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# The Virgin and Justinian on Seals of the *Ekklesiēkdikoi* of Hagia Sophia

JOHN COTSONIS

IN MEMORY OF PROF. NICOLAS OIKONOMIDES

The corpus of lead seals is an essential body of material for any investigation devoted to imagery of the Virgin. Thousands of examples of Marian sphragistic figures survive over a span of many centuries. These specimens exhibit a variety of iconographic types and have served as the basis for numerous art-historical studies.<sup>1</sup> Among these seals one group that has received little scholarly attention belongs to the ἔκδικοι, or ἐκκλησιέκδικοι, the tribunal of clerics attached to the church of Hagia Sophia. Thirty published examples exist, ranging in date from the late eleventh through the fourteenth century.<sup>2</sup> These seals depict standing figures of the Virgin and an emperor, who both support a model of a church, identified as Hagia Sophia, Η ΑΓΙΑ ΣΟΦΙΑ (Figs. 1, 2).<sup>3</sup> Over the span of three centuries, the representation on these seals remained relatively consistent, yet changes are evident in both image and inscriptions. Five examples (Fig. 1)<sup>4</sup> display the Virgin on the observer's left and the emperor on the right. Their inscriptions begin on the obverse with the invocation, ΥΠΕΡΑΓΙΑ ΘΕΟΤΟΚΕ ΒΟΗΘΕΙ (Most Holy Theotokos help) and continue on the reverse with ΤΟΙΣ ΘΕΟCEBECTΑΤΟΙΣ ΠΡΕCΒΥΤΕΡΟΙC [καὶ] ΕΚΚΛΗCΕΚΔΙΚΟΙC

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<sup>1</sup> For a recent summary of the importance of this material and examples, see W. Seibt and M. L. Zarnitz, *Das byzantinische Bleisiegel als Kunstwerk* (Vienna, 1997), 104–21, and V. Penna, “The Mother of God on Coins and Lead Seals,” in *Mother of God: Representations of the Virgin in Byzantine Art*, ed. M. Vassilaki (Athens, 2000), 209–17. For references to some of the more important scholarly literature devoted to Marian sphragistic images, see J. Cotsonis, “The Virgin with the ‘Tongues of Fire’ on Byzantine Lead Seals,” *DOP* 48 (1994): 221.

<sup>2</sup> This total takes into account the duplicate publication of specimens among the various catalogues: V. Laurent, *Le corpus des sceaux de l'empire byzantin, VI–3, L'église* (Paris, 1963–72), nos. 112, 113, 114, 1654; V. Shandrovskaia, “Sfragistika,” *Iskusstvo Vizantii v Sobraniiaakh SSSR*, 3 vols. (Moscow, 1977), nos. 176 and 761; G. Zacos, *Byzantine Lead Seals*, vol. 2, ed. J. Nesbitt (Bern, 1984), nos. 62–77; N. Lihachev, *Molivodovuly grecheskogo vostoka*, ed. V. Shandrovskaia (Moscow, 1991), nos. 1–5, pl. LXXXII; and C. Sode, *Byzantinische Bleisiegel in Berlin*, vol. 2, Ποίικλα Βυζαντινά 14 (Bonn, 1997), no. 359, pl. 15.

<sup>3</sup> Zacos, *Byzantine Lead Seals*, 2: nos. 62 and 77 (Hermitage, M7949) respectively.

<sup>4</sup> *Ibid.*, no. 62 (repr. in “Byzantine Seals: 1,” *Spink Auction* 127 [London, 7 October 1998], no. 26). The other four are nos. 63 a and b, 64, and 65.

(the most God-revering presbyters and *ekklēsiekdikoi*). Three similar pieces (Fig. 3)<sup>5</sup> identify the Virgin as ΥΠΕΡΑΓΙΑ ΘΕΟΤΟΚΟΣ (Most Holy Theotokos) and begin the invocation with Χ(ΠΙCΤ)Ε ΒΟΗΘΕΙ (Christ help) followed by the identical inscription on the reverse. Four others (Fig. 4)<sup>6</sup> have Θ(ΕΟΤΟ)ΚΕ ΒΟΗΘΕΙ (Theotokos help) and identify the emperor in the invocation, ΙΟΥCΤΙΝΙΑΝΟΝ ΔΕCΠΙΟΤΗΝ (Justinian Despot). Five seals (Fig. 5)<sup>7</sup> exhibit the figures in a reversed position, the emperor on the observer's left and the Virgin on our right, both identified by the invocation Θ(ΕΟΤΟ)ΚΕ ΒΟΗΘΕΙ and ΙΟΥCΤΙΝΙΑΝΟ/ΔΕCΠ/ and the customary phrase referring to the *ekdikoi* on the reverse. The same arrangement is found on thirteen other seals but with a different set of inscriptions (Fig. 2).<sup>8</sup> Among these, the Virgin is identified by her usual sigla ΜΡ ΘΥ and the epithet Η ΒΟΗΘΙΑ (Help), the emperor as ΙΟΥCΤΙΝΙΑΝΟC ΔΕC(ΠΙΟΤΗC) with the standard inscription on the reverse.

This group of seals presents dimensional, epigraphic, and iconographic peculiarities that have no exact parallel in other surviving media and thus require some explanation. The most immediate and striking aspect of these pieces, however, is their relatively large size. Usually, lead seals range in diameter from 1.5 cm to 4.5 cm.<sup>9</sup> But these seals of the *ἐκκλησιέκδικοι* range in diameter from 4.5 cm to 8.5 cm, that is, anywhere from twice to more than five times as large as that of the average seal. Their great size most likely indicates a particular significance, and this will be addressed later in this study.

Another aspect concerning this group of seals is the difficulty of placing them within a chronological sequence. The standard work on dating these pieces is V. Laurent's *Corpus*.<sup>10</sup> He assigned the seals to periods within a century or two-century time span, beginning with the eleventh century and ending with the fifteenth. Later, G. Zacos divided the specimens within two broad chronological frameworks: those belonging to the Komnenoi-Angeloi period and those of the Palaiologan period.<sup>11</sup> In most cases, this investigation follows the dating of Laurent but with some significant exceptions. The five examples that place the Virgin on the observer's left and the emperor on the right and bear the inscription on the obverse ΥΠΕΡΑΓΙΑ ΘΕΟΤΟΚΕ ΒΟΗΘΕΙ (Fig. 1) belong to the second half of the eleventh or the early twelfth century.<sup>12</sup> The three seals that identify the Virgin as ΥΠΕΡΑΓΙΑ ΘΕΟΤΟΚΟΣ but open the invocation with Χ(ΠΙCΤ)Ε ΒΟΗΘΕΙ (Fig. 3) are of the twelfth century.<sup>13</sup> The four specimens that begin the invocation with Θ(ΕΟΤΟ)ΚΕ ΒΟΗΘΕΙ and

<sup>5</sup> Ibid., no. 66 (repr. in "Byzantine Seals: 2," *Spink Auction* 132 [London, 25 May 1999], no. 207). The other two are nos. 67 a and b (repr. in "Byzantine Seals: 3," *Spink Auction* 135 [London, 6 October 1999], no. 240, where it is misidentified as Zacos no. 70b and given a 12th-century date).

<sup>6</sup> Ibid., no. 68. The others are nos. 70 a, b (repr. in "Byzantine Seals: 3," *Spink Auction*, no. 241 but mistakenly identified as Zacos no. 76b and assigned to the 13th century), and c.

<sup>7</sup> Ibid., no. 69 a, b, and c. The other two are nos. 71 and 72.

<sup>8</sup> Ibid., no. 77. The others are nos. 73 a, b, and c, 74, 75 a and b, 76 a and b; Likhachev, *Molivdovuly grech-eskogo vostoka*, M7950, M7951, M7952; and Sode, *Byzantinische Bleisiegel*, no. 359.

<sup>9</sup> N. Oikonomides, *Byzantine Lead Seals* (Washington, D.C., 1985), 5. J. Nesbitt, "Seals and Sealings," *ODB* 3:1859, notes that most seals range in diameter from 23 mm to 28 mm.

<sup>10</sup> Laurent, *Corpus*, 5.1: nos. 112–15, and 5.3: no. 1654.

<sup>11</sup> Zacos, *Byzantine Lead Seals*, 2: nos. 62–77.

<sup>12</sup> For the seals, see note 4 above. Laurent, *Corpus*, 5.1: no. 113, pl. 17, the middle example, assigns this type to the 11th–12th century, while Zacos, *Byzantine Lead Seals*, 2: nos. 63–65, places them in the Komnenoi-Angeloi group. In the auction catalogue, *Spink Auction* 127, no. 26 (equal to Zacos no. 62), the seal is assigned to the 11th century.

<sup>13</sup> For the seals, see note 5 above. Zacos, *Byzantine Lead Seals*, 2: nos. 66 and 67, assigns these to the Komnenoi-Angeloi group. In the auction catalogue, *Spink Auction* 132, no. 207 (equal to Zacos no. 66), the seal is given a 12th-century date.



