Christianity, Roman law, and “good” and “bad” emperors

**Name of the author:** Tertullian  
**Date:** 197 CE  
**Place:** Carthage  
**Language:** Latin  

**Category:** Christian  
**Literary genre:** Apologetic

**Title of work:** Apology  
**Reference:** V  
**Commentary:**

Tertullian is one of the most famous Christian authors, and is composed a vast amount of literature between 193 and 220 CE (during the reign of Septimius Severus and his son Caracalla) in both Greek and Latin, although only Latin literature survives. 31 texts from Tertullian are extant. He was born in Carthage, North Africa, in the middle of the second century CE to a wealthy, educated family, clearly underwent rhetorical training, and has some knowledge of Roman legal procedure and specific laws (on Tertullian’s rhetorical style, see R. Sider, *Ancient Rhetoric*, who discusses his use of rhetorical techniques including *exordium*, *narratio*, and *confirmatio* and *reprehensio*, for instance; scholars have debated whether or not Tertullian was himself a jurist; David Rankin argues he was an orator, but not a jurist; see “Was Tertullian a Jurist?” and *From Clement to Origen*, p. 64-67). Tertullian wrote on a vast array of topics, including baptism, resurrection, idolatry, monogamy, and Christian heresy, in addition to the present *Apology* for Christianity in c. 197 CE, addressed to the “rulers of the Roman Empire.” Timothy Barnes has posited that rather than being intended for imperial ears, the *Apology* was written with the aim of demonstrating common ground with the educated elite of Carthage against the “ignorant urban mob” (see “Pagan Perceptions,” p. 236). Burrows, however, maintains that Tertullian had a Roman audience in mind when he composed the Apology, due to references such as “your historians” (V.3), which Burrows takes to be Tacitus (“Christianity in the Roman Forum,” p. 215-217). Indeed, as David Wilhite points out, the many addresses to “you, rulers of the Roman Empire” (e.g. at I.1: *vobis, Romani imperii antistites*) suggest a Roman authoritative audience, even if this is only a rhetorical device and he never intended it to be heard by them (*Tertullian the African*, p. 69; see also Geoffrey Dunn, *Tertullian*, p. 39).

We know relatively little about Tertullian, as our scant information comes from later writers (such as Jerome’s biography) or the little which he reveals about himself in his writings. It seems that he was raised pagan, and converted to Christianity at some point (the circumstances are uncertain – he tells us in the *Apology* that he was impressed by the courage of Christian martyrs in the arena, but scholars such as Barnes are suspicious of this. He is very clearly influence by philosophers (both great and less prominent figures), and draws upon them in his writings. Interestingly, he does also criticise philosophy on occasion, such as in the *Apology* (XLVI.18) and his *Prescription Against Heretics* (VII.9). Similarly to other apologists before him, he referred to Christianity as a “philosophy,” albeit a superior one (see *On the Pallium* VI.2), but was uncomfortable with Platonist notions of the origin of the soul (see *On the Soul* IV.1). Stoicism seems to have exerted the biggest influence upon Tertullian, and he frequently employs popular Stoic tropes such as military images, the notion of an ordered world, and human free will (see Rankin, *From Clement to Origen*, p. 69). Seneca was evidently a favourite of Tertullian, and the latter calls upon the former for support on issues such as Roman superstition and the nature of the soul (*Apology* XII.6; *On the Soul* XX.1) (see René Braun, “Tertullien et les poètes latins,” p. 26).

In the present *Apology*, in much the same way as previous apologists, Tertullian refutes charges levelled at Christians, such as human sacrifice and treason, and implores its audience to improve the treatment of Christians by authorities (see also, for instance, Justin Martyr, *First Apology* VII.1-5; Athenagoras of Athens, *Plea for the Christians* XXXVII). Tertullian’s attitudes towards the Roman state and those at the head of it are rather varied. He is at times both positive and scathing in his writings, sometimes accepting the emperor and/or the empire as God’s will, and working to repudiate the notion that Christianity is fundamentally opposed to them. At other points, however, he strongly condemns the imperial cult (*On Idolatry* XV), and refers to governors and emperors...
essentially as murderers (Antidote for the Scorpion’s Sting IX.7). It is fair to say that Tertullian appears somewhat conflicted in his writings when it comes to his view of imperial power, evidently feeling the tension between the benefits of a stable and prosperous empire, the need to appease Roman authorities in order to minimise Christian persecution, and the elements of imperial rule and culture which he saw as running counter to the tenets of Christianity.

