

RelBib

Bibliography of the Study of Religion

<https://relbib.de>

Dear reader,

This is a self-archived version of the following article:

Author: Rüpke, Jörg
Title: “Religion in the *lex Ursonensis*”

Published in: Religion and Law in Classical and Christian Rome
 Stuttgart: Franz Steiner Verlag

Year: 2006
Pages: 34 - 46
ISBN: 978-3-515-08854-1

The article is used with permission of [Franz Steiner Verlag](#).

Thank you for supporting Green Open Access.

Your RelBib team

EBERHARD KARLS
UNIVERSITÄT
TÜBINGEN



UNIVERSITÄTSBIBLIOTHEK

Chapter 2

Religion in the *lex Ursonensis*

by

Jörg Rüpke, University of Erfurt

1 *Lex Coloniae Iuliae Genetivae*: General remarks

The late republican *lex Ursonensis* professes a type of legal reasoning that should be understood as an innovation of the first century BCE.¹ Rome, that is, the Roman senate and Roman magistrates, had dealt with religion before; by the second century, the role of religious agent(s) had acquired a much more explicit character in legislating on religion, as seen in the *senatus consultum de Bacchanalibus* (186 BCE), the *leges Aelia et Fufiae* of the late second century and other rulings on augury.² All of these regulations, however, dealt with religion as part of the urban texture of power and politics. Only occasionally, for example, in the repression of the Bacchanalia and Bacchants or in procuring prodigies external to Rome,³ did Roman politicians have to think about religion outside of Rome. Occasional interventions into foreign religious conflicts – mostly concerning legitimacy and resources – did not amount to a coherent body of regulations but seemed to follow the rationale of preserving or establishing internal structures on the part of the ruled group that were compatible to Roman aristocratic practices of policy-making.⁴

An *argumentum e silentio* is weak, but frequently necessary. As far as the *lex Ursonensis* is concerned, it is clearly a conglomerate, composed of building blocks, some of which were older.⁵ And yet, one should not seek for models that were much older. It is not very probable that any encompassing legal composition had been prepared more than one or two decades before – if any at all; Cicero's *De legibus*, the archaizing collections of laws, dates from the fifties BCE, and the systematic treatises concerning religion prominent in Varro – I think of Aelius Stilo, for example – are not much older. The surviving parts of the *lex Iulia municipalis*, if we identify the second part of the *Tabula Heracleensis* (lines 83–163) with this Caesarian law of 45 BCE,⁶ do not allow us to suppose any direct relationship between it and the *lex Ursonensis*. We do not have any indication that religion was a topic of the *lex Iulia municipalis*. The heterogeneous origin of this collection of norms displayed at the

- 1 Cf. Beard 1986 for late republican religious reasoning in general. I am grateful to Simon Price for having given me the opportunity to present this argumentation at the Centre for Classical Studies of Oxford University.
- 2 Pailler 1988 for the SC; see Sumner 1963; Astin 1964; Linderski 1995; Libero 1992 for legislation on *obnuntiatio*.
- 3 For the latter see MacBain 1982.
- 4 *Senatusconsulta de Thisbaeis, Oropiis, Aphrodisiensibus*.
- 5 See Gabba 1988: 162 f. for archaic features.
- 6 I follow the pragmatic stance of Crawford 1996: 362. See Cic. *Fam.* 6.18.1 for a possible date and *CIL* 5. 2864 = *ILS* 5406 for the name.

south Italian city of Heraclea reveal the lack of a comprehensive law: it was composed as a law for Italian colonies and *municipia* on the basis of norms addressed to the city of Rome. Additionally, the incoherence of the charter of Urso itself speaks for a recent composition by the time of its passing as a law. And nothing was to follow. When the *lex* was republished on bronze tablets at the same time as the charters of Salpensa and Malaca,⁷ more than a hundred years afterwards, i. e., by the end of the first century CE, the probable reason was that it had not been superseded by anything and was itself a prestigious model.⁸

Discovered beginning in 1870–1 at Osuna, Spain, the surviving fragments contain about one third of all of the regulations for the Caesarian colony of *Iulia Genetiva Ursonensis*, founded in 44 BCE on the initiative of an unknown person who had won Caesar's support for his plan.⁹ The surviving chapters 61–82, 91–109, and 123–134 do not have any explicit overall structure. The same holds true for the fragments of the Flavian municipal laws. At the same time, principles of ordering are recognizable in the *lex Ursonensis* and reveal significant differences in comparison with the later texts. Thus, it is necessary to deal with the composition before delving into the details of the religious regulation.

2 The concept of religion

Within the surviving fragments, the material concerning <religion> in our sense is contained within chapters 64 to 72 and 125 to 128. Of course, these chapters do not exhaust our notion of religion and what we know about ancient religious practices, but there is no reason to suppose that the charter contained further chapters directly addressing religious matters. As far as I know, there are no regulations on matters religious in any other colonial or municipal norm that are not included in the passages named.

