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Robert Flierman and Els Rose

ABSTRACT

This article studies Latin civic discourse in relation to the political and legal concepts of the citizen and citizenship, and concentrates on the influence of Christianity on the development of this discourse in late-imperial Rome. While the concepts of *civis* and *civitas* gradually lost their political and legal value, the ancient Latin vocabulary in which these concepts are expressed did not disappear but acquired new contextual meaning and situational application. We will present this development in fourth- and fifth-century Rome by discussing two different yet closely related corpora of source texts, comparing the pastoral-theological sermons of the Roman bishop Leo I (440–461) with the imperial laws collected in the Theodosian Code. The juxtaposition of these corpora shows a striking similarity in the Christian appropriation of civic discourse, serving to develop and express new, religiously founded forms of belonging to as well as exclusion from the civic community in city and empire.

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1. Introduction: civic and religious discourses in Late-Imperial Rome¹

On 19 June 445, Emperor Valentinian III (r. 425–455) issued a law in Rome addressed to the Praetorian Prefect of Italy. Known today as *Novella* 18, it was presented as the latest effort in a long tradition of anti-Manichaean imperial legislation stretching all the way back to Diocletian.²

A superstition that was already condemned in pagan times, that is hostile to public discipline and an enemy of the Christian faith, has provoked Our Clemency to bring about its just demise. We are talking about the Manichaeans, whom all former emperors held accursed in their laws and judged worthy of expulsion from the entire face of the earth.³

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²Samuel Lieu, *Manichaeism in the Later Roman Empire and Medieval China*, 2nd ed. (Tübingen: Mohr Siebeck, 1992), pp. 203–7.

³*Leges Novellae Valentiniani*, ed. Theodor Mommsen and Paul Meyer (Berlin: Weidmann, 1905), no. 18, pp. 103–5: “Superstitio paganis quoque damnata temporibus, inimica publicae disciplinae et hostis fidei Christianae, ad excidium sui cle-

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In *Novella* 18, Valentinian confirmed the full range of legal disabilities that his predecessors had imposed on Manichaean inhabitants of the empire: they could be accused without repercussions but enjoyed no right of appeal themselves; they were intestate; they had no right of contract; they could not hold office in the imperial service; they could not live in cities; and those who assisted them, or failed to act against them, faced steep fines. The emperor was not the only public authority anxious to safeguard the unity of one orthodox Christian confession in the imperial realm, nor were the laws issued by his Christian predecessors the sole or even main source of his own legislative zeal. Valentinian found an influential partner in the person of the Roman bishop, Leo I (r. 440–461). About a year-and-half prior to the proclamation of *Novella* 18, Leo had conducted an investigation in Rome and found that Manichaeans had, once again, infiltrated the Eternal City. The culprits had quickly been apprehended and tried, but Leo continued to single out the Manichaeans in a number of letters and in his pastoral sermons. Using their own recent confessions as ammunition, he railed incessantly against their “criminal” activities and “sacrilegious” beliefs, emphasizing their position as outsiders from the Church when he further denounced their doctrine as “alien to the sacrament”.⁴ On one notable occasion, he accused them of “delighting in the pollution of body and soul”.⁵

As we will show in the present contribution, Valentinian’s anti-Manichaean policy as expressed in *Novella* 18 is remarkably close in content and rhetorical expression to Leo’s letters and sermons against the Manichaeans. Both Leo and Valentinian made use of a discourse of citizenship and civic participation in their respective issues against those who fell short of the orthodox norm, and both positioned these “heretics” on the periphery (at best) or beyond the boundaries (in the case of the Manichaeans) of the civic community now defined along the lines of a new Catholic standard.

In the following sections, we will investigate the mutually dependent efforts of emperor and bishop to reform the urban (and wider imperial) community along the lines of Christian ideals and doctrinal standards. Valentinian’s *Novella* 18 serves as an example of a redefinition or even revival of the relevance of being a Roman citizen under the Christian emperors of the fourth and fifth centuries. Where Roman citizenship had lost much of its distinctive force after Caracalla’s edict of 212, especially where political participation was concerned,⁶ it was imbued with renewed salience by Constantine and his Christian successors by associating it with Christian orthodoxy, and by making the Nicene Christian the only full citizen under Roman law, whilst legally marginalizing pagans, Jews, and, above all, heretics.⁷ In the present contribution we advance previous law-based

mentiam nostram non inmerito provocavit. Manichaeos loquimur, quos execrabiles et toto orbe pellendos omnium retro principum statuta iudicarunt”.

⁴Sermo XVI.4, p. 64: “superat enim verborum copiam criminum multitudo”; p. 65: “infandum facinus [...] detestandi criminis ordinat”; Sermo XXIV.4, p. 87: “ab hoc sacramento ... Manichaeorum error alienus”.

⁵Sermo XXIV.4, p. 113: “animi ita et corporis pollutione laetantur”.

⁶Ralph Mathisen, “Peregrini, Barbari, and Cives Romani: Concepts of Citizenship and the Legal Identity of Barbarians in the Later Roman Empire”, *The American Historical Review* 111/4 (2006): 1011–40; Peter Garnsey, “Roman Citizenship and Roman Law in the Later Empire”, in *Approaching Late Antiquity: The Transformation from Early to Later Empire*, ed. Simon Swain and Mark Edwards (Oxford: Oxford University Press, 2004), pp. 133–55; Clifford Ando (ed.), *Citizenship and Empire in Europe 200–1900: The Antonine Constitution after 1800 Years* (Stuttgart: Franz Steiner Verlag, 2016); see also Aitor Blanco’s contribution to the present issue on the effects of the *Constitutio Antoniniana*.

⁷Caroline Humfress, “Citizens and Heretics. Late Roman Lawyers on Christian Heresy”, in *Heresy and Identity in Late Antiquity*, ed. Eduard Iricinschi and Holger Zellentini (Tübingen: Mohr Siebeck, 2008), pp. 128–42; Carolina Lo Nero, “Christiana Dignitas: New Christian Criteria for Citizenship in the Later Roman Empire”, *Medieval Encounters* 7 (2001): 146–64; Michele Salzman, “The Evidence for the Conversion of the Roman Empire to Christianity in Book 16 of the Theodosian Code”,

explorations of the Christianization of citizenship in the late-Roman Empire by examining this issue from the dual perspective of imperial lawgiver and ecclesiastical authority. To this end, we study a combined corpus of pastoral and legislative sources from the fourth and fifth centuries: the sermons of Leo I, and the imperial laws collected in Book 16 of the Theodosian Code and the *Novellae*. Our aim is to demonstrate the forceful interplay of legal and theological discourse and its effects on the formation of the late-Roman urban community along the lines of Christian orthodoxy. The key to our analysis is the presence in both types of texts of Latin vocabulary expressing notions of citizenship and civic belonging. We will show that the application of this vocabulary changed drastically under the influence of a Christian ideal of orthodox purity, and thereby contributed to and expressed a vision of community that became distinctly two-sided, grounded in exclusion and alienation as much as inclusion. To demonstrate this, we will analyse this vocabulary in Leo's pastoral sermons and in imperial legislation. Finally, we will return once more to the proclamation of *Novella* 18 against the Manichaeans to investigate how, under the joined aegis of emperor and bishop, the urban community and the wider imperial realm could operate much like a system of communicating vessels.

2. *de alienis adoptivos*: the discourse of alienation in Leo's pastoral sermons

It is worthy and just that we praise you, o God, who through an ineffable mystery have placed the just law of apostolic rule in the city named Rome, so that from there the truth of the Gospel spread throughout all kingdoms of the world, and the universal community of Christian devotion followed what emanated from their preaching to the entire orb of the earth, so that through their wholesome help those who had deviated from their track were considered outsiders, and only those who did not in any way depart from the primordial tradition appeared as sons of truth.⁸

This prayer, composed in the fifth century to celebrate the liturgical office of Mass in commemoration of Peter and Paul,⁹ presents the intricate relationship between theological and legal thinking at the time through its definition of the apostolic tradition as a legal principle (*ius apostolici principatus*).¹⁰ The prayer proclaims that the apostles preached the

Historia: Zeitschrift für alte Geschichte 42 (1993): 362–78. With regard to heretics, Ferdinando Zuccotti, “*Furor haereticorum*”: studi sul trattamento giuridico della follia e sulla persecuzione della eterodossia religiosa nella legislazione del tardo impero romano (Milan: Giuffrè, 1992), pp. 233–83; Karl Leo Noethlichs, “Revolution from the Top? Orthodoxy and the Persecution of Heretics in Imperial Legislation from Constantine to Justinian”, in *Religion and Law in Classical and Christian Rome*, ed. Clifford Ando and Jörg Rüpke (Stuttgart: Franz Steiner, 2006), pp. 115–25; María Victoria Escribano Paño, “The Social Exclusion of Heretics in Codex Theodosianus XVI”, *Droit, religion et société dans le Code Théodosien*, ed. Jean-Jacques Aubert and Philippe Blanchard (Geneva: Librairie Droz, 2009), pp. 39–66.

⁸*Vere dignum: qui ineffabili sacramento ius apostolici principatus in Romani nominis arce posuisti, unde se evangelica veritas per tota mundi regna diffunderet, et quod in orbem terrarum eorum praedicatione manasset, christianae devotionis seque-retur universitas; salubrique compendio et hi, qui ab illorum tramite deviassent, haberentur externi, et tantummodo filii veritatis existerent, qui a principali nullatenus traditione discederent. Sacramentarium Veronense* 307, ed. Leo C. Mohlberg (Rome: Herder, 1994), p. 41.

⁹Despite the difficulties of dating and localizing the collection of mass *libelli* in the *Sacramentarium Veronense*, most liturgical historians relate this prayer to Leo the Great (440–61): Mohlberg (ed), *Sacramentarium Veronense* Introduction, p. lxxxii. For a more recent discussion of the collection as a whole, see Éric Palazzo, *Le Moyen Âge des origines au XIII^e siècle* [Histoire des livres liturgiques] (Paris: Beauchesne, 1993), pp. 61–6; for a recent critique on the assumed Roman origin of the collection see Philippe Bernard, *Transitions liturgiques en Gaule carolingienne. Une traduction commentée des deux “lettres” faussement attribuées à l’évêque Germain de Paris* (Paris: Hora decima, 2008), p. 16.

¹⁰See also Susan Wessel, *Leo the Great and the Spiritual Rebuilding of a Universal Rome* [Supplements to *Vigiliae christianae* 93] (Leiden-Boston: Brill, 2008), pp. 292–3.

Gospel in Rome so as to conquer the universal world from there. At the same time, the text brings about a sharp division between those who accepted this religious truth and those who did not, qualifying the former as insiders (*fili*) and labelling the latter as outsiders (*externi*). Thus, the prayer reflects fifth-century views on the essentially Christian character of Rome as the city of the apostles Peter and Paul, and the impact of such views on the community that inhabited the city. It also testifies to the effort undertaken by Christian leaders, among whom the Bishop of Rome loomed large, to redefine the urban community along Christian lines. The spread of Christianity had inevitably created a “new geopolitical reality” to which Christian authorities throughout the empire sought to respond, but they had to do so using language and imagery that looked back to, and was consistent with, that of the past.¹¹ Whatever change they effected, it had to appear, even to themselves, as continuity.

That Roman civic discourse was among the sources of such continuity is widely accepted. Yet its impact on Christian concepts of community is often sought in rather specific intellectual iterations. Augustine dominates the historiography to a large extent. His *City of God*, in which he presents the complex relationship between members of the City and those who are *extranei* to it, is traditionally seen as the epitome of Christian reconceptions of citizenship and civic virtues.¹² This rise of the heavenly citizen seems self-evident when placed alongside that other familiar narrative: the long but undeniable decline of Rome’s earthly citizen, with his political ambitions and legal rights and duties. The right to vote in Rome’s public assembly and share in her public honours had from early on been theoretical for the majority of citizens, but as the Republican political institutions were supplanted as a governing body by the imperial bureaucracy, participation in the former truly became the privilege (and burden) of a small aristocratic elite.¹³ Caracalla’s extension of citizenship status to most of the inhabitants of the empire in 212 had further reduced its practical relevance.¹⁴ The traditional exemptions from the poll and land taxes were not extended to the newly created citizens and were ultimately rendered obsolete by Diocletian’s tax reforms.¹⁵ By that time, protection against torture too had become the preserve of a specific legal segment within the citizen body (the *honestiores*), though the right to appeal against a capital sentence imposed by a magistrate appears to have stayed intact (barring certain crimes).¹⁶ What remained above all in late antiquity was access to Roman private law, which touched on such crucial aspects of life as marriage, the drawing up of wills, and the owning, buying, and selling of property.¹⁷

¹¹Wessel, *Leo the Great*, p. 6.

