

NOT LIKE THE MAGIANS, NOT LIKE THE
JEWS: SEXUAL ETHICS, COMMUNAL
IDENTITY, AND THE FORMATION OF FAMILY
LAW IN THE CHURCH OF THE EAST
(484–552 CE)¹

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ABSTRACT

From the late fifth to mid-sixth centuries, the leaders of the Church of the East had two main concerns concerning sexual ethics. On the one hand, celibacy, as the foundation of their Christian sexual ethics, was the subject of the state's disapproval by the Sasanians and Zoroastrian clergy. It was also the subject of some Jewish polemics. On the other hand, some of the Christians in the western parts of the Sasanian Empire were following the sexual norms of the other traditions such as next-of-kin marriage, polygamy, and exogamy, which could not enjoy any form of

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ecclesiastical approval. At the end of the fifth century, addressing these external and internal challenges, Aqaq and Barṣauma were the first generation who embodied the earliest legal ideas in their works. These early reflections on sexual ethics as the core of an exclusive communal identity led to the birth of family law in the Church of the East in the works of Abā I. This study investigates this repertoire of legal literature to understand how defining a set of exclusive sexual norms to create a distinctive communal identity would lead to the formation of family law in this legal tradition.

INTRODUCTION

During the third to the sixth centuries CE, the western part of the Sasanian Empire was the hotbed for intense interactions among Zoroastrians, Jews, and Syriac Christians. Arguments over what might constitute decent sexual behavior formed an essential part of this trend of interactions. These arguments chiefly appeared in the form of polemics against the sexual ethics of the other cultures. Each of these cultures tended to take its own sexual ethics as symbolic of a distinct identity. From the late fifth to the mid-sixth centuries, the Church of the East went through such a process to establish an independent legal tradition, partially in reaction to and partially due to these interactions with rival neighbors. In addition to these external interactions, another factor in this process was some internal tensions that were disturbing the leaders of the Church of the East regarding the foundation of Christian sexual ethics. We have ample evidence of Christians following local sexual practices such as polygamy and next-of-kin marriage, which could not receive

any form of episcopal approval.² At the end of the fifth century, addressing these external and internal challenges, Aqaq and Baršauma were the first generation who embodied the earliest legal ideas in their works. These embryonic ideas on sexual ethics as a token of identity resulted in the birth of family law in the Church of the East in the works of Abā I.³ This study investigates this repertoire of legal literature to understand how defining a set of exclusive sexual norms to create a distinctive communal identity led to the formation of family law in this legal tradition.

One early example of these polemics over sexual ethics is reflected in Aphrahat's *Demonstration* 18, "Against the Jews and on Virginity and Holiness."⁴ Aphrahat (c. 280–c. 345), writing in an ascetic setting and addressing primarily *Bnay Qyāmā*, sons of covenant, opens his discourse with a short account of a Jewish polemic against the "holy covenant and the virginity and holiness in which" they "stand."⁵ The virginity and holiness that he refers to is a mode of sexual life that could be understood as celibacy and, although not obligatory, essential to the ascetic life

² Some of the main records are mentioned and discussed below. See also Uriel Simonsohn, "Communal Membership Despite Religious Exogamy: A Critical Examination of East and West Syrian Legal Sources of the Late Sasanian and Early Islamic Periods" (*Journal of Near Eastern Studies* 75:2 [2016]), 251.

³ Eduard Sachau, *Syrische Rechtsbücher*, vol. 3 (Berlin: Georg Reimer, 1914), XXII–XXIII.

⁴ William Wright, *The Homilies of Aphraates, the Persian Sage*, vol. 1 (London: Williams and Norgate, 1869), 345–56. For an English translation see Adam Lehto, *The Demonstrations of Aphrahat, the Persian Sage* (Piscataway, NJ: Gorgias Press, 2010), 397–406.

⁵ Lehto, *The Demonstrations*, 398.

of the sons and daughters of the covenant.⁶ Aphrahat, roughly following the outline of monastic tradition,⁷ designed modes of sexual life in a threefold hierarchy. Celibacy was at the top as the only mode of life that would lead to salvation.⁸ Marriage stood second for those who could not overcome their worldly needs; in some cases, it would bring deliverance.⁹ The rest of the possible modes of life came third, ending up directly in eternal damnation.¹⁰ This notion, of course, came in sharp contrast with the Jewish (both biblical and rabbinic) idea of procreation as an essential *mitzvah*.¹¹ Here, in Aphrahat's account, the Jewish voice states: "You have prohibited procreation, the blessing

⁶ For the semantics of *iḥidaya*, *qaddiša*, and *btula* in Aphrahat's work see Naomi Koltun-Fromm, *Hermeneutics of Holiness: Ancient Jewish and Christian Notions of Sexuality and Religious Community* (Oxford: Oxford University Press, 2010), 132–133.

⁷ For instance see Sergey Minov, "Marriage and Sexuality in the Book of Steps," in *Breaking the Mind: New Studies in the Syriac "Book of Steps"*, eds. K. S. Heal and R. A. Kitchen (Washington: CUA Press, 2014), 221–261.

⁸ For earlier allusion to this notion see Arthur Vööbus, *Celibacy: A Requirement for Admission to Baptism in the Early Syrian Church* (Stockholm: The Estonian Theological Society in Exile, 1951), 21–34 even though it is a problematic study in some aspects.

⁹ Lehto, *The Demonstrations*, 179. See also Vööbus, *Celibacy*, 47.

¹⁰ For sexual ethics in Aphrahat's works and its relation to rabbinic tradition see Naomi Koltun-Fromm, *Hermeneutics of Holiness*, 129–173; ead., *Jewish-Christian Conversation in Fourth-Century Persian Mesopotamia: A Reconstructed Conversation* (Piscataway, NJ: Gorgias Press, 2011), 105–133, and an earlier version of her arguments in "Sexuality and Holiness: Semitic Christian and Jewish Conceptualizations of Sexual Behavior" (*Vigiliae Christianae* 54:3 [2000]), 375–395. See also Vööbus, *Celibacy*, 45–48.

¹¹ Koltun-Fromm, *Jewish-Christian Conversation*, 119–124. For the sexual ethics in Babylonian Talmud see Yishai Kiel, *Sexuality in the Babylonian Talmud: Christian and Sasanian Contexts in Late Antiquity* (New York: Cambridge University Press, 2016), 75–100.

of the righteous. You do not take wives, and women are not married to men. You hate procreation, a blessing given from God.”¹² Inevitably, the association of celibacy and virginity with holiness became the core of the polemics between Babylonian rabbis and Syriac fathers.