1 Lead seal, the Virgin and Justinian supporting a model of Hagia Sophia, 11th century (after G. Zacos, *Byzantine Lead Seals*, vol. 2 [Bern, 1984], no. 62)



2 Lead seal (Hermitage M7949), the Virgin and Justinian supporting a model of Hagia Sophia, 14th century (photo: Hermitage)





3 Lead seal, the Virgin and Justinian supporting a model of Hagia Sophia, 12th century (after G. Zacos, *Byzantine Lead Seals*, 2: no. 66)



4 Lead seal, the Virgin and Justinian supporting a model of Hagia Sophia, 12th century (after G. Zacos, *Byzantine Lead Seals*, 2: no. 68)



5 Lead seal (Dumbarton Oaks, Fogg 2934), the Virgin and Justinian supporting a model of Hagia Sophia, second half of 12th century



6 Mosaic, southwest vestibule of Hagia Sophia, depicting Justinian offering the church and Constantine offering the city to the enthroned Virgin and Child, 10th century



7 Inner narthex, looking south, Hagia Sophia



8 Entrance, southwest vestibule, Hagia Sophia







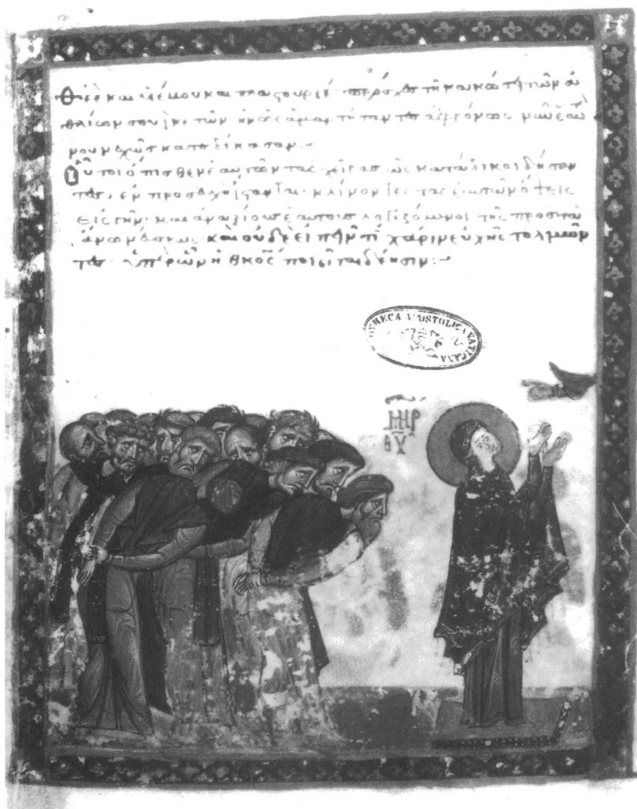
10 Ekloga (Paris, Bib. Nat. cod. gr. 1391, fol. 179v), Justinian, last third of the 13th century (photo: Bibliothèque nationale de France)



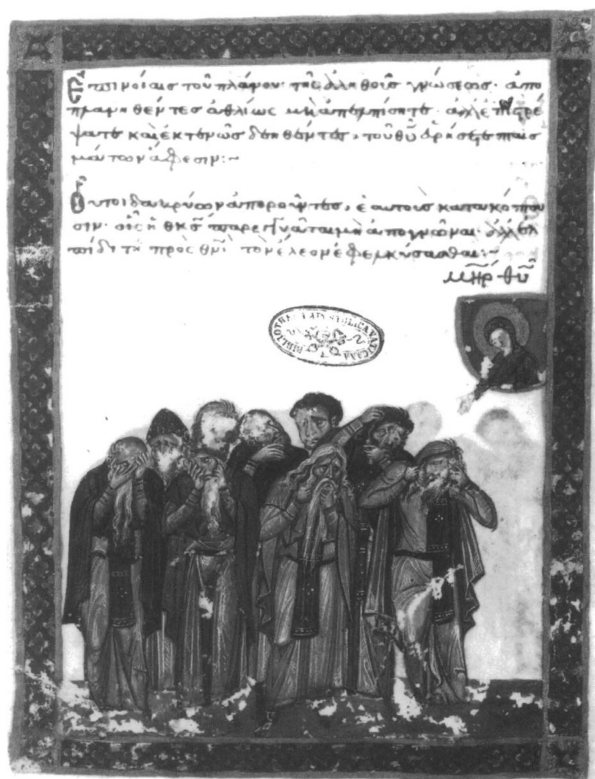
11 Psalter (Vatican, Bib. Apost. Vat. gr. 752, fol. 51r), the sons of Korah confessing to St. Silvester before the icon of the Virgin and Child, 1058/1059 (photo: Biblioteca Apostolica Vaticana)



12 Heavenly ladder (Sinai, cod. gr. 418, fol. 79r), headpiece for Penitence, 12th century (photo: St. Catherine monastery, Mount Sinai)



13 Heavenly ladder (Vatican, Bib. Apost. Vat. gr. 1754, fol. 5r), the Virgin intercedes for the "holy criminals," late 12th–early 13th century (photo: Biblioteca Apostolica Vaticana)



14 Heavenly ladder (Vatican, Bib. Apost. Vat. gr. 1754, fol. 6r), the Virgin encourages the "holy criminals" to repent, late 12th–early 13th century (photo: Biblioteca Apostolica Vaticana)



15 Fresco, the Virgin Eleousa and Christ Antiphonetes, left and right piers of the sanctuary, Panaghia tou Arakos, Lagouthera, 1192 A.D.

- 16 Lavra lectionary  
(Athos, Lavra cod. A 103, fol. 3v),  
the Virgin interceding for a high  
official, 12th century  
(photo: Patriarchal Institute for  
Patristic Studies, Thessalonike)

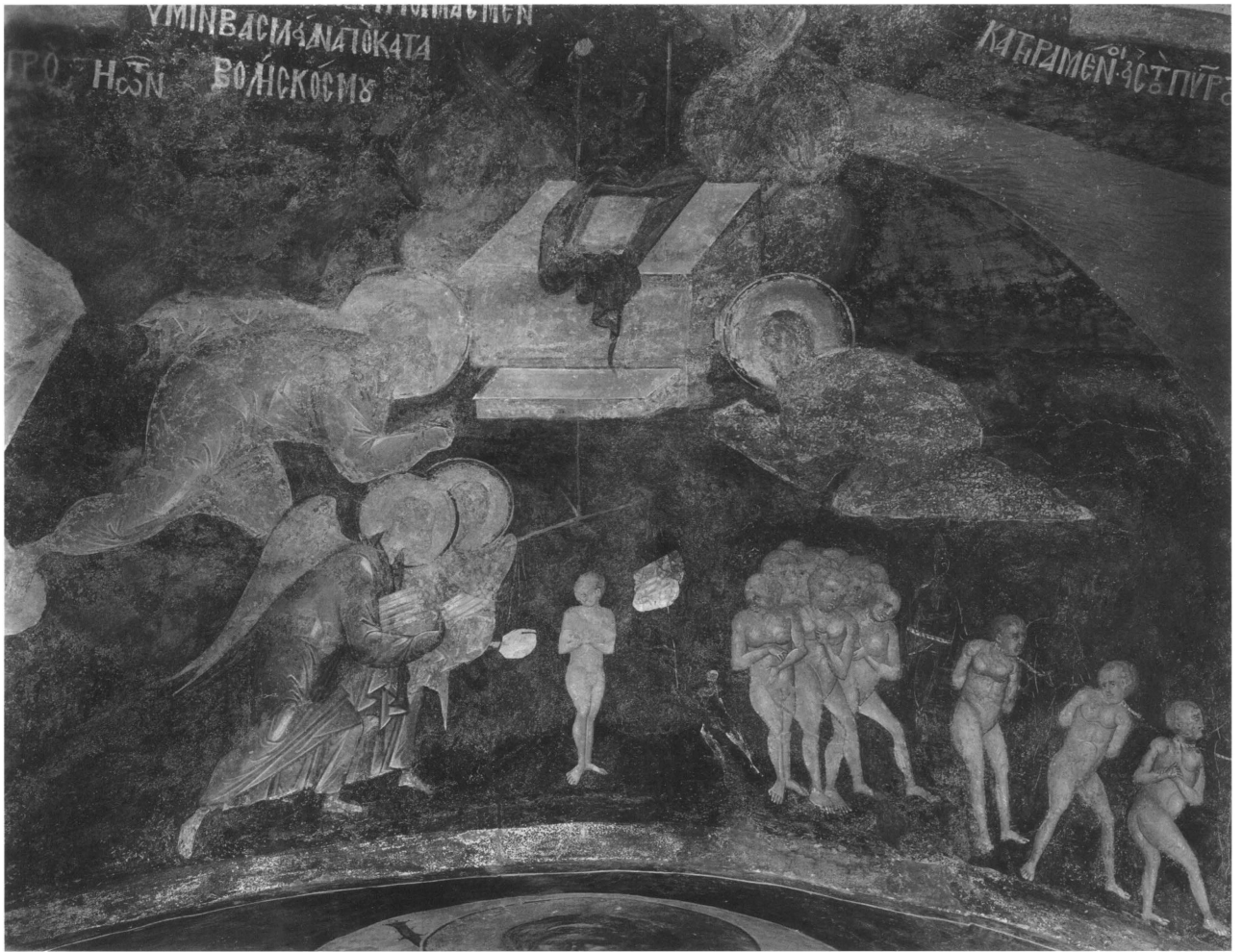


- 17 Imperial doors, inner narthex,  
Hagia Sophia





18 *Panaghiarion* (Athos, Xeropotamou), the Virgin and Child flanked by angels, 14th century (after *Treasures of Mount Athos* [Thessalonike, 1997], no. 9.5)



19 Fresco, Parekklesion (detail), Last Judgment: The Weighing of Souls, 1316–1321, Church of the Chora, Istanbul



20 Fresco, Parekklesion (detail), Last Judgment: The Deesis, 1316–1321, Church of the Chora, Istanbul

include the name of the emperor, IOYCTINIANON ΔΕCΠΙΟΤΗΝ (Fig. 4), also belong to the twelfth century.<sup>14</sup> The five seals that display the figures of the Virgin and emperor in the reverse position, where the Virgin appears on the observer's right and Justinian on our left and where both are identified by the invocation Θ(ΕΟΤΟ)ΚΕ ΒΟΗΘΕΙ and IOYCTINIANO/ΔΕCΠ/ (Fig. 5), should be assigned to the second half of the twelfth century.<sup>15</sup> The thirteen specimens exemplified by Figure 2, which present the figures in the same positions but now identify the Virgin with the sigla MP ΘV and the epithet, Η ΒΟΗΘΙΑ (Help), and the emperor as IOYCTINIANOC ΔΕC(ΠΙΟΤΗC), belong to the thirteenth–fourteenth century.<sup>16</sup>

A previously overlooked detail that may further assist in providing a generalized dating sequence is the type of *loros* worn by the figure of the emperor. Traditionally, the *loros*, the long, heavy, embroidered stole studded with precious stones, wound around the emperor's body and was arranged in an X pattern over the front of the chest, but in the tenth and eleventh centuries this form was replaced by a simpler or modified *loros* that was provided with a hole for the head and hung straight down the front of the chest.<sup>17</sup> This change in imperial costume is first seen on coins and imperial seals beginning with Romanos I and assigned to ca. 930,<sup>18</sup> yet the older form did survive into the eleventh century. On our seals, the earlier form of the *loros* is found on the examples represented by Figures 1 and 3, that is, on pieces belonging to the eleventh and twelfth centuries. Those that depict the modified *loros* begin with Figure 4, that is, on seals from the twelfth century, and continue to appear until the end of our group as seen in Figures 2 and 5. Possibly the engravers of the earlier seals in the sequence were following older numismatic or sigillographic models or prominent, celebrated images of the emperor dressed in the former type of *loros* such as the mosaic over the southwest vestibule of Hagia Sophia (Fig. 6), which is usually assigned a tenth-century date.<sup>19</sup> The later sphragistic examples may have been produced when the details of older models were no longer regarded as significant.

