

The Canadian Society for Syriac Studies

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- Robert Kitchen - Canadian Society for Syriac Studies
- Khalid Dinno - Canadian Society for Syriac Studies
- Nima Jamali - University of Toronto
- Amir Harrak - University of Toronto
- Vincent van Vossel - Babylon College, Enkawa, Iraq
- Tala Jarjour - Yale Institute of Sacred Music

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The *JCSSS* is a refereed journal published annually, and it contains the transcripts of public lectures presented at the Society and possibly other articles and book reviews

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# The Canadian Society for Syriac Studies La Société Canadienne des Etudes Syriaques

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The aim of the CSSS is to promote the study of the Syriac culture which is rooted in the same soil from which the ancient Mesopotamian and biblical literatures sprung. The CSSS is purely academic, and its activities include a series of public lectures, one yearly symposium, and the publication of its Journal. The Journal is distributed free of charge to the members of the CSSS who have paid their dues, but it can be ordered by other individuals and institutions through Gorgias Press ([www.gorgiaspress.com](http://www.gorgiaspress.com)).

### Cover

19th century Icon from the town of Tellesqof (Iraq) miraculously rescued from war  
Photo Amir Harrak

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## FROM THE EDITOR



JCSSS 17 (2017) contains four papers presented in last year's CSSS Symposium pertaining to the symposium's theme: Probing Two Millennia of Syriac Legal Literature. A fifth paper details a rare nineteenth-century icon rescued from Tell-Esqof, northern Iraq.

Robert Kitchen's "Trying to Fix what is Broken in a Broken Age: Syriac Orthodox Synodical Canons (628-896)" deals with five early collections of Syriac Orthodox canons. Synods reflect the historical and social conditions of their times. Occurring during the advent of Islam, unsurprisingly, these canons do not include sticky theological issues, but rather focus on safeguarding Christian communities threatened by Islamic conversion and hostility.

Khalid Dinno's "The Synods and Canons in the Syrian Orthodox Church in the Second Millennium – An Overview," continues chronologically where Dr. Kitchen stopped. This millennium saw the Omayyad Caliphate commence and the succeeding Abbasid Caliphate collapse. In the few synods that occurred during these two caliphates, systematic theology was quasi absent, and canons dealt with internal and external threats. During the second half of the millennium, thanks to the Ottoman *millet* system which gave the Church some autonomy, canonical legislation reflected sophisticated ecclesiastical organization in both the Near East and Syrian Orthodox India.

"The Sixth Book of Īšō'-bokht's Corpus Juris and the Emergence of Procedural Laws

of the Church of the East" is written by Nima Jamali, a lawyer by profession and a doctoral candidate in Syriac Studies at the University of Toronto. The canons of the Church of the East, before and during the Islamic period, largely deal with family and inheritance issues of Christian communities in Iran, the Gulf, and Iraq, stressing their legal rights and obligations. The author notices that the 8<sup>th</sup> century metropolitan Īšō'-bokht changes accent in one part of his Code of Law, where he shows some level of executive authority to enforce legal decisions. By doing so, he differs from other authors who set up a potential model for a comprehensive Christian legal system

Amir Harrak's "The 'Law Code' of Simeon of Rev-Ardashir, Presentation and Analysis," offers an overview of a law code originally written in Middle Persian near the advent of Islam in Iran. The original document, now non-extant, fortunately survived in a Syriac translation written by a monk from the region of Qatar. The Code is divided into two parts: the first part is theoretical; the second part consists of twenty-two cases pertaining to family law, namely inheritance. Interestingly, a few cases deal with slaves within the community: slaves that can be manumised by their masters to marry free partners and to join ecclesiastical ranks.

The last article is by Vincent van Vessel, professor at the Babylon College of Bagdad, who published extensively on Christian art and architecture in Iraq. His article entitled

“A Christian Icon Rescued from War,” discusses an interesting piece of art owned by the Christian town of Tell-Esqof in the north of Iraq. The painter is a 19<sup>th</sup> century Armenian who has left us a number of icons all bearing Armenian touches, but executed for Orthodox and Catholic Churches. The Tell-Esqof’s icon and the painter’s other icons share figures of martyrs, themes that may reflect the Ottoman persecution of the Christians in Turkey during the 19<sup>th</sup> century.

Jarjour’s article, “Syriac Chant as Music in Culture: A New Approach,” addresses dominant scholarship on the chants and hymns of the Syriac church. Critiquing early sources in terms of methodology and scope, the author

argues for an ethnographic approach that does not solely take into consideration the aural value of musicality but also the living culture of the people who brought about this musical heritage, heritage marked by centuries-old spiritual, literary, and living experiences.

We are very thankful to all the participants in the 2016 CSSS symposium, to the authors, and to the Editorial Committee for making this issue possible.

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A. H.  
September 2017

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## TRYING TO FIX WHAT IS BROKEN IN A BROKEN AGE: SYRIAN ORTHODOX SYNODICAL CANONS (628-896)



ROBERT KITCHEN

CANADIAN SOCIETY FOR SYRIAC STUDIES

In early 1947 the Dead Sea Scrolls were discovered near Khirbet Qumran. With the Jewish-Arab War beginning shortly after, it took a while before some of the scrolls were brought to the American School of Oriental Research in Jerusalem. Two junior fellows, John Trever and William Brownlee, saw them first and recognized that they were something important. One of the manuscripts, 1QS, now entitled the *Community Rule*, was originally called the *Manual of Discipline*, the name of the hefty constitution and rules of The Methodist Church. As a minister of the United Church of Canada, whose rulebook is called *The Manual*, due in part to the Methodist component of the 1925 merger of the Presbyterian, Methodist and Congregational Churches in Canada, I believe Qumran deserved better.

Rules, laws, and canons have been a part of the Judeo-Christian heritage since almost the beginning: the Torah, *Haus-tafeln*, Qumran's *Manual of Discipline*, the *Rule of St. Benedict*, the Seven Ecumenical Councils, and innumerable others. Rules, laws and canons, however, do change relative to the people who enact them and the times and environment in which they live.

Religious people construct all manner of regulations to retain or revive what is perceived to be the charisma and genius of the origins of a specific faith and its community – a classic exemplification of Max Weber's concept of 'the routinization of charisma.'<sup>1</sup> I will present a set of synodical canons that point to occasional, as well as abiding problems in the life of the church. While issues that energized patriarchs and bishops in the mid-7<sup>th</sup>- to late-9<sup>th</sup>-centuries in the Syriac Orthodox Church may not be ours, we may understand and have sympathy for the circumstances and impassioned motives that gave rise to certain canons during that period and ours today. These can shed some light on the principles and procedures we still employ today in organizing and disciplining our faith communities.

My venture into this legal territory comes from involvement in a much larger project, the monumental *Conciliorum Oecumenicorum Generaliumque decreta* (COGD), often referred to as "Mansi,"<sup>2</sup> whose first work was presented to Pope John XXIII at the beginning of the Vatican II Council in 1962. This eventually evolved into an ambitious project to publish all the conciliar canons of the Christian Church,

not just in Rome, but throughout Christendom. Four volumes have been published thus far, the fourth on the canons of Orthodoxy.<sup>3</sup> Volume Five treats the canons of the Oriental Orthodox Churches – Syriac, Coptic, Ethiopic, Armenian – and is being completed under the editorial leadership of *Fondazione per le Scienze Religiose Giovanni XXIII* (FSCIRE), Bologna, Italy.<sup>4</sup>

The canons for the Syriac Orthodox Church are found in a single manuscript, Damascus 8/11, Patriarchal Library of the Syriac Orthodox Church, Ma'aret Saydnaya, Syria, the so-called 'Synodicon of the West Syrian Tradition.' An edition and English translation was prepared by Arthur Vööbus in the CSCO series.<sup>5</sup> Originally, the manuscript was compiled and recorded at the Monastery of Mar Henanya or Deir al-Za'farān in the year 1204 by Daniel bar Yawsep bar Sargis bar Tūma of Barteli or Bēt-Saḥrayē.<sup>6</sup> This Synodicon contains a large number of synodical and conciliar acts and other cycles of canons, many unattested elsewhere, beginning with sources claiming apostolic origin – "The Testament of our Lord Jesus Christ," "the Canons of the Apostles," "the Order of the Apostles given through Hippolytus," and the Syriac *Didascalia*.<sup>7</sup> The manuscript itself has suffered significant damage, losing a number of folios from various quires. Other damage to the text is sporadic, but is evident in different places in the text of the Synod of the Monastery of Mar Mattai. Fortunately, these illegible sections do not undermine the sense of the narrative and of the canons. There are some minor errors in both the CSCO Syriac text and its English translation, so we are waiting upon the digitalization readings and entries, currently under the aegis of Hill Museum & Manuscript Library, St. John's University, Collegeville, Minnesota.

The canons included in the COGD project are limited to those conciliar/synodical gatherings which produce new rules and canons in consensus, not purportedly as the

work of one writer. The *Rule of St. Benedict*, for instance, would not qualify, nor would the *Canons of Simeon of Bēt-Qaṭrāyē*, being presented by Amir Harrak as well in this journal. That leaves out a lot of interesting and valuable material, but it allows us to carefully focus on the motivations and circumstances that gave rise to these canons issued on these specific occasions, all of which follow the consecration of a new Syriac Orthodox patriarch.

The three centuries during which these canons were written were not irenic, and perhaps among the most conflicted in Syrian Orthodox/Miaphysite history. Following the ascendancy of Chalcedonian Christology in the 520's, many adherents of Miaphysite, Syrian Orthodox, or popularly "Jacobite" Church, moved eastward across the border into the Persian Empire where they encountered two unfriendly challenges – the Sasanian Empire, staunchly Zoroastrian and suspicious of the allegiance of the Christian population during the last era of intense warfare with the rival Roman empire; and the larger and long-resident Church of the East which had secured a slightly more comfortable position among the Sasanians. In the two decades prior to the first synod in question, the Roman-Persian conflict seemed to foster increased strife and rivalry between the two Christian camps. Khosrow II refused for twenty years to permit a Church of the East Catholicos to be consecrated, so that Babai the Great and two other monastic leaders were commissioned to take on *de facto* episcopal pastoral and administrative roles.<sup>8</sup> It was during this period that the Shah's court physician was Gabriel of Sinjar, a Miaphysite, whose influence along with that of the Shah's wife Shirin, also a Jacobite, enabled the Syrian Orthodox to survive and even grow in numbers and influence. Church of the East historians naturally presented a less gracious interpretation of Gabriel's activities and influence.<sup>9</sup>



In 628 the disastrous and final defeat of the Sasanian forces by Heraclius altered all the balances. Khosrow II was assassinated shortly after the defeat, the Church of the East was finally granted a *catholicos*, Išo'yahb II, and the Syrian Orthodox Church moved to a new consolidation of power and position, to which the synod of the Monastery of Mar Mattai is testimony. Within the following decade the Islamic movement and conquest would once again change the equations.

The five Syriac Orthodox synods from which these canons emerge make little mention of the political and ecclesiastical events and circumstances that coloured their deliberations and decisions. The table in the Appendix summarizes the canons of the five synods – Mar Mattai 628, Dionysius Qalliniqos 817, Yoḥannān at Mar Šīlā 846, Ignatios at Mar Zakkay 878, and Dionysius at Mar Šīlā 896. The dates for most of these synods are debatable by a year or two, but do not affect the content and importance of the canonical legislation. The exception is the first, the Canons of the Monastery of Mar Mattai.

### MAR MATTAI

The Canons of the Monastery of Mar Mattai were significant for several reasons. One was the event itself of the gathering of Miaphysite leaders to consolidate the reunion with the patriarchate of Antioch through the creation and regulation of the metropolitanate of Tagrit, still reputedly in subordination to the metropolitan of the Monastery of Mar Mattai. Second was the emergence and consecration of Marutha as the Metropolitan/*Maphrian* of Tagrit who would become one of the major figures involved in the transition under Islamic rule. This is what the canons and introductory materials in the document project to the reader. As is often the case, the importance of the canons themselves takes a

back seat to the situation that formed them, and in this case the needs of the writers of the canons seem to have overridden the events that did take place.

Both Michael Rabo in his *Chronicle*<sup>10</sup> and Bar Ebroyo in the *Chronicon Ecclesiasticum*<sup>11</sup> recount the general outline of the events, relying upon the sources available to them. Arthur Vööbus raises some questions about the historical accuracy of the events reported in several footnotes of his English translation and Syriac edition of the Canons, but does not appear to question the authenticity of the work.<sup>12</sup> J.-M. Fiey, however, did raise concerns in a short excursus in a long 1974 article<sup>13</sup> and later in 1992<sup>14</sup> details the problems of dating and the authenticity of events as recorded. The twenty-four canons adamantly declare that under no circumstances is the metropolitan of Tagrit permitted to criticize, challenge or discipline the metropolitan of Mar Mattai (canons 8, 9, 16, 17, 18, 21, 22, 23, 24). What you read in the history books – it is not necessarily so. Let us first review the narrative of events and personalities around which the Canons were reputedly written.

Those tumultuous years with the defeat of the Sasanian Empire and chaotic aftermath make dating a problem. The reunion of the see of Antioch with the Eastern church at Tagrit was initiated by the Patriarch of Antioch, Athanasius Gamālā (the Camel Driver) (595-631), who sent his syncellus, the monk John of Beth Alaya, as envoy. John would succeed Athanasius as patriarch in 631 and be known as John Sēdrā (after the liturgical compositions/*sēdrē* for which he was renowned).<sup>15</sup> John was not sent at first to Mattai, but to the Shah's court "after peace was affirmed," which implies the peace reached between Heraclius and Shirow in March/April 628 and finally in July 629. Khosrow II had been assassinated on 9 February 628, with his successor Shirow crowned on 25 February.

Michael Rabo and Bar Ebroyo refer to Ardashir III who succeeded his father Shiro as Shah, but was assassinated after 18 months, being only seven years old. Bar Ebroyo notes that the mission of John to the Shah was regarding “interior affairs of the community” – the implication being the reunion of Mattai and Antioch. But of what concern would such a matter be to the Shah in the midst of a dire military situation?

John then met with the metropolitan Christophoros and Addai, the superior of Mar Mattai, regarding reunion, for Mar Mattai’s isolation and separation from the see of Antioch had gradually weakened its vitality. Christophoros gathered together five miaphysite bishops from the region and took along with them as well three monks of the monastery so that they would be ordained bishops by the patriarch. Fiey sees the five bishops and syncellus returning to Tagrit first, then to Antioch and back again to Tagrit. If the visit to Antioch and union were made prior to 628 and the ending of hostilities, the promotion of Tagrit to the great metropolitanate would need to have happened much later in 628.

Christophoros insisted upon certain dioceses remaining under the aegis of Mar Mattai, although he acknowledged that the patriarch had hesitated a long time before granting these privileges. Athanasius sugar-coated the message with praise for Mar Mattai, but the decision to make Tagrit the great metropolitanate was firm.<sup>16</sup> Two reasons are presented in the narrative of the Canons to justify the new situation: first, the continuing presence of barbarians/pagans of Tagrit who were converted to Christianity by Mar Garmai of Mar Mattai, with the exception of a few tribes converted by Marutha while he was still a monk. No mention is made of the supremacy of Tagrit over Mattai.

The second implies that Ardashir wanted Tagrit as a central base because that was where his garrison was located. Not only

was Ardashir a young boy soon to meet a violent death, but in the chaos after the assassination of Khosrow and the Byzantine victory, the Byzantines occupied Tagrit until the capture of the city by the Arabs in 637.<sup>17</sup> The text of the Canons several times names “Mosul, the city of God,” although the city did not acquire that Arabic name until after the Arab conquest, i.e. 637/638.<sup>18</sup> The real reason for the selection of Tagrit, Fiey concludes, is that the city was the administrative district of the lieutenant of the Roman emperor.<sup>19</sup> Heraclius was adamantly opposed to Miaphysitism, although he did attempt to negotiate a compromise that recognized Miaphysite concepts without explicitly condemning Chalcedon and was almost successful.<sup>20</sup> Ironically, Jacobites retained some good memories of Heraclius, celebrating November 10 in memory of the “pious emperor Heraclius.”<sup>21</sup>

Elias of Nisibis (975-1040) assigns the date of the synod and consecration of Marutha as 624 A. D.<sup>22</sup> Fiey, therefore, determines that there were two events separated by a few years: first when the syncellus John convinced Christophoros with the support of the Persian court to rejoin the Antiochene union in 624; and second, after the peace of 628/629, the Byzantine government established itself in Tagrit and affirmed the priority of the new metropolitanate at the expense of Mar Mattai.<sup>23</sup> Given the manuscript’s date of 1204, Fiey suggests a possible date of 1172 for the writing of these Canons.<sup>24</sup>

The twenty-four canons, read in the light of these historical developments, now appear transparent in their purpose. All the canons are written to support the position of the metropolitan of the monastery of Mar Mattai, commencing with the declaration that the metropolitan of the monastery is declared to be on an equal basis with the metropolitan of Tagrit (canon 1). A subtle acknowledgment of

the Tagrit maphrian's priority, which follows as Canon 2, insists upon the presence of the metropolitan of Mar Mattai in every matter, seated at the right hand of the metropolitan of Tagrit. Canon 4 also stipulates that the monastery's metropolitan will administer the domain of Tagrit in the case of the latter's death or extended absence, but there is no corollary perhaps because the metropolitan of Tagrit already is granted authority over the monastery. The remainder of the canons, however, conjure up every conceivable situation in which the metropolitan of Tagrit is not allowed to encroach upon the prerogatives of the monastery's metropolitan. Fiey surmises that the rigorous and bitter details of these prohibitions emanate from previous litigious disputes between the communities.<sup>25</sup> The *libellus* of signatures at the bottom of the document notably has Christophoros signing first, and only then Marutha, simply as the "metropolitan of Tagrit."<sup>26</sup> Taken at face value, the canons emphatically insist upon the priority of the metropolitan of the monastery, a reality not supported by any other witnesses.

The resolution of these incongruities is not finally determinable. The discrepancies and anachronisms of the canons imply that they were written at some significant time later so that the author misinterpreted and confused the persons, locations and dates involved. The sources of the principal Syriac historians who record these events – Michael Rabo (d. 1199) and Bar Ebroyo (d. 1286) – are not evident, so the precise circumstances that would have led to and allowed the recording of these "pseudo-canon," as Fiey classified them, are not evident either.<sup>27</sup> Certainly, conflict between the monastery of Mar Mattai and the ecclesiastical forces of Tagrit and Mosul were background to this apparent attempt to rewrite history from the perspective of those who perceived themselves as the losers.

## DIONYSIUS I AT QALLINIQOS

The second collection of canons reviewed here from the West Syrian (Miaphysite) Synodicon is identified with the Patriarch of Antioch, Dionysius of Tel-Mahrē (ruled 818-845), at the beginning of his tenure as patriarch.<sup>28</sup> These canons are from the Synod of Qalliniqos and dated 817 (1129 of the Greeks), but as was the case with Mar Mattai, there seems again some confusion regarding the precise date of the Synod and its resultant canons, perhaps because the manuscript and text were written at such a great removal of time from the events.

Dionysius was from Tel-Mahrē and would become a monk in the monastery of John bar Aphthonia at Qenneshre. After that monastery was burned down by rebel Arab raiders in 810, Dionysius moved to the Monastery of Mar Jacob at Kayshun. He was elected Patriarch of Antioch on August 1, 818, at a synod in Qalliniqos.<sup>29</sup> The date of the canons to be examined is given as October 817, one year before Dionysius became patriarch. He is identified as the patriarch in these canons, but these appear to be later disciplinary canons targeted against the encroachment of some bishops into the territory and authority of others.<sup>30</sup>

Dionysius is well-known beyond his involvement in this synod as a renowned historian and chronicler. He had written a two-part chronicle – the first part treating ecclesiastical affairs and the second turning to secular matters – covering two and a half centuries from the accession of the Byzantine emperor Maurice in 582 up to the deaths of the emperor Theophilus and the Caliph Abū-Ishāq al-Mu'tasim in 842. Unfortunately, his historical works are lost except for excerpts, particularly in the *Chronicle of 1234*<sup>31</sup> and in the *Chronicle of Michael Rabo*<sup>32</sup> for whom Dionysius' work was a significant source. Dionysius arguably is better known for something he did

not write. J. S. Assemani misinterpreted a reference to Dionysius in the *Chronicle of Zuqnin* and inferred his authorship of the work. It was not until the end of the 19<sup>th</sup> century that two scholars independently recognized that he did not write the anonymous work.<sup>33</sup> Until recently the chronicle still carried the awkward title of the *Chronicle of Pseudo-Dionysius of Tel Maḥrē*.<sup>34</sup>

The background for these canons lies in the conflicted situation of the Syrian Orthodox Church in early 9<sup>th</sup> century Syria, by then long under Islamic rule. Dionysius inherited two difficult schismatic factions from his predecessor Quryaqos that continued to disrupt not only the order of the Jacobite Church itself, but also its relationships with the Muslim leadership.<sup>35</sup> The chief opposition came from Abraham (to whom Dionysius referred to as Abiram, cf. Numbers 16:1-40), a monk of the monastery of Qartmin, and his followers from the monastery of Gubba Barraya. Abraham ordained his own bishops and held dissenting views, especially in the use of the liturgical formula *panem caelestem frangimus* ('we break the heavenly bread')<sup>36</sup> which he wanted to impose upon the entire Syrian Orthodox Church. Dionysius attempted to mediate a solution, but was not able to make any progress. The Synod of Qalliniqos at which Dionysius was elected determined that the usage of this divisive liturgical formula was up to the discretion of the local bishop. This was still too permissive for Abraham, although such permissiveness did win over the monks and laity of Cyrrhus who had previously supported Abraham.<sup>37</sup>

In addition, there was a concerted opposition from the eastern bishops, the main figure being Basil of Tagrit, one of the successors of Marutha, the initial maphrian of Tagrit, just prior to the entrance of Islam. Both Abraham and Basil attempted to curry favour with the Muslim leadership against Dionysius, but in the long run Dio-

nysius' diplomacy was effective, gaining him and his see protection and legitimacy over his opponents.<sup>38</sup>

The canons under examination here reflect many of these conflicts and conundrums. There are only 12 canons, but each one is multi-faceted, primarily addressing issues of episcopal boundaries and inappropriate marriage and sexual behaviour that point strongly at the abuses abounding in a schismatic church where authority is always up for debate.

### YOḤANNAN III AT MAR ŠĪLĀ

The canons enacted at the Synod assembled on the occasion of the election of Yoḥannan III as Patriarch of Antioch, November 21, 846, comprise most of what is known about Yoḥannan. He became a monk at the Monastery of Mar Zakkay near Qalliniqos, and was elected at the Monastery of Mar Šīlā, located in the region of Sarug. He is mentioned only in passing in Michael Rabo's *Chronicle*, although his reign as patriarch was a lengthy 27 years. *The Chronicle of 1234* summarily reports: "he served 27 years in tranquility for there was for him no obstacle or evil event."<sup>39</sup> Nevertheless, Yoḥannan's introductory letter notes afflictions and rebellions that he has apparently inherited from his predecessor, Dionysius of Tel-Maḥrē. Bar Ebroyo observed that Yoḥannan had an ongoing conflict with Basil, Maphrian of the East, whom he had appointed, a former stylite known as La'zar of Bet Batin. The dispute would be brought before the Caliph Mutawakkil,<sup>40</sup> and internal rivalries continued so that some opponents of the patriarch harboured thoughts of establishing a counter-patriarch.<sup>41</sup>

Aphrem Barsoum adds several events during his reign:

Yoḥannan called a second Synod at Kafr Tut in 869 where he published eight canons for the offices of Pa-

triarch and the Maphrian, an abridgement of these being found in the *Hudōyō* (Nomocanon). Yoḥannan wrote a synodical letter to Joseph, Patriarch of Alexandria, and received a reply. He ordained 86 metropolitans and bishops during his reign and died on January 3, 873.<sup>42</sup>

Twenty-six canons constitute the actions of this Holy Synod, again found only in the Damascus 8/11 manuscript (ff. 124b-130a). This sizeable collection of canons comes during a conflicted period in which the appearance of counter-patriarchs became a tendentious solution to disputes. These canons concern internal matters of clerical discipline, as well as correct liturgical and religious practice for both clerical and lay Christians. There is no mention of the Syrian Orthodox Church being engaged in any fashion with the Islamic Caliphate, nor with other Christian churches, although the “heretics” referred to in several canons may be the factions rejecting the authority of the Patriarch.

The tenor of the canons indicates an ecclesiastical environment in which the Syrian Orthodox Church had difficulty controlling the ambitions of some clergy who were able to operate as they wished, ignoring traditions and previous canonical standards. The Patriarch, amidst disciplinary chaos, may have been attempting to rein in ‘rebellious’ clergy who either through ignorance or obstinacy had deviated from ethical standards. The addendum to a number of the canons is an admonishment of the bishops to be more assiduous in supervising the clergy under their charge in various matters of liturgy and practice so that these irregularities and abuses not occur so readily.

#### IGNATIOS II AT MAR ZAKKAY

The canons enacted at the Synod assembled on the occasion of the election of Ig-

natios II as Patriarch of Antioch, June 5, 878, present once again a significant piece of the information regarding this patriarch. The previous Patriarch Yoḥannan III had died in 873, but the lengthy delay in the election and ordination of Ignatios II were reputedly caused by the chief bishop, Sargīs of Tagrīt.<sup>43</sup> Yoḥannan’s rule had been marked as well by internal conflict prior to his election and throughout his reign. Ignatios would only rule a little less than five years, dying March 26, 883, in Morebā Q’astrā, near Labargūh.

Little has been recorded regarding his patriarchy and even those reports reflect some confusion and ambiguity. Different sources have him consecrating 26 or 16 bishops,<sup>44</sup> and the 12 Canons from the Synod at the Monastery of Mar Zakkay (Zacchaeus), again extant only in Damascus 8/11, are missing from that manuscript folios 134 and 135, thus Canons 1 and 2, and part of Canon 3.

Ignatios, however, appears not to have been part of the in-fighting of those aspiring to the patriarchal throne, at least until after he became the Patriarch. His birth date is unknown, but he was a monk, studying at the Monastery of Harbaz. The *Chronicon 1234* gives his name as Īshō‘ and reports that he was summoned from an anchoritic cell near the Euphrates in the diocese of Šemīšaṭ (Samosata).<sup>45</sup> Aphrem Barsoum has a brief paragraph on Ignatios, but adds no extra information.<sup>46</sup>

The Patriarchal Letter that Ignatios includes before the canons begins with the Biblical and historical overview of the necessity of divinely given law for human beings. In the last paragraph he addresses the recent problems and failings of the church and society, and then his remaining thoughts were apparently located on the lost folios which included Canons 1 and 2. His concerns can be viewed as typical and eternal problems of the church, although given the context of several decades of internal con-

flict in the church, with counter-patriarchs being installed and his complaint of an inordinate period of time without a patriarch, his concerns appear to be current dilemmas. Pastoral vacancies in many parishes, too many ecclesiastical rules and canons being ignored and defied, as well as the wandering astray of a flock without a shepherd (cf. Judges 21:25) that “everyone does what is right in their own eyes” indicate Ignatios’ awareness of a church in disarray.

### DIONYSIUS II AT MAR ŠĪLĀ

The Canons established following the consecration of Patriarch Dionysius at the Monastery of Mar Šīlā in Sarug in April 896 are found only in this Damascus 8/11 manuscript.

Dionysius had been a monk in the Monastery of Bēt-Bātin of Ḥarrān, his former name attested by one source as Nūḥ.<sup>47</sup> He died in April 909 in the Monastery of Bēt-Bātin. There is confusion among several chronicles regarding both the date of the synod and its location without certain resolution.<sup>48</sup>

Along with the 35 bishops assembled, Dionysius established 25 canons treating a range of problems. As with several previous synods, the ecclesiastical environment appears to be in flux, if not disarray, as the canons address a number of issues previously confronted, but apparently not resolved. As well, very few canons present measures that offer any practical solutions or enforcement. The Syriac Orthodox Church still found itself with limited religious, legal and political authority in its regions to enforce its standards and sanction its opponents at the turn of the ninth/tenth centuries.

### RECURRING THEMES IN THE CANONS

Nevertheless, there is always an occasion for canons and these five synods issued a

numbered total of 99 canons, with two canons and a portion of a third missing. There are a number of discernable themes that span the nearly three centuries of these synods. Some problems never change or leave, and are probably afflicting Christian churches around the world today in similar fashion and frustration. Without being exhaustive, several threads recur in multiple synods.

- (1) Ecclesiastical Trespassing
- (2) Taking refuge with and support from outsiders and hostile factions
- (3) Myron only in the right places
- (4) Betrothal Requirements
- (5) No women lamenting at funerals
- (6) Saints’ bones and ashes

There are also canons against betrothal practices, second marriages, unethical and unsavoury marriages; various liturgical irregularities and omissions; prohibition of usury and other financial malpractices to take advantage of debtors; manipulation of church donations; forbidding involvement in secular government; no baptizing of heretics, and no women should marry Jews or Magians. And finally, emphatically, no men are allowed in the convents of nuns.

### (1) Ecclesiastical Boundaries

Arguably, the primary concern for most of these synods, held irregularly after various lengths of time, is the violation of ecclesiastical boundaries. Distance and the lack of institutional authority by Christians under Islamic rule enable strong-willed bishops to go outside their appointed regions to ordain, baptize, and generally flex their desire for power in other regions. In his first canon, Yoḥannān III at the Monastery of Mar Šīlā (846) rebukes those bishops who are lusting for a more desirable appointment and location, and not remain in the backwaters districts where they have been presumably unjustly assigned.

Indeed, because we have seen some of the bishops despise their own dioceses and abandon them, whether on account of their smallness or poverty, or for [their own] comfort and opulence, or perhaps they imagine a much larger diocese, and so then the diocese to which they were consecrated is despicable. Transgressions have increased and perversions [have occurred] many times. It seems fair to this holy synod [to declare] that any of the bishops who has abandoned his diocese – without [encountering] persecution – is not permitted to serve as a bishop in any manner until he returns to the diocese which was reserved for him by God.

The Canons of Mar Mattai emphatically declare from the first word that the two metropolitans of the Monastery and of Tagrit will keep to their own side of the fence, and Dionysius at Qalliniqos and Dionysius at Mar Šilā also begin their canons with similar remonstrations. Only Ignatios does not specifically mention this problem, but then the manuscript is missing the folios on which the first two and a half canons are recorded. His abbreviated introductory letter does not paint a more optimistic picture either.

