

The Sacrament of Marriage and its Impediments

The Council and the theology of the Person

The sufferings of the last century contributed much in moving towards a specific kind of theology in the preparation for the Council, even if this path was followed involuntarily. Of course, after almost one century of peace and welfare it is difficult to have our attention fixed on that which is necessary, but with the passing of time we pay more and more attention to rules even in theology. This happened also with the document concerning mixed marriage. Let us now see how the theme of marriage appeared and developed as a topic in preparations for the Holy Council and how the question of inter-confessional mixed marriage was approached.

Like the theology of the *Person*, the Great Council of Crete had its history marked by politically important events that led to huge tragedies in Europe and mostly in Eastern-European countries which traditionally pertain to the Orthodox Church. As we shall see, these tragic events had a huge influence on the theological and philosophical thinking of the middle 20th century. Tragedies always make possible the return of one's attention to the very essential things. Definitely, the two world wars, the dictatorial systems and the displacing of population made possible also a rediscovery of a theology centered on that essential concept in Christianity, *the Person*.

Short History of the Document

Metropolitan Hilarion Alfeyev in his history of the Council initiates his analysis in the document about marriage by beginning in 1971 when, at the First Meeting of the Inter-Orthodox Commission, the participants discussed the *impediments to marriage*⁵. Here the title already has a negative and prohibitive form (*impediments to something*) but actually the roots of this document are to be found at the very first meeting of preparatory process of the Holy and Great Council, the Pan-Orthodox Congress of 1923. Two of the themes taken into consideration then were concerning marriage: "The priority of the sacrament of marriage and the sacrament of ordination" and "Remarriage of the widowed priests and deacons".

It is still important to observe that initially the question of the document about marriage appears in a positive and not prohibitive form. From the very first moment the question of marriage was taken into consideration so that some rules might be reconsidered and perhaps alleviated. A re-analysis of a question that serves only for re-confirmation and to re-affirm the strictness of a rule doesn't have, in the end, any sense. Obviously, at that time (1923) the Orthodox World found itself in the post-war era. The direct memory of the sufferings of the Great War was also a decisive factor in promoting a permissive view of the canons, which was actually based on the theology of the person. The *centrality of the person* led the participants of the council to bring into discussions the, until then, traditionally held rules and canons in order to facilitate good life conditions for everyone and to avoid conflicts. From the final document of the 1923 Pan-Orthodox Congress we can easily see the willingness of the Congress members to try to understand the spirit of the canon so they might enlarge the interpretation of the canon:

The Conference decided, sometimes unanimously, sometimes by majority vote, the following:

1. To recognize that there is no dogmatic reason for a permanent anteriority between the mysteries of marriage and priesthood, and to consider that, in principle the marriage of the priest and deacons after ordination is allowed, with the exception of those who have taken the monastic vows.
2. The synods of the local churches have the right, with the approval of the local bishops, to allow the marriage of the priests and deacons who so petition.
3. This measure is reckoned valid from a canonical point of view, until the convocation of a Pan-Orthodox Synod, to which alone is reserved to invest this legislation with universal validity⁷.

The Canon mentioned is 10 of Ancyra which actually allowed only for ordained deacons to marry after ordination; meanwhile the text here enlarges this permission also to priests. Thus, the preparation of the Holy and Great Council regarding the marriage question began by trying to understand the Spirit of the canon and to go further in the light of *personalist* thought and theology.

Furthermore, the text gives a great power and freedom to the local bishop to act, offering a dispensation for the marriage of a deacon or a priest. Some may say that this freedom for the bishop is against Church canon law, however, this fact confirms a certain theology of the *centrality of the bishop* where the bishop is considered to be an *Alter Christus* and a base of unity for the diocese and an eschatological prophecy. Moreover, the bishop is the chief legislator of canon law for his diocese because he knows better than anyone else, which is the best pastoral measure to take *for the benefit of the Church*. As we see in the end of this phrase of the document the measure is valid only until the Convocation of the Holy Council.

