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Constantine's Statutes on Sunday Rest Social and Juridical Remarks*

Abstract: Two fragments of two statutes issued by Constantine, preserved in the *Codex Theodosianus* and in the *Codex Iustinianus*, contain the prohibition of jurisdictional activities and of some other forms of work on the *dies Solis* (Sunday). By means of a detailed survey of the norms issued by the Emperor and his successors and by the analysis of Christian literary testimonies in the early centuries AD, we reached the conclusion of linking – with a high degree of certainty and in disagreement with recent research – the Constantinian rules on *dies Solis* with the aim of fostering Christian worship on *dies Dominica*. The Jews had already obtained this recognition, and Constantine afforded this privilege also to Christians. Religious freedom has always had a twofold dimension: having internal freedom which had to be matched with “acting” freely in the political sphere, in order to practice religion in society. Hence, the time to dedicate to worship (along with the space) has been one of the main factors regarding the realization of the external profile of religious freedom.

Keywords: Constantine I the Great, religious freedom in a multicultural society, time devoted to religious practice, Sunday, secularization.

1. The Roman Pagan Calendar and the Seven Day time-pattern

A relevant contribution enabling self-knowledge comes from comparing ourselves with others. In Western societies sometimes we don't even perceive the seven day time-pattern governing the rhythm of our lives, a pattern centred on Sunday, the day of rest and, for Christians, also the day of worship. In a multicultural society we became aware of our own features and we are compelled to consider why we are the way we are. The Sunday rest is based on laws issued by the Emperor Constantine 17 centuries ago. The aim of the article is to put these laws in context, to understand their contents and the religious policy promoted through them by the first Christian Emperor, who allowed and fostered Christianity in giving form to Western civilisation.

One of the main goals of the Roman community, since the archaic age, was to preserve good relationships with supernatural powers which were considered influential on human life. *Pax deorum*,

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'the peace among men and gods', was at the same time a religious duty and a political goal to be achieved by applying patterns of behaviour rigidly established¹.

Also the calendar in pagan Rome was structured according to this goal; it established which days were *dies fasti*, devoted to commerce, politics, trials, and which days were *dies nefasti*, dedicated to the gods and, as a consequence, on that days some relevant jurisdictional and political activities were not allowed to be performed².

In the first century current era the Roman pagan calendar presented 48 days of public feasts, but public feasts and days debarred from some activities were not inserted in a regular, cyclical pattern, as is the week, composed of seven days, one of them dedicated to worship and rest³.

¹ From another perspective and with other purposes in mind, I have investigated the two statutes by Constantine (*Cod. Theod.* II 8, 1 and *Cod. Iust.* III 12, 2) in AGNATI 2013. For further historical and juridical consideration on some aspects of this subject – with the exception of the evaluation of Eusebius's testimony (here §3.2) and of the Jews' situation (here §4), not considered in it – I invite the reader also to take into account the mentioned paper.

Pax deorum was a collective target, a political target, and the *rex* (and, after him, the magistrates and, later on, the Emperor) assisted by the priests had to safeguard this peace. For more details see: BOUCHÉ-LECLERCQ 1871; ORESTANO 1939; PAOLI 1945; VOCI 1953; BRAUN 1959, 49 ff.; MICHELS 1967; ORESTANO 1967; HARMON 1978; CIPRIANO 1978; SCULLARD 1981, 51 ff.; SORDI 1985, 146 ff.; HUMBERT 1993, 196 ff.; SINISCALCO 2000, 71 ff.; CASAVOLA 2001, 387; SINI 2002; FRASCHETTI 2004, 294 ff., SINI 2006; MONTANARI 2006, 39 ff., ZECCHINI 2011, 190, RÜPKE 2011. To preserve *pax deorum* it was necessary to perform certain ceremonies without error and in fine detail. In fact gods were imagined irascible and revengeful. The acts had to be appropriate; the state of mind of the person performing that act was not relevant – there was no need to be faithful, but it was necessary to be formally correct. The observance of rituals repaid the Romans giving them faith in the favour of gods, and a sense of protection. So Romans could be confident in themselves, albeit surrounded by mighty and powerful enemies, always involved in wars – hence, maybe, the roots of the myth of the Trojan origin of the Roman people, a foreign population landed in an unknown and hostile environment. The Roman "prescriptive syndrome" was a stabilizing response: "the order of ritual against the overwhelming and ever present force of disintegration" (SCHIAVONE 2012, 58 f.). The response involved all the Roman community as a whole, so religion was a State religion which prescribed correct behaviours in performing ritual acts. In this way "the main functions of the priests became, from a modern perspective, legal" (WATSON 1992, 5).

² The *pontifices* regulated the calendar, so they could declare *fastus* a certain day, and *nefastus* another day; the calendar was no more a secret of the pontiffs only in 304 B.C., when Cnaeus Flavius published it. A relevant source of information about the calendar is Varro, *De lingua latina*, 6.4.29-30: *Dies fasti, per quos praetoribus omnia verba sine piaculo licet fari; comitiales dicti, quod tum ut in Comitio esset populus constitutum est A.D. suffragium ferendum (...). Contrarii horum vocantur dies nefasti, per quos dies nefas fari praetorem "do," "dico," "addico"; itaque non potest agi: necesse est aliquo eorum uti verbo, cum lege quid peragitur.* [Dies fasti are 'righteous days, court days', on which the *praetores* are permitted *fari*, that is 'to say' any and all words without sin. *Comitiales* are 'assembly days', and are so called because then it is the established law that the people should be in the *Comitium* to cast their votes (...) The opposite of these are called *dies nefasti* 'unrighteous days', on which it is *nefas* 'unrighteousness' for the *praetor* to say *do* 'I give', *dico* 'I pronounce', *addico* 'I assign'; therefore no action can be taken, for it is necessary to use some one of these words, when anything is settled in due legal form].

³ On the Roman calendar, which is not considered specifically in this paper, see Cic. *leg.* II 12,1 e II 8, 19, *divinat.* I 45, 202, Verg. *Georg.* 1.268 ff.; Serv. *ad Verg. Georg.* I 269; Ov. *fast.* I 47 s.: *Ille nefastus erit per quem tria verba silentur; / Fastus erit, per quem lege licebit agi; e fast.* I 73 s.: *Lite vacent aures insanaeque protinus absint / jurgia (...).* Macr. *sat.* I 16, 2-3: *Numa ut in menses annum, ita in dies mensem quemque distribuit, diesque omnes aut festos aut profestos aut intercisos vocavit. Festi dis dicati sunt, profesti hominibus ob administrandum rem privatam publicamque concessi, intercisi deorum hominumque communes sunt. Festis insunt sacrificia epulae ludi feriae.* Liv. I 19, 7: *Idem nefastos dies fastosque fecit, quia aliquando nihil cum populo agi utile futurum erat;* on this text see LIOU-GILLE 1992, 311 ff. See also Liv. V 13 e XXXVIII 51, 8; Fest. p. 162 Lachmann.; Macr. *sat.* I 16, 14; Isid. *orig.* VI 18, 1. For juridical sources see Gai. IV 29: *praeterea quod nefasto quoque die, id est quod non licebat lege agere, pignus capi poterat; Dig.* II 12 *De feriis et dilationibus et diversis temporibus.* In short, the Roman calendar in the archaic age

On the Roman calendars were written letters from A to H; they indicated a time-pattern of eight days (*nundinae*), because the ninth day was a market day. However this market was frequently organized on private ground and thanks to private citizens, and it wasn't necessarily linked to a religious event neither does it prescribe rest; furthermore, this time-pattern wasn't coherent all over the Roman territory, but presented local differences⁴.

The week is known in the Jewish community since the monarchic age and is founded on the mandatory rest during the Shabbat day, the seventh day of the week. The Jewish week was well known in the Mediterranean area in the first century AD. At the same time, an astral week is attested in the same area⁵. In the astral week each day bears the name of a planet, and each planet bears the name of a god. Both the Jewish week and the astral week had no influence on the official timing of the social and political life of the Roman empire, even if the first is considered by the law, as we will see (S4), and the latter was considered in order to evaluate the influx of the god of that day on human everyday life (something similar to the modern 'horoscope'). The Shabbat day of the Jewish week overlaps the *dies Saturni* of the astral week⁶. Accordingly, the first day of the Jewish week overlaps the

consisted of lunar months based on a four day structure, set irregularly within an interval of 4/9 days between them: 1) *kalendae*, 2) *nonae*, nine days before the ides 3) *idus*, the day of full moon, a *dies feriatas* on which the *flamen dialis* sacrificed a white ram and some work was forbidden, 4) the day falling eight or nine days after the ides, on which popular holidays were celebrated. The Roman calendar during the Republican age evolved towards a lunisolar calendar and then became a solar calendar. See also: HUSCHKE 1869; DEGRASSI 1963; JOHNSON 1963; MICHELS 1967; RICHARD 1968; SAMUEL 1972; PASTORINO 1973, 72 ff.; GUITTARD 1973; HAUBEN 1980-1981; HOLLEMAN 1981; LIENARD 1981; BERGMANN 1984; SABBATUCCI 1988; RADKE 1990; HUMM 2000, CHAMPEAUX 2002, 77 ff. e 177 ff., RÜPKE 2011, RÜPKE 2012a, RÜPKE 2012b.

⁴ See GABBA 1988, 143 ff.; SABBATUCCI 1988, 6; WALLRAFF 2001a, 91 s.; CHAMPEAUX 2002, 78; RÜPKE 2012b, 95 ff. Some remarks proposed by Rüpke are relevant to our subject and it is useful to quote some of them: "The [...] 'nundinal' rhythm was not determined by religion. The *nundinae* at the end of each nine-day period were primarily market days, when legal business could also be done. [...] the new rhythm augmented rather than replaced the old. The old structure of monthly orienting days remained. The calendar of holidays was oriented to this structure, and this structure also determined the position of feast and rituals. [...] The reform completely removed the economic function of the market days from such complexities. Market day was market day, every eight days, regardless. [...] Sociologist would describe this as a process of differentiation: diverse social realms are assigned their own institutions. Rome at the end of the fourth century bc had become a major city. [...] The attempt to separate politics, law, and religion from economic matters and from each other is a part of this. It was not a matter of 'secularisation'". CIL III 4121 (ILS I 704) is an interesting epigraph from *Aquae Isae* (or *Aquae Poetovienses*) in *Pannonia superior*, dated from 316 to 321; the text informs us that Constantine instituted *pietas* on the *dies Solis*; see PIGANIOL 1932, 128, GAUDEMET 1947, 43, WALLRAFF 2001a, 97 nt. 32. While MORENO RESANO 2009a interprets the sentence *provisione pietatis suae* as a clue of Constantine's devotion for the Sun, GIRARDET 2008, 356 refers the *pietas* as an indication of Constantine's benevolence toward the local community, suffering for a recent fire (mentioned in the text) and for this reason allowed not to rest on the *dies Solis*.

⁵ See Hor. *sat.* I 9.69, Ov. *ars am.* I 415, Dio Cassius XXXVII 18; BICKERMAN 1963², 35 ff.

⁶ On the influx by the Jewish Shabbat on the *dies Saturni* and on their melting in pagan perception, see Tibull. I 3, 17 f.; Tac. *hist.* V 4, 6-7: *Septimo die otium placuisse ferunt, quia is finem laborum tulerit; dein blandiente inertia septimum quoque annum ignaviae datum. Alii honorem eum Saturno haberi, seu principia religionis tradentibus Idaeis, quos cum Saturno pulsos et conditores gentis accepimus, seu quod de septem sideribus, quis mortales reguntur, altissimo orbe et praecipua potentia stella Saturni feratur, ac pleraque caelestium viam suam et cursus septenos per numeros commeari.* On the observance of the Shabbat in Rome in the first century AD see PIETRI 1997, 66 ff.

dies Solis of the astral week. We have no clear evidence of any specific worship of the Sun on the *dies Solis*⁷.

The first day after the Shabbat will be the Christian ‘day of God’, ‘Lord’s day’, *dies dominicus* or *dominica*, and, as a consequence, it will overlap the *dies Solis* of the astral week⁸.

