Cartagine. Studi e Ricerche, 11 (2026)
Rivista della Scuola Archeologica Italiana di Cartagine
http://ojs.unica.it/index.php/caster/index
ISSN 2532-1110; DOI: 10.13125/caster/6946

Sezione: *Saggi e studi*
Articolo presentato il 30/01/2026
Accettato in data 07/07/2026
Pubblicato in data 23/11/2026

The *lex agraria* of 111 BC and the Provincialisation of *Africa**

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Introduction

The shifting interpretive landscape regarding Roman expansionism since the turn of the century has prompted a comprehensive reassessment of the rigid categorisations long thought to define the Roman imperial model. This shift largely reflects the integration of postcolonial theory into broader historiographical discourse, particularly concerning the final two centuries of the *res publica* – the formative period for the first extra-Italian provinces.

Contemporary scholarship on *Africa* still frequently anchors the beginning of Roman territorial control in 146 BC, a milestone traditionally identified with three distinct events: the conclusion of the Third Punic War, the destruction of Carthage, and the formal constitution of the *provincia Africa*[1]. The evidence for the first two is indisputable. The third, however, is a claim of a different order, for it presupposes that there was, in 146, something to constitute. In the original sense of the term there was not: *Africa* is attested as the *provincia* of a Roman magistrate as early as 218 BC, when the consul Ti. Sempronius Longus received *Africa cum Sicilia* in the context of the Second Punic War, and again in the closing years of that conflict[2]. In this sense nothing was created in 146; *Africa* had long been assignable as a *provincia*, and what changed after the destruction of Carthage was the regularity with which it was assigned. In the later, territorial sense of the term, on the other hand, no source records a constitutive act of any kind. Posed as a question about a founding date, the question of the 'creation' of the *provincia Africa* is therefore badly put.

* I am grateful to the anonymous reviewers, whose careful and constructive comments have substantially improved this article. Any remaining errors are, of course, my own.

[1] The position maintaining that 146 BC remains the date of the provincialisation of Africa in the later sense is still rather widely held in the literature. However, the number of scholars who question this thesis has considerably increased; among them, Crawley Quinn (2004), 1593-1602; Richardson (2011), 467-482; Gargola (2017), 331-361; Díaz Fernández (2021), 50-53.

[2] Liv. 21.17.1 (*Sempronio Africa cum Sicilia evenit*); also Liv. 28.40.1, on the designation of *Africa* as a *provincia* for P. Cornelius Scipio. See Díaz Fernández (2021), 50.

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It will accordingly be useful to fix the vocabulary at the outset. In what follows, *provincia* denotes the Latin term in its Republican sense: a task assigned to a magistrate, and hence the sphere of responsibility within which his *imperium* was to be exercised. 'Province' denotes the concept according to modern languages: a territorially bounded administrative entity, placed under a regular magistrate and subject to Roman jurisdictional and fiscal arrangements. 'Provincialisation', finally, denotes the gradual and uneven process by which a *provincia*, once it had been made permanent, came to coincide in practice with a province – a process, not an event, which no source describes as accomplished anywhere by a single act. The convention, and the substance of the distinction, follow the recent discussion of Díaz Fernández, whose examination of the Republican evidence has shown that the Romans themselves never operated with two institutionally distinct kinds of *provincia*, and that the procedures conventionally invoked to mark the 'constitution' of a province – the senatorial commission, the *lex provinciae*, the *redactio in formam provinciae* – correspond to nothing the sources describe[3].

Within this framework lies the argument of the present paper. That a *provincia Africa* existed is not contested here; however, the African section of the epigraphic *lex agraria* of 111 BC, the first surviving *lex publica* to regulate matters directly relating to this territory, shows that the provincialisation of *Africa* was still in course a generation after the destruction of Carthage: the law designates the territory in consistently geographical terms, entrusts the settlement of the African land regime to specially appointed *duumviri*, and nowhere presupposes a province in the later sense. Moreover, as a hypothetical interpretative model rather than as a reconstruction attested by any single source, the paper suggests that the consolidation of the *provincia Africa* into a province finds its most plausible context in the aftermath of the Jugurthine War, when sustained military engagement gave the Roman presence in Africa a continuity it had previously lacked.

The discussion proceeds as follows. It opens by retracing the evolution of the terminology surrounding *provinciae* and the literary tradition concerning the early phases of Roman involvement in Africa, in order to show how far the conventional picture of 146 depends on the retrospective vocabulary of later authors. It then turns to the *lex agraria* itself and to the African land regime that the law presupposes, closing with a consideration of the local level.

Terminology and Conceptual Evolution

The sense of *provincia* as a task assigned is the earliest attested: it underlies the comic usage of Plautus and Terence, and it remained ordinary in the Latin of Cicero, who could still speak of a *provincia* with no territorial reference whatever[4]. It denoted the sphere within which a magistrate – typically one *cum imperio*, often generically termed a *praetor* in the early stages – exercised his authority. Conventionally, this power was exercised over a territory, usually newly conquered, defined geographically by the peoples or communities residing within it. It was, therefore, a spatially defined assignment that remained tied to the magistrate personally rather than to the land itself for a considerable time. The territorial and administrative sense of province – a concrete manifestation of the so-called 'language of dominion' resulting from the refinement of the concept of *imperium (populi Romani)*[5] – did not so much replace this earlier usage. Rather, it grew up alongside it as Roman commands became permanent, with-

[3] Díaz Fernández (2021), 46-53, building on Freeman (1998); cf. Quinn (2004), 1596. On the semantics of *provincia*, Richardson (2008), 12-62; Drogula (2015), 131-142. Partially *contra* Ferrary (2008) and (2010).

[4] *S.v. provincia* in OLD, 2012², 1657-1658. Furthermore, Rafferty (2023), 55-79.

