Constantine and Episcopal Banishment: Continuity and Change in the Settlement of Christian Disputes

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Abstract: Constantine's use of clerical banishment followed precedents in respecting their immunity to physical coercion. It also deferred to bishops to adjudicate their own disputes, through councils, which lacked means to enforce their decisions. Exile was thus the optional civil enforcement of counciliar decisions and the harshest sentence Constantine was willing to use against bishops.

Upon winning both of his civil wars against imperial rivals presented as 'persecutors', Maxentius in 312 and Licinius in 324, one of Constantine's first actions was to recall bishops exiled during their alleged persecutions.[2] In this context, exile was understood as a persecutory measure against Christians. Yet Constantine also exiled bishops himself, following the councils of Arles (314), Nicaea (325), and Tyre (335). The context was radically different, as Constantine was now a supporter of the Christian church and used exile to settle conflicts among bishops. Thus scholars routinely assume that Constantine established exile as a normative sentence in settling ecclesiastical disputes and disciplining episcopal troublemakers.[3] But how to explain that

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1 T.D. Barnes, *Constantine and Eusebius*, Cambridge 1981; id., *Athanasius and Constantius. Theology and Politics in the Constantinian Empire*, Cambridge 1993; id., *Constantine. Dynasty, Religion and Power in the Later Roman Empire*, Chichester 2011; H.A. Drake, *Constantine and the Bishops. The Politics of Intolerance*, Baltimore 2000; J.-L. Maier (ed. and trans.), 1. *Le dossier du donatisme*, TU 134, Berlin 1987, 134f.; H.-G. Opitz (ed.), *Athanasius Werke* 3.1. *Urkunden zur Geschichte des arianischen Streites, 318–328*, Berlin 1934.
I wish to thank Hal Drake, Beth DePalma Digeser, and Julia Hillner for their insightful comments on different versions of this paper, and for their contribution in refining the argument.

2 Persecutors: Eus., h.e. 10.8; v.C. 1.33–36 and 51–54,1; along with A. Cameron / S.G. Hall, *Eusebius. Life of Constantine*, Oxford 1999, 213f. and 227. Recall: Eus., v.C. 1.41,3 and 2.20,1 (SC 559, 238 and 290). See M. Humphries, *From Usurper to Emperor. The Politics of Legitimation in the Age of Constantine*, in: Journal of Late Antiquity 1 (2008), 82–100, on Constantine's status and civil wars.

3 D. Washburn, *Banishment in the Later Roman Empire, 284–476 CE*, New York 2013, 48f.; Cf. Barnes, 1993, 172f.; and T.D. Barnes, *Oppressor, Persecutor, Usurper. The Meaning of 'Tyrannus' in the Fourth Century*, in: G. Bonamente / M. Mayer (eds.), *Historiae Augustae Colloquia* 4, Bari 1996, 55–65 (59).

Constantine used exile, a sentence previously employed in persecutions of Christians, against bishops, in light of his commitment to Christianity? Was Constantine also a persecutor? Or did his reign see a change in the way that Roman rulers used exile against bishops?

It is not fundamentally wrong to state that the use of exile by Christian rulers to settle ecclesiastical disputes originated with Constantine. But it is assuming too much, in light of the numerous vexing problems and debates that continue to divide scholars of Constantine, to do so without discussing the complex relevant evidence in some detail.[4] At the centre of this problem lies the question of whether Constantine sustained the disciplinary methods of his predecessors, the coercive use of exile in particular. Scholars who think so accept the vision of a Constantine who persecuted Christian dissidents of North Africa, the so-called Donatists, presented by a dissident author in a hagiographical sermon.[5] It is the aim of the present chapter to analyse the extent evidence, including a critical reading of the dissident sermon. This analysis in fact validates the assumption that Constantine established exile as the proper way to settle ecclesiastical disputes, and in doing so presents new arguments in support of it.

The present chapter thus argues that while there is a certain element of continuity in the use of exile against bishops by both persecuting emperors and Constantine, there is also a fundamental difference. For persecuting emperors, exile was part of a wider range of coercive measures they were willing to employ in order to enforce religious devotion to the Roman gods.[6] Cyprian may have been exiled as a result of the first edict of Valerian, but shortly thereafter,

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4 See Barnes, 2011, 1–8, and 140, on the problems and debates; cf. G.L. Thompson, *From Sinner to Saint? Seeking a Consistent Constantine*, in: E.L. Smither (ed.), *Rethinking Constantine. History, Theology, and Legacy*, Eugene 2014, 5–25, for a recent review of scholarship. The three most important recent contributions of relevance to the topics treated in this chapter are: Drake, 2000; D.M. Gwynn, *The Eusebians. The Polemic of Athanasius of Alexandria and the Construction of the 'Arian Controversy'*, Oxford 2007; and B.D. Shaw, *Sacred Violence. African Christians and Sectarian Hatred in the Age of Augustine*, Cambridge 2011.

5 W.H.C. Frend, *The Donatist Church. A Movement of Protest in Roman North Africa*, Oxford 1952, 155–161; Barnes, 1981, 60; id., *The New Empire of Diocletian and Constantine*, Cambridge 1982, 245; Maier, 1987, 198f.; P. Stephenson, *Constantine. Roman Emperor, Christian Victor*, New York 2009, 163. Sermon: F. Dolbeau, *La "Passio Sancti Donati" (BHL 2303b). Une tentative d'édition critique*, in: *Memoriam Sanctorum Venerantes. Miscellanea in onore di Monsignor Victor Saxer*, Vatican City 1992, 251–267; English translation in M. Tilley, *Donatist Martyr Stories. The Church in Conflict in Roman North Africa*, TTH, Liverpool 1996, 52–60.

6 See J.B. Rives, *The Decree of Decius and the Religion of Empire*, in: JRS 89 (1999), 135–154; and M. Humphries, *The Mind of the Persecutors: 'By the Gracious Favour of the Gods'*, in: D.V. Twomey / M. Humphries (eds.), *The Great*

the bishop of Carthage was executed as a result of Valerian's second edict.[7] This is where Constantine branched off from his predecessors, for his use of exile would be the harshest sentence he was prepared to inflict upon wayward clerics.[8] This is the crucial difference: whereas persecuting emperors ordered physical punishments and the death penalty against all Christians who refused to perform the required ritual, Constantine stopped short of using physical punishments against bishops and was opposed to coercion of religious beliefs.

Of course, from the point of view of those Christians who were excluded from Constantine's religious patronage, such nuances were conveniently ignored in order to castigate the emperor as another persecutor. These rhetorical attacks tell us less about Constantine's actions, however, than about the new potential vulnerability of Christian rulers to the charge of being persecutors.[9] Taking this rhetoric into account, this chapter argues that Constantine's religious policy was careful to avoid the use of coercion, particularly in the aftermath of the 'Great Persecution' and the statements of tolerance that ended it. Constantine's own words are decisive on this matter: "let no one use what he has received by inner conviction as a means to harm his neighbour. What each has seen and understood, he must use, if possible, to help the other; but if that is impossible, the matter should be dropped. It is one thing to take on willingly the contest for immortality, quite another to enforce it with sanctions."[10] Overall, the evidence of Constantine's dealings with bishops reveals a ruler who did not use exile as a measure of coercion, but as a way to enforce decisions of bishops meeting in councils that he wished to implement in order to promote unity amongst Christians.