The section from chapter 64 to 72 is composed of regulations on the local definition and financing of cult (64–65), on pontiffs and augurs (66–68), the procedure for payments for ritual ingredients (69), the organization and financing of games (70–71), and the administration of money given to temples (72). The passage coheres through the repetition of the word *sacra*: *quae sacra fieri publice placeat et quos ea sacra facere placeat ... eaque sacra ...* (64); *at ea sacra, quae in colon(ia) alioue quo loco colonorum nomine fia(n)t* (two times in 65); *quae ad sacra resq(ue) diuinas opus erunt* and *[ad] ea sacra, quae in colon(ia) alioue quo loco publice fiant* (69), similarly in 70, and finally *in aedis sacras* and *eis sacris superfuerit, quae sacra* in 72. There are three chapters on priesthoods (66–68) inserted and framed by chapters regulating the financing of cult. These inserted chapters do not contain the term *sacra* nor the general notion of *sacerdotes*. The regulations restrict themselves to talking of *pontifices* and *augures*. The composition clearly indicates the lack of a term for or the lack of an interest in a unified concept of religion. It is the concrete *sacra*, public rituals, that form the most general concept applied.

What about the limits of this concept and the placing of the sequence of chapters on *sacra* within the context of the *lex coloniae*? The chapters form part of a longer sequence formulating norms for the magistrates of the colony: *Iluii quicumque erunt* or *Iluii, qui primi* form the beginnings of the chapters 62 to 64 and are echoed in the following chapters. Chapter 73, on the contrary, begins a series of norms formulating prohibitions or

7 Gabba 1988: 158.

8 This might be detected by anachronisms, etc. That is, if such a model existed, it must have been roughly contemporaneous to the foundation date of the colony.

9 See Gabba 1988: 160–162.

positive regulations addressed to every possible agent: *ne quis* or *qui* open these paragraphs. The first two of these bans deal with the burial and burning of corpses. Do they form part of the religious regulations?¹⁰

There is no relation or semantic bond here to the previous chapters. The term *religio* or *loca religiosa*, applied to burial sites and private obligations to the cult of the dead, does not appear. On the other hand, a train of thought leading from the publicly financed cults through the money given by private initiative in chapter 72 to the realm of private cult implied by burial could be imagined. Such a line of reasoning is exemplified by the slightly earlier text of Cicero's *De legibus*. The legislation on religion in book 2 finishes by the affirmation of private cults and a few thoughts on the *di manes*: *Sacra priuata perpetua manento. deorum manium iura sancta sunt. (bo)nos leto datos diuos habento. sumptum in ollos luctumque minuunt* (2.22). The discussion as developed in the talk among Atticus, Quintus and Marcus Tullius Cicero, has a *lacuna* at the decisive transition (2.53). Yet it clearly affirms the connection: *Iam tanta religio est sepulcrorum, ut extra sacra et gentem inferri fas negent esse ...* (2.55). Here, the semantic bonds are evident. It has to be noted, however, that in the fictitious legal text proper, burial practices are not dealt with.

This leads us back to the *lex Ursonensis*. We cannot exclude an association between *sacra* and illegal burial in the mind of the author, but the text painstakingly avoids any such connection. In formulation and content, the chapters on illegal burial are part of the following section on illegal building and the maintenance of public space, regulations also prominent in the *Tabula Heracleensis*. As in Cicero, *sacra privata*, private religion, is not regarded as an object of public legislation. And yet, a religious dimension of the problem of illegal burial cannot be entirely dismissed by the author. Instead of a sanction in the form of a fine or the threat of persecution, the religious framing of the countermeasures is stressed: *Si aduersus ea mortuus inlatus positusue erit, expianto uti oportebit* (73).

It is more difficult to define the relationship of chapters 64 to 72 to the preceding chapters, since the surviving portion of the text starts in the middle of chapter 61, which deals with the juridical procedure of *manus iniectio*, and ends by stressing the jurisdiction of the duumvirs.¹¹ Chapters 62 and 63 describe the attendants (*apparitores*) of the higher magistrates, the duumvir and the aediles, and their salary. The list includes *haruspices* and *tibicines*, specialists for extispicy and flute players, at its end. These figure within a much longer list, however, and there is no reason to associate them with the definition of festivals in chapter 64; priests are not dealt with before chapter 66. It is much easier to suppose an association of catchwords between the payments at the end of the year in chapter 63 and the definition of costly dates at the beginning of the year in chapter 64. There is no general conception of religion that could serve as an overall structure, as was vaguely suggested by Crawford.¹²

To complete this picture it is necessary to turn to the other, rather isolated chapters dealing with religious matters. Pontiffs and augurs, grouped together with the preceding decurions, are the subject of chapter 91. It prescribes that any newly elected decurion or priest must own a residence at least within one thousand paces of the town that could serve as a pledge.¹³ Since the preceding seven chapters are in the lost fifth column of tablet b, the

10 See Crawford 1996: 397: <... religious matters, chs. LXIV–LXXII, to which two chapters on regulations for burial form a natural pendant.>

11 See Crawford 1996: 433 ad loc.

12 Crawford 1996: 397.

13 Thus, *contra* Crawford 1996: 440 ad loc. and translation, it would be senseless to interpret *annis V proxumis* as the period directly preceding the appointment. The chapter does not aim at the restriction of the offices to long term inhabitants, but to ensure their factual liability in cases of

context can not be reconstructed beyond any doubt. Yet, the following chapters suggest that 91 is an integral part of a sequence dealing with the decurions and, in particular, with questions of liability.