The Christian *dies dominica/dominicus* – the day of the Resurrection⁹ – is devoted to the common worship by the faithful, and it is a characteristic feature of the Christians, which marked from the beginning the Christian identity, inside and outside the Christian community. Ignatius of Antiochia wrote, in the beginning of the second century AD, that Christians lived to worship on the Lord’s day¹⁰ and in order to worship God on that very day, Christians will face death. Death was at hand during the persecutions which were kindled during the first centuries of the current era, and the Roman authorities often waited for Christians meeting on Sunday-*dies dominica* to arrest them during the religious service.

2. Constantine’s Statutes and their Contents

2.1. *Codex Iustinianus* III 12, 2

On the subject of ‘what is forbidden to do on *dies Solis*’ we can read two parts of two Constantinian statutes – or two parts of one Constantinian statute¹¹.

The most ancient of the two parts is dated 321, March the 3rd, and it is contained in the title *De feriis* of the *Codex Iustinianus*. *Cod. Iust.* III 12, 2 reads:

Imperator Constantinus A. Helpidio. Omnes iudices urbanaeque plebes et artium officia cunctarum venerabili die solis quiescant. Ruri tamen positi agrorum culturae libere licenterque inserviant, quoniam frequenter evenit, ut non alio aptius die frumenta sulcis aut vineae scrobibus commendentur, ne occasione momenti pereat commoditas caelesti provisione concessa. P(ro)P(osita) v non. Mart. Crispo II et Constantino II cons.

The Emperor Constantinus Augustus to Helpidius. All the judges and all the urban populations and all the professional activities have to stop on the worshipful day of the Sun. The people who take care of the cultivated lands, on the contrary, freely and without

⁷ RORDORF 1968, 37: “We have no direct information whether the day consecrated to the sun was marked by any sort of cultic observance in the Mithras cult”. See also GIRARDET 2008; *contra* MORENO RESANO 2009a, MORENO RESANO 2009b. On the mithraic cult see BIANCHI 1984, 2116 ff.

⁸ In the *dies dominica* Jesus has risen from the dead, in that day Jesus once risen had meal with his disciples, that day is the ‘eighth day’ in an eschatological perspective; on other features of that day see DANIELOU 1948, 105 ff., CONGAR 1948, 131 ff., REGAN 1961, TILLARD 1964, 225 ff., VERHEUL 1970, GRELOT 1975, WALLRAFF 2001a, 19 ff., DI BERARDINO 2002.

⁹ See, for instance, Mk 16.9: “When Jesus rose early on the first day of the week (...)”.

¹⁰ *Magn.* IX 1. See also Irenaeus *adv. haer.* V 28, 4 (PG 7.1200-1201) and WALLRAFF 2001a, 94.

¹¹ On the biography of Constantine (born in Naissus, Nis in 272-3 and died on the 22nd of May 337 in Nicomedia) there is a vast bibliography; we are not directly interested in Constantine’s life and we indicate, for a sound and brief account of it, BARNES 1982, 39 ff. and *passim*, LENSKI 2012.

restriction can attend to agricultural activities; in fact, it frequently occurs that there is no other day more fitting for sowing cereals or for planting vineyards, and that moment, given by the sky, ought not to be missed. Posted on the fifth day before the nones of March in the year of the second consulship of Crispus and Constantinus Caesars.

Sent to Helpidius, *vicarius urbis Romae* from 321 to 324¹², this statute's portion is preserved only in the *Justinian Code* and not in the *Theodosian Code*. The rule prohibits performing in the city some working and jurisdictional activities on a certain day, which is the *dies Solis*, called *venerabilis*.

After the rule comes the exception. On the other hand, in fact, agricultural activities are allowed, so as not to waste the gift from the sky – and there is a discussion among scholars about interpreting *caelesti provisione concessa* in a theological or meteorological way¹³. Furthermore, Christianity was at that time mainly spreading among the urban population, and the rural pagan population obtained from Constantine the privilege, attested by *Cod. Th.* IX 16, 3¹⁴, to perform magic rituals in order to avoid damages to the harvest caused by heavy rain or hailstorm; this peculiar rule was justified asserting: *ne divina munera et labores hominum sternerentur*.

2.2. *Codex Theodosianus* II 8, 1

This part of a Constantinian statute was selected by the compilers of the *Theodosian Code* to open the title *De feriis*. It bears the date 321, July the 3rd and is addressed to Helpidius, as it is *Cod. Iust.* III 12, 2¹⁵.

Cod. Th. II 8, 1 reads:

Imperator Constantinus A. Helpidio. Sicut indignissimum videbatur, diem solis, veneratione sui celebrem, altercantibus iurgiis et noxiis partium contentionibus occupari, ita gratum ac iucundum est, eo die, quae sunt maxime votiva, compleri. Atque ideo emancipandi et manumittendi die festo cuncti

¹² See *Helpidius 1* in *PLRE*, I, 1971, 413.

¹³ See GAUDEMET 1947, 46, BONETTI 1963, 14, RORDORF 1968, 162, DILLON 2012 176 nt. 89.

¹⁴ *Cod. Th.* IX 16, 3: *Imp. Constantinus A. et C. ad Bassum pf. p. Eorum est scientia puniunda et severissimis merito legibus vindicanda, qui magicis accincti artibus aut contra hominum moliti salutem aut pudicos ad libidinem deflexisse animos deteguntur. Nullis vero criminationibus implicanda sunt remedia humanis quaesita corporibus aut in agrestibus locis, ne maturis vindemiis metuerentur imbres aut ruentis grandinis lapidatione quaterentur, innocenter adhibita suffragia, quibus non cuiusque salus aut existimatio laederetur, sed quorum proficerent actus, ne divina munera et labores hominum sternerentur. Dat. x. kal. Iun. Aquileia, Crispo et Constantino Caeff. coff.* Significativo anche il confronto con la correlata *Interpretatio*, che recita: *Malefici vel incantatores vel immissores tempestatum vel ii, qui per invocationem daemonum mentes hominum turbant, omni poenarum genere puniantur*. Sul tema si segnalano CASTELLO 1990, 691, NERI 2005, 348 ff., MORENO RESANO 2007, 296 ff.

¹⁵ Scholars have conjectured that *Cod. Iust.* III 12, 2 and *Cod. Th.* II 8, 1 originally belonged to the same statute; see, for instance, SEECK 1919, 62, DE ROBERTIS 1963, 210, BARNES 1981, 313, BIANCHINI 2008a, 235. Doubts this hypothesis DI BERARDINO 2002, 99 nt. 3. GIRARDET 2008, 346 considers *Cod. Th.* II 8, 1 as part of an imperial rescript answering a question put by Helpidius, who needed clarifications on the topic of manumission. MORENO RESANO 2009a, 292 suggests that those are two fragments of two different drafting of the same statute. In general, see also MOMMSEN – MEYER 1962 I.1 (MOMMSEN 1904), CLV-CLVI; JONES 1966, 151.

licentiam habeant, et super his rebus acta non prohibeantur. Pp. v. non. Iul. Caralis, Crispo II et Constantino II CC. cons.

Emperor Constantine Augustus to Helpidius. Just as it appears to Us most unseemly that the day of the Sun (Sunday), which is celebrated on account of its own veneration, should be occupied with legal altercations and with noxious controversies of the litigation of contending parties, so it is pleasant and fitting that those acts which are especially desired shall be accomplished on that day. 1. Therefore all men shall have the right to emancipate and to manumit on this festive day, and the legal formalities thereof are not forbidden. Posted on the fifth day before the nones of July at Cagliari in the year of the second consulship of Crispus and Constantinus Caesars¹⁶.

The part of the rule regarding the prohibition of trials on the *dies Solis*, contained in *Cod. Iust.* III 12, 2, is confirmed, and another exception is established, to allow everybody – not only the Christians¹⁷ – to free their slaves on that day. The exception is the core of the statute, as we know it, and motivates the issuing of the imperial pronouncement.

The *dies Solis* is indirectly declared to be a *dies festus*¹⁸ and described as *veneratione sui celebrem*, confirming that a relevant act of worshiping takes place on that very day.

3. Are Constantine's Rules issued to favour Christian Worship?

3.1. Contrasts among Scholars

Some Scholars were persuaded, and some Scholars are still persuaded that *Cod. Theod.* II 8.1 and *Cod. Iust.* III 12.2 were issued by Constantine to honour the Sun¹⁹. As the vast majority of his soldiers, Constantine was a committed Sun worshipper – the ubiquitous companion of their travels and the light of life, as opposed to the obscurity of death, frequently faced in the battlefield. Constantine's

¹⁶ Translated by PHARR 1952, 44.

¹⁷ Christians were permitted, by Constantine, to free their slaves in the church, making them freedmen and Roman citizens. See GIRARDET 2008, 346. See the statute of Constantine, dated 316 AD, *Cod. Iust.* I 13, 1: *Iam dudum placuit, ut in ecclesia catholica libertatem domini suis famulis praestare possint, si sub adspectu plebis adsistentibus christianorum antistitibus id faciant, ut propter facti memoriam vice actorum interponatur qualiscumque scriptura, in qua ipsi vice testium signent. unde a vobis quoque ipsis non immerito dandae et relinquendae sunt libertates, quo quis vestrum pacto voluerit, dummodo vestrae voluntatis evidens appareat testimonium.* See also the Constantinian *Cod. Iust.* I 13, 2 (also in *Cod. Th.* IV 7, 1): *Qui religiosa mente in ecclesiae gremio servulis suis meritam concesserint libertatem, eandem eodem iure donasse videantur, quo civitas romana sollemnitatibus decursis dari consuevit. Sed hoc dumtaxat his, qui sub adspectu antistitum dederint, placuit relaxari. Clericis autem amplius concedimus, ut, cum suis famulis tribuunt libertatem, non solum in conspectu ecclesiae ac religiosi populi plenum fructum libertatis concessisse dicantur, verum etiam cum postremo iudicio dederint libertates seu quibuscumque verbis dari praeceperint, ita ut ex die publicatae voluntatis sine aliquo iuris teste vel interprete competat directa libertas.* On the subject: MOR 1932, BIONDI 1952b, 397 ff.; FABBRINI 1965; CALDERONE 1971; SARGENTI 1986a, 55 ff.; SARGENTI 1992, 878 s.; GORI 2000; CRIFÒ 2003.

¹⁸ *Macr. sat.* I 16, 3: *Festis insunt sacrificia, epulae, ludi, feriae*; see DI BERARDINO 2006, 182.

¹⁹ Among contemporary scholars I suggest to read the documented and interesting works by Moreno Resano, well representing this way of interpreting *Cod. Theod.* II 8.1 and *Cod. Iust.* III 12.2.

faith in the Sun lasted, at least, until his victory over Maxentius at the Milvian bridge (28th of October 312), but, presumably, did not vanish instantly on that very day²⁰.

A relevant number of studies underscore the Emperor's syncretic feelings or, more soundly, the Emperor's syncretic manifestation, which, after that date, linked the Sun and Jesus. The fading of this contamination would have taken place after Licinius' defeat, in 324 AD, when the Sun progressively disappeared from imperial figurative apparatus²¹.

The rules we are considering were issued in 321 AD and are reckoned by some Scholars as a clue of Constantine's faith in the Sun or, at least, of his syncretic feelings²². This second interpretation is upheld by one of the most important scholars specialized in Later Roman Empire history, A.H.M. Jones, who writes: "Though he (Constantine) believed himself to be God's servant he was singularly ill-instructed in his faith. He apparently still believed that Christ and the sun were identical, for he issued coins with the legend *Sol Invictus Comes Augusti* down to 318, and from the wording of an edict enforcing Sunday rest appears to have believed that the Christians observed the first day of the week in honour of the sun"²³.

We disagree with this and with similar interpretations and, together with other Scholars, we consider the *Cod. Theod.* II 8.1 and *Cod. Iust.* III 12.2 rules expressed with the current wording of the time and issued to favour Christian worship. Our attempt is to sustain convincingly our hypothesis by means of the following considerations.

3.2. Contemporary Sources

If we ask the literary sources contemporary to *Cod. Theod.* II 8.1 and *Cod. Iust.* III 12.2 in which way the rule regarding the *dies Solis* was perceived at that time, we have to consider the first hand testimony of a Christian bishop, Eusebius of Caesarea in Palestine²⁴. He was born around 263 and died in May 339, and is the author of the first history of the Church (*Historia ecclesiastica*). He was a committed Christian and his literary works are inspired by apologetic intents.