To illustrate continuity and change in the way Constantine used exile as the best means to settle disputes among bishops, this chapter first examines both Roman and Christian traditions that influenced his dealings with bishops and especially his use of exile as a form of punishment. Second, it looks

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Persecution. The Proceedings of the Fifth Patristic Conference, Maynooth, 2003, Dublin 2009, 11–32.

7 Cypr., Ep. 80.1, along with P. Keresztes, *Two Edicts of the Emperor Valerian*, in: VigChr 29 (1975), 81–95; and C.J. Haas, *Imperial Religious Policy and Valerian's Persecution of the Church, A.D. 257–260*, in: ChH 52 (1983), 133–144 (135f.).

8 C. Dupont, *Le droit criminel dans les constitutions de Constantin* 1: *Les infractions*, Lille 1953, 43–53.

9 Cf. R. Flower, *Emperors and Bishops in Late Roman Invective*, Cambridge 2013, 78–126 (ch. 2), on a similar process against Constantius II.

10 Eus., v.C. 2.60,1 (trans. Cameron / Hall, 1999, 114). Cf. Eus., v.C. 1.44,3. See further H.A. Drake, *The Impact of Constantine on Christianity*, in: N. Lenski (ed.), *The Cambridge Companion to the Age of Constantine*, Cambridge 2006, 111–136 (119–121). See A.D. Lee, *Traditional Religions*, in: Lenski (ed.), 2006, 159–179, for a balanced overview of this controversial passage.

at the two main Christian conflicts in which Constantine got involved – the so-called Donatist controversy and the Arian conflict – to argue that the first Christian emperor was consistent in his use of councils of bishops to settle Christian conflicts and exile as a punishment for bishops.

Constantine was not even the first emperor to use exile in a non-coercive way.[11] On the contrary, exile was the most suitable sentence for bishops because it followed both Roman and Christian traditions in fundamental ways. First, the use of exile for bishops followed an old Roman tradition of exempting élites from harsher (corporal) penalties. Exile was traditionally used for aristocrats (*honestiores*) as a replacement of the death penalty and as part of their privileges, since for the same crime they would be subject to a lighter form of punishment than common people (*humiliores*).[12] In this case, however, Constantine adapted an old tradition to a new situation, at a time when scholars have long noticed that traditional élites tended to lose this privilege.[13] To understand Constantine's policy, therefore, it is necessary to understand in what way bishops can be considered "élites."[14]

In a figurative sense, bishops became the *metaphorical* senators of the Christian Empire, as Peter Brown astutely pointed out.[15] Not in terms of strict

11 See Barnes, 1981, 38; S. Corcoran, *The Empire of the Tetrarchs. Imperial Pronouncements and Governments AD 284–324*, Oxford 2000, 145; J. Curran, *Pagan City and Christian Capital. Rome in the Fourth Century*, Oxford 2000, 64f., for Maxentius' exile of Roman bishops in 308.

12 P. Garnsey, *Social Status and Legal Privilege in the Roman Empire*, Oxford 1970; F. Millar, *Condemnation to Hard Labour in the Roman Empire, from the Julio-Claudians to Constantine*, in: PBSR 52 (1984), 124–147; cf. C. Rapp, *Holy Bishops in Late Antiquity. The Nature of Christian Leadership in an Age of Transition*, Berkeley 2005, 280. 284. On Constantine following tradition, see Drake, 2000, *passim*; and E.D. Digeser, *The Making of a Christian Empire. Lactantius and Rome*, Ithaca 2000, esp 140.

13 R. MacMullen, *Judicial Savagery in the Roman Empire*, in: Chiron 16 (1986), 147–166; L. Angliviel de la Beaumelle, *La torture dans les Res Gestae d'Ammien Marcellin*, in: M. Christol (ed.), *Institutions, Société et vie politique dans l'Empire romain au IV^e siècle ap. J.-C.*, Paris 1992, 91–113; J. Harries, *Law and Empire Empire in Late Antiquity,* Cambridge 2001, 122–135; L. Dossey, *Judicial Violence and the Ecclesiastical Courts in Late Antique North Africa*, in: R.W. Mathisen (ed.), *Law, Society and Authority in Late Antiquity,* Oxford 2001, 98–114.

14 See C. Rapp, *The Elite Status of Bishops in Late Antiquity in Ecclesiastical, Spiritual, and Social Contexts*, in: Arethusa 33 (2000), 379–399.

15 P. Brown, *The Study of Elites in Late Antiquity*, in: Arethusa 33 (2000), 341. Cf., already, E. Gibbon, *The Decline and Fall of the Roman Empire* 1, New York 1946, 588: "Such profound reverence of an absolute monarch [scil. Constantine at Nicaea] towards a feeble and unarmed assembly of his own subjects can only be compared to the respect with which the senate had been treated by the Roman princes, who adopted the policy of Augustus."

social status but in terms of the political and moral legitimacy they provided the ruler as well as the way rulers used the bishops' religious and moral authority to support their power and implement their own agenda.[16] This is what some of the bishops acknowledged, when they labelled their council, at Carthage, in 411: "this most holy heavenly senate."[17] Bishops additionally benefited from a similar form of *privilegium fori*, the privilege of being judged by their peers (except for criminal cases), which was at the core of the penitential procedure developed by Christians to judge their ministers.[18] When the *privilegium fori* was conferred on the bishops, it placed them judicially on a par with senators. Their formal, legal recognition is perhaps not unambiguously attested under Constantine.[19] But the emperor's dealings with bishops, examined below, indicate that Constantine seems to have respected the procedures for the settling of disputes already in place amongst Christians.[20] This privilege, coupled with the growing wealth they came to control, the increasing political power they gained, the moral authority attached to

16 On bishops' powers, see: R. Lizzi, *Il potere episcopale nell'Oriente romano. Rappresentazione ideologica e realtà politica (IV–V secolo d.C.)*, Urbino 1987; É. Rébillard / C. Sotinel (eds.), *L'évêque dans la cité du IV^e au V^e siècle. Image et Autorité*, Rome 1998; L. Cracco Ruggini, *Prêtre et fonctionnaire. L'essor d'un modèle épiscopal aux IV^e–V^e siècles*, in: Antiquité tardive 7 (1999), 175–186; J.H.W.G. Liebeschuetz, *The Decline and Fall of the Roman City*, Oxford 2001, 137–168; R. Lizzi Testa, *The Bishop, Vir Venerabilis. Fiscal privileges and status definition in Late Antiquity*, in: StPatr 34 (2001), 125–144; and recent survey in D. Gwynn, *Episcopal Leadership*, in: S.F. Johnson (ed.), *The Oxford Handbook of Late Antiquity*, Oxford 2012, 876–915. On social origins of bishops, see Rapp, 2005, 172–207.

17 Aug., *Gesta conlationis Carthaginiensis* 1.29 (SC 195, 624): *sanctissimus senatus caelestis*; and, although sarcastic, 1.170. See also Jerome, Is. 2.5, in: R. Gryson (ed.), *Commentaires de Jerome sur le prophète Isaie.* 1, Freiburg 1993, 227: *Et nos habemus in ecclesia senatum nostrum coetum presbyterorum*; cited from Rapp, 2005, 168. See also her discussion of the blurred distinction between 'episkopos' and 'presbyteros' at 26. Cf. P.R.L. Brown, *Authority and the Sacred. Aspects of the Christianisation of the Roman World*, Cambridge 1995, 51; and K.F. Werner, *Naissance de la noblesse. L'essor des élites politiques en Europe*, Paris ²1998, 34.

