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Some Points of View in Topicalities of Canons of the First-Second Regional Council at Constantinople*

Abstract: The Canonical Tradition is one of the key elements of the whole of Ecclesiastical Tradition of One, Holy, Apostolic and Catholic Church. Unfortunately, this is often forgotten and unemphatically used. In interpretation of some canons of the First-Second regional council at Constantinople, the author offers to point out their importance and, above all, their topicality. The canons are not an anachronistic and surpassed reading. Analyzing canon 9 of the above mentioned council, it is possible to make essential setting ups for the principle of non-violence in expansion of Christianity. Canons 13, 14 and 15 provide us with answers on current question under which conditions and when a priest i.e. bishop can separate from his bishop i.e. metropolitan, on account of heresy.

Key words: Church, councils, canons, tradition, clergy, violence, community.

The ninth century AD in the history of the Church was marked by an extraordinary personality of St Photius the Great, the patriarch of Constantinople. This century was turbulent by all accounts. The Iconoclasm, condemned at the Third Constantinople (the Seventh Ecumenical Council) was still disturbing the Church, especially through disorder and disobedience of some clerics, which all together was a consequence of a long lasting Iconoclastic crisis. Along with St Photius the Great this century also belonged to the pope Nicholas I, and the conflict between them will imprint deep implications into further life of one and undivided Church of Christ.

In 857 AD patriarch Ignatius was first deposed and later he resigned by his own will. For some period of time the Patriarchal See was vacant, and then on Christmas Day, 25 December 857, the council of bishops elected Photius for patriarch who was a layman at the time. Within five days he passed all the levels of priesthood, as on the sixth day from the elections he could be consecrated for a bishop of the New Rome. Although this is not a basic theme of this article, it is hard but not to turn to this unusual, yet not alone occurrence in the history of the Church. The Photius' enemies, especially pope Nicholas, rushed to point this out as a non-canonical behaviour. The first mention of custom or teaching on the succession in office of priesthood, we find in canon 10 of regional Council of Sardica 343. In this canon we learn of wealthy and worldwide educated candidates

* Translation from Serbian by Dragan Stepković.

being elected for bishops and that they ... *should not be appointed unless passed through the office of reader, of deacon and of priest, as through every and each one of the ranks, if found worth it, could they gradually ascend upon the heights of bishophood. And for each rank in the office should obviously allow not a short period of time... for scrutinizing on a long run can confidently approve conduct and complexion in each one of them.* However, the Council of Sardica (modern Sofia, Bulgaria), generally was a council of the bishops from the West, where the teaching on succession in office first took place and later developed, but was unknown or at least not fully accepted in the East. Patriarch Photius, in his letter to pope Nicholas, cites the whole list of similar examples like the ones of patriarch Nikephoros and Tarasios, followed by St Nectarius, whose election for a bishop was approved by the whole of the First Constantinople (the Second Ecumenical Council), while in the West St Ambrosius of Milan (fourth century) was elected for a bishop of Milan as a catechumen, and St Photius goes on:

Regarding your observation that the canons therein were ignored for I got to the rank of bishop quickly, started from a layman, I wonder which canons did we offend? For the Church of Constantinople, to this very day, received none of such canons, and accordingly canons which do not exist cannot be offended (The Lives of Saints for February).

Nevertheless, canon 17 of the First-Second regional council in Constantinople, as a summary of this debate, determinates the following:

Taking care of everything regarding a good church order, we needfully set to define: in the future none of laymen nor monks should be quickly ascended upon the heights of bishophood, but rather to be challenged in all church ranks of clergy prior to their consecration for a bishop. For although up until now, some of laymen or monks, on demand of need, were promptly vouchsafed the dignity of bishop and shone out by their virtues and thus highly exalted their churches, anyhow it should not be at all imposed in the Church as a law which rarely occurs, therefore we define: in the future should be no mention of that, but the ordained should pass all the ranks of priesthood according to the canons (step by step) staying in each rank for a lawful period of time.

