

THE SETTING AND STAGING OF CHRISTIAN TRIALS

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1. *Trials and executions as performances*

When Pliny the Younger was in the midst of investigating Christians in Bithynia in 112 CE, he could only acknowledge his ignorance and confusion about the nature of the charges brought against them¹ and about the procedure he was supposed to apply in such cases. As governor (*legatus Augusti*), he was the emperor's judicial representative and therefore enjoyed discretionary powers to deal with the problem in the most appropriate way he could think of, but for the benefit of future historians he thought it worth his while to write to Trajan to clear up the matter with him.² Pliny dutifully reported how he had questioned the defendants no less than three times, threatening them with capital punishment (*supplicium*) on the ground that "stubbornness and obdurate obstination should be punished."³ He also acknowledged torturing female slaves in order to extract more information about the activities of the adherents to the cult, and dispatching Roman citizens to the emperor in Rome. In pursuing this course of action, Pliny was aware of the fact that he was improvising, as he admittedly never had the opportunity to attend the trial of Christians before.⁴ He may not have been the only official in this predicament. Acts of repression against Christians during the first and early second centuries CE were by all reckoning rather sporadic in comparison with the large-scale organized persecutions of the mid-third and early fourth centuries.⁵ However, Pliny's policy, and Trajan's approval of it, may have been instrumental in defining the legal framework in which later

¹ On which, see Giovannini (1996).

² Plin., *Epist.* 10.96, and Trajan's reply in 10.97. Cf. Robinson (1990–1992), esp. 269–275. The judge's *imperitia* is discussed by Peachin (1996) 12–13 and 33–65.

³ Plin., *Epist.* 10.96.3: *pertinaciam certe et inflexibilem obstinationem puniri debere*.

⁴ Plin., *Epist.* 10.96.1: *cognitionibus de Christianis interfui numquam*.

⁵ Robinson (1990–1992), who points out one should speak of repression rather than persecution for the pre-Decian period; and Ead. (1995) 96–97 for an overview.

prosecutions of Christians would be carried out. The Bithynian episode reflects the most straightforward criminal procedure against Christians, starting with a private accusation, followed by the arrest, arraignment, hearing, and sentencing of the defendants, to end with their execution (or deportation). The whole trial was under the responsibility of a single judge acting within the framework of the procedure known as *cognitio extra ordinem*.⁶ In this particular case, no attention was paid to spaces of justice (i.e. the theatrical setting of the trial) and their use (i.e. the theatrical staging of its proceedings).

A few years after Pliny's experience in Bithynia, Tacitus (*Ann.* 15.44.4–9) wrote his famous account of Nero's scapegoating of the Christians in the aftermath of the Great Fire in 64 CE. While Tacitus presents the emperor in the capacity of accuser, prosecutor, judge, and chief-executioner, he puts less emphasis on legal procedure and technicalities than on the spectacular effect of the ultimate phase of the process: the execution of the Christians. As a creative producer and notorious performer, Nero organized a show (*spectaculum*) in the park and personally took part in the games, dressed as a charioteer.⁷ The forms of capital punishment imposed on the Christians on this occasion (exposure to wild animals, crucifixion, and burning at the stake) were adapted to the requirement of a "fatal charade," of the kind described by Martial in his *Liber de spectaculis*.⁸ Nero—allegedly—and Tacitus—explicitly—recognized the strong theatrical dimension of criminal trials in real life and in narrative, making such scenes a powerful motif to be exploited for its symbolical, educational, and recreational value. By all accounts, criminal trials and even more so capital executions are dramatic events for involved parties, bystanders, eyewitnesses, and readers.⁹ It is no wonder that Greek and Latin literature is replete with episodes of this kind.¹⁰ A study of literary accounts of criminal trials during the Principate could therefore yield interesting information concerning "spaces of justice." However the setting and staging of such events could reflect less actual practices than

⁶ Buti (1982); Robinson (1990–1992) 277–283; Ead. (1995) 9–11; Santalucia (1998) 189–268; Harries (2007a) 28–42; and Frier in this volume.

⁷ Tac., *Ann.* 15.44.2: *Nero subdidit reos et quaesitissimis poenis adfecit quos vulgus Chrestianos appellabat. Ibid.* 8: *Hortos suos ei spectaculo Nero obtulerat et circense ludicrum edebat, habitu aurigae permixtus plebi vel curriculo insistens.*

⁸ Coleman (1990). The *Epigrammaton liber* is dated ca. 80 CE, Tacitus's *Annals* ca. 114–120.

⁹ Potter (1993) 53: "Public executions were rituals of great emotional force." Cf. also S. Schwartz's contribution in this volume.

¹⁰ Schwartz (1998); (2003b); (2005); and (2007).

their literary representation, admittedly a mix of realism and parody. For the purpose of this paper, I will focus on a specific genre and context, the early hagiographical accounts of trials of Christian martyrs that allegedly took place between the mid-second and the early fourth centuries CE, a rather under-exploited source for that matter.¹¹

2. *The Acta / Passiones Martyrum, from documents to literature*

A cross between the pedestrian minutes of judicial proceedings and the inflated narratives of *causes célèbres* while participating in the evocation of the exemplary departure of famous people,¹² the so-called *Acts/Passions of the Christian Martyrs* possibly originated in Jewish martyr literature of early imperial times¹³ and/or in the *Acts/Passions of the Pagan Martyrs*. The genre was based upon Alexandrian opposition to Roman rule from Augustus to Hadrian or Caracalla. Many fragments have been preserved in Greek papyri.¹⁴ In contrast to these rather obscure antecedents, the later Christian texts fulfilled a well-attested liturgical purpose, as they were publicly read for centuries on the occasion of services commemorating the victims of persecutions on the anniversary day of their death.¹⁵ This practice, eventually a key to their composition, contributed to their large diffusion. Martyrdom as a foundation of the cult of the saints in Late Antiquity and in the Middle Ages was instrumental for Christian propaganda long after the end of the persecutions. Therefore, genuine accounts were expanded over a long period of time through the integration of fictional and sometimes anachronistic details. Other accounts were merely invented.

In this paper I will examine the texts collected by Herbert Musurillo in 1972,¹⁶ which he considered “the most reliable or indeed, in the case of

¹¹ I borrow the expression from Crook (1995) ch. 3 (about the papyri from Graeco-Roman Egypt). Cf. for instance Santalucia (1998) with a single footnote (257, n. 247) within a rich discussion of the *cognitio*. Potter (1993) is the exception, rightly pointing out (53) that for once we may have the perspective of the victim.

¹² Cf. the genre of the *exitus inlustrum virorum* cultivated by Titinius Capito according to Plin., *Epist.* 8.12.4. Bastiaensen (1995) xi.

¹³ Bastiaensen (1995) xvi–xx, with reference to the second and fourth Books of *Maccabees*. Cf. also *Passio Montani et Lucii* 16.4; and *Passio Mariani et Jacobi* 13.1. Musurillo (1972) 213 n. 18, and 231 n. 22.

¹⁴ Musurillo (1954); Harker (2008).

¹⁵ *Passio Perpetuae et Felicitatis* 1.5 and 21.11; *Martyrium Pionii et al.* 1.

¹⁶ Musurillo (1972) (quotation p. xii).

those with fictional elements (like the *Martyrdom of Pionius*, the *Martyrdom of Montanus and Lucius*, and the *Martyrdom of Marian and James*), extremely important and instructive.” It is not altogether clear why these texts are “reliable,” “important,” and/or “instructive,” but they are certainly representative of the genre, in all its diversity, and chronologically close to the events they claim to report. Musurillo’s selection of texts¹⁷ have been subsequently reduced to fifteen by Giuliana Lanata in 1973 and to twelve in a collection edited by Antonius Bastiaensen et al. in 1987.¹⁸ Unlike Musurillo and Lanata, Bastiaensen added the *Passio Agnetis* (his no. 12) of uncertain date,¹⁹ in the verse form given by the late-fourth century poet Prudentius in his *Peristephanon*. Bastiaensen’s decision to include it in his collection is rather surprising, as any of the other twelve relevant hymns would have done as well. It is, however, a good reminder that the form of the record—in this case, poetic—does not bear on its historical and/or literary significance, as it is always tempting—and sometimes possible—to suppose the existence of a prose model possibly based on actual records.²⁰

The same could be said about languages, dates, provenances, and geographical settings, all factors contributing to the diversity of the historical evidence, and to the comprehensiveness of the literary genre. The corpus taken into consideration in this study includes thirty texts, in Greek (14) or Latin (12), or in both languages (4),²¹ illustrating events that occurred across the empire (Rome, Italy, Sicily, Mauretania, Numidia, Africa, Alexandria, Palestine, Asia Minor, Armenia, Macedonia, Moe-

¹⁷ Musurillo’s text has been partly superseded by updated editions; cf. below about the *Acta proconsularia Cypriani*. Saxer (1994) and Scorza Barcellona (2001) provide an up-to-date guide on this question, but are limited to Latin texts.

¹⁸ Lanata (1973); Bastiaensen (1995) (I used the third edition, as the fourth—and, to my knowledge, last—one [1998] became available to me only briefly at the end of the process of writing this article. It does not seem to be much different from the previous ones). Cf. Robinson (1990–1992) 276–277; and Formisano (2008) 29.

¹⁹ Bastiaensen (1995) 355. The alternative is between 257 and 303. Fux (2003) 463 suggests the date of 305 for Agnes’ martyrdom.

²⁰ This is the case for Cyprian (*Perist.* 13) and Fructuosus et al. (*Perist.* 6), overlapping with Musurillo’s collection.

²¹ These figures reflect the nature of the corpus taken into consideration in this study. Many hagiographical texts (esp. Greek texts) were sooner or later translated into other languages (esp. Latin). But such translations may occur much later, and imply a drastic revisiting of the text. The four bilingual entries (*Martyrium Carpi et Papyli et Agathonicae*; *Passio Perpetuae et Felicitatis*; *Acta Eupli*; *Acta Phileae*) feature pairs of texts that are considered to be nearly contemporary.

sia, Pannonia, Gaul, and Spain)²² over a period of ca. 160 years, but chronologically distributed in five clusters (ca. 145–185; ca. 200–210; 250–260; ca. 295–298; and 303–313 CE). More—and presumably later—texts could have been added to the present corpus, thus modifying the current balance between original languages, as well as chronological and geographical distribution. Modern scholars tend to agree that the texts included in this collection rest on likely historical events, even though the records that survived are the products of literary elaboration.

Formally, the texts are somewhat heterogeneous. Lanata distinguishes between four categories: a) encyclical letters to individuals or communities to inform them of tragic events (e.g., *Martyrium Polycarpi*, from the Church of Smyrna to the Church of Philomelium); b) diaries written or dictated by a martyr or a witness (e.g., *Passio Perpetuae et Felicitatis* 3–10); c) reports written by biographers or included in the works of Church historians (e.g., *Martyrium Carpi et Papyli et Agathonicae*, an excerpt from Eusebius' *Church History*); d) court proceedings or the semblance of it (e.g., *Acta Martyrum Scillitanorum*).²³ Following—and expanding on—Hippolyte Delehaye's typology, Musurillo identifies a wide spectrum of forms ranging from what looks like official court records to purely fictional compositions. Bridging the gap between these two genres are literary narratives based upon historical documents and historical romances. All of them exhibit similar recurring elements or motifs, such as specific characters (e.g., the witty judge), the use of the first-person (singular or plural), reports of visions and miracles, apologetic speeches, etc.²⁴ For ancient historians who are used to relying on literary texts as historical sources, there is not much difference between those different categories in terms of the informational value of the evidence. The touch of authenticity found by some scholars in Lanata's fourth category is potentially deceptive, while the dismissal of details extracted from texts belonging to other categories would require some justification.

