CHAPTER I

Superstitio: *conceptions of religious deviance in Roman antiquity*

Starting point

What does religious deviance comprise? In a collection of practice speeches, perhaps originating in the early second century CE, and later ascribed to the celebrated teacher of rhetoric Quintilian (d. about 100 CE), the following fictional case (*Declamatio minor* 323) provides the basis for the plea by the accused. When Alexander the Great attacked Athens, he burned down a temple lying outside the walls of the city (the writer does not take the trouble to link the temple with a particular deity). The anonymous deity wrought revenge by sending a plague over the Macedonian army. Through the medium of an oracle, Alexander learns that the epidemic will end only when the temple is re-established. Alexander complies with the oracle's judgement, and rebuilds the temple more splendid than before. But rebuilding the temple is not enough: it has to be formally dedicated to the deity and consecrated. Regarding the sacred procedure to be followed, the writer quite specifically refers to Roman practice. Alexander wins over an Athenian priest with the promise to withdraw after the dedication. The priest agrees, and Alexander keeps to the agreement. And now comes the twist by which the story turns into a legal case: the priest is charged with having aided the enemy (*hosti opem tulisse*).

That this criminal case is replete with religion is a factor that the author's commentary does not neglect to emphasize. What interested the budding jurists and orators over the space of many pages need not concern us here. But how does the priest talk himself out of the charge, and – literally – save his neck? His final plea is based on the premise that if, in war, one does something that also indirectly helps the enemy, this cannot be construed *per se* as aiding the enemy (*opem ferre*). What is of interest to us is that the priest follows the logic of the religious norm: the Athenian god is angry; he demands a temple; so everything must be done in order to satisfy that desire. That the priest in addition

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compels the foe to withdraw must weigh in his favour, rather than his being blamed for the succour given to the opposing army. This is a case where a (seeming) military norm is departed from on the basis of religion; the question is primarily one of conflict between different norms, collision between different fields of practice. The author, writing much later under the Empire, is able to imagine that strict adherence to religious norms can lead to conduct that is seen in the wider social context as deviant.

At about the same time, the Greek philosopher Plutarch, who died in the twenties of the second century CE, was occupied with another case of religious deviance, also anonymous. But Plutarch's sights were set, not on the intellectual interest of an oratorical exercise, but on typifying an entire set of instances. A "superstitious" individual (*deisidaimonos*) would actually like to celebrate the cycles of festivals like anyone else; he would like to savour life and enjoy himself: but he cannot (*On Superstition* 9 = 169 D–E). Just as the temple is filled with the scent of incense, his soul is filled with supplications and laments. He has the festive wreath on his head, but he is pale; he sacrifices, but is afraid; he prays, but his voice trembles; he offers up incense, but his hands shake. As a measure of his own assessment of the case, Plutarch cites an observation ascribed to the ancient philosopher Pythagoras: proximity to the gods should bring out the best in us. But this man enters a temple as if it were a lion's den. To summarize this contemporary of the anonymous follower of Quintilian: to adopt religious norms to excess is to go a step too far. Behaviour that does not amount to criminality in legal terms is aberrant or deviant when viewed from a religious perspective.

What the two instances have in common is the surprising third-party perspective, the outrage, the shift of norms that is required in order to make religious behaviour deviant. This book thus embarks upon a dual journey. By investigating deviance and infringements of norms, I intend to identify actual variations in religious behaviour. To what extent did individuality exist in the religious sphere in antiquity? Must the accepted view of the collective character of pre-modern religion be called into question? But the pursuit of the individual is merely one purpose of this journey. For, in investigating deviance, we encounter normative discourses aimed at either limiting or facilitating diversity. By whom were such religious positions established? How were they implemented? Whatever individual religious activity there may have been, it took place within a social context where a degree of rigour prevailed, and where the other way was the norm. That the context itself varied makes our work no easier, but it

does make it more interesting. It is not our aim to portray Roman religion as unchanging, but to historicize it.

This book rejects the position that sources received from antiquity, especially the normative, judgemental, and condemnatory texts, reveal only that other way, and provide access only to the exclusive and excluding polemic of an intellectual elite. My argument, echoing Michel de Certeau,[1] rests on the assumption that such texts also provide a view of the highly varied, distorted, hyperbolic, and "devious" ways in which such norms were appropriated by individuals, even if those individuals remain anonymous. In my concluding chapter, I seek to clarify how such individual modes of appropriation were in turn predicated upon particular historical circumstances. That the norms themselves were merely attempts to represent a complex reality that resisted being subjected to such formulations is shown by the often encountered reference to a close association of divination, divine "revelation" accessible to the individual, with deviance.

