

A CRITICAL EVALUATION OF CCEO TITLE XII: MONKS AND OTHER RELIGIOUS- STRENGTHS AND WEAKNESSES: SUGGESTIONS FOR POSSIBLE PROSPECTIVE CHANGES

Varghese Koluthara CMI*

Abstract

The author analyses the canonical treatment of religious life in the *Code of Canons of the Eastern Churches* (CCEO). It highlights that CCEO rightly restores the primacy of Eastern monasticism, giving it a distinct juridical status compared to the *Code of Canon Law* (CIC) of the Latin Church. The study praises CCEO's clarity in defining various typologies of consecrated life and its emphasis on pneumatology, rightful autonomy, and the proper structure of monastic institutes. However, it critiques the CCEO for overemphasizing monasticism at the expense of apostolic religious institutes, lacking norms on apostolates, formation, and Societies of Apostolic Life. The article concludes by urging revisions to the Title XII of CCEO to better address contemporary apostolic needs while preserving the Eastern spiritual and monastic heritage.

Keywords: Typologies, Monasticism, Consecrated Life, Apostolate, Rightful Autonomy.

Introduction

The 'twin-born' Codes of Canon Law promulgated after the *aggiornamento* initiated in the Church through the Second Vatican Council, hold two different perspectives in offering clarity on the institutes of consecrated life and the religious institutes in the Church. On 18th October 1990, when St. John Paul II promulgated the Code of Canons of the Eastern Churches, a new trend was already set in the life of the Church to rediscover the values

* Varghese Koluthara CMI, holds a Licentiate in Theology from DVK, Bangalore, in Canon Law from the Lateran University, and LLB from Bangalore University, and a Doctorate in Canon Law from the PIO Rome. He has been teaching Canon Law since 1994, and continues to teach at present as a professor *emeritus* at Dharmaram Vidya Kshetram, Bangalore. He also serves as the Judicial Vicar of the Diocese of Mandya functioning at Bangalore, Karnataka. In 2008, Pope Benedict XVI appointed him as one of the consultors from India to the Dicastery for Legislative Texts and was re-appointed in 2021 by Pope Francis. He authored the book titled *Rightful Autonomy of Religious Institutes* and has contributed many articles in national and international journals.

of ancient monastic life in the Church. Monasticism in the Church initially originated in the East. Eastern monasticism and its spirituality were one of the assets of the Eastern Churches especially till Middle Ages. The over emphasis given in CCEO in Title XII to revive the monastic institutes in the life of the Eastern Churches, also gave rise to new challenges in the life of the religious institutes with simple vows and having great apostolic missions in the Church. Hence, after more than a quarter of a century of the promulgation of the CCEO, we would like to make a critical evaluation about the strengths and weaknesses of the Title XII on religious as described in the Code of Canons of the Eastern Churches taking into account the need for possible prospective changes to be incorporated in the CCEO. First, we make a review of the strengths of the of the title XII of CCEO and then, we point out the weaknesses of the Title XII of CCEO. It is a creative critical analysis of the section on religious and other institutes of consecrated life as dealt in Title XII of the Code of Canons of the Eastern Churches.

I. Strengths of Title XII in CCEO

(1) Treatise on Monasteries in CCEO and Monastic Institutes in CIC

Religious life as 'a gift of God' germinating in rudimentary forms, such as eremitical and coenobitical, first appeared in the Christian East and gradually spread to the West. The Code of Canon Law of the Latin Church (CIC) and the Code of Canons of the Eastern Churches take different approaches in presenting the monasteries and monastic institutes, the prototype of religious life.

CCEO places the monastic life at its apex in its treatise on 'monks and other religious as well as members of other institutes of consecrated life'¹, taking note of its historical development. CIC, on the other hand, following a principle of abstraction, absorbs the monastic life into the institutes of consecrated life in its presentation of 'institutes of consecrated life and societies of apostolic life', but does at the same time distinguish in some ways the monastic life from other forms of consecrated life through various canons.² The CCEO treats monks and monasteries separately from that of orders and congregations. On the other hand, though CIC had a separate section on monastic institutions, in the 1977³ and 1980 schemes

¹CCEO cc. 433-503: These 71 canons specifically deal with monks and monasteries, out of the 163 canons of the title XII. The first 25 (cc. 410-434) canons form the general norms of the title XII.