[5] Regarding *imperium*, Clemente (1990), 235-266; Lintott (1993); Kallet-Marx (1996); Richardson (2008).

out ever displacing it[6]. It follows that territorial or quasi-territorial language, where it occurs before the end of the second century, is not in itself evidence of a province.

Two institutional expressions have traditionally been treated as the instruments by which a *provincia* was converted into a province. The first is the *lex provinciae*[7]: the *leges provinciarum* were likely composite and locally varied measures through which the presiding magistrate established tax frameworks, collection rules, the limits of local jurisdictional authority (*iuris dictio*), and other administrative details. Importantly, these measures were not essential for the creation of a *provincia*, and are nowhere attested as constitutive acts. The second is the expression *redactio in form(ul)am provinciae*[8]. While the phrase implies 'converting a territory into a province' or 'imposing a provincial order', it is increasingly difficult to maintain the long-held view that the *form(ul)a provinciae* was a specific written document[9]; at most it comprised a catalogue of the cities and communities forming the magistrate's *provincia*, defining its extent and geographical boundaries – the concrete *forma* or *formula* – as a secondary effect[10].

The Literary Tradition: A Critical Re-evaluation

The literary sources commonly cited to support the 146 BC dating are works by Appian, Velleius Paterculus, Strabo, and Sallust. The purpose of what follows is not to disqualify these testimonies, but to separate two things that the conventional reading conflates: the vocabulary in which each author describes the transition of *Africa* into Roman hands — which is, demonstrably, the administrative vocabulary of his own era — and the substance of the information he transmits, which may well derive from older, and in part annalistic, tradition. The former cannot be pressed as evidence for the institutional character of the Roman presence in 146; the latter is not thereby impugned.

The most influential testimony is found in Appian's *Historia Romana* (Ῥωμαϊκά), composed around 160 AD. Describing the aftermath of Carthage's destruction at the end of the eighth book, Appian records the Senate's decision to dispatch ten commissioners to assist Scipio Aemilianus[11]. Their mandate was twofold: to oversee the final destruction of the remains of Carthage and its allied cities, and to reorganise the regional landscape by distributing lands to those cities that had sided with Rome (most notably Utica), while simultaneously imposing tributes on both land and individuals[12]. Crucially, Appian also mentions the subsequent appointment of an 'annual' magistrate (στρατηγὸν ἐτήσιον). Traditionally, scholarship

[6] On the evolution of the term Nicolet (1989), 229-231. Partially *contra* Bertrand (1989), 191-215, who argues that the term possessed a geographical connotation from the outset.

[7] For instance, the *lex Rupilia* in Cic., *Verr.*, 2.2.32 and 2.2.37-39, and the *lex Pompeia* concerning Bithynia in Dio. Cass., 37.20.3.

[8] Caes., *BGall.*, 1.45.2 and 7.77.16, where the expression is first attested. Suet., *Iul.*, 25.1; *Aug.*, 18.2; *Tib.*, 37.4. Tac., *Agr.*, 14; *Ann.*, 14.31. On the evolution of the expression's usage, Kallet-Marx (1996), 18-24 and Richardson (2008), 26-27, 150-151.

[9] Detlefsen (1908), 63-104.

[10] Hoyos (1973), 47-53; Laffi (1992), 5-23; Rafferty (2019); Díaz Fernández A. (2021). Most recently, on the *formulae provinciarum*, see Sisani (2023), 145-220, who argues, based on lexical analysis, that the phrase *formula provinciae* understood as a cadastral document is likely a modern invention unsupported by the sources.

[11] App., *Pun.*, 135.

[12] It also appears reasonable to maintain that this imposition, rather than an element functional to provincial administration, should be considered a simple war indemnity, according to Cic., *Verr.*, 2.3.12. In this regard, see Crawley Quinn (2004), 1596-1597 and, with reference to the eastern provinces, Kallet-Marx, (1996), 49 n. 28.

has equated στρατηγὸς ἐτήσιος with a provincial governor on a fixed annual tenure, thereby validating the formal existence of the province from 146 BC. However, this interpretation is fragile. As has been correctly noted, the use of the adjective ἐτήσιος should not be understood in a strictly technical sense, especially regarding the period to which it refers[13]. An analysis of Appian's usage elsewhere in his work suggests that, rather than a literal interpretation, the expression στρατηγὸς ἐτήσιος was intended to denote an individual holding an ordinary magistracy, rather than a governor assigned to a permanent, territorial provincial post. There is no need, however, to conclude that the notice is worthless. The measures Appian attributes to the commission are consistent with the settlement practices attested elsewhere in the second century; they may well rest on an annalistic source. What cannot be retained is the institutional frame: read without the vocabulary of the Principate, what Appian describes is a decision to make the African *provincia* recurrent – the inception of a continuing Roman presence and sphere of command – not the birth of a province[14].

Similarly, the account provided by Velleius Paterculus in his *Historiae Romanae*, composed between 29 and 30 AD, requires careful contextualisation. In the second book, Velleius aims to catalogue the nations reduced to the form of a province (*in formulam provinciae redegit*), explicitly stating that Africa was so ordered by Scipio Aemilianus[15]. This passage has often been read in conjunction with Appian's later testimony to confirm the creation of the province in 146 BC. However, terminological analysis reveals a significant anachronism: the concept of *redactio in formulam provinciae* represents a technical development whose usage is not attested before the first century BC. Just as with Appian, Velleius appears to project the administrative concepts established in his own time back onto the mid-second century BC; and here too it is the frame, not the fact, that must be set aside. The fact that the settlement of 146 placed the former Carthaginian territory under Roman control is not in question; that it did so *in formulam provinciae* is Velleius' vocabulary, not the second century's.

