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## The Church Canons and the Limits Set to Life

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### 1. The Church and the law

The ethos of the Church is the life of personal distinctiveness and freedom; it is the love which gives to existence a hypostasis of eternal life, beyond any natural restriction or individual predetermination. When man is grafted into the eucharistic mode of existence of the Church body, then no ready-made definition can correspond to the dynamism of the ways in which life is transfigured “from glory to glory” (2 Cor 3:18). No casuistic subjection of man to objective provisions in laws or canons of life can exhaust the distinctiveness of the *name* given him by the Church within the communion and relationship of love.

This does not apply only to personal participation in eucharistic unity and communion; man's failure to transcend the rebellious impulse to existential autonomy in his natural individuality— sin in its various forms— is also something that defies objective definition, and in this way preserves the uniqueness and dissimilarity of the tragic opposition between person and nature, the personal adventure of freedom.

Yet the Church herself in ecumenical and local councils, through the wisdom of her fathers and saints, has ordained a host of canons and provisions which regulate her life. And what they regulate is not only external relationships having to

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do with her administrative structure and the good order of her human organization, but also the conditions for each member's participation in her body or personal severance from it.

The existence of canons and legal regulations in the Church's life must be interpreted correctly, because otherwise it undermines the very truth of the Church, the truth of personal distinctiveness and freedom which constitutes true life in the context of loving communion and relationship.

From New Testament times onwards, the problem of the Church's freedom from every law, even the Law appointed by God for the historical education of Israel, has been a particularly acute one. It is enough to call to mind St Paul's struggle with the "Judaizers" who wanted the Law to be preserved in the life of the Church; to recall the theology of his epistles, and their insistence on salvation "by faith" and not "by law." We must not, however, fail to notice that Paul does not react by rejecting the Law and its educative character;<sup>1</sup> he only opposes the *precedence* of law over faith and the legal interpretation of faith, of the new relationship between God and man in Christ.

It is plain that for St Paul, the Law goes with the fall of man; it marks off the fall from what is not the fall, evil from good. It defines and manifests the reality of sin,<sup>2</sup> man's failure to live in communion and relationship with God. The existence of the Law manifests our distance from God; it proves that there exists between God and man a "middle wall of partition." Even supposing man keeps the whole of the Law, the "middle wall of partition" is not removed, because the partition, which is sin, consists not in violation of the Law but in that separation from God which the Law marks out and affirms. And because violation of the Law does not exhaust the reality of sin, observance of the Law could never do away with sin. The existence of the Law itself precludes

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justification "by works of Law," since the Law is the "power of sin": it is the Law that makes possible the concrete realization of sin in the form of transgression, and this is why it simply "worketh wrath" (Rm 4:15). It is in this sense that Paul asserts that "a man is not justified by the works of the Law— by the deeds of the Law there shall no flesh be justified" (Gal 2:16, Rm 3:20, Gal 3:17).

Christ alone is the end of the Law (Rm 10:4) and freedom from the Law (Rm 8:2), precisely because He did away with the precondition for its existence when, in His theanthropic flesh, He destroyed the "middle wall of partition" (Eph 2:14), the existential distance between man and God. Thus the Law is not annulled but "fulfilled," in the sense that it finds its fullness in love (Rm 13:10). The Law continues to manifest and affirm sin, but now the acknowledgement of sin is not proof of condemnation and death, not a "curse," but a measure of acceptance of God's love: the Law reveals God's "frenzied *eros*" for man.

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<sup>1</sup> "Do we then make void the Law through faith? God forbid: yea, we establish the Law" (Rm 3:31).

<sup>2</sup> "For by the Law is the knowledge of sin" (Rm 3:20). "For where no law is, there is no transgression" (Rm 4:15). "But sin is not imputed when there is no law" (Rm 5:13). "I had not known sin, but by the Law... For without the Law, sin was dead" (Rm 7:7-8). "The strength of sin is the Law" (1 Cor 15:56).

Christ abolished the Law by showing that love is above the Law. If the Law subjugates man to transgression and consequently to death, the love of God “in the person of Jesus Christ” frees transgression from its consequence, death, and transforms transgression of the Law into a potentiality for repentance and loving relationship with God— a potentiality for eternal life. Man’s salvation, his participation in eternal life, is not a legal event; it is a participation in God’s love which gives substance to life. The dilemma which St Paul sets before the Judaizers is between the ontological content of salvation and the legal interpretation of it: is it the Law that “gives life to the dead,” transfiguring our mortal being into a hypostasis of eternal life, or is it the love of God?<sup>3</sup> If it is the Law, then “Christ is dead in vain.”<sup>4</sup> If it is love, then life and salvation are grace, a gift of freedom from observance of the Law.<sup>5</sup>

