

Justinian I and Gregory the Great: the legislative ideology of a civic bishop

Charles Thorne

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Department of Ancient History
Macquarie University**

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Declaration

I, Charles Thorne, certify that this thesis has not been submitted for a higher degree to any other university or institution.

A handwritten signature in blue ink, appearing to read 'C. Thorne', is centered on the page. The signature is fluid and cursive, with the first letter 'C' being large and the last name 'Thorne' written in a more compact, flowing script.

Date: 9/10/2017

Abstract

This thesis argues that the ideology of Byzantine Emperor Justinian I (527-565) is discernible in the behaviour of Roman Bishop Gregory the Great (590-604). My hypothesis rests upon the legislative, not tangible, influence of the emperor upon Gregory, who lived several decades after the death of Justinian. Noted for his superlative piety,¹ Justinian framed perhaps his greatest achievement, the *Corpus Iuris Civilis*, as a homage to divine ordination and his personal role in a reinvigorated celestial dispensation. As Justinian is best known for his legal codification, Gregory's own magnum opus is a vast collection of private letters: numbering over 800, the letters cover all aspects of his episcopate, be it social, religious or political, and thus afford the reader an unrivalled insight into the world of a 6th century Roman Bishop. Therefore, by analysing the parallels between the *Corpus Iuris Civilis* and the behaviour of Gregory, as expressed through his letters, we can assess the influence of Justinian upon Gregory. Justinian's law code encompasses every perceivable aspect of private and public life, and so the specific focus here is upon Justinian's ideology regarding the civic role of bishops. Following imperial enfranchisement under Constantine I (306-337), Christian bishops grew in prestige, gradually accruing authority well beyond the traditional ecclesiastical sphere. It is clear from the *Corpus Iuris Civilis* that Justinian envisaged the bishop as taking a much more active role in municipal administration, a role fostered by the evolving nature of contemporary urban society. Thus, the aim of this study is to assess the ideological influence of Justinian, through the medium of his law code, and in the context of the civic role of bishops, upon the episcopate of Gregory the Great.

¹ To Procopius, a contemporary historian, Justinian's 'piety' was very much a different concept altogether, at times Procopius equated Justinian and his Empress Theodora with demons – *Anecdota* bk.12.

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Preface

“Since you have a dignity beyond all other honour, Emperor, honour – beyond all others – God, who dignified you. For it was in the likeness of the Heavenly Kingdom that he gave you the sceptre of earthly rule that you might teach men the protection of justice and drive away the howling of those who rave against it, just as you are ruled by the laws of justice and rule lawfully those subject to you.”²

So writes Agapetus (*Ekthesis* 1), a deacon of the Church of Hagia Sophia, to beneficiary Justinian I (r. 527-565), an emperor who more than any other would encapsulate and embody the dynamic and ever evolving juxtaposition of Roman and Christian emperor.³ Agapetus’ words ring hollow in today’s heavily institutionalised and socially partitioned society, yet to apply such rigid modern labels as ‘state’ and ‘church’ to the ancient world, especially a Christian one, is highly misleading.⁴ Even Julius Caesar could seamlessly be both *pontifex maximus* and consul.⁵ Although this is admittedly an oversimplified analogy, the example still stresses the fluidity of institutional faith within the ancient world.

The focus of this thesis is upon this relationship: between the institutions of ‘state’ and ‘church’. While Constantine I legalised Christianity throughout the Empire in 313,⁶ it was not until 380 through the legislation of Gratian, Valentinian II and Theodosius I,⁷ that we may speak of Christianity in terms of a “state religion.”⁸ Henceforth the demarcation between church and state was increasingly blurred through the competing ideologies of patriarchs and

² Trans. Bell (2009:99).

³ The motif is widely accepted as forming in the mid 4th century with Constantine I and his biographer Eusebius (Bell 2009:29-30; Cameron & Hall 1999:27; Dvornik 1966:614ff.). On Justinian and Christianity see Maas (1992 *passim*); Pazdernik (2005:185-212); Cameron (1985 *passim*); Dvornik (1966:815-839); Gray (2005:227-236); Moorhead (1994:116-143) etc.

⁴ Dagron (2003:295).

⁵ Suetonius *Caesar* 7-19.

⁶ Lactantius *De Mortibus Persecutorum* 48.

⁷ *CTh.* 16.1.2.

⁸ Ehler & Morrall (1967:6).

emperors. Each deemed themselves as holding rightful ecclesiastical jurisdiction owing to station; the former from scriptural precedent and the latter as *de facto* head of the state-church.⁹

Within this ideological world of state and church, and “emperor and priest,”¹⁰ I shall assess the relationship between Justinianic ideology and the civic role of bishops during Gregory the Great’s episcopate.

⁹ Gray (2005:215-238) offers a good survey of the contemporary theological conflict.

¹⁰ Dagron (2003).

Introduction

Structure

This thesis coalesces around several themes: the historical role and context of a late antique bishop, Justinian's ideology and the correspondence of Gregory the Great.¹¹ It is my contention that following the reforms of Justinian in the mid 6th century,¹² the bishop's role in society was fundamentally, and more importantly, formally, intermeshed within the civic sphere. I will show that such changes are discernible in Gregory's episcopate (590-604).¹³

As the thesis seeks to draw connections between Justinianic ideology and its influence upon the civic role of bishops, it is first necessary to establish what exactly is meant by 'Justinianic ideology'. We may safely assume that Gregory's writings offer a genuine insight into his own "theological and philosophical position,"¹⁴ however, while there is a small body of Justinianic correspondence,¹⁵ we must principally infer such a theoretical construct from the highly charged world of imperial benefaction. The foci of Chapter 1 are therefore Justinian's correspondence, his laws and building program, and how each embodies his ideology.¹⁶ Only by assessing such activities can we ascertain what Justinian hoped to achieve through these efforts, and in the present context, how he perceived bishops to function within his new *rectus ordo*. For indeed, everything one may say of Justinian implies reconciliation. Whether uniting Chalcedonians and Non-Chalcedonians, civil and martial authority under imperial officials,¹⁷ or even the Roman Empire,¹⁸ his reign is generally characterised by an intense desire to reform disparate elements. Thus, it is natural to conclude that he hoped to imprint

¹¹ See Ewald & Hartmann (1891, 1899) and Norberg (1982) for the original Latin. Martyn's translation (2004) is used herein.

¹² For a summary of the provincial reforms implemented by the Praetorian Prefect, John the Cappadocian, see Karantabias (2015:208-229).

¹³ For Gregorian scholarship, see Martyn (2004), Neil & Santo (2013), Evans (1986), Markus (1997) and Demacopoulos (2013, 2015).

¹⁴ Evans (1986:vii).

¹⁵ *Collectio Avellana* (Günther 1895).

¹⁶ Maas (1992:45), (1986 *passim*). Cf. Karantabias (2015:174) "Justinian's provincial reforms were not an expression of imperial ideology. On the contrary, the rhetoric, which adorns the *novellae*, is just simply rhetoric...the laws are not an expression of a synthesis between Christianity and the Roman past. On the contrary, the laws are a clear illustration of an enduring structure in Roman society, classicism." On the dangers of ascribing labels such as 'Classicism' or 'Pagan' to this period, see Bell (2013:9-12), Cameron (1985:20-21, 43-45, 132-133) and Maas (1992:49-52, 68, 72-73).

¹⁷ Karantabias (2015:184, 208-209, 214-216). See also *Novellae* 8.24-30; 24, 25, 26, 27, 28, 29, 30, 31.

¹⁸ Procopius *De Bellis*.

his ambitious vision of harmonious Christian universality, the core theme of his ideology, upon the *civitas* in the form of civic-minded bishops.

Using the established motif of ‘Justinianic ideology’ from Chapter 1, this ideological framework will then be contextualised within the evidence from Gregory’s correspondence on civic episcopal activity. That Gregory was involved in the civic sphere was not a novel development for his age, since bishops in late antiquity are known to have fulfilled a wide variety of civic roles: builder,¹⁹ war leader,²⁰ judge,²¹ communal ambassador,²² foreign diplomat,²³ ransomier,²⁴ or civic patron.²⁵ It is therefore necessary to categorise the evidence of Gregory’s civic activity along several roughly defined themes. Each theme will thus correspond to a chapter: Chapter 2 is judicial and focuses on Gregory’s protection of women and children, involvement with wills and property possession, and policing of magistrates; Chapter 3 is administrative and looks at Gregory’s management of civic finances, logistics, and martial defence; while Chapter 4 assesses to what extent Gregory followed Justinian’s ecclesiastical legislation.

¹⁹ *Liber Pontificalis* I.315, 324 (Honorius), I.388 (Sisinnius), I.396 (Gregory II), I.420 (Gregory III), I.501 (Hadrian I); *Regula Pastoralis* 8.32, 9.11, 9.206; See also Pringle (1981:90-94).

²⁰ The most famous example is Sergius, Patriarch of Constantinople, who, in the absence of the campaigning Emperor Heraclius (r. 610-641) helped personally lead the defence of the city during the Avar siege of 626. (Economou 2000:147). Other less high profile examples include bishops Paulinus of Tiburnia and Constantius of Lauriacum who, through the prophetic hermit Severinus, managed the defence of their cities in Noricum (Eugippius *Vita Severini* 25, 30). The career of Synesius of Cyrene is very telling in this context (Martindale 1971:1048). See also Gregory of Tours *Historia Francorum* 2.7, 4.42, 7.37-8.

²¹ The juxtapositioning of *sacerdos* and *iudex* began under Constantine I through his creation of the *audientia episcopalis*, with the bishop initially afforded jurisdiction without appeal over both civic and ecclesiastical litigants (*CTh.* 1.27.1). The *audientia episcopalis* has itself warranted extensive treatment, for example Skirks (2013), Jaeger (1960), Doerfler (2013:55-115) and Lenski (2016:197-206).

²² In the sense that the bishop was acting akin to a modern promoter may do for a social or sporting event, a bishop could promote his own see by means of cult association, neighbouring saints, as well as hagiography. This is best seen with the bishops of Merovingian Gaul – Coates (2000), George (1987) and Brennan (1992).

²³ Bishops were used extensively in foreign and domestic negotiation: Procopius *De Bellis* 1.26.8, 2.2.3-9, 2.6.17-18, 2.11.17-31, 2.20.4-14, 5.14.4; Paul the Deacon *Historia Langobardorum* 2.12, 3.31, 4.1; Gregory of Tours *Historia Francorum* 5.5, 6.31, 7.14, 9.20, 10.16; Pseudo Joshua Stylite *Chronicle* 39, 58, 78, 87, 91, 100; Evagrius *Historia Ecclesiae* 4.9.250-260, 6.11.295-300; John of Ephesus *Historia Ecclesiae* 3.6.26; Leontius of Neapolis *Vita Joannis Eleemosynarii* 9, 13; *Liber Pontificalis* I.239, I.270, I.287, I.372; Theophanes *AM* 6126, 6127, 6140, 6305.

²⁴ First discussed by Cyprian of Carthage in the mid 3rd century (*Epistolae* 62.4) by the 5th century ransoming had become a standard duty for the episcopate - Klingshirn (1985).

²⁵ For the communal pastoral obligations of a bishop, see Gregory the Great’s *Regula Pastoralis*. See also Rapp (2005:24-54, 89-98) and Neil & Allen (2013).

Legal sources

Underpinning this thesis are Justinian's legal corpora, for it is through them that one can ascertain how Justinian hoped to implement his ideology. The legal works of Justinian are collectively known as the *Corpus Iuris Civilis*.²⁶ Of this body, two works are most relevant for this thesis: the *Codex Justinianus* (CJ) and *Novellae* (Nov).²⁷ The *Codex Justinianus* was commissioned in 528 as a record of all extant imperial constitutions to date, with a redrafting in 534 accounting for later additions. From 534 onwards, the need to catalogue new laws resulted in the *Novellae*.

The CJ was not the first effort towards an all-encompassing legislative record, for that honour belonged to Theodosius II, who commissioned his own *Codex Theodosianus* (CTh) in 438 which covered the period of 313 until its own compilation and was supplemented by *Novellae* which ran until 468.²⁸ That there is an element of cross-over between the two codices is expected and indeed, this is shown in the appendices. However, while only a law-by-law analysis of both codices will show the extent of this crossover, my research has shown conclusively that Justinian promulgated far more ecclesiastical legislation than any emperor prior, particularly with regard to the bishop and his civic status.

Rationale

That the Roman bishop grew irrevocably in power and prestige following Constantine's legislation is certain, yet in the context of civic bishops, it was not until Leo I (440-61) that his role noticeably changes. Building upon the episcopates of Gelasius I (492-96) and Pelagius I (556-61), Gregory I (590-604) "is the continuator of a 150-year old tradition of bishops of Rome as civic leaders."²⁹ Over this period, the Roman Bishop gradually took an increasing interest in civic affairs: Leo financed and partook as a leading figure in the embassy to Atilla in 452,³⁰ as well as providing grain for Rome via the *annona*;³¹ Gelasius extended this pastoralism to "feed, clothe and house" the refugees in Rome fleeing Odoacer and

²⁶ See Mommsen & Krueger (1885) for the original Latin. Blume's translation (1952) is used herein - <http://www.uwyo.edu/lawlib/blume-justinian/ajc-edition-2/>.

²⁷ All laws cited throughout are Justinian's unless stated otherwise.

²⁸ Pharr (1952:xvii).

²⁹ Neil (2013:3).

³⁰ Neil (2009:174-5), *Liber Pontificalis* I.239.

³¹ Neil (2016:158). See also Pietrini (2002).

Theoderic's conflict, as well as the warring soldiers themselves whom the bishop ransomed,³² while also attempting to intervene in the senatorial *Lupercalia* festival at Rome,³³ Pelagius instead fostered a closer union with the secular authorities, most notably the new military aristocracy, whom he increasingly relied on to administer his own ecclesiastical responsibilities,³⁴ yet akin to his predecessors, Pelagius maintained the episcopal role as Rome's *curator*.³⁵ Gregory's own extensive activities in this sphere will be the focus of this study.

That Gregory spent six years in the capital as papal legate (580-586) and, as attested by his correspondence, had a very close bond with the imperial family, does not necessarily preclude an intimacy also with the ideology of an emperor who had died in 565. However, owing to Gregory's training in law and rhetoric,³⁶ we may infer a much stronger link between Justinianic ideology and Gregory. With the transmission of Justinian's ideology to Italy in 554 with the 'Pragmatic Sanction,'³⁷ a Gregory who was trained in law, and perhaps held the offices of *praetor urbanus* (Rome's chief legal official) and *praefectus urbis Romae* (senior official in Rome),³⁸ would have become very familiar with Justinian's legislation. Gregory's knowledge of Justinian's laws, a point already established by Damazia who claims to see over 100 parallels between Gregory's correspondence and Justinian's laws,³⁹ makes Gregory's episcopate and his correspondence the perfect means of assessing the transmission of Justinian's ideology. If "the Empire of Justinian and his immediate successors was...the permanent backdrop to all his awareness" and "Gregory's church was Justinian's *Reichskirche*,"⁴⁰ it should come as no surprise that Justinian's laws also heavily influenced Gregory's own ideology and role as bishop, as shall be shown clearly below. Summed up by Markus, "Gregory's Church was the imperial Church shaped by Justinian's legislation."⁴¹

³² Neil & Allen (2014:21-22). See also his *Epistolae* 13, 17. On the brief mention of ransoming by Leo I, see his *Sermon* 78.4.

³³ Demacopoulos (2016:142-146).

³⁴ Brown (1984:12-13, 46, 179). See also his *Epistolae* 24, 35, 38, 50, 52, 53, 59.

³⁵ Neil (2013:15-16). See also his *Epistolae* 4, 85.

³⁶ Martyn (2004:2).

³⁷ *App.* 7.

³⁸ Martyn (2004:3). This point is disputed, but likely considering Gregory's self-reference (*Reg* 4.2).

³⁹ (1949:195-226).

⁴⁰ Markus (1981:22).

⁴¹ Markus (1997:83-84).

“The end of an ancient city”⁴²

In tandem with the evolving church, society as a whole was itself fundamentally changing; the *civitas* being at the forefront of this change. As this thesis focuses on the increasing civic role of the bishop, this section will first discuss the devolving urban administration, specifically, how the “flight of the curiales”⁴³ created a civic power vacuum into which the bishop gravitated.

If Rome had its senate and senators, the provinces had the curia and decurions. Just as with senatorial membership, the curia afforded its members elevated rank and prestige within their communities.⁴⁴ However, over time the office’s allure paled in the face of strenuous, even ruinous fiscal obligations,⁴⁵ which prompted more and more decurions to turn from their curial responsibilities.⁴⁶ This in turn inspired a cascade of fruitless preventative legislation promulgated by successive emperors.⁴⁷

While there exists no definitive point at which one may say the decurions no longer felt the same fondness for office,⁴⁸ there is one aspect of imperial policy from 4th century from which one may infer such a transition: under Constantine and Constantius II communal lands and their taxes were confiscated, briefly restored by Julian, before being confiscated again by Valentinian and Valens.⁴⁹ That such a move by the imperial government would have irrevocably damaged the cities’ ability to simply maintain and defend themselves, is evident in the fact that under duress, the government was forced to relinquish 1/3 of civic lands and taxes back to the cities.⁵⁰ Such consternation abated a mere twenty years later, after which

⁴² Liebeschuetz (1992:1-49).

⁴³ Karabantis (2015:24-28).

⁴⁴ Honours from Julius Caesar – *Charter of Urso* ch.125; involvement in state bureaucracy under Julio Claudians – Braund (2014:*passim*).

⁴⁵ Jones (1964:Vol. 3. 725, 756).

⁴⁶ See Karabantis (2015:12) for an overview of this topic.

⁴⁷ For the extensive, varied and innovative approaches to the problem of fleeing Decurions, see Jones (1964:Vol. 3. 740-747). The size of provincial councils could vary considerably, from the fifty attested at Pisidian Tymandus – *ILS 6090*, to the 1200 at Antioch – (Libianus *Orationes* 48), yet obligations were the same for both the wealthiest and poorest Decurions, which further fostered curial evasion. See also Liebeschuetz (1992:12-14).

