

THE SCILLITAN MARTYRS

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Abstract

Among the sources describing early Christian martyrs, the record describing the procedure carried out against the Christians of the town of Scillium is a significant source of the literature on martyrs as they are considered to be some of the documents we can accept as authentic. For this matter, they can constitute a valuable source from a legal point of view as they contain few elements of miracle, and their content specifically offers the brief summary of the procedure. This protocol also serves as evidence of the spread of Christianity, confirming that the Christian Church had also gained a significant number of followers in the area of the North African provinces by the second half of the second century. Considering the above, this record is regarded as the earliest Latin-language document of the African Church.¹

Keywords: Christianity, trials, martyrdom, Roman criminal proceeding, lawfulness

1. Historical background

The record of the interrogation specifies 16th July in the year 180 as the date of the arrest. Assuming from the year, the procedure can be dated to the early stage of the reign of Emperor Commodus. His father, Emperor Marcus Aurelius, died on 17th March 180 so the young Commodus had been in power for a few months at the time the record was made. Based on the contemporary sources, the new emperor was not one of the rulers whose policy was hostile to Christians. His attitude towards them can instead be called indifferent, which is partly due to the fact that his lover, a woman named Marcia, may have been a Christian herself, to whose request Commodus set free the Christians exiled to Sardinia by his predecessor.² Generally speaking, he was regarded to be a cruel and capricious tyrant, whose main pastime pleasures included gladiator games.³ The town called Scillium was assumedly located in then Numidia in North Africa. This town can be placed in the territory of today's Tunisia but it no longer exists. During the time of Marcus Aurelius, the expansion of Christianity unfolded along the African coast of the Mediterranean, the most important city of which was Carthage, founded by the Phoenicians.⁴ Rome utilised the areas surrounding Carthage for the production of cereal grains.

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¹ <https://www.livius.org/sources/content/acts-of-the-scillitan-martyrs/translation/> (downloaded on: 2022. 06. 05.)

Cf.: TAKÁCS Ince: *Nérótól Diokléciánig: A keresztény üldözések története*. Budapest, Szent István Társulat, 1933, 9-90.

² HIPPOLYTUS: *Philosophumena* 9.12. Cf. TAKÁCS, 1933, 89-90.

³ TAKÁCS, 1933, 89.

⁴ Adalbert HAMMAN: *Így éltek az első keresztények*, Budapest, Szent István Társulat, 1987, 16, 18-19.

The Antonines had developed this area from the 2nd century onwards, the results of which are evidenced by the ruins of an extensive road network, huge buildings, baths, and amphitheatres. This period was the era of the great economic boom, thanks to cereal production and the olive trees. However, literary references do not mention the beginnings of Christianity. Yet starting from the year 180 Christianity seems to have attracted the attention of politics as shown by the Scillium acts. According to Hamman, Scillium was an insignificant hamlet with no traces remaining today but at the same time the acts prove that Christianity had spread rapidly not only in big cities, but also in small villages. Thus the martyrs who appeared as defendants in the acts came from this environment, presumably belonging to the likes of smallholders, tenants, or seasonal workers.⁵

2. Antecedents of the trial

At the time of the reign of Emperor Marcus Aurelius, the provinces of the Roman Empire were struck by plague epidemics and natural disasters, which extremely intensified the anger of the people against Christians, who they thought had enraged the gods.⁶ As it was noted by the Christian writer Minucius Felix, the complaints against Christians can be summed up as follows: they abstained from festivities, did not attend theatre performances, did not take part in parades or in sacrificial ceremonies, and they abhorred the meat sacrifices and drink offerings poured on the altars.⁷ Based on all this, the Romans considered the Christian religion to be irreconcilable with traditional civil life. The Christians worshiped only a single god while Roman festivals each involved the worship of different gods. According to Plescia, the persecution of Christians can be traced back to the fact that the state was the foremost determinant of civil actions, including religion, considering the political and religious unity of the society of the Roman Empire. Conquered peoples were expected to recognise the gods of Rome yet they were allowed to respect their own gods. If they refused to participate in official religious services prescribed by the state, it was considered a crime.⁸ Christianity not only refused participation in the cults of Imperial Rome but they also renounced the traditional Roman way of life. The goal of the imperial intervention against Christians was to restore the traditional Roman religious system. The rapid growth of the number of Christian missionaries unavoidably led to the neglect of traditional gods, and this was considered detrimental to the state and society until the time of Constantine.

