CHAPTER 1

Making the State Christian
Religious Uniformity and Administration, 300–600 CE

Introduction

This chapter seeks to reconstruct why late ancient regimes thought it mattered that those they employed within their political institutions were (orthodox) Christians. It charts evolving contemporary conceptions of the role that religious affiliation played in official appointments. The fundamental association of correct cultic practice with the health of the body politic, the security of the empire, and the character of the individual made it obviously desirable that officials share their ruler's sense of it. How this basic ideological premise translated into the actual intentions and policies of late ancient regimes varied in important ways. Prosopographical studies of the conversion of the Roman aristocracy have shown that this theoretical preference did not necessarily manifest in practice. Most fourth-century regimes appointed both Christians and pagans to high office. It is only in the last quarter of the fourth and the first half of the fifth century that we can see a predominance of Christians within useable data on appointees. The number of straightforwardly identifiable non-Christians in imperial service dwindles thereafter.[1] These shifts in the religious character of the imperial state likely stemmed from the wider progress of Christianisation amongst the empire's elites and the greater confidence in the enactment of demands for uniformity which that produced. At the same time, the story of how imperial institutions became populated almost exclusively by Christians cannot simply be reduced to a belated pursuit of a deferred end goal. The ways in which regimes presented, and their elite subjects understood, the significance of religious affiliations for who should be appointed to the imperial state themselves underwent considerable evolution from the early fourth to the late sixth centuries. These step changes in the public discourse around office-holding

[1] See the Introduction, 14–15, 20.

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and uniformity were part of wider shifts in the political culture of the later Roman Empire.

Section 1.1 considers the absence of such concerns in the fourth century. In the eight decades between the conversion of Constantine and the systematic anti-pagan legislation of Theodosius I, being Christian seems, for the most part, to have been one potential recommendation for office amongst others. In this period, only the regimes of Constantine, Julian, and Theodosius I are portrayed by contemporaries as implementing holistic personnel policies based around the pursuit of religious uniformity. It does not seem a coincidence that all three emperors also sought profound changes in the religious orientation of the empire whose administration required sympathetic personnel. It is also notable that each sought to appoint fellow travellers in the context of purges of court and bureaucracy after civil war: a context in which personnel policies arranged around the individual preferences of the emperor were both possible and necessary. Outside of these peculiarly polarised contexts, sharing the emperor's religious proclivities was understood by contemporaries, not as a requirement but rather a strategy: one of many ways in which ambitious men tried to get ahead in their public careers.

Where that begins to change is in the reign of Theodosius I (discussed in Section 1.2). While Theodosius' own personnel policies continued now standard practices of preferences for Christians in high office amid continued appointments of pagans, his legal enactments established important precedents for the regulation of the affiliations, beliefs, and practices of those who served the Roman state. The recourse of Theodosius I's regime to general anti-pagan and anti-heretical legislation had a particular valence for his appointees, as both their enforcers and (in the case of laws against sacrifice) some of the most likely targets of their provisions. As Section 1.3 shows, his successors developed these precedents into a more systematic interest. Laws of Arcadius (r. 395–408), Honorius (r. 395–423), Theodosius II (r. 408–50), and Valentinian III (r. 425–55) made bans on imperial service a standard feature of constitutions, not only against heretics but also Jews, Samaritans, and pagans – and indeed, against all these groups at once. The provisions and rhetorical framing of these laws suggest a new-found attention to the religious affiliations of imperial officials. Then, as now, legislative attention was not the same thing as accuracy (or subtlety). The heresiological labels and fixed and bounded religious groups delineated by fifth-century legislators often did not reflect the religious identities of those caught up in the enforcement of their measures; the resulting suspicions, accusations, and punishments were

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politically motivated (and often nakedly so).[2] This flattening of identities and encouragement of new weapons of political factionalism suggests a shift in contemporary ideals regarding the state as an institution. The removal and punishment of those in imperial service deemed to be heretics, pagans, Jews, or Samaritans overlaid and replaced the existing legal regimes for dealing with each group. Their exclusion was justified in terms of their inherent unworthiness and the danger that they could 'pollute' or 'infect' those around them with their religious error. These justifications drew on the particular admixture of concepts from Roman law and Christian heresiology that inspired the anti-heretical legislation of the Theodosian dynasty. Above all, early fifth-century regimes broke new ground by making it clear that (supposed) non-Christians and heretics could not legitimately wield imperial authority. The offence in question was not the matter of an individual (and likely recently discovered) act, like attendance at a temple, a synagogue, or the wrong church, but of a fixed and ongoing affiliation to a categorised and proscribed group. By punishing those complicit, not only in the original appointment of these heterodox officials, but also their service to date, these laws backdated the offence in question to encompass their entire period in office, whatever they had done in that time, and thus delegitimised their presence within the state. The perception of a systematic requirement to appoint Christians to high office seems to have resulted from changes in attitudes towards religious diversity that crystallised within the late Roman state under the Theodosian dynasty.

The laws of the Theodosian dynasty may have portrayed nonconformity as a systemic problem, but these enactments nevertheless represented a negative and reactive approach to the establishment of a Christian state. They pursued religious uniformity through the exclusion (on discovery) of those deemed to be pagans, heretics, Jews, and Samaritans, and a stern warning not to let it happen again. As discussed in Section 1.4, starting in the second half of the fifth century, Eastern imperial regimes began to flip this approach on its head. Laws of Leo I (r. 457–74), Anastasius, and Justinian introduced positive and pre-emptive requirements for proof of orthodox Christianity at the time of appointment to various offices. Although the precise diffusion within the central and provincial administration of these demands for oaths and witnesses is unclear before the reign of Justinian, significant prior usage seems plausible. Their impact is obvious from the changing character of reports on 'crypto-pagans' within the sixth-century Eastern bureaucracy. Accusations

[2] See Chapter 3.

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of paganism against church donors, suppliants at martyr shrines, and biblical exegetes – not to mention, a bishop of Antioch – are suggestive of the higher bar of public Christian conformity that these demands had helped to establish. The reign of Justinian is also notable for a much more expansive framing in imperial law of the implications of religious affiliation for administration. The emperor's provincial reform legislation suggested that justice would be served and corruption avoided so long as governors were mindful (and fearful) of 'God, [the emperor], and the law'. In this way, Justinian's regime took requirements for Christian officials out of the context of religious policy and made them part of good governance; they also brought a basic topic of late ancient Christian discourse around office-holding (discussed further in Part II of this book) into the legal sphere. These articulations of a fundamental demand for good Christians as better officials remain exceptional even amongst Justinian's pronouncements. The sweeping assertions of these *Novels* on provincial governance nevertheless act as an important reminder of what is missing from much of the discourse around religious affiliation and appointments to that point. When Christians were required by regimes, it was as a matter of ensuring correct religion within the empire as opposed to a more general conception of their superiority or utility. Even that basic requirement only began to appear as an ordinary part of the culture of political institutions at the turn of the fifth century.

1.1 Patronage and Preference: Religious Affiliation and Office-Holding from Diocletian to Theodosius I

The last years of the third century and the first of the fourth saw a pronounced shift in the religious policies of Diocletian (r. 284–305).[3] A series of episodes and enactments document a turn towards efforts at uniformity to restore the favour of the gods towards the empire. One aspect of this new-found embrace of coercion was the exclusion of non-conformists within the palace and imperial service more broadly. The first attested indication of a hardening of attitudes towards Christians comes with reports regarding the failure of acts of prophecy at the imperial court at Antioch in 299. In the account of Lactantius, the inability of *haruspices* to interpret the entrails of sacrificial animals in the presence of Diocletian and his caesar Galerius (r. 293–311) was understood to result from Christian courtiers crossing themselves at a key juncture. Diocletian

[3] See esp. Clarke (2005), 647–50; Humphries (2009), 24–27; (2018), 63–69; Shin (2018), 81–103.

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ordered all his palace attendants to sacrifice or be flogged and sent letters telling military commanders to do the same with their subordinates.[4] Concern for conformity amongst those in imperial service likewise featured in the anti-Manichaean edict that the emperor promulgated either in 297 or 302. As part of a series of enactments designed to tackle a sect perceived as 'Persian' (and thus, dangerously 'foreign'), office-holders (*qui ... honorati aut cuiuslibet dignitatis*) and other elite people who converted to Manichaeism were to be condemned to the mines and have their property confiscated.[5] The next spring, seemingly at the urging of Galerius, Diocletian promulgated the first of a series of systematic anti-Christian edicts, which set in motion the events known to posterity as the Great Persecution. While the major targets of enforcement were bishops, clerics, and the communal property to which they had access, the removal of 'all honour and dignity' from Christians was once again a central provision.[6] The exclusion of nonconformists from the palace, army, and civil administration was a critical part of the Tetrarchic push for religious uniformity.

These laws and episodes of enforcement neatly encapsulate why late ancient emperors might prefer to be served by co-religionists and seek to exclude those with views incompatible with their sense of the social contract between humans and the divine. The effective performance of correct cultic practices was central to the good order of the empire.[7] As the failure of the *haruspices* at Antioch vividly demonstrates, it was seen as all the more crucial that those serving the state contributed to such observances. The repeated references to the insanity of Manichaeans and Christians in Tetrarchic legislation underscore that the religious affiliations of office-holders could also be seen as a reflection of their character. As Galerius noted in a tolerance edict made just before his death in 311, the point of the original laws had been to recall Christians to 'a sound frame of mind' (*bonas mentes*).[8] The irrational impiety of Christians both harmed the well-being of the state and called into question their

[4] Lact. *DMP* 10; *Div inst* 4.27.4–5; with Digeser (2004).