The next important step regarding the question of marriage was made at the Third Pan-Orthodox Conference of Chambésy in 1968. Here it is easy to observe that the affirmative titles of the 1923 Orthodox Congress changed into a negative and prohibitive form: *The priority of the Sacrament of Marriage* and *Remarriage of the widowed priests and deacons* (both affirmative forms) became *Impediments to marriage* (a prohibitive form). This theme in its prohibitive form was entrusted to the Russian Church and to the Church of Greece for study and debate. The conclusions of this study were taken into consideration by the First Meeting of the Preparatory Inter-Orthodox Commission (1971). During the Commission's debate there arose another question regarding marriage: that of mixed or inter-confessional marriage. Even if the title of the theme was a restrictive one (*Impediments*), the proposals were very open with a special attention for pastoral care regarding the inter-confessional marriages:

- a) The Russian Church accepts that the sanctification of marriage of Orthodox Christians with non-Orthodox Christians in an Orthodox church wedding can take place in the case where the non-Orthodox party recognizes the importance of the Orthodox Church blessing.
- b) The Greek Church believes that it would be better to avoid mixed marriages, without discrimination between Churches and confessions, and admit them only if there are special reasons.
- c) The Polish Church proposes that, in accordance with the spirit of ecumenism and on the basis of local inter-confessional relations, mixed marriages with all baptized be recognized as valid.

The participants of the 1971 meeting had some very interesting positions even regarding inter-religious marriage between an Orthodox and a non-Christian:

- a) The Russian Church recognizes that such mixed marriages are strictly prohibited by the 72nd Canon of the Trullan Council, but nevertheless believes that “The Church of God on earth persistently demands, in relation to the issue of mixed marriages of Orthodox Christians with non-Christians, a return to the Church practice of the first three centuries of Christianity” (time when the mixed marriages were allowed). In addition, “in the oldest canons there is no prohibition on this issue”.
- b) According to the opinion of the Church of Cyprus, “it is forbidden for a Christian to marry a non-Christian (14th Rule of the Fourth Ecumenical Council)”.
- c) The Greek Church believes that the Pre-Council meeting could allow and apply the *oikonomia* to the issue of marriage with the heterodox.
- d) The Polish Church suggests “discussing the possibility of the blessing of one of those who enter into marriage even if one of them is an unbeliever”.
- e) The Czechoslovak Church cannot bless the marriage of an Orthodox Christian with a non-Christian (Jew, Muslim, etc.)¹¹.

Some may find these opinions scandalizing but still, they are perfectly canonical, orthodox and biblical as shown, especially in the Russian Church position which quotes the First Letter to the Corinthians and mentions that in the older canons there is no prohibition about the inter-confessional marriage. And we should not forget that canon law has two ways of application: the so called *akriveia* and the *oikonomia*.

The observation of metropolitan Hilayon Alfeyev made in his article about the history of the Council regarding the different proposals of the 1971 Commission here is pertinent. He writes that every Church expressed opinions linked with the pastoral problems found in its canonical territory. In this sense the Greek Church which operates in a mostly mono-confessional society could afford to have a very restrictive view of the canon’s application but (*akriveia*) the Ecumenical Patriarchate, the Russian Church and also the Polish Orthodox Church because of pastoral motives had to have a very open approach to canon law which actually didn’t affect the spirit of the canons which remains a source of guidance (*oikonomia*)¹².

The next event where the problem of mixed marriages was discussed was during the Second Pre-Conciliar Pan-Orthodox Conference held in September 1982. Departing from the proposals made in 1971 which were already mentioned, the 1982 Conference finally adopted a precise text, even though for many of the participants it was too restrictive by comparison to the 1971 proposals. The mixed marriage issue remains the only canonical question taken into consideration in the final document presented to the Holy and Great Council; the recommendation to allow the widowed priests and deacons to remarry (which was actually the basis, the starting point of the document) was not even mentioned anymore. Regarding the issue of the mixed marriage, the 1982 text says the following:

Concerning mixed marriages contracted between Orthodox and non-Orthodox, on one hand, and between Orthodox and non-Christians, on the other hand:

1. Marriage between Orthodox and heterodox is forbidden according to canonical *akriveia*. Nevertheless, it can be performed by dispensation and love, on the condition that the children born of this marriage will be baptized and raised within the Orthodox Church. The local Orthodox Churches may take decisions concerning the use of the *oikonomia* in given cases and for particular pastoral needs.