⁴⁸ Cf. Karabantis (2015:15-53) who convincingly traces the collapse of the curial system to the Tetrarchic reforms of the late 3rd/early 4th century, and the opportunities they created within the quadrupled imperial bureaucracy facilitating a natural avenue for social and political promotion. Legislation trying to keep decurions in the curia tapers out from the 5th century due to an acceptance of the “restructured social, political and economic structures, which shifted the focus from the city to the imperial centre.” (52).

⁴⁹ Restored by Julian – *CTh.* 10.3.1.

⁵⁰ *CTh.* 4.13.7, 15.1.18.

the government reclaimed the bequest of tax, for it to be then later returned again, only to be reclaimed for good in 395.⁵¹

In light of such developments, it is not hard to see why the decurion, upon whom fell communal financial responsibility, a community which was now severely curtailed in revenue, would wish to evade his curial duty. To do this the decurion would instead seek immunity in a wide variety of alternative public and private offices. For the rich within the curia, the senate, imperial bureaucracy and episcopate beckoned,⁵² while for the poor, the army, monasteries and lower ecclesiastical orders and palatine offices offered sanctuary.⁵³ Karabantis offers a very informative analogy for the supposed ‘flight of the curiales.’ Rather than thinking of it in terms of a mass exodus owing to a crumbling of civic pride, instead it should be seen as opportunistic pragmatism: “a state senator seeking to become a congressman is not one who is fleeing the state senate. A member of the board of directors seeking to become CEO is not fleeing the board.”⁵⁴

Just as emperors sought to stem the flow of ‘fleeing’ decurions, the flow of which would have facilitated the slow decay of the communities themselves, especially in the poorer, less urbanised West,⁵⁵ they similarly attempted to centralise the administration with municipal officials. The most notable was the *defensor civitatis*, who, from the start of the 4th century,⁵⁶ in the wake of failing legislation, was deemed the best means of safeguarding communal society.⁵⁷ The office is first cited in the *CTh* as established to defend the poor from the “outrages of the powerful,”⁵⁸ with another entry implying that it was primarily judicial-based.⁵⁹ In light of the ‘fleeing’ curiales, however, “one object of the innovation had no doubt been to establish some direct control by the imperial government of civic administration at city level,”⁶⁰ which clearly implies a general breakdown of the provincial, curial-based infrastructure.

⁵¹ 1/3 tax returned – *CTh.* 15.1.32; wholly reclaimed – *CTh.* 5.14.35.

⁵² The senate – Jones (1964:Vol. 3 740-743). Imperial bureaucracy – Karabantis (2015:43-44, 48-49).

⁵³ For the lower palatine offices and army, see Jones (1964:Vol. 3. 743-746). See also Karabantis (2015:48-49).
⁵⁴ (2015:23).

⁵⁵ Jones (1964:Vol. 3. 757).

⁵⁶ On the *defensor*, see Frakes (2001), on its Diocletian heritage see 15-42. The office was later reinvigorated under Justinian, *Nov.* 15.

⁵⁷ Ironically, Jones (1964. Vol. 3. 757-759) sees avaricious provincial governors as the gravest danger to the communities.

⁵⁸ 1.29.1 (trans. Pharr p.32)

⁵⁹ 1.29.4.

⁶⁰ Liebeschuetz (1992:23).

Over time, this office, along with the administrative *curator*, came to be regarded as leading municipal magistracies.⁶¹ Aside from the *defensor* and *curator*, the government also implemented civic financial officials. The most well-known of these was the *vindex*, a brainchild of Anastasius I (491-518) who is cited as responsible for assuming the tax-collecting duties of the *curiales*,⁶² although it is not clear over what remit the office was established.⁶³ While the claims of John Lydus⁶⁴ and John Malalas⁶⁵ may be challenged in their assertion that the *vindex* heralded the final demise of the *curiales* owing to their administrative ineptitude,⁶⁶ it is precisely to address this issue that Justinian claims the office of *vindex* was created.⁶⁷

Thus, the picture is clear: even with *defensores*, *curatores* and *vindices*, all working to patch the curial gaps, in the 6th century there was still a power vacuum created by the loss of so many decurions.⁶⁸ That the bishop was, under Justinian, to play an active role in the election of the *defensor civitatis* as well as provincial governor is telling indeed of his civic role and communal authority.⁶⁹

The episcopal evolution

The previous section discussed developments within the *civitas* which fostered the urban rise of the episcopate, and as a demonstration of such developments, I shall briefly analyse aspects of the 5/6th century Merovingian episcopate and how, as an institution, it fostered the juxtaposition of aristocratic and episcopal motifs. This thesis may revolve around Rome and Constantinople, but it also revolves around the legal standing of bishops within the late antique *civitas*. Paradoxically, Merovingian Gaul offers the best mirror for this study: the

⁶¹ *Curator* – Frakes (2001:70), *CTh* 12.1.20, *CJ* 8.12.1. *Defensor* – Liebeschuetz (1992:23-24; 1972:167-70).

⁶² On the *vindex*, see Karabantis (2015:55-60). See also Liebeschuetz (1973) for another imperial tax collector, the Egyptian *pagarch*.

⁶³ Liebeschuetz (1992:27-28), Karabantis (2015:56-57).

⁶⁴ *De Magistratibus* 3.49.1-2.

⁶⁵ *Chronographia* 16.12.

⁶⁶ Karabantis (2015:55-57) sees the references as rhetoric, not fact based, simple “hyperboles”.

⁶⁷ *Nov.* 38.

⁶⁸ It is noteworthy that as early as 428, the bishop is envisaged as functioning alongside the *defensor* in civic matters – *CTh.* 15.8.2. Bishops were prohibited from secular tax collection and so they would not have involved themselves with the *vindex* – *CTh* 16.2.1.

⁶⁹ *Defensor* - *Nov.* 15. Governor – *App.* 7.12. In having bishops elect *defensores*, Justinian was simply reaffirming the established practise of Honorius and Theodosius in 409 – *CJ* 1.55.8, and Anastasius in 505 – *CJ* 1.55.11. Never before however was a bishop involved in a governor’s election.

evidence below shows how a late antique bishop could engender a civic position solely based on his own *auctoritas*, yet conversely, as will be shown, Gregory's episcopate and his civic position was based solely on law. Hence, a brief summary of the Merovingian episcopate serves as a marker by which to judge and contrast the endorsed and legalised position of the Justinianic bishop within the *civitas*. Further, while there is a plethora of evidence for the civic role of bishops throughout this period,⁷⁰ which attests to a general "*aristocratisation de la fonction episcopale*" throughout the Mediterranean,⁷¹ nowhere else offers such a concentration of examples. Due to the large number of episcopal patrons in his works, I have used the poetry of Venantius Fortunatus, which collectively affords a better means of looking at different bishops and their individual reactions to the changing nature of the episcopate.⁷² Here I have chosen to focus on two key aspects of the Merovingian episcopate which show clear parallels with contemporary aristocratic society: hereditary office and euergetism.

The first aspect which shows immediate parallels to the lay world of aristocracies is the manner in which certain sees almost became the fiefdom of a certain family.⁷³ This is seen at Limoges with the Ruricii, where a grandfather and then grandson each held the see, both commemorated on a joint epitaph.⁷⁴ For Brennan, "here we see that the elder Ruricius has left behind him a pattern of episcopal conduct to be imitated by his descendant who strives to equal or outdo him."⁷⁵ That it was the grandson and not the son taking up this spiritually-defined mimesis, further implies that the grandfather did indeed have a profound influence upon later generations of the Ruricii.⁷⁶ Other examples of this include Felix of Nantes who succeeded his father,⁷⁷ with Cronopius of Perigueux "believed to have been born to inherit a bishopric" owing to an episcopal heritage on both sides of his family.⁷⁸ With Gregory of Tours, even two episcopal antecedents were not enough: while dominating the see of Tours

⁷⁰ Supra.

⁷¹ E.g. Gaul – Van Dam (1985:passim esp. 154-156), Rome (and quote) – Lepelley (1998:21), North Africa – Lepelley (1998:22), Spain – Ventura (245, 251-254), Italy – Brown (1984:181, 185-186, 189).

⁷² For a narrower focus upon a single civic-minded Gallic bishop, the letters of Avitus of Vienne are of great worth – Shanzer & Wood (2002).

⁷³ On this well observed development, see Van dam (1985:202-211) and Rapp (2005:195-199).

⁷⁴ Fortunatus *Opera Poetica* 4.5.

⁷⁵ (1992:134).

⁷⁶ Fortunatus *Opera Poetica* 4.5.9-10.

⁷⁷ Ibid. 4.1.31-2.

⁷⁸ Coates (2000:1116), Fortunatus *Opera Poetica* 4.8.7-8.

with up to nineteen successive familial bishops, he could have also cited relations from Clermont, Auvergne, Langres and Lyons.⁷⁹

For those aristocratic bishops with a lay heritage, yet still hoping to establish a pedigree, hagiography could be the answer. Thus Germanus of Paris, Domitianus of Angers and Pascentius of Poitiers, by writing the *Vitae* of other sainted bishops, “were anxious to be perceived as the direct heirs of their predecessors, perpetuating their holiness and authority.”⁸⁰ Finally, in the same way that emperors would look to the Old Testament for kingly paradigms from which to garner Christian legitimacy,⁸¹ Justinian himself included,⁸² aristocratic bishops could, just as the Ruricius son could for his grandfather, follow their own program of ecclesiastical mimesis. Hence we find Germanus of Paris imitating Aaron, Paternus of Aravanches Moses,⁸³ and Gregory following the lead of Gregory of Nazianzus (Patriarch of Constantinople 380-381).⁸⁴ For modern conceptions one only has to note the current Roman Bishop’s supposed Petrine heritage.

Euergetism, from the Greek *εὐεργετέω* – ‘to do good services’, was another central aspect of the aristocratic ethos and a term which broadly speaking, revolved around the wealthier citizens of a community financing benefactions which afforded the citizenry as a whole an enhanced civic pride, and the benefactor increased *auctoritas*. A central facet of clerical duty, pastoralism was another broad term which can be juxtaposed with aristocratic euergetism.

We see possible examples of this juxtaposition in a variety of contexts. A Merovingian bishop’s euergetistic pastoralism could be expressed in times of crisis, as with Leontius of Bordeaux and Cronopius of Perigueux where fire and famine were combatted;⁸⁵ through public works such as the straightening of the Loire by Felix of Nantes, Sidonius of Mainz’s embankment of the Rhine or Didier of Cahors’ aqueduct;⁸⁶ civic construction, with churches, oratories and reliquaries falling in this category due to their newfound centrality in

⁷⁹ Heinzelmann (2015:7-21). Cf. Wood (1994:87) - The notion of clerical dynasties was well known, yet not so secure that even Gregory of Tours could be called an “outsider” during times of crisis.

⁸⁰ Coates (2000:1114-1115).

⁸¹ Dvornik (1966:676-677, 699, 736-737, 784, 795, 823).

⁸² *Infra*.

⁸³ Germanus - Fortunatus *Opera Poetica* 2.9.31; Paternus – Fortunatus *Vita Sancti Paterni* 8.

⁸⁴ Ekonomou (2000:20-21).

⁸⁵ *Opera Poetica* 1.15.47-52; 4.8.23-6. On the role of bishops during times of crisis, see Neil & Allen (2013).

⁸⁶ Felix – *Opera Poetica* 3.10.2; Sidonius – *Opera Poetica* 9.9; Didier (7th century) – *Desiderii episcopi Caudurcensis epistolae* 1.13.4.

community life;⁸⁷ or through the more traditional form of pastoralism, providing for the needy through clothing, money or food.⁸⁸ While these activities do indeed push the Merovingian bishop towards an increasingly secular form of ecclesiastical *auctoritas*, it is his activities as ransomier which fully encapsulate the spirit of a *patronus civitatis*.⁸⁹

By the 5th century ransoming of captives had become “an integral ingredient of episcopal self-definition,”⁹⁰ and according to an early 5th century law, if a captive could not afford to immediately reimburse his saviour he should “render recompense for the favour by...labour, subservience, or services during a period of five years, and then they shall have their freedom unimpaired.”⁹¹ Whether or not the surge in episcopal ransoming from the 5th century onwards was in any way connected to this clause is impossible to tell. However, even if ransoming was an ideal means of bishops employing the Christian virtues of *caritas* and *fides*,⁹² it nevertheless allowed them to mould and infuse the Roman system of patronage within their own ecclesiastical *auctoritas* by ‘gathering’ those captives too poor to repay the ransom as legally bound dependants or *clientes*. Further, as shown by Klingshirn,⁹³ it is in this sense that even clerical pastoralism, in the strict sense of food, money and clothing, could foster this patron client relationship. This leads to my final point, patronal episcopal titlature.

Just as bishops could embody secular attributes through their activities, we also see this phenomenon via the way in which Fortunatus variously describes his bishops. Hence the terms “*flo generis*”, “*tutor patriae*”, “*correctio plebis*”, “*defensio plebis*”,⁹⁴ “*pater patriae*”, “*urbis amator*”, “*pater populi*”,⁹⁵ “*pater urbis*”,⁹⁶ “*pius pater*”⁹⁷ and finally, perhaps the most evocative example, “*pater et pastor populi*.”⁹⁸ Such titles are to be expected from a poet who

⁸⁷ See Agudo & Martin (2015) for clerical euergetism via church building in a 6/7th century Visigothic context.

⁸⁸ *Opera Poetica* 5.4.3-4, 8.15.3-6 for Fortunatus’ praise of Gregory of Tours’ pastoralism. Also see Lepelley (1998:19) for parallels to inadvertent secular pastoralist patrons “Si le patron distribuait fréquemment (parfois quotidiennement), des vivres à ses clients démunis, sa mission n’était cependant pas destinée en priorité au secours des pauvres et des opprimés, contrairement à celle de l’évêque.”

⁸⁹ Coates (2000:1122) and Brennan (1992:131).

⁹⁰ Klingshirn (1985:185-186).

⁹¹ *Constitutiones Sirmondianae* 16 (trans. Pharr p.486).

⁹² Cyprian of Carthage *Epistolae* 62.1, 62.3.

⁹³ Klingshirn (1985:203).

⁹⁴ Felix of Nantes – *Opera Poetica* 3.5.5, 3.8.17.

⁹⁵ Gregory of Tours – *Opera Poetica* 8.16.3, 5.3.5, 10.12.8.

⁹⁶ Avitus of Clermont – *Opera Poetica* 3.21.1.

⁹⁷ Albinus of Angers – *Vita Sancti Albini* 8. See also *CJ* 8.12.1 for the secular official *pater civitas*.

⁹⁸ Germanus of Paris – *Vita Sancti Germani* 76.

was seeking to “articulate his perception of episcopal power” through language employed in imperial panegyric.⁹⁹ Yet, even if the episcopate’s innate patristic ethos naturally fostered the use of such terminology within Fortunatus’ poetry, the notion of an unofficial communal guardianship under the bishop was also commonly expressed via imperial legislation, thus “degli indirizzi patristici inerenti ai compiti vescovili fino al punto da recepire nella società civile il *pater ecclesiae* quale *pater civitatis*.”¹⁰⁰

I have by no means attempted to outline *all* the aspects of the Merovingian episcopate which mirrored aristocratic society, merely a few select points. The purpose here was to simply demonstrate that in a society where a bishop’s civic standing and authority depended upon his own *auctoritas* – which was increased via certain activities such as those outlined above, rather than legal sanction¹⁰¹ – he could still find himself well established in the *civitas* with a host of attached civic duties. A civic bishop was a product of the times, yet the following chapter shows that Justinianic ideology, through the medium of legal codices, not only legally ratified a bishop’s unofficial quasi-aristocratic civic presence,¹⁰² but actively expanded it.

⁹⁹ Coates (2000:1120). On other instances where secular imagery and language were used with Fortunatus’ bishops, see George (1987:191-194) and Brennan (1992:119-120, 123-125, 127-129, 131-132).,

¹⁰⁰ Adesi (1998:50).

¹⁰¹ Wood cites familial ties, relationships with royal courts and the cult of saints as other integral aspects of an unofficial and at times unpredictable episcopal *auctoritas* (1994:71-87).

¹⁰² On Merovingian ecclesiastical legislation, see Wood (1994:104-107) and Halfond (2012). See also *Capitularia Merovingia* 9 for Clothar II’s ecclesiastical judiciary. While there were certainly Merovingian laws concerning the Church, the laws were more a means of councils having their canons legalised, as opposed to the state giving definitive civic powers to the church, as is seen with Justinian’s codices.

Chapter 1. *Deus Vult*: Justinianic Ideology

As the crux of this thesis revolves around Justinianic ideology and how this may have influenced the role of bishops within the *civitas*, we must first gauge what is meant by the term 'Justinianic ideology'. In order to deconstruct such a concept, three different aspects of Justinian's reign will be assessed. The most tangible is Justinian's building program, specifically his church building. The second body of evidence is Justinian's legal corpus which forms the foundation of this thesis. Finally, I shall discuss how Justinian's ideology may be inferred from his correspondence. In order to fully contextualise this evidence, I shall also briefly discuss the complex relationship between Rome, Constantinople and Ravenna during this period, and how Justinian's ideology may have influenced Gregory's role in this relationship.

Churches

To Justinian, church and state were two interdependent yet mutually beneficial paradigms of Eusebian theory, and if a properly attended faith was a pillar upon which the empire stood,¹⁰³ only through the building of churches could this faith be facilitated. Justinian is thought to have constructed 96 churches in Asia Minor alone, with a further 155 in North Africa.¹⁰⁴ So close to Constantinople, the figures for Asia Minor are not unduly high, and even if such numbers for North Africa may seem ambitious, the evidence during this period consistently points to the centrality and dominance of churches within urban communities.¹⁰⁵ In this most literal of senses, it is immediately clear that Justinian wished to propagate urban Christianity. However, in the specific context of a blurring of the ecclesiastical and secular spheres, as embodied by the civic role of bishops, one church in particular deserves attention; the basilica of San Vitale in Ravenna.

