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Trouble in Pontus: The Pliny-Trajan Correspondence on the Christians Reconsidered*

The letters exchanged by Pliny and Trajan concerning Christians have occasioned abundant commentary. But scholarship remains confused over two questions – first, Pliny’s procedure and motivation in writing, and second, the extent of the emperor’s response. I argue that the letters are evidence only of an overexposed governor’s effort to shut down an escalating situation, and that they elicited a tailored, local and limited imperial response. This reading not only prompts a more nuanced understanding of the role of the governor and of his correspondence, but also prevents erroneous use of the letters in discussions of the “persecution” of the Christians.

“He turned on Valens with a smile that half-captured the boy’s heart. ‘Now—as a Roman and a Police-officer—what think you of us Christians?’

‘That I have to keep order in my own ward.’”

Rudyard Kipling, *The Church that was at Antioch*

I. Introduction

As the second year of his appointment as governor of Bithynia-Pontus wound down, Pliny the Younger wrote to the emperor Trajan about an incident there that was threatening to spiral out of control.¹ It concerned certain individuals, identified as *Christiani*, arraigned before him during his assizes in his dual province’s eastern stretches. This letter and the response it elicited, *Epistulae* 10.96 and 10.97 in Pliny’s collected correspondence, have sparked as much (charged) comment as any other administrative document from classical antiquity, in particular because they have been the key evidence for discussion of the so-

called ‘persecution’ of the Christians. It is with some trepidation then that the present essay proposes to re-open the question of their proper interpretation. But recurrent confusions over the procedure and motivation of Pliny’s letter, and the intention and impact of Trajan’s reply, render it essential. The problematic behaviour at the core of these letters was not, I argue, that of Christians but of Pliny himself. To fail to realise this is to fall captive to Pliny’s own rhetoric. Such a reading means that the letters gain fresh value for revealing the difficulties of the Roman governor’s role in the imperial period, and the true value of correspondence in mitigating them. And it also demands a change in our approach to the question of how and why Christians suffered in the Roman Empire.

The scholarship on these letters is vast, but my point of departure is the influential debate between Adrian Sherwin-White and Geoffrey de Ste Croix published in the middle of the last century,² which has set the tone for all subsequent treatments. Both writers read the Pliny-Trajan exchange in light of Mommsen’s suggestion that it was the discretion of individual Roman governors, rather than any general law – as imagined by earlier scholarship – which accounted for the phenomenon remembered by Christians as ‘persecution’.³ But they disagreed over the motivation behind Pliny’s execution of Christians. Sherwin-White believed that Pliny read the name ‘Christian’ as a marker of criminal activity.⁴ Once alerted by the name, he discovered Christians to be contumacious in refusing to sacrifice when asked to, and so executed them. De Ste Croix, on the other hand, rejected the idea that *contumacia* was Pliny’s prime concern.⁵ Instead, he argued that Pliny, and later governors, in possession of this correspondence, judged Christianity a form of ‘atheism’ and a threat to traditional religious practice.⁶

Into this debate waded Timothy Barnes in an oft-cited article surveying the evidence for legislation against the Christians. After an opening dismissal of all previous scholarship as “in large part worthless,”⁷ he furthered the debate with a salutary reminder that *Epistulae*

10.96 was not a theoretical discussion but a specific and urgent request.⁸ Pliny was confident in executing those who admitted being Christians (or sending them to Rome if citizens) and in releasing those who denied it and validated that denial in a sacrifice test. But he was uncertain how to treat a third group, the so-called ‘recanters’, who admitted being Christian in the past but claimed to have ceased being so. These recanters were now filling his prisons. Pliny’s letter was written, Barnes argued, to convince Trajan to allow him to release them, a suggestion the emperor was to accept.⁹

Sherwin-White, de Ste Croix and Barnes all approached the letter in the context of a wider discussion about the persecution of Christians. But to assume that these letters are first and foremost ‘about’ Christianity is, I suggest, to build on unstable foundations. Instead, we must read them for what they are - a report of a governor’s treatment of one minority provincial group among many. The letter is not concerned with their Christianity per se – which Pliny lays on one side at the start – but with the validity of his procedure in dealing with them. To understand the letters, then, we need to begin not with the ‘persecution’ of the Christians but with Roman gubernatorial procedure, the relationship of Rome to its provinces, and the nature of Pliny’s letter collection, all areas in which our understanding has greatly increased over the last half century.

There are two specific problems with traditional treatments of the correspondence. First, the motivations of both Pliny and Trajan in writing have been misunderstood. Though Barnes’ insight that Pliny’s letter was a specific and tailored query is welcome, that query was not, I suggest, one concerned only with the release of Christian recanters. Rather, it was a broader request prompted by the tensions of the governor’s role. Aided only by a skeleton staff, Pliny and other Roman governors were charged with bringing order to a provincial population known for frequent, hopeful and aggressive use of the judicial system. The sheer volume of work made full and proper procedure impossible, and the priority of maintaining

order necessitated a certain degree of brutality that was tolerated, and even welcomed, by provincial communities. But this was balanced by, and occasionally in tension with, a simultaneous Roman desire that its government appear reasonable, and with provincial populations' capacity and often inclination to lash out at governors whose judgments they found wanting. The perception of excessive brutality was a particular trigger. Provincial governance was thus a constant process of negotiation, much of which was conducted amidst a landscape of official documentation. *Epistulae* 10.96, I suggest, records just such a case where a governor caught between the ideal and the reality of the job sought imperial affirmation as a shield to guard against any future provincial provocation.

The second lingering area of confusion stemming from this scholarly triumvirate is the assumption that Trajan's reply was intended to – and did – have a long legacy in the later treatment of Christians. Sherwin-White was admirably cautious in noting the limitations on any subsequent legal use of such a rescript.¹⁰ But while de Ste Croix acknowledged these formal restrictions, he nevertheless declared confidently that “Once Pliny's correspondence with Trajan had been ‘published’... every educated Roman would be likely to know what instructions Trajan had given regarding the Christians; and thereafter any provincial governor might well feel that until official policy towards the Christians changed he had better follow the same policy.”¹¹ Barnes' article similarly assumes that: “The legal position of Christians continues exactly as Trajan defined it until Decius. After Trajan's rescript, if not already before, Christianity was a crime in a special category...”¹² As recently as 2010 Barnes could state that “Trajan's rescript to Pliny had a general application in that it laid down the legal principle that was to define the legal status of Christianity until 250.”¹³ This presumption that *Epistulae* 10.96 and 10.97 dictated the subsequent treatment of Christians has also been highly influential.¹⁴ But it too is problematic, and is challenged by our increased

understanding of the nature and reception of Pliny's letter collection. Moreover, it is based in large part on later, indirect Christian evidence that cannot bear this interpretative burden.

This article will thus present two theses. First, that *Epistulae* 10.96 is Pliny's record of his attempts to shut down an apparently minor local situation that has begun to run away from him. He has initially decided to execute without investigation a group of troublesome non-citizens arraigned on the basis of supposed criminal activity. That decision however risks appearing excessively brutal once large numbers have been similarly accused, and his initial suspicions have been proved invalid. Pliny, fearing a backlash, writes because he wants formal, physical proof of imperial support that will guarantee his reputation and bolster his authority in future interactions with provincials. Second, that Trajan's reply in *Epistulae* 10.97 is a similarly limited response designed to solve Pliny's specific local problem and provide the required support, rather than to make any general statement about the status of Christians. Moreover, there is simply no good evidence of Trajan's rescript being used in any later Roman treatment of Christians; it is only the misleading over-representation by Christian authors that make us think it was. This new reading has far-reaching implications. The letters gain fresh value in prompting a more nuanced view of the on-the-ground role of the Roman governor, and of the actual role of his correspondence in negotiating some of its difficulties. And they necessitate a new approach to the question of Christian 'persecution', starting from an acknowledgment of the haphazard nature of Roman treatment of Christians, and the importance of beginning not with Christian evidence but with Roman provincial practice 'on the ground'. In short, these letters must be read as a discussion not of 'the problem with the Christians' but rather simply of 'the problem with Pliny'.

II. The Provincial Poisoned Chalice

The basic problem underlying earlier readings of these letters is, I suggest, that they have been implicitly treated as reflecting ideal Roman practice.¹⁵ But such a starting point neglects both the reality of Pliny's judicial role as a recently appointed governor in the early 2nd century, and the peculiarities of the region in which these events played out. We must therefore begin with the letters' context – the judicial expectations upon a governor and how they tallied with the realities of that role, and the particularities of the province to which Pliny was posted.

A governor's prime directive was to ensure order (Ulpian, *Dig.* 1.18.13.pr.). Doing so necessitated the use of violence, and indeed the employment of the latter was key to imperial government, both physically and psychologically, since it provided reassurance to a provincial audience of Roman control.¹⁶ But this violence had to be in proportion, and it had to be just – in other words, its recipients had to be recognised as deserving. Recent studies have demonstrated how important to the constructed relationship between the Empire's centre and periphery was the belief that Roman government was fair and reasonable.¹⁷ It was thus crucial that the governor not appear excessively harsh or draconian. The ideal Roman judge was expected to act with self-control and reason (on self-control as the governor's prime qualification for office, see Cicero, *QFr.* 1.1 passim).¹⁸ Tellingly, not only *iustitia* but also *clementia* were key to the ideal of the emperor (e.g. Augustus, *Res Gestae* 34) and his provincial avatar the governor alike (e.g. Cicero, *QFr.* 1.1.8).¹⁹ The governor's role was thus not only to keep the province stable and loyal (i.e., to act in Rome's interests) but also to appear to govern rationally and fairly (i.e., as if the provincials interests were important too), including and indeed especially in his use of force.

There were of course famous tales of governors' judicial misbehaviour and excess, now often cited as examples of their freedom to act however they liked. But in fact these are usually found in contexts of severe criticism. To take just the most famous: the governor

Volessus' execution of three hundred provincials in one day comes in the context of Seneca's vilification of an excessive anger that "from frequent repetition and excess results in the neglect of mercy (*frequenti exercitatione et satietate in oblivionem clementiae venit*)" and "crosses over into cruelty (*in crudelitatem transit*)" (*De ira* 2.5.3).²⁰ Volessus' behaviour thus goes beyond anger to "a greater – and incurable – evil (*maius malum et insanabile*)" (*De ira* 2.5.5). In Tacitus' telling too this tale is an example of poor behaviour cited by Tiberius in condemning another governor (*Ann.* 3.68.1). These tales judge and condemn behaviour that flouts the ideal picture of governance projected by Rome.

