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Religio illicita? Roman legal interactions with early Christianity in context

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CHAPTER 4

Early Christianity in Roman Legal Measures

Negotiating Innovations

4.1 Introduction

The legal power of Rome held a central position in the collective consciousness of the empire's Christian communities from very early on. To an extent, this prominence was likely almost unavoidable: those who saw themselves as followers of Jesus of Nazareth could hardly have been unaware that the object of their devotion had been tried and executed in a Roman court, under the jurisdiction of a Roman prefect. Whatever the road to Jesus' execution may have looked like, it was Pontius Pilate whose name would become synonymous with the legal proceedings surrounding the crucifixion, despite the fact that he is portrayed as a somewhat reluctant participant by the gospels that would later come to be considered canonical.[1] Nevertheless, it is clear that the very foundational narrative of Christianity established interactions with the Roman authorities as somewhat fraught – and potentially dangerous. The idea that Roman courts were an arena in which members of the emerging Christian community could expect little sympathy has persisted throughout the centuries. It features prominently in many early Christian writings, particularly in the frequently employed literary genre of the Martyr Acts, which tend to focus on the trial and execution of Christians, often by Roman officials.[2] Even the earliest Roman sources on Christianity, like Tacitus, Suetonius, and Pliny the Younger, display a strong focus on interactions between members of this group and the Roman authorities. As we have seen, similar narratives continue to be visible today in artworks the world over, and in the religious practices and experiences of many members of various Christian denominations, where martyrs from classical antiquity continue to be venerated.

1 It is very likely that this portrayal of Pontius Pilate is part of Christian self-representation, and was meant to show that the crucifixion was unjust even in Roman eyes. While Pilate is described as a harsh and deeply (possibly deliberately) unpopular governor in Flavius Josephus, *Antiquitates Iudaicae* 18.3.1-2 (55-62), as well as Philo of Alexandria, *Legatio ad Gaium* 299-305, he seems reluctant to order Jesus' execution, suggesting his release in all four canonical gospels. See Matthew 27.15-26; Mark 15.6-15; Luke 23.13-25 and John 19.4-16. Pilate is also mentioned in connection to the crucifixion in Tacitus, *Annales* 15.44, although it has been suggested that this passage may contain substantial interpolations by later Christian copyists. See Carrier (2014), 274-276.

2 For the connection between early Christian descriptions and practices of martyrdom and the trial of Jesus, see Moss (2010[b]).

Like the cultural tradition of Christian martyrdom, scholarly output on the legal position of Christianity in the Roman world is long-standing, and correspondingly vast. Although the most important themes and debates in existing scholarship have been discussed in some detail above,[3] it may nonetheless be fruitful to present a brief summary of the views of the three primary schools of thought concerning the legal basis for Roman interactions with Christian communities. The first approach, which may be referred to as the 'general law'-theory, holds that Christianity was specifically banned throughout the Roman territories at some point in time,[4] although disagreement about the exact date, character and contents of such a law continue to exist. The time of Nero, to which the earliest known interactions between the Roman authorities and Christians by that name are widely dated, is generally regarded as a primary candidate. However, this theory attracted substantial criticism, which is in large part due to the fact that evidence for either a general law against Christians itself or indeed the expected consequences of such a measure is altogether lacking.

At least in part in response to such criticisms, the representatives of the second school of thought have suggested that Christians were not tried under a law that targeted them specifically, but rather under other, pre-existing laws that were primarily intended to legislate other issues. A variety of laws under which Christians may have been targeted has been suggested, including a ban on *collegia*, atheism, and more concretely nefarious offences like cannibalism, incest, arson, and crimes against the emperor and the state, none of which necessarily excludes the others.[5] However, this approach, too, has been found lacking in some regards. In addition to the fact that not all of the aforementioned charges appear to have been formally recognised in the Roman legal system, the charge of simply 'being Christians' appears in our sources on a notable number of occasions, and persists even after other accusations had been proved false. For this reason, it has been suggested that Christians were primarily punished for their so-called *contumacia* – their refusal to obey a Roman magistrate's orders – rather than for any of the aforementioned crimes.[6] It has rightly been remarked, however, that Christians would still have to be charged with some other offense before appearing before a Roman official in the first place, which makes it unlikely that obstinate behaviour,

3 See the introduction of this dissertation for a more thorough explanation, along with elaborate references.

4 For a number of primary representatives of this school of thought, see Allard (1911), 170-174; Callewaert (1902) and (1911); Keresztes (1979); Molthagen (1970) and (1991); Sordi (1983); Zeiller (1951) and (1955), as well as the overview provided by Wlosok (1971), 276.n.5 and 276.n.6.

5 Various different theories within this school of thought may be found in le Blant (1866); Boni (2014), 142; Borleffs (1971), 226; Conrat (1897); Frend (1965), 165-166; Guterman (1951), 45-53; Merrill (1924), 52-66; Smuts (1965) and, to an extent, Wlosok (1971), 300.

6 Crake (1965), 62; Sherwin-White (1952), 210-211 and (1974); Walsh and Gottlieb (1992), 9 and Wilken (1984), 23.

as vexing as it may have been, formed to sole legal basis for trials against Christians.

The final group of theories has turned away from specific laws, and has instead found the basis for the treatment of Christians in the procedures of the Roman legal system, and in administrative and judicial competences of the Roman governor. Traditionally, this line of thinking has become known as the *coercitio*-theory, since its early representatives argued that early Christians were targeted on the basis of this administrative mechanism, which gave holders of *imperium* the right to take extensive action against threats to the public order.[7] Although this angle serves to better explain the sporadic and local character of the known interactions between Christians and Roman authorities, some have pointed out the apparent internal consistency of the various individual cases, which would be difficult to explain through the emergency measures of various different governors alone. A more recent version of the theory instead focusses on governor's use of the trial procedure known as *cognitio extra ordinem*,[8] which was very common throughout the Roman world and allowed the governor a significant degree of liberty in his handling of the cases brought before him, including the ability to accept charges of 'being Christian' in itself. As such, the so-called *cognitio*-theory considers not only the attitude of the Roman authorities, but also that of the general population of the empire, from which charges against Christians would initially emerge. It thus also serves to more closely align the treatment of Christians with that of diviners and Jewish communities, both of which as we have seen were closely linked to the circumstances from which the relevant interactions emerged. While this theory has proved exceedingly influential due to its ability to clarify many aspects of the legal treatment of Christians in the Roman world, it still does not completely explain the apparent similarity between the various known trials against Christians, or indeed the frequent appearance of accusations of particular crimes.

4.2 Terminology and Definitions

When discussing the legal position of Christianity in the ancient world, it is important to first consider when its followers came to be seen as a distinctive movement, and what characteristics contributed to making them a recognisable entity within the contemporary religious landscape. This question is complicated by a number of different factors, perhaps the most far-reaching of which concerns

7 This theory was originated by Mommsen (1890). For later authors who see its merits, see Cook (2010); Last (1954), 1221-1223; Sherwin-White (1952); Walsh and Gottlieb (1992), 11.

8 This theory, which finds its origins in de Ste Croix (1974[a]), 217-228, is supported by Crake (1965), 61-62; Fox (1986), 422-423 and 450; Rives (2011[b]), 208-209; Wilken (1984), 23

the cultural context from which this community emerged. Christianity may have taken its name from Jesus of Nazareth,[9] but it would be altogether inadequate to claim that it was his direct, explicit intention to found the larger-scale movement that would emerge in later years.[10] In fact, rather than claiming that Jesus set out to create a new, distinct religious movement, the available narratives about his activities repeatedly show signs of being set in a predominantly Jewish context, rather than an explicitly new, Christian one: Jewish customs, festivals and religious institutions appear with notable frequency, and if the various descriptions of Jesus' trial in the canonical gospels are to be believed, at least part of his final conflict was not with the Romans, but with the Jewish authorities.[11] As such, it may be argued that the trial of Jesus should not be seen as the first example of legal action against a member of the Christian community, but rather as a dispute between different Jewish groups. The distinction between the nascent Christian movement and the Jewish communities from which it originated gradually became more obvious as the years went on, and members of the community came to see the figure of Jesus as central to their religious experience, but this process does not appear to have been clear-cut, and much debate about the approximate date of the separation continues to exist.[12]

While the author of the book of *Acts* suggests that the term *Christiani* first emerged in reference to the Christian community of Antioch during the time of Paul,[13] it is particularly difficult to determine to what extent this 'parting of the ways' was understood, or even visible, from the outside. The Roman authorities very likely had little interest in what they at least for some time continued to see as

9 The Latin suffix *-iani* is often used to denote followers of a leading figure, often in a political context, as is the case with, e.g., *Pompeiani* and *Caesariani*. See Bickerman (1949), 116-118 and Lund (2008), 255.

10 The person of Jesus of Nazareth, his background, and his ideas have all been interpreted in a wide variety of ways, which need not be discussed here in detail. For a very select number of examples in a wide-ranging and diverse field, see Dunn (2003); Ehrman (1999); Evans (2011).

11 It bears mentioning that the canonical gospels can hardly be said to represent unbiased historical fact, and that their descriptions of events likely diminished the role of the Roman authorities. However, if it is indeed true that the terminology of 'King of the Jews' played a part in the legal proceedings surrounding the crucifixion, this may serve as an indication that the Roman authorities did indeed see Jesus in a Jewish context – and as a potential rebel.

12 For the suggestion that Gentile Christians in Rome may have been part of the city's Jewish synagogues in the early days of the community, see Lampe (1989) 53. A substantially expanded version of the relevant passage may be found in the English translation, Lampe (2003), 69-70. See also Hengel and Barrett (1999) for the emergence of Christianity from Judaism, and Dunn (1992), for a variety of perspectives on the subject.

13 *Acts* 11.26. It may be significant that this bit of information appears in the context of "Paul's" conviction that his community should include not just those who followed Jewish law, and were therefore circumcised, but also those who were not.

the internal theological disputes of an alien an marginal community,[14] and due to a severe lack of first-century Roman sources on the subject it is almost impossible to determine when they began to see Jews and Christians as separate entities: both, after all, were characterised by their adherence to a single god to the exclusion of all others. The first Roman accounts in which 'Christians' are explicitly mentioned did not emerge until the early second century CE, when the term appears in the writings of Tacitus, Suetonius and Pliny the Younger.[15] The former two authors describe the involvement of Christians in earlier historical events from the time of Nero, and seem to imply that they were a recognisably distinct group at that time. It has been argued, however, that the Christian community had become much more recognisable by the time these accounts were written, and that the mention of 'Christians' as a movement separate from the Jewish community was therefore due to an anachronistic projection on the part of the authors, who referenced Christians where historically there were none. The matter is certainly not helped by the co-existence of the spelling *Chrestiani* in Tacitus' *Annales*, and the more familiar alternative *Christiani* used by Suetonius.[16] The spelling used in the Tacitus-passage has caused some to draw a connection with Suetonius' reference to a person named Chrestus, who allegedly caused a disturbance in the city Rome in the time of Claudius, but whose actions are linked to legal measures against the Jewish community of the city rather than against emerging Christian groups.[17] Because of the similarity in names, it has been argued that a degree

14 As, for instance in *Acts* 18.14-15, where the Roman governor Gallio refuses to hear a charge against the apostle Paul brought forward by the Jewish community of Corinth, stating that they should resolve disputes about Jewish Law themselves. For the suggestion that the expulsion of the Jewish community from the city of Rome under Claudius was also the result of a similar conflict between Jews and Christians, see chapter 3 – Judaism in Roman Legal Measures.

15 Somewhat later, the term also appears in Lucian, *De morte Peregrini*. For some considerations on the origins of the term 'Christians', see Bickerman (1949). For the argument that Christians only started referring to themselves as *Christiani* in the late second century, see Lund (2008), 255, who argues that the term was a Roman slur before that point in time, although the fact that the author of *Acts* 11.26 picked up on the term, and chose to repeat it, seems to contradict this idea. An overview of the available primary sources for Early Christianity may be found in Whittaker (1984), 133-191.

16 Tacitus, *Annales* 15.44 and Suetonius, *De vita Caesarum: Nero* 16. The exact text of the Tacitus-passage continues to be the subject of much debate, as will be discussed in more detail below in chapter 4.5.1. Fisher (1906), *ad loc.* prints *Christiani*, but Carrier (2014), 273 and Shaw (2015), 84, among many others, take the alternative reading.

17 Suetonius, *De vita Caesarum: Claudius* 25.4. See also *Acts* 18.1-3. A more elaborate analysis of this passage in the context of measures against Jewish communities may be found in chapter 3.11.3. The connection between the measures taken under Claudius and those implemented under Nero is rejected by Cook (2010), 49.

of confusion existed between Christians and a Jewish group that was likely well-known in the time of Nero because of their connection to these earlier unrests.[18] This confusion could then, in turn, indicate that Jews and Christians were seen as closely related groups – if not in the time of the two historians, then at least in the period they describe.

This hypothesis, however, fails to account for a number of important factors, and is made more implausible for it. The fact remains that both Tacitus and Suetonius prove to be quite capable of directly referring to Jewish groups when this was their intent elsewhere in their works, and nevertheless chose to use terminology related to Christianity in their discussion of the state of affairs under Nero.[19] This is particularly notable because their respective accounts of the relevant events otherwise differ significantly, which makes it more difficult to dismiss both references to Christians as simple interdependence of their authors' accounts or – more seriously – as intentionally or accidentally unreliable.[20] After all, if both Suetonius and Tacitus – despite their apparently independent investigation of the available material – came to the conclusion that a group that they recognised as Christians had been active during the Neronian period, and had been subjected to some form of legal intervention, it seems likely that the cause for this similarity may be found precisely in the sources used by both historians.[21] Their accounts are thus at the very least likely to be indicative of an emerging Roman awareness of Christianity in the sixties of the first century CE, even if Christians may not yet have been seen as a fully distinct community.

18 For this connection and the likelihood of confusion in the time of Nero, see Fuchs (1950), 69-72. Fuchs also notes Tacitus' emphasis on the claim that Christians were called *Chrestini* by the *vulgus*, the common people, in particular, which may suggest a degree of awareness with regard to the misspelling on the author's part. A similar argument is made by van Voorst (2000), 43-44, who sees Tacitus' use of *Christus* later in the same passage as a subtle correction of 'vulgar' terminology. Carrier (2014), 273-277 and Shaw (2015), 86-87 also connect the events under Nero and Claudius. They argue that Tacitus himself described the scapegoats of the Great Fire as followers of Chrestus, and claim that any connection to Christians is the result of later corrections. Both authors argue for the importance of Tacitus' use of the past tense, which they claim indicates that the term *Chrestiani* had since fallen into disuse.

19 For the related argument that Suetonius is quite capable of distinguishing between Chrestus (and therefore *Chrestiani*) and *Christiani*, see Botermann (1996), 86. Benko (1984), 16 and Lund (2008), 256 argue that Tacitus made no distinction between Jews and Christians in this passage, overlooking the fact that Tacitus elsewhere refers to *Iudaei* directly.

20 See Carrier (2014) and Shaw (2015) for elaborate discussions of this argument. Shaw (2015), 84 acknowledges Suetonius' account likely contains a historical core, but dismisses the idea that his reference to Christians in this context could be based on sources contemporary to the events without elaborating on his reasons.

21 See Power (2014) for a rejection of the common assumption that Suetonius was strongly inspired by Tacitus, and used his work as one of his most significant points of reference.

By the time Tacitus and Suetonius composed their works, that awareness had certainly grown, possibly due to Domitian's harsh enforcement of the Jewish Tax,[22] and it is clear that Christianity had now become a recognisable group, indicated quite consistently as *Christiani*, or the Greek Χριστιανοί (see Appendix 3), in texts discussing their legal interactions with the Roman authorities.[23] If any memory of the movement's Jewish heritage remained, it appears to have been rarely referenced in the first two centuries CE, and certainly not within the context of legal proceedings.[24] It must be stressed, however, that the relative simplicity of the terminology used to describe Christianity from a Roman perspective should not be taken to mean that its followers were at this stage in any way monolithic in their beliefs and practices. Instead, the lack of an extensive and sophisticated Roman jargon on the subject should simply be taken to mean that such differences likely did not attract the eye of the non-Christian inhabitants of the empire, or were not considered to be relevant for legal interactions between the Roman authorities and those who might (in perhaps more nuanced terms) be referred to as Jesus-followers. To use this term, however, would very likely go beyond the understanding of non-Christian Romans of the period, and would thus be of little relevance to our understanding of Roman legal proceedings. For this reason, the term 'Christians' will be used below to indicate the wide variety of groups referred to as such in the first and second century CE, whatever their differences may have been. Whenever possible, the other groups mentioned in the available sources, such as Romans and members of the empire's Jewish communities, will also be referred to by the terms used in our source material. To prevent us from taking on an overtly Christian perspective, however, terms like 'pagan' will be avoided outside of the context of direct citations.

4.3 Outline and Central Questions

In the remainder of this chapter, the legal interactions between various representatives of the Roman Empire and the emerging Christian movement will be analysed in more detail. Once again, we will follow a chronological sequence, in order to better trace the development of the applied procedures, as well as the

22 For the suggestion that Domitian's actions played a significant part in the emerging distinction between Christianity and Judaism, see Heemstra (2010). For a more elaborate discussion of these events see chapter 3 – Judaism in Roman Legal Measures.

23 A potential reference to Christians as 'Galileans' occurs in Epictetus, *Dissertationes* 4.7.6., without any references to legal proceedings.

24 See Barclay (2014). Shaw (2015), 86-87 makes the argument that the information about Christianity ascribed to Tacitus places special emphasis on its origins in Judea. It is notable that Lucian, *De morte Peregrini* 11 describes Jesus as having introduced a new cult, despite also mentioning the movement's origins in Palestine.

availability of potential precedents. In the case of Christianity, this adherence to chronology is slightly more straightforward than it has been in previous chapters: while the corpus of legal measures dealing with diviners and Jewish communities included a number of different types of legal interaction, the majority of legal sources dealing with early Christianity refers to specific trials, either against individual Christians, or larger groups of accused. Nevertheless, we will occasionally encounter measures that were intended to offer regulations for these legal proceedings, Trajan's famous reply to his governor Pliny's letter chief among them.[25] An overview of all relevant cases may be found in Appendix 3.

Unlike in previous chapters, all instances of legal interaction that will be discussed below evidently occurred within the imperial period itself, thus eliminating the need for a republican prelude. Nevertheless, a few remarks on the selection of our case studies and their temporal scope must be made. As has been previously remarked, Decius' Edict of Universal Sacrifice in the year 249/250 has widely been regarded as a significant turning point in the Roman State's approach to Christianity, and for this reason only interactions between Christians and the Roman authorities that occurred before this point in time will be discussed in this chapter. Furthermore, this analysis will include a brief look at the various legal conflicts referenced in the book of *Acts* in order to present an overview that is as complete as possible: although it is doubtful if the individuals involved were at this stage recognised as Christians by the relevant authorities, as discussed above, such a discussion may nevertheless greatly aid our understanding of later events. While G. E. M. de Ste Croix may be right in remarking that we know of "no persecution by the Roman government until 64 [i.e. the year of the Neronian actions against Christians]," this should not prevent us from discussing earlier events.[26] After all, the way in which the local populations of various cities responded to the emerging Christian movement in its early days may well provide us with much-needed context for the mechanisms, considerations, concerns and beliefs that would contribute to later cases under the auspices of the Roman authorities, especially when combined with our earlier discussion of the treatment of diviners and members of Jewish communities.

The number of Roman sources for such legal interactions with Christians is relatively limited, consisting mostly of a single reference by both Tacitus and Suetonius, as well as the famous Pliny-Trajan correspondence and a select number of other missives ascribed to Roman officials. For this reason, accounts of martyrdom are one of the most prominent, and at the same time one of the most

25 An overview of all case studies that will be discussed in this chapter may be found in Appendix 3 – Christianity.

26 De Ste Croix (1974[a]), 211.

complex, sources for the treatment of early Christianity.[27] Such narratives come in many forms, but their descriptions of the lives and deaths of early Christians often include references to the legal proceedings in which their subjects became involved. On some occasions, we are given only brief references to the death of important figures from the early days of the church, without significant details about charges or procedures.[28] At other times, the accounts are more substantial, and at times even provide rather elaborate descriptions of trials that could potentially provide us with useful information.

The extent to which such narratives are historically reliable, however, continues to be the subject of much debate, and in this regard not all accounts are equally valuable to the historian. The date of composition of these texts in particular has traditionally played an important role in scholarly attempts to determine their trustworthiness. After all, the reasoning goes, narratives that were composed at a significantly later date than the events they describe may well reflect experiences that differ vastly from the period their author is attempting to portray, particularly if they were written after 250 CE. In scholarship, the number of accounts that fit this definition of historical reliability has dwindled significantly over the years,[29] and of the many martyr narratives that are known to us, less than ten now appear with some regularity in lists of texts that are said to have been written in pre-Decian times, or at the very least contain a core of material that can be dated to that period. The texts that are commonly included in such overviews, and which will, therefore, be discussed below, are

1. the Martyrdom of Polycarp;
2. the Martyrdom of Ptolemaeus and Lucius;[30]

27 The number of recognised legal documents on the subject is exceedingly limited, which necessitates an inclusion of additional materials. See for instance the collection of Coleman-Norton (1966), the overwhelming majority of which consists of legal documents dating to the time of Constantine or later.

28 Many such stories may be found in the earlier books of Eusebius, *Historia Ecclesiastica*. While Keresztes (1979) includes a number of these brief references in his analysis of the legal treatment of Christians in the imperial period, they ultimately lack sufficient detail to be truly useful.

29 Rebillard (2017), 1-14 provides a historical overview of this development, before himself suggesting an alternative standard by not trying to determine the authenticity of the various martyr narratives on the basis of internal criteria, but instead including only texts whose dating to the period before ca. 260 CE is supported by external evidence – primarily Eusebius and Augustine. See ibidem 21.

30 This account is tentatively included in Barnes (1968[b]), but omitted without comment in Barnes (2010). Rebillard (2017) also omits this account, presumably due to the fact that it only occurs in the works of Justin Martyr, and therefore does not fit his criterion of the presence of external evidence. Since it is likely, however, that the composition of Justin's *Second Apology* also predated the time of Decius, it will nevertheless be included in our discussion. For the date of the *Second Apology*, see Marcovich (1994), 11. A similar reason may be given for the exclusion of the *Martyrdom of Potamiaena and Basilides* by both Barnes (2010) and Rebillard (2017), despite its likewise tentative inclusion in Barnes (1968[b]). However, since this narrative

3. the Acts of Justin Martyr and his companions;
4. the letter of the Christian communities of Lyon and Vienne;
5. the Acts of the Scillitan Martyrs;
6. the Martyrdom of Apollonius;
7. the Martyrdom of Perpetua and Felicitas[31]

While the martyrdoms of Carpus, Papylus and Agathonicê, and of Pionius and his companions, have also been included on occasion due to the date ascribed to these events by Eusebius, these accounts have since been dated to the time of Decius by scholarly consensus, and will therefore not be included.[32]

It should be noted, however, that even this relatively limited selection includes texts from vastly different genres, some of which are of a distinctly literary character, and that none of them should be treated without caution. While it has long been argued that certain accounts of martyrdom were based on Roman court records, the so-called *commentarii*, this assumption has since been challenged in important ways: according to G. A. Bisbee, none of the remaining passages in which potential martyrs are interrogated by Roman officials can be said to fully conform to the style of such formal transcripts as we know it from other, documentary sources.[33] While this makes it unlikely that the martyr narratives as we know them are direct copies of official documents, this does not mean that they must therefore be discarded without further consideration. It remains possible that Christians may have been present at the trials of members of their community, and recorded the events they witnessed in a style that was both familiar and considered appropriate for the occasion. In addition, court records often appear to have been publicly displayed for a short period of time, which could have given interested parties the opportunity to copy excerpts that were of particular relevance to them.[34] It thus remains possible that court records formed the basis for some of the accounts transmitted to us, although in analysing them we should be no less aware of potential biases and later alterations than in the case of texts with a more overtly literary bend. In recent years, this cautious and critical attitude has gained a more prominent position in scholarship dealing with martyr

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is only reported by Eusebius in his *Historia Ecclesiastica* 6.5, and cannot therefore reliably be dated to the pre-Decian period, it will be omitted from our discussion.

31 For various selections of these texts, see Barnes (1968[b]); Barnes (2010), 356-359; Bisbee (1988), 82; Delehaye (1966); Knopf (1913); Moss (2013), 92; Musurillo (1972); Rebillard (2017). Since most of these authors use different criteria to decide on the in- and exclusion of certain accounts, I have here chosen to present the widest accepted collection in order to avoid omitting potentially valuable material without further consideration.

32 Rebillard (2017), 35 and 47.

33 Bisbee (1988). See also Rebillard (2017), 15-17 for the argument that it would have been difficult for anyone not involved in a particular trial to gain access to transcripts of such trials before the reign of Gallienus.

34 Ibidem 17.

narratives,[35] and while this is not in itself unwarranted, we must be careful not to dismiss these texts as potential sources for historical events by default. To do so would be to discount the fact that every text is ultimately constructed by an author, regardless of what that author's religious beliefs might have been, and that even fictionalised texts must have contained a legal core that was recognisable to the audience in order to be seen as 'true' and believable. To swing from a general acceptance of all martyr narrative to an equally comprehensive dismissal is therefore simply not the most productive course of action: instead, each text must be considered on its own merits, contextualised with the help of other sources on the same or similar events, and be accepted or discounted on that basis.

In discussing the various stages of the relevant legal interactions, a number of central questions related to the treatment of Christians in the Roman world are deserving of particular attention. The temporal and geographical context in which such measures originated will of course be taken into account, which will include a discussion of the number of Christians that became involved in each particular case: especially in the case of trials, after all, measures aimed at specific individuals may well have been motivated by different circumstances than cases affecting larger groups of Christians. The way in which earlier legal measures shaped specific interactions with members of the Christian community should furthermore be examined with particular care. This not only includes measures that may have originally been aimed at other groups or behaviours, but especially previous cases that involved Christians themselves. Since both the events under Nero and Trajan's communication with Pliny the Younger are often referenced as primary candidates to have served as legal precedent, these will be subject to special consideration.

With regards to the contents of the relevant legal interactions, it pays to reinvestigate a question that was notably already raised by Pliny the Younger in his correspondence with emperor Trajan, namely whether Christians were being punished simply because they were Christians (that is: because of the *nomen ipsum*), or because they were accused of certain *flagitia* (specific immoral or criminal actions) connected to their beliefs.[36] The idea that Christians were punished simply

35 This stance is strongly represented in the works of Candida Moss, particularly Moss (2013). Another prominent work in this line of thinking is Ehrman (2013), which focusses on the idea that many early Christian texts have been falsely attributed to well-known individuals, while at the same time acknowledging that such an incorrect authorial attribution was "widely considered a form of literary deceit", see ibidem 529. See Bryen (2014[a]) for the idea that martyr narratives attempted to make sense of a legal system that was perceived as chaotic and illogical. For Christian martyrdom in wider context of heroic death in the ancient world, see van Henten and Avemarie (2002). For an exploration of the balance between realism and exaggeration in the setting of Christian trials as described in martyr narratives, see Aubert (2010), while Dinkler (2016) offers a discussion of the importance of genre.

36 Plinius Minor, *Epistulae* 10.96.2.

for their beliefs, rather than any criminal behaviour, gave rise to the argument that the treatment of Christians was unique in the Roman world even in antiquity itself.[37] A claim of this magnitude should, in itself, be enough to warrant suspicion, and we should therefore carefully examine to what extent this was indeed the case. Furthermore, this question is strongly related to the ongoing debate on the legal basis for trials against Christians discussed previously, and may thus help us in analysing the types of accusations Christians were faced with. In this regard, we should also consider the usage of the so-called sacrifice-test, which appears to have been used to determine whether the accused was truly Christian with some frequency. The issue of punishment is also of particular importance: although we should always remember that our source material likely represents only a limited part of the trials that historically took place, it remains essential to consider whether a proven accusation of Christianity always led to punishment and, if so, what this punishment was, especially given the common perception that Christians were unavoidably faced with execution. On a number of occasions, we should also consider the possibility that the accuser could also be faced with significant repercussions if his claims proved false and were rejected. Finally, it should be determined to what extent an established procedure for trials involving Christianity existed in the first place, and whether Christianity can truly be considered to have been an illegal religion – either intentionally, or by default.

Throughout our discussion, it will be centrally important to consider the involvement of all levels of the Roman administration. This includes not only the centralised imperial authorities and the provincial administration under the leadership of the governor, both of which have at times formed the primary focus of scholarly enquiries into the legal treatment of early Christianity, but also local authorities such as city councils, and the general populations of the regions or cities in which legal interactions with the early Christian movement took place. It should be investigated how these various levels of government interacted with each other, at which point each of them became involved in the proceedings, and how they made their voices heard – thereby adopting a more systematic approach, rather than focussing on a single legal actor. This is especially the case when it comes to the role of the general populace: while it is true that the importance of this group in instigating trials against Christians has been emphasised on a number of occasions,[38] few analyses make direct reference to 'ordinary' inhabitants of the empire after the issuing of a formal complaint with the relevant Roman authorities. While G. E. M. de Ste Croix, for instance, does make a distinction between the perceived motivations of Roman officials and those of the inhabitants of their provinces,[39] he pays only cursory attention to the relevance

37 Tertullian, *Apologeticus pro Christianis 2-6*.

38 See for instance Fox (1986), 422-423 and 450; Rives (2011[b]), 211; de Ste Croix (1974[a]), 225-226.

39 Ibidem 210 and 238-248.

of the latter once charges against their Christian neighbours had been brought forward. It thus remains important to consider not only at what stage the various actors in the legal process, including Christians themselves, became involved, but also which methods they used to influence the proceedings, and how they were involved in the enforcement of the ultimate verdict.

4.4 Before the Great Fire: Early Interactions

Although it is unlikely that the Roman authorities recognised Christianity as a distinctive movement in the early years after the execution of Jesus of Nazareth, a number of legal interactions from the period are nevertheless referenced in our sources, and as such deserve to be discussed. The first reported instance of a measure attempting to regulate the legal treatment of Christians is said to have been created in Rome within a few months after the crucifixion, and serves as an interesting example of the way in which measures ascribed to the Roman authorities, and particularly emperors, could be employed by Christian apologists to make their case. In the fifth chapter of his Defence of Christianity (*Apologeticus pro Christianis*), the Christian author Tertullian references a curious incident that, according to his account, occurred during the reign of Tiberius (Appendix 3.A). The story goes that someone, presumably a member of the Roman administration in Judea, had sent an account of recent events in his province to the emperor, and the missive is said to have made a profound impact, to the point that it apparently convinced the emperor of the divinity of Christ, and led to an attempt to formally include Jesus in the Roman pantheon.[40] The acceptance of new deities had traditionally been a privilege reserved for the senate, which subsequently rejected the emperor's suggestion. Angered by this course of events, Tiberius then allegedly swore to punish anyone who attempted to move against Christians, thereby in effect granting them special protected status. While the story of Tiberius' supposedly favourable view of Christianity is truly fascinating, and would later be repeated by the fourth-century church historian Eusebius,[41] it is highly unlikely to be based on historical fact.[42] Eusebius explicitly cites Tertullian as his only source for these events, and no other record of Tiberius' remarkable course of actions exists. In fact, the existence of formal legal action that influenced the

40 Tertullian, *Apologeticus pro Christianis* 5.2.

41 Eusebius, *Historia Ecclesiastica* 2.2. See also Jerome's version of Eusebius' *Chronicon,* A.D. 35. The account in Orosius, *Historiae adversus Paganos* 7.4.6 is likely based on that of Eusebius. See Barnes (1968[a]), 33n.8.