Strabo's *Geography* (Γεωγραφικά), dated between 17 and 23 AD, offers a parallel yet distinct perspective. In recounting the history of Carthage in the seventeenth book, Strabo asserts that following the city's destruction, the Romans declared the territory a province (ἐπαρχίαν ἀπέδειξαν)[16]. While this testimony has traditionally been aligned with Appian and Velleius to support the 146 BC dating, a closer examination reveals a crucial distinction. Unlike Velleius, who employs a technical framework reflecting the administrative units of the Principate, Strabo uses ἐπαρχία (the Greek equivalent of *provincia*) in a more general sense: the term refers to a geographical region defined by its previous subjection to a defeated enemy, rather than a formally constituted administrative district. Strabo's usage, in other words, sits closer to the Republican *provincia* than to the province of his own day – and to that extent his testimony fits the reconstruction proposed here rather than the traditional one.

Finally, we must consider the testimony closest to the events in question: Sallust's *Bellum Iugurthinum*, composed around 40 BC. Sallust possessed direct experience of the region as governor of *Africa Nova* (46-45 BC), yet the relevance of his work to the existence of the *provincia* in the late second century remains a subject of debate. It is true that the *Bellum*

[13] Gargola (2017), 336-340, following in part Luce (1961), 21-28.

[14] Díaz Fernández (2021), Quinn (2004), 1596. Yet the conclusion that Africa became a permanent *provincia* from 146 onwards remains a weak one if it rests upon this single retrospective sentence of Appian, for the criterion of an unbroken succession of commanders in Africa between 146 and the outbreak of the Jugurthine War is not documented by the surviving record.

[15] Vell. Pat., 2.38.1-2.

[16] Strabo, 17.3.15.

Iugurthinum is a literary work with moral and political aims, and that an institutional description of Africa is not to be expected from it; and no argument is built here on what Sallust fails to say[17]. However, Sallust does make one statement that bears directly on the question, and that must be confronted. Surveying the geography of Africa at the outset of the war, he notes that the Roman people administered through its magistrates most of the Punic towns and the territory that the Carthaginians had lately held[18]. Read with the distinctions drawn above, such a statement attests Roman administrative control over the former Carthaginian *fines*, exercised *per magistratus* with no territorial title, no resident governor, and no provincial designation; in other words, it does not justify its understanding as a description of a province in the later sense[19].

For the duration of the Jugurthine War (111-105 BC), Sallust mentions only *consules* invested with military commands – L. Calpurnius Bestia[20], Sp. Postumius Albinus[21], Q. Caecilius Metellus (Numidicus)[22], and C. Marius[23], alongside L. Cornelius Sulla serving as *quaestor*[24]. In itself, this proves little: during a major war, ordinary administration is regularly eclipsed by consular command[25]. What is telling is not the prevalence of consuls between 111 and 105, but the record on either side of it: for the thirty-five years before the war no commander in *Africa* is securely attested; and the first evidence of a regular succession of non-consular magistrates appears only in 88 BC, when the repercussions of the civil war between Marius and Sulla reached *Africa* and we encounter a *praetor* Sestius (or Sestilius) stationed at Utica[26]. On the criterion adopted above – recurrent assignment and presence on the ground – the documented record thus begins to satisfy the conditions of permanence only around the turn of the century.

This interpretation is consistent with the profound impact the war against Jugurtha may plausibly be assumed to have exerted on Rome's political and strategic choices. The stabilisation of a provincial organisation can be viewed as an institutional response to the regional turbulence that had precipitated the conflict: a permanent and entrenched presence would have served as a more effective deterrent than the sporadic dispatch of extraordinary commanders.

It is, therefore, reasonable to regard the Jugurthine War as the decisive turning point for the conceptual evolution of *imperium* and, consequently, of the *provincia*. It is perhaps no coincidence that the *lex de provinciis praetoriis* – a document of central importance for the consolidation of provincial frameworks in general, and one clearly shaped by Roman anxiet-

[17] Recently Santangelo (2024).

[18] Sall., *Iug.*, 19.7.

[19] Gargola (2017), 347. It is significant that an author who governed an African province when it was properly organised as such did not describe the Africa of Jugurtha in the terms of his own experience. Moreover, considering that he elsewhere uses *provincia* of regions and spheres of command. See Sall., *Iug.*, 13.4; 25.5; 25.10; 39.4; 44.4; 61.2.

[20] Sall., *Iug.*, 27-28; *et passim*.

[21] Sall., *Iug.*, 35-36; *et passim*.

[22] Sall., *Iug.*, 43-44; *et passim*.

[23] Sall., *Iug.*, 57; 65; *et passim*.

[24] Sall., *Iug.*, 96; *et passim*.

[25] One clear example could be Sicily during the servile wars, on which Brennan (1993).

[26] There are doubts regarding L. Marcius Philippus, accused of malversation during his tenure as *praetor* in Africa in 96 BC, on which Alexander (1990), 46-47. After Sestius/Sestilius, he was succeeded by Q. Caecilius Metellus Pius, C. Fabius Hadrianus, and Cn. Pompeius Magnus, the latter between 82 and 79 BC. See, in general, Broughton (1951), 540-578 and Broughton (1952), 1-39. See Plut. *Mar.* 40.3-4; App. *BCiv.* 1.62 on Sestius/Sestilius.

ies of the kind Jugurtha had embodied – dates to these very years[27]. By 88 BC, on any reckoning, the provincialisation of Africa was substantially complete. The sources do not permit us to fix a starting point for this final phase, and no single constitutive act is to be sought, for none is recorded and none is required by the model adopted here. What may be proposed, as a hypothesis, is that the consolidation of the *provincia Africa* into a province is best placed in the aftermath of the war, perhaps within the window between 105 and 88 BC. The claim is therefore that the decisive phase of the gradual process of the *provincia Africa* belongs, on the surviving evidence, to these years.

