A LANGUAGE OF LOYALTY? OATHS AND THEIR ROLES IN LATE ANTIQUITY

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Abstract

This thesis investigates the common social practice of taking oaths in Late Antiquity, broadly defined as the third to sixth centuries CE. An oath in antiquity was a sworn undertaking to which an individual was bound by the threat of supernatural retribution. Modern scholars therefore generally view oath-taking as a means of inducing members of society to fulfil their commitments. However, as the practice could not always be relied upon to ensure that individuals maintained their promises, there is a tendency in the scholarship to disregard oath-taking as merely symbolic in significance or simply ineffective. The following discussion argues that even if the intended purpose of taking these oaths was not always realised, the practice still had a number of uses.

Due to the evolving circumstances of the third to sixth centuries, Late Antiquity is a particularly useful period in which to analyse the effects that oaths and their swearing could have upon aspects of Roman society. This thesis examines four late antique contexts in which oath-taking played a prominent role. The first three chapters focus on the military oath of allegiance, oaths of office in the civil service, and diplomatic oath-taking respectively. These chapters analyse how the oaths in question were formulated, why they were deployed, how they were perceived by various groups in society, and what effects, intended or not, their swearing had. The final chapter investigates the Christian Church's relationship with oath-taking, which was technically forbidden in the Bible. These chapters all indicate that, even though oaths were often broken, oath-swearing was a respected and valued practice. The envisioned primary purposes of these promises, whether tying soldiers and civil servants to the emperor or foreign peoples to diplomatic pacts, were not the only effects they could have. Oaths could be used in attempts to manipulate and control, just as they could enhance the dynamics between certain groups. Equally, accounts of the taking or breaking of sworn promises could be deployed by authors as a literary device, while a range of individuals could utilise the practice to project messages about themselves to wider society. Above all else, oath-swearing had a performative function, which did not necessarily require that the promises involved were kept. Through this investigation into the roles oath-taking could play in Late Antiquity, we can come to a clearer understanding of a range of important social dynamics in the later Roman empire.

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List of abbreviations

Abbreviations of ancient authors follow the conventions used in *Oxford Classical Dictionary* (4th ed.) or, failing that, *The Prosopography of the Later Roman Empire*. Abbreviations of journal titles follow those used in *L'Année Philologique*. For standard editions and abbreviations of papyri collections, see the checklist available online at http://papyri.info/docs/checklist. Unless indicated, translations are my own. Note also the following:

AC	*The Apostolic Constitutions*
ACO	Schwartz, E. and Straub, J., *Acta Conciliorum Oecumenicorum* (Berlin: 1914-84).
AnTard	*Antiquité Tardive*
Buzandaran	*The Epic Histories Attributed to P'awstos Buzand (Buzandaran Patmut'iwnk')*
BHG	Halkin, F., *Bibliotheca Hagiographica Graeca* 3rd ed. (Brussels: 1957)
Ełishē	Ełishē, *History of Vardan and the Armenian War*
HA	*Historia Augusta*
John Chrys. *Adv. Iud.*	John Chrysostom, *Adversus Iudaeos*
John Chrys. *Statues*	John Chrysostom, *Homilies on the Statues*
Just. *Edict*	*The Edicts of Justinian*
Just. *Nov.*	*The Novels of Justinian*
Lampe	Lampe, G.W.H., *A Patristic Greek Lexicon* (Oxford: 1969)
Malalas	John Malalas *Chronicle*
M.X	Movses Khorenatsi *History of Armenia*
*OCD*4	Hornblower, S., Spawforth, A.J.S., and Eidinow, E. (eds.) *The Oxford Classical Dictionary* 4th ed (Oxford: 2012)

ODLA	Nicholson, O. (ed.) *The Oxford Dictionary of Late Antiquity* 2 vols. (Oxford: 2018)
OLD^2	*The Oxford Latin Dictionary* 2nd ed. (Oxford: 2012)
PLRE 1	Jones, A.H.M, Martindale, J.R., and Morris, J. (eds.) *The Prosopography of the Later Roman Empire. Vol. 1, A.D. 260-395* (Cambridge: 1971)
PLRE 2	Martindale, J.R. (ed.) *The Prosopography of the Later Roman Empire. Vol. 2, A.D. 395-527* (Cambridge: 1980)
PLRE 3	Martindale, J.R. (ed.) *The Prosopography of the Later Roman Empire. Vol. 3, A.D. 527-641* (Cambridge: 1992)
Proc. *SH*	Procopius of Caesarea *Secret History*
Proc. *Wars*	Procopius of Caesarea *The Wars of Justinian*
Ps-Zach.	*The Chronicle of Pseudo-Zachariah Rhetor*
Sebeos	*The Armenian History attributed to Sebeos*
Tert. *Adv.Marc*	Tertullian *Against Marcion*
Tert. Apol.	Tertullian *Apologeticum*
Tert. *Cor.*	Tertullian *On the Military Crown*
Tert. *Idol.*	Tertullian *On Idolatry*
Tert. *Nat.*	Tertullian *To the Nations*
Tert. *Spect.*	Tertullian *On the Spectacles*
Theod. *Nov.*	*The Novels of Theodosius II*
TLL	*Thesaurus Linguae Latinae* (Leipzig: 1900-)
Val. *Nov.*	*The Novels of Valentinian III*
Veg.	Vegetius *Epitome of Military Science*

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Introduction

Shortly after the Persians had captured and looted Antioch in 540 CE, two Roman emissaries sought an audience with Shah Khosrow I. Wanting to re-establish peace between their respective empires, the envoys reminded the Shah that he had previously concluded a treaty with the emperor Justinian in 532 and, by attacking Antioch, he had disregarded their agreement. The sixth-century historian Procopius of Caesarea reports that, during their meeting with Khosrow outside Antioch, the Roman envoys specifically referred to the oaths the Shah had sworn and expressed surprise at their violation:

> Εἰ μὴ πρὸς παρόντα σέ, ὦ βασιλεῦ, οἱ λόγοι ἐγίνοντο, οὐκ ἄν ποτε ᾠόμεθα Χοσρόην τὸν Καβάδου ἐς γῆν τὴν Ῥωμαίων ἐν ὅπλοις ἥκειν, ἀτιμάσαντα μὲν τοὺς διομωμοσμένους σοι ἔναγχος ὅρκους, ὃ τῶν ἐν ἀνθρώποις ἁπάντων ὕστατόν τε καὶ ὀχυρώτατον εἶναι δοκεῖ τῆς ἐς ἀλλήλους πίστεώς τε καὶ ἀληθείας ἐνέχυρον.[1]
>
> If these words were not addressed to you in your presence, King, we would never have thought that Khosrow, son of Kavadh, had come into Roman territory in arms, dishonouring the oaths which have recently been sworn by yourself, and which of all things amongst humankind are thought to be the last and firmest security of mutual trust and honesty.

Through the criticisms of these emissaries, Procopius presupposes that oaths were regarded as internationally relevant and important. A similar statement is made in the later work of Theophylact Simocatta. In 593, the general Priscus had mobilised his forces to prevent Slavic tribesmen from crossing the Danube. However, the leader of the nomadic Avars purportedly believed that Priscus was encroaching on his territory and sent an envoy, Koch, to dissuade the Romans from their activities. As in the previous example, Koch chastised Priscus for violating an earlier treaty and referred to the associated oaths as crucial for diplomatic relations:

[1] Proc. *Wars* 2.10.10. This and the following example are discussed further in Chapter 3.

> Εἰρήνην τὸ Ῥωμαϊκὸν παρελύσατο, συνθήκης θεσμὸς κιβδηλεύεται, ἅλες ὁμολογίας ἠθέτηνται, πίστεως αἰδὼς κατηνάλωται, ὁ μεσίτης ὅρκος ἀπόλωλεν… καὶ πολεμούμεθα σὺν θεοῖς· πολιορκεῖται γὰρ ὅρκων ἀκρόπολις…[2]
>
> The Romans have broken peace, the law of treaties is debased, guarantees of agreement are scorned, respect for trust is squandered, the mediating oath has perished… We make war with the gods on our side, since the citadel of oaths is besieged…

Theophylact characterises these oaths as a tool of mediation that supported international relations and even refers to them as a metaphorical defensive fortification, the violation of which would incur divine anger. In both of these examples, the authors suggested that not only was oath-taking an important matter, but also that, despite this valuation, the practice was not always reliable.

In the modern West, oaths play a relatively minor part in our lives and so there is a tendency for us to minimise or overlook their potential significance. Nevertheless, the practice remains in use in various contexts. While secular affirmations are becoming more popular, participants in court cases are still regularly asked to confirm their honesty upon the Bible.[3] Equally, some offices or positions, such as police officer, President of the United States, or soldier in the British armed forces, require an enrolment or inaugural promise, and the process of applying for full UK citizenship includes an oath of allegiance to the monarchy.[4] Several extreme Christian movements also require their adherents to swear that they would die for their beliefs.[5] Perhaps the most common exposure most of us have to oath-taking is through the realm of popular culture, particularly works of fiction set in archaic or magical societies. At various conferences and events, I have found myself fielding many questions which began with references to the Night's Watch or the Kingslayer in *Game of Thrones,* Fëanor's unbreakable vow and the Oathbreakers of Dunharrow in *The Lord of the*

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[2] Theophyl. 6.6.7, 11. Translation from Whitby and Whitby 1986, 187-188.
[3] cf. the 2006-7 controversy around Keith Ellison, a Muslim US congressman who took an oath over the Qur'an, and subsequent debates over how US officials should swear (https://www.nytimes.com/2017/12/13/us/politics/roy-moore-bible-ted-crockett.html).
[4] As with judicial promises, a secular affirmation can be taken instead of the UK citizenship allegiance oath. Note also that bankers in Holland are now required to take an oath of office (https://www.tuchtrechtbanken.nl/en/the-bankers-oath).
[5] These movements are described in the 2017 work, *The Martyr's Oath: Living for the Jesus They're Willing to Die For*, and the associated website (www.martyrsoath.com).

Rings universe, and even Harry Potter's Marauders' Map, which was activated through an oath.

Additionally, several recent incidents reported in the news have revolved around oath-taking. These incidents suggest that the practice is utilised more frequently and for a more diverse range of purposes than we might at first assume to be the case in modern society. The 2016 Casey Report, regarding social integration in the UK, proposed that an oath be taken by all immigrants who entered the country.[6] In October of the same year, several members of the Hong Kong Legislative Council purposefully mispronounced their enrolment promises to make a political statement.[7] Even more topical is the attempt of several British MPs who, fearing the UK would leave the European Union without transitional agreements in place, sought a legal means to force Prime Minister Boris Johnson to state under oath why he planned to prorogue parliament in September 2019.[8] In recent American news, former FBI director James Comey stated that he had been ordered to take a pledge of personal allegiance to President Trump, who denied these claims and later accused Comey of lying under oath in court.[9] Additionally, in response to several attacks on American schools, a far-right organisation of military, police, and other emergency service personnel named Oath-Keepers decreed that they would defend public places of education in fulfilment of their service-oaths.[10] These incidents all suggest that oath-swearing often still retains some relevance in modern societies.

Whatever their status in the modern West, oaths featured frequently in the politics of the Roman world. Early histories claim that not only was the Republic founded with a sworn promise never to accept a king but that the state was also supposedly the object of a conspiracy supported by oaths taken upon a human sacrifice.[11] The Second Punic War was explained as arising from an oath taken by Hannibal, who swore eternal hatred of Rome.[12] Certain emperors, such as Hadrian and Septimius Severus, supposedly also swore upon their

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[6] https://www.gov.uk/government/news/casey-calls-for-integration-plan-to-bind-communities-together
[7] https://www.bbc.co.uk/news/world-asia-china-37627503. See also the refusal of Sinn Féin MPs to take their seats in parliament as they did not want to swear allegiance to the Queen (https://www.telegraph.co.uk/news/politics/7991008/Sinn-Fein-MPs-asked-to-write-their-own-parliamentary-oath.html).
[8] https://www.bbc.co.uk/news/uk-scotland-scotland-politics-49521132.
[9] https://www.nytimes.com/2017/05/11/us/politics/trump-comey-firing.html; https://www.nytimes.com/2017/06/09/us/politics/trump-comey.html.
[10] https://talkingpointsmemo.com/muckraker/oath-keepers-webinar-parkland-student-activists-enemy.
[11] Anti-monarchy: Livy 1.59.1, 2.1.9; Plut. *Vit.Publ.* 2.2. Conspiracy: Plut. *Vit.Publ.* 4.1.
[12] Polyb. 3.11.6-8.

accessions not to kill any senators.[13] Although these literary accounts are somewhat suspect, particularly the blood-pledge made by the conspirators, these works take for granted that sworn promises commonly accompanied matters of importance.

Other sources reveal the prevalence of oaths in a wide range of Roman contexts. One of the best-known examples of swearing is the Hippocratic pledge, which continued in use from ancient Greece into Late Antiquity and adjured doctors not to harm their patients.[14] Oaths were also taken during judicial disputes throughout Roman history. Those involved in legal suits had to swear in confirmation of numerous elements, including the veracity of claims made by the opposition and prosecution, the attendance of judges, litigants and witnesses, and the value of contested goods or property.[15] Moreover, under the early empire, emperors administered general oaths of allegiance to the civilian population. Prime examples of this practice include those taken by the peoples of Conobaria, Paphlagonia, and Aritium, the formulae of which were then inscribed to commemorate their promises.[16] Although some evidence suggests that civilian allegiance oaths were sometimes used even into the third century,[17] there is insufficient evidence to suggest that this practice continued further into Late Antiquity in the same form.[18] In any case, the swearing of oaths in these areas suggests that the practice was of some significance to Roman society and lends credence to the aforementioned presuppositions of Procopius and Theophylact.

Certain developments during Late Antiquity changed the profile of oath-taking in various contexts.[19] This period, here broadly defined as the third to sixth centuries CE, began with frequent political upheavals which placed increased pressures upon the allegiances of

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[13] Dio 69.2.4; 75.2.1; Birley 1962. Interestingly, Hadrian did kill several senators but then swore another oath stating that he was not responsible for these murders (69.2.5-6).
[14] *P.Oxy*. 31.2547, dated to ca. 275, is one particularly well-preserved example of this oath. On the Hippocratic oath, see: Temkin 1991, 21-23; Staden 1996; Torrance 2014c; Jouanna 2018. See also Cass. *Var.* 6.19, where the sixth-century CE Count of Chief Physicians had to swear similarly. On modern perceptions of physicians' oaths, see: Rheinsberg et al. 2018.
[15] *D.* 12.2-3; Nicholas 2012 (=*OCD*[4] 1029 (*s.v.* oath (in Roman law))). There are numerous references to judicial swearing, many of which are evident in later legal compilations (e.g. *CJ* 1.49.1, 3.1.14, 4.1, Just. *Nov.* 124.1-2). See also: Humfress 2007, 149-151.
[16] Conobarian (to Augustus): *AE* 1988, 723. Paphlagonian (to Augustus): *ILS* 3.8781. Aritium (to Gaius): *CIL* 2.172. See further: Herrmann 1969; Connolly 2007; Fujii 2011. Premerstein 1937, 62-85 discusses much of the relevant material but several works, particularly Herrmann 1969, have taken issue with his analysis.
[17] *HA Claudius* 11.2, but note that this section of the *Historia Augusta* relating to Claudius is largely unreliable.
[18] Late antique incidents which seem to recall this oath are typically different in formulation (e.g. Proc. *Wars* 6.2.19.20, where Belisarius swears not to rebel against Justinian) or are couched in generalised terms of loyalty for literary purposes (e.g. Lib. *Or*. 15.49, which suggests that Antioch swore fealty to Julian, in an attempt to reconcile the emperor with the city). cf. the school (Eun. *Vitae Sophistarum* 485-487; Lib. *Or.* 1.16, 20, 33, 18.14-15) and Gothic regnal allegiance oaths (Proc. *Wars* 5.11.26; Cass. *Var.* 8.2-7), as well as other post-Roman continuations (Svoronos 1951, Claude 1976; Esders 2012).
[19] For more detailed treatment, see the related chapters.

soldiers and civilians to the emperor.[20] Alongside these internal issues, a series of embarrassing military defeats, territorial losses, and growing external threats had placed the empire in a weaker geopolitical position. As oaths traditionally played vital roles in diplomacy and in consolidating loyalties to the regime, these rituals assumed greater significance than in previous periods. Furthermore, as oath-swearing typically included invocation of higher powers, the increasing pervasiveness of Christianity in Roman society would naturally have affected the practice.

With these considerations in mind, this study examines four particularly important late antique contexts of oath-taking - namely, military, bureaucratic, diplomatic, and ecclesiastical - and analyses the purposes for which the practice was deployed in this period. In particular, this thesis explores the following questions. How did oath-taking adapt to the evolving circumstances of Late Antiquity? What were the core purposes of these promises and what effects, intended or not, did they have? To what extent can we determine that the practice was therefore effective? And how did those involved view the oath in question? Oath-swearing inherently involved several parties who viewed the ritual from different standpoints. Depending on whether they swore or received an oath, emperor, soldier, civil servant, and ordinary religious adherent would have had diverse perceptions of each promise. These perspectives, which indicate the utility of and attitudes towards the practice, require exploration in relation to the contexts in which these promises existed. The aim is not to provide a solely technical analysis of how and when oaths were taken, nor to offer comprehensive coverage of every conceivable late Roman promise, which is beyond the constraints of a thesis of this length.[21] Swearing to secrecy, during litigation, and in the context of internal politics, for example, are not dealt with in this thesis, except in passing. Rather, this work aims to illuminate important selected aspects of later-Roman society through the under-exploited lens of oath-taking. In order to perform this analysis, we will begin with a consideration of what constituted an oath in this period, what this study will examine, the sources used, and the relevant scholarship.

[20] All dates hereafter are CE unless specified.
[21] cf. Lothar 1989, on promissory oaths used in seventh- to twelfth-century Germany. Due to Lothar's attempts at comprehensiveness, Bouchard 1991, 857 has unfavourably described the work as 'little more than an annotated catalog of medieval oaths'.

The Oath in Late Antiquity: form and terminology

What was an oath? Several scholars have offered definitions for other periods of antiquity. Generally, these works suggest that the practice involved a statement reaffirmed by divine oversight that comprised three key elements: 1) the statement itself; 2) an invocation of supernatural powers to attend as witnesses; and 3) a latent curse activated only in the case of the statement's contradiction.[22] These three basic matters often constituted the main body of the formula, the wording of the oath in question. Similar to swearing in other periods of antiquity and the Middle Ages, the usage of an oath in later-Roman society can usually be identified by the inclusion of these three elements and/or the use of particular terminology. Through an analysis of these elements, the terms used to refer to oaths, and various cognate practices which were connected to swearing yet existed as separate matters, we can gain a clearer sense of what constituted an oath in Late Antiquity.

While few extant formulae that were meant to be recited by the swearers have survived from Late Antiquity, one fragmentary example is preserved in a third-century papyrus, which records the oath sworn by new initiates into a mystery cult:

> [Ὀμνύω κατὰ τοῦ διχάσ]αντος γῆν ἀπ΄ οὐρανοῦ [καί σκότος ἀπὸ φωτὸς κ]αὶ ἡμέραν ἐκ νυκτὸς [καὶ ἀνατολὴν ἀπὸ δύσ]εως καὶ ζωὴν ἀπὸ θα[νάτου καὶ γένεσιν ἀπὸ] φθορᾶς· ἐπόμνυμαι [δὲ καὶ οὓς προσκυνῶ θ]εοὺς συντηρήσειν καὶ φυλάξειν τὰ παραδεδομένα μοι μυστή[ρια...] πατέρα Σαραπίωνα [...] τον ἱεροκήρυκα κα-[...ὐ]πάρχει, καὶ τοὺς συν [... ὁ]υς ἀδελφούς. εὐορκοῦν[τι μέν μοι εὖ εἴη, ἐφιορ]κοῦντ[ι δὲ τ]ὰ ἐναν[τία, ἐάν τι τούτων ἐκλαλ]ήσω…[23]
>
> I swear by Him who separates earth from heaven, darkness from light, day from night, life from death, and creation from destruction. I swear to those deities whom I revere to observe and guard the mysteries transmitted to me …Father Serapis…the sacrificial attendant Ka-…, begins, and those with… the brothers. May it go well for me if I remain true to my oath and those who swear in the [deities'/priests'] presence [but] if I should divulge any of these things …

[22] Burkert 1997, 35-36; Sommerstein 2007a, 2 (quoting Janko 1992, 194); 2014, 1-2; Auzépy 2008, 9. See also Buchanan's definition (1965, 321-322), where the three parts are the invocation/object over which the oath is made, a curse, and the conditions of the curse.
[23] *PSI* 10 1162, lines 1-12 (=Merkelbach 1967, 72-73).

Although the papyrus is largely reconstructed from earlier comparable papyri, we can see the constituent elements we expect in an oath, in both other periods and Late Antiquity: 1) the statement, in which the initiate promises to observe the mysteries of the cult and keep them secret; 2) an invocation, calling upon the deities of the cult; and 3) the consequences, unpreserved but evidently originally part of the document, judging by the final words. It is worth briefly examining each of these elements in turn to understand their general purpose in this and in other examples.

First, the initiate's formula contains a statement made to the recipient of the oath. This statement could have two senses. As in the above example, where the initiate promised to observe the mysteries of the cult and keep them secret, the statement could be promissory. Several Egyptian villagers in 323 took this form of oath, affirming that they would care for the trees and gardens surrounding their homes to the best of their ability for the foreseeable future.[24] The start of formal obligations, such as service in the armed or civil services, regularly featured such promissory oaths, which by their nature usually involved a variable period of obligation.

The statement could also take a declaratory sense, by which the subject promised that something was the case, either presently or previously. As this type of oath reported something, it was often used during judicial cases and in local business arrangements. For example, the valuation of property was often accompanied by an oath to confirm that the proposed value was accurate.[25] A similar use of declaratory oaths can be seen in one popular legend reported by several chronicles. The emperor Theodosius II purportedly received a unique apple as a gift and presented it to his empress Eudocia, who then gave it to the official, Paulinus.[26] Unaware of the fruit's previous ownership, Paulinus then gifted the apple back to the emperor, who then asked Eudocia where the apple was. To convince Theodosius that she had eaten the fruit, the empress reportedly swore the apple had not been sent to anyone.[27] As indicated by this example, such promises could be used to confirm or deny something about the swearer's past conduct.

[24] *P.Oxy*. 36 2767, lines 7-9.
[25] *CJ* 7.72.10; Malalas 13.31.26-32.
[26] On this tale, its historicity, and its context, see: Holum 1982, 176-177, 193-194.
[27] Malalas 14.8; *Chron. Pasch. s.a.* 444; Theoph. AM5940.

To oversee the statement, the swearer typically invoked higher forces, as is overtly the case in the initiation formula above.[28] Earlier Roman sworn promises called upon a host of traditional forces, while Christian invocations were adopted in later years.[29] Equally, foreign peoples often swore by their own gods.[30] As comparatively few formulae recited by the oath-takers have survived, we are often reliant upon accounts which summarise the promises sworn and leave the invocations to be understood. It was standard for a higher power to be called to observe the oath-taking and even if this entreaty to the divine was left unspoken, a number of related rituals, such as swearing over the Gospels, could be used to summon a supernatural witness.[31] Certain sworn promises involved more abstract matters. Several fourth-century individuals are said to have sworn by the 'prayers of Dioscorus', a deceased monk and bishop famed in Egypt, while the fifth-century ecclesiastical historian Sozomen suggests that many Romans took oaths by the annual Allelujah hymn sung in Rome.[32] Even though no deity is clearly expressed in these cases, the involvement of supernatural forces was usually understood.

Connected to these invocations was the third and final key element of oaths, namely the promise of retribution for contradiction of the statement. The summoned deity was assumed to oversee the maintenance of the agreement and punish oath-breakers, thereby ensuring the fulfilment of the oath. The repercussions for ignoring the terms of the promise were sometimes explicitly stated, as appears to have been the case in the initiate's formula; the initiate acknowledged that violation of the oath directly led to punishment, but unfortunately the details of these penalties have not survived. Eusebius of Caesarea provides a comparable example. Three late second-century individuals sought to spread rumours about Narcissus, archbishop of Jerusalem. To convince others that their statements were correct, these men swore oaths with the penalty for lying being mortal immolation, disease, and blindness.[33] Eusebius reports that, as these oaths were false, these individuals were afflicted by the punishments they had acknowledged. A single cinder purportedly set the first man's house on fire, killing him with his family, while the second wasted away due to illness. The third individual, seeing what had happened, confessed his falsehoods but wept to such an

[28] The identity of this cult and its deities, who may be connected to 'Father Serapis', are uncertain (Merkelbach 1967).
[29] This trend is addressed in several chapters but see Chapter 4 in particular.
[30] See Chapter 3.
[31] These rituals are discussed throughout, but see in particular pp. 153-163.
[32] Prayers of Dioscorus (εὐχαί Διοσκόρου): Pall. *Dial.* 17. Allelujah: Soz. 7.19.
[33] Eus. *EH* 6.9.5. Eusebius suggests that these oaths were not believed due to the glowing reputation of Narcissus.

extent that his eyes were destroyed.[34] In these examples, the punishment was understood to fall upon the perjurer, but oaths could also be sworn over someone else's safety, thereby suggesting that violation of the promise endangered another person, most often a relative.[35] Whether directed at the swearer or someone else, these punishments were usually supernatural in nature. One constitution, dated to 223, states that breaking oaths provided in legal contexts was punished only by the divine and not physical retribution, while another law issued in 539 notes that those who ignored certain sworn promises would 'undergo the penalty for their perjury from God'.[36] This belief continued from earlier periods, perhaps best indicated by several second- and third-century inscriptions erected in Lydia and Phrygia through which individuals sought to receive divine forgiveness for breaking oaths.[37] Mortal punishments could be threatened, as was the case for some versions of the military and civil service oaths, but for most of antiquity, these instances appear to be exceptions.[38]

As is the case with invocations, many sources do not state the penalties for the repudiation of oaths. Some papyrus documents, which were related to provincial economic and administrative undertakings, record confirmations in which the swearer explicitly acknowledged their liability to the general 'consequences of the oath' if they broke their agreement.[39] Many literary works lack even this indication of consequences. With regard to promises sworn in earlier Greek societies, Alan Sommerstein has suggested that accounts describing the practice signified an appeal to supernatural witnesses and an acknowledgement of potential retribution through the performative verb.[40] The same seems to be true in late antique literature. Procopius, for example, reports that the general Belisarius and his stepson Photius swore 'the oaths most dreadful for Christians' (δεινότατοι ὅρκοι Χριστιανοῖς) in

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[34] Eus. *EH* 6.9.7-8.
[35] See further: p. 192 n. 163.
[36] *CJ* 4.1.2 *Iuri iurandi contempta religio satis deum ultorem habet. Periculum autem corporis uel maiestatis crimen secundum constituta diuorum parentum meorum, etsi per principis uenerationem quodam calore fuerit periuratum, inferri non placet*; Just. *Nov.* 82.11.1 [oath-breakers] τῷ δεσπότῃ θεῷ τὴν ποινὴν τῆς ἐπιορκίας ὑφέξουσιν.
[37] e.g. *SEG* 37.1000, dated to 166/67, in which we are told that unspecified deities forgave the wife of one Eudoxos for breaking her oaths and that Eudoxos himself would consequently pay the temple where this inscription was erected. On such 'confession inscriptions' more generally, see: Nieuwland and Versnel 1990. On perjury in earlier antiquity, see: Torrance 2014b.
[38] Punishments for breaking military and civil service oaths: pp. 53-54, 99-100 below. See also: *CTh* 2.9.3 (=*CJ* 2.4.41), which imposes pecuniary penalties and a loss of reputation upon violators of sworn pacts with infamy; *D.* 12.2.13.6, which states that the breaker an oath sworn by the *genius* of the emperor would be beaten by rods and warned about swearing unwisely; *CJ* 4.20.13, which suggests that perjury in relation to false testimony in a judicial context would be punished criminally; Seidl 1935, 128-136.
[39] e.g. *CPR* 6 6, line 19, dated to 439 μηδὲν διεψεῦσθαι ἢ ἔνοχος εἴην τῷ θείῳ ὅρκῳ καὶ τῷ περὶ τούτου κινδύνῳ
[40] Sommerstein 2007a, 2. The terminology used in reference to oaths is discussed in subsequent paragraphs.

confirmation of their plot to kill the adulterous lover of Belisarius' wife.[41] Procopius records the statement - the swearers would kill the lover - but there is only an implicit suggestion of divine invocation or retribution through the usage of δεινότατος and the claim that an oath was taken.[42] Again, as with invocations, certain rituals were used to signify acknowledgement of potential consequences. One passage in the fourth-century history of Ammianus Marcellinus makes this possibility clear; several soldiers swearing allegiance to their new ruler Julian are said to do so 'under severe imprecations with their swords having been pointed at their throats'.[43] In any case, many accounts simply shorten references to the intent of the agreement and an indication that an oath had been sworn, thereby leaving the invocations and curses to be understood by the reader.

As the details of these constituent elements were often omitted from our sources, the terminology by which we can identify when we are dealing with an oath becomes particularly important. The salient Greek terms include forms of ὄμνυμι ('I swear') and ὅρκος ('an oath').[44] Latin sources generally use the performative verbs *iuro* and *deiero* or the noun-constructions *ius iurandum, iuratio,* and *iuramentum*.[45] Equally, an oath that was false or a case of an ignored sworn promise was *periurium* or ἐπίορκος, while the action of perjuring was signified by the verbs related to these nouns.[46] These terms do not specify a particular type of oath due to their general nature and so it is necessary to examine the context to determine whether we are examining, for example, a diplomatic or bureaucratic promise, as well as whether the sworn affirmation is an oath taken with formalised rituals or rather an impromptu imprecation, made in the heat of the moment.[47]

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[41] Proc. *SH* 2.13-14.
[42] Oaths were also occasionally termed *terribilis* (*Ep. Austr.* 42), ἐκπληκτικός (*P.Cair.Masp.* 3 67314, fr. 3, line 10, dated to ca. 569-570), φοβερώτατος (Just. *Nov.* 102.*praef.*), φρικτόν (*P.Cair.Masp.* 2 67200R, line 4, dated to ca. 500-599), and φρικωδέστατος (*P.Stras.* 1 48, line 6, dated to 566).
[43] Amm. 21.5.10 (full text and discussion pp. 32-33). See also 27.5.9, where the Gothic king Athanaric was bound by an oath 'under fearful execrations' (*sub timenda exsecratione*).
[44] Examples of usage: ὅρκος: Herod. 2.9.8, 8.7.4. ὄμνυμι: Proc. *Wars* 1.3.17, 4.1. Related terms include those contracted with prepositional prefixes (e.g. ἐπόμνυμι, in *BGU* 1 255, line 4, dated to 599). Ὅρκος, capitalised, refers to the divine personification of the curse element, but this meaning is rare in Late Antiquity
[45] Usage: *Iuro:* Amm. 14.11.11; *HA Max.* 24.3. *Deiero*: Tert. *Apol.* 32.2-3. *Ius iurandum*: Amm. 26.7.17. *Iuratio*: Aug. *Ep.* 47.1. *Iuramentum:* Amm. 21.5.7; Aug. *Ep.* 46.1-2. Note also that *coniuro,* συνόμνυμι, and the related noun-constructions usually refer to two or more individuals swearing to each other, while *adiuro* typically concerns compelling another individual to take an oath.
[46] Ἐπίορκος: Priscus fr.9.3.75-80. Ἐπιορκέω: Soz. 4.24. *Periurium*: Jerome *On Jeremiah* 1.69. *Periuro*: Aug. *Civ. Dei* 1.15.
[47] Impromptu expressions: pp. 11-12.

The frequently used term *sacramentum* is more problematic due to the variety of meanings it possessed throughout Roman history.[48] In many cases, it referred to various types of oath, most notably the military example, and, given its frequent appearance in legal sources, it was probably a formal designation for several promises.[49] As indicated by the second-century author Apuleius' use of the term, *sacramentum* could also refer to a religious initiation or mysteries,[50] particularly Christian sacraments from the third century. Many Christian sources must be read carefully, since it is possible to confuse, for example, Tertullian's use of *sacramentum* in reference to the baptismal sacrament with his comments on the military oath.[51]

While examining this terminology can help to distinguish between oath-taking and various cognate practices, which existed as separate yet related matters, the context and effects of these practices also needs to be taken into account. Firstly, there was a difference between taking formalised sworn promises, which are the focus of this thesis, and making spontaneous affirmations in speech or writing. An example of this type of informal oath can be seen in one letter sent by the fourth-century poet Ausonius to the future bishop Paulinus of Nola, in praise of the latter's work:

> Iam quid de eloquentia dicam? liquido adiurare possum nullum tibi ad poeticam facundiam Romanae iuuentutis aequari.[52]
>
> And now what shall I say about your eloquence? I can certainly swear that not one of the Roman youth is your equal in poetic expressiveness.

Although Ausonius uses the performative *adiurare*, the poet was evidently not swearing a promise with the same significance or ritual formulation as, for example, the military oath of allegiance. Similarly, various individuals called forth deities to witness proceedings through terms such as *testor*, which could be used to refer both to such spontaneous invocations and also to more formalised promises.[53] With reference to Aristophanes' *Clouds*, Sommerstein

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[48] *OLD*[2] 7:1674-1675 (*s.v. sacramentum*), citing Varro *Ling.* 5.180, records the original meaning as the money deposited in a legal suit. See further: Van Slyke 2007, 246-266.
[49] Military: *CTh* 7.1.4; Theod. *Nov.* 4.1.2; Val. *Nov.* 15.1; *D.* 49.18.2. Other oaths: Apul. *Met.* 3.3; *CJ* 1.4.19; 10.35.2.4; *P.Ital*. 2 43, lines 25, 30, 37, 45, dated to ca. 542.
[50] Apul. *Met.* 11.15.5.
[51] Baptism: Tert. *Ad Martyras* 3.1. Military oath: Tert. *Cor.* 11.1.
[52] Aus. *Ep.* 23.
[53] Formal: Amm. 26.7.17. Informal: Amm. 21.13.5. The terms ἐξορκόω, ἐξορκίζω, and their non-prepositional forms also refer to such oath-like expressions, as occurred in *PSI* 1 76, lines 11-12, dated to ca. 572-573. See further: Seidl 1935, 44-47 (who has termed papyri documents with these formulations 'Eidesähnliche Redensarten'); Keenan 1978, 203; Mutschler 1992, 109-110.

has suggested that even these informal oaths were viewed as summoning gods to punish false statements.[54] In one fifth-century sermon, Augustine, bishop of Hippo, stated that his congregation should see no distinction between formally swearing by God and calling upon the deity more colloquially.[55] Given that the bishop sought to persuade his laity that the two practices were the same, some individuals evidently believed there was a difference. The same belief is supported by one letter sent by the fourth-century bishop, Gregory of Nazianzus, who notes that many people thought that only promises explicitly affirmed with supernatural consequences were oaths.[56] There was clearly some connection between impromptu appeals to higher powers and oaths with formalised rituals, but there was also a difference between the two practices which should be borne in mind. Although both promises created some obligation on the part of the initiating party to be honest or complete an action, colloquial invocations often did not include all three of the aforementioned elements which constituted a formal oath and by their nature were typically not ritualised in the same manner.

Additionally, a number of broader terms could be used to refer to oaths but, due to their non-specific definitions, should not be taken as entirely coextensive with swearing. Pledges, often signified by terms such as πίστά, *pignora*, and *fides*, were general guarantees of good faith. Some accounts use this terminology to indicate an oath had been taken, as in Procopius' report of the Vandal leader Gelimer's surrender to the Justinianic general Belisarius.[57] Nevertheless, the broad meaning of such pledges and the associated concept of 'trust/faith' prevents us from identifying each assurance solely as an oath.[58] Related are several other terms, such as *pactum, professio,* and ὁμολογία, which describe a form of contractual agreement comparable to but not entirely coextensive with oaths.[59] In fact, the relationship between these similar yet distinct practices seems to be the reason that certain monks, who were technically prohibited from using oaths, couched various promises in terms

[54] Sommerstein 2007b, esp. 137. See also Sommerstein 2014, 4-5.
[55] Aug. *Serm.* 180.6.
[56] Greg. Naz. *Ep.* 163.3. See also Greg. Naz. *Carm.* 1.2.24 (*PG* 37.790-813), which associates other similar practices with oaths.
[57] Proc. *Wars* 4.7.9 claims Gelimer promised to surrender once pledges (τὰ πιστά) were given by Belisarius promising safe passage. Belisarius then commanded his envoy to offer an oath (ὅρκος) in 4.7.11, which Procopius then again reverts to τὰ πιστὰ in 4.7.12. On this incident, see pp. 128-129.
[58] This terminology also regularly refers to 'faith' in terms of honesty and religious belief (Morgan 2015, 1-35), as well as other forms of assurance, such exchanged hostages (e.g. Proc. *Wars* 8.16.29-30). Note also that *religio*, which was sometimes used metonymically for 'oath' (e.g. Amm. 15.5.30).
[59] Several documentary papyri also introduce oaths with an affirmation, as in *BGU* 3 936, lines 5-7, dated to 426, where one individual states 'I make an agreement, swearing by Almighty God and… Theodosius and Valentinian' (ὁμολογῶ ὀμνὺς θεὸν τὸν παντοκράτορα καὶ… Θεοδοσίου καὶ Οὐαλεντινιανοῦ).

of these agreements.[60] As with colloquial invocations, we should differentiate between formal oaths and these related practices due to their differences in formulation.

A common area of confusion is the difference between vows (*uotum*, εύχή) and oaths in Roman society, as exemplified by the modern blurring of their definitions. Roman *vota* were requests made by mortals to deities for aid, which would then be repaid by the vow-maker, most often in the form of a dedication with an inscription stating the fulfilment of the vow's conditions. Many such votive offerings contained the phrase *uotum soluit libens merito* (sometimes abbreviated as *VSLM*), '(the vow-maker) has fulfilled the vow willingly and deservedly'.[61] These *vota* could be public, such as the third-century annual prayers for imperial health, or private, such as is indicated by the sixth-century dedicatory silver plaquettes from the Ma'aret al-Nu'man treasure.[62] The Romans themselves occasionally associated oaths with vows; the military oath, for example, during the third century was sworn alongside the recitation of the aforementioned annual vows for the emperor's well-being, and certain theologians, such as Ambrose of Milan, discussed oath-swearing alongside Biblical *vota.*[63] The practices were clearly connected to some extent.

However, in one letter to the emperor Trajan, the second-century governor Pliny the Younger differentiated between the vows offered for imperial safety and the oaths sworn by soldiers on the same day as different matters. [64] The differences between the two practices seems to relate to their functions and formulations. The vow-maker requested aid from a supernatural force, who was responsible for the initial fulfilment of the vow, while the initiator of this ritual was only required to perform an action after their request had been met. On the other hand, taking an oath created immediate obligations for the oath-swearer. Additionally, both parties involved in a *votum* typically had active roles to play; the deity would theoretically answer the appeal and the vow-maker would repay the higher force with a dedicatory offering. In contrast, the recipient of an oath did not always have to perform an action. There are exceptions to this principle, such as in formalised diplomatic agreements where several individuals swore to maintain the peace, but in this case, more than one oath

[60] As discussed on pp. 203-205.
[61] e.g. *AE* 1923, 33; *CIL* 7.506; Gordon 2018 (=*ODLA* 2:1574 (*s.v.* votive offerings, Christian)); Hunter-Crawley (=*ODLA* 2:1575) (*s.v.* votive offerings, Roman, non-Christian)). See also Ziegler 2008, 3 n. 31 on a similar distinction in Biblical practice.
[62] Imperial health: *P.Dura* 54, col.1, lines 2-6, dated to ca. 225-235. Ma'aret al-Nu'man treasure: Lee 2016, 300-301.
[63] Military oath: p. 38. Theologians: Amb. *Off.* 3.12.78-79; p. 172.
[64] Pliny *Ep.* 10.52.

was made and each of the swearers was expected to uphold the arrangement.[65] Perhaps most importantly, although both practices involved higher powers, vows directly entreated deities, who were supposed to grant aid and therefore have an active role in the *votum.* The same was true of curses, which sought restitution from supernatural beings.[66] Oath-taking, on the other hand, did not require immediate action from higher forces, who oversaw the swearing of the promise but only became involved to punish violation of the oath. Due to these differences, this study will treat oaths and vows as separate matters.

In some cases, it may be useful to consider these cognate matters alongside oath-swearing and several scholars have done so.[67] The fact that the Romans themselves sometimes linked these practices indicates their close connection.[68] Additionally, there were evident similarities in purpose with a number of ritualistic practices. Binding spells, for example, called upon supernatural forces to ensure the fulfilment of a future action in a fashion analogous to various oaths.[69] Walter Burkert briefly highlights oath-swearing as one of various magical and religious rituals which appealed to deities to control the behaviour of humankind and affirm trust.[70]

Regardless, it is important to note that, unlike vows, pledges, or even colloquial swearing, formal oaths usually included a statement, an invocation, and the suggestion of retribution, even if these elements were not always explicit in the sources. These elements combined to create an assurance of good faith or loyalty, related to the other practices outlined above yet still different. The importance of maintaining this distinction can be seen in Chapter 4, which discusses how several Christians utilised oath-like practices to circumvent a prohibition of swearing. Therefore, as a result of differences in formulation and intent, oaths deserve to be treated separately from these other cognate matters, as will be the case throughout this analysis.

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[65] Treaties are discussed further in Chapter 3. The same can be said of those who took collective oaths. cf.. the military oath, where the soldiers who swore appear to have expected the emperor to be part of their community (pp. 68-73 below).
[66] On curses or 'juridicial prayers', see: Versnel 1991; Gager 1992.
[67] e.g. Schlesinger 2008, who deals with oaths and other similar practices together to discuss their shared psychological effects. See further the scholarship review below.
[68] See also Rapp forthcoming on this point.
[69] For a recent discussion of ancient binding spells, see: Eidinow 2019.
[70] Burkert 1997, 35.

Sources and Scholarship

As noted in the previous section, the ancient material concerning oaths is rarely detailed. Perhaps oaths were so common in Roman society that they rarely needed extensive commentary or even a mention in certain circumstances? When describing incidents in which emperors were murdered by their troops, for example, literary accounts would not have needed to state that the soldiers had broken their oaths of allegiance, as the audience would have taken this as read.

Nevertheless, references to oath-swearing do occur. Although there are exceptions, the majority of evidence for oaths in the late antique material is literary in some form.[71] Promises sworn in military and diplomatic contexts, for example, are primarily discussed in historical works, which concern key events throughout Late Antiquity. Unsurprisingly, ecclesiastical sources, including exegeses, histories, and apologetics, provides us with Christian attitudes towards and usages of oath-taking, the evidence of which is more substantial than material on oaths in other contexts. It should be noted that these literary works regularly discuss oaths to argue wider points about loyalty, religion, and the individuals involved. These literary deployments are themselves a usage of oaths and can indicate how numerous parties viewed oath-taking in various contexts, but at times it can be difficult to separate the roles of the oaths in question from these representations.

Most of the evidence concerning civil service oaths is recorded in legal compilations, which have their own issues. The *Codex of Theodosius,* promulgated in 438, preserved constitutions that were relevant up to the reign of Theodosius II, some of which were also included or modified in the later *Codex of Justinian*, along with other laws instituted until the latter's in 534.[72] Other legal compilations are also relevant to this study: the *Novels of Theodosius II* and the *Novels of Valentinian III,* collections of laws published by Theodosius and Valentinian after the *Codex of Theodosius* was promulgated in the fifth century; the *Novels of Justinian,* similarly consisting of constitutions issued after the publication of the *Codex of Justinian*; and the *Digest,* a collection of extracts taken from earlier jurists. Legal sources reflect an official representation of the oaths described and can therefore indicate how these promises were formulated and for what purposes they were implemented.

[71] Exceptions include *SEG* 35 1254 (=di Branco 2001), a fifth-century inscription concerning an oath by a builders' guild, and the various documentary papyri used in Chapter 4.
[72] On the legal sources discussed here, see: Corcoran 2016, xcvii-cxx.

However, constitutions and rescripts are less useful for determining how the swearers themselves perceived the oaths in question.

Perhaps due to the state of the relevant evidence, oath-swearing in Late Antiquity has received limited attention in modern scholarship.[73] Scholarly dictionaries and reference works, for example, only offer general entries on earlier or later examples, focusing on judicial applications with little discussion of their key features.[74] Several studies focused on the late antique armed forces, foreign policy and treaty-making, and Justinianic legislation have also discussed some of the oaths with which this thesis is concerned.[75] Even though these concise analyses are useful for other purposes, these examinations are brief and primarily deal with oath-swearing only in relation to the broader concerns of the study in question. Consequently, certain roles of oath-taking are not fully explored and similarities with other oaths are overlooked.

Several lengthier studies have focused upon individual contexts of swearing in this period with varying degrees of usefulness. Charles Pazdernik's 2009 article on the governor's formula in *Novel* 8, for example, convincingly sets out some of the key issues with a brief analysis of the oath itself.[76] No doubt due to the comparative wealth of patristic evidence, Christian perceptions of the practice have been examined by a number of interesting analyses. Oliver Delouis and Kevin Uhalde have dealt with parts of the relationship between the Christian Church and swearing, but in the process both authors sometimes examine oath-taking alongside cognate rituals.[77] As suggested earlier, formal oath-taking deserves to be

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[73] The following scholarship review is far from comprehensive. On oaths in other cultures, see: Ziegler 2008, esp. 10-15; Strine 2013, 43-71 (the ancient Near East); *Thesaurus Cultuum et Rituum Antiquorum* 3.237-46 (Greek and early Roman periods); Harke 2013 (earlier Roman private and public law); Ando 2000, 319-22 (the Principate); Svoronos 1951; Laurent 2008; Rapp 2015, 25-29 (the Byzantine period). Hirzel 1902 offers sporadic discussion on Roman oaths, but the focus is very much on Greek swearing and has received some criticism (Sommerstein 2007a, 6).

[74] The entries in *OCD*[4], *Brill's New Pauly,* and *Encyclopaedia of Ancient History* all focus on the Republic and Early Principate, while those in the *Oxford Dictionary of Byzantium* mostly deal with the late-seventh century onwards. Seston 1969 primarily assembles evidence on Roman allegiance oaths with little analysis. The entries in the recent *Oxford Dictionary of Late Antiquity* provide a relatively broader but nonetheless brief summary, while Stefan Esders' forthcoming entry for 'Schwur' in the *Reallexikon für Antike und Christentum* offers a useful overview of the practice from the Republic to post-Roman communities.

[75] Armed forces: Lee 2007a, 52-53; 2007b, 386. Foreign policy: Blockley 1992, 124, 160; Gillett 2003, 233, 248, 250. Treaty-making: Miller 1971, 74-76; Lee 2008, 114-16. Legislation: Bonini 1989, 80-82; Haase 1994, 20-26.

[76] Pazdernik 2009, esp. 150-54, but note that despite the title, ''The Trembling of Cain': religious power and institutional culture in Justinianic oath-making', only one Justinianic oath is discussed.

[77] Uhalde 2007, 77-104; Delouis 2008, 212-19. For blurring between practices, see: Uhalde 2007, 81-82, concerning Augustine's comments on Paul's letters; Delouis 2008, 214, on Greg. Naz. *Ep.* 82.6. Other works (e.g. Ando 2000, 359; Dilley 2017, 82-90 (discussed on p. 205 n. 241 below); Blidstein 2018a) also do not distinguish between these practices. cf. Blidstein 2018b, 54-55, which separates oaths and vows.

dealt with as a distinct practice, particularly given the Christian prohibition of swearing and ecclesiastical attempts to circumvent the ban by alternative forms.[78] Jaclyn Maxwell's 2006 study of John Chrysostom includes a section on swearing and does maintain this distinction, but primarily deals with Chrysostom's opinions.[79] Additionally, numerous publications, most notably those of Erwin Seidl, Klaus Worp, and Zola Packman, have performed technical analyses on provincial oaths preserved in the papyri, but as the primary focus of these works is the papyri, the wider application of swearing is mostly ignored.[80] Besides these individual issues, many of these studies do not always make sufficient uses of comparison with swearing in other contexts.[81] For example, although Mark Hebblewhite offers a starting point on the military oath in his discussion of the third- to fourth-century Roman armed forces, he does not always appropriately distinguish between the military oath of allegiance and other types of swearing.[82]

Several studies have offered a more systematic examination of oath-taking in a variety of contexts and, even though some of these analyses have little temporal overlap with Late Antiquity, they nevertheless provide some useful arguments about swearing as a general practice.[83] One edited volume, arising from a Parisian conference in 2007, deals with orality, writing, and oath-taking from the fifth to fifteenth centuries in the Byzantine empire and surrounding cultures, including the post-Roman West, Islamic communities, and Russia in the early Middle Ages.[84] As reflected by the volume's structuring into two parts, *Serment et Pouvoir* and *Parole et Norme*, the work examines the practice both as an attempt by authorities to control citizens and also as a method of testing reliability, in relation to numerous contexts. Additionally, the various studies associated with Alan Sommerstein's Leverhulme Trust project, *The Oath in Archaic and Classical Greek*, examine swearing in connection to many different fields, including law courts, business, and diplomatic relations.[85] Both the contributions of Sommerstein and his collaborators and also the

[78] See further pp. 203-205.
[79] Maxwell 2006, 148-51.
[80] Seidl 1935; Worp 1982; Packman 1994. Seidl does offer brief comparisons with other oaths.
[81] Kevin Uhalde (2007, 83-84; 2011, 257-258) briefly discusses oaths in several contexts as well as Christian objections to swearing, but these comparisons are quite concise.
[82] Hebblewhite 2017, 159-69 (revised from Hebblewhite 2016). See e.g. p. 34 n. 48, 35 n. 54 below. Note also that the series of articles by Franz Dölger on the military oath (1930; 1932; 1936), while useful, are primarily focused on religious issues.
[83] A forthcoming volume, based on the proceedings from a conference held in Berlin in 2016 and edited by Stefan Esders and Gerda Heydemann, also promises to offer a systematic examination of the Church's relationship with oath-swearing from the fourth to eleventh centuries.
[84] Auzepy and Saint-Guillain 2008.
[85] Sommerstein and Fletcher 2007; Sommerstein and Bayliss 2013; Sommerstein and Torrance 2014.

aforementioned French volume provide the overarching argument that oaths were meant to overcome distrust and enmity, creating a verbal commitment via affirming a statement by higher forces.[86]

These conclusions correlate to those made by sociological and psychological studies on oath-swearing and trust more generally. Several individuals have emphasised the connection between the spoken word and deed with the development of 'speech act' theory, which regards the performative effect of what we say. While the initial arguments of linguistics philosopher John Austin have been debated, his statements regarding swearing and promising as performative utterances are still valid and have been both accepted and used by various works over the past fifty years.[87] Additionally, the classicist Teresa Morgan has recently examined the semantics of early Christian faith and trust as exemplified by particular terms and noted that trust is 'one of the basic building blocks of any relationship and any society'.[88] Taking into account numerous sociological studies on concepts of reliability, Morgan suggests that trust relied upon hope for the future and was consequently fragile.[89] As a bond of ritualised trust, swearing could theoretically act as a safeguard to strengthen this fragility and aid in the fulfilment of this hope. The importance of swearing in societies is expounded by Herbert Schlesinger, who takes a psychological approach to the topic of oaths and promises in the contexts of modern clinical examinations, Shakespearean literature, ancient Greek tragedy, and Judaeo-Christian religion. Throughout the work, Schlesinger points to the importance of oaths, reaffirming that swearing and promising took place when reliability was doubtful and maintaining that these actions were linked with morality.[90] Moreover, Schlesinger argues that the swearing of an oath in particular, as an externalised method of creating obligation by calling upon higher forces, was an attempt to govern the future.[91] Oath-taking was therefore significant in most pre-modern societies as a support for the fabric of society.

As mentioned earlier, Late Antiquity provides a particularly useful period for exploring the purposes and roles of oath-swearing due to the societal, political, and religious

[86] Sommerstein 2007a, esp. 3; Auzepy 2008, esp. 12, 16.
[87] Austin et al. 1975, esp. 9-11; Salgueiro 2010. See Frankfurter 2019 for a relevant application of this theory to the ancient world and Suzanne Rebillard 2013, who uses the theory to examine one particular oath-formula (discussed further on pp. 207-208 later).
[88] Morgan 2015, esp. 15-23 (quote at 15), 26-35, 157, 181. See also Uhalde 2008, 77-78.
[89] Morgan 2015, 15-23, with bibliography.
[90] Schlesinger 2008, 1-25.
[91] Schlesinger 2008, 173-176, 188-198, esp. 193.

changes that occurred from the third to sixth centuries. This thesis argues that the practice was more than simply an appeal to a higher force. Oaths could certainly bind individuals to be honest or act correctly through the threat of supernatural judgement, yet these promises were often ignored, indicating that swearing was not always able to compel the swearers to uphold their promises. But even though oaths were sometimes broken, their frequent violation should not be taken as proof that the practice was useless. The primary value of oath-swearing was its social benefit. By its nature, the practice could facilitate relationships, assert control, or act as part of a performance, depending on the circumstances and the parties involved. As such, oath-swearing was an important part of late antique life.

Structure of this study

The following investigation is divided into four chapters, each of which corresponds to a context in which oath-swearing prominently featured. In these contexts, there is evidence to suggest that oaths could not be relied upon to hold the swearers to their commitments. Even though there was some doubt about the practice's efficacy or whether it should be used, oath-taking continued to be utilised as it contributed to a range of social dynamics.

This study begins with a discussion on the military oath of allegiance (*sacramentum militiae*) in Chapter 1, focusing upon developments in its formulation, literary uses of the oath, and the level of soldierly respect for the practice. Over the course of Late Antiquity, aspects of the oath and its swearing changed, most significantly concerning its religious orientation. A crucial argument made in this chapter is that, although the practice's official purpose was to consolidate allegiance to the emperor, an intention which many authors played upon to comment upon society and religion, taking the oath inherently supported a corporate community amongst the soldiers. Consequently, it is argued that the troops viewed the oath more as a bond of brotherhood than one of allegiance to their rulers. Most emperors had little direct contact with their soldiers, who were regularly based far away from imperial centres of influence. As a result, the oath only consolidated fidelity to the regime if the emperor was seen to fall within the soldierly corporate identity supported by the process of swearing.

Chapter 2 investigates oaths taken upon entry into civil service offices. Evidence concerning these oaths is not extensive, but one sixth-century legal constitution (*Novel* 8) preserves a detailed oath-formula to be recited by provincial governors alongside instructions

concerning this investiture promise. Analysis of this evidence indicates that, like the *sacramentum*, oaths of civil service were intended to assert control over the swearers, albeit to a considerably greater degree than its military counterpart. The officials promised to be loyal servants, effective and honest administrators, and adherents of the correct doctrines. Through these oaths, governors in particular were presented as part of a Christian hierarchy of service. Yet even if these criteria were not met, the emperor could still draw benefit from these oaths. Relations with imperial subjects could be strengthened through attempts to control the administration, regardless of whether the oaths had any practical effect.

Whereas the first two sections deal with institutional promises, Chapter 3 focuses on oaths used in the context of international diplomacy. Many Roman literary works share the preconception that oath-taking in relations with neighbouring groups was not always reliable due to assumptions of habitual foreign perjury. Perhaps in connection to this perception, the related invocations and rituals could change depending on who was involved in the oath-swearing ceremony, showing a fluidity in formulation not applicable to the previously discussed institutional contexts. This chapter therefore examines the numerous roles swearing played in this context, the association of oath-breaking with neighbouring peoples, and the mutable formulae used, to come to several conclusions about why the practice was used in diplomatic relations. Extending arguments made earlier in the thesis, this chapter suggests that oaths in this context were primarily used for their performative value; regardless of whether sworn agreements were upheld, the practice could be deployed to manipulate enemies and display imperial authority.

The final chapter centres on the Christian Church's relationship with swearing throughout Late Antiquity, with particular reference to oaths taken in everyday life. Christian attitudes towards the practice varied across a spectrum: some regarded all oaths as evil, whereas others thought that either only non-Christian promises were unacceptable or all oaths were permissible. Despite - or perhaps because of - these conflicting opinions, religious institutions increasingly made use of oath-taking. Through an exploration of these attitudes and the frequent inclusion of oath-taking in ecclesiastical affairs, this chapter suggests that abstention from this vital part of life resulted in social alienation. When faced with the choice between taking oaths or obeying their religious scruples, many ordinary Christians accepted the practice to comply with societal expectations.

When taken together, these contexts indicate that what is assumed to be the primary purpose of an oath is often not the role most appreciated by those involved. At the least, these sworn promises had a multitude of effects. Theoretically, oath-taking could provide a means of supernatural judgement, appealing to higher forces to provide some order to the world, but this was hardly the only role that the practice played in late antique societies. Oaths could build trust between individuals who had no previous relationship and tie communities together, while simultaneously drawing boundaries around those within this dynamic. Equally, sworn promises could be used in attempts to manipulate and control others, while authors could draw attention to incidents involving oath-taking for literary purposes. The swearing of oaths could be used to demonstrate that the imperial court was working for the benefit of its subjects, just as it could project an image of authority to geopolitical opponents. Oaths were therefore an important part of late antique life at both the empire-wide and the local level. By considering examples of this common social practice in action, we can come to a better understanding of how later-Roman society navigated the tensions of this period.

Chapter 1

Swearing like a trooper: the military oath of allegiance

The armed forces constituted the largest imperial institution in terms of manpower and consumption of resources. Asserting control over the troops was therefore important and one traditional method of doing so was through an oath of allegiance, the *sacramentum militiae.*[1] However, certain late antique emperors lost the support of their armed forces, and a considerable number, especially in the third century, also lost their lives at the hands of their units. Additionally, with the increasing pervasiveness of Christianity in Roman society, some committed religious adherents refused to swear or later broke their promises on religious grounds. As these incidents indicate, the oath was not always able to consolidate the allegiance of soldiers to their rulers, which raises questions about the role played by the *sacramentum* in late antique military life.

And yet, we find clear indications that the oath not only continued to be taken into the sixth century but was also viewed positively by the emperor. The *sacramentum* was actively administered and invoked by various rulers, imperial claimants, and commanders in attempts to exert influence over their forces.[2] Moreover, federate units originally recruited from foreign peoples were also made to swear a form of oath.[3] These usages of the *sacramentum* suggest that the oath-taking process remained a part of armed service for reasons beyond the innate conservatism of military rituals. Rather, the practice retained relevance to late antique military life.

This chapter investigates the significance of the later-Roman *sacramentum* through three strands of inquiry. The first focuses on the formulation of the oath in the late third to sixth centuries. The *sacramentum* was inherently mutable and was adapted to reflect new circumstances in the empire, particularly the increasing significance of Christianity. As the oath in this period was officially intended to solidify allegiance to the emperor, the process of swearing emphasised imperial primacy and was underscored by religious elements. However,

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[1] Although the terminology used in reference to oaths is problematic (pp. 10-12 above), *sacramentum militiae* or *sacramentum* will hereafter be used due to their frequent usage in legal constitutions and Vegetius' suggestion that this was the oath's official label (2.5).
[2] Emperors: Herod. 6.9.2; 8.7.4; Zos. 2.44.3; Ps-Zach. 7.8F. Imperial claimants: Amm. 21.5.10; 26.6.13-14, 7.9. Commanders: Herod. 7.9.3; Proc. *Wars* 4.18.6.
[3] On these oaths, see pp. 126-127 below.

the practice also inherently contributed to a sense of military community, which is often overlooked in ancient and modern accounts. The second strand examines the use of the *sacramentum* as a literary motif. It is important to recognise that the perspectives of authors who had no military experience would naturally differ from those of individuals who were actively involved in the practice. A brief analysis of accounts written by authors without an evident military background suggests that they used the oath to support their arguments regarding loyalty and religion, building upon perceptions that the *sacramentum* was primarily a bond of allegiance to a ruler. The final strand discusses the attitudes towards the *sacramentum* held by the soldiers. Despite numerous incidents of unrest, various accounts suggest that the armed forces respected the *sacramentum*. It seems that the soldiers believed that the oath represented something different to what was intended by the emperor. For the armed forces, the corporate identity created by swearing the oath was the most important facet of the practice and the primary effect which they associated with the *sacramentum*. By investigating the military oath along these lines, we can see that the *sacramentum* did have an active role in later-Roman military life, albeit more as a bond of brotherhood than as a promise of allegiance.

1. Continuity and innovation: the formulation of the *sacramentum*

The military institutions of Late Antiquity existed in different circumstances to earlier periods. Emperors in the third and fourth centuries became more involved in martial affairs, whereas direct imperial interaction became increasingly sporadic in later centuries. Alongside bouts of political instability, the influence of Christianity in the shifting religious landscape of this period also changed aspects of military life. The *sacramentum* developed in response to these new circumstances, but a number of elements from earlier versions of the oath still featured throughout this period. Through the following examination of the late antique oath's formulation and associated rituals, we can see that the practice had the potential to play an important role in imperial relations with the armed forces.

Analysis of the later-Roman *sacramentum* relies on a range of ancient sources. The history of Ammianus Marcellinus is particularly useful given that the author had a military background.[4] As a self-proclaimed soldier, specifically a *protector domesticus* (effectively,

[4] On Ammianus's usefulness for examining the *sacramentum,* see: Wuk forthcoming.

an aide-de-camp) assigned to the general Ursicinus, the author was in a position to reflect the opinions of military personnel in a way that others could not. While we should be aware that Ammianus was probably from the provincial elite, his position as a *protector* meant that he was actively involved in military life and would have sworn the *sacramentum* himself. Furthermore, the author's clear desire to present his work from the perspective of a soldier means that his history can provide us with an informed description of the practice.

Ammianus is, however, unusual among late Roman authors in having direct experience of the swearing the *sacramentum*. The majority of authors from Late Antiquity were educated in some manner and had little to no experience of armed service.[5] As a result, while these writers were no doubt not entirely devoid of military knowledge, they would only have been aware of general elements rather than the minutiae or more technical facets of military life, such as the formulation of the oath.

A further limitation is that later accounts regarding the *sacramentum* are considerably fewer than those from earlier periods. This deficit can partially be explained by the literary situation of the later empire, where many fifth-century histories are fragmentary. Furthermore, following the mid-third century and due to reforms attributed to Diocletian and Constantine, the educated individuals who wrote and read these sources rarely held military offices. Senior commands no longer combined military and civilian duties; senators no longer filled the leadership as they had in previous years, while experienced career soldiers took up newly created positions.[6]

With these caveats in mind, two particular authors are worth emphasis since their works provide relatively lengthy excurses on the *sacramentum*. Vegetius, a bureaucrat who disavowed any military knowledge or experience on his own part, compiled information from older sources in his *Epitome of Military Science* as a guide for an unnamed emperor, probably Theodosius I.[7] The main agenda of Vegetius' work was to stimulate military reform by describing a pseudo-historical model of previous Roman armies. This model combined traditional elements that he sought to revive with changes he wanted to implement and contemporary matters which met with his approval.[8] Although the work therefore does not

[5] Greatrex 2001b notes that many late antique historians had experience as lawyers or bureaucrats. See also Treadgold 2007 for concise discussion on many of the relevant authors.
[6] Shaw 1999, 151; Lee 2007a, 24-25.
[7] Veg. 1.*praef*., 1.28; Milner 1996, xxxi-xli. A range of candidates from Theodosius I to Valentinian III have been suggested, but the balance of evidence is in Theodosius I's favour. See: Barnes 1979; Sabbah 1980; Milner 1996, xxxvii-xli; Charles 2007, esp. 16-21, 23-30, 181-184; Wheeler 2008.
[8] Milner 1996, xxviii; Charles 2007, 126 n. 3; Rance 2007a, 345.

always accurately describe a late antique fighting force, when compared to other sources Vegetius' detailed description of the *sacramentum* can provide us with a useful account of the practice's formulation.

The second author is Procopius of Caesarea, a lawyer who accompanied the sixth-century general Belisarius on campaign in his capacity as a secretary.[9] His historical accounts of Justinian's wars often refer to the *sacramentum* and the author may have witnessed an oath-taking ceremony first-hand. But even though Procopius may have had more insight into military life than other historians, he would hardly have had the same experiences or perceptions as a regular soldier due to his position and background. Unlike Ammianus, neither Vegetius or Procopius would have taken the oath, but their accounts can still contribute to a better-informed understanding of the *sacramentum.*

As noted earlier, the *sacramentum* was not a late antique invention. It remained in use into the sixth century from the Republic and Principate. Later forms of the *sacramentum* displayed a number of continuities from these earlier versions.[10] But these elements which remained a part of the process did so because they continued to have a purpose, rather than through inertia. Facets that became irrelevant, most notably the non-Christian terminology, were replaced, while new elements, such as the use of tattoos, were introduced. Through these adaptations, the *sacramentum* remained an active part of military life.

The swearing process was envisioned to confirm loyalty to the emperor by emphasising various elements in the practice's formulation. The emperor was highlighted as the recipient of the oath and violation of this promise was discouraged by accentuating the practice's religious significance and creating a corporate identity for those who swore. Other elements reasserted these messages and reminded the soldiers of their promises. The remainder of this section examines the formulation of the *sacramentum* and is divided into two chronological parts: firstly, the third to fourth centuries, when certain changes were introduced, and secondly, the fifth and sixth centuries, when these developments progressed further. Through the following analysis of the formulae recited, deities invoked, swearing

[9] Averil Cameron 1985, 6-8; Greatrex 2001b, 150. cf. Howard-Johnston 2001, 25-30 who argues that Procopius was an architect or engineer.
[10] Scholarship has tended to focus on earlier versions of the practice. Earlier versions: Campbell 1984, 19-32; Stäcker 2003, 293-308. Dölger 1930, Lee 2007a, 52-53, 2007b, 386, and Hebblewhite 2017, 159-169 have extended the discussion on various aspects of the oath up to the late fourth century.

rituals, and other associated elements, we can see that every part of the process was intended to have an active effect on the soldiers who undertook it.

1.1. Third to fourth centuries

Elements of the *sacramentum* in the third and fourth centuries have antecedents in earlier forms of the practice. The three main emphases of imperial primacy, the oath's sanctity, and the corporate mentality survived into this period, but novel elements were added to address contemporary issues. Other facets of the swearing process were deployed to keep the promises of allegiance fresh in the soldiers' minds. Through these communicated messages, the mutability of the practice's formulation, and frequent reminders of the oath-taking ceremony, the emperor sought to keep the *sacramentum* relevant to the changing armed forces.

As the *sacramentum* was officially a bond between the emperor and his armed forces, any unpacking of its formulation should begin with how swearing the oath emphasised imperial primacy in this period. Perhaps obviously, the emperor was the main recipient, as had been the case in the Principate. Whereas Republican officials received the *sacramentum* on behalf of the state, the emperor was highlighted as focus of the practice, even though his personal attendance at swearing ceremonies would have been infrequent.[11] Unlike Republican officials, who gathered their forces prior to the initiation of hostilities, rulers in later periods were precluded from witnessing each ceremony by the stationing of units across the empire.[12] Even though there were occasions in Late Antiquity during which there was direct imperial participation, such as at the beginning of Julian's rise to power,[13] only a small percentage of military personnel took the oath in these unusual circumstances. More regularly, the emperor was involved *in absentia*.

Imperial images, which were widespread in various contexts, stood in for absent emperors during these rituals. The portraiture of a ruler was viewed as an embodiment of his

[11] Republic: Livy 22.38; Serv. *Ad Aen.* 8.614. Principate: Epictetus *Discourses* 1.14.14-15. Although Sulla was given prime position in the oath he received (Plut. *Vit.Sull*. 27.3), he was still presented as a representative of the Republic.
[12] Republican consuls: Livy 22.38; Serv. *Ad Aen.* 8.614.
[13] Amm. 21.5.8-10. As argued by Wuk forthcoming, Julian's soldiers swore the *sacramentum* rather than a general allegiance oath, as suggested by Szidat 1996, 42 and den Boeft et al. 1991, 61.

authority and could receive cult acts in his stead into Late Antiquity.[14] In relation to this significance, the imperial portraits of Pupienus and Balbinus received the oaths given by the forces of Maximinus, who had been assassinated in 238 outside Aquileia.[15]

One such representation, which was affixed to the standards, regularly accompanied units wherever they went and so was probably the main focus of their oaths. Although no definitive archaeological evidence has survived, various depictions (figs. 1-3) and later descriptions suggest that these portraits, or *imagines*, were small, metal images of the emperor that could be affixed to certain parts of the standard.[16] The numerous references to the *imagines* indicate their common usage throughout the third and fourth centuries.[17] Our sources do not agree on the structure and position of these images on the standards, but the form of these portraits could probably change, as did those who were depicted.[18] Obviously, the current ruler would feature, but there are some examples where close relatives also appeared, as in fig.1.[19] When taken with the claims that Constantine included his sons in one oath-formula, and certain soldiers promised loyalty to both Caracalla and Geta, these standards suggest that there was some connection between the recipients of the oath and those depicted.[20] Given that allegiance to



Constantinian *follis*, 327, reverse displaying a standard with affixed medallions, probably bearing the imagines of Constantine I and two sons. Type: Mattingly–Sydenham, RIC 7.17 (Constantinople).

Source: https://www.acsearch.info/search.html?id=95602

[14] Zanker 1979, 361; Price 1984, 182-188; Ando 2000, 212-231; Varner 2005, 67-69. Later centuries: Athan. *Against the Arians* 3.5; Basil *De Spiritu Sanctu* 18.45; Severian of Gabala *In Cosmogoniam* 6.5 (*PG* 56.489).
[15] Herod. 8.6.2 (followed by *HA Max.* 24.3). cf. the attempts to assert control over soldiers by the parading of *imagines* in *HA Gord.* 10.8 and Zos. 2.12-14, albeit without clear reference to the *sacramentum.*
[16] Potential archaeological finds: Curle 1911, 178; Horn 1982; Stäcker 2003, 193. See also Euzennat 1994 on one image-bearing Severan shield and Töpfer 2011, 26-28 on *imagines* generally.
[17] Eus. *VC* 1.31.2; Greg. Naz. *Or.* 4.66; Julian *Ep. ad Ath.* 278D; Veg. 2.6-7; Soz. 5.17.3.
[18] See Töpfer 2011, 13-30 on the structure of standards, and 18-70 on different decorations.
[19] It is not clear who is represented on the *imagines* in fig. 2, but cf. fig. 7, a relief of *imagines* depicting Septimius Severus and Caracalla.
[20] Constantinians: Zos. 2.44.3. Severans: *HA Carac.* 2.7. As noted later (p.64), the latter passage is not an explicit reference to the oath.



Fig. 2: Detail of the 'Triumph of Licinius' cameo, with a winged figure bearing a standard with two *imagines*. Held in Bibliothèque Nationale de France, Cabinet des Médailles.

