

PRACTICE OF THE SACRAMENT OF  
MATRIMONY ACCORDING TO  
THE ORTHODOX TRADITION

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Reprinted from *THE JURIST*  
Vol. 31, No. 4, Fall, 1971

Published by the School of Canon Law  
THE CATHOLIC UNIVERSITY OF AMERICA

WASHINGTON, D.C.

Printed in U.S.A.

## PRACTICE OF THE SACRAMENT OF MATRIMONY ACCORDING TO THE ORTHODOX TRADITION\*

In the present paper we intend to discuss the doctrinal basis of Holy Matrimony and its purpose, its historical and theological development; to examine to what degree marriage was a religious or a civil rite in the early and medieval Christian East; and to see how the Eastern Church has viewed mixed marriages. In a second paper I intend to deal with the canon law and the practice of the Church concerning dissolution of marriage, birth control, and abortions.

### A. *Doctrinal Foundations*

The doctrinal foundations of matrimony are found in the Holy Scripture and in the Divine Tradition which constitutes the *continuum* consciousness of the Church. The Orthodox Church sees God Himself as the source of every mystery in the Christian faith including marriage. God is the source of life, and life itself is a mystery. What procreates and perpetuates life cannot be anything but a mystery, a mystery in both its state of nature and in its state of grace. As God created the first family, so God's agency, the Church, perpetuates God's creative concern for every new family. The Church as God's agent of grace unites man and woman making them a microcosmic or a miniature Church—'ten kat' oikon ecclesian'' (Rom. 16:5; 1 Cor. 16:19).

Matrimony as an act of creation by God was raised to sacramental status by Christ and His Church. It is an event in which God imparts invisible grace through the Church to two people of opposite sexes who have agreed of their own free will to share life together as one organism or a twofold being. By a commandment of nature and the consent of the Creator, it includes three basic and interrelated elements: the natural element, which leads a man and a woman into a physical union; the moral element, which guarantees their full and perpetual cohabitation until death parts them; and the religious element, which makes marriage a communion of faith and

\*This paper was presented at the meeting of the Orthodox-Catholic Consultation on December 4, 1970, at Holy Cross Greek Orthodox Theological School, Brookline, Mass.

a communion of two souls which decide to follow one road in life, that which leads to virtue on earth and eternal salvation after physical death. Marriage is the union of man and woman, joining and fusing their life forever, a communion by the right of God and the commandment of man's nature.<sup>1</sup>

This definition is ancient and non-Christian in origin,<sup>2</sup> but it has been sanctified and adopted by the Church with a few significant improvements. It corresponds to the psychosomatic nature of man and fulfills his physical as well as his divine or spiritual needs. "For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh. So they are no longer two but one. What therefore God has joined together, let no man put asunder".<sup>3</sup>

The sacramental character of matrimony, which was codified by the canon law of the Church,<sup>4</sup> is based of course on other biblical testimony either explicit or implicit in nature. God made man—male and female he created them; woman was made from the flesh of man to be a helper of man so that together they may continue the work of God in the procreation of mankind, multiply the original human creatures of God, and have dominion upon the earth.<sup>5</sup> Matrimony which unites two human beings in order to produce a new creation cannot but be a holy act. This intimate relationship of man and woman as a Godly act, expresses the will of God for His continuous creative work. The human shares in the creativity and omnipotence of the Creator.

St. Paul's comparison of marriage to Christ's union with the Church is so well known that it needs no additional comment. His advice that a wife is free to be married if her husband dies, but that she marries "only in the Lord"<sup>6</sup> has been interpreted to mean that marriage already had a religious character. Since a Christian

<sup>1</sup>See Procheiros Nomos, Title four, 1, ed. by J. Zepos and P. Zepos, *Jus Graecoromanum*, II (Athens, 1931), 124; cf. Nikodim Milas, *Τὸ Ἐκκλησιαστικὸν Δίκαιον τῆς Ὁρθοδόξου Ἀνατολικῆς Ἐκκλησίας*, translated by Meletios Apostolopoulos (Athens, 1906), p. 823.

<sup>2</sup>Modestinos, *Pandects*, Bk. I, 23,2: "Nuptiae sunt conjunctio maris et feminae, consortium omnis vitae, divini et humani juris communicatio."

<sup>3</sup>Matt. 19:5-6.

<sup>4</sup>*Nomocanon* XII.13, ed. by G. A. Rhalles and M. Potles, *Σύνταγμα τῶν θεῶν καὶ ἱερῶν Κανόνων*, I (Athens, 1852), 271-272, *Mat. Blastares, Σύνταγμα κατὰ Στοιχ.*, 11.2, ed. Rhalles and Potles, *op. cit.*, VI, 153-154.

