Reasons for Religious Toleration in the Roman Empire: The Voice of the Emperor

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Abstract

The purpose of this chapter is to study the reasons for religious toleration set out by Roman emperors in the legal pronouncements that put an end to the persecutions of Christians. Despite the reluctance of modern historiography to speak of ‘toleration’ in Rome, it is argued here that it is possible to apply this concept to the Roman Empire without being guilty of a dramatic anachronism. The spread of Christianity allowed the basic characteristics of the notion of toleration to be fulfilled: (a) the possibility for the individual to make an alternative religious choice to the traditional Roman religion; (b) the authorities’ disapproval of those religious practices; (c) the capacity to prohibit them by repressive measures; and (d) a willingness to be lenient, graciously granting the freedom to practise them. The so-called ‘edicts’ of toleration studied here (Edict of Gallienus, a. 260; Edict of Galerius, a. 311; three documents relating to the toleration of Maximinus Daia a. 312-313; the Edict of Milan a. 313; and Constantine's letter to the Provincials, a. 324) are preserved in their entirety, a rarity in the transmission of imperial legislation, which has generally come down to us in abridged form, deprived of the rhetoric that the compilers of the great legislative codes considered superfluous. The edicts of toleration, which take various forms (edicts, letters, rescripts, verbal pronouncements), are all preserved (except that of Gallienus) in contemporary sources (Eusebius of Caesarea and Lactantius) and include lengthy preambles, much longer than the dispositive part of the text, in which the legislators, with the exuberant rhetoric of chancellery, explain the reasons that prompted them to decree toleration. The documents studied here conveyed, as Eusebius says, the voice of the emperor and, in some cases, the emperor’s own feelings.

Introduction[[1]](#endnote-1)

Modern historiography is reluctant to speak of ‘toleration’ in Antiquity, when not utterly opposed to the proposition. It is often asserted that this is a modern concept, a product of the Enlightenment and liberalism, and that the conditions did not exist in Rome to speak of a situation of ‘toleration’ per se. Roman society encompassed a variety of faiths and religious identities that recognised each other's legitimacy, though without any theory coherently formulating pluralism. What might be called ‘Roman toleration’ was, in reality, a situation of non-interference resulting from the autonomy of each city and community, and their right to practice their religious customs, which were considered components of national identities.

In an often-quoted article, John North (1979), referring to the Republican religious situation, argues that the three basic components of toleration did not exist, namely: a) that a choice of religious commitment be available; (b) that the authorities disapprove of possible choices that the individual might make; and (c) that a deliberate restraint be imposed, for moral reasons, on the action to which that disapproval would naturally give rise. Of the three conditions, the first was not present in the Republic insofar as there was no possibility for the individual to make such choices. The second and third, however, *did* exist: the state could repress religious practices it disapproved of, which it sometimes did on the grounds that they were ‘alien’ to the Roman tradition, and forbid citizens to participate in them. According to North (1979, 86), ‘the toleration, if that is what it was, was a function of situation, not theory’.

Modern historiography, torn between the usefulness of the concept of toleration, and its reluctance to apply it to the Roman world, has devised a variety of euphemisms and nuances with which to refer to this situation of non-interference, including ‘toleration of fact’, ‘toleration by default’, ‘intuitive, factual toleration’, ‘indifferent, tolerant pluralism’, ‘forbearance’ and ‘pragmatic toleration’(see Marcos 2016 for a survey of such terms).

Indeed, if one reviews the vast literature on toleration, one comes to the conclusion that the concept could not be more ambiguous (Forst 2013). I believe that, for the Roman Empire, whose religious landscape was different from that of the Republic, it is possible to speak of ‘toleration’ without running a dramatic risk. The rise of Christianity made it possible to fulfil its basic components. (a) Firstly, there was the possibility of choosing a religious option other than the Roman religion. Conversion to Christianity implied a radical abandonment of the traditional religious system, and a will to fight and exterminate it. Given its rapid spread and influence among the social elites, Christianity had the potential to bring about a profound religious change, which was perceived as a threat to public religion. (b) Secondly, there was the *objection component*, i.e., an authority that disapproves of and has the capacity to interfere with these religious practices; if this condition did not exist, one would have to speak of indifference (King 1976). Together with a lack of homogeneous guidelines in the Empire on how to act towards Christianity, the anti-Christian climate in the second and third centuries, which was echoed in the apologetic literature, placed Christians in a situation of legal insecurity and dependence on imperial will. (c) Thirdly, there was an authority with the freedom of action to act against Christians, and the capacity to prohibit their practices through repressive measures. (d) Fourthly, there was yet another component of the concept of toleration existing in the Roman Empire: the authorities’ willingness to be patient and permissive towards a religious group they disapproved of. Forst (2013, 27) calls this the *permission conception*, a form of vertical toleration according to which the authority grants permission to the tolerated group to live according to its beliefs, on the condition that the group accept this dominant position of the authority, which can set limits on or revoke the acceptance it graciously grants. This permission conception constitutes the foundation of political toleration. It is given for pragmatic reasons, is the least costly of all possible alternatives, and facilitates coexistence and civil peace. The permission conception is the form of toleration that the state practised towards Christians in the Roman Empire, and that which will be dealt with in this paper.

Elsewhere, I have systematically studied arguments for toleration in Christian apologetic literature (Marcos 2012). Here, I propose to analyse the political discourse of toleration, which shares many arguments with apologetics, by studying the reasons that emperors advanced in the ‘edicts of toleration’ to justify the end of persecutions. The texts I am going to consider have already been extensively studied, and here I will not touch upon the most explored and debated aspects of them, such as their typology (edicts, letters, rescripts, verbal pronouncements), the identity of their inspirers, the motivations that led to their issuance, their legal content, or their effectiveness. Rather, what interests me are the legislator's reasons, their rationales, which were expressed through the rhetoric of the imperial constitutions.

The edicts of toleration are conserved in their entirety, which is exceptional in cases of legal evidence from the Roman world. In the words of Eusebius of Caesarea, who transmitted them all, in them one ‘can hear the voice of the emperor himself’ (*Vita Constantini* II.47.2, αὐτοῦ βασιλέως ἐπακούειν). I will first introduce the documents and then proceed to analysethe reasons given to justify toleration in each of them. Though their particular nature will be referred to in each document, I shall here retain the term ‘edict’, for want of a better one, to encompass the different legal dispositions studied.

