

THE MODIFICATION OF THE TERRITORY OF A PATRIARCHAL CHURCH - CANONICAL PROVISIONS: THE ATTEMPTS OF A MAJORARCHIEPISCOPAL CHURCH AND THE RESPONSES OF THE APOSTOLIC SEE

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This article is a study on *CCEO* c. 146 §2, which indicates the procedure for modifying the territorial boundaries of a patriarchal Church, and its application in the life of Syro-Malabar Major Archiepiscopal Church in India. In order to submit the petition for modifying the territory of a patriarchal Church to the Roman Pontiff, the synod of bishops of the respective patriarchal Church should investigate the matter; consult with the superior administrative authority of the Churches *sui iuris* concerned; discuss the matter in the synod; and is to present the petition supported with proper documents. The article explores the various aspects of these requirements. Following this canonical analysis, it presents both the Syro-Malabar Church's attempts to extend its proper territory and the Apostolic See's responses to these attempts. Though there are many facts that make the demand of this Church *sui iuris* legitimate and reasonable, it is not yet fully realized. Only partial fulfillments have been granted by the Roman Pontiff due to several reasons.

1. Introduction

The Syro-Malabar Church was raised to major archiepiscopal status by Pope John Paul II through the apostolic constitution *Quae Maiori* on 16 December 1992. The constitution ordered that the territory of the Syro-Malabar Church of Ernakulam-Angamaly "shall be limited to the confines of the ecclesiastical provinces of Ernakulam and

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Changanacherry.”¹ This circum-scription limited the territory of this Church, which had enjoyed unrestricted jurisdiction over India until Western missionaries arrived in the sixteenth century, to a very small area of modern India. In the light of the teachings of the Second Vatican Council, the canonical provisions of *CCEO*, and the assurance of a *ius speciale* by Pope John Paul II, the synod of bishops of the Syro-Malabar Church earnestly and continuously petitions the Roman Pontiff for a *ius speciale* that restores the Syro-Malabar Church’s all-India jurisdiction. In this context, this article begins by studying the canonical provisions for modifying the territory of a patriarchal/major archiepiscopal Church. Following this study, the author presents both the Syro-Malabar synod’s attempts to extend its proper territory and the Apostolic See’s responses to these attempts.

Part I: Canonical Provisions for the Extension of the Proper Territory of a Patriarchal Church

1.1. The *Iter* of the Canons on the Territory of the Patriarchal Church

During the revision of the Eastern code, an *ad hoc* committee of PCCICOR² consultants was formed to study the extension of patriarchal authority beyond the traditional territories of the patriarchal Churches. This committee considered all opinions and anxieties presented to the commission by the Eastern hierarchs on this matter. Following its deliberations, the committee acknowledged that the Church had observed the principle of strict territoriality until the Fourth Lateran Council; however, the group also affirmed that modern fluctuations and movements in population required abandoning the ancient canons, which had been given for less mobile societies.³

In January 1977, the entire question was entrusted to the *Coetus de Sacra Hierachia* to examine in detail. For drafting the basic canons on this matter, the *Coetus* adopted the following guidelines:

¹ *AAS* 85 (1993) 398; English Text, *Synodal News* 1 (August 1993) 12. The “Additional Communications from the Apostolic Nunciature in India” also stated that the *territorium proprium* of the Syro-Malabar Church comprises the territory of the ecclesiastical provinces of Ernakulam and Changanacherry. *Synodal News* 2 (February 1994) 3.

² Pontifical Commission for the Revision of the Code of Eastern Canon Law (PCCICOR), established by Pope Paul VI on 10 June 1972.

³ Ivan Žužek, “Canons Concerning the Authority of Patriarchs over the Faithful of Their Own Rite Who Live outside the Limits of Patriarchal Territory,” *Nuntia* 6 (1978) 21.

In the section dealing with the authority of patriarchs outside Oriental territories the ties of Oriental faithful in various parts of the world with their Mother Church and of the *aggregati* with the patriarch and the synods of the same Church be strengthened even more than in the *Declaration* of 25 March 1970, in such a way that the patriarchs could have a more efficacious influence, in accordance with the Holy See, on the organization of the eparchies and parishes of which article 4 of the *Decree Orientalium Ecclesiarum* makes mention.⁴

The *Declaration*⁵ referenced had been issued by the Congregation for the Eastern Churches, clarifying the teaching of the Second Vatican Council (OE 7) on the relationship between Eastern hierarchs established outside the patriarchate and the respective patriarchate and synod.

On the basis of these guidelines, the relator of the *Coetus de Sacra Hierarchia* prepared nine canons on the patriarchal territory and the power of the patriarch and synod outside this territory.⁶ These canons appeared as cc. 118-126 in the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium*.⁷ In the *Praenotanda* that accompanied this schema, the Commission indicated that the draft provisions did not intend to compromise on an unresolved question, but to integrate the principles already established by the Second Vatican Council regarding the role of the patriarch and synod in caring for the faithful outside the patriarchal territory.⁸

Because various aspects of the future code concerned territory, the issue of the territorial limits of patriarchal jurisdiction was discussed

⁴ Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 23.

⁵ AAS 62 (1970) 179; English trans., *Canon Law Digest*, 7 (1975) 9. The first schema of the *Declaration* was drafted by a special Plenary session of the members of the Pontifical Commission for the Compilation of the Code of Oriental Canon Law, erected in 1935. This draft was then examined by various dicasteries and finally elaborated by a special committee. Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 18.

⁶ Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 23-33.

⁷ These canons formed chapter VIII under the Title *De Ecclesiis patriarchalibus*. *Nuntia* 19 (1984) 3-92. This schema was sent to the consultative organs on 12 October 1984.

⁸ *Nuntia* 19 (1984) 12; John D. Faris, *Eastern Catholic Churches: Constitution and Governance* (New York: Saint Maron Publications, 1992) 355.

repeatedly and in various contexts throughout the revision process. Nevertheless, the unresolved status of the question was most acutely felt by the *Coetus de Sacra Hierarchia*. Already in 1975, this *coetus* confronted this issue when it prepared a provisional text of canons "On Patriarchs." Canon 5 of this text, which was published in *Nuntia*,⁹ limited patriarchal and synodal authority to the patriarchal territory. In its second paragraph, the canon preserved the substance of CS c. 216 §2, 2^o while incorporating the teachings of OE 7 and 9 and the 1970 *Declaration*.¹⁰ Thus, the opinion had prevailed in the *coetus* that the teachings of Second Vatican Council (OE 7, 9) had maintained the 'principle of territoriality,' and therefore had limited the authority of the patriarch and synod to the confines of a definite territory. However, during the January 1977 drafting of canons on patriarchal territory and on patriarchal and synodal power outside of it, the *coetus* reconsidered the matter. Consequently, the provisional canons on the rights and obligations of the patriarch, including the aforementioned canon 5, were reworked.¹¹ In this reworking, an entirely new text was formulated without any reference to the territory of the patriarchal Church. This new text appeared as canon 47, the first canon *De Iuribus et Obligationibus Patriarcharum*, in the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium* sent to the consultative organs on 12 October 1984.¹² But, in the *denua recognitio* of this schema, one consultative organ proposed inserting CS c. 240 §2 as the second paragraph of canon 47 to clarify the exercise of the power of patriarchs. After long discussions and studies, the special study group for the *denua recognitio* of this schema, on 23 January 1986, accepted this proposal. It incorporated the text of CS c. 240 §2 in a new form, one more open to the valid exercise of patriarchal power outside the territory.¹³ This second paragraph, added to canon 47 in the Schema on Sacred Hierarchy, stated that the power of the patriarch is *fully* exercised within the territorial boundaries of the patriarchal Church.

⁹ *Nuntia* 2 (1976) 31-52.

¹⁰ Can. 5 §2. Patriarchae, soli vel cum suis Synodis, in Hierarchas et fideles eiusdem Ecclesiae particularis, extra limites territorii patriarchatus commorantes, competit iurisdictio quatenus iure communi vel particulari statuatur. *Nuntia* 2 (1976) 43; Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 24.

¹¹ For a detailed analysis of the drafting of canon 78 see Francis John Marini, *The Power of the Patriarch*, Maronite Rite Series, VI (New York: Saint Maron Publications, 1998) 155-174.

¹² *Nuntia* 19 (1984) 3-92.

¹³ *Nuntia* 22 (1986) 58-59.

The paragraph stipulated that conditions for its valid exercise outside the territory may be expressly established in common or particular law approved by the Roman Pontiff.¹⁴ In the *Schema Codicis Iuris Canonici Orientalis* of 1986 it appeared as canon 77 §2.¹⁵

This addition in canon 47 surely influenced the revision of the canons concerning the territory of the patriarchal Church and the power of the patriarch and the synod outside the territory in the stage of its *denua recognitio* in January 1986. First canon in this chapter, i.e., canon 118 (c. 146 in CCEO), was substantially changed.¹⁶ Second canon, i.e., canon 119 (c. 147 in CCEO) remained without serious modification. The first paragraph of the third canon, i.e., canon 120 §1, was transferred and incorporated into canon 6 §5 under *De Personis physicis* in the *Schema Canonum de Normis Generalibus* (c. 916 in CCEO).¹⁷ Canon 120 §2 and the sixth canon, i.e., canon 123, were transferred to the section *De iuribus et obligationibus Episcoporum eparchialium*, as canon 160bis in the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium*, since it affects not only the patriarchs, but all eparchial bishops, to whom the care of Eastern faithful is entrusted. There, canon 120 §2 became the first paragraph of 160bis and canon 123 became the second and third paragraph of 160bis (c. 193 in CCEO).¹⁸ It was suggested to transfer the fourth canon, i.e., canon 121, to another section of the future Code. But, instead of transferring it the study group decided to remove it from the future Code since the content of the canon was related to the governance of the Vatican Curia, the revision of which was not the competence of the Commission.¹⁹ The fifth canon, i.e., canon 122 (c. 148 in CCEO) remained almost unchanged. Regarding the seventh canon, i.e., canon 124 (c. 149 in CCEO), two organs of consultation requested to include an explicit declaration in its text that the erection of an eparchy in "diaspora" entails *ipso facto* the extension

¹⁴ Can. 47 §2. Haec potestas plene exercetur intra fines territorii Ecclesiae patriarchalis; ut vero valide extra hos fines exerceatur requiritur, ut id in iure communi vel patriculari a Romano Pontifice approbato expresse statuatur. Nuntia 22 (1986) 59.

¹⁵ Nuntia 24-25 (1987) 14. In the *Schema Novissimum* approved by PCCICOR and submitted to the Holy Father on 28 January 1989 the text appeared almost the same. However, in the final review made by the Holy Father, the text was changed to its final form as it appears in CCEO c. 77 §2. Francis J. Marini, *The Power of the Patriarch*, 171.

¹⁶ Nuntia 22 (1986) 105.

¹⁷ Nuntia 18 (1984) 10-11; Nuntia 22 (1986) 107.

¹⁸ Nuntia 22 (1986) 107-109

¹⁹ Nuntia 22 (1986) 107.

of the territory of the same patriarchal Church. But this proposal was not accepted as it was in contrast to what is stated in the first canon in this section i.e., canon 118 (c. 146 in CCEO) on the territory of a patriarchal Church.²⁰ In the light of the revision made on c. 71 (c. 102 in CCEO)²¹ regarding the membership and voting power in the synod of bishops, the text of the eighth canon, i.e., canon 125 (c. 150 in CCEO) was substantially modified. In the case of the last canon in this chapter, i.e. canon 126, the special study group ex-officio decided to omit this canon because of clear inconsistencies between the first and second parts of the canon.

Thus, in the *denua recognitio* of the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium*, of the nine canons (cc. 118-126) in chapter VIII under the title *De Ecclesiis patriarchalibus*, two (cc. 120 §§1-2 and 123) were transferred to other sections, two (cc. 121, 126) were omitted. These changes left only five canons (cc. 118, 119, 122, 124, and 125) in the chapter, which became respectively canons 146-150 of CCEO.

1.2. *Ius Speciale* for the Extension of Territory of a Patriarchal Church

As seen above, the question of extending the power of the patriarch and synod outside the territory was a matter of serious discussion throughout the revision process. As a final attempt, on 5 November 1988, at the first session of the second plenary meeting of PCCICOR²² fifteen members of the Commission together submitted a request to

²⁰ *Nuntia* 22 (1986) 109.

²¹ The text of c. 71 in the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium* was also a matter of extensive discussion in the revision process. In the *denua recognitio* of this canon, with the majority of 6 votes out of 8, the special study group confirmed the norm according to which in the Synod of Bishops, all the ordained bishops of the patriarchal Church must be summoned. Hereby, the study group rejected the proposal to admit only the eparchial bishops to the Synod and to leave to the particular law of each Church *sui iuris* the decision about the admission of the titular bishops in the Synod. The principle that all the bishops of a Church are to be present in its synod was being considered not only necessary because the Synod may give a model to the unity of the patriarchal Church, also to make conform to the triple *munera* that every bishops receives, according to the teaching of Second Vatican council, in the episcopal ordination itself. *Nuntia* 22 (1986) 78.

²²The second plenary meeting of PCCICOR was convened to approve the final draft of the future Oriental Code and to present it to the Roman Pontiff. It was held 3-14 November 1988.

Pope John Paul II, that "the question of the extension of patriarchal jurisdiction over all the faithful of the autonomous Church also outside the territory of the patriarchate, be discussed first of all and that there be a solution before proceeding to the other questions."²³ On 10 November 1988, Archbishop Edward Cassidy, the then Substitute (*Sostituto*) of the Secretariat of State communicated to the plenary assembly the decision of the pope on this request:

Relative to the "Motion" of the 5th of this month, signed by the "Plenary Codification Commission," assembled these days, it is my task to communicate to you that the Holy Father authorizes the Assembly to discuss the question posed, but holding firm to what has been decided by the ecumenical councils which have foreseen patriarchal jurisdiction only in the territory in the patriarchate and in particular what the Second Vatican Council established, which did not accede to the request to extend such jurisdiction outside the boundaries of the patriarchate.

It is necessary that the present assembly present to the Holy Father a draft of a Code that entirely conforms to the Eastern tradition and to the conciliar decisions.

In any case, for those Churches which find themselves in special situations with regard to their faithful residing outside the territory of the same, the Holy Father will be happy to consider, in light of the promulgated Code, the proposals elaborated by the synods with clear reference to the norms of the Code which if he should consider it opportune to specify with a *special law (ius speciale)* and *temporary (ad tempus)*.²⁴

The communication of the pope referred to a *ius speciale* that he would establish opportunely and according to the needs of each Church *sui iuris*. Therefore, in the plenary assembly, members opined that after the promulgation of the *CCEO* the question is now left to each patriarchal Church, to present its desire according to its needs and particular situations. They felt that the Roman Pontiff has left open the window.²⁵ This communication was considered important regarding the question of the extension of the patriarchal territory, as it has now opened a way for the patriarchal synods to present to the Roman

²³ *Nuntia* 29 (1989) 27. English trans. from John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 355.

²⁴ *Nuntia* 29 (1989) 27. English trans. from John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 355.

²⁵ *Nuntia* 29 (1989) 27.

Pontiff concrete proposals to obtain a *ius speciale* for the extension of the patriarchal jurisdiction beyond the limits of the territory of their Church.²⁶

On 18 October 1990, *CCEO* was promulgated by the apostolic constitution *Sacri Canones*.²⁷ Presenting this new code to the eighth ordinary assembly of the Synod of Bishops, on 25 October 1990, Pope John Paul II stated:

May this Code be received, therefore, in its entirety and in each of its canons by the whole Church, in a serene spirit, and with the trust that its observance will draw upon all the Eastern Churches those heavenly graces which will make them prosper ever more throughout the world. This is an appeal that concerns particularly those norms of the Code which have been repeatedly at the centre of my attention and finally decided as they are now in the Code, since the Supreme Pontiff considers them necessary for the good of the universal Church and to safeguard its right order and the more fundamental and essential rights of man redeemed by Christ.

