as buyers of their exotic wares. Further, those peoples and practices represented in the PGM were also operating well to the east of Rome (c. Egyptian Thebes) and in later centuries (c. 400 CE); See Fraser, “Roman Antiquity,” 115-147; also see Otto, “Towards Historicizing “Magic” in Antiquity,” 308–347.

¹²¹ Ripat, *Ibid.*, 132.

¹²² See discussion of this in Chapter 3.

¹²³ See Tacoma, *Moving Romans*, 92-105.

was likely much more fluid. Tacitus admits the senate's expulsion decree of 52 CE was "fierce and ineffective." For whatever peoples composed these diviner groups and whatever their legal statuses were (i.e. in 16 CE, Dio mentions foreigners versus citizens), the pervasive power of these decrees was in highlighting notions of what counted as Roman and un-Roman, but also renegotiating them in the present circumstances. This is where Ripat's model gives us clarity: her model frames expulsions as attempts to control public opinion and rampant rumor, but in doing so also pivots us back toward the larger anxieties and social tensions animated and managed through xenophobia. Groups of diviners could cut across social hierarchies and they could be both a cause of community anxieties as well as targets for expressing these anxieties. Expulsions were handy, albeit blunt, tools for discursively articulating a monolithic "negative community" of foreigners that when removed would mean Rome had been comprehensively cleansed of undesirables.¹²⁴

In the forgoing discussion of elite accusations and expulsions of diviners, specific laws against magic have not materialized. Magicians, as both consultants for divination and targets of expulsions, along with other diviners, were conceived as one divinatory option of many. Their skills possess nothing worthy of note in our sources, and magic, as a distinct mode of divination, seems little defined, and by no means a "special" form. Confusing magic as a species of divination with magic as a genus for certain kinds of divination tends to obscure and conflate 1) the wider, more textured legal contexts in which elites vied for position, and 2) the imperial

¹²⁴ Tacoma, *Ibid.*, 102ff. Indeed, as I argued in Chapter 3, Pliny's discursive attempt to mobilize *magica* might be understood as a response to a similar set of anxieties. The idea of expulsion was also appealing into the later years of the Principate. The last expulsion recorded for this period is Alexander Severus's removal of male prostitutes (*SHA, Sev. Alex.* 34.2, 4). Tertullian also used the idea of expulsion in a more metaphorical manner, arguing that the expulsion of astrologers from Rome and Italy, mirrors the divine punishment that expels their angels, and the source of their power, from heaven (*De Idolatria* 9).

rulers' attempt to control public opinion, the ways this ultimately escaped their grasp, and the anxieties that they could exploit to legally scapegoat foreigners at all levels of the social order.

Deconstructing “magic”: Apuleius’s *Apologia*

In 158/159 CE, Apuleius of Madaura was charged with *magica maleficia* and brought to trial in Sabratha before the proconsul of the African province (Claudius Maximus). The text of his subsequent *Apologia* is one of a kind in that it contains some version of the speech he gave in his own defense against what he explicitly calls a *crimen magiae*. The circumstances of the trial can be summarized briefly: Apuleius, a traveling philosopher, had taken up residence in Oea (Tripoli) after he married Aemilia Pudentilla, a wealthy widow. One of her sons, Sicinius Pontianus, was a friend of Apuleius from Athens, and had supported the marriage when Apuleius had stopped in Oea to rest and recover from his travels. Yet, Pudentilla’s family disapproved of this arrangement and, Sicinius Aemilianus, the brother of Pudentilla’s first husband and Herennius Rufinus, Pontianus’ father-in-law, started a rumor that Apuleius was a *magus* who had used various machinations to seduce Pudentilla—who they claimed had vowed never to remarry—into marrying him. Eventually, they brought a formal charge that consisted of several components, but could be summarized as, according to Rives, “in essence one of *magia* or being a *magus*.”¹²⁵

In terms of a narrative of the intertwining of law and magic, the *Apologia* has been central in scholarly accounts.¹²⁶ First and foremost, *magia* appears here to be a singular, formal

¹²⁵ Rives, “Magic in Roman Law,” 324, 327, 335; my summary also depends on Rives’s brief summary, 322-323.

¹²⁶ The bibliography on the *Apologia* is quite large. An extensive bibliography can be found in the first volume of Hunink, *Apuleius of Madauros, Pro se de magia (Apologia)*. In general, my argument takes its inspiration and point of departure from a set of articles by James Rives and his

charge—a *crimen*—that has been leveled at Apuleius, rather than as part of a cluster of charges surrounding illicit divination. The assumption might be made (and has been made) that between the early Principate described by Tacitus and Apuleius’s trial in the mid-second century CE there had been significant development(s) whereby *magia* could now be a discrete charge.¹²⁷ Second, Apuleius’s lengthy rebuttal of the charges seems to give us a unique view into the nature of this kind of accusation—like those we saw at Rome through Tacitus—as well as the accusatory techniques used in constructing it—i.e. it might prove instructive for the anatomy of magical accusations more generally.¹²⁸ Yet, and third, it is important to note that the trial of Apuleius occurs in a province, not at Rome. Rather than the accusation against Apuleius emerging in a power struggle among the elite ranks for closer proximity to imperial power, his charge emerged in a context where he (an outsider) disrupted the plans of various Oean male elites to secure for themselves the inheritance of Pudentilla’s wealth.¹²⁹ Fourth, as I mentioned, this text is one of a kind, which makes it at once potentially revealing but also raises interpretative difficulties. We only know of these proceedings from Apuleius’s representation of them—there are no corroborating sources. This of course raises the issue of how much we should believe Apuleius’s portrayal, and different scholars have weighed the proportion of rhetoric and reality in his text in

discussion of Apuleius in these, which have guided me to the rest of the literature on this text:

“Magic in Roman law,” 313-339 and “Magic, Religion, and Law,” 47-67.

¹²⁷ Lamberti: a *senatusconsultum* must have formalized a legal concept of *crimen magiae* in the first century CE, and been an extension of the *Lex Cornelia de sicariis et veneficiis*, “III. De magia als rechtsgeschichtliches Dokument,” 344–346 (citation drawn from Otto, “Towards Historicizing ‘Magic’ in Antiquity,” 311-312).

¹²⁸ Gordon, “Imagining Greek and Roman Magic,” 263: “This is in fact just the sort of case that the *delatores* must have made at Rome against Mamercus Scauraus, Lollia, Furius Scribonianus and all the rest of them, though important for us both because the charge was single and not a multiple one (nor politically motivated), and because through the accident of survival we can glimpse the technique of accusation.”

¹²⁹ For more sustained discussion of Apuleius as outsider see Graf, *Magic in the Ancient World*, 68-71; for reflections on the different contexts relevant to the *Apologia* see Bradley, “Law, Magic, and Culture in ‘the Apologia’ of Apuleius,” 203-223.

different ways.¹³⁰ My argument here is that given the lack of evidence so far for *magia* as a specific formal crime, the charge of *crimen magiae* might not represent a typical charge, with a firm statutory basis; rather, Apuleius's response is a novel and perhaps experimental reaction to a collocation of items, lumped together into an ad hoc charge.¹³¹

If Pliny the Elder was committed to historically fortifying *magia* as a historical object, Apuleius, by contrast, attempts to expose this term in all its gaps, dislocations, and contradictions in his self defense: *magia* is never clearly *magia* for Apuleius, but a smokescreen for diverting attention from other more material interests. In defending himself against *magica maleficia* (“magical misdeeds”), Apuleius does not accept as definitive the grounds on which he is charged.¹³² Instead, he recharacterizes and reinterprets the specific contents of these allegations, offering alternative explanations. In other words, Apuleius effectively deconstructs this putatively discrete *crimen*. In fact, his first description of *crimen magiae* is expressed as having blazed forth (*accensum*) with great intensity only to burn out (*defraglavit*) into so many smoldering old wives tales (*anilis fabulas*). Or, to use an image of Apuleius more apropos of scholarly discourse on deconstruction, his speech “unravels” the accusation (*textum retexo*), thread by thread, into its component parts, which either are non-existent (i.e., are based on slurs), or which “do not pertain to *magia*” (*nihil ea ad magian pertinere*).¹³³

¹³⁰ See Hunink, *Apuleius of Madauros pro se de magia (Apologia)* for a serious assessment as to whether the speech represents a real trial or not, and the weight we should give to this argument, 26; also see Taylor, “Magic and Property,” 149-166 who in examining the legal context argues that at least one plausible conclusion is that this text is a work of fiction.

¹³¹ Apuleius gives a brief outline of the charges at *Apol.* 27.

¹³² Rives, “Legal Strategy and Learned Display in Apuleius’ Apology,” 17-49, discusses the finer nuances of the performative aspects and legal strategy of Apuleius’s defense.

¹³³ *Apol.* 25.5; 61.3; 28.4. Otto also speaks of Apuleius as “deconstructing” *magia* but the implications of his argument are different from mine. See *Magie: Rezeptions- und diskursgeschichtliche Analysen von der Antike bis zur Neuzeit*, 245-273.

