

The Theology of Gender - 12. St. Basil's Canon 9 on adultery (Sofia Matzarioti-Kostara)

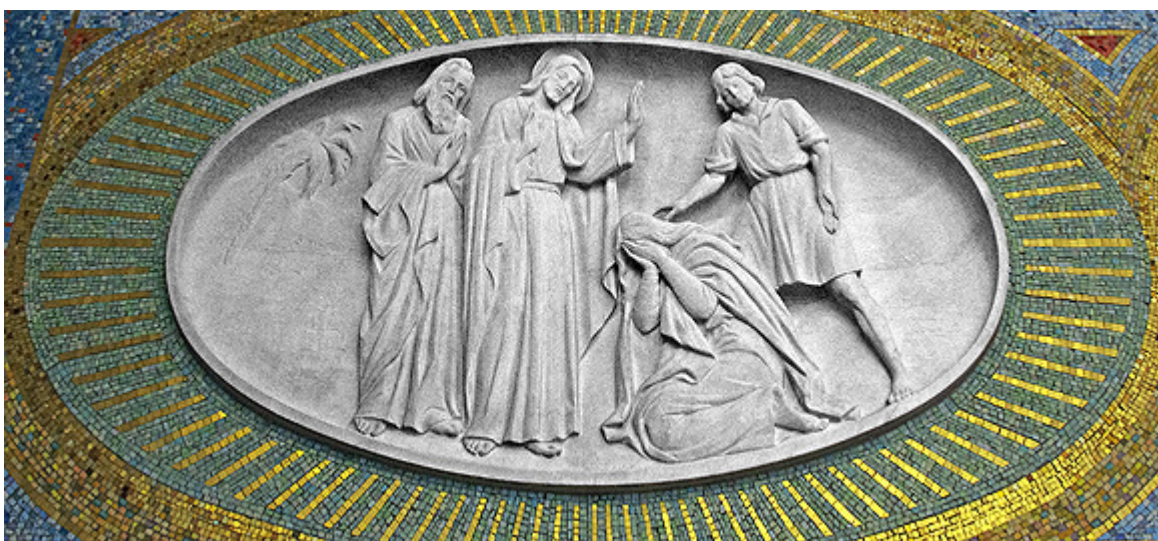
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Canon 9 of St. Basil ascribes the practice of the Church not to allow the woman to separate from her husband if he commits adultery to the established social custom (*συνήθεια*). This word is also used by him in other canons^[1] in contrast to the word "*ἀκρίβεια*" (accuracy). Both words are used in several canons, and St. Nikodemos gives their exact meaning in his commentaries on canon 12 of the First Ecumenical Council and 102 of the Sixth Ecumenical Council. According to his interpretation,

«By the word custom is meant the term of years and various penalties...By accuracy, on the other hand, is meant the eventuality whereby sinners add to these years and penalties a hatred of sin, and a painful feeling in the heart, and tears, and bodily hardships and other benefactions. For little correction can be expected to result from the years and penalties alone.»^[2]



Christ Absolves the Woman Caught in Adultery. CC: Wikimedia

It is clear that the above understanding of these words imply that "*συνήθεια*" is the "letter" of the law while "*ἀκρίβεια*" seems to be the "spirit" of the law, which

actually is interested in the spiritual benefit and growth of the Christian and not in keeping the external stipulations. “*Ἀκρίβεια*” is ascribed to the spiritual father who is able to evaluate the repentance of the sinner and to adjust the application of the rule of “*συνήθεια*”. Therefore in his canon 9, St. Basil presents the canonical practice of the Church of his age, not in its spiritual dimensions but as this prevailed in legislation influenced by the civil law.

St. Basil’s canons are in fact answers to the questions of Bishop Amphilochios[3] who referred to St. Basil, as he was well known for his education and proficiency in law. Canon 9 of St. Basil does not legislate on issues of divorce and its purpose is not to take away the woman’s right to divorce her husband if he is unfaithful to her. This canon deals with the consequences of adultery as impediments to a second marriage.[4] He begins with the given legislation that prevailed in the practice of the Church (*συνήθεια*) from civil law, supporting this with Scriptural references, but adds a disclaimer in canon 21, stating that he does not understand the reason behind its stipulations.[5] St. Basil passes his judgment on the issue based on current legislation, but stresses at every opportunity that the theological principles of equality are contrary to this law.[6]

When St. Basil legislates contrary to the civil laws, he does this only to protect the moral principles of Christianity.[7] He does this, for example, in the case of a married man who commits fornication. Respecting the given penal law, St. Basil keeps only the letter of the rule and orders that a married man who commits fornication be subject to heavier penalties than those imposed to a single man[8], which was not part of the civil legislation. Nonetheless, in the case of adultery, legislation opposing civil laws would be an abusive intervention into civil processes and would cause difficulties in its practical application. The civil authorities deal with the legal effects of the divorce according to civil law.[9] As a consequence, if a woman in St. Basil’s time asked for divorce for the reason that her husband committed adultery, she would not have gotten any support from the civil courts, with all the consequences that this might have.[10]