As noted above, the seals of the *ekklestēkdikoi* exhibit iconographic and epigraphic irregularities in comparison to the customary presentation of sphragistic invocations and figures. Usually, when a seal bears a religious figure (or figures) on the obverse, the figure is identified and is accompanied by a related invocative inscription that may begin on the obverse and continue onto the reverse, or the invocation may be found only on the reverse. When more than one figure is depicted, the accompanying invocation is in the plural. With the present group of seals, however, two figures are present, the Virgin and an emperor, yet the invocative inscription is in the singular, invoking only the assistance of the Theotokos, or, as in the few examples represented by Figure 3, Christ is called upon.

<sup>14</sup> For the seals, see note 6 above. For the misidentification and erroneous dating of Zacos no. 70b in the auction catalogue, see note 6 above. Laurent, *Corpus*, 5.1: no. 113 (top specimen [equals Zacos no. 68]), offered 11th–12th century as the date.

<sup>15</sup> For the seals, see note 7 above. Laurent, *Corpus*, 5.1: no. 112 (top example equals Zacos no. 69b) dated this type to the second half of the 11th century.

<sup>16</sup> For the seals, see note 8 above. Laurent *Corpus*, 5.1: no. 114 and 5.3: no. 1654, also assigns this type to the 13th–14th century.

<sup>17</sup> For a description of the imperial *loros* and its modifications over time, see *DOC* 3.1:120–25.

<sup>18</sup> For the coins, see *DOC* 3.2:548, pl. 36, no. 9. For the seals, see G. Zacos and A. Vegler, *Byzantine Lead Seals*, vol. 1.1 (Basel, 1972), no. 66d, pl. 19. For a discussion of the similarities of inscriptions and imagery found on coins and imperial seals, see C. Morrisson and G. Zacos, “L'image de l'empereur byzantin sur les sceaux et les monnaies,” in *La monnaie: Miroir des rois*, ed. Y. Goldenberg (Paris, 1978), 57–72.

<sup>19</sup> For a recent overview of this mosaic, see R. Cormack, “The Mother of God in the Mosaics of Hagia Sophia at Constantinople,” in *Mother of God* (as above, note 1), 107 and 113–14.

The earlier seals of our group, as seen in Figures 1 and 3, also do not identify the emperor. When he is specified on the later examples, the form is inconsistent. For the twelfth-century seals represented by Figure 4, the imperial name appears in the accusative case (IOYCTINIANON ΔΕCΠOΘHN) instead of either the nominative form, which would simply identify the figure, or in the vocative case, which would include the emperor in the invocation along with the Virgin. Those seals from the second half of the twelfth century, as seen in Figure 5, abbreviate the emperor's name and title (IOYCTINIANO/ ΔΕCΠ/) while those of the thirteenth–fourteenth century (Fig. 2) identify the emperor in the nominative case with his title abbreviated (IOYCTINIANOC/ ΔEC/(ΠOΘHC)). As for the absence of explicit reference to the emperor in the earlier examples, possibly the engraver considered it sufficient that the model of the church was named, which would serve to identify the emperor, given the well-known association of Justinian with Hagia Sophia.<sup>20</sup> Later, it appears that the identification of the emperor is considered significant, and this matter will be addressed below.

A problem also arises when one encounters the name of the emperor in the accusative case as part of the invocation. Laurent first attempted to interpret these irregularities observed in the inscriptions and concluded that these sphragistic texts identify both the Virgin and Justinian as intercessors for the *ekklesiekdikoi*: “Mother of God, help, through (the intercession of) Justinian . . .”<sup>21</sup> This interpretation was later accepted by G. Prinzing.<sup>22</sup> Among the corpus of religious figural iconographic seals, there are some examples where the Virgin is depicted with saints and the accompanying invocative inscriptions call upon these holy figures to assist the Theotokos in her intercessory role on behalf of the owners of the seals. One specimen is an eleventh-century seal belonging to an individual named John where the image of John the Forerunner appears on the obverse and that of the Virgin and Child on the reverse with the inscription beginning on the obverse, CYN ΠPOΔPOMΩ Π(APΘENE CK)EΠOIC . . . (“With the Forerunner, Virgin, protect . . .”).<sup>23</sup> On the seals of the *ekdikoi*, the figure of Justinian may, therefore, be understood as assisting the Virgin in her intercessory prayer. Here the emperor is identified as *Despotes* and not “saint,” possibly emphasizing the prestigious imperial foundation of the church and its juridical activities.<sup>24</sup> These related sphragistic examples thus provide some support for Laurent's and Prinzing's understanding of the inscriptions found on the seals of the *ekklesiekdikoi* in which the celebrated emperor functions as a secondary or intermediary intercessor for the tribunal. Since Justinian's name does not appear in the vocative case and the verb BOHΘEI (help) is in the singular, this interpretation does not provide a complete solution and is far from certain. Nevertheless, the ἐκκλησιέκδικοι clearly desired to be associated with Justinian, and this aspect will be further explored.

As previously observed, the sphragistic iconography also has no *exact* parallel in other

<sup>20</sup> I wish to thank one of the anonymous readers for this suggestion.

<sup>21</sup> Laurent, *Corpus*, 5.1:91.

<sup>22</sup> G. Prinzing, “Das Bild Justinians I. in der Überlieferung der Byzantiner vom 7. bis 15. Jahrhundert,” *FM* 7 (1986): 16–17.

<sup>23</sup> Seibt and Zarnitz, *Das byzantinische Bleisiegel als Kunstwerk*, no. 5.3.8. Other examples are provided by J.-C. Cheynet and J.-F. Vannier, *Études prosopographiques* (Paris, 1986), Boutzes no. 10 and Dalassenos no. 24, and Laurent, *Corpus*, 5.3:no. 1791.

<sup>24</sup> I wish to thank one of the anonymous readers for this interpretation.

surviving media. Scholars who have discussed these seals have compared them to the tenth-century mosaic in the southwest vestibule of Hagia Sophia (Fig. 6).<sup>25</sup> According to C. Mango, for both the mosaic and the seals, Justinian is portrayed offering a model of his church to Christ, as Hagia Sophia (Holy Wisdom), and also to the Virgin who is the receptacle or temple of Divine Wisdom.<sup>26</sup> Laurent followed a similar line of reasoning. Based upon his interpretation of the invocative inscriptions discussed above, he concluded that both the Virgin and Justinian are seen as intercessors for the ἔκδικοι.<sup>27</sup> L. Rydén, too, likened the sigillographic image to that of the mosaic in that both depict Justinian entrusting the cathedral to the Virgin.<sup>28</sup> More recently, Prinzing also related the seals to the mosaic and described the imperial figures in both cases as seeking Christ's blessings, *through* the Theotokos, since the church is under the general jurisdiction of *her* city.<sup>29</sup> As observed above, Prinzing, following Laurent, considered both the Virgin and Justinian to be intercessors for the ἔκδικοι as this emperor instituted the ecclesiastical tribunal at the cathedral.<sup>30</sup> It is this aspect, that is, the selection of specific intercessory figures and their particular significance for the group of the ἔκδικοι, that my investigation attempts to develop further by drawing upon other visual and textual sources not previously associated with these seals and their iconography.

The ἔκδικοι, or ἐκκλησιέκδικοι (*defensores ecclesiae*), advocates or defenders, with whom we are concerned, were a group of clerics who formed a tribunal, or ἐκδικεῖον (*ekdikion*), that was assigned to Hagia Sophia by Justinian I.<sup>31</sup> The πρωτέκδικος (*protekdikos*) presided over this tribunal.<sup>32</sup> In the pre-iconoclastic period, their responsibilities are not well documented, and scholarly controversy exists as to their civil or ecclesiastical responsibilities during these centuries. Laurent considered the *ekdikoi* in the early period to be ecclesiastical officials, based upon canon 10 of the Synod of Carthage in 401, which calls for the appointment of defenders, under the supervision of bishops, to assist in the Church's

<sup>25</sup> For this mosaic, see note 19 above.

<sup>26</sup> C. Mango, "The Mosaics of Hagia Sophia," in H. Kähler and C. Mango, *Hagia Sophia*, trans. E. Childs (New York, 1967), 55. For discussion of the Virgin and her associations with Wisdom, see J. Meyendorff, "Wisdom-Sophia: Contrasting Approaches to a Complex Theme," *DOP* 41 (1987): 391–401, and D. Pallis, "Ὁ Χριστὸς ὡς ἡ Θεία Σοφία: Ἡ εἰκονογραφικὴ Περιπέτεια Μίας Θεολογικῆς Ἐννοίας," *Δελτ.Χριστ.Ἀρχ.* Ἐτ. 15 (1989–90): 119–44. For discussion of the Virgin and her associations with the cathedral of Hagia Sophia, see Cormack, "The Mother of God," 107 and 113–14.

<sup>27</sup> Laurent, *Corpus*, 5.1:91.

<sup>28</sup> L. Rydén, "Två Mosaiker I Hagia Sofia," *Meddelanden* 1 (1976): 34–35.