¹²Jed W. Atkins, *Roman Political Thought* [Key Themes in Ancient History] (Cambridge: Cambridge University Press, 2018), pp. 84–90; James Arthur, “Christianity, Citizenship and Democracy”, in *The SAGE Handbook of Education for Citizenship and Democracy*, eds James Arthur, Ian Davies, and Carole Hahn (Los Angeles/London/New Delhi/Singapore: SAGE, 2008), pp. 305–13. Recent contributions that give incentive to study a more complete array of contributors to this transformative process include Wessel, *Leo the Great*; Claudia Rapp, “City and Citizenship as Christian Concepts of Community in Late Antiquity”, in *The City in the Classical and Post-Classical World. Changing Contexts of Power and Identity*, eds Claudia Rapp and H.A. Drake (Cambridge: Cambridge University Press, 2014), pp. 153–66.

¹³Augustine himself is an example of a citizen experiencing his duties with regard to his home town, Thagaste, as a burden from which he wishes to be freed, as described by Robin Lane Fox, *Augustine: Conversations to Confessions* (New York: Basic Books, 2015), pp. 377–81.

¹⁴See the essays collected in Ando (ed.), *Citizenship and Empire*.

¹⁵Mireille Corbier, “Coinage and Taxation: The State’s Point of View, A.D. 193–337”, in *The Cambridge Ancient History*, ed. Alan Bowman, Averil Cameron, and Peter Garnsey (Cambridge: Cambridge University Press, 2005), 12: 327–92, esp. 365.

¹⁶Claude Nicolet, *The World of the Citizen in Republican Rome* (London: Batsford Academic and Educational, 1980), pp. 19–20.

¹⁷Atkins, *Roman Political Thought*, p. 67.

Contrary to this gradual loss of the ancient values of *civitas* and *civis*, the ancient Latin vocabulary developed to express these concepts did not disappear, but, conversely, acquired new contextual meaning – a process on which Christianity had a lasting influence.¹⁸ Late-Roman Christianity combined multiple citizenship discourses, interweaving the legal traditions of ancient Rome and the biblical inheritance of Old and New Testament alike. This combined vocabulary, developed around the nucleus of *civis* and *civitas*, provided a complex network of terms referring to the *civis* and its antonyms as well as the geographical and ideological spaces of belonging and entitlement. The latter part of the network includes concrete terms denoting specific civic areas, primarily the city (*urbs*), but also more abstract terms indicating the wider political and social community to which citizenship is linked (*civitas*, *res publica*, *patria*, *societas*). Moreover, both Roman and biblical citizenship vocabulary comprised terms to refer to those who were *not* citizens: the outsider, or “un-citizen”.¹⁹ Thus, the “stranger” comes into focus, the (resident) alien (*peregrinus*, *advena*, *externus*, *extraneus*, *alienus*, and synonyms), but also the slave and other social categories that did not fall within the range of *civis* and *civitas*.

A search for citizenship vocabulary in Leo’s sermons quickly brings to light the absence of the lexeme *civis* in the 97 sermons attributed to this fifth-century Bishop of Rome.²⁰ This absence is interesting in itself, and we shall probe its significance throughout this study. *Civitas*, on the other hand, covers a range of meanings in its concise number of 15 occurrences.²¹ Leo uses *civitas* mostly to refer to concrete (Biblical) cities, such as Jerusalem in a sermon for Holy Week,²² or Bethlehem in an Epiphany sermon.²³ In a limited number of occurrences Leo’s own city of Rome is at stake, particularly in sermons for Peter and Paul²⁴ (although Leo prefers *urbs* to refer to the physical city of Rome: *urbs nostra*).²⁵ In addition, three occurrences of *civitas* cover the more abstract meaning of “(Christian) community”. The first example of this is prompted by Matth. 27, 53, quoted in a Good Friday sermon. The “holy city”, *civitas sancta*, where the saints appear after their resurrection, is explained as the Church: *ecclesia dei*.²⁶ In another Epiphany sermon, Leo urges his parishioners to focus on imperishable goods and to strengthen the bonds of *amicitia* with the angels, thereby entering the *civitatem dei*.²⁷ In the light of this, the reference to *civitas nostra* in one of the sermons where Leo speaks out against the Manichaeans²⁸ could be interpreted not only as an appeal to banish heretics from “our city”, i.e. the geographical city of Rome, but also in a more transcendental way: heresy has no place in the citizen body that makes the City of God and, therefore, heretics position themselves outside the community.

¹⁸Ibid., pp. 84–90.

¹⁹Benjamin Dunning, *Aliens and Sojourners: Self as Other in Early Christianity* (Philadelphia: University of Pennsylvania Press, 2009), p. 36, as opposed to what Dunning calls “antiquity’s fundamental insider term”: “the citizen” (ibid., p. 40).

²⁰As edited by Antoine Chavasse, *Sancti Leonis Magni Romani pontificis tractatus septem et nonaginta* [Corpus Christianorum series latina (henceforth CCSL) 138-138A] (Turnhout: Brepols, 1973).

²¹The counting is based on the CDS database: <http://clt.brepols.net.proxy.library.uu.nl/cds/pages/Search.aspx>, last accessed 28 February 2019.

²²*Sermo* LIX.5 for the Wednesday in Holy Week (444), p. 356.

²³*Sermo* XXXIII.4 for Epiphany (443), p. 174.

²⁴*Sermo* LXXXII.2 for 29 June 441, p. 511; *Sermo* LXXXIII.1, for the same feast-day in 443, p. 519.

²⁵*Sermo* LXXXII.1, p. 508.

²⁶*Sermo* LXVI.3 (453), p. 403.

²⁷*Sermo* XXXV.4 (445), p. 193.

²⁸*Sermo* IX.4 (*De collectis*, 443), pp. 37–8.

The specific context of the use of *civitas* in Leo's *Sermo* IX reflects a general trend in Leo's use of citizenship vocabulary in a pastoral context, a tendency to instrumentalize a vocabulary that distinguishes between who is inside and who is outside of the *civitas*, defined as *ecclesia*, as well as the conditions that cause one to fall outside this community. This comes to the fore most clearly in the lack or rarity of terms that denote the wider community in which citizenship is performed, such as *res publica* (no occurrences) or *patria* (four occurrences).²⁹ Leo defines the Christian community by bringing to light its boundaries, and by explaining the ways in which it embraces those willing to participate in its doctrine while keeping those who do not contribute to it at the distance of the outsider. This pattern becomes visible most emphatically in the vocabulary that expresses the stranger (*peregrinus*, *advena*) as opposed to the insider (*civis*).³⁰ While *advena* developed into the most common term to denote "the stranger, outsider" in early medieval legal discourse,³¹ it occurs only once in Leo's sermons. By contrast, one of *advena*'s most direct synonyms, *alienus*,³² yields 62 occurrences in 41 sermons.³³ While *alienus* is not the most central term to express the opposite of *civis* in classical citizenship language, surpassed in particular by *peregrinus*,³⁴ in biblical discourse as well as in the patristic commentary tradition it occurs emphatically as an antonym of *civis* and contrasts with *civitas*.³⁵ Leo's use of the lexeme in relation to the ideal urban community he has in mind asks for a closer analysis.

Within Leo's corpus, *alienus* is a complex term with a wide variety of meanings. *Alienus* often means "someone from outside, a stranger", with no specific legal connotations. In this sense, the word is hardly relevant to our analysis. More significant are those passages where *alienus* is used to indicate someone, positively, as alien to either dogmatic errors or former pagan habits or, negatively, as alien to the Christian truth. This is expressed in a number of Leo's sermons. In the positive sense, it is said of Christ himself that "he alone, born from the blessed virgin, is a son without fault, not an outsider to the human race but alien to sin".³⁶ Of the saints it is said that those who are in the Christian faith (*qui non est pietatis alienus*) are guaranteed that they will get acquainted (*non*

²⁹On *patria* as the (primary) locus a Roman citizen is attached to, see Madeleine Bonjour, *Terre natale. Études sur une composante affective du patriotisme romain* (PhD Thesis, University of Lille, 1976); see also Elena Isayev, *Migration, Mobility and Place in Ancient Italy* (Cambridge: Cambridge University Press, 2017), pp. 400–1.

³⁰Charlton T. Lewis and Charles Short, *A Latin Dictionary* (Oxford: Clarendon Press, 1951), s.v. *peregrinus*.

³¹Stefan Esders and Helmut Reimitz, "Legalizing Ethnicity: The Remaking of Citizenship in Post-Roman Gaul (6th–7th Centuries)", in *Civic Identity and Civic Participation in Late Antiquity and the Early Middle Ages*, ed. Cédric Bréaz and Els Rose [Cultural Encounters in Late Antiquity and the Middle Ages] (Turnhout: Brepols, forthcoming).

³²Lewis and Short, *A Latin Dictionary*, s.v. *advena*. On the dichotomy between *alienus* and *civis* in the fourth- and fifth-century context, see Lo Nero, "Christiana Dignitas", pp. 159–64.

³³The counting is based on the CDS database: <http://clt.brepolis.net.proxy.library.uu.nl/cds/pages/Search.aspx>, last accessed 28 February 2019.

³⁴But see Donatus' commentary on Virgil: *hoc loco tractat Vergilius civem non tantum nascendo verum etiam animo fieri; nam civis qui nascendo provenit civis quidem est, sed, si non benivolentia civis erga patriam et suos vivat, desinit esse quod natus est, et ille qui alienus est, si boni viri repraesentet adfectum, esse incipit civis*. Tiberius Claudius Donatus, *Interpretationes Vergilianae*, ed. Heinrich Georgius (Leipzig: Teubner, 1905), vol. 1, p. 168.

³⁵E.g. Isaiah 1, 7; Matth. 17, 24; Ambrose, *Expositio evangelii secundum Lucam* IV.49: *cur igitur non curabat fratres, non curabat cives, non sanabat propheta consortes, cum sanaret alienos*, ed. Marc Adriaen [CCSL 14], p. 123; Augustine, *Enarrationes in Psalmos* Ps. 119, 6: *incola dicitur qui habitat in terra aliena, non in civitate sua*, ed. Eligius Dekkers and Jacques Fraipont [CCSL 40], p. 1782; Jerome, *Commentarii in epistolam ad Ephesios libri III*, 1.2.19: *quomodo enim peregrini facti sunt cives sanctorum, et quomodo domestici dei fuerunt quondam alieni a conversatione Israel, si non potest vel in melius, vel in peius natura mutari?* ed. Jacques Paul Migne, PL 26, col. 475.

³⁶*Sermo* LXIV.2, p. 391: *Solus enim beatae virginis natus est filius absque delicto, non extraneus ab hominum genere, sed alienus a crimine*.

extraneus) with persecution and suffering.³⁷ Conversely, in the negative sense, a person who is alien to truth (*veritatis alienus*) cannot be merciful, just as a person without faith cannot be just.³⁸ In this use, the polyvalence of the term comes to the fore, fit to denote both insiders (those converted to Christianity) and outsiders (those outside the Christian community).

