

# Tertullian and Roman Law – What Do We (Not) Know?

## ***Abstract:***

Whether Tertullian had expertise in Roman law before his conversion to Christianity, or whether his knowledge of it was non-specialist, through studying rhetoric as part of his education, has been debated in more than two dozen scholarly works since 1735. This Paper doesn't comment on that but asks, for the first time as far as I know, how far these studies recognize that we have almost no legal writings in the form in which Tertullian knew them, and almost no knowledge of legal practice at Carthage while he was there. The paucity of contemporary legal writings is examined and then illustrated from what we call criminal law. The implications of this for the credibility of Tertullian's challenge to the irregularity of legal proceedings against Christians concludes the first part of the article.

The situation at Carthage is examined next, and illustrated from what we call civil law. Tertullian used the noun *praescriptio* and its cognate verb *praescribo* forty times in the juridical sense of 'objection' to an opponent's claim. We know that these words were employed in four different ways in litigation at Rome, but how were they used at Carthage? The second part of the article argues that three scholarly conclusions about Tertullian's use of these words are valid only if the words were used differently at Carthage from the way they were used at Rome. The article suggests that we don't know enough about the Courts at Carthage to give a definitive answer.

## **Publication**

The Paper is available now in:

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