18 Also called *praescriptio fori*. See J. Gaudemet, *L'Église dans l'Empire Romain (IV^e–V^e siècles)*, Paris 1958, 254–260; A.H.M. Jones, *The Later Roman Empire, 284–602. A Social, Economic and Administrative Survey.* 1, Baltimore 1964, 484–494 (491f.); V. Umberto, *"Praescriptio fori" e senatori nel tardo impero romano d'Occidente*, in: Index 19 (1991), 433–440.

19 See Jones, 1964, 487: "since the privileged jurisdictions were in general the result of gradual usurpation, confirmed or restricted by imperial constitutions from time to time, it is rather difficult to trace their growth from the Codes." Its first official mention is in Cod. Thds. 16.2,12 (355).

20 Cf. Barnes, 2011, 133. See below, no. 28.

the office itself, and the respect with which Constantine treated them, justify conferring on them the status of élite. This is what made them the metaphorical equivalent to the senators of the Principate.[21]

The example of Cyprian, bishop of Carthage during the persecution of Decius (250–251), is illuminating. Cyprian's own letters document that while he was sent into exile by the governor, nine bishops from Numidia, along with other clerics and laymen were condemned to the mines.[22] For Selinger, this difference in forms of punishment was "obviously due to the fact that [the bishops condemned to the mines] were *humiliores*, i.e. members of the lower classes," in contrast to Cyprian's high rank.[23] Thus in very important ways, even during the persecutions of Christians by pre-Christian Roman rulers, exile had been used in the traditional Roman way, as a milder form of penalty for members of the élite. The main change that Constantine brought, in this regard, was to confer this form of immunity on the *office* of bishop, by contrast to the social status of individuals which gave them immunity.

In addition to the use of exile as a form of punishment respectful of the bishops' status, Constantine's use of councils in his eventual interventions in ecclesiastical politics followed another non-Christian precedent in important ways. In 268, a council of bishops excommunicated Paul of Samosata for heresy.[24] Despite his fellow bishops' decision, however, Paul refused to leave the "church-building."[25] In order to enforce the sentence of the synod, therefore, the bishops petitioned the Emperor Aurelian for help. This is the precedent frequently cited to explain Constantine's involvement in Christian affairs.[26]

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21 Cf. A. Piganiol, *L'Empire Chrétien (325–395)*, Paris 1947, 368f., followed by Gaudemet, 1958, 254; and R. Van Dam, *Bishops and Society*, in: A. Casiday / F. W. Norris (eds), *Cambridge History of Christianity*, Cambridge, 2007, 346–358.

22 Cypr., Ep. 76–79, on which see J.G. Davies, *Condemnation to the Mines. A Neglected Chapter in the History of the Persecutions*, in: University of Birmingham Historical Journal 6 (1958), 99–107; and Millar, 1984.

23 R. Selinger, *The Mid-Third Century Persecutions of Decius and Valerian*, Frankfurt 2002, 88.

24 Eus., h.e. 7.27–30,19; 7.29,1 for the sentence.

25 Eus., h.e. 7.30,19. For the conclusion that Eusebius refers to the "church-building" and not the bishop's house, see R.L.P. Milburn, *Ο ΤΗΣ ΕΚΚΛΗΣΙΑΣ ΟΙΚΟΣ,* in: JThS 46 (1945), 65–68; cf. F. Millar, *Paul of Samosata, Zenobia and Aurelian. The Church, Local Culture and Political Allegiance in Third-Century Syria*, in: JRS 61 (1971), 14.

26 P. Batiffol, *La paix constantinienne et le catholicisme*, Paris 1929, 66–68; Frend, 1952, 146 no. 6; C. Pietri, *Roma Christiana. Recherches sur l'Église de Rome, son organisation, sa politique, son idéologie de Miltiade à Sixte III*, Rome 1976, 160–167; F. Millar, *The Emperor in the Roman World, 31 BC–337 AD*, Ithaca [2]1992, 573; Barnes, 1993, 172; A. Watson, *Aurelian and the Third Century*, New York 1999, 199; Drake, 2000, 217.

When Aurelian regained possession of the East from the Palmyrene Empire, in 272, four years after Paul's formal deposition and excommunication, he finally expelled Paul from the church in accordance with the decrees and request of the synod (h.e. 7.30,18f.). This case is important in this regard because it clearly illustrates a fundamental characteristic of the early church, its lack of means to enforce its own disciplinary decisions.[27] The penitential procedures of the church were based on the good-will of its members, on the recognition of the bishops' power to bind the faithful to its laws. And in this regard, the sentences of deposition and excommunication were the most extreme forms of penalty by which the church could discipline the members of its hierarchy.[28]

This remark, that Christians did not possess the means to enforce their own decisions, brings us to the second important way in which Constantine's choice of exile as the best means to discipline bishops was in continuity with prior practice, in this case Christian practice. Expulsion from the community was the harshest form of discipline among the earliest Christians (1 Cor 5:1–6 and 9–13). As those communities grew in importance, they developed a code of discipline with prescribed punishments associated with specific transgressions. The *Apostolic Constitutions*, which describe ecclesiastical penitential procedures toward the end of the fourth century but based on a third-century tradition, prescribed deposition, exclusion and excommunication as the most severe forms of punishment for bishops.[29] Corporal punishments were specifically forbidden (Apost. Const. 8.47,27). These procedures also specified that bishops could only be judged by their peers meeting in council. Several councils stated this principle very clearly, providing an important form of

27 S.G. Hall, *Institutions in the pre-Constantinian Ecclēsia*, in: M.M. Mitchell / F.M. Young (eds.), *The Cambridge History of Christianity* 1. *Origins to Constantine*, Cambridge 2006, 415–433; R. MacMullen, *Voting About God in Early Church Councils*, New Haven 2006, 59.

28 E. Vacandard, *La déposition des évêques. I. Nature et effets de la déposition*, in: RCF 35 (1908), 388–402; J. Gaudemet, *Les formes anciennes de l'excommunication*, in: RSR 83 (1949), 64–77; id., 1958, 70–74. 229–271. 277–280; C. Vogel, *La discipline pénitentielle en Gaule des origines à la fin du VII^e siècle*, Paris 1952; P. Saint-Roch, *La pénitence dans les conciles et les lettres des papes des origines à la mort de Grégoire le grand*, Vatican City 1991, 87–104; R.W. Mathisen, *Les pratiques de l'excommunication d'après la législation conciliaire en Gaule (V^e–VI^e siècle)*, in: N. Bériou / B. Caseau / D. Rigaux (eds.), *Pratiques de l'eucharistie dans les Églises d'Orient et d'Occident* 1, Paris 2009, 539–560.

29 Const. Apost. 8.47,74–76 (SC 336, 302–305), based on the *Didaskalia* of the early third century. See M. Metzger, *Les Constitutions Apostoliques*, SC 329, Paris 1986, 100–105; J.G. Mueller, *L'Ancien Testament dans l'ecclésiologie des Pères. Une lecture des Constitutions Apostoliques*, Turnhout 2004, 36–92.

legitimacy to the *privilegium fori* subsequently enjoyed by bishops.[30] This Christian tradition of immunity to physical coercion for bishops, in addition to the procedures of ecclesiastical discipline that conferred on bishops the privilege of being judged by their peers, provides the second fundamental source of continuity within which Constantine's decision to use exile to discipline bishops must be situated.