<sup>29</sup> Prinzing, "Das Bild Justinians I.," 8–16. For Prinzing, the mosaic of the southwest vestibule is not only a memorial or foundation image but also the visual statement of an ideal emperor; thus he is critical of A. Schminck, "'Rota tu volubilis': Kaisermacht und Patriarchenmacht in Mosaiken," in *Cupido Legum*, ed. L. Burgmann, M. T. Fögen, and A. Schminck (Frankfurt am Main, 1985), 227–34, who saw this mosaic as a pictorial response of Leo VI in antithesis to the mosaic over the central imperial door supposedly expressing earlier Photian imperial-ecclesiastical policies. For a less than idealized view of Justinian in this mosaic, see G. Dagon, *Empereur et prêtre: Étude sur le "césaropapisme" byzantin* (Paris, 1996), 125. Cormack, "The Mother of God," 113–17, sees the presence of the Virgin in the southwest vestibule mosaic and that of the narthex lunette as referring to the role of the Theotokos in the support of the emperor and state ideology, as the protector of the city, and as deeply religious images.

<sup>30</sup> Prinzing, "Das Bild Justinians I.," 16–17.

<sup>31</sup> *Ibid.*, 14–17.

<sup>32</sup> For a discussion of the history of this title and the official's responsibilities, see K. Rhalles, "Περὶ τοῦ ἐκκλησιαστικοῦ ἀξιώματος τοῦ πρωτεκδικίου," *Πρακτικά τῆς Ἀκαδημίας Ἀθηνῶν* 11 (1936): 286–91, and J. Darrouzès, *Recherches sur les ΟΦΦΙΚΙΑ de l'église byzantine* (Paris, 1970), 323–32.



protection of the poor against injustice.<sup>33</sup> The office underwent subsequent reform in 535 with Justinian's novel 15, which conferred judicial and administrative authority on defenders, who were to be selected by the bishop, the clergy, or other reputable civic members, but placed under the authority of the local governor.<sup>34</sup> J. Darrouzès also argued that, from the beginning, the *ekdikoi* belonged to the church administration.<sup>35</sup> He considered novel 15 to pertain to members of the clergy as well as Justinian's novels 56, 74, and 117, and canon 75 of Carthage in 419 and canon 23 of Chalcedon in 451.<sup>36</sup> Novel 56 stipulates that the *ekklesiekdikoi* of the cathedral church of Constantinople are to obey orders concerning the receipt of contributions from clergy assigned to the building,<sup>37</sup> novels 74 and 117 mention the *ekdikoi* of the church administering marriage contracts.<sup>38</sup> Canon 75 of Carthage, as noted previously, institutes defenders to protect the poor and places these officials under the authority of the bishop of each diocese.<sup>39</sup> Canon 23 of Chalcedon charges the *ekdikoi* of the church of Constantinople with the responsibility of notifying errant clergy and monastics from other dioceses to leave the capital.<sup>40</sup> Prinzing, however, concluded that Justinian's novel 15 refers only to civil officials and that it is difficult to discern when the exclusive ecclesiastical interpretation of the *ekdikoi* occurred, offering only a broad period between the seventh and the beginning of the eleventh century.<sup>41</sup>

Since the middle Byzantine period, however, it is known that the clerical tribunal held its sessions in one of the vestibules of the Great Church. From the tenth-century Dresden typikon, one learns that during the return of liturgical processions to Hagia Sophia, the *lite* concluded at the seat of the *ekdikoi* (ἐν τῇ καθέδρᾳ τῶν ἐκδικῶν) and that the final prayer of the procession took place before the column of the *ekdikoi* (ἔμπροσθεν τοῦ κίονος τῶν ἐκδικῶν).<sup>42</sup> Later, when Niketas Choniates described the tumultuous events that occurred in Hagia Sophia in May 1181 during the conflict surrounding the seizure of the imperial

<sup>33</sup> Laurent, *Corpus*, 5.1:86. The canon is repeated later as canon 75 of the Synod of Carthage in 419. For the text of the canon, see G. Rhalles and M. Potles, *Σύνταγμα τῶν Θείων καὶ Ἱερῶν Κανόνων*, vol. 3 (Athens, 1853 [repr. 1966]), 494. For discussion of the *defensores* of the early Church, see F. Martroye, "Les 'defensores ecclesiae' aux Ve et VIe siècles," *Revue historique du droit français et étranger* 2 (1923): 597–626; C. Humfress, "Defensor ecclesiae," in *Late Antiquity: A Guide to the Postclassical World*, ed. G. W. Bowersock et al. (Cambridge, Mass., 1999), 405–6; eadem, "Roman Lawyers in the Late Antique Church: The Creation of the *Defensor Ecclesiae*," forthcoming.

<sup>34</sup> Laurent, *Corpus*, 5.1:86. For the text of novel 15, see *Corpus Iuris Civilis*, ed. R. Schoell and G. Kroll, vol. 3 (Berlin, 1959), 109–15, and *The Civil Law*, ed. S. Scott, vol. 16 (Cincinnati, 1932 [repr. New York, 1973]), 80–85, in which the responsibilities of the defenders or *ἐκδικοί* include advocating for those suffering injustice, registering various documents such as wills and donations, assisting in the collection of taxes, repressing public sedition, overseeing cases of small claims, and judging minor offenses.

<sup>35</sup> Darrouzès, *Recherches*, 323–25, where he disagrees with the 12th-century commentaries of Balsamon who understood the early *ekdikoi* to be civil officials.

<sup>36</sup> *Ibid.*

<sup>37</sup> For the text, see *Corpus Iuris Civilis*, 3, 311 and *The Civil Law*, 235.

<sup>38</sup> For the text, see *Corpus Iuris Civilis*, 3, 375 and 554 and *The Civil Law*, 17, 52.

<sup>39</sup> See note 33 above.

<sup>40</sup> For the text, see G. Rhalles and M. Potles, *Σύνταγμα τῶν Θείων καὶ Ἱερῶν Κανόνων*, vol. 2 (Athens, 1852 [repr. 1966]), 270.

<sup>41</sup> Prinzing, "Das Bild Justinians I.," 17.

<sup>42</sup> A. Dimitrievskii, "Drevneishie patriarshie tipikon' ierutsalimskii (tsviatogrodskii) i konstantinopol'skii (Velikoi tserkvi)," *Trudy Kievskoi Dukhovnoei Akademii* 16 (1901): 566, and Darrouzès, *Recherches*, 327.

throne, he wrote that the seat of the ἔκδικοι was located in the vestibule of the church (τὸ προσκήνιον τοῦ νεώ).<sup>43</sup> Based on this information, Darrouzès concluded that the tribunal met either in the inner narthex or in the small vestibule of the entrance (Figs. 7, 8).<sup>44</sup> In either case, the setting of the ἐκδικεῖον within the precincts of the Great Church, combined with its clerical status, endowed the tribunal with a quasi-sacramental character.

From the twelfth through fifteenth centuries, and thus contemporary with our group of seals, the responsibilities of the ἐκδικεῖον are better documented:<sup>45</sup> they defended those accused of murder and other offenses;<sup>46</sup> they oversaw the liberation of slaves or those freed from prison;<sup>47</sup> they granted the right of asylum in the Great Church;<sup>48</sup> and they instructed converts and those who had lapsed.<sup>49</sup> Obviously, their most important function was dealing with those accused of murder who sought refuge in Hagia Sophia. The right of asylum had a long history.<sup>50</sup> It is first mentioned in canon 7 of Serdica in 342/343 where it is already acknowledged as a practice in which accused persons seek mercy and refuge in the church.<sup>51</sup> In 431 Theodosios II extended the boundaries of refuge to include not only the nave and altar but also the entire precinct of the church.<sup>52</sup> The edict of Leo I in 466 most

<sup>43</sup> Niketas Choniates, *Historia*, ed. J. van Dieten (Berlin, 1975), 238, and Darrouzès, *Recherches*, 327. For the English translation of Choniates, see H. Magoulias, *O City of Byzantium, Annals of Niketas Choniates* (Detroit, 1984), 134.

<sup>44</sup> Darrouzès, *Recherches*, 327. Magoulias, *O City of Byzantium*, 134, translated τὸ προσκήνιον as “outer narthex.”

<sup>45</sup> Darrouzès, *Recherches*, 328–30, discusses these activities with reference to the primary sources; see also R. Macrides, “Nomos and Kanon on Paper and in Court,” in *Church and People in Byzantium*, ed. R. Morris (Birmingham, 1990), 68 (repr. in her *Kinship and Justice in Byzantium, 11th–15th Centuries* [Aldershot, 1999], no. vi).

<sup>46</sup> Darrouzès, *Recherches*, 328. The sources are George Tornikes, *Sur la promotion du prôtekdikos*, ed. Darrouzès, *Recherches*, 534: τοὺς ὅσοι δηλαδή, τὰς χεῖρας εἰς ἀνδρόμεον βάψαντες αἷμα, κίνδυνον ἔσχον ἀλῶναι φονουργίας ἐγκλήματι; Balsamon's treatise comparing the *chartophylax* and the *protekdikos*, PG 138:1037b: τῶν μὲν χάριν ἐλευθερίας τὴν ἐκκλησιαστικὴν ζητούντων βοήθειαν, μετὰ δικαιοδοσίας ἀντιλαμβάνεσθαι; Patriarch Matthew I's decree of 1398, J. Oudot, *Patriarchatus constantinopolitanus acta selecta* (Rome, 1941), 158, no. 29: τοὺς τῆ ἀγιωτάτῃ Μεγάλῃ Ἐκκλησίᾳ προσπεφυγότας, τισὶν αἰτίαις ταύτῃ προσέδραμον, . . . κανονίσει τε τοὺς περιπεσόντας ἐγκλήμασί τισιν ἀπηγορευμένους (for a French summary, see J. Darrouzès, *Les registres des actes du patriarchat de Constantinople, I: Les actes des patriarches*, vol. 6 [Paris, 1979], 330); and Symeon of Thessalonike's *De sacris ordinationibus*, PG 155:464b: τοὺς φόνῳ ἢ ἄλλῳ τινὶ ἀμαρτήματι περιπίπτοντας ἐξετάζων.

