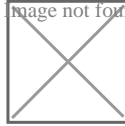


The Canons of the Church: Changeable or Unchangeable? (Nicholas N. Afanasiev)

[Ξένες γλώσσες / In English](#)

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Eucharistic Gathering

I.

The Church is founded on a rock. “You are Peter and on this rock I will build my Church and the gates of hell shall not prevail against her.” These words could be inscribed on the front of the main churches of all confessions, including Rome, but, of course, without the Roman interpretation. The belief that the Church of Christ is unshakeable and unconquerable comprises one of the most basic convictions of Christianity. In the epoch of deep world crisis and in the dusk of man’s historical paths this unshakeable quality of the Church is a haven for the Christian soul. The face of the earth is changing; mankind is entering unknown and unexplored paths, and we ourselves, just like our children, do not know under what new conditions we

will be living. When the soil on which we are accustomed to stand falters and sifts out from under our feet, the rock of the Church will remain. "Everyone then who hears these words of mine and does them will be like a wise man who built his house upon the rock; and the rain fell, and the floods came, and the winds blew and beat upon that house, but it did not fall, because it had been founded on the rock" (Mat. 7:24-25). She will withstand the storms of man even more: "Heaven and earth will pass away, but my words will not pass away" (Mk. 13:31). In the midst of the changing and the ever new, she alone remains changeless; in the midst of the temporal, she alone is eternal.

But how should we understand and to what should we attribute the unalterable in the Church? Is everything in the Church changeless and in what sense is the Church herself changeless? Such are the questions that, under various aspects, stir modern Christian thought. These are not only academic questions, they are questions vital to Christian life, since the solution of another question depends on them; i.e., what should and must be the attitude of the Church towards modern life and its problems. If everything in the Church is changeless and there is nothing temporal in her, then this means that modern life concerns the Church only to the degree in which the Church must keep and preserve her sanctity in the life of the world in order to bring it to the time of fulfillment. This presupposes that the Church to a certain degree is withdrawn from the world; there is one road—from the world into the Church—but there is no road from the Church into the world. This would be correct only if the Church, together with its members, could leave the world. But she does not lead them out of the world ("since then you would need to go out of the world" [I Cor. 5:10].) and, accordingly, the Church cannot leave her members in the world alone. The Church faces the world, not the desert. She abides in the world and builds in the world until "the fullness of time." In relation to the world the Church, aside from a concern for self-preservation, also has positive concerns. If this is so, then there must be in the Church not only that which is unalterable, but also that which changes; along with the eternal, that which is temporal. Where then is the eternal and temporal in the Church, where is the dividing line between them, and what are their interrelationships?

II.

Dogmatic decisions concern the inner truths of faith, which are unchanging and mandatory for all, aloof from time and absolute. But are the regions of the eternal and immutable in the Church only limited to dogmas? Besides dogmas we also have canonical decisions regulating the Church's external order and structure. How should these decisions be considered? Do they belong exclusively to the temporal

realms, and in virtue of this are they changeable, or are they, just as dogmas, included in the realm of the eternal, or at least connected with that which is eternal and absolute in the Church? In answer to this question Protestantism says that canonical decisions are the product of *jus humanum* and are, consequently, mutable, either separately or jointly. Catholicism distinguishes between *jus divinum* and *jus humanum*. Those canonical decrees that are based on divine law are unchangeable and absolute, and no church authority can revoke them. Dogmas are distinguished from canonical decrees only by their content. Decrees derived from *jus humanum*, and which also comprise the *jus ecclesiasticum*, are subject to change and even repeal by the corresponding ecclesiastical organs. Thus Protestantism and Catholicism each in its own manner establishes a distinction between the changeless and changing, the realm of the eternal and the realm of the temporal in the Church. The realms of the eternal and temporal correspond to the regions of the divine and human, *jus divinum* and *jus humanum*. These two spheres are torn apart and acquire a nature of self-containment. But this answer is not adequate, since in spite of emphasizing the existence of two spheres in the Church, it does not establish any interrelation or connection between them.