[5] *Collatio* 15.3.7, with Corcoran (2000), 135–36: the mindset behind this law is frequently put in connection with those against Christians which followed: e.g. Clarke (2005), 647–49; Humphries (2009), 23–25; Corcoran (2015), 74; cf. Shin (2018), 102.

[6] Lact. *DMP* 13.1; Eusebius, *HE* 8.2.4; with commentary of Corcoran (2000), 179–81; Shin (2018), 112–17.

[7] For statements of continuity across a long late antiquity: see e.g. Gaddis (2005), 29–67; Humfress (2007), 234–36; Humfress (2008); Corcoran (2015); Kahlos (2019), 17–26.

[8] Lact. *DMP* 34; Eusebius, *HE* 8.17.6–7; Corcoran (2015), 75 for translation; similarly Humphries (2009), 20.

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competence. Such rationales would continue to feature when Christian regimes excluded those who disagreed with the ruler's chosen understanding of and relationship with the divine.[9]

A desire to appoint co-religionists could be seen as a commonsensical part of late ancient political culture. Yet no law remotely comparable to Diocletian's ban on Christians in imperial service survives until the reign of Theodosius I. Given the make-up of the empire's service aristocracy in the fourth century and the turmoil set in train by the Great Persecution, it is perhaps unsurprising that Christian emperors took so long to imitate their Tetrarchic predecessors.[10] In the absence of a specific legal framework establishing the necessity of officials practising or avoiding particular forms of observance, such concerns as we can see were expressed in terms of individual emperors' preferences.[11] The degree to which religious affiliation mattered to Christian emperors in their appointments was, of course, the central question of the prosopographical studies of Raban Von Haehling, Timothy Barnes, and Michele Salzman.[12] All three argued (to differing degrees) that Christian emperors were far from upholding a theoretical ideal of Christian uniformity in practice. What is perhaps more surprising is the absence of evidence for these emperors even expressing such abstract preferences for co-religionists as their subordinates.[13] This is not to suggest that such affiliations were irrelevant to appointments in this period but rather that religious uniformity does not seem to have been a goal. Insofar as contemporaries thought being Christian mattered under Christian emperors, it was seen an issue of individual advantage and ambition as opposed to systematic policy.

Only two emperors between Diocletian and Theodosius are recorded making such choices in a programmatic manner: Constantine and Julian.[14] In the *Life of Constantine*, Eusebius of Caesarea portrayed his protagonist taking this approach after the defeat of Licinius (r. 308–24) at

[9] See 66–69.

[10] On the ubiquity of persecution discourse in a Christian Empire: esp. Grig (2004); Gaddis (2005); Sizgorich (2009); Fournier and Mayer (2019).

[11] This is not to make too firm a distinction between the two, given the degree to which individual laws themselves often represented situational responses to specific requests and the potential legal force of any imperial pronouncement: see e.g. Harries (1999), 19–26. Rather, it is to suggest that the portrayal of imperial decisions regarding staffing in terms of preference and patronage as opposed to legal necessity gave the significance of religious affiliation a different valence and resulted in a different set of dynamics around appointments, in the first eight decades after the conversion of Constantine.

[12] See 15 n. 74. [13] Alan Cameron (2011), 182 on absence of this concern in Ammianus.

[14] Cf. *Chron. Pasch.* a. 363, ed. Dindorf, 552.17–553.1 on Jovian (implausibly); with Von Haehling (1978), 548–55.

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Chrysopolis in 324 CE. Amongst various measures to support Christian communities and discourage traditional cultic practice, Eusebius highlighted Constantine's appointment of Christian governors and prefects and his attempt to regulate the forms of religious behaviour practised by pagan appointees.

> From this the Emperor went on to take practical steps. He first sent governors to the peoples in their various provinces, for the most part men consecrated to the saving faith; those who preferred paganism he forbade to sacrifice. The same applied also to the ranks above provincial government, the highest of all, who held office as prefects. If they were Christians, he permitted them to make public use of the name; if otherwise disposed, he instructed them not to worship idols.[15]

Unlike many of Eusebius' sweeping pronouncements regarding the measures of the first Christian emperor, his assertion regarding the appointment of Christians can be substantiated: the majority of Constantine's known office-holders in the later 320s and 330s were Christians.[16] Constantine's supposed ban on sacrifice remains a subject of considerable debate. Its prohibition for prefects and governors has generally been seen as the most plausible part of Eusebius' account, given the routine involvement of office-holders in traditional cult and the use of requirements to sacrifice to exclude Christians from the public sphere during the Great Persecution.[17] Constantine's measures facilitated Christian political service and set the terms upon which pagans could take office without seeking further uniformity.

The next emperor who is explicitly reported to have adopted such a policy is Julian. Eusebius' fifth-century correctors and continuators, Rufinus, Socrates, Sozomen, and Theodoret suggest that those who served in civil administration and the army were required to sacrifice and that Julian did not permit Christians to be governors because of their moral qualms regarding execution.[18] Various scholars have reconstructed how, as part of their efforts to portray Julian as a persecutor – if a devious one – all four ecclesiastical historians mislead regarding the character of the

[15] Eusebius, *VC* 2.44, trans. Averil Cameron and Hall (1999), 110.

[16] See Von Haehling (1978), 513–21; Barnes (1989), 315–21 for the prosopographical data to back up Eusebius' assertion about Constantine's policies (at least on this occasion). For Eusebius' wider (and less plausible) account of Constantine's formation of Christian officials: Eusebius, *VC* 4.17–18, 4.25, 4.29.4–5.

[17] See (with detailed accounts of previous work): Bradbury (1994), at 130 ('plausible'); Delmaire (2004), 321–25; Belayche (2005), 352 (with greater reserve); Alan Cameron (2011), 61; Rives (2012), 161–62.

[18] Ruf. *HE* 10.33; Soc. *HE* 3.13; Soz. *HE* 5.18; Theodoret, *HE* 3.3.

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emperor's policies.[19] As opposed to concrete legal enactments regarding the church and Christians, Julian seems to have circulated general statements of his views and made vague calls to action, so as to encourage autonomous decisions on the part of his agents and subjects.[20] Rather than requiring sacrifice, Julian seems to have encouraged it, while conducting political business in settings that posed dilemmas for the unwilling.[21] Contemporary evidence for the emperor's approach to appointments again suggests general and informal indications of his preferences. In a letter of 362 to Atarbius, the governor of Euphratensis, Julian expressed that 'god-fearing' men and cities should be preferred to the 'Galileans'.[22] In the second of the orations that cemented Julian's reputation amongst late ancient Christians, Gregory of Nazianzus similarly suggested that 'there was one choice to gain office' (mia psēphos ēn eis archēn) during his reign.[23] These indications of potentially preferential treatment map onto what is known about Julian's appointments to high office. Those appointees whose religious affiliations are identifiable are almost exclusively pagans.[24]

Of course, the absence of even qualified statements of intent from Constantine II (r. 337–40), Constans (r. 337–50), Constantius II (r. 337–61), Jovian (r. 363–4), Valens, Valentinian I (r. 364–75), Gratian or Valentinian II (r. 375–92) may be, in part, the result of accidents of survival and, in particular, the choices made by the compilers of the *Theodosian Code*.[25] The paucity and extreme brevity of mid-fourth-century constitutions in section 16.10 'on pagans, temples, and sacrifices' – and indeed, the absence of any such constitutions in section 16.5 'on heretics' – should give pause.[26] These omissions include measures as fundamental as, for example, Gratian's laws of 382 removing the Altar of Victory from the Senate House and dismantling the funding mechanisms for public cults in the city of Rome.[27] It is possible that the original versions of prohibitions regarding 'superstitious' sacrifice – and indeed, other laws that are simply not preserved – contained clauses aimed at the emperor's subordinates.[28] All that

[19] E.g. Penella (1993); Buck (2003); Gaddis (2005), 88–97; Morehouse (2019).
[20] Harries (1999), 43–44; (2012a); McLynn (2014); although see now Niccolai (2023), 152–55 on the Schools Edict.
[21] Bradbury (1995), 346–47; cf. Greg. Naz. *Or.* 4.81, with Elm (2012), 354–55.
[22] Julian, *Ep.* 37 Wright, 83 Bidez; Bowersock (1978), 83.
[23] Greg. Naz. *Or.* 5.19; see also *Or.* 4.64 for purge of imperial household because both supporters of Constantius and of Christian god, but former as implying latter critiqued by Bowersock (1978), 66–72; Elm (2012), 358–59; see also Tougher (2007), 44–46.
[24] Von Haehling (1978), 537–47, Salzman (2002), 186.
[25] Note, too, the frequent annulment of the laws of usurpers (likewise generally excluded from the *Code*), see e.g. Corcoran (1993), 99–103; Harries (1999), 87.
[26] Hunt (1993), 156–57. [27] Gassman (2020), 107.
[28] Though see Salzman (1987); Bradbury (1994); Sandwell (2005) on their ambiguous provisions.