<sup>47</sup> Darrouzès, *Recherches*, 328. The sources are George Tornikes, *Sur la promotion du prôtekdikos*, 534: ἔστι δ' οὐς καὶ δουλοσύνης ἐξάγων ἀδίκου καὶ πρὸς τὸ φύσει κοινὸν καὶ ἀρχαῖον ἐπανάγων ἐλευθέρων, and Balsamon, PG 138:1037b: παρὰ τοῖς θεοσεβεστάτοις ἐκδικοῖς χάριν ἐλευθεροβοούντων ἢ δουλαγωγουμένων τινῶν.

<sup>48</sup> Darrouzès, *Recherches*, 328. The sources are Balsamon, PG 138:103b: τῶν δὲ λοιπῶν προσφύγων ἀντιποιεῖσθαι, and Matthew I: see note 46 above.

<sup>49</sup> Darrouzès, *Recherches*, 328. The sources are Matthew I, ed. Oudot, *Patriarchatus constantinopolitanus acta selecta*, 158, no. 29: Τοὺς γε μὴν τῷ θεῷ τῆς παλιγγενεσίας λουτρῷ προσδραμόντας, ἐκ τῶν ἀλλοεθνῶν τε καὶ ἀλλοφύλων, προσδεξάμενος, παραδώσει τινὶ τῶν ἐκδικῶν τῆς ἐκκλησίας πρὸς κατήχησιν τε καὶ τὴν τοῦ ζητουμένου τελείωσιν, and Darrouzès, *Les registres*, 6:330; and Symeon of Thessalonike, PG 155:464b: δὲ πάλιν τοὺς ἐπιστρέφοντας ἐξ ἀρνήσεως δέχεσθαι τάξιν ἔχει.

<sup>50</sup> For an overview of the history of asylum in the Eastern Church, see E. Herman, “Asile dans l'église orientale,” *DDC* 1 (Paris, 1935), 1084–89; idem, “Zum Asylrecht im byzantinischen Reich,” *OCP* 1 (1935): 204–38; and A. Papadakis and R. Macrides, “Asylum,” *ODB* 1:217.

<sup>51</sup> Rhalles and Potles, *Σύνταγμα*, 3:249: Ἀλλ' ἐπειδὴ πολλάκις συμβαίνει τινὰς οἴκτου δεομένους, καταφυγεῖν ἐπὶ τὴν ἐκκλησίαν, διὰ τὰ ἑαυτῶν ἀμαρτήματα εἰς περιορισμὸν.

<sup>52</sup> *Codex Theodosianus*, ed. T. Mommsen and P. Meyer, 1.2, 2d ed. (Berlin, 1954), 9, 45:4, 520: “nec sola altaria et oratorium templi circumiectum, qui ecclesias quadripertito intrinsecus parietum saeptu concludit, ad tuitionem confugientium sancimus esse proposita, sed usque ad extremas fores ecclesiae, quas oratum gestiens



clearly defined the rules governing asylum: it recognized the authority of the bishop in such matters; the person seeking refuge must present the case to the defender of the church (*defensoris ecclesiae*); and it specified the role that the civil court played in these cases.<sup>53</sup> These constitutions were later incorporated within Justinian's code.<sup>54</sup>

This right of asylum at Hagia Sophia, however, had a long history and close association with the legislation of Justinian, yet regarding the privilege for murderers the law code is problematic. In his novel 17.7, this emperor actually restricts the use of asylum by denying protection to murderers, adulterers, and rapists, specifying that it is intended only for those who suffer injustice.<sup>55</sup> There also survive two chrysobulls attributed to Justinian that pertain to the right of asylum at the Great Church but do not mention this privilege for murderers.<sup>56</sup> It is only later in the tenth century that asylum for murderers is expressly stated and associated with Justinianic tradition and legislation. Constantine VII Porphyrogenetos (945–959) issued two novels affirming the right of asylum for murderers, referring to Justinian's precedent for this tradition.<sup>57</sup> In novel 10, Constantine VII attempts to reconcile Justinian's restrictive legislation related to asylum with another tradition, also ascribed to Justinian, that granted the privilege of asylum for murderers at Hagia Sophia.<sup>58</sup> In novel 11, Constantine VII did not specify the Great Church but rather speaks of the church in general concerning asylum for murderers.<sup>59</sup> The tenth-century

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populus primas ingreditur, confugientibus aram salutis esse praecipimus, ut inter templi quem parietum describimus cinctum et post loca publica ianuas primas ecclesiae quidquid fuerit interiaccens sive in cellulis sive in domibus hortulis balneis areis atque porticibus, confugas interioris templi vice tueatur." See also *The Theodosian Code and Novels and the Sirmondian Constitutions*, ed. C. Pharr (Princeton, N.J., 1952), 9, 45:4, 265.

<sup>53</sup> *Corpus Iuris Civilis*, 2, 65–67 and *The Civil Law*, 12, 82–85.

<sup>54</sup> *Ibid.*

<sup>55</sup> Novel 17.7, *Corpus Iuris Civilis*, 3, 121–22: Οὔτε δὲ ἀνδροφόνους οὔτε μοιχοῖς οὔτε παρθένων ἄρπαξιν ἀμαρτάνουσι τὴν ἐκ τῶν ὄρων φυλάξεις ἀσφάλειαν, . . . ἢ ἐκ τῶν ἀσφάλεια οὐ τοῖς ἀδικούσιν, ἀλλὰ τοῖς ἀδικουμένους δέδοται παρὰ τοῦ νόμου, and *The Civil Law*, 90–91. Justinian's novel, however, refers to church precincts in general and not just to Hagia Sophia.

<sup>56</sup> *Imp. Iustiniani PP. A. novellae quae vocantur . . .*, ed. C. E. Zachariae von Lingenthal, vol. 1 (Leipzig, 1881), xi–xiii. R. Macrides, "Justice under Manuel I Komnenos: Four Novels on Court Business and Murder," *FM* 6 (1984): 191–92 (repr. in her *Kinship and Justice in Byzantium*, no. ix), and eadem, "Killing, Asylum, and the Law in Byzantium," *Speculum* 63 (1988): 510–11 (repr. in her *Kinship and Justice in Byzantium*, no. x) discusses Justinian's legislation on asylum and the doubted authenticity of these two chrysobulls in light of their irregular transmission. She suggests that since the chrysobulls do not specifically mention the right of asylum for murderers, the texts may be corrupt.

<sup>57</sup> Novels 10 and 11, *Jus Graecoromanum*, ed. J. Zepos and P. Zepos, vol. 1 (Athens, 1931 [repr. Darmstadt, 1962]), 230–35. In her discussion of these undated novels of Constantine VII, Macrides, "Justice under Manuel I Komnenos," 191–93, underlines the actual new and more liberal stance taken by this emperor in affirming the right of asylum extended to murderers, although the emperor thought that he was drawing upon Justinianic legislation (see note 56 above). She also concludes that since the right of asylum for murderers that Constantine VII mentions does not appear in the earlier two chrysobulls attributed to Justinian, either the chrysobulls exist in a corrupt state or the privilege to which Constantine refers was a forgery (again, see note 56 above). In summarizing the reception of these novels in subsequent commentaries, Macrides suggests that Novels 10 and 11 were originally composed as one novel with the text of 10 functioning as the *proomion*. See also eadem, "Killing, Asylum, and the Law," 510–12.

<sup>58</sup> *Jus Graecoromanum*, 231: μάχεται πάντως ἑαυτῷ ὁ τοὺς νόμους ἀθροίσας καὶ γράψας ἰουστινιανός, νομοθετήσας μὲν ἀνδροφόνους μὴ εἶναι ἀσυλίαν, ἐν δὲ τῷ παρ'αὐτοῦ συστάντι ἱερῷ ἀσυλίαν, ἔχειν λοιπὸν τοὺς ἀνδροφόνους.

<sup>59</sup> *Ibid.*, 233: καὶ τὸ τῶν ἐκκλησιῶν μέγα καὶ θεῖον συντηρῆται προνόμιον.

emperor's legislation, therefore, represented a more benevolent treatment of murderers, probably reflecting the church's influence on previous imperial legislation concerning this matter.<sup>60</sup> With time, Constantine VII's more lenient legislation was abused, and in 1166 Manuel I Komnenos issued an edict that attempted to curtail the misuses associated with this practice at the cathedral.<sup>61</sup>

R. Macrides has characterized this same period of Manuel I as an era that witnessed a revival in the sphere of jurisprudence.<sup>62</sup> This renewed interest actually had its beginnings in the eleventh century with the creation of a school of law by Constantine IX Monomachos,<sup>63</sup> the compilation of the *Peira*,<sup>64</sup> and the revision of the *Nomokanon*.<sup>65</sup> Such developments also paved the way for the twelfth-century canonists Aristenos, Balsamon, and Zonaras.<sup>66</sup> For the Komnenian period, P. Magdalino<sup>67</sup> and Macrides<sup>68</sup> have discussed the parallel interest in Justinian and his legislation as part of the imperial dynastic policy of

<sup>60</sup> Macrides, "Justice under Manuel I Komnenos," 191–92, and eadem, "Killing, Asylum, and the Law," 511. The question regarding the church's right of asylum for murderers appears to have been a subject of some concern in the 10th century. Arethas, bishop of Caesarea, addressed two letters to Emperor Leo VI and the *magistros* Kosmas in which he discussed extending the privilege of asylum to murderers. For the texts of these letters, see *Arethae Archiepiscopi Caesariensis Scripta Minora*, ed. L. Westerink, vol. 1 (Leipzig, 1968), 257–59. For discussion of these letters, see P. Karlin-Hayter, "Aréthas et le droit d'asile," *Byzantion* 34 (1964): 613–18 (repr. in her *Studies in Byzantine Political History* [London, 1981], no. VII).