In the case of the martyrs of Scillium, the denunciation was probably based on the procedures applied during the time of Emperor Marcus Aurelius. During the trial of the Christians from Scillium, Governor Saturninus followed the procedure we know from the letter by Pliny the Younger. In 112 Emperor Trajan consented to Pliny's treatment of Christians when the latter was the governor of the province of Bithynia. Having questioned confessing Christians three times, he sentenced them to death for their stubbornness. He released the non-Christians named in the list received from the anonymous denouncers once they had been heard and sacrifices had been offered. He also released the formerly Christian persons named in the

⁵ HAMMAN, 1987, 21.

⁶ TAKÁCS, 1933, 79.

⁷ MINUCIUS Felix: Octavius 12.5.

⁸ Crime of injured sovereignty - *crimen laesae maiestatis*: injuring the majesty of the Roman state. This also included religious crimes, such as Christianity. NÓTÁRI Tamás: *Római jog*, Szeged, Lectum Kiadó, 2014, 310-311. Cf. ZLINSZKY János: *Római büntetőjog*, Budapest, Nemzeti Tankönyvkiadó, 1991, 106.

anonymously submitted list who, after giving their confession, denied Christ and offered their sacrifices before the statues of the emperor and the gods as no other crime could be proven against them.⁹

3. Legal interpretation of the trial

The record prepared on the trial does not contain details regarding all the steps of the procedure thus it does not indicate how the accused came to the attention of the authorities, nor can we find more specific information related to the police agencies that acted during the arrest. The record starts stating the date of the procedure and the names of the acting official, followed by the list of the accused. An important point has to be made in connection with the criminal trial. Roman trials were originally conducted orally. However, Roman authorities kept records of their own activities. It was by the time of the Principate that the order of what had to be recorded during a trial had been established. During the imperial era these records become particularly important and the words said during the trial were recorded in more and more detail as the appellate bodies acted on the basis of these records during the appeal procedures.¹⁰ The person acting according to the text of the acts was Proconsul Saturninus¹¹, who was the appointed leading official of Carthage at the time according to the contemporary sources. He can be identified regarding his function and based on his name; what is more, Tertullian also refers to him as the first to draw the sword against Christians in North Africa.¹² Although the record does not provide information about the bodies performing the arrest, a significant part of the documents on the martyrs also contain details in this regard. As for the police agencies operating in the empire, it can be established that three levels of them generally acted during the proceedings against Christians, using the assistance of the Imperial army, the provincial army, as well as the local/civilian officials and army.¹³ In this case, what we can read is that the arrest takes place in the governor's palace, so there is a high probability that the policing duties of the arrest were performed by the governor's soldiers. The interrogation is carried out in the governor's palace. Depending on whether it was Italian - more precisely Roman - or provincial territory, the official names of the persons conducting the court proceedings show differences in the text of the acts of the martyrs. In most cases, the words governor and viceroy can be read, two terms generally used in a broader sense, whereas in many cases, the precise names of the positions authorised to govern also occur (procurator, praefectus and proconsul). As the governor of the Senate Province of Africa, he also held the title of proconsul. The main task of the proconsul was to manage the administration of the province and maintain public order, which also included ensuring religious peace and the functioning of the various cities. Besides, he also had judicial power, which included the right to issue death sentences in the case of Peregrini, while he also functioned as a forum of appeal in minor cases, as well as the judge of

⁹ PLINY THE YOUNGER: Letters 10.96.

¹⁰ ZLINSZKY, 1991, 67-68.

¹¹ Acts of the Scillitan Martyrs 1.

¹² TERTULLIAN: To Scapula 3.4.

