

The Canonical Framework for the Exercise of Church Law in Orthodoxy

Cristian Vasile Petcu

*Assoc. Prof. PhD., Ovidius University of Constanța, Romania
cv.petcu@yahoo.com*

ABSTRACT: From the beginning of the Church, the Christian faithful, vested with the authority of Jesus Christ and the Holy Apostles, have constantly stressed the importance of divine ordinances. In the Gospel of St John the Apostle, Christ reveals his central role in the work of the Church: "I am the way, the truth and the life" (John 14:6). On the basis of this truth, the Church's right to work for the Kingdom lies in the assumption of Christ, the supreme measure and model of all creation. Therefore, the Canon of the Church is founded on the work and teaching of Christ, the Head who realizes and keeps alive and whole the ecclesiological community. In this perspective, the Church's ordinance is the support of the saving work, the structure in which are methodically and systematically framed the elements of canon law by which the Church organizes and regulates its works in such a way as to contribute to the spiritual development of the Christian community, which is assured that it is always supported to advance on the path of salvation together with the community of believers who have already assumed, in good ordinance, life in Christ through communion with the Holy Mysteries.

KEYWORDS: church law, church canons, church judgment, church life

The order of church life and the necessity of church law

Since the emergence of the first Christian communities, the sacred text of the Holy Scriptures has been considered the basic source of the way in which the community life of believers should be structured. The concern of the early Christians to live in Christ-likeness is described by St Paul in his Epistle to the Galatians: „I am crucified with Christ: nevertheless I live; yet not I, but Christ liveth in me: and the life which I now live in the flesh I live by the faith of the Son of God, who loved me, and gave himself for me” (Galatians 2:20). The scriptural passage exhaustively constitutes the argument why Christians, beginning with the Holy Apostles, were firmly convinced that Christ Himself is the supreme model, the absolute type of all Christian life and ordinances. Christ has been and remains the structure and framework of the Church's canon, and what He has instituted is the total commitment which every believer must assume as a new covenant.

Thus, the first norms of Christian life are based on Christ and Holy Scripture, to which the Church is fully committed (Rotaru 2014, 23-44). The pastoral work of the Apostles was carried out on the same basis. From the beginning they exercised their missionary and pastoral ministry in the name of the Church. Their meetings with the other ecclesiological communities, the epistles which they addressed in order to set in order the new local Churches in the neighbourhood or far away, lay the foundations of ecclesiastical law as the universal canon law of the Church. The Apostles, as representatives of Christ, gathered at the Synod of Jerusalem, represent and constitute the Church itself in its integrity. Their authority is the authority of Christ, and the communities of Christians who receive the norms established by them accept them sine qua non through faith in Christ and the work of the Holy Spirit.

The model of Christian life, the relationships between believers as described in the book of Acts, became the measure of church life and a genuine way of communication between the different local Churches. In this way the path of dialogue between the Churches was built on the structure of the rules of Christian communication in a natural way. By respecting these rules, Christian identity was acquired. Springing from the source of life, which is Christ (Rotaru 2012, 5), generating life in the name of Christ in the ecclesiological community as the

Body of Christ, the Church gathered these rules into a canonical unity and shared them with all the local ecclesial communities so that they could grow and keep the new teaching pure.

Christian history has witnessed the perpetuation of this paradigm which has become a general model of assumption at ecclesial level of the canonical experiences already deepened by the local Churches. An emblematic event in this sense, founding canonical order, is the Synod of Sardica (343), where Osius of Cordoba asks those present to assume a canonical analysis of their own experience of church life. This Synod would later decide to apply this practice to the whole Church. Canon 10 Sardica stated, "Bishop Osius said, 'I also consider it necessary that it be examined with all care and diligence that if any rich man or scholastic of the forum should be worthy of becoming a bishop, that he should not first sit in the episcopate until he has fulfilled the office of a curate, and of a deacon, and of a presbyter, so that by each step, if he should deem himself worthy, he may progress to the episcopate. And he shall have the degree of each step for a length of time, of course not too short, by which his faith and honesty of morals, and his good character and good behavior may be known; and being counted worthy of the divine priesthood, he shall enjoy the highest honor. For it is not fitting, nor is it proper, that either the bishop, or the presbyter, or the deacon, or the deacon, should be so boldly and lightly disposed towards the episcopate, that they should be counted as neophytes; For even the Most Blessed Apostle, who was also the teacher of the Gentiles, is seen to have prevented the establishment of the hierarchical steps from being made too hastily; for research made over a longer period of time will be able to show the life and morals of each one according to what is fitting.'" They all said that they agreed and that these should not be abolished" (Floca 1976, 720-726).

