

**Church, State, and Children:
Christian and Imperial Attitudes toward Infant Exposure in Late Antiquity**

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The abandonment of newborn infants (known as “exposure” from the Latin *expositio*, “placing out”) has long been a subject of scholarly discussion and debate. In the later Empire our sources for infant exposure are particularly full and interesting, especially legal and patristic sources. Emperors, ranging from Constantine to Justinian, attempt to restrict and penalize the practice, in contrast to earlier Roman law. And Christian authors frequently denounce the heartlessness of pagan parents who abandon newborns for economic reasons (and then exploit foundlings who have become slaves or prostitutes). My paper will look at the intersection of these imperial and ecclesiastical condemnations of infant exposure, and the role of the church and individual Christians in shaping imperial attitudes and responses.

In classical law, infant exposure was not illegal. Indeed, a *paterfamilias* who had exposed his own newborn child, or the infant of one of his slaves, could later use his right of *patria potestas* to reclaim it (assuming it had survived and was rescued). Roman law before Constantine, as seen in imperial rescripts from Trajan to Diocletian, dealt with *expositio* on an ad hoc basis, in response to competing claims to children who had been picked up. Beginning with Constantine, however, *leges generales* set forth policy on *expositi* that was supposed to apply to all cases. More significantly, the imperial policy itself changed radically: Constantine forbade a *paterfamilias* to reassert his *potestas* over a child he had exposed, and allowed rescuers to bring up a child as “either a son or a slave” [*CTh* 5.9.1, 331]. Valentinian I banned the practice of *expositio* itself [*CJ* 8.51.2, 374]. Not that this stopped people from abandoning infants, as Honorius’ repetition of Valentinian’s law shows [*CTh* 5.9.2, 412]. But in Honorius’ law we also find, for the first time in (extant) law, a reference to church leaders: those who find an *expositus* and want to establish their claim to it should immediately obtain the bishop’s signature.

Although this mention comes almost a century after Constantine’s law, I suggest that Christian involvement goes back much further. Lactantius’ passionate denunciation of *expositio* in the *Divine Institutes* [*D.I.* VI.20] may be a “smoking gun,” showing how Christian objections to exposure were communicated to the emperor and his consistory. Nor did Christians before and after Constantine merely denounce the practice; several writers describe how charitable Christians (especially consecrated women) picked up and nurtured *expositi*. In the west, the Council of Vaison set out the procedure for claiming an *expositus* [*Canons* 9 and 10, 442] and in the east, an orphanage for foundlings and other parentless children was founded in Constantinople (and is referred to in a law of Leo [*CJ* 1.3.34; 472]). Thus, although their respective efforts were not fully successful (as revealed in Justinian’s repeated laws [*CJ* 8.51.3, *Novel* 153]), this was an area where church and state could agree and could work together.