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Christ showed that love is above the Law when He made Himself subject to the Law and to death, and showed that the Law was powerless to kill the life which is love and acceptance of death. “We have a law, and by that law he ought to die,” say the Jews to Pilate as they hand Christ over to him (Jn 19:7). With these words, yet without a full understanding of their significance, they set out the fundamental meaning of Christ’s sacrifice: in accordance with man’s law, He is subject to death, to separation from life— He “ought to die.” This obligation to die *constitutes* the Law and shows it to be a “curse”: “for as many as are under the Law, are under a curse” (Ga 3:10). From the moment there is law, there is separation from life, an obligation to die. But Christ subjects Himself to the Law, to the obligation to die, and transforms this obligation into obedience to God’s love, into relationship and communion between mortal flesh and the life-giving love of God. Thus Christ’s submission to the Law and to death makes law and death part of another mode of existence, of the love which gives substance to life. The cross of Christ, that ultimate consequence of the Law, the fulfillment of the curse and of death, is the end of, the Law and transcendence of the Law.

Christ “was raised from the dead,” putting death to death and abolishing the Law “in His flesh” (Ep 2:15)— the reality of law, sin and death are “swallowed up by life” (1Co 15:54, 2Co 5:4). “Wherefore, my brethren,” writes St Paul, “ye also are become dead to the law

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<sup>3</sup> “No man is justified by the Law in the sight of God... If there had been a law given which could have given life, verily righteousness should have been by the Law” (Gal 3:11 and 21).

<sup>4</sup> “If righteousness comes by the Law, then Christ is dead in vain” (Gal 2:21).

<sup>5</sup> “By grace ye are saved... and that not of yourselves: it is the gift of God... for we are His workmanship, created in Christ Jesus” (Eph 2:5-10). “... But the gift of God is eternal life” (Rm 6:23). “For ye are not under the Law, but under grace” (Rm 6:14). “Being justified by His grace” (Tt 3:7).

by the body of Christ; that ye should be married to another, even to Him who is raised from the dead, that we should bring forth fruit unto God” (Rm 7:4). The way we are conformed at baptism to the death and resurrection of Christ and incorporated into the body of the Church is “newness of life,” freedom from the Law.<sup>6</sup> The children of the Church are not children of

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Hagar, of slavery to the Law, but children of Sarah; they are children of the freedom of God’s promises, of the loving relationship and communion with God (Ga 4:22-31). Salvation is an organic entry into the communion of saints, the body of the Church, “built upon the foundation of the apostles and prophets, Jesus Christ Himself being the chief corner stone; in whom all the building fitly framed together groweth unto an holy temple in the Lord” (Ep 2:20-21).

## **2. The canon of martyrdom and the witness of the canons**

In her first, apostolic council (Ac 15:6-29), the Church vindicated St Paul’s theology, rejected the observance of the Mosaic Law, and refused to admit legal substitutes for salvation; she repelled the danger of being turned into a “religion” and an “ethic” of the present age which “passeth away.” It is nevertheless characteristic that the apostolic council retained what was “necessary” from the regulations of the Law: it commanded the Christians converted “from the Gentiles” to abstain from “meats offered to idols, and from blood, and from things strangled and from fornication” (Ac 15:18-29). In retaining these four regulations from the Law, the Church defined for the first time an objective, social distinction between Christians and pagans; it was the beginning of the canons of her historical life.

In the first three centuries, there was no need for a clearer definition of the bounds of church life, of the objective limits safeguarding the visible unity and homogeneity of the life of the Church’s body. For all the faithful there was a constant Possibility of martyrdom, and this kept church life in harmony With the fullest possible affirmation of the truth of salvation. Martyrdom is the supreme canon of the Church’s life, a practical witness manifesting the mode of existence which differentiates the “new creation” of Christians from the way the “world” lives; and it is the measure for understanding the truth of all later canons enacted by the Church. We must therefore insist

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<sup>6</sup> “Therefore we are buried with Him by baptism into death: that like as Christ was raised up from the dead by the glory of the Father, even so we also should walk in newness of life” (Rm 6:4).

on this as a fundamental prerequisite for understanding the canons.

The witness of the Christian martyrs goes beyond the heroism of self-denial for the sake of certain ideals which a person believes to be higher in value even than his individual survival. History has seen many forms of such idealistic heroism and extreme self-denial, and all merit absolute respect; but they bear no direct relation to the witness of Christian martyrs. The martyrs of the Church embody the truth of the Church, the truth of the true life which is communion and relationship with God— which is the ultimate self-transcendence of natural individuality, and love for Christ who alone gives a hypostasis of eternal life to man's personal distinctiveness. It is not a question of ideological fanaticism, or of faith in ideas which aim to improve our common life; what we have seen is the concrete realization of a mode of existence which is the complete antithesis of individual survival, and has its historical prototype in the cross of Christ.