²CIC cc. 613; 614; 615; 616, §§3-4; 609, §2; 620; 624, §1; 625, §2; 628, §2,1; 630, §3; 637; 638, §4; 667, §§2-4; 684, §3; 686, §2; 688, §2; 690, §§1-2; 699, §2, etc.

³PCCICR, *Schema* 1977, 29-31.

of typology,⁴ after the later redaction these separate sections on them were rejected by the PCCICR,⁵ and in the 1983 code they are treated as part and parcel of the religious institutes, but giving 'explicit or implicit references to these institutes.'⁶

The trend of the *MP PAL* was also to preserve the monasticism of the East. In 1953, 1954 and 1956, there emanated a series of instructions⁷ from the Congregation for the Oriental Churches aiming at a restoration of the monastic life in the Eastern Catholic Churches, against a background of urgent apostolic, pastoral and missionary needs, which for some time had tended to obscure that ancient and glorious tradition. The CCEO, cements the distinct and proper juridical structuring of monastic life, through its norms on monks and monasteries.

According to CCEO, a monastery *sui iuris* may be distinguished as pontifical, *stauropegial* and eparchial, according to its subjection. Pontifical monasteries are those which are erected by the Apostolic See or recognised as such by its decree; *Stauropegial* monasteries are those which are erected by a patriarch; and those of eparchial/diocesan right are erected by the bishop but have not obtained a decree of recognition from the Apostolic See (CCEO c. 434). Though pontifical and diocesan monasteries are envisaged in the CIC, *stauropegial* monasteries (CCEO c. 486), which are directly subject to the patriarch are unique to the CCEO.

The CCEO deals at length with monks and monasteries though numerically they may be about less than one thousand and five hundred in number in all the Eastern Churches. They are the prototypes of all other later forms of religious life and institutes of consecrated life. On the other hand, in the CIC, they are presented as one of the forms of religious life. In

⁴*Communicationes* 13 (1981) 401-403.

⁵J Beyer, *Il Diritto della Vita Consacrata*, Milano, 1989, 65-66: J. Beyer, one of the members of the PCCICR, reports that it is not right to say that the 1977 schema's typology on institutes of consecrated life was rejected by the 1983 code. What remains obligatory is to take it at its true charismatic value. The third commission of the PCCICR wanted at that time to return to this typology in the common norms of the code. Such a text published in *Communicationes* 13 (1981) 401-403, was rejected by the PCCICR. There was a profound reaction by the monks who wanted to conserve their apostolic and missionary tendency. It was also a choice desired by the Congregation for Religious that the monks conserve their apostolic and missionary tendency.

⁶E M Lisi, "Gli Istituti Monastici Nel Nuovo Codice Canonico," *Atti del Congresso Canonistico, Lo Stato Giuridico dei Consacrati: Per la Professione dei Consigli Evangelici* (Citta del Vaticano, 1985)148-170.

⁷See the text that is reproduced in C Pujol, *De Religiosis Orientalibus: Ad Normam Vigentis Iuris*, Roma, 1957, 533-548.

the Latin Church there are so many monastic institutes and about 25000 monks but it lacks an exhaustive description on monastic institutes in CIC.

Monasticism “has always been the very soul of the Eastern Churches: the first Christian monks were born in the East and the monastic life was an integral part of the Eastern lumen passed on to the West by the great Fathers of the undivided Church.... It did not experience the development of different kinds of apostolic life as in the West. The various expressions of monastic life, from the strictly coenobitic, as conceived by Pachomius or Basil, to the rigorously eremitic, as with Anthony or Macarius of Egypt, correspond more to different stages of the spiritual journey than to the choice between different states of life. In any event, whatever form they take, they are all based on monasticism. Moreover, in the East, monasticism was not seen merely as a separate condition, proper to a precise category of Christians, but rather as a reference point for all the baptized, according to the gifts offered to each by the Lord; it was presented as a symbolic synthesis of Christianity.”⁸