The last forty years of scholarship have also revealed the practical pressures on the governor's time. We can best picture the governor as a physician with a finger on his province's pulse, tasked with keeping it slow and steady but, as Fergus Millar has shown, given meagre means with which to do so.²¹ The great difficulties this caused in practice are only now becoming clear via work on legal papyri. Benjamin Kelly's work makes plain how provincials' appeals to law, far from being a last resort, were regular, haphazard and often "show little clear consciousness of legal principles".²² Legal recourse was simply one more tool in the kit of a provincial in competition with his (or her) neighbours for resources and status. It was a tool of which provincials made ample use. The truth of Plutarch's plea concerning excessive appeal to Roman authority (*Prae. ger. reip.* 814-5), for example, finds powerful support in the papyrus of 209AD indicating that one thousand and eighty four petitions were addressed to the prefect of Egypt in just over two days while he was visiting Arsinoë (*P.Yale* 1.61, 1.5-7).²³ This is the context for Ulpian's insistence on the importance of a governor organising and prioritising incoming petitions. This was not just a heavy workload; it was an impossible one. The sheer volume of speculative appeals leads Kelly to conclude that 'the resources at the disposal of an ancient state were simply insufficient to permit the realisation of the ideals of careful and just processing of cases'.²⁴

This unmanageable administrative mountain is how we should imagine Pliny's judicial inbox. Indeed he himself had once referred to the governor's role as one of "toil and trouble (*labore et molestia*)" (*Ep.* 2.12.3).²⁵ Dio Chrysostom's appeal to his countrymen in Bithynia-Pontus that they not inundate the visiting governor with legal pleas (*Or.* 48.1-3) – which his past experience clearly leads him to expect they will do – suggests that Bithynia-Pontus conformed to this model. One suspects that Pliny would have found this aspect of the governor's role especially trying. He had complained about how overwhelming he found official duties long before he began his term as governor (*Ep.* 1.10.9). And though he had taken an interest in the provincial activities of others (e.g. *Ep.* 6.22; 8.24; 9.5) he was nevertheless relatively inexperienced when he took on the governor's mantle.²⁶

The oddities of Pliny's particular commission, Bithynia-Pontus, only exacerbated the problem. Trajan had sent Pliny personally after a senatorial decree converted Bithynia-Pontus from a province governed by praetorian prefects to one administered by a *legatus Augusti pro praetore*.²⁷ The change was prompted by the province's problems. The exact nature of Pliny's appointed task is not clear. It certainly involved improving the province's finances (*Ep.* 10.18.3). But he was also to quell recent disquiet and unrest due to factions and associations (*Ep.* 10.34.1), and the disastrous tenures of his predecessors (*Ep.* 10.117). Julius Bassus, governor between 100 and 101, had been indicted; nor was this the first such accusation levelled against him (*Ep.* 4.9).²⁸ Varenus Rufus, governor between ca.105 and 106, had been similarly targeted (*Ep.* 5.20; 6.5; 6.13).²⁹ That this went beyond the normal give and take of provincial politics is indicated by Pliny's exasperation with Varenus' case – "The Bithynians again: such a short time after the Julius Bassus affair! (*Iterum Bithyni: breve tempus a Iulio Basso*)" (*Ep.* 5.20.1).³⁰ Pliny himself had acted as lead defence lawyer for both Bassus and Rufus (*Ep.* 4.9.4; 5.20; 6.29.10; 7.6; 7.10). He was well attuned to the dangers of his new job.³¹

The crucial and often missed factor here, though, is that the failings of Pliny's predecessors included judicial missteps. These had a long history. A contemporary dispute over the status of Flavius Archippus stemmed to his condemnation to the mines by Veleius Paulus, governor between ca.79 and 80 (*Ep.* 10.58.3; see too 10.59 & 60).³² But they had recurred recently as well. Servilius Calvus, Pliny's predecessor from 108 to 109,³³ though not indicted, was nevertheless responsible for some ambiguous sentencing (*Ep.* 10.56.2). *Epistulae* 10.32 gives the clearest indication that judicial issues were a factor in Pliny's commission. In response to Pliny's query about convicts discovered working as civic employees (*Ep.* 10.31, considered further below), Trajan replies, "Let us bear in mind that it was for that reason you were sent to that province, since many things appeared to need improvement (*Meminerimus idcirco te in istam prouinciam missum, quoniam multa in ea emendanda adparuerint*)" (*Ep.* 10.32.1). Judicial problems are here placed among those Trajan dispatched Pliny to solve.

Finally, it is worth noting the geographical oddity of the region from which *Epistulae* 10.96 was sent. Bithynia-Pontus was a dual province on the coast of the Black Sea in Anatolia (note Pliny's own casual dismissal of the region in *Epistulae* 8.24.9, written before his appointment). It was formed from the Roman annexation of two independent kingdoms: Bithynia, which became part of the Empire in 74BC, and Pontus, in 63BC.³⁴ In their union, Bithynia was by far the more important, and home to the major cities. Pontus in the east, from which Pliny wrote this letter,³⁵ was a narrow, extended coastal strip hemmed in by mountains with a history of difficult inhabitants (e.g. Tac. *Hist.* 3.47-8).³⁶ Most of Pliny's letters in Book 10 are sent from Bithynian cities. He did not even visit Pontus until his second year in office.³⁷ It was simply not high on his list of priorities. It is with these details of Bithynia-Pontus and its recent track record in mind, as well as the tension between the ideal of good government and the pressures of achieving (or appearing to achieve) it in practice,

that I suggest we approach *Epistulae* 10.96 and 10.97.³⁸

III. Pliny and the Christians

The step-by-step development of *Epistulae* 10.96 must be read with an eye to its particular resonance for this governor, in this province, at this time. Pliny first knew of a problem when certain people were “denounced to me as Christians (*qui ad me tamquam Christiani deferebantur*)” (*Ep.* 10.96.2).³⁹ It is worth emphasising first that Pliny has not gone looking for Christians. This has been noted before, but deserves restatement since past treatments of the correspondence as part of wider studies of Christian ‘persecution’ have produced potential confusion.⁴⁰ Pliny, like all governors, was in reactive mode. Further, the Christianity of the accused is something of a red herring here. The charge here is described in interestingly vague language,⁴¹ and that these individuals were accused of being Christians certainly does not imply that Christianity was a defined charge in Roman law. In fact it has long been recognised that there is no good evidence of any legal precedent against Christians before Pliny’s actions.⁴² In an imperial-era *cognitio* it was enough to accuse defendants of suspicious activity.⁴³ This much traditional treatments have acknowledged.⁴⁴ But the real question here remains, namely why and about what exactly Pliny was suspicious.

The answer, I believe, is revealed late in the letter, when Pliny gives a list of crimes of which the Christians insist they are innocent (*Ep.* 10.96.7). They claim they met twice, first to chant verses to God and swear an oath not to engage in theft, robbery, adultery, deceptions (especially financial), and again later to dine together. The way these justifications are phrased indicates that they were originally responses to Pliny’s accusatory questioning. Their oath is for harmless purposes, “not to something criminal (*non in scelus aliquod*)”; the food they consumed is described explicitly as “unremarkable and harmless however (*promiscuum*

tamen et innoxium)”. It is clear, I think, that the activities here rejected reflect suspicious activities Pliny assumed were associated with the label ‘Christian’ when these individuals were initially arraigned.⁴⁵ Most important, all the activities listed – chanting, oath taking and dining – are subordinate to the main thrust of the questioning - the fact of their meeting itself. Pliny was well aware of his emperor’s suspicion of associations; a ban on them formed part of his imperial *mandata* (*Ep.* 10.96.7; see also 10.93). These gatherings, I argue, were clearly the core of Pliny’s concern. Previous attempts to highlight the importance of Christian gatherings in Pliny’s thinking have been rightly dismissed because they suggested Christians were formally charged on this basis.⁴⁶ Their importance, I suggest, was rather as the basis of his initial suspicion.⁴⁷ The independent evidence for imperial concern over associations, together with Pliny’s clear questioning of the defendants on that basis, makes this a much more likely basis for his suspicion than any pre-existing official stance on Christianity, for which there is simply no evidence.

Pliny proceeds by asking those before him three times if they are Christians, and when they answer in the affirmative he sentences them, ordering that they be led away, and subsequently refers to their punishment (*Ep.* 10.96.3).⁴⁸ Though we cannot be entirely sure of the sentence, they were almost certainly executed, since *duci iussi* refers to capital punishment in parallel judicial contexts.⁴⁹ As with their arraignment, Pliny is clear that he is not punishing those accused for their creed in the first instance: “I had no doubt that, whatsoever was the thing that they were actually admitting to, stubbornness and inflexible obstinacy definitely merit punishment (*Neque enim dubitabam, quaecumque esset quod faterentur, pertinaciam certe et inflexibilem obstinationem debere puniri*)”. Pliny is ignorant about Christianity at this point. Nor does he make any effort to learn more; he dismisses it as irrelevant (*quaecumque*).⁵⁰ Christianity in and of itself is quite clearly not his concern. Most important, Pliny initiates no investigation at this stage. He sentences those before him on the

basis of his suspicions and sense that they seem troublesome. In such circumstances rapid suppression was the natural response.

Pliny's ready suspicion of this collective was no doubt enhanced by the fact that by the early 2nd century Christians had a reputation as ne'er-do-wells; see the famous account by Pliny's regular correspondent Tacitus of the general dislike of "those hated for their disgraceful behaviour, who the commoners used to call Christians (*quos per flagitia invisos vulgus Christianos appellabat*)" (*Ann.* 15.44).⁵¹ Pliny's list of suspicious activities overlaps significantly with the Graeco-Roman stereotype of Christians we meet in so many sources of the period.⁵² The only other antique reference to Christians in Bithynia-Pontus specifically comes from the mid-3rd century and also indicates a divided, troublesome group (Euseb. *Hist. eccl.* 7.5.1-2).⁵³ And finally, Pliny's summary executions are all the more explicable since he is dealing here exclusively with non-citizens. He has sent any citizens to Rome for someone else to deal with (*Ep.* 10.96.4).⁵⁴ Pliny has adopted what is essentially a shoot-first policy because he is dealing with a small number of troublesome non-citizens who have affirmed their membership of a sketchy association.⁵⁵ Such suspicions were more than enough to prompt a beleaguered, time-pressured governor to rid his province of undesirables as efficiently as possible.

What happens next? Importantly, Pliny expected things to stop there. Had that been the case, no more action would have been required and there would have been no letter to write. But the problem begins to escalate. A second batch is named in an anonymous *libellus* (*Ep.* 10.96.5). We do not and cannot know the identity of the accusers, but it is tempting to hypothesise that the accusations originated among local vendors who had suffered financially because of the decline in animal sacrifice, especially given Pliny's comments about declining temple attendance and animal sales at the end of the letter (*Ep.* 10.96.10; cf. *Acts* 19:23-41).⁵⁶ It is certainly striking that such escalation is exactly the local response predicted by Benjamin

Kelly's model of local competition.⁵⁷ The success of an accusation of 'Christianity' has sparked a spate of similar accusations.⁵⁸ The escalation is clearly a concern to Pliny, who stresses that it is typical and not his fault (*Ep.* 10.96.4). But the latter claim is belied by the revelation that he has been allowing anonymous accusations, which will have exacerbated the problem. This increase in scale puts Pliny's shoot-first policy under the microscope. It is this, I propose, that motivates his subsequent actions.

