

Dorothea Valentinova\*

**Theodosian Code: Fides Catholica Adversus  
Paganos et Haereticos**

*“And in those days the Orthodox inhabitants of Alexandria were filled with zeal and they collected a large quantity of wood and burned the place of the heathen philosophers.”*<sup>1</sup>

*John,*<sup>2</sup> *Bishop of Nikiu, Chronicle (LXXXIV.45)*

After the legalization of Christianity in 313 AD with the Edict of Milan, the ambitions of the imperial and ecclesiastical authorities, disguised comfortably in the Christian dogma, invaded the Roman law, and penetrated the political and cultural dimensions of *Romanitas*, following the strategy of propaganda infiltration. That strategy relied on implanting old, familiar and stable Roman archetypal patterns and notions of religiosity, faith, morals and social justice, lying at the heart of the ancient Roman value system.

The defining of heresy and paganism has occurred by postulating their ultimate, extreme existential antagonism to the official dogma, church and state in the context of the Christian religious propaganda, which was trying furiously to reconstruct *fides catholica* as the only authentic and true religious identity *a priori*.

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1. Robert H. Charles, trans., *The Chronicle of John, Bishop of Nikiu*, translated from Zotenberg's Ethiopic (London, Oxford: Williams & Norgate, 1913), LXXXIV.45, 98.

2. In his chronicle, covering the period from Adam to the Arab (Muslim) conquest of Egypt, the Egyptian Coptic bishop of the city of Nikiu John (7<sup>th</sup> century AD), who also served as a general governor of the monasteries in Upper Egypt, included many texts reflecting the persecution of pagans and Christians. In a separate text he described the murder of the famous Hypatia.

Roman public law, “*quod ad statum rei Romanae spectat*,”<sup>3</sup> regulating the legal matter regarding “*sacris*,” “*sacerdotibus*,” “*magistratibus*,”<sup>4</sup> according to the famous phrase of Ulpian, clearly shows in its primary definition the deep connection and interdependence between the sacred and eternally divine law that has been reaffirmed through the sacredness of *religio* and *pietas*, and transitional, ephemeral human laws. The balance between these two realities is achievable only through harmonious interdependence between gods and mortals, who communicate through *religio*, and delimit *res profanae*<sup>5</sup> in the “fabric” of *res sacrae* and *ius divinum*. The maintenance of this balance was a binding, connecting element of *utilitas publica*, *utilitas communis* and *bonum commune*,<sup>6</sup> that marked the boundary between what was thought and experienced as morally good (*bonum et honestum*), and what was thought or experienced as merely advantageous, useful and profitable for private and oligarchic interests.<sup>7</sup> The maintenance of the balance was also a significant factor for the vitality of the Roman *iustitia*, worshiped in pre-Christian Rome as *dea Iustitia*, and was a part of the foundation of the ancient Roman value system in which *res sacrae et divinae* are guarded by *ius* and *lex*.

3. Literally: public law “that is concerned with the Roman state” – part of the well-known formulation of Ulpian in his “Institutions” (Dig. 1.1.1.2, Ulpianus 1 Inst.), which defines the boundaries lying between the Roman private and the Roman public law: “*Publicum ius est quod ad statum rei Romanae spectat, privatum quod ad singulorum utilitatem: Sunt enim quaedam publice utilia, quaedam privatim. Publicum ius in sacris, in sacerdotibus, in magistratibus consistit*” (Public law is concerned with the Roman state, while private law is concerned with the interests of individuals, for some matters are of public and others of private interest. Public law comprises religion, priesthoods, and magistracies).

4. “religion, priesthoods, and magistracies”, 1.1.1.2, Ulpianus 1 inst.

5. Digesta, 1.8.6.3. Dig. 1.8.6.3. Marcianus 3 inst.: “*Sacrae autem res sunt hae, quae publice consecratae sunt, non private: si quis ergo privatim sibi constituerit sacrum /sacrum constituerit/, sacrum non est, sed profanum.*”

6. Public benefit, common benefit, common good.

7. About that difference and not only, in the context of the history of expropriation, see also: Susan Reynolds, *Before Eminent Domain: Toward a History of Expropriation of Land for the Common Good* (University of North Carolina Press, 2010), 16, 92.

The consequences of extrapolating the public law into realms of the sacred ceremonies, religion, priesthoods and magistracy<sup>8</sup> resounded far away in time and were extremely advantageous and profitable for the Church as an embodiment of the clerical authority, and its canon law. One of the earliest and most significant consequences was the legitimation (as an act of providing legitimacy) of the secular authority through the divine law, as a manifestation of the will of gods (in the context of the Roman pantheon). It has been achieved also through promoting and propagandizing of strictly private clerical interests and goals, dressed in the convenient form of scriptures, available and reserved for interpretation solely by the senior clergy, who only was allowed and authorized to translate and interpret the will of the Christian God (in the context of the Catholic dogma).

In the second case the legitimacy of the secular authority through the official religion, and the *a priori* personal faith through the clergy, the Church and its dogma, turned quickly into one of the most powerful forms of manipulation and control over the masses. In this game of power and influence over bodies and minds was followed the logic of differentiation, marginalization and exclusion of *the Others*, the infidels, or just people who profess different, non-Christian beliefs. Propaganda countering and confrontation of *domestic* and *foreign*, of *us* and *them*, of *believers* and *infidels* required strongly defined boundaries. Those borderlines marked and declared the distinction, and regulated clearly and mercilessly all the privileges and rights, and the future of those who have chosen the “right” path. On the other side, they marked and declared the marginalization, deprivation of rights, extermination, and –finally– the total destruction of those who have chosen anything but not the “right” way, trampled down and guarded strictly both by the religious and secular authorities and their ardent apologists.

In the late Roman legal texts, including Codex Theodosianus, could be found well defined moments, that demonstrate the desperate legislative attempts to establish clear points of contact between *fides catholica* and *utilitas publica* (old concept with a new meaning, inserted into the propaganda language of the empirewide

8. Dig. 1.1.1.2, Ulpianus 1 inst.

Orthodox policy), as well as formal attempts to specify all those entities in public domain that could endanger *fides catholica* and *utilitas publica* in one way or another. Active law enforcement of officials (who were charged with implementation of all valid legal rules and *leges*), and legal texts' authors in the times of the Christian emperors faced an insoluble dilemma to what limits they could reach in their endeavours to ensure both the welfare and the future of the Christian faith and Church, on one hand, and of the Empire as a whole, on the other, and which of them should prevail.

Who else but the Emperor could answer these questions?