There is an allied problem to bishops acting out of place. Several synods note the occurrence of people circulating in some regions pretending to be elders and deacons – claiming to be from another region – ministering to the faithful, but without any credentials (Yohannan 2, Šilā 4). Bishops are admonished to keep an eye on such things, but there is no reflection here on the cause of such imposters. Other problems involving clergy are the disgrace of those monks who abandon their calling and return to the world for a less desirable lifestyle (Yohannan 3). Apparently, some elders have moved to another region as free-lancers, but Šilā's 3<sup>rd</sup> canon requires a letter of permission from their own local bishop before practicing ministry elsewhere. Qalliniqos 9 raises the

concern that some bishops are ordaining people from outside their regions without thorough examination, a practice which could legitimize imposter elders and deacons.

A different kind of problem, but one not without precedence in Christian monastic and ascetic history, is discussed in Ignatios 5:

Now there are many who wear the monastic garment although previously were neither examined nor recognized in the ways of excellence. There are some among them who have not even attained the level of full stature. Being seized by some kind of impetuosity, they rush to stand upon a pillar which is truly an angelic way of life rising above the world. But sometimes, when their hope is disappointed, they descend from the heights to which they had not ascended in their mind, and from then on they become a mockery and a cause of scandal for many.

Therefore, no one has the authority to ascend the pillar apart from the knowledge and permission of the bishop. If he descends, except from persecution or the necessity of illness, he has no authority to serve in the priesthood. Moreover, they will not be offering judgments and disturbing the bishops, [nor] become involved in those matters in which they are not given permission, or to use common letters and exact sentences.

This Fifth Canon regards another local occurrence which the bishops wish to curtail – the pretension of some people to aspire to the status and honour of monasticism without having progressed through proper stages of spiritual education, examination and achievement. Although the language is somewhat vague, the transgressors are those who claim to be stylites and climb up on to columns or pillars before they have spiritually matured. Many fail

and descend defeated from the column which scandalizes the whole Church, for the vocation of the stylite is evidently highly valued and honoured. Now only those receiving the permission of the bishop are allowed to undertake this exalted form of asceticism. The Desert Fathers already knew the problem: "The elders used to say, 'If you see a young monk ascending to heaven of his own free will, seize him by the foot and drag him down, for it is to his advantage.'"<sup>49</sup>

The patriarchs and bishops are not able to solve this swarm of problems. Their solutions at best are to call the supervising leaders to higher accountability, but there are no other apparent means to enforce such accountability. The sanctions against the trespassers are clear, but catching them in a society which is no longer Christian-oriented is another matter.

### **(2) Refuge with and Use of Outside Forces**

A second cluster of canons reveals something about the status of authority during this period. Several synods refer to the situation in which an elder/ deacon/bishop/ monk has a serious disagreement with their local bishop or patriarch – the person in case has been sentenced to a certain punishment by the bishop, or simply that an individual or faction opposes the rule of the patriarch – and the person or groups seeks refuge and assistance from an outside group (Qalliniqos 3-4; Yohānnan 18; Ignatios 4; Šila 10, 11, 19). In several instances, the outside group is observed to have utilized violent force, ostensibly to force the bishop to annul the punishment or even change his judgment. There were apparently incidents when the bishop under siege had to submit to force and relent, but the synods were adamant that no matter what, God would not relax the punishment against these despicable characters.

Our problem now is, who were these characters, whom everyone knew during the synods, but now have slipped into anonymity? There were instances of counter-patriarchs being established, so that explains some situations. The outsiders (*barāyē*) are not identified in any of these synods. Were they schismatics, mercenary and violent pagans, or Muslims? Possibly all three, but for the embattled Syriac Orthodox Church these opponents were "them" against "us." It reveals a tense period of uncertain authority and necessary compromise. Patriarch Dionysius of Tel-Mahrē (818-845) sought out an agreement with the Caliph al-Ma'mūn that non-legitimate/counter-patriarchs would not receive official approval from the Muslim government, which may have been the most effective strategy as long as good relations were maintained with the Caliphate.

### **(3) The Consecration of Myron**

Another instance of insidious decentralization in the Syriac Orthodox Church is addressed in only one synod and canon. In Yohānnan 24, the problem of Myron in all the wrong places is cited:

Because many, attracting honour to themselves, confuse and destroy the customs and rules which were handed down by the holy fathers in every city and region, that is, the cities and places that anciently were assigned [where] the divine Myron should be consecrated, and wish that it be consecrated in villages which were not permitted this custom. It is apparent to all of us that no one – if he does not [want] to transgress the decision of God, and no persecution is occurring – is authorized to consecrate the Myron, except in these places in which it was previously consecrated in the time of that one who is among the saints, the blessed Patriarch Mar Quryaqos. We have determined in this decision that anyone who opposes the bishop or leads him by force to



consecrate where it had not been consecrated [before], that we hinder and eliminate this attack in as much as it has become and still is the cause of disturbances and divisions and conflicts.

What is at stake is not in the first place whether the Myron is properly made, but who gains authority by controlling its consecration and distribution. This is the period when counter-patriarchates and other schismatic factions have worked to undermine the traditional ecclesiastical seats. Note that Yoḥannān considers the reign of Patriarch Quryaqos (793-817) to be the canonical standard of authorized sites for the consecration of the Myron, indicating that these unauthorized sites are specific instances of recent or current interloping.

#### **(4) Betrothal Standards**

Betrothal practices and requirements were a major part of many synods for centuries, East and West, particularly under Islamic rule. The Syriac Church wished to maintain its own values and practices in the face of the dominate society's customs. A canon appearing three times with only minor variations concerns the proper boundaries for a betrothal agreement between a young boy and girl. No mention is made, but apparently arranged marriages tried to bypass a number of conventions which the Church found inappropriate, if not abusive. Yoḥannān 15 (846), Ignatios 11 (878), and Šilā 7 (896) demonstrate that half a century finds Syriac society still stuck in the same dilemma:

In order that a betrothal should take place lawfully, it has been previously determined in the canons of those holy fathers who preceded us [in which] they decided that when there is a betrothal there should first be an agreement of the boy and the girl, and then the ring shall be blessed and the betrothal will be confirmed by the testimony. We are

all adhering to this establishment of law and are determining that it shall be so (Yoḥannān at Šilā, 15).

We have all decided unanimously by the awesome word of God, which the Lord gave to his holy apostles and from which opposing powers tremble, that there is no authority for father or mother, or for brother or sister, or for any one of the household, whether a boy or a girl, to betroth a boy or to betroth a girl before they attain the age of fifteen years, and in that case [only] by the agreement of the boy and the girl (Ignatios 11).

A betrothal which occurs without the blessing of the ring and the mediation of a priest, and [the couple] having not yet reached the age of fourteen years, and does not have the agreement or will of their two persons – if it happens that there is a dispute – we have adjudged that [the betrothal] should be completely terminated (Dionysius at Šilā 7).

Three matters are at hand here. The Church should be involved in the blessing of the betrothal, and apparently it often was avoided or ignored in a secular agreement. The boy and girl must mutually agree that they want to be betrothed – it is not a decision made by parents without their consent or even knowledge. And there is a minimum age for a legitimate betrothal of 15 years old, then lowered to 14 years old two decades later.

The Synod of Yoḥannān at Mar Šilā was also concerned about the number of years for different situations. It placed a limit on the number of years, seven, that one could be betrothed without getting married (Yoḥannān 17), which was a measure to protect the woman from mistreatment. The Synod established a minimum age for a person being ordained a priest – 30 years old – and for a deacon – 20 years old (Yoḥannān 7). Competence,

maturity, and what would be called today life experience were the primary goals.

### **(5) Mourning, Festivals and Fashion**

In a society in which one is no longer the majority or in the 9<sup>th</sup> century bereft of much political power, the Church needed to maintain its identity by not adopting or slipping into non-Christian customs and mores. Ignatios 8 and Šīlā 23 proscribe for Christians the practice of pagan customs, participation in their festivals, and wearing licentious or provocative clothing fashionable among non-Christians. Yoḥannān 22 also issues a prohibition of Christians availing themselves of sorcerers and soothsayers. The use of the term ‘pagan’ (*ḥānpāyā*) in some instances is likely a metaphor for Muslim, along with ‘gentiles’ (*‘ammē*) and ‘outsiders’ (*barāyē*), although traditional paganism did not disappear and could be the target here as well. Yoḥannān 22 and Ignatios 9 condemn the practice of women participating as mourners at funerals in a manner which mocks the dignity of Christian funerals:

Now, the women who dance or make lamentations for their deceased and go out to the graves with tambourines and dances enrage God and are full of mockery shall be specifically inhibited from entering the church and participation in the holy mysteries. Let the priests be watchful not to be present in places where such things as these are being done. In the same way, every faithful man or woman who go to sorcerers and soothsayers, or utter incantations or speak secretly, are not allowed to enter the Church nor to participate in the holy mysteries for one year, although the canons prescribe five years (Yoḥannān 22).

Regarding those women who are mourning in a pagan manner for their deceased, and go out to the

tombs with tambourines, timbrels and dances angering God and expressing mockery shall be inhibited by a sentence from this despicable activity. If they dare to do this they shall also be kept out from the Church and participation in the holy mysteries. The priests should be watchful so that they are not present at all in the funeral procession or in the houses of those who make the lamentations angering God (Ignatios 9).

Thirty-two years later the language is similar and the problem remains the same. The priests were not doing their job, and the canons imply that they sometimes became too involved in the local culture.

### **(6) Bones and Ashes**

The penultimate theme to be examined regards the relics of saints, and in particular, their bones and ashes. Two synods, both taking place at Mar Šīlā, under Yoḥannān in 846 and then under Dionysius in 896, find these relics at the center of their concern, but not the problem. Yoḥannān 21 turns to a liturgical practice in some congregations.

Moreover, there are others who from ignorance and lack of cultivation baptize their sons and daughters in a church in which the urns of the saints are set in order. Instead of a godparent, they place the one who is being baptized upon the urn of a holy one, and omit the godparent. Therefore, we are ordering that no one should operate in this way because it is foreign to ecclesiastical customs.

It is right that every baptized person should have a godparent, a male for a male, a female for a female, and one for one, not two or many, as the renowned teachers command. But after that godparent receives the boy from the baptism,

if his parents wish to place him upon the urn of the saints, it may be done according to their wishes.

There is nothing wrong with a saint's ashes, as the final statement of the canon affirms. To place the child upon the urn of a saint can be interpreted as an appropriate act of piety, dedicating the child to the same kind of holy life as the saint. What the Synod is calling for is the need for a living human being to care for the child spiritually. We do not hear why a family does not have or want a godparent for this sacrament.

Fifty years later, saints' bones are the relics in trouble, but not because of their own character. Dionysius at Mar Šilā affirms two short canons, 17 and 18, about the person(s) carrying the bones:

(17) The elders or deacons or whoever they may be who circulate the bones of the saints in [various] places, in order to beg [alms] through them, shall be prohibited from their ministry if they do not cease.

(18) The elders and deacons who place the bones of the saints in their houses as for a business and not for the praise of God – we have adjudged that they shall abstain from this. But if they are not persuaded, they will not be allowed to serve the ministry of the priesthood if they do not avoid the anathema of God.

This may be a back-handed way of prohibiting magical practices, but it is quite consistent with other canons prohibiting elders and deacons from engaging in non-monastic, secular activities – becoming pastoral leaders of congregations (Ignatios 6; Šilā 5), serving as the town representatives and advocates (Šilā 5b), or becoming a godparent (Šilā 6).

## FINAL CANONS

There are two emphatic sets of prohibitions in our last two Synods. The very last canon

of Dionysius at Šilā is simply: do not eat meat on Fridays, nor drink wine during the Great Fast (Šilā 25). There is an anti-climactic tone to this reminder of dietary discipline, as if they were about to sign and seal the document, and someone called out about untimely meat and wine – and they all nodded and tacked it on to the end of the document. Such a canon, nevertheless, witnesses to the deterioration of fundamental Christian culture by this time.

Both Ignatios 7 and Šilā 6 are insistent, perhaps the real last word – no males sleeping in the nuns' convents!

## NON-CANONICAL CONCLUSIONS

Firm conclusions about the nature and character of these Synodical canons are not simple. The situation in the Syriac Church was one of being quietly under siege. Mounayer observed that in many instances the Church, bereft of its former social and political influence, fell in upon itself and dealt with the matters with which they could deal.<sup>50</sup> A diachronic scan, however, of the subjects of these canons, largely negative and punitive, shows that the 9<sup>th</sup>-century Syriac Orthodox Church could not deal with or solve these perceived problems. Certainly, a significant part of the problem was that the leadership was not able to effectively enforce these canons, and relied largely on remonstrations of the bishops, priests and deacons to keep alert and monitor these transgressions more vigorously.

The occasion for these Synods is logical: the ordination of a new Patriarch and the consequent gathering of bishops in numbers difficult to reproduce on more mundane occasions. But the agenda never seems to be clear. Several of the ordinations of new patriarchs marked a time to mend fences, resolve previous conflicts, or just move on. A few of the canons reflect some of those problems, especially the issues of episcopal trespassing, as the result

of strong personalities. Most of the canons appear to be occasional, the result of brainstorming among some bishops raising continuing or new problems of territorialism, marriage and betrothal issues, liturgical irregularities, money-lending abuses, reputed embezzlement of donations to the churches and monasteries.

The more distressing matters, such as dissenters, rebels, and those under discipline resorting to outside factions and forces to alter properly arrived at episcopal judgments, are raised, likely with ire and alacrity, but without real ability to influence and rectify. These ‘outsider’ canons are the only matters in which the Patriarch and bishops venture to a degree outside the

world of their own church. No explicit mention is made of Islam, which is not surprising. One assumes there was much talk about the problems and successes of coping with the Muslim leadership off to the sides and likely through the use of euphemisms. Christianity in the 9<sup>th</sup>-century Near East had been returned to the status of the pre-Constantinian church in which Christians were intended to be seen and not heard.

One’s imagination can have free rein examining these canons and trying to line them up with the specific current issues the bishops saw around them. These canons, nevertheless, do make us re-examine for which reasons and circumstances we establish our own current laws.

### West Syriac Orthodox Synodical Canons: 628-896 CE

	Mar Mattai 628	Dionysius Qallinos 817	Yohannan 846	Ignatios 878	Dionysius Šīlā 896
1	Metropolitans of monastery of Mar Mattai & Tagrit equal	No bishop may act in another bishop’s region	No bishop lusting for other dioceses	Missing...	Procedures for dealing with accusation of bishop
2	Metropolitan of Mattai at right hand of metropolitan of Tagrit	Bishops not allowed to enable second marriages	Imposter priests, deacons	Missing	No bishop has authority in other area besides his own
3	No judgment without agreement of the two metropolitans	Bishop takes refuge only with local bishop’s consent	Regarding monks who abandon habit, live in world	Missing 1 <sup>st</sup> part ... no 2 <sup>nd</sup> marriage or adultery for priest	No elder given ministry in other area without his bishop’s consent
4	Metropolitan of Mattai administers Tagrit in absence of its metropolitan	Excommunicated not to take refuge with others to force bishop to absolve his sentence	Eucharist must be celebrated with consecrated tablet of Christ	Condemnation of revenge against bishops using violent outside groups	Prohibiting imposter elders, deacons from ministry
5	Tagrit metropolitan does not encroach on monastery	Christian abandons church for worldly life & circumcision	Rules for proper eucharist	No stylites without bishop’s permission	Monk not allowed to be leader of congregation
6	Tagrit metropolitan makes decisions only with Mattai metropolitan	Christian in adulterous marriages	Not reciting prayers of inclining & testing competency of liturgists	No monks leading churches or involved in businesses	Monk cannot be godparent; no male laity eating in convent

7	Tagrit metropolitan deals with monastery area only with permission	Manipulation of church property to one's own benefit	Minimum age for consecration of elders & deacons	No male entering, sleeping inside convent of nuns	No betrothal under 14 without priest, and consent of couple
8	Tagrit metropolitan cannot entrap Mattai metropolitan	Clergy intoxication & gluttony	Baptism without anointing oil not allowed	No Christians allowed to use pagan customs	Donations to church entrusted to stewards, not private hands
9	Tagrit metropolitan cannot judge Mattai metropolitan	Bishop ordaining alien elders/deacons without examination	Bishops who consecrate blind elders	No Christian women mourning in pagan manner	Condemning those who prevent episcopal letters being read
10	Tagrit metropolitan appoints bishops only by mediation of Mattai metropolitan	Ordination under pressure of unexamined people is void	Priest who instead of wine use some other drink	Condemning lending & withholding documents to cheat debtors	Condemning disciplined one who seeks refuge with violent group
11	Tagrit metropolitan appeals to Antioch only with Mattai's consent	Factions forming against church order & authority	No wives for priests after consecration	Betrothals must be through priests with full assent of couple	Condemnation of factions formed to oppose bishop
12	Tagrit metropolitan not allowed ... lacunae ... without Mattai metropolitan	Regulations for monks living far from cities & own bishop	Prohibited marriages	Condemning elders who marry widows	Prohibition of usury, & business activities among elders/deacons
13	Tagrit metropolitan not allowed ... lacunae		Premarital sex by deacons condemned		Proper management of church donations/property
14	Tagrit metropolitan cannot administer monastery diocese		Elders/deacons cannot lend money		Christian cannot take relative as wife
15	Tagrit metropolitan cannot veto choices of Mattai metropolitan		Prior betrothal agreement between boy & girl affirmed		Proper procedures for lenders recording paid bills
16	Tagrit metropolitan cannot absolve anathemas by Mattai metropolitan		Taking brother's betrothed after death forbidden		Prohibition of giving episcopal letter to others to read
17	Tagrit metropolitan cannot annul judgments of Mattai metropolitan		Limit betrothal period to 7 years; afterwards woman free from blame		Condemning using saints' bones to beg alms

18	Tagrit metropolitan cannot lay penalty on Mattai metropolitan		Condemnation of anathematized who seeks violent aid		Condemning using saints' bones as a business
19	Tagrit metropolitan cannot overturn conviction of Mattai metropolitan		Appropriation of estate by trustee condemned		Condemnation of those compelling bishop to revoke discipline
20	Tagrit metropolitan stands when Mattai metropolitan enters		No participation in heretic's church		Prohibition of baptizing active heretics
21	Tagrit metropolitan cannot demean Mattai metropolitan		Saint's urn used in baptism instead of godparent		Proper marriage procedures for deacons
22	Tagrit metropolitan cannot seek help from other rulers vs Mattai metropolitan		No lamentations & dancing at graves; going to sorcerers forbidden		Funerals during Fast of 40 days only on Saturday/Sunday
23	Tagrit metropolitan not allowed to anathematize Mattai metropolitan		No Christian woman to become wife of pagan, Jew or Magian		Prohibition of provocative clothing in non-Christian festivals
24	Tagrit metropolitan not allowed grudge vs Mattai metropolitan		Myron to be consecrated only in approved places		Condemnation of those leaving church due to conflict & seek judgment from outsiders
25			Reaffirmation of prohibition of second marriages		Prohibition of meat consumption on Fridays, and of wine during Fast
26			Bishops cannot ordain outside own region.		

## NOTES

<sup>1</sup> Weber, Maximilian, *The Theory of Social and Economic Organization*. Chapter: "The Nature of Charismatic Authority and its Routinization," translated by A. R. Anderson & Talcott Parsons (New York: Oxford University Press, 1947). Originally published in 1922 in German under the title *Wirtschaft und Gesellschaft*, chapter III, §10.

<sup>2</sup> Cf. <http://www.fscire.it/en/work-progress/cogdmansi/>.

<sup>3</sup> *The Great Councils of the Orthodox Churches: Decisions and Synodika from Constantinople 861 to Crete 2016*, ed. A. Melloni (*Corpus Christianorum Conciliorum Oecumenicorum Generaliumque Decreta* [CCCOGD 4]; Turnhout, Belgium: Brepols, 2016).

<sup>4</sup> <http://www.fscire.it/en/work-progress/syriac-christianity/>

<sup>5</sup> A. Vööbus, *The Synodicon in the West Syrian Tradition*, I: Textus (CSCO 367/Syri 161; Louvain, 1975); Versio (CSCO 368/Syri 162; Louvain, 1975); II: Textus (CSCO 375/Syri 163; Louvain, 1976); Versio (CSCO 376/Syri 164; Louvain, 1976).

<sup>6</sup> Vööbus, *The Synodicon in the West Syrian Tradition* I: Textus, xii.

<sup>7</sup> Vööbus, *The Synodicon in the West Syrian Tradition* I: Versio, 2-4.

<sup>8</sup> Cf. "Babai the Great," R. A. Kitchen, in *The Orthodox Christian World*, edited by Augustine M. Casiday (Routledge, 2012), 237-243.

<sup>9</sup> Cf. "Assyrian Church of the East," R. A. Kitchen, in *The Orthodox Christian World*, edited by Augustine M. Casiday (Routledge, 2012) 78-88.

<sup>10</sup> Michael the Great, *Chronicle*, Book 15, chapter 4, 411-413.

<sup>11</sup> Bar Ebroyo, *Chronicon Ecclesiasticum*, III, col. 120.

<sup>12</sup> A. Vööbus, *Synodicon* II, Versio 197-208.

<sup>13</sup> Jean-Maurice Fiey, "Les Diocèses du 'Maphrianat' Syrien 629-1860," *ParOr* 5.2 (1974) 331-393, esp. 373-377.

<sup>14</sup> J.-M. Fiey, "Syriaques Occidentaux du 'Pays des Perses': Réunion avec Antioch et 'Grand Metropolitat' de Takrit en 628/629?" *ParOr* 17 (1992) 113-126.

<sup>15</sup> John Sedrā also is the central character in a reputed contact between the Muslim emir and

the Christian patriarch. Cf. Michael Philip Penn, "John and the Emir: A New Introduction, Edition and Translation" *Le Muséon* 121.1-2 (2008) 65-91.

<sup>16</sup> The body of this letter is in, Joseph Mounayer, *Les Synodes Syriens Jacobites*, 18-22.

<sup>17</sup> Fiey, "Syriaques Occidentaux," 120.

<sup>18</sup> Fiey, "Syriaques Occidentaux," 115.

<sup>19</sup> Fiey, "Syriaques Occidentaux," 121.

<sup>20</sup> W.H.C. Frend, *The Rise of the Monophysite Movement: chapters in the history of the church in the fifth and sixth centuries* (Cambridge: Cambridge University Press, 1972), 345-348; Michael Rabo (the Great), *Chronique de Michel le Syrien, patriarche jacobite d'Antioche 1166-1199*, vol. II (French), ed. J.-B. Chabot (Paris, 1899-1910), 412-413, vol. IV (Syriac) 410.

<sup>21</sup> F. Nau, *Martyrologe et ménologes syriaques*, PO 46 (10.1) (1912), 35 & 47.

<sup>22</sup> *La Chronographie d'Élie Bar-Sinaya, Métropolitaine de Nisibe*, trad. L.-J. Delaporte (Bibliothèque de l'École des Hautes Études 181; Paris: Librairie Honore Champion, 1910) [29r] 79.

<sup>23</sup> Fiey, "Syriaques Occidentaux," 124.

<sup>24</sup> Fiey, "Syriaques Occidentaux," 125.

<sup>25</sup> Fiey, "Les Diocèses...", 377.

<sup>26</sup> Fiey, "Les Diocèses...", 376.

<sup>27</sup> Fiey, "Syriaques Occidentaux," 125.

<sup>28</sup> Vööbus, *The Synodicon in the West Syrian Tradition II: text* (CSCO 375/Syri 162; Louvain, 1975) 25-34; *versio* (CSCO 376/Syri 164; Louvain, 1976) 27-36.

<sup>29</sup> Witold Witakowski, "Dionysius of Tel Mahre" in *Gorgias Encyclopedic Dictionary of the Syriac Heritage*, edit. Sebastian P. Brock, et al., (Piscataway, NJ: Gorgias Press, 2011), 127-128. Cf. also, Pseudo-Dionysius of Tel-Mahre, *Chronicle, Part III*, Witold Witakowski, transl. (*Translated Texts for Historians* 22; Liverpool: Liverpool University Press, 1996), esp. xix-xxiii.

<sup>30</sup> Cf. Arthur Vööbus, *Syrische Kanonesammlungen: Ein Beitrag zur Quellenkunde. I: Westsyrische Original-urkunden* (CSCO 307, Subs. 35, 38. (Louvain, 1970) I, 1, A., 46f.

<sup>31</sup> *Anonymi auctoris Chronicon ad A.C. 1234 pertinens, II*, A. Abouna & J.M. Fiey, eds. (CSCO 354; Louvain, 1974), 198-206.





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## THE SYNODS AND CANONS IN THE SYRIAN (SYRIAC) ORTHODOX CHURCH IN THE SECOND MILLENNIUM: AN OVERVIEW



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### 1. INTRODUCTION

The development and the implementation of canon law is closely linked to prevailing social conditions. The position of the Oriental Christians in society, which had been unstable particularly over the last two centuries of the first millennium, worsened during the first half of the second millennium. The impact of these developments on the social conditions and, in consequence, on canon law development calls for a brief consideration of the historical developments in the region, particularly as they affected the fate of the Syrian Orthodox and other Christians.

For the purpose of this review the second millennium is divided into three periods. In the region where the Syrian Orthodox communities lived, the first period covers the five centuries that preceded the Ottoman era in that region beginning in 1516 following the victory of Sultan Salim I over the Safavids at the battle of Chaldiran in 1514. This victory resulted in the inclusion of eastern Anatolia and most of the Arab lands within the Ottoman Empire in 1516. The second period covers the

nearly four centuries under the Ottoman rule, which effectively ended shortly after WWI. The third period covers the remaining decades of the twentieth century.

The main sources for considering canon law development in the first period are comparatively rich compared with those for the second period. These sources include: the chronicle of Michael the Great (Michael the Syrian), Patriarch (1161 to 1199); the chronicle of the *Anonymous Edessan*, (known as *Anonymous 1234*), and Bar Hebraeus' chronicles and other publications, in particular his *Book of Guides* (*Hudoye*) or *Nomocanon*. After Bar Hebraeus (d. 1286), the sources for the succeeding centuries became extremely scarce as the entire region was mired in wars and destruction. The sources for the Ottoman period are based largely on the information from the manuscripts that Aphram Barsoum collected before WWI. As a young monk at the monastery of Mor Hanania (monastery of al-Za'faran / Safiron) from 1905, Barsoum made it his mission to search for and to document the Syriac heritage that had been left untended in the churches and the monasteries of Tur-Abdin and of surrounding regions. With the *Sayfo*-genocide and de-

struction that befell that region during WWI, Barsoum's search proved to be very timely and particularly important. Many of these findings became known through several publications that appeared in the ensuing years.<sup>1</sup>

## 1. THE FIRST PERIOD: FROM THE BEGINNING OF THE SECOND MILLENNIUM UNTIL THE START OF THE OTTOMAN RULE IN 1516

### *2.1 Historical Background: Living Under Byzantines, Crusaders, Turks and Mongols*

At the turn of the eleventh century, the Syrian Orthodox were thinly spread out over large regions in Syria, northern Iraq, but mainly in Asia Minor in an area that extended from Tur-Abdin in the southeast, to Miapharqin and Hattakh, located close to the northern ends of the Euphrates and the Tigris rivers, and to Melitene and the surrounding region to the west and south towards Antioch, as well sporadically in the principality of Antioch.<sup>2</sup> In particular, many lived in the Melitene region, where they had several monasteries including the historically famous monastery of Mor Barsawmo, which was often a patriarchal seat until the end of the twelfth century, that is after the death of Michael the Great in 1199.

At the turn of the eleventh century most of the region referenced above was under Abbasid rule, except for the region around and to the west of Melitene, which was still under Byzantine rule. The patriarchal seat was not at any one fixed location, although always in a monastery. Avoiding Byzantine harassment was one of the deciding factors in the choice of that seat. We are informed that during the reign of Patriarch Athanasius IV (986-1002) the Chalcedonians took over the Syrian Orthodox Church in Melitene, arrested and sent sev-

en of its monks to Constantinople, where they were martyred. The next patriarch, Yuhanon Bar-Abdoun (1004-1033) was arrested with a number of his clergy and sent to Constantinople. From there, he was exiled to a mountain monastery in Bulgaria where he died. The next Patriarch, Dionysius IV Yahya (1034-1044), based on complaints from the local Chalcedonians, was to be arrested by a warrant that was issued in Constantinople. However, to protect him from Byzantine abuse, his community was able to smuggle him to Amid for protection that was provided by the Muslims.<sup>3</sup> This is a sample of the kind of difficulties that were encountered in that period in order to merely have a safe patriarchal administrative seat.

In the meantime, a major change was underway in the Abbasid region with the arrival of the Turkic Saljuqs from the East, a change that affected demographic makeup and the power structure in the region. The Saljuqs formed their own sultanate in Baghdad. While still ostensibly operating under the Abbasid Caliphate, the Saljuqs took control of major parts of Iraq, Syria and Armenia. Their victory over the Byzantines in the historic battle of Manzikart (located near Lake Van in eastern Asia Minor) in 1071 brought Asia Minor under their rule, as another sultanate, the Rum Sultanate, so that by 1092 they had occupied a significant part of Asia Minor.

One of the Turkic dynasties that ruled under the banner of the main Saljuq dynasty was the Zangi Atabegs. The Zangis ruled over northern Mesopotamia, the traditional homeland of many Syriac Christians. Their rule coincided with the campaign and invasion by the Crusaders starting in 1096. The ensuing battle for Edessa and the victory of the Zangis spelled disaster for the Christians in that region and elsewhere who, until these events, were looked upon as a "tolerated minority" but

who now became the subject of enmity and revenge because of the actions of their co-religionists, the Crusaders. We are informed that 30000 of Edessa's Christian inhabitants were killed and 16000 were taken captive. Michael the Great describes the destruction of Edessa at the hands of the Zangis in 1146 in a manner akin to that of the prophet Jeremiah in his Lamentation.<sup>4</sup>

What tongue could speak, and what finger would not tremble if it tried to relate the calamity which befell Edessa on the third hour of the Sabbath, 3 of December. The Turks with rattling swords and lances entered the city to drink the blood of old men and children, of women and men, of priests and deacons, of monks and anchorites, of nuns and virgins, of children of tender years, and of bridegrooms and brides. They slaughtered old men, children, men and women, suckling babes, priests, deacons and monks, brides and bridegrooms. The Assyrian pig has gained control and crushed with the foot the delicious grapes. What a painful story! The city of Abgar, the friend of Christ, was trodden because of our sins. The priests were killed and the deacons slaughtered, the servants (subdeacons) mangled, the churches looted and the altars destroyed. What a calamity! Fathers deserted their own children and mothers lost compassion for their children. The sword continued to kill. Some fled to the mountain, while others gathered their children like a hen and her chicks, waiting to die or be taken captive. Some older priests carried with them coffins containing relics of saints and martyrs. When they saw this affliction, they repeated the word of the Prophet (Micah 7:9): "I will bear the indignation of the Lord, because I have sinned against him." They did not escape but kept praying until they were silenced by the sword. Their bodies were found later, stained with their own blood while their hands clung to the coffins of relics of saints.