Another example of these scathing remarks is an anecdote about Rabbi Ḥiyya ber Ashi in the *Babylonian Talmud*, *Qiddushin*, 82b. The Haggadah narrates that Rabbi Ḥiyya, having an obvious choice of celibacy, for several years avoids sexual contact with anyone before all else, of course, his wife. One day, she appears to him under the guise of an attractive woman or a prostitute, introducing herself as “*Heruta* and I have returned just today.”¹³ Rabbi desires her and finds his years of sexual asceticism failed. Shlomo Naeh argues that in Syriac literature on sexual ethics, the term *heruta* (free) has two meanings: one indicates the moral codes for noble and free members of society manifested in “self-control and suppression of impulse,” which could be understood as celibacy in religious contexts.¹⁴ The other one, in contrast, denotes freedom of moral obligations.

¹² Lehto, *The Demonstrations*, 398–99.

¹³ Shlomo Naeh, “Freedom and Celibacy: A Talmudic Variation on Tales of Temptation and Fall in Genesis and its Syrian Background,” in *The Book of Genesis in Jewish and Oriental Christian Interpretation*, eds. J. Fisherman and L. Van Rompay (Lovan: Peeters, 1997), 73. See also Michal Bar-Asher Siegal, “Syriac Monastic Motifs in the Babylonian Talmud: The *Heruta* Story Reconsidered (b. Qiddusin 81b),” in *Jews and Syriac Christians: Interactions across the First Millennium*, eds. A. M. Butts and S. Gross (Tübingen: Mohr Siebeck, 2020), 27–46 with a bibliography on this passage in n. 18.

¹⁴ Ibid. 83.

According to this explanation, the terse *haggadah* is a bitter remark against the Christian culture of celibacy.¹⁵

In addition to Naeh's lexical approach, Michal Bar-Asher Siegal studies other motifs and literary tropes of the story, such as the location (garden/nature), the circumstances (in solitude), the form of prayer (prostration), the length of prayer (single line, repetitive), the manifestation of the desire (female embodiment), and the self-inflicted punishment (oven) and argues that Rabbi Ḥiyya is a portrayal of "an ascetic and monastic holy man."¹⁶ Therefore, the anecdote implies that it is impossible to overcome sexual desire. Every claim of celibate lifestyle is vain and whoever brags so would inevitably fall for one temptation or another, openly or clandestinely. The use of motifs and literary tropes from monastic literature and the deliberate choice of the title, *heruta* with its loaded history in Syriac as a language associated with so-called Eastern Christianity and its substantial tendency toward asceticism in some of its important factions, is an innuendo to suggest that the Syriac Christian ascetics are of this kind of hypocrites who claim celibacy while indulging in various sexual liaisons.¹⁷

In Zoroastrian literature, despite the general disapproval of celibacy, an explicit polemic against the Christian sexual lifestyle could not be easily located. One example of the general disapproval, however, would be *Ardāwirāz-Nāmag*, chapter 70,

¹⁵ For more examples see Adiel Schremer, "Marriage, Sexuality, and Holiness: The Anti-Ascetic Legacy of Talmudic Judaism," in *Gender Relationships In Marriage and Out*, ed. Rivkah Blau (New York: The Yeshiva University Press, 2004), 35–63.

¹⁶ Bar-Asher Siegal, "Syriac Monastic Motifs in the Babylonian Talmud," 35–45.

¹⁷ Koltun-Fromm discusses other rabbinic passages concerning the same theme in *Jewish-Christian Conversation*, 15–18.

where an excruciating and disgusting punishment, with horrific graphic details, is set for “the souls of those women who, in the material world, broke the contract with their husbands, left their husbands, were never content, and did not have sex.”¹⁸ Nevertheless, Syriac sources, particularly *Acta Martyrum*, provided some instances of alleged Zoroastrian arguments against that form of Christian sexual ethics.

In the circle of stories about the martyrdom of Simeon, narrating the Christian persecution of the time of Shapur II (309–79), there is an account of Martha’s life and execution.¹⁹ She was the daughter of the King’s craftsman, Posi or Pusai, who converted to Christianity and, for that reason, was executed. Martha was also a convert Christian who had taken a vow of celibacy. When she was arrested, the king instructed the Zoroastrian priest, *Mōwbed*, who was also serving as the prosecutor, to offer her a way to bail out: “If she abandons her religion and renounces Christianity, well and good; if not, she should be married off. If, however, she fails to follow either of these courses,

¹⁸ Edition from Philip Gignoux, *Le Livre d'Ardāvīrāz*, trans. Jaleh Amouzegar (Téhéran: Institut Français de Recherche en Iran et Édition Mo'in, 2003), 226–7. This is an edition quoted from M. Haug and E. W. West, *The Book of Arda-viraf* (Bombay, London: 1872, reprint: Amsterdam, 1971). All translations in this article, including this one, are mine unless otherwise stated.

¹⁹ Pusiq's (i.e. Posi or Pusai) daughter is not mentioned by her name in *The Martyrdom of Blessed Simeon bar Šabba'e* while a terse account on her life and death is recorded in the paragraph 48, see Kyle Smith, *The Martyrdom and History of Blessed Simeon bar Šabba'e* (Piscataway: Gorgias Press, 2014), 58. Nor does *The History of Blessed Simeon bar Šabba'e* allude to anything more than her fate in the introduction (ibid. 68). For the context of this narrative see Joel T. Walker, *The Legend of Mar Qardagh: Narrative and Christian Heroism in Late Antique Iraq* (Berkeley: University of California Press), 222–3.

she should be handed over to be put to death.”²⁰ In their heated debate, the *Mōwbed* told her, “[L]isten to me and don’t be stubborn and obstinate, following your own perverted wishes in everything. Instead, seeing that you are set on not giving up your religion, act as you like, but do this one thing only, and you shall live and not die: you are a young girl, and a very pretty one; find a husband and get married; have sons and daughters; and don’t hold on to the disgusting pretext of the ‘covenant.’”²¹ Martha, of course, refused the offer, and neither for relinquishing her fate nor breaking her vow of virginity did she save her life.

The Church of the East could not tolerate these external tensions either in the form of royal and state disapproval or Jewish polemics. Thus, from 484 to 497, different figures in the Church applied various measures to defend Christian sexual ethics and the reputation of the Church against these remarks. On the other hand, some members of the Christian community followed the customs of Jews and Zoroastrians. Baršauma in 484 took the first step by aggressively regulating against Jewish and Zoroastrian sexual norms.

SYNOD OF BARŠAUMA IN BET-LAPĀT (484)

Baršauma (d. c. 491–496) was the bishop of Nisibis (appointed sometime around 459 or 435).²² He reportedly was favored by King Peroz I (457–84) and showed remarkable loyalty towards the Sasanians despite religious disparity.²³ In 484 and the city of

²⁰ Sebastian P., Brock and Susan Ashbrook Harvey, *Holy Women of the Syrian Orient* (Berkeley: University of California Press, 1998), 68.

