CHAPTER 3

The Contours of Uniformity
Excluded Groups in Late Ancient Administration

Introduction

In January 409, the regime of Honorius was in crisis. Five months after the fall of the generalissimo Stilicho, the emperor and his closest advisers were in the midst of bungling their response to Alaric's invasion of Italy and his on-again off-again siege of Rome.[1] According to our most detailed account of the run-up to the Sack, Zosimus' *New History*, Honorius did manage at least one sensible policy decision during this time. The newly appointed *magister militum* Generidus had refused to go to Ravenna to receive his office, on account of 'a law which prevented him from holding office and anyone at all not respecting (*mē timōntas*) the Christian religion from being enrolled among the officers'.[2] Generidus was apparently a zealous adherent to traditional Roman religion of the sort that the historian praised: a rare example of upstanding political morality within a Christian empire that had fatally abandoned such piety. As various commentators suggest, the law to which he referred is almost certainly that promulgated by Honorius' regime on 14 November 408, preserved in terse form in the *Theodosian Code* (though the compilers in the 430s thought it concerned heretics).[3] The preserved version of this law reads (in full): 'We prohibit those who are enemies of the Catholic sect from serving within the palace, so that no-one who disagrees with our faith and religion shall be joined to us for any reason.'[4] In Zosimus' account, Honorius attempted to make an exception: 'although the law applied to everyone else, it did not apply to one who had borne the brunt of so many dangers for the state'.[5] But the general was

[1] On the context, see best: Heather (2005), 220–32; McEvoy (2013), 187–95; Salzman (2021), 97–108.
[2] Zosimus 5.46, trans. Ridley (1982), 123–24.
[3] Von Haehling (1978), 474–75, 541; Noethlichs (1986), 1173; Salzman (2002), 180, 196; McEvoy (2013), 190–92, 207; cf. Alan Cameron (2011), 198.
[4] *CTh* 16.5.42. [5] Zosimus 5.46.4, trans. Ridley (1982), 124.

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adamant the concession be made to all. The emperor was forced to repeal the law and thus potentially allow heretics and non-Christians to serve in the army and civil administration.

The Generidus episode is a neat example of a phenomenon repeatedly highlighted in work on the Christianisation of the empire's service aristocracy: the hard limits on the desires of late Roman regimes to ensure religious uniformity. The law of November 408 came at a point when Christian emperors had begun to put their money where their mouth was, not only by predominantly appointing Christians to high office but also by forbidding the appointment of non-Christians and heretics. As Chapter 2 showed, the turn to exclusion from the reign of Theodosius I did not mean the end of religious diversity within the imperial state. This continued pluralism was not simply the result of new or reopened issues of correct religion. Central considerations are encapsulated in Honorius' abrupt climbdown (at least as portrayed by Zosimus): from a prohibition of non-Christians and heretics 'for any reason', to an exemption for a valued subordinate, to a withdrawal of what had been presented (only two months before) as an unwavering political principle. The emperor's U-turn suggests a need to explore in closer detail how the evolving conceptions of an orthodox Christian state traced in Chapter 1 influenced the personnel policies of late and post-Roman bureaucracies.

This chapter seeks to fit demands for religious uniformity amongst office-holders into the wider cultural frameworks of fifth- and sixth-century political institutions. It takes as its starting point reports about (supposed) 'enemies of the Catholic sect' in imperial service. These reports have been a first resort for historians seeking to evaluate the positions of pagans, Jews, Samaritans, and heretics within political contexts in which (at least in theory) the full rights and privileges of citizenship were increasingly limited to orthodox Christians. Numerous studies have catalogued references to pagans, Jews, Samaritans, and members of heretical groups in imperial and royal administration in the fifth and sixth centuries. As I discuss in Section 3.1, recent work has cast doubt on many of these ascriptions of religious affiliation, and especially identifications of fifth- and sixth-century 'pagans'. Both sympathetic and hostile observers had obvious reasons to associate named office-holders with these groups and to make religious affiliation central to their actions in service. Where stories like Generidus' principled stand provide the sort of data useful for modern prosopographical analysis, it is often precisely to make a wider apologetic or polemical point, whether it was (as Zosimus sought) to present a champion of true (but persecuted) religion whose virtuous agency reflected

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that piety, or, as with individuals discussed by rather less sympathetic historians, to sketch an iniquitous follower of error whose illicit beliefs and practices encapsulated wider misconduct.

Reports about individuals like Generidus cannot help us to quantify the continued presence of these groups within fifth- and sixth-century political institutions. Such anecdotes are not straightforward guides to the actual experiences of pagans, Jews, or members of disfavoured Christian groups. They remain useful (as Section 3.2 argues), insofar as they delineate how regimes and their subordinates navigated the competing interests at play. Drawing on episodes like Generidus' principled stand, studies of pagans, Jews, and various sorts of heretics in the army and civil administration have set out convincing reasons as to why emperors, kings, and their subordinates in late antiquity chose not to care about the religious identities of those in imperial service. Although Zosimus' account has sometimes been doubted, and for legitimate reasons, the rationale his Honorius offers is representative of the wider considerations traced in many different parallel cases. Where non-Christians and heretics continued to serve, it was because late and post-Roman regimes and their subordinates had decided that their loyalty, expertise, and experience outweighed potentially suspect religious affiliations. At the same time, those unfortunates who were removed from office as pagans or heretics were purged from imperial or royal administration, in part, because of court factionalism or perceived disloyalty. These alternative considerations were not simply the preserve of special offers to extraordinary administrators; nor did they apply only to those suspected of divergent religious belief or practice. They were fundamental to contemporary evaluations of the careers and qualifications of appointees (including 'orthodox' Christians), which is part of the reason so many modern accounts of late ancient bureaucracy have been able to maintain a studiously 'secular' or 'classicising' frame of reference. Ensuring religious uniformity was just one of many (sometimes contradictory) priorities of late ancient regimes in their efforts to shape the character and conduct of their subordinates.

The continued presence of (supposed) heretics and non-Christians within the imperial state can be explained, in part, by the capacity of their superiors and colleagues to put to one side contemporary demands for religious uniformity within the offices of the state (as repeatedly articulated in the imperial and royal legislation discussed in Chapter 1). Section 3.3 argues that it also stemmed from the specific concerns and contexts envisaged by those laws. Of course, these constitutions often stressed (as Honorius' drafter did) that the employment within the state of heretics,

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pagans, Jews, or Samaritans was a fundamental problem and that such people were 'polluted', 'infectious', and inherently unworthy of office and its attendant privileges. Yet the issues identified in these laws provide plausible indications of more specific frames of reference. Fifth- and sixth-century regimes suggested that heretics and non-Christians were liable to abuse the power granted to them to protect their co-religionists and hurt Christians; as breakers of laws, they could not be expected to uphold them. Such concerns most likely pertained to the practical management of the same problems of correct religion and church business that provoked the issuing of many of these laws in the first place. The vision of heterodox officials in these texts clearly derived from contemporary discourses of persecution. It is (of course) belied by the willingness of fifth- and sixth-century churchmen to seek and praise the interventions of heterodox officials in ecclesiastical politics. The malign impact of unethical administrators on the implementation of religious policies envisaged by these laws was not simply the preserve of non-Christians and heretics. 'Orthodox' Christian officials were implicated just as frequently for their connivance at the continued service of heterodox individuals and insufficient vigilance in the enforcement of these same laws. Such broadsides against the improper patronage of colleagues, subordinates, and subjects reinforce the impression that, as with the wider centralising agendas of late Roman emperors, attempts to secure Christian uniformity within the state pushed against basic features of the functioning of late ancient bureaucracies. They also imply a fundamental concern, not so much for religious affiliation, as for correct administrative practice in matters of religion and the inculcation of what might be called (with Michel-Yves Perrin) a 'heresiological mindset'.[6] These recurring concerns for actions alongside and instead of identities suggest an alternative way to frame the basic problem exposed by Honorius' abrupt U-turn in January 409. It may be that those envisaged as the principal targets of these efforts to exclude were not pagans, Jews, Samaritans, or specified groups of heretics in general but rather members of those groups perceived to govern on the basis of those religious affiliations in a manner detrimental to a Christian political dispensation. At the very least, the precise issues highlighted suggest the possibilities for those whose beliefs and practices did not align with current orthodoxy legitimately to serve a Christian empire. In this sense, the precise wording of Honorius' edict against 'enemies of the Catholic sect' may be revealing. Rather than seeing the appointments of non-Christians

[6] Perrin (2010).

