

Ἐν ἀπάσῃ γὰρ κοινωνίᾳ δοκεῖ τι
δίκαιον εἶναι, καὶ φιλία δέ.

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VALERIO MASSIMO MINALE

Manichaean women and *poena inopiae*:
on the context of Justinian's *Nov. 109*

If we read the copious legislation promulgated by the Christian emperors against Manichaeism, preserved both in the *Codex Theodosianus* (16.5)¹ and in the *Codex Iustinianus* (1.5)², we will search in vain – excluding *C.Th.* 16.5.7 and in part *C.* 1.5.19 – for precise references concerning the role of the women.

Despite a general tendency to depict every female presence as an evidence of heterodoxy³, but also a more detailed treatment of some single believers⁴, women effectively were considered only in the position of daughters, sisters, wives or partners and mothers⁵, that is to say when belonging to men sentenced

¹ V. M. Minale, *Legislazione imperiale e manicheismo da Dicleziano a Costantino. Genesi di un'eresia*, Napoli 2013, p. 242 note 33.

² V. M. Minale, *Legislazione imperiale e manicheismo da Dicleziano a Costantino* cit., p. 243 nt. 34.

³ Only some cases. Simon Magus, considered by the Christian writers as a sort of father of the heresy, associated himself with a certain Helena, a prostitute who he had ransomed in a brothel of Tyrus and who he venerated as Ennoia, that is to say “thought” (for all, Iust., *I Apologia* 26 and *Dialogus cum Tryphone* 120); also Scitianus' Egyptian wife was a prostitute, according to the *Acta Archelai* (52; see also Epiphanius of Salamine's *Panarion* 66.2); finally, Montanus took in his entourage two disciples from Pepuza in Phrygia, Priscilla and Maximilla, often represented as bad females (see, C. Trevett, *Montanism. Gender, Authority and the New Prophecy*, Cambridge 1996, pp. 151 ss. and concerning a particular profile F. C. Klawiter, «The Role of Martyrdom and Persecution in Developing the Priestly Authority of Women in Early Christianity: A Case Study of Montanism», in *Church Hist.* 49, 1980, pp. 251-261; for other references, W. Tabbernee, *Fake Prophecy and Polluted Sacraments*, Leiden 2007). About Irenaeus' and Tertullian's teaching, see D. L. Hoffman, *The Status of Women and Gnosticism in Irenaeus and Tertullian*, Lewinston 1995. On Priscillianism, instead, see T. Breyfogle, «Magic, Women, and Heresy in the Late Empire. The Case of the Priscillianists», in M. Meyer, P. Mirecki (ed.), *Ancient Magic and Ritual Power*, Leiden 1995, pp. 435-454; moreover, V. Burrus, *The Making of a Heretic. Gender, Authority, and the Priscillianist Controversy*, Berkeley-Los Angeles-London 1995. Concerning Gnosticism, we refer to K. L. King, *Images of the Feminine in Gnosticism*, Harrisburg 1998.

⁴ For example, could be interesting to reflect about the experience of saints, of course women, who dedicated their life to Christian religion, but in complete solitude, especially in Orient; see S. P. Brock, S. Ashbrook Harvey, *Holy Women of the Syrian Orient*, Berkeley-Los Angeles-London 1987, pp. 1-26 together with Ead., «Women in Early Byzantine Hagiography: Reversing the Story», in L. L. Coon, K. J. Haldane, E. W. Sommer (ed.), *That Gentle Strength. Historical Perspectives on Women in Christianity*, Charlottesville-London 1990, pp. 36-59.

⁵ See, mainly, M. Scopello, *Femme, gnose et manichéisme. De l'espace mythique au territoire du réel*, Leiden 2005 and more precisely Ead., «Femmes et propagande dans le manichéisme», in *Con-*

for heresy: in this sense, their poverty became a sort of subset of the *poena inopiae*, prescribed in turn as a secondary punishment for religious crimes which others had committed⁶.

A good example of an exception is found in Justinian's *Nov.* 109⁷, issued in

naissance des Pères de l'Église 83, 2001, pp. 35–44, but also J. K. Coyle, «Women and Manichaeism's Mission to the Roman Empire», in *Mission* 13, 2006, pp. 43–62 (= *Manichaeism and Its Legacy*, Leiden 2009, pp. 141–205).

⁶ See, in particular, apart from M. V. Escribano Paño, «*Pauperes* en el libro XVI del *Codex Theodosianus*», in *Koinonia* 36, 2012, pp. 57–76, 69 ss. together with Ead., «Entre *res-publica* y *ecclesia*: la pobreza en las leyes imperiales de época tardoromana», in *De rebus antiquis* 3, 2013, pp. 1–24 and Ead., «Pobreza y herejía en *Codex Theodosianus* XVI», in A. Duplá Ansuategui, M. V. Escribano Paño, L. Sancho Rocher, M. A. Villacampa Rubio (ed.), *Miscelánea de estudios en homenaje a G. Fatás Cabeza*, Zaragoza 2014, pp. 265–276; moreover, P. Laurence, *La pauvreté au bas-Empire: le Code Théodosien, les femmes et les Pères*, in P.-G. Delage (éd.), *Les Pères de l'Église et la voix des pauvres. Actes du IIe Colloque de La Rochelle (2-4 septembre 2005)*, Paris 2006, pp. 31–45; finally, on the Byzantine time, E. Patlagean, *Povertà ed emarginazione a Bisanzio*, Roma-Bari 1986, pp. 93–132, 111 ss. and 214–215 (orig. *Pauvreté économique et pauvreté sociale à Byzance. 4^e-7^e siècles*, Paris-Den Haag 1977) and Ead., «Il povero», in G. Cavallo (cur.), *L'uomo bizantino*, Roma-Bari 1992, pp. 5–44. To become poor meant to descend the social scale until the rank of the *humiliores*, pressed from the top by the *honestiores*: C. Humfress, «Poverty and Roman Law», in R. Osborne, M. Atkins (ed.), *Poverty in the Roman World*, Cambridge 2006, pp. 183–203, pp. 201–202; more in general, P. Brown, *Poverty and Leadership in the Later Roman Empire*, Hanover-London 2002, *passim* and Id., *The Body and Society. Men, Women, and Sexual Renunciation in Early Christianity*, New York 1988, pp. 197–200, but also C. Corbo, *Paupertas. La legislazione tardoantica (IV-V sec. d.C.)*, Napoli 2006, the *Introduzione* (pp. 1–9) and Ead., «Poveri», in L. De Giovanni (cur.), *Società e diritto nella tarda antichità*, Napoli 2012, pp. 159–179, the first part until 166. Finally, concerning the role of the women in the *Codex Theodosianus*, see again P. Laurence, *Les droits de la femme au bas-empire romain. Le Code Théodosien. Textes, traductions et commentaires*, Paris 2012 and Id., «Les femmes dans le Code Théodosien. Perspectives», in S. Crogiez-Pétrequin, P. Jaillette (éd.), *Le Code Théodosien. Diversité des approches et nouvelle perspectives*, Roma 2012, pp. 259–269 together with Id., «La femme et son rang dans le Code Théodosien», in S. Crogiez, P. Jaillette (éd.), *Société, économie, administration dans le Code Théodosien. XXIXe Colloque International de HALMA (Lille 3-5 décembre 2005)*, Lille 2012, pp. 491–501.

⁷ The norm reappeared in the *Tipoukeitos* (35.12; S. Hoermann, E. Siedl, ed., *Τιπούκειτος sive librorum LX basilicorum summarium. XXIV-XXXVIII*, Città del Vaticano 1943, pp. 234–240) and in the commentary left by Theodore Balsamon on Photius' *Nomokanon* (12.2; G. A. Rhalles, M. Potles, éd., *Σύνταγμα τῶν θειωῶν καὶ ἱερῶν κανόνων*, Athina 1852, I 262–265; see, about the use of the *Nearai* in the Byzantine church law, F. A. Biener, *Geschichte der Novellen Justinians*, Berlin 1824 and Aalen 1970, pp. 157 ss.), about the necessity to deny the privileges concerning the dowry to the consorts of the heretics; the law would have a certain tradition in Athanasius of Emesa (G. E. Heimbach, ed., *Anekdotata. I. Athanasii Scholastici Emiseni*, Leipzig 1838, III.1, p. 44; see also D. Simon, S. Troianos, hrsg., *Das Novellensyntagma des Athanasios von Emesa*, Frankfurt am Main 1989, pp. 124–125: Αἱ γυναῖκες τῶν αἰρετικῶν, αἰρετικοὶ οὐσαι, οὐ χρήσονται τῷ τῆς προκοῆς ἢ ἐτήριω προνομίῳ, πλὴν εἰ μὴ μεταμεληθεῖσαι γένωνται κοινωνικαὶ καὶ ἐπιμείνωσι μέχρι τέλους) and in Theodore of Hermopolis (K. E. Zachariae von Lingenthal, ed., *Anekdotata. III. Theodorii Scholastici Breviarium Novellarum*, Leipzig 1843, CIX, p. 104), who commented the *corpus novellarum* after Justinian; in *Nov.* 45 (y. 537 / *Ut*

541 and addressed to John of Cappadocia, at that time *praefectus pretorio* for the Orient, just before that he fell into disgrace⁸. The constitution is written in Greek and is divided into a quite long *praefatio* (προοίμιον), two *capita* (κεφάλαια), the first more substantial than the second, and a short *epilogus* (ἐπίλογος).

The introduction, in a typical style, is magniloquent and stern⁹. It begins with a sentence which puts the trust in God (τὴν εἰς θεὸν ἐλπίδα) in direct connection with the survival of the state and the empire (τῷ τῆς ἡμετέρας πολιτείας τε καὶ βασιλείας βίῳ) and with the general rescue (βοήθειαν ἐπὶ παντί), by making both the soul and again the empire safe (τὴν τῆς ψυχῆς καὶ τὴν τῆς βασιλείας δίδωσι σωτηρίαν). Thereafter the emperor asserts that his legislation (τὰς νομοθεσίας) has its beginning (ἀρχήν), middle (μέσα) and end (πέρας) in the Christian faith.

Justinian recalls the action promoted against the heretics by Leo the Thracian (457-474) (ὁ τῆς εὐσεβοῦς μνήμης) and mainly by the uncle, Justin (518-527) (ὁ τῆς θείας λήξεως ἡμῶν πατήρ), who together with the nephew promulgated an important edict in 527, the year of his death, preserved in C. 1.5.12 but taken from the tradition of the *Nomokanon* and then epitomized in *Bas.* 1.1.30¹⁰. Two passages refer to the first lawgiver, namely C. 1.5.9 (y. 457), a summary recovered from *Bas.* 1.1.28, and C. 1.5.10 (y. 466-472?), which is a law prescribing a series of inabilities addressed to the heretics¹¹. Justin, on the

haeretici curiale set munia impleant et omnes functiones exhibeant, privilegiis autem non fruuntur. Et de testibus haereticis et ut de curiali fortuna testimonium perhibeant) and Nov. 122 (y. 544 / *De interdictis collectis haereticorum*) the term did not appear, maybe because the legislation on the argument had already consumed its intensity.

⁸ Proc. Caes., *Anekdotia* 2.16 and 3.7 and *Bellum Persicum* 1.25 (1.24 and 2.30.4) and *Bellum Vandalicum* 1.10.13. See J. R. Martindale (ed.), *The Prosopography of the Later Roman Empire*. III.A. A.D. 527-641, Cambridge 1992, pp. 627-635. The high rank functionary was the receiver of many imperial measures; see, among the others, G. Purpura, «Giovanni di Cappadocia e la composizione della commissione del primo Codice di Giustiniano», in *AUPA*. 36, 1976, pp. 49-67, apart from P. Lamma, «Giovanni di Cappadocia», in *Aevum* 21, 1947, pp. 80-100, on some passages preserved in John Lydus' *De magistratibus*.

⁹ See M. Maas, «Roman History and Christian Ideology in Justinianic Reform Legislation», in *DOP*. 40, 1986, pp. 17-31; moreover, G. Lanata, *Legislazione e natura nelle Novellae giustinianee*, Napoli 1984, pp. 19 ss. and on the use of the Greek language G. Martino, *Lex et scientia iuris. Aspetti della letteratura giuridica in lingua greca*, Napoli 2012, pp. 39 ss.

¹⁰ John Malalas confirms the persecution in *Chron.* 18.7; J. Thurn (ed.), *Chronographia*, Berlin-New York 2000, 357 (L. Dindorf, ed., *Chronographia*, Bonn 1831, p. 428). On purpose, see E. Stein, *Histoire du Bas-Empire. II. De la disparition de l'empire d'Occident à la mort de Justinian (476-565)*, Paris-Bruxelles-Amsterdam 1949, pp. 369 ss., followed by C. Capizzi, *Giustiniano I tra politica e religione*, Soveria Mannelli 1994², pp. 41 ss.

¹¹ See A. S. Scarcella, *La legislazione di Leone I*, Milano 1997, pp. 232 ss. and 260 ss.

other side, is connected with a more complex situation, because of the presence of further different constitutions, each one without the date, even if prior to C. 1.5.19 of 529. It is plausible that not only C. 1.5.15 and C. 1.5.16 together with C. 1.5.18, which only marginally take in consideration the Manichaeans, but also the same C. 1.5.12 were imposed by a young Justinian in order to include the name of the uncle and to exclude the Goths, who were Arians¹², immediately after the rise to power¹³.