Founded in the 520's, the basilica of San Vitale was finished under Justinian once he reconquered Italy in 547.¹⁰⁶ The interior is adorned with mosaics, one of which is of key

¹⁰³ *Nov.6.pref.*, *109.pref.*, *132.pref.*, *137.pref.*

¹⁰⁴ See Genakoplos (1966:182-183) for a summary of Justinian's church building.

¹⁰⁵ Leone (1997:168, 178, 183-189, 197-198, 228-232, 235-237).

¹⁰⁶ Homan (2006:32-33)

relevance as it depicts Justinian alongside the Old Testament figure of Melchizedek.¹⁰⁷ Despite being referenced only twice in the bible; at Psalms 110:4 where King David is mysteriously cited as “a priest forever in the line of Melchizedek,” and at Genesis 14:18 where Melchizedek is cited as “King of Salem,” he has nevertheless had a profound influence on Christian kingship theory.¹⁰⁸ From these references it is thought Melchizedek was both priest of El Eyon and King of Salem.¹⁰⁹ What matters here is that El Eyon was a Canaanite deity with its own cult, of which, the local king (Melchizedek) also held the high priesthood. Therefore, this “enthronement psalm represents the taking over of this priest-kingship by the Israelite king”, with the “forever in the line of Melchizedek” referring to “the perpetual holding of this priest-kingship by the Davidic dynasty,”¹¹⁰ from which Byzantine emperors later drew Christian legitimacy.¹¹¹ Having established who Melchizedek was purported to be,¹¹² it is necessary to explain the Justinianic connection. This is inferred from the San Vitale mosaic, which depicts Justinian and Melchizedek juxtaposed: the former carrying bread as the sacrificial Eucharist, in place of the priest, and the latter adorned in imperial purple, thus symbolising the emperorship. Excluding interpretations which see this relationship as a means of Leo III excusing his meddling in theology and doctrine in the 8th century during the Iconoclasm,¹¹³ the key here is that through this juxtaposition, Justinian is sanctioning the theoretical blurring of the ecclesiastical and secular spheres of authority, which one ultimately sees borne out via his legislation on civic bishops.¹¹⁴ Although Melchizedek features in earlier Romano-Christian iconography, most notably at the basilica of Santa Maria Maggiore, his role there is simply to offer sacrifice to a togate Abraham, who, of the two clearly has more connection with the office of *imperator*. Thus, the mosaic of San Vitale affords Melchizedek a special place in the context of Justinianic ideology. While Justinian may have indeed been using the figure of Melchizedek to excuse his own theological meddling,

¹⁰⁷ For an overview of the complexities surrounding this mysterious figure and the long tradition surrounding him, see Horton (1976).

¹⁰⁸ On Melchizedek’s influence on Christian kingship theory as late as the 12th century, see Kuehn (2010).

¹⁰⁹ Horton (1976:13-33, 38).

¹¹⁰ Horton (1976:38).

¹¹¹ Supra n.97.

¹¹² Whether or not he was a historical figure is not here relevant (on this see Horton 1976:39n.2, 3; 51), rather what Melchizedek represented in Christian thought: a priest-king and “a type of Christ” which blended “royalist theory” and “papalist thought” (Kuehn 2010:560).

¹¹³ Dagron (2003:168-191). See also Humphreys (2015).

¹¹⁴ This notion is directly expressed at *Nov.* 7.2, and less directly at *CAV.* 196.

that he even did so, plainly shows that to him, the theoretical blurring of the ecclesiastical and secular spheres was acceptable, even desirable, whatever its ‘application.’¹¹⁵

Laws

The next evidence from which to form an image of Justinianic ideology are his *Codex* and *Novellae*. For means of pragmatism and relevance to the topics discussed herein, it is necessary to categorise the selected constitutions within four themes, three corresponding to chapters: judiciary (2), administration (3) and doctrinal unity (4), and the last to general imperial harmony.

Judiciary

The evidence for the judicial activity of a Justinianic bishop may be subcategorised into constitutions which directly pertain to the bishop’s role as *iudex* and those which fall under his mediating role¹¹⁶ as a tangible embodiment of the *lex Christiana*, the timeless guardian of Augustine’s *Civitate Dei*.¹¹⁷ In matters of strictly ecclesiastical judiciary, the Justinianic bishop was the first point of reference,¹¹⁸ and so in following the precedent established by Constantine’s *audientia episcopalis*, it is perhaps of no surprise that Justinian also sought to cast his bishops as equally viable alternatives to secular judicial frameworks.

Novella 86 is solely concerned with providing an alternative to the provincial governor as the final say in all matters of civil judiciary:¹¹⁹ “If the person who goes before the president fails to obtain his rights, we direct him to go to the holy bishop of the place, so that the latter may communicate with the president or personally meet him, to induce him to send the claimant from his court.”¹²⁰ Further, if the governor was not forthcoming, the bishop could

¹¹⁵ Dvornik (1966; Vol. 2. 645) – “Jewish royal tradition was kept alive in Constantinople by such symbols as the throne of Solomon and the tables of David and Solomon, which had their special place in the intricate court ceremonial. The Byzantine emperors thus gained the reputation of being the successor of the kings of the Old Testament and heirs of their priesthood *whatever this implied*” (my italics).

¹¹⁶ In temporal matters, the bishop was often an unofficial mediator, using his ecclesiastical *auctoritas* to settle communal issues. In the strictest sense, his role as ransomier and diplomat is a clear representation of this role. On bishops as ‘pacifiers and instigators’ in the context of theological conflict in urban society, see Kahlos (2014:63-82).

¹¹⁷ Harries (2014:62).

¹¹⁸ *Nov.* 79, 83; *CJ.* 1.4.29

¹¹⁹ See also *CJ* 1.4.29.

¹²⁰ *Ch.* 1.

write to the emperor informing him of such negligence, upon which the governor would then be penalised.¹²¹ Even prior to a case being heard, the bishop may be approached to hear the case jointly and so “end the litigation by effecting an amicable agreement.”¹²² Finally, the bishop could also function as a check for the governor, whereby his dissatisfied litigants could seek out the bishop, who would hold his own inquiries as to who was in the wrong, and just as before, the governor could be punished if he did not affirm the bishop’s ruling.¹²³ However, while eager to place the *episcopae iudicum* on parity with that of the governors’ own *iudicum*, Justinian was wise enough to insert a clause punishing bishops suspected of subverting such authority through “favouritism.”¹²⁴

While two single constitutions may in themselves not warrant a great emphasis upon the bishop’s civic judicial authority, it is in the role of legal watchman¹²⁵ that the Justinianic bishop really makes his presence known. To use a rather wobbly analogy, in the same way that a Justice of the Peace would certify one’s identity, original documents, administer oaths or witness affidavits, a Justinianic bishop was required to bear witness to a whole host of legal proceedings within the *civitas*. In the event of such proceedings, the bishop was sometimes there to simply witness, other times to oversee and potentially intervene, and in the absence of magistrates, even take the latter’s place.

In terms of acting as witness, a bishop could be present at a very wide range of proceedings, there usually in conjunction with at least one other municipal magistrate or on occasion with other ecclesiastics. Such proceedings included: guardianship of the insane¹²⁶ and minors;¹²⁷ assessment of sureties and guaranties;¹²⁸ magistrates taking office;¹²⁹ governors taking office;¹³⁰ burial management;¹³¹ curial legacies;¹³² chapel or monastery

¹²¹ Ch. 1.

¹²² Ch. 2.

¹²³ Ch. 4.

¹²⁴ Ch. 6.

¹²⁵ Sessa (2011:20).

¹²⁶ *CJ.* 1.4.27 – alongside the governor and “three ecclesiastics of the highest rank”. Repeated at 5.70.7.

¹²⁷ *CJ.* 1.4.30 – alongside the *defensor* “chief officer (*στρατηγός*)” and “other public officials, if the city has any.” Also see *Nov.* 155.*ep.* – here issuing the constitution alongside the *magister militum*.

¹²⁸ *CJ.* 3.2.4 – alongside the *defensor* and *curator*. See also 1.4.26 alongside the *pater* and *defensor*.

¹²⁹ *Nov.* 8.14.

¹³⁰ *Nov.* 17.16 (trans. Scott. This chapter is omitted by Blume).

¹³¹ *Nov.* 43 – here issuing the constitution alongside “our magistrates.”

¹³² *Nov.* 101.3 – alongside the *defensor*.

building;¹³³ the manumission of Christian slaves belonging to non-Christians;¹³⁴ serfs;¹³⁵ and eunuchs.¹³⁶

In their policing capacity,¹³⁷ the bishops were there principally to monitor the imperial and municipal magistrates, as opposed to watching over the populace itself, which was ostensibly the duty of the *defensor*. However, as the evidence shows, policing magistrates and protecting the populace often went hand in hand. Indeed, in one constitution, the bishop appears cast as the very epitome of a *defensor*:

And we further give leave to the provincials, if any magistrate therein perpetrates injustice and inflicts damage or wrong on our subjects to send petitions to us through the bishop, beloved of God, and through the primates of the place, explaining the wrongs of the magistrate. And when we have this information, we shall send an examiner into the province to investigate the matter.¹³⁸

The same constitution describes how errant magistrates, who were required to remain in their province for fifty days in order to answer for any wrongdoings during their term, were liable to a form of citizen's arrest and recompense, all under the bishop's watch.¹³⁹ In keeping with the parity between a bishop's and governor's *iudicium*, this ruling similarly applies to governors wishing to avoid damages at the end of their term.¹⁴⁰ More strictly with regard to magisterial practise, a bishop was also expected to: prohibit the use of deputies and punish those who did with property confiscation and enforced monasticism,¹⁴¹ prevention of embezzlement by *defensores* and *chartularii* (record-keepers),¹⁴² and making sure governors followed imperial orders.¹⁴³

Owing to their new judicial standing within the *civitas*, Justinian further envisaged that in the absence of magistrates, a bishop could even function as their legal proxy. Just as with the

¹³³ Nov. 131.7 – alongside the bishop's "steward and the civil magistrate."

¹³⁴ CJ. 1.3.54.

¹³⁵ CJ. 1.4.24.

¹³⁶ Nov. 142.2 – alongside the governor.

¹³⁷ Brown's comment that "the emperors valued the church as a watchdog" (1984:176) is telling in this context.

¹³⁸ Nov. 8.8.

¹³⁹ Ch. 9.

¹⁴⁰ Nov. 128.23.

¹⁴¹ Nov. 134.11.

¹⁴² Ed. 1.1.

¹⁴³ Ed. 12.2.

aforementioned cases, this also warranted a highly varied communal responsibility: mediator between creditor and debtor,¹⁴⁴ overseer of dowries and “betrothal gifts;”¹⁴⁵ property proscription;¹⁴⁶ emphyteutic leasing;¹⁴⁷ the protection of women in public;¹⁴⁸ regulation of gambling;¹⁴⁹ debt management;¹⁵⁰ regulation of prostitution;¹⁵¹ divorce management;¹⁵² military supplies;¹⁵³ and property possession.¹⁵⁴

Administration

As with the evidence for the judicial role of the Justinianic bishop, the evidence for him being involved in civic administration is equally fluid,¹⁵⁵ yet it may also be argued that much of the above evidence pertains to a bishop’s administrative responsibility. This is clearly seen too with the bishop’s role as civic elector: *defensor*;¹⁵⁶ *curator*;¹⁵⁷ and *frumentarius* (grain-purveyor);¹⁵⁸ while the bishop was even expected to help elect the provincial governor.¹⁵⁹ Aside from elections, the bishop was also expected to carry out and oversee a number of different duties within the *civitas*: organise military quartering on civilians;¹⁶⁰ ransoming;¹⁶¹ management of the civic treasury which included auditing the accounts and supervising its

¹⁴⁴ *CJ.* 1.4.21; 4.30.14.

¹⁴⁵ *CJ.* 1.4.28; 5.4.25.

¹⁴⁶ *CJ.* 1.4.31.

¹⁴⁷ *CJ.* 1.4.32; 4.66.4.

¹⁴⁸ *CJ.* 1.4.33.

¹⁴⁹ *CJ.* 3.43.1.

¹⁵⁰ *CJ.* 7.40.2.

¹⁵¹ *Nov.* 51.1.

¹⁵² *Nov.* 117.13.

¹⁵³ *Nov.* 130.5.

¹⁵⁴ *Nov.* 167.1 (trans. Scott. Despite the Latin being ‘*sacerdos*’ which is commonly translated as ‘bishop’, as opposed to ‘*presbyter*’ usually for ‘priest’, Blume gives the latter here). The two terms are however seemingly interchangeable depending on the translator. See for example how ‘priest’ is given for *sacerdos* by Pharr at *CTh.* 16.2.31, 35, 43. Cf. 16.2.23 where ‘priest’ is given for *presbyter*, and 16.2.41 where bishops are listed alongside priests in the same constitution and ‘priest’ is given for *presbyter* twice.

¹⁵⁵ For another perspective on “the Bishop as New Urban Functionary,” see Rapp (2005:274-289).

¹⁵⁶ *Nov.* 15.*ep.* Alongside the “clergy and inhabitants of good reputation.”

¹⁵⁷ *CJ.* 1.4.27. Alongside the governor and “three principal ecclesiastics of the diocese.” See also *Nov.* 128.16.

¹⁵⁸ *Nov.* 128.16. Alongside the “primates” and *possessores*. Curiously, in this context, where the *curator* is also referenced, the group is also expected to appoint “other administrators of that sort,” though no further details are given.

¹⁵⁹ *App.* 7.12. Alongside the “chief men of the region.”

¹⁶⁰ *App.* 4.4. Here alongside the “magistrates of the places.”

¹⁶¹ *CJ.* 1.3.48. On the implications of this activity, see above n.108.

expenditure on walls, towers, baths, aqueducts, ports, bridges and pavements;¹⁶² and finally supervising the settling of exiles.¹⁶³

Unity of the Church

An equally central aspect of Justinian's legislation is concerned with regulating the church and clergy themselves. Aside from hopes of re-establishing a universal Christian empire, on a much smaller scale, Justinian could implement this vision on a local basis within individual churches. Even a brief overview of Justinian's ecclesiastical legislation expresses a wish to grant the church and clergy a uniformity from which to present a unified front to the schismatic bishops and patriarchs throughout his empire.¹⁶⁴ In order to do this, Justinian legislated on: the number of ordinations,¹⁶⁵ ordinations themselves,¹⁶⁶ marriage/children,¹⁶⁷ simony,¹⁶⁸ living arrangements,¹⁶⁹ property management,¹⁷⁰ inheritance,¹⁷¹ judiciary,¹⁷² travel,¹⁷³ consecrations,¹⁷⁴ prayer/hymns,¹⁷⁵ gambling¹⁷⁶ and finances.¹⁷⁷ Aside from laws which regulated specific aspects of the church and clergy, Justinian also makes reference to the importance of a unified clergy. In the statements below the importance of and wish for clerical uniformity is expressed, while in the final example, this clerical uniformity is then juxtaposed with the state's prosperity and strength.

¹⁶² *CJ*. 1.4.26. Alongside "three men of good repute from among the chiefs of the city", the bishop was expected to appraise each of the works before allowing money to be spent on them. This law also stipulates that no magistrates were to manage the public treasury; this had been prior established by Zeno in 409 (*CJ* 8.12.1) but the authority for bishops to do so was only granted by Justinian.

¹⁶³ *CJ*. 9.47.26.

¹⁶⁴ For an overview of the Three Chapters Controversy which arose from Justinian's failed efforts to reconcile the Chalcedonians and non-Chalcedonians, see Chazelle & Cubitt (2007).

¹⁶⁵ *Nov.* 3.

¹⁶⁶ *Nov.* 5.9; 123.1, 15, 18, 34; 6.1, 4; 57.2; 123.12, 13, 14, 15, 34; 137. *pref*, 1, 2, 3, 4. *CJ* 1.3.41.2; 1.3.46; 1.3.47; 1.3.52.

¹⁶⁷ *Nov.* 5.8; 6.1, 5; 123.1, 12, 14, 29; 123.39, 40; 137.2. *CJ* 1.3.41.2, 4; 1.3.44. *pref*, 2.

¹⁶⁸ *Nov.* 6.5; 56; 123.1, 2, 3, 16; 137.2; *CJ* 1.3.41.19, 20, 21, 22, 23.

¹⁶⁹ *Nov.* 6.6; 123.12, 29, 30, 36. *CJ* 1.3.43.1, 2, 3, 5; 1.3.44.1.

¹⁷⁰ *Nov.* 7.1, 3, 4; 40; 46.1; 54.2; 55.1, 2; 67.4; 120.5, 6; 131.10, 13. *CJ* 1.3.41.11, 12, 13, 14, 17, 18; 1.3.43.4; 1.3.45.1, 3.

¹⁷¹ *Nov.* 5.5; 6.6, 7; 123.19, 30, 38; 131.4, 13. *CJ* 1.3.41.5, 7, 10; 1.3.49.

¹⁷² *Nov.* 79.1; 83.1; 115; 123.10, 11, 14, 20, 21.

¹⁷³ *Nov.* 6.2; 67.2; 123.9, 42. *CJ* 1.3.42.1.

¹⁷⁴ *Nov.* 5.1; 67.1; 131.10.

¹⁷⁵ *Nov.* 137.6. *CJ* 1.4.31.24, 25, 26.

¹⁷⁶ *CJ* 1.4.34.

¹⁷⁷ *Nov.* 6.8; 57.1; 59.2, 3, 5, 6; 120.6; 123.16, 23, 28; *CJ* 1.3.41.16.

“We believe the first and greatest good for all men to be the right confession of the true and pure Christian faith, so that it may be strengthened thereby in every respect and all holy priests may be joined in concord and with one accord profess and preach the right Christian faith.”¹⁷⁸

But we strive in every way that the whole empire may enjoy the clemency of the great God and of Jesus Christ, the Saviour, through the purity of religious men, which must be maintained by the clergymen, the monks and the bishops, high or low, mindful of the sacred canons and of our laws and constitutions enacted concerning them.¹⁷⁹

We are strongly convinced that the purity of the members of the priestly order, their good discipline, and their love of our lord God and of Jesus Christ, and finally their prayers, continuously offered up by them bring about great good will toward, and blessing to, our state...and as the influence and honour of the clergy increases, we hope, to that extent, for an increase of our state.¹⁸⁰

Thus, as a collective body, Justinian’s laws afford a definitive image of Justinianic ideology: only through a faith propagated by ardent and harmonious clergymen could the state and church collectively live up Justinian’s much sought mimesis of the Kingdom of Heaven.

