

## RECEPTION OF CCEO BY THE CATHOLIC CHURCHES IN INDIA

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Sebastian Payyappilly, CMI\*

Focusing attention on the vision and message of St. Pope John Paul II, Sebastian makes a practical study of the application of the CCEO in the context of the Catholic Church in India. By making a voyage through the reception of the Eastern Code in the Catholic Church in India, its culture and context, the author evaluates how far CCEO has been successful in its purpose, especially in the context of the Syro-Malabar and Syro-Malankara Churches *sui iuris*. The recognition and elevation of these two Churches to the Major Archiepiscopal status, the formation of the Synods of bishops and the higher tribunals within the Churches *sui iuris*, the promulgation of the of particular laws, etc., are among the visible signs of CCEO's reception in the said context. The erection of personal parishes by the local bishops of the Latin Church, for the pastoral care of the oriental faithful residing outside their proper territory, the increasing collaboration among the three Churches *sui iuris* in the field of the pastoral care and a combined study of the codes of canon law are also results of better reception of CCEO.

### 1. Introduction

The Second Vatican Council was an important event of the 20<sup>th</sup> century in the life of the Church as a whole. Its vision, new in the

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\*Fr. Dr. Sebastian Payyappilly CMI, a member of the Religious congregation, *Carmelites of Mary Immaculate*, having completed his Licentiate in Oriental Canon Law at DVK, Bangalore, did his doctoral studies at the Faculty of Canon Law, St. Paul University, Ottawa, Canada. At present, he is the associate professor at the Institute of Oriental Canon Law and the Faculty of Theology, Dharmaram Vidya Kshetram, Pontifical Athenaeum, Bangalore. He has served the Institute of Oriental Canon Law as its director and is rendering his service as a judge in the eparchial tribunal of Mandya.

Church's theology, was translated into its practical life through the promulgation of the codes of canon law (*CIC* 1983 and *CCEO* 1990). Pope St. John Paul II, while addressing to the eighth ordinary general assembly of the Synod of Bishops on October 25, 1990, spoke of the happy conclusion of the common code for the Eastern Catholic Churches. The Pope stressed to the Synod of Bishops that he wanted the Eastern code to be received not only by the Eastern Catholic Churches, whose common legislation it is, but also "by the entire episcopate of the Latin Church." He also expressed the hope that it could be "a vehicle of charity" in the service of the Church and in the promotion of ecumenical unity. For the pope, the Eastern code, the Latin code, and *Pastor Bonus* formed one "*Corpus iuris canonici*."<sup>1</sup>

Indeed, it is only thus that the updating of the entire discipline of the Catholic Church begun by Vatican Council II has been brought to a close. However, it is also true that the promulgation of the Code of Canons of the Eastern Churches marks the beginning of a journey which, we confidently hope, will be luminous and fruitful.<sup>2</sup> While promulgating the Eastern Code, St. Pope John Paul II expressed His gratitude to each and every one of those who participated in this work through the Apostolic Constitution *Sacri canones*.<sup>3</sup> As part of the celebration of the silver jubilee of the promulgation of the Eastern code, this paper tries to present how far *CCEO* has been succeeded in its purpose, especially in the context of the Church in India. Hence, we shall glance at the voyage of the reception of the Eastern Code in the Catholic Church in India, and its culture and context.

## 2. Reception of *CCEO* by the Oriental Catholic Churches in India

The Catholic Church in India consists of three Churches *sui iuris*, each with its own hierarchical structure: the Latin Church, the Syro-Malabar Church and the Syro-Malankara Church. Internal matters are governed according to the canonical legislation and legitimate

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<sup>1</sup>John Paul II, "Discourse of Presentation of *CCEO*," in George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, Kanonika 10 (Rome: Pontificio Istituto Orientale, 2002) 25.

<sup>2</sup>John Paul II, "Discourse of Presentation of *CCEO*," 23.

<sup>3</sup>John Paul II, Apostolic Constitution *Sacri canones*, in Canon Law Society of America, *Code of Canons of the Eastern Churches - Latin English Edition* (Washington DC, 2001) xxvii.

customs proper to each Church.<sup>4</sup> We would like to deliberate specifically how CCEO has influenced the Syro-Malabar and Syro-Malankara Churches in their existence and collective functioning in India.

### 2.1. Recognition of Churches as *sui iuris*

The most important aspect of the reception of CCEO is seen in the recognition of each Eastern Catholic Church as *sui iuris*, a “community of Christian faithful, which is joined together by a hierarchy according to the norm of law which is expressly or tacitly recognized as *sui iuris* by the supreme authority of the Church” (CCEO c. 27). The Eastern Catholic Churches are governed by the common discipline established in CCEO and by the particular law of each Church, which may be codified. The Western or Latin Church is also recognized as a Church *sui iuris*. CIC refers to it as a “ritual Church *sui iuris*” (CIC c. 111 §2). Thus, equal dignity of the Churches *sui iuris* is emphasised, “none is superior to the others by reason of rite; and they enjoy the same rights and are bound by the same obligations” (*Orientalium Ecclesiarum* 3). Therefore, the Catholic Church teaches that all these 24 Churches are equal and have equal rights and dignity.