Pliny now describes his sacrifice test, wherein he insists that the accused who deny being Christians invoke the gods in words he has devised and offer prayer, incense and wine to the imperial image (*Ep.* 10.96.5). Though much ink has been spilled on this test, two neglected points deserve notice.⁵⁹ First, though it demonstrates that Pliny knew at least something of Christians – since he notes that “none of which things [invoking the gods, making supplication to an image of the emperor and statues of the gods with incense and wine, and cursing Christ] those who are truly Christians, it is said, can be forced to do (*quorum nihil cogi posse dicuntur qui sunt re uera Christiani*)” (*Ep.* 10.96.5) – it is not evidence of any extensive knowledge of earlier trials of Christians. Pliny's earlier professed ignorance of Christianity still stands, since in the intervening period he has made no attempt to correct it. That means that this is a test to see if those arraigned as Christians are correctly denying a charge that Pliny by his own admission does not fully understand, and has not yet dug any deeper into. Second, the test is devised after Pliny has already sentenced Christians. Since it discovers that Christians will not swear to the gods or sacrifice to the emperor, it established what Pliny had earlier suspected – that Christians were troublemakers. There was not of course any positive requirement on individuals to sacrifice to either gods of empire or their own volition. But a refusal to do so when asked was a clearly rebellious gesture that more than justified the quick dispatch of non-citizens, especially if the official in question was already worried about these individuals being part of a mysterious collective. The

chronological distinction missing in earlier scholarship is that at the time he initially marked them for punishment, Pliny did not yet know that they would not sacrifice.⁶⁰ In other words, he has now found a justification for the executions he has already performed. What had been mere suspicions about Christians as troublemakers were now validated, but only, and conspicuously, after the fact.

Pliny's foregrounding of the sacrifice test is thus understandable for a number of reasons. It was certainly, as Barnes and others have noted, a clever solution to prove that the recanters had indeed left Christianity behind. And it also served to reduce the numbers of those involved, helping to deescalate Pliny's problem. But further, by demonstrating that Christians would not sacrifice, it provided legitimation for the executions Pliny had ordered initially. And Pliny's language deliberately, I suggest, blurred this line between the crimes of which he initially suspected the Christians guilty, and that of which they ultimately proved to be so. In speaking at the outset of their "stubbornness and inflexible obstinacy" Pliny was encouraging Trajan to read back the Christians' later refusal to sacrifice into his initial interactions with them. That this was a persuasive rhetorical tactic is evident in its impact on modern scholars. The dispute between Sherwin-White and de Ste Croix over *contumacia* (where Sherwin-White noted that Pliny highlighted Christian refusal to sacrifice as their crime, but de Ste Croix insisted that Pliny could not have initially arraigned Christians for something they had not yet refused to do)⁶¹ was I suggest based on a confusion Pliny deliberately cultivated, since his letter actively tries to write Christians' obstinate later refusal to sacrifice back into his first interactions with them.⁶² Most important, as we shall see, this emphasis on the refusal to sacrifice gave Trajan all he needed to affirm Pliny's actions.

Pliny now comes to the third group, the recanters, who say they are Christians but claim subsequently that they have ceased to be so. Pliny says that they were brought to his attention "by the informer (*ab indice*)" (*Ep.* 10.96.6).⁶³ These are also put to the sacrifice test

and pass. But as a consequence Pliny gains greater exposure to Christians. And he learns that they deny committing any criminal activity even back when they were Christians. This is when he lists the criminal activities associated with illegal gatherings of which he had clearly initially suspected Christians (*Ep.* 10.96.7). Indeed, in noting that their gatherings had been harmless and “this very thing they had given up doing after my edict (*quod ipsum facere desisse post edictum meum*)”, he focuses in on their innocence of his foremost suspicion. And it is at this point – when the matter has escalated, and he has learnt that his initial suspicions about particular crimes were groundless, that Pliny says he felt the need to inquire further (*Ep.* 10.96.8). This investigation thus comes when the judicial process is well underway, and sentencing has already occurred.⁶⁴ His research - torturing two female slaves – now reveals “nothing except perverse and excessive superstition (*Nihil quam superstitionem pravam et immodicam*)” (*Ep.* 10.96.8).⁶⁵ At this point Pliny writes to Trajan: “for that reason, having postponed the investigation, I rushed to consult you (*Ideo dilata cognitione ad consulendum te decucurri*)” (*Ep.* 10.96.9). Pliny is prompted to write by doubt (*Ep.* 10.96.1); doubt that arises from discovering that Christians commit none of the crimes of which he had initially presumed them guilty.⁶⁶

Pliny concludes by noting that many persons of every age, rank, and sex are endangered in the matter at hand, because the superstition has spread throughout both city and countryside. But, he notes, “it seems possible to check and to set it right (*quae videtur sisti et corrigi posse*)” (*Ep.* 10.96.9). Indeed, he boasts, his sacrifice test has already reinvigorated temple attendance, sacrificial rites and the sale of sacrificial meat, so it seems that many can be reformed if offered the opportunity (*Ep.* 10.96.10). There ends his epistle. This conclusion is the prompt behind Barnes’ hypothesis that Pliny is writing to Trajan concerning only the recanters, aiming to get Trajan to approve his suggestion that they go free.⁶⁷ And Pliny likely also exaggerates the impact of Christianity to elevate his own

contribution in proposing the sacrifice test that authenticates the recanters and stimulates the recovery of local pagan cults.⁶⁸ Both suggestions are correct, but they are not, I argue, Pliny's sole reason for writing. The further question, not yet adequately addressed, is why Pliny writes at this point; he has thus far acted alone.

Pliny writes only after his tardy investigations have revealed an absence of precisely the criminal activities he had initially assumed were present. Moreover, since the public torture of slaves was intended as a powerful reaffirmation of Roman authority, when it produced an unexpected result – i.e., implying the general innocence of the accused – that same logic necessarily meant the Roman official's authority was undermined. The implication is that he is checking his overall actions, not just those concerning the recanters. This is affirmed by the letter's opening paragraph, where Pliny raises not just the recanters but a whole series of doubts. He begins with a plea of ignorance. He does not know “what and to what extent it is the custom either to punish or to investigate (*quid et quatenus aut puniri soleat aut quaeri*)” (*Ep.* 10.96.1).⁶⁹ That this is his first comment is telling, since it is precisely severe punishment and a lack of investigation that mark his initial actions.⁷⁰ His ignorance concerning distinctions based on age (*Ep.* 10.96.2) fits his realisation that Christians permeate the community (*Ep.* 10.96.9). Nor is there any evidence he had made such a distinction. His list of doubts climaxes in “whether they are to be punished for the name itself, if it is free from shameful acts, or for the shameful acts associated with the name (*nomen ipsum, si flagitiis careat, an flagitia cohaerentia nomini puniantur*)”. This, of course, is the climactic question precisely because Pliny had assumed the presence of associated crimes that subsequently failed to materialise. These are the framing questions of a man aware that subsequent developments have called into question the suitability and severity of his initial procedure.

Epistulae 10.96, I argue, is a covering letter to justify Pliny's actions. An explosion in

the numbers of those accused, combined with tardy investigations revealing a lack of the particular crimes initially suspected, have exposed the limitations of a shoot-first policy only ever designed to clean up a minor administrative problem concerning a handful of members of a provincial minority group. Its celebration of the efficacy of the sacrifice test and that test's positive results do not entirely hide a chronology where Pliny only devised that test after he had already sentenced some of the accused to execution and had only investigated later still. That Christians will not sacrifice affirms Pliny's earlier suspicions that they were trouble, but he had acted on those suspicions prematurely. Their surprising lack of other criminal activity, combined with the escalating scale of the accusations, prompts Pliny to write when and as he does. Pliny, in other words, has found himself teetering on the brink of precisely the gap between ideal governance and practical necessity that the normal mechanisms of Roman provincial administration made inevitable.

IV. The Exposure of the Governor

The next question is why Pliny would be concerned by this development, and what he hoped to achieve by writing to the emperor. To answer, we need to consider the exposure of the Roman governor, which there is reason to think was rather greater in practice than is commonly assumed. A governor, like all holders of office in the Roman world, was in the public eye, and this had a number of consequences. Pliny, I suggest, was thinking not just of how a governor could be held accountable - including for his judicial actions - after his tenure was up, but also of his reputation, and, perhaps most importantly, of his more immediate continuing management of this province. Seen in this light, his correspondence with Trajan offered not just a practical solution but a formal stamp of imperial approval that could prove a powerful aid, not least in quelling discontent in regions far from Rome.

First, though the *coercitio* inherent to the governor's *imperium* gave him a certain amount of leeway, he remained accountable in his sentencing as in other matters.⁷¹ Nor could *coercitio* prevent bad behaviour being scrutinised. Those perceived to have mismanaged their provinces could be and were called to account *post eventum*. As we have already seen, the denizens of Bithynia-Pontus had a particular penchant for such proceedings. The primary issue was often extortion. But brutality (*saevitia*) was often cited as an exacerbating factor. In a case of which Pliny was aware, launched against Caecilius Classicus by the province of Baetica (where he had been governor in 97 to 98),⁷² the action centred on financial misdeeds, but Pliny says in his introduction that Classicus conducted himself as governor “no less violently than dishonourably (*non minus violenter quam sordide*)” (*Ep.* 3.9.2). At the very least, a reputation for excessive brutality made other charges harder to deal with.⁷³

But in fact there is evidence that judicial misbehaviour could prompt censure in and of itself. The most interesting case – and again one of which Pliny was cognisant – is that of Marius Priscus, governor of Africa in the same year as Classicus allegedly ravaged Baetica. The Senate debated whether it could try Priscus only for the restitution of extorted monies (*Ep.* 2.11.3) or for other crimes, which Pliny reveals to be judicial, and associated with excessively severe sentencing: “he had accepted bribes for finding men guilty, and even for sentencing them to death (*ob innocentes condemnandos, interficiendos etiam, pecunias accepisset*)” (*Ep.* 2.11.2). The legal charges have been much debated.⁷⁴ But more significant for our purposes is the “great dispute (*magna contentio*)” sparked in the Senate. One side argues that “a *cognitio* of the Senate was bound by law (*cognitionem senatus lege conclusam*)” (*Ep.* 2.11.4); the other that they are “free and unfettered (*liberam solutamque*)”. Whatever the legal technicalities, at least some senators clearly believed the Senate to have great flexibility in deciding for what to try Priscus (we might compare Pliny's complaint in *Ep.* 8.14 that the Senate is ignorant or forgetful of proper procedure).⁷⁵ This provides

eloquent testimony to an ex-governor's vulnerability to retribution for misdeeds beyond the mere financial, and here explicitly judicial.⁷⁶ And in fact in this case the Senate does side with the liberal interpretation of its own powers. Governors were under scrutiny, and that scrutiny had teeth.

Second, Pliny lived in a world where the perception of poor behaviour was as problematic as an actual indictment. Rumours of provincial mismanagement would be much discussed. The cruelty of Marius Priscus and the case it prompted created substantial ripples in Rome. Pliny describes the case as “renowned for the eminence of its protagonist (*personae claritate famosum*)” and “enduring for the magnitude of the case (*rei magnitudine aeternum*)” (*Ep.* 2.11.1). He himself thought the eventual decision “salutary in the severity of the example it set (*severitate exempli salubre*)”. But Juvenal's continuing mutterings on the matter indicate that a feeling persisted among at least some of Rome's populace that an even harsher punishment was merited (*Juv.* 1.45-50; 8.119-120). This was not isolated discontent. Cicero had warned his brother about the reputation for anger and associated harshness he was garnering as a governor (*QFr.* 1.1.13; see too 1.1.4 and 1.1.10). A governor's political opponents could and would use such rumours against him (*QFr.* 1.1.14-15).⁷⁷ And Pliny's own earlier advice to a prospective governor simultaneously advised him to “avoid arrogance and harshness (*absit superbia asperitas*)” (*Ep.* 8.24.5) and reminded him of the dangers posed to one's reputation (*Ep.* 8.24.9). Jon Lendon's powerful demonstration of the importance of reputation among Roman elites encompasses their behaviour (and the perception of their behaviour) while in provincial office, and testifies to the significant repercussions of any missteps.⁷⁸ Pliny's mind may well have turned to such matters as the situation in Pontus threatened to get away from him.