Subsequently, every canon of the Church has aimed at the same “martyr-like” self-transcendence of natural individuality and autonomous survival, the same realization of life as communion and relationship, as obedience to the love of God according to the prototype of self-denial in the life-giving death of the cross. Every canon provides a witness to, and a possibility for, personal relationship with the whole body of the Church and the subjection of individuality to the common participation of all the faithful in the oneness of the Church's life. Nor is there room for a different interpretation of the canons. If this is not their truth, if the difference between the church canons and any other religious, moral or social legislation does not lie in the definition of the *ontological* fact which the Church embodies— that of personal distinctiveness and freedom— then their existence becomes a scandal in that it contradicts the gospel of salvation.

### **3. The canon of *ascesis* and the asceticism of the canons**

As the Church's historical life went on, after the period of persecutions and martyrdoms the canons began to multiply all the more as participation in the life of the Church came to be more or less taken for granted in any member of society. The “necessary things” laid down by the apostolic council gradually increased in number; the preconditions for participation in the general ethos of the Church body or for severance from eucharistic unity became ever more specific.

Certainly up to the seventh century, the canons of the ecumenical councils, which have universal authority in the life of the Church, still avoid marking out limits for the individual morality of the faithful and defining cases of individual sins which entail

excommunication, exclusion from the church body. The canons of the first four ecumenical councils deal almost entirely with matters of church order: the jurisdiction of the clergy, the validity of ordinations, behavior towards heretics, and the like. The very few individual misdemeanors which are singled out bear a direct relation to the eucharistic structure and functioning of the Church: for example canon 17 of the First Ecumenical Council, *On clergy practicing usury*; canon 2 of the Fourth Council, *That ordination should not be performed for money*; canon 16 of the same council, *On virgins and monks, that they should not enter upon marriage*. In the last case, there is the very characteristic addition: “if they are found to be doing so, let them remain without communion. But we have decreed that the local bishop has authority to exercise clemency towards them...”

Only from the end of the seventh century, and specifically from the Quinisext Council, also called the Synod in Trullo (692), do we see the start of a striking increase in the number of canons relating to general cases of individual sins. These deal with exhibitions of bad social behavior by clergy and laity alike, and also with the relation between natural, and particularly sexual, life and participation in the life of the

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Church, as likewise with the determining of penances for social offences, etc. Thus while the canons established by the first four ecumenical councils number in total just 66, the Quinisext Council alone formulated 102 canons. In addition it endorsed and established as canons with universal authority for the Church an exceptionally large number of regulations made by earlier local councils, and of opinions expressed by individual fathers, mainly on questions of moral behavior. Inevitably sins were listed in greater detail, and the corresponding sanctions to be imposed by the Church were specifically fixed. Later scholars have seen in the work of the Quinisext Council the first formation of a *system* of canon law, the first creation of a code of church legislation (*codex canonum*) analogous to the legal codes of the state.<sup>7</sup>

Does this mean, then, that we must recognize in the work of the Quinisext Council a compromise on the part of the Church with considerations of social usefulness? Is the event of salvation being falsified, and changed into individual obedience to legal forms and commandments?

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<sup>7</sup> See V. Laurent, “L’oeuvre canonique du concil in Trullo, source primaire du droit de l’Eglise orientale,” *Revue des Etudes Byzantines* 23 (1956), 19, 20. A. Christodoulos, *Essay on Ecclesiastical Law* (in Greek– Constantinople, 1896), p. 57ff. Bartholomaios Archontonis, *On the Codification of the Holy Canons and Canonical Regulations in the Orthodox church* (in Greek– Thessaloniki, Patriarchal Institute for Patristic Studies, 1970) p. 47.

Neither the historical data from this period nor the criteria for the truth and life of the Church permit us to reach any such conclusions. The texts of the council themselves set out unequivocally the one and only aim and purpose of the canons: “for the care of souls and the healing of passions.”<sup>8</sup> The canons are established to be healing and therapeutic in character, not legal and juridical. They do not exist for the purpose of judging man, tormented as he is by sin, and condemning him by subjecting his failure to the impersonal casuistry of a merciless law. The canons define and delimit the healing, therapeutic action of pastoral instruction in the

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Church, the way in which the Church guides man to the fulfillment of his possibilities for life.

In the language of the Church, healing means disengaging man from the *natural* impetus of his individual existence which makes the needs and desires of such existence into absolutes, forms an end in itself, and by itself exhausts the possibilities of life and pleasure all on its own. The first step towards this disengagement is for man to become aware of the existential failure and condemnation represented by the autonomy of his individuality, to recognize within himself the profound deprivation of life to which egocentric survival leads. In order to reach such maturity of self-knowledge, man needs to submit himself to certain objective standards which determine the severity of his sins, the magnitude of his failure to approach the truth of life. These objective standards and aids to self-knowledge are what the Church’s canons offer with their evaluative appraisal of transgressions.

