FINANCE OFFICER
IN THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH

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**ABSTRACT**

The promulgation of the *CCEO* and the elevation of the Syro-Malabar Church *sui iuris* to the status of a major archiepiscopal Church, on 16 December 1992, are important milestones in the recent history of the Church. The new status of the Syro-Malabar Church necessitated a revised system of administration of its temporal goods. Previously the administration of ecclesiastical goods of the Syro-Malabar Church was ruled predominantly by the motu proprios *Postquam apostolicis litteris, Cleri sanctitati*, and customary law both at the eparchial and parish levels. In the present situation a new ecclesiastical office, that of the finance officer of the major archiepiscopal Church, was created. The thesis presents the office of finance officer and examines critically the canonical aspects of his/her status and duties. It analyzes the canons contained in *CCEO* related to temporal goods, as well as other universal and particular ecclesiastical norms. In particular, the sources include various synodal decrees, eparchial/diocesan statutes of the Syro-Malabar Church, and relevant particular laws of the respective major archiepiscopal Churches. Pertinent Indian civil laws are also considered in the context of the functions of the finance officer. The thesis provides a historical perspective of the financial administration of the Syro-Malabar Church, and then continues to situate the office of the finance officer in the organizational structure of the financial administration of the Syro-Malabar Church. The principal functions and responsibilities of the finance officer of the Syro-Malabar Church are presented in the context of specific ecclesiastical and secular legal parameters.
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<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>AA</td>
<td>Second Vatican Council, Decree <em>Apostolicam actuositatem</em></td>
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<td>AAS</td>
<td><em>Acta Apostolicae Sedis</em>, Rome, 1909-</td>
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<td>AG</td>
<td>Second Vatican Council, Decree <em>Ad gentes</em></td>
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<td>art.</td>
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<td>ASS</td>
<td><em>Acta Sanctorum</em> Sedis, Rome, 1865-1908</td>
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<td>c.</td>
<td>canon</td>
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<td>canons</td>
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<td>comp.</td>
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<td>CA</td>
<td>motu proprio <em>Crebrae allatae</em></td>
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<tr>
<td>CCC</td>
<td>Catechism of the Catholic Church</td>
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<td>CCCB</td>
<td>Canadian Conference of Catholic Bishops</td>
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<td>CCEO</td>
<td><em>Codex canonum Ecclesiarum orientalium</em></td>
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<td>CD</td>
<td>Second Vatican Council, Decree <em>Christus Dominus</em></td>
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<td>CIC/17</td>
<td><em>Codex iuris canonici Pii X Pontificis Maximi iussu digestus</em></td>
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<td>CIC</td>
<td><em>Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus</em></td>
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<td>CLD</td>
<td><em>Canon Law Digest</em></td>
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<td>CLSA</td>
<td>Canon Law Society of America</td>
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<td>CLSA Comm 2</td>
<td>BEAL, J.P., J.A. CORIDEN, and T.J. GREEN (eds.), <em>New Commentary on the Code of Canon Law</em></td>
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<td>CLSAP</td>
<td><em>Canon Law Society of America Proceedings</em></td>
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<td>CLSGBI</td>
<td><em>Canon Law Society of Great Britain and Ireland</em></td>
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<td><em>Sheehy, G. et al (eds.), The Canon Law: Letter &amp; Spirit</em></td>
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<td>Comm</td>
<td><em>Communicationes, Vatican, 1979-</em></td>
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<td>CNEWA</td>
<td><em>Catholic Near East Welfare Association</em></td>
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<td>CS</td>
<td>motu proprio <em>Cleri sanctitati</em></td>
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<td>FCRA</td>
<td><em>Foreign Contribution Regulation Act</em></td>
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<td>GE</td>
<td><em>Second Vatican Council, Declaration Gravissimum educationis</em></td>
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<td>GS</td>
<td><em>Second Vatican Council, Pastoral Constitution Gaudium et spes</em></td>
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<td>JCD diss.</td>
<td>doctoral dissertation in canon law</td>
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<td>LG</td>
<td><em>Second Vatican Council, Dogmatic Constitution Lumen gentium</em></td>
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<td>no.</td>
<td>number</td>
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<td>nos.</td>
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<tr>
<td>OE</td>
<td><em>Second Vatican Council, Decree Orientalium Ecclesiarum</em></td>
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<tr>
<td>OIRSI</td>
<td>Pontifical Oriental Institute of Religious Studies, India</td>
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<tr>
<td>PA</td>
<td>motu proprio <em>Postquam apostolicis litteris</em></td>
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<td>PB</td>
<td>JOHN PAUL II, Apostolic Constitution <em>Pastor bonus</em></td>
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<td>PC</td>
<td><em>Second Vatican Council, Decree Perfectae caritatis</em></td>
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vii
GENERAL INTRODUCTION

The thesis is a canonical study of the office of finance officer in the Syro-Malabar Major Archiepiscopal Church, one of the Eastern Catholic Churches *sui iuris*. The office of the finance officer was established in the Syro-Malabar Church soon after this Church was granted major archiepiscopal status on 16 December 1992.¹ This elevation of the Syro-Malabar Church to the juridical status of the major archiepiscopal Church was in conformity with the directives of the Second Vatican Council.²

The Decree on the Catholic Eastern Churches *Orientalium Ecclesiarum (OE)* was promulgated by Pope Paul VI on 21 November 1964. As John D. Faris has stated, this decree can be considered as the “first step of the program of conciliar canonical reform for the Eastern Catholic Churches.”³ The Catholic Church values highly the institutions of the Eastern Churches, their liturgical rites, ecclesiastical traditions, and their ordering of Christian life (*OE*, no. 1). This same decree pointed out that everything stated with regard to the patriarchs is valid, in accordance with canon law, regarding the major archbishop presiding over an individual Church or rite (*OE*, no. 10). Thus, a major archbishop enjoys the same rights as that of a patriarch with the exception of patriarchal dignity.⁴ In other words, the major archbishop as a “head of the non-patriarchal Church, is to be equated to a patriarch in accordance with canon law.”⁵ While *OE*, no. 10 stated that rights and


⁴ See *OE* 10, English translation in FLANNERY 1, p. 445.

obligations of major archbishops and patriarchs are identical in accordance with canon law (ad normam iuris), in a similar manner CCEO, c. 152 stipulates: “What is stated in common law concerning patriarchal Churches or patriarchs is understood to be applicable to major archiepiscopal Churches or major archbishops, unless the common law expressly provides otherwise or it is evident from the nature of the matter.”

The Second Vatican Council does not provide any details on the administration of ecclesiastical goods in a patriarchal/major archiepiscopal Church but clearly expressed the intention of re-establishing the rights and privileges of Eastern patriarchs (OE, no. 9). It states:

Following the most ancient tradition of the Church, special honor is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head. Therefore this holy council enacts that their rights and privileges be restored in accordance with the ancient traditions of each church and the decrees of the ecumenical councils.

Later, the desire of the Church to restore the ancient traditions of the Churches sui iuris was expressed through the Guidelines for the Revision of the Code of Oriental Canon Law approved in the plenary session of the members of the Pontifical Commission for the Revision of the Code of Eastern Canon Law, which took place 18-23 March 1974. One of the guidelines stated that “the Code must be an Oriental Code,” based on apostolic tradition, Eastern canonical collections, and customary norms common to the Eastern Churches.

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7 OE, no. 9, English translation in FLANNERY 1, p. 445.

In a major archiepiscopal Church the finance officer assists the major archbishop in the administration of ecclesiastical goods. The revised norm of *CCEO*, c. 122 refers to the office of the finance officer of a patriarchal Church and this canon is applicable also to the major archiepiscopal Churches.

The inspiration to undertake a scientific canonical study on the role of the finance officer of the Syro-Malabar Major Archiepiscopal Church was born in the context of a new status of this Church *sui iuris*, the situation that necessitates constituting appropriate governing structures in the major archiepiscopal curia. Before the elevation to the rank of a major archiepiscopal Church, the Syro-Malabar Church *sui iuris* existed as two independent metropolitan provinces, which directly depended upon the Apostolic See. The new status of the Syro-Malabar Church necessitated establishment of curial offices including the office of the finance officer. For this reason, it is appropriate and worthwhile to undertake a canonical study of this office in the Syro-Malabar Church.

The purpose of this thesis is to describe in canonical terms the office of finance officer of the Syro-Malabar Church, and to examine critically the relevant norms concerning it. While the thesis will review certain historical factors related to the origin of the Syro-Malabar Church, and the ancient structures of the financial administration of this Church *sui iuris*, nevertheless the central question of the inquiry concerns the present financial administrative system of the Syro-Malabar Church. Various sources, such as papal constitutions, the documents of the Second Vatican Council, laws promulgated by the supreme legislator for the Eastern Catholic Churches, synodal decrees, and eparchial/diocesan statutes are going to be analyzed in the thesis while the proceedings of the formulation of the canons of *CCEO* contained in the *Nuntia* will provide an invaluable tool for a critical reflection on the pertinent legislation. In view of that, a systematic analysis of the canons of *CCEO* and relevant corresponding canons of *CIC/83* that deal
with acquisition, administration, and alienation of ecclesiastical goods will be offered. A review of the norms of Indian civil law and particular laws of other major archiepiscopal Churches concerning the management of temporal goods will also be included.

The following specific questions will be answered on the basis of this study:

1. What types of financial administrative structures were historically present among Saint Thomas Christians in India? Are these structures the real sources of the finance administrative system today?

2. What are the specific canons of CCEO applicable to the office of the finance officer of the major archiepiscopal Church?

3. What is the role of the finance officer with regard to the goods of the Syro-Malabar major archiepiscopal Church?

There are some scientific studies concerning the patriarchal/major archiepiscopal curia and administration of ecclesiastical goods of the eparchies and religious institutes. But so far there has been no major study devoted exclusively to the finance officer in the Syro-Malabar Church. Among the available major works is Vincent Chittilappally’s Temporal Goods and Their Alienation according to the Eastern Code with Special Reference to the Syro-Malabar Church⁹ which concerns mostly such juridic persons as eparchy and various religious institutes, and their particular law. It is not, however, directly and comprehensively related to the office of finance officer in the major archiepiscopal Church, and the administration of ecclesiastical goods of the major archiepiscopal Church. Francis Eluvathinkal, in his thesis Patriarchal and Major Archiepiscopal Curias in the Eastern Legislations Based on CCEO Canons 114-125¹⁰

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⁹ V. CHITTILAPPLY, Temporal Goods and Their Alienation according to the Eastern Code with Special Reference to the Syro-Malabar Church, excerpts from JCD diss., Rome, Pontifical Oriental Institute, 1999.
considers the historical and juridical aspects of different canonical institutions in the patriarchal and major archiepiscopal curias. Six different patriarchal curias and two different major archiepiscopal curias are analyzed in Eluvathinkal’s study. In his doctoral thesis, *The Laity and Their Cooperation in Church Governance: According to the Provision of CCEO and the Tradition of the Malankara Catholic Church*, Mammen Varghese examines the concrete provisions in *CCEO* for laity’s share in the governance of the Church. Among other issues, the author portrays in detail the role of the laity in the Malankara Orthodox Church which separated from Saint Thomas Christians after the Synod of Diamper (1599). George Nedungatt, in his study, *Laity and Church Temporalities: Appraisal of a Tradition*, analyzes the role of lay persons in the administration of ecclesiastical goods. He examines the question of the administration of temporal goods from the theological, historical, sociological, and canonical perspectives. He also addresses different forms of *yogam* (assembly) in the Syro-Malabar Church and the involvement of lay persons in it. While he analyzes particular law and some of the eparchial/diocesan statutes of the Syro-Malabar Church, nevertheless his study deals exclusively with the role of laity in the Syro-Malabar Church and does not touch on the role of the finance officer of the Syro-Malabar Church.

The following two studies are based on *CIC/83*. A. G. Farrelly, in his study *The Diocesan Finance Council: A Historical and Canonical Study* analyzes the evolution of

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the formulation of *CIC*/83, cc. 492 and 493. His study is restricted, however, to the diocesan finance council in the Latin Church. M.I. Uzoukwu’s doctoral thesis, *The Diocesan Finance Committee and the Financial Officer (Canons 492-494)* \(^{14}\) stresses the point that an efficient and effective financial administration is vital for the diocese’s self-reliance and its work in evangelization. This thesis, however, focuses mainly on the particular milieu of Nigeria.

The principal method used in this study is analytical in nature. The analysis concerns primarily the canons in *CCEO* related to the office of finance officer and temporal goods, and, secondarily, other complementary norms as well as different particular laws of the relevant Churches *sui iuris*. As to the limitations of the present study it is to be noted that it pertains mainly to the office of finance officer of the Syro-Malabar Major Archiepiscopal Church, in India, while at the same time providing for a comparative analysis of the offices of the finance officers at the major archiepiscopal and eparchial levels. Moreover, the thesis concentrates primarily on the canons of *CCEO*, with a comparative analysis of the relevant canons of *CIC*/. Finally, due to the unavailability of certain particular laws, this study does not include all particular law of the other major archiepiscopal Churches.

The first chapter deals with various types of financial administrative systems among Saint Thomas Christians and their influence on the present day finance administration of the Syro-Malabar Church. Chapter two analyzes the evolution of various canons concerning the organizational structure of the finance administration of the Syro-Malabar Church, with special attention to the role of the synod of bishops and permanent synod. Chapter three of the study focuses on the norms of *CCEO* pertaining to the office of the finance officer in the Eastern Catholic Churches in respect of the duties of the

finance officer, with a special consideration of the question of alienation of temporal goods. Chapter four examines the present system of financial administration at the major archiepiscopal level of the Syro-Malabar Church, also in the context of relevant Indian civil law, the particular law of the Syro-Malabar Church, and pertinent synodal decisions. This chapter entails also a short comparative analysis of the particular laws of other major archiepiscopal Churches *sui iuris*.

It is our hope that the observations made in this thesis will assist in the future revision process of particular laws related to the office of the finance officer and will further define the role of the finance officer of the Syro-Malabar Church.
CHAPTER ONE

FINANCIAL ADMINISTRATION IN THE SYRO-MALABAR CHURCH: A HISTORICAL PERSPECTIVE

INTRODUCTION

Christ established the Church as a visible community and gave a mandate to the Apostles and their successors for their ministry. The Apostles preached, founded local churches, and appointed leaders.1 According to tradition, the Christian faith came to India through Saint Thomas the Apostle.2 Pope John Paul II in his inaugural message to the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church held in the Vatican from 8 to 16 January 1996, said: “The Syro-Malabar Church, born into the faith from the preaching of the Apostle Thomas, is one of the ecclesial families in which the rich variety of the Christian East is articulated.”3

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1 See 2 Tim 1:6. All quotations from the Bible are from The Revised English Bible with the Apocrypha, New York, Oxford University, 1989.

2 In the gospels, Saint Thomas the Apostle is depicted as a courageous man. See Jn 11:16; 14:5; 20:24-29. This courage manifests itself in his journey to India. The folklore songs, namely Rabban pattu and Margam kali pattu, speak about miracles, establishing seven Christian communities and appointing bishops and priests to look after them. For more information, see X. Koodapuzha, Bharathasabha charithram, Kottayam, Oriental Institute of Religious Studies (= OIRSI Publications), 1989, pp. 101-108; A.M. Mundadan, History of Christianity in India: From the Beginning Up to the Middle of the Sixteenth Century (Up to 1452), vol. 1, Bangalore, Theological Publications in India, 1984, pp. 21-64; B. Vadakkekara, Origin of India’s St Thomas Christians: A Historiographical Critique, Delhi, Media House, 1995, pp. 16-77.

3 John Paul II, Address to the bishops of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church, 8 January 1996, in L’Osservatore Romano, Eng. ed., 17 January 1996, p. 6. Minor editorial modifications (for instance: capitalization, spelling, inclusive language) have been made in some of the quotations to conform to the adopted style for the thesis.
The term ‘Saint Thomas Christians’ denotes the Syro-Malabar Christians whose communities originated in Malabar on the south-west coast of India. The Church of Malabar is an apostolic, Eastern Catholic Church. In the same message, John Paul II pointed to the importance of the religious heritage of the Syro-Malabar Church: “[…] a lack of understanding of your cultural and religious heritage caused much suffering and inflicted a wound which has only been partially healed […].” The Pope’s message corresponds to the teachings of the Second Vatican Council, in the Decree on the Catholic Eastern Churches OE, no. 2 which stated: “[…] the Catholic Church wishes the traditions of the each particular Church or rite to remain whole and entire […].” The Decree underlined the fact that the history and traditions of the Eastern Catholic Churches are evidence of the debt owed to the Eastern Churches by the universal Church.