In his interventions in such circumstances, Constantine diligently respected the procedures already used by bishops, probably under the guidance of bishops such as Ossius of Cordoba.[31] From what is known of his dealings with bishops, it seems that Constantine followed these procedures from the start. Practically, this means that he summoned councils of bishops whenever the need arose, and added his civil sanction — exile — to those of the bishops.[32] Does this necessarily mean that "Constantine bound himself in advance to accept and enforce the condemnation of a bishop by his peers meeting as a council"?[33] Walt Stevenson recently took issue with this view, downplayed Constantine's role in establishing such a policy, and concluded that "neither precedents nor innovative policies followed any strict canonical or legal guidelines".[34]

Indeed, recent works tend to downplay the legal varieties of exile in this period and instead emphasize its great flexibility and versatility as well as the inclusive use of umbrella terms such as 'banishment' in the sources.[35]

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30 Antioch (325), Can. 4. 14. 15; Serdica (343), Can. 3f.; Constantinople (381), Can. 6; Carthage (390), Can. 10. See further A. Steinwenter, *Der antike kirchliche Rechtsgang*, in: ZSRG.K 23 (1934), 1–116; Mueller, 2004, 355–365.

31 See Eus., v.C. 3.61,1 (SC 559, 442): τὸν κανόνα τῆς ἐκκλησιαστικῆς ἐπιστήμης; and 3.62,3 (446): τῆς ἐκκλησιαστικῆς ἐπιστήμης. Ossius: Eus., h.e. 10.6,2.

32 See M.V. Escribano Paño, *El Exilio del herético en el s. IV d.C. Fundamentos jurídicos e ideológicos*, in: F.M. Simón / F.P. Polo / J.R. Rodríguez (eds.), *Vivir en tierra extraña: emigración cultural en el mundo antiguo*, Barcelona 2004, 255–272 (269), for a similar conclusion, albeit focused on a later period.

33 Barnes, 1993, 173. See further id., *The Crimes of Basil of Ancyra*, in: JThS 47 (1996), 552, arguing from Eus., v.C. 4.27,2 that "Constantine had given the decisions of councils of bishops legal force"; cf. Barnes, 2011, 133. *Contra* Cameron / Hall, 1999, 324: protecting synods' decisions from the arbitrary of governors. Barnes seems to go too far in postulating an automatic enforcement of counciliar decisions. Cf. Rapp, 2005, 262; and M.-F. Baslez (ed.), *Chrétiens persécuteurs. Destructions, exclusions, violences religieuses au IV^e^ siècle*, Paris 2014, 8.

34 W. Stevenson, *Exiling Bishops: The Policy of Constantius II*, in: Dumbarton Oaks Papers 68 (2014), 7–27 (27).

35 See Washburn, 2013, 3. 16–32; P. Van Nuffelen, *Arius, Athanase et les autres: dimensions juridiques et politiques du retour d'exil au IV^e^ siècle*, in: P. Blaudeau (ed.), *Exil et relégation. Les tribulations du sage et du saint durant l'antiquité romaine et chrétienne (I^er^–VI^e^s. ap. J.-C.)*, Paris 2008, 147f.; and R. Delmaire,

We should consider the broader phenomenon rather than ponder whether a bishop was sentenced to *deportatio* or *relegatio*, for example. Indeed, in attempting to respect the flexibility of episcopal exile, it seems wise to use a looser conception and to avoid assuming strict legal principles.[36] It seems obvious that late antique bishops settled ecclesiastical disputes through councils of bishops, whether sponsored by emperors or not. That much is clear under Constantius II.[37] Bishops could then depose or excommunicate their wayward colleagues. But councils lacked means of enforcing their sentences, as we saw with the case of Paul of Samosata; hence late antique rulers often resorted to exiling bishops. This banishment, however, was an *optional* civil enforcement of the counciliar sentence. As Peter Van Nuffelen rightfully remarked, we should not imply an interdependent relation, that exile always followed an ecclesiastical judgment, or that the latter always led to exile.[38] There does not appear to be any reason to believe that rulers were "bound in advance" to impose decisions of councils.[39]

Constantine's early dealings with bishops support this contention. Following his victory over Maxentius, on 28 October, 312, Constantine announced his support of Christianity in all his territories (Italy and Africa, in addition to the Western provinces already under his control) and endeavoured to erase the material consequences of the 'Great Persecution' by ordering the restitution of confiscated buildings to Christians.[40] This measure is essential to understand

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Exil, relégation, déportation dans la législation du bas-empire, in: Blaudeau (ed.), 2008, 115 and 125.

36 Cf. K.M. Girardet, *Kaisergericht und Bischofsgericht. Studien zu den Anfängen des Donatistenstreites (313–315) und zum Prozess des Athanasius von Alexandrien (328–346)*, Bonn 1975, and the criticism of T.D. Barnes, *Constantine, Athanasius and the Christian Church*, in: S.N.C. Lieu / D. Montserrat (eds.), *Constantine. History, Historiography and Legend*, New York 1998, 7–20. See further J. Hillner, *Prison, Punishment and Penance in Late Antiquity*, Cambridge 2015, 138f.

37 Cod. Thds. 16.2,12. Cf. Barnes, 1993, 174; and id., 2011, 133.

38 Van Nuffelen, 2008, 148. Twice Constantine threatened Athanasius with unilateral exile: first if he objected to readmission of the Melitians (Opitz, 1934, 45 = Ath., apol. sec. 59.6; Socr., h.e. 1.27,4; Soz., h.e. 2.22,5; Gel. Cyz., h.e. 3.14,14) and the second to compel his attendance at Tyre (Eus., v.C. 4.42,4). Cf. Washburn, 2013, 46–52; Stevenson, 2014, 10f.

39 Socr., h.e. 2.37 shows Constantius refusing to meet the Ariminum delegation because he knew that they had condemned bishops that he favoured.

40 Eus., h.e. 10.5,15–17. Narrative in Barnes, 1981, 56–61. R. Lizzi Testa, *Tolerance for the Gentiles, Intolerance of Heretics. The First Interventions of Constantine in the Life of the Catholic Church and of the Pagan Priests*, in: V. Vachkova / D. Dimitrov (eds.), *The Edict of Serdica (AD 311). Concepts and Realization of the Idea of Religious Toleration*, Sofia 2014, 90–93, has the process already in motion under Maxentius, in application of Galerius' edict. But the latter (Lact.,

what followed: it is its application that will cause the dissident 'Donatists' to appeal to the emperor, which will lead to two councils of bishops, at Rome and Arles.[41] This fundamental point is generally overshadowed by religious considerations, such as whether Constantine had committed to one side from the start by specifying that the 'Catholic church' was the recipient of his generosity or that this constitutes "the first time schism or unorthodoxy could become an offence punishable by law."[42]

If we are to attach a more specific meaning to Constantine's mention of the 'Catholic church', it should be to its etymological meaning (universal), rather than its ecclesiastical meaning, which would be to read history from hindsight. In other words, if Constantine was committed to something, it was to a universal monotheistic church, a *unified* church. This will be the constant refrain in all his communications with bishops throughout his reign.[43] So much so, that Hal Drake declared: "his concern to unify all Christian parties is so well documented that it may be taken as a given."[44] These two points, that Constantine was called upon to mediate a conflict about who represented the 'Catholic church' in Africa, and that his central concern throughout was to obtain the unity of Christians in his realm, are key to understanding his first interventions in ecclesiastical politics. As a statesman concerned with unifying his realm, Constantine wished to exclude rigorists more concerned with preserving the purity of their religious movement (without necessary prosecuting religious schism by law) than with joining a coalition willing to

Mort. 34.4) does not specify any restitution of property. Cf. Barnes, 1981, 38f. See K. Cooper, *Christianity, Private Power, and the Law from Decius to Constantine. The Minimalist View*, in: JECS 19 (2011), 327–343 (332–338) on the importance of properties in this context.