42 This episode is seen as largely historical by Sordi (1983), 18-20, who argues that Tiberius' measure applied to Judea specifically, rather than to the entirety of the empire, or even Rome in particular.

lives of members of early Christian communities is doubtful even on the basis of the available sources: Tertullian does not explicitly state that Tiberius ever made his alleged pro-Christian attitudes into law, either in the form of an imperial edict or otherwise, and even the senate's refusal to include Christ in the Roman pantheon – if it every occurred – need not have resulted in a ruling that was openly hostile towards Christians themselves – it simply meant that Tiberius' initial proposal was rejected. Furthermore, any imperial or senatorial measure of that kind would certainly have had a greater influence on the events that would transpire under later emperors, and we may have expected it to be mentioned outside the context of Tertullian's *Apology*.[43] It is therefore more likely that the author is simply presenting the argument, embellished as it may be, that the central Roman authorities were not involved in legal measures against Christians until the time of Nero, and that he uses this fact to argue that they should therefore also refrain from taking similar measures in his own time.[44]

4.4.1 *Paul in the eastern Mediterranean: Legal Interaction in* Acts

This is not to say, however, that the early decades of the Christian community were completely uneventful. According to the biblical book of *Acts*, some of the first members of the movement repeatedly ran into difficulties during their travels through the eastern Mediterranean, and the account of their experiences may thus provide us with interesting insights into the type of reception perceived religious outsiders could encounter during the period (Appendix 3.1).[45] It should be noted, however, that the account of these events must be treated with a degree of caution: although the authorship of *Acts* has traditionally been ascribed to a member of Paul's inner circle who witnessed the events he describes in person, the account is now more commonly dated to the end of the first, or possibly the beginning of the second century CE.[46] Nevertheless, *Acts* remains one of the most significant sources for Christianity's early development, in large part because of its rather

43 Barnes (1968[a]), 33 likewise remarks that Tertullian makes no mention of an official legal measure in this context, either to Christianity's benefit, or to its detriment. According to Barnes, Tertullian simply makes note of the senate's refusal to incorporate Jesus in the Roman pantheon. See also Crake (1965), 61.

44 This episode may thus parallel Tertullian's reference to what he called the *institutum Neronianum*. See Tertullian, *Ad Nationes* 1.7.9.

45 See the fascinating analysis of Wendt (2016), 146-189, who sees the apostle Paul in particular as a representative of what she calls the 'religion of freelance experts'.

46 Molthagen (1991), 44. See also Billings (2017), 11-14 for a critical analysis of the existing consensus and the debate surrounding it. Much of the dating of *Acts* depends on possible references to the fall of the Temple in Jerusalem, and especially on one's views on the author's use of external sources, particularly the works of Josephus and Paul's letters. If *Acts* does indeed make reference to either of these works, which would have been in circulation since the early second century CE, a later dating becomes more likely.

unique insight into the period in question.[47] In addition, it has been argued that the legal procedures described by the author, while diverse, are nevertheless largely historically accurate.[48]

While the account in *Acts* concludes with Paul's arrival in Rome, where he had been sent by Roman magistrates to appeal against charges made against him in Judea before the emperor,[49] the overwhelming majority of the legal interactions described in the text notably does not involve Roman officials at all. Most difficulties Paul and his travel companions encountered in the various cities of the eastern Mediterranean had a strongly local character, and although it would go too far to describe all these turbulent interactions in detail, a number of illustrative examples may nonetheless be given. According to *Acts*, Paul and his companions were met with mixed emotions by the Jewish communities they visited both in Antioch in Pisidia, and in the city of Iconium.[50] If the account as we know it is indeed accurate, a pattern soon emerged in which the men were initially met with enthusiasm in both towns, before relations quickly turned sour. In the case of Antioch, the author of *Acts* reports that certain members of the Jewish community were offended by Paul's attempts to preach not only to them but also to their non-Jewish neighbours, and turned to the city's most preeminent citizens in an attempt to have Paul and his companions expelled.[51] While the story told in *Acts* is relatively brief, and seems to be strongly representative of the author's complicated relationship with Judaism,[52] some have suggested that the suspicions against Paul were not entirely unmotivated. After all, the Jewish community was fairly well-established in the city, as is demonstrated both by their apparently good relationship with the local authorities and the fact that the female sympathisers with Judaism (σεβόμεναι) mentioned in the text are said to have been members of the local elite.[53] It is thus very well possible that certain

47 The question of the sources used by the author of *Acts* remains difficult to answer. Josephus and the Pauline letters both feature prominently in the debate, as mentioned, but Molthagen (1991), 44-45 suggests that there may also have been many other (possibly oral) traditions on which the author could rely. For the argument that Paul's interactions with the Roman authorities were essential for creating a formal distinction between Jewish and Christian communities, see Fox (1986), 432.

48 In his collection of lectures on Roman society and Roman law in the New Testament, Sherwin-White (1963), 48-119 disputes the idea that the course of events as described in *Acts* is historically problematic, focussing especially on the account of Paul's trials with Roman officials.

49 For Paul's appeal (which he notably made before the governor had given his verdict) see *Acts* 25.11. A brief, open-ended description of his stay in Rome is given in 28.17-28.

50 See *Acts* 13.42-50 and 14.1-6 respectively.

51 Ibidem 13.50. For the idea that the *duoviri* of the city were involved in this matter, see Molthagen (1991), 47 and Vittinghoff (1984), 337.

52 Dunn (2016), *ad loc.*; Harvey (2004), 434.

53 The word σεβόμενοι may be a reference to the so-called god-fearers, a term that is commonly used to denote Greeks and Romans who sympathised with Judaism without fully converting.

members of the Jewish community were concerned about the possible disruption of the existing equilibrium by the arrival of the newcomers, and as such attempted to prevent any potential disturbances by enlisting the help of the local authorities and driving Paul and his companions away from the city.[54]

This course of events appears to have been repeated in Iconium, where the town's non-Jewish magistrates (ἄρχοντες) are once again said to have been involved.[55] When the group later arrived in Lystra, a similar pattern was once again repeated, and the population of the city once more attempted to remove Paul and his companions from their territories.[56] All three cities seem to have been only briefly successful in their attempts, since the company is reported to have retraced their steps only a short time later.[57] The brevity of their removal from the city makes it even more likely that the actions of the various city authorities described in *Acts* should be seen as attempts to maintain public order, and not as an attempt to systematically oppress the movement spearheaded by Paul and his followers. The events in the Greek city of Thessalonica that are described later in *Acts* present a similar picture: once again, Paul and his followers are presented as having been initially successful, but their efforts were later thwarted by what the author calls the jealousy of the local Jewish community.[58] In this case, however, the ending of the story is slightly different: instead of Paul and his companions, who appear to have disappeared at some point during the commotion, it was a local man called Jason who was brought before the city authorities (πολιτάρχοι) along with his brothers, likely because he had previously offered them a place to stay. The reasons the crowd gave for Jason's arrest confirm that a fear for disturbances of the peace contributed significantly to their attitude towards Paul and his companions: they accuse the group of "having brought the whole world into an uproar," and follow this up by saying that these dangerous individuals have now come to their own doorstep.[59] In addition, they claim that Paul and his followers have broken with imperial commands by "saying that there is another king," thus showing that they saw the Jesus-followers not only as a threat to local public

54 Dunn (2016), *ad loc*. See also Hare (1967), 1-18 for the various underlying reasons for conflict between Jewish communities and early Christians.

55 *Acts* 14.5.

56 Ibidem 15.19-20. In this passage, the author claims that members of the Jewish communities from Antioch and Iconium arrived to spur on the locals. This course of events is doubted by Molthagen (1991), 49; while Dunn (2016), *ad loc*. calls it "surprising, but not incredible," before pointing out a number of curious inconsistencies in the passage.

57 *Acts* 14.21.

58 Ibidem 17.1-13.

59 Ibidem 17.6-7: "Οἱ τὴν οἰκουμένην ἀναστατώσαντες οὗτοι καὶ ἐνθάδε πάρεισιν, οὓς ὑποδέδεκται Ἰάσων". One might tentatively suggest that the phrasing of this passage, with its quick, repetitive references to Paul and his followers, and its direct juxtaposition of turmoil in the rest of the world and turmoil at home, indicates a degree of distress on the part of the populace. Harvey (2004), 449 has suggested that this may be a reference to Claudius' letter to

order, but also as a potential rebellious entity that could seriously endanger their relationship with the imperial authorities.[60] Ultimately, Jason and his brothers were released on bail, likely on the condition that they ensured their guests' good behaviour – or alternatively their departure – and thereby restored public order in the city.[61]

On other occasions, the reception of the Jesus-followers in the various cities they visited seems to have been influenced at least in part by additional economic motivations. When describing the arrival of Paul in the Macedonian city of Philippi, the author of *Acts* mentions an encounter with a female slave, whose prophetic gifts were apparently highly profitable for her owners.[62] However, when Paul subsequently performed an exorcism, both the woman's divinatory abilities and her masters' source of income are said to have quickly disappeared. Enraged by this course of events, the inhabitants of the town brought Paul and his companion Silas before the local authorities (ἄρχοντες; στρατηγοί), arguing that the men were Jews who caused disturbances in the city, and in addition proclaimed customs which the inhabitants, as Roman citizens, were not allowed to follow.[63] While it is true that the citizens of Philippi had a special status due to the city's position as a Roman colony,[64] it nevertheless remains unclear what exactly their statement is supposed to signify. The accusation of subversive behaviour is clear enough, and fits the established pattern of Paul's treatment in various other cities discussed above, but the second complaint raises questions. Some have seen the

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the Alexandrians, in which he accuses the Jewish community of that city of stirring up trouble in similar terms. While such a direct link cannot be proven, the word ἀναστατώσαντες in particular likely does reference a common fear of escalating unrests in many cities of the ancient Mediterranean.

60 The accusation is a clear reference to the trial of Jesus himself, during which it had become abundantly clear that alleged claims of kingship, and therefore accusations of seditious behaviour, could pose a significant danger. Despite the clear parallel, both Dunn (2016), *ad loc.* and Harvey (2004), 450 assume that these were the actual accusations made by the inhabitants of Thessalonica. It is of course possible that even those not directly involved with Paul and his followers had picked up on this narrative from public speeches, or even rumours, but a degree of caution is nevertheless warranted. Whatever the case, the gist of the accusation – namely disturbance of the peace and potential attempts to stir up political unrest – remains unaltered.

61 Dunn (2016), *ad loc.*; Harvey (2004), 450.

62 *Acts* 16.16-40.

63 It should be emphasised that Paul and his companions were seen as Jewish, which places this passage in the context of the popular hostility against various Jewish communities discussed in the previous chapter. In this case, however, we are not dealing with a Jewish community from within a specific city, but rather a group of traveling outsiders, who furthermore would likely have been unwilling to reference precedent allowing Jewish communities to practice their ancestral customs.

64 Molthagen (1991), 49. Sherwin-White (1963), 101 calls this the first time Paul is brought before a Roman tribunal, but the officials nevertheless appear to have been those of the city itself, without direct connection to a Roman governor. See Harvey (2004), 446-447.

use of this particular accusation as a sign that Paul's accusers were aware of emperor Claudius' alleged attempts to limit the spread of Judaism.[65] However, the more convincing interpretation is that we may not be dealing with a formal ban on conversion as such, but rather with an appeal to the Roman identity of this *colonia* in Greek territory.[66] As such, it is likely that that Paul and Silas' trial was due to a variety of factors, which were both economic, religious, and political in nature. In the end, however, the consequences of the charge were limited: Paul and Silas were initially beaten and brought to prison, but when it became known that they were Roman citizens, they were quickly released.[67] The fact that they were still asked to leave the city afterwards serves only to confirm that public order had once again been a primary concern. The events that occurred during Paul's stay in Ephesus show a similar combination of different types of concerns: a local silversmith famously instigated a riot against both Paul's companions and the local Jewish community out of fear for his livelihood, by complaining that they presented a threat to the status of the world-famous sanctuary of the goddess Artemis.[68] According to the author of *Acts*, this accusation led to an uproar in the city's assembly, which only calmed down when the city scribe (γραμματεύς) reminded the population that they should make formal accusations before the governor if they felt that they had grounds to do so, lest they themselves be accused of instigating a riot.[69] The account does not mention if such charges were actually filed,[70] but nevertheless demonstrates the complex web of economic, religious and social anxieties and motivations that could lead people to argue for measures against religious groups perceived as outsiders.

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65 See Sherwin-White (1963), 81, who in this context mentions Claudius' expulsion of Jews from Rome.

66 Harvey (2004), 447n.25; Sherwin-White (1963), 82. See also Dunn (2016), *ad loc.* and Molthagen (1991), 50-52 against the argument that this trial was based on a formal ban on proselytism. The ambiguous use of the verb [οὐκ] ἔξεστιν, which may indicate religious incompatibility as well as legal prohibition, is particularly interesting in this regard.

67 *Acts* 16.37-40.

68 Ibidem 19.23-40. For a more elaborate analysis of this passage, see Brinks (2009). For the argument that Paul himself may not have been involved in these events, see Molthagen (1991), 68-70, who nevertheless does not dispute that something similar to the events described in *Acts* did, in fact, take place.

69 For the correctness of the recommended procedure, see Harvey (2004), 462-463; Sherwin White (1963), 83-84. Harvey (2004), 462 also argues that the Roman authorities could well have seen such a spontaneous assembly as an abuse of the city's political privileges.

70 The reference to "combat with beasts" in *1Corinthians* 15.32 should not be taken to mean that Paul was actually condemned to the arena. Instead, it is more likely that the phrase is meant as a metaphor for conflict with worshippers of Artemis, who was after all associated with wild animals. See Hooker (2013).

4.4.2 *Roman Officials in* Acts

While the idea of Roman intervention is present in the background of the Ephesian narrative, Roman officials themselves appear in *Acts* only rarely – and when they do, they are not always eager participants. During his long-term stay in Corinth,[71] Paul was brought before the proconsul Gallio by certain members of the Jewish community, who accused him of encouraging people to worship god in ways contrary to the law (λέγοντες ὅτι παρὰ τὸν νόμον ἀναπείθει οὗτος τοὺς ἀνθρώπους σέβεσθαι τὸν θεόν).[72] This complaint has proven to be strongly ambiguous, and it remains unclear whether the phrase is referring to Roman or Jewish law. It has been remarked that the text makes no mention of Jews specifically, but that Paul is instead accused of trying to convert a larger group described only as ἄνθρωποι.[73] For this reason, the argument goes, it may be possible that the Jewish community of Corinth was trying to attract the governor's attention by suggesting that Paul was trying to divert Romans from their traditional practices, thereby allegedly breaking Roman law.[74] Even if this was their intent, however, proconsul Gallio appears to have interpreted their words rather differently:

> Μέλλοντος δὲ τοῦ Παύλου ἀνοίγειν τὸ στόμα εἶπεν ὁ Γαλλίων πρὸς τοὺς Ἰουδαίους, Εἰ μὲν ἦν ἀδίκημά τι ἢ ῥᾳδιούργημα πονηρόν, ὦ Ἰουδαῖοι, κατὰ λόγον ἄν ἀνεσχόμην ὑμῶν· εἰ δὲ ζητήματά ἐστιν περὶ λόγου καὶ ὀνομάτων καὶ νόμου τοῦ καθ᾽ ὑμᾶς, ὄψεσθε αὐτοί· κριτὴς ἐγὼ τούτων οὐ βούλομαι εἶναι.[75]
>
> Just when Paul wanted to open his mouth, Gallio said to the Jews: "If there were some injustice, or a base misdeed, Jews, I would of course bear with

71 It is interesting to note that the author of *Acts* claims that Paul lived in Corinth for a year and a half. While it is unclear at what stage the Jewish community of the city decided to turn against him and his followers, the phrasing of the passage suggests that this did not occur at the very beginning of his stay. The reader is given no further context, which makes it impossible to determine the immediate cause of this term of events.

72 *Acts* 18.12-17.

73 Sherwin-White (1963), 101.

74 See ibidem 101-102, where Sherwin-White also draws a parallel to the events in Philippi and Thessalonica described above. See also Dunn (2016), *ad loc.* and Harvey (2004), 456, both of whom note the ambiguity, but ultimately find it more likely that the passage refers to Jewish, rather than Roman law. Sherwin-White (1963), 102-103 adds the suggestion that the Jewish community was referring to Claudius' decision that Jewish communities in the Diaspora should be allowed to maintain their own customs (Appendix 2.24). Measures of this kind, however, usually seem to have offered protection against local authorities targeting a Jewish community, and it is unlikely that they would have been employed against a fringe group that may not have differed greatly from the city's Jews in Roman eyes, and whose alleged suppression of Jewish *mores* might therefore have been difficult to prove before a Roman judge.

75 *Acts* 18.14-15.

> you: but if the dispute is about a word, or names, or that law of yours, then see for yourselves: I do not want to be the judge of that."

Gallio clearly sees the complaints made against Paul as an internal dispute between different members of the Jewish community, and therefore holds that he sees no reason to even consider if Paul might be innocent or guilty of the charges brought against him: according to Gallio, any foundation for a trial in a Roman court is simply lacking, and he outright refuses to hear the case, thereby showing the importance of the governor's role in accepting or rejecting specific charges even at this early point in time.

The same consideration would once again play an important part after Paul's return to Jerusalem, where he was likewise accused of encouraging his followers to break with Jewish law.[76] According to the author of *Acts*, this accusation caused a substantial riot, which in turn forced the Roman authorities (in this case the χιλίαρχος) to intervene. The accusations levied at Paul were at first lost in the turmoil, and the commander showed his concern with public order by trying to determine if Paul was the notorious Egyptian who had recently fled the city with an armed group of *Sicarii* at his side.[77] When this turned out not to be the case, the commander made preparations for Paul's interrogation under torture, but was promptly dissuaded from this course of action when his captive announced that he was a Roman citizen, and decided to make further enquiries of the high priests and the Sanhedrin instead.[78] This meeting did not, however prove fruitful, and the author of *Acts* alleges that the commander received word about a conspiracy against Paul's life shortly after. Whether such a conspiracy did indeed take place or not, it is likely that the commander now considered matters to have escalated beyond his jurisdiction. He contacted Felix, the governor, who was at the time residing in Caesarea, and asked him to judge the matter as he thought best – with the additional remark that he himself had not been able to find any ground for punishment, and that the matter appeared to him to be nothing more than an internal dispute about Jewish law.[79]

Once again, then, we are dealing with a Roman official who is reluctant to judge a case in which he feels no crime has been committed, but on this occasion, considerations for public order seem to have carried more weight – especially given the particularly sensitive nature of disputes surrounding the Jewish temple. In the procedures that followed, both under Felix and his successor Festus, the question of charges seems to have remained of primary importance. According

76 For the accusations levied against Paul, see *Acts* 21.20-29.

77 Ibidem 21.31-40.

78 Ibidem 22.22-30.

79 Ibidem 23.26-30. Dunn (2016), *ad loc.* sees a parallel with Pliny's consultation of Trajan when he perceived events in his province to have grown beyond his control.

to the account, neither the two governors nor king Agrippa, who was apparently allowed to personally question Paul, were able find anything that warranted a trial,[80] and at Paul's request the case was ultimately referred to Rome. While *Acts* does not provide us with a description of the subsequent trial in Rome, or even an indication of the imperial authorities' ultimate verdict, it has been argued that its description of Paul's dealings with the Roman authorities in Judea is at least partially reliable.[81] Throughout *Acts*, it thus becomes clear that the legal problems faced by the early Jesus-followers tended to emerge from the particular towns and cities they visited, and that the trials that involved them were particularly concerned with upholding public order in the face of concerns about religious nonconformity and, on occasion, the economic and socio-political prosperity of people living in these communities. Such complaints were usually handled by local officials, and when Roman authorities did become involved, they appear to have been more concerned with proper procedures than with the religious beliefs of the people brought before them, which they appear to have considered an internal matter of Jewish communities.

4.4.3 *Claudius' Expulsion and the Involvement of Christians*

A potential parallel with the events described in *Acts* may be found in emperor Claudius' attempt to expel the Jewish community from the city of Rome (Appendix 3.i). While it is unlikely that this measure was intended to target Christians in particular, as has been previously discussed,[82] Suetonius' use of the phrase *impulsore Chresto* has led some to believe that the expulsion found its origins in disturbances caused by disputes between Jesus-followers and other parts of Rome's Jewish community – and that Christians were therefore *de facto* included in the measure.[83] While it is unlikely that the distinction between various sub-groups of the Jewish community was particularly relevant from a Roman perspective, and since the terminology used in the various sources that describe the event is exclusively focussed on Jewish groups, parallels with the numerous conflicts described in *Acts* emerge even from the exceedingly brief references to Claudius' expulsion

80 This point is made on a number of occasions. See *Acts* 25.5; 25.20; 25.27; 26.31-32. Dunn (2016), *ad loc.* argues for the historical accuracy of this account, which also remains unquestioned by Sherwin-White (1963), 51.

81 Molthagen (1991), 71; Sherwin-White (1963), 48-70. The latter argues that the legal procedures followed in the text are a good example of a *cognitio extra ordinem*, and is supported in this view by Shaw (2015), 78.

82 See both in the portion 'terminology and definitions' of this chapter and in chapter 3 – Judaism in Roman Legal Measures. For an argument to the contrary, see Dibelius (1971), 78.

83 See Botermann (1996), 98; Dunn (2016), *ad loc.*; Harvey (2004), 455. For a discussion of the manuscript tradition of the phrase *impulsore Chresto*, see Boman (2011).

available to us.[84] The focus of the authorities on maintaining public order is particularly noticeable, even at first glance: disputes within a religious group, or between that group and the rest of the city's inhabitants, could clearly lead to substantial unrests, and *Acts* establishes the expulsion of the perceived offenders as a standard response to such situations. A reference to Claudius' measure in *Acts* itself even claims that two of those expelled became members of Paul's circle in Corinth soon after his arrival there,[85] suggesting that they felt a degree of affinity with his ideas. All of this, however, does not provide us with concrete evidence that early Christians were indeed involved in Claudius' expulsion of the Jewish community from Rome: our sources notably refer to the Jews of the city as a single group, rather than multiple factions, and Suetonius' mention of an individual known as Chrestus is ultimately inconclusive.[86]

Yet, it is likewise impossible to fully rule out the possibility that Christians were indeed swept up in the expulsion – or indeed contributed to it. After all, the fact that Roman officials like Gallio, Felix and Festus showed little interests in the particulars of what they saw as internal Jewish disputes, but nevertheless attempted to deal with such disturbances in their own ways, makes the idea that similar conflicts lay at the basis of the disturbances in Rome somewhat more likely. For those who believe that Jesus-followers were indeed involved in the events in Rome, a similar attitude on the part of Claudius or his administrators in the city may in fact explain the lack of direct, unambiguous references to the presence of Christians in Roman sources on the subject. Such considerations, however, ultimately mean very little for our understanding of Claudius' expulsion as an administrative measure. It must ultimately be acknowledged that both in the case of the events described in *Acts* and in that of Claudius' expulsion, Roman officials were attempting to take administrative decisions they believed to be appropriate for protecting public order, and that they did so while using terminology related to Judaism. In any case, the expulsion cannot be seen as a measure aimed at Christians on the basis of their Christianity, and if they became involved in its

84 *Acts,* 18.1-3; Suetonius, *De vita Caesarum: Claudius* 25.4. Another reference to measures against the Jewish community of Rome under Claudius may be found in Cassius Dio, *Historiae Romanae* 60.6.6. It should be noted that the available sources were all written at a time when Christianity as a phenomenon was more widely known and more easily recognisable. The fact that they refer to the expulsion as a measure against Judaism – without any explicit mention of Christianity – is therefore particularly telling: the sources available to their respective authors are unlikely to have made any mention of a Christian involvement. This holds particularly true for the brief mention of the event in *Acts* itself, the author of which, as we have seen, otherwise does not shy away from describing disputes between Jesus-followers and other parts of various Jewish communities.

85 *Acts* 18.1-3.

86 For the view that Chrestus was almost certainly a living individual, and the assertion that the name was indeed a very common one during the period, see Koestermann (1967), 460.

enforcement, it was because they were seen as members of a group that allegedly threatened law and order.

4.4.4 *Peter and Paul in Rome?*

Traditionally, two final legal interactions have been dated to the period before, or surrounding, the Great Fire. The deaths of the apostles Peter and Paul have remained of particular importance for Christian collective memory, but their exact circumstances remain difficult to determine. In part, this is due to the almost legendary nature of their deaths, the available accounts of which may well have distorted historical fact beyond recognition. In addition, most of the relevant references are brief, and provide little additional information about the legal proceedings that may have preceded these men's final moments. This becomes particularly clear in the various accounts discussing the death of Peter (Appendix 3.2): while the tradition of his martyrdom is significant, and likely dates back to a relatively early period,[87] we learn little about the nature of any potential charges brought against him, nor the procedures that were followed, from the majority of sources. Even the method of execution, which is traditionally said to have been crucifixion – although famously upside-down – occurs only in a single source that can be dated before the third century, and in opaque terms at that.[88] The first epistle of Clement mentions that Peter became the victim of jealousy, but makes no attempt to expand further on the issue, or to present details about the nature of his "many tribulations".[89] The so-called *Acts of Peter* provide more information, and claim that Peter's death was due to the animosity of several men from the Roman elite, who held Peter responsible for the fact that their wives and mistresses had left them, and therefore demanded his crucifixion on the charge of godlessness (ἐπ' αἰτίᾳ ἀθεότητος).[90] The historical reliability of this account, however, has widely been doubted.[91] Finally, both Tertullian and Lactantius link the deaths of Peter and Paul to the Neronian persecution in the wake of the Great Fire, but once again little additional information is provided, and their accounts

87 For an elaborate discussion of the various sources dealing with Peter's martyrdom, see Baukham (1992). For the idea that Peter was not martyred, but died peacefully in Judea, see Goulder (2004). Zwierlein (2009) and (2013) follow a similar line of thinking. Both arguments are taken up by Shaw (2015), who also argues strongly against any possible connection between the martyrdoms of Peter and Paul and the Great Fire of 64 CE. For an elaborate discussion of the archaeological evidence for Peter's presence in Rome, see Weber (2011).

88 *John* 21.18-19.

89 *1Clement* 5.4.

90 *Acts of Peter* 33-36.

91 Shaw (2015), 75 rejects this source, and suggests a fourth- or fifth-century dating. Baukham (1992), 578-580 favours a second-century date and is generally less critical regarding the tradition of Peter's martyrdom, but nevertheless likewise draws attention to various factors that may complicate a historical reading of the text.

have likewise come to be regarded with suspicion.[92] Thus, while the extensiveness of the tradition regarding Peter's martyrdom makes it difficult to fully dismiss the possibility that he was condemned to death, possibly at the behest of the Roman authorities, the variety and brevity of the available accounts make it altogether impossible to reach any definitive conclusion as to its nature and circumstances. We simply do not know for certain what Peter may have been charged with, or what events may have contributed to the potential verdict.

The tradition of Paul's martyrdom (Appendix 3.3) rests on somewhat firmer historical grounds, in large part due to the fact that his arrest and treatment by Roman officials in Judea is described in great detail by the author of *Acts 28.11-30*. While this account, as previously remarked, breaks off during Paul's extended stay in the city of Rome, it at least provides us with a plausible explanation for the fact that his case came to the attention of the central Roman authorities. However, it is unclear whether Paul was ultimately executed on the basis of the accusations referred to in *Acts*, if new allegations were brought forward during his stay in the capital, or even if he left Rome and subsequently travelled elsewhere.[93] The substantial duration of his stay in itself need not be seen as evidence against the continuation of the procedures started in Jerusalem. It is possible that the imperial authorities simply took a long time to process the diverse range of cases brought before them, or that the delay was increased by the travel times between Jerusalem and Rome that Paul's accusers had to contend with.[94] It thus remains possible that Paul was indeed executed in Rome, and the repeated occurrence of this idea in Christian tradition does seem to point in that direction.[95] However, we are once again faced with a lack of information regarding the nature of the procedures that would have led to this verdict. Paul's execution, like that of Peter, has been connected to the events surrounding the Great Fire of 64 CE, but this idea has increasingly come to be seen as unlikely in recent years.[96] As far as we can tell, each of the legal proceedings Paul went through was the result of disputes within particular cities in the eastern provinces of the empire. It is therefore most prudent to assume that these or similar events may have led to his ultimate execution, without assuming an active intervention on the part

92 Especially by Shaw (2015).

93 Harrill (2012), 70-72 emphasises the diversity of the accounts of Paul's later days.

94 Harvey (2004), 484; Sherwin-White (1963), 118-119.

95 See *Acts of Paul*; Eusebius, *Historia Ecclesiastica* 2.25.5-8 and 3.1.2-3; Jerome, *De Viris Illustribus* 5 and Tertullian, *Scorpiace* 15. Many others, including *1Clement* 5.4; Ignatius of Antioch, *Letter to the Ephesians* 12 and Lactantius, *De Mortibus Persecutorum* 2 mention Paul's martyrdom and at times even link it to Nero, but do not make specific mention of its location. The idea that Paul, as a Roman citizen, would have been beheaded emerges in the *Acts of Paul* and in Tertullian, *De Praescriptione Hereticorum* 36.

96 Shaw (2015), 76-78. Zwierlein (2013), 146 goes further by arguing that there is no real evidence that Paul died in Rome, or was martyred.

of the central authorities. Unfortunately, this means that we are left with no other option than to omit any definitive conclusions about the end of the legal proceedings described in *Acts* due to lack of evidence. It is certainly possible that the accusations of disturbing public order that had followed Paul from Jerusalem were ultimately seen as credible, and that he was punished on this basis, but we simply cannot be certain.

4.5 Christians under Nero: Smoke and Fire?

The reign of emperor Nero is commonly regarded as the period in which Christianity first attracted the attention of the imperial authorities, and has as such become inextricably linked with its suppression. In itself, this association is not unwarranted: both Tacitus and Suetonius report that Nero took action against Christians living in the city of Rome (Appendix 3.ii), and this idea is likewise prominently present in the Christian tradition.[97] Tacitus' account of the events surrounding Nero's measures, with its vivid and comparatively elaborate descriptions, has understandably become most famous, and it is here that we first find the connection between Christians and the devastating fire that razed large parts of Rome in the summer of 64 CE:

> *Sed non ope humana, non largitionibus principis aut deum placamentis decedebat infamia quin iussum incendium crederetur. Ergo abolendo rumori Nero subdidit reos et quaesitissimis poenis adfecit quos per flagitia invisos vulgus Chrestianos appellabat.*[98]

97 See especially Tertullian's claim that the persecution of Christians was an *institutum Neronianum*. Tertullian, *Ad Nationes* 1.7.8-9. For the two non-Christians accounts, see Suetonius, *De vita Caesarum: Nero* 16; Tacitus, *Annales* 15.44. While Lund (2008), 256 is right in remarking that we are dealing with Tacitus' etic perspective rather than the internal, emic perspective of the Christian community, his reference to Christianity nevertheless remains significant. The story of Nero 'fiddling while Rome burned' has likewise become the stuff of legend, and attempts have even been made to determine whether he could indeed have done so. For this issue, see Scheda (1967).

98 Tacitus, *Annales* 15.44. The edition used is that of the Oxford Classical Text by Fisher (1906), with the exception *Chrestianos*, for which Fisher prints *Christianos* without reference to alternative readings. The debate about the correct reading of this particular phrase is a long one even by the standards of this highly contentious passage, and need not be exhaustively discussed here. It should be noted, however, that scholarly opinion remains divided. Ash (2018), 205 prints *Christianos* without further comment, as does the Loeb edition of Jackson (1981), 282. Koestermann (1968), 254 holds that the *Chrestianos* was the original reading presented in the second *codex Mediceus* (the oldest manuscript of the *Annales* to include book fifteen, dated to the eleventh century CE), and was changed to *Christianos* by a later hand. In this, he is followed by Boman (2011), 355n.2 and the Teubner edition of Heubner (1983), 369. Given Tacitus' apparent juxtaposition of the vulgar term for the movement and his own explanation of its origins

> But neither human ability, nor the largesse of the emperor or means of appeasing the gods could do away with the ugly rumour that held that the fire had been ordered. Therefore, to do away with the gossip, Nero supplied as the offenders – and visited with special punishments – those who, hated for their crimes, were called *Chrestiani* by the populace.

After offering a brief explanation of who these Christians were and where they came from,[99] Tacitus then proceeds to discuss the legal treatment of this group under Nero. This passage has proved to be highly controversial, in large part due to a number of important textual problems, the various resolutions of which have been used to support an equally diverse number of interpretations of the character of the events under Nero as described by Tacitus. In many ways, the debate surrounding this particular passage is the wider debate regarding the legal position of Christians in the Roman world writ small, and the same abundance of interpretations and opinions is represented. On the one hand, we find those who argue that Christians were targeted specifically for their religious beliefs, either on the basis of a general law or *de facto* illegality – a distinction that to some extent depends on one's interpretation of Tertullian's reference to the almost proverbial *institutum Neronianum*.[100] On the other hand, there exists a school of thought that finds the legal basis for the execution of Christians under Nero in the charge of arson – as well as a smaller group that believes that Christians were not targeted at all, but that Nero's measure was instead aimed at members of the Jewish community.[101] As discussed previously, this last option is made unlikely by Suetonius' independent reference to Neronian measures against Christians, and

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in what follows, one might be inclined to favour *Chrestiani*, which provides the necessary contrast with *Christus* in the next sentence, as has been observed by van Voorst (2000), 43-44, and without which the reference to the Roman *vulgus* makes little sense. Even on a practical level, a correction from *Chrestianos* to *Christianos* is substantially more likely than the reverse.