What is the Orthodox Church's position? Aside from the recently accepted view, under the influence of Catholicism, in which canonical decrees are divided into decisions based upon *jus humanum* and *jus divinum*, the existence of *jus humanum* is unknown to Orthodoxy. In any case, it was unknown to both the ancient Church and the Church of the ecumenical councils. The Council *in Trullo*, in listing the decisions that are mandatory, added, "Let no one be permitted to change or revoke the above rules and to accept others in place of the rules presented" (Canon 2). The Seventh Ecumenical Council proclaimed even more decisively and energetically that "We welcome and embrace the divine canons, and we corroborate the entire and rigid fiat of them that have been set forth by the renowned Apostles, who were and are trumpets of the Spirit, and those both of the six holy ecumenical councils and of the ones assembled regionally for the purpose of setting forth such edicts, and of those of our holy fathers. For all those men, having been guided by the light dawning out of the same Spirit prescribed rules that are to our best interest," since "if forever the prophetic voice commands us to keep the testimonies of God (*ta martyria tou Theou*) and to live in them, it is plain that they remain unwavering and rigid" (Canon 1).

The existence of *jus humanum* was also unknown to the Byzantine commentators of the twelfth century. Nonetheless, in the age of the ecumenical councils, as it had been earlier and was later, canonical decrees were revoked and changed by the Church in both the fullness of her life and through her highest power, the

councils—they themselves changed the decisions of previous councils. The Council *in Trullo*, after having announced the immutability of the canons, wrote in the famous Twelfth Canon that introduced celibacy for the episcopate, “We have therefore made it a great concern to us to do everything possible for the benefit of the flocks under hand, and it has seemed best not to allow such a thing to occur hereafter at all. We assert this, however, not with any intention of setting aside or overthrowing any legislation laid down apostolically, but having due regard for the salvation and safety of peoples and for their advancement, with a view to avoiding any likelihood of giving anyone cause to blame the priestly polity.”

Jus humanum does not exist in the Church; all decisions are divinely inspired (“they are all enlightened by one and the same Spirit”), and they must remain indestructible and unshakeable. Does this mean then that the Orthodox Church by denying *jus humanum*, in contrast to Protestantism, only recognizes *jus divinum*? But then how is it possible to account for the assertion that the canons are indestructible and unshakeable when they are altered, albeit these changes are not, at the same time, a corruption or revocation of former decrees? The question approaches a somewhat obvious paradox. In fact, how is it possible to understand the actions of the Council *in Trullo* in changing the Apostolic Canon on the permissibility of a married episcopate and introducing celibacy, and at the same time affirming that this decision does not revoke or corrupt the canon? An attempt to understand the affirmations of the Council *in Trullo* must be, at the same time, an attempt to clarify the Orthodox teaching about the temporal and eternal in canon law.



Saint Peter

III.

Christian thought tends towards two poles: while remaining in the boundaries of Christianity, one is called Monophysitism and the other is generally labeled Nestorianism. In other words, the content of Christian thought is outlined by the Chalcedonian doctrine. Aside from its direct relationship to questions about the natures in Christ, the Chalcedonian dogma has a particular meaning in the teachings of the Church. The New Testament Church is the chosen people of God (I Pet. 2:9). The chosen people of the New Testament in their totality comprise the Body of Christ, whose head is Christ himself (I Cor. 12:22, 27). To abide in the Church means to be included in the Body of Christ, to become its member through partaking of the Body of Christ. "The cup of blessing which we bless, is it not a participation in the blood of Christ? The bread which we break, is it not a

participation in the body of Christ? Because there is one bread, we who are many are one body, for we all partake of the one bread" (I Cor. 10:16-17). The Eucharistic gathering is the gathering of the chosen people of God with Christ God, in His presence; it is the gathering of the Church, for where two or three are gathered in His name, He is there also; it is the fullness of the Church, since the whole Christ is present in the Eucharistic sacrifice. Thus, the Eucharistic gathering concretely and mystically embodies the Church; this embodiment occurs in empirical reality and has itself an empirical aspect.