### 2.2. The Juridical Configuration

The promulgation of CCEO in 1990 inaugurated a juridical crisis in the Syro-Malabar Church. With two independent metropolitans and no common head, it did not fit into any of the categories of Churches *sui iuris* envisaged by the Eastern code. Therefore, with the promulgation of CCEO, the status of the Syro-Malabar Church became canonically anomalous. John Paul II appointed a three member Pontifical Commission, headed by Archbishop Thomas White, to study the issue. Accepting the commission’s recommendation, the pope regularized the Syro-Malabar Church’s situation by raising it to major-archiepiscopal status and establishing Ernakulam-Angamaly as its major-archiepiscopal see. John Paul II

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<sup>4</sup>George Madthikandathil, *The Catholic Bishops Conference of India: An Interecclesial Assembly* (Kottayam: Oriental Institute of Religious Studies India Publications, 1995) 176.

appointed Mar Antony Padiyara, the then-Metropolitan of Ernakulam, as its first major archbishop.<sup>5</sup>

Similarly, the same Pope also raised the Syro-Malankra Catholic Church to the status of Major Archiepiscopal Church, on February 2, 2005. Therefore, it got the Synodal Administrative system headed by a Major Archbishop (*Catholicos*).<sup>6</sup>

### 2.3. The Synodal Structuring

CCEO's next major contribution to these churches was the formation of synods with their own statutes. CCEO c. 56 states: "A patriarch is a bishop who has power over all the bishops including metropolitans and other Christian faithful of the Church over which he presides, according to the norm of law approved by the supreme authority of the Church." By its elevation to patriarchal or major-archiepiscopal status, a Church *sui iuris* obtains a common "father and head" in the person of the patriarch or major archbishop. The Synod of Bishops of this Church act collegially in governing this Church *sui iuris*.<sup>7</sup>

Patriarchal and major archiepiscopal churches are governed synodally. Together with the patriarch, the synod of bishops constitutes the highest authority in these churches (OE 9). It is comprised of all and only the ordained bishops of the Church *sui iuris* (CCEO c. 102 §1).<sup>8</sup> The patriarch enjoys executive authority and the synod of bishops enjoys legislative and judicial authority in the patriarchal Church (CCEO c. 110); however, the synod of bishops can exercise authority only together with its head, the patriarch.

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<sup>5</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," *Iustitia* Vol. 4, No. 2 (2013), 254-255.

<sup>6</sup>The word *Catholicos* originated from the Greek *Katholikos*, which means "head of the Church" or "universal head." In Western Syriac *Kathulico* means "catholic, general, universal, or primate". According to the ancient tradition of the Church *sui iuris* its head is called *Catholicos*. The *Catholicos* is a suprametropolitan rank in a Church *sui iuris*. The Armenians refer to their patriarch as *Catholicos*.

<sup>7</sup>Paul Pallath, "The Syro-Malabar Church: Juridical Status and Synodal Functioning," Francis Eluvathingal, ed., *Syro-Malabar Church since the Eastern Code* (Trichur: Marymatha Publications, 2003) 50.

<sup>8</sup>John D. Faris, "Particular Churches," in George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, 173.

This synodal structure envisaged in CCEO was new to the Syro-Malabar Church, which had previously employed a structure similar to a Latin episcopal conference, complete with its own statutes.<sup>9</sup> At present, the synod enjoys full legislative, judicial and liturgical powers, as well as other rights, obligations and prerogatives as determined in CCEO as a clear sign of the reception of the code.<sup>10</sup>

#### **2.4. Formulation of the Particular Laws**

Another important aspect of CCEO's reception is the formation of particular law, which refers to "all laws, legitimate customs, statutes and other norms of law which are neither common to the entire church nor to all the Eastern Churches" (c. 1493 §2). Limiting itself to codifying common Eastern Catholic discipline, CCEO empowers each Eastern Church *sui iuris* to regulate by particular law all other matters not reserved to the Holy See.<sup>11</sup> Thus, these Churches can decide things for themselves in various matters regarding liturgy, theology, spirituality, discipline, custom, traditions etc.<sup>12</sup> The Eastern code gives more than 200 indications of provision for particular law,<sup>13</sup> which could be termed norms complimentary to CCEO.

A complete code of Syro-Malabar particular law of the Church was published by Major Archbishop George Cardinal Alencherry on December 3, 2013, entitled "Code of Particular Law of the Syro-Malabar Church." The *Code of Particular Canons of the Syro-Malankara Church* was promulgated on March 10, 2012 by Major Archbishop Moran Mor Baselios Cleemis and came into force on May 27, 2012.

#### **2.5. The Administrative Structures of the Syro-Malabar Church**

The following are the major administrative structures of the Syro-Malabar Church formed in light of the CCEO.

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<sup>9</sup>James Thalachallor, "Particular Law of the Syro-Malabar Church," in Francis Eluvathingal, ed., *Syro-Malabar Church since the Eastern Code*, 107.

<sup>10</sup>Paul Pallath, "The Syro-Malabar Church: Juridical Status and Synodal Functioning," 56.

<sup>11</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 246.

<sup>12</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 248.

<sup>13</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 248.