A further example of revenge against local Christians was after the re-taking of Jerusalem from the Crusaders by Salah al-Din al-Ayyubi (Saladin) in 1187. The author of the Anonymous Edessan's *Chronicle 1234*, a monk in the Syrian Orthodox Church was himself witness to this.<sup>5</sup>

The Middle Eastern Christians were also harassed by the Crusaders who had a monochromatic view of Christianity. The ransacking of the monastery of Mor Barsawmo by Prince Jocelyn in 1148 demonstrated this.<sup>6</sup> The arrival of the Mongols, marked by their invasion of Baghdad in 1258 and their subsequent spread throughout most of Syria, created further chaos in the region. Their subsequent adoption of Islam as their official religion in 1294 resulted in further persecution of the Christians throughout the region. The invasion by Tamerlane, who ransacked the region between 1392 and 1402, added to the misery of its people. Many towns with large Christian populations such as Arbil, Mosul, Edessa, Mardin and Tur-Abdin were devastated. One of the accounts that convey the sense of devastation and misery that befell the region and its Christian inhabitants, is that by priest Addai of Basi-brina, written around 1500, and was appended to Bar Hebraeus' *Ecclesiastic History*. The following is a brief extract from this text:

The Persian Mongolian Huns attacked the country of Diarbakr. When Timur (Tamerlane) reached the region of Ba'arbaya (the Arab district of Rabi'a) the lord of Hisn Kifa, al-Malik al-Adil Sulayman, received him with great honour. Tamerlane returned to Mosul but his older son, Amir Shah, marched against Amid and the Tur-Abdin plundering, killing and devastating. .... In the Monastery of Mar Gabriel (of Qartmin) he had three hundred souls, thirty-two monks and their metropolitan Yuhanna strangled. He then marched against a small village in

Tur-Abdin called Bet-Ishaq, whose citizens had found refuge in its citadel. (...) the perpetrators attacked the inhabitants like blood thirsty wolves and killed the men and took the women and children captive.<sup>7</sup>

Following Tamerlane, his vassals: the Qara Qoyunlu (the Black Sheep), who were Oghuz Turk Shia Muslims, ruled from 1411 to 1468. They were followed by the Aq Qoyunlu (the White Sheep), who were Oghuz Turk Sunni Muslims who ruled the region until 1508. The Persians then invaded the region briefly but were defeated at Chaldiran in 1514, a defeat that paved the way for the Ottoman occupation of the entire region, by sultan Salim I in 1516.

A glimpse at the Christian communities in that period is offered in a colophon, in Syriac, in one of the manuscripts from Amid and Mardin discovered by Barsoum during his search for material relating to Syriac heritage just before WWI:

This book on baptism, blessing of the weddings and funerals has been completed in 1451 by me the weak, the undeserving of the mercies of God, Metropolitan of Baqrothfort and Karkar and the lands to the North. I ask whoever finds this book to pray for my weakness. This was in the days of Mor Ignatius the Antiochian Patriarch, the saint, Behnam (Al-Hadli 1445-1454), and in response to the request of the priest Augin al-Farthaforth al-Bartilli. When I scribed this book in Baqrothfort, the people of Qarthaforth were in a dire state because of the invasion of their lands by the cursed Turks and the entry of nearly 30000 of them who destroyed all villages, leaving nothing behind.<sup>8</sup>

## 2.2 Resulting Effect on the Church

Because of all these circumstances and events, the Church as a whole was engaged in a permanent quest for the survival of its people, its churches, and its monasteries.

The fact that the dioceses were thinly spread out over large geographic areas that fell under largely warring entities made communication and the enforcement of discipline exceedingly difficult. At the same time the patriarch had no civil authority that would help him enforce church laws among his senior clergy. Disobedience by senior clergy, violation of ecclesiastic boundaries, and cases of corruption became recurring problems with which many patriarchs had to deal. Many local bishops used their association with local Muslim leaders to challenge patriarchal orders. Even prominent patriarchs such as Michael the Great had considerable difficulty in maintaining authority over some bishops such as Bar-Wahboun of Melitene.

Further, the political and social disruptions throughout the region had the effect of sowing the seeds of division at the ecclesiastic and community levels. At one point the ensuing divisions within the ecclesiastic body of the church led to the formation of two additional patriarchates: one of Mardin and one of Tur-Abdin, in addition to the main patriarchate of Antioch. The patriarchate of Mardin was started in 1293 by Bar-Wahib of Mardin. This patriarchate was re-united with the mother patriarchate of Antioch in 1445 through the efforts of Patriarch Behnam al-Hadli. The split involving the patriarchate of Tur-Abdin, which started in 1364, lasted much longer, until it was finally ended in 1839, as will be noted later.

## 2.3 Synods and Canon Laws in this Period

During this troubled period, synods were seldom held. We are, however, informed of the following patriarchs who called synods where canon laws were reviewed or enacted:

- a. Patriarch Yuhanon Bar-Shushan (1063-1073) – twenty-four canons in 1063.<sup>9</sup>
- b. Patriarch Athanasius VII (1138-1166) in a synod in the monastery of Mor

Barsawmo in 1155 where forty canons were enacted that aimed at church reform, but which were largely ignored in the chaotic atmosphere that engulfed the Church in that period. Bar Hebraeus noted that the patriarch and the Western bishops ignored these canons, and continued to sell the priesthood for money as they had done before, like the Armenians.<sup>10</sup>

c. Patriarch Michael the Great (1166-1199) when twenty-nine canons were enacted in the monastery of Mor Hanania (also known as the Za'faran monastery). However, these laws were lost.<sup>11</sup>

d. Patriarch Yuhanon XIII (1252-1263) in which 7 canons were enacted.<sup>12</sup>

#### 2.4 Bar Hebraeus and *Ktobo d-Hudoye*<sup>13</sup> (*Nomocanon or Book of Guides*)

Bar Hebraeus wrote *Nomocanon-Hudoye* as a collection of canon law and a digest of past Syrian Orthodox Church canons. However, he augmented this collection with rules and canons he selected from other schools of thought. He made a distinction between the two groups by labeling the second as *Hudoye* (or *Guides*).<sup>14</sup> The book is comprised of forty chapters of which the first eight are ecclesiastic canons and the remaining 32 are about laws which deal with secular issues.

The ecclesiastic canons in *ktobo d-Hudoye* bring into practice church beliefs concerning: 1) Church and its administration, 2) Baptism, 3) Holy Chrism, 4) the Eucharist, 5) fasting and feasts, 6) funerals, 7) office of priesthood, and 8) marriage.

The secular laws cover: 1) wills, 2) inheritance, 3) selling and buying, 4) credit, 5) mortgage, 6) damages, 6) reconciliation, 7) transmission of money, 8) inheritance, 9) bail, 10) partnership, 11) power of attorney, 12) admission, 13) deposit materials, 14) loaning of objects, 15) gifts, 16) religious bequests, 17) pre-emption, 18) loans, 19) sharecropping, 20) desolate

lands, 21) liens, 22) the finding of lost things; 23) the finding of lost children, 24) liberation of slaves, 25) larceny, 26) felonies, 27) the slaughtering of game, 28) oaths, 29) vows, 30) litigation and legal power, 31) testimony and witnesses, and 32) the case without exception.

In an introductory note Bar Hebraeus informs the reader that regarding the ecclesiastical canons, he, in addition to following the canons of the Apostles, the Teachings of Addai and the Decrees of the Ecumenical Synods, borrowed suitable clauses from sources which are not accepted by the Church, namely, the twenty-five canons laid down by the Arians in Antioch, the twenty canons established by the Macedonians in the city of Gangra and the twenty-seven canons promulgated by Leon and his followers at Chalcedon.<sup>15</sup> His inclusion of this material is indicative of his broad-minded and ecumenical vision. The following is a brief list of Bar Hebraeus' sources regarding the first two sections of the ecclesiastical canons:

*On the Church and its Administration:* *Hudoye* considers seven sections as follows:

Section One: on the expulsion of illegal assemblies;

Section Two: on the properties and the income of the Church;

Section Three: Regarding the first fruits, gifts and alms;

Section Four: Regarding the stewards;

Section Five: The utensils of the altar;

Section Six: The decrees regarding the consecrated altars; and

Section Seven: The consecration of the altar and the Church.

Each of these sections is expanded to provide the source and the text upon which it relied. For Section One reference is made to the general canons of the Apostles,<sup>16</sup> of Paul<sup>17</sup> of Antioch,<sup>18</sup> and of Gangra.<sup>19</sup> For Section Two reference is made

to the canons of the Apostles, of Antioch, of Chalcedon, of Patriarch Cyriacus, and so on.

*On Baptism: Hugoye* considers five sections as follows:

Section One: on rightful and false baptisms;

Section Two: regarding spurious baptisms;

Section Three: why there should be miron for baptism, and regarding the water for baptism;

Section Four: on the time for baptism; and

Section Five: On the celebration of baptism.

Again, each section quotes from and relies on multiple sources, which are largely referenced in Arthur Vööbus' *West Syrian Synodicon I*.

With the extensive coverage of church issues and its reference to multiple sources in the consideration of each issue, *Hudoye* has stood as a rich source for understanding the background and the thinking behind church canons their evolution over past centuries.

As for the secular laws, Bar Hebraeus informs the reader that he adapted many laws of the Greek kings as well as material from sources that he considered to be in accord with the spirit of justice.

According to Barsoum, the *Hudoye* also included the lost canons of George of the Arabs (d. 725) as well as those by Michael the Great, as well as canons from the Synod of Kafartut held by Patriarch Joseph IV in 869 to regulate the relations between the Apostolic See and the Mapherianate of the East and to which he added some clauses of his own composition.<sup>20</sup> Barsoum notes that Barhebraeus' 147 chapters draw on sources of canons ascribed to the apostles, reproduced in the eight books of Clement, the Doctrine of Addai, the Councils of Ancyra, New Caesarea, Nicea, Antioch, Gangara, Laodicea, Constantinople, Seleucia,

and Chalcedon. It also included the works of Clement, Dionysius of Athena, Cyprian, Dionysius of Alexandria, Eustathius, Athanasius, Basil, Theologos, Evagrius of Constantinople, Rabbula, Cyril of Alexandria, Timothy, Philoxen of Mabbug, John of Tella, Severus of Antioch, a letter of certain bishops to the abbots of two monasteries in Cilicia, Theodosius of Alexandria, Quryaqos of Amid, Jacob of Edessa (from whom he adopted forty-two canons), Syrian Orthodox Patriarchs of Antioch George I, Quryaqos, Dionysius I, John IV, Ignatius II, Michael I, and decrees of Byzantine emperors, as well as unknown sources in addition to his own ideas.<sup>21</sup>

### 1.5 After Bar Hebraeus

Considering the turmoil through which the entire region lived following Bar Hebraeus' time, it is not surprising that there was little addition to canon law in the remaining 330 years of this first period, except for ten clauses that were enacted by Ignatius Bar-Wahib Patriarch of Mardin in 1304, which, according to Barsoum, were of minor importance.<sup>22</sup>

## 3.0 THE SECOND PERIOD: THE OTTOMAN ERA

### 3.1 Under the Ottoman Umbrella

Under the Ottomans, the Christians and the Jews lived under the umbrella of the Ottoman *millet* system. Two *millets* were recognized for the Christians (the Greek (Rum) *millet* and the Armenian *millet*), and one for the Jews. When eastern Anatolia and the Arab lands came under the Ottoman rule in 1516, the Chalcedonian Christians came under the jurisdiction of the Rum *millet* and all others, including the Syrian Orthodox, came under the Armenian *millet*. Irrespective of affiliation, the *millet* system offered the Christians autonomy in dealing with their own internal af-

fairs. Further, with the appointment of the patriarch having to be ratified by the Sultan, the kind of disarray that had existed in the previous centuries, with divisions and challenges to authority, came, to a large degree, to an end.<sup>23</sup> In this new environment of marked stability, patriarchal authority was largely maintained, with the patriarch being looked upon with great respect and reverence.<sup>24</sup> The monastery of al Zaʿfaran was generally recognized as the official seat of the patriarch.<sup>25</sup> It may be noted that the ratification of the patriarchal appointment by the highest authority in the land existed even during the troublesome period that preceded the Ottoman rule; we are informed that the appointment of Behnam al-Hadli in 1445 received the formal approval of the Persian Shah.<sup>26</sup>

Three important events that occurred in this period deserve specific mention:

a. The ending of the separation of the Patriarchate of Tur-Abdin in 1839 from the main church (the Patriarchate of Antioch), a separation that had started 475 years earlier in 1364. Efforts had been underway over the centuries to end this separation, the latest of which was by the Encyclical by Patriarch Jirjis V (1819-1836) on May 29, 1821.

b. The ending the position of Maphrianate by a synod that was convened by Patriarch Jacob II in 1860, a position that was first held by Marutha of Tikrit in 628. It may be noted that this position was revived by a Synod held by Patriarch Jacob III in 1964 and was awarded, with the title Basilius, to the highest-ranking metropolitan in the Syrian Orthodox Church in India.

c. At the broader level, the nineteenth century saw a significant development in the Ottoman social scene. The Tanzimat Reforms of the Edict of Gulhane in 1839 and the Hatt-i-Humayun of 1856 led towards democratization of society as a

whole. The 1856 reforms in particular included provisions for the democratic representation of people in the internal affairs of their *millet*. These reforms saw early adoption by the Greek and Armenian *millets*, which were ready for such reforms because of their close proximity to Europe where major trends toward such reforms had been underway for more than a century. For the Christian communities living at the outer, and largely neglected, eastern edge of the Ottoman Empire, progress was much slower. For the Syrian Orthodox the resulting reforms finally came in the form of the 1914 *Nizamname*, see later.

### 3.2 Bond within the Church Survives

Despite the lack of formal democratic representation within the Church during the nineteenth century, there was a strong common bond among the communities which helped them face the challenges around them. This bond grew out of the respect and reverence in which the patriarch was held. This provided stability with respect to the position of the church as an institution and with the patriarch as its officially recognized leader. Clear evidence of this has been demonstrated in the thousands of letters that were brought into focus recently.<sup>27</sup> The letters were from groups as well as from individuals, many of whom sought the help of the Patriarch in resolving community as well as personal issues (one wrote to the patriarch from a prison). These letters provide a clear demonstration of the bond and direct interaction between ordinary individuals and their patriarch whom they, at the same time, viewed with great reverence

### 3.3 Canons in this Period

#### 3.3.1 General

1. Patriarch Abdullah I (1521-1557) held a synod in Homs in 1523 in which two canons were issued in Arabic that ad-

dressed unacceptable matrimonial practices that had developed in that region of Syria. Further, in order to restore ecclesiastical integrity, it was also decided in that synod that two clergy were to serve simultaneously in a particular church in order to ensure better observance of canon law.<sup>28</sup>

2. Ignatius Butrus Daoud Shah (1576-1591) held a synod at the Hanging Monastery in Hattakh<sup>29</sup> in 1579, where matrimonial laws were reviewed and modified.<sup>30</sup>

3. Patriarch Shukr-Allah (1723-1745) convened a synod in Amid in 1724 to reaffirm the document of faith.<sup>31</sup> The document contains a manifesto of the creed which Shukr-Allah had written in 1716, while still a bishop, to explain the veracity of the faith of the Syrian Orthodox Church in response to a request from a number of Syrian elites in Jerusalem. This manifesto had been endorsed by the previous patriarch Ishaq upon his visit to Aleppo in 1718.<sup>32</sup>

4. Patriarch Jirjis IV (1768-1781). This patriarch was elected by a synod that was convened at the monastery of al-Za'faran on August 17, 1768. We are told that in 1769 he convened a synod that was attended by ten metropolitans and bishops to discuss church affairs.<sup>33</sup> This patriarch and those who succeeded him well into the nineteenth century were not engaged in canon law review and development but rather in addressing the emerging major problem of conversion to Catholicism. Patriarch Jirjis's encounters with Metropolitan Mikhail Jarwa, who was the Syrian Orthodox bishop of Aleppo at that time, fall into this category and merit a separate discussion which is outside the scope of our discussion on canon law. The synod which Patriarch Matta of Mardin (1782-1817) held in Tur-Abdin in 1782 falls into this category.

### 3.3.2 *In India*

In the course of his two-year visit to India starting in 1875, Patriarch Peter III/IV<sup>34</sup> worked hard to introduce ecclesiastical reform into a church that had suffered neglect and division for such a long time. With his strong personality and his lifelong experience in dealing with church and community problems, he was able to bring considerable order into church practices and administration. One of the first tasks he undertook was to confirm the excommunication of the controversial Matthew (Athanasius) whose deceitful inauguration in the first place was what had precipitated the nearly four decades of division within the Indian church. Through relentless zeal and determination, Patriarch Peter fought for the historical right of the Patriarchate of Antioch and was able by March 1876 to convince the Maharajah to issue a decree abrogating the previous decrees that had been issued to Athanasius Matthew, through which he practiced his disobedience.<sup>35</sup>

One of the landmarks of Patriarch Peter's mission was convening a synod in Mulanthuruthi in 1876. This Synod enacted a number of reform edicts that aimed to regulate the working of the church and its local councils. One of the edicts was for the re-organization of the communities into seven dioceses, each headed by a bishop who was to be ordained by the Patriarch. Another reform was the establishment of two councils: a consultative council comprised of 130 ecclesiasts and lay members; the other an executive council headed by an Archbishop with a membership of twenty-four, one third of whom were to be ecclesiasts. The members of the executive council were to be elected by the consultative council. The underlying reason for this broad representation was stated to be as follows: "The church had in the past endured bitter results of division when no



challenge could be mounted against the absolute authority of the Metropolitan. For this reason, executive and consultative councils have been formed”.<sup>36</sup>

#### 4 THE THIRD PERIOD: THE TWENTIETH CENTURY

##### 4.1 Before WWI: The *Nizamname* - *Milla Constitution*

The main progress in the application of the *millet* regulations in the Syrian Orthodox Church was the development of the much-awaited regulations for the internal governance of the Church and its community. The *Milla Constitution* (*Nizamname*) was finally drafted in 1914 by a *milla* board that was particularly set up for the purpose. Six ecclesiasts and six lay dignitaries formed the board.<sup>37</sup> The drafting board completed its work, the *milla* Constitution (*Batriarkana Nizamname 'Mumi -1330*),<sup>38</sup> on March 18, 1914 and sent a draft to the Patriarch for approval. This approval was reported in *Al-Hikmat*.<sup>39</sup> The accepted draft was sent to the Porte for final approval and enactment. With the Porte being engaged in the upcoming war, it is unclear whether the *Nizamname* was enacted. However, this became a moot point, as the events on the ground in the years that followed prevented a meaningful application of the document for many years. This notwithstanding, upon his election, Patriarch Elias III signed a memo that was attached to the *Nizamname* document, undertaking to follow its provisions.<sup>40</sup>

The *Nizamname*, which was dated 18 Mart 1330 (March 31, 1914) consists of eight chapters, each called *faṣl*, which in turn consists of sixty-four articles, each termed *maddah* that stressed the democratic representation of the *milla* in decision making at the level of the individual diocese, as well as regulating the appointment of bishops and clergy and defining their

duties. Copies of the first and last pages of the manuscript, with the last page showing the names and signatures of the participants, are attached (figs 1-2). The various articles of the *Nizamname* deal with the following issues:<sup>41</sup>

1. The office of the patriarchate, Articles 1-9.
2. The obligation of the patriarchate, Articles 10-15.
3. The election of the patriarch, and on the status of the bishop of Jerusalem, Articles 16-22.
4. The office of the archbishops, bishops, chorepiscopi, priests and monks, Articles 23-41.
5. The ‘mixed’ Patriarchal Council, called *majlis mukhtaṭaṭ*, a legislative body that consists of clergy and lay persons, Articles 42-50.
6. The General Assembly called *majlis 'Umūmī*, Articles 51-55.
- 7, 8. A number of organizational and financial issues, Articles 56-64.

Some of the main issues addressed by the *Nizamname* are:

- Promoting the religious education at the Syrian Orphanage in Beirut and on the opening of Sunday Schools in every Syrian church to teach the young religious principles and church choral, (Articles 1 and 2).
- The permission to use an organ during Holy Liturgy, (Article 7).
- A resolution to permit young women to participate in the chanting of hymns in the church, outside the Altar, (Article 8).
- Every written or translated religious book or tract in print for the Church should be submitted to His Holiness the Patriarch and his religious office for examination and approval, (Article 9).
- The correspondence between members of the clergy should be in Syriac or in its script in order to preserve this precious (linguistic) heritage, (Article 10).

- The formation of a spiritual committee to scrutinize the canon of monasticism, (Article 13).

- Concerning the church calendar, the Synod resolved to keep the Eastern calendar as it is in all the Eastern countries. However, and for utmost necessity, it permits the Syrian churches in the two Americas to follow the local calendar of specific festivals provided that Easter should be observed according to the Eastern calendar in accordance with the decisions of Nicaea, (Article 21).

- The Patriarchal See to delegate at different times an apostolic representative with the rank of bishop to the two Americas to inspect the conditions of the Syrian people living there, (Article 22).

- The Synod resolved that negotiations be initiated with the Metropolitan of Malabar who is under the jurisdiction of the Apostolic See of Antioch, in order to promote settlement of the present controversy by inviting both sides to a general council to be held in Syria or Palestine following next Easter in order to reach a final settlement with the Malabarians, (Article 25).

An interesting article appeared in the July 1914 issue of *Al-Hikmat* in the context of providing a progress report on issuing the much awaited *Nizamname*. The article indicates that there was a clear awareness that the mere enactment of a law does not by itself yield reform; that the spirit of change must be mobilized to effect the desired change. To demonstrate this point, the article draws a stark comparison between the French and the Japanese revolutions, on the one hand, and the Ottoman and the Persian ones on the other. It draws attention to the difference in degrees of success between these contrasting examples, clarifying that while the French and the Japanese were ready to exploit the opportunities presented by their revolutions,

the Ottomans and the Persians were not.<sup>42</sup> The publication of this article indicates awareness, at least among the educated layer of society, at that time that the mere enactment of law is insufficient to bring fruitful results.

In this period, too, Patriarch Abdullah II enacted thirty-nine canons at the Synod of Aluva (Alwaye) in Malabar in August 1911.<sup>43</sup> In this trip Patriarch Abdullah II added another diocese to the seven that Patriarch Peter had decreed in 1876. The new diocese carried the name the Diocese of the Kan'anites.<sup>44</sup> The Kan'anites have always prided themselves with being among the pioneering Syriac communities that settled in India. This goes back to the fourth century when a Syriac community of 400 Rahawi's (from Urhoi, Edessa) immigrated to Malabar, headed by a bishop and by a merchant named Thomas the Kan'anite, who claimed ancestry from Jerusalem. This community claimed not to have intermarried with the local population but that, despite that, its population increased markedly over the centuries.<sup>45</sup>

#### 4.2 After WWI

The onset of WWI made the implementation of the *Nizamname* largely irrelevant in that devastating period. However, the spirit with which it was initiated became alive again after the War. Following the partial re-settlement of the *Sayfo*-genocide refugees in Greater Syria and Iraq, efforts to enact church canon law were renewed. Several versions of canon law were formulated in the short period from 1927 to November of 1933. One of these was the version proposed by Aphram Barsoum in 1927 when he was Bishop of Syria and Lebanon.<sup>46</sup> Many of the provisions of that version became part of the landmark canon law approved by the Synod of the monastery of Mor Mattai (near Mosul) of 1930.

#### 4.2.1 *The Synod of the Monastery of Mor Mattai - 1930*

The monastery of Mor Mattai Synod, which was convened over the period from October 11 to 25, 1930 Julian (October 24 to November 7, 1930 Gregorian), passed 30 canon resolutions that addressed various facets of church activities and clergy duties. It also enacted a general parish (lay) council law of 32 clauses to regulate the shared responsibilities between parish bishops and the elected representatives of the community. In addition to bishops, the Mor Mattai Synod was attended by lay dignitaries including representatives from the dioceses of Mosul, Mor Mattai, Syria, Aleppo, Jerusalem, and America.

Some of the Synod resolutions of particular interest are the following:<sup>47</sup>

- The need to coordinate between the liturgies adopted by various regions that had seen significant divergence over the decades and centuries. A committee was formed for this arduous task that was comprised of Aphram Barsoum, Yuhanna Dolabani and Ni'matallah Denno (Article 4).
- Recognition of the need to work on the documenting the words and music of the *Bet-gazo* (the traditional melodies of the various historical schools of Edessa, Mardin and Tikrit (Tigrit) (Article 5).
- A decision to print various liturgical books and to perform careful translation of their contents into Arabic (Article 6).
- Emphasis on the teaching of the Syriac language in Church-run schools (Article 16).
- Various articles to modernize church prayers and to encourage lay participation in Church affairs.

The canons resulting from this synod feature a clear emphasis on preserving, not least through education, the Syriac characteristics, language and contents, of the traditional Church. Allocating a separate role for chanting by young ladies (later termed

deaconesses) was likely a first-time decision.

Review of these articles points to the degree of awareness for the need to move forward that had been building up within the Church and its communities over the short period following WWI and its tragic outcome. This was part of the campaign that was led by few inspired key reformers to expel the lethargy inherited over the centuries and to rebuild church and community following the *Sayfo*-genocide.

#### 4.2.2 *Homs Synod Constitution of 1933, and its Modifications of 1946 and 1957*

The active pursuit of canon law development from 1927 to 1933 was symptomatic of the spirit of change for something better that commenced before WWI and was the hallmark of subsequent periods. The 1933 Synod saw an expansion of the provisions of the monastery of Mor Mattai Synod Constitution with considerable increase in scope and detail to comprise 144 canons.<sup>48</sup> The canons of this synod acquired something of a constitutional importance for the rest of the twentieth century and beyond with very limited subsequent modifications in synods that were held in Homs 1946 and in 1957.<sup>49</sup>

#### 4.2.3 *Ma'arrat Sayyidnaya Synod Constitution of 1998*

The last issue of canon law in the twentieth century, which was comprised of 158 articles, entitled "The Constitution of the Syriac Orthodox Church of Antioch" was approved by the Holy Synod that was held in September 22-26, 1998 at St. Ephraim Seminary, Ma'arrat Sayyidnaya, Damascus. The underlying principles of the Constitution are summarized in the Preface which states:

"The Syrian/Syriac Orthodox Church of Antioch" is the official name of our

sacred Church. It refers to “Antioch” because of the Holy See that was established in that city by St. Peter, head of the Apostles, in 37 A.D. In Antioch “the Disciples were first called Christians” (Acts 11:26). Our Church confirmed the apostolic Orthodox faith and spread it all over the world. It used the Aramaic language of our Lord, His Holy Mother, and His righteous apostles, in all its liturgies. This Church embraces a group of believers in our Lord, Jesus Christ, The God Incarnate, Savior of the world, and in His Father and His Holy Spirit, The Holy Trinity, One God. An unshaken faith based upon the commandments of the Gospels, the teachings of the Apostles, the opinions and views of their legitimate successors, and the decisions of its Holy Synod as well. All of which represent the Sacramental Body of Christ. Its spiritual affairs are managed by its spiritual fathers who were given authority by Jesus Christ in order to fulfill its evangelical mission. By authority they guide and stress upon Christian teachings, justifications, consecration, preserving the holy Sacraments, and achievement of justice for all mankind.<sup>50</sup>

The first three clauses of the General Statutes, which provide further definition of the Church, state:

Article 1. The *SYRIAN/SYRIAC ORTHODOX CHURCH OF ANTIOCH* is One, Holy, Universal and Apostolic Church, whose Apostolic See was established in Antioch (Syria) by Saint Peter, Head of the Apostles, in the year 37 A.D. Its headquarters are in Damascus, Syria.

Article 2. His Holiness (H.H.) the Patriarch is the Supreme Head of the Church and its Holy Synod, the General Supervisor of all religious and administrative affairs.

Article 3. The Holy Synod, headed by H. H. the Patriarch, is the supreme religious, spiritual, legislative and administra-

tive authority of the Syrian Orthodox Church of Antioch.

#### *4.2.4 Synod of 2000 – The Unified of the By-Laws*

In addition to canon law, the Constitution specified the establishment of parish councils within each diocese with membership consisting of laity, under the presidency of the metropolitan or bishop of the diocese. Parish councils or boards have been strong features of lay participation in the twentieth century church, and by-laws regulating their functions were enacted and modified over the years. The By-Laws enacted by the monastery of Mor Mattai Synod in 1930 were subsequently updated to better serve community needs. The last version issued in the twentieth century was “The Unified By-Law of the Local Parish Councils adopted at all Archdioceses of the Syriac Orthodox Church of Antioch”, which was decreed by the Holy Synod on March 31, 2000.<sup>51</sup> The by-law embodied a century old tradition of a functioning civil participation in non-theological church matters, and communal activities working in close coordination with church leadership. This tradition in joint administration found particular relevance in the diaspora where this is a common tradition.