Letters

The final piece of evidence from which to corroborate the sentiment of ecclesiastical unity is Justinian’s own correspondence. Between 518-540 Justinian communicated with successive Roman bishops, of which Hormisdas (514-523) was the most vocal. Thus, of the thirteen letters addressed to Justinian, six were written by Hormisdas.¹⁸¹ Similarly, of the replies, Justinian wrote to Agapetus (535-536) once,¹⁸² with the remaining letters all

¹⁷⁸ *Nov.* 132.*pref.*

¹⁷⁹ *Nov.* 133.6.

¹⁸⁰ *CJ* 1.4.34.*pref.* Cf. *CTh* 16.2.16 “We are aware that Our State is sustained more by religion than by official duties and physical toil and sweat” (trans. Pharr 443).

¹⁸¹ Addressed to Justinian – *CAv.* 82, 83, 84, 85, 88, 91, 92; from Hormisdas 148, 154, 155, 189, 206, 207.

¹⁸² *CAv.* 89.

addressed to Hormisdas.¹⁸³ Far from a full analysis of these letters,¹⁸⁴ I instead note the overriding ideological sentiment which pervades his correspondence: unity. It must be remembered that around the time these letters were written (518-520), Rome and Constantinople were enveloped by the Acacian schism, a conflict which arose over the harmonising efforts of Byzantine Emperor Zeno (474-491) and the Patriarch of Constantinople Acacius (472-489). Zeno's *Henotikon* was an ambitious yet unsuccessful attempt to appease then unify Chalcedonians and Non-Chalcedonians whom had drifted apart since the Council of Chalcedon in 451.¹⁸⁵ The Acacian schism only ended in 519 through the reconciliation of Hormisdas and Justin I (518-527). It is in this context that the imperial heir Justinian propagates several notions of ecclesiastical *concordia*: a common faith,¹⁸⁶ episcopal proliferation of unity,¹⁸⁷ east/west unity,¹⁸⁸ and finally, *concordia universalis*.¹⁸⁹ With Justinian so involved with Justin's religious policy, the unity so sought during these years may well represent early manifestations of his own religious policy, which, in a typically Justinianic way, attempted to bulldoze the opposition and recast the empire as one universal entity.¹⁹⁰

Rome, Ravenna and Constantinople¹⁹¹

This thesis focuses primarily upon the parallels between Justinian's laws and the episcopate of Gregory the Great, yet such considerations cannot be taken out of context. Gregory's Rome was no longer the Rome of power that dominated the Empire; Constantinople had supplanted it there and even in Italy, the city of Ravenna had eclipsed Rome from the 5th century,¹⁹² a fact cemented under Justinian.¹⁹³ Gregory's Rome was now directly answerable to the Ravennan exarch, an imperial viceroy himself answerable only to

¹⁸³ Ibid. 147, 162, 187, 188, 191, 193, 196, 200, 235, 243.

¹⁸⁴ For a commentary of the *Collectio Avellana*, see the upcoming publication from Chicago University - <http://www.luc.edu/collectioavellana/index.shtml>.

¹⁸⁵ For a brief survey, see Gray (2005:224-225).

¹⁸⁶ CAv. 162, 191.

¹⁸⁷ CAv. 162, 187, 188, 191, 235.

¹⁸⁸ Ibid. 162, 191, 200.

¹⁸⁹ Ibid. 188, 193.

¹⁹⁰ For a summary of Justinian's quest for religious unity, see Gray (2005:227-236). Cf. n.282 below for Justinian's persecutions of ill-defined 'pagans.'

¹⁹¹ For this relationship in the Justinianic period, see Bjornlie (2012).

¹⁹² Collins (2008:126-134).

¹⁹³ Bury (1923:Vol.2, 283).

the emperor.¹⁹⁴ While Rome came under one of several regional military *duces*,¹⁹⁵ Gregory's correspondence attests to an overall neglect from such officials, often leaving him in charge of its administration. Further complicating this relationship was the archbishop of Ravenna who received noteworthy honours under Justinian,¹⁹⁶ a move which led him later to push for greater autonomy from the Roman Bishop, his traditional primate.¹⁹⁷ That the archbishop and exarch had a mutually beneficial relationship only complicated matters for a Roman Bishop trying to tread a line between imperial allegiance and Petrine supremacy. Such issues only pertained to Gregory and his Rome directly, yet it must be remembered that from as early as the 5th century with the Acacian schism, Rome and Constantinople had been under a blanket of distrust and poorly veiled animosity:¹⁹⁸ once more Petrine supremacy being challenged by the imperially backed Patriarch of Constantinople.¹⁹⁹ Thus, while the focus of this study is decidedly narrow, one cannot avoid the larger picture and its influence upon the individuals therein.

This chapter has taken a tentative step towards defining 'Justinianic ideology,' which the overriding themes of divine ordination, imperial harmony and episcopal intervention clearly expressed. The following chapters will show how such ambitions are discernible in the episcopate of Gregory the Great.

¹⁹⁴ Diehl (1888).

¹⁹⁵ Ibid. 19n.2, 31.

¹⁹⁶ Maximian was Justinian's "protégé" (Brown 1979:7-8) and was rewarded accordingly with an ivory throne (Milburn 1988:250), a place in the San Vitale mosaics and the right to wear the pallium, a woollen band traditionally only granted by the Roman bishop to his most prominent suffragans (Shahan 1922).

¹⁹⁷ Brown (1979:9-11).

¹⁹⁸ For an overview, see Gray (2005).

¹⁹⁹ For Gregory's relationship with Constantinople, see Ekonomou (2000:1-69).

Chapter 2. *Sacerdosque Iudex*: The bishop's court

When discussing the judicial role of bishops in late antiquity, modern scholarship tends to pivot upon the legislation of Constantine and the *audientia episcopalis*. Yet the bishop's natural function as mediator ensured that both before and after Constantine's imperial patronage, the bishop maintained his position as a communal mediator regardless of what the law said he could or could not do.²⁰⁰ Focusing less on matters of general dispute, a Justinianic bishop was much more involved in judiciary through specified legal responsibilities. That these responsibilities are so plainly on show within the correspondence of Gregory the Great, makes this evidence the perfect means of assessing a bishop's civic judicial role. This chapter will discuss such responsibilities: protection of women and children; role with wills, debt and property management; plus his policing of imperial officials.

"Pater orphanorum et iudex vidarum"²⁰¹

Gregory's treatment of women has been noted as belying a stronger concern than would simply be expected as part of any clergyman's inherent patristic ethos to care for the vulnerable.²⁰² Justinian also nurtured this pastoral desire: *CJ* 1.4.30 regulates the guardianship of minors and their property, under the watch of bishops; 1.4.33 affords women episcopal protection from being forced onto or out of theatres/public stages and unlawful court summons; *Nov.* 51 gives this protection to those desiring to leave prostitution; 153 enjoined the archbishop of Thessalonica to protect abandoned children who are later reclaimed by their parents as slaves; *Nov.* 155 expands *CJ* 1.4.30, but describes a case where a remarried, formerly widowed mother tried to overrule the daughter's right to her father's property in favour of the children from her second marriage, with Justinian reaffirming the daughter's right to the inheritance. That Justinian, like Gregory, also had a concern for the most vulnerable is evident. How a transmission of these laws, which all posit the bishop as a

²⁰⁰ Sessa (2011:23).

²⁰¹ Psalms 68:5, *Reg.* 1.60.

²⁰² Martyn (2010). See Matt. 25:31-46; Prov. 31:8-9; Isa. 25:4-5; Luke 4:16-21; Ex. 22:20-26 for this duty.

legal guardian for women and children, may be discernible within the correspondence of Gregory, will now be discussed.

Before any temporal consideration, a clergyman would have been all too aware of the pastoral responsibility placed upon him; politically and socially mute women and children were just as in need of assistance as the poor masses. Thus, the evidence for this behaviour from Gregory needs to be treated carefully as it cannot always said to be definitively borne from Justinian's legislation. Therefore I shall first briefly treat those examples which could fall under a scriptural precedent of protecting the vulnerable, while still in some way conforming to the general ethos of Justinian's laws which afford protection for women, minors and orphans. I shall then discuss examples which show stronger parallels with Justinian's legislation.

In terms of a general assistance to women, Gregory twice shows himself the typical pastor: granting a woman "our protection,"²⁰³ and another the "protection of the church."²⁰⁴ With regard to scriptural precedent, Gregory explicitly states his own views on a bishop's responsibility for widows and orphans:

If our Lord himself, by the witness of Holy Scripture, declares he is the husband of widows and father of orphans, then we also, as members of his body, ought to strive to imitate his head, with the greatest effort of our will, and preserving justice, we must defend widows and orphans.²⁰⁵

This general sentiment is echoed elsewhere, albeit with more focus on women generally, by stating:

It is indeed a part of a priest's duty that you are obliged to provide assistance for widows and for women bereft of a husband's support, so that where in this world they are deprived of a truly human life, they can find remedies under the protection of a priest.²⁰⁶

²⁰³ *Reg.* 1.13.

²⁰⁴ *Reg.* 9.75.

²⁰⁵ *Reg.* 1.60.

²⁰⁶ *Reg.* 1.13. See also 1.62 for widows *and* orphans.

However, with both examples affording the clearest reference to a general notion of pastoral care, there is also a clear indication of legal oversight. In the first, while Gregory heads the letter with scripture, he then states that the woman in question should have her “cases...whether they are here now or are in the future, to be terminated by your (the archbishop receiving the letter) judgment.”²⁰⁷ Similarly, in the second, while citing general ‘priestly protection,’ Gregory discusses how a tribune’s²⁰⁸ widow would continue the “financial command, which her husband had undertaken to exercise,” and that the bishop receiving the letter was to ensure that she was permitted to continue this command for a further 9 months.²⁰⁹ Even if both letters begin with a general nod towards scriptural precedent, they also show judicial oversight: firstly via legal patronage, and secondly, civic finances.²¹⁰

While these examples may in some way still be interpreted as displaying Gregory’s expected pastoral duty towards women and orphans, the remainder do however have a more discernible legal influence. The largest number concern women, Gregory commonly granting legal assistance: against “forced entries and disturbances of certain men,”²¹¹ for a recent Jewish convert,²¹² generally “preserving justice” in all matters,²¹³ contested inheritance,²¹⁴ eviction,²¹⁵ and financial support for a dependent nun from her mother.²¹⁶ Lastly, a final and explicit reference to Justinian’s legislation comes via Gregory’s ruling on a man convicted of raping a nun,²¹⁷ Gregory preferring to “alleviate the harshness of the law” rather than follow Justinian’s death penalty.²¹⁸

The evidence for orphans is similarly split between that which may fall under the category of expected pastoral care, and that which implies a stronger legislative foundation. For the

²⁰⁷ *Reg.* 1.60.

²⁰⁸ In this period the tribune was sometimes charged by the governor with civic administrative and judicial responsibilities – Martyn (2004:130n.71). See also the *Liber Diurnus* 74 for the tribune’s role in a bishop’s election, this further showing a bishop’s civic involvement.

²⁰⁹ Martyn (2004:130n.72).

²¹⁰ Under Justinian only a bishop working with leading primates was permitted to oversee municipal finances – *CJ* 1.4.26.

²¹¹ *Reg.* 1.62.

²¹² *Reg.* 1.69.

²¹³ *Reg.* 6.37. This example is included here as the earlier examples of purely pastoral care make no specific mention of ‘justice’, implying a legal concern here. The same phrase repeated at 8.20.

²¹⁴ *Reg.* 9.36. See also 9.225 and 11.59.

²¹⁵ *Reg.* 9.39.

²¹⁶ *Reg.* 9.87. For the notion of financial support, see Martyn (2004:596n.225).

²¹⁷ *Reg.* 3.42.

²¹⁸ *Nov.* 143.

former: orphans granted an indebted father's property instead of it being claimed by the creditor, thus leaving the orphans destitute;²¹⁹ and Gregory's petition to a Prefect asking for ennobled orphans to be given "position and public duties."²²⁰ Both imply a pastoral concern for the orphan's welfare, yet that the first involves inheritances and the second future public office, means that like the examples discussing women, the crossover between the secular and temporal worlds is never far from Gregory's mind. Examples with a much stronger legislative footing include: orphans of church tenants granted guardians for their propertied inheritance until they mature,²²¹ and the interesting case where a guardian himself is granted protection from those hindering him carrying out the deceased's will.²²²

Mancipatio et dominium

Wills are a common feature of the bible, notions of primogeniture²²³ and partible inheritance²²⁴ plainly expounded, yet such examples are heavily laden with moral exempla or in the abstract, not established on a case-by-case basis with clerical instruction. One may argue that as head of the church, it was Gregory's responsibility to manage the wills of his subordinates,²²⁵ and indeed, this is attested on numerous occasions with nuns,²²⁶ bishops,²²⁷ priests,²²⁸ abbots,²²⁹ abbesses²³⁰ and other clerics.²³¹ However, what makes Gregory's actions noteworthy, is that aside from managing two of the above examples according to Justinianic legislation,²³² he also intervenes in cases of secular inheritance which would normally come under the remit of the praetor.²³³

²¹⁹ *Reg.* 3.21.

²²⁰ *Reg.* 3.28.

²²¹ *Reg.* 1.42.

²²² *Reg.* 5.25.

²²³ E.g. Duet. 21:15-17; 2 Chron. 21:3.

²²⁴ E.g. Num. 36:6-9; Prov. 17:2; Job 42:15; Luke 15:12.

²²⁵ On the issues of separating the private and church property of bishops, see Sessa (2011:190-195).

²²⁶ *Reg.* 1.46.

²²⁷ *Reg.* 4.6; 4.36; 6.1; 9.75; 9.143; 9.195; 12.14.

²²⁸ *Reg.* 6.12; 10.2.

²²⁹ *Reg.* 11.15.

²³⁰ *Reg.* 9.198; 13.4.

²³¹ *Reg.* 1.42; 2.50; 9.8; 9.75; 9.131; 11.13; 14.2.

²³² *Reg.* 4.6 (*Nov.* 5.5); 9.198 (*CJ* 1.14.5 – law of Theodosius II and Valentinian III: 439)

²³³ *CTh.* 16.2.20. (trans. Pharr 444.n.61). See also *Dig.* 36.3.1.

Of Justinian's twelve laws which regulate clerical inheritance,²³⁴ Gregory explicitly references *Nov.* 5.5 on two separate occasions.²³⁵ This law states that anyone entering a monastery has the right to dispose of his property to their own will prior to ordination, yet afterwards "he will no longer be its owner," with a clause also applying the law to nuns. In the first example Gregory discusses a nun who chose to bequeath her property to the convent "although by law it could have remained her property."²³⁶ Secondly, Gregory cites a "well-known statute" and how it decrees that anyone entering with property must relinquish ownership to the monastery.²³⁷ In both instances Gregory instructs a subordinate to regain control of the property in question, which although legally now possessed by the monastery, had been alienated.

Inheritances

More relevant in the context of civic empowered bishops, are Gregory's interventions in matters of secular inheritance and debt management. In this first context, Gregory has clear legislative precedent via *Nov.* 101.1, which affirms that a bishop, working with the *defensor*, was to oversee matters of curial inheritance, including making an "inventory of the property." Although none of the 19 examples of Gregory involving himself in secular inheritance make specific reference to the curial status of the deceased, the highly varied nature of curial obligation and its broad communal inclusion has been noted,²³⁸ and so none of the following: 'normal' citizens,²³⁹ 'wealthy' citizens,²⁴⁰ church accountant,²⁴¹ can be theoretically ruled out as curials. An anomalous governor²⁴² and church tenant²⁴³ are the only examples not eligible for curial status.

²³⁴ *Supra.* n.172.

²³⁵ See also *Nov.* 123.38.

²³⁶ *Reg.* 4.6.

²³⁷ *Reg.* 198.

²³⁸ *Supra.* n.48.

²³⁹ *Reg.* 1.42; 5.25 ("citizen"); 6.35; 9.36 ("widow"); 9.48; 9.113 (Gregory instructs a "record of the property" be made), 9.200; 9.205 ("widow").

²⁴⁰ *Reg.* 8.3 ("eloquent man"); 9.166 ('gentleman of most distinguished memory'); 9.171 ("woman of most illustrious memory"); 10.1 ("wealthy lady" – Martyn 2004:714.n.5); 11.25, 11.59 ("ladyships"); 14.3 ("gentleman").

²⁴¹ *Reg.* 9.63

²⁴² *Reg.* 9.90. A governor's rank exempted him from curial duty.

²⁴³ *Reg.* 1.42. Church tenants, likely being serfs and not free citizens, were also exempt.

Still in the context of inheritance, Justinian legislated that for anyone who willed a “charitable request”²⁴⁴ to the church in form of building a church, monastery, orphanage, hospital or any other “venerable house,”²⁴⁵ the heir was to fulfil the pledge, or the bishop was to enforce it. On five occasions Gregory enforces this ruling,²⁴⁶ with two letters quoting Justinian’s laws.²⁴⁷ A final case sees Gregory enforce the “secular laws” that state any heir whose benefactor “bequeathed what was not his own,” was to make up the shortfall themselves; on this occasion that being the benefactor’s funeral.²⁴⁸

Property management

It should come as no surprise that as the largest single landowner throughout Italy,²⁴⁹ Gregory also involved himself in property management. Continuing the judicial theme, the duties of a large landowner similarly drew Gregory into all manner of disputes regarding church and private property, and as before, Gregory consistently utilises jurisdictional precedent. Through *CJ* 1.4.31, Justinian afforded those whose property has been detained illegally by another the right to go before the bishop and plead for restitution, if the detainer was absent, insane or “very influential.”²⁵⁰ In short, Justinian gave the bishop the right to intervene in matters of illegal proprietorship. Gregory’s correspondence attests to him fulfilling this role with a range of possessions: slaves,²⁵¹ farming equipment,²⁵² private estates,²⁵³ monasteries,²⁵⁴ private estates used/occupied by the church,²⁵⁵ castles,²⁵⁶ papal estates²⁵⁷ and farms/vineyards.²⁵⁸ Further, on two occasions, Gregory also quotes Justinian’s legislation: mediating between private settlers and a monastery in Palermo, Gregory references a law dictating an unbroken period of 40 years for possession claims;²⁵⁹ and

²⁴⁴ *CJ* 1.3.45.