The history of the Saint Thomas Christians also includes their legal heritage. They had a unique administrative system which originated in the early centuries. This

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4 “Malabar” is the Malayalam-speaking area in South India (Malayalam is one of the Dravidian languages). The term is commonly used in connection with the territory covered by the former combined states of Travancore and Cochin. Due to their hierarchical and liturgical relations with the East Syrians or Chaldeans, the inhabitants of this area were known by the first missionaries as the Syro-Malabar Christians. For more information, see C.G. HERBERMANN et al. (eds.), *The Catholic Encyclopedia: An International Work of Reference on the Constitution, Doctrine, Discipline, and History of the Catholic Church*, vol. 9, New York, Robert Appleton Company, 1910, pp. 558-562; E. TISSERANT, *Eastern Christianity in India: A History of the Syro-Malabar Church from the Earliest Time to the Present Day*, authorized adaptation from the French by E.R. HAMBYE, London, Longmans, Green and Co., 1957, p. 1.


6 JOHN PAUL II, Address to the bishops of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church, p. 6.

7 OE, no. 2, English translation in FLANNERY 1, p. 441.

8 See ibid., no. 5, p. 443.
system has had consequences on the financial administrative system of the Church of Saint Thomas Christians to this present day.

The main goal of this first chapter is the exploration of the origin and development of the system of financial administration in the Syro-Malabar Church. In this regard, the following questions will be asked: What types of financial administrative structures prevailed among Saint Thomas Christians? Are these structures the real sources of the financial administrative system today?

The early canonical sources of the East Syrian, Latin, and Syro-Malabar period are the main subjects of the analysis in this chapter. The statutes of the first three dioceses of the Syro-Malabar Church are also studied. This will help us to understand the background of the establishment of the office of the finance officer and the role of the finance officer in the Syro-Malabar Church.

1.1 – CHURCH OF MALABAR AND ITS MINISTERS

It is the strong conviction and the living faith of the Saint Thomas Christians that the Apostle Thomas founded their Church in the year 52 AD in India. The Fontes iuris canonici Syro-Malankarensium affirm the belief of the Saint Thomas Christians regarding their apostolic origin. The Malabar tradition claims that Saint Thomas consecrated a certain Kepa as his successor and bishop. Before his departure for Mylapore, Saint Thomas ordained priests and thus organized the Church of Malabar. He founded seven local churches in Malabar and one in Mylapore. Due to lack of

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documentation from this early period in history, it is not possible to give exact
information regarding the organization of these churches and their administration.

1.1.1– The Hierarchical Organization of the Church of Malabar before the
Sixteenth Century

From time immemorial, Saint Thomas Christians had to depend on the Patriarch
of the East Syrian Church for the appointment and consecration of bishops. Various
authors pointed out that the relationship between the East Syrian Church and the Church
of Saint Thomas Christians includes both canonical and spiritual aspects. The East
Syrian Church and the Church in India had a spiritual bond based on the common
heritage of Saint Thomas. In particular, Addai, a disciple of Saint Thomas, founded the
Church in Edessa in the Persian Empire, and Mari, a disciple of Addai, brought the
Gospel to Seleucia-Stesiphon (part of the Persian Empire). The East Syrian Church
and the Church of Saint Thomas Christians, therefore, consider Saint Thomas as their
common Patron.

11 The travelling experiences in India of Cosmas Indicopleustes refer to the time between A.D.
520 and 525. His travelogue is given in Topographia Christiana, the document to which Cardinal Eugene
Tisserant referred to when speaking about the hierarchical relation between India and Persia. Cosmas
Indicopleustes wrote about the presence of the faithful and clergy on the island of Socotra. Socotra
consisted of a mixed population of Greeks, Arabs, and Indians. The clergy of this area were ordained in
Persia. For more details, see TISSERANT, Eastern Christianity in India, pp. 11-26; P.J. PODIPARA, The
Thomas Christians, London, Darton, Longman & Todd, 1970, pp. 36-77; Id., The Hierarchy of the Syro-
Malabar Church, Alleppey, Prakasam Publications, 1976, pp. 27-47.

12 See S. GIAMIL, Genuinae relationes inter Sedem Apostolicam et Assyriorum Orientalium seu
Chaldaeorum Ecclesiam nunc majori ex parte primum editae historicisque adnotationibus illustratae,
Rome, Ermanno Loescher and C., 1902, p. 540.

13 See J J.-B. ABBELOOS (ed.), Acta sancti Maris, Assyriae, Babyloniae ac Persidis seculo I
apostoli Syriæ sive Aramaice juxta manuscriptum alqoschianum adjectis alliorum codicum lectionibus
64-69; J.T. FITZGERALD (ed.), The Acts of Mār Māri the Apostle, translated with an introduction and notes
by A. HARRAK, Atlanta, Society of Biblical Literature, 2005, pp. 3-81; S.H. MOFFET, A History of
The canons of the early ecumenical councils, especially Council of Nicaea (325), cc. 4\textsuperscript{14} and 6\textsuperscript{15}, and Council of Constantinople IV (869-870), c. 22,\textsuperscript{16} prescribed that for an election of bishops the provincial synod should be convoked. According to the Synod of Mar Isaac (410), c. 1,\textsuperscript{17} a bishop was to be consecrated in the presence of the metropolitan and two other bishops. The same canon stated, however, that the consecration of bishops could be performed by any three bishops, with the written consent of the metropolitan. In the early stage of its existence however, the Church of Saint Thomas Christians did not have a metropolitan or a provincial synod; therefore it could not elect the metropolitan, and it could not consecrate bishops. Consequently, they depended upon the East Syrian Church for such appointments.\textsuperscript{18}

In the period of 410-420, the episcopal see of Rewardashir (Fars), a city in the Persian Empire, located on the direct sea route to India, was elevated to the status of metropolitan see with jurisdiction over the Indian Church. As a result, the metropolitan of Rewardashir had the power to appoint bishops to India.\textsuperscript{19} However, Patriarch Isoyahb

\begin{itemize}
\item \textsuperscript{14} See \textsc{First Council of Nicaea}, c. 4, in N.P. TANNER (ed.), \textit{Decrees of the Ecumenical Councils (= DEC)}, vol. 1, London/Washington, DC, Sheed and Ward Ltd and Georgetown University Press, 1990, p. 7.
\item \textsuperscript{15} See ibid., p. 8.
\item \textsuperscript{16} See \textsc{Fourth Council of Constantinople}, c. 22, in \textit{DEC}, vol. 1, pp. 182-183.
\item \textsuperscript{17} See \textit{Synodicon Orientale ou recueil de synodes nestoriens, publié traduit et annoté par J.-B. Chabot}, Paris, Imprimerie Nationale, 1902, p. 263. This is a collection of East Syrian synodal canons, generally known as “Synodicon Orientale.” An unpublished English translation by M.J. Birnie is used in the present study.
\item \textsuperscript{18} The hierarchical relation between the Church of Saint Thomas Christians and the East Syrian Church is seen clearly in the letter of Patriarch Isoyahb Adiabenus to Simon, the Metropolitan in Persia. The original letter is in the East Syriac language. For the original and its Latin translation, see GIAMIL, \textit{Genuinae relationes inter Sedem Apostolicam et Assyriorum orientalium seu Chaldaeorum Ecclesiam}, pp. 579-581. The relevant portion of this letter has been translated into English by P.J. Podipara. See PODIPARA, \textit{The Hierarchy of the Syro-Malabar Church}, p. 28.
\item \textsuperscript{19} See MOFFET, \textit{A History of Christianity in Asia}, pp. 267-268.
\end{itemize}
III (650-660) revoked the authority of the metropolitan of Rewardashir over the Church of Saint Thomas Christians and instituted a distinct hierarchy. Later, Patriarch Timothy I (780-823) confirmed the decision of Patriarch Isoyahb III and reserved the right to ordain the metropolitan of Saint Thomas Christians to himself. On the other hand, the power of the patriarch was restricted only to the appointment and consecration of the bishops of India. Though the patriarch was the head of the Church of Saint Thomas Christians, he did not intervene in the administration of temporal goods of the Church of Saint Thomas Christians.

1.1.1.1 – Metropolitan of the Church of Saint Thomas Christians

The title of the metropolitan of India was “The Metropolitan and Gate.” “Gate” is a biblical term and a symbol of public authority. In this regards, Andrews Thazhath states that the term “‘Gate of All India’ meant the highest rank of authority in the Indian Church.” The East Syrian Church had two kinds of metropolitans, namely electoral metropolitans and autonomous missionary metropolitans. The electoral metropolitans were members of the patriarchal synod. The missionary metropolitans were exercising their jurisdiction in far distant regions (like India), outside of the territory of the East Syrian Church. They were assisted by archdeacons chosen from the indigenous clergy.

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21 See Podipara, The Hierarchy of the Syro-Malabar Church, p. 31. See also Moffet, A History of Christianity in Asia, p. 353.

22 See Mt 16:18.


24 The early ecumenical councils and general synods exclusively reserved the election of bishops to the provincial synod, canonically convoked and presided over by the metropolitan. See Pallath, The Catholic Church in India, pp. 10-11.

25 See ibid., pp. 11-12.
The metropolitans of the Church of Saint Thomas Christians were considered missionary metropolitans.\footnote{See MOFFET, A History of Christianity in Asia, pp. 449-450. See also PALLATH, The Catholic Church in India, pp. 11-12.}

The autonomous character of the Church of Saint Thomas Christians can be seen in the appointment of the metropolitan. Even though missionary metropolitans were normally elected by the patriarchal synod, nevertheless the Metropolitan of India was selected from among the monks by a delegation of the Saint Thomas Christians.\footnote{For instance, two monks, Joseph and George, who belonged to the Saint Eugene monastery, were consecrated bishops by the patriarch in 1490. See J.S. ASSEMANI, Bibliotheca orientalis Clementino-Vaticana, vol. 1, Hildesheim, Georg Olms Verlag, 1975, pp. 589-599. See also J. KOLLAPARAMPIL, The St. Thomas Christians’ Revolution in 1653, Kottayam, Catholic Bishop’s House, 1981, pp. 5-6; PALLATH, The Catholic Church in India, p. 11.} The prerogatives of the patriarch of the East Syrian Church over the Indian Church were practically limited to the approval of the election and consecration of the metropolitan of India. It was also possible that the lay Christian faithful may have had some role in the election of their bishops.\footnote{When the episcopal succession was broken, the Saint Thomas Christians used to send delegates to the patriarch of the East Syrian Church, and the patriarch usually allowed the delegates themselves to select the candidates. The delegates may have also included the lay faithful. See PALLATH, The Catholic Church in India, p. 11.}

The metropolitan exercised mainly the sanctifying and teaching functions. His main concern was the administration of the sacred mysteries. A letter from the Jesuit priest, Fenicio, in 1624, illustrated the exercise of the munus sanctificandi by the metropolitan:

[...] Let the archbishop give the sacred orders and confirmation, consecrate the oils, altars, chalices etc., teach the ceremonies to his clerics, celebrate the pontifical Mass and other Divine Offices on solemn feast days, teach his people the way to heaven, and the works they have to do in order to attain it; and the rest of his time let him compose books about the way these and other things are to be observed.\footnote{In Archivum Romanum Societatis Iesu, Goa-Mal., vol. 18, f. 49, quoted after J. KOLLAPARAMPIL, The Archdeacon of All-India: A Historico-Juridic Study, JCD diss., Rome, Pontifical University of Lateran, 1972, pp. 196-197.}
In brief, the metropolitan was considered to be a spiritual head of the Church of Saint Thomas Christians. During the first period of its history (up to the sixteenth century), the Church of Malabar remained under the authority of the metropolitan of India. There is no reference in history relating the metropolitan to a specific location. The metropolitans resided in various Christian centers like Mylapor, Cranganore, Quilon, and Angamaly.  

The metropolitan exercised freely his power of jurisdiction in the entire Church of Saint Thomas Christians of India. As communities of Saint Thomas Christians existed in various parts of India, the usage of the title “Metropolitan of All India” was justified. However, with the invasion of Muslims between 1658-1707, the communities of the Saint Thomas Christians began to disappear outside Malabar.

On 31 January 1533, the first Latin diocese was erected in Goa, in the north-western part of India. The Diocese of Goa was later elevated to metropolitan status on

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31 The patriarch of the East Syrian Church fully respected the identity and autonomy of the Indian Church and the authority of its metropolitan. See Pallath, *The Catholic Church in India*, p. 11.

32 Aurangzeb was the Mughal Emperor at that time. For further details, see Pallath, *The Catholic Church in India*, p. 18; R. Burn (ed.), *The Cambridge History of India: The Mughal Period*, vol. 4, New Delhi, S. Chang and Company, 1987, pp. 222-259, esp. at p. 232. Saint Thomas Christian communities existed in different parts of India, like Kalyana (Kalian), Mylapore, Ceylon, Goa, Mysore, Mangalore, Sind-Punjab, Patna, and Thana. With regard to the extinction of Saint Thomas Christian communities, Bishop A.D. Mattom writes: “When the route from Persia leading to India came under the control of Muslims, entry of priestly ministers to our country must have become impossible. A Christian community left without pastors for a long time is likely to perish as sheep without a shepherd” (A.D. Mattom, *The Indian Church of St. Thomas Christians and Her Missionary Enterprises before the Sixteenth Century*, Kottayam, OIRSI Publications, 1985, p. 55).

33 Soon problems arose between the Portuguese missionaries and the Chaldean hierarchy in Malabar. The presence of the Chaldean bishops who were ruling the Saint Thomas Christians was seen as a hindrance by the Portuguese missionaries. The Third Provincial Synod of Goa (1585) imposed the Portuguese *padroulo* system on the Malabar Church. The term *padroulo* (the Portuguese word for patronage) refers to the rights and privileges conferred by the Popes upon the Kings of Portugal in the 15th and 16th centuries. The reason for these grants was dissemination of the Christian faith in Asia and Africa. In particular, the kings had the power to present candidates to be appointed as bishops in the dioceses in
4 February 1557. The Latin jurisdiction over the entire Church of Saint Thomas Christians began when Bishop Francis Roz was appointed the successor of Mar Abraham, the Metropolitan of Malabar, in 1599. The ancient traditions regarding the juridical status of the metropolitan had changed and the practice of the Latin Church was implemented with regard to the office of the metropolitan. Moreover, with the institution of the Latin hierarchy in India and the jurisdiction of that hierarchy extended to the Church of Saint Thomas Christians, the title of “Metropolitan of All India” became extinct. The liturgical texts for the Mass and

the territories under the king’s rule. For more details, see PALLATH, The Catholic Church in India, p. 158. In India, the mission areas of Goa had been entrusted to the king of Portugal by Pope Alexander VI in 1493 in view of promoting Christianity. The king had also received the right to appoint bishops to the Archdiocese of Goa and its suffragan dioceses. The discovery of the new sea route to India by the Portuguese admiral Vasco de Gama in 1498 was followed by the arrival of many Portuguese missionary priests. For the detailed description of the padroado system, see HERBERMANN, The Catholic Encyclopedia, vol. 6, pp. 602-605.


35 Angamaly was the metropolitan see of the Church of Saint Thomas Christians. On 5 November 1599, Fr. Francis Roz, SJ was appointed the first Latin Bishop of Angamaly, successor to Mar Abraham. Under the padroado, the metropolitan see of Angamaly was reduced to the rank of a suffragan see of Goa, on 20 December 1599, and the title of Angamaly was changed into that of Cranganore. On 4 August 1600, the padroado of the king of Portugal was also extended to Angamaly. The Saint Thomas Christians were thus placed under Latin jurisdiction. For more details, see Bullarium patronatus Portugaliae regum in ecclesias Africae, Asiae atque Oceaniae: bullas, brevias, epistolae, decreta, actaque Sanctae Sedis ab Alexandro III ad hoc usque temporis ampliicens curante Levy Maria Jordao, vol. 1, Olisipone, Ex Typographia nationali, 1868, pp. 260-261, English translation in PALLATH, Important Roman Documents Concerning the Catholic Church in India, pp. 88-93. See also FERROLI, The Jesuits in Malabar, p. 294; TISSERANT, Eastern Christianity in India, pp. 73-74; PALLATH, The Catholic Church in India, p. 76.

36 For more details, see FERROLI, The Jesuits in Malabar, pp. 154-180. See also PODIPARA, The Thomas Christians, pp. 147-149.
Divine Office were translated from Latin to East Syriac (the liturgical language of Saint Thomas Christians) and implemented in the Church of Saint Thomas Christians. A Latin Church metropolitan held the power of jurisdiction over the Saint Thomas Christians until the institution of three vicariates for the Syro-Malabar Christians and the appointment of the indigenous vicars apostolic on 28 July 1896.