99 This passage has proved to be particularly susceptible to the argument that Tacitus' account as we know it was the result of later (Christian) interpolations, as for instance in Carrier (2014). However, as Koestermann (1968), 254-255 rightly remarks, the passage is strongly integrated in the rest of Tacitus' narrative, and Tacitus' membership of the *quindecimviri sacris faciundis* furthermore makes it more plausible that he would indeed have had more knowledge of Christianity than the average Roman. For a similar argument, see van Voorst (2000), 49-52. Shaw (2015), 79-81 likewise rejects the idea that the passage is a Christian interpolation

100 For a variety of arguments on this spectrum, see Dibelius (1971), 81; Fuchs (1950), 77-87; Frend (2006), 504; Keresztes (1979), 248-257; Sordi (1983), 24-35; de Ste Croix (1974[a]), 213; Vogt (1954), 1167; Williams (2012), 179 and 218-219; Zeiller (1951) and (1955).

101 For the former, see Barnes (1968[a]), 34-35; Borleffs (1971), 217 and 226-227; Getty (1966); Last (1954), 1211. Benko (1984), 24 and Lund (2008), 259 hold an intermediate position, arguing that Christians were punished both for being Christian and for the fact that they were associated with crimes. For the idea that Christians were not the target of Nero's measure, see Carrier (2014), 277-283; Koestermann (1967), 464-466 and (1968), 256-257 and Shaw (2015). Wlosok (1971) expresses similar doubts, while Nixey (2017), 56 expresses a degree of scepticism about

the fact that both authors were otherwise quite capable of explicitly referring to the Jewish community when this was their intent.

4.5.1 *The Course of Justice?*

The Tacitean passage itself, however, provides ample cause for speculation about Nero's reasons for targeting the Christians, and has proved to be dense almost past the point of comprehension:[102]

> *Igitur primum correpti qui fatebantur, deinde indicio eorum multitudo ingens haud proinde in crimine incendii quam odio humani generis convicti sunt.*[103]
>
> Therefore, first those who confessed were arrested, and thereafter – on the basis of their information – a great multitude was convicted, not so much because of the charge of arson, but rather on the basis of the[ir?] hatred of the human race.

This section, brief as it is, contains three significant textual problems, which in turn result in an even larger number of interpretive difficulties. The first of these concerns the initial phase of arrests, the order of which seems to be peculiarly represented in the available manuscripts. As far as we can tell, Tacitus seems to suggest that the accused were only arrested after they had already confessed (*primum correpti qui fatebantur*), which has been considered to be an unlikely course of events in the context of legal proceedings.[104] This apparent discrepancy has led to the suggestion that we should read *quidam* rather than *qui*, and while this idea would admittedly solve the chronological problems present in the phrase, it is not based on any of the available manuscripts and has not been widely accepted.[105] Others have suggested that the verb *fateor* should be taken to refer to an earlier, public profession of Christian faith, which would have led to the arrest of members of the community during the aftermath of the Great Fire.[106]

Tacitus' description, but does not make any pronouncement on the legal background of these events.

102 For a similar view on the passage, see Fuchs (1950), 78, who declares: "so muß allerdings zugegeben werden, daß Tacitus sich mit einer Knappheit ausgesprochen hat, die dicht bis an die Grenze der Mißverständlichkeit reicht."

103 Tacitus, *Annales* 15.44.

104 Ash (2018), 206; Getty (1966), 287-288; Koestermann (1968), 256.

105 This suggestion was made by Getty (1966), 287-288, who is followed in this by Ash (2018), 206. This idea is rejected by Shaw (2015), 81, who argues that due process could not be guaranteed in the aftermath of the Great Fire.

106 Fuchs (1950), 78 makes the argument that those who were initially arrested only confessed to Christianity. He bases this idea on the fact that Tacitus believes them to have been innocent, which neglects the possibility that false confessions were extracted under torture. For a similar argument, see Keresztes (1979), 251. Koestermann (1968), 256 raises the suggestion that Tacitus

However, it has been remarked that Tacitus does not use the verb in a similarly religious context on any other occasion, which would make it less likely that he is indeed describing Christians who had – at some unspecified point in time – admitted only to being Christian.[107]

Another explanation for the order of events as presented in the text must thus be found. While it is impossible to do so with absolute certainty, the lack of an explanation for this apparent oddity in Tacitus' narrative and the brevity of his description may indicate that the author attempted to make a point that was more straightforward than is generally assumed by his highly detail-oriented modern-day readers. It may thus be suggested that we are *not* dealing with an oblique reference to Christian professions of faith, but rather with a deliberate attempt by Tacitus to present the general image of an all-out search for culprits that was fuelled by escalating public disorder and anxiety, and as such was fundamentally flawed. This idea is underscored by the repeated emphasis Tacitus places on the unfavourable reputation Christians had with the general population of Rome, which suggests that pre-existing tension may well have escalated under these extraordinary circumstances. In this context, it becomes possible that the first people to confess (to use *fateor* in a more literal sense) did so because they had been pressured in some way by the general population, possibly with the help of the police forces of the city of Rome. The substantial pressure faced by the accused comes to the forefront even more prominently in the next part of the passage, in which Tacitus claims that the number of accused was vastly expanded because those who had previously been arrested started implicating others in their alleged crimes – a mechanism strongly reminiscent of literal and metaphorical witch hunts the world over.[108] It therefore seems likely that the chronological inversion in the text may be seen as an attempt by Tacitus to highlight the irregularity of the proceedings by implying that the initial confessions were not made under the jurisdiction of the appointed magistrate during a formal line of questioning, but were rather extracted at an earlier stage through violence – or the treat thereof.

The question of the exact nature of the charges against the arrested Christians comes up once more in the next part of the passage, and disagreement once again abounds. This is at least in part due to a disagreement about the correct reading of the penultimate word of the passage: while the earliest manuscript reads *coniuncti* rather than the *convicti* offered by later versions, scholarly consensus has since overwhelmingly settled on the latter option, which makes sense given the

may have been referring to false confessions by agents of Nero meant to implicate Christians, which would then have led to further, more vigorous actions.

107 Getty (1966), 286.

108 The number of those arrested remains unknown, but it is likely that Tacitus' use of the phrase *multitudo ingens* contains a certain degree of hyperbole. See Ash (2018), 207; Carrier (2014), 283 and Koestermann (1968), 256.

prevalence of legal terminology in the passage.[109] However, the essence of the phrase ultimately remains discernible whatever the correct reading might be: in either case, we are dealing with a reference to the charges underlying the proceedings. The more significant issue, however, lies precisely in the reasons for arrest and conviction presented by Tacitus. The author claims that the fate of those who were ultimately arrested was due not so much to a formal charge of arson (*crimen incendii*), but rather because the Christians were seen as generally suspect due to *odium humani generis*. The latter phrase has proved particularly vexing, and opinions vary on whether we are dealing with a subjective or objective genitive – that is: were Christians convicted (or added to the list of suspects) because they were hated by humankind, or because they were accused of hating humankind themselves?[110] The latter interpretation of the two is more likely, and finds support in the fact that a similar accusation was also occasionally levied against members of the Jewish community.[111] However, it goes too far to suggest, as some have done, that the official charge against Rome's Christians was not arson, but rather something akin to μισανθρωπία.[112] No record of such an accusation being seen as a recognised charge survives, and it should in any case be noted that *odio humani generis* is not, like *incendii*, dependent on *crimine*, which speaks against the idea that Tacitus meant to describe the Christians' perceived hatred of all mankind as a formal legal basis for the proceedings. Instead, the phrase fits Tacitus' generally disparaging description of the course of events by suggesting that it was not the formal accusation of arson levied against the Christians that ultimately determined the outcome of the proceedings, as should have been the case, but rather vague accusations and fearful rumours about the status of Christians as potentially dangerous and subversive outsiders.

The fact that a number of the arrested Christians were subsequently described as having been burned, however, may well point to the continued importance of the accusations of arson, and suggests that a deliberate connection between crime and punishment was made.[113] It also bears repeating that Tacitus' account

109 See, among others, Ash (2018), 207; Fischer (1906); Heubner (1983), 369; Jackson (1981), 284; Koestermann (1968), 256. Getty (1966), 289 rejects this idea, while also rearranging the interpunction of the passage, and Keresztes (1979), 251-252 leans in the same direction when it comes to his acceptance of *coniuncti*. It has been argued, among others by Getty (1966), 288, that the singular *multitudo* cannot be combined with the plural of the verb. This argument is rejected by Ash (2018), 207.

110 Ash (2018), 207; Frend (2006), 504; Fuchs (1950), 82-87; Koestermann (1968), 257; Lund (2008), 259 and Shaw (2015), 81 favour the objective genitive. Carrier (2014), 272; Getty (1966), 290-291 and Keresztes (1979), 255 lean towards a subjective use of the genitive.

111 See especially Flavius Josephus, *Contra Apionem* 2.15 (148).

112 For the idea that Christians were tried for their perceived misanthropy, see Dibelius (1971), 81; Keresztes (1979), 252-254; Molthagen (1970), 23; Williams (2012), 219; Zeiller (1955), 397.

113 Ash (2018), 208; Fuchs (1950), 92; Lampe (1989), 65 and Lund (2008), 259-260. Kerestztes (1979), 255 rejects this argument. Lund argues that the Christians who were thrown to the

is very firmly rooted in the narrative of the Great Fire, and starts out with an attempt to find a scapegoat for that dreadful event.[114] His description of the legal proceedings is not only heavily abbreviated, but also suggest fraudulence on the part of the imperial authorities, and – even more significantly – a sense of continuous escalation of the accusations due to the highly pressured socio-political environment that gripped the city after the disaster. While Tacitus undoubtedly connects the accused to Christianity, as is also demonstrated by his assertion that Christians were generally 'hated for their crimes', his account of events remains fundamentally tied to the immediate context of the Great Fire, in which the accusations of arson would have been more fundamentally at the forefront of everyone's mind. Thus, while 'being Christian' is indeed presented as a related allegation, Tacitus' account seems to suggest that such claims did not form the appropriate legal basis for the proceedings, and would furthermore not have carried the same weight without the setting in which he presents them: without the Great Fire and accusations of arson, the actions of Tacitus' Nero against the Roman Christians would have lacked an impetus. Whatever reading of the text we choose to accept, the course of events as it is presented to us simply cannot be adequately explained by accusations of Christianity alone. The context in which such claims became relevant must therefore remain of central importance for any analysis of the legal treatment of Christians under Nero.

4.5.2 *Christians under Nero according to Suetonius*

Tacitus' description of events, however, is not the only account by a Roman author to make mention of interactions between Christians and the Roman authorities in the same period. Suetonius likewise references a measure against the Christians (*Christiani*) of Rome, although he in no way connects this event to his account of the Great Fire.[115] This discrepancy between the two accounts has understandably raised questions about the historical accuracy of both versions, but especially that of Tacitus.[116] Nevertheless, it remains important to compare the two, in order to

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dogs wrapped in animal skins suffered this fate because they were considered to be in some way 'beastly'. Ash (2018), 207 and Benko (1984), 129-130 draw attention to a parallel with the punishment for *magi* described in pseudo-Paul, *Sententiae* 5.23.17, where mention is also made of crucifixion, burning, and being thrown to the wild beasts. For the symbolic meaning of the punishments referred to in *1Clement* 6.2, which might refer to the same period, see Schmitt (2012). The fact that Tacitus describes these different methods of execution as *ludibria* seems to underscore the idea that he disapproved of the procedural irregularities.

114 For a similar argument, see Getty (1966), 292.

115 The fact that Tacitus is the only Roman author to directly link Nero's measures against Christians to the Great Fire has been widely noted. See Shaw (2015), 82-83; Vogt (1954), 1165; Williams (2012), 218; Wlosok (1971), 283. See Shaw (2015), 83 for the argument that later Christian sources are very likely dependent on Tacitus.

116 The two most important recent arguments against the historical reliability of Tacitus' account as we know it may be found in Carrier (2014) and Shaw (2015), both of whom assume

investigate whether they have common ground. After all, any similarities between two accounts that otherwise differ considerably is likely more significant than those elements that are unique to either. What, then, does Suetonius have to say about the Neronian attitude towards the Christian community?

> *Multa sub eo et animadversa severe et coercita nec minus instituta:* […] *affecti suppliciis Christiani, genus hominum superstitionis novae ac maleficae* […].[117]
>
> Many things came to be severely punished and repressed during his reign, and no fewer new measures were instituted: […] The Christians, a kind of people holding a new and nefarious superstition, were visited with punishments.

This short passage is included in a list of various legal measures taken by Nero,[118] all of which are likely to have applied specifically to the city of Rome, as is indicated by a reference to Nero's building projects in the region made in the same paragraph. The reasons behind the emperor's measures against the city's Christian community, however, are less easily discernible. It has been suggested that Suetonius' use of the term *maleficus* to describe the Christian *superstitio* creates a parallel to magical practices,[119] which is of course possible, but not otherwise supported or expanded upon within the text. Others have argued that *superstitio* […] *malefica* is meant to suggest that Christians were targeted because of their religious beliefs, since it is their *superstitio* itself that is referred to as malicious – or even potentially criminal.[120] We might ask ourselves, however, if the second part of the phrase should not be seen as an explanation of the nature of Christianity

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Suetonius' account to have been authentic. The claim made by Dando-Collins (2010), 6 that Suetonius' remark about Christians appears out of context, and could therefore easily have been the work of a later Christian copyist, need not necessarily be seen as a solid argument against the phrase's authenticity: Suetonius on multiple occasions includes passages in which he briefly references multiple measures taken by a specific emperor, and as such the remark is hardly out of character. In addition, the description of Christianity as a *superstitio nova et malefica* hardly seems like the work of a Christian scribe.

117 Suetonius, *De vita Caesarum: Nero* 16. Boman (2011), 355n.2 holds that *Christiani* is indeed very likely to be the most reliable reading in Suetonius' text. The case for *affecti* over *afflicti* is made by Bradley (1972) on the basis of a suggested emendation in the Parisian edition of Robertus Stephanus, which finds a parallel in the work of Orosius, who often is remarkably accurate in his use of Suetonius as a source. His suggestion has been taken up by a number of editions, including Kaster (2016[a]), 294 and (2016[b]), 208; Kierdorf (1992), 53 and Warmington (1999), 6 and 43. The Teubner edition of Ihm (1908), 231 and Rolfe (1997), 106 both adhere to *afflicti*.

118 Shaw (2015), 83 not unreasonably refers to this passage as a "legal potpourri".

119 Frend (2006), 504.

120 Liebs (2012), 119; Molthagen (1970), 25; de Ste Croix (1974[b]), 258.

for the reader, rather than as a remark on the legal basis for its punishment.[121] A more productive point of entry into Nero's possible motivations may be found in the other measures Suetonius references in the passage, all of which seem to have been in some way intended to maintain public order: the inventory starts out by mentioning a new sumptuary law, followed by bans on public banquets past the point of simply distributing food, a ban on the sale of elaborate foods in taverns, and after its reference to Christians continues by mentioning measures against other groups that were seen as a threat to law and order in the city, namely charioteers, as well as actors and their fans. The charioteers are explicitly accused of cheating and robbing the populace, while this expulsion of actors is also mentioned by Tacitus, and is there connected to accusations of causing general disorder.[122] The fact that Suetonius references Christians in such company very likely indicates that he saw their punishment (whatever its nature may have been), as a police measure meant to maintain peace and quiet in the city.

What, then, do the combined accounts of Tacitus and Suetonius tell us about the legal treatment of Christians under Nero? First and foremost, both authors agree with later Christian tradition that some form of legal interaction took place, and that people that they recognised as Christians were in some way involved. Both authors furthermore hold that these events took place in Rome itself, and make no mention of any effects beyond that geographical area.[123] While some have considered it peculiar that no similar actions were taken in the provinces,[124] this is in fact hardly surprising if we consider the context in which both authors present the measure. It has been rightly remarked that Tacitus stands alone in connecting Nero's measures against the Christians with the aftermath of the Great Fire,[125] but both authors' accounts nevertheless seem to suggest that the Christians were targeted in response to disruptions of the social order – although Tacitus' version of event is admittedly far more severe. Neither version gives us sufficient grounds to assume that Christians were punished simply for being Christian, but both instead suggest that Christians were considered to be socially – and potentially criminally – disruptive. Given the discrepancies between the available sources, this minimalist reading is all that can be reasonably hoped for, but its parallels to the measures against diviners and the Jewish community of Rome described in previous chapters are nonetheless illuminating, and suggest a similar association between membership of a particular religious group, and accusations of suspicious behaviour.

121 Shaw (2015), 83-84.

122 Tacitus, *Annales* 13.25. The riots that could result from theatre performances are also referenced in Suetonius, *De vita Caesarum: Nero* 26.

123 A similar point is made by Sherwin-White (1952), 202.

124 Frend (2006), 504-505.

125 See especially Shaw (2015).

4.6 Pliny and Trajan: The First Trial?

After the time of Nero, the Christian communities of the Roman Empire disappear from the written, non-Christian record for a substantial period of time, only reliably re-emerging during the reign of emperor Trajan. Christians may have been caught up in Domitian's rigorous enforcement of the Jewish Tax, and while they may indeed have been included among those who were denounced to the authorities for allegedly trying to evade it, as has previously been discussed, no explicit reference to their involvement is made.[126] Nevertheless, the idea that Domitian was one of the emperors who made significant attempts at targeting Christians for their religious beliefs finds support in a select number of sources (Appendix 3.iii), all of which are the work of authors who themselves were members of the Christian community. Tertullian compares Domitian to Nero and refers to both emperors as exceptionally cruel, but ultimately remarks that Domitian's measures were only temporary.[127] These measures apparently included the banishment of various members of the Roman elite, as was later repeated by Eusebius of Caesarea, who included one Flavia Domitilla (the niece of consul Flavius Clemens) among those exiled and named her as a Christian.[128] Some sources report that Clemens himself was a victim of Domitian's policies as well, but they either omit religious motivations entirely, or hold that the consul was targeted for his Jewish sympathies, which are connected to an accusation of atheism.[129] According to the latter view, Clemens' wife Flavia Domitilla was banished for similar reasons, and given the similarity in names it is very well possible that she is the one who inspired Eusebius' reference to Clemens' Christian niece.[130]

Given these conflicting accounts, the extent and nature of Domitian's interactions with Christian communities remains obscure. While it has been argued that Domitian used an alleged Neronian precedent to continue his predecessor's repressive policies,[131] solid evidence for either part of this claim is ultimately lacking. For this reason, many have maintained a sceptical attitude, and have focussed

126 Suetonius, *De vita Caesarum: Domitianus* 12.1-2. For a more elaborate discussion of the subject, see chapter 3 – Judaism in Roman Legal Measures.

127 Tertullian, *Apologeticus pro Christianis* 5.4. *1Clement* 1.1 makes mention of difficulties faced by the church in Rome, but since the dating of this letter is unsure, its usefulness is disputed. See Williams (2012), 213-215. Notably, these difficulties seem to have been limited to the city of Rome.

128 Eusebius, *Historia Ecclesiastica* 2.17-18.

129 Cassius Dio, *Historiae Romanae* 67.14.1-2; Suetonius, *De vita Caesarum: Domitianus* 15.1. The link to atheism is made by Dio.

130 See Lampe (1989), 167-168 for the idea that both are the same person.

131 Keresztes (1979), 270; Sordi (1983), 43-53; Williams (2012), 217; Wlosok (1971), 287; Zeiller (1951), 523 and 526 and (1955), 395. Unsurprisingly, this idea has been popular with those who adhere to the school of thought that holds that Christians were targeted on the basis of a general law, as mentioned by Rives (2011[b]), 204 and Sherwin-White (1952), 199.

instead on the treatment of Jewish communities, for which more reliable sources exists.[132] It should also be noted that the people explicitly connected to these events all appear to have been members of the Roman elite, and part of Domitian's inner circle, who may therefore have been more susceptible to scrutiny of their loyalties – religious or otherwise.[133] It is therefore likely that only a very limited group was ever faced with accusations of atheism, wherever their religious sympathies may have lain in practice. While we cannot, of course, fully exclude the possibility that Christians became involved either in these events or in the trials surrounding the Jewish Tax, it would go beyond all available evidence to state that they were explicitly and intentionally targeted.[134]

4.6.1 *Letters from the Province*

By contrast, there can be little debate about the fact that legal interactions between Christians and the Roman authorities occurred during the reign of Trajan.[135] A number of martyrdoms, including those of prominent figures within the early church like Pope Clement I and Ignatius of Antioch, are said to have taken place in this period, although the available accounts of these events can generally considered to be legendary. The same cannot be said, however, of what is perhaps the most famous trial involving members of the Christians community, in which the emperor himself would in time become involved. This trial took place under the jurisdiction of Pliny the Younger during his time as governor of the province Bithynia et Pontus (110-113 CE), and it remains one of the most extensively and reliably documented cases available to those interested in the legal treatment of Christians in the Roman world. Pliny has become deservedly famous for his extensive corpus of letters, the tenth book of which is focussed on his official correspondence with the emperor during his tenure as governor. This collection is the only extensive example of Roman administrative correspondence remaining

132 Barnes (1985), 150; Cook (2010), 117; Molthagen (1970), 22n.50.

133 For a more elaborate discussion of this theory, see chapter 3 – Judaism in Roman Legal Measures.

134 For a similar sense of uncertainty, see Fox (1986), 433. It has been remarked, among others by Cook (2010), 135 and Vogt (1954), 1168, that the former Christians who told Pliny the Younger that they had given up their faith some time ago may have done so during the reign of Domitian. However, the circumstances under which they did so are never mentioned, and need not have been related to imperial policy of any kind. Against the idea that Pliny based his treatment of Christians on earlier measures dating back to the time of Domitian, see Reichert (2002), 245-248.

135 This discussion is based on a paper presented on 15 October 2016 during the International PhD-days (Ravenstein, The Netherlands), organised by the Ludwig-Maximilians-Universität München, Oxford University and the Dutch national Research School in Classical Studies OIKOS.

to us,[136] and has become invaluable due to the fact that it provides a fascinating insight into the wide variety of issues that governors had to contend with. In addition to the famous exchange about the legal treatment of Christians,[137] these letters include questions on the correct way to deal with foster children, burials or protection against fires.[138]

Traditionally, the collection contained in book ten has been seen as a somewhat distinct entity within Pliny's *Epistulae*: while books one through nine are generally considered to have a highly literary character, and are strongly focussed on Pliny's self-representation,[139] for a long time the accepted view has been that book ten may have been published not by Pliny himself, but posthumously by his heirs or friends.[140] As such, it has been argued that the book shows "no sign of literary revision".[141] This idea has come under scrutiny in recent years, especially in the work of Gibson and Morello, who see book ten as a continuation, and in fact as the ultimate conclusion, of the self-representation set up by Pliny in the previous nine books.[142] In addition, it has been remarked that the letters lack the customary opening and closing salutations, and that each letter deals with only a single subject, both of which make a degree of editing likely.[143] Nevertheless, there is little to dispute that the letters in book ten are indeed largely authentic at their core, and served a practical purpose during Pliny's time as governor.[144] The language used by both Trajan and Pliny himself contains little of the literary style

136 For the argument that this collection of letters is very nearly complete, see Sherwin-White (1966), 533-535. Sherwin-White's commentary on Pliny's letters remains indispensable for those interested in their social and historical background.

137 Plinus Minor, *Epistulae* 10.96 and 10.97. These letters appear to have been well-known among Christians at a relatively early date. See Corke-Webster (2017[a]).

138 Plinius Minor, *Epistulae* 10.66; 10.68 and 10.69; and 10.33 and 10.34 respectively.

139 Gibson and Morello (2012), 234-264. For the prominent position of Pliny's self-representation in modern scholarship, see Häger (2015), 564-566. For the distinct position of book ten, see Bodel (2015), 21-22 and Häger (2015), 570. The former remarks that, in addition to the fact that book ten is the only part of Pliny's *Epistulae* to contain letters that are not of his own hand, the early transmission of book ten appears to have looked rather different than that of the first nine books.

140 See, among others, Syme (1958), 660.

141 Sherwin-White (1966), 12.

142 Gibson and Morello (2012), 251-253. See also the earlier works of Noreña (2007); Stadter (2006) and Woolf (2006), 101-104.

143 These arguments for the likely editing of book ten as well as a number of others, were presented by Markus Öhler in his paper 'Pliny and the Spread of Christianity in Urban and Rural Areas of Bithynia-Pontus' during the conference *Early Christian Encounters with Town and Countryside: Urban Structures of Early Christianity*, held in Leiden on 2 May 2017. A volume based on this conference, and its second edition on rural Christianity held in Essen, Germany, in February 2018, will be published in the series *Novum Testamentum et Orbis Antiquus: Studien zur Umwelt des Neuen Testaments* in 2020.

144 This much is even acknowledged by those who see book ten in the context of Pliny's self-representation. See for example Noreña (2007), 239; Stadter (2006), 69 and 75.

applied in the other books, but instead closely matches the bureaucratic idiom of the period, as has been convincingly demonstrated by Kathleen Coleman.[145] As such, the famous correspondence about the Christian presence in Bithynia-Pontus between Pliny and emperor Trajan continues to stand out as both the earliest and one of the most direct sources for legal interactions between Christians and the Roman authorities, and its value is further enhanced by the rare fact that they are written from the perspective of the latter.

4.6.2 *Christians in Bithynia-Pontus*

At its very core, then, Pliny's letter on the emerging Christian movement of his province is part of his administrative correspondence. Despite the fact that it is among the longest missives in the collection, it follows a pattern that is largely similar to that of many other letters in the tenth book of his Epistulae by presenting emperor Trajan with the necessary information about Pliny's activities as governor, and then proceeding to ask for advice or approval – and in some cases both.[146] Letter 96 opens in a similar fashion: Pliny describes Trajan as the best possible remedy for his hesitance and ignorance (*quis enim potest melius vel cunctationem meam regere vel ignorantiam instruere?*), and then quickly continues by introducing the subject of trials against Christians (Appendix 3.iv). He claims to have never attended any of the earlier procedures against them, and indicates that he is therefore unaware of common procedure (*ideo nescio, quid et quatenus aut puniri soleat aut quaeri*).[147] He then asks a number of question about the correct way to deal with these Christians, which famously includes the distinction between punishment of the name itself and crimes associated with that name (*nomen ipsum* […] *an flagitia cohaerentia nomini puniantur*), before describing the procedure he has thus far followed:

> *Interim, in iis qui ad me tamquam Christiani deferebantur, hunc sum secutus modum. Interrogavi ipsos an essent Christiani. Confitentes iterum ac tertio interrogavi supplicium minatus: perseverantes duci iussi. Neque enim dubitabam, qualecumque esset quod faterentur, pertinaciam certe et inflexibilem*

145 Coleman (2012), 233-235. For a similar argument, see Noreña (2007), 267. For the differences (and similarities) in Pliny's use of personal names in the different books of the *Epistulae*, see Jones (1991), 149-153.

146 For an exploration of the delicate nature of communication between governor and emperor, see Mazzoli (2003). For the idea that Pliny's frequent messages to Trajan show his lack of competence – or at the very least his indecisiveness, see Sherwin-White (1966), 547. A similar argument may be found in Coleman (2012), 233, but it is notable that Pliny seems to make his own suggestions on a number of occasions, as will be discussed below.

147 Some authors consider Pliny's claim of ignorance to be an exaggeration, if not blatantly untrue. See for example Liebs (2012), 130-131; de Ste Croix (1974[b]), 257; Williams (2012), 204. This argument is rejected by Walsh and Gottlieb (1992), 6-10.

> *obstinationem debere puniri. Fuerunt alii similis amentiae, quos, quia cives Romani erant, adnotavi in urbem remittendos.*[148]
>
> In the meantime, I have employed the following procedure regarding those who were denounced to me as Christians. I have asked them if they were Christians. If they confessed, I asked them a second and third time after having threatened punishment. If they persisted, I ordered them to be taken away. For I did not doubt that, whatever it was they confessed, certainly their stubbornness and inflexible obstinacy demanded punishment. There were others of similar madness, who I marked for transportation to Rome because they were Roman citizens.

So far, Pliny does not appear to have seen the events he describes as particularly problematic, or deserving of the emperor's attention. This changed, however, when the number of accused started to grow. Pliny states that he received an anonymous list of accusations (*propositus est libellus sine auctore multorum nomina continens*), on which he felt compelled to act. As he had done previously, he released those who denied ever having been Christians and proved it by offering sacrifices (*qui negabant esse se Christianos aut fuisse*). However, he was also confronted with a group of people who admitted to having been Christians at some point in the past, but claimed that they had since left the community – often years ago. Pliny then proceeded to investigate further, first confirming that these people were indeed no longer Christians, and then further examining the practices Christians engaged in. Although he characterises Christianity as a *superstitio prava et immodica* later in the letter, he found no evidence of actual wrongdoing: both former and current Christians swore that they had made a vow to avoid all criminal activity,[149] ate only normal food, and had even ceased to meet after Pliny had banned *collegia* on Trajan's orders.[150] At this point, Pliny decided that he needed Trajan's advice: he saw the growing number of accused as particularly problematic (*maxime propter periclitantium numerum*), and was therefore cautious to proceed as he had done before, but also concluded that his actions had apparently had the desired effect. After all, temples were once again being visited, rituals were being taken up again, and sacrificial meats were once again being sold.

148 Plinius Minor, *Epistulae* 10.96.2-4. The edition used is that of Mynors (1963), which is part of the Oxford Classical Texts.

149 In this context, the term *sacramentum* is used. For an exploration of the usage of this term, see Sordi (2003).

150 This ban is also referenced in Plinius Minor, *Epistulae* 10.33 and 10.34.

Pliny's letter provides us with a wealth of information about all stages of his legal interactions with the Christians in his province. It should first and foremost be noted that this was a strongly localised event, that found its origins in complaints made by the local population of Bithynia-Pontus, as has been widely recognised.[151] Pliny describes the accused as "those who were denounced to me as Christians", and later makes reference to an anonymous *libellus* containing yet more names. At least some of the inhabitants of the province, then, appear to have seen 'being Christian' as a valid reason for denouncing their neighbours to the Roman authorities,[152] and Pliny himself seems to have agreed – at least initially, and to a certain extent. His interrogation of the accused, including both straightforward repeated questions during the initial proceedings and the use of the well-known sacrifice-test during the later stages of his enquiries, focussed primarily on whether or not the accused were indeed Christians. It is furthermore especially notable that he convicted confessed Christians without feeling the need to consult the emperor during the first round of accusations. This indicates that he saw the case brought forward by the accusers as essentially persuasive, and was therefore willing to use his authority as governor to accept it as a valid reason for prosecution.[153]

Pliny's reasons for taking up the case are not made explicit, but the letter nevertheless gives a number of indications as to what they may, or may not, have been. On the one hand, it is very unlikely that Pliny based his actions on a concrete, pre-existing law aimed at Christians: as we have seen, there is no evidence that such a law existed, and the uncertainty Pliny expresses at the beginning of the letter likewise seems to argue against this idea. After all, Pliny was otherwise quite given to citing earlier legal measures when he is able to find them, and the fact that he omits one here is therefore telling.[154] This does not mean, however, that Pliny was going into the trials without any previous knowledge whatsoever. He appears to have at least been aware of earlier trials involving Christians, even if he claims to be unaware of all the details. While some have dismissed this argument for the idea that Pliny was making use of existing precedent as invalid,[155] is it nevertheless very likely that he was at least generally aware that Christians could potentially be subject to punishment, or had

151 See, for instance, Sherwin White (1966), 697; de Ste Croix (1974[a]), 215; Walsh and Gottlieb (1992), 5.

152 De Ste Croix (1974[a]), 215 holds that the locals were just trying out the accusation to see if it would work. Reichert (2002), 244 is critical of this point, and holds that it can only be used to prove that Pliny took Christianity to be the sole charge, not that it was intended as such.

153 For the idea that it was up to the governor's personal discretion to accept and reject cases, and that he had significant liberty in proceeding as he saw fit, see de Ste Croix (1974[a]), 218-220.