There are six “misdeeds” that compose the *crimen magiae* against Apuleius: 1) that he bought certain kinds of fish, perhaps as potential poisons; 2) he caused a slave boy to fall down by means of a song; 3) he kept a secret object wrapped in a napkin among the *lares* of Pontianus; 4) he had performed nocturnal rites; 5) he had constructed a strange looking figurine, which he apparently worshiped; 6) and, most importantly, he seduced Pudentilla and convinced her to marry him through *carmina et venena*.¹³⁴ Most of the text of the *Apologia* is organized around this set of charges.¹³⁵ Apuleius argues in great detail that for each count no one action with which he was charged can unequivocally be considered *magia*. There were other more plausible and verifiable interpretations: his interest in fish was motivated by his study of nature, like Aristotle and Theophrastus; the slave boy was an epileptic, and his falling down was more likely caused by his condition rather than enchantment, and even if he were enchanted, Apuleius argues that this was a relatively common and benign form of divination mentioned by the unimpeachable likes of Varro, and practiced by Nigidius Figulus and Pythagoras. The secret object wrapped up in a napkin was nothing more than a trinket he acquired from initiation in a Greek mystery cult, which showed his piety toward the gods, not disdain. The accusations of nocturnal sacrifice came from a less than worthy source, and the supposed strangely carved wooden figure was just an image of Mercury. On each count, Apuleius shifts the frame of reference to where these actions are not evidence of *maleficia* or of a *magus* but rather those of a pious philosopher. For Apuleius, the *imperiti* (“uninitiated”) who brought these charges had confused these actions and figures, and he takes his trial both as a defense of himself but also an opportunity “to clear philosophy’s

¹³⁴ Fish: *Apol.* 30-42; Thallus: *Apol.* 42-52; Secret object: *Apol.* 53-56; Nocturnal rites: *Apol.* 57-60; Figurine: *Apol.* 61-65; Pudentilla: *Apol.* 66-102.

¹³⁵ He shifts to these matters after discussing other minor charges in *Apol.* 4-25.4 and before turning to “the actual crime of magic” (*ad ipsum crimen magiae*) in 25ff.

name” against these confusions.¹³⁶ Further, Apuleius sees the danger in endorsing and further applying as precedent his accusers’ flawed “logic” in that doing so would make almost any action subject to a charge of *magia* and almost anybody vulnerable to such a charge.¹³⁷

Of course all this assumes some common concept of *magia* that is stable enough for Apuleius to deconstruct, and I have been arguing against just such a concept. To be clear: ancient authors could and did attempt to theorize the term *magia*, as we saw with Pliny’s sprawling and unwieldy notion, but such notions cannot be taken as pervasive and normative (even non-ideological) conceptions of ancient “magic.” The concept of *magia* that Apuleius takes apart is that which is implied in the charge itself, and Apuleius never claims that it has any coherence in the first place. What the prosecution has brought is a variety of false accusations (*calumniae*) and reproaches (*convicia*) in place of actual crimes (*crimina*). In fact Apuleius saves until last the most concrete charge of seducing Pudentilla to gain her wealth, perhaps because, as Rives suggests, it is the strongest part of his case, and he is able to depend on more sound legal procedures.¹³⁸ But *magica maleficia* seems to have been something different, based on slander rather than evidence, and, given the length of his address, more challenging to refute. For Apuleius, the necessity of his response is premised on the fear that “empty and false” (*vana et inepta*) claims of his accusers would generate the façade of the crime of which they speak.¹³⁹ But for Apuleius, this string of actions of which he was accused was barely holding together, and when pushed, the whole edifice would fall over.

What might have coherence, for Apuleius, was the term *magus* itself, but the two definitions he offers of *magus* at the beginning of his refutation enable him to reveal the poorly

¹³⁶ *Apol.* 1.1-4. On the *imperiti* see Graf, *Magic in the Ancient World*, 69-70

¹³⁷ *Apol.* 54; *Apol.* 79.3.

¹³⁸ Rives, *Ibid.*, 25.

¹³⁹ *Apol.* 27.5.

concealed cleavages holding together this *crimen*.¹⁴⁰ For Apuleius, the term *magus* only really refers to philosophers. First, *magus* refers to Persian priests' eponymous practice of *magia* or the *disciplina Persae* that—according to Plato—is taught to young Persian royalty to instruct them in proper worship of the gods. The second definition according to “common usage” (*more vulgari*)—the usage that the *imperiti* who had brought the charges would likely hold—is that a *magus* is a man who influences the gods through an “association of speech” (*communione loquendi*) and is thus able to bring about incredible things by “the power of incantation” (*vi cantaminum*). For Apuleius, though, this definition cannot possibly be what his accusers mean, since if he were this kind of *magus* he could incant his way out of this situation. This fact alone both confirms his accusers' ignorance and shows that accusations of “this kind of crime” (*id genus crimen*) are never made in good faith. Instead, for Apuleius, *magus* in the second, vulgar sense, is a common slight against philosophers: if irreligious (*irreligiosos*) philosophers are those who look into the natural causes of the world, then *magi* are philosophers who seem “to investigate the providence of the world more carefully and honor the gods more lavishly.” Yet Apuleius contends that all such figures and their interests have been misunderstood by the ignorant and thus suspected (*suspectata*) of evil deeds where there is only principled investigation of divine matters.

Thus, for Apuleius, at stake in a charge of being a *magus* is primarily dealing with the misperceptions that attended to the person of the philosopher and those interests and activities that define him. If Apuleius's first definition of pious Persian *magia* refers to a determinant group of “barbarian philosophers” and their practices, his second definition insofar as it is a slur that misrepresents certain philosophical inquiries has no particular referent other than the

¹⁴⁰ *Apol.* 25.5-27.12.

misapplied fantastic stereotypes conjured up by the ignorant (i.e. “old woman tales”). It is common for modern commentators to note that Apuleius’s legal strategy hinges “on the distinction between a philosopher and a *magus*.”¹⁴¹ While this legal strategy and its wider literary context is instructive, I emphasize here the differences and transpositions involved in moving between a legal and literary context surrounding the figure of the *magus*, i.e., the differences between philosophers sniping at each other over true philosophy and Apuleius’s deploying of this distinction forensically to answer specific charges. For Apuleius, the different definitions of *magus* show that there had been a confusion of categories when it came to what constituted a *magus*: there was a misalignment between, on the one hand, the *magi* of Persia and those “true” philosophers who had piously adopted this title, and on the other hand, the popular ascription, which was an empty slur and when uncoupled from the first definition lacked determinate content. However, this should not be taken to mean that the slur had no actual content; rather it could be filled with a motley assortment of cultural images drawn from any number of contingent and disparate situations: explanations of fantastic events, mysterious experiences, uncertain emotions, and the potential social dangers that might accompany these. As I discussed in the last chapter, mysterious “folk” dimensions of ancient culture were coded in rumors and the tales of old women and were often exploited and explored in poetry and popular literature. Richard Gordon has characterized this set of images in his coining of “a strong view of magic,” which crystallized under the circumstances of the Roman Empire into, among other things, a

¹⁴¹ Rives, “Legal Strategy and Learned Display,” 34. Scholars often highlight here the larger cultural discourse that contended over “true” philosophers versus charlatans evidenced in the likes of Lucian and Philostratus, for example. Further, scholars also emphasize that Apuleius’s prosecutors utilized his reputation as a cosmopolitan philosopher against him, and Apuleius in return capitalized on the fact that Claudius Maximus was likely knowledgeable and even sympathetic to philosophy. For a rundown of these see Rives, *Ibid.*, 25-35. Also see Graf, *Magic in the Ancient World*, 69-71.

trove of “collective representations” that indicated social danger via religion and was ready-to-hand as an expansive repertoire of “circumstantial evidence” for those who sought to disparage and even formally accuse their adversaries.¹⁴² The associations surrounding *magi* as foreign purveyors of strange, esoteric, and suspicious rites are only part of this cultural confluence. To the extent that misfortune can be explained by and envy can be channeled into slanderous discourses against one’s neighbors or associates, the figure of the *magus* was one of several agents to which different calamitous events and suspicious practices could be mixed and matched. The result, as Gordon notes, is that “there was no *crimen magiae* in a technical sense: there was only circumstantial evidence designed to support a specific charge.”¹⁴³

From these observations, I argue two points. First, in the case of Apuleius, this is the only clear and concrete instance we have of these cultural and literary images of a *magus* getting articulated and deployed in a formal, legal context. And Apuleius’s defense is based, at least in part, on showing the inappropriateness and pitfalls of using this literary trove to construct juridical accusations. To be sure, Apuleius was quite familiar with these literary topoi; in fact, a great deal of what we know of these comes from his earlier work of fiction, the *Metamorphoses*, where witches, magicians, and strange occurrences are common. The overall conception of such fantastic figures in imaginative juridical contexts is present not only in this text (e.g. where a corpse is reanimated and interrogated about his own murder) but also other experimental literary

¹⁴²Gordon, *Imagining Greek and Roman Magic*,” 263. See my assessment of his argument in the Introduction. Gordon’s use of “magic” here is useful insofar as he is not designating a narrow category but rather a broader set of representations that indicate a wider set of mobile and flexible topoi that cut across those categories we might call occult, supernatural, mystical, religious, or magical; see also, Gordon, “Magic as a Topos in Augustan Poetry,” 209-228,

¹⁴³ Gordon insists on the Lex Cornelia as the basis of these, “Imagining Greek and Roman Magic,” *Ibid.*

contexts.¹⁴⁴ Yet, Apuleius's competing definitions throws the misalignment between philosophical *magi* and the fantasy villains from literature into relief and enables him to undo the bricolage undertaken by his accusers in constructing a *crimen magiae*. His argument is based on this general mismatch: "I will deny none of the accusations, whether true or false, but rather, I will admit them, as if they were based on fact. That way, this whole crowd—gathered here in such great numbers and from so many places, to listen—may clearly understand that nothing can be truthfully alleged against philosophers, or indeed falsely fabricated, that their trust in their own innocence would not allow them to defend, even though they might deny them."¹⁴⁵

Exploiting the tension between the Persian and pious philosopher and the evanescent stereotypes from literature sets into relief the incoherence of the charges, and the flimsy attempts of his accusers to legally fortify rumors, which deflect attention from their more direct and material aspirations of greed and malice.