What is "religious deviance"? To achieve some distance from ancient terminology – which will of course have an important role to play – I refer to a textbook sociological definition of deviance:[2]

> Deviance is any activity perceived to infringe a generally valid norm of a society or of a particular group within that society. Thus deviance is not a phenomenon that is regarded merely as atypical or unusual … In order for behaviour to be regarded as deviant, it must be judged to offend against binding, socially defined standards. And, as many such standards, but not others, are codified in statutes, the phenomenon of deviance includes criminal behaviour … but also behaviour that, while not regarded as illegal, is generally seen as unethical, immoral, eccentric, indecent, or simply "unhealthy". (tr. D. Richardson)

Sources

But where are we to find such "unhealthy" individuals, and their self-styled physicians? Is it even possible to reconstruct a consistent discourse as to the limits of acceptable religious behaviour? First of all, we have normative texts of highly varying character. Instances of the regulation of religion in the form of statutes are rare. The incorporation of religion into the systematizing structure of law is a very long process.[3] It begins in Rome in the early third century BCE, with the introduction of the written calendar

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[1] de Certeau 1988.
[2] Joas 2001, 170.
[3] Ando 2006.

in the form of the *fasti*, a term whose sense might be rendered as "list of appropriate days for opening legal proceedings".[4] From its emergence in discrete rules in respect of priesthoods and the politically highly relevant area of the auspices (a particular form of divination),[5] the development does not attain a fundamentally new level until the *De legibus* of Cicero (106–43 BCE), with its outline of a religious statute, the post-Republican[6] city statutes, and the Augustan age.[7] It is not, however, until the legal corpora of Late Antiquity that we find comprehensive rules with the power of law, in particular the norms of the fourth and fifth centuries assembled in Book 16 of the *Codex Theodosianus*.

It is not statutory form that characterizes those descriptions of religious practice that we categorize as "antiquarian". They include accounts of the augural system and the festivals of the Roman year, commentaries on traditional religious songs, and the comprehensive work on "antiquities of religion", where the universal scholar Varro (116–27 BCE), in giving a written account of what was seen at the time, in the mid-first century BCE, as traditional religion, systematizes[8] and normalizes the field, and occasionally anticipates deviance.

We have no crime statistics for Roman antiquity, and so descriptions are typically of an anecdotal character, concentrated on a few individual instances. When ancient historiographers mention the theme, it is often to write about scandals, instances of aberrant behaviour that possessed great resonance. These are the few surviving instances of actual behaviour assessed by third parties, and concern such individuals as the nobleman Gaius Valerius Flaccus, who did not want to be made a priest, more precisely *flamen Dialis*, and the consul Flamininus, who disregarded divine portents.[9] Then there are some works of social criticism and philosophy. It is hard to tell the extent to which the criteria they express were generally accepted. They nevertheless represent clear-cut positions in a discourse on deviance, as when the poet Juvenal makes fun of the Sabbath practices of Roman women. Only in very few instances do such texts take on a systematic character; I have in mind here the work *De superstitione* – usually translated as *On Superstition*, and surviving only in a few, nevertheless substantial fragments – by the Stoic philosopher,

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[4] Rüpke 2011b, 45.
[5] Rüpke 2005a and 2011b.
[6] Here I follow the periodization proposed by Harriet Flower (2010).
[7] Ando in Ando and Rüpke 2006, 9.
[8] Rüpke 2009a.
[9] See Livy 27.8.4–10 resp. Cic. *Div.* 1.77 f.

tragedian, and statesman Lucius Annaeus Seneca (died in 65 CE). This text will receive closer attention, as will its counterpart the treatise *Peri deisidaimonia*, already cited and written only a little later by the Middle Platonist Plutarch at the end of the first century CE.