The incorporation of a person into the Christian *ecclesia* is presented by Leo as a process of adoption and is as such related to the process through which an outsider to the community of citizens is invited into it. In Roman legal practice, *adoptio* is pre-eminently the way to include a person from outside into the family, thus enabling that person to participate in the inheritance of property and, in the case of an adopted slave, citizenship privileges.³⁹ Thus, *adoptio* is an important crossroads where kinship and citizenship meet.⁴⁰ A theological appropriation of Roman adoption practices is found in the canonical letters of the apostle Paul, most notably Gal. 4, 7: “You are no longer a slave but a child, and if a child then also an heir, through God” and, in comparable terms, Rom. 8, 15–17.⁴¹ While in Paul’s letter the agency of the adoption process and its implications is attributed to grace and the working of the Spirit,⁴² in Leo’s sermons these theological concepts are made concrete in the sacraments of the Church, particularly Baptism, as we will see below.

The adoption of *alieni* is the topic of a number of Leo’s sermons. The first one is *Sermo XII*, held during the Ember Days of December 450. Central in this sermon is the bishop’s exhortation to live according to “the great commandment”: love your neighbour as yourself (Matth. 22, 39). This core Christian virtue makes no difference between people; love for one’s neighbour includes not only friends or relatives, but all those who share in the same *natura*: enemies and allies, freeborn and slaves.⁴³ For grace itself makes no distinction, but instead embraces all people through Christ, who “reconciles enemies, turns strangers into adopted children (*de alienis adoptivos ... facit*), and makes the godless righteous”.⁴⁴

For Leo, the transformation of those who are strangers to Christianity into adopted children is grounded in the Incarnation, presented by him as a sacramental performance. This is expressed in his Christmas sermon (*Sermo XXVII*) held in the year 451, the year of

³⁷ *Sermo LXIX.6*, p. 424: *Unde merito apostolus ait quod omnes qui volunt in Christo pie vivere, persecutionem patiuntur* (II Tim. 2, 12; Rom. 8, 17). *Cuius utique non est extraneus, qui non est pietatis alienus.*

³⁸ *Sermo XLV.2*, p. 265: *Non est misericors, veritatis alienus, nec iustitiae capax est, pietatis extraneus.*

³⁹ Andrew Lewis, “Slavery, Family, and Status”, in *The Cambridge Companion to Roman Law*, ed. David Johnston (Cambridge: Cambridge University Press, 2015), p. 160.

⁴⁰ An example of this in classical literature is Suetonius’ report on Tiberius’ adoption, affecting both his public and his legal agency. Suetonius, *De vita XII Caesarum* III.15.2, LCL 31 (Cambridge, MA: Harvard University Press, 1920), p. 316. A Christian example of the way kinship and citizenship touch is Augustine, *Enarrationes in Psalmos* 136, 16: *hos scriptura filios alienos dicit, tamquam cives non ierusalem, sed babiloniae*, ed. Dekkers and Fraipont [CCSL 40], p. 1974. See also Robert Lewis, *Paul’s “Spirit of Adoption” in its Roman Imperial Context* (London: Bloomsbury – T&T Clark, 2016), p. 95.

⁴¹ Lewis, *Paul’s “Spirit of Adoption”* emphasises the Roman imperial principle of adoption as the foundation of Paul’s metaphor.

⁴² Lewis, *Paul’s “Spirit of Adoption”*; on agency: Bradley J. Britner, “Review of *Paul’s Spirit of Adoption in its Roman Imperial Context* by Robert B. Lewis”, *The Journal of Theological Studies* 68 (2017): 755–8, 757. On the working of the Spirit through Baptism in Paul, see Arland J. Hultgren, *Paul’s Letter to the Romans: A Commentary* (Grand Rapids, MI-Cambridge: Eerdmans, 2011), p. 313.

⁴³ *Sermo XII.2*, p. 50: *sive illi hostes sint, sive socii, sive liberi, sive servi.*

⁴⁴ *Sermo XII.2*, pp. 50–1: *... qui ... de inimicis reconciliatos, de alienis adoptivos, de impiis facit iustos ...* The translation “adopting the children of others” is off the mark: Jane P. Freeland and Agnes J. Conway, *St. Leo the Great Sermons* [The Fathers of the Church 93] (Washington DC: Catholic University of America Press, 1996), p. 51. René Dolle reads *quae* (sc. *gratia*) *... facit* where the CCSL edition reads *qui* (sc. *Christus*)? *... facit*. René Dolle, *Léon le Grand Sermons tome II* [Sources Chrétiennes 49bis] (Paris: Cerf, 1969), p. 156.

the Council of Chalcedon, where Leo prominently represented the Roman patriarchate.⁴⁵ During the Council of Chalcedon the unity of Christ's dual nature was high on the agenda,⁴⁶ which clearly echoes in Leo's sermon: "Christ was born a true human and never ceased to be a true God, creating in himself the origin of a new creature".⁴⁷ The ambivalence of alienation addressed above exists not only in humans that are alien to error or truth. It exists fundamentally and principally in Christ himself, who did not abandon or alienate himself from his divine nature (*nihil propriae maiestatis amittens*) when assuming human nature.⁴⁸ The moment at which this dual nature of Christ comes into existence is in Leo's eyes a *sacramentum*,⁴⁹ as it operates a transformation of foreigners into members. The transformative potential makes the Incarnation not a mere mystery of faith. It is, just as the holy day of Christmas that commemorates and celebrates the doctrine of Christ's humanity, in essence a sacrament because of its performative power, bringing about the change of "strangers into adopted children, of foreigners into heirs".⁵⁰

While Christ's incarnation is vital to the incorporation of aliens and outsiders, negation of Christ's humanity and its central place in the history of Christianity itself makes others aliens in the deepest (religious and social) sense of the word. *Sermo XXIV*, an earlier Christmas sermon held in 443, expresses this thought when it delineates with razor-sharp precision the boundaries of the Christian *ecclesia*. In the first three capita, Leo unfolds the inseparability of Christ's two natures and praises Mary's virginity, which gave birth to this divine offspring, "blessed and alien to sin" (*benedictum et a vitio alienum*).⁵¹ Leo compares Mary's womb in physical terms with the baptismal font, both filled by the same Spirit. It is the regenerative power of Baptism through which the Christians take part in Christ's "spiritual origin" (*cuius spiritalem originem in regeneratione consequimur*).⁵² Precisely this sacrament is denied by the Manichaeans: *ab hoc sacramento insanus Manichaeorum error alienus est*⁵³ – and it remains unclear whether Leo refers with *sacramento* to the Incarnation, qualified as such in *Sermo XXVII*, or to Baptism. The ambivalence seems to be on purpose, for participation (*consortium*) in rebirth through Christ is inaccessible to those who "deny that Christ was born physically from

⁴⁵Wessel, *Leo the Great*, pp. 285–321.

⁴⁶Stuart G. Hall, *Doctrine and Practice in the Early Church* (London: SPCK, 1991/2000), pp. 232–4.

⁴⁷*Sermo XXVII.2*, p. 133: *Nascens itaque Dominus Iesus Christus homo verus, qui numquam esse destitit Deus verus, novae creaturae in se fecit exordium*.

⁴⁸This is also reflected by Leo's specific exegesis of Christ's complaint during the passion that God had forsaken him (Matth. 17, 46): Wessel, *Leo the Great*, pp. 237–9. In Leo's interpretation of Phil. 2, 6–7 and what it meant to him that Christ "emptied himself, taking the form of a slave", see Wessel, *Leo the Great*, p. 253.

⁴⁹See also the title of Ambrose's treatise: Ambrose, *De incarnationis dominicae sacramento*. On the early Christian semantic range of *sacramentum* and its conceptual relation with the community in which it is binding, see Owen Phelan, *The Carolingians, Baptism, and the Imperium Christianum* (Oxford: Oxford University Press, 2014), pp. 10–22 (a discussion in which Ambrose is strangely missing).

⁵⁰*Sermo XXVII.2*, p. 134: *Quae hoc sacramentum mens comprehendere, quae hanc gratiam valeat lingua narrare? Reddit in innocentiam iniquitas et in novitatem vetustas, in adoptionem veniunt alieni et in haereditatem ingrediuntur extranei*. The word *sacramentum* is translated as "mystery" by both Dolle, *Léon le Grand*, p. 141 and Freeland-Conway, *St. Leo the Great*, p. 112. To maintain Leo's own *sacramentum* has the benefit of expressing its performative power, which we will come across again in the discussion of the next *tractatus*, 24. On the close relation between Baptism and adoption, see also *Sermo LXVI.2* (Lent 453), p. 402: *per indiscretam unius fidei confessionem et fons baptismatis faciat innocentes, et electio adoptionis confirmet haeredes*.

⁵¹*Sermo XXIV.3*, p. 112.

⁵²*Sermo XXIV.3*, p. 112.

⁵³*Sermo XXIV.4*, p. 113.

Mary the virgin”.⁵⁴ Just as the sacraments of the Church, coming forth from faith in Christ’s dual nature, bring about the adoption of aliens, thus the negation of these sacraments keeps heretics at the distance of outsiders to the Christian *ecclesia*, and this means, as we shall see further below, outsiders to the civic community.⁵⁵ Other deviant currents and their adherents, enumerated in all detail in the catalogue of heresies that Leo gives in the next part of this sermon,⁵⁶ may share in this alienation in the sense that they are *a lumine veritatis alienus*:⁵⁷ Leo gives them the benefit of the doubt. Not so the Manichaeans: they have taken a path that is devoid of every light or firm footing (*viam, in qua nihil non tenebrosum, nihilque non lubricum est*)⁵⁸ – they as aliens *par excellence* take the brunt.

Leo’s sacramental view on the adoption process of aliens into the Christian *ecclesia* is further elaborated in sermons related to Lent and Easter. *Sermo* XLIV was held during Lent 451, but as it looks forward to Easter when Baptism was administered, it is another instance of Leo’s close association of Baptism with the adoption of new full members of the *ecclesia*. For Leo, the 40 days of Lent are days of preparation to become worthy of the sacrament of Baptism:

Now that we come to those days, which the sacraments of renewal of the human race have set apart, and which ... precede the celebration of Easter, a preparation of religious purification is diligently imposed on us.⁵⁹

Quoting Ps. 18, 13–14, Leo refers to this biblical prayer, which asks to be freed from hidden sins and from those that trouble the soul from outside (*ab occultis meis munda me, Domine, et ab alienis parce servo tuo*).⁶⁰ Leo explains these verses to his congregation in the concrete terms of giving up earthly desires and passions. Those “deceived by secret sins and by sins that come from outside” need a stronger cure: it is especially important for them that they do not remain

... strangers to the sacrament that will abolish the works of the devil. For it is typical of the feast of Easter that the entire *ecclesia* celebrates the remission of its sins, which takes place not only in those who are reborn from sacred Baptism, but also in those who are already counted among the share of the adopted children.⁶¹

⁵⁴*Sermo* XXIV.3, p. 113: *nec ullum habent in Christi regeneratione consortium, qui eum de Maria virgine negant corporaliter natum, ut cuius non credunt veram nativitatem, nec veram recipiant passionem, et quem non confitentur vere sepultum, abnuant veraciter suscitatum*.

⁵⁵See section 3.

⁵⁶*Sermo* XXIV.5, pp. 113–14. For a summary of the heresies mentioned and what discharges them in Leo’s eyes, see Wessel, *Leo the Great*, pp. 213–4. We can only understand the presence of such a catalogue of heresies in a sermon for this occasion against the background of the baptismal catechesis of the fourth and fifth centuries that was as much a teaching on the contents of Christian doctrine as on that which deviated from orthodoxy. For this reason, Perrin speaks of a *pars destruens* and a *pars construens* in the catechesis: to know what Christianity is about, it is important to know what falls outside of it from the point of view of doctrine. Michel-Yves Perrin, *Civitas confusionis. De la participation des fidèles aux controverses doctrinales dans l’antiquité tardive (début III^e s. – c. 430)* (Paris: Nuvis, 2017), p. 81.

⁵⁷*Sermo* XXIV.5, p. 114.

⁵⁸*Sermo* XXIV.4, p. 113; see also Wessel, *Leo the Great*, p. 213, n. 16: “[The other heresies] were never confronted as directly and purposefully as were the Manichaeans”.

⁵⁹*Sermo* XLIV.1, p. 258: *Sed cum ad istos recurritur dies, quos specialius reparationis humanae sacramenta signarunt, et qui vicino ordine atque contiguo festum paschale praecedunt ...*

⁶⁰The LXX version differs from the Vulgata, which has *ab occultis munda me, a superbis quoque libera servum tuum*.

