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The Theology of Gender - 11. St. Basil's canons on the issue of divorce and remarriage (Sofia Matzarioti-Kostara)

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St. Basil's canons on the issue of divorce and remarriage seem at first sight to treat man and woman differently, making it difficult for modern women to accept them. Nevertheless, careful examination of his general approach reveals his profound appreciation of both genders and his respect for the role of women.



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St. Basil's 9th canon states the following:

"The decision of the Lord with respect to the order of the sense applies equally to men and women so far as concerns the prohibition of divorce except on ground of fornication. Custom, however, will not have it thus, but in regard to women it insists upon exactitude and stringency, seeing that the Apostle says that he who cleaves to a harlot is one body with her, and that Jeremiah says that if a woman goes with another man, she shall not return to her husband, but shall surely be defiled, and again: whoever keeps an adulteress is foolish and impious. Custom, on the other hand, commands that men who are guilty of adultery or of acts of fornication must

be kept by their wives; so that as regards a woman who is cohabiting with a man who has been left can be accounted an adulteress. For the fault here lies in the woman who divorced her husband, according to whatever reason she had for undoing the marriage. For whether it be that when beaten she could not bear the blows, but ought rather to have exercised patience, or to obtain a divorce from the man with whom she at the time was cohabiting, or whether it be that she could not afford to lose the money, neither is this any excuse worthy considering. But if it were on account of his living in a state of fornication, we have no such observance in ecclesiastical usage, but neither is the wife of a faithless husband commanded to separate from him, but, on the contrary, she has to stay with him owing to the fact that the issue of the matter is unknown."For what do you know, O wife, whether you shall save your husband?". So that a woman who deserts her husband becomes an adulteress in case she comes to another man. The man, on the other hand, whom she has left, is pardonable, and a woman who cohabits with him is not to be condemned. If, however, a man deserts his wife and comes to another woman, he too becomes an adulterer because he is making her be an adulteress; and the woman cohabiting with him is an adulteress, because she has taken another woman's husband for herself." [1]

In addition, his canon 21 addresses the same issue:

"... a wife must accept her husband when he returns from fornication but a husband must send a defiled wife away from his home. The reason for these inconsistencies is not easily to be found, but at any rate a custom to this effect has obtained prevalence." [2]

St. Nikodemos in his commentary stresses the fact that the aforementioned custom was inherited by the Romans and the reason for its prevalence is not easy to understand.[3] In his comment on the 48th canon of the Holy Apostles, he gives an extended report on the issue, giving the theological background from the Scripture and including examples from the writings of St. Gregory the Theologian and St. John Chrysostom, who support the equal treatment of men and women concerning divorce and remarriage. St. Nikodemos moves beyond the stereotypes of his traditionalist era and asserts not only that men and women are to be treated equally by the Church on the issue of adultery, but also that a man who accepts his wife back, although she is an adulteress, should be praised for two reasons: First, because by his love and compassion he imitates Christ, and second, because this corruption in the life of the couple is the result of other sins committed by them, which causes God to permit this greater failing to happen for the discipline of the spouses.[4] Interestingly enough the Hagiorite puts the blame of adultery equally

on both spouses. As a great pastor and spiritual father, he also tries to explain the reason why Christ allows the separation of the couple to happen and gives a reason based on his knowledge of human psychology. The anger of the offended spouse could lead to murder, while, as St. Gregory the Theologian observes, the possible birth of an illegitimate child could cause even greater problems. Therefore, the suggested separation of the couple for one or two years is a reasonable sanction that could lead both to repentance and to the discouragement of others from this transgression.