The Epigraphic Evidence: The *lex agraria* of 111 BC

Analysis of the epigraphic *lex agraria* of 111 BC provides the most compelling documentary evidence for this interpretation[28]. The section specifically dedicated to *Africa* (lines 43-93) offers a detailed legal framework for the reorganisation of land following the abrogation of the *lex Rubria* in 121 BC[29]. Central to this process was the appointment of *duumviri* specifically tasked with clarifying the legal status of African land[30]. Their duties were extensive:

[27] *Contra* Gargola (2017), 359-360, who expresses doubts about the ordinary nature of the assignment of the *praetor* Sestius/Sestilius, suggesting that the situation may only have stabilised from Pompey onwards. However, Gargola's arguments do not appear decisive enough to exclude the magistrates present in Africa between 88 and 82 BC from the count of regular officials. On the *lex de provinciis praetoriis*, Crawford (1996), 231-270; Braga (2014).

[28] The text survives in twelve fragments, preserved on the *verso* of the so-called *tabula Bembina*, whose *recto* carries a Gracchan-era *lex repetundarum*; two fragments (Ab, E) were lost before Rudorff's first comprehensive edition of 1839, and a twelfth (F) was recovered only in 1873/4. For the history of the fragments and of the earlier editions – from Rudorff and Klenze to Mommsen, whose text remained standard for over a century – see the accounts in Lintott (1992), 66-70. While Mommsen's vertical alignment of the fragments is definitive, their horizontal spacing – and hence the length of the lacunae and the scope for restoration – has divided the modern editions by Lintott (1992); Crawford (1996); in part Sisani (2015): the arrangement followed here is Crawford's, which established the contiguity of block B with D+F and of block A with E+C, as refined by Sisani (2015), 37, who has plausibly argued that the inscription comprised three separate plates, the surviving fragments belonging to the central and right-hand ones. Peyras (2015; 2023) offers a concise edition with French translation, following Johannsen and, above all, Crawford in its restorations.

[29] The delimitation of the African section is itself debated, at both ends. Its beginning was placed at l. 43 by Rudorff, at l. 45 by Mommsen – who referred the intervening matter to the *ager privatus ex iure Quiritium* of the *colonia Iunonia* – and at mid-l. 44 by Johannsen (1971); Lintott (1992) treated ll. 43-48 as an independent section concerning land neither in Italy nor in Africa, while conceding that their language resembles the African provisions, and Crawford (1996) declined to reconstruct a continuous sense for ll. 43-52. More recently, De Ligt (2001), on the strength of close verbal parallels between ll. 43-48 and ll. 57-66, Sisani (2015) and Peyras (2015) have returned, by different routes, to Rudorff's view that the section opens at l. 43 – diverging, however, on the *lex Baebia* which the law itself mentions at that line: for De Ligt a colonial law *extra Italiam* but not for Africa; for Sisani a plebiscite of 119-112 BC under which M. Baebius, as *tresvir coloniae deducendae*, resumed the African assignments left unsettled by the repeal of the *lex Rubria*; for Peyras the epigraphic law itself, its proposer identified with the C. Baebius attested as tribune for 111 – a solution difficult to accept, if only because a statute would hardly first name its own proposer at so late a point, and with reference to two of its sections only. As for the end: Mommsen, followed by Hinrichs (1966), 290, Johannsen (1971), 395-396, Sacchi (2006), 496-501 and Peyras (2015), 135-136, assigned ll. 91-95 wholly to Africa; Lintott, followed with reservations by Crawford, De Ligt and Sisani, closed the section at l. 93, possibly already at l. 91. The delimitation adopted here – ll. 43-93 – follows Sisani at both ends: ll. 93-94 (assignments consequent upon a *senatus consultum*) and l. 95 (the harvest of 111 BC) are best referred elsewhere, while De Ligt's exclusion of ll. 91-93 would leave the Corinthian section to open, unusually, *in medias res*. Nothing in the argument advanced here turns on these placements.

[30] *CIL* I, 200 and *CIL* XI, 364a = *CIL* I², 585. The reference edition for the text is the critical one published

they were charged with clarifying the status of land tenure by requiring the colonists present on the territory to formally declare their situation[31]; with completing or rectifying the allotments originally envisaged by the *lex coloniaria*[32]; with regularising – through restitutions and compensations – any alienations or purchases made in the interval between the *lex Rubria* and 111 BC[33]; with establishing exceptions to the regulations just set out[34]; and, finally, with registering the lands excluded from the aforementioned categories as *ager publicus*, thereby subjecting them to the relevant legal regime[35].

What may legitimately be inferred from these *duumviri* requires careful statement, for extraordinary commissions and ordinary magistracies were by no means mutually exclusive. Special commissioners attested in the sources all operated alongside – not in place of – the ordinary machinery of command[36]. The appointment of the *duumviri* of 111 therefore demonstrates, in the first instance, only that the African land question was thought to require an intervention which no existing arrangement was expected to supply. The inference drawn here is accordingly a cumulative one, and it rests on the conjunction of three circumstances rather than on any one of them. First, the special commissions normally operated against the background of an attested ordinary command (often the consul) whereas for Africa no such background figure is discernible: of the consuls of 111 named in the *lex*, P. Cornelius Scipio Nasica Serapio and L. Calpurnius Bestia, only the latter operated in *Africa*, his functions strictly confined to the conduct of the war, and he returned to Rome after granting a highly controversial surrender to the Numidian king[37]. Second, the tasks entrusted to the *duumviri* – declarations of tenure, rectification of allotments, restitutions, the registration of residual land as *ager publicus* – are of a kind which, in the developed provincial system, fall to the governor, his staff, and the censorial apparatus; in other words, the law fills a space in which no such jurisdiction is visible. Third, the language of the law nowhere presupposes the administrative entity to which such a jurisdiction would have belonged. Taken together, these circumstances suggest that Rome still approached African affairs through specific, time-limited assignments rather than through a settled framework of territorial administration – which is precisely what the model of a provincialisation still in course would predict.

