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THE VIOLATION OF CHRISTIAN GRAVES IN THE LIGHT OF EUSEBIUS'S *ECCLESIASTICAL HISTORY* VIII, 6, 6–7*

Abstract. The main focus of the article are the reasons and circumstances behind the desecration of the graves of the Christians in Nicomedia in the year 303, as presented in Eusebius's account. A short time before that, another wave of persecutions directed at Christians had begun there on the order of Emperor Diocletian. When a fire broke out in the imperial palace, Christians were named as responsible for setting the fire (*incendium*). After they had been sentenced to the death penalty, they were executed by beheading with a sword (*decapitatio*), burning alive (*crematio, vivicomburium*) or drowning. However, as we can read in the *Ecclesiastical History*, the repression did not end there, as it was decided that the bodies of the convicts were to be exhumed and thrown into the sea. The current article aims at analyzing the above events from the perspective of regulations and customs observed by the Romans with reference to convicts and their bodies. Moreover, while rejecting Eusebius's claim that the desecration of the graves was dictated by the fear that the burial ground of the martyrs might lead to the development of their cult, the article analyzes the possible motives for attempting to eradicate all the traces of the executed Christians on the side of the Roman authorities. With the aid of Lactantius's account, the article discusses, among others, the concept of treating Christians as enemies (*hostes*).

Keywords: Eusebius, Nicomedia, *incendium*, status of the grave, exhumation of the body

Introduction

If one were to choose one of the symbols of the short reconciliation between the Roman authorities and Christians after Emperor Gallienus recognized the legality of Christian communities¹, it could be the church in Nicomedia. It was built within the city walls and, what is more, it was visible from the windows

* The article is a result of a research project registered by the number 2016/21/B/ HS5/01843, financed with a grant from the National Science Centre.

¹ Approximately since 262 Emperor Gallian accepted the legality of Christian communities, who were returned the places of their cult and cemeteries, as well as allowed the limited activity in the form of associations. Cf. W.H.C. FRENCH, *The Failure of the Persecutions in the Roman Empire*, PP 16.1, 1959, p. 10–30; R. SELINGER, *The Mid-Third Century Persecutions of Decius and Valerian*, Frankfurt am Main 2002, p. 94–96.

of the palace. Therefore, it could be clearly perceived as a sign of peace. The new, more spacious church served the needs of the growing community of Christians². However, when at the beginning of the 4th c. the temporary peace started to falter and came to an end, the building also collapsed³.

Towards the end of his rule, Emperor Diocletian initiated subsequent, intensified persecutions of the Christians⁴. At first, the ill-treatment was directed at soldiers, officials and clergy, who were the easiest to identify. Christians were relegated from both military ranks and public offices, whereas those of noble birth were downgraded in their status to that of *humiliores*⁵. In fact, the actions of the authorities did not spare broad sections of the general population⁶. The edicts issued against

² EUSEBIUS, *Historia Ecclesiastica*, VIII, 1, 5, [in:] EUSEBIUS, *Ecclesiastical History*, vol. II, Books 6–10, trans. J.E.L. OULTON, London–Cambridge 1932 [= LCL, 265] (cetera: EUSEBIUS, *Historia Ecclesiastica*) emphasized that old buildings were not sufficient, so new, bigger churches were built in the cities.

³ According to Eusebius, the persecutions in Nicomedia were perceived as God's judgement upon Christians for their hypocrisy and internal disputes. D.J. KYRTATAS, *Religious Conflict in Roman Nicomedia*, [in:] *Urban Interactions. Communication and Competition in Late Antiquity and the Early Middle Ages*, ed. M.J. KELLY, M. BURROWS, New York 2020, p. 166.

⁴ Naturally, the scale of the persecutions varied, depending on various factors – the region or the will of the ruler. For academic discussions on the Great Persecution, cf.: A. MOMIGLIANO, *Pagan and Christian Historiography in the Fourth Century A.D.*, [in:] *The Conflict between Paganism and Christianity in the Fourth Century*, ed. IDEM, Oxford 1963, p. 90–92; K.H. SCHWARTE, *Diokletians Christengesetz*, [in:] *E fontibus haurire. Beiträge zur römischen Geschichte und zu ihren Hilfswissenschaften*, ed. R. GÜNTHERAND, S. REBENICH, Paderborn 1994 [= SGKA, 8], p. 203–40; P.S. DAVIES, *The Origin and Purpose of the Persecution of AD 303*, *JTS* 40.1, 1989, p. 66–94; G. CLARKE, *Third-century Christianity*, [in:] *CAH*, vol. XII, Cambridge 2005, p. 651.

⁵ The dichotomy *honestiores* – *humiliores* had a significant importance on the grounds of criminal law. People of low social status (*humiliores*) could be given harsher punishments, aimed at the additional humiliation of the perpetrator. More or less from the times of Hadrian, in the imperial rescripts there appear double standards in the punishments of wrongdoers, e.g. for the same crime *honestiores* would receive the punishment of deportation and *humiliores* the punishment of death. Cf. O.F. ROBINSON, *Penal Practice and Penal Policy in Ancient Rome*, London 2007, p. 195. Additionally, it was prohibited to punish *honestiores* with the capital punishment through crucifixion, burning alive or being thrown to beasts to be eaten. Cf. P.A. BRUNT, *Evidence given under Torture in the Principate*, *ZSSR.RA* 97.1, 1980, p. 256–265. In rare cases, representatives of the upper social classes were sentenced to *decapitatio*. Torture, such as flogging, was reserved mostly for the lower classes. *Digesta Iustiniani*, XLVIII, 19, 28, 2, [in:] *Corpus Iuris Civilis*, vol. I, ed. T. MOMMSEN, P. KRÜGER, Berolini 1954 (cetera: *Dig.*); P. GARNSEY, *Legal Privilege in the Roman Empire: Introduction*, *PP* 41.1, 1968, p. 13–14.

⁶ In accordance with the dating of the first edicts, it should be assumed that it was not before the fourth act of 304 that the official persecutions directed at the whole Christian community began. H.M. GWATKIN, *Notes on Some Chronological Questions connected with the Persecution of Diocletian*, *EHR* 13.51, 1898, p. 500; G.E.M. DE STE. CROIX, *Aspects of the "Great" Persecution*, *HTR* 47.2, 1954, p. 75–77. However, admitting one's faith in Christ (*nomen Christianum*) and a refusal to offer a sacrifice to the gods was punished by death already before. Cf. T.D. BARNES, *Legislation against*

Christians imposed several measures, such as the closing of churches, confiscation and destruction of the holy books, as well as the prohibition of gatherings⁷.

In its scale and form, this period of the persecutions exceeded the former ones. New and previously unknown forms of repressions appeared. The ruler's wrath was directed not only against the living, but also against the dead. In this context, it is worth referring to the description of the events, which began on 23 February 303 in Nicomedia⁸. On the emperor's orders, the above-mentioned church was destroyed. According to Lactantius, the whole operation was concluded within one day and was observed by Diocletian and Galerius from the windows of the palace. The rulers were also apparently debating whether the building should not rather be burnt, but this idea did not prevail for fear of spreading the fire onto the city⁹. In response to the actions of authorities, one of the Church dignitaries was to tear up the imperial edict in public¹⁰. Soon after that, a fire broke out in the palace and the Christians were accused of starting it, under the claim that they were acting in revenge. Therefore, it is not entirely unexpected that they were sentenced to death. What is surprising, however, is that after their bodies had been buried, it was decided to exhume them. In order to understand the exceptional character of those events, they should be seen in the context of Roman legal regulations, including the right to burial, inviolability of the burial grounds, as well as from the socio-religious perspective, taking into account both old Roman beliefs and Christian mentality. The article will also focus on the charges against the Christians and the punishments imposed on them. Finally, it will also present the potential hypothesis as to why the violation of the burial ground occurred.

the Christians, JRS 58.1–2, 1968, p. 32–50; P.S. DAVIES, *The Origin...*, p. 74; D. FLACH, *Die römischen Christenverfolgungen. Gründe und Hintergründe*, Hi 48.4, 1999, p. 442–464. The persecutions were doubly motivated: for once religiously, as in accordance with the official propaganda Christians disturbed the cult of emperors as gods, and also politically, as the incident brought with itself threats of disturbance of state celebrations. L.F. JANSSEN, 'Superstitio' and the Persecution of the Christians, VC 33.2, 1979, p. 133.