²⁴⁵ *Nov.* 131.10.

²⁴⁶ *Reg.* 4.9, 10; 9.1, 35, 165.

²⁴⁷ *Reg.* 4.9.

²⁴⁸ *Reg.* 8.3 and *CJ* 6.37.10 (law of Alexander Severus: 227).

²⁴⁹ Markus (1997:112).

²⁵⁰ See also *Nov.* 167.

²⁵¹ *Reg.* 1.38a.

²⁵² *Reg.* 1.42.

²⁵³ *Reg.* 1.38a; 3.5; 7.20; 9.41; 9.88

²⁵⁴ *Reg.* 9.169; 13.2.

²⁵⁵ *Reg.* 1.9, 1.63; 5.57a; 9.77, 146, 147, .67, 83, 187.

²⁵⁶ *Reg.* 14.7, 8, 13.

²⁵⁷ *Reg.* 2.50; 14.14.

²⁵⁸ *Reg.* 9.235.

²⁵⁹ *Reg.* 1.9 and *Nov.* 131.6.

where an engaged woman became a nun, but her fiancée illegally retained her dower property, Gregory cites “legal decrees” which rule that all dower and prenuptial gifts plus property were to be restored to the other party should either enter the church.²⁶⁰

Gregory also involved himself in other aspects of property management: emphyteusis and ecclesiastical alienation.²⁶¹ Yet even in this capacity, Gregory never wavered from Justinianic legislation.²⁶² Owing to the huge property portfolio of the Roman church during late antiquity, over time it became in the church’s interest to lease some of it on special grants, these emphyteutic leases highly doctored so as to prevent the permanent alienation of church property. Justinian legislated on cases of secular emphyteusis whereby the tenant was permitted to keep three years’ rent if the landlord had not claimed it, the bishop adjudicating the matter in the absence of magistrates.²⁶³ Gregory was involved in a number of such cases,²⁶⁴ and he too instructs his subordinates that such leases are to be strictly governed:

But many come here who demand that some land or island legally belonging to our Church be given to them for long-lease farming. In fact we say no to some, but to others we have already conceded land. But let your experience consider the best interests of the Holy Church, while remembering that you accepted control of its patrimony before the most sacred body of the blessed Peter. And although letters might flow from here, which impede the best interest of the patrimony, in no way allow this to happen. For even we neither remember having given something without a reserve-clause, nor are we arranging to do so.²⁶⁵

The “reserve-clause” here may well refer to the legislation of Justinian that determined all ecclesiastical emphyteusis leases were liable only for three generations, after which they would be cancelled.²⁶⁶ In keeping with the prohibition of permanent alienation, Gregory instructed his subordinates on two occasions to abide by such legislation, firstly cited as the

²⁶⁰ *Reg.* 7.20 and *CJ* 1.3.54.

²⁶¹ See Sessa (2011:196-199) for papal property management.

²⁶² *Ibid.* 197 for the “juridical...tools” amongst others used for such management.

²⁶³ *CJ* 1.4.32 and 4.66.4.

²⁶⁴ *Reg.* 1.70; 9.126; 9.195; 9.205.

²⁶⁵ *Reg.* 1.70. See also 9.205.

²⁶⁶ *Nov.* 7.3. Ecclesiastical property was forbidden to be alienated, unless in times of debt to the fisc – *Nov.* 46.1.

“statutes of secular law”,²⁶⁷ and then as “the rule of Law”.²⁶⁸ One can however, never forget Gregory’s pastoral mission: in the second case Gregory skirts the law and relinquishes property to an impoverished young widowed mother whose unsympathetic mother-in-law had bequeathed it to the church upon her son’s death.

Debt management

The final aspect of Gregory’s episcopate surveyed in this section is his involvement in cases of debt management. Just as with wills, there is a level of expectancy that Gregory had a responsibility for his subordinates. As this study is an analysis of Gregory’s activity in the civic sphere, the examples attesting to his involvement are only relevant if they fall in this category, and once again, this trend is irrefutable: of the 12 instances wherein Gregory intervened in matters of debt, only three cases concern clerics, the rest private individuals. Yet with the clerics, all are indebted to private creditors. The first example sees Gregory instructing a bishop to finance the ransom of a priest asked to refund his bail, Gregory citing “secular law” which permits the melting of holy vessels to fund ransoming.²⁶⁹ The second discusses a similar case where a sub-deacon impoverished himself through ransoming his daughters and Gregory instructs his subordinate to sell holy vessels to cover the remainder of the ransom fee, again citing the “statutes..of...law.”²⁷⁰ The third concerns a bishop who borrows for unspecified ransoms, Gregory instructing him to sell holy vessels to meet the cost; “the law” cited once more.²⁷¹

For the remaining cases, all concerning private individuals, the demographic varies according to Gregory’s usual lack of concern for rank or social station: a destitute citizen forced to proffer his child as surety, which Gregory notes as contrary to “the laws,” before funding the bill himself;²⁷² church tenants given loans by the church so that they do not fall prey to aggressive private creditors;²⁷³ a poor family being subjected to the debts of an unclaimed inherited estate, Gregory granting his protection if they wished to flee their

²⁶⁷ *Reg.* 8.32.

²⁶⁸ *Reg.* 9.48.

²⁶⁹ *Reg.* 4.17 and *Nov.* 7.8/CJ 1.2.21.

²⁷⁰ *Reg.* 7.35. See also 9.52 for the “legal authority allowing Church property to be spent legally on the ransoming of captives.”

²⁷¹ *Reg.* 7.13. For other examples of Gregory’s ransoming, see *Reg.* 2.38; 3.16; 5.46; 6.32; 7.21; 7.23; 7.25; 8.22; 9.85. Gregory was also not averse to taking captives himself if it ensured the loyalty of their city – *Reg.* 2.28.

²⁷² *Reg.* 3.55; 4.43 and *Nov.* 13.4.7.

²⁷³ *Reg.* 5.7.

creditors;²⁷⁴ a Jewish businessman whose pawned ship was illegally sold by his creditor, a church *defensor*, whom Gregory advised to restore the ship as the debt was fulfilled;²⁷⁵ a creditor who received only the capital and not interest from a struggling debtor encouraged to acquiesce;²⁷⁶ a banker wrongly accused of impropriety directed to the local (Ravenna) prefect;²⁷⁷ and a citizen who was seeking repayment from church tenants.²⁷⁸ The final example is unique in that it shows the only instance where a citizen was indebted to his local church, the citizen refusing to fulfil the debt and Gregory enforcing the repayment and threatening legal action.²⁷⁹

Tribunus plebis

Be it women, orphans, rich or poor citizens, the evidence from the previous two sections casts Gregory in the mould of the traditional, scripturally envisaged pastor keen to protect his flock in any way he can. The evidence has also shown that Gregory was more than ready to utilise Justinian's laws if they could aid him. The final section of this chapter continues this theme and discusses Gregory's regulation of officials, ensuring that his flock was not immoderately treated by higher powers. Gregory's activity in this capacity is particularly noteworthy as such actions are not limited to the magistrates occupying the papal patrimony, but also his own clerical subordinates.²⁸⁰

With Justinian affording his civic-empowered bishops such judicial and administrative authority within the *civitas*, he genuinely envisaged them part of his new heavenly inspired administrative dispensation. Coupled with his distrust of traditional aristocratic

²⁷⁴ *Reg.* 6.35.

²⁷⁵ *Reg.* 9.40. For Gregory's general view of Judaism, see Martyn (2004:87-88).

²⁷⁶ *Reg.* 109.

²⁷⁷ *Reg.* 11.16. As Gregory notes that the banker had "guaranteed him honestly as he had guaranteed others", this implies Gregory was aware of the complex laws governing such professions – *Nov.* 136. Further, that Gregory entrusted the banker to the protection of the prefect implies a close relationship with and knowledge of the Ravennan administration.

²⁷⁸ *Reg.* 14.5.

²⁷⁹ *Reg.* 9.170.

²⁸⁰ Gregory used an extensive range of clerics in his administration, but the *defensor ecclesiae* (perhaps "one of Gregory's creations, modelled on the office of *defensor plebis* [another name for the *defensor civitatis*] that existed in the secular world of the later Roman Empire" – Martyn 2004:92) was his principal officer within the patrimony. On the *defensor ecclesiae*, see Martyn (2003). For an overview of Gregory's administration, see Pellegrini (2008:120-134).

frameworks,²⁸¹ his ‘use’ of bishops as a policing force for his own secular officials comes as no surprise. This hope is explicitly expressed in several different laws, with bishops the first port of call for citizens appealing against magisterial malpractice: bribery for office or if they “perpetrate injustice and inflicts damage or wrong;”²⁸² accountability for actions during tenure, both for ordinary magistrates²⁸³ and governors;²⁸⁴ general neglect of social protocols such as the management of wills, marriage contracts, burials and public inventories;²⁸⁵ “great wrongs and thefts;”²⁸⁶ fraud;²⁸⁷ embezzlement²⁸⁸ and failure to comply with imperial orders.²⁸⁹ Further, while Justinian hoped that bishops would police such malpractice, which would have affected the poorest most of all, of the eight cited laws, Justinian wanted bishops to report the various misdemeanours to him directly via four of them,²⁹⁰ physically prevent or address the crime by three of them,²⁹¹ and on one occasion, the bishop was even punished himself if he did not prevent the crime.²⁹² Therefore, to Justinian, the bishop was far more than just a pastor, instead cast in the mould of a true municipal magistrate; the *defensor civitatis*, a magistrate he was also to help elect.²⁹³

Gregory’s actions in this capacity do indeed have all the hallmarks of the legally-backed quasi *defensor* bishop. In terms of his own clerical subordinates, Gregory stepped in to protect his flock from: theft;²⁹⁴ property seizure;²⁹⁵ illegal slavery²⁹⁶ and defaulting on wages.²⁹⁷ Gregory was equally judicious in his treatment of imperial officials: excessive

²⁸¹ Justinian targeted the social elite during two major persecutions (528-9 and 545-6), on both occasions using labels of ill defined ‘paganism’ to oust his potential enemies (Maas 1992:68-77)

²⁸² Nov. 8.8.

²⁸³ Ibid. ch.9.

²⁸⁴ Nov. 128.23.

²⁸⁵ Nov. 134.3.

²⁸⁶ Ed. 1.

²⁸⁷ Ed. 10.

²⁸⁸ Ed. 1.1. This law specifically pertains to the *defensor civitas*, and note Reg. 9.2 where Gregory admonishes a *defensor ecclesiae* for embezzlement.

²⁸⁹ Ed. 12.

²⁹⁰ Ed.1, 12; Nov. 8.8, 9.

²⁹¹ Nov. 128.23, 134.3; Ed. 10.

²⁹² Ed. 1.1.

²⁹³ Nov. 15.

²⁹⁴ Reg. 1.42 (subdeacon); 8.3 (*defensor ecclesiae*); 9.53 (bishop), 193 (subdeacon).

²⁹⁵ Reg. 9.40 (*defensor ecclesiae*), 41/42 (“agents of the church”).

²⁹⁶ Reg. 1.53 (subdeacon). Also see Martyn (2004:176n.292).

²⁹⁷ Reg. 943 (deacon).

taxation;²⁹⁸ bribery;²⁹⁹ theft;³⁰⁰ fraud;³⁰¹ general violence;³⁰² and support of schismatic bishops.³⁰³ In terms of preventative action, Gregory also petitioned a magistrate to reappoint a subordinate known to have a term beneficial for the province,³⁰⁴ and asked another magistrate to embody his own quest for protection of his subjects, the poor in particular.³⁰⁵

Justinian's legislation shows that he was greatly concerned with magisterial malpractice. The legislation also clearly shows that Justinian wanted his bishops to play a pivotal role in the policing of his errant magistrates, their remit extending right across the magisterial spectrum with physical intervention even sanctioned. In this sense, the correspondence of Gregory shows him to be a bishop well aware of the authority Justinian invested upon his office. Gregory was as comfortable in applying the same code to his clergy as to imperial officials, thus "justice, decency and legality were the substance of what Gregory wanted from civil officials. In interceding for petitioners, protesting and appealing to higher authorities, Gregory was carrying out the duty that Justinian's legislation laid upon him."³⁰⁶ Having established that Gregory interacted on a great many levels with the secular authorities in a legal capacity, I shall now look at how his administration filled the void left by Rome's secular authorities.

²⁹⁸ *Reg.* 1.46 (duke); 11.7 ("judges"). When instructing the bishops to police his magistrates, Justinian acknowledged the "burden" of public tribute (*Ed.* 1), while elsewhere he instructs citizens in doubt as to the tribute amount to check with the bishop who had access to the "assessment rolls" (*Nov.* 128.4). Together these laws imply Justinian also wished for his bishops to prevent excessive and unjust taxation.

²⁹⁹ *Reg.* 1.2 (praetor); 5.6 (exarch).

³⁰⁰ *Reg.* 9.46 (ex-consul).

³⁰¹ *Reg.* 9.114 ("palace official" – Gregory instructs his the bishop to seek aid from the local prefect); 11.4 (praetor).

³⁰² *Reg.* 1.46 (duke); 5.37 ("official in charge of marine charters"); 9.206 (ex-tribune); 11.7 ("judges").

³⁰³ *Reg.* 9.159 (pro-consul).

³⁰⁴ *Reg.* 7.3 (petition to exarch over tribune).

³⁰⁵ *Reg.* 9.239 (official in charge of the "public patrimony").

³⁰⁶ Markus (1997:91).

Chapter 3. *Regalis potestas et auctoritas sacrata*: episcopal governance

The prior chapter showed that in terms of judicial civic authority, Gregory lived up to the model envisaged by Justinian. Whether through his function as watchman, legal witness or proxy, Gregory's episcopate affords countless parallels whereby a bishop formally involved himself in matters of civic life; matters traditionally administered by municipal magistrates and imperial officials. Thus far only select laws, those which grant him the authority to participate in the election of local and regional magistrates,³⁰⁷ can be definitively cited if one were to try and state that a bishop was actually involved in the running of municipalities. However, again following Justinian's laws, one may draw clear parallels between this legislation and the way in which Gregory administered Rome, not merely operated within it.³⁰⁸ This is best observed with his management of the patrimony's treasury, Rome's grain supply, and imperial defence.

Sacellarius

Amid the ever-evolving Byzantine bureaucracy, the office of *sacellarius* had by Gregory's era become one of increasing financial responsibility.³⁰⁹ Interestingly, in a moment of resigned reflection, Gregory uses this very term to describe himself in a plea to Empress Constantina,³¹⁰ this rare flash of self-cited authority averse to his usual plea of humility in the eyes of superiors, equals and inferiors.³¹¹ A citation coming alongside Gregory's lamentation that Rome had suffered 27 years at the hands of the Lombards, and that unlike Ravenna where "his Lordship has a treasurer among the first army of Italy (the exarch), who pays the expenses as emergencies arise in this city I am his treasurer in such emergencies,"³¹² Rome's isolation from the imperial fisc is all too apparent. When reading this claim alongside the hard

³⁰⁷ Supra n.161-164.

³⁰⁸ *Reg.* 1.48 "just as we have taken up the office of government...even so we should be worried about the souls entrusted to us."

³⁰⁹ Haldon (1990:184-186).

³¹⁰ *Reg.* 5.39.

³¹¹ E.g. *Reg.* 5.37 "I am the servant of all priests, as far as they live in a priestly way" – in the context of Gregory's disillusionment of John the Faster's (Patriarch of Constantinople 582-595) use of the title 'Universal Patriarch.'

³¹² *Reg.* 5.39.

truths that Gregory twice used church funds to purchase peace with the Lombards,³¹³ we are presented with the implication that Gregory's church treasury was synonymous with Rome's civic treasury; that financial management of Peter's patrimony was thus also concomitant with financial management of Rome itself. If late antiquity saw a general administrative neglect in the municipalities, a point specifically attested through Gregory's plea to Constantina, one wonders how else Rome's finances were managed. With a population that fell from 1,000,000 in the 4th to 50/60,000 at the end of the 6th century³¹⁴ and a reorganised Italy held largely at the whim of a new military aristocracy³¹⁵ who owed no allegiance to a Roman senate which had already died out by the 580's,³¹⁶ there is little evidence to show that Rome's solvency was supported by anything other than the church's vast estate. Therefore one may argue that through Justinian's legislation which afforded bishops the authority to manage and supervise civic treasuries, we see evidence of this phenomenon through Gregory's management and supervision of his church treasury.

Justinian's wish for bishops to participate in municipal financial administration is explicitly stated with *CJ* 1.4.26 where he removed such responsibility from magistrates and other officials, instead entrusting its total supervision unto the local bishop and three leading citizens.³¹⁷ *CJ* 1.4.26 also specifies that the bishop and three magnates were to make regular examinations of the civic treasuries, with it being their sole prerogative to decide how it was used within the city.³¹⁸ This group was also to carry out regular audits of any public works which they agreed were necessary.³¹⁹ Further, that Justinian even mistrusted Anastasius' recently implemented office of *vindex* is implied by another law: this time working alone without any involvement from local magnates, bishops were to mediate (in the governor's absence) on behalf of citizens questioning the tribute amount, and granted authority to order the "keeper of the assessment rolls" to produce such documents and verify the amount levied.³²⁰ That the financial role of the Justinianic bishop was formally legalised through such laws is evident. The following evidence will demonstrate that Gregory once again utilised

³¹³ *Reg.* 2.38. See also Logan (2012:50) for another occasion where Gregory used "500 pounds of gold from church funds" to buy peace with the Duke of Spoleto.

³¹⁴ Durlait (1990:115-117).

³¹⁵ Brown (1984:44-54, 61-108).

³¹⁶ Sessa (2011:44).

³¹⁷ *Pref.*

³¹⁸ Ch. 4-5 direct the bishop and primates to forbid magistrates and officials access to the treasury.

³¹⁹ Ch. 2.