The subject of chapters 125–128 is the regulation of games. Here, the context is clearer. The question of the dignity and authority of the decurions and magistrates is discussed from at least chapter 124 and onwards. Hence three of the four chapters on games (125–127) exclusively deal with the order of seats for different status groups during different types of *ludi*, even treating the problems of the presence of higher provincial magistrates or Roman senators and their sons (127). Chapter 128 describes the organization of all kinds of religious cult by the annual appointment of *magistri* and their control. The presence of chapter 128 is certainly partly due to the intention of completing the regulations of the games, but its main *raison d'être* is the continuation of the detailed discussion of the division of labor and authority between the magistrates and the decurions. Thus, more or less like chapters 126, 129, 130 and 131, chapter 128 opens: *Il(uir) aed(ilis) pra(e)ffectus c(oloniae) G(enetiuae) I(uliae) quicumque erit ...*

What have we learnt about the law's notion of religion? First, religion is dealt with insofar, and only insofar as it is public religion. There is religion outside public religion – otherwise the author would not need to stress to talk about *quae sacra fieri publice placeat*, i. e., about the public cult of the colony. But this religion is not covered by any regulation. For example, in talking about *collegia*, there is no indication that the *lex Ursonensis* (106) or the *lex Irnitana* (74) have anything in mind other than the outlawing of *coetus*, i. e., of ganging up or a riotous assembly.¹⁴ If cults formed *collegia*, there was simply no visible interest in their regulation.¹⁵

Finally, as far as the author of the *lex Ursonensis* is concerned, to talk about religion is to talk about rituals. The most general term employed is *sacra*;¹⁶ rituals could be specified as *ludi circenses* and *scaenici*, <games and plays>, and even *gladiatores*, <gladiators>, *sacrificia*, <sacrifices>, and *puluinaria*, meals prepared for the statues of the gods.¹⁷ These rituals are dependent on public money and the action of the decurions and magistrates. Religion comes into focus only as it relates to the competence of magistrates. It is a primary duty, one to be regulated early in their year of office: the festivals have to be defined within the first ten days (64), and concrete measures and financial regulations have to be completed within sixty days (69). In the view of the *lex Ursonensis*, religion is not something to be instrumentalized, to be regulated or tolerated, but is a part, an important part even, of the business of a Roman colony's magistrates.

fraud etc. during a five years' test period. Otherwise the ensuing regulation concerning the removal from office would be irrelevant: the conditions would have to be validated before the entrance into office. Without discussing the inclusion of priests, Mommsen formulates a similar conclusion for the decurions (1875: 223 [134]).

14 See González 1986: 223 f.

15 A divergent approach is taken by Kippenberg 2002, who, however, does not discuss the evidence from the municipal laws.

16 The singular *resq(ue) diuinas*, as added to *sacra* in ch. 69, might denote the whole infrastructure of ritual, that is temples, instruments etc.

17 See ch. 128. Thus the translation of Ames 1998: 66; cf. Crawford: <preparing of couches>.

3 The calendar of festivals

If religion is such an important part of towns of Roman citizens, it is important to determine its features. Festivals, time and space, the choice of gods, priesthoods, rituals could be parameters to define the ‹Romanness› of the colony. The first question to ask is whether the Roman calendar served as the temporal framework of the political and religious in Urso. We do not know of any law prescribing the use of the Roman calendar outside of Rome; a Greek lunisolar calendar was in use in the Augustan colony of Tauromenium, attested by an intercalary month *Apellaios deúteros* and Greek dates in numerous inscriptions.¹⁸ And yet, a centrally-placed calendar could indicate a relationship with the Roman calendar. The Roman government and military used Roman dates for its administrative purposes without hesitation.¹⁹ The famous Gallic calendar of Coligny systematizes and displays an indigenous system using the technical devices of the Roman *fasti* and thereby attesting how widespread this calendar was in the Western part of the Mediterranean.²⁰ In some instances, Roman dates are used in norms that are applied to policies outside of Rome, e. g., the *kalendae Ianuariae* and the *eidus Martiae* in a late republican *lex agraria*,²¹ or the *kalendae Quinctiles* in the part of the *Tabula Heracleensis* that might be quoted from the *lex Iulia municipalis*.²²

Such dates also appear in the *lex coloniae Genetivae*. In chapter 63 the *kalendae Ianuariae* are used to define a period of service of the first ever attendants of the colony. In chapter 81 *nundinae* are presupposed; the publicity of the market-days would form the best occasion for the administration of the oaths of the public scribes. There is no reason, however, to identify these *nundinae* with the rhythms of eight days known from the city of Rome; they might, for example, have been organized only two times a month.²³ As the relative dating of all deadlines – ‹within five or sixty or similar days from their entering of office› – demonstrates, not even the periods of office are prescribed in terms of the Julian calendar. Presupposing the technical skeleton of the Julian calendar, its use in organizing the temporal structure of the life of the colony is left to the colonists.

The principle can be nicely illustrated by regarding the definition of cults as it is formulated in chapter 64:²⁴

LXIII. Iluiri quicumque post colon(iam) deductam erunt, ii in diebus X proximis, quibus eum mag(istratum) gerere coeperint, at decuriones referunto, cum non minus duae partes ader(u)nt, quos et quot dies festos esse et quae sacra fieri publice placeat et quos ea sacra facere placeat. quot ex eis rebus decurionum maior pars, qui tum aderunt, decreuerint statuerint, id ius ratumque esto, eaque sacra eique dies festi in ea colon(ia) sunt.