⁷ A.H.M. JONES, *The Later Roman Empire*, vol. I, Oxford 1964, p. 71–72.

⁸ The date was not chosen by Diocletian by accident – on that day fell a celebration of *Terminalia*, a festival devoted to the god of the borders. Cf. R.M. GRANT, *Augustus to Constantine. The Rise and Triumph of Christianity in the Roman World*, New York 1970, p. 229–230; A.D. NOCK, *The Roman Army and the Roman Religious Year*, HTR 45.4, 1952, p. 232.

⁹ LACTANTIUS, *De mortibus persecutorum*, XII, [in:] LACTANTIUS, *De mortibus persecutorum. Die Todesarten der Verfolger*, ed. et trans. A. STÄDELE, Turnhout 2003 [= *FCh*, 43] (cetera: LACTANTIUS, *De mortibus persecutorum*).

¹⁰ EUSEBIUS, *Historia Ecclesiastica*, VIII, 5; LACTANTIUS, *De mortibus persecutorum*, XIII. Neither of the writers provided the name of the brave protester and it might have resulted from the fact that the majority of Church dignitaries condemned voluntary martyrdom. This act might have also impacted the strength of the future attacks on Christians. D.J. KYRTATAS, *Religious Conflict...*, p. 167.

Setting Fire to the Palace in Nicomedia in 303

The sources of knowledge about the persecutions of Christians after the fire include Lactantius's *On the Death of the Persecutors* and Eusebius's *Ecclesiastical History*. Lactantius pointed out to the plotting of Galerius and his agents as those that might stand behind the fire in the palace. The co-ruler is presented here as if he were a new Nero, turning Christians into public enemies through his insidious actions (*Christiani arguebantur velut hostes publici*)¹¹.

According to Christian authors, the reaction of the authorities to the fire was instantaneous¹². Eusebius wrote that

by the imperial command the God-fearing persons there, whole families and in heaps, were in some cases butchered with the sword; while others were perfected by fire, when it is recorded that men and women leaped upon the pyre with a divine and unspeakable eagerness. The executioners bound a multitude of others, and [placing them] on boats threw them into depths of the sea¹³.

Lactantius pointed out to the same measures that were adopted as punishment.

The accusation of the Christians and the dimension of the punishments should not come as a surprise – this *crimen* in a special way posed a threat to the city and the whole community. The fear of fire was one of the most deeply-ingrained anxieties. Fire inevitably brought damage to city dwellers, as well as undermined public security. The perpetrators of intentional setting fire (*incendium*) to municipal buildings were punished with death. According to Gaius, since the *Law of the Twelve Tables*, the death penalty was executed by burning the tied and previously flogged culprits¹⁴. A similar sanction was included in *lex Cornelia de sicariis et veneficis*,

¹¹ On reading Lactantius's account, one may be under the impression that the figure of Diocletian was absolved from blame in those events. The placing of guilt on Galerius was initiated as a tactics intended to whitewash Diocletian himself, presented by the Christians as a ruler with aversion to violence (LACTANTIUS, *De mortibus persecutorum*, XI, 3), and only towards the end of his life turning excessively suspicious. LACTANTIUS, *De mortibus persecutorum*, XIII, 3; W.L. LEADBETTER, *Galerius and the Will of Diocletian*, New York 2009, p. 130–132.

¹² LACTANTIUS, *De mortibus persecutorum*, XIV, 3. K.H. SCHWARTE, *Diokletians Christengesetz...*, p. 213. (LACTANTIUS, *De mortibus persecutorum*, XI, 3), cf. P.S. DAVIES, *The Origin...*, p. 70; W.A. LÖHR, *Some Observations on Karl-Heinz Schwarte's 'Diokletian's Christengesetz'*, VC 56.1, 2002, p. 76. Galerius's illness towards the end of his life (gangrene and bleeding ulcers) turned him into a living dead – the ancient authors presented those conditions as typical of persecutors (such as Herod or Antioch IV). Cf. G.E.M. DE STE. CROIX, *Aspects...*, p. 109.

¹³ EUSEBIUS, *Historia Ecclesiastica*, VIII, 6, 6: παγγενεῖ σωρηδὸν βασιλικῶ νεύματι τῶν τῆδε θεοσεβῶν οἱ μὲν ξίφει κατεσφάττοντο, οἱ δὲ διὰ πυρὸς ἐτελειοῦντο, ὅτε λόγος ἔχει προθυμία θεία τινὶ καὶ ἀρρήτῳ ἄνδρα ἅμα γυναιξίν ἐπὶ τὴν πυρὰν καθαλέσθαι· δῆσαντες δὲ οἱ δῆμοι ἄλλο τι πλῆθος ἐπὶ σκάφαις τοῖς θαλαττίοις ἐναπέριπτον βυθοῖς.

¹⁴ *Dig.*, XLVII, 9, 9.

without excluding, however, alternative means of executing capital punishment¹⁵. Paulus wrote that arsonists were sentenced to the death penalty without hesitation (*facile capite puniuntur*)¹⁶. Ulpian emphasized that even though *lex Cornelia* imposed the punishment of *aquae et igni interdictio* on arsonists, in practice the penalties were varied¹⁷.

Those accused of setting fire to the imperial palace were treated correspondingly and yet the acts of aggression and cruelty that the Christians of Nicomedia were subjected to were unprecedented in its character. The imperial persecutions did not end with the execution of the death penalty – by beheading, burning alive or throwing the convicts into the sea. A new oppressive measure was added to them:

As to the imperial slave servants, whose bodies after death had been committed to the ground with fitting honours, their reputed masters, starting afresh, deemed it necessary to exhume them and cast them into the sea, lest any, regarding them as actually gods (so at least they imagined), should worship them as they lay in their tombs [...]¹⁸.

It is especially interesting that such events were explained as being committed for fear that the burial places of the martyrs might be later treated as places of their cult as gods. Eusebius suggested therefore that Diocletian could have taken the decision to unbury the dead after he was informed that the graves of the convicts had started to attract followers.

¹⁵ *Dig.*, XLVIII, 19, 28, 12.

¹⁶ *Pauli Sententiae*, V, 20, 1, [in:] *Fontes iuris Romani anteiustiniani*, vol. II, ed. S. RICCOBONO, Florentiae 1964 (cetera: *Paul. Sent.*).

¹⁷ Representatives of the lowest social strata were sentenced to be killed by wild animals, persons of a higher social status were punished with capital punishment or exile. *Collatio legum Mosaicarum et Romanarum*, XII, 5, 1, [in:] *Fontes iuris Romani anteiustiniani*, vol. II, ed. S. RICCOBONO, Florentiae 1964. Cf. G. KLEINFELLER, s.v. *incendium*, [in:] *RE*, vol. IX.2, col. 1244–1245.