Among these norms are to be included those which deal with the power of the heads of the Churches *sui iuris*, which is circumscribed within a determined territory, and those norms which refer to the common will of parents concerning the ritual heritage of their children. Have faith that the Lord of lords and King of kings will never permit the diligent observance of these laws to harm the Eastern Churches. At any rate, concerning the first point, I repeat what I communicated to the last Plenary Assembly of the members of the commission which prepared the Code. Now that the Code has been promulgated, I will be happy to consider proposals, which have been formulated in the Synods with full details and with clear reference to norms of the Code, that it is deemed opportune to specify with a *ius speciale* and *ad tempus*, for which the Code itself shows the way with a particular canon containing the phrase *ius a Romano Pontifice approbatum*.²⁸

The canon alluded to is *CCEO* c. 78 §2, the first canon in the chapter on the rights and obligations of patriarchs. This canon also speaks about a particular law approved by the Roman Pontiff, which would provide

²⁶ *Nuntia* 29 (1989) 30.

²⁷ AAS 82 (1990) 1033-1363.

²⁸ AAS 83 (1991) 486-493; English trans. from George Nedungatt, ed., *A Guide to the Eastern Code, Kanonika*, 10 (Rome: Pontificio Istituto Orientale, 2002) 28-29.

for the valid exercise of the power of patriarch outside the territorial boundaries of the patriarchal Church.

The Roman Pontiff's statement to the Synod of Bishops reveals the mind of the legislator on this issue, which had been foremost in his mind throughout the revision process. He decided to settle the question in the manner presented "in the Code," i.e., in a way that excludes a general extension of patriarchal power outside the territorial boundaries of the patriarchal Church.²⁹ Instead, the law allows for the possibility of accommodating special circumstances,³⁰ leaving it to the patriarchal synods to determine and request the specific faculties needed to serve their faithful outside of the patriarchal territory.³¹

1.3. *Territorium Proprium* of Patriarchal Church (CCEO cc. 78 §2, 146 §1)

CCEO acquired the force of law on 1 October 1991. Its canons 146-150 specifically deal with the territory of a patriarchal Church and the power of the patriarch and synod outside the territory. In addition to canons 146-150, there are approximately 80 canons referring to the territorial boundaries of the patriarchal Church in CCEO.³² These canons must be read and interpreted in the light of CCEO c. 78 §2, which states that "the power of the patriarch is exercised validly only within the territorial boundaries of the patriarchal Church unless the nature of the matter or the common or particular law approved by the Roman Pontiff establishes otherwise."

The provisions in the common law according to which the patriarch can exercise authority outside the territory are: the consecration and enthronement of bishops and metropolitans (c. 86 §2); involvement in the designation of a metropolitan for a bishop outside the patriarchal territory (c. 139); collection of information about the faithful (c. 148 §1); acceptance of the promise of obedience from bishops outside the

²⁹ Here it can be noted that when addressing criticisms regarding the territorial restrictions from the consultative organs, the PCCICOR, apparently considering itself incompetent to respond, simply referred the matter to the "Superior Authority" (*Nuntia* 28 [1989] 42-43). John D. Faris, "At Home Everywhere - A Reconsideration of the *Territorium Proprium* of the Patriarchal Churches," *The Jurist* 69 (2009) 16.

³⁰ Paul Pallath, "The Principle of Territoriality according to Eastern Catholic Canon Law," *Iustitia* 2 (December 2011) 351.

³¹ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 355.

³² Ivan Žužek, *Index Analyticus CCEO, Kanonika*, 2 (Rome: Pontificio Istituto Orientale, 1992) s.v. *Territorium*.

patriarchal territory (c. 187 §2); involvement in decisions regarding the erection of parishes outside the patriarchal territory (c. 193 §3); right to receive a copy of the quinquennial report that is sent to the Apostolic See (c. 206 §2); blessings of marriages of his faithful (c. 829 §3).³³

CCEO c. 146 is an entirely new canon without a parallel in the prior Eastern code. According to the first paragraph, "the territory of the Church over which the patriarch presides extends over those regions in which the rite proper to that Church is observed and the patriarch has a legitimately acquired right to erect provinces, eparchies and exarchies."

The principle of territoriality, the basic norm for ecclesiastical circumscriptions in the first millennium, was complemented in the second millennium by a new principle, i.e., the belongingness to a rite (now, ascription to a Church *sui iuris*). This new principle based on personal aspect permits the co-existence of multiple jurisdictions in the same territory.³⁴ The teaching of the Second Vatican Council that "their own hierarchy should be set up wherever the spiritual good of the faithful requires it" (OE 4) is an explicit declaration of this new principle. According to Žužek, OE 4 appears as the first text of an Ecumenical Council which expressly abrogates any of the ancient canons (canon 9 of Lateran IV included) which required an exclusive jurisdiction in one territory, although the earlier customs and the practices of the second millennium could also be considered as abrogatory of the ancient canons.³⁵ Therefore, in the present ecclesiastical scenario, the jurisdiction of the patriarch and the synod are circumscribed both personally and territorially. It is circumscribed personally, i.e., with regard to enrollment in a particular Church *sui iuris*. It is circumscribed territorially, i.e., inside the territorial boundaries of the patriarchal Church.³⁶ As its jurisdiction is circumscribed personally and territorially, it is necessary that the boundaries of a patriarchal Church be clearly defined (*territorium proprium*). That is required in CCEO c. 146.

³³ John D. Faris, "At Home Everywhere - A Reconsideration of the *Territorium Proprium*," *The Jurist* 69 (2009) 17 fn. 37.

³⁴ Cyril Vasil, "Territory, Canonical," *Encyclopaedic Dictionary of the Christian East*, ed. by Edward G. Farrugia (Bangalore: Theological Publications in India, 2018) 1795.

³⁵ Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 15.

³⁶ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 357.

According to this canon the territory of a patriarchal Church is determined on the basis of two criteria which should be applied simultaneously: 1) the rite proper to the Church must be observed;³⁷ 2) the patriarch must have lawfully acquired the right to erect provinces, eparchies and exarchies.³⁸ The right to establish these ecclesiastical jurisdictions can be of ancient origin or of a later date but must be expressly conceded or ratified by the Roman Pontiff.³⁹ Regarding the observance of rite also, as noted above, it does not demand that it should be from antiquity. It can even be a phenomenon of recent origin.⁴⁰

1.4. Modification of the *Territorium Proprium* of a Patriarchal Church (CCEO c. 146 §2)

CCEO c. 146 §2 indicates the procedure for resolving doubts about the territorial boundaries of a patriarchal Church and for modifying already-determined boundaries of the same. It states:

If any doubt concerning the territorial boundaries of the patriarchal Church arises or if it is a question of the modification of boundaries, it is for the synod of bishops of the patriarchal Church to investigate the matter. After hearing the superior administrative authority of each Church *sui iuris* concerned, and after discussing the matter in the synod, it is up to the same synod to present a properly documented petition for the resolution of the doubt or for the modification of the boundaries to the Roman Pontiff. It is for the Roman Pontiff alone to resolve the doubt authentically or to decree a modification of the boundaries.

Firstly, the canon addresses doubts about a patriarchal Church's territorial boundaries. This seemed important since there had confusions regarding the proper territory of several Churches *sui iuris*. The proper territory of some Churches *sui iuris* were in a "fluid" condition. This uncertainty was expressed during the second plenary

³⁷ The term 'rite' is employed according to the prescription of CCEO c. 28 §1: A rite is a liturgical, theological, spiritual and disciplinary heritage, differentiated by the culture and the circumstances of the history of peoples, which is expressed by each Church *sui iuris* in its own manner of living the faith.

³⁸ Paul Pallath, "The Principle of Territoriality," *Iustitia* 2, 2 (December 2011) 352.

³⁹ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 357.

⁴⁰ *Nuntia* 14 (1986) 104-105; John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 356.

assembly of *PCCICOR* and it was clarified that the confusions because of the fluidity of the boundaries can be made certain on the basis of c. 146 §2, which foresees such situations. Canon 146 §2 provides a means of obtaining clarity in these situations. The canon itself had made such a means necessary, as it demands complete certainty about patriarchal boundaries.⁴¹

Secondly, the canon allows modifications to the territorial boundaries of a patriarchal Church. According to *CCEO* c. 57 §1, the erection, restoration, modification and suppression of patriarchal Churches is reserved to the supreme authority of the Church, i.e., either the Roman Pontiff by himself (c. 43) or the College of Bishops together with the pontiff, its head (c. 49). Although any act erecting a patriarchal Church would also determine that Church's territory, it does not mean that such a determination is absolute or immutable. In light of canon 146 §2, this territory can be modified at any time.

CCEO c. 146 §2 had found its place from the very beginning of the formulation of the canons on patriarchal territory. The relator of the *Coetus de Sacra Hierarchia* stated, "A tentative text was proposed in §2 for instances of doubt and when a Synod should desire the enlargement of the patriarchal territory."⁴² It can be noted that this tentative text has undergone only a few redactional modifications in the whole revision process as it appears almost the same in *CCEO*.⁴³ A notable modification in the text is the change of *ad Sedem Apostolicam* to *Romano Pontifici*. Another modification is the change of the clause *auditis Hierarchis ceterarum Ecclesiarum quorum interest*, to *audita superiore auctoritate administrativa uniuscuiusque Ecclesiae sui iuris, cuius interest*. At the stage of *denua recognitio* of the *Schema Canonum de Constitutione Hierarchica Ecclesiarum Orientalium*, the special study

⁴¹ *Nuntia* 29 (1989) 29.

⁴² Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 25.

⁴³ The tentative text proposed in 1977 is the following: §2. Si quod dubium de limitibus territorii Ecclesiae patriarchalis superest vel exurgit aut si de immutationibus limitum agatur, Synodi episcoporum est rem diligenter investigare, auditis Hierarchis ceterarum Ecclesiarum quorum interest, necnon re in Synodo excussa, petitionem apte instructam de dubio solvendo vel de limitibus immutandis ad Sedem Apostolicam porrigere cui soli est dubium authentice dirimere vel decretum de limitum immutatione ferre. Ivan Žužek, "Canons Concerning the Authority of Patriarchs," *Nuntia* 6 (1978) 25. Later texts: *Nuntia* 19 (1984) 45, c. 118 §2; *Nuntia* 22 (1986) 104-105, c. 118 §2; *Nuntia* 24-25 (1987) 25, c. 146 §2.

group *ex officio* changed *Hierarchis ceterarum Ecclesiarum* to *superiore auctoritate uniuscuiusque Ecclesiae sui iuris*.⁴⁴ Later at the final stage of the revision the word *administrativa* was added with *auctoritate* as part of redactional amendments done by the *Coetus pro expansione observationum*.⁴⁵

1.4.1. Possible Reasons for the Modification of the Territory

The synod of bishops of the concerned patriarchal Church must submit a petition which should include the rationale for the modification.⁴⁶ Therefore, the synod has to study the matter in detail and find the reasons that justify the modification. The norms contained in the first paragraph of this canon for the determination of the territory shall be the guidelines. Accordingly, the territory can be extended to an area where the rite proper to the patriarchal Church is observed. As indicated above, in the revision process, the phrase *ab antiqua aetate* was removed from the text of this canon in the stage of *denua recognitio*. The question of eliminating it from the text of the proposed canon was *ex officio* examined by the special study group entrusted with the *denua recognitio*. The reason for this *ex officio* revision was that if it should retain in the canon, it would preclude the possibility to extend the territory of the patriarchal Churches beyond the boundaries of the regions in which the respective rite is being observed from ancient times.⁴⁷ During the second plenary assembly of PCCICOR, the vice-president announced that the aforementioned phrase had been eliminated specifically to enable the Holy See to extend the territory beyond *regiones orientales*.⁴⁸ Consequently, the observance of the specific rite need not extend back to antiquity. Because recent origins will also be taken into consideration, the pastoral care of migrants is a just reason for the extension of its territory.

⁴⁴ *Nuntia* 22 (1986) 105, c. 118 §2.

⁴⁵ *Nuntia* 27 (1988) 40, c. 146 §2

⁴⁶ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 357.

⁴⁷ *Nuntia* 22 (1986) 104-105, c. 118 §1. *Ex officio* il gruppo di studio ha esaminato attentamente la questione se ritenere nel canone le parole *ab antiqua aetate*, le quali, se ritenute, precluderebbero la possibilità di estendere il territorio di una Chiesa patriarchale oltre i confini delle regioni nei quali un determinato *ritus ab antiqua aetate servatur*.

⁴⁸ *Nuntia* 27 (1989) 29.

Even in diaspora, Eastern faithful have the right to live as Easterners and to grow into ecclesial fullness.⁴⁹ This right is acknowledged in the Latin and Eastern codes, which both state that all Christian faithful have the right to worship God according to the prescriptions of their own Church *sui iuris* (CCEO c. 17; CIC c. 214). The Eastern Code obliges the faithful to foster the knowledge and appreciation of their own rite and to observe it everywhere (c. 40 §3). Even if the faithful reside outside the territorial boundaries of their own Church *sui iuris*, and even they are being entrusted to the pastoral care of the local hierarch of another Church *sui iuris*, they remain enrolled in their proper Church *sui iuris* (c. 32) and are obliged to observe their proper rite insofar as it is possible (OE 4, CCEO c. 40). So, in principle, the faithful are encouraged by the Church to follow their own rite. However, in practice, it is the obligation of the hierarchy to provide the necessary means to realize it. Among these necessary means, a basic condition is that it can be realized effectively only if these faithful are being provided with the spiritual assistance and pastoral care by the priests of their own rite. Therefore, the Church encouraged the appointment of the sacred ministers of the same rite of the faithful. The Apostolic See has clearly instructed that the pastoral care of migrants shall be entrusted to ministers of their rite.⁵⁰ When pastoral care is entrusted to the ministers of the same rite as the faithful, the observance of that rite begins in those places. Therefore, to fulfill these

⁴⁹ George Nedungatt, "Autonomy, Autocephaly, and the Problem of Jurisdiction Today," *Kanon* 5 (1981) 33.

⁵⁰ Pius XII, Ap. Const. *Exsul Familia*, 30 Sept. 1952, AAS 44 (1952) 649-704; Paul VI, *Motu Proprio Pastoralis Migratorum Cura*, 15 August 1969, AAS 61 (1969) 601-603; Pontifical Commission for the Pastoral Care of Migration and Tourism, Letter Addressed to Episcopal Conferences, "La Chiesa e la mobilità umana," *L'Osservatore Romano* (26-27 June 1978) 5-7. Pontifical Council for the Pastoral Care of Migrants and Itinerant People, Circular Letter to the Episcopal Conference, "Towards a Pastoral Care of Refugees," *L'Osservatore Romano*, (23 March 1983) 5-6. Pontifical Council for the Pastoral Care of Migrants and Itinerant People, Instruction, *Erga Migrantes Caritas Christi*, 3 May 2004. However, no. 52 of *Erga Migrantes Caritas Christi* stated that "Notwithstanding their right and duty to observe their own rite Eastern Catholic migrants also have the right to participate actively in the liturgical celebrations of any other Church *sui iuris*, including the Latin Church, in accordance with the prescriptions of its liturgical books (cf. CCEO Can. 403, §1)." So the Synod of Bishops of SMC wrote to the Apostolic See that the provision given in the *Erga Migrantes Caritas Christi* might be misinterpreted as thereby adversely affect the practice of one's own rite. *Synodal News* 14, 1 & 2 (November 2006) 36.

rights and obligations of its faithful, a patriarchal Church can petition for the extension of its territory over areas where a large number of its faithful have migrated.

The second criterion determining the territory of a patriarchal Church is the lawfully acquired right to establish an exarchy, eparchy or province. *CCEO* c. 85 says that the patriarch can erect provinces and eparchies with the consent of the synod and having consulted the apostolic see (c. 85 §1) and can erect exarchies with the consent of the permanent synod (c. 85 §2). The patriarch can exercise this power only within the territorial boundaries of his patriarchal Church (cc. 78 §2, 177 §2, 311 §2). Outside the territorial boundaries only the Apostolic See is competent to erect them (cc. 177 §2, 311 §2). Though they are erected and constituted by the Apostolic See, the canons make them integral part of the respective Churches. The bishops constituted outside the proper territory are also members of the synod (c. 102) and have all the synodal rights and obligations except that the particular law can restrict their deliberative vote in matters apart from the election of patriarch and bishops (cc. 150 §1, 102 §2; see also cc. 66 §1, 104, 143, 149, 150, 182, 183). Such a strong relationship with canonical rights and obligations of these bishops with the patriarchal Church and its synod is a just reason for that Church to demand the extension of its jurisdiction to these ecclesiastical jurisdictions.