### 2.5.1. Permanent Synod

Another form of reception of CCEO is the constitution of the permanent synod, which the patriarch must consult or whose consent he must obtain before performing certain administrative acts. An executive committee for urgent affairs, the permanent synod cannot legislate and thus does not in any way replace the synod of bishops (cc. 115-121). The statutes of the Syro-Malabar permanent synod were approved by that Church's synod of bishops (meeting November 7-23, 1994), promulgated *ad experimentum* for three years on January 1, 1995, and definitively on August 1, 2000.<sup>14</sup>

### 2.5.2. Superior Tribunal

The Synod of Bishops of the Syro-Malabar Church is the superior tribunal of that Church *sui iuris* (CCEO c. 1062 §2).<sup>15</sup> This "synodal tribunal" tries the contentious cases of eparchies or of bishops.<sup>16</sup> In receiving an appeal from the synodal tribunal, the major archbishop convokes the synod of bishops, sits as the superior tribunal presided over by himself or his delegate, and proceeds.<sup>17</sup> The statutes were approved by the Syro-Malabar synod, of November 7-23, 1994, promulgated *ad experimentum* on January 1, 1995, and definitively on August 1, 2000.<sup>18</sup>

### 2.5.3. Major-Archiepiscopal Ordinary Tribunal

The major-archiepiscopal tribunal is a collegiate tribunal, erected in accordance with CCEO c. 1063 on September 1, 1994, to exercise the

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<sup>14</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 268.

<sup>15</sup>CCEO c. 1062 §2 states: "The synod of bishops of the patriarchal Church shall elect by secret ballot for a five-year term, and from among its members, a general moderator for the administration of justice, as well as two bishops who with him shall constitute a tribunal; if, however, one of the three bishops is party in the case, or is unable to be present, the patriarch with the consent of the permanent synod is to substitute another bishop; likewise, in the case where an objection has been raised, the patriarch is to act in like manner with the consent of the permanent synod."

<sup>16</sup>Jobe Abbass, "Trials in General," in George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, 718.

<sup>17</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 269.

<sup>18</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 269.

ministry of justice within the territory of the Syro-Malabar Church. Serves especially as a tribunal of appeals from metropolitan tribunals, it is competent also to adjudicate first instance cases according to the norm of law (§3).<sup>19</sup> As a Church *sui iuris*, the Syro-Malabar Church now shows its juridical perfection through the organisation of its judiciary. The statutes were approved by the Syro-Malabar synod of November 7-23, 1994, promulgated *ad experimentum* on January 1, 1995, and definitively on August 1, 2000.<sup>20</sup>

#### 2.5.4. Major Archiepiscopal Assembly

The Syro-Malabar Church's major-archiepiscopal assembly is the gathering of a representative cross-section of the same Church, integrating the spirit and dynamism of the ancient ecclesial institution called *yogam* by the Thomas Christians.<sup>21</sup> According to CCEO cc. 140-145, the major-archiepiscopal assembly is a consultative body for dealing with matters of major importance of the Church *sui iuris* and its mission. It was an assembly or *yogam*, representative of all the local communities that decided matters concerning the entire Church. The statutes were approved in the synod of October 28 - November 15, 1996 and promulgated on March 15, 1998.<sup>22</sup>

#### 2.5.5. Palliyogam: Procedure Rules

*Palliyogam*<sup>23</sup> is a laudable heritage of the Syro-Malabar Church that expresses the ecclesial communion of all Christian faithful in the Church *sui iuris*. Though it has been a common heritage of this Church *sui iuris*, with regard to the administrations of the parishes the mode of operation varied before the Eastern code's

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<sup>19</sup>Synod of Bishops, *Code of Particular Law of the Syro-Malabar Church* (Mount St. Thomas, Kochi: Syro-Malabar Major Archiepiscopal Curia, 2013) 87.

<sup>20</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 270.

<sup>21</sup>"Statutes of the Major Archiepiscopal Assembly," *Code of Particular Law of the Syro-Malabar Church*, Mount St. Thomas, Syro-Malabar Major Archiepiscopal Curia (2013) 100.

<sup>22</sup>Varghese Koluthara, "Particular Laws of the Syro-Malabar Church," 271.

<sup>23</sup>*Palliyogam* is the local assembly consisting of the heads of the Catholic families and the clergy of the parish.

promulgation. Hence, a uniform particular law on *Palliyogam* was required according to CCEO c. 295.<sup>24</sup> The statutes of the *Palliyogam* were approved and promulgated by the Syro-Malabar synod on January 16, 1998.

## 2.6. Pastoral Care of the Faithful outside the Proper Territory

CCEO 78 §2 states that “the power of the patriarch is exercised validly only within the territorial boundaries of the patriarchal Church unless the nature of the matter or the common or particular law approved by the Roman Pontiff establishes otherwise.” This canon must be understood in the light of CCEO cc. 146-150, which show the lawgiver’s solicitous care toward the faithful of any Church *sui iuris*. CCEO c. 147 addresses the duty of the patriarch to care for the faithful of any Church *sui iuris*. CCEO c. 148 highlights the right of the patriarch to conduct a visitation of the faithful residing outside of his territory either by himself or through another with the assent of Roman Pontiff. Even though the appointment of bishops outside the church’s territory is reserved to the Roman Pontiff, CCEO c. 149 involves the synod of bishops and the patriarch in the process.