By the decisions of the Trullan Synod the Canons of Sardica will be addressed and received by the whole Church and will be recognized as Holy Canons. Therefore, the Holy Canons are expressions of ecclesial experience that have been formulated and recorded synodically.

The canonical message of the Christian experience, which the ecclesiological communities founded by the Holy Apostles and their direct disciples transmitted to the sister churches thanks to both the prestige and the experience of their authors, acquired an ever greater scope and authority for those who approached the right teaching (Phidas 2008, 17). This becomes relevant if we note that the first normative aspects of the Church canons deal with both the problem of the laity and the problem of heretics, which generated the need to define the human dimensions of the Christian community, in order to give a useful definition to the Church, understood as a reality made up of people prone to temptation and sin, who need support to return to the pure, just and natural state for which they were created (Kniaseff 1980, 5).

The local synods, having initially had a simple character of meeting, aiming at consolidating the doctrine and the ecclesiastical order, received the previous ecclesiastical experiences, assumed disciplinary aspects specific to their period and gave them the character of canons for the improvement of the Church life. By observing the content and mainly the problems to which these canons respond, we can also identify the problems which the Church has faced in each historical period. We must not lose sight of the fact that, although they were conceived as ordinances of Church life, by their promulgation by the Byzantine emperors the canons became imperial laws. This promulgation increased their authority but, at the same time, led to a legality of their reception.

With the recognition of the major synods as ecumenical synods, the canonical texts they produced were also received as the disciplinary aspects through which Church doctrine is embodied in everyday life. The most important moment of this reception is given by the Trullan Synod, which proceeded to a systematization of the previous canonical tradition and thus we can now speak of a first codification of the canons of the Orthodox Church (Stan 1969, 629).

Jumping *ex abrupto* over time, in order to point out the interest of the Romanian Orthodox Church towards the canon of ecclesiastical law, we will only recall that in the Romanian Countries, from the second half of the 19th century, canon law became a subject of study in theological schools (Stan 1968, 3-11). Andrei Saguna was the first hierarch who treated canon law. His works *Elementele dreptului canonic* and *Compendiul de Drept canonic* are written in Romanian and are distinguished by their original thinking, which shows the author's academic training. For this reason, the Compendium was translated and printed in several languages, such as in Bulgarian in 1871 and then in Russian in Saint Petersburg in 1872 (Stan 1968, 3-11).

Between 1905-1907, the three-volume work *Oriental Canon Law* appeared in Bucharest, authored by Marin Theodorian-Carada. This was followed by Chiru Costescu's *Collection of Laws, Regulations, Canons*, also in three volumes: vol. I - 1916; vol. II - 1925; vol. III - 1931. But the most important collection of Orthodox canons is entitled *Canons of the Orthodox Church with Commentaries*, and will be the work of Nicodemus Milas, Serbian Bishop of Zadar. It was translated into Romanian in Arad by Nicolae Popovici and Uroş Kovincici, and saw the light of print in two volumes between 1930 and 1936. For a detailed account of how canon law has evolved as a discipline (see Constantinescu 2010; Coman 1969, 399-409).

With all their complexity, the holy canons are not sufficient to cover all the activity of Church life. They do, however, largely reflect the way in which the Church has engaged with and taken up the challenges of the times (Şesan 1936, 147). Because of this, they offer us the opportunity to trace events and manifestations which have contributed to the development of canonical consciousness and which, together with the traditional elements of canon law custom and the specific norms of local Churches, contribute to canonical resolutions in distinct situations facing the Church. Therefore, understanding that it is not possible to speak of absolute criteria by which canonical conscience can be evaluated, it is necessary, in order to define the canonical dimension of ecclesial experience, to refer to the whole canonical tradition which "expresses not only an independent or horizontal development of a juridical positivism in the historical life of the Church, but the vertical authenticity of its historical relationship with the truth lived and held by the Church in the Holy Spirit" (Phidas 2008, 40).