1.1.1.2 – Archdeacon of All India

For the origin of the office of archdeacon, tradition points to the first ecclesial community where Saint Stephen was the first among the seven deacons. In the first centuries of Christianity one of the deacons acted as the principal assistant to the bishop in the task of governing his Church. In many places the archdeacon discharged the duties related to financial administration. Eventually, each bishop was expected to


38 Cf. footnote 35.


40 See Acts 6:5.

41 See KOLLAPARAMPIL, The Archdeacon of All-India, p. 30.

42 In the legislation prior to CCEO, in various drafts of canons in the process of revisions and in CCEO, the Latin term for finance officer is oeconomus. Victor J. Pospishil rendered it as “econome.” See V.J. POSPISHIL, The Law on Persons: Rites – Persons – Persons in General – Clergy – and Hierarchy – Monks and Religious – Laity, English Translation and Differential Commentary, Ford City, PA, St. Mary’s Ukrainian Catholic Church, 1960, p. 149. In 1986, the draft of canon 122 used the term
appoint an administrator of ecclesiastical goods in the diocese. For instance, the Council of Chalcedon (451) in c. 26 prescribed that bishops have such an administrator:

According to our information, in some churches the bishops handle church business without administrators; so it has been decided that every church which has a bishop is also to have an administrator, drawn from its own clergy, to administer ecclesiastical matters according to the mind of the bishop concerned, so that the church’s administration may not go unaudited, and that consequently the church’s property is not dispersed and the episcopate not exposed to serious criticism. If he does not comply with this, he is to be subject to the divine canons.  

Pope Leo the Great categorically ascertained to the Roman Emperor Marcian (450-457) that the archdeacon has the power in the diocese under the authority of the bishop. Saint John Chrysostom, Bishop of Constantinople, wrote to Pope Innocent that, after the death of the bishop, the archdeacon is to be in charge of the administration of the diocese. This evidence shows that already in the fifth century the office of archdeacon existed in the Church.

Although the time period of the origin of the office of archdeacon in the Church of Saint Thomas Christians is not known, the administration of the Church of Malabar

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45 See J.P. MIGNE (ed.), Patrologiae cursus completus, Series greaca (= PG), vol. 52, Paris, J.-P. Migne, 1862, p. 531. See also KOLLAPARAMPIL, The Archdeacon of All-India, p. 44.

46 We cannot deny the possibility of its origin during the time when episcopal succession passed from the Indian line to that of the East Syrian bishops. With regard to the arrival of East Syrian bishops in India, we are unable to give an exact year due to the lack of evidence. Most probably from the fourth
was nevertheless clearly influenced by the administrative system of the East Syrian Church. From the decrees of the synods of the East Syrian Church, it is understood that from the fourth century onwards the office of archdeacon existed in the East Syrian Church. Canon 15 of the Synod of Mar Isaac I (410) describes the origin of the office of archdeacon (a mandatory office in the East Syrian Church) and his duty as steward:

One archdeacon shall be designated for the bishop in a city, one who is articulate and wise in word and doctrine, is attentive toward the poor and solicitous of strangers, and is able to direct and command all that is proper in the service of the church. [...] He shall be the arm, tongue, and venerator of the bishop, and the hidden will of the bishop shall be brought to pass openly through him [...]. Concerning the offerings and gifts of the church which are committed to a certain faithful steward, hereafter this shall be the law: the keys of stewardship shall be placed upon the altar and he who is (to be) the steward shall take them from the altar. When he resigns from his stewardship or the bishop is pleased to remove him, he shall go and place the keys upon the altar, and he will receive from the holy altar either good or ill, as he is deemed worthy [...].

According to the canons of the East Syrian Church, the powers associated with the office of archdeacon were inferior to those belonging to the office of bishop and superior to the prerogatives enjoyed by the presbyterate. The East Syrian traditions presented the archdeacon as the head of the ministry, the superior of every ecclesiastical order, spiritual father, teacher, visitor, ecclesiastical judge, and the confidential vicar of century onwards bishops came from the East Syrian Church. See G. NEDUNGATT, *Laity and Church Temporalities: Appraisal of a Tradition*, Bangalore, Dharmaram Publications, 2000, p. 124. Since the Church of Saint Thomas Christians was hierarchically dependent on the East Syrian Church, the canon law that was in use should have been *de iure*, the canon law of the Church of Saint Thomas Christians. But due to the lack of documents regarding the relationship of the Saint Thomas Christians with the East Syrian Church, we do not know if or how the law of the East Syrian Church was applied in the Church of Saint Thomas Christians.

47 “Que l’évêque ait dans sa ville un archidiacre spécial, qui soit disert en paroles et sage en doctrine, qui prenne soin des pauvres et s’occupe des étrangers, qui puisse régler et diriger toutes choses convenablement dans le ministère de l’Église. [...] il sera le bras, la langue de l’évêque, qu’il honorera; il fera connaître publiquement la volonté secrète de l’évêque [...]. En ce qui concerne les revenus et les collectes de l’église, qui doivent être confiées à un économat fidele, que cette loi soit désormais observée : les clefs de l’autel; quand il abandonnera l’économat ou quand l’évêque voudra qu’il le quitte, il ira placer les clefs sur l’autel, comme méritant de recevoir sa rétribution, bonne ou mauvaise, du saint autel [...].” (*Synodicon Orientale ou recueil de synodes nestoriens*, pp. 267-268).
the bishop.\textsuperscript{48} However, in the case of the Malabar Church, the archdeacon was mainly concerned with the administration of the temporal goods of the Church.

The synod of Mār Išô Yahb I (585) in c. 19 speaks of the required qualities of the archdeacon. The relevant part of the canon reads as follows:

The ministry of the archdeacon, who, in the presence of the bishop, presides at all times over the ministry of the clergy and at ecclesiastical meetings, is necessarily required. […] It is appropriate for every bishop to have an archdeacon in his cathedral church. The man who is designated for the ministry of the archdeacon should be wise, eloquent, of a good disposition, just and merciful, knowledgeable of the regulations and the ministry of the Church […]\textsuperscript{49}

There are very few original sources from the period before the sixteenth century regarding the origin of the office or the required qualities and functions of the archdeacon in the Church of Saint Thomas Christians. One of the reasons for the lack of evidence dated before the arrival of Portuguese missionaries is that the canonical collections of the East Syrian Church which had been used in Malabar as the norms of the Saint Thomas Christians were intentionally destroyed after the Synod of Diamper.\textsuperscript{50}

In addition, the canonical collections of the East Syrian Church had been prohibited, under pain of excommunication, by decree no. 14 of the 3rd session (on the doctrine of

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\textsuperscript{49} “Le ministère de l’archidiacre qui, en présence de l’évêque, préside en tout temps au ministère des clercs et aux réunions ecclésiastiques, est nécessairement requis. […] Il convient que tout évêque ait un archidiacre dans son église cathédrale. Celui qui est choisi pour les fonctions d’archidiacre doit être sage, éloquent, de bonne volonté, juste et miséricordieux, connaissant le ministère et les règles de l’Église […]” (\textit{Synodicon Orientale ou recueil de synodes nestoriens}, pp. 413-414).

\textsuperscript{50} Portuguese missionaries suspected that Saint Thomas Christians were Nestorian heretics (belief in the presence of two persons rather than two natures in Christ). The East Syrian liturgy which was used in Malabar also was accused by the Portuguese missionaries as being heretical. Archbishop Menezes ordered the burning of the ancient liturgical books and other documents related to the East Syrian Church. See KOODAPUZHA, \textit{Bharathasabha charithram}, p. 292; Id., \textit{Christianity in India}, Kottayam, OIRSI Publications, 1998, p. 91.
the faith) of the Synod of Diamper. The remaining available sources show that effective administration of the Church of Saint Thomas Christians was in the hands of archdeacons who, as a rule, were members of the Pakalomattam family and, despite bearing the name of “archdeacons,” were in fact constituted in the order of presbyters.

The archdeacon was known as the Jathickukarthavian which means “the Lord of the community,” and by historians was also referred to as “archdeacon of India,” “archdeacon and Gate of All-India,” and “Governor of India.” While the official title of the metropolitan of India was “the Metropolitan and Gate of All India,” similarly the title of the archdeacon of the Saint Thomas Christians also indicated the Indian dimension of his jurisdiction. European missionaries testified that the archdeacon was the prince and head of the Christians of Saint Thomas. In other words, in the socio-political circumstances of the time, the archdeacon represented the whole community.

51 See RAULIN, Historia Ecclesiae Malabaricae, p. 126, English translation in GEDDES, “A Short History of the Church of Malabar Together with the Synod of Diamper,” pp. 64-65. After the Synod of Diamper, Archbishop Menezes and five Jesuits visited the main Christian centers of the Church of Saint Thomas Christians. Regarding their visit Ferroli writes: “After mass, Fr. Roz, SJ, and others well versed in the Chaldean tongue, received all the books which were brought to them; some were expurgated, others burnt” (FERROLI, The Jesuits in Malabar, p. 205). See also J. THALIATH, The Synod of Diamper, Orientalia Christiana Analecta 152, Rome, Pontifical Oriental Institute, 1957, p. 220.

52 See PODIPARA, The Thomas Christians, p. 95. Podipara states: “We do not think we shall be mistaken if to the pre-XVI century period we attribute what in the later period is known of the archdeacons” (ibid).


54 In the early centuries, Chaldean bishops appointed solely presbyters to archdiaconal dignity. As the term “priest” is commonly used to denote Syro-Malabar presbyters, the present thesis conforms to this usage.

55 See THAZHATH, The Juridical Sources of the Syro-Malabar Church, pp. 37-38; C.V. CHERIAN, A History of Christianity in Kerala: From the Mission of St. Thomas to the Arrival of Vasco Da Gama,
The office of the archdeacon cannot be considered as hereditary – the archdeacon was always a celibate presbyter. But as we have seen earlier, only priests (presbyters) of the Pakalomattam family claimed a number of archdeacons.\textsuperscript{56} The archdeacon cooperated with the legislators in the enactment of laws \textsuperscript{57}, the same function he had in the Chaldean Church. Nevertheless, as the metropolitans were devoted to ascetical life and exercised mainly the powers of (episcopal) orders, the archdeacon governed the entire Saint Thomas Christian community.\textsuperscript{58} \textit{Fontes iuris canonici Syro-Malankarensium} describes the faculties and rights of the archdeacons: “The archdeacons were trying to exercise many faculties, which the bishops hardly exercised. Those faculties were: the right to dispose of dispensations of all kinds, the right to nominate candidates for churches and benefices, the exclusive right to present candidates for holy orders, [and] the right to administer temporal goods.”\textsuperscript{59} With regard to temporal goods, A.D. 52-1498, Kottayam, Kerala Historical Society, 1973, p. 138; KOODAPUZHA, \textit{Christianity in India}, p. 75.

\textsuperscript{56} See FERROLI, \textit{The Jesuits in Malabar}, pp. 177-178.

\textsuperscript{57} Regarding the cooperation in the exercise of legislative power, Jacob Kollaparampil provides two examples from history: “The Synod of Angamaly convoked by Mar Abraham and Archdeacon George of Christ in 1583 passed 28 decrees. In the convocation and the celebration of the Synod of Diamper, the archdeacon played an important role, though he had been forced to act according to the mind and will of Archbishop Menezes and the Jesuit Fathers. The schemata prepared by Menezes were examined by a committee composed of the archdeacon and eight cassanars, before they were presented to the synod” (KOLLAPARAMPIL, \textit{The Archdeacon of All-India}, pp. 192-193).

\textsuperscript{58} See PODIPARA, \textit{The Hierarchy of the Syro-Malabar Church}, p. 105. The presence of the archdeacon was considered necessary in ecclesiastical synods. The Chaldean sources speak of the office of the finance officer as distinct from the office of the archdeacon. It seems that the archdeacon exercised certain authority over the finance officer. In some places of East Syria, however, both the offices were held by one and the same person. See MUNDADAN, \textit{History of Christianity in India}, pp. 180-185; KOLLAPARAMPIL, \textit{The Archdeacon of All-India}, pp. 192-193, 200-201. On the status of the archdeacon, Xavier Koodapuzha states: “The Archdeacon was the chief administrator of the community and the coordinator of the various local communities. Between 1576 and 1581 Pope Gregory XIII (1572-85) sent five papal Briefs addressed to the Archdeacon. In these letters the traditional dignity, position, and responsibility of the Archdeacon is acknowledged” (KOODAPUZHA, \textit{Christianity in India}, p. 75).

\textsuperscript{59} “Archdiaconi amplas facultates exercere conabuntur, quod episcopo aegre ferebant. Facultates istae fuerunt: Ius disponendi de dispensationibus omne genus; Ius nominandi candidates pro ecclesiis et
the archdeacon’s prerogatives included accepting donations to arrange marriages of orphans, lending money to the poor without interest, constructing churches and redeeming captives. He was authorized to fix the amount for the sustenance of prelates and to respond to the general needs of the community.

Regarding the judicial power of the archdeacon and the metropolitan of Saint Thomas Christians, James Hough stated:

As to the administration of law in criminal [cases], they [Saint Thomas Christians] depended upon the heathen princes to whom they were tributary: but in civil and ecclesiastical matters they were under the jurisdiction of their own Bishop, who, conjointly with his Archdeacon, adjusted all their disputes, in the two-fold capacity of pastor and judge. 60

While Hough maintains that the archdeacon exercised the judicial power together with the metropolitan, other authors, such as D. Ferroli, M. Mundadan, and J. Kollaparampil hold the opinion that the office of archdeacon was furthermore endowed with judicial power. 61 It is known that at the time of Bishop Garcia (1645), the archdeacon mediated and settled those cases which were less important, while the important cases were reserved to the bishop himself. 62

Before the Synod of Diamper (1599) the churches of the Saint Thomas Christians supported their priests with the donations of the faithful collected on Jonas’ beneficiae; Ius exclusivum praesentandi candidatos ad S. ordinis; Ius administrandi bona ecclesiastica” (Codificazione canonica orientale, Fonti, p. 52). See also footnote 10. We are grateful to Msgr. Kuriakose Parampath for the English translation of the Latin text.


62 See KOLLAPARAMPIL, The Archdeacon of All-India, p. 197; MUNDADAN, History of Christianity in India, p. 184. D. Ferroli wrote on the power of archdeacon under the East Syrian bishops, “They [archdeacons] settled quarrels, they fought Rajahs, they approved those who had to be ordained, they granted dispensations, they made and unmade appointments, so that the power of jurisdiction was practically in their hands” (FERROLI, The Jesuits in Malabar, p. 301).
feast and during Lent. But that custom was eventually dropped and priests began to receive subsidies from the Portuguese king. The king of Portugal made the archdeacon one of the persons responsible for the distribution of those funds.

Certain prerogatives belonging to the office of the archdeacon became extinct after the sixteenth century. It was the tradition and practice of the Saint Thomas Christians that the administration of the vacant metropolitan see be exercised by the archdeacon. However, when Mar Abraham, the last bishop of the Church of Saint Thomas Christians appointed by the patriarch of the East Syrian Church died in 1597, Pope Clement III appointed Archbishop Menezes of Goa as administrator of Angamaly, on 21 January 1597. Later the Holy See granted the privilege to the metropolitan of Goa to appoint the administrator to the episcopal see of Cranganore when it would have become vacant. Further, the office of archdeacon lost its special status after eliminating from the title of the archdeacon the reference to the place (“of all India”).

63 See Ferroli, The Jesuits in Malabar, p. 198. Regarding the request to the Portuguese king, D. Ferroli stated: “The synod [of Diamper] begs the king of Portugal ‘Tanquam istius Christianitatis protector ac in istis regionibus rex unicus dominusque Christianus’ to come to the rescue, and give to the Diocese an annual contribution of 1,500 crusados” (ibid.).

64 See Koodapuzha, Christianity in India, p. 90; Podipara, The Thomas Christians, p. 134; Kollaparampil, The Archdeacon of All-India, p. 209; J. Thekkedath, History of Christianity in India: From the Middle of the Sixteenth to the End of the Seventeenth Century (1542-1700), vol. 2, Bangalore, Theological Publications in India, 1982, p. 64.


66 Cf. G. Belrami, “La Chiesa Caldea nel secolo dell’Unione,” in Orientalia Christiana, 29 (1933), pp. 252-253. See also Kollaparampil, The Archdeacon of All-India, p. 209; Podipara, The Thomas Christians, p. 133. Mar Abraham, the last Chaldean prelate of the Malabar Church expressed his desire that the archdeacon be the administrator of Angamaly after his death. Kollaparampil opines that this wish was in conformity with an ancient norm of the Chaldean Church. Koodapuzha states that when Mar Abraham died at the beginning of 1597, in accordance with the established custom the archdeacon took over the administration of the vacant see. Later, however, Archbishop Menezes was appointed as the administrator of Angamaly. See Koodapuzha, Christianity in India, p. 90.

67 See Koodapuzha, Christianity in India, p. 95; Podipara, The Thomas Christians, pp. 148-149.
1.1.1.3 – Presbyters in the Church of Saint Thomas Christians

There is very little information regarding the historical and canonical status of the presbyters of the Church of Saint Thomas Christians before the Synod of Diamper. Bishop Francis Roz, the first Latin bishop of the Saint Thomas Christians testified that 50 canons of the council of Nicaea (the so-called Arabic Canons) were used in Malabar and that he had seen them in a Syriac book written by Mar Ebedjesus. Out of these 50 canons, 47 dealt with the government of the Church and the rest with monasteries. The presbyters exercised their functions according to the prescriptions of those canons.