Thus in 383 AD, two priests who were accused of proclaiming and defending suspicious doctrinal positions, turned to the praetorian prefect Maternus Cynegius<sup>9</sup> with a request for help. Cynegius decided to ask for assistance and clarification Theodosius I, who replied in a vague manner that the Emperor has no right to add even one iota to the divine law.<sup>10</sup>

In 404 AD the Western Roman Emperor Honorius reminded to his brother Arcadius, the emperor of the East that “the interpretation of matters of divine nature refers to the bishops, but the subordination of *religio* is our concern.”<sup>11</sup> In this early separation of powers, imperial officials, together with the obligation to ensure the supremacy of the only true faith, had to observe that the Church works for the public good, for *utilitas publica*. In 439 it was still possible for a quaestor who serves under the Western Emperor Valentinian III, firmly and boldly to state that: “when the number of [Christian] clerics grows excessively, public damages occur.”<sup>12</sup>

9. Maternus Cynegius (died on March 14, 388 AD) – a Christian, who served as praetorian prefect of the East from 384 until 388 AD; he was also consul in 388 AD– the year he died. Cynegius became famous with destroying some of the most sacred pagan temples.

10. Eduard Iricinschi and Holger M. Zellentin, ed., *Heresy and Identity in Late Antiquity*, Texts and Studies in Ancient Judaism, vol. 119 (Tübingen: Mohr Siebeck, 2008), 132.

11. Collectio Avellana, 38.4: “*ad illos (episcopos) enim divinarum rerum interpretatione, ad nos religionis spectat obsequium.*”

12. Novellae Valentiniani III, Tit. III (August 18, 439): “*...cum numerositas ex abundanti clericatus augetur, publica damna generentur.*” Gustavus Haenel,

Their numbers, however, increased extremely fast, together with their power. One of the main consequences was that the control on the balance among *fides catholica*, *utilitas publica* and *bonum commune* shifted to the Catholic Church. Historically the very fact that the bishops were entitled to set and define the religious doctrine and to act independently was not an insignificant setback for Constantine I<sup>13</sup> and his successors.<sup>14</sup> The delegation of power was a part of the division of authority, and its effects are yet to show up in time.

The separation between the Church and the State affected not only the jurisdiction of the bishops in matters of faith, but it allowed bishops and other clergy to be sued only by bishops,<sup>15</sup> and all other litigants were entitled to choose whether to refer their disputes to ordinary courts or to rely on a bishop's decision. Conciliation procedure, through which they had to reach an agreement, subsequently called *episcopalis audientia*, was theorized and developed by the post-classical jurists as a form of civil jurisdiction (*compromissum*),<sup>16</sup> available for both laity and clergy. Legitimized by the request of the Holy Apostle Paul to the early Christians not to bring their disputes before heathen judges (“*Audet aliquis vestrum, habens negotium adversus alterum, iudicari apud iniquos, et non apud sanctos? ... Sed frater cum fratre iudicio contendit, et hoc apud*

ed., *Codicis Gregoriani et Codicis Hermogeniani Fragmenta*, (Lipsiensis: Prostat bonnae apud Adolphum Marcum, 1837), 137-38.

13. An important source on the Constantine's relations with the Church is the panegyric *De vita Constantini*, written shortly after the death of the Emperor by the Bishop of Caesarea Eusebius.

14. In this context, cf. Tony Honoré, *Law in the Crisis of Empire, 379-455 AD: The Theodosian Dynasty and Its Quaestors with a Palingenesia of Laws of the Dynasty*, vol. 1 (Oxford: Oxford University Press, 1998), 2-3.

15. *Codex Theodosianus*, XVI.2.12 (September 22, 355); *Codex Iustinianus*, 16.2.41 (December 11, 412); 16.2.47.1 (October 8, 425).

16. Informal mutual agreement between the parties to comply with the decision of an arbitrator of their dispute; a mutual promise to abide by a judgement or arbitration. See: Reinhard Zimmermann, *The Law of Obligations: Roman Foundations of the Civilian Tradition*, Clarendon Paperbacks (Oxford: Oxford University Press, 1996), 526-530.

*infideles?*)<sup>17</sup> *episcopalis audientia* emerged at the moment when the bishops assumed the role of arbitrators<sup>18</sup> in private disputes between clerics, as well as between laymen.

With imperial blessing the Church, bishops and other clergy formed centers of control and influence through which they took independent decisions, affecting not only individuals, but also groups and larger communities of people, and thus the future of the Roman Empire:

*CTh.16.2.0. Concerning Bishops, Churches, and Clerics*<sup>19</sup>

*CTh.16.2.33.*

*The same Augustuses [emperors Arcadius and Honorius] to Eutychianus, Praetorian Prefect.*

In the churches, which, as usual, are arranged in the properties of different persons, as well as in the villages or in any other places, for the time being let be appointed clerics not from another property or village, but from the same in which the church will be built, so that the exact number of clergy in the church be determined with a *decision of the bishop*, according to the size or reputation of each village.

*Given on the sixth day before the kalends of August at Mnizo in the fourth consulship of Honorius Augustus and the consulship of Eutychianus (July 27, 398).*

*CTh.16.2.23.*<sup>20</sup>

17. Epistula I ad Corinthios Sancti Pauli Apostoli, 6.1 и 6.6: “1. Does any one of you, when he has a case against another person, dare to go to law before the unrighteous and not before the saints?... 6. but brother goes to law with brother, and that before unbelievers?”

18. Zimmermann, *The Law of Obligations*, 527.

19. *CTh.16.2.0. De episcopis, ecclesiis et clericis. CTh.16.2.33:* Idem aa. eutychiano praefecto praetorio. ecclesiis, quae in possessionibus, ut adsolet, diversorum, vicis etiam vel quibuslibet locis sunt constitutae, clerici non ex alia possessione vel vico, sed ex eo, ubi ecclesiam esse constiterit, eatenus ordinentur, ut propriae capitationis onus ac sarcinam recognoscant, ita ut pro magnitudine vel celebritate uniuscuiusque vici ecclesiis certus iudicio episcopi clericorum numerus ordinetur. dat. vi kal. aug. mnizo honorio a. iiii et eutychiano cons. (398 iul. 27).

20. *CTh.16.2.23:* Imppp. valens, grat. et valent. aaa. artemio, eurydico, appio, gerasimo et ceteris episcopis. qui mos est causarum civilium, idem in negotiis ecclesiasticis obtinendus est: ut, si qua sunt ex quibusdam dissensionibus levibusque

*Emperors Valens, Gratian, and Valentinian, Augustuses, to Artemius, Euridicus, Appius, Gerasimus and the other bishops.*

Whatever is customary in the conduct of civil suits *shall likewise be observed in ecclesiastical litigation*, so that if there are any matters arising from certain dissensions and slight offenses pertaining to religious observance, they shall be heard in their own places and by the synods of their own diocese, with the exception of those matters which criminal action has established shall be heard by ordinary and extraordinary judges or by the illustrious authorities.

*Given on the sixteenth day before the kalends of June at Treviri [Augusta Treverorum] in the fifth consulship of Valent Augustus and the first consulship of Valentinian Augustus (17 May, 376).*

*CTh.16.2.45.*<sup>21</sup>

*The same Augusti to Philippus, Praetorian Prefect of Illyricum.*

We command that the ancient practices and the pristine ecclesiastical canons which have been in force up to the present shall be observed *throughout all the provinces of Illyricum* and that all innovation shall cease. Then, if any doubt should arise, such cases *must be reserved for the synod of priests and their holy court*, not without the knowledge of that most reverend man of the sacrosanct law, the Bishop of the City of Constantinople, which enjoys the prerogative of Ancient Rome.

delictis ad religionis observantiam pertinentia, locis suis et a suae dioeceseos synodis audiantur: exceptis, quae actio criminalis ab ordinariis extraordinariisque iudicibus aut illustribus potestatibus audienda constituit. dat. xvi. kal. iun. treviris, valente v. et valentin. aa. cons.