The fact that canonical custom can be defined as an expression of ecclesial experience received, approved and tacitly practiced by a unanimous consensus of the Church is confirmed by Canon 39 Trullan, which enshrines the value of custom in law, making it clear that what the local Churches have agreed must be observed is worthy of continued application.

In the Canonical Tradition of the Church, along with the canonical custom and the Holy Canons, there are also the ecclesiastical norms. These have resulted from the experience of local Churches and the way they have dealt with the problems they have encountered. The norms which they developed and which have subsequently been observed in even more local Churches, based on the same canonical conscience, were issued on the basis of the principle of autonomy and autocephaly. As such, both the Canonical Charter of the autonomous or autocephalous Church and the Statutes of Organisation and Functioning of the autonomous or autocephalous Churches, as well as the decisions which the local Church authorities have motivated, have been accepted throughout the Church as Church norms or as Church legislation, emphasizing that the local Church, as a Sovereign Church, has the same authority to issue normative texts which can become binding, both in that jurisdictional area and where it is necessary to have recourse to them when similar cases arise in other jurisdictions of the Church. This canonical universality of the ecclesiological area is dogmatically based on the fact that in the Church, the Body of Christ, the Spirit manifests himself as the organic co-responsibility of the whole ecclesial body, both clergy and laity. It is a reality that, in the canonical context, is constituted as an organic principle (Clement 1968, 10-36).

The harmony of this ecclesial communion is manifested as an organic principle on the one hand in the episcopal synods and, to the same extent, in the joint bodies, which are made up of bishops, clergy and laity (Schneider 2008). Within this type of co-responsibility, in the original sense of the term, the role of exarch is played by the primate or proconsul recognized as exarch (Blondel 2013,63), who is like a choral conductor who enhances the individual voices by articulating them harmoniously. The cleric invested with the authority of the Church, as protos, exercises his ministry together with all those present, just as the choirmaster expresses himself through the voice of the orchestra. This is why, in the Church, all the choirs have to master the parts they have to perform very well, in order to highlight their vocation and thus contribute to the achievement of ecclesiological harmony.

This harmony, present in decision-making about the life of the Church, underpins the work of clergy and laity and helps to highlight the vocation and charisms that Christians possess both in common and separately. It is a co-responsibility under the direct governance of the ecclesial conscience, the organ of interpretation and application of the canonical ordinances according to the teaching of faith. This harmonious type of the ecclesiological canon, specific to the ecclesiological space, should not be confused with a social co-responsibility typical of popular democratic manifestation. Father Liviu Stan, a firm supporter of the principle of the bishops, clergy and faithful together, i.e. of the principle of co-responsibility in the Church, pointed out that "any corporation or mixed synod alongside the bishop or the bishopric must be considered as a consultative forum" (Stan 1938,119), which is why "the bishop remains the supreme authority in the Church, the mixed synod does not take this authority upon itself, but remains the main consultative forum" (Stan 1938,119). In the same sense he goes on to specify: "equality of votes between bishops and other lay representatives cannot be tolerated, because we would end up with the anticanonical aberration that in an assembly composed of bishops and laity in which the laity would be in the majority, the bishops would be forced to carry out some decisions against their canonical will and thus the episcopal character of the Church organization would be abolished" (Stan 1970, 9). In the Church, therefore, "each part must be in its place, observing its own role and duties, and not attempting any arrogation of extraneous powers, for this would produce disturbance and imbalance which does not build up the Church, but may destroy it" (Stan 1938,119).