This passage opens with Tertullian referring to Roman law concerning the deification of new gods in order to rationalise the way that Christianity is currently viewed (i.e. not as a legitimate religio). Alluding to a Roman decree which Tertullian argues stated that no god could be deified unless first ratified by the senate, he states that even Marcus Aemilius Lepidus (triumvir along with Octavian and Mark Antony, and the last Pontifex Maximus, high priest, of the Roman Republic) fell afoul of this rule when he wanted his own god Alburnus formally recognised (Tertullian’s source for this information is not known, but he refers to it also in Against Marcion I.18 and To the Nations I.10). The decree which Tertullian cites here is also a matter of speculation, but Cicero, On the Laws XI.19 states the following: “No one shall have gods to himself, be they new gods or alien gods, unless recognised by the state.” Regardless, Tertullian concludes that the Romans rely on human judgement in order to decide what is divine – gods must please men in some way in order to be formally recognised as divine. Relating this issue of legal divine status to Christianity, Tertullian then moves to argue that the emperor Tiberius (who ruled during the lifetime of Christ) in fact unsuccessfully argued on behalf of making Christ a recognised divinity, and was also turned down by the senate. This tradition is also related in the fourth-century by Eusebius, who cites Tertullian’s words, and elaborates that after Christ’s ascension was made known, Pontius Pilate, the governor who had formally ordered Christ’s execution, informed the emperor of his miracles, and that many believed him to be a God (see also Tertullian, Apology XXI). Tertullian and Eusebius claim that Tiberius subsequently came to believe this himself, but his plea to the senate was rejected due to an ancient law. The emperor, however, continued to believe privately, and was not hostile to Christians (see Eusebius, Ecclesiastical History II.2).

The historicity of these claims cannot of course be upheld – the lack of Christian persecution during Tiberius’s time was due to their relative insignificance, rather than any imperial favour. However, Tertullian’s arguments, later repeated by Eusebius, do evidence what had become a tradition in Christian circles of exonerating Pilate of the death of Jesus (instead blaming the Jews), and even extending this to the emperor himself! In the second century CE, the Gospel of Peter also shares this more positive view of Pilate, and it seems that various Acts of Pilate were known which propagated similar views. The fourth-century Latin text known as the Gospel of Nicodemus preserves one such Acts of Pilate, claiming to be from official records kept at the praetorium in Jerusalem, and also found in the earlier Greek Acts of Peter and Paul. The Gospel of Nicodemus has as an appendix a report about Christ purporting to be written from Pilate to the emperor Claudius (that it is addressed to Claudius, not Tiberius, is a curiosity in itself – see Wilhelm Schneemelcher, New Testament Apocrypha, p. 501-502).

In the present passage, Tertullian does not engage in extended exonerative polemic about Pilate, but does draw a contrast between the emperor Tiberius, from Jesus’s own time, and later emperors (namely Nero and Domitian) who persecuted Christians, which Tertullian describes in verses 3 and 4. Tertullian describes Nero and Domitian as “unjust, impious, base, of whom even you yourselves have no good to say” (verse 4), and argues that the Christians rejoiced in being targeted by Nero because he only persecuted that which was “of singular excellence.” In his To the Nations VII.9, Tertullian speaks of an institutum Neronianum, which has led some to suggest that a specific decree against Christians was put in place under Nero’s reign. However, it may simply be that Tertullian is referring to more generalised anti-Christian feeling and practice in this era, and so we cannot use this as a basis for a specific law (see Timothy Barnes, “Legislation,” p. 35; although dated now, see also Jan Borleffs, “Institutum Neronianum” for a specific treatment). Marius Heemstra argues that Tertullian is mistaken when he claims that Domitian stopped the persecution of Christians of his own accord and restored those who had been banished. Rather, this sounds more like Nerva’s policy as described by Cassius Dio, Roman History LXVIII and Eusebius, Ecclesiastical History III.20, 23. Under Domitian’s reign, many Christians had suffered banishment or confiscation of their assets because they were accused of “living a Jewish life,” and thus of being evaders of the Jewish tax (see The Fiscus Judaicus, p. 114, n. 36).

Scholars are divided as to the degree of Christian persecution that occurred under Domitian, with some arguing that there was little to none at all (for example, see Barnes, “Legislation,” who discusses the fragmentary state of the evidence that we possess). Tertullian goes on to state in verse 5 that of all the imperial rulers to date, it is only those lacking in “human and divine wisdom” who have oppressed the Christians. The implication, therefore, is that Tiberius, regardless of the historical reasons for the lack of persecution during his reign, and other emperors too (except for a few malicious ones that even the Romans condemn) are perfectly capable of comprehending the
legitimacy of Christianity.