Vincenzo Maria, OCD, who visited Malabar around the middle of the seventeenth century, gave the following testimony to the way of life of the clergy: “The ecclesiastics are of two sorts: ordinary and recollected. The latter are obliged to certain major observances: they never eat meat nor drink wine. All are called Cassanars, a name taken from Arabic […]” Ordinary ecclesiastics were priests (presbyters) who could marry while the term “recollected” referred to those who led a life similar of that of religious. In the modern terminology, therefore, married and recollected priests can be

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71 See MUNDADAN, History of Christianity in India, p. 187; PUTHYAKUNNEL, The Syro-Malabar Clergy and Their Obligations, p. 100; PODIPARA, The Thomas Christians, p. 89. Before the sixteenth century, besides secular clergy there seemed to be monks among Saint Thomas Christians.
considered as eparchial and religious priests, respectively. Generally priests (presbyters) were known as cassanars or cathenars.\footnote{72 The words cassanar or cathenar were used by Saint Thomas Christians before the sixteenth century. According to Mathias Mundadan, these terms were instances of “malabarization” of the Syriac word qasisa (elder or presbyter). See MUNDADAN, History of Christianity in India, p. 185.}

Regarding the residence of priests (presbyters), Vincenzo Maria testified: “They live very near to the churches officiating in them in a collegiate form […] the clerics are obliged to [live in] the same residence.”\footnote{73 VINCENZO MARIA, Il viaggio alle Indie Orientali, p. 145, quoted after PUTHIYAKUNNEL, The Syro-Malabar Clergy and Their Obligations, pp. 204-205.} The income of priests proceeds from ecclesiastical goods or from offerings for celebrating baptisms, marriages, and the commemoration of feasts called chattam.\footnote{74 See MUNDADAN, History of Christianity in India, p. 191; THAZHATH, The Juridical Sources of the Syro-Malabar Church, pp. 39-40; KURIEDATH, Authority in the Catholic Community in Kerala, p. 98.} Priests were ordained for the determined parish rather than for the diocese.\footnote{75 See PODIPARA, The Thomas Christians, p. 89. After the promulgation of different motu proprios for the Eastern Catholic Churches the term “eparchy” was used in the Syro-Malabar Church, while prior to that, the term “diocese” was widely used in Kerala.} The candidates for priesthood were selected according to the needs of the community.\footnote{76 See VADAKKEKARA, Origin of India’s St. Thomas Christians, p. 378; MUNDADAN, History of Christianity in India, p. 188. For a presentation on the socio-cultural background of the Malabar Church, see PODIPARA, The Thomas Christians, pp. 79-98.}

Clerics below the rank of presbyters were called chemasas (seminarians). After obtaining desakkuri, the approval of the parish assembly (palliyyogam), they were allowed to go forward for ordination. Priests ordained for a given parish were called desattupattakar (local clergy).\footnote{77 See PODIPARA, The Thomas Christians, p. 96; THAZHATH, The Juridical Sources of the Syro-Malabar Church, p. 51; KOODAPUZHA, Bharathasabha charitram, p. 194; VADAKKEKARA, Origin of India’s St. Thomas Christians p. 378.} The cassanars (presbyters) and chemasas (seminarians)
recited the divine office in the East Syrian language.\textsuperscript{78} Parochial functions were performed in turn, and the senior priest of the parish was the person responsible for directing the pastoral work.\textsuperscript{79}

**1.2 – Ancient Structures of Financial Administration in the Syro-Malabar Church**

A correct understanding of the structures of the financial administration of the Malabar Church will be of use for the canonical study of the present finance administrative system of the Syro-Malabar Major Archiepiscopal Church. The finance administrative system of the Malabar Church was associated closely with the *yogam* (assemblies). Three kinds of *yogam* prevailed in the Malabar Church: *palliyogam* (the parish assembly), *pradesika yogam* (the regional assembly) and *pothuyogam* (the general assembly).

The word *yogam* can be traced back to the Sanskrit verbal form youg meaning unity, joining, union, junction, or combination.\textsuperscript{80} *Palli* is the Malayalam word for a place of worship (church).

The notion of *palliyogam* seems to owe its origin to the ancient village assembly that was prevalent among the Dravidians, a division of Indian society. The Dravidians of the *sanghakalam*\textsuperscript{81} used to gather together to discuss matters of common interest and


\textsuperscript{81} *Sanghakalam* means the period in ancient Tamil literature between the 3rd century B.C. and the 3rd century A.D. The most basic division of Indian society is into Aryans and Dravidians; the north
make decisions. This ancient basic unit of social organization is known as manram. The lord of the manram was later known as mannan (king). All matters concerned with the manram were discussed, and all problems were settled, in common. The elders of the tribes were qualified to take part in the meeting (yogam) and the head of the tribe usually presided. All members (except the mannan) were equal in the manram.

Palliyogam takes its historical origin from two casts (sects) among the Hindus, urar and uranmakar. The members of urar and uranmakar managed the affairs of the (Hindu) temple, without remuneration or profit for themselves. The position of the priests (santhikar) in relation to the administration of the temple was notably inferior to that of a yogam.

On one hand, there is no evidence to prove that the system of yogam originated from the East Syrian Church. On the other hand, however, in the Hindu temples of Malabar the assemblies (yogam) were permanent bodies and they enjoyed legislative, judicial and administrative prerogatives. It is therefore quite probable that the origin and development of the Malabar Church yogam owes its inspiration to the Hindu

Indians are the descendants of Aryans and the south Indians are Dravidians. For more details, see KOODAPUZHA, Bharathasabha charithram, pp. 33-36.

82 In Tamil the meaning of manram is a place of assembly, an open space, or a long street. See A. SREEDHARAMENON, A Survey of Kerala History, Trivandrum, Sahityapravartaka Co-operative Society Ltd., 1967, p. 91.

83 The cast system is one of the peculiar features of Hinduism. For details, see R.D. IMMANUEL, The Influence of Hinduism on Indian Christians, Jabalpur, Leonard Theological College, 1959, pp. 20-44.

84 See KURIEDATH, Authority in the Catholic Community in Kerala, p. 94.

85 See ibid. Hindus had various types of gatherings: village assembly (tarakuttam), gathering of the district (nattukuttam), and gathering in the regional or national wise (pothukuttam).

86 See MUNDADAN, History of Christianity in India, p. 147.
The involvement of the lay people in the ordinary administration of the Church was the unique characteristic of the Malabar Church. It might have been inspired by the early Christian converts from the Hindu religion.

Since palli stands for a place of worship of the Christians, that is, a church, consequently, palliyogam means a meeting of the church community. More precisely, the palliyogam is the gathering of the people to discuss the administration of a church community. Paulinus Bartholomeo, a Carmelite missionary in India, called the palliyogam “a republican system of government.” He wrote: “All the Christians combine or unite themselves into a kind of Christian civil republic (state), and when there is a problem in one parish, others come together to defend it. The parish priest and the elders judge and decide everything.”

The priests and the heads of the families, who were males, constituted the palliyogam. The oldest priest (presbyter) of the parish presided over it.

The main responsibilities of the palliyogam were: 1) the acquisition of property; 2) the administration of the church property; 3) the support of priests; 4) the selection of the candidates to priesthood; 5) the maintenance of the deacons and seminarians; 6) vigilance over the whole ecclesial and spiritual life of the parish; and 7) the alienation of

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87 See NEDUNGATT, Laity and Church Temporalities, p. 222.


89 See PODIPARA, The Hierarchy of the Syro-Malabar Church, p. 96; THAZHATH, The Juridical Sources of the Syro-Malabar Church, p. 42.
the parish property. In particular, in Malabar each parish had authority to acquire, administer and alienate the temporal goods.\textsuperscript{90}

Important functions of the parishes were accomplished in consultation with the *palliyogam*: “In origin, development and functioning, the assembly conserved several features of the ‘Ecclesia’ of the early Church. Often the word ‘church’ denote[s] in several accounts, the local community.”\textsuperscript{91} Among the Saint Thomas Christians in Malabar, the authority of the bishop and of the archdeacon was highly respected in the *palliyogam*. The position of the priests was one of the precedence and honor. But after the Synod of Diamper (1599) only priests began to exercise authority over the *palliyogam*. The archdeacon no longer had this authority. Kurian Vanchipurackal maintains that the decentralized systems of *palliyogam* contributed to fostering a sense of autonomy and responsibility.\textsuperscript{92} In the *palliyogam*, the cooperation of the laity and their exercise of vigilance helped to protect parish property against misappropriations. In short, the active involvements of the *palliyogam* in the life of the Church promoted a sense of responsibility of the laity for the church affairs, especially with regard to temporal matters.

Regarding the origin of the *pradesika yogam* (regional assembly), one can consult a document composed in 1787 by Paremakka, the author of *The

\textsuperscript{90} See KURIEDATH, *Authority in the Catholic Community in Kerala*, pp. 94-104; THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 42; KOODAPUZHIA, *Christianity in India*, pp. 41-44, 71-75.


\textsuperscript{92} See ibid.
Varthamanapusthakam⁹³ (travelogue). Throughout the history of the Malabar Church, the *pradesika yogam* was charged with the administration of justice.⁹⁴ Solely the *pradesika yogam* was competent to judge serious cases and to handle the cases involving priests. It (*pradesika yogam*) consisted of priests and representatives of the faithful of a given region of the Malabar Church. As Paremakkal pointed out, the practice that existed in Malabar regarding the administration of justice required that before inflicting any punishment, the crime had to be proved before the representatives of four churches (*pradesika yogam*).⁹⁵

The *mahayogam* (general assembly) of the Malabar Church was a decision-making body which consisted of the representatives of the Christian faithful of all parishes presided over by the archdeacon. The *mahayogam* discussed and decided

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⁹³ *Varthamanapusthakam* is a word in Malayalam language which means narration of an event. However, in Malabar the same word has another, more precise meaning: it stands for the book that contains the narration of the events of the Church for the period of time between 1773 and 1786. See T. PAREMAKKAL, *The Varthamanapusthakam: An Account of the History of the Malabar Church between the Years 1773 and 1786 with Special Emphasis on the Events Connected with the Journey from Malabar to Rome via Lisbon and Back Undertaken by Malpan Mar Joseph Cariattil and Cathanar Thomman Paremakkal*, trans. with an introduction and notes by P. PODIPARA, Rome, Pontifical Oriental Institute, 1971, p. 1. The author of *Varthamanapusthakam* (1790), the first ever travelogue in an Indian language was Cathanar Paremakkal Thomman (1736-1799). He was the administrator (governador) of the Archdiocese of Cranganore from 1786 till his death. He is also considered to be the father of modern Malayalam prose.

⁹⁴ In his writings, Paremakkal gives an example of the administration of justice by the regional assembly. In order to attend the festival celebration of Saint Theresa, on the invitation of Bishop Florance, the Vicar Apostolic of Malabar (he was also Bishop of the Latin diocese of Verapoly) along with a few priests appeared at the feast. Fr. Chacko of Kallorkad, who was the vicar of Edappally was also present. On the morning of the feast, it was found that the monstrance with the Blessed Sacrament was missing from the church of Verapoly. The Bishop and other priests of the bishop’s house concluded that Fr. Chacko was the thief and, without hearing him or the witnesses, arbitrarily punished the priest. Fr. Chacko was imprisoned for several days, without food or drink, and severely tortured. Lastly, at the hour of his death he asked for the sacrament of confession and Holy Communion but was denied. After his death his body was wrapped in a mat and buried outside the church. For the detailed description of the incident, see PAREMAKKAL, *The Varthamanapusthakam*, pp. 39-40. See also PODIPARA, *The Thomas Christians*, p. 175.

⁹⁵ See PAREMAKKAL, *The Varthamanapusthakam*, p. 41. Indeed, the general assembly of Angamaly (1778) prescribed that the punishment be inflicted only after the judgment of the representatives of four churches. See ibid., pp. 43-44. See also PALLATH, *The Catholic Church in India*, p. 20.
important matters that affected the whole Church of Saint Thomas Christians. As the members of the mahayogam enjoyed equality, it was an effective means for maintaining communion and solidarity in the community.

As an example of the decisions of the mahayogam, one can invoke sending a delegation to Rome, in 1778, under the leadership of Joseph Cariattil to handle the reunion of Mar Thomas VI (the Jacobite Metropolitan) with the Catholic Church. The same mahayogam sent along with the delegation, two candidates to study at the Propaganda College in Rome. The Prefect of the Sacred Congregation for the Propagation of the Faith at first refused to admit the candidates on the ground that they were not sent by the bishop. Later, however, the Prefect gave consent to admit them.

The custom of convoking the mahayogam is still alive today in the non-Catholic churches of the Saint Thomas Christian tradition.

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96 Before the “Coonan Cross Oath” (1653) two mahayogam took place, in Athirampuzha and Angamaly. See KOODAPUZHA, Christianity in India, p. 71; PAREMAKKAL, The Varthamanapusthakam, pp. 33-34. Regarding the “Coonan Cross Oath,” see footnote 98.

97 See KOODAPUZHA, Christianity in India, p. 72. The introduction to The Varthamanapusthakam states, however, that the bishops from East Syrian Church were overshadowed by archdeacons who were very influential among the people. This may be the reason why the archdeacon presided over the mahayogam. See PAREMAKKAL, The Varthamanapusthakam, pp. 3-4. Another reason for diminishing the role of bishops in the assembly was the solely spiritual character of their leadership.

98 On 3 January 1653, under the leadership of the archdeacon, many faithful protested against the Jesuits in Kerala. They took an oath by holding a rope tied to a cross (“Coonan cross oath” - koonankurisuathyam). In the oath they swore that they would never obey the Jesuits. Later, on 20 May 1653, 12 priests imposed their hands on the archdeacon and called him “Mar Thomas Metropolitan.” This group had entered into a hierarchical relationship with the Antiochian Jacobite church and had become the Jacobite church of Kerala. Mar Thomas VI was the successor of the aforesaid “Mar Thomas Metropolitan.” See KOODAPUZHA, Bharathasabha charithram, pp. 363-368. For more on the decisions of the mahayogam and the members of the delegation, consult PAREMAKKAL, The Varthamanapusthakam, p. 65.


100 See PODIPARA, The Thomas Christians, p. 97.
1.3 – **SYNODAL ENACTMENTS ON TEMPORAL ADMINISTRATION**

From the sixteenth century onward, the administrative system of the Saint Thomas Christians changed due to the implementation of new norms promulgated by synods and bishops. An examination of the relevant legislation of the synods and of the norms issued by bishops clearly shows the nature of the finance administrative system of the Syro-Malabar Church before the promulgation of **CCEO**.

1.3.1 – *Synod of Diamper on Temporal Matters*

On 19 December 1597, the Archbishop of Goa, Dom Alexis de Menezes,\(^{101}\) wrote a letter to Fabio Biondi, the Latin Patriarch of Jerusalem, residing at that time in Rome, in which he expressed his intention to visit Malabar and convocate a synod.\(^{102}\)

The Synod of Diamper was convened by the Archbishop of Goa in 1599.\(^{103}\) The decree no. 19 (on the doctrine of the faith) of session III of the Synod of Diamper prohibited all priests and curates from mentioning the name of the patriarch of the East Syrian Church during the liturgy. The Synod also decided not to accept any bishops sent...
by him to Malabar,\textsuperscript{104} effectively putting to an end to the Chaldean jurisdiction in India. The Synod decided that the appointment of bishops should be the prerogative of the pope, with the permission of the Portuguese king.\textsuperscript{105}

One can claim that the parish administrative system in the Malabar Church originated in this synod. In session III, decree no. 7 (on the doctrine of the faith),\textsuperscript{106} the Synod of Diamper stated that “The Law of Thomas,” i.e. “[…] the customs (\textit{consuetudines}) and laws which they received through tradition since the time of their Apostle Thomas” was not “[…] in opposition to the ‘Law of Peter’ – the law of the Latin Church or the law of the Universal Church.”\textsuperscript{107} In session VII, decrees nos. 21 and 22 (on the sacraments of orders and marriage), the Synod of Diamper made a decision concerning the provisions for the support of the clergy of Malabar. The means prescribed were alms, collections, and tithes on the dowry from the faithful.\textsuperscript{108} Moreover, the Synod decided to request from the king of Portugal a grant of a minimum


\textsuperscript{107} THAZHATH, \textit{The Juridical Sources of the Syro-Malabar Church}, p. 10.