Source: http://medaillesetantiques.bnf.fr/ws/catalogue/app/collection/record/ark:/12148/c33gbqrg2



Fig. 3: Detail of a basal-relief from the Arch of Constantine, Rome, bearing a standard with an *imago* and a *manus*.

Source: Petrikovits 1983 189 Pl. 11.

the current ruler was the aim, images of previous emperors would hardly have been borne unless they provided some dynastic or institutional support.

Numerous sources throughout Roman history report that the armed forces respected the *imago*-standard, but the Christian author Tertullian provides the most explicit late antique connection between this significance and the *sacramentum.* Tertullian links military reverence for the standards with soldiers swearing oaths to them.[21] Given that the author presented military service as idolatrous and unsuitable for Christians, the theologian's reference to the influence of these ensigns over third-century soldiers is suspect. However, other sources associated standards with both military respect and also the earlier oath of allegiance.[22] Some passions also support a link between the *sacramentum* and standards by claiming that some martyrs rejected their oaths via a symbolic throwing of equipment

[21] Tert. *Apol.* 16.8 *religio Romanorum tota castrensis signa ueneratur, signa iurat, signa omnibus deis praeponit*; *Nat* 1.12.15 *Signa adorat, signa deierat, signa ipsi Ioui praefert.* Other elements of the *signa* also contributed to their sanctity (Helgeland 1978, 1473-1478; Wheeler 2009, 247-260).
[22] Respect for the standards: *P.Dura* 54 col.2, lines 8, 14, dated to ca. 225-235 (with Welles et al. 1959, 191, on annual supplication of the *signa*); Veg. 3.8. Earlier sources: Livy 26.48.12; Dion. Hal. *Ant. Rom.* 6.45.

beneath the *signa.*[23] Soldiers therefore probably continued to swear to their standards in this period.

As was also the case in previous centuries, the oath-formulae used during Late Antiquity were focused upon the imperial recipient. The relatively detailed description of the oath by Vegetius, who provides our most extensive surviving account of the promise's formulation, indicates that much of the formula concerned loyalty to the emperor:

> Nam uicturis in cute punctis milites scripti, cum matriculis inseruntur, iurare solent; et ideo militiae sacramenta dicuntur. Iurant autem per Deum et Christum et sanctum Spiritum et per maiestatem imperatoris, quae secundum Deum generi humano diligenda est et colenda. Nam imperator cum Augusti nomen accepit, tamquam praesenti et corporali Deo fidelis est praestanda deuotio, inpendendus peruigil famulatus. Deo enim uel priuatus uel militans seruit, cum fideliter eum diligit qui Deo regnat auctore. Iurant autem milites omnia se strenue facturos, quae praeceperit imperator, numquam deserturos militiam nec mortem recusaturos pro Romana republica.[24]
>
> The soldiers are marked with tattoos in the skin which will last and swear an oath when they are enlisted on the rolls. That is why (the oaths) are called the 'sacraments' of military service. They swear by God, Christ and the Holy Spirit, and by the majesty of the Emperor which second to God is to be loved and worshipped by the human race. For since the emperor has received the name of the 'August', faithful devotion should be given, unceasing homage paid him as if to a present and corporeal deity. For it is God whom a private citizen or a soldier serves, when he faithfully loves him who reigns by God's authority. The soldiers swear they will strenuously do all that the emperor may command, will never desert the service, nor refuse to die for the Roman state.

Unsurprisingly, emphasis on the practical duties remained part of the practice and probably the formulae used across the empire from earlier periods.[25] Ammianus states that several units who initially supported the imperial claimant Procopius in 365 were similarly bound by

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[23] *Acts of Marcellus* 1.1 *reiecto…cingulo militari coram signis legionis*. Belts often represented military and civil office (Rollason forthcoming, 8).
[24] Veg. 2.5. Translation from Milner 1996, 34-35.
[25] Earlier content: Polyb. 4.21.1-4; Dion. Hal. *Ant. Rom.* 10.18.2, 11.43.2; Epictetus *Discourses* 1.14.14-15; Serv. *Ad Aen.* 8.1.

their oath to follow all of his orders, while those who swore to Julian in 360 promised to risk all dangers for their new leader, even if that meant laying down their lives.[26] This promise never to desert nor act against imperial wishes, and to obey all commands to the point of death, clearly indicates that an explicit assurance of fidelity to the current emperor was still included.[27]

Vegetius' oath also includes a reference to defending the *respublica*. Although Pupienus implored the leaderless forces formerly belonging to Maximinus in 238 to maintain their pledges to the Roman people, Senate, and emperors, this element would hardly have possessed the same significance or meaning it did under earlier periods.[28] Some notion of service to the state and empire may have existed in the oath, as was the case in other rituals,[29] but this consideration would have been secondary to the fidelity sworn to the emperor. Brian Campbell's suggestion that reference to the *respublica* was intended to emphasise loyalty to the empire when many late antique soldiers were recruited from neighbouring peoples is plausible.[30] However, this element probably survived either due to the antiquarian interests of Vegetius' account or as it was understood as an allusion to serving the emperor.

Notwithstanding these continuities, the formula of the *sacramentum* was mutable and no doubt changed throughout these centuries and in all locales, as can be seen from its change from a state-orientated practice in the Republic to an imperial ritual focused on the emperor. The words recited could be altered as needed depending on political necessity, such as with the inclusion of a dynastic element to emphasise continuing loyalty to successive, related emperors.[31] As Constantius II reportedly exhorted several units to follow him by referring to the oaths sworn to Constantine's children, and the later imperial claimant Procopius also used the same tactic, it seems that the *sacramentum* under the Constantinian dynasty utilised these elements.[32] Unfortunately, no evidence concerning Tetrarchic military oath-formulae has survived and so we cannot state with any confidence whether soldiers stationed in the West,

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[26] Amm. 26.7.9 *Qui…sub consecratione iuris iurandi promisere se quae uellet cuncta facturos*; 21.5.10 (full text p. 32 below). See also Amm. 26.6.13, where several officers, offering support to Procopius, *sub consecratione iuris iurandi promisere se quae uellet cuncta facturos*.
[27] Zos. 4.26.1 and 4.33.3, both of which describe soldiers promising loyalty and obedience, may be an implicit reference to the oath.
[28] Herod. 8.7.4.
[29] e.g. the annual prayer offered for the empire's safety in the Severan period (*P.Dura* 54, col.1, line 2, dated to ca. 225-235).
[30] Campbell 1984, 24.
[31] Dynastic elements were also sometimes used in earlier periods (e.g. Suet. *Calig*. 15.3).
[32] Constantius: Zos. 2.44.3. Procopius: Amm. 26.7.16; p. 68 below.

for example, swore only to their emperor or to other members of the imperial college.[33] While the basic tenets of loyalty no doubt remained the same throughout the third and fourth centuries due to their practical purpose, elements of the oath-taking process could be added, removed, or altered as required.

This mutability is evident in perhaps the most striking feature Vegetius' oath: its religious reorientation. Obedience to the emperor was still the crux of the swearing ritual, but loyalty was now correlated with duty to God and the observance of religion. Vegetius not only states that the emperor ruled by divine authority and should therefore be obeyed, but also suggests that the soldiers swore *per maiestatem imperatoris*, 'by the emperor's majesty'. Imperial invocations referring to the emperor via name, title, attribute, or some combination of the three were commonly utilised in late antique oath-swearing.[34] Julian's soldiers who swore at Kaiseraugst also took their oath in his name.[35] As in other contexts, the significance here was not that the emperor was a deity; Vegetius suggests that obedience and devotion should be offered to the ruler *tamquam praesenti et corporali Deo,* 'as if to a present and corporeal deity', not 'as he is a god'. Although in previous periods there may have been a reference to the emperor's ambiguous divinity, this later version recast imperial authority as derived from the Christian God's power.[36]

Vegetius' account also indicates that the Holy Trinity replaced traditional deities as the invoked power. The precise date when this explicitly Christian language was introduced is uncertain but the oath-swearing process must have been a non-Christian affair prior to the fourth century. Although sacrifices were offered during earlier oath-taking ceremonies, there is no evidence from Late Antiquity to suggest that blood offerings continued to accompany swearing the *sacramentum* past the third century.[37] Over the course of the fourth century, blood sacrifices became less popular, even in non-Christian circles.[38] This shift in opinion, alongside certain Theodosian prohibitions of the practice issued between 391 and 392,

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[33] Other oaths in this period could reference only one senior emperor (*P.Oxy* 12 1456, lines 4-6, dated to ca. 284-286, naming only Diocletian) or both (*PSI* 3 162, lines 5-9, dated to ca. 286, naming both Diocletian and Maximian), with or without their Caesars (*P.Oxy*. 36 2765, lines 3-7, dated to 303, naming all four emperors), but these oaths were not officially instituted like the *sacramentum.* Additionally, a *sacramentum* offered to multiple rulers who were warring could cause complications. See p. 64 on the potentially analogous incident involving Caracalla and his soldiers.
[34] Imperial invocations: pp. 179-180.
[35] Amm. 21.5.10 (full text p. 32). cf, Herod. 2.13.2, where Septimius Severus orders the Praetorian units to swear ἐς τὸ Σεβήρου ὄνομα.
[36] cf. Stelten 1968, 71, who argues that this element was not used.
[37] Herod. 2.2.10; Helgeland 1978, 1473-1496; Campbell 1984, 29-31.
[38] Bradbury 1995.

presumably contributed to the dissociation of this ritual with the *sacramentum* at some point during the fourth century.[39]

The accompanying actions of those taking the oath may have reflected this move away from blood sacrifices. Ammianus describes Julian's soldiers taking their oaths while gesticulating with weapons:

> Iussique uniuersi in eius nomen iurare sollemniter gladiis ceruicibus suis admotis sub exsecrationibus diris uerbis iurauere conceptis omnes pro eo casus, quoad uitam profuderint, si id necessitas exegerit, perlaturo.[40]
>
> When all [of the soldiers] had been ordered to swear allegiance in his name, as is customary, they swore in set terms, under severe imprecations with their swords having been pointed at their throats, that they would undertake all matters on his behalf, and even lay down their lives if the circumstances demanded it.

It is unclear how regularly soldiers swore the *sacramentum* while gesturing with swords. The use of *sollemniter,* 'as is customary', did not refer to the features of the ceremony, but rather meant that the oath-taking itself was a traditional interaction between soldiers and emperors. This suggestion parallels Julian's earlier request that the soldiers swear 'as is the custom of those who trust their leaders' (*ex more fidentium ducum*).[41] Nonetheless, swords are connected to various oath-taking ceremonies during this period, mostly concerning northern peoples, and Ammianus himself describes Quadi chieftains swearing oaths while drawing their swords.[42] Hebblewhite suggests that this ritual was used by Julian's soldiers as many within their ranks were recruited from northern tribes, but as the imperial claimant Procopius reportedly mentioned the swords held aloft for Valens shortly after referencing the *sacramentum*, it may be that this motion saw wider usage in the armed forces than we might at first assume.[43] With increasing recruitment from foreign peoples, it is possible that several rituals were adopted by some units to take into account their customs, but the point to

[39] Theodosian prohibitions: *CTh* 16.10.10-11; Averil Cameron 2010, 59-79.
[40] Amm. 21.5.10.
[41] Amm. 21.5.7; den Boeft et al. 1987, 136.
[42] Amm. 17.12.21. See further: pp. 151-152 below. cf. various coins (Evans 1992, 54-57; Dart 2014, 111-116, 199), which date to the Social War (91-88 BC) and depict soldiers pointing swords at sacrifices resting on an altar, in what is frequently referred to as an 'oath-scene'.
[43] Hebblewhite 2017, 163. Procopius: Amm. 26.7.16. Both of these incidents involving the military oath and swords come from Ammianus, whose military background may have given him more awareness of this ritual than other authors.

consider here is the symbolic significance of this practice.[44] By swearing 'under threat of severe imprecations' with swords aimed at their throats, the soldiers were made aware of the consequences of oath-breaking, thereby continuing one key purpose of a traditional blood offering. Perhaps this ritual was utilised in certain situations, eschewing the distasteful blood sacrifice while publicly and emphatically indicating commitment to this sworn promise. This element also indicates the dynamism of the oath; it did not remain static throughout the entirety of each emperor's reign nor was it taken in exactly the same manner in each area. During the course of service, each unit would have inevitably picked up some local customs, which could then spread to other regiments, as occurred with the *barritus* war-cry.[45] However, due to the infrequent references to sword-gesturing in *sacramentum*-swearing, and those only arising in dramatic circumstances with localised forces in the fourth century, we cannot assume that this gesture regularly accompanied the swearing of the military oath.

Returning to the *Epitome of Military Science*, we should consider why Vegetius discussed the *sacramentum* and how these reasons related to the timing of the oath's religious shift. As noted earlier, the treatise largely comprised of three strands: lapsed elements Vegetius wanted to revive, innovations he thought should be implemented, and contemporary matters of which he approved. Michael Charles has convincingly argued that the Christian terminology falls into the last of these strands and was introduced in the late fourth century at the earliest.[46] The invocation of God offers a *terminus post quem* of Constantine's reign but there is no evidence to suggest that the oath had become Christian before Vegetius' account. It seems more probable that the treatise's creation coincided with the first imperial attempts to introduce new religious terminology into the oath-taking process. Swearing by God, Jesus, and Holy Spirit without any element omitted was a significant statement and suggested belief in the consubstantiality of the Trinity. It could be that this meaning would have escaped the notice of many soldiers, but an orthodox emperor and other adherents of the same doctrine would have recognised the significance of this terminology.[47] As Theodosius had convened the first Council of Constantinople (381) to establish a theological consensus on the Trinity, it may be that we can date the first possible inclusion of Christian terminology in the

[44] Increasing recruitment: Hoffman 1969, 1:131-99. On the impact of recruited foreign peoples on the armed forces, see: Liebeschuetz 1990, 25; Elton 1997, 137-152; Whitby 2004, 166-167; Stickler 2007.
[45] *Barritus*: Amm. 26.7.17; 31.7.11; Matthews 1989, 296.
[46] Charles 2008, 27-28.
[47] Vegetius himself was no doubt some form of Christian (Milner 1996, xxxvi; Charles 2008, 26), and so probably recognised the significance of the formula recorded.

sacramentum to his reign.[48] Nevertheless, Christian terminology would not have been used universally at this point. A widespread religious change probably occurred after the fourth century.

To take the *sacramentum* in any period was to participate in a ceremonial ritual buttressed by religious significance. Several scholars have convincingly argued that earlier versions of the process created ties of *religio* and were supported by entrenched cultic military traditions.[49] In connection to this sanctity, violation of the *sacramentum* could result in retribution. Ammianus suggests that several fourth-century soldiers swore with an understanding of the dire execrations for disregarding the *sacramentum*, so these punishments could be explicated in the formulae recited.[50] The precise nature of these consequences is left unclear by Ammianus; the swords aimed at the troops' throats may indicate physical retribution against the oath-breakers but the penalties for perjury were regularly assumed to be the domain of higher forces.[51] In any case, some indication that violation of the *sacramentum* would lead to punishment was presumably included in the process of taking the oath in many periods, alongside affirmations of allegiance to the emperor and elements lending the practice religious force.

In order to understand the impact of the oath's sanctity, we should acknowledge the pragmatic religious sentiments of soldiers throughout Late Antiquity.[52] Prior to the fifth century, the armed forces were organised around a cultic framework of religious rituals, many of which were traditional in nature. Elements of Christian worship began to be introduced into a small number of fourth-century units,[53] but there is little evidence to suggest that new practices were aggressively or widely implemented. Instead, an innate military conservatism seems to have inhibited attempts to remove ingrained cultic habits over a short

[48] On doctrinal controversy and the oath, see pp. 44-46 below. cf. Lib. *Or.* 30.53, which reports that high-ranking individuals under Theodosius' reign swore non-Christian oaths. Although Hebblewhite 2017, 164 takes this passage to concern the *sacramentum*, it is equally possible that Libanius was describing civil servants and an oath of civil office, or another promise entirely.
[49] Campbell 1984, 25; Stoll 2007, 453. See also Apul. Met. *Apul.* 9.41, which portrays a second-century soldier fearing judgement from the *sacramentum* for losing his sword and two inscriptions (*AE* 1924, 135; 1953, 10) which refer to a *genius* of the oath (Speidel and Dimitrova-Milceva 1978, 1547; Stäcker 2003, 302-303; Stoll 2007, 453; Hebblewhite 2017, 161). Given the fantastical nature of Apuleius' work and the limited epigraphic evidence, we should not assume belief in this *genius* was widespread.
[50] Amm. 21.5.10; 26.7.9.
[51] Supernatural consequences: pp. 8-9 above. Punishments for breaking the *sacramentum* are discussed further on pp. 52-54 below.
[52] For more extensive treatment of this issue than is permitted here, see: Tomlin 1998; Lee 2007a, 176-188.
[53] e.g. Eus. *VC* 4.17-21, esp. 19 which recalls a Christian prayer made by certain soldiers, but this was no doubt a limited number of individuals due to its undertaking ἐν προάστειος (outside Constantinople).

period of time. Particularly instructive is the oath taken by several units who joined the uprising of Procopius in 365 and acclaimed their new leader's victory in the name of Jupiter.[54] Large numbers of soldiers may have retained their non-Christian beliefs, just as numerous soldiers followed Christianity in the third century, but it is more probable that there was a general military apathy to the religious changes of this period. The lack of reliable evidence concerning military objection to Julian's beliefs during his short reign and the subsequent ready acceptance of Christian emperors following his death further supports this image of indifference, in a context where charisma and local interests were the most vital elements of military life.[55]

The precise religious orientation of the *sacramentum* was probably an abstract concern for most soldiers during this period, but the recasting of the oath as a Christian ritual and the remodelling of imperial authority in Vegetius' account was still a pointed change. Most of the troops would not have recognised the significance of swearing by the Trinity, and the emperor may have included this Christian terminology to please those who objected to aspects of traditional imperial rule on theological grounds. Certain Christian authorities took issue with the ambiguous divinity of emperors in particular and suggested that individuals were unable to follow both their ruler and God.[56] The Vegetian oath, however, removed these issues by putting the emperor, who was shown to rule by the Christian God's authority, in the background. Vegetius even erroneously claims that the oath was termed the *sacramentum* due to its connection to the Christian mysteries, further suggesting that this account reflected an attempt to answer religious complaints concerning the oath.[57] Perhaps the introduction of Christian elements into this traditional oath was intended to allow recruits with stricter religious principles to join the armed forces with less issue, as well as match concurrent developments in the wider religious landscape of Late Antiquity.

In any case, the process of swearing the *sacramentum* included religious elements and emphases of imperial primacy to ensure that armies remained loyal to the emperor. The key political and psychological aims of the ritual were brought out during the occasions on which the oath was taken. The most obvious time when the *sacramentum* was sworn was preceding

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[54] Amm. 26.7.17 *reduxerunt ad castra, testati more militiae Iouem, inuictum Procopium fore.* Hebblewhite 2017, 164, 178 n. 150 identifies this oath as the *sacramentum*, but this passage refers to a sworn acclamation for the emperor's future successes, as occurs elsewhere in Ammianus (p.66 below).
[55] On the largely fabricated military opposition to Julian's reign, see: Tomlin 1998, 32-35; Lee 2007a, 183-184.
[56] Tert. *Nat.* 2.12.26; Lact. *Div.Inst.* 1.15.16. See also pp. 60-65 on the *sacramentum* in Christian discourse.
[57] cf. pp. 10-11 above on the different meanings of *sacramentum.*

initiation into the armed forces. As in earlier periods, these ceremonies took place specifically prior to full enrolment but following tests of free birth and fitness, termed *probatio*.[58] The significance of taking the *sacramentum* at the beginning of service should not be underestimated; a post-*probatio* ceremony implied that only worthy members of society could swear to the emperor, increasing the value of the oath to both new recruits and established servicemen. On the other hand, taking the *sacramentum* before full enlistment suggested that the oath and its promise of allegiance was a vital part of military life. Circumstantial evidence that this effect was intended can be found in one panegyric, delivered in 312 to celebrate Constantine's victory over Maxentius. Referring to the men who Constantine had conquered, the panegyrist states that 'the sanctity of the oath confirms the Roman soldier to be who and what he is'.[59] Unlike its early Republican counterpart, which was taken prior to specific campaigns and ended after the conclusion of hostilities, the third- to fourth-century oath was envisioned to bind each soldier to service until his term was completed. We can only imagine the psychological effect upon recruits who solemnly promised to remain loyal for years in advance. At the least, the oath-taking process could decrease the likelihood that soldiers would desert by creating an exclusive group identity of military personnel who had sworn the *sacramentum.*

Given that the *sacramentum* was overtly intended to bind the troops to the emperor, it is worth pausing to examine the often-overlooked contribution of the oath's swearing to a communal military mentality. Various aspects of military life created a corporate identity which enhanced camaraderie between and discipline of soldiers throughout Roman history.[60] As noted above, taking the *sacramentum* upon joining the armed forces actively supported this sense of community, as did other elements of the process. By swearing to the standards, which were prominently associated with the armed forces, each individual also implicitly took their oath to their unit. The public manner of swearing can only have further boosted the ritual's influence upon the soldierly corporate identity. Although accounts concerning earlier oath-swearing ceremonies diverge on how the *sacramentum* was taken,[61] Ammianus states

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[58] Veg. 1.8; 2.3; 2.5. Earlier *probatio*: Epictetus *Discourses* 1.14.14-15; Pliny *Ep.* 10.29; Tac. *Hist.* 4.72; Gilliam 1986, 208-216; Davies 1989, 3-30; Phang 2007, 288-89. Later *probatio: CTh* 7.22.5.2; *CJ* 11.68.3; 12.43.1-2.
[59] *Pan.Lat.* 12.24.2 *Romanum uero militem, quem qualemque…sacramenti religio confirmat.* See also: *CTh* 7.8.15, Theod. *Nov.* 4.1.2 and Val. *Nov.*15.1, which use the *sacramentum* synonymously with 'military duties'; pp. 55-63 below on the oath as a literary device.
[60] On the military sense of community, see: e.g. MacMullen 1984; James 1999; Coulston 2004; 2013; Phang 2008, 77-89. Oddly, Lendon 1997, 253-254 discusses how military loyalty was influenced by the oath and also the sense of community in the Principate without connecting the two.
[61] Polyb. 6.21.1-4 and Festus *Gloss. Lat.* 250L state that after one soldier had recited the formula, the others replied *idem in me.* Tac. *Hist.* 1.55 suggests that there was an expectation for all to speak at once, whereas Serv.

that Julian's soldiers swore *en masse*, as a unit.[62] When taken together, these aspects of the ritual subtly impressed upon these soldiers that to go against the *sacramentum* was not just to oppose the emperor and the divine, but also to betray fellow soldiers. As most members of the armed forces would have spent considerable time away from their rulers and senior commanders, fidelity to comrades was more immediate than that offered to potentially distant ruler and gods. Consequently, military group cohesion was enhanced by taking the *sacramentum*, which was more probably maintained by soldiers due to this sense of community.[63]

While this mentality was no doubt supported by taking the oath in any scenario, the emperor must have intended that the primary purpose of the practice - consolidating loyalty to the regime - would be emphasised above all else. This emphasis would have been clearest during ceremonies following imperial accessions, which in all periods highlighted the emperor's position as the official focus of the ceremony.[64] Loyalty to previous regimes was theoretically removed with the accession of a new imperial commander-in-chief. The swearing of a new *sacramentum* was thought to secure the allegiance of soldiers, who otherwise might harbour sympathies for other rulers. Pupienus and Balbinus clearly thought that asking the leaderless army, formerly under the leadership of the assassinated Maximinus, would support their accessions and wrest lingering allegiance away from their previous commander.[65] Similarly, Ammianus tells us that at Kaiseraugst in 361 with his army, Julian requested that his forces 'promise by the oath to remain and be loyal, as is the custom for those who trust their leaders'.[66] The imperial claimant had declared his intention to oppose Constantius the previous year but Ammianus explicitly states that the future emperor at this point doubted the fidelity of his forces, many of whom did not want to be taken from their territories in Gaul.[67] These soldiers were disaffected with Constantius for this very reason, and Julian, who had promised not to lead his forces far from Gaul, must have been concerned, given that his uprising would do exactly that.[68] Julian therefore deployed the

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Ad Aen. 7.614 and 8.1 report that in times of danger Republican recruits swore collectively. See also: Isid. *Etym.* 9.3.52-55.

[62] Amm. 21.5.10.

[63] However, these aspects did not necessarily mean that soldiers would remain loyal to the emperor (pp. 68-73 below).

[64] Prior to the third century: Dio 57.3.2; Tac. *Ann.* 1.7, *Hist.* 1.26, 76, 2.6, 79; Herod. 2.2.10;

[65] *HA Max* 24.3.

[66] Amm. 21.5.7 *ex more fidentium ducum iuramento quaeso concordiam spondete mansuram et fidem*.

[67] Amm. 21.5.1.

[68] Disaffection with Constantius and Julian's promise: Amm. 20.4.1-16. See Wuk forthcoming on this incident with respect to the *sacramentum.*

sacramentum to gain an immediate assurance of allegiance from his army, emphasising his position while negating the previous oath sworn to Constantius.

While regular reaffirmation ceremonies would have enhanced these effects, there is only slight evidence to suggest that the late antique *sacramentum* was retaken on a yearly basis. In the Principate, soldiers renewed their oaths annually, on the anniversary of the current emperor's accession, his *dies imperii,* and on the *nuncupatio votorum,* when prayers were made for imperial health.[69] The refusal of the martyr Marcellus to serve under his oath on 21st July 298 could suggest that he was asked to renew it if we are to take this date, when Maximian became Caesar, as his anniversary.[70] However, there is no evidence to suggest that there was another fixed date on which the late antique oath was renewed. Even though prayers were still announced for imperial health into subsequent periods, later references to the *nuncupatio votorum* do not mention the *sacramentum.*[71] Although regular renewals do not seem to have taken place in Late Antiquity, the oath was probably retaken frequently, as and when reaffirmation was needed.[72]

Military allegiance was not static and required periodic consolidation. One method of ensuring that the forces remained loyal was to remind the soldiers of their oaths frequently. Besides renewal ceremonies, aspects of military life were intended to keep the oath fresh in the soldiers' minds. One such may be the *manus,* a solid hand which topped various standards (figs. 3 and 4) and which appears to have been in use until the fourth century at the latest.[73] Given that individuals in other contexts took oaths with their hands outspread,[74] the use of this standard might indicate that a similar gesture was performed during the swearing of the *sacramentum.*[75] While there are no references to a military application of the hand-motion, the usage of this motif on standards and coins, alongside legends such as *FIDES MILITUM,*

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[69] Pliny *Ep.* 10.52. Tac. *Hist.* 1.55 suggests the second reaffirmation took place on 1st January, whereas Pliny *Ep.* 10.100-1 states it occurred on the 3rd, on the *nuncupatio votorum* (*P.Dura* 54, col. 1, lines 2-6, dated to ca. 225-235; Fink et al. 1940, 51 n. 114, 65-66).
[70] *Acts of Marcellus* 2.1. Barnes 1982, 26, citing *Pan.Lat.* 10.3-4, argues that Maximian probably considered this date his *dies imperii*, and dismisses the reference to his birthday (1.1) as a later, incorrect addition. See also: Hebblewhite 2017, 162, 177 n. 138.
[71] Later *nuncupationes votorum*: *CTh* 7.24; *ILS* 4918; Matthisen 1972/73; Salzman 1991, 80-82.
[72] Helgeland 1978, 1479.
[73] Explicit literary references and conclusive archaeological finds have not survived. Wheeler 2009, 251 collates pertinent evidence until 213, but note fig.3, from the Arch of Constantine, may be a cannibalised image from earlier reliefs. Fig. 2 may also represent a *manus*. See Töpfer 2011, 68-70 on the Principate *manus.*
[74] Hand-gestures and oath-swearing: Lucian *Toxaris* 50; Philostr. *VA* 4.28; Seely 1995; p. 155 below. Note also the later medieval *Schwurhand* motif.
[75] Petrikovits 1983. Other explanations offered for the significance of this standard are summarised by Töpfer 2011, 69-70. cf. von Premmerstein 1937, 83 who suggests that handshakes were involved in earlier oath-swearing ceremonies.

’loyalty of the army’ (fig. 4), suggests a potential connection to the *sacramentum.* Fig. 3, a depiction of a *manus* above an *imago,* to which the troops often swore, may therefore have been a particularly pointed reference to the oath. In any case, with each soldier performing this motion in unison, the religious significance of taking the oath as well as the sense of community would both have been enhanced. Furthermore, if this gesture was used, the troops would be reminded of the oath-taking process each time they saw the *manus* standard, which would have been either carried into battle and marches or conspicuously kept in centrally-located enclosures.[76] The same was true of the *imago,* to which units often swore. To live and serve under these sacrosanct symbols of the oath would only have increased the *sacramentum*’s significance, as would repetition of the hand-gesture upon each subsequent renewal, if indeed the motion was made in this context.[77]



Fig. 4: Medallion of Severus Alexander, c. 231, reverse displaying the emperor sacrificing in the presence of a hand-*signum*. Type: Gnecchi 1912, 2:84 no.4. Example sold by Numismatik Lanz München, Auction 100, lot 185, 20 November 2000.

Source: https://www.acsearch.info/search.html?id=74170

We can be more conclusive about the related provision of marks which denoted the bearer as a serviceman. The evidence for this phenomenon prior to the late fourth century is largely unreliable. The main source used to support the existence of a military mark, specifically a lead seal, is the martyrdom of Maximilian, who refused to be conscripted into the armed forces in the late third century[78]:

> Dion ad Maximilianum: ‘Milita et accipe signaculum.’ Respondit: ‘Non accipio signaculum. Iam habeo signum Christi mei.’ Dion proconsul dixit: ‘Statim te ad Christum tuum mitto…Signetur.’ Cumque reluctaret, respondit: ‘Non accipio

[76] Veg. 3.8; Wheeler 2009, 260.
[77] While it may be that coins, perhaps given as donatives during the swearing process as sometimes occurred (p.42 below), featuring the *manus* could also remind soldiers of their oaths, the use of coinage to propagate imperial messages is uncertain (Hebblewhite 2017, 7 n. 13).
[78] Oliver Nicholson (=*ODLA* 2:992 (*s.v.* Maximilian the Recruit, S.)) suggests that the passion presupposes processes of recruitment used in the later fourth century, so this account may perhaps be dated to this period.

> signaculum saeculi; et si signaueris, rumpo illud, quia nihil ualeo. Ego Christianus sum; non licet mihi plumbum collo portare post signum salutare Domini mei Iesu Christi.[79]
>
> [Presiding judge] Dion said to Maximilian: 'Serve and accept the seal.' [Maximilian] replied: 'I will not accept the seal. I already have the sign of my Christ.' Dion the proconsul said: 'I shall send you to your Christ immediately…Let [Maximilian] be sealed.' [Maximilian] resisted and said: 'I will not accept the seal of this world. If you seal me, I will break it, because I value it as nothing. I am a Christian. I cannot wear lead around my neck after [I have worn] the saving sign of my Lord, Jesus Christ.'

Numerous scholars have taken these references to a lead *signaculum* at face-value but we should treat the account with caution.[80] The passion highlights the irreconcilability of the *sacramentum* and military service with the metaphorical baptismal seal or *sphragis*, which was often also called a *signaculum*.[81] Equally, the reference to lead may have been influenced by the metal's association with curse tablets and the underworld, thereby depicting military service as idolatrous and incompatible with Christian life.[82] More reliable yet often overlooked is Isidore of Seville's comment that soldiers wore some form of mark on their belts.[83] However, Isidore's seventh-century account does not match Maximilian's description of a metal necklace and due to his antiquarian interests, it is uncertain in what period he suggests these marks were used. As other forms of seal and neckpiece were used in the empire to denote the bearer as different from the rest of society[84] and the connection of lead to the supernatural was applicable to the *sacramentum*, perhaps we can suggest that some type of physical mark was used. However, the lack of concrete evidence and the likelihood of metaphorical exaggeration in the passion suggests that a leaden soldier's mark was probably not universally provided during the third century.

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[79] *Acts of Maximilian* 2.4-6.
[80] Dölger 1930, 268-69; Seston 1969, 280; Davies 1989, 13-14; Brock 1994; Zuckerman 1995, 184; Southern and Dixon 2014, 74-75. cf. Jones 1964, 2:617, who argues that Maximilian was due to receive a brand, which soldiers did not receive.
[81] Other sources used similar comparisons (e.g. Tert. *Spect.* 4, 24; Jerome *On Jeremiah* 6.6.51; Rufinus *HE* 1.6.10). See also: Mayer-Olivé 2014, esp. 14-18, on *signacula*; pp. 59-61 below, on contrasts between the oath and baptism.
[82] Lead and curses: Gager 1992, 3-4; Eidinow 2019, 364-367.
[83] Isid. *Etym.* 19.33 *Balteum cingulum militare est, dictum pro quod ex eo signa dependant ad demonstrandam legionis militaris summam, id est sex milium sescentorum, ex quo numero et ipsi consistent;* Dölger 1930, 269.
[84] See: seals marking commercial produce (Mayer-Olivé 2014, 18-33); early imperial *bullae* worn by freeborn children before they reached adulthood (Sebesta 2001, 47); fourth-century slave-collars stamped with seals denoting ownership (Thurmond 1994).

On the other hand, there are stronger indications that fourth-century recruits were tattooed, which supported many of the psychological effects imparted by the swearing process and reminded the bearers of their oaths. Vegetius describes an indelible mark applied by pinpricks to the recruit following successful selection.[85] This mark initially performed the same function for slaves and military personnel in marking them out in the case of desertion.[86] Other sources suggest that this tattoo was applied to the hand and included the current emperor's name, no doubt in an abbreviated, generalised form to avoid issues in the reigns of successive rulers.[87]

The placement on the hand is key for several reasons. Firstly, despite the emphasis of service to the emperor in oath-taking ceremonies, a recruit would hardly want to swear allegiance if the process significantly reduced his status. One Constantinian law states that criminals should only be marked on the hands or legs, as more prominent tattoos, particularly on the face, obscured the beauty of humanity which imitated God.[88] Putting aside the Christian language, facial tattooing explicitly reduced the status of the bearer, whereas a discreet mark on the hand could emphasise imperial dominance without public degradation or discouraging others from enlistment. Additionally, the tattoo, which was only given to fully enrolled recruits, would have supported the soldiers' sense of community as an explicit indication of membership in this corporate identity.[89] Due to this association with military service and exclusivity, the tattoo probably lost its denigrating effect and may even have become a mark of brotherhood.[90] Moreover, if the troops swore while gesturing, the tattoo would have probably been placed upon the hand with which the motion was made. Each soldier would have thereby been frequently reminded of his oath during his day-to-day business. It should be remembered that oaths and their swearing were technically intangible and had no essence except in the minds of humans. This tattoo provided a physicality to the

[85] Veg. 1.8 *sed non statim punctis signorum scribendus est tiro dilectus, uerum ante exercitio pertemptandus, ut, utrum uere tanto operi aptus sit, possit agnosci*; 2.5 *uicturis in cute punctis milites scripti*.
[86] Jones 1987, 139-155. See also: *CTh* 7.18.9.1 (with Zuckerman 1985, 185), which distinguishes between new recruits and soldiers who had received their tattoos (*alios autem litterarum initiatos auspicio*); *CTh* 10.22.4, on military craftsmen who were tattooed for the same reason, albeit on their arms; Gustafson 1997 and Kamen 2010, 98-103 on tattooing in antiquity more generally.
[87] Jerome *On Isaiah* 12.44; Amb. *Obituary for Valentinian II* 5.8; Dölger 1930, 277-280. Aug. *Ep.* 185.6.23 refers to a *regius character* ('royal mark') given to soldiers, but does not suggest where this mark was applied. Chrys. *Baptismal Instructions* 12.49-52 does not refer to military service, as Zuckerman 1995, 185 n. 8 suggests, but rather slavery.
[88] *CTh* 9.40.2 (=*CJ* 9.47.17); Gustafson 1997, 92.
[89] Veg. 1.8.
[90] Zuckerman 1995, 186.

practice, strengthening the *sacramentum*'s presence in military life and the various effects of the oath-taking process.

1.2. Fifth to sixth centuries

The *sacramentum* continued in use throughout the fifth and sixth centuries. However, the decreasing direct imperial involvement in military life alongside the more comprehensive Christianisation of the armed forces brings into question what further changes were made to the oath-taking process in these later years, and how these developments influenced the practice's effects.

As with Vegetius in the previous section, one source provides a relatively detailed description of what taking the *sacramentum* could entail during this period. An unnamed sixth-century monk, hereafter Pseudo-Zachariah, composed a Syriac chronicle largely based on a translation of Zachariah of Mytilene's lost Greek *Ecclesiastical History*.[91] Pseudo-Zachariah reports that the emperor Anastasius summoned his senior military officials to reaffirm their oaths:

> On the twenty-ninth [July 511] the emperor assembled all of the commanders of the armed forces, all of the heads of the *Scholarii* and the patricians,[92] and said to them, 'As is customary for me, I intend to give a donative', for he used to do so ever since he became emperor, giving it out once every five years, while requiring oaths from all who were Roman soldiers that they would not plot against the empire. This time, he required them to swear in the following manner. With a copy of the gospel-book in place, they entered and received five *denarii*[93] each, swearing the following: 'By this law of God and these words that were written in it we will fight with all of our might on behalf of the true faith and for the empire, and [we swear] that we will plot neither against the truth nor against the emperor.' He required them to swear in this manner because he had heard that Macedonius was attempting to raise a rebellion against him.[94]

[91] Brock and Witakowski 2011, 32-57.
[92] The *scholae* here seem to be the imperial bodyguards rather than bureaucratic *scholae.* 'Patrician' was an honorary rank given to numerous officials, both military and civilian (Heil 1966). Given the other commanders present and the provision of donatives, these 'patricians' seem to be military officers.
[93] The usual amount given was five *solidi*, not *denarii* as here, or staters as in Proc. *SH* 24.27-8. Donatives were an important method of imperial control (Campbell 1984, 186-198; Lee 2007a, 57-60) and probably accompanied many swearing ceremonies.
[94] Ps-Zach. 7.8F. Translation from Greatrex et al. 2011, 258.

Perhaps unsurprisingly, aspects of earlier formulae are evident in this oath. We are told that both the assembled generals and also all soldiers who were not present still swore to follow all commands and to act only in the interests of the emperor. Interestingly, reference to protecting the empire exists in this sixth-century formulation, just as it did in Vegetius' version. With the loss of significant territories, there may have been some desire to believe that the emperor still ruled the inhabited world.[95] At the least, the need to defend what remained was surely seen as pertinent. While this element may have been a formulaic survival in a ritual part of the ceremonials which became significant in the later empire,[96] its purpose as before was to emphasise imperial superiority.

Importantly, Anastasius had changed the swearing ceremony. As before, the ability to adapt the process of oath-taking could help to solidify allegiance to a dynasty, several of which held imperial power in the fifth and sixth centuries. Consequently, the formula still occasionally involved a promise of fidelity to one family for institutional support. The Theodosian emperors, at the least, continued to emphasise such links in their oaths; several bishops attempted to halt the general Gainas' unrest through a reminder of the promises sworn to Arcadius, Honorius, and their father.[97] Unfortunately, no later reference to this element remains, but the oath was probably still used to provide dynastic or institutional support in some reigns, while successive rulers could remove or maintain such aspects as desired.

A parallel can be seen in oaths taken in localised provincial contexts during everyday proceedings. Several papyri record oath-formulae from the reign of Justin II, whose mental instability necessitated that others share his rule. Dated to a year after Justin became emperor, one of these formulae mentions the ruler alone, whereas another, dated to 574, also references his influential spouse Sophia.[98] A third example, dated more broadly to the last four years of Justin's reign, refers to the imperial couple alongside the new Caesar and eventual successor, Tiberius II.[99] Military oath-taking ceremonies across the empire surely not only adapted to similar political circumstances but also differed slightly. While we therefore will probably never know the precise wording of the *sacramentum* in each period due to the state of the

[95] Louth 2008, 107-114.
[96] Significance of ceremonials: McCormick 1985; 2000, 156-160; Averil Cameron 1987, 125-127.
[97] Soz. 8.4 πολὺν κατέκεε λόγον, πατρίδα τε και φυγήν ὀνειδίζων, καὶ ὡς τῷ βασιλέως πατρὶ τότε σωθεὶς ὤμοσεν, ἢ μὴν Ῥωμαίοις εὐνοεῖν, αὐτῷ τε καὶ τοὶς αὐτοῦ παισὶ, καὶ νόμοις, οῦς ἀκύρους ἐπεκείρει ποιεῖν. Given that the oath was said to have been sworn to Honorius, Arcadius, and their father, this reference may suggest that the *sacramentum* could be taken in the name of the entire imperial college. However, this oath was a joint military-diplomatic promise (pp. 126-127 below).
[98] Justin alone*: P.Lond*. 5 1707, line 6. Justin and Sophia: *P.Münch*. 1 1, lines 44-46.
[99] *SB* 1 4678, line 9, dated to ca. 574-78.

evidence, we can surmise that the process of swearing remained mutable but regularly emphasised service to the emperor.

Besides these practical prerogatives, oath-swearing ceremonies developed further in relation to the changing religious landscape. Pseudo-Zachariah's account does not just match Vegetius' description of the oath's holy significance, with the invocation of God in compliance with His law, but goes further. The chronicle reports that Anastasius' generals swore explicitly to fight on behalf of the Christian faith. This promise did not just situate obedience to the emperor as a religious duty, but cast military service in general as connected to religious observance, whereby each soldier fought for the Christian God as well as their leader. This important progression must have contributed to decreasing religious opposition to the oath, a process that began with the Eusebian emphasis on the emperor as a divinely-chosen ruler and was later developed in this context by Vegetius.[100] It is not difficult to imagine the impact these aspects had upon new recruits, most of whom would have had limited prior contact with the religion due to their rural provenance.[101] As a result, the newly reoriented oath may have aided the increasing Christianisation of the armed forces. There is evidence to suggest that by the sixth century, military life included the regular performance of Christian rituals, such as hymns and acclamations.[102] In relation to shifting religious sympathies, the *sacramentum* was absorbed into a new Christian framework.

With this change in mind, the doctrinal alignment of the Anastasian oath recorded by Pseudo-Zachariah is worth considering. Reference to the religious orthodoxy of the oath-taking process thus far has been limited due to its unclear position, although the invocation of the Trinity in Vegetius' version suggests that the *sacramentum* was at that point to some extent an orthodox construction. Pseudo-Zachariah's claim that Anastasius' commanders swore to defend the 'true faith' and never plot against 'the truth' seems also to imply that it had a specific alignment, in connection to recent controversies as perhaps was the case for Vegetius' inclusion of the Trinity.[103] During the 510s, Anastasius became more overt in his opposition to what was declared to be orthodox Christianity at the Council of Chalcedon

[100] Eus. *Laud. Const.* 3.5; p. 112-113 below. This progression may also be connected to the theme of *militia Christi* (p.59 below) but note that some Christians opposed oath-taking in all contexts regardless (see Chapter 4).
[101] Trombley 1985; Lee 2007a, 177-179.
[102] Regular performance of prayer and hymns: Proc. *Wars* 3.12.2; 3.19.11; 4.1.21; *Strategikon* 2.18. On this religious change, see: Tomlin 1988; Noethlichs 2001; Lee 2007a, 188-193.
[103] Although 'the truth' could be connected to claims that Macedonius had lied regarding his faith (Ps-Zach.7.8D), Pseudo-Zachariah frequently uses 'truth' to refer to doctrine, particularly in this section.

(451).[104] Given the emperor's reputation for heterodox beliefs and as the formula suggests that only God, not the Trinity, was invoked, it may be that this oath, sworn in 511, was not orthodox in affiliation.

And yet, the 'true faith' is hardly overt in meaning.[105] Anastasius was evidently not trying to force a military adoption of his Christological standpoint, or more precise terminology would have been used. The account notes that Anastasius feared an uprising by the recently deposed Chalcedonian archbishop of Constantinople, Macedonius, in line with anti-heterodox sentiments in the city, and so it seems probable that the oath was deployed as an attempt not only to solidify military loyalty but also to show the emperor's adherence to the currently-favoured doctrine.[106] While Anastasius, and perhaps the authors of the account, may have read this vague terminology as anti-Chalcedonian, explicit reference to heterodox alignment in practice would have been unwise at this time.[107] Although we might expect the religious orientation of the military oath, and more generally the forces, to agree overtly with orthodoxy in later years, the evidence concerning legislative restrictions on heterodox recruits from enrolling is uncertain at best. Two post-Roman sources claim that Justin I issued a law enforcing Chalcedonianism upon the armed forces.[108] This law has not survived, but in any case, Justin certainly accepted the Goths, who adhered to Homoian Christianity, into his forces despite his well-documented Chalcedonian beliefs.[109] One constitution issued late in Justin's reign suggests that this tolerance was a relaxation for practical reasons, whereas senior military and civil officials were required to be orthodox adherents.[110] Pseudo-Zachariah's account, which describes a ceremony where senior officials swore allegiance, may further suggest that there was some level of doctrinal control in the upper echelons of command, but these elements probably did not have an effect upon recruitment of lower-ranked troops in areas far from centres of imperial power, even if emperors introduced some prohibition to this effect.

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[104] On Anastasius' religious sympathies and policies, see: Haarer 2006, 139-62; Dijkstra and Greatrex 2009, 233-235.
[105] cf. ambiguous terminology used in the papyrus records of late antique provincial oath-formulae (Seidl 1935, 30-31).
[106] Ps-Zach. 7.8C-E and Evagr. 3.32 also suggest that Anastasius accused Macedonius of heterodoxy to turn public favour against him.
[107] Zachariah, Pseudo-Zachariah, and Chalcedonian orthodoxy: Brock and Witakowski 2011, 22-23, 29, 68-71.
[108] Jacob of Edessa *Chronicle s.a.* 519 (=Brooks et al. 1907, 240); Michael the Syrian 9.16. *CTh* 16.10.21, concerning the proscription of heterodox adherents from *militia,* has been taken by Noethlichs 1986, 1165 and Raschle 2015, 709, to refer to armed service, as has *CJ* 1.4.20 by Vasilev 1950, 242-243. However, these laws instead seem to concern the bureaucracy, whose doctrinal allegiance was more rigorously controlled (pp. 87, 106-110 below).
[109] See further: Lenski 1995; Greatrex 2001a; Lee 2007a, 189-191.
[110] *CJ* 1.5.12.6, 17.

In any case, the pragmatic religious scruples of the armed forces could have meant that many soldiers did not care exactly in what form they took the oath. Even though some units may have been aware of wider doctrinal controversies, there are no surviving examples of adherents rejecting the *sacramentum* for dogmatic reasons.[111] Perhaps the oath was mostly viewed by the swearers as simply 'Christian' and its precise affiliation was for the benefit of those outside the armed forces. Some form of Christianity had become the religious focus of Roman military life in the fifth and sixth centuries. In this environment, the *sacramentum* must have retained much of its cultic power.

Alongside these religious developments, other practical aspects of the oath-taking process remained the same. As in preceding centuries, although emperors could receive the *sacramentum* in person, opportunities for these ceremonies to occur were rare and only involved a limited number of soldiers. Following the death of Theodosius I, few eastern rulers campaigned in person barring some minor examples, as was also the case for the West prior to 455.[112] Even taking into account more actively-involved emperors such as Majorian, there is a clear pattern of infrequent imperial participation in military campaigns, with little direct contact between the troops and their ruler. The Anastasian ceremony described by Pseudo-Zachariah, for example, only involved a small number of officials, while the corresponding oath taken by all soldiers across the empire must have been sworn to some representative.[113]

According to Procopius, unit commanders in this period could also receive the *sacramentum*. Procopius claims that Roman bodyguards, *bucellarii*, traditionally swore their oaths of loyalty to their generals as well as the emperor:

> Ὃν…εἰθισμένον ἅπασι Ῥωμαίοις ἐκ παλαιοῦ μηδένα δορυφόρον τῶν τινος ἀρχόντων καθίστασθαι, ἢν μὴ δεινοτάτους πρότερον ὅρκους παρεχόμενος τὰ πιστὰ δοίη τῆς ἐς αὐτόν τε καὶ τὸν βασιλέα Ῥωμαίων εὐνοίας.[114]
>
> A tradition among all Romans from the oldest times was that no one could become a bodyguard of one of the commanders, unless he had first taken the most fearful oaths and given pledges concerning his loyalty to both [his commander] and the Roman emperor.

[111] Controversy awareness: Lee 2007a, 202-204. See also Rance 2018, 426 on military indifference to doctrinal debates.
[112] Lee 2007a, 30-37; 2007b, 383-384.
[113] Ps-Zach. 7.8F.
[114] Proc. *Wars* 4.18.6.

While *bucellarii* may have taken a separate oath to their leaders, this promise was not the *sacramentum.* Principate-era Praetorian guardsmen seem to have sworn the *sacramentum* and no doubt did so to the ruler they were due to guard, so perhaps this practice is what Procopius takes as the 'traditional custom'.[115] However, this sixth-century account is the only clear reference to an allegiance oath given directly to a unit commander in Late Antiquity, and only concerns bodyguards. Some have suggested that the oath given to Justinian by Belisarius, who according to Procopius had sworn never to rebel, was a guardsman's promise.[116] As the passage in question links Belisarius' promise with usurpation rather than military loyalty *per se*, this oath seems to be general assurance of loyalty rather than a *sacramentum* or *bucellarius* oath. A potential third example, again from Procopius, is the *sacramentum* sworn by the forces of Germanus following the general's appointment in 536 to end Stotzas' African rebellion. No other recipient is mentioned; the oath is taken shortly after the new commander had addressed his forces.[117] Given the account's close proximity to Procopius' explanation of the *sacramentum,* it may be that he believed that all troops swore to their commanders.

However, it seems probable that Procopius, whose experience of regular military life was limited, used the oath itself to illustrate wider points about loyalty, particularly regarding the bond between certain leaders and their forces.[118] It seems no coincidence that the only evidence for this development occurs in Procopius' account. In any case, there were issues with this particular innovation. While swearing to a commander could emphasise the chain of command and further enhance unit cohesion, the direct involvement of a capable general in the oath-taking process could also divert the focus of the practice away from the ruler.[119] A solution would be that these commanders were understood to represent the emperor, fidelity to whom was the focus of the accounts which suggest oaths were sworn to military officers. Even guardsmen, who may have taken a separate oath to their immediate superiors, were still beholden to the emperor, as shown by the stripping of Belisarius' bodyguards by Justinian.[120] Procopius himself recognises this relationship and states that Germanus sought to suppress a conspiracy led by the guardsman Maximinus by making him swear his oaths in service to the

[115] Praetorians: e.g. Herod. 2.2.10. Earlier soldiers also swore directly to their generals who represented the Republic (e.g. Plut. *Vit.Sull.* 27.3).
[116] Proc. *Wars* 6.29.20; Frank 1966, 218.
[117] Proc. *Wars* 4.16.25 ταραχὴ δὲ πολλὴ ἐν τῷ Ῥωμαίων στρατῷ γέγονεν, ἐπεὶ πρῶτος ἠξίου αὐτὸς ἕκαστος εὔνοιάν τε τὴν ἐς βασιλέα τῷ στρατηγῷ ἐπιδείξασθαι καὶ ὅρκους δεινοτάτους ὑπὲρ τούτων ὀμεῖσθαι.
[118] See also the following section for literary uses of the *sacramentum.*
[119] In extreme cases, this innovation could lead to usurpations, but many generals were able to exercise predominant influence at court without becoming rulers themselves (Kulikowski 2002; Lee 2013, 81-109).
[120] Proc. *SH* 4.13; Whittaker 1993, 294-296.

empire, not directly to himself.[121] Nonetheless, the issues of swearing to commanders remain and Procopius' literary motives must be taken into account. The author undoubtedly thought to explain why the African mutinies and the subsequent unrest took place, and why certain units remained loyal, particularly to specific generals. As there is no other evidence and this innovation could detract from allegiance to the emperor, it seems doubtful that most soldiers swore the *sacramentum* directly to their commanders.[122]

Although no sources explicitly state that that the oath was still taken to the standards, it seems more probable that this was still how the majority of servicemen swore. At the least, the evidence suggests that the *imago* was still borne by the armed forces and that standards in general were respected.[123] The seventh-century historian Theophylact Simocatta does report that several mutinous units destroyed imperial portraits, both painted panels and statues, the latter of which appear to be some form of *imagines* and may be connected to the oath.[124] An image of the emperor probably continued to be involved in the oath-taking process due to the benefits of boosting unit cohesion and increasing imperial presence in military life.[125] Swearing the *sacramentum* to an imperial portrait provided a useful link between subject and ruler. Perhaps this ceremony is what Procopius, purposefully or otherwise, misrepresented: Germanus' army swearing to the imperial portraits, possibly led by their commander who may have shared the spotlight with the standards, with emphasis officially on loyalty to the emperor.

More uncertain is whether soldiers performed ritual gestures while swearing the oath. The use of hand-motions to take the *sacramentum* is poorly attested in any period, but there is even less evidence to suggest that the *manus* was still utilised in the fifth and sixth centuries. As our main sources for military standards are images, many of which are stylised and generalised, and the terminology used to refer to these ensigns is often unspecific, this state of affairs is not surprising.[126] Given that other standards were still used in this period, it is certainly possible that the *manus* continued to be an active part of fifth- and sixth-century

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[121] Proc. *Wars* 4.18.6 [Germanus] περιελθεῖν ἔγνω…ὅρκοις αὐτὸν καταλαβεῖν τῆς ἐς τὴν πολιτείαν εὐνοίας.
[122] Cf, Theophyl. 3.2.5, which reports that another Germanus had compelled units who had rebelled in 588 to return to service and swear the oath. Given that the soldiers tore down imperial representations shortly after swearing this oath (3.2.8), it seems these units swore to the emperor's image.
[123] *Imago:* e.g. John Chrys. *Laud. Paul.* 7, which compares the saint to an image-bearer; the diptych of Stilicho, which features a shield bearing *imagines* of two emperors (Alan Cameron 2016, 516); Babuin 2001, 7-8, 27, 47 fig. 17 on the standard generally. Significance of standards: e.g. Proc. *Wars* 8.33.21, where the general Narses moves standards to the frontline to encourage soldiers; *Strategikon* 1.8, on the general importance of standards.
[124] Theophyl. 3.2.8 (full text p. 67 below).
[125] The same problems of form apply here as in earlier centuries.
[126] Babuin 2001, 6-10; Wheeler 2009, 251.

military life, but the lack of explicit evidence leaves this possibility uncertain.[127] We are therefore also precluded from assuming that the hand-gesture which the standard probably represented also continued to be used, but one sixth-century floor mosaic may be relevant here. This mosaic (fig. 5), from a monastery in Scythopolis (Beth Shean, Israel), includes a circular calendar with twelve male personifications performing activities associated with the month which they represented. These representations, conventionally referred to as the 'Labours of the Months', are shared with other mosaic calendars, but most interesting is the depiction of March as a soldier.[128] Several contemporary eastern calendars similarly anthropomorphised March as a warrior, but the Scythopolis example has the soldier holding a hand over his heart.[129] As hand-gestures were sometimes still associated with oaths in this period, it may be that this mosaic is meant to represent the *sacramentum*.[130] Nonetheless, given that this depiction comes from a monastic context, was influenced by earlier traditions, and there is little other convincing evidence, we cannot take this image as evidence that soldiers in this period swore the *sacramentum* while making a hand-gesture.[131]



Fig. 5: Reconstruction of the personification of March from a sixth-century mosaic calendar, Beth Shean.

Source: University of Penn Museum, reference image #238272.

Perhaps this ritual was replaced over time. In Anastasius' oath-taking ceremony, the commanders swore their oaths over the Gospels. Swearing upon the Scriptures became a common practice during this period and it is possible that this trend influenced how the *sacramentum* was taken.[132] The fourth-century sarcophagus in fig. 6, which has convincingly been interpreted as depicting an allegorical *sacramentum* taken over the Scriptures, may

[127] See Müller 1912, 123-126 on other standards still used in this period.
[128] On calendars and the 'Labours', see: Fitzgerald 1939, 7; Åkerström-Hougen 1974, esp. 21-27; Hachlili 2009, 192-195.
[129] Comparable examples: Åkerström-Hougen 1974, 25, 74-76, 78, 88-89.
[130] I am grateful to Stefan Esders for discussion on this point. Hand-gesture: Men. Prot. fr. 10.1.88-93. Several later Byzantine oaths were also sworn by placing a finger over the chest (e.g. Liudprand of Cremona *Embassy to Constantinople* 33).
[131] Note also that the Scythopolis soldier's hand may simply be pointing towards a bird, in a motion which has parallels in other examples (Åkerström-Hougen 1974, 75-76).
[132] Oaths sworn over the Gospels: pp. 105, 157-159 below.

suggest that this might be the case, but this image may also be a pointed reference to following the Christian God.[133] In any case, the inclusion of the Gospels as a means of requesting divine oversight removed the need for other rituals acts, such as sacrificing or gesturing.[134]



Fig. 6: Detail from the relief of the 'Two Brothers' fourth-century sarcophagus, depicting St. Peter's catechesis to a soldier via the allegorical motif of the *sacramentum.* Held at Museo Pio Christiano, Vatican Museums, Rome.

Source: http://www.museivaticani.va/content/museivaticani/en/collezioni/musei/museo-pio-cristiano/sarcofagi-_a-doppio-registro/sarcofago-_dei-due-fratelli.html

While the hand-gesture appears to have fallen out of usage, the military tattoo did continue into this period. The sixth-century medical author Aetius of Amida adds the technical details omitted by Vegetius and remarks that the tattoo was still placed upon the hand.[135] Aetius' comments are supported by the late fourth- to early fifth-century bishop Theodore of Mopsuestia, who notes that soldiers received marks after testing to denote whom they served, and Gregory the Great, who in a letter dated to 593 contests a law prohibiting individuals with military tattoos on their hands from becoming monks.[136] As before, this tattoo would have constantly reminded the bearer of their oath and its implications without any potential degradation of status. Moreover, if all recruits were meant to swear with a hand upon the Gospels, the mark would remind them of this ceremonial element while continuing to support a communal mentality via their shared tattoo.

The public manner of swearing the *sacramentum* also continued to support this corporate identity throughout the fifth and sixth centuries. Pseudo-Zachariah suggests that those swearing to Anastasius were gathered together and jointly promised to obey the emperor, as also seems to be the case for several units who in 588 were compelled to swear

[133] See further: pp. 59-60 below.
[134] It is also possible, yet uncertain, that placing one's hands on the Gospels was related to the earlier hand-gesture.
[135] Aet. 8.2 στίγματα καλοῦσι τὰ ἐπὶ τοῦ προσώπου ἢ ἄλλου τινός μέρους τοῦ σώματος ἐπιγραφόμενα, οἷα ἐπὶ τῶν στρατευομένων ἐν ταῖς χερσί.
[136] Theodore of Mopsuestia *On the Lord's Prayer and the Sacraments of Baptism and Eucharist* 3; Greg. *Letters* 3.61, 64; Dölger 1930, 272; Zuckerman 1995, 185. The law which Gregory mentions has not survived. cf. *CJ* 11.43.10.4-5, which states that fifth-century aqueduct workers and guards received a similar mark with the emperor's name.

the *sacramentum* after they had mutinied.[137] However, these accounts may simply refer to these individuals collectively for literary reasons. Additionally, if Anastasius' commanders each had to place a hand on the Gospels then the oath was presumably taken individually by the generals. Procopius offers further evidence for individual responses in the practice. Following a speech made by Germanus in 536 to the units gathered in Africa, there appears to have been some contention over who would swear first, suggesting that individual affirmations were given in this case.[138] It is of course possible that both methods of swearing were used in different ceremonies, but as before the key thing to note is the explicit, public obligation and e*sprit de corps* these practices created. The ritualised process of swearing the *sacramentum* alongside military comrades would still have aligned breaking the oath with a betrayal of their brothers, thereby contributing to the corporate identity provided by other elements of the process.

These effects continued to be supported by the occasions on which the oath was taken. As indicated by Procopius, the *sacramentum* was still taken upon initial enrolment and therefore continued to cast the oath as an honour granted to the worthy while placing the practice within the framework of military life.[139] Additionally, Pseudo-Zachariah notes that the *sacramentum* could also still be sworn on a new emperor's accession, theoretically removing allegiance to preceding regimes and emphasising the emperor's primacy.[140]

The *sacramentum* was also still renewed, but the regularity of these ceremonies is uncertain. Although Pseudo-Zachariah's description of the oath taken by Anastasius' generals suggests that the *sacramentum* was retaken alongside the offering of a quinquennial military donative, annual reaffirmation, particularly upon imperial anniversaries, would have created a more constant assurance of allegiance. And yet, no other sources suggest the oath was renewed on a quinquennial basis, and there is less definitive evidence concerning annual reaffirmation during this period.[141] Nevertheless, *sacramentum* was resworn frequently to gain an immediate avowal of loyalty. For example, several units who had mutinied against their previous commander Priscus shortly after Easter 588 appear to have sworn an oath

[137] Ps-Zach. 7.8F; Theophyl. 3.2.5.
[138] Proc. *Wars* 4.16.25 [the soldiers] ἐπεὶ πρῶτος ἠξίου αὐτὸς ἕκαστος…ἐπιδείξασθαι.
[139] Proc. *Wars* 4.18.6.
[140] Ps-Zach. 7.8F.
[141] cf.. Burgess 1988, who notes that the previously annual prayers, which may have coincided with the swearing of the *sacramentum,* were later held on a quinquennial basis.

under their new leader Germanus.[142] This oath, which Theophylact states confirmed that the soldiers would return to active service, halt their disorder, and willingly wage war, seems to be the *sacramentum,* albeit viewed by an author unfamiliar with what the promise confirmed.[143] Pertinently, Germanus, who supposedly had been chosen to lead these units against his will, was reportedly 'fortified by these agreements as if by impregnable breastplates' and was reassured that the soldiers would follow his lead.[144] Unfortunately, this tactic did not entirely work and the troops continued to rebel, but Germanus evidently believed that the oath could rein in the dissenters.[145] Reaffirmation of the *sacramentum* could not only follow disorder but also mark the start of significant military actions to ensure that the armed forces were committed to their cause. When the general Philippicus asked the army assembled in 586 to wage war against the Persians to indicate their willingness to fight, Theophylact tells us that the troops asserted their readiness with oaths, probably the *sacramentum* again misrepresented by the author.[146] Clearer is Procopius' statement that the forces marshalled to suppress the African mutiny in the 540s swore allegiance to the emperor following a rousing speech by their general and prior to an attack on Carthage.[147] As further indicated by Anastasius' ceremony, which occurred due to fears of a religiously-motivated uprising, these renewals reflect an imperial recognition that military loyalties shifted and required frequent consolidation.[148] Asking the soldiers to retake the *sacramentum* theoretically reasserted the effects of the initial swearing and confirmed the forces' fidelity when it was especially required or doubted.

The practice of swearing the *sacramentum* was intended to bind the troops to their ruler until the end of their terms of service, and matters related to the termination of the oath could help with this aim. While the death of the swearer clearly marked the end of the oath's constraints, and the emperor's demise necessitated that allegiance be sworn to the new

[142] This Germanus (*PLRE* 3.529-30 (Germanus 6)) should not be confused with Justinian's cousin of the same name (*PLRE* 3.527 (Germanus)). On the rebellion against Priscus, see: pp. 66-67 below.
[143] Theophyl. 3.2.5 στρατηγὸς Γερμανὸς ἀνακηρύττεται, ὅρκῳ περιφράξας τὰ τοῦ συνοίσοντος, ὡς ἀπέχονται Ῥωμαῖοι τοῦ λωποδυτεῖν τὸ ὑπήκοον, τῆς ἀταξίας ἐκποδὼν γινομένης· διωμολόγητο δὲ καὶ καταπολεμεῖν αὐτοὺς τὸ ἀντίπαλον. Note also the reference to imperial images in close proximity to this incident (3.2.8).
[144] Theophyl. 3.2.6 ταύταις ὁ στρατηγὸς ταῖς συνθήκαις περιφραξάμενος οἷα θώραξιν ἀκαταγωνίστοις τισὶν.
[145] Continuing dissent: Theophyl. 3.2.7-3.11. The mutiny was eventually quelled by force, bribery, and speeches by Germanus and Aristobulus, an imperial official.
[146] Theophyl. 1.15.15 ἐπεὶ κατένευον αἳ δυνάμεις συνθήκαις τε ὅρκων τὰς ἐλπίδας ἐχύρουν...
[147] Proc. *Wars* 4.16.25.
[148] Ps-Zach. 7.8F. As noted by Greatrex et al. 2011, 258 n. 149, Michael the Syrian 9.9 adds that Macedonius was in contact with the commander Vitalian, suggesting this revolt may also have had a military component.

ruler,[149] the duties of the *sacramentum* were officially ended by a *missio,* which returned the soldier to civilian life.[150] Although local commanders played a role in military decommissions due to the impossibility of the emperor being personally involved in each case, the release from service was understood to have come from the current ruler.[151] Discharge by *missio* was granted in three forms, arising from completion of service (*honesta*), disability (*causaria*), or dishonourable conduct (*ignominiosa*).[152] *Missiones honestae* and *causariae* were presumably the most regular methods of ending the oath due to the subsequent rewards and social elevation granted.[153] Perhaps recruits considered the future benefits of maintaining their oaths until they were due to retire, at least during the swearing ceremony itself, but the emperor may have also intended the troops to note that these bonuses were only given by their ruler, who was also in a position to withhold rewards to penalise disloyalty.

Soldiers who ignored their *sacramenta* not only forfeited their retirement bonuses but also ran the risk of punishment, which was intended to act as a deterrent.[154] As noted earlier, Ammianus records two fourth-century incidents during which the oath sworn involved an explicit acknowledgement of severe penalties if broken, but there are few direct references to penalties for transgression.[155] Certain military infractions, such as desertion or insubordination, which technically violated the oath's terms certainly resulted in execution.[156] When the sixth-century bodyguard Maximinus was discovered to have broken his *sacramentum* by conspiring, for example, the *bucellarius* was impaled by his commander.[157] As was typically the case with ancient perjury, the passion of Marcellus indicates that reprisals for ignoring the *sacramentum* could also be supernatural; the official presiding over the martyr's trial stated that the centurion

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[149] Some soldiers may also have believed that breaking the *imagines* negated the oath as if the emperor was dead (pp. 66-68 below). Complications may have arisen when dynastic elements were introduced into the swearing process, but the deceased ruler would obviously no longer be the focus.
[150] *CTh* 7.1.4, 6; *D.* 49.16.13.3, 18.2; Saldern 2006.
[151] Saldern 2006, 302-304.
[152] *Honesta missio*: Speidel 2007. *Causaria missio*: Saldern 2006, 300-304. Compare also Ammianus' description of Gratianus the Elder's dismissal as *honeste* (30.7.3) with the cashiering of tribunes by Julian for dereliction of duty (24.3.2; Wuk forthcoming).
[153] *CJ* 5.65, 12.35.8; *D.* 48.18.1-5. See also Mann 1953 on *missio* and the fourth-century Brigetio tablet in particular.
[154] Lack of rewards: *CJ* 12.35.3, 7. See also *D.* 3.2.2 on the infamy permanently associated with dishonourable dismissal.
[155] Amm. 21.5.10; 26.7.9. See also: Proc. *Wars* 4.16.25, which terms the *sacramentum* 'most dread' (δεινοτάτος), perhaps in reference to the consequences of oath-breaking (pp. 9-10 above). cf. Cantarella 1991, 290-304 and Phang 2008, 117, who suggest that the *sacramentum* originally received its name due to the rendering of oath-breakers as *sacer* ('liable to sacrifice').
[156] Military punishments: *D.* 49.16.3.3-4, 11, 15, 19, 22, 6.1-3.
[157] Proc. *Wars* 4.18.17.

had 'polluted himself by throwing off his *sacramentum*'.[158] Regardless of the form which these consequences took, the threat of retribution would have only increased the likelihood that the *sacramentum* would be maintained.

Nevertheless, we should not presume punishment was always meted out. Maximinus, for example, was an extreme case and does not reflect regular treatment for less controversial incidents; the guardsman's punishment was connected to his instigation of a conspiracy to murder his commander.[159] Similarly irregular were the executions of Christian martyrs, whose prosecutions occurred due to their strict refusals to follow orders.[160] More reliable is the history of Ammianus, who records several incidents in which soldiers had their oaths dissolved without being killed, even though the author states in one of these examples that more severe treatment was justified.[161] As there was a need for able-bodied fighters throughout this period, oath-breakers could be used to bolster other units, as often occurred with soldiers who had supported unsuccessful usurpations.[162] A law issued under Constans in 350 reflects this desire for additional manpower by stating that all troops who had been dismissed before their terms of service had been completed but were still in good health would be returned to their original regiments.[163] Particularly instructive is the mutiny against the general Priscus in 588. The emperor Maurice, who had previously condemned these insubordinate troops to death for their disobedience, sent Gregory, archbishop of Antioch, to inform the army that those who immediately returned to service would be forgiven for their disloyalty.[164] It is particularly notable that in this case, it was a significant number of soldiers who were pardoned, whereas the aforementioned guardsman Maximinus was only one person in unusual circumstances, further suggesting the practical side to manipulating punishments. While penalties for oath-breaking could be threatened or dealt out to reassert imperial control, such consequences could equally be ignored. The emperor's role in the termination of the *sacramentum* was thereby intended not only to persuade the armed forces to maintain their

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[158] *Acts of Marcellus* 5.1 *abiecto…sacramento pollui se.* Supernatural punishments for perjury: pp. 8-9 above.
[159] Procopius' emphasis upon the *sacramentum* in this section also relates to an attempt to explain the events in Africa (pp. 46-48, 55-56 below).
[160] The literary aims of these sources should also be borne in mind (pp. 59-63 below).
[161] Amm. 25.1.9. See also: 16.7.1; 24.3.2; 25.1.9; 26.5.3.
[162] e.g. Zos. 2.45.2, where Constantius uses Vetranio's forces against Magnentius. See: Hoffman 1969, 1:30, 398-399; Lee 1998, 226. cf. Oros. 7.6.6-7, discussed on p. 57 below.
[163] *CTh* 7.1.4. See also: Herod. 2.13.6-14.5, where Septimius Severus first threatens Pertinax's killers with death for breaking their oaths before exiling them ; *D.* 49.16.5, which suggests not all incidents involving desertion should be treated the same.
[164] Evagr. 6.10, 12. Given that Gregory claimed that he, as a bishop, had the power to release oaths, the choice of a clergyman to act as intermediary may have been particularly pointed.

promises, but also to emphasise that the ruler, who could inflict or withhold retribution as he saw fit, was the focus of the oath.