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and heretics as the product of a 'theoretical' ideal of religious uniformity being ignored in practice, we might want to see it as a result of the specific contours of that desire for uniformity: as a feature, rather than a bug.

3.1 Purge and Pluralism: Excluded Groups in Service

Fifth- and sixth-century regimes repeatedly asserted that they should not be served by heretics and non-Christians and required concrete steps to ensure the Christianity and orthodoxy of their representatives. These processes of exclusion had obvious limits that preserved spaces for those not in line with imperial orthodoxy. Numerous studies have sought to reconstruct the continued religious pluralism of political institutions in contexts across the Mediterranean world. Possible non-Christians and heretics within imperial service in the fifth and sixth centuries are attested in various ways. There are texts written by current or ex-officials that suggest reverence for the gods – as with Rutilius Namatianus' *On his Return*, Olympiodorus' *History*, Macrobius' *Saturnalia*, and Zosimus' *New History* – or a less than straightforward attitude towards prevailing Christian *mores* – as with the works of John Lydus.[7] Letters from bishops and monks identify their recipients as (at the very least perceived as) 'pagan', Jewish, or 'heretical'.[8] The best evidence comes (ironically) on those occasions when specific regimes sought uniformity. Late ancient histories recount stories of individuals removed from office and punished because of formal accusations. Various modern treatments have used the purges of those suspected of paganism or Hellenism to show the continued

[7] For the almost certainly pagan Rutilius (urban prefect of Rome in 414): see *PLRE* II: 770–71 (Rutilius Claudius Namatianus); with Jones (2014), 114, 116–17; Fielding (2017), 56–57; compare Alan Cameron (2011), 207–18. For the certainly pagan Olympiodorus: *PLRE* II: 798–99 (Olympiodorus 1), with Matthews (1970), 79; Van Nuffelen (2013), 132, 152. For the probably Christian Macrobius (praetorian prefect of Italy 430), see *PLRE* II: 1102–3 (Macrobius Ambrosius Theodosius 20), with Alan Cameron (2011), 231–72; Kaster (2014), xii–xiv, though compare Jones (2014), 114, 117–18. For the certainly pagan Zosimus (*comes et ex aduocato fisci*): *PLRE* II: 1206 (Zosimus 6); Paschoud (2000), vii–xx, lxxi–lxxiv; Meier (2003), 55–62; Schmidt-Hofner (2021). For the probably Christian John Lydus, see *PLRE* II: 612–15 (Ioannes Lydus 75), with Averil Cameron (1985), 244–50; Maas (1992) though noting basic ambiguities e.g. at 3–4; Alan Cameron (2016a), 258–62; though compare Kaldellis (2003).

[8] Isid. Pel. *Ep*. 3.389 = 1189 (to the *magistrianus* Diogenes), 4.30 = 1592, 5.5 = 1220, 5.528 = 1941 (to the *comes* Domitius), Theodoret, *Ep*. 65 and 71 (to *magister militum* Flavius Zeno), 140 (to *magister militum* Aspar) and possibly xvii (to *comes* Dionysius), 37 (to Salustius, governor of Euphratensis) and 76 (to Uranius, governor of Cyprus); Gelasius, fr. 45 (the Jewish *uir clarissimus* Telesinus). Jones (2014), 82–86; Evieux (1995), 115, 125; Lee (2007), 190; (2013b), 94; Schor (2011), 146 with n. 99, 178; Linder (1997), 416–17; Nemo-Pekelman (2008), 414; Cohen (2016), 509.

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presence of (perceived) adherents to traditional religion within the state.[9] Such accusations resulted in the removal from office of the praetorian prefect and urban prefect of Constantinople Cyrus by Theodosius II in 441 and the *quaestor* Isocasius by Leo I in 467.[10] Justinian's wider efforts to remove pagans from the schools at Athens and from the Constantinopolitan elite in 529 led to the interrogation (but not conviction) of the *silentiarius* and *patricius* Phocas and the removal and possible execution of the *quaestor* Thomas in 529; Phocas would die by suicide in 546 during a further purge of elite pagans at Constantinople.[11] Another investigation, which began at Heliopolis (Baalbek) in 579–80 under Tiberius II, led to the uncovering of various (supposed) crypto-pagans including the governor of Osrhoene, Anatolius, who was tortured and executed.[12] Charges of heresy were the cause for the removal of office and punishment of a number of Homoousians (i.e. Nicene Christians) in North Africa under the Vandal kings Geiseric and Huneric, as well as Miaphysite generals under Justinian in 539 and courtiers under Justin II in 571.[13] The presence of Jews and Samaritans is likewise revealed by moments of conversion in the early fifth and mid-sixth century, respectively, whose forced nature is barely concealed by the Christian texts that report them, alongside sceptical discussions of those who had converted.[14] As with laws on religious uniformity, these episodes suggest the ongoing

[9] Von Haehling (1982); Harl (1990); Whitby (1991); Noethlichs (1998). For the problems with a straightforward interpretation of many of these individuals as pagans, see 108–109.

[10] *PLRE* II: 336–39 (Fl. Taurus Seleucus Cyrus 7), 633–34 (Isocasius); Priscus, fr. 8, *Chron. Pasch.* a. 450, a. 467, ed. Dindorf, 588–89, 595–96; Malalas 14.16, 14.38; *V. Dan. Styl.* 31; Alan Cameron (1982); Noethlichs (1998), 17–18.

[11] *PLRE* II: 881–82 (Phocas 5); *PLRE* III: 1314–15 (Thomas 3); Malalas 18.42, Theophanes AM 6022, John Eph. *HE* = Ps. Dion. *Chron.* 2, a. 545/6, ed. Chabot 76–77 (see also a. 540, ed. Chabot, 75–76 for persecution of Manichaeans), Mich. Syr. 9.24; Noethlichs (1986), 1169–71; Whitby (1991), 112–13, 123; Maas (1992), 67–82; Meier (2003), 202–9, 298–302; compare Alan Cameron (2016a), 262–65.

[12] Evagrius, *HE* 5.18, John Eph. *HE* 3.3.27–34, 5.15; *PLRE* III: 72–73 (Anatolius 8); Noethlichs (1986), 1171; Whitby (1991), 123–24; Rochow (1991), 142–44; Roggo (2022), 158–68, with useful summary of previous literature at n. 722.

[13] *HP* 1.19–21, 1.43–50, 2.8–11, 3.27, 3.33, 3.38, with Courtois (1954); Shanzer (2004); Howe (2007), 120–356; Fournier (2008), 164–239; (2019a), 160–61; (2019b), 148; Merrills and Miles (2010), 184–92; Merrills (2011); Conant (2012), 166–70, 180–86; Whelan (2018), 199–206. *PLRE* III: 437–38 (Elias 3); Lib. *Brev.* 23.26–30; Gleede (2010), 112–16; John. Eph. *HE* 3.2.9–12, 18; Roggo (2022), 111–18.

[14] Jewish officials and forced conversion on Minorca: *Ep. Sev.* with Millar (1992), 119–20; Bradbury (1996), 32–36; Mathisen (2014), 45 with n. 56; Nemo-Pekelman (2010), 172–73; Kraemer (2020), 43–74, esp. 43–74 at 71; Samaritans and Palestine: *PLRE* II: 152–54 (Fl. Arsenius 3); *PLRE* III: 478–79 (Faustinus 1); Meier (2003), 209–15; Noethlichs (2007) 59–65. See too Nemo-Pekelman (2008), 414 on mid- and late fifth-century Jewish *clarissimi*.

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presence within the imperial state of all of the groups that regimes explicitly set out to exclude.

