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Justinian, Vitiges and the peace treaty of 540 (Proc. *Bell. Goth.* 2.29.2)

Abstract: The proposed peace treaty of 540 between Justinian and Vitiges – according to most interpretations of Proc. *Bell. Goth.* 2.29.2 – included a partition of Italy into two areas, one located south of the river Po and controlled by Justinian and the other located north of the Po and controlled by the Goths. However, a closer examination of Procopius' wording and of similar passages indicates that Justinian aimed to receive only the tax revenues of southern and central Italy, with the provinces themselves remaining in the hands of the Goths.

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In early 540, Justinian sent two envoys, Domnicus and Maximinus, to Ravenna and instructed them to reach a deal with the Goths, who had been fighting against Belisarius for almost five years.¹ According to our only source, namely the *Gothic War* of Procopius of Caesarea, king Vitiges should have kept half of the royal treasure and all Italian lands north of the river Po, whereas the emperor should have obtained the other half of the treasure and subjected all territories south of the Po to the payment of tribute:²

Οὐίττιγιν μὲν πλούτου τὸ ἥμισυ τοῦ βασιλικοῦ φέρεσθαι, χώρας τε ἄρχειν ἢ ἐκτὸς Πάδου ποταμοῦ ἔστι· τῶν δὲ δὴ χρημάτων τὸ ἥμισυ βασιλέως εἶναι, καὶ αὐτὸν ὅσα ἐντὸς Πάδου ποταμοῦ ἔστιν ὑπήκοα ἐς ἀπαγωγὴν φόρου ποιήσασθαι.

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1 See *PLRE* 3.415–416 (Domnicus 3) and 865–866 (Maximinus 2). Domnicus brought with him also a letter by Justinian which was addressed to pope Vigilius; then, he returned to Constantinople with two letters written by Vigilius and addressed to the emperor and patriarch Menas (*Coll. Avell.* 92–93). On the embassy of 540, see E. CHRYSOS, *Zur Reichsideologie und Westpolitik Justinians. Der Friedensplan des Jahres 540*, in V. Vavřínek (ed.), *From late antiquity to early Byzantium. Proceedings of the Byzantinological Symposium in the 16th International Eirene Conference. Praha 1985*, 41–48.

2 Proc. *Bell. Goth.* 2.29.2 (ed. J. HAURY/G. WIRTH, Leipzig 1963).

The expression ὑπήκοα ἐς ἀπαγωγὴν φόρου has been often translated as “subject and tributary”³ and regarded as a condition according to which Justinian should have ruled over all Italian lands south of the Po,⁴ but Procopius mentions only a tribute and does not refer to a military occupation of Cispadane Italy, a fact which has already been noted in quite a few translations but which has never been much considered in historical studies on the Ostrogoths, Justinian or the Gothic War.⁵

The (quite significant) difference between direct rule over a land and the mere payment of a sum of money is indicated by the occurrences of κατήκοος and ὑπήκοος in the *Wars*. It is true that they both usually indicate individuals,

3 Cf. Procopius di Cesarea, *La Guerra Gotica*, trans. D. COMPARETTI, 2. Roma 1896, 191 (“soggetti e tributari”); Procopius, *History of the Wars*, trans. H. B. DEWING, 4. London/Cambridge (Mass.) 1924, 125 (“subject and tributary”); Procopius, *History of the Wars*, *Secret History*, and *Buildings*, trans. A. CAMERON. New York 1967, 231 (“subject and tributary”); Procopio di Cesarea, *La guerra gotica*, trans. F. M. PONTANI. Roma 1974, 191 (“sudditi e tributari”); Procopio di Cesarea, *Le guerre*, trans. M. CRAVERI. Torino 1977, 522 (“sudditi e tributari”); Procopio de Cesarea, *Historia de las Guerras*. Libros V–VI: *Guerra Gótica*, trans. J. A. FLORES RUBIO. Madrid 2006, 363 (“súbditos suyos, sujetos al pago de un tributo”); Procopio di Cesarea, *Le Guerre gotiche*. Libri V e VI, trans. R. MASULLO. Roma 2011, 170 (“sudditi e tributari”); Prokopios, *The Wars of Justinian*, trans. H. B. DEWING, rev. A. KALDELLIS. Indianapolis/Cambridge 2014, 378 (“subject and tributary”).