In fact St. Basil’s 9th canon does not forbid women to leave their marriage because of their husband’s infidelity, but advises that they be penalized for adultery[11] in the case that they marry again. Moreover, he pronounces that abuse or mismanagement of property by the husband, does not give the wife the right to divorce him.[12] He supports this with passages from the Scripture,[13] particularly with St. Paul’s advice to women not to divorce their spouse even if he is not a Christian, hoping that this may help him eventually convert to Christianity.[14] St. Basil’s approach on this issue is not contrary to Christian ethos, which elevates

patience into a higher virtue, contrary to the standards of the materialistic world that honors only personal bliss and happiness. The call for taking up one's cross is not irrelevant, as it serves the salvation of the spouse to whom the wife should continue showing care and love.

[1] Canon 3.

[2] «Συνήθεια μέν εἶναι οἱ τόσοι χρόνοι καί τά διάφορα ἐπιτίμια... Ἀκρίβεια δέ εἶναι τό νά προσθέτουσιν οἱ ἁμαρτωλοί, κοντά εἰς τούς χρόνους καί τά ἐπιτίμια αὐτά, καί μῖσος τῆς ἁμαρτίας, καί πόνον καρδίας, καί δάκρυα, καί σκληραγωγίας τοῦ σώματος, καί ἄλλας ἀγαθοεργίας. Διότι ἀπό μόνους τούς χρόνους καί τά ἐπιτίμια ὀλίγη διόρθωσις γίνεται». *Πηδάλιον*, 313.

[3] Επιστολές πρὸς τόν Ἅγιο Ἀμφιλόχιο, ἐπίσκοπο Ἰκονίου τῆς Φρυγίας.

[4] See Balsamon's interpretation in G. Rali, M. Potli, *Σύνταγμα τῶν Θείων καί Ἱερῶν Κανόνων*, (Αθήνα: 1854), 4:122.

[5] Canon 21 of St. Basil «Τούτων δέ ὁ λόγος οὐ ῥᾶδιος, ἡ δέ συνήθεια οὕτω κεκράτηκεν».

[6] Canon 21 of St. Basil «Ἡ τοῦ Κυρίου ἀπόφασις κατὰ μέν τήν τῆς ἐννοίας ἀκολουθίαν ἐξίσου ἀνδράσι καί γυναιξίν ἀρμόζει, περί τοῦ μή ἐξεῖναι γάμου ἐξίστασθαι, παρεκτός λόγου πορνείας», Canon 9 of St. Basil, and «Τούτων δέ ὁ λόγος οὐ ῥᾶδιος».

[7] Zhishman, *Το Δίκαιον του Γάμου*, I, 41.

[8] Canon 21 of St. Basil «Ἐάν ἀνὴρ γυναικί συνοικῶν, ἔπειτα μή ἀρκεσθεῖς τῷ γάμῳ εἰς πορνείαν ἐκπέση, πόρνον κρίνομεν τόν τοιοῦτον καί πλεῖον παρατείνομεν ἐν τοῖς ἐπιτιμίαις».

[9] Zhishman, *Το Δίκαιον του Γάμου*, II, 435.

[10] Property issues, guardianship of children etc. See more in Zhishman, *Το Δίκαιον του Γάμου*, II, 896-908.

[11] Canon 9 of St. Basil «ἡ καταλιποῦσα μοιχαλὶς, εἰ ἐπ' ἄλλον ἦλθεν ἄνδρα. Ὁ δέ καταλειφθεὶς, συγγνωστός ἐστι, καί ἡ συνοικοῦσα τῷ τοιούτῳ οὐ κατακρίνεται».

[12] Canon 9 of St. Basil « Τό γάρ ἔγκλημα ἐνταῦθα, τῆς ἀπολυσάσης τόν ἄνδρα ἄπτεται, κατὰ ποίαν αἰτίαν ἀπέστη τοῦ γάμου. Εἴτε γάρ τυπτομένη μή φέρουσα τάς πληγὰς, ὑπομένειν ἐχρῆν μᾶλλον, ἢ διαζευχθῆναι τοῦ συνοικοῦντος, εἴτε τήν

εἰς τὰ χρήματα ζημίαν μή φέρουσα, οὐδέ αὕτη ἡ πρόφασις ἀξιόλογος».

[\[13\]](#) 1 Co 7:16.

[\[14\]](#) Canon 9 of St. Basil «ἀλλά καί ἀπίστου ἀνδρός χωρίζεσθαι οὐ προσετάχθη γυνή, ἀλλά παραμένειν δεῖ διὰ τό ἄδηλον τῆς ἐκβάσεως. Τί γάρ οἶδας, γύναι, εἰ τόν ἄνδρα σώσεις;».

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