⁶¹*Sermo* XLIV.1, pp. 258–9: *... talis conditio est eorum ... qui ... et saepe aut fallantur occultis, aut graventur alienis, quae in aliis vitiis, quae aegritudines, quantaque sint vulnera, quibus austerior sit adhibenda medicina, ut illius sacramenti, per quod solvuntur opera diaboli (I loh. 3, 8), non inveniantur alieni. Paschalis quippe festivitatis hoc proprium est, ut tota ecclesia remissione gaudeat peccatorum, quae non in eis tantum fiat qui sacro baptismo renascuntur, sed etiam in eis qui dudum in adoptivorum sorte numerantur*.

The word *alienus*, opposed to what is typical (*proprium*) of Easter,⁶² is the key to the interpretation of this complex sentence. Leo first quotes the Psalm and then reuses its wording in the explanation and application to his audience. As René Dolle makes clear in his translation,⁶³ both in the quoted Psalm and in Leo's explanation, *alienus* does not refer to someone else's sins (*ab alienis parce servo tuo*),⁶⁴ but rather to sins caused by external interference.⁶⁵ The third time Leo uses the word it is meant to urge his audience not to become alien to the sacrament of Baptism (*ut illius sacramenti ... non inveniuntur alieni*). The characteristics of Baptism and Easter (*Paschalis festivitatis hoc proprium est*) are precisely this: to include the faithful in the remission of sins, be they baptismal candidates or Christians who have gone through the Christian ritual of initiation long before. The word *proprium* stands out. Occurring frequently with *alienus* in Leo's sermons, it underlines once again the crucial function of the latter term as an interpretative key. Read together with *Sermo XXIV*, the word *alienus* unfolds itself in its polyvalent meaning. It refers to sins that threaten the Christian from outside; it refers to the need to be inside the circle of those to whom the sacraments, particularly Baptism, procure grace; and at the same time it brings to mind those who are alien to their wholesome effects: Manichaeans and other heretics we met in *Sermo XXIV* as *a lumine alieni*, alien to the truth and, therefore, excluded.

A close reading of *alienus* in the pastoral addresses of Leo brings to the fore this bishop's endeavour of defining his *ecclesia* within his own city at the very least, and with potentially more universal emanation. Leo's choice to highlight what is alien to the Christian *ecclesia* over what is belonging to it adds to the sharp delineation of insiders and outsiders in this community. In Leo's rhetoric, the excluding power of his wording is as momentous as is its furtherance of participation.

That Leo practised what he preached,⁶⁶ and that his alien did not remain a rhetorical device or mere *exemplum*, becomes particularly clear when we consider Leo's attitude towards Manichaeans as attested in legal sources with an even more direct impact on the way those who fell outside the scope of Christian orthodoxy were actually treated. Leo's interpretation of his episcopal office as following in the footsteps of the apostolic "rule of just law" keeps in tune with the legal context in which he lived and worked and which, as we will discuss in the following section, defined inclusion in and exclusion from the urban community along the lines of Catholic orthodoxy.

3. The criminal and the contagious: unorthodox citizens in the Theodosian Code

Our principal source for imperial legislation on Christian orthodoxy is book 16 of the Theodosian Code, a fifth-century collection of imperial constitutions ranging from the reign of Constantine I to that of Theodosius II, under whose auspices the collection

⁶²Lewis and Short, *A Latin Dictionary*, s.v. *proprius* B: "opp. alienus".

⁶³*Sermo XLIV.1*, trans. Dolle, *Léon le Grand*, pp. 130–1.

⁶⁴As is implied by the translation of Freeland and Conway, p. 190: "deceived by hidden faults or weighed down by those of others".

⁶⁵Dolle bases his interpretation on Augustine, *Enarrationes in Psalmos 18*: Dolle, *Léon le Grand*, pp. 130–1 n. 3.

⁶⁶On Leo's exclusion of Manichaeans from the alms he distributed as part of his episcopal tasks, see Bronwen Neil, "Leo I on Poverty", in *Preaching Poverty in Late Antiquity: Perceptions and Reality*, ed. Pauline Allen, Bronwen Neil, and Wendy Mayer (Leipzig: Evangelische Verlagsanstalt, 2009), pp. 171–208, part. pp. 194–5.

was compiled.⁶⁷ One well-known constitution included in the Code was the Edict of Thessalonica, known also as *cunctos populos*, issued by Theodosius I on 27 February 380.⁶⁸ While the law was formally addressed to the people of Constantinople, which was still dominated by Arian clergy at that time, it saw Theodosius broadcasting a more general vision on the nature of the empire and its citizens. In brief, the law expressed the desire that henceforth all peoples under Roman rule should live according to the doctrine that St Peter had given to the Romans, which it went on to define through a Trinitarian formula. Moreover, it branded everyone who deviated from this doctrine “madmen” and “heretics”, and threatened future legal actions against them.⁶⁹ This latter stipulation is especially characteristic of imperial attempts to legislate on correct Christian belief. Theodosius and his successors spent comparatively little time directly defining the beliefs and rights of orthodox Roman citizens in their legislation.⁷⁰ The majority of their laws were geared towards *taking away* rights from those who fell short of the orthodox norm.⁷¹ More so even than Leo, therefore, late-imperial legislation defined the Christian citizen indirectly and through opposition, by marginalizing various sorts of bad citizens or un-citizens.

This section will highlight three aspects of this process of marginalization, starting with the legal measures undertaken against those outside the Catholic faith, which deprived them of such opportunities and rights as were still related to Roman citizenship in the fourth century. We will then move to consider the language in which these legal measures were couched, in particular that of the criminal, who had always been a second-rate citizen in Roman society, and that of the pollutant, whose very presence was deemed a threat to the orthodox community. We will conclude this section by considering how the connection between heresy and pollution resulted in the physical removal of certain heretical groups of the empire’s cities, adding a spatial component to their legal disenfranchisement as citizens.

The laws collected in the Code show a variety of legal actions undertaken against an assortment of religious transgressors, including heretics, pagans, Donatists, apostates, and Jews.⁷² One structural aim of imperial legislation was to prohibit the celebration of

⁶⁷*Codex Theodosianus*, ed. Theodor Mommsen (Berlin: Weidmann, 1905). The literature on the compilation of the Code is extensive. See for an overview, Benet Salway, “The Publication of the Theodosian Code and Transmission of its Texts: Some Observations”, in *Société, économie, administration dans le Code Théodosien*, ed. Sylvie Crogiez-Pétréquin and Pierre Jaillette (Villeneuve d’Ascq: Presses Universitaires du Septentrion, 2012), pp. 21–61; Boudewijn Sirks, *The Theodosian Code: A Study* (Friedrichsdorf: Editions du Quatorze Septembre, 2007), pp. 36–53; John Matthews, *“Laying Down the Law”: A Study of the Theodosian Code* (New Haven: Yale University Press, 2000). For the complex manuscript transmission of the Code, see the rich material collected in José María Coma Fort, *Codex Theodosianus: Historia de un texto* (Madrid: Carlos III University of Madrid, 2014).

⁶⁸The edict survives in CTh 16.1.2 and 16.2.25 (27 February 380). For further context, see Escribano Paño, “The Social Exclusion of Heretics”.

⁶⁹On the accusation of madness, see Zuccotti, “*Furor haereticorum*”, pp. 111–16.

⁷⁰The laws collected under CTh 16.2 (concerning the rights of bishops, churches, and clergy) being a notable exception.

⁷¹As noted by Humfress, “Citizens and Heretics”, p. 140.

⁷²Heresy, of course, was a subjective label that was typically imposed from the outside. The naming and classifying of different heretical groups in imperial legislation was thus in itself part of the process of marginalization. See, with particular emphasis on Manichaeans, Caroline Humfress, “Roman Law, Forensic Argument and the Formation of Christian Orthodoxy (III–VI Centuries)”, in *Orthodoxie, christianisme, histoire*, ed. Susanna Elm, Éric Rebillard, and Antonella Romano (Rome: École française de Rome, 2001), pp. 125–47. The imperial stance towards Jews remained the most ambivalent, combining measures of protection with attempts at exclusion. See Ralph Mathisen, “The Citizenship and Legal Status of Jews in Roman Law during Late Antiquity (ca. 300–540 CE)”, in *Jews in Early Christian Law: Byzantium and the Latin West, 6th–11th centuries*, ed. John Tolan (Turnhout: Brepols, 2014), pp. 35–53; Leonard Rutgers, “Roman Policy towards the Jews: Expulsions from the City of Rome during the First Century C.E.”, *Classical Antiquity* 13/1 (1994): 56–74.

unorthodox rites, especially those that took place in public. As early as 341, pagan sacrifice was outlawed and pagan temples were ordered to be closed.⁷³ By the 370s, activities deemed heretical began to be similarly curtailed: heretics were forbidden from convening, even in private homes; they were denied places of worship; and whatever buildings they did use for such ends could be confiscated, whilst the owners were threatened with heavy fines (or worse).⁷⁴ A second line of attack saw religious deviants excluded from positions of power and influence. This was limited at first to ecclesiastical honours: heretical groups should not consecrate priests or assume for themselves the title of *pontifex*, *sacerdos*, or *minister*.⁷⁵ Starting in 395, however, heretics were also banned from holding office within the imperial service.⁷⁶ This ban was soon made to apply to pagans and Jews as well.⁷⁷ Laws like this worked to block citizens from the empire's main avenues of power, prestige, and participation, though it could be said that in practice such avenues were only open to an elite minority anyway. Arguably the most oppressive measures, therefore, were those that intervened in a privilege that was used by a large portion of society: access to Roman law. From Theodosius I onwards, we see apostates, heretics, and Donatists being denied the possibility to make a will or to receive an inheritance under Roman private law.⁷⁸ In fact, certain heretical groups were rendered intestate not just with regard to the present and future, but even into the past, meaning that wills that had already been executed could retrospectively be annulled if the deceased testator was proven to be a heretic.⁷⁹ In 407, Honorius went further still by outright denying Manichaeans, Montanists, and Priscillianists the ability to own, buy, or sell; their possessions were confiscated and passed on to their next of kin.⁸⁰

Late-Roman society knew various formal, and less formal, channels through which an affected citizen might hope to appeal or circumvent such measures. The legislators were aware of this and did their best to close off as many of these as possible. One law issued in Constantinople around 388 explicitly forbade Arians to cite an earlier imperial law in their favour.⁸¹ Another anti-heresy law urged its pronouncements to be enacted “without the intervention of any favouritism”.⁸² In 425, all pagans and heretics were henceforth forbidden to appeal their case before the emperor.⁸³ In general, we see officials threatened with dire consequences if they failed to act upon imperial

⁷³ CTh16.10.2. The ban is frequently repeated, with 16.10.25 (14 November 435) threatening with the death penalty.

⁷⁴ CTh 16.5.3 (2 March 372) was issued in Trier and specifically bans Manichaean assemblies; 16.5.4 (22 April 378), again issued at Trier, extends the ban to all heretical assemblies and orders confiscation; 16.5.6 (10 January 381) repeats much of this for the East; 16.5.21 (15 June 392) lays out repercussions for those who own property on which heretical ceremonies have taken place, the severity depending on the owner's complicity; 16.6.4 (12 February 405) extends the above measures to Donatists.

⁷⁵ CTh 16.5.12 (3 December 383) and 16.5.13 (21 January 384).

⁷⁶ CTh 16.5.25 (13 March 395) targets Eunomians specifically; 16.5.29 (24 November 395) extends the ban to heretics in general.

⁷⁷ CTh 16.10.21 (7 December 415/416) for pagans. CTh 16.8.16 (22 April 404) orders Jews acting as *agentes in rebus* to be deprived of that honour; 16.8.24 (10 March 418) bans Jews from enlisting in the imperial service altogether, although those who have already sworn the oaths are allowed to serve out their terms of service.