21. *CTh.16.2.45*: Idem aa. philippo praefecto praetorio illyrici. omni innovatione cessante vetustatem et canones pristinos ecclesiasticos, qui nunc usque tenerunt, per omnes illyrici provincias servari praecipimus. tum si quid dubietatis emerserit, id oporteat non absque scientia viri reverentissimi sacrosanctae legis antistitis urbis constantinopolitanae, quae romae veteris praerogativa laetatur, conventui sacerdotali sanctoque iudicio reservari. dat. prid. id. iul. eustathio et agricola cons. (421 iul. 14).

*Given on before the ides of July in the year of the consulship of Eustathius and Agricola (July 14, 421).*<sup>22</sup>

Already in the early 4<sup>th</sup> century some of the Eastern Roman bishops had the ambition to create and develop Christian centers among the *gentes barbaricae*, strictly supervising their consolidation. On their turn, the Roman Emperors accepted as their personal duty and honor the Christianization not only of the Empire, but of the whole world.<sup>23</sup> As a result of this strict and orderly policy, even Kingdoms, such as Armenia and Persia, developed system of bishoprics, similar to the established one in the Roman Empire. In these regions the bishops, situated in the episcopal provinces, were subdued under the power of a *katholikos*.<sup>24</sup>

By the beginning of the 4<sup>th</sup> century, for example, was established the Armenian Apostolic Church and its first *katholikos* Saint Greg-

22 Clyde Pharr, trans. and comm., *The Theodosian Code and Novels, and the Sirmundian Constitutions*, vol. I, Corpus iuris Romani (The Lawbook Exchange, Ltd., 1952), 449.

23. According to Eusebius (*Vita Constantini*, 4.24 “That he described himself to be a Bishop, in Charge of Affairs External to the Church”) Constantine perceived himself as a bishop with jurisdiction over all that remains outside the Christian churches, while the other bishops were empowered within these churches. “You are bishops whose jurisdiction is within the Church: I also am a bishop, ordained by God to overlook whatever is external to the Church.” And truly his measures corresponded with his words: for he watched over his subjects with an episcopal care, and exhorted them as far as in him lay to follow a godly life.” In that connection see: Garth Fowden, *Empire to Commonwealth. Consequences of Monotheism in Late Antiquity* (Princeton: Princeton University Press, 1993), 91; Philip Schaff, ed., NPNF2-01: Eusebius Pamphilius: Church History, *Life of Constantine*, Oration in Praise of Constantine, A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church, Second Series, vol. I, T&T Clark (Edinburgh, WM. B. Eerdmans Publishing Company, 1890), 1042.

24. Persia: Augustin Fliche and Victor Martin, eds., *Histoire de l’Eglise depuis les origines jusqu’à nos jours* (Paris, 1934), vols. 3 and 4: 3: 492-95, 4: 321-30; Armenia: Fliche and Martin, *Histoire*, 3: 490-92, 4: 330-36. Concerning bishops in various areas around the Persian Gulf and the East, see: Fliche and, Martin, *Histoire*, 4: 529-31. See also: Ralph Mathisen, “Barbarian Bishops and the Churches ‘in Barbaricis Gentibus’ During Late Antiquity,” *Speculum* 72.3 (Jul. 1997): 664-97, 665.

ory the Illuminator was consecrated as Patriarch of Armenia by Leontius, the bishop of Caesarea in Cappadocia. There were established twelve provinces.<sup>25</sup> The bishop of Caesarea continued to enthroned and consecrate the Armenian *katholikoi*,<sup>26</sup> while Gregory played leading role in the conversion of the people and the rejection of Paganism and Zoroastrianism.<sup>27</sup>

Ideal premises were created for the Church and the clergy to become a factor of repression, supported by the Imperial authority in ideological, political, institutional and juridical way. In the policy *contra paganos et haereticos* the whole administrative, ideological and legal potential of the Empire was involved. Among the numerous “bright” examples was also Maternus Cynegius, a Christian from Spain, who was appointed between 381 and 383 AD for *comes sacrarum largitionum* by Emperor Theodosius I,<sup>28</sup> and later also for *quaestor sacri palatii*. In 384 AD he became finally praetorian prefect of the East, with his prerogatives over *praefectura praetorio Orientis*.<sup>29</sup>

Cynegius remains in history with his anti-Jewish laws, with his laws that prohibited any pagan sacrifices and with the mass destruction of non-Christian temples in Egypt and Syria. Theodosius I<sup>30</sup> himself forbade the veneration of Pagan gods in the East and ordered to Cynegius to close their temples in Egypt and Alexandria and to take all needed measures for the extermination of the pagan sacrifices and rituals, as a symbol of Paganism, keeping alive the flame of the unholy heresy,<sup>31</sup> and appearing entirely in revolt against the

25. Fliche and Martin, *Histoire*, 3: 490.

26. *Ibid.* Fowden, *Empire to Commonwealth*, 79, 105; Mathisen, *Barbarian Bishops*, 666, n. 9.

27. In 301 AD King Tiridates III of Armenia (259-314), who had been converted by the Gregory the Illuminator (b. 257-d. 331), declared Christianity as the official state religion. Thus Armenia became the first state to adopt Christianity. Nina Garsoïan, *Armenian People from Ancient to Modern Times*, R.G. Hovannisian, ed. (Palgrave Macmillan, 1997), vol. 1, 81.

28. *Codex Theodosianus*, XII.1.97.

29. *Codex Theodosianus*, XII.13.5.

30. Zosimus, *Historia nea*, IV.

31. *Codex Theodosianus*, 16.10.9: Idem aaa. cynegio praefecto praetorio. ne quis mortalium ita faciendi sacrificii sumat audaciam, ut inspectione iecoris ex-

official Christian doctrine. Furthermore the Emperor did not prevent the destruction of significant Hellenistic temples, including the Temple of Apollo in Delphi and the Serapeum in Alexandria.

In 388 AD during his second visit in the eastern part of the Empire, accompanied by the reverend bishop of Apamea Marcellus,<sup>32</sup> Cynegius destroyed more pagan altars and sacred places:<sup>33</sup> the Temple in Edessa, the Kabeirion at the Island of Imbros, The Temple of Zeus in Apamea, the Temple of Apollo in Didymus, and all the temples in Palmyra.<sup>34</sup> In the same time hundreds of innocent pagans all over the Empire, were put under extermination, becoming real martyrs of their persecuted (proclaimed for illegal and forbidden) faith,

torumque praesagio vanae spem promissionis accipiat vel, quod est deterius, futura sub execrabili consultatione cognoscat. acerbioris etenim imminebit supplicii cruciatus eis, qui contra vetitum praesentium vel futurarum rerum explorare temptaverint veritatem. dat. viii kal. iun. constantinopoli arcadio a. i et bautone v. c. cons. (385 mai. 25).