LXIII. Whoever shall be duumvirs after the foundation of the colony, they, within the ten days next after that on which they shall have begun to hold that magistracy, are to raise with the decurions, when not less than two-thirds shall be present, which and how many days it may be agreed shall be festivals and which sacrifices shall be publicly performed and who shall perform those sacrifices. And whatever of those matters a majority of the decurions who shall then be present shall have decreed or decided, that is to be legal and binding, and there are to be those sacrifices and those festival days in that colony (trans. Crawford).

18 See Rüpke 1995: 135 f.; Ruck 1996.

19 Ando 2000: 408.

20 Coligny: e. g. Olmsted 1992; Monard 1999; edition: *RIG* 3 (Duval).

21 Crawford 1996: no. 2.63, 70.

22 Crawford 1996: no. 24.98.

23 Mommsen 1875: 260 (108), pointing to *CIL* 8.6357 = *ILS* 6868; for market days, see Nolle 1982; Fryan 1993; Ligt 1993.

24 See Rüpke 1995: 534–546 for the following.

The theological, personal, and temporal structure of the public cult at Urso is subject to a majority decision, which conforms to the Varronian notion of festivals. Their names are political terms, *ciuilia uocabula*.²⁵ The precision is a negative one. *Dies festi* denotes public ritual and merry-making, open to human organization. The *lex* does not speak of *feriae*, days owned by the gods due to consecration.²⁶ Thus, the annual change of the list, implied by *Iluri quicumque*,²⁷ would not be problematic in religious terms. Yet, neither the author nor the duumvirs intended an annually changing list.²⁸ The early deadline demonstrates an awareness of the problems of late indication of festivals, something which troubled the late Republic. Practically, the situation must have been even more stable. The continuation of *sacra*, once established, must have been the normal way, with the exception of variations according to special calendrical circumstances (mostly abolished by the Julian calendar) or the addition of new or unique festivals. Perhaps, the announcement of festivals of a longer periodicity – every four years, for instance – were the most disturbing element. It has to be stressed that Roman practice was already acquainted with *fasti* listing annual festivals, but ritually relied on the monthly oral announcement of festivals by the *rex sacrorum*, mixing *feriae indictivae* without fixed days and fixed *feriae stativae*.²⁹ Under these circumstances, the lack of municipal and colonial *ferialia*, complete epigraphical lists of local festivals, seems rather normal.

The calendrical practices of Roman colonies might be illustrated by the so-called '*Fasti Guidizzolenses*', probably related to the territory of the *colonia civica Augusta Brixia*. This small-scale inscription was probably a private product; the original size must have been around fifty-five to thirty centimeters.³⁰ The calendar is reduced to monthly columns naming only the Kalends, Nones and Ides and the distance to these dates. No juridical character, no nundinal sequence of days, no festivals or dedications days are indicated. All the necessary information on festivals is given in a list to the right of the calendar, a small *feriale*. Such calendars must have also been in use in Urso. The Brixian use of stone for the festival list indicates its stability, but the form of the calendar would rarely invite anybody to have such an instrument be produced as a representative inscription.

4 Space

Before we can deal with the choice of cults, attention must be given to the spatial implications of the *lex*. It must be stressed that the borderline produced by the foundation rite – *<where the plough will have been drawn around>* – is mentioned by chapter 73 only, that is, after the end of the *<religious>* or *sacra* section. In this context, it is the boundary line for the *oppidum* proper, within which corpses should be neither interred nor burnt nor tombstones erected. In contrast to that, the location of public cults is not regulated at all. The possibility of performing *sacra publica* even outside the colony is mentioned several times, always without the air of being an exception.³¹ The public character of cults is not a matter of space, but of initiators and financing.

25 Varro *Ling.* 6.12.

26 See Rüpke 1995: 492–500.

27 Misinterpreted by González 1986: 236.

28 I doubt the conclusion to the contrary by Crawford (1996: 434, drawing on Scheid 1992).

29 See Rüpke 1995: 231–234, 535 f.

30 See Rüpke 1995: 160–164.

31 See ch. 65: *sacra, quae in colon(ia) alioue quo loco colonorum nomine fiant*.

5 Choice of cults

Apart from the financial logic of the chapters 64 and 65,³² there are no norms whatsoever as far as the selection of the deities to be venerated is concerned. The general regulations in chapters 64, 65 and 128 imply a wide range of sanctuaries, deities and rituals. Indirectly, however, two festivals are given an important status *a priori*. Chapters 70 and 71 oblige the highest magistrates of the colony to organize <shows>³³ or plays: the duumvirs were to devote four days to the Capitoline triad by the duumvirs; the aediles, three days to the same deities (Jupiter, Minerva, and Juno) and a fourth day to Venus:

[L]XX. *Iluii quicu[m]que erunt, ei praeter eos, qui primi post h(anc) l(egem) [fa]cti erunt, ei in suo mag(istratu) munus ludosue scaenicos Ioui Iunoni Mineruae deis deabusq(ue) quadriduom(m) p(arte) diei, quot eius fieri (poter)it, arbitrato decurionum faciunt inque eis ludis eoque munere unusquisque eorum de sua pecunia ne minus (sestertium) (bina milia) consumito et ex pecunia publica in sing(ulos) Iluir(os) d(um)t(axat) (sestertium) (bina milia) sumere consumere liceto, i(t)que eis s(ine) f(r)aud(e) s(ua) facere liceto, dum ne quis ex ea pecun(ia) sumat neue adtributionem faciat, quam pecuniam h(ac) l(eg)e ad ea sacra, quae in coloni(ia) alioque quo loco public(a)e fient, dari adtribui oportebit.*