Accordingly, efforts were made after the synod to give pastoral care to the faithful living outside the proper territory in these Churches. This effort was partially realised by the Syro-Malabar Church through the erection of eparchies in Chicago, Melbourne, and Faridabad, the recently established exarchate in Canada, and the many other Eastern eparchies outside the proper territory. The appointment of the apostolic visitor for the faithful outside the proper territory in India also gives scope for the further strengthening of the traditional faith life of the faithful living outside the proper territory of the Syro-Malabar Church.

The Pontifical Council for the Pastoral Care of Migrants and Itinerant People directly addresses episcopal conferences and their respective Councils, the corresponding episcopal structures in the Eastern Catholic Churches concerned, and also individual bishops and hierarchs. While respecting the responsibility of each, it urges them to implement a specific pastoral care for persons involved in the

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<sup>24</sup>*Code of Particular Law of the Syro-Malabar Church*, 108.

ever-growing phenomenon of human mobility and to adopt suitable provisions as called for by the changing situations.<sup>25</sup>

## **2.7. Institute of Oriental Canon Law**

Another form of the reception of CCEO is the establishment of the Institute of Oriental Canon Law at Dharmaram Vidya Kshetram, Bangalore. As the eminent canonist Pablo Gefaell notes, it is widely known that there are presently only two institutions dedicated solely to the study of Eastern Catholic Canon Law:<sup>26</sup> the Faculty of Eastern Canon Law of the Pontifical Oriental Institute (Rome, Italy) and its aggregate, the Institute of Oriental Canon Law at Dharmaram Vidya Kshetram, Bangalore.

## **3. Reception of CCEO by the Latin Church in India**

After seeing how the Oriental Churches in India have received CCEO after its promulgation, we now analyze how the Latin Church there, has done the same. The peaceful co-existence of different Churches *sui iuris* in India is itself a sign of the assimilation of both codes as symbols of the love of Christ having one heart. As we are going to discuss the reception of CCEO by the Latin Church, I would like to propose nine instances by which the explicit references can be found in the Latin Church. Though these instances are implied in general it can be also addressed to the context in India.

### **3.1. The Nine CCEO Canons Which Explicitly Affect the Latin Church**

The Latin Church is explicitly mentioned nine times in the Eastern code, which binds the Latin faithful where expressly stated: “the canons of this Code affect all and solely the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, expressly stated otherwise” (CCEO c. 1). Authors have interpreted the term ‘*expresse*’ in different ways. Some have claimed that the Eastern code applies to the Latin Church only when the norms of CCEO *explicitly* mention it; however, the majority of authors believe

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<sup>25</sup>“Pontifical Council for the Pastoral Care of Migrants and Itinerant People,” Vatican City, 2004, [www.vatican.va/...nts/re\\_pc...caritas\\_christi\\_en.html](http://www.vatican.va/...nts/re_pc...caritas_christi_en.html), accessed on 19/08/2015.

<sup>26</sup>Pablo Gefaell, “Major Contributions of CCEO During the Past 20 Years,” *Iustitia*, Vol. 1, Nos. 1&2 December (2010) 86.

that “express” mention of the Latin Church can also occur *implicitly*, that is, when it clearly surfaces from the context in which the norm is located. The Pontifical Council for the Interpretation of Legislative Texts dispelled this confusion in an explanatory note on this canon given on December 8, 2011. The central affirmation of the note is the following: “it must be assumed that the Latin Church is implicitly included by analogy whenever the *CCEO* explicitly uses the term “Church *sui iuris*” in the context of inter-ecclesial relations.”<sup>27</sup>

### 3.1.1. Recording Ascription or Transfer to a Church *sui iuris*

Unique to the Eastern code, *CCEO* c. 37<sup>28</sup> requires that Eastern Catholics’ ascription to a certain Church or transfer to another Church *sui iuris* always be recorded. Although *CIC* c. 535 §2 does not require the baptized person’s ascription to a certain Church to be noted in the baptismal register, *CCEO* c. 37 obliges the Latin pastor to make such an annotation. If this is not possible, the Eastern norm prescribes that the ascription be recorded in another document and kept in the parish archive of the proper pastor appointed for these Eastern faithful. Thus the confusion that was prevalent with regard to the state of the one baptized in Oriental Catholic Church or Latin Church is cleared. In the same way, *CCEO* c. 37 also requires that a Catholic’s transfer to another Church *sui iuris* always be recorded.<sup>29</sup>

### 3.1.2. Knowing the Rite of Another Church *sui iuris*

*CCEO* c. 41 stipulates: “The Christian faithful of any Church *sui iuris*, even the Latin Church, who have frequent relations with the Christian faithful of another Church *sui iuris* by reason of their office, ministry or function, are to be accurately instructed in the knowledge and practice of the rite of that Church in keeping with the seriousness of the office, ministry or function which they fulfil.” The rationale for this canon is the preservation of the rites. Hence, it

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<sup>27</sup>*Communicationes* 43 (2011), 315-316.