32. Marcellus—Bishop of Apamea. Previously he served as a judge on the island of Cyprus. As a bishop he followed consistently the edicts of Emperor Theodosius I, in which he ordered all pagan temples in the Eastern Empire to be destroyed. The Church honors him on August 14. See: Matthew Bunson et al., *Our Sunday Visitor's Encyclopedia of Saints* (Our Sunday Visitor Publishing, 2003), 517; more about the temple: Ramsay MacMullen and Robin Lane, eds., *Paganism and Christianity, 100-425 C.E.: A Sourcebook* (Fortress Press, 1992), 44; Frank W. Walbank, *The Hellenistic World*, Fontana History of the Ancient World (Harvard University Press, 1993), 130; Ann I. Steinsapir, "Landscape and the Sacred—The Sanctuary dedicated to Holy, Heavenly Zeus Baetocaece" (An architectural interpretation of cult and cult practice in Roman Syria), *Near East Archaeology* 62.3 (1999): 182-194.

33. Theodoret of Cyrus, *Ecclesiastical History*, Book V, Ch. 21 "Of Marcellus, bishop of Apamea, and the idols' temples destroyed by him": Феодорит Кирский, *Церковная история*, V. 21: "О повсюдном разрушении идольских капищ". Феодорит епископ Кирский. *Церковная история* (М. РОССПЭН. Колокол, 1993), 198.

34. Concerning Cynegius' campaign against the pagan temples of the East, and in particular those in Palmyra, see: Frank Trombley, *Hellenic Religion and Christianization: C. 370-529*, Biblical Studies and Religious Studies, vol. 1 of Hellenic Religion and Christianization, C. 370-529, Religions in the Graeco-Roman World Series (Brill, 2001), 145-146 ff; Barbara Gassowska, "Maternus Cynegius, Praefectus Praetorio Orientis and the Destruction of the Allat Temple in Palmyra," *Archeologia* 33 (1982): 107-123.

in the famous camps of death in Scythopolis, Syria.<sup>35</sup> The camps were already built in 359 AD and their main function was torment and execution of the arrested and imprisoned. Hundreds anonymous victims died there without due process of law and sentence.

Cynegius was not satisfied with his anti-pagan policy and continued by issuing of anti-Jewish law. His fanaticism was fueled by the “spiritual” guidelines of the later proclaimed as a Saint of the Church Marcellus, Bishop of Apamea. Marcellus himself was killed around 389,<sup>36</sup> due to his decision to level with the ground the pagan temples within the diocese of Apamea. He supervised the destruction of a temple dedicated to Zeus Baetocaece, when pagans attacked him. This episode is one of the many illustrating the desperate but furious and persistent acts of resistance against the official Christian-centric church and against the state policy of violence, restrictions, persecution and extermination of the infidels, of their symbols and sacred centers. Merged in one collective image, pagans and heretics were the embodiment of *the Others*, such as they were and are defined in the archetypal construction and opposition of *us* and *them* (*nos adversus alienos, nos adversus barbaros*).

The policy of Theodosius II was also clearly aimed at the establishment and enforcement of *fides catholica* as the only legitimate state religion in the Empire. Its grounds, its legitimacy and the legal mechanisms for its protection were defined and regulated by imperative titles in *Codex Theodosianus*. The events surrounding the collection of all the laws from the reign of Constantine up to Theodosius II and Valentinian III in a Code, which was the first attempt “of the Roman authorities to collect and publish their laws after the Twelve Tables,”<sup>37</sup> are well known. On 26<sup>th</sup> of March 429 AD the Emperor Theodosius II, anxious about the low level of legal knowledge in his

35. David Hernandez, *The Greatest Story Ever Forged: Curse of the Christ Myth* (Dorrance Publishing, 2009), 123.

36. Fergus Millar, *The Roman Near East, 31 B.C.-A.D. 337* (Cambridge-London: Harvard University Press, 1993), 241.

37. John F. Matthews, *Laying Down the Law: A Study of the Theodosian Code* (New York: Yale University Press, 2000), 17.

empire of the East,<sup>38</sup> founded or refounded a law school at Constantinople,<sup>39</sup> and declared his intentions to collect *omnes leges* in one single Code.

Twenty two scientists worked for nine years to compile it.<sup>40</sup> The result were 16 books, containing more than 2,500 imperial constitutions. It was published officially on 15<sup>th</sup> of February 438 AD.<sup>41</sup> Except titles of legal, political, socio-economic, cultural and religious nature of the 4<sup>th</sup> and 5<sup>th</sup> century, the Code seeks to impose Christianity as the only official religion of the Empire, and regulates penalties, prohibitions and restrictions for pagans and heretics.

In Book 16 “On the Catholic faith” are established principles of supremacy and universality of *fides catholica*:

*16.1.0. On the Catholic Faith*<sup>42,43</sup>

*XVI.I.2. Emperors Gratian, Valentinian, and Theodosius Augustus: an Edict to the People of the City of Constantinople.*

It is Our will that all the peoples who are ruled by the administration of Our Clemency shall practice that religion which

38. William W. Buckland, *A Text-Book of Roman Law: From Augustus to Justinian*, Third edition revised by Peter Stein (Cambridge University Press, 2007), 38.

39. *Codex Theodosianus*, 14.9.3.

40. Noel Lenski, “Review: Laying Down the Law. A Study of the Theodosian Code by John Matthews,” *The Classical Journal* (The Classical Association of the Middle West and South, Inc.) 98.3 (Feb.-Mar. 2003): 337-40.

41. It was published in 438 in the Eastern Empire, and in 439 in the Western Empire by the Emperor Valentinian III.

42. *CTh.16.1.0. De fide catholica. CTh.16.1.2pr.* Imppp. gratianus, valentinianus et theodosius aaa. edictum ad populum urbis constantinopolitanae. cunctos populos, quos clementiae nostrae regit temperamentum, in *tali volumus religione* versari, *quam divinum petrum apostolum tradidisse romanis religio* usque ad nunc ab ipso insinuata declarat quamque pontificem damasum sequi claret et petrum alexandriae episcopum virum apostolicae sanctitatis, hoc est, ut secundum apostolicam disciplinam evangelicamque doctrinam patris et filii et spiritus sancti unam deitatem sub parili maiestate et sub pia trinitate credamus. (380 febr. 27).