The canons, however, are not simply an aid to self-knowledge. The “cure of souls and healing of passions” is effected in the body of the Church through grafting individual existence into the overall reality of life and unity in the Church’s body. When the canons lay down special penances for particular cases of sin, they are assessing the significance of the various forms of human failure within the context of the Church’s common struggle to delimit and avoid death, her common asceticism. The penances imposed by the canons do not represent penalties to buy remission, but the measure of the Church’s ascetic consciousness, the length of the journey which personal freedom has to traverse in order to accord with the trinitarian mode of existence within the church body. Simply to recognize our distance from the truth of life and to submit to the canons, to the standard of the Church’s ascetic consciousness, is an act of participation in the

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<sup>8</sup> Canon 2: “This also seemed to this holy council excellent and most important: that from now on the canons received and confirmed by the holy fathers for the cure of souls and the healing of passions, and so passed on to us, should still remain sure and steadfast.”

Church, the first and greatest step towards communion with the very body of life. Precisely because of their exemplary and advisory character, in the practice of the Church the penalties laid down by the canons have always been relative and subject to economy. The application of the canons is, and always has been, a matter of economy; this does not necessarily mean

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that canonical penalties are reduced, but it does mean that they are adapted as closely as possible to the distinctiveness of each personal failure.

It is impossible to understand the existence and operation of the canons in the body of the Church without taking account of their *ascetic* character. The canons are the conditions for asceticism, the prerequisites for a participation in the life of the Church which is ascetic and dynamic, not conventional and formal. At this point, it should be stressed that the truth represented by the canons of the Church cannot be understood in isolation from the spiritual and cultural climate which gave birth to them. The period which gave birth to the canons represents a level of spiritual achievement which remains not only unattainable, but even incomprehensible without the standard of the asceticism they express. It may require direct experience in the field of art to understand how many canons or rules the Byzantine painter or poet had to obey in order to create in a strict given framework the heights of art which Byzantium has bequeathed to us. The more flourishing the art, the more numerous and implacably strict are its canons. One has the impression that Byzantine artists deliberately created additional restrictions on the expression of individual inspiration and initiative, in order to obtain a maximum of individual self-transcendence and the manifestation of a personal, and therefore universal, experience of truth.

We live today in a culture diametrically opposite to that of Byzantium; a culture where the individual dominates and where safeguards for individuality are given an institutional form. So it is exceptionally difficult to understand that what happened with art in Byzantium also happened with the whole of life: the greater the height of spirituality and culture, the more numerous and implacably strict were the canons of asceticism. We, perhaps, may see in these canons a system of law. But the Byzantines saw in them the preconditions and possibilities for an ascetic realization of personal freedom and distinctiveness, for the real manifestation of the beauty of life. The measure of our understanding of the canons is a measure of our spiritual maturity.

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#### 4. The distinction between natural perpetuation and personal regeneration

It is within this same perspective that we should see the attitude represented by the canons towards problems and areas of life such as the natural process of motherhood, and sexual behavior in general. The conscience of modern western man seems to be particularly sensitive on these matters. According to the criteria formed within our western culture by modern “liberalism” and “humanism,” sexual life is par *excellence* the private area of individual life admitting of no legal interference, an area where hereditary factors, social influences and profound existential demands shape the psychological identity of the subject. More especially, the natural process of motherhood is a “sacred” area of life, an object of deference and concern on the part of social institutions.

This modern attitude towards motherhood and sex may be idealistic and impracticable, but it is certainly has general acceptance as a theoretical position; and it is hard to dispute or reject it when one considers how many centuries of struggle have preceded it in Europe— struggles to stop sexual life being considered, and indeed actually being, grounds for a traumatic sense of guilt in the individual, and maternity being connected in people’s minds with unenlightened, repressed complexes.<sup>9</sup>

Given, then, the modern criteria of humanism and liberalism formed in the long struggle against medieval survivals of Manicheism, against Roman Catholic legalism and Protestant puritanism, the canons of the fathers and saints of Byzantium relating to sex and the process of motherhood conjure up for western man scenes and presumptions from the dark historical subconscious of the European, precisely

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because they express an attitude different from today’s absolute and rebellious affirmation of this area of life. These canons of the Orthodox Church, however, approach the problem on a level beyond today’s cultural criteria, and represent a historical tradition unconnected with the obscurantism and morbid repression which gave rise to the reactions of modern liberalism and humanism.

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<sup>9</sup> See Peter Gay, *The Enlightenment— An Interpretation, 2: The Science of Freedom* (London, 1973), pp. 96, 189-190, 194-207. Philip Sherrard, *Christianity and Eros* (London, 1976). Andre Bielier, *L’homme et la femme dans la morale calviniste* (Geneva, 1963). M. Rade, *Die Stellung des Christentums zum Geschlechtslehen* (Tubingen, 1910). Th. de Felice, *Le Protestantisme et la question sexuelle* (Paris, 1930). John Marbove, *The Puritan Tradition in English Life* (London, 1956). Fritz Tanner, *Die Ehe im Pietismus* (dissertation, Zurich, 1952).