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can be said is that when we can see (contextual) articulations of the fundamental dependence of the Roman state on correct (Christian) religion, a connection is not made to that state's personnel.[29]

It does not seem a coincidence that preferences for co-religionists are associated solely with Constantine and Julian. Both emperors were, after all, seeking to reverse course by promoting practices, institutions, and communities that had been at best tolerated by their predecessors. Effective implementation of these religious policies required the active co-operation of officials at court and in the provinces, which was less likely forthcoming from those who did not share the emperor's religious leanings. As a result, it is easy to see how each regime would feel the need actively to reshape political institutions whose personnel had been influenced by emperors who supported cult practices and institutions that they saw as harmful to the state.[30] Certainly, this is the context in which Eusebius and his fifth-century successors set Constantine's choice: as a signal break with the (persecutory) past of his imperial predecessors and a new beginning for the church in the Greek East. Against the breathless write-ups of Sozomen and (especially) Theodoret,[31] Constantine's appointment of Christians may, in the first place, simply have returned the Eastern court to its situation before Licinius' measures to exclude Christians from imperial service c. 323–24.[32] Such direct intervention was not required from most members of the Constantinian and Valentinianic dynasties, wherever we choose to place them on spectra of more or less active support for the church and tolerance for non-Christians.[33] As already noted, the emperor often played only a limited role in this process, rubberstamping recommendations provided by his agents and subjects; further down the imperial hierarchy, the probability of his direct influence (of course) rapidly shrunk.[34] Outside of moments of deliberate course correction,[35] emperors may not have felt the need to intervene personally in the mechanisms of appointment.

Part of why fourth-century regimes rarely advertised the appointment of Christians as such may be the lack of official duties that would have

[29] E.g. *CTh* 16.2.16 of Constantius II at Antioch, 14 February 361, regarding clerical privileges.
[30] For the wider transition policies from Licinius to Constantine: esp. Heather (1994); Kelly (2006), 195–200; from Constantius II to Julian: esp. Bowersock (1978), 66–70; Tougher (2007), 44–46.
[31] Soz, *HE* 1.8; Theodoret, *HE* 1.2.3.
[32] For this specific provision: Eusebius, *HE* 10.8.10; Barnes (1981), 70–71; Corcoran (2000), 195; Shin (2018), 217.
[33] See e.g. the *laissez-faire* approach of Valentinian I: AM 30.9.5, with Matthews (1975), 203; Lenski (2002), 215; Lee (2013a), 41.
[34] See 17.
[35] Revealingly absent in the case of Jovian: see Von Haehling (1978), 548–55 on appointments; Lee (2013a), 39–41 for wider policies; and Themistius, *Or.* 5 on the emperor's tolerance of religious diversity amongst the ruling elite.

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specifically required the distinct expertise or sensitivities of Christians. This is (ironically) best demonstrated by the difficulties that modern scholars have found in identifying official acts from which to backform the religious affiliations of specific office-holders. Particular pious Christian individuals – as, too, their pagan counterparts – can be seen to bring their understanding of the nature of the divine to their agency within the state, using the latitude afforded them to shape and interpret policy.[36] Yet few aspects of imperial administration in the middle decades of the fourth century seem to have specifically required an official to be Christian. Bishops were the chosen religious experts of fourth-century emperors (as they would continue to be throughout late antiquity);[37] the formulation and implementation of religious policies was not infrequently outsourced to them (provoking accusations of inappropriate proximity to power).[38] Provincial governors occasionally received laws prohibiting specific pagan practices, and in particular blood sacrifice, but recent work has stressed the lack of a centralised drive to enforce such rulings.[39] Of course, we can already see under the Constantinian and Valentinianic dynasties one of the long-term implications of Constantine's conversion: that is, the entanglement of the imperial state and its representatives with Christian communities, institutions, and disputes. But even those imperial directives that involved dealings with representatives of the institutional church – such as the carrying of letters to bishops or the building of a church – did not always necessitate a particular religious affiliation on the part of the emperor's agent.[40] Those that might require a Christian, like the resolution of complex doctrinal disputes, were normally the preserve of specially appointed commissioners.[41] Given the lack of imperial attendance at public episcopal churches before the 370s, those who did not share the emperor's mind could perhaps stay under the radar at court.[42] This is not to say that particular appointments cannot plausibly be associated with an intentional choice based on the specific religious affiliation of the recipient, but they are more easily identified for those that went against the

[36] See e.g. (most infamously) Maternus Cynegius as praetorian prefect of the East destroying pagan cult sites under Theodosius I: Matthews (1975), 140–42; Errington (2006), 234–37, and see also 249; McLynn (2005), 111–17; McLynn (2009), 580; Kahlos (2019), 69; also Praetextatus as governor of Achaea securing concessions for nocturnal rites under Valentinian: Zos. 4.3.2–3; Lenski (2002), 217; though compare Watts (2015), 140–41.

[37] I thank Caroline Humfress for this point.

[38] Hunt (1989); Niccolai (2023), 209–301 on the wider context.

[39] Salzman (1987); Bradbury (1994), 133–39; Sandwell (2005); McLynn (2009), 574–77; Meyer-Zwiffelhoffer (2011), 98–117.

[40] See n. 16 n. 81. [41] Von Haehling (1978), 42–43. [42] McLynn (2004).

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emperor's own beliefs. Wider patterns have been isolated in the appointment of pagans to high office along with likely causes: the demands of areas that retained substantial pagan populations; a need to conciliate and reward the notoriously conservative elements in the senatorial aristocracy at Rome; even, counter-intuitively, the utility of pagan governors when dealing with the violent doctrinal disputes within the church of Alexandria.[43] Yet again, these rationales are rarely stated by contemporary observers. More than that, in the absence of an identifiable impact on the formulation or implementation of imperial policy, the significance of an individual's publicly attested reverence for the gods is effectively a proxy for qualities and social connections that were not intrinsic to their religious affiliation.

Surviving texts present few explicit statements suggesting a regime's requirement of, or even preference for, co-religionists as officials. Instead, contemporary observers generally saw the potential impact of the emperor's religious policies and publicly stated sentiments in a more diffuse way. The significance of religious affiliation for office-holding was characterised in terms of the possibility of individual advancement. A series of fourth-century commentators critiqued contemporaries for their insincere conformity.[44] Eusebius suggested many had 'slipped into the church' in the last years of Constantine's reign to signal their loyalty. The emperor's generous (naïve?) nature meant he did not inquire too closely; individuals of poor character were rewarded.[45] In his commentary on Psalm 118 (from c. 386–390), Ambrose conjured a scenario of a man coming to church, 'while pursuing office under Christian emperors' (dum honorem affectat sub imperatoribus christianis) and paying outward (but not inward) obeisance to God.[46] The bishop's contemporary, Symmachus, noted in a letter (c. 360–84) that 'now to desert the altars is, for Romans, a kind of careerism (*genus ambiendi*)'.[47] Gregory of Nazianzus suggested that the reverse was the case under Julian.[48] Addressing Jovian on the occasion of his consulship on 1 January 364, Themistius portrayed this phenomenon as the result of the chopping and changing of imperial religious

[43] Von Haehling (1978), esp. 499–501, 614–15; Lenski (2002), 216 (easier for Valens to persecute Nicene holy men); Salzman (2002), 192–93; Errington (2006), 237–38, 241–42, 245–46, 253, and esp. 258–59; Alan Cameron (2011), 183; cf. Tomlin (1998), 37–39; Lee (2013b), 90–92 on pagan generals.

[44] On these passages, see Salzman (2002), 128; Alan Cameron (2011), 182.

[45] Eusebius, *VC* 4.54–55, quotation at 4.54.2, trans. Cameron and Hall, 174.

[46] Ambrose, *Exp. ps. cxviii*, 20.49.

[47] Symmachus, *Ep.* 1.51, trans. Salzman and Roberts (2011), 109.

[48] See 52.

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policy over the previous decades. In his praise of the new emperor's policy of religious toleration, the orator bemoaned a mindset he diagnosed as a direct result of the implementation of fourth-century emperors' proscriptive (but often short-lived) cultic policies on their subjects. 'Now all men are turncoats . . . the same people are seen at votive altars and sacrifices, at shrines of the gods and altars of God.'[49] It should be noted that three (and plausibly four) of these authors were writing under or regarding emperors with attested preferences for co-religionists (Constantine, Julian, and Theodosius).[50] It is likely that such conformism was seen to convey advantages in the context of other mid-fourth-century regimes who were keen (like Diocletian and Galerius) to signal their dependence on the gods (or God), and to stress the significance of religious uniformity in preserving the unity and stability of the empire.[51] It is nonetheless significant that this religious adherence was understood as a strategy for individual advancement as opposed to a necessary response. In that sense, it was one of many forms of careerism – to steal Symmachus' phrase – which some elite men deployed to attain the honour of imperial service (and others could deplore or disdain).

1.2 Regulating Religious Behaviour: The Theodosian Turn

The absence of any broad or systematic preference for Christian officials maps onto the wider picture of ad hoc and partial efforts by mid-fourth-century regimes to advance Christianising agendas.[52] The reign of Theodosius I has often been seen to mark a sharp break from these conciliatory approaches.[53] Such evaluations have stemmed from various aspects of his regime's conduct: a new-found concern to define orthodoxy in Roman law and to proscribe specific named heretical groups; detailed laws against pagan practice in the early 390s; the enthusiastic actions of its more zealous representatives above and beyond the terms of those laws; and, above all, the perception of a pagan 'last stand' under Eugenius (r. 392–94) defeated at the Frigidus in September 394.[54] The aftermath of this defeat has sometimes been seen as the moment when the western

[49] Them. *Or.* 5 (67b–68c, at 67d–68a for quotation); with Heather and Moncur (2001), 166–67 for the translation, 149–58 for context.
[50] Cf. Salzman and Roberts (2011), 109–10 n. 1 for the problem of the date of Symmachus' letter.
[51] Salzman (2002), 127; Sandwell (2007), 6–8; though cf. Cribiore (2013), 170–72.
[52] For this point in reverse, see Humphries (2018), 78. [53] Rebillard (2012), 61–62.
[54] For a monumental rebuttal of the latter, see Alan Cameron (2011), to which the following discussion is indebted.