³²⁰ *Nov.* 128.4. Cf. 123.6 where bishops are forbidden from becoming "a receiver or collector of fiscal tribute."

Justinian's legislation, here focusing on a bishop's role in managing the civic treasury, auditing the accounts and overseeing tribute collection.

The sheer scale of St. Peter's patrimony ensured that it was a special and rather unique institution,³²¹ yet it was standard practise that the bishop was the final authority in his see's administration and financial management.³²² Even if Gregory's episcopal management of Peter's patrimony erred towards a biblically ratified stewardship of God's property rather than secular lordship of his own,³²³ with this management affecting up to 500,000 dependants,³²⁴ Gregory's activities in this context are notably diverse.

On 15 occasions, Gregory makes explicit reference to the church 'account,' and how it should be used.³²⁵ Of these 15, three are directed at financing the church or clergy: an annual pension for an impoverished *defensor ecclesiae*³²⁶ and a converted Istrian clergyman;³²⁷ and a donation to needy monks.³²⁸ Ten other examples fall clearly within a pastoral context:³²⁹ foodstuffs for a poor individual, and a well-liked recruitment officer;³³⁰ money and food for the poor at a religious festival;³³¹ annual pensions for a poor aristocrat, poor veteran, poor son of a church tenant and a Jewish convert;³³² a one off bequest for an ex-governor;³³³ a donation to Jews wishing to be converted;³³⁴ and a donation to a "deserved" scholastic.³³⁵

The final two examples deserve attention: a purchase of 1500 pounds of lead for an abbot;³³⁶ and a bribe to enlist the enthusiasm of recruits.³³⁷ Furthering the notion that the church treasury was equated with Rome's civic treasury, these two examples are definitively

³²¹ For a detailed analysis of Gregory's holdings and their administration, see Spearing (1918). See also Markus (1997:112-124) and Sessa (2011:113-124).

³²² Sessa (2011:18-19). Here the Roman bishop was less of a 'landlord', but instead simply a steward of God, "administering, as it were, *his* things." Cf. Chalcedon can. 26 whereby a cleric was ordered to regulate episcopal finances.

³²³ Sessa (2011:65-67, 69-72).

³²⁴ Ruggini (1980:493).

³²⁵ See Sessa (2011:118) for the Roman church's "master accounting book(s)."

³²⁶ *Reg.* 9.110.

³²⁷ *Reg.* 6.38.

³²⁸ *Reg.* 1.50.

³²⁹ For an evocative account of Gregory's use of church finances for such use, see John the Deacon *Vita S. Gregorii* 2.26 (*PL* 75:97).

³³⁰ *Reg.* 1.44; 9.79.

³³¹ *Reg.* 1.54.

³³² *Reg.* 1.57; 1.65; 4.28; 4.31.

³³³ *Reg.* 2.50.

³³⁴ *Reg.* 8.23.

³³⁵ *Reg.* 9.137.

³³⁶ *Reg.* 1.48.

³³⁷ *Reg.* 2.50.

indicative of civic applications of the church treasury, just as with the peace deals purchased by Gregory and his self-asserted management of Rome's "emergencies." Although the first may involve an abbot, the purchase of such a large amount of lead implies a financial connection with local trade or labour guilds,³³⁸ while bribing of recruits to make them more eager for enlistment cannot in any way be said to have any ecclesiastical considerations. Continuing with the martial theme, the Roman 'emergencies' Gregory has to finance could well be either the noted peace deals, or, following the last letter, the raising of troops to counter Lombard invasions. With both options credible, it is indeed telling that on two occasions, Gregory makes reference to the payment of troops. Firstly, he complains how the mercenaries guarding Rome have not been paid, leaving them unwilling to even properly man the walls,³³⁹ and on another occasion Gregory states how his staff handed over the emperor's payment to the troops, meaning that they "abstained entirely from the muttering which was normally dominant before them."³⁴⁰ Taken together, these examples show that not only was troop payment often in arrears, a common issue for the empire, but at times, Gregory took the responsibility upon himself, as indicated by the guilt laden language used in the first example: "*in truth* (my italics) the Theodosian legion which has remained here has received no pay."³⁴¹

Just as Gregory could lavish the church's wealth upon the clergy, needy and Rome's defence, he was also an astute enough businessman to regulate and if necessary, enforce the patrimony's tax collection; another role partly heralded by Justinian's legislation. All bar two of the 11 examples where specific reference is made to tax collection concern the patrimony. The two anomalies discuss a complaint by an ex-consul over an ad hoc tax made to finance a Lombard peace treaty,³⁴² and a similar complaint made by Sardinian landowners who opposed the excessive rates of the standard imperial tax.³⁴³ While in typical Gregorian fashion, he assuages the ex-consul's fears over lost income with a homage to spiritual worth as opposed to worldly, for the Sardinian landowners, he supports their petition to the capital.

³³⁸ *Reg.* 9.114, 125, 126, 127 imply a similar connection with timber guilds, a theory borne out via Gregory's timber trading with Alexandria which wanted to enhance its fleet – *Reg.* 6.61; 7.37; 8.28; 9.176; 10.20, 21; 13.43.

³³⁹ *Reg.* 2.38.

³⁴⁰ *Reg.* 5.30.

³⁴¹ Martyn (2004:216.n98) uses this to state that "the pope's purse had to...finance Rome's defence." See also *Reg.* 1.3 for Gregory's fears of Rome's garrison revolting due to lack of pay – Martyn (2004:121n.13).

³⁴² *Reg.* 13.23.

³⁴³ *Reg.* 14.2.

Thus far the evidence casts Gregory as the archetypal episcopal mediator, but also a Roman bishop very much in tune with the imperial fisc – even if it had seemingly abandoned him. The remaining examples all pertain to tax collection within the patrimony: arrears from Gaul;³⁴⁴ tenants abandoning their farms to in Cagliari, causing Gregory to despair that “they become incapable at paying their tribute;”³⁴⁵ an elderly, blind Genoese wine maker exempted from all taxes after complaining of high rates;³⁴⁶ citizens in Palermo accusing their bishop of embezzlement;³⁴⁷ a subordinate admonished for overcharging Syracusan farmers;³⁴⁸ and a Gallipolian bishop instructed to assess the rate for citizens living within a church-owned fortress.³⁴⁹ Two final examples concern Roman estates: the first showing how revenue was put back into the gargantuan job of maintenance;³⁵⁰ the other offering an interesting clause that taxes were to be collected from “all the houses built in this city that the aforesaid church (St. Agatha) is agreed to have had in the time of the Goths.”³⁵¹ Together these letters show that between just two single entities, a church and private estate, how extensive the church’s domains and thus rents were in the city, another key factor to consider when equating Gregory’s with Rome’s treasury.

The final aspect of Gregory’s financial governance owing precedence to Justinian’s legislation comes through his auditing efforts. If taxation of the patrimony was to be as efficient as possible, Gregory also needed to know exactly what each church owned and so what income it would provide. Although Justinian’s bishops were to audit public works, which indeed occurs on three occasions with a fortress,³⁵² church³⁵³ and aqueducts,³⁵⁴ the auditing of taxable properties also theoretically aligns Gregory with a Justinianic bishop working to ensure financial security for his community. The majority of examples attest to Gregory auditing church property upon a bishop’s death³⁵⁵ – family members and locals were known

³⁴⁴ *Reg.* 6.54, 56.

³⁴⁵ *Reg.* 9.204.

³⁴⁶ *Reg.* 9.235. See also 9.181 where Gregory cites unspecified “municipal statutes” (*Nov.* 131.5?) for the exemption from taxes for a new oratory.

³⁴⁷ *Reg.* 9.236.

³⁴⁸ *Reg.* 13.35.

³⁴⁹ *Reg.* 9.207.

³⁵⁰ *Reg.* 14.14. This single landholding included two villas and eight farms. For Gregory’s use of Church revenue to build in Rome, see Heitz (1986:31-8).

³⁵¹ *Reg.* 4.19.

³⁵² *Reg.* 9.122.

³⁵³ *Reg.* 9.128.

³⁵⁴ *Reg.* 12.6.

³⁵⁵ *Reg.* 3.41; 5.13, 14; 9.100, 101, 185, 186; 13.14, 15. See also 9.60.

to plunder their church in such an event. He also requested inventories for herds of cattle,³⁵⁶ church salaries,³⁵⁷ Rome's grain stores,³⁵⁸ Sicilian holdings,³⁵⁹ and even the "substance of the church" as a whole.³⁶⁰

Cura annonae

The evidence shows that Gregory's church treasury may be equated with Rome's civic treasury, the latter depleted through culled senators, an erstwhile proletariat and a new martial aristocracy disloyal to Italy's traditional seat of power. The evidence also firmly shows that Justinian wanted his bishops to actively participate in the financial management of the provincial centres, his distrust of governors and municipal magistrates showing in their barring from involvement in the civic treasury. Alongside such financial authority, Justinian also legislated that his bishops were to help elect two officials whose jobs concerned civic logistics: the *frumentarius* and *curator*. The office of *frumentarius* was initially devolved solely upon the supervision of provincial wheat gathering, yet by the 2nd century the position had evolved into a form of 'secret police.'³⁶¹ However, under Justinian, a form of the office was still responsible for the gathering of grain,³⁶² and in keeping with the important civic role Justinian envisaged for his bishops with regard to finance, he also authorised them to help elect the wheat-gathering *frumentarii*.³⁶³ The office of *curator* also had several applications, a form of which mirrored the *defensor civitatis*.³⁶⁴ In the context of grain management, there also existed another branch; the *curator annonae*, a position of republican origin which afforded the incumbent extraordinary powers to gather grain during food crises.³⁶⁵ Granted, the *curator* in Justinian's law relates to guardianship,³⁶⁶ but the notion that he authorised

³⁵⁶ *Reg.* 2.50.

³⁵⁷ *Reg.* 4.11, 13.45.

³⁵⁸ *Reg.* 9.116.

³⁵⁹ *Reg.* 1.80; 9.4, 5.

³⁶⁰ *Reg.* 7.25.

³⁶¹ *Historia Augusta Vita Hadriani* 11.

³⁶² One branch of the *frumentarii* were reorganised as official *agentes in rebus* under Diocletian and there continued in their spying capacity – Hibbard (2013:5).

³⁶³ *Nov.* 128.16.

³⁶⁴ Frakes (2001:40, 68). For a detailed analysis of the various functions of the *curator*, see Jacques (1984).

³⁶⁵ Pompey's command of 57BC in Rome is the most notable (Plutarch *Vita Pompei* 49), but that of Dinippus of 51AD in Corinth shows it not geographically specific (Cadwallader 2016:38).

³⁶⁶ *CJ* 1.4.27.

bishops to help elect such an official again shows the breadth of his episcopal legislation. The key thing to take from these two laws is that Justinian wanted his bishops to help elect two officials whose remit could (and via one of the two laws, did) cover grain management.

If Gregory was Rome's financial manager, that he also used his position to regulate and oversee certain aspects of the city's logistics is logical. We have already seen how Gregory's predecessors helped with the imperial grain dole for Rome's citizens; Roman bishops stepping in during times of crisis to meet the quota.³⁶⁷ Under Justinian's 'Pragmatic sanction' of 554, the *annona* was to be continued,³⁶⁸ implying that the imperial government still saw itself as able meet the demands of the Roman poor. Yet following the Lombard invasions of the 560's, this picture of financial security changes drastically. On three occasions Gregory refers to Rome's Sicilian grain supply and the concern he has for it: not enough coming from Sicily after flooding ruined the state granaries,³⁶⁹ prohibiting merchants from charging extra tithes when transporting in risky winter seas,³⁷⁰ and asking a subordinate to store extra grain in Sicily to be shipped after winter dies down.³⁷¹ Other letters see Gregory admonishing the Italian Prefect for stealing grain from the church's private Neapolitan supplies, these already set aside for the poor,³⁷² and taking flak from Maurice by accepting the blame for Rome starving.³⁷³ Taken with two other letters which attest to the difficulties Rome's secular authorities had with managing its grain supply,³⁷⁴ one even stating that Gregory was to hand over the entire ecclesiastical store of grain to Maurice's *prefectus annonae*,³⁷⁵ it is clear that Justinian's grand ambitions of a renewed governmental welfare system for Rome had failed. As Sicily had always been one of Rome's principal grain suppliers, and it was firmly under Gregory's patronage (he oversaw 400 Sicilian farms),³⁷⁶ it was only through this ecclesiastical monopoly that Rome could hope to nourish itself.

³⁶⁷ Supra n.32. On the role of late antique bishops in civic crises, see Neil & Allen (2013).

³⁶⁸ *App.* 7.22.

³⁶⁹ *Reg.* 1.2.

³⁷⁰ *Reg.* 1.42.

³⁷¹ *Reg.* 1.70.

³⁷² *Reg.* 10.8. Just as Rome had its *annona*, the church also had its own form of grain dole, the *diaconia*. When Heraclius cancelled the *annona*, the church's *diaconia* replaced it, showing that "the process by which the church took over from the state the effective running of Rome can clearly be seen in the area of supply" – Richards (2014:300-1).

³⁷³ *Reg.* 5.36.

³⁷⁴ *Reg.* 9.107.

³⁷⁵ *Reg.* 9.116.

³⁷⁶ Demacopoulos (2013:140).

Dux Romae

The two prior sections show conclusively that with the backing of Justinianic legislation, Gregory's financial and logistical responsibilities ensured that Rome was administered to its greatest potential despite the ever present Lombard threat and lack of imperial interest. While the city did indeed receive sporadic reinforcements from the capital, constant warring elsewhere along the empire's borders meant that Rome was never in a fully secure position. Rome often had to rely on troops garnered from the Ravennan exarch, yet with the Lombards also threatening him, troops were constantly being moved from region to region leaving parts of the country terribly exposed.³⁷⁷ Although Justinian was keen to merge the civil and martial spheres on occasion with his magistrates, most notably in North Africa,³⁷⁸ and while the crux of this study revolves around the blending of the ecclesiastical and civic spheres with his bishops, even Justinian was astute enough not to entertain the notion of a militant clergy in the literal sense.³⁷⁹ However, certain aspects of his legislation point to his bishops as being in some way involved with martial infrastructures. *App.* 4.4 specifies that bishops and magistrates were together to organise the billeting of soldiers upon the civilian populace in order to 'facilitate' a more efficient system of tax collection, this affording bishops yet more authority in municipal finances. Further, *Nov.* 130.6 states that "if any of the dukes, soldiers or commissaries fail to give a receipt for the products used by them, the taxpayers furnishing such products may cause a record thereof to be made," with the bishop standing in as proxy in the governor's absence.

We have seen the extensive evidence of Gregory's involvement with civic finances and supply, both in terms of grain and timber. However, in terms of martial involvement, Gregory's status as senior figure at Rome, both in the civic and ecclesiastical spheres, brings him much more closely into contact with the army in practical terms by aiding in the strategic

³⁷⁷ Twice Gregory complains of Rome being left defenceless: *Reg.* 5.36 – troops withdrawn to Perugia; 9.240 – constant pay arrears meant that "parts would sustain danger thereby through lack of troops". *Reg.* 2.38 and 5.30 show the dangers of unpaid garrisons.

³⁷⁸ Bury (1923:vol. 2, 140).

³⁷⁹ Both Justinian and Gregory used martial terminology to describe monks in particular, e.g. *Nov.* 5 and *App.* 10, plus *Reg.* 1.40, 58; 7.35; 9.142, 204. This a common topos of the period, as also shown with the Merovingian episcopate – Coates (2000:1123n.1). A literal martial clergy would not develop until the medieval period, where it was not uncommon for a bishop (e.g. William Zouche archbishop of York, at the Battle of Neville's Cross in 1346) or monk (the Knights Templar, Hospitaller and Teutonic all took monastic vows to fight for the Roman bishop in the Holy Land during the Crusades) to lead an army.

defence of imperial holdings,³⁸⁰ a role Gregory has already been shown to fulfil through his duty Roman quartermaster.³⁸¹ Thus: on three occasions Gregory offers advice to commanders on how the Lombards could be bested;³⁸² he petitions the Ravennan exarch to relieve Naples in the face of an alliance between two of the semi-autonomous Lombard dukes;³⁸³ charges the bishop of Terracina with enforcing guard duty on the city walls;³⁸⁴ instructs the bishop of Cagliari to work with the regional commander and governor to ready the city's defences in case of Lombard attack;³⁸⁵ likewise with the bishop of Sardinia, where Gregory's concern that "guards are applied to the walls" is evident once more;³⁸⁶ and finally, he informs the Ravennan exarch that through "our agent" he knows of squadron of Pisan ships ready to "ready to set out from there,"³⁸⁷ which tallies with Gregory's fears of a Lombard invasion of Sardinia. On a final note, Gregory twice requests military escorts: from a Byzantine *dux* of Sardinia for a ranker pleading that his wife's return passage to Rome be protected;³⁸⁸ and similarly from a Ravennan *curator* for an aristocrat's wife travelling to Rome.³⁸⁹

Gregory's role as *sacellarius Romae* is clear; his legal acumen, on show so vividly throughout Chapter 2, further supporting his management of St. Peter's patrimony, a management which financed Rome and drew heavily upon legislative principles laid down by Justinian. Combined with the government's increasing difficulties with feeding Rome, Gregory's legally sanctioned involvement with grain management also kept the city alive, his personal granaries holding up Justinian's flimsy edifice of 554. That Gregory took an active part in both financing Rome's defence, through Lombard peace treaties, and the city's very walls, shows he was a bishop clearly going beyond his legally sanctioned role. However, viewed alongside the prior evidence, it is merely one more line of behaviour which further

³⁸⁰ For a narrative of the Lombard Italian campaigns, see Collins (2010:198-219).

³⁸¹ Supra n.340.

³⁸² *Reg.* 2.4 – ambush opportunity near Rome, Gregory citing the force as "our" troops; 2.27 – another chance to ambush an enemy column near Rome; 2.28 – advising imperial commanders to take the offensive and "pillage" a duke's "landholdings," Gregory also shows the strength of intelligence networks by giving the commanders new information – "furthermore be alert, glorious sons, for as far as I have discovered, Ariulf has collected his troops and is said to be stationed at Narni."