Unlike Marius Priscus, Pliny's actions of course extended only to non-citizens. But that did not render them inconsequential. In the early 2nd century non-citizens could still be

prominent members of provincial communities. Moreover, in the case of the Christians Pliny already knew that the group included citizens too. And he has now discovered from his (tardy) investigations that the Christians are a close-knit community. He might well reasonably expect that those more influential members would voice concerns on behalf of their less significant brethren. Indeed, his letter to Rome follows hot on the heels of these more influential Christians he has already sent there. And again, most important was the escalating scale of the problem. The more people were affected, the more visible Pliny's actions became. In a volatile province that was a cause of concern. The demonstrations of discontent "even to the point of civil disruption (*usque ad seditionem*)" prompted by the proposed execution of Lucius Pedanius Secundus' four hundred household slaves – a case where due process had been followed and where the victims had no standing whatsoever – is a sobering reminder that the perception of an excessive judicial response could elicit significant unrest even in Rome (Tac. *Ann.* 14.42-45; for parallel unrest see too 3.40).⁷⁹

Such spontaneous unrest points to the third, and arguably most important, reason for Pliny's concern, namely his continuing management of this difficult province. Being personally targeted might have been one factor here, though that was perhaps an occupational hazard (e.g. Tac. *Hist.* 4.45). And any potential loss of reputation would itself have made governance more difficult.⁸⁰ But beyond that, Ari Byren's recent work on Egyptian papyri suggests that governors in this period had to negotiate a gradually increasing agency in provincial interaction with Roman law.⁸¹ From the 1st century provincials began to learn techniques for obtaining some degree of control over their governors. If the battleground for this development was the courts, its weapons were authoritative legal documents. Victory depended on who had access to and thus could wield them at the opportune moment.⁸² Anything a governor did could potentially be turned against him in the future.⁸³ Harries' recent discussion of Ulpian's early 3rd century *De officio proconsulis* and its focus on the

rights of provincials arguably reflects the same process in a different medium.⁸⁴ Pliny himself had once spoken of the ultimate humiliation of acting as a governor after visible disgrace, “exposing oneself to be seen and pointed out (*conspiciendum se monstrandumque praebere*)” (*Ep.* 2.12.3). Pliny’s request for formal imperial intervention in a situation where he did not have previous archival material to appeal to, and in which his own behaviour could be questioned, fits this picture of continuous negotiation between provinces and their governors turning on the possession and use of authoritative documentation.

Pliny’s letter should thus be read as having two aims. The first was practical – to defuse a potentially difficult situation by reducing the numbers involved (hence the recommendation that the recanters be released). This would also help prevent the scrutiny, repercussions and even unrest he was worried might otherwise ensue, particularly given what he had now discovered about the extent and social pervasiveness of the Christians. But second, he was also seeking explicit imperial reassurance on the basis that his *coercitio* would not shut down resentful mutterings against a recent Roman arrival as swiftly or effectively, or be as useful in future situations where these events might be used against him, as written documentation of the emperor’s approval of his procedure. If we need a final salutary reminder of the wisdom of Pliny’s thinking, we need look no further than the fate of one of his successors as governor in Bithynia, the Severan sophist Antipater, who was relieved of office mid-tenure for “seeming to abuse too readily the power of life or death (*δόξας ἐτοιμότερον χρῆσθαι τῷ ξίφει*)” (Philostr. *V S* 2.607).⁸⁵ It is in this light – as a targeted attempt at provincial problem solving, and as a stamp of approval, both figurative and literal – that we now turn to Trajan’s response in *Epistulae* 10.97.

V. The Emperor to the Rescue

The reconstruction of *Epistulae* 10.96 above argues that Pliny urged a strategy that would defuse an escalating local problem and sought formal affirmation of his actions. Trajan's response in *Epistulae* 10.97 must be read in the same light. It is immediately striking for its brevity. As we have done with Pliny, let us put ourselves in Trajan's shoes. He has received a backdated letter from a worried governor in a backwater of the empire with a reputation for biting back. His concern is to support his personal appointee and help him shut down the situation as quickly as possible to ensure the region's stability. In fact Trajan nowhere in Book 10 tells Pliny to undo something he has already done (indeed such an order would be largely ineffectual given the time delay between dispatch and receipt of these letters).⁸⁶ In other words the emperor gave his appointee exactly what he had sought – help in deescalating the situation, and formal, written approval for the measures already taken.

Close attention to *Epistulae* 10.97 makes this clear. First, the concrete instructions in Trajan's reply serve to solve precisely Pliny's particular problem, namely the escalation that had rendered a viable initial strategy potentially incendiary. Trajan's first actual instruction asserts that Christians are not to be sought out. This is of course a strange opening gambit if Trajan were particularly concerned with the Christian sect.⁸⁷ But it is an excellent route to limiting the numbers of those liable to execution. Similarly, the main thrust of Trajan's reply is the insistence that Pliny not pay heed to anonymous accusations (*Ep.* 10.97.2). Trajan is of course in part concerned with his own reputation and that of his reign. But it has not been previously noted that this suggestion also helps to solve Pliny's problem, since the increasing number of people involved was a direct result of Pliny's willingness to listen to anonymous accusations. In other words, Trajan's advice would re-legitimate Pliny's initial strategy.

Second, Trajan does not reply as if Pliny had asked only about the recanters, as Barnes suggests. Trajan deals not just with Pliny's question about repentance but also with his more wide-ranging procedural opening questions. And his response offers Pliny the

reassurance the latter hoped for. Its first line is an emphatic confirmation of Pliny's procedure (even though, as we have seen, that procedure was far from ideal): "you have followed the course which you should have (*Actum quem debuisti... secutus es*)" (*Ep.* 10.97.1). His next comment that "it is not possible to establish something universal, which might hold like a fixed pattern (*Neque enim in universum aliquid, quod quasi certam formam habeat, constitui potest*)" is a further reassurance that Pliny's uncertain actions were justified in such a fluid situation. Trajan then affirms Pliny's basic procedure - if denounced and proved guilty the arraigned are indeed to be punished. This is precisely the brief, clear, formal and written stamp of approval that I suggested Pliny was seeking, and which I hypothesise could potentially prove important in Pliny's developing relationship with his province – if question marks were to be raised over his actions, he now has imperial ammunition to support his stance and protect his reputation.

Finally, Trajan's affirmation of Christian executions must be read together with the original epistle to which it was a response. There is no reason to think that Trajan knew any more about Christianity than Pliny, who made it clear he knew very little. Trajan neither asks any questions nor adds to Pliny's knowledge. So we must assume Trajan knew only what Pliny had told him, which was that Christians refused to swear to the gods and sacrifice to the emperor. But he would need to know no more than that to agree with a death sentence for non-citizens, especially those who by their own admission were part of an association, since Trajan continued to be extremely wary of associations "whatever name we give to them, for whatever reason (*quodcumque nomen ex quacumque causa dederimus iis*)" (*Ep.* 10.34, on a potential collection of fire fighters). If the accused did sacrifice, they were free to go. In other words, once they had made a gesture of allegiance, Trajan was no longer interested. That is entirely in keeping with typical Roman reactionary administration. And of course it was exactly the response Pliny had intended to prompt by emphasising Christians' obstinacy in

his original letters. Neither Pliny nor Trajan is concerned with ‘Christianity’ per se here. As so often for 1st and 2nd century Romans, it was largely beside the point.⁸⁸

Brief comparison with another pair of letters in Book 10 is instructive. In *Epistulae* 10.31 Pliny worries about the status of individuals once sentenced to forced labour, exposure in the games or similar penalties, who have been discovered being paid for the work of public slaves. Though he feels they should fulfil their allotted sentences, he worries that it is “excessively harsh to send back to finish their sentences after a long interval a considerable number of men who are now old and, it is claimed, lead a simple and respectable life (*et reddere poenae post longum tempus plerosque iam senes et, quantum adfirmatur, frugaliter modesteque uiuentes nimis seuerum*)” (*Ep.* 10.31.2). The parallels with *Epistulae* 10.97 are striking. Not only is Pliny concerned with a sentencing issue, and afraid of over-severity in particular,⁸⁹ but the problem is exacerbated because of its scale (*plerosque*) and because the current behaviour of the accused is so obviously un-criminal (*frugaliter modesteque uiuentes*). Moreover, Trajan replies in a similar manner. With an eye to Pliny’s specific problem, he invents a ten-year rule to allow him to return some to their sentences and leave some in their posts, avoiding discontent at excessive severity while affirming punishments already issued (*Ep.* 10.32.2).⁹⁰ Here, as with the Christians, Trajan affirms a clever and targeted solution to a local problem that solves the specific problem at hand and enables his appointee to quell any potential disquiet via the weight of a formal imperial decision (see too *Ep.* 10.57.2).⁹¹

A few words are perhaps necessary at this point in defence of the type of reading of Pliny and Trajan’s letters here offered, namely one that sees them as reflecting their protagonists’ actual practice. After many years of ‘straight’ readings of Pliny’s ten books of letters as faithful representations of actual ‘real time’ correspondence,⁹² recent years have produced readings more sensitive to the letters’ literary construction and self-representation.⁹³

Such nuanced readings have even extended to the construction of the letter collection as a whole.⁹⁴ Initially these approaches focused their attention on Books 1-9; Book 10, the ‘public’ correspondence between governor and emperor, supposedly interrupted mid-flow by the former’s death in office and thus not collected and edited for publication by him, continued to be treated as documentary evidence of the governor in action.⁹⁵ Three scholarly contributions however, produced in quick succession a decade ago, challenged this view, pointing out that there is no evidence either that Book 10 was supposed to be a complete collection of official correspondence, or that Pliny died in office, and thus hypothesising that Pliny may have edited and published the letters himself.⁹⁶ These scholars suggest that Book 10 be read together with Books 1-9 as a carefully edited literary composition designed to present both Pliny and the emperor in a particular light.

Such readings of the letters as stylised literary constructs might be deemed problematic for the chronological reading of *Epistulae* 10.⁹⁶ that I have proposed, since one could argue either that the sequence of the letter is unreliable, or that Pliny would not want to present such a compromising picture of himself. But a number of further factors must be born in mind. First, this new literary approach to Book 10 has not met unanimous acceptance. In fact these three contributions have provoked vigorous debate, and aspects of the older paradigm – in particular that the letters have not undergone significant editing – have been robustly defended.⁹⁷ Second, even those scholars that propose that Book 10 has undergone some editing do not suggest that it has undergone anything like the degree of stylisation to which the letters of Books 1-9 have been subjected. Rather, any changes were much more limited and involved selection of letters, pairing of replies, excision of dates, names etc.⁹⁸ Thus even allowing for such later editing presents no obstacle to reading the letter chronologically, as I have proposed, since there remains no suggestion that the letters have been altered to that extent. And third, it is anyway possible, I believe, to combine my

proposed reading of the letter - as Pliny's appeal for help to the emperor after mis-stepping - with the idea of a self-conscious Book 10 designed to present an idealised image. That idealised image, after all, is not of the perfect governor, but of the perfect relationship between governor and emperor.⁹⁹ *Epistulae* 10.96 and 10.97 contribute to such an image, since the emperor here intervenes to support and shore up the authority of the governor doing his best in difficult circumstances. In fact, I would argue, Book 10 witnesses a gradual increase in this trust dynamic between governor and emperor, which climaxes, in the collection's final letter, in which Pliny boldly writing to the emperor that he has taken the highly irregular step of issuing his wife with a pass to use the imperial post, and has done so before waiting for an imperial approval, safe in the knowledge that the emperor will understand (*Ep.* 10.120), which he does (*Ep.* 10.121).¹⁰⁰ If the governor taking such a liberty and receiving in response the emperor's acceptance and even praise is the collection's destination, then my reading of *Ep.* 10.96 and 10.97 makes them a significant step in that direction.

