

Diseases as causes of divorce in Byzantium

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ABSTRACT

Medical causes are also concerned to be causes of divorce in Christian Byzantium. These diseases included leprosy, madness and impotence of male, and they are studied in the present short historical article. In the cause of divorce for Madness, whilst the wife has to wait five years to seek divorce, the husband has to wait only three years. In the cause of divorce for Impotence of the male, the wife should wait for three years in case

of recovery. In the cause of Leprosy, it seems that the disease was a cause of divorce only if it concerned the wife. With these laws, therefore, the Byzantine leaders protected not only the health of people but also society's health in general.

Key words: Byzantium, madness, leprosy, impotence of male, disease

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INTRODUCTION

Ethical and legal issues related to diseases as causes of divorce present themselves to all health professionals, including nurses from old times. Special problems appear in case in which one of two persons who are married presents an incurable or epidemic disease. According to their beliefs, some of the health professionals (mainly the doctors and nurses) supported the diseases as causes of divorce and others did not [1].

The same problems and dilemmas faced by people in ancient times, as in Byzantine times. The Church and State in Byzantium also faced diseases as causes of divorce. These diseases were the patients with mental problems, patients with leprosy, or in the case of male impotence.

The purpose of this study is to describe the diseases for which divorce could be issued if one of the spouses wanted, in Byzantine times.

MATERIAL AND METHODS

The methodology of historical research was used in order for this study to take place. A special sorting system was developed for the recording of the gathered material while the elements were placed in special dossiers based on the source of origin and chronological order.

Byzantine legislation and culture

First of all, one of the effects of Christianity in Byzantium, was the abolition of concubine and the application of the principle of the sacredness of marriage. The sacredness of marriage is emphasized by the teaching of Chrysostom at the end of the 4th a.D. century, according to which; marriage is sacred by Jesus Christ. [1] According to the legislation of the Eastern Church the causes of divorce, were divided to two classes:

1. With punishment (*can damno*):
 - high treason
 - conspiracy against the Emperor
 - plotting on the life of the other spouse
 - adultery
 - change of faith
 - christianing of child [2].
2. Without punishment (*bona gratia*). There are two categories; *Non Medical causes*:
 - captivity
 - emigration
 - slavery
 - consecration of the male to Bishop
 - entrance to monastic life [2].

Medical causes:

- Madness
- Impotence of the male
- Leprosy [3].

The Justinian legislation (6th a.D.) and the legislation of Leo VI the Wise (9th -10th a.D.) are the most important courses of legislation on this subject. [4]

Madness

Previously, in the Roman Law Madness of one of the two partners was a cause of divorce, if madness had manifested before the wedding, if there was no hope of restoration of the health and if the diseased partner was dangerous to the persons around him/her [3]. Madness developed after the wedding constituted no cause of divorce [5].

Madness of woman

The 111 Novese of Leo VI the Wise (9th - 10th a.D.) enacted that when the wife developed madness, the husband had to wait for three years [6].

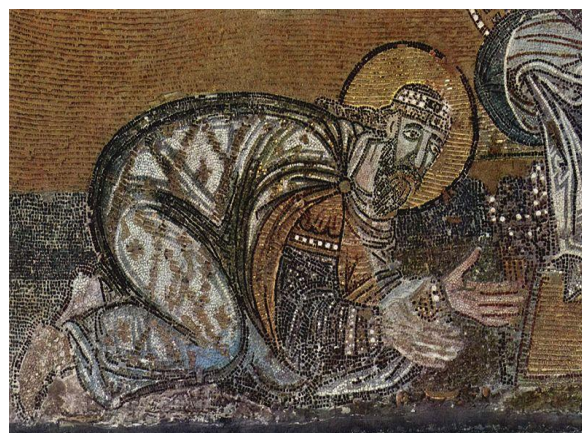


Figure 1. Leo VI the Wise (9th -10th a.D.)

