

EQUAL DIGNITY IN THE CATHOLIC COMMUNION

Decoding the Decree on the Eastern Churches and the Eastern Code

George Gallaro*

The author presents the history of the condification of the Eastern Code and highlights how the preservation of Eastern disciplines was a major concern even in the Vatican Council I. Analysing the structure of *OE* he says that since this Decree deals with various disciplinary features, it could be seen as a pre-code with no pretense of being complete. This conciliar Decree lays the foundations of a new positive way by specifically emphasizing the diversity of traditions and their equal dignity. Having examined the said decree and the Eastern Code the author asserts that the rites of the Eastern Churches are important not only for them but also for the entire Church. If the rites of the Eastern Churches waver, it is the entire Church that wavers and the apostolic and patristic traditions will suffer extensively. To maintain this variety in the unity, it is more than ever necessary to promote the rites of the Eastern Churches. Hence, he suggests ardent effort to implement the teachings of the decree and the norms of CCEO.

1. Introduction

Pope John Paul II accomplished an extraordinary task regarding the Eastern Catholics during his long pontificate (1978-2005) by following the teaching of the Second Vatican Council, particularly the Decree on

***George D. Gallaro**, a Melkite priest of the United States, obtained his Licentiate and Doctorate in Eastern Canon Law from the Pontifical Oriental Institute, and a Licentiate in Ecumenical Theology from the University of St Thomas (Angelicum). Before being recently appointed Eparchial Bishop of Piana for the Italo-Albanians of Insular Italy, he served his Eparchy of Newton and the Archeparchy of Pittsburgh in various capacities.

the Eastern Catholic Churches, *Orientalium Ecclesiarum*.¹ He always stressed that diversity within the Church does not bring any damage to its unity, but rather shows that all nations and cultures are called to the organic unity which comes from the Holy Spirit in the faith, the sacraments and the ecclesiastical governance. Unity in the one faith and constitution of the universal Church is possible in its expression of the diversity of rites, understood as liturgical, theological, spiritual, and disciplinary heritage, distinct for the culture and historical circumstances of peoples, which is expressed by a style of living the faith.

This diversity was not always seen as a positive element, and sometimes even provoked feelings of diffidence among the particular Churches to the point of becoming a real obstacle for collaborative and ecumenical understanding, and so paralyzing the common pastoral work and giving contradictory testimony to the world. Similar difficulties should be overcome by sincere respect and inter-ecclesial collaboration, observing the conciliar principles and the norms of the Catholic Church, emphasizing unity in diversity.

This diversity within the Church has to be upheld and preserved because

[...] it was present since the early times of the Church and the Apostles, from whom to a great extent all the ritual traditions relate. Therefore, their venerable antiquity and apostolicity, the holiness of the fathers and hierarchs and the love and honor due to them, the determination of the Holy See to keep them, the intrinsic ability to reject heresies, the sound decree of the councils in their favor, and the stability of the Eastern communities, strongly recommend their preservation in our times.²

With the promulgation of the Eastern code, *Codex Canonum Ecclesiarum Orientalium* (18 October 1990), John Paul II completed the work started by Pope Leo XIII (1878-1903) attaining the full equality of all the Churches of the East and the West. The solicitude of the bishops of

¹Lorenzo Lorusso, "Giovanni Paolo II, legislatore delle Chiese orientali cattoliche," in *O Odigos* 24/1-2 (2005) 23-30.

²Salvatore Manna, *Chiesa latina e Chiese orientali all'epoca del Patriarca Latino Giuseppe Valerga (1813-1872)*, (Napoli: Pontificio Istituto degli Studi Orientali, 1972) 61; Wilhelm De Vries, "Die Patriarchate des Ostens: bestimmende Faktoren bei ihrer Entstehung," in *I Patriarcati orientali nel primo millennio* (Roma: Pontificio Istituto Orientale, 1968) 13-35.

Rome towards the Eastern Catholic Churches determined also a change in ecumenical dialogues. From Leo XIII to John Paul II there has been a growing recognition (*rapprochement*) of the equal dignity of all the rites, which in their diversity are a sign of unity.

2. History of the Eastern Codification³

Preliminary work on Eastern Church law was begun by Pope Pius IX (1846-1878), who entrusted to Jean-Baptiste Pitra the gathering of the scattered Eastern law sources which were published in two volumes as *History and Documents of the Ecclesiastical law of the Greeks*.⁴

Pius IX with his apostolic constitution *Romani Pontifices* (6 January 1862) established the *Congregation for the Propagation of Faith for the Eastern Rite* so that "... the deposit of the Catholic faith will be kept sound and unbroken, the ecclesiastical discipline faithfully observed and the sacred liturgy celebrated in holiness and splendor."⁵ The cardinal *ponens* had the task "to diligently direct the work necessary to collect the canons of the Eastern Church and examine, if necessary, all the Eastern books dealing with the translations of the Holy Bible, the catechisms and the disciplinary norms."⁶

³Amleto Cicognani, "De codificatione canonica orientali," *Apollinaris* 5 (1932) 86-95; Acace Coussa, "Codificazione canonica orientale," *Novissimo Digesto Italiano*, Vol. 3 (Roma 1967) 411-415; René Metz, "La première tentative de codifier le droit des églises orientales catholiques," in *Melanges offerts à Jean Dauvillier*, (Toulouse 1979) 531-546; Thomas Green, "Reflections on the Eastern Code Revision Process," *The Jurist* 51 (1991) 18-27; Dimitrios Salachas, *Istituzioni di diritto canonico delle Chiese cattoliche orientali* (Bologna: Edizioni Dehoniane, 1993) 45-54; Frederick McManus, "The Code of Canons of the Eastern Catholic Churches," *The Jurist* 53 (1993) 22-61; G. Lobato, "Historia y descripción del Código e Canones para las Iglesias Orientales," *Memorias* 25 (2001) 271-289; Hugo Cavalcante, *Introdução ao estudo do Código de Cânones das Igrejas Orientais* (São Paulo: Edições Loyola, 2009); Onorato Bucci, "Storia e significato giuridico del *Codex Canonum Ecclesiarum Orientalium*," in *Il codice delle chiese orientali* (Roma: Libreria Editrice Vaticana, 2011) 61-115.