Succession in office thus becomes a principle in the East as well, as the candidate's probation should be observed, but not necessarily so is the length of time spent in each of the ranks. *The lawful period of time* is not a determined neither precise notion and, by all means, depends on customs, that is to say on a customized church practice in some period of history. Balsamon considers that it is a period of seven days. It is obvious that this canon (like the one of Sardica) contains two aspects. One is passing through and gradually advancing through the ranks of priesthood, and the other one is for staying in each of the ranks and putting the candidate on probation. The Church practice today is unconditionally attached to the first aspect, and the other one applies only for bishops, while *probation* which both canons are about, is missing a great deal at the ordination for a priest. And yet another digression. In the follow up of his letter St Photius speaks of the existing various customs and practices which have always been legitimate in the East and, further more, desirable, for they bear witness to vividness of some regional

churches. Outward unity, unity in forms and practice has never been an ideal in the East. The unity in faith and love was far more crucial. Today's attempt of outward unification of Church practice and elevating such a criteria onto the level of a great importance, is something absolutely new in the Church life. St Photius the Great writes to pope Nicholas the following:

Besides, it should be said that some have in possession the rules that cannot be found elsewhere, therefore they should not be expected from those whom they were not handed over. Firmly and without any innovation one should keep the community in what is the most important in faith, and the differences in minor matters should not be excessively discussed... We all should hold to everything that has been regulated by the common ecumenical decrees... Thus, for example, some have a custom to short hair and shave beard, while it is forbidden to others by some conciliar decrees. Or, again, we are forbidden to fast on a Saturday, while you keep fast on Saturdays. Also, in Rome you cannot find a priest whose marriage is lawful, while we inherited that those who married once could be ordained priests, and we reject from the Holy Communion just as much those who live in fornication and deny lawful marriage... Our monks also eat no meat at all, not because of disgust but for the purpose of asceticism, while it has been noticed that your monks do eat meat. Hence, withholding from what does not confirm our faith, does not mean withdrawal of common approval (The Lives of Saints for February).

Let us come back now to our basic theme. In 859 the council of bishops gathered in the church of the Holy Apostles and confirmed the election of Photius for patriarch, and two years later they got together yet again, but this time under the preceding of Photius, in order to consider and solve ever growing problems of a disciplinary character. The council of 859 and the one of 861 are regarded as one regional council bearing the name First-Second because of the two gatherings of the bishops. The council issued 17 canons and they bear general liability for the Orthodox Church. Our attention will be drawn on two more canons of this council because of some new aspects of their topicality as we already discussed about in canon 17.

Canon 9 speaks of the priests who indirectly give orders to a third person to beat those who believe, every time they commit a sin, or unbelievers when do unrighteousness. This canon supervene on canon 27 of the Holy Apostles and it forbids bishops, priests and deacons under threat of overthrowing if they directly (by hand) beat the faithful to frighten them. As a general characteristic of the Canon Law is to solve actual issues, but not to consider hypothetical circumstances, the following should be observed: some clerics who were already aware of canon 27 of the Holy Apostles, attempted to ignore it and ordered a third person to punish the faithful by beating them. Canon 9 of First-Second council approves it. *For it would be in vain and very wrong to overthrow the one who by hand hit someone three or four times, but leave unpunished those who allow beating by order and cruelly enhance the punishment even to death. Therefore, as any form of beating is subject to punishment, according to that canon (27 of H. A.), so do we acknowledge it.* Two characteristic concepts are used as the reasons for such action. In the Apostolic canon it is frightening and in the other one – anger. Obviously both