### 5. THE HISTORICAL SOURCES OF CANON LAW: A REFLECTION AND AN OVERVIEW

While interest here has been confined to the Second Millennium, clearly sources of canon law go back to early Church.<sup>52</sup> Aphram Barsoum left for us, unpublished at the time but later published by Zakka Iwas, an extensive account of the historical basis of the present-day Church canons taking into account all levels of jurisdiction.<sup>53</sup> This account enumerates the historical sources of these canons, starting with

the Old and New Testaments, the laws enacted by the Ecumenical Councils of Nicaea, Constantinople and Ephesus of 431, acceptable laws from the otherwise rejected councils of Antioch of 341 and Chalcedon of 451; letters and homilies from early church theologians and fathers such as Athanasius of Alexandria (the Apostolic), followed by laws from thirty-four synods from 786 to 1933, as well as from encyclicals that were issued over the centuries. Together, this material defines the historical and theological scope of current day canon law. Article 155 of this treatise, in particular, provides an extensive list of the sources of canon law in the Syriac Orthodox Church over the centuries: Below is a translation of a summary that I have made:

1. The Holy Bible,
2. The teachings of the Twelve Apostles, as well as those of Mor Addai,
3. Laws based on the proceedings of the three Ecumenical Councils of: Nicaea (325) -20 laws, Constantinople (381)-3 laws and Ephesus (341)-2 laws,
4. Laws accepted from otherwise rejected Councils: Councils of: Antioch (341)-25 laws and Chalcedon (451)-27 laws,
5. Epistles and homilies by early church fathers: Ignatius of Antioch (The Illuminator), Mar Peter of Alexandria, Athanasius of Alexandria, John Chrysostom, Gregorius of Nusia, Cyril of Alexandria, Philoxen of Mabbug, Severus of Antioch, Timotheus I of Alexandria, Basil of Caesarea, Rabbula bishop of Edessa, Sergius bishop of Harran, Jacob of Edessa (d. 708, and who enacted 123 laws), Gorgeous Bishop of the Arabs (d. 725, who enacted thirty-three laws), Yuhanon Bishop of Mardin who enacted thirty-one laws in 1154, and Dionysius Bar-Ṣalibi (d. 1171) who enacted seventy laws, in addition to several others.

6. Laws enacted by various councils and synods at:<sup>54</sup>

- a. Carthage in 254 – twenty-four laws,
- b. Ancyra in 314 – twenty-four laws,
- c. Neo-Caesarean in 315 – fifteen laws,
- d. Sardiqi in 343 – twenty-one laws,
- e. Ghankara in 364 – twenty laws,
- f. Latakia in 364 – fifty-nine laws,
- g. Seleucia-Ctesiphon in 410 – twenty-four laws,
- h. Monastery of Mor Mattai in 628 - 3 laws,
- i. Kafar Nabbo in Sarug by Gewargi I in 786 – twenty-two laws,<sup>55</sup>
- j. Beth Batib in Sarug by Cyracus in 794 – forty-six laws,
- k. Harran by Cyriacus in 813 – twenty-six laws,
- l. Raqqa by Dionysius I in 818 – twenty-six laws,
- m. Monastery of Mor Shīla II by Yuhanna IV in 846 – twenty-five laws,
- n. Kafartoot by Mōr Yuhanna IV in 869 - 8 laws,
- o. Monastery of Mor Zakkai (Raqqa) by Ignatius II in 878 – twelve laws,
- p. Monastery of Mor Šīla II by Dionysius II in 896 – twenty-five laws,
- q. Monastery of Mor Ḥanania I in 1153 – forty laws,
- r. Monastery of Mor Ḥanania III by Ignatius V in 1303 – ten laws,
- s. Monastery of Mor Ḥannia IV by Abdullah I in 1523,
- t. Alwayi in Malabar, India, in 1911 – thirty-nine laws,
- u. Monastery of Mor Mattai II in 1930 – 61 laws,
- v. Homs I by Aphram I Barsoum in 1932-1933 – 144 laws, and
- w. Homs III by Aphram I Barsoum in 1946 with its canon law amendments.

7. Laws and Encyclicals by Individual Patriarchs on particular issues:

The list of fourteen items deals mainly with local issues, often but not always related to marriage. The matters related to the Second Millennium include:

- a. Encyclical by Jirjis V to Diyarbakir in June 1820 concerning ecclesiastic rights,
- b. Encyclical by Jirjis V to the church fathers in Tur-Abdin in May 29 1821, urging unity with the Apostolic See,
- c. Encyclical by Jirjis V to the communities of Homs and three nearby villages, and
- d. Laws that Patriarch Peter III/IV formulated in Mulanthuruthi, India in 1876

In the foregoing publication, Barsoum augments his historical review of sources with a philosophical review of powers and priorities of enforcement, quoting from sources such as Bar Hebraeus's *Ethicon* and *Hudoye*,

## 6. CONCLUSION

This Church which in its heyday in the ninth and tenth centuries had over eighty

dioceses that were spread out over the Levant, upper and lower Mesopotamia, and as far East as Sigistan, shrank by the aggressive war-torn environment in which it existed, to fewer than a dozen dioceses in the nineteenth century. As a result of this troubled history canon law development beyond Bar Hebraeus' time was reduced to very minor issues that directly and immediately affected peoples' lives, which were essentially related to matrimonial matters. It was not until the very late nineteenth and early twentieth century that canon law received its share of revival as part of the revival of this church throughout the twentieth century. One of the main personalities of this revival, Patriarch Ignatius Aphram I Barsoum, brought into focus the rich cultural heritage of his church and the deep spiritual, historical and ecumenical foundation of its canon laws.

## NOTES

<sup>1</sup> Broadly speaking, the main sources for this article include:

- Works by Aphram Barsoum and Yuhanon Dolabani,
- Articles appearing in *al Hikmat*, first published in Mardin in 1913, interrupted by war and hardships following the War and re-issued from Jerusalem from 1927-1931,
- Articles in the *Patriarchal Journal* from its first issue in 1933 until present,
- Articles appearing in *al-Mashriq* and *Lisān al-Mashriq* journals published by Bishop Poulus Behnam in Mosul from 1946-1951,
- Tur-Abdin Manuscripts, published in 2008,
- Deyrulzafaran Manuscripts, published in 2008,
- Amid and Mardin Manuscripts, published in 2008,
- Material published by Iskandar Becheiry, Ishak Saka, Šaliba Shmoun, and others relating to the history of the region, and
- A large number of archival material that was documented in Mardin, monastery of al Zaʿfaran (2006-2010), Bab-Tuma, in 2009 and in St. Mark's Monastery in Jerusalem in 2013.

<sup>2</sup> Dorothy Weltecke, "The Syriac Orthodox in the Principality of Antioch During the crusader Period," in *East and west in medieval eastern Mediterranean*, ed. K. Ciggaar (2006), 95-124.

<sup>3</sup> Bar-Hebraeus, *The Ecclesiastical Chronicle*, trans. by David Wilmshurst (Gorgias Press, 2016), 148, 150.

<sup>4</sup> Michael Rabo, *The Syriac Chronicle of Michael Rabo (the Great): A Universal History from Creation*, trans. by Matti Moosa (Teaneck, NJ: Beth Antioch Press, 2014), 665-666; Michael Rabo, *Tāriḳ Mar Michael al-Suryani al Kabeer* (History of Michael the Syrian the Great), vol. III, trans. Šaliba Sham'un (Damascus: Dar Mardin, 1996), 235.

<sup>5</sup> J.B. Chabot, (ed), *Anonymi autoris Chronicon ad annum Christi 1234 perinens*, Part II, CSCO 82/37 (Paris: J. Gabalda), 1916.

<sup>6</sup> Matti Moosa, *The Crusaders, Conflict between Christendom and Islam* (Piscataway, NJ: Beth Antioch Gorgias Press, 2008), 663-667;

Bar-Hebraeus, *The Ecclesiastical Chronicle*, 174, 176.

<sup>7</sup> Ignatius Aphram I Barsoum, *The History of Tur-Abdin*, Matti Moosa (trans.) (Piscataway, NJ: Gorgias Press, 2008), 68.

<sup>8</sup> Ignatius Aphram I Barsoum, *Omid and Mardin Manuscripts*, published by Ignatius Zakka Iwas (Damascus: Deir Mar Ephrem the Syrian Monastery 2008), 306-308.

<sup>9</sup> Ishak Saka. *Kanīsatī al-suryāniya* [My Syrian Church] (Aleppo: The Syrian Bookshop, 2006), 191.

<sup>10</sup> Bar-Hebraeus, *The Ecclesiastical Chronicle*, 178; Saka, *Kanīsatī al-suryāniya* [My Syrian Church], 193

<sup>11</sup> Saka, *Kanīsatī al-suryāniya* [My Syrian Church], 194.

<sup>12</sup> Ibid., 198.

<sup>13</sup> Bar-ʿEbraya, *Hudoye/Nomocanon of Bar-Hebraeus*, (ed.) Yeshu' Cicek (Enscheda: St. Ephrem Monastery, 1986).

<sup>14</sup> Bar-Hebraeus, *Book of Guides (Hudaye) or Nomocanon*, trans. B. Varghese (Malankara Orthodox Church Publications, 2014), 9-11.

<sup>15</sup> Bar-Hebraeus, *Book of Guides (Hudaye) or Nomocanon*, 21-22.

<sup>16</sup> Chabot, *Synodicon* I, 75.

<sup>17</sup> Ibid., 87.

<sup>18</sup> Ibid., 113.

<sup>19</sup> Ibid., 109-111.

<sup>20</sup> Barsoum, *The Scattered Pearls*, 133.

<sup>21</sup> Ibid., 472.

<sup>22</sup> Barsoum, *The Scattered Pearls*, 134.

<sup>23</sup> Except, of course, for division in later centuries as a result of conversions to Catholicism, and, to a lesser extent, to Protestantism.

<sup>24</sup> Khalid Dinno, *The Syrian Orthodox Christians in the Late Ottoman Period and Beyond: Crisis the Revival* (Piscataway, NJ: Gorgias Press, 2017), 70-71.

<sup>25</sup> One exception to this was Patriarch Jacob II (1847-1871) who resided at Mariamana Church in Diyarbakir.

<sup>26</sup> Saka. *Kanīsatī al-Suryāniya*, 200.

<sup>27</sup> Dinno, *The Syrian Orthodox Christians*, 110-120.

<sup>28</sup> Dolabani, Yuhanon, *Phatriarkhe d-Antiokhya* [Patriarchs of Antioch] (Holland: Bar-Hebraeus Verlag, 1990), 228 (in Syriac).

<sup>29</sup> Hattakh, a fortress town in Diyarbakir near Miyafarqin, was a diocesan seat until the middle of the nineteenth century.

<sup>30</sup> Dolabani, *Phatriarkhe d-Antiokhya*, 231; Barsoum, *The Scattered Pearls*, 134; Saka. *Kanīsatī al-suryāniya*, 203.

<sup>31</sup> This document was found in the manuscripts of Edessa, (MSS Mingana 460-495).

<sup>32</sup> (History of the Syriac Dioceses -30-31-referring to Manchester-MSS Mingana, 460 and 495).

<sup>33</sup> History of the Syriac Dioceses, 117-119).

<sup>34</sup> Peter III was the title used until 1920s when re-consideration of names of past patriarchs led to re-naming Peter III as Peter IV.

<sup>35</sup> Tuma Severus Yacoub (Ignatius Jacob III), *Al-‘Uṣārā al-Naqiyya fī Tārīkh al-Kanīsa al-Suryāniyya al-Hindiyya* [The Pure Essence of the History of the Syrian Church in India], (Damascus, 1973), 355-360.

<sup>36</sup> Ibid.

<sup>37</sup> The six ecclesiasts were: Timothy Bishop Paulus, the Patriarchal Vicar at the Porte; Cyril Bishop Jirjis, the Patriarchal Vicar in Mardin; Evanius Bishop Elias (later Patriarch Elias III), Head of the Diocese of Mosul; Athanasius Bishop Tuma, Head of the Diocese of Diyarbakir; Cyril Bishop Mansour, Head of the Diocese of Kharput; and monk Ephram Barsoum (later Patriarch Ephram I Barsoum), head of the monastery of al-Za‘faran. The lay dignitaries were Mansour Kan‘o, Naoum Shahristani, Hanna Siri Tchikki, Yousuf Raji, Hanna al Qass, and Hanna Hanasha.

<sup>38</sup> Based on a copy in my possession of the draft document penned by Bishop Yuhannon Dolabani.

<sup>39</sup> Michael H. Chiqqi (ed.), “Nizāmkhānā al-Baṭriarkiyya al-Suryāniyya [Rules of the Syrian Patriarchate],” *al-Hikmat* 1 (1914) 336.

<sup>40</sup> Based on the copy in my possession.

<sup>41</sup> George A Kiraz. “Canons Prepared by Afram Barsoum in 1927 and Other Legal Documents,” in Peter Burns and Heinz Otto Luthe (eds.), *Orientalia Christiana*, Festschrift für Hubert Kaufhold zum 70 Geburtstag (Weisbaden: Harrassowitz, 2013), 225-257.

<sup>42</sup> Michael H. Chiqqi (ed.), “Lamḥa Milliyya [Glance at the Milla],” *al-Hikmat* 1 (1914) 341-342.

<sup>43</sup> Barsoum, *The Scattered Pearls*, 134.

<sup>44</sup> Tuma Severus Yacoub *Al-‘Uṣārā al-Naqiyya fī Tārīkh al-Kanīsa al-Suryāniyya al-Hindiyya* [The Pure Essence of the History of the Syrian Church in India], 102-103.

<sup>45</sup> Ibid.

<sup>46</sup> Chiqqi (ed.), “Lamḥa Milliyya [Glance at the Milla],” *al-Hikmat* 1 (1914) 341-342.

Kiraz, “Canons Prepared by Afram Barsoum...” 225-257.

<sup>47</sup> Murād Fu‘ād Chiqqi, (ed.), “Khulāṣat Muqarrarāt Majma‘ Dayr Mār Matta al-Muqadass bil-Mawṣil” [Summary of the Resolutions of the monastery of Mor Mattai’s Holy Synod in Mosul], *al-Hikmat* 4 (1930) 551-530.

<sup>48</sup> Ignatius Zakka I Iwas, “Qawānīn Majma‘ Ḥoms al Awal sanat 1933 m. wa ḍimniha al-Ta’dilāt allatī Dakhalat Majma‘ Ḥoms al Khamis sanat 1957 m. [The Laws of the First Synod of Ḥoms of 1933 including the Modifications that were Inserted by the Fifth Synod of Ḥoms of 1957],” *Patriarchal Journal* 171-173 (1998) 17-36.

<sup>49</sup> Ibid.

<sup>50</sup> Elia Bahi, (ed.), “Akhhār Baṭriarkiyya [Patriarchal News],” *Patriarchal Journal* 180 (1998) 756-759.

<sup>51</sup> This version of this By-Law, which comprises 35 Articles has been amended by the decrees of the Holy Synods held in September 2003 and in December 2005, *Patriarchal Journal*, Nos 277,258, 2006, pp. 390-402.

<sup>52</sup> See, for example, *The Synodicon in the West Syrian Tradition, I*, trans. Arthur Vööbus, CSCO 568 SS 162 (Louvain, 1975); *II*, CSCO 373 SS 163 (Louvain, 1976).

<sup>53</sup> Ignatius Aphrām I Barsoum, “Kitāb al-Ḥaqq al-Qānūnī [The Book of Canon Law],” *Patriarchal Journal* 251-253 (2006) 251-253; 254-256 (2006) 252-264; 257-258 (2006) 403-410; 259-260 (2006) 564-573—published by Ignatius Iwas, Zakka I.

<sup>54</sup> The list excludes the synods whose laws were lost such the Synod at Mar Bar-Ṣawmo’s Monastery by Patriarch Michael the Syrian (the Great) in 1155 whose 40 laws were lost.

<sup>55</sup> See also Mikael Oez, *Cyriacus of Tagrit and his Book on Divine Providence* (Piscataway, NJ: Gorgias Press, 2012).



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## BOOK VI OF ʾĪṢŌʿ-BOKHT'S *CORPUS JURIS* AND THE EMERGENCE OF PROCEDURAL LAWS IN THE CHURCH OF THE EAST



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### PROCEDURAL LAWS IN THE CHURCH OF THE EAST FROM THE 6<sup>TH</sup> TO THE 8<sup>TH</sup> CENTURIES AD

From Mār Abā's reforms (540 AD)<sup>1</sup>—an early example of legal thought within the Church of the East—to the time of ʾĪṣŌʿ-bokht's *Corpus Juris*<sup>2</sup> (eight century), East Syriac jurists almost exclusively addressed substantive laws, a set of laws that determine the rights and obligations of the local Christian community. With Book VI of *Corpus Juris* (hereafter CJ), there is an unexpected shift from substantive to procedural laws,<sup>3</sup> raising an essential question since procedural laws presuppose some level of executive authority to enforcing legal decisions.<sup>4</sup> The present paper thus aims to tackle the following important question: Did ʾĪṣŌʿ-bokht enjoy enough authority to enforce his legal decisions, or is his discussion of them in Book VI of the CJ just a theoretical debate set up to present a potential model for a comprehensive Christian legal system?

In order to address this question, it is necessary to bear in mind that the author wrote CJ in his native language, Middle Persian (Pahlavi), rather than in the lingua

franca of the Christian East, Syriac. Contrary to Syriac, which was the language of the elites of the Church of the East, Middle Persian was the language of commoners and secular elites in Persia, where ʾĪṣŌʿ-bokht was a metropolitan. In this respect, the choice of language would address different types of target audiences, and this could indicate the author's intention. Therefore, to understand the context in which Book VI and its unprecedented content was written, one should examine the author's choice of language. Here, I would like to deal with these two interrelated questions by contextualizing Book VI within the tradition of the East Syriac legal thought.

Mār Abā I, who was Patriarch of the Church of the East from 540 to 552, was responsible for one of the earliest attempts in the Church of the East at developing a Christian legal system within the Sasanian Empire.<sup>5</sup> In 541, these attempts led to his trial by the Sasanian supreme judge and the highest priest of the time, the *mowbedān mowbed*.<sup>6</sup> Mār Abā was accused of acting against Zoroastrianism, the official religion of the Empire, and disobeying the king.<sup>7</sup> He set new laws concerning marriage and diet for his Christian followers, both lay-

men and ecclesiastics.<sup>8</sup> He prohibited the Christians from marrying certain in-laws, and banned Christians from participating in a Zoroastrian rite in which meat was served.<sup>9</sup> The prohibition targeted a special Zoroastrian type of marriage (*stūrīh*) which provided an heir for a male who had died heirless.<sup>10</sup> The propagation of this law suggests that Christians during that period of the Sasanian Empire had been practicing this type of marriage, and that Mār Abā took measures to stop Christian elites from practicing some Zoroastrian rituals and codes. Mār Abā's legal reforms concern solely substantive laws. He never mentions procedural laws since he lacked the power to impose his legal prescriptions upon Christians in the Sasanian Empire.

Among Mār Abā's successors to the office of the catholicos-patriarch, several—most notably ʾĪšōʿ-yahb I (582-595), ʾĪšōʿ-yahb III (650-58), and Ḥananišōʿ I (685-693)—contributed to the legal tradition of the Church of the East. They all confined their legal teachings chiefly to inheritance and marriage laws, and one can hardly find any trace of procedural laws in their works. Mār Simeon, the bishop-metropolitan of Rev-Ardashir<sup>11</sup> was another notable figure in the field of legal literature who, around the downfall of Sasanian Empire and the rise of Islam in the mid-seventh century, compiled his code in Middle Persian. Although he was also mostly concerned with the philosophy of law, and marriage and inheritance laws, one can recognize some early indications of procedural laws in his canons: "The believers have no right, if they have dispute against members of their faith, to declare it before a judge outside the Church."<sup>12</sup> Exploiting the power vacuum following the collapse of Sasanian Empire in 651, the Church of the East set this notion as one of the objectives of the Synod of Dayrin that took place in 676 under the leadership of the catholicos-patriarch George I (661-680).<sup>13</sup> The synod was orig-

inally organized to ease the tensions between the prefecture of Fars and Bēt-Qatrāyē, and the catholicos-patriarch in Ctesiphon.<sup>14</sup> Nevertheless, one of the notable outcomes of the synod was that: "in accordance with the word of our Lord, it is not permitted that anyone of the faithful, through his own authority, usurp the judgment of the cases of the faithful without the command of the bishop and general consent, as long as the necessity of the command of worldly rulers does not arise."<sup>15</sup> This tendency towards having exclusive legal authority, especially among the bishops of Fars province, paved the way for ʾĪšōʿ-bokht to undertake his agenda. While these previous efforts had, however broadly, addressed the matter of procedural laws, CJ went into great details developing a legal apparatus based on a rigorous system of interrelating procedural laws.

#### CJ AND ITS LOCATION IN THE TRADITION OF LEGAL THINKING IN THE CHURCH OF THE EAST

ʾĪšōʿ-bokht,<sup>16</sup> born in Rev Ardashir, was an East Syriac 'Nestorian' metropolitan of Fars and jurist of the eighth century.<sup>17</sup> The Middle Persian original of his CJ, dated between the years 775 and 779, is lost but survives in a ninth century Syriac translation done at the behest of the Catholicos-Patriarch Timothy I.<sup>18</sup> The extant Syriac version contains six books with a preface by the translator. In Book I, ʾĪšōʿ-bokht underpins the theoretical framework of his legal ideas,<sup>19</sup> attempting in sixteen chapters to define some technical terms concerning law and justice per se. He is mainly concerned with creating technically precise legal terminology, including such terms as *dīnā* "judgement" and *nāmūsā* "law," in order to set a solid base for his later assertions.<sup>20</sup> In the first chapter, ʾĪšōʿ-bokht explains his intentions in writing his work, a point addressed below.

The Church of the East legal tradition is concerned with family stability; thus, Books II, III, and IV focus on marriage and inheritance.<sup>21</sup> In Book V, ʿĪṣōʿ-bokht extends his concerns beyond these traditional subjects and discusses wills, testaments, gifts, loans and mortgages, deposit and interest, slavery, sales and purchases, donations to monasteries, contracts, and partnerships and companies. Although the author's interest shifts in Book V, all these topics still fall into the category of substantive laws.<sup>22</sup> In these books, ʿĪṣōʿ-bokht explains what is right and what is wrong, what is just and what is unjust with respect to the topics he takes up. He does not expound how these laws and judgments can be enforced and executed in society.

The matter of enforcing laws and judgments was left for Book VI with its radical shift from substantive laws to procedural laws. The book includes six chapters on plaintiff and defendant, on valid and dubious documents, on forged and false documents, on the certain and doubtful retention of a property, on oaths, and on witnessing and testimonies.<sup>23</sup> As the chapter titles demonstrate, in Book VI, ʿĪṣōʿ-bokht approaches the legal matters from a procedural viewpoint.

Following Simeon and the Synod of Dayrin, ʿĪṣōʿ-bokht also addresses juridical limits and the conflict between Christian and other legal systems in terms of dominance. In the first chapter, On Plaintiffs and Defendants, he singles out a difference in the context of the legal procedure between Christian and other legal systems, collectively referred to as external judges:

Judges outside (the Church)<sup>24</sup> will not accept the [complaint] of a plaintiff who does not have with him a document—valid or doubtful—and witnesses—reliable or untrustworthy—and will not take

the defendant to trial. As for us, we distinctly know that many people exchange (things) between themselves in secret, with no one aware of them. Once the plaintiff is proven to be without falsehood, dishonest accusations, and inclination to lay complaints against others, even if he is without document and witnesses, we consider his claims and, as it ought to be, we run the trial for that [case].<sup>25</sup>

He also underlines the methodologically different procedures which Christian and secular judges carry out for evaluating pieces of evidence:

We accept an old and damaged document with a valid seal as a true document, if a copy is taken of it. Secular judges<sup>26</sup> suspend judgment on the basis of a copy of a document (nor is it) as valid (for them). As for us, we accept it as a valid document. Now a copy of a bill of debt is another matter: we do not take it as a valid [document] but as a dubious one.<sup>27</sup>

Elsewhere, dealing with other legal systems, ʿĪṣōʿ-bokht claims jurisdiction over Christians through sanctioning against appealing to a pagan judge:

When the defendant goes to a pagan judge<sup>28</sup> and sues his fellow in a lawsuit, and (when) he appeals against him (=his fellow) and brings the latter to him (the judge), this leads to failure and harm for the plaintiff. The failure, harm, and effort will be incurred on the one who sues his fellow before pagans. He will be imprisoned and banished.<sup>29</sup>

These passages indicate that the Church court lacked exclusive authority for settling disputes between Christians: there were also pagan, secular-Christian, and external judges, although conflict over jurisdiction between the Church and the pagan court

existed. Nonetheless, the Church was inclined to have supremacy in jurisdiction for Christians, and thus CJ criminalizes violating this supremacy. This penal law is preceded by a thorough list of offences against the order of a court and their designated punitive reactions to preserve ecclesiastical legal authority:

A judge calls a defendant for trial due to a plaintiff’s complaint, but he does not go to the judge, or (both the defendant and the plaintiff) come to fight, or revile one another, or dishonour the judge, or quarrel, or disobey the judge. Given these offenses, we do not condemn the offender or turn to judge him. Rather, in light of the quantity and quality of his offences, we will treat him with rebuke, imprisonment, and banishment.<sup>30</sup>

In this passage, the author explains that judgment for the case would be unaffected by any offence against the order of the court. Rather, these offences against the order of the court are considered as separate wrongdoings which would deserve separate punishments.

The procedural laws in CJ cover other aspects of trial process. A hearing should be scheduled at mutual convenience for both plaintiff and defendant:

Someone sues his opponent who is preparing for an expedition, whether far or near. If the man does not know the trial date, it is inappropriate to prevent him from (going on) his expedition; rather a trial date should be given to him as far as possible. If the defendant says: “Given my many duties, I am unable to keep going for ruling against my opponent,” this statement is impermissible. Rather, he must be given an acceptable time, and their<sup>31</sup> trial will be done as is proper.<sup>32</sup>

Additionally, *Corpus Juris* secures a position for an agent or representative in the trial:

Someone has a case against another and makes an appointment to stand before the judge, for whatever reason. Before (the trial) takes place, the plaintiff appoints someone to represent him, giving him authority at the trial, just as he is authorized to go to the trial and receive judgment. If he gives him (=the representative) a document containing the matter and allows him [to stand] in his place at the trial,<sup>33</sup> this representative has the authority to stand against the defendant. If the defendant does not attend, he will lose the trial.<sup>34</sup>

CJ addresses the statute of limitation:

Someone sues someone else with regard to a previous lawsuit, bringing an old document before the court. This previous lawsuit does not prevent us from making judgment. Rather, we observe, investigate, and examine the old document that is with him, and then we make judgment.<sup>35</sup>

Thus, even though there are no statutes of limitations, two lawsuits by the same plaintiff cannot be filed against the same defendant concurrently:

Someone sues someone else before a judge. The defendant cannot launch a counterclaim against the plaintiff until the first case comes to an end and judgment given concerning the disputed matter. If he sues,<sup>36</sup> it is not accepted from him. But when the first case is resolved, [the new] case will be accepted and judged.<sup>37</sup>

ʿĪṣōʿ-bokht establishes detailed procedural laws concerning the evaluation of different pieces of evidence. In the second chapter of Book VI, “On the Valid and Dubious Doc-

ument", he deals with written documents and divides them into two main categories:

A valid document is one which is sealed by members of the Church, or by kings, or by elected and appointed governors. A dubious document is one which is sealed by witnesses. When a valid document is brought before the judge, it is dealt with according to [its] validity. The one with the seals of witnesses is investigated: if the witnesses who sealed the document are believers, known in their locality and their church for their fear of God, and enjoy good testimony, we deal with [the document] as valid one; if this is not the case, we are doubtful.<sup>38</sup>

In this system of evaluation, valid documents are regarded as the most reliable, and the opposition cannot refute them by denial alone. The opposition must submit at least a dubious document against a valid one in order to introduce a trial:

Someone brings a valid document to the judges and his opponent disputes it, saying: "I sold this property, but I have not received its price." If he has with him a valid document, or a dubious one, or witnesses, it is accepted from him and judgment is made appropriately. But if there is neither a document nor witnesses, this would not be accepted from him. And also if he borrows (money) and says "I paid it," if there is neither witnesses nor declarations, it is not accepted from him. But if he has witnesses and dubious declarations, it is accepted from him, and judgment will be made appropriately.<sup>39</sup>

In terms of statute of limitation, this validity would last forever:

An old and long-aged document of sale is not rejected because it is old and long-

aged; rather it is dealt with as a valid one.<sup>40</sup>

Furthermore, with the exception of documents of sale, a certified copy of a valid document is equally valid:

When a copy of a testament has a valid seal on it, we deal with it as valid; likewise a copy of a deed of manumission too. We deal with a copy of a sale document as dubious, and we make investigation about it.<sup>41</sup>

In cases of dubious documents, judges are in charge of investigation:

We consider valid the conclusion an investigative judge makes regarding the case. If another judge has made an investigation concerning it, we also consider that.<sup>42</sup>

In addition to the formal investigation by the judges, CJ introduces some penal laws in order to protect the legal system from forged documents:

Anyone found with an altered document will be punished by shaving his hair and beard, and for a time less than a month,<sup>43</sup> he shall stand at the church gate in sackcloth and ashes.

Someone found with a *zūr-gird*,<sup>44</sup> which means a fraudulent document. If the one whom this document was written against incurs damage because of the document, every incurred cost and spoil caused by document will be claimed from the one who wrote that document and will be given to the former. If the defendant does not incur loss, the sum of money written in the document, as much as it is, will be claimed from the one who has written the document and will be given to monasteries, hospitals, and charity. The one with whose seal the fraudulent document is sealed, will be expelled and imprisoned, and thereaf-

ter his testimony will not be accepted, and he will not be trusted in anything.

When a document written in deceit and guile is discovered, it is unregarded. Those who made it and the one who possesses it will be treated in the church with rebuke and disgrace, and also with imprisonment and expulsion.