2. The *sacramentum* in literary and Christian discourse

As the *sacramentum* was traditionally seen as a bond of allegiance to the emperor, the oath was frequently used as a literary motif. Various works referred to the *sacramentum* to support assumptions and arguments about loyalty, service, and wider society, but such accounts were naturally intertwined with the perspectives of their largely civilian authors. An examination of these conceptual usages of the *sacramentum*, then, not only serves as a warning of the rhetorical background to descriptions of the oath but also further indicates that the process of swearing was seen by civilians primarily as a matter of allegiance.

In all periods of Roman history, presentations of the *sacramentum* were influenced by the long tradition of literary hostility against military personnel, who were often depicted as disloyal or lax in their duties.[165] Anti-military sentiments were strengthened by negative civilian encounters with soldiers, who were reportedly often drunk, licentious, and violent.[166] As a result, authors often used the tropes of avarice, rapacity, and ill-discipline to explain why certain units revolted, and thereby implicitly violated their oaths.[167] Although not all civilians would have shared this perception of the armed forces, few individuals would have been interested in mundane stories of soldiers adhering to loyal service, whereas the intended audiences of such works would have enjoyed dramatic betrayals and been happy to confirm their prejudices regarding military personnel. The long-standing distrust of the military was bolstered in later years by additional rancour against the increasingly large numbers of recruits drawn from 'barbarian' peoples.[168] Notions of foreign inferiority, particularly regarding loyalty and conduct, translated into further distrust for the forces that they joined, as did perceptions of military decline.[169] Many saw changes in late antique armies as

[165] Laxity as a *topos*: Warmington 1953, Wheeler 1996; Rance 2007a, 344-345.
[166] Civilian interactions with soldiers: Campbell 1984, 246-254; Lee 2007a, 163-75; Rance 2018, esp. 417.
[167] e.g. Evagr. 6.4; Theophyl. 3.2.5.
[168] Hoffman 1969, 1:131-199; Parnell 2016, 49-76, esp. 49-59. The term 'barbarian' has been contested due to its negative connotations (Garnsey and Humfress 2001, 95-104). To reflect this debate, this discussion will only use this label in quotation marks.
[169] On distrust of external peoples, particularly regarding oaths, see pp. 135-149.

indicative of military deterioration from the traditional legions of the Republic and Principate.[170]

Even though we would therefore expect some comment on the *sacramentum* being unable to hold soldiers to their duties, few sources explicitly associate the oath being broken with incidents of disloyalty, perhaps as this connection was taken for granted. On the other hand, Procopius does explicitly draw attention to the oath, in particular to present certain individuals as treacherous. In his account of a conspiracy instigated by the guardsman Maximinus in the 530s, Procopius states the general Germanus sought to control the soldier by making him swear the *sacramentum*, but Maximinus 'did not hesitate to disregard immediately what he had sworn'.[171] In this account, the disloyal guardsman is repeatedly contrasted to the other soldiers who were well-disposed to the general and the emperor.[172] Procopius' pointed emphasis of the violated oath seems to be aimed at denigrating Maximinus while also praising those who remained loyal.

A similar case can be found in the history of the Christian author Orosius, who does not appear to have had military experience yet still criticised Magnus Maximus through a reference to the oath.[173] The fifth-century historian presents the usurper, who rose up against Gratian in 383 and was defeated by Theodosius I in 388, more positively than other literary sources, but still qualifies his praise by noting that he had broken his oath:

> Maximus, uir quidem strenuus et probus atque Augusto dignus nisi contra sacramenti fidem per tyrannidem emersisset.[174]
>
> Maximus [was] a vigorous and good man, and worthy of being the emperor, had he not risen up as a usurper, contrary to the loyalty of the *sacramentum*.

Orosius' wider presentation of Maximus oscillates between hostility and positivity in this manner. It may be that the author favoured the usurper due to their shared Spanish heritage and the claimant's execution of Priscillian, a heterodox cleric with whom Orosius disagreed.[175] In any case, this passage is highly rhetorical and Andrew Fear has read echoes

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[170] MacMullen 1988, 175; Lee 2007b, 412-417; Hebblewhite 2017, 128-130.
[171] Proc. *Wars* 4.18.7 τά τε ὁμωμοσμένα εὐθὺς ἀλογεῖν ἠξίου. See also 4.18.17-18 where Procopius again draws attention to the broken *sacramentum.*
[172] Proc. *Wars* 4.18.3-4, 10, 13.
[173] On Orosius' background, see Fear 2010, 1-6. Orosius also briefly mentions the *sacramentum* elsewhere (2.5.7; 4.16.7-8).
[174] Oros. 7.34.9.
[175] Fear 2010, 287 n. 385. For other sources regarding Maximus, see *PLRE* 1.588 (Magnus Maximus 39).

of Tacitus' judgement of Galba, who supposedly was viewed as a good candidate for emperor until he had ruled.[176] Orosius evidently sought to limit his praise for Maximus, who commanded the forces based in Britain, by noting that the general had broken his military oath by rebelling against Gratian.

A distinction can be drawn with other incidents in which Orosius describes the *sacramentum* being ignored. The author refers to the short-lived revolt of Scribonian against the emperor Claudius in 42 as supported by forces who had been persuaded to alter their oaths, whereas the emperor Valentinian, who had been dismissed from service as a tribune in 357, is said to have previously fulfilled his sworn duties.[177] The difference between these individuals and Maximus in these incidents is key: neither Scribonian's forces nor Valentinian were presented as having ruptured their oaths, even though technically they had. According to the historian, after the revolt had been suppressed, Scribonian's former supporters had continued to uphold the *sacramentum,* perhaps explaining the difference in description.[178] Whereas these legions had returned to loyal service, Maximus had not and thereby contributed to the death of Gratian. Furthermore, Orosius' presentation of Valentinian was completely favourable and a reference to his terminated oath would hardly have aided the account.[179] On the other hand, the historian clearly sought to discredit Maximus by highlighting his transgressed *sacramentum,* perhaps as he was writing under the descendants of Theodosius I, who had defeated the mutinous general in battle.

Orosius' and Procopius' deployments of the *sacramentum* take for granted that the oath was meant to bind the soldiers to loyal service. Other literary accounts presupposed the same thing, while also suggesting that influential leaders could assert control over their forces through latent military respect for the practice. According to the *Historia Augusta*, a number of Praetorian guardsmen had become disaffected with the rule of Elagabalus in 222 and a small group of soldiers entered the imperial gardens to murder the ruler. However, these individuals were turned away via a reminder of their sworn duties:

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[176] Tac. *Hist.* 1.49; Fear 2010, 387 n. 384.
[177] Oros. 7.6.6 *Scribonianus…bellum ciuile molitus legiones multas fortissimasque ad sacramenti mutationem pellexerat;* 7.32.3 *qui cum Christianus integra fide sacramentum militiae gereret sub Iuliano Augusto tribunus scutariorum*. Valentinian's dismissal was also related to the Christian trope of opposition against the armed forces (pp. 59-63 below).
[178] Oros. 7.6.7 *excercitus…sacramento prioris militiae continuit.*
[179] The same is true for Ammianus' account of Valentinian's dismissal (Wuk forthcoming).

> Antiochianus igitur e praefectis unus milites qui in hortos uenerant sacramenti admonitione exorauit ne illum occiderent, quia nec multi uenerant et plerique cum uexillo, quod Aristomachus tribunus retinuerat, remanserant.[180]
>
> Then Antiochianus, one of the prefects, persuaded the soldiers who had come to the gardens by a reminder of the *sacramentum* not to kill [Elagabalus], as not many had come and the majority had remained behind with the standard, which the tribune Aristomachus had guarded

This passage, from a source frequently hostile to the armed forces, affixes great importance not just to the *sacramentum* but also to the invoker.[181] While we have no grounds to suspect the historicity of several other analogous incidents, this example is probably fictitious given its absence in other more reliable accounts of this period.[182] The specific mention of the prefect Antiochianus, with the tribune Aristomachus who had kept the majority of the unit in their camp, seems to show how the oath was imagined to work.[183] A direct inversion of this incident can be found in the earlier history of Herodian, who states that although Alexander Severus invoked the *sacramentum* to assert control over his forces, the emperor was unsuccessful due to his lack of influence over the soldiers.[184] Procopius' description of the *bucellarius* Maximinus' conspiracy and the violation of his oath seems to have been similarly connected to a desire to explain why some soldiers remained loyal whereas others did not.

A different literary use of the *sacramentum* can be seen in the account of Ammianus, who refers to unwilling terminations of the *sacramentum* to denigrate various individuals. Perhaps the most instructive example concerns the *magister equitum* (master of horse) Marcellus, who was dismissed from service by Constantius II after the commander had failed to aid Julian during the siege of Sens in 357. Ammianus states that Marcellus reacted bitterly to his dismissal, perhaps in reality due to the sudden end of his military career, but the author draws particular attention to the former officer's dissolved *sacramentum.* We are told that Marcellus began to plot against Julian as he felt that he had been dealt a grievous insult, in

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[180] *HA Elag.* 14.8.
[181] On hostility, see *HA Aurel.* 7.5-8 and *Prob.* 20.3-5, both of which describe the armed forces negatively.
[182] More reliable accounts: Dio 80.19.2-20.2; Herod. 5.8.2-10. Other reports of similar invocations of the oath: pp. 64, 68-69 below.
[183] Nothing is known about Antiochianus so we cannot be sure if this passage is a comment upon a particular individual. As the *Historia Augusta* frequently uses puns (Hock 1982), 'Antiochianus' may refer to someone associated with Antioch. Note also that the reference to soldiers remaining with their standard may be an implicit nod to how the oath was sworn (pp. 27-29 above).
[184] Herod. 6.9.2.

reference to the terminated oath mentioned in the sentence before.[185] Ammianus must have had a negative opinion of Marcellus, who not only followed Ammianus' former commander Ursicinus as *magister equitum* but also opposed Julian, the author's ideal ruler.[186] The account's emphasis on the ignominiously discharged oath therefore seems to be a deliberate insult, but not necessarily in reference to disloyalty to the emperor, as in the preceding examples. Whereas the previous authors described the soldiers themselves breaking - or, in the example from the *Historia Augusta,* keeping - their oaths, Ammianus presents the termination of Marcellus' oath as unwanted. As an author with a military background, Ammianus surely understood the effects that taking the *sacramentum* had upon the soldierly corporate identity. As such, his account uses ejection from the oath, and therefore from the military conceptual community, as a serious insult and to offer comment upon Marcellus' reputation.[187]

This use of the oath, more to convey the sense of brotherhood felt by the armed forces than the intended bond of allegiance to the emperor, was not used in many other accounts. When the *sacramentum* does feature in literary works, it is usually related to loyalty to a leader. Several early Christian authors deployed the oath for this reason, albeit to indicate their commitment to God.[188] Baptism was metaphorically described as an oath to the Lord, with the new spiritual army of Christ, the *militia Christi,* possessing their own version of the *sacramentum.*[189] Descriptions of the *militia Christi* also used numerous other parallels, such as Tertullian's comparison of Christians attending games with soldiers deserting their camps and oaths, and John Chrysostom's characterisation of St. Paul as an standard-bearer of Christ.[190] Due to its continued usage and association with recruitment throughout Roman history, the *sacramentum* was sometimes exploited as a motif to represent religious commitment to the Christian God.

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[185] Amm. 16.7.1 *Isdem diebus adlapso rumore Constantius doctus obsesso apud Senonas Caesari auxilium non tulisse Marcellum, eum sacramento solutum abire iussit in larem. Qui tamquam iniuria graui perculsus quaedam in Iulianum moliebatur…*
[186] Following Ursicinus as *magister equitum*: Amm. 16.2.8. Marcellus' opposition to Julian: Amm. 16.7.1-2, 8.1; Jul. *Ep. ad Ath.* 278B; Zos. 3.2.2.
[187] On Ammianus' use of the *sacramentum,* see: Wuk forthcoming.
[188] Note also the use of *sacramentum* to mean 'sacrament/mystery' (pp. 10-11 above).
[189] e.g. Tert. *Adv.Marc*. 3.22.7; Jerome *On Isaiah* 9.29.9, 12.44; *Ep.* 14.2; Peter Chrysologus *Sermons* 13 (*PL* 52.227); Paul. Nol. *Ep.* 23.18; Sulp. Sev. *Ep.* 3.19. See also: Harnack 1905, 33; Dölger 1936; Ysebaert 1962, 215, 422; Michaélidés 1970; Van Slyke 2007, 260-266; Ferguson 2009, 348-349, 403, 665, 682. Note also fig. 6 (with Pietri 1963, esp. 659-664), a sarcophagus relief representing a baptismal conversion via an allegorical oath-taking.
[190] Tert. *Spect.* 24.4; John Chrys. *Laud. Paul.* 7.1. *Militia Christi* in Christian discourse*:* Harnack 1905, 1-46; Pietri 1962; Luongo 1978; Cain 2013, 126.

Conversely, the oath could also be used as a foil to the allegiance Christians offered to the Lord. Tertullian, for example, contrasts the *sacramentum* - a *humanum* ('mortal') affair involving the emperor - with baptism - a sacrament through which Christians promised to serve God.[191] Each individual could only choose one master, Tertullian claimed, and Christians should not take part in the oath-swearing process, which was non-Christian in nature until the fourth century at the earliest. Tertullian further suggests that, for these reasons, taking the *sacramentum* resulted in the renunciation of a Christian's loved ones, while the third-century theologian Hippolytus decreed that taking the military oath would lead to immediate excommunication.[192]

As indicated by other religious works, Christian military service more generally was an issue for some theologians into the late fourth century.[193] Consequently, when the military oath features in religious accounts and does not refer to baptism, it is usually presented as a concept, emblematic of the armed forces and against which these religious adherents struggled. As Christian repudiation of the *sacramentum* became a trope to display dissatisfaction with aspects of military service, various hagiographies and passions include references to the oath. Particularly illustrative are the cases of Martin of Tours and Victricius of Rouen. According to the stylised account of Sulpicius Severus, Martin wanted to become a hermit but, as his father was a veteran, was conscripted into the armed forces and forced to swear.[194] Supposedly following a confrontation with Julian, the future prelate refused to remain bound to service.[195] The fourth-century bishop Victricius was a Christian hero in the same vein, who had previously 'altered his oath' and threw down his weapons before his officer in a similarly stylised scene.[196]

Similarly, the martyrs often referred to as the Theban Legion were presented in some traditions as querying whether they should maintain their oaths and, similar to Tertullian, contrasted the *sacramentum* with baptism. According to a letter written by Eucherius, bishop of Lyons ca.434-50, several units were mobilised by the emperor Maximian to suppress

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[191] Tert. *Idol*. 19.2.
[192] Tert. *Cor.* 11.1 *Credimusne humanum sacramentum diuino superduci licere, et in alium dominum respondere post Christum, et eierare patrem ac matrem et omnem proximum…?* Hippol. 16.17.
[193] e.g. Lact. *Div.Inst.* 6.16; Paul. Nol. *Ep.* 25.1.3. See also: Nicholson 1993; Noethlichs 2001, 21; Lee 2007a, 178-81, 186-88.
[194] Sulp. Sev. *Life of Martin* 2.5 *captus et catenatus sacramentis militaribus implicatus est*. On hereditary conscription, see: Lee 2007a, 81.
[195] Sulp. Sev. *Life of Martin* 4.
[196] Paul. Nol. *Ep.* 18.7 *ante pedes sacrilegi tribuni militiae sacramenta permutans arma sanguinis abiecisti, ut arma pacis indueres.* cf. Oros. 7.6.6, where several soldiers also 'altered their oaths', without any evident criticism.

rebellions in Gaul. One of these units, purportedly from Thebes, Egypt, objected both to non-Christian military rituals and to killing fellow Christians. As a result, these servicemen were apparently martyred at Agaunum (modern-day Saint-Maurice, Switzerland).[197] Prior to their execution, Eucherius claims that the soldiers informed Maximian that their military oaths were less important than their baptismal promises:

> Iurauimus primum in sacramenta diuina, iurauimus deinde in sacramenta regia; nihil nobis de secundis credas necesse est, si prima perrumpimus.[198]
>
> We first swore God's *sacramentum,* and next we swore the imperial *sacramentum*. If we break the first [of these], then you cannot place value in our second [oath].

Although several scholars have argued convincingly that this martyrdom is largely ahistorical, Eucherius' account suggests that the problem was not necessarily the oath itself, but the service it represented and the conflict of loyalty to God or emperor.[199] In these sources, the oath was utilised as a discursive concept.

There is justification to suspect aspects of various Christian passions and hagiographies,[200] but we should still pay attention to the rhetorical purposes of these accounts, not least as reliable accounts also emphasise the *sacramentum* as emblematic of loyalty and military service.[201] In his *On the Military Crown,* Tertullian defends a soldier who refused to participate in military ceremonials by wearing a crown. It seems no mistake that Tertullian puts words which he had used in other sources in the mouth of the soldier, who in this account contrasts the *humanum* oath with his allegiance to God.[202] Similar is the passion of the third-century centurion Marcellus, who refused to get involved in imperial celebrations by repudiating his oath both vocally and physically. This account frequently mentions the *sacramentum* and related matters; the martyr reiterates the incompatibility of serving God and emperor, casts down his belt before the standards, discards his oath, and is sentenced for 'publicly rejecting the *sacramentum*'.[203] Marcellus' actions before the standards receive

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[197] Van Berchem 1954 remains the authoritative discussion on these individuals.
[198] Eucherius *Passion of the Martyrs of Agaunum* 9.
[199] Van Berchem 1954, esp. 42-43; Frend 1965, 486; Woods 1994. cf. O'Reilly 1978.
[200] See e.g. Barnes 1996 on Martin's dismissal and Dunn 2011, 159-162 on Victricius' comparable case. cf. the case of Valentinian's dismissal and the various versions of this story (Lenski 2002b).
[201] On the reliability of some martyr acts, which were sometimes based on trial transcripts, see: Barnes 1982, 176-78; Moss 2012, 15-17; Huebner 2019, esp. 2-4.
[202] Tert. *Cor.* 1.1-5, 11.1; Michaélidés 1970, 56-57.
[203] *Acts of Marcellus* 1.1 *reiecto…cingulo militari coram signis legionis*; 2.1 *respondi me Christianum esse et sacramento huic militare non posse*; 4.2 *proiceres sacramenta;* 5 [Marcellus] *abiecto publice sacramento pollui se dixit.* cf. *CTh* 7.2.2 (385) on *cingula* representing service, albeit in the bureaucracy.

greater meaning with the swearing of oaths to these ensigns, and may have inspired the stories of Victricius throwing down his 'arms of blood to take up the arms of peace' and Valentinian's supposed relinquishment of his own belt.[204] A more extreme third-century case is the passion of Maximilian. This account reports that Maximilian would not take the *sacramentum*, which held no value to Christians due to their commitments to God, but if forced to swear, the martyr stated he would immediately break the oath.[205] As in the aforementioned examples, Maximilian was executed for treasonous behaviour, and, as with Marcellus, the sentence passed on the martyr specifically mentions the *sacramentum*.[206] Importantly, each of these accounts praises the protagonists of these tales for rejecting the oath; Tertullian lauds the unnamed soldier throughout the work, Marcellus is said to have departed the world happy, and the father of Maximilian, who is himself portrayed positively, is said to have witnessed his son's confession with pride and joy.[207]

These incidents, however, were exceptional cases enacted and emphasised by Christians of more stringent religious principles, as perhaps best exemplified by Tertullian. Before his shift in sympathies to the strict Montanist sect and in direct contrast to his later criticisms, Tertullian's earlier works accept those who served in the armed forces and do not explicitly argue against the *sacramentum*.[208] Furthermore, Tertullian himself tells us that *On the Military Crown* was pitched as a defence of the unnamed soldier, whose actions were apparently criticised by many individuals, some of them Christians who saw no issue with either *sacramentum* or military service.[209] Moreover, Marcellus, a centurion, had evidently served a considerable amount of time before his confession. Even more telling is the awareness attributed to Maximilian by his passion that other Christians were contemporaneously serving in the armed forces.[210] These accounts, which either intensified the actions of these martyrs or reflect irregular reactions, may have been envisioned to act as models to mobilise others to reject military service. While we should be careful not to overstate how many Christians joined the armed forces prior to the fourth century, there is nevertheless evidence to suggest that many adherents of the religion were more open to

[204] Paul. Nol. *Ep.* 18.7 (full text p. 60 n. 192 above). Oaths sworn to standards: pp. 27-29 above.
[205] *Acts of Maximilian* 2.4-6 (full text pp. 39-40 above).
[206] *Acts of Maximilian* 3.1 *Maximilianum, eo quod indeuoto animo sacramentum militiae recusauerit, gladio animaduerti placuit.*
[207] *Acts of Marcellus* 5.2; *Acts of Maximilian* 3.5. Maximilian's father, who was a veteran and had thus passively led to the martyr's conscription, would surely have been displeased with his son's execution.
[208] Tert. *Apol.* 42.2-3.
[209] Tert. *Cor.* 1.4-6.
[210] *Acts of Maximilian* 2.9.

taking the *sacramentum* and becoming a soldier than such accounts suggest.[211] In numerous areas of society, compliance with public rituals was necessary and late antique, particularly third- and fourth-century, Christians often saw no issue in these practices, even though religious leaders argued against them.[212] Of course, with the implementation of new religious elements into the oath-taking process and military life more generally, alongside shifting perceptions concerning the acceptability of armed service in theological discourse, there would have been even less of an issue with the *sacramentum.*[213] These changing circumstances may explain why we have few reliable accounts concerning rejection of the oath and military service on theological grounds beyond the fifth century. In any case, numerous authors, historical and ecclesiastical, utilised the *sacramentum* as a concept emblematic of both allegiance to the emperor and also membership in the armed forces. Due to their separation from military life and rhetorical objectives, these sources do not always provide an accurate indication of how the soldiers who swore the oath viewed the *sacramentum*.

3. One for all and all for one: military perspectives

The emperor evidently intended the military oath to consolidate the allegiance of his forces and a variety of authors, who deployed the *sacramentum* as a literary device, presupposed that this aim was the primary purpose of the oath-swearing process. At first glance, the varying levels of unrest alongside negative literary presentations of the armed forces therefore seem to indicate that the troops did not respect their oaths. And yet, a number of sources explicitly suggest that late antique soldiers did in fact value the *sacramentum*, bringing into question how the troops perceived the oath.[214] Aspects of the swearing process - namely, reminders of the practice, the religious underpinning, and emphases of imperial primacy - appear to have had an effect upon military personnel, but the associated corporate identity was the effect most appreciated by those in the ranks. Evidence suggests that many soldiers viewed the oath more as a bond of brotherhood than as a promise of allegiance,

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[211] On Christians in the armed forces prior to the fourth century, see: Lee 2007a, 180-181.
[212] Maxwell 2006, 144-168; Sizgorich 2009, 21-45; Brent 2010, 225; Samellas 2010, 276-279; Eric Rebillard 2012. See also: pp. 193-194 below.
[213] Lee 2007a, 178-180, 186-188.
[214] Approaching the topic on a quantitative basis, where a high frequency of usurpations and broken oaths signals inefficacy, is also problematic due to the difficulty of stating what constituted an occasion on which the oath was upheld. While the frequency of oath-breaking should be noted, the focus should be on other indicators which suggest military valuations of the oath.

which was dependent upon how the emperor was perceived and how he ensured the welfare of his forces.[215] Without these things, the ruler would not be seen as included in this exclusive community and so the oath would not bind the troops to loyal service.

That numerous regular soldiers valued their *sacramenta* can be seen in various incidents. Following Gordian I's accession in 238, several African regiments wavered in their support for Maximinus but the general Capellianus reportedly bolstered their loyalty through a reminder of their *sacramentum*.[216] 2A similar level of respect is suggested by the suspended service of soldiers from Second Legion Parthica, who refused to follow Caracalla's orders after the unpopular murder of Geta. The *Historia Augusta* reports that these individuals cited their 'promises of loyalty', presumably an oblique reference to their oaths, offered to the co-emperors.[217] Aggrieved by the death of one recipient of their *sacramentum* whom they had sworn to serve, these soldiers declined to obey the emperor who had tarnished their respected practice. Naturally, we should suspect any claim in the *Historia Augusta*, but there is implicit validation in other sources which note that Caracalla had to regain the Praetorians' loyalty following Geta's murder through payments or punishments.[218] These incidents appear to explain why Tertullian, discussing Christian recruits following their own religious celebrations, used military opinions on the *sacramentum* as a benchmark of reverence.[219]

Several other accounts, in which the emphases on imperial primacy and military discipline seem to have been fruitful, support this positive attitude. Following an impassioned speech by their general, the forces commanded by Germanus in 536 sought to prove their loyalty by renewing their *sacramenta*.[220] These units had been assembled to overcome a military revolt in Africa and so their fidelity would have been a concern. The apparent ardour of these soldiers, each of whom rushed to be the first to swear, was meant to display their allegiance emphatically. Further evidence comes from one fourth-century constitution, which records veterans acclaiming Constantine upon his entry into their camp and referencing the *sacramentum* they had sworn.[221] Through this reminder of their previously fulfilled oaths, the

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[215] Hebblewhite 2017, 168-169 makes a similar argument but focuses on the emperor's leadership abilities.
[216] Herod. 7.9.3. See also pp. 68-69 below, which suggest that in this and the following examples, the invoker of the oath was the salient element.
[217] *HA Carac.* 2.7 *duobus se fidem promisisse liberis Seueri, duobus seruare debere*.
[218] Dio 77.3-4; Herod. 4.4.7-5.1.
[219] Tert. *De Ieiunio Adversus Psychicos* 10.7 *Nam et milites numquam immemores sacramenti magis stationibus parent.*
[220] Proc. *Wars* 4.16.25 πρῶτος ἠξίου αὐτὸς ἕκαστος εὔνοιάν τε τὴν ἐς βασιλέα τῷ στρατηγῷ ἐπιδείξασθαι καὶ ὅρκους δεινοτάτους ὑπὲρ τούτων ὀμεῖσθαι.
[221] *CTh* 7.20.2.1. (=*CJ* .12.42.1, which changes *dii* to *deus*) *Auguste Constantine, dii te nobis seruent: uestra salus nostra salus: uere dicimus, iurati dicimus.* It is also possible that the former soldiers were making a form

veterans sought to demonstrate their faithfulness and thereby lend credence to their acclamation while providing justification for the granting of their requests. To utilise their oaths of allegiance in this manner, these soldiers must have viewed the *sacramentum* as a significant part of their relations with the emperor. Perhaps to others of a more unscrupulous nature, maintenance of the oath could have been seen as a useful tool for achieving particular goals.[222]

The *sacramentum* seems to have occupied a place in the mind of at least one fourth-century soldier based in Egypt. In an otherwise mundane letter sent to his patron to request that money he was owed be given to his relatives, the soldier Apollo stated that he could not leave his post due to his oath.[223] Apollo appears to have felt constrained by his *sacramentum* to remain in service, but equally the soldier may have used his oath as an excuse not to journey himself. Even if the latter was the case, this justification not to travel indicates that the oath was viewed as a credible reason to remain in service. Nevertheless, it seems more probable that, with the various reminders of the oath that existed in military life, the *sacramentum* was a frequently present force which could influence the troops' behaviour during the course of their regular duties.[224]

It may also be that the armed forces respected the general religious significance of the oath-taking process, which was complemented by a number of other promises sworn in military life.[225] In earlier periods, the troops took ancillary oaths to affirm they would not loot and would protect the standards, while military administrative officials in the sixth century swore that they would distribute payments and resources fairly.[226] Additionally, late antique soldiers regularly took oaths in confirmation of acclamations for their leaders' future victories.[227] Interactions between commanders and their forces could also include oaths for various reasons. To garner support for his accession, Diocletian not only executed the prefect Aper, who had reportedly killed the emperor Numerian, but also swore to the now-leaderless

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of sworn acclamation (p.66 below), particularly as the constitution claims the veterans were acclaiming Constantine. On this law, see: Corcoran 1996, 157-159.

[222] Several laws suggest that some soldiers tried to use military service to gain exemption from municipal duties or taxes either as a reward (*CTh* 7.1.6; 7.13.6-7; 13.1.2) or through inculpability (*CTh* 7.20.12.3; 12.1.87, 113, 147.*praef.*, 181.1 (=*CJ* 10.32.54); *CJ* 6.37.8). Further benefits: Lee 2007a, 83.

[223] *SB* 24 16282, lines 21-22 ...μὲν διὰ τὸν ὅρκον οὐκ ἀλλὰσσω ἐμαυτὸ[ν]…; Rea 1997.

[224] Reminders: pp. 38-42 above.

[225] See Septimius Severus' successful attempt to persuade his army to support his usurpation by referring to the gods whom the soldiers pleased by obeying their oaths (Herod. 2.10.2).

[226] Looting: Polyb. 6.33.1; Gell. 16.4.2-4; Brand 1968, 91-98. Standards: Dion. Hal. *Ant. Rom.* 10.18.2 Resources: *CJ* 12.37.16.*praef.*,5; 12.37.19.*praef.* Note that the latter oaths were probably connected to oaths sworn by other civil officials, who are discussed in Chapter 2.

[227] Amm. 17.13.34; 24.1.1. See especially 26.7.17, where Ammianus suggests that taking these oaths was a 'custom of soldiers' (*mos militiae*).

army that he had no part in their ruler's murder, just as Julian took oaths confirming that he did not want to rise against Constantius but would acquiesce with the soldiers' demands that he do so.[228] Oath-swearing regularly featured in military life and so we would expect the religious force of the *sacramentum*, the most important oath in this context, to be supported by the armed forces' frequent utilisation of the practice.

Given that the oath-swearing process involved several cultic elements, repudiation of physical symbols related to the *sacramentum* must have had significance. The martyr Marcellus had thrown down his belt and weapons to reject military service and indicate he would no longer serve the emperor. Due to these actions, the judge who presided over the martyr's trial stated that Marcellus had polluted himself.[229] As violation of the *sacramentum* could have supernatural consequences, it may be that the destruction of imperial images, to which the armed forces often swore, reflected not only a statement of opposition against the emperor, but also an attempt to forestall divine retribution and terminate the duties of the oath. The soldiers who deposed and murdered Maximinus in 238, for example, first shattered the *imagines* on his standards before breaking their *sacramentum.*[230] A similar incident took place with insurgent troops who temporarily refused to follow the emperor Maurice in 588 shortly after Easter.[231] Following a reduction in pay and the haughty behaviour of the general Priscus, several units based in the East mutinied:

> Οἱ μὲν οὖν τοὺς βασιλικοὺς ἀνδριάντας καταρριπτεῖν ἐνεχείρησαν (ὃ δὴ καὶ γέγονεν), ἀφανίζουσι δὲ καὶ τὰ διὰ τῆς γραφῆς ἀναθήματα, ἅπερ σανίσι καὶ πίναξιν εἰς βασιλέως τιμὴν χρωματουργίᾳ συνετάττοντο τεχνικῇ.[232]
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> And so [the soldiers] attempted to tear down the royal statues (this in fact happened), and they also obliterated the pictorial representation which had by the art of painting been composed on panels and boards for the honour of the emperor.

[228] Diocletian: Eutr. 9.20.1. Julian: Amm. 16.12.64.
[229] *Acts of Marcellus* 5.1.
[230] Herod. 7.8.9.
[231] On this incident, see Whitby 1988, 286-289.
[232] Theophyl. 3.2.8. Translation from Whitby and Whitby 1986, 74-75.

Another account, the sixth-century ecclesiastical history of Evagrius, suggests that the general Germanus was elected emperor shortly after this incident, but although there is no other contemporary evidence to support this claim, the soldiers evidently wanted to break away from serving under Priscus and implicitly also from their oath to Maurice.[233] Although no confirmed archaeological remains of shattered *imagines* have remained, the implementation of earlier memory sanctions may be relevant. For example, one façade from the Arch of the Money-changers (fig. 7) displays a standard-pole with two Severan *imagines*, while a third portrait, probably representing Geta, appears to have been removed.[234] Some have argued that breaking portraits of the emperor represented only a public declaration of alignment against the regime.[235] Nevertheless, as imperial images frequently received the *sacramentum*, we should not ignore the possibility that their destruction was also an expiatory act. Through the obliteration of the oath's recipient, the soldiers may have sought either to nullify their promises and any consequences for breaking them, or to persuade others to terminate their bonds.[236] The breaking of this symbol of the *sacramentum* may have therefore been an attempt to avoid retribution for violating the oath.



Fig. 7: Southern façade of the Arch of the Money-changers, Rome. *Imagines* of Caracalla and Septimius Severus, with potential erasure of Geta's likeness.

Source: Author's Own.

The armed forces evidently held a latent respect for the oath. And yet, the *sacramentum* could only maintain military loyalty if the armed forces already had some rapport with the emperor. This relationship sometimes relied upon the ruler's martial and charismatic authority and the absence of these characteristics could explain some of the

[233] Evagr. 6.5. See Theoph. AM6079, which states that the soldiers also swore never to accept Maurice as their ruler, which, when taken with Theophylact's account of the oath taken to Germanus (3.2.5), could support Evagrius' version of events.
[234] Bonanno 1976, 148; Varner 2004, 177-178.
[235] Gregory 1994, 90; Ando 2000, 221.
[236] Perhaps the erasure of Geta from the Arch of the Money-changers was a response to soldiers who refused to serve Caracalla, as in *HA Carac.* 2.7. The destruction of imperial images during riots may also have been related to oath-swearing, which sometimes included invocation of the emperor and his safety (pp. 177-180 below).

military insurrections in this period, particularly in the third century.[237] The case of the imperial claimant Procopius is particularly instructive. To persuade the *Iovii* and *Victores* units drawn up against him at Mygdus in 365, Procopius addressed Valens' forces and chastised them for ignoring their oaths:

> En…cana Romanorum exercituum fides et religionibus firmis iuramenta constricta! placet, fortissimi uiri, pro ignotis tot suorum consurrexisse mucrones, utque Pannonius degener labafactans cuncta et proterens, imperio, quod ne uotis quidem concipere ausus est umquam, potiatur, ingemiscere nos uestris nostrisque uulneribus! Quin potius sequimini culminis summi prosapiam, non ut rapiat aliena sed in integrum maiestatis auitae restituatur, arma iustissima commouentem.[238]
>
> So this is the traditional loyalty of Roman armies and their oaths bound by firm religious rites! Does it please you, you bravest of men, to have raised so many of your swords for strangers, so that a degenerate Pannonian should shake and trample upon the world, to own a throne for which he never so much dared to pray? We groan for your wounds and ours! Instead, rather follow the house of your own imperial family, not so he may take what is another's but to restore him, who has taken up arms with the greatest justice, to all of his ancestral majesty.

This exclamation sarcastically refers to an earlier *sacramentum* taken to a member of the Constantinian dynasty and reminds the soldiers that they had technically sworn to obey Procopius rather than Valens.[239] Other accounts suggest that military leaders often similarly invoked the oath during addresses to the armed forces. Zosimus, for example, reports that Constantius II convinced both his and the rebel Vetranio's forces to challenge the usurper Magnentius by referring to the *sacramentum* taken in the name of Constantine the Great and his sons.[240] Even though these forces had no doubt previously sworn loyalty to Valens, they nevertheless changed sides and supported Procopius' cause.[241] The invocation of the

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[237] See the third-century usurpations of Maximinus (Herod. 6.8.3-6; *HA Max.* 7-8.4; Drinkwater 2005, 28-29), Macrianus (*HA Gall.* 1.1, 3.1; Zonar. 12.24 (=Dindorf 1870, 144-46), and Postumus (*HA Gall.* 4.3; Zos. 1.38.2), as well as the shifting of loyalties to Aurelian (Aur. Vic. *Caes.* 35.8; Zos. 1.62; Watson 1999, 93-101, 166-189).
[238] Amm. 26.7.16.
[239] den Boeft et al. 2007, 207-8. Hebblewhite 2017, 168-169 incorrectly suggests that in this incident, Procopius acknowledged that these units only supported Valens due to their oaths of loyalty. Although there may be some element of this acknowledgement here, the purpose of this exclamation was to secure loyalty to Procopius as a member of the Constantinian dynasty, hence the reminder of their previous *sacramenta*.
[240] Zos. 2.44.3 Κωνστάντιος...πανταχοῦ τῶν λόγων τῆς τοῦ πατρὸς ἀνεμίμνησκε τοὺς στρατιώτας φιλοτιμίας καὶ τῶν ὅρκων οὓς ὀμωμόκασιν, ἢ μὴν εὔνοιαν τοῖς τούτου φυλάξειν παισίν. Other examples: Herod. 6.9.2; 7.9.3. cf. *HA Elag*. 14.8 (pp. 57-58 above) for a less reliable incident.
[241] Amm. 26.7.16-17.

sacramentum evidently swayed these units, but Ammianus, who in this section favourably constrasts the imperial claimant with Valens, seems to suggest that Procopius' charisma and self-avowed solicitude for the cares of the forces also influenced this defection.

Procopius had won over other units during his uprising and tied them to himself via the *sacramentum,* but even though the claimant had persuaded these soldiers to support him, the aspiring emperor was deserted during two major confrontations with Valens' army, at Thyatira and Nacolia.[242] Ammianus does not refer to the *sacramentum* when explaining the conduct of these soldiers and instead emphasises the influence of various generals in these incidents. At Thyatira, we are told that Arbitio, a retired general of Constantius, publicly supported Valens. Through widespread respect for his service, Arbitio convinced the commander of Procopius' forces, Gomoarius, to defect with his units.[243] At Nacolia, Ammianus states that Agilo, in joint command of Procopius' army with the imperial claimant himself, changed sides and took a substantial amount of soldiers with him.[244] In contrast to these renowned and respected individuals, Procopius had little pre-existing goodwill or respect upon which he could rely; the claimant had little connection to his army and had often resorted to paying for support.[245] Consequently, the tide of allegiance shifted back to Valens, despite Procopius' use of the oath. To some extent, the supreme military commander was required to possess some modicum of leadership capability and martial acumen, in name if nowhere else, in order to ensure that the *sacramentum* was upheld.[246] Even the early fifth-century child-emperors, who in reality had no military experiences, sought to present themselves as possessing the potential for martial virtues.[247]

However, the ruler's military prowess was not necessarily the only matter upon which the allegiance of the troops rested. The imperial relationship with the armed forces was complex and relied upon a variety of factors.[248] Support for the oath could come from the safeguarding of military welfare, the maintenance of which was probably of greater significance than the ability to command. While in later centuries the emperor was rarely

[242] Amm. 26.9.2-7. Other soldiers bound to Procopius by the *sacramentum*: Amm. 26.6.13-14, 7.9.
[243] Amm. 26.9.4-6.
[244] Amm. 26.9.7.
[245] On Procopius' relationship with the armed forces, particularly in relation to the *sacramentum,* see: Wuk forthcoming.
[246] Given that the imperial aspect νίκη ('victory') was included in a number of other oaths (Worp 1982), it may be that this element also featured in the *sacramentum* and could explain why some less martially successful rulers lost military support.
[247] McEvoy 2013, 29-30, 109-113, 306.
[248] Whitby 2004, 179-186.

active in a military capacity, in all periods he was supposed to offer protection and resources to his subjects, in particular to his soldiers. When this welfare was not forthcoming, many troops expressed their indignation by refusing to follow their sworn duties. The soldier Stotzas, for example, justified the North African insurgency against Justinian as a response to the withholding of pay and resources, and thereby received immediate support from other troops.[249] Additionally, the soldiers encamped around Adrianople during the second phase of the Gothic war refused to serve due to their lack of resources while their commanders lived comfortably, just as Maximinus' third-century army broke their oaths during the siege of Aquileia due to their dwindling supplies and poor living conditions in their camp.[250] There seems to have been an implicit reciprocal agreement where loyalty only held as long as the soldier was looked after and paid. The further example of Constantius II's unhappy forces, who were lacking the necessities of life, consolidates the importance of maintaining military welfare, whereby failure to provide for the armed forces broke the terms of the *sacramentum* and justified the soldiers' decision to disregard their duties.[251]

These soldiers must have viewed the *sacramentum* differently from the emperor due to their inverse roles in the ritual. It seems that, even though the oath's official purpose was to consolidate allegiance to the emperor, the corporate identity created was the function that resonated most throughout the ranks. The importance of this consideration is most obvious when examining the rare accounts which suggest how military personnel perceived oath-breakers. During the rebellion of Stotzas, the forces who had remained loyal to the emperor judged the defectors poorly, which Belisarius sought to exploit via exhortation. In his speech at the river Bagradas, the general claimed that the war against Stotzas was just, in opposition of those who had broken ties of fidelity and thereby acted in a manner that was not ὅσιος.[252] Given these allusions to loyalty, it is probable that this 'unholy' behaviour referred to the broken oaths of the mutineers. Analogous is the earlier usurpation of Septimius Severus, who incensed his soldiers to action by claiming revenge for the insult made to the *sacramentum* by the Praetorians who had murdered Pertinax while praising his forces for maintaining their oaths.[253] The usage of these rhetorical flourishes emphatically worked upon the communal

[249] Proc. *Wars* 4.15.54
[250] Proc. *Wars* 7.40.39-40; Herod. 8.5.3-4.
[251] Amm. 14.10.3. See also Lee 2019 on the broader connection between food supply and military loyalty in Late Antiquity.
[252] Proc. *Wars* 4.15.15-29.
[253] Herod. 2.9.8, 10.2.

identity shared by those who had taken and continued to maintain their oaths, portraying those outside the sworn brotherhood as lacking honour and pedigree.

This corporate feeling was further highlighted by Libanius in a description of Julian's forces shortly before they were to swear loyalty to their new leader:

> Καὶ ἤδη δύναμις συνείλεκτό τις, ἧς οὐ τὸ πλῆθος μᾶλλον ἂν τις ἤ τὴν προθυμίαν ἠγάσθη. οἳ συνθήκαις τε καὶ δεξιαῖς ἀλλήλους κατελάμβανον ἢ μὴν πᾶν μὲν ποιήσειν, πᾶν δὲ πείσεσθαι ὑπὲρ νίκης, φοβηθῆναι δὲ ἕν μόνον, τὴν ἐκ τοῦ μὴ φυλάξαι γενησομένην αἰσχύνην.[254]
>
> By this time, [Julian] had gathered a force, admirable not in terms of numbers but rather in terms of eagerness. The [soldiers] bound each other by pacts and agreements to do everything [they could] and to suffer for the sake of victory, and also only to fear the dishonour that would result from not observing orders.

In taking the oath, each man had agreed to undertake their share of the communal burden of service. The emphasised bond between all members of this army who had sworn their *sacramentum* had the effect of ensuring that soldiers respected their oaths, while violations were viewed as dishonourable betrayals of brothers. The case of the praetorian prefect Nebridius, who refused to swear a counterpart promise following the *sacramentum* taken by Julian's soldiers, is particularly indicative.[255] In response to Nebridius' repudiation of the imperial claimant, the troops attempted to kill the prefect, who was only saved from death by Julian himself. Although not the military oath, this incident clearly suggests that those who had promised loyalty formed a community, which reviled those who rejected their new ruler; even though the prefect had some martial experience, and therefore had been part of the military fraternity to some extent, he was now viewed as an outsider and outcast.[256]

Whereas these soldiers lived and fought alongside each other, few servicemen had regular direct contact with their leaders, or even their senior commanders, and so the most important thing for the late antique armed forces was their immediate corporate identity. This sense of brotherhood could explain why there is little indication that regular soldiers took

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[254] Lib. *Or.* 18.109, oath taken in 18.110.
[255] Amm. 21.5.11-12; Lib. *Or.* 18.110. Nebridius did not swear the *sacramentum* to Julian as Hebblewhite 2017, 168 suggests, but a counterpart oath, probably concerning his post as a civil servant. See further: Wuk forthcoming. Ammianus may have also referred to the *sacramentum* to criticise Nebridius, as he does elsewhere in connection to other civil servants (Wuk forthcoming). cf. den Boeft et al. 1991, 61, 66 and Szidat 1996, 42, who suggest that Nebridius and all present took a general allegiance oath.
[256] Military career: Amm. 14.2.20; *PLRE* 1.619 (Nebridius 1).

issue with the doctrinal affiliation of the oath, as both the emperor and the form of Christianity in question were viewed as abstract tokens. It seems no coincidence that commanders and rulers, such as Capellianus and Constantius II, who invoked the *sacramentum* in person to reaffirm allegiance were successful. Military units would have had localised interests and their immediate loyalty was with the leaders they saw on a frequent basis. Procopius of Caesarea's claim that bodyguards took oaths directly to their commanders was probably influenced by this consideration.[257] Significantly, Ammianus states that the first units to support the usurper Procopius followed their officers, who were already acquainted with Procopius and swore to obey him due to the promise of future rewards.[258] Although the claim that these individuals were avaricious seems to reflect a literary trope, there was evidently an element of self-interest in their support.[259] These units did not decide to fight for the usurper due to his descent or character, but followed their local officers who they trusted and knew. On the other hand, the soldiers who rebelled against the general Priscus in 588 and smashed images of Maurice refused to follow orders due to the haughty behaviour of their commander and a decrease in military pay.[260] Significantly, these units not only refused to obey Maurice, whom they deemed a 'shopkeeper', but were also happy to follow the command of Germanus, who was able to induce the troops to swear an oath and later return to service.[261]

The localised interests and corporate mentality of the armed forces meant that emperors who were not counted as fellow-soldiers often lacked support, whereas rulers who were perceived to fall within this community were favourably received. Association of the emperor with the military was a common theme of panegyrics, constitutions, and addresses to the forces, perhaps with this belief in mind.[262] In particular, one panegyric dedicated to Constantine notes the incorruptible dedication of the emperor's army marshalled to fight Maxentius in relation to both imperial generosity and the *sacramentum*.[263] A military

[257] See pp. 46-48 earlier.
[258] Amm. 26.6.13.-14; den Boeft et al. 2008, 154-157.
[259] Ammianus compares this incident to Didius Julianus' supposedly bribe-fuelled accession. See: den Boeft et al. 2008, 157-158; Wuk forthcoming.
[260] Theophyl. 3.1.7-13.
[261] Maurice: Theophyl. 3.2.8 μηδὲ γὰρ ἀνέχεσθαι ἔφασκον ὑπὸ βασιλέα παλιγκάπηλον εἶναι. Germanus: 3.2.5-6, 3.9-10. Note also the official Aristobulus' role in persuading and bribing the troops to halt the riot.
[262] e.g. *Pan.Lat.* 2.10.3-4, 6.3.3, 12.9.3-4; Amm. 14.10.11-14; Symm. *Or.* 1.19; Theod. *Nov.* 6.1; Just. *Nov.* 130.8.9; *De Ceremoniis* 1.91. See also: Kulikowski 1998 for a letter in which Honorius addresses Spanish units as *commilitiones nostri;* Campbell 1984, 32-38 on Principate methods of association; Lee 2007a, 61-66 and 2007b, 386-388 for further late antique methods of association.
[263] *Pan.Lat.*12.15.1 *ullis praemis posse corrumpi quos tibi* [Constantine] *praeter liberalitatem tuam et sacramenti fidem tot uictoriarum gloriae dicauissent.*

perception of the oath as being primarily related to their corporate identity would also explain how larger groups of units, such as those who deserted Valens for Procopius before turning their cloaks again, could shift loyalty to rivals while still respecting their oaths: soldiers viewed the *sacramentum* as a bond between comrades. Further support for this hypothesis is offered by the fragmentary fourth- to fifth-century account of Sulpicius Alexander, whose work was excerpted in the later history of Gregory of Tours. Describing the reign of Valentinian II, Sulpicius states that the Frankish *magister militum* (senior general) Arbogast took effective control of the western empire. While the emperor's armies followed Arbogast, a capable and well-known general comfortable in the support of his troops, these soldiers refused to obey their oaths to the teenage ruler Valentinian, who had little connection to his forces.[264]

The *sacramentum*'s ability to act as a bond between ruler and soldier was evidently reliant upon the emperor's inclusion in this military fraternity. In times of upheaval, it was only through this inclusion that the armed forces' respect for the oath could result in their allegiance. The majority of the time, however, the emperor was not even considered. Loyal service correlated to the fidelity offered to military compatriots and the *sacramentum* was viewed as a bond of brotherhood.

4. Conclusion: A measure of allegiance, character, or brotherhood?

Over the course of this chapter, we have examined how the *sacramentum* was formulated, how the oath was utilised by certain sources, and how soldiers valued the swearing process. Although the oath primarily existed as a military practice, it nevertheless at least officially involved the emperor and featured in various types of literary source. The *sacramentum* had a different role to play for each of these interested parties. To assess the extent of the relevance retained by the oath in Late Antiquity, we should therefore consider the separate attitudes towards and applications of the oath from the perspectives of all who were involved - namely author, emperor, and soldier.

The oath was available for use by various authors to register views regarding military service. Some literary works used the *sacramentum* as a motif to offer judgement on particular individuals or emphasise the control available to influential leaders, whereas

[264] Greg.Tur. *LH* 2.9 *nullus ex omnibus sacramentis militia obstrictis reperiebatur, qui familiari principis sermoni aut iussis obsequi auderet.*

Christian sources deployed the oath as a metaphorical concept, in reference to both baptism and military service. Even though this context probably had little influence over whether the *sacramentum* continued to be used or valued by the soldiers, the oath was clearly still relevant to literary works for discursive purposes.

The imperial perspective was very positive, indicated nowhere more clearly than the survival of the oath into the sixth century. This persistence was no doubt due to the official purpose of the swearing process: to strengthen allegiance and emphasise the emperor's primacy. Compelling soldiers to take the *sacramentum* could theoretically provide a link between less martially-inclined emperors and their armies. The highlighted religious significance of the practice, its enhancement of military community, and the frequent reminders of the enrolment promises were all meant to work upon the minds of the swearers. Importantly, the oath was adaptable and evolved in reaction to the changing circumstances of the empire, particularly regarding religion. From the emperor's position, the swearing of the *sacramentum* remained a useful practice which could at least in theory solidify military allegiance.

Perhaps most importantly, the *sacramentum* was also respected by numerous soldiers throughout Late Antiquity. The key aspects that supported the oath - its religious significance, its support of military community, the frequent reminders of its swearing - provided some sense of obligation to maintain the *sacramentum*. But with the official focus upon the emperor came the side-effect that imperial behaviour could influence the oath's effectiveness. A lack of military acumen appears to have caused some soldiers to rethink their promises to their ruler but with the rise of influential generals who were happy to command the armies and rule through weaker sovereigns, emperors were often permitted to take a less active role in martial affairs.[265] Regardless, as in earlier periods, late antique rulers were still expected to ensure the welfare of their soldiers and a failure to provide for the troops often resulted in a shifting of loyalties and the breaking of the oath.

The reliance of the *sacramentum* on a pre-existing positive relationship with the armed forces was a corollary of the military corporate identity. The exclusivity inherent in taking the *sacramentum* created a sense of interiority where those who had not sworn were viewed as outsiders to this community. The public ceremony, in which soldiers swore together to their standards and were tattooed, meant that recruits became part of a quasi-

[265] Kulikowski 2002; Lee 2013, 81-109.

fraternity. Through these elements, taking the *sacramentum* was not solely a tie of allegiance, but also a ritual of brotherhood. While this sense of community increased military discipline and effectiveness, it also had the consequence that if the emperor was not considered to be a part of this society, soldiers would not necessarily remain loyal to the regime. Recruits entered the forces as individuals but, through the ritual of swearing the oath, they became a part of a community.

To all involved, then, the *sacramentum* retained a certain amount of significance but the practice would have been perceived differently by those who had different roles to play. While opposition to the emperor officially equated to contravention of the oath, regular soldiers, who had little direct contact with their rulers in most periods, may not have believed that these actions broke their revered bond. The oath continued to have an active psychological effect upon the soldiers and remained relevant, but not necessarily in the way that was primarily intended, nor sometimes to the emperor's greatest benefit.

Chapter 2

Swearing into office: oaths of imperial civil service

In the mid-sixth century, an otherwise unknown deacon named Agapetus wrote a tract advising the emperor Justinian on various points of rule.[1] One piece of guidance suggested that, for the benefit of the realm, the emperor should not select unjust or avaricious civil servants and ensure that the administration was under his control.[2] Agapetus' advice is justifiable. The civil service played a crucial role in the governance of the empire; bureaucrats, both minor and major, looked after administrative districts of varying sizes to ensure that taxes were collected, civilian complaints were heard, and justice was administered, while numerous palace officials oversaw the activities of the imperial court.[3] Due to these functions and roles, the civil service became an important avenue through which wealth could be accrued and influence, whether at the imperial court or in local communities, could be gained, sometimes to the detriment of the emperor. There was the risk not only of misappropriated funds and a weakened treasury but also of civilian unrest due to dissatisfaction with officials, who represented imperial authority across the empire. As the behaviour of functionaries and bureaucrats could negatively affect the emperor's position, it is not surprising that institutional oaths were administered in the late antique civil service.

Unlike the military *sacramentum*, the development of later-Roman oaths of office from earlier practices is uncertain. While the late antique civil service comprised of offices related to specific bureaucratic responsibilities, there was no comparably cohesive or precisely defined structure in preceding centuries.[4] Although the main administrative concerns under the Principate, namely tax-collection and the maintenance of justice, were technically overseen by officials of senatorial rank, the related duties were primarily completed by *curiales*, local elites who had financial autonomy in their communities.[5] On the other hand, the imperial court was mostly maintained by slaves and freedmen, as well as

[1] On Agapetus and his work, see: Bell 2009, 8-9, 18-19, 27-49.
[2] Agapetus *Advice to Justinian* 30.
[3] For general discussions on the civil service, both in the imperial court and also the wider administration, see: Jones 1964, 2:126-132, 333-47, 367-437, 563-606; MacMullen 1964; Kelly 1994; 1998; 2004; Barnish et al. 2000; Smith 2007.
[4] See in particular Garnsey and Saller 1987, 20-40 (chapter 2, 'Government without bureaucracy').
[5] Garnsey and Saller 1987, 28-40; Bowman and Rathbone 1992; Bowman 1996; Rathbone 1996; Eck 2000c. See also Talbert 1996 and Eck 2000b on senatorial posts with administrative duties.

favoured citizens, who held positions in the emperor's retinue due to the patronage of their ruler.[6] Slaves and freedmen were already bound to their ruler and so would not have been expected to take an oath of office, and there is little evidence from this period to suggest that *curiales* swore in relation to voluntary bureaucratic responsibilities.[7] However, several individuals who had been granted senatorial honours did swear oaths at the start and end of their terms to confirm that they would comply with or had acted within the law.[8] As Justinianic provincial governors were also required to swear following the end of their time in office, the earlier senatorial use of the practice may have influenced the development of later oath-swearing.[9]

With the Diocletianic reformation of the bureaucracy and the adoption of more overt displays of imperial primacy, it seems probable that separate civil service oaths were instituted in the late third century. This introduction would also correlate to the increasing 'militarisation' of the bureaucracy, which in Late Antiquity was frequently termed *militia*, while the officials wore military uniforms and were given traditional titles of command.[10] It may be that as Diocletian and other third- to early fourth-century emperors had some military background, these rulers were familiar with the benefits of using the *sacramentum* in the armed forces and so deployed a similar ritual in the bureaucracy. In any case, later-Roman oaths of civilian office were directly tied to the administration and taken by a variety of imperial officials.

As entry to both the civil service and the armed forces seem to include an oath as a standard feature, there are similarities between the two practices, but there were also crucial differences.[11] The following discussion is structured around analysis of sources which mention oaths of civilian office, beginning with references to these promises in the fourth to sixth centuries. The bulk of this chapter focuses upon one significant item of evidence, namely *Novel* 8 and the appended formula to be sworn by provincial governors. Analysis of this and other sources indicates that, like the military *sacramentum*, oaths of civil service

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[6] Saller 1982, 44-50; Hopkins and Burton 1983, 176-184; Wallace-Hadrill 1996, 296-306; Eck 2000a.
[7] Mandatory liturgies and municipal services regularly required an oath in this period (Seidl 1933, 76-80), but as suggested later, these should be treated separately to voluntary civil service.
[8] e.g. Livy 31.50.8-11; Tac. *Ann.* 1.72.2; Pliny *Pan.* 64-65; Suet. *Tib.* 67.2; Dio 37.8.2, 38.12.3, 47.18.3, 53.1.1, 28.1, 58.17.2; John Lyd. *On the Months* 4.10; Kunkel and Wittman 1995, 93-96, 252-55. Curiously, Lydus does not mention the contemporary practice of bureaucrats taking oaths in any of his works. Senators continued to take oaths in Late Antiquity, as indicated by the conflict over the Altar of Victory between Symmachus (*Rel.* 3.5) and Ambrose (*Ep.* 71(17).9).
[9] *Just. Nov.* 8.1.
[10] MacMullen 1963, 49-76; Kelly 2004, 20-21.
[11] See pp. 117-118 below on this comparison.

were meant to assert control over the swearers. But the latter were formulated to regulate the behaviour of officials to a considerably greater degree than its military counterpart; each official promised to be not only loyal and effective in an administrative capacity, but also of the highest morality. Governors in particular affirmed that they would be orthodox religious adherents and were presented as working within a Christian bureaucracy. Yet even if these criteria were not met, the emperor could still benefit from these oaths. Relations with imperial subjects could be supported through attempts to control the administration. The institution of promises related to office-holding, intended more for show than practical effect, could support the regime's authority, regardless of their literal interpretation.

1. Oaths of civil office from the fourth to sixth centuries

Few ancient sources offer detailed evidence regarding the oaths sworn upon entry into later-Roman administrative positions, but we can trace elements of their usage throughout this period. Numerous civil service offices required promises to be sworn upon the appointment of the officials in question, and perhaps also on other occasions. These oaths could concern various things, including loyalty to the emperor, the honest fulfilment of bureaucratic duties, the achievement of offices without bribery, and, in later years, agreement with the currently accepted religion and doctrine.

Unlike most other examples from this period, oaths of civil service are referenced most frequently in legal compilations. Given that bureaucratic service was tied to the legal and official workings of imperial government, the preservation of this evidence in constitutions and rescripts is perhaps unsurprising. Due to the nature of this material, these references are also rarely detailed; only one complete oath-formula, sworn by provincial governors and the focus of the subsequent section, has survived. Most descriptions of the practice from this period are brief, with some only consisting of a passing reference to a bureaucratic oath. A representative example is one law, issued in 433, which states that *numerarii* (accountants serving in the staffs of praetorian prefects) should not try to become *domestici* (part of the prefect's retinue) 'so no-one established in one position may enjoy the privileges of another oath'.[12] These brief mentions were probably used as metonyms for imperial service, but they do at the least indicate that some form of promise was taken.

[12] *CTh* 8.1.17 *ne in alio actu constituti alterius sacramenti priuilegiis perfruantur*. On the office of *numerarius*, see: Jones 1964, 2:589, 592, 594.

Due to the state of the evidence, we cannot be certain that all posts in the civil service required an entrance oath. Several laws suggest that accountants and similar bureaucrats who served on the staffs of various officials were released from their promises at the end of their service, as were several palace functionaries, including the curator of the palace and *praepositi*, presumably the courtiers associated with the Grand Chamberlain (*praepositus sacri cubiculi*) and the imperial bedchamber.[13] In describing the dismissals of two officials, Ammianus Marcellinus also seems to suggest that *notarii* (imperial secretaries) swore an oath of office in the fourth century.[14] Similarly, one constitution dated to 415 suggests that *silentiarii* (ushers who maintained order in imperial audiences) and their leaders took some form of oath, and the same was true of *defensores* (civic officials who defended poorer provincial citizens from manipulation by local elites).[15] A longer law, issued in 423, suggests that a wide variety of officials swore upon appointment:

> Qui intra nostra scrinia uel agentum in rebus uel palatinorum tam comitis largitionum quam comitis priuatarum, uel ad apparitionis amplissimae praefecturae praetorianae sacramenta se deuouerit et quindecennii transcurso curriculo nulla fuerit a collegis conuentione pulsatus, adsumpti cinguli honore laetetur nec emensa militia relictae originis inuidia quatiatur.[16]
>
> He who has dedicated himself to the oaths within our [imperial] bureaux, the *agentes in rebus,* the palace officials, whether the *comes* [*sacrarum*] *largitionum* or the *comes* [*rerum*] *privatarum,* or in the staff of the most esteemed praetorian prefecture and the statutory period of fifteen years passes without the individual being tried by his former colleagues, he shall enjoy the honour of the belt [i.e. his office] he has taken and not be affected by the bestowed infamy of his original status after he has left the civil service.

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[13] Accountants and lesser bureaucrats: *CTh* 8.1.8; 8.1.17; 8.4.22 *quicumque post militiam prouincialis officii uel certe adhuc militans ad maius priuilegium militiae…absolutus sacramento eius militiae*; 8.4.26 (=*CJ* 12.57.11). Palace functionaries: *CTh* 6.13.1, although as this law also concerns imperial bodyguards, *praepositi* may refer to military officials (Jones 1964, 2:640); 8.4.21 *ad palatina umquam sacramenta adspiret.* On the office of Grand Chamberlain and related civil servants, see: Jones 1964, 2:567-572; Delmaire 1995. 149-172.
[14] Amm. 28.2.9, 6.25. On the office of *notarius,* which was often also termed as 'tribune', see: Jones 1964, 2:127-128, 572-575; Clauss 1980, 22-23; Delmaire 1995, 47-56.
[15] *Silentiarii: CTh* 6.23.1 (=*CJ* 12.16.1) *decuriones nostri palatii…post deposita sacramenta militiae. Defensores: CJ* 1.4.19 (=*CJ* 1.55.11) *Iubemus eos tantummodo ad defensorum curam peragendam ordinari, qui…per depositiones cum sacramenti*; Just. *Nov.* 15.1.1, 5.1, *epil.* On the office of *silentiarius,* see: Jones 1964, 2:127, 401, 571-572, 606; Delmaire 1995, 39-43. On the office of *defensor,* see: Frakes 2001; Miller and Sarris 2018, 1:185 n. 1.
[16] *CTh* 6.35.14.*praef.*

The law evidently concerns *agentes in rebus*, who were initially couriers but were later given other responsibilities, as well as the staffs of the *comes sacrarum largitionum*, in charge of the empire's mines and bullion, and the *comes rerum privatarum*, who administered imperial property.[17] Oaths were also required by those working beneath praetorian prefects, who were powerful officials with jurisdiction over the law courts, provincial taxation, and supplying imperial armies.[18] While other constitutions suggest that *agentes* did take an oath, this fifth-century law does not make it clear if it was only those seeking to enter the staffs of the other officials who swore or whether the titled bureaucrats also had to do so.[19] Other senior administrators certainly swore upon their appointment; one edict issued by the court of Theodosius II decreed that provincial governors had to take an oath confirming they had taken their positions without bribery or the promise of payment, as was also the case for the Justinianic civic judiciary and policing office of *Praetor populi* ('People's praetor').[20] Several sources also suggest that Julian solicited his civilian advisors, including the praetorian prefect Nebridius, to swear allegiance to him. In this incident, it seems that Nebridius was asked to renew his bureaucratic promise, which was previously offered to Constantius II, but given this occurred in the unusual context of the usurpation, the regularity of praetorian prefects taking investiture oaths is uncertain.[21] While holders of important administrative positions, such as the *magister officiorum*, who had significant influence in the imperial court and control over numerous bureaucrats, probably did swear in connection to holding office, there is unfortunately little explicit evidence to suggest this was the case.[22]

Other laws refer to civil service oaths without specifying to what offices they were connected. Particularly indicative is one late fourth-century constitution which states that 'anyone who wants [to swear] the oaths of the belt (i.e. the bureaucracy) in the city in which he was born or in which has settled as his home, must first procure documents and prove that neither his father nor grandfather were municipal servants and that he is completely free from

[17] Delmaire 1989, 127. On the office of *Agens in rebus*, see: Sinnigen 1959; Jones 1964, 2:578-582; Clauss 1980, 23-40; Delmaire 1995, 97-118. On the offices of *Comes sacrarum largitionum* and *Comes rerum privatarum*, see: Jones 1964, 2:369-370, 412-417, 427-438, 624-625, 835; Delmaire 1989; 1995, 119-147.
[18] On the office of praetorian prefect: Jones 1964, 2:448-462; Porena 2007.
[19] *CTh* 6.27.3.1 states that *agentes in rebus* should not seek to gain office again once they had been released from their oaths, while 16.8.24 prohibits Jews from swearing oaths to become palace functionaries or *agentes in rebus.*
[20] Governors: *CJ* 9.27.6.*praef. Praetor populi*: Just. *Nov.* 13.3.2; Miller and Sarris 2018, 1:173 n. 1. See also the next section, on Just. *Nov.* 8 and the governor's oath under Justinian.
[21] Amm. 21.5.10; Lib. *Or.* 18.110 (discussed on p. 71 above).
[22] On the office of *Magister officiorum*, see: Jones 1964, 2:368-369, 575-584; Clauss 1980; Delmaire 1995, 75.

obligation to other mandatory positions'.[23] Putting aside the issue of compulsory municipal service for the present, no clear link is made to a particular office. Moreover, the law is one of two in the *Theodosian Code* under the heading 'What should be proved by those entering any bureaucratic office' (*Quid probare debeant ad quamcumque militiam uenientes*). Perhaps such references were non-specific as they applied to many, if not all, offices in the civil service. Nonetheless, as with the possibility of oaths taken by higher officials such as the *comes sacrarum largitionum,* this remains uncertain.

More conclusive evidence indicates that *curiales* and provincial citizens swore upon appointment to local city councils and at the beginning of their municipal services. However, a distinction should be made between these compulsory positions and imperial civil service posts, which were voluntary and desirable. Many individuals were compelled to perform a number of mandatory services, which were often onerous and unprofitable yet were necessary for the administration of provincial communities. For *curiales* and less important provincials, these duties could include the fulfilment of administrative tasks such as tax-collecting and holding local bureaucratic office.[24] To ensure that these services were completed, the individuals in question were regularly asked to confirm by oath that they would fulfil their duties and not try to evade their responsibilities. Numerous examples of these oath-formulae, several of which were related to some form of mandatory official service, have been preserved in papyri from Egypt.[25] One indicative example is a third-century formula taken by an individual entering the service of a local official:

> Αὐρήλιος Πεκῦσις…ἀναδοθεὶς…εἰς ὑπηρεσίαν τῆς στρατηγίας ὀμνύω τὴν τοῦ κυρίου ἡμῶν Μάρκου Αὐρηλίου Πρόβου Καίσαρος Σεβαστοῦ τύχην ἀντιλήμψεσθαι τῆς δηλουμένης ὑπηρεσίας καὶ ἐκτελέσειν ταύτην ἐμφανὴς ὢν ὑγιῶς καὶ πιστῶς καὶ προσκαρτερῶν τῇ στρατηγίᾳ ἀδιαλείπτως εἰς τὸ ἐν μηδενὶ μεμφθῆναι.[26]

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[23] *CTh* 7.2.2 *Quisquis cinguli sacramenta desiderat in ea urbe, qua natus est uel in qua domicilium collocat, primitus acta conficiat et se ostendat non patre, non auo esse municipe penitusque ab ordinis necessitatibus alienum*. Other generic references: *CTh* 8.7.18 (=*CJ* 12.59.2); 9.14.3.*praef.* (=*CJ* 9.8.5.1); 9.38.11; 11.12.3 (=*CJ* 4.61.6, albeit with no reference to the oath); 12.1.10; 12.1.42.2; 12.1.43; 12.1.95; 12.1.105; 12.1.168; 12.1.179.2; 16.5.48; *CJ* 12.33.1. cf. *CTh* 7.22.3 (=*CJ* 12.47.1), which states that sons of 'members of any official staff whatsoever' (*officialibus quorumcumque officiorum*) must follow their fathers into their service 'whether their parents are still bound by their oath or have already been dismissed' (*siue eorundem parentes adhuc sacramento tenentur siue iam dimissi erunt*), and seems to refer to military rather than bureaucratic service.

[24] Lewis 1963; 1997, 75-76; Jones 1964, 2:594-596; Mitthof 2001, 83-258.

[25] Seidl 1933, 68-86, esp. 76-80; 1935, 59-87, esp. 79-82; Lewis 1963, 25-27; 1997, 84-86, 117. Note that oaths of municipal office become considerably rarer in papyri from the fourth century.

[26] *P.Oxy.* 36 2764, lines 4, 8, 10-22, dated to 277. See also the comparable and roughly contemporary oaths in *P.Oxy.* 1 82 and 36 2765.

> I, Aurelius Pekysis…having been nominated…to the staff of a *strategos*, swear by the fortune of our lord Marcus Aurelius Probus Caesar Augustus, that I shall take up the declared duty and I shall in person complete it fully and faithfully, devoting myself unceasingly to the *strategos*, so there may be no complaint against me.

Several legal constitutions refer to similar oaths taken by provincials upon appointment to municipal councils, sometimes with the same terminology as is used to designate those sworn by other civil servants. Oaths of bureaucratic office are usually termed *sacramenta* or *sacramenta militiae*, and on one occasion *sacramenta cinguli* ('oaths of the belt'), in reference to the uniform worn.[27] The sworn affirmations taken by provincial citizens bound to compulsory service are also occasionally termed *sacramenta*.[28] Despite the shared terminology, there was a difference between mandatory municipal duties and voluntary civil service, which could be profitable and lead to a number of rewards, not least access to the emperor in the higher offices. Various laws maintain this distinction by specifying that those who had been nominated to undertake local services, through their own or their fathers' statuses, were bound to complete these responsibilities before swearing other bureaucratic oaths, which if already taken would be terminated immediately.[29] These same laws suggest that several individuals had attempted to avoid their municipal duties by enrolling in more desirable administrative posts. Holding a voluntary civil service post was not only a mark of honour but also had its perks, such as tax breaks and an increase of status and influence.[30] Service on the staff of a provincial governor appears to have occupied something of a middle ground, where enrolment was often mandatory and hereditary but was nevertheless regularly sought after due to the potential for financial gain.[31] While several laws distinguish between the oaths taken by gubernatorial staff officials and those taken in non-compulsory positions,

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[27] *Sacramenta*: *CTh* 6.13.1; 6.35.14; 8.1.17; 8.4.8.*praef.*; 8.4.21; 8.7.18 (=*CJ* 12.57.11); 9.14.3.*praef.* (=*CJ* 9.8.5.1); 9.38.11; 12.1.42.2; 12.1.105; *CJ* 1.4.19 (=*CJ* 1.55.11); 12.33.1. *Sacramenta militiae*: *CTh* 6.23.1 (=*CJ* 12.16.1); 6.27.3.1; 8.1.8; 8.4.4; 11.12.3 (=*CJ* 4.61.6, but without reference to the oath); 12.1.10; 12.1.43; 12.1.95; 12.1.168; 12.1.179.2; 12.6.5; 16.5.48; 16.8.24. *Sacramenta cinguli*: *CTh* 7.2.2. *CJ* 9.27.6.*praef.*-1 uses *iuro* and *iusiurandum* instead, as does one fifth-century edict attributed to the praetorian prefect Hierius (=Zachariae 1843, 269). Laws in Greek (e.g. Just. *Nov.* 13.3.2) use forms of ὅρκος and ὄμνυμι.