43. See: Alberto Barzanò, *Il cristianesimo nelle leggi di Roma imperiale* (Milan: Figlie di San Paolo, 1996); Jean Gaudemet, *L'Édit de Thessalonique. Aspect of the Fourth Century* (Leide, 1997), 43-51.

the divine Peter the Apostle transmitted to the Romans, as the religion which he introduced makes clear even unto this day. It is evident that this is the religion that is followed by the Pontiff Damasus and by Peter, Bishop of Alexandria, a man of apostolic sanctity; that is, according to the apostolic discipline and the evangelic doctrine, we shall believe in the single Deity of the Father, the Son, and the Holy Spirit, under the concept of equal majesty and of the Holy Trinity. We command that those persons who follow this rule shall embrace the name of Catholic Christians. The rest, however, whom We adjudge demented and insane, shall sustain the infamy of heretical dogmas, their meeting places shall not receive the name of churches, and they shall be smitten first by divine vengeance and secondly by the retribution of Our own initiative, which We shall assume in accordance with the divine judgment.

*Given on the third day before the Calends of March at Thessalonica in the year of the fifth consulship of Gratian Augustus and the first consulship of Theodosius Augustus (February 28, 380).*<sup>44</sup>

Principles of “*fides Catholicae observantiae*” in an empire with only one official religion required the formulation of a privileged legal and social status of *the righteous*, and punishing and ultimately social marginalization of all the *heretics* and *pagans*. In Book 16, title 5 “Concerning Haeretics” Emperor Constantine ordered Dracilian,<sup>45</sup> vicar of the Eastern Diocese, to follow a clear policy of discrimination against violators of *lex catholica*:

#### *CTh.16.5.0. Concerning Haeretics*

44. Pharr, *The Theodosian Code*, 440.

45. Regarding the relations between Constantine and Dracilian, see also: *Vita Constantini*, 3.31: Eusebius’ Life of Constantine, Palestine Pilgrims’ Text Societies, vol. I (London: 1887-97), 3-13; Brett Whalen, ed., *Pilgrimage in the Middle Ages: A Reader*, vol. 16, Readings in Medieval Civilizations and Cultures (University of Toronto Press, 2011), 16; Charles Odahl, *Constantine and the Christian Empire*, Roman Imperial Biographies (Routledge, 2003), 188.

*CTh.16.5.1. Emperor Constantine Augustus to Dracilianus.*<sup>46</sup>

The privileges that have been granted in consideration of religion **must benefit only the adherents of the Catholic faith.** It is Our will, moreover, that heretics and schismatics shall not only be alien from these privileges but shall also be bound and subjected to various compulsory public services.

*Given on the kalends of September at Gerastus in the year of the seventh consulship of Constantine Augustus and the consulship of the Constantius Caesar (September 1, 326).*<sup>47</sup>

*CTh.16.5.5. Emperors Gratian, Valentinian, and Theodosius Augustuses to Hesperius, Praetorian Prefect.*<sup>48</sup>

**All heresies are forbidden by both divine and imperial laws and shall forever cease.** If any profane man by his punishable teachings should weaken the concept of God, he shall have the right to know such noxious doctrines only for himself but shall not reveal them to others to their hurt.

*Given on the third day before the nones of August at Milan (August 3). Received on the thirteenth day before the kalends of September in the year of the consulship of Auxonius and Olybrius (August 20, 379).*<sup>49</sup>

Freedom of assembly and meetings was severely restricted, and the prohibitions were addressed, of course, to all the heretics and pagans in the Roman world. It was a part of a strategy to prevent in

46. *CTh.16.5.0. De haereticis. CTh.16.5.1:* Imp. constantinus a. ad dracilianum. privilegia, quae contemplatione religionis indulta sunt, catholicae tantum legis observatoribus prodesse oportet. haereticos autem atque schismaticos non solum ab his privilegiis alienos esse volumus, sed etiam diversis muneribus constringi et subici. proposita kal. sept. gerasto constantino a. vii et constantio c. cons. (326 sept. 1).

47. Pharr, *The Theodosian Code*, 450.

48. *CTh.16.5.5:* Imppp. gratianus, valentinianus et theodosius aaa. ad hesperium praefectum praetorio. omnes vetitae legibus et divinis et imperialibus haereses perpetuo conquiescant. quisquis opinionem plectibili ausu dei profanus inminuit, sibi tantummodo nocitura sentiat, aliis obfutura non pandat. dat. iii non. aug. mediolano, acc. xiii kal. sept. auxonio et olybrio cons. (379 aug. 3).

49. Pharr, *The Theodosian Code*, 450-51.

the very beginning any plan or a coup to overthrow the newly converted power, any movement or ideology against the authority, or any attempt for restoration of the old gods and faiths:

*CTh.16.5.11. The same Augustuses to Postumianus, Praetorian Prefect.*<sup>50</sup>

All persons whatsoever who are tossed about by the false doctrine of diverse heresies, namely, the Eunomians, the Arians, the Macedonians, the Pneumatomachi, the Manichaeans, the Encratites, the Apotactites, the Saccophori, and the Hydroparastatae, shall not assemble in any groups, shall not collect any multitude, shall not attract any people to themselves, shall not show any walls of private houses after the likeness of churches, and shall practice nothing publicly or privately which may be detrimental to the Catholic sanctity. Furthermore, if there should exist any person who transgresses what has been so evidently forbidden, he shall be expelled by the common agreement of all good men, and the opportunity to expel him shall be granted to all who delight in the cult and the beauty of the correct observance of religion.

*Given on the eighth day before the kalends of August at Constantinople in the year of the second consulship of Merobaudes and the consulship of Saturninus (July 25, 383).*<sup>51</sup>

Privileged legal status of the adopted the only true faith was established and protected by the law:

50. *CTh.16.5.11: Idem aaa. postumiano praefecto praetorio. omnes omnino, quoscumque diversarum haeresum error exagitat, id est eunomiani, arriani, macedoniani, pneumatomachi manichaei, encratitae, apotactitae, saccofori, hydroparastatae nullis circulis coeant, nullam colligant multitudinem, nullum ad se populum trahant nec ad imaginem ecclesiarum parietes privatos ostendant, nihil vel publice vel privatim, quod catholicae sanctitati officere possit, exerceant. ac si qui extiterit, qui tam evidenter vetita transcendat, permissa omnibus facultate, quos rectae observantiae cultus et pulchritudo delectat, communi omnium bonorum conspiratione pellatur. dat. viii kal. aug. constantinopoli merobaude ii et saturnino cons. (383 iul. 25).*

51. Pharr, *The Theodosian Code*, 452.

*CTh.16.2.16. The same Augustuses [Constantius and Julian] to the inhabitants of Antioch.*

If in any city, town, village, hamlet, or municipality, any person by a vow of the Christian faith should show to all persons the merit of exceptional and extraordinary virtue, he shall enjoy *perpetual security*. For it is Our will that he shall rejoice and glory always in the faith, since We are aware that Our State is sustained more by religion than by official duties and physical toil and sweat.