¹⁸ EUSEBIUS, *Historia Ecclesiastica*, VIII, 6, 7–8: τοὺς δὲ γε βασιλικούς μετὰ θάνατον παῖδας, γῆ μετὰ τῆς προσηκούσης κηδείας παραδοθέντας, αὐθις ἐξ ὑπαρχῆς ἀνορύξαντες ἐναπορρίψαι θαλάττῃ καὶ αὐτοὺς φόντο δεῖν οἱ νενομισμένοι δεσπότες, ὡς ἂν μὴ ἐν μνήμασιν ἀποκειμένους προσκυνοῖέν τινες, θεοὺς δὴ αὐτοῦς, ὡς γε φόντο, λογιζόμενοι. Καὶ τὰ μὲν ἐπὶ τῆς Νικομηδείας κατὰ τὴν ἀρχὴν ἀποτελεσθέντα τοῦ διωγμοῦ τοιαῦτα. The term βασιλικῶ denotes courtiers belonging to the imperial household, members of the *familia Caesaris*. *Diccionario Griego-Español*, vol. IV, ed. F.R. ADRA-DOS, Madrid 1994, p. 694–695. This concept does not refer to a person's *status libertatis*. M.S. SHIN (*The Great Persecution. A Historical Re-Examination*, Turnhout 2018, p. 112–117) observes that one of the claims postulated by scholars with regard to the content of the edict and its consequences for the Christians entailed *the re-enslavement of the members of the imperial household who persisted in their adherence to Christianity* (p. 115). This hypothesis is based merely on the account of EUSEBIUS, *Historia Ecclesiastica*, VIII, 2, 4–5, where he points out that οἰκεῖα denotes *those in households [who] would be deprived of their liberty* (trans. J.E.L. OULTON, p. 259). This term can also be interpreted as familial, private or domestic, denoting somebody who does not devote his life to holding office or authority. In fact, in his account Eusebius juxtaposes those who hold office and lose it to those whose spend their lives in households. Cf. *LSJ*, p. 1202.

The right to the grave

Jurists of the classical period emphasized that even though as a rule every person had the right to possess a grave and be buried in it¹⁹, still, in the cases of persons sentenced to the death penalty this right was not always abided by²⁰. In the Digest, in the title *De cadaveribus punitorum* one can find a principle that *the bodies of executed persons are to be granted to any who seek them for burial*²¹. The constitution of Diocletian and Maximian of 290 expresses a similar message: *we do not forbid burial of persons guilty of a crime and deservedly punished*²². Ulpian also emphasized that already in the times of Emperor Augustus there was a custom that the bodies of the convicts were to be handed over to the relatives²³, however, it did not happen so in every case.

The handing over of the bodies of the deceased convicts was possible only after an appropriate request to the emperor was made²⁴. Such a request could be made by relatives, but apparently it was possible for any other person to make it²⁵. An answer in the positive was treated as an act of clemency²⁶. At least since the times of Severus and Caracalla there were some restrictions in force: *Today, however, the bodies of those who are executed are not buried otherwise than if this had been sought and granted. But sometimes it is not allowed, particularly [with the bodies] of those condemned for treason*²⁷. The bodies of the executed criminals were usually

¹⁹ Most of all, everybody had the right to be buried in a grave which belonged to him or his family. Such a right could be written in the legate. *Dig.*, XI, 8, 1, 7 (Ulpianus 68 *ad ed.*): *Facere sepuchrum sive monumentum in loco, in quo ei ius est, nemo prohibetur.*

²⁰ Refusal to bury a criminal had its beginnings in archaic times and it was not only a Roman custom. Plato in his *Laws* suggested that criminals should not only be deprived of life but they should also be sentenced to damnation by leaving them without burial. PLATO, *Nóμοι*, 874b, [in:] PLATO, *Laws*, vol. II, *Books VII–XII*, trans. R.G. BURY, London–Cambridge 1926 [= LCL, 192].

²¹ *Dig.*, XLVIII, 24, 3: *Corpora animadversorum quibuslibet petentibus ad sepulturam danda sunt.*

²² *Codex Iustinianus*, III, 44, 11, [in:] *Corpus Iuris Civilis*, vol. II, ed. P. KRUEGER, Berolini 1954 (cetera: CJ): *Obnoxios criminum digno supplicio subiectos sepulturae tradi non vetamus.*

²³ *Dig.*, XLVIII, 24, 1: *Corpora eorum qui capite damnantur cognatis ipsorum neganda non sunt: et id se observasse etiam divus augustus libro decimo de vita sua scribit [...].*

²⁴ Or the governor of the province. M. KURYŁOWICZ, *De cadaveribus punitorum. Das römische Recht über die Leichen von wegen der Straftaten gegen den Staat verurteilten Personen*, [in:] *Scripta minora selecta. Ausgewählte Schriften zum Römischen Recht*, Lublin 2014, p. 170.

²⁵ A well-known example of a request for the body of an executed person is the story of Joseph of Arimatea, who had no problem in obtaining Pilate's consent to take the body of Jesus. (Mc XV, 42–46; Mt XXVII, 57–60; Lc XXIII, 50–56; Io XIX, 38–42, https://www.vatican.va/archive/bible/nova_vulgata/documents/nova-vulgata_index_it.html [14 IV 2022]). For Christians this story served as a model behaviour to imitate. Cf. B. BIONDI, *Il diritto romano cristiano II*, Milano 1952, p. 253; E. REBILLARD, *The Care of the Dead in Late Antiquity*, Ithaca 2009, p. 101–107.

²⁶ V. CAPOCCI, *Sulla concessione e sul divieto di sepoltura nel mondo romano ai condannati a pene capitale*, SDHI 22, 1956, p. 267.

²⁷ *Dig.*, XLVIII, 24, 1: [...] *hodie autem eorum, in quos animadvertitur, corpora non aliter sepeliuntur, quam si fuerit petitum et permisum, et nonnumquam non permittitur, maxime maiestatis causa damnatorum [...].* Cf. *Dig.*, XXXVIII, 16, 1, 3.

placed in mass graves. The family had no right to organize a funeral for them. It was one of the elements of the *damnatio memoriae*²⁸.

When death is not the end of the punishment

The threat of dishonouring the body by refusing to bury the dead was occasionally resorted to by the Romans over the course of the centuries. Taking revenge on the dead was considered to be the ultimate form of humiliating them²⁹. The disgracing of the bodies of Christians occurred also before the events in Nicomedia. Eusebius described events which occurred in Lyon during the reign of Marcus Aurelius³⁰:

For those who had been strangled in the jail they threw to the dogs, and watched carefully night and day that none should be cared for by us. Then they threw out the remains left by the beasts and by the fire, torn and charred, and for many days watched with a military guard the heads of the rest, together with their trunks, all unburied [...] »Thus the bodies of the martyrs, after having been exposed and insulted in every way for six days, and afterwards burned and turned to ashes, were swept by the wicked into the river Rhone which flows nearby [...]«³¹.

In the opinion of the bishop of Caesarea, such behaviour was intended to deprive the dead of the hope for resurrection and to render their earthly efforts to earn salvation as futile. Such a sight would definitely have a demoralizing effect on others. However, such an aim could not have been defined by the Romans who were imperious to the nuances of the Christian religion. It is more probable, though, that they acted in such way on account of their own beliefs. Eusebius also mentions that the emperor decided – typically – that only those who did not renounce their faith were to be sentenced to death³². He also suggested that all further actions were taken upon the initiative of the Roman governor and the people who “showed the unrighteous hatred”³³, which consequently resulted in an exceptional cruelty

²⁸ E. VOLTERRA, *Processi penali contro i defunti in diritto Romano*, RIDA 3, 1949, p. 485–500.