It is a fact that there are canons which characterize the new mother as “unclean.”<sup>10</sup> They forbid holy communion for the duration of the physiological function which prepares for motherhood, the menstrual period.<sup>11</sup> They require abstention from conjugal relations before and after holy communion.<sup>12</sup> They refuse the priesthood to anyone who has been raped as a child, even if the act was demonstrably against his will.<sup>13</sup> They regard extramarital sexual relations as an obstacle to priesthood, even after repentance which may have led to the gift of working miracles, the gift of raising the dead.<sup>14</sup>

Considered “from without,” outside the milieu and the conditions of life which gave them birth, all these canons remain incomprehensible; they are a “scandal” to modern western man’s way of thinking. But this external view, I even though it may be to some extent inevitable today, is incapable of capturing the spirit and ethos of the fathers who laid down those canons. It is not possible at once to undervalue the human body and sexual life or even to despise them, and yet to insist, as do the fathers and particularly the ascetics of the desert, on the value of the “loving power” in man and

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on the revelatory function of bodily love as “a type of our desire for God,”<sup>15</sup> and on the manifestation of God as the bridegroom and lover of our souls. In the same way, such a dismissive attitude cannot coexist with the glorification of the body in the Church’s iconography, or with the position of the Virgin Mother of God in the theology, liturgical life and piety of the Church.

In order to understand the Church’s canons, we have to regain and stand firm on the presuppositions and the spiritual level of their age, and the theology which formed them. In the texts of the fathers and the theological decisions of the councils which laid down

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<sup>10</sup> Canon 38 of St Nicephorus the Confessor, Patriarch of Constantinople: “That a woman who has recently given birth should not enter the room where her baptized baby is.”

<sup>11</sup> Canon 2 of St Dionysius of Alexandria: “That women should not receive communion during menstruation.” Canon of St John the Faster: “On menstruating women.” Canons 6 and 7 of St Timothy of Alexandria: “That a menstruating woman should not be baptized. That even if she has been baptized, she should not receive communion during menstruation.”

<sup>12</sup> Canon 5 of St Timothy of Alexandria: “That couples who have just slept together should not receive communion.”

<sup>13</sup> Canon of St John the Faster on sodomy: “A child who has once been perverted cannot proceed to the priesthood. For even though he himself did not sin, because of his youth, yet his vessel has been broken and become useless for the divine ministry.”

<sup>14</sup> Canon 36 of St Nicephorus of Constantinople.

<sup>15</sup> John of Sinai, *Ladder*, step 26, PG 88, 1024B.

the canons relating to sex, and in the liturgical life and art of the period, one problem alone is paramount: how to manifest and safeguard the fact of salvation, of man's salvation from death—the possibility for man to participate in the true life of incorruption and immortality in his entirety, in his own flesh and the flesh of the world.

This absolute and radical priority given to participation in existence “according to truth,” to bringing about the personal distinctiveness and freedom which constitutes life, leaves no room for conventional evaluations and romantic embellishments of man's mortal biological hypostasis and the way it is composed. The composition of man's biological hypostasis is inevitably subject to two implacable *passions* of nature: to the existential need and impulse for nature to become absolute as an individual, autonomous entity, and to the identification of this impulse with corruption and death. At each natural birth the inevitable fragmentation of nature into individual entities is put into effect, and with it the “condemnation” of human existence to confine its life to individual survival and to be subject to corruption.<sup>16</sup>

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The cause of this subjection is neither the fact that the body is material, nor sexual love, nor the natural process of motherhood. On the contrary, sexual love is the ecstatic power in existence, the potentiality for self-transcendence and loving communion.<sup>17</sup> In the same way, motherhood is an Ontological fact of relationship, a real transcendence of the ego which is shared out and passes on existence, removing the exclusiveness and self-sufficiency of the biological hypostasis. But sexual love and motherhood alike are existential possibilities subject ultimately to the rebellious self-sufficiency and autonomy of nature. They express, effect and serve the subjection of hypostatic distinctiveness to corruptible and mortal bodily individuality, to the necessity for nature to perpetuate itself

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<sup>16</sup> “The biological constitution of man's hypostasis suffers radically from two ‘passions’ which destroy precisely that towards which the human hypostasis is thrusting, namely, the person. The first ‘passion’ is what we may call ‘ontological necessity! Constitutionally the hypostasis is inevitably tied to the natural instinct, to an impulse which is ‘necessary’ and not subject to the control of freedom. Thus the person as a being ‘subsists’ not as freedom but as necessity... The second ‘passion’... may be called the ‘passion’ of *individualism*, of the *separation* of the hypostasis. Finally, however, it is identified with the last and greatest passion of man, with the disintegration of the hypostasis, which is death”: John Zizioulas, “From Prosopeion to Prosopon,” pp. 308-309.