The task of the previous emperors had been to exclude the heretics from the civil life (ἐν ταῖς ἑαυτῶν διατάξεσι τοῖς αἰρετικοῖς ἄπασιν ἀπηγόρευσαν), both from service in the army (ὥστε μηδεμίαν αὐτοὺς μετιέναι στρατείαν) and from participation in political assemblies (μηδὲ τὴν οἰανοῦν ἐπὶ δημοσίαις φροντίσι μετουσίαν ἔχειν), avoiding the corruption of the people (ὅπως ἂν μὴ προφάσει τῶν τε στρατειῶν τῶν τε δημοσίων ἐπιταγμάτων τῷ τῆς ἁγίας τοῦ θεοῦ καθολικῆς καὶ ἀποστολικῆς ἐκκλησίας μέρει φανεῖεν λυμαινόμενοι).

Justinian states his intention to continue this attitude strongly (καὶ ἡμεῖς δὲ αὐτὸ τοῦτο πεπράχαμεν ἡμετέραις διατάξεσι ταῦτα κυρώσαντες). Moreover, he adds other groups to those named by his predecessors (οἷς συνάπτομέν τε καὶ συναριθμοῦμεν), in particular the Nestorians¹⁴, who were accused of being

¹² See H. Wolfram, «Gotisches Königtum und römisches Kaisertum von Theodosius dem Grossen bis Justinian I.», in *Frühmittelalterliche Studien* 13, 1979, pp. 1-28, 24 ss. besides Id., *Die Goten. Von den Anfängen bis zur Mitte des sechsten Jahrhundert*, München 1979, pp. 249 ss. Also interesting, for different aspects, G. Greatrex, «Justin I and the Arians», in M. F. Wiles, E. J. Yarnold (ed.), *Studia patristica. XXXIV. Historica, Biblica, Theologica et Philosophica*, Leuven 2001, pp. 73-81 and D. Mirşanu, «The Imperial Policy of Otherness: Justinian and the Arianism of Barbarians as a Motive for the Recovery of the West», in *Ephemerides Theologicae Lovanienses* 84, 2008, pp. 477-498.

¹³ See O. Mazal, *Justinian I. und seine Zeit. Geschichte und Kultur des byzantinischen Reiches im 6. Jahrhundert*, Köln-Weimar-Wien 2001, pp. 41 and 195-252, but also G. Tate, *Giustiniano. Il tentativo di rifondazione dell'impero*, Roma 2006, pp. 727 ss. (orig. *Justinien. L'épopée de l'Empire d'Orient*, Paris 2004); moreover, apart from G. Downey, «Julian and Justinian and the Unity of Faith and Culture», in *Church Hist.* 28, 1959, pp. 339-349, H. Leppin, *Zu den Anfängen der Kirchenpolitik Justinians*, in H.-U. Wiemer (hrsg.), *Staatlichkeit und politisches Handeln in der römischen Kaiserzeit*, Berlin 2006, pp. 187-208 and Id., *Justinian, das christliche Experiment*, Stuttgart 2011, pp. 92-106; finally, P. N. Bell, *Social Conflict in the Age of Justinian. Its Nature, Management, and Meditation*, Oxford 2013, pp. 160-210.

¹⁴ Nestorius studied at the theological school belonging to Theodore of Mopsuestia and moved from Syria to Constantinople only when Theodosius II decided to make him patriarch in 428: his thought, concerning the role of Mary and so the nature of Jesus, was condemned by Cyril of Alexandria – see S. Wessel, *Cyril of Alexandria and the Nestorian Controversy. The Making of a Saint and of a Heretic*, Oxford 2004 – during the Council of Ephesus in 431. The Nestorians appeared also in *Nov.* 115 of 542 (3.14) and in *Nov.* 131 of 545 (14); moreover, see J. Straub (ed.), *Acta Conciliorum Oecumenicorum. IV. Concilium Universale Constantinopolitanum sub Iustiniano*

similar to the Jews (τοὺς τῆ Νεστορίου Ἰουδαϊκῆ ἀκολουθοῦντας μανίᾳ)¹⁵, the Eutychians (Εὐτυχιανιστὰς)¹⁶ and the so-called “headless”, who believed in the bad teachings belonging to Dioscorus of Alexandria¹⁷ and Severus of Antioch¹⁸, connected with the Manichaeans, and to Apollinaris of Laodicea¹⁹ (Ἀκεφάλους, οἵτινες τὴν Διοσκόρου καὶ Σεβήρου κακοδοξίαν νοσοῦσι τῶν τὴν Μανιχαίων καὶ Ἀπολλιναρίου ἀνανεωσαμένων δυσσέβειαν)²⁰.

Habitum. 1. Concilii Actiones 8. Appendices Graecae. Indices, Berlin 1971, pp. 91 ss. where there are two Theodosian constitutions read during the fifth ecumenical Council of Constantinople in 553 and interpolated by Justinian.

¹⁵ Sch. 7 ad Bas. 21.1.45: it is known that the Nestorians, like broadly speaking the Jews, rejected Mary as the Mother of God, on consequence preferring to call her *Christotokos* instead of *Theotokos*; see G. Stemberger, «Die Verbindung von Juden und Häretikern in der spätantiken römischen Gesetzgebung», in M. Hutter, W. Klein, U. Vollmer (hrsg.), *Hairesis. Festschrift für K. Hoheisel zum 65. Geburtstag*, Münster 2002, pp. 203-214, but also A. M. Cameron, «The Theotokos in Sixth-century Constantinople. A City Finds Its Symbol», in *JThS.* 29, 1978, pp. 79-108.

¹⁶ Eutyches of Constantinople, a Monophysite from Egypt, had intervened with strength against Nestorius in the first Council of Ephesus: deposed by a local synod in 448, he was rehabilitated by Dioscorus of Alexandria in the second Council of Ephesus in 449. After the Council of Chalcedonia, the followers of the official creed used to call the others as “Eutychians”; see A. M. Demicheli, «La politica religiosa di Giustiniano in Egitto. Riflessi sulla chiesa egiziana della legislazione ecclesiastica giustiniana», in *Aegyptus* 73, 1983, pp. 217-257 and E. R. Hardy, «The Egyptian Policy of Justinian», in *DOP.* 22, 1968, pp. 21-41.

¹⁷ Dioscorus, patriarch of Alexandria, was deposed and exiliated in the Council of Chalcedonia in 451: during the Council of Ephesus in 449, the famous *latrocinium Ephesinum*, he defended the doctrine professed some time before by the monk Eutiches.

¹⁸ See – probably the most recent work – P. Allen, C. T. R. Hayward, *Severus of Antioch*, London-New York 2004 together with R. Torrance Iain, *Christology after Chalcedon. Severus of Antioch and Sergius the Monophysite*, Norwich 1988, pp. 1-25 and R. C. Chesnut, *Three Monophysite Christologies. Severus of Antioch, Philoxenus of Mabbug and Jacob of Sarug*, Oxford 1976, pp. 9-56, but also W. H. C. Frend, «Severus of Antioch and the Origins of the Monophysite Hierarchy», in *Orientalia Christiana Analecta* 195, 1973, pp. 261-275 and before J. Lebon, *Le monophysisme sévérien: étude historique, littéraire et théologique sur la résistance monophysite au concile de Chalcédoine jusqu'à la constitution de l'église jacobite*, Louvain 1909; finally, E. O'Learly De Lacy, «Severus of Antioch in Egypt», in *Aegyptus* 32 (*Raccolta di scritti in onore di G. Vitelli*, Milano, vol. III, 1952), pp. 425-436.

¹⁹ Apollinaris of Laodicea argued especially with the Arians, sliding, however, into a position which stressed too much the divine nature of Christ: so, he was condemned by Theodosius I in 388 (*CTh.* 16.5.14).

²⁰ They appear also in *Nov.* 115 (3.14) of 542 and in *Nov.* 131 (14.2) of 545, together with the Nestorians and the Eutychians: the first one, in particular, concerns the possibility for the parents to disinherit their offspring when heretics, while the second one prescribes that the Church would be able to claim the property of a holy building built on a private land and given to the Nestorians, to the “headless” and to the Eutychians.

Among the “headless” (literally, “without a leader”) there were radical Monophysites who had refused every form of compromise, like the *Henotikon* outlined by the emperor Zeno together with the patriarch Acacius in 482 attempting to recompose the Miaphysite movement and its leader, Peter Mongus, the pope of Alexandria²¹. They remained isolated and joined the ranks of the followers of the ideas spread by Severus of Antioch, before they were considered as an autonomous group²². We know, moreover, that Heraclius, after decades, discussed about Monophysitism with one of them, a certain Paul, who might have had an influence on Monothelitism and on the doctrine of the “energies” elaborated by Sergius²³.

At the end, the emperor invokes the unity of the whole Church including the sees of Rome, Constantinople, Alexandria, Antioch²⁴ and Jerusalem and identifies the heretics as false Christians on the basis of a very old *topos* belonging to the theological polemics (καὶν γὰρ ὄνομα Χριστιανῶν ἑαυτοῖς περιτιθέασι, τῆς ἀληθινῆς ἑαυτοῦ τῶν Χριστιανῶν πίστεως τε καὶ κοινωνίας χωρίζοντες τῷ τοῦ θεοῦ κρίματι ἑαυτοῦς ὑπάγειν γινώσκονται)²⁵.

The first chapter of the law opens with a reference to the system erected through the constitutions against the heretics; then, the final aim is shown, that is to say the necessity of denying some legal privileges to the heterodox, granted instead to the orthodox.

More precisely, two types of privileges are considered, both concerning the institute of the dowry (in Greek is προίξ): the possibility to be placed before

²¹ Zeno in 489 decided to close the Nestorian school of Edessa, which moved again to Nisibi.

²² The “headless” are presented as deriving from the Manichaeans – by way of the Apollinarists, even if the same Apollinaris of Laodicea had argued also with them – in a letter send by Justinian to the monks of Alexandria about the Monophysites, because of their creed in an only single nature of Christ; E. Schwartz, *Drei dogmatische Schriften Justinians*, München 1939 (M. Amelotti, L. Migliardi Zingale, cur., Milano 1973²), pp. 38 ss. We know, moreover, about a treatise written against the “headless” together with the Nestorians because its text was partially read during the sixth ecumenical Council of Constantinople in 680-681, referring in that case to Monothelitism: M. Amelotti, L. Migliardi Zingale (cur.), *Scritti teologici ed ecclesiastici di Giustino*, Milano 1977, pp. 38-40

²³ See, for a good study on the sources, V. Grumel, «Recherche sur l’histoire du Monothélisme», in *Échos d’Orient*, 1928, pp. 6-16 and 267-277; 1929, pp. 19-34 and 272-282; 1930, pp. 16-28.

²⁴ The city was recalled Theopolis, “City of God”, after two disastrous earthquakes in 526 and 528 as a propitiatory gesture and on suggestion of a holy man called Symeon: G. Downey, *A History of Antioch in Syria from Seleucus to the Arab Conquest*, Princeton 1961, pp. 529-530 and 582; moreover, E. Honigmann, «Theopolis», in *RE*. 6A 257.

²⁵ Matthew’s *Evangelium* 7.15-16a and *Acts of the Apostles* 20.29.

the previous creditors too (ὥστε καὶ προγενεστέρων δανειστῶν προκρίνεσθαι) and that one to receive a better position without resulting overtaken, in relation to the gifts given for the marriage and in order to keep their mortgages in accordance to the time of the stipulation (καὶ βελτίω ταξίν ἔχειν αὐτὰς καὶ ταῦτα ὑπὸ τοῦ χρόνου νικωμένας, ἐπὶ δὲ τῶν διὰ τοὺς γάμους δωρεῶν κατὰ τοὺς χρόνους καθ' οὓς ἂν γένοιτο τὰς ὑποθήκας ἔχειν), as prescribed in C. 8.17.12 of 531²⁶.

Among the norms which erected the legal structure of the gifts for marriages, it is possible that the text thinks to C. 5.3.19, issued by Justin maybe in 527, through a cursory reference: ἐπειδὴ γὰρ δεδῶκαμεν προνόμια ταῖς γυναιξὶ τῶν προικῶν²⁷; it is sure that the *donatio propter nuptias*, something offered by a man to his future wife, would be totally equalized to the dowry in Nov. 97 of 539²⁸, while the same dowry was enrolled in regime of usufruct during the marriage and could be claimed back in case of divorce or widowhood (C. 5.12.30 of 529 and C. 5.13.1 of 530)²⁹.

It should be noted that, on the one hand, the privileges denied to heterodox women were provided only for married subjects, as the secondary meaning of the term γυναικὰ suggests us³⁰; on the other hand, despite a marked patrimonial character, they were apparently independent from the confession stated by the husbands and therefore from their contingent condemnations in matter of

²⁶ N. van der Wal, *Manuale Novellarum Justiniani. Aperçu systématique du contenu des Novelles de Justinien*, Groningen 1964, p. 73 note 7.

²⁷ Further legislation concerning gifts in C. 8.53 (33, y. 528; 34, y. 529; 35, y. 530; 36, y. 531; 37, without year).

²⁸ C. 5.3.20 of 531-533, on the other side, referred specifically to Leo I: *ut Leoniana constitutio*; see note 11. Apart from L. Aru, *Le donazioni fra coniugi in diritto romano*, Padova 1938 and B. Biondi, *Corso di diritto romano: le donazioni*, Milano 1940, pp. 75-180, see P. Ferretti, *Le donazioni tra fidanzati nel diritto romano*, Milano 2000, pp. 219 ss. and G. Lucchetti, «Brevi note su I. 2, 7, 3: aspetti della riforma giustiniana della donazione nuziale», in *Contributi di diritto giustiniano*, Milano 2004, pp. 99-126 (= F. M. D'Ippolito, cur., *Philia. Scritti per G. Franciosi*, Napoli 2007, III 1473-1496).