[28] *Sacramentum*: *CTh* 7.22.3. *Sacramentum militiae*: *CTh* 8.4.13.

[29] *CTh* 6.35.14; 7.2.2; 12.1.10; 12.1.42.2; 12.1.43; 12.1.95; 12.1.105 12.1.168; 12.1.179.2; 16.5.48.

[30] Tax breaks: *CTh* 11.12.3 (=*CJ* 4.61.6, albeit with no reference to the oath). Increase of status: *CTh* 6.13.1; 6.23.1. See also: *CJ* 12.33.1, which prohibits taking office to gain an advantage in legal suits and states that, if the civil servant took their post to avoid litigation, their oaths would be terminated; *CTh* 8.1.17, which legislates against those who became *numerarii* in the service of a praetorian prefect in order to become part of their *domesticii*, or retinue. Further perks of civil service: Kelly 1994, 170-174; 1998, 153; Smith 2007, 196-200, 216-217. cf. Jones 1964, 2:743 on periodic purges of *curiales* from higher civilian offices.

[31] Just. *Edict* 10; Jones 1964, 2:594-595; Miller and Sarris 2018, 1:98 n. 6. cf. Just. *Nov.* 72.2, 3, 8 on voluntary local curators, who were appointed to care for the properties of under-age civilians and had to swear an oath not to take advantage of their positions.

others refer to the termination of the former promises as a punishment and their reinstatement as a favour.[32] An additional constitution states that the governor's staff could not desert their oaths, whether they had taken them freely or been compelled to join.[33] Nevertheless, the difference in stimulus to join and also prerogative - municipal offices were chiefly concerned with local administration whereas higher civil service posts related to wider imperial government - indicates that we should treat these oaths as separate.

As many officials would have held a number of positions throughout their careers, it may be that civil servants had to take another oath upon promotion or transferral to other offices, but due to the lack of surviving formulae, we cannot be certain that this was the case. Few would have become senior bureaucrats without prior experience in the administration and so offices with greater significance may have required a new promise to be sworn. The aforementioned edict issued under Theodosius II concerning provincial governors states that the officials were expected to take an oath to confirm that no payments had been offered or promised in return for their new positions. Importantly, the law also states that the candidates for these positions should be chosen by the emperor or by Florentius, at that time praetorian prefect of the East, based on 'the recommendation of a praiseworthy life and the approval of your Magnificence [Florentius]'.[34] This 'praiseworthy life' seems to refer to an exemplary bureaucratic career, thereby presupposing that governors would have sworn this promise after they had held other posts and already taken some form of oath of office. [35] Another law, dated to 365, decrees that tax officials and custodians of the empire's storehouses were to be appointed from a selection of gubernatorial civil servants 'who have maintained their bureaucratic oaths through various offices'.[36] Whether this referred to one oath, taken at the start of the civil servant's career that was then borne throughout subsequent positions, or whether the constitution, using a plural, meant that the official had sworn numerous promises cannot be determined without further evidence. But an additional constitution of Theodosius II may offer some help with this issue. The enactment, dated to 435, states that palace officials chosen to inspect ownerless properties and determine who legally owned them had to take an oath when they were sent from Constantinople.[37] This oath presumably only lasted

[32] Distinction: *CTh* 8.4.4; 8.4.8. Dismissal as punishment: 8.4.22. Reinstatement as favour: 8.4.26.
[33] *CTh* 8.7.16.1 (=*CJ* 12.53.1, albeit without reference to the oath).
[34] *CJ* 9.27.6.*praef. probatae uitae et amplitudinis tuae solent testimonio promoueri.*
[35] Note also Just. *Nov.* 8.8, which states that ideal governors had already given a good account of their abilities in practice.
[36] *CTh* 12.6.5 *qui per diuersa officia militiae sacramenta gestarunt.*
[37] *CTh* 10.8.5 (modified slightly in *CJ* 10.10.5.*praef.*).

as long as their new duty of evaluating abandoned property did and following the completion of their tasks, these civil servants would have returned to the palace and resumed their regular assignments. If each office had its own sworn promise, then their formulae would probably have differed to reflect the requirements of each position, unless they were simple affirmations of loyalty to the regime, applicable to all civil posts. Without a larger number of complete formulae, it is difficult to state with confidence whether officials who transferred to another department or took up another position had to take another oath.

In any case, several civil servants were asked to swear upon the accession of new emperors. While Nebridius' rejected renewal, which occurred in the context of an uprising, does not reflect an entirely regular practice, more compelling evidence suggests that bureaucrats did retake their oaths during regime changes. Excerpts of the lost sixth-century manual, attributed to the senior official Peter the Patrician and preserved in the tenth-century *Book of Ceremonies*, detail the accession ceremonies of various emperors.[38] In the account of Leo I's accession in 457, Peter tells us that the emperor was accompanied by the military and civilian leadership to the palace, at which point several officials swore to him:

> δεῖ δὲ εἰδέναι, ὅτι ὅρκον οἱ ἄρχοντες τοῦ παλατίου παρέχουσιν, ὡς οὐχ ἐπιβουλεύουσιν αὐτῷ ἢ τῇ πολιτείᾳ, καί τὸ περὶ τούτου ὀρχοσχοπιχὸν φυλάττεται παρὰ τῷ βασιλεῖ.[39]
>
> Now it is necessary to know that the officials of the palace offer an oath not to plot against him or the state, and the text of the oath concerning this is kept by the emperor.

The precise meaning of ἄρχοντες here is unclear, but given the term's qualification as 'of the palace' and its frequent use to refer to several types of official in legal sources, a generalised form of imperial civil service seems to be the sense.[40] The proclamation ceremonies of other rulers as described in the excerpted manual do not explicitly refer to this practice, but subsequent chapters state that later accessions followed the form of Leo's, being the first

[38] The surviving sections of Peter's manual form chapters 84-95 of the *De Ceremoniis*. See: Bury 1907, 211-213; McCormick 1991 (=*Oxford Dictionary of Byzantium* 2:1629 (*s.v. De Ceremoniis*)); Moffatt and Tall 2012, 1:xxvi-xxvii.
[39] *De Ceremoniis* 1.91. Translation from Moffatt and Tall 2012, 1:416, with revisions.
[40] Just. *Nov.* 8 uses ἄρχοντες throughout to refer to governors, as well as ἔπαρχοι. The terms are used synonymously throughout the novels to designate bureaucrats of varying levels (e.g. Just. *Nov.* 3.2.1; 5.6; 25.1). See further: Lampe *s.v.* ἄρχων.

recorded in Peter's work.[41] Furthermore, as the surviving sections of Peter's compilation seem to be protocols which late antique ceremonials were to follow,[42] renewals of bureaucratic oaths probably remained a fairly constant part of accession rituals. Even if they were not, new officials were occasionally appointed following regime changes, as indicated by a law issued by the court of Honorius. The constitution, dated to 410, indicates that several new officials had taken oaths of service under the 'tyrant' Attalus who reigned for several months in 409.[43] Whether these promises were reaffirmed or taken for the first time, an imperial accession was probably accompanied by the taking of civil service oaths.

Leo's ceremony also provides some indication of what these oaths entailed. The palace officials reportedly swore allegiance to their new emperor, who kept a transcript of their promises, no doubt to ensure that the swearers would adhere to their commitments.[44] This purpose of consolidating allegiance was shared with the oath taken by Julian's civilian advisors and refused by the praetorian prefect Nebridius, who felt unable to commit himself to Julian due to his pre-existing loyalty to Constantius.[45]

There is also evidence to suggest that some statement concerning the conduct of the swearer and the correct fulfilment of his duties formed a part of many oath-formulae related to taking civil office.[46] One law of Justinian, dated to 535, states that each *defensor* was to take an oath that 'all his actions will be in accordance with law and justice, in the public interest'.[47] Such promises were no doubt related to the frequent accusations of dishonesty and avarice levelled against civil servants. Authors such as Ammianus, Procopius, and John Lydus criticised officials for alleged misconduct, while the accessions of Anastasius and Justin I included civilian requests that the emperors make their bureaucracies more honest.[48]

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[41] *De Ceremoniis* 1.92-95. cf. 1.92, where Anastasius swears not to maintain past grudges, which may have been an inversion of this ritual.
[42] Bury 1907, 213 highlights the antiquarian interest of these sections to tenth-century readers.
[43] *CTh* 9.38.11; Seeck 1964, 116.
[44] As two sixth-century laws (*CJ* 1.4.19 (=*CJ* 1.55.11); 1.4.20) suggest that sworn affirmations of a civil servant's orthodoxy were recorded and made public, it may be that transcripts of these oaths were kept by the imperial court. Note also *CJ* 9.27.6.*praef.* below.
[45] Amm. 20.5.10-11.
[46] cf. Amm. 28.2.9 and 28.6.25 on the dismissals of two civil servants from their oaths due to their unacceptable conduct. As argued by Wuk forthcoming, these incidents, which are used by Ammianus to characterise those involved, do not reflect usual circumstances.
[47] Just. *Nov.* 15.1.1 ὅρκον δὲ παρέχοντα, ὡς ἅπαντα πρὸς τὸν νόμον καὶ τὸ δίκαιον πράξει (κοινῇ). This message is reaffirmed in the closing section of the law.
[48] Ammianus: 14.5.6-9 (the *notarius* Paulus); 15.3.8 (the *agens in rebus* Gaudentius); 15.5.3-5 (the officials responsible for Silvanus' downfall). Procopius: *SH* 21.9-18 (Justinian's officials); 22.3-34 (*comes sacrorum largitionum* and praetorian prefect Peter Barsymes); 23.14 and *Wars* 3.13.12-14 (praetorian prefect John the Cappadocian). Lydus: *Mag.* 49, 51 (praetorian prefect Marinus); 3.21, 57, 62, 65 (John the Cappadocian). These characterisations were also influenced by the author's connections to the individuals presented and the contexts

It certainly would have been in any emperor's best interests for his civil servants to undertake the tasks assigned to them to the best of their ability and without an abuse of their stations.

It is therefore unsurprising to find that one constitution refers to a civil service oath which was concerned with the honesty and character of the swearer, in particular with the use of payments to gain office. Dated to 439, the aforementioned law issued under Theodosius II and addressed to the praetorian prefect Florentius states that all provincial governors henceforth were to swear they had not offered or received any bribes:

> Hi honores per sedis tuae uel nostrum fuerint electionem commissi, iurati inter gesta depromant se pro administrationibus sortiendis neque dedisse quippiam neque daturos umquam postmodum fore, siue per se siue per interpositam in fraudem legis sacramentique personam.[49]
>
> Those who are appointed to this office [provincial governorship] by your choice or Ours shall take an oath upon the public records that they have neither given anything nor afterwards will ever give something for the assignment of public positions, and that (they had done or will do) this neither personally nor through a third party to circumvent the law and this oath.

The law goes on to say that the prohibition also disallowed the use of influence, the promise of future repayment, and the offering or acceptance of gifts or sales to get around their oath. These bribes, often termed *suffragium*, were commonly used throughout this period.[50] Various regimes took a range of public stances on the issue of s*uffragia.* Some emperors, such as Theodosius I and Zeno, are reported to have taken little action against the sale of office or even exacerbated the problem.[51] While some accusations of venality were influenced by negative predispositions against certain rulers, various constitutions do indicate that the practice of paying for office was accepted by some emperors.[52] On the other hand, numerous laws throughout this period were explicitly aimed at limiting the practice and

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in which they were presented, and so some bureaucrats were depicted positively (e.g. Lydus *Mag.* 3.72-76 (Phocas, John the Cappadocian's successor as praetorian prefect of the East)). Requests during accessions: *De Ceremoniis* 1.92, 93. See also the similar comments in Agapetus *Advice to Justinian* 30.

[49] *CJ* 9.27.6.*praef.* Latin text and translation from Frier et al. 2016, 3:2374-2375.

[50] On *suffragium*, see: De Ste Croix 1954; Jones 1964, 2:391-396; Collot 1965; Goffart 1970; Barnish et al. 2000, 188-189; Kelly 2004, 158-165. See also the discussion of *suffragium* in the following section.

[51] Theodosius: Zos. 4.28.3. Zeno: Malchus fr.16. See Proc. *SH* 21.16-19 on Justunian.

[52] Constitutions: *CTh* 2.29.2 (=*CJ* 4.3.1); 12.1.36 (=*CJ* 10.65.4); *CJ* 11.16.5.1; 12.16.5.1; 12.19.7.2-3; 12.19.11. cf. *CJ* 10.65.4 on attaining the rank of *comes* through *suffragium.*

stopping civil servants from using *suffragium*.[53] The enactment of Theodosius II is the first surviving evidence that a Roman oath of office included some prohibition of payments for position, but later constitutions suggest that various positions utilised similar promises.[54] Moreover, the law states that governors should take up their offices 'not through flattery or bribery, but through the proof of a praiseworthy life'.[55] Theodosius was evidently concerned about the probity of imperial officials and how the issue of *suffragium* was related to their conduct.

Emperors also sought to control the religious complexion of their civil servants and it may be that in some cases, they did so through the oaths taken. Under Diocletian and other non-Christian emperors, the bureaucracy and its related sworn promises would have been traditional in orientation.[56] In later centuries, this religious affiliation changed; those who adhered to non-Christian or heterodox beliefs were prevented by fifth- and sixth-century enactments from serving in various parts of the imperial civil service.[57] Several of these constitutions specifically refer to the oaths sworn upon entry into civilian office. One edict of Theodosius II, dated to 410, states that 'Montanists, Priscillianists, and other members of such loathsome beliefs…will by no means be admitted to [take] oaths of imperial service'.[58] However, a slightly later law, dated to 418 and issued by the court of Honorius, suggests that adherents of Judaism who had already sworn in connection to joining the *agentes in rebus* or palace officials were allowed to complete their terms of service.[59] The constitution indicates that this was only permitted for the present and for a few civil servants, perhaps implying that they intended to prohibit Jews from entering the bureaucracy at a later point. In any case, Anastasius instituted an explicit promise of orthodox belief to be taken by all civic *defensores* in the presence of an orthodox bishop.[60] Perhaps there was some affirmation of belief in the oath-formulae used in earlier periods, in alignment with imperial enactments concerning the

[53] Prohibitions: *CTh* 1.9.1 (=*CJ* 1.31.1); 1.32.1 (=*CJ* 11.8.2); 6.37.1 (=*CJ* 12.32.1); *CJ* 11.16.1; 12.19.7.1-2;12.23.7. The use of *suffragium* was also theoretically prohibited in episcopal elections (*CJ* 1.3.30; Just. *Nov.* 6.1.5, 9; 123.2.1; Huebner 2009) and for the purchase of the status of count (*CJ* 10.65.4).
[54] e.g. Just. *Nov.* 13.3.2 (*Praetor populi*).
[55] *CJ* 9.27.6.*praef. sancimus eiusmodi uiros…non ambitione uel pretio, sed probatae uitae…testimonio.*
[56] See e.g. Lactantius' description of Diocletian's purge of Christian palace officials (*Mort. Pers.* 10.4).
[57] *CTh* 16.10.21; Theod. *Nov.* 3.2, 5 (=*CJ* 1.9.18.*praef.*, 2); *CJ* 1.5.8.6; 1.5.12.6-7, 9; 1.11.10.6; 12.60.9; Just. *Nov.* 109.*praef.*
[58] *CTh* 16.5.48 *Montanistas et Priscillianistas et alia huiuscemodi genera nefariae superstitionis…ad sacramenta quidem militiae…nequaquam admitti.*
[59] *CTh* 16.8.24. cf. the explicit prohibition of Jews from armed military service later in the same constitution.
[60] *CJ* 1.4.19 (=*CJ* 1.55.11). cf. 1.4.20, where officials on the staffs of provincial governors had to be orthodox, but an oath is sworn not by the officials but by three witnesses in the presence of the governor.

civil service's religious character. However, it is only in the sixth century that we have evidence for an oath of office directly related to doctrinal allegiance.

2. Tightening the belt: *Novel* 8 and the governor's oath

In contrast to these numerous yet brief references, one significant item of evidence describes one later oath of bureaucratic office in detail. In April 535, Justinian[61] declared a reorganisation of the provincial governorship and prohibited unrestricted payments for office through a lengthy constitution.[62] This law, conventionally referred to as *Novel* 8, comprises of several documents and was intended to change various elements of the gubernatorial administration. One such change was the institution of an oath, the content of which was appended to the law, to be sworn by all governors during their investiture ceremonies. A close analysis of this formula combined with comparison to references to the promise made throughout *Novel* 8 and other civil service oaths indicates that the swearing of the governor's oath was intended to have several functions. This new formula was used to increase the likelihood that each official fulfilled their duties correctly, complied with the regime, followed the correct religious doctrine, and acted as part of a Christian bureaucracy.

To understand this impact, we should begin with the purpose and content of *Novel* 8 more generally. The law was a crucial part of Justinian's reformation of the gubernatorial administration. Numerous constitutions, both before and after 535, dealt with particular areas and other issues related to the governance of provinces across the empire.[63] *Novel* 8 had a number of aims, but two particular objectives are made clear. The first was to implement a change in the structuring of administrative districts; the three-tiered Diocletianic *schema* - prefectures, consisting of dioceses, in turn consisting of provinces - was to be replaced by a two-tiered system of prefectures divided into provinces, particularly in the East. The second primary aim of *Novel* 8 was to limit payments for office and increase the accountability of governors to a variety of parties. In connection to these objectives, the law contained

[61] Although many of Justinian's laws were influenced by senior officials (Haldon 2006, 49-51), scholars have noted that the constitutions were in keeping with the emperor's policies (Maas 1986, 27-28; Roueché 1998b, 86-87). As a result, this discussion refers to Justinian as the main driving force behind *Novel* 8.
[62] For most of Late Antiquity, not all governors held the same ranks or titles (Slootjes 2006, 16-25). As the oath in *Novel* 8 appears to have been taken by all governors, their duties were coextensive, and for ease of reference, this chapter discusses these offices as one position.
[63] These laws include *CJ* 1.27.1, Just. *Nov.* 17, 20, 23-31, 102-103, and Just. *Edict* 4. On Justinian's programme of provincial reform, see: Bonini 1978; Maas 1986; Roueché 1998b. On *Novel* 8 in particular, see: Bonini 1989; Haase 1994, 15-53; Kelly 2004, 71-85; Miller and Sarris 2018, 1:127-155.

Table 1: Structure of *Novel* 8 and associated documents

Document	Addressee	Pages in Schöll/Kroll	Subject/s	Method of dissemination
Leading Constitution (Just. *Nov.* 8)	John the Cappadocian, praetorian prefect of the East	64-78	***Praef.*- 1**: Aims of the constitution: to please God and protect provincials through prohibition of gubernatorial office-purchasing. **2-3, 5:** Reorganisation of the jurisdictions of various eastern governorships. **4:** Officials may not send deputies to do their business. **6:** Core duties of governors. Payment of excess fees for office (beyond payments set out in **Just**. *Nov.* **8.*notitia***) are to be reported. **7:** How governors are to take office. Officials are to remain free from bribery and will be punished for accepting payments. **8:** Detailed account of the governor's duties. Desirable qualities of governors and punishments for unacceptable governance. **9:** Leaving the governorship **10-11:** Civilians should only report on extortion. Aims set out in **Just. *Nov.* 8.*praef.*-1** restated and explained further. **12:** Summary of the law. Governors have legal and military jurisdiction to act without imperial guidance. **13:** Prohibition of enforcement officers. Repetition of the process for leaving office. **14:** How governors are to take office if already in their province. ***Epil.*:** Instruction for publication of law.	Via proclamations sent to governors, announcements in Constantinople (**Just. *Nov.* 8.*scriptum***), and inscriptions outside churches across the empire.
Edict to Bishops (Just. *Nov.* 8.*edictum*)	All bishops and patriarchs	78-80	Instruction for religious authorities to report extortion to the emperor and mount the constitution outside churches before its depositing within the church vaults, alongside the prohibition of *suffragium* for other officials.	By letter to bishops and patriarchs
Edict to Constantinopolitans (Just. *Nov.* 8.*scriptum*)	Citizens of Constantinople	80	Brief announcement of this law and Justinian's efforts to help his subjects	By verbal/written proclamation in Constantinople
List of Payments (Just. *Nov.* 8.*notitia*)	None - but likely sent to governors	80-88	List of acceptable, smaller payments governors could make at the time of their installation.	Unclear, but presumably by letter
Letter to Dominicus (Just. *Nov.* 8.*Dom.*)	Dominicus, praetorian prefect of Illyricum	89	How the oath should be sworn and codicils provided in the provinces, and instructions concerning other officials.	By letter to Dominicus
Oath-formula (Just. *Nov.* 8.*iur.*)	N/A	89-91	Oath-formula to be sworn by governors.	By letter (at least attached to ***Dom.***, but likely also to the leading constitution).

numerous documents, each of which had a different addressee. These documents are summarised in Table 1. The leading constitution, addressed to the influential praetorian prefect John the Cappadocian, sets out the main intentions behind both *Novel* 8 and the wider administrative reform.[64] Subsequent documents include: an instruction to bishops around the empire to read and publish the constitution outside their churches; an edict publicising *Novel* 8's promulgation to the population of Constantinople; a list of acceptable payments governors could make; and a letter to Dominicus, praetorian prefect of Illyricum, containing instructions on how the oath should be sworn and how to control other provincial officials.

Most relevant to our discussion is the final document: the oath-formula recited by all governors when they took up office. This oath is mentioned several times both within *Novel* 8 and also in subsequent laws related to gubernatorial reform.[65] The extensive formula, which is sixty lines in length, can broadly be divided into six parts based on content and meaning as follows:

> §1 (lines 1-6 (S/K 89.45-50)): invocations of higher powers.
>
> §2 (lines 6-14 (S/K 89.50-90.8)): acknowledgement of the governor's position being bestowed by the emperor and a general agreement to act in the empire's interests.
>
> §3 (lines 14-17 (S/K 90.8-11)): declaration of religious orthodoxy.
>
> §4 (lines 17-29 (S/K 90.11-23)): affirmation that the governorship has not been purchased through *suffragium*, that the governor will never offer/accept such payments, and that tax money will not be misappropriated.
>
> §5 (lines 29-54 (S/K 90.23-91.7)): outline of the governor's duties.
>
> §6 (lines 54-60 (S/K 91.7-13)): imprecations activated if the oath is violated.

When discussing this oath throughout this chapter, reference will be made to these sections. This Justinianic formula has received some attention, but scholars have tended to focus on a few sections, primarily those related to office purchase and imperial authority, rather than the entire formula. [66] Through a focused analysis of Justinian's formula, divided into two parts

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[64] Throughout the remainder of this chapter, references to particular documents in *Novel* 8 are made to their shortened form as provided in Table 1 and the divisions in the Schöll/Kroll edition of the *Novels* (hereafter S/K). Citations of the edict sent to Dominicus and the oath-formula also refer to the page- and line-numbering in S/K.
[65] Just. *Nov.* 8.7, 9, 12, 14, *Dom.* (S/K 89.4-6, 11-12). Other novels: 17.*praef.;* 24.6; 25.2; 26.2, 5-5.1; 28.4-5; 29.3, 5.1; 86.3; 102.*praef.*-1.
[66] Bonini 1989, 80-82 and Haase 1994, 20-26 summarise the oath but are quite brief. Jones 1964, 2:394 and Averil Cameron 2012, 94-95 focus on *suffragium,* although Cameron does briefly acknowledge the orthodox

arranged around its temporal and religious aspects, we can see that this sixth-century oath was formulated as a means of control. The swearer was expected to fulfil his bureaucratic duties and obey the emperor on the one hand, and on the other to act as an exemplary Christian, whose official duties were correlated with religious service and the defence of orthodoxy.

2.1. Payments, conduct, and allegiance: temporal aspects

Numerous elements of the oath appended to *Novel* 8 seem to be intended to influence how the swearer behaved. Most explicitly, the formula prohibited payments for appointment to the governorship, but the promise was also used to ensure that the official fulfilled his duties effectively. These matters were related to an attempt to emphasise the importance of the emperor, to whom the governor was answerable. We should therefore understand the temporal aspects of the oath as Justinian's attempt to assert authority over his officials.

As *Novel* 8 is primarily concerned with the prohibition of *suffragium,* it comes as no surprise that one section (§4) of Justinian's oath has the same message:

> Ὄμνυμι δὲ τοὺς αὐτοὺς ὅρκους, ὡς οὐδενὶ παντελῶς οὔτε δέδωκα οὔτε δώσω προφάσει τῆς δεδομένης μοι ἀρχῆς οὐδὲ προφάσει προστασίας οὔτε ἐπηγγειλάμην οὔτε ὡμολόγησα ἐκ τῆς ἐπαρχίας πέμπειν οὔτε πέμψω, οὐδὲ προφάσει δεσποτικοῦ *suffragiou*,[67] οὔτε τοῖς ἐνδοξοτάτοις ἐπαρχοις οὔτε τοῖς ἄλλοις πανευφήμοις ἀνδράσι τοῖς τὰς ἀρχὰς ἐχουσιν οὔτε τοῖς περὶ αὐτιὺς καθεστῶσιν οὔτε ἄλλῳ τῶν πάντων οὐδενί· ἀλλ΄ ὥσπερ ἄμισθον παρέλαβον τὴν ἀρχήν, οὕτω καὶ καθαρὸς φανοῦμαι περὶ τοὺς ὑποτελεῖς τῶν εὐσεβεστάτων ἡμῶν δεσποτῶν, ἀρκούμενος ταῖς ἀφωρισμέναις μοι ἐκ τοῦ δημοσίου σιτήσεσι.[68]
>
> I swear, with the same oaths, that neither have I given, nor will I give, nor have I promised or agreed to send, nor will I send, anything at all to anyone on account of the office given me, or for patronage, nor yet for imperial *suffragium;* nor to the most illustrious prefects, nor the other all-praiseworthy men who hold offices, nor their

character of the formula. Pazdernik 2009 is chiefly concerned with imperial authority and how it was supported by the religious sections. Surprisingly, although references are made to *Novel* 8 and *suffragium,* Slootjes 2006 only mentions taking an oath of office once, in passing, whereas Kelly 2004 does not discuss the practice at all.

[67] This term is written in Latin.

[68] Just. *Nov.* 8.*iur.* (S/K 90.11-23). Translation from Miller and Sarris 2018, 1:154.

> staffs, nor anyone else at all. But just as I have received my office without payment, so I will be found clean in respect of our most pious lords' taxpayers, and will be content with the stipends allowed to me by the public treasury.

Procopius of Caesarea, who notes the implementation of *Novel* 8, identifies this prohibition as the main purpose of the new formula.[69] This element was not entirely new; Theodosius II had declared that provincial governors needed to swear that their positions were not the result of bribes or the promise of future payments, as discussed previously.[70] However, the difference in both Justinian's formula and *Novel* 8 more generally seems to be a more concentrated attempt to limit *suffragium*. The title of the constitution, 'Governors should receive their offices without any payment', makes Justinian's aims clear while many of the documents that make up the law reaffirm this prohibition.[71] In relation to this proscription, a list of small payments associated with taking up office, such as for the provision of codicils, was appended to the law to regulate what fees officials could pay.[72] These limitations seem to have also applied to lesser gubernatorial officials, such as *defensores* and *chartularii* (record-keeping staff).[73]

The inclusion of this element can be explained in several ways. Firstly, and most simply, the issue of *suffragium* was inherently related to the maintenance of the empire's economy. Justinian sought to remove this potentially dangerous phenomenon as it often led to the extortion of provincial citizens. The law opens with an explicit statement outlining the damage office-purchase could have and points towards scriptural advice that 'the demanding of money by bureaucrats is the beginning and end of all wickedness'.[74] Although the imperial treasury could benefit from these payments, governors regularly took loans to pay their *suffragium* and then stole from their administrative areas or raised their taxes too high to repay debts.[75] Justinian recognises these issues throughout *Novel* 8 and seems also to have been concerned with a concentration of litigants in Constantinople seeking restitution,

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[69] Proc. *SH* 21.16.
[70] *CJ* 9.27.6.*praef.* Note also that Just. *Nov.* 13.3.2, dated to slightly later than *Novel* 8, institutes a similar oath for *praetores populi*.
[71] Just. *Nov.* 8.*praef.*-1, 7-8, 12; *edictum.praef.*-1; *notitia.praef.*, 49; *Dom.* (S/K 89.15-21). Justinian also snidely refers to previous emperors who had accepted the practice (Just. *Nov.* 8.11).
[72] Just. *Nov.* 8.*notitia*.
[73] Just. *Nov.* 8.*edictum.*1; *notitia.*49; *Dom.* (S/K 89.31-42). On *chartularii*, see: Jones 1964, 2:450, 587-589, 591. The law mentions that this applied to everyone on the governor's staff.
[74] Just. *Nov.* 8.*praef.*1, referring to 1 Tim. 6:10.
[75] Kelly 2004, 163-165; Miller and Sarris 2018, 1:127 n. 1. See also Greg. *Letters* 5.38, which complains about gubernatorial extortion to pay for *suffragium*.

reiterating a common theme in his legislation of preventing civil unrest.[76] Additionally the formula of the governor's oath included a statement that the swearer would be content with the small stipends provided to them and not manipulate taxes to their profit.[77] At some level, prohibition of office-purchase was intended to ensure a consistent tax-flow to support imperial revenues, which were depleted following the emperor's expensive military campaigns.[78] The law was promulgated in April 535, not long after the conflicts in Africa and the East but prior to the outbreak of the wars against the Goths in Italy. In connection to these campaigns, the constitution openly states that money from taxation was needed to recuperate the expenses of war and to plan for future actions.[79] Military pressures influenced other reforms and so the prohibition of *suffragium* may have been linked to Justinian's plans for war.[80]

But this stance against office-purchasing also had the wider aim of ensuring that the swearers completed their duties in an honest and reliable manner, as befitted their stations. Various parts of *Novel* 8 state that each governor should be honourable, above greed, and a paragon of probity.[81] As with the preceding statement that no *suffragium* has been offered, sought, or promised, §3 of the oath-formula includes an affirmation that the swearer would fulfil their responsibilities to their best ability and without any deceit:

> [Ὀμνυμι] ὡς καθαρὸν συνειδὸς καὶ γνησίαν δουλείαν φυλάξω τοῖς θειοτάτοις καὶ εὐσεβεστάτοις ἡμῶν δεσπόταις Ἰουστινιανῷ καὶ Θεοδώρᾳ, τῇ ὁμοζύγῳ τοῦ αὐτοῦ κράτους, προφάσει τῆς παραδεδομένης μοι παρὰ τῆς αὐτῶν εὐσεβείας ἀρχῆς· καὶ πάντα πόνον καὶ κάματον μετ´ εὐνοίας ἀδόλως καὶ δίχα τέχνης τινὸς ἀναδέξομαι ἐπὶ τῇ δοθείσῃ μοι παρ´ αὐτῶν ἀρχῇ ὑπὲρ τῆς αὐτῶν βασιλείας καὶ πολιτείας.[82]
>
> [I swear] that I will maintain a clear conscience and true service to our most divine and pious lords Justinian and Theodora, consort in the same Majesty, in respect of the office conferred on me by their Piety; and in the office granted me by them I will

[76] Just. *Nov.* 8.*praef.*1, 6-11 *passim.*, esp. 10.1, 14; 86; Greatrex 1997, 60; Miller and Sarris 2018, 1:587 n. 1. See also Maas 1986, 25-26, who suggests that many of Justinian's reforms were influenced by his near-deposition during the Nika riots.
[77] Just. *Nov.* 8.*iur*. (S/K 90.22-23).
[78] Bonini 1989, 24; Haase 1994, 19.
[79] Just. *Nov.* 8.10.2.
[80] Other reforms stimulated by military action: Sarris 2011, 145-152.
[81] Just. *Nov.* 8.8, 10.1, *edictum.*1; Haase 1994, 15.
[82] *Just. Nov.* 8.*iur*. (S/K 89.50-90.8). Translation from Miller and Sarris 2018, 1:154.

> loyally, without guile or any subterfuge, undertake every labour and toil on behalf of their sovereignty and realm.

No clear reference is made to *suffragium* in this section, but some of the terms used are repeated elsewhere in the formula, *Novel* 8, and subsequent constitutions in connection to the issue. Καθαρός ('pure/clear'), which in this part qualifies the conscience of the bureaucrat, is used later in the formula to refer to the governor's conduct in collecting taxes and refraining from theft.[83] In *Novel* 8 and other constitutions, the same term is more explicitly linked to office-purchase and used to describe the metaphorical state of the bureaucrat, specifically his hands which were meant to be 'clean' through the avoidance of bribes or gifts.[84] The purity required by the formula may also have been more general in meaning, referring to all bribery and corruption as well as *suffragium*, as is the case in other constitutions.[85] Given that the civil service was frequently accused of malfeasance, a clear conscience would have been desired for bureaucrats in all positions. It may therefore be that a similar element was used in other civil service oaths, as in the promise sworn by *defensores* to act in the public interest.[86] In any case, the pairing of 'clear conscience' and 'true service' seems to suggest that the emperor wanted the oath to make the swearer a morally-upright official, and reproduced the traditional virtues associated throughout this period with gubernatorial service.[87]

Partially related to this concern is the statement that the governor would fulfil his duties 'without guile or any subterfuge.' The use of εὔνοια ('good-mindedness'), ἄδολος ('guileless') and τέχνη ('artifice') may refer to bribery, greed, and exploitation, but the inclusion of these terms may also be connected to manipulation of the oath itself. Comparable is a law, issued under Theodosius II, which states that governors should take up their offices 'through the proof of a praiseworthy life' and should not attempt to 'circumvent the law and the oath' concerning payments through any means.[88] Particularly interesting is the latter section which sought to prevent manipulation of the oath itself, by which the swearer could

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[83] Just. *Nov.* 8.*iur.* (S/K 90.20, 91.4-6).
[84] Just. *Nov.* 8.*praef.*1, 6, 7, 8.1, 10.*praef*; Bonini 1989, 83, Haase 1994, 17-18. Other novels: e.g. Just. *Nov.* 17.1, 5.2; 24.1; 25.2, 3; 28.5*;* 69.3.1; 102.1. See also Just. *Nov.* 102.*praef.*, which states that *Nov.* 8 was concerned with stopping governors despoiling provincials and 'using their hands against them' (χερσὶ πολλαῖς κατ΄ αὐτῶν χρῆσθαι), just before the oath is mentioned. cf. Just. *Nov.* 6.1.9 on episcopal election without *suffragium*, where the bishop needs to remain καθαρός, 123.1, where *curiales* and clergymen had to swear the prospective episcopal candidates had not purchased influence, and 137.2, where the new bishop has to swear to this effect.
[85] e.g. Just. *Nov.* 13.3.1, 4, 6.1, on the 'People's praetor'.
[86] Just. *Nov.* 15.1.1.
[87] Traditional virtues associated with office-holding: Men. Rhet. 2.3, 10; Isidore of Pelusium *Ep.* 1851, 1859; Slootjes 2006, 110-122.
[88] *CJ* 9.27.6.*praef. sancimus eiusmodi uiros… probatae uitae…testimonio; in fraudem legis sacramentique.*

explain receiving or giving bribes as not technically violating their promise, but rather as the bequest of a gift. Throughout Greek and Roman history, it had proven possible to 'sidestep' an oath by over-literalising the terms and acting against its intent.[89] In some cases, this circumvention was lauded. The emperor Julian, for example, is praised by Libanius for his ingenuity in getting around an oath he had sworn to his teacher never to be enrolled as one of Libanius' students. The future emperor reportedly paid another student to attend Libanius' lessons and then repeat them to him, thus learning from the rhetorician without technically becoming his pupil.[90] While getting around sworn promises in this manner appears to have occurred fairly frequently in the ancient world, the recipient of the oath would hardly have appreciated this type of circumvention.[91] References to subterfuge in Justinian's oath therefore seem to be aimed at preventing a manipulation of all parts of the oath, but particularly those concerning correct service and bribery. The edict addressed to Dominicus, praetorian prefect of Illyricum, seems to confirm that this is the sense intended; Dominicus is told that 'there must be no attempts at evasion which could be linked to [the governor's] laxity'.[92] Justinian was evidently concerned that his governors would find ways around the new oath and sought to ensure that they acted honestly.

The general message of respectable service and honest administration in this section is supported in other parts of the formula which focus on more specific gubernatorial duties. §5 of Justinian's oath, the longest part of the formula, outlines the matters in which each governor would be involved on a daily basis; the swearer confirmed that he would attend to provincial revenues, adjudicate over legal disputes, uphold justice, and ensure his staff acted correctly.[93] This section repeats the information provided elsewhere in *Novel* 8 and is concerned with duties common to all governors rather than any pertaining to individual provinces.[94] The behaviour each swearer promised to exhibit is particularly striking and

[89] The 'side-stepping' of oaths has been examined by Bayliss 2014, 243-280 with regards to Ancient Greece in general, and Lammert (*RE* suppl.6 (1935), 1356-1357 (*s.v.* Nachträge (Kriegsrecht)) very briefly on earlier Roman examples.
[90] Lib. *Or.* 18.13-14. The truth of the story is open to doubt; Libanius praised Julian for being better than his other students who attended classes so this account may have been invented to portray the future emperor as more intelligent than others, to hide Julian's perjury, or to create a link between Libanius and Julian when none had previously existed.
[91] Other examples of 'side-stepping' oaths: Philostr. *VA* 5.35.6; *D.* 48.4.4; Aug. *Ep.* 125.4; Soz. 4.24; *CJ* 1.14.5.2; pp. 133-134 below.
[92] Just. *Nov.* 8.*Dom.* (S/K 19-21). This edict is only preserved in Latin. Miller and Sarris 2018, 1:151 note that the S/K version of these lines does not make sense and have emended the text to read *non oportet tales temptari fallacias ut possint ad illorum referri tarditatem*, which is used here.
[93] Just. *Nov.* 8.*iur.* (S/K 90.23-91.7). Duties of governors: Roueché 1998a; Slootjes 2006, 25-39, 46-61, 79-92.
[94] Just. *Nov.* 8.6, 8; Haase 1994, 22-25. See also the accusations of bribery and other immoral activities in 8.*praef.*1.

further supports the wider aim of the oath to enforce honest and fair bureaucratic service. In the formula, the governor had to swear to collect taxes vigilantly, applying compulsion where needed but refraining from undue force, and not to permit certain individuals to pay less as a favour.[95] Moreover, the official had to act πατρικῶς ('paternally') towards provincial citizens, being fair to all and keeping the innocent free from harm while bringing the full weight of imperial justice against all who deserved it.[96] This fatherly spirit applied to both dealings with provincial citizens and also appointments of bureaucratic staff; according to the formula, the governor's supporting officials should be chosen conscientiously and should also be immediately dismissed if they took advantage of their stations, after the governor had paid back their thefts.[97] The swearer of this oath thereby confirmed that they would comport themselves impeccably.[98] In the leading constitution, the ideal candidate is described as someone who is 'high-minded,…understand[s] fiscal matters…[and has] given a good account of themselves in practice'.[99] This type of statement would no doubt have been included in many oaths of civil office, but pertaining to the duties of the role being taken up rather than gubernatorial matters.

Affirmations of future honest behaviour also inherently acted as promises of loyalty to the regime. As can be seen in the quotation above, the section which states the governor will fulfil his duties diligently also promises 'service to our most divine and pious lords Justinian and Theodora' and 'loyally…[to] undertake every labour and toil on behalf of their sovereignty and realm'. These formulations were meant to tie the swearer to the current regime, as was explicitly the case with the oath taken by officials during Leo's accession who promised not to act against the empire.[100] The inclusion of these phrases in Justinian's oath was intended to indicate clearly to the bureaucrat that he worked for the emperor and should be mindful not to overstep his authority. Moreover, the formula twice reminds the swearer that his position was granted to him by imperial good-will, while *Novel* 8 states that each governor had to be approved by Justinian and John the Cappadocian as an imperial advisor

[95] Just. *Nov.* 8.*iur.* (S/K 90.23-29).
[96] Just. *Nov.* 8.*iur.* (S/K 90.29-41).
[97] Just. *Nov.* 8.*iur.* (S/K 90.41-91.7). The paternal characterisation is repeated elsewhere in the law (8.8; 10.1) and in later constitutions (17.5; 102.2). Miller and Sarris 2018, 1:138 n. 24, citing Lib. *Or.* 46.3 and Brown 1988a, 40, note that ruling as a gentle father was a common trope, playing upon *Odyssey* 2.233. See also: Herod. 2.4.1; Lydus *Mag.* 1.3.5.
[98] This intention was also connected to the performative intent of the oath (pp. 119-121 below).
[99] Just. *Nov.* 8.8 τῶν σεμνοτέρων...τινὰς...καὶ ἐπισταμένων τὰ δημόσια…προσώπων, πεῖραν ἑαυτῶν δεδωκοτων ἀγαθὴν.
[100] *De Ceremoniis* 1.91.

and be happy with his stipend.[101] Furthermore, Justinian's measures concerning *suffragium* were not supposed to abolish the practice entirely; certain fees were still paid into the treasury, as stated in the schedule appended to the constitution. Instead, *Novel* 8 acted to place payments for office under tighter control and thereby ensure imperial influence was sought directly rather than through other officials.[102] The governor's oath was focused upon service to the emperor, who was the main approved channel for becoming a higher bureaucrat. This message was further supported by the provision of the governor's codicils, his proofs of appointment, during the oath-swearing ceremony.[103] The swearer's office was presented as an honour bestowed upon loyal servants who were reliant upon their ruler for their authority.

Interestingly, Justinian's formula mentions Theodora as a recipient of both the oath and the related gubernatorial service. The formula appended to *Novel* 8 appears to be the first surviving late antique oath which mentions the empress as a source of authority. Oaths sworn in other contexts occasionally referred to individuals related to the current emperor, either close family or members of the imperial college.[104] These individuals were all associated with imperial authority due to their proximity to the current rulers, and the same was true of the empress, who held a unique position in society. Augustae had unfettered access to the emperor and possessed considerable influence, yet they were theoretically unable to hold office or wield power independently. From the fourth century, imperial spouses took part in important court ceremonials and were presented more prominently than in previous periods. Ariadne, for example, reportedly played an important role in the accession of Anastasius in the late fifth century, while Sophia was by necessity actively involved in later sixth-century diplomacy and financial reform due to Justin II's frequent bouts of mental instability.[105] Given the overt influence wielded by Sophia, it is unsurprising that the empress became a common element in surviving local oath-formulae sworn in the context of everyday business from Justin's reign.[106]

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[101] Just. *Nov.* 8.7, 8. The same statement is made in *CJ* 9.27.6.*praef.*
[102] Kelly 2004, 163.
[103] Just. *Nov.* 8.*Dom.* (S/K 89.6-12). Codicils: Millar 1977, 126, 288-290, 305-311; Grigg 1979, 114-118.
[104] See pp. 30-31 above.
[105] Ariadne: *De Ceremoniis* 1.92. Sophia in diplomacy: Men. Prot. fr. 18.1-2. Sophia in finance: Theoph. AM 6060. On the involvement of empresses in late antique public affairs, see: Brubaker 1997; Holum 1982, esp. 7-78; Garland 1999; James 2001, esp. 50-82, 101-128; Harries 2013; 2014; cf. Brubaker and Tobler 2000 on numismatic representations of fourth- to ninth-century empresses.
[106] Worp 1982, 211-214.

However, Theodora was also seen as having a prominent role in parts of Justinian's reign. Several Gothic rulers sent her letters directly in negotiations with the empire while numerous dedicatory inscriptions refer to her alongside Justinian.[107] While some stories regarding Theodora's control over her husband are suspect, the empress evidently had a considerable amount of influence.[108] Indeed, we are also told in the opening sections of *Novel* 8 that the emperor had taken 'our God-given and most pious consort into consultation'.[109] Furthermore, in the oath-formula both Theodora and Justinian are termed οἱ θειοτάτοι καὶ εὐσεβεστάτοι ἡμῶν δεσπόται ('our most divine and pious masters').[110] Each governor directed their oath to both members of the imperial couple and were therefore meant to fulfil their duties to emperor and empress, who in the formula was termed τῇ ὁμοζύγῳ τοῦ αὐτοῦ κράτους ('consort in the same majesty'). This final clause is indicative of Theodora's role in the oath; although she was seen as important, she was still tied to Justinian's authority and her inclusion was related to the accentuated imperial primacy in the governor's promise.

Many aspects of *Novel* 8 and the oath were evidently meant to emphasise that the governor's position relied upon imperial authority. The oath was focused around service to the emperor and the governor taking it could not ignore this sense, particularly given that oath-taking ceremonies in Constantinople were attended by the emperor.[111] Even if the ruler was unable to witness the promise being sworn, the oath's terms still stated that the duties recorded in the formula were to be fulfilled 'on behalf of [Justinian's and Theodora's] sovereignty'. Each governor essentially affirmed that their services were performed to the profit of emperor and empire. Charles Pazdernik, who sees similarities between the image of primacy in the oath and accession ceremonies in which emperors emphasised their dominance, draws attention to concepts of quasi-servitude.[112] In particular, Pazdernik takes the term δουλεία in the oath-formula to be a deliberate reference to the similarity of a

[107] Letters: Cass. *Var.* 10.10, 20, 23. Inscriptions: Mercati 1925, 205 and Mango 1972, 190 (Church of Saints Sergius and Bacchus, Constantinople); Pringle 1981, 319-327 (various across Africa).
[108] See e.g. Theodora's purported conduct in the Nika Riots (Proc. *Wars* 1.24.32-8; Ps-Zach. 9.14B) and involvement in the downfall of John the Cappadocian (Lydus *Mag.* 3.69; Proc. *Wars* 1.15.13-44), with Procopius' complaints about her influence (*SH* 10.13-16). On literary depictions of Theodora and their (un)reliability, see: Averil Cameron 1985, 69-75; Pazdernik 1994, 263-280.
[109] Just. *Nov.* 8.1 κοινωνόν τοῦ βουλεύματος παραλαβόντες τὴν ἐκ θεοῦ δεδομένην ἡμῖν εὐσεβεστάτην σύνοικον.
[110] These terms were used in local oaths preserved in Egyptian papyri which directly invoke emperors as sources of power (Seidl 1935, 13-15, 24-26). See also later in the formula where provincial citizens are termed οἱ ὑποτελεῖς τῶν εὐσεβεστάτων δεσποτῶν, 'our pious masters' taxpayers' (S/K 90.21, 30-31).
[111] Just. *Nov.* 8.7.
[112] Pazdernik 2009, esp. 149-150.

bureaucrat's relationship with his ruler to that of slave and master.[113] The leading constitution of *Novel* 8 also states that each official would be hunted down as 'the lowest of slaves' if he abandoned the province before he was permitted.[114] In the context of these statements, the qualification of Justinian and Theodora with the common imperial title δεσπόται ('masters') in the formula may have taken on a particularly pointed meaning. Perhaps these references in both *Novel* 8 and its appended formula were elaborations on the oath sworn by Leo's officials upon his accession never to plot against the empire or ruler.[115]

In any case, Justinian's new oath was meant to increase a sense of accountability to the imperial court, made especially clear by the penalties threatened upon violators of the sworn agreement. §6 of the formula only briefly refers to punishments inflicted upon governors who broke their oath and instead points towards the leading constitution for clarification.[116] Higher officials who accepted *suffragium* beyond the limits set out in the appended documents were to be fined four times the amount received, incurred imperial displeasure, and risked their positions, whereas lower-ranking bureaucrats would not only pay the same fine but lose their offices and property as well as suffering other unspecified retribution.[117] Governors who offered bribes or exploited their provinces were to be tried for theft, have their finances confiscated, be exiled, and undergo retribution 'in the form of physical torture'.[118] Other gubernatorial officials were to be subjected to similar consequences if they took advantage of their positions.[119] Moreover, governors were expected to report any malfeasance to the imperial court; both the oath-formula and the law state that the swearers were responsible for the conduct of their staffs, so much so that failure to enforce punitive measures could result in their own punishment.[120] The earlier law of Theodosius II similarly states that bureaucratic malfeasance led to the official's removal from

[113] Just. *Nov.* 8.*iur.* (S/K 90.1).
[114] Just. *Nov.* 8.8.1 καθάπερ τι τῶν ἀτιμοτάτων ἀνδραπόδων. Similar characterisations are used at 8.*praef.* (ὥσπερ τι τῶν κακίστων ἀνδραπόδων), 9 (τι τῶν ἀτιμοτάτων ἀνδραπόδων), and 11 (βουλόμενοι γὰρ τὰς ἀνελευθέρους ταύτας καὶ ἀνδραποδώδεις κλοπὰς ἀπελεῖν).
[115] *De Ceremoniis* 1.91.
[116] Just. *Nov.* 8.*iur.* (S/K 91.12-13) πρὸς τῷ καὶ ταῖς ποιναῖς ταῖς τῷ νόμῳ τῆς αὐτῶν εὐσεβείας περιεχομέναις ὑπεύθυνος εἶναι. cf. provincial formulae preserved in papyri which also use vague liability clauses (Packman 1994, 208-10).
[117] Just. *Nov.* 8.7, 9, 12.1.
[118] Just. *Nov.* 8.8.1 ὑποστήσεται...τὴν εἰς τὸ σῶμα βάσανόν…τιμωρίαν. See also 8.9, which states governors were required to remain in their provinces for fifty days to deal with legal suits against them (p.120 below).
[119] Just. *Nov.* 8.*edictum.*1, *notitia.*49, *Dom.* (S/K 89.31-42).
[120] Just. *Nov.* 8.6, 7, *notitia.*49, *iur.* (S/K 91.5-7). *Dom.* (S/K 89.31-32) says that the governors 'were subject to the most severe penalties' (*poenis subiacebunt grauissimis*) but adduces more explicitly the punishments for civic defenders (S/K 89.39-42).

office, a fine, and in some cases litigation.[121] These punitive measures were meant to stop the bureaucrats from stepping out of line and remind them that the emperor was capable of ending their careers.[122] Justinian underscores this possibility by stating that all governors would 'be accountable for [the fulfilment of their duties] to God and to us'.[123]

2.2 A *Novel* Christian official: religious aspects

Justinian's statement that the swearers were accountable to God and emperor indicates that it was not just the imperial court these officials had to please. As noted by Pazdernik, *Novel* 8 attempted to buttress imperial authority and the prohibition of *suffragium* with fear of the divine.[124] And yet, the oath-formula seems to go further. The swearer was presented as a new type of official, whose bureaucratic responsibilities were styled as a form of religious service, comparable to a number of scriptural models and under the jurisdiction of ecclesiastical authorities. Through Justinian's new oath, governors were presented as part of a hierarchy of Christian civil servants.

It is impossible to miss the oath's strong religious force, which is most evident in §6 of the formula. Each swearer affirmed that, if he ignored his oath, he would be subjected to several severe religious imprecations:

> Εἰ δὲ μὴ ταῦτα πάντα οὕτως φυλάξω, ἀπολαύω ἐνταῦθα καὶ ἐν τῷ μέλλοντι αἰῶνι ἐν τῇ φοβερᾷ κοίσει τοῦ μεγάλου δεσπότου θεοῦ τε καὶ σωτῆρος ἡμῶν Ἰησοῦ Χριστοῦ [μηδένος ἀγαθοῦ][125] καὶ σχῶ τὴν μερίδα τοῦ Ἰούδα καὶ τὴν λέπραν τοῦ Γιεζὶ καὶ τὸν τρόμον τοῦ Καΐν· πρὸς τῷ καὶ ταῖς ποιναῖς ταῖς τῷ νόμῳ τῆς αὐτῶν εὐσεβείας περιεχομέναις ὑπεύθυνος εἶναι.[126]
>
> If I do not observe all these things as I have said, may I enjoy [nothing good] here and in the age to come at the fearful judgement of our great Lord God and Saviour Jesus

[121] *CJ* 9.27.6.
[122] Kelly 1998, 153-55 terms this an 'atmosphere of fear'. cf. Amm. 28.6.25, where the *notarius* Syagrius is ejected from office by Valentinian due to embezzlement, but was later reinstated and had an exceptional bureaucratic career (*PLRE* 1.862-863 (Flavius Syagrius 3)).
[123] Just. *Nov.* 8.7 θεῷ τε καὶ ἡμῖν τὸν ὑπὲρ αὐτῆς ὑφέξων λόγον. This sentiment is repeated in *praef.*1 and 13.
[124] Pazdernik 2009, 150-154.
[125] Inserted by Miller and Sarris 2018, 1:155.
[126] *Just. Nov.* 8.*iur.* (S/K 91.7-13). Translation from Miller and Sarris 2018, 1:115 (revised for clarity).

> Christ; and may I share the lot of Judas, the leprosy of Gehazi, and the trembling of Cain, as well as being subjected to the penalties contained in their Piety's law.

Procopius comments on these supernatural consequences and states that Justinian had 'laid down all the curses that have been used since the most ancient times', referring to their scriptural context.[127] In contrast to the detailed explanation of financial and physical consequences in the law and the brief reference to these penalties in the oath-formula, *Novel* 8 barely mentions the divine retribution promised in the oath. Besides stating that the governor should fear both emperor and God, the only reference made to these curses is that any bureaucrat who did not uphold his promises 'would be liable to punishments from heaven for breaking the oaths under which he received his office'.[128]

The fearsome imprecations which conclude the formula provided an additional incentive to uphold the oath and Justinian evidently intended for these elements to have a profound and lasting effect upon the swearers. Throughout *Novel* 8 and subsequent related laws, the emperor decrees that the governor should be mindful of his oath.[129] Particularly salient are the statements in these constitutions that the formula was meant to inspire fear and should be taken 'with God in mind', with the swearers thus consecrating their souls to the Lord.[130] In the fifth-century constitution which also instituted an oath to prohibit gubernatorial *suffragium,* Theodosius II similarly stated that no one who had sworn would be 'unmindful of the fear of God' and thereby violate their promise by putting 'any profit before his own safety'.[131] However, it seems that Justinian elaborated on the formulae used to increase each bureaucrat's sense of responsibility.

Directly related are the explicit scriptural curses, each of which is multifaceted in symbolism and relates to the concerns of the governor. The reference to Cain, son of

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[127] Proc. *SH* 21.17 ἀράς τε πάσας ἐπέβαλεν, ὅσαι πρὸς τῶν παλαιοτάτων ὠνομασμέναι εἰσίν. To my knowledge, this is the first surviving oath-formula including Judas, Gehazi, or Cain, but the 'Judas Curse' became quite popular in subsequent centuries (Martin 1919; Taylor 1921, esp. 234).

[128] Just. *Nov.* 8.9 πρὸς τῷ καὶ ταῖς ἐξ οὐρανοῦ τιμωρίαις ἔνοξου εἶναι, παραβάντα τοὺς ὅρκους ἐφ΄ οἷς ἔλαβε τὴν ἀρχὴν. cf. 8.13, where bandit-hunters are threatened with liability to unspecified extreme peril, while their appointers receive more severe punishment alongside a hefty fine.

[129] Just. *Nov.* 8.12 [the governors] τῶν παρ΄ αὐτῶν διδομένων ὅρκων μεμνημένους…; 26.5, 5.1; 28.4., 5. cf. 29.3, which requests that the praetor of Paphlagonia be reminded of their oath to ensure they completed their duties suitably.

[130] Just. *Nov.* 8.7 μετὰ τῆς τοῦ θεοῦ μνήμης. See also Just. *Nov.* 26.2, which states that, in taking the oath, each governor should 'consecrate their soul to God' (τὴν ἑαυτῶν ψυχην ἀνιεροῦν τῷ θεῷ), and 102.*praef.,* which terms the oath φοβερώτατος ('most fearful'). 'Fearful' also has parallels in many other formulae (Seidl 1935, 32).

[131] *CJ* 9.27.6.1 *licet neminem diuini timoris contemnendo iureiurando arbitramur immemorem, ut saluti propriae ullum commodum anteponat.* Justinian makes a similar statement in Just. *Nov.* 8.12, albeit with additional reference to fear of the laws and himself.

primordial humans Adam and Eve, was meant to associate any who broke their oath with the religious outcast, cursed by God and outside of the Almighty's embrace. In all traditions, Cain, who had killed his brother due to jealousy of his religious offerings, was punished by God.[132] Hebrew versions of the tale claim that God commanded Cain to roam the Earth as a homeless wanderer, but the Septuagint Greek translation renders his curse as perpetual shaking.[133] Later interpretations range from symbolic exclusion and exile to a physical condition, with the latter arising from either spiritual torment and fear of divine displeasure or an actual malady.[134] Justinian's formula uses τρόμος ('trembling'), which may indicate a physical condition was meant here, but whatever the intended sense, the curse of Cain marked out its bearer as a sinner, an outcast who had ignored his moral and religious responsibilities.[135] The governor's extortion of his province, acceptance or provision of *suffragium*, or transgression of the oath in any other way was correlated to this Biblical fratricide. The offending official, associated with this archetypical scriptural villain, would theoretically be rejected by God and his chosen people. This religious curse thereby provided a counterpoint to the temporal punishment of exile threatened against those who broke their oath.[136] Avoiding this fate meant acting as an honest bureaucrat and complying with God's wishes, as articulated by the emperor.

The violator of Justinian's new formula was also threatened with the 'lot of Judas', another traditional villain and pariah of Christianity whose story was correlated to the circumstances of the governor. Due to his betrayal of Jesus, the former apostle was presented in Christian narratives as the archetypal betrayer.[137] The intention behind this curse might therefore be that the oath-breaker was expelled from the faith, received the same judgement

[132] Gen. 4.2-16 was probably the most well-known version in Late Antiquity, with the curse at 4.12, but see also the sixth-century extracanonical *Conflict of Adam and Eve with Satan* 1.79.11, 18, 24-5, 28.
[133] Wevers 1993, 58.
[134] Early Christian interpretations of Cain's curse: Glenthøj 1997, 175-183, 211-213; Byron 2011, 93-122.
[135] cf. Jerome *Ep.* 36.2-7 on Cain's exclusion.
[136] Just. *Nov.* 8.*edictum.*1, *notitia.*49, *Dom.* (S/K 89.41-42).
[137] Iren. 2.20.2, 5.20, 5.33; John Chrys. *Homilies on Matthew* 81.1-2 (*PG* 58.731-32); *Homily on the Betrayal of Judas* 1 (*PG* 49.373); Jerome *Homilies on the Psalms* 35.1, 7-9 (on Ps. 108 (109)); Aug. *On the Harmony of the Gospels* 3.7.31.

Judas had suffered, and was cast into Hell.[138] Additionally, as the apostle killed himself out of shame following Christ's crucifixion, each governor may have associated contravention of the oath with a form of metaphorical suicide, in terms of his career or his salvation.[139] Judas' suicide sometimes featured in late antique theological thought, often alongside statements that his self-murder further condemned him, but one fifth-century ivory relief (fig. 8) indicates how this curse was relevant to the context of the bureaucracy.[140] This relief, juxtaposing Jesus' crucifixion with his betrayer's death, includes the thirty pieces of silver Judas was paid for the betrayal of Christ. Its placement next to his body may suggest it was shame over accepting illicit money which resulted in his death.



Fig. 8: Ivory relief from a casket, dated to ca. 420-430, depicting Jesus' crucifixion on the right and on the left the suicide of Judas, whose corpse hangs over his silver. Held in the British Museum, London.

Source: https://www.bmimages.com/preview.asp?image=00034960001&imagex=13&searchnum=0001

Additionally, certain traditions associate Judas and his shameful acceptance of money with the acquisition of Akeldama, an area outside of Jerusalem termed 'the field of blood' due to the illicit funds used to purchase it.[141] Given these parallels to the contemporary issue of *suffragium* and purchase of gubernatorial office, reference to the 'lot of Judas' should be taken as connected to the prohibition of unlimited payments and the need for the swearers to act honestly. Whether this suicide referred to expulsion from the bureaucracy, Christianity, or

[138] Acts 1.25 suggests Peter deemed Judas to be where he belonged, which, when taken with John 6.70-71 (Jesus states that Judas is influenced by Satan) and John 17.12 (Judas is shown to be doomed to destruction) appears to indicate his damnation. Although some Christian traditions did not view him as negatively, believing his betrayal to benefit the greater good (Oropeza 2010) and his death to signify repentance (Hamilton 2018), these interpretations are too positive to be the intention in these imprecations.

[139] Matt. 27.5 suggests Judas hanged himself from a tree, whereas Acts 1.16 states he fell and his intestines burst out. See Zwiep 2004, 1-4, 16-17, 109-122 on later commentators who synthesised these endings or created new ones.

[140] References to Judas' suicide: Eus. *EH* 5.16.13; Athan. *Apol. ad Const.* 7; Aug. *Civ. Dei* 1.17; *Against Gaudentius* 1.30; Jerome *Homilies on the Psalms* 35.7 (on Ps. 108 (109)). Murray 2000, 323-368 discusses the popularity of this subject in the Middle Ages.

[141] Field of blood: Matt. 27.5-8; Acts 1.18-19; John Chrys. *On Acts* 3.2 (*PG* 60.35-36); Jerome *Homilies on the Psalms* 11.2 (on Ps. 77(78)), 35.9 (on Ps. 108(109)). See also Jerome *Homilies on the Psalms* 35.10, which links Cain's curse to wander the earth with Judas' exclusion from Christianity.

life itself, the violator of the oath was expected to comply with the formula's terms to avoid displeasing God and suffering an unsavoury fate.

Equally scriptural and linked to the concerns of the governor is 'the leprosy of Gehazi'. This condition originally afflicted the Aramaean commander Naaman, who was cured by the prophet Elisha after his ritual immersion in the Jordan.[142] Naaman offered rewards to Elisha, who refused them, but the prophet's servant Gehazi chased after the commander and, by intimating that the prophet had changed his mind, persuaded Naaman to hand over these rewards so he could keep them. Having discovered Gehazi's treachery and greed, Elisha condemned his servant and all his descendants to suffer the leprosy taken from Naaman. As with Judas and Cain, there are clear parallels with the governor's official duties and correct conduct, where the swearer was not meant to be influenced by opportunities for financial gain but had to remain honest. Extortion and avarice would result in future divine punishment, potentially as severe as that suffered by Gehazi; not only would the governor who broke his oath thereby be revealed as a grasping and surreptitious individual, but he and his relatives would be afflicted with leprosy just as Gehazi and his descendants were.[143] At the least, the swearers were no doubt expected to link the consequences of extortion and theft in this story with contemporary concerns of *suffragium*. It may be that this leprosy, a condition commonly associated with impurity, was intended to act as a counterpoint to the emphasis in *Novel* 8 and other constitutions on probity and 'clean hands'. Moreover, some scholars have also suggested that the servant was meant to represent the greed of aristocrats,[144] further tying this tale to the circumstances of prospective governors, many of whom enrolled from elite backgrounds. In any case, as with the curses related to Cain and Judas, the leprosy threatened could have both symbolic and physical components; the afflicted would not only suffer an unpleasant condition but also be excluded from society. Biblical leprosy is often interpreted as a sign of sin and social exclusion, more specifically resulting from challenging religious authorities.[145] Through this imprecation and also those mentioning Cain and Judas, any governor who did not abstain from *suffragium*, avarice or extortion was threatened with ostracism from Christianity.

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[142] 2 Kings 5.
[143] Elisha and Gehazi are also associated with oaths in the Bible unrelated to this context (Ziegler 2008, 98-99, 121-122).
[144] Cohn 1983, 181-183.
[145] Lev. 13; Martin 1919, 439; Abrams 1993. cf. Shinall Jr. 2018, who argues that the Gospels, particularly the sections concerning Jesus' interactions with lepers, do not explicitly link the condition with exclusion.

These religious elements seem to be doing more than simply 'redeploy[ing] religious capital in order to augment imperial authority and to reinforce the governmental compact', as Pazdernik suggests.[146] Reference to Cain, Judas, and Gehazi set Justinianic gubernatorial duties in a scriptural context, where the correct fulfilment of the governor's commitments was correlated with religious responsibilities to God. These traditional villains were meant to be negative *exempla*, which embodied the qualities that officials should avoid, particularly as these individuals had to some extent betrayed their masters. Gehazi tried to hoodwink Naaman out of rewards offered to Elisha, while Judas sold Jesus to the Pharisees for silver, which was comparable to the funds diverted by governors to accrue personal wealth at the expense of the emperor. Cain not only tried to hide his betrayal from God but also murdered his brother, who may have been taken as an allegorical reference to the bureaucrat's provincial citizens. Moreover, in §1 of the formula we are told that each swearer was meant to swear 'by the four Gospels which I am holding in my hands'.[147] This ritual element, which was commonly used in other contexts,[148] was intended to underscore the scriptural curses and the oath's religious force while also returning to the aforementioned 'clean hands' metaphor. Each official implicitly had to keep his hands clean so as not to profane the Gospels by breaking the oath. The fulfilment of bureaucratic duties was correlated with obeying the rules of Christianity, while failure to serve correctly was presented as a contradiction of religious principles.[149]

Through this oath, Justinian sought to fashion virtuous office-holding into a religious responsibility. Robin Whelan has recently noted that although late antique conceptualisations of holding civilian office continued to draw upon traditional rhetoric, the bureaucracy was reimagined in later centuries.[150] Due to the opportunities for self-enrichment and accumulation of influence associated with imperial civil service, some theological authorities argued that civilian office was not entirely compatible with Christian life. Although certain fifth-century theologians, such as Isidore of Pelusium, connected traditional expectations that

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[146] Pazdernik 2009, 143.
[147] Just. *Nov.* 8.*iur.* (S/K 89.48-49).
[148] See pp. 49-50 above and 157-159 below. See also: *CJ* 1.4.20, which states that witnesses were required to affirm over the Scriptures that gubernatorial staff officials were orthodox; 1.4.27.3 (=*CJ* 5.50.7.6b), which decrees that curators chosen to care for the properties of insane individuals had to be appointed in the presence of the Gospels; Just. *Nov.* 72.2, 3, 8, which proclaims that guardians appointed to curate the properties of underage citizens had to swear while touching the Gospels.
[149] Pazdernik 2009, 148, 154 n. 24 also suggests that the use of γνήσια δουλεία in the oath-formula may be connected to patristic conceptions of religious service (e.g. John Chrys. *Homilies on Paul's letters to the Philippians* 1.1 (*PG* 62.181-82)). cf. Just. *Nov.* 5.6, where Justinian contrasts 'divine service' (λειτουργία θεία) as a monk with 'service in an earthly court' (δικαστήριου χθαμαλοῦ… δούλειον).
[150] Whelan 2018a; 2018b.

office-holders be honest and just with pleasing God, contemporary Christian writers still viewed civil service with some unease and suggested it was not a completely acceptable career for a righteous religious adherent.[151] Justinian's new formula, both the curses in §6 and the oath more generally, seems to be a development of this trend, where this political ideology was actively deployed by the emperor to cast provincial governorship as a new form of Christian civil service.[152]

One overt correlation of gubernatorial duties with religious observance is the first imprecation in §6 of the formula. The swearer acknowledged that violation of the oath resulted in judgement 'in the age to come', most probably in reference to Heaven. If the governors failed to associate the other divine punishments with expulsion from the faith, then this more explicit statement made this meaning clearer: the official who did not obey imperial commands and keep their service promises risked losing their entrance into the Christian afterlife. On the other hand, the fulfilment of gubernatorial responsibilities was implicitly presented as an avenue to paradise and pleasing God. While several earlier authors had equated acceptance into Heaven, particularly on Judgement Day, with honest office-holding, here Justinian makes it an official and definite result actively acknowledged by the swearers.[153] Correct bureaucratic service was thereby presented as acting in God's interests and unlocking rewards in the next life.

Each governor was meant to be an exemplary Christian, and so the swearer also had to be an adherent of orthodoxy. At the start of the oath, each official had to invoke numerous higher forces:

> Ὀμνυμι ἐγὼ τὸν θεὸν τὸν παντοκράτορα, καὶ τὸν υἱὸν αὐτοῦ τὸν μονογενῆ Ἰησοῦν Χριστὸν τὸν θεὸν ἡμῶν, καὶ τὸ ἅγιον πνεῦμα, καὶ τὴν ἁγίαν ἔνδοξον θεοτόκον καὶ ἀειπάρθενον Μαρίαν, καὶ τὰ τέσσαρα εὐαγγέλια, ἃ ἐν ταῖς χερσί μου κρατῶ, καὶ τοὺς ἁγίους ἀρχαγγέλους Μιχαὴλ καὶ Γαβριήλ…[154]

[151] Whelan 2018a, 82-93; 2018b, 394-418.
[152] Note also Just. *Nov.* 8.*praef.*1, in which Justinian links *suffragium* and 1 Tim. 6.10 ('the love of money is the root of all evils').
[153] e.g. the letter sent by the fifth-century monk Isidore of Pelusium to the gubernatorial official Peter stating that divine judgement for misconduct was inescapable (*Ep.* 1,746). See further: Shaw 2003; Kelly 2004, 232-245.
[154] *Just. Nov.* 8.*iur*. (S/K 89.45-50). Translation from Miller and Sarris 2018, 1:154.