[L]XX. Whoever shall be duumvirs, they, except for those who shall be first appointed after this statute, they during their magistracy are to organize a show or dramatic spectacle for Jupiter, Juno, Minerva, and the gods and goddesses, during four days, for the greater part of the day, as far as (shall be possible), according to the decision of the decurions, and each one of them is to spend on that spectacle and on that show not less than 2,000 sesterces from his own money, and it is to be lawful to take and spend out of public money up to 2,000 sesterces for each duumvir, and it is to be lawful for them to do so without personal liability, provided that no-one take or make assignment from that sum, which sum it shall be appropriate to five or assign according to this statute for those sacrifices, which shall be publicly performed in the colony or in any other place.

LXXI. *Aediles quicumq(ue) erunt in suo mag(istratu) munus ludos scaenicos Ioui Iunoni Mineruae triduom(m) maiore parte diei, quot eius fieri poterit, et unum diem in circo aut in foro Veneri faciunt, inque eis ludis eoque munere unusquisque eorum de sua pecunia ne minus (sestertium) (bina milia) consumito de(q)ue publico in sing(ulos) aedil(es) (sestertium) (singula milia) sumere liceto, eamq(ue) pecuniam Iluir praef(ectusue) dandam adtribuendam curanto itque iis s(ine) f(r)aud(e) s(ua) c(apere) liceto.*

LXXI. Whoever shall be aediles, during their magistracy they are to organize a show or dramatic spectacle for Jupiter, Juno, and Minerva, during three days, for the greater part of the day, as far as shall be possible, and during one day (games) in the circus or (gladiators) in the forum for Venus, and each one of them is to spend on that spectacle and on that show not less than 2,000 sesterces from his own money, and it is to be lawful to take from public funds 1,000 sesterces for each aedile, and a duumvir or prefect is to see that that sum is given or assigned, and it is to be lawful for them to receive it without personal liability (trans. Crawford).

The doubling of the games and the mixture of public and private spending produce a competitive situation, ensuring a high level of engagement, furthered by the definition of a minimum length and a private minimum sum to be spent.³⁴ Euergetism had to be taught to the new <elite> of the new colony.³⁵ Thus, the divine addressees are given ritual stress and a high symbolic position among an annual festival cycle still unknown. The combination of the deities assure the Roman character of the triad.³⁶ Flanked by Minerva and Juno, Jupiter is no Zeus, nor could Juno be understood as a local mother goddess. Furthermore, the

32 See below.

33 The term *munus* need not refer to gladiatorial shows pace Crawford 1996: 395.

34 These expenses are rightly paralleled with *summae honorariae* by D'Ors 1986: 163. Cf. Veyne 1976 for the financing of games and the liturgical system in the general.

35 I am grateful to Andreas Bendlin for this remark.

36 For the Roman prehistory of games to the Capitoline triad see F. Bernstein 1998.

presence of these political deities is primarily neither temporal nor spatial, but ritual. Thus, the symbolic link to Rome is intimately tied to the top tier of the locally ruling elite, the highest magistracies. In terms of ritual expenditure, the popularity of the upstarts is directly linked to the cult of the Roman triad. To a lesser degree, the same mechanism is applied to the deity associated with the founder of the colony, Venus or rather, Venus Genetrix, a deity intensely cherished by late republican aristocrats.³⁷

The analysis of the *lex Ursonensis* can not be conducted in isolation from later developments. The charter of the *municipium Flavium Irnitatum* in central Hispania Baetica shows regulations applied to a colony founded in an existing community that is allowed to continue its festival practice insofar as its elements have not been ruled illegal before.³⁸ The formal procedure is similar to the practices at Urso,³⁹ but the resulting list of days unsuitable for legal business is distorted – or characterized – by festivals of the imperial family, calendrically defined at Rome:

R(ubrica). Quibus diebus res ne iudicentur et in quos in tertium ne detur. – Ne quis (qui) in eo municipio i(ure) d(icundo) p(raerit) is diebus iudicem arbitrum recuperatores rem priuatam iudicare sinito, neue in eos dies in tertium dato, quos dies propter uenerationem domus Augustae festos feriarumue numero esse haberiue oportebit, quibusque diebus ex decurionum conscriptorumue decreto spectacula in [e]o[m] municipio edentur, epulum aut uesceratio municipibus aut cena decurionibus conscriptisue municipum impensa dabitur, quibusque diebus comitia in eo municipio erunt (qu)ique dies h(ac) l(ege) constituti erunt per quos messis et uindemiae causa re[s] prolatae sint, nisi si index arbiterue aut recuperatores et quorum res agetur omnes dum d(e) e(a) r(e) agi uolent, neque is dies erit quem propter uenerationem domus Augustae festum feriarumue numero esse haberiue oportebit. neue quis index neue arbiter neue recuperator per eos dies, quibus s(upra) s(criptum) est, rem priuatam iudicato neue litem aestumato neue per eos dies operam iudicandi causa dato neue sententiam iudicandi causa dicit, nisi si index arbiterue aut recuperatores et quorum res agetur omnes dum d(e) e(a) r(e) agi uolent, neque is dies erit quem propter uenerationem domus Augustae festum feriarumue numero esse haberiue oportebit. quod aduersus ea factum erit [id] ratum ne esto.⁴⁰