VI. The Scope of Trajan's Response

We now turn to the second continuing area of misunderstanding with this famed correspondence, namely the afterlife of Trajan's reply. Some ground here is well trodden, and needs only brief restatement.¹⁰¹ Since rescripts were specific to the province to which they were issued, there is no a priori reason to expect *Epistulae* 10.97 to have force outside Bithynia-Pontus. Pliny's own letters eloquently attest this restriction. In response to a query about foundlings (*Ep.* 10.65), for example, Trajan tells Pliny that he can find nothing in his predecessors' records that applies to all provinces (*Ep.* 10.66.1-2; see also 10.20; 10.72; 10.93; 10.109; 10.113).¹⁰² Similarly, rescripts were in principle specific to the reign of the

emperor who issued them. That both Trajan and Pliny hesitate over whether to follow precedents set by earlier emperors (*Ep.* 10.65-66) indicates that there was no requirement to do so. *Mandata* traditionally died upon the death of the one who issued them, and in this period there is little evidence that imperial *mandata* issued to governors were any different.¹⁰³ Indeed, it is not even clear exactly when *mandata* began being issued to all governors (rather than just to *legati Augusti pro praetore* like Pliny).¹⁰⁴ Of course, as an expression of the imperial will a rescript could always potentially be appealed to subsequently. But such use was not inevitable – it depended entirely on the suitability of the letters for reuse and on their readership. It is inadequate attention to both factors, I argue, that has produced the enduring confusion in scholarship that Trajan’s edict dictated the treatment of Christians until the mid-3rd century.

First, the reading of the letters suggested above indicates that this was a local problem that elicited a similarly local response. Pliny does not say he is seeking a precedent here as he occasionally does elsewhere (*Ep.* 10.29; see also 10.81).¹⁰⁵ And Trajan’s opening insistence that one cannot establish a universal rule (*Ep.* 10.97.1), discussed above, is anyway a clear refusal to provide one. There is thus no evidence either that Pliny sought a comprehensive ruling or that Trajan wanted to provide one. There is here no “official policy” and no attempt to “define” Christians’ status.¹⁰⁶ Evidence elsewhere suggests that Trajan was wary of individual concessions being used illegitimately as precedents (*SHA Macrinus* 13.1). As Pliny’s request was context-specific, so too was Trajan’s reply.

Second, everything we know about the readership of Pliny’s letters, both intended and actual, tells against a long afterlife. There are certainly no grounds for de Ste Croix’s optimistic assumption that *Epistulae* 10.96 and 97 were read by all educated Romans, including other governors, in short order. We have these two letters only because Pliny or his editor chose to include them in the collection of Pliny’s letters.¹⁰⁷ It is possible that Book 10

was intended to have a didactic purpose, but if so it was as literary handbook rather than legal reference work. It would have been entirely inadequate as the latter. Many of the recurring problems that governors faced are neglected.¹⁰⁸ And as we noted above, many details which imperial rescripts would normally contain - dates, place-names, opening and closing greetings and proper nomenclature - have been removed. The letters preserve “a timeless literary world” with little to no value as a concrete source of legal precedent.¹⁰⁹ If Book 10 represents a conscious design – and this remains a significant if –¹¹⁰ it is as a model of the ideal relationship between governor and emperor, not as a legal index.

The letters’ practical reception suggests an even more limited readership. Pliny’s letters did not achieve the ‘must-read’ status he had hoped for and de Ste Croix assumes. In fact, other than two Christian authors, Tertullian of Carthage in the early 3rd century and Eusebius of Caesarea in the early 4th, there is no evidence of anybody reading the letters before the mid-4th century.¹¹¹ There is certainly no evidence of a wide circulation. Nor is there any evidence that any governor subsequently employed Trajan’s rescript. No legal texts refer to it or echo its judgement.

One potential exception is a rescript of Hadrian preserved at the end of a text by Justin Martyr (*Apol. I* 68.1-10) and cited by Eusebius of Caesarea (*Hist. eccl.* 4.8.6-4.9.3), which is commonly viewed as echoing Trajan’s reply to Pliny.¹¹² Hadrian, in a rescript to Minucius Fundanus (proconsul of Asia in 122-23) prohibits condemnation on the basis of shouting and clamour in trials of Christians, and advocates stern dealings with frivolous accusations. But this evidence is isolated and anyway highly problematic. It contains no explicit reference to either Trajan or a law of his. And in fact it actually differs from Trajan’s rescript in that it validates the punishment of anyone “doing something contrary to the laws (τι παρὰ τοὺς νόμους πράττοντας)” (*Apol. I* 68.10/*Hist. eccl.* 4.9.3), but “according to the seriousness of the wrongdoing (κατὰ τὴν δύναμιν τοῦ ἀμαρτήματος)”, which is not what

Trajan had advocated.¹¹³ Moreover, its authenticity is not beyond question. It is preserved only in Christian sources, and only the supposed echo of Trajan's rescript separates it from other such edicts that are almost certainly false.¹¹⁴ When that echo is removed, there is little to recommend it as authentic.

Nor should we expect any later use of Trajan's edict. There was no legal codification in this period¹¹⁵; nor were there even systematic rules on archiving administrative documents.¹¹⁶ There is no reason for thinking that this rescript would be or was included in either the codification of the *Edictum praetoris* (later the *Edictum perpetuum*) by Salvius Julianus under Hadrian, or the *Codex Gregorianus* (and its appendix the *Codex Hermogenianus*) under Diocletian, which only went back to Hadrian.¹¹⁷ Lactantius is often cited as claiming that one Domitius, assumed to be Ulpian, began codifying laws against Christianity (*Institutiones* 5.11.19), citing Book 7 of the *De officio proconsulis*. But none of the surviving extracts of that work in Justinian's *Digesta* mention Christians (though we might well not expect any). More important, Lactantius actually refers only to laws illustrating punishments that could be used against Christians, not laws about Christianity itself.¹¹⁸ In short, there is no trace of Trajan's rescript in later non-Christian literary or legal sources.¹¹⁹

It is thus only later Christian evidence - specifically the martyr *acta* and the writings of the early Christians apologists - that can be cited as evidence that Trajan's rescript was applied in later treatments of Christians. Even these cannot provide any direct evidence. The pre-Decian martyr *acta* considered genuine contain no clear evidence for any concrete legislation against Christians.¹²⁰ Nor would we expect them to, since the *acta* have been shown to be not accurate trial transcripts but literary texts making use of the legal form.¹²¹ Likewise there is no direct reference to a Trajanic precedent in any of the apologists' writings, with one exception.¹²² That one exception is Tertullian of Carthage, who paraphrases

Epistulae 10.96 and 10.97 in the second chapter of his *Apologia*, likely written in 197 or soon after.¹²³ But this does not testify to the rescript's reuse. Tertullian makes it clear that he has no other concrete example that the rescript was used by later Roman judges. Rather, he is extrapolating generic Roman practice from this sole example, which comes where we would expect a programmatic *narratio* in such a work of forensic rhetoric.¹²⁴ In fact, Tertullian even claims that actions against Christians were started by Nero (*Apol.* 5.3) and continued by Domitian (*Apol.* 5.4), "laws which Trajan partly frustrated in forbidding Christians to be sought out (*leges...quas Traianus ex parte frustratus est vetando inquiri Christianos*)" (*Apol.* 5.7). So even Tertullian thinks laws about Christians go back not to Trajan's rescript but to an 'institutum Neronianum', a theory that has long been thoroughly discredited.¹²⁵ There is thus no direct evidence, even in the Christian material, for later use of Trajan's rescript against Christians.

In fact, the only evidence for later reuse of Trajan's rescript is the indirect evidence in the Christian martyr *acta* and apologists that Christians were executed for their name alone, a principle assumed to go back to the Pliny-Trajan correspondence.¹²⁶ This is the root of the continuing confusion. Regardless of what one thinks of the exact meaning of Trajan's reply in *Epistulae* 10.97 to Pliny's question as to whether Christians can be executed for the name alone – and Trajan seems to me to deliberately avoid being prescriptive – in fact the later Christian evidence provides no clear evidence for even this principle being applied later. And perhaps more importantly, these Christian texts' claims may well not reflect Roman practice at all, but instead echo an internal discourse going back to the New Testament. I will treat these points in turn.

First, the indirect references to this supposedly Trajanic principle are highly ambiguous. For every occasion on which the apologists say Christians were charged with the name, another suggests they were charged with other crimes. In opening his *Apologia*, for

example, Tertullian claims that Roman authorities are concerned only with “the confession of the name, not examination of the charge (*Confessio nominis, non examinatio criminis*)” (*Apol.* 2.3), contrasting *nomen* and *crimen*. This follows the phrase, “whatever we are said to do, when others are so spoken of... (*Quodcumque dicimur, cum alii dicuntur...*)” (*Apol.* 2.2), implying that Christian guilt is shared with non-Christians. A detailed list of “our indictments (*nostris elogiis*)” follows (*Apol.* 2.4; see also 2.10; 2.11; 2.16; 2.20; 4.1-3; 4.11; 44.3; 46.1). Tertullian’s *Ad Scapulam* is similarly unclear (e.g., *Ad Scap.* 2.3-5). Again, Justin Martyr may refer on the one hand to “the name we are accused of (ἐκ τοῦ κατηγορουμένου ἡμῶν ὀνόματος)” (*Apol.* 1 4.1; see also 24.2; *Apol.* 2 2.7) but on the other hand he also speaks of charges in the plural (*Apol.* 1 3.1; see also 5.1) and declares that if proven Christians will punish themselves, a promise that necessitates the charges extending beyond the Christian name. Similarly Athenagoras’ oft-referenced comments on prosecution for the Christian name (*Leg.* 1.2; also 1.3; 2.1-21 7.1) are surrounded by references to “a mass of charges (ὄχλον ἐγκλημάτων)”¹²⁷ (*Leg.* 1.4; see too 3.1; 4.1; 20.1; 31.2; 32.4; 37.10). Indeed, the bulk of all of these writings is detailed refutation of precisely such other charges. There is thus no clarity in the apologists about a widely applied Trajanic principle of Christian prosecution for their name alone.

Second, and more problematic, such use of Christian material is inherently methodologically questionable. It cannot be taken as independent evidence of the Pliny-Trajan correspondence being used later, since we know that at least one Christian wrote in full knowledge of the latter.¹²⁸ And beyond even that, both the *acta* and the apologists were responding to internal Christian dialectic as much as to external stimuli.¹²⁹ The claim of suffering for the name is much more likely to derive from the canonical Gospels than the Pliny-Trajan correspondence. In *Mark* Jesus’ warnings about the violence Christians will suffer concludes, “you will be hated by all because of my name (καὶ ἔσεσθε μισούμενοι ὑπὸ

πάντων διὰ τὸ ὄνομά μου)” (*Mark* 13.13; see too *Matthew* 10.22 & 24.9; *Luke* 21.17; *John* 15.21). In *Luke* we find the more explicit, “you will be led before kings and governors because of my name (ἀπαγομένους ἐπὶ βασιλεῖς καὶ ἡγεμόνας ἕνεκεν τοῦ ὀνόματός μου)” (*Luke* 21.12). In fact, that phrase echoes through the New Testament (e.g., *Acts* 5.21.13; 40-41; *1 Peter* 4.14-16). Later Christian uses of this idea need owe nothing to Pliny and Trajan; they are entirely understandable as statements of prophetic fulfilment in dialogue with Christianity’s foundational texts.