²⁹ F. VITTINGHOFF, *Der Staatsfeind in der römischen Kaiserzeit*, Berlin 1936, p. 45.

³⁰ EUSEBIUS, *Historia Ecclesiastica*, V, 1, 59–63. Cf. C.J. FUHRMANN, *Policing the Roman Empire. Soldiers, Administration and Public Order*, Oxford 2012, p. 187, n. 58. The citations in Eusebius's text supposedly come from the documents prepared in the times, in which the given events happened (circa. 177 AD). EUSEBIUS, *Historia Ecclesiastica*, V, 1, 1–2.

³¹ EUSEBIUS, *Historia Ecclesiastica*, V, 1, 59–63: καὶ γὰρ τοὺς ἐναποπιγνέντας τῇ εἰρκτῇ παρέβαλλον κυσίν, ἐπιμελῶς παραφυλάσσοντες νύκτωρ καὶ μεθ' ἡμέραν μὴ κηδευθῆ τις ὑφ' ἡμῶν· καὶ τότε δὴ προθέντες τὰ τε τῶν θηρίων τὰ τε τοῦ πυρὸς λείψανα, πῆ μὲν ἐσπαραγμένα, πῆ δὲ ἠνθρακευμένα, καὶ τῶν λοιπῶν τὰς κεφαλὰς σὺν τοῖς ἀποτμήμασιν αὐτῶν ὡσαύτως ἀτάφους παρεφύλαττον μετὰ στρατιωτικῆς ἐπιμελείας ἡμέραις συχναῖς. [...] τὰ οὖν σώματα τῶν μαρτύρων παντοίως παραδειγματισθέντα καὶ αἰθριασθέντα ἐπὶ ἡμέρας ἕξ, μετέπειτα καέντα καὶ αἰθαλωθέντα ὑπὸ τῶν ἀνόμων κατεσαρώθη εἰς τὸν Ῥοδανὸν ποταμὸν πλησίον παραρρέοντα, ὅπως μὴδὲ λείψανον αὐτῶν φαίνηται ἐπὶ τῆς γῆς ἔτι.

³² EUSEBIUS, *Historia Ecclesiastica*, V, 1, 47.

³³ EUSEBIUS, *Historia Ecclesiastica*, V, 1, 58.

demonstrated in a specific form – as addressed at the bodies of the dead³⁴. The sources indicate that the desecration of the bodies was occasionally an element of execution rites³⁵. The description of the events from Lyon brings to mind an association with the ritual procedure against the people sentenced to death whose corpses were dragged onto the Gemonian Stairs and then drowned in the Tiber. Both cases also speak of strangulation in prison (*carcer*). The above sources present a simple pattern: conviction, the death penalty, desecration of the bodies and their drowning. It was all executed in such an efficient and swift manner that it could be presumed that the lack of burial was an integral part of the dishonourable death penalty. After death, the corpse of the convict remained at the disposal of the state authorities and unauthorized taking away of such bodies was punishable. The events at Lyon seem to be in line with this course of procedure.

The fate of the bodies of convicts from Nicomedia

Nevertheless, the events at Nicomedia turned out to be more dramatic than the above. Eusebius indicates that the executed palace attendants were buried in accordance with the regular rituals. Therefore, it should be assumed that their bodies were released for burial. However, he does not make it clear whether it concerned all the corpses or perhaps only those who were sentenced to decapitation with the sword. *Decapitatio* was the only one of the applied punishments that was not degrading in its character. As a result, it should be reflected whether the beheading of the courtiers from Nicomedia, described by Eusebius with the term βασιλικῶ, was not in fact connected with their social status³⁶. Lactantius also observes that the authorities treated the convicts in a different way. His words about the previously powerful palace eunuchs who were executed (*potentissimi quondam eunuchi necati*) might point to the death by the sword as appropriate for those holding an office at the imperial court. Next, he refers to the presbyters and deacons who were sentenced to death together with their families without collecting evidence or obtaining their confession. Presumably, they were put to death by burning. Further, the historian informs that the *domestici* were thrown into the sea³⁷.

³⁴ EUSEBIUS, *Historia Ecclesiastica*, V, 1, 57.

³⁵ TACITUS, *Annales*, V, 9; VI, 25, [in:] TACIT, *Annals, Books 4–6, 11–12*, trans. J. JACKSON, London–Cambridge 1937 [= LCL, 312]; Suetonius, *Tiberius*, 75, [in:] Suetonius, *Lives of the Caesars*, vol. I, *Julius. Augustus. Tiberius. Gaius. Caligula*, trans. J.C. Rolfe, praef. K.R. Bradley, London–Cambridge 1914 [= LCL, 31]; Sidonius Apollinaris, *Epistulae*, I, 7, 12, [in:] Sidonius, *Poems. Letters, Books 1–2*, trans. W.B. Anderson, London–Cambridge 1936 [= LCL, 296] (cetera: Sidonius Apollinaris, *Epistulae*); Cf. W.D. Barry, *Exposure, Mutilation, and Riot: Violence at the “Scalae Gemoniae” in Early Imperial Rome*, GR 55.2, 2008, p. 223–224.

³⁶ With regard to Eusebius’s account (VIII, 2, 4–5) and the probable loss of freedom by the imperial attendants, the punishment of beheading with a sword appears to be utterly inadequate here. The same is true for the expression that they were buried with the fitting honours. Therefore, it seems that one cannot translate βασιλικῶ and οἰκεῖται in a literal way.

³⁷ Lactantius, *De mortibus persecutorum*, XV, 2.

A passage of book VIII of the *Ecclesiastical History* does not provide any details concerning decapitation with the sword (ξίφει κατεσφάττοντο). Therefore, it is worth juxtaposing it with other sources regarding similar executions of Christians. Saint Cyprian, a bishop of Carthage, was sentenced to death in 258 and the sentence was executed by means of decapitation. *Acta Proconsularia Sancti Cypriani* include a short description of the very execution from which it transpires that it was conducted without disrespecting the dignity of the convict³⁸. He was left in clothing, without being tied and his death was not preceded by flogging³⁹. After his death, his body was left on public display. However, under the cover of the night, it was taken away and he was given a proper burial⁴⁰. In his account, Eusebius refers to a collective character of the execution, which, nevertheless, does not exclude a respectful treatment of the convicts. There is no mention of leaving human remains – severed heads or parts of the body – on public display even for a short time⁴¹. Lactantius's description suggests not so much a mass execution, in the sense of gathering and putting to death a group of people, but a more dynamic manner of executing the death penalty – the hunting for further victims and the massacre of the co-believers.

The fate of the remains of Christians sentenced to *crematio (vivicomburium)*⁴² raises a number of questions. The courtiers of Nicomedia were also subjected to this punishment⁴³, imposed usually on the people coming from the lower social classes⁴⁴, including the cases of arson⁴⁵: *Arsonist who start fires within a built-up area for enmity or for gain are subject to capital punishment; generally, they are burned alive*⁴⁶.

³⁸ *Acta Proconsularia Sancti Cypriani*, IV (V), [in:] S. Thasci Caecili Cypriani Opera Omnia, vol. III.1, Vindobonae 1866 [= CSEL], p. 110–114, <https://archive.org/details/corpuscriptoru16wissgoog/page/n125/mode/2up> [13 IV 2022].