The terminology employed within the *lex* points the same way. The phrase *provincia Africa* is significantly absent from the section of the text here under examination: the law consistently refers to "the land which is in *Africa*" (*quei ager locus in Africa est*)[38]. Such absence is to be treated, once again, as a lexical datum requiring explanation rather than as proof of an

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in Crawford (1996), 113-123 [*RS 2*]. Unless otherwise specified, every reference to the text should be considered as referring to this edition. Lines where the mention is only assumed because it is contained within the editor's proposed integrations are indicated in square brackets. The *duumviri* are mentioned in ll. [52], 57, 58, 61, 64, [65], 67, [68], 69, [76], 78, 80, [90].

[31] Ll. 52-58.

[32] Ll. 52-62.

[33] Ll. 63-78.

[34] Ll. 78-81. On this point, see Soraci (2020a), 269-272 and Soraci (2020b). These include the additional lands granted to the free cities that had already received land in 146 BC: Utica, Hadrumetum, Thapsus, Leptis Minor, Acholla, Uzalis, and Teudalis.

[35] Ll. 52-58.

[36] Some examples could be the *decem legati* who assisted Mummius in Greece in 146 BC, the commission that framed the *lex Rupilia* for Sicily in 132 BC, and, in Italy itself, the Gracchan *tresviri agris dandis adsignandis*.

[37] Broughton (1951), 540-543. On the contested surrender granted by L. Calpurnius Bestia, see Sall., *Iug.*, 29 and Liv., *Per.*, 64.

[38] Ll. 48, 51, [55], 60, [65-66], 67, 68, 69, 75, [78], [82], [89] and [90].

institutional absence, and the explanation is given by the law itself, for the term *provincia* does occur in it, twice, and on neither occasion in a territorial sense.

At l. 46, the [quaestor] *quei aerarium prouinciam optinebit* holds as his *provincia* the treasury: an assignment with no territory whatever, in the very idiom of the statute. At l. 55, within the African section, the term designates the sphere in which a *praefectus* or soldier is serving. Kim has rightly read this second occurrence in the original sense of the term – a magistrate's task – concluding that Africa in the law of 111 is conceived juridically rather than in a strictly territorial sense[39]; the parallel with l. 46, which Kim does not exploit, places this reading on firmer ground still, for it shows the non-territorial sense to be not merely available but operative within this very statute. The reading of l. 46 assumed here has been contested: Peyras, based on the same restoration, renders the clause «le questeur qui détiendra le Trésor et la Province» and glosses it as attesting a «trésor provincial» under the *quaestor*'s authority – that is, a provincial fiscal apparatus already operating in Africa in 111[40]. Neither the grammar nor the parallel tradition supports this translation. *Aerarium prouinciam optinebit* is a predicative double accusative to be rendered as 'the quaestor holds the *aerarium* as his *provincia*'[41]. Sisani has objected, on the contrary, that the use of *Africa* rather than *terra Africa* (on the model of the well-attested *terra Italia*) points to a specific institutional reality, formally constituted in 146[42]. But even if the designation *Africa* is granted to be more than a bare geographical label, the entity it names need not be a province: a *provincia* in the Republican sense was regularly identified by reference to a territory and its communities without being territorially constituted, its limits being in the first instance limits on the *imperium* of its holder. It is telling, moreover, that even the most consistently 'territorial' reading of the African section yields no magistrate to govern it: Peyras, for whom the law is the framework law of the first province, finds its provisions administered throughout by *quaestores* and *praetores* at Rome, by the *censores*, and by the *duumviri* themselves, but a governor appears nowhere in his reconstruction, for it actually does not appear anywhere in the text. The statutory idiom of 111, in short, is the idiom of assignments, not of districts; and it is the same idiom that Sallust, writing of these same years, employs when he describes the former Carthaginian *fines* as administered *per magistratus*.

Nevertheless, the choice of phrasing is significant: it seems to suggest that in 111 BC, 'Africa' was still primarily a geographical designation – a theatre of operations – rather than a formally constituted administrative district. Nonetheless, it is evident that this *lex agraria* marked a fundamental milestone in the provincialisation of *Africa*, and the political motiva-

[39] Kim (2022), 3-7, who argues that the only mention of *provincia* in the African section, at l. 55, should be understood in the original sense of the term, i.e., as a 'magistrate's task': «It appears from the above that Africa in the law of 111 is conceived of juridically rather than in a strictly territorial sense», a view «consistent with the current view that the concepts of prouincia and Roman imperialism developed gradually in the second century». The author does not, however, refer to Africa the mention at l. 46 (*--- quaestor,] quei aerarium prouinciam optinebit, in tableis [publiceis ---]*). Peyras (2015), 52, 76, 119, restores l. 55 as *[p]raefectus milesue in prouinciam er[it* and renders «préfet ou soldat dans la province»: the divergence from Kim is interpretative, not textual.

[40] Peyras (2015), 55-56, 108-109. The territorial understanding is consistent with the general frame of his study, which presents the law as a «loi-cadre» destined «à structurer solidement l'organisation du sol de la première province» (10) and the *decemviri* of 146 as «organisateurs de la province» (82).

[41] This observation is also supported by the reading of the *lex Acilia repetundarum* in Crawford (1996), 65-112 [RS 1, l. 72] – *se[ue is q(uaestor) quoi aerarium uel urbana prouinc]ia obuenerit* – and the first line of the *lex Cornelia de XX quaestoribus* in Crawford (1996), 293-300 [*RS* 14, col. I, l. 1] – *q(uaestorem) urb(anum), quei aerarium prouinciam optinebit*. Again, the quaestor holds the *aerarium* as his *provincia.* On the *aerarium* as the *provincia* of the *quaestores urbani*, Pina Polo and Díaz Fernández (2019), 79-97.