The documents are the following: the Edict of Gallienus (a. 260); the Edict of Galerius (a. 311); three documents relating to the toleration of Maximinus Daia (a. 312-313); the Edict of Milan (a. 313); and Constantine's letter to the Provincials of the East (a. 324).

The documents

No edicts of persecution against Christians exist, but several imperial pronouncements decreeing the end of the persecutions have survived. With the exception of the Edict of Gallienus, the others are concentrated in the period of the Tetrarchy and the rule of Constantine. They have all been handed down by Eusebius of Caesarea in the *Historia Ecclesiastica* (*HE*) and in the *Vita Constantini* (*VC*). Some of those transcribed by Eusebius are also found in Lactantius’ *De mortibus persecutorum* (*DMP*). None have been preserved in the late antique legal compilations, the Theodosian or Justinian Codes, or in any of the private anthologies (*Fragmenta Vaticana*, *Collectio Legum Mosaicarum et Romanarum*) containing legal documents from the Tetrarchic period. Only contemporary Christian authors found them of interest, and they are barely cited in later sources, including Christian tradition.

Although he does not include speeches in his works, Eusebius fills his account with verbatim quotations, including contemporary documents from the imperial chancellery. In this way, he sought to reply to the pagan polemicists and, above all, to incorporate into his accounts the exact testimony of his sources (e.g., *HE* III.36.6: εἰς ἐπίδειξιν ‘as a demonstration’, κατὰ λέξιν ‘literally’; cf. III.31.2; VIII.10.1). And the transcribed documents are authentic.

Most of what survives of late imperial laws are extracts of substantially longer texts, the product of a work that excludes what imperial lawyers considered ‘superfluous verbiage’ (Harries 1999, 23, 25). The legal substance remains, but much of the laws’ original context and purpose are missing. The complete transcription of the documents in Eusebius, translated from Latin into Greek, allows us to appreciate the full extent of imperial rhetoric. Of great value for our purpose is the preservation of the justificatory sections of the decrees, their lengthy preambles, which often account for more than two-thirds of the text. The dispositive parts (*ius*) are significantly shorter. Eusebius's transcriptions retain the rhetoric that characterises late antique legislation, particularly in the opening prefaces (see Voss 1982; for the Tetrarchy, see Corcoran 1996), which allows us to understand the legislator's rationale.

Although at the time when the documents we study here were produced, the development of laws was a collective task and court officials contributed to shaping the text, the content can be considered the emperor's own. The edicts of toleration were created on the emperor's own initiative, or at least there is no evidence that they were a response to a petition (*petitio*) or a plea (*precatio*). Some of them, as we shall see, conveyed not only the emperor’s voice, but also his personal convictions.

The edict of Gallienus

Between 257 and 260, Emperor Valerian issued two edicts of persecution. The first ordered the exile of the upper clergy and some laymen who had not agreed to participate in Roman rites, and forbade assemblies and visiting cemeteries under penalty of death; the second was aimed at Christians of the upper classes, providing for the requisitioning of property and the death penalty if they resisted (Haas 1983, Keresztes 1975). These measures clashed with Valerian’s disposition at the beginning of his government. Dionysius of Alexandria, who suffered his persecution, actually described him as ‘mild and friendly’ (ἤπιος καὶ φιλόφρων) and ‘kindly and favourably disposed’ (εὐμενῶς καὶ δεξιῶς) towards Christians (Eus. *HE* VII.10.3).

After Valerian's capture by the Persians in 260, his son Gallienus, left as sole emperor, immediately rescinded the anti-Christian measures. Eusebius (*HE* VII.13) mentions three documents related to this (Bratoz 2012, 26): 1) the edict (or edicts, πρoγράμματα) providing for the immediate cessation of the persecution, which is not preserved; 2) the imperial rescript (ἀντιγραφή) to Dionysius of Alexandria and other bishops of Egypt about the situation, sent at the end of 262; and 3) the imperial decree ([διάταξις](http://www.perseus.tufts.edu/hopper/morph?l=dia%2Ftacis&la=greek&can=dia%2Ftacis0&prior=au)tou=" \t "morph)), addressed to other bishops, providing for the restitution of the cemeteries. Eusebius, who describes the government of Gallienus as more ‘prudent’ (σωφρονέστερον) than that of his father (*HE* VII.13), says that he granted the Christians the freedom (ἐλευθερία) to perform their rites, and quotes the second of the documents, which he translates from Latin into Greek:

#### I have given my order that the benefit of my bounty ([τὴν](http://www.perseus.tufts.edu/hopper/morph?l=th%5Cn&la=greek&can=th%5Cn2&prior=e)pisko/pois" \t "morph) [εὐεργεσίαν](http://www.perseus.tufts.edu/hopper/morph?l=eu%29ergesi%2Fan&la=greek&can=eu%29ergesi%2Fan0&prior=th\\n" \t "morph) [τῆς](http://www.perseus.tufts.edu/hopper/morph?l=th%3Ds&la=greek&can=th%3Ds0&prior=eu)ergesi/an" \t "morph) [ἐμῆς](http://www.perseus.tufts.edu/hopper/morph?l=e%29mh%3Ds&la=greek&can=e%29mh%3Ds0&prior=th=s" \t "morph) [δωρεᾶς](http://www.perseus.tufts.edu/hopper/morph?l=dwrea%3Ds&la=greek&can=dwrea%3Ds0&prior=e)mh=s" \t "morph)) should be published throughout all the word, to the intent that the places of worship should be given up, and therefore ye also may use the ordinance contained in my rescript ([τῆς](http://www.perseus.tufts.edu/hopper/morph?l=th%3Ds&la=greek&can=th%3Ds1&prior=u(mei=s" \t "morph) [ἀντιγραφῆς](http://www.perseus.tufts.edu/hopper/morph?l=a%29ntigrafh%3Ds&la=greek&can=a%29ntigrafh%3Ds1&prior=th=s" \t "morph)) so that none may molest you. And this thing which it is within your power to accomplish has long since been conceded by me; and therefore Aurelius Quirinus, who is in charge of the Exchequer, will observe the ordinance ([διάταξις](http://www.perseus.tufts.edu/hopper/morph?l=dia%2Ftacis&la=greek&can=dia%2Ftacis0&prior=au)tou=" \t "morph)) given by me (trans. Oulton).