Someone says about a document that his opponent possesses: "This document is written in forgery." If he cannot prove the truth of the statement that he makes, he will not be heeded. But if he has truthful indications and witnesses for it, he will be heeded and the judgment will be made appropriately.<sup>45</sup>

In Chapter V "On Truthful and Doubtful Testimony," ʾĪṣōʿ-bokht introduces testimonies as the second category of proofs. He does this after a relatively long theological argument about whether or not there should be one witness or two in this regard. He concludes:

A trustworthy witness is one who is known to have faith, fear of God, and a sense of justice; without cupidity and hypocrisy, without enmity toward the one for whom he gives testimony, and not inclined towards family ties. Such a man, even if there is only one, is confirmed for testimony. If he does not have all of these [qualities], but he is known to many people for his integrity, without cupidity, but with faith, then // there should be two or three [of this kind of man] in order that their testimony be accepted. If these [qualities] are lacking [in witnesses], their testimony is considered doubtful. Whoever is known as having falsehood, and his testimony is untruthful and unjust, his testimony is not accepted even as doubtful. A testimony that incurs loss to the one who gives it,

or it is favorable to his opponent is considered truthful.<sup>46</sup>

The final chapter in CJ entitled "On Oaths" is about the last category of proofs. Although initially condemning oath taking on the basis of theology rooted in the Bible, the author eventually consents to include oaths in the list of legitimate proofs, albeit only when no other proof is available:

Someone sues his fellow because of money or because of something else, but he has neither an official document nor truthful witnesses. (When) the judgment reaches (the time of) taking an oath, if the defendant wishes, he can take the oath, and if he requires, the accuser will have to take an oath. If the defendant confesses and says: "I took the money or took something else, but I returned it," the oath shall be taken by the accuser.<sup>47</sup>

This approval of oath taking is reluctantly given since an oath is sometimes a necessary evil:

We advise people involved in legal proceedings not to swear as much as possible, but to reconcile with one another and use the integrity of the law. Especially when someone sues his fellow and wants to take an oath, we advise him to avoid oath taking whenever possible, but to endure the injustice done to him on the hope of divine compensation. Nevertheless, if he requires judgment, we do not prevent him. As for the defendant, we cannot often command him not to take an oath because generally things required from him are beyond his power.<sup>48</sup>

The judgment based on this set of proofs is not absolute, and CJ secures the right of appeal in case a previous judgement was unjust. The following two examples are a case in point:

1. Someone sues another over a property. The defendant, concerning the thing that he is sued for, says "I have associates (in this matter)." If he does not provide documents or witnesses at the trial, he loses (the case). As the plaintiff wins, the property is surrendered to him. Later, the defendant's associates appear. Another trial is held, and the defendant wins. Because their colleague had previously lost, the plaintiff was awarded the property. Now having lost (the case), the plaintiff surrenders the property with its benefits and accessories to the defendant.<sup>49</sup>

2. A trial of one against another had taken place and the judge observes and examines that the (then) judgment was prejudicial. If the plaintiff has no document, it is not right to accept his accusation, and the trial will be suspended. But if he has a document which he had sent to another judge, the first judge, as a witness, will make a testimony concerning him.<sup>50</sup>

Based on these laws, the legal procedure which ʿĪṣōʿ-bokht has established in Book VI can be outlined as follows: the court has ultimate and uncontested jurisdiction over all Christians residing under its dominion. The court protects its jurisdiction by sanctioning those who violate it; the court also secures its order by criminalizing any offence against its dignity. The legal system has developed a procedure for evaluating different categories of evidence, namely documents, testimonies, and oaths and set them in a hierarchy of credibility. In addition, this system safeguards its method of evaluation of proof by setting punitive reactions for forgery. The judgments and documents in this system are everlastingly valid. Nevertheless, the procedure develops a self-

correction method by opening the possibility of appeal. This procedural apparatus outlined in Book VI implies the existence of some level of executive power for the Church to establish its jurisdiction, to secure its procedure, to enforce its laws and judgments, and to punish whomever violates its jurisdiction, its procedure, its laws and judgments in the form of imprisonment or prohibition. This cannot be done without a relatively high level of tangible power. Now the question is: did ʿĪṣōʿ-bokht enjoy such authority to enforce his legal decisions, or is Book VI a theoretical work offering a potential model for a comprehensive Christian legal system?

#### PROCEDURAL LAW AND THE LEGAL AUTHORITY IN THE CHURCH OF THE EAST

The question of the Church of the East's legal authority was addressed by Eduard Sachau. In his 1907 article, "Von den rechtlichen Verhältnissen der Christen im Sasanidenreich," he argues that the Church of the East was able to enforce its judicial decisions on the Christian community of the East through a web of episcopal courts.<sup>51</sup> According to Sachau, this legal authority was exclusive, autonomous, and based on the Syro-Roman legal system. His argument was recently confronted by Richard Payne, who, in his 2014 article entitled "East Syrian Bishops, Elite Households, and Iranian Law after the Muslim Conquest," highlights three defects in Sachau's theory.<sup>52</sup> First, Walter Selb and Hubert Kaufhold proved that the Syro-Roman legal texts had not been introduced to the Church of the East before the mid eighth century.<sup>53</sup> Second, both Christian<sup>54</sup> and Zoroastrian sources give evidence of Christians who used legal services provided outside the Church.<sup>55</sup> Third, it was just after the Synod of Dayrin in 676 that the East

Christians were banned from appealing to non-Christian courts (see above). Payne concludes that “in place of the abstract notion of an autonomous, coherent East Syrian legal system, we should consider the legal pluralism that emerges from the work of Ishobokht as the norm.”<sup>56</sup> Payne’s argument is persuasive, and I would here like to add that to have an exclusive and autonomous legal system running, the existence of a procedural apparatus is *sine qua non*. Nonetheless, almost no trace of this procedural apparatus is found before Book VI of CJ in Syriac legal literature.

Explaining his agenda, ʾĪšōʿ-bokht, in Book I, Chapter 1: “The reason due to which the author came to the writing of this *Corpus*,” argues that there was no universal and consistent legal system for Christians. Hence, he wrote his *Corpus* to propose one such legal system:

I came towards this *Corpus* for the following reasons: I saw, indeed, that there were many differences between people regarding the matter of *dīnā*, not only between one faith and another, and between one language and another, and between one nation and another, but also in each and every faith, nation, and language, such as the faith of Christianity. While there is one *dīnā* for the Jews who reside in every land, likewise, there is one for the heretic Magians (Zoroastrians) and another for those who are ruling over us now (the Muslims). Among the Christians, the *dīnās* in the Roman land are different and vary from those in the Persian land, and also from those in the land of the Arameans; it is different in Bēt-Hōzāyē (Ahwaz), in Meshan, and similarly in other lands. There are many differences in the matter of *dīnā*, district by district and between one city and another. And while there is one nature for the faith of the Christians,

there is no one *dīnā*, and we will discuss the reason for that afterwards.<sup>57</sup>

ʾĪšōʿ-bokht judges this discrepancy as not only spatial, but also temporal:

Furthermore, we learned that even in a same place the *dīnās* were in various ways different from those of early generations, and these from earlier ones, each person according to his knowledge and according to his will. Therefore, I wanted to gather as much as possible the things that I have learnt from the tradition of early generations, whether the fathers who were in our church, or those who were in the other churches, or the things that I have understood out of proper reasoning. I have placed them into this Book for my own discipline and for those who, like me, need this instruction.<sup>58</sup>

This regional and intergenerational inconsistency concerned other bishops of Fars as well, leading ʾĪšōʿ-bokht to compile his *Corpus Juris* in order to bridge gaps:

This is also true that I am writing this [Book of law] not completely for my own desire. I came towards this *Corpus* through the encouragement of many friends, mostly through the persuasion of the holy bishops who are in our prefecture. They are, likewise, afraid of the different *dīnās* which existed within the Christian community and wished for one *dīnā* in all our prefecture, if it is not in every church which is under the sky.<sup>59</sup>

Consequently, ʾĪšōʿ-bokht and the bishops of Fars attempted to design a universal legal system within the Church, for both ecclesiastical and secular issues, which was applicable in Fars, if not in every church worldwide. This explanation leads us to the



problem of language. As stated above, ʾĪšōʿ-bokht lived after the collapse of the Sasanian Empire, when Middle Persian began its rapid decline, surrendering its realms to Arabic (for the court and administration) and to Modern Persian (for daily communication in the region). In the preface, the unknown Syriac translator of the *Corpus Juris* explains the lingual arrangement:

You ordered me to translate the Book of *dīnā*, compiled by Mār ʾĪšōʿ-bokht, Metropolitan of Fars, from the Persian language into the Syriac language. Because I am not educated and capable for this task, and also because the Persian language is not helpful (lit.: does not give hand)—in many places, its statements cannot easily and accurately be translated into Syriac—I beg the greatness of your wisdom that wherever in this Book you find something that needs correction, you would correct it as you have promised me.<sup>60</sup>

Thus, the only possible reason for preferring Middle Persian over Syriac is that the author enjoyed some executive power in his prefecture that enabled him to enforce his judgments, for Middle Persian was the language of laymen and other Christians of the Fars province. This explanation is supported by the content of Book VI and the emergence of the procedural laws.

On the other hand, if ʾĪšōʿ-bokht, as he himself explained, intended to produce a theoretical universal legal system for the Church, why did he write his CJ in Middle Persian? One would expect him to write his work in Syriac, the language of scholarship in the Church of the East. This would have enabled him to communicate his theory to all the Christian elites in the Church who are assumed to be his audience. The Acts of the aforementioned Synod of Dayrin in 676 that aimed at the

reconciliation between the bishops of Fars, Bēt-Qaṭrāyē, and the Catholicos-Patriarch in Ctesiphon were written in Syriac, not in Middle Persian.<sup>61</sup> There seems to be contradiction between ʾĪšōʿ-bokht's aim to write a legal treatise for his Church and the language of writing, Middle Persian, that he chose to write that treatise!

## CONCLUSION

I have endeavoured to explain why and how the unprecedented emergence of the procedural laws in Book VI of CJ and the language choice of the text indicate a new phase within the history of legal theory and practice in the Church of the East. The emergence of the procedural laws in Book VI shows that ʾĪšōʿ-bokht, as the Metropolitan of Fars, enjoyed a certain level of legal authority to enforce his judgments. His choice of language excludes the theory of a purely hypothetical universal legal system within the Church of the East. The choice of language, Middle Persian over Syriac, also implies that this judicial authority was limited to the Fars province. Moreover, Book VI proves that this authority was not exclusive to the episcopal office. Church authority over legal matters was challenged by other legal powers, such as pagan courts. The tension between the bishops of Fars and the Catholicos-Patriarch of Seleucia-Ctesiphon, embodied in the Synod of 676, could explain the unique situation of the legal theory and practice in Fars—both Simeon and ʾĪšōʿ-bokht wrote their codes in Middle Persian. The Syriac translator of CJ emphasizes the incongruity between the prefecture of Fars and the rest of the Church of the East:

In many cases those who occupied the priestly seat of Fars were found deficient, because they were appointed metropolitans by the bishops of their province. As for him (=ʾĪšōʿ-bokht), he pleasantly subjected himself to the yoke of the

patriarchal throne, and bowed down his head for the ordination of the virtuous and holy Mār ʿHenān-ʿĪṣōʿ, Catholicos-Patriarch.<sup>62</sup>

One can assume that ʿĪṣōʿ-bokht follows a bilateral agenda: He was not solely concerned with enforcing his judicial decisions on the Christians of Fars but, as he himself mentions in Book I, Chapter 1, he took steps to set up a theoretical universal legal system, at least for Fars, if not for the entire Church of the East. His authority in Fars and the tension between his prefecture and the Catholicate excluded Syriac from his language choice. For ʿĪṣōʿ-bokht, the *Corpus Juris* was not only a book of practical

legal authority, but also a pilot version, limited to his prefecture, an ideal of a universal legal system within the Church of the East.

Despite the tension between Fars and Ctesiphon, his subjection “to the yoke of ʿHenān-ʿĪṣōʿ” persuaded the next Catholicos-Patriarch, Timothy I, to order a Syriac translation of his *Corpus Juris*.<sup>63</sup> This translation could posthumously serve ʿĪṣōʿ-bokht's ideal of unifying “the different *dīnās* which were within the Christian community, and they wished one *dīnā* to be in all our prefecture, if it is not possible for this to be in every church which is under the sky.”

## NOTES

<sup>1</sup> For the text and German translation see Eduard Sachau, *Syrische Rechtsbücher*, vol.3 (Berlin: G. Reimer, 1914), 255-285. For Mār Abā's biography see *Histoire de Mār Jabalaha, de trois autres patriarches, d'un prêtre et de deux laïques Nestoriens*, ed. P. Bedjan (Paris: Otto Harrassowitz, 1895), 206-87. For a detailed account and a new analysis of Mār Abā's legal teaching see Richard Payne, *A State of Mixture: Christian, Zoroastrian and Iranian Political Culture in Late Antiquity* (Oakland: University of California Press, 2015), third chapter.

<sup>2</sup> The title in Syriac is ܡܕܢܬܐ ܕܥܠܡܐ, literally "writing on judgement."

<sup>3</sup> Sachau, *Syrische Rechtsbücher*, vol.3, 183-201.

<sup>4</sup> For a theoretical and historical study on the nexus between executive authority, procedural law and the machinery of justice see Mirjan R. Damaška, *The Faces of Justice and State Authority: A Comparative Approach to the Legal Process* (New Haven, Yale University Press, 1986).

<sup>5</sup> Payne, *State of Mixture*, 100.

<sup>6</sup> The text records his name as Dādhormizd (ܕܐܕܗܘܪܡܝܙܕ) in the *Histoire de Mār Jabalaha*, 226.

<sup>7</sup> Ibid., 227; nonetheless, king Khosraw I (501-579) did not accept the accusations brought forward by Dādhormizd.

<sup>8</sup> Ibid., 228-229. After the king went to the North to fight the Khazars, the Magians exploited his absence and brought Mār Abā I on trial.

<sup>9</sup> In certain passages, his accusations are limited to converting people from Zoroastrianism to Christianity, forbidding Christians from practicing *stūrīh* with Zoroastrians, and preaching Christianity; Ibid., 238 and 254.

<sup>10</sup> For *Stūrīh* see Maria Macuch, "The Pahlavi Model Marriage Contract in the Light of Sasanian Family Law," in *Iranian Languages and Texts from Iran and Turfan*, ed. M. Macuch et al. (Wiesbaden: Harrassowitz, 2007), 183-204, and "Zoroastrian Principles and the Structure of Kinship in Sasanian Iran," in *Religious Themes and Texts of pre-Islamic Iran and Central Asia: Studies in Honour of Professor Gherardo Gnoli on the Occasion of*

*his 65th Birthday on 6 December 2002*, edited by Carlo G. Cereti et al. (Wiesbaden: Reichert, 2003), 231-246.

<sup>11</sup> Rev Ardashir, in Persian Rēw-Ardaxšēr, is located around the modern city of Bushehr in the south of Iran.

<sup>12</sup> For the translation see Amir Harrak, "The Code of Law ...," in the current issue of *JCSSS*. For the Syriac text and German translation see "Erbrecht oder Canones des persischen Erzbischofs Simeon," in *Syrische Rechtsbücher*, vol. 3, ed. and trans. Eduard Sachau. (Berlin: Georg Reimer, 1914), 203-253.

<sup>13</sup> *Synodicon Orientale*, 215-226.

<sup>14</sup> Richard Payne, "East Syrian Bishops, Elite Households, and Iranian Law after the Muslim Conquest," *Iranian Studies* 48:1 (2015) 11-12.

<sup>15</sup> Ibid., 12. For the original text see *Synodicon Orientale*, 220.

<sup>16</sup> Marc Aoun, "Jésusbokht, métropolitain et juriste de l'Église d'Orient (Nestorienne), auteur au VIII<sup>e</sup> siècle du premier traité systématique de droit séculier," in *Tijdschrift Voor Rechtsgeschiedenis* 73, no.1 (2005) 81-92.

<sup>17</sup> For the original text and a German translation see Sachau, *Syrische Rechtsbücher*, Vol.3, 2-201. Sachau also has a brief account on him in the introduction to his edition and translation (VII-XVIII).

<sup>18</sup> Sachau, *Syrische Rechtsbücher*, vol.3, 2.

<sup>19</sup> Ibid., 1-23.

<sup>20</sup> Particularly in chapters 2-4.

<sup>21</sup> Ibid., 25-127.

<sup>22</sup> Ibid., 129-179.

<sup>23</sup> Ibid., 181-201.

<sup>24</sup> In this book the author uses different terms to refer to the legal authorities outside of the Church: ܡܕܢܬܐ ܕܥܠܡܐ "outside judgement" which is a short form for ܡܕܢܬܐ ܕܥܠܡܐ ܕܥܠܡܐ "judgement outside the Church" (cf. Simeon chapter III, p. 231 in Sachau's edition) and ܡܕܢܬܐ ܕܥܠܡܐ "pagan judgement" (CJ §183). One can assume that the first term refers to any sort of non-Christian judges while the second one specifies solely the Zoroastrian judges. ʾĪšōʿ-bokht juxtaposes ܡܕܢܬܐ ܕܥܠܡܐ (Jews) once with ܡܕܢܬܐ ܕܥܠܡܐ (CJ §20) and once with ܡܕܢܬܐ ܕܥܠܡܐ ܕܥܠܡܐ, lit.: the Magian heresy; see CJ §8. He also uses the term ܡܕܢܬܐ ܕܥܠܡܐ, lit. "judges from the world," which presumably refers to Christian lay judges and arbiters outside the Church.

- [illegible]

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## THE LAW CODE OF SIMEON, BISHOP OF REV-ARDASHIR: PRESENTATION AND TRANSLATION



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The 14<sup>th</sup> century writer ‘Abd-Īšō’ of Nisibis, in his Catalogue of Authors, lists the authors who produced law codes as follows:

The *dīnē*-laws of Simeon and Īšō’-bokht, Metropolitans of Fars; of ‘Abd-Īšō’ and George, Metropolitans of Assyria; two parts of the collection of Gabriel of Basra; another of Mār Elijah, the first Catholicos, and four of Elijah of Nisibis, who is known as Bar-Šennāyā.<sup>1</sup>

The first author in the list, Simeon the “Metropolitan of Fars,” is the focus of the present paper, since this author produced an interesting collection of laws in Middle Persian, but later translated by a monk of Bēt-Qaṭrāyē (modern Qatar and the west coast of the Gulf) into Syriac. As with the code of the Metropolitan Īšō’-bokht, both original Middle Persian codes are lost, but they fortunately survive in extant Syriac translations. Before presenting the translation of the code of Simeon of Rev-Ardashir, a few words on the identities of the author and the translator, on the sources of the codes, and the significance of the codes are worthwhile.

### SIMEON OF REV-ARDASHIR

Simeon is called by the translator “Mār Simeon the priest and teacher,” and the introduction to the codes identifies him as “Mār Simeon Bishop-Metropolitan of Rev-Ardashir.” The latter appellation immediately brings to mind a rebellious metropolitan of the same name and title, mentioned in the letters of the patriarch Īšo’-yahb III whose seat was in Seleucia-Ctesiphon in southern Mesopotamia. This patriarch, who witnessed the advent of Islam, faced seceding tendencies that marked the Church of Persia and the Gulf already before his time. Lamenting the dissolution of the ecclesiastical authority bestowed by the Apostles themselves, and sensing the dangers posed by the aggressive new religion before Christianity, he wrote several letters pleading the metropolitan to maintain unity and Christian presence in Persia and the Gulf.<sup>2</sup> Fortunately, some of the patriarch’s letters to “Mār Simeon Bishop-Metropolitan of Rev-Ardashir” (Letter XIV and XVI) and to the bishops, monks, and people of Bēt-Qaṭrāyē (XVII, XVIII, XIX, XX, and XXI)<sup>3</sup> managed to survive to this day.

Rev-Ardashir, modern Zaydun in Iran, was the seat of the highest ecclesiastical

authority in Persia and the Gulf, but it was subject to the patriarchal seat of Seleucia-Ctesiphon in Mesopotamia. By the early 5<sup>th</sup> century, Christianity in Persia was already a highly organized institution: the signature of Bishop Elijah of the Gulf city of Mashmahig is on the Acts of the Synod of the year 410 in Seleucia-Ctesiphon;<sup>4</sup> Bishop Yazdad of Rev-Ardashir was present at the Synod of the year 424.<sup>5</sup> The lack of mention of any metropolitan named Simeon suggests that there were no metropolitan Simeons. Nonetheless, Simeon mentions the code of the “late ʾĪšō‘-yahb the Catholicos” (§20), who must be ʾĪšō‘-yahb of Arzen who died in 595 (see below), and thus our author must have lived after this date. He may well be the one who rebelled to secede from the patriarchal seat of Ctesiphon.

### THE TRANSLATOR

The title of the law code gives the translator as being “of the aksēnāyē-brothers of the region of Bēt-Qatrāyē.” The term aksēnāyā, literally “stranger,” refers to monks; Bēt-Qatrāyē, literally the “land of Qaṭar,” refers to modern Qatar and the Gulf territories. Many monasteries were found in that region, some of which have been recently exhumed by archaeologists. In his letter, the monk dwells on the fact that he was totally unfit to translate the code from Middle Persian into Aramaic, and that the one who requested the translation had too much confidence in him. This type of verbose letter reflects an epistolary genre attested elsewhere.<sup>6</sup> These formal letters share such common features as the inaptitude of the writer or translator to undertake works requested by superiors, who unduly think highly of the former; these in turn accept the commission, but require divine assistance.

Nonetheless, the translator’s complaint about the difficulty of the Middle Persian

text must be real since he took pains to turn the excessively long sentences of the original into shorter sentences for clarity. He warns the reader “that if there are statements that do not reflect the style and beauty of the elegant Aramaic language, do not blame the translator!”

### SOURCES OF THE CODE

The Code consists of two large sections: one theoretical, aiming at clarifying the nature of Christian law; the other legal, relating mostly to inheritance cases.

In the theoretical section, the author comments on the limitation of the Mosaic Law as an acceptable legal source, for it was instituted in a given historical period for a specific nation (=Hebrew people). Thus the law “communicates to its adherents earthly and worldly practices, although it considers the legal matters as something base... it is not suitable to all the nations and to all times, but are rather needed for that (biblical) time and for that (Jewish) nation.” For the Christians, the Mosaic Law is not a legal source, because it was geared “toward the expectation of the advent of Christ,” which eventually took place in history. Even the Gospels are not a code of law *stricto sensu*, for it is “higher and more sublime than the practices of this world and all the deeds of virtuous conduct”. It gives admonitions when it prohibits adultery and forbids breaking oaths, but its goal is to purify the soul, which is inclined toward evil and not to systematically regulate human behaviour.

Chapter three of the first section discusses the origins of Christian law, but no concrete sources are given. Rather, in a long discussion he talks about the transmission of legal codes from unnamed ancient “experts, famous in prophetic vision, who distinguished the truth from falsehood.” Ultimately, the Divine is the source of all laws, for even Moses could not be

the source of all legal cases but “he would ask instruction from God about them.” Theodore of Mopsuestia, “the Blessed Interpreter of the Divine Scriptures,” is brought as witness to what the author says on those made wise by the Spirit (1 Corinthians 12:8).

In the second section, that containing specific legal cases, the author mentions the following sources:

Acts of Synods: In the question as to whether or not one born of a slave can be ordained by the Church (§11), the answer is the negative “as is also written in the synods of the episcopal fathers.”

Code of Īšō‘-yahb the Catholicos: “Also I saw that it is decided in the canons and laws of the late Īšō‘-yahb the Catholicos, and thus written in the synods of the ancient, concerning monks... (§20)”. The named Catholicos is probably Īšō‘-yahb of Arzen (582-595), who wrote his law code at the request of James Bishop of the Island of Darai in the Gulf.<sup>7</sup>

Consensus: In at least one case (§15) the author admits common sense as a legal source “In the Church it mostly seems to me that when the son dies, his assets are equally divided between his mother and his brothers... this matter is (not) confirmed by a judgment but by consensus.” “Practices” and “customs” are also consensus: “...The man has authority over his property, but in this world there are customs and laws that are held and are valid: it is not lawful that a man... leaves his wife without support...” (§3); “Now the husband is obliged to respond to the need of his wife at all times, and the wife is required ... to serve and obey her husband. We understand this from true facts, in that the husband and the wife form one house and one family...” Strangely, the author does not

link this “true fact” to Paul’s admonition: “Husbands, love your wives, just as Christ loved the church and gave himself up for her to make her holy...” (Eph. 5:25).

Equivalent Retaliation (*lex talionis*): The “eye for eye and tooth for tooth” attitude is found in the question of whether a son who converts to a religion other than that of his father has the right to inherit. The law among “pagans” denies the son from inheriting, and Simeon adds: “... so too the son of a Christian man who converts to another religion ought not to be given a share from his father’s asset” (§18). In a pluralistic society in Persia and Mesopotamia, this case must have been familiar and Simeon seems to admit that this is a “practical” decision, adding: “About this matter, I know of no other explanation to bring and to compare with.”

## CONTENTS OF THE CODES

Simeon’s Code of Law covers family matters, mostly inheritance. Slavery, namely in the context of inheritance and in relationship with ecclesiastic order, is also covered. Questions about the assets of the father after he dies arise, and who has the right to inherit the assets if he has a wife, a mother, brothers and sisters, and children, whether these are minor or adults. It is interesting to notice that by and large the verdicts given by the Code of Simeon are in favour of young children and of needy wives and mothers. When the Church intervenes in inheritance questions, it imposes its power so that people in need are protected. The subjects of inheritance in relation with members of family in each code is indicated as follows (for codes 11-12, and 22 see the second chart):

§	wife	mother	brother sister	Son grandson	daughter	kin
1	X					
2					X	
3	X					
4	X					
5				X		
6				X	X	
7	X			X		
8		X	X			
9	X		X			
10				X		
13				X	X	
14			X	X		
15		X	X			
16				X		
17				X		
18				X		
19	X			X		X
20				X		
21				X		

As the chart shows, most of the questions relate to inheritance not with regard to the wives but to children. Although codes claim that when the husband dies, his wife becomes “stranger within her husband’s family because her association with her husband is dissolved” (§15, 19), she actually has the right to inheritance if she has no children (§1). Even if she decides to remarry after the death of her husband, in which case she would be supported by her new husband, “it is not lawful that a man, at the time of his death, leaves his wife without support” (§3). Mothers have also the right to inherit half of the assets of her deceased son if he has no children, and the other half goes to his brothers (§15).

The discrepancy between what sons and daughters get after the death of their father is defended by the Code: “Although the Scripture does not clearly explain this matter, it is evident that everywhere it is the sons not the daughters who hold the inheritance of the parents. And because the sons get the inheritance of their parents in greater proportions, therefore, a full share is given to the sons and half a share goes to the daughters...(§13).”<sup>8</sup> Simeon intervenes

in defense of the daughters when the inheritance is not of great amount: “Because the son is provided with additional (share), the ecclesiastical leaders decided that the additional share compared to that of the daughter be given to her.” This additional decision is so that deprivation would not lead to moral misbehaviour, and that why “it was thus judged and sanctioned, justly and compassionately.”

The following chart includes codes related to slaves and their role in the legal system within the Christian community:

§	clergy	Church	Inheritance
11	X	X	
12			X
22			X

The question of slavery seems at first intriguing, given Paul’s assertion: “There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus” (Gal. 3:28), but slavery was part of the social fabric in Sasanian Persia and Mesopotamia. Clergy cannot marry a slave woman unless she is freed (§11), otherwise the marriage turns into adultery. The same code asserts that a male slave cannot be ordained into the priesthood unless he is freed “as is written in the synods of the episcopal fathers” (§11). In two places it is firmly stated that slave children cannot inherit from their free father, and here Theodore of Mopsuestia is brought in as a witness (§12), but if these children are crippled “they ought to be given some share from whatever their begetter has” (§22).

## EDITION AND TRANSLATION

The manuscript containing Simeon’s Code of Law, housed at the Vatican Library under the siglum Cod. Borg. sir. 81, f.12r to 24r, is now available online.<sup>9</sup> It was edited and translated into German by Edward Sachau, whose notes and comments are still



valuable.<sup>10</sup> Simeon is often quoted in a medieval collection of Christian Arabic codes of law, especially in the Code of Patriarch Timothy I, and these quotations were consulted by Sachau, and we made use of them in our translation. This collection is in the Vatican Library under the siglum Vat. Arab. 153, and is available online.<sup>11</sup>

#### TRANSLATION OF SIMEON'S CANONS

/209/ Various chapters on frequent cases of church laws are given in clear terms by the illustrious in apostolic teaching, Mār Simeon Bishop-Metropolitan of Rev-Ardashir, translated from Persian to Aramaic by one of the *aksēnāyē*-brothers<sup>12</sup> of the region of Bēt-Qatrāyē.<sup>13</sup>

*The apology of the one who was asked by the latter to translate this book from Persian to Syriac*

“Your honourable order enticed me to be entangled with a matter which goes beyond my ability, O virtuous and God-loving Mār Simeon the priest and teacher. It made me greatly admire your will, which utters spiritual things, in that you had acquired such high opinion of me. As for me, whenever I considered my lack of knowledge, I feel compelled to excuse myself from fulfilling your order; but I am afraid lest I be found ungrateful and defrauding the profusion of your divine love. With your love, your reverence, so full of virtues, is glorified as with a wonderful crown bejewelled with precious stones, and so too your excellency—shaped by heavenly conducts worthy of our glorious and learned holy Fathers of good memory—is praised. The latter shepherded virtuously the intelligent flock which Christ, the Lord of shepherds, entrusted to them, and through providential dispensation, you succeeded them lawfully and humanely, by a virtuous and honourable lot. For you took from them (the Fa-

thers) what is in nature, and also what is in the Will, and they found in your succession a diligent and faithful heir in both body and spirit, for you are related, in virtue and perfection, to their brotherhood concretely and mystically. This is indeed an inheritance that can be acquired, and thus, you admonish with the scepter<sup>14</sup> of all virtues in the Church of God; in it the Lord the Spirit established you, like a sun, through His conferred grace and radiant rays. To those near you give delight through the lushness of words—like the holy ones—and with your attractive interaction; you appeal to those distant through the wonder that is in you, thanks to the news of your heroic deeds.

/211/ What was said by the Apostle fits you: *You are a pleasing aroma to God in Christ.*<sup>15</sup> You have given the proof of this with what you have done to me at this time. You wanted to show in these events the reality of the truthfulness of your complete love—it showers everyone unstintingly in the same way as it happened to me. You selected me from among the many persons who walk according to and are managed by your special love, to accomplish this work. For you requested I translate into Aramaic complicated Persian essays expressed by people respected in divine matters and wealthy in the apostolic teaching, and which you have handed over to me when I was near you. This matter distressed me much, for you advised me to walk a road untrod. But because your beloved order is dear to me, I accepted with entire readiness your advantageous request that I should complete the deed. I am ready, but I inform you and anyone else who loves truth, who falls upon these essays, that if there are statements that do not reflect the beauty and elegance of the Aramaic language, not to blame the translator too harshly. Let the reader know in love that this is due to the difficulty of the Persian language, and that the reader should

not stick to the Aramaic translation in every place. I shall be as diligent as possible to make the essays meaningful without altering definitions found in the original text. If I am forced by the style thus to translate it, disordered words (in the original) will be cut down (to accommodate) the need of the (Syriac) language, but that is not due to the ignorance of the translator.

