Bardaisan the Proculian: Echoes of Roman Law in an Early Syriac Text

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Roman Law and Politics Panel

Bernards Township Public Schools,

March 25, 2022

Basking Ridge, NJ

Proculian Puberty

A. Ulp. Reg. 11.28 (cf. Gaius, 1.196; CJ 5.60.3;)

For their part, the Cassians [another moniker for Sabinians] say that a *pubes* is one who appears to be a *pubes* with respect to the condition of his body, *i.e.* he is able to procreate. On the other hand, the Proculians say that a *pubes* is one who has finished fourteen years.¹

Puberem autem Cassiani quidem eum esse dicunt qui habitu corporis pubes apparet, id est qui generare possit; Proculeiani autem eum qui quattuordecim annos explevit.

B. BLC 20 (= Book of the Laws of the Countries, 20; Nau p. 572, ll. 13-25; Drijvers p. 32, l.19 – 33, l.1)

Therefore, the body is led by nature, while the soul suffers and feels together with it. And the body is neither oppressed nor aided by fate in everything which it does again and again. For a man does not become a father before he is fifteen years old, and a woman does not become a mother before she is thirteen years old. And so too there is a law for old age, that women lack the ability to give birth and men lack their procreative virility.

صُمْ إِخَدَ وُحِكُ فَ مُ وَ مُحَدُّم الْفُكُوهِ وَصَبُلُا فَلْ الْمُكَالِّةُ وَ وَالْمُكُونُ وَمَ وَمُ الْمُكَا كُما اللهِ اللهُ ال

Patria Potestas

C. BLC 29 (Nau 587, ll. 13-18; Drijvers 44, ll. 8-12)

And there are many regions in the kingdom of the Parthians in which men kill their wives, brothers, and sons and do not owe a penalty, while in the land of the Romans and the land of the Greeks whoever kills one of these places on his head more of a penalty because he has made himself deeply guilty.

وهَيتَابُ الزَّهُا حَصَحَتُا وَفَتِاهُمُا: وَصُهِمَ الْعُلَا نَعْتُوهُ وَأَمْتُوهُ وَحَنْتُوهُ: وَحَبْلُا لُلْ مَنْحَعُ: فَو حُمْ وَوَقَعُمُا وَحُمْ تُوهُوهُمُا وَحُمْ مُوهُوهُمُا وَحُمْ مُوهُوهُمُا وَحُمْ مُوهُوهُمُا وَحُمْ مُوهُوهُمُا وَحُمْ مُوهُوهُمُ وَمُوهُمُ مُوهُوهُمُا وَحُمْ مُوهُوهُمُا وَحُمْ اللّهُ وَمُعْ اللّهُ وَمُعْلَمُتُهُ.

D. Eus. Praep. Ev. 6.10 (276c-d)

among the Greeks and Romans those who kill members of their household and relatives cast upon themselves a greater punishment

παρ' Έλλησι δὲ καὶ Ῥωμαίοις μείζονι τιμωρία ὑποβάλλονται οἱ τῶν οἰκείων καὶ συγγενῶν φονευταί

E. D. 48.9.5 (Marcian) (cf. Val. Max. 5.9.1; Sen. Clem. 15.1-2; D. 48.8.2 (Ulpian); D. 28.2.11 (Paul))

When someone on a hunt had killed his own son, who had been committing adultery with his stepmother, the deified Hadrian is said to have deported him to an island, because he had in fact killed his son more by right of a brigand than that of a father. For *patria potestas* ought to consist of piety, not cruelty.

Divus Hadrianus fertur, cum in venatione filium suum quidam necaverat, qui novercam adulterabat, in insulam eum deportasse, quod latronis magis quam patris iure eum interfecit: nam patria potestas in pietate debet, non atrocitate consistere.

Arabian Circumcision

F. BLC 43 (Nau 603, ll.19-27; Drijvers 56, ll. 12-19) (cf. Ps.-Clem. Recogn. 1.27, Eus. Praep. Ev. 10, 279b)

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¹ All translations are my own.

Consider how many kings there are who, when they have taken territories which had not been theirs before, repealed the laws of their constitution and established the ones they wished. And when these things happen, none of the stars can preserve the law, which thing, moreover, is near at hand for you to see, for yesterday the Romans took Arabia, and they changed all their previous laws, especially that circumcision which they had practiced.