The rescript, which features the dispositive part of the edict, does not retain the opening preface that the latter was expected to contain, with Gallienus's justification for rescinding his father's measures, which he himself had signed earlier. Only the brief rhetoric of the chancellery remains in the rescript, which portrays the law as a gift from the emperor, the result of his magnanimity. We cannot know what Gallienus's sentiments towards the Christians were, or what he expected from them. Perhaps his enlightened character, and that of his wife Salonina, who were both lovers of Greek culture and Neoplatonism (Matthew 1943), help to explain this. Relying only on the testimony of Eusebius, who speaks of freedom (cf. also HE VIII.1.7), it would be more appropriate to call it an edict of liberty than of toleration. Gallienus gave Christianity the rights proper to an association (the freedom of assembly and possession of property), without entailing any particular recognition of them as a religious group, thereby laying down the basis for later pronouncements.

The edict of Galerius

The Edict of Galerius, which put an end to the persecution begun at the court of Diocletian in 303, is transmitted by Lactantius (*DMP* 34) in its Latin original, reproducing the copy posted on 30 April 311 in Nicomedia, and by Eusebius (*HE* VIII.17.3-10) in a Greek translation of the copy sent to Caesarea. There are minor differences between Lactantius' version and that of Eusebius (Moreau 2006 I, 117-118), but they are not relevant to the matter at hand. Here we follow the text of Lactantius (trans. Creed).

Lactantius omits the names of the emperors, which can be reconstructed from Eusebius' version and the inscriptions of the time, and which must have included the four emperors Galerius, Licinius, Maximinus Daia, and Constantine. Regardless of who inspired it (it has been speculated that Licinius may have been behind it, Grégoire 1930-1931), the authorship is ascribed to Galerius, who, according to Lactantius and Eusebius, issued it on his deathbed as a palinode inspired by the severity of his illness.

The preamble, which takes up about three quarters of the text, contains the reasoning behind the measures taken in favour of Christians. As Corcoran (2015, 75) has pointed out, ‘it is quite rare to hear rulers having to explain reversals of policy’. In Galerius's edict we find exactly such a justification. It begins with an attempt to explain the reasons for Diocletian's persecution, whose aim had been to reform all things in accordance with the ancient laws and public discipline of the Romans (*leges veteres et publicam disciplinam, DMP* 34.1) for the benefit and utility of the state (*pro rei publicae semper commodis atque utilitate DMP* 34.1), so that Christians, who had abandoned the religion of their ancestors, might return to a sound frame of mind. The heading echoes the wording and arguments of other documents from the Diocletian period, such as the edict against the Manichees (FIRA II. 580-8) and the Damascus edict (FIRA II. 558-60). Atheism is the core accusation to which Christian apologists respond (hence Athenagoras, *Embassy for the Christians* 3.1; 18.2; Justin Martyr, *First Apology* 13.1; *Letter to Diognetus* 1.1; Philo, *On the Life of Moses* 2.205), and it aims to defend the Christians' respect for civic religion and their willingness to pray for the emperors (Justin, *First Apology* 17.3, Tertullian, *Apology*, 30.1: ‘For we invoke on behalf of the safety of the emperors a God who is everlasting, a God who is real, a God who is living, whom even the emperors themselves prefer should be propitious to them beyond all others’. See, Birley 2005). In his diatribe against the Christians, Celsus pointed out how their impiety called into question the *pax deorum*, the peace of the gods, who would cease to give the Roman people the assistance they had hitherto enjoyed (Celsus in Origen, *Against Celsus* 8.69). Defences against the accusation of anti-social behaviour often appear in the apologetic literature (e.g., Min. Felix *Octavius*, 10.2, 12.5).

Galerius does not hide his disapproval and antipathy towards the Christians who, possessed of folly (*stultitia*), had followed their own judgement and pleasure (*libitum*) and ended up gathering various groups of people from different places. The Christians’ universalist ambitions had been a source of concern for the authorities, already discernible in Pliny's letter to Trajan (*Ep*. 10.33-4, 10.116-118; Moreau 2006 I, 112), and is a recurrent apologetic theme in Christian literature. By bringing diverse peoples together into one, which obeys its own laws, Christianity threatened to supplant the role of the Roman state, which had the same goal. Parallel to the discourse of universality, Christians portrayed themselves, from the earliest times, as a kind of nation (ἔθνος*/* γένος in Greek; *natio/genus* in Latin; Buell 2005, Johnson 2006). This ethnic character allowed Christians to lay claim to the toleration that the Romans afforded the religions of other peoples under their rule, regardless of how ridiculous or aberrant they considered them (Athenagoras, *Embassy for the Christians* 1; Justin Martyr, *Second Apology* 9.3; Tatian, *Address to the Greeks* 4; Clement of Alexandria, *Protrepticus* 10.108.4-5; Dionysius of Alexandria, in Eus. *HE* VII.11.8).

Since Galerius did not recognise the ethnic nature of Christianity, toleration was not a Christian right. It is traditional imperial clemency that grants it, as the edict repeats: ‘our own most gentle clemency and our perpetual habit of showing indulgent pardon to all men’ (*mitissimae nostrae clementiae*, *DMP* 34.4), ‘our speediest indulgence’ (*promptissiman indulgentiam*, *DMP* 34.4) ‘in accordance with this indulgence of ours’ (*unde iuxta hanc indulgentian nostrum*, *DMP* 34.5). The edict uses the traditional language of imperial beneficence, found in other contemporary pronouncements (Corcoran 1996, 186-187).