41 Cf. K.-M. Girardet, *Die Petition der Donatisten an Kaiser Konstantin (Frühjahr 313) – historische Voraussetzungen und Folgen*, in: Chiron 19 (1989), 185–206.

42 Eus., h.e. 10.5,16 (SC 55, 107): τῇ ἐκκλησίᾳ τῇ καθολικῇ τῶν Χριστιανῶν. See also 10.6,1–5 for a second letter granting a large sum of money for exclusive use of the Catholic faction. Barnes, 1981, 56f. ("had already committed himself"), and 317 no. 133, but without any specific reasons to doubt Optat. 1.22. Quote: Frend, 1952, 148. Cf. N. Lenski, *Harnessing Violence. Armed Force as Manpower in the Late Roman Countryside*, in: Journal of Late Antiquity 6 (2014), 233–250 (241).

43 Eus., h.e. 10.5,18. 21–24; Optat. 2.15,2; app. 3. l, 2–8, 39f., and 107–133 (Maier, 1987, 154–156); Aug., Ep. 88.2, 4, l. 48–52 (Maier, 1987, 191f.); Opitz, 1934, 17 (Eus., v.C. 2.64–72; Socr., h.e. 1.7,3–20), 25 (Ath., decr. 38; Socr., h.e. 1.9,17–25), and esp. 27.13 (Ath., decr. 41; Gel. Cyz., h.e. 3, app. 1; Thdt., h.e. 1.20).

44 Drake, 2000, 241. Generally accepted, see e.g. D. Potter, *Constantine the Emperor*, Oxford 2013, 284; P. Maraval (trans.), *Constantin le Grand. Lettres et Discours*, Paris 2010, x–xi. xxiii. xxx–xxxii.

forgive previous faults in order to consolidate a wider membership.[45] In many ways, this policy was similar to a sentence of exile: dissidents were excluded from the imperial benefits granted to Christians.

At the same time the new ruler of the West did everything in his power to ensure that the conflict would be arbitrated with justice.[46] Upon reception of a petition from the dissident Christians, to give them 'iudices' from Gaul to arbitrate their dispute with the followers of Caecilian (untouched by the persecution, they would be impartial), Constantine called upon the bishop of Rome, Miltiades, to settle the dispute.[47] Constantine thus respected ecclesiastical procedures by asking Miltiades to organize a council.[48] Condemned by the council of Rome, the dissidents appealed the sentence to Constantine, who innovated by himself convoking a larger council of bishops from his provinces, but the result was the same.[49] The bishops at Arles ruled against the Africans and "condemned or expelled" them.[50] But once more, the African bishops were not satisfied and this time asked for Constantine's personal review of their appeal.[51] At this point, Constantine's patience was being stretched very thin.[52]

All the same, the emperor agreed to review their case.[53] As a precaution, however, because the dissidents' main grievance was that neither council had considered the case of Felix of Apthungi — Caecilianus' consecrator — Constantine ordered the proconsul of Africa to conduct a full investigation on the

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45 See the story of the Novatian Acesius reported by Socr., h.e. 1.10. Constantine's use of *haereticorum factione*, at Cod. Thds. 16.2,1, seems mainly rhetorical, and was probably inspired by Catholic bishops (Ossius?). Cf. M.A. Tilley, *When Schism Becomes Heresy in Late Antiquity. Developing Doctrinal Deviance in the Wounded Body of Christ*, in: JECS 15 (2007), 1–21.

46 B.H. Warmington, *Did Constantine Have "Religious Advisors"?*, in: StPatr 19 (1989), 120.

47 Eus., h.e. 10.5,18–20; Aug., *Gesta conlationis Carthaginiensis* 3.215–220; Optat. 1.22,2, with T.D. Barnes, *The Beginnings of Donatism*, in: JThS 26 (1975), 20–22. See Steinwenter, 1934, 23f., and 36; and E. Grasmück, *Coercitio. Staat und Kirche in Donastistenstreit*, Bonn 1964, 36–39, on the procedure. Cf. Pietri, 1976, 1.162–165; K.-M. Girardet, *Das Reichskonzil von Rom (313) – Urteil – Einspruch – Folgen*, in: Hist. 41 (1992), 104–116.

48 See Maier, 1987, 151 no. 1, for a tribunal transformed into a formal council by Miltiades. Cf. Drake, 2000, 217–219.

49 Optat., app. 3 and 4; and Eus., h.e. 10.5,21–24. See Drake, 2006, 118.

50 Optat., app. 4 (Maier, 1987, 162): *aut damnati sunt aut repulsi*.

51 Optat., app. 5 (Maier, 1987, 169): *Sicut in causis gentilium fieri solet, appellationem interposuerunt*.

52 See Optat., app. 5, for Constantine's harsh comments against the petitioners after their appeal of the sentence of Arles.

53 Aug., Ep. 43.7,20; 141.10, and Don. 32.55.

matter.[54] This investigation, to the Africans' dismay, revealed that a scribe named Ingentius had forged a document in order to incriminate Felix.[55] In the end, if we are to believe Augustine — our only source for the outcome of this process — Constantine ordered the confiscation of the church buildings under the control of the dissidents and exile for the bishops who resisted these measures.[56] It would seem that Constantine saw fit to add a civil sanction to the ecclesiastical sentence of the council of Arles, which explains the use of exile as a threat for those who resisted confiscation of their church buildings.[57] The series of events that led to the three judgments in favour of Caecilianus only delayed the application of Constantine's initial decrees. In this sense, confiscations derive from the emperor's initial letters, which proclaimed that his generosity toward Christians was to be restricted to Catholics. From the point of view of imperial religious policy, this transfer of properties does not automatically entail that schismatics were declared illegal, or forced to become Catholics by a posited "Edict of Unity."[58] Dissidents were free to practice their own religion, as long as they did it in private (*domesticoque secreto*), and not in the public buildings of the Christian church.[59]

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54 Optat. 1.27. The results of the investigation are in his app. 2: *Acta purgationis Felicis* (Maier, 1987, 174–187).

55 *Acta purgationis Felicis* 7–11 (Maier, 1987, 181–187). Cf. F. Martroye, *La répression du donatisme et la politique religieuse de Constantin et de ses successeurs en Afrique*, in: MSNAF 63 (1913), 23–140 (34f.).