⁴Jean-Baptiste Pitra, *Juris ecclesiastici Graecorum historia et monumenta*, Roma: Edizioni Poliglotta Vaticana, 1868.

⁵*PII IX Papae Acta* Vol. 3 (Roma: Typis Polyglottae Vaticanae, 1862) 402-403; *Atti del Sommo Pontefice Pio IX*, 2 v., (Roma 1857); A. Marcone, ed., *La parola di Pio IX*, 2 v., (Genova 1864-1871).

⁶*Ibidem*, 410.

The preparatory Commission “on the missions and the Churches of the Eastern rite” of Vatican I felt that the Eastern Churches needed a complete and common code to be adapted to their circumstances. In its subsequent work the same Commission withdrew this opinion in favor of developing only one discipline in the universal Church. Then, during the Council, several hierarchs strongly supported the preservation of the Eastern disciplines. After the interruption of Vatican I, Pope Leo XIII with his apostolic letter *Orientalium dignitas* (30 November, 1894) praised the diversity of the Eastern liturgy and discipline.⁷

During the pontificate of Leo XIII several synodic gatherings took place in the Eastern Catholic Churches. Among them one should note the Synod of Charfeh of the Syrians,⁸ the Synod of Lwow of the Ruthenians,⁹ and the two Synods of Alba-Julia of the Rumanians.¹⁰ Pope Pius X in 1911 convoked an Armenian Synod in Rome which dealt with the rights of patriarchs and bishops, the pastoral care of the faithful, the discipline of the clergy, monks and nuns, the missions and divine worship.¹¹

Pius X started the work on the Code of the Latin Church which Benedict XV promulgated in 1917. Pope Benedict also expressed the needs of the Eastern Churches by establishing the Congregation for the

⁷Leone XIII, *Orientalium dignitas*, in ASS 27 (1894-95) 257-264; *The Vatican and the Eastern Churches: Papal Encyclicals and Documents Concerning the Eastern Churches* (Fairfax: Eastern Christian Publications, 1996) 179-188; Claudia Carlen, *Papal Pronouncements: A Guide*, Vol. 1 (Ann Arbor: The Pierian Press, 1990) 56; *Enchiridion delle Encicliche* 3 (Bologna: Edizioni Dehoniane, 1997) 1652-1669.

⁸*Synodus Sciarfensis Syrorum in Monte Libano celebrata anno 1888* (Roma: Typis Poliglottae Vaticanae, 1897); Charles DeClercq, *Histoire des Conciles des Orientaux Catholiques* Tome XI (Paris: Librairie Letouzey & Anè, 1952) 599-627.

⁹*Acta et Decreta Synodi provincialis Ruthenorum Galiciae habita anno 1891* (Roma: Typis Poliglottae Vaticanae, 1892); DeClercq, *Histoire des Conciles des Orientaux Catholiques*, 682-711.

¹⁰*Concilium Secundum Provinciale Alba-Julienne et Fogarasiense habitum anno 1882* (Roma: Typis Poliglottae Vaticanae, 1885); DeClercq, *Histoire des Conciles des Orientaux Catholiques*, 655-666; *Concilium Provinciale Tertium Provinciae ecclesiasticae Greco-catholicae Alba-Julienensis et Fogarasiensis celebratum anno 1900*; DeClercq, *Histoire des Conciles des Orientaux Catholiques*, 856-861.

¹¹*Acta et Decreta Concilii Nationalis Armenorum Romae abiti anno 1911*; DeClercq, *Histoire des Conciles des Orientaux Catholiques*, 881-939.

Oriental Church.¹² "To this Congregation are reserved all those sorts of things that refer to persons or to the discipline or to the rites of the Oriental Church, even if they are mixed, that is, if either by reason of matter or persons they also affect Latins. Therefore, this Congregation enjoys all faculties for the Oriental rites of the Church that other Congregations obtain for the Latin rites of the Church, without harm, nevertheless, to the rights of the Congregation of the Holy Office."¹³ The same year Benedict XV established the Pontifical Institute for Oriental Studies with the task of teaching, among other disciplines, "the canonical discipline of all Oriental Christian people."¹⁴

With the passing of time, prevailed the opinion that a common law for all the Eastern Churches should be pursued so that the many Oriental collections be ordered in a single organic body of laws and promulgated by the supreme legislator. In 1929 the work for such a codification began with the blessing of the Roman Pontiff.

On April 27, 1929, Pope Pius XI established a "Council of Presidency" for the Eastern codification over which he presided. Its members were: Cardinals Pietro Gasparri, Luigi Sincero and Bonaventura Cerretti. On November 23 of the same year, a "Cardinalitial Commission for preparatory works" was created under the presidency of Cardinal Gasparri and Cardinals Sincero, Cerretti and Ehrle as its members. Two groups of experts were added to this Commission to help in collecting the Oriental canonical sources and organically classifying them.

Pius XI desired that all the Oriental hierarchs, especially the patriarchs, should be consulted, so that

*[...] by confronting their opinions, they should offer their thoughts on such an important matter and express their intention on how to proceed, keeping in mind the discipline, the traditions, the needs and the privileges of each rite, so that the codification will prove useful to all.*¹⁵

¹²Benedict XV, *Motu proprio 'Dei providentis arcano'*- May 1, 1917, in AAS 9 (1917) 529-531; Claudia Carlen, *Papal Pronouncements: A Guide*, 80.

¹³Edward Peters, *The 1917 Pio-Benedictine Code of Canon Law* (San Francisco: Ignatius Press, 2001) 110.

¹⁴Benedict XV, *Motu proprio 'Orientis catholici'*- October 15, 1917, in AAS 9 (1917) 61-62; Carlen, *Op. cit.*, p. 81; Robert Taft, ed., *Il 75° Anniversario del Pontificio Istituto Orientale*, (Roma: Pontificio Istituto Orientale, 1994).

¹⁵AAS 21 (1929) 669.