<sup>17</sup> “Every man who comes into the world bears his hypostasis, which is not entirely unrelated to love: he is the product of a communion between two people. Erotic love, even when expressed coldly without emotional involvement, is an astounding mystery of existence, concealing in the deepest act of communion a tendency towards an ecstatic transcendence through creation”: *ibid.*, P. 308.

in the succession of mortal individual entities.<sup>18</sup> Thus sexual love and the physiological process of motherhood tragically fail to achieve the existential end to which they are directed. They do not perpetuate personal distinctiveness and freedom: they perpetuate nature through a succession of mortal individuals, and they perpetuate the subjection of nature to corruption and death. They are functions of existential failure, in other words of sin-functions of death.<sup>19</sup> And as such they are dealt with by the canons of the Church with absolute realism.

The canons' role is to distinguish and separate life from

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death; to distinguish the possibilities of the true life free from space, time, corruption and death, from the illusions of life which serve as a cover for death. And the realization of life "according to truth" is the trinitarian mode of existence found in the body of the eucharist; it is celebration of the eucharist and participation in it. This is why the canons also have to make a clear distinction between the process of natural perpetuation which is subject to death and the process of eucharistic life. The two processes are not compatible. They are not opposites: one does not cancel out the other. It is simply that the first must be transcended for the second to come about.<sup>20</sup> In order to celebrate the

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<sup>18</sup> "Man as a biological hypostasis is intrinsically a tragic figure. He is born as a result of an *ecstatic* fact—erotic love— but this fact is interwoven with a natural necessity and therefore lacks ontological freedom. He is born as a *hypostatic* fact, as a body, but this fact is interwoven with individuality and with death. By the same erotic act with which he tries to attain ecstasy he is led to individualism. His body is the tragic instrument which leads to communion with others... But at the same time it is the 'mask' of hypocrisy, the fortress of individualism, the vehicle of the final separation, death": *ibid.*, p. 310.

<sup>19</sup> "The tragedy of the biological constitution of man's hypostasis does not lie in his not being a person because of it; it lies in his tending towards becoming a person through it and failing. Sin is precisely this failure. And sin is the tragic prerogative of the person alone... The body tends towards the person, but ultimately leads to the individual... [Death], the 'failure' of the survival of the biological hypostasis, is not the result of some acquired fault of a moral kind (a transgression), but of the very constitutional make-up of the hypostasis, that is, of the biological act of the perpetuation of the species": *ibid.*, pp. 309-310.

<sup>20</sup> "For salvation to become possible, for the unsuccessful hypostasis to succeed, it is necessary that eros and the body, as expressions of ecstasy and of the hypostasis of the person, should cease to be the bearers of death. Two things therefore appear to be indispensable: (a) that the two basic components of the biological hypostasis, eros and the body, should *not* be destroyed (a flight from these elements would entail for man a privation of those means by which he expresses himself equally as ecstasy and as hypostasis, that is, as person) ; and (b) that the *constitutional make-up* (or 'mode') of the *hypostasis* should be changed— not that a moral change or improvement should be found, but a kind of new birth for man. This means that although neither eros nor the body are abandoned, they nevertheless change their activity, adapt themselves to the new 'mode of existence' of the hypostasis, reject from this activity of theirs which is constitutive of the human hypostasis whatever creates the tragic element in man, and

eucharist or take part in it, you have to be “conformed” to the mode of composition proper to the ecclesial, eschatological hypostasis of one who belongs to the communion of saints; you must distance yourself existentially, in manner and in time, from the autonomous impulse of natural perpetuation expressed by the reproductive process. This distancing is what the canons lay down. In the same way, they mark out the only possibility of freeing sexual love from subjection to natural necessity: that of the mystery of

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marriage, in which the death of nature is taken up as a cross and transformed into an event of kenotic self-offering and loving communion, according to the prototype of Christ’s obedience.

In other words, the canons do not express a system of law. They express one thing only: the ontology of the Church, the mode of existence within the church body. Nor do they do this with theoretical formulations; they delimit the practice and realization of life in relation to the individual survival which is subject to death. With this ontological criterion, all the canons relating to sex take on meaning and can be correctly interpreted; they can also interpret the Gospel message of salvation. The only thing is that this ontological interpretation of the canons cannot be accepted and lived without an absolute and radical inner insistence upon the distinction between death and life, without an insatiable thirst for existential fullness and eternal life. And it seems that this demand cannot easily be fulfilled on the level of the “liberal,” “humanistic” affirmation and embellishment of illusions of life.