²² By order of frequency in the corpus: Africa (7, possibly 9); Asia Minor (5, possibly 6); Italy and Sicily (4, possibly 5); Balkans (4); Alexandria (3, possibly 4); Spain (1, possibly 2); Gaul and Palestine (1 each).

²³ Lanata (1973) 7–10.

²⁴ Musurillo (1972) l–liii, citing Delehaye (1927). For a recent discussion of the literary genre, cf. Formisano (2008) 22–37.

The point of this paper is not so much to sort out what is historically accurate from what should be viewed as fictional, but to collect whatever information lies in these texts concerning “spaces of justice,” and to examine it in terms of setting, staging, and, occasionally, casting of judicial events.²⁵ In this regard, perception, as it is reflected in realistic fiction, is no less relevant than (otherwise) attested institutional practices and procedure. As we have seen in Tacitus’ account of the persecution of 64 CE, trials were viewed as somewhat “staged.” Indeed, the purpose of staging requires a more thorough analysis: Nero’s show had nothing to do with *utilitas publica*, the purpose of all criminal trials aimed at deterring crime while repressing it, nor with *clementia*, its usual counterpart used as a tool for self-promotion, ideological posturing, and political propaganda. The show was conceived as unusual, and was meant to secure the tactical distraction—and entertainment—of the audience (Nero’s purpose) while revealing the emperor’s *saevitia* (Tacitus’ priority).²⁶ Along the same line, the trial of Christians in Lyons in 177 reportedly took place in the context of a festival. The governor is said to have brought the victims of the persecution “before his tribunal to make a show and a spectacle of them”²⁷ as a prelude to the public display of pagan inhumanity that was to follow in the amphitheater.²⁸ Whether the setting and staging of such events were due to those initiating and controlling them, or to those reporting them, often remains unclear.

Criminal trials—at least in their literary rendition—and theatrical performances share the same double purpose: the entertainment and education of the audience. In Nero’s case, the theatrical elements are many: the crime of arson is most spectacular as bystanders could be engulfed in the fire; the emperor’s reaction to the disaster as an eager spectator and performing musician was unusual and shocking, to say the least—the same could be said of his part as a producer, stage manager,

²⁵ Potter (1993) adopts a more historical approach, focuses on African trials in 258 (56–63), divides his discussion into two parts, trials (63–65) and executions (66–71), and interestingly introduces evidence from the visual arts (68–69). My reading of the narratives has been inspired by Panayotakis (1995). Cf. also S. Schwartz’s contribution in this volume.

²⁶ Tac., *Ann.* 15.44.4–5. See Bauman (1996) 86–87.

²⁷ Eus., *HE* 5.1.47 (Musurillo [1972], no. 5, p. 76): ἀνήγεν ἐπὶ τὸ βῆμα θεαθρίζων τοὺς μακαρίους καὶ ἐμπομπεύων τοῖς ὄχλοις.

²⁸ Eus., *HE* 5.1.37: τῆς ἀπανθρωπίας θέαμα.

actor, and spectator in the repression that followed;²⁹ finally, the penalties (*ignis, crux, bestiae*) inflicted upon the Christians, besides their extreme cruelty, were most visual while quite in keeping with the alleged crime.³⁰ In the Lyons case, the “show” consisted in the public reenactment of the questioning or torturing of the Christians, previously carried out behind closed doors. The publicity of the trial initially rests on the choice of the location (agora/forum, amphitheater) and the participation of an audience (the crowd), be it hostile or friendly. It is secured, extended, and perpetuated by the creation and diffusion of hagiographical literature, regularly performed in a liturgical context, and by visual artwork,³¹ to be viewed anywhere. The show goes on forever.

On the basis of a close study of the early narratives belonging to each of Lanata’s four categories I will try to present and discuss what these texts can contribute to the study of spaces of justice. However, it should be said at the outset that some of the texts provide little information about this specific topic, or even none at all, which in itself may be telling in some way. Authors and audience focus on people, their discourses, attitude, and behavior, not on their surrounding; but criminal procedure involves time and space as well as people. The records of these proceedings, insofar as they were transmitted down to us, are likely to include some of these elements.

I will start with the largest collection within the corpus, the (mostly Latin) texts dealing with African martyrs, arranged in chronological order and belonging to all five chronological clusters identified above. The geographical approach may underline regional specificities as well as literary influences. I will then proceed with a survey of the Roman/Italian evidence and move from West to East, ending with the second largest collection, mostly Greek, from Asia Minor. I will conclude with a discussion of *imitatio Christi* based on the examination of the Passion narrative in the Canonical Gospels.

²⁹ See above, Tac., *Ann.* 15.44.4–5, and Suet., *Nero* 38, esp. 38.6: *Hoc incendium e turre Maecenatiana prospectans laetusque ‘flammae’ ut aiebat, ‘pulchritudine’*, Halosin Ilia in illo suo scaenico habitu decantavit. On Nero’s song, cf. Iuv. 8.221 (*Troica*). On Nero as an actor and a musician, cf. Suet., *Nero* 20–21; as a producer, *ibid.* 11–13 (11.1: *spectaculorum plurima et varia genera edidit*); and as a participant in athletic and artistic competitions, *ibid.* 22–24.

³⁰ For punishment devised to fit the crime, see Potter (1993) 67 and 84–85 n. 91, with reference to *Anth.Pal.* 9.184 (Lucilius).

³¹ See for instance, Potter (1993) 68–69 (reliefs, mosaic, pottery) and, for a later period, Alfani (2000) (wall painting).

The tone is set in the *Acta Martyrum Scillitanorum*, a short text preserved in Latin—there is also a later Greek translation—in manuscripts dating from the ninth century onward. As one of the earliest documents in Latin concerning the Christian Church, the Latin (?) Bible, and the persecutions in Africa, the *Acta Martyrum Scillitanorum* are reminiscent of the form and style of a court report. Very few close parallels can be found, except for the *Acta proconsularia Cypriani*.

The text starts with the date of the arraignment (July 17th, 180) of a group of six individuals, possibly twelve, of both genders, in Carthage, in what is referred to as the *secretarium* of the proconsul P. Vigellius Saturninus. The *secretarium* as a space used for judicial procedure is poorly attested in the early empire. It is absent from the *Digest*, but repeatedly mentioned in late antique legal sources, at a time when it was viewed as one of the places where power was exercised and access to it had to be legally controlled and restricted.³² The etymology of

³² Seeck (1923); Hanslik (1963); Bastiaensen (1995) 405–406; and Capponi in this volume. Hanslik considers that such a structure is attested already in the early first century CE on the basis of some archaeological evidence found in the gubernatorial palace (Room K) located on the Magdalensberg (Noricum), backed with a third-century quotation referring to the time of Nero (Philostr., VA 4.44.2). The passage is worth quoting extensively: ἦνεγκε ἐς τὸ ἀπόρρητον δικαστήριον ἐν ᾧ περὶ τῶν μεγίστων ἡ ἀρχὴ αὐτῇ ἀφανῶς δικάζει καὶ μεταστησάμενος πάντας ἐνέκειτο ἐρωτῶν ὅστις εἴη, the keyword being ἀφανῶς, “stealthily” (“he brought [him] into his secret court where the magistrate stealthily decides himself on matters of the greatest importance, and after dismissing everybody, he pressingly asked him who he was”). The rare second-century occurrences are worthless, because *secretarium* is used (twice) as a metaphor by Apuleius (*Flor.* 17; *Mund.* 17). The next mention of a *secretarium* in a judicial/administrative context is found in the *Acta proconsularia Cypriani* 1, dated to the late third century; in the *Passio Montani et Lucii* 6; in the *Passio Crispinae* 1 (in *secretario pro tribunali*); in the *Acta Eupli* 1 (ἐν τῷ σικριταρίῳ πρὸ βήλων / *cum esset extra velum secretarii* [...]); *Et cum ingressus fuisset Euplius secretarium iudicis* [...]); Lact., *Mort. pers.* 15.5: *arae in secretariis ac pro tribunali positae, ut litigatores prius sacrificarent atque ita causas suas dicerent*. Later (fourth–fifth c.) evidence is plentiful, but the meaning tends to expand: *Cod. Iust.* 1.48.3 (*De officio diversorum iudicum*, Trier, 389 CE: *si honoratis viris [...] secretarii iudicum non patuerit ingressus*) = *Cod. Iust.* 12.19.2 = *Cod. Theod.* 6.26.5; *Cod. Iust.* 9.2.16.1 (Mediolanum, 395 CE); *Cod. Iust.* 12.19.5.1 (*De proximis sacrorum scriniorum ceterisque qui in sacris scriniis militant*, Ravenna, 413 CE): *liberum cum ordinariis iudicibus ingressum in secretarium* [...]; *Cod. Iust.* 3.24.3pr. and 3 (*Ubi senatores vel clarissimi civiliter vel criminaliter conveniantur*, Constantinople, 485–486 CE?). All these texts (and titles) would repay a special study for “spaces of justice.” Cf. also, in chronological order, *Cod. Theod.* 2.10.2 (Serdica, 319); 1.16.6–7 (Constantinople, 331); 1.16.9 (Aquileia, 364); 6.7.1 (Nasonacum, 372); 1.32.6 (Thessalonica, 387); 2.1.8.3 (Mediolanum, 395); 6.26.7 (Constantinople, 396); 2.4.7 (Ravenna, 409); 11.7.20 (Ravenna, 412); 6.26.16 (Ravenna,

the word suggests a private, separate area, and as such points toward a secluded room where hearings were not public, where the parties, accusers, defendants, and petitioners could be ushered in and out, and where magistrates and their *consilium* could investigate and deliberate in complete quietness and isolation. In our text, the overall sympathetic attitude of the governor toward the group may be ascribed to the fact that no popular pressure was felt during the questioning. There, a dialogue takes place between the judge and Speratus, one of the Christians acting as if he were the spokesperson of the group. The tone of the exchange is markedly courteous. Speratus tries to take advantage of the situation to preach the mystery of simplicity, an opportunity quickly denied by the presiding official. Four other members of the group take the stand and stick to their creed, in spite of the governor's polite invitation to desist. The latter then spots a book box (*capsa*) that the defendants or their guards had brought along and inquires about its content. The answer: "Books and letters from Paul, a man of fairness", triggers no reaction on the part of Saturninus except for his offer to postpone the verdict by thirty days,³³ an offer immediately rejected by the Christians who all renew their confession. Reading from a tablet,³⁴ the governor then sentences them to die by the sword. Thanks are given to God, the news of the forthcoming execution is publicized by a herald, and the martyrs are taken away.