\textsuperscript{108} See RAULIN, \textit{Historia Ecclesiae Malabaricae}, pp. 198-199, English translation in GEDDES, “A Short History of the Church of Malabar Together with the Synod of Diamper,” pp. 85-86. The system of tithes from a dowry was common in the Malabar Church. A portion of that amount included the \textit{pasaram} (the donation of the bridegroom to the parish church before his marriage). As a dowry was prohibited by civil law on 1 July 1961, instead the term “family right amount” (\textit{kudumbaavakashathuka}) was used. See \textit{Instructions of the Curia 1950-1979}, comp. and ed. by the CHANCELLOR OF THE ARCHEPARCHY OF CHANGANACHERRY, Changanachery, St. Joseph’s Orphanage Press, 1979, p. 31. The Council of Trent also prescribed the norms for the tithes and determined the penalty of excommunication for those who did not give tithes. See \textit{COUNCIL OF TREN T}, session XXV, c. 12, in \textit{DEC}, vol. 2, p. 792.
15,000 crusados.\textsuperscript{109} In session VIII, decree no. 1 (on the reform of Church [Church of Saint Thomas Christians] affairs), the Synod of Diamper divided the diocese of Angamaly into seventy-two parishes and appointed parish priests to each parish. This decree followed the enactments of the Council of Trent which in session XIV, c. 9 prescribed that dioceses and parishes be made distinct.\textsuperscript{110} Through another act of the Synod of Diamper (session VIII, decree no. 26, on the reform of Church affairs), the system of kaikars\textsuperscript{111} commenced: the Synod prescribed that four lay overseers (\textit{kaikars}) be elected annually in order to assist the vicar\textsuperscript{112} of the parish in the management of the finances. In session VIII, decree no. 38, the Synod declared that the execution of wills belongs to the bishops. After one year from the death of the testator, if the will was not yet executed, the bishop had to instigate the heirs to fulfill it.\textsuperscript{113}

\textsuperscript{109} Until the subsidy could be granted, Archbishop Menezes volunteered to offer that amount. See MANSI (ed.), \textit{Sacrorum Conciliorum nova et amplissima collectio}, vol. 35 B, pp. 1292-1293. The Third Council of Goa (1585) decided to make a similar request to the king of Portugal. See FERROLI, \textit{The Jesuits in Malabar}, pp. 170-171.

\textsuperscript{110} “Et, quia iure optimo (1) distinctae fuerunt dioeceses, et parochiae ac unicuique gregi proprii attribute pastores […]” (COUNCIL OF TREAT, session XIV, Decree on Reform, c. 9, in DEC, vol. 2, p. 717).

\textsuperscript{111} See RAULIN, \textit{Historia Ecclesiae Malabaricae}, pp. 237-238, English translation in GEDDES, \textit{A Short History of the Church of Malabar Together with the Synod of Diamper}, p. 93. Up to recent times the term \textit{kaikars}, in the sense of “trustees” was known in the Syro-Malabar Church. Since the term “trustee” has civil connotations, it is no longer permitted to use in the Syro-Malabar Church in order to denote \textit{kaikars}. Instead, the term “overseer” is employed by J. Kollaparampil, as does this study. See J. KOLLAPARAMPIL, “The Impact of the Synod of Diamper on the Ecclesial Identity of the St. Thomas Christians,” in G. NEDUNGATT (ed.), \textit{The Synod of Diamper Revisited}, Kanonika 9, Rome, Pontifical Oriental Institute, 2001, p. 167.

\textsuperscript{112} The term “vicar” (\textit{parochus}) is widely used in the Syro-Malabar Church in the sense of the pastor and the term “assistant vicar” (\textit{vicarius paroecialis}) denotes the parochial vicar.

\textsuperscript{113} See RAULIN, \textit{Historia Ecclesiae Malabaricae}, p. 246; English translation in GEDDES, \textit{A Short History of the Church of Malabar together with the Synod of Diamper}, p. 93. The norm of the Synod of Diamper on the execution of the last will had a corresponding norm in the decrees of the Council of Trent. Regarding the commutations of last wills, the latter decreed: “In commutationibus ultimarum voluntatum, quae nonnisi ex iusta et necessaria causa fieri debent, episcopi tamquam delegati Sedis Apostolicae summarie et extraiudicialiter cognoscant, nihil in precibus tacita veritate vel suggesta falsitateuisse narratum, prius quam commutationes praedictae exsecutioni demandentur” (In commutations of last wills, which should not be made without a just and compelling reason, bishops and delegates of the Apostolic See must ensure, by summary examination without a judicial process, that nothing is stated in the petition
The above-mentioned enactments of the Synod of Diamper show that the Synod was a turning point in the history of the Saint Thomas Christians. It had changed some of the ancient practices of the Saint Thomas Christians, and in particular it curtailed to a great extent the powers of the archdeacon through the implementation of the office of kaikars in the Church of Saint Thomas Christians.

1.3.2 – Statutes of Mellano on the Administration of Temporal Goods

Archbishop Aloysius Mellano was the first archbishop of the Latin Archdiocese of Verapoly and, at the same time, Vicar Apostolic of the Malabar Church. On 20 February 1867, Archbishop Mellano reported to the Sacred Congregation for the Propagation of the Faith regarding the need for the norms regulating palliyogam (church assemblies). On 8 September 1869, the Congregation sent him such norms, modeled on the norms used in the dioceses of Holland since 1856. Consequently,

which conceals the truth or suggests falsehood, before such commutations are put into execution) (COUNCIL OF TRENT, session XXII, Decree on Reform, c. 6, in DEC, vol. 2, p. 739).

114 By the apostolic constitution Inscriutabili divinae providentiae arcane, of 6 January 1622, Pope Gregory XV instituted the Sacred Congregation for the Propagation of the Faith. See N. KOWALSKY, Inventory of the Historical Archives of the Sacred Congregation for the Evangelization of Peoples or “De propaganda Fide,” Rome, Pontifical University of Urbaniana, 1983, p. 13. By the same constitution the Sacred Congregation obtained the supervisory powers over Eastern Catholic Churches and began to intervene in their affairs. On 6 January 1862, by the apostolic constitution Romani Pontifices, Pope Pius IX divided the Sacred Congregation of the Propagation of the Faith into two distinct parts: for the affairs of the Latin rite and the affairs of the Eastern rite. See Collectanea S. Congregationis de Propaganda Fide seu Decreta, instructiones, rescripta pro apostolicis missionibus, vol. 1, Rome, Ex Typographia polyglotta, 1907, pp. 668-672, English translation in PALLATH, Important Roman Documents Concerning the Catholic Church in India, pp. 206-219.

115 Since the Church of Saint Thomas Christians was not organized as a separate diocese/eparchy at the time of Mellano (the Saint Thomas Christians were under the jurisdiction of Latin Archbishop of Verapoly), the Statutes of Mellano do not concern the administration of temporal goods on the diocesan/eparchial level.

116 See NEDUNGATT, Laity and Church Temporalities, pp. 147-148. In the discussion during the codification of CCEO, there was a reference to this particular issue. See PONTIFICIA COMMISSIONE CODICI IURIS CANONICI ORIENTALIS RECOGNOSCENDO (= PCCICOR), “Canones de Episcopis,” in Nuntia, 9 (1979), pp. 47-48.
Archbishop Mellano abolished all existing norms regarding the administration of temporal goods in the Malabar Church.

Even though the office of *kaikars* (overseers) was instituted by the Synod of Diamper, there was no determined rule for the administration of parish property. The Statutes of Mellano prescribed therefore that the *kaikars* must look after the temporal administration of the parish and they must do this in consultation with the vicar of the parish (no. 2). For sustaining the valuable property of the church, there were to be treasury rooms in each parish (no. 4).\(^{117}\) If there was any misappropriation on the part of the *kaikars* with regard to the accounts of the church, they were to be removed from the office and necessary steps taken to rectify the loss (no. 9).\(^{118}\)

The Statutes strictly prohibited alienation of the immovable property. The permission of the vicar apostolic was needed for the leasing of property.\(^{119}\) The vicar of the parish could spend up to 40 rupees with the prior consultation with the *kaikars*. For the maintenance of the works of the church, the vicar could spend up to 300 rupees with the consultation of the *palliyogam* (parish assembly). If the amount went beyond that, the vicar required written permission from the vicar apostolic. Written permission of the vicar apostolic was also required for the acquisition of property. Alms could be given

\(^{117}\) See *Statutes of the Apostolic Vicariate of Verapoly*, promulgated by Archbishop Leonard of St. Aloysius, OCD (in saeculo Joseph Antony Mellano), Manjummel/Koonammavu, [n.p.], 1879, p. 76.

\(^{118}\) See ibid., pp. 79-80. This prescription corresponds to the teaching of the Council of Trent: in c. 11 of session XXII, the Council stressed the need for faithfulness and sincerity on the part of clerics and laity in the management of Church property. If any clerics or lay persons misappropriated the goods of any church, secular or regular benefice, charitable lending house or any other pious institution, they were to be punished by an *anathema* until they restored it. In the case of clerics, they were also to be suspended from exercise of the power of orders at their bishop’s discretion, even after full repayment and absolution. See *COUNCIL OF TRENT*, session XXV, Decree on General Reform, c. 11, in *DEC*, vol. 2, pp. 791-792.

\(^{119}\) This norm corresponds to the above-mentioned c. 11 of session XXV of the Council of Trent. See *DEC*, vol. 2, pp. 791-792.
only to deserving churches and they could not exceed 20 rupees (no. 12). With regard to the Mass foundations, the Statutes prescribed that cash should not be accepted for that purpose. Instead, immovable property equal to the required amount of money was to be received, with the permission of the vicar apostolic (no. 18).

1.3.3 – The Influence of the Statutes of Mellano on the Later Legislation

Historically, the Statutes of Mellano were a turning point in the administration of ecclesiastical goods in Malabar. The codification of the diocesan statutes before the institution of the Syro-Malabar hierarchy was greatly influenced by the Statutes of Mellano. On 20 May 1887, by his brief Quod iampridem Pope Leo XIII instituted two vicariates for the Syrians of Malabar, namely Kottayam (Changanacherry) and Trichur. The Pope appointed Bishop Charles Lavigne to Kottayam and Bishop Adolf Medlycott to Trichur as vicars apostolic.

1.3.3.1 – Decisions of Bishop Medlycott Regarding Financial Administration (1869)

On 15 October 1869, Bishop Adolf Medlycott issued a circular letter (order no.

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120 See Statutes of the Apostolic Vicariate of Verapoly, pp. 81-83.

121 See ibid., pp. 83-84.

122 In the apostolic brief itself, the Pope pointed out that these two vicariates were under the governance of the Latin hierarchs. However, they had to appoint the Syrian vicars general. See Leonis XIII Pontificis Maximi Acta, vol. 7, Rome, Ex Typographia Vaticana, 1888, pp. 106-108, English translation in PALLATH, Important Roman Documents Concerning the Catholic Church in India, pp. 190-193.

123 Bishop Charles Lavigne (1840-1913), the Vicar Apostolic of Kottayam was a French Jesuit. On 13 November 1887 he received episcopal ordination at Marvejols (Lozere) as titular Bishop of Milevis and Vicar Apostolic of Kottayam. He was made Bishop of the Diocese of Trincomalee in Sri Lanka, on 27 August 1898. Bishop Adolf Medlycott (1835-1918), Vicar Apostolic of Trichur, was a priest of the Calcutta Archdiocese. He was the librarian of the Propaganda College in Rome. At the time when he was appointed Vicar Apostolic of Trichur, on 13 September 1887, he was a military chaplain at Fyzabad. He was consecrated by Archbishop Ajuti, Apostolic Delegate to the East Indies, on 11 December 1887. For more details, see TISSERANT, Eastern Christianity in India, pp. 127-134.
922) regarding the duties of the priests of his vicariate. The important points of the circular letter were: 1) a reformed annual church account system (*terattu*) was to be used in the parishes; 2) the Mass foundations were to be submitted by the vicars to the bishop; 3) the priests were allowed to keep the Mass stipends that could be satisfied within two months and the excess stipends were to be sent to the bishop for distribution; 4) Mass wine marketed by the bazaar should not be used; 5) parishes were to send a copy of the annual account (*terattu*) to the Vicar Apostolic of Trichur, and 6) parishes were to submit the annual account before the principal feast of the parish and include in it the list of arrears and of inventory of the church articles.

Some similarities can be noticed in the Statutes of Archbishop Mellano and Bishop Medlycott. They are the following: 1) regarding the treasury key, Bishop Medlycott followed the prescription of the decrees of Archbishop Mellano and ordered that one of the keys of the treasury was to be kept by the vicar; 2) if a parish wanted to take a loan for more than Rs 100, the vicar and *kaikars* were to obtain prior permission from the Vicar Apostolic of Trichur. Bishop Medlycott ordered that the vicar of the every parish must have a copy of the decrees of Archbishop Mellano.

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124 See A. MEDLYCOTT, Circular letter to the clergy of Trichur Vicariate, 15 October 1869, in Curial Archives, Archeparchy of Trichur. We are grateful to Rev. Raphael Akkamattom, the Chancellor of the Archeparchial Curia, of Trichur for providing this document for our study. Since Trichur vicarite had no statute for the administration at the diocesan level at the time of the issuing of the pastoral letter of Bishop Medlycott (1869), thus this section mainly concerns on the pastoral letter without taking into account of diocesan or parish levels of administration.

125 For the corresponding norm given by Archbishop Mellano, see Statutes of the Apostolic Vicariate of Verapoly, p. 76.

126 For the evaluation of the extent of executive power of Bishop Medlycott, see THAZHATH, The Juridical Sources of the Syro-Malabar Church, pp. 242-245; KOODAPUZHA, Bharathasabha charithram, pp. 507-508; TISSERANT, Eastern Christianity, pp. 131-134.
1.3.3.2 – Bishop Charles Lavigne and Changanacherry Synod (1888)

A synod was convened\(^{127}\) and took place on 18-20 December, 1888 at the cathedral church of Changanacherry, under the chairmanship of Bishop Charles Lavigne, with more than one hundred priests participating. Altogether, nine decisions were made by the synod. Among the nine, the last one concerned the administration of the vicariate. For the general administration of the churches, councils consisting of six priests (presbyters) and six laymen were to be elected. Institution of these councils was a novelty in the Malabar Church as its ancient way of administration was based on the yogam. Bishop Lavigne asked all the parishes of the vicariate to give a contribution to meet the expenses of the vicariate.\(^{128}\)

1.3.3.3 – The Book of Decrees of Mar Mathew Makil (1904)

Mar Mathew Makil was appointed the second vicar apostolic of Changanacherry (1896-1911).\(^{129}\) On 21 September 1903, Mar Makil promulgated for the Vicariate of Changanacherry The Book of Decrees Containing Laws and Regulations on Many

\footnote{127}{The only, secondary source to this synod is called Nalaganam (Diary) and was reprinted in 1972. The author, Palakunnel Mathai Mariam Cathanar (Fr. Mathew Palakunnel) was a true lover of the Church and fought against colonization. See P.J. SEBASTIAN (ed.), Palakunnel valiachante nalagam (1831-1900), Changanacherry, [n.p.], 1972, pp. 289-293.}

\footnote{128}{For more on the annual contribution, see KOODAPUZHA, Bharathasabha charithram, p. 509.}

\footnote{129}{Through the apostolic letter Quae rei sacrae, of 28 July 1896, Pope Leo XIII appointed indigenous apostolic vicars for the Syro-Malabar Church. The letter also constituted Ernakulam as an additional vicariate in the Syro-Malabar Church. Mar Mathew Makil was appointed Vicar Apostolic of Changanacherry, Mar John Menacherry appointed Vicar Apostolic of Trichur and Louis Pazheparampil Vicar Apostolic of Ernakulam. See Leonis XIII Pontificis Maximi Acta, vol. 16, Rome, Ex Typographia Vaticana, 1897, pp. 229-232. English translation in PALLATH, Important Roman Documents Concerning the Catholic Church in India, pp. 194-197. During the period of persecution in the Persian Empire (between 340 and 401), in 345, seventy-two Babylonian Christian families under the leadership of Thomas Kinayi immigrated to South India. In Kerala they were called “Southists.” The Southists have preserved their ethnic identity to the present time. They have separate parishes and pastors, even though there is no difference in their liturgy, theology and spiritual life with the Saint Thomas Christians. By the apostolic brief In universi of Pope Pius X, on 21 August 1911, the faithful of Southists in the territory of the vicariates of Changanacherry and Ernakulam formed the Vicariate of Kottayam with Mar Mathew Makil as the first vicar apostolic. For more details, see PALLATH, The Catholic Church in India, pp. 112-115.}
Matters like Faith, Priests, Faithful, Sacraments, Churches, Feasts, Income of Parish and of Priests etc.\textsuperscript{130} It contained 38 chapters. Chapter 18 dealt with temporal goods and chapter 19 considered the issue of the income of the Church and of the priests.