It is now time to begin the work. While counting on the prayers and petitions of my brothers and companions, I call upon the heavenly power—the eternal Teacher who is accustomed to make His power shine in the weak—to assist my weakness and to communicate to me from His unfathomable store of wisdom, the shiny beam of understanding. In this way, this work will be completed at my hands, following the request of your love, perfect in divine matters.”

*Forward of the Book: Justification of (Simeon) addressed to the one who requested from him to put in writing the book.*

The questions which your holiness asked me that concern matters of ecclesiastical law: /213/ Why did our Lord not deliver them in establishing His laws? What is the reason that we do not treat legal matters following the Law of Moses? From where did we obtain our traditional laws? Concerning other held legal questions, and how they are usually applied, I shall write, as much as I understand and am able to through the Divine Grace.

*Chapter One: What goal does the teaching of our Lord have, and why He did not lay down any law concerning juridical decisions?*

The goal of our Lord’s teaching is higher and more sublime than the practices of this world and all the deeds of virtuous conduct. This is clear to everyone without saying, and on that account, He intended to deliver to the people in setting down laws,

not corporeal ways of life, nor did He honour or despise the doings of things human, but it seemed pleasing to Him that the will of the soul would first need to be sanctified and purified, and thus, He established the definition of sin and righteousness. Beyond adultery, the very intention of committing adultery He rejected and declared unclean: *Anyone who looks at a woman in order to lust after her already has committed adultery in his heart;*<sup>16</sup> beyond committing murder, the very thought of it, and so too hatred and enmity: *Anyone who is angry with his brother in vain shall be liable to judgement;*<sup>17</sup> beyond false oath, the very indication of falsehood He uprooted<sup>18</sup> declaring: *You have heard that it was said to the ancestors, ‘Do not break your oath,’*<sup>19</sup> with other such words He ordered and confirmed. He taught us not only these things, but also that we may take care to eliminate and stop in our bodily members repugnant actions and sin committing. But we ought especially to take care of the soul,<sup>20</sup> to purify it from the will inclined to evil, and this is the main and highest element for a human being. As the aim of our Lord’s incarnation not to give us ephemeral and perishable life, his teaching appears to be much more transcendent than physically visible matters. Therefore, it was not fit for the greatness of that admirable and divine economy to set a law concerning the question of trade, a matter that suits the state /215/ of the mortal conduct. Even though He taught about lawsuits and quarrels relevant to worldly possessions and properties, He in reality commanded to totally uplift our minds from all these things—(secular) judicial cases and the adornment<sup>21</sup> of this visible mode of life, and only to seek and emulate heavenly ways. We ought to think about and restrict our minds to it, just as He said: *Where your treasure is, there your heart will be also.*<sup>22</sup> And how could the following sayings not be opposite of the established law about lawsuits and quar-

rels: *If anyone wants to take your shirt, hand over your coat as well; if anyone slaps you on the right cheek, turn to him the other cheek also;*<sup>23</sup> and this: *Do not take revenge, but leave room for [God's] wrath;*<sup>24</sup> and this: *Sell your possessions and give alms?*<sup>25</sup>

About the (dead) man's inheritance who has no wife and sons, who has right over his inheritance?

About the (dead) man's inheritance for the sons and the daughters: should it be divided equally or should the sons get more and the daughters get less?

We notice that the Law of Moses dictates to its adherents worldly practices, although it considers legal matters as something base. But the one who wants to know exactly why our Lord did not set laws concerning trade, it is easy to know from (His) actions. For our Lord and Saviour was not concerned about possessions and properties, but about teaching people the perfection of righteousness and true conducts, and to eliminate from the people oppression, fraud, quarrel, and falsehood, and the like. Because of the foreknowledge of His divinity He was aware that if love alone is found in someone, it would be able to break and dismiss all hatred, oppression, and falsehood; on this matter, more than anything else, he was admonishing us and urging us about love and peace. He knew that it (=love) was for us in lieu of salt with which the whole foulness of sin is purged from our souls. It purifies and cleanses Humanity from the defilement of passions and wicked desires to be suitable for the Lord's use and to be ready for every good deed. He was aware that after the completion of His economy in flesh and His ascension to heaven /317/ those who believed in Him would remain in this world for a long time. And He knew it was impossible, while we are mortal and behave like humans, for our conduct to be without stum-

bles, entanglements, and intense troubles. Therefore, to rectify and regulate the course of our earthly life, He sanctioned and placed in His Gospel wonderful laws and suitable instruction that are fit for and which do not deter us from heavenly conduct, but rather help us and benefit us.

These (rules) do not fit the mass of people, but are appropriate for the Church leaders to whom (our Lord) entrusted their applications, just as He said: *If your brother sins against you, go and rebuke him between you and him alone,*<sup>26</sup> along with other similar sayings. But although it says *rebuke* any person within the community wherever he is situated, without any distinction, what comes after, *let him be to you as a Gentile and a tax collector,*<sup>27</sup> is said about the leader of the church. Our Lord entrusted to him that guidance, because He knew that such an (admonition) does not only merely deter from heavenly conduct, but mainly teaches about the perfection of righteousness.

It seemed unfitting to (our Lord) to deliver to the followers of His holy teaching written law codes concerning questions of possession and disputes about mundane owning, debated and disputed among people, namely how one ought to decisively manage such lawsuits. This is to not contradict His teaching with His own person and with His Paschite economy, for He taught us to reject the love of visible things, and to bring our attention to heavenly things, to direct it and set it in the heart of His perfect teaching full of life. Matters related to disputes, lawsuits, and property of husband and wife, of brother and sister, and of son and daughter do not fit in any way that admirable and divine teaching and the greatness of the world hereafter about which our Lord taught us. (His teaching) releases us from sicknesses, passions, lusts, desires, necessities, and vexations of this perishable world. Our Lord shouted, saying: Repent, the kingdom

of heaven is approaching.<sup>28</sup> Into what scorn and deficiency would His teaching fall if He would (also) say: If a man dies, /219/ having no wife and children, his property should be given to his brothers and sisters, or to his elder brother? Or how would this be possible: *Do not take any gold or silver*,<sup>29</sup> with: a brother's property—if he has a mother, the inheritance should go to the mother and not to his brother? The wise and discerning can easily understand on the basis of what we have said that it would draw no small insult and scorn to the laws of our Lord, if He ever and in any way concerned Himself with worldly lawsuits. Concerning this matter, anyone who wishes can draw from the Gospels ample evidence to discuss and compare between the extensive sayings. It seems to me that these statements that are made, even if short, are enough, not only to not lengthen the account, but also because I know that your wisdom, after reading most of what is written, is able to easily understand (even) the things that are not written here.

#### *Chapter Two: Why Do We Not Practice Law on the Basis of Mosaic Law?*

Your Reverence asked: Why do we not practice law based on the Law of Moses? It is easy to learn from the following. The whole goal of that law was this: to guide and direct people toward the expectation of the advent of Christ. Many laws and regulations are placed and confirmed in it, not suitable to all the nations and times, but are rather only needed for that (biblical) time and for that (Jewish) nation. If one believes that it is not the way I said it, let him know and understand this: How could this be uprightly done by God, that, leaving all the world's nations, He chooses but one to care for, giving them laws and regulations with which they would be accustomed, while the rest (of nations), He would not teach nor give even one regulation about matters

of property? If all of humanity is meant, laws and regulations would be required for it, confirmed and delivered. Clearly, if laws and regulations that (God) confirmed and placed into the hands of the blessed Moses were required for the whole world and for all times, /321/ He would have delivered them to and confirmed them for humanity from the beginning. If we indeed diligently consider the Law of Moses and the regulations that are confirmed in it, we would learn that the majority of them are only for the need of the Jews. If you wish, observe the beginning of the laws—laws set before them—written as follows: *If you buy a Hebrew servant, he is to serve you for six years, but in the seventh year, he shall go free from your place*,<sup>30</sup> is this not clearly said on account of the Hebrew? And when they speak of the land, that *it must not be sold whatsoever*,<sup>31</sup> this does not apply to the whole world nor does it concern every place. Even today's Jews do not keep this law, because the statement's goal concerns the Promised Land, which was given by God to the Children of Israel in inheritance, so that this inheritance would not change tribe after tribe, and generation after generation. Many similar statements, clear and well-known, are found in the Book of Moses that are not suitable to the whole world and to all ages. The things that are confirmed in the first Law were to be observed by that (Hebrew) people, and were needed at that time. The blessed Paul teaches about this very thing, saying: *Regulations of the flesh are set until the time of reformation*.<sup>32</sup>

On this account, we cannot find evidence in Mosaic Law to use on every court matter, to readily give judgment according to what is commanded and confirmed there. Nor is everything that occurs in court written expressly in the Mosaic Law; while there are just a few cases, much has not been recorded. But we cannot apply even those cases that are mentioned in the Law, in light of what is said there. For if we are

required to judge and sanction according to the Law of Moses, we ought to do this before everything: *He who sells his house, he shall also return to it after fifty years*;<sup>33</sup> this is commanded by the Law!

Thus, we are unaccustomed to practice law on the basis of the Law of Moses. The details in this essay are enough, considering your full and competent knowledge.

*(Chapter Three):<sup>34</sup> Concerning the origins of past and present laws of the Church*

You asked me: The laws that were practiced in the Church, and that are practiced today, from where do they derive? This is what I think, /223/: Clearly, even in the Law of Moses, not many cases are recorded but only a few of them. Among statements (found) here and there in the Book (of Moses) concerning truth and justice, some are written metaphorically and symbolically. Now when we compare and contrast between them, we find many cases that we can understand whenever we reach court issues. Now we say diligently that although (all) the issues are not clearly documented in the Scriptures, we can form judgements about numerous cases, by comparing between and matching the biblical statements in every detail.

We also say that the pagans, although they do many things wrongly and unduly, derive all their judgments and sanctions from the Law of Moses. Some obtain their counterparts from the statements of Greek philosophers, but even these philosophers drew matters and materials from the Law of Moses. A relevant example which confirms this is: Until now, not every person understands clearly what is called in their (Greek) language ‘Archetype’,<sup>35</sup> through which, as they claim, truth can be ascertained from falsehood. Preserved in the Prophet Elijah is something quite similar to this, for here there was also dispute and inquiry concerning the fear of God. When the Prophet of God wanted the truth of his

God known in comparison with the false idols, he showed the true God, the Lord of all, through an amazing and wonderful deed.<sup>36</sup> Henceforth, in matching the matter, (philosophers) did their best to imitate and make an altar, a ditch, and other things, in view of duplicating and performing (Elijah’s deed). But because they could not perform the Blessed Elijah’s miracle in bringing down fire, they made fire so that through it they hoped to ascertain truth from falsehood.<sup>37</sup> This shows that we were able to do and examine many things in comparison with the Law of Moses.

But today’s Church laws are proceeded and transmitted /225/ not by intellectual invention, nor by chance, carelessly and superficially. We received them not as a tradition from simple and deficient people, but from experts famous in prophetic vision, who distinguished truth from falsehood. The tradition with its introduction and subject matter was transmitted to us from them. We can demonstrate the truth of this from the divine scriptures, despite the fact that it appears to many that it is new. After the blessed Moses brought the Israelites from Egypt through miracles and with mighty deeds, he judged them for forty years in the desert. According to Scripture,<sup>38</sup> there were sixty thousand<sup>39</sup> men on foot. After twenty years, the men, not counting women and children, were of the same number; perhaps from this we can even better understand that no minor judges among them were brought forward, (to deal) with the disobedience, crudeness, gluttony, and cruelty of the Israelites during all that forty-year period with such density of population. Not only could they not bind themselves by and interpret the law expressly, they also among themselves, opposed each other with quite a bit of contention and quarrels.

It is easy to learn about this matter from the Scriptural account, which says: *Now Jethro, the father-in-law of Moses, came to*

him, and saw him seated during the whole day and the people standing before him from the morning to the evening on account of the intensive contentions and quarrels that they had against each other.<sup>40</sup> The blessed Moses did not pass sentence on people according to his mind and as he wished, but according to what he was instructed through divine revelation, as we learn from what his father-in-law asked him: *What is this thing that you are sitting alone while the whole people stand above you from morning till evening?*<sup>41</sup> He answered him fittingly: *Because the people come to me to beg God. Whenever they have a dispute, they come to me, and I made judgement between a man and his brother, and I show them the path of God /227/ and his decrees.*<sup>42</sup> At this point his father-in-law advised him in wisdom: *You will be made by God the people's teacher.*<sup>43</sup>

Based on what is said (above), all the legal cases brought before the blessed Moses were clearly beyond his mental power, and he would ask for God's instruction. As he was instructed by the divine revelation, thus would he sanction and judge. For example, it is clearly ordered in the Law by God that the one who works on the Sabbath would be killed. When someone was brought before the blessed Moses for collecting wood on the Sabbath, the latter did not sanction that he be immediately killed according to the command of the Law, but he asked God a second time concerning the man.<sup>44</sup> At the same time, Moses brought before God the matter of the son of the Israelite who insulted and reviled the name of God.<sup>45</sup> Also regarding the verdict of the daughters of Zelophehad, he asked for instruction from God, and the command over Zelophehad's daughters was that they spoke rightly.<sup>46</sup>

Long after the time of the blessed Moses, we notice that laws and sanctions were handed down from the hands of those men (=minor Judges), and that, along with judi-

cial power, they received the gift of prophecy. They were not able to judge by virtue of their mind, but were instructed by divine revelation, which they received in a hidden manner. Likewise, it is said about Deborah: *The prophetess, the wife of Lappidoth,*<sup>47</sup> *was judging Israel at that time,*<sup>48</sup> and also Samuel the blessed Prophet, following the divine knowledge that instructed him, *continued to judge and lead the Israelite people all the days of his life.*<sup>49</sup> Four hundred and fifty years after Moses, judgement proceeded in this manner over the people, but thereafter, kings were elected and ruled over the people. We find David, who greatly excelled in the divine knowledge, and after him we notice his son Solomon to whom clearly great wisdom was granted by God. His wisdom was so great and sublime /229/ that he spoke about all the created natures: beasts, creeping animals, flying creatures, fish, and about all kinds of trees, beginning with the cedars of Lebanon and down to the green plants that come out of the wall.<sup>50</sup>

Thus by means of such men as those (Judges), the sanctions and laws that the Church now holds and applies were transmitted to us as tradition and custom. And if they were <not> transmitted in writing, either because they were not recorded or because, if they were recorded, the written records have not survived, what is sure is that they reached us today as custom and tradition.

When I suggest that although these records may not have reached us, it is not that we could not receive many books without proof, for we find that many books were lost and destroyed at different times during seditions and captivities endured by the Jews, and they never came to light. This is what is written concerning Solomon who produced three thousand sayings and one thousand and five odes,<sup>51</sup> most of which never reached us. We no longer possess The Book of the Acts of the Kings of Isra-

el, although it is clearly mentioned in the Scriptures. The Treaty of the Kings and the Commentary of Iddo the Prophet, along with other books known to have existed, are no longer found. I do not intend to show that these lost books contained sanctions and laws, but I spoke (above) to indicate that even though they had been written by the ancients, they did not reach us. Nonetheless, we say with certainty, that even if the laws were not transmitted to us in writing, we can know that what we possess was transmitted by the ancients and that they reached us.

It is not only from the ancestors that much of what we have was proceeded and transmitted, but also from after the advent of our Lord Christ, when churches were established in every place and the number of the believers increased everywhere. The grace of the (Holy) Spirit did not allow those believers to set aside the truth of the Church when trade lawsuits befell them, and when they had to conduct judgment with their brethren before corrupt judges, who are strangers (=non-Christians). On account of this, along with the distinct grace /231/ that our Lord gave and settled on those who believed in Him, He gave to many revelations and knowledge enabling them to identify just judgments though truthful examinations. The believers have no right, if they have dispute against members of their Faith, to declare it before a judge outside the Church. The blessed Paul clearly teaches us, saying: *If any of you has a dispute with another, do you dare to take it for judgment before the wicked ones and not before the holy ones?*<sup>52</sup>

That there also are in the Church virtuous men who have received such graces from the graceful Spirit, we can learn from the blessed Apostle who says: *To one (there is given) through the Spirit a message of wisdom.*<sup>53</sup> This sentence, the blessed Theodore (of Mopsuestia), the Interpreter of the Divine Scriptures, explains

as follows: The Word of Wisdom is a gift of the (divine) Grace, given to people who excel in the knowledge of human wisdom. If they are in a position to deliberate matters in which wise counsel is required, or if a listener is needed for lawsuits regarding any matter, or if they reflect about physical things, or if they wish to pass knowledge on to others— this grace bestows much benefit in such and other cases to those who are dependent on human wisdom. Solomon acquired it and excelled in judging and in wisdom-counselling, in such a way that his teachings were written down.

People like these lived during the days of the Apostles, and they used to make decisions in juridical cases that befell them. Ecclesiastical law was long under their control, as is our case, which is practiced today, being handed down as tradition. It proceeded from them and was passed down successively to us.

If anyone believes that these legal decisions are new, let him know that not only these, but also many other things heard in the ecclesiastical ministry, did not distinctively reach us through rules or books /233/ (made) by prophets and Apostles. Rather, just as we received them as a tradition, so we duly apply them, knowing that those who accepted and organized them were not simple people, but were people who attained them through the revelation of the Spirit. I say this as proof: when believers depart from this world, they are honoured by prayer and service. This is not written in any book. But we know that this (practice) is not sought and invented by simple people, but was transmitted by people who learned, through the Spirit of God, the aim of the economy of our Lord. Although this practice is not written in our Lord's or the Apostles' teaching, it is known as a beautiful custom held in the Church, which has been carried on to this day. It is not a novelty, I mean, not foolishness concocted by the human mind.

The same is true of the rite of Baptism, that is standing on a sackcloth, undressing to the point of nakedness, being barefoot, stretching the hands, genuflection, and such other things. We have not received in writing that we should do likewise, but the blessed Interpreter (Theodore) said: This is a tradition passed down to us from earlier generations, namely, that we should do so with those who come forth for holy Baptism. We learned from the blessed Dionysius, a deacon during the days of the Apostles,<sup>54</sup> about honouring the dead and about this rite of Baptism; he said that he did not invent these practices out of his own mind, but wrote that they proceeded and were delivered to him in this way. We find many other practices, which while they were not delivered to us by the ancients in writing, they reached us by way of actions.

I made these statements so that you would not think that what I said is novelty, namely that laws and sanctions that are practiced today in the Church, even though they were not delivered to us in writing, they nonetheless are the same as those which were confirmed and delivered by the ancients, and which progressively arrived to us. We can clearly learn about this from the scriptures, as in the matter of Ananias /235/ and Sapphira (which) was revealed to Simon Peter;<sup>55</sup> and as the blessed Stephen and his companions who were selected to resolve the quarrel between Greeks and Jews concerning the service of the widows, and how with the assistance of the gift and the grace of the Spirit administered the matter as it fitted the truth.<sup>56</sup> Thus many other legal matters went before them, and they, through the same wisdom of the Holy Spirit, examined them and decided about them, and in the same way their tradition proceeded until it came to us.

Also, (the legal practices) are sometimes fulfilled differently, and the practice varies depending on the person, time, and the opinion and the mind of individual

church leaders, while in other places justice is applied in another way. This is not surprising, nor does it refute what we have said, since even the liturgical services in the Church underwent much change in some places and times, and it is not possible to think or to say that they have not been established by the Apostles through the grace of the (Holy) Spirit. And if the laws underwent some change, so much more did the other things!

Now I have spoken and written about this subject that fell upon me (to discuss), but if there is someone else who has an account newer than this, or he is more able to write and teach (about it), I have no objection.

#### BEGINNING OF ALL LAWS

§1

You wrote: From where is it known that if a man dies childless, but has a wife and a brother, his asset ought to go to his wife, not to his brother?

I reply to this: From the beginning, God created woman to help man, not only as an assistant, but also as a helper like himself; He made her one flesh with the man: *That is why a man leaves his father and mother and is united to his wife, and they become one flesh.*<sup>57</sup> Following the words of Scripture, woman was created for man, but the brother was not created for his brother. During their life (together), man and woman own a living place, and not only is their property common, but it also belongs to each other. During her lifetime, the woman's property is under the man's control, and therefore, /237/ it would be a flagrant injustice if during her lifetime, while her property is her husband's and she has no control over it, at the time of her husband's death he would will that her property should go to someone else other than his wife—if she has no sons.

If someone considers this matter diligently [...].<sup>58</sup> Leave the fact that she has



full control over her property at the time of her death. If he (husband) does not own sufficient property and possessions to support his wife and children, no one else is bound by his word—not in his life, nor in his death. This cannot be said of brothers, since not every time a brother complains that his brother would not provide him with food and support do we enforce him to respond to his need.

Now the husband is obliged to respond to the needs of his wife at all times, and the wife is required, as long as she lives, to serve and obey her husband. We understand this from the truth of the facts that husband and wife form one house and family, but the husband's brothers are from a different house and family. On account of this, the property of the husband who is childless but has brothers should be inherited by the wife and not by his brothers.

§2

You wrote: If a daughter gets married during her father's lifetime, and her father gives her something from his asset, but later he dies without writing a testament, does the daughter have share in her father's asset along with the other inheritors or not?

I reply to this: Once a daughter gets married, she is separated from her father and is in submission to her husband. If her father, while alive, made a promise to her to give her something and later on, through his promise, she receives a portion, with regard to her father's inheritance, she has no partnership whatsoever. This is clear to everyone and does not require much inquiry.

§3

Concerning this: If a man is about to die, does he have authority to deprive his wife from his asset because she would be married to another man?

I answer the following: The man has authority over his property, but in this world there are customs and laws that are held and are valid: it is not lawful that a man, at

the time of his death, /339/ leaves his wife without support. It is also not lawful that he gives (in his will) some of his property in alms and to other venues, except that, depending on the size of what he owns, he assigns to his wife sufficient support and gives it to her.

But I say another thing more important than this. Notwithstanding what your holiness wrote that the husband has authority to deprive his wife of his asset so that she would not marry another man, I truly say that she is partner in his entire asset, and (while) the Church wholly excludes adultery and debauchery, a second marriage is permissible by the Apostle.<sup>59</sup> I am aware that if a woman is without provision for remarriage, how many times, under the pressure of natural desire, is she drawn toward fornication which divine law wholly abhors! Therefore, a portion seems to me (appropriate) even if (her husband) is unwilling to give her the full share. It is blatantly unjust if he does not give her a portion of his property with which she can remarry. (Deprivation) is the cause of adultery and fornication for the woman, a matter that we occasionally face. Just as we sanctioned that sustenance and support should be given to her, so too we decreed that whatever share she can be provided with should be given to her if she decides to remarry. This also prevents her from bringing into the Church fornication, adultery, and impurity on the pretext of the lack of possessions. Pagan people do <not> make law concerning this matter because for them an adulterous and fornicating woman is not rejected,<sup>60</sup> but in the Church of Christ adultery and fornication are wholly banished. It is not proper to do injustice to the woman, and to achieve this issue, that (sanction) takes place.

§4

You wrote: A Christian husband has a partnership with his wife in his current and

future assets; if he does not have a partnership with her, (after he dies) what portion would she get from her husband's asset: great, small, or nothing?

My answer: Any husband lacking partnership with his wife in his asset, but providing her a portion from it for her sustenance—as the Church sanctions—this is enough for her. (After he dies) it is lawful, if she wishes, to remarry, but she does not get a full portion. /241/ If he makes an agreement with her, sharing with her his entire assets, then he has no right to make another agreement outside the one made with his wife.

§5

You wrote: A man who has a wife and sons, as well as daughters who, while he is alive, are married; some of the sons have wives and children, but others do not. Later on, this man, along with the sons who have wives and children, and the ones who are childless, are killed either in war or at king's order. Do the sons who have wives and children get a share from the assets of their father or not?

My answer: If the sons who have wives and children die before their father, the share of these fathers goes to their children.

If the (married sons) die <with> their father or not very long time after him, this enables them to inherit the assets of their father; (otherwise,) it is clear that they do not inherit anything. And if they do not receive anything, it is also clear that the shares of the inheritance go to no one else (among the children). Rather, one half of the assets of the father is due to his wife, and another half (is due) to the children and widows of his sons.

As for the daughters (of the deceased man), it is done as I wrote above (§2): if they are married, they have no part and no partnership (in their father's assets), unless their father, (while alive) or while he is

dying, signed an agreement with them, bequeathing something for them.<sup>61</sup>

§6

You wrote: A man divides his assets among his children, and while alive, one of his sons dies, having no wife and children, who inherits the asset of the deceased son?

My answer: All the asset of the son who dies while his father is alive was derived from his father, but if the son gathered it out of his own work, (in these cases all) goes to his father.

§7

You wrote: A husband has a partnership with his wife in his assets, and begets children from her, but later this wife dies; the man marries another woman and also from her he begets children, and then he dies without leaving wills. How to divide the assets between the sons of the wife who had partnership (in the assets) and the sons of the other woman?

(My answer:) It seems to me that this case ought to be decided as follows: /243/ the document signed by the husband for the first wife must be produced and the way she had a partnership with him (in the assets) must be known. If it is written: 'the assets that I have attained during my life will be yours and the children that I will have from you; you are my partners;' and if the wife departs from the world during the lifetime of her husband, her asset and share go back to her husband. After the father dies, the sons from the wife who had no partnership (in the assets) and those of the wife who had partnership divide the asset of their father equally. If an agreement was done with different terms, it ought to be decided and reckoned according to what is signed.<sup>62</sup>

§8

You wrote: A man has a mother and sisters; the mother (after the death of his father) and some of the sisters get married,

and the (unmarried) remainder are still alive. When the man dies, to whom is his asset due?

(My answer:) This is how it ought to be decided: A man who has no wife, children, and brothers, while he has a mother and sisters, his asset is not due to his sisters but to his mother.

§9

You wrote: A man owns much wealth and his brothers and sisters are poor. He has a wife, but he dies without writing a will. Despite the advice of the Church to give to those poor ones (some of the assets), his wife, willingly, does not want (to give). How does this case be solved?

My answer: If she will not be persuaded through advice and admonition on behalf of the poor (so as to help), it is not right to make against her any juridical decision.

§10

You wrote: A man says to his father: Divide your assets and give me the share that falls to me from your estate.

This is what I say: The father, as long as he remains alive, has the right not to give him any share. But if he has a child or a crippled son, who cannot live without the father's asset, the (father) is compelled under law to let him inherit from his asset.<sup>63</sup>

§11

On whether it is lawful for a member of the clergy to marry his slave, and if he marries her, if his sons through her are eligible for ecclesiastical ranks, I say:

If the member of the clergy does not free his slave, he has no right to marry her, because if he does not free her, (by marrying her) he would commit adultery with her. But /245/ if he marries her in legal matrimony, that woman would not be his slave.

On whether one born of a slave can be ordained by the Church, I answer: Any slave whose master does not give him a bill

of freedom, it is not right to admit him into any ecclesiastical rank, as is also written in the synods of the episcopal fathers. As for the (the slave) whom his master frees, according to the custom that runs in the Church, and depending on his education, age, and conduct, he is fit for episcopacy, to be accepted and honoured along with his other colleagues.

On this issue, it is wrong to write a ruling, as each case differs with every place and person. Nonetheless, that a slave should in no way be accepted into (a rank) in the Church is commanded by the early fathers.

§12

You asked: A man has a wife and children according to the law. Later on, the wife dies and he begets children from his slave, but eventually he dies without leaving a will. The slave-born children dispute with the free-born children over the assets of their father. What is right to do?

This is how it should be sanctioned: There is no mingling between the children of the slave and those of the free woman, as Scripture clearly states. The blessed Theodore (of Mopsuestia), in his Commentary on the Letter to the Romans,<sup>64</sup> elaborating on the verse: *the children of the flesh are not the children of God*, indicates that in the world (the rule) not only functions as explained above,<sup>65</sup> but also that one slave-born remains a slave and enslaved, unless his master grants him manumission.

§13

On the division of paternal inheritance among sons and daughters:

I say what is just: Half of the asset goes to the daughter from her father. Although the Scripture is unclear on this matter, it is evident that sons, not daughters, everywhere hold the inheritance of the parents. As sons receive a greater portion of the inheritance, a full share is given to the sons, and a half share goes to the daughters.

ters, for their household, provisions, and clothing.

But I have noticed that often when the daughter's asset is not /247/ sufficient for her sustenance and clothing and to be provided so as to get married, the ecclesiastical leaders have decided that the additional share be given to the daughter. They did this not without reason. For under no circumstances, does the Church permit adultery and fornication. Offering no room to such things on the pretext of deprivation,<sup>66</sup> it was thus judged and sanctioned, justly and compassionately.<sup>67</sup>

#### §14

You wrote: Is it lawful that an elder son, or a crippled one, or a monk, or one who is his brother's personal support, be given a greater part from his father's inheritance?

My answer: I have not seen in the Church an elder brother to whom a greater share is given. As for the crippled who cannot earn money in his support, if a share is not assigned to him with which he can live, an additional beneficial share should be given to him.

#### §15

You wrote: A dying man has a married sister, a mother, and brothers born of the (same) mother. Who inherits his assets?

This is my decision: What I said about the sister, this is what is done: A married sister is not given any share—we faced this issue twice or three times, and the early (Church) leaders did not issue any (relevant) sanction. It occurred in our days and this is how we decided, when many <quarrels> took place; we decreed that a sister already married has no share.

With regard to the mother: The Christian woman once her husband dies becomes a stranger within her husband's family, because her partnership with her husband is dissolved. Christians do not recognize kinship through these women,<sup>68</sup> as they lack

truth and their testimony is not accepted (in court). On this matter, even pagan judges rule thus: When the asset of the father is not distributed among the brothers, and while none of them has received for himself inheritance, and one of these brothers dies; because the asset is still common, they say, the inheritance (of the deceased brother) ought not be for the mother, but it goes to the brothers. As long as the asset is still in the family and their common inheritance is still undivided, the woman from the day /249/ her husband dies becomes a stranger both in her husband's family and toward (her) association with him.

But if the inheritance is already divided and one of the brothers dies while the mother is alive, all his asset goes to the mother. This is justified because his association with his brothers is ended. Thus his asset is no longer in the family, but it was his. And on account of the closeness of kinship, so it is said, the inheritance (of the deceased son) ought to go to his mother, because she is the closest to him.