<sup>5</sup>Gen. 1:27; Gen. 2:21-24; Matt. 19:4-6; Tobit 8:6.

<sup>6</sup>Cor. 7:39.

is united with Christ in baptism, a Christian woman should marry a member of the Christian community.<sup>7</sup> But this was the ideal while in practice Christians married outside the community as well.

Since the origin of matrimony is divine, its purpose is sacred. Both the Holy Scripture and Sacred Tradition, which have been codified in the consciousness of the Church as Divine Revelation, reveal a threefold purpose: first, to continue the creative work which God inaugurated with the creation of the first man and woman, thus propagating the human species; second, to provide physical and moral assistance to two individuals who have placed themselves willingly under the same yoke. It is significant that in the Orthodox Church marriage is described as *sysygia*—partnership under a common yoke, which implies equal rights and responsibilities in the same household. The third purpose of marriage is summarized by Saint Paul in the following words: "Because of the temptation for adultery, each man should have his own wife and each woman her own husband. The husband should give to his wife her conjugal rights, and likewise the wife to her husband. For the wife does not rule over her own body, but the husband does; likewise the husband does not rule over his own body, but the wife does."<sup>8</sup> Saint Paul speaks of sexual fulfillment in marriage. Admittedly, some Orthodox theologians speak shyly and very vaguely when they treat this third purpose of marriage, even though others acknowledge that sexual fulfillment is a major purpose of matrimony.<sup>9</sup>

Saint John Chrysostom, who has exerted a tremendous influence upon the thought and life of the Orthodox, emphasized that marriage was instituted for two reasons: to make parents of us and to impose self-control upon men (and women), thus avoiding adultery.<sup>10</sup> But, he implies, sexual fulfillment in marriage is just as moral and as much an obligation of the partners as childbearing. Sexual intercourse is an expression of the attraction and the culmination of

<sup>7</sup>Theodoretos of Kyros, "Interpretatio Primae Epistolae ad Corinthios Ch. VII, 39," MPG, vol. 82, col. 285A. "Ὁμοπίστῳ, εὐσεβεῖ, σωφρόνως, ἐνόμως." Cf. *ibid.*, col. 277A. Also cf. P. Trembelas, "Ἐπίτομη εἰς τὰς Ἐπιστολάς τοῦ Παύλου" (Athens, 1937), p. 198, and F. Godet, *Commentary on the First Epistle to the Corinthians*, I (Grand Rapids, 1957), 395.

<sup>8</sup>Cor. 7:4.

<sup>9</sup>P. Trembelas, *Δογματική τῆς Ὁρθοδόξου Καθολικῆς Ἐκκλησίας* III (Athens, 1961), 333.

<sup>10</sup>John Chrysostom, "De Verbis illis Apostoli . . . I Cor. 7.2" MPG, vol. 51, col. 213: "Ὡστε μία τίς ἐστι γάμου πρόφασις, τὸ μὴ πορνεύειν . . . εἰ δὲ μέλλοις καὶ μετὰ γάμον κεχεῖσθαι πορνεύεις, περιττῶς ἦλθες ἐπὶ τὸν γάμον."

a loving association between husband and wife. Chrysostom adds that with the fall of man sexual desire became an integral part of human nature. But, in order to counteract and make the fulfillment of sexual desire legal, God instituted marriage. Within marriage moderation, prudence, and chastity avoid excess and promiscuity. The association with one partner becomes more than sexual desire and sexual indulgence.<sup>11</sup> It becomes concern, loving care, and common interests—a common adventure in the way to moral perfection. Saint John, in a very courageous and realistic way, describes elsewhere the mating process of husband and wife and what it means when they become one flesh: The woman receives with pleasure the richest part of man, his marrow and his sperm; she nourishes and cherishes it and, with the mingling of her own share (her egg), restores a new man. Thus the child becomes a bridge connecting either side and the three become one flesh. In the case of husband and wife, the connecting bridge is more real and significant because it is formed of the very substance of each one. Father, mother, and child (or children) become an organic unity, cells of the same living organism—the family unit.

Saint Chrysostom speaks like a modern marriage counselor. He speaks of sexual fulfillment as one of the purposes of the union because he realizes that children may not be born in a marriage. He raises the question: What if there is no child—will they not the two become one flesh? Yes, indeed, he answers, they are joined together “into one flesh” (Gen. 2:2) because “their coming together has this effect, it diffuses and commingles the bodies of both.”<sup>12</sup> Chrysostom stresses that there is no need to be ashamed in discussing the intimate relations of husband and wife because “marriage is honorable” and he wants marriage to be thoroughly purified, for it is the gift of God and the root of mankind.

