MARRIAGE BETWEEN CHRISTIANS AND NON-CHRISTIANS: ORTHODOX AND ROMAN CATHOLIC PERSPECTIVES

Patrick Viscuso and Kristopher L. Willumsen

PRECIS

The Orthodox and Roman Catholic views of marriage are often strikingly different. Even where similarities exist, they are supported by divergent theological and canonical traditions. For distinct reasons, neither community acknowledges the sacramental nature of a marriage between a baptized believer and a non-Christian. While Orthodox practice is to prohibit such marriages, Roman Catholics recognize a natural marriage that, though nonsacramental, is valid. Recent trends in the policy of the Greek Orthodox Archdiocese and in theological reflection—especially by Demetrios J. Constantelos—suggest areas of convergence between Orthodox and Roman Catholics.

This essay examines the question of marriage between Christians and non-Christians from both Orthodox and Roman Catholic perspectives.

The Orthodox viewpoint emphasizes canonical practice within the Greek...
Orthodox Archdiocese of North and South America. The basis for the Orthodox Church's current prohibition of marriage with non-Christians is presented. Recent trends within the Archdiocese favoring the marriage of Orthodox and nonbaptized partners are also discussed.\(^1\)

From the Roman Catholic perspective, the canonical reasoning for allowing disparity-of-cult marriages is presented, based on the 1983 revised Roman Catholic Code of Canon Law (\textit{Codex Iuris Canonici} or CIC/83). This includes a discussion of natural and sacramental marriages as well as the religious value of unions contracted between Catholics and nonbaptized spouses. Theological and canonical issues arising from these marriages are briefly outlined.\(^2\)

Overall conclusions are reached regarding the similarities and differences between the views of both churches with an emphasis on implications for ecumenical relations.

\textit{Orthodox Canonical Practice}

There are three main reasons why the Orthodox Church currently does not permit marriage to be contracted with non-Christians.

The first concerns the formation of marriage. Matrimony is established through sacerdotal blessing. The mutual consent of the couple is regarded as a prerequisite but not the constitutive element of the sacrament or mystery. The union of the spouses takes place by the grace imparted through the priestly vessel. The priest is considered the minister of the mystery.\(^3\) Divine grace is made present through the priest's \textit{epiklesis} or invocation of the Holy Spirit. This \textit{epiklesis} takes place during the marriage crowning rite. Since the Orthodox Church does not permit the reception of sacramental blessings by nonbaptized persons, a non-Christian is unable to participate in the Orthodox marriage ceremony.\(^4\)

\(^1\)The Greek Orthodox Archdiocese of North and South America is the largest Orthodox jurisdiction in the Western Hemisphere and the eparchy of the Ecumenical Patriarchate of Constantinople in the Americas. Its archbishop, who holds the titles of eparch and primate, is directly appointed by the patriarchal synod. For general information on the history and structure of the Greek Orthodox Church, see Demetrios J. Constantelos, \textit{Understanding the Greek Orthodox Church: Its Faith, History, and Practice}, 2nd ed. (Brookline, MA: The Hellenic College Press, 1990).

\(^2\)A text and excellent commentary on the 1983 Code is found in James A. Coriden, Thomas J. Green, and Donald E. Heintschel, eds., \textit{The Code of Canon Law: A Text and Commentary} (New York and Mahwah, NJ: Paulist Press, 1985). Unless otherwise noted, all citations of canons are from this text. The term "disparity-of-cult marriage" refers to marriages between Catholics and nonbaptized persons.

\(^3\)This was made clear by the May 20, 1970, "Agreed Statement on Mixed Marriages" of the United States Orthodox-Catholic Consultation: "According to the view of the Orthodox Church the marriage of an Orthodox can only be performed by an Orthodox priest as the minister of the sacrament" (Edward Kilmartin, \textit{Toward Reunion: The Orthodox and Roman Catholic Churches} [New York and Ramsey, NJ: Paulist Press, 1979], p. 75).