[42] Sisani (2015), 80.

tions underpinning it were closely aligned with those that led to the Jugurthine War: both the legislative and the military actions appear to be part of a broader project of regional stabilisation, aimed at facilitating the economic exploitation of the African territory and the consolidation of political control[43]. The epigraphic *lex agraria* thus captures a moment where Roman involvement – after thirty-five years – was intensifying and becoming more sophisticated, but had not yet crystallised into the provincial model of the later Republic.

The Roman Agrarian Policy in *Africa*

The reorganisational intent underpinning the *lex agraria* becomes even more evident when viewed against the backdrop of earlier legislation recorded within the same epigraphic source. The measures the law cites constitute, together with the commissions they empowered, virtually the entire documented record of Roman administrative action in Africa between 146 and 111 BC. That record is a record of *leges* and *ad hoc* commissions – of interventions, not of government – and its shape is itself evidence for the character of the Roman presence in these decades. Specifically, the law cites three key measures: firstly, the *lex Livia* of 146 BC, which authorised the appointment of the *decemviri* to assist P. Cornelius Scipio Aemilianus in the final destruction of Carthage and the subsequent allocation of land to Rome's allied cities[44]; secondly, the *lex Rubria de colonia Carthaginem deducenda*, which mandated the establishment of a new colony on the site of Punic Carthage[45]; and finally, the *lex censoria* of 115 BC, enacted by the censors L. Caecilius Metellus Diadematus and Cn. Domitius Ahenobarbus[46]. The provisions of this censorial law concerning the assessment and collection of *vectigalia* were explicitly declared to remain in force, except in cases where a specific alternative agreement had been reached with the landholder in question[47].

It is evident from this analysis that land organisation in Africa prior to 111 BC was piecemeal rather than systematic. It stands to reason that an initial settlement of the land regime occurred under the *lex Livia* of 146 BC, coinciding with the conversion of the majority of the territory confiscated from Carthage into *ager publicus populi Romani*; without such a measure, the management of these lands would have remained without legal definition[48]. It seems improbable, moreover, that the first formal regulation of the *ager publicus* was delayed for thirty years until the *lex censoria* of 115 BC, as some have conjectured[49].

This hypothesis is bolstered by studies of various centuriations identified via aerial surveying[50]. The earliest of these, which follows a different orientation than subsequent systems, ap-

[43] Lintott (1992), 54-55.

[44] Ll. 77, 82.

[45] Ll. 55, 59, [60], [61], [69].

[46] Ll. [85], 86, [87], 88, [89].

[47] It would appear that the decision to declare the provisions regarding the fixing and collection of *vectigalia* as still in force should be read in conjunction with l. 89, where the consulship of Gn. Papirius Carbo (colleague of C. Caecilius Metellus Caprarius) in 113 BC is mentioned.

[48] Already Frank (1927), 146-147.

[49] Ando (2020), 346-357 (351). Differently Kim (2022), 7, who takes up an observation by Lintott (1992), 248, and argues that one cannot speak of *ager publicus* for African territories.

[50] Chevallier (1958), 61-128 and Caillemer and Chevallier (1959), on which see critically Peyras (1994), 223-246, who highlights the lack of field evidence for the surveys carried out and the need to restore the complexity of the pre-Roman situation. This offers even more scope for hypotheses regarding the connection between Roman organisational forms and earlier ones, namely the Punic centuriations, especially of the Carthaginian *pagi*. Recently, Ghaddhab (2020), 79-100 also notes the peculiar situation of the *civitates liberae*, whose grid orientation is, notably, different from that of the surrounding territory. A synthesis of studies on the

pears to date back to the immediate aftermath of 146 BC. Likely executed using pre-Roman patterns, it certainly preceded the attempted foundation of the *colonia Iunonia Carthago*. Indeed, it is unlikely that the initial centuriation of the entire African territory took place only during the founding of the Roman colony, despite arguments to the contrary based on the correspondence between the urban grid of Carthage and the surrounding rural allotments[51].

This colonial project marked a watershed in both the provincialisation of *Africa* and its agrarian organisation. The *lex Rubria de colonia Carthaginem deducenda* – a plebiscite formally proposed by the tribune C. Rubrius (?) in 123 BC, though attributed by the sources to the initiative of his colleague C. Gracchus[52] – mandated the founding of the first transmarine colony, dedicated to Juno (*Iunonia*)[53], as a settlement colony to alleviate Rome's population growth and expand land grants to the *proletarii*[54]. It represents the moment when the social function of colonisation began to supersede its traditional military role[55].

The actual number of colonists – 6,000 according to Appian[56], against the 3,000 likely specified by the *lex* – together with the law's own phrasing *in coloniam coloniasve*, may suggest that further settlements in the surrounding territory were envisaged[57]. C. Gracchus and M. Fulvius Flaccus (the name of the third member is unknown) spent seventy days in Africa as *triumviri agris dandis adsignandis*, apparently concluding the surveying operations[58], before political circumstances forced their return to Rome[59].

The events of 121 BC, which culminated in the deaths of C. Gracchus and M. Fulvius Flaccus, are well known[60]. In particular, the *lex Rubria* was repealed later that same year, most likely through a *rogatio* introduced by the tribune Minucius Rufus and passed after Gracchus's death, having already been rejected once earlier that year[61]. Its implementation not only halted the formal founding of the colony – despite a significant portion of the 6,000 colonists

spatial organisation of the Carthage area in Mosca (2020).