Second, I would also argue that there is something unexpected in Apuleius inflecting *magia* into a *crimen*. Among all surviving evidence, Apuleius's case is unique. Not until the Theodosian Code laws of the 4th century do we hear of individuals charged with *crimen magiae*, a phrase that might be a novel coining for this trial.¹⁴⁶ This is in contrast to the impression given in much of the scholarly literature that Apuleius's unique text provides a synchronic cross-section, which reveals "the structure of the public discourse on magic" in the Roman Empire or which makes the charge of magic an unsurprising feature of this trial, "clear and simple."¹⁴⁷ Of

¹⁴⁴ See *Metamorphoses* 2.27; also see Pseudo-Quintilian 10, which gives a lengthy imaginary case of father who hires a *magus* to bind the ghost of his dead son to his grave in order to prevent him from visiting his mother at night.

¹⁴⁵ *Apol.* 28.2-3.

¹⁴⁶ In the Theodosian Code the specific form is *crimen magicae* (not *magiae*), 9.42.2; 9.42.4. See below.

¹⁴⁷ Kippenberg, "Magic in Roman Civil Discourse," 141; Graf, *Magic in the Ancient World*, 66.

course, Apuleius's situation would not be the first charge we have seen based on rumor and slander. As we saw in Tacitus, *delatores* could avail themselves of all kinds of perceived indiscretions in constructing a charge, including *magia* as a charge of illicit divination. Yet, Apuleius's case seems to go beyond divinatory misconduct and its legal basis. Besides the fact that the phrase *crimen magiae* is not attested prior to Apuleius in Latin literature, there are also indications from Apuleius's speech itself that he is dealing with something unexpected, improvised, and altogether inappropriate for a legal charge. I have already emphasized the distinction Apuleius makes between *calumnia* and *crimina*, and that the accusations against him were "not so much as crimes for a trial, but as slurs for a quarrel" (*obiectamenta iurgio*).¹⁴⁸ For Apuleius, this was a circumstantial case, wrought from rumor and motivated by defamation, and "this sort of crime" (*id crimen genus*) is the general type under which Apuleius attempts to situate the *magica maleficia* fabricated against him. The whole matter is built on "old wives tales" (*anilis fabulas*), for instance, the charge of using fish for nefarious purposes. Having spent considerable effort illustrating his harmless interest in fish, he summarizes the dissimulation of the charge itself: "They knew that the fish argument (*argumentum piscarium*) was futile and would come to nothing, and, moreover, that its novelty made it laughable (*praeterea nouitatem eius ridiculam*)—for who has heard it said that fish are usually scaled and boned for magical misdeeds?—and that instead something else would have to be invented (*figendum*), concerning matters far more widely known and already believable." Apuleius also characterized the next charge—enchanted a slave boy—to be both "something equally stupid, but far more empty and maliciously thought out" (*aliud pari quidem stultitia, sed multo tanta uanius et nequius excogitatum*) and "in accordance with the dictates of common opinion and rumor" (*praescriptum*

¹⁴⁸ *Apol.* 1.6.

opinionis et fama), and he proceeds to show that such hearsay and conjecture is contrary to sober medical and philosophical knowledge.¹⁴⁹

The later charges are perhaps more familiar. For instance, as we have seen, practicing rituals at night, or in private, was traditionally grounds for suspicion. The item wrapped in a napkin and the strange wooden figure though seem to assume a certain notion of religiously deviant actions that could be legitimate grounds for prosecution, over and above his intended use of these items.¹⁵⁰ But Apuleius's accusers seem to have thought suspicion was sufficient enough to be damning. Based on his preferred mode of argumentation, Apuleius emphasizes the absurdity underlying these accusations for legal practice in general, rather than on their veracity.¹⁵¹ For Apuleius, a priori, such actions could not be decided as "magical" or not, since they were in and of themselves ambiguous. This speaks to the fact that there was no *e[n]videns signum magiae* that might be useful in court.¹⁵² Not only does the whole matter depend on interpretation and on the assumptions that inform interpretation, but if such techniques of accusation became effective and widely used it could potentially make almost anything "magical" and "many will be arraigned before a court as all sorts of evildoers."¹⁵³

The general legal context of Apuleius's trial also supports my claim of an ad hoc charge by experimental and tendentious means. Here, as elsewhere in Roman history, scholars still tend to see the Lex Cornelia as the legal foundation in Apuleius's case (see Chapter 4).¹⁵⁴ Yet, Apuleius never mentions this law. In fact, on more than one occasion Apuleius explicitly says

¹⁴⁹ *Apol.* 42.1-4.

¹⁵⁰ Rives, "Magic, Religion, and Law," 60: Rives argues that with Apuleius we begin to see *magia* clearly associated with a notion of "religious deviance."

¹⁵¹ *Apol.* 54.

¹⁵² *Apol.* 63.2.

¹⁵³ *Apol.* 79.3.

¹⁵⁴ Hunink adopts this view of the Lex Cornelia as well in his commentary of Apuleius's text, *Apuleius of Madauros, Pro se de magia (Apologia)*, 13.

that he is not dealing with charges relevant to *veneficium*.¹⁵⁵ At a conceptual level, if the Lex Cornelia was intended to deal with clandestine murders, then it is difficult to see this as the legal foundation for Apuleius's case—after all, there was no body in this case. Although Apuleius's prosecutors considered charging him with the mysterious death of Pontianus, they decided against it.¹⁵⁶ But, why assume that Apuleius was charged under any specific law? Under the Principate a less formal legal context emerged in the practice of conducting *cognitiones extra ordinem* (“trials outside the system”), which were meant to dispense with the red tape of standing jury trials. This sort of trial became much more common under the Principate and gave imperial prefects and provincial governors latitude in defining, prosecuting, and punishing crimes.¹⁵⁷ Apuleius's defense before Claudius Maximus appears to be just such a trial, and to open a *cognitio extra ordinem* no specific statutory ground was necessary to make a charge of “being a *magus*.” There is thus no need to posit various *senatus consulta* or speculate about the expansion of the Lex Cornelia.¹⁵⁸ All that was required to bring suit was to convince, in this case, Claudius Maximus that Apuleius was conducting himself in such a way that was disorderly. If rumor and literary stereotype could be combined with anecdotes of suspicious actions or the possession of suspicious items, in a persuasive manner, a formal *cognitio* could be held.¹⁵⁹

¹⁵⁵ E.g. *Apol.* 30-32.

¹⁵⁶ *Apol.* 2.1. Non-lethal love potions (as Pudentilla presumably took) were a disputed set of cases (see Chapter 4) and the affected slave boy was not killed by Apuleius's supposed incantations, just immobilized.

¹⁵⁷ Bauman, *Crime and Punishment in Ancient Rome*, 50-64; see also Rives, “Magic, Religion, and Law,” 60, 65.

¹⁵⁸ See Chapter 4.

¹⁵⁹ Rives has argued that “religious deviance” was defined in a similar interplay of Roman magistrate and public, *Ibid.* Of course, what we would like to know, and don't, is whether or not the outcome of Apuleius's trial put pressure on Claudius Maximus to make a formal judgment about a charge of being a *magus*. Did this specific casting of poetic images of a *magus* as a *crimen* raise cognitive dissonances as we see for instance in the martyrdom of Pisonius in 250

On this reading of Apuleius's *Apologia* there is no reason to assume that the *crimen magiae* was a coherent charge based on any standing law. The *crimen magiae* as Apuleius portrays it was a hodgepodge of different kinds of allegations that fit together somewhat awkwardly. What Apuleius seems to give us evidence for is not a snapshot into the inner workings of how magical accusations worked, but rather a particular instance of deftly navigating a situation in which rumor and innuendo were spread, cultural stereotypes activated, which were then construed as circumstantial evidence, and converted into formal charges. Whereas Apuleius could dispense with the more common charges usually made against philosophers, the concatenation of charges custom fabricated against him (*multa in me proprie conficta*) were more unexpected, and took time and care to dismantle.¹⁶⁰

“Magicians,” *malefici*, and “other like persons” in Roman law

The most fulsome and influential source discussed by scholars interested in the history of Roman law and magic comes from the clauses on *magia* in the *Pauli Sententiae* (The Opinions of Paulus), attributed to the famed jurist Julius Paulus (c. 2nd-3rd century CE).¹⁶¹ The relevant passages on *magia* read:

17) It is agreed that those guilty of the magic art (*magicae artis conscios*) be inflicted with the supreme punishment, namely, be thrown to the beasts or crucified. Actual magicians (*magi*), however, shall be burned alive. 18) No one is permitted to have in their possession books of the magic art (*libri artis magicae*); anyone in whose possession they are found shall have their property confiscated and the books publicly burnt, and they themselves shall be deported

CE where the Roman proconsul Quintilian struggled to frame Christian concepts in Roman theological terms?

¹⁶⁰ *Apol.* 3.6.