²⁹ Useful references about the whole question in A. S. Scarcella, «Il regime pattizio dei lucri vedovili nel diritto giustiniano», in *Labeo* 39, 1993, 365-399.

³⁰ About the marriage in Roman law during the Christian empire we simply refer to R. Orestano, *La struttura del matrimonio romano dal diritto classico al diritto giustiniano*, Milano 1951, pp. 258 ss. (orig. *BIDR.* 7, 1940, pp. 154-402) and Id., «Alcune considerazioni sui rapporti fra matrimonio romano e matrimonio cristiano nell'età postclassica», in *Scritti in onore di C. Ferrini*, Milano 1943, pp. 343 ss.; moreover, J. Gaudemet, «Originalité et destin du mariage romain», in *L'Europa e il diritto romano. Studi in onore di P. Koschaker*, Milano 1954, II 513 ss. and Id., «Droit romain et principes cononiques en matière de mariage romain en Bas Empire», in *Studi in memoria di E. Albertario*, Milano 1953, II 171 ss.; finally, B. Biondi, *Il diritto romano cristiano*, Milano 1954, III 69 ss.

religion³¹. More simply, we are inside a structure of a traditional family, where women are put in condition by the lawgiver to accept or deny the choices of their men.

Actually, the constitution is addressed to heretical women and not to women belonging to heretical men³². Yet the patrimonial incapacity, which seems to descend from a sort of *infamia*³³ along the line of the discriminatory legislation on prostitutes and actresses³⁴, was basically an instrument finalized

³¹ Heresy, as a matter of fact, was an element which could integrate the profile of a *iusta causa* of divorce: we refer only to C. Fayer, *La familia romana. III. Concubinato Divorzio Adulterio*, Roma 2005, pp. 134 ss. besides K. Visky, «Le divorce dans la législation de Justinien», in *RIDA*. 23, 1976, pp. 239-264; moreover, we would like to quote F. Delpini, *Divorzio e separazione dei coniugi nel diritto romano e nella dottrina della chiesa fino al V secolo*, Torino 1956. Anyway, see also C. Humfress, «Citizens and Heretics», in E. Iricinshi, H. M. Zellentin (ed.), *Heresy and Identity in Late Antiquity*, Tübingen 2008, pp. 128-142.

³² We do not forget that on the matter of marriage, in 535, had been issued a long constitution, divided in forty-eight chapters (*Nov. 22*; see N. van der Wal, *Manuale Novellarum Justiniani* cit., pp. 71 ss.).

³³ D. 3.2, *De his qui notantur infamia*. On the ancient concept of *existimatio*, from which the *ignominia* and properly the *infamia*, besides M. Kaser, «*Infamia und Ignominia in den römischen Rechtsquellen*», in *ZSS.RA*. 73, 1956, pp. 220-278, see A. Maffi, «La costruzione giuridica dell'infamia nell'ordinamento romano», in P. Prodi (cur.), *La fiducia secondo i linguaggi del potere*, Bologna 2007, pp. 41-51; moreover, U. Brasiello, «*Infamia (dir. rom.)*», in *Nuovissimo Digesto Italiano VIII* (1962), pp. 641-643 and A. Mazzacane, «*Infamia*», in *Enciclopedia del Diritto XXI* (1971), pp. 382-387; interesting also V. Neri, *I marginali nell'Occidente tardoantico. Poveri, "infames" e criminali nella nascente società cristiana*, Bari 1998, pp. 197-233 (prostitution) e 233-258 (theatre).

³⁴ See J. Beaucamp, *Le statut de la femme à Byzance. 4e-7e siècle. I. Le droit impérial*, Paris 1990, pp. 121 ss. and 202 ss.; moreover, T. A. J. McGinn, *Prostitution, Sexuality and the Law in Ancient Rome*, Oxford 1998, pp. 338 ss. (and Ead., «The Legal Definition of Prostitute in Late Antiquity», in *Memoirs of the American Academy in Rome* 42, 1997, pp. 73-116) and J. E. Spruit, *De Juridische en sociale positie van de Romeinse Acteurs*, Assen 1966, pp. 239 ss. on Theodora – the constitution preserved in C. 5.4.23 and issued by Justin was for sure inspired by Justinian in order to rehabilitate her and to make possible their marriage; see D. Daube, «The Marriage of Justinian and Theodora. Legal and Theological Reflections», in *Catholic University Law Review* 16, 1966/1967, pp. 380-399 (= *Collected Studies in Roman Law*, Frankfurt am Main 1991, II 1223-1244); moreover, *Nov. 14* of 535 was directed to prohibit the *lenocinium*: confirm this attitude both Procopius (*De aed.* 1.9.5-10, where he speaks about a “Monastery of the Penitence”, even if *Anekdotia* 17.5-6 gives another interpretation) and Malalas (*Chron.* 18.24; J. Thurn, ed., *Chronographia* cit., p. 368 = Dindorf 440) – together with D. R. French, «Maintaining Boundaries. The Status of Actress in Early Christian Society», in *Vigiliae Christianae* 52, 1998, pp. 293-318 and J. Evans Grubbs, «Virgins and Widows, Show-Girl and Whores. Late Roman Legislation on Women and Christianity», in R. W. Mathise (ed.), *Law, Society and Authority in Late Antiquity*, Oxford 2001, pp. 220-241. Anyway, for general references, see A. Arjava, *Women and Law in Late Antiquity*, Oxford 1996, pp. 230 ss. and J. F. Gardner, *Women in Roman Law and Society*, London-Sidney 1986, pp. 245 ss. It has been impossible for me to consult S. Leontsini, *Die Prostitution im frühen Byzanz*, Diss. Wien 1989.

at isolating the male, who was indeed considered the only real responsible³⁵.

The second chapter introduces an escape route for those who might abandon heresy to embrace the true faith. This possibility obliged everyone who was charged with dealing out justice, first of all the clergymen (πρωτοτύπως μὲν παρὰ τῶν θεοφιλεστάτων ἱερέων), then high officers and judges of any sort (ἔπειτα δὲ καὶ παρὰ τῶν ἡμετέρων ἀρχόντων καὶ δικαστῶν, εἴτε μείζους εἴτε ἐλάττους καθεστᾶσι) and of course the recipient of the edict, John of Cappadocia (καὶ πρὸς γε παρὰ τῆς σῆς ὑπεροχῆς, πρὸς ἣν καὶ τὸν παρόντα ποιούμεθα νόμον), to investigate and to establish a level of compliance to the legitimate religion on the part of the wife asking for such the concession.

Again, women are persuaded to be independent from the behaviour of their men and to find, from a legal point of view, a distinct possibility to end the subjugation still imposed in society by the male over the female³⁶.

The most remarkable aspect of the text concerns the competence required to decide if the claimant could still be considered inside the οἰκουμένη and in communion, κοινωνία, with the holy Catholic and Apostolic Church (ἐν τῇ ἀγιωτάτῃ καθολικῇ καὶ ἀποστολικῇ ἐκκλησίᾳ). While in the second chapter this assignment seems to be devolved upon a great number of people, in the first one the ecclesiastics are presumed to be the main protagonists: τὰς γὰρ

³⁵ About the independence of women in the Christian experience of Late Antiquity, see E. A. Clark, *Ascetic Piety and Women's Faith. Essays on Late Ancient Christianity*, New York 1986 and Id., «Women and Asceticism in Late Antiquity. The Refusal of Gender and Status», in V. L. Wim-bush, R. Valantasis (ed.), *Asceticism*, New York 1995, pp. 33-48; moreover, besides C. Nolte, *Conversio und Christianitas. Frauen in der Christianisierung vom 5. bis 8. Jahrhundert*, Stuttgart 1995, G. Cloke, *This Female Man of God: Women and Spiritual Power in the Patristic Age, AD 350-450*, London 1995, G. Clark, *Women in Late Antiquity. Pagan and Christian Life-styles*, Oxford 1994 and S. Elm, «Virgins of God»: *The Making of Asceticism in Late Antiquity*, Oxford 1994 together with K. Cooper, *The Virgin and the Bride. Idealized Womanhood in Late Antiquity*, Cambridge 1996; finally, L. L. Coon, *Sacred Fictions. Holy Women and Hagiography in Late Antiquity*, Philadelphia 1997 and again E. A. Clark, «Ideology, History, and the Construction of Women in Late Antique Christianity (Ideological Representation of the Self According to the Church Fathers)», in *Journal of Early Christian Studies* 2, 1994, pp. 155-184.

³⁶ The choice of a particular way of faith represented a possibility to become or remain autonomous, from an economical point of view too if we remember the condition of chastity or widowhood in connection with the disposition of huge assets, which were allowed only when employed in pious works: a good example could be the narration of the life of Saint Thecla; see, S. J. Davies, *The Cult of Saint Thecla. A Tradition of Women's Piety in Late Antiquity*, Oxford 2001, but also E. M. Synek, «Oikos-Ecclesiology» and «Church Order» in *Eastern Christianity*, in A. B. Mulder-Bakker, J. Wogan-Browne (ed.), *Household, Women, and Christianities in Late Antiquity and Middle Age*, Turnhout 2005, pp. 37-70 and D. Cartlidge, «Thecla. The Apostle who Defied Women's Destiny», in *Bible Review* 20, 2004, pp. 24-33.

χωριζούσας ἑαυτὰς τῆς ἁγίας τοῦ θεοῦ καθολικῆς καὶ ἀποστολικῆς ἐκκλησίας καὶ τῆς ἀχράντου κατ' αὐτὴν κοινωνίας μεταλαμβάνειν οὐκ ἀνεχομένας παρὰ τῶν ταύτης θεοφιλεστάτων ἱερέων οὐ βουλόμεθα παντελῶς τῶν τοιούτων ἀπολαύειν προνομίων.

Finally, in the conclusion, we read the usual formulation to emanate a law, by reproducing and publishing the prescriptions and its edicts copied from the original (διὰ τε τῶν εἰωθότων ἰδίκτων καὶ προσταγμάτων οἰκείων πᾶσι φανερά), both in Constantinople and in the provinces of the empire (ἐν τε τῇ εὐδαίμονι ταύτῃ πόλει καὶ ἐν ταῖς ἐπαρχίαις πάσαις)³⁷.

After this brief analysis of the text, it is important to contextualize the legal document, in an attempt to understand the reason which brought the imperial chancellery to consider the Manichaeans as Ἀκεφάλοι; then we will see how the constitution refers to Manichaean women.

Justinian's zeal in persecuting the Manichaeans – or some so-called entities – is described by Eusebius of Caesarea in two passages of his *Anekdota*. In the first (11)³⁸, a little group of Samaritans, living in Palestine and severely struck by the legal measures issued to destroy their community³⁹, became Manichaeans. In the second (22)⁴⁰, Petrus Barsymes, a money-changer hailing from Syria, who held the charge of *magister officiorum* thanks to his talent in cheating⁴¹, is identified as a protector of the members of the sect. In two further plac-

³⁷ About this kind of problem, see S. Puliatti, «Le costituzioni tardoantiche: diffusione e autenticazione», in *SDHI*. 74 (2008), pp. 99-133, but also J. E. Matthews, *Laying Down the Law. A Study on the Theodosian Code*, New Haven-London 2000, pp. 187-199; moreover, G. Lanata, *Legislazione e natura delle Novelle giustiniane* cit., pp. 107-161.

³⁸ W. Dindorf (ed.), *Historia Arcana*, Bonn 1838, p. 75.

³⁹ See S. Winkler, «Die Samariter in den Jahren 529/530», in *Klio* 43-45, 1965, pp. 435-457 and mainly A. M. Rabello, «The Samaritans in Justinian's *Corpus Iuris Civilis*», in *Israel Law Review* 31, 1997, pp. 724-743 (= *The Jews in the Roman Empire: Legal Problems, from Herode to Justinian*, Aldershot 2000, n. 11); moreover, S. Puliatti, «Samaritas atroces et adversus Christianos elatos. Il problema religioso e politico del samaritanesimo in età giustiniana», in *Koinonia* 36, 2012, pp. 109-132, but also Id., «La legislazione antisamaritana da Giustiniano a Giustino II», in *Scritti in onore di A. Falzea*, Milano 1991, IV 231-245; interesting, finally, K. L. Noethlichs, *Jews, Heretics or Useful Farm Workers? Samaritans in Late Antique Imperial Legislation*, in J. Drinkwater, B. Salway (ed.), *W. Liebeschuetz Reflected. Essays Presented by Colleagues, Friends and Pupils*, London 2007, pp. 57-65. Anyway, for further references, A. D. Crown, *The Samaritans*, Tübingen 1989 together with D. Jacoby, Y. Tsafir, *Jews, Samaritans and Christians in Byzantine Palestine*, Jerusalem 1988, in Hebrew.

⁴⁰ W. Dindorf (ed.), *Historia Arcana* cit., p. 126.

⁴¹ He appears again in the chapters 24 and 25, describing respectively the world of the army and that one of the trade: he was *praefectus praetorio Orientis* (543-546), preceded (541-542) and after again followed (547-548) by Theodotus; J. R. Martindale (ed.), *The Prosopography of the Later Roman Empire. III. B. A.D. 527-641*, Cambridge 1992, pp. 999-1002 (Petrus Barsymes)

es, however, the historian speaks only about the phenomenon of heresy from a general perspective (18 and 19).