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senatorial aristocracy became definitively Christian.[55] Certainly, there was a perception among early fifth-century Christians that Theodosius had sought the conversion of Roman senators after Eugenius' defeat and advanced the careers of those who did so. In the *City of God*, Augustine praises Theodosius' mercy towards the sons of Eugenius' supporters when they sought asylum. 'He wanted them to become Christians on account of this pretext and, loving them with Christian charity, he did not deprive them of their property, and increased their honours.'[56] The Christian poet and polemicist Prudentius – in his *Against Symmachus*, written in 402 – similarly has his 'Theodosius' exhort the (personified) city of Rome as a whole to convert after Eugenius' defeat; the poet then traces the enthusiastic response of the old families of the Senate.[57] It is perhaps in response to such claims that the pagan historian Zosimus, writing a century later, constructed a (most likely) fictitious meeting between Theodosius and the Senate in Rome in 394, where the emperor 'addressed it, calling on the senators to cast off their previous error, as he called it, and choose the Christian faith'. In Zosimus' version, 'no-one obeyed his summons or chose to abandon those ancestral rites handed down to them since the founding of the city'.[58]

Recent work has rightly deflated the triumphalism of contemporary Christian observers and delineated a more minimalist account of the intentions and impact of Theodosius' broader policies and individual enactments.[59] These revisionist accounts rest, in part, on the appointments made by his regime, which continued long-term trends of including conservative members of the senatorial elite within the most restricted circles of government.[60] In this context, the reports of Augustine and Prudentius most likely have a more limited frame of reference. As Alan Cameron has persuasively argued, Augustine seems to capture a specific policy towards the relatives of Eugenius' senior officials in the difficult

[55] Esp. Hedrick (2000), xv, 56, 71.
[56] Aug. *DCD* 5.26.38–40; drawing on the translation of Alan Cameron (2011), 120.
[57] Prudentius, *C. Symm.* 1.415–505 for speech of 'Theodosius', esp. 499–505 for exhortation to give up pagan cult, 521–23 for city going over to Christian faith, 544–77 for mass conversion of Senate (with a few exceptions).
[58] Zos. 4.59.2, trans. Ridley (1982), 98; with Paschoud (1975), 111–13, 133–35; Paschoud (1979), 470–73; Ridley (1982), 202 n. 153 and 204 n. 156.
[59] See esp. Errington (1997); Leppin (2003), 235–39; McLynn (2005); Errington (2006), 212–59; Rebillard (2012), 62; Kahlos (2019), 27–39.
[60] Von Haehling (1978), 581–89 (though note 582–84 suggesting a turn to Christian appointments post–390 under the influence of Ambrose); Leppin (2003), 166, 183; Errington (2006), 237–38, 241–42, 244, 253–55, 258; Alan Cameron (2011), 183.

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transition after his failed coup.[61] It is likewise noteworthy that Prudentius has the emperor explicitly permit those of the (cartoonishly) pagan senators of Rome who decided not to convert to attain the 'highest offices' (*summos honores*).[62] Nevertheless, that Theodosius seems to have expressed a preference for Christian subordinates, even in this limited regard, remains significant. Whatever its actual practical impact on the personnel of the state or the makeup of the senatorial aristocracy, Theodosius' reign does represent a major shift in its public communication of the significance of the religious loyalties of office-holders. The emperor's enactments betray the beginnings of a concern to regulate the religious behaviour of subordinates, both for its own sake and for its bearing on the effective implementation of his laws on correct religion.

Critical to revisionist accounts of Theodosius' religious policies has been the realisation that the main targets of his prohibitions of religious nonconformity were not his subjects in general, but rather his appointees, and the service aristocracy from which they were drawn. In 391–92, Theodosius' regime set out a series of increasingly detailed laws against sacrifice and other 'pagan' practices. These laws have often been characterised as 'comprehensive' anti-pagan legislation. Yet, even in the (most likely) expurgated summaries of the *Theodosian Code*, the focus of their drafters' attention seems to be this aristocracy (in general) and provincial governors and their staffs (in particular).[63] Edicts directed to the urban prefect of Rome in February 391 and the *comes Aegypti* in June of the same year singled out *iudices* as individuals who should be fined (6/4lb and 15lb of gold, respectively) for entering temples to perform (unspecified) acts of religious observance; their staffs should receive the same punishment for covering their backs.[64] This scrutiny of the actions of governors and staffs was extended in a further law of 8 November 392, which added a fine of 30lb of gold for a failure to act on reports of pagan veneration, whether they resulted from corruption or laxity. This latter law has a much greater claim to a universal force, as set out by the rhetorical flourish with which it opens.

[61] Alan Cameron (2011), 120–21. In this sense, it resembles the ascription of religious affiliations to personnel decisions in previous freighted transitions of power: see nn. 30 and 32.

[62] Prudentius, *C. Symm.* 1.608–31, quotation at 617; with Alan Cameron (2011), 71, 121, 179–84; cf. Barnes and Westall (1991).

[63] Hunt (1993), 157; Leppin (2003), 166; McLynn (2009), 576–77; Kahlos (2019), 29, 36; see also Alan Cameron (2011), 59–74 for wider re-evaluation, at 61–62 for officials; compare Meyer-Zwiffelhoffer (2011) 100–101, 108, 112.

[64] *CTh* 16.10.10–11.

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> No-one at all, out of whatever kind or order of people or dignities, whether currently in a position of power or having previously discharged such an office (*honore perfunctus*), whether powerful by lot of birth or of humble origin, condition or fortune, shall sacrifice an innocent victim to senseless images in any place at all or any city [a series of further prohibited acts follow].[65]

The drafter of this law clearly sought to stress that it applied to all the emperor's subjects.[66] Nevertheless, it seems revealing that he chose to single out individuals of rank and authority to illustrate that universal applicability and to harp on the manner in which aristocratic birth and current or former imperial office might otherwise help them escape justice. This listing of various qualifications for social clout might, again, point to the real focus of its attention. Such a concern was more directly expressed in a law from May/June of the previous year, categorised in the section 'On Apostates' in the *Theodosian Code*. Theodosius removed 'any conferred splendour' or 'inherited dignity' from 'those who have deviated from the faith and . . . have deserted the cult and worship of sacrosanct religion, and have given themselves over to sacrifices'.[67] This law plausibly stemmed from one or more cases of elite individuals who had outwardly presented as Christians (however sincerely) but had been accused of performing some form of pagan veneration.[68] If Theodosius' regime pushed for clearer prohibitions of specific aspects of traditional Roman religious practices, it was motivated (in the first place) by a new-found concern to regulate the religious behaviour of his subordinates.

The more stringent anti-heretical legislation produced earlier in Theodosius' reign does not have the same salience for those who served the state. This is understandable given the usual context of its production: requests from bishops and ecclesiastical factions seeking rulings through which to establish their own legitimacy as Catholic or orthodox Christians as against rival clerics and communities.[69] The unnamed individuals who

[65] *CTh* 16.10.12, quotation from preface (adapting Pharr, 473).
[66] On this unidentified *quaestor*: Honoré (1998), 73–75.
[67] *CTh* 16.7.5, (adapting Pharr, 466); on this application of *infamia*, see Humfress (2008), 137–38; Bond (2014), at 2, 15.
[68] Cf. Errington (2006), 245 for 'warning shot' to Nicomachus Flavianus regarding his clients. For possible cases behind other laws: Errington (1997), 424–27, 430–31; Errington (2006), 247–48, 249 with n. 106; McLynn (2009), 576–77; Alan Cameron (2011), 61–63.
[69] For anti-heretical laws formulated in dialogue with specific cases, forensic arguments and litigation strategies, the fundamental account is Humfress (2007), 243–68. For the documentary trails of judicial disputes around 'Luciferian' and 'Donatist' heretics: Escribano Paño (2005); McLynn (2005), 108–11; Humfress (2007), 235–41; Hermanowicz (2008), 83–220; Shaw (2011), 532–39.

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were the subjects of these laws against named groups were thus less likely to be imperial office-holders. Theodosius's reign nevertheless provides the first extant law that specifically targets heretics amongst the emperor's subordinates. This edict was promulgated in Milan in May 389 but directed to Tatianus, the praetorian prefect of the East, in reference to the court at Constantinople.[70] The expurgated summary in the *Code* deprives 'Eunomian eunuchs' of the right to make or receive wills. If a later report from Philostorgius is to be believed, it should be tied to a purge of a group of Eunomians within the imperial bedchamber.[71] Theodosius' laws against specific heresies had a greater impact on the personnel of the state in their reception by his successors: both as a direct response to the precedents he had handed down and as a result of the wider processes of Christian legal disputation that they set in train.

1.3 Exclusion and Enforcement: Law and Religious Uniformity after Theodosius I

> We order your highness to investigate whether any of the heretics dare to serve in the bureaus (*in scriniis*), or amongst the special officers (*inter agentes in rebus*), or the palatine officials (*inter palatinos*), causing injury to our laws. We deny to them any capacity to serve, by the example of our deified father.
>
> (*CTh* 16.5.29: Constantinople, 24 November 395)

In the months after the death of Theodosius in January 395 and the accession of his son Arcadius to the Eastern throne, the new regime promulgated a series of enactments on questions of correct religion. These laws summarised and reissued his father's anti-heretical (and especially anti-Eunomian) legislation, while ordering more stringent application of his ban on forms of cult practice in public temples.[72] The latter enactment focused once more on the role of governors and their staffs in conniving at such pagan observance and prescribed (reduplicated) fines as punishment.[73] By collating and strengthening these measures, Arcadius' regime set the tone for the policing of correct religion under the Theodosian dynasty. The summaries of the *Theodosian Code* show how

[70] *CTh* 16.5.17.
[71] Phil. *HE* 10.6; Escribano Paño (2007); (2009), 56–57; cf. Errington (2006), 246; Tougher (2008), 79 n. 129.
[72] *CTh* 16.5.25–26 (13 March 395 and 30 March 395, Constantinople), 16.10.13 (7 August 395, Constantinople); with Liebeschuetz (1990), 146–50; Escribano Paño (2007), 248–50; (2009), 57.
[73] *CTh* 16.10.13.1.