<sup>28</sup>*CCEO* c. 37 stipulates: “Every ascription to a church *sui iuris* or transfer to another church *sui iuris* is to be recorded in the baptismal register of the parish where the baptism was celebrated even, as the case may be, in a parish of the Latin church; if this cannot be done, it is to be recorded in another document and kept in the parish archive of the proper pastor of the Church *sui iuris* to which the ascription was made.”

<sup>29</sup>Jobe Abbass, “The Interrelationship of the Latin and Eastern Codes,” *The Jurist*, 58 (1998), I: 5.

obliges even the Latin faithful who frequently deal with those Churches to come to know the Eastern Code accurately.<sup>30</sup>

### 3.1.3. The Quinquennial Report

CCEO c. 207 states: “An eparchial bishop of any Church *sui iuris*, even of the Latin Church, is to inform the Apostolic See on the occasion of the quinquennial report, about the status and needs of the Christian faithful who, even if they are ascribed to another Church *sui iuris*, are committed to his care.” Thus a bishop should be solicitous toward all the faithful committed to his care.

### 3.1.4. Assemblies of Hierarchs of Several Churches *sui iuris* (CCEO c. 322 §1)<sup>31</sup>

According to CCEO c. 322, an assembly of hierarchs comprises all patriarchs, metropolitans and bishops – residential and titular, Latin and Eastern – of a particular nation or region, The first paragraph of the canon notes that the assemblies are meant to foster unity of action, to facilitate common works, to promote more readily the good of religion, and to preserve more effectively ecclesiastical discipline through the cooperation of various prelates.<sup>32</sup> In India, the ‘Catholic Bishops Conference of India’ is recognized ‘as a component organ’ of different Church *sui iuris*.<sup>33</sup> It is a voluntary and consultative body

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<sup>30</sup>Jobe Abbass, “The Interrelationship of the Latin and Eastern Codes,” 1: 6.

<sup>31</sup>CCEO c. 322 §1 states: “When it seems opportune in the judgment of the Apostolic See, patriarchs, metropolitans of metropolitan Churches *sui iuris*, eparchial bishops, and, if the statutes so establish, other local hierarchs of various Churches *sui iuris*, even the Latin, exercising their authority in the same nation or region, are to be assembled at stated times for periodic assemblies by the patriarch or another authority designated by the Apostolic See in order that communicating the insights of prudence and experience, taking counsel together, the hierarchs work in accord as much as possible for the common good of the Churches, through which unity of action is fostered, common endeavours are facilitated, the good of religion is expeditiously promoted and ecclesiastical discipline is efficaciously preserved.”

<sup>32</sup>Marco Brogi, “Assemblies of Hierarchs of Several Churches *sui iuris*,” in George Nedungatt, ed., *A Guide to The Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, 252.

<sup>33</sup>George Madathikandathil, *The Catholic Bishops Conference of India: An Interecclesial Assembly*, 214.

whose decisions have no binding force on the members. Their purpose is to coordinate pastoral activities of the different Churches in a nation and to present a united front before society.<sup>34</sup>

Paragraph two of *CCEO* c. 322 lists three conditions for the decisions of these assemblies to have juridical force. (1) Decisions must be backed by at least two-thirds of members with the right to a deliberative vote and (2) by the Apostolic See. (3) The assembly of hierarchs can take no valid decision prejudicial to the rite, as defined in *CCEO* c. 28 §1, of any of the Churches *sui iuris* involved, nor to the power of patriarchs or major archbishops, synods, metropolitans, or councils of hierarchs.<sup>35</sup>

The Catholic Bishops Conference of India (CBCI) has been reorganised as an assembly of Latin, Syro-Malabar, and Syro-Malankara hierarchs in the true sense. Today under CBCI each Church is respected and recognised with their peculiarities and it is administered by equal dignity.<sup>36</sup>

### **3.1.5. Religious Institutes and Ascription to Another Church *sui iuris***

Again unique to the Eastern code, *CCEO* c. 432<sup>37</sup> also concerns the Latin Church. The canon treats religious institutes which exercise their apostolate in countries where the Eastern Catholic Churches are present.<sup>38</sup>

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<sup>34</sup>George Madathikandathil, *The Catholic Bishops Conference of India: An Interecclesial Assembly*, 225.

<sup>35</sup>Marco Brogi, "Assemblies of Hierarchs of Several Churches *sui iuris*," 252-253.

<sup>36</sup>There is an assembly of hierarchs in Kerala, which is known as Kerala Catholic Bishops Conference (KCBC), in which the bishops of all the three Churches *sui iuris* are members.

<sup>37</sup>*CCEO* c. 432 states: "A dependent monastery, a house or province of a religious institute of any Church *sui iuris*, also of the Latin Church, which with the approval of the Apostolic See is attached to another Church *sui iuris*, must observe the prescriptions of this latter Church, save for the prescriptions of the typicon or statutes which refer to the internal governance of this religious institute and the privileges granted by the Apostolic See."

<sup>38</sup>Jobe Abbass, "The Interrelationship of the Latin and Eastern Codes," 8.