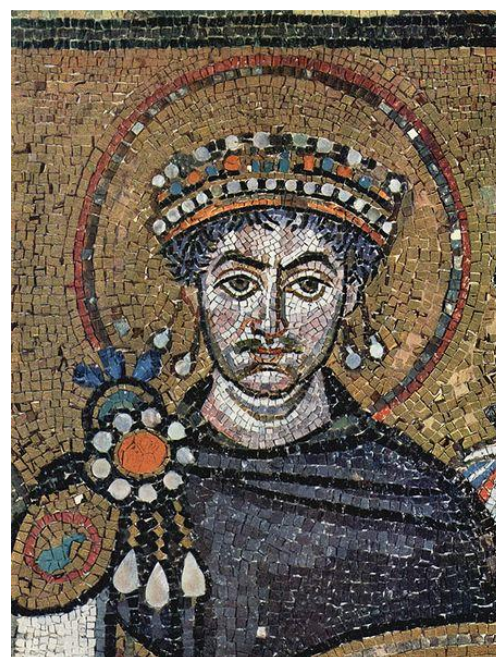


Figure 2. Justynian (6th a.D.)

If the health of the wife was not restored in three years, the husband had the right to seek divorce [7]. During the first 2(two) years, the husband had to live with his wife, whilst during the last year the husband had to be admitted to a Monastery, where he was submitted to treatment according to the "Sacred Laws" of the Church [2]. The property of the husband was confiscated in favor of his wife [3]. After the divorce, the woman joins her parents. If there are no relatives, the woman takes refuge at the Bishop of area, who looks after her until death, or eventual restoration of her health [8].

Madness of the husband

According to the 112 of Leo VI the Wise (Osenbugen, 1866) if the husband had developed madness, the wife could seek divorce after five years. If the husband had developed during the day of the wedding, the wife had the right to seek divorce after the ceremony [2,3].

It is interesting to mention that the latter Nomocanon is mentioned in the Judicial verdict of a court of an island of the Ionian Sea (Leukada) in 1721. A husband complained to the Bishop that his wife was possessed by demons. Very often he had to tie her arms and legs with claims. This condition continued for more than three years. The husband obtained divorce, and he was allowed to take a second lawful wife [9]. In the original texts either the term "mental illness", "madness", "mania", or "possessed by demons" are also used. In Byzantine Medicine there was naturally no classification of the mental diseases [10].

This medical problem was one of the subjects that it was studied in the third Congress of the Society of French Psychiatrists (1st - 6th August 1892) in Blois, a small town near Paris. In this Congress, it was commented that a mental patient who is completely cured has the right to get married. However, in some cases a long discussion of the psychiatrist with the family doctor can reveal that marriage is undesirable [11].

Leprosy

The disease was a calamity for the family. The lepers were expelled from their families, and they were forced to live away from towns and villages. The leper hospitals were founded throughout the country because of the compassion of Church and the State. Long-term treatment of lepers in the leper hospitals resulted in the prevention of disease, although patients were suffering too much, because they were with their families [11].

In order to prevent disease, the Bishops of the Church advised sufferers not encountered men with their wives until cured of the disease [12]. Regarding the Byzantine law, in the legislation of Leo VI the Wise, it is mentioned that leprosy is a

cause for divorce [12]. Nowhere else leprosy is mentioned as a cause of divorce [8].

From other sources, it seems that Leprosy as a cause of diverse concerned only female [2,3].

Male impotence

In the 22 Novelesse of the Emperor Justinian, it is found that a wife could seek divorce if her husband was unable to perform his material duties for three years [7]. It appears that the legislator had in mind the possibility of disappearance of the impotence within two years. If the husband was impotent before the wedding, the marriage was automatically annulled.

As it is mentioned in the Canons of Archbishop Dimitrios Chomatianos, the divorce should be given on account of the fear that the woman could slip to prostitution [9].

The impotence of the male to be proven in court. The judge accepted to hear, firstly, the husband. If confession was not enough confession had to discuss with the woman. Many times the medical examination of the spouses was made by specialists such as doctors and midwives [13].

It could be said that the Byzantines with the Law for the divorce to the mentioned diseases, were protecting the health of their families and society in general. It is known that many diseases such as psychiatric disorders are inherited and occur in subsequent generations [12,14].

The transmission of diseases such as leprosy, could cause epidemics with destructive incidence in Byzantine people and society [13,15].

Finally, male impotence had implications not only procreation, but also the harmonious relationship between husband and wife [16,17].

CONCLUSIONS

1. In Christian Byzantium, people with an incurable or epidemic disease caused an important problem not only for patients, but for their families as well.
2. These diseases are owned too many causes, like the belief that these are sick could potentially damage.
3. Furthermore, madness as a cause of divorce concerned males and females, Leprosy concerned only the females and impotence concerned only the males, as a cause of divorce.

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