4 See for instance B. RUBIN, *Das Zeitalter Iustinians*, 2, ed. CAPIZZI. Berlin/New York 1995, 132: “Italien südlich des Po sollte Ostrom steuerpflichtig und untertan werden”; H. U. WIEMER, *Theoderich der Große König der Goten – Herrscher der Römer. Eine Biographie*. München 2018, 604: Vitiges “auf ganz Italien südlich des Po und die Hälfte des ostgotischen Königsschatzes verzichte”. See also CHRYSOS, *Reichsideologie* (as footnote 1 above), 42; P. HEATHER, *The Goths*. Oxford/Cambridge (Mass.) 1996, 266; H. WOLFRAM, *Die Goten. Von den Anfängen bis zur Mitte des sechsten Jahrhunderts. Entwurf einer historischen Ethnographie*. München 2009, 348; G. HEYDEMANN, *The Ostrogothic Kingdom: ideologies and transitions*, in J. J. Arnold/M. S. Bjornlie/K. Sessa (eds.), *A Companion to Ostrogothic Italy*. Leiden/Boston 2016, 37; P. HEATHER, *Rome resurgent. War and empire in the age of Justinian*. Oxford 2018, 178; M. MEIER, *Geschichte der Völkerwanderung. Europa, Asien und Afrika vom 3. bis zum 8. Jahrhundert n. Chr.* München 2019, 814.

5 Procopius, ed. G. DINDORF, 2. Bonn 1833, 266 (trans. MALTRET: “imperator [...] ab omnibus Cispadanis annum vectigal acciperet”); Prokop, *Gothenkrieg*, trans. D. COSTE. Leipzig 1885, 161 (“alles Land diesseits des Po wird ihm tributpflichtig”); Prokop, *Gotenkriege*, trans. O. VEH. München 1966, 421 (“wird ihm alles Land diesseits des Po tributpflichtig”); M. PIERPAOLI, *Da Caio Mario a Rosamunda. Vita e personaggi di Ravenna antica*. Ravenna 1984, 225 (“avrebbe avuta tributaria tutta la regione a sud del fiume stesso”); Procope de Césarée, *Histoire des Goths*, trans. D. ROQUES, 1. Paris 2015, 256 (“celui-ci soumettrait au versement d’un tribut toutes les terres situées en deçà du Pô”).

peoples, towns or lands subject to a political authority,⁶ yet *Bell. Goth.* 2.29.2 is about a specific case, namely a relationship which is primarily based upon taxation. If we take into consideration the occurrences of *κατήκοος* or *ὑπήκοος* in connection with *ἐς ἀπαγωγὴν φόρου* or *ἐς φόρου ἀπαγωγὴν*, we are faced by a more nuanced situation.

The expression *κατήκοος ἐς ἀπαγωγὴν φόρου/ἐς φόρου ἀπαγωγὴν* indicates four times a people or land which is politically subject and tributary to a ruler and once a people who is solely subject to the payment of tribute to another people.⁷ On the other hand, the only other occurrence of *ὑπήκοος ἐς ἀπαγωγὴν φόρου* refers to a tax imposition, and not to a military occupation: the Heruls subjected the Lombards to the payment of tribute (*ὑπήκοα σφισιν ἐς ἀπαγωγὴν φόρου*), but they did not occupy their lands.⁸ A similar wording is to be found in the *Vandalic War*: Attila made both the Western and Eastern Roman Empire “subject to the payment of tribute” (*ἐπακούουσαν ἐς φόρου ἀπαγωγὴν*), although the Huns obviously did not rule over them.⁹ If Procopius had intended to indicate that part of Italy should have become subject and tributary to Justinian, he would have written *κατήκοα ἐς ἀπαγωγὴν φόρου*, as in *Bell. Goth.*