[51] Thus Romanelli (1974), 176, who argues that the period Gaius Gracchus spent in Africa as *triumvir agris dandis adsignandis* was too brief to allow for such a large-scale operation. However, the author does not distinguish between the different centuriations present in the African territory, which differ from one another in orientation, but instead considers the extent of the entire province (approximately 15,000 km²). Kim (2022), 5 n. 21 considers most of the measurements to be from the Graccan era; Crawley Quinn (2004), 1601 n. 33 attributes them to the Augustan era.

[52] App., *BCiv.*, 1.104. Liv., *Per.*, 60. Plut., *CGracch.*, 10.2. Eutr., 4.21. Oros., 5.12.1-2.

[53] Plut., *CGracch.*, 11.1.

[54] Jacques and Scheid (2008), 305-313.

[55] De Ruggiero (1896), 38-43. Kornemann (1901), 561-563.

[56] App., *BCiv.*, 1.104.

[57] L. 61. While the sources do not mention other colonies, the sheer scale of the allotments completed could suggest an intent to establish further settlements in the surrounding rural territory following the refoundation of Carthage. This refers to the so-called northern centuriation of the *provincia Africa*. Its extent is uncertain, with theses ranging between 1,500 km² according to Barthel (1911), 39-126 and 3,000 km² for Haywood (1959), 1-120. Even considering it in these terms, it seems improbable that centuriations outside the territory of the city of Carthage were carried out by the *triumviri agris dandis adsignandis*.

[58] App., *BCiv.*, 1.24. Plut., *CGracch.*, 11.2. The fact that *triumviri* were appointed might support the thesis that there was no stable magistracy in Africa at the time that could handle these functions.

[59] Before the assignments could be finalised, they were forced back to Rome to oppose M. Livius Drusus, whose own rogatio for twelve new colonies had bolstered his standing before the Senate at the expense of Gracchus. Plut., *CGracch.*, 9.2.

[60] The reference study remains Carcopino (1967).

[61] Gaius Gracchus himself spoke against the proposal for repeal, according to *ORF*, 53. For Romanelli (1974), 178 and Shaw (1981), 439, it was instead a *lex Opimia*, attributed to the consul for 121 BC, L. Opimius. *Contra* Cristofori (1989), 85 n. 13.

having already been settled on African soil – but also stalled the physical reconstruction of Carthage as an urban centre, which would remain in abeyance until the Caesarean deduction, later completed under Octavian.

The most consequential outcome of this repeal was the conversion of existing allotments into *viritim* grants[62]. These landholdings were thereby unmoored from any formal civic framework within the territory – the precise situation that the *duumviri* of 111 were appointed to resolve, and it is eloquent that its resolution had to wait a decade and arrive by statute from Rome. An inscription from La Malga, near Carthage, appears to attest to a new triumviral commission (*agris iudicandis adsignandis*) active in *Africa* after 121 BC[63]. It is probable that these members replaced Gracchus and Flaccus, and that the commission was subsequently dissolved upon the abrogation of the *lex Rubria*. Without such an event, the persistent confusion in the African land regime would be inexplicable.

The agrarian landscape remained ill-defined for the following five years, exacerbated by the probable abolition of the ban on land alienation. Order was only restored in 115-114 BC by the *lex censoria* of L. Caecilius Metellus Diadematus and Cn. Domitius Ahenobarbus, which sought to regularise the situation through *locationes (censoriae)* held in Rome[64] – a measure aimed to bring order to the chaos following the aborted foundation of the *colonia Iunonia Carthago*. While the censorial measure did not resolve all issues concerning assigned lands, it at least defined the status of the unassigned ones, establishing the *vectigalia* for land and buildings (*agrum locum aedificium in Africa*), likely for the standard five-year duration[65]; it was later confirmed by the *lex agraria* of 111 BC[66], whereas the modifications introduced by the consul Cn. Papirius Carbo in 113 BC were not, the law restoring instead the regulatory framework imposed by the censors of 115[67].

The sequence that emerges is thus continuous and of a piece: the *decemviri* of 146, the *tresviri* of 123-121, the commission attested at La Malga, the censors of 115 acting from Rome, and the *duumviri* of 111. Every documented act of Roman ordering in Africa across these thirty-five years was performed by a commission created for the purpose or by magistrates operating from the centre; none is attributed to a magistrate governing on the ground.

[62] This is probably the reason behind the statement in Front., *Ep. (ad Ver. imp.)*, 2.1. On the confirmation of assignments Shaw (1981), 438-440.

[63] *CIL* VIII, 12535: *Galbae|[Pa]piri Carbonis|[L. Pa]piri Bestia[e]*. Cichorius (1961), 113-116 proposed the restoration: *[Ex auctoritate]|[C(ai) Sulpici] Galbae|[C(ai) Pa]|piri Carbonis|[L(uci) Calpu]rni Bestia[e]|[III-vir(orum) a(gris) i(udicandis) a(dsignandis)]*, believing that the commission operated from 121 to 119 BC with competence over lands outside the urban area of Carthage, whose reorganisation was halted by the abrogation of the *lex Rubria*. Looking at other boundary markers from an earlier period, an inversion of the order of the *triumviri* names is noted; they had alternated since 133 BC, when the commission was first established by the *lex Sempronia agraria*. This phenomenon, occurring at every change in the commission, could suggest a shift in the role or prestige of the members, as argued by Carcopino (1967), 167-175 and Lassère (2007), 927-928.

[64] On the meaning of *lex censoria* – a *lex contractus (locationis)* and therefore a *lex dicta*, private, through which the censors determined the amount of *vectigalia*, and the methods and place of their collection – and *locationes censoriae*, see Tarwacka (2024a), 3-17 and (2024b).

[65] Lucius Caecilius Metellus Diadematus was consul in 117 BC and it is likely that 115 BC was precisely the year of election for the new censorial college and, therefore, the start of the mandate. Broughton (1951), 528-533.