## **5. The legalistic interpretation of the canons**

It would nevertheless be mistaken and one-sided to attribute modern man’s inability to understand and accept the Church’s canons, particularly those relating to sexual matters, exclusively to the “humanistic” and “liberal” mentality of recent centuries. We must also note a second, more important factor: the fact that the ontological content of the canons, and indeed of salvation, is underestimated, neglected or even totally ignored in the Christian world itself. Faith and piety have widely taken on a legalistic character, a process which began in western church life and was later transplanted to pietistic and academic environments in the Orthodox East. This strips the canons of their soteriological character and meaning, transforming them into neutral, formal stipulations

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retain whatever makes the person to be love, freedom and life. This is precisely what constitutes that which I have called the “hypostasis of ecclesial existence””: *ibid.*, pp. 310-311.

to torment man. It subjugates life to a “system” of law which is devoid of existential justification, and consequently dead.

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In a climate of legalism and moralism, the canons no longer distinguish life from death: their function ceases to be one of revelation and liberation, of healing and care. They operate as a ruthless code of moral legislation which evaluates individual transgressions and metes out exemplary punishments.

The legalistic and moralistic interpretation of the canons introduces into liturgical life the criteria of individual justification, and so a mentality completely opposite to the truth of salvation. It therefore has consequences diametrically opposed to those intended by the life of the Church. Instead of caring for sinners and healing them, instead of comforting man, wounded and degraded as he is by sin, it leads to fear of guilt, the threat of condemnation and the shadow of death. Those who “faithfully observe the canons,” the “pure,” are usually people who need a framework of law to give them security as individuals. Thus they come to inflict merciless punishment on all those “insignificant” people who constitute a provocation to objective moralistic standards by their very presence, their tragic struggle between falling and repentance. The parable of the Pharisee and the Publican is fulfilled in history once again, with the Law and the observance of regulations always at its root.

## 6. The codification of the canons

There has been much talk in recent years about the need to “codify” the canons of the Orthodox Church.<sup>21</sup> The paradigm for codification is a western one: the *Corpus iuris canonici* of the Roman Catholic Church.<sup>22</sup> The aim would be to “systematize” the canons in accordance with modern

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<sup>21</sup> For the history of the attempts at codification, the arguments and relevant bibliography, see the study by Archimandrite Bartholomaios Archontonis (now Metropolitan of Philadelphia) [and from 1991, Patriarch of Constantinople], *On the Codification of the Holy Canons and Canonical Regulations in the Orthodox Church*.

<sup>22</sup> See B. Archontonis, *op. cit.*, especially pp. 7 and 114ff. The author is entirely correct in connecting the attempts to codify canon law with the spirit of enlightenment and positivism in the eighteenth and nineteenth centuries.

“scientific” requirements,<sup>23</sup> so as to give the Orthodox churches a unified canon law, efficient and easy to use,<sup>24</sup> and cleared of “contingent” provisions and canons which have fallen into disuse. “Similar” canonical provisions would be amalgamated, while canons which “contradicted” each other or provided for penalties considered excessive for our own times would be revised. Finally, such new canons would be created as were thought necessary to make the code “systematic.”<sup>25</sup>

The idea of codifying the canons has been put forward by theologians who sought with genuine fervor to serve the truth of the Church and nothing else; and it has had widespread and positive repercussions in the Orthodox churches. It is equally, however, an idea which came to birth in the theological climate of the early years of our century, when the western mentality which looks for “objective” criteria, in the differentiation between “confessions” as much as in the organization of church life, had been accepted without question by Orthodox theologians. Thus, it seems, some fundamental questions arising out of the idea of codification were overlooked.

To begin with, one might wonder if it is really fortuitous and meaningless that many canons are contingent and consequently relative in character, that there are inconsistencies between them, or that parallel regulations similar in scope are retained, along with canons which have been in disuse for some centuries of church life. In other words, is it fortuitous and accidental that for centuries the Church has refused in practice to turn the canons into a convenient and efficient body of “legislation” for her life? Can it be that the reason the canons were made and the way they operated in the

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Church is very far from the modern “science” of law with its need for codification, if not diametrically opposed to it? Can a codification of this sort be brought about without distorting or even destroying the ontological content of the “semantics” of the canons, the distinction between death and life?

If the purpose of the canons is to mark the limits of life, and if life, as promised by the Church, means *love* or freedom from any predetermination, then how can the canons be

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<sup>23</sup> “The usefulness and positive results of the codification, when it happens, will be felt in many spheres. In the first place, one must take serious account of the great impetus this will give to a wider development and cultivation of Orthodox ecclesiastical law, both during its preparation and afterwards, as was shown with the codification of Latin canon law, which led to a real flowering in the science of canon law in the western Church”: Archontonis, p. 59.