¹⁶¹ The first appearance of *magia* in an extant legal text is in Ulpian (*Digest*, 10.2.4): judges should deal with books, specifically “magical books” (*libri magici*) and “similar subjects” (*his similibus*), in the same manner as *mala medicamenta* (“evil drugs”) and *venena* (“poisons”).

to an island; *humiliores* are punished capitally. Not only is the profession of this art but also the knowledge (*scientia*) prohibited.¹⁶²

Several points are interesting here, and seem to merit this text's prime position in legal discussions on Roman magic. The text itself gives an explicit law against *magia*—not one implied in historiographic asides or in a specific trial—and makes specific distinctions. For instance, there is a different set of punishments for those who simply practice *magia* versus those who are *magi* themselves. There is also a possession charge that makes custody of books on the *artes magicae* a crime, with the relevant punishment based on class position. The context in which these opinions are given is also important. These provisions are discussed under the sub-heading for the Lex Cornelia, and the proximate passages lay out proscriptions against other deviant ritual activities: i.e. those who facilitate and perform “impious or nocturnal rites (*sacra impia nocturnave*), in order to enchant (*obcantarent*), transfix (*defigerent*), or bind (*obligarent*) someone,” and “[t]hose who sacrifice a man or obtain omens from his blood (*hominem immolaverint exve eius sanguine litaverint*), or pollute a shrine or a temple.”¹⁶³

Yet, as James Rives has rightly argued, all the supposed “advantages” of this passage are not so advantageous.¹⁶⁴ First, the current consensus on this text is that it is probably not an authentic work of Paulus and was put together around the beginning of the fourth century (300 CE). Second, the work was composed through a haphazard compilation process, and the compiler appears to have significantly altered, simplified, and rearranged the content of what he included; at minimum what is presented to us is likely incomplete. Third, juristic commentary should not be confused with law, and insofar as this text departs from the usual juristic practice of citing the law on which one is commenting, this leaves us again having to infer a law against

¹⁶² *PS*. 5.23.17-18 (see Rives, “Magic, Religion, and Law,” 47).

¹⁶³ *PS*. 5.23.15-16.

¹⁶⁴ Rives, “Magic in Roman Law,” 328-334.

magia. Yet, despite whatever garbling the compiler of this text might be guilty of, that *magia* appears at all is significant, and raises the question as to what sources the compiler was drawing on for his material on *magia*. Rives has suggested two: first are the decrees of Diocletian against Manicheans and second is Ulpian's excerpted discussion of astrologers and prophets.¹⁶⁵ In both texts, there are suggestive parallels to the distinctions outlined in the *Sententiae*; for example, punishment is differentiated between leading Manicheans (burned alive) versus their followers (capital punishment and property confiscation), and Ulpian tells us that it is standard procedure that the knowledge of astrology is punishable over just the practice. However, it is striking that *magia* and the *magi* do not appear in either text and that the resonances between these sources rather suggest a broadening of a more general category and set of distinctions against deviant diviners in Roman legal discourse. The fears and anxieties around the potential danger of associating with diviners and their related practices, present from the early Principate, seem to have crystallized into a proscribed legal category. But whoever "magicians" were and whatever their practices consisted of, neither was legally proscribed on different grounds than the various illegal machinations of other diviners. In fact, as I mentioned in the last chapter, after the *Sententiae*, the proscription against the *magi* and those who practice their *artes* were no longer classified under the Lex Cornelia, but rather under the rubric *malefici*, *mathematici*, and *ceteri similes*.

A final episode often seen as instrumental to Roman criminalization of magic is the development of an expansive notion of *maleficium* in Roman law. In such narratives *maleficium* is seen as simultaneously culmination and transition. To the former, starting with Tacitus's description of the nefarious accoutrements found in Germanicus's wall as *malefica*, the trajectory

¹⁶⁵ *Collatio legum Mosaicarum et Romanarum* 15.2 (Ulpian); 15.3 (Gregorianus).

of an ancient concept of magic develops along the line of the nuances of *magia* and the ambiguities of *veneficium* eventually coming to intersect, converge, or align synonymously with the semantic range of *maleficium*. These eventually congeal in the two great law codes of late antiquity, the *Codex Theodosianus* and the *Codex Iustinianus*, where the term is used as an organizational category to collect indictments *de maleficiis et mathematicis et ceteris similibus*. *Maleficium* is also understood to evince a transition toward a decidedly modern conception of western magic. For instance, the *malefici* of Isidore of Seville carry the conceptual baggage of an ancient concept of magic—e.g. from Pliny and Lucan—into such later works such as Kramer and Spenger’s *Malleus Maleficarum*, a guide for hunting down witches.¹⁶⁶

In this last section I want to complicate the idea that *maleficium* became the convergence point for the culmination of an ancient concept of magic. This is not to say that *magia* and *maleficium* (and even *veneficium*) did not come to overlap in more proximate ways in late antiquity. My argument is that they did not become clean synonyms for each other. As I showed in the last chapter, *maleficium* and *veneficium* were considered different crimes in the Codes. Here we will see that *maleficium* becomes specific to magicians (*magi*) insofar as magicians are included among diviners, and that diviners in general come to represent a proscribed class. However, *maleficium* never loses its more general meaning of evildoer nor its applicability to other crimes.

We might start with Tacitus’s description and his general characterization of the litany of suspicious items discovered in Germanicus’s abode: “... and, having been dug out, there were discovered in floor and walls, the remains of human bodies, spells and curses (*carmina et devotiones*), and the name of Germanicus inscribed on lead tablets, half-burnt cinders smeared

¹⁶⁶ Collins, *Magic in the Ancient Greek World*, 148-150; also Rives, “Magic in Roman Law,” 322.

with blood, and the other nefarious things (*aliaque malefica*) by which it is believed that the souls are dedicated to the infernal deities” (*quis creditur animas numinibus infernis sacrari*).¹⁶⁷ Tacitus lists specific ritual items and remnants discovered, but also implies that there were other things found too that were of the same kind as those which he explicitly mentions. He glosses these unmentioned items as *alia malefica*, which I have translated as “other nefarious things.” Yet, translations like John Jackson’s 1931 Loeb translation, still widely cited, render *alia malefica* as “other implements of witchcraft,” which obscures the finer points of what Tacitus is classifying here as well as the basic semantic range of *maleficus/maleficium*.

The term “witchcraft,” like “magic” (and the two are often deployed as synonyms), can refer to a range of mystical or occult matters in modern parlance,¹⁶⁸ but here Tacitus is using the adjective *malefica* to point to a quite specific kind of ritual act.¹⁶⁹ Tacitus tells us that the items he has been listing, and those he does not, are all like each other insofar as they are used for a rather specific type of binding ritual practice of dedicating persons to the gods of the underworld. In the last chapter we saw that the practice of *devotiones*, a specific item in the above list, could often merit bringing charges against those who practiced them, and often was used in conjunction with *venenum*. In earlier Latin usage though, the noun *devotio* seems to have had less sinister associations, and in the republican period is used to refer to a rite whereby a Roman general dedicated himself (or the enemy) to the gods of the underworld in return for the Roman army’s victory. More generally, the verb of *devovere* itself also derives from *vovere*, which was

¹⁶⁷ Tac. *Ann.* 2.69. 11-15. See Chapter 4 for a larger discussion of the occult-ish nature of Germanicus’s death.

¹⁶⁸ See Chapter 4.

¹⁶⁹ The adjectival form *malefica* is attested elsewhere, generally referring to the “harmful” or “evil” nature or powers of things: e.g. Varro *De agri.* 3.7; Plin. *NH.* 9.50.1, 9.153.8, 9.182.3, 10.17; 31.18, 33.84.3. Elsewhere, Suetonius uses *maleficae* to refer to the early Christians: “a class of people given to a new and harmful superstition,” Suet. *Ner.* 16.2.

used to express a vow to a god, a standard act of ancient worship, with the prefix *de-* indicating the downward trajectory of this dedication to the underworld deities.¹⁷⁰ In fact, for a sense of the potential variety that Tacitus implies regarding this rite (i.e. *alia*), we might get some idea from the excavated caches of Latin lead tablets. In these, *devovere* is used along with other verbs of dedication (*demandare*, *desacrificare*) to the *infern*i and other gods, as well as with the primary verb for binding (*defigere*). For instance, in a bilingual (Greek and Latin) curse tablet from Barchín del Hoyo the writer, on behalf of himself and his family (*pro me, pro meis*) dedicates and binds to the gods of the underworld (*devotos, defixos inferis*) a certain Timē and Nicias (and others, *ceteros*).¹⁷¹

The term *maleficium* originally and generally meant a “wicked deed” or “crime,” and it was a term firmly entrenched in the general Roman vocabulary of criminality and deviance.¹⁷² It was used to characterize any number of wrong doings along with a range of terms, e.g. *crimen*, *delictum*, *facinus*, *flagitium*, *scelus*, and *nefas*, which could be used individually or together to highlight both a specific offense and the actions it entailed. In many instances where these words appear in close proximity, close attention to their use can distinguish their different nuances. For instance, *maleficium* often designates the misdeeds that lead to a crime (*scelus, crimen*, etc.).

However, at the same time, these terms frequently seem to be used as synonyms, or near synonyms. In fact, more often than not, in republican and early Principate texts, *maleficium* and

¹⁷⁰ On *devotio*, see Rives, “Magic, Religion, and Law,” 56-57. Also see a pair of articles by H.S. Versnel, “Two Types of Roman *Devotio*,” 365-410 and “Self-Sacrifice, Compensation, and the Anonymous Gods,” 135-185.