(2) Typologies in CCEO

The CCEO defines with clarity the Typologies of religious institutes like monasteries, orders, congregations and other institutes of consecrated life. It also clarifies who religious are, what public vows are, for monks, for members of religious order and religious congregations. Unlike the CIC which mentions solemn and simple vows, without explaining what they are, and what are the differences, the CCEO, through these expressions helps us to understand what they mean by it when it clearly differentiates the vows in monasteries (monastic profession-CCEO cc 462; 463; 464; 466) and orders (CCEO c 504 §1) and the vows in religious congregations (CCEO c.504§2).

(3) No Mention of Major Profession or Profession of Solemn Vow but uses Consecration or Monastic Profession

CCEO does not prescribe or proscribe any terminology. It means that CCEO has abandoned the terms like major profession (PAL c.315) or profession of solemn vow (CIC 1917c.1308 §2). Instead, it makes use of consecration or monastic profession which can be temporary and perpetual.⁹

⁸ https://www.vatican.va/content/john-paul-ii/en/apost_letters/1995/documents/hf_jp-ii_apl_19950502_orientale-lumen.html, n.9, accessed on 19.09.2025.

⁹ *Nuntia* 8, 33-34; CCEO Title XII, Art. II, 4^o; cc. 463, 465, 462 §1, 527; 531.

(4) Distinction of 'Separation from the World' a characteristic Note of Religious Institutes

CCEO defines *clerical* religious orders and religious congregations (CCEO c. 505 §3) but does not call the non-clerical ones as "lay." It is because the lay or 'secular' characteristic note refers to secular institutes. Clerical orders and congregations and their members "renounce the world." On the other hand, CIC c. 588 does not distinguish between clerical and lay institutes. CCEO c 399 presents a comprehensive definition of a lay person. Accordingly, lay persons are those who don't belong to clerical state or religious institutes.

(5) Pneumatological Accent in the Initiatory Canon

CCEO's usual style of depicting the Pneumatological accent in the initiatory canons of thirty titles of CCEO is also reflected in Title XII in Canon 410- "following Christ, Teacher and Exemplar of Holiness, "under the influence of the Holy Spirit." It is also cited in CIC c. 573 §1 in the opening canon on consecrated life stating that "the faithful follow Christ more closely under the action of the Holy Spirit."¹⁰

(6) Clerical Rights

Whereas CCEO c 427 'charges each and every religious by the obligations that the common law prescribes for clerics,' CIC c. 672 has been forced to sieve through the clerical statutes and has limited itself to submit taxingly and limits only to some obligations and rights applicable to religious which belong to the secular clergy.'¹¹

(7) Natural Age for Major Posts in Religious Life and 75 for Retirement

On the area of government of the religious institutes, while CCEO 'demands a certain natural age and perpetual profession for some major posts of government, CIC has limited itself to demand an age that is guaranteed by the perpetuity of the profession' for a religious. So also, when CCEO asks a religious to renounce the office of government at the age of seventy-five for health reasons or other important causes, CIC is silent about it.¹²

¹⁰ CCEO c. 410; CIC c. 573 §1

¹¹ D J Andrés, "Introductio ad CCEO: Observaciones Introductorias," *CpR* 72, 371.

¹² Cf., D J Andrés, "Introductio ad CCEO," 371.

(8) Persons rather than Institutes

When CIC speaks of 'religious institutes' CCEO 'prefers to address 'persons', namely, monks, religious and members of other institutes of consecrated life.'¹³

(9) Application of Rightful Autonomy is Indirectly Acknowledged for Every Religious Institute

When CIC accepts and applies the whole section on the consecrated life with the principle of rightful autonomy (c. 586) CCEO cautiously and sparingly uses the term 'autonomy' (CCEO c. 640, §2). The omission of the use of the term '*autonomia*' in CCEO 'perhaps hints at a certain diffidence towards the term' of the PCCICOR. Sometimes it can be said that 'an abstract principle of autonomy can hardly be applied rarely in juridical interpretations, but the concrete norm helps to determine the autonomy of religious institutes.'¹⁴ Therefore, according to CCEO 418 §2 'the Patriarch and the Local Hierarchy do not come under the designation of Superior of Monks and Other Religious.' Thus, the legislator upholds the rightful autonomy of 'monasteries and other religious institutes' and asks them to have for their due dependence on the hierarchy especially in the area of pastoral ministry (CCEO c. 415). It suggests that the principle of rightful autonomy to the oriental religious institutes, is a principle that is already taken for granted in the discussion of the study group of the PCCICOR.