Toleration was, for Galerius, a lesser evil. Christians are allowed to resume being Christians (*denuo sint Christiani*), to rebuild their church buildings, and to meet together, as long as they did nothing contrary to the public order (*contra disciplinam, DMP* 34.4-5). Henceforth, Christians were to pray for the welfare of the emperors, the state, and themselves, so that all parties would be safe and at peace (*ut undique versum res publica praestetur incolumis, et securi vivere in sedibus suis possint* *DMP* 34.5).

The clause concerning the maintenance of good order may have been a normal *proviso,* and should perhaps not be interpreted as a restrictive condition (Knipfing, 702; Creed 1984, 113), but the threat was present. Any governor could invoke it and, if the *securitas* sought by the edict was disturbed, the graciously granted toleration could be rescinded.

Although the legal significance of Galerius’ edict should not be overstated (Keresztes 1983, 390), it does display in full, for the first time, the rhetoric of imperial beneficence towards a religious group tolerated for pragmatic reasons.

The edicts of Maximinus Daia

Galerius died soon after, in May 311, and the edict was only published in the provinces under his control and those of his successor, Licinius, who occupied the Danube and the Balkan regions up to the Bosphorus. Meanwhile, Maximinus Daia, the other Augustus of the East, occupied Asia Minor. An outspoken opponent of the Christians, Maximinus enforced Galerius's edict reluctantly, and his policy was hostile to Christianity until shortly before his death in the summer of 313 (Thomas 1968, Grant 1974). The documents related to his religious policy have only been preserved by Eusebius who, living in the territories under Maximinus's control and witnessing first-hand the ravages of his policy against Christians, considered him the greatest of persecutors (Marcos 2013). Maximinus's documents concerning toleration are studied here.

1. Letter of Sabinus, praetorian prefect, to the provincial governors (Eus. HE IX 1.1-11)

According to Eusebius, Maximinus Daia, who disagreed with Galerius's edict because of the former’s fierce anti-Christian convictions, merely gave (presumably half-hearted) verbal instructions to the praetorian prefect, Sabinus, that the persecution be relaxed. This order was to be transmitted by letter to the provincial governors, who, in turn, would convey them to the local officials. Galerius's edict was only published in Asia and in the neighbouring provinces. Eusebius transcribes a copy of Sabinus's letter to the governors, translated from Latin into Greek. These verbal instructions alone would prevent a direct pronouncement by Maximinus (Corcoran 1996, 148). The letter (*HE* IX, 1.3-6) echoes, to some extent, Galerius's edict of toleration, but it is more concise and generic and introduces substantial changes in the views expressed about Christians.

Sabinus begins by recalling the aim of the measures adopted by Diocletian: namely, to rectify the thoughts of those who follow customs foreign to the Romans, redirecting them follow the holy and right path of living by worshipping the immortal gods. In accordance with the devoted zeal of the emperors, this letter ordered that, as it had been shown that Christians could not be persuaded to abandon their obstinate conduct, if they were found to be following the religion of their nation (τοῦ ἰδίου ἔθνους τὴν θρῃσκείαν), they were not to be disturbed. The letter does not mention the freedom to rebuild churches or hold meetings. According to Eusebius (*HE* IX, 1,9-10), through this law Christians suffering imprisonment regained physical freedom (ἐλευθερία) and freedom of expression (παρρησία), a statement that belies Lactantius's claim (*DMP* 13, 2) that the persecution edict of 303 deprived Christians ‘of liberty and voice’ (*libertatem denique ac vocem non haberent)* (see Momigliano 1978 on parrhesia and toleration).

The toleration announced in the letter was based on imperial benevolence. Unlike Galerius, who objected to the Christians' aspirations to universalism, Maximinus dismissed them as an ethnic religion, a race alien to the Roman religion, depriving them of their claim to have established a universal faith. It was, then, as a *national* religion that Christianity was tolerated. Half a century later, Emperor Julian, with sentiments very similar to those of Maximinus, would adopt the same strategy, always disdainfully referring to the Christians as Galileans, and to Christ as the Nazarene, to emphasise their local nature.

Just six months after this letter was sent, Maximinus resumed the anti-Christian policy, forbidding meetings at cemeteries (*HE* IX 2.1-2). Between the spring and summer of 312 Maximinus received a series of letters from the cities of the East (Nicomedia, Antioch, Sardis, Tyre, Lycia, and Pamphilia) requesting that Christians be expelled from them, requests which were, according to Lactantius and Eusebius, and generally admitted in modern historiography, encouraged by Maximinus himself (Eus *HE* IX.2; Lact. *DMP* 36.3). He sent rescripts granting their petitions and ordering the restoration of traditional cults (*HE* IX 9.4). Epigraphic copies of these rescripts have been preserved (Mitchell 1988), confirming once again the accuracy of Eusebius's documentary citations. Eusebius transmits the copy of the rescript sent to Tyre of 6 April 312, translated from Latin into Greek (*HE* IX 7.3-14). Maximinus, harbouring Neoplatonist religious sentiments (Filosi 1987), thanks the cities for their love and zeal for the gods. The language leaves no doubt about his antipathy towards Christianity. The rescript begins as follows:

Now at length the feeble boldness of the human mind has shaken off and dispersed all blinding mists of error, that error which hitherto was attacking the senses of men not so much wicked as wretched, and was wrapping them in the baneful darkness of ignorance (*HE* IX.7.3)

The rescript also reproduces the commonly held belief that Christians were responsible for bringing about public calamities (drought, war, death, tsunamis, hurricanes, earthquakes, *HE* IX.7.8-11). As the cities demanded, the Christians would be separated and cast far away from them (*HE* IX.7.12).