2. Marriage between Orthodox and non-Christians is absolutely forbidden in accordance with canonical *akriveia*. Nevertheless, the local Orthodox Church can decide regarding such a marriage, and make use of *oikonomia* for the Orthodox partner, keeping in mind the particular pastoral needs¹.

So, the 1982 text of the document adopted states on the one hand that, according to the canonical *akriveia*, an inter-confessional and interreligious marriage could not be blessed in the Orthodox Church; but on the other hand, offered freedom to the local Churches, especially to the bishop, to bless for pastoral care not only *out of love* for his flock in general but for the *person* particularly.

In this phase the document promoted a vision of a dual and bilateral application of the canon law. In the meantime, by mentioning the local Church, the authority of the bishops in synodic communion to be a source of the canon law was confirmed.

Compared to the 1971 proposals, the 1982 document shows greater rigor, as can be observed. However, during the debates there were voices that asked for continuing in the same line of openness to follow the spirit of the canon and not necessarily the letter. One of the most considerable interventions regarding mixed marriages and the already abandoned theme of a second marriage for ordained deacons and priests is the speech of Metropolitan Parthenius, the future Patriarch of Alexandria, Parthenius III:

“Why did we come here? It seems to me that in a reunion of this kind we must confess the truth and do so in love, but also have the audacity to face our responsibility regarding current human reality. We hide ourselves beside the general opinion, the believers one, but have to have courage – and that’s our responsibility – to mention to the people our own opinion. Nowadays, we, the Christians, are a minority, tomorrow we shall be less than 20% of the world’s population. We must present to contemporary man Orthodoxy living and active. We talk about so many questions, we accept them and we do believe them, but after, we hesitate to proclaim them publicly (...) regarding the question of matrimony of clerics after ordination no one can prevent the Church from studying it. Even from the theological point of view. Surely that in this way we shall transgress the canons. There is a tradition but I do not believe it is based on doctrine. (...) And the marriage between orthodox and non-orthodox, why can it not be allowed? Matrimony is a sacred institution. It is founded on individual freedom and on love. And we, the Orthodox Church, celebrate such a marriage and establish provisions. (...) From the very first moment of their common life we do nothing but create problems dividing the new spouses. We don’t even have the freedom to admit that life is changing and that it draws men together, Orthodox, Roman-Catholics, atheists and agnostics”.

The paragraphs adopted in 1982 meeting concerning the mixed (inter-confessional and interreligious) marriages were reanalyzed in 2016 at the *Synaxis of the Primate of the Orthodox Churches* and partially modified. This *Synaxis* actually modifies only the inter-religious marriage component banning the possibility of blessing such a marriage and restraining the possibility of expanding *canonical oikonomia* to the inter-confessional issue. This fact could be interpreted in two ways, both of which are in light of *personalist* theology as we shall see below. The new form is this:

Concerning mixed marriages of Orthodox Christians with non- Orthodox Christians or non-Christians:

1. Marriage between Orthodox and non-Orthodox Christians is forbidden and is not blessed in the Church, according to canonical *akriveia* (Canon 72 of the Quinisext Ecumenical Council). However, such a marriage can be blessed by dispensation and out of love, on the condition that the children born of this marriage will be baptized and raised within the Orthodox Church.
2. Marriage between Orthodox and non-Christians is categorically forbidden in accordance with canonical *akriveia*¹⁵.

The Synaxis also made another important change: they chose to come back to the affirmative form of the title; the *Impediments to marriage* become in the new title *The Sacrament of Marriage and Its Impediments*¹⁶. I do consider this fact as a step forward even if in the title there is still the mention of *pro- hibition*, but it is given less prominence.

This was the form that was taken into consideration by the Holy and Great Council. Before the gathering of the Council, between January and June, there were 4 Churches which unfortunately withdrew from participating the Holy and Great Council. With them of course we have 4 reasons for not attending the Council. It is the Georgian Church's rationale that interests us because it is directly related with this form of the document.