¹³ Cf.: Christofer J. FUHRMANN: „*How to Kill a Bishop: Organs of Christian Persecution in the Third Century*” In Rudolf Haensch, ed., *Recht haben und Recht bekommen im Imperium Romanum: Das Gerichtswesen der Römischen Kaiserzeit und seine dokumentarische Evidenz = Journal of Juristic Papyrology Supplement 24* 2016, 241-261.

first-instance in major cases.¹⁴ In the case of capital offences involving Roman citizens, the governor of the province generally had no authority and the accused had the right to appeal before the Roman authorities. However, the imperial governor of senatorial rank was granted the right to impose capital punishment by way of delegation. Thus, in the above case, the African proconsul could act even if it involved Roman citizens.¹⁵ The record does not contain the precise designation of the charge. In the document recording the martyrdom of Apollo of Asia Minor, also issued at the time, the governor's first question is aimed at establishing the fact of the Christian belief [of the accused].¹⁶ In the case of the accused of Scillium, this is only revealed in a later part of the record. The proconsul begins the interrogation with this sentence: "You can have mercy from our lord the emperor, if you return to your senses."¹⁷ This sentence essentially contains the expectations of the Roman state towards Christians. It assumes the usual charge against Christians, more precisely anti-state conduct resulting from the Christian way of thinking, which was classified as a crime according to Roman law. The fact that a religious affiliation was classified as a crime is not a unique case in Roman history. In Livy's account, we can read about the trial of the Bacchanalia, preserving how the state took action against a foreign religious cult like Christianity. The latter procedure shows a lot of similarity to the measures taken against Christians.¹⁸ Proconsul Saturninus briefly summarises the features of the Roman religion: "our religion is simple: we swear by the birth spirit of our lord the emperor and offer sacrifice for his health, which you must do as well."¹⁹ Here, the proconsul refers to the approach of considering the Roman worship as a civic duty. The following question by the Roman authorities can be read in a number of documents: "What is wrong with offering sacrifice"?²⁰ Basically, the question asked by the Romans shows that they did not understand the essence of Christian worship. In all likelihood the accused Separatus explains with this in mind during the rest of the interrogation why he cannot fulfil his civic duty.²¹ In the other document, also prepared at the time, Apollo fully elaborated the answer to the above question. In his plea, Apollo refers to the conflict between human and divine law regarding his rejection of Roman worship.²² All the documents presenting the trials of martyrs evidence the conflict between the two legal obligations. A purely religious issue had become a political and social issue here. The difference between the basic characteristics of the Roman and Christian religions constitutes the basis this conflict arises from. It is the foremost determining factor of the Roman religion that it is part of the *ius publicum* (Roman public law), which laid down the

¹⁴ PÓKECZ Kovács Attila: A principatus közjoga, Budapest-Pécs, Dialóg Campus Kiadó, 2016, 75.

¹⁵ ZLINSZKY, 1991, 48, 51.

¹⁶ The Martyrdom of the Saint and Venerable Apostle Apollo or Sakkas 1.2.

¹⁷ Acts of the Scillitan Martyrs 1.

¹⁸ Cf.: LIVY, 3.25.1.

„When the aediles and triumviri attempted to remove from the Forum the crowd of persona thus employed, and to overthrow their preparations for their sacred rites, they narrowly escaped personal injury. As a last resort, the city praetor, at the command of the senate, forbade the use of new and foreign rites in public or consecrated places, and ordered all persons who had any books of divination, forms of prayer, or written system of sacrificing, to bring those books and writings to him before the Kalends of April.” 6.39.16. „to search for and burn books of divination; and to abolish every mode of sacrificing that was not conformable to the Roman practice. For they, who had a thorough knowledge of every divine and human law, maintained that nothing tended so strongly to the subversion of religion as foreign sacrifices.”

¹⁹ Acts of the Scillitan Martyrs 3.

²⁰ Cf.: The Martyrdom of Saint Polycarp 8.2.

²¹ Acts of the Scillitan Martyrs 6.