صُحبَ اللهُ اللهُ اللهُ وَكُمْ أَمْهِ أَلَا وَكُمْ أَلَا أَسْكُم وَلًا وَهُا وَمُحْهُم وَهُوهُ أَحْدَه لَعَقُهُا وَمُعَمُّونَ، وَهُمَّ وَمُعَمُّ وَمُوعَلِّ مُعَمِّدًا اللهُ وَمُومَ وَمُوعَلِّ مُعَمِّدًا وَمُعَمَّلًا مُعَمِّدًا اللهُ وَمُعَمَّلًا مُعَمِّدًا وَمُعَمَّلًا مُعَمِّدًا اللهُ وَمُعَمَّلًا مُعَمِّدًا وَمُعَمَّلًا وَمُعَمَّلًا مُعَمِّدًا لَعُمْ وَمُعِمَّا اللهُ عَلَيْكُمُ وَمُعِمِّلًا مُعَمِّدًا لِمُعَمِّدًا لِمُعَمِّ اللهُ وَمُعَمِّلًا لِمُعْمَلًا وَمُعَمِّلًا لِمُعْمِعُولًا لَمُعِمِّ اللهُ وَمُعِمِّلًا لِمُعْمِعُولًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُولًا لِمُعْمِعُولًا لِمُعْمِعُولًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلِمُ لِمُعْمِعُلِمُ اللهُمُ لِمُعْمِعُلًا لِمُعْمِعُلِمُ الْمُعْمِعِلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلِمُ لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلِمُ وَمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلًا لِمُعْمِعُلِمُ الْمُعْمِعُلِمُ المُعْمِعُلُولِمُ المُعْمِعِمُ المُعْمِعِمُ الْمُعْمِعُلِمُ المُعْمِعُلِمُ الْمُعِمِعُلِمُ الْمُعْمِعُلِمُ المُعْمِعُلِمُ الْمُعْمِعُمُ الم

G. Paul. Sent. 5.22.3-4

Roman citizens, who allow themselves or their slaves to be circumcised in the Judaean rite, are stripped of their property and permanently relegated to an island. The doctors [who do this] are punished with capital punishment. If Judaeans should circumcise slaves acquired from another people, they are either deported or punished with capital punishment.

Cives Romani, qui se Iudaico ritu vel servos suos circumcidi patiuntur, bonis ademptis in insulam perpetuo relegantur: medici capite puniuntur. Iudaei si alienae nationis comparatos servos circumciderint, aut deportantur aut capite puniuntur

H. SHA, Sept. Sev. 17.1-18.1

On his journey through Palestine, [Severus] established very many laws. He forbade people from becoming Jews under severe penalty, and he decreed the same for Christians...He subjugated Abgar, king of the Persians.² He received the Arabs into his sway. He forced the Adiabenes into tributary status.

in itinere Palaestinis plurima iura fundavit. Iudaeos fieri sub gravi poena vetuit. idem etiam de Christianis sanxit... Persarum regem Abgarum subegit. Arabas in dicionem accepit. Adiabenos in tributarios coegit.

Bardaisan in Context

I. D. 50.15.1.pr. (Ulpian)

Est in Syria Phoenice splendidissima Tyriorum colonia, unde mihi origo est, nobilis regionibus, serie saeculorum antiquissima, armipotens, foederis quo cum Romanis percussit tenacissima.

There is in Phoenician Syria a most splendid colony of the Tyrians, which is my birthplace, noble in surroundings, most ancient in the series of ages, mighty in war, and most steadfast in its treaty with the Romans.

Select Bibliography

Doerfler, Maria. 2019. "The Holy Man in the Courts of Rome: Roman Law and Clerical Justice in Fifth-Century Syria." *Studies in Late Antiquity* 3.2: 192-211.

Drijvers, H.J.W., ed. and trans. 2007 [reprint of 1965]. *The Book of the Laws of Countries: Dialogue on Fate of Bardaisan of Edessa*. Piscataway, NJ: Gorgias Press.

Drijvers, H.J.W. 2014 [reprint of 1966]. Bardaisan of Edessa. Piscataway, NJ: Gorgias Press.

Millar, Fergus. 1993. The Roman Near East, 31 B.C.-A.D. 337. Cambridge, MA: Harvard University Press.

Monnickendam, Yifat. 2018. "Late Antique Christian Law in the Eastern Roman Empire: Toward a New Paradigm." Studies in Late Antiquity 2.1:40-83.

Nau, F, ed. and trans. 1907. Bardesanes: Liber legum regionum. Paris: Patrologia Syriaca.

Stein, Peter. 1972. "The Two Schools of Jurists in the Early Roman Principate." The Cambridge Law Journal 31.2b: 8-31.

Syme, Ronald. 1972. "Lawyers in Government: The Case of Ulpian." *Proceedings of the American Philosophical Society* 116.5: 406-9.

Watson, Alan. 2016. The Spirit of Roman Law. Athens, GA: The University of Georgia Press.

² Misidentified here. Abgar IX was actually king of Osrhoene (cf. Herod. 3.9.2)