

FROM PARTICULAR CHURCHES TO CHURCHES *SUI IURIS**

George Nedungatt, S.J.*

The year 2014 marks the tenth anniversary of the death of Father Ivan Žužek, S.J., who as secretary of the Pontifical Commission for the redaction of the new Eastern code (1990) was really its architect. He died on 31st January 2004. This study is dedicated to his memory. It deals with a problem of terminology, which the commission inherited from tradition, which the Second Vatican Council left unresolved: "rite," which had long been in use to refer not only to the Eastern Catholic Churches and the Latin Church but also to their specific heritage in liturgy, theology, spirituality and canonical discipline. A preliminary spadework of the code commission was to bring about the needed clarity. From that effort emerged a new term Churches *sui iuris*. The present study reviews this process and looks critically at this new term at a time when the fiftieth anniversary of the promulgation of the conciliar decree "Ecclesiarum Orientalium" is being celebrated.

*George Nedungatt, born on 21 December 1932 at Peringuzha (Kerala, India), was ordained a priest on 19 March 1964, in the Society of Jesus. He holds licentiate in Philosophy and Theology. He took doctorate in Oriental Canon Law from the Pontifical Oriental Institute (PIO), Rome in 1973. Besides being professor, he has served in various capacities like Dean, Faculty of Canon Law at PIO (1981-1987), president of the Apostolic Process Tribunal, Palai, for the beatification of Sr. Alphonsa (1980), Consultor of the i) Pontifical Commission for the Revision of the Eastern Canon Law (1973-1990), ii) Special Commission of Liturgy of the Congregation for the Eastern Churches, (1989-2000), iii) Pontifical Council for the Interpretation of Legal Texts, since 1991 and iv) Congregation for the Causes of Saints, since 1997. He was also is the editor of *Kanonika* and Delegate to the Institute of Oriental Canon law, at DVK, Bangalore, India since 1999.

Names and terms are important. People may use the same terms but mean different things, or they may use different terms and mean the same thing. Terminology is particularly important in law. The Eastern code commission (PCCICOR) was faced with an important decision regarding the proper term to designate the Eastern Catholic Churches. They were called at times “rites” (*ritus*) by the Second Vatican Council, which had used also the term particular Churches (*Ecclesiae particulares*) to refer to these Churches (OE 2, 3). But more frequently the council had used the term particular Churches to designate dioceses (eparchies) and their equivalents, “the Churches entrusted to bishops” (LG 27; CD *passim*). According to the council the universal Church subsists “in and out of” the particular Churches (*in quibus et ex quibus subsistit*, CD 11). It is to be noted that *ecclesia universalis* (universal Church) is not to be confused with *ecclesia universa* (entire Church). The former regards the *essence*, the latter regards *quantity*; the former is realized in each of the particular Churches, the latter not. The matter is rather abstruse and occasioned a duel between two theology titans, Joseph Cardinal Ratzinger and Walter Cardinal Kasper. The former slipped on the philosophical concept “universal” and crashed like a colossus as he tried to identify the universal Church with the Church of Rome. The debate was fortunately too technical for the media to create a sensation.¹

But what exactly is a particular Church? As we saw above, in the conciliar usage this term did not have a uniform meaning. Dioceses and their canonical equivalents like apostolic vicariates or exarchates came under the term particular Churches. Besides, several of these particular Churches forming an ecclesial unit like the Patriarchal Churches and their canonical equivalents were also called particular Churches as in the following text: “Within the ecclesiastical communion there are lawfully particular Churches which enjoy their own proper traditions... without the particularity being harmful to

* This is the text of the second of the six lectures the author gave in February 2014 as part of Placid Podipara Endowment Lectures at the Institute of Oriental Canon Law, Dharmaram Vidyakshetram, Bangalore. The lectures are being published as a book under the title *For the Renewal of Canon Law: An Indian Contribution* (Dharmaram Publications, Bangalore) 2014.

¹ The debate furnished subject for a doctoral dissertation: Joseph Nedumkallel, *Was ist das eigentlich “die Universalkirche”? Kritische Metareflexion einer postkonziliaren Debatte* (Bonner Dogmatische Studien, 46), (Echter: Würzburg) 2009.

unity..." (LG 13). This term particular Churches was taken over by the conciliar decree on the Eastern Catholic Churches (OE 2, 3). It is often translated into English as "individual Churches," as in Tanner's translation of the council decrees. This is indeed a legitimate expedient to avoid confusion. But it can be a trap for those who do not consult the original Latin text and depend on a translation. To be blunt, the Second Vatican Council does *not* speak of "individual Churches," which is an English rendering of "ecclesia particularis" used by the council to refer to Patriarchal churches and their canonical equivalents consisting of a community of particular Churches (dioceses/eparchies). These larger units are sometimes rendered as *coetus ecclesiarum particularium* ("groups of particular Churches"). This designation suits some of them like the Latin Church, the largest of all today, and the Greek or the Byzantine Church, which was even larger than the Latin Church in the first millennium. These Churches consisted of various particular Churches (dioceses), which did not have a common origin from a single founding Apostle or missionary but came to be grouped together under one authority on a local basis. They have therefore been called "Local Churches" by some theologians like Henri de Lubac and Jean-Marie Tillard after some Orthodox writers like Afanasiev. But neither the term local Church nor the term groups of particular Churches suits some other Churches like the Maronite Church and the Syro-Malabar Church. These Churches had a common origin in a single ecclesial cell, from which several dioceses came into being through organic growth. This as we know is what happened to the Syro-Malabar Church, which today consists of thirty dioceses or eparchies. The unity of this Church is an original datum like that of a single family, which has multiplied into several families but remain united with one another and express their unity through family union (*kudumbayogam*). Such is not the case of the Latin Church or the Greek (Byzantine) Church, whose unity is an end product brought about by ecclesiastical authority.² The designation group of Churches (*coetus ecclesiarum*) used in LG 23 suits them but not the Syro-Malabar Church nor the Armenian Church nor the Maronite Church.

² If and when the Syro-Malabar mission dioceses are united in all-India jurisdiction, what is said about unity from a single original cell will no more apply, and the Syro-Malabar Church will come to resemble the Latin Church.

These Eastern Catholic Churches used to be called rites by Latin writers, a usage that crept into the council also (OE 2). The Council called them also local Churches and particular Churches (LG 23). Following a powerful intervention of the Melkite Patriarch Maximos IV the term Particular Church was extended by the council also to the Latin Church:³ “these particular Churches of the East and of the West” (OE 3). However, since the council used the term Particular Church more often to signify a diocese, and sometimes the regional groupings of dioceses (SC 111), it ended up by bequeathing a terminological problem. Its solution was vital in the work of the codification of canon law, since the use of ambiguous terms can cause havoc in law.

1. The Post-Vatican Terminological Debate

With the Second Vatican Council emerged the idea of better protection of the rights of the Christian faithful and of the particular Churches on the model of the constitutions of modern states. This issued in the project called *Lex Ecclesiae Fundamentalis* (LEF). Although it was not called the constitution of the Church, LEF was conceived as a future common code for the entire Catholic Church, while both the Latin and the Eastern Churches would have their respective codes. Considering their differences based on rite, canon 2 §2 of LEF spoke of these Churches as “*Ecclesiae rituales sui iuris*.” It is this post-Vatican project LEF that supplied the cue to PCCICOR to adopt the term “*Ecclesia sui iuris*” by dropping the qualification “*rituales*” as unnecessary and even inapplicable in several cases. Thus emerged the new term “*Ecclesia sui iuris*.” To understand this better let us take a close look at can. 2 §2 of LEF, which ran as follows. After the original Latin text I give my translation.