⁷⁸ Apostates are the first targeted, CTh16.7.1 (2 May 381), followed shortly thereafter by Manichaeans, CTh16.5.7 (8 May 381). Donatists are deprived of testamentary capacity in 16.6.4 (12 February 405); 16.5.54 (17 June 414) extends the ban to all heretics.

⁷⁹ 16.5.7 (8 May 381) on Manichaeans; 16.5.17 (4 May 389) on Eunomians. Obviously, the possibility to contest an already executed will by accusing the dead testator of heresy allowed for all kinds of abuse.

⁸⁰ CTh 16.5.40 (22 February 407) was issued at Rome and was presumably meant to apply only in the West.

⁸¹ CTh 16.5.16 (9 August 387/388).

⁸² CTh 16.5.13 (21 January 384): *sine ulla gratiae interventione*.

⁸³ CTh 16.5.63 (6 July? 425).

pronouncements with appropriate zeal and determination.⁸⁴ The recurring nature of such threats – Valentinian III still felt the need to make them in 445 – suggests that people continued to work around them.⁸⁵

It should be noted that the above measures did not translate to a consistent policy of persecution that developed in strictly linear fashion. Individual laws often originated in highly situational circumstances: they were issued in response to questions or petitions from the localities and conceived with a specific region or urban context in mind. Looking at imperial legislation as it developed over time, we thus run into all sorts of inconsistencies, qualifications, and even the occasional attempt at backpedalling. A case in point are the six laws issued against the Eunomians during the reigns of Theodosius I, Arcadius, and Theodosius II. The first one, issued in Milan in 389, denies adherents of this Arian sect testamentary capacity.⁸⁶ Then follow four laws issued in the East between 394 and 399, restoring this capacity,⁸⁷ taking it away again,⁸⁸ and restoring it again,⁸⁹ before finally, in 410, their right to make a will is taken away for good.⁹⁰ Far from a universal crackdown on Eunomians, these regulations point to a more regional policy centred around Constantinople, in which succeeding consistories steered different courses, partly in relation to continued Eunomian influence in the eastern capital, but partly also as a result of rivalries within the imperial court itself.⁹¹ On a more general level, the laws collected in book 16 show an ongoing tension between ideological and practical interests, or, as Caroline Humfress phrased it, a friction between *utilitas publica* and *fides catholica*.⁹² To cite but one striking example: in 410, the East Roman court took pains to emphasize that while heretics could not enlist in the imperial service, this ban did not extend to mandatory curial duties or service in the gubernatorial offices.⁹³ Apparently, too many people in the eastern Empire had jumped on a forbidding anti-heresy law issued some years previously in the West as an opportunity, claiming to be heretics in order to get out of cumbersome public obligations.

Even if it happened unevenly, the fourth century saw unorthodox citizens being gradually deprived of legal rights. This raises an important follow-up question: how were such measures framed and legitimized? Disenfranchisement of citizens was by no means novel territory. Indeed, the majority of Roman citizens lived under some form of legal disability: freedmen, women, unemancipated children (of both genders), and the mentally disabled all lacked certain rights, and so did various “bad” citizens, i.e. convicted criminals and people engaged in morally dubious occupations.⁹⁴ For the latter two groups, being cut off from civic rights was in fact regulated through a specific legal status: they were

⁸⁴See for instance the closing section of CTh 16.5.40.

⁸⁵See the comments on the continuation of the pagan cult in Frank Trombley, *Hellenic Religion and Christianization C. 370–529*, 2 ed. (Leiden: Brill, 1995), vol. 1, pp. 10–35.

⁸⁶CTh 16.5.17 (4 May 389).

⁸⁷CTh 16.5.23 (20 June 394).

⁸⁸CTh 16.5.25 (13 March 395).

⁸⁹CTh 16.5.27 (25 December 395), with the restoration being confirmed once more in 16.5.36 (6 July 399).

⁹⁰CTh 16.5.49 (10 March 410).

⁹¹Thus María Victoria Escribano Paño, “Intolerancia y exilio: las leyes teodosianas contra los eunomianos”, *Klio* 89 (2007): 184–208, esp. 203–8; Michal Stachura, “Eunomian Rights to Draw Testaments in the Legislation of 389–399”, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 123 (2006): 45–62.

⁹²Humfress, “Citizens and Heretics”, p. 132.

⁹³CTh 16.5.48 (21 February 410).

⁹⁴Such as gladiators, prostitutes, actors, and undertakers, Jane Gardner, *Being a Roman Citizen* (London: Routledge, 1993).

infames, citizens whose social standing (*existimatio*) had been formally compromised by their turpitude.⁹⁵ Looking at the measures undertaken against religious deviants by the Christian emperors, it is evident that the legislators wanted unorthodox citizens to be understood as a type of criminal.⁹⁶ Their actions, and even their beliefs, are consistently denounced as *crimina*, (public) crimes.⁹⁷ They also stand accused of *sacrilegium*, which traditionally referred to temple-robbery or theft from the divine, but could by the fourth century denote any transgression of divine or imperial law; from the emperors' perspective, the two were the same.⁹⁸ Marking something or someone as *sacrilegus* was thus a powerful moral condemnation, which at the same time invoked a serious, potentially capital, category of criminal conduct.⁹⁹ Finally, there is the emblematic sentence of *infamia*, imposed first on the Manichaeans and eventually on all heretics, Donatists, and apostates – an unequivocal statement as to their compromised social status and loss of legal rights.¹⁰⁰

Yet the Christian emperors did not stop at reducing religious deviants to the level of criminals. The heretic, in particular, appears to have called for further exclusion, to be pushed not just to the margins of Roman society, but beyond them. The laws of Theodosius I and his successors are outspoken on this matter: the heretic should be “completely separated from the company of the good”; he should be “driven from the cities and the villages”;¹⁰¹ ideally, he should be removed “from the entire face of the earth”.¹⁰² What was the meaning of such exhortations? In her seminal article on the Christianization of

⁹⁵On *infamia*, see (with references to earlier work), Sarah Bond, “Altering Infamy: Status, Violence, and Civic Exclusion in Late Antiquity”, *Classical Antiquity* 33/1 (2014): 1–30; Jill Harries, *Law and Empire in Late Antiquity* (Cambridge: Cambridge University Press, 1999), pp. 142–3.

⁹⁶One can debate to what extent this constituted a novelty. Illicit religion had not in itself been a crime under classical Roman law, but there was a framework for its prosecution under alternative categories like sedition (*seditio*), treason (*perduellio*, *maiestas*), and magic (*maleficium*). Post-Constantinian legislation against religious deviants continued to invoke these categories as well, but it seems increasingly to have treated unorthodox deeds and beliefs as crimes in themselves. See on this question Hans Hubert Anton, “Kaiserliches Selbstverständnis in der Religionsgesetzgebung der Spätantike und päpstliche Herrschaftsinterpretation im 5. Jahrhundert”, *Zeitschrift für Kirchengeschichte* 88 (1977): 38–84; Ruggero Macerati, *Ricerche sullo status giuridico dell'eretico nel diritto romano-cristiano e nel diritto canonico classico* (da Graziano ad Ugucione) (Padova: CEDAM, 1994), pp. 51–68; Laurette Darnard, “The Criminalisation of Heresy in the Later Roman Empire: A Sociopolitical Device?”, *The Journal of Legal History* 16/2 (1995): 121–46; Nicole Zeddies, *Religio et sacrilegium. Studien zur Inkriminierung von Magie, Häresie und Heidentum* (Frankfurt a. Main: Peter Lang, 2003), pp. 49–67; Humfress, “Roman Law”, pp. 128–31.

⁹⁷Most often (17 times) in relation to heresy: e.g. CTh 16.5.6 (10 January 381); see also 16.5.34 (4 March 398), which punishes continued possession of Eunomian books under the law against magic (*maleficij crimine*), while 16.6.40 (22 February 407) pronounces various heresies a *publicum crimen* and relates them to treason (*criminibus maiestatis*). With regard to other religious deviants, 16.6.4 (12 February 405) uses *crimen* in relation to Donatists; 16.7.7 (7 April 426) on apostates; 16.8.19 (1 April 409) on *caelicolae*; 16.10.12 (8 November 392) on pagans also invokes the crime of treason (*maiestatis reus*).

⁹⁸Again, the term is used most frequently (11 times) in relation to heretics, e.g. CTh 16.5.6 (10 January 381): *Arriani sacrilegii venenum*; but it also denotes the practices of Donatists, 16.6.4 (12 February 405); apostates, 16.7.7 (7 April 426); Jews, 16.8.7 (3 July 352?); and pagans, 16.10.7. (21 December 381). See on the development of the term *sacrilegium*, Anton, “Kaiserliches Selbstverständnis”, pp. 53–4; Karl Leo Noethlichs, “Die gesetzgeberischen Massnahmen der christlichen Kaiser des vierten Jahrhunderts gegen Häretiker, Heiden und Juden”, PhD Thesis, University of Cologne, 1971, pp. 88, 123, 279, n.437; Olivia Robinson, “Blasphemy and Sacrilege in Roman Law”, *Irish Jurist*, N.S. 8 (1973): 356–71, esp. 370.

⁹⁹CTh 9.38.7 (22 March 384) lists *sacrilegium* among the *scelera saeviora* that are not due for an imperial pardon (alongside treason, murder, and magic).

¹⁰⁰Manichaeans, CTh 16.5.3 (2 March 372) and 16.5.7 (8 May 381); apostates, 16.7.5 (11 May 391); Donatists, 16.6.4 (12 February 405); heretics in general, 16.5.54 (17 June 414). It is unclear whether a sentence of *infamia* is already implied in CTh 16.1.2 (28 February 380), which orders all those who do not subscribe to Catholicism to “sustain the infamy of heretical dogma” (*haeretici dogmatis infamiam sustinere*). See Bond, “Altering Infamy”, p. 15.

¹⁰¹CTh 16.5.13 (21 January 384): *penitus a bonorum congressibus separentur*; CTh 16.5.20 (19 May 391): *pellī urbibus, vicis proturbari*.

¹⁰²CTh 16.5.18 (17 June 389): *ex omni quidem orbe terrarum*.

citizenship in late-Roman law codes, Carolina Lo Nero has explored the rhetoric of the non-citizen or stranger and how it came to be employed against those outside the Catholic faith.¹⁰³ As we saw above, this terminology also played an important role in Leo's conceptualization of the Roman community. While some such language can be encountered in the Theodosian Code as well, neither heretics nor other religious transgressors were systematically conceptualized as *alieni* or *peregrini* in late-Roman law.¹⁰⁴ Rather, it was the rhetoric of pollution and contagion, with its intimate connection to the legal framework of banishment, that allowed heretics to be rendered not merely bad citizens but uncitizens, physically excluded from the civic community.

Over the course of the fourth century, the metaphor of pollution developed into a stock feature of anti-heretical polemic.¹⁰⁵ This is duly reflected in the Code's anti-heresy laws: heretics are said to be "of defiled minds", they "contaminate God's mysteries", their creed is "disease-ridden", and their rites will "pollute" whatever place or region they are allowed to take place.¹⁰⁶ As pointed out by María Escribano Paño, such language was part of an old and enduring "lexicon of vituperation", which Roman authors had for centuries been using to denounce "those who contravened the public interest in religious matters".¹⁰⁷ It is not surprising, therefore, that the claim of pollution came to extend beyond heresy in imperial legislation: pagan animal sacrifices, Christians converting to Jewish "disbelief", Donatists engaging in rebaptism – these were all condemned using the terminology of defilement (*polluo*, *contagium*, *contamino*) and disease (*pestis*).¹⁰⁸ What attracted such accusations to heretics above all, however, was that they were perceived as the most direct threat to the Church, laying rival claims on her books, her rituals, and her institutions. With some heretical groups, moreover, there was a real fear of infiltration. To the orthodox mind, there were few things more dangerous than the Manichaean, hiding among the other worshippers, attending the same ceremonies, secretly proselytizing, a "two-headed snake" or "poisonous snail", concealing its lethal nature within its deceptively bright coils.¹⁰⁹

¹⁰³Lo Nero, "Christiana dignitas", p. 154, 162–4.