In order to prove this point, Tertullian next moves to offer the famous example of Marcus Aurelius’s troops (the Legio XII Fulminata, who had a thunderbolt as their emblem) becoming overcome with thirst during their campaign against the Quadi. As the story goes in Christian tradition, Christian soldiers in the army prayed to God for rain, and their request was granted. Cassius Dio, *Roman History* LXXI.8-10 attributes this same miracle to Mercury, called upon by an Egyptian mage! A depiction of the miracle can be seen on the Column of Marcus Aurelius. Eusebius, *Ecclesiastical History* V.4 claims the event was recounted by Claudius Apollinaris, bishop of Hierapolis during the reign of Marcus Aurelius (161-180 CE): “from that time the legion through whose prayers the wonder took place received from the emperor a title appropriate to the event, being called in the language of the Romans the Thundering Legion.” Although Apollinaris attributes the name of the legion to the miracle, the legion bore the name of Legio XII Fulminata already in Augustus’s time (see Cassius Dio, *Roman History* LV.23). It might be that Eusebius, rather than Apollinaris himself, made the mistake. Either way, Tertullian does not refer here to the name of the legion (he also briefly refers to the rain miracle in *To Scapula* IV.6 as part of his argument for how Christianity has benefitted the empire in various ways). The story is useful to Tertullian in the present passage as an example of a Roman emperor witnessing the reality and benevolence of the Christian God.

Tertullian appeals to supposed letters of Marcus Aurelius himself to support his point, and goes on to argue that while he did not attempt to change laws which penalised Christians, he did promise to punish those who accused them. The *First Apology* of Justin Martyr has as an appendix what is likely an inauthentic letter from Marcus Aurelius praising the great bravery and support of Christian soldiers in his campaign in Germany, and asking that the senate decree that Christians not be harmed. The “unjust, vile, bloody, senseless, and insane” laws, as Tertullian sees them (paraphrased from verse 7), were, he claims, inhibited by the emperor Trajan, who forbade the specific seeking out of Christians (for this request of Trajan, directed specifically to Pliny, the governor of Bithynia, see Pliny’s famous *Letter to Trajan* X.96-97). Moreover, Tertullian argues that other emperors, namely Hadrian (Justin also cites a rescript on behalf of the Christians attributed to him; see *First Apology* LXVIII.1-LXX.4), Vespasian, Antoninus Pius, and Verus (likely referring to Marcus Aurelius) did not enforce such laws against Christianity. When he asks rhetorically in verse 7 “What sort of laws are these which the impious (i.e. Nero and Domitian) alone execute against us,” Tertullian suggests that the Roman imperial attitude to Christianity has only been overwhelmingly bad on the part of a couple of bad emperors, whom in verse 8 he states should not be allowed by the other “good princes” of the empire to have a continuing influence. Rather, these persecutors should be condemned by Christians and Romans alike, as their impiety is not fitting with the majority of Roman emperors.

Essentially, the apologetic rhetoric of this passage seeks to convince that Rome and Christianity are not enemies; in fact, they share a common foe – impious persecuting emperors. As elsewhere in his writings, Tertullian wishes to show that Rome’s imperial rulers are rational enough to understand that Christianity is not a threat to the empire – quite the opposite when miracles such as that of the “Thundering Legion” are considered.

Keywords in the original language:

- Caesar
- Christianus
- consecro
- damnatio
- debellator
- decretum
- divinitas
- ferocio
- Germanicus
- gladius
- glorior
- imperator
- impius
- iustius
- iudico
- lex
miles
princeps
Roma
saeculum
senatus

Thematic keywords in English:

Antoninus Pius
decree
Domitian
impiety
Legio XII Fulminata
Marcus Aurelius
miracle
Nero
persecution
Pontius Pilatus
prayer
Roman emperor
Roman law
senate
Tiberius
Vespasian

Bibliographical references:  Rankin, David Ivan, From Clement to Origen: The Social and Historical Context of the Church Fathers (Aldershot: Ashgate, 2006)
Wilhite, David E., Tertullian the African (Berlin: Walter de Gruyter, 2007)
Borleffs, Jan Willem Philip, "Institutum Neronianum", Vigiliae Christianae 6.3 (1952) : 129-145
Heemstra, Marius, The Fiscus Judaicus and the Parting of the Ways (Tübingen: Mohr Siebeck, 2010)

Other sources connected with this document:

Justin Martyr, First Apology LXVIII.1-LXX.4

Hadrian’s Rescript to Minucius Fundanus
Read more about Justin Martyr, First Apology LXVIII.1-LXX.4

Realized by:

Kimberley Fowler

Source URL: http://www.judaism-and-rome.org/tertullian-apology-v