Variae Ecclesiae particulares in plures coniunguntur coetus organice constitutos, quorum quidem praecipui sunt Ecclesiae rituales sui iuris ..., videlicet Ecclesia latina et variae Ecclesiae orientales aliaeque quae, suprema auctoritate probante, constituuntur.⁴

From the union of several particular Churches emerge many groups that are organically constituted, among which the principal ones are ritual Churches *sui iuris* ... , namely the

³ Giuseppe Alberigo and Joseph A. Komonchak, eds., *History of Vatican II* (Orbis Maryknoll / Peeters Leuven) vol 2, 1997, p. 470.

⁴ *Communicationes* 1980, N. 1, p. 31.

Latin Church and various Eastern Churches as well as others constituted with the approval of the supreme authority.

LEF worked on a three-tier paradigm: *Ecclesia universalis*, *Ecclesia ritualis sui iuris*, and *Ecclesia particularis*. The term ritual Churches *sui iuris*, which was applied to the middle was new and created some difficulty. While the Latin rite was proper to and distinctive of the Latin Church, the same could not be said of several Eastern Churches, especially those of the Constantinopolitan tradition, which had the same Byzantine rite and therefore were not distinguished on the basis of rite. PCCICOR, therefore, omitted "rituales" from the term "*Ecclesiae rituales sui iuris*" and kept the rest. Thus emerged the term "*Ecclesia sui iuris*" as the canonical category of the Churches of the middle tier, both Eastern (Oriental) and Latin. It replaced the term "*Ecclesia particularis*" used earlier by PCCICOR relying for conciliar support on OE 2-3, where the council had used the term "particular Church" for the middle tier consisting of Patriarchal Churches and their ecclesiological equivalents like the Major Archiepiscopal Churches and the Metropolitan Churches. But the Latin code commission PCCICR kept using "particular Church," for dioceses and their canonical equivalents. In fact except for OE 2-3 the council always used "particular Church" in this sense, followed by LEF. And PCCICR adopted the same usage. Although PCCICOR could possibly let PCCICR go its own way, it could not ignore LEF, which was expected to be a common canonical legislation for the whole Catholic Church, both Latin and oriental.

To find a solution PCCICOR asked for representation on the pontifical commission for LEF and it was enlarged with five representatives or consultors of PCCICOR.⁵ But they failed to persuade this commission that PCCICOR needed the term particular Church to designate the Eastern Catholic Churches.⁶ But they failed chiefly because they did not bring to the attention of the commission that the canonical term used in CIC-17 for dioceses was "*Ecclesia singularis*," which was therefore still available for use for diocese in the new CIC as well as LEF. The solution of the terminological problem created by the council was already there in CIC-17, but canonists failed to note it!

⁵ Prot. 1554/75/3, p. 5

⁶ Ivan Žužek, "Le 'Lex Ecclesiae Fundamental' et les deux Codes," *L'Année Canonique* 40 (1998) 19-48.

PCCICOR set up a special commission for terminology (*Coetus specialis de Terminis*). It consisted of 19 persons residing in Rome: 4 were consultants of *Coetus Centralis*, 9 of *Coetus S. Hierarchia*, 3 of *Coetus de Ritibus*; there was a special invitee, Pierre Duprey, Sub-secretary of the Secretariat for Christian Unity. Father Placid Podipara, a member of the *Coetus De S. Hierarchia*, was also a member of this special commission. It met on 17-19 November 1975. The precise scope of this meeting was to discuss the use of two terms in the future Eastern Code, “*Ecclesia Particularis*” and “*Patriarcha Occidentis*.”⁷ As we saw, the former was being used for the diocese both by LEF and by PCCICOR in the revision of CIC,⁸ while various *Coetus* of PCCICOR were using the same term for the Eastern Catholic Churches relying on the conciliar decree OE 2-3. In the PCCICOR there was a proposal to mention along with the Eastern Patriarchs also the Western Patriarch. LEF and PCCICOR were silent about the Patriarch of the West, one of the several titles of the pope that were reprinted every year in the *Annuario Pontificio*, although it had practically no bearing on the current canon law (*ius vigens*). On this title Western Patriarch PCCICOR received three written *vota*, of Yves Congar, of George Dejaifve, and of Placid Podipara. Unfortunately I cannot find the texts of their *vota* in my files.

As regards the use of the term “*Ecclesia particularis*,” the representatives of PCCICOR failed to persuade the commission for LEF to adopt “*Ecclesia particularis*” for the middle tier. The majority of this commission as well as PCCICOR wanted to use it for dioceses and their canonical equivalents. Hence PCCICOR was left to look for another term. No suitable term was found. So *Ecclesia sui iuris* was adopted dropping *ritualis* from the term used by LEF. Ivan Žužek has explained in an article the circumstances leading to the adoption of this new term *Ecclesia sui iuris*⁹

However, in the *Coetus IV De clericis et de Magisterio Ecclesiastico* I continued somewhat obstinately to use the term *Ecclesia particularis*

⁷ Prot. 1554/75/2

⁸ *Communicationes* 3 (1971) 179-180.

⁹ Ivan Žužek, “Le ‘*Ecclesiae sui iuris*’ nella revisione del diritto canonico,” in *Vaticano II, bilancio e prospettive venticinque anni dopo (1962-1987)*, ed. René Latourelle (Gregorian University Press: Assisi) II, 1987, 869-882; reprint *Understanding the Eastern Code* (Kanonika 9). PIO, 1997, pp. 94-109; English transl. by Leslie Werne in *Vatican II: Assessment and Perspectives Twenty-Five Years After (1962-1987)*, (Mahwah: New York) II, pp. 288-304.

for Churches of the middle tier. For I had serious reservations about *Ecclesia sui iuris*, which I shall mention later. But when the project LEF was eventually abandoned, and both PCCICR and PCCICOR were required to incorporate some of its canons in the schema for the Latin code and the Oriental Code respectively, I had to yield and give up my stubborn resistance. With much reluctance I gave up the use of *Ecclesia particularis* as the common designation of the Eastern Catholic Churches and resigned myself to adopting *Ecclesia sui iuris*.

What were my objections to the use of the term *Ecclesia sui iuris*? I expounded them in the Coetus Centralis in what amounted to an informal conference. The Secretary Fr. Žužek liked it and published it as an article in *Nuntia*.¹⁰ The drift of my argument was more philosophical or epistemological than ecclesiological or canonical. The terms *universalis* and *particularis* have a long and established history in philosophy going back through Scholasticism to the ancient Greek philosophy, especially Plato. Plato speculated on the universals and postulated a world of subsistent ideas comparing them to the concrete particulars in our world of sense experience. Aristotle carried further the reflection on the universals, correcting Plato. The Aristotelian logic worked with a tripartite terminology, *universalis*, *particularis*, *singularis*, a scheme which passed into the tradition of the Scholastic logic. The term *universalis* includes all items in a category, *particularis* refers to some or a few, and *singularis* to a single individual item. According to this terminology, the *Ecclesia universalis* would refer to the one Church of Christ, which, however, has its concrete existence in the many Churches like the diocese. The diocese is an *Ecclesia singularis*, in which the universal Church is realized. And the Patriarchal Churches and their canonical equivalents would best be termed *Ecclesiae particulares*. Consisting of a few *Ecclesiae singulares*. For this use there is the authority of the council. However, more often the council used the term *Ecclesiae particulares* to refer to the dioceses. So one could not simply invoke the authority of the council and settle the question. If the settlement is left instead to logic, the term *Ecclesia particularis* would best suit the Patriarchal Churches and their equivalents, while *Ecclesia singularis* would best suit the diocese or eparchy. On the contrary the term *Ecclesia sui iuris* does not fit into the scheme of logic at all.

¹⁰ George Nedungatt, "Ecclesia universalis, particularis, singularis," *Nuntia* 2 (1976) 75-87.