²² The Martyrdom of the Saint and Venerable Apostle Apollo or Sakkas 24.

rules regarding the operation of the Roman state. Based on the *Digesta*²³, it contained the rules governing magistrates, religion and the clergy.²⁴ Accordingly, the Roman religion was free of any metaphysics as it did not require the existence of a substantive relationship with the gods, only a formal one. Its purpose was to give the gods the sacrifice and rites they deserved by law. Therefore, it can be regarded as a religion of rites. As a consequence of all this, the state did not expect the individual to emotionally identify with their faith during the ritual fulfilment of their religious obligations. This was a kind of contractual obligation between the gods of Rome and its people.²⁵ This is why the Romans did not understand the stubbornness of the Christians during the proceedings. A characteristic part of the Romans' practice during their procedures against Christians is the provision of "time for consideration". Documents on Christian martyrs confirm the application of this practice. The general "time for consideration" was 30 days. The primary purpose of this was to break the Christians and make them deny Christianity after keeping them imprisoned in inhuman circumstances and exposing them to the sufferings of the applied tortures in many cases. However, in the case of the Scillitan martyrs, it should be noted that no torture is mentioned at all, which suggests that the accused could have been Roman citizens. A significant part of the acts contain a detailed description of the severity and cruelty of the ordeals the defendants had to endure before the execution of the sentence, which were primarily aimed at forcing the accused to withdraw their previous confessions. The fulfilment of obligations thus extorted also fully complied with the Roman religious approach. Corporal punishment was basically exercised both before the main punishment of death penalty and also as an independent punishment, which used to be a common form of ritual purification in ancient times. In the case of Roman citizens, it was prohibited by the *Leges Porciae* (Porcian Laws) in 198 BC and then in 195 BC and it was only applied by the military criminal law.

During the last stage of the interrogation, the proconsul asked about the documents found to be owned by the accused. The record does not indicate what importance was attached to the documents during the procedure. In the case of foreign religions, the confiscation and burning of the sacred documents of the given religion had been known previously.²⁶ However, in the case of Christians, a specific relevant measure was only taken in the 4th century in the form of a decree of Emperor Diocletian, where the measure taken by the ruler was aimed particularly at the destruction of Christian documents.²⁷

The final element of the trial is when the delivery and announcement of the verdict takes place. As I mentioned earlier, the status of the accused can be assumed to have been Roman citizens. This circumstance is also supported by the fact that the type of punishment of the sentence announced by the proconsul was death by the sword. The death penalty, as the main punishment, was executed with an axe during the Republic and later with a sword. The method

²³ Cf.: EUSEBIUS: The Ecclesiastical History 5.1.2 The trial of the Martyrs of Lugdunum.

²⁴ ULPIANUS, *Digesta* 1.1.1.2. Cf.: BAJÁNHÁZY István: Az antik Róma vallási rendszere. *Publicationis Universitatis Miskolciensis Sectio Juridica et Politica*, Tomas XXXI. (2013), pp. 7-30. 9.

²⁵ NÓTÁRI, 2014, 321.

²⁶ Cf.: The Trial of the Bacchanalia, around 296-297 Manichaeism took root in Carthage and then on 31th October 297 the edict against the Manichaeists was issued. The order issued against the Manichaeists is an exceptionally interesting document, which demonstrates that the official approach towards religion had hardly changed from the era of the Republic to the days of Diocletian. The leaders of Manichaeism were captured and their books were confiscated and burnt.

²⁷ Cf.: EUSEBIUS: The Ecclesiastical History 8.2 The first decree of Emperor Diocletian: „*the temples are to be destroyed and the Secret writings burnt and it is ordered that those holding offices be deprived from their offices and household servants be deprived from their freedom if they insist on their Christian faith.*”; Cf.: The Martyrdom of Saints Agape, Chionia and Irene 5.