Current canonical disposition, as expressed in *CCEO* c. 78 §2, bisects the patriarchal Churches into intra-territorial and extra-territorial communities. The bishops, other clerics, religious, and lay faithful of the patriarchal Church are divided into two groups: those residing inside and those residing outside the territorial boundaries of the Church. This division and the placing of the faithful under a double regime with corresponding canonical norms considerably weaken the unity, communion and growth of these Churches.⁵¹ According to John D. Faris, the restrictions imposed on the patriarchal Churches pose difficulties when viewed from an ecclesiological or ecumenical perspective because the autonomy of these Churches is *de iure* and *de facto* bisected because of the current arrangements. Hierarchs serving outside the territory find themselves as strangers in the West and

⁵¹ Paul Pallath, "The Principle of Territoriality," *Iustitia* 2, 2 (December 2011) 359.

strangers in the East, where their patriarch and synods regard them as extraneous to the Church of the homeland.⁵²

Another rationalization for the demand of extension of the territory can be the historical reasons of a patriarchal Church. It is just for a patriarchal Church to claim for this right in the places, where it had enjoyed this right for a long period in the first centuries but later lost it due to some historical reasons.

Evangelization is another just reason for the extension of the territory of a patriarchal Church *sui iuris*. The Church by its very nature is missionary (AG 2); evangelization is intrinsic to it (LG 8, 13, 17, 23, AG 5, 6, 9, 10, CD 6). The Church understands itself as being in mission. The *Catechism of the Catholic Church* defines evangelization simply as “the proclamation of Christ by word and the testimony of life” (CCC 905). Such proclamation and testimony require a person’s presence, and a Christian presence may accomplish both. Every Church *sui iuris* has the obligation and right to carry out this mission. It is clearly stated by the Second Vatican Council, “Thus the same Churches enjoy equal dignity, so that none of them ranks higher than the others by reason of rite, and they enjoy the same rights and are bound by the same laws, even as regards preaching the gospel throughout the whole world (Mk. 16:15), under the direction of the Roman Pontiff” (OE 2). With the establishment of its hierarchy and the extension of its jurisdiction, a Church *sui iuris* can better engage itself in the mission of evangelization.

The Second Vatican Council expressed high esteem for the institutions, liturgical rites, ecclesiastical traditions and discipline of the Eastern Churches (OE 1). Considering the sociological situation of the Eastern Churches that has changed significantly and recognizing the fact that about 2 million Eastern Catholics living outside the so-called “Oriental Regions” (PAL c. 303 §1, 2^o), the Council exhorted the entire Church that steps should be taken for the preservation of these institutions and traditions (OE 4). The best means for the preservation of this rich heritage of the entire Church is to grant the Eastern Churches the possible maximum autonomy in providing pastoral care to their faithful by establishing their own hierarchy and by extending the jurisdiction over them.

⁵² John D. Faris, “At Home Everywhere - A Reconsideration of the *Territorium Proprium*,” *The Jurist* 69 (2009) 19.

Another significant observation is that the ecclesiastical jurisdiction is primarily exercised over human persons, not over land and temporal goods. Territory is only a convenient criterion to determine the Christian faithful over whom certain ecclesiastical authorities are to exercise jurisdiction.⁵³ Fifty years ago, Vatican II recognized that territoriality should not be the determinant factor for the basic ecclesial reality, the diocese, and avoided such a reference in its description of the diocese (CD 11). No mention of territory is found in this definition.⁵⁴ Same is seen in the Codes of canon law in their description of diocese or eparchy where there is no mention at all of territory, which is accordingly not in the least essential (*CIC* c. 369, *CCEO* c. 177 §1). In defining a Church *sui iuris*, in *CCEO*, also no territorial aspect is found but it is presented as "a community of the Christian faithful which is joined together by a hierarchy" (c. 27). According to Joannes Rezáč, "The Church is a society of the baptized, hence of men united to it by a personal bond, which is Baptism, irrespective of the place in which they might be; the territorial element does not enter into its definition as it does however in the definition of the State. Thus there is no obstacle in the fact that in any one territory there might be several particular Churches, since even these Churches have a personal character in so far as they unite the faithful of the same rite, that is, those who are baptized in the same rite or should have been, or have adhered to it with due permission."⁵⁵ John D Faris makes a remarkable observation in this regard. "To place canonical barriers between the Churches of the migration and the mother Churches is to assert that a patriarch governs not a Church, i.e., community of faithful, but a territorial institution. Such a concept is contrary to the letter and spirit of the Second Vatican Council which emphasized the communitarian aspect of ecclesiastical jurisdiction (e.g. CD 11)."⁵⁶

Moreover, the presence of multiple hierarchs does really manifest communion ecclesiology. The one, catholic, and universal Church exists in and out of the particular churches. The ecclesiology of communion is to be lived not only by the Universal Church, but also by every particular church. The particular church is not simply a

⁵³ Paul Pallath, "The Principle of Territoriality," *Iustitia* 2, 2 (December 2011) 340.

⁵⁴ John D. Faris, "At Home Everywhere - A Reconsideration of the *Territorium Proprium*," *The Jurist* 69 (2009) 21.

⁵⁵ Joannes Rezáč, "The Extension of the Power of the Patriarchs and of the Eastern Churches over the Faithful of Their Own Rites," *Concilium* 8, 5 (October 1969) 63.

⁵⁶ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 352.

department of the universal Church, but a concrete realization and representation in which the Church of Christ truly exists and functions (CCEO c. 177 §1; CIC c. 369). According to George Nedungatt, "In a territory, where several intermingling Christian communities are recognized as ecclesial, the local Church ceases to be simply singular and is to be seen as the local replica of the vast and complex *ecumene* with an ecclesiological mystery and an ecumenical problem."⁵⁷

Besides these ecclesiological and canonical stipulations that would justify a petition for the modification of the territorial boundaries of a patriarchal Church, there are also some negative causes that should also be taken care of in this regard. First of all, as a disastrous impact of the separation of the emigrants from their mother Church, there is the possibility that the Eastern Catholics might be attracted by the Orthodox Churches. For example, the Russian Orthodox Church in the US and Canada attracted hundreds of Eastern Catholics.⁵⁸ Another unfortunate possibility is the development of passivism or indifferentism among faithful entrusted to the pastoral care of the local hierarchs and pastors of another Church *sui iuris*. When such a situation exists for years, the faithful may lose interest in their own rite and be content to follow the locally predominant rite. Without necessary pastoral care in their own tradition, they will become anonymous Christians at risk for a weakened, indifferent faith and the loss of Christian living.⁵⁹ These migrants could also become absorbed by the Latin Church while retaining their proper ascription. This problem occurred among Syro-Malabar faithful in Kalyan, Faridabad, etc. Having practiced the Latin rite for long time, some Syro-Malabar faithful were reluctant to return to Syro-Malabar liturgical practices once Syro-Malabar eparchies were established in their area.⁶⁰

⁵⁷ George Nedungatt, "Autonomy, Autocephaly, and the Problem of Jurisdiction," *Kanon* 5 (1981) 28.

⁵⁸ Victor J. Pospishil, "The Constitutional Development of the Eastern Catholic Churches in the Light of the Re-Codification of their Canon Law," *Kanon* 5 (1981) 51.

⁵⁹ Gratian Mundadan, "Keynote Address in Syro-Malabar Mission Assembly - 1999," *Synodal News* 7, 2 (December 1999) 29.

⁶⁰ When the Syro-Malabar Eparchy of Kalyan was erected in Mumbai-Pune region in 1988, some Syro-Malabar faithful did not want to join it and preferred to stay back under the Latin hierarchy. They approached the Holy See asking for the permission to continue to be subjected to the jurisdiction of Latin diocese of Bombay. As a result, in 1993 an *Indult* was given to them to receive sacraments if so they wish in the Latin rite. In the same way, a group

Local clergy may also be unprepared to properly care for faithful of another Church *sui iuris*. Even though magisterial teachings (OE 4, 6)⁶¹ and canonical norms (CCEO cc. 41, 352 §3) exhort such clergy to be carefully instructed in knowledge and practice of Eastern rites, law, teaching, history and nature (OE 6), in reality clerics often do not sufficiently understand the various Eastern Catholic Churches *sui iuris*. In such situations, the responsible pastors do not help the Eastern faithful to understand and observe their own rite.

1.4.2. Consultation with the Heads of Other Churches *sui iuris*

CCEO c. 146 §2 demands the synod of bishops of a patriarchal Church to hear the superior administrative authorities of other Churches *sui iuris* which all are concerned with the modification or resolution of the doubt of its proper territory. It means that all those Churches which have their presence in the concerned territory shall be consulted by the synod of bishops of the respective patriarchal Church. This text has undergone several modifications during the codification process. In the first draft, the synod was asked to consult with all the hierarchs of other Churches concerned. According to the promulgated text, the synod is to hear the "superior administrative authority of each Church *sui iuris* concerned." This change was made since the requirement to consult the hierarchs of other Churches would make such a consultation too much extensive and practically difficult to carry out.⁶² Now, "the heads of other Catholic Churches *sui iuris*"⁶³ must be consulted.

According to John D. Faris,

of Syro-Malabar faithful were reluctant to join the new Eparchy of Faridabad, erected in 2012 for the Syro-Malabar faithful in the six states of North India. They approached the Holy See and in 2015, the Congregation for the Eastern Churches issued an *Instruction*. In this *Instruction* understanding the difficulty of these faithful who do not wish to change their ascription to the Syro-Malabar Church but wanted to participate in Latin rite celebrations allowed them to continue to stay in the Latin parishes. However, it ordered that they have to observe the canonical formalities for the administration of the sacraments, especially for baptism, chrismation and marriage.

⁶¹ Before the Council, Benedict XV, m. p. *Orientis catholici*, 15 October 1917, AAS 9 (1917) 531-533; Pius XI, ency. *Rerum Orientalium*, 8 September 1928, AAS 20 (1928) 277-288.

⁶² *Nuntia* 22 (1986) 105, c. 118 §2.

⁶³ John D. Faris, "Patriarchal Churches," in *A Guide to the Eastern Code*, ed. by. George Nedungatt, 193.

The canon might be criticized for its call for consultation with the superior administrative authorities of other Churches *sui iuris* concerned with the matter because the other Church *sui iuris* involved is often the Latin Church itself, with the Roman Pontiff at its head. The Roman Pontiff therefore holds the conflicting roles of part and judge. In practice, the local episcopal conferences become involved in such boundary disputes even though the canons do not construe these entities as superior administrative authorities.⁶⁴

This observation is entirely right with regard to the Syro-Malabar Church in India.

The canon demands to hear “the superior administrative authority of each Church *sui iuris* concerned.” Here comes the question how and why a Church *sui iuris* can be concerned with or be affected by the modification of the territorial boundaries of another Church *sui iuris*? A Church that can be affected mostly would be the Church to whose pastoral care the faithful of the respective patriarchal Church are entrusted with. When the territory is extended, naturally these faithful would be subjected to the jurisdiction of the patriarch and that Church will lose its jurisdiction over these faithful. It will cause a decrease in the number of the subjects of that Church’s jurisdiction. More than that will there be any other negative consequences on that Church, or will it be affected in any other way? The presence of more than one hierarch in the same place, i.e., multiple jurisdictions in the same territory, is now already an accepted practice in the Catholic Church. If so, solely on the ground of the transfer of the faithful from one’s jurisdiction to their own mother Church, can the head of a Church *sui iuris* oppose the extension of the territory of a patriarchal Church. Canonically it is very clear that these faithful are not fully the subjects of that Church, as they keep their membership in their own original mother Church *sui iuris*. The concerned Church or its hierarchy was entrusted with the care of these faithful only until the latter have their own hierarchs.

As seen above, no Catholic can remain outside the pastoral care of the Church, and no Christian community can be without episcopal supervision. It is also a common norm that through domicile and quasi-domicile each person acquires his or her own local hierarch and pastor (CCEO c. 916 §1). In places where a person has no local hierarch from his or her own Church *sui iuris*, the local hierarch of another

⁶⁴ John D. Faris, “At Home Everywhere - A Reconsideration of the *Territorium Proprium*,” *The Jurist* 69 (2009) 24.

Church *sui iuris* is to be considered the person's proper hierarch (CCEO c. 916 §5). Eparchial bishops to whose care the Christian faithful of another Church *sui iuris* have been committed are bound to provide everything necessary for these Christian faithful to retain, cherish, and, in so far as possible, observe the rite of their own Church *sui iuris* (CCEO c. 193 §1; CIC c. 383 §2). The practice, however long-standing, of receiving the sacraments in some Church *sui iuris* does not confer membership in that Church (CIC c. 112 §2). The faithful remain ascribed to their own Church *sui iuris*, even if they are entrusted to the local hierarch of another. Magisterial teachings and canonical norms manifest the desire of the Universal Church. Can a Church *sui iuris* or a particular Church oppose this desire? Can their concerns outweigh the teachings of the Universal Church?

1.4.3. Right of the Synod to Submit the Petition for Modification

CCEO c. 146 §2 states that after discussing the matter in the synod, the same synod is responsible for properly petitioning the Roman Pontiff for the desired modifications. The canon demands the discussion of the matter within the synod of bishops of the respective patriarchal Church before presenting the petition to the Roman Pontiff. To complete the first steps of this process, namely, studying the matter and hearing the superior administrative authorities of the other Churches *sui iuris* concerned, the synod of bishops delegates a few of its members who are assisted by clerics and even lay faithful of the respective patriarchal Church. However, since the synod itself presents the petition, its members should know the matter, deliberate on it and reach the consensus in order to submit the petition. Therefore, the synodal discussion is required by law.

The canon demands that the petition be properly documented. In his address for the presentation of the CCEO, Pope John Paul II stated that the proposal should be "formulated in the Synods with full details and with clear reference to norms of the Code." Proper documentation would logically include statistics, results of consultations, reports from apostolic and patriarchal visitations, the report of the synod, precise outline of the proposed extension, etc. Therefore an elaborative study and preparation is needed prior to the submission of the petition.

As mentioned above, in the drafting and codification of the canon the term *Apostolic See* was changed to *Roman Pontiff*.⁶⁵ So the canon clearly establishes that the resolution of a doubt or about patriarchal

⁶⁵ It shall be noted that OE 4 describes the Apostolic See as the Supreme Arbiter in inter-Church relations.

boundaries or a modification of them is reserved to the Roman Pontiff alone, no dicastery in the Vatican curia has the competence for the same. The Roman Pontiff alone can resolve any doubt regarding the boundaries or modify the boundaries.⁶⁶ It is the competence and the task of the Roman Pontiff as the supreme authority of the Church and the supreme arbiter in inter-ecclesial relations (OE 4).

Part II: Extension of the Proper Territory of the Syro-Malabar Major Archiepiscopal Church: Attempts and Responses

2.1. Historical Setting of the *Territorium Proprium* of the Syro-Malabar Church

Before Western missionaries arrived in the sixteenth century, the St. Thomas Christians in India had their own style of ecclesiastical administration. From the fourth century, they were governed by bishops from the East Syrian Church. The title of the metropolitan of India was "The Metropolitan and the Gate of All India." However, their power was limited to consecrating churches, ordaining priests, administering sacraments, and other liturgical matters. Judicial powers resided with the archdeacon, a native priest, as did administrative powers like clerical discipline and administration of ecclesiastical goods. The institution of the archdeacon, who carried the title "Archdeacon of All India,"⁶⁷ placed the autonomous status of the St. Thomas Christians in greater relief.⁶⁸

The coming of the Western missionaries in the sixteenth century and the consequent imposition of the Latin jurisdiction drastically changed the life and discipline of the St. Thomas Christians. Portuguese missionaries obstructed the arrival of bishops from the East Syrian Church and on 20 December 1599 Pope Clement VIII appointed Francis Ros SJ as the Bishop of St. Thomas Christians. With that the Archdiocese of Angamaly of St. Thomas Christians was reduced to the

⁶⁶ John D. Faris, *Eastern Catholic Churches: Constitution and Governance*, 357.