Like the Eucharist, the Church has an empirical reality and an empirical nature. Her dual nature is the dual nature of its God-man organism and is similar to the dual nature of Christ. The relationship of the empirical and spiritual natures is determined by the Chalcedonian formula: undivided, inseparable, unchanging and unmingled. The invisible, spiritual being of the Church is manifested through her empirical nature. Therefore, the division of the Church into visible and invisible, such as is characteristic of Protestantism, is incorrect in that it destroys the Church's empirical reality. The Church is one, just as Christ is one, being visible and invisible at the same time. The fullness of the Church is contained in the invisible, which indissolubly includes in itself the visible Church; but it does not merge with the visible nor does it engulf the visible. In the same way the visible Church contains the fullness of the Church, not just the self-contained visible part. To divide the Church into the visible and invisible is ecclesiastical Nestorianism, and hence a refutation of the Church's God-man nature, since the visible Church is inevitably related exclusively to empirical reality. Existing in an empirical reality, the Church, through its empirical nature, enters into history and herself is clothed in the fabric of history.

The organic structure of the Church as the Body of Christ presupposes a particular order, *taxis*, deriving from the very essence of the Church. This order is the law of Church life and of its organization, revealed as absolute truth, as a dogmatic teaching. This includes the teachings on the structure of the body of the Church, the composition of the ecclesiastical society, and the doctrines of the Church's hierarchy, of the sacraments, etc. This order not only concerns the spiritual essence of the Church, but also her empirical fabric, since the latter is inseparable from the former and is organically tied with it.

Contrary to R. Sohm's opinion, the ecclesiastical structure did not develop in the order of a historical process owing to the penetration of law into the Church. The Church's structure is not connected to law, as such, but resulted from the very essence of the Church. From the very beginning the Church entered history as a society having a determined form of structure. In the so-called charismatic period

the Church already had the determined structure of her historical existence. True, the early Christian communities only began to be clothed in the fabric of history, but the fabric was transparent, and through it was seen clearly the Church's genuine essence.

The forms of the Church's historical existence are quite varied. For anyone acquainted with the history of the Church, this is so evident that it requires no proof. One historical form in the course of history was replaced by another. Nevertheless, despite all the various historical forms, we can find in them all a certain constant nucleus. The nucleus is the dogmatic teachings about the Church; in other words, the Church herself. The historical forms of Church life are conditioned by the content of the dogmatic teaching. Church life can acquire only those forms which are consistent with the essence of the Church and which are capable of expressing this essence in given historical situations. From this it follows that a change in the content of the dogmatic teaching about the Church must give rise to a corruption in the doctrine about the order and structure of the Church's body, and the latter will find its expression in the forms of the historical existence of the Church. Even in antiquity—in the first epoch of Christianity—heretical societies had a structure different than that found in the Catholic Church. The more the doctrine about the Church was distorted the less the structure of these societies resembles the Church's, and in extreme cases, in gnostic societies, nothing was held in common with it. The varieties of ecclesiastical structures found today in Catholicism, Protestantism and Orthodoxy to a great extent are also explained by the variety of dogmatic teachings about the Church. On the other hand, the unity of dogmatic teachings makes for a basic unit in the historical forms of Church life. The communities of the Catholic Church in the first centuries of Christianity developed the same ecclesiastical structures, despite the complete lack of formal relations between them and the lack of a common canonical legislation.

The dogmatic teaching about the Church is embodied in the historical forms of ecclesiastical life. However, this embodiment is never complete, but remains relative. The historical life of the Church is not capable of embodying the essence of the Church to its fullest; it can only more or less approximate it. Therefore the possibility of some kind of ideal canonical form is excluded. The recognition of the existence of an ideal form would bring about an improper absolutizing of the relativity of the Church's historical fabrics. The Church lives in the general historical life of her epoch. Her historical forms, unlike the dogmatic, are to a great extent conditioned by the general conditions of life in history. The dogmatic teachings are a constant factor and not dependent on a historical process, but are the teachings

embodied in the fabric of history, which is continuously subjected to various changes. The Church does not change her forms of historical life accidentally or arbitrarily, nor does the Church accommodate herself to contemporary life and passively follow the times.