The working preparation entailed two phases: first the gathering of all the Oriental canonical sources and then their organic codification. In 1935 the drafts of the chapters of the Code were ready and the Eastern bishops were asked to express their opinion. They also began publishing the sources, a work which is still continuing. The same year Pius XI established the "Pontifical Commission for the Redaction of the Code of Oriental Canon Law," to redact the Code keeping in mind the observations of the bishops. This Commission was composed by Cardinals Sincero, Pacelli, Serafini and Fumasoni-Biondi. During the thirty-seven years of existence of this Commission, several cardinals were numbered in its membership and, at the conclusion of Vatican II, also the Patriarchs of the Eastern Churches. To help the Commission members, a group of thirteen experts from the Eastern Churches were appointed to examine and coordinate the observations of the Eastern patriarchs and bishops.

By 1945 the draft of the future Code with its 2666 canons was ready, and in 1948 was submitted to Pope Pius XII who decided to promulgate it *per partes*:

- Motu Proprio *Crebrae Allatae*, 22 February 1949, on Marriage, composed of 131 canons, entered in force 2 May 1949;
- Motu Proprio *Sollicitudinem Nostram*, 6 January 1950, on Processes, composed of 576 canons, entered in force 6 January 1951;
- Motu Proprio *Postquam Apostolicis*, 9 February 1952, on Religious, Temporal Goods and Terminology, composed of 325 canons, entered in force 21 November 1952;
- Motu Proprio *Cleri Sanctitati*, 2 June 1957, on Oriental Rites and Persons, composed of 558 canons, entered in force 15 August 1958.¹⁶

The other unpublished parts of the Code, with its 1095 canons, were submitted to Pope John XXIII who decided not to promulgate them because of the forthcoming Second Vatican Council. The Pope also

¹⁶AAS 41 (1949) 89-119; AAS 42 (1950) 5-120; AAS 44 (1952) 65-150; AAS 49 (1957) 433-600; Victor Pospishil, *The Law on Marriage* (Chicago: Universe Editions, 1962) and *The Law on Persons* (Philadelphia: America Printers, 1960); François Galtier, *Le Mariage: Discipline Orientale et Discipline Occidentale* (Beyrouth: Université St. Joseph, 1950); François Galtier, *Code Oriental de Procédure Ecclésiastique* (Beyrouth: Université St. Joseph, 1951); Athanase Hage, *Les Empêchements de Mariage en Droit Canonique Oriental* (Beyrouth: Imprimerie Angelil, 1954).

charged the Commission to authentically interpret the parts already promulgated and to continue the editing of the sources.

On 10 June 1972 the "Pontifical Commission for the Revision of the Code of the Oriental Canon Law" was reestablished by Pope Paul VI. All the members who composed this Commission belonged to the Eastern Churches with the exception of the six cardinals who were heads of those Roman Dicasteries dealing with the Christian East.

Paul VI officially inaugurated its works on March 18, 1974 and approved some guidelines for the revision of the Eastern Code:

- *A single Code for the Eastern Churches* – The legal heritage of the Eastern Churches is to a great extent founded on the same ancient canons that are to be met with in almost all Eastern canonical collections and on common traditions: this is apparent from the collections themselves, which often contain laws of identical tenor. The Decree *Orientalium Ecclesiarum* which guarantees both right and the duty of these Churches to govern themselves according to their own particular discipline, at the same time lays down common and general norms for all the Churches, as did the ancient Oriental Synods and could well be taken as an example for a common codified legislation.
- *Eastern Character of the Code* – The Churches of both East and West enjoy the right, and are bound by duty, to govern themselves in accordance with their own particular rules (OE 5). The Eastern Code should draw its inspiration from, as well as express, the common discipline, such as it is contained: a) in the apostolic tradition; b) in the Eastern canonical collections and in the customary norms common to the Eastern Churches and not fallen into desuetude.
- *Ecumenical Character of the Code* – To the Eastern Churches belongs the special responsibility of promoting the unity of all Christians (OE 24). In virtue of this special office, due consideration must be given, in the revision of the Code, to the 'aggiornamento' to which the Orthodox Churches are tending in the hope of an ever greater unity of the canon law of all the Eastern Churches. Therefore, in all things concerning the Orthodox Churches, the code must be inspired by the notions of "Sister Churches," "the almost full" communion, the respect due to the hierarchs of these Churches as "pastors to whom has been entrusted a portion of the flock of Christ;" inspired also by the conciliar text on their "right to govern

themselves according to their own disciplines, since these are better suited to the temperament of their faithful and better adapted to foster the good of souls" (UR 16).

The other principles dealt with the legal and pastoral character of the future Code, the participation of lay-people in the life of the Church, the full safeguard of personal rights, the review of penal law and the principle of subsidiarity.¹⁷

The Commission's intense work came to its conclusion in 1986, and the revised draft of the Code was approved by the members assembled in Rome on November 14, 1988. The last draft, amended by agreement of all the members of the Commission, was submitted to Pope John Paul II on January 28, 1989 for possible promulgation. The Pope personally reviewed this last draft, with the help of a few experts, and, after having consulted the vice-president and secretary of the Commission, ordered its printing. On October 1, 1990 by his apostolic constitution *Sacri Canones* he promulgated the *Codex Canonum Ecclesiarum Orientalium* with a *vacatio legis* of one year.¹⁸

3. Structure of the Conciliar Decree

During the pre-conciliar period, the Eastern hierarchs unanimously presented their proposals to the Holy See. First of all, they asked for the abolition of the Latin Patriarchates of Alexandria, Antioch and Jerusalem; then, they expressed a desire for a greater recognition of the rights and privileges of the Eastern Patriarchs; and lastly, the restoration of the election of the Patriarchs by the bishops of the respective synods.

Other proposals pertained to the divine office, the administration of the sacramental mysteries, the use of modern languages in liturgy, inter-ritual issues, the problem of relations with Orthodox, the common date for the celebration of the Lord's Resurrection, methods for catechesis and the precepts of the Church.

¹⁷Nuntia 1 (1975) 4-8 and 3 (1976) 3-10.

¹⁸AAS 82 (1990) 1033-1044; *Code of Canons of the Eastern Churches* (Washington, DC: CLSA 2001); *Codice dei canoni delle Chiese orientali*, in *Enchiridion Vaticanum* 12 (Bologna: Edizioni Dehoniane, 1992); *Code des canons des Eglises orientales* (Cité du Vatican: Librairie Editrice Vaticane, 1997); *Codigo de canones de las Iglesias orientales* (Madrid: Biblioteca de Autores Cristianos, 1994).