The narrative is kept to a bare minimum. Even so, a lot is being said or implied by both parties. Speratus emphasizes his political and fiscal loyalty toward the emperor. Saturninus minimizes the religious commitment expected from Christians. Each side wants the other to

413); *Novell. Theod.* 15.2.1 (Constantinople, 444); and *Novell. Valent.* 35.14 (Rome, 452). The word *secretarium*/ σηκρητάριον/σηκρητάριον/σηκρητόν is attested in the papyri, e.g. *POxy* IX 1204 = *SelPap.* II 294 (Oxy., 299); *SB XVI* 12581 = *ChLA* XII 522 (Ars.?, 310? *BL*); *PSak* 34 = *ChLA* XLI 1204 (Ptolemais Euergetis/Theadelphia, 321); and *PRyl* IV 653 (IV); and in Latin inscriptions from late Roman Italy: *ILS* 5521 (Iuvanum oppidum Frentanorum); *ILS* 5522 (Rome); and *ILS* 5523 (Rome): [...] [po]rticu[m] cum scriniis Tellurensis | secretarii tribunalib. adherentem (all late, probably IV–V).

³³ The motif recurs in the *Martyrium Apollonii Sakkeia* 10; in the *Martyrium Marini* 3 (during the three-hour reprieve, the defendant, a soldier, is free to leave the δικαστήριον [4] to which he is summoned again by a herald [5]); in the *Martyrium Dasii* 10; and in the *Acta Phileae* 6.2–3 (Lat./Mus. = 6.12 Bast. = *PChesler Beatty* 15 xi 4–7 and *PBodmer* 20, xii 194–210 = xvi 6 *ad finem*); cf. Bastiaensen (1995) 535. Cf. also *Acta Phileae* 8 (Lat./Mus.) for *abolitio* ("appeal") = ἀμνηστία.

³⁴ The reading of the sentence from a tablet or a sheet of papyrus is standard procedure; cf. *Martyrium Pionii* 20.7 (read in Latin!); *Acta proconsularia Cypriani* 4.3; *Acta Maximiliani* 3.1; *Passio Agapae et Irenae et Chionae* 4.4 and 6.3; *Passio Crispinae* 4.1.

take a small step in the right direction, but neither is capable of doing so. Even the status quo through a moratorium is not an option, as the unnecessary final confession by the Christians irremediably precludes any other outcome than death.

A few characters and a simple, though not simplistic, plot create a powerful message. The whole scene takes place in front of the governor, after the arrest and before the execution, and fully respects the triple unity of time, place, and action. The perfect economy of the narrative smacks of a literary creation, while the reference to the *secretarium* gives the whole report a touch of technical realism. In other circumstances, a trial *in secretario* could be viewed as unfair since it lacks transparency, just like night proceedings (cf. below).³⁵ In this case, like in Cyprianus' first trial (cf. below), the secluded setting may have been to the advantage of the defendants. The space of justice is here defined by the presence of the judge acting within a personal area. What happens before or after the hearings is not shown and can only be imagined.

By comparison, the *Passio Perpetuae et Felicitatis*, also set in Carthage, but a generation later, is utterly different from the *Acta Martyrum Scillitanorum*.³⁶ The report of Perpetua's, Felicitas', Saturus' and their friends' martyrdom in 203 CE, available both in Latin (the original language, except for Saturus' vision, probably first written in Greek)³⁷ and in Greek (a near contemporary translation), is so flushed with details that the execution scene in the amphitheater, as graphic as it stands, is of secondary interest compared with the story of the group between their arrest and their sentencing. This story is marked by a series of visions (five altogether, four for Perpetua and one for Saturus) and by the complex interference of Perpetua's and Felicitas' private life with the judicial context. Noteworthy is the fact that part of the story (including the first four visions) is told in the first person singular, leading scholars to agree that we are dealing with an original autobiography by a female writer on the verge of martyrdom. Perpetua's lack of interest in the proceedings is strik-

³⁵ *Cod. Iust.* 7.45.6 (283 CE): *Imppp(eratores) Carus Carinus et Numerianus AAA(ugusti) Zoilo: "cum sententiam praesidis irritam esse dicis, quod non publice, sed in secreto loco officio eius non praesente sententiam suam dixit, nullum tibi ex his quae ab eo decreta sunt praeiudicium generandum esse constat."* PP. v. K Dec. Caro et Carino cons(ulibus).

³⁶ Amat (1996); Salisbury (1997); and Formisano (2008).

³⁷ Fridh (1968) is conclusive in my view (priority of Latin version for the narrator's and Perpetua's part, of the Greek version for Saturus', the situation calling for an immediate translation of all parts into the other language). Potter (1993) 57 and 76, n. 31, following L. Robert, favors the priority of the Greek version.

ing. Apart from the unusual feministic tone adopted in chapters 3–10, the narrative is remarkable for its casting, staging, and setting, when both the judicial and oneiric levels are taken into consideration.

The narrative casts a group of catechumens, including two slaves, Revocatus and Felicitas, as well as a few local residents of presumably free(d) status (Saturninus, Secundulus, Saturus, and Vibia Perpetua) against the imperial *procurator (loco proconsulis)* Hilarianus. This remarkable social, gender, and age diversity echoes Pliny's report.³⁸ Vibia Perpetua is a twenty-two-year-old woman from the local elite, the breast-feeding mother of a child whom she will renounce in order to pursue her ideal. She is shown interacting not only with fellow Christians and prison personnel, but also with her abusive—and occasionally abused—father, her helpful brother, her compassionate mother, and her pregnant slave Felicitas. Conspicuous by their absence are both children's fathers.³⁹ Perpetua's and Felicitas' concern with their motherly duties is a mask or a posture, which gives the whole story a smack of tragic authenticity and emotional realism. At a different level, Perpetua deals in her visions with a predeceased younger brother, and with a whole set of supernatural beings, such as godlike figures, angels, earlier martyrs, and the Devil himself, in the shape of a terrifying dragon or ugly Egyptian. Perpetua's ordeal is rather complicated and action-packed. It is organized as a series of sketches, in which she has to face not only her judge Hilarianus, almost accessorially, in a short section (3–6) of the short chapter 6, but simultaneously her father, her baby, other family members, her fellow martyrs, regular visitors, a suspecting military tribune, a sympathizing guard, an enraged crowd, and some amphitheater personnel. In addition, the list should include all the characters she meets in her visions, and the whole array of exotic or unusual beasts to be faced in the arena: Perpetua's stage is crowded.

In constant motion and dislocation, shuttling between real life and her oneiric world,⁴⁰ Perpetua is at turns active or passive, and changes her persona through the whole narrative. As an actress, she is successively

³⁸ Plin., *Epist.* 10.96.9: *Multi enim omnis aetatis, omnis ordinis, utriusque sexus etiam vocantur in periculum et vocabuntur.*

³⁹ They conveniently reappear in the *Acta* I and II (a later composition, perhaps of the late fourth or early fifth century), ch. 6.1: *venientes autem parentes eius pater et mater, fratres et maritus cum parvulo filio ante proconsulis tribunal (Acta II)*. For alternative solutions, cf. Osiek 2002 and Cantarella, in Formisano (2008) viii–x.

⁴⁰ And on a vertical axis (*carcer, catasta, gradus, scala*), as Ch. Touati pointed out to me. This dimension would be worth exploring throughout the corpus.

dressed up as a priestess of Ceres or stripped naked, and oneirically takes part in a gladiatorial fight during which she changes sex and levitates. As a spectator, she witnesses the sad beating of her father by the authorities, and a doctrinal contest in Paradise. The sequence of all these short pieces tends to obliterate, or at least distract from, the judicial procedure leading to her condemnation and execution.

However, occasional references to the setting of the whole process remind the reader of the circumstances of the event, and of its judicial context. The actual procedure takes place in various places: it starts in the unspecified location where the catechumens had been brought to after their arrest (possibly in Thuburbo Minus, according to the Greek version) and where Perpetua was baptized before being sent to a first jail (*carcer*), presumably in Carthage (3.5). As we will see later on in other texts, prisons that function as waiting areas or torture rooms should be considered as spaces of justice and as such are just as important as courtrooms and places of execution. Bribery succeeds in getting Perpetua into a better place within the same facility (3.7).⁴¹ When the time comes for her to face her judge, she is brought to the forum and has to walk up to the docks (*catasta*) (6.1–2).⁴² The hearing is therefore public, and somewhat mortifying, because of the servile connotation of the location. After the hearing, Perpetua presumably goes back to the same jail, and is subsequently transferred to a military prison (*carcer castrensis*) (7), but only once the military games (*munus castrense*) have been scheduled (7.9). There, she is at first kept in chains (8.1), then, due to the sympathy of the guard in charge (*optio*), less dreadful conditions are provided (9.1). On the eve of their execution, the martyrs are offered a banquet (*cena*

⁴¹ *Passio Perpetuae et Felicitatis* 3.7–8: *uti paucis horis emissi in meliorem locum carceris refrigeraremus*. 8. *Tunc exeuntes de carcere universi sibi vacabant*. Perpetua's prison (*carcer*/φυλακή) becomes a palace (*praetorium*) for her as soon as she is allowed to keep her baby with her (3.9). There is a twist in that statement, since the *praetorium* also is to be considered as a "space of justice" (cf. below).

⁴² A *catasta* (perhaps from Gr. κατάστασις, with the meaning of "the pleading of a case") usually is a platform upon which slaves for sale were displayed. As a podium upon which defendants are supposed to stand, it is attested twice in the *Passio Perpetuae et Felicitatis* 6.2: *Ascendimus in catastam*; and 5.6: *Et confortavi eum [scil. patrem] dicens: 'Hoc fiet in illa catasta quod Deus voluerit'* (Lanata [1973] 161); and, as a result of *imitatio*, in the *Passio Mariani et Iacobi* 6.7: *Illic erat catasta, non humili pulpitu nec uno tantum ascensibilis gradu, sed multis ordinata gradibus et longe sublimis ascensu*. Cf. below, about *ambo/ἄμβων*, in the *Acta Phileae* 1.1 (Latin version). This podium is not to be confused with the *tribunal*/βῆμα, the platform upon which the judge sits, in spite of the Greek translation of the *Passio Perpetuae* 5.6 (*catasta* = βῆμα), with Amat (1996) 210. Cf. Bastiaensen (1995) 500; and Mau (1899) (for other references).

libera) (17.1). On the day of the games, they walk from the military jail to the amphitheater (18.1), stop at the gate for a change of dress, and are brought into the arena, where they are first whipped at the request of the mob, exasperated by their defiance, then bound to a “bridge” (*pons/γέφυρα*) and exposed to wild animals (19). The martyrs—as the narrator would like us to believe—script their own death (19 and 21) and try to be in control of the staging of the whole execution scene (16.3–21.10).⁴³ The final act, namely the kill by *iugulatio*, is supposed to take place in a remote area (21.6: *solito loco*), but the audience exceptionally requests that it be done *in medio* (21.7), i.e. in full view on what seems to be an elevated platform (21.8: *prior ascenderat*).