The counsel of living under obedience means that religious obey their internal superiors (*religious obedience*). In addition, as in the case of all other members of the Church, as individual members and their institutes, owe obedience also to the hierarchy of the Church (*canonical obedience*), which is defined and limited by the canons. As to external or hierarchical superiors, all religious have to obey the Roman Pontiff, as their supreme superior, in virtue of the vow of obedience. Then, the patriarch (major archbishop) has authority over all institutes of patriarchal (major archiepiscopal) right, and they have to obey him as their external superior. Lastly, the eparchial bishop or exarch has power over all eparchial institutes, such as monasteries and congregations and they have to obey him as their external superior but not as their internal superior.¹⁵

¹³J Beyer, "De Vita Consacrata in Iure Utriusque Codicis Orientalis et Occidentalis," PRC 81(1992) 291.

¹⁴G Nedungatt, *The Spirit of the Eastern Code*, Rome & Bangalore, 1993, 246-247.

¹⁵Cf., V J Pospishil, *Eastern Catholic Church Law according to the Code of Canons of the Eastern Churches*, New York, 1993, 239-240.

(10) Societies of Common Life according to the Manner of Religious

The CCEO (c. 554-56) deal with Societies of Common life according to the manners of religious as a typology of the consecrated life and the CIC mentions it only in c. 731 § 2. It is separately treated in CCEO with full details on this typology. CIC lacks such a detailed description on the Societies of Common Life according to the manner of Religious.

According to CIC, Societies of Apostolic Life is not a form or a typology of consecrated life. It is similar to or looks like or 'resembles' consecrated life. This placement does not suit many societies which have private vows or some sacred bond and common life.¹⁶ CCEO has only one canon on Societies of Apostolic Life. It was a last-minute inclusion in CCEO. The rest of the details on this typology is left to the competence of each Church *sui iuris*.

(11) Hermits are Members of Monastery *sui iuris*

The same goes for hermits. The CCEO deals with hermits in several canons (481-495) and clearly shows the types of hermits, those who are under the authority of the bishop and those who are members of the monasteries and remain attached to it, and gives clear rules for each type, while the CIC speaks of hermits only in canon 603; and in CIC, it only concerns with hermits who are under the authority of the diocesan bishop. Such hermits need not be attached to any monastery.

II. What are the Weak Areas of Title XII of CCEO?

(1) The Title itself Seems to be Unwieldy and Lengthy

First of all, the title XII of CCEO is 'Monks and other Religious as well as Members of Other Institutes of Consecrated Life,' and it is unwieldy and lengthy. There should have been an introductory canon which should have worked out as a canon knitting together the different typologies envisaged in the title. Instead, it begins directly with the chapter one and it is titled 'Monks and other Religious' and it defines who is a religious it is the addressing canon of Title XII of CCEO (c 410). Logically it should have been a canon linking all these typologies that are dealt under the long title 'Monks and other Religious as well as Members of Other Institutes of Consecrated Life,' and this canon could have connected harmoniously with chapters one, two, three and four successively. It is lacking in CCEO and it needs correction.

¹⁶ G Nedungatt, *The Spirit*, 131: G Nedungatt states the following "This placement may fit only 43 Societies of Apostolic life while 72 others which have private vows or some sacred bonds, should come rather under institutes of consecrated life."