This is easily demonstrated. In Justin Martyr’s *Apologia I*, for example, much of his discussion concerns the prophetic words of Scripture about Christianity. When he sets out the tripartite structure of what will follow, Justin announces that he will first demonstrate how his teaching accords with that of Jesus and the Old Testament prophets (*Apol. I* 23). And he then immediately relates, in language taken directly from the Gospels, how “we alone are hated because of the name of Christ (μόνοι μισούμεθα δι’ ὄνομα τοῦ Χριστοῦ)” (*Apol. I* 24.1), before discussing Roman displeasure in Christian failure to sacrifice. It is quite clear that this biblical language underlies Justin’s discussion of Roman treatment of Christians (see too *Apol. I* 45.5). Tertullian’s *Apologia* too begins by echoing biblical language, criticising “the injustice of your hatred towards the name of the Christians (*iniquitatis odii erga nomen Christianorum*)” (*Apol.* 1.4; see too 2.20; 3.1; 3.4-6). We have strayed far here from the original letters of Pliny and Trajan. But the diversion is valuable in demonstrating that there is simply no strong or even viable evidence for any later application of Trajan’s edict.

VII. Conclusion

This article has maintained that the Pliny-Trajan correspondence reflects a freestanding exercise in reactionary provincial problem solving. Pliny’s swift, ad hoc

response to a local problem – the kind of response demanded by the extreme pressures on a governor’s time – was in danger of appearing excessively severe now that the problem had increased in scale and investigations had revealed the absence of the crimes Pliny had initially assumed to be present. He thus wrote *Epistulae* 10.96 as a covering letter to Trajan seeking affirmation of his actions, and in his description of his invented sacrifice test provided the emperor with all the reason he needed to give it. Similarly, Trajan’s response in *Epistulae* 10.97 was a targeted solution that reassured his appointee and sought to assuage, by reducing the numbers of those involved, his fears of escalation or unrest. It was intended as a local fix, and as a formal stamp of approval that would protect Pliny’s reputation and serve him well in any future potential interactions with his provincials. There is no evidence whatsoever for its use against Christians later.

This reading arises naturally from the attempt to understand both Pliny and Trajan’s actions ‘on the ground’. It thus has consequences for the on going evolution of our understanding of gubernatorial procedure. It is by now well established that Roman models of administration meant that governors were constantly in reactionary mode. More recently, the papyri’s revelations about the pressures of the job in practice have suggested that those reactions were necessarily as efficient as possible in order to mitigate an inbox so full that nothing in it could receive full and proper treatment. *Epistulae* 10.96 and 10.97, read correctly, take this one stage further by providing us with an opportunity to see how a governor reacted to events that shifted in practice. They demonstrate a governor allocating only the time and resources demanded by the immediate situation, and investing more only when circumstances demanded it. They reveal how such techniques – necessitated by the nature of the job; exacerbated by the governor’s green status – could produce compromised situations in danger of backfiring. And they also prompt a picture of imperial correspondence as an aid, and, more importantly, a safeguard, in the tightrope walk of provincial management

under the Empire. Holding public office was always a high-stakes affair in the zero-sum game of Roman politics. The governor's role was in practice, I suggest, no different.

On this reading these letters are not so much 'about' Christianity as a religious movement but are rather about the process by which certain individuals, with a shared allegiance in which neither governor nor emperor shows much interest, were dealt with on one occasion. Nor do they play any role in later so-called 'persecutions' of Christians. Pliny's desire to know more about Christians comes only after the problem has escalated, and his interest is only in the presence, or in fact lack thereof, of the crimes of which he had suspected them to be guilty. Trajan's response demonstrates no further interest beyond the little he has been told. These Christians suffered not for anything unique to them as Christians but simply as maligned members of a minority provincial association coming before an over-worked governor. No new mechanisms were required to deal with them; they simply experienced the routine brutality of Roman provincial administration. If in this experience they were unexceptional, in their memorialisation of it, in the martyr *acta* and the writings of the apologists, they were quite extraordinary. It is precisely that later memorialisation that, as in this case, can prove so misleading in reconstructing Christian experience under the Roman Empire. There is thus a wider methodological point here. Our attempts to uncover Christian experience must start not with early Christian texts but with the experience of non-Christians in similar circumstances. That is, the similarities of Christians with their fellow provincials must come before their differences.

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¹ The precise date of Pliny's tenure is unclear; 109-111, 110-112 and 111-113C.E are all possible. See further Birley 2000: 17. Williams 1990: 139, dates *Ep.* 10.96 between 18th September 111 and 3rd January 112.

² De Ste Croix 1963 responding to Sherwin-White 1952. Earlier bibliography is collected in Aubrion 1989: 338-40. Since the amount of scholarship on the topic prohibits exhaustive discussion, I will treat individual pieces of particular importance where relevant.

³ Mommsen 1890; propogated in English by Hardy 1889. Mommsen was reacting to Neumann 1890.

⁴ Sherwin-White 1952: 207-8; building on Last 1937.

⁵ De Ste Croix 1963: 18-19. His critique of the *contumacia* theory is fivefold: first, that Pliny does not use the term *contumacia*; second, that Pliny asks not Christians but those that deny their Christianity to sacrifice; third, that *contumacia* could only arise after a trial had started; fourth, that obstinacy can only be a charge if one is obstinate about something itself criminal; fifth, that Sherwin-White's evidence could be otherwise interpreted.

⁶ The dispute continued. In his right of reply Sherwin-White 1964 reasserted his original position. The distaste for godlessness, identified by de Ste Croix as the reason for Christianity's illegality, applied, he suggested, only to the later period (and is posited largely on the basis of Christian evidence) but not for the pre-Hadrianic period, for which he proposed the *contumacia* theory. De Ste Croix 1964 repeats his earlier criticisms.

⁷ Barnes 1968: 32.

⁸ Reinvigorating an observation of Hardy 1889: 65; credited at Barnes 1968: 36[n49]. See Barnes 2010: 10-11.

⁹ Barnes's reading has been reiterated by two recent rhetorical analyses: Reichert 2003, which relies heavily on Freudenberger 1967, and Thraede 2004, which builds on Reichert. The recent treatment of Cook 2010 demonstrates the longevity of Barnes's position.

¹⁰ Sherwin-White 1952: 209.

¹¹ De Ste Croix 1963: 14.

¹² Barnes 1968: 48; see too 37.

¹³ Barnes 2010: 10-11. Since Barnes then quotes Trajan's response in full it is unclear if the 'legal principle' Barnes refers to here is a part of it or the entirety. That he considers it to have had a lasting impact is not in doubt.

¹⁴ See for example Williams 1990: 144; the *Cambridge Ancient History* survey article of Liebeschuetz 2000: 988; and the recent *Cambridge History of Christianity* survey article of Frend 2006: 508.

¹⁵ This is due, I believe, to the letters' earliest readers, the Christians Tertullian of Carthage and Eusebius of Caesarea. On this see Corke-Webster 2017.

¹⁶ Gleason 1999.

¹⁷ See most significantly Ando 2000.

¹⁸ Harries 1999; Harris 2001; and Bablitz 2007: 89-119.

¹⁹ On the importance of *clementia* see Konstan 2005 (dismantling the view that it was a virtue characteristic of the tyrant), with bibliography.

²⁰ Latin text from Basore 1928. Translations my own throughout.

²¹ Millar 1977; building on Millar 1967; see too on Pliny and Trajan's letters specifically Millar 2000. Both the latter essays are reprinted in Cotton and Rogers 2004. For good surveys of provincial administration see Lintott 1993 and Eck 2000. For the influence of Millar's model and the inefficacy of the criticisms brought against it see Eich 2012.

²² Kelly 2011. The model of appeal to law as a last resort that Kelly critiques was proposed most systematically by Hobson 1993.

²³ On this papyrus see Horstkotte 1996. Lewis 1981: 120-21 estimates this to be a theoretical rate of more than one case per minute; see too Lewis 1983: 190.

²⁴ Kelly 2011: 327-28. Trajan only approves one of Pliny's requests to use soldiers for police work (e.g., *Ep.* 10.19-20; 27-28). On ancient policing see Fuhrmann 2012.

²⁵ Latin text from Mynors 1963.

²⁶ See Talbert 1980. Brunt 1975 suggests Pliny's inexperience may have been the rule rather than the exception. On Pliny's 'anxiety', and the tensions hidden behind letters more generally see Hoffer 1999.

²⁷ Though it was traditionally assumed that Pliny's commission in Bithynia came with extraordinary powers, Alföldy 1999 has shown by rereading inscriptional evidence (CIL V 5262 and XI 5272) that Pliny held proconsular rather than consular powers, so his formal authority in Bithynia-Pontus was the same as that of his predecessors. This also meant that he was accountable on the same terms as them. Pliny's career is discussed in detail in Birley 2000: 5-17.

²⁸ Birley 2000: 63.

²⁹ Birley 2000: 98.

³⁰ Of the forty known trials for provincial mismanagement between Augustus and Trajan, Bithynia has the most with seven. See Brunt 1961: 224-27; on Bassus at 202. Brunt 1975: 125 [n13] acknowledges an extra case, that of Vibius Maximus (with whom Pliny was also in correspondence; see *Ep.* 3.2).

³¹ Dio's *Orationes* reveal numerous local rivalries and tensions in Bithynia-Pontus, which Pliny encountered first-hand (e.g., *Ep.* 7.6.1-6; 10.34; 10.81).

³² Birley 2000: 98.

³³ Birley 2000: 89.

³⁴ For the history and development of Bithynia-Pontus after its creation by Pompey in 63B.C.E, and the border changes that left Pontus much smaller, see Mitchell 1993: 59-99; on the region under Trajan see too Magie 1950: 593-610.

³⁵ From which city he wrote is unclear. *Ep.* 10.92 is from Amisus; 10.98 from Amastris. Sherwin-White 1966: 693-94, claims Amastris for 10.96, but there can be no certainty.

³⁶ On the topography see Marek 2003. On bandits see Grünewald 1999: 52, 150-51.

³⁷ For governors' judicial responsibilities and the travel required see Marshall 1966, especially at 241 on increasing attention to judicial administration in the imperial period; and Burton 1975.

³⁸ In what follows I offer a new reading of *Epistulae* 10.96 and 10.97 that I consider best reflects what we know of the ideals and practice of Roman provincial government. In the footnotes I identify the key points at which this reading varies from the current consensus, rather than exhaustively considering every other possible interpretation. My aim here is thus not to offer a comprehensive response to all possible alternative readings but by a new approach to spark fresh discussion of these letters.

³⁹ This occurs of course under the flexible *cognitio* system, for a history of the evolution of which – as well as the somewhat problematic term *cognitio extra ordinem* - see Buti 1982.