The oneiric world of both Perpetua and Saturus is even more diverse and rich in places, with a fairly precise prefiguration of Paradise—and of the path leading to it (4 and 11–13)—and one of the earliest representations of what will be regarded as Purgatory (7–8).⁴⁴ Hell is unsurprisingly absent from the picture.

The *Passio Perpetuae et Felicitatis* is unique for the originality of its complex, two-level plot, for the diversity of the characters involved in it, for the abundance of topographical details quietly introduced by the authors, for the visual and theatrical elements spread throughout the narrative, and for the accessory status, within the narrative, of the actual judicial proceedings. Perpetua, Saturus, and the narrator—as alleged authors of this composite piece—were obviously not interested in legal matters, but could not completely dispense with them.

In the *Acta proconsularia Cypriani*, the victim of the persecution belongs to the higher level of the church hierarchy. Thascius Caecilius Cyprianus, a well-known bishop of Carthage and a prolific ecclesiastical writer whose work has been preserved and bears witness to his life and activities until his very arrest (*Epist.* 82), had survived Decius’ persecution in 250 CE through hiding. In 257–258, he falls victim to the renewed effort of Valerian. Cyprian is arrested twice, first in the late summer of 257 for neglecting traditional Roman religion in spite of the emperor’s order, and a second time a year later for holding a position within the Church. On the first occasion, Cyprian is questioned by the proconsul Aspasius Paternus in his *secretarium*, subsequently convicted, and sent

⁴³ In the *Martyrium Pionii* 18.8, the pairing of gladiators is staged ahead of time by a professional, Terentius, who selects his own son to fight one of the martyrs.

⁴⁴ Cf. the forthcoming study of Ch. Touati, *Une histoire littéraire du Purgatoire* (Ph.D. diss. Strasbourg/Neuchâtel 2010).

into exile in the city of Curubis.⁴⁵ Upon his return to his estate (*horti*), he is arrested again by two members (*principes*) of the governor's staff, and is transferred by carriage to a private country-estate⁴⁶ where the governor is staying for health reasons. This is where the second trial takes place. Between hearings, Cyprian stays overnight with one of the officers previously in charge of his arrest.⁴⁷ In spite of the remote and private nature of the place, a crowd joins in to assist and participate in the process. In response to that spontaneous movement and/or because of his health condition, the proconsul Galerius Maximus has the arraignment take place within the *atrium*,⁴⁸ a location which could accommodate a group of people and is close enough to the main entrance for the rest of the crowd to be able to overhear the debate, at least parts of it. My understanding is that the governor opts for a public hearing, as opposed to what had happened a year earlier in Aspasius Paternus' *secretarium*. Afterwards, he consults with his staff (*consilium*)⁴⁹ and, reading from a tablet, sentences Cyprian to die by the sword, the usual punishment for upper-class Romans (*honestiores*) at that time. In spite of the uproar of the (mainly Christian) crowd, Cyprian is led outside behind the *praetorium*,⁵⁰ where he awaits the executioner (*speculator*). With a display of Christian humility and generous nobility, the bishop meets his fate in the most dignified—and theatrical—manner. Subsequently, his corpse is first exposed to satisfy the pagans' curiosity,⁵¹ then carried away and buried in

⁴⁵ Potter (1993) 58–60, pointing out that the penalty was the mildest in store.

⁴⁶ *Acta proconsularia Cypriani* 2.2 and 3: *et in curriculum eum levaverunt et in medio posuerunt et in agrum Sexti tulerunt, ubi idem Galerius Maximus bonae valetudinis recuperandae gratia secesserat*. For variants, cf. Bastiaensen (1995) 212 and 220.

⁴⁷ *Ibid.* 2.4: *ad principem, id est ad stratorem eiusdem officii Galeri Maximi proconsulis, secessit in hospitium eius*.

⁴⁸ *Ibid.* 3.1–2: *et in altero die, octavo decimo kalendas Octobris, mane multa turba convenit ad Sexti secundum praeceptum Galeri Maximi proconsulis. Tunc idem Galerius Maximus proconsul eadem die Cyprianum sibi offerri praecepit in atrio Sauciolo sedenti*. The text is problematic. The first *recensio* omits the reference to the large crowd and connects the governor's order with the time and place of arraignment. The second *recensio* (= *lectio difficilior*) suggests that the crowd has been summoned by the governor. Two manuscripts of the latter (D and o) add *agrum* after *ad Sexti*, and one (K) *praetorium*. Cf. Bastiaensen (1995) 222. The word *sauciolo* has been variously understood, as the name of the *atrium*, or as a reference to the governor's health problem ("slightly wounded"); cf. Bastiaensen (1995) 484. Potter (1993) 58 and 77, n. 37, on the other hand, thinks that the first *recensio* is more reliable than the second.

⁴⁹ Consultation of *consilium*/σύνεδοροι occurs elsewhere, e.g. *Martyrium Cononis* 6. On the *consilium*, cf. Tuori in this volume.

⁵⁰ *Ibid.* 5.2: *et ita Cyprianus in agrum Sexti post praetorium perductus est*. Cf. below.

⁵¹ *Ibid.* 5.6: *eiusque corpus propter gentilium curiositatem in proximo positum est*.

a private cemetery. The anonymous author of the *Acta* carefully reports the name of the burial ground and its precise location—along the via Mappaliensis, in the vicinity of fishponds.⁵² Such attention to topographical detail is most relevant in view of the forthcoming cult of the saints and their relics.

The mention of the *praetorium*, which occurs in most, but not all, manuscripts, is somewhat confusing, as Cyprian's trial was conducted in what seems to be a private villa located in the countryside.⁵³ The point here is to distinguish between the tribunal (indoor) and the place of execution (outdoor). The *praetorium* as the residence of a high official and space of justice is well attested in Christian writings, from the Canonical Gospels through the later hagiographical literature,⁵⁴ as an alternative to outdoor public places such as the agora/forum and the (amphi)theater. Access by an audience to the *praetorium* may or may not be restricted.

Like the *Acta Martyrum Scillitanorum*, the *Acta proconsularia Cypriani* may be based upon official documents, and were known to, if not written by, Pontius, the alleged author of the *Vita Cypriani*. Cyprian's fame, in his lifetime and after his death, certainly accounts for the complicated manuscript tradition of the *Acta*, due to the large number of manuscripts and the double *recensio* for the central part (second trial scene).⁵⁵ Variants concern at times spaces of justice, underlining the interest that both those recording the facts and copying the texts may have had in pinpointing technical and topographical details. The resulting discrepancies are revealing of the general confusion about existing—and competing—procedures. The reader cannot help being struck by the lack of rhetorical amplification in the narrative (except for the scene preceding Cyprian's execution) and by the would-be private setting of the

G. Chiarini, in Bastiaensen (1995) 231, translates: "e il suo corpo, per proteggerlo dalla curiosità dei gentili, fu tenuto nelle vicinanze", probably because of the nocturnal funeral that follows.

⁵² *Ibid.* 5.7: in areas Macrobiani Candidiani procuratoris quae sunt via Mappaliensi iuxta piscinas.

⁵³ Bastiaensen (1995) 226 and 488, for an interesting explanation (the *praetorium* would provide a more adequate setting for the trial of such an important character as Cyprian; this detail echoes, or rather is echoed by, Pontius, *Vita Cypriani* 15.3; 16.5; and 18.1). On the *praetorium* as space of justice in Egypt and across the empire, cf. Capponi in this volume, with bibliography.

⁵⁴ *Passio Montani et Lucii* 12.2; *Martyrium Dasumii* 6. In a metaphorical sense, *Passio Perpetuae et Felicitatis* 3.9 (= carcer). For the Gospels, cf. below. Cf. Campbell (2001).

⁵⁵ Bastiaensen (1995) 197–205 sorts out the material.

second trial (not unlike the first, *in secretario*), to be explained not only by the governor's temporary ailment, but also by the failed attempt to limit the publicity of an action against such a famous and charismatic figure.⁵⁶

The three narratives examined so far, set in North Africa between 180 and 258 CE, share a few common features. All three undoubtedly reflect historical events and may be based on contemporary documents. All three follow very different patterns in spite of the similarity of their respective topics. All three provide a limited amount of information concerning the setting and staging of Christian trials: the *Acta Martyrum Scillitanorum* and the *Acta Proconsularia Cypriani* show that hearings were sometimes held behind close doors (*in secretario*),⁵⁷ protecting both the judge and the defendant from outside pressure.⁵⁸ As the *Passio Perpetuae et Felicitatis* (8) suggests, such interference could complicate the situation for everyone: Perpetua's father repeatedly tries to convince his daughter to recant, not only while she is in jail (3.1–3 and 5), but also during the hearing, in front of the governor in the forum. Pulling her down from the dock (*catasta*) where she is kept,⁵⁹ the unfortunate father ends up being beaten by the governor's henchmen (6.5). Perpetua's plight also shows that there is no clear divide between civilian and military justice, as the procedure involves both worlds, though in different capacities. What civil servants and military officers carry out in public can also be conducted in a private setting. The location of Cyprian's trial and execution—a villa where the governor is recovering—stresses the fact that by this time (late second century) justice in the Roman empire is almost entirely

⁵⁶ Potter (1993) 64–65 rightly remarks that officials wanted to avoid the spectacle of a public trial and execution as much as possible. Prud., *Perist.* 13, compresses the hearings in eight verses (out of 106!), but describes Cyprian's imprisonment in natural (?) underground caves in Carthage (vv. 51–54: *Antra latent [...] clausus in his specubus [...] et catena nexus*; and 62). See Fux (2003) *ad locc.*; and Chappuis Sandoz (2008) who sees there a “tabou verbal.”

⁵⁷ Some contamination between the two texts cannot be ruled out, cf. *Acta Martyrum Scillitanorum* 11 and *Acta Proconsularia Cypriani* 3.5 (M = 3².3 B) (*In re tam iusta nulla est deliberatio / consultatio*). Cf. Musurillo (1972) 173 n. 6; and Bastiaensen (1995) 486–487.

⁵⁸ In the *Martyrium Lugdunensium* = Eus., *HE* 5.1.3–2.8, esp. 5.1.10, Vettius Epagathus, one of the Christians, is shouted down by the crowd standing around the tribunal (βῆμα).