Because of the holy nature of marriage other Church fathers were not shy in speaking about the pleasure involved in the creative union of husband and wife. Methodios of Olympus (d. 312) writes that “When thirsting for children a man falls into a kind of trance, softened and subdued by the pleasures of generation as by sleep, so that again something drawn from his flesh and from his bones is, as I said, fashioned into another man for the harmony of the bodies being disturbed in the embraces of love, . . . all the marrow like

<sup>11</sup> John Chrysostom, *ibid.*, col. 213, lines 8-10: “Ἐπειδὴ γὰρ εἰσῆλθεν ἐπιθυμία, εἰσῆλθε καὶ γάμος τὴν ἀμετρὶαν ἐκκόπτων, καὶ πειθῶν μιᾷ χρῆσθαι γυναικί.”

<sup>12</sup> Homilies on Colossians, Homily 12.

a generative part of the blood, like a kind of liquid bone, coming together from all the members, worked into foam and curdled, is projected through the organs of generation into the living body of the female, and, probably it is for this reason that a man is said to leave his father and his mother, since he is then suddenly unmindful of all things when united to his wife in the embraces of love, he is overcome by the desire of generation, offering his side to the Divine Creator (as Adam did) to take away from it, so that the father may again appear in the son."<sup>13</sup>

The original human species was a unit, a male, and it was from this unit that woman was fashioned. The human prototype, the "Adam" was split into two separate sexual components. But these components are mutually attracted. In a mysterious way they recognize their common origins and they desire each other in a union. When they cleave together the man empties himself into the woman who receives the source of her life and then husband and wife become "one flesh." The intermingling of their beings restores a new being—in their union they reconstruct the original unity of man. The marital act creates a "twofold being."

Clement of Alexandria, who influenced Eastern theology in more than one way, writes that in marriage man reveals that he was made in the image and likeness of God because he becomes the creator of another human being, thus a collaborator of God. Marriage is a necessity "for the nation, for posterity and for the perfection, so far as it depends on us, of the world."<sup>15</sup>

Whether explicitly or implicitly matrimony was considered by the early Church to be a mystery or a sacramental event. Indeed to the present day it is considered a type of the presence in and the union of Christ with the Church. As Christ the Head is united with the Church, which is the Body, in a spiritual and real union, likewise marriage is the mystery of the physical and spiritual intercourse of the husband with his wife,<sup>16</sup> who are immersed as a unit within the Church and united in the Body of Christ.<sup>17</sup> The

<sup>13</sup>Methodios of Olympus, "The Banquet of the Ten Virgins, Discourse II, 2" *The Ante-Nicene Fathers*, VI (Grand Rapids, 1961), 314.

<sup>14</sup>Clement of Alexandria, *Instructor*, II, X: "Καὶ κατὰ τοῦτο εἰκὼν ὁ ἄνθρωπος γίνεταί τοῦ Θεοῦ, καθὼς εἰς γένεσιν ἀνθρώπου ἄνθρωπος συνεργεῖ."

<sup>15</sup>*Ibid.*, *Stromata*, II, 23, ed. MPG, vol. VIII, col. 1089.

<sup>16</sup>Cf. John Chrysostom, *Homilies on Colossians*, Homily 12.

<sup>17</sup>Metropolitan Kritopoulos, "Ὁμολογία τῆς Ἀνατολικῆς Ἐκκλησίας," I. Karmires, *Τὰ Δογματικά καὶ Συμβολικά Μνημεῖα τῆς Ὁρθοδόξου Ἐκκλησίας* II (2nd Edition, Graz, Austria, 1968), 542.

canonist Theodore Balsamon used christological terminology to describe the union of husband and wife. They become almost one soul, viewed in two *hypostaseis*. The incarnate Christ is glorified through many mysteries, as well as through the sacramental nature of marriage.<sup>18</sup> The Church elevated marriage from the state of natural and civil law to that of divine law, transcending all previous concepts as inadequate. The physical union of two faithful came to be ratified and sanctified by the Church which assumed the role of mother and guide in the family's life.

#### B. *Historical and Theological Development of the Blessing of Marriages*

Notwithstanding the theoretically sacramental character of marriage in the early Christian centuries, in practice marriage had only political and civil significance. Christians were obliged to marry according to the provision of Roman Law and it seems that the Church accepted the sacredness of marriage even though it may not have been blessed by a bishop or a priest. There is no evidence that the Church remarried her members. It seems that for several centuries the blessing of a marriage by the Church was not required.<sup>19</sup> But we have more to say on this later.