Historical conditions do influence the forms of Church life, but not in the sense that these conditions prescribe various changes in the Church's life, for the Church herself, from the depths of essence, changes her forms of historical existence. The Church strives, under given historical conditions, to find a form that would more fully and completely express the Church's essence, the Church herself and her dogmatic teaching. Thus we come to a very important conclusion: the interrelationship between the Church's historical existence and her essence is such that the historical existence is that form in which the essence of the Church is embodied in history. By employing this formula it is easy to explain why the recognition of only one ideal form of the Church's historical existence would correspond to an improper absolutizing of that existence. If such a form did exist, then it would be recognized that the temporal existence of the Church ceased to be temporal and that the Church was divorced from a general historical life. More essentially, this would bring into oblivion the Church's empirical aspect, which can not be absolutized; nor can it be engulfed by the Church's spiritual nature. The oblivion of the empirical nature is the other pole in the doctrine on the Church, ecclesiastical Monophysitism.



The Holy Spirit as part of the Trinity

IV.

The interrelation between the forms of Church life and the Church's essence is established through canonical decrees. At the present time a solution has not been obtained to the question of whether these norms have a legal character or not, and also whether it is possible to admit the existence of ecclesiastical law in the Church or, as Sohm thinks, whether this be in contradiction to the essence of the Church. Neither has the problem of the essence of law been solved, which is a cardinal point in this question. Leaving this question completely aside, it is essential to emphasize how the canons differ from regular legal norms. The latter establish and regulate order in social organisms belonging completely to an empirical existence. Even if we admit that they bring the life of social organisms into accordance with "legal sense" (*Rechtsgefühl*), this still does not remove us from the empirical

realm, since this “legal sense” is in itself an empirical value.

On the other hand the Church is a divine-human organism, which is the essential characteristic separating it from all other social organisms not having a divine-human nature. The canons do not establish the basic order of this organism (that is presented in the dogmas about the Church); they only regulate the canonical structure of the Church so that it can more perfectly reveal the Church's essence. Therefore there are no decrees in canonical literature which, in correspondence to jurisprudence, we would be able to label “fundamental.” [1] Canons fashion dogma into a form of norms that must be followed in Church life in order to be consistent with the dogmatic teachings. Canons are a kind of canonical interpretation of the dogmas for a particular moment of the Church's historical existence. They in fact are a model, a rule, of form of life for the Church's society. They express the truth about the order of Church life, but rather than expressing this truth in absolute forms, they conform to historical existence.

Proceeding from this characteristic of the canons, the division of canons between those based upon divine law and those based upon human law should be resolutely repudiated. That which in canonical decisions is referred to as divine law does not apply to the canons, but to the dogmatic definitions. No matter how we may define law, canons in no way belong to the field of law. Everything in scripture refers to the areas of faith and morality, and Christ left no canonical definitions which could determine the structure of the Church in her historical existence. Nevertheless, is it possible to conclude that all canons are based exclusively on human law just because of the lack of canons based upon divine law? We admit—and we must admit—that there are some canons that in reality refer to human law. These are mainly governmental decrees concerning the affairs of the Church. However, the Church never confused these decrees with canons and always distinguished between *kanones* and *nomoi*. We can also ascribe to human law those Church decrees not having their foundation in dogmatic teachings, but in considerations of a nonecclesiastical nature; but we cannot, at the same time, declare that all the canons accepted by the Church are lacking in grace and are nonecclesiastical. *Jus humanum* only regulates empirical organisms. If human law existed alone in the Church, the Church would belong exclusively to the realm of empirical reality. The Protestant teaching that canonical definitions are based solely on human law is an inevitable conclusion derived from the Protestant teaching about the Church: the visible Church is an empirical value, and as a consequence human law naturally operates in the Church. Ecclesiastical Nestorianism is thus reflected in the canonical realm by the recognition of *jus humanum* as its exclusive guiding principle.