56 Aug., Ep. 88.3 (CSEL 34.2, 409): *legem constituit, ut loca congregationum uestrarum fisco uindicarentur*; 105.9; and Aug., Petil 2.92,205. Exile is implied from a lost letter of Constantine mentioned by Aug., Coll. 3.22,40; Don. 31.54 and 33.56. Cf. Stevenson, 2014, 15 no. 44.

57 Cf. Barnes, 1993, 172f.

58 See Maier, 1987, 198 no. 2 for the alleged, non-extent, edict of unity; cf. J. Patout Burns / R.M. Jensen, *Christianity in Roman Africa. The Development of Its Practices and Beliefs*, Grand Rapids 2014, 48f.; D.C. Alexander, *Rethinking Constantine's Interaction with the North African "Donatist" Schism*, in: E.L. Smither (ed.), *Rethinking Constantine*, Eugene 2014, 37–90, at 37, asserts that: "the autonomous existence of a majority schismatic church in North Africa, under the leadership of one Donatus, had gained formal recognition by becoming a persecuted entity under Constantine's government in 317." He also seems to exaggerate their numeric superiority for this early period.

59 See esp. Cod. Thds. 16.6,2 (377): *Quod si errorem suum diligunt, suis malis domesticoque secreto, soli tamen, foueant uirus impiae disciplinae*; and Aug., Cresc. 3.50,55: *non illa quae sub nomine ecclesiae non debent ab haereticis possideri, sed quorumque priuata*. If Constantine had indeed issued an edict of unity, Gratian would have included those harsher measures in his own law, instead of allowing the dissenters to continue to assemble in private. A point already made by Martroye, 1913, 50–53. Cod. Thds. 16.2,1 and 16.5,1 apply the same logic

When the dissidents refused to vacate their churches, Constantine faced almost exactly the problem as that which Decius, Valerian, and Diocletian had faced: How to treat civil disobedience in the religious sphere? The answer of non-Christian rulers had been to enforce conformity by coercion, and to punish those who resisted for their *obstinatio*.[60] In adjudicating the so-called Donatist conflict, Constantine might have come close to using force against the intransigence of the dissidents, but the crucial point is that he never did.[61] In this context, especially, the choice of exile as the best sentence to discipline bishops has its more profound significance, as a departure from the precedent of using violent coercion to enforce religious conformity. The crucial difference, in this case, as Aurelian did in the case of Paul of Samosata, was that Constantine was not enforcing religious conformity, but ownership of properties. Of course, the decision of rightful ownership hinged upon a religious decision (which faction was 'Catholic'), hence his decision to delegate judgment to a council of bishops. But once the council had determined that Caecilianus' faction constituted the 'Catholic church,' Constantine was simply enforcing this decision to determine who would be the recipient of his generosity and of the restored properties. This is a great illustration of Constantine's blending of continuity and change in his use of exile against bishops. He followed Aurelian's precedent by delegating judgement to bishops, but innovated in convening the council of Arles; he innovated by accepting to review the decisions of councils (albeit reluctantly) and by refusing to coerce uniformity of religious beliefs as Decius and Diocletian had done; but he used a punishment for those who resisted his measures that was traditional in both Roman and Christian traditions, exile as the civil enforcement of excommunication.

In Africa, however, the situation escalated, and violence ensued. Augustine mentions that the emperor "issued a law of the utmost severity against the Donatists," and modern scholars generally accept the version of a sermon on the *Passion of Donatus* (BHL 2303b), written by a member of the defeated party, that the dissidents were persecuted.[62] No law of Constantine on this

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to exemptions from *munera*, i.e. they exclude from benefits, but do not punish non-Catholics.

60 G.E.M. de Ste.Croix, *Why Were the Early Christians Persecuted?*, in: PaP 26 (1963), 6–38; and id., *Why Were the Early Christians Persecuted? – A Rejoinder*, in: PaP 27 (1964), 28–33 (= M. Whitby / J. Streeter (eds), *Christian Persecution, Martyrdom, and Orthodoxy*, Oxford 2006, 105–152).

61 Drake, 2006, 119. Cf. P. Maraval, *Le devoir religieux des empereurs: de la tolérance à la répression*, in: Baslez (ed.), 2014, 39–43.

62 Aug., Ep. 105.2,9 (CSEL 34.2, 601): *Tunc Constantinus prior contra partem Donati seuerissimam legem dedit*; cf. Ep. 88.3 (409): *Postea et ipse coactus episcopalem causam inter partes cognitam terminauit et primus contra uestram partem legem constituit*. Cf. Cod. Thds. 16.6,2: *sicut lege diuali parentum nostrorum*

matter has survived, however, which makes it especially difficult to know what exactly Augustine considered as "severissimam." We do know that this did not involve the death sentence, for he later specifies that Christian rulers never ordered death for the dissidents, and it seems clear that it simply refers to the confiscations and exiles that he mentioned elsewhere.[63] But there is no clear evidence to assert that Constantine ever issued orders to proscribe dissident Christians nor that he ever coerced the religious unity of Christians. In this case, exile punished those who resisted the imperial order to abandon their buildings, and so it was not a coercion of beliefs, or a "persecution."

Brent Shaw has recently argued that the sermon on the *Passion* was probably pronounced in 347, in a context of harsher coercion, and that it is "much less reportage than it is an interpretation of the conventions of the involvement of state forces in the seizure of a church or a basilica."[64] Clearly, a critical reading of the evidence does not warrant the verdict that Constantine persecuted Donatists. Instead, it would seem that the emperor promoted unity, and in so doing – misleadingly, perhaps – attempted to confiscate church buildings from the dissidents to ensure the material support of "Catholic" communities in North Africa. The ensuing violence was caused as much by the intervention of the military to take control of the buildings, as by the resistance of the dissidents, who came to view themselves as martyrs dying for the cause of their faith.[65] The latter view of events expressed in the *Passion*, however, cannot be accepted without criticism.[66]

In late 329 or early 330, Constantine received a letter from the Catholic bishops of Numidia who complained that dissidents had taken control of the church building that the emperor had sponsored for the Catholics of Constantina. Constantine's answer shows that his mind was still the same on the best way to deal with 'most stubborn' Christians: "When people are infected by the evil of an impious mind, it is necessary that they should separate from our society."[67] The letter shows that, when confronted by the *obstinatio* of

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Constantini. Persecution: see no. 5 above. Martroye, 1913, 23–60 is an important exception, despite overstating the forgery issue.

63 Aug., Petil 2.92,206 (BA 30.488): *Si hoc de his imperatoribus dictum esset qui gaudent de nomine christiano, hoc eos utique praecipue fuisse iussuros, ut occideremini? quod numquam omnino iusserunt*.

64 Shaw, 2011, 187–193 (190).

65 See Lenski, 2014, 243–250, on the role of private militias in this process.

66 I develop this argument further in *Constantin et la 'persécution' présumée des donatistes*, in: *Revue des Études Tardo-Antique* (forthcoming). See also H.-I. Marrou, *L'Église de l'Antiquité tardive (303–604)*, Paris 1963, 32f.; C. Odahl, *Constantine and the Christian Empire*, New York 2004, 122f.