The Commission for the Eastern Churches, presided by Cardinal Amleto Cicognani, was charged to deal with the change of rites, the *communicatio in sacris*, the procedure for reconciling non-Catholic Easterners, and other disciplinary matters related to the Christian East proposed by other commissions.¹⁹

The Commission's draft was examined by the Council fathers from November 26 to December 1, 1962, when the Council general secretary, Archbishop Pericle Felici, called for a general approval with the clause of its completion with the draft on ecumenism. The Council fathers approved by a vote of 2,068 to 36. A mixed commission, with representatives of the theological and oriental commissions, and the Secretariat for Christian Unity, carried on this task. The new draft reached the fathers in mid-May 1963. The debate began on October 15, 1964 and the final decree *Orientalium Ecclesiarum* was promulgated on November 21, 1964 together with the dogmatic constitution *Lumen Gentium* and the decree *Unitatis Redintegratio* - with a vote of 2,110 to 39.

Generally speaking, the Council documents identify the particular Church with the diocesan Church, while the Eastern Churches are called *cætus Ecclesiarum particularium* or *Ecclesiæ locales* (LG 23). Sometimes by "particular Church" they mean also the patriarchates and the major archiepiscopal Churches which indicate the communion of that portion of the people of God that enjoys its own discipline, liturgy, and theological, spiritual and cultural patrimony in living the same faith. The diversity of all these Churches, in their unity, reveals the Catholicity of the one and undivided Church. It is also interesting to note how the same documents use the expression "particular Church," in reference to the Eastern Churches, not only when they speak about the portion of the people of God in a territory, but rather to the rite, the theological, spiritual and cultural tradition, and the governance, while use the expression "local Church" when referring to the same reality specifically to the territory.²⁰ There is an almost identical similarity between "particular Church" and "Rite" which is not completely correct. What constitutes a Rite in the wider sense of the particular Church is not the territory, the nation, the liturgical

¹⁹Giovanni XXIII, *Motu Proprio Superno Dei Nutu*, June 5, 1960, AAS 52 (1960) 433-437; *The Pope Speaks* 6 (1959-60) 240-243.

²⁰The CIC and the CCEO do not use the expression "local Church."

ritual, the liturgical language, the particular discipline or spirituality, but it is all the above at the same time, with an indispensable formal element: the autonomous hierarchical constitution of this community in connection with the other similar communities within the *Communio Catholica*.²¹ The term *Ritus* offers some advantage in the common use, but surely does not help the clarity of the conciliar texts.

On reading the Decree on the Eastern Churches once again, we realize the contrasting use of the term *Ritus* in the decree: “particular Church” is implied in nos. two, three and ten, “the sum of liturgy, ecclesiastic discipline and spiritual patrimony” in no. three, and “liturgy” distinct from discipline in no. six.

Clarity on the concept of rite had to wait for the Eastern code which would define the Church *sui iuris*, the rite and the particular Church or eparchy. The Church *sui iuris* is “a community of the Christian faithful, which is joined together by a hierarchy according to the norm of law and which is expressly or tacitly recognized as *sui iuris* by the supreme authority of the Church” (CCEO c. 27). The rite, instead, 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. Unless it is established otherwise, these rites are those which arose from the Alexandrian, Antiochian, Armenian, Chaldean and Constantinopolitan traditions” (CCEO c. 28). Lastly, “an eparchy is a portion of the people of God that is entrusted to a bishop to shepherd, with the cooperation of the presbyters (and deacons), in such a way that, adhering to its pastor and gathered by him through the Gospel and the Eucharist in the Holy Spirit, it constitutes a particular Church in which the one, holy, catholic and apostolic Church of Christ truly exists and is operative” (CCEO c. 177 §1).

Therefore, till our days every Eastern Church “keeps alive its proper liturgy which is the witness of perennial piety and observes its own discipline. Furthermore, as for governance, each Eastern Church has its pastor who, according to Pope Leo XIII, is not a simple vicar of the pope but truly a shepherd successor of the Apostles, in communion

²¹Neophytos Edelby, *Les églises orientales catholiques*, (Paris: Editions du Cerf, 1970) 136-143; John D. Faris, *The Communion of Catholic Churches: Terminology and Ecclesiology* (Brooklyn: St. Maron Publications, 1985).

with the supreme pontiff. Each Eastern Church safeguards its language, its way of spreading the Good News, its organization and its manner of dealing with the civil authorities."²²

Following its proemium (no. 1), the Decree on the Eastern Churches is thus structured in its chapters:

The particular Churches or Rites (nos. 2-4): *The variety within the Church not only does no harm to its unity, but rather makes it manifest. The various Churches enjoy equal dignity. All Christian faithful are to be well instructed in the rites and especially in practical inter-ritual matters.*

The spiritual patrimony of the Eastern Churches must be preserved (nos. 5-6): *Admirable witness of the Eastern Churches. Changes are not to be introduced into them except for their organic progress.*

The Eastern patriarchs (nos. 7-11): *The patriarchal function has been flourishing in the Church from the earliest times. All Eastern patriarchs are equal by reason of their patriarchal dignity. New patriarchates can be set up by the competent authorities.*

Regulation of the sacraments (nos. 12-18): *To confirm and commend the ancient legislation concerning the sacraments. The administration of sacramental confirmation is to be fully restored. All faithful are held by obligation to be present at divine worship on Sundays and Feast-days. The faculty of priests of any rite for hearing confessions is extended to all the territory of the one who grants it. The ancient legislation concerning the sacrament of orders is to regain its force. The canonical form for the celebration of mixed marriages is to be revisited.*

Divine worship (nos. 19-23): *The regulation of feast-days. The celebration of the feast of Pascha/Easter. The law about sacred times. Celebration of the divine office. Control of the use of liturgical languages.*

Contact with the brethren of separated Churches (nos. 24-29): *Special responsibility for promoting the unity of Eastern Christians. Principles on worship in common. Pastoral application of 'communicatio in sacris'.*

Conclusion (n. 30):

The holy council is very pleased with the fruitful and active co-operation of Eastern and Western Catholic Churches and at the same time declares: all these provisions of the law are made according to present conditions and until the Catholic Church and

²²Aleksy Petrani, *De relatione iuridica inter diversos ritus in Ecclesia catholica* (Torino: Editrice Marietti, 1930) 6.

the separated Eastern Churches come together into the fullness of union [...].