According to CCEO c. 432, the competent major superior of a Latin religious institute erects such houses or provinces, which are ascribed to an Eastern Church *sui iuris* with the approval of the Holy See. This ascription does not ascribe the members of the house or province to that Eastern Church; however, with matters of the apostolate and external governance, these houses and provinces will be subject to the Eastern Code and the particular law of the Eastern Church *sui iuris* to which they are ascribed. Common life and matters of internal governance are governed by institute's constitutions and statutes.<sup>39</sup>

### 3.1.6. Administration of the Sacrament of Chrismation

CCEO c. 696 §1, states: "All presbyters of the Eastern Churches can validly administer this sacrament either along with baptism or separately to all the Christian faithful of any Church *sui iuris* including the Latin Church."

CCEO c. 696 §2 states: "The Christian faithful of Eastern Churches validly receive this sacrament also from presbyters of the Latin Church, according to the faculties with which these are endowed."

However, CCEO c. 696 §3 gives a general rule that presbyters licitly administer the sacrament only to the Christian faithful of their own Church or to the faithful of another Church who are their subjects.<sup>40</sup>

### 3.1.7. The Faculty to Bless Marriages

According to CCEO c. 830 §1, the faculty to bless a marriage can be extended also to Latin priests. The norm explicitly states: "As long as they legitimately hold office, the local hierarch and the pastor can give the faculty to bless a determined marriage within their own territorial boundaries to priests of any Church *sui iuris*, even the Latin Church." With respect to the different Eastern and Latin marriage norms, if a person has been ascribed to an Eastern Catholic Church, canonical form requires, for validity, the celebration of a sacred rite by a priest (CCEO c. 828).<sup>41</sup> A "sacred rite" is understood

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<sup>39</sup>Jobe Abbass, "The Interrelationship of the Latin and Eastern Codes," 9.

<sup>40</sup>Jobe Abbass, "The Inter-relationship of the Latin and Eastern Codes," 9-10.

<sup>41</sup>CCEO c. 828 §1 stipulates: "Only those marriages are valid which are celebrated with a sacred rite, in the presence of the local hierarch, local pastor, or a priest who has been given the faculty of blessing the marriage

to be “the intervention of a priest who assists and blesses” (CCEO c. 828 §2). In the Eastern tradition, the nuptial blessing, which is reserved to the priest, is required for the validity of marriage. Hence, the faculty of blessing a marriage cannot be conferred on a deacon.<sup>42</sup>

In the Latin Church, the priestly blessing is not an essential element of the ordinary form of the celebration of marriage. The intervention of the priest as the representative of the ecclesial community in the celebration of marriage essentially consists only in the juridic act of asking and receiving a manifestation of the consent of the spouses (CIC c. 1108 §2). Hence even a lay person may be delegated to fulfil this role (CIC c. 1112). However, if the marriage is celebrated in the Latin Church, and one of the parties is an Eastern Catholic, for validity CCEO c. 828 §2 must be observed, since the Eastern faithful are bound by it.<sup>43</sup>

### **3.1.8. Appointment of a Personal Pastor for the Care of Eastern Faithful (CCEO c. 916 §5)<sup>44</sup>**

This canon concerns the appointment of a local hierarch for Eastern Catholic faithful in places where no hierarchy of their Church *sui iuris* has been erected. This norm is bound to affect the Latin Church more than any other Church *sui iuris* in our context since, in the case

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by either of them, and at least two witnesses, according, however to the prescriptions of the following canons, with due regard for the exceptions mentioned in cc. 832 and 834 §2. CCEO c. 828 §2 stipulates: “The very intervention of a priest who assist and blesses is regarded as a sacred rite for the present purpose.”

<sup>42</sup>Joseph Prader, “Marriage,” in George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, 569-570. Ref. Sebastian Payyappilly, *Mixed Marriage In the Code of Canons of the Eastern Churches and the Particular law of the Syro-Malabar Church*, Dharmaram Canonical Studies -9, Bangalore, Dharmaram Publications, pp. 70-89.

<sup>43</sup>Joseph Prader, “Marriage,” 570.

<sup>44</sup>CCEO c. 916 §5 stipulates: “In places where no exarchy has been constituted for the Christian faithful of a certain Church *sui iuris*, the hierarch of another Church *sui iuris*, even the Latin Church, of the place is to be considered the proper hierarch of these faithful, with due regard for the prescription of can. 101; if, however, there are several hierarchs, that one is to be considered their proper hierarch who has been appointed as such by the Apostolic See or, if it is a question of Christian faithful who belong to a patriarchal Church, by the patriarch with the assent of the Apostolic See.”

of Eastern Catholics living in an area where no hierarchy of their own Church has been erected, the Latin Church will often be the only one established in that place. In such situation, the local Latin hierarch may be appointed as the Eastern faithful's proper hierarch.<sup>45</sup>

### **3.1.9. Penalty for Inducing a Catholic to Transfer to Another Church *sui iuris***

According to CCEO c. 31, clerics, religious and lay members of any Church *sui iuris*, who minister in the Church, are not to induce a Latin or Eastern Catholic of another Church *sui iuris* to transfer to their Church. In the same way, CCEO c. 1465<sup>46</sup> explicitly provides that anyone who exercises a ministry in a Church *sui iuris* and violates CCEO c. 31 is to be published with an appropriate penalty.<sup>47</sup>

### **3.2. The Latin Church in India Takes Care of the Pastoral Needs of Other Churches *sui iuris* and Their Faithful**

In India, there exists a better understanding and acceptance of Eastern Catholics by the Latin Church. Provisions have been made for the pastoral care of Eastern faithful in Latin dioceses where good number of the former reside. For example, in the Archdiocese of Bangalore, the local hierarch has made provisions for parishes of other Church *sui iuris* and appointed an episcopal vicar for the welfare of the faithful of other Churches *sui iuris*.<sup>48</sup> Concretely, care for pastoral needs is carried out especially through the administration of Eastern discipline on sacraments and liturgy. This could be considered as an excellent model to be followed by other Latin dioceses.