Brief mention should be made here of the search for traces of deviant behaviour in material relics, which is faced with great difficulties. Evidence of votive gifts and votive inscriptions, and also tombstones and funerary inscriptions, may well be present in great quantities; they may indicate a further spectrum of variations and further lines of inquiry; those variations may even be, as stated in the definition already cited, "atypical or unusual". But the critical element is missing: we almost never know whether such exceptional cases were also, to quote the same definition, "seen as unethical, immoral, eccentric, indecent, or simply 'unhealthy' ".[10]

Once more, this leads us to the problem of norms. How do they make their presence felt? In what field are they valid? In the context of the above-mentioned field of dedications and gravestones, one might speak of areas of practice whose norms were mainly defined by *mos*, or custom and tradition. With Pierre Bourdieu,[11] we might here think of an interplay between habit on the one hand and "ideal conceptions" on the other: while "habit" might describe an entire complex of unconsciously acquired dispositions comprising sequences of actions, physical postures, and even emotions, "ideal conceptions" would involve the conscious assumption of social rules as to "how things should be". Such shared conceptions do not simply describe "how things really are", but they nevertheless remain affected by that concern. Here we might ascribe a strong, standardizing effect to the great resources devoted to "public ritual" (*sacra publica*) and the ceremonies of the elite: one sees how such things should be done. And such a norm is not undermined by the fact that concrete circumstances, topographical considerations, financial means, or pressure of time[12] might lead to substantial transgressions that would still fall short of being classified as "deviance".

The areas affected by explicit normalization might be slight in comparison, despite the casuistic tradition of the existence since Numa of so-called royal laws, the *leges regiae* regulating, for example, who had to offer which sacrifice to which god if the enemy commander had perished in single combat at the hand of a Roman. In these circumstances, the

[10] But compare the evidence analysed e.g. by Minoja 2006.
[11] See Bourdieu 1972, 1998.
[12] I have in mind the necessity for rapid burials.

question of who had the prerogative to formulate norms is particularly
important, and I shall accordingly give it especial attention in my ana-
lysis of the texts. Explicit religious authority did not simply lie with the
social elite, but received legitimation from specific institutions such as the
Senate or priesthoods; it could also be put in question by the charismatic
authority of *vates*.[13]

Superstitio

What research strategy is appropriate in view of this state of the evidence?
Building on older studies,[14] Dale Martin and Richard Gordon have made
important terminological and etymological investigations into a concept
that is of central importance in the context of non-criminal religious devi-
ance. *Superstitio* is normally translated as "superstition", and this in itself
serves to make us aware of the weight of prejudice borne along by such a
concept.

A New Testament scholar based at Yale, Martin concentrates on philo-
sophical and medical discourse from Hellenism into Late Antiquity, and
Christian reception of the term *superstitio*.[15] His central thesis is that a
fundamental change in the thinking of the political and cultural elite
occurred during the course of the Imperial age. The world picture typical
of city-state republics can be summed up in terms of a fundamentally posi-
tive anthropology: all people should be good, and are capable of being so.
This results in a positive picture of the cosmos and the gods: just as only
the good person is happy, so the gods, who are *by definition* happy,[16] must
be good. Only in reaction to the experience of the Imperial age (admit-
tedly never mentioned in such precise terms by Martin) did doubts arise,
extending to the elite, in respect of this "grand optimal illusion": among
the gods too there is capriciousness and wickedness; apart from the gods,
and enabling the gods to remain good, there are demons, of whom it is
reasonable to be afraid.

The term "superstition" (the modern usage makes it easier to bring
together the histories of both word and concept) should be understood
against the background of an initial premise: if the gods are good, it is

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[13] See Rüpke 2007b, 231. For an example from the third century BCE: North 2000.
[14] See, for instance, for Cicero, Störling 1894; Solmsen 1944; in general, Belardi 1976 and Smith and
Knight 2008, in particular, the comparative introduction in Smith 2008.
[15] Martin 2004.
[16] This optimistic vision, for example in Plutarch, stemmed from Plato: Moellering 1963, 95.

unreasonable to fear them. The censure of behaviour as "superstitious", attested for the first time in Theophrastus in the fourth century BCE,[17] serves to support this positive theology. Fearful behaviour towards the gods indicates a false theology. This redefining of the concept of *deisidaimonia*, which had long been and still continued to be a positive concept, was made plausible by a ploy that turned socially defined decorum into a theological criterion:

> Theophrastus' rejection of many popular beliefs and practices as "superstitions" is at base a matter of ethics expressed as etiquette: superstitious beliefs are wrong because they cause people to act in ways that are socially inappropriate, embarrassing and vulgar.[18]