¹⁷¹ Kropp 2.2.1/2. Cf. Kropp 5.1.5/8 (*Devotum defixum illum*), or 1.1.1/1 (*hunc... demando, devoveo, desacrifico*). For an example of a “prayer for justice” see Kropp 3.22/2 where part of restitution for a stolen mule is a *deo devotionem*, which is dedicated to Mercury.

¹⁷² See the Thesaurus Linguae Latinae entry for *maleficus* and *maleficium*. Scholars are quick to point out that *maleficium* is a “native” Roman term (e.g. Collins, *Magic in the Ancient Greek World*, 149), and does not easily translate a prior Greek terms as *veneficium* does with Greek *pharmakon*.

its associates could be used not simply for signifying criminal behavior, but these terms could also refer to a broader range of morally objectionable social actions than those that were necessarily legally actionable (like *superstitio*).¹⁷³ That is to say, they did not home in on anything particularly mystical or occult, nor were they aimed at certain ritual actions or their practitioners. This is not to say that these terms could not be used in technical settings, but only that words like *nefas* or *scelus* could shift back and forth between particular usages in reference to impurity and impiety in the realm of ritual and other more general criminal acts.¹⁷⁴ In republican literature *maleficium* remained less technical and more general than these other terms, and even while later writers tried to cast *maleficium* in a technical sense this did not preclude its more general uses.¹⁷⁵ In fact, Tacitus is also quite comfortable using *maleficium* about less salacious, more general criminal activities.¹⁷⁶ In general then, we might distinguish between more and less technical usages of the term: the former, which denotes evil-doing in a very capacious sense, and the latter and later, which are very specific classes of evil-doing. In the passage above on Germanicus then, Tacitus is designating a specific but flexible list of evil deeds surrounding a specific sort of binding, and *malefica* is helpful in construing the specificity of type while also indicating the open-endedness of its various tokens (*alia*). This is exactly in keeping with earlier usages of *maleficium*—in other words, it seems unnecessary and perhaps

¹⁷³ In Latin republican literature *maleficus/maleficium* and other terms of crime and wrongdoing are mostly found in Cicero, most often connected to *scelus*, especially in Cicero's *Pro S. Roscio Amerino* (30.4; 75.8; 62.14; 102.3; 122.9); elsewhere in Cicero see Cic. *Ver.* 2.5.73.12, 2.5.144.2; Cic. *Off.* 2.40.4, 3.75.5; Cic. *Sul.* 19.11; Cic. *Phil.* 5.15.11; Cic. *Vat.* 28.9. Also see *RhetHer.* 4.12.4. For *crimen*: Cic. *Inv.* 2.82.12; Cic. *Sul.* 13.6; Cic. *Flac.* 41.18; Cic. *SRosc.* 72.6; Cic. *Cael.* 62.2; for *facinus* (Cic. *SRosc.* 37.3; Cic. *Cael.* 53.20); for *flagitius*: Cic. *SRosc.* 117.15; *RhetHer.* 2.5.19.

¹⁷⁴ See Thome, "Crime and Punishment, Guilt and Expiation," 73-98; more recently, Lennon, *Pollution and Religion in Ancient Rome*, 30-44.

¹⁷⁵ Harries, *Law and Crime in the Roman World*, 4.

¹⁷⁶ E.g. Tac. *Ann.* 3.27.5; 3.50.5-11.

misleading to construe *alia malefica* as a technical term for a well-bounded notion of “witchcraft.”

Maleficium does not lose its more general sense in Apuleius either, whose usage of it in his *Apologia* is generally considered the next milestone on the term’s magical evolution.¹⁷⁷ As I argued above, the phrase *magica maleficia* is not a standard charge based on any specific law, but likely cobbled together ad hoc. As we saw, part of Apuleius’s defense strategy was contesting that *maleficium* be connected to *magia*: not just that *magia* was incoherent as a charge against him, but that even if *magia* is admitted, there is still no wrongdoing (*maleficio*).¹⁷⁸ In fact, Apuleius also uses *maleficium* at times only to mean general “wickedness” or “wrongdoing.”¹⁷⁹ Finally, one of the more interesting instances of *maleficium* in the *Apology* is Apuleius’s contention that he had healed a woman, one who had the same condition as the slave boy who collapsed, when she was brought to him for treatment. For Apuleius, in light of this, his accusers must either “prove that the curing of disease is the task of magicians and evil-doers (*magi et malefici*)” or admit the bogus nature of their charges.¹⁸⁰ Perhaps in keeping with his strategy, this conjunction gestures toward two figures that may overlap but that are not synonyms. Thus, as with Tacitus, it is not that *maleficium* is coming to be indelibly linked with a notion of *magia*; rather, *maleficium* is a general designation of evil deeds, which his accusers have (rather unsuccessfully) linked with *magia*.

In the law codes of late antiquity, the *Codex Theodosianus* (438 CE) and the *Codex Iustinianus* (534 CE), the designation of *maleficium* is generally thought to have completed its

¹⁷⁷ Collins, *Magic in the Ancient Greek World*, 152. Of course, in Apuleius’s writing it does come to signify more mystical and occult matters: e.g. *Met.* 9.29: ... *veteratricem quandam feminam, quae devotionibus ac maleficiis quidvis efficere posse credebatur.*

¹⁷⁸ *Apol.* 28.4.

¹⁷⁹ *Apol.* 90.1-3.

¹⁸⁰ *Apol.* 51.9-10.

transition into a general designation of what we would call “magic,” where *maleficium* often falls in close alignment with *magia* and in fact even seems to displace it. However, a careful reading of the nomenclature for diviners in these laws show that these two are not synonyms, and the rhetorical power of *maleficium* as a rubric for ritual deviants here depends on its openness and extendability rather than its ability to be substituted for *magia* or a concept of “magic.” In both Codes, the main provisions on “magic” are laid out under the rubric *De maleficis et mathematicis et ceteris similis*.¹⁸¹ In translating this title, it is common to see it rendered as something like, “Concerning magicians, astrologers, and other like persons.”¹⁸² Yet, I would argue that *maleficis* could still rightly be translated in its more general criminal sense as referring to an open list of proscribed diviners: i.e. “Concerning evildoers, astrologers, and other like persons.” *Magi* are placed under this category. Further, articulation of the crime of *maleficium* in this rubric is an attempt to encompass all those various instrumental and fungible forms of divination—domestic and foreign—under single and flexible legal, criminal category.

In both Codes there are several proscriptions specifically against the *artes magicae*. Around 320 CE, Constantine issued a decree that the practice (*scientia*) of those who “surround themselves with the magical arts” (*magicis accincti artibus*) should be met with the severest punishment, especially insofar as they threaten a person’s physical integrity and bend “pure minds” (*pudicos animos*) toward lust. In contrast, the law allows unspecified *remedia* that are sought for the health of human bodies and rites (*suffragia*) innocently employed (*innocenter adhibita*) in the countryside for the sake of protecting the harvest against inclement weather. The rationale given for this legal distinction is that the latter does not cause harm to the body or reputation of any person but rather ensures the fruition of “divine gifts” (*divina munera*) and the

¹⁸¹ *CTh.* 9.16; *CJ* 9.18.

¹⁸² e.g., Pharr, “The interdiction of magic in Roman law,” 281.

labors of humans (*labores hominum*). Like most explicitly made distinctions, the one made here asserts a difference rather than simply reflects a preexisting one. In this case any potential confusion over the use or knowledge of “magical arts” is settled around the issue of intent, and the latter rites used to cure are permissible in that they are directed toward health and the productive ends of agriculture. Those rites are often connected in elite texts to the backward instrumental divination of the *rustici* and thus likely easily confused with all other sorts of more pernicious rites (as we saw above); this law indemnifies those who purvey them.¹⁸³ The potentially disruptive aspects of the *artes magicae* are also the subjects of a law given by Constantius II in 357 CE. The *artes magicae* are implicated in disturbing the course of nature and ruining the lives of innocent people. The law specifically singles out the activity of summoning forth the dead (*accitis manibus*) that the practitioners might destroy their enemies with these “evil arts” (*malis artibus*).¹⁸⁴ The law itself (in keeping with the previous law) lists no specific punishment but says that since these practitioners are “foreigners to nature” (*naturae peregrini*): “let a deadly plague destroy them.”¹⁸⁵ Finally, in 364 CE the emperors Valentinian and Valens issued a decree forbidding *magicos apparatus* along with other nocturnal practices (*nocturnis temporibus*) such as “nefarious prayers” (*nefarias preces*) or “deadly sacrifices” (*sacrificia funesta*). Again specific punishments are not listed, but the Augustii appeal to their “everlasting authority” (*perenni auctoritate*) for punishing appropriately those discovered and convicted of such activities. Interestingly, *magia* is situated here along with two other practices,

¹⁸³ *CTh.* 9.16.3; *CJ.* 9.18.4

¹⁸⁴ In contrast to my discussion of *devotiones* that dedicated and bound people and things to the infernal deities, here we have a clear reference to necromantic divination, calling up a ghost or spirit to learn certain things (often about the future), or more rarely to affect others by means of the dead. See Ogden, *Greek and Roman Necromancy*, 219-230; Faraone, “Necromancy Goes Underground,” 255-282; Johnston, *Ancient Greek Divination*, 144-182.