⁵⁹ *Passio Perpetuae et Felicitatis* 6.1–2: *et pervenimus ad forum. Rumor statim per vicinas fori partes cucurrit et factus est populus immensus. Ascendimus in catastam. [...] et apparuit pater ilico cum filio meo et extraxit me de gradu*. In the *Passio Irenaei Episcopi Sirmiensis* 3.1, torture is administered in front of the victim's family (parents, wives [sic! uxores], and children) to pressure him to sacrifice.

controlled by the judge (magistrate or official). Thus, the reader is left with the impression that beyond the literary varnish, improvisation on the part of judicial authorities remains the rule.⁶⁰

The *Passio Montani et Lucii*, set in Carthage in 259 CE, has certainly been written with Perpetua's model in mind. The martyrs are kept in the local jail, described as particularly dark and squalid (4.2 and 17.1),⁶¹ under the authority of local magistrates (3.1: *regionantes*), before being summoned by the *procurator*, who acts as the substitute of the late proconsul (6.1). There, the joint letter sent by the martyrs to the Church of Carthage (1–11) reports a curious incident: the soldiers escorting them to court do not know where to go and wander through the forum before getting notified that the judge (*praeses*) is waiting for them in the *secretarium*.⁶² After the hearing, the defendants are returned to jail, where they are to spend several months according to the anonymous narrator who takes over at the end of the letter, with the second part of the *Passio* (12–23). Eventually, the martyrs are transferred to the *praetorium praesidis* (12.2) for a new exchange with the governor, in the presence of an audience.⁶³ The *auditorium* successfully contradicts one of the martyrs' claim that he is a *diaconus*, thus providing a new opportunity for a later trial; the others are led to sacrifice and, upon refusal to perform, are put to death. Flavianus, the survivor, is jailed again and transferred to the governor's residence (13.4, *praetorium*).⁶⁴ He waits in the guards' quarters (13.4, *in custodiarum loco*), gets a public hearing (20), is sentenced to death, has a vision in which the martyr Cyprian congratulates him for his triple confession,⁶⁵ and then goes to the place of execution, setting

⁶⁰ Quite in keeping with Trajan's position, expressed in Plin., *Epist.* 10.97: *neque enim in universum aliquid quod quasi certam formam habeat constitui potest.*

⁶¹ *Passio Montani et Lucii* 4.2 and 17.1. The darkness of jails is a recurring theme, cf. *Martyrium Dasii* 5; Prud., *Perist.* 13.62: *ergastula caeca.*

⁶² *Passio Montani et Lucii* 6.3–4: *A militibus incertis ubinam nos praeses audire vellet circumducti sumus huc atque illuc per totum forum. Tunc nos in secretarium vocavit.*

⁶³ *Passio Montani et Lucii* 12.3: *cum Flaviani auditorium reclamaret amore perverso negans eum diaconum [...].* *Auditorium* is a correction for *adiutorium* (ms), cf. de Rossi (1880) 15 and may refer to Flavianus' disciples or schoolmates, as Ms. Megumi Ohsumi suggested to me. For *auditorium* as courtroom, cf. Frier in this volume.

⁶⁴ Probably the place named Fuscianum in 13.3.

⁶⁵ *Ibid.* 21.7: *Et quod ostensum fuerat impletum est. Nam confessus primo in secretario, secundo publice reclamante populo, iussus recludi a collegio suo secundum ostensionem suam remansit, et productus post confessiones duas, tertia passionem perfecit.* The sequence of events is obscured by the fact that Flavianus has in fact one hearing behind closed doors (*in secretario*) with the rest of the group, but two (12.2 and 20.2–7), rather than one, public hearings where the crowd/lawyers contest his claim to be a *diaconus*.

out from the *stabulum* (a temporary prison? death row?) adjacent to the Fuscianum (23.1). The sheer abundance of topographical details in this text is striking, all the more so because its main literary claim lies in the series of visions that the martyrs reportedly have before their execution.

The imitation of the *Passio Perpetuae et Felicitatis* is even more blatant in the *Passio Mariani et Iacobi* set in the cities of Muguae and Cirta, in Numidia, this same year 259. In one of Marian's visions, the judge is seen presiding from a high and shining *tribunal* which faces a platform (*catasta*) accessible through stairs made of not one, but many steps, and large enough to accommodate whole groups of defendants.⁶⁶ Except for the obvious rhetorical amplification, these oneiric descriptions of spaces of justice synthesize most of the elements scattered through the—probably earlier—texts discussed previously. But there is more to it: in the *Passio Mariani et Iacobi*, the martyrs are transferred from Cirta to the military prison within the camp of Lambaesis (9), where laymen and clergy are kept separate and treated differently. The latter group's execution is postponed in hope of a recantation triggered by the former's (10). Unsurprisingly, this strategy fails and the clergy is finally put to death as well, in a place described as a natural theater formed by elevated river-banks,⁶⁷ reminiscent of course of the *locus amoenus* glimpsed in Marian's dream as the promised reward for martyrdom (6.12–14).

In the *Acta Marcelli*, representing the fourth chronological cluster, martyrdom comes as a result of soldiers' refusal to serve in the army on religious grounds. In 298 CE, the centurion Marcellus, posted in Tingis (Mauretania) according to one *recensio* (M), or in Leon (Galicia) according to another (N), makes his coming out during a banquet. He gets himself immediately arrested and jailed, to be granted soon after a first hearing in the governor's *consistorium*.⁶⁸ The governor must report the case to

⁶⁶ *Passio Mariani et Iacobi* 6.6–8: *Ostensum est, inquit, mihi fratres, tribunalis excelsi et candidi nimium, sublime fastigium, in quo ad vicem praesidis iudex satis decora facie praesidebat. Illic erat catasta, non humili pulpitu nec uno tantum ascensibilis gradu, sed multis ordinata gradibus et longe sublimis ascensu. Et admovebantur confessorum singulae classes quas ille iudex ad gladium duci iubebat.*

⁶⁷ *Ibid.* 11.9: *Nam perducti sunt ad coronae locum, qui riparum collibus hinc et inde sublimibus, media fluminis convalle subsederat; sed et spectaculo erat excelsa utrimque aggeris altitudo.* L. Chappuis Sandoz pointed out to me the possible echo of Verg., *Aen.* 1.162–164. Potter (1993) 79, n. 52 refers to the description of the place in the *Acta proconsularia Cypriani* 3.4 (and Pontius, *Vita Cypriani* 18.2–3).

⁶⁸ *Consistorium*, in reference to a place, is used since Tertullian; cf. *ThLL* vol. 4, 472–473 s.v.; Seeck (1901); and Gizewski (1997). The *consistorium* as a group of people is

the emperor through a deputy praetorian prefect (*agens vice praefectorum praetorio*). Marcellus is sent away, escorted by an *officialis*, and gets a second hearing more than three months later. A similar transfer is supposed to have been imposed on Felix, bishop of Tibiuca (Africa Proconsularis) in 303 CE. Arrested by a *curator civitatis*, Felix is dispatched to Carthage under the attendance of a *decurio*, handed over to a *legatus*, and jailed for sixteen days *in ima carceris* (26). He is eventually brought in front of the governor (*proconsul*), in chains and in the middle of the night.⁶⁹ This detail emphasizes the irregular and abusive nature of the procedure: trials were supposed to be held in broad daylight, or at least in the daytime. An appendix offers an alternative ending, whereby the proconsul sends Felix to the praetorian prefect, who forwards him to the emperor in Rome, via Agrigentum, Catan(i)a, Messina, Taurominium (sic!)/Taormina, to end up in Lucania (Rulo/Velia?) and in Apulia (Venusium/Venusia?), where he is unexpectedly put to death. Such an itinerary does not make much sense in terms of criminal procedure, but provides a perfect scenario for the forthcoming cult of the saint to be celebrated in competing locations.

We leave the African passions with the *Passio Crispinae*: the martyr, a resident of Thagura/Toura (Africa Proconsularis), was tried in December 304 in the *colonia Thebestina* before the infamous proconsul Annius Anullinus. Preserved in a ninth-century manuscript from Autun, the text is quite consistent with what we know of judicial proceedings in the Greek papyri from Roman Egypt and starts with the consular date and the mention *in secretario pro tribunali adsidente Anullino proconsule* ("in the *secretarium*, in front of the *tribunal*, as the proconsul Anullinus was in session"). *Pro tribunali* is an expression stressing the official and formal nature of the proceedings (as opposed to *de plano*). It may, but need not, imply that a platform (*tribunal*) was actually located within the *secretarium*. Then a clerk (*commentariense officium*) reads the charges brought against Crispina. The dialogue may be interpolated (including the episode of the shaving of her head by the clerk, 3.1), but comes to an

the body advising the emperor and replacing the *consilium principis* from the time of Diocletian on; cf. Kunkel (1968–1969), esp. 235–236 (Christian trials) and 242–243 (*consistorium* as space). I have not seen Graves (1973).

⁶⁹ The second hearing of Irenaeus, bishop of Sirmium (Pannonia, 304 CE), also takes place around midnight and is followed by physical abuse, *Passio Irenaei Episcopi Sirmien-sis* 4.

end with the reading of both the minutes of the trial and the sentence.⁷⁰ The execution (beheading) is carried out immediately and, seemingly, on the spot.

5. The European narratives

A variation on the same scenario is offered by the *Acta Eupli*. In the city of Catania (Sicily) on April 29th, 304 CE, the martyr carrying a copy of the Scriptures forces his way into the governor's *secretarium* to incriminate himself.⁷¹ After a first examination, the magistrate (*corrector/proconsularis*) decides on a public trial, to be held on August 12th. Then, standing in front of the tribunal (2: πρὸ τοῦ βήματος), Euplus is read the minutes of the previous hearing, questioned again, and subsequently tortured, sentenced, and executed. The Latin version is somewhat more detailed regarding the staging of the summer trial: Euplus is shown screaming “outside” the veil of the *secretarium* (1.1: *cum esset extra velum secretarii*) and is then introduced into the room (2.2, *secretarium iudicis*). As he happens to be carrying a Bible, he reads aloud *Mc. 8:34*—an unfortunate utterance,⁷² bound to be misconstrued—as the inescapable incentive for him to pursue martyrdom. Repeatedly refusing to recant under torture, Euplus finally gets his way. The judge goes back to his *secretarium*, dictates the sentence, and returns to his tribunal carrying the tablet.⁷³ This detail makes it clear that the *tribunal* is located outside the *secretarium* (unlike what is shown in the *Passio Crispinae*). Euplus is then led away, the Scripture hanging from his neck, to the place of execution.

⁷⁰ *Passio Crispinae* 4.1: *Anullinus dixit: 'Quid pluribus sufferimus impiam Christianam? Acta ex codice, quae dicta sunt, relegantur.' Et cum relegerentur, Anullinus proconsul sententiam de libello legit.*

⁷¹ *Acta Eupli, Recensio graeca*, 1: ἐν (τῷ) σικριταρίῳ πρὸ βήλου, meaning “inside” the *secretarium* (as opposed to the Latin version), in front of (i.e. beyond) the veil which may serve as a door. It is possible that the text should be cut after σικριταρίῳ, the mention of the *secretarium* being part of the dating. Or could πρὸ βήλου be a corruption of πρὸ βήματος in the sens of *pro tribunali* (cf. above)?

⁷² *Mc. 8:34*: Εἰ τις θέλει ὀπίσω μου ἀκολουθεῖν, ἀπαρνησάσθω ἑαυτὸν καὶ ἁράτω τὸν σταυρὸν αὐτοῦ καὶ ἀκολουθεῖτω μοι (“If any want to become my followers, let them deny themselves and take up their cross and follow me.” Transl. New Revised Standard Version).