If Protestantism recognizes the presence of only human law in the Church, then it is inwardly consistent and adheres to its dogmatic teaching. For the Orthodox Church, however, such a recognition contradicts the doctrine of the Church. The Church as an organism is human and divine and full of grace. Everything in the Church is filled with grace: “*Ubi ecclesia, ibi et spiritus Dei, et ubi spiritus Dei, illic ecclesia et omnis gratia*,” “Where the Church is, there is the Spirit of God, and where is the Spirit of God, there is the Church and all of grace” (Iraen. III, 24, 5). Hence even the genuine Church decrees possess grace. They, just as dogmas, are revealed truths. The formula “It pleases the Holy Spirit and us,” can be applied equally to both dogmatic and canonical decrees. According to the Seventh Ecumenical Council the latter are “divine” rules (Canon 1). The dual nature of the Church defined in Chalcedon is opposed to both ecclesiastical Nestorianism and ecclesiastical Monophysitism. In accordance with this the divine-human source of canonical decrees is affirmed by Tradition. If it is necessary to speak about law in the Church,

then we should not speak of divine and human laws as separate entities divorced from one another, but we should speak of a single divine-human law. The will of the Church (her divine-human will) manifests itself through the canonical decrees in order that her historical forms of existence embody her essence.

Canonical decrees, just as dogmas, are divinely inspired, but from this it should not be concluded that they coincide with one another. The distinction between dogmas and canons does not lie in the source of their being, but in the fact that dogmas are absolute truths and canons are applications of these truths for the historical existence of the Church. Dogmas do not concern temporal existence, while canons are temporal. This temporal aspect does not, however, diminish their divinely-inspired nature, since the temporal does not refer to that nature. They are temporal in the sense that they are applied to that which is temporal, the historical forms of the Church's existence. The truth that canons express is in itself absolute, but the content of canons is not this truth itself, but the mode through which this truth must be expressed in a given historical form of the Church's life. Canons express the eternal in the temporal. The temporal is the "how," the mode of application, while the eternal is that which is applied.

V.

The problem of changes or immutability in the canons is solved by their eternal-temporal character. The historical forms of the Church are pliable and alterable since the essence of the Church is embodied in definite historical conditions. Canonical decrees follow historical forms since they direct these forms towards a more complete expression of the Church's essence. They are changed inasmuch as the Church's life undergoes changes under various historical conditions. If the historical conditions in which the Church lives always remained constant, then the canons would not experience any changes. As truths of divine revelation they are indisputable—"We uphold the all-encompassing and unshakeable enactment of these rules" (Canon 2 *in Trullo*) —but in a relative, not absolute, sense; they are relevant only for their own age. The underlying dogmatic truth of the canons cannot be changed; only their application and embodiment in a canon can be altered by the historical existence of the Church.

Just as in physics a force can act only if it has a point of application, so too canons are active only if they have a point of application in the conditions of the Church's life for which they were decreed. If this point of application no longer exists, then the canons become inactive; either they altogether cease to be active or they undergo changes, or to be more exact, they are replaced by others. If we restrict the scope of our investigation to only the most narrow understanding of canons,

i.e. decrees of the councils and the Holy Fathers, then we will find a series of canons completely inapplicable to our present Church life, as, for example, all the decisions concerning the receiving of the lapsed into the Church or those relating to the penitential discipline and institutions that have disappeared or that have been replaced by others, such as the *chorepiscopoi*, the *oikonomoi*, the *ekdikoi*, etc. We even find decisions that Church authorities do not presently require to be fulfilled any more. In the fourth century the Church authorities required everyone present at the liturgy to participate in the Eucharist (Apostolic Canon 9 and Canon 2 of the Council of Antioch), but as a consequence of new conditions of life the Church abandoned these demands. To this category belong also the canons regulating the transfers of bishops and clerics from one region to another. The number of such examples could be significantly increased since in reality the majority of the canonical decisions contained in the Book of Rules can no longer be applied to modern Church life in their literal sense. If they are applied, then it is not in the meaning in which they were published. New understandings are constantly being infused into the old canons, so that in fact a new decision is brought about, but expressed in the old form: often, the old canonical decree is so much mingled with the new content, that the old content is completely blotted out of the Church's memory. Canon 12 of Antioch directs a condemned bishop to appeal to a "larger council of bishops." In accordance with the later-created patriarchal regions as jurisdictional entities, the "larger council of bishops" was seen as a council of bishops of a patriarchal province. Thus Balsamon writes in commenting on this canon, "The canon says that a deposed (bishop) should appeal not to the Emperor, but to a larger council of bishops. For this reason a (bishop) deposed, for example, by the metropolitan of Ephesus or Thessalonica, should be justly prompted to appeal to the Ecumenical Patriarch." The "greater council of bishops of a diocese" mentioned in Canon 6 of the First Ecumenical Council is understood in exactly the same way. Meanwhile, as is demonstrated by Canon 14 of Antioch, the councils of Antioch and Constantinople interpreted as "greater council" not a patriarchal council, but a provincial council enlarged with bishops from neighboring provinces. The correct meaning of the famous Canons 6 and 7 of the First Nicean Council remain to the present unclear or, in any case, controversial.