1. Maximinus’s letter to Sabinus (Eus. HE IX, 9a, 4-9).

In the West, Constantine defeated Maxentius in October 312. After the battle, Constantine, together with Licinius, issued a ‘most perfect law’ in favour of the Christians ([νόμον](http://www.perseus.tufts.edu/hopper/morph?l=no%2Fmon&la=greek&can=no%2Fmon0&prior=gnw/mh|" \t "morph) [ὑπὲρ](http://www.perseus.tufts.edu/hopper/morph?l=u%28pe%5Cr&la=greek&can=u%28pe%5Cr0&prior=no/mon" \t "morph) [Χριστιανῶν](http://www.perseus.tufts.edu/hopper/morph?l=*xristianw%3Dn&la=greek&can=*xristianw%3Dn0&prior=u(pe\\r" \t "morph) [τελεώτατον](http://www.perseus.tufts.edu/hopper/morph?l=telew%2Ftaton&la=greek&can=telew%2Ftaton0&prior=*xristianw=n" \t "morph), Eus. *HE* IX, 9.11), which the two Augusti sent to Maximinus with the news of the victory over Maxentius. At the end of the year 212, Maximinus sent a letter to Sabinus in which he distanced himself from the previous persecutory measures and laid the responsibility on others. In the letter (Eus. *HE* IX, 9a.4-9), Maximinus presents the new policy relaxing persecution as his personal initiative, and bases it on the merits of persuasion rather than violence as a means of bringing Christians back to traditional worship. As in Sabinus's earlier letter to the governors, toleration is granted to Christians on the basis of their ethnic character. Although Maximinus still regarded Christianity as superstition (δεισιδαιμονία), he stated that everyone should decide according to their personal preferences, and that Christians should recognise the worship of the gods if they so wished ([ἐν](http://www.perseus.tufts.edu/hopper/morph?l=e%29n&la=greek&can=e%29n1&prior=e(/kaston" \t "morph) [τῇ](http://www.perseus.tufts.edu/hopper/morph?l=th%3D%7C&la=greek&can=th%3D%7C2&prior=e)n" \t "morph) [ἰδίᾳ](http://www.perseus.tufts.edu/hopper/morph?l=i%29di%2Fa%7C&la=greek&can=i%29di%2Fa%7C0&prior=th=|" \t "morph) [προαιρέσει](http://www.perseus.tufts.edu/hopper/morph?l=proaire%2Fsei&la=greek&can=proaire%2Fsei0&prior=i)di/a|" \t "morph) [τὴν](http://www.perseus.tufts.edu/hopper/morph?l=th%5Cn&la=greek&can=th%5Cn0&prior=proaire/sei" \t "morph) [βούλησιν](http://www.perseus.tufts.edu/hopper/morph?l=bou%2Flhsin&la=greek&can=bou%2Flhsin0&prior=th\\n" \t "morph) [ἔχειν](http://www.perseus.tufts.edu/hopper/morph?l=e%29%2Fxein&la=greek&can=e%29%2Fxein0&prior=bou/lhsin" \t "morph) [καὶ](http://www.perseus.tufts.edu/hopper/morph?l=kai%5C&la=greek&can=kai%5C0&prior=e)/xein" \t "morph) [εἰ](http://www.perseus.tufts.edu/hopper/morph?l=ei%29&la=greek&can=ei%291&prior=kai\\" \t "morph) [βούλοιντο](http://www.perseus.tufts.edu/hopper/morph?l=bou%2Flointo&la=greek&can=bou%2Flointo0&prior=ei)" \t "morph), [τὴν](http://www.perseus.tufts.edu/hopper/morph?l=th%5Cn&la=greek&can=th%5Cn1&prior=bou/lointo" \t "morph) [τῶν](http://www.perseus.tufts.edu/hopper/morph?l=tw%3Dn&la=greek&can=tw%3Dn0&prior=th\\n" \t "morph) [θεῶν](http://www.perseus.tufts.edu/hopper/morph?l=qew%3Dn&la=greek&can=qew%3Dn0&prior=tw=n" \t "morph) [θρῃσκείαν](http://www.perseus.tufts.edu/hopper/morph?l=qrh%7Cskei%2Fan&la=greek&can=qrh%7Cskei%2Fan0&prior=qew=n" \t "morph) [ἐπιγινώσκειν](http://www.perseus.tufts.edu/hopper/morph?l=e%29piginw%2Fskein&la=greek&can=e%29piginw%2Fskein0&prior=qrh|skei/an" \t "morph), *HE* IX 9a.5). He explained that when he was called to the East (as Caesar of Galerius in 306), as soon as he arrived he ordered the governors to stop behaving harshly towards the inhabitants of the provinces, and to try to entice the Christians back to worshipping gods by means of flattery and exhortations (κολακεία[καὶ](http://www.perseus.tufts.edu/hopper/morph?l=kai%5C&la=greek&can=kai%5C4&prior=e)no/misa" \t "morph) προτροπαι, HE IX, 9a.7, 9.). He then asked Sabinus to pursue the same policy with the provincials, who persisted in maintaining such a ‘custom’ (ἔθος, HE IX, 9a.7), and to behave with patience and restraint ([ἀλλὰ](http://www.perseus.tufts.edu/hopper/morph?l=a%29lla%5C&la=greek&can=a%29lla%5C0&prior=traxe/ws" \t "morph) [ἀνεξικάκως](http://www.perseus.tufts.edu/hopper/morph?l=a%29necika%2Fkws&la=greek&can=a%29necika%2Fkws0&prior=a)lla\\" \t "morph) [καὶ](http://www.perseus.tufts.edu/hopper/morph?l=kai%5C&la=greek&can=kai%5C3&prior=a)necika/kws" \t "morph) [συμμέτρως](http://www.perseus.tufts.edu/hopper/morph?l=summe%2Ftrws&la=greek&can=summe%2Ftrws0&prior=kai\\" \t "morph) [συμπεριφέροιντο](http://www.perseus.tufts.edu/hopper/morph?l=sumperife%2Frointo&la=greek&can=sumperife%2Frointo0&prior=summe/trws" \t "morph) [αὐτοῖς](http://www.perseus.tufts.edu/hopper/morph?l=au%29toi%3Ds&la=greek&can=au%29toi%3Ds0&prior=sumperife/rointo" \t "morph), HE IX, 9a.7). Maximinus holds the cities responsible for their measures, and insists that those who freely choose to pray to the gods should be welcomed while, at the same time, those who wish to follow their own faiths should be left alone (the optative is used:  [ἐν](http://www.perseus.tufts.edu/hopper/morph?l=e%29n&la=greek&can=e%29n0&prior=bou/lointo" \t "morph) [τῇ](http://www.perseus.tufts.edu/hopper/morph?l=th%3D%7C&la=greek&can=th%3D%7C2&prior=e)n" \t "morph) [αὐτῶν](http://www.perseus.tufts.edu/hopper/morph?l=au%29tw%3Dn&la=greek&can=au%29tw%3Dn0&prior=th=|" \t "morph) [ἐξουσίᾳ](http://www.perseus.tufts.edu/hopper/morph?l=e%29cousi%2Fa%7C&la=greek&can=e%29cousi%2Fa%7C0&prior=au)tw=n" \t "morph) [καταλείποις](http://www.perseus.tufts.edu/hopper/morph?l=katalei%2Fpois&la=greek&can=katalei%2Fpois0&prior=e)cousi/a|" \t "morph), HE IX, 9a.8).