²¹ Ibid. 69–70.

²² On Baršauma’s life and work see: Stephen Gerö, *Barsauma of Nisibis and Persian Christianity in the Fifth Century*, CSCO, Subsidia 63, Louvain 1981 (a discussion on his episcopal date: 32–33).

²³ Ibid. 35–36.

Bet-Lapāt, he summoned a synod where the earliest measures for regulating sexual relationships in the legal tradition of the Church of the East survived in three fragmentary pieces of its canons.²⁴ The Synod was set in the context of severe tension between Barṣauma, the bishop of Nisibis, and respectively Babowai (457–484) and Aqaq (485–496) who were the bishops of the Seleucia-Ctesiphon and the Catholici of the Church of the East. After the disagreement was settled between Barṣauma and Aqaq, the canons of this Synod, were annulled even by Barṣauma himself.²⁵ Nevertheless, these marriage passages discussed here were restored in 497.²⁶

In the first one, Barṣauma tries to prevent the flock of the Church from practicing the Zoroastrian custom of next-of-kin marriage:²⁷

Among many things that are said before the synod of bishops, it is also said that many of the believers in various places involve themselves with Magians in the unclean marriage of those who are marriageable and transgress the firm law of the Church of Christ and the collective discernment that is established for all nations even those who until now have been behaving

²⁴ For Syriac text see J. B. Chabot, *Synodicon orientale* (Paris: Imprimerie Nationale, 1902), 623.

²⁵ Chabot, *Synodicon Orientale*, 61 and 525–6. For an account of that tension see Oscar Braun, *Das Buch Der Synhados Oder Synodicon Orientale* (Amsterdam: Philo Press, 1900), 59–64 and Gerö, *Barsauma of Nisibis*,

²⁶ See below and also Stephen Gerö, *Barsauma of Nisibis*, 38–41.

²⁷ Maria Macuch, “Incestuous Marriage in the Context of Sasanian Family Law,” in *Ancient and Middle Iranian Studies: Proceedings of the Sixth European Conference of Iranian Studies*, eds. Maria Macuch, Dieter Weber, and Desmond Durkin-Meisterernst (Wiesbaden: Harrassowitz Verlag, 2010), 133–48. See also Kiel, *Sexuality in the Babylonian Talmud*, 149–181.

in paganism, except the Magians exclusively. And furthermore, concerning those who happen to do unclean behavior of this kind, who does not observe the fear of God and the ideas of justice, who, despite the uncleanness upon them, venture to participate in the assembly of the believers and of the Eucharist, we declare them absolutely estranged and rejected. Any clergyman, whether a bishop, a priest, or a deacon, who receives them and associates with them in the assembly of the church and in the Eucharist, will be anathematized and will fall from his rank in abrogation of his priesthood. Anyone who ignores this anathema, which is a Christian remedy, leading people to the Christian good and wishing to protect the purity of the name of Christ, will be estranged from Christ and from every service of the holy Church.²⁸

This passage testifies that many Christians in different places imitated their Zoroastrian neighbors' marriage practices. The canon considers this marital practice to go against "the firm law of Christ" and common sense, on which, except for the Zoroastrians, all people, regardless of their religion, agree. This is an apparent reference to the Zoroastrian norm of marriage with close relatives that the Synod, with a severe anathema, rigorously bans for Christians.

In the next surviving excerpt, Baršauma turns against a Jewish practice and addresses bigamy, arguing that "the law of Christ and the teaching of Apostles" outlaws it even though it had been previously admitted by "the divine doctrine."

²⁸ Syriac edition in Chabot, *Synodicon Orientale*, 623. See also Gerö, *Barsauma of Nisibis*, 79–80.

Concerning that, it is not legitimate for a man of faith to have two wives or [to have] a concubine along with his wife. Even though the divine doctrine had ignored [this practice] and had not forced them to be satisfied with one wife due to their weakness, in the Law of Christ and the Apostles teachings, it is designated and praised that one man would be for one woman. Similarly, one woman shall be satisfied with one man. Same is the message of our Lord, in accord and harmony with the first creation of human beings where one woman was created for one man from the beginning, thus it was said concerning marriage that “two of them” that is “the man leaves his father and his mother and joins his wife and two of them will be one flesh” (Gen. 2:24).²⁹

By “divine doctrine,” the canon, of course, means the Hebrew Bible, and by “their weakness,” which was the pretext for this admission, it means the lack of morality and the ethical vulnerability *vis-à-vis* sexual temptations that are regularly attributed to the Jews in Christian polemics.³⁰

The last fragment rules against extramarital affairs under the title of “perverse and unlawful marriage that is due to taking

²⁹ Syriac edition in Chabot, *Synodicon Orientale*, *ibid.*

³⁰ For example see Išō'-bokt *Corpus Juris*, chapter 2, section 9 in Nima Jamali, “A Study of the Interactions among Zoroastrian, Jewish and Roman Legal Systems,” Ph.D. Dissertation (University of Toronto: 2021), 191–194 and also with a German translation in Eduard Sachau, *Syrische Rechtsbücher*, vol. 3, (Berlin: Georg Reimer, 1914), 52–55. Aphrahat, in the aforementioned passage, also argues “[b]ecause of their licentiousness and the lust of their bodies, the Jewish people take exception [to us],” see Lehto, *The Demonstrations*, 398.

women away.”³¹ The Synod states that the kidnapped women shall return to their households. Additionally, some compensation is designated for the damages according to the situation of the “kidnapper” and the woman:

Concerning shameful and unlawful marriage that is the one [happens] through the abduction of women. Due to great damages and harms which are coming from this [action] so many times, the Synod orders that men of faith have no authority to abduct women and those who venture to abduct women will be anathematized from the affairs of the church and from participation in the Sacrament. Those women who are abducted will be driven away from their abductors by every method and will be restored to those who are proper for them (women). Their disgrace will be redeemed according to the [conditions of the] abductor and the women who are abducted. We entrust the bishops with the examination of this that they deal with the matter with the investigation and resolving in the way it is good and legitimate according to the fear of God.

One important point is that the Synod entrusts bishops to resolve such cases. While the first passage disassociates Christians from the Zoroastrians, the second passage disconnects Christians from their own biblical past, and the third assigns a juridical responsibility to the bishops.

In his personal life, according to Barḥadbeshabbā's *Ecclesiastical History*, Barṣauma married Mamai,³² possibly an ex-nun,

³¹ Syriac edition in Chabot, *Synodicon Orientale*, 623.