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<sup>45</sup>Jobe Abbass, "The Interrelationship of the Latin and Eastern Codes," 11.

<sup>46</sup>CCEO c. 1465 states: "One who, belonging to any Church *sui iuris*, including the Latin Church, and exercising an office, a ministry or another function in the Church, has presumed to induce any member of the Christian faithful whatever to transfer to another Church *sui iuris*, contrary to can. 31 is to be punished with an appropriate penalty."

<sup>47</sup>Jobe Abbass, "The Interrelationship of the Latin and Eastern Codes," 12.

<sup>48</sup>It was the archdiocese of Bangalore which erected the first personal parish exclusively for the pastoral care of the Syro-Malabar faithful at Dharmaram College, the major seminary of the Carmelites of Mary Immaculate (CMI).

### **3.2.1. Liturgy**

According to CCEO c. 150 §2, “Laws enacted by the synod of bishops of the patriarchal Church and promulgated by the patriarch, if they are liturgical, have the force of law everywhere in the world; if however, they are disciplinary laws or concern other decisions of the synod, they have the force of law inside the territorial boundaries of the patriarchal Church.” Accordingly, provisions have been made to celebrate Eastern Divine Liturgy in Latin parishes for Eastern faithful.

### **3.2.2. Administration of the Sacraments**

The Eastern code provides clear norms regarding the administration of the sacraments, especially baptism, holy orders, and marriage for Eastern faithful in Latin parishes.

#### **3.2.2.1. Sacrament of Baptism**

According to CCEO c. 697, “The sacramental initiation in the mystery of salvation is completed with the reception of Divine Eucharist; therefore after baptism and chrismation with holy Myron, the Divine Eucharist is to be administered as soon as possible in accord with the norms of the particular law of each Church *sui iuris*.” In the Syro-Malabar Church, the sacraments of initiation – baptism, confirmation and Holy Eucharist – are administered together.<sup>49</sup> This norm is followed for Syro-Malabar faithful even outside the proper territory by those pastors who exercise the responsibility of their pastoral care.

#### **3.2.2.2. Sacrament of Holy Order**

According to CCEO c. 747, “A candidate to the diaconate or presbyterate should be ordained by his own eparchial bishop or by another bishop with legitimate dimissorial letters.” Dimissorial letters are the document or documents by which one’s bishop authorizes another bishop to ordain his subject. Without these dimissorial letters, ordination is illicit but valid. An ordination

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<sup>49</sup>*Code of Particular Law of the Syro-Malabara Church*, art. 135.

performed by another bishop without dimissorial letter is a penal offence (CCEO c. 1459 §2).<sup>50</sup>

CCEO c. 748 §1 clearly states:

With regard to sacred ordination, for one who is enrolled in a certain eparchy, the proper eparchial bishop is the bishop of the eparchy in which the candidate has a domicile, or the eparchy in whose service the candidate declared in writing his desire to devote himself; with regard to the sacred ordination of one who is already enrolled in an eparchy, it is the bishop of that eparchy.

Therefore, the proper bishop of the candidate is; 2) the bishop of the eparchy in which the candidate has a domicile; that is, he can legitimately be ordained by the bishop of the place where he is domiciled even if he has decided to dedicate himself later to serve another eparchy, or 2) the bishop of the eparchy for whose service the candidate has already declared in writing his desire to dedicate himself.<sup>51</sup>

CCEO c. 748 §2 establishes that an eparchial bishop cannot ordain one of his subjects ascribed to another Church *sui iuris* without the permission of the Apostolic See or, if it concerns a candidate ascribed to a patriarchal Church and who has a domicile or quasi-domicile within the territorial boundaries of the same Church, of the patriarch. This norm was established to safeguard the rite of each Church *sui iuris*, also understood as liturgical and disciplinary heritage.<sup>52</sup> The Latin Code (CIC c. 1015 §2) also prescribes a similar

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<sup>50</sup>Dimitrios Salachas, "Divine Worship, Especially the Sacraments," in George Nedungatt, ed., *A Guide to The Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, 532.

<sup>51</sup>Dimitrios Salachas, "Divine Worship, Especially the Sacraments," 532.

<sup>52</sup>CCEO c. 748 §2: "An eparchial bishop cannot ordain a candidate subject to him who is enrolled in another Church *sui iuris* without the permission of the Apostolic See; if, however, it is a case of a candidate who is enrolled in a patriarchal Church and has a domicile or quasi-domicile within the territorial boundaries of the same Church, the patriarch can also grant this permission."

norm.<sup>53</sup> And mostly this norm regarding ordination is followed between the different Church *sui iuris*.