154 Williams (2012), 203.

155 Reichert (2002), 243-244 sees the reference as too vague to be conclusive. In response to a similar argument, Williams (2012), 204n.63 argues that Pliny would likely have pointed out

been so in the past. After all, he saw no need to explain who these Christians were, seeming to assume some general knowledge on the part of the emperor, as well as any other potential readers. Furthermore, he suggests the existence of a customary treatment of such cases by his use of the verb *soleat*, thus confirming that similar trials likely took place at some point in the past – even if these previous cases remain decidedly undated, and we, like Pliny, have no reliable information about what they may have looked like.[156]

In addition to this abstract awareness of precedent, it is very likely that accusations of particular crimes also played a part in Pliny's decision: although these allegations would later be disproven, the very fact that Pliny felt the need to investigate potential criminal behaviour after receiving the anonymous *libellus* suggests that such claims had been made, and were considered to be relevant for the proceedings.[157] That is not to say that these *flagitia cohaerentia nomini*, as Pliny calls them, ultimately formed the legal basis for conviction. It has repeatedly, and rightly, been remarked that this can at the very least hardly have been true for the second group of Christians, during whose trial the accusations were investigated and subsequently dismissed.[158] Nevertheless, it would be unwise to fully dismiss the potential importance of the very fact that a connection between membership of the Christian community and criminal behaviour had once again been made, and that Pliny felt compelled to investigate it: while it is impossible to establish the sincerity of such claims,[159] the fact remains that they were used to establish Christians as a potential threat, and to place them outside the boundaries of accepted society. As such, Christians could be seen as a threat to the social and political order of the region, and this may well have been an argument to which Pliny was particularly receptive. In part, his concerns appear to have been religious in nature, as is demonstrated by the final paragraph of his letter, in which he describes how the traditional religious practices of Bithynia-Pontus

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the general lack of precedent, had there been one. Instead, he attributes his ignorance to the fact that he has not been present at any trials against Christians – an important, if nuanced, distinction.

156 Reichert (2002) is certainly right in pointing out that these previous trials cannot be dated to the time of Domitian with any degree of certainty, but in my opinion goes too far by seeing Pliny's treatment of the Christians in his province as a complete innovation.

157 For the suggestion that Pliny was initially primarily concerned with Christian gatherings, see Corke-Webster (2017[b]), 381, who suggests that this was likely not the official charge, but nevertheless an important motivation for Pliny's attempts to take action.

158 See, for instance, Fox (1986), 427; Keresztes (1979), 284; Rives (2009), 202 and 206; de Ste Croix (1974[b]), 259-260; Walsh and Gottlieb (1992), 13.

159 Benko (1984), repeatedly argues that the various accusations levied against Christians were sincerely believed, and at times even found their basis in fact.

had seen a significant decline before the Christians had been brought to his attention.[160] There is even some indication that this diminished traditional piety may have had economic consequences for certain parts of the population, as had been the case during Paul's confrontation with the inhabitants of Antioch: if Pliny is to be believed, the sale of sacrificial meat had come almost to a complete standstill. These may have been worrying signs under the best of circumstances, but they would have been particularly disconcerting in Bithynia-Pontus. The province had been plagued by economic difficulties and social unrest before Pliny's tenure as governor even began, and two of his predecessors had been formally accused of administrative malpractice by its inhabitants.[161] Any disturbances of the peace, then, were to be strictly avoided, which may have made Pliny all the more inclined to take complaints brought forward by the locals, as well as potential threats to his authority, particularly seriously.[162]

4.6.3 *Seeking and Shaping Imperial Guidance*

While Pliny's initial actions against the Christians of Bithynia-Pontus were thus firmly rooted in the local circumstances of his province, these were not the only factors he had to contend with. As becomes clear from the very existence of his letter, he eventually felt compelled to consult the emperor, and to ask for his superior's approval for his actions. This decision was very likely prompted by the fact that matters were escalating. Pliny himself reports that that many more cases came forward *diffundente se crimine*, as the charge became more wide-spread, and later cites his concern about the number of accused as his primary reason for involving the emperor (*visa est enim mihi res digna consultatione, maxime propter periclitantium numerum*). In attempting to deal with the ever increasing number of cases, Pliny appears to have discovered that matters were more complicated than originally thought.[163] On the one hand, the diverse backgrounds of the accused appear to have caused some consternation,[164] and the governor was

160 Plinius Minor, *Epistulae* 10.96.10: *Certe satis constat prope iam desolata templa coepisse celebrari, et sacra sollemnia diu intermissa repeti passimque venire carnem victimarum, cuius adhuc rarissimus emptor inveniebatur* – emphasis my own. See also the fact that Pliny refers to Christianity as a *superstitio prava et immodica* in 10.96.8. The importance of religious motivations on the part of both Pliny himself and the general population of his province is rejected outright by Nixey (2017), 68-70.

161 Corke-Webster (2017[b]), 378-379 and 389; Williams (2012), 201. See also Plinius Minor, *Epistulae* 10.32.

162 For a similar point of view, see Nixey (2017), 77.

163 De Ste Croix (1974[a]), 215 suggests that Pliny may have had "second thoughts", but does not discuss why this may have been.

164 See Walsh and Gottlieb (1992), 18-19 for the idea that Pliny was particularly concerned with the fact that entire *familiae*, including women and children, might be become involved in the proceedings.

furthermore confronted with people who freely admitted to having been Christians in the past, but denied their continued involvement. By now, the question was therefore no longer simply whether people were Christian (a question that could be answered with a simple yes or no), but whether having been so in the past in itself provided sufficient basis for a legal charge to be brought forward, even if this past behaviour had apparently not had any lasting adverse effects.[165] Pliny now had to determine to what extent he was willing to go along with the accusers, and whether further escalation could lead to a dangerous destabilisation of his province. It is therefore little wonder that he found it necessary to consult the emperor, but Pliny's letter to Trajan ultimately contained far more than a simple request for guidance. Instead, the governor appears to have made significant efforts to convince the emperor of the appropriateness of his previous and proposed actions, using various types of arguments to achieve this.[166]

The first group of arguments employed by Pliny is primarily procedural: the governor repeatedly attempts to show that he has done his due diligence, and this display of thoroughness and careful consideration is even further emphasised by the elaborate nature of the letter itself. When discussing the first stage of events, Pliny makes sure to explain that he gave the Christians brought before him multiple chances to withdraw their confessions, and furthermore justifies their execution by drawing attention to what he calls their *pertinacia* […] *et inflexibilis obstinatio*. While this aspect of the accused's behaviour is unlikely to have been the formal charge that led to their conviction, as some have argued,[167] it does help Pliny to demonstrate that these people could potentially have undermined

165 For the idea that Pliny's recent discovery that no actual crimes had been committed contributed significantly to his unwillingness to let the escalation continue, see Corke-Webster (2017[b]), 381-389.

166 The idea that Pliny is attempting to argue his case for a specific legal treatment of Christians, or is trying to defend his own action, has been raised by Barnes (1968), 36n.49, and has gained more support in recent years. Reichert (2002), 241 argues that Pliny is suggesting very specific, innovative measures, which include both the idea that Christians should be punished and the possibility for release. A similar point was made by Markus Öhler in his paper 'Pliny and the Spread of Christianity in Urban and Rural Areas of Bithynia-Pontus' during the conference *Early Christian Encounters with Town and Countryside: Urban Structures of Early Christianity*, held in Leiden on 2 May 2017. For the potentially innovative nature of the sacrifice-test, see Millar (1977), 558. Corke-Webster (2017[b]) is more inclined to believe that Pliny attempted to defend his previous conduct to prevent being reprimanded.

167 See, famously, Sherwin-White (1952), 210 and again (1974), 253-254, who sees this as a charge of *contumacia*. In the same vein, Corke-Webster (2017[b]), 382 argues that Pliny did not punish Christians "for their creed in the first instance", citing the governor's reference to Christian obstinacy immediately after. Reichert (2002), 236 suggests that Pliny gave this reason for conviction to shield himself from potential criticism. The idea that obstinacy formed the legal basis for conviction is vigorously countered by de Ste Croix (1974[a]), 228-230, who among other criticisms of the theory argues that Christians can hardly have been charged with *contumacia* when they had not yet had a chance to resist the governor's authority before the trial had begun.

his authority if he had not acted decisively against them. Since his primary task as governor was to maintain peace and quiet in his province, this may well have seemed like a valid argument. However, Pliny also shows himself to be aware of the limits of his power: he is quick to note that he did not judge Roman citizens who became involved in the case himself, but instead formally marked them down for transportation to Rome, where they would be judged by the appropriate authorities.[168] In his description of the second phase of the proceedings, Pliny furthermore elaborately discusses his attempts at truth-finding. These include both the sacrifice-test, which was intended to prove beyond a doubt that those who recanted had indeed left Christianity and – it is implied – the potentially disruptive behaviours associated with it behind,[169] as well as his investigations of the wider Christian community, which notably included the confirmation of the claim that no actual crimes had been committed by the torture of two *ancillae*.[170] Pliny, it may be concluded, has done everything he possibly could to ensure that the case, for which he believed there to be precedent but no established procedure, was properly handled.

The second type of reasoning Pliny uses to explain his conduct is based on the local circumstances in which he found himself. He notes that his initial decision to take action was based on accusations brought forward by the locals, which, while not necessarily surprising within the context of Roman administration, was nevertheless essential for Trajan's understanding of the situation: when combined with the steadily increasing number of accused, this aspect of the proceedings paints a clear picture of the amount of pressure to take action Pliny experienced, while at the same time demonstrating that there was a significant danger of escalation, which necessitated a degree of restraint. The same also holds true for Pliny's reference to the state of traditional religious practices in Bithynia-Pontus at the end of the letter. On the one hand, this passage serves to demonstrate the need for legal measures against the Christians, since Pliny claims that their presence in the province had had a significant adverse effect.[171] On the other hand, he

168 Sherwin-White (1966), 700 notes that *adnotavi* is a technical administrative and judicial term, thus underscoring the idea that Pliny attempted to show his adherence to proper procedures.

169 Smuts (1965) suggests that Christians' failure to pass this test may have lead Pliny to associate them with *maiestas*, which in turn would have compelled him to act. Since this test was only introduced later in the proceedings, however, it can hardly serve to explain why the trials were initiated. Furthermore, Pliny specifically brings up the test in the context of people being released – not of them being convicted.

170 Plinius Minor, *Epistulae* 10.96.8. Cork-Webster (2017[b]), 387 sees the torture of these two women as an assertion of Roman authority, which was subsequently undermined when it produced an unexpected result. Within the context of the letter, however, it is more likely that Pliny references the torture to further prove that he has indeed made every effort to ascertain the truth of the matter, and to thereby show himself to have been a diligent administrator.

171 See Cook (2010), 250-251 for the idea that Pliny and Trajan were primarily concerned with Christianity's deviation from traditional Roman religious practices.

also directly links the recent restoration of the religious order to his more lenient attitude, arguing that a significant number of people could very well change their ways if given a *locus paenitentiae*.

4.6.4 *Imperial Response*

Pliny's letter, then, strikes a delicate balance between various factors. On the one hand, he attempts to combine the decisive action against steadfast Christians he on some level believed to be necessary, especially during the early stages of his interactions with the community, with the more lenient approach he has come to see as more beneficial over the course of the proceedings. On the other hand, he is confronted with the necessity to take into account not just precedent, established procedures and the will of the emperor, but also the local circumstances in the province and his own initiative – both of which, it should be noted, Trajan had repeatedly encouraged him to apply throughout his tenure as governor.[172] In the end, his arguments appear to have been effective: Trajan's reply is comparably short (Appendix 3.B), and largely serves to confirm the suggestions Pliny had made:

> *Actum quem debuisti, mi Secunde, in excutiendis causis eorum, qui Christiani ad te delati fuerant, secutus es. Neque enim in universum aliquid, quod quasi certam formam habeat, constitui potest. Conquirendi non sunt; si deferantur et arguantur, puniendi sunt, ita tamen ut, qui negaverit se Christianum esse idque re ipsa manifestum fecerit, id est supplicando dis nostris, quamvis suspectus in praeteritum, veniam ex paenitentia impetret. Sine auctore vero propositi libelli <in> nullo crimine locum habere debent. Nam et pessimi exempli nec nostri saeculi est.*[173]
>
> You have followed the correct procedure, my dear Pliny, in investigating the cases of those who were denounced to you as Christians. It is after all impossible to establish anything in general that could act as a clear guideline. They are not to be sought out; if they are denounced and found guilty they should be punished, yet in such a way that whoever denies that he is a Christian, and in fact makes this plain (that is: by worshipping our gods) may obtain a pardon by repentance, even if he was suspected in the past.

172 Trajan's insistence that Pliny himself should judge matters 'on the ground' and make use of local circumstances plays a part in a significant number of letters in their correspondence. See Plinius Minor, *Epistulae* 10.20; 10.40; 10.42; 10.50; 10.55; 10.62; 10.69; 10.76; 10.84; 10.93; 10.109; 10.113 and 10.117, all of which consist of Trajan's responses. For another example of a letter that contains substantial evidence of Pliny attempting to persuade Trajan, see 10.41.

173 Ibidem 10.97.

> Anonymous pamphlets should not have a place in any trial. For this is both a terrible precedent, and ill-suited to our times.

In his letter, Trajan confirms that 'being Christian' could indeed be seen as a viable charge, but only if the accusation was brought forward within the confines of proper procedure by inhabitants of the province themselves. He shows himself to be primarily concerned with the potential for unnecessary escalation that might result from abandoning these protocols: it is for this reason that he sees no benefit in the Roman authorities seeking Christians out (*conquirendi non sunt*), and – in a deviation from the procedure Pliny had followed – strongly rejects the use of anonymous accusations, which he calls a *pessimum exemplum*. Trajan's approval of the sacrifice-test applied by Pliny should likewise be seen in this context: he seems to regard this test as a potential argument for the defence, including its proper application in a series of references to the formal stages of the trial, including denunciation and verdict (*si deferantur et arguantur*).[174] In no way, however, does Trajan indicate that this procedure will henceforth be applied throughout the empire. Instead, he not only fails to establish a fixed punishment, but also explicitly states that it is impossible to formulate a general guideline (*neque enim in universum aliquid, quod quasi certam formam habeat, constitui potest*), which indicates not only that subsequent cases in Pliny's own province might warrant a different treatment, but by extension also that events in other provinces are not automatically covered by his *rescriptum*.[175] Instead, both Pliny and Trajan are attempting to deal with an unexpected series of events in one particular province of the empire, and are considering the interest of all parties, including the general population of Bithynia-Pontus, in their attempts to resolve the issue. Trajan's response may ultimately imply that the *nomen ipsum* can indeed be seen as a valid charge, but this decision is firmly rooted in Pliny's account of the various accusations made by the locals, as well as his argument that a more lenient approach may help to alleviate the threat of disturbances in his province.

174 Sherwin-White (1966), 711-712 likewise sees Trajan's use of the term *defero* as an indication that the normal procedure of the *cognitio extra ordinem* is to be followed. The verb *arguo* can be used to indicate both an accusation in a more general sense (which would make Trajan's use of the term an approximate repetition of *defero*), and the process of providing proof for that accusation and subsequently finding the accused guilty. It is likely that the latter is meant in this context, although there is some indication that the term was ambiguous even in antiquity itself, as Ulpian saw fit to explain the term in his *Ad Edictum*. See *Digesta* 50.16.197, which contains the jurist's assertion that *'indicasse' est detulisse; 'arguisse' accusasse et convicisse.*

175 Throughout their correspondence, Trajan repeatedly tells Pliny that precedents from one province do not necessarily apply to another. See especially Plinius Minor, *Epistulae* 10.65 and 10.66, but also 10.34 and 10.69. Another notable parallel may be found in 10.113, in which Trajan once again notes that nothing can be determined *in universum*. For a similar line of thinking, see Corke-Webster (2017[b]), 397-404. Here, and in (2017[a]), he particularly delves into later Christian uses of the Pliny-Trajan correspondence.

As such, we are hardly dealing with a premeditated measure, but instead with a series of negotiations and practical measures that was, in all likelihood, taking place within the boundaries of Pliny's normal administrative practice.[176] While many have seen the Pliny-Trajan correspondence as a 'landmark decision' in the Roman legal treatment of Christians,[177] it therefore nevertheless remains unlikely that it was ever intended to function as such.

4.7 Hadrian and Minucius Fundanus: An Obscured View

Whatever precedent, whether deliberate or not, was set by Trajan's rescript, it does not appear to have been effective for very long. Within two decades of the Pliny-Trajan correspondence, questions regarding the legal treatment of Christians once again arose – this time in the province of Asia under the governorship of one Granianus, who appears to have written to emperor Hadrian for help.[178] While Granianus himself did not receive a reply before the end of his tenure as governor, the imperial administration nevertheless became involved in the matter, and sent out a response to his successor, Minucius Fundanus (Appendix 3.C). Fundanus was governor in 122 and 123 CE, and it is his name, rather than that of Granianus, by which the rescript is most commonly known.[179] The text of the letter in question has only been transmitted by Christian sources,[180] but is

176 It is notable that Pliny's letter describes the growing number of accusations as something that commonly happens (*ut fieri solet*) when a specific legal charge gains traction among the population. This assertion is not linked to Christians specifically in any way, but instead seems to indicate that Pliny sees this escalation of local tensions as nothing unusual.

177 See, among others, Barnes (2010), 10-11; Cook (2010), 251; Frend (2006), 508; Reichert (2002), 241-242; de Ste Croix (1974[a]), 223-225 and Vogt (1954), 1171. Against this point of view, see Corke-Webster (2017[b]), 397-404 and Fox (1986), 424.

178 According to the manuscript tradition, the governor's name was Serenius or Serennius Granianus. This is likely to be a reference to Q. Licinius Silvanus Granianus, who was suffect-consul in 106 CE and could therefore have become proconsul of Asia during the time of Hadrian. 'Serenius' is thus likely a corruption of either 'Licinius' or 'Silvanus'. See Minns and Parvis (2009), 265n.6 and Minns (2007), 38.

179 For the dating of Fundanus' governorship, see Eck (1983), 155-157.

180 The letter is cited in Justin Martyr, *1 Apology* 68.5-68-10, as well as in Eusebius, *Historia Ecclesiastica* 4.9. By his own admission, Eusebius' Greek text is a translation of the Latin offered by Justin, but the available manuscripts of both works now offer the same Greek text. A Latin version does survive in the Latin translation of the *Historia Ecclesiastica* made by Rufinus, who likely did not have access to the original Latin and can therefore offer nothing more than a translation twice-removed. Various critical editions of Justin's First Apology are available, including Marcovich (1994); Minns and Parvis (2009) and Wartelle (1987). For the usefulness of Rufinus' translation in approaching the original Latin of the rescript see Minns (2007). Eusebius, *Historia Ecclesiastica* 4.26.10 also cites a reference to the rescript by Melito of Sardis, who apparently knew of its existence but does not appear to have cited it.

currently nonetheless considered to be reliable by most.[181] This does not imply, however, that the intended meaning of the rescript is immediately obvious: on this occasion, we are not granted the luxury of being able to investigate both the governor's question and the emperor's response, as we were in the case of Pliny's correspondence with Trajan.

Nevertheless, the text provides some valuable insights regarding the origins of Hadrian's measure in its own way. The repeated references to petitions (ἀξιώσεις) seem to indicate that a number of inhabitants of the province had approached Fundanus' predecessor with demands for some form of legal action against the Christians in their region.[182] Although it is impossible to determine the exact nature of the request, we may deduce from the phrasing of the letter that the proposed measures likely went somewhat further than a request for the governor to hear a legal case against one or more members of the Christian community: after all, Hadrian explicitly contrasts the petitions and demands of the people with the formal trials (πρὸ βήματος) he himself proposes, which makes it plain that what was being suggested went beyond the confines of accepted legal procedure. The emperor's declaration of concern at the start of the letter as we know it furthermore suggests that these appeals had been accompanied by a degree of unrest: Hadrian feels he cannot leave the matter unexamined, and worries that the people might become agitated (ἵνα μήτε οἱ ἄνθρωποι ταράττωνται).[183] His reference to the "mere shouts" (μόναι βοαί) of the people later in the letter serves to further emphasise that Hadrian deemed the way in which the locals were attempting to make their demands known to be deeply inappropriate at the very least. The primary focus of the emperor's response, then, appears to have been adherence to proper – and peaceful – procedure: he speaks of the potential for false accusations under the current circumstances with dismay, firmly insisting

181 Minns (2007) offers an elaborate and useful overview of the debate surrounding the reliability of its text as cited by Justin, but ultimately sees the available text as a reliable approximation of the original rescript. See also Cook (2010), 279-280 and Williams (2012), 208n.75. Millar (1977), 559 argues that the rescript seems to be largely similar to Hadrian's other known letters, and considers it to be unlikely that Justin would forge a letter by the immediate predecessor of the emperor he is addressing. By contrast, Corke-Webster (2017[b]), 400 holds that "there is little to recommend [the rescript] as authentic", and takes particular issue with the fact that the text is only preserved in Christian sources, which in his view has caused accounts of other, similar rescripts to be dismissed. In this, however, he does not consider the more significant problems regarding both contents and transmission attached to these other passages, which will be discussed below.

182 Barnes (1968), 37. For the suggestion that the governor had simply passed the petition on without undertaking anything, see Keresztes (1979), 292. While it has been argued that the petition was offered by the κοινόν of Asia, this notion has been rejected by Cook (2010), 263-265.

183 For the suggestion that the opening passage of the letter as presented by Justin contains a lacuna, see Minns (2007), 42-43.

that the inhabitants of Fundanus' province take any grievances they might have to court, instead of resorting to other, less regulated means. He in turn encourages his governor to hear such cases, and to judge them accordingly εἴ τις οὖν […] δείκνυσίν τι παρὰ τοὺς νόμους πράττοντας – if someone proves that the Christians have done anything contrary to the laws.

It is this particular phrase that has made the exact implications of Hadrian's rescript especially difficult to determine. Some, Justin Martyr likely first among them,[184] have argued that this measure protected Christians from being prosecuted solely on the basis of their religious beliefs, and instead created a situation in which they could only be punished if they were found guilty of particular crimes.[185] If this is indeed true, it would mean that Hadrian did not consider the *nomen ipsum* to be a sufficient ground for prosecution, and told his governor not to allow trials on this basis. This idea, however, is overwhelmingly rejected, and others, by contrast, have suggested that Hadrian was more concerned with the possibility of false accusations being made outside the context of formal proceedings, in a potential parallel to Nerva's concerns about charges relating to the Jewish Tax.[186] This interpretation certainly seems to fit the preoccupations of the letter more closely: Hadrian mentions the formalities of the trial throughout his rescript, whereas he references Christians by name only once. Furthermore, he

184 Frend (2006), 508; Minns (2007), 42. Keresztes (1967[a]) argues against the idea that Justin interpreted Hadrian's rescript in this way, and repeats this point in (1967[b]) and (1979), 290-292. Instead, he argues that the apologist saw this measure as an issue of procedure: a ban on using confessions of Christianity as a default admission of guilt in cases where the actual charge had been one of crimes associated with Christianity. Keresztes furthermore believes Justin to have been completely correct in this interpretation. It should be noted, however, that Justin begins his *Apology* by claiming that Christians are currently found guilty simply for bearing the name of Christian, which he considers to be unjust (Justin Martyr, *1 Apology* 4). He then proceeds to explain why Christians cannot be guilty of the crimes often attributed to them, some of which (particularly atheism under the Roman definition) he does not believe to be crimes at all. While it is certainly true that he argues for an individual trial about the actions of each accused Christian (*1 Apology* 7), and leaves open the possibility that some (false) Christians may have committed acts that he himself agrees are immoral, the main goal of both such an investigation and his own *Apology* (which seems to function as a legal defence in its own right) therefore appears to be to re-define what constitutes criminal behaviour, and thereby to disconnect the name of Christian from that particular label. Justin's insistence on a proper trial, which Keresztes sees as his primary objective, instead takes a back seat to this more fundamental point. Since Justin describes Hadrian's rescript as being in complete accordance with his own views (*1 Apology* 68), it stands to reason that he interpreted the measure in a similar way: Christians should only be convicted if the accusation that they had acted "against the laws" could be proven in a proper trial, and should not be found guilty on the basis of their Christianity alone. Notably, Eusebius' description of the rescript in *Historia Ecclesiastica* 4.8.6 seems more focussed on proper procedure and the right to a trial than on redefining the charge.

185 See especially Sordi (1983), 66-67. For others, see Williams (2012), 208n.77.

186 Barnes (1985), 145-146; Cook (2010), 270-280; Frend (2006), 508; Minns (2007), 42; Wilken (1984), 68; Williams (2012), 209. In a subtly different line of thinking, Keresztes (1967[a]) argues

does not voice any objection against the fact that people want to bring forward charges against the Christians in itself, but only seeks to limit the ways in which they can do so. This strengthening of proper procedure in Hadrian's mind clearly included the potential for punishment if anyone should be found to be making false accusations for the sake of slander (συκοφαντίας χάριν). A measure of this kind had the strong potential to deter people from making light-hearted allegations, and thus to reduce the number of charges that was brought forward. In addition, it is notable that Hadrian does not specify to which exact laws he is referring: the phrase παρὰ τοὺς νόμους is decidedly vague,[187] and leaves open the possibility that accusations of 'being Christian' could indeed be brought forward, providing that the case was appropriately made.[188] In fact, Hadrian leaves his governor with significant liberty to act as he sees fit: it is not only left up to Fundanus to determine if something contrary to the laws has in fact happened, but also to decide how grave the offense was, and what the appropriate punishment should be.[189] It therefore seems unlikely that Hadrian is making a general pronouncement on how Christians should be treated. Instead, he gives the governor the tools to appropriately deal with a potentially volatile situation – although it should be noted that our sources do not provide any information on the exact nature of Fundanus' later actions. It therefore remains possible that Hadrian's rescript did indeed improve the lives of members of Asia's Christian community, which would indeed explain the fact that later Christian apologists saw it as a potentially useful precedent, and attempted to use it as such – although the usefulness of the rescript may just as well be the result of the very vagueness that makes it so difficult to interpret.

Much has been made of the apparent similarities between Hadrian's rescript and the letter Trajan wrote several years earlier: it has been argued that both missives are strongly focussed on regulating the legal process, and seek to limit the ways in which accusations against Christians can be brought forward. This has led many to see Hadrian's measure as a simple confirmation of his predecessor's

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that the mere confession of Christianity could no longer be seen as evidence for accusations of other crimes made by malicious accusers. Keresztes makes the same argument again in (1967[b]) and (1979), 290-292.

187 Minns (2007), 42; Minns and Parvis (2009), 267n.6. The claim made in Keresztes (1979), 290-292 that Christians were charged with atheism and disloyalty to the emperor finds its origin in Justin's *Apology*, not in the rescript itself.

188 Minns (2007), 42; Williams (2012), 209.

189 The repeated use of imperative verbs in the final lines of the rescript, as well as the assertion that the governor himself should judge the cases people may want to make (τοῦτό σε διαγινώσκειν; emphasis mine), are especially notable in this context and underscore Fundanus' personal responsibility.

regulations, with at most some very minor innovations.[190] To adhere to this idea, however, is to overlook a number of crucial aspects of the proceedings. First and foremost, it has been noted that Hadrian makes no reference to Trajan's precedent, and that their focus is at times noticeably different: unlike Trajan, Hadrian deliberates on the appropriate punishment for those who are convicted somewhat elaborately, and likewise pays attention to the repercussions he believes should follow false accusations.[191] Most significantly, however, the very fact that the governor of Asia asked for imperial guidance on the treatment of Christians within a short number of years after Trajan had made pronouncements on the same issue serves to indicate that the precedent, such as it was, was at this point hardly set in stone. Hadrian gives no indication that he knew about it, and as far as we can tell, neither did Granianus. This is especially notable because of the proximity of the provinces of Asia and Bithynia-Pontus: if Trajan's rescript had gained the force of accepted law in the province to which it was meant to apply, it is not completely inconceivable that the governor of a neighbouring province could have used it as a basis for his own measures, although it should be noted that no official collection of precedents appears to have existed at this point in time. It is particularly telling that this new interaction between Christians and the Roman authorities once again required negotiation between the various parties involved,[192] and that the imperial administration likewise appears to have been focussed primarily on upholding public order in one particular province.[193] The repeated need to consider how Christians should be treated is, in this case, almost more interesting than the contents of the rescript: it serves to indicate that the correct legal treatment of this group was, in this period, far from immediately obvious.

190 Barnes (1968), 37; Cook (2010), 270-271; Frend (2000), 822 and (2006), 508; de Ste Croix (1974[a]), 223; Wilken (1984), 68. See Minns (2007), 42 for the idea that Hadrian further specifies Trajan's ban on anonymous accusations.

191 Corke-Webster (2017[b]), 400; Minns (2007), 41. Trajan simply appears to tacitly confirm that Pliny had been right in executing those who persisted in their Christian faith. For the interpretation of *duci* in Plinius Minor, *Epistulae* 10.96.3 as a reference to execution, likely by the sword, see Sherwin-White (1966), 698.

192 There are some indications that Christians themselves may also have attempted to sway the course of events. The emergence of Christian apologetics under Hadrian is mentioned by Eusebius, *Historia Ecclesiastica* 4.3, who references Quadratus and Aristides. The work of the latter survives, but makes mention of the legal treatment of Christians only in general terms, stating that they are being harassed. For the idea that Hadrian's policies contributed significantly to Christianity's "external projection", see Rizzi (2010), who also notes that Christians of the period defined themselves both in ethnic and in philosophical terms in order to gain legitimacy. For this remark, see ibidem 18.

193 Interestingly, we hear of local repressive measures against Christians in Judea during the Bar Kokhba Revolt. Since the Roman authorities do not appear to have been involved in this, these events will not be considered here. See Eusebius, *Historia Ecclesiastica* 4.8.4 and Justin Martyr, *1 Apology* 31.

4.8 Antoninus Pius: Dubious Accounts

The time of Hadrian's successor Antoninus Pius likewise appears to have witnessed its own share of legal interactions between Christians and the Roman authorities. Traditionally, it seems almost beyond dispute that certain Christian communities in the empire were faced with significant difficulties, but the accounts of these events, by contrast, are hardly straightforward.

4.8.1 *The Trial of Polycarp*

This is especially true for the text known as the Martyrdom of Polycarp (Appendix 3.v), which is one of the most well-known martyr acts transmitted to us, and has inspired a substantial amount of scholarship.[194] The account purports to be a letter from the Christian community of Smyrna in Asia Minor to their acquaintances in Philomelium, a city located more inland in the same region, describing events that allegedly occurred at some point during the reign of Antoninus Pius.[195] The date of the text itself is heavily contested. Traditionally, it is said to have been composed within a year of Polycarp's death, as is suggested by the author's remark that the community has yet to celebrate the anniversary of the martyr's death.[196] As such, the text has been seen as one of the more reliable accounts of Christian martyrdom, and it has been highly valued for this very reason.[197] It has been

194 The account of Polycarp's death has been transmitted both in Eusebius, *Historia Ecclesiastica* 4.15 and in a separate *Martyrium Polycarpi*, of which various Greek manuscripts exist. It has long been thought that Eusebius' account differs significantly from the manuscript traditions, and is therefore independent of them, but it is now commonly believed that these differences are due to the fact that Eusebius cites some portions of the text, while summarising others. For this argument, and the various versions of the *Martyrium Polycarpi* that likely predate Eusebius, see Rebillard (2017), 81-143, especially page 82. See also Dehandschutter (1993), 487 and Musurillo (1972), xiv. Another edition of the text may be found in Bastiaensen (1987), 6-31.

195 Eusebius, *Historia Ecclesiastica* 4.15.1 attributes these events to the reign of Marcus Aurelius, but the various details given in *Martyrium Polycarpi* 21 seem to suggest an earlier date. However, the interpretation of the passage is far from clear, and much has been said about the date of the martyrdom, as is shown in the overview of the relevant scholarship presented by Dehandschutter (1993), 497-501. Bastiaensen (1987), 4 settles on a general date of 156 to 167 CE, whereas Bisbee (1988), 121 adheres to 155-158. The more recent analysis of Barnes (2010), 368-373 settles on a date of 157, which is the one adhered to here. However, it should be noted that no imperial involvement is actually mentioned in the text, which may serve to remove some of the urgency behind the debate. Whatever the case, the martyrdom is generally dated to the 150s or 160s CE.