⁷³ *Acta Eupli, Recensio Latina* 3.1: *Calvisianus intra velum interius ingrediens, sententiam dictavit. Et foras egressus, afferens tabellam, legit [...].*

From the Roman passions (*Martyrium Ptolemaei et Lucii*; *Martyrium/Acta Iustini*; and *Passio Agnetis*) not much information can be extracted regarding spaces of justice. Justin and his companions are tried by the urban prefect ca. 165 CE. Unsurprisingly, they (presumably) stand *πρὸ τοῦ βήματος* (*Recensio* B, 2.2), across from Q. Iunius Rusticus who is sitting *ἐπὶ τοῦ βήματος* (*Recensio* C, 1.1), to be sentenced and sent away to “the customary spot” (*ἐπὶ τὸν συνήθη τόπον*) for execution (A6, B6). *Βῆμα*, from the verb *βαίνω*, is usually considered the equivalent of Latin *tribunal*, an elevated place upon which the judge presides.⁷⁴

Women sometimes get special treatment: in the undated *Passio Agnetis*, Prudentius reports that the virgin martyr is first condemned to the brothel (in lieu of torture) and exposed naked at the corner of a passing street, before being beheaded.⁷⁵ Prudentius’ readers were expected to shiver at the thought of the uncomely situation, and—paradoxically—feel relief at the outcome. The exhibition of a virgin as a spectacle for outsiders takes precedence on her actual trial and execution. The audience, viewers and readers, only gets partial view.⁷⁶

Variation is a constant concern for the authors of the narrative built around the nucleus provided by existing or alleged judicial proceedings. The *Passio Fructuosi et al.*, set in Tarraconensis in 259 CE, records an event which is also the topic of the sixth hymn in Prudentius’ *Peristephanon*. The bishop is arrested by *beneficiarii* in his private bedroom at his house, and before setting out to meet his fate, he asks (1) to be able to change

⁷⁴ Reisch (1899); Schneider (1954); and Capponi in this volume. 259 occurrences in Perseus, many of them in the papyri, cf. for instance POxy I 37 (Oxy., 49 CE); II 260 (Oxy., 59 CE); XXXVIII 2852 (Oxy., 104–105 CE), often in reference to the court of the prefect of Egypt, as in PMilVogl. III 129 (= SB VI 9314, Tebtynis, 135 CE), ll. 13–15: [...] ἵν’ εἰδῶσι ὀφείλειν αὐτοὺς/παρεῖναι ἐπὶ τὸ ἱερώτατον τοῦ κρατίστου ἡγε/μόνος βῆ[μα ὅ]που [...]. Cf. also PFouad I 21 = SB VIII 9668 = FIRA III² 171a (prov. unknown, 63 CE), ll. 4–5: ἐν τῷ μεγάλῳ ἀτρίῳ ἐπὶ βήματος παρόντων ἐν συνβουλίῳ [...], with L. Wenger, ZSS 59 (1939) 376–389; *ibid.* 62 (1942) 366–376; in response to C.B. Welles, JRS 28 (1938) 41–49 (P.Yale inv.no. 1528). The word is also common in the New Testament (cf. below): Io. 19:13; Act. Ap. 18:12, 16 and 17; and 25:6; Epist. Rom. 14:10; 2 Epist. Cor. 5:10, etc., and is exceptionally used to translate *catasta* in *Passio Perpetuae et Felicitatis* 5.6 and 6.2, cf. above, with Amat (1996) 210. It is recurring in the *Passiones*: *Martyrium Lugdunensium* = Eus., HE 5.1.10 and 29; *Martyrium Pionii* 19.2 (where the proconsul is seated in front of the tribunal); *Martyrium Dasumii* 6; *Martyrium Agapae* 3; and *Acta Eupli* 2. On *tribunal*, cf. the contributions of Kondratieff and Neudecker in this volume.

⁷⁵ Prud., *Perist.* 14.25–26 and 38–60. One fifth of the poem is devoted to this episode. The motif also shows up in the *Martyrium Agapae et al.* 5–6.

⁷⁶ Chappuis Sandoz 2008.

from his slippers (*soleae*) into proper shoes (*se calciare*). This detail is supposed to underline how unprepared the martyr was at the time of his arraignment. Prudentius has a different story: Fructuosus dutifully goes to the forum in reply to the governor's summon (*Perist.* 6.10–15). But the shoes motif reappears further on in both narratives. When Fructuosus has been condemned to be burnt alive in the amphitheater, he meets there a sympathetic crowd of bystanders. Among them the *lector* Augustalis begs him to let him remove his sandals (3.4: *ut eum excalciaret*). This request could be construed as an act of humility inspired by the example of John the Baptist or Jesus Christ,⁷⁷ or as a maneuver to secure a relic from the future saint, as the later rush onto the martyrs' smouldering remains—and Fructuosus' posthumous policing of the situation—could suggest (6). The *Passio Fructuosi* (3.4–5) does not provide any hint as to the motivation, but Prudentius dwells on this anecdote (*Perist.* 6.74–91): as Fructuosus turns down the offer, lest such solicitude makes death more difficult for him (vv. 77–78), he nevertheless states that he will bare his feet himself so that “he can rush into the fire with unimpeded steps.”⁷⁸ Closely following his model (3.6), Prudentius then deals with the—eventually denied—request by a nearby soldier for special attention in afterlife (cf. *Lc.* 23:42) before returning to the question of the barefooted martyr whose gesture is compared to Moses' as he was about to walk closer to the Burning Bush and talk to God.⁷⁹ Willingly stepping into the fire, Fructuosus and his companions are viewed by both the author of the *Passio* (4.2) and by Prudentius (*Perist.* 6.109–114) as akin to Daniel's companions in Nabuchadnezzar's furnace (*Dan.* 3), with the notable difference that after being protected by the Holy Trinity in the midst of the fire, the Christian martyrs are eventually whisked away into eternal glory by the flames, “following Christ's inauguration of the ornament of death.”⁸⁰ Admitted into Heaven, they stand upon the Devil's head, on the right of Christ, clad in the armor of Faith, and wearing the helmet of Salvation and an unwilting crown.⁸¹ If the *Passio Fructuosi* is truly

⁷⁷ *Lc.* 3.16, to be compared with *Io.* 7:36–38 and 13:4–5.

⁷⁸ Prud., *Perist.* 6.77–81: *Facessite, inquit, / nec nostram gravet obsequella mortem / atquin ipse meos pedes resolvam, / ne vestigia praepedita vinculis / tardis gressibus inruant in ignem.*

⁷⁹ *Ex.* 3:6 and Prud., *Perist.* 6.85–91: *Vix haec ediderat, relaxat ipse / indumenta pedum, velut Moyses / quondam fecerat ad rubum propinquans. / Non calcare sacram cremationem / aut adstare Deo prius licebat / quam vestigia pura figerentur. / Stabat calce mera [...].*

⁸⁰ Prud., *Perist.* 6.114: *mortis decus inchoante Christo.*

⁸¹ *Passio Fructuosi* 7.2: *Vestiti loricae fidei et galeae salutis, qui coronati sunt diademate et corona immarcescibili eo quo diaboli caput calcaverunt [...] ad dexteram stantes*

earlier than Prudentius' *Peristephanon*,⁸² we see here how cleverly the latter manages to exploit a seemingly trivial detail lifted from his model. The staging, possibly already fictional in the *Passio*, is made pregnant with symbolical meaning by the poet, at the cost of some creative amplification based on a well-mastered biblical intertextuality, in reference to both the Old and the New Testaments. Such a virtuosity is of course more conceivable in the late fourth century than before, and bears witness to the *Bibelkunde* of the time.

The martyrs of Lyons, whose story is told in the first person plural in a letter from the Christian community of Lyons and Vienne to the Church of Asia and Phrygia quoted in Eusebius' *Church History* (5.1.3–5.2.8), had both Jesus Christ and the early martyr Stephen in mind when they went to their fate in 177 CE. After being excluded from public places (5.1.5), they are dragged into the forum and interrogated before a crowd by a military tribune and municipal authorities. As they confess, they are kept in jail, waiting for the governor's arrival. Brought before him, they are denied a formal hearing and the right to be defended by a self-appointed lawyer, Vettius Epagathus, who is subsequently arrested for being a Christian himself. The latter's request is dismissed because of the disruption provoked by the mob pressing against the tribunal (5.1.10). The Christians are returned to jail after being accused of incest and cannibalism by their own pagan servants. Some are strangled there (5.1.27), while another dies of the result of mistreatment at the hands of enraged bystanders in the courtroom (5.1.29–31). The rest is put to death in the amphitheater, on the occasion of a religious festival, as part of the gladiatorial games. The corpses are cremated and the ashes thrown into the Rhone River.⁸³ The dominant impression is that the procedure got completely out of control, a situation exploited by the senders of the letter to show the horror of the repression/persecution in all its diversity regarding both the victims (the old man Potheinos, the young Blandina, the famous Attalus, etc.) and the forms of execution. Blandina is exposed to wild animals, curiously hanging from a cross, a conscious reference to the Crucifixion, still short of it.⁸⁴

Christi, echoing *Eph.* 6:11–17. Perpetua, too, was shown stepping onto the Devil's head, cf. *Passio Perpetuae et Felicitatis* 4.7 and 10.11.

⁸² Musurillo (1972) xxxii.

⁸³ The disposal of bodies or ashes into the river is a recurrent theme, cf. *Passio Irenaei Episcopi Sirmiensis* 4–5, who foresees that his body will be thrown into the Sava river, a premonition that eventually comes true.

⁸⁴ In the *Martyrium Carpi et al.* 23, 35, 37–38 (*recensio Graeca*) = 2.4 and 5 (*recensio*

6. The Eastern Mediterranean narratives

The Pannonian (*Passio Irenaei Episcopi Sirmiensis*, 304 CE), Moesian (*Passio Iuli veterani* and *Martyrium Dasii*, both in 304 CE), Macedonian (*Martyrium Agapae et Irenae et Chionae*, also in 304 CE), and Armenian (*Testamentum XL martyrum Sebastae*, 308–313 or 320–324 CE) passions carry no new information about spaces of justice. The same could be said about the Palestinian (*Martyrium Marini*, ca. 260 CE) and Alexandrian passions (*Martyrium Potamiaenae et Basilidis*, 200–210 CE; and *Trial of Dionysius of Alexandria*, 257 CE), were it not for the *Acta Phileae* (304–306/7 CE), preserved in two Greek papyri and a Latin translation. *PChester Beatty* 15, dated to 310–350 CE, is very fragmentary, but provides a text close to the later (fifth century?) Latin version. *PBodmer* 20, dated to 320–350 CE, records the fifth hearing of Phileas, bishop of Thmuis in the Mendesian nome (Delta), in front of the prefect of Egypt (ii 11: παρ[ὰ τ]οῦ ἡγεμόνος), at Alexandria (i 13–14), and in the presence of lawyers (δικαιολόγοι), the court (τάξις), and a municipal magistrate (λογιστής).⁸⁵ The Latin version is the only one to preserve the beginning of the procedure, where it is specified that the hearing takes place “with Phileas set on/above the *ambo*.”⁸⁶ The word *ambo* is rare in Latin. It comes from the Greek ἄμβων, from the verb ἀναβαίνω, “I climb up,” with the meaning of “pulpit.”⁸⁷ While the debate between the judge, the lawyers, and the defendant moves along, the lawyers pretend that Phileas already sacrificed ἐν τῷ συνκροήτῳ/σηκρήτῳ, trans-

Latina), both Carpus and Papyrus are first “hung up and scraped,” then “nailed to a stake,” before being burnt alive. The wording, in both languages, is reminiscent of crucifixion. Crucifixion *per se* is rarely attested as a punishment for Christians, cf. Aubert (2002) 127–128. Pionius (21.2) was also nailed to the stake before being burnt alive. Polycarp (13.3) was given the right to refuse such treatment to show his steadfastness.