In the age of creative conciliar activity the Church enlarged, replaced and changed old canonical decrees. Along with this the "unshakeable content of the canons"—even those that were changed—was not violated. If the new decision genuinely reflected the Church, then the dogmatic teaching that served as the basis for both the new and the old canons remains unchanged. The old canon continued to reflect a truth, but only for a past epoch. This is exactly how the Council *in Trullo* acted when it considered it necessary and in keeping with its

epoch to introduce celibacy for the episcopate and directed that all previously ordained bishops should leave their wives. The council was correct to write that it published the new decree “not with any intention of setting aside or overthrowing any legislation laid down Apostolically, but having due regard for the salvation and safety of people and for their advancement.” The Apostolic Canon was a canonical decree; it expressed the dogmatic teaching about the Church’s hierarchy, but it expressed the hierarchy in conformity with its era. When the historical conditions of life changed, it was necessary to issue a new decree in order to express the same dogmatic teaching. Whether or not the canonical conscience of the Council *in Trullo* was correct is a question of a different order, but it is completely clear that the historical epoch of the Council *in Trullo* greatly differed from the times of the Apostles. An indication of the changes that took place in the historical conditions is Justinian’s demand that candidates for the episcopate be unmarried, i.e. either single or widowers without children.

If the organs of the Church’s authority, especially in periods of decline in creativity, inadequately follow the Church’s reality, then the life of the Church itself will make up for this deficiency. Then arise the Church’s customs, which constantly acquire the norm of canons. The Church always gives great importance to custom, especially when it is based upon tradition. “An unwritten custom of the Church must be respected as a law” (*Nomocanon*, article XIV). In such cases a custom serves as an addition to and an interpretation of canonical decrees. But custom can make up for deficiency in canonical creativity both in a positive and negative fashion. It will suffice to cite a few more striking examples. Apostolic Canon 9 and Canon 2 of Antioch, mentioned above, prescribe that “all the faithful who enter the church and hear the Scriptures should remain for prayer and Holy Communion.” According to the accepted customary interpretation, this canon has come to be understood in the sense of requiring only presence at, not participation in the Eucharist. In interpreting Canon 2 of Antioch, Balsamon writes,

Read what is written in the Apostolic Canons (8 and 9) and in accordance with them understand the present canon, and say that those who refrain from Holy Communion (and are mentioned here) are not those who reject it or, as some have said, those who refrain out of reverence or humility (for the first should not only be separated, but excommunicated as heretics; the second type will be worthy of forgiveness for the sake of reverence and fear before the holy), but those who because of their pride and contempt leave the Church before holy communion and do not wait to see the divine communion of the holy mysteries.

The interpretation does not end with this, for the same Balsamon a little further writes,

And in as much as some say: why then doesn't the Ecumenical Patriarch, on the holy day of the Resurrection, wait to the end of the liturgy, but instead, rising from his seat, leaves after the Gospel? Then we answer them: because the divine liturgy in its proper sense takes place after the reading of the Holy Gospel.... After the Gospel the celebration of the most pure bloodless sacrifice begins, and for this reason the Patriarch is correct when he leaves before this and after the Holy Gospel, and he does not transgress the canons. In such a manner no one transgresses if he leaves either before or after the Gospel, provided, of course that he does so out of necessity or because of a pious and unobjectionable reason.

Another example: Canon 9 of the Council *in Trullo* forbids a cleric to operate a tavern (*kapelikon*). After the Council *in Trullo* there arose a custom in Byzantium of permitting a cleric to own a tavern under the condition he does not personally operate it. In this connection Zonaras writes, "If a cleric owns such an establishment (a tavern), and rents it out to another, then he will not be subject to harm as regards his calling." Balsamon even more specifically writes, "The present canon determines that a cleric should not have a tavern; *i.e.*, he should not be engaged in tavern trade; for if he has a tavern as a landlord and rents it to others, there is nothing new in this, since this is done by monasteries and various churches. Therefore read in the place of *energein* ("to act," "to work") the word *ekhein* ("to have")."