196 *Martyrium Polycarpi* 18.3. See Dehandschutter (1993), 497 for the remark that "the date of MPol is obviously dependent on the moment of Polycarp's death", and Bastiaensen (1987), 4 for a similar argument. Dehandschutter ultimately argues that the text may firmly be considered to pre-date the year 177 CE, see ibidem 501-502. Parvis (2006) settles on a date no later than 156.

197 Barnes (1968[b]), 510-514 accepts the first twenty paragraphs of the text as we know it as a contemporary letter. Dehandschutter (1993), 492-497 rejects the possibility that substantial interpolation may have taken place, but is rightly cautious in seeing the text as historically

noted, however, that the anniversary referred to in the text need not necessarily have been the first commemoration of Polycarp's death,[198] and that the account may for this and other reasons well be the product of a later period.[199] It should also be remarked that the text's Christian authorship is in any case beyond dispute, whether its date is what it purports to be or not, and that it is highly unlikely that the text known to us was based on official Roman records.[200] The account should therefore be treated carefully, especially because it contains a number of peculiar elements.

When the narrative of Polycarp's martyrdom opens, it immediately becomes obvious that he is not the first member of Smyrna's Christian community to be targeted. After a brief opening paragraph, the letter begins its description of events in the city *in medias res*, and the first few passages of the letter deal with the torture and executions of various martyrs.[201] The presence of the governor (ἀνθύπατος) is mentioned, but we are given few details about his previous actions or the legal proceedings that led to this treatment. Instead, we are only told that some, though not all, of the twelve accused had originally turned themselves in – a concept of which the author of the text strongly disapproves – and later recanted by offering sacrifice, as the governor had encouraged them to do.[202] We also learn that Polycarp himself was not originally involved, and that he was only brought before the governor because "the mob" (τὸ πλῆθος) had demanded it, possibly because they recognised him as a leader of the Christian community. In this context, it becomes clear that the objections against the Christians voiced by the inhabitants of Smyrna were at least partially religious in nature: according to the account, they encouraged each other to "seize the atheists" (αἶρε τοὺς ἀθέους!),[203] and later claimed that Polycarp has destroyed their gods by encouraging people

reliable. Buschmann (1994), 321 and 327 accepts the text as a genuine early letter, while rejecting the possibility that it contains a core of historically reliable *acta* in ibidem 1-2.

198 Rebillard (2017), 84.

199 Moss (2010[a]) tentatively suggests a date in the first half of the third century CE, while Rebillard (2017), 85 is even more cautious, and argues for Eusebius as the only possible *terminus ante quem*.

200 Bisbee (1988), 130-132.

201 *Martyrium Polycarpi* 2-3.

202 Ibidem 4. The number of martyrs is referred to in ibidem 19. This issue of voluntary martyrdom, its frequency, and the way in which it was viewed by early Christian communities has been the subject of some debate, which cannot be sufficiently addressed here. For more extensive analyses of the subject, see for instance Butterweck (1995); Buck (2012) and Moss (2012[b]). See Frend (1974) for the idea that the willingness of Christians to die for their beliefs contributed to what he calls the 'failure of the persecutions', while Nixey (2017), 70-71 argues that Christians were far more eager to die than Roman officials were to convict.

203 *Martyrium Polycarpi* 3. See also ibidem 9, where the governor asks Polycarp to take up this chant as a proof of his innocence. Interestingly, Polycarp then turns the accusation on its head, and accuses the other inhabitants of the city of being atheists themselves.

not to worship them.[204] This may indicate that he had been especially vocal in his derision of traditional religious practices, and it is certainly telling that Polycarp's death is said to have put an end to the troubles faced by the Christian community of the city.[205] The text also indicates that, once again, the interactions between Christians and the Roman authorities were instigated by the local population. In this context, it is notable that it was a local peacekeeper, known as the εἰρήναρχος, who arrested Polycarp when he attempted to flee the city, along with his διωγμῖται, or "chasers",[206] and that we find no indication that the governor gave any orders to this effect. The arrest of Polycarp is thus framed as heavily embedded in Smyrna's local administration, and it is certainly possible that the same was true for the Christians who had previously been convicted.

After his capture, Polycarp was allegedly brought to Smyrna's stadium,[207] where the governor finally became involved. Notably, he did not ask if Polycarp was a Christian, but rather if he was indeed the man the people thought he was – thus emphasising both that specific Christians, rather than the entire community, were being targeted, and that the influence of the local administration appears to have been greater than that of the governor himself. He then attempted to persuade Polycarp to recant, encouraging him, among other things, to "swear by the *Genius* of the emperor", and to curse Christ.[208] Polycarp refused, admitted that he was a Christian, and asked the governor if he could have some time to explain his faith. The governor told him to "convince the people",[209] which once again indicates that he was under a significant degree of public pressure. The governor then proceeded to threaten Polycarp with various forms of execution, but eventually had his herald announce to the people that "three times Polycarp has confessed to being a Christian".[210] This particular detail has been seen as

204 Ibidem 12.

205 Ibidem 1.

206 The name of the official in question, Herod, is likely an invention, as has been argued by Moss (2013), 98-99, who makes much of this detail in her rejection of the text as a reliable source. It has also been argued, however, that this Herod's actions in the narrative are plausible for his office. For this argument, and more details on what his work entailed, see Fuhrmann (2012), 66-69. It should also be noted that the terminology of this office was limited to Asia Minor, which may be a point in favour of the text's reliability, but is in any case especially telling for the localised nature of these events.

207 The fact that the proceedings take place in the stadium is seen as suspicious by Aubert (2010), 303; Moss (2010[a]), 549; Moss (2013), 97 and Parvis (2006), 109; among others. By contrast, Williams (2012), 192-193 argues that the practice is far from unattested.

208 *Martyrium Polycarpi* 9.

209 Ibidem 10.

210 Ibidem 12. There is some debate surrounding the question whether Polycarp himself swore three times, or if this qualification applies to the herald's announcement. Musurillo (1972), 10 assumes the former, as does Bastiaensen (1987), 18. Den Boeft and Bremmer (1985), 111-113 and Rebillard (2017), 98 apply τρίς to Polycarp's confession of Christianity.

evidence that the governor in Smyrna used the procedure established by Pliny as a precedent, although it is also noted that the number three was generally significant in the ancient world.[211] As such, we need not necessarily assume that the governor was intent on following Pliny's example, especially because the various ways to recant he suggests are rather more diverse than the sacrifice-test ultimately recommended by Trajan: he makes no mention of sacrificing to the Roman gods, but rather urges Polycarp to offer sacrifice to the emperor's *Genius*, to repeat the mob's slogan of "seize the atheists", and to curse Christ. The goal is the same in both cases, but the methods are noticeably different.

Given the nature of Polycarp's confession, it is highly likely that he was accused of 'being Christian'. In this regard, however, two remarks should be made that may serve to nuance the apparent simplicity of the allegation. Firstly, within the context of the events in Smyrna, the accusation of Christianity seems to have been combined not only with accusations of atheism and destroying traditional religion, as has been discussed previously, but also with shades of potential political disloyalty towards the emperor. This is suggested both by the fact that Polycarp is encouraged to sacrifice to the *Genius* of the emperor, and by the fact that the εἰρήναρχος encouraged Polycarp to acknowledge the emperor as his lord (κύριος).[212] This gives us some indication of the arguments for targeting the Christians the inhabitants of Smyrna may have presented to the governor, furthermore demonstrating that the charge of 'being Christian' was not an isolated one. Secondly, it should be noted that no formal charge, or formal verdict, is ever mentioned in the text:[213] Polycarp confesses, and is then executed almost immediately – not at the order of the relevant officials (Roman or otherwise), but at the hands of the mob.[214]

Given the rhetorical and literary nature of the text, with its notable parallels to the execution of Jesus that are even made explicit by the author,[215] it is almost impossible to determine whether anything contrary to proper procedure actually occurred.[216] It is likely that we are simply dealing with a text that is focussed more on the actions and suffering of the martyrs than on the legal proceedings they underwent. This, while not in itself so problematic that it should result in the complete dismissal of the text as a potential source, does prevent us from

211 Den Boeft and Bremmer (1985), 112.

212 *Martyrium Polycarpi* 8.

213 This curiosity has among others also been remarked upon by Bisbee (130); Moss (2010[a]), 548-550; Musurillo (1972), xiv; Parvis (2006), 109.

214 *Martyrium Polycarpi* 12-16. Note that it was also the mob who ordered the *confector* to end Polycarp's life, and that members of Smyrna's population urge the governor to burn Polycarp's body, rather than release it to the Christians, which might result in his veneration.

215 See Aubert (2010), 302-307; Moss (2013), 98-99. The author remarks on these parallels in *Martyrium Polycarpi* 1 and 6. For the rhetorical purpose of the text, see Bryen (2014[a]), 257-259.

216 Williams (2012), 190-192 denies that anything particularly unusual happened.

drawing any meaningful conclusions about development of the legal treatment of Christians on its basis. Nevertheless, a number of aspects about the earlier stages of the legal interactions between Christians and Roman authorities that occurred in Smyrna stand out. The number of accused, which included Polycarp himself, appears to have been relatively small, and those who became involved appear to have been specifically targeted because of their open disregard for traditional religious practices. The initiative once again came from the local population, which apparently found the governor at least somewhat willing to cooperate – although it is unclear whether he shared the population's disdain for the Christians, or was simply overcome by what we might refer to as mob-justice.[217] In any case, the emperor does not appear to have been consulted, which may tentatively indicate that the *Martyrium Polycarpi* provides us with an example of a governor acting as he believed the situation demanded without reference to his superior – although he was hardly similarly independent from his subjects.

4.8.2 *A Rescript to Asia?*

While Antoninus Pius does not appear to have been in any way involved in the events in Smyrna, an interesting pronouncement addressed to the province of Asia regarding the correct legal treatment of Christians is nevertheless attributed to him by a number of other sources (Appendix 3.D). However, much about this measure remains unclear, and even its dating to the time of Antoninus is far from straightforward: while he is indeed the emperor referenced by Eusebius in his introduction to the rescript in question, the cited text that follows mentions not Pius, but Marcus Aurelius.[218] To further complicate matters, a version of the rescript that is connected to Justin's *First Apology* in the *Codex Parisianus* of that work, but does not appear to have been a part of the original text, contains an opening address referencing Pius as the author. While this version is ultimately considered to be less reliable,[219] the earlier date does appear to be supported by the fact that the rescript references a series of earthquakes that famously devastated

217 The text does not provide us with a definitive answer to the issue. On the one hand, the governor barely participates in the proceedings: Polycarp is arrested by local magistrates rather than Roman troops, and his execution is even described as having been carried out by locals. On the other hand, the author of the text does assert that Polycarp "overcame the unjust governor" – see *Martyrium Polycarpi* 19.

218 Eusebius, *Historia Ecclesiastica* 4.12-13. Coleman-Norton (1966), 8 notes that Eusebius incorrectly refers to the text as an edict (διάταξις).

219 Marcovich (1994) and Wartelle (1987) cite the rescript in an Appendix of their editions of Justin's *Apologiae* rather than as part of the apologies themselves, while Minns (2007), 38 outright rejects even the slightest possibility that the rescripts could have belonged the Justin's original. The edition of Minns and Parvis (2009) does not cite the rescript at all. The argument that the version connected to Justin is inferior to the one cited by Eusebius has been made since Harnack (1895), and more recently by Minns and Parvis (2009), 30n.84.

the province of Asia during the reign of Antoninus Pius. In addition, Eusebius cites a passage from the apologist Melito of Sardis, who likewise believes Pius to have taken measures regarding the Christians, but – in another baffling anomaly – believes the rescript to have applied to various Greek cities in the provinces of Achaea and Macedonia, rather than to Asia.[220] Consensus has settled on a date during the reign of Antoninus Pius, but this has certainly not proved to be beyond dispute.[221] The contents of the rescript have likewise proved to be extremely contentious. Ever since the seminal analysis of the text by Adolf Harnack, it has been widely acknowledged that the text contains substantial interpolations,[222] and while some maintain that an authentic core may nonetheless be discoverable,[223] many have rejected the rescript as a potentially reliable source.[224] The emperor's assertion that the Christians remain faithful to their god while their accusers neglect their own deities is particularly suspect, as is the regulation that anyone who accuses a Christian will immediately be punished.[225]

Nevertheless, a few scant details shared by the different versions of the rescript may be seen as significant. First and foremost, it seems likely that Antoninus' missive was prompted by a local request of some sort, although details of both the exact provenance and the contents of such a request escape us. The versions cited by Eusebius and in the Appendix to Justin's *Apology* link measures against the Christians to the series of earthquakes that devasted the province of Asia. This would seem to indicate that social and economic unrests once again played a part in the origin of these measures by fuelling concerns about divine anger prompted by Christian unwillingness to worship the traditional gods – a principle that finds support in Tertullian's fervent claim that "if the Tiber reaches the walls, if the Nile does not reach the fields, if the sky does not move, if the earth does move, if there is famine, if there is a plague – immediately the call goes: Christians to the lions!".[226] Some hints of similar disturbances are likewise present in Melito's version, who states that Antoninus forbade any νεωτερίζειν against the Christians – a verb that suggests not only innovation, but also carries with it implications of

220 Eusebius, *Historia Ecclesiastica* 4.26.10. The cities referenced are Larissa, Thessaloniki, and Athens. Millar (1977), 560 believes that all these authors refer to the same rescript, while Keresztes (1971), 16 believes that we are dealing with separate, though similar, proclamations.

221 Coleman-Norton (1966), 8 argues for a dating to the time of Marcus Aurelius on the basis that Eusebius' version of the rescript is superior to the one connected to Justin.

222 Harnack (1895).

223 See especially Barnes (1985), 155; Keresztes (1971), 13-15; Keresztes (1979), 294-295.

224 Barnes (1968[a]), 38; Frend (1965), 177; Millar (1977), 560; Williams (2012), 199n.55. Wartelle (1987), 220-221 refers to the passage as the "faux rescript d'Antonin le Pieux".

225 For this last point, see Frend (1965), 176.

226 *Si Tiberis ascendit in moenia, si Nilus non ascendit in arva, si caelum stetit, si terra movit, si fames, si lues, statim Christianos ad leonem!* Tertullian, *Apologeticus pro Christianis* 40.2.

violence.[227] All versions of the rescript furthermore seem to express a reluctance to take more wide-ranging measures than had so far been common, and thereby appear to adhere to the *status quo* – although it should be noted that the distinctly pro-Christian interpolations in the cited versions make it difficult to determine the tone of the original rescript, if indeed it ever existed.[228] For this reason, our interpretation of the available sources must remain minimalist: it is possible that Antoninus Pius was confronted with questions regarding the Christians by the population or magistrates of one or more particular provinces, which may have arisen during difficulties in that region. It is likely that his response urged restraint and adherence to established legal procedures, and if this is indeed correct, it would mean that this was the third time in three generations of emperors that such a warning was necessary. On the basis of the available sources, however, we simply cannot go any further.

4.8.3 *The Trial of Ptolemaeus and Lucius*

Around the same time, a trial against two Christian men known as Ptolemaeus and Lucius (Appendix 3.4) appears to have taken place, which was interesting for a number of reasons, including the fact that it is said to have occurred in Rome itself. The only available account of these events is part of the text known as Justin Martyr's *Second Apology*, which was likely written some time before the author's death in 165 CE,[229] and as such represents an almost contemporary description of events.[230] This is not to say, however, that the narrative can be taken completely at face value, or is without its problems: it has long been noted that Justin likely tailored his account, and especially the passages of direct speech present in the

227 See Liddle, Scott and Jones (1978), *ad loc.* 2.

228 For the idea that this rescript amounts to nothing more than a repetition of established procedure, see Barnes (1968), 37; Barnes (1985), 154; Frend (1965), 175; Keresztes (1979), 295; Keresztes (1961), 15; Molthagen (1970), 34.

229 Justin Martyr, *2 Apology* 2. The text is also cited by Eusebius, *Historia Ecclesiastica* 4.17. The exact nature of the relationship between the texts known as the *First* and *Second Apology*, as well as their respective dates, remain the subject of substantial debate. That both are ultimately of Justin's hand, however, is rarely disputed, not even by Moss (2013), 66-68 and 105, who is otherwise highly critical of many martyr narratives. For the idea that the *Second Apology* was composed from fragmentary, left-over passages of Justin's work, which themselves were composed around 153 CE, after his death, see Parvis (2007). For the suggestion that the *Second Apology* was a later piece of writing by Justin that in some way depended on his own *First Apology*, see Minns (2007), 48.

230 It is presumably the origin of the account within the context of Justin's *Apology*, rather than any disputes about its contemporary nature, that has led to its omission from many collections of martyr acts, since these normally focus on independent texts, dealing with a single martyr or a coherent group. See for instance Barnes (2010), 356-359 and Bastiaensen (1987). This motivation is made explicit by Rebillard (2017), 21. Here, the account has been included due to its close temporal proximity to the events it describes, following compilations such as those by Bisbee (1988), 82 and Musurillo (1972), 38-41.

text, to suit his literary and apologetic purpose,[231] and that the text furthermore contains extensive references to philosophy that are considered to be particularly remarkable.[232] Nevertheless, the account contains a number of interesting details that are worth investigating, especially those that relate to the setting and origins of the trial.

According to Justin, certain members of Rome's Christian community attracted the attention of the city authorities because they became involved with a woman from the Roman elite whose new-found Christian beliefs encouraged her to seek a divorce from her non-Christian husband.[233] Her husband then attempted to accuse her of being Christian, but after a petition to the emperor she was allowed to first manage her financial affairs before answering the charges. This apparently delayed the proceedings substantially, and possibly indefinitely,[234] which in turn led the woman's ex-husband to bring charges against Ptolemaeus, who had been his former wife's teacher and whom he held responsible for her change of heart. This does not, in itself, seem particularly unusual: after all, Flavius Josephus likewise reports multiple occasions on which husbands undertook action against those they believed to have led their wives astray, and it is not inconceivable that something similar may have happened here.[235] It is much more notable that the woman in this situation was granted at least a temporary reprieve from her own trial. In this case, her new religious convictions do not appear to have been seen as a particularly serious transgression that warranted immediate attention,

231 Barnes (1968[b]), 515 acknowledges that the account is very likely more or less contemporary, but is still weary of the literary motives it contains. Musurillo (1972), xvi refers to the account as "strange but moving", without specifying why he believes this to be the case.

232 Moss (2012[a]) 86-88 and (2013), 66-68.

233 Justin never names the woman, either to protect her from the Roman authorities, or to protect her past, which he describes as less than virtuous. See Minns and Parvis (2009), 273n.4. See Lampe (2003), 237-240 for a theory on the woman's name. The earlier, German-language version of this theory may be found in Lampe (1989), 200-203. Justin uses a Greek rendition of the technical Latin term *repudium* to indicate the idea of a divorce, which originally seems to have referred to a husband divorcing his wife, but also could be used when the other partner took the initiative. See Minns and Parvis (2009), 275n.1.

234 Justin Martyr, *2 Apology* 2.7-8. It has been argued that the husband accused his wife of being Christian in order to show that his wife had behaved improperly, and that he was therefore allowed to retain part of her dowry. However, when the emperor allowed her to put her affairs in order before answering the charge, this may have meant that the charge of Christianity was not permissible in the divorce court, and that the husband therefore had to choose between keeping part of the dowry, or indefinitely delaying the trial regarding his wife's Christianity, which could only take place when he had given up her money. For this theory, see Minns and Parvis (2009), 275n.4. and n.5. For the argument that such disputes about private affairs between Christians and non-Christians must have occurred with some frequency, and likely were resolved in a similarly private setting, see Fox (1986), 423.

235 Flavius Josephus, *Antiquitates Iudaicae* 18.3.4-5 (65-84). See Moss (2012[a]), 87 for the trope of the pious woman being mistreated by her husband.

as could easily have been the case for a woman of her class, who may have been expected to conform more closely to traditional piety. In this case, however, her status and apparent access to the emperor appear to have protected her,[236] and we hear nothing about any further case against her.

The charge of 'being Christian', which was levied both against the unnamed woman and her teacher, seems to have been much more effective in the case of Ptolemy, whose trial before the *praefectus urbi* Urbicus is described in heavily abbreviated form. We are told that he was arrested by a centurion who was friendly with his pupil's former husband – which once again shows that social status could play an important part in trials against Christians – and was held captive until his hearing with Urbicus. The prefect then asked him only if he was a Christian, to which Ptolemaeus promptly confessed. Justin then claims that this confession elicited the support of another Christian, named Lucius, who (presumably in Justin's words rather than his own) accuses the prefect of acting unreasonably, and furthermore contrary to the wishes of both emperor and senate.[237] Both Lucius and another, unnamed Christian are then also executed. Once again, the formal charge appears to have been that of 'being Christian', but it is important to remember this was not a large-scale measures aimed at the entire Christian community of the city: Ptolemaeus was targeted specifically because he was seen as the corruptor of a Roman matron, while Lucius and the other, unnamed Christian may well have been considered to be directly challenging the authority of the prefect, thus making the total number of accused rather limited, including only those who appear to have been targeted for very specific reasons. It is therefore likely that the brevity of the proceedings as Justin describes them, as well as the highly limited number of questions, is at least somewhat exaggerated, and we might wonder if Lucius' claim that Urbicus acted contrary to the wishes of the emperor would indeed have held up in practice – assuming he actually made it. After all, Justin's apology of Christianity at least in part relied on the claim that previous emperors had been willing to support Christians rather than repress them, and far-reaching claims of this nature should therefore be taken with a pinch of salt. Rather than being an example of illegal overreach, the trials of Ptolemaeus and Lucius should instead be seen as a fascinating example of the substantial effect personal grievances may at times have had on trials against Christians.

236 See Lampe (2003), 239 for the argument that the woman was spared because of her social status.

237 See Moss (2013), 109 for the suggestion that Justin himself is responsible for Lucius' last words. Bryen (2014[a]), 260-261 argues that Justin used this story to make the argument that legal procedures were only valid if there was room for what he sees as logical, reasonable dialogue.

4.9 Marcus Aurelius: Christians and the Philosopher-Emperor

The importance of private accusers, and their motivations, once again comes to the forefront during a number of events that took place during the reign of Antoninus' successor Marcus Aurelius. This period appears to have been one of significant difficulties for various Christian communities in the empire, and likely for this very reason witnessed a surge in Christian apologetics.[238] A primary example of this practice may be found in the person of Melito of Sardis, who – among his many other writings – produced an apology of Christianity addressed to Marcus Aurelius himself. Although a list of Melito's works has been transmitted, it is unknown if this overview is complete. Little is known about his life, and the text of his *Apology* survives only in the form of selected passages cited by Eusebius, the original order of which is now difficult to determine.[239] Nevertheless, what remains of Melito's work is remarkable. This is especially true because his *Apology* appears to have been notably explicit in addressing the particular circumstances to which it is responding: where authors like Justin reference the plight of Christians in general and at times discuss specific events from the past to illustrate their point, Melito seems to be asking for the emperor's help in resolving very concrete, and very current, circumstances.[240]

4.9.1 *Anti-Christian Actions in Asia*

Melito's description of events as we know it is brief, and in its current form likely more obscure than was originally the case. It is clear that he is referring to disturbances in his home-province of Asia, and that he perceives the situation to be unprecedented: Melito states that no similar event has ever occurred (οὐδεπώποτε γενόμενον),[241] and furthermore adds that Christians in his province have become the victim of "new decrees" (καινά δόγματα; Appendix 3.vi) that encouraged false accusers to rob them. The nature of these new decrees, however, remains unclear.

238 For a brief overview of the various authors involved in apologetic writing in this period, see Norris (2004), 40-44.

239 Eusebius, *Historia Ecclesiastica* 4.26.5-11. For the list of Melito's other works, see ibidem 4.26.2.

240 I would like to thank dr. Diederik Burgersdijk (University of Amsterdam / UvA) for drawing my attention to this aspect of Melito's work.

241 It is unclear what this remark means. In this context, Melito may mean to imply that Christians had never before been actively pursued, possibly to make a rhetorical point regarding the course of action he wishes the emperor to take. Notably, Melito seems to have argued that only bad emperors like Nero and Domitian have acted against the Christians (as is paralleled in Tertullian, *Apologeticus pro Christianis* 5.3), and although we do not know how the two cited passages relate to each other, he may be making a similar case in his description of events in Asia. See Eusebius, *Historia Ecclesiastica* 4.26.9. He certainly seems to be aware that the Christian communities of Asia had faced difficulties in the past. See ibidem 4.26.10. It is also possible that Melito is referring to the number of Christians involved, although this fits the phrasing rather less.

They have on different occasions been identified with a wide variety of measures which may or may not have been intended to target Christians specifically, but are often assumed to have been used for that purpose throughout the empire.[242] This assumption, however, finds no clear confirmation in Melito's description of events as we know it. The author explicitly limits the outbreak of the violence to Asia, which indicates that the relevant measures were issued on a regional level, although it remains unclear by whose authority. Melito questions if the emperor himself could indeed have given permission for these measures, which may indicate that their origin, as well the legality of their application, was in question. After all, it is unlikely that Melito would have raised the question of Marcus Aurelius' approval in these terms if the new measures that were used to harass the Christians were unambiguous, and clearly issued in the emperor's name. Given the lack of context, however, the possibility remains that we are dealing with an imperial measure aimed at the province of Asia – although Melito's description suggests it was either not issued in any other regions, or did not elicit the same effects outside of Asia.

The exact contents of the measures likewise remain ambiguous, although Melito's account of them gives us some fascinating clues. It is notable that the author focusses heavily on the fact that Christians are being robbed (λῃστεύειν; διαρπάζειν; τοιαύτη δημώδης λεηλασία). The possibility of execution is mentioned almost as an afterthought in the text as we know it,[243] and is used primarily to express the idea that both Melito and his community consider themselves to be completely subjected to the emperor's wishes. It thus seems very likely that the "new decrees" were in some way financial in nature, which suggests that measures against Christians could at times take different forms than the trials ending in executions that feature so prominently in other accounts of interactions between Christians and the Roman authorities.

Perhaps the most fascinating aspect of Melito's account, however, is the way in which it has been tailored to convince Marcus Aurelius to take action.[244] As

242 See especially Keresztes (1968), 335-336, who relates Melito's statement to the events in Lyon, which will be discussed below. The remarks on the subject made in Williams (2012), 197n.50 imply a similar line of thinking. MacMullen (1975), 130 references a similar theory, which assumes that a rescript aimed at diviners was also used to target Christians, but ultimately rejects this possibility. This theory may be found in Sordi (1983), 68. This rescript is referred to in Ulpian, *De Officio Proconsulis* 7 in *Leg.Mos.et Rom. Coll.* 15.2.5 and *Digesta* 48.19.30. The view expressed in Nogrady (2006), 64-65, that Marcus Aurelius issued a *mandatum* that allowed governors to actively seek out not only *latrones*, but all *mali homines*, does not sufficiently take into account the distinction between local and Roman authorities that plays a significant part in the known cases from the period.

243 Eusebius, *Historia Ecclesiastica* 4.26.6.

244 For Christian apologists working within the petition-framework favoured by the Roman authorities, see Millar (1977), 561-566.

mentioned, Melito is writing to the emperor about a current, and likely ongoing problem, and even in the brief passages available to us, it is clear that he makes significant attempts to portray the matter as highly urgent. His frequent references to "robbery" imply that these new decrees did not serve to uphold the law, but instead led to substantial criminal activity that was furthermore aimed at the innocent rather than the guilty. Melito, as a Christian, thus uses the language of instability and unrest (which traditionally had been levied *against* the Christians) to appeal to the emperor's authority, suggesting that these things may be happening contrary to his wishes, and that he could therefore rectify the situation. He further reinforces this argument by supplying measures of Marcus Aurelius' predecessors as potentially valid precedents,[245] as well as by attempting to incorporate Christianity in the emperor's worldview by describing it as a philosophy and a λόγος.[246] Melito, then, used arguments he believed to be acceptable to the Roman authorities in order to alleviate the pressures faced by his community.

4.9.2 *The Trial of Justin Martyr*

Whatever the result of Melito's petition may have been, reports of trials against Christians from other regions continue to appear. Of these, the text known as the *Acts of Justin Martyr*, which deals with the trial of the famous apologist and a number of his students, has often been considered to be of particular interest (Appendix 3.5). This is primarily due to the fact that the text is thought by many to have been based on the official record of the trial in question, which would make the account especially reliable.[247] However, the transmission of the text is far from straightforward: three versions of various lengths are known to us, and while the longest of these (commonly known as 'C') is generally considered to have been substantially edited, no general consensus has yet been reached on the relationship between the shortest version 'A' and medium-length version 'B' – although a slight preference for the former appears to have emerged.[248] The origins and sources of the text have likewise come under suspicion. While it has been argued that

245 Melito makes mention of the previously discussed rescripts by Hadrian and Antoninus Pius. See Eusebius, *Historia Ecclesiastica* 4.26.10.

246 See ibidem 4.26.7 and 8. Note that Melito explicitly describes Marcus Aurelius as a particularly philosophically-minded emperor in ibidem 4.26.11.

247 For a discussion of the various authors who hold this view, see Bisbee (1988), 95-96. See especially the study by Freudenberger (1968) for the view that the account was based on a Roman *commentarius*. For the view that the account is notably reliable, see Barnes (1968[b]), 527; Barnes (2010), 63; Freudenberger (1968), Moss (2013), 109-111.

248 Barnes (1968[b]), 515-517; Bisbee (1988), 117; Moss (2012[a]), 89; Moss (2013), 110; Musurillo (1972), xviii. Ibidem 42-61 presents all three versions of the text, while Bastiaensen (1987), 52-57 offers only version A, and Knopf (1913), 16-19 prints only version B. For our discussion, version A has been used as a basis, with occasional references to version B. Due to the more substantial editing of C, this version has been excluded.

the main body of the shortest version of the text (A), with the exceptions of the first and sixth paragraph, is essentially an authentic trial record,[249] this idea has rightly be called into question.[250] Although the text does exhibit certain characteristics that are often associated with this type of document, factors like the lack of a proper introduction and conclusion, the peculiar style of questioning, and various other elements suggest that even the earliest known version of the text was edited – likely multiple times – between its original composition and the end of the third, or even the fourth century.[251] A historical core of some kind remains a strong possibility, but it would be unwise to take the text in its current form completely at face value.

The trial of Justin and his companions is set in Rome itself, under the supervision of *praefectus urbi* Rusticus.[252] The author of the text makes mention of certain "impious edicts of idolatry" (ἄνομα προστάγματα τῆς εἰδωλολατρίας), which version B of the text at a later date interpreted as a formal legal command intended to compel Christians – and them alone – to offer sacrifice.[253] It has been suggested by some that this is in fact a reference to an imperial edict ordering general sacrifice in a time of grave difficulties, for which no additional evidence exists.[254] For this reason, others have been more inclined to see this passage as a reference to the famous sacrifice-test, the use of which is hardly exclusive to the reign of Marcus Aurelius.[255] For this reason, the latter interpretation comes with substantial problems of its own: the introduction of both version A and B seems to indicate either that new measures were being issued or that the relevant measures were no longer in use, both of which can hardly have been true for the sacrifice-test – if we assume that the passage claiming that Justin and his followers were arrested because of specific legal measures is based on historical fact. However, it need not be assumed that such measures, whatever they may have been, were aimed specifically at Christians, since no such claims are made by the earlier version A. The geographical scope of the measure may likewise very well have been substantially more limited than has been suggested.[256] After all, the account of these events is set in Rome itself, where the relevant authorities may well

249 Freudenberger (1968), 24.

250 Bisbee (1988), 117.

251 Ibidem believes that the last editing cannot have taken place later than the late third century. Freudenberger (1968), 24 believes the first and last paragraphs to have been fourth-century additions.

252 This Rusticus is very likely Q. Iunius Rusticus, who had a close relationship with Marcus Aurelius and is referenced in his *Meditations* 1.7 and again in 1.17. Rusticus was urban prefect between 163 and 168 CE. See Musurillo (1972), 43n.1.