²⁰ BONAMENTE 2012, GIRARDET 2012.

²¹ See BRUUN 1962, BRUUN 1992, CUNEO 2012, 95 ff. (demonstrating, analyzing interesting documents, that the prominent role of the Sun in imperial ideology will endure within the Constantinian dynasty).

²² I have considered in detail the different opinion of the Scholars on this subject in AGNATI 2013; see also DRAKE 2012, 132 f.. So, briefly, I will recall VASILIEV 1952, 49, DÖRRIES 1954, 343 ff. See also COLEMAN-NORTON 1966, 83 f., who considers Constantine influenced by Heliotheism and affirms that "perhaps his indoctrination into Christian principles was still so imperfect that Constantine conjectured that the Christians also held this holy day as sacred to the Sun". RORDORF 1968, 163 writes that "Constantine was warmly disposed towards sun-worship (...). It is, therefore, possible that Constantine promulgated legislation to make Sunday an obligatory day of rest in order to unite the empire under a monotheistic sun religion". In a later work Rordorf emphasizes the syncretic aim of Constantine: "Cette législation constantinienne avait plusieurs motifs; l'empereur ne voulait pas seulement favoriser le Christianisme, mais en même temps exaucer le vœu de tous les vénérateurs du Soleil dans l'Empire, dont il faisait partie lui-même" (RORDORF 1979, 195). See also WALLRAFF 2001a, 89 ff., and BIANCHINI 2008a, 235, who charges these statutes of ambiguity and considers them as issued in favour of the Sun cult.

²³ JONES 1966, 41-42. See also, for instance, COLEMAN-NORTON 1966, 84: "Perhaps his [Constantine's] indoctrination into Christian principles was still so imperfect that Constantine conjectured that the Christians also held this holy day as sacred to the Sun".

²⁴ See WALLACE-HADRILL 1960. On the sources for the history of Constantine see BLECKMANN 2012.

Reading his *Life of Constantine* we have to keep in mind that it is a work belonging to several literary genres (narrative history, apologetic, panegyric, hagiography), and, in the end, to none of them specifically, a work – probably left unrevised - written in different times and with various intents (including political intents, as to justify Constantine’s rise to power and to serve as a ‘Mirror for Princes’ to offer advice to the sons of Constantine), by a theologian living in the IVth century. Anyway, recent studies have demonstrated that his writings are almost trustworthy, at least according to the profiles of interest to our subject²⁵.

In his *Life of Constantine*, Eusebius mentions twice these statutes - or others very similar according to the contents - issued by the Emperor. Let’s give voice to this contemporary source.

Eusebius, *Vita Constantini* IV 18, 1: “He also decreed that the truly sovereign and really first day, the day of the Lord and Saviour, should be considered a regular day of prayer”²⁶.

Some lines ahead Eusebius, *Vita Constantini* IV 23, writing about the promotion of Christianity and the suppression of idolatry by Constantine, informs us that “A decree went also to the governors of each province directing that they should similarly reverence the Lord’s Day”²⁷.

Martin Wallraff express doubt over Eusebius’ testimony, writing, for instance: “the law on *dies Solis*, whose intention is certainly not as Christian as Eusebius wants us to believe”²⁸. Wallraff’s research is relevant to this subject and fundamental in addressing the problems rising about this and related

²⁵ Eusebius met Constantine at the Council of Nicaea, gained his favour and soon after the Emperor’s death (337), he wrote a long obituary, entitled *The Life of Constantine (Vita Constantini)*, mixing up previous written material, as his *Historia ecclesiastica* and *Laus Constantini*. Constantine is depicted as an hero of the Christian faith, a *theios aner*, “the new Moses” – and Moses is a well known character, respected also by pagans (see, for instance, *Vita Constantini* I 12, I 20, I 38) . In spite of the evident bias in favour of the Emperor and of the Christians, the *Life* is very useful, reporting primary sources that the majority of scholars consider genuine, and containing eye witness accounts. Against the liability of Constantine’s portrait depicted by Eusebius see BURCKHARDT 1957, ELLIOTT 1991; WINKELMANN 1991, 147 f. considers Eusebius not reliable. WALLRAFF 2001b, 266 f., suggests that a compromise was reached between Constantine and Eusebius, with this content in Eusebius’ perspective: “I am prepared to accept that the Emperor is the true sun, if the Emperor is prepared to accept that the sun is no god, but a creature of the one Christian God”. Walraff, moreover, identifies three approaches adopted by Eusebius to tackle the problem (in his Christian perspective) of Constantine’s heliotheism: (a.) give a Christian interpretation of the manifestation of the Emperor’s faith in the Sun (Walraff recalls the case of Constantine’s mausoleum, the so called Church of the Apostles), (b.) give nothing more than a description, as in the case of the coin of the consacration, (c.) avoid the subject, as in the case of the column with the statue of the Sun at the top. In defence of Eusebius’ reliability, as far as his intents and the nature of his work consented, see BARNES 1989, CAMERON – HALL 1999, 6 ff. (with bibliography and a thorough discussion). On this subject see also, enriched with an up to date bibliography, CORSARO 2012. The texts of the imperial constitutions - reported in *Vita Constantini* with the intent of reveal Constantine’s piety and to confirm the historical value of the work in its entirety - “often does not correspond closely, or at all, to the texts as we have it in the Codes: Eusebius may have not had the text available, or may have been basing his account on general awareness, or on a summary from someone else” (CAMERON – HALL 1999, 209). On the imperial documents included in the *Vita Constantini* see DÖRRIES 1954, JONES – SKEAT 1954, TARTAGLIA 1984, 17 ff., SILLI 1987 (nos. 16, 17, 19), WARMINGTON 1993, CAMERON – HALL 1999, 16 ff., DRAKE 2010, DAINESE 2012.

²⁶ Eus. *vita Const.* IV 18, 1 (English translation by CAMERON – HALL 1999, 159) and also IV 18, 2 (see forward in this paper §4.2). See Eusebius *De laudibus Constantini* IX 10 and BARNES 1981, 249 f.

²⁷ Eus. *vita Const.* IV 23 (English translation by CAMERON – HALL 1999, 161).

²⁸ WALLRAFF 2001b, 260. See also MORENO RESANO 2009a, 304.

matters. Anyway, among contemporary literary sources it is hard to find some reliable evidence contrasting with what Eusebius wrote about the rule established by the Emperor on Sunday rest.

3.3. Sunday Rest and Worship: irrelevant to other Cults, fundamental to Christians

The Sunday Feast became central in Christian cult from the early years of the Christian history, as proven by some passages from the New Testament, as *1Cor XVI 2*²⁹, *Act XX 7*³⁰, *Rev I 10*³¹.

Sunday is considered the weekly Easter, the weekly celebration of Christ's resurrection³². Sunday is "the queen and the most important of the days" according to Pseudo-Ignatius (PG 5.769)³³.

Justin the Martyr (*First Apology LXVII 8*), writing in the middle of the II century AD to the Roman Emperor to explain the Christian faith, gives us information about this weekly meeting: "We meet all together in an assembly on the day of the Sun, because this is the first day in which God created the world (...); furthermore, on this very day, Jesus Christ our Saviour, was risen from the dead: they had crucified him the day before the day of Saturn, and the day after the day of Saturn, which is the day of the Sun, he appeared to his apostles and to his disciples (...)".

Surely, in the first years of the fourth century AD, less than ten years before the battle at the Milvian bridge, the Sunday worship was considered essential, more than life, by the Christians of Abitina, a town not far from Carthage. Proconsul Anulinus captured in Abitina some Christians, on a Sunday – it should be noted - in the year 304. The Christians, tortured and destined to be put to death if not abjuring their faith, told Anulinus that they can't live without the Eucharistic meal, without worshipping in this way the Sunday³⁴.

²⁹ *1Cor XVI 2*: "On the first day of every week, each one of you should set aside a sum of money in keeping with his income, saving it up, so that when I come no collections will have to be made".

³⁰ *Act XX 7*: "On the first day of the week we came together to break bread. Paul spoke to the people and, because he intended to leave the next day, kept on talking until midnight".

³¹ *Rev I 10* "On the Lord's Day I was in the Spirit, and I heard behind me a loud voice like a trumpet". See also *Didaché*, XIV 1: "On the day of the Lord, come together, break the bread and give thanks after confessing your sins, so that your sacrifice will be pure"; see AUDET 1958. About the relevance of Sunday in the early Christian communities see, among others, RORDORF 1968, 206, MOSNA 1969, 6 ff.

³² See, for instance, John 20.19: On the evening of that first day of the week, when the disciples were together, with the doors locked for fear of the Jews, Jesus came and stood among them and said, "Peace be with you!".

³³ For more evidence see RORDORF 1968, 220 ff., MOSNA 1969, 42 ff. e 363 ff., WALLRAFF 2001a, 19 ff., DI BERARDINO 2002.

³⁴ We report some passages from this first hand document. *Nam dicente proconsule: Tu contra jussionem imperatorum et Caesarum fecisti, ut hos omnes colligeres, respondit presbyter Saturninus, Domini Spiritu suggerente: Securi Dominicum celebravimus. Proconsul ait: Quare? Respondit: Quia non potest intermitteri dominicum* (ch. 9). *At proconsul qui jam toties victus fuerat, impetus Emeriti perhorrebat; et tamen in presbyterum versus, Quare contra praeceptum faciebas, inquit, Saturnine? Cui Saturninus, Intermitti dominicum non potest, ait. Lex sic iubet. Tunc proconsul: Non tamen debuisti prohibita contemnere, sed observare potius et non rem facere contra praeceptum imperatorum (...)* *Cui proconsul: Quare contra praeceptum faciebas? Et presbyter, Lex sic iubet, lex sic docet, Inquit.* (ch. 10). *At ille: non poteram, quoniam sine dominico non possumus* (ch. 11). *Acta SS. Saturnini, Dativi et aliorum plurimorum martyrum in Africa*, 9-11: PL 8.707-710. See FRANCHI DE' CAVALIERI 1935, MOSNA 1969, 159 f., MICUNCO 2004.

According to our sources, within the borders of the Roman empire only the Christians felt this overwhelming need to worship on Sunday³⁵.

3.4. *Dies Solis* i.e. *Dies Dominicus/Dominica*

The first Christian Emperors faced no problem in using the expression '*dies Solis*' to indicate the first day of the week or, in a Christian way of talking, the '*dies dominicus/dominica*'. This ambivalence still persists in European languages, some of them indicating that day according to the astral denomination – so, for instance, we have 'Sunday' in English (from Anglo-Saxon *sunnandaeg*), 'Sonntag' in German –, some others according to the Christian denomination, from which descend the Romanian word 'duminică', the Italian 'domenica', the Spanish 'domingo', the French 'dimanche'.

Juridical sources as well as literary sources attest to the coexistence of these two modalities to indicate that very day.

We can read a great number of constitutions issued by Christian Emperors – obviously in charge after Constantine's reign – adopting the pagan denomination to indicate Sunday.

The Emperor Valentinianus I, between 368 and 373, issued *Cod. Th.* VIII 8, 1 (= *Cod. Th.* XI 7, 10)³⁶. He established that on the *dies Solis* Christians shall not be sued by tax collectors. A rule clearly issued to favour Christians and Christian worship on Sunday uses the locution '*dies Solis*'.

Theodosius I, well known for the 'edict of Thessalonica' (*Cod. Th.* XVI 1, 2), and correctly considered a champion of Christianity, uses *dies Solis* in *Cod. Th.* XV 5, 2, 2³⁷. In this statute, among other prohibitions, the Emperor establishes that no one shall give a spectacle for the people on the *dies Solis* or disturb the *divina veneratio* – which refers, quite obviously, to Christian worship³⁸. Another rule clearly issued, without any doubt, to favour Christian worship on Sunday makes use of the locution '*dies Solis*'.