⁴⁰ Noted by Sherwin-White 1952: 204-5. But de Ste Croix 1963, while noting that the standard procedure was “accusatory” rather than “inquisitorial” (15) can also state, “We want to know why the Roman government wanted Christians to be brought to trial” (19).

⁴¹ See Reichert 2003: 241-50, especially 244 on the deliberate vagueness of *tamquam*. Reichert's article sets out to rule out a typical process against Christians dating back to the time of Domitian.

⁴² See for example Barnes 1968: 34-36.

⁴³ On the lack of precision in classification in Roman criminal law see e.g., Crook 1967: 271. See too Jolowicz and Nicholas 1974: 404. Johnson 1988 suggests that the charge of Christianity was merely a pretext employed by malicious *delatores*.

⁴⁴ Acknowledged in e.g., de Ste Croix 1963: 17; but note recently this error recurring in Frend 2006: 506.

⁴⁵ Last 1937: 80-92, was thus correct in so far as Roman action against minority groups was always motivated by suspicion of crimes and/or immorality.

⁴⁶ See Merrill 1924: 174-201; Kippenberg 2002; and most recently Baudy 2006: at 108-9.

⁴⁷ Contra. e.g., de Ste Croix 1963: 17: “I am convinced that this issue can have had no real importance”.

⁴⁸ Pliny does not refer to those who deny or recant their Christianity among this initial group, just as he does not explicitly refer to those that affirm their Christianity among the second group of anonymously accused Christians or either of these in the third named by an/the informer (on this third group see n63). Reichert 2003: 231-33 points out that this likely reflects not historical coincidence but a deliberate rhetorical strategy to associate apostates with deniers rather than with Christians proper. To the objection that this rhetorical construction renders vulnerable a chronological reading of the letters, it can be objected that Pliny does not misrepresent his actual procedure at any point, but is simply selective about which of each group he highlights. He does not rule out that the second group also contains confessing Christians, for example, but simply immediately focuses in on “those who deny (*qui negabant*)” (*Ep.* 10.96.5). And indeed translating *ab indice* “by the informer” would render the third group a subset of those named in the anonymous *libellus*. It is also perhaps not so historically unlikely that the first group contain confessing Christians only, if that were a targeted accusation, as opposed to the subsequent two groups where the accusation is more opportunistic. And similarly even if the third group is seen as being separate from those

accused in the *libellus*, it is not inconceivable that they were a related (family?) group of ex-Christians if they were named together by one individual. There is also no reason to think that Pliny has invented the sequence itself. And in that regard, given that Pliny is ever concerned with his self-presentation, he surely would not omit mention of an initial investigation unless it reflected his actual actions.

⁴⁹ This is clearest in Seneca, *De ira* I.18.3-6, where the term is clearly repeatedly used to refer to execution. Piso sentences a soldier (*duci iussisset*) for the murder of a comrade. The soldier is immediately led outside and exposes his neck (*iam ceruicem porrigebat*), clearly anticipating the death sentence, but the lost comrade appears and so the centurion sheathes his sword (*condere gladium*) and leads them both back to Piso. Clearly the initial sentence was execution. Piso then in anger sentences both original soldier and comrade (*iubet duci utrumque*). That this again refers to the death penalty is clear in Seneca's comment that both died (*duo peribant*). This is confirmed by the story's climax when Piso also condemns the centurion who failed to carry out the initial sentence (*duci iussit*), and Seneca comments that three would therefore die (*perituri tres*); the centurion because he failed to obey the original order, which is stated unambiguously to have been to kill (*quia iussus occidere imperatori non paruisti*). See too the gloss in Sherwin-White 1964: 698.

⁵⁰ Thraede 2004: 118 suggests that Pliny's initial threefold questioning reflects an abortive attempt to learn more about them, but the text provides no support for this view.

⁵¹ See Büchner 1953. Most recently Shaw 2015 affirms the poor reputation of the Christians in the early 2nd century (doubting the historicity of Nero's supposed mistreatment of Christians in Rome on that basis).

⁵² See further Benko 1986 and Wilken 1984. In this then I am aligned with the idea of Sherwin-White 1952 that the label 'Christian' served as a marker of suspicious activities, rather than being illegal in and of itself; see above n4.

⁵³ Eusebius preserves a letter of Dionysius of Alexandria to Stephen of Rome which notes that “all the communities through the east and still further away, which were formerly divided, have been united (ἦνωνται πᾶσαι αἱ πρότερον διεσχισμένοι κατὰ τε τὴν ἀνατολὴν ἐκκλησίαι καὶ ἔτι προσωτέρω)” and includes Pontus and Bithynia in the detailed list which follows.

⁵⁴ Garnsey 1968: 54 notes that this is provoked by uncertainty not legal necessity.

⁵⁵ See MacMullen 1986 on the steady degradation in the treatment of persons through the imperial period; a trend from which he initially (and unjustifiably) exempts Pliny (150), before later considering the possibility of harsh treatment by one in his position (164). MacMullen is anyway primarily concerned with the treatment of citizens.

⁵⁶ Posited also in Sherwin-White 1966: 709.

⁵⁷ Johnson 1988: 419-20 characterises this province’s *delatores* as ‘malicious’ and prone to both ‘factional litigation’ and opportunistic accusation.

⁵⁸ Sherwin-White 1952: 199-213; at 209, and de Ste Croix 1963: 8; 16; 24-5, both acknowledged the importance of the local population’s antipathy. But where de Ste Croix imagines genuine hatred of Christians’ monotheism and penchant for voluntary martyrdom, Kelly’s work allows a picture of more opportunistic actions.

⁵⁹ Of particular interest is Fishwick 1984 on the problems presented by the procedure and location of the sacrifice test, indicating further that it was an on-the-spot response.

⁶⁰ Millar 1973 notes that the imperial cult played a far greater role in governors’ responses to Christians than in the initial charges. This fits the thesis proposed here, that the Christians are executed for their failure to sacrifice but not initially arraigned for it.

⁶¹ De Croix’s objection was affirmed by Barnes, ‘Legislation’, 44[n151].

⁶² De Ste Croix was right that Sherwin-White’s theory of *contumacia* as a charge was flawed both in Pliny’s case and more generally. But in dismissing the entire issue de Ste Croix

obscured Sherwin-White's insight that Pliny later characterised the Christians via a fresh criticism after his original suspicions had proved baseless (Sherwin-White 1952: 205; 208; 210-12). On de Ste Croix's superior rhetoric see Hopkins 1998: 189[n8].

⁶³ Since the Latin here is ambiguous, this group could either be a subset of those named in the *libellus* (if we translate "by the informer") or a separate group informed against via alternative means (if we translate "by an informer"). The former is more likely.

⁶⁴ On such delayed judicial investigation, see Kelly 2011: 3-4. That Pliny only reveals now that the suspected crimes have not materialised is likely a rhetorical move designed so Trajan as reader shares Pliny's surprise at the discovery. Reichert 2003: 241 notes the procedural flaw but dismisses it as only noticeable to the Christians.

⁶⁵ Janssen 1979, building on Guterman 1951, de Ste Croix 1963, and Janssen 1975, argues that Pliny and other Roman authorities were motivated by fear of *superstitio*. But Pliny only uses this language after he has concluded investigations and frozen proceedings, not in his initial sentencing. Hugh Last's proposal that the Romans' reviled *superstitio* because of associated shameful behavior is preferable, and was made on the basis of the same case studies as Janssen (the events of 428B.C.E and 186B.C.E).

⁶⁶ Pölönen 2004 describes how the purpose of torture in Roman judicial cases was usually to seek out further evidence of crimes after establishing guilt. This is of course exactly what Pliny is attempting; unfortunately, it ultimately has the opposite result. Moreover, Pölönen is not only concerned primarily with the treatment of plebeians, rather than slaves, about whom he is clear there is greater flexibility (234) but also admits that in practice torture could anyway be used otherwise, including "to release the judges from any lingering doubt and responsibility" (220; see too 247 and 257).

⁶⁷ Barnes 1968: 36 [n49] claims his thesis is "securely deduced from three facts: Pliny places his suggestion in an emphatic position at the very end; he constructs the argument of the

letter to build up to it; and he stresses how large a number are still in custody (9: ‘*visa est enim mihi res digna consultatione, maxime propter periclitantium numerum*’).

⁶⁸ Hopkins 1998: 189-91 further suggests that Pliny may have edited the letter’s ending after receiving Trajan’s reply. On the importance of the wellbeing of pagan cults to Pliny and Trajan see e.g., Millar 1973: 152-53.

⁶⁹ De Ste Croix 1964: 28-29 must explicitly dismiss Pliny’s claim here: “In spite of his “*nescio quid... puniri solet*” his own actions (see the first two sentences of §3 of his letter) show that he knew confessors should be executed for the “Name” for “being Christians.”” Disputing Pliny’s own statement of ignorance also of course obscures that Pliny had executed while still uninformed.

⁷⁰ This is perhaps deliberately ambiguous, since *quaerere* can mean either “to search out” or “to investigate”. Trajan’s answer, as we shall see, implies the former, but Pliny’s failure to investigate highlights the double meaning. Pliny’s later Christian readers Tertullian and Eusebius play on this ambivalence; see Corke-Webster 2017.

⁷¹ Harries 2007: 41-2. *Epistulae* 4.9.19 showcases Pliny reflecting on the difficulties of pleasing everyone in a matter of sentencing. Interestingly, the assertion of the governor’s *coercitio* in Sherwin-White’s 1952: 203 references precisely this letter [n5] where such behaviour is in fact castigated.

⁷² Birley 2000: 43.

⁷³ Though Pliny is often held up as a paragon of virtue in his province, his letters reveal continuing money troubles in Bithynia-Pontus (e.g., *Ep.* 10.23-24; 10.37-38; 10.39-40), and it is of course possible that he could have found himself charged with economic mismanagement.

⁷⁴ On the flexibility of the Senate’s judicial power see also Pliny, *Ep.* 4.9.17-18. Henderson 1951 affirms a fluid understanding of the *de Repetundis* process. Sherwin-White 1966: 162-

63 summarises previous scholarly efforts to find order in the apparently flexible legal procedure revealed by the evidence of Pliny and others, but remains sceptical. See more recently Venturini 1979 and Lintott 1993: 97-107; at 106 for prosecution of *saevitia*.

⁷⁵ On the extent of the senate's ignorance in *Ep.* 8.14 see Harries 2013: 63-66, arguing that Pliny, though making a lot of his own moderation, in fact was complicit in the senate affirming legally dubious procedure leading to excessive severity (a conclusion with interesting parallels to my reading of *Ep.* 10.96).

⁷⁶ The prosecution of Sulpicius Camerinus as reported by Tacitus, though unsuccessful, similarly demonstrates that some prosecutors thought charges of *saevitia* might at least in principle be sufficient to ensure conviction (*Ann.* 13.52).

⁷⁷ See Lintott 1976.

⁷⁸ Lendon 1997: 176-236; on governors' fears of loss of reputation at e.g., 193.

⁷⁹ Latin text from Fisher 1906. On the legal process here see Harries 2013; in particular at 60-63.

⁸⁰ Lendon 1997: 201-22.

⁸¹ Bryen 2012: at for example 776.

⁸² Bryen 2012: 800-2.

⁸³ Bryen 2012: 806.

⁸⁴ See Harries 2014; though Harries suggest that this is a post-Caracallan development.