Beginning with the second century, however, churchmen began to insist that those contemplating marriage must present themselves to their bishops to ask for their sanction. For example, Ignatius of Antioch (d. 110) exhorted those of both sexes who contemplated marriage to enter the union with the sanction of the bishop; thus their marriage would be acceptable to the Lord and not just gratify lust.<sup>20</sup> No doubt Ignatius tried to awaken a new spirit concerning the sanctity of marriage which symbolizes the bond between Christ and the Church. He emphasized the centrality of the bishop's office as the dispenser of mysteries and the bishop's authority in the Christian Church. Athenagoras, the Athenian philosopher and apologist of the second century, writes that the Christians "leaving the hope of eternal life" despised the things of this life . . . and reckoned their wives, whom they married "according to the laws

<sup>18</sup>Theodore Balsamon, "Εἰς τὴν ἑξάδεκα ἑτάδων ἀνάπτυξιν" ed. Rhalles and Potles, *op. cit.*, IV, 561: "ἕνα σχεδὸν ὁμόψυχον ἄνθρωπον ἐν δυοῖς θεωροῦμενον ὑποστάσει."

<sup>19</sup>B. Stephanides, 'Εκκλησιαστικὴ Ἱστορία (2nd Edition, Athens, 1959), p. 454. Cf. Chr. Androutsos, Σύστημα Ἠθικῆς (Athens, 1925), p. 301.

<sup>20</sup>Ignatius, *To Polycarp 5*, edited by Apostolike Diakonia tes Ekklesias tes Ellados, II (Athens, 1965), 283-284.

laid down by us," only for the purpose of having children.<sup>21</sup> He does not indicate what kind of laws the early Church had adopted. Most probably Athenagoras referred to the laws concerning monogamy, the Christian position against Jewish and Gnostic practices. Their "laws" must have been supplemented and overcome the deficiencies of Roman or natural law. Several years later, we learn from Tertullian (d. 240) that the Church had in use a form of church marriage. But once again our knowledge is rudimentary. It seems that the Apostolic Church had introduced rules regulating marriage between her members, even though marriage was both a religious and a civil act.

It seems that as long as the Christians were persecuted during the first three centuries, the Church accepted marriages not blessed by a priest. In the fourth century and later, church fathers insisted on the sacredness of marriage and instructed their flock to seek priestly blessings. Basil the Great stressed that it is natural for human beings to be married. But marriage must be not only a natural bond but also a yoke under the blessing of the Church, a spiritual union of two people of opposite sexes.<sup>22</sup> Saint John Chrysostom is much more explicit in his description of marriage as a sacrament, indicating that priests should be invited to bless a marriage, condemning pagan marital celebrations which ridiculed the "pious mystery of matrimony."<sup>23</sup>

Timothy of Alexandria (d. 385) indicates that the Church might have established a formal marriage tradition in the second half of the fourth century. To a question which was directed to him during the Second Ecumenical Synod (381) he answered that when a priest is invited to bless a marriage and learns of reasons which should prevent such a marriage, the priest should not proceed in the blessing lest he partake of a sinful affair. The question itself reveals that it was a practice in the 380's for the clergy to conduct marriage ceremonies.<sup>24</sup>

In addition to these fourth century church fathers, Gregory Nazianzenos in a letter to a certain Procopios wrote that the marriage

<sup>21</sup>Athenagoras, *Supplication for the Christians*, ch. 33 ed. Apostolike Diakonia, IV (Athens, 1955), 308.

<sup>22</sup>St. Basil the Great, *Homily VII in Hexaemeros*, 5. Marriage is "ὁ τῆς φύσεως δεσμός, ὁ τῆς εὐλογίας ζυγός, ἕνωσις ἔστω τῶν διεστώτων."

<sup>23</sup>St. John Chrysostom, *Homily XLVIII in Genesis*, MPG vol. 54, col. 443. Cf. *ibid.*, "De Verbis illis Apostoli," 2, MPG, vol. 51, col. 211.

<sup>24</sup>Rhalles and Potles, *Σύνταγμα*, IV, 337.



of the great philanthropist Olympias was blessed by or in the presence of bishops.<sup>25</sup>

Synesios, that marvelous Christian humanist of the fourth century, when defending his decision to keep his wife even though he had been raised to the office of bishop, stated that he could not dismiss his wife because it was God who gave her to him; it was the law and it was by the hand of Theophilus, the Patriarch of Alexandria, that his wife was joined to him. Synesios insisted that he would not send his wife away and would not have relations with her in secret like an adulterer.<sup>26</sup>

The anonymous author of the *Praedestinatus* reveals that ecclesiastical matrimony was common in the fifth century,<sup>27</sup> but his testimony is not confirmed by other contemporary sources. There are few concrete examples of people going to a priest or to a bishop to be married. We know that in 601 Patriarch Kyriakos of Constantinople (595-606) conducted the marriage ceremony of Theodosios, the son of Emperor Maurice (582-602), to the daughter of a certain Patrician named Germanos. A few years later, Patriarch Sergios (610-638) blessed the marriage of Emperor Heraklios (610-641) to his first wife Eudocia.<sup>28</sup> However insufficient, there are other sources of the eighth and ninth centuries which confirm that the Church had a form of religious nuptial service.

