Conclusion

> Those who either out of ignorance confuse or out of negligence violate and offend the sanctity of divine law commit sacrilege.[1]

What made a church sacred in late antiquity? In both legal and ritual prescriptive contexts, the answer was ostensibly the same: the rite of consecration produced *res sacrae*. But method of production is one thing and the way the product functions is another. For legal practitioners, the status of *res sacrae* ensured the perpetuity, stability, and wealth of divine institutions. Even legally, the needy could participate in such institutional stability and wealth but only under limited circumstances. A church's protected status took precedence over its protecting capacity. After all, churches only became protecting because they were protected.

This is not the logic evident in Christian ritual practices of dedication and consecration. According to (1) the orations of bishops who spoke on such occasions, (2) the images that were installed to commemorate the dedicatory and consecratory events, and (3) still other pieces of evidence, churches were protected because they were protecting. Though the difference appears slight, this inverse relationship between legal and ritual views had profound ramifications. Liturgically, the only limitation to a bishop's performance of an act of mercy was his and his fellow clerical colleagues' discretion. Nothing was to hinder practices of mercy, not even the law. The church itself was not supposed to interfere with a soul's salvation. If one donor's gift for the sake of his or her soul were repurposed to save still another soul, then the number of saved souls multiplied. And that was what the church was for.

Like tectonic plates, the legal and ritual discourses of the sacred fit, but their colliding boundary—the practice of mercy—generated charges of sacrilege. It is at the colliding boundary that ritual mercy and legal sacrilege became indistinguishable. Some bishops, like Ambrose of Milan, would be celebrated for their mercy and not penalized for their sacrilege.[2] Other bishops, like John Chrysostom, would suffer the trauma of exile for their sacrilegious act of mercy.[3]

Ironically, sacrilege could only take place at legally recognized sacred places. Imperially recognized bishops were the only agents whose rite of consecration legally produced a sacred thing. Therefore, sacrilegious acts could only take place with reference to such things. Consecrations performed by imperially repressed bishops could not legally produce sacred things. The question of sacrilege, therefore, could never be posed about such things. Yet the law had ways of demeaning the alleged status of others' sacred things. Legally speaking, the churches of "heretics" were "feral grottos," according to a law targeted against Montanists.[4] In the eyes of non-Chalcedonians, however, non-Chalcedonian churches were certainly not "feral grottos." Their churches were not cavernous death traps. Their churches were founded on the pure, uninhabited, rocky landscape that the Father himself had chosen for Christ, for Mary, and for their true followers.[5] Just as mercy and sacrilege met at a juncture, so too did the inviolable sacred and the violating feral.

There did come a time and a place when authorities would try to neutralize the difference between the legal and the ritual perspectives on the sacred. In the late eleventh century, jurists and bishops of the Byzantine Empire found a way to remove the colliding boundary, to fuse the two tectonic plates, so to speak. In 1081, a synod allowed Emperor Alexios I Komnenos to alienate *res sacrae* in order to fund his military activities. Leo, the metropolitan of Chalcedon, opposed the synod's decision and spent much of the 1080s voicing and defending his position against the emperor and members of the synod.[6] By then, the iconoclastic controversies of the eighth and ninth century had produced theories about sacred materiality. Leo and other bishops revisited these theories to ascertain whether Alexios's alienation of ecclesial property was in fact legal.

Another synod took place in 1091 at the Blachernae in Constantinople. The synod argued that it was the intangible, abstract form of icons that was sacred, not the matter (*ὕλη*). Therefore, the alienation of *res sacrae* to fund military activity was justifiable. "The emperor [Alexios] asked, 'Tell [me], what are icons? Are icons matter (*ὕλας*) or the likenesses that are made known in it [i.e., the matter]?' Everyone responded, 'The likenesses that are made known in the matter.'"[7] The synod argued that sacrality pertained only to form, not matter, so no sacrilege occurred in the alienation of the matter, even if the purpose of the alienation had nothing to do with practicing mercy.

Leo of Chalcedon had charged Emperor Alexios I Komnenos on counts that would have convicted an emperor in late antiquity. But Alexios used some claims of the iconoclastic controversies in his favor, to allow for the repurposing of sacred things. Ironically, the spiritualization of sacred materiality in this case allowed sacred things to be repurposed to wage war. By contrast, Gregory of Tours' story about Anicia Juliana celebrated the clever solution Anicia Juliana had found to rebuff Justinian's attempt to borrow her wealth to wage war.[8] Anicia Juliana used that wealth to furnish a gilded ceiling for a church she had founded. As a result, Justinian would have had to violate his own laws to borrow her assets. In the

posticonoclastic context of the eleventh century, Anicia Juliana would not have been able to protect her wealth from Justinian's military pursuits by consecrating it.

With Constantine's legalization of Christian practice in the fourth century, Christian holy places began to be slotted into a preexisting legal category of *res sacrae*. This process came with benefits: the stability and enrichment of ecclesiastical institutional structures, legal support for ecclesiastical administrators and their work, and so on. By the sixth century, the process was complete. In 533, Justinian had a new textbook on Roman law published by rewriting textbooks produced centuries prior. This new textbook explicitly stated that *res sacrae* were gifts to the Christian God consecrated by bishops.

The application of Roman jurisprudence to Christian holy places was by no means without controversy. All along the way, negotiations took place, stories and counterstories were told, and violence occurred. In general, bishops petitioned for increased legal support of churches in their protecting capacity with limited success. Jurists, by contrast, worked to maintain the integrity of civil institutions. Donors took a vested interest in their transactions with the celestial realm. Donors, jurists, and bishops engaged in nuanced discourses over what it meant for church property to be "sacred" in late antiquity. What may appear to be legal minutiae make all the difference for appreciating the significance of controversies over the sacred in late antiquity.