A mere glance at Theophrastus' text makes it abundantly clear that a superstitious person is not "normal": in an entirely pragmatic sense, he is hardly even capable of life. Such a concept, once established, can also be directed against Christians, who do not share that illusion of the optimal world:

> *Deisidaimonía*, I need hardly say, would seem to be a sort of cowardice with respect to the divine; and your *deisidaímon* such as will not sally forth for the day till he have washed his hands and sprinkled himself at the Nine Springs, and put a bit of bay leaf from a temple in his mouth. And, if a weasel cross his path, he will not proceed on his way till someone else be gone by, or he have cast three stones across the street (to break the curse). Should he espy a snake in his house, if it be one of the red sort he will call upon Sabazius, if of the sacred, build a shrine then and there. When he crosses one of the smooth stones set up at crossroads, he anoints it with oil from his flask, and will not go on his way till he have knelt down and worshipped it. If a mouse gnaw a bag of his meal, he will off to the diviner, and ask what he must do, and, if the answer be "send it to the cobbler's to be patched", he neglects the advice and frees himself of the ill by rites of aversion. He is for ever purifying his house on the plea that Hecate has been drawn thither. Should owls hoot when he is abroad, he is much put about, and will not be on his way till he have cried "Athena forfend!" Set foot on a tomb he will not, nor come nigh a dead body nor a woman in childbed; he must keep himself unpolluted. On the fourth and twenty-fourth days of every month he has wine mulled for his household, and goes out to buy myrtle boughs, frankincense, and a holy picture, and then, returning, spends the livelong day doing sacrifice to the Hermaphrodites and putting garlands about them. He never has a dream but he flies to a diviner, or a soothsayer, or an interpreter of visions, to ask what god or goddess he

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[17] Eitrem 1955, 166–7, refers to the portrayal of what may be a mourning ritual from the very early fourth century BCE, exceptionally depicting such a mode of behaviour.
[18] Martin 2004, 34.

should appease; and, when he is about to be initiated into the holy orders
of Orpheus, he visits the priests every month and his wife with him, or, if
she have not the time, the nurse and children. He would seem to be one of
those who are for ever going to the seaside to besprinkle themselves; and,
if ever he see one of the figures of Hecate at the crossroads wreathed with
garlic, he is off home to wash his head and summon priestesses, whom he
bids purify him with the carrying about him of a sea onion or a puppy-dog.
If he catch sight of a madman or an epileptic, he shudders and spits in his
bosom. (Theophrastus, *Characters* 16; tr. based on J. M. Edmonds, London,
Heinemann, 1929)

Richard Gordon, a specialist in ancient religions based at Erfurt University,
has paid particular regard to the Latin etymology, holding the philosoph-
ical discourse and its theological content as examined by Martin to be less
important; instead, entirely in the sense of Émile Durkheim's comprehen-
sive assessment of the positive aspects of deviance, he has concentrated on
the further content and functions of that discourse. For Martin, the Greek
theological discourse on *superstitio* trails centuries behind political events.
Gordon, on the other hand, holds the Latin discourse of the senatorial
elite to be an instrument forged in the white heat of political develop-
ments, serving to marginalize groups regarded as problematic.[19]

Gordon and Martin nevertheless share one fundamental observation. The
behaviour branded – after Plautus[20] – as *superstitio* is improper and inappro-
priate, not technically false or ineffective. We accordingly find as antonyms
such diverse terms as *religio* and, although rarely, *pietas*.[21] Two fields of appli-
cation can be discerned: essentially unnecessary fears of divine anger, and for-
eign religions. Both fields indicate an elite using the term to differentiate its
own religion, which was highly important for political communication and
the assertion of hegemony. It was this motivating principle – the presump-
tion of judgement over others, the assertion of belonging, and the perceived
need for sharp differentiation – that defined the effectiveness of the term's use,
rather than any particular force inherent to it.[22] In this "soft" form, the term
fulfilled an important bridging function, and an integrative role: it was able
to articulate the real tension that existed between the religion of the elite, cal-
culated, in its public form, to legitimate the expansion of hegemony, and the

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[19] Gordon 2008, 74; for the critique of Martin, see Gordon 2006.
[20] See Belardi 1976, 31–4 and Hoffmann 1985–8, who demonstrate the generally positive associations
of the concept in the sense of "prophecy".
[21] Gordon 2008, 79–80. For the very limited importance of *pietas* in the field of religious practices,
see Schröder 2012. For the antonymic character of *religio*, see De Souza 2011.
[22] Gordon 2008, 81–6, 76–7.