Dated november 386, a constitution – which recurs three times in the Theodosian Code: *Cod. Th.* II 8, 18, *Cod. Th.* VIII 8, 3, *Cod. Th.* XI 7, 13³⁹ – uses both *dies Solis* and *dies dominicus*, and explains that

³⁵ There are few ancient sources dealing with this question. To our subject is relevant underscoring the fact that Justin Martyr, in his *First Apology*, while complaining that Mithras' cult devilishly apes some features of the Christian cult – as the common meal (*First Apology* LXVI 4) –, doesn't complain about any Mithraic ritual on the *dies Solis/dies dominica*. Another *argumentum e silentio* (by nature, not sound enough), should be found considering Tertullianus *Ad nat.* I 13. See, supporting the opinion here expressed, RORDORF 1968, 37 ff., SCHNEIDER 1968, 256, ALFÖLDI 1976, 44.

³⁶ *Cod. Th.* VIII 8, 1: *Imppp. Valentinianus et Valens AA. ad Florianum consularem Venetiae. Die solis, qui dudum faustus habetur, neminem christianum ab exactoribus volumus conveniri, contra eos, qui id facere ausi sint, hoc nostri statuti interdicto periculum sancientes. Dat. XI kal. Mai. Treviris Valentiniano et Valente AA. conf. (368? 370? 373? apr. 21).*

³⁷ *Cod. Th.* XV 5, 2, 2: *Illud etiam praemonemus, ne quis in legem nostram, quam dudum tulimus, committat, nullum solis die populo spectaculum praebeat, nec divinam venerationem confecta sollemnitate confundat. Dat. XIII kal. Iun. Heracleae Honorio nob. p. et Evodio v. c. conf. (386 [392-395] mai. 20). See FRANCIOSI 2003, 57.*

³⁸ See BIANCHINI 2008a, 246.

³⁹ These constitutions present slight differences, irrelevant to our subject; we transcribe *Cod. Th.* VIII 8, 3 and its *interpretatio*.

Cod. Th. VIII 8, 3 [= *Brev.* VIII 3, 1]: *Imppp. Grat., Valent. et Theodos. AAA. ad Principium pf. p. Solis die, quem dominicum rite dixere maiores, omnium omnino litium, negotiorum, conventionum quiescat intentio; debitum publicum privatumque nullus*

the latter is the correct one. The rule sums up and probably enlarges the previously issued prohibitions regarding trials and the payment of public or private debts and any cognizance of any contention (even judged by arbitrators). The aim of the inhibition is to grant the inspiration and the ritual of holy religion.

Three years later, a constitution by Valentinianus II, Theodosius and Arcadius similarly adds to *dies Solis* a gloss informing about the greater accuracy of the locution *dies dominica*⁴⁰.

The same Emperors, in AD 392, prohibit contests in the circus on the *dies Solis* to avoid that the concourse of people to the spectacles may divert the population from Christian worship⁴¹. The locution *dies Solis* appears without discord in the same constitution where the mention of Christianity appears (*christianae legis veneranda mysteria*), whose worship, once again, is the main reason for the promulgation of the statute.

In AD 399 we have the first testimony of the use of *dies dominicus* alone⁴². Ten years later, nevertheless, a constitution establishing the prohibition of spectacles even on the birthday of the Emperor - in contrast with *Cod. Th.* II 8, 20 e II 8, 23 which contemplated an exception in this case - uses *dominica dies* but explains that the day is commonly called also *dies Solis* (*quam vulgo solis appellant*)⁴³.

Anyhow, with the Fifth century *dies dominica* became the ordinary way to indicate Sunday and *dies Solis* goes out of use, as is testified in a constitution of the year 425 AD⁴⁴ and another one of the year 469⁴⁵.

efflagitet; ne apud ipsos quidem arbitros vel in iudiciis flagitatos vel sponte delectos ulla sit agnitio iurgiorum. Et non modo notabilis, verum etiam sacrilegus iudicetur, qui a sanctae religionis instituto rituve deflexerit. Dat. III non. Nov. Aquileiae, acc. VIII kal. Dec. Romae, Honorio n. p. et Evodio v. c. coff.

Interpretatio. Die solis, qui dominicus merito dicitur, omnium hominum actio conquiescat, ut nec publicum nec privatum debitum requiratur, nulla iudicia neque publica neque privata fiant. Quod qui non observaverit, reus sacrilegii teneatur.

⁴⁰ *Cod. Iust.* III 12, 6, 4: Imperatores Valentinianus, Theodosius, Arcadius. In eadem observatione numeramus et *dies Solis*, quos dominicos rite dixere maiores, qui repetito in se calculo revolvuntur. D. VII id. Aug. Romae Timasio et Promoto coff. See *Cod. Th.* II 8, 19, 3, which probably reports a wider portion of the same constitution. On *Cod. Iust.* III 12, 6(7), which summarizes the contents of *Cod. Th.* II 8, 19 and of *Cod. Th.* XV 5, 5, see FRANCIOSI 2003, 64 ff., DI BERARDINO 2008.

⁴¹ *Cod. Th.* II 8, 20: Idem AAA. Proculo praefecto urbi. Festis solis diebus circensium sunt inhibenda certamina, quo christianae legis veneranda mysteria nullus spectaculorum concursus avertat, praeter clementiae nostrae natalicios dies. Dat. XV k. Mai. Constantinopoli Arcadio A. II et Rufino coff. (392 apr. 17).

⁴² *Cod. Th.* II 8, 23: Idem AA. ad Aurelianum praefectum praetorio. Die dominico, cui nomen ex ipsa reverentia inditum est, nec ludi theatrales nec equorum certamina nec quicquam, quod ad molliendos animos repertum est, spectaculorum in civitate aliqua celebretur. Natalis vero imperatorum, etiamsi die dominico inciderit, celebretur. Dat. VI k. Sept. Constantinopoli Theodoro v.c. cons. (399 aug. 27).

⁴³ *Cod. Th.* II 8, 25: Impp. Honorius et Theodosius AA. Iovio praefecto praetorio. Post alia: dominica die, quam vulgo solis appellant, nullas edi penitus patimur voluptates, etsi fortuito in ea aut imperii nostri ortus redeuntibus in semet anni metis obfulserit aut natali debita sollemnia deferantur. Dat. kal. April. Ravenna Honorio VIII et Theodosio III AA. coff. (409 apr. 1). See BIANCHINI 2008a, 248, who recalls *Cod. Th.* VIII 8, 3 del 386, where is written: *solis die, quem dominicum rite dixere maiores*.

⁴⁴ *Cod. Th.* XV 5, 5. Idem A. et Valentinianus Caes. Asclepiodoto praefecto praetorio. Dominico, qui septimanae totius primus est dies, et natali adque epifaniorum christi, paschae etiam et quinquagesimae diebus, quamdiu caelestis lumen lavacri imitantia novam sancti baptismatis lucem vestimenta testantur, quo tempore et commemoratio apostolicae passionis totius christianitatis magistrae a cunctis iure celebratur, omni theatrorum adque circensium voluptate per universas urbes earundem populis denegata totae christianorum ac fidelium mentes dei cultibus occupentur. Si qui etiamnunc vel iudaeae impietatis amentia vel stolidae paganitatis

The constitutions briefly considered above, show the enduring presence of paganism in ordinary life, in spectacles, in the denomination of the days, and the efforts by the Christian Emperors to change a pagan Empire to a Christian empire, by changing habits and wording. This analysis, moreover, proved that *dies Solis* in the juridical language of the IVth century is neutral and is the common way (not necessarily the ‘pagan way’) to indicate that day: laws that are Christian in content and that were issued by Christian Emperors use without difficulty that locution. Hence, it is not correct to consider *dies Solis* a clue that indicates Constantine’s faith in the Sun; it is necessary, on the contrary, to evaluate the content of Constantinian constitutions, their aim, and in whose favour they were promulgated (*cui prodest*) to identify their Christian or Heliotheist nature.

That *dies Solis* is neutral is proved *a fortiori* by the writings of Christian authors. In fact, we can read Christian texts presenting the astral denomination to indicate Sunday.

Among many others we can recall Justin Martyr (100–ca.165), an early Christian apologist, who writes about ‘*dies dominica*’ as “the so called *dies Solis*”⁴⁶.

The well known Christian writer Tertullian (circa 155-230), when he addresses himself to readers both pagan and Christian, uses the expression *dies Solis*⁴⁷; when he addresses himself to Christian readers uses *dies dominicus*⁴⁸.

Maximus, bishop of Turin, who probably died around the year 420 AD, writes: *Dominica cuius nobis ideo venerabilis est adque sollemnis, quia in ea Salvator, velut sol oriens, discussis inferorum tenebris, luce Resurrectionis emicuit, ac propterea ipsa die ab hominibus saeculi dies Solis vocatur, quod ortus eam sol iustitiae*

errore adque insania detinentur, aliud esse supplicationum noverint tempus, aliud voluptatum. Ac ne quis existimet in honorem numinis nostri veluti maiore quadam imperialis officii necessitate compelli et, nisi divina religione contempta spectaculis operam praestat, subeundam forsitan sibi nostrae serenitatis offensam, si minus circa nos devotionis ostenderit quam solebat, nemo ambigat, quod tunc maxime mansuetudini nostrae ab humano genere defertur, cum virtutibus dei omnipotentis ac meritis universi obsequium orbis impenditur. Dat. kal. Feb. Constantinopoli Theodosio A. XI et Valentiniano Caes. I conf. (425 febr. 1). For details see FRANCIOSI 2003, 52.

⁴⁵ *Cod. Iust. III 12, 9: Imperatores Leo et Anthemius AA. Armasio pp. Dies festos, dies maiestati altissimae dedicatos nullis volumus voluptatibus occupari nec ullis exactionum vexationibus profanari. 1. Dominicum itaque diem semper honorabilem ita decernimus venerandum, ut a cunctis executionibus excusetur, nulla quemquam urgeat admonitio, nulla fideiussionis flagitetur exactio, taceat apparitio, advocatio delitescat, sit idem dies a cognitionibus alienus, praeconis horrida vox silescat, respirent a controversiis litigantes, habeant foederis intervallum, ad se veniant adversarii non timentes, subeat animos vicaria paenitudo, pacta conferant, transactiones loquantur. 2. Nec tamen haec religiosi diei otia relaxantes obscaenis quemquam patimur voluptatibus detineri. Nihil eodem die sibi vindicet scaena theatralis aut circense certamen aut ferarum lacrimosa spectacula: etiam si in nostrum ortum aut natalem celebranda sollemnitas inciderit, differatur. 3. Amisionem militiae, proscriptionem patrimonii sustinebit, si quis umquam hoc die festo spectaculis interesse vel cuiuscumque iudicis apparitor praetextu negotii publici seu privati haec quae hac lege statuta sunt crediderit temeranda. D. V id. Dec. Constantinopoli Zenone et Marciano conf. See Liber iuris Syro-romanus 118 (FIRA II, p. 794-795). See also BIONDI 1952a, 166; SCARCELLA 1997, 328 ff.; FRANCIOSI 2003, 65 s. In the *Edictum Theodorici*, 154, is written: *Dies Solis, qui dominicus nuncupatur (...)*.*

⁴⁶ 1 *Apol. LXVII 3*; see COLEMAN-NORTON 1966, 83, PIETRI 1997, 70, WALLRAFF 2001a, 89 ff.

⁴⁷ *Apol. XVI 1, ad nationes I 13*; see SCHNEIDER 1968, 256 s., BARZANÒ 1996, 175 nt. 40.

⁴⁸ *De idol. XIV 7 (PL 1.759); de corona 3 and 11 (PL 2.99 e 2.112)*.

*Christus illuminat*⁴⁹. Gregorius of Tours attests the enduring use of the locution *dies Solis: dies Solis adest, sic enim barbaries vocitare diem dominicum consueta est*⁵⁰.

The Christians generally used the names of the day according to the astral week and there is also a wealth of epigraphic evidence⁵¹. Only in the synods *dies Solis* is avoided⁵².

Considering this wealth of evidence, it is clear that we can't infer from the use of the locution '*dies Solis*' that Constantine was necessarily referring to the Sun cult issuing his rule regarding the Sunday rest and the related exceptions.

3.5. Jesus and the Sun in a syncretic world

Constantine became a Christian faithful in the year 312; his empire, on the contrary, was inhabited by an overwhelming majority of pagans (maybe only 1 person in 5 was a Christian). Just how exclusive Constantine's faith in Christ was, it's hard to tell. Faith is a spiritual matter and we can't but infer something about it. Considering some features of his propaganda, first of all the coins, we face a syncretic approach – an ambiguous approach, according to some Scholars⁵³.