Theodore the Studite wrote that it is God who instituted the sacrament of marriage when he made man male and female and ordered them to multiply and conquer the earth. In a letter concerning the merits of a second marriage, Theodore Studite reveals that marriage was a sacrament performed by clergymen, the presbyters in particular. Crowning of the couple during the ceremony had been well established in the eighth century.<sup>29</sup> And his contemporary Patriarch Nicephoros the Confessor in his 34th canon speaks of marriage by religious blessing of *ierologia*. Nicephoros writes that the Church should refuse to accept contributions from a man who lives with a concubine and refuses either to dismiss her or to marry

<sup>25</sup>Gregory Nazianzenos, *Epistles*, No. CXIII, to Procopios, MPG, vol. 37, col. 316C.

<sup>26</sup>Synesios, *Epistles*, No. 105, MPG, vol. 66, col. 1485A.

<sup>27</sup>Schwane, II, p. 872: "Emendate ergo Ecclesiae regulam, damnate qui in toto orbe sunt sacerdotes, nuptiarum initia benedicentes, consecrantes et in Dei mysteriis sociantes."

<sup>28</sup>Theophanes, *Chronographia*, ed. C. de Boor, I. 297

<sup>29</sup>Theodore the Studite, *Epistles*, Bk. I, No. 50, MPG, vol. 99, col. 1093A-1096A.

her because by his behavior he displays contempt for the feelings and traditions of the Church.<sup>30</sup>

*C. Religious or Civil Rite?*

It is beyond any doubt that the early and the medieval Church had elevated matrimony to a sacrament. It is equally certain that the Church urged her faithful to honor marriage as a mystery and to seek a religious ceremony. Nevertheless, there is no direct evidence that the Church considered an ecclesiastical service obligatory for the sacrament to acquire validity. There is no testimony that it considered non-ecclesiastical matrimony liable to canonical sanctions, such as withholding Holy Communion, as is the case today. We do not know how a religious matrimony was conducted. And for several centuries there was no unanimity among church fathers as to the exact number of church mysteries or whether marriage was included among them. Justin the Martyr and Philosopher mentions only two; Saint Cyprian, five; Tertullian, six; Saint Cyril of Jerusalem, three; Saint Ambrose of Milan, three; Theodore of Mopsuestia, three; Pseudo-Dionysios the Areopagite, six; Saint Augustine, two (elsewhere he speaks vaguely of more than two); Saint John of Damascus, two; and Saint Theodore Studites, six.

It was not until the year 1270 that a monk named Job mentioned seven sacraments explicitly. A few years later, in the Council of Lyons (1274), the Greek delegation led by the Emperor Michael VIII Paleologos accepted a statement of faith submitted to them by the Church of Rome and agreed to the existence of seven sacraments.<sup>31</sup>

From the Apostolic age, some Christians sought the blessings of the Church in their marriage after they had fulfilled the legal requirements while others simply contracted a legal marriage as prescribed by the state law. There was no sharp differentiation between Church and State, and Roman law had been sanctioned and sanctified by the Church. What was lawful was acceptable to the Church. Thus the fourth century documents known as *Constitutions of the Holy Apostles* advised unmarried people to learn not to commit

<sup>30</sup>Nicephoros, *Canons* 34, Rhalles and Potles, *op. cit.*, IV, 430.

<sup>31</sup>A. Theiner and F. Miklosich, editors, *Monumenta Spectantia ad Uniorem Ecclesiarum Graecae et Romanae* (Vindobonae, 1872), pp. 17-18, 27-28.

fornication but to contract marriage *according to the law*<sup>32</sup> or to marry *after a lawful manner*, for such marriage is blameless.<sup>33</sup> It is very doubtful that "law" here means a religious rite—it means the state law.