*Given on the sixteenth day before the kalends of March at Antioch in the year of the consulship of Taurus and Florentius (February 14, 361).*<sup>52</sup>

Any attempt to deviate from *fides catholica* has to be punished by different severe sanctions. Title 7, Book 16 of Codex Theodosianus, regulates the deprivation of all apostates the right to bequeath their property, and demands abrogation of any will, which was done in breach of this provision:

*CTh.16.7.0. Concerning Apostates*<sup>53</sup>

*CTh.16.7.1. Emperors Gratian, Valentinian, and Theodosius Augustuses to Eutropius, Praetorian Prefect.*<sup>54</sup>

Those Christians who have become pagans shall be deprived of the power and right to make testaments, and every testament [in violation of this condition]<sup>55</sup> of such decedent, if there is a testament, shall be rescinded by the annulment of its foundation.

*Given on the sixth day before the nones of May at Constantinople in the year of the consulship of Syagrius and Eucherius (May 2, 381).*<sup>56</sup>

52. Pharr, *The Theodosian Code*, 443.

53. Apostata, ae, m (Gr.: ἀποστάτης) – an apostate, heretic.

54. *CTh.16.7.0. De apostatis. CTh.16.7.1: Imppp. gratianus, valentinianus et theodosius aaa. ad eutropium praefectum praetorio. his, qui ex christianis pagani facti sunt, eripiatur facultas iusque testandi et omne defuncti, si quod est testamentum submota conditione rescindatur. dat. vi non. mai. constantinopoli, syagrio et eucherio cons. (381 mai. 2).*

55. As is stated in the Latin text, my note: D. Valentinova.

56. Pharr, *The Theodosian Code*, 465.

Part of the imperial strategy was the closure (and destruction) of all pagan temples, the absolute prohibition of all forms of non-Christian worship, all sacrifices in both East and West,<sup>57</sup> all pagan rituals, confiscation of all property of the heathen in favor of the Treasury, after his or her death penalty was carried out, and removal of every provincial governor who dared not to pursue and punish this type of religious crimes:

*CTh.16.10.0. Concerning pagans, sacrifices, and temples*

*CTh.16.10.4. The same Augustuses to Taurus, Praetorian Prefect.*<sup>58</sup>

It is Our pleasure that ***the temples shall be immediately closed in all places and in all cities, and access to them forbidden***, so as to deny to all abandoned men the opportunity to commit sin. It is also Our will that all men shall abstain from sacrificies. But if perchance any man should perpetrate any such criminality, he shall be struck down with the avenging sword. We also decree that ***the property of a man thus executed shall be vindicated to the fisc***. The governors of the provinces<sup>59</sup> shall be similarly punished if they should neglect to avenge such crimes.

*Given on the kalends of December in the year of the fourth consulship of Constantius<sup>60</sup> and the third of Constans,<sup>61</sup> Augustuses (December 1, 346; 354?; 356).*

57. Warren Treadgold, *A History of the Byzantine State and Society* (Stanford University Press, 1997), 74.

58. *CTh.16.10.0. De paganis, sacrificiis et templis. CTh.16.10.4:* Idem aa. ad taurum praefectum praetorio. placuit omnibus locis adque urbibus universis claudi protinus templa et accessu vetito omnibus licentiam delinquendi perditis abnegari. volumus etiam cunctos sacrificiis abstinere. quod si quis aliquid forte huiusmodi perpetraverit, gladio ultore sternatur. facultates etiam perempti fisco decernimus vindicari et similiter adfligi rectores provinciarum, si facinora vindicare neglexerint. dat. kal. dec. constantio iiii et constante iii aa. cons. (346 [354?] dec. 1).

59. Rectores.

60. Flavius Iulius Constantius II (337-361).

61. Flavius Iulius Constans (337-350).

It is well known fact that in 325 AD the emperor Constantine summoned a general council of Christian bishops convened in Nicaea in Bithynia, south of Constantinople, actually the first ecumenical council of the Church, the famous First Council of Nicaea. One of its main purposes was to oppose officially Arianism, which was denied by the most bishops as heretical and dangerous to the salvation of souls<sup>62</sup> and to the future of the Church.

Especially for the Donatists as heretics Codex Theodosianus provided separate financial penalties, depending on their social status:

*CTh.16.5.0. Concerning Heretics*<sup>63</sup>

*CTh.16.5.52pr. The same Augustuses to Seleucus, Praetorian Prefect.*

62. Timothy Ware, *The Orthodox Church* (Penguin Adult, 1991), 28.

63. *CTh.16.5.0. De haereticis. CTh.16.5.52pr.:* Idem aa. seleuco praefecto praetorio. cassatis, quae pragmaticis vel adnotatione manus nostrae potuerint impetrari, et manentibus his, quae iam dudum super hoc definita sunt, et veterum principum sanctione servata, nisi ex die prolatae legis omnes donatistae, tam sacerdotes quam clerici laicique, catholicae se, a qua sacrilege descivere, reddiderint, tunc *illustres* singillatim poenae nomine fisco nostro auri pondo quinquaginta cogantur inferre, *spectabiles* auri pondo quadraginta, *senatores* auri pondo triginta, *clarissimi* auri pondo viginti, *sacerdotales* auri pondo triginta, principales auri pondo viginti, decuriones auri pondo quinque, negotiatores auri pondo quinque, plebei auri pondo quinque, circumcelliones argenti pondo decem. (412 ian. 30). *CTh.16.5.52.3:* Eos enim, quos nequaquam illata damna correxerint, facultatum omnium publicatio subsequetur. (412 ian. 30). Dat. iii kal. feb. ravennae honorio viiii et theodosio v aa. cons. (412 ian. 30).

Those provisions which were able to be impetrated by a pragmatic sanction<sup>64</sup> or by an annotation<sup>65</sup> of Our hand shall be annulled. Those limitations which were formerly defined on this subject shall remain in force, and the sanction of the former Emperors shall be observed. Moreover, unless from the date of the issuance of this law, all Donatist priests as well as clerics and laymen should return to the Catholic sect from which they have sacrilegiously withdrawn, then, as a punishment, all such persons of Illustrious rank (*illustres*)<sup>66</sup> shall be compelled to pay to Our fisc a fine of fifty pounds of gold each; persons of Respectable rank (*spectabiles*),<sup>67</sup> forty pounds of gold; Senators thirty pounds of gold; persons of Most Noble rank (*clarissimi*),<sup>68</sup> twenty pounds of gold; men of the rank of civil priests, thirty pounds of gold; chief decurions, twenty pounds of gold; decurions, five pounds of gold; tradesmen, five pounds of gold; plebeians, five pounds of gold; Circumcellions, ten pounds of silver each.

...3. If any person should not be corrected by the imposition of such penalties, he shall surely be pursued by the confiscation of all his property.

64. Pragmaticus, 3. In the late legal Latin: “pragmatica sanction,” “pragmatica iussio,” “pragmatica annotation,” “pragmatica constitution,” “pragmatica lex” – an imperial enactment of a particular importance, which relates to the affairs of the community, general administration, benefits given to large groups of people, orders to officials; the term “pragmatica sanctio” is also used for the letters by which the emperors of the Western and Eastern Empire mutually exchanged their official acts so they can be published in both parts of the empire (*Codex Iustinianus*, 1.2.10; pragmaticum, i, n: *Codex Theodosianus*, 6.23.3; 16.5.52). Adolph Berger, *Encyclopedic Dictionary of Roman Law*, vol. 43, issue 2 of Transactions of the American Philosophical Society (American Philosophical Society, 1968), 648.

