



A CONCISE EXPLANATION OF THE LEGAL BASIS FOR ROMAN PERSECUTION OF CHRISTIANS

Tertullian tells us, in his *Apologeticum* that Christians were told, simply, “Non licet esse vos!” (You are not allowed to exist!) I happened to see a very nice summary of what this meant, and what it tells us, in Servais Pinckaers *Spirituality of Martyrdom*, p.66.

It was new to me, and I thought that others might find it interesting also.

The traditional explanation of Christian persecution traces its origin to an imperial decree dating back to Nero or Domitian that Tertullian calls the *Institutum neronianum*. The text is no longer extant, but if it existed it probably contained these terms of proscription: “*Non licet esse Christianos*” [Being a Christian is forbidden]. This expression underlies many sayings of authors such as Tertullian: “What a harsh law you have written, which says to us: you are forbidden to exist” (*non licet esse vos*). The apologists consistently reaffirm that Christians were accused merely of being Christians; that they were reproached only for bearing that name, and Tertullian repeatedly asserts that the sentence condemning them indicates no other crime than that. The magistrate would remind the accused of that concise decree, “*non licet esse Christianos*,” to which the accused would reply, if he were faithful, “*Christianus sum*” (I am a Christian), and the case would be closed.^[1]

This explanation relies upon Trajan’s rescript of 112 CE in response to a letter from Pliny the Younger. Pliny displayed a rigorous but exact interpretation of the legislation, which he used to condemn Christians *propter solum nomen*—solely on account of the name:

“I make it a sacred duty, my lord, to consult you with my scruples, for who can better guide or instruct me? I have never attended the trial or sentencing of any Christian. I therefore do not know the exact offenses for which they are prosecuted nor the extent to which they are punished. I am particularly hesitant about whether to make distinctions according to age. Should we impose the same punishment without distinguishing the younger from the older? Should we pardon those who repent, or is the renunciation of Christianity useless once it has been embraced? Is it the name only that we punish? Or are there crimes attached to that name?”

The emperor approves and confirms the obligation to punish *nomen si flagitiis careat* (the name, even without misdeeds) and not merely the *flagitia nomini coherentia* (the misdeeds associated with the name).

This rescript of Trajan presupposes an existent law against Christians, dating back at least to Nero or Domitian, which interpretation he solidifies. According to Tertullian, “Under the reign of Augustus this name [Christian] has arisen, under Tiberius it has shown its discipline, and under Nero it has met with

condemnation. Yet only this institution of Nero has survived, while the others were destroyed" (*Ad Nationes* I, ch.7).

And so, legally speaking, this very characteristic of being a Christian would seem to serve as the basis of the persecution of the first centuries. The historians still debate the existence of that anti-Christian law. Some think that the legal precedent was laid down by Trajan's rescript itself. [But] regardless of the historical debate surrounding its legal origins, the persecuted Christians understood the basis of the accusation against them to be the mere fact that they were Christians: "*Non licet esse christianos.*"

That is rather neatly put, and rather useful to have.

1. ^[1]Leclercq, "Droit persécuteur," *Dictionnaire archaéologie chrétienne et de liturgie* 4 (1921), col. 1619. (The work is online [here](#), p.142 of the PDF, and gives further examples of the same precise wording.)↩
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