Marriage between Christians and Non-Christians

The second reason deals with the legal nature of matrimony. Orthodox canonical practice is based on Byzantine civil and ecclesiastical law. According to the Byzantine canonical tradition, the main definition of matrimony was formulated by the third-century Roman jurist, Herennius Modestinus: “Marriage is the union of a man and a woman, a consortium for all of life, and a sharing of divine and human law.” Byzantine civil and canonical commentaries consistently linked the third part of the definition, “a sharing of divine and human law,” to the sharing of a common religion. According to these commentaries, attempted unions between Orthodox and non-Orthodox did not fulfill the definition of matrimony and were characterized as “without foundation.” The prohibition of such marriages was based on the view that they were not true unions.

The third reason is related to the purpose of marriage. According to many Orthodox theologians and canonists, the primary end of marriage is spiritual: the spouses’ salvation in Jesus Christ as their Lord, God, and Savior. A Christian marriage is understood as one in which the partners share this aim as the common purpose of their married life. As the major Orthodox canonist, St. Nikodemos of the Holy Mountain (c. 1748-1809), stated:

Interpreting the text “only in the Lord” [1 Cor. 7:39], Basil the Great himself states (Oration concerning Virginity) that it shows how marriage must have as its principal purpose, not for the spouses to satisfy their passion for pleasure and desires of the flesh, but for them to be of spiritual assistance to one another, in order to complete this life. Marriage has procreation as a secondary purpose, and takes for its model the word that God spoke to Adam before the creation of Eve, “Let us make for him a suitable helpmate” [Gen. 2:18, LXX], which makes clear that the principal assistance of marriage is psychical and spiritual.

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8 St. Nikodemos of the Holy Mountain, Rudder of the Metaphorical Ship of the One Holy Catholic and Apostolic Church of the Orthodox Christians or All the Sacred and Divine Canons (Athens: Astir, 1982), p. 615; for background on Nikodemos and his marital theology, see Viscuso, “The Theology of Marriage,” pp. 187-207. Although in Byzantine canon law marriage was also viewed as a remedy for fornication, with procreation seen as secondary, see Patrick Viscuso, “Purity and Sexual Defilement in Late Byzantine Theology,” Orientalia Christiana Periodica, vol. 57 (1991), pp. 399-408. However, Balsamon attributed holiness to marital relations by comparing the husband and wife to the persons of the Holy Trinity. According to Balsamon, the nuptial union
Matrimony is regarded not merely as a rite but also as a state of existence with a divine intent.

A fundamental disagreement concerning belief in the Lord Jesus Christ as God prevents the sharing of Christian faith and the common spiritual aim of salvation in the Savior. Christian married life is linked to shared faith in Christ. Without this common belief, the purpose of matrimony is frustrated, and the marriage cannot be considered Christian. The lack of a common Christian faith also raises the question of whether such unions can typify the relationship between Christ and the church (Eph. 5:21-32). The realization of this image in the marital union presupposes that the spouses have experienced and thus share in Christ’s love for the church as well as the church’s submission to Christ.

However, the continuance of marriages between Orthodox and non-believers contracted prior to conversion to the faith by one of the spouses is permitted as an exception, based on 1 Cor. 7:12-14. Under these circumstances, the Orthodox spouse is allowed to receive communion, which here represents a sign of the church’s acceptance. According to the Orthodox canonical tradition, the permission for the continuance of such unions is regarded as an exercise of economy based on scripture. The same sources do not view this exception as a general principle for Orthodox members to marry unbaptized spouses.

Another exercise of economy permits the marriage of Orthodox members to baptized Protestants and Roman Catholics. Such unions are permitted if the ceremony takes place in the Orthodox Church, the sole celebrant is an Orthodox priest, and the marriage is celebrated under the invocation of the Holy Spirit and the reception of the divine blessing. The consent is an openness for the reception of a blessing that bestows in potential a union that strives after salvation. It is thus also a mutual commitment to realize this union so that it might become a Christian marriage. For a detailed analysis of this theology, see Patrick Viscuso, “Marital Relations in the Theology of the Byzantine Canonist Theodore Balsamon,” Ostkirchliche Studien 39 (December, 1990): 281-288.