1.3.3.3.1 – Powers of the Roman Pontiff and of the Vicar Apostolic of Changanacherry Regarding Property

The \textit{Book of Decrees} reminded the faithful that the Roman Pontiff is the supreme authority in the whole Church. Under the authority of the Roman Pontiff, the diocesan bishop had the power to govern his particular church. In the introduction to the \textit{Book of Decrees}, Mar Makil reminded the bishops that they were appointed in the place of the Apostles in order to govern the faithful:\textsuperscript{131}

The bishops, appointed by the Holy Spirit for governing the true Holy Church, which is the spiritual sheepfold of Jesus Christ, are obliged to eradicate evil habits and vices, and to remove unwelcome practices that sprout up and grow among the faithful who are entrusted to their protective care. They are to be interested in the Christian exercise of good deeds and good manners by the faithful. Hence, in order to fulfill these obligations completely, many a time, the bishops are bound to introduce new rules, regulations, and laws that are suited to the times.\textsuperscript{132}

In the same manner, the bishops were to administer the ecclesiastical property. Mar Makil prescribed:

\textsuperscript{130} M. \textit{Makil}, \textit{Changanasseri vikariatile pallibharanathintei viswasam, vaidikar, viswasikal, kudasakal, devalayangal, perunnal, pallikkum pattakarkumulla varumanangal muthalayi mattrum, pala sangathikal, sambandiccunna, niyamangalum kalpanakalum adakkikollunna Dekrettu Pusthakam (= \textit{Book of Decrees}), Mannanam, St. Joseph Press, 1904. The letter of the promulgation shows the sources of the legislation: the pastoral letter of Bishop Mellano of 1871, the Statutes of Archbishop Mellano of 1879 and his other decrees, the regulations published in 1891 by Bishop Charles Lavigne, Vicar Apostolic of Kottayam and his pastoral letter of 1891. When the Statutes of Makil are compared to those of Mellano, it is evident that Makil had adapted many of the regulations of the Statutes of Archbishop Mellano. Cf. M.J. MOOLAKATTU, \textit{The Book of Decrees of Mar Mathew Makil: Historico - Juridical Study}, JCD dis., Rome, Pontifical Oriental Institute, 1992, p. 10. See also THAZHATHI, \textit{The Juridical Sources of the Syro-Malabar Church}, p. 251.

\textsuperscript{131} See \textit{Makil}, \textit{Book of Decrees}, p. 127. For the Eastern vocabulary see foot note 157 of this chapter. Since motu proprio \textit{Post quam apostolicis litteris} (1952) introduced “eparchy,” to denote a diocese, and the \textit{Book of Decrees} (1904) promulgated before that motu proprio. Thus, in the \textit{Book of Decrees} it is used the vocabulary “diocese” instead of eparchy.

According to the holy canons, the supervision, care and administration of the ecclesiastical properties in each vicariate and eparchy is entrusted to the bishops who have received authority from the Holy See to govern those vicariates and eparchies. By the very power of their office, subject to the Roman Pontiff, they are appointed in the place of the apostles by the Holy Spirit in order to govern the inexhaustibly valuable souls of the people entrusted to them. In the same manner, they are appointed to administer the ecclesiastical properties also.\textsuperscript{133}

A similar norm is offered in c. 8 of session XXI, Decree on Reform, of the Council of Trent which admonishes the bishop to watch everything that concerns the worship of God and, where necessary, supply for any deficiencies.\textsuperscript{134}

Other important norms in the \textit{Book of Decrees} concerning the bishop’s financial administration are the following: 1) five percent of the income of each parish\textsuperscript{135} was to be given to the bishop as the \textit{cathedraticum};\textsuperscript{136} 2) every fourth year, the list of the movable and immovable property of the church was to be sent to the bishop;\textsuperscript{137} 3) the annual accounts of the parishes and other property were to be submitted to the vicar apostolic;\textsuperscript{138} 4) before the execution of the sale, of the mortgage, of the donation of immovable goods and movable goods, the vicar apostolic’s consent was required;\textsuperscript{139} 5)

\begin{itemize}
\item \textsuperscript{133} Ibid., English translation in \textit{Moolakattu, The Book of Decrees of Mar Mathew Makil}, p. 56.
\item \textsuperscript{134} See \textit{COUNCIL OF TRENT}, session XXI, Decree on Reform, c. 8, in \textit{DEC}, vol. 2, p. 731.
\item \textsuperscript{135} \textit{Book of Decrees}, no. 19, section 1, spoke of the income of the church (parish) and the priests. A percentage of the amount of the dowry was to be given to the church and considered as a contribution to the church. For the administration of the sacraments and sacramentals and certain liturgical and para-liturgical ceremonies, special fees were prescribed and destined for the needs of the church. Section 2 spoke of the income of priests drawn from the parish. See \textit{MAKIL, Book of Decrees}, pp. 140-147.
\item \textsuperscript{136} See ibid., pp. 130-131.
\item \textsuperscript{137} See ibid., pp. 140-147.
\item \textsuperscript{138} See ibid., pp. 127-128. The Council of Trent also prescribed that both ecclesiastical and lay administrators are bound to give an account of their administration annually to the bishop of the diocese. See \textit{COUNCIL OF TRENT}, session XXII, Decree on Reform, c. 9, in \textit{DEC}, vol. 2, p. 740.
\item \textsuperscript{139} See \textit{MAKIL, Book of Decrees}, pp. 134-135.
\end{itemize}
written consent was essential for the expenses which exceed a certain limit;\footnote{For the maintenance and renovations of churches, the vicar could spend Rs 300 with the permission of the church assembly. If he went beyond that amount, the vicar needed the vicar apostolic’s consent. The church could give alms of up to Rs 20 to other churches that were in need of money and also to similar institutions of the Church. If the donation exceeded Rs 20, the vicar required a written permission from the vicar apostolic. See ibid., p. 134.} 6) written consent of the vicar apostolic was needed in the case of almsgiving which exceeded the prescribed limit, as also for giving aid to other churches and institutions;\footnote{See ibid., pp. 134-135.} 7) reception of the deposit for the Mass foundations was to be done with the consent of the vicar apostolic;\footnote{See, ibid., pp. 137-138. The corresponding norm can be found in the Statutes of Mellano. See Statutes of the Apostolic Vicariate of Verapoly, pp. 83-84.} and 8) in order to appear before the civil court on behalf of the parish, the vicar had to obtain prior permission from the vicar apostolic.\footnote{See \textit{MAKIL}, \textit{Book of Decrees}, p. 139.}

The list of the bishop’s prerogatives shows clearly the directions in the organization of the financial administration of parishes, namely an attempt to control more closely the financial administration of parishes and to avoid financial losses, and to provide sustenance for the bishop (the \textit{cathedraticum}). One can also argue that similar logic appears in the precautions which are operative in the present day financial administration of the Syro-Malabar Church.

\textbf{1.3.3.3.2 – Administration of Temporal Goods of Parishes According to the \textit{Book of Decrees}}

The prescriptions of the \textit{Book of Decrees} on the yogam and kaikars were identical to the Statutes of Mellano. The responsibility of the vicar of the parish towards the yogam (which was the administrative body at the parish level) is described in the \textit{Book of Decrees} of Makil as follows:
The vicar is responsible for convening yogam and presides over it. Any yogam convened without the permission and not being presided over by the vicar will be invalid itself and any decisions made in such a meeting are not binding and cannot be executed. Decisions made in a properly convened yogam will be considered and must be recorded in the minute-book. However, decisions which require the approval of the diocesan bishop will be invalid until they receive consent from the bishop. ⚠️

According to decree no. 18 of the Book of Decrees, fifteen days before the annual feast of the parish, the yogam had to be convened.

On the qualification of the kaikars, the Book of Decrees stated: “Those who have not fulfilled the obligation of annual confession, those in ecclesiastical interdict, those who have to pay arrears to the parish, those who have been punished for perjury, public drunkards, and those of bad conduct should not be elected as kaikars.” 145 Regarding the authority of the kaikars in the assembly, Makil stated that they were to act according to the norms of law, subject to the decrees and decisions of the vicar apostolic of Changanacherry. 146 Moreover, the Book of Decrees insisted that kaikars: “the lay administrators [kaikars] of the property of parishes and other ecclesiastical institutions were considered only consultors and assistants to the vicar and other priests who were the actual administrators.” 147

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144 Ibid., p. 36 (translation is mine).
146 Palliyogam was to determine the number of the kaikars according to the size of the parish (however, no less than two) and elect them. In a filial church there could have been just one kaikar. Once the election of the kaikars was accomplished, the names were to be sent to the bishop, for his approval. If the bishop found the elects unsuitable, substitutions were to be made. See MAKIL, Book of Decrees, pp. 127-140.
147 V. CHITILAPPILLY, “Particular Laws in Temporal Administration,” in F. ELUVATHINGAL (ed.), Syro-Malabar Church since the Eastern Code: An Evaluation and Future Prospects, Particular Laws, Statutes, Decrees, Bibliography, Trichur, Marymatha Publications, 2003, p. 240. According to George Nedungatt, “Both priests and lay people have a share in the administration of the temporalities of the Church, subject to the holy canons. Canonically, there is a difference between priests and lay people as administrators. Makil calls the former ‘real administrators’ and the latter ‘co-administrators’” (NEDUNGATT, Laity and Church Temporalities, p. 293).
Each year was to be divided into periods and one of the *kaikars* together with the vicar was responsible for the temporal administration of the parish in each period. It was apparent that the *kaikars* were assisting the vicar in the administration of ecclesiastical goods of the parish.

The *yogam* had to approve the accounts of the parish. Along with the annual account of the parish, the vicar of the parish was obliged to submit a written report to the vicar apostolic of Changanacherry regarding the observance of the *Book of Decrees* in the parish. The submission of an annual account was a novelty in the *Book of Decrees*. Later, in various statutes of the Syro-Malabar Church, eparchial bishops demanded that the financial report be audited by two lay persons elected by the *yogam*. The vicar had to maintain a list of the Mass foundations which had to be presented to the bishop together with the annual account of the parish. The vicar had also to ensure that the accounts of the parishes kept by the *kaikars* were in order. The *kaikars* were also asked to prepare a list of documents regarding land, lease and deeds. The losses incurred by the church because of the carelessness of the *kaikars* were to be rectified by them.

The *Book of Decrees* enjoyed a remarkable status in the history of the Syro-Malabar Church, because the *Book of Decrees* was the beginning of a long process for the establishment of a fully updated order of the particular law of the Syro-Malabar Church.  

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151 See ibid., p. 140.

152 See ibid., p. 140.
Major archiepiscopal Church *sui iuris*. In this regard, Jose Kuriadath points to the importance of the Statutes of Mellano and of the *Book of Decrees* for the future development of the particular legislation: “The rules of Mellano and Makil have served as the basis for all subsequent diocesan statutes [...]” Moreover, the *Book of Decrees* is to be appreciated as the first collection of canons formulated by an indigenous bishop of the Malabar Church. The *Book of Decrees* was in force in the Archeparchy of Changanacherry until 19 March 1959.

1.4 – **EPARCHIAL FINANCE OFFICER ACCORDING TO THE MOTU PROPRIO POSTQUAM APOSTOLICIS LITTERIS (1952)**

The promulgation of the motu proprio *PA* played a significant role in the administration of eparchies. The Syro-Malabar Church was directly under the authority of the Roman Pontiff at the time of the promulgation of *PA*. This Church *sui iuris* was neither a major archiepiscopal nor a metropolitan Church. Each eparchy had its own statutes and its administrative bodies. Through the promulgation of *PA*, the Syro-Malabar Church received a veritable tool for the administration of temporal goods. One can note, however, that, except for the canons of *PA* concerning the finance officer of...

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155 Motu proprio *Postquam apostolicis litteris* and the later Eastern laws introduce the Eastern vocabulary for the following terms which are essential for our study: eparchy (diocese), hierarch (ordinary), and protosyncellus/syncellus (vicar general/episcopal vicar). Since available English translations of the Eastern laws employ the term “bishop” instead of “eparch,” we conform to that style.

156 In Greek the name οίκονόμος (*oikonomos*) means “one who manages a household” or “a house-steward.” The meaning of the term “finance officer” does not correspond fully to the meaning of the word *oikonomos*. In fact, *oikonomos* is more than finance officer. In the Church of Constantinople, there were nine *oikonomoi* who served under Justinian I. “Of the nine, it was presumably the head of the ‘home office’ (*enoikion skrinion*) who evolved into the single patriarchal *oikonomos* of the 9th century and later” (A.P. KAZHDAN [gen. ed.], *The Oxford Dictionary of Byzantium*, vol. 3, New York, Oxford University Press, 1991, p. 1517). See also NEDUNGATT, *Laity and Church Temporalities*, pp. 236-237. The English translations of *Postquam apostolicis litteris* and *Cleri sanctitati* have used the term
the patriarchal and major archiepiscopal Churches, the other canons on the administration and alienation of temporal goods seemed to be similar to those of CIC/17.

For the administration of ecclesiastical goods owned by the eparchy, the hierarch\textsuperscript{157} was to establish an office that consisted of the eparchial finance officer, an accountant and his assistants (PA, c. 262).\textsuperscript{158} The eparchial finance officer had to have the same qualities as those required of the patriarchal finance officer (PA, c. 262 §2, 1º). The patriarchal finance officer was to be a devout cleric (\textit{clericus fidelis}), either priest or deacon, diligent and honest in his way of life, committed to his duties and an expert in the administration of temporal goods. He could not be related the patriarch/eparchial bishop up to the fourth degree of consanguinity or affinity, inclusive.\textsuperscript{159} PA gave additional provisions that, if necessary, the eparchial finance officer could have one or more associates or aides, and they could be chosen among lay persons (PA, c. 262 §2, 2º). The eparchial finance officer had to take an oath of office before the eparchial bishop (PA, c. 263 §5).\textsuperscript{160}

\textquotedblleft oeconome\textquotedblright to denote the finance officer. In the Syro-Malabar Church the word “finance officer” is widely used in all the eparchies.

\textsuperscript{157} To denote the eparchial bishop and the major archbishop (patriarch), PA used the term “hierarch.” Cf. footnote 155.

\textsuperscript{158} A comparative analysis of canons of PA and CS on the office of the eparchial finance officer and his responsibilities was provided by M.M. WOJNAR, “The Code of Oriental Canon Law \textit{De ritibus Orientalibus and de personis},” in \textit{The Jurist}, 19 (1959), p. 451. In CIC/17, there was no provision for the establishment of the office of the finance officer by the ordinary. The ordinary was to establish a board of administration consisting of himself as president and two or more capable men who were expert in both canon law and civil law. Prior to the appointment of the board of administration, the ordinary was required to consult with the college of consultors or the cathedral chapter of canons (CIC/17, c. 1520 §1).

\textsuperscript{159} “The function of patriarchal finance officer is to be entrusted to a cleric who is faithful, diligent, of proven life, and expert in the administration of temporal goods, excluding those who are related to the patriarch up to the fourth grade inclusive of consanguinity or affinity” (PA, c. 259 §2, 2º).

\textsuperscript{160} PA, c. 267 had a parallel norm in CIC/17, c. 1522. According to Joseph J. Comyns it was fitting to demand an oath from each member of the diocesan board of administration as a guarantee that he would fulfill his duty properly. See J.J. COMYNS, \textit{Papal and Episcopal Administration of Church Property}, JCD diss., Washington, DC, Catholic University of America, 1942, p. 120.
It was the first time that the office of the eparchial finance officer was considered part of the eparchial curia in the Eastern Catholic Churches. On the one hand, it seems that the reasons for introducing such an office into the ecclesiastical structures of Eastern Churches can be declared similar to those which dictated the introduction of this office in the Latin Church as the canonical discipline in this regard emulated of that of the CIC/17. On the other hand, the dependence of the new legislation concerning the organization of the financial administration in an eparchy drew attention to the necessity of creating legislation for the Eastern Churches firmly founded on the Eastern tradition.