³² Adam H. Becker, *Sources for the Study of the School of Nisibis* (Liverpool: Liverpool University Press, 2008), 66–7.

maybe after 486³³ when the episcopal marriage was legalized.³⁴ In addition to the canons of the Synod of Bet-Lapāt (484), this episode in his life resulted in the attribution of a synodical letter to Barṣauma in later East Syriac literature. In this alleged letter, Barṣauma legalizes marriage for both priests and the children of the covenant. Gerö argues that the canons of the Synod of Bet-Lapāt, ethical in nature, were only vaguely reaffirmed in the Synod of Bābai (497).³⁵ The explicit synodical permission for marriage of any ecclesiastical rank, including priests and the children of the covenant, was granted in the Synod of Aqaq in 486.

SYNOD OF AQAQ (486)

Two years after the Synod of Bet-Lapāt, Aqaq, the Catholicos of the Church of the East, held another synod and passed three canons; the third one addressed another matter concerning marriage.³⁶ Unlike the Synod of Barṣauma that aggressively refuted the Zoroastrian and Jewish traditions of sexual union, Aqaq's canon defensively begins with an account of the scandals and sarcasm that targeted the Church of the East regarding the matter of celibacy:

From now on, none of the bishops would put force and effort into the cessation of marriage in the land he governs and in the church where he serves. Enough of the evils that have indeed by today been said about our flocks concerning fornication and adultery. That wickedness is spilled out and reaches the ears of the

³³ Gerö, *Barsauma of Nisibis and Persian Christianity*, 69.

³⁴ Ibid. 57.

³⁵ Ibid.

³⁶ Syriac edition from Chabot, *Synodicon Orientale*, 56–9.

outsiders and raises derision in the conscience of all nations and the scoffing they induce. And none of us would forcefully be suspended from this promise in his clergy or the priests of the villages or the sons of the covenant who are under his authority.³⁷

The canon does not mention the source of these vilifications; however, considering the anecdote in B. Quiddushin, 82b, and the prologue to the Aphrahat Demonstration 18, they might have at least partially come from Jewish anti-Christian polemics.

In response to these slanders, the canon annuls the tradition of celibacy for the ordained Christians and bans every member of the clergy of any rank to force their subordinates to celibacy. The canon first set a theological ground for this bold measure by drawing on verses of the Mathew and, of course, 1 Corinthians 7:

Our Lord, Christ, indeed answered the question to his Apostles who asked him if avoiding marriage is useful for them when He said: “not everyone is fit for this word” (Matt 19:11) and soon after He left the affair to the will of the Apostles when he said: “whoever can endure [it], let him endure” (Matt 19:12). Just as our Savior, the blessed Apostle instructed the Corinthians who wrote to him to inform them if it is legitimate for them to cease marriage when he said: “On those on which you wrote to me: it is good for a man not to approach a woman. However, because of adultery, one would take a wife and a wife would take her husband” (1 Cor 7:1–2). Elsewhere, the Apostle examined human wickedness and the difficulty of the matter. He made

³⁷ Syriac edition from Chabot, *Synodicon Orientale*, 56.

this teaching towards those who approached this promise with their will when he said: "I am saying to the single ones and widows that it is better for them to remain like me unless they suffer, they would marry. It is better to take a wife than to burn with lust" (1 Cor 7:8–9). Thus now all of us know that damage is done to us and to our sluggish flocks, for we do not endure. That offended the conscience of many people. We, too, reveal our pains and uncover our sins and would not be ashamed of the open cure that is brought to the sick. The behavior of those who are among us and for the change of the behavior and the penitence that is according to justice that we do to ourselves and our nation. And we, in fact, testify on the word of the great teacher that "it is better to take a wife than to burn in lust" (1 Cor 7:9).³⁸

Solely addressing men, the canon at this point introduces a bilateral solution: that is either to stay celibate in its ultimate form or to marry one woman properly:

And every one of us would choose either of these two: to absolutely abstain from or to be appropriately approached [having a sexual relationship]. And we rely upon the teaching of Paul the blessed, who in a letter, ordered Timothy concerning the behavior that is appropriate for the bishopric. He thus said: "if someone wants the bishopric, it needs good deeds and now the one who is to be a bishop shall not be culpable, the husband of a wife" (1 Tim 3:1–2). It is then clear to every person choosing this teaching that when any of them who marries a woman, his marriage fulfills the

³⁸ Syriac edition from Chabot, *Synodicon Orientale*, 56.

word of the Apostle. Also, any of the deacons who have received the ordination of the diaconate is authorized to betroth a woman in an appropriate and lawful marriage and to leave the ancient tradition that due to the sloth of the worthless has been shamed and cursed by outsiders.³⁹

The first choice has been discussed further elsewhere in the canon with a set of rules regulating the solitary situation of a celibate individual preceding several punitive measures for the cases of breaching those rules:

We instruct that a man who, according to his will, avoid marriage would stay in a solitary monastery and without distraction, safe and strenuously. And if a man who serves to please Christ with chastity and renunciation of everything earthly is found guilty of fornication and adultery after this open permission of proper marriage and begetting children, he would receive the punishment as the rebuke of the canons. And if he has the title of priest, he would be a stranger for the service of the priesthood until he shows the legitimate penance for his offense and it is seen that he is worthy of the pardon. If the one who has approached marriage according to law, outside of the conjugal duty that is with one woman, dare to lie with others, or one who has appropriately married, becomes barren of the fruits of the marriage due to the natural disease of infertility, would also be stranger for

³⁹ Syriac edition from Chabot, *Synodicon Orientale*, 57.

the communion of the Church and rank of priesthood.⁴⁰

For the second choice, marriage, the Synod concedes wedlock for every ecclesiastical rank, from diaconate to bishopric, only if the marriage is lawful. No definition, however, for a lawful marriage is given unless, like the Synod of Bet Lapat, bigamy is frankly outlawed:

And if there is a priest who has not yet married and wants to marry properly and beget children according to the law, or his wife is dead and he wants to take a second wife and observe the firmness of the betrothal with the second one as with the first one, the bishop would not be authorized to stop him from this matter. Appropriate marriage and reproduction of children, before [obtaining] priesthood or after [obtaining] priesthood, is accepted and received well before God. A brother shall consider having a betrothal with one woman, even if there is a change in her by the force of death or the necessities that happen in the world, <also> whenever he is tempted for two for betrothal, that would be one after the other.⁴¹

Unexpectedly, in a bold move, the Synod recognizes remarriage in some cases, such as death and some other unspecified situations. These vague “necessities” could refer to diseases that make a marriage dysfunctional. The wording is vague because the Synod reasonably predicts potential opposition against this rather unconventional decision and fiercely tries to prevent any dissenting voice in the Church:

⁴⁰ Syriac edition from Chabot, *Synodicon Orientale*, 58.

⁴¹ Syriac edition from Chabot, *Synodicon Orientale*, 58.