253 See Bisbee (1988), 100 for the conclusion that version B has a later date than version A.

254 Keresztes (1968), 329.

255 Bisbee (1988), 97-100.

256 For the claim that such a measure was issued throughout the empire, see Keresztes (1968), 329.

have been especially concerned with upholding traditional piety. No empire-wide edict need therefore have been issued, and evidence for such a claim is in any case lacking.[257] Nevertheless, the concept of sacrifice appears to have played an important part in the prefect's considerations, as he cites the Christians' refusal to cooperate in this matter as the primary reason for his ultimate verdict.[258] Whatever the cause of Justin's arrest, it seems clear that his religious behaviours (or lack thereof) were what ultimately led him and his companions to be convicted.[259]

Notably, however, the issue of sacrifice plays little to no part in the description of the main part of the proceedings. Instead, Rusticus opens by asking Justin: "What kind of life do you lead?" – a question that prompts a discussion of Christianity that is rather philosophical in nature.[260] The line of questioning then shifts, now focussing on the meeting place used by Justin and his followers. Justin argues that Christians commonly meet wherever is most convenient, and adds that he personally prefers his own living quarters, where anyone interested in his words knew to find him.[261] Justin thereby implies that his meetings are nothing but ordinary and transparent, rejecting the prefect's insinuation that Christian activities were illicit and potentially subversive – a concern he appears to have shared with Pliny the Younger. This implication is carried over into Rusticus' next series of questions, in which he asks Justin's followers if they are indeed Christians, before asking if Justin converted them (Ἰουστῖνος ὑμᾶς ἐποίησε Χριστιανούς;).[262] The answer is consistently negative: Justin's companions claim that they became Christian because of their parents, which safeguards their teacher against accusations of actively trying to recruit his followers. Christianity is established as a community one can be born into, rather than as a way of life one actively adopts, thereby deserting one's ancestral practices and possibly causing unrest.[263] In addition to

257 See Rives (1999), 152 for the suggestion that such wide-ranging measures were pioneered by Decius several decades later.

258 *Acta Iustini* A 5.6; Version B 5.8 offers a more elaborate version, which makes the assumption that new imperial proclamations were at issue more explicit. Bisbee (1988), 116 once again confirms that B is likely the later version.

259 Ibidem 116 suggests that version A's use of the verb ἀπάγω indicates that Justin and his companions were led away, possibly into captivity, but does not necessarily imply execution. This may indeed be true, but the later reference to "the customary spot" and an earlier mention of beheading make the essence of the passage rather clear.

260 *Acta Iustini* A 2.1. See Moss (2010[a]), 91-93 for the philosophical tone of the discussion. For the suggestion that Rusticus was attempting to give Justin a chance to escape by claiming that he was a philosopher, see Barnes (1968[b]), 516.

261 Bisbee (1988), 111-113 suggests that version A 3 has been corrupted, since the questions and answers do not logically follow each other, but that version B 3 has suffered no such corruption.

262 *Acta Iustini* A 4. See also B 4.

263 Version B repeats these points, but adds a remarkable reference to Christ as the true father, and faith as the true mother of these Christians. See Bisbee (1988), 114-115 for parallels.

his religious concerns, Rusticus' line of questioning therefore also shows his preoccupation with public order, and although the text as we know it suggests that he found nothing that was particularly incriminating, it is nonetheless telling that he chose to investigate.[264] Otherwise, however, much about the circumstances of Justin's trial remains regrettably unclear.

4.9.3 *Marcus Aurelius protecting Christians?*

The political turbulence implied by the *Acts of Justin* plays a more explicit part in a peculiar measure that is ascribed to emperor Marcus Aurelius himself, and was supposedly meant to protect Christians from the sort of treatment that Justin and his companions had received (Appendix 3.E). It is precisely this contrast that makes the authenticity of this particular piece of legislation highly suspect, but remarkably a number of different sources claim that it did indeed exist.[265] In all versions of the story, the emperor's army was on campaign during the Marcomannic Wars, when it was surrounded by the enemy and lost all access to water. When the soldiers were close to perishing of thirst, however, they were saved by an unexpected storm, which not only provided them with the water they needed, but also allowed them to win the subsequent battle with the seemingly supernatural help of thunder and rain. This part of events is widely attested in ancient sources, and likely has at least some basis in historical fact.[266] Explanations for the supposed miracle, however, vary widely. On the one hand, Cassius Dio suggests that an Egyptian magician may have been responsible,[267] while Christian authors appear to have claimed the part of the army's rescuer for members of their own community relatively soon after the event.

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264 The report by Eusebius, *Historia Ecclesiastica* 4.16, which claims that Justin was specifically targeted because he had insulted the philosopher Crescens, likewise suggests that the accusations against Justin may have included claims of nefarious behaviour. It should be noted that Rebillard (2019), in response to Bremmer (2019), sees the difference between the account of the *Acta Iustini* and the one in Eusebius as a reason not to include the *Acta* in his collection of martyr narratives, since this means that there is no external evidence for the date of *Acta*.

265 Christian versions of the story may be found in Tertullian, *Apologeticus pro Christianis* 5.6 and *Ad Scapulam* 4.6; Eusebius, *Historia Ecclesiastica* 5.5.1-6 and, most notably, Justin, *1 Apology* (Appendix). An alternative account is presented in Cassius Dio, *Historiae Romanae* 71.8-10. This part of Dio's work survives only as summarised by the Byzantine scholar Xiphilinus, who adds his own notes in chapter 9 of the cited passage and claims that Marcus Aurelius' army was not saved by an Egyptian magician, as Dio had claimed, but by Christians.

266 See Israelowich (2008), 86. The story is even visible on the column of Marcus Aurelius, which was erected between 176 and 193 CE, and depicts a divine intervention that is for all intents and purposes unprompted by humans. See Kovács (2009), 159. Some also claim to see references to the miracle in imperial coinage of the period, although ibidem 107-111 raises some significant doubts in this regard.

267 Cassius Dio, *Historiae Romanae* 71.8.

One of the first examples of this may be found in the account of Apollinaris, which is now known only from a reference by Eusebius, and was likely composed during the reign of Marcus Aurelius himself.[268] Tertullian likewise attributes the miracle to the power of Christian prayer, and adds that the emperor was so grateful that he protected Christians from any harm by punishing all those who brought accusations against them – although not by official law.[269] This version of the story was later repeated by Eusebius, who conveniently neglected to mention Tertullian's assertion that no official measure was ever taken,[270] as well as by a letter to the senate that is attached to Justin's *Apology* under the name of Marcus Aurelius.[271] This letter claims that the emperor issued a protective order of all Christians, condemned their accusers to be burned alive, and furthermore ordered copies of his proclamation to be distributed throughout the empire. As demonstrated by the clear escalation of the various accounts, this last version of the story is almost certainly false, and its language, along with its use of Byzantine military terminology, suggests that it may be dated to the fourth or fifth century.[272] The earlier versions of the story, particularly that of Tertullian, have been considered by some to contain some measure of truth,[273] but even these must remain under suspicion. After all, the available Roman sources seem to tell a rather different story, and the various actions against Christians dated to Marcus Aurelius' reign furthermore suggest that no protective measures were ever issued. It is therefore more likely that the various Christian apologists used a popular story of the time to argue that, contrary to popular belief, Christians were highly loyal to the empire, and at times even responsible for its rescue.[274]

4.9.4 *Anti-Christian Riots in Lyon: Local Origins*

Marcus Aurelius' supposed benevolence towards the Christians is furthermore belied by an interaction with Christians dated to the later years of his reign, which appears to have been rather larger in scale than the trial against Justin and his companions, and for which the available source material is likewise notably different

268 Eusebius, *Historia Ecclesiastica* 5.5.4. For the date of the account, see Israelowich (2008), 87-90 and Kovács (2009), 48.

269 See especially Tertullian, *Apologeticus pro Christianis* 5.6. Tertullian likewise mentions the miracle in *Ad Scapulam* 4.6, but makes no mention of any legal protection in that context. Instead, he suggests that Christians used the name of Jupiter to pray to their own god. These two versions of the story seem to be incompatible, because how would Marcus Aurelius have known to protect the Christians if they did not explicitly present themselves as such?

270 Eusebius, *Historia Ecclesiastica* 5.5.5-6.

271 Justin Martyr, *1 Apology* (Appendix). The text is printed in Marcovich (1994), 165-168. This version was likely not based on Eusebius' account – see Kovács (2009), 119.

272 For a more elaborate argument to this effect, see ibidem 119-120.

273 Sordi (1983), 74.

274 Israelowich (2008), 90.

(Appendix 3.vii).[275] At the very beginning of the fifth book of his *Historia Ecclesiastica*, Eusebius references a series of events that he considers to be representative of the position of Christians in the Roman world at the end of the second century CE.[276] Rather than describing the case himself, however, he quotes lengthy passages from a fascinating piece of writing that he believes is "worthy of everlasting remembrance."[277] The document in question is a letter written by the Christian communities of Lyon and nearby Vienne to their brethren in Asia and Phrygia, which seems to contain an eyewitness account of the anti-Christian actions that took place in their region. As in the case of the *Martyrium Polycarpi*, the authors are said to have been directly connected to the events they describe, and the letter as transmitted to us is still generally considered to be largely authentic. While some have suggested that the events discussed in the letter took place in Galatia, rather than Gaul,[278] this view has overwhelmingly been dismissed due to a lack of evidence.[279] After all, the argument for relocating the events described by Eusebius to the eastern Mediterranean is primarily based on the fact that Lyon and Vienne were part of different provinces, namely Gallia Lugdunensis and Gallia Narbonensis respectively. They would therefore have been part of different jurisdictions, but are nonetheless jointly described as the setting of the narrative in Eusebius' introduction to the letter.[280] However, the geographical proximity of the two towns – which were connected by both road and river – makes it likely that close relations between their respective Christian communities existed. We might therefore ask ourselves if such an extreme solution to this curiosity is warranted: it has been suggested that Lyon and Vienne fell under the authority of the same bishop, and that Sanctus, the deacon of Vienne, was arrested while he was visiting

275 An earlier version of this analysis was presented in the form of a paper "All turned on us like Beasts: Legal Negotiation and the Persecution of Lyon and Vienne" during the conference *Early Christian Encounters with Town and Countryside: Urban Structures of Early Christianity* in Leiden on 3 May 2017. A volume based on this conference, and its second edition on rural Christianity held in Essen, Germany, in February 2018, will be published in the series *Novum Testamentum et Orbis Antiquus: Studien zur Umwelt des Neuen Testaments* in 2020.

276 Eusebius, *Historia Ecclesiastica* 5.pr.1 and 5.2.1. A number of editions of the relevant passage are available. Musurillo (1972), 62-85 provides both the Greek text and an English translation, as does Rebillard (2017), 145-173. The latter makes extensive use of the edition in Bastiaensen (1987). Another recent edition may be found in Seelinger and Wischmeyer (2015).

277 It should be emphasised that Eusebius presents only parts of the letter, but that he claims to have had access to the entirety of the document, thus Eusebius, *Historia Ecclesiastica* 5.pr.2., and indicates when passages have been omitted. See Rebillard (2017), 145. This seems to suggest a degree of faithfulness to the available sources on Eusebius' part. Moss (2012[a]), 104-106 has likewise argued against the invention of the letter by Eusebius.

278 Colin (1964), 59.

279 Barnes (1968[b]), 517; Keresztes (1967c), 75; Musurillo (1972), xx.

280 Colin (1964), 20.

Lyon.[281] If this is indeed true, it seems more probable that the events described in the letter took place in Lyon, and that a number of Christians from Vienne became involved due to their presence in that city.[282] It has also been suggested that the author of the letter appears to have been familiar with the Latin translation of Biblical texts, which makes a western origin more likely.[283] The traditional date of 177 CE ascribed to the persecution is likewise widely considered to be at least approximately accurate, despite the fact that this dating is not included in the letter itself, but rather in Eusebius' introduction to it.[284] At times, the reputation of Marcus Aurelius as a moderate and not particularly anti-Christian emperor has been used to argue that these events must have taken place at a significantly later date.[285] The previously noted increase in apologetic Christian literature in the late second century CE, however, seems to belie this argument.[286]

The time and place of the events described in the letter are thus fairly well established. This is not to say, however, that the text of the letter is to be regarded uncritically: in recent years, more attention has been paid to the literary aims of both Eusebius and the author(s) of the letter,[287] which has included an exploration of the idea that the original missive was edited at some point during its transmission. It should be noted, however, that the debate on this subject has generally been concerned with the descriptions of the martyrs in the letter, and the possible theological or ideological implications of that portrayal. By contrast,

281 Frend (1965), 2. While Moss (2012[a]), 103 has drawn attention to the fact that the cities of Lyon and Vienne were historically at odds with each other, as is stated in Tacitus, *Historiae* 1.65, the same need not have held true for the Christian communities of the region.

282 It may be tentatively noted that the descriptions of the persecution in the letter appear to refer to a single city, rather than multiple: Eusebius, *Historia Ecclesiastica* 5.1.8 mentions only a single city council, and only a single prison. The emphasis on the role of the mob in the text may likewise suggest a single urban environment.

283 This observation was originally made by Robinson (1891), 97–100. The connection between the author's apparent knowledge of Latin and the origin of the letter in the western empire is made by Barnes (1968[b]), 517. See Barnes (1978), 138 for the scarcity of accounts on the treatment of Christians from the western Mediterranean.

284 Ibidem 518; Colin (1964), 12; Dehandschutter (2005), 6-8; Keresztes, (1979), 299. Notably, Eusebius presents a date of 166-167 CE in his *Chronicon*. For the idea that the date in the *Historia Ecclesiastica* is a correction of an earlier mistake in the *Chronicon*, see Barnes (1978), 143.

285 Thompson (1912), 361. Thompson also argues that Marcus Aurelius would not have tolerated what he calls "flagrant violations of Roman law". See ibidem 379-80 and Thompson (1913), 252-254. Although this line of thinking has recently been followed by Corke-Webster (2013), 200-201, the idea that the governor in Lyon acted extrajudicially is by no means beyond dispute, as we shall see below.

286 Keresztes (1979), 301-302.

287 See, for instance, Corke-Webster (2013) and Dehandschutter (2005); as well as Moss (2012[a]), 100-116 and Moss (2010[b]), 90-94. The latter work provides interesting insights into the various sets of metaphors employed in the letter. For a brief examination into the ideas of martyrdom present in the text, see den Boeft and Bremmer (1991), 115-116. The similarities between the letter and Eusebius' *Martyrs of Palestine* noted by Corke-Webster occur only in the longer

the legal proceedings referred to in the letter do not appear to have been the primary concern of any potential editor, and their description is considered to be largely historically accurate even by Winrich A. Löhr, whose analysis of the letter is still seen as a foundational work by many authors who take a more critical view of the text presented by Eusebius.[288] The overwhelming majority of scholarship thus continues to hold that the core of legal proceedings described in the missive is largely authentic.

The origins of the events in Lyon have been the subject of an extensive debate, and a significant number of researchers have approached these events with the assumption that they are somehow different from any anti-Christian actions that preceded them, offering various explanations as to why this would have been the case.[289] So far, attention has primarily been directed at centralised legislation that could have contributed to a spike in popular violence against Christians, either in Gaul specifically, or throughout the empire. The most popular suggestions include a law that allowed for the use of convicts as cheap gladiators,[290] an edict that prescribed universal sacrifice,[291] or an edict that was originally aimed at astrologers and other diviners, but was nonetheless used to target Christians.[292] In the latter two cases, however, we might ask ourselves to what extent Gaul would have been affected by these measures in practice. As discussed previously, the known measures regarding divination generally had a very limited scope, and the

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version of the latter text, which is now only extant in Syriac, and which Corke-Webster believes predates the *Historia Ecclesiastica*. According to Corke-Webster, Eusebius then removed the parallels when he included a shorter version of *Martyrs of Palestine* in the *Historia Ecclesiastica* in order to "hide them from the reader". If this is indeed true, and if Eusebius indeed originally intended the previously written *Martyrs of Palestine* to act as the eighth book of his *Historia*, it seems highly unlikely that that he would deliberately create parallels in book five, only to remove them from their primary location in *Martyrs* attached to book eight. As such, it may be possible that *Martyrs of Palestine* was based on the letter from Lyon and Vienne, which Eusebius may have had in his possession at this earlier date, but the reverse seems less probable. On this basis, we therefore need not assume that Eusebius edited the letter from Lyon and Vienne.

288 Löhr (1989), 138 and 143-144. Löhr rejects the descriptions in the letter on a number of smaller points, which will be discussed in more detail below. Seeliger and Wischmeyer (2015), 80n.4 express some scepticism with regard to Löhr's acceptance of the legal course of events, but nevertheless continue to use the letter as a valid source for the social and religious context of Lyon's Christian community, as well as the imperial cult.

289 Orgels in Grégoire (1955-1957), 303-304; Keresztes, (1967), 86; Keresztes, (1979), 301; Moss (2012[a]), 106-107; Williams (2012), 198. Orgels even makes the suggestion that the events in Lyon were part of the first empire-wide persecution.

290 Croteau (1992), 114-115; Grégoire (1955-1957), 300–301; Frend (1967), 5; Keresztes (1979), 303; Moeller (1972); Moss (2012[a]), 106-107; Oliver and Palmer (1955), 324-327. Seeliger and Wischmeyer (2015), 83 reserve judgement on this theory.

291 Croteau (1992), 114-115; Keresztes (1979), 300; Williams (2012), 198.

292 Benko (1984), 43. This option is rejected by MacMullen (1975), 130.

same appears to have been true of this measure attributed to Marcus Aurelius.[293] It should furthermore be noted that the text of this imperial rescript only refers to banishment, and thus does not explain the executions that took place in Lyon. Universal sacrifice likewise appears to be without substantial precedent until the time of Decius, and there is little conclusive evidence to suggest that such a measure was ever widely enforced by law before that time.[294] Others have concluded that the events in Lyon were simply the result of officials "yielding to popular feeling,"[295] and possibly even acting unlawfully in order to do so.[296]

A careful analysis of the letter, however, yields a rather more complex picture, with a number of highly illuminating details. At the very beginning of the document as cited by Eusebius, we find what may well be seen as a description of the social position of Christians in the city on the eve of the violent outbreaks. The author mentions that Christians were excluded from all public places, including "houses, baths and the marketplace", before being banned from "being seen in any place whatsoever".[297] While it is easy to assume that this is an official policy, possibly instituted by the local authorities to isolate the city's Christians as a precursor to more violent actions, this suggestion does not, in the end, hold up: it is simply unlikely that any official would have the authority to ban Christians from other people's houses.[298] In addition, this paragraph is not yet part of the legal proceedings proper, but rather of a passage describing the events to come as a struggle of the saints with the great adversary of the Christians and his servants. While the author of the letter uses this passage to briefly introduce the hostilities faced

293 *Digesta* 48.19.30. It is particularly interesting that this measure is described as a rescript –an imperial response to a particular legal question posed by one of his subjects. Such responses could be used as precedent, but were primarily intended as a resolution to a specific case. As such, this passage is unlikely to have had significant influence on the events in Lyon. An earlier rescript ascribed to Antoninus Pius, on the other hand, was indeed sent to the governor of Gallia Lugdunensis, but in this case the temporal distance is a complicating factor. For a more elaborate discussion of both rescripts, see chapter 2 – Divination in Roman Legal Measures.

294 Rives (1999), 144-147.

295 Musurillo (1972), xx.

296 Coleman-Norton (1966), 1180; Colin (1964), 20; Harries (2007), 40-41; Keresztes (1967), 75 and 80. As mentioned above, Thompson and Corke-Webster see the perceived illegality of the governor's action as a reason to reject the authenticity of the letter. See Thompson (1912), 379-380 and (1913), 252-254, as well as Corke-Webster (2013), 200-201.

297 Eusebius, *Historia Ecclesiastica* 5.1.5.

298 Keresztes (1967), 81 rejects the notion of an official exclusion order without giving further reasons. While a number of authors, including Moss (2012[a]) 106; Musurillo (1972), 63; Rebillard (2017), 153 and Williams (2012), 195 translate the term οἰκία as "our houses" (that is: the houses of the Christians themselves), the possessive pronoun is not present in the original Greek, and there is little basis for this qualification. Furthermore, the various locations mentioned appear to be ranked in order of the increased inconvenience Christians experienced due to their inclusion. It is thus more likely that the author of the letter is making a more sweeping statement, and is instead referring to the social isolation of Christians in Lyon.

by the Christians of the city, and to predict a final struggle between the forces of good and evil, he does not yet make mention of physical violence. Therefore, this phrase is more likely to suggest a wide-spread sense of unease and hostility towards Lyon's Christians, thus providing the setting for what was to follow.

Although the direct cause for the city's eventual turn to violence is not made fully explicit in the text, it is nevertheless clear from the very beginning that the initiative was taken with the symbolic support of Lyon's city council, and rested with the general population of the town in particular:

> καὶ πρῶτον μὲν τὰ ἀπὸ τοῦ ὄχλου πανδημεὶ σωρηδὸν ἐπιφερόμενα γενναίως ὑπέμενον, ἐπιβοήσεις καὶ πληγὰς καὶ συρμοὺς καὶ διαρπαγὰς καὶ λίθων βολὰς καὶ συγκλείσεις καὶ πάνθ' ὅσα ἠγριωμένῳ πλήθει ὡς πρὸς ἐχθροὺς καὶ πολεμίους φιλεῖ γίνεσθαι […].[299]
>
> First, they [sc. the Christians] nobly bore what the mob heaped on them, shouts and blows and dragging and robberies and stonings and imprisonment, and all those things an angry mob is wont to do to foes and enemies.

In this passage, and throughout the text of the letter, the author repeatedly refers to the perpetrators of the violence as "the mob" (using the terms ὄχλος and πλῆθος alternately), and remarks that the actions of this mob were not at all uncommon for a population that was confronted with a perceived enemy. The behaviour of the crowd towards the Christians of Lyon, then, is initially characterised as mass violence towards people seen as hostile outsiders, and it is not, in itself, remarkable that the population of Lyon held hostile feelings towards the Christians in their midst. Since the early days of the Principate, Lyon had been closely connected to Rome and the imperial family. In 12 BCE, the city became home to the sanctuary of the so-called *Tres Galliae*, centre of the cult of the goddess Roma and emperor Augustus in the three Gallic provinces *Aquitania*, *Belgica* and *Lugdunensis*.[300] Every year, on the first of August, a festival to honour these former emperors was celebrated, and great importance was attached to the occasion.[301] The priesthood of this cult was considered to be an office of significant status for members of the regional elite,[302] who would have been drawn to Lyon by its administrative

299 Eusebius, *Historia Ecclesiastica* 5.1.7.

300 Fishwick (1978), 33-34. Originally, the cult was centred around an altar, but in the time of Hadrian a temple dedicated to the deified Roman emperors was erected, and the focus of the cult changed from the person of Augustus to a number of the new emperor's predecessors. For this, see Fishwick (1972). Under Septimius Severus, the focus of the cult would shift once again, this time to worship of the living emperor. In this period, the altar was once again the primary focus of the cult. See Fishwick (1973).

301 Glay (1978), 20-29.

302 Drinkwater (1979), 94-95.

and religious importance.[303] As such, the cult was not only religiously, but also socially, economically, and politically significant for the city, as is demonstrated by Hadrian's investments in its infrastructure: this was the place where Gallo-Roman identity was forged, confirmed, and publicly demonstrated. Since the Christian inhabitants of Lyon could not in good conscience participate in this prominent aspect of provincial and city life, it is no wonder that they stood out, and that they were regarded as potential enemies whose loyalty was in question.[304]

The first towards initiating the proceedings, then, were almost certainly made by the local population. There is no indication in the letter that any external factors, whether laws or administrators, contributed to inflaming anti-Christian sentiments. If such a thing had happened, it is likely that the letter would mention it. After all, any imperial command that may have formed the basis for anti-Christian violence would have to have been publicly proclaimed, as was part of the standard legislative procedure.[305] As such, any connection between an imperial missive and the events that followed would almost certainly have drawn the attention of the local Christians.[306] Another element that suggests that the origins of the events in Lyon lay with the local population rather than the Roman authorities, is the fact that the letter explicitly reports that the governor was not in Lyon when hostilities broke out.[307] In itself, this was not unusual: governors often travelled throughout their province, so it is very well possible that this unnamed governor's itinerary had taken him elsewhere at the time.[308] This suggests that the main provincial festivities might already have been over, and that the more "civic" celebrations were going in which the local population was more involved. Despite the absence of the emperor's primary representative in the city, however, matters progressed according to what may well be described as a judicial procedure: those who were accused of being Christians were led to the marketplace by the tribune, who was the governor's second in command, and the local magistrates (ὑπό τε τοῦ χιλιάρχου καὶ τῶν προστηκότων τῆς πόλεως ἐξουσιῶν). Once they had arrived at their destination, the Christians were publicly questioned. After a confession had been extracted, the arrested Christians were incarcerated to await the return of the governor, and a second trial under his jurisdiction. We are thus certainly dealing with a degree of mob justice, but that does not mean that this course of action

303 Rougé (1978), 48.

304 Moss (2012[a]), 106 agrees with this assessment in general terms.

305 For the mechanisms that played a part in the proclamation of a law, see Ando (2000), 96-117.

306 In the case of Diocletian's 'Great Persecution', Eusebius does explicitly mention the connection between the proclamation of new legislation and the outbreak of violence. See Eusebius, *Historia Ecclesiastica* 8.2.4. This difference in procedure seems to speak against the suggestion in Corke-Webster (2013) that Eusebius composed or edited the letter in order to create parallels between the martyrs of his own time and those of the past.

307 Eusebius, *Historia Ecclesiastica* 5.1.8.

308 Fuhrmann (2012), 173.

was, in itself, unlawful. Local courts continued to exist in many cities throughout the empire,[309] and while criminal cases generally fell under the jurisdiction of the governor, which means that in all likelihood no binding verdict could be pronounced without Roman involvement,[310] nothing of the sort appears to have actually been attempted. Instead, the presence of the local magistrates appears to have lent a degree of authority to this part of the proceedings: this public, preliminary trial, combined with the confessions of the accused, would have been a clear signal to the governor that this was not an incident he could simply ignore. Lyon demanded his involvement, and the city was very clear about the direction his actions should take.[311]

This pressure in no way relented when the governor returned to the city. We do not know how long the accused Christians were imprisoned, only that they were at some point brought before the governor and once again questioned in public.[312] This public setting is central to what follows: Although the author of the letters insists that the governor "used all his cruelty against us," it becomes obvious soon after that his hand may well have been forced by the non-Christian inhabitants of the city. During the public trial, a certain Vettius Epagathus asked to speak in defence of the Christians, but was quickly shouted down by those who had gathered around the governor's tribunal before the governor himself had even had a chance to speak. The fact that, after such a reception, the governor only asked if Epagathus was himself a Christian may well show that he was influenced by the profound hostility of the general population and the symbolic support of the city council, and thus saw no other option but to make an example of those who had been accused – especially in the case of someone like Epagathus, who was apparently well-known and seems to have incurred the special hostility of the population.[313]

The description of these two trials, one by the city council of Lyon and one by its governor, also gives some hints about the nature of the charges that were brought forward against the Christians. As previously mentioned, no indication

309 As has been noted previously, Roman governors could even delegate cases to these local courts if they wished to do so. See Fuhrmann (2012), 174.

310 The criminal jurisdiction of the governor is well-established for the Severan period. See Galsterer (2000), 351. Galsterer also cites the earlier *Lex Irnitana*, which dates from the Flavian period and excludes the local *duoviri* from criminal jurisdiction.

311 For the role the local elites of this region could play in connecting the various levels of Roman administration, see Dondin-Payre (2004). In the case of the events in Lyon, the role of the city council appears to have been limited: after lending its symbolic support to legal actions against the Christians, no practical contribution appears to have been made.

312 Eusebius, *Historia Ecclesiastica* 5.1.9-10.

313 For the idea that Epagathus was especially hated because of his significant status, which allowed his defence of the Christians to be perceived as betrayal of his city and his community, see den Boeft and Bremmer (1995), 154-155.

is given that any 'new decree' was responsible for the outburst of hostility, as was apparently the case during the unrests in Asia described by Melito.[314] Even if, as some have suggested, a law allowing convicts to be used as cheap gladiators was to blame, this still does not explain why Christians would be convicted in the first place, as has been astutely remarked by T. D. Barnes.[315] The letter cited by Eusebius does, however, give us some indication of what the legal foundations for the trials of 177 CE were. In the first trial, it is made clear that the arrested Christians confessed after being questioned. This indicates that the formal charge was, once again, that of 'being Christian'. It is unlikely that these Christians would be described as confessing to a crime in any other sense of the word, especially because Epagathus later in the conversation tells the governor that there was "nothing godless or impious" about them.[316] The governor, in turn, responds by asking Epagathus if he is a Christian himself, and his confession on this point results in his immediate arrest. This suggests that an admission of Christianity was, in itself, sufficient to be "taken into the ranks of the martyrs," as the author of the letter calls it.[317]

After the first wave of arrests and the trials, matters escalated rapidly. The governor publicly issued a command that all Christians were to be brought to trial (δημοσίᾳ ἐκέλευσεν ὁ ἡγεμὼν ἀναζητεῖσθαι πάντας ἡμᾶς).[318] While this has been seen as a notable departure from the course of action Trajan had prescribed for Pliny, the difference is not entirely unexpected.[319] After all, while Pliny was dealing at least in part with anonymous accusations, the governor in Lyon was faced with a screaming mob, and may therefore have felt it prudent to conduct a more extensive investigation. With or without the governor's command, the masses continued their quest to remove the Christians from their city, and the author of the letter claims that new arrests were made every day.[320] It is notable, however, that these events seem to have taken place at least partially before the

314 As mentioned, Melito's account of the events in Asia is cited in Eusebius, *Historia Ecclesiastica* 4.26.5. For a more elaborate discussion, see above. The anti-Christian actions in Asia are linked to the events in Lyon by a number of authors, including Keresztes (1968), 335-336, on the basis that the "new edicts" mentioned by Melito may have been empire-wide proclamations. However, as has been previously discussed, Melito discusses Asia specifically, and he initially focusses on Christians being robbed and extorted by false accusers. The possibility of execution is only evoked later, and in the context of Christian submission to the emperor, rather than the difficulties Melito describes. It is thus far from certain that the events in Lyon and those in Asia were connected.

315 Barnes (1968[a]), 44.

316 Eusebius, *Historia Ecclesiastica* 5.1.9.

317 Ibidem 5.1.10.

318 Ibidem 5.1.14.

319 Plinius Minor, *Epistulae* 10.97.2. A similar observation is made by Bastiaensen (1987), 60; Croteau (1992), 56-57; Keresztes (1967c), 81 and Williams (2012), 197.

320 Eusebius, *Historia Ecclesiastica* 5.1.13-15.

governor's order was issued, and that the magistrate's command is only explicitly connected to the arrest of a number of non-Christian servants. Although the overall effect of this order is indeed likely to have been the large-scale arrest of Christians, the primary goal of this particular action therefore was to acquire more information about their beliefs and practices.[321] The arrested slaves in turn contributed significantly to a final stage of escalation by accusing their Christian masters of "Thyestean feasts and Oedipodean intercourse", that is: cannibalism and incest.[322] The accusations were obviously extreme, but they appear to have been taken seriously nonetheless. Even those who had formerly supported or at the very least pitied the Christians now "turned on [them] like beasts", indicating that these accusations were at least part of the reason for the treatment these people received, even if they only appeared during a later stage of the proceedings.[323] Above all, this passage presents an image of continuous escalation, in which the governor's soldiers and the people of the city cooperated in arresting as many Christians as possible.[324]

The letter indicates that the Christians were taken to prison after their arrest, where they were tortured to obtain further information about their identities and the nature of their crimes. According to the author, many remained steadfast in their beliefs, refusing to either recant or admit to the accusations of cannibalism and incest.[325] The letter claims that a great number of the accused were therefore either strangled, or died in prison as a result of torture.[326] A select number of Christians, notably those who are described by the author of the letter as being subject of "all the fury of the mob, the governor and the soldiers" during an

321 This may be seen as a parallel to the torture of the two *ancillae* referred to by Pliny, see Plinius Minor, *Epistulae* 10.96.8. For the suggestion that these accusations were made not by pagan slaves, but by arrested Christians, see Moss (2012[a]), 107.

322 Eusebius, *Historia Ecclesiastica* 5.1.14. For the suggestion that those who had previously disavowed their Christianity were now re-arrested, see Löhr (1989), 143. Similar accusations are among the scandalous rumours about Christians referenced in Minucius Felix, *Octavius* 9.1-10.2. An attempt to refute them is made in ibidem 28.1-31.8. For a more elaborate discussion, see Schubert (2014), *ad loc*.