<sup>61</sup> Macrides, "Justice under Manuel I Komnenos," 160: ταῦτα πάντα κατανοήσασα ἡ βασιλεία μου, προσλογισαμένη δὲ καὶ τὸ τοῦ ῥηθέντος νεαροῦ βασιλικοῦ διατάγματος ἐπὶ τισι κανονικαῖς διατάξεσιν ἐναντίον καὶ ἄλλως ἀδόκιμον, ἐφρόντισε κατὰ τὸ ἐγγωροῦν καὶ τὸ τοῦ φόνου μύσος ἀναστεῖλαι, καὶ τὰ τῆς νεαρᾶς διορθώσασθαι. For the full text of the edict, see *ibid.*, 156–67 and 190–204 for discussion. Manuel refers to the Great Church and to Constantine by name, 158–59, but does not mention Justinian even though the 12th-century emperor has taken up the spirit of the more restrictive policy concerning asylum established by his 6th-century predecessor. See also eadem, "Killing, Asylum, and the Law," 512–14. Also in the 12th century, in addition to Hagia Sophia, we know from Anna Komnena, *Alexiade*, ed. B. Leib, vol. 1 (Paris, 1967), 2, 76, that the chapel of St. Nicholas, behind the eastern end of the Great Church, likewise was regarded as a place of asylum or refuge (προσφύγιον) for criminals. For discussion of this chapel, see R. Janin, *La géographie ecclésiastique de l'empire byzantin I: Le siège de Constantinople et le patriarcat oecuménique, 3: Les églises et les monastères*, 2d ed. (Paris, 1969), 368–69, and G. Majeska, *Russian Travelers to Constantinople in the Fourteenth and Fifteenth Centuries* (Washington, D.C., 1984), 223–25.

<sup>62</sup> Macrides, "Nomos and Kanon," *passim*, and eadem, "Perception of the Past in the Twelfth-Century Canonists," in *Byzantium in the 12th Century: Canon Law, State and Society*, ed. N. Oikonomides (Athens, 1991), 589–600 (repr. in her *Kinship and Justice in Byzantium*, no. VII).

<sup>63</sup> Macrides, "Nomos and Kanon," 67–68, and eadem, "Perception of the Past," 589. For the school of law, see P. Lemerle, *Cinq études sur le XIe siècle byzantin* (Paris, 1977), 207–12.

<sup>64</sup> Macrides, "Killing, Asylum, and the Law," 517. For the text of the *Peira*, see *Jus Graecoromanum*, ed. J. Zepos and P. Zepos, vol. 4 (Athens, 1931 [repr. Darmstadt, 1962]), 9–260. See also N. Oikonomides, "The 'Peira' of Eustathios Rhomaïos: An Abortive Attempt to Innovate in Byzantine Law," *FM* 7 (1986): 169–92.

<sup>65</sup> Macrides, "Nomos and Kanon," 67. For the text of the *Nomokanon*, see I. Pitra, *Iuris ecclesiastici graecorum historia et monumenta*, vol. 2 (Rome, 1868 [repr. 1963]), 433–640.

<sup>66</sup> Macrides, "Nomos and Kanon," 71–86.

<sup>67</sup> P. Magdalino, "Aspects of Twelfth-Century Byzantine Kaiserkritik," *Speculum* 58.2 (1983): 344–45 (repr. in his *Tradition and Transformation in Medieval Byzantium* [Aldershot, 1991], no. VIII); idem, "The Phenomenon of Manuel I Komnenos," *ByzF* 13 (1988): 171–99 (repr. in his *Tradition and Transformation*, no. IV); and P. Magdalino and R. Nelson, "The Emperor in Byzantine Art of the Twelfth Century," *ByzF* 8 (1982): 172–76 (repr. in his *Tradition and Transformation*, no. VI).

<sup>68</sup> Macrides, "Justice under Manuel I Komnenos," 101–2; eadem, "Perception of the Past," 589–90; and R. Macrides and P. Magdalino, "The Fourth Kingdom and the Rhetoric of Hellenism," in *The Perception of the Past in Twelfth-Century Europe*, ed. P. Magdalino (London, 1992), 120–22.

*renovatio*. Although Justinian had already been included in the tenth-century Synaxarion of Constantinople, Patriarch John IX Agapetos (1111–34) instituted another annual celebration on 2 August in honor of the emperor.<sup>69</sup> Of the known images of this idealized emperor from the period of our seals, we find two examples, both within the context of legal works, that is, manuscripts of the *Ekloga*: Venice, Marciana cod. gr. 172, dated to 1175 (Fig. 9)<sup>70</sup> and Paris, Bib. Nat. cod. gr. 1391, assigned to the last third of the thirteenth century (Fig. 10).<sup>71</sup> According to Prinzing, Justinian's image serves to portray the celebrated emperor as a co-author of the *Ekloga*, thus associating and expanding his memory within the wider corpus of Byzantine legal tradition.<sup>72</sup> In this light, it is easy to understand the presence of Justinian on the seals of the ἔκδικοι as part of the revival of the discipline of law along with the memory of this emperor of the distant past. He is regarded as the founder or patron of the tribunal, and those seals of the *ekdikoi* are among the very few ecclesiastical examples that bear an image of an emperor.<sup>73</sup> In addition, Justinian was the builder of the temple in which the *ekdikoi* met and was remembered as the one who instituted the right of asylum in the cathedral.

During the last decade of the twelfth century, Patriarch George II Xiphilinos (1191–98) elevated the position of *protekdikos* to the sixth rank within the ἐξωκατάκοιλοι, the principal officials of the patriarchal office.<sup>74</sup> Possibly, those seals in our group that place Justinian on our left, but in the more honored position to the Virgin's right, may reflect this promotion (Fig. 5).<sup>75</sup> All the seals with this configuration are assigned to the period of the later twelfth century or afterwards. Figure 5 may belong to the late twelfth century or

<sup>69</sup> Macrides, "Perception of the Past," 589, and Macrides and Magdalino, "The Fourth Kingdom," 121. See V. Grumel, *Les registres des actes du patriarcat de Constantinople*, ed. J. Darrouzès, 1.2 and 3 (Paris, 1989), no. 1006.

<sup>70</sup> I. Spatharakis, *Corpus of Dated Illuminated Greek Manuscripts to the Year 1453* (Leiden, 1981), 1: no. 161, 46, and 2: pl. 307. For a complete transcription of the inscriptions accompanying the figures and their biblical references, see Prinzing, "Das Bild Justinians I.," 96–97.

<sup>71</sup> C. Constantinides and R. Browning, *Dated Greek Manuscripts from Cyprus to the Year 1570* (Washington, D.C.–Nicosia, 1993), no. 21, 127–32 and pl. 165. For the transcription and discussion of the inscriptions flanking the image of the emperor, see Prinzing, "Das Bild Justinians I.," 98–99.

<sup>72</sup> Prinzing, "Das Bild Justinians I.," 99.

<sup>73</sup> Prinzing, "Das Bild Justinians I.," 15, and Macrides, "Perception of the Past," 590 note 4, claim that the seals of the *ekdikoi* are the only ecclesiastical seals that depict an emperor. From my database of 7,070 seals bearing religious figural iconography, eleven examples, however, depict another sainted emperor, Constantine I. Of these, four of the offices of the owners are unknown; three belong to an emperor; three are from the civil administration; and one is issued by a monastery or *diakonia* dedicated to St. Constantine. For this example, see Laurent, *Corpus* 5.3: no. 1922. Another striking and extremely rare example is an 11th-century seal belonging to the *oikonomieion* of Hagia Sophia on which the obverse bears an image of the Virgin and Child seated on a *thokos* (backless throne) flanked on either side by three imperial figures. For reproductions of this seal, see Zacos and Vegler, *Byzantine Lead Seals*, vol. 1, frontispiece for the plate volume, and "Byzantine Seals: 2," *Spink Auction* (London, 25 May 1999), no. 208 with discussion.

<sup>74</sup> Darrouzès, *Recherches*, 324–28, outlines the controversy this promotion created between the position of the newly elevated *protekdikos* and that of the *chartophylax*; he also provides the oration, with translation, composed by George Tornikes upon the occasion of the promotion, 534–37. For Balsamon's treatise on the relative responsibilities of the two offices of the *protekdikos* and the *chartophylax*, see G. Rhalles and M. Potles, *Σύνταγμα τῶν Θεῶν καὶ Ἱερῶν Κανόνων*, vol. 4 (Athens, 1854 [repr. 1966]), 530–41 and PG 138:1033–52. See also Macrides, "Killing, Asylum, and the Law," 515 and 536–37, and eadem, "Nomos and Kanon," 83.

<sup>75</sup> Laurent, *Corpus*, 5.1:91, discusses the relative positions of the Virgin and Justinian on these seals and offers a chronology different from that set forth in this paper: no. 112, second half of the 11th century; no. 113, 11th–12th century; and no. 114, 13th and 14th centuries. In attempting to explain the unusual secondary position of the Virgin in comparison to the emperor, Laurent suggested that those seals that place Justinian on

to the early thirteenth, that is, before the Latin conquest of 1204. Furthermore, these seals now include the name of the emperor in the inscription. With their new status, the ἔκκλησιέκδικοι may have desired to cultivate a closer association with their illustrious imperial patron.