In order to diligently wipe out every arrogance and demonstration of erring, and teachers who call marriage and reproduction evil while they satisfy their desire with fornication and adultery and evil crafts from the Church of Christ, we, all of us, with vigorous thought and consensus of communality refuting the vainglory, abolish the empty and harmful custom from our flock, and we set lawful and just regulations on the married and single ones who are in the lands entrusted to us from the Divine Goodness.⁴²

The Synod also assumes that a potential source for this opposition would be an ascetic faction of the Church.⁴³

Thus we command and instruct that it should be as such that the choice of sanctity from marriage through betrothal according to the law and reproduction of children should be free from every force and effort. But should someone disagree with this true instruction and in his vanity think that this [instruction] is weakness and choose for himself to act and to teach these [instruction] that we terminated, the false manner that by the aid of Christ we have revealed and abolished among us, and not be pleased to truly uphold our faith that we have written in this book, he would take either of these two: absolute holiness or betrothal according to the law, adorned with chastity of the reproduction of children. But one who does not

⁴² Syriac edition from Chabot, *Synodicon Orientale*, 57.

⁴³ At the end of the fourth century and onward, Monasticism had an influential position in the Syriac Christianity in the Sasanian Empire see Michal Bar-Asher Siegal, *Early Christian Monastic Literature and the Babylonian Talmud* (Cambridge: Cambridge University Press, 2013), 47.

surrender to this decree that we have written above against the seducers whom by name are called *the mourners*,⁴⁴ but in practice far from [the asceticism], and does not confirm with his seal and signature the completeness of these [instruction] with good will and opinion that there is no guile in it, should be he a bishop or a priest or a monk or one who teaches against these [instructions] and does not surrender to everything written above and sealed in this book, he shall not have communion with us. We shall abstain from his acquaintance, and we shall forbid him from the service; if he is a priest, he shall not be left in any rank of the Church to function; if he is a layman, he shall be expelled and anathematized.⁴⁵

The synod defines three enforcement methods to ensure the application of its decisions in this canon. As the previous

⁴⁴ For Mourners (أبلا) who were a class of monks see A. N. Palmer, *Monk and Mason on the Tigris Frontier* (Cambridge, University of Cambridge Oriental Publications, 1990), 85–6. See also Hannah Hunt, “The Monk as Mourner: St. Isaac the Syrian & Monastic Identity in the 7th C. & Beyond,” in *Orthodox Monasticism Past and Present*, ed. J. A. McGuckin (Piscataway, NJ.: Gorgias Press, 2015), 331–41, where Hunt argues that the Mourners were not necessarily the same as the “single ones” (مسيحي). Hunt quotes Isaac of Nineveh (7th century) explaining: “A mourner (*abila*) is he who passes all the days of his life in hunger and thirst for the sake of his hope in future good things. A monk (*ihidaya*) is he who remains outside the world and is ever supplicating God to receive future blessings. A monk’s wealth is the comfort that comes of mourning” (ibid. 336). In later West Syriac tradition, Barṣauma (d. c. 458, not to be confused with Barṣauma of Nisibis who is discussed in the present study) is associated with the *mourners* and considered as their head. See Andrew N. Palmer, *The Life of the Syrian Saint Barṣauma* (Oakland: University of California Press, 2020), 19–22 and various other occurrences in the text.

⁴⁵ Syriac edition from Chabot, *Synodicon Orientale*, 59–60.

quotation shows, the first method is a range of punitive measures, including temporary suspension from service, excommunication, and anathema. The second method is to assume a biblical authoritative value for this canon. An interesting passage argues that “this teaching on this matter is like the teaching of the sacred books.”⁴⁶ The Synod substantiates this claim by citing and quoting several biblical verses. Thus, this argument could be summarized as this: since this regulation complies with the biblical decrees in Mathew and 1 Corinthians 7 and 1 Timothy, it enjoys the same authoritative value. The third method is investigatory as the Synod sets some form of investigation to ensure that its ordained members or those who wish to be ordained have lawful marriages and hold discrete sexual ethics:

Those who newly approach ordination of the diaconate, together with the rest of their behavior, their lawful matrimony would be examined, and when they have appropriate marriages, they would receive the ordination of diaconate that they would complete the apostolic teaching which said: “deacons would be the husbands of one wife and would treat their sons and daughters well” (1 Tim 3:12). [...] We also add this in this canon: from now on, any of the bishops would not ordain anyone from his city or the villages under his control for diaconate unless first investigate if he has good behavior that is worthy for ordination to be received, and with that, also if they have had betrothal and begotten children according to the law.⁴⁷

⁴⁶ Syriac edition from Chabot, *Synodicon Orientale*, 56.

⁴⁷ Syriac edition from Chabot, *Synodicon Orientale*, 57.

Despite all these measures, the ascetic faction might not have readily relinquished its opposition. One example of the pro-celibate position can be found in the Statutes of the School of Nisibis (496). One of its rulings defines an absolute form of celibacy, listing those offenses that are to be judged by the whole community.⁴⁸ If the offense is proven, it would be punished by expulsion from the School and the town:

Some of the brothers who come to the school to learn instruction and abandon their promises and slip to take wives or are detected in adultery or in fornication or in stealing or in witchcraft or in a mind perverted from true faith or are deceived to be distracted in vanities, which are slander, plotting, confusion, lie, intrigue in the houses on the occasion of the banquets or contention of rebellion, the whole community determines that these shall not be received in the school, and also shall not be in the town.⁴⁹

It is remarkable that even ten years after the Synod of Aqaq legalized it for the ordained Christians, alongside adultery and fornication, marriage is still on the list. One of the prominent figures in establishing the School of Nisibis and crafting its *Statutes* was the famous poet and theologian Narsai (d. c. 502), who lived an ascetic life in celibacy. Meanwhile, he maintained a friendship with his former fellow student, Barṣauma, who, as we

⁴⁸ Arthur Vööbus, *The Statutes of the School of Nisibis* (Stockholm: Estonian Theological Society in Exile, 1961), 73–85. For the life of Narsai see Becker, *Sources*, 47–72. For a discussion on the canons of Narsai see Adam H. Becker, *Fear of God and the Beginning of Wisdom: The School of Nisibis and Christian Scholastic Culture in Late Antique Mesopotamia* (Philadelphia: University of Pennsylvania Press, 2006), 81–7.

⁴⁹ Vööbus, *The Statutes of the School of Nisibis*, 74–5.

have already seen, married Mamai.⁵⁰ According to Barḥad-beshabbā, Mamai, at certain point, caused a transient strain in their friendship. Still, despite his celibate lifestyle, there is no evidence that Narsai disproved of Barṣauma and Mamai's wedlock.⁵¹ Therefore, we can assume that the pro-celibate stance in the *Statutes* was instead an educational and institutional measure. In any case, its decisive tone, along with the penal sanction of expulsion from the school and even from the town, could by all means bring the *Status* in sharp contrast with the Aqāq's Canon of the Synod of 486.

