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IMPORTANT MANUSCRIPT DISCOVERIES FOR THE SYRO-ROMAN LAW BOOK

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THE first publication of the Syro-Roman Law Book¹ created an interest and excitement commensurate with its extraordinary value. This interest and excitement has continued to this day, as witnessed by the still growing number of studies of the Law Book. The exciting phenomena which this document contains have led to unending discussions among scholars who still hold conflicting views regarding both the interpretation of the currents and undercurrents that emerge in this unique document, and their significance for the history of jurisprudence in the Orient. Some scholars have seen in it the impact of Mosaic Law² retained by the Eastern Christians in their practice of jurisprudence.³ Even the influence of the Codex of Hammurabi has been detected in the many allusions to it in this Law Book.⁴ Other scholars see in the Law Book an unfolding of an interesting struggle between the law of the state and the legal traditions of the people,⁵ or perhaps a mixture of the two.⁶ Some have found this remarkable source to be representative of the relationships between Roman and Oriental Law, a symbiosis for which this document has been regarded as the best evidence.⁷ Others see in it the possible portrayal of the Syrian law of Christians of Semitic origin in the valley of the Euphrates and its influence upon Roman law.⁸ For still others the Law Book fundamentally unfolds Roman law,⁹ but is modified by legal peculiarities of provincial origin.¹⁰

Any assessment of the document's contributions has been hampered by the nature of its transmission; because of the scarcity of sources and the condition of those few which are at our disposal, our knowledge has been, up to this point, far from satisfactory. Aside from these deficiencies, the texts themselves are beset with errors. Thus, there has always been an urgent need for new sources which would lead researchers out of their present deadlock.

The history of literary culture knows of sources of exceptional importance which have

¹ First edited by J. P. N. Land as "Leges saeculares," *Anecdota syriaca*, vol. 1 (Lugduni Batavorum, 1862), pp. 128 ff.

² See V. Aptowitz, *Die syrischen Rechtsbücher und das mosaisch-talmudische Recht*, Sitzungsberichte der Akademie der Wissenschaften in Wien, vol. 163 (Vienna, 1909), p. 5.

³ Cf. J. Bossowski, *Acta congressus iuridici internationalis Roma 1934*, vol. 1 (Rome, 1935), pp. 358 ff.

⁴ D. H. Müller, "Das syrisch-römische Rechtsbuch und Hammurabi," *Wiener Zeitschrift für die Kunde des Morgenlandes* 19 (1906): 193; cf. also J. Koschaker, *Rechtsvergleichende Studien zur Gesetzgebung Hammurapis, Königs von Babylon* (Leipzig, 1917), p. 56.

⁵ L. Mitteis, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs* (Leipzig, 1891).

⁶ Cf. J. Taubenschlag, *Journal of Juristic Papyrology* 6 (1952): 119.

⁷ E. Carusi, "Sul frammento L.38 del libro di diritto siro-romano," *Bullettino dell'Istituto di Diritto Romano* 28 (1915-16): 261 ff.

⁸ A. Vismara, "La donazione nuziale nel diritto ebraico e nelle fonti cristiane in relazione al diritto romano postclassico," *Christianesimo e diritto romano* (Milan, 1935), pp. 389 f.

⁹ C. A. Nallino, "Sul libro siro-romano e sul presunto diritto siriano," *Studi in onore di Pietro Bonfante*, vol. 1 (Milan, 1930), pp. 203 ff. See other studies in his collected works, *Raccolta di scritti editi e inediti IV: Diritto musulmano, diritti orientali cristiani* (Rome, 1942).

¹⁰ E. Volterra, "Un' ipotesi intorno all'originale greco del libro siro-romano di diritto," *Rendiconti Linc.*, no. 8, pt. 8 (1953), p. 23; W. Selb, *Zur Bedeutung des syrisch-römischen Rechtsbuches* (Munich, 1964), p. 260.

been released from oblivion only very reluctantly and slowly. This is the case with the Syro-Roman Law Book.