Moreover, John Malalas, who in this case followed the previous chroniclers⁴², relates that during the persecution many people would be executed, among them the wife of a patrician named Eritrius⁴³: according to John Nikiu, an Egyptian bishop who lived at the end of the seventh century⁴⁴, this Eritrius was a supporter of the Mazdakists, the sectarians exiled by the *shansha* Kawādh I⁴⁵.

Apart from these facts, Justinian had faced the problem of Manichaeism on another occasion during the initial years of his reign, when a public debate, supported by the same emperor, occurred between a certain Manichaean, known as Philoteus, and Paul the Persian⁴⁶, a late Aristotelian philosopher who must probably be identified with Paul of Nisibis, a famous Nestorian⁴⁷.

and 1301 (Theodotus), but also E. Stein, *Histoire du Bas-Empire. II. De la disparition de l'empire d'Occident à la mort de Justinian (476-565)*, Amsterdam 1968, pp. 761-769.

⁴² See R. D. Scott, «Malalas, the Secret History, and Justinian's Propaganda», in *DOP* 39, 1985, pp. 99-109, in particular 103-104.

⁴³ 17.21 (J. Thurn, ed., *Chronographia* cit., p. 352 = Dindorf 423), evoked by Teophanes the Confessor (A.M.6016; C. De Boor, ed., *Chronographia*, Bonn 1883, 171 2-3); there are other references to other persecutions in the eighteenth book: 64 and mainly 78 (J. Thurn, ed., *Chronographia* cit., 391 and 402 = Dindorf 468 and 478).

⁴⁴ 90.55 (R. H. Charles, ed., *The Chronicle of John. Coptic Bishop of Nikiu. Translated from Zotenberg's Ethiopic Text*, London 1916, p. 139).

⁴⁵ Mazdakism, from the name of its founder, Mazdak, was a religious movement characterized by a strong popular nature, which aspired to overturn the traditional faith and the priestly caste of the magicians through the call to some aspects of Manichaeism: it was repressed between Kawādh (488-531) and Khusraw I Anoshirvān (531-579), during Justinian's time. For all, E. Yarshater, *Mazdakism, in The Cambridge History of Iran. III.2. The Seleucid, Parthian and Sasanid Periods*, Cambridge 1983, pp. 991-1024 together with G. Gnoli, *Nuovi studi sul Mazdakismo, in La Persia e Bisanzio. Convegno internazionale, Roma, 14-18 ottobre 2002*, Roma 2004, pp. 439-456; moreover, P. Crone, «Kavād's Heresy and Mazdak's Revolt», in *Iran* 29, 1991, pp. 21-42; works still fundamental, A. Christiansen, *Le règne du roi Kawādh et le communisme mazdakite*, København 1925 and O. Klíma, *Mazdak. Geschichte einer sozialen Bewegung im Sassanidischen Persien*, Praha 1957 and Id., *Beiträge zur Geschichte des Mazdakismus*, Praha 1977; finally, A. Bausani, *Persia religiosa da Zaratustra a Bahá'u'lláh*, Milano 1959, pp. 120 ss.

⁴⁶ Personality of remarkable theological (belonging to the Nestorian church), but above all of philosophical culture (educated at the Aristotelian school), after the attempt to reach the metropolis of Persia, he choose to convert his faith by accepting Zoroastrianism; see B. Bennett, *Paul the Persian, in Encyclopaedia Iranica* (2003), at the following address: <http://www.iranica-online.org/articles/paul-the-persian>, apart from A. V. Williams-Jackson, *Zoroastrian Studies. The Iranian Religion and Various Monographs*, New York 1928, pp. 240-241.

⁴⁷ Native of Bassora, he was a theologian belonging to the school of Nisibis when Mar Abba, one of the most important exponents of the church of Persia, became *katholikos* of Seleucia-Ctesifonte, and then metropolitan bishop always in Nisibis; A. Vööbus, *History of the School*

The dispute, under the eyes of the *praefectus Urbi*, Theodorus⁴⁸, results structured in three parts: on the creation of the soul and its immortality; on some fundamental points of the anti-Manichaean polemic taken mainly from Augustine of Hippo; and on the problem of the authority of the Old Testament⁴⁹. However, the initial content of the discussion, which was indirectly connected with the nature of Christ⁵⁰, indicates that the matter was more complex because of its connection with the struggle between the doctrines of Monophysitism and Duophysitism and the Neocalcedonian theology⁵¹.

So, the scene seems to move to Persia, in relation to a tradition concerning two events: at first, that Kawādh I, who had accepted the new faith before repudiating it, promoted a legislation, considered immoral, but in tune with

of Nisibis, Louvain 1965, pp. 170-172. In the *Historia Ecclesiastica* written by Barhadbeshabba Arbaya, a Nestorian (F. Nau, in *PO*. IX.5, 1913, pp. 628-630), a meeting is remembered between Paul of Nisibis and Justinian, while a Syriac manuscript preserved in London, the Add. 14535 of the British Museum, preserves a fragment of the verbal process concerning the nature of Christ, if he would originate two hypostasis, one divine and the other human, as testified by a passage of the *Historia Nestoriana* (or *Cronaca di Séert*; A. Scher, in *PO*. VII.2, 1910, pp. 187-188); see A. Guillaumont, «Justinian et l'Église de Perse», in *DOP*. 23, 1969, pp. 41-66, 50 ss. and 62-66. On his work was based the treatise of biblical exegesis composed by Junillus Africanus – *quaestor sacri palatii* between 541/542 and 548/549; J. R. Martindale (ed.), *The Prosopography of the Later Roman Empire*. III.A cit., p. 742 – and known as *Instituta regularia divinae legis* (*PL*. 68, coll. 15-42; H. Kihn, *Theodor von Mopsuestia and Junilius Africanus als Exegeten. Nebst einer kritischen Textausgabe von des letzteren Instituta regularia divinae legis*, Freiburg im Breisgau 1880, pp. 465-528); anyway, see M. Maas, *Exegesis and Empire in the Early Byzantine Mediterranean*, Tübingen 2003.

⁴⁸ Actually, the charge of the high rank official do not coincide with the date of the debate (even if C. 9.19.6 contains a constitution addressed by Justin to a certain Theodorus on the 1st december of 526); J. R. Martindale (ed.), *The Prosopography of the Later Roman Empire*. II. A.D. 395-527, Cambridge 1980, p. 1096, but before the contribute quoted at the following note by Giovanni Mercati (pp. 202 ss.).

⁴⁹ *Disputatio cum manichaeo*, in *PG*. 88, coll. 529-552; see, besides G. Mercati, «Per la vita e gli scritti di “Paolo il Persiano”. Appunti da una disputa di religione sotto Giustino e Giustiniano», in *Note di Letteratura biblica e cristiana antica* 5, 1901, pp. 180-206 (= *Studi e testi*, Città del Vaticano 1901, V 180-206), S. N. C. Lieu, *Manichaeism in the Later Roman Empire and Medieval China*, Tübingen 1992², pp. 210-214 and W. W. Klein, *Die Argumentation in den griechisch-christlichen Antimanichaica*, Wiesbaden 1991, pp. 96-100.

⁵⁰ To the eyes of the Christians this was one of the main points belonging the thought expressed by the Manichaeans, because was in the existence of every soul that the process of recovery, aggregation and asceticism to heavens of the particles of light scattered in the world at the moment of the creation found its concrete materialization; in particular, H.-C. Puech, «Il manicheismo», in H.-C. Puech (éd.), *Storia delle religioni*, Roma-Bari 1977, II.2 623-739, 649 ss. (orig. *Histoire des religions*. I. *Les religions antiques. La formation des religions universelles et des religions de salut en Inde et en Extrême-Orient*, Paris 1970).

⁵¹ See G. Rinaldi, *Cristianesimi nell'antichità: sviluppi storici e contesti geografici (secoli I-VIII)*, Roma-Chieti 2008, pp. 789 ss.

Mazdakism, in favour of sharing women; after, that his successor, Khusraw I Anoshirvān, who was the great partner of Justinian⁵², fought unceasingly against the Mazdakists, forcing them to escape towards the Roman empire, where they were considered just Manichaeans⁵³.

The most relevant detail here in Justinian's action, rather like a new Constantine⁵⁴, is his consideration about the Christians of Persia⁵⁵. Similarly, he was

⁵² The hostilities between the two empires – pieces of information are given by Procopius of Caesarea, followed by Agatias and Menander Protector – record three fundamental dates: 532 (the so called “endless peace”), 540 (retake of the war; see G. A. Downey, «The Persian Campaign in Syria in AD 540», in *Speculum* 28, 1953, pp. 340-348) and 561 (a peace of fifty years); still essential, K. Güterbock, *Byzanz und Persien in ihren diplomatisch-völkerrechtlichen Beziehungen im Zeitalter Justinians. Ein Beitrag zur Geschichte des Völkerrechts*, Berlin 1906. See, on the attempt to conclude an alliance through family relationships, P. E. Pieler, «L'aspect politique et juridique de l'adoption de Chosroès proposée par les Perses à Justin», in *RIDA*. 19, 1972, pp. 399-433 and more recently M. P. Canepa, *The Two Eyes of the Worlds. Art and Ritual of Kinship between Rome and Sasanian Iran*, Berkeley-Los Angeles 2009.

⁵³ See G. Pugliese Carratelli, «Genesi ed aspetti del mazdakismo», in *La parola del passato* 27, 1971, pp. 66-85 and Id., «Sulle dottrine sociali di Bundos e Mazdak», in *Il Veltro* 14, 1970, pp. 119-122, concerning the relation between Mazdak and Boundos, who would serve during the time of Diocletian according to Malala in *Chron.* 50.42 (J. Thurn, ed., *Chronographia* cit., 238 = Dindorf 309-310) (*contra*, E. Arrigoni, *Manicheismo Mazdakismo e confessione dell'eresiarca romano-persiano Bundos*, Milano 1982, a book signed at Istanbul in 1981); moreover, S. N. C. Lieu, *Manichaeism in the Later Roman Empire and Medieval China* cit., p. 116 and mainly Id., «From Mesopotamia to the Roman East», in *Manichaeism in Mesopotamia and the Roman East*, Leiden 1994, pp. 22-131, 130-131.

⁵⁴ Eus. Caes., *Vita Const.* 4.56 (the never realized campaign of war) and 4.9-13 (the letter sent by Constantine to Shapur II); see D. Frendo, «Constantine's Letter to Shapur II, Its Authenticity, Occasion, and Attendant Circumstances», in *Bulletin of the Asia Institute* 15, 2001, pp. 57-69. The letter – see also Soz., *HE*. 2.8-15, especially the last chapter – concerned mainly the destiny of the Christians who living in Persia were persecuted; for all, T. Barnes, «Constantine and the Christians of Persia», in *JRS*. 75, 1985, pp. 126-136 (= *From Eusebius to Augustine. Selected Papers 1982-1993*, Aldershot 1994, n. 6) and D. De Decker, «Sur le destinataire de la lettre au roi des Perses (Eusèbe de Césarée, *Vita Const.*, IV, 9-13) et la conversion de l'Arménie à la religion chrétienne», in *Persica* 8, 1979, pp. 99-118; moreover, E. K. Fowden, «Constantine and the Peoples of the Eastern Frontiers», in N. Lenski (ed.), *The Cambridge Companion to the Age of Constantine*, Cambridge 2006, pp. 377-398 and Id., «The Last Days of Constantine: Oppositional Versions and Their Influence», in *JRS*. 84, 1994, pp. 146-170.

⁵⁵ The matter has produced an extended literature: without any pretension of completeness, J. P. Asmussen, «Das Christentum in Iran und seine Verhältniss zur Zoroastrismus», in *Studia Theologica* 16, 1962, pp. 1-22 (and Id., *Christians in Iran*, in *The Cambridge History of Iran*. III.2 cit., pp. 924-948), M.-L. Chaumont, «Les Sassanides et la Christianisation de l'Empire iranien au IIIème siècle de notre ère», in *Revue de l'histoire des religions* 165, 1964, pp. 165-202, A. Guillaumont, *Justinien et l'Église de Perse* cit., F. Decret, «Les conséquences sur le christianisme en Perse de l'affrontement des empires roman et sassanide de Shapur Ier à Yazgard Ier», in *Recherches Augustiniennes* 14, 1979, pp. 92-152, G. Widengren, «The Nestorian Church in Sasanian

concerned by the missionary pressure from the Church of Antioch together with the intellectual centres of Nisibis and Edessa⁵⁶ and by the acknowledgement of the jurisdiction exercised by the *katholikos* of Seleucia-Ctesiphon⁵⁷. Eventually, his rival accepted the Neoplatonic philosophers who were flying away because of the closure of the School of Athens⁵⁸.