6 The word *κατήκοος* is used by Procopius in different situations. It can describe a nation subject to another (with different degrees of autonomy, see e.g. *Bell. Pers.* 1.10.11, or 1.12.3, *Bell. Vand.* 2.20.33), a town subject to a people (e.g. *Bell. Pers.* 2.5.29, *Bell. Vand.* 1.21.9, *Bell. Goth.* 3.13.9), a region or part of it (e.g. *Bell. Pers.* 2.19.31, *Bell. Vand.* 1.6.8, *Bell. Goth.* 1.5.2), territories once subject to the Roman Empire (*Bell. Goth.* 2.6.28) or groups of Goths after their surrender (*Bell. Goth.* 2.19.17, or 2.27.32). However, *Bell. Pers.* 1.4.35 and *Bell. Goth.* 4.24.4 indicate a different kind of relationship, which is not based on a direct rule, but only on the payment of tribute. Cf. also the Lazi, who were subject to the Empire according to Procopius, but in fact were an independent people, see Proc. *Bell. Pers.* 2.15.2, and G. SARTOR, Les Lazes, des fédérés de l’Empire dans l’œuvre de Procope, in G. GREATREX/S. JANNIARD (eds.), *Le monde de Procope – The world of Procopius. Orient & Méditerranée*, 28. Paris 2018, 263–282, at 276, who investigates “la conception justinienne de la domination impériale sur les *gentes foederatae* qui bien que politiquement indépendantes, étaient assimilées à des sujets (*κατήκοοι*)”. As for the word *ὑπήκοος*, it often means ‘subject’, see *Bell. Pers.* 1.11.8, 1.23.1, 1.24.14; *Bell. Vand.* 1.2.10, 1.6.12, 1.7.14, 1.8.16, 1.9.1, 1.10.8, 1.10.29, 2.12.30, 2.15.27; *Bell. Goth.* 1.1.31, 1.1.39, 1.2.8, 1.6.3, 1.10.32, 1.12.32, 3.9.12. However, there are three significant exceptions: *Bell. Goth.* 1.28.26 (subordinates), 2.14.9 and – as I will argue – 2.29.2.

7 *Bell. Vand.* 2.10.28 (the Romans make the Africans subject and tributary); *Bell. Goth.* 1.5.17 (Sicily is subject and tributary to Justinian), 1.12.12 (part of Gallia becomes subject and tributary to the Visigoths), 3.18.20 (Bruttii and Lucani can become again subject and tributary to the Empire). The exception is *Bell. Pers.* 1.4.35 (the Persians becomes tributary to the Ephthalites, but they are not ruled by them).

8 Proc. *Bell. Goth.* 2.14.9.

9 Proc. *Bell. Vand.* 1.4.29.

1.12.12, where he refers to a part of Gaul which was occupied by the Visigoths,¹⁰ or he would have used other words.

This is also confirmed by Agathias, who writes that the Alamans “were formerly reduced to tribute paying status by Theodoric” (ἐς φόρου ἀπαγωγὴν παρασπασάμενος κατήκοον εἶχε τὸ φύλλον), but after his death the Goths “relaxed their hold upon them and withdrew from many other places”.¹¹ According to Agathias, the Goths received a tribute from the Alamans and at the same time exerted some form of control over their land, a situation which is described by using κατήκοος. On the other hand, Menander Protector reports that khagan Baian ordered a Slav leader “to obey the commands of the Avars and to be numbered among their tributaries” (σφᾶς τε ὑπακούειν κελεύων Ἀβάροις καὶ ἐς φόρου ἀπαγωγὴν ἔσεσθαι ἀναγράφτους), but the Slavs refused, arguing that no enemy had ever conquered their land.¹² Baian did not ask to occupy the territories of the Slavs, but only to receive a tribute from them, hence the verb ὑπακούω together with the expression ἐς φόρου ἀπαγωγὴν. Likewise, Priscus of Panion writes that the Romans agreed to pay a tribute to the Huns and thereby became tributary not only to them but also to the other barbarians who dwelt alongside Roman territory (τοῖς λοιποῖς βαρβάροις τοῖς παρικοῦσι τὴν Ῥωμαίων ὑπακούειν ἐς φόρου ἀπαγωγὴν).¹³ Again, the verb ὑπακούω is followed by the expression ἐς φόρου ἀπαγωγὴν and indicates the payment of tribute, and not the occupation of a territory.

However, one could argue that Procopius’ expression χώρας τε ἄρχειν ἢ ἐκτὸς Πάδου ποταμοῦ ἐστὶ states the loss of any Gothic control of southern and central Italy and therefore indicates that Vitiges should control only northern Italy, thereby implying a direct rule of Justinian over the rest of Italian lands. If this interpretation is correct, then the second part of the sentence should be understood as a mere complementary explanation.