65. Annotatio, onis, f (adn-) – a decision of the emperor, written in the margin of a petition addressed to him. In some texts it is distinguished from an imperial rescript (rescriptum), from which it differed in form, but not in content. The differences between adnotatio and rescriptum gradually vanished (*Codex Theodosianus*, CTh.1.2.0. *De diversis rescriptis*: CTh.1.2.1. See: Berger, *Encyclopedic Dictionary*, 350.

66. From illustris, - e.

67. From spectabilis, - e.

68. From clarissimus, 3.

...Given on the third day before the kalends of February at Ravenna in the year of the ninth consulship of Honorius Augustus and the fifth consulship of Theodosius Augustus (January 30, 412).

As an ultimate measure against still surviving from the persecutions pagans and heretics Donatists, the Theodosian Code stipulated common to both groups penalties – after being captured by the competent authorities and admit their guilt, they will be denied the right to participate in different forms of social life, to conclude contracts, and finally they will lose their right to participate in any associations and meetings:

*CTh.16.5.0. Concerning Heretics*<sup>69</sup>

*CTh.16.5.54pr.*<sup>70</sup> *The same Augustuses* [Honorius and Theodosius] *to Julianus, the Proconsul of Africa.*

We decree that the Donatists and the heretics, who until now have been spared by the patience of Our Clemency, shall be severely punished by legal authority, so that by this Our manifest order, they shall recognize that they are intestable<sup>71</sup> and have no power of entering into contracts of any kind, but they shall be branded with perpetual infamy and separated from honorable gatherings and from public assemblies.

*Given on the fifteenth day before the kalends of July at Ravenna in the year of the consulship of Constantius and Constans (June 17, 414).*

69. Pharr, *The Theodosian Code*, 460.

70. *CTh.16.5.0. De haereticis. CTh.16.5.54pr.*: Idem aa. iuliano proconsuli africae. donatistas adque haereticos, quos patientia clementiae nostrae nunc usque servavit, competenti constituimus auctoritate percelli, quatenus evidenti praeceptione se agnoscant et intestabiles et nullam potestatem alicuius ineundi habere contractus, sed perpetua inustus infamia a coetibus honestis et a conventu publico segregandos. (414 iun. 17).

71. Intestabiles – a class (similar to infames), whose status was regulated even in the Twelve Tables. *Intestabiles* could not be witnesses (*testes*), nor other persons may testify in their favor (Digesta, 28.1.26). Moreover, they were not allowed to witness a will and to bequeath (Digesta, 28.1.18.1). See: Paul du Plessis, *Borkowski's Textbook on Roman Law* (Oxford: Oxford University Press, 2010), 106.

Confiscation of property and exile were the main penalties for clerics, who allowed worship of pagan gods and pagan rituals:

*CTh.16.5.54.1*<sup>72</sup>

*The same Augustuses [Honorius and Theodosius] to Julianus, the Proconsul of Africa.*

Those places in which the dire superstition has been preserved until now shall surely be joined to the venerable Catholic Church, and thus their bishops and priests, that is, all their prelates and ministers shall likewise be despoiled of all their property and shall be sent into exile to separate islands and provinces.

*Given on the fifteenth day before the kalends of July at Ravenna in the year of the consulship of Constantius and Constans (June 17, 414).*

Severe penalties were imposed not only on criminals, defiling and denying the supremacy of the Christian faith and Church, but also over their accomplices who dared to harbour them or to assist them in their flight from the law: sanctions were imposed cumulatively – the confiscation of all property was accompanied by the same punishment which the law required for absconding offender:

*CTh.16.5.54.2*<sup>73</sup>

Anyone who accepts these people, fleeing from the provided punishment, in order to harbour them, shall know that he will be subject to forfeiture of property for the benefit of our treasury, and to the punishment that will be imposed on them (June 17, 414).

72. *CTh.16.5.54.1*: Ea vero loca, in quibus dira superstitio nunc usque servata est, catholicae venerabili ecclesiae socientur, ita ut episcopi presbyteri omnesque antistites eorum et ministri spoliati omnibus facultatibus ad singulas quasque insulas adque provincias exulandi gratia dirigantur (414 iun. 17).

73. *CTh.16.5.54.2*: Quisque autem hos fugientes propositam ultionem occultandi causa susceperit, sciat et patrimonium suum fisci nostri compendiis adgregandum et se poenam, quae his proposita est, subiturum (414 iun. 17).

In 414 AD the fines for deviation from *fides catholica* were increased for those of high rank: a proconsul, vicar, or count were fined two hundred pounds of gold, and a senator – a hundred:

*CTh.16.5.54.3*<sup>74</sup>

We also openly impose pecuniary penalties and fines on men and women, on individuals and [occupying] public offices, in amounts corresponding to their social status. Thus if anyone with the rank of *proconsul, vicar, or count of the first order* has not converted to the Catholic religion, he will be fined two hundred pounds of silver (June 17, 414).

Theodosian Code includes within the scope of the individual criminal responsibility all persons who demonstrate any associations with heretics, including senior magistrates and officials who have had the “imprudence” to attend gatherings of the Donatists:

*CTh.16.5.54.4*<sup>75</sup>

With similar conditions we oblige as well the other privileged persons, so if a senator who has not been deprived of any honors and privileges, be found on a gathering of Donatists, he shall pay 100 lbs silver, and let the priests be forced to pay the same amount, the ten

74. *CTh.16.5.54.3*: Damna quoque patrimonii poenasque pecuniarias evidenter imponimus viris mulieribus, personis singulis et dignitatibus pro qualitate sui quae debeant irrogari. si igitur proconsulari aut vicariano vel comitivae primi ordinis quisque fuerit honore subcinctus, nisi ad observantiam catholicam mentem propositumque converterit, ducentas argenti libras cogetur exsolvere fisci nostri utilitatibus adgredandas. ac ne id solum putetur ad rescandam intentionem posse sufficere, quotienscumque ad communionem talem accessisse fuerit confutatus, totiens multam exigatur, et si quinquies eundem constiterit nec damnis ab errore revocari, tunc ad nostram clementiam referatur, ut de solida eius substantia ac de statu acerbius iudicemus (414 iun. 17).

75. *CTh.16.5.54.4*: Huiusmodi autem condicionibus etiam honoratos reliquos obligamus, scilicet ut senator, qui nullo munitus extrinsecus privilegio dignitatis, inventus in grege donatistarum centum libras solvat argenti, sacerdotales eandem summam cogantur exsolvere, decem primi curiales quinquaginta libras argenti addicantur, reliqui decuriones x solvant libras argenti, quicumque in haeresi maluerint permanere. (414 iun. 17).

first curials to be condemned to pay 50 lbs silver and the other decurions to pay ten lbs silver, all those who persevere to stay in the heresy (June 17, 414).