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these central concerns recurred in numerous constitutions across the first half of the fifth century.[74] Theodosius I's legislation on religious uniformity provided a model for the anti-pagan, anti-heretical, anti-Jewish, and anti-Samaritan laws of his sons, Arcadius and Honorius, and his grandsons, Theodosius II and Valentinian III. As Arcadius' order to his *magister officiorum* to root out heretics in his palace should suggest, these regimes also policed the religious affiliations of their office-holders at a more fundamental level. These laws did not just ban serving officials from (for example) pagan sacrifice but from *being* pagans, heretics, Jews, or Samaritans. Of course, these edicts flattened, and encouraged contemporaries to misrepresent, the actual affiliations, beliefs, and practices of those officials caught up in their implementation.[75] Provisions to exclude nonconformists may sometimes have stemmed from incidents involving specific office-holders; the exceptionally terse summaries of the *Code* mean that such concrete scenarios often have to remain in the realm of the hypothetical.[76] They also became part of a standard package of measures put in place whenever a regime was required to take action against members of a group that they considered not to be (orthodox) Christians.[77] The presence of the emperor's co-religionists within the state thus moved from being an indirect result of his preferences to a necessity for order within state and empire and potentially enforceable in practice (if only in specific and piecemeal terms).

At various moments, Theodosius I's successors felt the need to issue laws excluding members of specified groups from the state.[78] These laws were sometimes framed in terms of general bans from imperial service: of Eunomians and 'heretics' in general in the East (13 March 395, 24 November 395);[79] of 'enemies of the Catholic sect' from the western

[74] *CTh* 16.5.30–66 and 16.10.14–25, esp. 16.5.40, 16.5.46 = *Sirm.* 14, 16.5.52, 16.5.54, 16.5.65, 16.10.19, and 16.10.24 for governors and staffs, see also 16.5.30 for similar punishment of staff of the praetorian prefect of the East.

[75] In this section, I do not seek to relitigate the accuracy of these identifications and accusations but to articulate the logic of these laws from the perspective of the imperial state; for the former issue, see Chapter 3.

[76] From this point, I will use phrases like 'nonconformists' and 'heterodox' for those labelled by regimes as heretics, Manichaeans (sometimes as a category separate from the former), pagans, Jews, and Samaritans. This is not intended to define the religious affiliations of these individuals and groups by opposition to Christianity or the prevailing (imperial) orthodoxy. Rather, it is (once again) to present the view of an imperial state that increasingly conflated these forms of religious belief and practice as such: see n. 114.

[77] E.g. 16.5.57, 16.5.65.3. *NTh* 3; *NVal* 18; *Sirm.* 6; *CJ* 1.5.8, 1.5.12, 1.5.16, 1.5.18, *NJ* 37; cf. *CJ* 1.1.4 (7 February 452) setting punishments for specific categories of persons (including imperial officials) who continued to debate the issues settled at Chalcedon.

[78] Humfress (2018), 653–55.

[79] *CTh* 16.5.25, 16.5.29; Eunomians: Humfress (2008), 134 n. 24; Humfress (2018), 654.

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imperial court (14 November 408);[80] of Priscillianists and Montanists from Eastern imperial service (21 February 410);[81] of pagans from the Eastern court or administration or governorships (7 December 415/16);[82] of Jews in the West (issued to the praetorian prefect of Italy, 10 March 418);[83] of heretics, pagans and Jews in the West (issued to the praetorian prefect of Gaul, 9 July/6 August 425);[84] of heretics in general in the East (30 May 428);[85] of Jews and Samaritans in the East (31 January 438);[86] of Manichaeans in the West (issued to the praetorian prefect of Italy, 19 June 445).[87] These laws frequently make an exception for forms of compulsory service, whether in the army or on gubernatorial office staffs: this was the case for a series of enactments addressed to praetorian prefects of the East regarding Priscillianists and Montanists (21 February 410); Eunomians (8 August 423); heretics in general (30 May 428); Jews and Samaritans (31 January 438); and Eutychians and Apollinarians (18 July 452).[88] These laws also sometimes highlight specific offices as the site of prohibition. Such precision could have various causes: the case that provoked the emperor's ruling, a proliferation of members of a specific group in a particular branch of the bureaucracy, the closure of an earlier exemption, or simply because the copy of a broader law preserved in the *Theodosian Code* was addressed to the high official with authority over those individuals. Jews and Samaritans were excluded from the role of *defensor ciuitatis* in the East in a law of 31 January 438; their general ban from entering western imperial service from 10 March 418 allowed current *agentes in rebus* and *palatini* to serve out their terms.[89] This time-limited exemption likely stemmed from the agency of current Jewish officials in Ravenna.[90] These laws could also single out for punishment those who had

[80] *CTh* 16.5.42. On which, see Chapter 3, 101–105.
[81] *CTh* 16.5.48. The former are most probably the followers of Montanus' associate Priscilla, not Priscillian: Flower (2013), 187.
[82] *CTh* 16.10.21.
[83] *CTh* 16.8.24. I omit here *CTh* 16.8.16, issued by Honorius in Rome on 22 April 404, following the interpretation of Linder (1987), 222–23; Noethlichs (2007), 62; and in particular Nemo-Pekelman (2008), 416–20 (with detailed discussion of previous literature). Nemo-Pekelman convincingly suggests this law responds to a specific case by banning from all service in the future particular Jews and/or Samaritans who had fraudulently claimed status as *agentes in rebus* to avoid curial duties. For interpretation as a general ban: e.g. Mathisen (2014), 45; Conant (2015), 168; Corcoran (2015), 84; Flierman and Rose (2020), 75 n. 77.
[84] *Sirm.* 6. [85] *CTh* 16.5.65, discussed by Humfress (2000), 140–41; Flower (2013).
[86] *NTh* 3; discussed by Nemo-Pekelman (2008), 425–29.
[87] *NVal* 18. I have noted specific addresses where they might imply a more restricted geographical validity to these laws.
[88] *CTh* 16.5.48, 16.5.61, 16.5.65, *NTh* 3; Humfress (2008), 134–35. [89] *NTh* 3; *CTh* 16.8.24.
[90] See n, 83.

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allowed the relevant individuals to enter into, and continue in, imperial service.[91] Whatever the specific details on a particular occasion, the overarching intent of these laws is clear. The regimes of Arcadius, Honorius, Theodosius II, and Valentinian III sought repeatedly to exclude those who were not Catholic Christians from participation at any level of the civil administration above that of office staffs or legal advisers.

It should be stressed from the outset that we cannot simply 'read across' from these laws to the consistent policies or attitudes of the emperors who promulgated them. These enactments may have portrayed religious uniformity as an ongoing, systematic problem on multiple fronts, but that does not mean that early fifth-century regimes consistently saw it in that way. To amalgamate their provisions is potentially misleading, at least before they were assembled and published in their current form in the *Theodosian Code* and the *Novels* that followed it. Recent work on late Roman law has stressed that imperial pronouncements need to be seen in the context of inciting incidents, petitions from subjects and/or requests from officials, and specific (and perhaps time-limited) goals for and contexts of application. Even once these enactments were 'on the books' as general laws, their applicability at any given moment would have been subject to specific conditions of enforcement.[92] In this context, what is presented in the surviving summaries as a general rule may simply have been used to remove a single 'offender'. Of course, these laws could outlive that original function: ongoing discussions of the precise provisions attached to individual groups show how legal experts at court and elsewhere could refer back to previous enactments.[93] Several laws regarding the exclusion of pagan, Jewish, or heretical officials preserved in the *Theodosian Code* were intended to clarify that certain posts were exempt from previous prohibitions. In some cases, the clear implication is that one of the emperor's subordinates had sought guidance on whom they could appoint – or should remove – in a particular case.[94] Still, where these original contexts are recoverable, they generally suggest a much greater contingency and fungibility than the more starkly expressed measures imply. So, for example, the so-called comprehensive ban on sacrifice of November 392 may simply have been a 'blunt and brutal weapon' designed by the praetorian prefect Rufinus to get rid of Tatianus, his rival

[91] *CTh* 16.5.29; *NVal* 18.4; 116–17.

[92] For this (now standard) approach to the legislation of the codes, see the neat summaries of e.g. Humfress (2006); Harries (2012b), 792–801.

[93] E.g. Humfress (2007), 256–58; (2008), 134–35, 138–40.

[94] See esp. *CTh* 16.5.48; 16.5.61.

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and predecessor as praetorian prefect, and never actually intended for wider application.[95] On a number of occasions, imperial lawgivers justified their new issues on the basis of recent complacency in the enforcement of pre-existing directives.[96] Indeed, many of the laws that (in their preserved form) call for the prohibition of future appointments or removal of previous appointees are programmatic enactments made on the first legal pronouncement against a particular heresy, at the start of a particular emperor's reign, or at a similarly symbolic moment like the promulgation of the *Code* itself. These were particular moments requiring a demonstration from the new broom that they intended to clear out religious dissidents who had previously been allowed to clutter up the imperial state.[97] The repeated recourse of drafters to the language of renewed vigour accords well with extant references to episodic 'purges' of palace and provincial administration.[98]

These laws do not imply that fifth-century regimes were consistently concerned with, or practically effective at, ensuring uniformity within their state. They cannot be used to reconstruct a putative global view of who could or could not be appointed to imperial office at a given time. They were often originally intended as responses to specific problems and formulated in contexts where strict action against heterodoxy was deemed necessary. In that sense, they are better seen, not as the reflection of an inflexible requirement for the appointment of orthodox Christians, but rather as the expression of a particular set of attitudes that were invoked on occasions where the exclusion or punishment of religious nonconformists was seen as necessary. Collating them remains revealing, insofar as their specific provisions and (where it is preserved) their broader rhetorical framing are marked by the attitudes that shaped how regimes responded to the religious affiliations of their subordinates.[99] These recurring stances and legal principles were worked out in dialogue with the officials and subjects who sought these rulings. The provisions and justifications that

[95] See n. 65; Errington (2006), 248 for quotation. See too *CTh* 16.5.42; Zos. 5.46, discussed in Chapter 3, 101–105.