9To the rest I say, not the Lord, that if any brother has a wife who is an unbeliever, and she consents to live with him, he should not divorce her. If any woman has a husband who is an unbeliever, and he consents to live with her, she should not divorce him. For the unbelieving husband is consecrated through his wife, and the unbelieving wife is consecrated through her husband. Otherwise, your children would be unclean, but as it is they are holy** (R.S.V.).

10E.g., the seventy-second canon of the Council in Trullo forbade the marriages of Orthodox to unbaptized spouses, but at the same time it recognized on the basis of scripture the continuance of unions where one of the unbaptized partners converts to Orthodoxy; see also the commentaries of Balsamon, Zonaras, and Alexios Aristenos (twelfth century) on this canon, in Rhalles and Potles, Symmagra, vol. 2, pp. 472-473.
Orthodox priest, and the couple promises to make every effort to raise their children as Orthodox. While the non-Orthodox spouse remains outside of the Orthodox Church's communion, the Orthodox spouse is permitted to continue receiving the mysteries.¹¹

Protestant or Roman Catholic spouses are prohibited Orthodox mysteries because they do not share in the faith of their partners. Nevertheless, if they have been baptized with a trinitarian formula within their own communions, they are permitted to receive the mystery of marriage. The resulting situation is obviously inconsistent. The administration of a sacrament to a non-Orthodox spouse implies the recognition of the baptism outside of the Orthodox Church. It appears to affirm the oneness of Christian faith among the Orthodox, baptized Protestants, and Roman Catholics, and, consequently, it calls into question the prohibition of the remaining mysteries to non-Orthodox. In fact, the spiritual purpose of matrimony, the mutual assistance each spouse renders for the attainment of salvation, requires oneness of faith and implies the common reception of the mysteries—most of all, the eucharist.

Recent Trends in Orthodox Canon Law

One of the major scholars in the Archdiocese to deal with matrimonial law and theology is Demetrios J. Constantelos. He has devoted a book-length study to matrimony and has published extensively on the subject. His views concerning recognition of marriage with non-Orthodox are receiving serious attention.¹²

Constantelos believes that the sacramental nature of matrimony is based on the divine creation of humanity as a twofold being, consisting of male and female, and on the subsequent natural call of man and woman to realize the oneness of their compound nature through union. From this perspective, the institution of marriage as a sacrament occurred in paradise. Marital consent is viewed as the essential element in establishing matrimony. Through consent,

¹²His publications on matrimony include the following: Demetrios J. Constantelos, "Practice of the Sacrament of Matrimony according to the Orthodox Tradition," The Jurist, vol. 31, no. 1 (1971), pp. 614-628; idem, "Marriage and Celibacy of the Clergy in the Orthodox Church," in William Basset and Peter Huizing, eds., Celibacy in the Church, Concilium 78 (New York: Herder and Herder, 1972), pp. 30-38; idem, Marriage, Sexuality, and Celibacy: A Greek Orthodox Perspective (Minneapolis, MN: Light and Life Publishing Co., 1975); idem, "Marriage in the Greek Orthodox Church," J.E.S. 22 (Winter, 1985): 21-27; idem, Gamos, Sexualitēs, & 'Agama, Mia ellēnikē ı̊ρμ hoðôxe theorēse (Thessalonika: Bibliotetike Melissa, 1986). In 1988 his book on marriage was distributed by order of Archbishop Iakovos, primate of the Greek Orthodox Archdiocese, to all archdiocesan seminarians, and it was used as the main topic of discussion for the Annual Theological Conference of Religion Instructors (Thessalonika, 1987-1988). In May, 1988, Constantelos delivered an officially sponsored lecture on mixed marriage before the clergy of the Greek Orthodox Diocese of New England. His views on mixed marriage appear to have gained support among the higher clergy of the Archdiocese.
male and female are regarded as contracting a nuptial union that is consummated through intercourse and thus realizes the composite wholeness of human nature. Marital sexuality is viewed as possessing a sacramental nature based on its manifestation of humanity's composite wholeness.\(^{13}\)

The result of this position is the recognition of marriages between Orthodox and non-Christian partners:

First of all, we need to underline that it is not the blessing by a clergyman that makes marriage a mystery (or sacrament). The sacramental aspect of marriage depends on the bond of love, agreement and the union of the two halves of the human being into one. . . . For nearly 1,300 years marriage was not required to have an *hierologia* (Church blessing) and believers who married outside the Church were not deprived of its sacraments and services. . . . The essential idea that Paul put forward in his letter to our forefathers of Corinth, that the unbelieving or the non-Christian spouse is consecrated through its union with the Christian partner (1 Cor. 7:14) should be valid for the contemporary Church.\(^{14}\)

It should be noted that in earlier writings Constantelos argued that marriage should be recognized as taking place when an exchange of marital consent occurs between any two baptized trinitarian Christians who accept the Nicene-Constantinopolitan Creed.\(^{15}\) In his later thought, the necessity for baptism and belief in the creed on the part of the non-Orthodox partner is eliminated by a reliance on the scriptural passage, 1 Cor. 7:14. According to Constantelos, the Orthodox Church should recognize marriage with non-Christians, provided that the nonbaptized partner enters the union by free will and with a respect for the Orthodox spouse's beliefs. The scriptural passage is viewed as a mandate for the recognition of marriage between Orthodox believers and non-Christians. This interpretation appears to be reflected in recent patriarchal rulings.\(^{16}\)

There are several implications of this canonical and theological position. The notions concerning consent and the holiness of sexual desire are based on presuppositions that human nature is composite, that freely made choice


\(^{14}\)Demetrios J. Constantelos, "Marriage a 'Mystery' Not Dependent on Clergy," *The Greek American* [Astoria, NY], July 25, 1988, p. 5. According to Constantelos, the practice of the early church was diverse and included the use of marital blessing as well as the exchange of consent. In addition to such diversity, the practice and even the Orthodox Church's recognition of marriage as a sacrament have undergone development and change throughout history.

\(^{15}\)Constantelos, *Marriage, Sexuality, and Celibacy*, p. 60.

\(^{16}\)Previously, Greek Orthodox who married nonbaptized spouses outside of the Orthodox Church were excommunicated. This canonical practice appears to have changed: "At a meeting with his Clergy in Boston during the Clergy-Laity Congress, the Archbishop announced that he had received an answer from the Ecumenical Patriarchate on the subject. According to the Archbishop's statement, Orthodox Faithful married outside the Church may receive Holy Communion after having discussed the circumstances privately with their priest" (George Papaioannou, "Interfaith Marriages and the Orthodox Church," *The Orthodox Observer* [New York], September 28, 1988, p. 13).
Marriage between Christians and Non-Christians

reflects humanity's creation in the image of God, and, consequently, that the freely consented union of male and female best manifests the wholeness of human nature. If these notions are accepted as universally valid, then it might be possible to say that any Christian or non-Christian relationship in which two spouses have consented to a nuptial union consummated in intercourse is a manifestation of the human nature that was divinely established in paradise. The implication appears to be that the Orthodox Church may recognize not only marriages where there has been no priestly blessing between Orthodox and nonbaptized partners but even marital unions between two non-Christians.

The Roman Catholic Perspective: Natural and Sacramental Marriages

The current Roman Catholic Code of Canon Law (CIC/83) governing marriage clearly reflects the sacramental theology on which it is based. In both, the distinction between created nature and redemptive grace is evident. Natural human realities are elevated and perfected by Christ's grace, experienced in the saving mysteries. Accordingly, the code describes both the ends and properties of a natural marriage between two nonbaptized persons and how grace alters this natural reality, as when two baptized Roman Catholics are sacramentally married.  

These two types of marriage have much in common. When valid, both natural and sacramental marriages are a sharing of life (totius vitae consortium). They have the same two ends, "the good of the spouses" and "the procreation and education of children" (canon 1055-1). They also have the same two essential properties of marriage, unity and indissolubility (1056). In a valid marriage, whether natural or sacramental, there arises a bond, "brought into existence by the consent of the parties" (1057), that is exclusive and perpetual (1134).