[66] According to Mommsen (1905), 144, followed by Johannsen (1971), 391, these would have been two different *leges censoriae*. *Contra* Burdese (1952), 102-104, later followed by Lintott (1992), 272, whom we follow, according to whom they were instead two aspects of the same *lex*. The first aspect (L. 85) would have determined the conditions for granting the right of enjoyment to private individuals, while the second (Ll. 86 and 88) would have concerned the contract for the collection of *vectigalia* to the *societates publicanorum*.

[67] L. 89.

One further element could play into completing this picture, not from the side of Rome but of the recipients of Roman rule. Based on the available sources, the head of local administration in most of the communities of the former Carthaginian territory remained, throughout this period and long after it, the Punic magistracy of the *sufetes*. Attested without any discernible break between the pre- and post-Roman periods, from 146 BC onwards they appear alongside the properly Roman magistracies, gradually acquiring Roman traits – eligibility, iteration, the burdens of office, distinctive *ornamenta*, a place within a *cursus honorum* – while remaining the exclusive mark of the *civitates peregrinae*. The earliest record of *sufetes* under Roman rule, a trilingual dedication from Thimida Regia which is also the oldest Latin inscription of North Africa, may date to within a few decades of the destruction of Carthage[68]; at the other end, the magistracy survived until the municipalisation process of the second century AD determined its conversion, without institutional rupture, into the duumvirate or triumvirate typical of Roman colonies[69]. For the decades that concern us here, the implication is direct: the communities among which the colonists of the *lex Rubria* were settled, and whose land regime the *duumviri* of 111 were to disentangle, were not an administrative blank space; they possessed functioning civic institutions of their own, which Rome had no need to replace. The lightness of the Roman apparatus that the *lex agraria* presupposes is thus not an anomaly requiring explanation, but the counterpart of a local administrative fabric that remained in place.

Conclusions

The evidence of the *lex agraria* of 111 BC, read together with a critical assessment of the literary tradition, invites a revision of the conventional chronology of the *provincia Africa*. The long-held view that a province was formally established in 146 BC has been shown to rest, in large measure, on the retrospective vocabulary of authors writing under the Principate: most of them describe the settlement of 146 in the administrative language of their own day, and it is that language, not the substance of what they transmit, that cannot be pressed. Nothing in the present argument requires the rejection of their testimony, nor does it deny that *Africa* was a *provincia*, assignable and assigned, before and after 146. What it denies is that the sources permit us to see, in 146 or for a generation afterwards, a province in the later sense of the word.

Instead, the decades between 146 and 111 BC should be understood as a prolonged phase of transition. During these decades, Rome exercised control over African territory without a stable administration. Every documented act of Roman ordering in the territory was performed by a commission created for the purpose or by magistrates operating from the centre; and the *lex agraria* itself, on the two occasions on which it uses the term *provincia*, employs it in the sense of an assignment while designating the territory in consistently geographical terms. The *duumviri* of 111 do not carve an exception out of an existing jurisdiction; they fill a space in which no such jurisdiction is visible. Nor need the lightness of the Roman apparatus be explained solely by what Rome had not yet built: a considerable part of local administration still rested with the civic institutions of the Punic communities themselves,

[68] *CIL* VIII, 24030. See M'Charek (2015) and Aounallah (2020).

[69] See Cordovana (2012); Guirguis and Ibba (2017). This is the interpretation in Incontro (2026a) and (2026b).

the *sufetes* above all. Taken singly, none of these observations is decisive; taken together, they describe a *provincia* being discharged rather than a province in being.

The provincialisation of *Africa* is therefore best understood as a gradual and uneven process, of which the *lex agraria* documents an intermediate stage: Roman involvement intensifying and growing more sophisticated, a generation after the destruction of Carthage, yet not yet crystallised into the provincial model of the later Republic. As a hypothesis, it has been proposed that the decisive phase of this process belongs to the aftermath of the Jugurthine War, when sustained military engagement gave the Roman presence a continuity it had previously lacked: the first evidence of a regular succession of non-consular magistrates appears in 88 BC, with the *praetor* Sestius stationed at Utica, and the window between 105 and 88 accordingly offers the most plausible context for consolidation. No constitutive act is to be sought within it, for none is recorded and none is required; and no new threshold is thereby erected in place of the old one – the claim is not that a *provincia* became a province at a datable moment, but that the surviving evidence places the decisive phase of a gradual process in these years.

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Riassunto /*Abstract*

Abstract. This article examines the African section of the epigraphic *lex agraria* of 111 BC as evidence for the pace and character of Roman provincialisation in Africa. Following recent work on the Republican concept of *provincia*, it distinguishes throughout between the *provincia* of the sources, the task assigned to a magistrate; the 'province' of modern usage, a territorially defined administrative entity under a regular magistrate; and provincialisation, the gradual process by which the former came to coincide with the latter. That a *provincia Africa* existed is not in question. What the law of 111 BC illuminates is the stage which this process had reached a generation after the destruction of Carthage: the law designates the territory in geographical rather than administrative terms, entrusts the settlement of the African land regime to specially appointed *duumviri*, and nowhere presupposes a 'province' in the later sense. The evidence suggests that the provincialisation of Africa was still in course in 111 BC; it is proposed here, as a hypothesis, that its consolidation into a 'province' belongs to the aftermath of the Jugurthine War.

Keywords. *provincia Africa*, *lex agraria* of 111 BC, Carthage, provincialisation, 146 BC, Roman land law.

Come citare questo articolo / *How to cite this paper*

Filippo Incontro, The *lex agraria* of 111 BC and the Provincialisation of *Africa*, *CaSteR* 11 (2026), doi: 10.13125/caster/6946, http://ojs.unica.it/index.php/caster/