The Emperor's syncretic approach was facilitated by the increasing assimilation of Christ to the Sun-god, according to the fact that Christ is the Sun of Righteousness, that Christ is "the True Sun", "a light for revelation to the Gentiles" with the words of Simeon as written in *Luke* 2.32. There are a lot of texts from the Old Testament and the New Testament to support this connection, as Christian writers, like Clement of Alexandria (ca. 150-215 a.D.), had already proclaimed in their writings since the second century⁵⁴.

From the Old Testament we know that God is the creator of the light (Gn 1.1-5, Is 45.7), is dressed in light, the light reflects his glory (Sal 104.2)⁵⁵.

The Messiah brings the light and is light himself. In the New Testament Jesus and the light are frequently combined and connected: Jesus is the light of the world and, for instance, during the Transfiguration becomes radiant, begins to shine with bright rays of light⁵⁶.

⁴⁹ *Homilia* 61, *In solemnitate sanctae Pentecostes I*, 192 (PL 57.371, CCL 23.178); DÖLGER 1925², 371. Maximus defines *venerabilis* the *dominica*; the same adjective is applied to the *dies Solis* in *Cod. Iust.* III 12, 2.

⁵⁰ *Hist. franc.* III 15. Even today the days of the week are called with the pagan names of the astral week; this is due to the fact that "in epoca cristiana, i predicatori e i pastori non riuscirono a imporre la nomenclatura cristiana per i giorni della settimana, eccetto per il giorno della domenica, in tutti i paesi cristiani di lingua latina" (DI BERARDINO 2002, 107). See Augustinus *Enar. in Ps.* XCIII 3 (PL 36.1192); *ep.* LV 13 (PL 33.210).

⁵¹ See, for instance, *dies Veneris* in the epigraph, carved in the year 296, collected in DIEHL 1925, 18, nr. 11; see DI BERARDINO 2002, 107, and the detailed analysis by PIETRI 1997, 75 ff.

⁵² See Council of Elvira, c. 21, Council of Nicaea, c. 20, Council of Carthage (401), c. 5.

⁵³ An historically sound question is put by DRAKE 2012, 112: "what *kind* of Christian did he become?"; the Scholar gives in that same paper some interesting answers.

⁵⁴ See on this theme WALLRAFF 2001a.

⁵⁵ For instance, we can quote Isaiah 60.1-3, an *excerptum* that Christians linked to the birth of Jesus Christ: "(says the Lord): 60. 1. "Arise, shine, for your light has come, and the glory of the Lord rises upon you. 2. See, darkness covers the earth and thick darkness is over the peoples, but the Lord rises upon you and his glory appears over you. 3. Nations will come to your light, and kings to the brightness of your dawn. [...]". See, for more quotations, REGAN 1961.

In Paul's Letters we read that Christ shines on us (Ef 5.14), shines on the Christians (Ebr 6.4) who are invited "to live as offspring of the Light"⁵⁷, while they are walking to the aeternal light (Rev 21.23).

Eusebius Sophronius Hieronymus (347-420), the Saint who translated the Bible in Latin, gives us an important evidence:

*Dies dominica, dies Resurrectionis, dies Christianorum, dies nostra est. Unde et Dominica dicitur: quia in ea Dominus victor ascendit ad Patrem. Quod si a gentilibus dies Solis vocatur, et hoc nos libentissime confitemur. Hodie enim lux mundi orta est. Hodie Sol iustitiae ortus est*⁵⁸.

The day of the Lord, the day of the Resurrection, the day of the Christians, it is our day. Hence it is called also *Dominica* (the Lord's): because on that day the Lord victor ascended to the Father. If the pagans call this day 'day of the Sun', we willingly agree with them: today the light of the world arises, today the Sun of Justice is born.

Christians easily seemed to be Sun worshippers⁵⁹. We will see that also some rites of the Mithraic cult resembled Christian rites⁶⁰. In the year 325, or a short time before, a Christian writer, Optatianus Porfirius, compared Constantine himself to the sun, celebrating the Emperor in his poems as *lux unica mundi* (carm. 11.13), *lux aurea Romae* (carm. 16.14), *lux aurea saeculi* (carm. 20.2)⁶¹. Also political reason led Constantine toward the Solar cult⁶². But, if we attempt to image his personal point of view about the Sun after he converted to Christianity, we can suggest, with other prominent Scholars, that to the Emperor the Sun was a potent symbol of the one God worshipped by Christians⁶³.

In the Oration to the Saints, thirteen years after his conversion, Constantine himself attested that in his view the solar disc was "nothing more than an icon of the Sun of Righteousness"⁶⁴.

The Christian interpretation of Constantine's vision - which is to be considered an historical event - is firmly supported by a great number of passages from the Scriptures, partially recalled in the previous lines. There are some quotations from Paul's Epistles that, in my view, support not only firmly but specifically the Christian interpretation of Constantine's vision and fits with the young

⁵⁶ The synoptic Gospels describe the Transfiguration; we quote, for instance, Matthew 17.1-2: "And after six days Jesus taketh with him Peter, and James, and John his brother, and bringeth them up into a high mountain apart: and he was transfigured before them; and his face did shine as the sun, and his garments became white as the light".

⁵⁷ Ef 5.8. See also, for instance: John 12.36 (sons of Light), Ef 5.8-9 (once you were in the darkness, now you are in the Lord's light, and, though, behave as son of the Light), 1Ts 5.5 (you all are sons of the light and of the day).

⁵⁸ *Epist. XXII seu explanatio in psalmum CXVII* (PL 30, 218-219); PIETRI 1997, 73.

⁵⁹ Tert. *apol.* XVI 9; Orig. *contra Cels.* VIII 67.

⁶⁰ Giustino *1 Apol.* LXVI 4, Tert. *ad nat.* I 13, *cor. mil.* 15, *bapt.* 5. See DÖLGER 1930, 301 ff.

⁶¹ ALFÖLDI 1976, 126 nt. 22, TANTILLO 2003, POLARA 2004, IGLESIAS GARCÍA 2012, WIENAND 2012.

⁶² DE GIOVANNI 2003, 138: "La propaganda di Costantino prendeva le distanze dal sistema tetrarchico diocleziano e dalla connessa filiazione iovio-ercolia. Il culto del Sole riacquista il primo posto nella religione ufficiale dell'impero". See MARCONE 2002, 92 ff. See also MODERAN 2004: "Constantin, indépendamment de ses convictions personnelles, a choisi en octobre 312 le Christianisme parce qu'il lui donnait une légitimité politique nouvelle et complètement à part, au-dessus de toutes les autres". See also HUMPHRIES 2008 and CECCONI 2010, CLEMENTE 2013.

⁶³ BAYNES 1972, 95 ff., CAMERON - HALL 1999, 45.

⁶⁴ EDWARDS 2012, 141.

Emperor ideas and aspirations; for instance, the Epistle to the Romans, where the Apostle invites the Christians to “put on the armor of light” (Rm 13.12), and the following passage from the 1st Epistle to Timothy:

In the sight of God, who gives life to everything, and of Christ Jesus, who while testifying before Pontius Pilate made the good confession, I charge you to keep this command without spot or blame until the appearing of our Lord Jesus Christ, which God will bring about in his own time - God, the blessed and only Ruler, the King of kings and Lord of lords, who alone is immortal and who lives in unapproachable light, whom no one has seen or can see. To him be honor and might forever. Amen⁶⁵.

There were contacts and overlaps among symbols and images of heliotheism and Christianity - the two cores around which the monotheism was gaining predominance over polytheism⁶⁶.

There was, moreover, an inevitable continuity between the pagan world and the Christian world, which was at its beginning in the realm of public institutions of the Empire. For instance, Constantine maintained the title of Augustus - a title rooted in the favour of pagan gods and granting an aura of sacrosanctity to his person; once dead, he received the traditional, and though pagan, honours of *consecratio* and was called *divus*⁶⁷. Furthermore, the title of *pontifex maximus* - the chief priest of Roman public cult - was dropped by Gratianus in 381 AD, under the influence of the well known bishop of Milan, Ambrosius. Even considering this brief outline of some features of the background, we can't expect a such huge and profound revolution as the Christianization of the entire Roman empire, its chief, hierarchies, institutions, population, habits, art and moral - to take place in few weeks, neither imagine, after the vision of the solar halo and the victory over Maxentius, the immediate springing out of “Constantine the Christian”, coherent, learned, inflexible as we can expect from a medieval prince aiming to be counted as a saint⁶⁸.

4. The Jew's Precedent

4.1. The Protection accorded to Jewish Worship

Since the First century BC in the Roman Empire popular antisemitism was balanced by the protection given to Jewish worship, as it is attested from Julius Caesar's time⁶⁹. In fact, the Jews - a

⁶⁵ 1st Timothy 6.13-16.

⁶⁶ ALFÖLDI 1976, 7.

⁶⁷ See Eusebius *Vita Constantini* IV 69 and IV 73.

⁶⁸ We have to remember the revolutionary changes in the religious, social and political field accomplished by Constantine; at this regard we can quote an useful historical remark by DRAKE 2012, 111: “In 306, when Constantine was first elevated by his father's troops, the imperial government was in the middle of a concerted effort to remove all traces of Christian presence from the empire. When he died in 337, Christian leaders had assumed the rank, dress, and increasingly, the duties of the old civic elites”. The Orthodox Church, considering Constantine's assistance to the Church and his successful efforts in evangelizing the Roman Empire, honors him as Saint Constantine ‘equal to the Apostles’.

⁶⁹ See SMALLWOOD 1976, LINDER 1987.

people who practised the traditional cult of their ancestors - were respected by Roman authorities and obtained legal recognition for their monotheistic religious rites and creed, by means of granting some special forms of Emperor's cult, the right of assembly, the organization of their divine cult and sacrifices, the observance of the Shabbat and festivals, the pilgrimage to the Temple or, after its destruction, to Jerusalem, the exemption from military service, the sabbatical year, the communal banquets for religious purposes, the exemption from celebrating non-Jewish festivals, the dietary regulations, the special markets, the calendar, the language, the prayers and the sacred Scriptures⁷⁰.

Antisemitism was intensified by the Christianization of the Empire: theological reasons flanked popular intolerance. Jesus was born a Jew and Israel is the People of the Covenant, and from its womb comes Christianity; but the Jews, more than the Roman authority, were considered responsible for the death of Jesus⁷¹, and the early Christian communities, as Paulus of Tarsus testifies, suffered persecution from the Jews⁷². Those negative aspects prevailed in popular feelings, making stronger a widespread antisemitism from the IV century onward.

Constantine issued some rules regarding the Jews, granting different kind of immunities (*munera personalia* and *civilia*) to their priests and chiefs (*Cod. Theod.* XVI 8, 2, 330 AD, *Cod. Theod.* XVI 8, 4, 1st of December 330 AD, *Cod. Theod.* XVI 8, 3, 11th of December 330 AD)⁷³. We know indirectly, from a constitution issued in 397 by Arcadius and Honorius (*Cod. Theod.* XVI 8, 13⁷⁴), that Constantine established equality of treatment for the Jew's priests and for the high Christian clergy. The aim of these rules is to favour the Jewish cult.

On the other hand, for instance, Constantine forbade Jews to circumcise their slaves⁷⁵. A constitution - expressed with a harsh and bitter language⁷⁶ - issued by Constantine (or by his sons), threatens with the death penalty by burning the Jews who assault former Jews who became Christians and discourages, by menace, any person from the people to join Jew's assemblies and to adhere to their

⁷⁰ This list is taken from RABELLO 1980, 703 ff., who deserves a clear and documented commentary to each item of the list.

⁷¹ See 1Theff. II 14-15, Matt. XXVII 22-26, John XI 47-50.

⁷² See DE GIOVANNI 1985, 110.

⁷³ See FERRARI DALLE SPADE 1945, 107 f., 110 f., DE GIOVANNI 1985, 115, HALL 1998 (who recalls the reliefs allowed the Christian clergy in Constantine's letter to Anulinus in Eusebius, *Historia ecclesiastica* X 7), NOETHLICHS 2001, 104 f., DE BONFILS 2002, 63.