In connection with such customs the words of Cyprian are brought to mind: "*non quia aliquando erratum est, ideo semper errandum est*"—"mistakes should not be committed under the pretext that they had been committed in the past" (Ep. 73, 22). The true meaning of the Church's decrees is forgotten or distorted, and their place is taken by customs having no foundation in the Church's canons! The historical perspective is lost, and the appearance of a custom is associated with the ancient past, blessed by the works of the Fathers of the Church or the ecumenical councils. A false tradition is created that destroys the divine-human nature of the Church because the Church's life is led away from its dogmatic foundations. The inertia of this false tradition can be overcome only by a renewal of creative canonicity.

VI.

As we have seen, Orthodox teaching recognizes in principle the alterability of canonical decrees. It would be more exact to say that the Church demands a

creative attitude towards contemporary life. The Church examines contemporary life as a theme and as material for its creativity. For this reason the doctrine of the immutability of the canons, which we often come across at the present time, represents a rejection of creative activity and creative attitude towards contemporary life. Nonetheless, it is impossible to avoid the historical situation in which one lives, since the modern life itself enters the Church, and if a creative attitude toward it is lacking, a passive acceptance of it is inevitable; there will simply be an adjustment to it, and *passive* adjustment is always detrimental to Church life.

Moreover, the doctrine of the immutability of canons amounts to applying all existing decrees to any form of the Church's historical life. This inaccurate doctrine is usually derived from the premise of the "divine" character of the canons, an essentially correct premise. However, it leads in practice to an assertion of *human* will instead of the divine-human will in the Church. The divinely inspired character of the canonical decrees is defined by their being an expression of the Church's will, which is directed in such a way that the life of the Church under given conditions would correspond to its dogmatic teachings. The attempt to apply the Church's decrees when the conditions for which they were published no longer exist, will bring about the opposite result, and for this reason such an effort will become an expression of the human will instead of the divine-human will. No one doubts the divinely inspired character of the canonical directions given by the Apostle Paul in his first epistle to the Corinthians; nevertheless, if we tried to apply these directions and to resurrect artificially such institutions as the prophets, the apostles, the gift of languages, the gift of interpreting, etc., we would produce the greatest possible distortions in contemporary Church life. To return to the first centuries of Christianity in the life of the Church is to reject history. The concern of the Church lies not behind her in the past centuries, but in the present and ahead in the future.

The true understanding of Tradition consists not in a mechanical repetition of the past, but in the principle of the uninterrupted flow of life and creativity, in the undiminishing grace that abides in the Church. In themselves, the spirit of canonical decree lies in this true Tradition, in that they serve "for the salvation and the advancement of the people." Collections of canonical decrees have existed and will continue to exist, but there shall always be lacking in them the *first canon*, a most important and fundamental one. It will be lacking because it is found in Tradition, and in this canon is contained the *understanding* of canonical Tradition. This canon tells us that canonical decrees are canonical only when they achieve that for which they were intended: to serve as a canonical expression of the

dogmatic teachings in the historical forms of the Church's existence.

It is rare to find a moment in Church history that so persistently demands a creative attitude towards contemporary life as the present time. The familiar historical conditions of Church life that were established and crystallized over the centuries are now being fundamentally changed; the new is in no way similar to the old. The conscience of the Church cannot accept the thought of a mechanical adaptation to modern life, since that would constitute a defeat by modern life. Out of her depths and her essence the Church is creatively searching to discover those forms of historical existence in which the dogmatic teachings could be most fully expressed. These new forms of historical life require creative canonical work. The Church cannot live only by the existing canon law, which is in reality the law of the Byzantine Church supplemented by the decrees of local Churches. The Church has the right to perform creative canonical work at all times, not just in a restricted period of time.