¹⁸⁵ *CTh.* 9.15.5; *CJ.* 9.18.6. Pharr has noted that such language here is tantamount to “an imperial curse” (i.e. “fighting magic with magic”), Pharr, *Ibid.*, 283.

and the point of this law is to condemn nocturnal rites, of which *magia* is a specific sort, and to condemn such rites is continuous with older Roman legal distinctions.¹⁸⁶

The *artes magicae* is not the only *ars* specifically condemned in the Codes; specific laws also target astrology (*ars mathematica*). The Justinian Code records a law from 294 CE when the emperors Diocletian and Maximianus prohibited astrology, distinguishing it from *ars geometriae*, which is to the advantage of the public and should be learned and practiced. By contrast, astrology is harmful and condemned. As above with *magia* versus more productive agricultural rites, a distinction is asserted to differentiate practices that are helpful and constructive versus those seen to cause harm.¹⁸⁷ In fact, this law adds astrologers as a group to “those most empty and disgraceful kind of superstitious doctrine” (*quaedam genera inanissima ac turpissima doctrinae superstitionis*) that Gregorianus mentions in relating Diocletian’s order against the Manicheans (*De maleficis et Manichaeis*); here, the only specific group mentioned is Manicheans. Yet, as we saw, already Ulpian had made special provision for the condemnation of astrologers and other diviners, since they threatened both the health of the emperor and the public peace of the Roman Empire. In fact, the logic underlying Ulpian’s and Gregorianus’s texts is not simply that these diviners threaten the public good, but that their rites do so by creeping into (*inrepsisse*) and getting mixed up with proper, traditional, and legal rites.¹⁸⁸ This might make sense of the impetus in the above laws to make finer tuned distinctions and peel apart what they perceive as helpful *artes* from harmful.¹⁸⁹ Yet, around 370 CE, Valentinian and Valens further forbade “the discussion of astrologers” (*mathematicorum tractatus*) in all contexts (public

¹⁸⁶ *CTh.* 9.16.7.

¹⁸⁷ *CJ.* 9.18.2.

¹⁸⁸ Pliny also uses this verb in *NH* 30.2 to describe the “creeping” of *magica* into medicine and trying to pass itself off as “the highest and sacred medicine” (*specie salutari inrepsisse velut altiore[m] sanctiore[m]que medicinam*)

¹⁸⁹ See above note.

or private, day or night), and, unlike the laws against *artes magicae*, they give an explicit punishment. They condemn both teachers and students to death. In fact, the latest law we have from the Codes specifically targets astrologers.¹⁹⁰ In 409 CE, the emperors Honorius and Theodosius threatened astrologers with expulsion (from all cities, not just Rome) unless they relinquished their books to be burned in the presence of the bishops, pledge their faith to the Church (*catholicae religionis cultui fidem*), and vowed never to return to this practice. The punishment here is again spelled out, and while the burning of books was not a Christian novelty, the forced conversion is unique in this section of laws and the language here, of all the laws recorded, is the most explicitly Christian.¹⁹¹

If these are the two explicitly named *artes* in the Codes, there are also several appellatives for condemned diviners, each presumably with their own *artes*. In several laws the *magi* and *mathematici* are mentioned along with *haruspices*, *augures*, *sacerdotes*, *harioles*, *vates*, *Chaldaei*, and *malefici*. In February of 319 CE, Constantine forbid *haruspices* to conduct consultations (or any other business) in private homes, and the rhetoric of the law seems designed both to combat arguments from tradition (*vetus amicitia repellatur*) and also to extend past *haruspices* in particular to those like them in some unspecific way (*huiusmodi hominum*).¹⁹² In fact, the Justinian Code makes this last part clearer in expanding the names given: “No haruspex (*haruspex*), priest (*sacerdos*), nor any of those (*nullus eorum*) who customarily performs rites of that nature.”¹⁹³ The diviner is burned alive and the man whose house he entered is exiled and his property confiscated. The main issue here, once again, is the danger possible via private divination. And in order to distinguish reputable rites from disreputable the law permits

¹⁹⁰ *CTh.* 9.16.8.

¹⁹¹ *CTh.* 9.16.12.

¹⁹² *CTh.* 9.16.1; *CJ.* 9.18.3

¹⁹³ *CTh.* 9.16.2.

for those who wish to continue to practice their superstitions to perform these in public (*publice*). In fact, a few months later, in May, this law was clarified with more charitable language: “Those of you who think this is profitable to you, approach the public altars and shrines (*aras publicas adque delubra*) and celebrate the sacred rites of your custom (*consuetudinis vestrae celebrate sollemnia*), for we do not forbid the free performance of past usage to be celebrated publicly (*luce*).” Fifty-two years later, in 371 CE, under the rule of Valentinian, Valens, and Gratian, the practice of soothsaying was reaffirmed and untangled from other sorts of illegal divination: “I judge that soothsaying (*haruspicinam*) has no connection with the causes of malicious actions (*maleficiorum causis*) nor do I consider that either soothsaying or any other rite (*aliquam religionem*) conceded by our ancestors (*a maioribus*) is a species of crime.”¹⁹⁴ The argument from tradition that Constantine’s law seems to be anticipating is here conceded, and as we saw above the distillation of *haruspices* from other evil forms of divination is precisely along the axis of a traditional appeal to ancestors. For the emperors, traditional rites were not to be denied, and as long as *haruspicium* was not used in a harmful way, it was permitted.

Yet, within those fifty some odd years, *haruspices* were included in wider lists of diviners whose *artes* were forbidden by law. In 357 CE, Constantius II forbade “knowledge of divination” (*divinandi curiositas*), which is laid out in three sets: it is forbidden to consult *haruspices*, *mathematici*, *harioli*; the voices of *augures* and *vates* must cease; and *Chaldaei* and *magi* as well as others (*ceteri*), “whom the populace (*vulgus*) calls *maleficos* on account of the magnitude of their doings (*ob facinorum magnitudinem*), shall cease to do anything along that line (*ad hanc partem aliquid*).”¹⁹⁵ However one might understand the taxonomies here, I would flag three points. First, each of these three sets is considered as part of the broader issue of

¹⁹⁴ *CTh.* 9.16.9.

¹⁹⁵ *CTh.* 9.16.4; *CJ.* 9.18.5.

divinandi curiositas. Second, *malefici* is a sub-genus consisting of two explicitly named kinds (*Chaldaei* and *magi*), but the law also notes that there are other, unnamed members of this class.¹⁹⁶ Third, in this law, and others, the unlearned are credited with coining the category of *maleficus*. In the following year, in 358, Constantius II published a similar constitution but with slight changes to the language: the diviners are listed rather than organized into sets and the language includes a more concerted focus on *magi* and their practices. The law is specifically constrained to the imperial court, and begins by conceding that, along with treason, all magicians (*omnes magi*)—“in whatsoever part of the earth they may be, and who are considered as enemies of the human race (*humani generis inimici*)”—pose a similar threat to the wellbeing of the emperor. Here the language specifies more clearly that *maleficus* is a common gloss for *magus* or those practicing these arts: “[i]f any *magus* or one accustomed to the pollutions of magic (*adsuetus magicis contaminibus*), such a one as is vulgarly (*vulgi consuetudine*) called *maleficus*.”¹⁹⁷ In the Codes, this is the best direct evidence for *magus* and *maleficus* as synonyms. In both the laws of 357 and 358, *maleficus* is marked as a category that seems to draw meaning from the idiom of the commoners and lower classes, and is here enshrined in legal discourse. Outside of legal sources, Pomponius Porphyrius suggests a connection between *magus* and *maleficium* along the same lines, giving an etymology of *magus* in his commentary on Horace’s second epistle. To Horace’s line that reads *somnia, terrores magicos, miracula, sagas*, Porphyrius notes that these all refer to *superstitionem*, and he specifies that *magi* comes

¹⁹⁶ Both named groups of perpetrators are perhaps marked in terms of their foreignness. If *mathematici* is translated as “astrologers,” then in order to avoid redundancy *Chaldaei* must be rendered in its ethnic connotation. This can be reinforced by its connection with *magi*, a term which could shift from highlighting Persian ethnicity to indicating general foreignness to signifying a mobile set of *artes*. Also above my discussion of Ulpian’s comments on “astrologers and prophets.”

¹⁹⁷ *CTh.* 9.16.6; *CJ.* 9.18.7.

from Latin *magnum*, and takes its meaning from the “great things,” which *magi* accomplish. Here Pomponius does not indicate that this was an interpretation of the *vulgi*, but elsewhere he raises the connection of *magus* and *magnum* in the context of poetry, commenting on the magnitude of their song (*carmine*) to alter the “senses and minds of all” (*conuertant sensus anim<o>sque cunctorum*).¹⁹⁸ If these considerations are taken together with the law of 320 CE, discussed above, which forbade the use of *magicae artes* in polluting “pure minds” and was further couched in terms of agriculture, then the close connection of *magus* and *maleficus* emerging from popular usage is plausible.¹⁹⁹

Yet, there are two other matters to take into consideration. First, in the law of 357, as we saw, *maleficus* was a category also coined by the populace, but it was connected to *magi*, *Chaldeans*, and others—not just *magi*. That this is construed as a wider category than simply a *magus* should caution us against taking the particular *vulgi consuetudo* of 358 as a definitive connection (indeed as we saw earlier with Apuleius, such “vulgar” meanings might need to be protested). Second, returning to the law itself, the list is continued and the threat to the emperor is distributed to other potentially dangerous interlopers who might reside at his court:

“[A] soothsayer (*haruspex*), or a prophet (*hariolus*), or certainly an augur (*augur*), or even an astrologer (*mathematicus*), or one who conceals any art of divination by the interpretation of dreams (*narrandis somniis occultans artem aliquam divinandi*), or one practicing any thing similar to any of these (*certe aliquid horum simile exercens*), if such a one be found at my court or the court of Caesar he shall not by the defense of his honorable position escape the pain of torture.”