Within this line of developments, we should note that in 527 – the same year that Zachary of Mytilene⁵⁹ composed his *Antirrhesis*⁶⁰ against the Man-

and Early-Post-Sasanian Times», in L. Lanciotti (cur.), *Incontro di religioni in Asia tra il III e il X secolo d.C.*, Firenze 1984, pp. 1-30 and S. P. Brock, «Christians in the Sasanian Empire. A Case of Divided Loyalties», in S. Mews (ed.), *Religion and National Identity. Papers Read at the 19th Summer Meeting and the 20th Winter Meeting of the Ecclesiastical History Society*, Oxford 1982, pp. 1-19 (= *Studies in Syriac Christianity. History, Literature, Theology*, London 1992, n. 6), together with F. Millar, «Rome, Constantinople and the Near Eastern Church under Justinian», in *JRS* 98 (2008), pp. 62-82, apart from a classical volume, J. Labourt, *Le christianisme dans l'empire perse sous la dynastie sassanide (224-632)*, Paris 1904; more recently, instead, L. van Rompay, «Society and Community in the Christian East», in M. Maas (ed.), *The Cambridge Companion to the Age of Justinian*, Cambridge 2005, pp. 239-266, A. Panaino, «La Chiesa di Persia e l'Impero Sasanide. Conflitto e Integrazione», in *Cristianità d'Occidente e Cristianità d'Oriente (secoli VI-XI)*. 24-30 aprile 2003, Spoleto 2004, pp. 765-863 and N. G. Garsoian, «La Perse: l'église d'orient», in L. Pietri (éd.), *Histoire du Christianisme des origines à nos jours. III. Les églises d'orient et d'occident*, Paris 1998, pp. 1103-1124; finally, again M.-L. Chaumont (éd.), *La Christianisation de l'empire iranien, dès origines aux grandes persécutions du IV^e siècle*, Louvain 1988.

⁵⁶ For a particular aspect, C. Jullien, F. Jullien, *Apôtres des confins: processus missionnaires Chrétiens dans l'empire iranien*, Bures-sur-Yvette 2002.

⁵⁷ On Mar Abba, already quoted, P. Peeters, *Observations sur la vie syriaque de Mar Aba, catholique de l'Église perse (540-552)*, in *Miscellanea G. Mercati*, Città del Vaticano 1946, V 69-112 (= *Recherches d'histoire et de philologie orientales*, Bruxelles 1951, II 117-163).

⁵⁸ About the acceptance of the πρῆσβεις from Athens at the royal palace of Gundeshapur, J. Irmscher, «La politica religiosa dell'imperatore Giustiniano e la fine della scuola neoplatonica ad Atene», in *Cristianesimo nella storia* 11, 1990, pp. 579-592 and O. Bucci *La politica culturale di Cosroe Anusirvan (531-579), la chiusura delle scuole di Atene (529) e l'esilio degli ultimi maestri pagani in Persia*, in *Studi in onore di A. Biscardi*, Milano 1987, VI 507-552 together with H. Blumenthal, «529 and After: What Happened to the Academy», in *Byzantion* 48, 1978, pp. 369-385, A. Frantz, «Pagan Philosophers in Christian Athens», in *Proceedings of the American Philosophical Society* 119, 1975, pp. 29-38 and A. Cameron, «The Last Days of the Academy at Athens», in *Proceedings of the Cambridge Philological Society* 15, 1969, pp. 7-29, but mainly U. Hartmann, *Geist un Exil. Römische Philosophen am Hof der Sasaniden*, in M. Schuol, U. Hartmann, A. Luther (hrsg.), *Grenzüberschreitungen. Formen des Kontakts zwischen Orient und Okzident im Altertum*, Stuttgart 2002, pp. 123-160.

⁵⁹ He has been the biographer of Severus of Antioch; M.-A. Kugener, éd., *Vie de Sévère par Zacharie le Scholastique*, Paris 1907 and more recently W. Bauer, «Die Severus-Vita des Zacharias Rhetor», in G. Strecker, *Aufsätze und kleine Schriften*, Tübingen 1967, pp. 210-228.

⁶⁰ In the prologue there is an evident reference to C. 1.5.12: (...) ἡνίκα Ἰουστινιανὸς ὁ εὐσεβεστάτος ἡμῶν βασιλεὺς διάταξιν ἐξεφώνησε κατὰ τῶν ἀθεωτάτων Μανιχαίων; A. K. Demetropoulos (ed.), *Adversus Manichaeos (Antirrēsis)*, in *Bibliotheca Ecclesiastica*, Leipzig 1886, I 1-18, besides M. Richard (ed.), *Capita VII contra Manichaeos*, Turnhout 1977, pp. xxxiii-xxxix. Moreo-

ichaeans and exactly when the constitution against them we have remembered at the beginning was promulgated – Justinian's general Belisarius was given the title of *dux Mesopotamiae* to undertake a war campaign in Persia⁶¹. Leontius of Byzantium⁶² also acted against the Manichaeans in a work about the heresy⁶³,

ver, in the second chapter of the anathema against the Manichaeans are stigmatized also the devotees of Mani, who lived and preached in Persia; S. N. C. Lieu, «An Early Byzantine Formula of the Renunciation of Manichaeism. The Capita VII contra Manichaeos of Zacharias of Mytilene», in *Jahrbuch für Antike und Christentum* 26, 1983, pp. 152-218 (= *Manichaeism in Mesopotamia and the Roman East* cit., pp. 203-305):

⁶¹ The danger coming from Persia would represent a real obsession for the Byzantines, until the victory realized by Heraclius, who was song as a new Moses in the epic poem composed by George of Pisidia (2.1.135-136 e 2.3.415-425), while Cosroe is a dragon (2.3.356); other relevant places are 2.1.17-34 e 2.1.105-115 (the crusade against the foreign cult), 2.2.239-255 and 2.3.231-233 (Shahrbaraz is a blasphemous general), 2.3.1-12 (Sun and Moon) and finally 2.3.137 ss. (the happening of a deserter) (L. Tartaglia, cur., *Carmi*, Torino 1998, pp. 71-139). See M. Whitby, «Defender of the Cross: George of Pisidia on the Emperor Heraclius and His Deputies», in M. Whitby (ed.), *The Propaganda of Power and the Role of Panegyric in Late Antiquity*, Leiden 1998, pp. 247-276; moreover, J. Howard-Johnston, «Heraclius' Persian Campaigns and the Revival of the East Roman Empire. 622-630», in *War in History* 6, 1999, pp. 1-44 and M. Whitby, «George of Pisidia's Presentation of the Emperor Heraclius and His Campaigns», in G. J. Reinink, B. H. Stolte (ed.), *The Reign of Heraclius (610-640). Crisis and Confrontation*, Leuven 2002, pp. 157-174. In the same way has been presented the predecessor, Mauritius (if we exclude from the list Nicephorus Phocas, an usurper); in particular, another time M. Whitby, *The Emperor Maurice and His Historian: Theophylact Simocatta on Persian and Balcan Warfare*, Oxford 1988, pp. 276 ss. Concerning these themes, see W. E. Kaegi, «Reconceptualizing Byzantium's Eastern Frontiers in the Seventh Century», in R. W. Mathisen, H. S. Sivan (ed.), *Shifting Frontiers in Late Antiquity*, Aldershot 1996, pp. 83-92 (but also Id., «The Frontier. Barrier or Bridge?», in *The 17th International Byzantine Congress. Major Papers. Dumbarton Oaks/Georgetown University, Washington, D.C., August 3rd-8th, 1986*, New Rochelle 1986, pp. 299-303) and again Id., rec. A. Kolia-Dermizaki, «The Byzantine "Holy War": The Idea and Propagation of Religious War in Byzantium», in *Speculum* 69, 1994, pp. 518-520. Finally, still useful references in E. Honigmann, *Die Ostgrenze des byzantinischen Reiches von 363 bis 1071 nach griechischen, arabischen, syrischen und armenischen Quellen*, Bruxelles 1935.

⁶² Apart from J. P. Junglas, *Leontius von Byzanz. Studien zu seinen Schriften, Quellen und Anschauungen*, Paderborn 1908, see C. Dell'Osso (cur.), *Leonzio di Bisanzio. Opere*, Roma 2001 together with Id., *Il calcedonismo: Leonzio di Bisanzio*, Roma 2003 and Id., *La cristologia di Leonzio di Bisanzio*, Bari 2000 (but also Id., «Leonzio di Bisanzio e Leonzio di Gerusalemme. Una chiara distinzione», in *Augustinianum* 46, 2006, pp. 231-259); finally, D. B. Evans, *Leontius of Byzantium: An Origenist Christology*, Washington 1970.

⁶³ *De sectis (Leontii scolastici byzantini scholia ex ore Theodori abbatis)*, in PG. 86.1, coll. 1194-1259: III.2, col. 1214; M. Richard, «Le traité "De sectis" de Léonce de Byzance», in *Revue des études religieuses* 35, 1939, pp. 695-723 (= *Opera Minora*, Turnhout 1977, II n. 55) and S. Rees, «The De Sectis. A Treatise Attributed to Leontius of Byzantium», in *JThS.* 40, 1939, pp. 346-360, but also J. Speigl, «Der Autor der Schrift "De Sectis" über die Konzilien und die Religionspolitik Justinians», in *Annuaire Historiae Conciliorum* 2, 1970, pp. 207-230.

strongly aligning himself with the imperial power, while between 562 and 563, after the peace of 561, a second theological debate would involve some personalities coming again from the East⁶⁴.

In addition, probably always in 527 another important edict, C. 1.1.5, was issued to defend Mary in her role of Mother of God, condemning Nestorius, Euthyches and Apollinaris of Laodicea; a similar decision was assumed in 533, when two other acts of the emperor, C. 1.1.6 and C. 1.1.7, tried to impose a unified creed⁶⁵, close to the Theopaschite formula⁶⁶.

The moderate Monophysites, anyway, were still living a good period. The situation proceeded until the decision taken by Justinian through *Nov.* 42 of 536 to abandon their party in the aim to find an alliance with the pope of Rome, Agapetus, who was considered precious in the starting war for the reconquest of Italy. As a matter of fact, immediately before the law we are analysing, the emperor had sent two letters against the Monophysites addressed to the pope of Alexandria, Zoilos⁶⁷, and to the orthodox monks in Egypt⁶⁸.

Therefore, better than something strange coming from Persia, Manichaeism started to seem a kind of offense to indicate the radical Monophysites.

As usual, politics confuses itself with religion, and *vice versa*. In the determination showed by the power, indeed, it is possible to glimpse the distinctive character of the anti-Manichaean polemic in the Byzantine intellectual environment⁶⁹: Justinian, from a certain point forward permanently obliged to give a solution to

⁶⁴ See A. Guilleumont, «Un colloque entre orthodoxes et théologiens nestoriens de Perse sous Justinian», in *Comptes rendus de l'Académie des Inscriptions et Belles Lettres* 114, 1970, pp. 201-207.

⁶⁵ See J. Speigl, «Formula Iustiniani. Kircheneinigung mit kaiserlichen Glaubensbekenntnissen (Codex Iustinianus I 1, 5-8)», in *Ostkirchliche Studien* 44, 1995, pp. 105-134.

⁶⁶ See M. V. Anastos, «Justinian's Despotism Control over the Church as Illustrated by His Edicts on the Theopaschite Formula and His Letter to Pope John III in 533», in *Mélanges G. Ostrogorsky*, Beograd 1968, II 1-11 (= *Studies in Byzantine Intellectual History*, London 1979, n. 4).

⁶⁷ *Scritti teologici ed ecclesiastici di Giustiniano* cit., pp. 57-63.

⁶⁸ E. Schwartz, *Drei dogmatische Schriften Justinians* cit., pp. 5-43.

⁶⁹ See R. Lim, *Public Disputation, Power, and Social Order in Late Antiquity*, Berkeley 1995, where the third chapter deals with the Manichaeans, but also Id., «The Nomen Manichaeorum and Its Uses in Late Antiquity», in *Heresy and Identity in Late Antiquity* cit., pp. 143-167; moreover, C. Humfress, *Orthodoxy and the Courts in Late Antiquity*, Oxford 2007, pp. 215-272 together with Ead., «Roman Law, Forensic Argument and the Formation of Christian Orthodoxy (III-IV Centuries)», in S. Elm, E. Rébillard, A. Romano (éd.), *Orthodoxie, Christianisme, Histoire*, Roma 2000, pp. 125-147; finally, A. Cameron, «Disputations, Polemical Literature and the Formation of Opinion in the Early Byzantine Period», in G. J. Reinink, H. L. J. Vanstiphout (ed.), *Dispute Poems and Dialogues in the Ancient and Mediaeval Near East: Forms and Types of Literary Debates in Semitic and Related Literatures*, Leuven 1991, pp. 91-108.

the Christological controversy between Monophysites and Duophysites and in the meantime trying to impose the dogma of Neocalcedonism⁷⁰, assumed a very strict behaviour toward Manichaeism, which started to embody a form of dualism dangerous both for the unity of the state and the safeness of the souls of the subjects⁷¹.