What, then, is the difference between a natural and a sacramental marriage? Because grace completes nature, they have much in common. Nevertheless, sacramental marriage has a higher dignity (1055-1), and the sacramental character of the marital bond signifies a consecration to a new state in the church (1134). The principal canonical difference is that, in a sacramental marriage, the properties of marriage—unity and indissolubility—"obtain a particular firmness" (1056). Theologically, a sacramental marriage is a sign of fidelity between Christ and Christ's church (Eph. 5:25-32).

17 Though CIC/83 describes certain properties of all valid marriages, the notion of a natural marriage is not the same as the restricted contractual definitions of civil law. Mixed-faith marriages between Catholics and non-Catholic Christians, as well as between non-Catholics of different Christian communions, are regarded as sacramental marriages from a Roman Catholic perspective. This is because Roman Catholics recognize the validity of non-Catholic baptisms.

18 Discounting the logical difficulty of making sense of unity's or indissolubility's having degrees and so being particularly firm in the case of sacramental marriages, the intent of this and
Marriage between Catholics and Non-Christians

A marriage between two nonbaptized people is, though valid, always a natural nonsacramental marriage. A marriage between two baptized Roman Catholics is, when valid, necessarily a sacramental marriage (1055-2). But, what is the nature of the marriage and of the marital bond in the hybrid case of a couple who wish to be married when one person is a Roman Catholic and the other is a non-Christian?

A proposed marriage between a Roman Catholic and a nonbaptized person presents a diriment impediment (1086), which must be dispensed by the local ordinary (1125, 1126). This situation, described traditionally as a disparity of cult or disparity of worship, results in a marriage that is a natural marriage. It is a valid nonsacramental marriage. In Matrimonia Mixta Paul VI noted that "a certain communication of spiritual benefits . . . is lacking in a marriage entered into by a baptized person and one who is not baptized." Lacking the sacrament and its benefits means that the marriage also lacks the "particular firmness" described in canon 1056 and, so, for the "benefit of the faith" may be dissolved.

Though valid, a nonsacramental marriage resulting from the situation of a disparity of cult presents a few canonical problems. For one, such a marriage occasions an exception to canon 1055-2. It is the one instance where, for a baptized Catholic, a marital contract is not also a sacrament. Though married validly, a Catholic in such a marriage lacks the sacrament.

For the non-Catholic partner, an anomalous situation also arises. Though CIC/83 has authority only over baptized Catholics, the code claims jurisdiction over a nonbaptized person. Canon 1059 claims broad authority over all marriages where one person is a Roman Catholic. Canon 1117 further requires proper canonical form, namely, the Roman Catholic marriage rite. Even more problematic, canon 1125 (in light of 1086-2 and 1129) makes specific demands of the non-Christian as to the nature of marriage. This may put the non-Christian in the awkward situation of being required to assent to a belief (for example, the indissolubility of marriage) that in conscience might not be held. A non-Christian may thus be asked to act against his or her convictions in order to be married to a Catholic. Such an approach may overly restrict the natural right to marry.

The canonical difficulties with disparity-of-cult marriages reflect the theologically hybrid or asymmetrical nature of such unions. Some canonists have

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related canons is clear. Practically, there are degrees of dissolubility for reasons of a higher value. A natural or even mixed-faith marriage may be dissolved for a greater good; St. Paul allows as much in 1 Cor. 7:15.

19A "diriment impediment" is an impediment that forbids or invalidates a sacramental act; the local ordinary can dispense from impediments.

argued that these marriages might be regarded as sacramental for the Catholic but only natural for the non-Christian. The Jesuit scholar, Ladislaus Örsy, reflecting a consensus, rejects this position.\textsuperscript{21} The marriage is a shared bond—two people sharing one reality.

In the Roman Catholic theology of marriage, it is the mutual consent of the engaged partners, not a sacerdotal act, that effects the marital bond. The role of the priest is to witness the marriage. Consequently, the ministers of the sacrament are the couple being married. For these reasons a disparity-of-cult marriage cannot be sacramental. A non-Christian without baptismal faith cannot receive (much less—acting in the name of the Church—be the minister of) a sacramental act. By default, then, these marriages are natural marriages.