religion of the general populace, with its function of managing the contingencies of everyday life.[23]

Gordon also registers an important break that occurred during the Imperial age, coinciding with the recentring of religion on the ruler cult and the associated cult of Jupiter Optimus Maximus, the supreme deity of the Roman polity. This cult complex developed considerable integrative power, going so far as to embrace the population's need for religious succour in personal crises: an instance of an interest in the instrumental aspect of religion. In this way, the polemical content of *superstitio* could be concentrated on foreign religions, which could readily be associated with stereotypes such as feminine, emotional, credulous, and barbaric: the Jews provided a good example.[24] With the extension of Roman citizenship to the entire Roman Empire, the Empire's self-definition in terms of a commonality that was essentially merely imagined acquired a new degree of vagueness, which allowed it to elide with *humanitas*, while at the same time consigning opposing internal models of group identification to full illegitimacy. Now, in the third and fourth centuries, *superstitio* became coincident with magic and treacherous divination.[25] To a corresponding degree, the expression entered legal texts and became a weapon that could be employed both against and by Christianity. As such it characterizes our late sources.

Religious deviance

At this point in the state of research, what questions remain to be answered? In a brief, peripheral remark, Gordon points to an important circumstance: by no means is the entire spectrum of ancient discourse on religious deviance covered by the term *superstitio*. This is true of the extreme forms of religious deviance mentioned by Gordon, which incurred the death penalty. But it also applies to those forms of aberrant behaviour, beginning with far smaller ritual errors, discussed in 1981 in a book, edited by John Scheid, on "religious crimes". Scheid further develops the theme[26] in his book on religion and piety.[27] Here, he is interested in the religious character and religious classification of misdemeanours,

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[23] Gordon 2008, 89.
[24] More generally, Lieu, North, and Rajak 1994; Schäfer 1997; Horbury 1998; Janowitz 2001. For the later period, see Yuval, Harshav, and Chipman 2008.
[25] Gordon 2008, 93.
[26] Scheid 1981.
[27] Scheid 1985, 2nd edn 2001.

including those that were covered by the term *crimen*. He is able to demonstrate that, in this internal discourse, instances of deviance were always constructed as a burden on the community. An emphasis was thus placed on rituals, incumbent on the community, designed to relieve that burden and restore the *pax deorum*, or harmonious understanding with the gods: "the necessity for religious mediation by the whole of society".[28] Criminalization of the individual was largely absent. Here, the question of the grounds for, and possible expressive value of, such instances of aberrant behaviour remains open. The political and military contexts in which they occur suggest that it was in these particular areas, and probably not in the religious domain, that the motivation for individual instances lay.

This leads us to the second area that remains open to inquiry: both Martin and Gordon point to the discrepancy between the standards of the elite and the religious practices of others. In the context of an inquiry into individualism, this discrepancy in itself gives sufficient cause to investigate the practices that were subjected to such criticism. It is perhaps at this very point – and here too we may refer to Durkheim – that we should investigate the productivity of such deviant practices, and, with regard to the history of religion, the dynamic they released. It is not, or at least not merely, the positions taken up by political and religious leadership groups that should be weighed as important factors in religious-historical developments; changes in religious practices among the populace at large are also relevant.

It follows that, in pursuing a sociological and criminological investigation of deviance, we should not inquire solely on constructivist lines into processes such as labelling, exclusion and the creation of otherness, regulation and the construction of deviance.[29] It is my intention in this volume to use deviance as a means of approaching the question of individualization, and to inquire on an "objectivist" (or positivist) basis into the forms of and grounds for aberrant behaviour, while accepting the norm as a given.[30] My justification in so doing does not lie in an "absolutist" assumption that particular forms of religious activity can be classified as deviant regardless of the contexts within which the judgements in question were made, as does the article on *Aberglaube* in the Pauly-Wissowa *Realencyclopädie* (covering sixty-five columns) or the *Handwörterbuch des*

[28] Scheid 1981, 166. *Pax*: 167.
[29] *Relativist* or *reactivist* theories of deviant behaviour: see Perrin 2001; Thio, Calhoun, and Conyers 2008, 3.
[30] See Thio, Calhoun, and Conyers 2008, 3.