

Reviews

CHURCH LAW AND CHURCH ORDER IN ROME AND BYZANTIUM: A Comparative Study by Clarence Gallagher (*Birmingham Byzantine and Ottoman Monographs 8*) Ashgate, Aldershot 2002. Pp. xi + 279, £45.00 hbk

A scholarly work can serve a purpose wider than erudition. Fr Gallagher SJ's impressive history of canon law in the first millennium or so, East and West, also aims at furthering ecumenism. This he does by showing just how much diversity has been compatible with Church unity, particularly in terms of governance, the celibacy of clerics and the response to those who divorce and remarry. History here becomes not so much a hallowing of the present as subversive memory to stimulate change. There is no study comparable to this in any language. The six chapters unfold chronologically from about the 6th to the 13th century, comparing and contrasting important collections or canonists from East and West. Stating the contents more fully will indicate the scope and depth involved.

The opening two chapters look at Rome and Constantinople in the 6th and 9th centuries in terms first of Dionysius Exiguus and John Scholastikos, and then of the False Decretals and the *Nomokanon*. The origins of Slavonic canon law, to which St Methodios contributed in crucial ways, are surveyed next. The main features of canon law and church order in the first millennium of christian history can now be seen, as covered by juridical texts and embodied in the regulation of governance, clerical celibacy and remarriage of the divorced.

The next two chapters deal with the two major canonists who dominate the development of canon law West and East, respectively Gratian and Balsamon. Balsamon is probably an unknown figure to most, but even readers with some familiarity with Gratian will profit from Gallagher's presentation because he incorporates Winroth's revolutionary (but well received) hypothesis that *Gratian's Decretum* is not one but two books, written at different times and possibly by different authors. Gratian and Balsamon wrote in the 12th century, when the theological gap between Bologna and Constantinople was such that Gallagher sees them as key representatives of two diverse canonistic traditions, growing out of and contributing to different ecclesiologies. Observing that canonists turn ecclesiologies into structures and procedures, he adds: 'Procedures form attitudes and the structures themselves that we live with condition the way we think and act' (p.186).

As if the results so far were not enriching enough, the final chapter considers the christian world beyond the West and Byzantium. What of

canon law in Syria and Persia, that is in lands generally under Islamic rule? We are introduced to the fascinating context and achievements of two individuals, both bishops. Bar Hebraeus (d.1286) had read widely in both christian and muslim sources, and made available to his people their own Syrian literature and traditions, as well as Greek and Arabic writings. In *The Book of Directives*, he uses patristic and conciliar sources for directly church law, whilst for civil law he turns chiefly to Islamic law books. The other writer, Ebedjesus (d.1318), added two important works to the venerable canonical tradition of the East Syrian Church.

A valuable feature of Gallagher's study is that he interweaves detailed reconstruction of juridical texts with an awareness of larger issues. His account of Bar Hebraeus and Ebedjesus, christians in Islamic lands, notes that their churches were not over-entangled with civil administration. This contrasts with those canonical systems that grew out of the papacy's close involvement with temporal power in the West or the relationship between patriarch and emperor in Constantinople.

The three areas chosen for special scrutiny (governance, clerical celibacy, divorce and remarriage) are divisive and controversial among christians. The question of Church governance is particularly complex, involving the authority of pope, patriarchs and synods. Strongly contrasting positions are still canvassed, some having surfaced even among those drafting the 1990 Code of Canons of the Eastern Churches. One commission member wanted the canons on supreme authority reformulated according to 'the ecclesiology and experience' of the undivided Church. Gallagher, however, simply proposes the usefulness today of carefully considering the diversity in unity of the first millennium. This seems more historically plausible and theologically correct.

Gallagher presents some of the debates over the surviving historical evidence. As to divorce and remarriage, mention might have been made of the 1994 assessment by the Congregation for the Doctrine of the Faith of certain 'pastoral solutions'. It affirmed that even if analogous pastoral solutions have been proposed by a few Fathers of the Church and in some measure were practised nevertheless these never attained the consensus of the Fathers and in no way came to constitute the common doctrine of the Church nor to determine her discipline. As for the spouses being the ministers of the sacrament of marriage, he might have discussed par. 1623 of the *Catechism of the Catholic Church* and why the text as first published was later altered significantly.

There is much to admire in Gallagher's comparative study, the fruit of teaching and research in Britain and in Rome, including at the Pontifical Oriental Institute. His book is very much in line with Vatican II's recommendation that theology and its history should be taught '*sub aspectu oecumenico*, so as to correspond more accurately with the facts.

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