⁷⁰ In Nov. 131 of 545 the canons established in the councils of Nicea (325), Constantinople (381), Ephesus (431) and Chalcedonia (451) were recognized as imperial constitutions. This was a model of thinking followed in particular by Leontius of Jerusalem; see D. Krausmüller, «Leontius of Jerusalem, A Theologian of the Seventh Century», in *JthS.* 52, 2001, pp. 637-657, but also K. P. Wasche, «Leontius of Jerusalem: Monophysite or Chalcedonian?», in *St. Vladimir Theological Quarterly* 31, 1987, pp. 65-95 and P. Gray, «Through the Tunnel with Leontius of Jerusalem. The Sixth-Century Transformation of Theology», in P. Allen, E. Jeffreys (ed.), *The Sixth Century: End or Beginning?*, Brisbane 1996, pp. 187-196; moreover, A. Baskedis, *Die Christologie des Leontius von Jerusalem. Seine Logoslehre*, Diss. München 1974. For a first approach, C. Moehler, «Le chalcédonisme et le néochalcédonisme en Orient de 451 à la fin du VI siècle», in A. Grillmeier, H. Bacht (hrsg.), *Das Konzil von Chalkedon: Geschichte und Gegenwart. I. Der Glaube von Chalkedon*, Würzburg 1951, pp. 637-720 together with R. Haacke, «Die kaiserliche Politik in den Auseinandersetzungen um Chalkedon (451-553)», in A. Grillmeier, H. Bacht (hrsg.), *Das Konzil von Chalkedon: Geschichte und Gegenwart. II. Entscheidung um Chalkedon*, Würzburg 1951, pp. 95-177 and R. V. Sellers, *The Council of Chalcedon. A Historical and Doctrinal Survey*, London 1953, pp. 302-350, but mainly T. R. Patrick, *The Defense of Chalcedon in the East (451-553)*, Leiden 1979 together with Id., «Neuchalkedonismus», in *Theologische Realenzyklopädie* XXIV (1994), pp. 289-296 and Id., «Neo-Chalcedonianism and the Tradition. From Patristic to Byzantine Theology», *Byzantinische Forschungen* 8 (1982), pp. 61-70; finally, P. T. R. Gray, *The Defense of Chalcedon in the East (451-553)*, Leiden 1979 and Id., «The Legacy of Chalcedon. Christological Problems and Their Significance», in *The Cambridge Companion to the Age of Justinian* cit., pp. 215-238.

⁷¹ About the theological view expressed by Justinian, apart from H. S. Alivisatos, *Die kirchliche Gesetzgebung des Kaisers Justinian I.*, Berlin 1913 and Aalen 1973 together with L. Bréhier, «La politica religiosa di Giustiniano», in A. Fliche, V. Martin (cur.), *Storia della Chiesa dalle origini ai nostri giorni*, Torino 1941, IV 553-589 (orig. *Histoire de l'Eglise: depuis les origines jusqu'à nos jours*, Paris 1948), see K. H. Uthemann, «Kaiser Justinian als Kirchenpolitiker und Theologe», in *Augustinianum* 39, 1999, pp. 5-83, M. Simonetti, «La politica religiosa di Giustiniano», in G. G. Archi (cur.), *Il mondo del diritto nell'epoca giustiniana. Caratteri e problematiche*, Ravenna 1985, pp. 91-111, M. Amelotti, «Giustiniano tra teologia e diritto», in G. G. Archi (cur.), *L'imperatore Giustiniano. Storia e mito. Giornate di studio a Ravenna, 14-16 ottobre 1976*, Milano 1978, pp. 133-160 and J. Meyendorff, «Justinian, the Empire and the Church», in *DOP* 2, 1968, pp. 45-60 (and Id., *Imperial Unity and Christian Division. The Church 450-680 AD*, Crestwood 1989), but also E. Kaden, «L'église et l'état sous Justinien», in *Mémoires publiées par la Faculté de Droit de Genève* 9, 1952, pp. 109-144; moreover, in a reducing way of thinking, E. Schwartz, *Zur Kirchenpolitik Justinians*, München 1940 and Id., *Drei dogmatische Schriften Justinians* cit. – the letter against the Monophysites addressed to the monks in Alexandria of Egypt between 542 and 543 (PG. 86.1, coll. 1103-1146), that one for the “Three Chapters” (PG. 86.1, coll. 1041-1092) and the edict concerning the orthodox faith (PG. 86.1, coll. 993-1035) – and *Scritti teologici ed ecclesiastici di Giustiniano* cit., especially pp. vii-xxix, together with the review by F. Amarelli, «Giustiniano: un teologo al vertice dell'impero?», in *Labeo* 21, 1975, pp. 238-244; finally, K. P. Wesche (ed.), *On the Person of Christ. The Christology of Emperor Justinian*, Crestwood 1991, pp. 11-22.

The fact that in facing this hard matter was useful to realize the discrimination of radical heresies finds a good evidence in the testimony left by John of Amidas about Theodora. The bishop of Ephesus, who would be sent in Anatolia against the Montanists⁷², tells that the clever and powerful – “a present from God” it is written in the first paragraph of *Nov. 8*⁷³ – Justinian’s wife, for personal reasons an authentic Monophysite, had recalled one more time around 527 some monks come from Syria and flown to the East⁷⁴ after the acceptance of the *formula Hormisdas*⁷⁵, which

⁷² See V. L. Menze, «Johannes von Ephesus und Kaiser Justinian: ein Missionar, sein Patron und eine Heidmission in Kleinasien des 6. Jahrhunderts», in E. Winter (hrsg.), *Vom Euphrat bis zum Bosphorus. Kleinasien in der Antike. Festschrift für E. Schwertheim zum 65. Geburtstag*, Bonn 2008, II 451-460; moreover, concerning his form of Monophysitism, S. Ashbrook Harvey, «Johannes von Ephesus», in *Reallexikon für Antike und Christentum XVIII* (1997), pp. 553-564; finally, J. J. Van Ginkel, *John of Ephesus. A Monophysite Historian in the Sixth Century*, Diss. Groningen 1995 and Id., «John of Ephesus on Emperors. The Perception of the Byzantine Empire by a Monophysite», in R. Lavenant (ed.), *VI. Symposium Syriacum 1992. University of Cambridge, Faculty of Divinity, 30th August-2nd September 1992*, Roma 1994, pp. 323-333.

⁷³ See C. Pazdernik, «Our Most Pious Consort Given Us by God: Dissident Reactions to the Partnership of Justinian and Theodora, AD 525-549», in *Classical Antiquity* 13, 1994, pp. 256-281.

⁷⁴ The Schyitian monks, Monophysites, have been supported by Justinian since 519, in part at enmity with the uncle Justin, who has preferred to acknowledge the pope Hormisdas’ libellus; in particular, see A. Fortescue, *The Reunion Formula of Hormisdas*, Garrison 1955, but also A. A. Vasiliev, *Justin the First. An Introduction to the Epoch of Justinian the Great*, Cambridge 1950, pp. 190-197 and more recently B. Croke, «Justinian under Justin. Reconfiguring a Reign», in *BZ.* 100, 2007, pp. 13-56, 26 ss.; finally, for some other interesting examples concerning the relationship between the emperor and the monks, especially Saint Saba, H. Leppin, *Power from Humility: Justinian and the Religious Authority of Monks*, in A. Cain, N. Lenski (ed.), *The Power of Religion in Late Antiquity*, Farnham-Burlington, 2009, pp. 155-164, while it was impossible to consult A. Hasse-Ungeheuer, *Das Mönchtum in der Religionspolitik Kaiser Justinians I. Die Engel des Himmels und der Stellvertreter Gottes auf Erden*, Berlin-New York 2015.

⁷⁵ E. W. Brooks (ed.), *Lives of the Eastern Saints. II*, in *PO.* XVIII (1925), pp. 676-684, otherwise Id. (ed.), *Iohannis Ephesini Historiae Ecclesiasticae Pars Tertia*, Leuven 1936, pp. 48-50; see V. L. Menze, «Jacob of Sarug, John of Tella and Paul of Edessa: Ecclesiastical Politics in Osrhene 519-522», in G. A. Kiraz (ed.), *Malphono w-Rabo d-Malphone. Studies in Honor of S. P. Brock*, Piscataway 2008, pp. 421-438; moreover, again, V. L. Menze, *Justinian and the Making of the Syrian Orthodox Church*, Oxford 2008, pp. 58-105 together with J. Speigl, «Das Religionsgespräch mit den severianischen Bischöfen in Konstantinopel im Jahre 532», in *Annuario Historiae Conciliorum* 16, 1984, pp. 264-285 and S. P. Brock, «The Conversations with the Syrian Orthodox under Justinian (532)», in *Orientalia Christiana Periodica* 47, 1981, pp. 87-121 (= *Studies in Syriac Christianity* cit, n. 13) and Id., «The Orthodox-Oriental Orthodox Conversations of 532», in *Apostolos Barnabas* 41, 1980, pp. 219-227 (= *Syriac Perspectives on Late Antiquity*, Aldershot 1984, n. 11); finally, A. Vööbus, «The Origin of the Monophysite Church in Syria and Mesopotamia», in *Church Hist.* 42, 1973, pp. 17-26, but also A. Louth, «Why the Syrians Reject the Council of Chalcedon?», in R. Price, M. Whitby (ed.), *Chalcedon in Context. Church Councils 400-700*, Liverpool 2009, pp. 107-116.

a way back had put an end to the Acacian schism⁷⁶.

At this point, we are able to introduce the figure of Severus of Antioch, who was protected with strength by the same empress and quoted in our constitution as the ideological leader of the “headless”⁷⁷.

He had been designated to the see of Antioch by Anastasius, another Monophysite, after he was flown from Alexandria to Constantinople in 508; his fate changed at once when Justin arose the throne in 518: in hopes of keeping the life he preferred to escape again to Egypt.

The ecclesiastic had a second moment of glory during the presence in the court of Theodora, who in 535 called other two non-Chalcedonian ecclesiastics, Anthimus⁷⁸ and Theodosius, to seat respectively in Constantinople and in

⁷⁶ Justinian – preempted by his uncle, Justin: M. V. Anastos, «The Emperor Justin I's Role in the Restoration of Chalcedonian Doctrine, 518-519», in *Βυζαντινά 13 (Δώρημα στον Ι. Καραγιαννόπουλο*, Thessaloniki 1985), pp. 125-139, but also J. Speigl, «Synoden im Gefolge der Wende der Religionspolitik unter Kaiser Justinos (518)», in *Ostkirchliche Studien* 45, 1996, pp. 3-20 – was immediately forced to remedy to the negative consequences of a text which had displeased all originating the Acacian schism between 484 and 518, that is to say the *Henotikon* issued by Zenon in 482: see E. Dovere, «L'Enotico di Zenone Isaurico. Un preteso intervento normativo tra politica religiosa e pacificazione sociale», in *SDHI.* 54, 1988, pp. 170-190 (= *Medicina legum. Formula fidei e normazione tardoantica*, Bari 2011, pp. 43-70).

⁷⁷ The role played by the empress on his husband represents still a great historical problem: apart from E. Gianturco, «L'influenza dell'imperatrice Teodora nella legislazione giustiniana», in *Studi giuridici in onore di C. Fadda pel 25. anno del suo insegnamento*, Napoli 1906, IV 3-12 (= *Opere giuridiche. II. Teoria generale, scritti varii, successioni, obbligazioni*, Roma 1947, pp. 308-312) and besides M. Amelotti, *Teodora moglie o imperatrice?*, in *Annali della Facoltà di Giurisprudenza di Genova* 20, 1984/85, pp. 13-22 (= L. Migliardi Zingales, cur., *Scritti giuridici*, Torino 1996, pp. 723-732) and J. E. Spruit, «L'influence de Théodora sur la législation de Justinien», in *RIDA.* 24, 1977, pp. 389-241, see H. Leppin, «Theodora und Justinian», in H. Temporini-Vitzthum (hrsg.), *Die Kaiserinnen Roms. Von Livia bis Theodora*, München 2002, pp. 437-481 and Id., «Kaiserliche Kohabitation. Von der Normalität Theodoras», in C. Kunst, U. Riemer (hrsg.), *Grenzen der Macht. Zur Rolle der römischen Kaiserfrauen*, Stuttgart 2000, pp. 75-85; for many other references to an ample bibliography, J. A. Evans, *The Empress Theodora, Partner of Justinian*, Austin 2002 and R. Browning, *Justinian and Theodora*, London 1987², apart from W. Schubart, *Justinian und Theodora*, München 1943; finally, G. Ravegnani, *Teodora. La cortigiana che regnò sul trono di Bisanzio*, Roma 2016.

⁷⁸ Anthimus, patriarch of Constantinople, Peter of Apamea and the monk Zoora, all followers of Severus of Antioch, were banished through Nov. 42 of 536, sign of a surge of the fight. About the connection with the empress, as useful source see J.-B. Chabot (ed.), *Chronique de Michel le Syrien patriarche jacobite d'Antioche (1166-1199). IV. Texte syriaques*, Paris 1910, pp. 276 ss. (9.20 ss.); moreover, J. Speigl, «Die Synode von 536 in Konstantinopel», in *Ostkirchliche Studien* 43, 1994, pp. 105-153, apart from the fundamental instrument represented by E. Schwartz, *ACO. III. Collectio sabbaitica contra acephalos et origeniastas destinata: insunt acta synodorum constantinopolitanae et hierosolymitanae a. 536*, Berlin 1940; finally, for a general view, F. Honigmann, *Evêques et évêchés monophysites d'Asie antérieure au 6. siècle*, Louvain 1951.

Alexandria, while even Theodore Askidas and Domitian of Ancyra, moreover, reached as supporters of Origenism⁷⁹ a place near her person.

Nevertheless, in only one year, he was exiled in order to follow the request of the already quoted pope Agapetus and his works – which for this reason have arrived mainly in Syriac – were sentenced to the fire in a council led by the new patriarch, Menas⁸⁰: in the first chapter of *Nov. 42* Justinian compared his teaching with the heresy spread by Nestorius and Eutiches. It is not a coincidence that was John of Ephesus, belonging to his circle, to have left us a biography of the saint, who passed away in 538 in hermitage.