⁶⁷ It is the strong and living tradition of St. Thomas Christians that they had their origin from the preaching of St. Thomas Apostle. It is not much known about the first three centuries, but it is presumed that the Church founded by St. Thomas flourished as a genuinely Indian Church. It might have organized its ecclesial life in a truly Indian style. In the fourth century, the St. Thomas Christians came into contact with the East Syrian (Chaldean) Church of Persia. From that period, the East Syrian bishops were the spiritual head of the St. Thomas Christians.

⁶⁸ A.M. Mundadan, *Indian Christians: Search for Identity and Struggle for Autonomy*, Second Edition (Bangalore: Dharmaram Publications, 2003) 12-17.

status of suffragan diocese to the Latin Archdiocese of Goa. There began formally the Latin jurisdiction upon the St. Thomas Christians. In the context of the jurisdictional conflicts between Bishop Francis Ros and Bishop Andrew of Sancta Maria, the Bishop of Cochin, Archbishop Alexis Menezes of Goa (1595-1610), mandated by Pope Paul V (1605-1621), fixed the boundaries of the See of Cranganore (Kodungalloor)⁶⁹ of St. Thomas Christians and the Latin Dioceses of Cochin and Mylapore.⁷⁰ With this settlement, the See of St. Thomas Christians lost its India-wide jurisdiction, which was reduced to a small part of Kerala in southern India. This territorial limitation actually denied its fundamental rights as an individual Church: the right to initiate its missionary works and the right to provide pastoral care to its migrant faithful in the other parts of the country.⁷¹

When the Syro-Malabar Church (hereafter SMC) was elevated to the status of major archiepiscopal Church *sui iuris*, its territory was clearly defined as the ecclesiastical provinces of Ernakulam and Changanacherry. This territory included the federal state of Kerala, as well as some parts of the states Tamilnadu and Karnataka in South India. As a result, many Syro-Malabar faithful, though living in the Republic of India, happened to be outside the proper territory of their mother Church. Majority of them were under the Latin hierarchy.⁷² The pastoral care of these faithful thus became a serious concern of the SMC.

More than obtaining the provision for the pastoral care of its faithful, ultimate goal of the SMC, at all times, is the restoration of all-India jurisdiction, i.e., the removal of the territorial limitation imposed on it after the coming of the Western missionaries in India. The SMC considers all-India jurisdiction as a genuine and legitimate right of it since it had enjoyed such a status until sixteenth century. It is

⁶⁹ On 3 December 1609 the title and residence of the See of St. Thomas Christians were transferred Angamaly to Cranganore (Kodungalloor).

⁷⁰ The documents concerning the determination of the boundaries of the Archdiocese of the St. Thomas Christians can be found in *Bullarium Patronatus Portugalliae Regum in Ecclesiis Africae, Asiae atque Oceaniae*, vol. 2, (Lisbon, 1870) 10-17.

⁷¹ Gregory Karotemprel, "All India Jurisdiction for the Syro-Malabar Church Facts, Perspectives," *Journal of St. Thomas Christians* 28, 2 (July-December 2017) 24.

⁷² Since at this time there were eight SMC mission eparchies (Bijnor, Chanda, Gorakhpur, Jagdalpur, Rajkot, Sagar, Satna, and Ujjain) and the Eparchy of Kalyan in Bombay-Pune region, outside the proper territory, the Syro-Malabar faithful of these eparchies were under Syro-Malabar hierarchs.

considered also essential for the pastoral care of its faithful living all over India and to engage itself more effectively in the mission of evangelization.

2.2. Attempts of the Synod of Bishops of SMC for the Modification of the Proper Territory

The restoration of all-India Jurisdiction was the strong desire and ultimate goal of the SMC even before the promulgation of *CCEO*.⁷³ However, after its elevation to the major archiepiscopal status, there had cohesive and serious efforts for the same.

The First Synod of bishops of SMC (1993)⁷⁴ decided to request the Holy Father to erect one or more Syro-Malabar provinces in North India and to recognize that/them too as the proper territory of the major archbishop.⁷⁵ Since the responses to this request were not encouraging, the third session of the II Synod (1994) decided to approach again the Congregation for the Eastern Churches and some individual Latin bishops in India.⁷⁶ In the first session of the III Synod

⁷³ After the independence of 1947, people from South started migrating to Central (especially Mumbai) and North (especially Delhi) India. During the period between 1960's and 1980's, the nurses, engineers, doctors, etc. migrated in large numbers. At that time, the SMC did not have a single head, as it was having two Metropolitans. It was having Syro-Malabar Bishops' Conference (SMBC) and its president. At the request of the SMBC, Pope John Paul I appointed Late Cardinal Antony Padiyara as the Apostolic Visitor on 8 September 1978 to find out steps to be taken for the spiritual and pastoral welfare of the Syro-Malabar migrants in the Latin dioceses of India outside Kerala. After visiting eight major cities in India (meeting 60 groups numbering almost 48 thousand Syro-Malabar faithful) a report was submitted to the Apostolic See in 1980. After his visit in India in February 1986, Pope John Paul II sent a letter to all the bishops in India regarding the pastoral care and mission of the Eastern Catholics in India on 28 May 1987. In 1988, the Eparchy of Kalyan was erected for the Syro-Malabar migrants in Mumbai-Pune region in Central India.

⁷⁴ The V Synod (1997), held from 9 to 21 June 1997, decided the numbering of the Synods as follows: The synodal assemblies of one year will be considered as one Synod and will be indicated by Roman numerals with the year in brackets. If there are more sessions (which until now have been assemblies) will be counted as sessions. *Synodal News* 10 (August 1997) 25. In this article, the synods held before this decision are also numbered in the method prescribed by this synodal decision.

⁷⁵ *Synodal News* 1 (August 1993) 39.

⁷⁶ *Synodal News* 4 (February 1995) 11.

(1996), held at Vatican from 8 to 15 January 1996,⁷⁷ in which the representatives of the various dicasteries of Vatican curia also participated, discussed also the subjects of extending the *territorium proprium*, and establishing metropolitan sees outside the *territorium proprium*.⁷⁸ In the final statement approved by the Synod, the bishops renewed the appeal to the Holy Father with the following requests:

1) That the entire India be declared multijurisdictional in order to facilitate the pastoral care of the Syro-Malabarians who are at present living outside the *territorium proprium*, and as a first step to appoint an apostolic visitor who will study the matter and refer it to the Holy See and the Major Archbishop; 2) To declare the eparchies that are at present outside the *territorium proprium* as *territorium proprium* in view of granting the request No. 1; 3) To establish an eparchy each in New Delhi and Bangalore; 4) To appoint two apostolic visitors, namely one for the Syro-Malabar migrants in USA and Canada in view of erecting an eparchy there and the other for those in Europe; 5) To regroup the Syro-Malabar eparchies which are at present outside the *territorium proprium* under two Syro-Malabar Metropolitans; and 6) To entrust more areas for undertaking missionary work by the Syro-Malabar Church.⁷⁹

⁷⁷ In the meeting of the Permanent Synod of the SMC held at the Congregation for the Oriental Churches in Rome from 8 to 12 May 1995, it was decided to convoke a meeting of the Synod of Bishops of SMC in Rome at the time of the next "ad limina" visit of the Syro-Malabar Bishops in January 1996. A Joint Preparatory Commission was appointed by the Congregation and the Permanent Synod of SMC for the preparation of this Special Synod. This commission met once in Kerala (September 1995) and then in Rome (December 1995) and formulated the agenda of this special synod. Nine papers were presented in the Synod. Each paper was presented by a synodal member and also by one or two representatives of the Congregation. Besides the papers some other topics were also discussed. The intention was that this special synod held in Rome with the Holy Father would permit the Bishops to continue a process which could address those topics relative to the life of the Church.

⁷⁸ *Synodal News* 7 & 8 (April 1996) 29. In his circular letter issued after the Synod in Rome to the entire SMC, the Major Archbishop mentioned all these requests made to the Roman Pontiff. *Synodal News* 7 & 8 (April 1996) 99.

⁷⁹ Antony Padiyara, "Circular Letter," 1 March 1996, *Synodal News* 7 & 8 (April 1996) 99. Among these requests, the apostolic visitors for USA & Canada, and for Europe were appointed on 23 February 1996. *Synodal News* 7 & 8 (April 1996) 91-92, 93-94.

As per CCEO c. 124, which prescribes that the patriarch can erect commissions to take care of the various activities and pastoral affairs of the entire patriarchal Church, a Commission for Pastoral Care of the Migrants and for Evangelization was constituted in SMC to coordinate its efforts for the pastoral care of its faithful residing outside the proper territory and for evangelization.⁸⁰

Since there had no positive responses to its requests from the Apostolic See, in the third session of the VI Synod (1998), the synod of the SMC decided to send a memorandum to the Holy Father to extend the proper territory to the whole of India.⁸¹ On 14 November 1998, the Synod submitted the petition to Pope John Paul II together with a memorandum. The memorandum enlisted the reasons in a detailed manner for the request in the petition, such as: 1) the anomaly that the nine Syro-Malabar eparchies within its own country remain outside the *territorium proprium*; 2) the pastoral care of the sizable Syro-Malabar communities in the cities of India; 3) evangelization of India and the SMC. The Memorandum brought to the attention of the Roman Pontiff the assurance made by him at the presentation of CCEO. It contained a detailed statistics of the Syro-Malabar faithful in the Syro-Malabar eparchies inside and outside of the *territorium proprium*, the Syro-Malabar faithful under the pastoral care of the Latin bishops in India and the priests and religious of Syro-Malabar origin working in the Latin diocese, etc. Finally, the memorandum contained the historical, theological and canonical references for the subject matter of request. It presented briefly the history of SMC. The section of theological references contained the following points: the equality in dignity of the Churches; the equality of the Churches in rights and obligations; the fundamental missionary nature of the Church; and the ecclesiology of the communion of Churches. The canonical arguments were: the right of the faithful for spiritual assistance; right to worship in one's own *sui iuris* Church; membership in a *sui iuris* Church; preservation and promotion of rites; obligation of the Pastors (bishops) to provide the necessary help for the realization of above rights; the canonical provisions for the establishment of a hierarchy; and lastly the principle other than of territory in determining parishes and jurisdiction, namely, the belongingness to another *sui iuris* Church. The memorandum concluded: "From what is said above it is very clear

⁸⁰ *Synodal News* 6, 1 (March 1998) 15.

⁸¹ *Synodal News* 6, 2 (December 1998) 49.

that there is every reason to extend the *territorium proprium* of the Syro-Malabar Major Archbishop to the whole of India."⁸²

It was a well studied and properly documented petition as per CCEO c. 146 §2. However, still, no favourable decision came from the Roman Pontiff. Therefore, the first session of the VIII Synod (2000) decided to make again a request to the Holy Father in that year of Great Jubilee to get the legitimate rights of SMC recognized.⁸³ In its second session, the synod prepared a petition to the Holy Father requesting to take steps to grant the legitimate rights of SMC in regard to its proper territory and requested the major archbishop to submit it to the Holy Father through the Congregation for the Eastern Churches.⁸⁴ The Syro-Malabar Major Archiepiscopal Assembly of 2004 also submitted a memorandum to the Holy See, signed by all the bishops of the Syro-Malabar Church and over 400 delegates of the Assembly.

The XIII Synod (2005) devoted much time to discuss the question of pastoral care of the migrants and evangelization. It decided to submit again the request to the Holy Father for acknowledging the rights of pastoral care of the Syro-Malabar faithful outside the Syro-Malabar jurisdictions in India. In this letter to the Holy Father, the synod pointed out that the SMC was functioning throughout India without any restrictions before the coming of the Portuguese. So it was requested to the Holy See to lift the restrictions and to give freedom to work throughout India for the spread of the Kingdom of God.⁸⁵ During his personal visit to Pope Benedict XVI at the time of the Ordinary Synod of Bishops in Vatican, held 2-23 October 2005, Major Archbishop Varkey Cardinal Vithayathil presented this written request to the pope.⁸⁶

The Global Meet of the Syro-Malabar Emigrants, held 18-21 August 2006,⁸⁷ requested Pope Benedict XVI the extension of the proper territory to whole of India so that the Syro-Malabar faithful would

⁸² This Memorandum is published in *Journal of St. Thomas Christians* 28, 2 (July-December 2017) 94-116.

⁸³ *Synodal News* 8, 1 (September 2000) 27.

⁸⁴ *Synodal News* 8, 2 (December 2000) 31.

⁸⁵ *Synodal News* 13, 1 & 2 (2005) 48.

⁸⁶ *Synodal News* 14, 1 & 2 (November 2006) 8.

⁸⁷ *Synodal News* 14, 1 & 2 (November 2006) 124. The Global Meet of Syro-Malabar Migrants brought together at the Curia of the Major Archbishop about 400 representatives of the sons and daughters of the SMC scattered all around the world, outside the proper territory of the SMC.

never feel migrants in their own mother country.⁸⁸ In the inaugural address of the following synod, i.e., the second session of XIV Synod (2006), the major archbishop said:

In this context we could consider whether we should submit a fresh memorandum to the Holy Father to extend the proper territory of our Church to the whole of our country by a particular law approved by him in accordance with CCEO c. 78 §2. I would like to recall that Professor Ivan Žužek, Secretary to the Commission for the Codification of the Oriental Canon Law, has later openly declared that the jurisdiction of the Syro-Malabar Church should be extended to the whole of India, notwithstanding the principle of territoriality. This obviously is in consideration of our history and the *de facto* presence and situation of our faithful in the various parts of our country.⁸⁹

This session of XIV Synod (2006) decided to send the Holy Father a comprehensive report on the Global Meet that would mention the faithful's need for pastoral care in their own ecclesial traditions. A copy of this letter was sent to the Secretary of State and the heads of the other dicasteries.⁹⁰

In the second session of XV Synod (2007), it was proposed that the synod send a delegation to Rome to present its grievances. This delegation would meet with Holy Father and concerned dicasteries, explaining all the difficulties that had been caused by Rome's unsatisfactory responses to the synod's just appeals. However, the synod determined that the time was not opportune. Instead, the major archbishop would send a letter on behalf of the synod expressing the aforementioned difficulties. The synod proposed that the letter should mention the impropriety of consulting the Latin hierarchy about erecting Syro-Malabar eparchies while not consulting the Syro-Malabar hierarchy about erecting Latin dioceses. The letter was also to request eparchies in the metropolitan cities of Delhi, Chennai, and Bangalore; one or two archeparchies for the Syro-Malabar eparchies outside the *territorium proprium*; and the extension of Syro-Malabar jurisdiction beyond the territorial boundaries set in 1992.⁹¹

⁸⁸ *Synodal News* 14, 1 & 2 (November 2006) 133, 146.

⁸⁹ Varkey Vithayathil, "Inaugural Address at Second Session of XIV Synod (2006)," *Synodal News* 14, 1 & 2 (November 2006) 67.

⁹⁰ *Synodal News* 14, 1&2 (November 2006) 109.

⁹¹ *Synodal News* 15, 1 & 2 (November 2007) 59-60.

On 15 July 2006, the Apostolic See appointed Bishop Gratian Mundadan CMI apostolic visitator for Syro-Malabar faithful in India living outside the proper territory.⁹² The apostolic visitator was asked by the second session of the XIV Synod (2006) to obtain accurate statistics about the emigrants throughout India. It was also suggested that the interim solutions proposed not preclude the final goal of all-India jurisdiction.⁹³

In a 30 June 2007 audience, the major archbishop shared the SMC concerns with Holy Father, especially regarding erection of new dioceses in India and pastoral care of migrants. He also presented these concerns in writing to the Prefect of the Congregation for the Eastern Churches.⁹⁴

In the XVI Synod (2008), in the discussion on the report of the meeting of the CBCI Special Commission for Evangelization, the apostolic visitator explained the procedure of his visitations. The synod fathers proposed presenting to the Latin bishops in India and to the Apostolic See the following just demands of the Syro-Malabar Church: (a) All-India jurisdiction is the ultimate goal in the pastoral and evangelization work of the Syro-Malabar Church in India; (b) As a first step, the SMC should be given without further delay dioceses in three metropolitan cities of Delhi, Bangalore and Chennai; (c) Provision should be made for SMC dioceses to provide pastoral care for the Syro-Malabar faithful in neighboring Latin jurisdictions; (d) A bishop should be appointed for the personal parishes instituted as a result of the apostolic visitation and for the communities of the SMC who are not covered by the pastoral care of the Syro-Malabar dioceses; (e) Within the present Syro-Malabar dioceses, Latin faithful should be given pastoral care by the Latin Church according to the principle of all-India jurisdiction of all the three individual Churches.⁹⁵

In his pastoral letter to the entire SMC, on 23 May 2008, the major archbishop wrote:

It is a painful reality that even today our efforts to provide the facilities for adequate pastoral care in our own ecclesial and liturgical traditions to those Syro-Malabar faithful in these areas have not met with considerable success. There is inexcusable delay in granting our legitimate rights. Although as the head and father

⁹² *Synodal News* 14, 1 & 2 (November 2006) 150.