The key to meet this objection is the meaning of ἄρχω. The payment of tribute implied a form of rule over a people, as Procopius makes clear when he deals with the treaties between Ephthalites and Persians, Huns and Romans or Heruls and Lombards, yet such an ἀρχή did not necessarily involve a military occupa-

10 Proc. *Bell. Goth.* 1.12.12: Προϊόντος δὲ χρόνου Οὐσίγιοι τὴν Ῥωμαίων ἀρχὴν βιασάμενοι Ἰσπανίαν τε πᾶσαν καὶ Γαλλίαν τὰ ἐκτὸς Ῥοδανοῦ ποταμοῦ κατήκοα σφίσι ἐς φόρου ἀπαγωγὴν ποιησάμενοι ἔσχον.

11 Agath. *Hist.* 1.6.4 (ed. R. KEYDELL. Berlin 1967; trans. J.D. FRENDO. Berlin/New York 1975, slightly modified).

12 Menand. Prot. fr. 21, ed. R.C. BLOCKLEY. Liverpool 1985.

13 Prisc. Pan. fr. 5.5, ed. P. CAROLLA. *Bibliotheca scriptorum Graecorum et Romanorum Teubneriana*, 2000. Berlin/New York 2008.

tion of the lands belonging to the people paying tribute, as is indicated for instance by *Bell. Pers.* 1.4.35. According to Procopius, the Persians became tributary to the Ephthalites “until Kavad had established his power (ἀρχή) securely and no longer agreed to pay the annual tribute to them. These barbarians, then, ruled (ἥρξαν) over the Persians for two years”.¹⁴ We have here two different *archai* over a people at the same time: that of the natural ruler of the land, Kavad, and that of the people who received the tribute, the Ephthalites, who ruled (Procopius uses the verb ἄρχω) over the kingdom of the Persians without occupying it.

Procopius’ account of this episode shows that the expression χώρας τε ἄρχειν ἢ ἐκτὸς Πάδου ποταμοῦ ἔστι does not exclude a Gothic control over central and southern Italy, since it only implies that Vitiges would be the sole ruler of the territories beyond the river Po, whereas the situation of the other parts of Italy would be different, because they would be tributary (but not necessarily subject) to Justinian, thereby implying a (theoretical) joint rule over them which was similar to the (equally theoretical) joint rule of the Ephthalites and Kavad over the Persians. This reconstruction explains why Procopius did not simply write that Vitiges would have ruled over northern Italy and Justinian over central and southern Italy, but used ἄρχειν for the former lands and the quite cumbersome expression ὑπήκοα ἐς ἀπαγωγὴν φόρου for the latter. He intended to stress the (diplomatically essential) difference between a full sovereignty and a partial, shared sovereignty, which implied at the same time a political subjection to a ruler and another kind of subjection – the payment of tribute – to another one.

This interpretation of the treaty finds confirmation in Totila’s last embassy to Justinian¹⁵. Around 551, the Gothic king tried to negotiate a peace deal with the emperor and wrote that “the Franks had occupied the greater part of Italy, while the rest of it had become for the most part deserted on account of the war. Yet the Goths were willing to withdraw in favor of the Romans from Sicily and Dalmatia, which alone had remained intact, and agreed to pay tribute and taxes for the abandoned land every year” (*Bell. Goth.* 4.24.4: τῆς Ἰταλίας τὰ μὲν πολλὰ κατέλα-

¹⁴ Proc. *Bell. Pers.* 1.4.35 (trans. DEWING/KALDELLIS, as footnote 3 above): τότε δὴ Ἐφθαλίταις κατήκοοι ἐς φόρου ἀπαγωγὴν ἐγένοντο Πέρσαι, ἕως Καβάδης τὴν ἀρχὴν ἰσχυρότατα κρατυνάμενος φόρον αὐτοῖς ἀποφέρειν τὸν ἐπέτειον οὐκέτι ἤξιου. ἥρξαν δὲ Περσῶν οἱ βάρβαροι οὗτοι ἐνιαυτοῦς δύο. Procopius’ account is quite inaccurate, since it does not take into consideration the reign of Balash (484–488), see T. DARYAEE, Sasanian Persia. The rise and fall of an empire. London 2009, 25.

¹⁵ See M. CRISTINI, The diplomacy of Totila (541–552). *Studi Medievali* 61 (2020), 29–48, at 45–47.