Before to die in 548, after ten years, Theodora continued to protect the members of the Monophysite party by recovering them in the capital, first at the palace of Hormisdas and then at the monastery of Siké. Immediately after our novel and pleasing the desire of an Arabian king, Al-Arith, who was asking for a bishop addressed to the components of his tribe, pushed to award a certain Theodorus; thus the famous Jacobus Baradaeus was indicated for the see of Edessa⁸¹. Previously, together with John of Ephesus, she had incited different trials for paganism, in particular against Thomas, *quaestor sacri palatii*, Asclepiodotus, *praefectus Urbi*, and against Focas, a patrician; other accusations were prosecuted between 546 and 546⁸². Such a dedication contributed to create an aura of holiness which the Monophysite churches started in that time to ascribe to Justinian's wife⁸³.

⁷⁹ For an introduction, see E. A. Clark, *The Origenist Controversy: The Cultural Construction of an Early Christian Debate*, Princeton 1992.

⁸⁰ The Chalcedonian "commonwealth" at that time was embodied by Menas in Constantinople (536-552), Ephrem in Antiochia of Syria (d. 545) and Zoilo in Alexandria of Egypt (540-551).

⁸¹ The ecclesiastic – his name came from the term "burd'eana", which means "beggar" in Syriac – was a Theodora's favourite before to become bishop of Edessa; see D. D. Bundy, «Jacob Baradaeus. The State of Research. A Review of Search and a New Approach», in *Le Muséon* 91, 1978, pp. 45-86 and P. Yousif, «An Introduction to the East Syrian Spirituality», in A. Thottakara (ed.), *East Syrian Spirituality*, Roma 1990, pp. 1-96.

⁸² E. Stein, *Histoire du Bas-Empire*. II cit., p. 371 note 2.

⁸³ The church of Syria would preserve this image for centuries: a passage in Michael the Syrian's chronicle describes the empress as a pious woman devoted to look for the peace by persuading her husband (9.21; moreover 11.5), while Bar Hebraeus tells that she was the daughter of a Monophysite priest who would give her hand only with the promise to preserve the early creed; J.-B. Chabot (éd.), *Chronique de Michel le Syrien patriarche jacobite d'Antioche (1166-1199)*, Paris 1901, II 192 and 420 and E. A. Wallis Budge (ed.), *The Chronography of Gregory Abu'l-Faraj 1125-1286 the Son of Aaron, the Hebrew Physician commonly known as Bar Hebraeus being the First Part of His Political History of the World*, London 1932 and Amsterdam 1972, I 73-74. But the most relevant source is John of Ephesus' *Ecclesiastical History* and mainly *Lives of the Eastern Saints*;

The global impression, anyway, is that the novel we have tried to take into consideration, one year ensuing the destruction of Antioch by the Persians in 540⁸⁴, had a precise origin, quite certainly connected with the failed attempt to recover Monophysitism endorsed by Severus of Antiochia⁸⁵ – even if the emperor, trying to regain the situation, would decide to condemn some moderate fringes of Nestorianism through the edict of the Three Chapters, in 543⁸⁶ – and

see S. Ashbrook Harvey, *Asceticism and Society in Crisis. John of Ephesus and the Lives of the Eastern Saints*, Berkeley-Los Angeles-London 1990, pp. 108-133 (about the forty-seventh chapter concerning Theodora: E. W. Brooks, ed., *Lives of the Eastern Saints. II*, in *PO*, 18, 1924, pp. 676-684; see again S. A. Harvey, «Theodora the “Believing Queen”: A Study in Syriac Historiographical Tradition», in *Hugoye. Journal of Syriac Studies* 4, 2001, pp. 209-234) together with the first part of C. Foss, «The Empress Theodora», in *Byzantion* 72, 2002, pp. 141-176 and A. McClanan, «The Empress Theodora and the Tradition of Women's Patronage in the Early Byzantine Empire», in J. H. McCash (ed.), *The Cultural Patronage of Medieval Women*, Athens 1996, pp. 50-72, 57-70, but also J. A. S. Evans, «The Holy Women of the Monophysites», in *JÖB*, 32, 1982, pp. 525-527. The Monophysite ecclesiastic describes in the third book of his historical work also the role in conversion of Nubia – in particular, see A. M. Demicheli, «I regni cristiani di Nubia e i loro rapporti con il mondo bizantino», in *Aegyptus* 58, 1978, pp. 177-208, 188 ss. together with D. Ceccarelli Morolli, «Gli inizi del Cristianesimo in Nubia», in *Oriente Cristiano* 34, 1994, pp. 46-52 – played by Theodora, who is still venerated as a saint in the church of Ethiopia (R. Payne Smith, ed., *The Third Part of the Ecclesiastical History of John Bishop of Ephesus*, Oxford 1860, pp. 1 ss.).

⁸⁴ H. Börm, «Der Perserkönig im Imperium Romanum. Chosroes I. und der sasanidische Einfall in das Oströmische Reich 540 n.Chr.», in *Chiron* 36, 2006, pp. 299-328, but also again G. Downey, *A History of Antioch* cit., 533-546.

⁸⁵ E. Stein, *Histoire du Bas-Empire. II* cit., pp. 376 ss., but also W. A. Wigram, *The Separation of the Monophysites*, London 1932, pp. 88 ss.; see also note 65, about the episode of some Monophysite monks coming from Syria.

⁸⁶ Between 544 (condemnation) and 553 (council) we have the schism of the so called “Three Chapters”, which finished when the anathema was casted on the works belonging to three theologians, at that time already deceased, considered out of line with the imperial church, Theodorus of Mopsuestia, Theodoret of Cyrus and Iba of Edessa (see A. Placanica, «Teologia polemica e storiografia ecclesiastica nella controversia dei Tre Capitoli», in A. Quacquarelli, cur., *Res Christiana. Temi interdisciplinari di patrologia*, Roma 1999, pp. 129-254); we know the content of the edict thanks to the apologetic text written by Facundus of Ermiane *Pro defensione trium capitulorum* (see S. Petri, cur., *Difesa dei tre capitoli*, Roma 2007 together with A. Fraisse-Bétoulières, J.-M. Clément, R. Vander Plaetse, éd., *Défense de trois chapitres, à Justinien*, Paris 2002-2004, 4 volumes); the defenders of the Origenism, among them Theodore Askidas, the author of the rebuttal just quoted, had decided to bring the discussion on inflexible positions (see C. Sotinel, «Le concile, l'empereur, l'évêque. Les statuts d'autorité dans le débat sur les Trois Chapitres», in *Orthodoxie Christianisme Histoire* cit., pp. 275-299; moreover, M. V. Anastos, «The Immutability of Christ and Justinian's Condemnation of Theodoret of Mopsuestia», in *DOP*, 6, 1951, pp. 125-160 and more in general R. Devresse, *Essai sur Théodore de Mopsueste*, Città del Vaticano 1948; finally, for other references, R. Price, «The Three Chapters Controversy and the Council of Chalcedon», in C. M. Chazelle, C. Cubitt, ed., *The Crisis of the Oikoumene. The Three Chapters and the Failed Quest for Unity in the Sixth-Century Mediterranean*, Turnhout 2007, pp. 17-37).

more in general with the safeguard of the Chalcedonian creed established in 451 by Marcianus and his chaste wife Pulcheria, Theodosius II's sister⁸⁷.

The imaginary genealogy which led back Severus of Antioch to the Manichaeans, at that time, was already a *cliché* in the heresiological literature. As someone has written⁸⁸, the bishop had nicknamed as Manichaeans even the Eutichians (and the rival Julian of Alicarnassus) in his "cathedral homilies"⁸⁹, but he was vituperated in the same way by the monks belonging to the Syrian church because of his scepticism in Mary the Mother of God⁹⁰; furthermore, the emperor Anastasius – he had near to him another strong woman, Ariadne, Zeno's widow⁹¹ – had been apostrophized as Manichaean by the patriarch Macedonius⁹².

Justinian did not behave in a different manner: during the "second Origenist affair", condemning the doctrine of the Syrian monk Bar-Sudaili and his followers who used to meet in the *laura* of Saint Saba in Palestine⁹³, he issued a long dogmatic edict addressed to Menas, between 542 and 543, where the Manichae-

⁸⁷ See E. Doveve, *Ius principale e Catholica lex: V secolo*, Napoli 1999², pp. 248 ss.; for general references, P. Goubert, «Le rôle de Sainte Pulchérie et de l'eunuque Chrysaphios», in A. Grillmeier, H. Bacht (hrsg.), *Das Konzil von Chalkedon: Geschichte und Gegenwart*. I cit., pp. 303-321 and R. V. Sellers, *The Council of Chalcedon. A Historical and Doctrinal Survey* cit., pp. 103 ss. together with W. H. C. Frend, *The Rise of the Monophysite Movement. Chapters in the History of the Church in the Fifth and Sixth Centuries*, Cambridge 1972, pp. 50 ss.; finally, apart from K. G. Holm, *Theodosian Empresses. Women and Imperial Power in Late Antiquity*, Berkeley-Los Angeles-London 1982, pp. 79 ss. and 147 ss. and L. James, *Empresses and Power in Early Byzantium*, London 2001, pp. 59-82, C. Angelidi, *Pulcheria. La castità al potere (c. 399-c. 345)*, Milano 1998.

⁸⁸ S. N. C. Lieu *Manichaeism in the Later Roman Empire and Medieval China* cit., pp. 207-208.

⁸⁹ E. W. Brooks (ed.), *The Sixth Book of the Select Letters of Severus of Antioch*, London 1902, I.2 358, 7-8. Eutyches, one of the greatest protagonists of radical Monophysitism, had condemned Mani, who would teach the doctrine of Docetism (*Libellus appellationis Eutychis ad papam Leonem*, in *ACO*. II.2.1, 1936, p. 34, 20-25).

⁹⁰ *Actes du Concile de Constantinople de 536*, in *PO*. II (1907), p. 349, 5-11.

⁹¹ For example, see D. Angelova, «The Ivories of Ariadne and Ideas about Female Imperial Authority in Rome and Early Byzantium», in *Gesta* 43, 2004, pp. 1-15.

⁹² Evagrius Ponticus, *Hist. Eccl.* 3.32; A. Hübner, J. Bidez, L. Parmentier (éd.), Paris 2007, p. 130, 10-12. See M. Meier, *Anastasios I. Die Entstehung des byzantinischen Reiches*, Stuttgart 2009, pp. 250 ss., F. K. Haarer, *Anastasios I. Politics and Empire in the Late Roman World*, Cambridge 2006, pp. 115, but also C. Capizzi, *L'imperatore Anastasio I (491-518). Studio sulla sua vita, la sua opera e la sua personalità*, Roma 1969, pp. 100 ss.; moreover, P. Charanis, *Church and State in the Later Roman Empire. The Religious Policy of Anastasios the First (491-518)*, Madison 1939. Also Basiliscus, usurper between 475 and 476, had been a Monophysite and had issued an act, the *Enkyklion*, against the Council of Chalcedonia, in accord with the pope of Alexandria, Timotheus Eluros; see E. Doveve, «L'Enkyklion Basiliskon. Un caso di normativa imperiale in Oriente su temi di dogmatica teologica», in *SDHI*. 51, 1985, pp. 153-188.

⁹³ See D. Hombergen, *The Second Origenist Controversy: A New Perspective on Cyril of Schythopolis' Monastic Biographies as Historical Sources for Sixth-century Origenism*, Roma 2001.

ans are quoted, in connection with the Arians, more than one time⁹⁴.

After all, this was a general trend. We know that immediately before the “Nika” revolt in 532 a dramatic dialogue occurred between the emperor through his herald and the faction of the Greens in the hippodrome, when the Monophysites were called Jews, Manichaeans and Samaritans (Μανδάτωρ· Ἰουδαῖτε, Ἰουδαῖοι, Μανιχαῖοι καὶ Σαμαρεῖται); they answered with a blasphemy on the Mother of God (Οἱ Πράσινοι· Ἰουδαίους καὶ Σαμαρείτας ἀποκαλεῖς: Ἡ Θεοτόκος μετὰ ἄλων τῶν Μανιχαίων), then proclaiming their only one baptism and invoking the mythological figure of Atlas, who belonged to the Manichaean cosmology⁹⁵ (Μανδάτωρ· Ἐγὼ ὑμῖν λέγωεις ἓνα βαπτίζεσθαι / Οἱ δε Πράσινοι ἀνεβόησαν ἐπάνω ἀλλήλων καὶ ἔκραζον· Ὡς ἐκέλευσεν Ἄτλας, εἰς ἓνα βαπτίζομαι)⁹⁶. Evidently, a misleading use of the term was already a rather widespread habit, also in the strange world of the public games⁹⁷.

Maybe, trying to understand the reason of the presence of the women in our novel, we could continue with these suggestions; but in this sense, we must consider that the reason of the same novel could have been also less extempore.

It is true that the law contained in the *Nearai* was characterized by a sort of will of completion and improvement of the edicts emanated during the previous years by Justinian⁹⁸; actually, concerning the role of the heretical wom-

⁹⁴ *Scritti teologici ed ecclesiastici di Giustiniano cit.*, pp. 68-119.

⁹⁵ Another name for the so called *Omophoros*, one of the “evocations” made by the Father of the Majesty through the Living Spirit, who has the task to sustain the eight earths created by the Demiurge using flesh and excrements belonging to the demonic Archontes; see H.-C. Puech, «Π manicheismo» cit., pp. 649 ss., 661 and 663.