It is not simply in moments of enforcement and investigation that (apparent) members of (supposedly) prohibited groups can be seen operating within late ancient political institutions. Formal accusations are reported alongside attributions of religious affiliation made by the historians themselves and used to burnish the reputation of co-religionists or blacken that of those they considered to be in error. Committed pagan, Eunomian, Nicene, and Miaphysite historians identify their co-religionists and especially those who heroically opposed religious policies disadvantageous to their communities. The pagan historians and biographers Eunapius, Olympiodorus, Damascius, and Zosimus single out individuals they saw as working actively to revive traditional Greek and Roman religion, or simply upholding it within an otherwise Christian imperial establishment. These figures included the urban prefects of Rome, Pompeianus and Priscus Attalus (and the latter's appointees during his brief usurpation in 409–10), the generals Fravitta and Generidus under Theodosius, Arcadius and Honorius,[15] the governor Severianus under Marcian or Leo I,[16] as well as the general and (semi-autonomous) governor of Dalmatia Marcellinus and the prefect of the city of Rome Severus in the reign of the western emperor Anthemius (r. 467–72), himself characterised as a secret Hellene.[17] Damascius is more scathing regarding another individual secretly committed to restoring true religion: the *quaestor* (for Zeno) and praetorian prefect (for the usurper Leontius) Pamprepius.[18] Victor of Vita and John of Ephesus similarly single out fellow Homoousians who served Geiseric and Huneric and Miaphysites who served Justin II (respectively) with distinction before suffering persecution.[19] Historians in line with imperial orthodoxy were likewise eager to note the heterodox views especially of those who had acted against their own interests or fallen from favour. Supporters of John Chrysostom (bishop of Constantinople, 398–404) accused of paganism two imperial appointees who had maltreated the bishop's followers during his downfall

[15] *PLRE* I: 372–73 (Fl. Fravitta); *PLRE* II: 500–501 (Generidus); Eunapius fr. 69.4; Zos. 5.21.5–6, 5.46.2–4; see 101 with n. 3.
[16] *PLRE* II: 998–99 (Severianus 2); Damascius fr. 115, 108 Athanassiadi.
[17] *PLRE* II: 708–10 (Marcellinus 6); 1005–6 (Severus 9), 96–98 (Anthemius 3); Damascius fr. 51, 69, 77A Athanassiadi.
[18] *PLRE* II: 825–28 (Pamprepius); Damascius fr. 77B, D, 113D, O Athanassiadi; see also Zach. Rhet. *V. Sev.* 54 (Brock and Fitzgerald).
[19] See n. 13.

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and exiles: the commander Lucius and the urban prefect Optatus.[20] The Arian heresy of the powerful *magister militum* Aspar is stressed in numerous accounts of his downfall in the reign of Leo.[21] The historian known as the Anonymus Valesianus similarly noted that it was a Jewish *scholasticus* Symmachus who communicated Theoderic's supposed order for the confiscation of Nicene churches, which was fortuitously (and suspiciously) averted by the Ostrogothic king's death.[22] Such attributions slide into the even murkier territory of secret beliefs and plans. Militant pagan historians and biographers seem to have been keen to identify clandestine efforts to overturn the Christian imperial establishment, as when Damascius itemised the secret plots of which he was personally aware.[23] More often, though, hidden heterodoxy was ascribed to hated individuals as part of character assassinations.[24] Procopius, for example, claimed that the praetorian prefect John the Cappadocian dressed and acted more like a pagan in church and that his successor Peter Barsymes was a sorcerer and a supporter of the Manichaeans. John of Ephesus likewise suggested that the *quaestor* Anastasius, though outwardly a Christian, was really both a pagan and a Samaritan, as was proven when he suffered some form of fit in church.[25]

This apparent presence of heretics and non-Christians within the imperial bureaucracy in the fifth and sixth centuries has received considerable attention. Once prosopographical studies pass the reign of Theodosius I, it is precisely the presence of (supposedly) banned religious groups that dominates their analysis insofar as they are taken to require explanation, as against a now default Christianity.[26] It has to be stressed that none of these reports can be taken as direct reflections of the 'real' religious views of these individuals. Alan Cameron has helpfully catalogued the problems while re-evaluating studies of fifth- and sixth-century pagans.[27] Charges of 'Hellenism' were weaponised as part of factionalism within the Eastern

[20] *PLRE* I: 649–50 (Optatus 1); *PLRE* II: 691 (Lucius 1); Ps.-Martyrius, *Funerary Speech*, 122–32; Pall. *Dial*. 9.162–207; Soc. *HE* 6.18.19; Soz. *HE* 8.23–24; cf. John Chrys. *Ep. I to Innocent*, 146–82, ed. Malingrey, 82–86; Dagron (1974), 263–64, 291–94; Liebeschuetz (1984), 99–101; (1985), 23–26; Tiersch (2002), 387–91. See also similar accusations against the *dux Osrhoenae* Florus aired at Ephesus II (449): *PLRE* II: 481 (Florus 1): *Syriac Acts of Ephesus*, ed. Flemming, 82; Rochow (1991), 136.

[21] *PLRE* II: 164–69 (Fl. Ardabur Aspar); McEvoy (2016); see 118 with n. 74.

[22] *PLRE* II: 1043 (Symmachus 5); Barnish (1983), 584–86; *AV* 16.94, see also 14.81–2 for 'Arian' chamberlain Triwila favouring Jewish community of Verona as a heretic.

[23] Damascius fr. 77, 115 Athanassiadi; Von Haehling (1982).

[24] Rochow (1991).

[25] Proc. *BP* 1.25.10; Proc. *SH* 22.25; John. Eph. *HE* 3.2.28; *PLRE* III: 627–35 (Fl. Ioannes 11); 999–1002 (Petrus qui et Barsymes 9), 64–66 (Anastasius 14).

[26] See the Introduction, 20 with n. 98.

[27] Alan Cameron (2011), 187–95, esp. 192; (2016a).

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imperial court.[28] The less formal accusations made by late ancient historians attacked the character of officials otherwise depicted as immoral and incompetent. Their basic incoherence sometimes appears more closely wedded to heresiological logic than the actual makeup of an individual's beliefs and practices, as with John of Ephesus' double attribution of Anastasius as both a Samaritan and a pagan.[29] They seem particularly suspect when used against individuals who had, for example, donated to a church, as was the case for the *quaestor* Thomas. It is likewise strange that an individual genuinely thought to be a 'Hellene' would be forcibly consecrated as bishop (as was the case for the Cyrus), not to mention his later emergence (in both imperial and episcopal retirement) as a generous patron for Daniel the Stylite.[30] 'Hidden' or 'secret' views or plans are in any case impossible to substantiate or falsify whether suggested by supporters or enemies. Cameron has rightly noted the degree of wishful thinking in (for example) the attributions of militant paganism by Damascius to individuals like Anthemius or Severus.[31] Analogous problems can be identified for attributions of shared doctrinal or ecclesiastical affiliation. Representatives of disfavoured church factions were equally keen to claim that a significant group (or even the majority) within the court or Senate supported them.[32] This desire to claim prominent office-holders affects our interpretation even of the (potentially) more reliable knowledge of co-religionists. For all these reasons, reports regarding heretics and non-Christians in office are far from straightforward indicators of the actual religious makeup of political institutions.

Such problems undermine any attempt to quantify the extent of non-conformity amongst those who served fifth- and sixth-century regimes from partisan late ancient historiography. The reports they preserve are nevertheless revealing. They have rightly led various scholars to argue that the relationship between the laws discussed in Chapter 1 and the actual personnel policies of fifth- and sixth-century political institutions was more complex than has sometimes been appreciated.[33] It is noteworthy that Cameron's minimalist accounts of the numbers of self-expressed

[28] See esp. Rochow (1991); Whitby (1991); Maas (1992), 67–82; Noethlichs (1998), 17; Meier (2003), 202–9.
[29] See n. 25; Rochow (1991), 139–40; Alan Cameron (2016a), 265. [30] See nn. 10 and 11.
[31] See also Meier (2003), 62–63.
[32] For Constantinople: see the references in Chapter 6, n. 137; see too *HP* 2.8 on the 'massive crowd' of Catholics in the Vandal royal household; cf. also Ambrose, *Ep.* 72.9–10 claiming a Christian majority in the Roman Senate in 384.
[33] Esp. Whitby (1991), 115–17; Nemo-Pekelman (2008).