I sent an extract of my article published in *Nuntia* to Father Yves Congar, O. P., the doyen of ecclesiologists and the leading genius behind *Lumen Gentium*. But I received no reply. I had no reason to feel hurt. After all who was I? Imagine an unknown small fry with the effrontery to presume to teach a revered father of the Church! His silence was a lesson for me. However, the matter does not end there. A few years later during an international congress of the Society for the Law of the Oriental Churches held at Regensburg in Germany, we met. Father Congar had to present a paper there, I also had one. After my paper, he approached me, passed on to me an extract of one of his publications without referring to the extract I had sent to him. I also did not bring up the matter. His gesture was an act of courtesy. And a curtain was drawn on the matter for good.

My article published in *Nuntia* had two serious defects, though, as I found out later. The first was the failure to cite any text using “*Ecclesia singularis*” referring to the diocese to corroborate my argument. And there were indeed texts as I discovered later. The very *Codex Iuris Canonici*, which had been promulgated in 1917 “*pro universa ecclesia*,”¹¹ had called diocese “*ecclesia singularis*” in can. 1495.¹² The same usage was found also in the principles or guidelines formulated by the Synod of Bishops in 1967 for the revision of CIC, in which dioceses were referred to as “*ecclesiae singulares*.”¹³ These are instances of the use of “*ecclesia singularis*” for “*diocese*” in Latin canon law and in the canonical tradition. Moreover, “*singularis*” was used in CIC-17 speaking of “*singulares personae*” in cann. 1459 § 1 and 1460 § 2 and of “*testes singulares*” in

¹¹ With his apostolic constitution *Providentissima Mater Ecclesia* Pope Benedict XV promulgated CIC-17 as the code of the whole Catholic Church: “*vim legis habere pro universa Ecclesia*,” hence Eastern Catholics included. This code came to be restricted to the Latin Church only later when it emerged that some of its provisions could not be applied to the Eastern Catholic Churches, for which therefore a separate code was needed. This decision was taken by Pope Pius XI.

¹² “*Ecclesia catholica et Apostolica Sedes*” have an innate right to own and acquire temporal goods (can. 1495 § 1); “*Etiam ecclesiis singularibus aliisque personis moralibus.... Ius est...*” (§ 2). Here CIC-17 uses the term “*ecclesia singularis*” to refer to dioceses following an established canonical tradition.

¹³ “*In iure a Conciliis nationalibus, regionalibus condendo, adeo ut aspectus peculiare ecclesiarum singularium non apparere non potest*” (*Communicationes* 1969, p. 81).

cann. 719 and 2020 § 2. This latter term “*testis singularis*” is quite common in procedural law referring to cases in which there is only one witness. These canons show that “*singularis*” is a normal adjective used for dioceses and witnesses. However, I failed to notice these examples and quote them in my article since I discovered them only later.

Regarding the term “*ecclesia particularis*” it is possible that it had been used for the diocese before Vatican II in the Council of Constance (1414-1418, which condemned the following proposition of John Hus: “*Non oportet credere quod iste quicumque (particularis) Romanus pontifex sit caput cuiuscumque particularis ecclesiae sanctae, nisi Deus eum praedestinaverit.*”¹⁴ However, it is not certain that “*ecclesia particularis*” is used here for the diocese rather than for “Church” in the sense of the Latin Church or the Greek Church.

In conclusion let us note that it was by departing from the canonical tradition followed by CIC-17 that the LEF and the schemas of PCCICR used “*ecclesia particularis*” for the diocese instead of “*ecclesia singularis*.” Since some canons of LEF were adopted by PCCICR as well as PCCICOR, the latter had to leave “*ecclesia particularis*” to the former for use for the diocese. Forced to look for an alternative PCCICOR finally chose “*Ecclesia sui iuris*” for the middle tier ecclesiological structure in the Eastern code. The choice of these two terms became final with the promulgation of the two codes in 1983 and in 1992 respectively.

2. *Ecclesia sui iuris*: A Critique

The term “*Ecclesia sui iuris*” is not quite a happy choice. Terminologically it does not fit into a three-tier ecclesiological structure to refer to the intermediate ecclesial reality between *Ecclesia universalis* and *Ecclesia singularis* (diocese or eparchy). The Eastern Catholic Churches represent that intermediate ecclesial reality, for which *Ecclesia particularis* would be the proper designation. In fact it was this term that was used by the conciliar decree on the Eastern Churches (OE 2-3) and it fitted in well with ecclesiology. The newly coined term *Ecclesia sui iuris* is a purely juridical term. It was adopted by PCCICOR “*pro bono pacis*” (as a compromise) as Father Ivan Žužek has stated.¹⁵ Departing from the canonical tradition of using

¹⁴ Tanner I, 430/ 5

¹⁵ *Nuntia* 22 (1986) 23.

“*Ecclesia singularis*” to signify the diocese, CIC-83 uses “*Ecclesia particularis*” 29 times. CCEO uses it only once, in the definition of *eparchia* in can. 177 §1, a canon that corresponds to CIC can. 369, which defines the diocese using the conciliar text *Christus Dominus* 11. It is the legacy of LEF.

In its preponderant use of “*ecclesia particularis*” for the diocese following the council CIC-83 deviated from the canonical precedent set by its predecessor CIC-17, which had used “*ecclesia singularis*.” However, “*ecclesia singularis*” had never come into general use. It remained almost a dead letter. The word “Church” was used generally for the whole Catholic Church or more narrowly for its hierarchy. After Vatican I Roman Catholic ecclesiology had become so centred on the pope and his primacy as to stifle the emergence of any ecclesiology that was not a universal. According to a Vatican directive issued to the professors of the Pontifical Oriental Institute before the Second Vatican Council, the Orthodox Churches were not to be qualified as “Churches” at all. The Orthodox could at best be called “separated brethren,” but the expression “Orthodox Churches” had to be avoided. As regards the Eastern Catholic Churches, they were qualified as “rites” mostly with reference to their liturgical specifics.¹⁶ The Latin Church had in effect become the Church without qualification. Such was the pre-conciliar Catholic mindset as a whole. The council effected a veritable ecclesiological revolution – a Copernican revolution! – by speaking of particular Churches. CCEO transposed the term particular Church used by the council in OE 2-3 into *Ecclesia sui iuris*, which is defined in can. 27 as follows.

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, is called in this Code a Church *sui iuris*.

This is a purely juridical definition of a neologism *Ecclesia sui iuris*, which does not fit into ecclesiology unlike the term *Ecclesia*

¹⁶ George Nedungatt, “Churches *sui iuris* and Rites,” in George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches* (Kanonika 10, Pontificio Istituto Orientale: Rome) 2002, pp. 99-128, see pp. 102-110.

particularis.¹⁷ Indeed, I held on to “*Ecclesia particularis*” as long as I could in the Coetus IV till I was forced to surrender. My chief objection against “*Ecclesia sui iuris*” was that not being an ecclesiological term it could not be made to fit into a theology of law (*Rechtstheologie* / *théologie du droit*), the construction of which was entrusted to canonists by Pope Paul VI.