To the great disadvantage of progressive research on the Syro-Roman Law Book, new sources have not emerged. In 1880 the manuscript sources known at that time were edited,¹¹ and it was not until 1907 that a new manuscript in the Vatican Library was made available.¹² This manuscript was of Nestorian provenience, however, and made research even more complicated. Since 1907 there has been such a dearth of new sources that virtually nothing has come forth which might widen our knowledge of this unique legal record. All of our new knowledge is derived from only two very tiny fragments.

Under these circumstances it is a singular event in the entire history of our first century of research on the Syro-Roman Law Book—indeed, an unbelievable occurrence—that one can announce the discovery of not only one new source but of a whole cycle of new manuscripts. This is a real reward for the tireless search for new manuscript sources in the Syrian Orient.

The hiding place of the first sources was in a priceless document, namely in Ms. Dam. Patr. 8/11,¹³ written in the year A.D. 1204.¹⁴ It is unique among legislative sources.¹⁵ Indeed, this corpus of legislative documents is a very rich mine. It contains the ancient conciliar acts,¹⁶ the heretofore unknown records of the conciliar acts of later centuries,¹⁷ and it is supplemented by various kinds of legislative documents of indigenous Syrian, Byzantine and Islamic origin. The records of special interest to us have found their place in the company of such rare documents.

The discovery reveals two sets of law books. The first¹⁸ comprises 100 paragraphs; the second¹⁹ is a law book which contains 157 paragraphs in all.

While a detailed study of these records must be reserved for a later time, it should be noted that an edition of these two sources is in preparation²⁰ and will be the basis for such investigation. However, before the edition is completed, it is necessary and fitting to take a preliminary glimpse at the physiognomy of these new texts. An examination of the texts immediately shows sources which open up many new vistas. The content as well as the structure of the Syro-Roman Law Book are delineated from a different branch of the document's textual transmission. As such they take their rightful place in the history of the transmission of the document's recensions. The most ancient stratum is manifested by the instances in which these texts go hand in hand with the oldest sources rather than with the later recension in the Vatican Library. Moreover, some of the texts reveal an even greater antiquity—there are readings which appear to be still older than those in the oldest known codex. Brevity and conciseness in legal formulations and other related phenomena point in the direction of great antiquity. The fine quality of the transmission of the new sources is beyond doubt. This is particularly exemplified by the way in which

¹¹ K. G. Bruns and E. Sachau, *Syrisch-römisches Rechtsbuch aus dem fünften Jahrhundert* (Leipzig, 1880).

¹² E. Sachau, *Syrische Rechtsbücher*, vol. 1 (Berlin, 1907), pp. 4 ff.

¹³ In the collection of manuscripts of the patriarchate of the Syrian Orthodox Church, Damascus.

¹⁴ See A. Vööbus, "Neuerschlossene einzigartige Urkunden syrischer Kirchengeschichte," *Zeitschrift für Kirchengeschichte* 78 (1967): 219 ff.

¹⁵ See A. Vööbus, "Emergence of the Synodicon in the West Syrian Tradition," *Journal of Theological Studies* n.s. 19 (1968): 225 ff.

¹⁶ A. Vööbus, "Discovery of Important Manuscripts on the Canons of Ecumenical Councils," *Abr-Nahrain* 11 (1971): 39 ff.

¹⁷ See A. Vööbus, *Syrische Kanonensammlungen: Ein Beitrag zur Quellenkunde*, vol. 1, *West-syrische Originalurkunden* 1, A (Louvain, 1970), *Corpus Scriptorum Christianorum Orientalium*, Subsidia 35, pp. 5 ff.

¹⁸ Fols. 162b–166a.

¹⁹ Fols. 166a–192a.

²⁰ *The Synodicon in the West Syrian Tradition*, *Corpus Scriptorum Christianorum Orientalium*, *Scriptores Syri*.

technical Greek juridical terms, which appear in the Law Book in Syriac transcription, have been rendered. The fact that the corrupt transcription in the oldest manuscript in London (in which these terms do not make sense at all and have been a constant plague to editors) appears here in the correct form, speaks for itself.