Rubric. On what days matters may not be judged and for what days notice for the third day may not be granted. – Whoever is in charge of the administration of justice in that municipium is not to allow a *iudex* or *arbiter* or *recuperatores* to judge a private matter on those days nor is he to grant notice for the third day for those days which it is or will be appropriate to have or regard as feast-days or in the category of festivals because of the worship of the Imperial house, and on the days on which games are given in that municipium by decree of the decurions or *conscripti* or a meal or distribution of meat is given to the *municipes* or a dinner to the decurions or *conscripti* at the expense of the *municipes*, and on the days on which there are assemblies in that municipium, and on the days which are fixed under this statute as the days on which business is postponed because of harvest or vintage; except if the *iudex* or *arbiter* or *recuperatores* and those whose matter is being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the Imperial house. No *iudex* or *arbiter* or *recuperator* is to judge a private matter on those days which have been laid down above or value a case or devote attention for the sake of judging or express an opinion for the sake of judging, except if the *iudex* or *arbiter* or *recuperatores* and those whose matter is being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the Imperial house. And no one is to serve notice for the third day for those days to an adversary or a *iudex* or *arbiter* within the previous two days for the sake of judging, except if the *iudex* or *arbiter* and those whose case is

37 See Sauron 1994.

38 See *lex Irnitana* ch. 81 (9A. 21 –28).

39 See, e. g., the early definition of vintage holidays in *lex Irnit.* 5C. 24–45 (ch. K); cf. *Dig.* 2.12.4.

40 *Lex Irnit.* 10C. 25–51 (ch. 92).

being heard all wish it to be heard then and it is not a day which it is appropriate to have or regard as a feast-day or in the category of festivals because of the worship of the Imperial house. Whatever is done contrary to these rules, is not to be legal or valid (trans. Crawford).⁴¹

The complicated and vague terminology of *dies quem propter uenerationem domus Augustae festum feriarumue numero esse haberique oportet* suggests a centrally defined character and fixing of these days.⁴² Urban religion, «*Staatsreligion*», to use the words of Georg Wissowa, is replaced by court religion, «*Hofreligion*».⁴³ The dissolution of spatial referentiality is accompanied by a temporal centralization.

6 Priesthoods⁴⁴

Chapters 66–68 of the *lex Ursonensis* prescribe the institutionalization of two priesthoods, pontiffs and augurs, which by their names and specific regulations point to the city of Rome:

LXVI. Quos pontifices quosque augures C(aius) Caesar, quiue iussu eius colon(ia) deduxerit, fecerit ex colon(ia) Genet(ia), ei pon(t)ifices eique augures c(oniae) G(enetiuae) I(uliae) sunt, eiq(ue) pon(t)ifices auguresque in pontificum augurum conlegio in ea colon(ia) sunt, ita uti qui optima lege optumo iure in quaque colon(ia) pontifices augures sunt erunt. iisque pontificibus auguribusque, qui in quoque eorum conlegio erunt, liberisque eorum militiae munerisque public(i) uacatio sacro sanctius esto uti pontifici Romano est erit, (a)e(r)aque militaria ei omnia merita sunt. de auspiciis quaeque ad eas res pertinebunt augurum iuris dictio iudicatio esto. eisque pontificib(us) auguribusque ludis, quot publice magistratus facient, et cum ei pontific(es) augures sacra publica c(oniae) G(enetiuae) I(uliae) facient, togas praetextas habendi ius potestasq(ue) esto. eisque pontificib(us) augurib(us)q(ue) ludos gladiatoresq(ue) inter decuriones spectare ius potestasque esto.

LXVI. Whichever pontiffs and whichever augurs C. Caesar, or whoever shall have founded the colony at his command, shall have appointed from the *colonia*, they are to be the pontiffs and they the augurs of the *colonia Genetiva Iulia*, and they are to be the pontiffs and the augurs in the college of pontiffs or augurs in that colony, in the same way as those who are or shall be pontiffs and augurs with the best conditions and the best status in any colony. And for those pontiffs and augurs, who shall be in each of their colleges, and for their children, there is to be exemption from military service and compulsory public service (prescribed) by what is sacred, as for a Roman pontiff, and their periods of military service are all to be credited to them. Concerning auspices and whatever things shall pertain to those matters, jurisdiction and right of judgment are to belong to the augurs. And those pontiffs and augurs at the games, whenever the magistrates shall give them publicly, and when those pontiffs and augurs shall perform the public sacrifices of the *colonia Genetiva Iulia*, are to have the right and power of wearing *togae praetextae*. And those pontiffs and augurs are to have the right and power to watch games and combats of gladiators among the decurions.

LXVII. Quicumque pontifices) quique augures c(oniae) G(enetiuae) I(uliae) post h(anc) l(egem) datam in conlegium pontific(um) augurumq(ue) in demortui damnatiue loco h(ac) l(eg)e lectus cooptatusue erit, is pontif(ex) augurq(ue) in c(onia) Iul(ia) in conlegium pontifex augurq(ue) esto, ita uti qui optima lege in quaque colon(ia) pontifices) auguresq(ue) sunt erunt. neue quis quem in conlegium pontificum capita sublegito cooptato nisi tunc cum minus tribus pontificib(us) ex iis, qui c(oniae) G(enetiuae) sunt, erunt. neue quis quem in conlegium augurum sublegito cooptato nisi tunc cum minus tribus auguribus ex eis, qui colon(iae) G(enetiuae) I(uliae) sunt, erunt.