Canonically or juridically, too, this new term Church *sui iuris* is not specific and exclusive to the Churches of the middle tier in a three tier ecclesial structure. For both *Ecclesia universalis* and *Ecclesia particularis* (diocese/eparchy) are also *sui iuris* having their own juridical autonomy including the power to make laws. Thus, for example, a diocese/eparchy can have its own statutes and can make new statutes. In this sense it is also *sui iuris*. Orthodox canon law distinguishes between autonomous and autocephalous Churches. Although this terminology does not suite Catholic ecclesiology and canon law, these Churches also would be *sui iuris*. The term *sui iuris* needs to be defined more precisely since it is effectively polyvalent and an undiscerning use can create confusion.¹⁸

According to CCEO can 27 a Church *sui iuris* needs recognition by the supreme Church authority, which can be express or tacit. Tacit recognition can sometimes be problematic giving rise to doubts. Fortunately of late the Eastern Catholic Churches *sui iuris* are listed in the *Annuario Pontificio*, the official handbook of the Roman Apostolic See. The lack of recognition may or may not be owing to a defect or fault of the ecclesial community in question. It may even be owing to some failure on the part of the authority (cf. the analogy of the community of the Palestinians now living under a Palestinian authority but is still awaiting to be recognized as a state, even after having all the cards in order). Here is an area where the young theological discipline called theology of law (*Rechtstheologie, théologie du droit*) has to make a creative contribution.

¹⁷ George Nedungatt, “La giurisdizione delle chiese particolari,” *Unitas* 31 (1976) 180-198.

¹⁸ Among the recent writings on the Churches *sui iuris* see Luis Okulik, ed., *Le chiese sui iuris: Criteri di individuazione e delimitazione* (Mariaum Press: Venice) 2005; Natale Loda, “Dal rito alla Chiesa *sui iuris*: Storia e problemi aperti (I parte),” *Ephemerides iuris canonici* 52 (2012), (II parte), 337-383.

Some of the Eastern Catholic Churches are indeed tiny communities having fewer Christian faithful than an average parish in the Latin West. No wonder if they generally pass unnoticed as do also miniscule states like Monaco (1.95 sq. km; 35,881 population) or Nauru (21 sq. km; 10,000 population) in the international scenario. There are 22 Eastern Catholic Churches listed in the current *Annuario Pontificio*, which is a mark of their express recognition by the supreme authority of the Church. They are grouped under five Eastern traditions following their alphabetical order as in CCEO can. 28 § 2: Alexandrian, Antiochean, Armenian, Chaldean, and Constantinopolitan (Byzantine). Six of the 22 Eastern Catholic Churches are *Patriarchal Churches*, four are *Major Archiepiscopal Churches*, and three *Metropolitan Churches sui iuris*. The remaining nine Churches are according to CCEO can. 174 *ceterae Ecclesiae sui iuris*, literally “Remainder Churches.” This is a negative, even ungrateful designation, which only says that these Churches do not fit into any of the three preceding categories of Churches *sui iuris*. Without the prior mention of these three categories of Churches it is not possible to speak of these “Other Churches *sui iuris*.” Thus you cannot deal with this fourth category of Churches on their own but only with reference to others. Obviously this is not a satisfactory term. Hopefully, in a future revision of CCEO a positive and more satisfactory designation will be found for them. Dynamically they could be seen as growing towards a higher grade and going to emerge as a Metropolitan Church *sui iuris*. In this sense they may be called perhaps Emergent Churches (*Ecclesiae emergentes*) borrowing this concept from sociology and politics.

3. Churches and Rites

In spite of the revaluing of the Christian East by Pope Leo XIII in his apostolic letter *Orientalium dignitas* dated 30 November 1894, the Eastern Catholic Churches, which were called disparagingly uniate Churches by the Orthodox, were routinely referred to as “rites” in Western Catholic usage. After the promulgation of CIC-17 “rite” was the object of learned studies by scholars like Emile Herman. The conciliar decree on the Eastern Catholic Churches reflects the unsteady terminology as it speaks of “the particular Churches of the East and of the West *or* rites” (OE 2) while stating more helpfully that they “differ partly in what are called rites, namely liturgy

ecclesiastical discipline and spiritual heritage" (OE 3).¹⁹ The council uses the same word rite in two different meanings in close proximity reflecting the current practice. Such ambiguity, however, could not be allowed in canonical legislation since legal terms must be univocal in meaning. One of the guidelines stated that the notion of "rite" was to be clarified and determined: "The notion of Rite should be re-examined and a new term agreed upon to designate the various Particular Churches."²⁰ Indeed, PCCICOR gave priority consideration to this matter by setting up a special study group for terminology. The end result is the formulation of two canons in CCEO, can. 27 and can. 28.

Replacing the conciliar ecclesiological term *Ecclesia particularis*, can. 27 defines the newly coined canonical term *Ecclesia sui iuris* as designating a "community of Christian faithful." As such it is different from *ritus*, which is defined in the following canon 28 § 1. Thus these two canons put an end to the long standing confusion in the use of the term rite.²¹

Canon 28 § 1 gives the definition of "rite." I helped to formulate it in the Coetus Centralis, which met in 1977 from February 7 to 12. "Rite is a heritage consisting of liturgy, theology, spirituality and canonical discipline; a heritage that is differentiated by the culture and the vicissitudes of the history of peoples and is expressed in the manner of living the faith that is proper to each Church sui iuris." In § 2 are named the five traditions from which various rites have originated historically, namely (in alphabetical order), "Alexandrian, Antiochean, Armenian, Chaldean and Constantinopolitan." This definition leaves open the possibility by way of exception (*nisi aliud constat*) that a new rite may arise from a tradition that is not listed here, for example the Indian culture fertilized by the gospel can give rise to a new tradition and a new rite. This provision for an exception in the canon was included following a suggestion which I made in

¹⁹ My translation. The English translation in the Tanner edition of the *Decrees of the Ecumenical Councils* is generally excellent and highly useful, but it is occasionally inaccurate as here.

²⁰ *Nuntia* 3 (1976) 33.

²¹ George Nedungatt, *Spirit of the Eastern Code* (Dharmaram Publications: Bangalore) 1993. For an ample discussion, with essential bibliography, of the terms *ritus*, *Ecclesia particularis*, and *Ecclesia singularis*, see pp. 63-64; 76-84.

the Coetus Centralis²² and which was accepted by the special study group on terminology.²³

These two canons brought about the needed terminological clarity, which the preconiliar CICO had failed to achieve, with the result the Second Vatican Council itself had carried on with the reigning terminological confusion. CCEO put a definitive end to this confusion, which is not the least of its merits. The two canons 27 and 28 are pregnant with far reaching possibilities. Cultural differences, comprising also conceptual pluralism even in the same cultural area, can give rise, especially in difficult vicissitudes of history, to a new ecclesial community, which may eventually be recognized as a Church *sui iuris*. Social and political factors also can give rise to a new Church *sui iuris*, even a new rite. A case in point is the prospects for the emergence of an Eritrean rite different from the Ethiopian rite after the political separation of Eritrea from Ethiopia. Another example is the Knanaya or Southist community in India. Currently it is part of the Syro-Malabar Church and is constituted as an archdiocese, but it nourishes with nostalgia its separate identity and cherishes the hope of becoming eventually a new Church *sui iuris*, which is a canonical possibility.

The Second Vatican Council taught the equality of the Churches of the East and of the West in its decree on the Eastern Churches: *ita ut nulla earum ceteris praestet ratione ritus*, "so that none of them is superior to the others by reason of rite" (OE 4). The council here corrects Pope Benedict XIV (= Prospero Lambertini, a famous canonist), who taught the doctrine of the superiority of the Latin rite in his constitution *Etsi pastoralis* (1742) and encyclical *Allatae sunt*

²² PCCICOR, Prot. 1025/77/2, p. 2 (from the Italian text in my personal archives): "By enumerating taxatively the five Eastern traditions this canon seems to prevent (perhaps not consciously) the birth of a new rite, for example from the inculturation of the gospel preached by the Syro-Malabar missionaries in India. Will it not be "Oriental" although created by Orientals? The MP PA can. 303 § 1, 1° left open such an evolution, at least textually. Whatever be the merit of the One Rite Movement in India (cf. George Nedungatt, "La giurisdizione delle chiese particolari," *Unitas* 31 (1976) 180-198 at 181) it will perhaps be better if the future legislation does not block the road for the eventual development of "Eastern" rites outside the Mediterranean culture."