βον Φράγγοι, ἡ δὲ λοιπὴ ἔρημος ἀνθρώπων τῷ πολέμῳ ἐπὶ πλεῖστον γεγένηται, Σικελίας δὲ καὶ Δαλματίας, αἴπερ ἀκραιφνεῖς διέμειναν μόναι, Ῥωμαίοις ἐξίστανται Γότθοι, δασμοὺς δὲ καὶ φόρους ὑπὲρ τῆς ἐρήμου ἀποφέρειν ὁμολογοῦσιν ἀνὰ πᾶν ἔτος).¹⁶

Procopius uses two different words in order to refer to the sums of money which the Goths were prepared to give to Justinian, δασμοί and φόροι. The word δασμός occurs nine times in the *Bella* and, excluding the passage in question, refers seven times to a tribute paid by a ruler in order to seal a peace treaty or keep peace, whereas in one case it is part of the description of Armenia, which was oppressed by the taxes paid to Byzantium.¹⁷ Considering that Proc. *Bell. Goth.* 4.24.4 refers to a negotiation between Totila and Justinian, it is likely that the meaning of δασμός is here similar to that of the majority of occurrences, which deal with treaties or agreements between rulers. On the other hand, the word φόροι refers either to the taxes paid by subjects to their ruler or – more generally – to a tribute.¹⁸

The expression δασμοί δὲ καὶ φόροι summarizes an articulated proposal, which takes up the terms that had been offered by previous Gothic rulers.¹⁹ Totila was willing to pay a tribute (it is not specified whether only once or – less likely – annually) to secure peace and he was prepared to give – in whole or in part – the Italian tax revenues to the emperor each year (φόρους ὑπὲρ τῆς ἐρήμου ἀποφέρειν ὁμολογοῦσιν ἀνὰ πᾶν ἔτος). Interestingly, Totila makes a very clear distinction between the lands he is prepared to abandon, namely Sicily and Dalmatia, and his other territories, which are said to be deserted because of the war, but which the Gothic king did not intend to give up. He was only willing to transfer to Byzantium the taxes paid by the (surviving) inhabitants of those lands.

Totila's embassy offers some clues on the nature of the revenues which the emperor should have received from Cispadane Italy eleven years earlier. In all likelihood, Procopius did not refer to a mere tribute. The close connection be-

¹⁶ Trans. DEWING/KALDELLIS.

¹⁷ See Proc. *Bell. Pers.* 2.10.24 (the Romans pay tribute to Chosroes), *Bell. Vand.* 1.4.13 (Geiseric pays tribute to Valentinian III), *Bell. Vand.* 1.4.29 (the emperors of West and East Rome pay tribute to Attila), *Bell. Goth.* 4.15.6, 4.15.16 and 4.15.17, with two occurrences (Justinian pays tribute to Cosroes), and *Bell. Goth.* 3.32.7 (Armenia).

¹⁸ Taxes: see e.g. Proc. *Bell. Pers.* 1.7.35, 1.19.29, 2.3.7; *Bell. Vand.* 1.5.14, 1.10.3; *Bell. Goth.* 3.6.5, 3.13.1. Tribute: see e.g. Proc. *Bell. Pers.* 1.20.1, 2.15.2; *Bell. Vand.* 1.10.26; *Bell. Goth.* 1.12.47.

¹⁹ Apart from the treaty of 540, see also Proc. *Bell. Goth.* 1.6.2 (Theodahad promises to send a golden crown weighing three hundred pounds to Justinian every year) and 2.6.31 (Vitiges' envoys offer a fixed amount of money every year).

tween payment (defined as φόρος, not as δασμός) and lands leads to the conclusion that Justinian aimed to receive – again, it is not clear whether in whole or in part – the tax revenues of southern and central Italy, with the provinces themselves remaining in the hands of the Goths.

One might argue that Vitiges seemed willing to give up southern Italy during the negotiations with Belisarius in 537 and, secondly, that the king was besieged in Ravenna and running out of supplies when Domnicus and Maximinus came to Italy, so it is likely that they were able to reach a deal which was more favorable to Justinian than that of Totila's last embassy, which arrived in Constantinople when the Gothic king still controlled most of Italy.