Due to the complexity of the task, the eparchial finance officer, especially in modern times when the financial management requires expert knowledge and practical experience, it is perfectly understandable that the new legislation provided the finance officer with an appropriate vehicle for consultation and safeguard. In accordance with PA, c. 263 §1, the eparchial bishop had to constitute an administrative council whose members were to be experts in administration, and were required to help him in the management of important financial affairs. The canon stated:

In his episcopal city the hierarch is to constitute a council, which consists of a president who is the hierarch himself, and of two or more suitable men, experts if possible in civil law also. They are to be elected by the hierarch himself, having heard the eparchial consultants unless some other equivalent but legitimate manner was provided already by particular law or custom, always ensured by law that those elected by others need to be confirmed by the local hierarch.\footnote{161}{The “eparchial administrative council” was similar to the “diocesan board of administration” as stated in CIC/17, c. 1520 §1. The term “eparchial administrative council” was used in the eparchies of the Syro-Malabar Church before the promulgation of CCEO. George Nedungatt employs the term “finance council.” See NEDUNGATT, Laity and Church Temporalities, p. 242.}

\footnote{162}{“In sua civitate episcopali Hierarcha consilium instituat, quod constet Praeside, qui est ipsum Hierarcha, et duobus vel pluribus viris idoneis, iuris etiam civilis, quantum fieri potest, peritis, ab ipso Hierarcha, auditis consultoribus eparchialibus, eligendis, nisi iure vel consuetudine particuliari iam allo aequivalenti modo legitime fuerit provisum, firma semper lege, ut ab aliis electi indigente confirmation loci Hierarchae” (PA, c. 263 §1, translation by Msgr. Kuriakose Parampath).}
The legislation provided ample space for the participation of the lay-faithful in the delicate task of financial administration of an eparchy: members of the eparchial administrative council could be either clerics or lay people or both.\footnote{According to C.J. Ritty, careful selection of laymen would assure qualified people to assist the ecclesiastical authority in the administration of the material goods of the Church. See C.J. RITTY, “Changing Economy and the New Code of Canon Law,” in \textit{The Jurist}, 26 (1966), p. 483.} \textit{PA}, c. 263 §2 stipulated that the members of the eparchial administrative council could not be related to the eparchial bishop both by consanguinity or affinity including the fourth degree. By the law itself the eparchial finance officer was a member of the eparchial administrative council (\textit{PA}, c. 263 §3). The extent of competency of the eparchial administrative council was stated in \textit{PA}, c. 263 §4: “In the more important administrative acts the local hierarch is not to fail to hear the administrative council, whose members, however, have only consultative vote, unless their consent is required by common law in cases specifically expressed or in the documents creating it [the administrative council].”\footnote{“Loci Hierarcha in administrativis actibus maioris momenti consilium administrationis audire ne praetermittat; huius tamen sodales suffragium habent tantum consultivum, nisi iure communi in casibus specialiter expressis vel ex tabulis fundationis eorum consensus exigatur” (\textit{PA}, c. 263 §4), translation is done by Msgr. Kuriakose Parampath.}

While \textit{PA} stated that the Roman Pontiff is the supreme administrator and steward of ecclesiastical goods (\textit{PA}, c. 257), the eparchial bishop had the right and duty of vigilance over the administration of all ecclesiastical goods in his territory that had not been withdrawn from his jurisdiction.\footnote{Stanislaus Woywod commented on the corresponding norm of \textit{CIC}/17, c. 1521 §2 that, if laymen participate in the administration of ecclesiastical goods, either by legitimate title of the foundation or election or by the will of the ordinary, the administration must be conducted in the name of the Church. See Commentary on c. 1521, in S. WOYWOD, \textit{A Practical Commentary on the Code of Canon Law}, new rev. ed., vol. 2, New York, Joseph F. Wagner, 1948, p. 204.} Legitimate prescriptions granting the eparchial bishop greater rights remained in full force (\textit{PA}, c. 261 §1). The eparchial bishop had to promulgate statutes and issue timely instructions for the regulation of the
entire matter of the administration of ecclesiastical goods within his territory (PA, c. 261 §2). This was to be done according to common law taking into consideration the rights of persons and legitimate customs and circumstances at that time. According to PA, c. 262, §§ 3 and 4, the finance officer was to administer ecclesiastical goods under the authority of the eparchial bishop:

§3. It is the task of the finance officer under the authority of the (eparchial) bishop to administer the goods of the eparchy, to supervise the administration of ecclesiastical goods in the entire eparchy, to make provision for its preservation, protection and increase, to supply for the neglect of local administrators, and to administer in person whatever property lacks an administrator designated by law.

§4. The finance officer must render an annual account of his administration to the eparchial bishop, and whenever else it is requested from him. The (eparchial) bishop, assisted by at least one consultor, shall examine the accounts submitted by the finance officer [...].

The issue of accountability was further addressed in the norm that required that the eparchial finance officer keep an accurate and detailed inventory of ecclesiastical goods. Before taking possession of the office, he had to check the previous inventory (PA, c. 267 §1, 1º). One copy of the inventory was to be kept in the archives of the administration and another in the eparchial curia (PA, c. 267 §1, 3º).

The eparchial finance officer was to be vigilant so that property would neither be harmed nor lost (PA, c. 269, 1º). He was to observe the regulations of canon law and civil law, as well as regulations imposed by the founder or donor, or by any legitimate

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166 “§3. Oeconomi est, sub Episcopi potestate, bona eparchiae administrare, honorum ecclesiasticorum administrationi in tota eparchia invigilare, eorum conservationi, tutelae et incremento providere, administratorum localium negligentiam supplere et bona quae administratore, qui iure designatus sit, carent, per se administrare. §4. Oeconomus rationem administrationis Episcopo; quotannis et quoties ab ipso petitur reddere debet. Episcopus, adscito uno saltam consultore eparchiali, rationes ab oecono no exhibitas examinat […]” (PA, c. 262, §§ 3 and 4, translation by Msgr. Kuriakose Parampath).

167 Cf. CIC/17, c. 1522.

168 Similarly, the corresponding canon in CIC/17 stated that the administrators of the diocesan board of administration must fulfill their office with the solicitude of a good father of a family. See WOYWOD, Commentary on c. 1523, in A Practical Commentary on the Code of Canon Law, vol. 2, p. 205.
authority (*PA*, c. 269, 2º).\(^{169}\) Regarding the acts of extraordinary administration, the eparchial finance officer proceeded invalidly if he did not have the consent of the eparchial bishop when the acts exceeded the limits of ordinary administration (*PA*, c. 276 §1). The Church was not responsible for any invalid acts of its administrators (*PA*, c. 276 §2). The finance officer was obliged to make restitution (*PA*, c. 277) if he caused harm of his own accord and written consent of the eparchial bishop was required before entering into litigations (*PA*, c. 275).\(^{170}\)

The finance officer was to collect revenue and income from temporal goods diligently and in a timely manner, to manage them according to the intention of the donor or founder or the existing laws and regulations (*PA*, c. 269, 3º).\(^{171}\) With the consent of the eparchial bishop, he was to deposit money left over after all expenses were paid (*PA*, c. 269, 5º).

The eparchial finance officer was bound to give an annual account to the eparchial bishop (*PA*, c. 273 §1), to keep the archives in good order, and preserve all documents referring to ecclesiastical goods in a secure safe. Authentic copies were to be kept in either the archives or the safe of the eparchial curia (*PA*, c. 269, 6º).\(^{172}\)

While the question of the influence of the particular norms of *PA* on the norms of *CCEO* concerning the office of finance officer of the Syro-Malabar Major Archiepiscopal Church will be addressed in greater detail later in the thesis, this presentation offers on

\(^{169}\) The corresponding norm in *CIC/17* is c. 1523, 2º.

\(^{170}\) The corresponding Latin norm of *CIC/17*, c. 1526 stated that the administrators shall not start a lawsuit unless they have first obtained the consent of the local ordinary in writing. See WOYWOD, Commentary on c. 1526, in *A Practical Commentary on the Code of Canon Law*, vol. 2, p. 206.

\(^{171}\) *CIC/17* counterpart is c. 1523, 3º.

\(^{172}\) The corresponding norm of *CIC/17*, c. 1523, 6º also prescribed on the protection of legal documents.
overview of the canonical figure of the eparchial finance officer before the codification of the Eastern canonical discipline and prepares the ground work for further canonical analyses in Chapter II of the dissertation.

1.5 – THE OFFICE OF THE EPARCHIAL FINANCE OFFICER ACCORDING TO THE MOTU PROPRIO CLERI SANCTITATI (1957)

On 2 June 1957, Pope Pius XII promulgated Cleri sanctitati,\textsuperscript{173} a motu proprio on the Eastern rites and persons. The document mandated that for the administration of ecclesiastical property owned by the eparchy itself, certain offices were to be established in the curia, namely that of the finance officer (in accordance with CS, c. 429 §2), of the accountant, and others:\textsuperscript{174}

To the curia belong therefore: the synzellus, the econome, the accountant, the vicar judicial, the chancellor, the promoter of justice, the defender of the bond, the eparchial judges and examiners, the pastor consultants, the auditors, the notaries, the bailiffs and constables.\textsuperscript{175}

For the Syro-Malabar Church the introduction of the eparchial curia was a novelty. Formerly, different types of assemblies participated in the power of governance of the eparchial bishop, with the yogam having considerable power.


\textsuperscript{175} “Quare ad eam pertinent: Synzellus, oeconomus, ratificatur, vicarius iudicialis, cancellarius, promotor iustitiae, defensor vinculi, eparchiales iudices et examinatores, parochi consultores, auditores, notarii, cursores et apparitores” (CS, c. 429 §2). In the 18th century, the Russian and Austrian governments had imposed on the churches of their respective countries the requirement of having a consistory, composed also of laymen, assisting the bishops in their task of governance. According to Pospishil, that system might have influenced the formulation of CS, cc. 429-431. See POSPHIL, The Law on Persons, pp. 185-186.
1.5.1 – Functions of the Eparchial Finance Officer

*CS*, c. 438 §2, 1º stated that the required qualities of the eparchial finance officer were the same as that of the patriarchal finance officer (*CS*, c. 299 §2, 2º): “The office of the patriarchal finance officer shall be committed to a trustworthy, diligent cleric of proven virtue and an expert in the management of temporal goods; it cannot validly be conferred on persons who are related to the patriarch by consanguinity or affinity up to the fourth degree inclusive.”\(^{176}\) The qualities of the patriarchal finance officer described here are the same as those stipulated in *PA*, c. 259 §2, 2º. *CS* contains provisions for the finance officer to have the assistance of others, including lay people (*CS*, c. 438 §2, 2º). The lay participation in the administration of the temporal goods is therefore respected by the legislation.

The duties of the finance officer were stated in *CS*, c. 438 §3.\(^{177}\) He was to administer temporal goods for the entire eparchy,\(^{178}\) to make provisions for the preservation, protection and increase of temporal property, to compensate for the negligence of the local administrators, and to administer property that lacked an administrator.

The finance officer was to exercise his prerogatives under the authority of the eparchial bishop (*PA*, c. 438 §3). Consequently, *PA*, c. 438 §4 provided for rendering of

\(^{176}\) “Oeconomi patriarchalis munus clerico fidelci, diligenti, probatae vitae atque in administrandis bonis temporalibus experto committatur; iis aitem qui cum Patriarcha consanguinitate vel affinitate usque ad quartum gradum inclusive coniuncti sint valide conferi non potest” (*CS*, c. 299 §2, 2º).

\(^{177}\) The corresponding norm in *PA* is c. 262 §§3 and 4.

\(^{178}\) “The existence of the office of an eparchial *econome* means that the bishop is not entitled to act as immediate administrator of the diocesan property. Although everything has to be managed according to the instructions of the bishop, who has the right and duty to control, inspect and supervise the temporal administration, it is the right and duty of the eparchial *econome* to be in direct charge of the administration” (POSPISHIL, *The Law on Persons*, p. 192).
an annual account to the eparchial bishop. Also, whenever requested by the eparchial bishop, the finance officer was to give a report to be examined by the eparchial bishop with the assistance of at least one consultor. The eparchial bishop had also the right to check the cash on hand and conduct inspections of the property, documents, and securities, without prior notice (CS, c. 438 §4).

In Victor J. Pospishil’s view, the norm of CS on the eparchial finance officer was a return to the Eastern tradition that the bishop, as the head of the eparchy, could be relieved “in agreement with or against his personal inclinations, from the temporal management.”179 Thus the eparchial bishop could devote his efforts on other pastoral activities.

1.5.2 –The Finance Officer and the Eparchial Consultors

According to Pospishil, the institution of the chapters of canons developed in the Eastern Catholic Churches due to Latin influence. A new system of the eparchial consultors originated with the promulgation of the CS.180

CS, 458 §1, 1º stated: “In all eparchies, even in those which are a part of a patriarchate, eparchial consultors shall be appointed by the [eparchial] bishop taking into consideration c. 460, who shall be priests recommended by piety, personality, learning and prudence, and who are to aid the bishop in the government of the eparchy by advice and assistance.”181 In accordance with CS, c. 459 §1 the eparchial bishop was obliged to

179 Ibid.


181 “In omnibus eparchiis, etiam in patriarchatibus constitutis, nominentur ab Episcopo, firmo can. 460, consultores eparchiales qui sint presbyteri pietate, moribus, doctrina ac prudentia commendati, quique Episcopum consilio et auxilio aduient in regenda eparchia” (CS, c. 458 §1, 1º).
request the consent or advice of the eparchial consultors according to the regulations of
the canons.

CS, c. 460 determined that the *ex officio* members were the eparchial finance
officer and the first priest of the cathedral church.\(^{182}\) The other members were appointed
by the eparchial bishop. Regarding the number of the eparchial consultors, CS fixed six
consultors as the minimum number (c. 461 §1). However, in the eparchies with few
priests, four consultors were sufficient. CS, c. 458 §2 stated that in a patriarchal Church,
with the permission from the patriarch,\(^{183}\) members from other religious institutes could
be admitted to that office.

According to CS, c. 462 §1, the term of office of the eparchial consultors was ten
years; the eparchial bishop could either appoint others in their place after completing
their term or reappoint the same ones for another term of ten years (CS, c. 462 §2).\(^{184}\) If
a consultor resigned from his office, the bishop, after hearing from the remaining
consultors (unless he deemed otherwise) could appoint another consultor to fill the post
until the end of the ten year term (CS, c. 462 §3).\(^{185}\) According to CS, c. 462 §4, in the

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\(^{182}\) The first priest of the cathedral church could be its rector, or pastor, or the first dignitary of the
cathedral chapter, or a priest with some other title. See Pospishil, The Law on Persons, p. 198. In the
Syro-Malabar Church the pastor of the cathedral church was called “vicar of the cathedral church.” As to
the role of the syncellus, Pospishil states: “the *syncellus* is an alter ego of the bishop; as such he
participates in the sessions and work of the consultors, but his vote does not count whenever a majority of
the votes of the consultors is required. He is therefore not mentioned as an official member of the board of
consultors” (Ibid., p. 199).

\(^{183}\) During the promulgation of the CS, the Syro-Malabar Church was directly subject to the
authority of Roman Pontiff. It was not a patriarchal, a major archiepiscopal, nor a metropolitan Church.
For the appointment of a religious to the office of eparchial consultor in the Syro-Malabar Church it was
necessary to obtain the permission from the Roman Pontiff.

\(^{184}\) *CIC/17* differed substantially from CS with regard to the term of office of the consultors:
according to c. 426, the diocesan consultors in the Latin Church were appointed for a three year term. See

\(^{185}\) According to Pospishil, “it is the intention of the legislator that the consultors be appointed in
a joint act of the bishop, and that the decennia thereby be established in a fixed and predetermined
case of the expiration of the term of an eparchial consultor during the vacancy of the eparchial see, the consultor remained in office until the new eparchial bishop attended to the issue within six months after having taken possession of the eparchy. During the vacancy of the eparchial see, in the case of death or resignation of a consultor, the administrator of the eparchy could, with the consent of the remaining consultors, appoint another consultor in his place. The newly appointed consultor needed to be confirmed by the new eparchial bishop, in order to continue in office (CS, c. 462 §5).

It is worthwhile that the eparchial finance officer and the eparchial consultors had special obligations with regard to the support of elderly priests in the eparchy. CS, c. 59 §1 stated that the eparchial bishop must establish in his eparchy a special fund for the aged priests. Each eparchial consultor had to contribute to the establishment and increase of this fund (CS, c. 59 §2). In the Syro-Malabar Church, in accordance with the spirit of the above canon, each eparchy had priests’ welfare associations.

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186 “Si forte decennium excidat vacante sede episcopali, consultores in officio maneant usque ad accessum novi Episcopi, qui intra sex menses ab inita eparchiae administratione providere debet ad normam huius canonis” (CS, c. 462 §4).


188 Apart from the eparchial consultors the following were obliged to contribute to this fund: the eparchial bishop’s endowment or episcopal mensa, parishes and quasi-parishes, pastors, and if the eparchial statutes stated so, all other clergy ascribed to the eparchy. See POSPISHIL, The Law on Persons, p. 64.

189 The priests’ welfare association in the Archeparchy of Changanacherry is distinct from the archeparchial curia. However, according to the statutes of the association, the archbishop is its patron and has the power to promulgate the statutes. For a detailed study, see Archeparchy of Changanacherry Priests Welfare Scheme Rules and Regulations, promulgated by Mar Antony Padiyara, Changanacherry, St. Joseph’s Orphanage Press, 1981, pp. 1-7.
1.5.3 – Role of the Eparchial Finance Officer during the Vacancy of the Eparchial See

As we have mentioned earlier, the Syro-Malabar Church was directly under the authority of the Roman Pontiff during the promulgation of CS. Therefore, with regard to the election of the eparchial administrator, the Syro-Malabar Church had to follow the norms on the eparchies situated outside the patriarchate.\textsuperscript{190}

Within eight days after having received notice of the vacancy of the eparchy, the eparchial consultors were to elect an eparchial administrator by an absolute majority of votes (CS, c. 471 §1). The finance officer of the vacant eparchy could not be designated as eparchial administrator at the same time (CS, c. 471 §2).\textsuperscript{191} The finance officer was to discharge his duties under the authority of the administrator of the eparchy. Additionally, to the duties of the finance officer belonged “[…] the administration of the property which because of the vacancy of the [eparchial] see has been left without an administrator, unless the patriarch or the board of eparchial consultors makes another provision.”\textsuperscript{192} Only the Apostolic See or in a patriarchal Church, the patriarch could remove the finance officer from office during the vacancy of the eparchy (CS, 481 §2).\textsuperscript{193}

\textsuperscript{190} Cf. CS, c. 469.