In 496, Aqāq died; the School of Nisibis was established; and King Jamasp (496–499) ascended to the Sasanian throne. A year later, Babai of Seleucia-Ctesiphon (497–502) assumed the office of Catholicos. In the same year, the new king ordered the new Catholicos to summon the next synod of the Church to ratify the matter of marriage.⁵² The fact that this Synod, which mainly dealt with the family law, was initiated at the behest of the Zoroastrian king substantiates the Zoroastrian and state disapproval of the Christian sexual ethics.⁵³

The canon opens with a brief statement that the bishops convened due to the king's order who wanted "the matter of marriage to be ratified."⁵⁴ The Synod, then, gives a brief account of the tension between Barṣauma and Aqāq. At this point, the canon restores the passages from the Synod of Barṣauma, which

⁵⁰ Gerö, *Barsauma of Nisibis and Persian Christianity*, 69.

⁵¹ Becker, *Sources*, 66.

⁵² See the prologue to the canons of this Synod in *Synodicon Orientale*, 62. See also Sebastian, P. Brock, "Christians in the Sasanian Empire: A Case of Divided Loyalties," in *Religion and National Identity*, ed. by Stuart Mews (Oxford: Basil Blackwell, 1982), 4, n. 14.

⁵³ Syriac edition from Chabot, *Synodicon Orientale*, 63.

⁵⁴ *Ibid.*

had addressed the matter of marriage and had been previously nullified. It also briefly confirmed the decision made in 486 in the third canon of Aqāq.⁵⁵ The canon puts an emphasis on the universality of these former decrees once it clarifies “in every place” and for every rank, “from bishop to the lowest of monastics.”⁵⁶ This emphasis could be a reaction to the forceful ban on marriage in the *Statutes of the School of Nisibis*.

THE BEGINNING OF THE PRACTICE: ABĀ I (540–552 CE)

Mār Abā I, an alumnus of the *School of Nisibis*, was foundational in articulating legal thought for the Church of the East. Although the Synod of Aqāq in 486 revoked any ban on marriage for ordained Christians and was reaffirmed ten years later, following Baršauma, Catholicos Abā I dedicated his legal instructions primarily to prohibiting certain matrimonial arrangements. He also tried to actualize his legal thinking through judicial practice.⁵⁷ Not surprisingly, this led to a severe conflict between the Catholicos on the one side and the Sasanian state and Zoroastrian clergy on the other.

Fortunately, his life is relatively well documented in a short biography.⁵⁸ In this vita of the Catholicos, some polemics against Zoroastrianism and some propaganda in favor of his ideas and Christianity are boldly present, neither of which is, of course, surprising. Nevertheless, as far as they pertain to this

⁵⁵ Ibid. 64.

⁵⁶ Ibid. 63.

⁵⁷ See Richard Payne, *State of Mixture: Christian, Zoroastrian and Iranian Political Culture in Late Antiquity* (Oakland: University of California Press, 2015), 93–126.

⁵⁸ Paul Bedjan, *Histoire de Mar-Jabalaha, de trois autres patriarches, d'un prêtre et de deux laïques nestoriens* (Paris, Leipzig: Otto Harrassowitz, 1895), 206–87.

study, the main points of the biography are confirmed by other independent primary sources, namely his canons, his treatise on marriage law, and his letters.⁵⁹ Additionally, a seal is preserved that can also support the veracity of this biography's main points since it belonged to the official mentioned in the biography as someone for whom Abā I had been working once he converted to Christianity.⁶⁰ According to this account, he was born Zoroastrian and was well-versed in the Zoroastrian doctrine and Persian literature.⁶¹ These qualities allowed him to occupy one of the state offices.⁶² Later on, he converted to Christianity, studied at the *School of Nisibis*, went on a long journey to the West as far as Constantinople, and returned to the School. At that point, he was appointed as the Catholicos and went to Seleucia-Ctesiphon, where he began his administration over the Church of the East. His legal activities eventually led to his court trial and exile to Azerbaijan province under house arrest. At the end of his life, he went back to the Capital and died peacefully.

In this terse outline of Abā's life, one important point for the genealogy of his legal thinking is that he studied at the *School of Nisibis*, where two prominent figures, Narsai and Baršauma, had significance in its establishment. The core of his legal thinking was, of course, the regulation of marriage. On the

⁵⁹ These works are discussed further in the present study, see below.

⁶⁰ *Xwadāybnūd*, Syr. ܬܠܡܕܬܐܢܐܬܐ that in the Bedjan edition printed as ܬܠܡܕܬܐܢܐܬܐ, see Bedjan, *Histoire de Mar-Jabalaha*, 215. Philippe Gignoux, *Iranisches Personennamenbuch. Bd. II Mittelperianische Personennamen, Fasc. 2: Noms propres sassanides en moyen-perse épigraphique* (Wien: OAW, 1986), no. 1025. See also Maria Macuch, "The Case against Mar Abā, the Catholicos, in the Light of Sasanian Law" (*ARAM* 26:1&2 [2014]), 47–48.

⁶¹ The language in question now is known as Middle Persian or Pahlavi. He must have also studied the Avestan corpus.

⁶² Macuch, "The Case against Mar Abā," 47–48

other hand, the canons of Barṣauma, Aqaq, and Babai recognized the so-called lawful marriage, whereas the definition of a lawful marriage was left untouched.⁶³ In this respect, all they did was to sanction monogamy and to ban polygamy and next-of-kin marriage. It was Abā I who first comprehensively listed the sexual relations forbidden for Christians.⁶⁴ Moreover, some of his canons and one of his letters are dedicated to this matter.⁶⁵ He also wrote a short treatise on marriage.⁶⁶

In his biography, he exhorted “the bishops and priests at all times to warn their flocks of all ranks of Christianity not to transgress the Canons of the Apostles as one who marries his father’s wife, his daughter-in-law, his paternal uncle’s wife and to unite with two [wives].”⁶⁷ Recalling Barṣauma’s statement that many Christians in many places imitate the Zoroastrian tradition, the biography indicates that this form of marriage with close kin had been *de facto* recognized among the Christian subjects of the Sasanian Empire before Abā I introduced his regulations. *Mōwbadān-Mōwbed*, the Zoroastrian high priest, addressed Abā I: “those who had been [catholicos] before you became catholicos used to accept these sorts of wives and men who had wives of this sort. Let them enter the Church because they had done it before your era.”⁶⁸ *Mōwbadān-Mōwbed* did not intervene out of sheer curiosity about this *ex post facto* ruling. Abā’s regulations targeted one of the

⁶³ Simonsohn, “Communal Membership Despite Religious Exogamy,” 250–51.

⁶⁴ Sachau, *Syrische Rechtsbücher*, vol. 3, 258.