In the Church, it seems to me generally that when the son dies, his asset is equally divided between his mother and his brothers. If this matter did not thus function until now,<sup>69</sup> it indeed does function now, because this matter is (not) confirmed by a judgment, but by consensus.

#### §16

A man or a woman dies without a will, and has no close kin except for a paternal uncle or a nephew: the inheritance ought to be mostly for the nephew.

A woman who departs from the world while she has a grandson from her son or from her daughter, or a brother: the inheritance ought to be mostly for the grandson from her son.<sup>70</sup>

#### §17

A man dies while he has a grandson from the daughter and<sup>71</sup> a nephew: the inheritance of asset ought to be for his grand-

son. Both boys are equal in terms of kinship, but in terms of generational succession, the grandson is the closer (of the two).<sup>72</sup>

§18

A man departs from the world having a son who is not of his religion. The tradition in the world runs as follows: the one who shifts from paganism to another religion is not given a share from his father's inheritance, and the Law of Moses too sanctions the death penalty upon those who serve idolatry and iniquity. Just as the son of a pagan man who converts to Christianity is not given from his father's inheritance, so too the son of a Christian man who converts to another religion ought not to be given a share from his father's asset.

Concerning this matter, I know of no other explanation to bring and compare it with.

§19

A man dies having a wife and sons who are not from this woman, and before dividing the asset the wife<sup>73</sup> /251/ dies without a will. Because the wife whose husband dies becomes a stranger within the family of her husband, she gets whatever reached her while she was still under his authority. This same asset that befell her from her husband ought to be for her closest in kinship if she lacks children.<sup>74</sup>

§20

A man entrusted his young children to the care of another man at the time of his death, and then the man under whose care they were entrusted was also dying, and he appointed another man in support of those children. I realize that the leaders must not leave without investigation the affair of entrusted children, but rather they must constantly show care, concern, and diligence toward them.

Also I saw that it is decided in the canons and laws of the late Ishu'yahb the Catholicos, and thus written in the synods of

the ancient, concerning monks, that it is not lawful for a monk to take money from someone else, and to engage in trade and profiting unless it is permitted by a bishop for the sake of orphans.

But if a dying man entrusts the care of his children to another man, and this man surrenders the care to another man, this is not prohibited by the ecclesiastical canons. Nonetheless, the leaders of the Church ought to show diligence over the property of orphans and children so that it is not scattered and wasted. If the first guardian establishes another one (in his stead) and if the latter dies, the leaders of the Church ought to follow closely the matter. If the children have a close relative, let the affair be entrusted to him. But if someone like him cannot be found whatsoever, a guardian ought to be established. In any case, the leaders of the Church must be diligent not to leave orphans and children without a guardian and manager.

§21

A man gives something from his asset with a deed to his son, but since the man did not sign the deed to show if he gave it as his personal property, or if the son took it to solely benefit (from it), the remainder of the asset, (the value of which) is unknown, belongs to his father.

§22

A man dies while he has a mother, and a brother or a sister, and having no wife, he has children only /253/ from his slave. His estate belongs to his relatives, for his children from the slave have no inheritance, unless their father considers them as his (free) children. If they are still young or suffer from a handicap, and are unable to earn money for their own support, they ought to be given some share from whatever their begetter has.

With the help of our Lord, the judgments written by Mār Simeon, the Archbishop of Rew-Ardashir, are completed.

## NOTES

<sup>1</sup> J.S. Assemanus, *Bibliotheca Orientalis*, vol. III/1 (Rome: Typis Sacrae Congregationis de Propaganda Fide, 1728), §192, p. 279. ‘Abd-Īšō’ of Nisibis was himself the author of a “Collection of Synodical laws” to which, sometime later, he added the “Order of church laws;” on this Collection see A. May, *Scriptorum Veterum Nova Collectio* X (Rome, 1838), and on the Order see J. Vosté, *Ordo iudiciorum ecclesiasticorum*, FCCO II, XV (The Vatican City: Typis Polyglottis Vaticanis, 1940).

<sup>2</sup> J. M. Fiey, « Diocèses syriens orientaux du Golfe persique, » in *Mémorial Gabriel Khuri-Sarkis* (Louvain, 1989), 177-218 (repr. J. M. Fiey, *Communautés syriaques en Iran et Iraq* (London: Variorum, 1989), #2).

<sup>3</sup> R. Duval, *Īšo’yahb patriarcha III: Liber Epistularum*, CSCO 11-12, SS 11-12 (Paris: E Typographeo Reipublicae, 1904-5), successively 247-255, 256-260, 260-283 (Syriac), 179-184, 185-188, 188-204 (translation).

<sup>4</sup> J. B. Chabot, *Synodicon orientale ou recueil de synodes nestoriens* (Paris, 1902), p. 36 (Syriac), p. 275 (translation).

<sup>5</sup> Ibid., p. 43 (Syriac), p. 285 (translation).

<sup>6</sup> A. Harrak, *The Chronicle of Zuqnān I-II* (Piscataway, NJ: Gorgias Press, 2017), 354-361.

<sup>7</sup> The code is translated by Chabot, *Snodicon*, 424-451.

<sup>8</sup> Currently in Iraq this rule is still applicable among the Christians but they attribute this tradition to Islamic laws not to Church law!

<sup>9</sup> [http://digi.vatlib.it/view/MSS\\_Borg.sir.81](http://digi.vatlib.it/view/MSS_Borg.sir.81). This manuscript does not contain a date but it is probably a 19<sup>th</sup> century copy of Alqosh 169; Lucas van Rompay, “Synodicon Orientale,” in *Encyclopedia Dictionary of the Syriac Heritage* (Piscataway, NJ: Gorgias Press, 2011), 388.

<sup>10</sup> The Syriac text is in Sachau’s *Syrische Rechtsbücher*, vol. III (Berlin: von Georg Reimer, 1914), pp. 209-253 (all odd numbers) and the German translation is on pp. 207-252 (all even numbers). We follow Sachau’s excellent editorial notes, both in footnotes and in his *Anmerkungen* in pp. 347-362.

<sup>11</sup> [http://digi.vatlib.it/view/MSS\\_Vat.ar.153](http://digi.vatlib.it/view/MSS_Vat.ar.153).

<sup>12</sup> The familiar term refers to monks.

<sup>13</sup> This toponym refers to modern Qatar and other territories of the Gulf as well.

<sup>14</sup> Ms. ܐܬܚܐܒܐ: This puzzled Sachau who also wondered if it was not ܐܬܚܐܒܐ, Greek σκηπτρον, but in this case the translator could not use ܐܬܚܐܒܐ?

<sup>15</sup> 2 Corinthians 2:15.

<sup>16</sup> Matthew 5:28.

<sup>17</sup> Matthew 5:22.

<sup>18</sup> ܐܬܚܐܒܐ: Lit. “he extirpated from the middle,” an infrequent expression.

<sup>19</sup> Matthew 5:33.

<sup>20</sup> Ms ܐܬܚܐܒܐ instead of ܐܬܚܐܒܐ.

<sup>21</sup> ܐܬܚܐܒܐ is possibly a corruption of ܐܬܚܐܒܐ “solicitude for.”

<sup>22</sup> Matthew 6:21.

<sup>23</sup> Matthew 5: 40, 39.

<sup>24</sup> Romans 12:19.

<sup>25</sup> Luke 12:33 (paraphrased).

<sup>26</sup> Matthew 18:15.

<sup>27</sup> Matthew 18:17.

<sup>28</sup> Matthew 3:2.

<sup>29</sup> Matthew 10:9.

<sup>30</sup> Exodus 21:1.

<sup>31</sup> Leviticus 25:23.

<sup>32</sup> Hebrew 9:10.

<sup>33</sup> See Leviticus 25:13, 31.

<sup>34</sup> The title is not in the text but is necessary. In this long discussion about the origins of the legal system in the Church of the East, as well as in the list of legal questions, except for §11 and §18, the author does not refer to the ecclesiastical synods; these discuss a variety of legal cases throughout several centuries; see also Sachau p. 348.

<sup>35</sup> The hybrid term ܐܬܚܐܒܐ ought to be ܐܬܚܐܒܐ, a partial transliteration of the Greek adjective ἀρχέτυπος, the noun being ἀρχέτυπον. The term occurs in Dionysius the Areopagite but not in the sense given by Simeon of Rev-Ardashir. On the term in Dionysius see C.E. Rolt, *Dionysius the Areopagite: On the Divine Names and the Mystical Theology* (London: Macmillan, 1920), p. 72 et passim.

<sup>36</sup> 1 Kings 18.

<sup>37</sup> Probable reference to ordeal by fire, an ancient judicial practice, not limited to the Greek culture.

<sup>38</sup> Exodus 12:3; Numbers 1:45.

<sup>39</sup> One version: ‘six thousand’.

<sup>40</sup> Exodus 18:1, 13.

<sup>41</sup> Exodus 18:14.

<sup>42</sup> Exodus 18:14-15.

<sup>43</sup> Exodus 18:19.

<sup>44</sup> Numbers 15:32-36.

<sup>45</sup> Leviticus 24: 10-12.

<sup>46</sup> Cf. Numbers 27:1-7

<sup>47</sup> Written 'Lappidōr'—*dōlat* and *rīš* are often confused with each other.

<sup>48</sup> Judges 4:4.

<sup>49</sup> 1 Samuel 7:15.

<sup>50</sup> 1 Kings 5:13.

<sup>51</sup> 1 Kings 5:12.

<sup>52</sup> 1 Corinthians 6:1.

<sup>53</sup> 1 Corinthians 12:8.

<sup>54</sup> Dionysius the Areopagite; see Acts 17:34

<sup>55</sup> Acts 5:1-6.

<sup>56</sup> Cf. Acts 6:1-7

<sup>57</sup> Genesis 1:24.

<sup>58</sup> Sachau suggested to fill the gap as follows: "man findet, dass der Ehemann zwar der Verwalter der Habe seiner Gemahlin ist, sie aber die Eigentümerin, dass daher seine Verwaltung ihrer Habe gewissen Beschränkungen unterliegt "one finds that the husband, although he is the administrator of the property of his wife, is but the owner, and that therefore his administration of her possessions is certainly subjected to restrictions." This reconstruction makes sense within the general discussion of this first legal question.

<sup>59</sup> Romans 7:3; I Corinthians 7:39.

<sup>60</sup> For Sachau, the term "pagan" refers to Zoroastrians but noticed that for Mazdeism adultery was a sin; Sachau p. 236. Nonetheless, Simeon possibly refers to paganism in general which is considered immoral in any case. Jacob of Sarug, commenting on the statue which Nebuchadnezzar established to be worshipped by people as an opportunity to commit fornication; *Homiliae Selectae Mar-Jacobi Sarugensis* edited by Paul Bedjan (Paris-Leipzig, 1902, 2<sup>nd</sup> ed. Piscataway: Gorgias Press, 2006), vol. 2, p. 103.

<sup>61</sup> This clause is translated unto Arabic, but the disturbed content is reported here as in Sachau, pp. 353-54: *شمعون الفارسي*: إذا كان لانسان بنون وبنات مزوجات والبنون منهم من له نساء وأولاد ومنهم من ليس له واتفق لهذا وأولاده الذين لهم أولاد والذين ليس لهم أولاد قتلوا في حرب فهم المقتلين ولهم أولاد ونساء لنسائهم وأولادهم ان قتلوا بعد أبيهم أو معه وان قتلوا قبله *"Simeon of Persia: If a man has sons and married*

daughters, and if some of the sons have wives and children, while others have not; it happened that this man and his children, both who have children and those who are childless, are killed in a war, the killed ones having children and wives [their share goes] to their wives and children if the (sons) are killed after or with their father. If they are killed before him (=their father), their estate are for their children. And those (sons) who do not have children, there is nothing..."

<sup>62</sup> Arabic text in Sachau, p. 355: *شمعون الفارسي*: إذا اختلط مال الرجل والمرأة وان له منها أولاد وماتت وتزوج باخرى وأولدها ومات بغير وصية إذا ظهرت الموافقة بينه وبين الزوجة الأولى وان مالها وأولادها له وان ماتت يعود مالها الى زوجها وإذا تزوج باخرى ومات اقتسم *"Simeon of Persia: If the estate of the husband and wife is common, if he has children from her and then she died, and if he married another woman and begot children from her and then he died without writing a will, when the agreement between him and the first wife shows that her estate and children are his, if she dies, her possession returns to her husband. If he marries another woman and she dies, they divide ..."*

<sup>63</sup> Arabic text in Sachau, p. 356 does not reflect exactly the Syriac original: *شمعون* إذا التمسست الزوجة أو الابن سهما في حياة الزوج والاب فلهما الا يدفع (فله الا يدفع؟) اليهما فإذا كان في وقت موته له سلطان ان لا يدفع اليهما فكم أولى في حيوته وان كان للانسان ولد هو صبي رمن ولا حياة له الا من مال ابيهم فلا يجوز ان يمنعه ميراثه *"Simeon: If the wife or the son requested an inheritance during the lifetime of the husband and father, they are (for: he is) able not give to both of them. If he has authority not to give them at the time of his death, how much more does he have during his lifetime. But if the man has a child who is either young or chronically ill and cannot live without the state of his father, the latter cannot refuse his inheritance to him."*

<sup>64</sup> Romans 9:8.

<sup>65</sup> Ms. "thus," means "no mingling between the children of the slave and those of the free woman."

<sup>66</sup> See also §3.

<sup>67</sup> Arabic text in Sachau, p. 357: *شمعون* يرى ان تزاح علة البنات في حاجاتها وجهازها وتفضل على *"Simeon* الابن حتى لا تحتاج ان تتخطأ الى غير واجب believes that the need of the daughter should

be fulfilled in terms of her necessities and clothing. She should be preferred over boys so that she would not need to take unduly steps.”

<sup>68</sup> Unlike in Judaism.

<sup>69</sup> This phrase is repeated twice.

<sup>70</sup> Arabic text in Sachau, p. 359: شمعون ان مات انسان ولا قريب له الا ابن عم وابن خال فميراثه لابن العم وبالجمله اذا مات الانسان بلا وصية فميراثه لاولاده وان لم يكن له اولاد تقسم تركته ثلثة اسهم سهم منها لبيت الله وسهم للزوجة وسهم لاهله فان منع زوجته في الوصية Simeon: If a man dies with no close relative except for a cousin from the father's side and a cousin from the mother side, his inheritance belongs to his cousin from the father's side. In general, if a man dies without a will, his inheritance goes to his sons and if he does not have sons his estate must be divided into three shares: one share for the church, one share for the wife, and one share for his relatives. If he deprives his wife from inheritance in his will, his will not be accepted.”

<sup>71</sup> Written “or”.

<sup>72</sup> Arabic text in Sachau, p. 359: شمعون الفارسي رجل مات وخلف ابن بنت وابن اخ الميراث لابن البنت وان ماتت امرأة وخلفت بن بنت وابن ابن وابن اخ Simeon the Persian: If a man dies leaving the son of (his) daughter and the son of (his) brother, the inheritance goes to the son of (his) daughter. If a woman dies leaving the son of (her) daughter, and the son of (her) son, and the son of (her) brother, inheritance goes to the son of (her) son.”

<sup>73</sup> This phrase is repeated almost identically.

<sup>74</sup> Arabic text in Sachau, p. 360: شمعون الفارسي امرأة بموت زوجها وله اولاد لا منها وقيل ان تقسم التركة تموت المرأة بغير وصية فانها لموت زوجها غريبة من قبيلة زوجها وما بخصتها من زوجها ان لم يكن لها اولاد Simeon the Persian: A woman whose husband dies having children not from her. Before dividing the asset the woman dies without a will. Because the wife whose husband dies becomes stranger within the family of her husband, her property is from husband, and if she does not have children, the property goes to her relatives.”



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## A CHRISTIAN ICON RESCUED FROM WAR



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### WAR AGAINST CULTURE

Iraq has become a country where everything is threatened, not only the people, but also the monuments. The most regrettable loss is the monastery of Mar Behnam, near Mosul, a unique monument of Christian art from the twelfth century<sup>1</sup>. Barbarious hands have blown up the 6<sup>th</sup> century martyrion, and in the monastery, the sublime carvings on the marble door lintels are all broken and hammered away beyond possible restoration. The fate of the old churches of Mosul and the monuments of the Atabeg and Jalili periods is not yet known. Despite this gloomy cultural scenario, some rare paintings miraculously survived the barbarism.

The small church built over the shrine of Saint Barbara in Kermeleys<sup>2</sup> (fig. 1) was completely ruined, all the statues broken, even the gravestone of the saint, but after cleaning up a huge pile of rubbish, deep under the dust, an old painting of the saint was rediscovered. The painting is very damaged, without the frame, but the painted theme could still be recognized. It was the only painting that survived, probably because it represents the beheading of the saint, by a brute executioner who is depict-

ed turning his sword above his head, ready for the blow. The modern executioners might have recognized themselves in the representation. This painting was brought to Erbil for restoration, but other paintings have been lost, due either to neglect or lack of respect or understanding by their owners. Already in the years long before the invasion of Mosul and the Plain of Nineveh by the Islamic State, the local Christians did not appreciate their own art works; if something became old, it could not be restored and was thrown away. This was unfortunately the general situation among the Christians in the years 1950-1970.

### THE ICON OF TELESQOF

Around the year 1980, a student of the Chaldean seminary on vacation in his village, Telesqof<sup>3</sup>, accidentally found a small piece of wood amongst rubbish. Though the wood was all black from the dust, the student had the foresight to bring it to the seminary for inspection. It seemed to be only a part of a larger piece, about half of a painting on canvas attached to wood. He went back to the village and was able to find the other part, and putting them together and restoring the whole, the out-

come was a lovely small icon painting (about 50 by 35 cm in size). Although very damaged, one could recognize the representation of the Virgin Mary seated with the child Jesus (fig. 2), under the presence of the Holy Trinity in a cloud, and flanked on both sides by two martyrs, each holding his own head in his hands. Fortunately, after the occupation of the village by the Islamic State in 2014, this painting survived and it is in the possession of the Church of Telesqof where it is now found.<sup>4</sup>

At a closer look, the painting of Telesqof seemed to be Armenian, given the cylindrical towers on both sides of the cloud, the facial features of the holy personalities, and of course the Armenian inscription above the head of John the Baptist. In fact, a very similar painting is kept in the museum of Edzmiadzin<sup>5</sup>, and several details of the picture appear also on Armenian paintings from the 18<sup>th</sup>-19<sup>th</sup> centuries. The two saints on the Telesqof painting represent Saint James the Intercis (fig. 3) on the left and John the Baptist on the right side of Our Lady. Both have their names written on top of them in clumsy Arabic, but John the Baptist has a small scroll over his head, which contains a beautiful Armenian inscription which reads: "A voice calling in the desert ...". Very likely this painting was made towards the end of the 19<sup>th</sup> century for the church of the village which was dedicated to Jacob the Intercis, probably at the moment when an extension was added to the original church, a second nave that was dedicated to John the Baptist.

The figure of John the Baptist in the painting (fig. 4), dressed in a simple brown tunic, holding a stick in his right hand, resembles a painting of the same saint on a canvas in Telkef<sup>6</sup> (fig. 5), a village about 10 km to the south of Telesqof. In 1970, this large painting, together with another, representing the martyrdom of Saint Stephen, was rolled up under the roof of a church waiting to be thrown away. Both

paintings were very damaged, the St. John had more than thirty holes in it, and the face had already been repainted several times. Fortunately, the priest allowed for a restoration and these paintings were saved and again hung up in the church. Actually, they have been transferred to Zakho (north of Iraq) before the invasion of Telkef by the Islamic State. Unfortunately, other paintings were not as lucky, for some had already disappeared while others were partially damaged. A St. Giwargis (St. George) in the Church of Mar Esha'ya, and another in the church of Mar Giwargis, both in downtown Mosul, had disappeared in the 1960s. A smaller one discovered among a collection of thirty paintings in the old Chaldean bishopric of Mosul, was destroyed in the explosion of the new Chaldean bishopric in 2004<sup>7</sup>. A large wonderful painting with St. George on his horse, kept in the convent of Mar Giwargis (Mosul), was for the most part ruined by a devotee who put her candle too close to the painting, so that even St. George was not able to extinguish it in time.

A close examination of all the aforementioned paintings shows the hand of the same artist, and thus they go back in one way or another to the same painter, an Armenian who was working for the Chaldean churches around the year 1880<sup>8</sup>.

The key to explain the origins of all paintings mentioned above is none other than the small icon of Telesqof. When one tackles these "Chaldean" paintings, one would ultimately ask the question: how could such a painter who seemed to know the old orthodox icon traditions be Chaldean, because nothing is known about Chaldean artists being trained as icon-painters. The Telesqof icon is the answer: the painter was Armenian not Chaldean. But one would also wonder how could an Armenian be allowed to paint for more than six Chaldean churches in the Mosul region. It is evident that the painter had met the expectations of

those believers, who had a great reverence for their local saints. They must have liked his paintings which were close to their own popular veneration. What a difference between this high regard to art at the end of the 19<sup>th</sup> century and the indifference toward it in the mid-twentieth century. The only exception is Mgr. Suleiman as-Sayigh, who as bishop of Mosul had collected many paintings belonging to his diocese into his bishopric (between 1945 and 1962), probably for the purpose of restoration.

### AN ARMENIAN ARTIST FROM MARDIN

A question remains: from where did the Armenian painter come? Did he belong to the Armenian community in Mosul, or could his roots be traced back to further remote places?

In the Chaldean church of Mardin, dedicated to St. Hormizd the martyr, some large paintings are carefully kept, and recently restored, and in some the same hand of the Mosul painter can be recognized and detected. The faces and the hands are very similar in all these paintings. Here also the local saints are represented: Mar Hormizd, in Armenian dress, next to Mar Pethion, the saint of the Chaldean Diarbakr church, in a Latin chasuble (fig. 6), dated 1823; the Forty Martyrs at the moment when the soldier takes the place of the one who leaves (fig. 7); the child Quriacos (Cyriacus) on top of the scenes of the martyrdom of his mother Julietta (fig. 8). On this canvas, the representation of the Holy Trinity appearing in a half circle cloud, is very similar to the one on the icon of Telesqof. But also in other churches of the city, his paintings are kept: in the Orthodox church of the Forty Martyrs and Mar Behnam, the crucifixion tableau is very peculiar. It is rich with theological meaning and the persons are represented in the attitude of medita-

tion. But it contains Armenian letters in the title and on the arms of the cross, and next to the skull, at the foot of the cross, there is a monogram which reads "Baptist" (not Stephen)<sup>9</sup>. Here hangs also the great canvas of the Forty Martyrs and Mar Behnam, and some Madonnas which might be from his hand, but they all have undergone drastic restorations. The most impressive painting hangs next to the Royal Doors and represents the martyrdom of St. Stephen (fig. 7). This painting shows clearly the same hand that painted that scene in the Chaldean village of Telkef, with a similar king on his throne and a copy of the executioners' faces and attitudes. A very large painting in the abandoned Armenian Orthodox church representing a local saint and his sister might be from his hand too. But in the Catholic Armenian church hang his most neglected old paintings dating back to the 1820s. They all show traces of his youthful hands. Among them also is a representation of the Stoning of St. Stephen, not with reminiscences of the Telkef one, but with the vision of the Holy Trinity, just like that of Telesqof's canvas, and even with the cylindrical church towers on the incensory of the martyr deacon. Even further in the Orthodox church of Our Lady in Diarbakr, some of the well-kept paintings could go back to the same artist, or to someone working close to him. One should keep in mind that the paintings kept in the Orthodox churches have all been restored, probably in the same workshop, and are kept in a splendid way.

### CONCLUSION

According to the dated paintings from the 1820s in the Mardin region, and from the 1880s in the Mosul environment, one could propose the following: a young Armenian artist from Mardin, acquainted with the traditional Armenian manner of painting,

had been working there for his churches, the Catholic as well as the Orthodox, and he was so good that he was asked also by the Chaldeans and the Syrian Orthodox to decorate their churches with his tableaux. This shows something about the ecumenical spirit among those churches at that time. Later on, when the Ottoman persecutions of the Christian communities gradually increased, with the ravages of 1860-1915, some Armenians left the dangerous country for the safer region of Mosul, where a sizable Armenian community was constituted. His three paintings of the Stoning of St. Stephen trace in a visible way this evolution, first in the Armenian church

of Mardin (around 1820; fig. 9), then in the Syrian Orthodox (dated 1850; fig. 7) and finally in the Chaldean Telkef village (around 1880).

The small icon of Telesqof tells us something about an ecumenically minded painter, who could adapt himself to the needs of several denominations, and represent their beloved saints and scenes of the life of Christ that were especially precious for them. Interestingly he was impressed by the martyrs, probably because he himself lived in a period of horrible martyrdom for all those churches in the region. Unfortunately, history repeats itself till today.



▼ Fig. 2

▲ Fig. 1







◀ Fig. 3

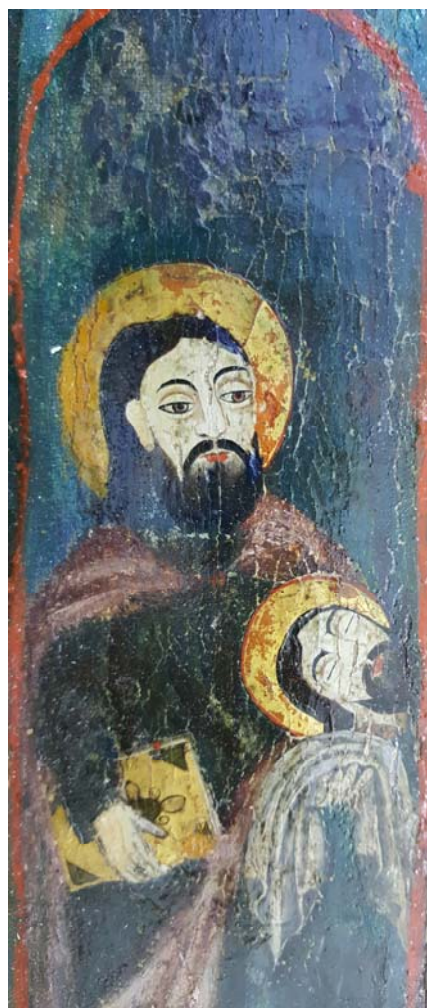


Fig. 4 ▶

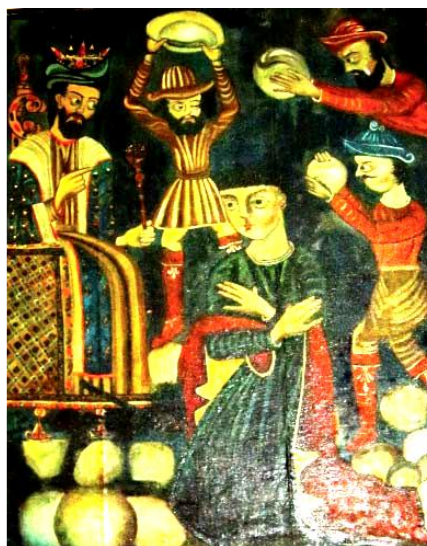


Fig. 5 ▶



Fig. 6



Fig. 8



Fig. 7



Fig. 9



## NOTES

<sup>1</sup> See A. Harrak, *L'art au service de la foi : Le Monastère de Mār-Behnām à la période atabeg* (Paris: Société des études syriennes, 2017); forthcoming.

<sup>2</sup> Karamlēs is a Christian town located between the Tigris and the Upper Zāb, some 15 km south-east of Mosul. The church of St. Barbara is built on the top of an ancient Assyrian tell, and contained a coffin of the 3<sup>rd</sup> century martyr in the shape of a sarcophagus. The origin of the church is unknown, but in 1764 it was rebuilt by the Catholics as one of their first churches. It was completely renovated some 10 years ago. On the town and St. Barbara see J. M. Fiey, *Assyrie Chrétienne*, II (Beyrouth 1965), 412.

<sup>3</sup> Telesqof is a large Chaldean village, located some 10 km north-east of Mosul, and St. James to whose name the church is dedicated is James the Dismembered. This holy man was martyred in the second year of the reign of Bahram V (421-439). His passion appears in the oldest manuscripts and was translated in Armenian and other languages; see P. Devos, "Le dossier hagiographique de S. Jacques l'Intercis," in: *AB* 71, (1953) 157-210; *AB* 72 (1954), 213-256.

<sup>4</sup> The photographs of the icon were taken by Amir Harrak in May 2017. All other photographs in this article were taken by the author.

<sup>5</sup> *Treasures of Etchmiadzin*, 1984 (Unknown Armenian painter, Virgin with St. Hakbos and St. Nahapet, 1771); cf. O. Avedissian, *Peintres et sculpteurs arméniens du XIX s. à nos jours* (Le Caire 1959).

<sup>6</sup> Telkef is mostly Chaldean and its Aramaic name "Mound of stones", derives from the archaeological Tell beside which the town lies. It may be that the painting of "St. Stephen, with a heap of stones" was inspired by that name.

<sup>7</sup> This new bishopric was built by the late Bishop Garmo in front of the church of al-Tahra (the Virgin Mary) in Mosul. While the bishopric was destroyed, one would hope that the magnificent church of al-Tahra, the only complete building of the Jalili period (mid-18<sup>th</sup> century), is kept intact.

<sup>8</sup> The year 1889 appears on the scroll which John the Baptist holds in his hand on the Telkef canvas.

<sup>9</sup> It could be an abbreviation of the painter's name, but more probably it is an identity stamp of the restorer's workshop, because the monogram appears only on canvasses in the Orthodox churches. This monogram at the bottom of the Crucifixion painting near the skull of Adam is Armenian Մկրտիչ *Mkrtich*, "Baptist". Dr. Arman Akopian of the University of Yerevan was kind enough to decipher this monogram and the inscription on the Telesqof icon.



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## SYRIAC CHANT AS MUSIC IN CULTURE: A NEW APPROACH\*



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This article stems from a combination of admiration and dissatisfaction relating to the study of what some sources call ‘Syriac music’, others ‘Syriac chant’, or a variety of names involving the liturgical and musical aspects of Syriac Christianity.<sup>1</sup> Despite appearing deceptively simple, Syriac chant has been a remarkably impenetrable musicological enterprise.<sup>2</sup> For musicologists who desire to connect the literature on the subject with the sounds they hear in church, the more one tries to understand this musical conundrum, the more fascinated one becomes with it as a dynamic, living musical tradition, but the more dissatisfying existing scholarship on the subject becomes. Being neither the first nor the only musician to find European musicological scholarship on the subject lacking in local representational value, I hope in this article to raise the issue within Syriac studies. The aim is to suggest new directions for studying Syriac chant that may be more connected to the tradition and its norms than they may be concerned with conforming to European musicological paradigms. The interdisciplinary alternative the argument proposes to existing musicological scholarship is directly informed by the chant’s particular

context, and will hopefully find resonance among liturgically and musically minded readers within the field of Syriac studies.