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worshippers of the gods within fifth- and sixth-century elites relied on these laws – or, more accurately, the attitudes that they express – to argue that it was not possible or plausible for a specific imperial official to be a pagan under a decisively Christian emperor.[34] In his concern to demolish interpretations of 'crypto-pagans' and 'pagan reactions', Cameron was perhaps too keen to dismiss the potential that individuals who were not militantly pagan or actively working against the Christian imperial establishment could still sincerely venerate the gods.[35] Of course, Cameron was not alone in approaching these laws, and the requirements of religious uniformity that they reflect, in this binary fashion. Numerous other works portray the early fifth-century rescripts compiled in the *Theodosian Code* as the final word at the end of a process of conversion and thus (implicitly or explicitly) representative of a blanket requirement in place from then on. These (apparently) 'pagan' officials would then have been appointed in contravention of those laws (which were clearly not properly enforced).[36] However they construe the implications for the religious affiliations of known appointees, these binary perspectives misunderstand the character, both of these laws and of imperial and royal attitudes towards uniformity within state. As discussed above, extant imperial constitutions later preserved as general laws were normally responses to particular problems and contexts: they did not necessarily have a consistent longer-term impact.[37] They were promulgated when things were perceived to have gone wrong and a signal needed to be sent. Above all, they (by definition) represent the perceptions of regimes of what mattered in moments where religious uniformity seemed necessary. They cannot simply be treated as the 'theory' that might be discounted in practice (though as Chapter 1 showed, they do capture various key patterns of thinking about this problem); they are themselves evidence of legal and political 'practice' in specific moments of enforcement. Stories about nonconformists suggest that these were alternative logics at work within political institutions which led regimes and their legal advisers to issue reminders that those depicted as the 'enemies of the Catholic sect' should not be allowed to operate within the state.

[34] Alan Cameron (2011), 189, 195, 198; (2016a), 270, 274.

[35] Esp. Alan Cameron (2011), 195; (2016a), 272–73; see Jones (2014), 113–14 for this critique. For an analogous perspective on the sincerity of fourth–century senatorial religion: Gassman (2020).

[36] See e.g. Von Haehling (1978), 604; Chuvin (1990), 91. 'Pagan' officials implying laws not enforced: e.g. Maas (1992), 74–75 (citing Tony Honoré); C. Jones (2014), 32. General approach: Trombley (1993–94), I 1–97, e.g. at 32. Implicit sense of finality: e.g. Salzman (1993), 368–69; compare (2002), 194–97.

[37] See 63–65.

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3.2 'We Do Not Wish to Send Him Away'

Laws banning non-Christians and heretics from imperial service conflated adherence to correct religion with legitimate exercise of authority. The accounts of contemporary and near-contemporary historians suggest that rulers and their subordinates could disentangle the two and even prioritise the latter. Certainly, historians from various marginalised religious communities make this basic assumption when describing special offers of tolerance and career boosts from conversion supposedly made to their co-religionists. Eunapius and later Zosimus recount how, on his return to the court in Constantinople after defeating the rebel Gaïnas, the general Fravitta loudly attributed his victory to the support of the gods and even (in Eunapius' version) asked openly for permission to worship them; Arcadius accepted and made him consul.[38] As previously discussed, Zosimus suggested a similar exemption was offered by Honorius to the pagan general Generidus in 409; his refusal led to the withdrawal of a law against 'enemies of the Catholic sect' at court.[39] In their accounts of the persecution of their co-religionists, Damascius, Victor of Vita, and John of Ephesus likewise present rulers attempting to persuade valued members of their administration to adhere to (their) true religion so as to keep them on staff. Damascius claimed to have heard Severianus read out the very letter by which the emperor Zeno had offered him 'the greatest office after kingship' (generally interpreted as the praetorian prefecture), 'if he became a member of the establishment' (*tōn kratountōn*; i.e. a Christian).[40] Victor of Vita recounts similarly failed attempts by Geiseric and Huneric to persuade the *comes* Sebastian, a pantomime named Mascula, and the proconsul Victorianus to signal conversion to Homoian Christianity by rebaptism.[41] John of Ephesus, meanwhile, noted the repeated efforts of Justin II and Sophia to convince the empress' *primicerius* Andreas to take Chalcedonian communion.[42] The essential premise of these stories is that regimes could value particular officials notwithstanding their suspect religious associations. These officials had, after all, been valued advisers and administrators for some time before it was decided that they needed to conform.

These stories offer one way to understand the presence of members of excluded religious communities within the state: through the provision of

[38] Eunapius fr. 69.4; Zos. 5.21.5–6. [39] Zos. 5.46.3–4.
[40] Damascius fr. 108 Athanassiadi, her translation at 263; on these '"code–phrases" for the Christian authorities', Alan Cameron (1969), 18; revised in Alan Cameron (2016b), 220, 224. PPO: *PLRE* II: 998–99 (Severianus 2), followed by e.g. Athanassiadi (1993), 17; Begass (2018), 232.
[41] *HP* 1.19–21, 1.47, 3.27. [42] John Eph. *HE* 3.2.9.

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explicit exemptions for exceptional imperial servants. Their specific narration is (of course) implausible in various ways, not the least of which is the stagey nature of their reported speech. The central logic of these scenes required that their protagonists publicly communicate their beliefs to their ruler. Historians from marginalised religious communities used these scenarios to show their co-religionists refusing to convert for worldly gain. By professing their adherence to correct religion in public despite potential physical harm, they acted like true philosophers or confessors – and potential martyrs. These moments were also staged to stress that members of these groups were honourable, just, and effective servants of the state. In that way, they suggested rulers should rightfully change course, whether by overturning specific measures to exclude and punish their members, or – a more aspirational goal – by recognising what should be the true religion of the state. Above all, these episodes reduce an ongoing issue to a single moment of confrontation. It is unlikely that rulers and others who supervised the careers of officials were so starkly confronted with the heterodoxy of their subordinates on a regular basis: as discussed above, these religious affiliations could be much more ambiguous (especially in their public expression) than partisan historians make out. Yet even if their presentation is partial, this does not mean that the attitudes expressed within them are misleading. The basic situation that they discuss remains plausible, not least because it is documented in a less literary context. The minutes of the conversations between Chalcedonians and Miaphysites in Constantinople in 532 record an extraordinary moment where the president, the *patricius*, and *comes sacrarum largitionum* Fl. Strategius, made a personal appeal to the latter group of bishops on the basis of his father Fl. Apion's own previous sympathy with their doctrinal position.

> And you know also that my father Appius [*sic*], of glorious memory, came from the province of Egypt and, following both your sect and that of the Alexandrines, hesitated to communicate with the holy Great Church located in this city; but our most pious and most faithful emperors persuaded him by this argument, that the most reverend men, the bishops who were congregated at Chalcedon [451], gave to us no other creed or faith other than that which was confirmed at Nicaea [325], Constantinople [381] and Ephesus [431], those which also decreed the faith and condemned Nestorius and Eutyches, who introduced new heresies; by that argument he was persuaded and communicated with the holy church.[43]

[43] Innocent of Maronea, *Ep. de coll. cum Sev.* 8, ACO 4.2, 170.

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Strategius refers to a direct effort by the emperors Justin and Justinian to persuade Apion to switch from an anti-Chalcedonian to a Chalcedonian communion through an argument about conciliar history. As Christoph Begass has convincingly suggested, the most obvious context for this act of persuasion was Apion's rehabilitation and brief appointment as praetorian prefect of the East by Justin in 518, eight years after he had been exiled by Anastasius and forcibly ordained at Nicaea.[44] There is no reason to doubt that these were Strategius' own words, presented in the stenographic record of the discussions taken by Innocent of Maronea. Of course, his speech is in its own way an exemplary narrative.[45] Strategius' retelling of his father's confessional volte-face perhaps fifteen years after the fact is shaped by the goal of this personal digression: to convince the 'Easterners' that they, too, should follow the emperor's lead and sign up to Chalcedon, once they had worked through their doubts in the safe space of this open discussion.[46] Strategius' speech nevertheless attests to what we might in any case expect: that emperors would seek to persuade potentially valuable administrators whose alternative religious leanings were known to change tack so as to facilitate their appointment.[47]

These special offers provide likely reasons why rulers would seek to keep in their service individuals who disagreed with them on correct religion. In the first place, they suggest the significance of inter-personal relationships and the perception of loyalty and trust. These emperors, empresses, and kings are portrayed intervening personally and leaning on their own connection with a prominent official to pressure him to conform. So, for example, in the court interview that Victor presents, Geiseric appealed to his long-standing friendship with Sebastian whose constancy rebaptism would confirm.[48] These accounts suggest another fundamental consideration that might outweigh religious scruples. Central to their logic is that these individuals were exceptional generals or administrators whom rulers could not afford to lose. The significance of this effective exercise of power comes through clearly in the stories regarding the two generals. Fravitta's public profession of faith and request for tolerance is set on his return from

[44] Begass (2018), 338–39, 413; see also Greatrex (1996), 128 with n. 20; Croke (2007), 23.
[45] On this transcript, see now Graumann (2021), 123–24.
[46] Innocent of Maronea, *Ep. de coll. cum Sev.* 8, ACO 4.2, 170.
[47] See also the request of Justinian's regime for the conversion of the defeated Vandal king Gelimer on arrival in Constantinople at Proc. *BV* 2.9.13–14. Gelimer refused and thus did not gain the title of *patricius* but was nevertheless accorded an honourable position. I thank one of the reviewers for Cambridge University Press for pointing out the relevance of this case.
[48] *HP* 1.19–21, at 1.19.