[96] E.g. *CTh* 16.10.13.1, 16.5.51, 16.5.54, 16.11.3; *Sirm.* 6; *CJ* 1.11.9; 1.5.12; implicit in *CTh* 16.5.60.

[97] *CTh* 16.5.29 (part of Arcadius' wider measures against 'heretics', most likely Eunomians); *CTh* 16.5.42 (new regime after fall of Stilicho); *Sirm.* 6 (Valentinian III); 16.5.65 (possibly start of episcopate of Nestorius in Constantinople). See too (later cases): *CJ* 1.5.8 (law against Eutychians and Apollinarians in 455 after failure of dialogue in Alexandria); *CJ* 1.5.12 (Justin and Justinian).

[98] Chapter 3.

[99] See also a series of studies nuancing or challenging the 'reactive' nature of late Roman government and legislation: e.g. Errington (2006), 9; Schmidt-Hofner (2008); Dillon (2012); Kahlos (2019), 35.

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they present were a response to, and perhaps even sometimes a simple parroting of, the terms of those original requests.[100] Petitions were often themselves framed in terms that would appeal to the interests of the emperor and his close advisers. To take one well-documented example, African Caecilianist ('Catholic') bishops stressed the threat that their 'Donatist' rivals and their 'Circumcellion' allies posed to peace and order in the province.[101] These laws can thus be used to reconstruct how and why fifth-century regimes, officials, and subjects thought the religious affiliation of office-holders mattered.

That Theodosius' successors began to prohibit certain religious affiliations as such demonstrates a major change in how these regimes conceived of religious plurality within the state. It suggests that adherents to traditional religion and members of Jewish communities were now seen as an inherent problem, overlaying and supplanting the distinct legal principles evident in previous legislation. Theodosius' laws of the early 390s had banned cult practices and punished those who performed them (whatever their putative religious affiliation). While such prohibitions continued to be enacted, emperors from Theodosius II onwards also made laws regarding pagans as people, including efforts to exclude them from the state.[102] The novelty of this specific legal persona for adherents to traditional Roman religion contrasts sharply with the long-standing definition of Jews as a community with specific rights and privileges in Roman law. As Capucine Nemo-Pekelman has persuasively argued, this traditional sense of Judaism as 'licit religion' coexisted with a tendency visible from the reign of Constantine onwards to legislate against crimes specifically associated with Jews and to consider the Jewish identity of the accused as an aggravating factor in judgements.[103] Notwithstanding repeated efforts to constrain the most zealous of the emperor's Christian subjects, this marginalising interpretation became prevalent in the first decades of the fifth century. As Amnon Linder has noted, although Judaism is described as *superstitio* throughout this period, it is no longer called *religio* after 416.[104] Bans on Jewish officials from 418 onwards are thus best understood as the deployment of this strand of legislative thinking in a field of activity where more neutral approaches had previously prevailed. The

[100] E.g. Harries (2012b), 800. [101] Hermanowicz (2008), 132–87; Shaw (2011), 517–39.
[102] Exclusion of pagans: *CTh* 16.10.13, 16.10.21–25. Further bans on sacrifice: *CJ* 1.11.7–8.
[103] On these simultaneous but contrasting approaches (with differing emphases): see (from a massive literature): Linder (1987), 55–67; Millar (1992), 116–20; Boyarin (2004), 32–36; Linder (2006), 148–54; Mathisen (2014), 49; Nemo-Pekelman (2015).
[104] Linder (1987), 57–58; Linder (2006), 148.

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location and prevalence of Jews in imperial service is unclear before these laws flag their presence in the lower ranks of the civil administration, but there is no reason to doubt that Jews sought such positions in proportion to their membership of civic and provincial elites.[105] Those accused of belonging to named heresies had, of course, previously been prosecuted and punished specifically for that reason, but only one report survives of action taken regarding heretics within the imperial administration itself.[106] As with the exclusion of pagans and Jews, the use of removal of imperial office as a standard punishment for heretics from the reigns of Theodosius II and Valentinian III represents a new-found attention to the religious affiliations of those who served the state.

This sense of heterodox officials as a basic problem owed much to a specific combination of traditional legal concepts and a Christian heresiological mindset, which began to shape imperial responses to problems of religious observance in the reigns of Theodosius I and his successors. Where bans on imperial service receive a specific gloss, they are situated within the measures developed by late fourth- and fifth-century legal experts to deal with those who did not adhere to true religion.[107] Alongside the closure of cult sites, confiscation of institutional property, and removal of priestly privileges, individual heretics, pagans, Jews, and Samaritans were deprived of their rights and privileges and isolated from the rest of society. Prohibitions of imperial service were part and parcel of these efforts to make Christian orthodoxy a precondition for the exercise of Roman citizenship. Legislators proceeded from the assumption that non-Christians and heretics represented a harmful presence that had to be removed from the state. Their banning from imperial service was sometimes paired with exile and expulsion from cities: the normative punishment for heretics who possessed some form of elite status or position of authority (at least until the moment of their conviction).[108] A requirement to isolate non-Christians and heretics was also tied to the idea, present both in Roman legal thinking and Christian heresiology, that religious error was a form of pollution or disease.[109] A connection to worries about 'infection' is most clearly articulated in a law issued by Theodosius II to

[105] Millar (1992), 118; Gilbert (2004), 176–77; Linder (2006), 160–61; Noethlichs (2007), 62; Nemo-Pekelman (2008), at 413–16; Mathisen (2014), 44–47.

[106] On Theodosius' removal of a group of Eunomians in the palace in 389, see 60. The exact form of any legislation is unclear: the summary of *CTh* 16.5.17 only concerns testamentary rights.

[107] On which, esp. Rougé and Delmaire (2005), 69–79; Humfress (2007), 233–38, 256–59; Flierman and Rose (2020), 73–80.

[108] On clerical exile: Washburn (2013), 41–64; Hillner, Ulrich, and Engberg (2016); and esp. Fournier (2016b) stressing normative for bishops as elites.

[109] Humfress (2008) for long-term application to magistrates; Fournier (2016a) (with prev. lit.).

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his praetorian prefect of the East Florentius on 31 January 438. After a typically grandiloquent proem, the edict laid out a series of provisions regulating the activities of Jews and Samaritans in his empire, including the prohibition of service to the state.

> For this reason, since (as the old saying goes) no cure should be applied to hopeless diseases, lest, heedless of our reign, deadly sects should spread more freely amongst the living as if by an indistinguishable mingling, we finally sanction by this law, which will survive for all time, that no Jew or Samaritan, relying on either law, shall accede to honours and dignities, the administration of civil service will be open to none of them, nor indeed will they perform the duties of a *defensor*.[110]

The emperor's *quaestor* Martyrius presented measures to prevent Jews and Samaritans from holding any civil office as a means of stemming the spread of the fatal and incurable malady of disbelief in the one true God.[111] Bans on nonconformists in imperial service also reflected a sense that it was inherently wrong for the heterodox to receive such privileges. Caroline Humfress, Sarah Bond, and Robert Flierman and Els Rose (in particular) have traced the application of the status of *infamia* and the legal disabilities that went with it to heretics, pagans, and Jews.[112] Such concerns had a particular valence for offices considered 'honours and dignities' in the traditional terms used by Martyrius.[113] Prohibitions of imperial service were representative of wider legal regimes against non-Christians and heretics and symbolic of their intent to reduce all these individuals to a status akin to criminals and other dishonourable people.

In aggregate, these measures suggest fundamental shifts in thinking about the policing of religious error and its significance for the state's personnel. The increasingly generalising laws produced by Theodosius' successors show a recurring tendency to group together all of those who were not orthodox Christians as proponents of religious error, which required the same forms of policing and deserved similar sorts of punishments. The imperial state conflated these forms of religious belief and practice as common 'enemies of the Catholic sect' and forms of 'superstition', despite their hugely differing observances, cultural traditions, and communal and institutional structures.[114] All of these groups

[110] *NTh* 3.2. [111] On Martyrius: Honoré (1998), 163–69; Nemo-Pekelman (2008), 425–29.
[112] *Infamia* and heresy: Humfress (2008); Bond (2014); Flierman and Rose (2020), 73–80.
[113] See also *CJ* 1.11.8, 1.11.10, *NJ* 45.
[114] 'Enemies': *CTh* 16.5.42. Association: systematic references in Linder (2006), 150–51. See also Brown (1998), 639; Millar (2006), 126; Shaw (2011), 272–82; Kahlos (2019), 89; and Freidenreich (2014) for conciliar regulations associating these groups.