Since this Decree deals with various disciplinary features, it could be seen as a pre-code with no pretence of being complete. The synodic assemblies of the respective Eastern Churches will bring it to timely completion.

This conciliar Decree lays the foundations of a new positive way by specifically emphasizing the diversity of traditions and their equal dignity. These traditions belong to the entire Church. Special honor is due to the patriarch in the Eastern Churches, who presides as father and head over his Church. Lastly, the Eastern Catholic Churches have a special function of fostering unity among all Eastern Churches. This Decree is indeed complementary to *Unitatis redintegratio*, the decree on Ecumenism, promulgated on the same day.

4. The Decree *OE* and the Code *CCEO*

The fathers of the Second Vatican Council by dedicating a special decree to the Eastern Catholic Churches expressed the esteem of the universal Church towards their sacred patrimony. These venerable Churches are part of the undivided Church and their ecclesial and spiritual heritage is considered the *patrimony of the universal Church of Christ* (*OE* 1 & 5). Thus *CCEO* canon thirty-nine establishes: "The rites of the Eastern Churches, as the patrimony of the whole Church of Christ in which shines forth the tradition coming down from the Apostles through the Fathers, and which, in its variety, affirms the divine unity of the Catholic faith, are to be observed and promoted conscientiously."

The variety within the Church not only does no harm to its unity, but rather makes it manifest (*OE* 2). The introduction of these particular Churches in many ways differs from the one given in *Lumen Gentium* 23, since their unique history, tradition, discipline, theology, liturgy and spirituality were diverse.

All Churches, both of the East and the West, differing somewhat in what are called rites, *are entrusted in an equal way to the pastoral guidance of the Roman Pontiff*. These 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 regard preaching the Gospel throughout the whole world (*OE* 3). Canon

twenty-eight, following this text, describes "A rite is the 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."

As for the missionary activity of the Church, c. 585 §1 asserts: "It is for each Church *sui iuris* continually to take care that, through suitably prepared preachers sent by a competent authority in accord with the norms of the common law, the Gospel is preached in the whole world." Canon 594 specifies that "Mission territories are those recognized as such by the Holy See." And article eighty-five of the apostolic constitution *Pastor bonus* establishes: "It pertains to the Congregation for the Evangelization of Peoples to direct and to coordinate throughout the world the actual work of spreading the Gospel as well as missionary cooperation, without prejudice to the competence of the Congregation for the Eastern Churches."²³ As for the competence of the Congregation for the Eastern Churches, article sixty of the same constitution determines: "The apostolic action and missionary in regions where Eastern rites have been preponderant from ancient times, apostolic and missionary activity depends solely on the Eastern Congregation, even if it is carried out by missionary of the Latin Church."²⁴ It is highly desirable that the "mission territories" issue in regard to their borders and the mandate of the supreme authority towards the various Churches *sui iuris*, Latin or Eastern, could secure the unity of goals and the coordination of evangelization. Moreover, "to force" Eastern religious people to do "Latin" evangelization work depletes the strength of the missionary activity and harms the right to evangelize according to the proper ritual nature.

The Eastern code dedicates its Ninth Title to the "Assemblies of Hierarchs of Several Churches *Sui Iuris*," so that "by sharing the insights of wisdom born of experience and by the exchange of views, the pooling of their resources is achieved for the common good of the

²³John Paul II, *Pastor Bonus*, Apostolic Constitution on the Roman Curia, June 28, 1988, in *Code of Canons of the Eastern Churches* (Washington, DC: CLSA 2001) Appendix 2, 806; Pio Pinto, ed., *Commento alla 'Pastor Bonus' e alle Norme Sussidiarie della Curia Romana* (Roma: Libreria Editrice Vaticana 2003).

²⁴*Ibidem*, 803.

Churches, unity of action is fostered, common works are facilitated, the good of religion is more readily promoted and ecclesiastical discipline is preserved more effectively" (c. 322 §1). These Assemblies of Hierarchs should draw up their statutes in which, as far as possible, the participation of the hierarchs of those Churches that are not yet in full communion with the Catholic Church is also fostered" (c. 322 §4).²⁵

The Eastern Christian faithful have the right and the duty always to preserve their legitimate liturgical rites and their disciplinary norms with the greatest fidelity. And of these things they should acquire a progressively greater knowledge and more perfect practice, and if they have unduly fallen short of them owing to circumstances of times or persons, they are to strive to return to their ancestral traditions (OE 6). This affirmation contains a clear disapproval of every attempt to disconnect the Eastern faithful from their Churches, whether in an explicit and irreversible manner or in a less explicit one.²⁶ Fidelity to the traditions and organic progress obviously call for an opening to the requirements of today's world for the well-being of the people of God. The Eastern code constitutes a providential legal instrument for the organic progress of the Eastern Catholic Churches on the liturgical-sacramental level.²⁷ This implies that every possible adaptation of the liturgy must be based on a careful study of the sources, a deep knowledge of the proper culture peculiarities, and the keeping of the common tradition of the Church *sui iuris* of origin.²⁸ Moreover, this organic progress

²⁵These Assemblies of Hierarchs correspond to the Conferences of Bishops in the Latin code.

²⁶Congregation for the Eastern Churches, *Instruction for Applying the Liturgical Prescriptions of the Code of Canons of the Eastern Churches* (Roma: Libreria Editrice Vaticana, 1996) no. 10; George Gallaro, "Rome's Liturgical Instruction for the Eastern Catholic Churches," *Logos* 43-45 (2002-2004) 149-179.

²⁷John Paul II, Letter *It Is A Great Joy for Me* to the Bishops of the Synod of the Syro-Malabar Church, March 14, 1998, in *L'Osservatore Romano*, 1 April 1998; Erminio Lora, ed., *Enchiridion Vaticanum* 17, Bologna: Edizioni Dehoniane, 2000, pp. 308-313. Congregation for the Eastern Churches, *Orientamenti fondamentali concernenti la liturgia siro-malabarese*, 16 marzo 1998, in *Enchiridion Vaticanum* 17, 314-319; *Il Regno-Documenti* 9/1998, 270-271.

