

The Canonical Aspects of Marriage and Divorce

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Introduction

When the average Orthodox hears the words “Canon Law”, among the things that may come to mind are a dusty code or a set of severe regulations resulting in excommunication for the slightest infraction. But the Sacred Canons set the pastoral standards which are manifesting God’s saving Truth, rather than a set of harsh authoritarian rules and codes. Canon Law is an expression of the Church’s existence in history and constitutes knowledge about the Church in this sense. Through this Law, also, the internal life of the Church is regulated, as a visible but divine organization, on the basis of what was ordained by Christ and the Apostles (Apostolic Faith and Apostolic Succession), and also on the basis of the Canons, ecclesiastical regulations, practice, customs and state laws. Orthodox Canon Law is linked to the nature of the Church, which, in turn, is based on Christology. In a word, Orthodox Canon Law is fully incarnational and the truth is being applied to or incarnated in specific circumstances of history. The Sacred Canons have a basic goal which is the salvation of the people and the world. That is why the ‘Rudder’ or “Πηδάλιον” speaks about the character of the Sacred Canons, which is the salvation of the humankind and so it has what is called the Soteriological Character (Σωτηριολογικός Χαρακτήρας).

The Sacraments are the pastoral and spiritual expression of our Church and they lead us to the closest communication with God, our Creator. Particularly, as we examine the Sacrament of Marriage and the worst conclusion of it, divorce, I think that it is very important to study and understand what the Holy Canons have to say to us about that. This is the main reason why I named

* Ὁ Κωνσταντῖνος Βασιλάκης εἶναι κάτοχος ΜTh με εἰδικότητα σὸ Κανονικὸ Δίκαιο τῆς Θεολογικῆς Σχολῆς τοῦ Τιμίου Σταυροῦ Βοστώνης, Η.Π.Α.

this humble theological treatise “*The Canonical Aspects of Marriage and Divorce*”.

The purpose of this study is to provide a foundation for further exploration of Orthodoxy’s Canonical tradition about the Sacrament of Marriage and to examine carefully the general aspects of Divorce and how we must approach it “Canonically.” There are many different opinions about this problem which is, unfortunately, very common in our contemporary world. Thus, we would like to express, as better as possible, the most theological opinion which comes and springs from the Canons and the Holy Tradition of the Church.

This treatise is divided into four main sections-chapters. The first chapter is a general introduction to Orthodox Canon Law and its importance for our Church. The second chapter is a survey and examination of the Sacrament of Marriage; its nature, its importance, its basic aim and its biblical foundation. In the third chapter, I am writing about Divorce and some helpful indications that we can find in the Holy Bible about it. Especially, what our Lord and Savior Jesus Christ said and taught about Marriage and Divorce. In the last chapter (fourth) are presented some sentiments from the Church Fathers and some Holy Canons from the Canonical Tradition of the Orthodox Church, which provide some clarifications and helpful material about Divorce. Finally, I close this treatise with a general conclusion by understanding the canonical texts and realizing their great importance.

A. Canon Law

Canon Law is the subject in Theology that provides and examines at great length the Holy Canons of our Church and regulates normally all affairs of it, with the final aim to lead in salvation of the faithful. “Canon” is a Greek word and means a measuring rod, a carpenter’s or stonemason’s ruler; in Greek “κανών”. It is what the builder uses to make a straight line, or a consistent curve, without going out from the line. Metaphorically speaking, canon means the concrete model, the prototype¹. But the canon is a standard and not judicial. In our One, Holy, Catholic, and Apostolic Church, we do not see the sin as a crime

1. PATSAVOS LEWIS J., *Manual for the course in Orthodox Canon Law*, Brookline 1975, p. 7.

against God to be punished; it is a sickness to be healed. Thus, the Canons are useful spiritual tools used by the Bishops and Presbyters as spiritual fathers, not as lawyers or judges. Christianity has, along with its various doctrines on God, addressed several moral and ethical topics throughout its history². Either through official Canons of the Church or unofficial correspondences of the Fathers, the Church has always understood one's moral life as a direct link to one's spiritual life and salvation³. The Canons, thus, are used in order to lead the sinful people to salvation without judge them.