⁹³ *Synodal News* 14, 1 & 2 (November 2006) 86.

⁹⁴ *Synodal News* 16, 1 & 2 (November 2008) 6.

⁹⁵ *Synodal News* 16, 1 & 2 (November 2008) 44-45

of your Church, myself and the entire Episcopal body of our Church have continuously presented our requests to the Holy Father and at the various offices of the Holy Father in Rome, the progress in this regard is very slow.⁹⁶

During the XVI Synod (2008) of SMC, the major archbishop said in his inaugural address:

The successive representations we have made to the Holy See in this regard through memoranda and letters have not received any positive reply so far. What result will come out after my recent audience with the Holy Father and Prefects of some Roman dicasteries, is yet to be seen. In this session of the Synod we will have to think about what stand we should take in this regard. The Synod should seek ways and means to get our legitimate rights established by canon law.⁹⁷

In the XII Ordinary Synod of Bishops in Rome, 5-26 October 2008, on the topic "The Word of God in the Life and Mission of the Church," Major Archbishop Varkey Cardinal Vithayathil voiced the concerns of the SMC as follows:

Speaking of the Syro-Malabar Church which is an apostolic Church founded by the Apostle St. Thomas in the first century of Christianity itself and has flourished immensely with plenty of religious and priestly vocations who constitute almost 70% of the missionary personnel of the Latin Church in India, she has been confined to a small Federal State of Kerala and a few dioceses outside in India. Even though the right of every individual Church to preach the Gospel everywhere in the world under the guidance of the Roman Pontiff (OE 3, CD 25) and the right of all the faithful of the Oriental Churches to have pastoral care by their own bishops and priests throughout the world are recognized by the Second Vatican Council and the two Codes of Canon Law (CIC 383 §2 and CCEO 148 and 193), the Syro-Malabar Church is neither given new mission territories in India, Africa etc., nor the freedom to exercise her right to give pastoral care by her own bishops and priests to the hundreds of thousands of migrants in India, in the Gulf Countries, Europe and elsewhere even after forty three years of the conclusion of the Second Vatican Council.... It is justice that builds communion

⁹⁶ *Synodal News* 16, 1 & 2 (November 2008) 79-80.

⁹⁷ Varkey Vithayathil, "Inaugural address at the First Session of XVI Synod (2008)," *Synodal News* 16, 1 & 2 (November 2008) 8.

among the individual Churches which has been denied to the Syro-Malabar Church, for many centuries with regard to the right of evangelization and pastoral care in its own ecclesial traditions by its own pastors and it is high time that this Synod reflected over this unjust situation in the Church and proposed lasting remedies.⁹⁸

In 2009, the major archbishop appointed two bishops each to dialogue with the Metropolitans of Delhi, Chennai and Bangalore, belonging to the Latin Church, about the possibility of erecting Syro-Malabar eparchies in these metropolitan cities. In the discussion upon the reports of these delegated bishops and of the apostolic visitor in the first session of XVIII Synod (2010), it was decided that the attempts to get all-India jurisdiction are to be pursued together with the efforts to get the eparchies established in these metropolitan cities.⁹⁹ The synod also decided to present again one detailed petition to the Holy See projecting all-India jurisdiction as the rightful demand of SMC. However, it made its mind up to present this petition to the Holy See only after the forthcoming CBCI meeting.¹⁰⁰

In a circular letter issued after the synod, the major archbishop wrote: "During September last [2009], the Holy Father had convened a meeting of the Patriarchs and Major Archbishops of the Oriental Churches. I also had attended the meeting. On that occasion, I brought to the attention of the Holy Father the right and duty of the SMC for evangelization and to provide pastoral care for the SM faithful living within and outside India. I got the impression that the Holy Father had a favourable attitude regarding this matter."¹⁰¹

In the second session of the XVIII Synod (2010), the synod fathers discussed possible follow-up actions regarding all-India jurisdiction. The chairman of the Commission for Evangelization and Pastoral Care of the Migrants, together with the secretary of the synod, presented five points regarding the same: 1. To make a further appeal to the Holy See regarding the all-India jurisdiction; 2. To go as a delegation of two or three or even more archbishops or bishops to meet the Secretary of State, the Prefect of the Congregation for the Eastern Churches and other officials in Vatican; 3. To enlist the goodwill and support of the heads of Eastern Catholic Churches; 4. To go as a delegation of two or

⁹⁸ Varkey Vithayathil, "Inaugural Address in XVI Synod (2008)," *Synodal News* 16, 1&2 (November 2008) 3-4.

⁹⁹ *Synodal News* 18, 1 & 2 (December 2010) 22-23.

¹⁰⁰ *Synodal News* 18, 1 & 2 (December 2010) 24, 41.

¹⁰¹ Varkey Vithayathil, "Circular Letter," 10 March 2010, *Synodal News* 18, 1 & 2 (2010) 158.

three archbishops or bishops to the new apostolic nuncio and brief him regarding the situation of SMC and its efforts till day to realize our just rights for pastoral care and evangelization in India; 5. To take effective steps to get ecclesiastical jurisdiction over the Syro-Malabar faithful in Europe and in the Gulf countries. The synod decided to make a fresh appeal to the Holy See requesting all-India jurisdiction. The bishops suggested the appeal stress that, "It is restoration of All India Jurisdiction that we demand, it is to exercise our right to develop an ecclesial community rather than the mere right for celebration of the Holy *Qurbana* that we request All India Jurisdiction and it is for keeping up our Church as an ecclesial communion in the context of a continuous emigration of our faithful within the country we make this demand."¹⁰²

As requested by the XVIII Synod (2010), the major archbishop appointed a Delegation of Bishops to represent before the Holy See the serious concerns of the SMC with regard to its legitimate rights for evangelization and pastoral care of its migrants all over India and abroad. It consisted of six bishops. On 14 October 2010, the Delegation had its meeting with the Secretary of State and the Prefect of Congregation for the Eastern Churches. The Bishops' Delegation also had the meeting with the Apostolic Nuncio in India on 1 November 2010.

In the inaugural address of the first session of the XIX Synod (2011), the major archbishop reported on the meetings of the Bishops' Delegation:

I am happy to inform you that the Secretary of State Cardinal Tarcisio Bertone gave a very patient listening to our requests and Cardinal Prefect of the Congregation for Oriental Churches did intervene strongly on our behalf while explaining different aspects of our request to the Secretary of State. On the whole the delegation was satisfied with the encounter and we hope that a positive outcome would certainly come very soon.¹⁰³

In the synod, the Bishops' Delegation presented the report of its meetings and informed that both the cardinals and the apostolic nuncio had promised to present the matter to the Holy Father.¹⁰⁴

¹⁰² *Synodal News* 18, 1 & 2 (December 2010) 72-73.

¹⁰³ Varkey Vithayathil, "Inaugural Address at the First Session of XIX Synod (2011)," *Synodal News* 19, 1-3 (December 2011) 11.

¹⁰⁴ *Synodal News* 19, 1-3 (December 2011) 22-23.

In the first session of the XIX Synod (2011) the Apostolic Nuncio in India, Archbishop Salvatore Pennacchio, was also present during the inaugural sitting. In his inaugural address, the major archbishop confided to apostolic nuncio the two main concerns of the SMC: the restoration of all-India jurisdiction to the SMC so that she can enjoy unhindered right to evangelization, and pastoral care of her faithful all over India.¹⁰⁵ In the discourse with the apostolic nuncio, the synod fathers expressed their deep concern regarding the delay in granting the just demands of SMC in matters of pastoral care and jurisdictional rights. They strongly put forward the arguments for the legitimate rights of SMC and spelled out that there is no need of any apprehensions about a divided Church if the SMC is granted all-India jurisdiction.¹⁰⁶

The first session of the XIX Synod (2011) also discussed the necessary preparations for the forthcoming *ad limina* visit (1-9 April 2011). The following points were suggested: (1) It is good that the report of the apostolic visitor be presented to the Holy See well in advance of the *ad limina* visit; (2) The address of the major archbishop to the Holy Father may be prepared in the best way possible so as to bring home to the Holy Father our deepest concerns of all-India jurisdiction and the pastoral care of the migrants; (3) A letter could be sent to the Prefect of the Congregation for Eastern Churches making it clear that the bishops are coming for the *ad limina* visit with the earnest hope that a solution to the problems would be given by the Holy Father. It was also decided that the bishops should collectively meet the Secretary of State, the Prefect of Congregation for the Oriental Churches, and the Prefect of Congregation for the Evangelization of Peoples.¹⁰⁷ In April 2011, the bishops of SMC had their *ad limina* visit to the Holy Father Pope Benedict XVI. Major Archbishop Cardinal Varkey Vithayathil, prevented from attending by ill health, sent his requests through the curia bishop. The *ad limina* visit allowed the synod to present the legitimate requests of the SMC to the Holy Father and Vatican persuasively and with a justifiable expectation of a positive response.

In 2011, the apostolic visitor presented a final report to the Holy See that strongly recommended restoring all-India jurisdiction for the SMC.¹⁰⁸ On 6 March 2012, the eparchy of Faridabad (Delhi) was

¹⁰⁵ Varkey Vithayathil, "Inaugural Address at the First Session of XIX Synod (2011)," *Synodal News* 19, 1-3 (December 2011) 12-13.

¹⁰⁶ *Synodal News* 19, 1-3 (December 2011) 18-19.

¹⁰⁷ *Synodal News* 19, 1-3 (December 2011) 23-24.

¹⁰⁸ *Synodal News* 19, 1-3 (December 2011) 71.

created for Syro-Malabar faithful and for mission. Its territory extended to six federal states of North India.

On 11 January 2014, a new apostolic visitor was appointed for Syro-Malabar faithful outside Syro-Malabar jurisdiction. The first session of the XXII Synod (2014) entrusted evangelization and pastoral care of migrants within India outside the Syro-Malabar eparchies to the apostolic visitor; it attributed competence over faithful in territories outside India, excluding the Syro-Malabar eparchies, to the Commission for Evangelization and Pastoral Care of the Migrants.¹⁰⁹

In the circular letter issued after the second session of the XXII Synod (2014), the major archbishop stated, "Efforts are continuing to institute new set-ups to take care of the pastoral needs of our people who live beyond the proper territory of our Church in India as well as in other parts of the world."¹¹⁰

In the first session of the XXIII Synod (2015), the apostolic nuncio Archbishop Salvatore Pennacchio addressed the synod and interacted with its members. The bishops expressed the gratitude of the SMC for his friendly and generous attitude and asked him to advocate for SMC's all-India jurisdiction before the concerned authorities.¹¹¹

2.3. Dialogue with Other Churches *sui iuris*

CCEO c. 146 §2 says that the synod of bishops of the patriarchal Church must hear the superior administrative authority of each Church *sui iuris* concerned before submitting the petition to the Roman Pontiff for the modification of its territorial boundaries. Though the canon demands dialogue with the heads of Churches *sui iuris*, as noted above, in practice it takes place with the local episcopal conferences, when it concerns to the Latin Church.

The Catholic Church in India consists of three Churches: the Latin, Syro-Malabar and Syro-Malankara. The Catholic Bishops' Conference of India (CBCI), formally constituted in 1944, functions as the permanent association of all Catholic bishops, i.e. belonging to all these three Churches, in India to facilitate coordinated study and discussion and to adopt common policies.

¹⁰⁹ *Synodal News* 22, 1 & 2 (December 2014) 38.

¹¹⁰ *Synodal News* 22, 1 & 2 (December 2014) 174.

¹¹¹ *Synodal News* 23, 1 & 2 (December 2015) 29-31.

2.3.1. Inter-Ecclesial Dialogue before the Major-Archiepiscopal Status of SMC

From the 1970s onward, the Latin and Eastern bishops of CBCI discussed the pastoral care of Eastern faithful in Latin dioceses, as well the Eastern Churches' right to evangelize. The standing committee meeting of CBCI in 1981 (Delhi) constituted a sub-committee to discuss the procedure and guidelines for Latin-Oriental relationships.¹¹² In the following year, the general body meeting of CBCI at Tiruchirappilly (1982) constituted a committee to study the matter on the pastoral care of the faithful of one rite living in an area of another rite.¹¹³ The committee, consisted of three bishops for each rite, held several meetings in the following period. In its meetings, the Latin bishops emphasized the principle "one territory one jurisdiction." The bishops of the SMC and Syro-Malankara Church insisted on the principle of equal right to all Churches to minister their faithful and to evangelize. They argued for multiple jurisdictions in places with people of multiple rites.¹¹⁴ The Latin bishops were not ready to accept the views and suggestions of the Eastern bishops. They insisted that the Eastern Catholics should integrate into the local Churches they were in. They feared 'disunity' in the Church by accepting double jurisdictions. They argued that missionaries usually came, built the Church and leave it to locals to administer and leave it. This is also expected of the missionaries from Kerala in the North. The Syro-Malabar and Syro-Malankara bishops took their stand on the status of the individual Churches as equal partner with Latin Church. According to them, assimilation of Eastern faithful into Latin Church is contrary to the mind of the Church and is opposed to the teachings of Second Vatican Council. The Eastern faithful should preserve their allegiance to their mother Church wherever they live. For this, proper pastoral care is necessary and separate hierarchy should be erected wherever needed. Evangelizing is obligatory to every Church. Eastern Churches fulfill this not as agencies of Latin Church but on their own.¹¹⁵

¹¹² *Report of the Standing Committee of CBCI - 1981, 7-9, cited in Guide to the CBCI-CCBI Documents, prepared by S. Arulsamy and S. Singaroyan (New Delhi: CCBI Secretariat, 2000) 212.*

¹¹³ *Report of the General Body Meeting of CBCI, 5-14 January 1982, 42-44, cited in Guide to the CBCI-CCBI Documents, 213*

¹¹⁴ *Report of the Standing Committee of CBCI - 1982, 21-25, cited in Guide to the CBCI-CCBI Documents, 213-214.*

¹¹⁵ *Report of the Standing Committee of CBCI - 1982, 54-63, cited in Guide to the CBCI-CCBI Documents, 214-215.*

Even though the discussions continued in several general body Meetings (1983 in Bombay; 1984 in Nagpur, etc), there remained total disagreement between the Latin bishops and Eastern bishops. During his visit to India in February 1986 Pope John Paul II assured the Indian bishops to bring about a just and fair settlement of ritual problems. For this purpose he appointed a Pontifical Commission¹¹⁶ to examine the spiritual and pastoral assistance to the Eastern faithful in Latin dioceses; the Eastern Churches and evangelization outside their territories; and the Eastern Churches and the Indian episcopal conference. On 28 May 1987 Pope wrote a letter to the bishops in India with the following instructions, such as: the bishops of each rite have right to establish their own episcopal bodies; the CBCI will continue for matters of common concern and of a national and supra-ritual character; under the governance of the Roman Pontiff all the Churches have rights and obligations including the preaching of the Gospel; a special Commission for Evangelization should be set up to sort out problems and avoid rivalries; pastoral care of the faithful of Eastern Churches outside their territory through the ministry of their own priests, or parishes of the rite, or episcopal vicar, or if circumstances warrant the Holy See will establish a proper hierarchy for such faithful, etc.¹¹⁷

In the general body meeting of CBCI in April 1988 an "Ad Hoc Committee for Evangelization" was constituted with the office bearers of CBCI and one representative of each of the individual Churches. Later this "Ad Hoc Committee" was raised as a "Special Commission for Evangelization" consisting of the presidents of the episcopal conferences of the three Churches, four representatives from Latin Church and one representative each from the SMC and Syro-Malankara Church. Since the recommendations of this commission were not taken seriously by the CBCI, it became defunct soon.