²³ George Nedungatt, *Spirit of the Eastern Code*, p. 78, n. 27.

(1755).²⁴ But the Second Vatican Council rejected this doctrine without, however, condemning it with an explicit citation of Pope Benedict XIV out of reverence. The result is that the doctrine of the superiority of the Latin rite has at times risen from its grave, to which the council consigned it, and stalked like a phantom lofty podiums creating confusion in interecclesial relations in countries like India. The same pope Benedict XIV was beguiled in his magisterium on the Chinese rites and on the Malabar rites by the rivalry of missionary intermediaries and the lack of touch with reality. Thus after prolonged controversies among missionaries, less concerned about the kingdom of God than for their own kingdom, Pope Benedict XIV condemned the “Chinese rites” in 1742 and the “Malabar rites” in 1744. The pope established peace among the warring missionaries, but his condemnations resulted in great harm to the cause of the evangelization of these two most populous countries of the world, each with a rich ancient culture.²⁵

In its decree on ecumenism the Second Vatican Council applied the term Church to the Orthodox Churches while using the term “ecclesial communities” to refer to the Protestants. It was left to subsequent theological development to specify the exact difference between these two terms “Churches” and “ecclesial communities.” The postconciliar development of Catholic ecclesiology was influenced by the Eucharistic ecclesiology, which is a Russian import associated with the Russian expatriate Afanassiev: wherever the eucharist is celebrated Christ is present and with Christ, the Church is present as his body. Hence it is argued that the universal Church is present in the local Church.

²⁴ Benedict XIV, *Allatae sunt*, On the Observance of Oriental Rites, 20. For English trans. *Vatican Documents on the Eastern Churches: Papal Encyclicals and Documents Concerning the Eastern Churches*, vol. I (Eastern Christian Publications: Fairfax, VA) 2002, p. 16.

²⁵ Some have blamed De Nobili for introducing caste distinctions in the Church by adopting the lifestyle of the Brahmins and allowing separation between high caste and low caste Christian converts. Unfortunately this separation has persisted till today. However, it is arguable that De Nobili tolerated the caste without sanctioning it like St. Paul who corrected similar group distinctions in the Church of Corinth later at an opportune moment (1 Cor 1:10-13).

4. Local Church

In the postconciliar Catholic ecclesiology the term “local Church” came into prominence with a centrifugal sprint as a counterweight to the pre-Vatican Roman centralization. As an example may be mentioned the ecclesiology of Jean-Marie Tillard,²⁶ which has been summarised in a recent book entitled *Local Church*,²⁷ which shifts the focus from the Roman centre to the periphery. But the distinction between “universal Church” and “local Church” is faulty as they are disparate terms in logic. Logically, the true conceptual oppositions are between “universal and particular,” whereas “local” contrasts with “global” as in expressions like the local market and the global market, the local demand and the global demand, etc.

On a closer look, however, it will be seen that the term “local Church” is not precise. To illustrate, let us suppose a newly ordained priest ascribed to the Bangalore archdiocese declares on the day of his first mass: “I shall be in the service of the local Church unlike my elder brother John, who is serving the universal Church as a professor of the Gregorian University, Rome.” But what does he mean by the *local Church*? That, if he is appointed parish priest (or “pastor,” if you want to use the invading Americanism with its canonical ambiguity) he will serve in the parish (local Church)? Under the sprint of the Eucharistic ecclesiology some use the term local Church to refer to the parish community.²⁸ Or will he be in the service of the Diocese of Bangalore (local Church)? If so, does his service of the “local Church” include only the Latin Catholics or extend also to the Syro-Malabar and the Syro-Malankara Catholics, who also belong to the Diocese of Bangalore? Further still, what

²⁶ Jean-Marie R. Tillard, *L'Église locale : Ecclésiologie de communion et catholicité* (Cerf : Paris) 1995 ; “ The Theological Significance of Local Churches for Episcopal Conferences ” *The Jurist* 48 (1988 220-226 ; “ L'Universal et le Local : Réflexion sur Église univerele et Églises loales, ” *Irenikon* 60 (1987) 483-494 ; 61 (1988) 28-40 ; “ The Local Church within Catholicity ” *The Jurist* 52 (1992) 448-454.

²⁷ Christopher Ruddy, *The Local Church:Tillard and the Future of Catholic Ecclesiology* (Herder and Herdder/ Cross Road Publishinng Company: New York) 2006.

²⁸ As an example, Adrien Nocent, “La chiesa locale, realizzazione dell'ecclesia Christi e sede dell'eucaristia,” in: Alberigo Giuseppe and Jean Pierre Jossua, eds., *Il Vaticano II e la Chiesa* (Biblioteca di cultura religiosa 47), (Paideia: Brescia), 1985, pp. 289-308.

about the other Christians like the Syro-Orthodox and others who also belong to the Church? Do they come under the term local Church? Perhaps he is thinking only of the Latin Catholics of his diocese who are the majority in Bangalore; but a concept of the local Church based on the majority Catholics in Delhi should mean the Syro-Malabar Catholics, who outnumber the Lains in Delhi and constitute the majority. Finally, ecclesiastical circumscriptions of Bangalore and Delhi do not coincide with the city boundaries, so that the use of the term "local Church" to refer to them becomes very ambiguous indeed. Canon law has to use terms with a precise meaning in keeping with the requirement of law and of the legal science. Many who write on the local Church are not attentive to this requirement and they seem to have only the Latin Church in view.²⁹ But in certain cities of the Middle East like Beirut, Aleppo and Cairo, the Latins are a small minority while the majority Eastern Catholics themselves belong under five or six different Catholic jurisdictions, not to say anything of the various other jurisdictions of the Orthodox Churches and others.

In fact the term *ecclesia localis* does not appear either in CIC or in CCEO – virtually a canonical ban of the wool-gathering theology of the local Church. The chief objection to the theology of the local Church is its failure to define what is meant by *locus* or place: is it a parish, a diocese, a region like Tamil Nad, a country like India (as when we speak of the Church of India, or Indian theology), or a continent like Asia (Asian Horizons)?

The eucharist may be celebrated in a parish by the parish priest, in a monastery by the abbot, in a diocese by the bishop, in a large country like Russia by the Russian Orthodox patriarch. The Russian Orthodox Church is a local Church, the qualification "local" being in its very name, although its members may be found all over the world. The same is true also of other Orthodox Churches like the Serbian Orthodox Church, the Bulgarian Orthodox Church, the Roumanian Orthodox Church, the Greek Orthodox Church. All these Churches have a distinguishing local tag. They are local Churches and are in intercommunion, not however, with the Roman Catholic Church, which also is a local Church, according to Orthodox theologians like John Zizioulas, a leading ecumenist.

²⁹ Gilles Routhier, "'Église locale' ou 'Église particulière': querelle sémantique ou option thèlogique?," *Studia Canonica* 25 (1991) 277-334 ; "La synodalité de l'Église locale," 26 (1992) 11-161.

Catholics do not accept the qualification of the Catholic Church as Roman in the sense of a local Church. Indeed, they do not adopt the qualification *Roman* Catholic Church except in ecumenical contexts. The Second Vatican Council speaks of the “Churches of the East and of the West” (OE 4, UR 14) following an age old terminology. East and West designate two broad geographical divisions. But both in the East and in the West Churches have multiplied, so that East and West do not provide adequate ground for the designation of any single Church today.