As far as the Holy Canons are concerned I would like to make a helpful and important clarification. As we all know the compendium of Orthodox Canon Law is called 'Pedalion' which in Greek means "Rudder". Literally, guiding a soul to salvation is like steering a ship with a rudder. Steering a ship, you have to take into account many different factors like how fast the ship is moving, where the current is going, how much wind is blowing, how quickly and how much you need to change the course or even stay on course. The same procedure you must follow with the soul of each individual. You have to find out his limits, his rate of obedience, how he can keep the fast, the vigils, and the prayer. Every person in this fallen world has its own boundaries. The spiritual father who holds the 'rudder' must be very careful with each person and guiding him "according to the need of each"⁴, in Greek «κατὰ τὴν ἐκάστου ἰδίαν χρείαν», as St. John Chrysostom wrote. But sometimes the rudder of the ship is useless because the other forces are too strong and other things have to be brought into play. It requires practice and discernment to know how much rudder to use in a particular situation, and few situations are exactly the same. Different helmsmen will use the rudder in different manners to achieve the same result, just like two different doctors with two different patients might use two very different treatments to cure the same disease. We can realize that exactly the same method exists when an experienced spiritual father uses the Pedalion in order to guide the spiritual child. In Theology of Person we believe that every person in the world is unique and unrepeatable. So the one who holds the rudder, in

2. GRINIEZAKIS MAKARIOS, *Orthodox Christian Ethics within Bioethics*, Akritas Publications 2007, p. 14.

3. *Op. cit.*, p. 14.

4. See the prayer after the Lord's Prayer in Divine Liturgy of St. John Chrysostom: "We thank you, King Invisible, who by your boundless power created all things..."

our case the Pedalion with the Canons, has to take into account all the main factors of the personality who is in front of him, and afterwards to give a real spiritual treatment. Therefore, the Canons are not “law” per se. They provide guidance, but must be used with discretion and discernment. The “laws” per se are universal and must be “enforced”. Canons are tools and used as needed; not to destroy but to achieve spiritual perfection and to save. The spirit of love that is commitment to the spiritual perfection of the individual must prevail in the application of the law⁵. The Canons are also merciful, with a lenient and philanthropic character. For that reason we apply in our Church what is called in Greek “οικονομία” (dispensation or eccl. economy). Unlike Secular Law, or Mosaic Law, the purpose of the Church’s Law is the Salvation of her members. Mere application of the letter of the law is replaced by a sense for the *spirit* of the law, and adherence to its principles. Thus, abolition of the letter of the law by the spirit of the law gives way to ‘οικονομία’⁶. Through “οικονομία” which is an exception to the general rule, the legal consequences which usually follow violation of law are lifted⁷. “Οικονομία” is granted by the competent ecclesiastical authority and has not so much the character of urgency as it does the character of compassion for human frailty⁸. The Church’s Law, as a law of grace, it is characterized primarily by the spiritual attributes of compassion, pastoral sensitivity, and forgiveness which are based on the mercifulness of our God. But again we must be extremely careful not to convert “οικονομία” into canon and the canon into “οικονομία”. We ought to exercise “οικονομία” only in special cases and under a thorough examination of all the parameters.

Furthermore, the expression, “Canon Law,” should be understood in terms of its meaning as ‘canon’ or ‘canonical legislation’ without confusion with Civil law⁹. Canon Law has its own independent sources. The origins of these sources are found in the will of Jesus Christ to found His Kingdom upon earth¹⁰. Canon

5. PATSAVOS LEWIS J., *Op. cit.*, p. 10.

6. *Op. cit.*, p. 10.

7. *Op. cit.*, p. 10.

8. PATSAVOS LEWIS J., “*The Canonical Tradition of the Orthodox Church*”, in Fotios K. Litsas, *A Companion to the Greek Orthodox Church*, New York: Greek Orthodox Archdiocese, 1984, p. 145.

9. VISCUSO PATRICK, *Orthodox Canon Law, A Casebook for study*, InterOrthodox Press, California 2006, p. 3.

10. PATSAVOS LEWIS J., *Manual for the course...*, *Op. cit.*, p. 9.

Law therefore is not subjected to any of the jurisdictions of civil law. A civil law is directed towards acts having motive, opportunity, and premeditation or lack of premeditation¹¹. There are often punishments involved for the transgressor of a law which are coercive in nature in order to encourage certain behaviors and discourage others by the threat of penalties. But the spiritual character of Canon Law is evident from the fact that it is not coercive as is civil law. Moreover, the purpose of the authority of the “Ekklesia” is service to others, whereas the purpose of the state’s authority is sovereignty over others¹².