reasons derive from the feeling of ascendancy and power and set before us a problem of freedom of choice for the life in the Church, as well as the problem of violence as an extreme way of imperilment of human dignity. Free will is an absolute precondition for the Christian life, and until the fourth century the Church could not conceive any kind of enforcement in preaching its faith or even within the inter-ecclesiastical relationship. Christ Himself was a victim of violence, and the Apostles on their missionary journeys throughout the Roman Empire possessed nothing but the Word of Truth. After the Edict of Milan, and especially after the times of Theodosius, the situation changed to some extent. Christianity as the official religion of the state became a factor of homogeneity and stability of the state and thus a matter of a special care expressed by the emperors who did it for the sake of preserving the state (by stating this we certainly do not exclude their honest faith). Under such circumstances the elements of enforcement and violence were anything but rare. During the different periods of Byzantine history, and even later, the Church, more or less, vigorously opposed or denied enforcement as means of Christianization or method for sorting particular problems out, but rather acting according to its abilities at the certain time. The case of conversion of the Jews in eighth century AD is very characteristic. The emperor Leo III the Isaurian issued a decree by which all the Jews had forcefully to convert into Christianity, caused serious problems in the Church and they were solved by canon 8 of the Third Constantinople, proclaiming what we would call today — a freedom of faith, i.e. freedom for practicing the faith. Beside everything else this canon says: *... that those (the Jews) should not be granted communion with the faithful nor allowed in for the common prayer, nor in the Church, but to remain Jews by their public confession... If some among them convert out of heartfelt faith and confess Christ open-heartedly... they and their children deserve to be accepted... If their action is anything else but that, than they should not be allowed in the Church at all.* This canon as the latter two already quoted, and above anything else, the very words of Christ *Who wants to follow me...* or even Beatitudes etc., unambiguously serve the ground for rejection and complete denial of any enforcement and violence in the life of the Church. But... Let us recall the inquisition, forceful conversion into Christianity, the crusades in Europe, all that committed in the name of Christ. Or, if you like, today's mainly Islamic fundamentalism linked with terrorism that is trying to perpetuate the state of conflict and war. Although these were not sins of the East and the Orthodox Church, they reflected though a general relation of a modern man towards religion, which resulted in his attitude that struggle for defending human dignity means restriction of Church activities as a factor of disunity and bondage. Taking into account these two arguments we should not be surprised by the statements of some theorists who recognize tight bonds between religion and violence. Let us deal now for a while with interpretation of violence in the Scriptures. It is full of both pictures and violence that are represented amazingly clear. They are a reality of human history before which one cannot turn their eyes blind. But what are the fundamental attitudes we encounter in the Bible? Firstly, at the very beginning, in the book of Genesis, we perceive total lack of violence at the time of creating the world. All the creation was good

and the first act of violence takes place after the fall, when the man was given ability to distinguish the good from evil. Cain could not stand the failure of his offering to God and out of fury (we should recall the idea of anger in canon 9 of the First-Second council) and thus he kills his brother Abel. Then, what followers for this theme, is an interesting dialog between God and the brother-killer Cain. Cain repents and God promises to protect him from revenge. In this way God imposes barrier against further violence. But besides God's intervention evil and violence grow. The purpose of God's covenant to Noah is to protect life, although evil is not overcome as yet. Further on God finds another way to defend human's life. He grants law that forbids murder. *You Shall Not Murder*, is the commandment of the Lord by which act of violence is severely confined. Then, a number of Psalms abound of call for violence (Take hold of shield and buckler, and stand up for my help. Draw also the spear... Psalm 35, 2; Arise, O Lord, disappoint him, cast him down; deliver my soul from the wicked, [who is] thy sword; from men [who are] thy hand... Psalm 17, etc). These Psalms derived from the experience of injustice, demonstrating a victim's call for God's revenge and protection of the weak, which is yet again another confinement of violence. Therefore it is not up to man to take revenge and thus extend the chain of violence and evil, but the whole hope should be laid down before God and His justice. Regarding relation towards the violence we meet up with in the Scriptures, we consider that should be made no comment. Severe confinement of violence, as a reality of exclusively mankind's existence (animals cannot be violent), is an apparent characteristic of the Biblical ethos. Violence is understood as an ineffective community, a false and demonized way of search for community.

Canon 27 of the Holy Apostles and canon 9 of the First-Second council apart from a ban to violence, also points out how to preach and bare witness of Christ. *For Christ did not teach us violence. On the contrary, when He was beaten, He did not reciprocate by beating back; when He was reviled, He did not reciprocate by reviling back; when He was suffering He did not threaten (27 of the H.A.)... For the priest of God should bring up the ordinate by edification and advice, and sometimes by penance, but never should he attack the human bodies by whips and blows (canon 9 of First-Second council).* Freedom and dignity of human's personality should be absolutely esteemed. But for which reason? Is it because the human rights today are incorporated into the juridical system of the modern states and ignoring them is subject to the state's legal system or is it because of the firm attitudes of Christian anthropology? In other words our question is related to the link between contemporary understanding of human rights and that of Christianity. Among the Orthodox there is, as it seems, an initial instinctive consent with the basic principles of all declarations on human rights but a certain reticence also, regarding their range and respect. At first, one should bear in mind that contemporary theories on human rights and Christian anthropology are differ in their *roots*. The first one derives its conclusion from the philosophy of natural law and perceives man, first of all, as a political being, while the other one observes man as the icon of God according to his assignment for the eternal