The letter is ambiguous, rhetorical and lacking in precise instructions. It does not imply full toleration, in that it does not provide for the restitution of confiscated goods, but the language is completely different from any previous pronouncement. Maximinus exhibits his own rhetorical style, depicting himself as a just ruler; while still considering Christianity a superstition, he endorses persuasion over coercion, in a gesture of generous tolerance, here adopting the line of the Christian apologists (Justin Martyr *First Apology*, 14; *Origen, Against Celsus* 2.78, 3. 10; *Letter to Diognetus* 7; Lactantius *Divine Institutions*, 5.19), who had been calling for toleration on the basis of this classic dichotomy in philosophical-political thought, which contrasted persuasion with coercion, and made it possible to distinguish the good ruler - the *civilis princeps* - from the tyrant (Marcos 2017).

1. Maximinus’s order (διάταξις) of religious freedom (Eus. HE IX 10.7-11)

Licinius and Maximinus went to war in the spring of 313, with the former emerging victorious. According to Eusebius, in an act of thanksgiving to God for his victory, Licinius published his version of the so-called Edict of Milan in Nicomedia, on June 13th, decreeing freedom for Christians. Maximinus took refuge in Asia Minor, and in the summer, shortly before his death, decreed ‘a most perfect and complete law’ ([τελεώτατα](http://www.perseus.tufts.edu/hopper/morph?l=telew%2Ftata&la=greek&can=telew%2Ftata0&prior=au)tw=n" \t "morph) [καὶ](http://www.perseus.tufts.edu/hopper/morph?l=kai%5C&la=greek&can=kai%5C3&prior=telew/tata" \t "morph) [πληρέστατα](http://www.perseus.tufts.edu/hopper/morph?l=plhre%2Fstata&la=greek&can=plhre%2Fstata0&prior=kai\\" \t "morph), Eus. *HE* IX.10.6) in favour of the Christians. Lactantius makes no reference to this law, which Eusebius transmits, translating it from Latin into Greek (*HE* IX, 10, 7-11), while Eusebius does not allude in his account of these events to the document publicised by Licinius at Nicomedia, which he places in the appendix of laws in book X of the *Ecclesiastical History* (X.5.1-14).

#### The law is a masterpiece of imperial rhetoric. Maximinus declares that he continually watches over the provincials, providing them with whatever is of the greatest use to them, as well as whatever is in keeping with public utility and agreeable to the opinion of each. He blames the officials for the excesses committed against the Christians, a harm that fell on the provincials for whose worthy care he says that he is doing his utmost. He mentions that the previous year, he sent letters to the governors of each province legislating respect for each person’s religious choices. To remove, henceforth, all suspicion and ambiguity causing fear, Maximinus now promulgates this order (διάταγμα), as an imperial gift ([τῆς](http://www.perseus.tufts.edu/hopper/morph?l=th%3Ds&la=greek&can=th%3Ds0&prior=tau/ths" \t "morph) [δωρεᾶς](http://www.perseus.tufts.edu/hopper/morph?l=dwrea%3Ds&la=greek&can=dwrea%3Ds0&prior=th=s" \t "morph) [τῆς](http://www.perseus.tufts.edu/hopper/morph?l=th%3Ds&la=greek&can=th%3Ds1&prior=dwrea=s" \t "morph) [ἡμετέρας](http://www.perseus.tufts.edu/hopper/morph?l=h%28mete%2Fras&la=greek&can=h%28mete%2Fras0&prior=th=s" \t "morph), Eus. *HE* IX, 10.10), again decreeing that everyone be able to follow the religion of their choice, or that which they have chosen to practise habitually. Christians are also allowed to build their own churches. In order to further enhance this imperial gift (δωρεά; *HE* IX, 10.10, 11), he legislates precisely how the Christians were to have their property returned to them, whether it had passed into the hands of the treasury, the cities, or private individuals. All confiscated property was to be returned to the Christians so that they could appreciate Maximinus' piety and providence (εὐσέβεια [καὶ](http://www.perseus.tufts.edu/hopper/morph?l=kai%5C&la=greek&can=kai%5C4&prior=eu)sebei/as" \t "morph) πρόνοια, *HE* IX, 10.11). The preamble replicates the same arguments as the letter to Sabinus. The novelty is the dispositive part concerning the restitution of property to Christian individuals and churches, which resembles those contained in the ‘edict’ of Milan, which, published in the territories under Licinius's control, Maximinus was undoubtedly familiar with.

Maximinus’s opinion of the Christians never changed, such that we can only speculate about his motives for decreeing this law. The emperor, according to the rhetoric of the chancellery, presents it as a provision to ensure the welfare of the provincials and the state. It is likely that, gravely ill, he issued this ‘formal act of capitulation’ to secure the fate of his family (Thomas 1968, 185). If he did, it was in vain, for his wife, children and closest collaborators were immediately murdered on Licinius's orders. But it is also reasonable to think that, like Galerius, Maximinus wanted to leave an image of himself as a tolerant emperor, remembered for his piety and providence rather than as a tyrant.

The edict of Milan

Among the ‘edicts’ of toleration, that of Milan has undoubtedly been the most studied. Two aspects have been of particular interest: the history of the debate over the type of document (edict, letter), and its authorship. Issued after the conference of Constantine and Licinius in Milan to deal with ‘all problems concerning security and the public good’(*ad commoda et securitatem publicam*), it is debated whether the inspiration was Constantine or Licinius (see the current literature reviews in Barnes 2007, Siniscalco 2013 and Lenski 2017). I will avoid this debate, focusing, rather, on the reasons for the toleration, in this case, of the full religious liberty it grants.