When handling the case of an accused murderer, the tribunal heard the person's confession (the most essential element of the procedure), judged the individual's guilt or innocence, and the patriarch, with the synod, assigned the proper *epitimia* (ἐπιτίμια) or penances.<sup>76</sup> The *ekdikeion's* decision and the penances were then given to the penitent in written form, a *semeioma* (σημείωμα), which also ensured his safety against his pursuers. Possibly the seals of the *ekklesiekdikoi* were appended to these *semeiomata*.<sup>77</sup> If so, their relatively large size would permit easy recognition of the penitents' immunity from retribution. As Macrides observed, those who sought refuge in the church, most often the disenfranchised, usually fared better there than in civil courts where the imperial administration was known for its arbitrariness.<sup>78</sup> The ἔκδικεῖον, in contrast, regarded itself as an instrument of spiritual healing and dispenser of mercy for the accused, ensuring hope for their ultimate salvation.<sup>79</sup> In a document issued ca. 1059/60 by Patriarch Constantine III Leichoudes, the hierarch includes an account of a slave who committed murder and sought asylum in the cathedral.<sup>80</sup> The patriarch writes that those who sought refuge in the precincts of the Great Church could be saved from death as if by a protective mother (καὶ θανάτου μὲν ἐπίσης τοῖς ἄλλοις ῥύεται μητρικῶς).<sup>81</sup> With such characterizations, one may begin to understand the specific role of the Virgin on the seals of the ἔκδικοι, as the protective mother

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the *proper* right and the Virgin on the *proper* left were made at a time when the left, the side of the heart, was given the place of honor, while those few with the opposite arrangement reflect a period that followed the more traditional custom that the proper right was the more esteemed position. There seems to be no evidence to support this conclusion, which is also criticized by Rydén, "Två Mosaiker," 34–35. In addition, Laurent makes no mention of the promotion of the office of the *protekdikos*. He does, however, publish a new type of seal belonging to the *ekdikeion* which depicts the Virgin and Child seated on a *thokos* and assigns it to the second half of the 12th century. Laurent states that this new type of seal does not replace the other, but rather they co-exist. Prinzing, "Das Bild Justinians I.," 17, suggests that this new seal may have been made during the period of competition between the *protekdikos* and the *chartophylax* and tentatively considers that the absence of Justinian's image and his association with the *ekdikoi* may reflect a heightened juridical-historical awareness in light of the controversy and Balsamon's commentary on their origin and responsibilities (see notes 35 and 74 above). Macrides, "Killing, Asylum, and the Law," 537, however, regards Laurent's seal no. 115 as evidence of the *protekdikos's* new, elevated status. Although the reverse inscription of this seal indicates its novelty, τῶν ἐκδικῶν σφράγισμα τυγχάνω νέον, the image of the Virgin and Child in itself is ubiquitous on seals. Furthermore, this appears to be only one surviving example, and all later seals belonging to the tribunal, that is, after the late 12th-century promotion, depict the customary image of the Virgin and Justinian supporting the model of Hagia Sophia.

<sup>76</sup> The significance of the accused's confession and an outline of the tribunal's procedure is provided by Macrides, "Justice under Manuel I Komnenos," 197, 200–202; eadem, "Poetic Justice in the Patriarchate. Murder and Cannibalism in the Provinces," in *Cupido Legum* (as above, note 29), 154–57 and 164–66; and eadem, "Killing, Asylum, and the Law," 516–17.

<sup>77</sup> I wish to thank one of the anonymous readers for this consideration.

<sup>78</sup> Macrides, "Killing, Asylum, and the Law," 533–38.

<sup>79</sup> *Ibid.*, 509 and 515.

<sup>80</sup> Rhalles and Potles, Σύνταγμα, 5:48–49. For the problematic dating of the text, see Grumel, *Les registes*, no. 887. See also Macrides, "Justice under Manuel I Komnenos," 196–97, and eadem, "Killing, Asylum, and the Law," 517.

<sup>81</sup> Rhalles and Potles, Σύνταγμα, 5:48.

and intercessor for the accused as well as for those who must make the difficult decisions determining their innocence and guilt.

The Virgin was well known as the intercessor par excellence, a unique position she enjoyed as the mother who could move her divine son to compassion.<sup>82</sup> Laurent,<sup>83</sup> followed by Prinzing,<sup>84</sup> read the invocation on our seals as beseeching the Virgin, through the prayers of Justinian, to help the *ekklesiekdikoi*. Some visual evidence indicates that the Virgin had a significant and particular role for criminals and penitents. In the Psalter, Vatican, cod. gr. 752, datable by paschal tables to 1058/59, the miniature accompanying Psalm 16 includes an inscription that identifies the scene: the sons of Korah are “confessing” before St. Silvester (οἱ υἱοὶ τοῦ κορὲ ἐξαγορίαν ποιούμενοι εἰς τὸν ἅγιον σίλβεστρον) (Fig. 11).<sup>85</sup> In discussing this miniature, I. Kalavrezou et al. noted the inclusion of an icon of the Virgin and its appropriateness for the setting of confession.<sup>86</sup> The Theotokos’s particular protection for criminals is demonstrated in some other manuscript images, too. In a twelfth-century copy of the Heavenly Ladder, Sinai, cod. gr. 418, the headpiece accompanying the chapter on Penitence includes an additional scene depicting three monks in prostration before the Virgin orans (Fig. 12).<sup>87</sup> Only this chapter within this manuscript receives an augmented headpiece. In another illustrated version of the Ladder from the late twelfth–early thirteenth century, Vatican, cod. gr. 1754, the text of the Penitential Canon is included in honor of the “holy criminals” described in the fifth chapter.<sup>88</sup> The *theotokion* of each ode of the canon is provided with an image of the Virgin interceding on behalf of the so-called “holy criminals” and an accompanying supplicatory inscription. For ode 1, the Virgin prays for the sinners, here depicted with their hands bound behind them as actual criminals (Fig. 13);<sup>89</sup> for ode 3, the Virgin encourages the criminals to repent (Fig. 14).<sup>90</sup> Similar scenes incorporating the figure of the Theotokos illustrate later copies of the Penitential Canon as well.<sup>91</sup>

The late eleventh and twelfth centuries witnessed the development of various emotive Marian images that associated the Virgin with the role of advocate or defender.<sup>92</sup> Two well-known, relevant examples are the *proskynetaria* icons of the Virgin Eleousa with Christ An-

<sup>82</sup> For a general discussion of the Virgin as intercessor, see J. Ledit, *Marie dans la liturgie de Byzance* (Paris, 1976), 303–13. For a recent summary of the Theotokos as compassionate mother, see I. Kalavrezou, “The Maternal Side of the Virgin,” in *Mother of God* (as above, note 1), 41–46.

<sup>83</sup> Laurent, *Corpus*, 5.1:91.

<sup>84</sup> Prinzing, “Das Bild Justinians I.,” 16.

<sup>85</sup> E. De Wald, *The Illustrations in the Manuscripts of the Septuagint, III:2, Vaticanus graecus 752* (Princeton, N.J., 1942), 13, pl. 21.

<sup>86</sup> I. Kalavrezou, N. Trahoulia, and S. Sabar, “Critique of the Emperor in the Vatican Psalter gr. 752,” *DOP* 47 (1993): 216.

<sup>87</sup> J. R. Martin, *The Illustration of the Heavenly Ladder of John Climacus* (Princeton, N.J., 1954), 187, fig. 185, and K. Weitzmann and G. Galavaris, *The Monastery of Saint Catherine at Mount Sinai: The Illuminated Greek Manuscripts, I: From the Ninth to the Twelfth Century* (Princeton, N.J., 1990), 155, color pl. 26a and fig. 600.

<sup>88</sup> Martin, *The Heavenly Ladder*, 128–49, figs. 246–77.

<sup>89</sup> *Ibid.*, 130, fig. 249: Οὗτοι ὀπισθεν ἑαυτῶν τὰς χεῖρας ὡς κατάδικοι δήσαντες, ἐν προσευχῇ ἴστανται κλίνοντες τὰς ἑαυτῶν ὄψεις εἰς γῆν· καὶ ἀναξίους ἑαυτοὺς λογιζόμενοι τῆς πρὸς τὰ ἄνω νεύσεως· καὶ οὐδὲ εἰπεῖν τί χάριν εὐχῆς τολμώντες· ὑπὲρ ἂν ἡ Θεοτόκος ποιεῖται δέησιν.

<sup>90</sup> *Ibid.*, 132–33, fig. 253: οἷς ἡ Θεοτόκος παρεγγυᾶται μὴ ἀπογῶναι· ἀλλ’ ἐλπίδι τῇ πρὸς Θεόν τὸν ἔλεον ἐφελκῶσασθαι.

<sup>91</sup> *Ibid.*, 147–49, figs. 278–91.

<sup>92</sup> H. Belting, *Likeness and Presence: A History of the Image before the Era of Art*, trans. E. Jephcott (Chicago, 1994), 241 and 281–96.

tiphonetes flanking the sanctuary barrier in the church of the Panaghia tou Arakos in Lagoudera, Cyprus, dated to 1192 (Fig. 15)<sup>93</sup> and in the twelfth-century lectionary, Lavra, cod. A 103 (Fig. 16).<sup>94</sup> The texts accompanying the Virgin in both representations spell out the invocative dialogue between the Mother of God and her Son on behalf of those who implore her aid,<sup>95</sup> and the epithet *Antiphonetes* (Responder) applied to Christ originally belonged to legal officials (“guarantors”) involved with petitions.<sup>96</sup> These representations seem to echo the procedures followed by the ἐκδικεῖον, in which the *protekdikos*, an advocate like the Virgin holding her “legal” document, records the confession of the accused, determines the proper penances, and then provides him with the *semeioma* that ensures the tribunal’s protection and ultimate absolution.<sup>97</sup>

The role of the Virgin as the special refuge of the accused is made more explicit when we realize that an actual icon of the Theotokos was in physical proximity to the seat of the tribunal. The twelfth-century account of the *Anonymous Mercati* informs us that the miraculous icon of the Virgin that had induced Mary of Egypt to repent of her sins was in the inner narthex of Hagia Sophia, to the right of the imperial doors (Fig. 17).<sup>98</sup> This image was seen again by the Russian pilgrims who visited Hagia Sophia during the Palaiologan period,<sup>99</sup> and Symeon of Thessalonike testifies to its existence as well.<sup>100</sup> G. Majeska has noted that the marble revetments on the east wall of the narthex, flanking the central doors, display dowel holes at approximately head level, suggesting that icons were once attached there for veneration.<sup>101</sup> Furthermore, the Byzantine era replacements of the flooring directly below these panels indicate that a large number of people passed over these spots to venerate these images.<sup>102</sup>

<sup>93</sup> Ibid., 214, fig. 140, and H. Maguire, “Abaton and Oikonomia: St. Neophytos and the Iconography of the Presentation of the Virgin,” in *Medieval Cyprus: Studies in Art, Architecture, and History in Memory of Doula Mouriki*, ed. N. Ševčenko and C. Moss (Princeton, N.J., 1999), 105, figs. 20 and 21.