¹¹⁶ The Pontifical Commission consisted of the Secretary of State, Prefects of the Congregation for Eastern Churches and of the Congregation for the Evangelization of Peoples, The Apostolic Pro-Nuncio, Archbishop Simon Pimento of Latin Church, Archbishop Antony Padiyara of SMC and Archbishop Mar Gregorios of Syro-Malankara Church.

¹¹⁷ This Letter is published in *Journal of St. Thomas Christians* 28, 2 (July-December 2017) 117-122.

2.3.2. The Syro-Malabar Synod in Dialogue with the Latin Hierarchy in India

In 1996 and 1997, efforts were made to reactivate the Special Commission for Evangelization of CBCI. The president of the Conference of the Catholic Bishops of India - Latin Rite (CCBI), wrote to the synod of bishops of SMC to initiate steps for the revival of the Special Commission. The second session of the III Synod (1995) of SMC took decisions in this regard.¹¹⁸ As a result, the Special Commission was revived and reconstituted consisting of the presidents of the episcopal body of the three Churches, four members from the Latin Church, two from the SMC and one from the Syro-Malankara Church. The task of the Commission was to conduct dialogues and to suggest provisions to avoid confusion between the rights and duties of the three Churches *sui iuris* in India and to inspire and provide new thrusts for evangelization.

In line with the discussions in the Special Commission for Evangelization, the synod of bishops of SMC presented its propositions and demands also in the standing committee and the general body meetings of CBCI. The synod used to have preparatory discussions in its sessions to consolidate the proposals and demands to be presented in the meetings of CBCI. Dialogues with individual Latin bishops were also taken place several times at the initiative of the synod.

The second session of the VI Synod (1998) decided to insist first on getting the opportunity to attend to the pastoral care of the faithful of the SMC as outlined in the letter of the Holy Father dated 28 May 1987. It was also found necessary to dispel whatever fears and anxieties

¹¹⁸ The synod decided that one of the synod fathers (Bishop Gratian Mundadan) together with the major archbishop will represent the SMC in this Commission, proposed that a meeting of the Special Commission be convened after the next CBCI meeting and suggested several points to be included on the agenda of its meeting, such as: Possible guidelines for the smooth functioning of all the three Churches in evangelization; Role of the Special Commission in conscientizing the Latin faithful and hierarchy of the need to share the evangelizing activity with the Oriental Churches; Possibility of reconstituting the Special Commission (*Synodal News* 4, 1&2 [April 1996] 15). Again, the second session of the IV Synod (1996) asked the major archbishop to write to the heads of the other two episcopal bodies for reviving the Special Commission for Evangelization. *Synodal News* 5, 1 (February 1997) 33.

which the Latin bishops may have in this regard.¹¹⁹ In the third session of the VI Synod (1998), the apostolic administrator¹²⁰ informed the synod of his conversation with the Latin bishops of India and in particular with the members of the Special Commission for Evangelization.¹²¹ In the VII Synod (1999) the apostolic administrator informed the synod fathers that the discussions concerning the pastoral care of the Syro-Malabar faithful in the Latin dioceses in India conducted at the level of the Special Commission and with certain Latin Bishops individually were not yet decisive.¹²²

In the second session of the VIII Synod (2000), the major archbishop briefed the synod about the discussion in the meeting of the Special Commission and stated that there was no much progress in this area.¹²³ The X Synod (2002) requested the major archbishop to do the needful to get the topic of pastoral care of the Syro-Malabar migrants included on the agenda of the next meeting of the Standing Committee of CBCI.¹²⁴ However, the dialogue took place only on the level of the Special Commission. The XI Synod (2003) suggested that dialogue should be continued and new points for dialogue should be explored.¹²⁵

In April 2003, the Special Commission drafted its recommendations regarding the common agreement on evangelization and pastoral care of the migrants. The XIII Synod (2005) devoted much time to discuss at length the recommendations of the Special Commission and approved its responses to these recommendations.¹²⁶ The responses of the synod

¹¹⁹ *Synodal News* 6, 2 (December 1998) 21.

¹²⁰ On 12 December 1996, Pope John Paul II accepted the resignation of the first Major Archbishop Cardinal Mar Antony Padiyara and appointed Mar Varkey Vithayathil as the Apostolic Administrator of the SMC with all the powers of the major archbishop and also of the archbishop of Ernakulam-Angamaly. On 18 January 1997, Mar Varkey Vithayathil took charge as the Apostolic Administrator of the SMC. On 22 December 1999 he was appointed as the major archbishop by Pope John Paul II. His installation as the second major archbishop of the SMC took place on 26 January 2000.

¹²¹ *Synodal News* 6, 2 (December 1998) 40.

¹²² *Synodal News* 7, 1 & 2 (December 1999) 66.

¹²³ *Synodal News* 8, 2 (December 2000) 24.

¹²⁴ In this Synod, the major archbishop announced that he has deputed another bishop to attend on his behalf the Special Commission for Evangelization and the Synod elected other two bishops to the Commission. *Synodal News* 10, 2 (August 2002) 34.

¹²⁵ *Synodal News* 11, 2 (December 2003) 15.

¹²⁶ *Synodal News* 13, 1 & 2 (December 2005) 37-39, 54.

were discussed in the standing committee meeting of CBCI and a common agreement was formulated incorporating many of the suggestions of the synod.¹²⁷

The revised proposals of the Special Commission were presented in the first session of the XIV Synod (2006) for its approval. These proposals were to be presented in the forthcoming general body meeting of CBCI. The synod discussed the proposals and felt that on certain points it had to clarify its position better than as they were presented in the given proposals. The amended proposals were sent to the Special Commission with a covering letter and an appendix of references.¹²⁸ In his concluding message at this session of the synod, the major archbishop said:

We also spent quite some time in formulating our response to the proposals of the CBCI Special Commission with regard to Evangelization and Pastoral Care in India. We have made it clear that we are most willing to dialogue in this respect, but not sacrificing the fundamental rights of our Church and the basic principles sanctioned by Canon Law, Council Decrees and the teachings of the Apostolic See. I hope that the efforts we have made here will help in elucidating the basic principles and clarifying issues so that before long all the obstacles in the way of our Church attaining that perfection of the juridical structure of a *sui iuris* Church will be removed and the SMC will no longer be limited to the small territory to which the authority of the Major Archbishop is restricted now, but her territory will be extended to the confines of India.¹²⁹

The synod recommended the apostolic visitator, appointed in July 2006, to function in co-operation with the Special Commission for Evangelization and to gain the goodwill and co-operation of the Latin

¹²⁷ *Synodal News* 14, 1 & 2 (November 2006) 8-9. However, later the president of CBCI wrote to the major archbishop that the word 'exarch' as proposed in the common agreement of the standing committee may have to be changed to that of 'apostolic visitor' since the former one entails jurisdiction.

¹²⁸ *Synodal News* 14, 1 & 2 (November 2006) 37. These proposals were approved in the XXVII General Body Meeting of CBCI, held 8-15 February 2006, at Bangalore. Catholic Bishops' Conference of India, *27th General Body Meeting: Catholic Education - The Church's Concern for the Marginalized* (Bangalore: CBCI Souvenir Committee, 2006), 126-127.

¹²⁹ Varkey Vithayathil, "Concluding Address at the First Session of XIV Synod (2006)," *Synodal News* 14, 1 & 2 (November 2006) 57.

bishops concerned.¹³⁰ The major archbishop also suggested that the apostolic visitor should allay the fears of the Latin bishops as very often reminded by the Holy See.¹³¹ After assuming his office, the apostolic visitor sent a letter to all the bishops of India through the secretary general of CBCI. There was a general welcome for his mission from the part of the Latin bishops.¹³²

However, there were not any substantial changes in the attitude and stands of the Latin bishops. They were not willing to implement the teachings of the Universal Church with regard to the pastoral care of the Eastern faithful. So the major archbishop stated:

Pastoral Care of the Syro-Malabar migrants outside the proper territory of our Church still remains a serious issue in spite of the appointment of apostolic visitor. There is still no sign of any willingness from the part of the Latin Church to implement and execute the teachings of the Second Vatican Council, the provisions of Canon Law and the repeated pronouncements of the successive Popes concerning the pastoral care of our faithful in areas outside the proper territory of our Church. The implementation of these principles and provisions are still very much dependent on the good will of the Latin Church. It is indeed quite painful to see that our Church which has an ancient apostolic tradition has to be at the mercy of the Latin Church for realizing her legitimate rights with regard to the pastoral care of her faithful in their own ecclesial tradition.¹³³

In the second session of the XV Synod (2007), the apostolic visitor presented an interim report of his visitation. According to him, the attitude of the authorities of the Latin Church was varied, many welcoming whole-heartedly and a few others showing non-cooperation or indifference.¹³⁴

In 2008 Major Archbishop Cardinal Varkey Vithayathil was elected as the president of CBCI. As president of CBCI, he *ex officio* became the convener of the Special Commission for Evangelization. In August 2008, he convened a meeting of the Special Commission in which the representatives of the three individual Churches had a frank and

¹³⁰ *Synodal News* 14, 1 & 2 (November 2006) 85-86.

¹³¹ *Synodal News* 14, 1 & 2 (November 2006) 87.

¹³² *Synodal News* 15, 1 & 2 (November 2007) 16.

¹³³ Varkey Vithayathil, "Inaugural Address at the Second Session of XV Synod (2007)," *Synodal News* 15, 1 & 2 (2007) 31.

¹³⁴ *Synodal News* 15, 1 & 2 (November 2007) 55-56.

cordial discussion. Though there were points of disagreement, there evolved some kind of agreement in certain guidelines for creation of personal parishes and other provisions for the pastoral care of the migrants. The apostolic visitor effectively presented the cause of SMC in the meeting of the Special Commission. These guidelines were submitted to the standing committee of CBCI (25 September 2008).¹³⁵ The XVII Synod (2009) discussed on these guidelines and gave its observations and suggestions.¹³⁶ The standing committee meeting of CBCI (8 July 2009) finalized the 12 guidelines with regard to the following matters: the steps to be taken towards all-India jurisdiction for the Eastern Churches; the pastoral care of Eastern faithful living in Latin dioceses; establishing more Eastern dioceses overlapping the Latin diocese; collaboration of major archbishops with concerned hierarchs to explore the possibility of creating Eastern dioceses with personal jurisdiction in the metropolitan cities; common task of evangelization with understanding and mutual cooperation, etc. The standing committee approved these guidelines after long discussions and decided to present them in the forthcoming general body meeting of CBCI at Guwahati (2010).

In line with the development of the approval of the guidelines, the major archbishop took the necessary steps to dialogue with the Latin bishops concerned so that they might initiate the process of erecting dioceses in the metropolitan cities of Delhi, Chennai and Bangalore, and an Exarchate situated in or near the cities of Nagpur or Secunderabad. He appointed two bishops each for this dialogue on his behalf with the metropolitans of Delhi, Chennai, and Bangalore and two other bishops for discussions to facilitate the erection of one or two exarchates for other places in India not having Syro-Malabar eparchies.¹³⁷ These developments actually generated hopes in the synod, as stated by the major archbishop:

All of us are very glad that a breakthrough is within sight with the approval by the CBCI Standing Committee of the Guidelines for Pastoral Care prepared by the CBCI Special Commission for Evangelization. As a follow up of these Guidelines, I have appointed two Bishops each for a dialogue on behalf of our Church with the Latin Bishops concerned so that they might initiate the process of erecting three eparchies in the regions of Delhi, Chennai and Bangalore and Exarchate/s for the whole territory outside the

¹³⁵ *Synodal News* 16, 1 & 2 (November 2008) 8, 42.

¹³⁶ *Synodal News* 17, 1 & 2 (December 2009) 32-33.

¹³⁷ *Synodal News* 17, 1 & 2 (December 2009) 32-33.

SM jurisdiction together with the three eparchies in the regions of Delhi, Chennai and Bangalore. Let us hope and pray that the spirit of dialogue and understanding that has been manifested in a greater degree recently may be sustained and result in fulfilling the aspirations and legitimate rights of the SMC in India and abroad.¹³⁸

In his circular issued after the synod also the major archbishop wrote: "Discussions are under way with the Latin Bishops to ensure their cooperation."¹³⁹ The bishops who were sent to dialogue with the Metropolitans of Delhi, Chennai and Bangalore presented the reports in the first session of XVIII Synod (2010). The Synod also discussed about the findings of the apostolic visitor regarding the situation of the Syro-Malabar faithful outside its jurisdiction. It decided to present the appeal for the restoration of the all-India jurisdiction of the Syro-Malabar Church in the forthcoming general body meeting of CBCI in Guwahati. There was also a common consensus that in the general body meeting of CBCI, the bishops should respond properly to the arguments of the Latin bishops, taking into consideration that the Latin confreres might be apprehensive of the inevitability of giving up a good number of their present faithful, personnel and institutions in the eventuality of the erection of the Syro-Malabar eparchies within their own jurisdictions.¹⁴⁰

The same session of the XVIII Synod (2010) approved a basic paper presenting the historical perspective of the demands of SMC for pastoral care and evangelization in India with the indication that the permanent solution to this issue would be the granting of all-India Jurisdiction for the SMC. The synod decided to send it with a letter of appeal to the members of CBCI for their study before they come to the general body meeting.¹⁴¹ In the concluding speech at this session, Archbishop George Valiamattam, the delegated president of the synod said:

We are inching towards the realization of our dream of the All India Jurisdiction for our Church. The initial set backs need not dishearten us. It is a just cause and our efforts had always been through just means. It will come, sooner or later. In this session of our Synod, we could discuss the preparedness of our Church in

¹³⁸ Varkey Vithayathil, "Concluding Address in the XVII Synod (2009)," *Synodal News* 17, 1 & 2 (December 2009) 76.

¹³⁹ *Synodal News* 17, 1 & 2 (December 2009) 95.

¹⁴⁰ *Synodal News* 18, 1 & 2 (December 2010) 22-23.

¹⁴¹ *Synodal News* 18, 1 & 2 (December 2010) 24.

terms of personnel and material for this momentous responsibility, especially regarding its implementation. In the forthcoming CBCI Plenary Assembly, I gather, there would be discussions and deliberations on this point. I hope the Plenary Assembly will move forward from where the Standing Committee has left, i.e., from the agreement regarding the guidelines for pastoral care, to its implementation.¹⁴²

The developments in the general body meeting of CBCI were very positive. In the words of the major archbishop, "The decision of the General Assembly of the CBCI held in Guwahati in February this year in this regard has been a very positive step. Moreover, none other than Cardinal Oswald Gracias, who is the president of the CBCI as well as of CCBI, reassured us that this would be the way forward in matters of the jurisdictional rights of the Oriental Churches in India."¹⁴³ However, no practical result came from these developments. So in his inaugural address in the first session of XIX Synod (2011), the major archbishop, in the presence of Apostolic Nuncio, said:

In fact, these are the two main concerns of the SMC. The first concern is the restoration of All India Jurisdiction to the SMC so that she can enjoy unhindered right to evangelization and pastoral care of her faithful all over India. This is a right guaranteed in the Codes of Canons of the Church and her constant magisterium. In spite of this fact, the plea of the SMC right from 1980 onwards for the restoration of All India Jurisdiction to the SMC has been constantly ignored just because of the majority of the Latin Bishops in India did not agree to it. This is indeed an injustice and a great harm to the SMC and also to the Universal Church. I have written to the President of CBCI that we have become very much disillusioned and disappointed about the attitude of the Latin Bishops over the question of All India Jurisdiction of SMC and the possibility of ever achieving with the concurrence of the Latin Bishops. Consequently we are forced to think seriously about the usefulness of working as a conference of Bishops where the majority is always trying to deny the legitimate rights of a minority Church even when there were no convincing reasons to support their positions which are diametrically opposed to the much acclaimed fundamental principles of the Universal Church

¹⁴² George Valiamattam, "Concluding Address at the First Session of XVIII Synod (2010)," *Synodal News* 18, 1 & 2 (December 2010) 46.