No matter how open to criticism this activity may be, it is nevertheless impossible to avoid it. All creativity is threatened with the possibility of error. If in the past there were errors in the doctrinal rulings of some councils, they are all the more possible in the realm of canons. These errors occur when the decrees do not draw Church life together with its doctrine, but rather separate doctrine from life. The sources of such errors lies in man's will, which often errs and accepts falsehoods for truths, and sometimes even contradicts the Church's will. *Jus humanum* infiltrates the Church as an interpretation of this historical existence. The wider the realm of *jus humanum* in the Church, the coarser the historical forms of the Church's existence become, and the more difficult it becomes for the essence of the Church to pierce through the historical fabric. The law of man, by penetrating into the Church, tends to transform the Church from a divine-human organism full of grace into a legal institution. A well-known stage of development, ecclesiastical institutionalism, threatens Church life with obvious distortions, since it threatens to suppress the Church's life in grace.

The sins of the historical Church are found in this realm. It is enough to recall the system of coercion that was borrowed from secular life by canon law: forced imprisonment in monasteries, prisons for the clergy in the residences of bishops, the system of ransom in the penitential discipline, the "founders" rights, both in their entirety and in their various distortions, which led to the transformation of churches and monasteries into objects of sale, exchange, inheritance or gifts, the idiorhythmic monasteries with their brotherhoods, which transformed them into credit institutions, etc. But there is no need to multiply such examples, for no matter how serious the distortions of the spirit of canonical decrees, they were not

capable, nor will they ever be capable, of suppressing the Church's life in grace. "The gates of hell shall not prevail against her." Church life slowly and constantly sweeps away those decrees that are unnatural to it and corrects the distortions that they introduce into the reality of the Church.

However, errors in canon law are in the main, if not exclusively, a result not of creativity, but are on the contrary a decline of creativity, an extinguishing of the Spirit, the pale inactivity of death. During the creative epochs there was, as there always will be, enough strength in the Church to confront error with truth. Mistakes can be avoided only through a clear and correct canonical consciousness and under the condition that canonical creativity always remains full of grace in the Church. It is impossible to protect ourselves from error by refusing to be creative, since the very rejection is a yet greater error and a violation of the divine-human will, and also because it opens up greater opportunities for the operation of *jus humanum* in the Church. Only the Church and her blessed powers are capable of protecting herself from the errors of creativity—*ubi ecclesia, ibi et Spiritus Dei* ("Where the Church is, there is the Spirit of God")—and the Comforter, the Holy Spirit "will teach you everything and remind you of all that He said" (John 14:26).

VII.

The temporal as an expression of the eternal, the alterable as an expression of the unalterable; of such an order are the interrelations of the temporal and eternal in canon law; such is it in the Church herself, in which the temporal and eternal are joined, so that if one absolutize the temporal and alterable, the eternal and unalterable themselves become relative. This joining springs from the very essence of the Church as a living divine-human organism. Life is in the Church herself, and she herself abides in life, in the "world," and she cannot go out of the world in so far as empirical nature is present in her. Thus the Church faces not the desert, but the world in which she has creative and constructive concerns. The Church creatively seeks in the historical conditions of her existence those forms of life in which she could more perfectly express her essence, and by this the Church acquires the ability to influence contemporary reality. A creative influence on life does not signify the acceptance of this life, for this life itself often rejects the Church. But whether she is rejected or accepted, the Church brings her light and judgment into the world by continuously changing the historical forms of her existence. Being in the world, she convinces the world "of sin and of righteousness and of judgment" (John 16:8).

The inalterability and indestructibility of the Church lies in the immutability of her *life* that cannot be overcome by the world. The more terrifying the present is and

the more gloomy the future, the stronger the rock of the Church becomes and the more steadfastly we stand on it.

Through her historical forms of existence the Church not only exists in history, but history too abides in the Church. In the Church and through the Church the historical process acquires its purpose: it strives for the last extreme goal, to its concluding point. In paraphrase of the words of one German Protestant scholar, it must be said that “all Christian history to the present day, its internal real history, rests on the awaiting of the parousia.” The Church is striving forward and constantly awaiting the Coming, of which she unceasingly sighs, “Yea, arise, Lord Jesus.”

by Nicholas N. Afanasiev

—Translated by JAMES LABEAU

Endnotes

1. See his article “[Canons and Canonical Consciousness](#)”.

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