¹⁰⁴CTh 16.2.5 (25 May 327) forbids priests from participating in the rites of any "outside superstition" (*ritum alienae superstitionis*); CTh 16.5.6 (10 January 381) forbids non-Catholics from appropriating the *alienum verae religionis nomen*, a contrived way of saying they have no claim to the name of true religion; CTh 16.5.36 (6 July 399) retracts an earlier ruling that reduced Eunomians to the condition of strangers (*poenam ... peregrinorum mutandae conditionis remittimus*); CTh 16.8.19: refers to the Jewish faith as "perverse and alien to Roman rule" (*perversitatem Iudaicam et alienam Romano imperio*).

¹⁰⁵Éric Fournier, "Amputation Metaphors and the Rhetoric of Exile: Purity and Pollution in Late Antique Christianity", in *Clerical Exile in Late Antiquity*, ed. Julia Hillner, Jörg Ulrich, and Jakob Engberg (Frankfurt a.M.: Peter Lang, 2016), pp. 231–50; Daniel Washburn, *Banishment in the Later Roman Empire, 284–476 CE* (London: Routledge, 2012), pp. 84–90; Zuccotti, "Furor haereticorum", pp. 156–78.

¹⁰⁶CTh 16.5.6 (10 January 381): *Fotinianae labis contaminatio*; 16.5.20 (19 May 381): *Haereticorum polluta contagia*; 16.5.26 (30 March 395): *dei contaminare mysterium [...] pollutis mentibus*; 16.5.40 (22 February 407): *pari conscientia polluuntur*; 16.5.44 (24 November 408): *quae pestis cave contagione latius emanet ac profluat*; 16.5.52 (30 January 412): *ablati de Africano solo, quod ritu sacrilego polluerunt*; 16.5.56 (25 Augustus 410?): *vera divinaque reverentia contagione temeretur*; 16.5.58 (6 November 415): *clericos pestiferi dogmatis*; 16.5.62 (17 July 425): *ut nec praesentiae criminosorum contagione foedetur*; 16.5.64 (6 August 425): *ut nec praesentiae criminosorum contagione foedetur*.

¹⁰⁷Escribano Paño, "The Social Exclusion of Heretics", p. 47.

¹⁰⁸Rebaptism seems to have attracted particular concern, e.g. CTh 16.6.1 (20 February 373): *sanctitatem baptismi illicita usurpatione geminaverit et contra instituta omnium eam gratiam iterando contaminaverit*. In relation to Jews or Judaism: CTh 3.1.5 (22 September 384), 16.5.44 (24 November 408), 16.7.3 (21 May 383), 16.8.19 (1 April 409), 16.9.5 (9 April 423). With regard to pagans: CTh 16.10.10 (24 February 391), 16.10.11 (16 June 391) and 16.10.21 (7 December 416). On apostates: CTh 16.7.4 (11 May? 391).

¹⁰⁹The metaphor is by Epiphanius of Salamis, *Panarion* (Medicine chest), 66.88. See, furthermore, María Victoria Escribano Paño, "From Norm to Identity: Christians and Manichaeans in Codex Theodosianus XVI: Separated by the Law", in *Figures de l'empire, fragments de mémoire: pouvoirs et identités dans le monde romain impérial, II s. av.n.e.-VI s. de n.e.*, ed. Stéphane Benoist, Anne Daguet-Gagey, and Christine Hoët-van Cauwenberge (Villeneuve-d'Ascq: Septentrion, 2010), pp. 503–29.

By and large, the legislative response to the perceived threat of pollution was removal. The anti-heresy laws collected in the Code are shot through with verbs like *pello*, *expello*, *segrego*, and *arceo*. Initially, these denote removal from churches and public meeting places, in line with the above-mentioned bans on heretical congregations.¹¹⁰ By 383, however, we see laws issued in the East ordering the expulsion of heretical groups from Constantinople and other cities.¹¹¹ A law issued in Rome in 389 treats Manichaeans to a similar injunction.¹¹² As pointed out by Daniel Washburn, the late-Roman world in fact knew various mechanisms through which such expulsion might legitimately be achieved: banishment could be imposed as a formal punishment (*deportatio*, *relegatio*), which involved exile to a remote place like an island and, in the case of *deportatio* at least, came with complete loss of citizenship status and confiscation of the former citizen's possessions.¹¹³ Yet magistrates with *imperium* also had the power to simply expel citizens from a city or region when they deemed this expedient (*coercitio*).

Both types of banishment are evinced in the Code. *Deportatio* seems to have been used mainly as a deterrent for clergymen and teachers who dared to ignore the ban on heretical assemblies, for landed tenants who facilitated such assemblies, and for officials who deliberately failed to act upon such cases.¹¹⁴ In 423, Theodosius II extended the list of potential deportees to Jews who circumcised Christians, pagans who continued to sacrifice, and Manichaeans.¹¹⁵ Apparently, no further misconduct was necessary for the latter to be deported: their very being warranted removal. We come across a similar line of thinking in the laws advocating banishment through *coercitio*. These typically display a greater sense of urgency: officials are being tasked with rounding up a whole group of heretics and removing them from a designated space. The emphasis is not on prevention or punishment, but on the immediate removal of a heretical threat or pollutant.¹¹⁶

Unforgiving though such measures may seem, it is important to note that they too could have practical limitations. Banishment was a situational instrument that was used first and foremost to protect urban communities.¹¹⁷ Rome and Constantinople figure prominently in the laws,¹¹⁸ as does “the city” or “cities” in general.¹¹⁹ More abstract terms

¹¹⁰CTh 16.5.6 (10 January 381): *ab omnium submoti ecclesiarum limine penitus arceantur*.

¹¹¹CTh 16.5.11 (25 July 383); 16.5.12 (3 December 383).

¹¹²CTh 16.5.18 (17 June 389).

¹¹³*Relegatio* was a more flexible variant of *deportatio*, in which the *relegatus* could hope to retain certain civic rights and property; see Washburn, *Banishment*, pp. 30–60. More generally on banishment in (late) Roman society, Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015), 194–241; Frank Stini, *Plenum exiliis mare: Untersuchungen zum Exil in der römischen Kaiserzeit* (Stuttgart: Steiner Verlag, 2011); Roland Delmaire, “Exil, relégation, déportation dans la législation du basempire”, in *Exil et relégation: Les tribulations du sage et du saint durant l’antiquité romaine et chrétienne (I–Vle s. ap. J.-C.)* (Paris: De Boccard, 2008), pp. 115–32.

¹¹⁴Against heretical teachers: CTh 16.4.3 (18 July 392); 16.5.34 (4 March 398); 16.5.45 (27 November 408); 16.5.57 (31 October 415); 16.5.58 (6 November 415); against tenants: 16.6.4 (12 February, 405); against officials: 16.2.40 (25 May 412?); 16.5.54 (17 June 414); 16.5.46 (15 January 409). The sentence of *relegatio* is rare but is sometimes used to indicate different degrees of culpability: e.g. 16.5.58 sentences anyone undergoing rebaptism to *relegatio*, whereas an active Eunomian clergyman is subjected to *deportatio*.

¹¹⁵Jews: 16.8.26 (9 April 423); pagans: 16.10.23 (8 June 423); Manichaeans: 16.10.24 (8 June 423).

¹¹⁶See for example CTh 16.5.62 (17 July? 425): *Manichaeos haereticos schismaticos sive mathematicos omnemque sectam catholicis inimicam ab ipso aspectu urbis Romae exterminari praecipimus, ut nec praesentiae criminosorum contagione foedetur*.

¹¹⁷Hillner, *Prison, Punishment*, pp. 214–15.

¹¹⁸From Rome: CTh 16.5.18 (17 June 389): *ex omni quidem orbe terrarum, sed quam maxime de hac urbe pellantur*; 16.5.62 (17 July? 425): *ab ipso aspectu urbis Romae exterminari*. From Constantinople: CTh 16.5.13 (21 January 384): *omnibus huius urbis latebris*; 16.5.29 (24 November 395): *extra moenia urbis huiusce*; 16.5.30 (3 March 396?): *omnia sibi loca huius urbis adimenda esse*.

¹¹⁹E.g. CTh 16.5.12 (3 December 383): *ab omnibus urbibus ac locis*; CTh 16.5.20 (19 May 391): *PELLI URBIBUS, VICIS PROTURBARI*.

were employed as well – “the company of honest men”, “the meeting places of the good” – and here too an urban body seems implied.¹²⁰ The limitations of banishment, especially *coercitio*, become still more evident when we inquire where the banished were to be removed to. This question is usually answered in rather noncommittal terms: “let them go back to the places of their birth”;¹²¹ “let them live in other places”;¹²² “let them go to those places that will segregate them most effectively from human association, as by means of a wall”.¹²³ Even the order that all heretics and schismatics were to be removed beyond Rome’s hundredth milestone – the boundary of the Urban Prefect’s jurisdiction – lacked specificity on closer consideration: most of the Roman world lay beyond that milestone.¹²⁴

Like Leo’s sermons, the laws collected in the Theodosian Code show the orthodox community being defined through opposition. Not ascribing to the Catholic norms meant being deprived of rights traditionally associated with Roman citizenship; it meant being branded a criminal or *infamis*; for certain heretical groups it meant being physically removed from their urban communities as a pollutant. Like Leo’s visions of community, therefore, the laws of the Theodosian Code sought to intervene in both city and state, though combining the two could be difficult in practice. We will now turn to the dossier of the 440s that presents the Manichaean as the quintessential threat to city and empire alike, a perception to which bishop and emperor equally contributed in their joined effort to free the civic body from elements alien to Catholic orthodoxy.

4. *Execrables et toto orbe pellendos: Fighting disease in the Eternal City*

The anti-Manichaean dossier of the 440s comprises seven sermons and several letters from and to Leo I, a law issued by Valentinian III in 445 (*Novella* 18), and an entry in Prosper of Aquitaine’s *Chronicon*.¹²⁵ Combined, they tell the following story.¹²⁶ By the final months of 443, Leo had become aware of the presence of Manichaeans in his city, “hiding” (*latentes*), as he would repeatedly stress, among the faithful.¹²⁷ He was not the first bishop of Rome to make such a discovery. Several of his predecessors had already undertaken action against perceived Manichaean infiltration of the Eternal City.¹²⁸ Leo himself offers no explanation as to why the Manichaeans re-appeared on his radar in 443, but

¹²⁰E.g. CTh 16.5.13 (21 January 384): *a bonorum congressibus*; CTh 16.5.14 (10 March 388): *a congressu honestorum, a communione sanctorum*.

¹²¹CTh 16.5.12 (3 December 383): *ad proprias, unde oriundi sunt, terras redire iubantur*.

¹²²CTh 16.5.13 (21 January 384): *in aliis locis vivant ac penitus a bonorum congressibus separentur*.

¹²³CTh 16.5.14 (10 March 388): *adeant loca, quae eos potissimum quasi vallo quodam ab humana communione secludant*.

¹²⁴CTh 16.5.62 (17 July? 425): *expulsi usque ad centesimum lapidem solitudine quam eligunt macerentur*.

¹²⁵Leo’s sermons, his letters, and *Novella* 18 are collected and introduced in *St Leo the Great. Sermons and Letters against the Manichaeans. Selected Fragments*, eds. Hendrik Gerhard Schipper and Johannes van Oort (Turnhout: Brepols, 2000), though note that for the sake of consistency, we will continue to cite Chavasse’s edition for the sermons (see note 20) and the edition by Mommsen and Meyer for *Novella* 18 (see note 3). For Prosper of Aquitaine (Prosper Tiro), *Chronicon*, ed. Theodor Mommsen [MGH SS Auct. ant. 9] (Berlin: Weidmann, 1892), pp. 341–491.

¹²⁶For a more extensive summary of events, see Lieu, *Manichaeism*, 203–7. The most comprehensive study to date is published in Dutch: Hendrik Gerhard Schipper, “Paus en Ketters. Leo de Grotes polemieken tegen de manicheeërs” (PhD Thesis, University of Nijmegen, 1997), pp. 24–85.