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were seen to require exclusion from imperial service. With this binary classification of people by their (fixed, stable, and straightforwardly definable) religious identities came a sense that those who did not subscribe to imperial orthodoxy were a problem within the state. A turn towards the policing of affiliations over specific acts or practices took the focus for the problem of heterodoxy away from a specific moment of transgression. By putting in place measures to prevent future appointments of heterodox individuals and to punish those who had allowed current officials to be employed, these laws backdated what was (presumably) a recently discovered offence to the moment a (supposed) pagan, Jew, Samaritan, or heretic entered imperial service. These laws made the entire careers of these appointees – and their mere presence within political institutions – an offence against imperial law and correct religious observance. The religious uniformity of the state, in the sense of a need to appoint co-religionists as office-holders, comes into focus as a problem at the turn of the fifth century.

The pattern set by the Theodosian dynasty would be taken up by their successors and continued to shape legislation on religious uniformity and the state for the next century. The laws of the dynasty began to act as precedents in themselves, especially once collected and published in the *Theodosian Code*. Later emperors could simply re-enact previous measures against now (supposedly) resurgent groups, as when Anastasius re-applied existing provisions against 'Hellenes'.[115] The legal principle could be extended to new heretical groups, as when Marcian (r. 450–57) banned Apollinarians and Eutychians (i.e. opponents of the Council of Chalcedon of 451) from imperial service in the East in 452 and 455, or the Vandal kings Geiseric (r. 428–77) and Huneric (r. 477–84) prohibited Homoousians (i.e. Nicene Christians) from their palace and administration.[116] In the edict of unity that he promulgated on 1 February 484, Huneric offered an explicit commentary on this aspect of the imperial anti-heretical legislation that he now intended to 'turn around' on the African Nicene Christians whom it had previously benefited.[117] The generalising approach of the Theodosian dynasty to religious deviance and the state was later appropriated by Justinian as part of his wider codification of earlier legislation. His regime produced a series of laws in the late 520s and early 530s, which offered systematic provisions on the exclusion of pagans, Jews,

[115] *CJ* 1.11.9; for attribution to Anastasius (and possible context): Corcoran (2009), 193–98.
[116] *CJ* 1.5.8; *HP* 2.10, 2.23, 3.3–14; see also Fulg. *ABC* 249.
[117] *HP* 3.3–14, at 3.7–11 with quotation at 3.7; with Overbeck (1973), 77–79; Fournier (2013). See Chapter 2, 90–95.

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Samaritans, heretics, and Manichaeans.[118] These texts deployed the same framework and justifications for generalising prohibition while preserving earlier exemptions for compulsory service and some other low-level postings. This is not to suggest that such legislation was a necessary or constant recourse for problems of religious difference within political institutions in the wake of the Theodosian dynasty. The presence of fundamental doctrinal differences in both East and West led to a variety of other approaches (explored at greater length in Chapter 2). In some political environments, particular issues of religious diversity do not seem to have been treated as problems requiring legislation and exclusion. Yet on those occasions where a specific group was perceived to require exclusion from the palace and wider administration, fifth- and sixth-century regimes took a remarkably consistent legal approach modelled on the enactments of Theodosius and his successors.

1.4 'The Fear of God, the Law, and Ourselves': Christianity as Requirement from Leo I to Justinian (and Beyond)

Late fifth- and sixth century Constantinople saw a further step change in the legal requirements regarding the religious beliefs and practices of officials. The legislation of the Theodosian dynasty shows an essentially reactive approach to non-conformity within the imperial state. These emperors sought to exclude heretics and non-Christians from office once they had been discovered, as well as ordering further investigations to root out other individuals disqualified by their heterodoxy. While it signalled that the original appointment was invalid, such an approach did not (at least explicitly) take steps to stop heretics, pagans, or Jews from entering imperial service in future. A series of laws preserved in the *Justinianic Code* show regimes from Leo I onwards implementing practical measures at the moment of appointment to certify that appointees to certain posts were orthodox.[119] The regime of Justinian sought to systematise these demands across the central and provincial administration while tying appointees to a decisively Christian understanding of their term of office. Notable ambiguities remain around the implementation and precise significance, both of the more specific provisions for oversight of appointments and of the more generalising providential framework of government.[120] The impact of these laws – and of the institutional practices that they attested – can

[118] *CJ* 1.5.6, 1.5.12, 1.5.18, 1.11.10, *NJ* 37.
[119] On all this: Humfress (2018), 654.
[120] Explored at greater length in Chapter 3.

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nevertheless be seen in the changing character of those individuals accused of crypto-paganism after 468. That even supposed 'Hellenes' were now baptised Christians who regularly attended church, founded martyr's shrines, and consulted with bishops suggests a fundamental shift in expectations of imperial officials in the last decades of the fifth and the first decades of the sixth century. Those who pursued careers in imperial service were now expected to present themselves outwardly to the world as Christians.

A series of laws collated in the section of the *Justinianic Code* on the bishop's court show emperors demanding that appointees be baptised. On 31 March 468, Leo I required that all advocates, whether in the court of the praetorian prefect, the courts of provincial governors, or any other court within the Eastern empire, should be 'initiated into the sacrosanct mysteries of the Catholic religion'.[121] Whether already in post or merely seeking such appointments, unbaptised lawyers would forfeit them and receive 'perpetual exile'. Provincial governors and the praetorian prefect's office staffs were to be held responsible for such breaches: governors would lose half their property and be exiled for five years; the prefect's bureau would be charged a collective fine of 100lb of gold. Although limited to the office of advocate, these provisions must be seen as significant for the staffing of the state as a whole given the importance of legal expertise as a route into the imperial administration.[122] Anastasius made the same requirement for those appointed to the post of *defensor ciuitatis* on 19 April 505. Once chosen by a group of electors including the city's bishop, clergy, *honorati*, *possessores*, and *curiales*, the appointee was to swear an oath before the bishop that he had been 'initiated into the sacrosanct mysteries of orthodox religion'.[123] Justinian extended this requirement to all in imperial service in 527 or 528, now requiring three witnesses to go on record as to the orthodoxy of the appointee, before the head of the department in which they would serve.[124] On 15 April 535, Justinian likewise ordered that gubernatorial appointees swear an (extended) oath at their initiation, including statements of their own orthodoxy and their vigilance on the behalf of correct Christian doctrine in office.[125] If appointed in Constantinople, this oath was to be delivered before the emperor himself, or, if he was unavailable, before a group of the most significant officers of state. If appointed in the provinces, the oath would be sworn before the provincial capital's bishop and leading men

[121] *CJ* 1.4.15. [122] E.g. Nemo-Pekelman (2008), 422. [123] *CJ* 1.4.19. [124] *CJ* 1.4.20. [125] *NJ* 8 and Appendix with Wuk (2022).

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(*primates*).[126] A requirement to establish the orthodox credentials of the emperor's representatives became part of the wider routine of administrative business. In a passage of his *On the Magistracies of the Roman State*, John Lydus describes the process by which executors were chosen to carry out judgements made in the court of the praetorian prefect. John preserves a formula of appointment introduced under John the Cappadocian in the 530s to guard against corruption. Alongside prohibitions on public debts, direct descent from the individual who had brought the suit, and recent business in the province, the appointee was to swear an oath that they were 'initiated into the divine mysteries of the orthodox faith' (tēs orthodoxou pisteōs memuēmenos mystēriois): the same phraseology as the edicts of Leo and Anastasius.[127] Employing orthodox Christians was now envisaged, not as an ideal to be achieved through the removal of nonconformists, but a basic starting point for an imperial career in Constantinople and the Eastern provinces.

All these laws departed from previously attested practice in seeking to ensure pre-emptively that the emperor's appointees were orthodox Christians. Although the precise mechanisms that they envisaged differed, in each case responsibility was placed on those with direct or – in the case of the bishop and other notables in provincial cities – indirect administrative oversight over the appointee. It is, of course, possible that they simply codified in law practices that had already been adopted by some department heads keen to avoid punishments in the future.[128] When Justin (r. 518–27) and Justinian (as co-rulers) sought to ensure the orthodoxy of their administrators in 527, they noted that this had previously been a requirement in certificates of appointment but one they claimed had been overlooked in recent times.[129] As was the case for more targeted anti-heretical legislation, it is possible, at least in the case of the laws of Leo and Anastasius, that these systemic solutions were responses to specific incidents and requests. The harsh penalties envisaged in Leo's prohibition of non-Christian advocates in March 468 may have stemmed from the high-profile case a year earlier in which the *quaestor* Isocasius was charged with paganism (at the emperor's behest). That context might

[126] *NJ* 8.7.
[127] John Lydus, *De mag.* 3.12.4; cf. Kaldellis (2003), 301–2 (extrapolating this reference to public office in general).
[128] See e.g. *NVal* 18.4, where the head of the bureau in which a Manichaean was found would be fined 10lb of gold (without specifying that prior knowledge or agency was required to establish guilt).
[129] *CJ* 1.5.12.11.

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make sense of the law's specific reference to weeding out unbaptised individuals in the courts of provincial governors and that of the praetorian prefect. Isocasius had originally been arraigned before the governor of Bithynia, before the case was transferred to the court of his erstwhile colleague, the praetorian prefect Pusaeus, who acquitted him.[130] Likewise, Avshalom Laniado has persuasively set Anastasius' edict in the context of petitions to court in the first decade of the sixth century regarding the precise electoral procedure for the appointment of a *defensor ciuitatis*. It is easy to imagine that a disputed election could have resulted in this particular clarification.[131] Even for these emperors, this basic requirement may have seemed more important at the moment of promulgation than at other times.