¹⁹⁸ Porph. *Ep.* 2.2.208-209.1-5; 2.1.213.1-3: The date of Porphyry's commentary is disputed and placed anywhere between the 2nd-4th centuries CE. Given its parallels to these laws a fourth century date seems reasonable.

¹⁹⁹ Also note Servius *Ecl.* 8.66 where he extends the metaphor of displaced crops to *magica sacra*, which cause one's mental stability to be taken away (*alienantur*).

The *magi* seem particularly feared in the imperial court, but only in terms of the degree of their threat, not insofar as it is a different sort of threat than posed by the litany of other diviners. In fact, the only references to magic as a specific crime (*crimen magicae*) are indeed mentioned in conjunction with the crime of treason (*crimen maiestatis*), and these are discussed in two decrees of 356 CE and 358 CE as exceptions to laws concerning the bestowal (or not) of property on heirs of those who have been executed for capital crimes.²⁰⁰

In December of 371 CE, eight months after their reinstatement of *haruspicium*, the emperors Valentinian, Valens, and Gratian issued a constitution on the jurisdiction of dealing with charges *maleficia*. The pretext for this law was that many of the senatorial class had been charged with this, enough that a general decree was necessary on how to handle the matter. The protocol laid down is that the urban prefect is initially responsible for adjudicating such charges, but if irregularities arise in the case he is to send the case to the imperial court with those involved in the case as well as all pertinent records.²⁰¹ In 389 CE, the emperors Valentinian II and Theodosius I issued a constitution regarding the proper procedure for apprehending “one polluted with the stain of evils acts” (*maleficiorum labe pollutum*) and turning them over for judgment.²⁰² The law emphasizes the importance of a public trial so that “the enemy of our common safety” can stand before the eyes of the court. In fact, if anyone acts to prevent such a public trial or carry out their own capital punishment on one guilty of an “evil art,” the text sees him as guilty of two suspicions. First, he has prevented the judicial process from running its course, specifically the opportunity for the accused to name his accomplices (one of which the preventer is now suspected of being), and second, he might be suspected of using this charge as a

²⁰⁰ *CTh.* 9.42.2 and 9.42.4.

²⁰¹ *CTh.* 9.16.10;

²⁰² *CTh.* 9.16.11; *CJ.* 9.18.9.

pretense for murder in order to settle some lingering grudge. These are the only two laws in this section where *maleficium* appears alone, without reference to *magia* or any other form of divination. One might make the argument that *maleficium* in these laws has completed its transformation process into a synonym for *magia* or a general concept of “magic,” and that one could simply translate these as general procedures on how to conduct criminal proceedings against accused magicians. However, as I argued in the last chapter, elsewhere in the Codes a *maleficus* appears as a distinct criminal and is indicted alongside the *veneficus*, the *adulator*, and the *homicida*. The content of the crime *maleficius* is enumerated in *De maleficiis et mathematiciis et ceteris*, and presumably includes all *artes* and purveyors of those mentioned above: magicians, astrologers, but the crime of *maleficium* also seems not to be limited to these.²⁰³

Thus, other than one specific instance, the laws contained under this rubric do not link *maleficium* explicitly with *magia*. In fact, *maleficium* continues to act as it always has in Roman legal discourse, to designate general criminal actions and their perpetrators. In this case, *maleficium* has come to narrow specifically around divination as a specific criminal form of ritual deviance. While there is increased anxiety in these laws over the specific *artes* of magicians, there are similar misgivings about those of astrologers as well, and in keeping with legal precedent these are criminal due to the potential harm that they might cause (bodily or

²⁰³ Ammianus Marcellinus’s 4th century history is often posited as evidence for an uptick in “magical” accusations (paralleling Tacitus’s account from the first century, e.g. Kippenberg, “Magic in Roman Civil Discourse, 140) due to various tensions among the senatorial elite. While there are, in Ammianus, many reports of accusation and trials it is not clear that “magic” is among the crimes prosecuted. A number of crimes seem to be fodder for accusation, among them *veneficium* (e.g. *Res Gest.* 28.1; 28.2), but it is not clear that this crime is referring to “witchcraft” rather than simple poisoning (see Chapter 4), and *magia* is never cited as the grounds for an accusation or trial. The only instance is *magiam* and it is mentioned in reference to the Persian *magi* in Ammianus’s ethnographic *periplous* of Persia (*Res Gest.* 23.6). *Maleficus/maleficium* is also not mentioned in a legal capacity in Ammianus at all.

otherwise) to the Roman population, and more specifically to the emperor. The most we might say is that *magia* and *mathematica* seem to be forms of divination seen as particularly likely to cause harm to the populace (and especially the emperor), but they are treated as different in degree and not different in kind from other forms of divination. *Magia* remains a form of divination among others and seems to merit no legal treatment outside of the way in which illicit divination is generally proscribed. There seem to be no punishments directly applicable only to magicians.

In much of the juridical reasoning mentioned in this chapter, what is not explicitly enumerated in certain decrees is sometimes as important as what is. For instance, when Cassius Dio mentions the expulsions of astrologers and magicians in 16 CE, it is easy to miss that he also adds: "...and such as practiced divination in any other way whatsoever." The hedging implied in such a phrase implies that the problem is not just astrologers and magicians, but any and all who might practice a similar kind of divination. Yet, the precise criterion for inclusion are left unstated, and allows the application of these decrees to remain flexible and adaptable to changing perceptions of what counts as cultural and ritual deviance. In examining the Codes, several such phrases have already appeared that would allow for the extension of certain categories to perhaps new figures and practices (e.g. *ceteri*; *huiusmodi hominum*; *ad hanc partem aliquid*; *certe aliquid horum simile exercens*) along with the general rubric of *De maleficiis et mathematiciis et ceteris*, which seems to posit this ideological slippage at a general. The rhetorical power of *ceteri* in the title for these laws implies the open-endedness of the list—that it was not an exhaustive inventory of malefactors. The title of these laws operates in much the same manner that Pliny sought for *magicarum vanitates*, but in this moment of late Roman law, the growing parade of ritual deviants, especially in a society en route to "converting" to Christianity,

could not be exhausted by a single concept. The list of *malefici* and *mathematici* needed to be extendable to the *ceteri*, such as “heretics” and “pagans.”

Conclusion

In this chapter I have argued against scholarly narratives that track the legal history of Roman ritual deviance along the lines of the criminalization of magic. Along the way I have suggested contextual clues that might reframe these sources. There is obviously more to do.

An attempt to trace an evolving relationship between magic and law in the sources has persistently shown that insofar as Roman law included *magia* in its strictures, it was *only* in terms of divination. No legal basis seems to have existed for dealing with *magia* other than those used to accuse and prosecute illicit diviners. Apuleius is a partial exception, which likely proves the rule. When magic is dropped as a substantive concept for interpreting ritual laws around deviance in Roman antiquity, it does not reemerge in any special way or privileged item of discourse in Roman law.

Of course, the objection to all of this might be that the legal lines drawn around illicit divination are exactly, or at least close enough to, those modern scholars draw around magic. If we all agree that this is what we mean by magic, then why not make this our provisional object of study here—a sufficiently broad polythetic category, etc.? Historically, the problem is that narratives surrounding this provisional object have naturalized it, and elided the finer nuances of the range of contexts discussed in this chapter. Magic as an analytic category has too often set various sources into sociological stasis and isolation. Yet, the more important elisions are of an ideological sort. Naturalizing the criminalization of magic is an exercise in flattening the nuances of how the relationship between social deviance, law, and culture is (re)constructed,

(re)construed, and (re)applied in the shifting contingencies of historical circumstances.

Especially under the Principate and the Christian Roman Empire, painting religious deviance with the monolithic brush of magic colludes with those who would define proper religion on their own narrow, normative terms, recasting and reinforcing these biases at the level scholarly discourse.

Conclusion

In these pages, I have tried to pursue (rather than simply restate) the fact that magic has not proven itself a particularly useful descriptive or analytic category with which to study western antiquity, in general, and the ancient Romans, in particular. Most basically, I pointed up the theoretical and methodological conventions and confusions that have endured in the analyses of scholars of antiquity and that have blunted the critical impact of those who have criticized and deconstructed magic. The result has been little effort to move on to different issues and problematics in light of magic's critique. In the main chapters, I explored these conventions and confusions in their particular manifestations in various readings of late Roman republican and Principate sources, and how these worked to render, for scholars of antiquity, these said sources *as evidence* for the formation and persistence of a category of ancient Greco-Roman magic that eventually develops into a full-fledged Western tradition and object of study.

Along the way I have also attempted, to different degrees, to redescribe these sources by teasing out different contextual evocations, pursuing these alternative contexts, and suggesting different questions and avenues of research that might reframe how these sources are taken as evidence in the first place. At times, I simply relied on the cognitive power of recontextualization. At other times, I have recommended different, perhaps rectified categories (e.g. remote causation). Yet, I have refrained from explicit acts of redefinition though, especially for the term magic, since my aim here has been less to change our particular nomenclature and more to modify our underlying theoretical habits—i.e. to show that the concepts and terms we use for analysis are bound up with constituting the things we analyze. It is in this aim that the power of redescription as methodology resides.