¹²⁷*Sermo* IX.4 (November 443), pp. 37–8; the discussion about the date of this sermon is summarized by Neil, “Leo I on Poverty”, p. 190 n. 102; Freeland and Conway, *St. Leo the Great*, pp. 34–5.

¹²⁸Pope Athanasius (399–401) famously is said to have refused to ordain any cleric from overseas without five episcopal letters of recommendation “because Manichaeans had been found in the city”; see *Liber Pontificalis*, vol. I, ed. L. Duchesne (Paris: Ernest Thorin, 1886), XLI, p. 218.

North African sources suggest that many among them had recently fled to Italy to escape Vandal persecution.¹²⁹ Convinced of the threat posed by these “servants of the devil”, Leo took it upon himself to launch an investigation.¹³⁰ Still in 443, he presided over a hearing attended by “bishops, priests, Christian men and people of the nobility”, during which prominent Manichaeans disclosed “many things” concerning their beliefs and practices.¹³¹ This included an “unspeakable crime” staged by a Manichaean bishop, which involved a sexual act between a specially groomed ten-year-old girl and an “adolescent molester”.¹³² Leo explains how, in response to these confessions, he came to pursue a two-pronged policy: those willing to emend their ways were allowed back into the fold upon fulfilment of a series of stiff penitential requirements; those who were “in too deep”, however, were “subjected to the laws of the Christian princes” and handed over to the public authorities, who duly sent them into perpetual exile.¹³³

In a letter circulated among the bishops of Italy in January 444, Leo is quick to point out the success of his Roman intervention, yet he also allows for the possibility that some Manichaeans escaped prosecution and set up shop elsewhere:

we call on you to share in our responsibility [...] lest the disease that has been removed from our sheep due to God’s merciful revelation and our personal care [...] spreads itself through your churches and establishes secret tunnels for its hidden practices.¹³⁴

It is unclear how many of his colleagues responded to Leo’s plea. The Gallic chronicler Prosper of Aquitaine, always quick to sing Leo’s praise, claimed that after the pope had successfully brought to light the Manichaeans holed up in Rome, “many eastern bishops followed the apostolic helmsman in his zeal”.¹³⁵ The eastern evidence is less spectacular but not absent: when in 449 the deposed bishop Theodoret of Cyrus asked for Leo’s help to rectify his deposition, he made a point of praising the pope’s forceful conduct towards the Manichaeans.¹³⁶ There is no doubt, at any rate, that Leo was able to gather the attention of the western imperial court. In June 445, some months after Valentinian III had returned to Rome from Ravenna, he issued *Novella* 18 invoking Leo’s efforts against the Manichaeans and following up with a string of measures meant to facilitate

¹²⁹Lieu, *Manichaeism*, p. 203.

¹³⁰*Sermo* IX.4, p. 37: *ipsum in eis, cui serviunt, diabolum*. On the legal precedent for a bishop launching such an investigation, see Wilhelm Enßlin, “Valentinians III. Novellen XVII und XVIII von 445”, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Romanistische Abteilung* 57 (1937): 367–78, 369–71.

¹³¹*Sermo* XVI.4 (443 Advent), p. 64: *residentibus itaque mecum episcopis atque presbyteris, et in eundem consensum christianis viris et nobilibus congregatis*. Leo, *Epistula* XV (21 July 447), ed. Schipper and Van Oort, pp. 72–3 also mentions members of the senate (*et pars quaedam senatus ac plebis interfuit*). Note that Emperor Valentinian III was likely not present in Rome during Leo’s investigation; see Mark Humphries, “Valentinian III and the City of Rome (425–55)”, in *Two Romes: Rome and Constantinople in Late Antiquity*, ed. Lucy Grig and Gavin Kelly (Oxford: Oxford University Press, 2012), pp. 161–82, esp. 162.

¹³²*Sermo* XVI.4, p. 65.

¹³³*Epistula* VII.1 (30 January 444), ed. Schipper and Van Oort, pp. 46–9.

¹³⁴*Epistula* VII.1, p. 46: *In consortium vos nostrae sollicitudinis advocamus, ut vigilantia pastorali ne quid diabolicae licere possit astutiae commissis vobis gregibus diligentius consulatis; ne is qui domini misericordia revelante per nostram curam a nostris ovibus morbus abigitur, necdum vobis praemonitis et adhuc quid agatur ignaris per vestras se dispergat ecclesias et suarum furtem cuniculus inveniat latebrarum...*

¹³⁵Prosper, *Chronicon*, entry 1350 (s.a. 443), p. 479: *multique Orientalium partium sacerdotes industriam apostolici rectoris imitati sunt*. The question of Prosper’s relationship to Leo and his alleged status as Leo’s secretary or ghost-writer remains open to debate. See most recently, Michele Salzman, “Reconsidering a Relationship. Pope Leo of Rome and Prosper of Aquitaine”, in *The Bishop of Rome in Late Antiquity*, ed. Geoffrey Dunn (Farnham: Ashgate, 2015), pp. 109–26.

¹³⁶Theodoret of Cyrus, *Epistula*, no. 113 (Sept–Oct 449), ed. Yvan Azéma [Sources chrétiennes 111] (Paris: Cerf, 1965), pp. 58–9.

further identification, apprehension, and punishment of this “enemy of the Christian faith”; the praetorian prefect of Italy was to make sure the law became known throughout the provinces.¹³⁷

Not all elements of the above story should be taken at face value. The confessions put forward in the course of Leo’s investigation could legally have been extracted under torture.¹³⁸ They also fit within a long polemical tradition of associating Manichaeans, and religious others in general, with sexual depravity. Augustine, with whose anti-Manichaean corpus Leo was intimately familiar, had alluded to nocturnal orgies and the ritual consumption of semen and menstrual blood.¹³⁹ By means of proof, the African bishop had mentioned a trial in Carthage not unlike the one held subsequently in Rome, where a twelve-year-old girl admitted to having been violated “as part of [their] criminal mystery”. A Manichaean nun had “with difficulty” been compelled to confirm the girl’s story.¹⁴⁰

One might ask, furthermore, what Leo was trying to achieve by so incessantly reminding his Roman congregation of the possibility of Manichaeans in their midst, even after, by his own patent admission, he had seen to their neutralization. Harry Maier has suggested that the image of a community under attack by an invisible enemy allowed Leo to instil discipline and social cohesion in his Roman congregation: only by strenuously keeping to their own Catholic rites and norms could the Romans hope to expel the evil within, whether this evil be conceived as personal sinfulness or Manichaeans lurking about.¹⁴¹ On yet another level, we should keep in mind that Leo was among the century’s most ardent and ingenious advocates of Rome’s patriarchal primacy.¹⁴² There is undeniably an element of grandstanding to Leo’s efforts to involve his fellow bishops and the western court in his anti-Manichaean campaign.

What remains fully to be explored, looking at such diverse motives, is how consistently the Roman pontiff tapped into the ideological and legal framework of the bad, polluting citizen to achieve his aims; and how, in turn, he came to influence this framework. To start with the former, Schipper and Van Oort, as well as John Coyle, have tentatively singled out passages in Leo’s anti-Manichaean corpus where he appears directly to draw on ideas and language found in earlier imperial laws.¹⁴³ But even when no direct

¹³⁷*Leges Novellae Valentiniani*, no. 18, pp. 103–5.

¹³⁸While a precise demarcation of who could be tortured and under what circumstances remains elusive, the boundaries are known to have expanded considerably under the later emperors: e.g. CTh 9.6.6 (5 July 358) and CTh 9.35.1 (8 July 369) confirmed the use of torture in suspected cases of magic and treason respectively, even for persons of the highest rank; CTh 16.5.9 (31 March 382) seems to stipulate that Manichaeans hiding under the names of Encratites, Hydroparastates, and Saccophores could, upon criminal conviction, be tortured to death. See more generally on this question Harries, *Law and Empire in Late Antiquity*, pp. 122–9.

¹³⁹John Kevin Coyle, “Foreign and Insane: Labelling Manichaeism in the Roman Empire”, in *Manichaeism and Its Legacy*, ed. John Kevin Coyle (Leiden: Brill, 2009), pp. 4–23, esp. pp. 18–19. On Leo’s indebtedness to Augustine, see A. Laurus, “Saint Léon le Grand et le Manichéisme romain”, *Studia Patristica* 11 (1978): 203–8, and Schipper and Van Oort, *St Leo the Great*, pp. 11–15.

¹⁴⁰Augustine, *De haeresibus*, ed. R. Vander Plaetse and C. Beukers [CCSL 46] (Turnhout: Brepols, 1969), XLVI.9, p. 315: *propter hoc scelestum mysterium se dicebat esse vitiatam [...] vix compulit confiteri*.

¹⁴¹Harry Maier, “Manichee! Leo the Great and the Orthodox Panopticon”, *Journal of Early Christian Studies* 4/4 (1996): 441–60, 444.

¹⁴²The classic article is Walter Ullmann, “Leo I and the Theme of Papal Primacy”, *The Journal of Theological Studies* 11/1 (1960): 25–51, evaluated by Wessel, *Leo the Great*, pp. 285–97.

¹⁴³Schipper and Van Oort, *St Leo the Great*, p. 55, n.71; Schipper, “Paus en Ketters”, pp. 21–2; Coyle, “Foreign and Insane”, pp. 20–2.

borrowings can be detected, as is usually the case, Leo's depiction of the Manichaeans is very close in tone and substance to that of the laws of the Theodosian Code: they are criminals,¹⁴⁴ their practices and beliefs constitute sacrilege,¹⁴⁵ their company should be avoided by the faithful at all times,¹⁴⁶ and their very presence places the community at risk of contamination.¹⁴⁷ We have seen above that, under certain conditions, Leo was willing to entertain the possibility of readmittance for repentant Manichaeans. By and large, however, he followed the imperial line that the best remedy against pollution was banishment, to which end he actively cooperated with the secular authorities in Rome.¹⁴⁸ Another indication of Leo's sensitivity to the legal framework surrounding heretics are his repeated exhortations that, should anyone know of a Manichaean's whereabouts, they are to inform Leo or one of their titular priests, "for there is great piety in disclosing the hiding places of the faithless".¹⁴⁹ On the face of it, such a sentiment ran counter to the age-old Roman stigma on informers and secret denunciation.¹⁵⁰ The Theodosian Code contains a whole string of laws aimed at curtailing the activities of *delatores*, listing them among the "enemies of mankind" and even threatening capital punishment in certain insidious cases.¹⁵¹ Leo must have known, however, that different priorities prevailed when Manichaeans were involved. Already in 382, Theodosius I had ordered the Praetorian Prefect in the East to actively seek out the aid of informers and denouncers to root out Manichaeans, underlining that the "odium attached to denunciation" would not apply in this particular case.¹⁵²

It is revealing to place Leo's writings next to Valentinian III's *Novella* 18, for here it becomes evident that the lines of indebtedness could also run in the other direction. Mirroring the affected coyness with which Leo had revealed Manichaean sexual misconduct, Valentinian's law alludes to "things that are obscene to hear and tell". That these things were nevertheless "made public through their own unmistakable confession" (*manifesta*

¹⁴⁴*Sermo* XVI.4–5, p. 64: *superat enim verborum copiam criminum multitudo*; p. 65 *infandum facinus [...] detestandi criminis ordinator*; *Sermo* XXIV.5, p. 114: *scelestissimo dogmate*; *Epistula* 7.1, p. 48: *flagitiosa in suis mysticis quae teneret*.

¹⁴⁵*Sermo* XXXIV.4–5, p. 183: *sacrilegis et fabulosis mendaciis*; p. 185: *sacrilegae impietatis suae dementia*; p. 186: *in quibus sacrilegiis viverent*; *Sermo* XLII.5(a), p. 248: *sacrilega simulatio*; *Sermo* LXXVI.6–7(a), p. 480: *sacrilegae falsitatis dogma*; p. 483: *sacrilegarum imprudentiam fabularum*; *Epistula* 7.2, p. 48: *huius sacrilegii [...] sacrilegae persuasionis*.