According to canon law, an ecclesiastical ordinance is correctly applied by assuming its letter and spirit when the vocation for which it was formulated is deeply respected. In the correct application of canonical norms, rigor also implies careful attention to the specific circumstances of each individual case, so that the application of the norm contributes to and follows the attainment of the purpose for which it is decided. For this reason, in each individual case, the ecclesiastical court must take into account the specific circumstances in applying the norm. The particular manifestation of canonical norms is achieved through care and leniency. When the norm is applied beyond its traditional internal meanings, new meanings of old canons emerge. In such a situation, therefore, the Church exercises its canonical right of iconomy, which gives it the right to treat an exceptional and punctual manifestation as an exception to the norm. As such, the Church's canonical tradition reveals that iconomy is a complex ecclesial act through which canonical norms are particularised and thus become canonical principles (Dură 1999, 200) whose structure is realized on the basis of acrimony and pogrom, as attributes of iconomy that define the Church's ministry and work, and make up its organizational structure.

The Church's authority to judge

Christ reveals His supreme authority to the world in the words, "All power is given unto me in heaven and in earth." (Matthew 28:18) It is on the basis of this supreme, divine power that He

addresses His followers: "Go therefore and teach all nations (that is, in the name of this principle proclaim it everywhere), baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all that I have commanded you" (Matthew 28:18-20). In these two dogmatic foundations we find the key to the Church's organizational structure based on the relationship between authority, power and responsibility within the ecclesiological space.

The first statement is clear because it reveals that Christ is the source of one's decisions. That everything He says is a truism and, as such, His will is not separate from God's will because He is God. The second part, however, has nuances that require a tailored approach, because by "teaching them to observe all that I have commanded you" Christ, in addition to specifying exactly what the apostles and their followers have to do, also reveals the teaching, pedagogical dimension of the Church, whereby she must address the world to Christ by her own example. In other words, the Church must be the first guardian and keeper of the divine commandments in order to bring forth "new disciples from water and spirit" (John 3:5) through the sacraments.

This type of disciples respects and fulfills the Church's commandments because, in complete freedom, they cherish Christ. It is a fundamental nuance in understanding how the Church's canons work in the relationship between ministry and ecclesial responsibility, but also how it is necessary for those being shepherded to freely engage and assume the fulfillment of the commandments and observance of the canons by understanding the responsibilities they have in the saving work of the Church. It is a matter of being aware and assuming freely and above all responsibly the status of disciple and accepting with esteem the teaching on spiritual fatherhood.

The status of the apprentice reveals the responsibility he has acquired by taking on the apprenticeship act he has to fulfill. If the commitment that the disciple has assumed is not followed with holiness, the spiritual father has the right, with acuteness, leniency and power, to rebuke him towards correction, following the model of a loving and humble father. Therefore, through the canonical ordinance, the Church does not aggressively enforce the observance of the commandments, but by its own example of service, reveals to all the supreme way to make disciples. This spiritual method, however, is not without authority, because its power of decision resides in the authoritative power of Christ.

This way of administering the canons of the Church, by interweaving the work of spiritual paternity with the full commitment of discipleship, in no way diminishes or nullifies the authority of the canons of the Church, because they are expressions of the living relationship between "the authority and the source of ecclesial authority which is Christ, the unseen perfecter of the sacramental work" (Patriciu 2013, 9), the One who "touches human flesh in a visible and perceptible way through those chosen by Him (Patriciu 2013, 9)." Father Stăniloae highlights both the complexity of this canonical relationship and its importance, pointing out that, "since the Body of Christ has become - through the ascension - pneumatalized and invisible, while remaining nevertheless a joined body, the touch of our body by His Body is no longer visible. In order to touch us visibly, Christ uses the matter with which our body is connected. Christ sanctifies us by using the material that has a special role in human life: bread, water, wine, oil" (Stăniloae 1978,12).

Just as Christ most effectively accomplishes the sacramental ministry through interpersonal relationship, building this interweaving on the work of the person who freely chooses and accepts to remain Christ's sharers through ordination (Stăniloae 1978,18), so in the common, ecclesiological collaboration between bishop, priest and faithful, the Church's ordinances are canonically accomplished by the authority of Christ, who is fully at work in them. The act of electing a person and empowering him or her, endowing him or her with the dignity of Christ by the Church in order to perform the sacraments, constitutes the sharing of Christ's work and knowledge. In this process of deification, the canons of the Church

represent the guardian angel who watches over the authentic preservation of His Word throughout the Church as a means of correction and unity (Stăniloae 1978,20).