<sup>24</sup> “... a code which goes beyond the mere collections, being more systematic and scientific, more official and authoritative and therefore more useful”: Archontonis, p. 59.

<sup>25</sup> Archontonis, p. 69ff.

identified with a codified body of legislation? Legislation goes no further than defining and punishing transgression, whereas the canons distinguish sin only to mark the starting point for repentance, while the penance defines how repentance is to be put into practice. But repentance is a gift of life, which can come into existence, grow to maturity and be measured only where there is freedom and measureless love. The contingent character of many of the canons, the inconsistencies between them, the repetitions and the cases of disuse manifest the primacy and the indeterminacy of life, which cannot be codified. A code by definition seeks to systematize and clarify legislation, and above all to make it definitive—to make life subject to a “system” of regulations which is complete and efficient. The canons, on the other hand, are subordinated to the life of the Church which is love, in order to manifest her healing character. They cannot be restricted to defining transgression, like a legal code, because they provide for the transfiguration of transgression into repentance and life.

Again, one might wonder whether what precludes the codification of the canons according to modern “scientific” criteria is not their outward formulation, but primarily the miracle of their antinomy: they are regulations, and yet they do not constitute “law.” They mark the limits of morality, but without making it subject to the logistics of individual evaluations. They impose penances, yet these are not penalties to atone for guilt but means of healing. They protect good order in the church organization, without subjecting the working of the eucharistic body to a “totalitarian” uniformity. They provide for and mark out sin and failure in

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administrative structures or in personal life, while at the same time respecting man’s freedom, and creating possibilities for contrition and an atmosphere of repentance.

This saving antinomy is embodied and expressed above all in the way the canons are subject to the bishop’s gift of spiritual fatherhood. As the bishop is charged with keeping the canons, so he is equally charged with setting them aside. He has been given the grace “to bind and to loose.” It is he who interprets the canons, applies them, and supplements them or sets them aside, because in the practice and life of the Church he holds the position of Christ. The formulation of the sixth canon of the Fourth Ecumenical Council expresses by far the most general attitude and practice in the Orthodox tradition: “We have decreed that the local bishop shall have authority to exercise clemency.” Can this authority to exercise clemency, which resides in the bishop and by extension in the confessor who is his deputy, be reconciled with the idea of a code, which requires that the regulations be made definitive and accepted, observed and imposed by all?

The great comfort and the great hope that the canons give us is that they confirm the truth and fullness of life as a personal conquest and achievement of freedom. In the

struggle to attain this feat, we are always going to be judged by the canons. And the more severe we are on conventional ways of making the struggle easier, the more profoundly mistrustful of the illusions which mirror our existential demands as if they were truth, the sweeter the fruit of authentic life in our souls.

**Additional Note:** The body of the Church has no other hypostasis, whether legal or administrative, apart from the eucharistic assembly. The eucharistic synaxis constitutes, realizes and manifests the Church. The ability to represent the eucharistic body cannot be invested in an impersonal administrative structure or organizational mechanism, of in some founding charter or constitution made up of canons; it cannot constitute a “legal person.” The only possible way in which the eucharistic body can be represented is through a natural person, the person of the *father* of the synaxis who is the bishop, “as type and in place of Christ.” For the Church is a reality of life, and life has only a personal existence and hypostasis. The bishop embodies and sums up the life of the Church, her personal mode of existence, the fact of personal communion and relationship which constitutes the Church. This again is why the bishop is above the canons,

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since he embodies and sums up all that the canons simply indicate and delimit. And at the same time, because the canons delimit the life of the Church, it is they that indicate also whether the bishop is representing her truth genuinely or unworthily; but again, not as a code which constitutes and exhausts the identity of the Church body, but as limits and pointers to life, which has solely a personal existence and hypostasis. Furthermore, the canons which “define” and judge the integrity or unworthiness of the bishop are themselves defined by the synod of bishops, since the bishops represent and express the feeling and experience of each local Church. Not even an ecumenical council is an autonomous structure or a legal person with impersonal jurisdiction over that of the bishop. The way the life of the Church is represented and summed up in the person of the bishop follows from the truth of the personal mode of existence which the Church embodies. It is therefore also the ultimate hazard for the Church, her historical adventure. How much the body of the Church has suffered from bishops who were unworthy or had no understanding of their office is well known, from history and present-day experience alike. Holy bishops are as rare as holy lay people. For this is our truth, the truth of our human nature which does not cease to be sinful even when embodied in the persons of bishops. Yet the sins of bishops do not remove the possibility of salvation, any more than do the sins of lay people—on the contrary, they underline the marvelous paradox of salvation celebrated in the eucharistic body. When the Church is

subject to impersonal structures and legal codes, however, and to charters and constitutions of canons unrelated to the personal adventure of freedom and repentance, then that does distort the truth of the Church; it destroys the possibility of salvation and removes man's hope of life.