⁷⁴ *Cod. Theod.* XVI 8, 13. Idem AA. Caesario praefecto praetorio. *Iudaei sint obstricti caerimoniis suis: nos interea in conservandis eorum privilegiis veteres imitemur, quorum sanctionibus definitum est, ut privilegia his, qui illustrium patriarcharum ditioni subiecti sunt, archisynagogis patriarchisque ac presbyteris ceterisque, qui in eius religionis sacramento versantur, nutu nostri numinis perseverent ea, quae venerandae Christianae legis primis clericis sanctimonia deferuntur. Id enim et divi principes Constantinus et Constantius, Valentinianus et Valens divino arbitrio decreverunt. Sint igitur etiam a curialibus muneribus alieni pareantque legibus suis.* Dat. kal. Iul. Caesario et Attico cons.

⁷⁵ See *Const. Sirm.* 4 (constitution forbidding Jews to circumcise their slaves and to disturb Jews who have converted to Christianity - this second prohibition also in *Cod. Theod.* XVI 8, 5), *Cod. Theod.* XVI 9, 1 (335 AD; see *Cod. Iust.* I 10, 1); see COLEMAN-NORTON 1966, 213, BARNES 1981, 252, DE GIOVANNI 1985, 120 f., CAMERON - HALL 1999, 20, NOETHLICHS 2001, 108 f., DE BONFILS 2002, 98 f. On this subject Eusebius, *Vita Constantini* IV 27, 1 wrote: "He also made a law that no Christian was to be a slave to Jews. [...] If any were found in this condition, the one was to be set free, the other punished with a fine" (translated by CAMERON - HALL 1999, 163). In 339 Constantine's son, Constantius, forbade the Jews to purchase slaves belonging to another sect or people (*Cod. Theod.* XVI 8, 6).

⁷⁶ The language spoken by the lawgiver presents similarities with Constantinian constitutions as reported by Eusebius.

religion (*Cod. Theod.* XVI 8, 1)⁷⁷. The Jewish community was not allowed to expand, and was perceived and treated as something separated from the Roman community.

Even if respect was generally paid to the Jewish cult in itself, the trend of the legislation during the centuries was to limit the rights of the Jews⁷⁸. Justinian, surely ill disposed toward the Jews, subjected them to some civil disabilities (incapacity to receive inheritances and to make wills, for instance), as imposed on heretics and pagans⁷⁹.

Among the other religious minorities, the Jews, cohesive also thanks to national and ethnic identity, are one of the few to rebel against Roman imperial authority, as happened under pagan Emperors (the formidable rising against Nero and his successors in 66-70 AD, against Trajan in 115-116 AD, against Hadrian in 133-135) and under the Christian empire, as in 351-354 AD in Gaul, or in 529 AD, after the seizure of the synagogues. The Jews considered favorably the Persian invasion in the time of Phocas and Heraclius, and also – at least at first – the Arab expansion inside the border of the shaky Roman Empire.

4.2. The Shabbat Rest

What is directly relevant to our subject, and represents a possible inspiration and surely a term of comparison with the rule on *dies Solis* issued by Constantine, is the respect for the Jewish cult embodied in the prohibition to summon or sue a Jew on the Shabbat.

The Roman legislator protected Shabbat since the First century BC, especially from the law of the Greek cities which didn't recognize Jews had the right to rest undisturbed on Shabbat⁸⁰. Augustus, by

⁷⁷ *Cod. Theod.* XVI 8, 1 Imp. Constantinus A. ad Evagrium. *Iudaeis et maioribus eorum et patriarchis volumus intimari, quod, si quis post hanc legem aliquem, qui eorum feralem fugerit sectam et ad dei cultum respexerit, saxis aut alio furoris genere, quod nunc fieri cognovimus, ausus fuerit adtemptare, mox flammis dedendus est et cum omnibus suis participibus concremandus. 1. Si quis vero ex populo ad eorum nefariam sectam accesserit et conciliabulis eorum se adplicaverit, cum ipsis poenas meritas sustinebit.* Dat. XV kal. Nov. Murgillo Constantino A. IIII et Licinio IIII conff. (315 oct. 18). See *Cod. Iust.* I 9, 3, enacting only a part of this ordinance. See JUSTER 1914, II, 72; GAUDEMET 1947, 54 ff., SIMON 1964, 338, COLEMAN-NORTON 1966, 66 f., LINDER 1987, 124 ff. (who hypothesizes that the author of this constitution also wrote the letter, reported by Eusebius *Vita Constantini* III 17, 20, sent by Constantine on the 19th of June 325, containing information about the date of the Easter), NOETHLICH 2001, 104 f., DE BONFILS 2002, 193 ff., 230 f., DE BONFILS 2010, 10 ff. (who, among other important remarks, suggests that the facts occurred in the year 315, deserving the imperial attention attested by this constitution, took place in the Western part of the empire and excludes any link with the *comes Iosephus*).

⁷⁸ RABELLO 1980, 332-333 sums up, as results from the ancient sources, the way of acting of the Roman authorities which we can date back from Constantine: "Under the Christian Emperors, Judaism, unable to acquire converts, was compelled to withdraw into itself. Steadily extending prohibitions separated the Jews from the other citizens. the standpoint of the Church, with its tendency toward safeguarding the Jewish religion in its principal manifestations as *lumen veritatis*, whilst oppressing and inflicting sufferings on those who professed it, was also adopted within the realm of the law". On Constantine's legislation, "designed at once to contain and to protect the people of the first covenant" see EDWARDS 2012, 143.

⁷⁹ See FERRARI DALLE SPADE 1945, 116 ff. (on *Iust. Nov.* XLV), RABELLO 1988, 710 f. (on *Iust. Nov.* CXLVI, by means of which Justinian interfered in Jewish religious freedom, taking advantage of a dispute rised among the Jews), AMABILE 2011, PULIATTI 2012.

⁸⁰ A list of sources is given by JUSTER 1914, I, 333, 354 ff.; see also RABELLO 2001, 310 ff. (who chooses and discusses some examples). For privileges considering the Shabbat rest, dating back to the half of the First century BC, see, for instance, Josephus, *Antiquitates Judaicae* XIV 10, 12: "When Artermon was prytanis, on the first day of the month

means of a general edict, forbade to summon a Jew not only on the Shabbat day, but also on Friday afternoon, because the preparation of the Shabbat begins on Friday afternoon⁸¹.

Honorius and Theodosius on the 26th of July 412 issued a constitution (*Cod. Th. XVI 8, 20*) imposing first of all the respect for the place where the Jewish cult was performed – the synagogues, which shall not be violated or occupied. The motivation given by the Emperors is that religion and worship are by no means valid reason to disturb the right of property. Furthermore, the Emperors – appealing to general constitutions, unfortunately not extant, issued by unspecified earlier Emperors – confirm the respect of the Shabbat, sacred for the Jewish people. On that day no Jew should be summoned, nor for public nor for private business. The existing rule needed to be confirmed, probably due to violation and disturb of the Shabbat rest⁸². Here is the text of the constitution, preserved in *Codex Theodosianus* under the title dedicated to Jews, Caelicolists and Samaritans:

Cod. Th. XVI 8, 20 Idem AA. (Honorius and Theodosius) Iohanni praefecto praetorio. pr. Quae Iudaeorum frequentari conventiculis constat quaeque synagogarum vocabulis nuncupantur, nullus audeat violare vel occupata detinere, cum sine intentione religionis et cultus omnes quieto iure sua debeant retinere. 1. At cum vero Iudaeorum memorato populo sacratum diem sabbati vetus mos et consuetudo servaverit, id quoque inhibendum esse censemus, ne sub obtentu negotii publici vel privati memoratae observationis hominem adstringat ulla conventio, cum reliquum omne tempus satis publicis legibus sufficere videatur sitque saeculi moderatione dignissimum, ne delata privilegia violentur: quamvis retro principum generalibus constitutis satis de hac parte statutum esse videatur. Dat. VII kal. Aug. Ravennae Honorio VIII et Theodosio V AA. cons. (412 iul. 26)⁸³.

Leneon, Dolabella, imperator, to the senate, and magistrates, and people of the Ephesians, sendeth greeting. Alexander, the son of Theodorus, the ambassador of Hyrcanus, the son of Alexander, the high priest and ethnarch of the Jews, appeared before me, to show that his countrymen could not go into their armies, because they are not allowed to bear arms or to travel on the shabbat days, nor there to procure themselves those sorts of food which they have been used to eat from the times of their forefathers; - I do therefore grant them a freedom from going into the army, as the former prefects have done, and permit them to use the customs of their forefathers, in assembling together for sacred and religious purposes, as their law requires, and for collecting oblations necessary for sacrifices; and my will is, that you write this to the several cities under your jurisdiction." (quoted from *The Works of Flavius Josephus*, translated by W. Whiston et al., Philadelphia 1894).

⁸¹ See ZEITLIN 1964 (centred on Augustus' edict in relation to Judeans of Asia), RABELLO 2001, 312.

⁸² See FERRARI DALLE SPADE 1945, 106 f., DE GIOVANNI 1985, 112.

⁸³ A shorter passage, probably from the same law, is preserved in *Codex Theodosianus* under the title dedicated to holidays (*De feriis*); see *Cod. Th. II 8, 26* [= *Brev. II 8, 3*; see also *gemina Cod. Th. VIII 8, 8* under the title *De executoribus et exactionibus*] *Imp. Honorius et Theodosius AA. Ioanni pf. p. post alia: Die sabbato ac reliquis, sub tempore, quo Iudaei cultus sui reverentiam servant, neminem aut facere aliquid aut ulla ex parte conveniri debere praecipimus: quum fiscalibus commodis et litigiis privatorum constat reliquos dies posse sufficere etc. Dat. VII kal. Aug. Ravenna, dd. nn. Honorio VIII et Theodos. III AA. coff.*

Interpretatio. Die sabbati nullum Iudaeorum aut pro fiscali utilitate aut pro quolibet negotio volumus conveniri, quia religionis eorum dies non debet actione aliqua perturbari.

See also *Cod. Iust. I 9, 13* (with some differences favourable to Christians – protected against Jewish action on Sunday - and under the title *De Iudaeis et Caelicolis*): *Die sabbato ac reliquis sub tempore, quo Iudaei cultus sui reverentiam servant, neminem aut facere aliquid aut ulla ex parte conveniri debere praecipimus (ita tamen, ut nec illis detur licentia eodem die Christianos orthodoxos convenire, ne Christiani forte ex interpellatione Iudaeorum ab officialibus praefatis diebus aliquam sustineant molestiam), cum fiscalibus commodis et litigiis privatorum constat reliquos dies posse sufficere.*

The same Augustuses to Johannes praetorian prefect. If it should appear that any places are frequented by conventicles of the Jews and are called by the name of synagogues, no one shall dare to violate or to occupy and retain such places, since all persons must retain their own property in undisturbed right, without any claim of religion or worship.

1. Moreover, since indeed ancient custom and practice have preserved for the aforesaid Jewish people the consecrated day of the Shabbat, We also decree that it shall be forbidden that any man of the aforesaid faith should be constrained by any summons on that day, under the pretext of public or private business, since all the remaining time appears sufficient to satisfy the public laws, and since it is most worthy of the moderation of Our time that the privileges granted should not be violated, although sufficient provision appears to have been made with reference to the aforesaid matter by general constitutions of earlier Emperors⁸⁴.

Also under the Justinian reign the Shabbat was respected by Roman authorities⁸⁵.

Considering *Cod. Th.* XVI 8, 20 along with a passage from Eusebius' *Vita Constantini*, we can infer that also Constantine was among the Emperors who ruled in favour of the respect of the Shabbat. In *Vita Constantini* IV 18, 2 Eusebius writes:

He therefore decreed that all those under Roman government should rest on the days named after the Saviour, and similarly that they should honour the days of Shabbat, in memory, I suppose, of the things recorded as done by the universal Saviour on those days⁸⁶.

Eusebius gives a Christian basis to the rule regarding Shabbat, underscoring the fact that it is nothing more than his guess. He makes clear that he feels it necessary to explain the deed of Constantine, and also that he is not sure about the reason why the Emperor established that rule. These confessions confirm the reliability of Eusebius' testimony on this point⁸⁷.

In the quoted passage the relevance to our subject is the parallel between the traditional rest of the Shabbat, respected by Roman law for centuries, and the respect due to the Sunday, an innovation that Constantine imposed by means of *Cod. Theod.* II 8, 1 and *Cod. Iust.* III 12, 2 to equate the privileges of the worshippers of his new faith with the privileges of the Jewish religion. Unfortunately, we can't tell when this rule on Shabbat was issued by Constantine.