41 In González 1986: 198.

42 Cf. D'Ors 1986: 180 f., see Rüpke 1995: 542–546 for details.

43 Wissowa 1912: 79.

44 A fuller treatment of the topic under the perspective of «urban religion and imperial expansion» will be published in the papers of the network «Impact of Empire» (Lukas de Blois / Peter Funke).

LXVII. Whoever after the issuing of this statute shall have been chosen or co-opted according to this statute as pontiffs and augurs of the *colonia Genetiva Iulia* into the college of pontiffs and (the college) of augurs in the place of a man who has died or been condemned, he is to be pontiff or augur in the *colonia Iulia* in the college as pontiff or augur, in the same way as those who are or shall be pontiffs and augurs with the best conditions in any colony. Nor is anyone to receive or choose in replacement or co-opt into the college of pontiffs, except at a time when there shall be less than three pontiffs among those who are of the *colonia Genetiva*. Nor is anyone to choose in replacement or co-opt anyone into the college of augurs, except at a time when there shall be less than three augurs among those who are of the *colonia Genetiva Iulia*.

LXVII(I). Iluiri praefectus)ue comitia pontific(um) augurumq(ue), quos h(ac) l(ege) (f)a(c)ere oportebit, ita habeto, prodi(c)ito, ita uti Iluir(um) creare facere sufficere h(ac) l(ege) o(oprtebit).

LXVIII. The duumvirs or praefect is so to hold and proclaim an assembly for pontiffs and augurs, whom it shall be appropriate to appoint according to this statute, in the same way as it shall be appropriate to elect or appoint or appoint in replacement a duumvir according to this statute (trans. Crawford).

At first glance, the text seems to be rather straight forward. Urso is given the appearance of a Roman town by transferring two of the most prestigious religious institutions of the city of Rome, the augurs and pontiffs as a granted right. The situation, however, is more complex. The *lex* is engaged in a discourse about religion and public religion that is structured by controversial stances.

First, it should be observed that for the founder(s) of the colony, the existence of augurs and pontiffs as colonial priesthoods is a matter hallowed by tradition and universal practice. The most visible symbolic honor, the seating and the dressing at games, is regulated as well as the most important personal consequences, the exemption from military and public services. The rest is given to a <most-favored-nation clause>, implying a global view on a widespread institution rather than the existence of <general regulations on priesthoods in Roman colonies> as envisaged by Crawford.⁴⁵ In a comparison between different colonies (and even Rome), the local negation of certain privileges to their priests would not be acceptable.

Secondly, as regards tasks, Roman *pontifices* and *augures* were not only the most prestigious of public priesthoods, but also the most powerful. Making judgments concerning priestly conduct, the religious quality of land and the gods' property, and last but not least the sacral quality of time and – before the calendar reform in 45 BCE intercalation, the pontiffs held a central position within the diffuse network of religious authority. The position of the supreme pontiff, the *pontificatus maximus*, would develop into the most important and most visible religious function of the emperors.⁴⁶ The augurs, by their expertise on augury, were involved into every major political decision from the election of magistrates, through legislation to the battlefield.⁴⁷ What did these priests do at Urso? We learn nothing about the pontiffs. Supervision of cults and funds is given to the duumvirs and the aediles, the definition of days of festivals to the decurions. The specific sacral categories of *feriae* and *locus sacer* are nowhere hinted at and the question of *loca religiosa*, burial places, is basically left to the magistrates (73); perhaps the pontiffs had a stake in expiation, mentioned in passing in the same text.

An explicitly defined field of activity is given for the augurs: augury and the like. What, however, was <the like>? And what sorts of augury existed in a colony? The copying of – or even parallelism to – the Roman *auguraculum* in the Roman colony of Bantia is, as far as we can see, unique;⁴⁸ it does not imply a politically relevant role comparable to Roman

45 Thus, however, Crawford 1996: 434 *ad loc.*

46 See Van Haepelen 2002.

47 See Linderski 1986; Rüpke 2005: 1441–55.

48 Torelli 1966 [1995]: 97–129.

augurs' participation in *obnuntiatio*.⁴⁹ There is no indication at all in the *lex Ursonensis* or fragments of other regulations, that the highly complex system of the Roman republican balance of senatorial groups and individuals was reproduced in colonial institutions outside of Rome. To sum up, we do not see what the priests did at all. At least it is certain, that they did not have any role within the functioning of the institutions described in the *lex coloniae*.

This is congruent, thirdly, with those modifications of Roman rules that we can observe. I leave aside the question whether a colonial augur could lose his office unlike – or like? – augurs at Rome.⁵⁰ It has to be remembered that even the lack of housing property in the town could lead to a removal within the first five years of office (91) – standards of aristocratic behavior and honor could not be presupposed for an elite *in statu nascendi*. Other differences are more decisive. At Rome, a complicated procedure was followed for the election of the candidates nominated (and later co-opted) by the college proper. Seventeen out of thirty-five tribes (*tribus*), that is, just a minority, were selected by lot in order to determine the succession of individuals to priesthoods.⁵¹ At Urso, that attempt to differentiate priests from magistrates and preserve religious authority as authority *sui generis* was not followed. *Pace* chapter 68, priests were selected in the same manner as magistrates. The second difference concerns the number: three instead of fifteen or sixteen members in each college. There is no attempt to reproduce original Roman practice,⁵² but instead there is a restriction of the college to the very minimum of what could be called a *collegium* at all. I doubt even the adoption of the Roman procedure of *nominatio* by the college: the position of the two (or even one) remaining members would not be strong enough to make a pre-selection of candidates socially acceptable.