²⁸John Paul II, *Incense Rite of the Coptic Liturgy in the Basilica of Saint Mary Major*, Sunday, 14 August 1988, in S.I.C.O. 1988, nos. 485-556, p. 24.

implies taking into account first of all the roots from which the heritage of these Churches was initially developed, mainly in Jerusalem, Alexandria, Antioch, Constantinople, Armenia, and in the ancient empire of Persia; and secondly, the manners in which such traditions were transmitted, adapting to the various circumstances and places but maintained in a coherent, organic continuity.²⁹

Steps should be taken for the establishment of parishes and their own hierarchy wherever the spiritual good of the Eastern faithful requires it. (OE 4) It is strongly recommended to religious orders and congregations of the Latin rite working among the Eastern faithful to set up religious houses or even provinces of Eastern rite (OE 6) Canon four hundred thirty-two establishes: "A dependent monastery, a house or province of a religious institute of any Church *sui iuris*, also of the Latin Church, that with the consent of the Holy See is ascribed to another Church *sui iuris*, must observe the law of this latter Church, except for the prescripts of the typicon or statutes that regard the internal governance of the same institute or for the privileges granted by the Holy See."³⁰

*Each and every Catholic as well as baptized members of any Church non-Catholic Church or community coming to the fullness of the Catholic communion should keep, follow and as far as possible observe their own rite everywhere in the world (OE 4). Nothing more than what a simple profession of the Catholic faith requires should be asked of people of separated Eastern Churches coming into the unity of the Catholic Church under the influence of the grace of the Holy Spirit (OE 25). Canon thirty-five asserts: "Baptized non-Catholics coming into full communion with the Catholic Church should retain and practice their own rite and should observe it everywhere in the world as much as humanly possible. Thus, they are to be ascribed to the Church *sui iuris* of the same rite with due regard for the right of approaching the Holy See in special cases of persons, communities or regions." As for the baptized non-Catholics coming into full communion with the Catholic Church, canon 896 provides:*

²⁹Congregation ..., *Instruction...*, no. 12.

³⁰Lorenzo Lorusso, "Case religiose di rito diverso: problematiche e norme canoniche," in Louis Okulik, ed., *Le chiese sui iuris: Criteri di individuazione e delimitazione* (Venezia: Edizioni Marcianum, 2005) 131-161; Jobe Abbass, *The Consecrated Life: A Comparative Commentary of the Eastern and Latin Codes*, (Ottawa: St Paul University, 2008); Clemente Pujol, *La vita religiosa orientale* (Roma: Pontificio Istituto Orientale, 1994).

“For those who have been baptized in non-Catholic Churches or ecclesial Communities and who ask of their own accord to enter into full communion with the Catholic Church, whether as individuals or as groups, no burden is to be imposed beyond what is necessary.” “A cleric of an Eastern non-Catholic Church entering into full communion with the Catholic Church can exercise his sacred order in accord with the norms established by the competent authority; a bishop, however, cannot validly exercise the power of governance except with the assent of the Roman Pontiff, head of the College of bishops” (CCEO c. 899).

To the Eastern Churches maintaining communion with the Apostolic Roman See belongs the special responsibility of promoting the unity of all the Christians, especially Eastern Christians, according to the principles of the Decree On Ecumenism” (OE 24). The same emphasis is found in canon 903: “The Eastern Catholic Churches have a special function of fostering unity among all Eastern Churches, first of all through prayers, by the example of life, by conscientious fidelity to the ancient traditions of the Eastern Churches, by better knowledge of each other, by working together, and by fraternal respect for the feelings of others and their history” (also *Ecumenical Directory* no. 39). Furthermore, the Eastern code has Title Eighteen entirely dedicated to *Ecumenism or Fostering the Unity of Christians*.

The 1990 Apostolic Constitution *Sacri Canones*, among other things, asserts:

It is significant that the Second Vatican Council makes it quite clear that “a scrupulous fidelity to the ancient traditions” together with “prayers, good example, better mutual understanding, collaboration and a fraternal regard for what concerns others and their sensibilities” can contribute most to enable the Eastern Churches in full communion with the Roman Apostolic See to fulfill “their special task of fostering the unity of all Christians, particularly of the Eastern Christians” (OE 24) according to the principles of the Decree On Ecumenism. It should not be forgotten that the Eastern Churches that are not yet in full communion with the Catholic Church are governed by the same and basically single heritage of canonical discipline, namely, the “sacred canons” of the first centuries of the Church. With regard to the whole question of the ecumenical movement, which has been set in motion by the Holy Spirit for the realization of the perfect unity of the entire Church of Christ, the new Code is not at all an obstacle, but rather a

great help. Indeed, this Code protects that fundamental right of the human person. Namely, of professing the faith in whatever their rite, drawn frequently from their very mother's womb, which is the rule of all "ecumenism." Nor should we neglect that the Eastern Catholic Churches, discharging the tranquility of order desired by the Second Vatican Council, "are to flourish and fulfill their role entrusted to them with a new apostolic vigor" (OE 1).³¹

The Encyclical Letter *Ut unum sint* of John Paul II on Commitment to Ecumenism says:

A recognition of the right of the Eastern Catholic Churches to have their own organizational structures and to carry out their own apostolate, as well as the actual involvement of these Churches in the dialogue of charity and in theological dialogue, will not only promote a true and fraternal mutual esteem between Orthodox and Catholics living in the same territory, but will also foster their joint commitment to work for unity (*UUS* 60).³²

And the 2003 Post-Synodal Apostolic Exhortation *Pastores Gregis* of John Paul II "On the Bishop, Servant of the Gospel for the Hope of the World" asserts:

There can be no doubt that the Catholic Churches of the East, due to their spiritual, historical, theological, liturgical and disciplinary closeness with the Orthodox Churches and the other Eastern Churches not yet fully in communion with the Catholic Church, are especially entitled to contribute to the promotion of the Christian unity, above all in the East. Like all the Churches, they are called to do this through prayer and exemplary Christian life; moreover, as their own specific contribution, they are called to unite their religious fidelity to the ancient Eastern traditions. (*PG* 60).³³

The provisions of the law listed in *Orientalium Ecclesiarum* "are made according to present conditions and until the Catholic Church and the

³¹John Paul II, Apostolic Constitution *Sacri Canones*, October 18, 1990, in AAS 82 (1990) 1036; *Enchiridion Vaticanum* 12, pp. 511-512; CCEO Latin-English Edition, pp. xxii-xxiii.