Cod. Theod. II 8, 1 and *Cod. Iust.* III 12, 2, moreover, consented to distinguish the Shabbat of the Jews and the Lord's day of the Christians. The need for a clear distinction regarding the sacred day is attested in Christian tradition. For instance, Ignatius of Antioch, in a letter written under the

⁸⁴ Translated by PHARR 1952, 469.

⁸⁵ *Cod. Iust.* I 9, 13; see RABELLO 1988, 773 ff.

⁸⁶ English translation by CAMERON – HALL 1999, 159.

⁸⁷ WINKELMANN 1962, following Valesius, suggest an integration to the manuscripts, adding <pro> *tou sabbatou*; in this way Eusebius will refer to Friday, not to Saturday. Correctly CAMERON – HALL 1999, 317 reject this addition (more detailed HALL 1998, 100 ff.). Considering *Cod. Th.* XVI 8, 20 together with Eusebius' text, as we suggest, confirms even more the reliability of the manuscript tradition. In my opinion, we can add this passage by Eusebius in the list of places in which Eusebius refers specifically to laws without citing them directly: the law is now lost, but its existence is proved by *Cod. Th.* XVI 8, 20.

Emperor Trajanus and addressed to the Magnesians, underscores that the Christians do not revere the Shabbat, but they live (and, if necessary, they die) to celebrate the Lord's day⁸⁸.

4.3. The Date of Easter

Easter is celebrated by the Jews with a family feast on the 14th of Nisan, to commemorate leaving Egypt. In the first centuries current era Jews established the beginning of each month according to the new moon, therefore the date of Easter varied year by year.

The early Christian communities celebrated Easter in correspondance to the Jewish Easter. The Church's Fathers, especially in the West, became impatient with this situation, with the differences between the churches in celebrating the Easter and with the need to wait for the Rabbies to establish the date for the Easter feast. The issue was submitted for a decision from the first ecumenical synod of the Christian Church, the Synod of Nicaea, summoned and presided by Constantine⁸⁹. Eusebius represents the date of Easter as the main achievement of the Synod of Nicaea, not the solution of the Arian controversy⁹⁰.

According to Eusebius' testimony and documents⁹¹, Constantine loved the Easter feast and was concerned for its unanimous observance, so he was interested in establishing its date, once and for all.

I will quote only a few passages, relevant to our subject, from Eusebius *Vita Constantini* III 16-20; it contains a letter written by Constantine and posted to every province, announcing the settlement of the controversy over the determination of what Sunday was to serve as Easter.

16. After the celebration of this brilliant festival, the Emperor courteously received all his guests, [...]. He also gave information of the proceedings of the synod to those who had not been present, by a letter in his own hand-writing. And this letter also I will inscribe as it were on some monument by inserting it in this my narrative of his life. It was as follows: 17. "Constantinus Augustus to the Churches. Having had full proof, in the general prosperity of the Empire, how great the favour of God has been towards us, I have judged that it ought to be the first object of my endeavours, that unity of faith, sincerity of love, and community of feeling in regard to the worship of Almighty God, might be preserved among the highly favoured multitude who compose the Catholic Church. [...] 18. At this meeting the question concerning the most holy day of Easter was discussed, and it was resolved by the united judgment of all present, that this feast ought to be kept by all and in every place on one and the same day. [...] Let us then have nothing in common with the detestable Jewish crowd; for we have received from our Saviour a different way. [...] For how should they be capable of forming a sound judgment, who, since their parricidal guilt in slaying their Lord, have been subject to the direction, not of reason, but of ungoverned passion, and are swayed by every

⁸⁸ Magn. IX 1; see also WALLRAFF 2001a, 94.

⁸⁹ See DI BERARDINO 1992, PETERSEN 1992.

⁹⁰ See PIETRAS 2008, DAINESE 2012.

⁹¹ See, for instance, Eusebius *Vita Constantini* III 17-20 (preserved also by Socrates *Hist. Eccl.* I 9, Theodoret *Hist. Eccl.* I 10, Gelasius *Hist. Eccl.* II 37, 10-22, Nicephorus *Hist. Eccl.* VIII 25), IV 22, IV 34-35.

impulse of the mad spirit that is in them? [...] 19. [...] In fine, that I may express my meaning in as few words as possible, it has been determined by the common judgment of all, that the most holy feast of Easter should be kept on one and the same day. 20. Receive, then, with all willingness this truly Divine injunction, and regard it as in truth the gift of God. [...]” The Emperor transmitted a faithful copy of this letter to every province, wherein they who read it might discern as in a mirror the pure sincerity of his thoughts, and of his piety toward God⁹².

According to this document, quoted by Eusebius, we are aware of some important data⁹³. (a.) The commitment of the Emperor for the unity of the Church, by means of the celebration of Easter by everyone, everywhere on the same day. A theological basis is enounced: Jesus’ universal Church has to be one. Against this scenario the see of Rome – watered with the blood of St. Peter and St. Paul⁹⁴ - has already its primacy, as a point of reference useful for the unity of the Church⁹⁵. (b.) Constantine’s attitude toward the Jews, called by the Emperor bloodstained man, mentally blind, sick with fearful error, and so on. (c.) The aim to sever Christian customs from Jewish customs. Constantine several times invites bishops and Christians to have nothing in common with Jews, to tear away from that complicity, and stresses the necessity not to follow the Jews neither to appear participating in their practices or to hold anything in common with them.

During the Council of Nicaea a discussion took place regarding sanctions to be applied to Christians who celebrate Easter on the same day of Passover, the historically correspondent Jewish festival⁹⁶. This is a relevant testimony of the fact that perceived the problem of granting Christianity an identity clearly separated and distinct from the Jewish tradition. In fact, Shabbat and *Dies dominica* were very close and, for a short period at the beginning of the Christian history, even overlapping⁹⁷.

The Synod of Antioch (341 AD) confirmed the prohibition for the Christians to celebrate Easter on the same day as the Jews. In the Canon 29 of the Synod of Laodicea – dated after the Synod of Sardica (343 AD) and before the Synod of Constantinople (381 AD)⁹⁸ – is written: “Christians must not judaize by resting on the Shabbat, but must work on that day, rather honouring the Lord’s Day; and, if they can, resting then as Christians. But if any shall be found to be judaizers, let them be anathema from Christ”⁹⁹. Justinian, according to Procopius, still had to fix the problem, and so he established that Jews had to celebrate their Easter after the Christian Easter¹⁰⁰.

⁹² Translation by A. Cushman McGiffert, from *Nicene and Post-Nicene Fathers*, Second Series, I, Ph. Schaff and H. Wace (eds.), Buffalo 1900, COLEMAN-NORTON 1966, 143, ff., CAMERON – HALL 1999, 127 ff.

⁹³ On this synodal letter, concerned with the churches of Cilicia, Syria and Mesopotamia, following the Jewish practice, see DÖRRIES 1954, 66 ff., DI BERARDINO 1992, 370, CAMERON – HALL 1999, 267 ff.

⁹⁴ Irenaeus, *Adv. Haer.* 3.2.

⁹⁵ The Council of Arles, held in 314 AD, established (canon 1) that the bishop of Rome have to notify the date of the Easter and everyone will celebrate it on one day and at one time; see DI BERARDINO 1992, 364 ff.

⁹⁶ See RABELLO 1980, 705 f.

⁹⁷ On this point is very useful what writes RABELLO 2001, 318.

⁹⁸ See Theodoret, *In Coloff.*, II, 18; III, 17, HEFELE – LECLERCQ 1907, 989-1028; on judaizing Christian see also DI BERARDINO 1992, 380 f., EDWARDS 2012, 142 f. In 305 the Council of Elvira forbid the sharing of meals with Jews.

⁹⁹ Probably, we can read only an abridgement of the original canons. See also Canon 16: “The Gospels are to be read on the Shabbat [i.e. Saturday], with the other Scriptures”. The canons are translated by H. Percival from *Nicene and Post-*

The aim to stress Christian identity, to separate Christianity and Judaism, Christian pride, Christian unanimous observance of the cult (by means, first of all, of the observance of a common liturgical calendar) animated Constantine and his counsellors, chosen from the ranks of the Church as well as from Christian faithful or newly converted to Christianity. We can infer that the same feelings are among the most relevant reasons underneath to *Cod. Theod.* II 8, 1 and *Cod. Iust.* III 12, 2, and the *dies Solis/dies Dominica* is the day of the Christian weekly feast, to be clearly severed from the Shabbat of the Jews.

If we try to embrace at a glance and to sum up Constantine's policy toward the Jews, we can affirm that Constantine protected the Jewish cult and limited the Jewish community, adding to the former policy of the Roman Emperor's the aim to sever Christianity from Judaism, stressing Christian identity and protecting converts from Judaism to Christianity.

5. Constantine's Goals

If we consider *Cod. Iust.* III 12, 2 and *Cod. Th.* II 8, 1, and ask ourselves *cui prodest?*, who profits from this statutes?, the answer will be: the Christians. The Christians, especially in the cities, where the bulk of them lived, can join their ceremonies freely, without any disturb and with no consequences – as the absence in the trial would have produced¹⁰¹. The freedom of worship is a declared goal of the rule and Christians have suffered persecutions and death for their worship.

Constantine prescribes rest not for rest's sake in itself nor to give relief to the labourers. In his perspective the rest is just a means, not a goal. The exception regarding agricultural activities and manumissions shows clearly that rest is not actually required. Moreover rest is a Jewish religious duty. Constantine imposes rest as a means, in order to consent widespread and correct Christian worship. Christian worship, in fact, is essential to the Roman Empire, in Constantine's perception. Christian's prayers are precious to ensure God's favour to the Emperor and to the Empire. That's why he recognizes a public role for Christian priests¹⁰², he builds and enlarges churches¹⁰³, he is committed to ensure unity and concord among Churches. Constantine considers himself as a "bishop appointed by God over those outside"¹⁰⁴, addresses bishops as 'brothers', considers the will of God as expressed by the assembled bishops¹⁰⁵. Religious and political goals are intertwined in Constantine's perspective, which gives substance to the two fragments of statutes we are considering.

5.1. A Pure Sacrifice

Nicene Fathers, Second Series, XIV, Ph. Schaff and H. Wace (eds.), Buffalo 1900. See PARKES 1961, 174 ff.; RABELLO 2001, 318.

¹⁰⁰ Procopius, *Historia arcana* XXVIII 16-19; see RABELLO 2001, 322 f.

¹⁰¹ See BELLODI ANSALONI 1998.

¹⁰² See Lact. *de mort.* XLVIII 2 ff., *Eus. hist. eccl.* X 7, MAZZARINO 1973, 300 ff.; CALDERONE 1962, 138 ff., 183 ff.

¹⁰³ See Eusebius *Vita Constantini* II 46, II 65, 2, III 30, *Historia ecclesiastica* X 7, 2.

¹⁰⁴ Eusebius *Vita Constantini* IV 24; about the definition that Constantine gave to himself see SARRA 2013.

¹⁰⁵ Eusebius *Vita Constantini* III 20, 1; see *Cod. Theod.* I 27, 1.

By means of *Cod. Iust.* III 12, 2 and *Cod. Th.* II 8, 1 Constantine was favouring the ritual purity to Christian worship by intentionally banning trials - with anger, inimity and lies -, and commerce - with money exchange, and possibly deception and fraud.

A pure sacrifice is required by the well known early Christian writing, called *Didaché* - written not after the second half of the II century AD -, not ignored by the Christians around Constantine and, maybe, neither by the Emperor himself. In *Didaché* XIV 1-3 is written:

But every Lord's day gather yourselves together, and break bread, and give thanksgiving after having confessed your transgressions, that your sacrifice may be pure. But let no one who is at odds with his fellow come together with you, until they be reconciled, that your sacrifice may not be profaned. For this is that which was spoken by the Lord: "In every place and time offer to me a pure sacrifice; for I am a great King, says the Lord, and my name is wonderful among the nations"¹⁰⁶.