³⁸³ *Reg.* 2.38.

³⁸⁴ *Reg.* 8.19.

³⁸⁵ *Reg.* 9.196.

³⁸⁶ *Reg.* 9.11.

³⁸⁷ *Reg.* 13.34.

³⁸⁸ *Reg.* 9.71.

³⁸⁹ *Reg.* 9.117.

cements Gregory as the epitome of a Justinianic civic bishop. While Gregory's gaze was cast far beyond the Tiber, the focus here is upon civic bishops, and from the evidence thus far, it is obvious that late 6th century Rome was a product of Gregory's rather than Constantinople's administration.

Chapter 4. *De religione*: faith and factionalism

It is unquestionable that Justinian wanted his bishops to be involved with civic life, yet just as he wanted his clergy to help reform and regulate his subjects, he also realised that their newly garnered authority demanded that they too ought to be regulated. Regulating subordinate bishops was an inherent duty for the Roman bishop, although the evidence below shows that while previous chapters plainly express Justinian's legislative influence upon Gregory's behaviour in the civic sphere, Justinian's laws may even have impacted upon the way in which Gregory wanted his bishops to behave in the ecclesiastical sphere. With Gregory's clearly established knowledge of Justinian's laws, the plethora of Justinianic legislation concerning ecclesiastical regulation and management alone attests to this possible impact.³⁹⁰ However, this chapter focuses on two specific means of expressing this impact: how Gregory's actions paralleled Justinian's laws regarding bishops as vehicles for imposing doctrinal uniformity, and another investigating Gregory's implementation of Justinian's anti-simoniactal legislation. Through this selection we can once more see that Gregory was more than willing to follow Justinianic legislative precedent, no matter if it here concerned matters which were traditionally far beyond the remit of a secular ruler, divinely-ordained or not.

Oikoumene

If the Justinianic bishop was set to play such a pivotal role in the civic sphere, that he was to be instrumental in Justinian's ambitions for a universal Christian faith is a concomitant result of his overall elevation in stature within Byzantine society. Justinian never did attain his overall plan for a single unified imperial faith, but several laws directly affirm his wish that the bishop be at the very forefront of this effort. In order to fulfil this ambition, Justinian planned to envelop heresy from two angles: by spreading the 'right' form of Christianity amongst his subjects, and by ensuring that his clergy all conformed to the same doctrine.

³⁹⁰ Supra n.163-178.

Both Justinian and Gregory participated in programs of mass conversion,³⁹¹ but the focus here is less on external peoples as on religious separatists who dwelt within the Empire and did not ascribe to imperial Christianity. Justinian's hope that his bishops would lead a unified clergy in "preach[ing] the right Christian faith" has already been noted.³⁹² While he does not here afford a strict 'target' for this correct Christianity, that he promulgated specific legislation for Jews,³⁹³ Donatists,³⁹⁴ Manichaeans,³⁹⁵ Samaritans,³⁹⁶ implies that such concerns express a general nod towards the "falsehoods of heretics,"³⁹⁷ whatever their specific beliefs. Gregory also makes reference to specific religious groups including Jews,³⁹⁸ Samaritans³⁹⁹ and Donatists,⁴⁰⁰ but sticking with the general 'heretic' theme, Gregory, akin to Justinian, sees both himself and individual subordinate bishops as mediators in purging heresy. Gregory's correspondence attests to him directing subordinate bishops to stamp out pagan heresy on eight occasions: once for "pagans and heretics" amongst the Lombards in Italy;⁴⁰¹ once for Sicilian "worshippers of idols;"⁴⁰² three times in Sardinia;⁴⁰³ and once in Corsica for those "worshipping idols."⁴⁰⁴ Both Justinian and Gregory saw the episcopate as a means of enforcing the 'true faith' within the Empire's borders, but both also recognised the need to ensure individual bishops never erred from the path of imperially sanctioned enlightenment.

³⁹¹ Justinian: Germanic Heruli (John Malalas *Chron.* 427-8, 431-2), Caucasian Abasgi (*De Bellis* 8.3) and Tzanni (*De Bellis* 1.15) and Nubia (John of Ephesus *Historia Ecclesiae* 4.6). Gregory: England (*Reg.* 11.36, 37, 39, 39). See also *Reg.* 1.73 for Gregory's hope that a victorious general's campaigns would extend Christ's reach through extending the Empire's borders. See also Ricci (2013:29-56) for Gregory's evangelising missions.

³⁹² *Supra* n. 177 (*Nov.* 132.pref), 178 (*Nov.* 133.6), 179 (*CJ* 1.4.34). See also *CJ* 1.1.5, 6, 7 and 8 for doctrinal specifics.

³⁹³ E.g. *Nov.* 131.14; 139; 146. *CJ* 1.3.54; 1.9.2; 1.10.2.

³⁹⁴ *Nov.* 37.

³⁹⁵ *CJ* 1.5.12, 18.

³⁹⁶ E.g. *Nov.* 45. *CJ* 1.5.13.

³⁹⁷ *CJ* 1.1.6..3.

³⁹⁸ Gregory's dealings with Jews often show him an upholder of Judaic liberty - Martyn (2004:87-88). However, Gregory never wavered from Christian supremacy: he makes reference to Justinian's law banning the Jewish ownership of Christian slaves (*CJ* 1.3.54) 8 times – *Reg.* 2.45; 3.37; 4.21; 6.29; 9.105; 9.214; 9.216; 9.229b. See 13.13 for his ever-keen hope of converting them.

³⁹⁹ *Reg.* 6.30; 8.21. The former references "the laws" which regulate Samaritan inheritance – *Nov.* 129. The latter references the "law" in prohibiting sectarians from having Christian slaves – *CJ* 1.3.54.

⁴⁰⁰ *Reg.* 4.35; 6.36.

⁴⁰¹ *Reg.* 2.2.

⁴⁰² *Reg.* 3.59.

⁴⁰³ *Reg.* 4.26 "idolatry;" 4.29 "pagans;" 5.38 "offering sacrifices to idols." See also 11.12 for a letter to the president of the island, 4.23 to the nobles and citizens and 4.27 for an enemy duke on the island – all asked to work against the pagan threat (11.12 and 4.23 request aid for the bishops working there).

⁴⁰⁴ *Reg.* 8.1.

The traditional means of maintaining clerical discipline and uniformity was the synod, a council of local or regional prelates (usually bishops) who met to decide matters of doctrine or try ecclesiastical cases. The earliest councils are recorded as taking place in the 1st century AD,⁴⁰⁵ but following the various schisms and sects that evolved during the centuries following Constantine's conversion, the subsequent Empire-wide ecumenical councils became the most important ecclesiastical meetings of late antiquity. There the great debates between the adherents of Nestorius and Eutyches took place amid a growing West/East enmity: the former leaning towards a form of Nestorianism which held Christ to possess separate divine and mortal natures, and the latter following a form of Eutychian Christianity which ruled in favour of a union between Christ's natures.⁴⁰⁶ Just as emperors, popes and patriarchs would be the power players throughout the ecumenical councils' history, they would set the precedent from which the much smaller regional synods, would then work to ensure their own local clergy kept abreast of and maintained ecumenical rulings on doctrine.

Justinian took a very active role in the councils of his age; the Second Council of Constantinople (553) borne entirely from his own theological interpretations, which he hoped would foster a union between the Chalcedonians and non-Chalcedonians,⁴⁰⁷ it follows that he would also hope to implement such rulings on a regional level via the synod. With a combined front on the imperial scale via the ecumenical council, and a regional via the synod, Justinian hoped more than anything else that his grand vision of a universal Christianity would be realised; a faith propagated by disciplined and united bishops, each preaching to their clergy and congregations, thus infusing all social strata with the 'right faith.' This aim is definitively stated on two occasions, both laws affirming the same desire for a clergy unified and disciplined via the conciliar canons. The outline is expressed clearly in the first law:

In order that every ecclesiastical status and all sacred canons be carefully maintained, we order that every blessed archbishop, patriarch and metropolitan call all the holy bishops under their jurisdiction, in the same province, before them once or twice every year, and carefully examine all disputes which the bishops, clergymen or monks

⁴⁰⁵ Acts 15:6-21 – Council of Jerusalem (48-50AD).

⁴⁰⁶ This overview is extremely oversimplified, but follows the basic trend. For an in depth analysis of the ecumenical councils, see Davis (1990).

⁴⁰⁷ On the Chalcedonian movement, see Price (2011), for the non-Chalcedonian/monophysites, see Frend (1972). On Gregory's own Christological considerations and their influences on his tenure, see Greschat (2012).

have among themselves and settle them according to the ecclesiastical canons; and, besides, if anything has been done by any person contrary to the canons, to correct it.⁴⁰⁸

The second law is longer,⁴⁰⁹ but barring repeated clauses, it goes on to add that through not attending such synods “many have fallen into different sins,” with “matters...regard to the faith” of key concern to the attendants. Roman synods were held as early as the 4th century,⁴¹⁰ and thus any argument that Justinian’s legislation alone inspired Gregory’s enthusiasm for holding synods has no merit. However, in the overall context of general parallels between two individuals both seeking to enforce unity and harmony upon a notoriously fickle institution,⁴¹¹ the two do indeed share the same view on synods. Gregory thus requests synods on 17 different occasions: two pertain to specified discipline;⁴¹² one concerns the establishment of a new church;⁴¹³ three push for general order and regulation;⁴¹⁴ two others target neglectful bishops;⁴¹⁵ while the remaining nine examples all concern Gregory’s efforts to stamp out “simoniacal heresy,”⁴¹⁶ an issue discussed below. Aside from Justinian and Gregory holding a common aversion to simony, these examples coupled with the two laws above exhibit a general concern for clerical regulation and unity; the synod, a council afforded legislative backing by Justinian, being the perfect medium. On a final note of specific relevance, on two occasions Gregory appears to more closely mirror Justinian’s legislation on synods by instructing his bishops to hold regular synods if not twice, at least once throughout the year,⁴¹⁷ just as directed by Justinian in the first law above.

⁴⁰⁸ *Nov.* 123.10.

⁴⁰⁹ *Nov.* 137.4.

⁴¹⁰ Hefele (1896:Vol. 2 53ff.)

⁴¹¹ E.g. see Wood (1994:71-87) for intra-episcopal conflict and competition in Merovingian Gaul.

⁴¹² Numidia: Working with schismatics (Donatists) – *Reg.* 2.39; 3.47.

⁴¹³ England: Setting up bishops at York and London – *Reg.* 11.39; Sicily: Bishops asked to travel annually to Rome – *Reg.* 1.1, 4.9.

⁴¹⁴ Gaul: Asking regional bishops to support Gregory’s new vicar – *Reg.* 5.59; similarly at 9.219.

⁴¹⁵ Italy: The bishops had been “idle” and overlooked their duty of care – *Reg.* 13.29; Sardinia: Bishops failing to look after the convents under their charge – *Reg.* 4.9.

⁴¹⁶ *Reg.* 11.42.

⁴¹⁷ *Reg.* 1.1 (Sicily); 4.9 (Sardinia).

Concordia episcopatum

The final section of this thesis pertains to 'simoniacal heresy' and the irrevocable enmity towards it equally shared by Justinian and Gregory. Even if simony was a common practice during the 6th century,⁴¹⁸ that Gregory opposed it so vehemently despite this, shows once more a Gregory both in tune with Justinian's vision as regards the *modus operandi* of a newly empowered bishop, as well as the legislation upon which this position was founded.

Simony was named Simon Magus, who after witnessing the disciples Peter and John impart the Holy Spirit through their touch, offered the two money if they could pass the gift unto him.⁴¹⁹ Aside from other spiritual 'things,' the sin of purchasing ecclesiastical office, is perhaps noted as early as 343 by the Council of Sardica.⁴²⁰ As the church became increasingly institutionalised and subject to lay influence and wealth, the practice spread. The election of Symmachus as Roman bishop in 498 a very public demonstration of how imbedded the problem had become; Symmachus and his opponent Laurentius both being elected after bribing Theoderic and his court for their support.⁴²¹ Such was the controversy this election caused, it inspired the Gothic king of Italy Athalaric to promulgate in 532 an edict alongside the Roman Senate which outlawed the practice of papal simony.⁴²² Although this edict was then reissued the following year after another controversial election with John II, by 538 two further Roman bishops, Silverius and his successor Vigilius had both been accused of the crime.⁴²³ With Justinian an emperor shown consistently to abhor malpractice and who strove with his every fibre for ecclesiastical uniformity, it is no surprise that he should also wish to stamp out simony, a wish expressed repeatedly in his legislation.⁴²⁴ That Justinian was the first emperor to legislate against purchasing ecclesiastical office, issuing five separate laws across a 37 year period almost equating to his entire 38 year reign, with the last coming in his

⁴¹⁸ Huebner (2009:167-80).

⁴¹⁹ Acts 8:9-24.

⁴²⁰ Can. 2. For a survey of the council, see Hess (2002). On episcopal simony in general, see Norton (2007:177-214) and the discussion below.

⁴²¹ Baumgartner (2003:9).

⁴²² Cassiodorus *Variae* 9.15.

⁴²³ Norton (2007:188).

⁴²⁴ *CJ*. 1.3.41.19 "We further forbid, as provided in the sacred canons, any bishop, suffragan, or itinerant presbyter, or presbyter, or other clergyman of whatever rank to be appointed as the result of bribery" (528); *Nov.* 6.5 "no more do we permit him to buy the position" (535); 56 "We do not want minister and servants of God to become so through sale or business" (537); 123.1 "selection through no bribe" (546); 137.2 "selection through no bribery" (565). See also *Nov.* 123.2, 3, 16; *CJ* 1.4.31.20, 21, 22, 23.

final year of life, implies that opposing simony was not merely a revamped topos for Justinian; it was an issue which struck to the very core, a sentiment equally applied to Gregory.

Even if Gregory neglects at any point to specifically cite any of Justinian's laws on the matter, he does recognise the illegality of the process.⁴²⁵ More than anything, from the sheer number of references to the crime, 29 in total, we can clearly see that just as Justinian never gave up on the hope of eradicating simony, nor did Gregory. Owing to the prevalence of simony within the Merovingian church, a prevalence fostered by the aforementioned juxtaposition of aristocratic and episcopal motifs, it is no surprise that Gregory's concern lay heavily upon it. Hence the five letters sent to bishops on the topic,⁴²⁶ as well as the eight he also sent to four different Frankish monarchs, asking them to organise councils to prevent simony in their kingdoms.⁴²⁷ Both Gregory's hatred of simony and his recognition of its prevalence throughout Northern Europe is plainly expressed:

For I have learnt from certain reports, that in the lands of Gaul and Germany, no one obtains holy orders without handing over a payment. If this is so, I say with tears, I declare with groans that, when the priestly order is rotten on the inside, it will not be able to survive for long externally.⁴²⁸

Beyond the borders of Gaul and Germania, Gregory also targeted the churches of Africa,⁴²⁹ Dalmatia⁴³⁰ and Illyria.⁴³¹ Contrary to any notion that Gregory was only concerned with the West's simoniacal tendencies, especially that of Gaul where the church owned a large number of estates, he expressed similar disconcertion at the prevalence of the issue in the East:

⁴²⁵ *Reg.* 12.9 – "illegal ordinations" of a bishop "bestowing church offices for a reward."

⁴²⁶ *Reg.* 5.58; 9.219, 220; 11.38 and 42.

⁴²⁷ Brunhilde of Austrasia (*Reg.* 8.4, 9.214, 11.49, 13.5) and her grandsons Theoderic of Burgundy (9.216, 11.47) and Theodebert of Austrasia (9.216, 11.50) plus their mutual enemy Clothar II of Neustria (11.51). For the Merovingian civil wars of this period, see Wood (1994:88-101).

⁴²⁸ *Reg.* 5.58.

⁴²⁹ Numidia – *Reg.* 12.8, 9; Byzacena – 4.13.

⁴³⁰ Gregory had an ongoing dispute with a Maximus who bribed his way to the episcopate of Salona with the support of local troops – *Reg.* 4.20; 5.6; 7.17; 8.11, 24. Despite Maximus being excommunicated for his sins, reconciliation between Gregory and Maximus took seven years – *Reg.* 8.36; 9.177, 9.178, 179.

⁴³¹ Gregory instructs the new archbishop of Justinia Prima to ordain clerics "not due to bribes" – *Reg.* 5.16.

And we know with what great hostility the prince of the apostles has attacked this, who put forward the first sentence of condemnation against Simon: 'May your money perish with you, because you have thought that the gift of God may be purchased with money.' The creator himself and Redeemer of the human race, our Lord God, when he had made a scourge from small cords, overturned the seats of those selling doves out of the temple. For what else is selling doves in a temple other than giving in the Holy Church a price for the laying on of hands, through which the Holy Spirit is given? But the seats of those selling doves were overturned, because the priesthood of such men should not be reckoned as a true one.⁴³²

While this letter is addressed to the Patriarch of Jerusalem, he addresses a near identical letter to the Patriarch of Antioch,⁴³³ with a similar sentiment expressed to the Patriarch of Alexandria.⁴³⁴ Thus aside from the curiously omitted Patriarch of Constantinople, perhaps due to the ongoing conflict over the latter's use of the title of 'Universal Patriarch,'⁴³⁵ Gregory has here shown that when combined with the Western correspondence, his concern for simony extended right across and indeed even beyond the Empire's borders. As Gregory's first letter on the issue dates to 593⁴³⁶ and his last to 603,⁴³⁷ his role as Justinianic ideological propagator is plain to see: both loudly opposed simony throughout their whole tenure, with Justinian's legislation firmly grounding Gregory's actions within imperial law. Just as individual bishops could be used to maintain the 'right' faith of the Empire's subjects, and synods were used to maintain the 'right' faith within the church, there existed no better means of ensuring ecclesiastical purity than by eradicating simony. For "if money has any place in church appointments...what is sacred becomes secular"⁴³⁸ and the Kingdom of Heaven, a kingdom to be founded upon law, can never be fully realised.

⁴³² *Reg.* 11.28. Gregory here doubly condemns simony by stating that he viewed those ordained this way as not 'true' clerics.

⁴³³ *Reg.* 9.136.

⁴³⁴ *Reg.* 13.42.