The document survives in two copies: one in Lactantius (*DMP* 48.2-6) and one in Eusebius (*HE* X.5.4-14). Lactantius reproduces, in the original Latin, the letter (*litterae*) sent by Licinius to be posted in Nicomedia (on 13 June) after the first victory over Maximinus. Eusebius reproduces a slightly more complete Greek version of a rescript (ἀντιγραφή), which was sent to the governor of Palestine a little later. It must be assumed that copies were sent to all those provinces that Licinius had wrested from Maximinus.

The long and repetitive preamble sets out the reasons for the measures taken (Lact. *DMP* 48.2-6, Eus. *HE* X.5.4-8 retains a few more lines from the heading). Religious matters were on the agenda of the Milan meeting. In order to ensure respect for and worship of the divinity (*divinitatis reverentia*), Christians, and everyone in general, were given the freedom to follow the religion of their choice (*et christianis et omnibus liberam potestatem sequendi religionem quam quisque voluisset*), so that, for both the emperors and for the citizens under their authority, the divinity in the heavenly seat (*divinitatis in sede caelesti*) would be favourable (*placatum ac propitium*). The decision was taken based on a most salutary and upright reasoning (*consilium salubri ac rectissima ratione*) so that no one should be denied the ability to follow and choose the religion of the Christians, and anyone could direct his mind to the religion that suited him, with the aim that the highest divinity (*summa divinitas*) would grant the empire his usual solicitude and benevolence (*solitum favorem suum benivolentiamque*). It was intended that all previous anti-Christian measures, alien to imperial gentleness (*clementia*), be eliminated, and that Christians should enjoy freedom, unhindered (*liberam atque absolutam colendae religionis suae facultatem*). This freedom also applied to non-Christians, such that those who wished to to pursue their own observances and religion (*religionis suae vel observantiae*) were given the freedom to do so, as long as such relgion accorded with the peace of the age (*quiete temporis nostri*).

The dispositive part (*DMP* 48. 7-9, *HE* X 5.9-11) sets out the restitution to Christians, as a corporation (*corpori christianorum*), of property confiscated during the persecutions. As has been handed down to us, the document was issued by Licinius to restore to Christians, as individuals, and to the churches of the Eastern provinces, a freedom already enjoyed by Christians in the West (Barnes 2007, 188-189).

With respect to the pronouncements issued by Galerius and Maximinus, Licinius’s order presented, as a novelty, an insistence on the full recognition of religious freedom as a right of the individual and of the divinity to be worshipped, and the depiction of this right as a reasonable principle. All the other arguments were already present in one or another of the previous enactments, including the guarantee in the achievement of the *pax deorum*, which was already in Galerius's edict (Sordi 2010). The neutral tone of the wording of the edict of Milan is also original, alluding to the divinity in abstract terms and devoid of any negative overtones with respect to any of the groups, either Christian or any other.

The argument for religious freedom is rooted in the language of earlier Christian apologetic literature, in particular that of Tertullian, who invoked the individual’s freedom of conscience and the requirement that a religious act must be carried out voluntarily in order to be valid, the latter principle being for the Romans necessary for the validity of a sacrifice. Lactantius adopts and develops Tertullian's argumentation by emphasising the value of persuasion (*Divine Institutions* V, in particular V.19). Although a direct influence of Lactantius on this document has been asserted (De Salvo 1977, Barnes 1981, 14; Lenski 2017, 48-49, with further references), it cannot be proved, nor is it necessary to appeal to Christian influence in order to understand the arguments contained in the document. Maximinus Daia, whose reasoning is not thought to result from Christian influence, had already used similar arguments, which belonged to the acquis of classical, particularly Stoic, political-philosophical thought.

Constantine’s letter to the Provincials of the East

The Edict of Milan was the last of the pronouncements that put an end to the persecutions initiated by Diocletian. However, there is one more document that speaks of toleration in the Constantinian era: the Letter to the Provincials of the East against polytheistic worship, transmitted by Eusebius in the *Life of Constantine* (*VC* II. 48-60). It was published in 324, after Constantine's definitive victory over Licinius and his takeover of the East. Together with the Letter to the Palestinians (*VC* II.24-42), it is a public and explicit declaration of his Christian faith and his intentions in religious politics. Although the authenticity of the documentary dossier published in the *Vita Constantini*, which Eusebius attributes to the emperor himself, has been questioned, it is now known that the documents are authentic (Pietri 1983). The letter to the Palestinians, addressed to the churches, puts an end to the persecutions, which are described with all their effects (exile, work in the mines, etc.), and establishes restitution for the Christians.

Eusebius calls the letter to the provincials of the East a διδασκαλία, an instructive decree that was circulated in every province refuting the idolatrous error. The document, signed by the emperor himself and translated from Latin into Greek is, says Eusebius, – ‘highly relevant to quote so that we may feel that we are listening to the voice of the emperor himself’ (*VC* II.47.2). Constantine begins by mentioning the providence and thoughtfulness of this divine ordering, and expounding upon the rationality of recognising God (*VC* II.48). Aside from his father, he says that previous emperors, as they were mentally sick, had behaved with savagery rather than gentleness (*VC* II.49-54). Constantine portrays himself as a liberator of the Easterners, repeatedly mentioning God throughout the letter, under whose guidance he acts (II. 55). After the preamble, comes the sentence with the declaration of toleration (II.56):

For the general good of the world and of all mankind I desire that your people be at peace and stay free from strife. Let those in error, as well as the believers, gladly receive the benefit of peace and quiet. For this sweetness of fellowship will be effective for correcting them and bringing them to the right way. May none molest another; may each retain what his soul desires, and practise it. But persons of good sense ought to be convinced that those alone will live a holy and pure life, whom you call to rely on your holy laws. Those who hold themselves back, let them keep if they wish their sanctuaries of falsehood. To us belongs the shining house of your truth, which you have given in accordance with nature. This we pray also for them, that by means of the general concord they too may enjoy what they desire (trans. Cameron-Hall).