My abiding argument has been that magic has too often functioned as a “conceptual straitjacket” for studying ancient sources.¹ But when the usual evidences for a category of ancient magic in the Roman world are freed from the category of magic, and its attendant conventions and confusion, heretofore unsuspected nuances might be detected that could disclose more fruitful ways to situate these sources among others in various attempts to reconstruct ancient social dynamics. To this end, I have found the second-order category of alterity, and the entailments of discursive acts of othering, useful for pursuing such potentials, for disaggregating the evidences of magic, and redescribing them in other milieus. Of course, alterity is only one possible category that might dissolve magic and its entrapments. Alterity has been a useful instrument here with which to interrogate critically one aspect of how we (“moderns”) create, validate, and often naturalize the theoretical structures by which we make ancient life and society intelligible.

One way of moving forward might be to make a relatively standard admonishment to my readers that we must keep our descriptive and redescriptive vocabularies sufficiently clear and distinct. Indeed, much of my argument in these chapters has been designed to illustrate precisely the naturalizing effect that can occur when modern analysts confuse first-order categories (drawn from their meticulous readings of ancient sources) with their second order categories (those modern terms and concepts with which they attempt to interpret these first-order sets). Calls to critical “self consciousness” conclude a great deal of scholarship—like mine—that takes a critical view of our most basic academic concepts, even if these calls tend to sit somewhat awkwardly against the critical spirit in which such studies are undertaken. It often seems as though the ingenuity expended in the critical enterprise is exhausted by the time it comes to

¹ I borrow this term from C.R. Phillips.

asking questions like, “what now?” I suppose there is a particular value in accepting such self-critical admonitions, i.e. simultaneously registering the critique but still continuing on, with all due caution of course, with business as usual. On the one hand, one might readily concede that magic, and its still frequent associates science and religion, has been of little value in parsing out ancient distinctions. However, in the same breath, those holding this view have also been inclined to avow a position that in being self-conscious about the problems of magic we might nonetheless fumigate it as a category, and thus better refine it and define it for comparative academic purposes. Throughout these chapters, I have continually registered and illustrated my doubts that this is 1) possible (and even if it is), 2) desirable. It seems to me that there is little to be gained from this sort of conservative self-consciousness, at least as it is usually stated. The whole endeavor seems to me like an empty act of atonement.

Nonetheless, there are those who continue to have conversations about magic—especially those who are interest in honing its analytic utility, of proposing better definitions—and they have particular interests in doing so, even if only heuristically. Those conversations and their stakes are of themselves potentially fascinating subjects of study. In one regard then, to have a modern study of magic, one need not study magic in any sort of essentialist manner, but rather explore where magic is getting deployed, by whom, and investigate what the stakes are for these persons in their attempts to shore up better definitions and in their making claims that this or that aspect of culture is “magical.” Randal Styers’s *Making Magic* has exemplified such an approach when it comes to the stakes of modern scholars’ theorizing magic. As I discussed in Chapter 1, the most telling part of Styers’ argument is his claim that the compulsion of scholars continually to clarify the scope of magic has been driven by the need to clarify and carefully parse out the definitive features of the normative modern self. In this respect, debates over magic often tell us

more about modern obsessions over issues of identification, affiliation, and alienation than they do about the peoples and cultures under investigation.²

Yet, what then of the ancient world, or of the ancient Romans, who have been my primary concerns? The Romans did not divide up the world along the conceptual lines of a category of magic and its frequent affiliates science and religion—this is a modern, Western triad, produced to deal with modern concerns. It thus misleading and ultimately unproductive to apply these to ancient Roman sources. Wielding this schema not only elides Romans’ own conceptual differences and distinctions, but also the social relations and politics that powered these. One possibility though is that we might flip the script and ask: what were the terms the Romans used to articulate and explore issues of affinity and estrangement, those general issues similar to what moderns folks found magic, science, and religion useful as explanatory terms? At a very general level, we might easily say (I hope) that the Romans were engaged—quite like the modern West, and so many other societies in human history—in constructing, construing, and contesting their own imagined community, which entailed demarcating certain boundaries of normativity and conceptions of otherness. The Romans—and this collective identity shifted in scope across Roman history, but in general I have been referring to the ruling classes—raised their own explicit questions of identification and negotiated matters of Roman-ness, non- or un-Roman-ness, and even anti-Roman-ness differently in different circumstances (e.g. intellectual, legal, etc.), with different terms and concepts, and in the face of different and changing social pressures. In this dissertation, I have emphasized in particular the specific changes induced in forms of self-identification and othering by the Romans’ imperial acquisitions and ways Roman writers tried to cognize this wider demographic situation. Seen from this perspective, if the

² Of course Styer’s also doesn’t much answer the question “now what?” either.

modern West forged magic as part of particular vocabularies to aide in conversing over larger anthropological issues of self and other in the midst of their own changing position in the world, the Romans forged quite different terms and had different kinds of conversations keyed to their historically contingent and multifaceted situations of change. I have tried to show that *magia*—whether or not one wishes to translate it as “magic” (or perhaps “magian”)—served in this capacity, but the Romans had a variety of other terms that could mark alterity in terms of foreignness, gender, and/or class position, and they could evaluate these as different degrees of otherness. I have dealt with some of these terms above (though each could use a much more thorough treatment). But to gloss the sum of these disparaging terms as magic—or to see *magia* as equaling the capacious modern term—and to juxtapose this set of terms to some reified conception of normative ritual practice glossed as religion, imputes certain sorts of phenomena, connections between these phenomena, and evaluations of these that were unknown to the ancient Romans.

In light of the range of terms, I suggest it is important for scholars of antiquity to attend with greater detail to the precise words and vocabularies used in a given source. Where one is tempted to use magic—even hedging it with quotation marks—I propose to look instead for other descriptors, finer categories used to signify relevant distinctions, connections, taxonomies, and hierarchies. The category magic has tended to function as shorthand that has diverted attention from proliferating such descriptions from the sources, and especially from evaluating the interests of those making these. Operating on a substantive notion of magic has tended to foreclose the possibility of such nuanced readings by taking particular ancient descriptions (e.g. Pliny’s history of the *magicae vanitates*) as though they could be generalized to all ancient societies, even to the far corners of the Roman world, and used as a lens to smooth out and

harmonize other accounts into a reified recognizably coherent—even if widely disparate—ancient (Greek, Roman, Jewish, etc.) concept.

By contrast, my argument has been that multiplying the precise articulations of different ancient descriptions of alterity, and attending to the fact that the ancients—even among the coterie of the Roman ruling classes—did not speak with a unified voice nor did they passively conformed to preset range of concept, should invite us to pursue different contextual evocations in different sources by subjecting these particular descriptions to persistent comparative exercises with other areas of ancient culture evinced in other sources. To be clear, I am not proposing just another version of a more careful emic analysis of ancient sources in order to rectify the anachronisms that result from modern categories. What I am proposing is a more dynamic procedure by which first and second order categories get generated and deployed in the work of cultural analysis. Throughout these chapters I have tried to highlight various conceptual impediments that have burdened scholarly attempts to faithfully reproduce particular ancient accounts. However, once more detailed semantic lines are carefully tracked, the vocabularies charted, and the historical factors that caused shifts in these (or were shifted by these) are better explained, what modern, second-order categories would prove useful for interpreting and comparing these carefully constructed first-order categories? For those practicing “self-conscious” acts of contrition over our modern terms, magic along with a whole range of other modern abstractions persist in offering a standard, preselected set of tools even if the incongruences these have produced have not had much analytic utility. If the first-order categories we posit from readings of the ancient sources are more nuanced and judiciously traced, should not our analytic categories and models also shift in order to better account for these detailed readings of the sources?

I have found Barton and Boyarin's recent introductory remarks on the problems of the modern category of religion, and its obfuscating of ancient sources, useful for the considerations of magic that I have highlighted in the preceding chapters. In contrast to those who fear that giving up magic (or religion, or whatever other familiar category) would result in incoherence, Barton and Boyarin argue that "the necessity and potential for comparisons is increased, not decreased, by abandoning as many of the predetermined abstract categories of the scholar as possible." Yet, to assert this position does not entail giving up the importance of deploying second-order, analytic categories, but only that these cannot be taken as a set of standard, stable, and mobile methodological tools, able to be applied to whatever cultural terrain with only slight adjustments here and there. Rather, they must arise in a more dynamic interaction from the ancient sources: "[M]uch is systematically occluded when categories of analysis that are mobilized are not produced inductively but simply deployed without being subject to constant revision in the face of the words and categories of the cultures being studied."³

In one sense, I hope that my study has been counterintuitive (and perhaps disorienting) for those who study ancient magic. But as I said at the beginning, this dissertation was never really about magic in the first place. Yet, I also hope that any destabilizing sentiments that my arguments have incited might prove productive insofar as they attune modern readers to features of ancient sources not often discussed and point to contexts that might have been elided by a focus on the "magical" aspects of antiquity. These experiments in redescription that I have undertaken here are not exhaustive, and I wager there is much to be learned when magic no longer dwells in our studies of antiquity.

³ Both passages are cited in the Introduction.

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