At this point, it is also noticeable that Canon Law is different from Ecclesiastical Law, by which is understood the sum total of the laws passed by the Church and the State, through which the life of the Church in general is ordered¹³. Ecclesiastical law is, therefore, broader than Canon Law, since the contents of Canon Law consist only of the ordinances and canons passed by the Church, including those in Holy Scripture and Sacred Tradition¹⁴. ‘Canon Law’ is the attempt to apply dogma to practical situations in the daily life of each Christian. From the Orthodox point of view, Canon Law expresses God’s Truth given the time and circumstances. It is primarily spiritual and sacred because it strives for the spiritual perfection of the members of the Church and concerns itself with the inner disposition behind every act or neglect of an act. The canons are a divine-human reality parallel to the two natures of the Christ and an extension of God’s saving work and divine redemption. In theological terms, Canon Law reflects the application of Divine Truth, the Church’s divine nature, possessing a historical reality. In this sense, Canon Law is a part of Orthodox Ecclesiology which is based on Christology and its definition of Chalcedon¹⁵ of one person and two natures. The truth being applied in Canon Law pre-exists

11. VISCUSO PATRICK, *Op. cit.*, p. 3.

12. PATSAVOS LEWIS J., *Op. cit.*, p. 10.

13. RODOPOULOS PANTELEIMON – Metropolitan of Tyroloe, *An Overview of Orthodox Canon Law*, Orthodox Research Institute 2007, p. 21.

14. *Op. cit.*, p. 21. Moreover, Metropolitan Panteleimon emphasizes that “this distinction is of a great Importance for the Western church, which has a whole system of law which is independent of and uninfluenced by State legislation” (*op. cit.*, p. 21).

15. The Fourth Ecumenical Council of Chalcedon (451) taught that Christ’s two natures, human and divine, are united ‘without confusion, separation or change, and are undivided’ in one person. In the Greek text of the definition of the Synod the four adverbs are: “ἀσυγχήτως, ἀτρέπτως, ἀδιαιρέτως, καὶ ἀχωρίστως”.

creation as divine truth. This truth is being expressed in the circumstances of history and it is eternal. The body of Canon Law enlightens and helps the Church's needs and life throughout the ages. Thus, as an incarnational reality, Canon Law is the expression of the Church's pastoral life.

B. Marriage

The most important and life-giving factor of the Church's pastoral life are the Holy and divinely-given Sacraments. By the Sacraments mankind can communicate with God and through the Sacraments people can reach salvation of their souls. Marriage is one of the sacraments of our Church and is very important because it helps persons to achieve moral and spiritual perfection which leads to salvation. "Marriage is the union of man and woman, the sharing of the same lot in life forever, the communion of divine and human law"¹⁶. In St. Paul's Letter to Ephesians, also, we read the following: "*This is a great mystery...*"¹⁷. The Eastern Orthodox Church demonstrates particular interest on marriage, because, according to its orthodox faith and tradition, marriage by its nature is mainly a God-established (*θεοσύστατον*) and holy mystery, in which the invisible Divine Grace descends on the two persons and sanctifies marriage and family¹⁸. Marriage, in its pure form, is an arrangement of nature in accordance with the will of God. It is the basis of the family, of that society in which the noblest human feelings are forged and developed. So, marriage is a sacred foundation and the Church has stamped its sanctity by recognizing it as a divine institution and arrangement and by defining the lawful and canonical communal relationship between men and women as a divine mystery¹⁹. But it is worth noting that Marriage is absolutely completed in the Mystery of Mysteries, the Eucharist. With the blessed participation in Eucharist, couple can become 'one flesh'²⁰ and

16. Modestinus, in PATSAVOS LEWIS J., *Manual for the course in Orthodox Canon Law*, op. cit., page 123.

17. EPHESIANS 5:32.

18. ΧΡΙΣΤΙΝΑΚΗ ΠΑΝΑΓΙΩΤΟΥ, *Οικογενειακό Δίκαιο και Ίσότητα τῶν Δύο Φύλων*, Ὁ Ὁρθόδοξος Θεολογικὸς Γάμος, Τόμος Α', Ἀθήνα 2003, page 26.