⁸⁵ *PBodmer* 20 xii 196–198 = xvi 8–10. The Latin version reads (6.16–18): *advocati et officium una cum curat(o)re et cum omnibus propinquis eius*. The passage is almost entirely destroyed in *PChester Beatty* 15 xi 8–9. Cf. Bastiaensen (1995) 304–305 and 334. In his commentary (pp. 536–537), Bastiaensen suggests that the λογιστής/*curator* is a *curator civitatis* or *rei publicae*, a municipal magistrate, whose part in the trial is uncertain. On the role of lawyers in trials, cf. Tuori in this volume.

⁸⁶ *Acta Phileae*, Latin version, 1: *imposito Philea super ambonem*.

⁸⁷ *LSJ Suppl.* 22 s.v. ἄμβων suggests “platform in a synagogue” on the basis of *CIJud* 781.4 (Side) = *JHS* 28 (1908) 195–196 (A.W. van Buren: “reading-desk and platform”). According to O. Hirschfeld (quoted by van Buren), the word was used in Syriac for “pulpit”. On this inscription, cf. Nollé (2001) 518 no. 191, with a large bibliography. Cf. *ThLL* vol. 1, 1866, s.v. *ambo* (2); Schneider (1950); and Bastiaensen (1995) 500.

lated in *phrontisterio* in the Latin version.⁸⁸ When all efforts to save Phileas have been exhausted, he is led to the “customary place of execution.”⁸⁹

We finally get to the collection of *Passiones* from Asia Minor, starting with the *Martyrium Carpi et al.*, set in Pergamum under Marcus Aurelius or Decius. Before being tortured and sentenced to be burnt alive in the amphitheater, Carpus gives two speeches (4–8 and 14–20, *recensio Graeca*) that have the effect of exasperating the proconsul (2G). The martyrs, nailed to the stake and exposed to the flames, pray and die, “happy to share in the Lord’s fate” (41G), even rousing a bystander, Agathonice, to follow suit and throw herself on the pyre (42–47G). The Latin version has a different ending: Agathonice takes her clothes off and the audience, seeing her beauty, cries over her fate.

Speeches by would-be martyrs provide a powerful vehicle of propaganda, as the rhetorical skill displayed by the author of the text need not match the social standing and assumed education of the speaker. This is certainly true of Pionius, martyr in Smyrna either under Marcus Aurelius or Decius.⁹⁰ In what could be based on an autobiographical account, the *Martyrium Pionii et al.* records how a group of five Christians, led by the πρεσβύτερος Pionius, anticipated arrest on the anniversary of Polycarp’s martyrdom (cf. below) and wore sets of woven chains around their necks, thus precluding any future doubt about their resolution to die. Invited by the νεωκόρος Polemon to come to the agora in order to sacrifice to pagan gods, the defendants paraded in this outfit among the crowd of “Greeks, Jews, and women, [...] with an eye on the βάθρα and κιβώτια” (3.7), probably a scaffold or tribune from which Pionius was about to give his speech.⁹¹ What follows (4) is a masterpiece of rhetoric, mixing quotations from Homer and the Old Testament, reports of some personal experience, and the evocation of natural disasters, delivered “with the hand

⁸⁸ *Acta Phileae* 5.5 (Lat./Mus. = 5, l. 47 Bast.: iam immolavit in frontisterio) = PBodmer 20 xii 191–192 = xvi 3–4 = PChester Beatty 15 × 10. Bastiaensen (1995) 532–533 considers that the Latin word *phrontisterium*, in the meaning of *secretarium* (cf. above), is a trace of the Greek model that stands behind the Latin version and which is obviously different from the extant Greek versions. Cf. *PLips* I 38 (19 Sept. 390, Hermopolis Magna) = FIRA III² 174, with the law-court called φροντιστήριον, a rare word in this context.

⁸⁹ *Acta Phileae* 8.1: *ad locum caedis consuetum*. Cf. Bastiaensen (1995) 542.

⁹⁰ Robert (1994) 2–8 argues for the later date.

⁹¹ Bastiaensen (1995) 456, pointing out that the Latin translation of κιβώτια is *arcae*. Cf. Robert (1994) 8–9.

stretched out and beaming face.” At the end of the speech, the crowd is silent, the Christians are led in the open air in the center (5.2: εἰς τὸ ὑπαιθρον εἰς τὸ μέσον) and surrounded by ἀγοραῖοι (notaries? lawyers? traders? or simply the rabble that hangs around in public places?). The crowd is so impressed by Pionius’ performance that people call for a move to the theater, where Pionius could go on (7.1).⁹³ Polemon forbids it and proceeds with the formal interrogation of all defendants, the minutes of which are taken down by a notary (9.1). As Polemon does not have the authority to condemn Pionius (10.4), everybody waits for the arrival of the proconsul, and the Christians stay in jail, in voluntary solitude (11), where Pionius delivers a second speech (12.3–14.16). As the proconsul has allegedly sent the order to have the prisoners transferred to Ephesus (15.4), the local authorities stage a compulsory ceremony at the temple of Nemesis, in which Pionius refuses to participate. Pionius is twice challenged by rhetors (6 and 17) and twice manages to have the upper hand. While the rest of the *Martyrium Pionii* follows a standard pattern, the scenes described above underline the interesting complementarity of gesture and speech for the genre, a combination fully explored here for the first time. Words coming out of the mouths of martyrs, soon to be recognized as saints, are endowed with special authority and inspiration.

This could be even more true when the martyr is closer, chronologically, to apostolic times or, geographically, to the cradle of Christianity.⁹⁴ Because of its location in Smyrna, Pionius’ martyrdom cannot help referring to the earlier example of Polycarp, whose execution took place in the same city, sometime around the middle of the second century. Allegedly appointed bishop of Smyrna by John the Apostle, Polycarp was very old at the time of his arrest. His martyrdom is presented as a well thought-out self-sacrifice purported to put an end to the persecutions conducted in Asia Minor at the time, mostly as a result of spontaneous surrender on the part of would-be martyrs, some of them showing real courage in the face of death, others ultimately forced to recant (3). According to his

⁹² *Martyrium Pionii* 4.2: Ἐκτείνας οὖν τὴν χεῖρα ὁ Πιόνιος φαιδρῶ τῷ προσώπῳ ἀπελογήσατο εἰπὼν [...]. Robert (1994) 56; and Bastiaensen (1995) 456, with reference *Act. Ap.* 26:1, introducing Paul’s apology in front of Agrippa (26:2–23). Cf. also *Act. Ap.* 13:16 and 21:40.

⁹³ For the theater / amphitheater as space of justice, cf. Capponi in this volume.

⁹⁴ After his arrest in Carmena (Phrygia or Pisidia?) in 250 CE (or 258?), the gardener Conon tells that he is from Nazareth in Galilee, cf. *Martyrium Cononis* 4. For martyrdom in Palestine, cf. *Martyrium Marini*, supposed to have occurred in Caesarea ca. 260; and Eusebius’ *Martyrs of Palestine*.

Martyrium, Polycarp at first stays put in Smyrna, then takes refuge in his country-estate, where he has a vision of the fate in store for him (5). Hunted by the police responding to popular pressure (3.2), he moves for a while from one estate to another, before being caught as a result of one of his slaves' betrayal. According to a scenario consciously reminiscent of Jesus' arrest (7.1: ὡς ἐπὶ ληστήν, "as if he were a bandit"), Polycarp is reclining in an upstairs room on a Friday night when the troops led by his slave catch up with him. Discarding the idea of fleeing any further, he welcomes his pursuers, serves them dinner and drinks, and asks for a reprieve to pray. Brought back to town on a donkey, he is roughed up by the εἰρήναρχος (who just happens to be called Herod), and directly driven into the amphitheater to face the governor (ἀνθύπατος).⁹⁵ Asked to recant, Polycarp resists. Charged as the destroyer of pagan gods and threatened with exposure to the beasts or being burnt alive, he remains defiant. The mob, composed of pagans and Jews, calls for Polycarp's execution. The Asiarch replies that he is not allowed to provide a lion outside of regularly scheduled games. The mob then improvises a pyre. Polycarp gets partly undressed, refuses to be nailed to show his steadiness, has his hands bound behind his back, and gives thanks to God for what he sees as an opportunity. The fire engulfs him, baking rather than burning him. A *confector* is then sent to pierce his body, thus releasing so much blood that the fire is extinguished. Consequently, the corpse remains intact, and has to be disposed of. Some people, mostly the Jews, want to deny him proper burial. A centurion has the body taken away and cremated (18).

The undated text, in the form of a letter written by the Church of Smyrna to the Church of Philomelium and others, is preserved in several manuscripts, in addition to being quoted in part by Eusebius (*HE* 4.15). The overall structure is somewhat reminiscent of the narrative developed in the Canonical Gospels (cf. below).⁹⁶ In any case, the parallel between Polycarp's martyrdom and the story of Jesus' Passion is striking and explicitly acknowledged by the author at the outset (1). It seems to be highly unusual for the hearing to take place in the amphitheater, where huge publicity is guaranteed. The intervening audience, including Jewish residents (12–13 and 17–18), is another Gospel feature, although it is perhaps not unrealistic at the time.

⁹⁵ Ronchey (1990) 101–145.

⁹⁶ As pointed out by Musurillo (1972) xiii, who is however rather skeptical toward von Campenhausen's theory of a possible Gospel-redactor. Cf. Burini (1998) 116–121.

7. Imitatio Christi?

Polycarp's martyrdom is resolutely under the sign of *imitatio Christi*. This is not the only one. At the end of the *Martyrium Lugdunensium*, which is based on a letter addressed by the communities of Lyons and Vienne in Gaul to Churches of Asia and Phrygia concerning the tragic events of 177 CE and quoted extensively by Eusebius (*HE* 5.1.3–5.2.8), the reference and model to be imitated—besides Stephen, “the perfect martyr” who prays on behalf of his torturers (5.2.5)—is Jesus Christ, the only one who, we are told, is truly worthy of the title of martyr (5.2.2–3). Other references can be more veiled: in the *Martyrium Ptolemaei et Lucii*, a case heard in Rome by the urban prefect Q. Lollius Urbicus in the late 140s or 150s, reported by Justin (*Apol.* 2.2) and mentioned by Eusebius (*HE* 4.17), Lucius unexpectedly intervenes on behalf of Ptolemaeus and is accused of belonging to the new religion. The statement, though not its actual wording, is reminiscent of the accusation made against Peter by the servant in the High Priest's courtyard according to Mark's Gospel.⁹⁷ Since Jesus' trial according to the Gospel story looms in the background of many, if not all, *Passiones*, one can wonder to what extent details concerning the procedure, especially spaces of justice, were lifted from the Gospels by the authors of the *Acts and Passions of Christian Martyrs* and thus found their way into hagiographical literature.