⁴³⁵ *Reg.* 5.37, 41; 7.28, 30, 31; 8.29; 13.41.

⁴³⁶ *Reg.* 4.13.

⁴³⁷ *Reg.* 13.42.

⁴³⁸ *Reg.* 9.219.

Conclusion

Justinian was not the first Byzantine Emperor to legislate on the role of bishops, yet this study shows categorically that his legislation was not only more thorough in its application within prior established contexts, it also encompassed a much broader social demographic and expanded across a far wider judicial remit than under any emperor before him. But one aspect of a grand celestial ordinance, framed by a genuine desire to mirror and perpetuate the Kingdom of Heaven, Justinian's bishops, backed by another divinely-ordained product of his reign, the *Corpus Iuris Civilis*, were afforded a pivotal role in this quest. Fostered through the gradual decay of municipal administrative infrastructures and the recasting of communal loyalties which now looked not to the local *curia* or *forum* for advancement and ennoblement, but to the centralised Constantinopolitan imperial bureaucracy, the bishop filled the resultant power vacuum. Evidence of this new civic role is witnessed with the Merovingian episcopate. Aristocrats, stripped of traditional means of expression, found viable alternatives via the episcopate. However, such expressions only engendered an unofficial *auctoritas* easily challenged.⁴³⁹

Opposed to the unofficially empowered Merovingian civic bishop, Justinian's legislation established the bishop firmly within law, a remit that extended right across the civic strata: prominent in the judicial sphere through his involvement in wills, property and debt management, private contracts, guardianship of minors and women, regulation of and protection from imperial officials; equally prominent in the administrative sphere through his role in municipal finances, elections, grain supply and martial defence. The Justinianic bishop was therefore genuinely envisaged as a fully operational civic functionary, to stand as proxy for errant magistrates, or sometimes replacing them altogether. With the widespread proliferation of Justinian's legislation through a devoted band of legal practitioners,⁴⁴⁰ the transmission of Justinian's ideology, an ideology embodied by his legislation, was an influence felt across the Adriatic. After Justinian had fulfilled the desire to reunite lost Roman lands under his banner, 'Old Rome' a fulcrum to his propagandist vision, Italy was subject to the

⁴³⁹ Supra n.78; 100; 409.

⁴⁴⁰ Humphreys (2015:24).

‘Pragmatic Sanction’ and the bishop’s civic role formerly established as standard practice throughout the Italian peninsula.

It was within this period of Italian reconquest and reorganisation that Gregory, future Bishop of Rome, would follow the traditional aristocratic education of law and letters, before holding high office in the city’s legal administration, an administration now founded upon Justinian’s legislation.⁴⁴¹ Once Bishop of Rome, Gregory found himself in a unique position from which to further his own visions of ascetic godliness and a stable Roman administration. Gregory’s youthful training in law is on show throughout his vast collection of letters, nowhere more so than when dealing with the very issues in which Justinian’s legislation afforded bishops the right and authority to intervene.

Thus, following Justinianic legislative precedent, Gregory settled disputes pertaining to inheritance, debt, property ownership, and the protection of women and minors, each defendant a citizen. This qualifier is crucial: a bishop would be expected to look after similar interests for his own clergy, but traditionally a praetor, certainly not a bishop, would deal with any issues affecting a civilian. By occasionally quoting the relevant Justinianic laws when dealing with some of these issues, Gregory only further emphasises both his awareness of Justinian’s laws, but also his continued reliance upon them. In the administrative sphere, Gregory is equally active as a civic functionary. If we equate the papal treasury with Rome’s civic treasury, Gregory’s actions in this capacity show him well in tune with the responsibilities afforded his position through Justinian’s legislation. His oversight of Rome’s grain and timber supply once more show him ready to use earlier papal and Justinianic legislative precedent, while being prepared to go beyond such limits in a bid to fully secure Rome’s stability. This willingness to utilise but also go beyond Justinianic legislative precedent is never more apparent than in Gregory’s actions in the martial sphere, his advice on strategy to Roman commanders, with his funding of peace treaties and awareness of troop deployments throughout Italy plainly going beyond the expected jurisdiction of a bishop.

‘The expected jurisdiction of a bishop’ is indeed a relevant term here, for certainly, Gregory was no ordinary bishop, he was *the* most senior bishop in Christendom; even the Patriarch of Constantinople, a rival riding imperial coattails, could only aspire to inflammatory titles in a bid to achieve superiority. By also briefly discussing Justinian and Gregory’s shared

⁴⁴¹ On the propagation of Justinianic legislative ideology through the late 6th and early 7th centuries see Humphreys (2015:9, 23-25).

enthusiasm for regular synods and aversion towards simony, we can see that Gregory perhaps followed, or was at least influenced by, Justinian's strictly ecclesiastical legislation, a sphere in which Gregory was in no way expected to act thus. Aside from Gregory's special episcopal position, his good relations with the empire and proximity to the exarch may well also have influenced Gregory's mentality and attitude towards Justinian's legislation. Equally, Gregory's correspondence offers a unique insight into his role. As earlier papal correspondence is far less numerous, with earlier Roman Bishops also holding very different attitudes towards the Empire,⁴⁴² it must be noted that the choice here of Justinian and Gregory is a purposeful selection, and the evidence here should be seen in this context, not as a general overview of Roman-Constantinopolitan relations and the effect the latter's legislation had on the papacy as a whole. That said, through this purposeful selection, the evidence is irrefutable: as bishop, Gregory not only shows an awareness of Justinian's legislation concerning the civic role of bishops, he made active use of it across a wide variety of responsibilities within the *civitas*. This observation does not necessarily preclude a shared ideology between the two men, only a shared interest in the law of man and the rule of God; cornerstones of both men's divinely-ordained mimeses.

⁴⁴² See Neil & Allen (2014) for a specific survey of Gelasius I's (492-496) correspondence, and Jasper (2001) for a general survey of papal correspondence between the 4-9th centuries. Günther's Latin edition (1895) is still the best collective edition for this evidence.

Appendices (in chronological order)

Codex Theodosianus (Pharr)

Emperors (Chronological order)	Theme 1: Judiciary	Theme 2: Admin/fisc	Theme 3: Doctrine	Theme 4: Clerical management	Theme 5: Social	Theme 6: Diplomacy	Total record for emperors
Constantine I (r. 306-337) - W/E	1.27.1 (1)	16.2.2; 16.2.3; 16.2.6; 16.2.7 (4)			4.7.1 (1)		6
Constantine I (r. 337-350) - W/E		16.2.10; 16.2.11; 16.2.12 (3)					
Constantius II (r. 337-361) - W/E		12.1.49; 16.2.8; 16.2.9; 16.2.10; 16.2.11; 16.2.14 (6)		16.2.15 (1)			3
Julian (r. 360-363) - W/E		16.2.14 (1)		16.2.15 (1)			7
Valentinian I (r. 364-375) - W/E		16.2.19; 16.2.21; 16.2.22 (2)	16.6.1 (1)	16.2.17; 16.2.20; 16.2.22 (3)			2
Valens (r. 364-378) - W/E		16.2.19; 16.2.21; 16.2.23; 16.2.26 (4)	16.6.1 (1)	16.2.17; 16.2.20; 16.2.22 (3)			6
Gratian (r. 367-383) - W/E	11.39.8 (1)	16.2.21; 16.2.23; 16.2.26 (3)	16.1.2; 16.1.3; 16.5.5; 16.5.6; 16.5.14 (5)	16.2.20; 16.2.22 (2)			8
Valentinian II (r. 375-392) W/E	11.38.8 (1)	16.2.23; 16.2.26 (2)	16.1.2; 16.1.3; 16.5.5; 16.5.6; 16.5.14; 16.5.19 (6)	16.2.27 (1)			11
Theodosius I (r. 379-395) - W/E	1.27.2; 9.40.16; 9.45.1; 11.36.31; 16.2.31 (5)		16.1.2; 16.1.3; 16.1.4; 16.4.6; 16.5.5; 16.5.6; 16.5.14; 16.5.19; 16.5.22; 15.5.24; 16.5.53 (11)	16.2.27 (1)			10
Arcadius (r. 388-408) - E	1.27.2; 9.40.16; 9.45.1; 11.36.31; 16.2.31; 16.11.1 (6)	11.16.21; 12.1.163; 16.2.36 (3)	16.1.4; 16.4.6; 16.5.19; 16.5.22; 16.5.24; 16.5.26; 16.5.28; 16.5.36; 16.10.19 (9)	9.45.3; 16.2.27; 16.2.29; 16.2.30; 16.2.32; 16.2.33; 16.2.35; 16.2.37; 16.2.38 (9)			17
Honorius (r. 393-423) - W	1.27.2; 9.40.16; 9.45.1; 11.36.31; 16.2.31; 16.2.41; 16.11.1 (7)	11.16.21; 12.1.163; 16.2.36; 16.2.42 (4)	16.2.45; 16.4.6; 16.5.22; 16.5.24; 16.5.26; 16.5.28; 16.5.36; 16.5.53; 16.5.54; 16.5.57; 16.6.6; 16.6.7; 16.10.19 (13)	9.45.3; 16.2.29; 16.2.30; 16.2.32; 16.2.33; 16.2.35; 16.2.37; 16.2.38; 16.2.40; 16.2.43 (10)	5.9.2; 9.3.7; 9.16.12 (3) 9.40.24 (1)		27
Theodosius I (r. 402-450) - E	16.2.41; 16.2.47 (2)	11.1.37; 16.2.42 (2)	16.2.45; 16.5.54; 16.5.57; 16.5.66; 16.6.6; 16.6.7; 16.10.19 (7)	5.3.1; 16.2.38; 16.2.40; 16.2.43; 16.2.46 (5)	5.9.2; 9.3.7; 9.16.12 (3) 9.40.24 (1)		38
Valentinian III (r. 424-455) - W	16.2.47 (1)	11.1.37 (1)	16.5.66 (1)	5.3.1; 16.2.46 (2)			20
							5
							160

Novellae of Valentinian and Majorian (Pharr)*

Emperors (Chronological order)	Theme 1: Judiciary	Theme 2: Admin/fisc	Theme 3: Doctrine	Theme 4: Clerical management	Theme 5: Social	Theme 6: Diplomacy	Total record for emperors
Theodosius II (r.402-450) - E			18.1 (1)	17.1 (1)	23.1 (1)		3
Valentinian III (r.424-455) - W	35.1 (1)		18.1 (1)	17.1 (1)	23.1 (1)		4
Majorian (r.457-461) - W	11.1 (1)	7.7 (1)					2
							9

Constitutiones Sirmondianae (Pharr)**

Emperors (Chronological order)	Theme 1: Judiciary	Theme 2: Admin/fisc	Theme 3: Doctrine	Theme 4: Clerical management	Theme 5: Social	Theme 6: Diplomacy	Total record for emperors
Constantine I (r. 306-337) - W/E	1 (1)						1
Valentinian II (r.375-392) W/E	3 (1)						1
Theodosius I (r. 379-395) - W/E	3 (1)						1
Arcadius (r.388-408) - E	2; 3 (2)	9 (1)					1
Honorius (r.393-423) - W	2; 14; 15 (3)	9 (1)	12 (1)	13 (1)	16 (1)		3
Theodosius II (r.402-450) - E	2; 6; 14; 15 (4)		12 (1)	13 (1)	16 (1)		7
Valentinian III (r.424-455) - W	6 (1)						7
							1
							22

* The *Novellae* of Theodosius II, Valentinian III and Majorian were all promulgated after the publication of the *CTh* (438).

** The Sirmondian Constitutions are a collection of 16 (or 18) laws which, taking their name from the 17th century compiler, Jacques Sirmond, includes laws both excluded from the *CTh*, and others that are included in abbreviated form. In general, the 16 laws all pertain to ecclesiastical matters, hence their inclusion here, and may take their origin ultimately from a broader collection taking root in 5th century Merovingian Gaul (Vessey 1993:178-199). There is debate regarding perhaps the most important law, no. 1, as this is viewed by some as fraudulently claiming that under Constantine I, defendants could not only be forced into a bishop's court (*audientia episcopalis*) against their will, but more importantly, the bishop's ruling was final and without appeal, which ran counter to both scriptural precedent and secular legislation (Sirks 2013).

Codex Justinianus. [Bilume]

Emperors (Chronological order)	Theme 1: Judiciary	Theme 2: Admin/fisc	Theme 3: Doctrine	Theme 4: Clerical management	Theme 5: Social	Theme 6: Diplomacy	Total record for emperors
Constantine I (r. 306-337) - W/E					1.13.1; 1.13.2; 5.27.1 (8)		3
Constans I (r.337-350) - W/E							0
Constantius II (r.337-361) - W/E							0
Julian (r.360-363) - W/E							0
Valentinian I (r.364-375) - W/E			1.1.1; 1.1.2 (2)				0
Valens (r.364-378) - W/E			1.6.1 (1)				2
Gratian (r.367-383) - W/E	1.3.7 (1)		1.1.1; 1.1.2; 1.6.1 (9)				1
Valentinian II (r.375-392) W/E	1.3.7 (1)		1.6.1 (1)				4
Theodosius I (r. 379-395) - W/E	1.3.7 (1)		1.1.1; 1.1.2 (2)				2
Arcadius (r.388-408) - E	1.3.10; 1.4.8 (2)			1.3.14 (2)			3
Honorius (r.393-423) - W	1.3.10; 1.4.8; 1.4.9 (3)	1.55.8 (1)	1.2.6 (1)	1.3.14; 1.3.16 (P); 1.3.19 (P) (3)			4
Theodosius II (r.402-450) - E	1.3.22; 1.4.8; 1.4.9; 1.4.12; 1.12.3 (5)	1.3.21; 1.55.8 (2)	1.2.6 (1)	1.3.16 (P); 1.3.18; 1.3.19 (P) (3)	11.41.6 (1)		8
Valentinian III (r.424-455) - W	1.3.22; 1.4.12; 1.12.3 (3)	1.3.21 (1)	1.3.23; 1.5.8 (2)		11.41.6 (1)		12
Marcian (r.450-457) - E	1.3.25; 1.4.13 (2)		1.3.23; 1.5.8 (2)				7
Leo I (r.457-474) - E	1.4.14; 1.12.6; 1.12.7 (3)	1.3.28 (1)		1.3.26; 1.3.30 (2)			4
Anthemius (r.467-472) - W	1.3.32 (1)	1.2.14; 1.3.33 (2)		1.3.30 (1)			6
Zeno (r.474-491) - E			1.2.16 (1)	1.3.35; 1.3.36; 1.3.38; 1.3.39; 1.3.40 (5)			4
Anastasius I (r.491-518) - E		1.4.17; 1.4.18; 1.4.19; 1.55.11 (4)					6
Justin I (r.518-527) - E							4
Justinian I (r.527-565) - E	1.4.22; 1.4.33; 1.4.24; 1.4.25; 1.4.27; 1.4.28; 1.4.29; 1.4.30; 1.4.31; 1.4.33; 4.30.14; 5.70.7; 9.4.6; 9.5.2; 9.47.26 (15)	1.2.21; 1.4.21; 1.4.26; 1.4.32; 7.40.2 (5)	1.1.8; 1.5.12; 1.5.17; 1.5.18 (4)	1.3.41; 1.3.42; 1.3.43; 1.3.44; 1.3.45; 1.3.46; 1.3.47; 1.3.48; 1.3.49; 1.3.51; 1.3.52; 1.4.34 (11)	3.43.1; 5.4.25; 7.37.3 (3)		0
							38
							108

Appendices & Edicts of Justinian (Blume)

Emperors (Chronological order)	Theme 1: Judiciary Ed. 1; Ed. 8; Ed. 10; Ed. 12 (4)	Theme 2: Admin/fisc App. 7; App. 4; Ed. 13 (3)	Theme 3: Doctrine	Theme 4: Clerical management App. 2; App. 3; Ed. 5 (3)	Theme 5: Social	Theme 6: Diplomacy	Total record for emperors
Justinian I (r.527-565) - E							10
							10

Novellae of Justinian (Blume)

Emperors (Chronological order)	Theme 1: Judiciary 8; 51; 79; 83; 86; 101; 115; 117; 134; 142; 155; 167 (12)	Theme 2: Admin/fisc 15; 17; 43; 128; 130; 145; 149 (7)	Theme 3: Doctrine 42; 58; 109; 129; 132 (5)	Theme 4: Clerical management 3; 5; 6; 7; 9; 11; 16; 28; 31; 40; 46; 54; 55; 56 57; 67; 120; 123; 129; 131; 133; 135; 137 (23)	Theme 5: Social 59; 81; 153 (8)	Theme 6: Diplomacy	Total record for emperors
Justinian I (r.527-565) - E							50
							50

* As the *CTh* and *CJ* incorporated all earlier laws to date as well as the promulgator's own, one would expect to see a degree of cross-over between the two: the *CTh* has 160 entries referencing bishops, the highest contributors being Arcadius and Honorius with 27 and 38 respectively, while the *CJ* has only 108, with Justinian by far the most active, also with 38 laws. Yet, Arcadius and Honorius have only 12 entries between them in the *CJ*, implying that a number of Justinian's laws may have simply replaced Arcadius and Honorius' and indeed other emperor's laws from the *CTh*. Although, when also including the 60 references to bishops in Justinian's *Novellae* (including edicts and appendices) Justinian's total comes to 98, which means that only with a law-by-law analysis and comparison of the *CTh*, *CJ* and *Novellae* can a proper assessment of the growth of ecclesiastical legislation and the impact Justinian had upon that body be made. We can however definitively state that Justinian legislated on bishops far more than previous emperors: even if one were to discount the entries in the *CJ* and use his *Novellae* alone, Justinian still has 22 more laws than Arcadius, with Justinian's also extending across a far wider social demographic. For a clear demonstration of Justinian's overall expanded ecclesiastical corpora, when comparing the first 13 sections of book 1 of the *CJ* and 16 of the *CTh*, which of the volumes are the most ecclesiastically concentrated, the 13 sections of *CJ* book 1 amount to 61 out of 125 total pages in the Blume edition, while within book 16 of the *CTh*, the ecclesiastical legislation of all the emperors combined only amounts to 38 pages in the Pharr edition.

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