Another riddle can now find its final solution. It is well known that the form of the Syro-Roman Law Book which Bar ʿEbrāyā has quoted in his codification of the civil law²¹ has its own peculiarities. The enigmatic fact that these legal norms differ from all the known recensions of the Syro-Roman Law Book has prompted some speculations that Bar ʿEbrāyā was quoting either an unknown Arabic version,²² the Nestorian redaction in a different form,²³ or different and hitherto unknown forms of the same law book then in circulation. Now we can end the guesswork about this conundrum. The deviations in the content and structure of the law book emerge in this new manuscript.

Still other unknown sources have come to light as a result of persistent searching. These documents are a valuable supplement to the Ms. Dam. Patr. 8/11.

Examination of Ms. Mardin Orth. 316²⁴ led to the discovery of another precious source. It comes to us from a collection of manuscripts that has survived in the treasury house of the Monastery of Zaʿfarān,²⁵ despite all the storms of destruction that have swept over Syrian Christianity. In this way, these unique records²⁶ which have not survived elsewhere have been preserved.²⁷ This codex is a corpus of legislative sources which includes not only the codification of ecclesiastical and civil law by Bar ʿEbrāyā, but also legislative records of Syrian, Byzantine and Islamic origin. The Syro-Roman Law Book appears among them.

According to its colophon, we can date the codex in the year A.D. 1660/1. The value of this source lies in the fact that, although textually it represents the same recension as the preceding document, it does show features peculiar to itself, principally in the variant readings. Since it does not exactly parallel the preceding codex we can learn still more. The ramifications of this recension allow us to look more deeply into the history of the transmission of the manuscript traditions.

The third discovery appears in Ms. Mardin Orth. 323. It is a codex which was copied by a late hand.²⁸ It represents the text in Ms. Dam. Patr. 8/11.²⁹

It is a particular joy when the search for new manuscript sources is rewarded in such a way. Considering the monumental significance of the Syro-Roman Law Book among the records of jurisprudence, it is most gratifying when very important new sources come into our possession. Indeed, due to their nature, these sources have opened up a new epoch for research.

²¹ P. Bedjan, ed., *Nomocanon* (Paris, 1898).

²² Bruns and Sachau, *Syrisch-römisches Rechtsbuch*, p. 178.

²³ Sachau, *Syrische Rechtsbücher*, vol. 1, p. xviii.

²⁴ In the collection of manuscripts of the archbishopric of the Syrian Orthodox Church, Mardin.

²⁵ About this famous monastery and the discovery of new sources on its history, see A. Vööbus, "Eine wichtige Urkunde über die Geschichte des Mār Hanānjā Klosters," *Oriens Christianus* 53 (1969): 246 ff.

²⁶ About these treasures, see A. Vööbus, *Handschriftliche Überlieferung der Mēmrē-Dichtung des Jaʿqōb von Serūg. Sammlungen I-II*, Corpus Scriptorum Christianorum Orientalium, Subsidia 39, 40

(Louvain, 1972); idem, *New Important Manuscript Discoveries for the History of Syriac Literature*, Papers of the Estonian Theological Society in Exile, vol. 26 (Stockholm, forthcoming).

²⁷ See A. Vööbus, *Syriac Manuscripts from the Treasury of the Monastery of Mār Hanānyā or Deir Zaʿfarān*, Papers of the Estonian Theological Society in Exile, vol. 24 (Stockholm, forthcoming).

²⁸ See also A. Vööbus, *The Discovery of Very Important Manuscript Sources for the Syro-Roman Law Book*, Papers of the Estonian Theological Society in Exile, vol. 21 (Stockholm, 1971), pp. 11 ff.

²⁹ Concerning a portion of the Syro-Roman Law Book on parchment, discovered among the manuscripts in Šarfeh, see *ibid.*, pp. 24 ff.