To put it in disciplinary terms, having attempted to study Syriac chant as a musicologist (i.e. using the intellectual tools of ‘Western’, historical musicology), I have concluded that, before we can achieve any realistically descriptive approximation of this complex musical enterprise we commonly call Syriac chant, we need to rethink our hermeneutical toolkit. While ‘we’ here includes, for the most part, those academics among us who have not been raised in the Suryani church but who are attempting to understand how this music works, it also includes Suryani men and women who are increasingly taking one of their most intimate cultural properties, their music, into the sanctuary of the academe, or more precisely, into Western academe.<sup>3</sup>

What I would like to have achieved by the end of this short article, then, is a form of intellectual stimulation. Without setting out to disqualify some two-hundred years of musicological scholarship, I would like to analyze – in scholarly terms, of course – my passionate dissatisfaction with, or perhaps my dissatisfied admiration of, available knowledge on Syriac chant and how its

music continues to be studied. I do so in the hope that in addressing a specialized audience for all things Syriac, such as the readership of *The Journal for the Canadian Society for Syriac Studies*, the quest to understand Syriac chant in ways different from those of traditional scholarship may gain currency, and that a contextual conversation may begin.

There are a number of ways in which to present the argument in musical-theoretical terms, and they involve much technical language appropriate for specialized musicological platforms. Therefore, rather than addressing questions of modal theory, problems of intervallic inconsistencies, and notoriously bottomless arguments concerning musical-theoretical details of Syriac (or neighbouring) types of modality (such as those in Arab and Turkish musics), the strategy for the purposes of this article is to demonstrate the centrality of other elements of Suryani musicality to the process of theorization. Scholars in music studies may like to speak about ‘the music itself’, but they also acknowledge the existence of a varied array of formative elements in any musical process. What may be conceived as extra-musical elements, are aspects of Suryani life and culture which are formative to the musical enterprise and central to understanding the essence of singing in the Suryani church. This choice belongs to an intellectual stance that perceives music as a cultural construct, and pursues a local hermeneutics in order to understand the local musical enterprise.<sup>4</sup>

### MUSIC BOOKS AS BOOKS ABOUT MUSIC

Besides early Syriac sources, namely Barhebraeus’s *Ethicon*, the earliest printed accounts on Syriac chant came from Europe and were written by French scholars. I will touch on two, the first of which was printed in Paris at the start of the nineteenth century,

and the second had to wait until after the First World War to be printed in Beirut. Central to both books are musical transcriptions, which the authors tell us they made of chants that local cantors sang for them. Although the former publication, an example of early-nineteenth-century scholarship on Syriac chant, displays problems common to early musicology, which subsequently have been largely addressed, it shares basic commonalities with the latter source. Those commonalities will be discussed in what follows to demonstrate the need for an altogether radically different approach to the subject. What is worth noting at this point is that the methodical issues those two sources display were not exclusive to them, nor to French musicology on Syriac chant. The problems that will be discussed below (or variations of them) apply to most published works on the subject, including some that have started to be produced by Suryani musicians from the Middle East since the second half of the twentieth century.

The earliest work we have from Europe on Syriac chant is Book 14 in *Description de l’Égypte* which Napoleon Bonaparte commissioned in preparation for his military campaign in Egypt. Guillaume-André Villoteau (1759-1839), a tenor who studied oriental languages at the Sorbonne and became a leader of the Opéra chorus after the Revolution, wrote the section on music. He reported on the music of the Syriac people (or ‘nation’ as he put it), the Armenians, the Copts, and the Jews, which he considered to be the minorities of the era. Beside the fact that Villoteau’s scholarship was not admired for long,<sup>5</sup> his account of Syriac music displays a number of errors, some of which have not left the musicological canon. A full explanation of the problems in Villoteau’s work falls beyond the scope of this article; suffice to say that the obscurity of his sources, the lack of key information and some basic linguistic misunderstand-

ings have led to an imagined binary system that was far from being accurate or adequately described.<sup>6</sup>

Fortunately, subsequent musicology was better informed on matters historical and textual. Later musicologists who went to Lebanon to study chant worked closely with philologists and local clergy, which allowed them to correct Villoteau's misunderstanding and offer an account that displayed greater accuracy, particularly on the linguistic aspect of poetry and meter. The result was the second publication on Syriac chant in French, a two-volume study that has been reprinted twice since its first issue in Beirut.<sup>7</sup> The 1925 publication was a collaborative effort mostly between two Benedictine monks, Jules Cécilien Jeannin (1866-1933) and Julien Puyade (1882-1914). *Mémoires Liturgiques Syriennes et Chaldéennes* came out in two volumes: the first was a liturgical introduction, *Introduction Liturgique*, and the second, *Introduction Musicale*, was a musical study that included transcriptions of over 900 pieces, most of them Bēt-Gāzō chants.<sup>8</sup>

There are a number of reasons for selecting these two sources as examples to discuss here. I will mention the following four, the relevance of which will emerge as the article progresses. First, both French scholars belonged to a European tradition in which historical-musicological encounters with the Levant were not rare but were considered. Second, French colonial interest in the region was growing throughout the nineteenth century and took the form of direct and military control at the turn of the twentieth century. Third, the Benedictine monks lived in Lebanon when they worked on their collection and were thus in direct contact with the Suryani people, which enhances the relevance of the next reason. Fourth, the work of French musicologists was, and remains, accessible in these francophone lands; and Jeannin's in particular is well known among Suryani musicolo-

gists. Another point worth making here is that a number of German musicologists have also written on Syriac chant later in the twentieth century, and, like their French counterparts, they too have relied heavily on musical transcriptions. However, if it exists, the influence of German scholarship is more difficult to ascertain in local circles, partly because of the lack of contact with Eastern churches in the area, but mostly because it is generally difficult to access in the francophone (and increasingly Anglophone) region.

While residing in the monastery of Charfē, Jeannin encountered many Suryani priests and monks whose singing he used to create his transcriptions, and whom he hoped might subsequently benefit from his book in terms of their learning and instruction. Interestingly, and even though his project was generously endowed by various sources at the time of publication,<sup>9</sup> Jeannin did not make use of the recording technology which, at the time, would have been commercially available in the form of the early phonograph. One cannot help wondering what a treasured source it could have been, had Jeannin deposited a few wax cylinders with the monks in Charfē. But he did not. Accordingly, we have a collection of transcriptions that we know was made thanks to a number of monks and chant students from the Catholic seminary at the monastery, but we have very little else to suggest anything about the sounds of these chants. We do know, however, that most of the cantors were pupils of the Patriarch Georges Shelhod, who had some years earlier established a reputation as a knowledgeable chant teacher at the seminary.<sup>10</sup> But besides this information, we must deduce the rest to discover at least from which regional schools the cantors came.<sup>11</sup> Given the variety of places in which Jeannin tells us Shelhod learned the chant, his influences are likely to have been mixed, which creates some confusion, giv-

en the significance of regional variety for chant experts. But this was not the only aspect in which Jeannin's account might not prove helpful to the modern-day reader.

I had seen Jeannin's book briefly on a visit with Bishop Youhanna Ibrahim in Aleppo in the early 2000s. But since the Aleppo edition had gone out of print, I searched for the book in libraries, and found it in a special collection in the Music Room at the Cambridge University Library. Holding the 1925 book like an historic artifact, I asked the librarian who delivered it on special request whether I should sit in a particular place to read it. He said, 'No. You can even take it home if you want' (the only thing that was needed was for an adhesive piece of paper to be fixed inside the book cover where a member of staff at the issue desk would stamp the due date). Acquired in 1926 and 1928, as the Library stamps indicated, Jeannin's heavy volumes had first been checked out some eight decades after publication. So far as my research has yielded, the transcriptions are not in use for chant instruction in Charf  or elsewhere in the Syrian Catholic church, and I have not observed them being used in the Syrian Orthodox or the Maronite contexts.<sup>12</sup> On the contrary, clerics and musicians who seem to know the book have found the musical transcriptions, as I have, of little representational value. In his book on Syriac music Ibrahim quotes Archdeacon Ni'matallah Danno criticizing them as "regrettably ill and rude."<sup>13</sup>

### A PROBLEM OF TEXTUALITY

Scholarship on Syriac chant continues to rely, just as Villoteau's and Jeannin's work did, on the meticulous production and intensive study of musical scores.<sup>14</sup> In this process, musicologists write the chants down, and then they study them. In other words, scholars study what they have written, which means, given the complex na-

ture of musical transcription and notation systems for microtonal types of music, that the musicologists effectively study the music they themselves write. As this is a musical tradition that has no known form of transcription into musical text, then any system of notation that does not emanate from it, and has not withstood the test of time and the trial of practice, will fall short of representing it fully. Therefore, creating a system that is based on a given set of transcriptions is necessarily confined to the limitations of these transcriptions and dictated by the choices their creators made in the process. For this reason, it is logical, and even natural, that all studies based on musical transcription display limitations, comprehensive and impressive as those studies may be (and normally are).<sup>15</sup>

In producing a written version of a large body of musical pieces which have been passed down from generation to generation via oral transmission (such as those the texts for which are found in the B t-G z ), scholarship that relies on transcription is attempting to turn this aural musical culture into musical text. Considering that Western scholarship has traditionally given primacy to the visual, exemplified by text as a sign of literacy and civilized knowledge, then the production of these musical texts is a form of cultural translation, or interpretation, which subscribes to the conception of culture as text.<sup>16</sup> Here, I would take Geertz's concept further and suggest that transcribing Syriac chant involves a form of cultural transformation.<sup>17</sup> Turning the sounds into symbols on paper emphasizes the visual at the expense of the aural, which is a dramatic alteration in this case, given the predominance of aurality as the primary mode of operation in the Syriac musical context. The fact that those texts have not gained practical currency in Suryani circles, even when they have been produced by local experts (e.g. Nouri Iskandar's two versions of the B t-G z ), is

highly indicative and must be borne in mind when studying this oral/aural musical culture.

Another level of complication is the persistent idea of a musical system.<sup>18</sup> Apart from Barhebraeus's instruction concerning good singing in the *Ethicon*, we have no written record in the west Syriac tradition containing musical instruction before the twentieth century (to my knowledge). Even Barhebraeus, be it by choice or for some other reason history may continue to conceal, makes no reference to the modal nature of church music in the sense of intervallic and scalar description. Most studies since, however, have either suggested a musical-theoretical system or employed neighbouring systems to describe a sample of melodies, and in many cases, have devised a composite system combining the two.<sup>19</sup> This analytical strategy has been problematic on many levels, but to adhere to the non-technical-musical aspects of this argument, I would mention cultural attribution as a case in point. I mentioned above that Villoteau came up with a binary system of categories for Syriac chant. In explaining his prescribed categories, he attributed them to Greece and Arabia, favouring the former, which, according to his view, was more refined and sophisticated compared to the rude character of the latter. Such speculative cultural attributions not only engender problematic conclusions, they also exemplify a teleological approach to the question of musical systems. While Villoteau's is one, admittedly crude, example, the Imperial envoy's system was not the only instance of teleological systematizations.

While decidedly not involving technical musical-theoretical detail in this article, reference must be made to one musical-theoretical concept briefly before moving on to the next point. The treatment of Syriac chant, particularly the problematic question of Syriac modality, in the earliest European

musicological studies, reveals issues of approach which relate to Orientalist musicology. Without discussing the issue of modality here, the discussion must touch on the question of Orientalism. As the eighteenth century dawned, European modernism and positivism looked eastwards in search of new material for knowledge. The hierarchies of power and knowledge in place at the time were not considered as the new intellectual approaches developed, but would emerge later as elements of colonialist and Orientalist discourses. The following section will discuss some implications of Orientalism in French musicology for Syriac chant (which by no means represents a comprehensive discussion of the issue or the literature).

### FRENCH ORIENTALIST MUSICOLOGY AND SYRIAC CHANT

French Orientalism is closely affiliated to French colonialism: both appeared as consequences of modernist France. Following the Enlightenment, France perceived herself as the leader of modernity and the epitome of civility.<sup>20</sup> French musicology, and particularly Orientalist musicology were no exception; to a large extent, musicology and its treatment of the Orient in France escaped fundamental challenges until very recently. Accordingly, the work of the musicologists who wrote on Syriac chant reflects many aspects of their training, which can be traced to the conception of French musicology as a product of the Enlightenment. The rationalism that emerged in Enlightenment France produced new traditions in the study of music, which were particularly evident in the production of encyclopaedias and dictionaries.<sup>21</sup> Equally significant were the aesthetic writings that considered music as an imitation of nature. During that period, a Benedictine monk, Philippe-Joseph Caffiaux produced in 1756 a seven-volume system-

atic history of music from pre-historic to contemporary times.<sup>22</sup> The Benedictine monks in the present article were certainly aware of Caffiaux's work, as they were of that of their encyclopedic and aesthete predecessors.<sup>23</sup>

By the end of the eighteenth century, modernist methods started in historical musical writings along with an interest in antiquity and the East.<sup>24</sup> In the first half of the nineteenth century, François-Joseph Fétis (1784-1871) competed for the European centre-stage with Raphael Kiesewetter, who had written the first and most comprehensive work on Arab music to date.<sup>25</sup> Despite Fétis's prominence, other musicologists, such as Adrien de La Fage (1805-1862), succeeded in drawing attention to ancient and oriental musical practices.<sup>26</sup> La Fage's focus on plainchant and the music of the Near East underlined the contemporary French interest in church music performance and chant, and established a tradition for these fields.<sup>27</sup> The musicologists whose work is mentioned here belonged to this scholarly climate: it situated the methodologies and contextualized the anthological nature of their work within an intellectual environment that sought encyclopaedic knowledge by various means, one of which involved looking to the East in search of information on the past. Additionally, most of the leading 'musicologists' until to the latter half of the nineteenth century were amateurs who earned their living as doctors, lawyers or civil servants.<sup>28</sup> This was another circumstance shared by the musicologists mentioned in the current article who were priests, teachers, and, as in the case of Julien Puyade, army officers.<sup>29</sup>

Evoking Orientalism calls for a brief note on Edward Said's theory<sup>30</sup> and two of its implications in the Suryani context, which are interconnected. One implication relates to the matter of textuality. Said writes: "It seems a common human failing to prefer the schematic authority of a text

to the disorientations of direct encounters with the human."<sup>31</sup> His disappointment with human nature may be justified in view of the textual orientation of European musicological analysis. However, there is more to this point, to which I will return in a moment. Another implication of Said's theory is the notion that local knowledge becomes determined by what the Orientalists prescribe. This notion applies in the sense that local scholars have indeed followed in the footsteps of their European predecessors (albeit with various degrees of strictness), despite the fact that they faced problems – even deadlocks – comparable to those the Western pioneers had encountered. On the other hand, what renders this notion limited in relation to Suryani chant is the fact that knowledge wrought by the European authors has found little currency with Suryani priests and cantors. The problem of accessibility, mentioned above, applies even in the French case as the writings remain in French and therefore are only accessible to the French-educated minority of Suryanis. What is more, even in cases where Suryani experts on chant gained access to European material, they did not make use of it in their practice and even criticized it at times as I also mentioned earlier. What was interesting as far as my observations recorded, however, is that 'Orientalists' continue to be a welcome presence in modern Suryani circles where the term has not been tainted by postcolonial theory; I cite the words of a Suryani scholar and community member as a case in point. In a personal conversation in Aleppo (2006), the late senior deacon Abrohom Nouro praised the work of Sebastian Brock in furthering Syriac scholarship, describing him, both in French and in Arabic, as *Orientaliste* and *mustashriq* (respectively). The human failing Said notes, then, becomes less universal when the scholar's efforts make an impact on the communities whose traditions

they study (textually or otherwise). The deeply impactful scholarship of Sebastian Brock (to continue to use Deacon Nouro's example) on the living traditions of the Syriac church was not only based on its academic and scholarly merits, but also on its recognition of the living and breathing nature of this textual material and of the people who carry it through continuous practice.

Without attempting diachronic cross-disciplinary comparisons, my aim here is to highlight finer nuance in the dynamics of textualizing orality with respect to the authority of music knowledge in the chant tradition. Non-deferential as it may be to the perceived authority of nineteenth- and twentieth-century European musicology on Syriac chant, this brief survey of two sources and their intellectual environment does not constitute a post-colonial critique of European musicology on Syriac chant either. The intent behind this argument, rather, is to convey a sense of context, which highlights a certain focus present in these studies on things that mattered to their scholarly discourses. A lack of focus is also revealed on things which matter to the Suryani people, those whose music has been the subject of study. No regular reader of this Journal needs reminders of what the Suryani people have endured during the decade or two either side of 1900. The musicologists themselves suffered too as they lost an essential member of their linguistic team in battle as the First World War broke out, so Jeannin tells us in the opening pages of the book. Yet, they make no mention of the traumatic events that those Suryanis whose oral tradition they were turning into written text were enduring, or of the fact that contemporaneous with the development of their musicological work, the Suryani existence was receiving such violent blows that shook its core and changed its history dramatically. It is in this sense that the imbalance of power, or to use a

theoretical concept, the question of hegemony, is most evident. It appeared in the musical product just as it did in the international relations between the peoples involved. Examining the intellectual premises of these studies, and those of the methodological trends they established in studying the Suryani sonorities, is therefore necessary before new directions may be suggested.

### A RADICALLY DIFFERENT APPROACH

The new approach this article suggests to Syriac chant would be to follow in the footsteps of Allan Merriam (1923-1980), a leading ethnomusicologist, whose approach to studying music with the help of anthropological methods was foundational in terms of what many scholars concerned with music do today. Merriam is best known for his book *The Anthropology of Music*,<sup>32</sup> in which he issued an invitation to approach all kinds of musics in all parts of the world by attempting to approximate local musics as accurately as possible within their respective contexts. In doing so, Merriam was building on the work of previous scholars, most significantly that of Bronislaw Malinowski (1884-1942), one of the most influential social anthropologists in the field, whose work is largely considered to be foundational to ethnographic research as we know it. As his thought developed during the latter half of the twentieth century, Merriam proposed that a fruitful approach to the study of music, be it (i.e. the music) Western or otherwise, would be concerned with studying 'music in culture'. Soon after, he modified this seminal proposition to 'the study of music as culture'. Those six words continue to serve as the least problematic explanation of the ever-evolving and fundamentally interdisciplinary field of ethnomusicology, a field that has evolved immensely since

the time of Merriam. But what else makes ethnomusicology relevant to Syriac chant?

Like its sister subfield of musicology, both of which fall under the larger disciplinary umbrella of ‘the study of music,’<sup>33</sup> ethnomusicology is frequently associated with non-Western cultures. While ‘ethnomusicology’ (an evolution from its hyphenated predecessor ‘ethno-musicology’) became recognized within the wider field in the 1950s, studying music in relation to culture was by no means a new invention at that point, nor was the consideration of culture restricted to non-Western contexts.<sup>34</sup> However, what ethnomusicologists have been keen to explore is the multitude of ways in which studying – and understanding – how any type of music interacts with the culture to which it belongs might develop. This, as many ethnomusicologists would stress, is best done through immersing themselves in the culture, in the same way that anthropologists do when they conduct ethnographic research. Accordingly, in the process of writing ethnographies about music, many ethnomusicologists would consider fieldwork to be one of the main features that distinguishes ethnomusicological research from its musicological counterpart. They understand fieldwork as a form of active immersion in, and daily involvement with, the lives and the musical practices (i.e. the culture) of the people whose music they want to study.

Constraints on scope do not allow the current discussion to demonstrate *how* ethnomusicological methods might be more fruitful, but having shown some of the limitations of traditional musicological methods, I will propose *why* an ethnomusicological perspective might be more appropriate for an aural tradition such as Syriac chant. One thing I have noticed in my attempt to try to make sense of existing literature in relation to what I was hearing in church as a musician and researcher, is that the for-

mer, no matter how large a sample it transcribes or how precise an analysis it produces, does not convey a real representation of the latter. What is more, the musical sounds of Syriac chant do not lend themselves to anatomical intervallic analyses, such as those traditional studies attempt. Chanting in the Suryani church is not a thing; it is something that happens. Syriac chant is not (only) a set of books, it is an occurrence in time and place; it is carried out by people with faith, experience, and active musical participation. Syriac chant is a musical event that people realize within a complex spiritual experience, which carries a great deal of historical significance. Accordingly, a fundamental methodological notion here would be the difference between music as object (score, recording, musical work, instrument, musical system) and music as process: in worship, as event; in communal participation, as social act; in dissemination through memory, as a dynamic and living musical enterprise; and in execution as deep and shared experience. Music here should be seen as an aspect of human life, which has a strongly reciprocal relationship with all aspects of social life: it is an expression of a people’s understanding of life, one that is continuously affected and changed by many things which make a people who they are, including history with its dramatic turns and steep valleys.<sup>35</sup> This is why the word ‘culture’ is strongly pertinent, ineffable as it may be.

In showing some limitations of a discourse based on the musical object, this article has submitted the necessity for a discourse grounded in the sonorities and accounting for their organic relationship with the living culture of this rich and complex tradition. It has made a case for considering a radically new approach to Syriac chant, which, approximately 200 years after the first European study appeared in print, invites a new consideration of Syriac chant as a living enterprise of



negotiable premises. This approach seeks a thick description of the music as part of that ‘complex whole’ known as culture, and considers it within its own history and set of complexities.<sup>36</sup> This is a deferential scholarly approach that aims to share the power of

knowledge with those who originally possess it, an outlook that stands to be corrected and revised in its pursuit of knowledge and understanding, and affords to ask, and to be asked, all the culturally-specific questions.

## NOTES

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<sup>1</sup> I prefer 'Syriac chant' for its simplicity and clarity: it consists of two uncontested terms. But I also use on occasion 'chanting in the Suryani church' for reasons that will become apparent at the end of this article.

<sup>2</sup> An earlier version of this article was presented as a paper, under the same title, at the Sixth North American Syriac Symposium "Syriac Encounters" at Duke University (26-29 June 2011). A previously published article shares some points with the current article; see Tala Jarjour "Syriac Chant at the Negotiation of Source and Method in the Two Music-'ologies'," *Yearbook for Traditional Music* 47 (2015) 45-63. Due recognition for that publication may be in order.

<sup>3</sup> The term 'Suryani' is the Arabic attributive denoting that which belongs to the Syriac language and liturgy. It is the most common appellation by which members of this church are known as a people in modern-day Syria (and much of its diaspora); the community uses this term when referring to itself and in reference to the church, language, and culture. As most of my research has taken place within this community, I prefer this local appellation. This choice also has the purpose of avoiding name complications, although by no means does it exclude those who prefer other terms (e.g. Assyrian, Aramean).

<sup>4</sup> On local hermeneutics, see G. Tomlinson, *Music in Renaissance Magic: Toward a History of Others* (Chicago: University of Chicago Press, 1993).

<sup>5</sup> J. Mongrédien and K. Ellis, "Villoteau, Guillaume André," in *Grove Music Online*, *Oxford Music Online* (2008): <http://www.oxfordmusiconline.com/subscriber/music/29399>.

<sup>6</sup> For more see Jarjour "Syriac Chant..."

<sup>7</sup> Subsequent prints came out of Dār-Mardīn, Aleppo in 1994, and Gorgias Press, New Jersey in 2009.

<sup>8</sup> The original edition does not show a publication date. Vol. 1 shows that the *Nihil obstat* was given in 1923, and the Catholic *Imprimatur* in 1924. Given the date of the book review by Gastoué in 1926, the date of the Cambridge University Library acquisition on the 1<sup>st</sup> September of the same year, and the time needed for transition between Europe and Beirut and the printing process, a publication date in 1925 is a plausible estimate for the first volume. The second volume might have appeared later as it was acquired by the Library in 1928.

<sup>9</sup> A. Gastoué, "Mélodies Liturgiques Syriennes et Chaldéennes by Dom Jeannin," *Revue de Musicologies* 7:18 (1926) 95-98.

<sup>10</sup> Shelhod was Patriarch from 1874 until his death in 1891, see J. C. Jeannin, *Mélodies Liturgiques Syriennes et Chaldéennes*. Vols 1,2 (Paris: Leroux, 1925).

<sup>11</sup> Ibrahim and Kiraz suggest the existence of six regional schools in the west Syriac tradition; G. Y., Ibrahim and G. Kiraz "Ephrem's *Madroshe* and the Syrian Orthodox *Bêt-Gāzō*: A Loose, But Fascinating, Affinity," *Hugoye* 2:1 (1999).

<sup>12</sup> I have been told recently that one Catholic priest in Iraq uses them to accompany church singing on the piano. Unfortunately I do not have the name of the said priest or his whereabouts.

<sup>13</sup> G. Y. Ibrahim, *Syriac Music* (Aleppo: Dār-Mardīn, 2003); in Arabic *al-Mūsīqā al-Suryāniyya*, p. 59.

<sup>14</sup> H. Husmann and P. Jeffery, "Syrian church music," in *Grove Music Online*. *Oxford Music Online* (2008): <http://www.oxfordmusiconline.com/subscriber/article/grove/music/27274>; L. Hage, *Recueil de Chants Syro-Maronites* (Kaslik, Liban: Université Saint-Esprit de Kaslik, 2001); N. Iskandar, in Ibrahim, *Syriac Music*; E. Kisrouani, *Le Bet-Gazo (Thesaurus) et L'Octoïchos Dans la Liturgie de L'Eglise Sévérienne* (Paris IV: Université de Paris-Sorbonne, 1989; unpublished), G. As'ad, *Syrian Music across History* (Qāmish-

lī, 1990; in Arabic *al-Mūsīqā al-Sūriyya 'ibr al-Tārīkh*).

<sup>15</sup> For more on textuality in the context of Syriac chant see Tala Jarjour, "Texting Musicality, Writing Sound," *Cambridge Literary Review* 6(10) (2017) 165-172.

<sup>16</sup> C. Geertz, *The Interpretation of Culture* (New York: Basic Books, 1973).

<sup>17</sup> Owing to the limited scope and the expressed purpose of this article, it does not problematize the concept of culture nor does it engage analytically with critical literature on the subject (such as the work of Clifford Geertz, James Clifford, and others does), which nonetheless does not suggest that it employs the concept of culture simplistically.

<sup>18</sup> All accounts, including Villoteau's, which comprised 16 notated pieces, suggest a musical system that governs the chant.

<sup>19</sup> In the case of Husmann, his system was predominantly borrowed from Gregorian chant, with some references to Middle-Eastern modality (see the New Grove entry on the subject revised by Husmann and Jeffery. "Syrian church music."); in the case of Iskandar, it was Arab and Turkish modal theory based on their various conventions concerning the measurement of the divisions of the tone, and in the case of As'ad, it was reconstructed ancient Mesopotamian scales.

<sup>20</sup> J. Pasler, "Race, Orientalism, and distinction in the wake of the 'Yellow Peril,'" *Western Music and its Others: Difference, Representation and Appropriation in Music*, ed. G. Born and D. Hesmondhalgh (Berkeley, CA: University of California Press, 2000), p. 86-118. This view was challenged throughout modernity, particularly in the wake of the cholera pandemic in 1832; P. Rabinow, *French Modern: Norms and Forms of the Social Environment* (Cambridge, MA: Massachusetts Institute of Technology, 1989).

<sup>21</sup> Most remarkable is the famous eighteenth-century great *Encyclopédie* of Diderot and D'Alembert, which included entries on music.

<sup>22</sup> Dates, names and historical facts on French musicology are found in J. Gribenski, "France," in Vincent Duckles *et al.*, "Musicology," *Grove Music Online. Oxford Music Online* (2008)

<http://www.oxfordmusiconline.com/subscriber/article/grove/music/46710pg3>.

<sup>23</sup> While Caffiaux's history was never published, it is considered the second largest historical work in France.

<sup>24</sup> Such as François-Louis Perne (1772-1832) on antiquity. Most famous with regard to the East is the work of André Villoteau, mentioned earlier in this article, whom Napoleon Bonaparte selected as a member of a scientific commission, and who wrote a volume on Arab music.

<sup>25</sup> P. V. Bohlman, "R. G. Kiesewetter's *Die Musik Der Araber: A Pioneering Ethnomusicological Study of Arabic Writings on Music*," *Asian Music* 19:1 (1987) 164-96.

<sup>26</sup> This was particularly the case in La Fage's collaboration with his teacher Choron, the prominent post-Revolution musicologist (1771-1834), on the master's *Nouveau manuel complet de musique vocale et instrumentale* (1838-9), as well as in La Fage's own *Histoire générale de la musique et de la danse* (1844).

<sup>27</sup> It also encouraged the appearance of anthologies and collections of chant and early vocal music; V. Duckles, *et al.* "Musicology," *Grove Music Online. Oxford Music Online* (2008) <http://www.oxfordmusiconline.com/subscriber/article/grove/music/46710pg3>.

<sup>28</sup> Duckles *et al.*, "Musicology."

<sup>29</sup> French musicologists did not embark on recognisable ethnomusicological research as such until the 1950s, when musicologists began collaborating officially with the Centre National de la Recherche Scientifique, following the establishment of the Department of Organology at the Musée de l'Homme in Paris by André Schaeffner in 1929; Gribenski, "France."

<sup>30</sup> E. Said, *Orientalism* (London: Penguin Classics, 2003).

<sup>31</sup> *Ibid.*, 95.

<sup>32</sup> A. P. Merriam, *The Anthropology of Music* (Evanston, IL: Northwestern University Press, 1964).

<sup>33</sup> G. Born, "For a Relational Musicology: Music and Interdisciplinarity, Beyond the Practice Turn," *Journal of the Royal Musical Association* 135:2 (2007) 205-243.

<sup>34</sup> B. Nettl, *Nettl's Elephant: On the History of Ethnomusicology* (Urbana: University of Illinois Press, 2010).

<sup>35</sup> For more on the ethnomusicological concept

of music in social life, see T. Turino, *Music as Social Life: The Politics of Participation* (Chicago: University of Chicago Press, 2008).

<sup>36</sup> Edward Burnett Tylor on culture.