However, the alleged offer of southern Italy comes from a dialogue between Belisarius and a group of Gothic envoys which is strongly influenced by Procopius' (and Justinian's) view on the war, as is shown by the portrait of Theoderic and the peculiar meaning attributed to the word ἀγνωμοσύνη.²⁰ Procopius' account is doubtless a summary of more complex talks, yet, even if we accept his narrative at face value, he does not report a deal involving the surrender of southern Italy, but a more limited and vague proposal. The Gothic envoys asked Belisarius whether he was prepared to listen to them more carefully if they "said something about Campania or Naples itself" (τι καὶ περὶ Καμπανίας ὑμῖν ἢ Νεαπόλεως αὐτῆς εἴπομεν).²¹ Vitiges' ambassadors were only negotiating about Campania and Naples and were not explicitly promising that the Goths would have ceded them to Constantinople. Before the war, there had been similar talks about Lilybaeum.²² Justinian was above all interested in harbors for his fleet, therefore Vitiges was perhaps prepared to give (or lend) Naples and its hinterland to the Empire, but it is equally possible that this vague proposal was only aimed at starting serious negotiations. In any case, the envoys mentioned neither the whole of southern Italy nor – at least explicitly – a surrender of Campania.

As far as Ravenna's siege is concerned, it is beyond doubt that Vitiges was in a hopeless position when Domnicus and Maximinus reached him, but the terms of the treaty had been fixed months earlier in Constantinople. At that time, Vitiges was not besieged in Ravenna and the Goths had just reconquered Milan with the help of the Burgundians, so the Empire could not impose a Carthagi-

²⁰ See M. CRISTINI, Theoderic's ἀγνωμοσύνη and Herodotus' Getae (Procop. *Goth.* 2.6.24). *GRBS* 59 (2019), 287–294. On Procopius' portrait of Theoderic, see A. GOLTZ, Barbar – König – Tyrann: Das Bild Theoderichs des Großen in der Überlieferung des 5. bis 9. Jahrhunderts. *Millennium Studies*, 12. Berlin/New York 2008, 241–244.

²¹ Proc. *Bell. Goth.* 2.6.30.

²² Proc. *Bell. Goth.* 1.3.15–27. On this city, see E. CALIRI, Lilibeo tra Vandali, Goti e Bizantini. *Mediterraneo Antico* 10 (2007), 1–16; I. GELARDA, Lilibeo e i Vandali. *JÖB* 61 (2011), 135–146.

nian peace. The deal of 540 was an excellent compromise, since Justinian urgently needed soldiers and financial resources to fight against the Persians and a permanent occupation of Italy would have been at the same time expensive and burdensome. On the other hand, Totila's prospects looked bleak in 551, as the emperor had already refused at least twice to start negotiations with him and was assembling an army with the aim of crushing the Goths once and for all; therefore, it is hardly surprising that Totila was prepared to give up the tax revenues of the whole of Italy, whereas his predecessor should have kept the taxes paid by the inhabitants of Transpadane Italy.

The settlement outlined by Procopius was not unprecedented. Similar treaties had already been signed during the fifth century, for instance with the Visigoths, the Vandals, and the Ostrogoths. When the Empire was unable or unwilling to reconquer a land, it was customary to grant its possession to the people who had occupied it. In turn, the emperor might receive a sum of money from them, as was the case with the Vandals, who in 442 agreed to pay tribute every year in exchange for his recognition of their rule over Carthage.²³ Likewise, Odoacer obtained Sicily from the Vandals in 476 by agreeing to pay tribute to them (*tributario iure*).²⁴ Of course, Procopius reports that Justinian should have received the tax revenues of southern and central Italy, whereas the Vandals and Odoacer payed a tribute, yet our sources are seldom interested in the exact nature of these tributes, which could have come directly from the taxes paid by the inhabitants of Africa or Sicily.