³⁹ A different picture of the course of the execution from the one painted by Th. Mommsen is presented by M. Jońca in the light Christian sources and iconographic material. M. JOŃCA, «Decollatio»: *New Materials, New Perspective*, IX 47, 2019, p. 339–347. Cf. T. MOMMSEN, *Römisches Strafrecht*, Berlin 1899, p. 916–918.

⁴⁰ V. HUNINK, *St Cyprian, a Christian and Roman Gentleman*, [in:] *Cyprian of Carthage. Studies in his Life, Language, and Thought*, ed. H. BAKKER, P. VAN GEEST, H. VAN LOON, Leuven–Paris–Walpole, MA 2010, p. 29–41.

⁴¹ Describing the events from Lyon, Eusebius writes separately about the heads and headless bodies. EUSEBIUS, *Historia Ecclesiastica*, V, 1, 59. The issues regarding the treatment of the severed head of the convict are discussed by M. JOŃCA, «Decollatio»..., p. 341–342.

⁴² This penalty is also described as *vivus exuri* or *igni necari*. Cf. *Dig.*, XLVIII, 13, 7; XLVII, 9, 9.

⁴³ According to Lactantius, Diocletian not only ordered to murder all his subjects (*suos protinus*) but he was also present during their executions, including the burnings. LACTANTIUS, *De mortibus persecutorum*, XIV, 3–4.

⁴⁴ *Dig.*, XLVIII, 19, 28, 11.

⁴⁵ As well as treason, desertions from the military, rebellions, adultery or in the case of committing the *maiestas* or *sacrilegium*. Cf. T. MOMMSEN, *Römisches Strafrecht*..., p. 588.

⁴⁶ *Dig.*, XLVIII, 19, 28, 12: *Incendiarrii capite puniuntur, qui ob inimicitias vel praedae causa incendierint intra oppidum: et plerumque vivi exuruntur.*

This punishment was executed in public⁴⁷. It was commonly preceded by flogging intended to humiliate the convicts⁴⁸. Next, the convict was tied – or nailed – to a post covered with wood and, stripped of his clothing, he was burned⁴⁹. Theoretically, as Ulpian⁵⁰ indicates, the family of the convict could ask for the ashes of the convict to be returned to them for burial: *The bodies of those condemned to be burned can also be sought so that the bones and ashes can be collected and handed over for burial*⁵¹. Eusebius's account does not include such details. According to Lactantius, single executions were not carried out in Nicomedia, but all convicts were driven into a single circle of fire (*nec singuli, quoniam tanta erat multitudo, sed gregatim circumdato igni ambiebantur*)⁵². In this context, it is also worth reflecting on another passage of the *On the Deaths of the Persecutors* describing the actions of Maximian, who was co-ruling with Diocletian as an *august* and in actual fact ruled the western part of the empire⁵³. One can find there a significant element of the execution through burning. The bodies of convicts, gradually tortured to death on the so-called slow fire were then thrown onto the stake and burnt in order to get rid of the more sizeable remains. The bones were then collected, ground and next the ashes were disposed of into the river or the sea (*lecta ossa et in pulverem comminuta iactabantur in flumina ac mare*)⁵⁴. As can be observed, even after the second burning, the problem of the bodily remains was still present⁵⁵. Referring to a letter describing the martyrdom of Polycarp, Eusebius argues that even then it was possible to collect the remains of the dead bodies to organize a funeral. By a centurion's decision, Polycarp's corpse was not given to the Christians, but burnt. However, later the faithful collected his remains and buried them in an appropriate place where they could gather and celebrate the day of his martyrdom as a "day of birth"⁵⁶. Neither the content of the letter, as included in the *Ecclesiastical History* nor an account of the story preserved as a separate source differ significantly in the given text. Nevertheless, in the literature of the subject there are suggestions

⁴⁷ H. HITZIG, s.v. *crematio*, [in:] *RE*, vol. IV.2, col. 1701.

⁴⁸ In this case flogging was treated not as a separate punishment, but as an additional punitive measure, making the overall punishment more acute. Cf. G. MACCORMACK, *Criminal Liability for Fire in Early and Classical Law*, IX 3, 1972, p. 382–383; D.G. KYLE, *Spectacles of Death in Ancient Rome*, London–New York 1998, p. 32.

⁴⁹ H. HITZIG, s.v. *crematio*..., col. 1701.

⁵⁰ *Dig.*, XLVIII, 19, 28, 11.

⁵¹ *Dig.*, XLVIII, 19, 24, 1: [...] *eorum quoque corpora, qui exurendi damnantur, peti possunt, scilicet ut ossa et cineres collecta sepulturae tradi possint.*

⁵² LACTANTIUS, *De mortibus persecutorum*, XV, 3.

⁵³ Lactantius accused Maximian of depriving the mighty citizens of their status (*in primis honores ademit*). He also indicated that a punishment for the *humiliores* was burning.

⁵⁴ LACTANTIUS, *De mortibus persecutorum*, XXI, 11.

⁵⁵ D.G. KYLE, *Spectacles*..., p. 171.

⁵⁶ EUSEBIUS, *Historia Ecclesiastica*, IV, 15, 43–44.

that the letter might have been subject to editorial corrections and adjusted to the existing reality of the time when the cult of the saints was developing⁵⁷. With reference to the writings of the jurists, it seems more probable that the remains of the convicts of Nicomedia who were burnt at the stake were eventually thrown into the sea. If the permission to bury the corpses had been given, Eusebius would have certainly taken notice of that.

A group of convicts was punished by being tied and cast into the sea to drown. Lactantius adds that the convicts had stones hung around their necks (*domestici alligatis ad collum molaribus mari mergebantur*)⁵⁸. Legal sources do not mention this kind of self-contained form of execution, but drowning was the last, integral element of the *poena cullei*, a punishment which consisted of sewing up the convict in a bag together with animals⁵⁹. There are several examples when this form of punishment or its modification was imposed in the persecutions of Christians⁶⁰. According to John Chrysostom, around the year 305, Saint Julian of Antioch was to be sewn up in a bag with scorpions and thrown into the sea⁶¹. However, the description of this event does not include information about other elements of the punishment. Undoubtedly, the drowning of the convicts was a means to purify the community as some people were perceived exactly as a specific form of impurity. The list included the perpetrators of some crimes or persons declared as public enemies⁶².

⁵⁷ E. WIPSYCKA, *Kościół w świecie późnego antyku*, Warszawa 1994, p. 322–326.

⁵⁸ LACTANTIUS, *De mortibus persecutorum*, XV, 3.

⁵⁹ This penalty was in use since the times of the Roman Republic. Literary sources indicate that it continued to be imposed as late as the 3rd c. (APULEIUS, *Metamorphoses*, X, 8, [in:] APULEIUS PLATONICUS MADAURENSIS, *Opera quae supersunt*, vol. I, ed. R. HELM, Berlin–Boston 2013 [= BSGR]; SIDONIUS APOLLINARIS, *Epistulae*, XXIII, 1, and Constantine I recalled it in his rescript. *Codex Theodosianus*, IX, 15, 1; XI, 36, 4, [in:] *Theodosiani libri XVI cum Constitutionibus Sirmondianis et leges novellae ad Theodosianum pertinentes*, vol. I–II, ed. T. MOMMSEN, P.M. MEYER, Berolini 1954 (cetera: CTh.).