¹⁴³ Varkey Vithayathil, "Inaugural Address at the Second Session of XVIII Synod (2010)," *Synodal News* 18, 1 & 2 (December 2010) 54.

enshrined in the Codes of Canons of the Church and constant teachings of the magisterium. We feel now that it is quite meaningless to say that we form one conference while our legitimate rights are continually denied by the Latin Bishops.¹⁴⁴

In the third session of the XIX Synod (2011), the new major archbishop informed the synod about a letter he had received from Cardinal Oswald Gracias, the President of CBCI. The cardinal agreed to the major archbishop's proposal for a committee of the two cardinals of the Latin Church and the two major archbishops in India and one representative each from the Congregation for the Eastern Churches and for the Evangelization of Peoples, for taking decisions on the restoration of all-India jurisdiction and on establishing canonical structures for pastoral care of the faithful of the Eastern Churches in India. The synod gave the consent to the major archbishop to proceed on this matter.¹⁴⁵

Inaugurating the first session of the XX Synod (2012), the major archbishop informed the synod about certain negative comments the Latin bishops of Andhra Pradesh and Kerala had made during their *ad limina* visit. Some anxieties of the Latin bishops in India were revealed in the remarks of these bishops, such as: the Latin rite Catholic Church in Kerala has to bear with some strange and humiliating situations in its relations to other rites; the plan of the SMC of extending its jurisdiction would cause many a hurdle to the mission of the Latin Church; any extension of pluri-jurisdiction outside Kerala, without mutual understanding and concern for each other, will certainly threaten the fabric of Indian Catholic community, etc.¹⁴⁶

In 2011, the Special Commission formulated some resolutions to the discussion of the three Indian Churches *sui iuris*. The draft of these resolutions was presented in the first session of XX Synod (2012). Several synod fathers in their interventions registered reservations regarding these resolutions. However, the major archbishop opined that it would be better to go along with these resolutions, while giving suggestions and modifications. The synod authorized the permanent synod to examine and approve the responses to the resolutions of the

¹⁴⁴ Varkey Vithayathil, "Inaugural Address at the First Session of XIX Synod (2011)," *Synodal News* 19, 1-3 (December 2011) 12-13.

¹⁴⁵ *Synodal News* 19, 1-3 (December 2011) 104-105.

¹⁴⁶ *Synodal News* 20, 1-3 (December 2012) 13-14.

Special Commission on the basis of the modifications proposed by the synod.¹⁴⁷

The second session of the XXI Synod (2013), the synod fathers suggested that the Special Commission should be thanked for its cooperation for the erection of the eparchy of Faridabad, and requested the major archbishop and the members of the Special Commission to ask the CBCI president to convene as soon as possible a meeting of the Special Commission to continue the dialogue to fulfill the other demands of SMC.¹⁴⁸ In the second Session of the XXIII Synod (2015), the apostolic visitor informed the synod that through patience and continuous dialogue with the Latin bishops, the situation will improve.¹⁴⁹

In 2016, in its meeting held in Mumbai, the Special Commission evaluated the provisions for pastoral care of the Eastern faithful. Some concrete proposals were made in this meeting for the realization of the demands of SMC of establishing an eparchy in Tamil Nadu and another one for the rest of India. These proposals were presented in the second session of XXIV Synod (2016) of SMC.¹⁵⁰

2.4. The Apostolic See on the Demands of the Syro-Malabar Church

In the inaugural address of the first session of the III Synod (1996) of SMC, held at Vatican, 8 -15 January 1996, Pope John Paul II mentioned the history of the SMC and said:

When other Christians from the West reached your lands, you gave them generous hospitality. For you, they represented a new openness to the Church's universality. At the same time, however, a lack of understanding of your cultural and religious heritage caused much suffering and inflicted a wound which has only been partially healed, and which today still requires a very high degree of holiness and wisdom on the part of the Pastors of the Church, chiefly responsible for building peace and fellowship among all Christ's followers (n. 2).¹⁵¹

In this speech, the Pope appreciated the missionary commitment of the SMC and stated that the universal Church cannot but be grateful for

¹⁴⁷ *Synodal News* 20, 1-3 (December 2012) 30-31.

¹⁴⁸ *Synodal News* 21, 1 & 2 (December 2013) 73.

¹⁴⁹ *Synodal News* 23, 1 & 2 (December 2015) 59.

¹⁵⁰ *Synodal News* 24, 1 & 2 (December 2016) 51-52.

¹⁵¹ John Paul II, "Inaugural Address to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, AAS 88 (1996) 760-761.

the dedication of the many sons and daughters of the SMC who are generously involved in proclaiming the Gospel (n. 5).¹⁵² Regarding the issue of pastoral care of migrants, the Pope said:

Also of great importance is the question of spiritual assistance to the Syro-Malabar faithful living outside the territory over which your direct Jurisdiction is exercised. In my letter quoted above, I recalled how important it is to provide such assistance, in constant dialogue with the Bishops of the Latin Church in India. Great availability and reciprocal understanding are imperative. The first form of communion is that which unites all believers in Christ, children of the one Church of Christ. All things must be undertaken in an atmosphere of trust and common purpose, examining the various situations with objectivity and seeking to resolve them in a spirit of heartfelt collaboration. Conflicts must be banned, since no good can come except from love. Only thus will the Lord bless our efforts (n. 6).¹⁵³

In his address to the bishops of SMC during their *Ad Limina* visit in 1996, Pope John Paul II, said:

You have also reached further consensus regarding missionary activity and the pastoral care of the faithful in other parts of India and elsewhere in the world. My letter to the Bishops of India of 28 May 1987 had already given certain indications in this regard. At that time, the dicasteries involved worked with common accord, and concrete results were achieved. It is now necessary to continue the work in constant dialogue with the Latin-rite bishops of India. Great openness and mutual understanding are required on the part of all concerned, in the knowledge that the salvation of souls - *salus animarum* - is the supreme law of pastoral action (n. 4).¹⁵⁴

Achille Cardinal Silvestrini, the Prefect of the Congregation for the Eastern Churches, in his introductory speech to the first session of the III Synod (1996) of SMC, held at Vatican, said:

The topic of the care of Syro-Malabar migrants living outside of the proper territory of the Church is an issue which we must address

¹⁵² John Paul II, "Inaugural Address to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, AAS 88 (1996) 762.

¹⁵³ John Paul II, "Inaugural Address to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, AAS 88 (1996) 762.

¹⁵⁴ John Paul II, "Allocution of the Holy Father at the *ad limina* visit of the Bishops of the Syro-Malabar and the Syro-Malankara Church," AAS 88 (1996) 772.

immediately. The bishops of the Syro-Malabar Church have been concerned that the faithful of this Church who have migrated to other regions of India in order to find employment have not received adequate pastoral care in their own rite. Unfortunately, this issue has been the cause of a certain degree of friction between the Latin and Oriental bishops in India. In both the documents of Vatican II and in the recent letter of the Holy Father addressed to the Bishops of India, the teaching of the Church in this regard has been made abundantly clear. The faithful of each rite should be given pastoral care according to their own tradition and rite wherever and whenever this is possible. On this level of principle, there is very little misunderstanding and disagreement. However, it is the pastoral application of this principle that has been cause of the difference of opinion that we now see. The complexity of the Church in India makes this challenge even more difficult.

Regarding the right of evangelization for the SMC, the Cardinal referred in the following words:

The topic of the missionary activity of the Syro-Malabar Church addresses another issue of tension and friction with the Latin Bishops of India. I fully understand the complaints and problems raised with regard to the Proper Territory. No Church should have difficulty in the exercise of its spirit of evangelization. The Congregation for Oriental Churches is pleased that in the past, certain missionary territories of India have been granted to the Syro-Malabar Church. If the proper conditions are fulfilled in the future the Congregation hopes that even more territories can be granted to the Church for missionary work both in India and in other countries.¹⁵⁵

The Congregation for the Eastern Churches had a favourable stand towards the demands of the SMC. In December 1995, the Congregation met with several groups of Latin bishops in India during their *Ad Limina* visit in Rome. These visits afforded both parties the opportunity to discuss the issue of the pastoral care of the Syro-Malabar migrants in India with frankness and attention. In these discussions there had the suggestion to reactivate the Special Commission of the CBCI, to investigate the situation of these faithful

¹⁵⁵ Achille Silvestrini, "Introductory Speech to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, *Synodal News* 7 & 8 (April 1996) 50.

and to coordinate an effective program of the pastoral care for them.¹⁵⁶ The Congregation also used to present this issue in its meetings with the Congregation for the Evangelization of People.¹⁵⁷

The words of Pope John Paul II, in his 6 November 1999 post-synodal apostolic exhortation, clearly reveal his mind on this issue:

The situation of the Catholic Eastern Churches, principally of the Middle East and India, merits special attention. From Apostolic times they have been the custodians of a precious spiritual, liturgical and theological heritage. Their traditions and rites, born of a deep inculturation of the faith in the soil of many Asian countries, deserve the greatest respect. With the Synod Fathers, I call upon everyone to recognize the legitimate customs and the legitimate freedom of these Churches in disciplinary and liturgical matters, as stipulated by the Code of Canons of the Eastern Churches. Following the teaching of the Second Vatican Council, there is an urgent need to overcome the fears and misunderstandings which appear at times between the Catholic Eastern Churches and the Latin Church, and among those Churches themselves, especially with regard to the pastoral care of their people, also outside their own territories. As children of the one Church, reborn into the newness of life in Christ, believers are called to undertake all things in a spirit of common purpose, trust and unfailing charity. Conflicts must not be allowed to create division, but must instead be handled in a spirit of truth and respect, since no good can come except from love (n. 27).¹⁵⁸

The inaugural address of His Beatitude Ignace Moussa Cardinal Daoud, the Prefect of the Congregation for the Eastern Churches, in the general body meeting of CBCI in Trichur on 7 January 2004, outlined the seriousness of the issue and called for a positive response from the Latin hierarchy in India:

5. The Church here in India has grown over the centuries in a remarkable way and has finally led to the existence of three time-

¹⁵⁶ Achille Silvestrini, "Introductory Speech to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, *Synodal News* 7 & 8 (April 1996) 49.

¹⁵⁷ Achille Silvestrini, "Introductory Speech to Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, *Synodal News* 7 & 8 (April 1996) 50.

¹⁵⁸ John Paul II, Post-Synodal Apo. Exhortation, *Ecclesia in Asia*, 6 November 1999.

honored and formally recognized Catholic rites, which you can call your in India: Syro-Malabar, Syro-Malankara and Latin. These rites are not opposed to each other in any way. Instead, they make the one Catholic faith of Christ shine out beautifully in its various cultural and historical manifestations, as they emerged, by the will of God, from the many different experiences of your ancestors. Much less, therefore, should their adherents today regard each other as rivals or adversaries, but as humble recipients of rich, yet diverse spiritual patrimonies. It is in this spirit that each of the three ritual identities must be wholeheartedly recognized and valued, cherished and accepted, first and foremost by their own members, but then by all others as a true gift from God to the whole Church. No matter what the historical circumstances of their inception; no matter what the sometimes painful memories surrounding their past; no matter what the challenges, concerns and questions in the present, the three rites today are a treasure of and for the Church in India, indeed for the Church universal.

6. The unreserved mutual acceptance of each ritual community is the cornerstone of true and authentic communion among the ritual Churches in the one Church of Christ. Communication between the different *sui iuris* Churches in India, between their hierarchies, their clergy and their faithful, is essential for the life, mission and future of the whole Church. As much as the relationship today between the ritual Churches is increasingly fraternal and cooperative, there are matters of mutual interest and concern still awaiting final resolutions. To these belong some longstanding issues on which much time and many resources have already been expended in the past such as the pastoral care of oriental faithful outside their proper territory in India; the extension of the oriental jurisdiction beyond *territorium proprium*; the freedom to engage in missionary and evangelizing activities everywhere; the establishment of new oriental parishes and eparchies; double or triple jurisdictions; and the rights and legitimate concerns of established latin jurisdictions. At this point I need to assure you that it is not my intention to ignite or re-ignite old controversies, but since these matters are ever present in your ministry I wish, instead, to implore all of you to keep communicating with each other in the most sincere and selfless way possible. A resolution in these matters can only be achieved through a communication *ad intra* which is entered into with the utmost honesty, simplicity and charity. May be some concrete suggestions or reflections will be in order to aid such fraternal contacts, some of them included already in the very

Statutes of your Conference. What may help this communion is, first and foremost, fervent prayer for each other and with each other. From this will naturally flow a united front in dealing with political questions or government policies; a common effort to address matters of social justice; joint initiatives to witness before secular society; tangible cooperation in the pastoral field; sharing of resources and assets; cooperative reporting of sociological and statistical data; transitional periods for establishing oriental jurisdictions; a catechesis on the history, nature and patrimony of each rite; encouragement of the faithful to understand and appreciate their own ritual identity; and the mutual recognition of the needs and rights of the three Churches *sui iuris*. Such exchange may seem demanding, but once entered into without fear or threat, it will produce results. These results will be the visible and recognizable signs, which will be most eloquent witness before all faithful, before other religions, before governments and before society at large that your message is credible and your faith is true.

7. Such eloquent witness has been given by the Church in other countries which are blessed with a variety of Catholic rites. In the United States of America for example Latin-Oriental relations have undergone tremendous change after a very difficult beginning in the last quarter of the 19th century when oriental Catholic immigrants poured into the country. After at first showing little appreciation for the ancient traditions of the Eastern Churches, the American Latin hierarchy has since then, however, worked hard on improving the relations. Apart from the faithful observance of the directives of the Second Vatican Council, the common determination to resolve interritual problems through dialogue contributed much to this success. There has been as here in India, too, an evolution towards greater communion and cooperation among the various Catholic Churches, for example, through the establishment in America of Eastern Catholic Particular Churches with their own hierarchy. About thirty such structures like eparchies or exarchates belonging to various Eastern Catholic Churches like Ruthenians, Ukrainians, Melkites, Maronites, etc. presently exist in the United States. The latest two are the of Syro-Malabarians (Chicago) and the Eparchy of St. Peter the Apostle of San Diego of the Chaldeans.

8. The unity of the three rites, as you know, is the wish and prayer of the Holy Father Pope John Paul the second, whom I had occasion to meet a few days ago. He is fully aware of your problems and of

your difficulties. He sees hurdles as challenges. You hear his clarion call in his apostolic letter *Novo millennio ineunte*, repeating the words of Jesus to Peter, "Put out into the deep" (Lk. 5:4). He says further: "To make the Church the home and school of communion: that is the great challenge facing us in the millennium which is now beginning" (NMI 43). I seem to hear that challenge already taken up by Archbishop (now Cardinal) Telesphore Toppo, President of CBCI in his inaugural speech of the CBCI Plenary Assembly last January, when he said: "If we can deepen our spirituality of communion and become solidly one, the Catholic community in India is bound to make a yet greater impact on the building up of a better India." To put it in terms of the topic you have chosen for the present session of the CBCI: ecclesial communion is the springboard of communication.

9. ... As new pastoral circumstances have made necessary the above change in one of the Particular Churches of your land, there are other pastoral necessities on a national level, which affect the adequate care of the faithful of all the *sui iuris* Churches in India. I know that over the past decades you have made great efforts and have been through much anguish in the matter of the extension of oriental jurisdiction beyond the *territorium proprium*. But now, at the beginning of a new millennium, I am asking myself and I am asking you, my dear Brother Bishops, whether the time has finally come for a resolution in this matter also. Indeed, I would be most delighted to know that one day a concrete proposal will be considered by this conference which would allow the possible creation of oriental pastoral structures covering all parts of India presently outside of established oriental jurisdictions.

10. It is my sincere hope that these developments may bring about what the Holy Father had expressed in his Post-Synodal Apostolic Exhortation *Ecclesia in America*: "The universal Church needs a synergy between the particular Churches of East and West, so that she may breathe with her two lungs.... thus making the catholicity of the Lord's Church appear more clearly" (n. 17). And only once there is such true Catholicity; once there is genuine communion within the Catholic Church (ad intra), will your communication *with those outside* (ad extra) become effective and credible. In your inner-Church dialogue oriented towards resolving the outstanding interritual problems I wish you full success.¹⁵⁹

¹⁵⁹ *Synodal News* 11, 2 (December 2003) 45-49.