> I swear by Almighty God, by his only-begotten Son Jesus Christ our God, by the Holy Spirit, by the holy, glorious Mother of God and ever-virgin Mary, by the four gospels which I am holding in my hands, and by the holy archangels Michael and Gabriel…

While earlier oaths of civil office no doubt included traditional deities, the forces called upon here are unmistakably Christian. Their direct invocation supported the aforementioned aspects which sought to increase accountability to Heaven, but these sources of authority were also associated with contemporary definitions of orthodoxy. In swearing by these forces, the governor displayed his affiliation with the currently accepted version of Christianity. Most overt was the invocation of each member of the Trinity. Other formulae also called upon these constituent parts of the Godhead.[155] Clear reference to the Trinity, whether modified with terms such as 'consubstantial' or 'holy' or left without descriptors, was a robust statement of faith.[156] Recent official definitions of orthodoxy issued in 527 and 533 decreed an imperial belief in the Trinity's consubstantiality and an expectation for other religious adherents to share this position.[157] It seems improbable that Justinian was the first to introduce Trinitarian terminology into a civil service oath. Although the references to earlier versions discussed previously only refer to God, other institutional formulae such as Vegetius' military oath invoke Father, Son, and Spirit.[158] Nevertheless, Justinian's oath was formulated to make its orthodox alignment clear and it is no mistake that the Trinity is invoked in the opening lines. Moreover, God was termed 'Almighty' as in other formulae, while Jesus' description as the 'only-begotten Son' and a facet of God was tied to definitions of orthodoxy.[159]

Notably absent from this formula is any terminology directly related to the nature of Christ's person. Several Church debates in Late Antiquity, most notably those related to the Council of Chalcedon (451), focused on the relationship between the divine and the human aspects of Jesus.[160] This controversy continued into the reign of Justinian, with little middle

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[155] e.g. *Stud.Pal*. 20.122, a contract from Hermopolis, Egypt dated to ca. 439, which in line 16 also invokes each member of the Trinity. However, considerably more examples invoke the Trinity through the singular noun τρίας (Seidl 1935, 28)..
[156] Seidl 1935, 28.
[157] *CJ* 1.1.5; 1.1.6.4-6; 1.1.7.4-10, 17; 1.1.8.12-18. See also the definitions of orthodoxy in *CTh* 16.1.2 (=*CJ* 1.1.1) and 16.5.6 (=*CJ* 1.1.2).
[158] Military oath: Veg. 2.5; pp. 33-34 above.
[159] 'Almighty': Seidl 1935, 12-13, 24. 'Only-begotten son': *CJ* 1.1.5.1, 3; 1.1.6.5, 8; 1.1.7.4-6, 9. 'Only-begotten son' was also used in many theological works (e.g. John Chrys. *On Isaiah* 1.7, 2.4, 6.1; Soz. 3.5, 11, 6.4, 27) and was a point of interest at Church councils (e.g. *Acts of the First Council of Ephesus* 48.4-6 (*ACO* 1.1.7.69-70); *Acts of the Council of Chalcedon*, 5.34 (*ACO* 2.1.2.219)).
[160] On these debates, their background, and their legacy, see: Gray 2005; Price and Gaddis 2007, 1:17-75; Price and Whitby 2009.

ground being found between the Chalcedonians and anti-Chalcedonians. *Novel* 8 only shortly postdates Justinian's legal definitions of orthodoxy, which do refer to Jesus' dual consubstantiality, so the absence of explicit Christological terminology in this oath is puzzling.[161] Perhaps the emperor wanted his governors to appear to be orthodox adherents without actually stressing contemporary schisms; the consubstantiality of the Trinity was a less contentious topic by Justinian's reign, whereas theological conflicts in the sixth century were largely Christological.

An implicit comment upon Christ's nature may have been intended in the invocation of Mary. The status of Mary had been a central issue in the Christological disputes of the fifth century, particularly the events related to the first Council of Ephesus (431). Nestorius, the archbishop of Constantinople, and his followers rejected the Virgin's established title of Θεοτόκος ('mother of God') and suggested that Χριστοτόκος ('mother of Christ') be used instead.[162] Nestorianism was anathematised at the Council of Ephesus (431) and following the Council's decision, subsequent imperial decrees that Θεοτόκος was an orthodox term, and its inclusion in the Chalcedonian definition, the cult of the Virgin became more popular.[163] Numerous hymns and homilies throughout this period referred to Mary as the 'mother of God'.[164] The invocation of Mary in any form, let alone as the Θεοτόκος, was a bold statement of belief, similar in significance to the Trinity yet apparently less common in oath-formulae.[165]

These invocations seem to have been aimed at regulating the religious complexion of the imperial civil service, but Justinian also sought to mobilise the swearers to defend orthodoxy. The governor's compliance with the currently-accepted form of Christianity was made more explicit in §3 of the formula, in which the swearer clearly expressed his doctrinal affiliation:

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[161] See in particular *CJ* 1.1.6.7.
[162] Price and Gaddis 2007, 1:18-23.
[163] Imperial decrees: *CJ* 1.1.5.1, 3; 1.1.6.1, 5, 7-8; 1.1.7.4, 6, 9, 11-12.
[164] e.g. the fifth-century Basil of Seleucia *Oration* 39, concerning the Annunciation, which in the first line (*PG* 85.425) uses θεοτόκος; the Akathistos hymn, probable written during Justinian's reign (Wellesz 1956, 145-146), sung upon the feast of the Annunciation; Coripp. *Iust.* 2.52-69, where a prayer attributed to Sophia calls upon Mary as the mother of God. See further: Holum 1982, 147-72; Averil Cameron 1978; Price 2004.
[165] John Eph. *EH* 1.31 claims that Tiberius II also swore an oath by Mary as Θεοτόκος (Syriac: ܝܘܠܕܬ ܐܠܗܐ (transliterated: Yoldath Aloho)) and Bagnall and Worp 1981, 114-115, 119, 130-131 note that Mary was often included in oath-like invocations from the reign of Maurice, but relatively few oaths mentioning the Virgin have survived.

> Καὶ κοινωνικός εἰμι τῇ ἁγίᾳ τοῦ θεοῦ καθολικῇ καὶ ἀποστολικῇ ἐκκλησίᾳ, καὶ κατ΄ οὐδένα τρόπον ἢ χρόνον ἐναντιωθῶ αὐτῇ, οὐδε ἄλλῳ τινὶ συγχωρήσω, καθ΄ ὅσον δυνάμεως ἔχω.[166]
>
> I am in communion with God's Holy Catholic and Apostolic Church, and in no way and at no time will I oppose it, nor, as far as is in my power, will I allow anyone else to do so.

The phrase 'Catholic and Apostolic Church', intended to unify Christian belief, was stated in both the canons and revised Creed resulting from the first Council of Constantinople (381) and also in the aforementioned laws which define orthodoxy.[167] As noted earlier, there was precedent for religious control in the bureaucracy and related oaths of office. In particular, *defensores* from the reign of Anastasius were supposed to promise that they followed the accepted doctrine.[168] Additionally, another law of Justinian, undated but evidently earlier than *Novel* 8 given its publication in his *Codex,* states that three witnesses had to affirm over the Gospels that members of gubernatorial staffs were orthodox in affiliation.[169] Although we lack comparable evidence for other positions in earlier periods, it may therefore be that an overt clause of doctrinal agreement was only included from the sixth century.

The final clauses of the governor's oath-formula suggest that the swearer had to do more than simply confirm their adherence to the correct doctrine. The governor affirmed that he would never oppose orthodoxy and, more importantly, he would prevent sectarian opposition from existing where possible.[170] A parallel can be drawn with the promises sworn by Anastasius' commanders to 'fight…on behalf of the true faith'.[171] But while soldiers could sometimes get involved in religious affairs, they were less regularly expected to do so than civil servants.[172] Bureaucrats, especially those working in the provinces, were relied upon to regulate the religious complexion of the empire, not least as edicts concerning imperial policies were mostly filtered through them to the wider population. Provincial administrators under non-Christian emperors such as Diocletian could find themselves presiding over trials

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[166] *Nov.Just.*8.*iur.* (S/K 90.8-11). Translation from Miller and Sarris 2018, 1:154.
[167] Creed: Bright 1892, xix. Canon: Bright 1892, xxiv. Laws: *CJ* 1.1.5.*praef.*, 1.1.6.1-3, 1.1.7.1, 4-6, 11.
[168] *CJ* 1.4.19 (=*CJ* 1.55.11).
[169] *CJ* 1.4.20.
[170] It may also be that 'as far as is in my power' (καθ΄ ὅσον δυνάμεως ἔχω) was concessive in tone and indicates that Justinian did not entirely expect the oath to be effective (pp. 119-121 below).
[171] Ps-Zach 7.8; pp. 44-46 above.
[172] Military involvement in religious debates: Lee 2007a, 193-205.

of unrepentant confessors and attempting to enforce imperial religious policies.[173] In later years, governors and local officials were often drawn into ecclesiastical matters and doctrinal conflicts through their judicial duties and positions of authority.[174] According to the trial proceedings appended to Optatus' polemic against Donatism, the *consularis* (consular governor) of Numidia Zenophilus arbitrated between Donatists and other Christians over charges brought against Silvanus, bishop of Cirta, in 320.[175] Similarly, in 411/12 Augustine petitioned Apringius, proconsul of Africa, via letter not to execute several heterodox adherents, while the empress Pulcheria wrote to Strategius, governor of Bithynia, asking him to prevent certain clergymen from obstructing the excommunication of Eutyches and Dioscurus at the Council of Chalcedon (451).[176] One law, issued in 455 and prohibiting the existence of various heterodox doctrines, also stated that governors and other gubernatorial officials who failed to uphold imperial proscriptions of heretics would be fined and risk tarnishing their reputations.[177] In many of these cases, these bureaucrats represented the emperor's will and authority and so it was necessary for them to share the imperially-accepted form of Christianity. This demand for gubernatorial officials to be orthodox in religious allegiance was connected to their involvement in doctrinal affairs, as indicated by the oath-formula and its statement that the swearer would defend orthodoxy. Each governor had to display their Christian virtue and commitment to both God and emperor by promising to suppress unacceptable sects. These religious duties may have been assumed in earlier years, but without comparable evidence from preceding centuries this is uncertain. At the least, Justinian's oath-formula certainly affirmed that the sixth-century governor had both bureaucratic responsibilities and religious obligations. This promise to oppose and report on heterodox adherents offered a parallel to the swearer's affirmation to punish injustice in provincial communities and within his own staff. Importantly, an earlier law required all members of the governor's staff to be orthodox and three witnesses to swear over the Gospel before the governor that this was the case, with all involved being punished if the official in

[173] e.g. the third-century martyr Marcellus, who was first reported to a military prefect before being tried before the bureaucrat Agricolanus (*Acts of Marcellus* 2-5); Eus. *Martyrs of Palestine* 3.1, where the governor of Palestine, Urbanus, is cited as Diocletian's main vehicle for persecution in the province, although Eusebius' description of Urbanus' fanaticism throughout this work is probably exaggerated.
[174] Millar 2006, 130-167; Lenski 2016, 180-196.
[175] The proceedings are edited by Maier 1987, 214-239.
[176] Apringius: Aug. *Ep.* 134.1; Shaw 2015, 44-47. Strategius: Pulcheria *Letter to Strategius* (*ACO* 2.1.1.29). Note also the involvement of bureaucrats, palatial and gubernatorial, in the events surrounding the second Council of Constantinople (553) (*Acts of the second Council of Constantinople* 1.2-7, 2.8, 7.4.1-7, 12, 14 (*ACO* 4.1.9-10, 27-28. 184-87, 199-201); Vigilius, *Dum in Sanctae Euphemiae* 1, 4, 9-10 (=Schwartz 1940, 1, 4, 9-10)).
[177] *CJ* 1.5.8.13.

question was not orthodox in doctrine.[178] The remit of gubernatorial officers thereby encompassed both spiritual and temporal duties.

With elements confirming doctrinal allegiance being built into the governor's oath, it is worth returning to §1 of the formula and the invoked higher forces, particularly the archangels Michael and Gabriel. While acceptance of Mary as the Θεοτόκος and the consubstantial Trinity were important components of orthodox belief, the position of the angels was less certain. Some theologians argued that the beings had no corporal form and should not be venerated or depicted, whereas others saw no issue and worshipped them as higher forces, who were close to God.[179] While cults of the angels, particularly Michael, appear to have grown in significance by the sixth century,[180] their relation to orthodoxy remained questionable, particularly as Scripture explicitly prohibited their worship.[181]

A relevant connection can be made between the worship of angels, Mary, and sixth-century onomastics. An inscribed legal rescript, dated to 533, discovered relatively recently, and concerned with tax collected from Didyma and surrounding communities, provides an extended version of John the Cappadocian's name.[182] In other sources, the praetorian prefect is often referred to as just *Ioannes* or *Flavius Ioannes* with various titles,[183] but line 42 of the Didyma inscription gives his full name: *Flavius Marianus Micaelius Gabrielius Arcangelius Ioannes*.[184] *Marianus, Micaelius, Gabrielius,* and *Arcangelius* are 'devotional' names, cognomina related to the bearer's religious beliefs and taken at the time of baptism.[185] These terms could refer to many Christian sources of authority, from God and the Trinity to local saints. Few accounts describe John as a particularly pious individual, most probably due to widespread hostility against the official, but if the official had some choice in these names, he may have sought to display his belief in the significance of Mary, Michael, and Gabriel

[178] *CJ* 1.4.20.
[179] Peers 2001, esp. 116-156; Cline 2011, 137-165. See also Muehlberger 2013, 29-88, who examines how some theologians perceived angelic beings in Scripture.
[180] See: e.g. Peers 2001, 157-193 on the worship of Michael at two major sites (Colossae, Asia Minor, and Monte Gargano, Apulia); Cline 2011, 118-125 on fifth- to sixth-century dedicatory lamps which call upon Michael, Gabriel, and other angels for aid, found near a fountain which locals believed the beings frequented; Cline 2011, 146-154 on amulets inscribed with the names of angels.
[181] Col. 2.18-19; Rev. 19.10; Cline 2011, 139-142.
[182] Feissel 2004 provides an edition and translation of this inscription, with extensive commentary
[183] *PLRE* 3.627-635 (Ioannes 11). 'Cappadocian' appears to have been a jibe referring to his place of origin (e.g. Lydus. *Mag.* 2.17, 20, 3.57).
[184] Feissel 2004, 299. Note that the following line also gives various titles while John's name is shortened in line 46 to *Flavius Marianus Ioannes,* along with his titles.
[185] *Marianus* was the most common cognomen out of the four names here (Salway 1994, 143 n. 124). While *Gabrielius* and *Micaelius* are used by various other individuals (pp. 113-114 below), *Arcangelius* is considerably rarer (Feissel and Kaygusuz 1985, 403-404; Salway 1994, 143; Feissel 2004, 335 n. 244-245).

through the usage of these names.[186] Due to his position as praetorian prefect of the East until 541, John must have had a hand in formulating the oath appended to *Novel* 8, and it seems no coincidence that he is the addressee of the leading constitution.[187] On the other hand, given that several coins from his reign depicted Michael and the emperor undertook a pilgrimage to a shrine to the archangel in Germia late in his life, Justinian appears to have had a personal connection to Michael.[188] Perhaps the inclusion of the angels and Mary in the governor's oath therefore reflected John's or Justinian's own beliefs, as well as the increasing acceptance of cults related to Mary as Θεοτόκος and the angels.

Nevertheless, angelic beings were often represented in theological discourse both as intermediaries with God who would occasionally help mortals and also as spiritual role models, particular concerning ascetic lifestyles.[189] With Justinian's remodelling of the imperial civil service as related to the empire's religious complexion, the invocation of the angels may have had a more nuanced meaning than would at first be assumed. On one level, the references to Gabriel and Michael were connected to punishment for violation of the oath. The two archangels were significant religious figures in their own right and were often used in magical contexts to lend strength to curses and spells.[190] Additionally, Gabriel's chief function in the Scriptures as a messenger of God indicates his close connection to the supreme Christian deity and his ability to report malfeasance, while the invocation of Michael, chief of all angels, a direct opponent of Satan, and a herald of the apocalypse, must have been strongly associated with divine judgement. [191] Moreover, some texts associate angels with taking individuals to Heaven and Hell and so the inclusion of Michael and Gabriel was probably partially related to the threat of exclusion from paradise which closes the formula.[192]

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[186] Feissel 2004, 335 n. 246.
[187] On the involvement of officials, particularly John, in Justinian's legislation, see Haldon 2006, 49-51. On John's downfall, see Proc. *Wars* 1.25.
[188] Croke forthcoming.
[189] Muehlberger 2013, 89-175.
[190] Gager 1992, 224-225, 231-234; Meyer and Smith 1994, 55, 125-127, 323-341.
[191] Gabriel only explicitly features four times in the canonical Bible, twice in the Old Testament to explain visions (Dan. 8.15-26, 9.21-27) and twice in the New Testament, to announce the conceptions of John the Baptist (Luke 1.11-20) and Jesus (Luke 1.26-38). Michael is also only explicitly named a few times in the Bible, as a defender of the Israelites (Dan 10.13-21), opponent of Satan (Jude 1.9; Rev. 12.7-9), and herald of the Last Judgement (Dan. 12.1). 1 Thess. 4.16, cited by Haase 1994, 20, does not name the archangel involved but was later associated with Michael.
[192] *Bohairic Life of Pachomius* 82, 88 (=Veilleux 1980, 105-106, 115); John Chrys. *Homilies on Lazarus* 2.2 (*PG* 48.984); Greg. Nys. *Life of Macrina* (*PG* 46.984); Brown 1981, 66-67; Cline 2011, 93-97.

But besides threatening divine retribution, the association of angels with intercession and idealised service was also applicable to the context of the bureaucracy. In Late Antiquity and subsequent centuries, the theme of angelic courts began to be expounded in theological thought, where the imperial palace was presented as a mortal analogue of Heaven and angels acted as God's courtiers.[193] Several dreams and visions recorded by holy men describe angelic beings in terms of the bureaucracy, recruiting monks into civilian and armed *militiae* and dressed in the uniform of belts, cloaks, and tunics.[194] The invocation of Michael and Gabriel may have been intended as a pointed reference to the governor's position in particular. Provincial governorships were higher bureaucratic offices, just as the archangels were arguably the most prominent angelic beings in Christianity. A direct parallel between late antique bureaucratic office and Michael was drawn by an Egyptian bishop named Theodosius, who in 535/36 delivered a sermon in praise of the archangel. Throughout the encomium, recorded in Coptic, Theodosius characterises Michael as the commander of the heavenly army, an envoy for God, and an ineffable yet powerful figure. Amongst these roles, the angel is compared to a provincial governor in his remit as a custodian of the afterlife:

> [Michael] is not a messenger of the earth who shall come to an end, but he is a ministrant, a flame of fire. He is not an *archon* who will perish, but an archangel in the heavens…
>
> Thou, Michael, art the governor of the denizens of Heaven, and also of the beings of the Earth.[195]

Unlike mortal governors, Michael would not die nor would he take advantage of those under his administration. As such, he was the ideal official, not liable to the failings of humankind, and a religious warrior who would constantly battle opponents of Christianity wherever he found them. Angels, particularly their chief Michael, were meant to provide a model both for gubernatorial officers to follow and also for others to understand their duties in relation to the regime.[196]

In some cases, perhaps this comparison offered a more nuanced sense to devotional cognomina related to the archangels. John may have specifically included references to

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[193] e.g. Eus. *Laud. Const.* 3; Athan. *Against the Arians* 1.55, 58. The theme of angelic courts became more popular in following centuries (Mango 1980, 151-155; Ringrose 2003, 156-176; Carile 2009).
[194] Kelly 2004, 232-242.
[195] Theodosius *On St. Michael the Archangel* 4, 29. Translation from Wallis Budge 1915, 895, 908.
[196] cf. *AP* 1.36, concerning a sixth-century narthex painting in Ephesus depicting the proconsul Theodorus (*PLRE* 3.1261 (Theodorus 54)) receiving his insignia of office from Michael.

Michael and Gabriel in the oath-formula and in his name as he viewed them to be relevant to his position. In line 57 of the same inscription discovered in Didyma, the full name of another official, the governor Eutropius, is also given and includes *Marianus*, *Micaelius*, and *Gabrielius*.[197] It seems important that many individuals who bore these monikers were also sixth-century civil servants in some capacity.[198] These include, but are not limited to: *Fl. Micaelius Gabrielius Petrus Ioannes Narses Aurelianus Limenius Stephanus Aurelianus*, praetorian prefect of Italy ca.554/68; *Fl. Soterius Marianus Micaelius Gabrielius Ioannes Theodorus Nicetas Theodorus Bonos Eutropius Olympius Ioannes*, a mid- to late sixth-century secretary; *Fl. Triadius Marianus Micaelius Gabrielius Constantinus Theodorus Martyrius Iulianus Athanasius*, a late sixth-century senior governor in Egypt.[199] Given the presence of other devotional aspects in these cognomina, these individuals surely did not choose to refer to Michael and Gabriel purely based on their bureaucratic positions, particularly as they may have adopted them prior to joining the bureaucracy.[200] Additionally, it may be that, as these names seem to have been taken upon baptism, these individuals had less choice in what forces were named. But due to their positions in the civil service, John and these other officials probably viewed their devotional names as a reflection of their position within society, being the earthly parallel to God's heavenly courtiers.

In any case, the invocation of the archangels in Justinian's oath may have been meant to tie into Justinian's attempt to present the imperial court as a mortal analogue of Heaven. Bureaucrats and courtiers were intermediaries between the emperor and his subjects, just as angels were intercessors with God.[201] The basis of imperial rule was reinterpreted over Late Antiquity, with new Christian points of reference being used to present the emperor as God's chosen ruler and mortal counterpart.[202] Throughout *Novel* 8, Justinian equates his mortal power with Christian supernatural authority, not least by stating that each governor was accountable to both ruler and God.[203] The institution of the law itself is situated by the

[197] Feissel 2004, 299, 335 n. 244.
[198] Of course, it is also possible that others utilised this devotional polynomy and our evidence only reflects a small percentage of these uses, primarily related to civil servants.
[199] While the praetorian prefect and governor have their own entries in *PLRE* (3.156 and 145 respectively), the secretary is attested only by one inscription (Feissel and Kaygusuz 1985). *PLRE* 3.499 (repeated at 3.830 and 3.889) gives three other individuals whose names include reference to the angels.
[200] Salway 1994, 143 suggests that these cognomina were given upon the baptism of the bearer, but in these cases, we cannot state when these individuals were baptised.
[201] Bureaucrats as intermediaries: Barnish et al. 2000, 170-176; Smith 2007, 206.
[202] On this shift, particularly concerning the bureaucracy, see: Kelly 1998, 139-144; Whelan 2018a, 79, n. 30. See also pp. 31 above, and 179-180, 192-193 below.
[203] Just. *Nov.* 8.7, 8, 12, 13.

emperor within an attempt to please the Almighty and act in accordance with His wishes.[204] Members of the bureaucracy were part of a Christian hierarchy of service, beholden to their supreme deity as well as their temporal leader, an earthly lord who paralleled the Lord Above.

Partially connected yet still apart from this hierarchy were ecclesiastical authorities, who could play a part in the swearing ceremony of the governors' oaths. As would be expected from a transcript of the terms to be recited by the swearers, the formula gives little indication of how the oath was taken, besides stating that the officials held a copy of the Gospels. Other parts of *Novel* 8, however, provide detailed instructions for how these ceremonies were to proceed, particularly concerning who was supposed to witness the oath-taking.[205] The leading constitution states that governors who were appointed in Constantinople were to swear in the presence of the emperor or, if Justinian was unable to attend, the current praetorian prefect of the East, as well as a host of other high-ranking bureaucrats.[206] If the governor had already departed for his province, the ceremony was to be observed by the bishop, the most prominent citizens of the area, and provincial officials.[207] In the latter case, ecclesiastical authorities witnessed the oath-taking to indicate that gubernatorial officers were accountable to them, just as the attendance of other bureaucrats and the emperor suggested that the governor was answerable to temporal judgement.[208] Such witnesses who were present during the ceremony thereby provided a physical parallel to the less tangible invocations of higher forces.

More significant was Justinian's mobilisation of the episcopacy to ensure that the oath was upheld and the governors fulfilled their duties honestly. Several sections of *Novel* 8 suggest that bishops could petition the imperial court in the case of extortion and if a legal suit was brought against the official after he had laid down his position, a bishop would adjudicate over the case.[209] As with the attendance of ecclesiastical authorities at some oath-swearing ceremonies, these measures were meant to aid imperial attempts to control the

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[204] Just. *Nov.* 8.*praef.*, 10.1, 10.2, 11, *edictum.praef.*, *scriptum*; Maas 1986, 29-31.
[205] Just. *Nov.* 8.*Dom.* (S/K 89.11-12) also states that codicils, proofs of bureaucratic office, were to be given at the same time that the oath was taken.
[206] Just. *Nov.* 8.7; Miller and Sarris 2018, 1:134 n. 20.
[207] Just. *Nov.* 8.14, *Dom.* (S/K 89.6-11). Bishops also attended the swearing ceremonies of *defensores* (*CJ* 1.4.19 (=*CJ* 1.55.11); p. 87). See also the involvement of Church authorities in other oaths (pp. 194-201 below).
[208] See Slootjes 2006, 39-43 on culpability to other civil officials, and pp. 119-121 below on accountability to provincials.
[209] Just. *Nov.* 8.8.1, 9; Hillner 2015, 86-88. See also Just. *Nov.* 86 on bishops compelling governors to listen to petitioners and adjudicating over suits brought against the same officials.

bureaucracy and ensure the swearers kept their sworn promises. Justinian's desire to involve the episcopacy in bureaucratic matters is made even more explicit in the associated edict addressed to 'the most God-beloved bishops and most holy archbishops everywhere'.[210] In the document, Justinian reaffirmed that ecclesiastical authorities should monitor the behaviour of the governors but he also requested that they spread awareness of the law. In particular, bishops were asked to inscribe the constitution on boards or stone tablets and display them in the porticoes of their churches.[211] Furthermore, after the law had been publicised, *Novel* 8 was to be deposited within the vaults of each bishop's church alongside the 'sacred vessels' used in liturgical services.[212]

Justinian not only sought to sacralise his provincial reform through its storing alongside holy treasures of the faith, as is stated in *Novel* 8,[213] but he also effectively presented bishops as responsible for the law and, by extension, for the governors. Ecclesiastical authorities were thereby styled as a part of the administrative system, another party to whom bureaucrats were answerable. Over the course of Late Antiquity, the episcopacy had become increasingly involved in civil affairs and the imposition of justice and some scholars see *Novel* 8, where Justinian asked religious authorities to act as his 'eyes and ears' in the provinces, as a part of this trend.[214] By asking bishops to hold onto *Novel* 8, publicise its existence and intent, witness the oath-swearing ceremony, and report transgression of the oath to the imperial court, the emperor both supplemented the religious strength of his new formula and also implicitly drew ecclesiastical authorities into a hierarchy of imperial civil servants.[215] Perhaps this was a development of an earlier law of Anastasius, who decreed that *defensores* were to be appointed 'in such a way that they are installed by the

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[210] Just. *Nov.* 8.*edictum* (S/K 78.18-20) Ἴδικτον γραφὲν τοῖς ἁπανταχοῦ γῆς θεοφιλεστάτοις ἐπισκόποις καὶ ὁσιωτάτοις πατριάρχαις

[211] Just. *Nov.* 8.*edictum.praef.* This may be a development of a tradition in Asia Minor, where since the fourth century BCE important civic messages were sometimes written on the entrances of religious structures (Roels 2018). See Miller and Sarris 2018, 1:16 on the usual promulgation of the *Novels* through bureaucratic channels.

[212] Just. *Nov.* 8.*edictum.praef.* ληφθεὶς ἔνδον ἀποκείσθω ἐν τῇ ἁγιωτάτῃ ἐκκλησίᾳ μετὰ τῶν ἱερῶν σκευῶν, οἷα καὶ αὐτὸς ἀνατεθειμένος θεῷ καὶ πρὸς σωτηρίαν τῶν ὑπ' αὐτοῦ γενομένων ἀνθρώπων γεγραμμένος.

[213] Just. *Nov.* 8.*edictum.praef.*; Pazdernik 2009, 151. cf. Rapp 2005, 262, who views this section as a reference to an archival practice.

[214] Ruggini 2000; Liebeschuetz 2001, 151, 154; Rapp 2005, 260-89; Pazdernik 2009, 150-151; Sarris 2006, 205-234. See also Just. *Nov.* 5.6, where former monks entering the civil service are compelled to work at the court of a provincial governor. cf. *CJ* 1.3.52.*praef.*-1 and Just. *Nov.* 6.1, where Justinian states bishops must not have served in curial or provincial staffs before their election as these jobs by necessity involved violence, which was not appropriate for clerical office.

[215] It may also be that this consideration influenced Justinian's decision to prohibit payments for offices in both the episcopacy (Just. *Nov.* 6.1.5, 9; 123.2.1; 137.2) and the civil service, discussed earlier in this chapter. On purchase of ecclesiastical office, see: Huebner 2009.

resolution of the most reverend bishop and clergymen'.[216] At the least, Justinian explicitly stated that *defensores* were to be appointed in part by a bishop and members of the clergy before he could swear his oath of office.[217] Other imperial measures, through which Justinian emphasised his responsibility to regulate ecclesiastical offices, sought to define more clearly the relationship between ruler and clergy during this period.[218] *Novel* 8 appears to be connected to this attempt to assert authority over the episcopacy, but the emperor also co-opts the spiritual significance of bishops to rein in governors and suggest that civil administrators were answerable to ecclesiastical authorities. When taken with the other religious elements of the formula appended to *Novel* 8, it seems that the oath was meant to cast the governor as part of a Christian bureaucracy, which was accountable to the emperor as well as God and his bishops.

3. Conclusion: institutional control or imperial performance?

Much of the discussion in this chapter has focused on the effect civil service oaths were intended to have upon the swearers, particularly how the promises were deployed to exert control over imperial officials. While we should consider whether oaths of office were successful in achieving these aims, the utility of these promises did not solely lie in their ability to influence the conduct of civil servants. Regardless of their maintenance, these oaths could contribute to the emperor's relations with his subjects.

The introduction of this chapter suggested that the military and civil service oaths were connected. To understand fully the purposes of the latter, we should return to this statement. There were certainly similarities between the two practices. Both were institutional promises, intended to bind the oath-takers to the emperor and to undertake duties related to the swearer's occupation, whether soldier or civil servant. In irregular circumstances, these sworn promises could also be reaffirmed at the same ceremony, as occurred in the uprising of Julian, although these cases may represent a reaction to incidents in which military

[216] *CJ* 1.4.19 (=*CJ* 1.55.11) *ut reuerentissimorum episcoporum nec non clericorum…decreto constituantur.* See also: Just. *Nov.* 149.1, dated to 569, which explicitly states governors were to be nominated by bishops and leading provincials; one fifth-century edict attributed the praetorian prefect Hierius (=Zachariae 1843, 269), which states that *zygostates,* municipal coin valuators (Zuckerman 2004, 102-105), were similarly chosen in part by the episcopacy.
[217] Just. *Nov.* 15.*epil.*
[218] Just. *Nov.* 6; Dagron 1996, 312-313; Rapp 2005, 277; Miller and Sarris 2018, 1:97 n. 1.

insurrections involved civilian officials.[219] Perhaps oaths of civil office also contributed to some sense of corporate exclusivity, much as the military *sacramentum* did.[220] At the least, military and bureaucratic oaths were both regularly termed *sacramenta militiae* and one section of the *Codex of Theodosius* refers to both practices almost interchangeably in prohibitions of municipal servants from taking imperial service oaths.[221]

But there were also notable differences between the two institutional oaths. They existed in separate contexts where the swearers had distinct responsibilities and so the formulae used would naturally have differed. While the civil servant was required to avoid bribery, adjudicate fairly, and be honest more generally, the soldier was only asked to remain loyal and fight bravely, with no concern for moral conduct. Whereas separate promises appear to have been sworn upon entry to various different civilian offices, soldiers only took one oath, maintained and renewed throughout their careers. Additionally, even though there is little comparable sixth-century evidence for the military *sacramentum*, civil service oaths seem to have been considerably stricter in their religious significance and doctrinal affiliation than their military counterparts. Broad points of reference, such as the inclusion of the Trinity, were no doubt introduced into both practices at around the same time. Furthermore, perhaps the civil service promise was developed from the soldier's oath as well as earlier senatorial practices. Given the finite number of civil service positions and the desirability of these offices, however, the emperor could afford to institute an oath with more stringent clauses of doctrinal allegiance than was possible in a military context.[222]

Oaths of civil office were meant to have a significant effect upon the actions and behaviour of the swearer, most notably regarding their adherence to a belief system and honest fulfilment of their duties, but it is uncertain to what extent these promises were successful in their aims. It is impossible to state with any certainty whether the expressions of faith which were a crucial part of the oath-formula influenced or accurately reflected the beliefs of the swearers. Although we can suggest that the numbers of Christian civil servants

[219] Amm. 21.5.10-12. See also: Zos. 2.43 (Magnentius' usurpation backed by Marcellinus, *magister officiorum* (*PLRE* 3.546 (Marcellinus 8)); Soc. 5.25 (the usurpation of Eugenius, who was a *magister scriniorum* (*PLRE* 1.293 (Fl. Eugenius 6)).
[220] Note also that the provision of codicils during the swearing-ceremony (Just. *Nov.* 8.*Dom.* (S/K 89.6-12)) provided a physicality to the ritual, much as the military tattoo did (pp. 41-42, 50 above).
[221] *CTh* 12.1, but see in particular 12.1.10, which refers to both military and civil service. Note also *CJ* 12.37.16.*praef.*, 5, and 12.37.19.*praef.*, which state that military administrative officials should take oaths that they would distribute payment and resources fairly.
[222] Note also the recording of some civil service oaths in written transcripts (p.85 above) and the lack of any evidence for such a record being used in military contexts.

increased over the course of Late Antiquity, reliable evidence concerning how officials themselves viewed their adherence to orthodoxy or Christianity more generally is scarce.[223] In any case, it would be difficult to suggest from this data to what extent the oath influenced a shift in the religious complexion of the civil service. The same is true of the frequent accusations of bureaucratic dishonesty and injustice which should not be taken at face value.[224]

We can be more conclusive about *suffragium* and its limitation, which appears to have been ineffective. Although Procopius' account of Justinian's reforms in his *Secret History* was influenced by the author's hostility towards the emperor, his suggestion that the imperial court continued to allow offices to be purchased is supported by other evidence.[225] Two additional laws, issued in 569 and 574, which reaffirmed the prohibition of unlimited *suffragium*, further indicate that Justinian's reforms and oath had not entirely ameliorated the situation, just as the earlier constitution of Theodosius and Valentinian was not universally successful in its aims and thereby necessitated the institution of *Novel* 8.[226]

Some have suggested that Justinian's measures to control officials in *Novel* 8 and other gubernatorial reforms are fairly lax, but perhaps the emperor did not expect the oath to be completely efficacious.[227] Numerous parts of *Novel* 8 state that the law was meant to display the emperor's earnest solicitude both to please God and also to protect his civilians from the deprivations of imperial officials. Perhaps most clear is the opening sentence of the leading constitution: 'It falls to our lot to spend every day and night considering, with all vigilant care, how some benefit pleasing to God might be bestowed by us upon our subjects'.[228] Many of these statements also indicate an imperial desire for the law to be

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[223] Increasing numbers of Christians amongst the aristocracy, especially those who held office: Salzman 2002; Alan Cameron 2011, 177-198. Scarcity of reliable evidence on the views of officials: Whelan 2018a, 79-80.
[224] Accusations of dishonesty: p. 85 above. Unreliability of this evidence: Kelly 2004, 3-5, 165-181. See also Harries 1999, 153-171 on accusations of corruption levelled against judges.
[225] Proc. *SH* 21.19, 22.6-11. On Procopius' attitudes, which varied between his works, to Justinian, see: Averil Cameron 1985, esp. 50, 56-65, 86-93, 137-43. Note also that Procopius' suggestion that the governor's oath was ineffective was related to the author's frequent attempts to associate Justinian with oath-breaking (*SH* 8.24-25; 13.26-27; 14.20).
[226] Just. *Nov.* 149; 161; Bonini 1989, 82-108; Haase 1994, 19. See also: Greg. *Letters* 5.38; de Ste Croix 1954, 48.
[227] Justinian's laxity: Haase 1994, 42-46. See Harries 1999, 77-98 on laws not necessarily needing to be enforced or upheld.
[228] Just. *Nov.* 8.*praef.* Ἁπάσας ἡμῖν ἡμέρας τε καὶ νύκτας συμβαίνει μετὰ πάσης ἀγρυπνίας τε καὶ φροντίδος διάγειν ἀεὶ βουλευομένοις, ὅπως ἂν χρηστόν τι καὶ ἀρέσκον θεῷ παρ΄ ἡμῶν τοῖς ὑπηκόοις δοθείη. Proc. *SH* 12.20 inverts this statement of sleeplessness, common to Justinian's legislation (e.g. Just. *Nov.* 15.*epil.*), to suggest that the emperor plotted deep into the night against the realm. See also: Just. *Nov.* 8.*praef.*-1, 10.1-2, 11, *edictum.praef*.-1, *scriptum, Dom.* (S/K 89.12-17). Concern for the well-being of the empire and its citizens

publicised widely, especially by its inscription outside churches across the empire and through a proclamation directly addressed to the population of Constantinople.[229] Comparable are the earlier laws which suggest that the oaths taken by certain civil servants were to be preserved in public records.[230] Justinian, and perhaps other rulers, sought to project an image of the emperor as the people's protector, who would shield the populace from exploitation, even if it led to a decrease in imperial revenue.[231] These emperors further stated that the oath-swearing ceremonies of various officials should not only be witnessed by bishops, but also by notable provincial citizens, who could similarly have a hand in nominating candidates for office.[232] Moreover, several laws also decreed that governors were to make themselves available for fifty days after the end of their terms of service in case their subjects wanted to take legal action against them.[233]

Seeing parallels with imperial accession ceremonies, Pazdernik suggests that these measures were one end of a balancing act, where rulers emphasised their positions of absolute authority but were required to please their subjects and acknowledge their interests.[234] Increasing the accountability of civil servants to provincials and also to bishops thereby indicated that the emperor had listened to their complaints and acted upon them, even if there was no expectation that these reforms would be effective. While Justinian stated that provincials should take care to accuse governors only of theft and not assail their characters unnecessarily, these measures suggested that the requests of imperial subjects had been answered.[235] Additionally, the religious aspects of the oath may have been an attempt to please religious authorities and emphasise the orthodox beliefs of the emperor, even if these elements were not entirely successful in regulating the religious affiliation of officials. This would further explain the lack of reference to debates over Jesus' human and divine aspects, as a gesture to placate authorities on both sides of the controversy; rather than stressing

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alongside earning God's approval are repeated in other laws (e.g. Just. *Nov.* 1.*praef.;* 14.*epil.*; 86.*praef.;* 149.*praef.*).

[229] Inscription: Just. *Nov.* 8.*edictum.praef.* Proclamation: Just. *Nov.* 8.*scriptum.*

[230] *CJ* 1.4.19 (=*CJ* 1.55.11); 1.4.20; p. 85 n. 44 above.

[231] See Just. *Nov.* 8.*praef.*1 and *iur.* (S/K 90.41-91.1) on prohibiting *suffragium* and following the law even if the imperial treasury suffers.

[232] *CJ* 1.4.19 (=*CJ* 1.55.11); Just. *Nov.* 8.14, *Dom.* (S/K 89.6-11); 15.*epil.*; 149.1, 3.

[233] *CJ* 9.27.6.1; Nov. *Just.* 8.8.1, 9, 13; 95. Note also *CJ* 1.49.1.1, which states the governor or other officials summoned to a trial had to confirm their attendance with an oath.

[234] Pazdernik 2009, 143-150. See also Harries 1999, 65-69, 214-215, esp. 215, and Slootjes 2006, 173-177 on this 'culture of complaint'.

[235] Limitation of what suits could be brought against governors: Just. *Nov.* 8.10.

contemporary Christological divisions, Justinian's formula avoided reference to Christ's nature, except perhaps implicitly through the invocation of Mary.

Interestingly, *Novel* 8 shifted the blame for dishonest and ineffective civil servants away from the emperor. The edict addressed to bishops suggested that as the episcopacy was responsible for reporting those who violated their oaths, they would be judged by God if a governor exploited provincial citizens, just as officials would be punished for not taking action against thieving subordinates.[236] Two later laws further suggested imperial inculpability by explicitly stating that as bishops and provincials nominated their administrators, any resulting misconduct was their own fault.[237] Even though civil service oaths were formulated to assert influence over each official's behaviour, they did not need to be successful in their aims to be useful. The mere institution of an oath could support imperial relations with subjects across the empire.

[236] Ecclesiastic responsibility: Just. *Nov.* 8.*edictum.praef.* Governors responsible for subordinates: p. 99 above.
[237] Just. *Nov.* 86.6; 149.3.

Chapter 3

Words speaking louder than actions: oath-taking in diplomacy

Shortly after his victory at battle of Strasbourg in 357, the then junior emperor Julian raided Alamannic territory to place further pressure upon these tribes. As a result, the tribal leader Hortarius begged Julian to withdraw and swore to give up all Roman captives. However, the chieftain was discovered not to have released all prisoners. Having recalled Hortarius to his presence and chastised him for his treachery, Julian made the Alamannic leader take another oath.[1] Even after the chieftain had violated an earlier promise, and therefore suggested that taking an oath would not ensure he would deal honestly with the Romans, Julian still decided to utilise the practice.

Many accounts report similar incidents concerning oaths being ignored, in some cases very shortly after the promises had been sworn. The Persian Shah Khosrow I disregarded the sworn treaty he had made earlier with Justinian, just as the Avar leader Baian reportedly offered disingenuous oaths he intended to ignore immediately.[2] These incidents raise questions about the efficacy of oath-taking in diplomatic interactions and why the practice continued to be used if it was ineffective.

Oath-taking was already a common feature of diplomatic relations before Late Antiquity. In his study of international relations prior to the mid-second century BC, David Bederman suggests that 'ancient treaties were, as a matter of definition, an exchange of oaths'.[3] According to Polybius, the First Punic war was concluded with the Romans and Carthaginians swearing to confirm the cessation of hostilities, while the fetial practice supposedly included an oath to lend religious force to Roman treaties.[4] Oath-taking also sometimes featured in diplomacy during the Principate, as indicated by the promises sworn by Caracalla to the Arsacid Parthians in 216.[5]

However, as the late antique empire existed in considerably different geopolitical circumstances to its precursors in the Principate and late Republic, diplomacy gained greater

[1] Amm. 17.10.7-9, discussed further on pp. 127-28 below.
[2] Proc. *Wars* 2.10.10; Men. Prot. fr. 25.1.
[3] Bederman 2001, 61. On diplomatic swearing in earlier periods, see Bederman 2001, 62-67 (Near Eastern), 67-79 (Greek and Roman), Bolmarcich 2007, and Bayliss 2014 (both Greek).
[4] Punic war: Polyb. 3.25.6-9. Fetials: Livy 1.24.7. On the fetial practice, see: Rich 2011.
[5] Herod. 4.11.1. See also: Tac. *Ann.* 15.16.2; Bickerman 1944; Campbell 2001, 9-10; Blidstein 2018a, 278-279.

significance for ensuring the safety of the realm.[6] New nomadic peoples such as the Huns and Avars came into contact with the Romans from the late fourth century and sixth century respectively, and several northern tribes began to coalesce into larger confederations which posed greater military challenges for the empire. Additionally, the weakened Arsacid dynasty was replaced by the house of Sasan, which more effectively utilised Persian economic resources and gradually transformed itself into a consistent and powerful foe.[7] Various military defeats compounded this weakened position, especially the deaths of Julian and Valens on campaign in 363 and 378 respectively. These incidents were not only humiliating but, through the loss of many soldiers and their equipment, also placed pressure upon imperial military resources.[8] The economy was further stressed by the loss of the West in the fifth century. Although some territories were reconquered in the sixth century, these campaigns further strained imperial resources and weakened the military capabilities of Justinian's successors. In this environment, Roger Blockley has argued that late antique emperors saw diplomacy, rather than open warfare, as the primary vehicle of relations with foreign groups and states.[9]

Consequently, the oaths sworn in this context must have become more prominent, both in practice and in sources which describe them. Indeed, this thesis opened with two passages from Procopius and Theophylact, who refer to oath-swearing as crucial for upholding peace, a form of mediation between opposing polities, and a defence against war.[10] But then we return to the original question: why did the imperial court continue to take and receive oaths during dealings with neighbouring peoples when there was ample evidence to suggest that the practice could not reliably guarantee agreements? This chapter argues that the practice had important roles to play in geopolitical interactions, but paradoxically these oaths did not need to be kept to be useful. The following discussion is divided into three sections, focusing on the many roles swearing could play in diplomacy, characterisations of foreign peoples as regular oath-breakers, and the mutability of the formulae used. Each of these strands, taken in this order, indicates both an individual explanation for why swearing still featured in late antique diplomacy and supports an overarching theme: these oaths existed as part of a grand performance, where the emperor or his representatives sought to

[6] On the following, see: Blockley 1992, esp. 1-4, 165-68; Lee 2009, 1-3; Humphries 2007, 237-43.
[7] On the rise of the Sasanian empire, see: Howard-Johnston 1995.
[8] On the costs of defeat, see: Lee 2007a, 105-6.
[9] Blockley 1992, 151. As shown by Campbell 2001, however, diplomacy was still important in earlier periods.
[10] Proc. *Wars* 2.10.10; Theophyl. 6.6.7, 11

assert their power and influence through the practice. Even if there was an expectation that these agreements might be broken, oath-swearing still had value as a performative action.

1. Nuance and variety: the many roles and types of diplomatic oath-swearing

One explanation for the continued presence of oath-taking in diplomatic contexts is the wide variety of roles the practice could play. Swearing could be used on both micro and macro levels; a formalised agreement between the empire and neighbouring groups could consist primarily of or be confirmed by an oath, just as generals could swear in more immediate, localised scenarios. Equally, sworn promises could represent the balance of authority depending on who received the promises. Internal perceptions of imperial dominance could thereby be supported by the acceptance or offering of oaths, while the essential fiction of Roman military superiority could be maintained via these actions. As such, interactions between the empire and neighbouring groups and states could be influenced in numerous ways by the introduction of an oath into the proceedings.

Perhaps the most prominent use of oath-taking in later-Roman diplomacy was as part of a peace treaty. One agreement between Attila and Theodosius II, for example, was confirmed by mutual swearing, while Justinian concluded an alliance with several northern peoples with an oath.[11] Perhaps this type of agreement was also the aim of the sixth-century Gothic leader, Totila, who fruitlessly attempted to bring an end to hostilities with Justinian by writing several letters in which he swore he would not oppose the Romans.[12]

There is some difference in the way that these treaty oaths were used depending on the recipients. Following a brief conflict in the late 470s between the Gothic leader Theoderic the Amal[13] and Zeno, the two concluded a treaty by means of oaths:

> Καὶ γίνεται ἡ σύμβασις τῶν ὅρκων ἐπὶ τούτοις, τοῖς μὲν Γότθοις δίδοσθαι κατ΄ ἔτος χρυσίου λίτρας δισχιλίας, τὸν δὲ Θευδέριχον καθίστασθαι στρατηγὸν τῶν δύο στραθγιῶν τῶν ἀμφὶ βασιλέα..., αὐτῶν δὲ τῶν Γότθων αὐτοκράτορα εἶναι, καὶ

[11] Priscus fr. 2.38-40 ἐπὶ τούτοις ἐσπένδοντο Ῥωμαῖοί τε καὶ Οὖννοι καὶ πάτριον ὅρκον ὀμόσαντες (Greek text from Blockley 1981, 226). Proc. *Wars* 8.25.7-10, esp. 7-8 Ἰουστινιανὸς βασιλεὺς ὁμαιχμίαν διωμότως πρὸς Λαγγοβάρδας πεποίηται.
[12] Proc. *Wars* 7.9.20-21 ὁ Τουτίλας γράψας γραμμάτια πολλά, ὅρκους τε αὐτοῖς τοὺς δεινοτάτους ἐνθέμενος διαρρήδην ἀπώμοσε μήποτε Ῥωμαίων τινὰ κακόν τι ἐργάσασθαι Γότθους.
[13] This Theoderic (*PLRE* 2.1077-1084 (Fl.Theodericus 7_), who was part of the noble Gothic Amal family, should not be confused with his rival Theoderic Strabo (*PLRE* 2.1073-1076 (Theodericus Strabo 5)), an influential Gothic commander without the same distinguished lineage.

> μηδένας ἐξ αὐτῶν ἀποστῆναι εἰς τὴν σφετέραν γῆν θέλοντας τὸν βασιλέα δέχεσθαι· συμμαχεῖν δὲ τῷ βασιλεῖ εἰς πᾶν ὅ τι κελεύοι.[14]
>
> A sworn agreement was made on these terms: that every year the Goths should receive two thousand pounds of gold; that Theoderic [the Amal] be appointed general of the two forces attendant upon the emperor…, that [Theoderic] should be the sole ruler of the Goths, and that the emperor should not admit anyone who wished to cross to his territory; that Theoderic should fight with the emperor against anyone whom the latter ordered…

In this agreement, the oath acted as the main feature of the treaty. The same is true of the oaths given by certain other foreign groups. The Quadi, for example, swore to remain loyal to Constantius II, just as the Tzani, an eastern federation which often invaded Armenia and nearby territories, took an oath in alliance with the empire during the fifth century.[15]

On the other hand, oath-swearing seems to have played a lesser role in the peace treaty concluded in 363 by the emperor Jovian and the Persian Shah Shapur II. According to Ammianus, after Shapur's envoy had listed the provinces the Romans were to cede and had demanded that no aid be given to the Armenians in future conflicts, the agreement was concluded by several matters:

> Quo ignobili decreto firmato, nequid committeretur per indutias contrarium pactis, obsidatus specie uiri celebres altrinsecus dantur…foederata itaque pace annorum triginta, eaque iuris iurandi religionibus consecrata…[16]
>
> When this shameful pact had been concluded, men of distinction were exchanged by both sides as hostages so no act that was against the agreement would be committed during the truce…A treaty of thirty years was thereby made and consecrated by the sanctity of oaths…

In this example, the oath, combined with the offering of hostages, acted as a confirmation of the treaty rather than the main element. Doug Lee has noted that agreements with the Persians and certain other geopolitical rivals, such as the Huns under Attila, tended to be more complex than those made with the majority of northern peoples; while the former often included matters of detail such as involvement in frontier regions or the ceding of specific

[14] Malchus fr. 2.22-28. Greek text and translation from Blockley 1981, 2:408-409.
[15] Amm. 17.12.21; Proc. *Wars* 1.15.23. On the Tzani more generally, see: Intagliata 2018.
[16] Amm. 25.7.13-14.

territories, the latter were usually simpler pacts to end hostilities or not to attack one another.[17]

More important treaties with the Persians also tended to include a written memorandum, which preserved the terms and acted as the main element of the proceedings. Lee argues that as recorded agreements possessed little value to some northern peoples, whose cultures were largely non-literate, diplomatic relations with these neighbours usually placed greater prominence on oaths as a form of verbal confirmation.[18] Nevertheless, swearing could still play a role in treaties which utilised written documents. Procopius states that the Persian Shah Khosrow swore, and then broke, oaths in relation to the peace agreement of 532, while Menander Protector's account of the settlement between Justinian and Khosrow in 562 indicates that the related transcript included imprecations and curses against infraction of the pact.[19] Evidently, the role of oath-taking could change depending on which peoples participated in the interactions in question. Swearing oaths was only one of the many ceremonial and confirmatory matters which could be used in diplomacy; gifts could be given, the splendour of the imperial court could be displayed to envoys, and hostages could be temporarily exchanged, all with aims of guaranteeing the treaty.[20] In all these cases, oaths were taken to strengthen an agreement through the invocation of higher powers and the promise of retribution against violators of the peace.

But just as the role of oaths in these dealings could change, from the main vehicle of the agreement to a subsidiary ceremonial, so too could the superficial balance of authority. To acknowledge their new status as subjects of the emperor, certain groups swore upon entry into the empire, such as the fourth-century Gothic tribes who had crossed into Roman territory by pretending to be Christians and taking various oaths.[21] A common phenomenon in Late Antiquity, particularly the fourth and early-fifth centuries, was the recruitment of large groups of neighbouring tribesmen into the armed forces with the conclusion of a treaty and the swearing of an oath. These tribesmen, often but not exclusively termed *foederati* after the Latin for 'treaty', *foedus*, were given resources and land in exchange for military

[17] Lee 2008, 113-115.
[18] Lee 1993, 36-37; 2008, 113-114. See also Miller 1971 on a similar pattern in later Byzantine treaties.
[19] Proc. *Aed.* 2.10.1; *Wars* 2.10.10; Men. Prot. fr. 6.1.384-89. Further examples: Proc. *Wars* 4.11.4; 5.6.26; 6.25.21.
[20] Hostage-exchange: Lee 1991. Gifts: Nechaeva 2014, 163-207; Rollason 2016, 55-88. Other ceremonials: Humphries 2007, 248.
[21] Eun. fr. 48.2.

service.[22] The federates who entered the service of Theodosius I took what appears to be a combined diplomatic-military oath, where an alliance between ruler and tribesmen affirmed that the new recruits agreed to fight for the empire and publicly submit to imperial rule.[23] Even though federate commanders could in reality enjoy a degree of independence from imperial authority, oaths exchanged with groups seeking to enter the empire or become the emperor's subjects were naturally given from a position of inferiority.[24] The aforementioned oaths taken by the Gothic king Theoderic to Zeno made this meaning clear, with one of the terms being that the king would attack whoever the emperor ordered.[25]

Although the majority of examples discussed thus far were made in the context of formal pacts between the empire and its neighbours, diplomatic swearing was also used on the micro scale. It is in these more localised interactions with particular leaders and individual communities that the emperor and his representatives could receive an oath without offering one in return, and thereby make suggestions of submission and subordination clearly. One particularly instructive example is the agreement with which this chapter began, between Julian and Hortarius. During Julian's incursions into Alamannic territory, a number of tribal leaders rushed to offer oaths of friendship to the Caesar to halt further destruction of their lands.[26] The Alamannic chieftain Hortarius similarly begged the Romans to withdraw and swore to give up all of his captives, but ignored his promise and held some prisoners back.[27] Once Hortarius' duplicity was discovered, the Caesar forced the chieftain to take another oath with stricter penalties - violation was explicitly stated to lead to the pouring out of the oath-breaker's blood - and to agree to rebuild the towns which had been destroyed by the Alamanni.[28] Throughout these interactions, the emperor was cast as the dominant force. Not only was Hortarius summoned to Julian's presence after the transgression of the first pact, but the king was also compelled to provide aid for the Romans. Ammianus similarly claims that one Armenian ruler, whom Constantius II feared might ally

[22] With successive generations of service, these federates became more integrated into the empire. '*Foederati*' did not necessarily mean the same thing in the sixth century as it did in earlier periods, as reflected by Olympiodorus fr. 7.4 and Proc. *Wars* 3.11.3-5. On *foederati*, see: Heather 1997, esp. 293-294; Wirth 1997, 37-55; Stickler 2007; Laniado 2015, 34-127.
[23] Zos. 4.20.5-7; 4.56; Heather 1997, 62-65. See also: Proc. *Wars* 4.1.11, which reports that Belisarius promised Hunnic soldiers plunder and in return they swore oaths, probably as *foederati*, to fight for the Romans.
[24] Federate resistance to imperial control: Liebeschuetz 2007b, esp. 479-485.
[25] Malchus fr. 2.22-28. However, the emperor agreed not to send the Goths against the Vandals, no doubt due to Aspar's abortive campaign in 431-434 (Blockley 1981, 2:457 n. 9).
[26] Amm. 17.1.13; Lib. *Or.* 18.105.
[27] Amm. 17.10.7.
[28] Amm. 17.10.8-9, esp. 9 *haec pollicitus inprecatusque si perfidum quicquam egisset, luenda sibi cruore supplicia.*

with the Persians, swore many oaths to remain loyal to the Romans.[29] As with Julian and the Alamanni, Constantius did not have to take an oath to the Armenian ruler. Instead, we are told that the emperor offered his ally many gifts and even the betrothed of his brother, Constans. In these examples, the emperor was in a position to offer something that the other wanted and so did not need to swear. These one-sided oaths suggested that the swearer had to promise to do something for the emperor or his officials in a display of obeisance in order to receive what they needed.[30]

Conversely, an oath could also be sworn to emphasise that the swearer, rather than the recipient, was in a position of dominance and authority, particularly when the promise in question concerned the safety of the recipient.[31] During his Persian campaign in 363, Julian persuaded the enemy fortress of Amathas to submit by sending the refugee Persian prince Hormizd to treat with the inhabitants. By swearing that the Romans would be merciful to any who surrendered the fortress, Hormizd successfully induced the capitulation of Amathas.[32] Analogous is the submission of a highly defensible Persian stronghold, which in 530-31 was besieged by a Roman army led by the *magister militum* Dorotheos. Swayed by both rampant starvation and the oaths of Dorotheos, the inhabitants of the fort surrendered.[33] In these incidents, the besieging Romans suggested that they could either kill the defenders or allow them to live, depending on the effort exerted to win these strongholds. As such, these oaths implied that the recipients had no choice but to accept due to the poor positions in which they found themselves.[34] This meaning was clearly intended in the promises offered to the Vandal leader Gelimer, who had found himself trapped with his forces upon a North African mountain in 534. As a Roman army sent by Belisarius was preventing the Vandals from leaving or supplies from entering, Gelimer's soldiers suffered greatly and the leader believed his ultimate defeat was imminent. Gelimer thereby offered to surrender to the Romans and sought assurance that he would not be attacked upon leaving his position. Only too happy to

[29] Amm. 20.11.3.
[30] See also: Claud. *De IV Cons.Hon.* 448-49, which presents northern tribes supplicating the emperor by falling to their knees and swearing oaths.
[31] Internal dealings with usurpers and political rivals used similar oaths (e.g. Eutr.10.6; Soc. 4.5; Proc. *Wars* 3.3.29).
[32] Amm. 24.1.8-10.
[33] Malalas 18.66.
[34] cf. Malchus fr. 20.148-157, where Sabinianus, a fifth-century *magister militum per Illyricum*, refused to swear that he would release Gothic hostages. Although this refusal aligned with his policy of no negotiations with Theoderic the Amal (Marc.com. s.a. 492.1-2; Croke 2001, 62-69), Sabinianus' excuse - that he never took oaths and would not act against 'his own principle' (παρὰ τὸν αὐτοῦ νόμον) - may indicate that his religious scruples prevented him from swearing. On Christian arguments against swearing, see: pp. 167-174 below.

comply, Belisarius instructed his representatives to swear oaths of safe passage to Gelimer and, consequently, the Vandals capitulated to the opposing forces.[35]

However, the Romans were not always in a position of power and so were sometimes required to accept safety promises from a weaker standpoint. In 542, during the second phase of the wars in Italy, Totila surrounded the city of Naples with his army. The city's best chance of remaining free from Gothic control was a relief force sent by Justinian, but as these soldiers were killed *en route* by adverse weather conditions, the governor of Naples had been captured by the Goths, and those under siege were suffering from famine, the situation for the Neapolitans looked bleak. To take advantage of the defenders' position and unwilling to storm the city walls, Totila addressed the Neapolitans and swore that the garrison could depart freely while the civilians would be unharmed if they capitulated.[36] The implication was that Totila was theoretically in a position to sack the city. As a result, the Neapolitans surrendered and the city was taken by the Goths.[37] Of course, it was preferable for the emperor and representatives of the empire more generally to appear to be powerful. One of the main reasons that Jovian's treaty with Shapur II was perceived negatively by Ammianus was the clear subordination of the emperor to his enemy, who had forced him to cede a large number of territories.[38] Nevertheless, at times the Romans had no choice but to accept one-sided oaths or acquiesce with the demands of neighbouring groups and states.

The dynamics of authority as represented by these oaths naturally depended on who swore to whom. In instances where oaths were exchanged reciprocally, as seems to have occurred in the treaty between Jovian and the Persians, the inherent relationship of the parties involved differed from that presented by one-way agreements.[39] In some incidents, these oaths could imply a superficial equality between the swearers. Relations with the Persians often included overtures of ostensible parity but these messages should be understood in terms of the geopolitical competition between the two established polities.[40] Such displays were rarely deployed in relations with northern peoples, who were seen to be lesser.[41] And

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[35] Proc. *Wars* 4.7.1-2, 9-14, oath at 11. Comparable safety oaths: Proc. *Wars* 4.4.38; Evagr. 5.7; Sebeos 8; *Book of Pontiffs* 61.1.
[36] Proc. *Wars* 7.7.1-20, oath at 16. See also 2.7.35-36, which reports that Khosrow I swore similar promises to the inhabitants of Beroea.
[37] Analogous, albeit on a smaller scale, is the capture of the soldier Basas by Avars, who gave the soldier an oath of safety in return for aid in taking a fort (Theophyl. 2.16.9).
[38] On this treaty, see: den Boeft et al. 2005, 244-246.
[39] Note also that Menander Protector's account of the agreement between the Romans and the Persians in 562 (fr. 6.1.384-389) suggests that the imprecations referred to both parties.
[40] On this relationship, see: Humphries 2007, 245; Whitby 2008, 125-129; Maksymiuk 2018.
[41] This perception is discussed further in the next section.

yet, the emperor did occasionally swear oaths mutually with northern neighbours, as occurred between Attila and Theodosius II, and also Theoderic and Zeno.[42] These reciprocal promises appear instead to indicate joint commitment to the agreement in question. A suggestion of mutual respect for the concluded treaty would theoretically strengthen the pact and indicate that both parties were at least superficially invested in peace. These demonstrations of reciprocated interest, although for the most part artificial, could help to maintain diplomatic agreements.

Other oaths could be deployed in localised contexts in attempts to influence the course of diplomatic relations and mitigate a loss of influence when military action was not feasible. During the late sixth century, Baian, leader or Khagan of the nomadic Avars, wanted to build a bridge over the river Save into Roman territory, purportedly to attack nearby Slavic tribes. The general Sethus, based at nearby Singidunum, feared that the Avars' actions were a preliminary to an attack upon the city. To allay these fears, Baian promised to swear that he was not planning an assault, which would contradict the Avars' earlier treaty with Tiberius.[43] Significantly, although Menander Protector informs us that Sethus and the officials in Singidunum did not believe Baian's claims, the Romans were still forced to accept the Avars' promises:

> Ὅμως δὲ οὔτε παρασκευὴν ἱκανὴν ἔχειν οἰόμενοι, στρατιωτῶν τε ὀλίγων αὐτοῖς παρόντων καὶ δρομάδων νεῶν πολλῶν οὐ παρουσῶν... ἅμα τε τοῦ Χαγάνου διαπειλεῖν ἀρξαμένου καὶ διαμαρτύρασθαι, ὡς αὐτὸς μὲν ταῖς πρὸς Ῥωμαίους συντεθειμέναις αὐτῷ περὶ τῆς εἰρήνης ἐμμένοι συνθήκαις... εἰ δέ τις θαρρήσοι Ῥωμαίων ἓν γοῦν ἀφεῖναι βέλος κατὰ τῶν ἐπιχειπούντων πηγνύναι τὴν γέφυραν, γινώσκειν αὐτοὺς ὡς αὐτοὶ τῆς αἰτίας τῆς τῶν σπονδῶν ἤρξαντο καταλύσεως.[44]
>
> They [Sethus and the city's inhabitants] did not consider that they had an adequate force since they had few soldiers available and many of the swift warships were absent…Moreover, the Khagan [Baian] was beginning to threaten and aver that he himself was abiding by the terms of the peace with the Romans…[and that] if any Roman dared to hurl one weapon against those working to build the bridge, they should be clear that they were the first to break the treaty.

[42] Priscus fr. 2.38-40; Malchus fr. 2.22-28. Reciprocal oaths were also sometimes exchanged in internal political dealings, as in Soc. 6.6.12-13 (full text p. 143 below).
[43] Men. Prot. fr. 25.1.49-50.
[44] Men. Prot. fr. 25.1.55-65. Greek text and translation from Blockley 1985, 220-221.

The Romans were unable to prevent the Khagan from building a bridge due to a lack of troops. The acceptance of Baian's oaths was therefore an attempt both to prevent an Avar incursion and also to avoid a test of Roman military strength, a test the city would have failed. Similar is the general Narses' repeated acceptance of oaths offered by the inhabitants of Lucca in 553. During the latter part of Justinian's campaigns in Italy, several cities in Etruria willingly complied with the general, but Lucca remained defiant. Believing that a Gothic force would soon arrive, the city's officials swore to surrender to the general within thirty days, but once it became clear that aid was not coming, the inhabitants of Lucca ignored their promises.[45] Growing angry, Narses laid siege to Lucca, pretended to execute hostages from the city, and sought to extricate another oath from the inhabitants, who complied and again swore to hand over the city.[46] The general's acceptance of this second oath, which the Luccans immediately broke, appears to have been motivated by necessity; Narses' siege continued for several months and the Romans appear to have been unable to take the city without considerable cost.[47] The cases of Narses and Sethus represent incidents in which the Romans had no choice but to accept the oaths offered. There was little chance that the emperor's forces would be victorious in battle, but the receipt of these promises forestalled a trial of imperial resources, thereby helping to support a presentation of Roman superiority.

Diplomatic oaths on macro and micro scales could also be used in attempts to persuade foreign peoples to act in certain ways and gain some form of advantage. The aforementioned safety oaths, for example, could manipulate enemies to leave positions or fortifications which would be too costly to take by force. Places of strategic importance could therefore be gained with relatively little bloodshed. Of course, the swearers could always later renege on their promises and kill the individuals who were now in their power. Marcellianus, a fourth-century *dux* of Valeria,[48] appears to have done so by breaking an oath through the murder of a tribal chieftain at a banquet.[49] Although Zosimus does not clarify precisely what Marcellianus swore, it seems that the *dux* promised the chieftain's safety given that his death violated the agreement. Analogous is the case of Sergius, governor of

[45] Agathias 1.12.1-2.
[46] Agathias 1.12.3-13.3.
[47] Agathias 1.13.4; *PLRE* 3.920-921 (Narses 1).
[48] Amm. 29.6.5-6, probably accurately, gives these details, whereas Zos. 4.16.4 names this individual Caelestius, presumably by his *signum.* See further: Lee 2009, 7 n. 2.
[49] Zos. 4.16.4. Amm. 29.6.5 does not refer explicitly to an oath but to the violation of hospitality laws (*hospitalis officii sanctitate nefarie uiolata*). The assassination of northern chieftains at banquets was a common Roman tactic (Lee 2009, 15-16).

Tripolitana c. 543-44. On the pretence of facilitating peace, Sergius persuaded the chieftains of an African tribe to attend a banquet and guaranteed their safety with oaths.[50] Once these leaders had arrived, however, the governor ordered their deaths. Although Procopius' *Wars* repeats rumours that Sergius acted in response to the treachery of these tribesmen, the *Secret History* gives the lie to this claim. It seems that governor took and broke these oaths to gain a diplomatic advantage, thereby luring the tribal chieftains into a position where they could be eliminated with little risk.[51]

Oath-swearing could be used in other attempts to manipulate the diplomatic situation. The emperor Zeno, for example, wanted Theoderic the Amal to attack rebelling forces led by another Gothic commander, Theoderic Strabo. Theoderic the Amal refused to act until the Romans had sworn never to conclude a treaty with the other general and so Zeno, along with the Senate of Constantinople, swore to this effect.[52] According to the history of Malchus, during the subsequent encounter Theoderic Strabo questioned the emperor's motives in forming an agreement with Theoderic the Amal. The former of the two commanders reportedly argued that Zeno wanted to diminish both Gothic forces, who were potential threats to the empire, by playing them off against each other without putting Roman soldiers at risk.[53] The emperor probably did intend for the two commanders to weaken each other, but the tactic was not entirely successful in this case, as the two Theoderics formed an alliance and became more resistant to imperial control.[54] A comparable yet more successful attempt to use swearing to turn enemies against each other can be seen in one message sent by Justin I to Kavadh I. The emperor informed the Shah that his Hunnic allies had previously taken an oath to the Romans and intimated that Zilgibi, the Hunnic leader, was intending to betray the Persians.[55] As a result, Kavadh turned upon his Hunnic allies and murdered Zilgibi. Late antique Roman diplomacy often involved the exploitation of divisions and the persuasion of neighbouring peoples to attack each other.[56] Oaths could clearly contribute to these tactics.

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[50] Proc. *Wars* 4.21.4 refers to Sergius' promises as πιστά, 'pledges', whereas 4.21.19-21, *SH* 5.28, and Theoph. AM6026 mention oaths.
[51] Similar safety promises were commonly violated in imperial dealings with political rivals, as in the assassination of Licinius (Jerome *Chron. s.a.* 323; Eutr.10.6; Zos. 2.28.2).
[52] Malchus fr. 18.2.5-14.
[53] Malchus fr. 18.2.30-42. Note also that Theoderic Strabo purportedly accused Theoderic the Amal of being a frequent perjurer (fr. 18.2.32).
[54] Malchus fr. 18.2.55-4.22.
[55] Malalas 17.10. This example is discussed further on p. 137 below.
[56] e.g. Amm. 28.5.10; Men. Prot. fr. 2.13-32; 22.13-18. On 'dirty tricks', see: Whitby 2008, 120-122.

According to Procopius, Belisarius was able to bring an end to the first phase of Justinian's lengthy Italian campaign via a similarly manipulative oath. During the siege of Ravenna in 540, the Gothic defenders reportedly offered to make Belisarius their leader to rival Justinian, perhaps due to the poor living conditions and famine within the city. Although Procopius suggests that Belisarius had no ambition to rule in his own right and had previously sworn to the emperor that he would never rebel, the general took advantage of this proposition to gain entry into the city.[57] The Gothic envoys repeatedly requested that Belisarius affirm by oath both a truce with the tribes and also to accept their offer of imperial power but, following the council of his commanders and advisors, the commander only swore regarding the former of these conditions.[58] The Roman general stated that he would only take an oath to become emperor in the presence of Vitiges, the Gothic ruler, and their other leaders. As a result, Belisarius was allowed into Ravenna with a considerable portion of his army.[59] Believing that the proposal was too good to be rejected and fooled by the promise to swear, the Goths thereby lost both a significant city and their rulers, who were easily captured by the Romans.[60] Due to the pressures of the siege and the expectation for the general to swear an oath, Belisarius was able to inflict a significant defeat on his opponents.

Another tactic to manipulate diplomatic enemies was to circumvent the sworn agreement itself. As noted in the previous chapter, it was possible to 'side-step' an oath by following the wording of the promise while working against the recipient's expectations.[61] The utility of such circumventions in diplomacy is evident in the case of Celer, *magister officiorum* under Anastasius and later a senior military commander. An envoy sent by Kavadh I sought to exchange Roman hostages for the Persians being besieged by Celer's forces in Amida. Celer rejected this appeal but accepted the envoy's following request to send food to the city. The commander was then asked to take an oath that these provisions would be allowed through his siege-lines, but according to the sixth-century chronicle of Pseudo-Joshua Stylites,[62] Celer organised the situation to his best advantage:

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[57] Belisarius' reported unwillingness to rule: Proc. *Wars* 6.29.17-36, esp. 20. cf. 6.30.1-2 and Zonar 14.9 (=Dindorf 1870, 282), which suggest that Belisarius was recalled to Constantinople due to rumours of his desire for power.
[58] Proc. *Wars* 6.29.21-28.
[59] Proc. *Wars* 6.29.28-31.
[60] Proc. *Wars* 6.29.35-41.
[61] See pp. 94-95 above. On this phenomenon in earlier diplomacy, see Wheeler 1984, but note that Bolmarcich 2007, 31-38 has criticised Wheeler's arguments. Additionally, although Wheeler offers brief discussion on later-Roman circumventions, his points regarding the *Rhetorica Militaris* are not relevant here due to the attribution of this work to the ninth-century author, Syrianus Magister (Zuckerman 1990; Rance 2007).
[62] On this source, see: Trombley and Watt 2011, xxi-xxxvii.