life. Christianity has always been in certain accordance with the natural law but never absolutely nor unreservedly so. The basic reason for it is the fall of human's nature and the presence of evil acting through man. The Christian experience testifies that the good is reached only by a constant struggle against the powers of destruction, and thus the principles of declaration of human rights could often seem excessively optimistic and naïve. Apart from these two initial differences though, we can speak of their conclusive identical points. Every Christian will agree with the attitudes of declaration on freedom, equality and human dignity, so disagreement on this issue should not take place here, but on the contrary, rather sustained. However, every legal document and law in general is in possession of its limited reach. And here starts not criticism but obligation of Christians to overcome and transfigure the elementary legal principles on human rights. And thus by Christian love. There is no such a legal system able to force people to live in brotherhood, peace and unity. Only an assembly of individuals made out of love can build a community, and for an individual to become a unique person. These are the two levels upon which the declarations on human rights and Christian anthropology circulate, and essentially they are not in contravention but have different field of scope. All the same is the tragedy of the offence of clerics, regarding the two canons which is not only related to disrespect of human dignity, but to the expressed anger and threat that are in confrontation with Christian love.

The following canon, in fact rather the group of canons (13–15) that we want to say something about, are related to the clerics who intend to separate from their bishops on the ground of heresy. In the text-book *Church Law* (Belgrade, 1999) by late Dimso Peric, in the section on Diocesan bishop there is a following sentence: *Only under one circumstance can clergy break the communion with their bishop – if he fell in heresy.* This sentence is basically correct, for there is no communion with heretics, but beside this general and basic assertion, various circumstances may appear in practice under which this general observation may not be of any use for us. Such one statement is observed by the above mentioned canons. Irregular situation that lasted in the Church during the period of Iconoclasm left grave consequences behind. One of them was that some clerics or bishops, out of their personal interests and self-will, proclaimed their authorities as heretics. Imposing a ban to this kind of behaviour the council of St Photius defines precise criteria for such serious accusations, like the accusation for heresy. First of all this canon defines: *in the future, if some priest or deacon, seemingly, because of some offences, despised his bishop prior to conciliar consideration and analysis and final condemnation of him, dares to brake up the communion with him and does not commemorate his name in the Holy Liturgy, according to the Church tradition, such cleric should be overthrown and deprived of every clerical honour.* Hence, the first guideline is conciliar consideration and final condemnation, and the reason being is that every one needs to know his extent, so that neither priest should despise his bishop nor the bishop should despise his metropolitan (canon 14). Beside this condition canon 15, further on, cites another two, examining the issue of the metropolitan who separates from his patriarch. And these conditions imply

a high priest preaching, publicly in Church, a heresy already condemned by the Holy Councils or the Church Fathers. *For those clerics who separate themselves from the preceding one for the sake of the heresy, being condemned by the Holy Councils or the Fathers, i.e. when he uncovered (with no mask) publicly preaches the heresy and teaches it in the Church, not only should they be not a subject to a canonical condemnation... but made worth honour venerable for the orthodox* (canon 15). In these circumstances the issue of the priests being separated from their bishops or the bishops from their metropolitans, cannot be generally considered, for it may cause unforeseeable consequences in respect of encouraging one's self-will and personal judgments. The lightly condemnation of the preceding one was the cause to bring forth the above mentioned canons which are to turn the state of chaos in the Church into a good order.

In conclusion, we would like to point out the importance of studying and understanding the ecclesiastical canons for the Church life, especially when signs of friskiness and dilemma are perceived. In such periods of the Church history we need stronger and unambiguous criteria rather than mere customs and habits. And these criteria, because of authentic interpretation of the faith and sound development of the spiritual life, are implicated in what has been accepted from all and obligatory for all and thus for the whole Orthodox Church: decrees of the Ecumenical Councils, theological teachings of the great Fathers of the Church (those who, by the Church fullness, were accepted as the ecumenical teachers) and the Canon Law.

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**Неки аспекти актуелности канона
Прво-другог помесног сабора у Цариграду**

Канонско предање је једно од кључних делова целокупног свештеног Предања једне, свете, апостолске и католичанске Цркве, на жалост, често заборављано и некоришћено. Тумачењем појединих канона Прводругог константинопољског помесног сабора аутор покушава да укаже на њихову важност, а пре свега на актуелност. Канони нису анахроно и превазиђено штиво. Анализирајући 9. канон поменутог сабора, могуће је извући суштинске поставке о начелу ненасиља у ширењу хришћанства. Канони 13, 14. и 15. нам дају одговор на актуелно питање под којим условима и када се јереј, тј. епископ може због јереси одвојити од свог епископа, тј. митрополита.