In the grandiloquent language that characterises the whole letter, it ends with praise for the power of God, who allows the world to stand (II.57-58), recalling that no one should harm his neighbour for his convictions, and endorsing voluntariness in religious matters: ‘It is one thing to take on willingly the contest for immortality, quite another to enforce it with sanctions’ (II.60.1). The object of this provision, concludes the emperor, is to prevent violence against the sacred places of polytheism (II.60.2). ‘Such words the emperor, like a loud-voiced herald of God, addressed to all those in the provinces through a personal letter, protecting his subjects form demonic error, while encouraging the pursuit of true holiness’, Eusebius concludes (VC. II.61).

Paragraphs 56 to 60 constitute the *ratio* of the edict. In them, Constantine manifests his religious policy of toleration, expressing his own Christian convictions and personal determination to impose peace on his subjects. Peace recurs several times in the edict (II 56.1-2, 59) and is a key concept in Constantinian propaganda (Bonamente 2015, 281).

As in the case of the Edict of Milan, it has been argued that this Constantinian text may have been influenced by Lactantius. This may be so but, again, it is not necessary to look for Christian roots of his argument. That persuasion was superior and preferable to coercion had already been argued by the Greeks, for whom πείθω (persuasion) was the quality that distinguishes men from beasts, and symbolises civilisation; while [βία](https://en.wikipedia.org/wiki/el%3A%CE%B2%CE%AF%CE%B1%22%20%5Co%20%22w%3Ael%3A%CE%B2%CE%AF%CE%B1) (violence, force) represents uncivilised behaviour and barbarism. Societies that operate without the benefits of πείθω are doomed to violence and tyranny. Christian apologists retrieved this discourse, which they did not invent but, rather, adapted to the circumstances in their demands for tolerance (Marcos 2017).

Conclusion

Wallace-Hadrill opened his article on ‘The Emperor and His Virtues’ (1981, 298) with this statement:

The power of the Roman emperor derived from many sources; from armed support, from legal and constitutional recognition, eventually also from the sheer inertia of a bureaucratic machine. Among other factors, a not negligible role was played by persuasion and belief. At least in part, the emperor was what Max Weber termed a ‘charismatic’ ruler; that is to say one whose power depends on the conviction of his subjects that he is personally in possession of gifts or talents essential for their well-being, yet beyond the reach of the ordinary mortal.

The emperors portray themselves as magnanimous, merciful and philanthropic rulers in their granting of religious toleration, bestowing it is a gift (δωρεά, εὐεργεσία, *beneficium*) of their rule, a manifestation of their εὐσέβεια, πρόνοια, *indulgentia*, *providentia*, *and clementia*, traditional virtues made standard in the rhetoric of the Tetrarchy (Corcoran 1996). That is, the laws studied here do not respond to any requests, and are presented as genuine displays of imperial generosity. The degree to which these sentiments were genuine is difficult to determine, but there are obvious differences between one pronouncement and another. Accompanied by the rhetorical devices of the chancellery, the laws of toleration convey the voice of the emperor; Maximin Daia alone signs his final edict of toleration, and Constantine writes his letters to the eastern provincials himself. And it is not only the voice of the emperor’s that we hear; his feelings also come through. Of Gallienus we know little, and only an excerpt of his edict has survived, containing no judgement of the Christians. Galerius, meanwhile, makes no secret of his dislike for them, characterising them as a foolish and undisciplined people whom he wished would return to sanity. In a rare gesture, however, he acknowledges the failure of persecuting them, and grants toleration as a lesser evil. Maximinus Daia is openly anti-Christian. He published Galerius’s edict reluctantly, giving only verbal orders to his prefect. One may presume that he did not want to commit himself personally by issuing a law destined to last. The wording of his rescripts granting the cities of the East their requests vividly manifests his abhorrence of Christianity and his contempt for Christians. Maximinius never changed his mind, but he was able to control his feelings, drawing on the classic principle of political philosophy upholding the use of persuasion rather than the use of coercion. In his last edict, in which he decreed full freedom for Christians, he speaks of how he continually watches over his subjects, and blames others for the violence. He does not wish to be remembered as a tyrant. The neutral language and the deliberately abstract way of referring to divinity in the Edict of Milan reveal an express desire for consensus. After the victory over Licinius, Constantine, who openly declares himself a Christian and speaks in terms of ‘error’ and ‘truth’, forbids violence, demands respect even for beliefs he deplores, and presents toleration as a reasonable principle. In granting toleration, the emperors, whatever their religious inclinations, manifest their *romanitas*. They are motivated by their desire to benefit the state, to secure and protect the *pax deorum*, social peace (*quies*), and the welfare (*securitas*) of their subjects. The edicts attest to the persistence of a strong connection between religion and politics.

Imperial toleration is based on motifs that were already classic in Christian apologetics: (a) the traditional Roman respect for religious diversity and the political praxis, whichrecognised the right of each people to worship their own gods as hallmarks of their different ethnicities; (b) the guarantee that the deity was duly worshipped by the entire civic community; (c) the philosophical-political principle of persuasion as an essential instrument of the government of the good ruler; and (d) the liberty of the individual to make a fully free choice as regards his religion. But the fact that the emperor's reasons for decreeing toleration share those put forward by Christian apologetics does not necessarily mean that the inspiration behind the edicts was Christian. The apologetic discourse of toleration was not inevitably based on religious convictions but, rather, on the principles of classical *paideia* and the praxis of Roman government, which could easily be shared by both monotheists and polytheists alike (Marcos 2012).

It is true that, as is so often recalled in modern historiography, there was no word for ‘toleration’ in Rome (*patientia, moderatio* are the terms closest to this concept), but the Romans had a perception of what a tolerant emperor was. Legal pronouncements were a vehicle of imperial communication, and toleration was incorporated into juridical rhetoric as a virtue of the ideal ruler, who declared it part of his political programme, either at the beginning of a new stage in the history of a government, as in the case of the Edict of Milan issued by Licinius after his victory over Maximinus in 313 and that addressed to the eastern provincials by Constantine after his victory over Licinius in 324, or at the end of an era, like Galerius and Maximinus’s palinodes on their death beds.

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