19. RODOPOULOS PANTELEIMON – Metropolitan of Tyroloe, *Op. cit.*, p. 186.

20. MATTHEW 19: 5 and MARK 10:8.

‘one body’ in Christ. The mystery of the Eucharist is the ultimate expression of our union with Christ. It is what makes the two people, united in marriage, members of the Body of Christ. In other words, it is in Eucharist that Marriage finds its fulfillment²¹. Blastares²² viewed the Eucharist as fulfilling a symbolic role in the nuptial rite with regard to the worthiness of both the couple and marriage itself, in where the crowning and betrothal blessing were considered sacerdotal benedictions²³. By confirming the reality of worthiness of the couple, Holy Communion sealed and perfected the marital union²⁴. The married life is one of the ‘paths’ that lead to salvation of the souls of the faithful and that is why the Church has given particular importance to it²⁵. Due to the importance of marriage for the people and for their spiritual equilibrium and relationship with the nature and the Creator, Canon Law has systematically set out what is aimed at in marriage.

Marriage in the Hellenistic and early Byzantine period was largely a matter of a couple announcing to a large number of people usually at a planned wedding feast (Cana is a perfect example) their intention to enter into a devoted, monogamous relationship. Surely there was an element of ceremony involved, but such props were not necessary for the marriage to be considered valid. In the early Church, such unions became Christianized, and presence of a priest at such a ceremony (largely in the capacity of witness) became standard practice. However, as Professor Erickson explains, a marriage was originally judged as valid or invalid based solely on the commitment of the couple to one another not on the basis of external trappings. This practice indicates an immense respect for the uniqueness of both persons involved, and acknowledgment of the fact that the marriage bond must be instituted by the two persons in love²⁶.

Marriage is also an academic subject that has occupied the minds of a lot of theological interpreters in the past and present. It is not a simple subject; it

21. See at PATSAVOS LEWIS J., *‘Mixed’ Marriages and the Canonical Tradition of the Orthodox Church*, GOTR 23, 3 and 4 (1978), page 243.

22. VISCUSO PATRICK D., *Sexuality, Marriage, and Celibacy in Byzantine Law*, Holy Cross Orthodox Press, Brookline 2008, p. 40.

23. VISCUSO PATRICK D., *Sexuality, Marriage...*, *Op. cit.*, p. 41.

24. *Op. cit.*, p. 40.

25. ΧΡΙΣΤΙΝΑΚΗ ΠΑΝΑΓΙΩΤΟΥ, *Op. cit.*, page 26.

26. In the article of MOORE EDWARD, *Economy and Canon Law*, on www.theandros.com/economy.html

needs to be deepened theologically. Many theological interpreters tried occasionally to formulate an explicit and completed treatise for the Sacrament of Marriage. The most admissible treatise is that of Ioannis Karmiris, who was one of the best Greek Dogmatists from the past century, and writes for the aim of marriage in the following²⁷: “*We think that it would be possible, from the Orthodox point of view, to consider the final goal and purpose of Christian Marriage is the spiritual and moral perfection of the spouses. All the other aims are secondary and intermediary, which lead to final goal*”. Thus, in the matrimonial union of a man and woman, the main aim is to gain the Heavenly Kingdom of God together. However, the most sure and infallible source from which we can draw material for the theological foundations of marriage is the Holy Bible.

In the Old Testament, specifically in the book of Genesis, Chapter 2: 24-25, we find the foundations of the Christian Marriage as a God established sacrament. Furthermore, in the New Testament, there are some perspectives on our topic which most of them are put forward by the Holy Authors in order to answer questions made by others. We must take note that the views about marriage in the New Testament were expressed in a very harsh and downgraded Jewish and Greco-Roman context where the ideal of a family had eroded during the Roman Empire and due to the influences of the East²⁸. On the other hand, among those who were not a part of the Roman culture they favored asceticism as the ideal way of life and rejected marriage and the ideal of a family. The most important pericopes about marriage in the New Testament are: a) in the Gospel of Matthew (19: 3-12), b) in the Gospel of Mark (10: 2-12), c) in the Epistle to the Ephesians (5, 22-33) and d) in the First Epistle to the Corinthians (chap. 7).