In the sixth century the religious blessing of a marriage gained a place alongside the civil ceremony. Justinian's seventy-fourth Novel, issued in 538, made it clear that a marriage was lawful, if it was contracted either by the state official, the *ekdikos*, who could have been ordained, or by a priest. As long as a man and a woman had cohabited by common consent and had become parents of children, their marriage was recognized as legal and genuine. People of the middle class in particular could be married by taking oath before the advocate (*ekdikos*) of the state and in the presence of two to three priests of the Church. The state officer would register the marriage, issuing a kind of certificate.<sup>34</sup>

Later in the eighth century, the legislation of Leo III and his son Constantine V reveals that it was a practice for people to contract their marriage either in the Church by blessing or before friends as witnesses. Once again, however, the law did not make the religious ceremony a requirement for the validity of marriage. A couple's mutual consent before witnesses or the clergy was the necessary element.<sup>35</sup> The Church neither protested nor tried to replace the civil rite by a religious service.

Similar legislation was issued by Basil I in 879. He provided that the blessing of a marriage should be performed not in secret but in the presence of witnesses. Nevertheless there is no indication that marriage by the Church was the only practice.<sup>36</sup> Basil's legislation stresses the need for lawful marriages contracted either by the blessing of the Church or according to civil law. The critical element was still the mutual consent of a man and woman.<sup>37</sup> According to the *Epanagoge*, marriage could be contracted "either

<sup>32</sup>*Constitutions of the Holy Apostles*, Bk. VIII, ch. 32, ed. Apostolike Diakonia, II (Athens, 1955), 164.

<sup>33</sup>*Ibid.*, Bk. VI, Ch. 14, pp. 103-104.

<sup>34</sup>Justinian, *Novel LXXIV*, ch. 5, ed. R. Schoell and Kroll, *Corpus Juris Civilis*, III (Berlin, 1959), 376-377.

<sup>35</sup>*Eccloga II*, 8, ed. John Zepos and P. Zepos, *Jus Graecoromanum*, II, (Athens, 1931), 23.

<sup>36</sup>*Procheiros Nomos*, Title Four 27, ed. by J. Zepos and P. Zepos, *Jus Graecoromanum*, vol. II.

<sup>37</sup>*Procheiros, ibid.*, Title four 1, 17, Zepos and Zepos, pp. 124, 126.

by blessing, or by crowning, or by mutual agreement before witnesses'.<sup>38</sup>

There is no doubt that the Church had a rite of matrimony from the early Christian centuries, even though marriage had a civil character as well. During the medieval or Byzantine period, marriage continued under these categories. Couples could be married in the Church by a priest, or could present themselves to the officer in charge of legal proceedings of the city, declare their consent to be married, and receive a certificate of registration or marriage. We do not know the reaction of the Church toward a civil marriage. We do know, however, that civil marriage was abolished in 893 by the 89th Novel of Leo VI, which made the ecclesiastical rite the only legal rite.<sup>39</sup> Alexios I confirmed Leo VI's legislation,<sup>40</sup> and ever since Orthodox Christians have been obligated to be married by the Church.

It is an indication of the flexibility and the tolerance of the Church that matrimony had civil significance and was considered legal even if contracted outside the Church.<sup>41</sup> The service of matrimony as it exists today in the Orthodox Church is a development of later than the twelfth century. The sacrament as a liturgical act was very brief for ten centuries.<sup>42</sup>

Despite the concrete legislation of the tenth century, marriages were contracted in the high middle ages, in the thirteenth and fourteenth centuries, without a religious ceremony. The Church must have tolerated them. However, at the insistence and perhaps on the initiative of the able Patriarch Athanasios I (1289-1293, 1303-1309) the Emperor Andronikos II Paleologos (1282-1328) issued a novel in 1306 which stated that no marriage would be recognized as valid unless it had been performed by the couple's priest according to the rubrics of the Church. The novel stressed that the Church is the only qualified institution to conduct matrimony.<sup>43</sup>

<sup>38</sup> *Epanagoge*, Title XVI.1, ed. Zepos and Zepos, *ibid.*, p. 274. See also XVI.1, p. 275.

<sup>39</sup> Leo VI, *Novel 89*, ed. Zepos and Zepos, I, 156.

<sup>40</sup> Alexios Comnenos, *Novel XXIV.1*, ed. Zepos and Zepos, I, 306 and Rhalle Potles, *op. cit.*, II, 500.

<sup>41</sup> Milas, *Ἐκκλησι. Δίκαιον*, p. 826; Stavrinou, *op. cit.*, p. γ'; cf. Ph. Koukoule *Βυζαντινῶν Βίος καὶ Πολιτισμός*, IV, 93.

<sup>42</sup> P. Trembelas, *Μικρὸν Εὐχολόγιον*, I, (Athens, 1950), 10.

<sup>43</sup> Andronikos the Elder, *Novel XXVI*, Ch. 11 ed. Zepos and Zepos, p. 536; c. Nikodim Milas, *Τὸ Ἐκκλησιαστικὸν Δίκαιον*, pp. 821-831.