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defeating a usurper; when addressing Generidus, Honorius specifically states that he should be exempt as 'one who had borne the brunt of so many dangers for the state'.[49] The most developed statement comes in John of Ephesus' description of the emotionally wrenching process by which Justin II, Sophia, and the other chamberlains struggled to get Andreas to convert (and the *primicerius Augustae* argued that the true faith demanded he resist). As John described it,

> because the imperial couple loved him on account of his nobility and excellence, and also his mind and learning, they urged him to obey, that they might not cast him out from their palace. As a result of this, the king said in the presence of many people, 'what shall we do about this presumptuous man who resists us and disobeys us? For we do not have here another a mind and brain like his, and we do not wish to send him away, but there is no way we can pardon him if he does not obey us.'[50]

The failure of this charm offensive led to a much more blunt choice to take communion or exit the palace; in John's account, Andreas joyfully took the latter option and suffered three years of confinement and persecution as a result, before a return to freedom (if not office).[51] Three other anti-Chalcedonians in Constantinople did benefit from a relaxation of this demand for communion, and both attained high office and were entrusted with conduct of a prestigious embassy to the Persian court.[52] In all these cases, the waiving of strict requirements for religious conformity is seen to permit excellent elite individuals to attain their natural station as the ruler's advisers and executors.

The considerations of expertise and loyalty signalled in these fabulous confrontations have rightly been adduced on numerous occasions as explanations for the continued presence of excluded groups in imperial or royal service.[53] These accounts fit with more broadly attested tendencies on the part of rulers and officials alike. Caroline Humfress and Doug Lee have highlighted occasions where regimes and their legal advisers balanced the interests of the church and orthodoxy against what they saw as the common good: most notably, the safeguarding of tax collection and compulsory duties.[54] Such concerns about strict demands for orthodoxy

[49] Zos. 5.46.4, trans. Ridley.
[50] John Eph. *HE* 3.2.9; See also Damascius' stress on Severianus' qualities at fr. 108.9–32 Athanassiadi; and Geiseric's praise of Sebastian at *HP* 1.19.
[51] John. Eph. *HE* 3.2.9. [52] John. Eph. *HE* 3.2.11.
[53] E.g. Von Haehling (1982), 65; Whitby (1991), 120–24; Brandes (2013), 77; Whelan (2018), 201–3. See also Mathisen (2013), 47: employing Jews as otherwise would have problems getting staff.
[54] Humfress (2008), 133; Lee (2013a), 151–52.

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disrupting effective governance had an obvious significance for appointments. In an important recent survey of the involvement of fifth-century generals in religious politics, Hugh Elton has persuasively suggested that 'both they and their emperors were more motivated by abstract virtues such as duty or loyalty than by personal belief'.[55] Such prioritising of trust, expertise, and competence has long been recognised as an explanation for the ongoing presence of pagans and heretics in the highest echelons of the fifth- and sixth-century imperial army.[56] Similar rationales are evident for careers within the civil administration. Numerous prominent fifth- and sixth-century individuals are known to have entered imperial service after training in the schools of rhetoric, philosophy, and law. This was certainly the case for Cyrus and Isocasius, as a renowned sophist and rhetorical teacher, respectively. The interpenetration of the schools and the bureaux most clearly attested in the world of Libanius is obvious throughout the two centuries after his death, not least with the appointment of sophists, rhetoricians, and law professors to the high offices of state.[57] These schools both educated the empire's (increasingly Christian) elites and at the same time provided the most obvious social and institutional locations for continued reverence for the gods.[58] Personal ties to the ruler and his family also appear central to the advancement of many of the contemporaries of these supposed heterodox outliers.[59] The ability of particular individuals to command the loyalty and respect of emperors is evident from the frequent re-appointments and long terms of office that some advisers held (and the complaints about dominance of the court which sometimes ensued).[60] What appear as extraordinary moments in these partisan histories could also be seen as facets of ordinary practice within late ancient political institutions.

The capacity for contemporaries to judge official aptitude separate from an individual's forms of religious observance is obvious from numerous

[55] Elton (2020), 371–73, esp. 371–73, at 373. [56] See 7 n. 27.

[57] For a neat encapsulation: Watts (2015), 217–20. 'Spezialwissen' as reason for pagan *quaestors*: Noethlichs (1998), 19–20. Fundamental requirement for late fifth-century Eastern senatorial elite: Begass (2018), 399–405.

[58] Whitby (1991), 119–23; Athanassiadi (1993); Trombley (1993–94); Watts (2006); Jones (2014), 126–42.

[59] See esp. Begass (2018), 415–29.

[60] On continuities of appointment: see esp. Liebeschuetz (1984); (1990), 132–45 on the 'Arcadian establishment'; Millar (2006), 192–207; Harries (2013), esp. 76, 83–84; and Lee (2013b) on similar continuities under Theodosius II; Meier (2009), 219–22 on trusted appointees of Anastasius; and see also e.g. *PLRE* II: 924–25 (Proculus 5), *quaestor* under Justin c. 522/3–525/6; long-serving *quaestors* under Justinian: *PLRE* III: 1335–39 (Tribonian), 742 (Iunillus), 342–43 (Constantinus 4); and *PLRE* II: 1188–90: the remarkable Urbicius 1 who apparently served seven emperors as *praepositus*.

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sixth-century texts produced within the milieu of political institutions. John Lydus, Procopius, and Cassiodorus praise or criticise office-holders on the basis of perceived competence or malpractice, filtered through the subjective lens of court factionalism, and almost exclusively rooted in traditional virtues and vices. Of course, the stress on such 'classical' notions of good governance in these texts has often been seen as deliberately out of step with prevailing norms at the imperial court: a subversive rejection of the decisively Christian framing of rulership in the reign of Justinian. It is possible that these emphases intended or simply took on such a charge within critiques of the emperor's brand of autocracy and his attempts to monopolise interpretation of the Roman past.[61] Yet Justinian himself portrayed such qualities as essential qualifications for imperial service, as for example when justifying the composition of the working group for his *Digest*. The qualities attributed to the panel included eloquence, legal expertise, obedience, rank, lineage, and superlative recommendations; their religious affiliations, beliefs, or practices were simply absent.[62] Such criteria were fundamental aspects of conceptions of what qualified individuals for service – and what made for good and bad political actors – throughout this period. It is this bedrock of thought about governance and commonsensical praxis within political institutions that laws excluding religious nonconformists from entry into imperial service and punishing those complicit in their granting of office sought again and again to dislodge. All these authors show the capacity of regimes and their subordinates to evaluate how individuals used their authority and pursued their careers separate from their religious affiliation.

The laws that these regimes produced made the maintenance of religious uniformity within the state the singular priority of imperial officials in their relationships with other representatives of the emperor. They did so to the exclusion of other ways of thinking that were otherwise not only legitimate but essential to the functioning of governance. The practical impact of these laws was shaped by the willingness of key stakeholders to place the orthodoxy of appointees above these other considerations. Legislators thus sought to punish those who had permitted their appointment or tolerated their presence. When the *magister officiorum* Marcellus was ordered by Arcadius on 24 November 395 to investigate whether 'heretics' were present in the *scrinia* or amongst the *agentes in rebus* or *palatini*, he was also told to remove from imperial service and from the city of Constantinople the 'accomplices' (*adfines*) who had 'turned a blind eye'

[61] See n. 74 n. 141. [62] *CJ* 1.17.2.9; see too e.g. *NJ* 25, 30–31 without an explicit Christian framework.