C. Holy Bible and Divorce

In the Orthodox Church, Marriage and the goal to which it aspires are indissoluble until the end of the lives of the spouses. The indissolubility of the Mystery of Marriage was further sanctioned and strengthened by the Church, which

27. AGOURIDES SAVAS, «*Άγιογραφικά Κείμενα περί Γάμου*», Περιοδικό Ἐκκλησία, 07/1971, page 401

28. *Op. cit.*, p. 403.

considered it a great mystery of nature which, through Christianity, also acquired a religious character, symbolizing the union between Christ and the Church²⁹. A legitimate Marriage, therefore, is dissolved only through death, or through an event which revokes the ecclesiastical significance of marriage, refutes its religious and moral foundation, and is in other words religious or moral death³⁰. In other words, Divorce is a simple recognition that the bond between married persons has already been broken. Then, married love and life loses its sacramental substance. Christ Himself taught in the New Testament about the indissolubility of Marriage and He prohibited divorce except in the case of adultery. Although the Orthodox Church has always looked on divorce as a harmful situation for the faithful and has stressed the moral obligation of the partners within it, according to the Gospel, not to dissolve the marriage bond. But, unfortunately, the phenomenon of divorce became more frequent and after some special reasons, marriage is dissolved by an irrevocable judicial decision which is final. Consequently, the marital bond can be broken for reasons other than natural death. Of course, such dissolution takes place with much sorrow and sadness to the Church.

The special reasons that may dissolve a marriage are divided into three categories³¹. The first is the *irreconcilable breakdown of the marriage* where there is a powerful shock between the relationship of the two spouses in case of: 1) adultery, 2) bigamy, 3) abandonment, 4) plotting against the life of the plaintiff by the defendant. The second is *disappearance* and either of the spouses may seek a divorce when the other has been declared to be of no known whereabouts (Article 1440). The third is *divorce by consent* in which both the spouses agree to dissolve their marriage³². This is not considered actually as a reason for divorce but as a way³³ of divorce. Let us examine some cases from the Holy Bible about divorce.

29. EPHESIANS 5: 22-33.

30. PATSAVOS LEWIS J., *Manual for the course in Orthodox Canon Law*, op. cit., page 135.

31. The categorization is according to CHRISTINAKIS PANAGIOTIS, *Οικογενειακό Δίκαιο και Ισότητα των Δύο Φύλων...* op. cit., pp. 173-184 and the English terms are taken from RODOPOULOS PANTELEIMON – Metropolitan of Tyroloe, *An Overview of Orthodox Canon Law*, Orthodox Research Institute 2007, p. 200.

32. In the Archdiocese of America the causes of divorce are lifted in an encyclical issued specifically for this purpose (see online www.goarch.org).

33. ΧΡΙΣΤΙΝΑΚΗ ΠΑΝΑΓΙΩΤΟΥ, *Op. cit.*, page 185.

In the New Testament we can find some teachings from Christ Himself about the unfortunate fact of divorce. Many of New Testament Scholars holds that one of the clearest teachings of Christ is the unqualified prohibition of divorce³⁴. There is a distinct pericope about divorce that described from both the Evangelists Matthew and Mark³⁵. According to the text, some Pharisees wanted to tempt Jesus by asking Him what He believed about divorce. They knew, of course, what He believed but they wanted to prove through their discussion that He was not knowing or misinterpreting the Scriptures³⁶. They came to Him and asked: “*Is it lawful for a man to divorce his wife for any cause?*”³⁷ The rabbinic theological schools of that time were preoccupied with this issue. There was a famous debate³⁸ between *Hillel* and *Shammai*³⁹ and their schools on this matter. However, Jesus’ answer was not based on the legal rules of the Pentateuch but on God’s original plan for humankind in the book of Genesis⁴⁰. These chapters are fundamental for the Christian understanding of marriage. They emphasize that humanity was not created as a man or as a woman separately but as a ‘man-wife’ (ἀνδρόγυνο). The complete human being is the union between man and woman. In ‘man-wife’ (ἀνδρόγυνο) there is a mystical and indissoluble union. When one part departs from the other or rejects it, it is like it is departing or rejecting its own completeness or its very own identity. Therefore, man and woman complete one another. In addition to this, we read in this pericope: “*So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate*”⁴¹. Here Christ speaks very clearly about the uniqueness of the union and He gives the very fundamental answer about divorce: “*let no one separate*”; so, divorce could not exist at all. The dissolution of this union is a type of schizophrenia and something that we do not accept the donations of God. On the other hand, the maintenance of this union symbolizes the true ful-

34. From STYLIANOPOULOS THEODORE, *The Indissolubility of Marriage in the New Testament: Principle and Practice*, GOTR Vol. 34/4, 1989, page 335.