> [The envoy said:] 'Swear to me, you and all the officers and army commanders who are with you, that no one will kill those whom I send.' They all swore to him, except Nonnosus the *dux*[63] who was not with them by design. The *magistros* [Celer] had left him out for this very reason, that he should not be bound by any oath if it were taken.[64]

The Persians, attempting to sneak arrows to the defenders, were attacked by Nonnosus who was intentionally left out of the oath-swearing ceremony. Although the envoy complained to the *magister* about the treachery, Celer refused to punish anyone, claiming that he did not know who had killed the porters. Perhaps the commander believed that this trick was excused by the Persians' furtive attempt to smuggle weapons into the city. In any case, Celer averted a potential defeat by agreeing to swear as requested, but he also created a form of escape clause, whereby Nonnosus could act against the Persians as required without the oath being violated. Through this promise and its circumvention, the Persians were lulled into a false sense of security and thereby out-manoeuvred by the Romans. Although Celer's later attempt to persuade several Persians to leave Nisibis by a safety oath failed due to a lack of trust, perhaps arising from this incident, the *magister* prevented a potential lengthening of Amida's siege via the circumvention of his sworn word.[65]

As envoys often played important roles in the preliminaries leading to the conclusion of treaties, imperial representatives could facilitate the agreements made between the Romans and neighbouring regimes through oath-taking.[66] While many examples could be discussed here, two are particularly instructive.[67] In 577, Roman and Persian embassies met at the borders between their lands to address the violation of an earlier pact. One key issue was control over the frontier city Dara. The Roman representative Zacharias requested that the fortress be ceded to Tiberius, whereas his Persian counterpart, Mebod, stated that Khosrow I was opposed to the idea.[68] In order to facilitate the formation of a new treaty, Mebod swore that Dara would be gifted to the Romans at a later point if the envoys could come to an

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[63] Trombley and Watt 2011, 98 n. 461 suggest that Nonnosus was probably Nonius, the contemporary *dux Mesopotamiae* (*PLRE* 2.787 (Nonius)).
[64] Ps.-Josh. 80. Translation from Trombley and Watt 2011, 98.
[65] Ps.-Josh. 97. A comparable example may be found in Amm. 24.1.8-10, where Julian's envoys swore to the defenders of a fortress to be merciful if they surrendered but razed the stronghold and deported the population. As other fortresses had received similar treatment in this area (Morony 2004; Lee 2007a, 136-137), the defenders may not have been surprised by Julian's actions.
[66] On diplomatic embassies, see: Gillett 2003, esp. 4-5, 11-35; Humphries 2007, 255-259.
[67] Other examples: Malchus fr. 20.205; Ennodius *Life of Epiphanius* 72; Proc. *Wars* 5.4.17; *Chron. Pasch. s.a.* 615.
[68] Men. Prot. fr. 20.2.68-131.

agreement during this meeting.[69] Comparable is the oath given by the Persian envoy Yesdegusnaph to Peter the Patrician, *magister officiorum* under Justinian, during the preliminaries of the peace agreement in 562. As both parties contested who should rule over the Suanians, who lived north-east of Lazica, Yesdegusnaph swore to Peter that he would support the Romans' claim if a deal was reached at that point.[70] These envoys were able to begin the process of negotiation and persuade their counterparts to come to an agreement in their diplomatic interactions.

The point of diplomacy, in any period as well as in Late Antiquity, was to achieve an advantageous situation, whether that was the settling of peace, the weakening of opponents, or the capture of cities. Oath-swearing, which could be deployed in numerous types of interaction between the empire and its neighbours, could thereby help to achieve these aims. Unlike other diplomatic ceremonials, such as the offering of gifts or hostages, taking and receiving oaths did not have any economic or physical cost *per se*, but could still conclude agreements and play an important role in the process of negotiation.

2. The stereotype of foreign oath-breaking

Oaths could evidently be useful in theory, and yet numerous accounts claim that neighbouring peoples habitually violated their sworn agreements. Given that we rely almost entirely on literary sources for oath-swearing in diplomatic relations, it is important to recognise that accusations of frequent perjury levelled against foreigners were related to Roman social preconceptions of superiority over neighbouring peoples.[71] Even though there was some belief that sworn promises with external groups could not reliably ensure peace, reports of foreign oath-breaking were based upon Roman stereotypical associations, particularly in works of literature, and did not accurately reflect actual practice.

A primary example of one neighbouring group often associated with perjury is the nomadic Avars, who became a regular foe of the empire in the late sixth century.[72] Theophylact often describes the Avars as untrustworthy and avaricious, as in his account of a

[69] Men. Prot. fr. 20.2.131-134.
[70] Men. Prot. fr. 6.1.285-287.
[71] Hostility against 'barbarians' was a staple of classicising sources in particular (Chauvot 1998, esp. 8-12). See also Torrance 2012 on perceptions of foreign perjury held in earlier Greek societies.
[72] Justinian's treaty: Men. Prot. fr. 5.1-2. On the Avars during this period, see: Pohl 1988, 18-162; Liebeschuetz 2007a, 114-120.

treaty concluded following their seizure of Sirmium in 581/82.[73] Discussing the stimuli for the dissolution of this pact several years later, Theophylact suggests that the Khagan Baian took umbrage with the gifts and payments sent by Maurice and demanded that the annual tribute payed to the Avars be increased. After the emperor refused to comply, the account tells us, rather hyperbolically, that the Khagan immediately 'threw his oaths to the winds'.[74] Several months of conflict followed, following which Maurice sent the distinguished civil servant Elpidius and Comentiolus, at the time a *scribo* (an imperial bodyguard),[75] to treat with the Khagan. In the course of negotiations, Baian reportedly tried to intimidate the Roman envoys through threats, but while Elpidius did not react to this intimidation Comentiolus responded to the Khagan angrily. In this diatribe, the *scribo* twice refers to the Avars' broken oaths:

> Ἐδόκουν σε Ῥωμαῖοι, Χαγάνε, τούς τε πατρῴους θρησκεύειν θεοὺς καὶ τοὺς ἅλας τῶν ὅρκων αἰσχύνεσθαι καὶ δεξιὰς καὶ συνθήκας μηδαμῶς ἀποσείεσθαι... Οἱ σοὶ παρὰ σοῦ παραοινοῦνται θεοί· ὅρκοι βιάζονται, σπονδαὶ καταλέλυνται.[76]
>
> Khagan, the Romans thought that you would worship your ancestral gods, respect the guarantees of oaths, and in no way repudiate pledges and agreements… Your gods have been outraged by you; oaths are violated [and] agreements are broken.

The repeated emphasis on Baian' ignored sworn agreements in this clearly critical speech is significant. The first part of this passage opens Comentiolus' retort and both references to the oaths intimate that Baian's behaviour was impious. While the historicity of such speeches in historiographical works is suspect, Theophylact evidently believed that the Avars' oath-breaking was serious yet unsurprising.[77] Even though elsewhere in the work the *scribo* is presented unfavourably, here the author commends Commentiolus highly for his criticisms and even terms the bodyguard a great man.[78]

Contact with the Avars in other sources is similarly characterised by the tribe's disingenuousness and perjury. Menander Protector describes Baian's attempt to bridge the Save and thereby breach their treaty with the Romans as purposefully deceptive. The Khagan

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[73] Theophyl. 1.3.2-8.
[74] Theophyl. 1.3.8-13, quote at 13 [Baian] τοὺς ὅρκους ταῖς αὔραις φέρειν ἐδίδου.
[75] *Scribones* appear to have been bodyguards sent on special missions (Jones 1964, 2:658-659), as is the case here. Comentiolus later held a number of higher military commands (*PLRE* 3.321-325 (Comentiolus 1)).
[76] Theophyl 1.5.1, 10. Translation from Whitby and Whitby 1986, 26-27.
[77] Speeches in historiographical sources: Fornara 1983, 142-68; Rohrbacher 2002, 159-62.
[78] Theophyl. 1.4.8, 5.1. Unfavourable presentations of Comentiolus: Whitby and Whitby 1986, xxiii-xxiv, 210-211, n. 8-9.

offered oaths which he did not intend to keep to the inhabitants of Singidunum, who in any case did not believe Baian's assertions.[79] The *Strategikon,* a military treatise often attributed to Maurice, represents dealings with the Avars in a similar manner.[80] In Book 11, which was intended to instruct readers about the natures of foreign peoples and therefore indicate how to fight against these societies, the *Strategikon* singles out the Avars as habitual violators of all oaths and diplomatic conventions.[81] Although the treatise may reflect knowledge gleaned from recent encounters,[82] the *Strategikon,* particularly Book 11, was no doubt influenced by traditional stereotypes of foreign peoples.

This section of the *Strategikon* also more generally states that nomadic peoples were untrustworthy. Perceptions of the Avars as oath-breakers were connected to wider perceptions of nomads ignoring international conventions. Brent Shaw explains this representation of nomadic tribes as arising from the traditional hostility of sedentary societies towards more mobile peoples.[83] As indicated by the *Strategikon*'s comments on nomads, this hostility was not limited solely to classicising historiography. A further example of a non-classicising source repeating this characterisation is the sixth-century chronicle of John Malalas, who reports that one Hunnic ruler, Zilgibi, initially concluded a treaty with Justin I but then allied himself with the Persians.[84] As noted in the previous section, Justin informed Kavadh that Zilgibi had transgressed oaths sworn to the Romans. Malalas' account, and indeed two later chronicles which repeat the tale, emphasises the Hunnic leader's duplicity and perjury.[85] As a result of Zilgibi's perfidy, Kavadh not only killed a large number of his Hunnic allies but also opened negotiations for peace with the Romans. Cooperation between the Romans and Persians was not unheard of before this point, and Zilgibi's behaviour cannot have been the sole stimulus for Kavadh's desire for peace. [86] Nevertheless, the chronicle's presentation of the outrage caused by the Huns' defection no doubt represents both Justin's and Kavadh's perceptions of the treacherous tribesmen, and also Malalas' own predispositions against nomadic peoples.

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[79] Men. Prot. fr. 25.1.5-10, 49-96. cf. fr. 12.5.84-85 where Baian, who was also apparently angered by unsatisfactory imperial gifts before the siege of Sirmium, swore to attack the empire.
[80] On the authorship, dating, and nature of the *Strategikon,* see: Rance 2004, 266-269.
[81] *Strategikon* 11.2.4-5. On Book 11, see: Wiita 1977.
[82] Lee 1993, 102.
[83] Shaw 1982/3.
[84] Mango and Scott 1997, 255 n. 2 suggest that Zilgibi was a leader of the Sabiri, who lived beyond the Caucasus and often threatened the Caspian Gates.
[85] Malalas 17.10; *Chron. Pasch. s.a.* 522; Theoph. AM6013.
[86] Roman-Persian co-operation: Rubin 1986, 32-47; Whitby 1988, 264-268.

Given that many northern peoples were similarly often portrayed as less sophisticated than the Romans, [87] these individuals were also regularly depicted as oath-breakers. The chronicle of the bishop Hydatius, for example, not only describes the Suebi, a northern group which moved into Spain in the fifth century, as *gens perfidia,* 'an untrustworthy people', but also claims that these tribesmen violated a treaty with Theoderic the Amal and the western emperor Avitus, thereby 'breaking all [their] oaths'.[88] As indicated by Ammianus' account of Julian's interactions with Hortarius, the Alamanni were similarly often associated with perjury.[89] Ammianus also reports that several Quadi envoys, feebly attempting to explain to Valentinian I why their tribe had recently attacked Roman forces, 'fortified their usual set of excuses by augmenting them with the faith of an oath'.[90] Neither Ammianus nor Valentinian accepted the pretexts offered nor believed the Quadi's oath due to stereotypes concerning foreign perjury.

Later northern tribesmen were also associated with this trope. In 566, the Gepid leader Cunimund sought to acquire Roman aid against the Lombards and swore to give Justin I portions of their territory in return. Menander Protector repeats rumours that the Gepids had previously promised to hand over the same territories yet had shamelessly reneged on this agreement, thereby suggesting that Cunimund's oaths were unreliable.[91] While Menander questions the reliability of these rumours,[92] Procopius is more certain in stating that the Franks had contravened oaths taken in confirmation of a treaty with Justinian by marching into Italy. We are told that Belisarius, having written to the Frankish leaders, expressed regret that the sworn agreement had been ignored.[93] Moreover, in the ensuing conflict, both Romans and Franks sought to secure an alliance with the Goths. To persuade Vitiges to support the empire, Belisarius' envoys highlighted the Franks' prior oath-breaking by criticising the tribe for disrespecting the gods invoked and noting their proven unreliability.[94]

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[87] e.g. *Strategikon* 11.3 on 'light-haired' peoples such as the Franks, Lombards, and Germannic tribes. See further: Wiita 1977, 189-192, Blockley 1992, 54.
[88] Hyd. 208 [203], 215 [219] *Sueui promissionum suarum ut semper fallaces et perfidi,* 162 [169] *omni iurationi uiolata.* See also earlier in the latter passage, where Hydatius not only highlights the oaths used to solidify the treaty (*iurati foederis promissa seruauernt*) but also displays the Gothic king Theoderic as honouring his agreement with Avitus.
[89] Amm. 17.10.7. See also Lib. *Or.* 18.108 on Vadomarius breaking a treaty, Julian punishing his treachery, and other Alammanic leaders 'piling oath upon oath' (προστιθέντων ὅρκοις ὅρκους) to assure Julian of their honesty.
[90] Amm. 30.6.2 [The envoys] *usitatas illas causationum species* [*iuris*] *iurandi fidem addendo firmabant.*
[91] Men. Prot. fr. 12.2.15-19.
[92] Men. Prot. fr. 12.2.22-30.
[93] Proc. *Wars* 6.25.21.
[94] Proc. *Wars* 6.28.19-22.

The Goths themselves were regularly associated with duplicitous oath-taking. Eunapius describes one tribe entering Roman territory by swearing that they were Christians and dressing some of their compatriots as ecclesiastical authorities. The account states that after these tribesmen had crossed imperial borders, the Goths immediately violated their oaths, which they apparently held in contempt, to steal from the empire.[95] Another example is provided by Eunapius, and repeated by Zosimus, who makes considerable use of Eunapius' history in his work.[96] According to these authors, the leaders of one Gothic group, who had previously asked to live in the empire, became locked in fierce debate regarding their future actions. One side supposedly wanted to remain true to the oaths taken upon entry into the Roman empire, whereas their opponents argued that their tribes should betray the emperor as they had sworn to do so in their own territories.[97] The formal debate presented by Zosimus and Eunapius was a literary commonplace in historiographical works and was therefore probably fabricated.[98] In any case, both works praised the federates who wanted to support the treaty with Theodosius I, in contrast to their opponents who, seeking to ignore their sworn commitments, were presented poorly. Eunapius evidently drew upon traditional ethnographical tropes, as further indicated by his characterisation of the tribe in question as Scythian, a term frequently used to refer to both numerous peoples living around the Black Sea and also nomadic tribes.[99] As northern peoples were commonly characterised as chaotic, devious, and habitual treaty-breakers, it is unsurprising to find that these tribes were also often associated with perjury.[100] Crucially, although Eunapius refers to the promise to take advantage of the Romans as 'very unholy and beyond the typical savagery of barbarians', regardless of which side of the debate was successful, an oath would have been violated.[101]

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[95] Eun. fr. 48.2, esp. 11-13. Eunapius' claims that the Goths manipulated Christian beliefs in this manner were also surely a reflection of the author's fanatical hatred of Christianity.
[96] Blockley 1981, 1:2-3.
[97] Eun. fr. 59; Zos. 4.56; Heather 1991, 139-140, 187-188. Eunapius neglects to mention the oaths sworn upon entry into the empire, while Zosimus does not explicitly term the Gothic agreement to attack the Romans an oath.
[98] See e.g. the Laz debate in Agathias 3.8.4-14.1, with Braund 1994, 308-309 and Whitby 2008, 120.
[99] On Goths being designated as Scythians, see: Liebeschuetz 2011, 200-203. On Scythians as coterminous with steppes nomads, see: Wiita 1977, 120.
[100] On characterisations of northern tribes as devious and untrustworthy, see: e.g. Sid. Ap. *Ep.* 6.6.1; Wanke 1990, 131-32; Gillett 2003, 55 n. 68. See also Dauge 1981, 431-440, 461, 535-557, 657-663, 746-747 on perceptions of foreign infidelity in contrast to the Romans.
[101] Eun. fr. 59.8-9 [The oaths] ἦσαν ἀσεβέσταται καὶ βαρβαρικὸν ἦθος εἰς ὠμότητα παρατρέχουσαι (Greek text from Blockley 1981, 2:86). The opposing parties appear to have fought each other, with the pro-Roman side emerging victorious.

Procopius applied this designation of habitual oath-breakers in particular to the North African tribes, who were often collectively termed the Mauri or Moors.[102] The author states that the sixth-century tribes who lived around Byzacium and Numidia had risen in revolt due to their deceitful and savage natures; the Mauri supposedly feared neither God, men, nor the deaths of their hostages, even if these individuals were their children, and cared nothing for their oaths.[103] These claims were repeated alongside general slights against Moorish trustworthiness, to suggest that their behaviour indicated a general impiety as well as their lack of respect for sworn agreements.[104]

Although many foreign peoples from beyond imperial boundaries were portrayed as uncommitted to their oaths, not all neighbouring groups and states were judged to be equal. As noted earlier, diplomacy with the Persians often involved more complex terms than relations with northern tribes, at least until the latter stages of Late Antiquity.[105] While this difference in treatment was no doubt partially due to the small value placed by many northern peoples upon the written word, perceptions of the Persian empire as a more 'equal' foe for the Romans must also have had an effect. After the upheavals of the third century, there was increasingly a tacit recognition of comparable status between the two established and competing political units.

However, this comparison often did not extend to Roman written works. Although the ethnographic survey in Book 11 of the *Strategikon* acknowledges certain positive traits in the Persians, the chapter still states that these individuals were usually wicked and cunning.[106] Numerous historical works associate the Persians with deception and a large number of these sources also refer to the violation of oaths.[107] Menander, for example, states that the envoy Mebod, who as discussed earlier swore that Dara would be granted to the Romans, wanted to manipulate the proceedings and so swore an oath with no intent to keep it.[108] Malalas reports an equally duplicitous tactic employed by Shapur II. Two Persian nobles, with slit noses to suggest that they had been punished, swore to Julian during the emperor's campaign that they

[102] Grouping of tribes as Mauri: Modéran 2003, 37, 419-444. Negative stereotypes: Modéran 2003, 38-42. On the Mauri more generally, see: Modéran 2003, esp. 35-42, 565-681; Merrills and Miles 2010, 124-129, 252-255.
[103] Proc. *Wars* 4.8.9-11.
[104] Proc. *Wars* 4.11.4-5, 8, 13.37, 17.10, 24.3-4, 26.2-3. As discussed on pp. 147-148 below, various African tribal leaders and other peoples criticised the Romans for their perfidiousness.
[105] See pp. 125-126 above.
[106] *Strategikon* 11.1.1-2; Wiita 1977, 61-63.
[107] See Whitby 2008, 130-135 for various examples without reference to oath-taking.
[108] Men. Prot. fr. 20.2.131-134.

wanted to betray the Shah.[109] In reality, these nobles had been sent by Shapur to gain the emperor's trust and lead the Romans astray. This ploy worked and Julian's army were stranded in a desert with little in the way of resources. Similar is Ammianus' presentation of Shapur himself, who we are told not only broke the treaty he had sworn with Jovian in 363 but also tricked an Armenian king into captivity by means of perjury and flattery.[110] Procopius records an analogous incident, taken from an earlier Armenian history which states that Arshak II, Armenian king ca. 350-68, was persuaded to travel to Ctesiphon by oaths of safety sworn by Shapur.[111] Due to fears of his sedition, Arshak was subjected to a magic ritual to determine his loyalty and imprisoned for failing the test. Pertinently, Procopius highlights the various oaths involved in this treachery; the account stresses not only the treacherous oath-swearing of Shapur, but also how the Shah chastised Arshak for disregarding their sworn allegiance while simultaneously ignoring the king's oaths of innocence.[112]

As may be illustrated by one incident involving the Shah Peroz, a propensity for ignoring oaths was regularly associated with Persian rulers in particular. While the two main accounts diverge slightly on what exactly occurred, Peroz swore in confirmation of a treaty with the Hephthalites in 469.[113] Pseudo-Zachariah suggests that the Hephthalites entered Persian territory to gain a higher payment from the Persians than was offered to them by the Romans and Peroz, agreeing to their demands, swore in confirmation of a pact with the tribal leaders.[114] Procopius, however, states that a Persian army had become trapped during a battle with the tribe and was forced to surrender, with Peroz being compelled to swear never to wage war against the Hephthalites.[115] While there are issues concerning the chronology of events,[116] Peroz's deception and perjury is highlighted in both accounts: Pseudo-Zachariah claims that the Shah was commonly viewed as a liar for giving false oaths and recommencing hostilities once he was safe, while Procopius provides more information concerning his

[109] Malalas 13.22.
[110] Amm. 27.12.1-3.
[111] Proc. *Wars* 1.5.14-29, drawing upon the more detailed account in *Buzandaran* 4.54. Note also that Procopius names Shapur 'Pacurius'.
[112] See also Sebeos 10, which reports another incident in which a Persian commander tricked an Armenian leader by a false oath.
[113] Ps-Zach. 7.3A only refers to this tribe as Huns but Proc. *Wars* 1.3.2-4 states that the Hephthalites, or 'White Huns', were a sedentary Hunnic tribe. This report is repeated with less detail about the oaths by Theoph. AM5968. On the Hephthalites, see: Ps-Zach. 12.7K.9; Börm 2007, 207-208; Greatrex et al. 2011, 450-451 n. 217.
[114] Ps-Zach. 7.3A.
[115] Proc. *Wars* 1.3.8-18.
[116] Pseudo-Zachariah's account includes a number of inaccuracies (Greatrex et al. 2011, 232-234, ns.26-34).

unfaithfulness.[117] The Hephthalite ruler had demanded that the Shah kneel before him, but Peroz reportedly arranged his prostration to pay obeisance to the sun, performing what Procopius tells us was a Persian custom while appearing to give homage to the king, and took the aforementioned oaths.[118] Peroz shortly afterwards recommenced the conflict and both accounts state the Hephthalites were enraged by the deception and the broken oaths. Procopius in particular draws attention to Peroz' oaths; the next section of the history opens with a reference to the violated promises, the outrage felt by the Hephthalites, and the salt over which Peroz had previously sworn being attached to the Hephthalite banners.[119]

Another Shah presented as an oath-breaker by Procopius is Khosrow I, who ruled from 531 to 579. Throughout the *Wars,* Khosrow is presented as having violated diplomatic conventions and previously sworn oaths.[120] Perhaps the most direct censure of Khosrow's perjury comes from the panegyrical *Buildings,* in which Procopius states the Shah's violation of his oaths sworn in connection to the 'Endless Peace' of 532 arose from jealousy of Justinian's successes in Italy and Africa. More specifically, the Persian leader, termed a 'barbarian', was purportedly 'moved less by the obligation of his oaths than by his rage at the emperor's successes'.[121] The author also places criticisms in the mouths of two Roman envoys, who chastised the Shah for attacking Antioch in 540 and thereby breaking the 'Endless Peace' by referring to the oaths he had ignored.[122] Even though the envoys purportedly suggested that they were surprised to find the ruler's contravention of his agreements, Procopius makes these criticisms more damning by suggesting that oaths were a universally respected convention, which the Persians had ignored.[123] The introduction of the envoys' speech with accusations of foreign perjury is comparable to Comentiolus' diatribe against Baian as described by Theophylact and may reflect a historiographical trope. In his *Secret History*, Procopius suggests that even the Persians themselves lambasted their ruler for ignoring his sworn promises. Having suffered a defeat in Lazica and fearing that they would

[117] Proc. *Wars* 1.3.19-4.14; Ps-Zach. 7.3A. cf. Averil Cameron 1969-70, 153, who notes that Peroz's reputation in Persia was more positive than these accounts suggest.
[118] Proc. *Wars* 1.3.8-22. Peroz's manipulation is comparable to the circumvention of diplomatic oaths (pp. 133-134 above).
[119] Proc. *Wars* 1.4.1-6,10. On salt in Persian swearing rituals, see: pp. 155-156 below.
[120] Proc. *Wars* 2.9.8, 11.27, 28.15.
[121] Proc. *Aed.* 2.10.1 ἡνίκα ὁ βάρβαρος οὗτος ἀλογήσας τὰ παρ᾽ αὐτοῦ ὁμωμοσμένα ἐν ταῖς ἀπεράντοις σπονδαῖς… [Khosrow] τὴν ἐς τὰ ὁμωμοσμένα πίστιν περὶ ἐλάσσονος τῆς ἐς ταῦτα λύσσης πεποιημένος [i.e. Justinian's conquests in Africa and Italy]. On the 'Endless Peace', see: Proc. *Wars* 1.22.17, 2.3.55; Greatrex 2005, 488-489.
[122] Proc. *Wars* 2.10.10 (full text p. 1 above).
[123] Proc. *Wars* 2.10.10 ὃ τῶν ἐν ἀνθρώποις ἁπάντων ὕστατόν τε καὶ ὀχυρώτατον εἶναι δοκεῖ τῆς ἐς ἀλλήλους πίστεώς τε καὶ ἀληθείας ἐνέχυρον.

not return home, a Persian army supposedly grew angry with the Shah and stated that his invasion of Roman territory was 'in violation of his oaths and the obligations commonly held by all mankind'.[124] Naturally, we cannot take this statement as evidence of how Khosrow's subjects viewed him. But the fact that a large group of Persians, who were regularly associated with disloyalty, were depicted as judging their leader poorly indicates that Khosrow was supposed to be viewed as more duplicitous. In the same passage, Procopius goes on to refer to the Roman empire as an ancient, honourable state, suggesting that this portrayal of Khosrow was influenced by notions of Roman superiority.[125] Even though the Persians were sometimes seen as superior to other neighbouring peoples, the *topos* of 'oath-breaker' was applied to this rival state and its rulers, just as it was to other external polities.

There was clearly an expectation, at least in the literary tradition, for foreigners to break their oaths, in contrast to the Romans who were supposed to keep their promises. This opinion was certainly held by the fifth-century ecclesiastical historian Socrates Scholasticus. Following the sedition of the Gothic commander Gainas, Arcadius met the mutinous general at the martyr-shrine of Euphemia in Chalcedon to end hostilities:

> Ὅρκοις ἐπιστοῦντο ἀλλήλους ὅ τε βασιλεὺς καὶ ὁ βάρβαρος, ἢ μὴν μὴ ἐπιβουλεύσειν ἀλλήλοις. Ἀλλ' ὁ μὲν βασιλεὺς, εὔορκός τις ἀνὴρ καὶ διὰ τοῦτο θεοφιλὴς, τοῖς ὅρκοις ἐνέμεινε· Γαϊνᾶς δὲ παρεσπόνδει τε καὶ τοῦ οἰκείου σκοποῦ οὐκ ἐξέβαινεν, ἀλλ' ἐμπρησμούς τε καὶ λαφυραγωγίας ἐμελέτα ποιήσασθαι…[126]
>
> Both the emperor [Arcadius] and the barbarian [Gainas] mutually pledged by oaths that they would not plot against each other. The emperor, being the type of person who kept his oaths and, due to this, favoured by God, maintained his oaths. But Gainas violated the agreement and did not abandon his private aim, yet strove to burn and plunder…

Gainas' subsequent oath-breaking, which occurred shortly afterwards, does not surprise Socrates, who throughout this section refers to the commander's Gothic provenance and the barbarous nature of his forces.[127] In contrast, Arcadius was presented as keeping his sworn word, in alignment with God's desire that agreements in which He had been invoked remain

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[124] Proc. *SH* 2.31 ἔς τε τοὺς ὅρκους ἠσεβηκὼς καὶ τὰ κοινὰ νόμιμα πάντων ἀνθρώπων ἐσβάλοι.
[125] Proc. *SH* 2.31 πολιτείαν ἀρχαίαν τε καὶ ἀξιωτάτην πασῶν μάλιστα.
[126] Soc. 6.6.12-13.
[127] See also the comparable representation of Gainas and his oaths in *Funerary Speech for John Chrysostom* 48, 50.

in force. The fragmentary history of Dexippos presents a similar comparison between the Romans and the Juthungi, an early tribal component of the Alamanni. During peace negotiations in the late third century, Aurelian purportedly claimed that in the case of renewed hostilities his forces would receive divine support for maintaining their treaties, while in contrast the Juthungi 'gave no weight to their oaths'.[128] Similar is Eunapius' suggestion that several Goths, who had pretended to be Christians, entered the empire through 'oaths which they held in contempt but which the emperors guarded seriously'.[129] The juxtaposition of oath-breaking 'barbarians' and oath-keeping emperors indicates an internal Roman perception that the imperial court should maintain their sworn treaties.[130] One section of the *Strategikon* lays out this belief simply; although parts of the work suggest that commanders should expect foreign groups and states to break their agreements even at the risk of divine retribution, one maxim, probably drawing upon earlier literature, states that 'in no way should an oath formed with enemies be broken [by the Romans]'.[131]

And yet, the Romans did break oaths. Due to the compilatory nature of the *Strategikon*, which relied upon various sources for its information, this maxim contradicts other parts of the work, which elsewhere recommends breaking agreements to gain a tactical advantage.[132] Late antique emperors and their representatives often took this approach to geopolitical interactions. Although Justinian and the Senate had previously sworn in confirmation of an alliance with the Gepids, the Romans ignored these oaths to side with the Lombards, with whom the empire already had an agreement and who were warring against the Gepids.[133] Additionally, the general Priscus twice encroached upon Avar territory in violation of Roman sworn agreements, the first time to battle against a Slavic tribe and the second to rescue the inhabitants of Singidunum from deportation. In both cases, the Avars informed Priscus that to disregard their exchanged oaths was impious and the gods were therefore aligned against the general.[134] Notably, the accounts which describe these incidents

[128] Dexippos fr. 6.12 ὅθεν οὐκ ἔξω προσδοκίας ἄγομεν καὶ τὰ παρὰ τοῦ θείου ἔσεσθαι ἡμῖν ἀρωγά, οἷα δὴ ἡμῶν μὲν θεσμὸν τὸν ἐπὶ σπονδαῖς οὐκ ἀτιμασάντων, ᾽Ιουθούγγων δὲ ἄδικον ὁδόν τε ἐφ᾽ ἡμᾶς ἐλθόντων καὶ ὅρκους καὶ πᾶσαν πίστεως βεβαιότητα παρὰ φαῦλον τιθεμένων.
[129] Eun. fr. 48.2.12-13 [The Goths entered the empire] διὰ τῶν καταφρονουμένων ὅρκων παρ΄ ἐκείνοις, παρὰ δὲ τοῖς βασιλεῦσι σφόδρα φυλαττομένων (Greek text from Blockley 1981, 2:74).
[130] See also: Men. Prot. fr. 20.2.47-49, where Tiberius was presented as respecting the diplomatic oaths by his predecessor; Sebeos 10, where, following the usurpation of the noble Bahram Chobin in the late sixth century, the deposed Shah Khosrow II purportedly fled to the Roman empire as he trusted Roman oaths.
[131] *Strategikon* 8.1.37 Οὐδενὶ τρόπῳ παραβατέον τὸν πρὸς τοὺς πολεμίους ὅρκον. cf. 8.2.36.
[132] *Strategikon* 9.1.4-5; 11.3.15. On the compilatory nature of the *Strategikon*, see: Rance 2004, 68-69.
[133] Proc. *Wars* 8.25.9.
[134] Theophyl. 6.6, 7.10-11.9, esp. 6.6.7 ὁ μεστίς ὅρκος ἀπόλωλεν, 6.6.11 πολεμούμεθα σὺν θεοῖς· πολιορκεῖται γὰρ ὅρκων ἀκρόπολις, and 7.10.5 δυσωπήθητι τὴν τῶν ὅρκων ἀσφάλειαν.

do not criticise the Romans for their behaviour. Although the Avars were reportedly incensed by Priscus' perjury, Theophylact claims that the first incident did not break the treaty while the second was for an honourable cause, to save the 'suffering people' (ἀτυχοῦντα λαόν) of Singidunum.[135]

In some cases, then, oath-breaking could be excused. Procopius offers no explicit judgement concerning Justinian's violation of his sworn agreement with the Gepids, but reports that the emperor explained the severance of this alliance as a consequence of the tribe's transportation of Slavic raiders into Roman territory.[136] Essentially, Justinian stated that the pact and the related oaths had already been broken. Additionally, oaths taken in connection to treaties with temporal limits would only have been in force for a limited number of years. Acting contrary to these sworn pacts after the agreement had ended would therefore be acceptable. The sworn agreement between Jovian and Shapur in 363, for example, was due to last thirty years, after which there was no obligation for the two powers to remain at peace.[137] Remaining with this example, Ammianus criticises Jovian for surrendering Nisibis to Shapur in adherence to their treaty; the author states that the empire, traditionally the premier power in the Mediterranean, should not obey such shameful agreements, even if bound by oaths.[138] In certain circumstances, even a flagrant violation of oath-bound pacts by the Romans or neighbouring peoples could be excused in literary accounts. Zosimus describes the Gothic tribes who had entered the empire in 376 but were mistreated by border officials and consequently reneged on their oaths.[139] Even though these tribes raided into the Balkans and eventually led to the disastrous battle of Adrianople, Zosimus does not criticise these individuals for violating their promises. Instead, the author focuses upon the poor conduct of the border officials who had driven the tribes to ignore their sworn promises.

This incident, as well as Theophylact's justification of the general Priscus' encroachment upon Avar territory to save Singidunum, also indicates that violation of sworn agreements or the offering of false oaths could be justified on humanitarian or defensive grounds. Particularly instructive is the account of the excerpted historian Priscus concerning the Roman-held Balkan fortress of Asemus. In the course of negotiations with Theodosius

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[135] Theophyl. 6.6.14; 7.11.8.
[136] Proc. *Wars* 8.25.10.
[137] Amm. 25.7.14.
[138] Amm. 25.9.8-11. This episode is discussed further on p. 162 below.
[139] Zos.4.20.5-7. On mistreatment, see: Amm. 31.4.11; Heather 1991, 124-125, 141-142.

II's envoys in the first half of the fifth century, the Hunnic leader Attila demanded that the inhabitants of Asemus hand over all captives, including tribesmen captured in previous conflicts and Roman prisoners-of-war liberated from the enemy's camp. In reply, the Asimuntians claimed that they would only release their prisoners in exchange for several captured children.[140] Priscus informs us that, at this point, the leading officials of Asemus swore oaths to the Hunnic envoys:

> οὐδενὸς δὲ φανέντος, οἱ παρὰ τοῖς Ἀσημούντιοις βάρβαροι ἀπεδόθησαν, πίστεις τῶν Σκυθῶν[141] δόντων ὡς παρ΄ αὐτοῖς οἱ παῖδες οὐκ εἴησαν. ἐπωμνύοντο δὲ καὶ οἱ Ἀσημούντιοι, ὡς οἱ παρὰ σφᾶς καταφυγόντες Ῥωμαῖοι ἐπ΄ ελευθερία ἀφείθησαν. ὤμνυον δέ, καίπερ παρὰ σφίων ὄντων Ῥωμαίων· οὐ γὰρ ἐπίορκον ᾠοντο ὅρκον ὀμνύναι ἐπὶ σωτηρίᾳ τῶν ἐκ τοῦ σφετέρου γένους ἀνδρῶν.[142]
>
> When none [of the Asimuntian children] were found, the Huns promised that they did not have the children, and the barbarians in Asimuntian hands were given back. The Asimuntians also swore that the Romans who had escaped to them had departed to freedom, and they swore this although there were Romans amongst them. For they did not consider that they had perjured themselves, since they had sworn the oath for the safety of men of their own race.

Even though Priscus acknowledges that the Asimuntians had technically broken their oath, the author states that the swearers themselves did not believe that their actions were unjust. In the same passage, Priscus juxtaposes the supposedly cowardly behaviour of Theodosius' generals, who had treated with Attila due to overwhelming fear, with the defenders of Asemus, who were willing to oppose the Huns.[143] The author evidently did not believe that the Asimuntians had committed any crime and viewed their perjury as justified due to the protection of other Romans. In some circumstances, then, the contravention of sworn agreements could be vindicated by claims that these violations were in the interests of wider society.

Although the Asimuntians were not criticised in this account, the Avar complaints against the general Priscus must have been more representative of external attitudes towards

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[140] Priscus fr. 9.3.40-72.
[141] Priscus uses 'Scythian' interchangeably with 'Hun' in this passage, as do other sources (Wiita 1977, 120).
[142] Priscus fr. 9.3.75-80. Greek text and translation from Blockley 1981, 2:240-241 (translation revised for clarity).
[143] Priscus fr. 9.3.10-21; Blockley 1981, 2:381 n. 19.

Roman oath-breaking. Even though Theophylact no doubt conjectured the wording of their reproaches, the Avars would hardly have been pleased by the general's transgression of their sworn treaty. Various sources claim that the Romans were often not trusted due to the violation of their agreements. In 530, Procopius suggests that Belisarius attempted to persuade a Persian army opposing him near Dara to stand down but the Persian leader, who refused to listen to the Roman demands, claimed that the empire never kept their promises and oaths.[144] Similarly, in a letter requesting that Khosrow attack the Romans, Vitiges reportedly stated that Justinian would ignore his sworn agreements with the Shah if the Goths were defeated.[145] Procopius tells us that Vitiges' tactic, reliant on both the stereotypical Persian treachery and paranoia as well as the reputation for Roman oath-breaking, was successful and Khosrow renewed hostilities with the empire.[146] This suspicion that the Romans would ignore sworn agreements was proven right in the Shah's subsequent relations with several cities. In 540, a bishop from Sura swore to Khosrow that he would pay the Persians at a future point to avert the sack of the city, while the inhabitants of Chalcis later in the same year took an oath to the Persians to affirm that there were no soldiers within their walls.[147] Both oaths were broken, and in the case of Sura, Khosrow returned in 542 to punish the bishop for his perjury.[148]

The diplomatic conduct of certain generals and officials was also characterised by oath-breaking. One Hunnic tribe reported that they did not trust the Romans as a commander named Peter had tricked them into travelling to Constantinople by taking and ignoring an oath.[149] Equally, when Justinian sought to end hostilities with Totila, the Goths specifically requested that Belisarius swore due to fears of Roman treachery.[150] Procopius also places blame for both the death of the eunuch general Solomon and also the consequent rebellion of several African tribes on his nephew Sergius, who had broken oaths to several local chieftains and soured the trust placed in Solomon.[151] Similar is the opinion of the African chieftain Antalas, who believed that the *dux* Gontharith had proven himself untrustworthy by violating oaths of safety offered to the *magister militum* Areobindus, just as elements of the

[144] Proc. *Wars* 1.14.1-12, esp. 1.14.6.
[145] Proc. *Wars* 2.2.9-10. Dewing 1924, 187 n. 1 suggests that Totila's later claim that God opposed the Romans (7.4.17) referred to their oath-breaking, but there is no explicit evidence to support this argument.
[146] Proc. *Wars* 2.2.12-15.
[147] Proc. *Wars* 2.5.31, 12.2.
[148] Proc. *Wars* 2.20.1-16.
[149] Proc. *Wars* 4.1.6.
[150] Proc. *Wars* 6.29.6.
[151] Proc. *SH* 5.28-30; *Wars* 4.21.19-21.

Quadi and Sarmatian tribes hated Marcellianus, fourth-century *dux Valeriae*, for his transgression of an oath and the murder of a tribal leader.[152]

Neighbouring peoples were evidently not the only individuals who were associated with perjury in literary accounts.[153] To some extent, this *topos* was connected to conceptions of 'Romanness'. Neighbouring peoples who exhibited behaviours antithetical to Greco-Roman social norms and ideals were seen as less trustworthy. These individuals were represented as inverting the traditional virtues of fidelity and honesty, in contrast to the supposedly more regular Roman maintenance of oaths. For this reason, these accounts should not be taken as solid evidence for the inefficacy of diplomatic oaths. The fifth-century Christian writer Salvian of Marseilles makes a similar yet more general point; although there was a public belief that foreign traders were more apt to swear false oaths due to their non-Christian and barbarous natures, Salvian states that Romans were just as prone to breaking sworn promises.[154]

Additionally, it was not unheard of for neighbouring peoples to maintain their oaths. The Gothic tribesmen who reportedly debated whether they should break their promises to Theodosius I contained a faction who argued for upholding the agreement with the empire.[155] Additionally, Ammianus praises both the Armenian king Arshak II and the Alamannic leader Macrianus for maintaining their sworn treaties with Constantius II and Valentinian respectively.[156] In reality, both the Romans and their neighbours would have occasionally broken their oaths, just as both would also have regularly kept their sworn agreements. Nevertheless, these literary accounts preferred to emphasise violated oaths as these episodes both provided an opportunity to confirm prejudices concerning those involved and also were interesting to the intended audiences.

We should therefore take these accounts as an internal Roman judgement of superiority over foreign groups and states. Even though there was a social preconception of 'barbarian' disloyalty, the emperor continued to use oaths in diplomacy. Whether this perpetuation indicates an imperial belief in the strength of sworn agreements is uncertain, particularly given that the *Strategikon*, frequently attributed to Maurice, applies the 'oath-

[152] Proc. *Wars* 4.26.23-27.5; Zos. 4.16.4.
[153] Accusations of oath-breaking in relation to political dealings were also levelled against certain emperors, such as Constantius II (Amm. 21.1.2; Zos. 3.9.2).
[154] Salvian *On the Government of God* 4.67-80. See further p. 186 below.
[155] Eun. fr. 59; Zos. 4.56. See also Hyd. 162 [169], which favourably compares Theoderic the Amal's adherence to a sworn treaty to the Suebi's transgression of the same agreement.
[156] Amm. 20.11.1-3; 30.3.5-6.

breaker' motif to certain peoples. Perhaps instructive is a letter sent by Maurice to chastise the Frankish king Childebert II for ignoring an oath:

> Nihil operis usque adhuc amicitiae congruum eminentia tua ostendens uisa est: dum in scriptis pollicita atque per sacerdotis firmata et terribilibus iuramentis roborata, tanto tempore excesso, nullum effectum perceperunt.[157]
>
> Your eminence has seemed until now to show no work appropriate to friendship, while things promised in letters and affirmed through priests and strengthened by terrible oaths, after so much time has passed, have secured no effect.

Maurice was evidently unhappy with Childebert's failure to meet his promises, but no reference is made to the Franks being generally untrustworthy. This letter was a private correspondence between the two rulers, intended to facilitate the conclusion of an agreement. Such an insult would hardly have been conducive to Maurice's aims, especially given that the contents of this letter would not have been made public. Whether or not emperors did believe the *topos* of foreign oath-breaking, there was some benefit in the existence of such accusations. Reputations and public receptions of individual rulers were significant, in both external and internal politics. Perhaps accusations of oath-breaking could have also been used as justification for extended and potentially difficult or unprofitable conflicts? Or perhaps suggestions that foreigners broke their promises while Romans kept theirs was a way to guarantee divine favour in diplomatic interactions? After all, various references to perjury in this context refer to supernatural support.[158] In any case, a display of 'barbarian' unreliability, in contrast to Roman virtue, would suggest that the emperor was someone to trust and that war was not necessarily his fault, but arose from the nature of the empire's enemies. As shown above, this benefit did not always materialise and some Romans were presented negatively. Nevertheless, the imperial court's continued usage of oath-taking in diplomatic relations clearly indicates that the practice was seen to have some merit in Late Antiquity, despite routine accusations of habitual foreign perjury.

[157] *Ep. Aust.* 42. Latin text and translation from Barrett and Woudhuysen 2016, 20.
[158] e.g. Soc. 6.6.12-13; Theophyl. 6.6.11.

3. Roman and foreign oaths: a case-study of flexibility

A point that has been fairly muted in this chapter thus far is the religious facet of diplomatic oath-taking. It was standard for some form of invocation to be made during the swearing of an oath to call forth supernatural witnesses and provide strength to the agreement. As diplomacy inherently involved a diverse group of peoples, the oath-taking ceremonies in this context by necessity had to take into account the beliefs of all parties in the interaction. If the pact concluded was to have any chance of remaining in force, the invocations used needed to be relevant to those involved, even if the oaths sworn were non-Christian in nature. As indicated by the various religious elements used, oath-taking in the context of diplomacy was flexible and changed depending on what peoples were swearing.

Perhaps the most extensive account we have regarding a diplomatic oath-formula is Menander Protector's description of Baian's oath, sworn in 579. As discussed earlier, the Khagan claimed that he intended to attack Slavic tribes and therefore needed to bridge the Save. As the general Sethus and the other officials based at Singidunum feared an imminent Avar attack upon their city, Baian promised to swear 'the oaths thought to be greatest amongst the Romans and Avars' that no invasion was planned.[159] Importantly, the Romans gave no guidance to the Khagan on how he should swear. As promised, Baian swore two oaths, the first of which was explicitly non-Christian:

> Καὶ ὅς παραυτίκα τούς τε Ἀβαρικοὺς ὤμνυεν ὅρκους ξίφος σπασάμενος καὶ ἐπαρασάμενος ἑαυτῷ τε καὶ τῷ Ἀβάρων ἔθνει παντὶ ὡς, εἰ κατὰ Ῥωμαίων τι μηχαυώμενος γεφυροῦν βουλεύοιτο τὸν Σάον, ὑπὸ ξίφους μὲν αὐτός τε καὶ τὸ Ἀβάρων ἅπαν ἀναλωθείη φῦλον, τὸν δὲ οὐρανὸν ἄνωθεν αὐτοῖς καὶ τὸν ἐπὶ τοῦ οὐρανοῦ θεὸν πῦρ ἐπαφήσειν, καὶ τὰ πέριξ ὄρη καὶ τὰς ὕλας αὐτοῖς ἐπιπεσεῖσθαι, καὶ τὸν Σάον ποταμὸν ὑπερβλύσαντα συγκαλύψειν αὐτούς.[160]
>
> He [Baian] immediately drew his sword and swore the oaths of the Avars, invoking against himself and the whole Avar nation the sanction that, if he planned to build the bridge over the Save out of any design against the Romans, he and the whole Avar tribe should be destroyed by the sword, heaven above and the god in the heavens

[159] Men. Prot. fr. 25.1, esp. 149-151 for Baian's promise to swear τοὺς νομιζομένους μεγίστους παρά Ἀβάροις καὶ Ῥωμαίοις ὅρκους.
[160] Men. Prot. fr. 25.1.68-76. Greek text and translation from Blockley 1985, 220-221 (revised for clarity).

> should send fire against them, the mountains and the forests around fall upon them and the river Save overflow its banks and drown them.

This oath was accepted despite its clearly non-Christian content. Although Baian did swear another, shorter oath which invoked the Christian God, it was his decision to do so.[161] Neither Sethus nor the other officials at Singidunum, nor even the archbishop who later instructed Baian how to swear in a Roman manner, requested that the Khagan follow Christian customs. This first oath, then, included rituals that the Avars believed had religious significance.

It is of course possible that Menander's inserted stereotypically 'barbarian' invocations into the oath to denigrate the Khagan. The work certainly uses other classicising tropes, most pertinently in this very passage, where Baian is portrayed as naturally devious.[162] After all, even though Menander probably had access to archived official reports related to this incident, the author wrote in continuation of earlier historiographical works and was evidently swayed by their ethnographic tropes.[163]

In any case, the imprecations explicated in Baian's first oath do not seem to be Christian in their meaning and are comparable to other foreign promises. While little is known about the precise nature of their religions in this period, it is generally accepted that the Avars adhered to a non-Christian belief system.[164] 'Heaven above and the god in the heavens' therefore seems to be a Christian interpretation of Avar beliefs. The curses of self-destruction by forests and mountains do not appear to have parallels in other late antique oaths, but Eusebius describes one late second-century promise also being taken under the penalty of immolation.[165] These elements seem to indicate that violation would be punished by nature itself.[166] The potential overflowing of the Save was another such consequence, albeit connected to Baian's attempt to build a bridge rather than a specific belief concerning rivers.[167] These reprisals threatened all of the Avars, not just the Khagan. Analogous is the case of Maniakh, a sixth-century Turkish envoy, who concluded an alliance between Justin II

[161] Men. Prot. fr. 25.1.77.
[162] Men. Prot. fr. 25.1.81-96.
[163] Blockley 1985, 6-13, 18-20.
[164] Pohl 1988, 199-202.
[165] Eus. *EH* 6.9.5. On this oath, see pp. 8-9 above.
[166] cf. Just. *Nov.* 77.1-2, (with pp. 176-177 below), concerning blasphemous oaths leading to natural disasters.
[167] cf. Claud. *Bell.Goth.* 79-82, which claims that a northern chieftain swore by the Danube as a higher force.

and his ruler, Sizabul, by swearing that his confederation would be destroyed if they broke the treaty.[168]

In addition to these dramatic aspects of the formula, Baian swore after drawing a sword, a weapon which was used in various other non-Roman oaths. In the fourth century, several Quadi leaders sought to make peace with Constantius II by emphatically using the same gesture:

> Eductisque mucronibus, quos pro numinibus colunt, iurauere se permansuros in fide.[169]
>
> And drawing their swords, which [the Quadi] worship as divine forces, they swore that they would remain in faith [with the agreement].

Ammianus also claims that several soldiers under Julian's command took their military oath with their swords at their throats, while a seventh-century Frankish chronicle claims that it was a Frankish custom to swear upon weapons.[170] Perhaps this ritual was commonly used by many northern peoples who venerated their weapons. In the above quotation, Ammianus states that the Quadi swore upon their weapons as they believed them to be deities, and later in his history the author claims that Hunnic tribes similarly worshipped a sword.[171] The belief that nomadic and other northern peoples revered sacred blades has precedent in earlier historiography and is perhaps best exemplified in Priscus' tale, quoted by the later historian Jordanes, of Attila's discovery of a weapon thought to embody a war-deity.[172] Menander's account emphasises the role of the sword in Baian's oath, perhaps indicating that the Khagan similarly worshipped holy weapons. The phrase ὑπὸ ξίφους… ἀναλωθείη, 'will be destroyed by the sword', could mean the generic 'will be killed', but probably also had the sense that the weapon upon which the oath was sworn would be the item used to bring retribution upon the swearer. At the least, the inclusion of such a clause would have seemed particularly meaningful while Baian was brandishing a sword.

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[168] Men. Prot. fr. 10.1.88-93 ἐπὶ τούτοῖς ἅμα τῷ λέξαι τὸ χεῖρε ὑψοῦ ἀνατείνας ὁ Μανιὰχ οἵ τε ξὺν αὐτῷ ὅρκῳ ἐπιστώσαντο μεγίστῳ ἦ μὴν ὀρθογνώμονι διανοίᾳ ταῦτα εἰρῆσθαι (Greek text from Blockley 1985, 116).
[169] Amm. 17.12.21.
[170] Amm. 21.5.10 (full text p. 32); Fredegar *Chronicle* 4.74 *Sacramentum, ut eorum mos erat, super arma placata*. See also: Amm. 17.12.16, which reports that Sarmatian leaders requested that swords be pointed at their throats during an attempt to make peace, probably in reference to the same gesture; Pohl 1988, 407 n. 17, who finds further similarities with a later Bulgarian practice.
[171] Amm. 31.2.23.
[172] Priscus fr. 12.2 (=Jordanes *Getica* 35.183). Earlier historiography: Herodotus 4.62; Mela 2.15. See further: Maenchen-Helfen 1973, 278-280.

Even if Baian's oath did not take the exact form described, the formula used would have been what Menander termed 'the oath of the Avars'. Although comparably explicit formulae are rare, numerous sources refer to neighbouring peoples swearing diplomatic promises according to their local customs. When Roman envoys met Attila at the city of Margus in Moesia to conclude a treaty, each side swore their 'native oaths'.[173] Equally, three Alamannic rulers came to an agreement with Constantius II, 'swearing in words derived from their native rites', just as the Persian Yesdegusnaph promised to support the Roman claim to control over the Suanians in 532 by taking 'the usual Persian oath'.[174]

Several accounts explicate how some neighbouring peoples took their oaths, but care needs to be taken with these descriptions, which were influenced by preconceptions of the groups involved. In his invective against the official Rufinus, Claudian claims that Hunnic tribes swore upon their deceased parents, but this statement was surely an extension of typical characterisations of nomads being barbarous.[175]

Comparable are two panegyrical sources which detail Persian swearing ceremonies. Claudian's encomium for Stilicho's consulship in 400 describes a treaty made between the general and Shapur III, where the Shah, holding sacrificial jewelled bowls, invoked the deities Bel and Mithras in the presence of the harvest upon an altar, incense, sacred fire, and sacrifices made 'according to the Chaldean ritual'.[176] A near-identical account can be found in a panegyric of the fifth-century poet Sidonius Apollinaris. In this speech, delivered in 468 and dedicated to the emperor Anthemius, Sidonius reports that the emperor's father Procopius had sworn oaths with the Persians during his tenure as a senior military commander in 421-22:

Partibus at postquam statuit noua formula

foedus Procopio dictante magis, iuratur ab illis

[173] Priscus fr. 2.39 Ῥωμαῖοί τε καὶ Οὔννοι καὶ πάτριον ὅρκον ὀμόσαντες (Greek text from Blockley 1981, 2:226).
[174] Amm. 17.1.13 *iurantes conceptis ritu patrio uerbis*; Men. Prot. fr. 6.1.285-86 ὅρκῳ ἐπιστώσατο ὁ Ζὶχ [Yesdegusnaph], ᾗ νενόμισται Πέρσαις ὀμνύειν (Greek text from Blockley 1985, 68). Further examples: Zos. 3.4.7; Men. Prot. fr. 10.1.88-93. Note also incidents in which oath-breakers were claimed to act against their gods (e.g. Proc. *Wars* 6.28.19-22; Theophyl. 1.5.10).
[175] Claud. *In Ruf.* 1.328 *occisos pulchrum iurare parentes*. Citing similarities in their descriptions, Alan Cameron 1968, 390-91 suggests that Claudian used Ammianus' stylised account.
[176] Claud. *De Cons. Stil.* 1.58-63 *turis odoratae cumulis et messe Sabaea/ pacem conciliant arae; penetralibus ignem/ sacratum rapuere adytis rituque iuuencos/ Chaldaeo strauere magi. rex ipse micantem/ inclinat dextra pateram secretaque Beli/ et uaga testatur uoluentem sidera Mithram.*

ignis et unda deus, nec non rata pacta futura

hic diuos testatur auos. Chaldaeus in extis

pontificum de more senex arcana peregit

murmura; gemmantem pateram rex ipse retentans

fudit turicremis carchesia cernuus aris.[177]

When new terms had been settled between the parties, with Procopius dictating the treaty to the Magi, [the Persians] swore by fire andwater, their god, and [Procopius] called his divine ancestors to witness that the pact should be upheld. In the custom of the priests, an old Chaldean muttered mystic words over [a sacrificial victim's] entrails, and the king himself, bowed over and holding a jewelled bowl, poured out the cups over the incense-burning altar.

There are clear similarities with Claudian's account. As both of these sources are panegyrics, Sidonius and Claudian may have followed a convention of the genre in describing invented ceremonies.[178] 'Chaldean' originally referred to a Semitic-speaking people who were absorbed by the Babylonian empire, but in later years was associated with astrology, in particular the Persian Magi, so the term seems to be a shorthand to describe Persian rituals.[179] On the other hand, the use of libations and incense, which were part of many traditional religious rituals, were not specific to the Persians. As was the case with Claudian's claim that Hunnic promises were sworn over their deceased parents, these panegyrics may have included these rituals as a general reference to the non-Christian and esoteric, exotic nature of the oath-takers in question.

Interestingly, other sources offer support for some of these Persian rituals. One seventh-century Armenian history, conventionally attributed to an individual named Sebeos, records an oath taken by the Persian general Bahram Chobin. The general rebelled against the Shah Hormizd IV in 589 and sought to take power from his successor, Khosrow II.[180] To gain the support of Armenian nobles, Bahram promised to give these individuals control over Armenia, swearing 'by the great god Aramazd, by the lord Sun and the Moon, by fire and

[177] Sid. Apol. *Carm.* 2.82-88.
[178] See Watson 1997, 75-76, who suggests that Sidonius' passage imitated Claudian's, and Kelly 2013 on Sidonius' use of Claudian's panegyrics more generally.
[179] *TLL Onomasticon* 2:368, col. 23-49 (*s.v.* 'Chaldaeus').
[180] On this source, see: Thomson et al. 1999, xxxiii-xxxix.

water, by Mihr and all the gods'.[181] Aramazd and Mihr were Armenian interpretations of Ahuru Mazda, chief deity of Zoroastrianism, and Mithras.[182] We would expect the Persians to have sworn by their own deities, and Mithras, who was traditionally associated with the maintenance of promises and contracts, regularly featured in earlier ancient Iranian oaths.[183] Additionally, the inclusion of fire and water in Bahram's formula, as well as Claudian's and Sidonius' accounts, seems to be related to the significance of these elements in ancient Iranian belief systems, particularly Zoroastrianism.[184] The same was true of the invocation of the sun and moon, both of which were crucial to the cosmologies of Zoroastrianism and Mithraism.[185] The sun in particular features in a number of oaths, both Persian and Roman.[186]

The accounts of Peroz's dealings with the Hephthalites in 469 offer further suggestions of what Persian oaths may have entailed. Pseudo-Zachariah reports that the two parties climbed a mountain, shared food, and then raised their hands to the sky to swear. When Peroz's betrayal became apparent, and purportedly at the advice of a Roman merchant,[187] the Hephthalites cast incense and musk into a fire in the place where the oaths were taken to call forth retribution against the Persians.[188] Fire, food, and incense featured to some degree in the previously discussed accounts of Iranian oath-taking, although in this case it is the Hephthalites, rather than the Persians, who are using this ritual. The reference to a mountain is unique in these descriptions, but perhaps this location was connected to a particular holy site or a more general religious significance of mountains, being closer to the gods.[189] We can move onto firmer ground with the hand-gestures described by Pseudo-Zachariah. Similar motions accompanied oaths in Roman contexts and as one sixth-century

[181] Sebeos 11.
[182] Russell 1987.
[183] See e.g. Xen. *Cyr*. 7.5.53; *Oec*. 4.24; Plut. *Vit.Artax.* 4; Ełishē 185. Mithras and promise-keeping: Merkelbach 1984, 4-5, 24; Boyce 1996, 26.
[184] Boyce 1968; 1996, 147-191.
[185] Merkelbach 1984, 24-25, 77-85, 201-205, 217-218; Boyce 1996, 28-29, 69, 113-114, 139-40, 271; Beck 2006, 5, 30-31, 74-82, 114-134.
[186] Persian: *Buzandaran* 4.23; Ełishē 44, 47-48; M.X. 2.19, 81, 3. Roman: *AC* 5.2.11-12; Claud. *In Ruf.* 2.165; Prudentius *Peristephanon* 10.571-575. Procopius' account of Peroz's oath to the Hephthalites also includes the Shah bowing to the sun (*Wars* 1.3.20-22), although this ritual is linked to the forced prostration before the Hephthalite king, not directly to the oath. See Bailey 1971, 40, 59, who notes that Persian oaths by the sun were sometimes linked to the Shah's fortune, or 'personal sun' (e.g. M.X 3.22).
[187] Greatrex et al. 2011, 233-234 n. 32 suggest that this merchant, the otherwise unknown Eustathius, was probably the envoy Eusebius (*PLRE* 2.431 (Eusebius 19)).
[188] Ps-Zach. 7.3A.
[189] Mountains played a role in many eastern belief systems, such as Zoroastrianism (Boyce 1996, 73-74, 133-137). cf. Proc. *Wars* 4.14.20-21, where oaths of conspiracy are sworn atop a mountain.

Turkish envoy made a similar motion in his treaty with Justin II, there is justification to believe that this ritual was used by some peoples.[190]

Procopius' report of Peroz's interactions with the Hephthalites suggest that salt may have regularly been involved in Persian oaths. Peroz swore in the 'typical Persian fashion' and after the Shah broke his agreement, the Hephthalites affixed the salt over which oaths had been taken to their banners.[191] Two Armenian histories, dated to the late fifth and seventh centuries, record other incidents in which Shahs swore by wrapping salt, sealing the bundle with their personal insignia, and sending the package to the recipient of the oath.[192] Comparable is a statement made by the earlier fragmentary Greek poet Archilochus, who accused a man of reneging on a marriage agreement and thereby violating an oath by 'salt and table'.[193] This reference seems to concern concepts of friendship and guest protection rather than an actual oath-invocation,[194] but given that salt was associated with hospitality agreements, the mineral may have featured in the oaths of a number of peoples, as well as those sworn by the Persians.

Regardless of what rituals were used, the beliefs of external polities were evidently taken into account during the formulation of diplomatic oaths. The Romans also swore by their own rituals. Even though the Khagan was not requested to do so, Baian freely offered to swear in what Menander tells us was a Roman manner:

> Παραχρῆμα οὖν ὁ τῆς Σιγγηδόνος πόλεως τὴν ἀρχιερωσύνην διέπων τὰς θεσπεσίας βίβλους αὐτῷ διὰ τῶν ἐν μέσῳ τὰς ἀγγελίας διακομιζόντων [ἐνεχείρισεν]· καὶ... ἀνίσταταί τε ἐκ τῆς καθέδρας καὶ σὺν φόβῳ δῆθεν πολλῷ καὶ σεβάσματι ταῦτα προσποιησάμενος δέχεσθαι καὶ προσκυνήσας προθυμότατα ὤμνυ κατὰ τοῦ λαλήσαντος τὰ ἐν ταῖς ἁγίαις διφθέραις ῥήματα θεοῦ μηδὲν τῶν εἰρημένων παρ΄ αὐτοῦ διαψεύσεσθαι.[195]
>
> The archbishop of Singidunum, through those who were acting as intermediaries, immediately proffered [Baian] the holy books… [Baian] stood up from his throne, pretended to receive the books with great fear and reverence, threw himself on the

[190] Men. Prot. fr. 10.1.88-93 (full text p. 151 n. 167). Other contexts: pp. 38-39 above.
[191] Proc. *Wars* 1.3.17 ὅρκους τοὺς σφίσι πατρίους ὀμνὺς τὰ πιστὰ δοίη μήποτε Πέρσας; 1.4.1 Χρόνῳ δὲ οὐ πολλῷ ὕστερον ἀλογήσας τὰ ὀμωμοσμένα.
[192] *Buzandaran* 4.53; Sebeos 11-12, 16, 39-40.
[193] Archilochus fr. 173.2 (=Origen *Against Celsus* 2.21) ἅλας τε καὶ τράπεζαν.
[194] Torrance 2014a, 127-128.
[195] Men. Prot. fr. 25.1.80-87. Greek text and translation from Blockley 1985, 220-223.

> ground and most fervently swore by the God who had spoken the words on the holy parchment that nothing of what he had said was a lie.

Taking an oath over the Gospels, and thereby implicitly invoking the Christian God's oversight, had become a common practice in Roman societies by the mid-fifth century.[196] Other similar rituals, such as swearing in a church, could also be deployed, but Christian elements would hardly have been utilised in the earlier centuries of Late Antiquity. [197] Unfortunately, little evidence of these traditional rituals from this period remains. In his panegyric for Anthemius, Sidonius claims that Procopius called forth his divine ancestors to oversee his oath with the Persians but it seems improbable that, if this incident occurred, the commander would have used this custom.[198] Although ancestor worship still existed in Late Antiquity, Sidonius seems to be playing upon the common inclusion of emperors in oaths, thereby highlighting Anthemius' purported descent from the house of Constantine as the poet does elsewhere in the poem.[199] The use of imperial oath-elements was meant to indicate the compliance of citizens with their rulers and so this invocation would surely not have been used in diplomatic contexts. Besides this reference, there is no evidence of traditional Roman oath-invocations being used in late antique diplomatic interactions.[200]

Some authors believed that it was only with the advent of new Christian forms of swearing that peace was attainable. In his fifth-century *Histories Against the Pagans*, Orosius recounts the various Roman conflicts against the Hellenistic kingdoms in the Republican period.[201] Although accords were concluded between the opposing sides, Orosius suggests that the Romans and Greeks continued to war due to their limited respect for the deities by whom they swore.[202] In contrast, the historian states that with the utilisation of Christian rituals, lasting agreements were finally a real possibility:

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[196] Humfress 2007, 149-151; pp. 49-50, 105 above. See also: *Buzandaran* 4.54 which reports that Arshak II swore upon the Gospels to Shapur II.
[197] Oath-taking in churches: e.g. Soc. 6.6.12-13; Ps-Zach. 8.2A; Theoph. AM5874. Other Christian oaths are discussed throughout Chapter 4.
[198] Sid. Apol. *Carm.* 2.84-85.
[199] Ancestor worship: MacMullen 2014. Imperial oaths: pp. 179-180, 192-193 below. Emphasis of Anthemius' purported descent: Sid. Apol. *Carm.* 2.68-69.
[200] Note, however, several late third-century oaths sworn in connection to provincial business were qualified as the 'customary oath of the Romans', ὁ ἔθιμος Ῥωμαίων ὅρκος (e.g. *P.Corn*. 18, line 18 and *P.Oxy.* 43 3137, fr.B, line 16, dated to 291 and 295 respectively) but provide no further information. See: Seidl 1935, 30.
[201] The precise dating of both Orosius' life and his work are uncertain (Fear 2010, 1-7).
[202] Perhaps with this argument in mind, Orosius' work refers to many other broken diplomatic oaths (1.21.4; 2.5.7, 17.14; 3.12.26, 28).

> Erubescant sane de recordatione praeteritorum, qui nunc interuentu solius fidei Christianae ac medio tantum iurationis sacramento uiuere se cum hostibus nec pati hostilia sciunt; quibus indubitatissime probatur, quia non, sicut illi antea, 'caesa iungebant foedera porca', sed quia nunc inter barbaros ac Romanos creatorem et dominum suum contestantes tantam fidem adhibita in sacramentum seruant euangelia, quantam tunc nec inter parentes ac filios potuit seruare natura.[203]
>
> Let men, who now know that it is only through the coming of the One True Christian Faith and the mediation of sworn oaths that they live with their enemies and suffer no harm, blush indeed to remember these past times. This is proved beyond all doubt because now they do not as in the past 'stand and pledge their troth with the slaughter of a sow',[204] but rather the Gospels, on which their oath is sworn, ensure a fidelity among the Romans and barbarians when they jointly call on their Creator and Lord, which in the past natural affection could not guarantee even between fathers and their sons.

One of Orosius' aims in writing his history was to emphasise the troubles of earlier ages, with the underlying agenda of showing how Roman society had improved as Christianity became more prominent.[205] As such, the claims concerning the superior efficacy of Christian sworn agreements were directly influenced by the author's ideological objectives. The above passage suggests that all oaths, whether given or taken, should invoke Almighty God through Christian rituals; as other deities were false, non-Christian higher forces could not enforce compliance with any promise, whereas the Lord, being omnipotent, could. As discussed in the following chapter, other Christian authors made similar arguments in relation to oath-taking more generally but a pertinent parallel may be found in Procopius' account of imperial relations with the Tzani. The confederation concluded a sworn alliance with the Romans according to their customs but continued to raid into imperial territory. However, Procopius claims that these tribes became more civilised once they fought alongside the Roman armed forces and became Christians, at which point the Tzani supposedly ceased to be a constant issue.[206] The author emphasises this change in faith in connection to the confederation's

[203] Oros. 3.23.66-67. Translation from Fear 2010, 153.
[204] As noted by Fear 2010, 153 n. 249, this quotation is from Virg. *Aen.* 8.641, where Romulus seals a treaty over a sacrificed sow.
[205] Fear 2010, 7-13, esp. 8; Van Nuffelen 2012, 186-206.
[206] Proc. *Wars* 1.15.23-25.

increasing sophistication and may implicitly suggest that their oaths now had more worth, as argued by Orosius.

And yet, there were obviously issues in solely using Christian oaths. The point of these promises was to call forth forces which the swearers believed could punish perjury. Eunapius reports that the Goths who entered Roman territory pretending to be bishops and monks held their oaths in contempt, no doubt as these promises were Christian in nature.[207] Even more telling are the criticisms of the Leuethae in 543/44. Procopius states that as Sergius, governor of Tripolitana, had violated an oath sworn to the tribe over the Gospels, the Leuethae rebelled against Roman rule. Solomon, the senior commander in Africa, met their forces at Tébessa and made last-minute overtures of peace by promising not to remember their warlike activities, but the Leuethae leaders mocked the general for offering to swear by the Gospels.[208] Citing Sergius' ignored oath, the tribal leaders asserted their lack of belief in the veracity of promises taken over the Scriptures. Instead, the tribesmen said that they wanted to fight in order to determine whether the Christian God was able to punish those who broke oaths taken in his name.[209]

The Leuethae evidently did not trust Christian oaths, due to both the treacherous actions of Sergius and also their own religious beliefs. It is for this reason that emperors and their representatives often accepted non-Christian forms of swearing in the course of diplomacy.[210] Most neighbouring peoples did not share the same rituals, deities, or doctrines with those who lived within the empire in this period and so diplomatic relations required pragmatism. In reply to a land-holder who queried whether he should accept non-Christian oaths, Augustine summarised this need for practicality: peace on all frontiers relied upon oaths made by non-Christians and it was paramount that these promises were kept.[211] If sworn pacts with foreign groups and states were to have any chance of remaining in force, then the swearers had to believe that the invoked deities could punish contravention of the agreement. As oath-swearing was supposed to call higher powers forth to ensure an action would be completed, the practice could inherently cross boundaries of distrust and connect two parties who did not necessarily normally work together. This function was particularly

[207] Eun. fr. 48.2.10-13. The formulae used are not explicated but as these tribesmen were pretending to be Christians, it would obviously have been counterproductive to invoke non-Christian deities.
[208] Proc. *Wars* 4.21.19-21. On Sergius' oaths, see pp. 131-132 above.
[209] Proc. *Wars* 4.21.21.
[210] The same was true in subsequent centuries (Miller 1971, 74-76).
[211] Aug. *Ep.* 47.2, discussed further in the next chapter.

salient in diplomacy, where the cultural and religious divisions between the peoples involved required flexibility in the formulation of the oaths used. Even if there was a Roman desire for promises to be sworn in a particular form, the empire was rarely in a strong enough position to make their enemies comply with their wishes. Perhaps the depictions of foreign treachery were believed and this flexibility was built into diplomatic swearing in an attempt to limit the possibility of violated treaties. In any case, in the interests of diplomacy and in reflection of the empire's weaker geopolitical position, the emperor and his representatives often had no choice but to accept 'native' oaths in the course of relations with other peoples.