67 Optat., app. 10 (CSEL 26, 214): *Qui malo impiae mentis infecti sunt, necesse est a nostra societate dissideant* (trans. M. Edwards, *Optatus. Against the Donatists*,

African Christians, Constantine was not prepared to go where his predecessors had gone and enforce unity through coercion. It would seem that the emperor also learned a valuable lesson from his earlier policy of confiscation, for this time he conceded to the African Christians their property and promised to build a new basilica for the Catholics of Constantina.[68] Perhaps he now realized that any measures which needed to be enforced by soldiers had a strong potential for violence, an undesirable result especially in a religious context. Either way, the strong resistance of the dissidents proved successful for by 336, one of their councils assembled two hundred and seventy bishops.[69] This is also a testimony to Constantine's unwavering policy toward bishops.

Constantine's involvement in the crisis that revolved around the ideas of Arius, in the East, also supports this reconstruction that Constantine's policy consisted in delegating adjudication of Christian disputes to bishops meeting in councils, and to enforce their decisions with exile for those who resisted. In this context, Constantine confirmed the pattern that he initiated during the 'Donatist' controversy, by convoking a council of bishops to solve the dispute, the famous council of Nicaea.[70] He also confirmed the pattern of using exile as the best means to enforce ecclesiastical sentences. After much discussion and debate, a small group of bishops — twenty-two or seventeen — were still opposed to the proposed solution, the 'homoousios' formula.[71] Constantine then threatened with exile those bishops who refused to subscribe to the consensus.[72] Faced with this threat, most of the bishops relented, and only two Libyan bishops, Secundus of Ptolemais and Theonas of Marmarica, needed to be exiled, along with Arius, Euzoius, and other priests.[73] Threatening bishops

TTH, Liverpool 1997, 199). On this concept, see further, my chapter *Amputation Metaphors and the Rhetoric of Exile* in this volume.

68 Optat., app. 10.

69 Maier, 1987, 253f.; Barnes, 1981, 60. Cf. W.H.C. Frend, *The Failure of Persecutions in the Roman Empire*, in: PaP 16 (1959), 10–30; H.A. Drake, *Lessons from Diocletian's Persecution*, in: Twomey / Humphries (eds.), *The Great Persecution*, 2009, 49–60.

70 Eus., v.C. 3.5,3–9,1, Ath., decr. 3; Ar. 6; Socr., h.e. 1.8.

71 Philost., h.e. 1.8a (GCS 21,9).

72 Philost., h.e. 1.9a (GCS 21,9); Ruf., Hist. 10.5.

73 Philost., h.e. 1.9a and 1.10 for exile (GCS 21, 10f.). Cf. Socr., h.e. 1.8,33 and 1.9,4; Gel. Cyz., h.e. 2.33,5; Soz., h.e. 1.21,4f.; Thdt., h.e. 1.7,8. Euzoius: Gel. Cyz., h.e. 3.15,1–5, and Opitz, 1934, 29 (Socr., h.e. 1.25,7 and 26,2) and 30 (Soz., h.e. 2.27,6). See Stevenson, 2014, 11–13, for undue scepticism. The bibliography on Nicaea is enormous. Cf. Millar, *The Emperor in the Roman World* [2]1992, 598; Barnes, 1981, 217; Hanson, [3]2005, 162; R. Williams, *Arius. Heresy and Tradition*, rev. ed., Grand Rapids 2001, 70–74; Drake, 2000, 257; Barnes, 2011, 120–126. On Arius, see also T.D. Barnes, *The Exile and Recalls of Arius*, in: JThS 60 (2009), 109–129; and Van Nuffelen, 2008.

to enforce uniformity of beliefs might seem dangerously close to persecution to some, but the fundamental difference is that this was the harshest penalty that Constantine was willing to use to obtain Christian unity, and only following a counciliar condemnation.

A few months later, even though they had reluctantly subscribed to the proceedings of the council, Eusebius of Nicomedia and Theognis of Nicaea were also exiled, either for having harboured Arian priests or withdrawing their signature, perhaps for both.[74] Consistent in his policy, the emperor was later to warn other pro-Arian bishops, such as Theodotus of Laodicea, that refusing to support the consensus would entail a similar fate.[75] And even though Constantine turned against Bishop Alexander's successor, Athanasius, in the following years, his basic commitment to unity did not falter. Instead, it seems that the emperor came to view the partisans of Nicaea as the inflexible ones, and leaned toward the "Eusebians" by the end of his life.[76] What did not change was the way to enforce unity.[77] Thus between Nicaea and Constantine's death, numerous bishops were exiled as a result of their opposition to the policy of religious consensus as defined by Constantine at the time.[78]

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74 Reluctant signature: Ath., decr. 3.2; asylum to Arians: Opitz, 1934, 27 (Gel. Cyz., h.e. 3, App. 1; Thdt., h.e. 1.20,9); withdrawn signatures: Philost., h.e. 2.1b (GCS 21, 12).

75 Opitz, 1934, 28 (Gel. Cyz., h.e. 3, app. 2; Ath., decr. 42).

76 Gwynn, 2007; Drake, 2000, esp. 258–272. See Barnes, 1993, 20–25, for a narrative. Drake, 2000, 347, sees an exception in Constantine's letter against the heretics (3.64–66), which forbids their meetings even in private homes. But see Soz., h.e. 7.12,12 (SC 516, 118–120), on Theodosius' issuing a very similar edict, that "he prescribed severe penalties in the laws, but did not impose them, for he was anxious not to punish but to frighten his subjects, so that they would come to agree with him in religious matters," cited from R.M. Errington, *Roman Imperial Policy from Julian to Theodosius*, Chapel Hill 2006, 231.

77 Preliminary examinations of charges brought against Athanasius that Constantine conducted himself, or that he delegated to the 'censor' Dalmatius, (on which see Barnes, 1993, 21) do not disprove this pattern. As Barnes, *Constantine, Athanasius and the Christian Church*, 1998, 13f., has argued: "if he found that there was a *prima facie* case, he thereupon convened a council of bishops and submitted the whole matter to them" (13).

78 Asclepas of Gaza, deposed in 326 and exiled twice: Soz., h.e. 3.81; Ath., fug. 3; Eustathius of Antioch, deposed in 326 (or 328, according to R.W. Burgess, *The Date of the Deposition of Eustathius of Antioch*, in: JThS 51 [2000], 150–160) in murky circumstances: Ath., h. Ar. 4.1; Thdt., h.e. 1.21; Socr., h.e. 1.24; Soz., h.e. 2.19; Philost., h.e. 2.7; Eus., v.C. 3.59–62; H. Chadwick, *The Fall of Eustathius of Antioch*, in: JThS 49 (1948), 27–35; S. Parvis, *Marcellus of Ancyra and the Last Years of the Arian Controversy 325–345*, Oxford 2006, 105f.; Paul of Constantinople, exiled to Pontus in 336: Eus., Marcell. 1.4; Socr., h.e. 1.36; Soz., h.e.