⁹⁶ Theoph., *Chron.* 181-184 (A.M.6016; C. De Boor, ed., *Chronographia cit.*, 181.33-184.1) and *Chron. Pasch.* Olymp. 328 (L. Dindorf, ed., *Chronicon Paschale*, Bonn 1832, I 620). For the text, entitled Ἄκτα διὰ Καλοπόδιον τὸν κουβικουλάριον καὶ σταθάριον, see A. Carile, *Consenso e dissenso fra propaganda e fronda nelle fonti normative dell'età giustiniana*, in G. G. Archi (cur.), *L'imperatore Giustiniano. Storia e mito*, Milano 1978, pp. 37-93, 57-61 and 88-93; moreover, J. Irmscher, «Ἄκτα διὰ Καλοπόδιον», in H. Gericke, M. Lemmer, W. Zöllner (hrsg.), *Orbis Mediaevalis. Festgabe für A. Blaschka zum 75. Geburtstag am 7. Oktober 1967*, Weimar 1970, pp. 78-88, P. Karlin Hayter, «Les Ἄκτα διὰ Καλοπόδιον. Le contexte religieux et politique», in *Byzantion* 43, 1974, pp. 84-107 and A. Cameron, *Circus Factions. Blues and Greens at Rome and Byzantium*, Oxford 1976, pp. 318-333; finally, B. Baldwin, «The Date of a Circus Dialogue», in *Revue des études byzantines* 39, 1981, pp. 301-306.

⁹⁷ See J. Jarry, «Hérésies et factions à Constantinople du Ve au VIIe siècle», in *Syria* 37, 1960, pp. 348-371 and *contra* A. Cameron, «Heresies and factions», in *Byzantion* 44, 1974, pp. 92-120.

⁹⁸ See S. Puliatti, «Eas quas postea promulgavimus constitutiones. Sui rapporti *Novellae-Codex* nella prospettiva giustiniana», in L. Loschiavo, G. Mancini, C. Vano (cur.), *Novellae Constitutiones. L'ultima legislazione di Giustiniano tra Oriente e Occidente, da Triboniano a Savigny. Atti del convegno internazionale, Teramo, 30-31 ottobre 2009*, Napoli 2011, pp. 1-24, but also G. Lanata,

en, nothing had been prescribed, in a direct manner, until that moment, so it is clear that the imperial legislative office perceived the necessity to intervene on the specific point – exactly in a sector where the normative intervention in favour of subjects considered weak has been so relevant⁹⁹ – covering something which was like a *vacuum*. This is also a point proving that the fight against the heresies connected with the Christological controversy stroke non only single high clergymen, but also whole communities.

The content of the novel was meant to strike the heterodoxy in one of the founding cells of the society, that is to say the family: women, who during the Byzantine era have assumed a place of great importance in many aspects of the civil life, if belonging to a heretic in force of a relationship, would be damaged exactly in their main role, in the aim to create the void around them; in a certain sense, the concept of woman which Theodora has decided to elevate is sogiven back to the original condition by Justinian¹⁰⁰.

But the attention appointed on the female element could have been caused by a totally unknown circumstance, maybe linked with the relationship, sometimes troubled, between Justinian and Theodora¹⁰¹: in the eight chapter of

Legislazione e natura nelle Novellae giustinianee cit., pp. 49-105.

⁹⁹ C. 5.3.19 (527?) and C. 5.3.20 (531-533); C. 5.12.29 (528), C. 5.12.30 (529) and C. 5.12.31 (530); C. 5.13.1 (530). See D. White, «Property Rights of Women. The Changes in the Justinian Legislation Regarding the Dowry and the Parapherna», in *JÖB. 32 (XVI. Internationaler Byzantinistenkongress. Wien, 4.-9. Oktober 1981. Akten. II.2, Wien 1982)*, pp. 539-548.

¹⁰⁰ See F. Brubaker, «The Age of Justinian: Gender and Society», in *The Cambridge Companion to the Age of Justinian* cit., pp. 427-447 (together with L. Brubaker, «Lex, Lies, and Textuality: The Secret History of Prokopios and the Rhetoric of Gender in Sixth-century Byzantium», in L. Brubaker, J. Smith, ed., *Gender in the Early Medieval World: East and West, 300-900*, Cambridge 2005, pp. 83-101); moreover, J. Beaucamp, «Exclues et aliénées. Les femmes dans la tradition canonique byzantine», in D. C. Smythe (ed.), *Strangers to Themselves. The Byzantine Outsider. Papers from the Thirty-Second Spring Symposium of Byzantine Studies. University of Sussex, Brighton, march 1998, Aldershot 2000*, pp. 87-103; finally, C. Galatariotou, «Holy Women and Witches. Aspects of Byzantine Conceptions of Gender», in *BMGS*. 9, 1984/1985, pp. 55-94.

¹⁰¹ About the source represented by Procopius see A. Cameron, *Procopius and the Sixth Century*, Berkeley-Los Angeles 1985, pp. 66-83, especially 76 ss. and A. Kaldellis, *Procopius of Caesarea. Tyranny, History, and Philosophy at the End of Antiquity*, Philadelphia 2004, pp. 142 ss.; moreover, H.-G. Beck, *Lo storico e la sua vittima. Teodora e Procopio*, Roma-Bari 1988, pp. 127-130 (orig. *Kaiserin Theodora und Prokop. Der Historiker und sein Opfer*, München, Zürich 1986) and P. Allen, «Contemporary Portrayals of the Byzantine Empress Theodora (A.D. 527-548)», in B. Garlik, S. Dixon, P. Allen (ed.), *Stereotypes of Women in Power. Historical Perspectives and Revisionist Views*, New York 1992, pp. 93-103; finally, besides S. Mashev, «Die staatsrechtliche Stellung der byzantinischen Kaiserinnen», in *Byzantinoslavica* 27, 1966, pp. 308-343, J. Herrin, *Unrivalled Influence. Women and Empire in Byzantium*, Princeton 2013, *passim* and D. A. Miller, *Byzantine Sovereignty and Feminine Potencies*, in L. O. A. Fradenburg (ed.), *Women and Sovereignty*, Edinbur-

Procopius' *Anekdotia*, for example, it is told how the emperor was accustomed to impose cruel commands relating with religion in the grip of anger¹⁰².

Again, as we have remembered at the beginning, because of the great influence of the heresiological literature on the style of religious legislation, it was easy to confuse women belonging to the Manichaeans simply with all the "women"¹⁰³.

In conclusion, from specific indications we are able to reconstruct a whole situation. Also inside the Christological debate promoted by Justinian and before that the emperor, approaching death and disenchanted, hesitated on an additional form of Monophysitism, the Aftartodocetism¹⁰⁴, Manichaeism seemed to repre-

gh 1992, pp. 250-263, but also L. Garland, *Byzantine Empresses. Women and Power in Byzantium. AD 527-1204*, London 1999, pp. 11-39 and L. James, «Goddess, Whore, Wife or Slave? Will the Real Byzantine Empress Please Stand Up», in A. Duggan (ed.), *Queens and Queenship in Medieval Europe. Proceedings of a Conference held at King's College London, April 1995*, Woodbridge 1997, pp. 123-140.

¹⁰² See J. A. S. Evans, *The Age of Justinian. The Circumstances of Imperial Power*, London-New York 1996, pp. 251. About the legend of Justinian's impulsive character, see K. Gantar, «Kaiser Justinian als kopfloser Dämon», in *BZ*. 54 (1961), pp. 1-3 and mainly B. Rubin, «Der Fürst der Dämonen. Ein Beitrag zur Interpretation von Prokops *Anekdotia*», in *BZ*. 44 (J. M. Hoeck, hrsg., *Festschrift F. Dölger zum 60. Geburtstag gewidmet*, München 1951), pp. 469-481.

¹⁰³ Among many contributes, concerning the body and the virginity, two typical female elements which the heretical women were unable to control, see A. Cameron, *Christianity and the Rhetoric of Empire: The Development of Christian Discourse*, Berkeley 1991, pp. 68-72 and 171-180, but also the impressive bibliography; moreover, V. Burrus, «The Heretical Woman as Symbol in Alexander, Athanasius, Epiphanius and Jerome», in *Harvard Theological Review* 84, 1991, pp. 229-248. About the Byzantine woman, without any pretension of completeness, see G. Galatariotou, «Holy Women and Witches: Aspects of Byzantine Conceptions of Gender», in *BMGS*. 9, 1984/1985, pp. 55-94, L. Garland, «The Life and Ideology of Byzantine Women», in *Byzantion* 58, 1988, pp. 361-393, J. Herrin, «In Search of Byzantine Women», in A. Cameron, A. Kuhrt (ed.), *Images of Women in Antiquity*, London 1983, pp. 167-189 and A. Laiou, «The Role of Women in Byzantine Society», in *JÖB*. 31, 1981, pp. 233-260 and Id., «Addendum to the Report on the Role of the Women in Byzantine Society», in *JÖB*. 32, 1982, pp. 198-204.

¹⁰⁴ For an assumed edict see *Scritti teologici ed ecclesiastici di Giustiniano* cit., pp. 194 and xxvi note 54. It is known that the heresy, which asserted the incorruptibility of the body of Christ also during the three days spent in the sepulchre, was characterized by the struggle between Severus of Antiochia and Julian of Halicarnassus; apropos, besides F. Carcione, «L'"aftartodocetismo" di Giustiniano: una mistificazione strumentale del dissenso politico-religioso», in *Studi e ricerche per l'Oriente Cristiano* 7, 1984, pp. 71-78 and L. Perrone, «Il "Dialogo contro gli aftartodoceti" di Leonzio di Bisanzio e Severo di Antiochia», in *Cristianesimo nella storia* 1, 1980, pp. 411-443, see K. Adshead, «Justinian and Aphthartodocetism», in S. Mitchell, G. Greatrex (ed.), *Ethnicity and Culture in Late Antiquity*, London 2000, pp. 331-336; moreover, R. Draguet, *Julien d'Halicarnasse et sa controverse avec Sévère d'Antioche sur l'incorruptibilité du corps du Christ*, Leuven 1924 together with M. Jugie, «L'empereur Justinien a-t-il été aphthardocète?», in *Échos d'Orient* 31, 1932, pp. 399-404 and Id., «Julien d'Halicarnasse et Sévère d'Antioche», in *Échos d'Orient* 28, 1925,

sent the worst heresy, at a certain point the heresy *par excellence*; such this result was obtained through a chain of genealogies, often characterized by the fierce presence of a concrete or invented female element. We are acquainted, in any case, with the importance of women in the Manichaeism communities and we must consider two kinds of binomial, female-sin, as coming from a part of the Christian culture, and in the second place Manichaeism-Persia, according to a tradition which considered that world in slavery of lust and then full of terrible customs. So, the connection between the most extreme fringes of Monophysitism, the Nestorians, the Eutichians and the “headless” following Severus of Antioch, a Theodora’s *protegé*, and Manichaeism appears as a rather intelligible product.

When we look to this horizon, the mallet of the power had to plunge without hesitation on the structure of the families – also to make their components poor when they were internal enemies¹⁰⁵ – and above all on every single subject, women too¹⁰⁶, who was placed, under a personal and in the meanwhile tragic choice, outside the borders of orthodoxy¹⁰⁷.

ABSTRACT: *Nov.* 109 of 541, addressed to John of Cappadocia, is the only legal source belonging to the Theodosian and Justinian legislation which directly concerns women and Manichaeism. The law intends to put female subjects in condition of choosing between the desertion of the heresy or the sentence to patrimonial measures connected with the *poena inopiae*: aim of this contribution is to reconstruct the context of the constitution, which was issued during

pp. 129-162 and 256-285 and F. Loofs, «Die “ketzerei” Justinians», in *Harnack-Ehrung. Beiträge zur Kirchengeschichte. Ihrem Lehrer A. von Harnack zu seinem siebzigsten Geburtstage (7. mai 1921) dargebracht von einer Reihe seiner Schüler*, Leipzig 1921, pp. 232-248.

¹⁰⁵ See E. Patlagean, «La pauvreté à Byzance au temps de Justinian: aux origines d’un modèle politique», in M. Mollat (éd.), *Études sur l’histoire de la pauvreté (Moyen Age-XVIe siècle)*, Paris 1974, I 59-81.

¹⁰⁶ H. Jones, «Justiniani Novellae ou l’autoportrait d’un législateur», in *RIDA*. 35, 1988, pp. 149-208, 177-180 (also 166 ss. on the theocratic conception of the central power, 187 ss. on the heretics and 200 ss. on Theodora).

¹⁰⁷ Concerning the definition of heresy in Justinian’s compilation see M. Amelotti, «Giustiniano e gli haeretici», in *Studi in memoria di G. Tarello*, Milano 1990, I 1-7 (= *Scritti giuridici cit.*, pp. 640- 646) and G. Gront, «La repression de l’hérésie au Bas-Empire pendant le règne de Justinien Ier (527-565)», in *Βυζαντικά* 2, 1982, pp. 39-51, besides A. Berger, «La concezione di eretico nelle fonti giustinianee», in *Atti dell’Accademia Nazionale dei Lincei. Rendiconti della Classe di Scienze morali, storiche e filologiche* 10, 1955, pp. 353-368; moreover, K. L. Noethlichs, «Revolution from the Top? “Orthodoxy” and the Persecution of Heretics in Imperial Legislation from Constantine to Justinian», in C. Ando, J. Rüpcke (ed.), *Religion and Law in Classical and Christian Rome*, Stuttgart 2006, pp. 115-125.

the struggle against the Monophysite party; it is possible, moreover, that Theodora did not remain extraneous to those facts.



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