[1] Canon 9 of St. Basil «Ἡ τοῦ Κυρίου ἀπόφασις κατὰ μὲν τὴν τῆς ἐννοίας ἀκολουθίαν ἐξίσου ἀνδράσι καὶ γυναιξίν ἀρμόζει, περὶ τοῦ μὴ ἐξεῖναι γάμου ἐξίστασθαι, παρεκτός λόγου πορνείας. Ἡ δὲ συνήθεια οὐχ οὕτως ἔχει, ἀλλ' ἐπὶ μὲν τῶν γυναικῶν πολλὴν εὐρίσκομεν τὴν ἀκριβολογίαν, τοῦ Ἀποστόλου λέγοντος, ὅτι ὁ κολλώμενος τῇ πόρνη ἐν σῶμά ἐστι, τοῦ δὲ Ἱερεμίου, ὅτι, ἐάν γένηται γυνὴ ἀνδρὶ ἐτέρῳ, οὐκ ἐπιστρέψει πρὸς τὸν ἄνδρα αὐτῆς, ἀλλὰ μαινομένη μianθήσεται καὶ πάλιν, ὁ ἔχων μοιχαλίδα, ἄφρων καὶ ἀσεβής, ἡ δὲ συνήθεια καὶ μοιχεύοντας ἄνδρας καὶ ἐν πορνείαις ὄντας, κατέχεσθαι ὑπο τῶν γυναικῶν προστάσσει, ὥστε ἡ τῷ ἀφειμένῳ ἀνδρὶ συνοικοῦσα, οὐκ οἶδα, εἰ δύναται μοιχαλὶς χρηματίσαι. Τό γάρ ἐγκλημα ἐνταῦθα, τῆς ἀπολυσάσης τὸν ἄνδρα ἄπτεται, κατὰ ποίαν αἰτίαν ἀπέστη τοῦ γάμου. Εἴτε γάρ τυπτομένη μὴ φέρουσα τὰς πληγὰς, ὑπομένειν ἐχρῆν μᾶλλον, ἢ διαζευχθῆναι τοῦ συνοικοῦντος, εἴτε τὴν εἰς τὰ χρήματα ζημίαν μὴ φέρουσα, οὐδέ αὕτη ἡ πρόφασις ἀξιόλογος. Εἰ δὲ διὰ τό ἐν πορνείᾳ αὐτὸν ζῆν, οὐκ ἔχομεν τοῦτο ἐν συνηθείᾳ τῇ ἐκκλησιαστικῇ τό παρατήρημα, ἀλλὰ καὶ ἀπίστου ἀνδρός χωρίζεσθαι οὐ προσετάχθη γυνή, ἀλλὰ παραμένειν δεῖ διὰ τό ἀδελον τῆς ἐκβάσεως. Τί γάρ οἶδας, γύναι, εἰ τὸν ἄνδρα σώσεις; ὥστε ἡ καταλιποῦσα μοιχαλὶς, εἰ ἐπ' ἄλλον ἦλθεν ἄνδρα. Ὁ δὲ καταλειφθεὶς, συγγνωστός ἐστι, καὶ ἡ συνοικοῦσα τῷ τοιούτῳ οὐ κατακρίνεται. Εἰ μὲντοι ὁ ἀνὴρ ἀποστάς τῆς γυναικὸς ἐπ' ἄλλην ἦλθε, καὶ αὐτός μοιχός, διότι ποιεῖ αὐτὴν μοιχευθῆναι, καὶ ἡ συνοικοῦσα αὐτῷ μοιχαλὶς, διότι ἀλλότριον ἄνδρα πρὸς ἑαυτὴν μετέστησεν».

[2] Canon 21 of St. Basil «...ἡ μὲν γυνὴ ἐπανιόντα τὸν ἄνδρα αὐτῆς ἀπὸ πορνείας παραδέξεται, ὁ δὲ ἀνὴρ τὴν μianθεῖσαν τῶν οἰκῶν ἑαυτοῦ ἀποπέμψει. Τούτων δὲ ὁ λόγος οὐ ῥᾶδιος, ἡ δὲ συνήθεια οὕτω κεκράτηκεν».

[3] Πηδάλιον, 582.

[4] Πηδάλιον, 73.

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