There is one last objection to the reconstruction outlined so far. At the beginning of *Bell. Goth.* 3, Procopius reports that in 541 the Rugians, who lived in Italy together with the Goths, proclaimed king a certain Erarich, who sent envoys to Justinian in order “to beg him to make peace with them on the same terms on which he had previously been willing to conclude a treaty with Vitiges, namely that the Goths would hold the territory north of the Po and withdraw from the rest of Italy” (*Proc. Bell. Goth.* 3.2.15: δεησομένους ἐφ’ ᾧ εἰρήνην πρὸς αὐτοὺς θήσεται, ἐφ’ οἷσπερ Οὐιττίγιτι τὰ πρότερα σπένδεσθαι ἤθελεν· ὥστε τὰ ἐκτὸς Πάδου ποταμοῦ Γότθους ἔχοντας ἀπαλλάσσεσθαι Ἰταλίας τῆς ἄλλης).²⁵

²³ *Proc. Bell. Vand.* 1.4.13. See R. STEINACHER, *Die Vandalen. Aufstieg und Fall eines Barbarenreichs*. Stuttgart 2016, 142–146; U. ROBERTO, *Il secolo dei Vandali. Storia di un’integrazione fallita*. Palermo 2020, 90–92.

²⁴ *Vict. Vit.* 1.14. See F.M. CLOVER, A game of bluff: the fate of Sicily after A.D. 476. *Historia* 48 (1999), 235–244; E. CALIRI, *Præcellentissimus rex*. Odoacre tra storia e storiografia. *Pelorias*, 25. Roma 2017, 93–105.

²⁵ Trans. DEWING/KALDELLIS. On Erarich, see *PLRE* 3, 447–448 (Erarichus).

This passage has until now been considered as a confirmation of the previous account of the negotiations, but the meaning of *Bell. Goth.* 2.29.2 is quite different, as we have seen. We are therefore faced with two dissimilar interpretations of the embassy of 540 and should establish which one is more trustworthy. Procopius accompanied Belisarius from 536 until the conquest of Ravenna:²⁶ he possibly took part in the negotiations of 540 or at least listened to Domnicus and Maximinus when they conferred with the general. He returned to Constantinople after Vitiges' surrender and his account of the aftermath of Ravenna's fall is much more confused and unreliable than his information about previous events, since he was no longer an eyewitness of the war in Italy, nor had he direct access – as far as we know – to Justinian's court.²⁷ The former version of the treaty is therefore based upon his personal experience, the latter upon rumors or second-hand information.

In addition, the last part of Procopius' second account (ὥστε ... ἄλλης) looks like a later interpolation, possibly written by a scribe who misinterpreted the previous passage,²⁸ as is indicated by the verb ἀπαλλάσσεσθαι. The provision according to which the Goths should withdraw/depart from all territories south of the river Po is at odds with both the situation of 540/541 and the treaty accepted by Vitiges, which did not require the Goths to leave their homes. If we accept the traditional interpretation of it, most of Italy should have simply become subject and tributary to Justinian: there is no mention of an impracticable 'ethnic

26 On the biography of Procopius, see AV. CAMERON, *Procopius and the sixth century*. London 1985, 3–15; more recently, W. TREADGOLD, *The early Byzantine historians*. New York 2007, 176–199.

27 On Procopius' sources, see I. COLVIN, Reporting battles and understanding campaigns in Procopius and Agathias: classicising historians' use of archived documents as sources, in A. Sarantis/N. Christie (eds.), *War and warfare in late antiquity. Late Antique Archaeology*, 8. Leiden/Boston 2013, 571–597; D. BRODKA, Prokop von Kaisareia und seine Informanten. *Historia* 65 (2016), 108–124. M. HENRY, Procope en Italie: les notices sur le Vésuve. *Historia* 57 (2008), 317–326, argues that Procopius came back to Italy around 552, but I remain unconvinced. Procopius draws upon Germanic myths in order to be able to enrich his otherwise scanty account of Hildibad's and Erarich's reigns, see for instance *Bell. Goth.* 3.1.37–41 and the famous *Streit der Königinnen in Nibelungenlied*, av. 14 (cf. *Snorra Edda, Skáldskaparmál* 41; *Völunga saga* 30), with the remarks of N. FRANCOVICH ONESTI, La 'disputa delle regine' e Procopio di Cesarea, in M.G. Arcamone/M. Battaglia (eds.), *La tradizione nibelungico-volsungica. Atti del XXXVI Convegno dell'Associazione Italiana di Filologia Germanica* (Pisa 4–6 giugno 2009). Pisa 2011, 135–156.

