

Chapter 18 — Codification of Canon Law

Against the Drawing up of a Single Code for the Eastern and Western Churches

A letter addressed to His Holiness Pope Paul VI by His Beatitude Patriarch Maximos IV on November 22, 1963.

Most Holy Father:

Replying to the invitation that Your Holiness extended to us, in the course of the audience of November 11, 1963, to inform him of everything that could facilitate drawing closer to our Orthodox brethren, I, in the name of all the conciliar Fathers of our Melkite Greek patriarchate, would like to explain the following to Your Holiness:

We have learned incidentally that a campaign is presently being conducted for the drawing up of single code of canon law, which would be equally binding on the Eastern Churches as on the Latin Church. In this single code it would be considered sufficient to point out, where it was relevant, the particularities of the law that are specific for the Easterners.

We are sure that our position, and that of all ecumenists and of all those who have at heart the harmonious progress of the Christian East along its proper path, coincides with that adopted, after a long examination, by the Roman See itself, namely, the drawing up of a special code of canon law for the Eastern Churches.

The arguments in favor of this position are the following:

1. Canon law is one of the principal and formal expressions of that “diversity in unity” that is a characteristic mark of the Catholic Church. While safeguarding the unity of faith, of the sacramental life, and of the hierarchy, the Catholic Church has always proclaimed its desire to protect entirely not only the diversity of the liturgical rites of the Christian East but also the diversity of its discipline. Well, making a single Code of law for the Eastern Churches and for the Western Church necessarily ends in the following results:

- a) Either the Latin discipline will be almost entirely imposed on Easterners, which in actual fact means the pure and simple latinization of the East, against which Easterners, as well as the Holy See, have struggled for a long time;
- b) Or the Latin discipline will be so prevalent in this single code that one will not be able to see in it, in any manner, the expression of the specific discipline of the East; for, in every place that the two disciplines are different, it can be foreseen that the Latin discipline will not be made to yield to the Eastern discipline, but vice versa. This will be a new—and most serious — manifestation of the latinization of the East, concerning which all those who know and love the East complain.

2. In the ecumenical dialogue, it will be truly catastrophic to show to our Orthodox brethren that the discipline which awaits them, in the unity with the Roman Church, is not theirs, but that of the Latin Church. The unification of the two codes is contrary to the ecumenical orientation of Vatican II and destroys the whole schema "On Ecumenism."

3. The Holy See has made a considerable effort since 1929 to attempt to give the Eastern Churches a code of law that would be as consistent as possible with their own discipline. Cardinal Massimi, who, with Cardinal Coussa, has labored the hardest in this work, said to our late predecessor, Patriarch Cyril IX, "I wish that when the Orthodox shall see our Eastern code, they will be able to say, 'That is truly the discipline of our Fathers!'" It is necessary to acknowledge that, in spite of the definite good will and the immense labor that has been performed, the result has not always conformed to the expectations of the Easterners and has been accused of hybridism and latinization. This criticism will be based on much stronger grounds if a single code, with a Latin emphasis, is imposed on the Easterners.

4. Too many elements distinguish the Eastern law from the Latin one to make it possible to unite them in a single code, without sacrificing one or the other, and the law that will be sacrificed will certainly be the Eastern law. Let one think of the frequent differences in terminology, as also the institutions that pertain exclusively to the East, like those of the patriarchate, synods, rite, episcopal elections, etc. Let one think of the institutions that do not exist at all in the authentic Eastern law, like those of canons, benefices, censures *latae sententiae*, etc. Thus, while in Latin law one single canon suffices to regulate the patriarchal institution considered simply as an honor, in the Eastern law more than 200 canons are required to define the patriarchal institution. In contrast, in the authentic Eastern law, the treatment of "on sins and their satisfaction" can be covered in four pages. Thus, how is it possible to draw up a single code where there are such different elements?

5. Those who ask for a single code for the Eastern and the Latin Churches appear to us to be either latinizers, who wish to absorb the East, not in Catholicism but in Latinism, or Easterners with latinized mentalities, who do not realize how much harm their deviation from the authentic Eastern discipline does to the cause of growing closer to our Orthodox brethren.

For all these reasons, may Your Holiness permit us:

- a.) to remain steadfast to the very wise position adopted by the Holy See, in ordering the drawing up of a special code for the Eastern Churches;
- b.) to desire ardently that this special code for the Eastern Churches be reviewed to make it even more consistent with the authentic Eastern discipline;
- c.) that this code be written according to authentically Eastern criteria, by competent jurists chosen among non-latinized Easterners, Latins friendly to the East, and ecumenists;
- d.) that this question be not treated in the hall of the council, since many Fathers of the council are not aware of the gravity of the problem.