4. Conclusion: all the world's a stage

Throughout the course of this chapter, three different explanations have been offered for why oath-swearing continued to feature in imperial relations with geopolitical opponents. Firstly, the practice could play a variety of different roles in this context. Secondly, accusations of foreign perjury were related to social prejudices and had little bearing on diplomatic interactions in practice. And thirdly, the acceptance of non-Roman swearing rituals could increase the likelihood that the agreements in question were upheld. These individual answers all exist under an overarching theme: diplomatic oaths functioned as a form of performance.

Through the acceptance and provision of oaths, imperial officials and rulers could suggest that they, and by extension the empire, were in a position of dominance over other political entities, even if this superiority was essentially a fiction. Although the Romans no doubt broke their oaths just as much as their neighbours did, the propagation of stereotypes regarding foreign perjury could also be explained as part of this performative function. Oath-taking was essentially a ritualised form of honesty, and the use of oaths suggested that the imperial court was superior to its foreign counterparts. Late antique diplomacy regularly involved similar ceremonial elements to achieve this aim. The sixth-century imperial poet Corripus, for example, records Justin II receiving Avar envoys in his palace and dazzling them with the splendour of the court to indicate his wealth and dominance.[212]

As posited above, the flexibility evident in the invocations and rituals used may indicate some attempt to deal with conceptions of foreign treachery, or at least to give the appearance that these perceptions were being addressed. The mutability of diplomatic oaths

[212] Corripus *Just* 3.230-69; Lee 2009, 3-4.

could suggest that there was a genuine imperial interest in ensuring that related agreements were upheld. At the least, an acceptance of 'native' formulae sent a message. The emperor and his representatives displayed themselves as open to negotiations and committed to their treaties. Moreover, by accepting foreign oaths the empire suggested it was understanding or at least tolerant of its neighbours. Furthermore, if the oath in question was broken, even when the promise invoked forces the swearers worshipped, then this provided an opportunity for the Romans to confirm prejudices concerning neighbouring groups. The wider reputation of each emperor in the diplomatic sphere was important and the formulation of oaths could contribute to how rulers and their courts were perceived.

This performative aspect applied to internal politics as well as to the external geopolitical situation. There was a certain expectation, at least amongst the aristocracy, for the emperor to act as a peacemaker. In the context of civil war, one panegyric praised Constantine for this trait and for considering civilian interests in peace over personal glory and spoils, while Constantine's triumphal arch features a relief of the emperor with the inscription *Fundatori quietis,* 'To the founder of peace'.[213] In his tract on kingship dedicated to Arcadius, Synesius of Cyrene similarly states that emperors should be prepared both for war and also to end hostilities, as it was during periods of non-aggression that rulers received the most praise.[214] Although campaigns and battles could bring glory to emperors and generals, it was ordinary citizens who usually suffered, either through sieges, forced migration, or the myriad other troubles of war.[215] Of course, these concerns mainly applied to battles which took place in Roman territory, particularly civil wars or invasions by neighbouring polities. An ostensible imperial attempt to end hostilities which threatened civilian interests would therefore have been viewed positively by most of the emperor's subjects.

Roman officials and rulers could also explain their actions, or lack thereof, through the use of swearing. Various media, such as panegyrics, were used to celebrate and thereby spread awareness of military and diplomatic successes; slightly later but potentially representative of a wider trend is the victory dispatch concerning Heraclius' Persian campaign read out at the Hagia Sophia in 628.[216] Such official statements seem to be

[213] *Pan.Lat.* 12.2.6 *nobis potius quam tibi consulebas, nostramque pacem magis quam bellum quod aggrediebare firmaueras*; *CIL* 6.1139. See further: De Souza 2008.
[214] Synesius *De Regno* 16.
[215] See Lee 2007a, 133-146 on the civilian experience of war.
[216] *Chron. Pasch. s.a.* 628. Other media: Lee 2007a, 37-42.

reflected in various histories which sought to explain the imperial court's lack of military or diplomatic action, particularly concerning sworn agreements. Following negotiations with the Goths who had invaded Italy, the praetorian prefect Jovius wrote to Honorius advising the emperor to appoint the Gothic commander Alaric to a senior military position. The emperor rejected this proposal and Jovius, fearing to be seen as colluding with Alaric, swore alongside other officials over Honorius' safety never to come to terms with the Gothic king.[217] This oath was cited by Zosimus as obstructing diplomatic relations between the Goths and the Romans, who supposedly feared violating their sworn agreement in case they endangered the emperor.[218] Analogous is a legend recorded in various accounts which report that Marcian, who before his accession served as part of the *magister militum* Aspar's military retinue, was captured by the Vandal leader Gaiseric. Gaiseric supposedly learned from an omen that Marcian would become emperor and so made his captive swear never to war against the Vandals if he ruled the empire.[219] In both of these examples, the authors explained the inaction of the Romans as resulting from obedience to an oath, which may have been the justification offered by the imperial court. After all, Honorius was clear in his disdain for treating with Alaric despite the disturbance the Gothic leader caused in Italy, while Marcian, having been involved in Aspar's abortive African campaign, no doubt had little desire to suffer his own defeats against the Vandals.

Even more explicit is the justification for imperial passivity offered by Jovian who, as discussed earlier, swore oaths in confirmation of a humiliating peace-treaty with Shapur II. The agreement included the relinquishment of several eastern territories to the Sasanians and was poorly received by the Romans. A number of sources record that, upon arriving at Nisibis, Jovian ordered the inhabitants to leave and hand over the city to the Persians, but several civilians begged the emperor to ignore his pact. In reply to these entreaties, Jovian stated that he could not violate his oath and would not be counted a perjurer, so Nisibis had to be yielded.[220] Ammianus in particular states both that this agreement should have been broken and also that Jovian used this oath as a pretext: the emperor supposedly feared challenges to his new regime and wanted to hasten to Constantinople to consolidate his

[217] Soz. 9.7; Zos. 5.48.4-49.2. Sozomen only suggests that this oath was taken over imperial safety, whereas Zosimus states that Jovius swore while touching the emperor's head.
[218] Zos. 5.51. While invoking someone else's safety traditionally put their health at risk, Beare 1978 is surely incorrect to argue that the Romans saw the imperial equivalent as potentially harmful to the emperor. If not, breaking such as oath would have been seen as a simple way to kill the current ruler.
[219] Proc. *Wars* 3.4.5-11; Evagr. 2.1; Theoph. AM5931, 5943; Zonar. 13.24.12-16 (=Dindorf 1870, 245-246).
[220] Amm. 25.7.5-14, 9.1-12, with Jovian's explanation at 9.4; Zos. 3.33.2-5; Malalas 13.29; *Chron. Pasch. s.a.* 363.

position.[221] The account's presentation of Jovian was no doubt connected to Ammianus' preference for Julian and disdain for his successor,[222] but Jovian evidently believed that the oath could be used to explain his actions.

The original question of why continue to use oaths if they were often violated therefore finds its ultimate answer in the idea of performance. Even if we accept the improbable idea that the imperial court believed that all foreign peoples constantly and consistently perjured, we can posit that swearing still continued in use due to its value as a demonstrative practice. The emperor and his officials could indicate that they had made efforts to come to terms with enemies and thereby support the perceived superiority of the empire. Perhaps in some cases these promises were made to be broken. Of course, if the agreements remained in place or the various tactics outlined earlier were fruitful, then this success was to the benefit of the empire. Nonetheless, the violation of sworn treaties did not necessarily diminish their performative value. Through diplomatic oaths, rulers and their representatives could explain their behaviour and assert their authority, maintaining their reputations on internal and external stages.

[221] Amm. 25.9.2, 8.
[222] Drijvers 2011, 280-287.

Chapter 4

‘Destructive drug’ or social necessity? Oaths, Christianity, and the Church

In 388-97, John Chrysostom delivered a number of baptismal instructions to catechumens in his congregation.[1] These sermons advised those soon to be baptised about how to lead their new lives, providing scriptural models to follow alongside general prohibitions of unacceptable behaviours. One such habit about which the theologian warned his audience was oath-taking. In his tenth instruction, Chrysostom offers a characteristically colourful description of the practice:

> Δεινὸν ὁ ὅρκος, ἀγαπητέ, δεινὸν καὶ ἐπιβλαβές· φάρμακον ὀλέθριον, δηλητήριον χαλεπόν, τραῦμα κεκρυμμένον, ἕλκος ἀφανές. νομὴ συνεσκιασμένη καὶ τὸν ἰὸν ἐπὶ τὴν φυχὴν ἄγουσα· βέλος σατανικόν, ἀκόντιον πεπυρωμένον, μάχαιρα δίστομος, ῥομφαία ἠκονημένη, ἁμαρτία ἀσύγγνοστος, παρανομία ἀπολογίαν οὐκ ἔχουσα, βάραθρον βαθύ, κρημνὸς ἀπότομος, παγὶς ἰσχυρά, δίκτυον ἐκτεταμένον, δεσμὸς λυθῦναι μὴ δυνάμενος.[2]
>
> The oath, dear [congregation], is a dreadful and harmful thing; it is a destructive drug, a bane and a danger, a hidden wound, an unseen sore, an obscured ulcer spreading its poison in the soul; it is an arrow of Satan, a flaming javelin, a double-edged sword, a sharpened sabre, an unpardonable sin, an indefensible transgression, a deep ravine, a precipitous crag, a powerful trap, a tautly-stretched net, an unbreakable shackle, an inescapable noose.

Chrysostom was evidently no supporter of oath-swearing, but other Christians were more open to the practice. At the end of the fourth century, Augustine, bishop of Hippo, received a letter from a North African landholder named Publicola who was concerned that the acceptance of non-Christian oaths from workers on his lands would endanger his salvation. Publicola took issue with the religious orientation of the oaths sworn, but Augustine’s pragmatic reply advised the landholder to accept these promises, which the bishop regarded as a sinful but necessary interaction with other mortals.[3] Oaths could evidently cause

[1] On these instructions, see: Harkins 1963, 1-19.
[2] John Chrys. *Baptismal Instructions* 10.18. Greek text from Papadopoulos-Kerameus 1909, 162-163. Chrysostom’s opinions are dealt with in the next section.
[3] Aug. *Ep.* 46-47. These letters are discussed further on pp. 183-186.

potential problems for some Christians and elicited a number of responses, from grudging acceptance to vitriolic rejection.

Oath-taking was a pervasive feature of everyday life in the late Roman world and the practice had a long history of usage in many contexts.[4] By contrast, Christianity was a relatively novel addition to society, with new rules aimed at the modification of the entrenched habits and practices of the belief system's adherents. It is in this context that we find the differing opinions of Augustine and Chrysostom, as well as the concerns of Publicola, who was unsure how to balance the spiritual concerns of his religion and the pragmatic concerns of business. Publicola was not alone in this dilemma and many others were faced with the need to swear or accept oaths, in both Christian and traditional forms, throughout Late Antiquity.

Scripture provided little help for many of these individuals. The New Testament account of Jesus' Sermon of the Mount outright forbade oaths in any form. In particular, the sermon takes issue with swearing by Heaven, earth, Jerusalem, or by someone's head and states that Christians should instead take each other at their word.[5] This embargo was intended to address the common usage of oaths in Jewish society and the Old Testament acceptance of oath-taking. Prophets such as King David frequently took oaths, as did God himself, who after rescinding the order for the sacrifice of Isaac swore that Abraham's descendants would be numerous and blessed.[6] Certain Old Testament passages not only suggested that oaths were acceptable but also explicitly demanded that individuals fulfil their sworn commitments.[7] The letters of St. Paul appear to have further muddied the waters. The apostle often took a form of oath in his writings and while some theologians argued that Paul had ignored Jesus' prohibition, others instead sought to explain away his affirmations.[8] On the other hand, other scriptural passages were used by various theologians to explain why Jesus' argument against swearing was necessary. The examples of Herod, who was forced to kill John the Baptist as he had sworn to fulfil any request made by his daughter Salome, and

[4] See: Seidl 1933, esp. 33-86, and 1935, esp. 59-128, on provincial business which involved oaths being sworn and recorded in documentary papyri from the Ptolemaic period to Late Antiquity; the introduction of this thesis.
[5] Matt. 5.33-37. This prohibition is abbreviated at Jas. 5.12. On these passages, see: Roberts 1960; Duling 1991; Garlington 1995; Meier 2007; 2008.
[6] David: Ziegler 2008, 185-263. God: Gen. 22.16-18; Heb. 6.12-20; Worley 1994. See further: Is. 45.23; Jer. 4.1-4; 12.16; Ps. 132.11; Worely 1994; Klein 2015.
[7] Num. 30.2; Deut. 6.13-15; Heb. 6.16; Jer. 4.1-2; Ps. 63.11.
[8] Basil *First Homilies on the Psalms* 14.5 (on 1 Cor. 15.31) (*PG* 29.261); Aug. *Serm.* 180.2, 5 (on 2 Cor. 11.31 and Rom. 1.9); *Against Faustus* 19.22. However, Paul's affirmations were not formal oaths (pp. 11-12 above).

Saul, who was nearly forced to kill his son after taking an oath to execute anyone who ate before a particular battle, appeared to indicate the danger of the practice.[9]

Given that written works were expensive and many citizens were illiterate, the vast majority of ordinary Christians would not have been able to read or understand all of these scriptural passages.[10] Most religious adherents would only have encountered isolated passages during liturgical readings, framed by the preachers to make particular points, and so the Scriptures, which did not exist as a universal or complete work in the modern sense at this point, were not readily available as guidance.[11] Even then, the Scriptures were created in the context of earlier Jewish societies and were therefore not completely compatible with the lives of third- to sixth-century individuals; the rituals associated with swearing had developed over time and the scriptural guidelines, which referred to these Jewish practices, became less relevant.[12]

There was no consensus between late antique Christians on the subject of oath-taking. Some theologians used the Scriptures to argue against oaths and make wider points about religion, whereas others suggested that the practice was a necessary aspect of society. In preceding chapters of this thesis, we have seen divergent reactions to the religious dimensions of sworn promises, from refusals to take certain oaths to acceptances without issue. Even as some emperors utilised explicitly Christian terminology to enforce doctrinal and temporal allegiance within the empire, other rulers allowed more flexibility in relations with neighbouring peoples in the interests of negotiation. Oaths were by nature at least partially religious, and so, as has been noted by various scholars, late antique Christians attitudes towards the practice varied across a spectrum.[13]

This chapter examines these reactions in some detail. Christian responses to swearing can broadly be differentiated into three categories: those who argued against oaths, those who deplored pagan elements only, and those who accepted the practice in any form. Alongside these explicit arguments, many ecclesiastical authors also used the topic to discuss broader

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[9] Herod: Matt. 14.6-11; Mark 6.21-28. Saul: 1 Sam. 14.24-44. Saul's son ate honey and unknowingly violated the oath, but was rescued from death by Saul's soldiers.
[10] Hurtado and Keith 2013, 73-78.
[11] Grig 2013, 844-845; Rouwhorst 2013.
[12] On swearing in Jewish societies and the ancient Near East, see: Ziegler 2008, 10-15; Strine 2013, 43-71; Esders forthcoming, 1-3.
[13] Maxwell 2006, 148-151 briefly examines Chrysostom's arguments against the practice. DesRosiers 2014 discusses a small number of third-century theological opinions. Uhalde 2007, 77-104 and Boodts 2013, 3-8 examine Augustine's relationship with oaths, while Delouis 2008 provides a very broad analysis, from Late Antiquity to the middle Byzantine period.

points of interest, such as the division between Christians and adherents of other religions. Importantly, although there is evident disparity in Christian discourse on this topic, oath-taking had become adopted and adapted as part of the religion by the fifth century. The sheer practicality and utility of swearing meant that Jesus' prohibition was ignored by the majority of Christians, except by holders of certain ecclesiastical offices who then found ways to utilise the practice without contradicting their principles. The question at the core of this chapter, then, is how did the Christian Church of Late Antiquity deal with the issue of swearing?[14]

1. Satan's snare: against oath-taking

Many late antique theologians took a hard-line stance against oath-swearing and demanded that all Christians immediately stop this dangerous practice.[15] Some authors argued that such bonds were traps of Satan, meant to ensnare the swearer in an untenable situation, which could only result in either perjury and damnation, or the fulfilment of a rashly-made agreement and an equally unpleasant outcome. Other Church leaders suggested that oaths simply were not needed, and that upright Christians had no reason to distrust each other due to their innate honesty. Whatever rhetoric was employed, these authors all argued the same thing: Christians should never swear.

One of the fiercest opponents of oaths was John Chrysostom, so much so that the author of a funeral oration dedicated to the theologian stated that Satan, naturally an avid swearer, bitterly opposed the theologian due to his frequent sermons on the subject.[16] Throughout his career, Chrysostom addressed the issue of oath-swearing many times but perhaps his most sustained attack against the practice occurred before he became archbishop of Constantinople. As a presbyter in Antioch, the theologian delivered twenty-one sermons regarding the riots of 387, during which some citizens had mutilated the statues of Theodosius I and his family to protest against new taxes.[17] Seventeen of these homilies argue

[14] Due to the sheer amount of material, this chapter is far from exhaustive. Further work needs to be done on, for example, Syriac and Coptic sources, as well as pseudepigrapha.
[15] Various earlier authors (e.g. Philo *On Exodus* 20:7; Justin Martyr *First Apology* 16; Ptolemy the Gnostic *To Flora* 4.1 (=Epiphanius *Panarion* 1.2.33.6.1); Iren. 2.32.1, 4.13.1) also took issue with swearing and repeated the Biblical prohibition. Works which only refer to Jesus' proscription without providing further argument (e.g. Theod. *Compendium of Heretical Accounts* 5.16 (*PG* 83.505)) are not discussed.
[16] *Funerary Speech for John Chrysostom* 31, 37.
[17] On the riots, see: Paverd 1991, 15-201; French 1998.

to varying degrees against the usage of oaths, indicating the importance of this subject to the preacher.[18]

Before moving on to the arguments, it is worth examining the connection between the riots and oath-swearing. Although other sources on this incident of dissidence do not explicitly link the destruction of imperial images with oaths, there was some connection between the two, as was clearly the case with the military *sacramentum* which was often sworn to portraits of the emperor.[19] Mutilation of Theodosius' likeness was equivalent to opposition to the regime, whether or not oaths had been sworn over the statues in question. Conversely, invocation of the current ruler in oath-formulae, which commonly included imperial elements, confirmed an individual's compliance with and loyalty to the current ruler.[20] It may therefore be that, in the climate of apprehension following the riots, some citizens thought to prove their fidelity via swearing. Equally, as oaths often involved invocation of the emperor, perhaps some inhabitants of Antioch were concerned that their agreements lacked force because the swearers had publicly turned against their ruler. Sermons were partially intended to address the audience's concerns, but their primary purpose was to offer a rhetorical instruction, reflecting the issues perceived by the preacher rather than the laity.[21] Through these homilies, Chrysostom sought to reassure his congregation that imperial vengeance would be prevented by fasting, both from food and from dangerous speech, the latter of which he linked to oaths.[22]

While the third of these homilies only briefly introduces his opinions on this practice, the fifteenth provides a more extensive polemic against oaths and those who used them. Chrysostom began, as he did in many of the other riot-related sermons, by referring to dangerous speech, before claiming that swearing was worse than murder and led to the destruction of an individual's life. Rather hyperbolically, we are told that 'a sword is less piercing than an oath's nature!'[23] This view is repeated in numerous other sermons; elsewhere, Chrysostom states that there was no justified reason to swear and disparages those who 'sacrificed their souls', particularly labourers and artisans who ruined the value of their

[18] John Chrys. *Statues* 3-16, 19-20 (*PG* 42-172, 187-212).
[19] See pp. 27-29 above. Note also Lib. *Or.* 23.26 which suggests that 'oaths which alleviated fear' (ὅρκους ἐξαιροῦντας τὸν φόβον) were made in connection to a public address by Ellebichus, an imperially-sanctioned investigator into the riots.
[20] Imperial oaths: pp. 179-180, 192-193 below.
[21] Maxwell 2006, 1, 4-8; Eric Rebillard 2018.
[22] John Chrys. *Statues* 3.6-17, 21. (*PG* 49.50-56, 59-60).
[23] John Chrys. *Statues* 15.13 Οὐχ οὕτω κεντεῖ ξίφος, ὡς ὅρκου φύσις (*PG* 49.160).

output by swearing oaths.[24] Several of Chrysostom's baptismal instructions also argued that oath-taking was not allowed once the new initiates had started their lives as Christians and also offered advice on how to avoid the hazardous practice.[25] To the author, oaths were a terrible matter and were sinful even if taken in good faith.

Returning to Chrysostom's fifteenth sermon on the riots, we are told that oath-swearing was dangerous due to the risk of supernatural punishments, both for simply using oaths and also for committing perjury. The preacher cites several scriptural passages, amongst them Jesus' prohibition, but the most interesting is a vision of the prophet Zachariah, who witnessed a flying sickle which threatened punishment against perjurers and their families.[26] This risk of destruction was to Chrysostom more terrible due to the point of the practice: oath-taking was supposed to confirm loyalty or honesty when these things were doubtful. While all oaths contained an inherent risk, in these cases the chances of retribution were higher due to the questionable character of the swearer. Putting this individual under oath was therefore tantamount to murder.[27] To make matters worse, as these promises were often sworn in churches or over the Gospels, the practice could profane areas and items of sanctity by damning another person to punishment for perjury in their presence.[28] On the other hand, if an oath was not taken and circumstances changed, necessitating that the agreement in question be altered, then both parties involved could come to a new arrangement without worry for their salvation.[29]

Other Church leaders shared these concerns. The roughly contemporary British theologian Pelagius wrote to a lady who had recently promised herself to chastity, congratulating her on the direction her life was taking while simultaneously advising her on how to act. Pelagius referred to the need for virgins to be chaste in speech as well as sexuality, associating swearing with sinning and abstention with Christian virtue in a similar manner to Chrysostom.[30] The third-century bishop Cyprian of Carthage also made passing

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[24] John Chrys. *Baptismal Instructions* 9.38-41; *On Genesis* 15.17 (*PG* 53.125); *On Matthew* 61.2 (*PG* 58.591). See also *On Acts* 9.5 (*PG* 40.83), which questions why humanity would endanger its salvation for monetary gain via oath-taking.
[25] John Chrys. *Baptismal Instructions* 1.42; 9.38-47; 10.18-29. Note the similar use of weapon metaphors in *Statues* 15.13 (*PG* 49.160) and *Baptismal Instructions* 10.18, quoted at the start of this chapter.
[26] Zec. 5.1-4. Aug. *Ep.* 125.3 also discusses this vision.
[27] John Chrys. *Statues* 15.14-15 (*PG* 49.160-61); *On Acts* 9.5 (*PG* 40.82) Τοῦτο γὰρ ὅρκος ἐστὶ, τρόπων ἀπιστουμένων ἐγγύη. See also John Chrys. *Against Opponents of the Monastic Life* 1.8 (*PG* 47.330), which emphasises that both perjury and oath-taking were sins, albeit of differing severity.
[28] John Chrys. *Statues* 15.14 (*PG* 49.160).
[29] John Chrys. *On Acts* 9.5 (*PG* 40.82).
[30] Pelagius *To Demetrias* 19.3-4 (*PL* 30.35-36; 33.1112-1113). See further the comments in *On Virginity* 7.3 and *To Celantia* 19, and also *Letter to a professed virgin* 3.1 (*PL* 17.603), which is Pelagian in doctrine but of

references to the avoidance of oath-swearing being a Christian duty.[31] In one of his letters, Basil of Caesarea similarly argued against the practice with particular reference to tax collection and monetary business. The bishop states that local officials tended to administer oaths to provincials to ensure that these individuals payed taxes, even if the swearers had no money. Basil notes the 'evident evil done to [the swearers'] souls' and states both that these actions condemned the oath-takers to divine retribution and also that such promises were simply not useful; these men would refuse to pay even if they had the money, believing themselves to have tricked the tax-collectors, further condemning the swearers to damnation and also decreasing the chances of the payments being made.[32] This issue was elaborated on in a later letter, where the bishop suggests that perjurers would be excommunicated for ten years, but those who violated oaths taken under compulsion received a lesser punishment.[33] Divine retribution for oath-breaking was a real fear for Basil, and although there were some allowances for those forced into swearing, it was still better to avoid the practice entirely.[34]

Ambrose of Milan also feared the danger of perjury but suggests that in some cases the fulfilment of an oath was not much better than the punishment for violation. Discussing the example of Herod, who was forced either to execute John the Baptist or to break his oath to Salome, Ambrose notes the difficult position in which oaths could place people.[35] A similar, high-profile incident arose in the bishop's lifetime and was dealt with by the theologian in one letter. Ambrose advises the emperor Theodosius I to ignore his oath to penalise monks who had burned down a synagogue and a meeting place for heterodox religious adherents in Callinicum.[36] The letter pragmatically avoids accusations of rashly made promises, but clearly the author felt that the arsonists were justified in their actions and that punishment of these monks would be unjust. Ambrose argues that Theodosius should therefore ignore his oath, suggesting that there were allowances in certain circumstances. And yet, in his discussion of Herod's case, the bishop argues that such dilemmas, where an

uncertain authorship. On the attribution and editions of these letters, see Rees 1991, 71-72, 127-128 and 338 respectively.

[31] Cyprian *De mortalitate* 4; *De bono patientiae* 16.

[32] Basil *Ep.* 85 ὁμολογούμενον κακὸν τῇ ψυχῇ προσλαμβάνουσιν. cf. *Ep.* 22.1 for more general opposition to swearing; *Ep.* 188.10, which explicitly refers to oaths as a violation of the Gospels and suggests that religious authorities who swore not to become bishops (pp. 197-98 below) should not be held to their oaths.

[33] Basil *Ep.* 217.64, 82. See also p. 199 n. 194 on ecclesiastical punishments for perjury.

[34] cf. Basil *First Homilies on the Psalms* 14.5 (*PG* 29.260-61), which refers to the danger of perjury without explicitly condemning oath-taking.

[35] Amb. *Off.* 3.12.76-78, esp. 77, and *Exhortatio virginitatis* 3.6.28, where Ambrose suggests Herod, who was drunk when he swore to Salome, could have been excused from his oath. See the comparable comments in Basil *Ep.* 199.29.

[36] Amb. *Ep.* 74.31.

individual either committed perjury or complied with a questionable oath, could be entirely avoided if people refrained from swearing, a point articulated by other like-minded theologians.[37] Oath-taking could lead to untenable circumstances, where the swearer either committed a heinous act or set into motion destructive curses against themselves. Humans were evidently fallible and were therefore at high risk of eliciting God's anger and retribution through perjury or making foolish promises. In the opinion of Chrysostom, this thought-process explained why oath-taking was prohibited: the practice was a trick of Satan, who wanted to ensnare the faithful to commit an evil act.[38]

To a certain extent, some of these theologians regarded oaths as essentially banal, which was their principal danger. In the late-second century, Clement of Alexandria lamented how common swearing was in everyday life.[39] Chrysostom emphasised not only the number of oaths taken but also the ease with which these promises were taken, as swearers effortlessly entrapped themselves and sinned by taking oaths without thought.[40] Ambrose and Basil in the above passages clearly shared this opinion, and even Church leaders who did not always argue against oath-taking noted that swearing rashly was dangerous. Augustine, for example, suggests that overuse of this practice led to a familiarity with lying.[41] There was a concern that Christians would become dishonest and morally questionable through over-reliance on oaths. This state of affairs, argued the theologians opposed to oath-taking, could be avoided by refusing to swear in the course of everyday life.

Humans were weak and corruptible beings who regularly changed their minds and made foolish promises, and so it was altogether safer to avoid taking oaths. On the other hand, God was none of these things. In reflection of His unchangeable and just nature, Church leaders suggested that it was only permissible for the Almighty to use the practice and justified the Lord's Old Testament oaths on these grounds. Ambrose uses this argument in his commentary upon the case of Jephtha, a Biblical commander who had vowed to offer

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[37] Amb. *Exhortatio virginitatis* 11.74. Other theologians: Lact. *Epitome of the Divine Institutes* 64; Basil *Ep.* 199.29; John Chrys. *Statues* 15.15 (*PG* 49.161-62); Barsanuphius and John *Ep.* 615; Isid. *Sentences* 2.31.9.
[38] John Chrys. *On Acts* 13.4 (*PG* 40.112) Σατανικὴ γὰρ ὄντως ἐστὶ παγὶς τὸ ὄμνύμαι. See also: *Baptismal Instructions* 10.20-29; *Homilies on the Devil* 1.7 (*PG* 49.256); *On Matthew* 17.5-6 (*PG* 52.260-63); *Statues* 14.3 (*PG* 49.144-145). See also *Funerary Speech for John Chrysostom* 37, on Satan compelling Chrysostom's opponents to swear oaths which should not have been kept. cf. John Cassian *Conferences* 17.9, 14, which argues that some oaths should be ignored, and 29, which suggests that Satan worked upon humans to break their agreements and oaths without criticism of oath-taking.
[39] Clement *Paedagogus* 3.11.
[40] John Chrys. *Baptismal Instructions* 9.38; *On Acts* 9.5 (*PG* 40.83).
[41] Aug. *On Lying* 28 (with Uhalde 2007, 79-80); *Serm.* 180.9-11; 308.1-2; Greg. Naz. *Or.* 45.17. cf. Greg. Naz. *Ep.* 86.2, which chastises Hellenes (either contemporary non-Christians or earlier Greek peoples) for forgiving oaths taken impulsively.

God the next thing to arrive at his door provided he was victorious in battle, and was then forced to kill his daughter. Like Jephtha, mortals lacked the foresight and will of God, and in swearing to some future commitment they ensured their misfortune.[42] Others, such as the fourth-century theologian Chromatius of Aquileia, also suggested that as God could not lie, He was safe from the risk of perjury and everything the Lord said had the strength of a regular oath.[43]

The subject of oath-swearing could thereby be used to discuss God's nature, but the topic was also deployed as a motif to demonstrate the difference between Christianity and other religions. Chromatius stated that the Jews, who were inherently wicked, naively relied on oaths and were so untrustworthy that they had to be bound to complete their everyday business.[44] This dependence was what many theologians who feared the banality of oath-swearing were seeking to prevent for their fellow Christians. Although the bishop Gregory of Nazianzus was not completely opposed to oath-taking, his first oration against Julian mentions in passing that Christianity was the first religion opposed to the practice.[45] The tone here is proud, and this section, which also describes Christian virtues such as love for neighbours and charitable living, was aimed at highlighting the religious superiority of Gregory's beliefs over traditional cults. The fourth-century bishop Epiphanius of Salamis uses a similar tactic to denigrate a Jewish sect named the Essenes in his *Panarion*, which documents various heretical groups and provides metaphorical remedies for their purportedly poisonous beliefs. Epiphanius criticises the Essenes for both swearing in general and also invoking numerous non-Christian forces, drawing a distinction between these individuals and adherents of Christianity.[46] This type of distinction was clearly also the aim of Chromatius,

[42] Amb. *Off.* 3.12.78-79 and 1.12 (on Judges 11:30-32, 34-39). This example technically concerns a *votum*, but Ambrose's inclusion of this incident in a passage concerning oath-swearing indicates the close relationship between the two rituals (pp. 12-14 of the introduction).
[43] Chromatius *On Matthew* 24.3.1-3. Ambrose wrote to Chromatius (*Ep.* 50) questioning whether God could perjure and what the outcome would be as there was no-one more powerful to punish Him, but Chromatius' reply (if he did reply) has not survived. See also: Cyr. Alex. *On Luke* 1.73 (*PG* 72.481) (Note that the Greek for this section is missing. Payne-Smith 2009 provides a reliable translation based on a more complete Syriac version); Theod. *Ep.* 78; Isid. *Sentences* 2.31.9-10.
[44] Chromatius *On Matthew* 24.2.3-5; Uhalde 2007, 87. Chromatius further suggests that God swore oaths to converse with Jewish adherents in terms which they understood, such was their purported dependence on oath-taking. See also: Jerome *On Matthew* 1.5.34. cf. Theod. *On Jeremiah* 4.2 (*PG* 81.525), which suggests that Biblical inconsistencies on oath-swearing resulted from attempts to persuade Jewish adherents to worship the Christian God.
[45] Greg. Naz. *Or.* 4.122. However, some individuals did oppose oaths before Christianity took this stance (Blidstein 2018b, 55 n. 4).
[46] Epiphanius *Panarion* 1.19.6.1-4.

who, like many Christian authors from this period, viewed the Jews negatively.[47] The issue of swearing was one of the themes used to show the difference between Christianity, the new religion, and Judaism, the faith from which it developed.

This variance between the two religions was also used to explain why Christians should be able to avoid swearing on a daily basis. Unlike Jews and other non-Christians, followers of Christianity were purportedly trustworthy and so did not need to swear at all. Chrysostom advances this theory in various works which claim that Christians had no reason to distrust each other, provided they adhered to the Scriptures.[48] Similar statements are made by Eusebius in his theological works and by the sixth-century bishop Caesarius of Arles, whose sermons frequently refer to oath-taking as a sin and avoidance of the practice as a virtue.[49] Moreover, the fourth-century bishop Hilary of Poitiers states that Christians were already bound by their beliefs never to lie.[50] Various theologians argued that this understanding lay at the heart of Jesus' prohibition: a simple 'yes' or 'no' was sufficient for a Christian, particularly as God saw everything and punished mendacity as well as perjury.[51] Oath-taking was therefore supposedly unnecessary, a sin which could be cut out of life without much loss by late antique Christians, God's chosen people.

Chrysostom stated that although there was no obvious difference between contemporary Christians and adherents of other beliefs in society, especially concerning ingrained practices such as oath-swearing, he wanted to change this state of affairs. The preacher dealt with the 'tyranny of ancient customs', such as the marking of infants' heads to ward off evil, and sought to correct the habitual behaviour of his laity and thereby separate them from others.[52] Chrysostom noted that oath-taking, one of these customs, was entrenched in society, but argued that abstention from this traditional practice and un-Christian

[47] On the tradition of *adversus Iudaeos,* '[arguments] against Jews/Judaising Christians', see: Fredriksen 2010, esp. 79-102.
[48] John Chrys. *On Acts* 13.4 (*PG* 60.112); *On Ephesians* 2.4 (*PG* 62.21); *Statues* 7.10 (*PG* 49.97-98). See also Clement's claims that Gnostics did not need oaths due to their inherent trustworthiness (*Stromata* 7.8).
[49] Eus. *Proof of the Gospel* 3.2, 3, 5 (*PG* 22.173, 188C, 200B); *Preparation for the Gospel* 1.4, 13.13 (quoting Clement *Stromata* 5.14); Caesarius of Arles *Sermons* 1.12; 14.3; 23.2; 64.2; 130.5; 145.1; 200.5; 236.4.
[50] Hilary *In Matt.* 4.23-24. However, in *To Constantius* 3 Hilary invokes God as a witness that he did not slander Constantius II to Constans, thereby taking a form of oath. See also: Athan. *Apol. ad Const.* 8, which claims anything a Christian said was an oath without criticism of this practice.
[51] Origen *On Matthew* 17; *Homilies on Jeremiah* 5.12.2; *On Principles* 4.19; Clement *Stromata* 5.14; Chromatius *On Matthew* 24.2.4; Uhalde 2007, 87.
[52] e.g. John Chrys. *On 1 Corinthians* 7.6 (*PG* 61.63). Maxwell 2006, 144-168 provides a useful discussion on this topic.

phenomenon would improve each individual's behaviour more generally.[53] In his homilies against Judaising Christians, Chrysostom recounts how he grew angry with an individual who tried to force a lady to swear inside a synagogue, and then chastised the man for rejecting the Church in this manner.[54] It seems that the theologian, like many others, saw the practice as a non-Christian ritual. This perception would also explain why several of the preacher's baptismal instructions prohibited the practice, as the catechumens would no longer need oaths in their new lives. Christians were superior to individuals who followed other belief systems and the issue of habitual oath-taking was another opportunity for Church leaders to confirm their convictions.

2. Demonic oaths: against invocation of anything but God

Not everyone shared these concerns. For those few who were able to consult Scripture, the New Testament elaborated on this matter further, stating that an oath had to be made on a higher power, which in God's oaths could only be himself.[55] As the Lord swore by himself, then surely this was something his followers should emulate? The Sermon on the Mount, especially the line 'Do not swear by your head, for you cannot make even one hair white or black', could be interpreted as Jesus only forbidding oaths sworn in the name of forces without any power.[56] To some Christians, then, oaths were allowed so long as they called upon God and were not taken in the name of traditional deities.

This opinion was certainly held by a number of ecclesiastical authorities. In his commentary on the Gospel of Matthew, Jerome, who played a fundamental role in the creation of what would become the Vulgate Latin New Testament, argues that oaths should only invoke God due to his omnipotence.[57] Furthermore, during a fever-dream in which the theologian was transported to Heaven, Jerome swore an oath by God's name to abstain from reading Classical literature.[58] The theologian not only had no problem swearing in his vision, but God is also presented as happily receiving the promise. Similar in viewpoint were Cyril, the early fifth-century archbishop of Alexandria, and the sixth-century deacon Olympiodorus

[53] John Chrys. *On Matthew* 11.8 (*PG* 57.201). cf. Pall. *Laus. Hist. prologue*.9, which describes the addressee, Lausas, as a model of Christian virtue for avoiding wealth and oaths.
[54] John Chrys. *Adv. Iud.* 1.3 (*PG* 48.847-848). Note that neither Christian here sees a problem with swearing (p.190 below).
[55] Heb. 6.12-19; Amb. *De Fide* 2.8.71.
[56] Matt. 5.36.
[57] Jerome *On Matthew* 1.5.34. On Jerome's translations of the Bible, see: Sparks 1970; Houghton 2016, 31-35.
[58] Jerome *Ep.* 22.30.

of Alexandria, who both stated that if swearing was necessary, then the practice should invoke God alone.[59] Jesus' prohibition was evidently interpreted by these theologians to refer to swearing by forces without power, and so oaths in the name of the Christian God were permitted. Provided that the practice was orientated to the correct religion and was upheld with honesty, Jerome believed that swearing was a force for good which created justice. Without the truth and God's judgement, however, 'there will be no oath, only perjury'.[60]

But this desire for oaths to include only God was an unrealistic aspiration for much of the third and fourth centuries. Christianity was far from a state religion at this point; although behaviour associated with traditional beliefs was becoming more irrelevant in society by the end of the fourth century, it was not until the early fifth that we begin to see a widespread reorientation of oaths in local contexts. The various published papyri which preserve oath-formulae first include an explicit Christian element, the invocation of God, in 364, but this example is an outlier to the general trend.[61] From the fifth century onwards, however, God became more commonly included in oath-formulae, perhaps in relation to a constitution issued in 385 which sought to increase the significance of swearing in God's name.[62] The introduction of Christian terminology into the practice was a gradual process, and there was no instantaneous change in the formulae in reaction to the religion's increasing pervasiveness.

Even when oath-formulae began to include Christian elements, there were still issues with the type of invocation made. In his commentary on the Sermon on the Mount, Augustine explained that Jesus's prohibition of oaths specifically mentions a range of matters, such as the city of Jerusalem and the earth, as they were used in swearing rituals even though they had less power than God. These invocations, which seem to have been included in the scriptural ban in reflection of their use in Jewish communities, were probably not widely employed in late antique society. Nevertheless, Augustine suggests that these and other comparable matters, although related to God, lacked independent divine authority. As a result, these invocations could not persuade individuals to maintain their agreements, but

[59] Cyr. Alex. *On Isaiah* 5.6 (*PG* 70.1417); Olympiodorus of Alexandria *On Jeremiah* 4.2 (*PG* 93.636).
[60] Jerome *On Jeremiah* 1.69 (on Jer. 4.2) *si ista defuerint, nequaquam erit iuramentum, sed periurium*; Uhalde 2007, 80. See also: Jerome *Ep.* 46.7, which cites Matt. 5.35 on not swearing by Jerusalem: Athan. *Expositiones in Psalmos* 63.12 (*PG* 27.280), on Ps. 63.11 ('all who swear by God will glory in him').
[61] *SB* 22 15768, lines 14-16; Gagos and Sijpesteijn 1995. Other provincial examples: Seidl 1935, 12-13, 24.
[62] *CTh* 2.9.3 (=*CJ* 2.4.41).

perjury still led to divine retribution.[63] One undated constitution of Justinian, dealing with blasphemy, takes a stronger stance against other reportedly unacceptable elements:

> Ἐπειδὴ δέ τινες πρὸς τοῖς εἰρημένοις καὶ βλάσφημα ῥήματα καὶ ὅρκους περὶ θεοῦ ὀμνύουσι τὸν θεὸν παροργίζοντες, καὶ τούτοις ὁμοίως παρεγγυῶμεν ἀποσχέσθαι τῶν τοιούτων βλασφήμων ῥημάτων καὶ τοῦ ὀμνύναι κατὰ τριχός τε καὶ κεφαλῆς καὶ τῶν τούτοις παραπλησίων ῥημάτων… Διὰ γὰρ τὰ τοιούτος πλημμελήματα καὶ λιμοὶ καὶ σεισμοὶ καὶ λοιμοὶ γίγνονται, καὶ διὰ τοῦτο παραομοῦμεν τοῖς τοιούτοις ἀποσχέσθαι τῶν εἰρημένων ἀτοπημάτων, ὥστε μὴ τὰς αὐτῶν ἀπολέέσαι ψυχάς.[64]
>
> There are some who arouse God's anger by swearing in blasphemous language, and oaths using God's name. We exhort these, likewise, to desist from such blasphemous language, and from swearing by his hair, his head and suchlike expressions…It is because of offences such as these that famines, earthquakes and plagues occur, and that is why we admonish such people to desist from the said evildoings, lest they lose their own lives.

Justinian's opposition to usage of God's name did not refer to swearing by God himself, but to using His true names, which had a deeper religious significance.[65] The invocations of these names, God's head and hair, and 'suchlike expressions' do not seem to have been perceived as a form of loophole, as Augustine suggested some individuals viewed particular invocations. But similar to Augustine's judgement of such matters, the law states that certain formulae could directly instigate God's wrath and subsequent reprisals. Justinian's reign was marked by several natural disasters, including an earthquake and the onset of plague, which are mentioned in the above law, and the emperor saw blasphemy and unacceptably formulated oaths as a cause of these events.[66] To deter the usage of intolerable elements, the constitution states that there would not only be divine retribution but also states that swearers who persisted would be arrested and punished.[67] Justinian, at the least, saw certain oath-formulae as more than a theoretical concern; improper formulations had real-world

[63] Aug. *De sermone Domini in Monte* 1.17.52.
[64] Just. *Nov.* 77.1.1. Translation from Miller and Sarris 2018, 1:540.
[65] This was connected to the Commandment 'Do not take the Lord's name in vain' (Exod. 20.7) and the Lord's Prayer, which begins by stating His name was hallowed (Matt. 6.9; Luke 11.12; Meier 2007, 184).
[66] On these disasters, see: Croke 2006, 70-71; Horden 2006; Sarris 2007. See also Croke 1981 on the perceived link between earthquakes and divine retribution.
[67] Just. *Nov.* 77.1-2.

consequences, and as such required policing.[68] This anxiety about 'correct' formulations would further explain why the governor's oath, instituted in Justinian's reign, was created with such care.[69]

But people around the empire would swear by whatever they believed to have agency and power. Some Church leaders viewed this tendency as problematic. In his polemic against Donatism, Optatus suggests that these sectarians had taken to swearing by their bishops and martyrs.[70] Optatus, a bishop himself, criticises this practice as sacrilegious and states that only God should be invoked due to His power. The author challenges the addressee, bishop Parmenianus of Carthage, to 'refuse to die, command the clouds, [and] send rain if you can' if he was to be invoked as a higher force.[71] These criticisms were linked to Optatus' wider presentation of these sectarians worshipping Donatus as divine, alongside more general disparagements of the sect.[72] However, with the gradual inclusion of other elements into the process of swearing oaths during Late Antiquity, bishops, martyrs, and saints were regularly included in oath-formulae. The emperor Arcadius and his rebellious commander Gainas, for example, swore oaths of non-aggression in the presence of a martyr's body, as did Justin I and Vitalian in the following century.[73] Several papyri record similar practices, with oaths taken either at the tombs of saints or in direct invocation of these holy individuals themselves.[74] The majority of evidence concerning these invocations comes from the latter part of Late Antiquity, correlating to the rising significance of 'holy men' and their roles of intercession with God.[75] Indeed, certain saints were associated in particular with punishing perjury or overseeing oaths taken at their tombs through their proximity to the Lord.[76]

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[68] Analogous are earlier Roman civic rituals, which were aimed at maintaining divine good will and preventing public disasters (Ziolkowski 2013, 394-395).
[69] See in particular pp. 88-117 above.
[70] Opt. 2.21-23, 3.6. On Optatus' connection to the Donatist schism, see Shaw 2011, 62-64.
[71] Opt. 2.22 *per uos iuratur, nemo uestrum aut uestrorum langueat: nolite mori, imperate nubibus, pluite, si potestis.*
[72] See in particular Opt. 3.3.
[73] Soc. 6.6.12-13 (full text p. 143 above); Ps-Zach. 8.2. Both incidents took place at the martyr-shrine of Euphemia, a significant holy site (Evagr. 2.3), which would have underscored the religious significance of the promise.
[74] e.g. *P.Petra* 4 39, lines 478-480, 489-491, dated to 574, which records an arbitration with oaths sworn at the oratory (εὐαγής εὐκτήριον) of the martyr Kyrikos; *P.Oxy*. 24 2419, line 5, dated to ca. 500-599, which suggests that one person swore in relation to the accompaniment of a lady to a convent 'by the power of the saint of this place' (τῆς δυνάμεως τοῦ αὐτοῦ ἁγίου τούτου), which the editors suggest refers to St. Thecla.
[75] On 'holy men' and intercession, see: Brown 1989, esp. 267-272; Rapp 1999, esp. 66-72.
[76] See e.g. Aug. *Ep.* 78.3; *Martyrdom of Polyeuktos of Melitene* (=*BHG* 1567); *Martyrdom of Floros and Lauros* (=*BHG* 662z.7); *Book of Pontiffs* 57.3. cf. the mocking criticisms of a fourth-century non-Christian rhetorician, who, referring to Lucan *Civil War* 7.459, claims that Christians swore by the shades (*umbrae*) of their martyrs (Aug. *Ep.* 16.2); Claud. *In Ruf.* 2.165, which states that the fifth-century official Rufinus invoked the dead (*manes*).

Although the invocation of 'holy men' was largely a later phenomenon, Optatus' suggestion that Donatist bishops featured in fourth-century oaths may be somewhat substantiated by a letter from Constantine I to a *vicarius* of Africa.[77] The letter, appended to Optatus' work, states that the emperor expected Christians to swear by his safety as a matter of respect, suggesting that rumours of non-imperial oaths had reached the imperial court.[78]

While Constantine was evidently concerned with appearances of fidelity, Optatus took issue with a wider Christian debate which influenced contemporary methods of swearing. This problem was addressed by other theologians, such as Cyril of Alexandria. In his dialogue on the unity of Christ, the fifth-century archbishop suggests that several heterodox adherents had mocked other Christians for invoking Jesus as the son of God.[79] Various Church schisms and controversies of Late Antiquity revolved around the relative positions of the Trinity and these conflicts naturally had an impact upon oath-formulae. Questions about parity between Jesus and the Holy Spirit resulted in variations of invocations. Although a considerable number of oaths preserved in papyri were taken in the name of Almighty God, many also invoked the Trinity in certain forms. Some examples reference Trinitarian consubstantiality and holiness through the terms ὁμοούσια and ἁγία respectively, whereas others neglect to qualify the Trinity as 'consubstantial',[80] perhaps thereby indicating local understandings of what constituted orthodox belief.

Curiously, this topic appears to have received little discussion in the various late antique Church councils, precisely where we would expect some comment on doctrinal differences in this common social practice. While ecclesiastical authorities sometimes turned their attention to oaths taken in particular contexts, such as those taken to form conspiracies which were prohibited at the Council of Chalcedon (451), the clergymen assembled for religious councils did not explicitly discuss impermissible invocations.[81] Doctrinal terminology in oath-formulae no doubt caused problems for some Christians, but the absence

[77] Later examples: e.g. Greg. Tur. *Glory of the Confessors* 92; *LH* 5.32, 48-49, 7.29; Devos 1986; Esders 2014.
[78] Constantine *Letter to Celsus*, lines 57-62 (=Maier 1987, 196).
[79] Cyr. Alex. *Quod unus sit Christus* 748D-E (*PG* 75.1312) εἰσποιητὸν ἔχει τὸ εἶναι Υἱὸς ἐγκαλείτωσαν αὐτοῖς τὴν ψευδηγορίαν, καὶ τοῦτο ὀμωμοκόσι.
[80] Hauben 2002. cf. *SEG* 35 1254 (=di Branco 2001, 198), an inscription dated to 459, erected in Sardis, and preserving an oath by the 'holy and life-giving Trinity' (lines 17-20 ἁγία καὶ ζωοποια τριάς).
[81] *Acts of the Council of Chalcedon* Canon 18 (=*ACO* 2.1.2.161). Oaths of conspiracy were already criminalised by imperial law (*CTh* 9.14.3.*praef.* (=*CJ* 9.8.5.*praef.*)). However, canons 1 and 3 issued at the post-Roman Synod of Orleans (511) (=Gaudemet and Basdevant 1989, 72-74) state that violation of asylum oaths resulted in excommunication, while canon 16 of the third Synod of Orleans (541) (=Gaudemet and Basdevant 1989, 274) threatens expulsion against those who unrepentantly swore over animals. Note also the common usage of oaths in Church councils (p.200 below).

of extended discussion at Church councils, or even in other ancient sources, suggests that orthodox theology rarely exacerbated issues in the everyday world of the oath.

More problematic for various Church leaders were traditionally non-Christian invocations, which continued to be used throughout this period. One such element with which some Christians took issue was the invocation of the emperor. As indicated by Constantine's letter to Celsus mentioned earlier, the current ruler was often included in oath-formulae, both at the local level as preserved in papyri and in institutional swearing as discussed in previous chapters.[82] Swearers could invoke the emperor through a combination of his names, aspects of the imperial persona, and titulature, but some theologians, such as Origen, argued against the use of particular titles.[83] In his polemical third-century apology against the philosopher Celsus, Origen states that the invocation of imperial fortune, τύχη, was the equivalent of worshipping demons.[84] Tertullian took a different approach and suggested that while any invocation related to the emperor's divine spirit, or *genius*, was sinful, Christians could swear by imperial safety, as this aspect was less related to the imperial cult.[85] Some earlier martyr acts feature a rejected request that the Christians on trial swear by the emperor.[86] Interestingly, the fourth-century bishop Phileas, brought to trial under the Tetrarchic persecutions, rebuffed a request to invoke the emperor by stating that he could not swear at all due to the scriptural prohibition, but the bishop would surely have been especially unhappy with the imperial invocation.[87] To some Christians, the emperor was merely a

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[82] See pp. 31, 96-99 above. These formulae are frequently termed 'imperial' for this reason, and for the common qualification of the oaths as such (Packman 1993, 111).

[83] On these titles, see: Seidl 1935, 12-43, 48-50; Worp 1982. cf. Lib. *Ep.* 40.13, where Libanius mocks the addressee for having so great an opinion of himself that his flatterers swore by their brilliance (ὧν ἡ λαμπρότης ὅρκος τοῖς κόλαξι); *Or.* 18.307, where Libanius claims that citizens could lay a hand upon Julian's tomb and swear by him as with the gods (μετὰ θεῶν ὀμνύναι τοῦ σήματος ἁπτομένους).

[84] Origen *Against Celsus* 8.65 τοῦ Ῥωμαίων βασιλέως τὸν δαίμονα ὀμνῦσιν οἱ τὴν τύχην αὐτοῦ ὀμνύοντες; Crouzel 1995, 354. See also: Origen *Against Celsus* 8.67; *Exhortation to Martyrdom* 7 (*PG* 11.572-573).

[85] Tert. *Apol.* 32.2-3, esp. 32.3 *Ceterum daemonas, id est genios, adiurare consueuimus, ut illos de hominibus exigamus, non deierare;* Eric Rebillard 2012, 29-30. cf. *P.Oxy.* 33 2673, line 29 (with Rea 1979), which records that a lector swore an imperial oath in 304 but, as the lector claimed to be illiterate, an official signed the document on his behalf. Although some (e.g. Wipszycka 1996; Luijendijk 2008, 355-356) have suggested that the lector attempted to avoid swearing this oath, Choat and Yuen-Collingridge 2009, 122-130 have convincingly refuted these arguments.

[86] Martyrs: *Martyrdom of Polycarp* 9.2-3, 10.1 (abridged in Eus. *EH* 4.15.18-21); *Acts of the Scillitan Martyrs* 3, 5; *Acts of Apollonius* 3-8; De Ste. Croix 1963, 10; Grant 1970, 15-17; Schäfke 1979, 573. cf. the unreliable *Acts of Quadratus* 15-16 (*BHG* 359) where the martyr supposedly enraged his judge by swearing by Christ; *Passion of Saba the Goth* 3.3-4, which purports that Gothic leaders made a village swear regarding whether Christians lived amongst them and the eponymous fourth-century martyr refused to let the villagers lie and perjure themselves.

[87] *Acts of Phileas* 4 (7 in the Bodmer version). Three versions of Phileas' acts survive in *P.Chester Beatty* 15, *P.Bodmer* 20, and a Latin recension. The reference to the imperial oath-invocation only survives in *P.Chester Beatty* 15, but this version also loses the Biblical prohibition.

mortal with no divine power, meaning that imperial oaths were no better than those calling upon idols.[88] The fifth-century *Funerary Speech for John Chrysostom*, for example, argues against invoking both imperial safety and the Trinity, stating that these oaths suggested that the swearer was equally scared of God's displeasure as he was of the mortal emperor.[89]

Other sources indicate that there was also the potential issue of spiritual loyalty. As discussed in Chapter 1, various Christians who argued against taking the *sacramentum militiae* explained that they could not serve both God and emperor,[90] but this perceived conflict of loyalties was also relevant to the paradigm of civilian life. In connection with his comments on invoking imperial fortune, Origen stated that Christians would fight and pray for the emperor, but were not beholden to their rulers in the same manner as they were to God.[91] The New Testament adage of 'render unto Caesar the things that are Caesar's, and unto God the things that are God's', which was used to justify compliance with other public affairs, was difficult to apply to oaths.[92] Swearing naturally involved a religious dimension - and was therefore God's domain - but compliance with society and the ruler was evidently an imperial concern. In reference to this quandary, Erwin Seidl discusses several provincial oath-formulae which do not reference the emperor and argues the swearers in these cases may have purposefully avoided using imperial invocations.[93] It is notable, however, that arguments against swearing by the emperor mainly come from earlier centuries, while the majority of provincial oath-formulae recorded in papyri from the third to sixth centuries contain some imperial element. These patterns were surely connected to the nature of imperial rule in this period, where the emperor was portrayed as divinely chosen rather than divine in his own right.[94] Spiritual loyalty thereby became less of an issue for Christians over the course of Late Antiquity.

More intolerable was the use of explicitly non-Christian forces. The anonymous fourth-century compilation of canonical documents known as the *Apostolic Constitutions*, for example, offers no censure on the practice of oath-swearing but does present a clear

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[88] Imperial mortality: e.g Tert. *Nat.* 2.12.26; Lact. *Div. Inst.* 1.15.16.
[89] *Funerary Speech for John Chrysostom* 118.
[90] See pp. 59-63 above.
[91] Origen *Against Celsus* 8.73.
[92] 'Render unto Caesar': Matt. 17.24; Garland 1987, 202.
[93] Seidl 1935, 33-44, esp. 34-36. To Seidl's list, we can add the unusual *P.Münch.* 1 8, fr.B, lines 34-35, dated to ca. 540, which invokes Almighty God and the consubstantial Trinity (Θεὸς Παντοκράτωρ and ἅγία καὶ ὁμοούσιος Τριάς).
[94] See the discussion on pp. 112-114 above, and Cancik 2003 on the earlier connection between the imperial cult and imperial oaths.

interpretation of Jesus' prohibition.[95] In a passage regarding idolatry, the *Constitutions* forbids non-Christian oaths, specifically those including the sun, moon, stars, earth, the heavens, or in fact anything other than God.[96] If an oath was required, the compilation argues, then Christians could swear, provided the parties involved did not use these traditional invocations and were honest.[97] Interestingly, the *Constitutions* notes some of the dangers of swearing which were adduced by authors who were opposed to oath-taking more generally, but accepts the use of the practice provided it was Christian in nature; so long as God was the touchstone, and there was no intent to perjure, there was no issue.[98]

Ambrose, who in some works opposed swearing in any form, switched to a similarly ambivalent line of argument concerning senatorial oaths. The Altar of Victory, which was established in the Curia by Augustus, had been removed by Constantius II in 357, before being restored by Julian and subsequently removed again by Gratian.[99] In one letter requesting that Valentinian II reinstate this traditional feature of senatorial procedure, Symmachus stated that senators required the altar to take oaths.[100] Ambrose opposed the return of the non-Christian icon and sent his own letters to the emperor. The bishop's first message to Valentinian on this topic claims that making the Senate, many of whom were reportedly Christian, swear over the altar would be sacrilegious, given that oaths acknowledged the power of the forces invoked.[101] Ambrose seems to suggest that certain invocations were acceptable, but this implication should be taken in its context. This letter fits into a larger narrative in which the bishop attempted to play upon the Christian sympathies of the teenage Valentinian, while threatening that the majority of senators would refuse to attend their meetings and the emperor himself would be excluded from Church services.[102] Although stances against non-Christian invocations and against swearing more generally were not mutually exclusive, Ambrose evidently used this subject to argue against traditional cults. In this passage, the main problem was clearly the invocation of supposed idols, whose inclusion in oath-formulae was less preferable to invoking the Christian God.

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[95] On the *Apostolic Constitutions* and its uncertain authorship, see: Metzger 1985, 13, 58-62.
[96] *AC* 5.11.1, 12.1. Planets and stars were regularly used as motifs for non-Christian invocations and appeals to higher forces (e.g. Claud. *In. Ruf.* 2.165; Prudentius *Peristephanon* 10.571-575; *Passion of Artemius* 47).
[97] *AC* 2.36.5; 6.24.3; 8.42.25.
[98] See also Ausonius *Ephemeris* 3.43-44, where the poet associated pleasing the Almighty with not swearing by *lapides deos,* 'gods of stone'.
[99] On this controversy, see: Pohlsander 1969; Liebeschuetz 2005, 61-94.
[100] Symm. *Rel.*3.5. Senatorial oaths: p. 77 above.
[101] Amb. *Ep.* 72.9 *Te ergo imperatore, Christiani in aram iurare cogentur? Quid est iurare, nisi eius quem testaris fidei tuae praesulem, diuinam potentiam confiteri?*
[102] Liebeschuetz 2005, 62-63.

Ambrose's statements concerning the Altar of Victory and senatorial oath-taking were meant to argue wider points about society and religion. Just as various authorities drew distinctions between honest Christians and other religious adherents based on their acceptance of oath-swearing, certain theologians similarly used the invocation of impotent forces to criticise opponents who followed different beliefs and doctrines. Optatus' comments concerning swearing by bishops and martyrs, for example, were intended to denigrate the Donatists. Lactantius also sought to prove the impotence of non-Christian deities by suggesting that as traditional Greek and Roman gods were typically represented as taking oaths by the infernal river Styx, these beings acknowledged their submission to a higher authority.[103] On the other hand, the theologian suggests that even non-Christians invoked the Christian God when swearing due to the deity's supremacy and influence.[104] Furthermore, Lactantius mocks Socrates for taking oaths by geese and dogs, who had no power or divine agency.[105] Perhaps most interesting are Augustine's comments on the Manichaean Faustus, who we are told was overly reliant on oath-taking and invoked both the false prophet Mani, and also light, which Faustus 'love[d] like flies do'.[106] By suggesting that Faustus used these oath-invocations, Augustine represents the Manichaean as intellectually-lacking and ridiculous. Characterisations of this sort were connected to convictions about the superiority of Christianity over other belief systems, as was evidently the case with arguments against the inclusion of traditional deities in oath-formulae. However, to some extent, these disparagements must also have been related to the issue of trust. All of these criticisms of 'incorrect' swearing were rooted in the belief that non-Christian forces were powerless and could not punish perjury, making oaths taken in their name inefficacious. Even worse, the swearer of a non-Christian oath sinned by participating in an idolatrous ritual, and so these theologians argued that individuals across the empire should avoid non-Christian invocations.

But the acceptance of oaths in any form was important in the proceedings of everyday life, particularly in provincial environments and border societies where adherents of diverse cultures and beliefs co-existed. These areas were resistant to religious change and often harboured non-Christian practices, so choosing a form of swearing which was amenable to all involved could be tricky. As mentioned in the introduction to this chapter, not long after

[103] Lact. *Div.Inst.* 1.11.
[104] Lact. *Div.Inst.* 1.1, 2.1.
[105] Lact. *Div.Inst.* 3.20. On these oaths, see: Murphy 2016. Lactantius deals with the literary 'Socrates', whose representations in various works probably did not represent his actual character or values (Dorion 2010).
[106] Aug. *Against Faustus* 19.22 *de uestro autem ore non tollitur crebra iuratio, cum iuretis per lumen, quod amatis cum muscis… et per dominum uestrum Manichaeum.*

becoming bishop of Hippo, Augustine received a letter on this question from a North African landholder named Publicola.[107] Tribal workers from beyond imperial boundaries were often involved in the frontier economy and would swear an oath to border officials and estate-holders to confirm their employment.[108] Publicola's lengthy query focuses on the promises sworn by the Azurges, one of the tribes near his land who took part in this business, and whether he or his employment agents should accept their non-Christian oaths:

> Solent iurare barbari iurantes per daemones suos… mihi disceptatio in corde nata est, si ille possessor, qui susceperit barbarum, cuius fides per daemonum iuramentum firma uisa est, non coinquinatur… si, cum illi ergo iurant per daemones suos, ut custodiant fruges, non polluunt ipsas fruges, ut, si inde manducauerit Christianus sciens uel de pretio ipsarum rerum usus fuerit, coinquinetur, significare dignare.[109]
>
> The tribesmen [who work on our lands] are accustomed to swear by their demons… For me the question has arisen in my mind whether the landowner, who has taken on a tribesman whose loyalty has seemed to be guaranteed by his swearing by demons, is being defiled… Please [also] indicate whether, when they therefore swear by their demons to guard the crops, they are polluting the crops themselves, with the consequence that, if a Christian knowingly eats some of them or [makes use of] some of the money gained by the same items, he is defiled.

Publicola evidently did not want to accept what he termed 'demonic' swearing and, fearing for his own salvation and that of the officials involved, requested advice from Augustine.[110] The landholder's secondary concerns include whether 'demonic' oaths corrupted the resources or business involved, whether it was better to accept no promise over a non-Christian one, and whether oaths taken by adherents of other faiths could be trusted, alongside other queries over spiritual miasma and pollution.[111] Interestingly, the letter includes various scriptural, predominately Old Testament, references but does not cite Jesus'

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[107] On the dating of this exchange, see: Lepelley 2002, 86-87, Uhalde 2007, 92; 2011, 253; Shanzer 2012, 27 n. 2.
[108] Aug. *Ep.* 46.1. As these oaths were given to officials stationed at the boundaries, this practice was also related to the diplomatic context (Chapter 3, esp. 129-130). On the tribal involvement in frontier business, see: Whittaker 1978; Grey 2004.
[109] Aug. *Ep.* 46.1-2. Translation from Adams 2016, 383 (revised for clarity).
[110] Publicola also calls the Azurges' oaths 'deadly', 'sinful' (Aug. *Ep.* 46.1 *mortalis* and *iniquum*) and 'wicked' (46.5 *malum*, in reference to perjury).
[111] Aug. *Ep.* 46.2-5. Shanzer 2012, 58-59 offers an itemised list of Publicola's questions. See also pp. 157-159 above on the efficacy of non-Christian oaths.

prohibition.[112] Publicola does refer to Matt. 5.39 ('turn the other cheek') which immediately follows the proscription, so the landholder evidently had a less-than-complete understanding of the Gospels, no doubt as Scripture was not readily available for consultation by ordinary Christians.[113] In any case, Publicola evidently had no problem with the general practice of oath-swearing; the landholder's issue was not if he should accept oaths, which he suggests represented a currency of honesty, but whether he should accept them in certain forms.[114] Elevating a local matter to a potential threat against empire-wide salvation, Publicola wanted reassurance that idolatrous oath-swearing was tolerable. The landholder feared that oaths formulated in a non-Christian manner endangered the empire and its inhabitants.[115] To Publicola, and a number of other adherents, the practice of oath-taking itself was not sinful, but there was only one correct way to swear: by invoking the Christian God.

3. More oaths than words: acceptance of all oaths

This opinion was far from universal. Oaths were much too useful and entrenched in society to abandon completely, particularly following the gradual introduction of new religious terminology. The majority of Christians frequently swore, in both novel and traditional forms. As Publicola himself noted, oaths functioned as a measure of public honesty, and the practice was thereby accepted and adapted into Christian life.

Augustine's reply to Publicola is particularly indicative of other contemporary opinions on this issue:

> Qui utitur fide illius, quem constat iurasse per deos falsos, et utitur non ad malam sed ad licitam et bonam rem, non peccato eius se sociat, quo per daemonia iurauit, sed bono pacto eius, quo fidem seruauit. Neque hic eam fidem dico seruari, qua fideles uocantur, qui baptizantur in Christo. Illa enim longe alia est longeque discrete a fide humanorum placitorum atque pactorum.[116]

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[112] Aug. *Ep.* 46.18 (referencing Gen. 26.26-21).
[113] Aug. *Ep.* 46.12. See also 46.1 (citing Deut. 32.7), 3 (citing 1 Cor. 10.28), and 18 (citing Gen. 26.31, 31.53, Josh. 6.19, and Deut. 7.26).
[114] Aug. *Ep.* 46.1 *iuramentum iniquum medium intercessit.*
[115] Aug. *Ep.* 46.5 *si paganus, qui limiti praeest, iurauerit barbaro pro fide illi seruanda per mortale iuramentum, si non inquinat, pro quibus iurat*?
[116] Aug. *Ep.* 47.2.

> The individual who uses the promise of another person, whom is known to have sworn by false deities and did not do so for a bad reason but for a good and honest one, does not share in the sin by which the [latter] swore by demons, but shares in this good pact, with which [the second] person preserves faith. Here I do not mean the faith being kept by those who are called the faithful and are baptized in Christ. For that is very different and far removed from the faith of human agreements and pacts.

Although idolatrous invocations were sinful, the bishop notes that the point of these promises was to confirm honesty by forces which the swearer believed to have power. Publicola's escalation of this issue from a frontier issue to a potential threat against all salvation was answered in kind; Augustine notes that the empire rested upon the oaths given by those outside the imperial boundaries, 'not just on one frontier but throughout all provinces'.[117] The bishop argues that Christians must separate in their minds their religious beliefs from the faith in other people necessary for the existence of a community. Each had their place in society but pragmatism trumped theological concerns in important business.[118] Interestingly, Augustine does cite the Sermon on the Mount but interprets the prohibition as a reference to perjury rather than honest oath-taking, and, suggesting that the Scriptures do not proscribe receiving oaths, advises the landholder to accept the promises.[119]

Publicola's concern with the efficacy of oaths taken upon false deities was also answered practically by Augustine and considered by other theologians. Due to the expectation of retribution upon the perjurer and the willingness of the oath-taker to ignore their agreement, Augustine's reply states that breaking a promise which involved God was a much greater sin than keeping an oath taken in the name of idols.[120] In other works, Augustine further explains that the violation of non-Christian promises was still perjury which resulted in punishment, albeit less severe than in the case of breaking Christian oaths.[121] The fifth-century theologian Salvian of Marseilles disagrees on this point. In his *On the Government of God,* Salvian suggests that as non-Christian deities had no power, these

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[117] Aug. *Ep.* 47.2 *neque enim tantummodo limiti sed uniuersis prouinciis pax conciliatur iuratione barbarica,* in reference to both diplomatic promises (Chapter 3) and local everyday proceedings.
[118] See further: Morgan 2015, 29-30; Uhalde Forthcoming, 5-6.
[119] Aug. *Ep.* 47.2 *nusquam autem in scripturis sanctis legi meminerim, ne ab alio iurationem accipiamus.* John Cassian *Conferences* 17.10 offers a similar judgement.
[120] Aug. *Ep.* 47.2 .
[121] Aug. *Ep.* 157.40; *Serm.* 180.12-13. cf. *Civ. Dei* 1.15, 3.20, where Augustine suggests that as certain perjurers were not punished, the traditional deities who were invoked were impotent.

forces could not enforce compliance with oaths taken in their names. Consequently, violating these sworn promises was not perjury.[122] And yet, Salvian also acknowledges that idolatrous oaths were not necessarily less reliable than Christian ones. Although the theologian believed that Christians were superior in numerous regards, he suggests that humanity, regardless of religious beliefs, was inherently untrustworthy; even though merchants who worshipped other deities were habitual perjurers, Christians were rarely better and frequently violated their oaths.[123] Christian oaths were no more trustworthy than their non-Christian counterparts. In fact, invocations of purportedly idolatrous forces could be more reliable, as argued by Augustine. If the parties involved believed that the summoned deities had agency, then there was more chance that the oath would be maintained.[124]

But this tolerance of oaths was grudging and uneasy, and only applied when there was no other recourse. Augustine dealt with the topic of oath-swearing in a number of his works, often with the same arguments, but the bishop's most extended discussion of the practice comes in three early fifth-century sermons.[125] Commenting on New Testament excerpts related to the subject, Augustine repeats advice offered to Publicola to his congregation in Hippo and states that oath-swearing was not inherently sinful.[126] How could it be if God Himself swore?[127] While the practice could be used to evil ends, such as making another swear even though they could not fulfil their promise and thereby damning them, the blame lay with the parties requesting the promise, not with the oath itself.[128] And yet, although the bishop acknowledges that he had in the past taken oaths, he suggests that the practice was dangerous, particularly when used rashly. As such, Christians were best advised to avoid oath-taking entirely if they could not refrain from swearing unnecessarily.[129] According to Augustine, the practice was used too freely, and several other theologians who accepted oaths shared this opinion. Salvian, for example, bitterly chastises Christians who invoked Jesus so frequently for petty matters that 'Christ's name seems now not to be an oath but a [mere]

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[122] Salvian *On the Government of God* 4.76-78.
[123] Salvian *On the Government of God* 4.68-70, 76-77. cf. Lact. *Div.Inst.* 6.1 and Gildas *De excidio et conquestu Britanniae* 27, who criticise non-Christian 'barbarians' for constantly breaking oaths, with pp. 135-149 above, on the stereotype of foreign perjury.
[124] Aug. *Ep.* 47.2.
[125] *Serm.* 180 focuses on Jas. 5.12 and the prohibition of oaths, whereas 307 and 308 discuss Herod's oath to execute John the Baptist (Matt. 14.6-11; Mark 6.21-28). The following arguments are effectively summarised in Aug. *Ep.* 157.40, where the bishop replies at length to a layman's query over various parts of Christian life (*Ep.* 156). The precise dating of these sermons is uncertain (Boodts 2013).
[126] Aug. *Serm.* 180.1-5, 9; 307.2-4.
[127] Aug. *Serm.* 180; 307.3.
[128] Aug. *Serm.* 308.4-5.
[129] Aug. *Serm.* 180.3-4, 10-14; 307.4-5.

word'.[130] Gregory of Nazianzus also warns against excessive swearing and, in a fictionalised dialogue, mocks the false logic of someone who became a 'serial swearer' (πολύορκος).[131] Interestingly, Augustine purportedly took steps to make his own household less reliant on oath-taking; according to the hagiographic biography written by the bishop Possidius of Calama, Augustine decreased the wine allowances given to his servants and friends each time they swore needlessly.[132]

Even if this story was invented, the fact that the author, a bishop in his own right, cites the stimulus for Augustine's limitation of swearing as the fear of perjury, rather than Jesus' prohibition, is important. Possidius may have shared this opinion himself, but Augustine makes his concern for the potential of divine retribution clear in a variety of his works. The bishop states in the aforementioned sermons, as well as in his commentary on the Sermon on the Mount, his letters to Publicola and another Christian named Hilarius, and his polemic against Faustus, that Jesus prohibited oaths for this reason. If oaths were not taken, then there was no chance of perjury, as God always punished oath-breaking.[133] Whereas the Lord could take oaths, as He would never ignore his promises nor perjure, humans were at considerable risk of breaking their agreements, willingly or due to changing circumstances.[134] In Augustine's words, 'perjury is a grave sin, [but] not to swear or to swear truly is no sin'.[135]

These opinions were shared with other theologians, such Gregory of Nazianzus who noted the danger of perjury without condemning oath-taking.[136] Matching Augustine's explanation for why God could swear, Isidore of Seville suggests that Jesus' prohibition was aimed at preventing oath-breaking and the resulting supernatural punishment.[137] Even Ambrose, who opposed the practice in certain works, suggests that the scriptural proscription was aimed at individuals of weaker moral principles; if the swearer was certain that their promises would be maintained, the bishop concedes that oath-taking was permissible.[138]

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[130] Salvian *On the Government of God* 4.71-72 *Christi nomen non uideatur iam sacramentum esse sed sermo.*
[131] Greg. Naz. *Carm.* 1.2.24 (*PG* 37.790-813).
[132] Possidius *Life of Augustine* 25 (*PL* 32.54-55) *Et ne quisquam facili iuratione etiam ad periurium decidisset …* [Augustine] *praedicabat…ne quis iuraret.*
[133] Aug. *De Sermone Domini in Monte* 1.17.51, 53; *Ep.* 47.2; 125.3; 157.40;.51; *Against Faustus* 19.23; *Serm.* 180.1-5, 10-11, 14; 307.4-5. See also: Aug. *Enarrationes in Psalmos* 89.4, 110.17; *Civ. Dei* 16.32; Uhalde 2007, 90-92, 99.
[134] Aug. *Serm.* 180.2-4; 307.3-4; 308.1. cf. 180.6-8, which suggests it was better to swear by God rather than over a relative's health, so the swearer's loved ones were not at risk.
[135] Aug. *Against Faustus* 19.23 *…peierare graue peccatum est, non iurare autem sicut uerum iurare nullum peccatum est.*
[136] Greg. Naz. *Carm.* 1.2.25; Oberhaus 1991, 131.
[137] Isid. *Sentences* 2.31.1-8.
[138] Amb. *Expositiones in Psalmos* 118.14.14 (*PL* 15.1396).