<sup>94</sup> I. Spatharakis, *The Portrait in Byzantine Illuminated Manuscripts* (Leiden, 1976), 78–79, fig. 45.

<sup>95</sup> For the customary text of the dialogue in wall paintings, see S. Der Nersessian, “Two Images of the Virgin in the Dumbarton Oaks Collection,” *DOP* 14 (1960): 82: “Δέξαι δέησιν τῆς σῆς μητρός, οἰκτίρμων” “Τί, μήτερ, αἰτεῖς;” “Τὴν βροτῶν σωτηρίαν,” “Παρώργισάν με,” “Συμπάθησον, υἱέ μου,” “ἀλλ’ οὐκ ἐπιστρέφουσι,” “Σῶσον χάριν.” For the dialogue in the Lavra lectionary, the transcription is provided by Spatharakis, *The Portrait*, 78: ΤΟ ΣΧΗΜΑ ΠΑΝΤΑ ΤΟΝ ΣΚΟΠΙΟΝ ΔΗΛΟΙ ΤΕΚΝΟΝ ΠΡΕΣΒΙΝ ΜΕ ΠΡΟΣ ΣΕ ΚΑΙ ΜΕΣΙΤΗΝ ΔΕΙΚΝΥΟΝ. ΤΟΙΝΥΝ ΒΡΑΒΕΥΕ ΚΕΙΜΕΝΟΝ ΜΟΙ ΠΡΟΣ ΠΟΔΑΣ ΒΙΒΛΩ ΓΡΑΦΗΝΑΙ ΤΩΝ ΔΙΚΑΙΩΝ ΥΙΕ ΜΟΥ ΑΝ(ΔΡ)ΩΝ ΕΜΩ ΠΡΟΧΘΕ ΤΩ ΝΑΩ ΤΟΔΕ. Ω Μ(ΗΤ)ΕΡ ΕΞΕΙ ΠΑΝΤΕΛΗ ΣΩΤΗΡΙΑΝ. ΑΠΕΥΧΑΡΙΣ ΤΩ ΣΩ ΚΡΑΤΕΙ Θ(Ε)ΟΥ ΛΟΓΕ.

<sup>96</sup> C. Mango, *The Brazen House: A Study of the Vestibule of the Imperial Palace of Constantinople* (Copenhagen, 1959), 142, and Belting, *Likeness and Presence*, 241 and 282. For a history of the Christ Antiphonetes icon and the relevant literature, see Majeska, *Russian Travelers*, 356–60.

<sup>97</sup> See the outline of the tribunal’s procedures mentioned previously and note 76 above.

<sup>98</sup> K. Ciggaar, “Une description de Constantinople traduite par un pèlerin anglais,” *REB* 34 (1976): 249: “In dextera autem parte templi extra atrium ubi sunt <portae> in pariete est imago illa sanctae Mariae que fuit in Hierosolima, quam rogavit sancta Maria Egipciaca in illo tempore et audivit vocem de ore sanctae Dei genitricis.” Ibid., 216–24, is found the discussion of the 11th-century date of the original Greek text from which the *Anonymous Mercati* was compiled. For more recent discussion of Western visitors to Byzantium, see eadem, *Western Travellers to Constantinople: The West and Byzantium, 962–1204: Cultural and Political Relations* (Leiden, 1996), passim.

<sup>99</sup> Majeska, *Russian Travelers*, 92, 160, 182, and 206–9.

<sup>100</sup> J. Darrouzès, “Sainte-Sophie de Thessalonique d’après un rituel,” *REB* 34 (1976): 47, and Majeska, *Russian Travelers*, 208, who also notes that Symeon is the only Byzantine source that refers to the presence of this icon.

<sup>101</sup> Majeska, *Russian Travelers*, 208–9.

<sup>102</sup> Ibid.

The texts of the late Byzantine period that describe the tribunal's ritual regarding accused murderers seeking refuge in Hagia Sophia most clearly establish the link between the ἐκδικεῖον and the Virgin. A formulary concerning the treatment of murderers preserved in a mid-fourteenth-century manuscript, Vatican, cod. gr. 640,<sup>103</sup> and the procedure recounting the ἐκδικεῖον's treatment of murderers preserved in a fifteenth-century manuscript, Moscow 477,<sup>104</sup> describe how, after the confession of the accused, the tribunal makes its decision and assigns the proper penances. In addition to a period of excommunication, these individuals were also forbidden to receive the *antidoron* (the blessed bread distributed at the end of the liturgy) and holy water-*agiasma* (ἀγίασμα), but they were, however, permitted to receive the *Panaghia* (παναγία),<sup>105</sup> the particle of bread elevated and dedicated to the Virgin in a ceremony, often employing a special paten or *panaghiarion* provided with an image of the Theotokos (Fig. 18),<sup>106</sup> that is known as early as the tenth century.<sup>107</sup> Among the *troparia* sung for this service, the Virgin is implored as help (βοήθεια), refuge (καταφυγή), and protection (σκέπη).<sup>108</sup> Symeon of Thessalonike recommended that this service be celebrated whenever a person was in need,<sup>109</sup> and believed that by lifting this bread, the *Panaghia* is invoked, her assistance is sought, and that there is no greater help (βοήθεια) than she.<sup>110</sup> In fact, our later seals identify the Virgin as Η ΒΟΗΘΙΑ, or help (Fig. 2).<sup>111</sup> It was appropriate, therefore, that the ἔκδικοι permitted the penitents to receive the *Panaghia* particle. It was a pledge and emblem of the Theotokos's assistance and protection, an encouragement and consolation during their time of penance.

In the Moscow manuscript, the same description informs us that the murderer comes before the ἐκδικεῖον and is placed in front of the doors, asking forgiveness from those who pass by.<sup>112</sup> Thus he is near Mary of Egypt's icon of the Virgin. Later, the accused is stripped of his clothes and his hands are tied. After making prostrations, he is instructed to confess and then receives in written form the *epitimia*. Afterwards, the murderer departs to a corner and dresses, and the *protekdikos* then presents him with the *semeioma*. The procedure recalls the image of the holy criminals depicted in the Penitential Canon previously men-

<sup>103</sup> M. Strazzeri, "Drei Formulare aus dem Handbuch eines Provinzbistums," *FM* 3 (1979): 325–27 and 331–51.

<sup>104</sup> A. Pavlov, "Grecheskaia zapis o tserkovnom sudie nad ubiitsami, pribiegaiushchimi pod zashchitu tserkvi," *VizVre* 4 (1897): 155–59. Macrides, "Justice under Manuel I Komnenos," 198 note 294, cites two other 15th-century manuscripts that contain the ritual. Although the date of the ritual itself is indeterminate, both Darrouzès, *Recherches*, 330–31, and Macrides observe that elements of the formula can be traced back to earlier practices.

<sup>105</sup> Strazzeri, "Drei Formulare," 326, 338–40, who cites, 339 note 96, another, undated example of this practice stipulated for a criminal in Ioannina (see *MM*, 1: no. 76, 173), and Pavlov, "Grecheskaia zapis," 159.

<sup>106</sup> For a recent discussion of this example, see *Treasures of Mount Athos*, ed. A. Karakatsanis et al. (Thessalonike, 1997), no. 9.5, 324–25.

<sup>107</sup> For a study of the service of the *Panaghia*, see J. Yiannias, "The Elevation of the *Panaghia*," *DOP* 26 (1972): 225–36. According to the author, 228 note 6, the 10th-century source is quoted by J. Goar, *Euchologion sive rituale graecorum* (Venice, 1730 [repr. Graz, 1960]), 680–81.

<sup>108</sup> Goar, *Euchologion*, 680–81.

<sup>109</sup> PG 155: 664. See also Yiannias, "The Elevation of the *Panaghia*," 228.

<sup>110</sup> PG 155: 664 and 668.

<sup>111</sup> For these seals, see note 8 above.

<sup>112</sup> Pavlov, "Grecheskaia zapis," 158: ἐν ταῖς ὥραιαις πύλαις ἀπὸ τοῦ ἔξω μέρους. Of related interest is the reference given by Niketas Choniates, *Historia*, 343, and Magoulias, *O City of Byzantium*, 189, of the raised "pul-

tioned in which the figures appear with their hands bound behind them (Fig. 13).<sup>113</sup> The bound hands and naked condition before the tribunal likewise parallel elements from scenes of the Last Judgment, as in the fourteenth-century frescoes of the *parekklesion* of the church of the Chora in Constantinople, where the souls facing trial are bound and stripped (Fig. 19).<sup>114</sup> It is in such depictions that the Virgin is revealed as their most powerful advocate as she stands to the right of her Son (Fig. 20).<sup>115</sup> As noted earlier, from the mid-eleventh century, Patriarch Constantine III Leichoudes described Hagia Sophia's right of asylum in motherly terms,<sup>116</sup> and this maternal role appears to have been personified by the Theotokos herself.

Thus on these seals of the ἐκκλησιέκδικοι the image of Justinian and the Virgin with the model of the Great Church had a particular significance for its owners in light of their grave judicial responsibilities. Hagia Sophia was the locus of mercy and refuge; Justinian was not only the builder of this temple but regarded also as the patron of the tribunal and founder of the cathedral's right of asylum. The Virgin, of course, was the most powerful of intercessors who seems especially attentive to the accused and the penitent. Turning to such effective mediators, the *ekdikoi* were certain to make wise and compassionate decisions, and those who fell into their hands surely had every reason to hope for a good outcome.

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pit" (τὸν ἀνάσταθμον) at the entrance of Hagia Sophia from which murderers publicly confess their crimes and seek forgiveness from those entering and leaving the cathedral.

<sup>113</sup> See note 89 above.

<sup>114</sup> P. Underwood, *The Kariye Djami* (New York, 1966), 1: no. 204.5, 205, and 3: pl. 386.

<sup>115</sup> *Ibid.*, 1: no. 204.2, 202, and 3: pls. 373 and 374.

<sup>116</sup> See notes 80 and 81 above.