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(*coniventiam praestiterunt*) to their crimes.[63] An infamous anti-Manichaean law issued by Valentinian III on 19 June 445 likewise prescribed a fine of 10lb for the head of that part of the civil administration in which a Manichaean was uncovered.[64] Justinian's laws once again sought to systematise these punishments with fines meted out, not only to those directly responsible for making and registering appointments, and to those within the state who might have known about their affinities, but also to officers of the fisc if they did not collect those fines. Even bishops were told that they could expect punishment for inaction at the Last Judgement.[65] These laws enjoin upon the emperor's subordinates the need for constant vigilance regarding the religious beliefs and behaviours of their colleagues. The harsh punishments directed at those under whose watch heterodox individuals had entered imperial service would no doubt have concentrated minds. Of course, that it was deemed necessary to threaten those responsible with unpayable fines, loss of office, loss of property, and periods of exile is also an indication of the difficulty in getting high officials, office staffs, governors, advocates, officers of the fisc, and the leading men of provincial cities (among others) to prioritise this qualification for imperial service. As with laws against pagans and heretics in the provinces – whose likely failures of enforcement have received greater attention from modern historians – these prohibitions more readily convey an impression that officials were not predisposed to prioritise religious affiliation in their interactions with superiors, colleagues, and subordinates.

The contacts, clout, and competence of officials continued to shape their career paths notwithstanding their relationship (or lack thereof) to the Christian God. Such factors also helped to shape those occasions where their (apparently suspicious) religious affiliations were seen to matter. The moments of enforcement reported by late ancient historians suggest reasons why individual officials might be accused of heterodoxy and why those accusations might be pursued. The potential considerations were by no means exhausted by the pious rationales articulated in legislation; indeed, nakedly political motivations underlie many of these reports. As previously noted, charges of 'Hellenism' were deployed in the context of court factionalism in Constantinople.[66] I have already discussed Rufinus' use of anti-pagan legislation in an attempt to destroy Tatianus, his rival

[63] *CTh* 16.5.29. [64] *NVal* 18.4.

[65] *CJ* 1.5.12.14–15, 1.5.16.1, 1.5.18.10–13, also implying bishops could potentially be unseated, though without suggesting this was directly in the emperor's power (any more than was eternal damnation).

[66] See n. 28.

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and predecessor as praetorian prefect of the East.[67] Five decades later, the career of a figure of equally extraordinary power at Constantinople was arrested for the same reasons. Fl. Cyrus held a double prefecture when he was dismissed on the charge of being a 'Hellene' in 441 and exiled to Phrygia, where he was made a bishop. The *Life of Daniel the Stylite* indicates that the *spatharius* Chrysaphius played a key (if undefined) role in his fall.[68] At the same time, connections and relationships within the state could enable individuals to mitigate such charges or make them go away. When the *quaestor* Isocasius was put under the same charge, the imperial doctor Jacob was able to act on his behalf to have the case transferred to the jurisdiction of the praetorian prefect Pusaeus. As Isocasius stressed in the (presumably imagined) speech preserved in John Malalas and the *Chronicon Paschale*, Pusaeus was his former judicial colleague and as a result potentially more disposed to clemency.[69] Other standard methods of (sharp) official practice could also be employed, as when Justin II's *quaestor* Anastasius (supposedly) used bribes to suppress accusations of Samaritanism and paganism.[70] The social and political context of late Roman administration shaped the articulation and treatment of accusations of incorrect religion on the part of officials.

Similar calculations were presented as central to the decisions made by rulers regarding how to act on such accusations. Numerous reports suggested that they could be used to neutralise a powerful individual who might otherwise threaten the current ruler.[71] The fragmentary account of the fifth-century historian Priscus and the later histories dependent upon it stressed that Theodosius II had felt challenged by Cyrus' popularity with the people of Constantinople and used his supposed 'Hellenism' as a pretext to get rid of him.[72] Contrariwise, the *Chronicon Paschale* noted that Leo I had Isocasius arrested because of recent rioting in Constantinople.[73] Later accounts of other cases suggest that regimes might use religious affiliation to justify the removal of those excluded or punished for other reasons. As Philip Wood and Meaghan McEvoy have argued, the stress on the (supposed) Arian heresy of the generalissimo Aspar after his murder in the Senate on behalf of Leo plausibly stems from the public line taken by the emperor's regime in explaining away a moment of brutal power politics.[74] In all these cases, imperial disfavour is cited as central to

[67] See 63–64. [68] *V. Dan. Styl.* 31; see n. 10.
[69] *Chron. Pasch.* a. 467, ed. Dindorf, 595–96; Malalas 14.38. [70] John Eph *HE* 3.2.29.
[71] See also *HP* 1.19–21 on Sebastian and Geiseric. [72] See n. 10.
[73] *Chron. Pasch.* a. 467, ed. Dindorf, 595. [74] Wood (2011), 305–8; McEvoy (2016), 504–5.

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these advisers' loss of office (and, for Aspar, his life). These accounts thus imply (as might anyway be expected) that personal ties with superiors, colleagues, and subjects were critical for those heretics and non-Christians who were able to attain and continue to hold office.

Demands for religious uniformity within the state must be set within the context of the wider considerations of rulers and their subordinates. If supposedly non-Christian and heretical officials continued to find favour, it was, in part, because being an (orthodox) Christian remained just one recommendation for office. As the special offers and exemptions that opened this section show, those in charge of appointments from the emperor downwards could overlook issues of precise religious affiliation to prioritise the experience or expertise of the candidate, as well as their own personal relationships with them. The exclusively 'secular' retrospective recounting of particular careers underlines the extent to which even Christians generally seem to have been appointed, not because they were Christians but for these other reasons. On the one hand, this lack of explicit reference to religious beliefs and practices might be seen as a reflection of a requirement so basic it did not need spelling out.[75] In the last decades of the fifth century and the first decades of the sixth in Constantinople, requests to establish Christianity became routine as part of appointment procedures; it is plausible that conscientious department heads in both East and West would have made such demands prior to that. Moreover, given that the elite population on which these political institutions drew for staffing purposes was now largely Christian, it could be argued that the imperial state could continue with business as usual except on rare occasions when something went wrong. But this is precisely the point. The absence of reflections on distinctly Christian moral characteristics of appointees, even from various laws of Justinian regarding the civil administration, shows how the implications of an individual's religious affiliations could all too easily be discounted within the many routine acts that, in aggregate, structured the personnel of the state as a whole. This is part of why so many accounts stress the 'secular' or 'classical' worldview of those who served in imperial and post-imperial bureaucracies in this period. A need to appoint (orthodox) Christians was not always straightforwardly integrated into the patronage networks that led to individuals holding posts or gaining promotion or reappointment in particular bureaus, nor the arcane rules of precedence and procedure that were supposed to govern their careers within them. This was especially the case as, for

[75] I thank Caroline Humfress for this suggestion.

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much of this period, entry-level posts as advocates in the law courts of central or provincial judges and members of office staffs remained open to heretics, pagans, Jews, and Samaritans who were in some cases explicitly permitted to be exempted given the need to ensure such roles were performed. The practical effect on the global makeup of these political institutions should not be exaggerated. Nevertheless, the priorities signalled in the episodes discussed here show the limits to what demands for Christianity could mean in practice, when it was not understood as a holistic requirement for good governance.

3.3 'Lest Heretics Be Seen to Have Power over the Orthodox'

Adherence to orthodox Christianity was neither a sufficient nor, sometimes, a necessary, qualification for office in the fifth and sixth centuries. Stories of nonconformity from across the period suggest that demands for religious uniformity were not always easily incorporated into routine institutional practices. These recurring reports of ongoing religious pluralism could suggest that laws against nonconformists were overlooked and that the attitudes they represented had limited purchase on the personnel and functioning of the imperial (or post-imperial) state. After all, lawmakers often signalled, both that official nonconformity was a fundamental problem and that they thought it necessary to pre-empt the likely disregard of measures to prevent it in future. It could also result from the specific forms of religious uniformity that fifth- and sixth-century regimes pursued. Where these laws provide more specific rationales for these measures (in their extant form), they suggest that non-Christians and heretics were prohibited to ensure the enforcement of policies on correct religion. Such provisions imply that officials who did not act so crudely on the basis of their religious affiliations were less likely to be identified as a problem. Even in those moments where correct religion was at stake, the conformity that seems to have been prioritised was that of the functioning of an orthodox Christian state, over that of the specific religious affiliations of its personnel.