Reading the *communiqué* of the local Holy Synod of the Georgian Church regarding the withdrawal from attending the Council, found on the official website of the Georgian Church, we can observe that such a decision was taken because of the document about Marriage. In the document the problem found by the Georgian Church is exactly that of *too much clemency* accorded to the inter-confessional marriages. Metropolitan Theodor (Tch- uadze) of Akhaltsikhe and Tao-Klarjeti made a very rigid speech against the unique paragraph maintained in the preparatory text that mentioned the possibility of according clemency for inter-confessional marriages. The metropolitan wanted the elimination of the second phrase, that is: *However, such a marriage can be blessed by dispensation and out of love, on the condition that the children born of this marriage will be baptized and raised within the Orthodox Church* because he believes it is contrary to the aforementioned 72nd canon of the Trullan Council.

I would like to criticize the Georgian position from at least 2 points of view. The first one regards the very approach of Metropolitan Theodor to the canon itself. An Orthodox approach to a canon requires two ways of application *akriveia* and *oikonomia*. By taking away from the document on marriage the possibility of celebrating inter-confessional marriages even with the mention of special cases with a special blessing of the bishop, the Georgian Metropolitan wants a unilateral and, thus, incomplete approach to the 72nd Canon of the Trullan Council. Therefore, the document of the Holy and Great Council would not have a canonical approach faithful to the traditional point of view. Yet, let us examine the invoked Canon itself to determine if it has two ways of application or not:

An orthodox man is not permitted to marry a heretical woman, nor an orthodox woman to be joined to a heretical man. But if anything of this kind appears to have been done by any [we re-

quire them] to consider the marriage null, and that the marriage be dissolved. (...). If any one shall transgress the things which we have decreed let him be cut off. *But if any who up to this time are unbelievers and are not yet numbered in the flock of the orthodox have contracted lawful marriage between themselves, and if then, one choosing the right and coming to the light of truth and the other remaining still detained by the bond of error and not willing to behold with steady eye the divine rays, the unbelieving woman is pleased to cohabit with the believing man, or the unbelieving man with the believing woman, let them not be separated, according to the divine Apostle, for the unbelieving husband is sanctified by the wife, and the unbelieving wife by her husband.*

In June 2016 the Holy and Great Council modified little of the previous version of the document (the Primates Meeting January 2016), the theological part is left practically untouched but the part concerning the mixed-marriages was once again modified, a sign that the Holy Council took into consideration the Georgian position. This modification better explains why in certain occasions mixed-marriages could be blessed by the Orthodox Church. The new form is stated in the fifth paragraph:

Concerning mixed marriages of Orthodox Christians with non-Orthodox Christians or non-Christians:

- i. Marriage between Orthodox and non-Orthodox Christians is forbidden according to canonical *akriveia* (Canon 72 of the Quinisext Ecumenical Council).
- ii. With the salvation of man as the goal, the possibility of the exercise of ecclesiastical *oikonomia* in relation to impediments to marriage must be considered by the Holy Synod of each autocephalous Orthodox Church according to the principles of the holy canons and in a spirit of pastoral discernment.
- iii. Marriage between Orthodox and non-Christians is categorically forbidden in accordance with canonical *akriveia*.

The permission given to the bishops in communion of the Local Autocephalous Synods to allow mixed marriages is consistent with the first chapter theology of the bishop.

Permission for mixed marriages between Christians is also a sign of a deeper communion beyond confessional borders, a communion in the personhood of Christ. The limitation of the clemency only for the inter-confessional marriages and not for the inter-religious mixed marriages strengthens the Christological aspect of the marriage but leaves us in the meantime with a lot of questions.

For example: Do we have to take as granted that this clemency could apply also for future priests?

The document mentions that marriage is the oldest institution received by Adam and Eve in the Paradise. Despite any kind of interpretation of the first chapters of the book of Genesis, it is clear that there is a view of a corporate personality. All of humankind rooted in Adam and Eve receives the institution of marriage and because of this, marriage has a universal aspect. Drastically limiting any possibility of offering clemency for inter-religious marriages begs the following question:

Isn't there a communion into the personhood of Adam between all human kinds? Or wasn't the mission of first centuries of Christian era the most efficient thanks to inter-religious marriages as the First Letter to Corinthians does suggest? Do we prefer to have just the nostalgia of the first Christians but not their courage and openness?