323 Eusebius, *Historia Ecclesiastica* 5.1.15.

324 For the use of Roman soldiers as a police force, see Fuhrmann (2016), 303-305.

325 Eusebius, *Historia Ecclesiastica* 5.1.19, 20, 26 and 30.

326 Ibidem 5.1.27-28. Harries (2007), 40 claims that this course of action would have been illegal based on *Digesta* 48.19.8.1, where it is stated that executions can only take place by the sword, and that governors were not free to select any other form (*quo alio modo*) of punishment. Since various alternative methods of punishments for specific groups of offenders are mentioned immediately after, however, it seems likely that this was not a general regulation, but instead implied to a specific group – possibly members of the higher classes. It cannot therefore be conclusively proven that the governor of Lyon acted outside the bounds of his jurisdiction. See Bauman (1996), 139 for the argument that prescribed punishments remained in flux until well into the Severan period.

earlier stage of the proceedings,[327] are said to have been instead thrown to the wild animals during a public spectacle.[328] This course of action, if it indeed occurred, would likely have been well within the governor's rights as a holder of the *ius gladii*, the right to exert capital punishment over those who did not have Roman citizenship.[329] However, the governor in Lyon does appear to have proceeded with a degree of caution:

> ὁ δὲ Ἄτταλος καὶ αὐτὸς μεγάλως ἐξαιτηθεὶς ὑπὸ τοῦ ὄχλου, καὶ γὰρ ἦν ὀνομαστός […] καὶ περιαχθεὶς κύκλῳ τοῦ ἀμφιθεάτρου, πίνακος αὐτὸν προάγοντος ἐν ᾧ ἐγέγραπτο Ῥωμαϊστί· οὗτός ἐστιν Ἄτταλος ὁ Χριστιανός, καὶ τοῦ δήμου σφόδρα σφριγῶντος ἐπ᾽ αὐτῷ, μαθὼν ὁ ἡγεμὼν ὅτι Ῥωμαῖός ἐστιν, ἐκέλευσεν αὐτὸν ἀναληφθῆναι μετὰ καὶ τῶν λοιπῶν τῶν ἐν τῇ εἱρκτῇ ὄντων, περὶ ὧν ἐπέστειλεν τῷ Καίσαρι καὶ περιέμενεν τὴν ἀπόφασιν τὴν ἀπ᾽ ἐκείνου.[330]
>
> Attalus himself was loudly called for by the mob, for he was well known. […] He was led around the amphitheatre, and a sign was carried in front of him, on which was written in Latin: "This is Attalus the Christian", and the people were very bitter towards him, but when the governor learned that he was a Roman citizen, he ordered him to be taken back to the others who were in prison, about whom he had written to the emperor and was awaiting a reply.

While some see the interruption of Attalus' execution as a literary fabrication, and not without reason,[331] it nonetheless remains telling that the governor had refrained from executing specific groups of prisoners in order to consult the emperor about their proper treatment. Those who remained in captivity very likely included Roman citizens like Attalus, who are once again referenced as a separate

327 Eusebius, *Historia Ecclesiastica* 5.1.17 and 43

328 Ibidem 5.1.36. Lyon's amphitheatre was built under Tiberius, but was significantly enlarged during the reign of Hadrian. It appears to have been part of the sanctuary of the *Tres Galliae*. For more information, see Audin (1979).

329 Fuhrmann (2012), 171.

330 Eusebius, *Historia Ecclesiastica* 5.1.43-44.

331 Löhr (1989), 143 believes this passage to have been subjected to later editing, finding it unlikely that only some Christians were publicly executed, while all others remained in prison to await the emperor's missive. This argument not only overlooks the earlier execution of other Christians in captivity, referred to in Eusebius, *Historia Ecclesiastica* 5.1.27, to which Löhr makes no objection, but also Pliny the Younger's reference to the execution of a number of steadfast Christians in his letter to Trajan, see Plinius Minor, *Epistulae* 10.96.3. Both points contradict Löhr's suggestion that only one round of executions actually took place, although it does indeed remain strange that Attalus' Roman citizenship was not discovered at an earlier stage.

class later in the letter.[332] In itself, it is little wonder that this group warranted special consideration,[333] but this course of action nonetheless shows that there were in fact limits to the amount of local pressure the governor was willing to comply with: despite what the inhabitants of Lyon may have wanted, he apparently thought it necessary to consult the emperor in certain cases in which his jurisdiction was less straightforward, in order to ensure that his actions corresponded with his superior's wishes.

4.9.5 *Anti-Christian Riots in Lyon: Imperial Involvement*

The emperor's answer, as it appears in the letter at least, was short: if the imprisoned Christians recanted, they would be free to go. If not, he authorised the governor to execute them (ἐπιστείλαντος γὰρ τοῦ Καίσαρος τοὺς μὲν ἀποτυμπανισθῆναι, εἰ δέ τινες ἀρνοῖντο, τούτους ἀπολυθῆναι).[334] No method of execution is specified in the available description of the emperor's letter, but the governor appears to have made is own decisions on the matter: as was traditional, the governor made a distinction between various groups of Christians by beheading those who were Roman citizens, and sending those who were not to the arena – possibly as a part of the festivals connected to the cult of the *Tres Galliae*.[335] According to the letter as it has been transmitted to us, an exception was made for the aforementioned Attalus, who was once again sent to the wild animals "to please the mob".[336] While it has been argued that it was illegal to condemn Roman citizens to the arena, and that the governor therefore broke the law,[337] multiple references to Roman citizens being involved in a *damnatio ad bestias* may in fact be found from the early Principate onwards, although this was generally considered to be a punishment reserved for those of low social status.[338] Whether Attalus himself was indeed sent to the arena or not, the governor's choice for this particular, highly public, method of execution may well be seen as an attempt to placate the inhabitants of Lyon: in this way, at least some of the hated Christians were forced to participate in the local public festivals, albeit against their will and in a particularly gruesome way.

The other less straightforward case about which the governor felt the need to defer judgement was that of the Christians who chose to recant. We know that at least some of them were originally re-arrested and imprisoned alongside

332 Eusebius, *Historia Ecclesiatica* 5.1.47.

333 For the parallel passage, see Plinius Minor, *Epistulae* 10.96.4.

334 Eusebius, *Historia Ecclesiastica* 5.1.47.

335 See ibidem. It should be noted that the governor once again questioned these Christians, which shows a degree of due diligence on his part.

336 Ibidem 5.1.50.

337 Colin (1964), 20; Croteau (1992), 57.

338 Bauman (1996), 124-129. The fact that Attalus is described as ὀνομαστός in Eusebius, *Historia Ecclesiastica* 5.1.43 does not necessarily give us a clear indication of his social status. In this,

Christians who refused to abandon their faith,[339] but after the emperor's response had reached Lyon, their situation appears to have changed.[340] The authorities once again questioned the Christians who had previously recanted, now in private, and the author of the letter emphasises that this occurred "with the intention of letting them go". This suggests that the new round of interrogations was initially seen as somewhat redundant, if procedurally necessary, now that it was clear that those who abandoned their faith were to be released. While the author focusses on the renewed declaration of faith by these Christians, and the surprised reaction of the Roman authorities, it is equally important to note that even at this stage the general population of Lyon still appears to have been actively involved in the proceedings: it is later mentioned that they were furious that these former apostates retracted their previous statements,[341] and that they even attempted to make Christians swear by statues of the gods in an effort to make them renounce their faith once and for all – a practice that is notably absent in the narrative up to this point.[342] This combination of executions and attempts to encourage recantation – whether by sacrifice or through other means – shows strong parallels with the events described by Pliny the Younger several decades earlier, and thus suggests that both governors were struggling with very similar legal questions, the most important of which may well have been whether Christians who recanted should be released.[343] While such similarities suggest that no firmly established procedure for the treatment of Christians existed at this point in time, and that governors continued to feel a need for imperial guidance, the emperor's ultimate response appears to have been the same in both cases. In addition, both Pliny

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the term seems to differ subtly from the adjective ἐπίσημος, which was used to describe Vettius Epagathus – see footnote 313 of this chapter.

339 Eusebius, *Historia Ecclesiastica* 5.1.33. Croteau (1992), 57 suggests that these actions of the governor of Lyon towards Christians who recanted were unprecedented in the second century CE. This does not mean, however, that his actions were inexplicable, or illegal. It seems that at least some Christians who recanted may have been rearrested, and held for a longer period of time, possibly due to accusations of murder or the other crimes of which Christians had been accused – see Löhr (1989), 143. Others, however, may have retained their liberty, since they are reported to have returned to the governor's tribunal (possibly of their own volition) in order to confess their beliefs soon after the emperor's reply ordering the release of all Christians who had recanted arrived, as mentioned in Eusebius, *Historia Ecclesiastica* 5.1.45-46. The distinction between these two groups may have been the moment of their arrest, but details are sadly lacking. In any case, the emperor's reply suggests that the governor had asked a question regarding the treatment of lapsed Christians, and their continued captivity may thus have been the result of attempted diligence on the part of the authorities rather than excessive cruelty.

340 Ibidem 5.1.48.

341 Ibidem 5.1.50.

342 Ibidem 5.1.53-54.

343 Pliny's question runs as follows: "*detur paenitentiae venia, an ei, qui omnino Christianus fuit, desisse non prosit?*". See Plinius Minor, *Epistulae* 10.96.2 and 5-6. See also *Epistulae* 10.97.2 for Trajan's confirmation that lapsed Christians should, indeed, be released.

and Lyon's governor seem to have followed the imperial command as closely as possible. Rome's influence only reached so far, however: according to the text of the letter as we know it, nothing could stop the locals from mutilating the bodies of the executed Christians. Some were fed to the dogs, but others were exposed to the elements for a number of days before being burned. The ashes were subsequently thrown into the Rhône, according to the author of the letter "so that not a single trace of them remained on earth".[344]

When analysing the events in Lyon, it becomes clear that the legal treatment of Christians in the city arose from negotiation between the various levels of government, which included not only the emperor and the Roman governor, but also a strongly localised component. We have seen that the population of the region, including, significantly, Lyon's city council, was instrumental throughout: inhabitants of the city arrested Christians and performed a preliminary trial even before the Roman governor arrived in the city, and their influence continued to be felt during the second trial under his supervision. In addition, it seems very likely that the local circumstances of these events found expression in the magistrate's selection of the methods of execution that would be used, even if we discount the idea that Christians who were particularly hated by the locals received more public, humiliating punishments than others: the condemnation of some Christians to a death in the arena may well be seen as an attempt by the governor to placate the local population and their magistrates by paying homage to Lyon's public festivals. It is likely, then, that the governor was under significant pressure, and that he thought it necessary to adhere to the wishes of the locals in order to prevent further escalation. That this was certainly a realistic risk is demonstrated by the frequent references to large, enraged mobs in the letter. Both the governor and the population of Lyon, however, had to contend with certain limits. We have seen that it was considered necessary to ask the emperor about the treatment of both Roman citizens and Christians who had renounced their faith. In the case of the latter, the emperor's remarks led to a significant change in the position of these individuals: where at first they were held captive despite their recantation, likely in anticipation of the emperor's response, the command to release them appears to have met with no opposition. At the same time, it must be remarked that the emperor's involvement was both brief and limited: the majority of the disturbances took place without any involvement on his part, and when that involvement finally came, it was in response to a question his governor had asked him. The emperor's orders appear to have been similar to Trajan's famous rescript, but the need for repetition is once again telling: the governor in Lyon clearly did not feel free to act on precedent, either because he did not know it, as seems likely, or because he felt that the particular situation he was

344 Eusebius, *Historia Ecclesiastica* 5.1.57-63.

faced with required special attention and did not want to rely on his personal discretion alone.

4.10 Commodus and the Severans: Diverse Approaches

Beginning with the reign of Marcus Aurelius' successor Commodus, a more diverse image of the legal treatment of Christians in the provinces begins to emerge.[345] Where we were previously given only small hints that not all confrontations between Christians and the Roman authorities ended in bloodshed, as for instance in Hadrian's rescript to Minucius Fundanus, such indications now become slightly more frequent, as well as more explicit. We find references to Christians being banished, rather than executed, in the works of Hippolytus of Rome, which suggests that a proven accusation of Christianity need not necessarily have resulted in death, and thus indicates a wider possible array of punishments than is often assumed.[346] The most prominent example, however, is the apologist Tertullian, who presents us with a number of closely connected reports on the actions of multiple Roman officials who were active in the same region, namely the province of Africa, in the same general period. His accounts serve as fascinating evidence for the potential range of attitudes and behaviours towards Christianity that were possible at the time, as will be discussed in more detail below.

4.10.1 *The Trial of the Scillitan Martyrs*

Some hints of this diversity, however, are also present in the first of two martyr narratives said to describe events from the reign of Commodus, a text known

345 Commodus' personal attitude regarding Christianity is less relevant in this context, and little about it is known in any case. In ibidem 5.21.1, Eusebius reports that churches "throughout the entire world" experienced a period of peace. By contrast, Cassius Dio, *Historiae Romanae* 73.4.7 reports that Commodus' mistress Marcia on occasion intervened on behalf of Christians, which suggests that such help was still necessary. Both accounts, however, are exceedingly brief, and in any case add little to our discussion of the individual cases dated to this period.

346 Hippolytus of Rome, *Refutatio Omnium Haeresium* 12.10-11. The account mentions that certain Christians were released from their imprisonment in Sardinia at the request of Commodus' mistress Marcia, with the emperor's approval. The fact that these Christian prisoners are referred to as μάρτυρες seems to indicate that they were banished on account of their religious beliefs, rather than any other crimes, although no additional context is given. It should be noted that Hippolytus' work is also known under the titles *Elenchus* and *Philosophumena*, and that no generally accepted numbering system of its paragraphs appears to exist. The edition referred to here is that of Marcovich (1986) and the relevant passage may be found in ibidem 352. For a similar argument, see Fox (1986), 434.

as the *Acts of the Scillitan Martyrs* that discusses the trial of a number of North-African Christians (Appendix 3.6).[347] While the text has traditionally been seen as a reliable source, which may even be a partial transcript of official records,[348] more recent analyses have concluded that the account has likely been substantially edited. This is especially evident when it comes to the verbal exchanges between the governor and the Christian leader Speratus, which contains a significant number of references to Christian scripture, as well as a number of literary devices.[349] The account must therefore be treated with caution, especially when it comes to the status of the Pauline texts mentioned by Speratus. However, a number of tentative remarks may nonetheless be made, especially since the legal core of the account likely had to be at least plausible for the text to be acceptable to its audience.

First and foremost, it should be noted that the Roman official mentioned by the text has indeed been connected to legal proceedings involving Christians by other sources. The presiding magistrate in this trial was the proconsul Publius Vigellius Saturninus, whom Tertullian accused of being "the first to wield the sword against us in these parts," thereby suggesting that legal actions against Christians were a relatively recent phenomenon in the region.[350] Another notable detail is the fact that the trial is said to have taken place in the *secretarium*, which – while formally public – was part of the governor's residence, and could therefore more easily be controlled.[351] Although this setting has been seen as an anachronism, and it may therefore be unwise to imbue this detail with too much meaning,[352] this more private backdrop to the proceedings could potentially indicate that the trial of the Scillitan Christians was the result of some disturbance in the region, which the governor attempted to contain by avoiding a public trial. This is far

347 The text itself provides a date of 17 July 180 CE, which is accepted by Bastiaensen (1987), 98; Moss (2012[a]), 125 and Musurillo (1972), xxii. For a more elaborate discussion of the dramatic date of the text, see Ruggiero (1991), 63-64. For the martyrs' place of origin, see Rebillard (2017), 357n.33. The text is presented alongside a translation by Bastiaensen (1987), 97-105; Musurillo (1972), 86-89 and Rebillard (2017), 356-359. The most elaborate discussion of the text may be found in Ruggiero (1991).

348 Barnes (1968[b]), 519-520; Keresztes (1979), 305; Musurillo (1972), xxii. For the view that the text is based on an eyewitness account, see Freudenberger (1973), 197.

349 See especially Moss (2012[a]), 125-129 and Rebillard (2017), 351-353, the latter of whom remarks that Tertullian does not appear to have known the text, which suggests a later date.

350 *Qui primus hic gladium in nos egit*, Tertullian, *Ad Scapulam* 3.4. The number of martyrs being tried is an oft-discussed difficulty that need not be resolved here: at the beginning of the text, the names of six martyrs are mentioned, whereas the herald's announcement in the text's penultimate paragraph makes mention of twelve. For possible solutions to this problem see Barnes (1968[b]), 519-520; Musurillo (1972), xxiii and Rebillard (2017), 352-353, the latter of whom ultimately leaves the question open.

351 Barnes (2010), 64; Moss (2012[a]), 125.

352 For an exploration of this argument, see Barnes (1968[b]), 519 and Ruggiero (1991), 87. For the prevalence of the *secretarium* in the fourth century, see Slootjes (2006), 53-54.

from certain, however, since the text as we know it omits any mention of the events that preceded the trial: we do not know how these Christians ended up in court, or even what they were initially charged with. The accused's insistence that they are Christians suggests that the charge that had been brought forward was related to 'being Christian',[353] but it should be noted that this proclamation is not made in direct response to a question asked by the governor, who initially seems to have been rather more focussed on perceived loyalty to the emperor and the Roman state.[354] By contrast, the verdict is once again focussed on the accused's Christian beliefs, but this is combined with their obstinate refusal to return *ad Romanorum morem*. While this is unlikely to have been the primary reason for the execution that followed, as some have argued,[355] the governor's words throughout the account do seem to suggest that he was just as much concerned with the Christians' potential disloyalty towards traditional Roman society, and the emperor in particular, as with their religious practices. This may, at least in part, have been due to a final remarkable aspect of the text, namely the fact that the governor offers the Christians a period of thirty days to reconsider their stance.[356] This could be an attempt at leniency, in line with the governor's earlier offer of an imperial pardon if the Christians recanted.[357] While the offer of a specified window of time for reconsideration was not without precedent, this is the first time we see it being applied to Christians.[358] If the text is to be believed, however, the offer was not accepted, and the Scillitan Christians were subsequently executed by beheading, despite their apparently low social status.[359]

4.10.2 *Diverse Proceedings in Northern Africa*

The second martyr narrative that has been dated to the time of Commodus is that of Apollonius, but the various versions of the story differ so much, and contain such peculiar details, as to render it unusable for further analysis (Appendix 3.7).[360] The same cannot be said for the various cases referenced by Tertullian in

353 *Passio Santorum Scilitanorum* 9-13.

354 Ibidem 3-7.

355 Frend (2006), 507, and of course primarily Sherwin-White (1952), 210 and (1974).

356 *Passio Santorum Scilitanorum* 13. See also ibidem 11. For the argument that governors displayed a reluctance to execute Christians with some frequency, see Nixey (2017), 69 and 74-75.

357 Ibidem 1. For the offer of *clementia* in a wider legal context, see Freudenberger (1973), 199-202.

358 See ibidem 211-212 for the legal context of the term *mora*, which appears to have been more commonly used in trials dealing with financial matters. The period of thirty days may come from the timeframe in which an accuser could re-issue his accusation after the accused had been granted clemency in the context of an *abolitio publica*. Either procedure may well have been known to the governor, who in any case saw fit to expand existing precedent in this context.

359 Barnes (1985), 148.

360 A number of widely different stories about Apollonius' martyrdom exist. The account presented by Eusebius, *Historia Ecclesiastica* 5.21 is unlikely for a number of reasons, including the trial in the senate, which was supposedly – and implausibly – presided over by a magistrate of

his *Ad Scapulam (Appendix 3.8)*, which despite their brevity provide a number of valuable insights. *Ad Scapulam* is itself also quite concise,[361] and may best be seen as an attempt by its author to influence the attitude of the eponymous Scapula, who was proconsul of the province of Africa in 212/213 CE.[362] Tertullian tried to dissuade Scapula from allowing any further trials against Christians by arguing both that such procedures tended to end in disaster for the magistrates involved, and that the proceedings in themselves made no logical sense, but might result in punishment from the governor's superiors.[363]

Even at first glance, it is telling that Tertullian chose to address his argument to the governor. After all, this is a clear indication that he considered him to be able to exert a strong degree of influence on the treatment of Christians in his province, and possibly even essentially responsible for it. This idea is further supported by the fact that Tertullian cites the behaviour of a number of Scapula's predecessors as precedent for a more lenient attitude,[364] arguing that even those who were *constantiores et crudeliores* than Scapula himself regarded trials against Christians with some suspicion. The reader is then given a number of examples, all of which serve to provide clear evidence of the fact that not all Roman governors accepted charges against Christians without question, but instead responded to

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equestrian rank, as remarked by Barnes (2012), 46. Furthermore, the idea that both Apollonius and his accuser, one of his own slaves, were put to death seems highly improbable. The extant text of the *Acta Apollonii* survives in both a Greek and an Armenian version, which differ substantially from each other, as well as from Eusebius, who appears to have known neither version. Even the location of these events is unclear: Eusebius and the Armenian *Acta* set the trial in Rome, whereas the Greek version assumes Apollonius was called Apollos, and was martyred in the province of Asia. The *Acta* are excluded by Bastiaensen (1987) and Moss (2012[a]), and regarded with strong suspicion by Barnes (1968[b]), 520-521 and (2010), 46; as well as Musurillo (1972), xxiii-xxv. Rebillard (2017), 31 includes a reference to the narrative, but does not cite any of the available texts of the *Acta* due to the fact that Eusebius cannot serve as an external source to confirm the existence of either before the fourth century. Keresztes (1979), 306 is one of the few to accept the *Acta* as authentic, thereby ignoring the substantial problems listed by Barnes (1968[a]), 46-48.

361 The text may be found in Bulhart and Borleffs (1957), 9-16, which remains one of the more recent editions of the work.

362 For the date of Scapula's tenure, see Barnes (1985), 31. For the rhetorical purpose and structure of the work addressed to him, see Dunn (2002), who also provides an overview of the debate on this issue.

363 For the idea that Scapula himself had been involved in trials against Christians, see Barnes (1985), 260-261. The divine punishments felt by those officials who mistreated the Christians are mentioned in Tertullian, *Ad Scapulam* 3, while the lack of concrete benefits derived from such trials are mentioned in ibidem 2. The illogical nature of the proceedings is referenced in ibidem 4.1-2. For the idea that Tertullian brings up Christians' perceived willingness to die for their beliefs to support his argument, see Butterweck (1995), 49-50.

364 The previous governors mentioned by Tertullian all appear to be historical figures, for whose existence and political career external sources are available, often in the form of inscriptions.

them in a variety of ways.[365] The first of these is Cingius Severus, who according to Tertullian told those who were accused of being Christians how to respond to his questions, thus guaranteeing their release – apparently without punishment or consequences.[366] Vespronius Candidus similarly appears to have dismissed a Christian who had been brought before him,[367] while Gaius Iulius Asper is said to have used only moderate torture, and apparently did not even compel a recanting Christian to sacrifice. Tertullian furthermore claims that the same governor had previously expressed his annoyance at having to deal with such a case at all, and apparently only agreed to do so because he was pressured into it.[368] The last governor to be referenced is Scapula's presumed direct predecessor Gaius Valerius Pudens, who appears to have dismissed an accusation that he believed to have been made maliciously, torn up the relevant papers, and refused to hear the case without the presence of the accuser – all in accordance with the *mandata* he had received before his time in office.[369] Tertullian's accounts of the diverse and relatively lenient attitudes of some Roman governors are furthermore confirmed

365 For the argument that the governor's assize circuit was highly significant for shaping the distribution of trials against Christians, see Fox (1986), 487.

366 Ibidem 4.3: […] *Cincius* [sic] *Severus, qui Thysdri ipse dedit remedium, quomodo responderent Christiani, ut dimitti possent*. Cingius Severus was proconsul during the reign of Commodus, but the exact date of his tenure is unknown. See Thomasson (1960[b]), 89-90. For the methods employed in finding an approximate date, see Thomasson (1960[a]).

367 Tertullian, *Ad Scapulam* 4.3: […] *Vespronius Candidus, qui Christianum quasi tumultuosum civibus suis satisfacere dimisit*. The Latin of this phrase is particularly difficult to interpret. Given the context, of Tertullian's argument, it is clear that Vespronius must have been fairly lenient towards the accused, although Barnes (1985), 144 strangely takes this phrase to mean that Vespronius sent the Christian in question back to his village to be punished there, which likely would have resulted in his death in any case. It is possible that the Christian was punished in some other way in order to give the local population at least part of what they appear to have wanted before he was ultimately dismissed, as suggested by Bryen (2014[a]), 263, *et al.* While the temporal progression implicit in this analysis does not comfortably fit the Latin, it does seem to be the best option, and – if correct – shows that the governor felt compelled to negotiate between his own wishes and those of the population. The exact date of Vespronius' tenure is unknown, but it likely took place during the reign of Commodus. See Thomasson (1960[b]), 90-91. The fact that Tertullian alternates between referring to groups of Christians and individuals may lend a degree of credibility to his account.

368 Tertullian, *ad Scapulam* 4.3: […] *Asper, qui modice vexatum hominem et statim deiectum nec sacrificium compulit facere, ante professus inter advocatos et assessores dolore se primum incidisse in hanc causam*. It should be noted that the text simply references this governor as Asper. For his tenure, see Thomasson (1960[b]), 106-107. Barnes (1985), 162 makes much of the fact that this was apparently Asper's first interaction with Christians.

369 Tertullian, *ad Scapulam* 4.4: *Pudens etiam missum ad se Christianum in elogio concussion eius intellecta dimisit scissoque eodem elogio sine accusatione negavit se auditurum hominem secundum mandatum*. While Bulhart and Borleffs (1957), 14 believe *mandatum* to refer to Hadrian's earlier proclamation, this does not become clear from the text itself, and one might wonder if Tertullian could have assumed Scapula to have been aware of this particular precedent. It therefore seems more likely that the term is used in a technical sense, and refers

by other sources, who at times reference Christians whose punishment consisted of imprisonment, rather than execution, or who even participated in wider society in relative comfort.[370]

4.10.3 *The Trial of Perpetua*

Not all governors, however, shared this particular attitude, and some dealt with trials against Christians with greater zeal. A primary example of this may be seen in the famous text known as the *Passio Perpetuae et Felicitatis (Appendix 3.9)*. This document has generally been taken to consist of two eye-witness accounts by Christians who were executed around 204 CE, which were connected and expanded upon by the remarks of an unknown editor by 260 CE at the latest.[371] As such, the text is unusually closely connected to the events it describes, but at the same time it is far from a straightforward account of legal proceedings: the text's clear literary style, as well as the strong focus on visions and the perceived glories of martyrdom present in both the two first-person accounts and the framing narrative, have relegated such details to the background, leaving us with very little concrete information to go on. What we do know, however, is that the trials were

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not to a rescript (!), but rather to the general guidelines given to a governor by the emperor at the start of his time in office. It should be noted that Tertullian only refers to the governor in question as Pudens. For his tenure, see Thomasson (1960[b]), 110-111.

370 Barnes (1985), 148. See, for instance, Lucian, *De Morte Peregrini* 14, and Eusebius, *Historia Ecclesiastica* 5.4.3 and 6.8.7, the latter of whom uses the term 'confessors' to denote these people. Imprisonment rarely appears to have been used as a punishment in the Roman world, but instead was often a prelude to trial and possible execution – see Harries (2007), 38. There are some indications, however, that magistrates could imprison those who disrupted public order, although this concept was likely not universally favourably regarded. See Bauman (1996), 30 and 170n.39. The fact that imprisonment is rejected under certain circumstances in *Digesta* 48.3.1 and 48.19.8.9, as well as *Codex Iustiniani* 9.47.6 merely serves to indicate that the practice did occur. For Christians holding public office in Egypt during this period, see the recently published P.Bas.2.43 in Huebner (2019), 19-21.

371 It has widely been acknowledged that the passages attributed to Perpetua and Saturus are indeed written in a style that is markedly different than the surrounding narrative, and these passages are generally seen as by-and-large authentic, as has been argued by Barnes (1968[b]), 521; Musurillo (1972), xxv-xxvii and Rebillard (2017), 295-298. The latter argues that Tertullian, *De Anima* 55 may have known the account attributed to Perpetua herself, but not necessarily the *Passio* as we know it today, while also adding that the references to the *Passio* in Pontius' *Vita Cypriani* suggest that the text was well-known by the 260s CE. This suggests that both the text of the *Passio Perpetuae* and the older accounts embedded therein were written in relatively close proximity to the events they describe, and can therefore be considered to provide an at least somewhat accurate account. It should be noted, however, that all aspects of the text display strong rhetorical and literary tendencies, as has rightly been remarked by Barnes (2010), 66. The martyrdoms described in the text have traditionally been dated to 203 CE, but more recently an argument for 204 CE has been made. See Barnes (1985), 267 and (2010), 304-307; as well as Rebillard (2017), 296.

presided over by procurator Hilarianus,[372] who seems to have been rather more willing to have Christians executed than the various North-African governors previously discussed. While it is possible that the eventual outcome of the case was at least partially due to Hilarianus' strong personal religious convictions,[373] the text does not describe the circumstances under which the Christians were initially arrested in any great detail.[374] A concrete reference to the relevant charge is likewise omitted, although the direct interaction between the procurator and the accused to some extent focuses on the question whether the accused is Christian, which suggests that this was indeed the primary complaint.[375]

In addition, we find a number of indications of what the more deeply rooted causes for hostility against the Christians may have been. Once again, it seems that Christian beliefs were being perceived as a form of political disloyalty: Hilarianus does not simply order Christians to sacrifice, but instead demands that they do so *pro salute imperatorum*.[376] Furthermore, the festival during which Christians are thrown to the beasts is being celebrated to honour the birthday of Geta, which seems to suggest that they are being forced to participate in politically significant celebrations they would have otherwise avoided.[377] The idea that Christians were perceived as potentially hostile outsiders is likewise confirmed by a rumour that apparently emerged at some point during their imprisonment: according to the narrator, the tribune who supervised the prisoners treated them especially harshly because he had been told that they might be able to escape with the help of some kind of magic (*incantationes aliquae magicae*).[378] One form of

372 *Passio Perpetuae et Felicitatis* 6.3 makes mention of the fact that Hilarianus, while not formally governor, had assumed the powers of that office after the death of his superior, which Rives (1996), 4-5 considers to be plausible. Hilarianus may formally have become governor at a later date, since he is referred to as *praeses* by Tertullian, *Ad Scapulam* 3.2.

373 For an exploration of Hilarianus' background and his personal convictions, see Rives (1996).

374 We are simply told that people were arrested, see *Passio Perpetuae et Felicitatis* 2.1 and 3.1. The location of the arrest is discussed in den Boeft and Bremmer (2010), 49-51.

375 Ibidem 6.2-4.

376 Ibidem 6.3.

377 Ibidem 7.9. In this regard, it is interesting that Perpetua is later said to have negotiated a better treatment for the Christians by claiming that they belonged to the emperor, see ibidem 16.3. Interestingly, the festival in question is said to have been a military festival, and Christians were therefore moved to a military prison. See Rebillard (2017), 313n.83. For the argument that the reference to Geta's birthday proves that the text was written shortly after the events it describes, see Barnes (1968[b]), 525.

378 *Passio Perpetuae et Felicitatis* 16.2. For the prevalence of magical thinking in the period, see den Boeft and Bremmer (2010), 60-62. The fear that Christians might escape attributed to the tribune by the author may suggest a parallel to *Acts* 12.3-19, in which Peter is said to have been liberated from prison by an angel.

religious deviance is thus linked to another,[379] and it is therefore very well possible that the general population's fear for the Christians' potential power to cause harm contributed to their arrest.

In any case, it seems certain that the charges were seen as both valid and serious. Although the text omits any substantial details on the matter, Hilarianus appears to have convicted the Christians quickly, and his choice of punishment is particularly telling. The *damnatio ad bestias* was normally reserved for people of lower social standing, but Perpetua herself, at least, seems to have been distinctly upper-class.[380] The fact that she was nevertheless condemned to the arena alongside the slaves Revocatus and Felicitas has been seen as an indication that Hilarianus took the matter particularly seriously, and potentially wanted to set an example.[381] However, the procurator was not the only one to influence the course of events. Certainly, the inhabitants of Hilarianus' province made their opinions heard on a number of occasions during the proceedings, and he appears to have been relatively willing to go along with their demands. This much becomes clear not only from the effect the rumours about magical practices had on the treatment of the imprisoned Christians, but also from the repeated attempts of the audience to influence the type of punishment the accused should receive – apparently both for better and for worse, since they appear to have alternately asked for harsher and more lenient treatment.[382]

It thus becomes likely that Hilarianus was at relative liberty to adjust the punishment as he thought best, although he does appear to have had to contend with certain limits. Soon after citing the two first-person accounts, the narrator refers to Felicitas' fears that she would be unable to share in the martyrdom of her fellow-Christians due to her advanced pregnancy,[383] and in a fascinating aside explains that the execution of a pregnant woman would have been unlawful (*quia non licet praegnantes poenae repraesentari*).[384] While we are subsequently told that Felicitas miraculously gave birth just in time,[385] we have every reason to suspect that Hilarianus would indeed have postponed her execution if this had

379 That a refusal to participate in traditional religious practices was at least part of the problem may also be determined from the narrator's claim that Christians were dressed up as priests of Saturn and priestesses of Ceres before being thrown to the beasts, see ibidem 18.4. For a more elaborate discussion of the readings found in various manuscripts, see Rebillard (2017), 323n.115.