28 Interpolations in Procopius' manuscripts are by no means uncommon, see M. KALLI, The manuscript tradition of Procopius' Gothic War. *Beiträge zur Altertumskunde*, 25. München/Leipzig 2004, 61–63, 126–129.

cleansing'. Many Goths lived in central Italy and around Ravenna in 540;²⁹ forcing them to leave their homes would have been both dangerous and pointless, since they could have become *foederati* of the Empire. Moreover, several Goths were landowners, therefore expelling them from their lands would have proved quite self-defeating if the emperor intended to collect taxes from Italy.³⁰

The source of this contradiction is likely to be the very end of Procopius' *Wars*, namely *Bell. Goth.* 4.35.36, where we read that after the fateful battle of Mons Lactarius (more than a decade later) the few surviving Goths signed a treaty according to which they "would depart immediately from all of Italy" (ἐκ πάσης ἀπαλλάσσονται Ἰταλίας εὐθύς). The conclusion of the Gothic War possibly induced a scribe to use the verb ἀπαλλάσσω in order to (erroneously) clarify a previous passage about another treaty which should have put an end to the hostilities. It is extremely unlikely that Procopius is the author of the gloss ὥστε ... ἄλλης, since he was doubtless aware that the treaty of 540 (however we interpret it) was about taxes and / or sovereignty, not about a forced migration of Goths.

Even if Procopius were the author of these words – which I seriously doubt – we would still need to explain the contradiction between them and *Bell. Goth.* 2.29.2. The first account of the embassy of Domnicus and Maximinus mentions neither a surrender of the Italian regions south of the river Po nor an exodus of the Goths living there, but refers only to the payment of the taxes collected in those lands, and it is consistent with previous, similar treaties and following negotiations, and therefore the burden of the proof lies with those who accept *Bell. Goth.* 3.2.15 at face value.

If this reconstruction is correct, then Procopius' passage about the treaty of 540, together with Totila's last embassy, could offer a small contribution to the ongoing debate about the so-called 'techniques of accommodation',³¹ since it in-

29 See C. AZZARA, I Goti nell'Italia settentrionale, in M. Buora / L. Villa (eds.), *Goti nell'arco alpino orientale. Archeologia di frontiera*, 5. Udine/Trieste 2006, 9–18, at 10–12; P. PORENA, L'insediamento degli Ostrogoti in Italia. *Saggi di storia antica*, 33. Roma 2012, 108–109.

30 See for instance the case of Ranilo, a Gothic woman who donated part of her properties (which were located in Urbino and Lucca, i.e. south of the river Po) to the church of Ravenna in 553, see J.O. TjÄDER, Die nichtliterarischen lateinischen Papyri Italiens aus der Zeit 445–700, 1. Uppsala 1955, 300–308 (*P.Ital.* 13).

31 I obviously refer to W. GOFFART, *Barbarians and Romans, A.D. 418–584. The techniques of accommodation*. Princeton 1980, and W. GOFFART, *Barbarian tides. The migration age and the later Roman empire*. Philadelphia 2006, 119–186. Goffart's hypothesis has been much debated during the last few decades, for a summary of the criticism see G. HALSALL, The technique of Barbarian settlement in the fifth century. A reply to Walter Goffart. *Journal of Late Antiquity* 3 (2010) 99–112.

dicates that the Goths were willing to collect taxes for the emperor while at the same time exercising a factual sovereignty over the whole of Italy. Perhaps the emperor, while pondering on this proposal, had in mind the practice according to which tax proceeds and not landed property were sometimes awarded to individual barbarians in the West. With due caution and keeping in mind the obvious differences, Justinian could be compared with a barbarian settler, since both exercised only a nominal power over lands that remained in the hands of previous rulers / proprietors, who had only to collect (part of) the tax revenues and send them to their imperial / barbarian overlord.

In conclusion, a partition of Italy into two areas, one located south of the river Po and controlled by Justinian and the other located north of the Po and controlled by the Goths, was never taken into consideration in 540. The river Po is quite easy to cross and such a peace deal would have forced the Empire to patrol a border 650 km long, not to mention the necessity of garrisoning the most important Italian towns and the Alpine passes leading to southern Gaul. Justinian did not have enough soldiers to defend Italy, Africa, the Balkans, Lazica and Mesopotamia, and therefore he decided to leave the Italian provinces (with the possible exception of Sicily) to Vitiges and receive in return part of the tax revenues of the Gothic Kingdom, a solution which would have enabled both the Goths and the Empire to be better prepared for the challenges awaiting them in following decades.