⁶⁰ About examples of the drowning of martyrs see also LACTANTIUS, *Divinae institutiones*, V, 6, 9, [in:] LACTANTIUS, *Divinarum institutionum libri septem*, Fasc. 4, Liber VII, *Appendix. Indices*, ed. E. HECK, A. WŁOSOK, Berlin–Boston 2011 [= BSGR] (cetera: LACTANTIUS, *Divinae institutiones*). Cf. J. CORKE-WEBSTER, *Author and Authority: Literary Representations of Moral Authority in Eusebius of Caesarea's The Martyrs of Palestine*, [in:] *Christian Martyrdom in Late Antiquity (300–450 AD). History and Discourse, Tradition and Religious Identity*, ed. P. GEMEINHARDT, J. LEEMANS, Berlin 2012, p. 61, n. 32.

⁶¹ IOANNES CHRYSOSTOMUS, *In s. Julianum martyrem*, 3, [in:] PG, vol. L, ed. J.-P. MIGNÉ, Paris 1862, col. 671.

⁶² Political opponents and even emperors were also drowned. Viltellius (Aulus Vitellius Germanicus) was tied and cast into the Tiber, after he had been tortured. SÜETONIUS, *Vitellius*, 17, [in:] SÜETONIUS, *Lives of the Caesars*, vol. II, *Claudius. Nero. Galba, Otho, and Vitellius. Vespasian. Titus, Domitian. Lives of Illustrious Men: Grammarians and Rhetoricians. Poets (Terence. Virgil. Horace. Tibullus. Persius. Lucan). Lives of Pliny the Elder and Passienus Crispus*, trans. J.C. ROLFE, London–Cambridge 1914 [= LCL, 38].

The motivation of the authorities

What is then the differentiating factor between the events in Nicomedia and other acts of persecution? It is the horrific brutality manifested in the digging up of the corpses or remains of the alleged arsonists and casting them into the sea. In the context of pagan and Christian beliefs it constituted a breach of the existing laws and customs⁶³, although obviously the emperor could act according to his own will. The place of eternal rest where the body of the dead was properly laid down, as a *locus religiosus*⁶⁴, became the place which was “dedicated to the spirits of the departed” (*quae diis Manibus relictæ sunt*)⁶⁵.

From the archaic times the Romans emphasized the duty to bury the dead, which was connected, among other things, with the belief that in this way the souls of the living are protected against harm, which might be caused to them by the miserable souls⁶⁶. In order to protect the living against potential vengeance, all the bodies of the dead should be buried, including slaves, who were buried most commonly in collective graves⁶⁷.

⁶³ Exhumation was allowed in a situation when the grave did not have a permanent status and was merely a temporary burial ground. Paulus explains this practice in the following way: *For if someone has carried a body somewhere, intending to transfer it elsewhere later, and to leave it where it is only for the time being (rather than meaning to bury the dead man there and to give him an eternal resting place, as it were), then the place remains profane (Dig., XI, 7, 40: Si quis enim eo animo corpus intulerit, quod cogitaret inde alio postea transferre magisque temporis gratia deponere, quam quod ibi sepeliret mortuum et quasi aeterna sede dare destinaverit, manebit locus profanes)*. Diocletian and Maxentius issued a rescript in 287 in which they share a similar attitude, indicating that it was not prohibited to remove a body if it had not been deposited in the grave for eternity (*CJ*, III, 44, 10). A decisive factor, therefore, allowing for exhumation, was to place the body in a grave with an intention to change the place of burial at a later time. What is interesting, in order to provide a decent burial for their brethren sentenced to death, Christians relied on the passive attitude of the authorities in that matter (during the periods of relative peace) or precisely on the regulations concerning temporary graves and the rights regarding the bodies of rehabilitated criminals. G. LONGO, *La sepoltura dei cristiani giustiziati*, [in:] *Ricerche Romanistiche*, Milano 1966, p. 246.

⁶⁴ *Dig.*, XI, 7, 2: *Locum in quo servus sepultus est religiosum esse Aristo ait*. R. TAUBENSCHLAG, *Miszellen aus dem römischen Grabrecht*, ZSSR.RA 38, 1917, p. 245; G. KLINGENBERG, *s.v. Grabrecht*, [in:] *RAC*, vol. XII, p. 602. *Loca religiosa* were the places devoted to the spirits of the dead. In literature one can find substantial discussion on *loca religiosa* and the way of differentiating them from *res religiosae*. Cf. F. FABBRINI, *Dai “religiosa loca” alle “res religiosae”*, *BIDR* 73, 1970, p. 197–228.

⁶⁵ *Gai Institutionum commentarii quattuor*, II, 4, 9, [in:] *Fontes iuris Romani anteiustiniani*, vol. II, ed. S. RICCOBONO, Florentiae 1964, p. 48.

⁶⁶ P. DE FRANCISCI, *Primordia civitatis*, Romae 1959, p. 373.

⁶⁷ What is interesting, after death slaves were treated in a similar way as the dead of the free people. Cf. F. FABBRINI, *s.v. Res divini iuris*, [in:] *Novissimo Digesto Italiano*, vol. XV, Torino 1968, p. 555. Those who were travelling could also expect that their memory would be respected. Their bodies, in accordance with the ancient ritual, should be symbolically buried by throwing a lump of earth onto them. SERVIUS, *In Vergilii Aeneidos commentarius*, VI, 366, [in:] *Servii grammatici qui feruntur in Vergilii carmina commentarii*, vol. II, rec. G. THILO, H. HAGEN, Lipsiae 1884.

A proper burial was equally important for the Christians, despite the fact that the motives behind the attitude of the followers of Christ differed from the pagan ones. Lactantius indicated that it was improper that a body created in the image and likeness of God should remain unburied, serving as food for wild animals. Thus, it was a duty of each Christian to return the body to the earth, of which the body was created⁶⁸. The attitude of Christians was based on mercy, unlike in pagan beliefs, which underscored the fear of potential vengeance or wrath of the souls whose bodies were not buried. According to the Fathers of the Church, resurrection did not depend on the proper burial⁶⁹. However, the most important element of the burial ritual should be the mass and not the wailing of the mourners or feasts on the graves⁷⁰.

During the persecutions, Christian burials would often be of a clandestine character⁷¹ and they differed from pagan rituals. First of all, Christians sought to bury "their own kind" among the co-believers⁷². Hence, one of the earlier forms of repression was to deprive Christians of their cemeteries.

As reported by Eusebius, the decision of the emperor after the fire in Nicomedia was to prevent Christians from visiting the martyrs' graves as the place of cult. He used a similar argumentation with regard to the martyrs of Lyon⁷³. It was feared that the antique custom of gathering at the grave could be used for instigating negative attitudes, manifestations or even for initiating riots. Therefore, it is worth

⁶⁸ LACTANTIUS, *Divinae institutiones*, VI, 12. In accordance with the previous Church regulations, the duties of deacons included taking care of the unburied bodies, especially of foreigners and castaways. The Church also fulfilled the obligation of burying the dead with regard to all the other dead people not having graves, e.g. the victims of natural disasters. LACTANTIUS, *Divinae institutiones*, VI, 12. Saint Cyprian emphasized that it was the duty of the clergy to take care of the bodies of martyrs who were tortured and gave their life for their faith. CAELIUS CYPRIANUS, *Epistulae*, XII, 1, 2, [in:] CSEL, vol. III.2, Vindobonae 1866, p. 502–504.