A common theme in many of Augustine's works, particularly his *City of God,* is the social necessity, which was a practice necessary for the functioning of society even if it contradicted religious scruples.[139] Augustine's arguments concerning oath-swearing - if carried out with honest intentions, the practice counteracted humanity's natural mendacity and enhanced relationships through the assumption of divine oversight - matches his stance on necessary social interactions and rituals. Augustine was not alone in emphasising the need for oaths to be taken and maintained in an uncertain world. In reply to a fellow bishop who was unsure how to deal with a clergyman seeking release from an oath he was forced to write, Gregory of Nazianzus describes oath-taking as an expression of honesty, the breaking of which was a sin.[140] As such, the cleric had to keep his promise, which was equally as binding whether written or spoken.[141]

But we return again to Augustine, whose extensive oeuvre on oath-swearing provides us with an example of the bishop's application of his arguments to a real-world incident. In late 410, the renowned and wealthy widow Albina left her home in Thagaste and visited Hippo with the bishop Alypius, her daughter Melania the Younger, and her son-in-law Pinianus. [142] While all three personages were received positively, the congregation was particularly struck by Pinianus' demeanour and, perhaps over-enthusiastically, requested that he be ordained and remain at Hippo. In an action he would almost immediately regret, Pinianus swore to return to Hippo for ordination, but left the next day and refused to honour the oath. The issue resulted in a tense exchange between Augustine on the one hand and Albina and Alypius on the other, but only Augustine's correspondence remains. From the surviving letters, the primary contestations of Albina and Alypius are clear: first, the congregation of Hippo were motivated by money and wanted Pinianus to be ordained to incorporate the wealth of his distinguished family into the church's funds; second, and more relevant to our discussion, the oath was void as Pinianus swore under duress. Augustine's denials of his congregation being interested in Pinianus' wealth read hollowly, but the bishop frequently acknowledges that the atmosphere in the church was boisterous, albeit not violent.[143] The visitor was under no compulsion to swear and did so freely, but even if

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[139] Aug. *Civ. Dei* 14.11, 19.3, 5, 17; MacCormack 1997, 648-652; Uhalde 2007, 92-104.
[140] Greg. Naz. *Ep.* 163, esp. 5-6.
[141] Concern for the efficacy of written, as opposed to spoken, oaths is also addressed by other sources (e.g. Tert. *Idol.* 23; *CJ* 2.42.3.3-4 (with 2.27.1); 2.55.4, esp. 1-2).
[142] On the following incident and its context, see: Aug. *Ep.* 124-126; Swift 1987; Uhalde 2007, 97-101.
[143] Denial of monetary motivation: Aug. *Ep.* 125.1-2; 126.7-10. Overly-enthusiastic congregation: *Ep.* 125.3, 5; 126.1-2, 6.

Pinianus' life was threatened, Augustine states that Christians should prefer death to taking an oath against imperial or religious laws.[144] As an oath had been made, Augustine repeats his stock arguments about the dangers of perjury, but given the spiritual importance of this promise to become a priest, the bishop intensified his rhetoric. Oaths were a matter of public trust and ignoring a mundane sworn agreement resulted in divine punishment and a loss of reputation, but Pinianus' promise was not mundane and would have serious consequences.[145] Even worse, Pinianus was subverting the expectations of the congregation in Hippo. By not keeping his oath, he had acted against God's wishes and broken the faith necessary for the functioning of the community.

Augustine underscores how important trust was in society and states that 'to ignore an oath… is wrong for anyone who holds faith in their minds, much more so for the Christian faith'.[146] The bishop states that it was equally wrong not to fulfil a sworn commitment and thereby break the oath passively as it was to perform an action which actively contradicted the promise. Pinianus' religious beliefs had not made him more trustworthy, nor had his presumably Christian oath kept him to his word. On this topic, the bishop refers to the Republican senator Regulus, who was captured during the Punic Wars and returned to captivity following a diplomatic mission to Rome due to the oath he had sworn. The senator was often used as a model of virtue by authors such as Cicero, and Augustine refers to the senator elsewhere in a similar manner.[147] In his chastisement of Pinianus, Augustine refers to Regulus' non-Christian beliefs to show that traditional forms of swearing could still be effective:

> Nescio quis ille Regulus nihil in scripturis sanctis de impietate falsae iurationis audierat, nihil de Zachariae falce didicerat et nimirum Carthaginensibus non per sacramenta Christi sed per daemonum inquinamenta iurauerat et tamen certissimos cruciatus et horrendi exempli mortem non, ut iuraret necessitate, pertimuit, sed libera uoluntate, quia iurauerat, ne peieraret, excepit.[148]

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[144] Aug. *Ep.* 125.3-4; 126.1-2, 6. Note also that Pinianus' oath develops over the course of this incident, from promising to depart Africa if he was forcibly ordained, to remaining in Hippo, to being a priest in Hippo (*Ep.* 126.3).
[145] Aug. *Ep.* 125.4; 126.11-14.
[146] Aug. *Ep.* 126.11 *Denegare autum iurationem qualibet fide praeditas mentes, quanto magis fide Christiana… fas non est.* Augustine also notes that this statement was applicable both to acting against the oath and simply not trying to fulfil it.
[147] Aug. *Civ. Dei* 1.15, 3.18. Model of virtue: Cic. *Off.* 1.13.39-40; Burns 2001, 31-38; Uhalde 2007, 99; Morgan 2015, 102-103.
[148] Aug. *Ep.* 125.3.

> That fellow Regulus had heard nothing about the ungodliness of a false oath [as discussed] in the holy Scriptures, he had learned nothing about the sickle of Zachariah, and surely had sworn to the Carthaginians not by Christian sacraments but by the obscenities of demons. However, he was not so greatly afraid of certain torture or a horrible type of death that he would swear due to compulsion he was not so greatly afraid as to swear by necessity, but he went back to [the Carthaginians] voluntarily so he would not perjure, because he had sworn.

Regulus did not have the guidance that Pinianus and other Christians had regarding perjury, yet the senator still kept his word despite this deficiency. This letter is fairly polemical and sought to shame Pinianus into returning to Hippo to fulfil his promise, but the point here is clear: Christian oaths were no more reliable than others. What mattered was the person swearing, and Augustine suggested that in some cases, non-Christian invocations were tolerable.

It is important to note that the majority of the opinions discussed in this chapter thus far are those of educated Church leaders, who did not necessarily represent the beliefs of the wider Christian community. Indeed, the evidence indicates that formulaic elements against which theologians had argued were accepted by many ordinary Christians without issue. Chrysostom, for example, discusses an individual who attempted to extract an oath from someone in a synagogue, believing that the religious significance of the building would lend strength to the promise.[149] Additionally, Publicola's letter notes that border officials and his estate holders had received what he terms 'demonic oaths' without issue, and that he was informed after the process had been completed.[150] Several scholars have suggested that Augustine's reply to Publicola is condescending in tone, as if answering a troublesome or unintelligent question.[151] Moreover, as argued by Danuta Shanzer, the landholder's complaints are unusual and seem to indicate that he was a recent convert from Judaism, where concerns about pollution were more common.[152] If so, then Publicola's perceptions

[149] John Chrys. *Adv.Iud.* 1.3 (*PG* 48.847-848); Fine 1997, 224-225. Although the individual under compulsion to take an oath supposedly did not want to enter the synagogue, it seems probable that this excuse was offered in explanation to Chrysostom, who reportedly happened upon the incident with annoyance, or that Chrysostom invented the swearer's distaste to indicate a conflict between Christians who were opposed to Jewish customs and those who were not.
[150] Aug. *Ep.* 46.1-2. While it is possible that these individuals were not Christian and so had little issue with the practice, Publicola unfortunately does not elaborate on them further.
[151] Adams 2016, 380, 388-390; Shanzer 2012, 47-49.
[152] Shanzer 2012, 36-40, 43-46. Shanzer argues that Publicola's other concerns, particularly regarding profits, were also atypical. See also Clark 1984, 88 and Lepelley 2002, who deem Publicola's concerns to be nugatory

were not really representative of what others may have thought, and Augustine's pragmatic reply may have been more indicative of wider opinions. Just as numerous Christians joined the armed forces and swore the corresponding oath, ordinary civilians utilised this ritual of trust without problem.

Sepulchral epigrams provide a further medium to examine this issue further. These short inscriptions were often dedicatory, intended to impart a message about a deceased individual to those who passed by the memorial, and regularly contained curses to deter grave-robbing.[153] A custom of sepulchral epigrams was to include an oath invoking various traditional forces, taken either by the writer on behalf of those buried in the tomb to affirm their reputation, or by visitors to confirm their respect for the memorial.[154] Notably, several of these epitaphs are attributed to Gregory of Nazianzus. While one of these short messages does invoke God, two other examples reference the distinctly non-Christian personified justice, the dead, and Tartarus.[155] Whether or not these epigrams memorialise Christians, and therefore reflect the beliefs of the dedicatees, is unclear, but Gregory appears to have followed an ingrained custom of sepulchral oaths.[156] The bishop accepted not just swearing, but non-Christian oaths, as they were embedded into the genre and, more generally, society.

Ecclesiastical historians were similarly constrained by generic conventions. Although Eusebius' theological works clearly express his opposition to oath-taking, a comparably explicit statement is lacking in his historical accounts.[157] Perhaps we can read some implicit comment in Eusebius' reports of martyrs refusing to swear, and yet there are cases where the author describes incidents in which oaths are taken without reference to Jesus' prohibition.[158] For example, in his panegyrical biography of Constantine, Eusebius states without censure that the emperor swore an oath in confirmation of his vision prior to the battle of the Milvian Bridge.[159] The fifth-century ecclesiastical historians Socrates Scholasticus, Sozomen, and Theodoret similarly discuss various incidents of oath-taking involving emperors, clergymen,

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and unusually scrupulous. cf. Basil *Ep.* 217.81 (with Uhalde 2011, 258), which also deals with non-Christian oaths and profaned food in the same passage.

[153] On epigrams in general, see the introduction to the Loeb translation of *The Greek Anthology*. Grave curses: Lattimore 1962, 106-118; Strubbe 1991.

[154] e.g. *AP* 7.345, 351-352, 450. On Gregory's epigrams, see: Floridi 2013, esp. 55-60.

[155] God: *AP* 8.114. Non-Christian: *AP* 8.117 δίκην ὄμνυμι καὶ φθιμένους, 248 Ὤμοσα τοὺς φθιμένους, καὶ ὤμοσα Τάρταρον αὐτόν.

[156] Suzanne Rebillard 2013, 194. See also *AP* 8.128, which records the Muses lamenting the death of an orator and swearing an oath never to give such skill to another man.

[157] Theological works: Eus. *Proof of the Gospel* 3.2-3, 5 (*PG* 22.173, 188C, 200B); *Preparation for the Gospel* 1.4, 13.13.

[158] Martyrs: Eus. *EH* 4.15.18-21; 6.5.1-6.

[159] Eus *VC* 1.28 (repeated in Soz. 1.3, again without criticism).

and other individuals, all without reference to the scriptural prohibition.[160] Instead, their comments are limited to praising the fulfilment of sworn commitments or criticising perjury. Discussing a pact of non-aggression between Arcadius and Gainas, Socrates describes the emperor as 'a man who honoured his oaths and [who was] therefore dear to God'.[161] On the other hand, the unusual death of the fourth-century clergyman Arius was connected by some works to his violation of an oath to follow orthodoxy.[162] These authors did not overtly criticise the practice, but rather complied with social perceptions of oath-swearing. Ecclesiastical histories were not didactic in nature nor intended to modify behaviour in the same way as sermons were. Arguments against swearing would have taken away from these Church histories and, given that the intended audiences probably utilised oaths themselves, perhaps result in the unfavourable reception of the works.

Oath-swearing was a practice ingrained into society and certain older elements remained in use. Rituals, such as swearing by someone's head, persisted in various late antique contexts, but the most common of these traditional aspects involved the emperor.[163] Although some theologians viewed imperial invocations with unease, many late antique Christians accepted them as necessary. Regardless of their original meaning, various titles continued to be used in provincial formulae into the sixth century, featuring alongside references to Almighty God and the Trinity.[164] Some scholars have argued that such imperial invocations were viewed as a salutation to the emperor, with little religious meaning.[165] Given that imperial power was increasingly represented as a derivative of the Christian God's authority over this period, fewer individuals would have seen an issue with swearing by the ruler on religious grounds. As noted earlier, arguments against these aspects become considerably rarer after the fourth century, no doubt in reflection of this development, but also as these invocations displayed compliance with the regime. Constantine's letter to the African *vicarius* Celsus certainly indicates that imperial oath-formulae were viewed by some as an affirmation of allegiance.

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[160] e.g. Soc. 1.3; 7.12; Soz. 2.34; 5.6; 6.8; 8.34; Theod. *EH* 4.12, 5.4.
[161] Soc. 6.6.13 βασιλεύς, εὔορκός τις ἀνὴρ καὶ διὰ τοῦτο θεοφιλής. As noted on pp. 143-144 above, this example is also related to the stereotype of foreigners breaking their oaths.
[162] Theod. *EH* 1.13; Soc. 1.38; Soz. 2.30. On Arius' death, see: Soz. 2.29; Muehlberger 2015.
[163] Late antique oaths over someone's head: Greg. Naz. *Carm.* 1.2.24 (*PG* 37.800); Syn. *Ep.* 105.12; Aug. *Serm.* 180.7; Soz. 9.7; Zos. 5.49, 51. Earlier periods: Seidl 1933, 55.
[164] Worp 1982.
[165] Seidl 1935, 17; Schäfke 1979, 572.

Moreover, as swearing these promises was an established method of social interaction, oath-taking emphasised an individual's deference to contemporary socio-political conventions. Participation in the practice suggested that the swearers were honest members of society, while abstention from the practice led to alienation from wider society. As mentioned in the introduction, oath-swearing was used to confirm a range of local matters and featured in numerous aspects of everyday life. Many of these promises were recorded in the written transcripts of these proceedings, but there are instances where an oath was not used.[166] As there does not appear to have been a legal requirement for sworn promises to be used, incidents in which an individual did swear arose due to the desire of one or both parties involved to take an oath. To use this practice was to create a basis of trust when there was little pre-existing positive relationship. The expectation of divine oversight permitted the parties involved to have confidence in their agreement. Abstention from this social lubricant which supported relationships and created a sense of public credit could result in isolation from peers and neighbours. Ordinary Christians approached their everyday lives with pragmatism and embodied Augustine's advice to separate religious principles and social necessities by participating in this traditional practice.

Swearing was much too useful and entrenched within society for most Christians to consider complete abstention. Although John Chrysostom states that he feared boring his listeners who agreed with his points concerning the practice, and even that some Christians had tried to stop others from swearing, the large number of sermons the preacher devoted to this subject indicates his ultimate failure in deterring the use of oaths.[167] Individuals were largely resistant to change; Chrysostom bemoans that members of his congregation not only rejected his teachings but also believed that oath-taking was not inherently evil, or at worst it was a necessary and minor sin.[168] Tertullian similarly complains that Christians swore on a frequent basis and tried to find loopholes in Jesus' prohibition by, for example, writing rather than speaking their oaths.[169] Despite the risk of perjury, Augustine wearily states that '[the habit of] swearing does not depart from people's mouths, but is used frequently. Often there are more oaths than words'.[170] Even though the bishop expresses unease about the practice and fear for potential supernatural punishments, he states that attempts to prohibit oath-

[166] Seidl 1935, 5, 53-55, 78-79. Seidl also posits that in some cases, the scribes who recorded these documents may have simply not recorded the oaths taken.
[167] John Chrys. *Statues* 9.1 (*PG* 49.103); *Baptismal Instructions* 10.1-4; Paverd 1991, 249-50.
[168] John Chrys. *Statues* 6.6 (*PG* 49.90); *Baptismal Instructions* 10.28.
[169] Tert. *Idol.* 23.
[170] Aug. *Serm.* 180.2 *iuratio ab ore non discedit, frequentatur. Plura sunt plerumque iuramenta quam uerba.*

swearing were foolish; against theologians who argued for complete abstention, Augustine comments that only someone intimately familiar with the tricky matter of oath-taking could see how difficult the practice was to stop.[171] Augustine and other bishops, such as Gregory of Nazianzus, had to deal practically with the day-to-day concerns of their congregations and even occasionally take oaths themselves.[172] In his advice to an episcopal colleague, Gregory claims that swearing had a place in society, while Augustine's reply to a theological query advises the addressee only to avoid taking oaths 'as far as possible'.[173] To a certain extent, it was impossible to stop this practice. Christianity was a relatively recent religion with new rules concerning habits and behaviours with a long pedigree in Roman society.[174] The continuing use of oath-swearing was not a reflection upon the religious convictions of ordinary Christians, but rather the difficulty of shedding long-held traditions and definitions of what constituted correct behaviour. Even though Church leaders sought to draw boundaries between Christians and non-Christians by discussing certain practices, oath-taking amongst them, these distinctions largely did not exist outside of theological discussions and traditional rituals became drawn into local versions of Christianity.[175] Chrysostom articulated the concerns of his congregation on habitual actions, such as swearing, most clearly: these matters were thought to be the domain of priests, not a concern in everyday life.[176] On the topic of oath-taking, there was a noticeable disparity between the spiritual concerns of theologians and the practical realities of their audiences.

4. Church usages

As the practice was embedded in society, oath-swearing also permeated various aspects of religious life. Theological discourse often focused upon oaths to discuss religious loyalty and society more generally,[177] but there were many real-world applications of the practice in ecclesiastical contexts. Both ordinary Christians and religious authorities swore for various

[171] Aug. *De Sermone Domini in Monte* 1.17.51; *On Lying* 28.
[172] Augustine: Uhalde 2007, 91-93. Gregory: *De vita sua* 2.1.11.1097-107; *Or.* 26.1; Suzanne Rebillard 2013, 196-197.
[173] Greg. Naz. *Ep.* 163.4; Aug. *Ep.* 157.40 *Iurationem autem caue, quantum potes.*
[174] Maxwell 2006, 144-145, 167.
[175] Frankfurter 1998, esp. 5-7, 268-272; 2017, esp. xiii-xvi, 3-30; Sizgorich 2009, 21-45; Eric Rebillard 2012, 1-5, 31-33, 73-79, 92-97.
[176] John Chrys. *Adv.Iud.* 8.4 (*PG* 48.932); *On Genesis* 21.6 (*PG* 53.183. See *Statues* 15.15 (*PG* 49.161) on swearing in particular. Chrysostom answers these statements in *Against Opponents of the Monastic Life* 3.14 (*PG* 47.372).
[177] Associations of oaths, particularly the term *sacramentum*, with sacraments: pp. 11, 59 above.

reasons, and even individuals who attempted to abstain from swearing found ways to circumvent the prohibition and meet social expectations. In essence, oaths became a common and unavoidable feature of late antique Christian life and could play a number of different roles in ecclesiastical affairs.

One regular Church use of oath-swearing was to confirm doctrinal allegiance. Due to social tensions arising from the sectarian schisms of this period, many individuals confirmed their adherence to imperially-accepted theological viewpoints by swearing. While oaths of military and civil service could include expressions of doctrinal affiliation, other sworn confirmations were used in connection to late antique theological debates. A number of such sworn promises are preserved in affidavits, sent by former heterodox adherents to the first Council of Ephesus (431) to confirm on oath that the correspondents had renounced their unacceptable doctrines.[178] Repentant ecclesiastical authorities who had shifted their theological viewpoints were also sometimes required to swear to this effect. Arius was permitted to return from the exile imposed upon him following the Council of Nicaea (325) and continue preaching, but only after he had signed a sworn statement that his beliefs now conformed to Nicaean orthodoxy.[179] A comparable statement was called for by Cyril of Alexandria, who via letter demanded that Nestorius, the heterodox archbishop of Constantinople, swear that he had abandoned his previous doctrines and now aligned with orthodoxy.[180] Even emperors were occasionally required to affirm their agreement with contemporary orthodox beliefs under oath. Having heard rumours of Anastasius' heterodoxy, Euphemius, the Chalcedonian archbishop of Constantinople, refused to support the emperor's accession until Anastasius had sworn not to overturn the Chalcedonian definition.[181]

These oaths were meant to act as expressions of belief, emphasising the swearer's compliance with particular doctrines to both religious authorities and wider society. Other theological factions utilised oath-swearing for the same reason. The mid-fifth-century archbishop, Juvenal of Jerusalem, for example, purportedly swore to oppose arguments for

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[178] *Acts of the First Council of Ephesus* 76.12-17, 19-32 (=*ACO* 1.1.7.100-105). On these individuals, their former doctrines, and the documents in question, see Millar 2004.
[179] Soc. 1.38; Soz. 2.27; Theod. *EH* 1.13.
[180] Cyr. Alex *Ep.* 17.5 (=*ACO* 1.1.1.34). See also: Evagr. 3.9, where several eastern bishops swore that they were Chalcedonian and had complied with the anti-Chalcedonian emperor Basiliscus under compulsion.
[181] Evagr. 3.32. This oath may have been related to the other promise sworn upon Anastasius' accession not to act upon grudges from before he was emperor (*De Ceremoniis* 1.92), but this latter oath may also be a later version of earlier imperial agreements not to kill senators (p.3 n. 13 above). See also: *Coll. Avell.* 95.61, where Anthemius swore he would prevent heterodox assemblies from occurring; John. Eph. *EH* 4.42, where Tiberius swears oaths to an Arab chieftain to confirm that he would attempt to unify the Church.

Christ's dual consubstantiality at the Council of Chalcedon (451).[182] Perhaps the most prominent of these heterodox affiliation oaths is the promise sworn by the emperor Valens. The emperor was asked by Eudoxius, at the time archbishop of Constantinople, to confirm his support for Homoian Christianity during his baptism by swearing to evict Homoousian ecclesiastical authorities from their positions.[183] A number of other examples could be adduced here, but from these two cases, we can see that oaths of affiliation could be offered freely or in response to a request, as was also the case with promises of orthodoxy.[184] Regardless of stimulus or orientation, doctrinal oath-swearing was meant to provide reassurance of an individual's theological standpoint.

Some bishops seem to have taken this practice further. The third-century theologian Novatian reportedly demanded a personal oath of allegiance. Citing a letter sent by Cornelius, a contemporary bishop of Rome, Eusebius reports that Novatian attempted to secure the loyalty of his congregation; the bishop purportedly grabbed the hands of Christians receiving the Eucharist and compelled them to 'swear to me by the body and blood of our Lord Jesus Christ that you will never forsake me and turn to Cornelius'.[185] However, the trustworthiness of this account is questionable. Cornelius had taken issue with Novatian's refusals to readmit Christians who had complied with imperial demands to sacrifice or to undertake other non-Christian activities back into communion. This letter is part of an invective against Novatian by Cornelius who sought to criticise the former. And yet, other bishops received similar oaths. As reported in the acts of the Council of Chalcedon (451), a presbyter named Cassianus was compelled to confirm under oath that he would forever live with the bishop of Ephesus and never betray him.[186] Additionally, Gregory the Great appears to have made his rectors swear an oath to him over the body of St. Peter for similar purposes.[187] If Novatian

[182] Ps-Zach. 3.3C. Juvenal violated this oath and was ejected from his seat as a result, but was later reinstated by imperial forces (Ps-Zach. 3.8).
[183] Theod. *EH* 4.12. For other sources concerning Valens' baptism, see: Lenski 2002a, 206-208.
[184] Other examples: e.g. Athan. *De Synodis* 3.37; Soz. 4.23; 7.21. cf. Philostorgius *EH* 5.5, which reports that Constantius II banished Meletius of Antioch for perjury. As Soc. 2.44, Soz. 4.28, and Theod. *EH* 2.27 refer to doctrinal disagreement with the Homoian emperor, perhaps Meletius' oath-breaking related to a promise of heterodoxy. Equally, as Meletius was deposed by heterodox adherents, with whom Philostorgius sympathised, the claim of perjury may have been invented.
[185] Eus. *EH* 6.43.18 Ὤμοσέν μοι κατὰ τοῦ σώματος καὶ τοῦ αἵματος τοῦ Κυρίου ἡμῶν Ἰησοῦ Χριστοῦ, μηδέποτέ με καταλιπεῖν καὶ ἐπιστρέψαι πρὸς Κορνήλιον.
[186] *Acts of the Council of Chalcedon* 11.39 (=*ACO* 2.1.3.50). See also Aug. *Ep.* 62.2, 63.2, 4, on the comparable yet more voluntary oath of the presbyter Timothy to Severus, bishop of Milevis.
[187] Greg. *Ep.* 13.35; Demacopoulos 2013, 140. See also 1.70, in which Gregory reminds a deacon to remember that he 'accepted the control of [the Church's] patrimony before the most sacred body of the blessed apostle Peter' (*memor quod ante sacratissimum beati apostoli corpus potestatem patrimonii eius acceperit*), probably in reference to a similar oath.

did require oaths of allegiance from his congregation, it seems improbably that he extracted them in quite as aggressive a manner as Eusebius reports. Nevertheless, it seems that oaths could be taken to confirm allegiance both to particular doctrines and also directly to bishops.

Eusebius, again citing Cornelius, also suggests that Novatian had previously sworn never to become a bishop.[188] While this claim is also used to criticise Novatian, who had broken his sworn promise, there is evidence to suggest that many other religious authorities took oaths confirming that they would not become prelates. Election to the episcopacy was a notable achievement and an aspiration for many late antique clergymen, but Church communities naturally wanted ecclesiastical leaders whom they trusted. The violation of these oaths was therefore usually perceived negatively and the individuals who committed perjury were shown to be untrustworthy and unsuitable for positions of spiritual authority. A prominent example of this use of oath-swearing took place after the return of Meletius, bishop of Antioch. Although he had been exiled by Constantius and replaced by the Homoian clergyman Paulinus, Meletius was permitted to return from banishment and requested his reinstatement as bishop of Antioch.[189] To resolve this situation, the candidates for the next episcopal election swore not to become bishops until both Paulinus and Meletius were deceased.[190] However, Flavian, one of the swearers, ignored his oath and gained the episcopal seat of Antioch to the outrage of the congregation, many of whom refused to remain in communion with their new prelate.[191]

Other ecclesiastical authorities took oaths to state that they would remain in their bishoprics. Theophilus, formerly bishop of Eleutheropolis in Syria, had sworn never to transfer to another see without the consent of all Palestinian clergymen, who had previously voted him as their leader. Regardless of this promise, the prelate was forced to relocate to Castabala in Cilicia by Silvanus, bishop of Tarsus.[192] Unlike the oath-breakers in the preceding examples, Theophilus was not criticised for violating his promise, no doubt as his perjury was involuntary. On the contrary, Sozomen suggests that this forced transferral was one stimulus for the deposition of Silvanus. Basil of Caesarea discusses a similar incident in one of his letters. Arguing against the compulsion of individuals who had sworn not to enter

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[188] Eus. *EH* 6.43.7.
[189] On Meletius and Paulinus, who also opposed each other on theological grounds, see: Hanson 1988, 791-823.
[190] Soz. 7.3. On the process of episcopal election, see: Norton 2007; Van Nuffelen 2010.
[191] Soz. 7.11, 15. See also the comparable cases of Sabbatius (Soc. 5.21; Soz. 7.18) and John of Antioch (Evagr. 3.12; Ps-Zach. 5.6F-7B). Note also that Arsacius, the unpopular replacement of John Chrysostom in Constantinople, had previously sworn not to become bishop, and his eventual death was claimed to arise partially from his perjury (Pall. *Dial.* 11),
[192] Soz. 4.24.

the episcopacy to become bishops and thereby make them perjure, Basil describes how the presbyter Cyriacus had taken an oath to remain a priest in Mindana. As the presbyter had been forced by the bishop of Masada, Severus, to transfer to Mestia, the letter recommends that Cyriacus should return to Mindana to fulfil the terms of his oath.[193]

Basil evidently believed that Cyriacus' promise bound him to stay at Mindana. These oaths were seen to be important, not least because their violation could be punished, sometimes by excommunication.[194] While ascetics and monks who swore not to enter the episcopacy probably shared this belief in the significance of their promises, other religious authorities suggested that such oaths should be ignored in the interests of choosing a suitable bishop. This opinion was held by Athanasius, who in one letter urged a monk named Dracontius to ignore this type of oath and accept his involuntary ordination, which occurred in 354/55. Athanasius not only states that being a bishop was a higher calling than service in a monastery, but also accuses the monk of hiding behind his oath. As such, the theologian suggests that circumstances allowed Dracontius and others in his position to break this promise.[195] There was clearly some benefit for the monks to swear this type of oath, too: individuals who did not want to become bishops for whatever reason could explain their refusals as compliance with their oaths, rather than a reluctance to become embroiled in ecclesiastical politics or depart from their ascetic lives.

Other stakeholders in episcopal elections also took oaths for various reasons. During the Council of Chalcedon (451) several imperial officials noted that the bishops of Egypt had yet to subscribe to Leo's *Tome*, a letter sent by the eponymous prelate stating that Jesus was consubstantial with both God and humanity.[196] As these bishops had declared that they could not discuss the *Tome* until they had chosen a new archbishop of Alexandria, the presiding officials requested that these Church leaders provide sureties or swear oaths that they would elect their episcopal leader before leaving Chalcedon.[197] Equally, following the banishment of Liberius, bishop of Rome, his clergy swore not to accept another prelate until Liberius was recalled.[198] However, many broke this promise by supporting the appointment of Felix in

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[193] Basil *Ep.* 188.10. Basil refers to an unknown canon related to this issue. See also Soz. 6.38, John Eph. *EH* 4.10, and Pall. *Hist.Laus.*11.2-3, with pp. 202-203 below on ascetics taking oaths.
[194] Punishments for clerical perjury: e.g. *AC* 8.47.25; Soz. 4.24; John Eph. *EH* 2.28.
[195] Athan. *Letter to Dracontius* 5 Comparable is the case of Theodosius, who was reportedly ordained in contravention of his oath not to become bishop and replaced Juvenal as archbishop of Jerusalem (Ps-Zach. 3.3D).
[196] On Leo's tome and related events, see: Price and Gaddis 2007, 29-51.
[197] *Acts of the Council of Chalcedon* 4.62 (=*ACO* 2.1.2.114)
[198] Jerome *Chron. s.a.* 349; *Coll.Avell* 1.2-4.

355.[199] There was always an element of self-interest in episcopal ordinations and the clergy of Rome originally maintained some residual loyalty to their former bishop, hence their oath.[200] Given that many individuals were concerned with who would become their ecclesiastical leaders, there was also always the potential for simony, the purchase of religious office.[201] As noted in an earlier chapter, various emperors sought to combat payments for office, both civil and ecclesiastical, and oaths were sometimes implemented in the civil service with this aim in mind.[202] It is therefore unsurprising to find that Justinian issued two laws which state that nominations to the episcopate be accompanied by oaths taken by the clergy, *curiales*, and the candidates themselves that the choice of nominees had not been influenced by bribery or personal connections.[203]

As swearing regularly played a role in episcopal appointments, bishops often swore oaths themselves. But it should be noted that the episcopacy was theoretically more restricted from using the practice than ordinary Christians. In one letter addressed to the clergy of Neocaesarea, Basil of Caesarea praises a former local bishop, Gregory Thaumaturgus, for abstaining from oath-taking, as does Gregory of Nyssa in his panegyrical account of Gregory's life.[204] Some prelates did obey this prohibition, such as the fourth-century martyr Phileas who reportedly cited the Gospels as preventing him from taking an oath.[205] Moreover, several laws note that members of the episcopacy were permitted not to swear in judicial contexts due to their inability to take oaths.[206] As bishops were highly visible Church leaders who acted as role-models for other religious adherents, it was important that these individuals restrain themselves from using the practice.[207]

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[199] See also the less reliable tale that Athanasius was appointed archbishop of Alexandria in 328 in violation of oaths sworn by the bishops of Egypt to choose a candidate suited to the ecclesiastical governance of the province (Soz. 2.17).
[200] cf. Philostorgius *EH* 5.3, 7.5, which reports that Eunomius made it a condition of his appointment as bishop of Cyzicus that Eudoxius, at that time bishop of Antioch, swear he would work for the bishop Aetius' recall from exile, and 8.4 where this promise is ignored.
[201] On purchasing ecclesiastic office, see: Huebner 2009. cf. Cass. *Var.* 9.15.10, which accuses several sixth-century clerics in Rome of secretly swearing in relation to purchasing office.
[202] See pp. 86-87, 91-93 above.
[203] Just. *Nov.*123.1; 137.2. As Miller and Sarris 2018, 2:916 note, the metropolitan bishop was probably also involved and thereby took the same oath. cf. *AC* 8.4 which suggests that individuals nominating episcopal candidates had to give testimony (μαρτυρέω) regarding each individual's character; Sid. Apol. *Ep.* 7.9.25, where the clergy of Bourges swore to accept Sidonius' decision of who should be elected to the episcopacy.
[204] Basil *Ep.* 207.4; Greg. Nyss. *Life of Gregory Thaumaturgus* 16 (*PG* 49.904) (with Gregory Thaumaturgus *Metaphrase of Ecclesiates* 39, 44 (*PG* 10.1008, 1009)).
[205] *Acts of Phileas* 4; p. 179 above. cf. John Eph. *EH* 3.12, where John III, archbishop of Constantinople, refused to swear an oath to support a lie, without criticism of the practice more generally.
[206] *CJ* 1.3.25.1b; Just. *Nov.* 54.2. Perhaps *CTh* 11.39.8 (=*CJ* 1.3.7) and Just. *Nov.* 123.7, which note bishops were not required to give testimony in courts, are related to this prohibition.
[207] Bishops as role-models: Rapp 2005, 66-152.

And yet, it is for this same reason that bishops, and indeed other clergymen, were by necessity often involved in swearing.[208] Citizens frequently sought advice regarding aspects of everyday life from individuals in this position of spiritual authority. As discussed in the previous section, Gregory of Nazianzus and Augustine received several letters from members of both laity and clergy regarding swearing, and at times bishops personally witnessed the oath-taking itself.[209] One fourth-century papyrus records an agreement in which an abusive husband swore to improve his behaviour in the presence of several bishops, who were mobilised to dispense justice in this incident.[210] Additionally, members of the episcopacy sometimes acted as envoys in various forms of diplomacy and so had to give and receive oaths in confirmation of peace agreements.[211] Particularly instructive are the fifth-century diplomatic missions of Epiphanius of Pavia. Although the Gothic leader Euric agreed to a pact facilitated by Epiphanius without an oath, as 'for you, [Epiphanius], to have promised is the same as to have taken an oath', in another incident the bishop, who visited Anthemius on behalf of the mutinous general Ricimer, received oaths from the emperor.[212] Comparable is the case of Vigilius, a sixth-century bishop of Rome who swore to the defeated Gothic king Vitiges that he would be safely taken to Justinian.[213] Oath-swearing also played a prominent role in various Church councils, from promises of doctrinal affiliation to oaths confirming the veracity of evidence.[214] Notably, the anonymous *Apostolic Constitutions* suggests that perjuring bishops and other clergymen should be punished, thereby presupposing that members of the episcopacy swore.[215] Oath-taking was an entrenched part of society, and as bishops were supposed to have an active role in dealing with the practicalities of life, they became involved by necessity in the practice, and even formulated oaths themselves.[216]

The social expectation for the episcopacy to have some involvement in oath-swearing was played upon by Gregory of Nazianzus, who in one work sets out an oath-formula to be recited by bishops. It is unclear if Gregory intended to suggest that it was him swearing in

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[208] Other ecclesiastical authorities: e.g. Soz. 2.34; *P.Cair.Masp*. 3 67328 p. 3, lines 4-8, dated to 521; 3 67296, lines 5-6, dated to 535; *P.Flor*. 3 287R, lines 5-6, dated to 535; *P.Lond*. 3 778R, line 11, dated to 568; Men. Prot. fr. 17.1-11; *P.Petra* 3 29R, lines 165-168, dated to ca. 582-592; *Book of Pontiffs* 30.3.
[209] See also pp. 115-117 above, concerning the involvement of the episcopacy in the governor's oath.
[210] *P.Oxy*. 6 903, line 15; Rapp 2005, 230-239.
[211] Bishops as envoys: Gillett 2003, 113-140. Envoys' oaths: pp. 134-135 above.
[212] Euric: Ennodius *Life of Epiphanius* 91 *te promisisse iurasse est*. Anthemius: Ennodius *Life of Epiphanius* 72.
[213] *Book of Pontiffs* 61.1.
[214] e.g. *Acts of the Council of Chalcedon* 1.851 (=*ACO* 2.1.1.179); 14.50 (=*ACO* 2.1.3.72).
[215] *AC* 8.47.25.
[216] Comparable episcopal usages of oath-taking: Hilary *Against Valens and Ursacius* 1.2.18; Syn. *Ep.* 67.19-20; Proc. *Wars* 2.5.30-31, 20.16; Vict. Vit. 3.18-20; Evagr. 6.13. See also Kahle 1954, 46-47 for later Coptic oath-formulae which directly invoke bishops.

this poem, but Suzanne Rebillard has convincingly argued that the formula, which was based on traditional oaths, was envisioned as a guideline for episcopal life rather than a description of an actual promise.[217] Gregory's oath-formula, which invokes Jesus as the Logos, affirms that the conjectural swearer would not disagree with accepted orthodoxy, dispense injustice, become unduly angry, refuse aid to the poor, and other such matters contrary to the duties of a bishop, else the oath-taker would lose God's favour and be punished.[218] If Rebillard's dating of the poem to post-381 is accepted, then this formula may have been a jibe against the clergymen who had driven him out of Constantinople in 381.[219] In any case, this poem would only have made sense if the audience expected the episcopacy to swear, contrary to the scriptural prohibition. There is no suggestion in this poem that oaths were forbidden for bishops. Instead, Gregory capitalises upon the episcopacy's frequent use of swearing to suggest what qualities prelates should possess.

Some bishops did not just accept the practice, but actively utilised oath-swearing for various reasons. Pelagius I, bishop of Rome ca. 556 to 561, asked Eleutherius of Syracuse to swear that he could juggle his responsibilities to both his household and his bishopric.[220] Pelagius deployed this oath to ensure that one of his prelates would fulfil his episcopal responsibilities sufficiently, no doubt relying upon both the implied consequences for ignoring the promise and also a related loss of reputation to bind the swearer to his agreement. Perhaps this thought process was shared with Augustine, who sent two quarrelling clergymen to a martyr's tomb due to a belief that perjury and dishonesty would be revealed at these locations, and Gregory the Great, who made three bishops undergo a trial-by-oath to determine their honesty beyond doubt.[221] In these cases, the bishops used oaths and appeals to the supernatural to excuse themselves from having to judge these individuals and instead defer the arbitration to God.[222] Oath-swearing was not just a necessary part of life. The practice could be a useful tool to aid episcopal affairs.

Like bishops, ascetics were perceived as role-models for the wider Christian community, and so they were also supposed to abstain from oath-swearing.[223] Several sixth-

[217] Suzanne Rebillard 2013.
[218] Greg. Naz. *Poema* 2.1.2 (=Suzanne Rebillard 2013, 180).
[219] Suzanne Rebillard 2013, 181-87. On Gregory's resignation, see: Elm 1999; 2000, 417-420.
[220] Pelagius I *Ep.* 25; 33; 44.
[221] Aug. *Ep.* 78.3; Greg. *Ep.* 2.29. As discussed by Shanzer 2014, esp. 15-17, and on pp. 208-209 below, these incidents are analogous to later ordeals.
[222] Harries 1991, 181, with particular reference to Augustine.
[223] Ascetics as spiritual role-models: Brown 1988b, 311; Mayer 1998, esp. 285-288; Alan Cameron 1999, 34-37; Maxwell 2006, 128-133.

century monastic rules declare that monks should never swear, citing a variety of reasons.[224] These prohibitions were repeated by other authors, who similarly argued that ascetics should not take part in this widespread practice.[225] In his treatise concerning the preparation of holy virgins, the sixth-century Iberian bishop Leander of Seville states that while ordinary Christians under some circumstance could take oaths, figures of higher spirituality should not, particularly as these individuals were theoretically reliable and therefore should not need to use the practice.[226] Those who did manage to abstain from oaths were praised for their strength.[227] Although some of these accounts cited Jesus' prohibition, the main stimulus for arguments against ascetics taking oaths was their moral strength. Theoretically, those who had dedicated themselves to an abstemious life, whether in religious communities or alone as an anchorite, were separated from wider society, held to stricter rules, and perceived to have attained a higher spirituality than was ordinarily possible. Proscriptions of oath-taking in this context were related to other matters from which these individuals occasionally abstained, such as food, sex, or human contact more generally. All of these things were seen as necessary for life, especially a comfortable life, and a refusal to take oaths, and thereby participate in a common social interaction, was an indication of ascetic strength

However, these individuals could not entirely detach themselves from wider society and, like bishops, were often still required to take oaths. The sixth-century advice sent by the renowned hermits Barsanuphius and John, who were based at Thavathra near Gaza, to an unnamed layperson illustrates this practical concern:

> Μηδέποτε ὀρίσῃς ὅρκον παρά τινος δοθῆναι, ὁ γὰρ Θεὸς ἀπηγόρευσε τὸ ὀμόσαι τινά. Ἀλλὰ λέγε ὅτι τὸ πρᾶγμα ὅρκον ἀπαιτεῖ, εἰ οὖν θέλετε ὀμόσαι, ἐν ὑμῖν ἐστιν. [228]

[224] Monks: *Rule of the Master* 11.66-68 (citing Jesus' prohibition); Benedict *Regula* 4.27-28 (citing fear of perjury); Caesarius of Arles *Monastic Rule* 4 (*PL* 67.1099) and Aurelian of Arles *Monastic Rule* 9 (*PL* 68.389) (both unspecified, and repeated in Caesarius of Arles *Rule for Virgins* 2 (*PL* 67.1107) and Aurelian of Arles *Rule for Virgins* 7 (*PL* 68.401) respectively).
[225] Basil *On Ascetic Discipline* 1 (*PG* 31.649); *Sermon on Asceticism* 5 (*PG* 31.880-881); Evagrius Ponticus *Chapters on Prayer* 127 (*PG* 79.1193); *Foundations of the Monastic Life* 8 (*PG* 40.1260-1261); Jerome *Ep.* 107; *Apophthegmata Patrum* Nisterus 5 (*PG* 65.308); Caesarius of Arles *Ep.* 21.6. See Delouis 2008, 230-235 for further, particularly later, examples.
[226] Leander *On the Training of Virgins* 29 *Nam sicut carnalibus pro terrore fraudis iurare permissum est, sic prohibita sunt spiritualibus, etiam dum sibi bene conscii sunt, sacramenta.*
[227] Pall. *Laus.Hist. prologue.*9, 9.1; Soz. 6.28; *Apophthegmata Patrum* Or 2 (*PG* 65.437).
[228] Barsanuphius and John *Ep.* 721.

> Never require someone to take an oath, as God forbade us to swear these things. Instead, say that this matter requires an oath, and if you want to swear, then it is for you [to decide].

While the eremites note the scriptural proscription of oath-taking and suggest that no-one should be forced to swear, they argued that each individual, monks and ascetics included, needed to make the decision whether oaths were necessary or not, depending on the circumstances. Analogous advice is attributed to the sixth-century stylite, Simeon the Younger, and a number of other 'holy men' freely used oaths themselves.[229] In his fifth-century history of desert hermits, Palladius gives a number of examples, such as Ammonius, who swore that he would self-mutilate if forced to join the episcopacy, and Elias, who answered concerns that he would take advantage of an abstemious female community by taking an oath.[230] Elias' oath may have been excused as an angel compelled him to swear in a dream, as may have also been the case for the fourth-century 'holy man' Evagrius Ponticus.[231] In any case, other sources suggest that those taking up or leading ascetic lives did swear for various reasons, particularly in their communications with the local community. Two representative examples are the fourth-century desert eremite Paul the Simple, who upon discovering his wife's adultery swore that he would not live with her, and several sixth-century monks, who took an oath on the relics of their monastery in a petition to a local administrator.[232]

Some monks, perhaps with Jesus' prohibition in mind, sought to circumvent the issue of oath-swearing while utilising the benefits of the practice and acquiescing to social expectations. During the reign of Justinian, the monks Menas and Noumenios had leased a cultivated field in the Antinoopolite nome to Phoibammon, a lawyer. In the course of the proceedings, Phoibammon swore by the consubstantial Trinity and the emperor.[233] As noted earlier, oath-swearing regularly formed a part everyday business but although Menas and Noumenios were expected to swear, they instead evaded the prohibited practice by forming another promise:

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[229] *Life of Symeon Stylites the Younger* 27; Delouis 2008, 233.
[230] Pall. *Laus. Hist.* 11.2-3; 29. Further examples: Pall. *Laus. Hist.* 18.19-20, 23, 21.15, 23.3, 71.4.
[231] Evagrius: Pall. *Laus. Hist*. 38.4-7; Soz. 6.30.
[232] Soz. 1.13; *P.Lond*. 5 1674, lines 72-74, dated to ca. 570. Further examples: John Moschos *Spiritual Meadow* 97; John Cassian *Conferences* 17.2, 5, 13-14, 26; Soz. 6.38, 9.2; Theod. *HR* 3.18, 6.9, 15.5, 24.8; Ps-Zach. 3.3D; *P.Cair.Masp.* 1 67096, lines 36-37, dated to ca. 573; *P.Lond.* 5 1729R, lines 24-25, dated to 584.
[233] *P.Cair.Masp*. 3 67299, lines 51-53.

> Διεβεβαιώσαντο ἐνώπιον τοῦ δεσπότο[υ] Χριστοῦ καὶ τοῦ περικειμένου αὐτοῖς σχήματος.[234]
>
> They [the monks] firmly affirm before the Lord Christ and the *schema* lying upon them.

Rather than using a usual performative verb for swearing, the monks made a binding affirmation invoking Christ and upon their *schema.* Calling upon the divine was typical of oath-formulae and it seems that this affirmation was deliberately modelled on this usual form while distancing the monks from the tricky issue of swearing.[235] The usage of *schema* is also significant; while the term's core meaning is 'appearance', most regularly in reference to monastic apparel which conferred spiritual authority upon the wearer, it could also mean 'reputation'.[236] Furthermore, the punishment of monks who violated the rules of their orders sometimes involved the removal of their clothing, paralleling enrolment into monastic communities by the renunciation of civilian apparel.[237] Menas and Noumenios were therefore including the quasi-curse element that featured in many oaths, where their exalted status as members of a monastic order was at stake if they violated their promise. Other monks appear to have used the same circumvention.[238] Perhaps analogous is one Justinianic law, which notes that although bishops should not take oaths in judicial courts, they could confirm relevant matters in the presence of the Gospels.[239] Despite their higher spiritual authority and strict rules, these Christian role-models found ways to participate in the ingrained practice of oath-taking without completely disregarding their religious principles.

Entry into some monastic communities itself was regularly marked with a similar promise, which involved the hallmarks of a typical oath without actually contradicting Jesus' prohibition. In some cases, this promise was openly referred to as a type of swearing, such as by Basil who purported to be chastising a monk for having intercourse with a lady and

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[234] *P.Cair.Masp*. 3 67299, lines 49-50.
[235] *P.Lond*. 5 1729R, lines 24-25 makes this connection more explicit, where a donation of property in 584 is accompanied by a monk 'swearing the firm promise on my *schema*' (ὀμνύων τὸ περιβεβλημένον μοι σχῆμα).
[236] On σχήμα and monastic apparel more generally, see: Brown 1989, 281; Krawiec 2009.
[237] John Cassian *Institutes* 4.6; Benedict *Regula* 58.6; Seidl 1935, 41; Dilley 2017, 71. A comparison can be made with the removal of military and bureaucratic belts, which represented the office held (Rollason forthcoming, 8), and the symbolic breaking of the related oaths (p.62 above).
[238] *P.Cair.Masp*. 3 67298R, lines 2-8 (albeit partially reconstructed), dated to ca. 527-565; Seidl 1935, 41-42. cf. *P.Köln.* 3 157R, lines 23-28, dated to 589, where an oath is taken by the Trinity and a separate promise is made over the *schema* by the same individual.
[239] Just. *Nov.* 123.7. See also Greg. Naz. *De vita sua* 2.1.11.1095-1107, where the bishop took an oath but tried to explain it as him giving his word (λὸγον δ΄ ἔδωκα, at 1105).

therefore violating his oath.[240] For the most part, however, monks of various traditions seem to have used a cognate practice. The candidates for monastic service, and occasionally also those becoming ascetics, would form an agreement, signified by terms such as *pactum* or ὁμολογία, to leave behind their previous lives and devote themselves to a chaste, abstinent existence.[241] The distinction between swearing and these monastic promises is best illustrated in the sixth-century *Rule of Benedict.* Benedict notes that new initiates into his community had to make a *promissio* in the monastery's oratory before their future brethren and holy relics, invoking God and the saints while acknowledging condemnation upon contravention of this agreement.[242] This *promissio* involved numerous typical features of late antique swearing but was not explicitly labelled an oath, unlike in the next section, where the parents of the initiate were required to swear that they had donated his property, or earlier in the work, where Benedict prohibits swearing entirely.[243] As with the 'firm affirmations' upon the *schema*, this enrolment agreement seems to be a clever manipulation of the scriptural proscription of oath-swearing, where these individuals were able to comply with societal expectations without contradicting their religious scruples. Other service contexts required an oath upon enlistment, and this promise had the same effects; there was not only the active effect of ensuring the initiate would act according to the order's guidelines, but also suggested that these individuals were bound to their responsibilities through something more than their word. Even though there was a strict prohibition of the practice, oath-swearing was both too useful and too embedded in society to abstain from completely, even for the Church.

5. Conclusion: Practicality and necessity

The entrenched nature of oath-taking in Roman society elicited a variety of responses to the practice, but the habitual inclination of ordinary Christians to swear meant that the negative arguments ultimately failed to change behaviour on a large scale. Swearing was accepted into

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[240] Basil *Ep.* 45.2.
[241] e.g. Basil *Ep.* 199.18; *Long Rule* 14 (*PG* 31.949); *Life of Melania the Younger* 32-33; Pachomius *Instructions* 1.51; Shenoute *Canons* 9 (=Bell 1983, 9-10). See also Elm 1994, 25-28, 140-141 on virginity promises, and Dilley 2017, 82-90 who compiles a significant number of monastic vows. However, the latter takes these 'agreements' to be regular oaths due to their similar meaning, as noted by Dilley himself (2017, 82 n. 80).
[242] Benedict *Regula* 58.5 *Suscipiendus autem in oratorio coram omnibus promittat de stabilitate sua et conuersatione morum suorum et oboedientia, coram Deo et sanctis eius, ut si aliquando aliter fecerit, ab eo se damnandum sciat quem inridit. De qua promissione sua faciat petitionem ad nomen sanctorum quorum reliquiæ ibi sunt et abbatis præsentis.*
[243] Benedict *Regula* 59 *De rebus autem suis aut in præsenti petitione promittant sub iureiurando;* 4.27 *Non iurare ne forte periuret.*

the Christian milieu and adapted, either explicitly as a recognisable oath or implicitly through an analogous promise.

Throughout this chapter, both theoretical debates on swearing and practical applications of the practice have been discussed with little comment on the temporal development of discussions concerning oaths. Arguments against the use of unacceptable elements in earlier centuries tended to focus on non-Christian invocations. With the increasing introduction of Christian terminology and rituals into processes of swearing, later debates concerning how oaths should be taken were largely concerned with theological formulations. The process evolved in later years, with oaths being taken in churches or near tombs, sworn over relics and the Scriptures, and recited before religious authorities throughout Late Antiquity.[244] Many of the opinions examined in the first three sections of this chapter can be dated to the fourth and fifth centuries, the period during which many oaths began to include Christian aspects. However, a chronological development of arguments for and against oath-swearing is difficult to determine; theologians throughout Late Antiquity examined the risk of perjury, the needlessness of the practice, the dangers of rash oaths, and the need for trust. Kevin Uhalde notes that Augustine's opinions on the practice changed over time as the bishop became increasingly aware of how useful oaths could be, but there is little to suggest that anything approaching a sea-change occurred during this period.[245] No consensus was achieved in Late Antiquity and the permissibility of oaths continued to be debated by Christians long afterwards.[246] Equally, it is difficult to trace an increase or decrease in the utilisation of oath-taking in Church contexts.

Nevertheless, oaths frequently played an important role in Christian life. Oath-taking was a traditional feature of Roman society and civilians continued to swear habitually. Trust was always seen a necessary component of life,[247] and oaths were essentially a crystallisation of faith, a necessary social interaction which facilitated relationships. Even ecclesiastical authorities, who were held to a higher standard of spirituality, were regularly required to swear or find a suitable alternative which circumvented Jesus' prohibition but still formed a type of oath. In the interests of wider society, certain Church leaders uneasily advised

[244] Churches: *P.Lond*. 5 1728, line 9, dated to ca. 584-585; *PSI* 8 973V, lines 5-6, dated to ca. 500-599. Tombs: pp. 177-178 above. Relics: *P.Lond*. 5 1674, lines 72-74, dated to ca. 570; *P.Münch*. 1 1R, lines 25-26, dated to ca. 574. Gospels: pp. 49-50, 105, 157-159 above. Religious officials: *P.Lond*. 5 1674, lines 72-74, dated to ca. 570; *P.Vars.* 29, line 6, dated to ca. 500-599.
[245] Uhalde 2007, 88-89.
[246] Continuing debates: Kreusch 2005, esp. 116-443; Delouis 2008.
[247] Morgan 2015, esp. 26-35, 157, 181.

Christians to think pragmatically and indeed, many individuals appear to have thought first of the practical considerations of oath-swearing before the potential for sin.[248]

Perhaps instructive is a popular myth, which reports that seven youths from Ephesus fell into a deep sleep in 250 and awoke during the reign of Theodosius II, nearly two centuries later.[249] In a sixth-century Latin version of the story, one of the Sleepers entered Ephesus and was surprised to hear the inhabitants swearing by Jesus' name.[250] The myth does not criticise the Christians in Ephesus for swearing, but rather suggests that they swore frequently enough for the Sleeper to overhear an oath shortly after his entry into the city. We cannot of course take this tale to represent society in Theodosius' reign accurately, but the account does indicate that the audience of this story would have understood how common oath-swearing was. Although certain theologians sought to modify the behaviour of laypeople, most ordinary Christians refused to reject this common part of life and instead complied with social expectations. Rather than abstaining from oath-swearing, these individuals took ownership of the practice, maintaining its useful provision of trust but changing its religious orientation.

[248] cf. Malchus fr. 20.148-157 (discussed on p. 128 n. 34), where one fifth-century general refuses to swear, perhaps due to his religious beliefs, and Eus. *EH* 6.5.1-6, on Basilides, a second- to third-century soldier who converted to Christianity and rejected a request that he take an oath.
[249] On the myth, its various versions, and its dating, see: Grysa 2010.
[250] Greg. Tur. *Passio sanctorum septem dormientium apud Ephesum* 7 *Ingressusque urbem, audiuit homines per Christi nomen iurare.*

Conclusion

In his treatise concerning the preparation of holy virgins, Leander of Seville condemns the practice of oath-taking as a sin and suggests individuals of spiritual authority had no need to swear. In the same passage, however, the bishop states that 'it is necessary to extract an oath from someone whose honesty remains in doubt'.[1] Leander evidently thought that oath-taking had some significance in sixth-century society. The same opinion was shared by Procopius and Theophylact, who, in the passages with which this thesis opened, suggested that oath-swearing was an important and respected social practice in Late Antiquity. The continued use of oaths in the four late antique contexts examined in this investigation indicates that the emperor, at the least, believed the same to be true. The *sacramentum militiae* was still administered to soldiers shortly after recruitment and reaffirmed at various points during their careers, just as oaths continued to be used in relations with neighbouring states and groups Additionally, ordinary individuals refused to stop swearing oaths in the context of their everyday lives, despite the complaints of various Church authorities, who started to utilise the practice themselves. Even more indicative are the emperor's attempts to control the civil service through the institution of oaths taken upon entry into civil offices.

Oath-taking was clearly seen to have some value in late antique society. Some scholars, such as Walter Burkert and Kevin Uhalde, have highlighted the involvement of higher forces and suggested that the threat of retribution was intended to guarantee future behaviour and solidify trust.[2] In essence, oath-taking could provide order in a chaotic world by invoking the oversight of supernatural beings. Danuta Shanzer in particular has argued that oaths could act as a form of extra-judicial proof, appealing to deities and sources of cultic authority to adjudicate over disputes when the law did not make suitable recourse available. Through an analysis of Augustine's attempt to settle a dispute by sending the parties involved to a martyr's tomb, Shanzer suggests that oath-swearing in antiquity and ordeals in the Middle Ages were related.[3] Both procedures theoretically punished individuals who were guilty and relied upon the agency of higher forces. Ordeal-by-oath, also known as the purgative oath, became a common ecclesiastical means of settling disputes in the Middle

[1] Leander *On the Training of Virgins* 29 *eius autem hominis iurandi extorquetur necessitas, cuius fides manet in dubio.*
[2] Burkert 1997, 35; Uhalde 2007, 81.
[3] Shanzer 2014.

Ages,[4] but a number of late antique oaths seem to be precursors to this later practice. The fifth-century *Funerary Speech for John Chrysostom*, for example, refers to oaths being sealed by the act of drinking, perhaps an antecedent to ordeals by ingestion in the Middle Ages.[5] Isidore of Seville also suggests that by the sixth century, certain springs in Sardinia were believed to have restorative properties for honest individuals whereas thieves who washed their eyes with the water after swearing, and presumably breaking, an oath were said to go blind.[6]

There was evidently some expectation that retributory justice would be meted out if oaths were broken. Various authors sought to present oath-breakers as suffering unpleasant consequences due to their perjury. Procopius, for example, reports that during the campaign in Africa in 533-34, Belisarius ordered the admiral Calonymus not to enter the ports of Carthage or neighbouring settlements with his ships.[7] The naval officer ignored this standing order, sailed his ships into a nearby harbour, and raided several houses along the coast.[8] After Belisarius had taken Carthage the following day, merchants from the city complained to the general about Calonymus' plundering, at which point the admiral was bound by oaths to reveal what his fleets had stolen.[9] Procopius tells us that Calonymus lied under oath and kept the plundered booty, but the account at this point immediately informs us that 'not long afterwards, [the admiral] paid the penalty in Byzantium'.[10] The author states that the naval officer suffered an apoplectic fit, bit off his tongue, became insane, and then died. Procopius directly correlates Calonymus' unpleasant death with his earlier oath-breaking, connecting the two incidents even though the account acknowledges that some time had passed between the perjury and the consequences.[11] As has been indicated in various parts of this thesis, Procopius was not alone in suggesting that violating sworn agreements would eventually be punished, or that oath-taking more generally was not an empty ritual. The consequences of ignoring promises were considered to be real by historiographical authors, ecclesiastical authorities, and even the imperial court.

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[4] On later ordeals, see the concise analysis of Gaudemet 1965.
[5] *Funerary Speech for John Chrysostom* 50 [Gainas had taken] ὅρκων...ὧν κατέπιε τότε; 77 [individuals initiated into Christianity by Chrysostom should remember] πότε ἤ τί παρ΄ αὐτῷ πιόντες ἐπόμνυσθε.
[6] Isid. *Etym.* 14.6.40.
[7] Proc. *Wars* 3.17.16.
[8] Proc. *Wars* 3.20.23.
[9] Proc. *Wars* 3.20.23.
[10] Proc. *Wars* 3.20.24-25 χρόνῳ δὲ οὐ πολλῷ ὕστερον τὴν δίκην ἔτισεν ἐς Βυζάντιον.
[11] It is also possible that Procopius' inclusion of this incident at this point in the narrative reflects an attempt by Belisarius to discourage others from plundering by spreading the story in Africa.

Accusations of oath-breaking were therefore serious, not only suggesting that the individual in question was dishonest and untrustworthy but also implying that the perjurer was liable to imminent punishment. Many authors associated particular groups and personages with swearing false oaths to characterise those discussed negatively. In a letter to a fellow bishop, Augustine criticised Priscillianists, a heterodox Christian sect, and claimed that to preserve the secrets of their dogma, these individuals would lie under oath.[12] Augustine's tone is critical and this accusation of frequent perjury was intended to discredit Priscillianists, as was also the case with similar claims regarding officials, emperors, and foreigners discussed in earlier chapters of this thesis. If nothing else, characterisations which used oath-breaking to disparage the individuals in question suggest that oaths and their maintenance were seen as important in society.

And yet, these same accounts indicate that oath-swearing could not always compel the swearers to fulfil their commitments. Regardless of the possibility of subsequent retribution, individuals occasionally broke their sworn promises; soldiers rebelled against the emperor, civil servants took advantage of their positions, and peace agreements broke down, even though oaths had been taken to prevent these things from occurring. We do not have the data to suggest whether the majority of oaths were broken or upheld, and many sworn promises were no doubt kept. After all, these sworn agreements would rarely necessitate explicit comment unless they were ignored. Nevertheless, the practice could not always be relied upon to ensure the honesty of another party or the completion of an action. The threat of repercussions was not always a sufficient deterrent.

Given that the value of oath-swearing is typically seen by modern scholarship to reside in the practice's ability to compel the swearers to do something, the failure to hold swearers to their agreements could indicate that sworn promises were inefficacious and largely symbolic. The late antique military *sacramentum*, for example, was expected to consolidate the allegiance of the armed forces to the emperor. The same is true of oaths administered to civil servants, who were supposed to fulfil their duties honestly and adhere to particular belief systems. Similarly, swearing in diplomatic relations was intended to enforce compliance with the arrangement in question, while oaths taken in ecclesiastical contexts were supposed to reinforce a variety of relationships. If these sworn promises were maintained, then they could provide a useful manner of controlling the future to an extent.

[12] Aug. *Ep.* 237.3.

Yet oath-taking could not guarantee that the swearer would abide by the terms of their agreement, the violation of which could suggest that the practice was not always respected in Late Antiquity.

However, even if the envisioned primary purposes of these oaths were not always met, the process of oath-swearing could still play a range of important roles. In the context of the armed forces, oath-swearing could create a discrete social unit of those who had sworn and those who had not. Through the creation of this corporate identity, the emperor could suggest that it was beneficial to enlist and thereby encourage individuals to join his military forces, who played crucial parts in the maintenance of the empire. As noted earlier, if this oath was kept, then it provided a useful method of asserting some control over the swearers. But if not, the practice of swearing could still be of some use.

Those involved in these processes of oath-taking would have appreciated the immediate social effect of the practice in question. Swearing the *sacramentum* and joining the military community connected the new recruit with his more seasoned brothers and his compatriots, amongst whom most regular soldiers would spend their time. Even though soldiers were recruited from a range of different locales, cultures, and peoples, the *sacramentum* provided a means of bridging the differences between the swearers. The same was true of oath-taking in diplomatic relations, where the parties involved were often separated by cultural and religious divisions. Even if these oaths were broken later on, their use could facilitate an immediate relationship between numerous individuals, whether recruits looking to enter the armed forces, envoys negotiating the minutiae of formalised treaties, or monks seeking to lease land.

In various contexts, the formulation of the oaths in question could adapt to fit the circumstances and help to provide a link between individuals who were otherwise unconnected. Oath-formulae were naturally mutable and could change in line with broad changes in society, such as the increasing pervasiveness of Christianity, as well as to accommodate particular customs. As a result, the swearing of oaths could overcome a range of boundaries and facilitate social interactions. This effect no doubt contributed to the practice's frequent use even before Late Antiquity and explains why it was so difficult for Christians to disregard, leading to the gradual introduction of oath-taking into the ecclesiastical milieu.

Due to the swearing of oaths in numerous areas of society, the practice lent itself to use as a literary device. Some Christian authors referred to the military *sacramentum* to discuss religious loyalty to God, while ecclesiastical leaders used the subject of oath-swearing more generally to argue that their belief system was superior to others. A wide variety of literary sources mentioned the maintenance or violation of sworn agreements and promises to praise or criticise various personages and groups. As a ritual concerning trust and reliability, oath-swearing could be included in these works as a test of character and allow certain members of society to project assumptions of superiority over other, less dependable individuals.

These ancient authors evidently thought that a reference to oath-taking in various contexts could support their representations of society. As this thesis has aimed to show, modern scholarship should also pay attention to the practice as the utilisation of oaths in Late Antiquity can illuminate a range of important matters concerning life in the later-Roman empire. Christian debates concerning oath-swearing, for example, support the modern scholarly consensus that ordinary adherents of Christianity often readily accepted practices which theological authorities had defined as unacceptable behaviours. Furthermore, the gradual introduction of oath-taking into ecclesiastical affairs indicates not only that there were limitations to the influence of Christian principles upon late antique society, but also that pre-existing social conventions could influence Christianity itself. There was evidently a discrepancy between what religious leaders preached and how ordinary Christians behaved.

Oaths can also help us to understand other social dynamics at play in Late Antiquity, particularly between the ruler and groups who could challenge imperial authority. The military and civil service oaths represented attempts by the emperor to exert control over two important groups of his subjects and assert imperial authority. However, due to decreasing imperial contact with the armed forces over this period, the emperor was increasingly seen by his soldiers as far removed. The immediate concerns of the troops, namely their welfare and their compatriots, were more significant than the loyalty offered to a distant, effectively abstract ruler, and attempts to consolidate military allegiance through this oath were therefore not always successful. Similarly, oaths of civil service do not appear to have been a reliable method of compelling officials to fulfil the terms of their positions, but emperors probably anticipated this state of affairs. It may be that the institution of oath-swearing in this context was meant to strengthen the emperor's relationship with his subjects by showing an imperial response to complaints about the bureaucracy. Regardless of whether civil service oaths were

kept, the use of the practice played into the imperial balancing act of emphasising the ruler's dominance while acknowledging the interests of the wider population.

The violation of sworn promises therefore did not necessarily mean that oaths had no use or significance. Even if the swearing of an oath could not hold an individual to their commitments, the utilisation of the practice could be beneficial in a performative sense. In the context of diplomacy, sworn promises could be deployed by the emperor to display his solicitude for peace while simultaneously emphasising imperial authority and avoiding a test of military strength. These same oaths could also support internal Roman preconceptions of superiority over other political units and neighbouring peoples. Additionally, by invoking the emperor or following local conventions in everyday life, the ordinary Christian oath-taker could indicate that they complied with the rules of their immediate community. Various changes in the formulation of the military and civil service oaths may also have been introduced with other parties in mind. New religious aspects could have been included in the process of oath-taking to please ecclesiastical authorities and to suggest that the swearers worked within a Christian framework. Even if the swearers of these oaths violated their promises, the process of oath-taking could project certain messages about those involved and their intentions.

Oath-swearing evidently played a variety of roles in late antique society. These roles changed depending on the context in which the practice was used and who was involved; the relative positions of the swearers and recipients, the needs of the parties with a stake in the arrangements in question, and the religious aspects of the process could all result in these oaths having different effects in practice from what was originally intended. Each oath would naturally have been perceived differently by the diverse groups who utilised and participated in oath-taking throughout this period. The practice thereby had distinct roles to play in numerous parts of society. Indeed, the envisioned primary purpose of taking these oaths rarely seem to be the most significant aspect of the practice. Although oath-taking was therefore not always a reliable method of compelling individuals to adhere to their commitments, the practice still contributed to several important social dynamics in Late Antiquity. Even if a promise was broken, the oath could still play a range of significant roles in society.

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