380 See Barnes (1985), 70 for the relevance of the name *Vibia Perpetua*. Perpetua's husband is not mentioned, despite the fact that she is said to have been married in *Passio Perpetuae et Felicitatis* 2.

381 Barnes (1985), 148 and Rives (1996), 22.

382 *Passio Perpetuae et Felicitatis* 18.9; 20.2 and 21.7.

383 Ibidem 15.2.

384 See Rebillard (2017), 321n.203. In his *Ad Sabinum*, Ulpian indeed mentions a similar regulation, which also postponed the torture of pregnant women until they had given birth. See *Digesta* 48.19.3. For the translation, see Bastiaensen (1987), 440.

385 *Passio Perpetuae et Felicitatis* 15.5-7.

not been the case. Christian or not, allowing a pregnant woman to be executed would evidently have been seen as excessive cruelty even by an apparently rather severe official like Hilarianus. It should also be noted that the number of accused appears to have been rather limited: the editor mentions the names of only six Christians without clear reference to any others, while Perpetua's account repeatedly refers to deacons who were able to enter and leave the prison in order to administer to her needs.[386] While it remains unclear why these specific people were arrested, it thus seems certain that, on this occasion at least, Hilarianus' actions against the Christians were relatively limited in scope. When his name is once more connected to legal interactions with the Christian communities of his province, it appears to have been property rather than people that was targeted (Appendix 3.α), and while the dispute about Christian burial sites appears to have caused some disturbance, no mention of executions is made.[387] Even within Hilarianus' own time as magistrate, then, we find that the treatment of Christian communities could differ widely according to relevant circumstances.

4.11 The Road to a General Law?

In spite of this substantial diversity in the treatment of Christians by Roman officials, a number of alleged attempts to create a more uniform, more coherent policy have also been dated to the same period. However, accounts of such measures come from a number of different sources, and their reliability differs substantially. Perhaps the most telling example of this is a measure ascribed to emperor Septimius Severus, which is mentioned in the work that has become

386 Ibidem 2; 3.7; 6.7. Saturus, too, makes mention of church officials 'on the outside' in ibidem 13.1. According to the account of the narrator, furthermore, Felicitas' daughter was raised by a *soror* as her own. While this may refer to her actual relative, no possessive pronoun is present in the text, and it is thus equally possible that the child was instead taken in by another Christian woman. In fact, this may be more likely due to Felicitas' status as a slave: it is uncertain whether her relatives would have been available, or allowed, to care for the child. See ibidem 15.7. Visitors from outside the prison do not appear to have been uncommon – see for instance *Acts* 24.23 and Lucian, *De morte Peregrini* 12-13.

387 Tertullian, *Ad Scapulam* 3.1. Tertullian does not tell us if Hilarianus himself was indeed directly involved, only that these events took place during his tenure as *praeses*. No further information about the event is given, and it remains unclear why the Christian burial grounds became the source of a dispute. It is possible that the local Christian communities held meetings there, which may have seemed sinister and potentially dangerous to their non-Christian neighbours. For the connection between Christian meeting places and burial sites, see MacMullen (2009), especially 51-67, where the churches of North Africa are discussed, and the passage from *Ad Scapulam* is explicitly referenced. For the connection between Tertullian's Hilarianus and the magistrate in the *Passio*, see Rives (1996), 4.

known under the moniker of the *Scriptores Historiae Augustae* (Appendix 3.F).[388] The reference itself is brief, barely a sentence long, and declares that *[Severus] Iudaeos fieri sub gravi poena vetuit. Idem etiam de Christianis sanxit*. While some have accepted this measure as authentic,[389] it has been soundly rejected by the overwhelming majority of scholars for a number of different reasons, of which the work's relatively late date, and therefore the significant change in political circumstances at the time of its writings, is only one.[390] It is also remarkable that Tertullian, who would have been alive at the time any supposed edict would have been issued, makes no mention of a measure of such a scope, either for good or for ill.[391] Thus, while it seems all but certain that a number of interactions between Christians and the Roman authorities took place during Severus' reign, it remains exceedingly unlikely that an edict by the emperor himself was the responsible.

The various accounts of a more positive imperial attitude towards Christianity present in the same work must likewise be treated with suspicion. It seems unlikely that Elagabalus ordered the *devotio* of the Christians to be transferred to Rome alongside the *religiones* of both Jews and Samaritans so that they might be incorporated in the temple of his own personal cult (Appendix 3.β), since it is difficult to imagine a tangible aspect of any of these religious movements that might be placed among the sacred objects of the other cults in which the emperor expressed an interest.[392] Even if the emperor mistakenly believed that he had successfully included Christianity in his new religious movement, the attempt appears to have had little impact, whether positive or negative, and no other source mentions the event. The frequency of references to Christianity in

388 Scriptores Historiae Augustae, *Severus* 17.1. For a more elaborate discussion on the treatment of Christianity in this work, see Stertz (1977).

389 Frend (1967), 238-242 and Keresztes (1979), 308. See ibidem 239n.66 for the outright rejection of the possibility that the measure against the Christians may have been an invention.

390 For the dating of the work towards the end of the fourth century CE, see Stertz (1977), 710, who notes that general consensus rejects the edict, but makes no personal pronouncement on the matter. For rejections of the edict, see Barnes (1968[a]), 40-41 and (1968[b]), 526; Molthagen (1970), 39-43; Rives (1996), 19; de Ste Croix (1974[a]), 224n.66; *et al*.

391 See Barnes (1968[a]), 41 and Rives (1996), 19, the former of which holds that this measure would have banned only conversion to Christianity, whereas 'being Christian' would have become legal. As such, the measure would have been a relatively positive one. It seems unwise, however, to trust in the exact phrasing used by the *Scriptores Historiae Augustae*. While Eusebius, *Historia Ecclesiastica* 6.1.1; 6.2.2; 6.7 and 6.8.7 appears to provide some corroboration for the actions against Christians that may have resulted from such an edict, it has been remarked that the examples he mentions seem to come from Alexandria exclusively. See Molthagen (1970), 40 and Rives (1996), 19.

392 Scriptores Historiae Augustae, *Antoninus Heliogabalus* 3.5. Barnes (1968[a]), 41-42 rejects the existence of such a measure outright. Stertz (1977), 699 likewise expresses scepticism, but does not completely dismiss the possibility of these events having taken place.

the biography of Alexander Severus,[393] as well as the emperor's known preference for syncretism,[394] may lend slightly more credibility to the idea that he indeed adopted a lenient attitude towards members of the Christian community (Appendix 3.γ). Nevertheless, the measures attributed to him appear to have been rather limited both in their intended scale, and in their ultimate effects. The majority of the references to Christianity in the account simply suggests that Alexander incorporated elements of both Christianity and Judaism in his own religious life alongside more traditionally Roman elements, or that he at times cited the beliefs and practices of these groups.[395] On another occasion, we are told that he chose the side of a Christian community in a legal dispute about land.[396] However, the reason he allegedly gave for this is hardly indicative of an overly positive attitude towards Christianity, as he apparently said that it was better for the site to be used for the worship of some god, whichever one it was, rather than for the building of a cook-shop (*rescripsit melius esse, ut quemadmodumque illic deus colatur, quam popinariis dedatur*).[397] Finally, we are told that Alexander kept Jewish privileges intact, and likewise tolerated Christianity, although it may be implied that he did not necessarily accept conversion (*Christianos esse passus est*).[398] While some have seen reference as an outright invention of the author of the *Historiae Augustae*,[399] others have seen this view as altogether too radical.[400] Whichever view one ascribes to, it should be noted that the phrasing of the passage is hardly indicative of a far-reaching measure, or indeed any concrete regulation at all: rather, the account seems to imply that Alexander Severus simply took no action towards

393 Scriptores Historiae Augustae, *Alexander Severus* 22.4; 29.2; 43.6; 45.7; 49.6; 51.7-8.

394 Stertz (1977), 702-703. For the view that the Severans came to know certain Christians personally, and therefore adopted a more lenient attitude, see Molthagen (1970), 51-52.

395 In Scriptores Historiae Augustae, *Alexander Severus* 29.2, it is said that Alexander Severus kept statues of both Christ and Abraham in his *lararium*. In ibidem 43.6, we are told that Alexander wanted to place Christ "among the gods," but was prevented from doing so because of a prediction that this would result in the entire empire becoming Christian and abandoning all other gods, which he apparently found objectionable despite his supposed positive attitude towards Christianity. In ibidem 45.6, we are told that Alexander cited the Jewish and Christian practices of openly announcing who had been named priest in order support his own policy of publicly proclaiming the names of newly appointed governors. The tone of the passage implies that he did so in a slightly derogatory way, implying that if even Christians and Jews observed this practice, surely the Roman authorities should, too. Ibidem 51.7-8, finally, tells us that Alexander sometimes cited to so-called golden rule ("do not unto others what you do not wish them to do unto you", see e.g. *Matthew* 7.12), which the author claims he had first heard from either a Jewish or a Christian teacher.

396 Ibidem 49.6.

397 See Stertz (1977), 705-706 for the view that this passage fits the author's attitude towards Christians, which was hardly positive, but ultimately rather indifferent.

398 Scriptores Historiae Augustae, *Alexander Severus* 22.

399 Barnes (1968[a]), 42, who also dismisses the other mentions of Christianity in the account.

400 Stertz (1977), 700-701.

Christians, which indicates indifference rather than an explicitly favourable policy, and leaves open the possibility that Christians continued to face difficulty on a local level.[401]

A final passage that makes mention of a 'general law' concerning Christianity can be found in Eusebius' account of the reign of Maximinus Thrax (Appendix 3.viii).[402] Here, the emperor is once again described as having an overtly negative attitude towards the Christian communities of his empire, and is said to have taken strongly repressive measures in order to prevent them from spreading. Interestingly, Maximinus' measure is said to have targeted the leaders of the church in particular, which seems to make it a predecessor, or at least a parallel, to one of the edicts mentioned in Eusebius' description of emperor Diocletian's so-called 'Great Persecution'.[403] If Eusebius is to be believed, Maximinus was particularly disturbed by the fact that these Christian leaders were responsible for teaching others the gospel (αἴτιοι τῆς κατὰ τὸ εὐαγγέλιον διδασκαλίας), and therefore, it is implied, for the continuing spread of Christianity. If such a measure did indeed exist, it therefore appears to have been intended not only to curb the growth of Christianity, but also to dismantle existing Christian communities from the top. The reliability of Eusebius' account of these events, however, has repeatedly been called into question.[404] While it is generally accepted that Christians were executed during the reign of Maximinus Thrax, the available sources refer only to the provinces of Africa and Cappadocia, which suggests that we are again dealing with localised waves of popular accusations.[405] It has likewise been remarked that a number of Christian leaders were indeed deported from Rome, although they were notably not executed, and their numbers appear to have been rather

401 If the phrasing of the *Scriptores Historiae Augustae* is indeed correct, this might be seen as an example of tolerance in the literal sense of the word. See Garnsey (1984) for an exploration of the concept of toleration in the ancient world, which takes as its starting point the idea that toleration "implies disapproval or disagreement, coupled with an unwillingness to take action." For this definition, see ibidem 1.

402 Eusebius, *Historia Ecclesiatica* 6.28. While Eusebius also mentions that Philippus Arabs had Christian sympathies (see ibidem 6.34), he makes no mention of any legal consequences of such convictions – if they indeed existed. It is therefore unnecessary to further discuss the account in this context. It should be noted, however, that Eusebius does believe that Decius' edict was in part a response to his predecessor's more pro-Christian stance, as shown in ibidem 6.39, thus somewhat implausibly repeating the motivations he ascribed to Maximinus Thrax himself in ibidem 6.28.

403 Ibidem 8.2.5 and 8.6.8-9, as well as Eusebius, *De Martyribus Palestinae*, prologue. Rives (1999), 142n.39 mentions that Maximianus' measure has also been seen as a precedent for the edict of Decius.

404 E.g. Barnes (1968[a]), 43; Clarke (1966); Molthagen (1970), 52-58; Rives (1999), 142n.39. Sordi (1983), 92 holds that actions against individual Christians did take place, but were political and personal, rather than religious, in nature, while also doubting their longevity.

405 See Clarke (1966), 447.

limited.[406] These arguments once again suggest a diverse range of Christian experiences, and make the promulgation of an empire-wide edict targeting the clergy rather unlikely.

Of the various wide-ranging measures dated to the early third century, then, only very few actually hold up. Interestingly, however, there are also more reliable indications that attempts were indeed being made to create more coherence in the legal treatment of Christians, and to clearly and systematically discuss the competences and jurisdictions of governors who became involved in trials against them. According to Lactantius, the Roman jurist Ulpian devoted part of the seventh book of his *De Officio Proconsulis* to a collection of imperial rescripts which dealt with the Christians, apparently in an attempt to determine how they should be punished (Appendix 3.δ).[407] The exact contents of the measures cited by Ulpian, or indeed their original authors, are now lost – as is hardly surprising, since these parts of the jurist's work would hardly have been incorporated in the *Digesta*.[408] Nevertheless, the fact that he chose to collect these regulations is illuminating in many ways. First and foremost, it is notable that Lactantius mentions a collection of rescripts, rather than any other type of legal document. If we assume that he is indeed using technical legal terminology correctly, this would then suggest that Ulpian was unaware of the existence of any definitive proclamation on the subject of Christianity, and that individual precedents were still considered to be of central importance.[409] Furthermore, the existence of such a collection of rescripts may suggest that the legal basis for interactions between Christians and the Roman authorities was still, to some extent, uncertain in the early decades of the third century CE. After all, Ulpian's work appears to have been intended as a guideline for provincial governors who were uncertain on how to handle specific situations they were faced with. It is therefore very well possible that the rescripts he collected were hardly common knowledge – as was likely the

406 Ibidem 451-452.

407 Lactantius, *Divinae Institutiones* 5.11.19: *Domitius [Ulpianus] de officio pronconsulis libro septimo rescripta principum nefaria collegit, ut doceret quibus poenis affici oporteret eos qui se cultores dei confiterentur*. Much of Ulpian's treatise on the duties of the proconsul is now lost, but the known parts of its seventh book reference measures against divination, as well as sacrilege, unlawful associations, and *maiestas*. It is in itself interesting that Christianity was apparently included in the same part of Ulpian's account, and although it would be unwise to draw far-reaching conclusions from this observation, one might speculate that this sheds some light on the way in which Christians were viewed in this period.

408 A similar remark is made by Nogrady (2006), 74-75. In the same passage, the author suggests a number of known rescripts that may have been included. This attempt must, however, remain largely speculative, since we can hardly assume to be aware of all rescripts on the subject, or indeed the argument Ulpian was attempting to construct, from the limited amount of sources currently available to us.

409 Beard, North and Price (1998), 239; Nogrady (2006), 75; Rives (1996), 21; de Ste Croix (1974[a]), 223.

case for many of the precedents on other legal questions Ulpian collected.[410] In fact, it is possible that the cited measures were originally somewhat diverse, since Lactantius refers to punishments (*poenae*) in the plural, which has been seen as an indication that Christians could be punished in a number of different ways, both before and after Ulpian's attempt to create coherence.[411] Whether or not his suggestions were indeed being used, however, still seems to have depended on the individual judgements of the various provincial governors.

4.12 Conclusion

Over the course of this chapter, we have discussed the various legal interactions between Christians and the Roman authorities that took place between the first century, and the first half of the third century CE. During this period, Christianity developed from a relatively small group of devotees primarily originating from Judea, and later Asia Minor, to a rather more significant movement that was to some extent present and visible in all parts of the empire. Given the significant scope of this development, it is hardly surprising that various types of measures are represented. The majority of the legal interactions between Christians and the authorities of the empire enumerated in the Appendix of this chapter took the form of trials, in which charges were brought forward either against individuals or against smaller or larger groups of people who were associated with the Christian community. On a select number of significant occasions, we also find attempts to regulate such trials by imposing procedural limitations. These regulations could limit the active involvement of the Roman authorities, ban the use of anonymous accusations, or demand that any charges that were brought forward were investigated during proper legal proceedings before a Roman magistrate. Other types of measures, however, are comparatively rare, although a number of important passages suggest that they did indeed exist. It can therefore hardly be stressed enough that we simply do not have access to a complete overview of all legal interactions involving Christians that in fact took place, but that we are instead dealing with a rather random selection of sources. Similarly, it should be noted that a significant number, although certainly not all, of these sources were written, or at least cited and contextualised, by Christian authors, and that this fact is likely to some extent responsible for the comparative prevalence of trials and executions in the available sources. Nevertheless, it remains possible to detect the mechanisms, attitudes and procedures that governed interactions between

410 For the suggestion that *De Officio Pronconsulis* would have been consulted when 'normal practice' proved unworkable, see Beard, North and Price (1998), 239. For the idea that these precedents were still non-binding, see Rives (1996), 21.

411 Nogrady (2006), 75.

Christians and the relevant authorities. After all, our corpus includes texts whose authorship is ascribed to Roman magistrates, as well as accounts of trials by a number of different Christian authors, and references to a variety of interactions by Christians and non-Christians alike. Furthermore, the events known to us involved a wide variety of Christian communities, and took place in a number of different Roman provinces, which has allowed us to more precisely determine what effect temporal and regional differences may have had on the treatment of Christians.

Throughout our investigation, it has become abundantly clear that legal interactions between Christians and the Roman authorities were from the very beginning heavily embedded in the particular communities from which they emerged. In geographical terms, this means that the measures that are reliably known to us were generally limited to a single province at most, and on a significant number of occasions even to a single city. This fact is especially visible in the early days of the Christian community: the various difficulties Paul and his followers encountered overwhelmingly involved the local authorities of the cities they visited, and the measures ascribed to emperor Nero likewise show no sign of having been applicable beyond the borders of the city of Rome. Even in later periods, however, this pattern continues to be relevant: Pliny's interactions with Christians were limited to his province of Bithynia-Pontus, the violence against Christians in Gaul, extreme as it may have been, was limited to Lyon, and possibly Vienne, and the various trials referenced by Tertullian likewise show no sign of having been the result of any measure that transcended the province of Africa in which they took place. Elsewhere, Christians may well have been able to live their lives without facing legal accusations. It therefore need not come as a surprise that the initiative for measures against Christians was also predominantly local, as has been rightly observed before, and that the inhabitants of the relevant provinces or cities appear as a centrally important factor in most of the available cases – not just by bringing forward charges, but also by creating a climate in which such charges were likely to be accepted. By contrast, the number of reliable instances in which the emperor became involved in such matters is rather more limited, and such interventions always appear to have been prompted by questions or appeals regarding specific regions. In this context, it is particularly telling that Ulpian appears to have collected a number of imperial rescripts, which indicates that Christianity was almost certainly on different emperors' agendas, but not because the imperial authorities themselves took the initiative. Furthermore, the imperial measures known to us generally seem to have been especially concerned with ensuring that proper procedures were being followed. With the exception of Marcus Aurelius' rescript to Lyon, which in any case is only known in briefly paraphrased form, all available rescripts emphasise the importance of appropriate legal proceedings and upholding public order, while judgement on the individual

case under consideration tends to be deferred to the local Roman officials who had initially requested the emperor's opinion. The involvement of the various Roman governors mentioned in our sources likewise appears to have been prompted by requests of the local population: as far as we can tell, governors did not generally operate proactively, but instead interacted with Christians primarily when a case against them was brought forward – although we are not always made privy to the way in which this occurred. As such, the theory that interactions between Christians and the Roman authorities generally took place within the framework of the *cognitio extra ordinem* continues to hold up, which in turn suggests that trials against Christians were, in this regard at least, part of the established legal patterns in the provinces.

The way in which such trials took shape, however, has been shown to have been strongly subject to negotiation between all levels of government. Within the framework of the *cognitio* procedure, the governor had a wide range of options to respond to charges against Christians, and his decision-making process involved a number of different factors. It should first be noted that legal actions against Christians on a significant number of occasions do not appear to have involved the entire Christian community of a specific region, but were instead more often targeted at specific individuals, while others were personally unaffected. Although this was certainly not universally the case, martyr narratives like those of Polycarp, Ptolemaeus, Perpetua, the unnamed Christians mentioned in Tertullian's *Ad Scapulam*, Justin Martyr, and possibly the Scillitan Christians do suggest that legal actions against Christians were at times less far-reaching than is often assumed, both in terms of their temporal scope and in the number of individuals involved. In addition, although it is not always possible to determine why specific Christian individuals drew the attention of their accusers, it may be tentatively suggested that, alongside potential personal motivations, visibility and perceived actions against the stability of the community may at times have been a relevant factor, as seems to have been the case for, among others, Polycarp and Ptolemaeus.

Notably, we find little to no indication that those who accused Christians, whether as individuals or as a group, explicitly referenced any form of precedent in order to instigate measures against them. Instead, they generally appear to have focussed on suggesting that Christians were in some way 'other' and therefore didn't 'belong', by pointing out things like perceived religious deviance, potential political disloyalty, and at times voicing accusations of criminal or otherwise dangerous behaviour, like the use of magic, suspicious meetings and, famously, cannibalism and incest. Such arguments occurred in various configurations, and in addition appear to have gained force when the socio-political environment in which these accusations were being made was in some way under pressure, as becomes clear even in the case of the anti-Christian measures issued under Nero,

or in case of natural disasters like earthquakes and failed harvests or other general crises. While Roman administrators may at times have rejected individual accusations, as appears to have been the case in Pliny the Younger's famous Christian letter, such arguments nevertheless frequently appear to have convinced them that Christians posed a threat to public order and the stability of the province, which – after all – it was their primary duty to maintain. Although Christian communities themselves do not appear to have instigated the disturbances, many governors seem to have seen their deviance and refusal to participate in general society, rather than the actions instigated by the general population, as the primary cause of unrest – or indeed the obstacle that had to be overcome to regain control and stability.

In this context, it should be noted that the influence of local magistrates operating in specific communities was a particularly powerful one: while it is certainly also true that the local population of a province depended on the goodwill of the Roman authorities, cases like the execution of Polycarp and the events in Lyon serve to demonstrate that the local governing elite could at times lend credibility to charges against Christians in the eyes of the governor, who may have found it difficult to contradict eminent members of the local population, and was almost compelled to act in order to maintain the authority of their government and to avoid complaints about his rule – especially when the plaintiffs held public office. Roman governors therefore had to balance the arguments and wishes of the local population and its leaders with their own concerns about public order, and on occasion with the views of the emperor – a process that could have a variety of outcomes, ranging from larger-scale measures against the Christians of the region, to trials against certain individuals, and likely to *de facto* non-intervention. As was the case for the local population, explicit references to the use of legal precedent rarely appear in the available sources as part of governor's considerations. While the example of Pliny the Younger shows that Roman magistrates likely had a certain awareness of the fact that Christians could, and had been, brought to trial at a relatively early date, and used this knowledge as a precedent in the most general sense of the word, there is little to suggest that they had concrete and detailed knowledge of the procedures that had been followed in these earlier cases. Instead, we find a notable number of indications that governors at times felt the need to consult the current emperor about the particular situation they were faced with, and in fact seem to have done so repeatedly. Likewise, we find no indication that the emperors to whom such questions were addressed referenced each other's rescripts. Instead, they at times appear to have overwhelmingly focussed on proper procedures, as has been discussed above, and in addition seem to have emphasised different aspects of the proceedings depending on the questions posed to them. It thus becomes clear that the legal treatment of Christians to an extent remained discretionary and was subject to negotiation for a long

time, as is also shown by the fact that Ulpian felt the need to collect the various imperial rescripts in an attempt to create coherence at the beginning of the third century CE, and that all levels of the empire's government continued to be involved in these negotiations. Certainly, the measures attributed to Nero are never referenced in later proceedings. Furthermore, while many trials to some extent show similarities to the procedure discussed by Pliny and Trajan, there is ultimately not enough evidence to conclusively prove that this was due to it widely being seen as a landmark-decision. At the very most, Pliny's conduct may later have come to be seen as exemplary due to his adherence to the established procedures of Roman provincial administration.

The importance of negotiation also sheds an interesting light on the distinction between the *nomen ipsum* and *flagitia cohaerentia nomini*, which has been central to the debate surrounding the legal treatment of Christians in the Roman world since the days of Pliny the Younger. While it is true that the official charge more often than not appears to have been that of 'being Christian', as is demonstrated by the fact that Christians could avoid punishment by participating in the famous sacrifice-test, accusations of criminal or otherwise unwanted behaviour played a significant part in arguing why that charge should be accepted as valid grounds for a trial by the governor. As such, the two categories cannot be entirely separated within the context of the legal process. The sheer prevalence of references to criminal behaviour, political disloyalty and religious deviance in both Christian apologetic writings and in the available accounts of trials against Christians serves to further confirm that such accusations were considered to be deeply relevant to the legal proceedings, even if some of them constituted social, rather than criminal offenses. As such, it would be too simple to argue that Christians were convicted simply for 'being Christian': this may be true if we look exclusively at the ultimate verdict, but the rest of the proceedings as they appear in our sources cannot fully be explained by that charge alone.

It furthermore deserves to be emphasised that legal interactions between Christians and the Roman authorities could take markedly different shapes, and have different results. As becomes clear from the attempt to seize Christian burial grounds mentioned by Tertullian, and is implied by Melito's references to Christians suffering financially, rather than physically, not all such confrontations resulted in lives hanging in the balance. Even for Christians who were brought to trial, we find a number of indications that no concrete punishment was ever put in place, either by law or by precedent, and the possibility for a punishment more lenient than execution continued to exist for a long time, as becomes clear from the various governors mentioned in *Ad Scapulam*, as well as Trajan's letter to Pliny and Hadrian's rescript to Minucius Fundanus, where the nature of the punishment is decidedly left open. On other occasions, we furthermore find brief

references to the idea that Christians could also be banished, or temporarily imprisoned, which speaks against the idea that Christians always paid the ultimate price for their beliefs. It is also notable that the methods of capital punishment, when it was meted out, seem to have differed significantly. While some Christians do appear to have been sent *ad leones*, as the famous phrase goes, it should be noted that burning and beheading are also mentioned as potential methods of execution, and that the social status of the accused did not always matter: although the governor of Lyon made a distinction between those who were Roman citizens and those who were not, the account of Perpetua's death suggests that this was not always the case, while the martyr narrative of the Scillitan Christians suggests that the accused were all beheaded despite their apparently low social status. We repeatedly find references to the local population attempting to influence the method of execution, and on a number of occasions this appears to have worked – which once again serves to demonstrate the importance of negotiation between various legal actors in cases involving Christians.

There were, however, a number of limits a Roman magistrate on any level had to contend with. The various imperial rescripts repeatedly emphasise that is was essential for accusations to be made within the context of a formal trial, which meant that the accuser could be held personally responsible for the charges he brought forward. Although references to punishments for false accusers are noticeably rare, and are seldom expanded upon in the sources available to us, *Ad Scapulam* and the rescript to Minucius Fundanus do seem to suggest that the possibility existed, and was likely on occasion enforced. The need for a proper procedure also appears to have included the possibility of denial or recantation: on a number of occasions, we hear that the accused were repeatedly given the chance to deny the allegations against them, and the governor who oversaw the trial of the Scillitan Christians even offered a significant period of time for reconsideration. When they deemed it necessary, governors could also bring in witnesses to further investigate the accusations against Christians, as was the case both in Pliny's investigation and during the events in Lyon. In this context, the use of the so-called sacrifice-test is also particularly relevant. This method was indeed often used to determine if the accused truly rejected Christianity, and as such served as part of the magistrate's truth-finding tools and as an argument for the defence that could be used to demonstrate that the accused had indeed been re-integrated into general society, rather than as a punishment in itself. However, its employment does not appear to have been universal – or indeed completely uniform. After all, Tertullian mentions that one of the governors he describes in his *Ad Scapulam* did not direct a recanting Christian to sacrifice, and while this reference emphasises that the procedure was indeed common enough to be used as a well-known point of reference, it was apparently by no means inescapable. The inhabitants of Lyon only appear to have demanded sacrifice at the very end of

the proceedings, and according to the available account only did so with regard to Christians who had retracted their previous recantation. Although it is difficult to find a discernible pattern, it is likewise notable that the object of sacrifice seems to differ from case to case, and from trial to trial: while Trajan encouraged Pliny to employ sacrifices "to our gods", other governors appear to have preferred sacrifices "for the wellbeing of the emperor", thus adding a more explicit dimension of political loyalty. Others again chose different tests to determine if the accused had truly given up Christianity. Polycarp, for example, was asked to renounce Christians as atheists, and to swear by the *Genius* of the emperor, rather than to perform any sacrifice, and Pliny himself mentions the cursing of Christ as a potential option. For Christians, however, any of these options would have been unacceptable.

Just like the various known measures against Christians found their origins in local circumstances, so too they appear to have been largely locally enforced. On a number of occasions, we hear that local magistrates, and sometimes the general population, were involved in the enforcement of the pronounced verdict, although the governor's staff generally appears to have been actively involved. The one significant exception to this course of action consisted of Roman citizens, about whose fate the imperial authorities generally appear to have been consulted – either by sending the accused to Rome, or through enquiry by letter. The initiative for such consultations, however, generally appears to have been taken by the responsible governor without interference by local authorities, and references to attempts by the accused themselves to appeal the verdict are noticeably rare. While the book of *Acts* makes it clear that Paul had the opportunity to appeal to a higher authority, we find no mention of such an attempt in later trials against Christians. It seems likely that this is at least partially due to the fact that many of our sources are especially focussed on the idea of martyrdom, and therefore tend to paint Christians as highly accepting of their fate. However, it is very likely that great diversity existed within Christian communities, and that many decided to recant rather than adhering to their beliefs to the end.

The works of many Christian apologists may likewise be seen in this context, and serve to demonstrate that Christians did indeed attempt to change the position of Christian communities by winning the support of the Roman authorities – whether emperor or governor. This is perhaps most obvious in the case of Melito of Sardis, who directly references current events in his appeal to emperor Marcus Aurelius, but other apologists, too, appear to have made similar, or more far-reaching, attempts. Notably, a number of these apologists attempted to make rather extensive use of precedents, both in order to prove that only 'bad' emperors acted against the Christians, and by using the rescripts of better-loved emperors as an authoritative argument to encourage a more positive attitude. Likewise, they frequently respond to the arguments of their accusers by rejecting the idea that

Christians were involved in criminal activity, and furthermore regularly insist that Christians very much 'belonged' in the Roman world. This is sometimes done by emphasising how Christians had aided the Roman authorities, and on other occasions by attempting to frame Christianity in Roman terms – as an ancestral religion in the case of Justin's companions, or as a philosophical school in the case of Melito's apology. However, we have no record of any such appeal having had a concrete effect, and on the whole they do not appear to have been particularly successful. This may at least in part be due to the fact that the imperial rescripts which could conceivably be used as an authoritative precedent for a more lenient treatment were, as stated previously, more focussed on procedure than outcome, and as such were hardly unambiguously positive. In addition, it seems unlikely that the emperors to whom such petitions were addressed were willing to interfere in what they generally appear to have seen as the business of the respective provincial governors.

Ultimately, then, the legal treatment of Christians in the Roman world was likely much more diverse than at first seems to have been the case. This pluriformity is not only visible in the variety of arguments that were used to instigate trials against Christians, but also in the existence of other types of measures aimed at Christian communities, as well as the differences in procedure, and in the outcomes of such procedures. The fact that the number of people involved was often relatively small, while periods of increased legal activity were overwhelmingly temporary and local in nature, furthermore argues against the idea that policy with regard to Christianity was consistently enforced, or indeed that Christians were a particular point of concern for the Roman authorities. The position of Christians in the Roman world, it has become clear, was repeatedly up for renegotiation, and for this reason it is difficult to maintain that Christianity was an 'illegal' religion as such, as tense as the situation for the various communities in the empire may have been. Instead, their treatment appears to have depended strongly on local factors, and the arguments brought forward by the various parties involved.