(2) Glaring *lacunae* in Title XII of CCEO

Over emphasis on monastic values in title XII of CCEO and the forgetfulness on apostolic religious institutes, lack of details on apostolates of religious, lack of norms suitable for the formation to take up apostolates by the apostolic religious institutes, the compulsory rule of six years for making final profession after the first vow for religious as well as for making final bond after the first profession of bonds by the Secular Institutes and the lack of comprehensive rules on Societies of Apostolic Life are themes that we have already taken up in our previous issues of *Iustitia*. They are *lacunae* in the XII of CCEO and need rectification of them in CCEO.

(3) Permission for Lawful Absence for members of Orders and Congregations is missing in CCEO (CIC c. 665 §1; CCEO c 478)

According to CIC c. 665 §1 the major superior can grant permission to their members to be away from a house of the institute for a just reason up to one year with the consent of the council. If permission is sought for than one year, again the major superior with the consent of the council may grant this for reasons of health, study, or for exercising an apostolate or ministry done in the name of the institute. According to CCEO c 478, the superiors of monastery *sui iuris* can permit members to live outside the monastery up to one year according to their typicon. If it exceeds one year unless it is for reasons of studies or ill health, the permission of the authority to which the monastery is subject is necessary. However, while Latin Canon Law addresses this for all religious institutes, the Eastern Code lacks a similar provision for the members of religious orders and congregations. It may be an oversight. It suggests for a correction in the sections of orders and congregations.

(4) Exclaustation (CCEO cc. 489 §2; 548 §1; CIC c. 686 §1)

In a Latin religious institute, to grant the permission for solicited exclaustation for a grave cause to a perpetually professed member in CIC is within competence of their supreme moderator. It is done with the consent of the council. But CCEO follows a more hierarchical approach, requiring the ecclesiastical authority to grant the indult of solicited exclaustation based on the institute's statutes. The CIC regulation reflects the spirit of subsidiarity and practicality, allowing the superior general to better assess the situation and make the decision. CCEO may benefit from such a similar approach. It will allow greater involvement of the immediate religious superiors in decision-making process in this matter. The Superior Generals may grant the indult of solicited exclaustation

with the consent of their council. If they are clerics they should be done also with the permission of Local Hierarchs. Today, it is granted for five years.¹⁷

Conclusion

In our critical evaluation of CCEO Title XII-Monks and Other Religious as well as Members of Other Institutes of Consecrated Life-, we tried to bring out the strengths as well as the weaknesses of the same. It is the result of our search and research in national and international venues extending roughly about 25 years. The themes we tried to present are not new ones. But we dare to do the critical evaluation of the title XII of CCEO, for bettering the presentation as well as improving the quality of the text of the Code tuning to the needs of the members of the religious institutes as well as the challenges the religious face in their daily life. We know that the Codes of Canon Law are only guidelines for the Christian faithful in their daily life, but they are indicators for our *fides quaerens actionem* both for administrators as well as the faithful. It is because there exists a correlation between them. The legislators of this Code have great hope that this Code will be 'translated happily into the action of daily life.' It took about thirty-eight years for a thorough replacement of the book VI¹⁸ of the Code of Canon Law (CIC 1983). Though the Code of Canons of the Eastern Churches have completed only a run of roughly thirty-five years after its promulgation, these kinds of research and critical evaluations may guide the future attempts of renewing the Code of the Canons of the Eastern Churches and particularly of its title XII. It is our ardent belief and our experience that the Church is ever young, ever vibrant and 'never appears to be aging'¹⁹ and we hope that the title XII of the Code of Canons of the Eastern Churches also will be updated and renewed translating it happily into the challenges and the glaring needs of the people of God.

¹⁷https://www.vatican.va/content/francesco/en/motu_proprio/documents/202211-motu-proprio-assegnare-alcune-competenze.html, accessed on 19 Sept.2025 (Pope Francis, MP, *Competentias Quasdam Decernere*, 11 Feb. 2022, art. 5).

¹⁸https://www.vatican.va/content/francesco/en/apost_constitutions/document/s/papa-francesco_costituzione-ap_20210523_pascite-gregem-dei.html, accessed on 19.08.2025.

¹⁹https://www.vatican.va/content/john-paul-ii/la/apost_constitutions/documents/hf_jp-ii_apc_19901018_index-codex-can-eccl-orient.html, xxiii, accessed on 19.08.2025.