35. MATTHEW 19: 3-12 and MARK 10: 2-12.

36. From AGOURIDES SAVAS, «*Αγιογραφικά Κείμενα περί Γάμου*», Περιοδικό Εκκλησία, 09/1971, page 515.

37. MATTHEW 19: 3.

38. BOCKMUEHL MARKUS, *Jewish Law in Gentile Churches*, Baker Academic, 2000, page 17.

39. *Op. cit.*, page 17.

40. GENESIS chap. 1-2.

41. MATTHEW 19: 6 and MARK 10: 9.

fillment of life. Marriage is more than a human joy or pleasure, more than a biological or social function, is the realization of God's creative act, not just in the meaning of the creation of a new life. This also means that this fulfillment of the human personality is in the union of the man and wife. Thus, marriage is a sacramental and indissoluble union. Divorce is completely prohibited and it does not identifiable from the time that the two become mysteriously one flesh.

However, the Church bestows an economy for divorce, because of the hardness⁴² of the human existence but also through the mercy of God. "Economy" is viewed as "transitory leniency" by which the Church is a dispenser of divine mercy preventing worse consequences. "Economy" also pertains to exception rather than the rule and thus does not contradict Christ's principle of the indissolubility of marriage. Thus, the issuing of divorce is based on the weakness of the people, and it should not cause confusion to our conscience about the real meaning and the substance of the holy Sacrament of Marriage, as God placed it in life from the very beginning in the Old Testament and Christ the Son of God confirmed it in the Church in the New Testament. In a conclusion, the light of the Holy Scriptures' testimony can sharpen always Church's thought and practice regarding marriage and divorce today.

D. Holy Canons and Divorce

With the sad affair of divorce, which as we said it escapes from the ideal course and purpose of Marriage, dealt also the Fathers of the Church and the Tradition of the Church with some Ecumenical or Local Councils. Both the Holy Canons and the writings of the Church Fathers upheld the integrity of Marriage and they indicated their opposition to the practice of divorce. To begin with, Clement of Alexandria opposing "divorce by mutual consent" by stressing that a husband may dismiss his wife on the grounds of adultery alone. Similarly, St. Gregory of Nazianzus reflects the same view in an epistle addressed to the monk Olympius, where he bids Olympius to exercise all possible means to prevent the daughter of Verianus from receiving an "apostasion" (to-

42. In the Old Testament somebody could become a murderer because of the consequences of adultery or because of the temptation to have another woman. So divorce was a helpful solution to avoid death.

tal divorce)⁴³. St. Gregory, in many of his homilies, tolerates only adultery as a legitimate cause for divorce. Moreover, St. John Chrysostom, in one of his homilies he reminds his listeners that they will not be judged according to Roman Law, which permits the “apostasion”, but according to the Law of God⁴⁴. The sentiments of these Church Fathers can suffice to indicate the strong disapproval of an abhorrent practice of divorce with which some people wished to disassociate spiritually themselves from the Church.

Furthermore, the ninth canon⁴⁵ of St. Basil the Great (330-379) states that, while consistent with the Lord’s decision a cause of adultery equally dissolves a marriage, nevertheless, the Church’s practice requires that husbands who commit adultery or fornicate be kept by their wives. Alexios Aristenos⁴⁶ in his interpretation of the canon, says that it contains these things because it was also permitted by the laws at that time. However, presently, neither a husband nor a wife is able to dissolve the marriage, unless a just cause exists, of which the Novel of Justinian⁴⁷ ordains by law. St. Basil states also that if the husband abandons his wife to live with another, then both he and his consort are considered to be committing adultery. Interpreting the canon, we finally realize that if a man leaves his wife, without the ground of fornication, and takes another, he is an adulterer, because he compelled his wife to become an adulteress or to commit adultery by taking another man while her former husband is still alive⁴⁸.