⁶⁹ Irritated John Chrysostom tried to explain to the faithful that everyone had the possibility to be resurrected, also the drowned person eaten by fish... which in turn were eaten by humans, whose lives ended in the mouths of wild animals. IOANNES CHRYSOSTOMUS, *In epistulam ad Thessalonicensis*, hom. VII, 2, [in:] PG, vol. LXII, ed. J.-P. MIGNE, Paris 1862, col. 437A. This description refers to the childish questions that were asked by the believers. In spite of the efforts of the clergy, Christian beliefs were often mixed with pagan customs and the Christian faithful could still believe that disposing of the bodies of the dead would threaten the further existence of their souls.

⁷⁰ M. DMITRUK, *Obyczaje weselne i pogrzebowe chrześcijan w świetle duszpasterskiej działalności św. Jana Chryzostoma*, VP 21, 2001, p. 276–289.

⁷¹ E. REBILLARD, *The Care...*, p. 100.

⁷² A. HARNACK, *Die Mission and Ausbreitung des Christentums in den ersten drei Jahrhunderten*, Leipzig 1902, p. 121, n. 1.

⁷³ EUSEBIUS, *Historia Ecclesiastica*, V, 1, 63. For other examples of depriving Christians of a permanent burial place, cf.: EUSEBIUS, *De martyribus Palaestinae liber*, IV, 12–13; V, 1; V, 3; IX, 8–12, [in:] PG, vol. XX, ed. J.-P. MIGNE, Paris 1862, col. 1471–1480, 1493; EUSEBIUS, *Historia Ecclesiastica*, VIII, 14, 13; X, 8, 17; LACTANTIUS, *De mortibus persecutorum*, XXI, 10–11; LACTANTIUS, *Divinae institutiones*, V, 11, 6–7.

reflecting on this issue from the perspective of the place in which such gatherings might occur. It is worth stressing once again that the aspect of the cult was deemed much less significant than the very gatherings.

The unearthing and removal of the bodies might have served then as a message to the rest of society that the alleged arsonists deserved an ultimate humiliation in the form of refusal of burial. It was a sign that a “total war” was declared on them, in which there were no rules and borders. It is possible that the Roman concept of an outside enemy (*hostis*) was used *per analogiam* against the enemy inside society (*hostes publici*), that is, citizens acting to the detriment of the whole society⁷⁴. In the Digest there is a passage by Paulus in which we read: *The graves of enemies have no religious significance for us [...] the actions violating the graves will not be punished*⁷⁵. The decision to disturb the Christian graves in Nicomedia might be justified by a different, broader perspective on the concept of the enemy (*hostis*). A linguistic analysis of post-classical legal texts may be helpful here, especially those in which this concept is treated as an invective or an expression intended to condemn improper behaviours⁷⁶. In literary sources, the use of abusive language pertaining to the heaviest crimes with regard to specific persons or social groups was a way of legitimizing repressive actions against them.

In the atmosphere of a “state of emergency” and hysteria, the official propaganda could have presented the convicts as public enemies, posing a threat to the security of the state, who should be unconditionally suppressed, even after death. Taking into account that the fire in the palace was preceded by an act of public destruction of the imperial edict, it might be suggested that the fundamental reasons for the course of action by the authorities was based on the intention to subdue the

⁷⁴ F. VITTINGHOFF, *Der Staatsfeind...*, p. 43, n. 198. While reading the Codex Theodosianus, it could be seen that the term *hostis publicus* was used in the context of bribing judges (*CTh.*, VI, 4, 22), the use of weapons by a slave in the place of asylum (*CTh.*, IX, 45, 5), as well as people practising magic (*CTh.*, IX, 16, 11). The adherents of Manichaeism were also considered as enemies (*Novellae Valentiniani*, 18 (445), [in:] *Theodosiani libri XVI cum Constitutionibus Sirmondianis et Leges novellae ad Theodosianum pertinentes consilio et auctoritate Academiae litterarum regiae borussicae*, ed. Th. MOMMSEN, P.M. MEYER, J. SIRMOND, Berolini 1905). Tertulian points out that already in the times of Nero the Christians were treated as enemies of the human race, which provided ample grounds for their persecution. TERTULLIANUS, *Apologeticus*, XXXVII, 8, [in:] TERTULLIAN, *Apology. De Spectaculis*, MINUCIUS FELIX, *Octavius*, trans. T.R. GLOVER, G.H. RENDALL, London–Cambridge 1977 [= LCL, 250].

⁷⁵ *Dig.*, XLVII, 12, 4: *Sepulchra hostium religiosa nobis non sunt [...] non sepulchri violati actio competit*. As things stand, there is no other legal source, which would allow for the confirmation or rejection of Paulus's claims concerning the graves of enemies. F. Fabbrini actually believes this concept to be absurd and P. Bonfante points out that this regulation is not in line with the values professed by the Christian religion, dominant in the times of the creation of the Justinian Codex. F. FABBRINI, s.v. *Res divini iuris...*, p. 555; P. BONFANTE, *Corso di diritto romano*, vol. II, *La proprietà*, Roma 1926, p. 28.

⁷⁶ On the subject of verbal aggression and invectives in legal documents, cf.: M. STACHURA, *Enemies of the Later Roman Order. A Study of the Phenomenon of Language Aggression in the Theodosian Code, Post-Theodosian Novels, and the Sirmondian Constitutions*, Kraków 2010, p. 186.

enemies plotting against the ruler and the state. The tearing up to pieces of the legal act could certainly be perceived as a crime of *maiestas*, that is committed against the emperor himself, but also as a violation of public order and the security of the state. In his *Duties of Proconsul*, Ulpian observes that with regard to soldiers, the one *who persuades or incites troops to make a sedition or tumult against the state*⁷⁷ will be held accountable for treason. The incident in Nicomedia could have been treated analogously. The fact that the deed was committed publicly could have been used in support of the arguments of the authorities concerning the necessity to persecute Christians as the enemies of Rome. It is also suggested in the words of Lactantius who, with regard to the events in Nicomedia, wrote that Christians were blamed as public enemies⁷⁸. The rhetoric of the dichotomy of war and peace was also used by Eusebius. Summarizing the wave of persecutions, he listed church officials from more important cities who died at the Roman hands. While doing so, he claimed the following: *but as their authority thus increased without let or hindrance and day by day waxed greater, all at once they departed from their peaceful attitude towards us and stirred up a relentless war*⁷⁹. The graves of the Christians could have been then removed from legal protection, just as was the case with the graves of outside enemies⁸⁰. In this way, they would have been treated as political opponents, who were not infrequently sentenced to the *damnatio memoriae*⁸¹.

In constructing his arguments, Eusebius wrote about disinterring the buried courtiers, without making it clear whether it concerned the bodies of those executed with the sword, or whether it was the ashes and remains left after the punishment of burning the victims alive. It is highly improbable but should be mentioned nevertheless that if Eusebius referred to both groups of convicts, then the events in Nicomedia might have been another example when the aggression of the crowd caused an escalation of violence – starting with the breaking of urns, which would be the first and easiest to carry out act of vandalism, and ending with the desecration of the graves. Such emotions might have been skilfully incited by a clear message from the authorities that the Christians were arsonist attempting to kill the emperor and breaching the pact with the gods. However, the sources lack information which would facilitate an answer to the question to what extent the crowd was involved in the persecutions.

⁷⁷ *Dig.*, XLVIII, 4, 1, 1 in fine: [...] *quo seditio tumultudve adversus rem publicam fiat* [...].

⁷⁸ LACTANTIUS, *De mortibus persecutorum*, XIV, 14, 2: *Christiani arguebantur velut hostes publici*.

