CHRISTIANS AND JEWS IN BYZANTIUM: A LOVE-HATE RELATIONSHIP

Spyros N. Troianos

The Appendix Eclogae,¹ a compendium of texts that is composed primarily of Justinian regulations supplementing the Ecloga, includes, among others, a text which, for the sake of simplicity, is known as the Nomos Mosaïkos among Byzantine legal scholars. The complete Greek title for the text is “Ἐκλογὴ τοῦ παρὰ τοῦ Θεοῦ διὰ τοῦ Μωυσέως δοθέντος νόμον τοῖς Ἰσραηλίταις” which means, “selection of the law given by God through Moses to the Israelites.” The Nomos Mosaïkos is also disseminated outside of the Appendix Eclogae—however, it appears almost exclusively in canonical florilegia.

This text concerns a collection of approximately 70 primarily verbatim excerpts from the Septuagint translation of the Pentateuch, which are allocated among the various books as follows: 21 excerpts from Exodus 21–23; 29 excerpts from Leviticus 5, 18–21, and 24–25; 3 excerpts from Numbers 27, 30, and 35; 18 excerpts from Deuteronomy 5, 15, 17, 19, and 21–25. The ca. 70 excerpts are divided into 50 chapters. These chapters consist of one or more thematically related excerpts; they include rubrics that contain information about the respective contents, and apparently stem from the compiler of the Nomos Mosaïkos himself.

From the fact that the Nomos Mosaïkos is transmitted by Ecloga manuscripts as part of the Appendix Eclogae, one cannot simply deduce without further evidence that the Nomos Mosaïkos was exclusively incorporated into manuscripts having secular-legal content during the eighth and ninth centuries, as, in contrast to these, theological and canonical florilegia from the Iconoclastic period had, from the outset, almost no hope of surviving. Yet, unaffected by this, the fact remains that the text appears primarily in juridical manuscripts. This conclusion and the broader fortunes of the Nomos Mosaïkos in its transmission history allow the conjecture that from the beginning, a

close literary-historical relationship existed between the Nomos Mosaïkos and juridical literature.

By these means, the question about the collection’s purpose is elided, which is simultaneously closely related to the construction of the contents. The latter is conceptualized only with difficulty. In order to correctly evaluate the selection criteria, it must be clearly articulated what the excerpted sources generally offered in material on the one hand, and what, on the other hand, was the compiler’s context. Regarding this, the fact that the two initiating points do not coincidentally converge in an emphasis on penal standards in a broad sense must not be overlooked. In this respect, the Nomos Mosaïkos literally and also historically fits into the context of the Ecloga and the Appendix Ecloga. Even without a glimpse of a possibility of ever being able to prove it, the last editor of the Nomos Mosaïkos even assumed that its composition ought to be located temporally close to that of the Ecloga.²

A comparison with the Collatio legum Mosaicarum et Romanarum³ is inevitable here and not just in relation to the question of the purpose of the Nomos Mosaïkos. Afflicted as the Collatio is with many unsolved problems, this even more curious and more unusual collection can absolutely serve in certain points as a foil for judging the Nomos Mosaïkos, according to the editors of the work. That the opposition between Old Testament and “valid” law is taken up directly in the Collatio, while it is at most implied in the Nomos Mosaïkos, has more than just formal implications: approximately three hundred years separate the two collections, during which Christianity had finally consolidated its hold as the undisputed state religion and had emerged as the supporting pillar of national ideology and its rituals. Apologetic motifs (from whichever direction they may have come) and harmonizing tendencies between pagan, Classical juridical literature, and the as yet immature state religion, which were supposedly the inspiration for the Collatio, had no further role to play, beginning, perhaps not quite as early as Justinian, but certainly by the time the writings of the Classical jurists were incorporated “in nomine Domini nostri Jhesu Christi” into his codification.

² Burgmann, Troianos, ibid., 135.