The first canon of CIC-83 reads: “The canons of this code concern only the Latin Church.” Is the Latin Church a “local Church”? The word Latin comes from *Latium*, a province in central Italy in which Rome is situated. From *Latium* the adjective *latinus*, -a, -um has been formed. Linguistically, the name Latin Church designates a local Church, the Latin-speaking Church, just like the Greek Church (from Greece, the Greek speaking Church), or the Russian Church or the Syro-Malabar Church. However, since today the Latin Church is spread practically all over the globe, it would make little sense to call it a local Church. The same reservation would apply also to the other Churches I mentioned (even if to a lesser extent), whose members are found in a worldwide diaspora as a result of the modern phenomenon of vast emigration of peoples. Thus, as we know, the Syro-Malabar Church is spread across the globe with an Eparchy in Melbourne in Australia in the East and an Eparchy in Chicago in the United States in the West. Given this global spread, it is difficult to conceive of the Syro-Malabar Church as a local Church. This is true, as I said, also of many other Churches of the East and of the West. This fact offers some justification for the suppression of the traditional title of the pope “Patriarch of the West”³⁰ by Pope Benedict XVI, although it provoked some ecumenical questionings since he did not give any reason for the suppression.³¹

The title of the pope as “Patriarch of the West” had served, apart from the geographical reference, to throw into relief the fact that various offices were cumulated in him: bishop of the diocese of Rome, metropolitan of Latium, primate of Italy, patriarch of the West and pope or head of the Catholic Church. These distinctions are not without importance especially in ecumenical relations with the

³⁰ See the *Annuario Pontificio* since 2006 onwards.

³¹ Antonio Garuti, *Il Papa Patriarca d'Occidente?* (Bologna, 1990) suggested the suppression as advisable (p. 270).

Orthodox Churches, several of which are patriarchal Churches. The principal group of Churches dealt with in CCEO is also patriarchal Churches. Recognizing their importance in the Catholic communion, the Second Vatican Council decreed that “in keeping with the Church’s very ancient tradition, the patriarchs of the Eastern Churches are to be honoured in a singular manner” (OE 9). In a lengthy article on the patriarchal ministry I have tried to show (contrary to the commonly held view, but with support from theologians like Karl Rahner) that the patriarchal authority can be ascribed to *ius divinum*.³² Even apart from this question of *ius divinum*, it serves to distinguish the various powers cumulated in the pope,³³ a distinction that can contribute to the rethinking of the papal office, which has moved to central stage in recent Roman Catholic-Orthodox ecumenical dialogue.

5. The Title of the Eastern Code

The title of the previous code of the Latin Church, *Codex Iuris Canonici* of 1917, which has been retained also for the 1983 code, suggested for the Eastern code the title *Codex Iuris Canonici Orientalis* (abbr. CICO). Even before the work of codification was completed this title had already been in use since 1945 when the first canon of the draft of the Eastern code was worded as follows: “*Codex iuris canonici orientalis obligat christifideles ritibus orientalibus adscriptos, ubique terrarum commorantes*”³⁴ And this title was

³² George Nedungatt, “Patriarchal Ministry in the Church of the Third Millennium,” *The Jurist* 61 (2001) 1-89. The editor of *The Jurist* wrote to thank me for the article, which he said “added lustre to *The Jurist*.” Though unusually long for an article (89 pages), he published it in a single number of the journal instead of dividing it into two or three installments. Ivan Žužek, however, had some reservations about some of my views, which he expressed in a study, “The Authority and Jurisdiction in the Oriental Catholic Tradition,” *Understanding the Eastern Code* (Kanonika 8 (PIO: Rome) 1997, pp. 459-479, see pp. 468-474. Here questions of the nature of authority in the Church, *jus divinum*, etc. are dealt with which belong properly under theology of law, a subject I have been teaching. I intend to publish my notes as a book in due course.

³³ Yves Congar, “Le Pape comme Patriarche d’Occident: approche d’une réalité trop négligé,” *Istina* 28 (1983) 373-390.

³⁴ *Nuntia* 2 (1976) 54. In English: CICO obliges the Christian faithful ascribed to the Eastern rites all over the globe irrespective of the place they are in.

regarded as quite normal and was taken for granted. All through the long process of codification this title *Codex Iuris Canonici Orientalis* was in use.

However, before the promulgation of the Latin code, in the plenary session of the Latin commission held in 1981, Joseph Cardinal Parecattil, who as president of PCCICOR was a member of PCCICR, proposed that the revised Latin code should have a revised title, namely *Codex Iuris Canonici Latinae Ecclesiae* or alternately *pro Latina Ecclesia*. This specification was needed, he argued, since there was going to be a code which would be entitled *Codex Iuris Canonici Orientalis* with an Eastern specification. Correspondingly, the Latin code should have a Latin specification.³⁵ Cardinal Parecattil's argument was based on the equal dignity of the Churches, Eastern and Western, affirmed by the Second Vatican Council (OE 4). If the code of the Eastern Churches needed a specification "orientalis," equally the code of the Latin Church would need a like specification. Otherwise the implication would be that the Latin Church was simply *the* Church, Church without qualification. When his motion was put to vote, however, it failed to pass by a narrow majority. PCCICR did not change the title of CIC-17 and, as we know, the new code was promulgated in 1983 with the same title *Codex Iuris Canonici*. Cardinal Parecattil was deeply disappointed. He felt that justice was not done to his cause. He published the text of his motion in his archdiocesan bulletin.³⁶ PCCICOR felt it could do little else than avoid what some regarded as a Latin error. Fr. Žužek and some other consultor of PCCICOR like Prof. Onorato Bucci referred to the new Latin code in their writings as *Codex Iuris Canonici Latinae Ecclesiae*. That innovation, however, did not have any practical effect and seemed to be but rubbing in what a losing minority considered a Latin error. I felt that this tactic would only lead to a blind alley and that a different solution had to be looked for. If the Latins would not change the title of the Latin code, well and good, let them keep it; the Orientals could change *theirs*, which was after all still provisional. Why not look for a new title different from *Codex Iuris Canonici Orientalis*? One might perhaps even find a better one.

I published two articles in the Canadian journal *Studia Canonica* on the title of the Eastern code: one before the code's promulgation, the

³⁵ *Communicationes* 14 (1982) 123.

³⁶ *Ernakulam Missam*, 1985, No. 2. The text was not published in *Communicationes*.

other after. In the first article I questioned whether the title *Codex Iuris Canonici Orientalis* (CICO) was really the best or even apt.³⁷ After all the specification "orientalis" is not necessary nor is it traditional. If it was not deemed necessary to indicate a specification like "latinus" or "occidentalis" for the Latin code, the Eastern code need not carry the specification "orientalis" either. Moreover, judging by the evidence of tradition, none of the canonical collections of the Eastern Churches was ever qualified as "orientalis." I proposed therefore a new title, *Codex Ecclesiasticorum Canonum*. In abbreviation, it would be CEC, paralleling CIC, which is the standard abbreviation of the Latin code *Codex Iuris Canonici*. As regards the term *canones ecclesiastici* it belongs to the first millennium tradition of the ecumenical councils starting with the Council of Nicea I,³⁸ whereas the term *ius canonicum* is of later Western origin.³⁹ It emerged in the historical context of the conflict for power between the clergy and the laity with Christian emperors and kings ranged against popes and bishops in matters like the election of churchmen, ecclesiastical immunities, rights and prerogatives as well as the administration of church property. Over against *ius civile* and *ius romanum* the churchmen in the West invoked *ius canonicum*. The term that belongs to the common patrimony of the Church, East and West, is "canones ecclesiastici." It was used already by the First ecumenical council of Nicea in 325 in its canon 2. In the sixth century John Scholasticus, the future Patriarch of Constantinople, put together his collection of canons under the title *Syntagma* (= collection) of *Ecclesiastical Canons of Fifty Titles*. In sum, the title *Code of Ecclesiastical Canons* for the future Eastern code deserves serious consideration, I argued. I sent a manuscript copy of my article to PCCICOR on 11 June 1985 before sending it for publication to *Studia Canonica*, but it was too late to influence the title of the schema of the code, which carried the title *Schema Codicis Iuris Canonici Orientalis* and was published as a double number of *Nuntia* 24-25 in 1986.