In addition, Canon 87 of Quinisext (Penthekte) Ecumenical Council says that any wife who leaves her husband and takes another is an adulteress. On the contrary, if there is any husband who leaves his lawful wife and takes another is subject to the penance attached to adultery. The Canon canonized for such man a strong penalty to abstain from Communion for seven years. But, if he repents on tears, he shall passing a year with the weepers, two years with the listeners, three years with the kneelers⁴⁹, “*and during the seventh year shall stand togeth-*

43. In the Article of PATSAVOS LEWIS J., “*The Orthodox Position on Divorce*”, *Diakonia* 5 (1970), page 7.

44. *Op. cit.*, p. 7.

45. Canon IX, in “*The Rudder (Pedalion)*”, Orthodox Christian Educational Society 1957, page 797.

46. VISCUSO PATRICK, *Orthodox Canon Law, A Casebook for study*, *op. cit.*, p. 58.

47. The Justinian’s Novel 117 of the year 541.

48. Interpretation of Canon IX, “*The Rudder (Pedalion)*”, *op. cit.*, page 798.

49. ‘Weepers’, ‘listeners’ and ‘kneelers’ were some special groups of people that they did not partake of the divine Mysteries of the Church.

er with the faithful, and thus be deemed worthy to partake of the prosphora if indeed they verily repent with tears⁵⁰. Noteworthy is the fact that the present canon is composed of three canons of St. Basil the Great and especially of the canon IX (9) of St. Basil. Withal, directly related to our topic are the Canons 21, 31, 35, 36, 37, 48 and 77 of St. Basil, the Canon 20 of Ancyra and the Canon 113 of Carthage.

Also, the Canon 48 of the Holy Apostles states that if any layman who insists upon divorcing his wife, except on the ground of fornication, which is to say adultery, and takes another woman that is free to marry, let him be excommunicated. Likewise, let him be excommunicated, if after being divorced from his wife without the ground of fornication, he takes another woman who is also divorced from her husband without the ground of fornication, or in other words adultery. As for any man or woman that separates from his or her mate without a reasonable cause and remarries, he or she shall be canonized to have no communion for seven years⁵¹, according to the previous Canons⁵². In this Canon, the Greek term “apolelymene”, used not only to denote an unlawfully divorced woman but also the opposite, a lawfully divorced woman⁵³.

To summarize, in this chapter there is an effort of presenting, as clear as it possible, some Holy Canons of our Tradition that deal entirely with the problem of divorce. These Canons help us to understand and perceive more deeply the problem which is more common in our contemporary world. Some people do not care or do not give enough importance to it; but the Canons remind it to us and stressing us that we must not underestimate this painful reality.

Conclusion

This study is an effort to stress the basic teachings from the Canonical Tradition of the Church about the Mystery of Marriage and its undesirable ending, divorce. As I humbly approached the theme, it has been obvious that the indissolubility of the marital bond viewed in its Christological dimension reflects the

50. Canon LXXXVII, op. cit., page 391.

51. Interpretation of Canon XLVIII, op. cit., pp. 76-80.

52. Canon 87 of Quinisext, Canon 20 of Ancyra, and Canons 37 and 77 of St. Basil.

53. In PATSAVOS LEWIS J., “*The Orthodox Position on Divorce*”, op. cit., p. 13.

unity of Christ and His Church. For that reason, Christian spouses must conscientiously seek to transform their home into a domestic Church (*κατ' οἶκον Ἐκκλησίαν*); into a community that bears the essential marks and characteristics of the Church: oneness, holiness, catholicity, and apostolicity. The marital bond, which is a divine gift, must be strengthened, renewed, and nourished continuously. It is the task of the Church to promulgate the vision of Marriage and to help Christian persons to live by it.

As I have tried to show, through the Church's Canonical Tradition, truth is being expressed in the circumstances of history to address specific situations, behaviors, and specific persons. This eternal truth is extremely helpful to understand and find solutions in our contemporary problems. In our case, the corpus of Canon Law and its valuable sources from Ecumenical Synods, Local Synods, and Patristic writings, give us the necessary and fundamental perspectives in dealing with the problem of Divorce. Although, we must not forget that Canon Law, as ministry, is the attempt to apply dogma to practical situations in the daily life of each Christian. From this point of view, Canon Law expresses God's truth given the time and circumstances. Thus, the Canons are a divine-human reality parallel to the two natures of the Savior and are an extension of the God's saving work and divine redemption.

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