⁷⁹ EUSEBIUS, *Historia Ecclesiastica*, VIII, 13, 10: Οὕτω δ' αὐτοῖς ἀπαραποδίστως ἀξούσης καὶ ἐπὶ μέγα ὀσημέραι προΐουσης τῆς ἐξουσίας, ἀθρόως τῆς πρὸς ἡμᾶς εἰρήνης μεταθέμενοι, πόλεμον ἄσπονδον ἐγείρουσιν.

⁸⁰ A similar situation could be that of the graves of the so-called *quasi hostes*. Cf.: M. JOŃCA, *Przestępstwo znieważenia grobu w rzymskim prawie karnym*, Lublin 2013, p. 406.

⁸¹ C. W. HEDRICK, *History and Silence. Purge and Rehabilitation of Memory in Late Antiquity*, Austin 2000, p. 7.

Another suggestion may be hidden behind the words of Lactantius. In spite of the fact that he does not mention the violation of the graves, he indicates that imperial officials were exceptionally enthusiastic in using tortures with a view to forcing the accused to admit their guilt⁸². The above-mentioned abusive treatment refers to torture applied during prosecution or during the execution, but it could have meant additional degrading treatment, including the desecration of the graves mentioned by Eusebius. Nevertheless, this indicates the responsible persons and it is not the mob, not the regular citizens, but the judges and palace attendants. Yet, such an interpretation raises another problem since an overzealous attitude of the officials refers to another legal basis than the specific mob lynching. However, one option does not exclude the other.

Another hypothesis is the possible correction of the sentence replacing it with a degrading penalty. According to the existing accounts, edicts addressed at Christians degraded them to the status of *humiliores* and deprived them of their privileges. The punishment of *decollatio*, especially when executed in a way that respected human dignity, did not stigmatize the convicts but could even decrease the odium of arsonists. Chaos in the city, hunting for the perpetrators and the fear of fire caused that the change of the decision concerning the burial does not appear as an irrational act, but rather as a desired change. It would be an overinterpretation to claim that it occurred as a result of legal procedure. Lactantius pointed out to the irregularities concerning the prosecution. He indicated that people were sentenced to death without proving their guilt and also without the accused admitting their guilt by themselves – *sine ulla probatione aut confessione*⁸³. Being aware of the rules that the Romans observed in a criminal procedure, the author would have certainly taken issue with the change to the judgement imposed by the court.

Inevitably, a question as to the person's status arises here once more, since the type of death penalty that was imposed depended on this factor. If it really happened, as Eusebius claims, that the imperial attendants (βασιλικῶ) were executed by beheading with a sword and then their bodies were unburied with a view to throwing them in the water, it might be assumed that at least initially their recent status was recognized and acknowledged. However, if at the moment of the execution they were already treated as captives, there was no possibility for a trial and a privilege of a non-degrading punishment reserved for free citizens. However, this does not detract from the fact that slaves were also meant to be buried and the above-mentioned "fitting honours" might refer to Christian rituals, which were insignificant to the Romans. Nevertheless, it might be attempted to connect Eusebius's οἰκεῖται and Lactantius's *domestici*, who were indeed sentenced to drowning. However, in this case a question arises as to who was the addressee

⁸² LACTANTIUS, *De mortibus persecutorum*, XIV, 4: [...] *item iudices universi, omnes denique qui erant in palatio magistri data potestate torquebant.*

⁸³ LACTANTIUS, *De mortibus persecutorum*, XV, 2.

of the repression in the form of unburying the bodies. The only ones left are the eunuchs referred to by Lactantius, who occupied high positions in the imperial household.

The corpses that were disinterred from the graves, possibly also the ashes and remains, were thrown into the sea. As primordial matter and one of the elements, water was to guarantee decomposition of all forms, an ultimate annihilation of the convict's body. Practically in each ancient Mediterranean culture water served a cleansing function⁸⁴. Hence everything that was disturbing or abnormal (*monstra, prodigia*) should end up drowned⁸⁵. The bodies of Christians threatened Roman peace with pagan gods (*pax deorum*)⁸⁶ and it was upon the favour of the latter that the fate of the empire depended. Therefore, the corpses of Christians might have been treated precisely as an element of which Roman society should be purified⁸⁷.

Conclusion

The above story includes *de facto* two specific methods of depriving the dead of their burial – by sentencing the Christian convicts to death by drowning, as well as exhumation and drowning of the convicts' bodies. The drowning does not require any further commentary in this context. With regard to the convicts who were burned alive, we do not know whether their remains were thrown directly into the body or whether it was allowed to bury them. Unfortunately, the motivation of the authorities in this respect will remain a mystery to us. Is it possible that a certain fierceness in fighting the Christian religion could be at play here? The answer is yes. Diocletian is represented as a religious conservatist. His actions are clearly marked by the association of prosperity of the state with the favour of the gods. However, it was not as Eusebius suggests. The authorities were not driven by the fear of the cult of the relics itself. The people gathering at the graves were treated as traitors plotting against the authorities, and the proof might lie in the suggestion that the Christians set fire to the palace in order to assassinate the emperor. The incident with the public destruction of the edict was not without significance since it was an overt act of protest against the emperor. If it was presented as an attempt

⁸⁴ T. MOMMSEN, *Römisches Strafrecht...*, p. 922.

⁸⁵ M. JOŃCA, *Parricidium w prawie rzymskim*, Lublin 2009, p. 296.

⁸⁶ The peace between people and the gods was referred to as *pax deorum*. It was a state intended to ensure the protection of the gods and their support for all human endeavour both from the perspective of an individual, as well as of the state. Cf. R. FIORI, *Homo sacer. Dinamica politico-constituizionale di una sanzione giuridico-religiosa*, Firenze 1996, p. 101.

⁸⁷ In the *Paul. Sent.*, V, 24, 1 regarding *lex Pompeia de parricidiis* one can find a juxtaposition of the penalty of the sack with death by burning (*vivi exuruntur*). This text, originating in the 3rd century AD may be an indication that the Romans administered both penalties as measures to cleanse their society. Cf. M. Jońca, *Parricidium...*, p. 296.

at the emperor's life, as Lactantius presented it, the actions of the authorities could be explained as addressed against the traitors. Such far-reaching repressions were no exception. Exhumation might have constituted additional punishment, intended as an ultimate humiliation of the convicts. Indeed, it did not even have to be imposed by the emperor but by overzealous judges and officials who could have decided that such actions would distinguish them in the eyes of the ruler. If we were to accept this course of events, the digging up of the bodies should be treated as "correcting the error" and humiliating the arsonists, perceived as traitors and political rebels. Another hypothesis, which is less probable, but not impossible, is that the events spiralled out of control of the authorities and the aggression of the crowd was directed at the Christians, whereas Eusebius gave mere acts of vandalism political significance. What is more, while describing the story, Eusebius focused on the religious affiliation of the convicts, the alleged arsonists who were believed to set fire to the palace, while simultaneously emphasizing the importance of those events in the developing of Christian customs. However, assuming his own optics, Eusebius did not clarify what the actual motivation of the authorities to desecrate the graves was. On the other hand, Lactantius, almost an eyewitness of the events in Nicomedia, based his account on emotions. He showed how the Christians were treated, but first of all he pointed out to strong, negative emotions that might have driven the authorities. Eusebius was more restrained in this respect. He even suggested a certain foresight on the side of the emperor. In combination, these two accounts constitute an interesting source with regard to criminal aspects in the persecutions of Christians at the beginning of the 4th century.

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