

The Case of the Missing Ban: Cadaver Dissection in Roman Law

It is a truth, universally acknowledged, that there was no *systematic* dissection of human cadavers performed under the Roman Empire. This phrase—“no systematic dissection”—pops up in documentaries (Ralph Jackson makes the claim in the History Channel documentary *Galen: Doctor to the Gladiators*), monographs (eg. Nutton 2013, 77, 141, 237; Mattern 2013, 284), and the internet. This claim is supported by the evidence as far as it goes; certainly there was no large-scale trade in cadavers or regular use of human bodies in medical education. The puzzling misunderstandings in Galen’s *Anatomical Procedures* are regularly and rightly attributed to his reliance on animal dissection, and where there are references to the possibility of cadaver dissection, there is a reticence that understandably suggests that there was some reason outside of medical practice discouraging physicians from openly practicing dissection.

In search of this reason, some have assumed a legal prohibition that made cadaver dissection actionable. Indeed, a casual perusal of various internet sources turns up a claim that Rome forbade the practice of human cadaver dissection in 150 BCE, a convincingly concrete claim supported by a footnote from Aufderheide’s *The Scientific Study of Mummies*, which informs us that “Tragically, the prohibition of human dissection by Rome in 150 BC arrested this progress and few of [Herophilus and Erisistratus’] findings survived,” (Aufderheide 2003, 5). On examination, Aufederheide’s claim misreads a discussion of human vivisection in Ptolemaic Alexandria; the phantom Roman law is actually Ptolemy VII’s 150 BCE expulsion of intellectuals from the Mouseion, and has nothing to do with law or Rome (Lyons et al. 1987, 399). However, this leaves open the question of how and to what extent Roman law played a role in dissuading doctors from dissecting human cadavers.

First, there is good evidence for non-systematic human cadaver dissection, and even what Maud Gleason has dubbed opportunistic vivisection (*Anatomical Procedures* 3.5, K386-7, Gleason 2009). Indeed, nowhere in Galen's various discussions of the practical challenges facing the anatomist do legal considerations arise. The closest we come to a discussion of prohibitions against cadaver dissection is, in some ways, a lack of discussion: Celsus bypasses the issues of cadaver dissection to discuss the ethics of human vivisection, a problem to which he never proposes a legal solution (*De Medicina* proem., Nutton 2013, 139–42).

This dearth of formal protections for dead bodies extends to the surviving corpus of Roman law. D.48.20-3 discusses the disposition of the property of the condemned, and D.48.24 goes on to discuss the right of relatives to claim and bury the body of executed relatives, but nothing is said about the bodies of unclaimed prisoners or those buried without formal rites. For grave robbing, some protections do apply, but Galen's unapologetic theft of a human skeleton in *Anatomical Procedures* 1.2 suggests that such laws were only as good as the relatives willing to enforce them (For grave-robbing laws cf. Cic. Leg. 2.55; Pliny Ep. 10.689; The Nazareth Inscription; Metzger 1980; Ulpian D.1.8.9.2). Indeed, the overall impression Galen gives is that bodies could be used without apology so long as they were the right kind of bodies (*Anatomical Procedures* 1.2, 3.5); furthermore, some evidence does exist suggesting that Lycus of Macedon, a contemporary of Galen, did indeed carry out dissections worthy, in Nutton's estimation, of the elusive label "systematic," (Nutton 2013, 220).

This leads, finally, to the serious gap in Roman Law between statute and practice. As has been observed by others, Rome's reliance on self-help and private prosecution made it unlikely that all graves could rely on legal protection (For the challenges of the self-help system see Riggsby 2010, 68–76). When it comes to the practice of human dissection in the Roman world,

social stigma largely accounts for the reluctance of ancient medical authors to practice of human cadaver dissection rather than any ironclad and suspiciously effective ban; modern scholars should therefore resist the urge to assume that all controls on ancient medical practice were legal.

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