The Passion story in the Canonical Gospels is usually studied with a view to the limits of competing jurisdictions, between the Roman provincial government and the Jewish Sanhedrin.⁹⁸ Less attention has been paid to topographical and procedural details. As the respective narratives are dominated by the authors' willingness to present the event as the accomplishment of a set of predictions made throughout the Old Testament, these details may be invented, as significant discrepancies between all four gospels are attested. Historians seem to agree that John's account, though written later than the Synoptic Gospels, may provide a—historically—more accurate report. It gives a full, though discontinu-

⁹⁷ *Martyrium Ptolemaei et Lucii* 17: δοκεῖς μοι καὶ σὺ εἶναι τοιοῦτος. *Mc.* 14:70: ἀληθῶς ἐξ αὐτῶν εἶ, καὶ γὰρ Γαλιλαῖος εἶ. Cf. Musurillo (1972) 41 n. 4. None of the four Gospels has the exact same wording as the *Martyrium* 17.

⁹⁸ The literature on the subject is abysmal, cf. Sherwin-White (1963); Aubert (2002) 122–127 with bibliography; Giovannini and Grzybek (2008); and the forthcoming legal commentary to the New Testament prepared by the University of Münster under the leadership of Prof. F. Siebert.

ous, narrative of Jesus' (and his entourage's) movements from his arrest (Io. 18) in a garden located beyond the Cedron river, until his death by crucifixion on the hill of Golgotha (19:17), outside the city (19:20), and his burial in a nearby garden (19:42). According to John, Jesus is arrested at night by a joint force made up of Roman soldiers and Jewish servants (18:3) under the command of a military tribune (χιλίαρχος, 18:12), bound and brought first to the house of the former High Priest Hanna (18:13), and interrogated there about his teaching (18:19). Then, Jesus is sent to the current High Priest, Caiaphas, Hanna's son-in-law. What, if anything, happens inside the High Priest's house remains unclear (18:24–28). At dawn, Jesus is transferred to the Roman prefect's residence (πρατώριον), a place where the Jews are reluctant to go for fear of pollution on the eve of a major religious holiday (18:28). The hearing of Jesus by Pilate (18:33–38 and 19:9–11) takes place inside the *praetorium*. It is reportedly interrupted three times by Pilate's exit in order to consult with "the Jews," who are standing outside, and by one flogging session, carried out presumably in a separate area inside the *praetorium* but outside the interrogation chamber (19:1–3 and 5). The trial ends with Jesus' exhibition to the crowd. There, the text (19:13) is ambiguous (καὶ ἐκάθισεν ἐπὶ βήματος εἰς τόπον λεγόμενον Λιθόστρωτον, Ἐβραϊστὶ δὲ Γαββαθα), as it allows for two interpretations: who is seated on the platform, Jesus (transitive sense of ἐκάθισεν) or Pilate (intransitive, cf. *Act. Ap.* 25:6)? The latter interpretation would reflect standard practice (cf. *Mt.* 27:19), the former would be loaded with meaning as Pilate goes on to present Jesus to the Jews as Ἰδε ὁ βασιλεὺς ὑμῶν (19:14); magistrates, not defendants, sit on a platform.⁹⁹ Whatever the correct interpretation, it is surprising that the platform seems to be located outside the *praetorium* (19:13). This is where Pilate is said to have surrendered Jesus to the Jews (19:16). Finally, Jesus exits the city carrying his own cross on the way to his execution (19:17).

This outline emphasizes the back-and-forth movement of both the defendant and the judge, shuffling between indoors and outdoors. From Jesus' point of view, indoors is safer than outdoors. In spite of the reported dialogues between Jesus and Hanna, Jesus and Pilate, and Pilate and the Jews, some key elements are left untold: there are no definite charges brought against him by the accusers, no explicit verdict, and no regular sentencing, at least on the part of Pilate.

⁹⁹ I have not seen de la Potterie (1960).

The Synoptic Gospels (in chronological order: *Mc.* 14–15; *Lc.* 22–23; and *Mt.* 26–27) have a slightly different story. Mark knows of a single arraignment in front of the High Priest, during the night (*Mc.* 14:53–15:1), with formal charges brought against Jesus, and a quick sentencing (14:64). Delivered to the Roman governor, the “trial” is limited to a single question, repeated once: “Are you the king of the Jews?” (15:2 and 4). Faced with Jesus’ silence and the Jews’ pressure, Pilate takes the easy road (15:15).

Luke sets the meeting of the Sanhedrin during the day (*Lc.* 22:66) and has its members press the charge of sedition in front of Pilate (23:2 and 5). Skeptical, the latter sends Jesus to Herod, the ruler (tetrarch) of Galilee, who finds no reason to condemn Jesus and returns him to the Roman governor (23:6–12). Luke is the only source mentioning Herod’s intervention, and the episode is hardly to be considered judicial. After renewed consultation with the Jewish authorities and representatives, Pilate reluctantly gives up Jesus’ cause and surrenders him to what Luke describes as a mostly Jewish mob (23:13). Jesus is executed for rebellion against the emperor. Although soldiers are reported on the spot (23:37), the Romans keep a low profile during the whole episode, as Luke tries to emphasize the Jews’ responsibility in Jesus’ death.

Matthew skips the stop at Hanna’s, while providing a fuller account of the night meeting of the Sanhedrin at Caiaphas’ (*Mt.* 26:59–27:1), deciding on the charges of blasphemy (26:65) and sentencing Jesus to death (27:1). Arraigned in front of Pilate (27:11), Jesus is hardly given a chance to defend himself before Pilate proposes the exchange with Barabbas, in spite of his wife’s warning. Faced with a negative answer on the part of the crowd, Pilate gives up Jesus’ cause and surrenders him. Then the governor’s troops step in and take charge, flogging and crucifying him (27:27–54).

In all three accounts, information about the setting and staging is kept to a minimum, but the trial seems to go through a two-stage procedure: a confrontation in the Jewish Sanhedrin, resulting in a formal accusation brought in front of the Roman provincial authority.

The comparison between all four versions of the Passion story shows that the earliest one, Mark’s, is also the most elliptic one when it comes to information about the setting and staging of Jesus’ trial. Each subsequent version builds and expands on the previous one, although John’s, the latest, appears to be quite independent from the Synoptic Gospels. The later the version, the more likely it is to exploit the silences of the tradition and to introduce narrative details. Reasons for this include compositional

originality or ulterior motives, such as stressing the Jews' responsibility. This tradition does not stop with the Canonical Gospels. An abundant apocryphal literature keeps trying to fill the gaps in Jesus' biography, including its last part. Whether this literature is entirely fictional or draws from earlier sources preserving valuable historical information is hard to assess. At times, the fictional element is quite obvious and bears witness in its own way to the need of some Christian communities to round up the story. Examples range from the classical *Gospel of Nicodemus* to the less well known *Pilates' Report* (*Anaphora Pilati*), *Tiberius' Reply* (*Tiberii rescriptum*), *Pilate's Trial* (*Paradosis Pilati*), *Pilate's Martyrdom* (*Martyrium Pilati*) and the *Book of the Cock*, a late antique Ethiopic synthesis of all Canonical Gospels, including both an amplification of the theme and a parody of it.¹⁰⁰ This corpus would repay a separate study with special consideration of spaces of justice.

8. Conclusion

The Passion story told in the Canonical Gospels, with regard to spaces of justice, is much more detailed than any of the narratives included in the collection of *Acts/Passions of Christian martyrs* discussed above. In spite of the conscious, recurrent reference to Jesus' trial and execution in several of these texts, it is fair to say that all of them, including the *Martyrium Polycarpi*, show great originality and diversity in the organization of the narrative, and a somewhat coherent picture of the institutional context in which each trial takes place. This could be explained as a common willingness among authors to protect the uniqueness of the Passion by reserving certain features, such as death by crucifixion, for Jesus and, to some extent, some of his closest followers (Peter, Andrew). In spite of the constraints of the genre, the authors display creativity. If they obviously get carried away when they describe the martyrs' resilience under torture, they also manage to reach some degree of unity, in particular when they introduce details of procedure and spaces of justice.

Most of the narratives, as soon as they are somewhat developed, exhibit series of *passages obligés*: after their arrest, the martyrs must be jailed while awaiting a hearing; after some time spent in squalid quarters, they are arraigned in front of local and/or provincial magistrates; during

¹⁰⁰ Cf. Bovon et al. (1997–2005). Ch. Touati would refer to it as an “Evangelical harmony.”

the hearings, they verbally interact with their judge, but also with lawyers and bystanders, friends or foes; the hearing phase can be split into two or more stages involving the same or different persons. All narratives end up with a condemnation and a death sentence which can be carried out immediately, on the spot or in a nearby place, or be postponed altogether.

Spaces of justice are diverse, but well defined. Detention takes place in public *carceres/φυλακαί*, civilian or military, rarely in private quarters. Unsurprisingly, conditions there are dreary, with the consequences that prisoners sometimes die as a result of mistreatment, including summary execution, disease, or exhaustion. On the other hand, the prisoners can be approached by outsiders, family members and friends; prison personnel seems to have some leeway in how to deal with the prisoners and their visitors. The interaction takes various forms, from extortion and abuse to solidarity and complicity, with possible conversions.

Justice was originally supposed to be administered in public places in broad daylight.¹⁰¹ In Christian trials, however, magistrates seem to have had some leeway. The texts discussed in this chapter record several possibilities: hearings are conducted in public on the agora / forum, or in the magistrate's official residence (the *praetorium*), rarely in the amphitheater, with the magistrate sitting on a platform (*βῆμα/tribunal*) and the defendant standing on the docks (*catasta, ambo*). Alternatively, the magistrate could choose to deal with the case behind closed doors (*in secretario*), to avoid outside pressure, to get a better understanding of the case or of the defendant, to offer ad hoc, face-saving solutions, or to escape control and indulge violence and abuse. A trial in a private setting is seemingly exceptional.

The judicial proceedings are controlled by the magistrate acting as judge. We see little of court personnel, except for notaries and guards. It seems that the audience could play an important part in the process, before, during, or after the hearing (*Act. Ap.* 18:12–17). This is in tune with the fact that accusers usually are private individuals or groups, and that lawyers, when they are attested, are not appointed by the court, nor always by the defendant themselves. Self-appointment is often the prelude to a confession of faith.

Beyond this picture of spaces of justice based on the examination of a small collection of texts supposedly written between the second and late fourth century, there is a sense that for the reader / audience to

¹⁰¹ Potter (1993).

focus on the exemplariness of the martyrs' attitude and behavior in times of crisis, the topographical and institutional framework should provide a coherent setting that would not distract from the more remarkable, sometimes unbelievable staging of judicial events. The realistic features of the former, familiar to contemporaries and still evidenced in legal and papyrological sources, make up for the novelistic exaggerations of the latter, thus creating an inspiring model for regular people to be in awe of.