The impact of this step change in Christian expectations can nevertheless be seen in the discourse around official appointments in early sixth-century Constantinople. It is particularly obvious in the outward behaviour of those accused or convicted of 'paganism' after Isocasius. Swerving modern debates over the actual religious beliefs and identities of individuals like the praetorian prefects Phocas and John the Cappadocian, their attested practices suggest a higher bar for conformity in the age of Justinian.[132] Before he died by suicide in the context of a purge of pagans in the Constantinopolitan elite in 545/6, Phocas is recorded as funding the construction of a church at Pessinus in Galatia.[133] Procopius, meanwhile, reports that John regularly attended nightly vigils at Christian shrines. The historian's accusation of adherence to 'Hellenic' religion was rooted in the prefect's supposed behaviour during these rituals, which included wearing the garb of a pagan priest and chanting curses aimed at maintaining his control over the emperor.[134] A later purge of elite pagans in the East under Tiberius II (r. 574–82) in 579/80 pulled in both the bishop of Antioch and a provincial governor at Edessa who (apparently) sought to establish an alibi for attendance at a pagan feast by visiting the city's bishop late at night to discuss the exegesis of a particular passage of Scripture.[135] As in these cases, the legislation of Justinian and his successor Justin II (r. 565–78) show how anxieties continued over the actual sincerity of

[130] Though this could also just be the copy sent to the praetorian prefect, who had authority over both groups.
[131] Laniado (2006).
[132] See esp. Maas (1992), 67–82, and compare the debate between Alan Cameron (2016a) and Kaldellis (2017), 265–66, who essentially agreed on outward expectations in the age of Justinian even as they disagreed on the implications for how we categorise and analyse religious identity.
[133] John Lydus, *De Mag.* 3.74; with Feissel (2009), 355.
[134] Proc. *BP* 1.25.10; see Chapter 6, 220, 227. [135] John Eph. *HE* 3.3.27–31.

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those who fulfilled these requirements for orthodox Christianity.[136] That church donors, biblical exegetes, and regular attendees at Christian shrines might be accused of paganism says much for the level of outward conformity that was expected of those who pursued careers in imperial service.

Justinian's measures to ensure orthodox Christian office-holders were also accompanied by a much more expansive legislative framing of the import of religious identity for imperial service. These laws suggested orthodox Christians were required, not only to ensure correct religion within the empire, but also correct administrative practice in general. This articulation of the centrality of a Christian cast of mind for ethical governance came as part of a series of laws that Justinian promulgated in 535–36.[137] This reform legislation regulated aspects of bureaucratic procedure, defined the responsibilities of individual provincial governors, and made explicit what their subjects and, in particular, the bishop of the provincial capital and leading men of the province could expect from them. Justinian repeatedly stressed the three superior authorities that the governor had to keep in mind: God, the emperor, and the law. This trinity of higher powers is invoked to exhort governors to ensure justice and avoid corruption as, for example, in *Novel* 17 of 16 April 535, which presents a version of the imperial *mandata*, which they should receive on appointment.

> Taking up office, as you are, cleanly and without any payment, you must before all else keep your hands clean before God, ourselves, and the law. You are to be content solely with what you are paid by the public treasury, and must not lay hands on any gain, great or small, nor engage in any fraudulent dealing at the expense of our subjects; both in your own person, and in those of your staff, you are to keep justice uncontaminated for them in all respects.[138]

Governors were to be mindful of God, emperor, and law when judging. 'Office-holders who are refraining from all bribe-taking will not put anything else before the fear of God, the law and ourselves.'[139] Such exhortations were paired with provisions that gave bishops an imperially sanctioned role in oversight of the governor's behaviour.[140] Justinian's laws on provincial governors have often been seen as part of a power struggle between centralising Christian emperor and traditionally minded Eastern

[136] See esp. *CJ* 1.11.10.6; *NJ* 144.
[137] *NJ* 8 and Appendix, 17, 23–31; on the oath, see now Wuk (2022); (forthcoming).
[138] *NJ* 17.1, trans. Miller and Sarris, 197. [139] *NJ* 8.12, trans. Miller and Sarris, 140; see also 23.3.
[140] Episcopal oversight: *CJ* 1.4.21; *NJ* 8.8–9, with Rapp (2005), 277; Chapter 8, 287–92.

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senatorial aristocracy, as evidenced by treatises on political thought that avoided straightforward reference to Christianity and appear somewhat reserved in their references to the overarching authority of the Christian God.[141] This expansive framing of a Christian official morality, although (as far as can be ascertained) novel in imperial legislation, was a more banal facet of late ancient political culture than such accounts perhaps suggest. As I will discuss in Part II, various late fourth-, fifth-, and sixth-century Christian clerics and ascetics argued that office-holders could act like pious Christians by avoiding corruption and judging with an eye to their own, divine judge, and current officials applied such ideas to their own political agency.[142] The 'totalising' presence of Christian formation can also be overstated within reform legislation, which drew heavily on the archaic history of these provinces and in some cases simply presented a traditional picture of ethical governance.[143] If the reign of Justinian was a 'new era' in terms of the religious demands made upon office-holders, it was more likely a result of the more systematic requirements for baptism discussed above, paired with periodically brutal purges of suspected pagans and Manichaeans.[144] Justinian's laws of the mid-530s nevertheless marked a departure insofar as they defined the role of a Christian official in positive terms and not simply through the exclusion of heretics and non-Christians from the state. They moreover separated the necessity of a state staffed by orthodox Christians from the context of religious uniformity as a fundamental requirement for good governance in general.

Conclusion

Accounts of the Christianisation of the late Roman service aristocracy have generally focused on the period from Constantine to Theodosius I. Yet efforts by fourth-century emperors to push for the appointment of co-religionists appear only intermittently and exceptionally in surviving texts. The notion of a state staffed by adherents to true religion (whether Christian or pagan) was only rarely expressed. This absence contrasts starkly, both with Diocletian's attempts during the Great Persecution to

[141] See esp. Maas (1992); Kaldellis (2004); Bjornlie (2013) 48–123; contrast Averil Cameron (1985), 242–60.
[142] See Chapter 5.
[143] Archaic history: Maas (1986); Greatrex (2018), 980; Kruse (2019), esp. 80–101; Hassall (forthcoming).
[144] New era: Maas (1992), 1–4, 70–82 for pagans in service; Meier (2003) for his reign in general, see 198–209 for paganism. Purges: see now Sarris (2022).

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exclude those whose choice of cultic acts threatened the *pax deorum*, and with the proliferation of increasingly generalising laws excluding pagans, heretics, and Jews from imperial service in the fifth and sixth centuries. It jars with expectations of how self-consciously pious emperors would seek to stage their rule: perhaps part of the reason why later authors sought to retroject such intentions to emperors whose actual policies were much more complex.[145] Concerns regarding personnel seem to have been tied to contingent moments when religious uniformity aligned with or superseded other concerns. The presence of Christians within the state had seemed acceptable earlier in Diocletian's reign, as it seems to have been for emperors since the Decian persecution.[146] The fundamental irony of (episodic) efforts to ensure such Christian uniformity in the fifth and sixth centuries is that they tend to provide our best evidence for religious diversity within the state and for its tacit acceptance by these regimes.[147] The absence of statements articulating an aspiration that the emperor be served only by his co-religionists underlines the extent to which, in the middle decades of fourth century, imperial measures to exclude prohibited groups and acts remained an occasional (and not particularly enthusiastic) recourse in response to specific requests. It is likely that the practical implications of elite religious pluralism dissuaded rulers from making such blanket pronouncements except when materially necessary.

Beginning with the sons of Theodosius, fifth- and sixth-century rulers did set out adherence to Christianity and orthodoxy within imperial service as an aspiration and, indeed, a necessity for good order within the empire. An orthodox Christian state doubtless seemed like a political possibility under the Theodosians in a way it had not under the Constantinian or Valentinianic dynasties. But this was not simply a self-evident aspiration deferred until its execution became feasible. The onset of attempts to ensure that political institutions were staffed exclusively by orthodox Christians form part of wider cultural shifts evident in the last decades of the fourth and first decades of the fifth century: the development of a concept of 'religion' as a 'discrete category of human experience',[148] the imperial state's increasing recourse to legal pronouncements to define and regulate correct religion, and (linked to both) the emergence of a basic assumption that the enjoyment of full Roman citizenship required adherence to correct Christianity. To put it a different way: only

[145] See above, nn. 14 and 31; see also implausible accounts of Constantius in Soz. *HE* 1.6, Constantius II in Theodoret, *HE* 3.3, Jovian in Theodoret, *HE* 4.1.
[146] Above, 15, n. 73. [147] See Chapter 3. [148] Schwartz (2001), 179 cited by Boyarin (2004), 23.

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once regimes had joined contemporary heresiologists in dividing its subjects into religious communities – the orthodox or Catholic church as against its 'enemies' (most notably, heretics, Manichaeans, pagans, Jews, and Samaritans) – would it make sense to seek a Christian state by appointing 'orthodox Christians' and excluding members of the latter communities (as opposed to, say, banning those who were part of the imperial state from sacrificing to the gods or participating in Jewish festivals). This sense of religious affiliation as a systemic problem within imperial service also shows the influence of the increasing interest in legal collation and codification in the first decades of the fifth century, which encouraged drafters to imagine comprehensive solutions to generalised problems. The introduction of positive and pre-emptive requirements in the late fifth- and early sixth-century East plausibly stemmed from a similar combination of institutional and wider cultural change. Demands to prove orthodoxy at the moment of appointment seem like a natural development from punishments for department heads and colleagues for their complicity in the appointment of heterodox officials. These entry requirements also make sense amidst a societal shift towards adherence to Christianity as a default assumption, which shifted much of the focus of critiques of religious pluralism from the errors of outsiders to the defects of fellow Christians. While the pursuit of Christian uniformity within the state may have been latent in the decades after the conversion of Constantine, the form that such a pursuit took across the fifth and sixth centuries was a product of specific (and historically contingent) cultural shifts. It is through these changes that the appointment of orthodox Christians became part of the institutional culture of the state in late antiquity.

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