In September 2009, Pope Benedict XVI convened a meeting of the Patriarchs and Major Archbishops of the Eastern Churches in Rome. During this meeting our Major Archbishop brought to the attention of the Holy Father the concerns of the SMC for evangelization and pastoral care. He got the impression that the Holy Father had a favourable attitude regarding this matter.¹⁶⁰

In his address to the first session of XIX Synod (2011) of SMC, the Apostolic Nuncio of India, Archbishop Salvatore Pennachio, said that the appeal of the SMC regarding all-India jurisdiction and related questions are seriously considered by the Holy See and that all have to be a little more patient in this matter to arrive at the best solution.¹⁶¹

Cardinal Leonardo Sandri, the Prefect of the Congregation for Eastern Churches, accompanied by two officials of the Congregation and an official from the Nunciature visited the bishops of SMC during the first session of XX Synod (2012). Welcoming the prefect and the officials, the major archbishop said: "Let me turn to the expectations of this synod from the Apostolic See by the interventions of the Congregation for Oriental Churches. We are thankful to all your steps in the recent years coming to fruition concerning the formation of an eparchy in the big city of Delhi and the neighboring regions." In his address to the synod, the Cardinal reminded the synod that "the Pope offers you consolation and hope, while requesting of you patience and moderation."¹⁶² During the interactions, on the question of all-India Jurisdiction, the Cardinal said that the pontifical orientation in this regard is to go step by step.¹⁶³ He explained that the Holy See wants to proceed in this matter in dialogue with the Latin Hierarchy. In the past the general thinking was that the Latin Church was the Catholic Church and slowly we are coming to the understanding of the two lungs in the Catholic communion. However, it may take time to realize this in practical decisions.¹⁶⁴

2.5. Recent Developments and their Impacts on the Proper Territory of the Syro-Malabar Church

On 6 March 2012, Pope Benedict XVI erected the eparchy of Faridabad for Syro-Malabar faithful in the northern region of India, which

¹⁶⁰ Varkey Vithayathil, "Circular Letter," 10 March 2010, *Synodal News* 18, 1 & 2 (2010) 158.

¹⁶¹ *Synodal News* 19, 1 & 3 (December 2011) 18-19.

¹⁶² *Synodal News* 20, 1 & 3 (December 2012) 33-34.

¹⁶³ *Synodal News* 20, 1 & 3 (December 2012) 34.

¹⁶⁴ *Synodal News* 20, 1 & 3 (December 2012) 36.

includes the capital city of Delhi, the states of Haryana, Punjab, Himachal Pradesh, Jammu Kashmir, and the districts of Gautambudhanagar and Ghaziabad belonging to UP.¹⁶⁵ Besides the pastoral care of the Syro-Malabar faithful, the new eparchy was also entrusted with the mission of evangelization.

On 11 January 2014 Pope Francis appointed a new apostolic visitor for the Syro-Malabar faithful living in India, outside the proper territories, in order to know their number and their spiritual necessities, and to foster their desire for piety keeping their ancient customs and institutions.¹⁶⁶ The Apostolic visitor submitted a report to the Apostolic See in June 2014 and another detailed report to the Apostolic Nuncio in India in November 2014. Again in May 2015 and in April 2016 reports were submitted to the Apostolic See.

Pope Francis extended the boundaries of the Eparchy of Mandya on 26 August 2015, including the six civil districts of the Bangalore region in the State of Karnataka. On 4 August 2015, the Secretary of the Congregation for the Oriental Churches issued the decree that Pope Francis, after hearing the prefect of the same Congregation and the apostolic nuncio in India, considers it worthy to change the boundaries of the Eparchy of Mandya (*ampliare fines eparchiales Mandienses*), in such a way that the eparchy would comprise the civil districts of Bangalore.¹⁶⁷ Since the Eparchy of Mandya existed within the proper territory, with this modification, the proper territory of the SMC was also extended to some more area adjacent to it.

On 9 October 2017, Pope Francis, through this apostolic constitution, *Corporis Mystici Unitas*, erected the Eparchy of Hosur for the faithful of the Syro-Malabar Church residing in the Indian state of Tamilnadu and the Union Territory of Puducherry and Karaikal.¹⁶⁸ On the same day, by the apostolic constitution *Tamquam Viti Palmites*, Pope Francis erected the Eparchy of Shamshabad, "out of all the territories of India where at present the eparchial jurisdiction for the Christian faithful of the same Syro-Malabar Church is wanting."¹⁶⁹

On the same day, by the Decree of Cardinal Leonardo Sandri, Prefect of the Congregation for the Oriental Churches, the boundaries of the Eparchies of Thuckalay and Ramanathapuram were modified

¹⁶⁵ *Synodal News* 20, 1 & 3 (December 2012) 133.

¹⁶⁶ *Synodal News* 22, 1 & 2 (December 2014) 188.

¹⁶⁷ *Synodal News* 23, 1 & 2 (December 2015) 149.

¹⁶⁸ *Synodal News* 25, 1 & 2 (December 2017) 187.

¹⁶⁹ *Synodal News* 25, 1 & 2 (December 2017) 192.

extending the proper territory of the SMC. According to the new modification, the civil districts Madurai, Theni, Virudhanagar, Sivagangai, Ramanathapuram, Tirunelveli and Thoothukudi in Tamil Nadu are subjected to the jurisdiction of the bishop of Thuckalay. The boundaries of the Eparchy of Ramanathapuram were changed to comprise the districts Salem, Namakkal, Thanjavur, Perambalur, Thiruvarur, Tiruchirappalli, Pudukkottai, Nagappattinam, Ariyalur and Dindigul in Tamil Nadu.

On the same day, Pope Francis wrote a letter to all the bishops in India.¹⁷⁰ In this letter Pope Francis acknowledges the rights of SMC and summarizes the acts of the Apostolic See in responses to the demands of SMC in the following numbers:

6. In India itself, overlapping jurisdictions should no longer be problematic, for the Church has experienced them for some time, such as in Kerala. Saint John Paul II's Letter authorized the erection of a Syro-Malabar eparchy in the Bombay-Pune region, which became the Eparchy of Kalyan. In 2012 the Syro-Malabar Eparchy of Faridabad was erected in the region of Delhi and its neighboring states, while the boundaries of the Eparchy of Mandya were extended in 2015 to include the metropolitan area of Bangalore. In the same year, an Eparchy and an Apostolic Exarchate were erected for the Syro-Malankara faithful, so that by these ecclesiastical circumscriptions the Syro-Malankara Church could provide pastoral care for its faithful throughout the territory of India. All these developments show that, albeit not without problems, the presence of a number of bishops in the same area does not compromise the mission of the Church. On the contrary, these steps have given greater impetus to the local Churches for their pastoral and missionary efforts.

7. In 2011 my predecessor Benedict XVI wished to provide for the pastoral needs of the Syro-Malabar faithful throughout India, and I confirmed his intention following the Plenary Session of the Congregation for the Oriental Churches in 2013. There is currently an Apostolic Visitor, in the person of Bishop Raphael Thattil, for those Syro-Malabar faithful in India who live outside their own territory, and he has provided detailed reports to the Apostolic See. This issue has been examined in meetings at the highest levels of the Church. Following these steps, I believe the time is now right to complete this process.

¹⁷⁰ *Synodal News* 25, 1 & 2 (December 2017) 181.

I have therefore authorized the Congregation for the Oriental Churches to provide for the pastoral care of the Syro-Malabar faithful throughout India by the erection of two Eparchies and by the extension of the boundaries of the two already in existence.

I decree also that the new circumscriptions, as with those already in existence, be entrusted to the pastoral care of the Major Archbishop of Ernakulam-Angamaly and to the Synod of Bishops of the Syro-Malabar Church, according to the norms of the *Code of Canons of the Eastern Churches*.¹⁷¹

As seen above, the restoration of all-India jurisdiction and the right for pastoral care and evangelization all over India, were the two legitimate rights and demands of the Syro-Malabar Church. Both these requests were jointly placed before the Apostolic See and were the matter of dialogue with the hierarchy of the Latin Church in India. While, the restoration of all-India jurisdiction was considered as the ultimate goal, the right for the pastoral care of the migrants and evangelization was insisted for immediate effect.

With the acts of the Apostolic See on 9 October 2017, the SMC is granted fully the right to provide pastoral care to its faithful and to engage in its own initiatives in evangelization all over India. It is very explicitly stated in the documents given by the Apostolic See. There is no canonical doubt about the same.

On the demand for the extension of the proper territory of the SMC to the confines of India, there is only limited and partial fulfillment from the part of the Apostolic See. Surely, the Roman Pontiff has modified and extended the proper territory of the SMC by extending the boundaries of the Eparchies of Thuckalay and Ramanathapuram. As seen above, in 2015, there had already a modification and extension of the proper territory to Bangalore metropolitan region by modifying and extending the territory of the Eparchy of Mandya. These are the explicit modifications and extensions of the proper territory of the SMC after its elevation to the major archiepiscopal status.

However, there is a view that the Roman Pontiff has accepted the request of the SMC and has implicitly extended the proper territory of SMC to the confines of India. This presumption is raised on the basis of some statements of Pope Francis in the Decree on the erection of Shamshabad and in his Letter addressed to all bishops in India. In the

¹⁷¹ *L'Osservatore Romano*, English Edition, 41 (13 October 2017) 5; *Synodal News* 25, 1 & 2 (December 2017) 183-184.

Decree on the erection of Shamshabad, it is stated: "We decide that this eparchy be subject to the Major Archbishop and the Synod of the Bishops of the Syro-Malabar Church for its pastoral care."¹⁷² In his Letter the pope says, "I decree also that the new circumscriptions, as with those already in existence, be entrusted to the pastoral care of the Major Archbishop of Ernakulam-Angamaly and to the Synod of Bishops of the Syro-Malabar Church, according to the norms of the *Code of Canons of the Eastern Churches*."¹⁷³

These statements of the Roman Pontiff, especially the third paragraph of number 7 in his letter, are considered as the pronouncements of the implicit recognition of the extension of proper territory of the SMC to all India. It is argued that if the Holy Father wanted to give only two eparchies for the pastoral care and evangelization he would have stopped with the second paragraph of Number 7 in his Letter. But the Holy Father goes to a third paragraph in which he decreed that the new eparchies with those already in existence are entrusted to the pastoral care of the Major Archbishop of Ernakulam-Angamaly and to the Synod of Bishops of the Syro-Malabar Church, according to the norms of the *Code of Canons of the Eastern Churches*. So here the Roman Pontiff refers not only to "the new circumscriptions" but also to "those already in existence." Therefore, "the flow of the letter clearly indicates that by the "Decree" he wants to restore the territorial jurisdiction of the Syro-Malabar Church in other words extend the territory of the Syro-Malabar Church to the confines of India."¹⁷⁴

Another point in favour of the implicit extension is that the Letter of the Roman Pontiff has lost some clarity in its paragraph seven. Therefore, it is to be interpreted by understanding the mind of the legislator. "According to the canonical principle, in order to arrive at a conclusion on such topics where there is a doubt of the law, the *mens legislatoris* (mind of the legislator or the intention of the lawmaker) is to be rightly interpreted for clarity. If we watch the papal pronouncements of recent times, the facts and decisions are also expressed implicitly. For a slow and gradual acceptance of the directives, the implicit style is much better and effective. May be this

¹⁷² *Synodal News* 25, 1 & 2 (December 2017) 192.

¹⁷³ *Synodal News* 25, 1 & 2 (December 2017) 183-184.

¹⁷⁴ Francis Eluvathingal, "Restoration of All India Jurisdiction," *Ephrem's Theological Journal* 22, 1 (March 2018) 70.

implicit way of expression is better in the ecclesial context of India in which it was given."¹⁷⁵

This argument of implicit extension is first of all challenged by the very Decree of erection of the Eparchy of Hosur. There it is stated, "We declare that this Eparchy shall be under the jurisdiction of the Congregation for the Oriental Churches and that everything else be provided for according to the canonical norms of the Oriental Churches."¹⁷⁶ Secondly, this argument is against the canonical norm contained in *CCEO* c. 146. As seen above, the first paragraph of the canon clearly defines the territory of a patriarchal Church and the second paragraph demands that if there arises any doubt concerning the territorial boundaries of the patriarchal Church the synod of bishops of the patriarchal Church may present a petition for the resolution of the doubt to the Roman Pontiff. It is clear from the canon that the legislator wants clarity in this regarding the *proper territory* of the patriarchal or major archiepiscopal Churches. It is essential since not a many of the canonical provisions established in the Code depends on the proper territory of a patriarchal or major archiepiscopal Church. Ecclesiastical authorities cannot make decisions for certainty with the presumption that there is an implicit extension of the proper territory of a patriarchal Church. A Christian faithful belonging to a patriarchal Church cannot claim his or her rights or shall be obliged by the obligations with a presumption of implicit extension. So there should be clarity and if there is no clarity, it is the responsibility of the synod of bishops to make the petition to the Roman Pontiff for the resolution regarding the doubt. The Roman Pontiff alone is competent to make resolution on that.

So if one accepts that the Holy Father has implicitly extended the territory of the Syro-Malabar Church through the indirect statements contained in the above documents, one reaches into a doubt of law. "Now there is a doubt of law because there is an indirect statement about the extension of the territory."¹⁷⁷ If there is a doubt, then, it is the responsibility of the synod of bishops of the Syro-Malabar Church to present a properly documented petition for the resolution of this doubt as per *CCEO* c. 146 §2.

¹⁷⁵ Francis Eluvathingal, "Restoration of All India Jurisdiction: Historical, Juridical, and Ecclesial Implications," *Ephrem's Theological Journal* 22, 1 (March 2018) 71.

¹⁷⁶ *Synodal News* 25, 1 & 2 (December 2017) 188.

¹⁷⁷ Francis Eluvathingal, "Restoration of All India Jurisdiction," *Ephrem's Theological Journal* 22, 1 (March 2018) 70.

Conclusion

The nature and power of the patriarchs was a basic point of discussion from the very inception of the work of codification of *CCEO*. However, as it was clearly manifested by the Roman Pontiff, the legislator, the Code adhered to the principle of territoriality, while the legislator himself assured the provision for *ius speciale* in particular cases for the modification of the territories of patriarchal and major archiepiscopal Churches. The Syro-Malabar Church was asking for the restoration of all-India jurisdiction from a long period, even before the promulgation of *CCEO*. However, after the promulgation of *CCEO* and with its elevation to major archiepiscopal status, its efforts for the same got a systematic and collective rhythm. This demand was fortified with its right and obligation to provide pastoral care to its faithful, living in large numbers outside the proper territory, and its right and obligation for evangelization. Many requests were made to the Apostolic See for these legitimate rights and simultaneously several discussions were held with the hierarchy of the Latin Church in India. In 2017 with the establishment of the eparchies of Hosur and Shamshabad, this Church is granted with the full right to provide pastoral care for its faithful and for evangelization all over India. But, the demand for the modification and extension of the proper territory is granted only in limited manner. Therefore, this right, legitimate to this vibrant Church *sui iuris* for various reasons, is still to be granted. This demand is legitimate not only on the basis of the canonical provisions but also on account of the history and of the present state of affairs of this Church. This Church looks hopefully to the Roman Pontiff for the realization of this legitimate right, as it is assured by the legislator himself: "To leave someone behind on the way is a failure of all. To walk together in step is a victory for all, and a victory for faith and love. The Bishop of Rome does not wish to leave you alone on this path. He wants to be a help, a bridge, a means of communion. He will continue to walk each step with you, not in order to deny you your just autonomy, but to fulfil to the utmost the ministry which Christ entrusted to Peter: to strengthen the brethren and to confirm them in faith and communion (cf. Lk. 22:23)."¹⁷⁸

¹⁷⁸ John Paul II, "Inaugural Address to the Synod of Bishops of the Syro-Malabar Church at Vatican 8-15 January 1996," 8 January 1996, AAS 88 (1996) 761.