Fourth, it may be observed that Chapters 66 to 68 regulate augurs and pontiffs, not priests. The generic term *sacerdotes* is never used in this text. The only instance of its application in chapter 91 concerns the public lists of decurions and *sacerdotes*. The implication must be spelled out: there might be other priesthoods at Urso, too. They are, however, neither decreed nor granted any privileges. If they had any, it would be due to their quality as decurions, for example. Compared to the number of public priesthoods at Rome, this list of two items only, pontiffs and augurs, is restrictive.

It is time to reach some preliminary conclusions. The analysis of the regulations concerning pontiffs and augurs (or augurs and pontiffs in chapter 91, thus excluding a ranking of both) does not reveal a miniaturized version of the actual status of Roman priesthoods during the late republic. These traditional colleges are not used positively as symbols of the colony's Romanness; rather, they are accepted as unavoidable remnants of tradition. The potential political implications of the office are restricted. With regard to the structure of public cult as developed in the other chapters, these colleges are not necessary. Against the backdrop of traditional Roman religious authority, the inclusion of the priesthoods held for life in the charter's chapters on religion does not mark an integration, but an explicit exclusion, a literal as well as metaphorical bracketing-off. The execution of public religion is given to annual *magistri*, appointed and controlled by the local council as regulated in chapter 128, or handled by the magistrates themselves.

49 See Linderski 1995; Burckhardt 1988; Libero 1992.

50 See Crawford 1996: 435 for a summary of the discussion (see above, n. 2, for bibliography) and a rather negative view concerning that possibility. I would prefer a more positive stance; the norms at Urso spell out a position that was controversial at Rome: the augur could lose his office.

51 See Cic. *Leg. agr.* 2.18.

52 Thus Mommsen 1875: 248 (99).

7 Ritual

Another topic must receive mention before turning to a final conclusion. What are the rituals envisaged for public religion at Urso? Prominence is given to games, circus and gladiators, and, especially, plays, *ludi scaenici*.⁵³ Apart from the generic *sacra*⁵⁴ only the chapter on the *magistri* adds further specifications, naming *ludi circenses*, *sacrificia puluinariaque* (128). Circus games and <couches>, that is, the public display of statues and busts of the gods to whom a banquet is being presented,⁵⁵ are definitely spectacular, prominently visible rituals. The repeated framing of *sacrificia* by these two types (tablet e, col. 2, lines 17 and 20) suggests larger public animal sacrifices, also concluded by banquets.⁵⁶ Public religion at Urso is public, visible, and participatory religion.

8 Conclusion

The model of religion as adumbrated in the surviving clauses of the *lex Ursonensis* is characterized by a two-layered structure. Religion has a firm place within the socio-political fabric of the *colonia*. As public cult (*sacra publica*), it is financed and organized by the council and its magistrates – the financing of the cult is the leitmotif that holds together the whole passage on religion.⁵⁷ It is characterized by large public rituals. The concrete particulars of this religion is left to the local elite and its financial power. The imposition of the cult of the Capitoline triad and, to a lesser degree, Venus, presumably Genetrix, the only religious element fixed *a priori*, does not seem to have been designed to provide a focus for or island of Romanness within a foreign province. More probably, it ensures that any attempts of local magistrates to create a distinctive personal image for themselves must employ devices – *ludi Capitolini*, so to speak – symbolically related to the central government, to Rome.

On the contrary, the existence of a second layer of religion is implicitly or even negatively formulated. Priesthoods, expiation, burials and ancestor cult belong to this layer; associations might form further elements. This layer does not form an integral part of the political structure and public religion of the colony. It is by no means illegal, but it must not interfere with political activities. The regulations concerning pontiffs and augurs attempt to transfer a traditional element of the first layer to the second layer, acknowledging and isolating this time honored institution of public religion at Rome. At Urso, all priesthoods are subordinated to magisterial power. Chapter 72, dealing with private donations to temples, should not be read as an extension of public guarantees for the functioning of religion, but as a regulation that the religious activities at the borderline between public and private – that is, private donation to publicly defined cults – should be kept within a spatially circumscribed realm of religion (*in ea aede*). Resources legally accumulated under the umbrella of religion should not be used to interfere with the larger socio-political realm.

The *lex Ursonensis* does not offer evidence for an encompassing Roman *Sakralrecht*. Legal techniques are used to limit the possibilities of independent religious action, but without interfering with time-honored religious traditions. Just as Varro treats religion as

53 See chs. 70 f. 126 f.

54 Used in chs. 64 f. 69 and 72.

55 Briefly Rüpke 2001: 185.

56 See *ibid.*: 141–146, Scheid 1988 and Rüpke 2006.

57 See chs. 65, 69–72; it is important for 128, too.

part – and the second part – of the *Antiquitates Rerum Humanarum et Divinarum*, the *lex Ursonensis*, while not denying the deities their due, construes religion as social activity, subject to the priorities of public law.