⁶⁵ The third letter in Chabot, *Synodicon Orientale*, 82–3.

⁶⁶ For an edition and a German translation of this treatise see Sachau, *Syrische Rechtsbücher*, vol. 3, 258–80.

⁶⁷ Syriac edition: Bedjan, *Histoire de Mar-Jabalaha*, 235.

⁶⁸ Ibid.

principles of Sasanian family law: marriage with next-of-kin, Middle Persian *xwēdōdah*, and distant relatives. Next-of-kin marriage, i.e., marriage between parents and children or siblings, was considered an act of utmost piety a Zoroastrian could possibly do in his lifetime.⁶⁹ In addition to this moral value, *xwēdōdah*, as well as marriage with other close relatives, was a principle that could be important for some essential Zoroastrian legal institutions, such as *Stūrīh*.⁷⁰

⁶⁹ Prods Oktor Skjærvø, "Marriage ii. Next of Kin Marriage in Zoroastrianism," in *Encyclopaedia Iranica Online*, ed. E. Yarshater (Brill, 2020).

⁷⁰ *Stūrīh* is a specific institution in the Sasanian family law that applies when a man dies without a son to possess his wealth and to continue his name. The function of this institution is to provide such a male heir for the sonless man. In most cases, one of the next of kin of the man, such as his brother or wife, enters a certain sort of marriage called *čagarih*. The first male child generated from that marriage would join the sonless man, whether alive or dead, as his son and legitimate heir. For detailed studies on this institution see: Bodil Hjerrild, *Studies in Zoroastrian Family Law: A Comparative Analysis* (Copenhagen: Museum Tusculanum Press, 2003), 135–165; ead., "Succession and Kinship in the Late Sasanian Era," in *Ancient and Middle Iranian Studies: Proceedings of the 5th Conference of the Societas Iranologica Europaea*, vol. 1, eds. Antonio Panaino and Andrea Piras (Milan: Mimesis, 2006), 479–84; ead., "Some Aspects of the Institution of *Stūrīh*," in *Religious Texts in Iranian Languages: Symposium Held in Copenhagen, May 2002*, eds. Fereydon Vahman and Claus V. Pedersen (Copenhagen: Det Kongelige Danske Videnskabernes Selskab, 2007), 165–74; Macuch, "Incestuous Marriage," 133–48; ead., "The Pahlavi Model Marriage Contract in the Light of Sasanian Family Law," in *Iranian Languages and Texts from Iran and Turan, Ronald E. Emmerick Memorial Volume*, eds. Maria Macuch, Mauro Maggi, and Werner Sundermann (Wiesbaden: Harrassowitz, 2007), 183–204; ead., "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 6th December 2002*, eds. Carlo G. Cereti, Elio Provasi, Gherardo Gnoli, and Mauro Maggi (Wiesbaden: Reichert, 2003), 231–46.

The list that the biography recorded was not complete. In his 38th canon, Abā I presented a more elaborate version:

For the reasons that are mentioned, the wife of the father, or the wife of the paternal uncle who is the father's brother or the wife of the maternal uncle who is the mother's brother or paternal aunt who is the father's sister, or maternal aunt⁷¹ who is the mother's sister, or sister, or daughter-in-law, or son's daughter, or daughter's daughter who is a wife like the Magians,⁷² or the wife of the brother like the Jews,⁷³ or a non-believer like Pagans is forbidden to be betrothed. On these and like these [women], we, metropolitans and bishops who are with us, command and rule that from now on, the sons of covenant and the laymen, men and women, all are forbidden from doing this polluted and disgusting affair and all who help them and assist them, would be excommunicated and anathematized in heaven and on earth from entering the Church and from the Holy Eucharist and communion with the believers and may the wrath fall upon them from heaven.⁷⁴

In his treatise, he also includes some other sexual activities such as bestiality and homosexuality. He opens the treatise with a

⁷¹ In the text ܡܬܬܝܬܐ ܡܠܐ meaning 'the wife of the maternal uncle' which is incorrect. It should have been ܡܬܬܝܬܐ 'the maternal aunt.'

⁷² An allusion to *xwēdōdah* marriage, see Hjerrild, *Studies in Zoroastrian Family law*, 167–203; Macuch, "Incestuous Marriage," 133–48.

⁷³ A reference to levirate marriage in Deut. 25:5–10, see below.

⁷⁴ Syriac edition from Chabot, *Synodicon Orientale*, 549–550.

quotation from Leviticus 18:3–5 that prohibited the sons of Israel from acting like Egyptians and Canaanites:⁷⁵

Through Moses, God commands the Sons of Israel that “you shall not do such deeds of the land of Egypt in which you lived, and you shall not do such deeds of the land of Canaan to which I am bringing you. But you shall only do the laws and *Torah* of My command and act according to them for people who do according to them, live in them” (Lev. 18:3–4). In such a manner, it is good that distinctive laws be established for them in order to prevent them from adultery and other forms of perversity, and He instructs them against marriage with relatives.

He makes an allegory here: Christians among Zoroastrians and Jews are like Jews among Egyptians and Canaanites. Therefore, he infers that, according to Lev. 18:3–4, Christians must not follow other traditions. If they do so, which they did, they would defile themselves:

First, He explains to them the reason for the laws, and He brings forth to them what they have learned among Egyptians and heard of what happens among Canaanites. From those, He distances them. That is the reason for these laws that every one of human beings, in that time and afterwards until [the time] of Christ and even by now, many of them [humans] excessively defile themselves in the matter of marriage and transgress such and such nature and so and so law. According to His knowledge, God wanted to give them clear and distinctive laws in instruction and in

⁷⁵ Syriac edition from Sachau, *Syrische Rechtsbücher*, vol. 3, 258.

threats of punishment that they would not sin and corrupt the orders of the economy [of God].

Then Abā I categorizes sexual liaisons in a two-layered classification. In the first layer, he puts natural and unnatural ones. He considers the unnatural one morally wrong:

It (sexual union) falls in many categories among people, but first natural and unnatural. And the unnatural one in turn [is divided into] the one with men (male homosexuality), the one similar to the one with men (plausibly anal sex with women), and the one with animals.

Note that in his mindset, the agent of sexual interactions is solely male, and women only stand on the receiving end. He then counts different forms of natural sex, which, according to him, is the heterosexual unions:

In the same way, the natural one falls into five categories: 1) adultery, 2) fornication, 3) perversion with virgins of pagan priests or of the outsiders or of the travelers which part of it is basically of the type of fornication, 4) [copulation between] man and women, and 5) with woman according to the law and commandment.