³⁷ George Nedungatt, "The Title of the New Canonical Legislation," *Studia Canonica* 19 (1985) 61-80. I republished Cardinal Parecattil's text in this article (79-80).

³⁸ Heinz Ohme, *Canones Ecclesiastici*, Berlin, 2001.

³⁹ Charles J. Reid Jr., "Thirteenth-Century Canon Law and Rights: The Word *ius* and Its Range of Subjective Meanings," *Studia Canonica* 30 (1996) 295-342.

However, my article in *Studia Canonica* had the intended effect of provoking thought. A German canonist and esteemed scholar, who read my article, commented: "Of course, the title of the Eastern code in the schema must be changed." Some Eastern Catholic bishops felt that it would be humiliating for the Eastern Churches to have a code with a title that looked like an appendage of the Latin code (CIC - CICO). This image of appendage or *appendix* was concrete and repugnant and it slowly caught on.

The *plenaria* (plenary session) of PCCICOR sat in November 1988. There were three members from India: two from the Syro-Malabar Church, namely, Antony Cardinal Padiyara of Ernakulam and Mar Kuriakose Kunnacherry of Kottayam; and one from the Syro-Malankara Church, Archbishop Mar Gregorios of Trivandrum. Cardinal Padiyara told me that he was only appointed a member of PCCICOR shortly before on 29 October by a phone call. With such a short call he had no time to prepare any written comments on the schema; indeed, he had not even had time to study it carefully. Archbishop Gregorios had sent a written motion to the president of PCCICOR on can. 85 § 2 of the Schema stating that the pastor must care for the sheep wherever it is and should not be restrained; actually the restraint affects only the Orientals, not the Latin Church.⁴⁰ This point belonged under the question of the territorial limitation of the jurisdiction of the patriarchs. It became a hot issue during the plenaria and was decided by a papal intervention as reflected in can. 78 § 2. Mar Kuriakose Kunnacherry commented on several canons of the Schema, often in the form of questions. He criticised the term "Ecclesia sui iuris" and suggested instead "Ecclesia individualis" as "a better expression," evidently taking his cue from the current English rendering of *Ecclesia particularis* in the conciliar decree OE.

I presented to the three Indian members a few motions to improve the *Schema Codicis Iuris Canonici Orientalis* (SCICO).⁴¹ The most

⁴⁰ Prot. 1101/88/2, p. 27.

⁴¹ The motions I formulated (on the typewriter, in the pre-computer era) run into eleven pages. They are too long to be cited here or even summarised. The first suggested the need for a canon that would state the right of the Eastern Churches to be upgraded canonically as they grew towards fuller ecclesial maturity. Another motion was about the manner of the promulgation of the future code. A third criticized the term "*Ecclesia sui iuris*" (even at that late hour!) as inadequate. A fourth criticized the term

important of these motions to my mind concerned the title of the future code. There should be a new title different from the one contained in the SCICO.

The feedback to SCICO had been examined by an ad hoc coetus, the *Coetus de expensione observationum*. Researching the archives of PCCICOR, it had found a list of 18 possible titles that had been examined in 1932 by the previous code commission, one of which was *Codex Canonum Ecclesiarum Orientalium* (CCEO). That commission, however, had not adopted it but preferred CICO. But now that CICO had come under criticism as passing for an "appendix" of CIC, it seemed to this *Coetus* that CCEO was preferable.

The three Indian bishop members submitted a petition on 6 November to the Vice-president of PCCICOR Bishop Emile Eid to allow me and Fr. Jacob Kollaparambil to attend the sessions of the *plenaria* as experts to advise them. But this petition was not granted since it was reckoned as contrary to the regulations, which permitted only *members* to attend the *plenaria*. Our three Indian bishops then tabled a motion, which I had prepared suggesting a new title *Codex Ecclesiasticorum Canonum* for the new code. They also canvassed support for the motion, which was signed by eleven members. It was worded as follows.

The title of the new Code may be given as "Codex Ecclesiasticorum Canonum" instead of "Codex Iuris Canonici Orientalis."

Reasons;-

1. The title "Codex Iuris Canonici Orientalis" would sound like an appendix to the "Codex Iuris Canonici," as if the Oriental Catholics are second class people in the universal Church.
2. A common feature of all ancient and later canonical collections is that none of them is distinguished or specified as "Oriental."
3. The title "Codex Ecclesiasticorum Canonum" is consistent with oriental tradition. It is precise and brief and is distinct from "Codex Iuris Canonici".

ius particulare as used in the Schema. A fifth criticized the definition of *Archiepiscopus major* as faulty.

4. The code for the Latin Church is not given any specification as “*Latinae Ecclesiae*” or “*Pro Ecclesia Latina*.” The specification “*Orientalis*” would amount to a discrimination.⁴²

This motion was discussed on 8 November. But it did not get a fair hearing or have “a full and fair debate” in the *plenaria*, as I have shown in my second article published in *Studia Canonica*.⁴³ Instead the title that had been found in the archives of PCCICOR was preferred to the title *Codex Ecclesiasticorum Canonum*. The *plenaria* does not seem to have been in the know of the fact that *canones ecclesiastici* was used by the first ecumenical council of Nicea, whereas *ius canonicum* is of later Western origin. My second article in *Studia Canonica* contains a critical evaluation of the new title CCEO. It concludes as follows: “As a title, CCEO turns out to be preconiliar, Western or non-Oriental, non-traditional, incomplete and illogical.” That was no nice diplomatic language but calling a spade a spade. Blunt but clear, not calculated to conciliate, it drives home the truth. Eventually, there will be a successor of CCEO, which may want to adopt a more apt title. If ecumenism were to make rapid progress, that successor could arrive on the scene in the near future – a sanguine hope, which one may entertain with some optimism with Pope Francis now heading the Roman Apostolic See as the successor of Peter.

Discussion

Sebastian Payyappilly, CMI. What is the possibility of having in the future one single Code of Canon Law for the one universal Catholic Church? I think it is possible since we have the provision for the particular law of Church *sui iuris*.

Response. This is surely a possibility. This idea in fact surfaced in the past in various forms. After CIC appeared in 1917 as the code of the Latin Church, it was widely acclaimed as a great achievement. Its chief architect Cardinal Pietro Gasparri toyed with the idea of extending it to the whole Catholic Church by adding Eastern specifics to the various canons of CIC but keeping unaltered the number and sequence of the canons. It would be in effect a second edition of the *Codex Iuris Canonici* with a new title *Codex Iuris*

⁴² *Nuntia* no. 29 (1989/2) 30-31.

⁴³ George Nedungatt, “The Title of the New Oriental Code,” *Studia Canonica* 25 (1991) 465-476.

*Canonici pro Ecclesia universa auctoritate Pii PP. XI promulgatus.*⁴⁴ This project, however, did not get the approval of Pope Pius XI. The later postconciliar project of the *Lex Ecclesiae Fundamental* launched under Pope Paul VI was conceived as a common basic code for the whole Catholic Church to be supplemented by a code for the Latin Church (the revised edition of CIC-17) and another common code for the Eastern Catholic Churches (revised and completed CICO). In this conception CIC would effectively be the particular code of a Particular Church (*Ecclesia sui iuris*). It would be difficult for many Latin Canonists to conceive the code of the Latin Church as a particular code as they use the expression *ius commune* routinely to refer to the *ius* contained in CIC. As long as the term “particular Church” refers to diocese it would be difficult to think of CIC as the particular law of a Church *sui iuris*.