*CTh.16.5.54.9*<sup>76</sup>

And all that could be gathered from this kind of people and places, let be sent immediately to the imperial treasury. *Given on the fifteenth day before the kalends of July at Ravenna in the year of the consulship of Constantius and Constans (June 17, 414).*

Trying to put in one clear historical picture all the known facts and processes, we see that the dramatic turnover in the relations between the traditional Mediterranean religions and the Christianity during the 4<sup>th</sup> and the 5<sup>th</sup> century was a dramatic prelude to a bigger change.

The 4<sup>th</sup> century started with systematic and cruel attempts for extermination of the new faith, being in its initial steps and endangering the old value systems, including that of the Romans. In 303 AD began the worst final stage in the Christian persecutions,<sup>77</sup> and it lasted until 311 AD, when the Edict of Toleration by the Roman Tetrarchy of Galerius, Constantine I and Licinius, officially ended Diocletian's anti-Christian policy. Christianity was legalized in 313 with the edict of Milan, issued by Constantine I and Licinius, proclaiming it for equal religion to the others, full religious tolerance within the territory of the Roman Empire, freedom of belief, legal rights for the Christians and return of their confiscated property.

With the edict of Milan the traditional Roman Pagainism lost its dominant role. The whole population of the Empire was granted the liberty to choose and observe its own faith, opening "the opportunity

76. *CTh.16.5.54.9*: Adque omnia, quae ex huiusmodi generibus hominum locisque colligi poterunt, ad largitiones sacras ilico dirigantur. dat. xv kal. iul. ravennae constantio et constante cons. (414 iun. 17).

77. Michael Gaddis, *There is no Crime for those who have Christ: Religious Violence in the Christian Roman Empire* (Berkeley, Los Angeles, and London: University of California Press, 2005), 29.

for conversion not only to Christianity, but to other Pagan cults as well.”<sup>78</sup>

By the end of that century, however, the balance of powers shifted from a temporal equilibrium to the favor of the Orthodox Church. Eager Christian apologists, zealous Christians and inspired Christian priests, supported by the highest circles of the Imperial authorities and applying the new imperatives of the active legislation *contra paganos et haereticos* ruined emblematic Pagan temples, persecuted or murdered with impunity those pagans and heretics, who refused to abandon their gods and beliefs.

The *new order* in this part of the world was marked by a series of tragic events, among which was the murder of Hypatia (415 AD), a Neoplatonist philosopher and mathematician, head of the Platonist School at Alexandria, where she taught philosophy, mathematics and astronomy. In his *Historia Ecclesiastica* the Byzantine historian Socrates Scholasticus testifies that Hipatia was kidnapped by a Christian crowd, stripped naked and dragged through the streets to the newly Christianised Caesareum Church, torn and flayed with tiles, still being alive. Finally her hands and legs were burnt.<sup>79</sup>

Hypatia happened to be in the center of a conflict between Orestes, the Roman governor of Alexandria, who frequently asked her for advice, and the bishop of Alexandria, Cyril, a zealous keeper of the new Imperial faith. According to Socrates Scholasticus,<sup>80</sup> Orestes was afraid of the growing power of the bishops who did not recognize the jurisdiction of the State authorities appointed by the emperor and even encroached on their jurisdiction. During the growing conflict a group of 500 monks, armed and prepared to fight on the side

78. Наталия Воробьева, *Проблема отношений христианской церкви и государства в Римской империи I-IV вв. в освещении отечественной историографии второй половины XIX - начала XX в.* [Natalia Vorobieva, *The Christian problem of relations between church and state in the Roman Empire I-IV c. A domestic historiography of second half of XIX-early XX c.*] (Омск, 2005), 110.

79. 0380-0440. Socrates Scholasticus, *Historia ecclesiastica* XV, 125-40 [Documenta Catholica Omnia].

80. Socrates Scholasticus (c. 380-c. 439).

of the bishop, descended from the Mountains of Nitria. They confronted Orestes and attacked him with accusations, that he is a follower of paganism and idolatry. Orestes, himself, was a Christian, baptized by the bishop of Constantinople Atticus. One of the monks, Ammonius, attacked Orestes with stones and tried to kill him, but the governor was saved by the coming people of Alexandria. Ammonius was executed thereafter and the furious bishop Cyril proclaimed him for a Christian saint that had to be remembered as a martyr.

The intolerance of the Orthodox Church to any other different faiths and gods, was a phenomenon that extends far beyond the particularities of the Christian-pagan relations in the Antiquity,<sup>81</sup> and far beyond the limits of the religious and theological argumentation. The use of the Imperial power, of the law, the administrative apparatus and the official policy as repressive state mechanisms that routinely act against *the Other*, defined as *the Enemy*, was a part of a strategy, deeply rooted into the history of the human civilization.

The aim has been always clear and constant – concentration of prerogatives and power, legitimacy of the supreme authority, coercion, oppression, subordination of the masses, control and conformism, that have to ensure material and ideological prosperity of those, who occupied the top positions in the state and the social hierarchy.

The key problem of such legitimation is also the central paradox of Christianity as a religion, whose sacred texts postulate love to all people, humble and pure altruism and sacrifice in the name of the love of Christ, or, as Matthew preaches:

*“But I say to you, love your enemies, bless those who curse you, do good to those who hate you, and pray for those who spitefully use you and persecute you.”*<sup>82</sup>

81. Cf. Hal Drake, “Lambs into Lions: Explaining Early Christian Intolerance,” *Past & Present* 153 (Nov. 1996): 3-36, 5ff.

82. Matthew, 5:44.

On the historical scene love, compassion and faith pass always thousands of tests, experiencing extreme metamorphoses and transformations, having being saturated with foreign meanings or deprived of sense. In their light always perceivable is the Word of God – the supra-human, unthinkable, unnamable, the God without religions, the God beyond the earthly world, that God of the primary and purest essence, which is neither human nor material, but yet speaks through the voices of the prophets, spiritual saviors and spiritual teachers. Those who are most often killed, crucified or burned at stakes and crosses.

“And, in those days, there appeared in Alexandria a female philosopher, **a pagan** named Hypatia, and she was devoted at all times to magic, astrolabes,<sup>83</sup> and instruments of music, and she beguiled many people through Satanic wiles.... **A multitude of believers in God** arose under the guidance of Peter the Magistrate... and they proceeded to seek for the pagan woman who had beguiled the people of the city and the Prefect through her enchantments. And when they learnt the place where she was, they proceeded to her and found her... they dragged her along till they brought her to the great church, named Caesareum. Now this was in the days of the fast. And they tore off her clothing and dragged her... through the streets of the city till she died. And they carried her to a place named Cinaron, and they burned her body with fire.”<sup>84</sup>

83. From ἀστρολάβον.

84. John Bihop of Nikiu, *Chronicle* (LXXXIV. 87-103): The Chronicle of John, Bishop of Nikiu: Translated from Zotenberg’s Ethiopic Text, vol. 4 of Christian Roman Empire series. Robert Henry Charles (Arx Publishing, LLC, 2007), 100.