It is necessary to have a clear conscience and to avoid disputes to celebrate a sacrifice that may be pure¹⁰⁷. On the *dies Dominica*, as we read in Tertullianus, *De oratione* XXIII 2¹⁰⁸, the Christian faithful should be free from social engagements and from worries coming from ordinary life and working occupations, not to give way to the Devil, whose influence will inevitably affect the cult.

5.2. Free Time to attend the Religious Service

¹⁰⁶ *Didaché* XIV 1-3 (translated by Roberts - Donaldson, <http://www.earlychristianwritings.com/text/1clement-hoole.html>).

¹⁰⁷ See also 1Cor XI 26-32, and MOSNA 1969, 90 ff. On the Lord's day, moreover, litigations and trials are specifically banned by the Christian doctrine. In the *Didascalía Apostolorum* is written: *Sin autem quid accidit ac fit inimico operante, apud vos iudicentur, quemadmodum et vos iudicare vultis. Primum iudicia vestra fiant secunda sabbati et si quis exurgat adversum sententiam verborum vestrorum, vobis spatium sit usque ad sabbatum, ut negotium componatis et dissentientes inter se pacificatis ac concilietis die dominica (Didascalía et Constitutiones Apostolorum II 47, 1, ed. Funk, p. 142). English translation: Didascalía Apostolorum. The Syriac version translated and accompanied by the Verona latin fragments, ed. R.H. Connolly, Oxford 1929: "But if aught should happen to come about through the agency of the Enemy, so let them be judged before you as you also are surely to be judged. First, then, let your judgements be held on the second day of the week, that if perchance anyone should contest the sentence of your words, you may have space until the Shabbat to compose the matter, and may make peace between them that are at odds and reconcile them on the Sunday". In case a faithful does not accept the judgement pronounced by the bishop, the faithful will be excluded from the Christian community and readmitted only after officially recognizing the wrong he did and after an adequate penitence (*Didascalía et Constitutiones Apostolorum*, II 50, 4, ed. Funk p. 146). See, on this juridical and historical subject: MASI 1939, DILIBERTO 1978-79, CIMMA 1989, VISMARA 1995, CONDORELLI 1997, PRODI 2000, 36, PULIATTI 2004, 139 ff., DESTRO - PESCE 2008, 21 ff., RINOLFI 2010, ANELLO 2011, 150 ff.*

¹⁰⁸ Tertullianus, *De oratione* XXIII 2: *Nos uero, sicut accepimus, solo die dominicae Resurrectionis non ab isto tantum, sed omni anxietatis habitu et officio cauere debemus, differentes etiam negotia, ne quem diabolo locum demus.* See also Maximus of Turin, *Homilia* 61, *In solemnitate sanctae Pentecostes I* 193 (PL 57.372).

A great number of activities were performed on the Lord's day: the Lord's dinner, once celebrated in the evening and then in the morning¹⁰⁹; the baptism, celebrated in the morning; readings, chants, a shared meal. The entire Sunday could have been occupied by the religious activities¹¹⁰.

Pliny the Younger writes about two meetings on an established and recurring day (*stato die, essent soliti*); the first meeting takes place before the dawn (*ante lucem convenire*), the next, during which a meal is consumed (*rursusque coeundi ad capiendum cibum*)¹¹¹.

Justin, in his *First Apology*, addressed to the Emperor Antoninus Pius, gives us the oldest description of a religious service on Lord's day. He writes that during the service are read memories of the apostles and writings by the prophets "as long as there is time" (LVII 3); it is nothing but a clue, but this clue indicates that the religious activity was constrained in time by other activities, first of all, we can imagine, working activities.

In theory, the Lord's day should have been conceived as a day entirely dedicated to the Christian cult¹¹². *Cod. Iust.* III 12, 2 and *Cod. Th.* II 8, 1 consent this entire dedication of Sunday to worshipping.

5.3. The Regular Attendance of the Religious Service

A faithful may desire to attend the religious service, but someone could not attend it regularly. The absence of the faithful was perceived as a menace or a sin by the Church's hierarchies.

In the *Didascalia siriaca*, written about the half of the IIIrd century, among the duties of the bishop, it is established also that he shall urge the faithful to attend the cult on Lord's day.

Docens autem iube et hortare populum in ecclesia frequentare et penitus nunquam deesse, sed convenire semper et ecclesiam non angustare, cum se subtrahunt, et minus facere membrum corpus Christi.

Now when thou teachest, command and warn the people to be constant in assembling in the Church, and not to withdraw themselves but always to assemble, lest any man diminish the Church by not assembling, and cause the body of Christ to be short of a member.

¹⁰⁹ See LIETZMANN 1916, 34 ff., RORDORF 1968, 202 ff., 251 ff., MOSNA 1969, 102 ff. and 112.

¹¹⁰ The person who presides the assembly of the faithful, once he has received bread, water and wine, "gives thanks for a long time for those goods", given by God (Justinus, *First Apology* LV 3). Paul (1Cor XIV 26-33) tries to put down some instructions to regulate the spontaneous contributions by the faithful and, indirectly, the duration of the religious service.

¹¹¹ Plin. *ep.* X 96, 7: *Affirmabant autem hanc fuisse summam vel culpae suae vel erroris, quod essent soliti stato die ante lucem convenire, carmenque Christo quasi deo dicere secum invicem seque sacramento non in scelus aliquod obstringere, sed ne furta ne latrocinia ne adulteria committerent, ne fidem fallerent, ne depositum appellati abnegarent. Quibus peractis morem sibi discedendi fuisse rursusque coeundi ad capiendum cibum, promiscuum tamen et innoxium; quod ipsum facere desisse post edictum meum, quo secundum mandata tua hetaerias esse vetueram.* See COLEMAN-NORTON 1966, 1 ff.; SHERWIN-WHITE 1966, 772 ff. On the juridical basis of the persecution against the Christians see: LANATA 1973, CARRARA 1984, JOSSA 1991, GRAY-FLOW 1998, ASTARITA 2002, SOLIDORO MARUOTTI 2002, AMARELLI 2007, SPERANDIO 2009, DOVERE 2009.

¹¹² In contrast with my hypothetical point of view, see RORDORF 1968, 299: "It would never have occurred to anybody to require rest from the work for the entire day on which worship takes place; and certainly did not occur to the earliest Christians".

The same text contains an exhortation addressed to the faithful:

*nec praeponere Dei verbo necessitates temporarias vitae vestrae; sed die dominica omnia seponentes concurrere ad ecclesiam*¹¹³.

And make not your worldly affairs of more account than the word of God; but on the Lord's day leave every thing and run eagerly to your Church.

And some lines forward:

*Et si quis praetextu operis saecularis allato sese retinet, sciat is, quod artium fidelium opera secundaria appellantur, opus autem verum est pietas*¹¹⁴.

But if there be anyone who takes occasion of worldly business to withdraw himself, let him know this, that the trades of the faithful are called works of superfluity; for their true work is religion.

The Synod of Elvira, which took place in 305/306, established (canon 21):

*Si quis in civitate positus tres dominicas ad ecclesiam non accesserit, pauco tempore abstinenceatur, ut correptus esse videatur*¹¹⁵.

If anyone who lives in the city does not attend church services for three Sundays, let that person be expelled for a brief time in order to make the reproach public.

Osius of Corduba, Constantine's adviser, attended the Synod of Elvira and will insert among the decrees of the Synod of Sardica a canon with the same content (can. 11 of the Greek version, can. 14 of the latin version).

The Church perceived the problem and addressed it by means of the instruction to bishops, the exhortation to faithful, the canons of the Synods. Constantine supported the Church with his legislation: the rest was prescribed for the Jews on the Shabbat, the worship for Christians on Sunday¹¹⁶.

5.4. The Worship performed by Everyone, Everywhere on the Same Day

The day of the Lord has to be celebrated by all the Christians together at the same time. This concern for the unity of the Christian community animated Constantine and we have appreciated his efforts

¹¹³ *Didascalia et Constitutiones Apostolorum* II 59, 3, Funk, 171. English translation: *Didascalia Apostolorum. The Syriac version translated and accompanied by the Verona latin fragments*, ed. R.H. Connolly, Oxford 1929.

¹¹⁴ *Didascalia et Constitutiones Apostolorum* II 60, 6, Funk, 174. English translation: *Didascalia Apostolorum. The Syriac version translated and accompanied by the Verona latin fragments*, ed. R.H. Connolly, Oxford 1929.

¹¹⁵ DALE 1882; LAEUHLI 1972; WALLRAFF 2001a, 102. English translation: <http://faculty.cua.edu/pennington/Canon%20Law/ElviraCanons.htm>.

¹¹⁶ FÖRSTER 1906, 109. HUBER 1958, 81 f., points out the fact that no Synod recalls the Constantine's statutes on Sunday.

regarding Easter. The unity of the faithful and of the entire Church – it is well known Constantine’s commitment in dealing with Donatism, Arianism and every kind of division inside the Church¹¹⁷ - is linked to the unity of the Empire, governed by one Emperor.

To establish by means of statutes the same day for worshipping safeguards the unity of the faith, of the faithful, of the hierarchies, of the Roman empire: this way of thinking and acting bears the seal of Constantine¹¹⁸.

5.5. From *Pax Deorum* to *Pax Dei*

The efficacy, purity, correctness, freedom, religious identity, attendance by faithful, unity of the celebration all over the empire of the sacrifice, of the religious service, the equation of privileges with the Jews and the Christianization of the Roman society granted, directly or indirectly, by Constantine’s statutes on Sunday, fits with the Christian tradition and with the Church’s aspirations, which are permeating the conscience of the first Christian Emperor. That same purity, correctness, attendance, unity, however, is prescribed also by the rooted multi-secular tradition of the Roman pagan religion, whose chief responsible was the Emperor himself, who have to ensure the *pax deorum*, the good relationship between the gods and the Emperor and the Roman people¹¹⁹. The Christian God as well as the pagan gods did intervene in human life – this is a fundamental belief that underwent no changes nor under Constantine nor later, and it lasted centuries. There are two different traditions, working together as convergent and strong factors pushing Constantine toward the issuing of the rule regarding the Sunday, safeguarding the Christian *pax Dei*¹²⁰.

¹¹⁷ KRAFT 1955, 146; PERRIN 2010, 715 ff., DRAKE 2012, 116 ff.

¹¹⁸ Constantine and Christianity share an universalistic perspective; “le Christianite n’est pas la religion d’une cité ou d’un état. Il se veut religion universelle, la même dans les divers pays” (GAUDEMET 2000, 8). See also CALDERONE 1962, 165 ff., LOMBARDI 1991, 140, BANFI 1992.

¹¹⁹ MARCONE 2002, 86: “L’aspirazione alla tutela e alla protezione divina era anche in Diocleziano e si ritrova pure nell’editto di Galerio”; see also CLEMENTE 2013.

¹²⁰ Constantine is changing the Roman religion, but he adheres to the traditional Roman way to consider religion and politics closely linked. See, for instance, Macr. Sat. I 16, 9: *Adfirmabat autem sacerdotes pollui ferias, si indictis conceptisque opus aliquod fieret. Praeterea regem sacrorum flaminesque non licebat videre feriis opus fieri: et ideo per praeconem denuntiabant, ne quid tale ageretur, et praecepti neglegens multabatur*. Ten years before the statutes by Constantine, the so called Edict of Toleration by Galerius required from the Christians to pray for the Emperor and for the Roman empire; see Lact. de mort. 34, Eus. hist. eccl. VIII 17, 3-10, Nicephorus hist. eccl. VII 23, COLEMAN-NORTON 1966, 18 ff., LOMBARDI 1991, 114 ff., SINISCALCO 2000, 79, BRATOZ 2012, CLEMENTE 2013. Also the constitution issued by Constantine on 323 AD (*Cod. Theod.* XVI 2, 5), imposing harsh punishments on everyone who forces the Christian priest to sacrifice to pagan idols, may be, at least in part, motivated by the same concerns. On the whole subject I recall some important remarks by PULIATTI 2013, 608: “Mentre per gli imperatori precedenti l’assicurarsi la benevolenza divina non aveva mai comportato la necessità di affrontare il problema del rapporto tra lo Stato e una struttura ecclesiastica organizzata, l’avvento del cristianesimo poneva inevitabilmente Costantino di fronte al problema della relazione da instaurare tra Stato e Chiesa, e della entità e dei limiti delle interferenze reciproche”.

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