Sr. Delma Rose, MSMI. Father, you have said that you suggested an alternative title for the Eastern code, namely *Codex Ecclesiasticorum Canonum*. Do you mean that in a future revision of the Eastern code the qualification “oriental” should be removed from the title?

Response. The qualification “oriental” or “eastern” is not something objectionable or unnecessary. The council itself speaks of the Eastern Churches and of the Latin Church/rite (OE 6, 14). But if the Latin Church can have a code without the qualification “Latin,” equally the Eastern churches can have a code without the qualification “Eastern.” Otherwise an impression would be created that the Latin Church is *the* Church without qualification, and the Eastern Churches are Churches only with a qualification. This would be false ecclesiology. This point came up in the Plenaria of PCCICOR, which met in 1988 and wanted a change in the title of the schema *Codex Iuris Canonici Orientalis* whereas the Latin code bore the title *Codex Iuris Canonici* without any qualification like “*Latinae Ecclesiae*.” Some felt that the addition “*orientalis*” created the impression of an “appendix” or tail and argued against it on that score. Paradoxically enough, the present title *Codex Canonum Ecclesiarum Orientalium*

⁴⁴ Ivan Žužek, “L’idée de Gasparri d’un *Codex Ecclesiae Universae* comme ‘point de départ’ de la codification canonique orientale,” *L’année canonique* 38 (1995-1996) 53-74 ; reprint in *Understanding the Eastern Code*. (Kanonika 8) 1997, pp. 429-458. Note that Cardinal Gasparri’s “*Ecclesia universa*” (the whole Church, hence not only Latin but also Eastern) is not the same as “*Ecclesia universalis*.” The former is quantitative, the latter is substantive.

contains this appendix-tail and still was preferred in the Plenaria to the title *Codex Ecclesiasticorum Canonum* without the tail. This title got the support of eleven members, but lost to the majority. Not every victory is the victory of reason.

Question. The Latin code CIC is divided into seven books (*libri*); the former CIC-17 was divided into five books. The Eastern Code CCEO is divided into 30 titles. Which is better according to you? Division into books or titles? Seven books would seem simpler than thirty titles.

Answer. A simpler division or format is not necessarily a better one for a complex reality. The Eastern Code follows the traditional division into titles. A first millennium collection of ecclesiastical canons was divided into 14 titles. The previous Eastern Code Commission took a decision in 1941 to adopt for the future code the division into 24 titles. The fact that portions of this code were published as four *Motu Proprio* from 1949 to 1957 does not mean that the project was to publish the whole code following the division of CIC into five (or seven) books. This division of the Latin code is modelled on the French Civil Code and on the Italian Civil Code. Scholars have criticized very strongly the adoption of these models for the Latin Code. The division into titles is not only traditional but is more supple and less problematic.

Appendix.

The Eastern Catholic Churches

The 22 Eastern Catholic Churches have been recognized as *sui iuris* by the Roman Apostolic See and are entered in the *Annuario Pontificio*. Of these Churches 6 are *Patriarchal Churches*, 4 are *Major Archiepiscopal Churches*, 3 *Metropolitan Churches sui iuris*. And 9 called problematically *ceterae Ecclesiae sui iuris* in CCEO (literally "Remainder Churches") may be called perhaps more happily in a future canonical reform *Emergent Churches*.

I. THE CHURCHES OF ALEXANDRIAN TRADITION

1. *Coptic Patriarchal Church*

Patriarchal See: Cairo, Egypt; Christian faithful: 163,630

2. *Ethiopian Metropolitan Church sui iuris*

Metropolitan see: Addis Abeba, Ethiopia; Christian faithful: 427, 537

II. THE CHURCHES OF ANTIOCHEAN TRADITION

1. *The Syrian Patriarchal Church*

Patriarchal see: Beirut, Lebanon; Christian faithful: 158,818.

2. *The Maronite Patriarchal Church*

Patriarchal see: Bkerké, Lebanon; Christian faithful: 3,290,539 spread in Lebanon, Cyprus, Jordan, Israel, Palestine, Egypt, Syria, Argentina, Brazil, Mexico, U.S.A., Canada and Australia.

3. *Syro-Malankara Major Archiepiscopal Church*

Major Archiepiscopal see: Trivandrum, Kerala; Christian faithful: 420, 081.

III. THE CHURCH OF ARMENIAN TRADITION

Armenian Patriarchal Church

Patriarchal see: Beirut, Lebanon; Christian faithful: 593,459

IV. THE CHURCHES OF CHALDEAN TRADITION

1. *Chaldean Patriarchal Church*

Patriarchal see: Baghdad, Iraq; Christian faithful: 494, 871

2. *Syro-Malabar Major Archiepiscopal Church*

Major Archiepiscopal see: Ernakulam-Angamaly; Christian faithful: 3,827,591 [over 4,000,000 (website, 2014)] spread all over the world.

V. THE CHURCHES OF CONSTANTINOPOLITAN / BYZANTINE TRADITION

1. *Melkite Patriarchal Church*

Patriarchal see: Damascus, Syria.; Christian faithful: 1,587,900.

2. *Ukrainian Major Archiepiscopal Church*

Major Archiepiscopal see: Kiev, Galicia; Christian faithful: 4, 350, 732 spread all over the world.

3. *The Rumanian Major Archiepiscopal Church*

Major Archiepiscopal see: Blaj, Romania; Christian faithful: 707, 452

4. *Ruthenian Metropolitan sui iuris Church*

Metropolitan see: Pittsburg, USA; Christian faithful: 646, 260

5. Metropolitan sui iuris Church of Slovakia

Metropolitan see: Prešov, Slovakia; Christian faithful: 239, 394

6. Albanian sui iuris Church

Apostolic administration of South Albania; Christian faithful: 3,845

7. Belarus sui iuris Church

Apostolic exarchate with 20 parishes

8. Bulgarian sui iuris Church

Apostolic exarchate of Sofia with 21 parishes; Christian faithful: 10, 000

9. Croatian sui iuris Church

Eparchy of Krizevci for Byzantine Christian faithful of Croatia, Serbia and Montenegro; Christian faithful: 43, 878

10. Greek sui iuris Church

a) Apostolic exarchate of Greece; Christian faithful: 2,500 in Greece

b) Apostolic exarchate of Istanbul (Constantinople): vacant since 1957

11. Italo-Albanian sui iuris Church

This *sui iuris* Church consists of emigrants from Albania to Italy and Sicily and their descendants now belonging to three units, namely two eparchies and an abbey.

a) The eparchy of Lungro for the Albanians who emigrated to Italy; Christian faithful is 32,900

b) Eparchy of Piana of the Greeks / Albanians for the Italo-Albanians of Sicily; Christian faithful: 28, 500

c) The abbey of Saint Mary of Grottaferrata with 78 inhabitants

12. Macedonian sui iuris Church

Apostolic exarchate of Macedonia with the see at Skopje; Christian faithful: 15, 037

13. *Russian sui iuris Church*

This Church consists of two apostolic exarchates, one of Moscow for the Catholics in Russia and the other at Harbin for the Russian Catholics in China. These two exarchates still exist officially but because of peculiar historical circumstances no new bishops have been appointed since 1928. The number of the Christian faithful is unknown.

14. *Hungarian sui iuris Church*

a) Eparchy of Hajdudorog with the see at Nyiregyhaza and 162 Greek-Catholic parishes

b) Apostolic exarchate of Miskolc; Christian faithful: 290,000.

Note. Some people count 23 Eastern Catholic Churches, adding to the above list of 14 Churches *sui iuris* of the Constantinopolitan / Byzantine tradition the apostolic exarchate of Serbia and Montenegro; but it is not listed in the *Annuario Pontificio* among the Eastern Catholic Churches, which is currently a sign of formal recognition by the supreme authority of the Church. Hence it is not included in the present list.