Undoubtedly, the most famous of these bishops exiled under Constantine was Athanasius of Alexandria.[79] Stubbornly refusing to readmit Arius, he faced the unified front of two enemies, the Egyptian Melitians who opposed his election as uncanonical and the 'party' of Eusebius of Nicomedia who had gained the Emperor's ear in the 330s, which left him vulnerable to attacks from his ecclesiastical enemies.[80] Thus in the beginning of September 335, Athanasius quit the Council of Tyre, convinced that he was about to be condemned and deposed by the majority of bishops gathered there, and fled to Constantinople.[81] His goal was no doubt to plead his case in front of the emperor, since he had already convinced him twice in the past of his innocence.[82] The details of the encounter that ensued contradict each other.[83] But the outcome is very clear: Athanasius was sent into exile in Gaul, at the imperial residence of Trier.[84]

Athanasius would have us believe that he was exiled for withholding the corn supply of Constantinople (Ar. 87.4). While this affirmation has seemed plausible to some scholars, recent work has been less inclined to take such claims at face value.[85] Considering both Constantine's notable concern for unity and Athanasius' refusal to compromise with the Eusebians,[86] it would

2.33; Marcellus of Ancyra, condemned in 336: Socr., h.e. 1.36; Soz., h.e. 2.33; Parvis, 2006. Cf. Barnes, 2011, 140–142.

79 D.M. Gwynn, *Athanasius of Alexandria. Bishop, Theologian, Ascetic, Father*, Oxford 2012, 26–30.

80 Barnes, 2011, 141. É. Fournier, *Exiled Bishops in the Christian Empire: Victims of Imperial Violence?*, in: H.A. Drake (ed.), *Violence in Late Antiquity. Perceptions and Practices*, Aldershot 2006, 157–166, on the importance of ecclesiastical and imperial support in these conflicts.

81 Ath., h. Ar. 82.1; Ath., apol. Const. 1.3; Index 8. See Barnes, 1981, 239; Barnes, 1993, 23; H.A. Drake, *Athanasius' First Exile*, in: GRBS 27 (1986), 193, and 202 on the date.

82 Barnes, 1993, 21.

83 For the debate over this event, see Girardet, 1975, 66–75; Barnes, 1981, 239f.; Drake, 1986, 193–204; R.P.C. Hanson, *Search for the Christian Doctrine of God*, Grand Rapids ^{3}2005, 263; D.W.H. Arnold, *The Early Episcopal Career of Athanasius of Alexandria,* Notre Dame 1991, 143–163; Barnes, 1993, 23–25; T.G. Elliott, *The Christianity of Constantine the Great*, Scranton 1996, 307. 316–320; A. Martin, *Athanase d'Alexandrie et l'Église d'Égypte au IV^{e} siècle (328–373)*, Rome 1996, 379–387; Gwynn, 2007, 69–87; Stevenson, 2014, 14.

84 Ath., h. Ar. 87; Index 8; h. Ar. 5.8; Socr., h.e. 1.35; Soz., h.e. 2.28,14.

85 Plausible: L.W. Barnard, *Athanasius and the Roman State*, in: Latomus 36 (1977), 427; Barnes, 1981, 240; Barnes, 1993, 24. Suspicious: Drake, 1986, 202f.; Gwynn, 2007, 74f.

86 So much is clear in Socr., h.e. 1.35,4 (SC 477, 248): Φαςὶ δέ τινες τοῦτο πεποιηκέναι τὸν βασιλέα σκοπῷ τοῦ ἑνωθῆναι τὴν ἐκκλησίαν, ἐπειδὴ Ἀθανάσιος πάντῃ κοινωνῆσαι τοῖς περὶ Ἄρειον ἐξετρέπετο, on which see Drake, 1986, 203. Epiph., haer. 68.9,5 (PG 42, 199): "God will judge between you and me, just as surely as you are in

seem that the bishop of Alexandria was punished for his *obstinatio* against his ecclesiastical enemies, and implicitly his refusal to endorse the theological settlement supported by Constantine. When Athanasius appealed to Constantine in the capital, invoking illegal procedures used by the bishops assembled at Tyre, the emperor added a civil sanction to that of the bishops by exiling Athanasius to Trier, probably because he considered him a troublemaker.[87] Constantine himself confirmed these points in a letter to the Alexandrians subsequent to Arius' death (July 336), according to Sozomen, in which he specified that he would not recall Athanasius because he was "seditious" and "had been condemned by an ecclesiastical judgment."[88] If no bishop replaced Athanasius in Alexandria, this is likely to be explained by the imperial hope that exile would entail a change of mind in the stubborn prelate, just as it had already done in Arius' case approximately a decade earlier.[89] Indeed, both Washburn and Hillner have recently argued for the healing properties of exile.[90]

One of the many insights of Tom Sizgorich's work was that Roman emperors' past persecutions of Christians left even a Christian emperor vulnerable to the charge of being a persecutor.[91] Constantine's use of exile illustrates the point well, the more so since the memory of recent persecution was still fresh for Christians. Indeed, to the dissidents of North Africa, Constantine's enforcement of his decision to allocate church buildings to the rival Christian faction was tantamount to persecution. But Constantine's goal was not to enforce religious unity with coercion, but to allocate benefits and restore confiscated properties to the faction of those Christians willing to support unity. For this was the main goal of his religious policy, even if naively so, to obtain unity amongst Christians and put an end to public theological disputes. In this, exile became the stick, the main tool he used to discipline

agreement with the traducers of my poor self" (trans. F. Williams, *The Panarion of Epiphanius of Salamis*, Leiden 1994, 2.323) represents this characteristic, rather than the actual words pronounced by the protagonists.

87 G. Bardy, *Histoire de l'Église depuis les origines jusqu'à nos jours* 3. *De la paix constantinienne à la mort de Théodose*, Paris 1945, 111–112 no. 2; cf. Girardet, 1975, 73; Odahl, 2004, 232; P. Maraval, *Socrate de Constantinople*, SC 477, Paris 2004, 248 no. 1. *Contra*: Barnes, 1993, 24 and 173, asserting without evidence that Constantine's letter of convocation to the synod of Tyre "had disallowed them in advance" (24).

88 Soz., h.e. 2.31,2 (SC 306, 368): ὡς στασιώδη ἐκκλησιαστικῇ καταδεδικασμένον κρίσει. See further 2.31,3 and 5.

89 Exile to entail a change of mind: Drake, 2000, 314. Arius readmitted: Opitz, 1934, 29f. (Socr., h.e. 1.25,7; Socr., h.e. 1.26,2 and Soz., h.e. 2.27,6), with Barnes, 2009.

90 Washburn, 2013, 46–58; Hillner, 2015, esp. 213.

91 T. Sizgorich, *Violence and Belief in Late Antiquity: Militant Devotion in Christianity and Islam*, Philadelphia 2009, 102.

those bishops who opposed his policy or, in his view, who refused to cooperate. In doing so, Constantine blended both Roman and Christian traditions. First, he continued previous Roman trends of immunity to physical forms of punishments for élite and the privilege of being judged by their peers for senators and other Roman officials. Second, he respected the internal procedures of discipline of Christians as well as their ban of physical punishments for bishops. Thus emerged a pattern for the emperor's dealing with ecclesiastical conflicts: he deferred the matter to episcopal assemblies, councils, and enforced their excommunication sentences with the civil sentence of exile. But throughout his reign he was careful to avoid using coercion. The abundance of exiled bishops mentioned in late antique sources, and beyond, attests to Constantine's success in establishing this pattern as what might be called the normative way of dealing with wayward bishops.[92]

92 See R. MacMullen, *Cultural and Political Changes in the 4th and 5th Centuries*, in: Hist. 52 (2003), 465–495 (482), with references at no. 43; P. Garnsey and C. Humfress, *The Evolution of the Late Antique World*, Cambridge 2001, 145. Cf. Hillner, 2015, 281–341, for monastic confinement as an alternative from the sixth century onward.