⁸⁵ Greek text from Kayser 1964. Cassius Dio comments in passing on Bithynia's need for someone "just and sensible and with a good reputation (καὶ δικαίου καὶ φρονίμου καὶ ἀξίωμα ἔχοντος)" to be governor in the time of Hadrian (*Cass. Dio.* 69.14.4).

⁸⁶ His condemnation of anonymous accusations in this letter is the nearest he comes to criticism in Book 10. Note too the general disinclination in this period and earlier to reverse

judicial decisions (e.g., *Dig.* 48.19.27); see Sherwin-White 1966: 637. On the time delay see Millar 2000: 40.

⁸⁷ This also tells against the thesis of de Ste Croix 1963 that Roman authorities were worried about Christianity's negative effect on the Empire (and that of Janssen 1979 that they were motivated by fear of *superstitio*).

⁸⁸ See the apposite summary of Trajan's response in Hopkins 1998: 190: "I read Trajan's letter as recommending an almost benign neglect: don't get too worked up, don't look for trouble, ignore it if you can; confront it if you have to; it's not a serious problem."

⁸⁹ When reflecting on the alternative - letting the prisoners continue in their jobs - Pliny acknowledges that using convicts in public posts is unsatisfactory, but exhibits no parallel concern about being overly lenient. We might compare Cicero's reminder to his brother about "the height of mildness, which however, among evils, is to be preferred to harshness (*summa levitas, quae tamen, ut in malis, acerbitati anteponenda est*)" (*QFr.* 1.1.13), or Trajan's statement in Book 7 of Ulpian's *De officio proconsulis* that "it is indeed preferable that the crime of a guilty man be left unpunished than that an innocent man be condemned (*satius enim esse impunitum relinqui facinus nocentis quam innocentem damnari*)" (*Dig.* 48.19.5.pr).

⁹⁰ There is no extant earlier example but Pius later acts similarly (*Dig.* 48.19.22). Compare also *Ep.* 10.114, where in a situation in which law and long-established custom clash, Trajan's response allows legal principle to be broken while seeking to limit future violations.

⁹¹ Roy Gibson points out to me the parallels with Pliny's involvement in the previous trials of Bithynian governors before the Senate, where legal principle is repeatedly trumped by other considerations (e.g., *Ep.* 4.9; 5.20; 6.5). See too Stadter 2006: 72-73 on these and other letters.

⁹² This is best exemplified in the commentary of Sherwin-White 1966, but see too that of Williams 1990.

⁹³ See in particular Ludolph 1997, Hoffer 1999, Marchesi 2008 and Gibson and Morello 2003.

⁹⁴ See especially Gibson and Morello 2012.

⁹⁵ It has traditionally been thought that Book 10 was published posthumously by a third party, Suetonius being the obvious candidate (e.g., Sherwin-White 1966: 82).

⁹⁶ Woolf 2006; Stadter 2006; Noreña 2007; see recently too Woolf 2015 taking the analysis of Book 10 as literature a stage further. The manuscript tradition is ambivalent on the question of the shape of the collection, since eight, nine and ten book traditions are all evidenced; see further Reynolds 1983.

⁹⁷ Coleman 2012, argues for the presence of systematic bureaucratic language throughout Book 10 parallel to that found in other examples of official communication in diverse media; Lavan forthcoming demonstrates by a similar comparison that the Book 10 letters have not undergone later ‘stylisation’ like those in Books 1-9 (I am grateful to Dr. Lavan for allowing me to see a draft of this in advance of publication).

⁹⁸ Stadter 2006: 64-67; Noreña 2007: 266-67.

⁹⁹ Woolf 2006: 103; Stadter 2006: *passim*; Noreña 2007: 252-54, emphasising the intimate tone of the relationship.

¹⁰⁰ Suggested also by Noreña 2007: 270-71.

¹⁰¹ See e.g., Sherwin-White 1952: 201; 209; Sherwin-White 1966: at e.g., 604-5; 651; de Ste Croix 1964:13; most recently Moss 2012: 11-12.

¹⁰² Independent inscriptional evidence testifies that Trajan’s ban on associations, for example, was not an empire-wide measure; see Arnaoutoglou 2002: 35-9.

¹⁰³ On *mandata* see Halbwachs 2014; on the limited afterlife of rescripts see Robinson 1997: 34-39.

¹⁰⁴ See e.g., Millar 1966: 157-58.

¹⁰⁵ Though note Trajan's concern that Pliny's tolerance for anonymous accusations might set "the worst precedent (*pessimi exempli*)" (*Ep.* 10.97.2).

¹⁰⁶ De Ste Croix 1963: 14; Barnes 1968: 48.

¹⁰⁷ See above n95.

¹⁰⁸ Woolf 2006: 103.

¹⁰⁹ Stadter 2006: 64-65. A *subscriptio* recording Trajan's response to a petition of the city of Aphrodisias that lacks complete titles and the normal greeting and farewell formulae perhaps offers a parallel. But that document is anomalous since cities usually addressed the emperor in epistolary form. See discussion in Millar 2000: 31.

¹¹⁰ See above n97.

¹¹¹ See Cameron 1965, with an addendum in 1967 (soon to be republished in an amplified version in Gibson and Whitton 2016) responding in particular to Merrill 1915 and Stout 1955. I am grateful to Prof. Cameron for the opportunity to see this in advance of publication. For discussion of these two Christian authors' use of the letters, see Corke-Webster 2017.

¹¹² E.g., de Ste Croix 1963: 14; Barnes 1968: 37; Frensdorff 2006: 508; Cook 2012: 279-80.

¹¹³ See also Nesselhauf 1976.

¹¹⁴ Acknowledged by Barnes 1968: 37; for the other rescripts summarily dismissed by scholars but preserved in the same or similar places see Barnes 1968: 37-44. For a recent summary of debate on the authenticity of Hadrian's rescript see Minns 2007.

¹¹⁵ On the development of codification, see Harries 1998.

¹¹⁶ E.g., Eck 2000: 290-91.

¹¹⁷ See Gualandi 1963; Harries 1998: 72.

¹¹⁸ “*Domitius de officio proconsulis libro septimo rescripta principum nefaria collegit ut doceret quibus poenis affici oporteret eos qui se cultores dei confiterentur.*” Such a reading is anticipated by Brent 1995: 87. None of the known extracts from *De officio proconsulis* 7 reference Christians; a number do refer to actions to be taken against assorted troublemakers (e.g., *Dig.* 1.18.1; *Mos. et Rom. leg. coll.* 15.2; with thanks to Melissa Markauskas).

¹¹⁹ Consider the footnote of MacMullen 1986: 154[n24] listing capital crimes under the Empire (after 200), where each crime has a reference to the *Digesta* except Christianity, which is also missing from the list of crimes extractable from the *Sententiae* of Iulius Paulus [n26].

¹²⁰ Barnes 1968: 44-47. Dismissing the three debateable cases, Barnes notes first that comparison of the three recensions of the account of the martyrdom of Justin and his companions eliminates all references to the emperor as later accretions to the earliest version; second that the transmission of *Acta et Martyrium Apollonii* is so tortured that eliciting the original form is impossible, and it seems likely that the assorted attempts to provide legal basis for the condemnation are all later additions; and third that the account concerning Carpus, Papylus and Agathonice is of uncertain date, and as likely to be Decian as pre-Decian. On this last see Musurillo 1972: xv-xvi. The earlier dating under Marcus Aurelius is entirely dependent on Eusebius, *Historia ecclesiastica* 4.15.48, and of the two other texts which Eusebius dates similarly, one (*Martyrium Pionii*) is almost certainly Decian, and the other (*Martyrium Polycarpi*) has recently been dated later; see further Moss 2010.

¹²¹ Bisbee 1968 used the typology of form, language and structure drawn up by Coles 1966 to test how closely the martyr *acta* mirrored authentic trial transcripts. He tested *Martyrium Polycarpi*, *Acta Martyrii Justini et Sociorum* and *Martyrium Ignatii*; I have further applied his methodology to *Acta Scillitanorum Martyrum*, one of the pre-Decian martyr *acta* whose

authenticity is almost universally defended (see e.g., Barnes 1968: 519-20) with a similar negative result.

¹²² Justin Martyr's *Apologia 1* and *Apologia 2* and *Dialogus cum Tryphone*, the *Epistola ad Diognetum* (of uncertain authorship), Aristides' *Apologia*, Theophilus's *Ad Autolyicum*, Tatian's *Oratio ad Graecos*, Athenagoras's *Legatio pro Christianis* and Tertullian's *Ad Scapulam*.

¹²³ For dating see Barnes 1971: 34-35. On the genesis of the *Apologia* and its relationship to the *Ad nationes* (in particular the theory famously advocated by Becker 1954 that there were three drafts of the material for the *Apologia*, of which the first was the summary *Ad nationes*, the second a first draft preserved in the so-called *Fragmentum Fuldense*, and the third the final extant version) see Barnes 1971: 239-41.

¹²⁴ See further Corke-Webster 2017.

¹²⁵ Tertullian's *Ad Scapulam*, an apologetic text written later than the *Apologia* (likely around 217) appealing to the proconsul of Carthage against violence suffered by Christians (for a comparison of the two see Dunn 2002: 47-55; especially 30-31), does show a Roman official refusing to heed anonymous accusations. It tells of how one Pudens, when a Christian was arraigned before him, "refused to listen to him without an accuser, following his mandate (*sine accusatore negans se auditorum hominem secundum mandatum*)". But there is no explicit reference to the Pliny-Trajan correspondence here, and not heeding anonymous accusations was a standard principle of which Trajan was simply reminding Pliny. Moreover Tertullian was well aware of the Pliny-Trajan correspondence when he was writing the *Ad Scapulam*.

¹²⁶ See e.g., de Ste Croix 1963: 9, referencing Justin, *Apologia 1* 4 and *Apologia 2* 2, Athenagoras, *Legatio pro Christianis* 1-2, Tertullian, *Apologia* 1-3, and *Ad nationes* 1.3 ([n19]); and Eusebius, *Historia ecclesiastica* 4.15.25, *Martyrium Polycarpi* 12.1, *Acta*

Scillitanorum Martyrum 10.14 and *Acta et Martyrium Apollonii* 1ff ([n20]); and Barnes, 1968: 37; referencing Justin, *Apologia* 1 4 (37[n51]), Tertullian, *Apologia* 2.17 ([n52]); the Lyons martyrs preserved in Eusebius, *Historia ecclesiastica* 5.1.47 (38[n74]; 40), Melito, *Apologia*, preserved in Eusebius, *Historia ecclesiastica* 4.26 and Athenagoras, *Legatio pro Christianis* 1ff ([n75]), and the *Acta Martyrii Justini et Sociorum* short recension 4f ([n76]); *Acta et Martyrium Apollonii* 1/2 (Greek) and Eusebius, *Historia ecclesiastica* 5.21.4, and *Passio Sanctarum Perpetuae et Felicitatis* 6 ([n100]).

¹²⁷ Elsewhere the term for these charges is ἀδίκημα, the same as that he often uses for the *nomen* charge.

¹²⁸ See the (unheeded) warning of Last 1937: 90; echoed more recently in Moss 2012: 12.

¹²⁹ On the *acta* see e.g., Perkins 1995; Shaw 1996; Cooper 1998; Darling Young 2001; Castelli 2004; Grig 2004; and Perkins 2009. On the apologists see e.g., Edwards et al. 1999; Cameron 2002; Jacobsen 2009 and Lieu 2009.