\textit{The Value of Valid Nonsacramental Marriages}

Though regarded as nonsacramental, natural bonds arising from a marriage of two non-Christians or of a disparity of cult are highly valued. Though Roman Catholic theology clearly distinguishes nature and grace, they are never separated. Nature is ordered toward grace, which completes it. Creation welcomes redemption; they have the same author. Nature has an openness to or an "obediential potency" for grace. Thus, natural marriage is, by nature, oriented toward the fullness of the sacramental reality.\textsuperscript{22}

In a disparity-of-cult marriage the Christian orientation of natural marriage is acute; in a sense, it is half fulfilled. St. Paul recognized the value of this situation in 1 Cor. 7:14, wherein he described marriages between Christians and non-Christians as a source of sanctification for the couple and their children. A valid nonsacramental marriage has considerable religious value. Such marriages function as natural sacraments of God's saving will.

\textit{Conclusions}

The Orthodox and the Roman Catholic viewpoints share the perspective that divine grace establishes sacramental marriage and that non-Christians are unable to participate in the sacrament. The Orthodox requirement of sacerdotal blessing for marriage results in the restriction of matrimony to members of the Orthodox Church and only by economy with other baptized Christians.


\textsuperscript{22}Pope Leo XIII made a classic and very strong statement of this position in his 1880 encyclical on Christian marriage: "Marriage has God for its Author, and was from the very beginning a kind of foreshadowing of the Incarnation of His Son; and therefore there abides in it a something holy and religious; not extraneous, but innate; not derived from men, but implanted by nature" ("Arcanum," no. 19, in Claudia Carlen, \textit{The Papal Encyclicals, 1878-1903} [Wilmington, NC: McGrath Publishing Co., 1981], p. 33).
before an Orthodox priest. Orthodox canon law and theology presently recognize such sacramental marriages as the only true marital unions. The Roman Catholic understanding that the exchange of matrimonial consent constitutes the foundation of marital union and that validity can be distinguished from sacramental status allows for the recognition of marriages between Catholics and nonbaptized—and even between two non-Christian spouses. From a Roman Catholic viewpoint, by differentiating validity from sacramental status the Catholic Church is flexible, honoring both sacramental and natural mony, acknowledging the redemptive worth of both, but also recognizing the special benefits of marriage among the faithful.

Within the Greek Orthodox Archdiocese, recent trends suggest a movement toward recognition of matrimonial consent as a foundation of certain marriages, particularly those between Orthodox and nonbaptized spouses. This is indicated by the recent policy of permitting, on an individual basis, the communion of Orthodox spouses in mixed marriages where no priestly blessing has taken place. This administration of the eucharist indicates that the Orthodox spouse is regarded as in good canonical order with the Orthodox Church. Such a policy is consistent with the theology of Constantelos, who, in a manner similar to Roman Catholic canon laws, accepts matrimonial consent rather than sacerdotal blessing as the foundation of marriage. Nevertheless, before the possibility can exist for the Orthodox Church to recognize the validity of marriages contracted between Christians and non-Christians, it will be necessary for it to accept a theological category that allows for recognition either of nonsacramental marriage, a notion foreign to Orthodoxy, or of all marriage as sacramental by nature, as implied by the thought of Constantelos.

In any case, from the present Orthodox perspective, one of the strongest objections to the recognition of marriage with nonbaptized partners concerns the redemptive and spiritual purpose of mony. According to this viewpoint, baptism and the exchange of matrimonial consent are considered to be the foundations for the reception of the marital blessing bestowed by the Holy Spirit through the priestly vessel. Baptism provides the potential for new creaturehood, the realization of true humanity through life in Jesus Christ. The exchange of matrimonial consent is an openness for the reception of a blessing that bestows in potential a union that strives after salvation. Christian marriage is a state of existence, the spouses' lifelong synergy with God to realize this potential. Such a viewpoint on the foundation and spiritual purpose of the matrimonial union necessarily presupposes two baptized persons of Christian faith.
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