³²John Paul II, Encyclical Letter *Ut unum sint*, May 25, 1995, in AAS 87 (1995) 921-982; *Enchiridion delle Encicliche* 8 (Bologna: Edizioni Dehoniane, 1998) 1662-1807; Joseph Donders, *John Paul II: The Encyclicals in Everyday Language* (New York: Orbis Books, 2005); Richard Spinello, *The Encyclicals of John Paul II: An Introduction and Commentary* (Lanham: Sheed & Ward, 2012).

³³John Paul II, Post-Synodal Apostolic Exhortation *Pastores Gregis*, October 16, 2003, 158.

separated Eastern Churches come together into the fullness of union" (OE 30). The expression "for the present conditions" (*pro praesentibus conditionibus statuuntur*) underlines the provisional phase of these legal prescriptions; they are in force until the law-maker will have repealed them.

This is not only true for OE but also for the CCEO and the CIC.³⁴ "This is to be particularly understood for the rights and privileges of the patriarchs and major archbishops and their synods, since these are the topics dealt with by the Council Decree on the Eastern Churches."³⁵ Emmanuel Lanne of Chevetogne, commenting on OE 30, asserts:

The provisional aspect of the Catholic *corpus iuris*, one of the most important points of Vatican II and the Catholic ecumenical movement, should have explicitly been mentioned in the respective texts of the codes, in particular in the Code of Canons of the Eastern Churches.³⁶

To an attentive reader this seems superfluous because the very first canon of the Eastern code says: "The canons of this Code concern all and only the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, it is expressly established otherwise."

At the 1997 international meeting of Nyíregyháza, Hungary, the Eastern Catholic Bishops of Europe, under the sponsorship of the Congregation for the Eastern Churches, dealt with the topic of the different dimensions of Eastern identity of their Churches. Dimitrios Salachas of Rome, commenting on OE 30 said:

Some authors interpret this expression - *pro praesentibus conditionibus statuuntur* - according to a provisional character of the

³⁴John Paul II, *Sacri Canones*, [...] The canons of the Code of Canons of the Eastern Churches must have the same firmness as the laws of the Code of (the Latin) Canon Law, that is, that they remain in force until abrogated or changed by the supreme authority of the Church for just reasons. The most serious of those reasons is the full communion of all the Eastern Churches with the Catholic Church." In CCEO Latin-English Edition, p. xxiii.

³⁵Emmanuel Lanne, "Les catholiques orientaux: liberté religieuse et oecuménisme," *Irénikon* 63 (1990) 20-46, hic 31; Dimitrios Salachas, "Il nuovo Codice dei Canonici delle Chiese Orientali: Prospettive ecumeniche e limiti," *Euntes Docete* 49 (1996) 229-265, hic 231.

³⁶Emmanuel Lanne, "L'orient cristiano nella prospettiva del Vaticano II," *Orientalium Dignitas: Atti del Simposio di Nyíregyháza 1994* (Venezia: Edizioni Marcianum, 1995) 131-145, hic 135.

existence of the Eastern Catholic Churches and, consequently, imply their future disappearance at the restoration of unity among all Christians. This interpretation, in my humble opinion, is erroneous and ecclesiological unacceptable.³⁷

The compiler of the *Chronique des Eglises of Irénikon*³⁸ reports, among other things, some different points of disagreement³⁹ with the first part of the Declaration of the Bishops and Religious Superiors on Ecumenism which affirms: "The Eastern Catholic Churches are an ecclesial reality in communion with the Apostolic See of Rome, confirmed by history. This communion is not a provisional and tenuous state but rather a fullness of ecclesiality." These notes contest the fullness of ecclesiality of the Eastern Catholic Churches because the majority of the Churches of the East is outside of this communion. We are not in total agreement with these notes because the very text of OE 2 speaks of a remarkable communion, *mirabilis communio*, of the Eastern Catholic Churches with the Apostolic See of Rome. Moreover, how can the Eastern Catholic Churches promote the unity of Christians, as OE 24 states, if they are lacking this union with the Holy See? Canon eight of the Eastern code describes thus *plena communio*: "In full communion with the Catholic Church on this earth are those baptized persons who are joined with Christ in its visible structure by the bonds of the profession of faith, the sacraments and ecclesiastical governance."

Conclusion

With the promulgation of the Eastern code on 18 October 1990, the whole *corpus iuris* of the Catholic Church was completed, but to give life to this *corpus* the promulgated norms alone are not enough. Their correct interpretation and sound application are necessary, and, to get more to the root, a true ecclesial awareness that appreciates the canonical norm is a pastoral key.

³⁷Dimitrios Salachas, "L'ecumenismo come condizione per l'identità," in Congregazione per Le Chiese Orientali, *L'identità delle Chiese Orientali Cattoliche* (Roma: Libreria Editrice Vaticana, 1999) 158; Michael Plishka, "From Easternization to Inculturation: Re-interpreting the Mission of the Eastern Catholic Churches," *Worship* 71 (1997) 317-335.

³⁸*Irénikon* 70 (1997) 287-292.

³⁹Neophytos Edelby, *Les églises orientales catholiques*, 497; Johannes Hoeck, "Decree on Eastern Catholic Churches," in Herbert Vorgrimler, ed., *Commentary on the Documents of Vatican II*, Vol. 1 (New York: Herder & Herder, 1966) 307-331, hic 331.

The Eastern code generally asserts that Christian faithful have the right and obligation to observe their own rite everywhere. We now know that by the term *ritus* one is to understand the liturgical, theological, spiritual and disciplinary patrimony, differentiated by the culture and the circumstances of the history of peoples. The rites mentioned by the code specifically refer to the Alexandrian, Antiochian, Armenian, Chaldean and Constantinopolitan or Byzantine ancient traditions. Every Church *sui iuris* follows one of these rites. Then it can be said that a rite refers to the way in which the faith is lived out, while a Church *sui iuris* refers to a Christian community joined with its own legitimate hierarchy. The code also prescribes that the hierarchs who preside over Churches *sui iuris* are to care with the greatest diligence for the faithful safeguard and accurate observance of their own rite. Moreover, the code asserts that the rites of the Eastern Churches are “patrimony of the whole Church of Christ in which shines forth the tradition coming down from the Apostles through the Fathers.” This is to assert that the rites of the Eastern Churches are important not only for them but also for the entire Church. If the rites of the Eastern Churches waver, it is the entire Church that wavers and the apostolic and patristic traditions will suffer extensively. To maintain this variety in the unity, it is more than ever necessary to promote the rites of the Eastern Churches.