#### D. *Mixed Marriages*

From the fourth century on, the Eastern Church demanded that the two partners to a marriage should be of the same Orthodox creed. Marriage of a Christian with a Jew or with an infidel was forbidden and if contracted was declared illegal.

The Church forbade marriage with heretics as well while she was tolerant of marriage with schismatics. The 14th canon of the Fourth Ecumenical Council forbade an Orthodox Christian to contract a marriage with an heretical woman. The 26th and 72nd canons of the Synod in Trullo reiterated the same prohibition. But the Synod in Trullo went even further than Chalcedon and advised that, if contracted, such a marriage should be dissolved. Similar canons had been issued by local councils, for example, the 10th and the 31st canons of Laodicia and the 21st canon of Carthage. The 31st canon of Laodicia allowed a marriage between an Orthodox and a heretic, provided the heretic converted to the Orthodox faith.<sup>44</sup>

The Nomocanon of Photios states that if one of the partners of the marriage be Orthodox, the other heretic, *their children* must become Orthodox.<sup>45</sup> While in theory mixed marriages were forbidden either with infidels or with heretics, in practice we find numerous mixed marriages between Orthodox and heretics as well as between Orthodox and non-Christians, especially among members of the imperial families and the upper classes. Their numbers multiplied after the tenth century and were rather common after the thirteenth. The Orthodox Church applies the principle of *economia* much more to Holy Matrimony than to any other sacrament.<sup>46</sup>

After the fourth crusade, both the Eastern and the Western Churches were inconsistent in their attitude toward mixed marriage. Sometimes the Latins were denounced as heretics, and at other times they were considered schismatics. On the other side, Pope Innocent IV denounced the marriage of John III Vatatzes with the daughter of Frederick II as a heretical marriage. Of course

<sup>44</sup>Rhalls-Potles III, 198. Note the commentaries of Zonaras and Balsamon, pp. 198-199: "εἰ δὲ αἰρετικοὶ βούλονται παῖδας αὐτῶν εἰς ἐπιγαμίαν δοῦναι πιστοῖς, ἐπαγγελλομένοις γενέσθαι πιστοὺς, ἐφήσω ὁ καρῶν τοῦτο."

<sup>45</sup>Rhalls-Potles, I, 270-272.

<sup>46</sup>See Hamilcar S. Alivizatos, 'Η Οικονομία κατὰ τὸ Κανονικὸν Δίκαιον τῆς Ὁρθοδόξου Ἐκκλησίας (Athens, 1949), pp. 91-94. Ieronymos Kotsones, 'Η Κανονικὴ Ἀποψις περὶ τῆς Ἐπικοινωνίας μετὰ τῶν Ἑτεροδόξων (Athens, 1951), pp. 206-236, in particular 232-236.

this was rather unusual because other Greeks in the twelfth century had married Roman Catholic wives without incurring any papal penalties or disapproval. Innocent IV had personal grudges against the father of the bride. When he excommunicated Frederick, he used as one excuse the fact that the German Emperor had given his daughter in marriage to a heretic king.<sup>47</sup> The Patriarch of Constantinople did not protest and overlooked the canonical objections. Canonical obstacles were overlooked by both Patriarch and Pope when Theodore Laskaris married Maria of Courtenay, the sister of the Latin Emperor of Constantinople Robert.<sup>48</sup> Two of Theodore's daughters married Latin husbands.

Mixed marriages between Orthodox and Latins were sought after the fourth Crusade for political reasons. Some Greeks felt that through intermarriage they would succeed in recovering Constantinople. But others, mostly from Greece proper, believed that no good could come of marriages between Orthodox and Roman Catholics. For example, Demetrios Chomatianos, the bishop of Ochrida and the most prominent canonist of thirteenth-century Byzantium, advised against the adulteration of the faith with "the Latin dogs." Chomatianos ruled that the Orthodox partner in a mixed marriage celebrated by a Catholic priest should be excommunicated and that any Greek priest who gave his blessing to such a union should be suspended.<sup>49</sup>

Nevertheless, there were Orthodox bishops who tolerated marriages between Orthodox Christians and Roman Catholics or even Saracens. The scholiast to the 13th nomocanon of Photios states that the Georgian Church, even though Orthodox and in full communion with Constantinople, had allowed marriages between Orthodox Christians and Saracens. The commentator expressed his dismay that bishops of the Georgian Church had allowed such non-canonical marriages.<sup>50</sup>

As late as the second half of the nineteenth century the Ecumenical Patriarchate, which set the pace for all autocephalous and Orthodox Patriarchates, forbade mixed marriages on the basis of the canons of the Ecumenical Synods. For example, the Holy Synod of the Ecumenical Patriarchate decreed in 1869 that mixed marriages were not allowed to be contracted and the validity of those that had been

<sup>47</sup>Matthew Paris, *Chronica Majora*, (RS) 1877, IV (1240-1247), pp. 299, 357, 453.