of execution had its origins in sacrality; it can be compared to the rite of killing a sacrificial animal for it symbolized the sacrifice of the perpetrator to the higher powers.²⁸ At this point we need to ask the question whether the governor could have decided not to bring a death sentence. In his writing addressed to Scapula²⁹, the proconsul of North Africa, he reports on the acquittal of Christians based on the decisions of the proconsuls of the time. In this writing of his, Tertullian speaks out against Scapula's cruelty and asks him to adopt a more humane behaviour towards Christians, pointing out that even judges more cruel than him acted more fairly in certain cases. Cincius Severus³⁰, for example, taught Christians to give him the right answers so that he could release them. Vespronius Candidus³¹ released a Christian because finding them guilty would have jeopardised the peace of the community. Asper³² interrupted a case while Pudens³³ acquitted an accused, tore the documents into pieces without bringing charges and cancelled the indictment saying that it was not permitted to hear a person without charges according to his orders. It seems that certain governors did not consider it justified that Christianity posed a danger against the society and they upheld their decisions even in the face of the possible pressure from below. In the acts of contemporary Apollo, too, we can find reference to the governor's intention to give mercy. „I wished to set you free...”; „I can only be humane to you in choosing the method of the death penalty.”³⁴

The last element of the Roman trial was the delivery of the verdict, during which the proconsul read the verdict from the writing board. For the judgment became a part of the Roman legal order if it was set down in writing and then properly made public. This was manifested in the wording and announcement of the verdict. However, offering grounds of the judgment was not mandatory according to the Roman law.³⁵ Generally, perpetrators of capital crimes were given the death penalty, which was carried out immediately after the death penalty was announced, as the last sentence of the record indicates. The record does not detail the circumstances of the execution. It can be reconstructed based on contemporary documents. The execution usually took place in public, in the marketplace or in the main square of the city.³⁶ The executors were originally the lictors, the servants of the magistrates, but the acts of the martyrs often contain references to a military unit as the body involved in the execution of the punishment. The role the soldiers played in the execution during the proceedings is often mentioned. We also find examples of the governor ordering a military unit to guard the bodies after the execution. In the case of Polycarp, the hateful crowd asked the governor not to release the remains of the martyr to avoid "them starting to worship this" and asked for the body to be guarded.³⁷

²⁸ NÓTÁRI, 2014, 306.

²⁹ TERTULLIAN: To Scapula, Scapula was proconsul of North-Africa in 211-213.

³⁰ TERTULLIAN: To Scapula 4.3.

³¹ TERTULLIAN: To Scapula 4.3.

³² TERTULLIAN: To Scapula 4.3. Assumedly, C. Julius Asper was consul in 212.

³³ TERTULLIAN: To Scapula 4.4. Assumedly, Pudens was consul in 211.

³⁴ The Martyrdom of the Saint and Venerable Apostle Apollo or Sakkas 45.

³⁵ ZLINSZKY, 1991, 66-67.

³⁶ ZLINSZKY, 1991, 78-79.

³⁷ The Martyrdom of Saint Polycarp 17.2.

4. Summary of the Trial

Based on the above investigation, it can be established that the trial itself was conducted in compliance with the rules of procedure established against Christians. The acting authority offered the Christian defendants the opportunity to change their minds, ensured the defendants' rights according to their status, and the type of punishment was also determined with consideration of the above criteria. In view of all this, it can be established that no irregularity can be detected in the course of the procedure. On the other hand, it deserves to be mentioned that some documents surviving in the literature on martyrs report that, in certain cases, the acting body abused its competence or possibly misused its powers. One example to be mentioned is the document recording the martyrdom of the presbyter Pionios, in which the accused himself warned the body acting against him that it had exceeded his competence and explained his rights to them.³⁸ In relation to the lawsuits against Christians, the basic question is always whether the judgment delivered lawfully in the given case is theoretically well-grounded and fair. How is it possible to fight with the legal order of a spiritual world, the principles of which do not manifest themselves in the actual commission of a crime as stated by Pliny?³⁹ Obviously, the religious system of the Roman law partially offers the possibility to explain this procedure, yet we need to ask the question whether this procedure can also be considered lawful against the background of the idea of fairness.

³⁸ The Martyrdom of Presbyter Saint Pionios and his Companions 16.3.

³⁹ PLINY: Letters 10.96.