These are the dogmatic arguments for which the Church and those who are invested with the authority of Christ exercise the ministry of judgment. It is natural, therefore, that the Church's judgment should spring from a correct and, of course, above all loving parental attitude, constantly concerned to correct the one who has erred in order to save him. As such, because the authority of the judges who impart the justice of Christ in the name of the Church is reinforced by Christ Himself, Who is the supreme judge, all those who undertake the fulfillment of ecclesiastical judgment must commit themselves fully and with great earnestness to the observance of the teachings of Christ, Who so taught and admonished the Holy Apostles: "If thy brother shall err unto thee, go, rebuke him between thee and himself. And if he obeys you, you have won your brother. And if he does not obey you, take one or two others with you, so that from the mouth of two or three witnesses the whole word may be established. And if he will not listen to them either, tell it to the Church; and if he will not listen to the Church either, let him be to you as a heathen and a publican" (Matthew 18:15-17).

Here the Church's acumen in the application of the canons is evident, for she must look very carefully at each individual case and take into account the wisdom of the person being judged. At the same time, it must not forget to examine with care the spiritual maturity and moral capacities which the accused has developed. His power to humble himself and to accept to listen towards correction. At the same time, Christ emphasizes the role of witnesses in finding the truth so that: "out of the mouth of two or three witnesses let every word stand" (Matthew 18:16). Being reprov'd towards correction, through the witnesses' references, the person before the court will personally analyse himself through what they have said and thus, by introducing into the act of justice several distinct views, the horizon of a personal choice in making a decision is exceeded, which is why the court can correctly and accurately appeal to the best canons that can be administered towards the sinner's correction. Canon 5 of the First Ecumenical Council highlights the role of witnesses for the purpose of a just judgment. Canon 5 of the First Ecumenical Council: 'As regards those who have been excommunicated (afflicted) ... let it be examined, however, whether they have become excommunicated because of the impoverishment of soul (smallness of soul) or because of malice or any other such fall of the bishop. Therefore, in order that this may be investigated as it is expedient, it was thought (seemed) good to have synods every year, twice a year, in each diocese (metropolis), so that the body of all the bishops of the diocese (metropolis) gathered together might investigate questions of this kind...' (Floca 1991, 18).

Conclusions

All ecclesiological ministries, including those which include jurisdiction and judgement of the faithful, the Church performs in a general pastoral setting, being continually concerned to exercise them with authority and in the name of Christ. The Church's judgement is to be carried out only for the sake of correction and a constant learning to assume the divine commandments, through which human freedom and dignity (Rotaru 2016, 29-43) are enriched in Christ (Rotaru 2019, 201-205). As those responsible for the work of the Church, the bishop and the priest have the duty to be always overwhelmed by the fulfillment of a just, correct and lively preaching in the ecclesiological space. They must therefore be the first to respect and fulfil the teaching and canons of the Church. However, assuming these responsibilities means going beyond individual responsibilities, because the service that Christ demands means total openness to the other. The framework of hierarchical-synodal co-responsibility here defines the way in which the Church is called to assume responsibility for the application of the canons and especially for the carrying out of the judgment of Christ in whose name human justice is fulfilled through the bodies invested with authority to carry out ecclesial judgment.

The canons and the judgment of the Church are part of the ministry of God's Word. This is the foundation of the work done in the ecclesiological area according to the Gospel text: "Therefore go and teach all nations... teaching them to observe all that I have commanded you" (Matthew 28:18-19). The right and correct preaching of God's word gives meaning to the sacramental ministry of the Church, which becomes fruitful through the believers' assumption of voluntary and conscious communion with the divine person.

On the basis of the teaching of faith, the Holy Canons and the custom of canon law, the Church has generated and perfected the fundamental principles of its operating space. In turn, these decisions, which sprang from the concrete experiences of the Church's life, have been framed as her canonical principles. Canonical principles therefore lose all value if they are dissociated from the Church's work and "vocation (Rotaru 2022, 585-595). This is why their analysis and assumption must be carried out in a pastoral-missionary framework.

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