<sup>48</sup>George Acropolites, *Χρον. Συγγραφή*, ed. by A. Heisenberg, I, 27, 31.

<sup>49</sup>Chomatianos, ed. Pitra, *Analecta Sacra Spicilegio Solesmensi Parata*, vol. III (Rome, 1891), p. 713.

<sup>50</sup>Ralles and Potles, *op. cit.*, I, 272.

contracted was to be denied.<sup>51</sup> The Orthodox party who married a non-Orthodox was denied the sacrament of Holy Communion. But the priest might be permitted to administer the sacrament in time of emergency.<sup>52</sup> Nevertheless, ten years later the Ecumenical Patriarch declared that, in order to avoid painful consequences, the Church exercises leniency, forgives and consents to the blessing of a mixed marriage without publicity, in secrecy.<sup>53</sup>

Despite the earlier opposition of the Church, today mixed marriages are allowed between Orthodox and non-Orthodox Christians. Nevertheless there are certain conditions that must be born in mind: The non-Orthodox member must agree (1) to be married by an Orthodox priest, and (2) to have his/her children baptized and nurtured in the Orthodox faith.<sup>54</sup>

The local bishop has the authority to exercise his right of *economia*<sup>55</sup> (a judgment according to circumstances and needs). Through blessed *economia*, numerous mixed marriages were recognized during the seventeenth century and later.<sup>56</sup>

As we study the relations between the Orthodox and the Catholic Churches from the thirteenth century to the present, we observe that a certain inconsistency characterized both. Both Churches appealed to the letter of the law and tried to be strict. But in practice both Churches have disregarded the canons in one respect or another. Apparently both Churches invite their faithful to the ideal, but both settle for the practical and the humanitarian.

Today, Orthodox theologians are not in accord on the subject of mixed marriages between Orthodox and Roman Catholic because there is no unanimity concerning the validity of Roman Catholic sacraments. There is disagreement as to whether Roman Catholics are schismatics or heretics. A definition of heresy requires the ruling of an ecumenical synod and the Roman Catholics have never been condemned as such. Theodore Balsamon described them as technically heretics, to be barred from the sacraments, including marriage. But Demetrios Chomatianos argued against Balsamon's position. Chomatianos emphasized that the Latins had never been

<sup>51</sup>Michael G. Theotokas, *Νομολογία τοῦ Οἰκουμενικοῦ Πατριαρχείου* (Constantinople, 1897), p. 357.

<sup>52</sup>*Ibid.*, Minutes of May 20, 1878.

<sup>53</sup>*Ibid.*, Acts of May 20, 1878, June 20, 1879, Jan. 29, 1883.

<sup>54</sup>See Theotokas, *op. cit.*, pp. 354, 358 (Acts of the Holy Synod of the Ecum. Patr. of July 31, 1881, January 12, 1883, July 10, 1886).

<sup>55</sup>*Ibid.*, Acts of May 23, 1887, pp. 358-359.

<sup>56</sup>See Timothy Ware, Eustratios Argenti, *A study of the Greek Church under Turkish Rule* (Oxford, 1964), pp. 17, 20.

proscribed by a synod as heretics "nor like heretics, openly cast forth from the Church."<sup>57</sup>

Despite all high level anathemas on both sides of the Adriatic, relations between Orthodox and Catholic at the personal level were often amicable. Though mixed marriages sometimes increased conflicts between Orthodox and Catholic, often they tended to improve their every-day relationships.

The Orthodox as well as the Roman Catholic Churches have been inconsistent in their doctrine concerning the religious or sacramental origins and the practice of matrimony. It seems to me that both Churches shared common beliefs and followed similar practices in the development of this rite for several centuries. Mixed marriages became a problem after the thirteenth century, but once again both Churches were flexible and tolerant toward them.

It is my personal conviction that each one of the two Churches must now accept the validity of the sacrament performed in the other Church. There is abundant doctrinal and historical evidence to justify such a move.

The Church is commissioned to lead man to heaven but also to make his life happy here on earth. Mutual recognition of the validity of marriage, blessed in either Church, would eliminate much friction in many families of mixed marriages. To eliminate conflicts and facilitate the application of love is a Christian task and a Godly act.

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<sup>57</sup>Rhalls and Potles, *Σύνταγμα*, V, 434-436.