The presence of nonconformists in the state could be seen as an inherent problem: the result of a general principle, of fears of 'pollution' or 'infection', or of a sense that non-Christians and heretics were fundamentally unworthy of 'honours and dignities'.[76] The wider legal regimes and concepts applied to those categorised as pagans, heretics, Jews, or

[76] See 66–67.

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Samaritans also held specific resonance for those serving the state. Specific provisions hint at aspects of the practical business of governance that might trigger these concerns. Central to the anxieties of late ancient regimes was the possibility that office-holders might abuse the power granted to them: to spread heterodoxy within the state, to aid their fellow travellers, and (above all) to harm (orthodox) Christians. Provisions, not only to dismiss but to exile heterodox officials are a case in point.[77] Measures physically to remove these men were (in part) the application of a standard response to the religious error of a (formerly) honourable individual. The exiling of heterodox officials was also seen to result from the potential that (in the words of Valentinian III's anti-Manichaean *Novel* 18) 'the company and society of such people' might influence others to join their communities.[78] Such worries about officials as agents of conversion were the central concern of Theodosius II in his attempts to regulate the activities of Jews and Samaritans on 31 January 438: the emperor closed the civil administration to these groups 'lest deadly sects should spread more freely amongst the living as if by an indistinguishable mingling'.[79] Such measures suggest that the problem with Jewish, Samaritan, or Manichaean officials was imagined to be their capacity to spread their religious error to those whom they encountered.

In the minds of fifth- and sixth-century drafters, these anxieties regarding conversion were also founded in the basic problem posed by non-Christians and heretics within the state: the authority they possessed over (orthodox) Christians while in office. Provisions against official heterodoxy formed part of a wider legislative concern for asymmetrical relationships between (Catholic) Christians and pagans, heretics, Jews, or Samaritans. Extant laws attempt to mitigate the potential impact of pagan or heretical landowners and patrons on their tenants and clients and to prevent Jewish or heretical ownership of enslaved Christians, for fear of religious coercion.[80] Imperial office-holding was another form of authority over others whose exercise was understood to have dangerous consequences.[81] In Theodosius II's law of January 438, Martyrius justified the prohibition of Jews and Samaritans acting as judges as ensuring they did not 'have the power of judging and pronouncing what they wish against Christians, and especially the bishops of the holy religion, as if insulting

[77] *CTh* 16.5.29; 'Actio 3 [2]', 108, ACO 2.3, 349–52; *CJ* 1.5.8.6; *NVal* 18; *CJ* 1.5.12.10.
[78] *NVal* 18.3. [79] *NTh* 3.2. [80] Esp. Nemo-Pekelman (2010), 141–55; Kahlos (2019), 50–56.
[81] See also *NVal* 18.3. For similar accusations around official patronage leading to apostasy, see e.g. *Carmen contra paganos* 78–86, with Alan Cameron (2011), 300–301; Gassman (2020), 104–5.

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our faith'.[82] Those who served on office staffs were only to be involved in private suits and could not take charge of prisons in case this provided them unchecked authority over Christians.[83] These concerns about judicial authority recurred in the legislation of Justinian, as too the drafter's specific anxiety around official duties that provided non-Christians and heretics with direct power over the physical bodies of Christians.[84] Justinian's *Novel* 37 of 1 August 535, which sought to reorganise the African church after the reconquest, set out this premise in forthright terms (while summarising the implications of the emperor's recent religious legislation for the new prefecture).

> According to our laws which we have established, all heretics are to be removed from public functions, and heretics should not be allowed to manage anything public nor to take up any office through whatever form of canvassing, lest heretics be seen to have power over the orthodox (*ne uideantur haeretici constituti orthodoxis imperare*), when it is enough that they live, and do not also claim any position of authority for themselves, and from it afflict orthodox people and the most correct worshippers of the omnipotent God with whatever forms of detriment.[85]

The possibility that elites who had conformed to the Homoian orthodoxy of the Vandal kings might continue their administrative careers was clearly seen as a potential danger, both by Justinian's regime and by the Nicene bishops who had sought the emperor's intervention.[86] The problem that they identified was, once again, one of the harming of orthodox Christians.

The potential for heterodox officials to abuse their power to overturn fundamental aspects of religious policy conditioned another primary justification for their exclusion. As Martyrius put it succinctly when framing Theodosius II's ban on Jewish and Samaritan judges in January 438, 'indeed we believe it wrong that enemies of the supernal majesty and Roman laws should also be the avengers of our laws by the obtainment of a surreptitious jurisdiction'.[87] The sense that non-Christians and heretics as lawbreakers could not enforce imperial laws recurs in fifth- and sixth-century legislation. This theme was sounded when the regime of Theodosius II promulgated a law on 21 February 410 banning Montanists while exempting curial duties and office staffs.

[82] *NTh* 3.2. [83] *NTh* 3.7. [84] See esp. *CJ* 1.5.12, *NJ* 37.6; with Humfress (2018), 653–54.
[85] *NJ* 37.6.
[86] Context: Modéran (1998); Sotinel (2005), 277; Merrills and Miles (2010), 249–51; Conant (2012), 320–21; Szada (2024), 75–97, esp. 93–95.
[87] *NTh* 3.2, adapting Pharr, 489.

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> We order that Montanists and Priscillianists and other types of nefarious superstition may by no means be admitted to the oaths of the service which obeys our orders, disdaining the various retributive punishments (*diuersa ultionum supplicia*) throughout repeated imperial ordinances.[88]

Such concerns around the judicial authority of heterodox officials may have been framed as general judgements on their character, but they most obviously stemmed from their requirement to apply laws regarding correct religion. Similar sentiments were expressed by Zachariah Rhetor in an account in his *Life of Severus* of the aftermath of an assault on a Christian student in Alexandria by his pagan classmates in 486.[89] Incensed by this maltreatment, a group of Christians including Zachariah visited the office of the augustal prefect but were fobbed off by an (apparently) pagan *assessor*. On a further visit, a group of clergy joined by the zealous ascetic Christians known as the *philoponoi* made to attack this attaché, denouncing him for his role in the frustration of justice. 'It is not right for someone who belongs to the pagan religion to be an assessor of a person in high office, and to take part in governmental business: in this way the laws and edicts of the ruling emperors are rendered ineffective.'[90] This explanation is particularly noteworthy given that at the time of writing Zachariah was a lawyer closely attached to members of Anastasius' court at Constantinople with a career as a legal adviser in the bureaucracy ahead of him.[91] The articulate objection that the hagiographer and historian attributed to the angry shouts of these Alexandrian clerics and ascetics could just as easily have framed an enactment by an imperial *quaestor*.

All these provisions worked on the assumption that officials would act out of their religious convictions in office and, in particular, out of a basic animus against orthodox Christians. The contexts that the regimes of Theodosius II and Justinian identified as sites for this prejudicial treatment seem particularly telling. References to the abuse of Christians in prison and the issuing in court of 'insulting' verdicts against Christians 'and especially the bishops of our holy religion' hark back to dramatic narratives of pre-Constantinian persecutions.[92] The ubiquitous stereotype of the persecuting Roman official seems to have inspired these measures. This terrifying figure was never far from the minds of late ancient Christians. Fifth- and sixth-century Christian writers repeatedly depicted pagans, Jews, and heretics abusing the latitude granted to the emperor's

[88] *CTh* 16.5.48. [89] On this episode: see esp. Watts (2010), 1–22.
[90] Zach. Rhet. *V. Sev.* 31 (Brock and Fitzgerald), trans. Brock, 45.
[91] Greatrex et al. (2011), 8–11. [92] Quotations from *NTh* 3.2.

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subordinates in the exercise of imperial authority to torment orthodox Christians.[93] These stereotypes were not simply the preserve of lurid fantasies; they could affect actual contemporary perceptions of governance. The Christian congregants of Aurelius of Carthage put it neatly in the chant through which they voiced their protest against the potential appointment of the pagan Faustinus as a tax-collector in June 401: 'Pagans should not be in charge! Pagans should not boss Christians around!' (ut maiores non pagani sint; ut non dominentur pagani christianis)[94] It is no coincidence that fifth- and sixth-century regimes consistently appointed individuals who were (to their way of thinking) 'orthodox' Christians to chair ecumenical councils and carry out church business. Such missions were the one context where regimes and officials alike regularly stressed Christian formation as a key criterion for appointment, as they sought to reassure the bishops involved that they would referee theological and disciplinary discussions in a spirit of appropriate piety and respect.[95] Within these laws, the illegitimacy of heterodox appointees was similarly located in their propensity to act out of religious interest – and to do so with extreme prejudice.