Within the universal Catholic Church, the Eastern Catholic Churches have been minority “ecclesial communities.” But since the traditions of these ecclesial minorities are patrimony of the whole Church of Christ, they must be supported and firmly reinforced in every possible way.

The Eastern Churches, therefore, 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 everywhere in the world.

For this reason it is necessary to start implementing the teaching of the Second Vatican Council and the norms of the Code of Canons of the Eastern Churches:

- On the diversity of rites in the Catholic Church (*OE 3*) and their equality (*SC 4, OE 3*);
- On the obligation of the Eastern faithful to keep their own rites everywhere (*OE 6, 12, UR 15, CCEO cc. 38 & 41*);

- On the pastoral solicitude of bishops for the faithful of different rite (CD 23, 38);
- On the appointment of episcopal vicars for the faithful of different rite (CD 27, CIC cc. 383 § 2 and 476);
- On the erection of personal parishes (CIC cc. 383 § 2 and 518, CCEO cc. 192 § 1 and 280) with the consequent nomination of Eastern parish priests;
- On inviting Eastern clergy and laity to participate to the local presbyteral and pastoral councils;
- On the opportunity to appoint "Latin" clerics, originally from Eastern Churches, to the service of Eastern faithful, and also those qualified Latin clerics (bi-ritual) to serve Eastern communities;
- On the establishment of the proper hierarchy where there is a conspicuous presence of Eastern faithful belonging to a determined Church *sui iuris*.

We should not forget the ecumenical task of these Eastern communities in accordance with the principles and guidelines of Vatican II.

Today's Eastern Catholic Churches are still asked to give witness within the communion of the Catholic Church. We should keep in mind that there is not true catholicity without the acknowledged living presence of the Christian East. All forms of ritual hegemony do not have any place among the Christian Churches. The Christian East that appears incapable to sustain and build up unity with the Latin West is hurt also in its own Catholic pretense, subordinate to the constant risk of partial and ethnic reductions of its own catholicity.⁴⁰

The Eastern Catholic Churches are living witnesses of the fact that the Catholic Church is a symphony resounding the voice and testimony of a variety of Churches. Moreover, there are elements which at the same time offer hopes and create difficulties: The new ecclesiological realities coming from Vatican II, the mistrust of the Orthodox towards the Eastern Catholics, the revival of the Eastern Catholics in central and eastern Europe, the massive migration from the Middle East and the emerging Muslim fundamentalism, the missionary zeal of the Eastern Churches of Kerala towards all India and the whole world. As for the pastoral care of Eastern faithful in the so-called diaspora, it

⁴⁰Basilio Petra', "Respirare con due polmoni contro ogni riduzionismo," *Vita Pastorale* n. 8/9 (agosto-settembre 2005) 101.

should be emphasized that all Christians, Latin and Easterner, should seriously consider the implications of a true challenge for the survival of the Christian East and for a general re-thinking of pastoral programs.

With this in mind, there are possible perspectives which should be pursued from both sides, East and West:⁴¹

- Recovery of the original authenticity in order to be better witnesses of ecclesial Tradition;
- Full integration in the march of progress of the Church, especially where the Eastern Christians have been excluded from historical circumstances or persons;
- Clearing of the dispersion of forces and projects for a sturdy and gradual ecclesial growth;
- All of the above requires a proper formation by means of mutual knowledge, and theological and pastoral collaboration.

The Pastors, with their teaching, sanctifying and governing function, must exercise it in fidelity to the canonical norms, which are at the service of the ecclesial communion. Canonical norm is part of the patrimony of the Church and helps the exercise of charity by safeguarding equal justice for all. Enlightened by grace, Church law is then light on the human path towards the truly permanent dwelling. The law of Christ is not a law among others but the only way to fully fulfil every other law by giving life to it, like a work to be personally realized with faith and love:

The Synod Fathers recalled the norms given by the Second Vatican Council, which recognize that the Eastern Churches “have the right and the duty to govern themselves according to their own particular discipline,” given the mission they have of bearing witness to an ancient doctrinal, liturgical and monastic tradition. Moreover, these Churches have a duty to maintain their own disciplines, since these “correspond better to the customs of their faithful and are judged to be better suited to provide for the good of souls.” The universal Church needs a synergy between the

⁴¹Achille Silvestrini, “Le Chiese d’Oriente: attualità e prospettive,” *Odigos* 13 (1994) 5; Robert Taft, “Eastern Catholic Theology: Slow Rebirth after a Long Gestation,” in *Eastern Churches Journal* 8 (2001) 2, 51-80; Kallistos Ware, “Orthodoxy and the Eastern Catholics: Problem or Opportunity?” SS. Cyril and Methodius Lecture (Pittsburgh: April 11, 2002).

particular Churches of East and West so that she may breathe with her two lungs, in the hope of one day doing so in perfect communion between the Catholic Church and the Eastern Churches.⁴²

Synopsis between *OE* and *CCEO*

<i>Orientalium Ecclesiarum</i>	<i>Codex Canonum Ecclesiarum Orientalium</i>
1	39
2	8; 27
3	28 §1; 585 §1
4	322 §1; 35
5	-
6	40-41; 432
7	55-56
8	59 §1
9	55; 58 §1; 181 §1
10	152
11	57 §1
12	-
13	693
14	696
15	881
16	722 §4
17	327
18	834 §2
19	880
20	-
21	883
22	377; 473 §1; 538 §1
23	657
24	903
25	896-897; 899
26	670 §1

⁴²John Paul II, Post-Synodal Apostolic Exhortation, *Ecclesia in america*, January 22, 1999, no. 17.

27	671 §§2-3
28	670 §1
29	671 §5
30	Ap. Con. <i>Sacri Canones</i> , AAS 82 (1990) 1036