He argues that these natural unions come in two forms, lawful and unlawful, including premarital and extramarital sex, and exogamy.⁷⁶ He adds polygamy and next-of-kin marriage to the list:

⁷⁶ Unlike Zoroastrianism and Judaism, Christianity at an early stage had an ambivalent stance with regards to exogamy, see Shaye J. D. Cohen, "From

Then, the [un]lawful one is divided into [sexual union] with one woman and with many women. The one woman thus includes [following] categories: mother, father's wife (step-mother), sister, daughter, son's daughter and daughter's daughter (granddaughters), daughter-in-law, brother's wife (sister-in-law), paternal uncle's wife, mother's sister, father's sister.

Mar Abā then defines lawful marriage as “among all these categories, it is clear that only one [type] can be free from blame that is [union between] one woman and one man when they are not close in kinship.” The rest of this treatise on marriage and family law is dedicated to discussions on every single unlawful union with biblical references as the authoritative sources for the prohibitions. In two of these cases he explicitly argues against Zoroastrian and Jewish sexual ethics.⁷⁷ In one passage, with a harsh and polemical tone, he discusses Zoroastrian *xwēdōdah* and explains its mythical background. In another one, with a slightly less jarring style, Abā I touches upon Jewish *Yibum* or levirate marriage.

Permission to Prohibition: Paul and the Early Church Mixed Marriage,” in Paul's Jewish Matrix, ed. T. G. Casey, J. Taylor, and K. P. Donfried (Mahway, NJ.: Paulist Press, 2011), 259–91. Simonsohn discusses exogamy in the Church of the East in his aforementioned article, “Communal Membership Despite Religious Exogamy.” Zoroastrian texts from the Sassanid period reflect a firm stance against exogamy, for instance in *Zand ī Fragard ī Jud-Dēw-Dād*, 34:16–22, see Mahnaz Moazami, *Laws of Ritual Purity: Zand ī Fragard ī Jud-Dēw-Dād, A Commentary on the Chapters of the Widēwād* (Leiden: Brill, 2020), 274–281. Yaakov Elman studies some Zoroastrian passages with some Jewish parallels in the Babylonian Talmud in “The Other in the Mirror: Questions of Identity, Conversion, and Exogamy in the Fifth-Century Iranian Empire. Part Two,” (*Bulletin of the Asia Institute* 20 [2006]), 25–46.

⁷⁷ Sachau, *Syrische Rechtsbücher*, vol. 3, 264–267 and 276–278.

In one passage, Abā I argues that Zurvan's version of the Zoroastrian myth of creation and the pivotal position of *xwēdōdah* in the Zoroastrian sexual ethics would be contradictory. He asks if "the distinguished righteousness of the house of Hormizd stands in this matter as someone approaches his mother or his wife or his daughter for marriage,"⁷⁸ why Zurvan, "the father of their gods," conceived his son by reciting hymns for one thousand years and did not perform a *xwēdōdah*.⁷⁹

In another passage, dealing with biblical sexual ethics, Abā I recognizes a discrepancy between Levit. 18:16, "Thou shall not uncover the shame of your brother's wife," and the law of *Yibum* according to which "one shall take his brother's wife and establish the seed for his brother."⁸⁰ He explains that the *Yibum* is "from before Moses"⁸¹ when Judah asked Onan to marry Tamar, the widow of his brother, Er, and beget children for his deceased brother (Gen. 38). He argues that this law is "useful" for "them and for those who turn to the Law" due to "weakness in their faith in resurrection," to preserve "the memory of those who passed sonless."⁸² Abā I, at this moment, creating a contrast, argues that Christians who have "faith in Christ and the resurrection from the dead, consider it better to have faith rather than to establish seed" for the dead and concludes this passage by alluding to the celibate lifestyle among those who believe in

⁷⁸ Sachau, *Syrische Rechtsbücher*, vol. 3, 264.

⁷⁹ Ibid. 266. For another version of the Zurvan myth of creation in Syriac literature see Pierre de Menasce, "Autour d'un texte syriaque inédit sur la religion des Mages," (*Bulletin of the School of Oriental Studies* 9:3 [1938], 587–601).

⁸⁰ Sachau, *Syrische Rechtsbücher*, vol. 3, 276.

⁸¹ Ibid. 278.

⁸² Ibid.

resurrection: “[M]any do not want to marry because of the kingdom of heaven.”⁸³

In the treatise, Abā discusses his main notions on sexual ethics in further detail to establish a moral and theological foundation for his family law. He criticizes the ethical and mythical core of the Zoroastrian *xwēdōdah*. Additionally, while Baršauma only touches upon polygamy in Jewish family law, Abā I brings *Yibum* into his discourse and associates it with the lack of belief in the afterlife. The general attitude in the treatise recurred in the quoted canon 38, where the main reason for banning marriage with certain women is that it is what Zoroastrians, Jews, and Pagans, respectively, allow. This is a solid attempt to distance Christians from their neighbors in the Sasanian Empire. Abā I expanded this idea throughout his career and tried unceasingly to actualize it to the level that he provoked the state to confront him. He translated this desire for a distinctly Christian social and cultural identity in the Sasanian society from a socio-cultural discourse into the sphere of law.

CONCLUSION

The works of Baršauma and Abā I testify that during the second half of the fifth and early sixth centuries some of the members of the Christian community in the Sasanian realms were practicing some Zoroastrian and Jewish marital norms. Aphrahat, Babylonian Talmud, account on the martyrdom of Martha, the third Canon of Aqāq, and the Synod of Babai of Seleucia-Ctesiphon, record examples of Jewish and Zoroastrian polemics against and disapproval of the core of Christian sexual ethics, celibacy. At an early stage, from 484 to 497, The Church of the East applied different measures to defend against these

⁸³ Ibid.

criticisms and to prevent its followers from imitating their neighbors. First Baršāuma, relentlessly criticizes the Zoroastrian and Jewish norms, and aggressively interdict the Christians from these practices. Nevertheless, the Zoroastrian state disapproved of the Christian tradition of celibacy while Jews were lambasting this fashion of asceticism. Therefore, reacting to these external forces, Aqaq takes a defensive position and annuls forced celibacy for his followers in the Church of the East. Narsai, however, holds a more fundamentalist approach in favor of celibacy and prohibits any form of sexual activity including marriage only for the members of the *School of Nisibis*. Babai of Seleucia-Ctesiphon, at the behest of the Zoroastrian king, reaffirms the rulings of Aqaq against celibacy and the sanctions of Baršāuma concerning “lawful” marriage. Some forty years later, Aba I joins the scene as the first figure who systematically strives to develop a Christian family law both in theory and in practice. All of these interactions brought marriage and its regulation in the center of the legal tradition of the Church of the East at its embryonic phase. The overarching intention was to establish a distinct Christian identity in contrast with the non-Christian environment in the Sasanian Empire. Therefore, the legal tradition of the Church of the East first thrived around regulating marriage and establishing a distinctive form of family law in order to define an independent Christian identity.

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