¹⁴⁶*Sermo* XVI.5, p. 65: *ab amicitia vestra penitus abdicate, vosque praecipue, mulieres, a talium notitia et conloquiis abstinete*; *Sermo* XXXIV.5, p. 186: *Nihil ergo cum huiusmodi hominibus commune sit cuiquam christiano, nulla cum talibus habeatur societas, nullumque consortium*; *Sermo* LXXII.7, p. 448: *cuius unitatis nullum poterunt habere consortium*.

¹⁴⁷*Sermo* XVI.5, p. 65: *hos homines per omnia execrabiles atque pestiferos*; p. 66: *ne de alicuius membri vulnere etiam alia possint membra corrumpi*; *Sermo* XXIV.4, p. 113: *animi ita et corporis pollutione laetantur*; *Sermo* XLII.5, pp. 246–7: *Nulla itaque vos contagionis huius aspergat impietas. Qui sua maxime observantia polluuntur*.

¹⁴⁸*Epistula* 7.1, p. 48: *ne sanctum gregem sua contagione polluerent, per publicos iudices perpetuo sunt exilio relegati*; 7.2, p. 48: *a sanis mentibus, ne pestis haec latius divulgetur, severitate qua possumus, abscindamus*.

¹⁴⁹*Sermo* IX.4, p. 37: *ad hanc vos hortamur industriam, ut Manicheos ubicumque latentes vestris presbyteris publicetis. Magna est enim pietas prodere latebras impiorum*. See also *Sermo* XVI.4, p. 66: *Illud quoque vos, dilectissimi, obsecrans moneo, ut si cui vestrum innotuerit ubi habitent, ubi doceant, quos frequentent, et in quorum societate requiescant, nostrae sollicitudini fideliter indicetis*.

¹⁵⁰In a way, denunciation was inherent in the Roman legal system, which lacked public prosecutors and thus relied on private individuals to bring suit against their fellow citizens. In this context, moral censure was aimed mostly at a specific type of denunciation, i.e. secret informers, court sycophants, and social climbers who built a career on prosecuting others on the charge of *maiestas*. See Yann Rivière, *Les délateurs sous l'empire romain* (Rome: Ecole française de Rome, 2002), pp. 19–99; Steven Rutledge, *Imperial Inquisitions. Prosecutors and Informants from Tiberius to Domitian* (London: Routledge, 2001), pp. 9–16.

¹⁵¹See e.g. CTh 10.10.2 (1 December 319?); 10.10.10 (4 February 365): *humani generis inimicos*.

¹⁵²CTh 16.5.9 (31 March 382): *Sublimitas itaque tua det inquisitores, aperiat forum, indices denuntiatoresque sine invidia delationis accipiat*. See on this law the discussions by Escribano Paño, "From Norm to Identity", pp. 524–9; and Lieu, *Manicheism*, p. 147.

ipsorum confessione patefacta sunt) also follows Leo's take on the affair, down to his choice of words (*confessio*, *patefactum*).¹⁵³ Both pope and emperor, furthermore, put much stock in the testimony of "one who was called their bishop" (*qui eorum dicebatur episcopus*), who allegedly "betrayed" (*proderet*) many Manichaean secrets over the course of the investigation.¹⁵⁴ Finally, there is Leo's claim that Manichaeans pollute both *corpus* and *animus*, body and soul, which too resurfaces in *Novella* 18.¹⁵⁵ At the very least, such similarities suggest the compilers of *Novella* 18 were familiar with Leo's writings, especially his Advent Sermon of 443 (*Sermo* XVI) and his encyclical of 444 to the Italian bishops (*Epistula* VII). But one could reasonably argue for a more active involvement on Leo's part, as a petitioner prompting the emperor into action, or even as a contributor to the actual text.¹⁵⁶ Leo's cordial relations with Valentinian's court would certainly have allowed for such involvement, as would his long-standing acquaintance with the recipient of *Novella* 18, the Praetorian Prefect Albinus.¹⁵⁷ That Valentinian was willing to take his cue from the Roman pontiff was confirmed in July 445, less than a month after *Novella* 18 had been circulated, when the western court issued another law, this time upholding papal primacy against infringement by Gaul's metropolitan bishop, Hilary of Arles. The law explicitly invoked Leo's petitioning about the case.¹⁵⁸

5. Conclusion: For city and empire

Looking back at Leo's efforts against the Manichaeans some years later, Prosper of Aquitaine concluded they had benefitted "not just the city of Rome, but the entire world".¹⁵⁹ While a blatant piece of panegyric, Prosper's claim captures the essence of Leo and Valentinian's anti-heretical campaign: attacking religious deviants was not a goal in itself, but was a way to "benefit" the community. What this community looked like, in reality and ideally, is illustrated by the pastoral sermons and legal practice studied in the foregoing sections. The sermons performed by Leo I show a forceful Roman bishop using vocabulary derived from ancient and biblical citizenship to put forward a new, Christian vision of (urban) community. The city of Rome as defined in Leo's sermons exemplifies a Christian rethinking of belonging to and exclusion from the civic body, which occurred both in rhetorical discourse and in legal practice as well as across them. From our viewpoint at the intersection of pastoral discourse and legal concepts, we have shown how sermons

¹⁵³Compare: *Leges Novellae Valentiniani*, no. 18, p. 104: *Quae enim et quam dictu audituque obscena in iudicio beatissimi papae Leonis coram senatu amplissima manifestissima ipsorum confessione patefacta sunt? Sermo XVI.4: omnium horum par fuit et una confessio et patefactum est execramentum quod aures nostrae vix perferre potuerunt.*

¹⁵⁴*Leges Novellae Valentiniani*, no. 18, p. 104: *adeo ut eorum quoque qui diceretur episcopus, et voce propria proderet, et omnia scelorum suorum secreta perscriberet; Epistula VII.1, p. 48: adeo ut ipse qui eorum dicebatur episcopus, a nobis tentus proderet flagitiosa in suis mysticis quae teneret, sicut gestorum vos series poterit edocere.*

¹⁵⁵*Sermo XXIV.4, p. 113: animi ita et corporis pollutione laetantur; Leges Novellae Valentiniani*, no. 18, p. 104: *quo non solum corpora deceptorum, sed etiam animae inextinguibiliter polluuntur.*

¹⁵⁶Enßlin, "Valentinians III. Novellen", pp. 373–4.

¹⁵⁷In 440 Leo had mediated in a dispute between Albinus and Aëtius. On Albinus, see Ronald Weber, "Albinus: The Living Memory of a Fifth-Century Personality", *Historia: Zeitschrift für alte Geschichte* 38/4 (1989): 472–97, esp. 488, 492.

¹⁵⁸*Leges Novellae Valentiniani*, no. 17 (8 July 445), p. 102: *sicut venerabilis viri Leonis Romani papae fideli relatione conperimus.* On the precise degree of Leo's involvement in this law, see Humphries, "Valentinian III", pp. 178–80; Enßlin, "Valentinians III. Novellen", pp. 374–6. More generally on the conflict between Leo and Hilary, see Martin Heinzelmann, "The 'Affair' of Hilary of Arles (445) and Gallo-Roman Identity in the Fifth Century", in *Fifth-Century Gaul. A Crisis of Identity?*, ed. John Drinkwater and Hugh Elton (Cambridge: Cambridge University Press, 1992), pp. 239–51.

¹⁵⁹Prosper, *Chronicon*, entry 1350 (s.a. 443), p. 479: *quae cura viro sancto divinitus, ut apparuit, inspirata non solum Romanae urbi, sed etiam universo orbi plurimum profuit.*

addressed to an urban audience and the imperial laws in fifth-century Rome were two performative expressions of one idiom that, mentally and physically, shaped the city and its imperial surroundings.¹⁶⁰ Through his discourse of alienation, Leo helped to fundamentally redraw the boundaries between those inhabitants of Rome who could be said to belong, and those who were, in Leo's words, strangers. Even if he uses crucial metaphors (*filius adoptivus*, *heres*) derived from the Pauline register of divine kinship acquired through grace, the interpretation of these metaphors must take into account the public and imperial relevance of (adopted) kinship relations.¹⁶¹

The Christian laws collected in the Theodosian Code also relied on outsiders to redefine the Roman citizen along orthodox lines. The dominant language here, however, was not that of the stranger, but that of the criminal and pollutant. Such rhetoric had very real legal repercussions: heretics, pagans, and, to a lesser degree, Jews were gradually deprived of their civic rights and the ability to participate in Roman society. With heretics, their very presence was deemed undesirable and a threat to their fellow citizens, to the extent that Christian emperors felt justified calling on the disciplinary framework of banishment to remedy this situation. The late-imperial attempts to physically remove the "disease" of heresy from the Roman urban landscape stands as an example to the frequent interplay between rhetorical and legal definitions of the (bad) citizen in this period. Yet it also testifies to the potential tension between these two domains: fighting the disease of heresy in one place typically meant driving it off to another region.

It is insightful, in this regard, to take a final look at the terms Prosper of Aquitaine used to deliver Leo's praise: by taking up the gauntlet against heresy, the pontiff had benefitted both *urbs* and *orbis*, city and world, Rome and empire. As Prosper must have known, these were indeed the terms in which Leo liked to couch his ambitions, though he too struggled to align the two concepts. In his sermons against the Manichaeans Leo clearly sought to invoke an urban sense of community, which he explicitly distinguished from more universal allegiances:

Against these people, my dearly beloved, certainly the entire world and the whole Church should rightfully take up the arms of faith, but the supreme effort in this task should be yours, whose ancestors (and you through them) learned the Gospel of Christ and the Cross from the very mouth of the blessed apostles Peter and Paul [...] these people are to be exposed, lest they gain a foothold in any part of our city.¹⁶²

In his subsequent letter to the Italian bishops, Leo came to expand this urban perspective to include other episcopal cities: the *urbs* had been cleansed through his own special efforts, but now there was a risk that the disease would take root elsewhere.¹⁶³ He thus cautioned his colleagues to be on the lookout, "lest men of the Manichaean perversity and the teachers of this sacrilege might, in some other place, find an opportunity to

¹⁶⁰That the ecclesiastical and the civic community of Rome were near inseparable in Leo's view is contended by Wessel, *Leo the Great*, p. 369: "[to Leo,] belonging to the church and to the Roman empire were practically synonymous".

¹⁶¹As is stressed by Lewis, *Paul's Spirit of Adoption*.

¹⁶²*Sermo IX.4*, pp. 37–8: *Contra istos enim, dilectissimi, omnem quidem orbem terrarum et totam ubique ecclesiam decet fidei arma arripere, sed vestra in hoc opere devotio debet excellere, qui in progenitoribus vestris evangelium crucis Christi ab ipso beatissimorum apostolorum Petri et Pauli ore didicistis [...] prodendi sunt, ne in aliqua civitatis nostrae parte consistant*. Translation adapted from Schipper and Van Oort, *St Leo the Great*, p. 55.

¹⁶³*Epistula VII.1*, p. 46: *ut quod a nobis in urbe exstinguitur, tenebrosis apud vos radicibus seminetur*.

hurt your peoples (*plebes vestras*)”.¹⁶⁴ The notion that cities were due special protection as the principal loci of the Christian community was present as well in Valentinian III’s law of 445: “let [Manichaeans] be deprived of living spaces in the cities, lest any innocent soul is ensnared by associating and living together with such people”.¹⁶⁵ Yet the emperor also took pains to convey his more universal concerns: his predecessors had already judged that the Manichaeans should be driven from the entire face of the earth: *toto orbe pellendos*; his own constitution was to be circulated throughout the provinces, so that proper punishment could ensue “wherever on earth a Manichaean might be captured”.¹⁶⁶ Thus were both *urbs* and *orbis* to be saved.

¹⁶⁴*Epistula* VII.2, p. 48: *necubi Manichaeae perversitatis homines plebes vestras facultatem laedendi et huius sacrilegii possint invenire doctores*.

¹⁶⁵*Leges Novellae Valentiniani*, no. 18, p. 104: *urbium habitatione privandos, ne quis innocens talium conversatione aut societate capiatur*.

¹⁶⁶*Leges Novellae Valentiniani*, no. 18, p. 104: *ubicumque terrarum quisquam Manichaeorum fuerit deprehensus*.