### **3.2.2.3. Sacrament of Marriage**

Regarding the sacrament of marriage what we have seen in 2.1.7 is applicable here.

### **3.3. Study of Latin and Oriental Canon Law in Seminaries as Well as Ecclesiastical Faculties**

The best examples for the reception of *CCEO* by the Catholic Churches in India is seen by the comparative study method that is followed in the faculties of different Church *sui iuris*. One concrete example of such type is the annual inter-institute seminar envisaged by the prominent canon law faculties in India: the Pontifical Institute of Canon Law at St. Peter's, Bangalore and the Oriental Institute of Canon Law at Dharmaram Vidya Kshetram, Bangalore. Thus every year the institutes realize John Paul II's vision of the Eastern code by humbly entering into a collaborative study of both codes.

### **3.4. Canon Law Society of India**

On the great occasion of the silver jubilee celebration of the Canon Law Society of India (CLSI), Augustine Mendonça published an article in the jubilee souvenir, "CLSI: From the Silver toward the Golden," that highlights beautifully how Churches *sui iuris* in India cherish each other's presence in mutual understanding.

Unlike other canon law societies, the CLSI is unique in its very composition. It represents the Catholic Church in India which consists of three Churches *sui iuris*, the Latin, the Syro-Malabar, and the Syro-Malankara. Thus it is inter-ecclesial and the agenda of every annual conference of the society is blended with topics that reflect this inter-ecclesial reality. Secondly, the members of CLSI are generous enough to study and present particular topics in depth for deliberations. Thirdly, the spiritual atmosphere of the Society signifies mutual acceptance in the way it respects the three Churches' Eucharistic rites equally and with the utmost diligence and care. Fourthly, the participants always discuss passionately their views, opinions, suggestions, proposals etc., even some that leave challenges. Thus the CLSI functions, discusses, and studies together

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<sup>53</sup>Dimitrios Salachas, "Divine Worships, Especially the Sacraments," 532.

for the better future of the Indian Church. As the law constitutes its breathing apparatus of the Church, the two codes are akin to two “lungs” of a person through which the church breathes into and guides its day-to-day life for the “salvation” of all people (*CIC* c. 1752; *CCEO* c. 1546).<sup>54</sup>

#### **4. A Critical Evaluation Based on the Reception of CCEO in the Indian Context**

The apostolic Church established in India is Eastern from its very inception. At the same time it seems that the Eastern Churches in India are not recognised as having the same dignity as that of the Latin Church in many respects. Here we shall discuss some of the provisions the code envisages in the light of Vatican II that have yet to be realised in the Indian Church.

##### **4.1. Territorial Limitation of Jurisdiction**

Saint John Paul II spoke of “the fundamental rights of every human person and every baptized individual and the rights of every church, not only to exist, but also to develop, increase and flourish.”<sup>55</sup> But in India, the jurisdiction of the Eastern Churches, of their major archbishops and synods of bishops, has been restricted to their proper territories.

##### **4.2. Limitation in the Right and Obligation to Evangelization**

*CCEO* c. 14 teaches that it is the right and obligation of all the Christian faithful to work for the spread of the divine message of salvation to all people of all times and of all the world. Thus the Church has entrusted the work of evangelization to its members everywhere in the world without any restriction. As for the equality of rites, *Orientalium Ecclesiarum* n. 3 has mentioned particularly the right of all to evangelize throughout the world, no mission territory being in principle excluded to any particular Church *sui iuris*.<sup>56</sup>

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<sup>54</sup>Augustine Mendonça, “CLSI: From the Silver toward the Golden” in *The Canon Law Society of India: Silver Jubilee Souvenir* (Kochi: Canon Law Society of India, 2012) 46-47.

<sup>55</sup>John Paul II, “Discourse of Presentation of CCEO,” 30.

<sup>56</sup>John Paul II, “Churches *sui iuris* and Rites,” George Nedungatt, ed., *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern*

## 5. Conclusion

What has happened with regard to the reception of the Eastern code for the past twenty-five years is encouraging as well as an eye-opener to the Church in India. The acceptance of the Eastern code has brought about mutual understanding and recognition among different Churches *sui iuris* which paved way for several aspects for the peaceful co-existence. Still we have a long way to go in realizing fully the vision and mission that Jesus has entrusted to each of his disciples before his ascension into the heaven.

The Church is missionary by its very nature and it is always progressive. Similarly, the reception of the ecclesiastical law is not static but, ever evolving and striving to attain its purpose. Let the prophetic words of St. John Paul II, namely, "The fundamental rights of every human person and every baptized individual and the rights of every Church, not only to exist, but also to develop, increase and flourish,"<sup>57</sup> resonate in us as we strive towards the fuller realization of the continued mission of Jesus on earth.

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*Churches*, 109. An account of a study in this nature is seen in Francis Vineeth, *Justice and Reconciliation: The Sad but Living Story of a Church in Fetters* (Bangalore: Dharmaram Publications 1983).

<sup>57</sup>John Paul II, "Discourse of Presentation of CCEO," 30.