This image of the persecuting heterodox official was a frequent recourse for regimes and churchmen alike. It was (of course) a stereotype belied by the actual experience of governance. Religious affiliation did not determine the attitudes that officials adopted and the decisions that they took with respect to particular groups of Christians, never mind their competence, praxis, or affect with regard to other groups of subjects or their wider remit. The high probability that non-Christian or 'heretical' officials would still be capable of carrying out their duties – and indeed, even with respect to church business – was recognised even by those most apt to perpetuate and appropriate discourses of persecution in the post-Constantinian empire. Representatives of various disenfranchised church factions were

[93] E.g. the 'pagan' urban prefect of Constantinople Optatus persecuting the Johannites in Soc. *HE* 6.18.19; Soz. *HE* 8.23–24 with Dagron (1974), 291–94; the pagan governors, civic officials, and town councillors persecuting Christians in Gaza in Marc. Diac. *V. Porph*. esp. 21, 25, 27, 32, 35, 40–41; the 'pagan' *dux Osrhoenae* Florus attacking Christians in concert with the Jews of Tella in the *Syriac Acts of Ephesus* II, ed. Flemming, 82; with *PLRE* II: 481 (Florus 1); Von Haehling (1982), 56–57; Rochow (1991), 136; an unnamed pagan general in the *V. Barsaumae* 109; with Corcoran (2020), 43.

[94] Aug. *Serm*. 279.12 = Morin 1.3; for this translation: Kelly (2015), 151, with discussion at 151–52 and n. 35; compare Magalhães de Oliveira (2012), 227–51; Rebillard (2012), 89–90.

[95] See esp. Fl. Marcellinus at Carthage (411): *Gesta* 1.3, 1.62, 2.7; Florentius at the Home Synod (448): Actio I, 468, 470, ACO 2.1.1, 138; Helpidius at Ephesus II (449): Actio I, 50, 111, ACO 2.1.1, 73, 85–86; the officials and Senate = Anatolius at Chalcedon (451): Actio III.2, ACO 2.1.2, 77–78.

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willing to accept the interventions, and even seek the aid, of powerbrokers whose religious affiliations they might otherwise have questioned.[96] Ecclesiastical historians could likewise praise the surprisingly beneficial interventions of pagan or heterodox officials in protecting orthodox Christians in contexts of persecution.[97] Contemporaries recognised that the presence of non-Christian and heretical officials did not necessarily result in 'detriments' to 'orthodox people and the most correct worshippers of the omnipotent God' (to return to Justinian's prohibition on heretical officials in the reformed African prefecture).[98] The rhetoric of these laws nevertheless suggests that this potential threat was a central justification on various occasions when regimes sought to remove those officials.

Laws against heterodox officials depended on a particular nexus of late ancient Christian ideas about the nature of religious error, its pernicious effects, and the measures needed to stamp it out. Those who drafted these laws on behalf of fifth- and sixth-century emperors – and, presumably, those who framed the requests to which they responded – fused heresiological and legal concepts of religious error with the essential priorities of (self-professedly) centralising late ancient regimes to prevent wrongful use of their authority by their subordinates. These laws sought to isolate heterodox officials from state and society and remove their status and privileges, to prevent the spread of their 'disease' and the 'pollution' of the palace bureaucracy and elite urban society. They tried to prevent these non-Christians and heretics from exercising power over Christians and protecting their co-religionists. In so doing, they present a caricature of the malign influence of heretics, pagans, Jews, and Samaritans whose actions as office-holders would inevitably represent the crude exercise of the interests of their religious communities and their supposed hatred of orthodox Christians. Rather, as in contemporary accounts of pagan revivals (and the twentieth-century historiography that amplified them), these laws present the religious diversity of empire and state as a zero-sum game in which heretics and non-Christians in power would inevitably seek to thwart and overturn an otherwise serene progress towards an orthodox Christian society. Of course, more recent work has shown that this model of mutual antagonism and irreducible conflict between Christians and

[96] See e.g. petitions to and interventions by the Homoian ('Arian') Eastern *magister militum* Aspar: Theodoret, *Ep*. 140; Theophanes AM 5952; Ps.-Zach. *HE* 4.7; *PLRE* II: 168 (Aspar) with Lee (2007), 156; McEvoy (2016); Nicene use of Homoian ('Arian') intermediaries in Vandal Africa: Whelan (2018), 155–63; apparent anti–Chalcedonian petition through the Chalcedonian John: Whelan (forthcoming b).

[97] See Chapter 4, 151–52.

[98] *NJ* 37.6.

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pagans (in particular) was not what late ancient religious group membership tended to look like. Bella Sandwell, Maijastina Kahlos, Éric Rebillard, and Alan Cameron (among many others) have found various ways to characterise the middle ground that resulted from the normal sociability between members of these different groups.[99] A central feature of Cameron's work was a demonstration of how rarely (outside of later fantasies) pagan senators in the fourth and fifth centuries can be seen seeking actively to challenge the basic premises of religious policy under Christian emperors.[100] In that sense, the concerns of these laws for the implementation of those policies and the misuse of authority to benefit co-religionists seems telling. It suggests that part of the reason that non-Christians and heretics could continue to serve may be that they did not act like the stereotypical persecutors of late ancient Christian nightmares.[101]

Conclusion: Joining the Establishment

Fifth- and sixth-century regimes may have sought the appointment of orthodox Christians, but these demands had obvious limits. Religious conformity was not a sufficient qualification for office; it was set alongside other relevant criteria (notably status, expertise, experience, and loyalty) in the estimation even of those regimes that articulated such demands. Stories about exceptional (but heterodox) administrators, though often tending towards the legendary, highlight the countervailing tendencies of these standard features of a good official. They suggest that, even with regard to Christian candidates for office, requirements of piety and orthodoxy were not straightforwardly integrated into the interpersonal relationships, patronage networks, and local rules regarding advancement and hierarchy that determined the course of individual careers and shaped the broader makeup of political institutions. This could be seen as yet another example of the constraints on the ability of late ancient rulers to effect change (religious or otherwise) by issuing laws (as well as the useful tendency of these texts to provide indications of the reasons why they would probably be ignored). I have argued that the specific framing and provisions of these laws suggests an alternative. Many of these laws justify the exclusion of heretics, pagans, Jews, and Samaritans from the state by alluding to their inevitable abuse of their power to

[99] Sandwell (2007); Kahlos (2007), 26–34; Alan Cameron (2011), at 176–77; Rebillard (2012); Kelly (2015), 148–51; see also Williams (2017) doing the same for doctrinal differences.
[100] Alan Cameron (2011). [101] Nightmares: Shaw (2003).

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undermine imperial religious policies, support their co-religionists, and (especially) to harm Christians. This implausible caricature is an obvious parallel to continued accusations of persecution made by (now dominant) Christians against (now marginalised) religious communities.[102] Like those claims of maltreatment, these laws present a disingenuous portrayal of the ordinary conduct (so far as it can be reconstructed) of members of those groups, which rarely seems to have involved the narrow pursuit of religious self-interest, and especially not the (substantially riskier) proposition of causing active harm towards orthodox Christians. Such rhetoric may simply represent the usual fulminations and exaggerations of legal drafters prone to violent verbal assaults even on those occasions where they issued supposed edicts of toleration.[103] It might also suggest that those whom regimes targeted – or subordinates and subjects understood to be principally liable – were not just any pagan, Jewish, Samaritan, or heretical office-holders. Rather it was those 'enemies of the Catholic sect' who acted according to this stereotype of sectarian violence. Those who did not challenge 'the establishment' (in the sardonic phrasing of late ancient neo-Platonic philosophers) may not have been on the minds of those who framed these laws (even as their provisions made such individuals vulnerable to accusation). Whatever the original intent, members of (supposedly) excluded religious groups did continue to serve on these terms. Their ongoing presence suggests that the conformity required of appointees (Christian or otherwise) was as much a matter of upholding the regime's religious policy as of individual religious beliefs and practices.

[102] See esp. Moss (2013) for the contemporary stakes of this thinking.
[103] See most recently Kahlos (2019), 28–30 (with previous references).

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