\textsuperscript{192} “Ad ipsum oeconomum devolvitur administratio eorum bonorum quae, ob sedis vacationem, administratorem non habent, nisi Patriarcha aut coetus consultorum eparchialium aliter providerint” (CS, c. 481 §1, 2').

The finance officer was obliged to render an account to the new eparchial bishop (CS, c. 481 §5). In that report, the finance officer was obliged to pronounce on the exercise of his office and the fulfillment of his obligations (CS, c. 482 §1). Moreover, the finance officer had to produce for the new bishop all records pertaining to his office (CS, c. 482 §2).

1.6 – Eparchial/Dioecesan Legislation of the Syro-Malabar Church on Temporal Goods

The hierarchy of the Syro-Malabar Church was established on 21 December 1923 through the apostolic constitution Romani Pontifices of Pope Pius XI. By this act, the Holy Father established Ernakulam, in Kerala, as the ecclesiastical province of the Syro-Malabar rite. In the above-mentioned apostolic constitution, the Pope underlined the motives for granting a stable hierarchy: able administration of indigenous prelates, singular devotion of the Syro-Malabar Christian faithful towards the Blessed Virgin Mary as well as a deep reverence for the clergy, bishops and the Apostolic See. On 10 January 1959, through the apostolic constitution Regnum caelorum, Pope John XXIII elevated the Eparchy of Changanacherry to the status of an archeparchy.

1.6.1 – Diocesan Statutes of Trichur (1946)

Mar George Alappatt promulgated the Diocesan Statutes of Trichur on 8

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195 See PALLATH, Important Roman Documents Concerning the Catholic Church in India, p. 213.


197 While PA and CS used the term “eparchy,” the term “diocese” was widely used in the Syro-Malabar Church, even after the promulgation of PA and CS. For that reason particular legislation enacted before the promulgation of the four motu proprios for the Eastern Catholic Churches (the Statutes of Trichur were promulgated in 1946) used the expression “diocesan statutes.”
December 1946, under the title *Trichur rupatha niyamavaly*.¹⁹⁸ The sources used for the compilation of the statutes were “canons of the Church and the legislations enacted for the diocese of Trichur.”¹⁹⁹ Although these statutes did not specify the expression “canons of the Church,” a comparative study shows that *Trichur rupatha niyamavaly* followed *CIC/17* both in structure and in contents.²⁰⁰ The Statutes of Trichur also show some influence of the Statutes of Mellano and the *Book of Decrees of Makil.*²⁰¹

One cannot find any regulations concerning the office of the diocesan finance officer in the *Trichur rupatha niyamavaly*. There are, instead, provisions for the administration of the temporal goods of parishes which, nevertheless, provide insight into the canonical relationship between the diocesan and parochial authorities.

As we mentioned earlier, since *yogam* was the decision-making body for the administration of ecclesiastical goods of the parish, *Trichur rupatha niyamavaly* prescribed certain regulations regarding it (*yogam*). The Statutes defined the *yogam* as “[…] the assembly of the parish convoked by the parish priest to consider and make decisions regarding the affairs of the parish.”²⁰² Consequently, the *yogam* had the competency to make appropriate decisions concerning the administration of ecclesiastical goods of the parish. Regarding the role of the vicar of the parish (parish priest), the Statutes stated: “It is the duty of the vicar of the parish to preside over the

¹⁹⁸ *Trichur rupatha niyamavaly*, promulgated by Mar George Alappatt, Trichur, St. Mary’s Orphanage Press, 1946. The statutes were written in Malayalam. The translation of the relevant norms is mine.

¹⁹⁹ Ibid., p. 4. See also THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 293.


²⁰¹ See THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, p. 293.

²⁰² *Trichur rupatha niyamavaly*, p. 17.
yogam; in his absence the assistant vicar or any other priest who is delegated by the vicar presides over the yogam.”  

On the role of the president of the yogam, especially regarding the procedures to follow, the Statutes determined: “The vicar of the parish, as the president of the yogam must not permit the members of the yogam to decide against the decisions of the diocesan bishop and no matters may be discussed in the yogam that challenge the authority of the diocesan bishop.”  

Although the definition indicated that the yogam was a decision-making body, without the approval of the diocesan bishop the decisions of the yogam would not be considered valid.

With regard to the administration of parish property, the statutes prescribed that the kaikars had the duty to assist the vicar of the parish. The kaikars were to be elected democratically by the yogam, but they needed to be formally approved by the diocesan bishop. Regarding the office of kaikars, Trichur rupatha niyamavalay prescribed:

Kaikars must realize that it is a great responsibility before God to cooperate with the vicar of the parish in the administration of ecclesiastical goods of the parish. If a kaikar, however, fails to perform his duties at any stage of his tenure, the diocesan bishop will remove him from his office and appoint another person, or the bishop will advise the parish to continue administration without a kaikar.

Trichur rupatha niyamavalay provided for more opportunities for involvement of the laity through the maintaining of the office of kaikars in the administration of ecclesiastical goods of the parish. On the other hand, when we compare Trichur rupatha

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203 Ibid., p. 18.
204 Ibid., pp. 18-19.
205 See NEDUNGATT, Laity and Church Temporalities, p. 303.
206 The same norm can be found in the Statutes of Mellano and in the Book of Decrees of Mar Makil.
207 Trichur rupatha niyamavalay, p. 19.
niyamavaly with canons of CIC/17, except for the regulations on yogam and kaikars, all other norms seem to be taken from CIC/17. According to Andrews Thazhath, Trichur rupatha niyamavaly shows that a strong Latin influence still prevailed in Malabar at that time.\textsuperscript{208}

1.6.2 – The Archeparchial Statutes of Changanacherry

The Archeparchial Statutes of Changanacherry were promulgated by Mar Mathew Kavukattu on 19 March 1959, under the title Changanacherry athirupatha niyamavaly.\textsuperscript{209}

Three different sets of statutes were in use in the Archeparchy of Changanacherry between the promulgation of the Book of Decrees of Mar Makil and the promulgation of the CCEO. The first was promulgated on 19 March 1959 by Mar Mathew Kavukattu (with the second part of this legislation coming on 25 July 1962) and concerned mainly the administration of the sacraments and sacramentals. On 2 February 1965, Mar Mathew Kavukattu promulgated the statutes on the questions of faith, persons, holy places and temporal property of the parishes. On 1 April 1975, Mar Antony Padiyara promulgated the statutes on the procedure of the assemblies.

Until 1959 the Archeparchy of Changanacherry followed the Book of Decrees of Makil. Changanacherry athirupatha niyamavaly 1959 was particularly important concerning the office of the archeparchial finance officer, because it was the first time after the promulgation of CS that particular legislation mentioned the office of the archeparchial finance officer. Changanacherry athirupatha niyamavaly 1959 was

\textsuperscript{208} See THAZHATH, The Juridical Sources of the Syro-Malabar Church, p. 294.

\textsuperscript{209} See Changanacherry athirupatha niyamavaly, promulgated by Mar Mathew Kavukattu, Changanacherry, St. Joseph’s Orphanage Book Stall, 1959.
determined on the responsibilities of the archeparchial finance officer. In general, it followed the Statutes of Mellano and the *Book of Decrees* of Makil, with numerous adaptations of the canons of *PA* and *CS*.  

The new legislation (*Changanacherry athirupatha niyamavaly* 1959) acknowledged that the finance officer was one of the members of the archeparchial curia (no. 68). He was to undertake his duties in accordance with the norms of law, under the authority of the Archbishop (no. 69). As a member of the curia, before taking possession of his office, he was to take an oath to express his dedication to serve with sincerity and without favoritism; the oath had to be taken before the Archbishop (no. 70).

Statute no. 229 acknowledged that the power to govern the archeparchy in spiritual and temporal affairs rests with the Archbishop. On the other hand, the finance officer had the duty to administer and supervise the property of the archeparchy, and to keep records of income and expenditure. He was also responsible for the verification of the accounts of parish churches and other institutions of the eparchy (no. 73).

With regard to the administration of the property of the Church, *Changanacherry athirupatha niyamavaly*, 1959, prescribed proper norms in nos. 227 to 234. In particular, number 227 repeated *PA*, c. 232 §1, i.e. the claim that the Catholic Church has the innate

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211 While *CS*, c. 429 §2 includes the finance officer, synellus, accountant, judicial vicar, chancellor, promoter of justice, defender of the bond, eparchial judges, examiners, pastor consultants, auditors, notaries, bailiffs and constables in the diocesan curia, the Statutes do not mention pastor consultants, auditors, bailiffs and constables among the members of the curia. See *Changanacherry athirupatha niyamavaly*, 1959, pp. 13-14.

212 Cf. *CS*, c. 399 §1.
right to acquire temporal property to meet the needs of the Church.\textsuperscript{213} The statutes stressed that by reason of his primacy of jurisdiction, the Roman Pontiff is the supreme administrator of the Church and all ecclesiastical property is under his authority and power (no. 228).

Statute no. 230 acknowledged that the goal of acquiring and administering ecclesiastical goods is to provide the means for divine worship and the sustenance of priests. In order to fulfill these needs, this statute prescribed that the Church has the right to collect funds from the faithful.\textsuperscript{214} The rights of institutions that had the recognition of the archbishop to own property and to administer was acknowledged in statute no. 231.

As to what concerned the temporal goods of parishes, the Statutes stated that the parish property was to respond to the spiritual needs of the respective parish community. The vicar was to administer the property according to common law of the Church and the archeeparchial statutes (no. 233). Without the permission of the Archbishop, the property of the Church could not be rented, leased or sold (no. 234).

After extensive discussions and recommendations made by the consultors of the Archeparchy, and also of the presbyteral and the pastoral councils, Archbishop Mar Antony Padiyara promulgated the Statutes for the Parish Assembly.\textsuperscript{215} They contained the detailed description of the procedure for the general assembly (\textit{pothuyogam}) and representative assembly (\textit{prathinidhiyogam}). The Statutes also gave directions on the constitution of different committees for better administration of parish property. The daily administration of the temporal goods of the parish was the responsibility of the the

\begin{itemize}
\item \textsuperscript{213} See \textit{Changanacherry athirupatha niyamavaly}, 1959, pp. 42-43.
\item \textsuperscript{214} This norm corresponds to \textit{PA}, c. 233.
\item \textsuperscript{215} See \textit{Changanacherry athirupatha palliyoga nadapadikramam}, promulgated by Mar Antony Padiyara, Changanacherry, St. Joseph Orphanage Book Stall, 1975.
\end{itemize}
vicar in collaboration with the *kaikars*. For any kind of alienation, permission from the archeparchial curia was demanded by the Statutes. Prior permission from the archbishop was also required for an administrator of ecclesiastical goods to file a suit in the civil courts. A list of articles and account books were to be kept safe and up-to-date. In order to take parish records outside the parish, the vicar was required to obtain permission from the archeparchial curia.

1.6.3 – Laws and Regulations on Administration of the Temporal Goods in the Archeparchy of Ernakulam (1989)

The Statutes of the Archeparchy of Ernakulam were called *Athirupatha niyama samhitha* (Summary of the Laws and Regulations). In the *Athirupatha niyama samhitha* there was only one norm referring to the archeparchial finance officer, namely, statute no. 81. It acknowledged the canonical discipline of *PA* and *CS* concerning the eparchial finance officer:

> [...] The archbishop must appoint an archeparchial finance officer whose responsibility is the administration of the goods of the archeparchy. He is to oversee the administration of parishes subject to the authority of the archbishop. He must keep and update accounts and documents concerning archeparchial goods and is responsible for supervising financial transactions and keeping of their accounts. As he is responsible for all archeparchial and parish goods, it is the duty of the archeparchial finance officer to ensure that all financial and property accounts of parishes are kept with utmost care and diligence. He has the power to review those accounts at his discretion at any time. Since canon law considers these institutions to be moral persons, they are treated as “minors” and the person in charge of administration of such goods (of minors) fulfills the role of the guardian (*PA*, cc. 262, 263; *CS*, cc. 28 § 3, 438).

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216 See *Palliyoga nadapadikramam*, pp. 42-43. In the *Book of Decrees* prior permission from the diocesan bishop was necessary for any important transaction regarding the property. Similar permission was also needed before initiating a lawsuit in civil courts (*Book of Decrees*, no. 18).

217 See ibid., p. 19.


219 The norms are given in the Malayalam alphabetical order according to the subject matter.

220 *Ernakulam athirupatha niyama samhitha*, pp. 112-113.
While the above-mentioned norm imposed precise obligations on the archeparchial finance officer, it also characterized his role as that of a guardian. Indeed, CS, c. 18 stipulated that for the exercise of his/her rights, the minor depended on his/her parents or guardians and CS, c. 28 §3 considered moral persons as equal to minors: “Moral persons, the collegiate ones as well as the non collegiate, are held equal to minors.”221 This is the consequence of the composition of the eparchy as a non-collegiate moral person being aggregate of persons and things and thus demanding some physical persons to act on its behalf. The norm of CS, c. 28 §3 aimed at the preservation of the rights of a moral person against the negligence of their representatives.

Athirupatha niyama samhitha also regulated the administration of ecclesiastical goods of parishes: “The vicar of the parish is responsible for the administration of parish property and he will do so in accordance with the prescriptions of canon law and statutes of the archeparchy. The vicar must follow the prescriptions of the Athirupatha niyama samhitha in performing his responsibilities.”222 The Statutes were silent, though, with regard to the concrete obligations of the archeparchial finance officer on the subject of administration of ecclesiastical goods of parishes (unlike the Archeparchial Statutes of Changanacherry (Changanacherry athirupatha niyamavaly, 1959, no. 73).

To conclude this section of our study, we can stress that the statutes of the first three Syro-Malabar eparchies included norms on the administration of temporal goods. Their immediate sources were the Statutes of Mellano, the Book of Decrees of Makil,

221 “Personae morales sive collegiales sive non collegiales minoribus aequiparantur” (CS, c. 28 §3).
222 Ernakulam athirupatha niyamasamhitha, p. 63.
CIC/17, and four motu proprios for the Eastern Catholic Churches. Out of the three eparchial statutes, no statute derived from the canonical collections of the East Syrian Church which existed in the Church of Malabar before the sixteenth century. In the East Syrian period, the ecclesiastical governance, such as the office of archdeacon and the yogam functioned effectively in the Malabar Church. At the time of the promulgation of the statutes of three eparchies, the Syro-Malabar Church, lacking patriarchal or major archiepiscopal or metropolitan status, had no particular laws binding the whole Church. As underlined by the Supreme Pontiff on the occasion of the promulgation of CCEO, for any particular norm to have the force of law, it was necessary that it be in conformity with the universal law, the tradition of the Syro-Malabar Church, and the teachings of the Second Vatican Council.223

CONCLUSION

The hierarchical relation between the Church of Saint Thomas Christians and the East Syrian Church was one of the sources of inspiration for establishing the canonical order of the Syro-Malabar Church and Syro-Malankara Church. Numerous original canonical sources offer documentary proof of the enormous influence of the East Syrian Church on the establishment of the administrative system of the Church of Saint Thomas Christians.

Throughout its history, the Church of Saint Thomas Christians was confronted with serious problems that could not be resolved by individual bishops. Provincial and eparchial synods intervened in those situations in order to find solutions, as each synod enjoyed the legislative, executive, and judicial powers within their territory and

competence. The system of yogam in the Malabar Church has some resemblance to different types of synods.

After the sixteenth century there was a certain departure from the earlier customs and practices. The establishment of the hierarchy of the Syro-Malabar Church on 21 December 1923 naturally led to increased legislative activity and, consequently, to the promulgation of diocesan/eparchial statutes. Unfortunately, the statutes were formulated without strict adherence to the Eastern ecclesiastical tradition and without respecting the original historical and canonical sources of the Eastern Churches.

The Pontifical Commission for the Redaction of Eastern Canon Law, established in 1935 by Pope Pius XI completed a draft of the Codex iuris canonici Orientalis in 1948. Out of the draft of the Eastern Code of Canon Law, Pope Pius XII promulgated two motu proprios: PA, on 9 February 1952, and CS, on 2 June 1957. This partial codification served the Syro-Malabar Church well in the area of regulating the temporal goods.

Before the promulgation of CCEO, in the eparchies of the Syro-Malabar Church, the temporal administration was carried out by the finance officer who was the immediate administrator of the eparchial property. The legislation at the eparchial or major archiepiscopal level described the role of administrators of the respective juridic persons in terms of stewardship.

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225 The other two motu proprios promulgated by PIUS XII were Crebrae allatae, 22 February 1949, in AAS, 41 (1949), pp. 89-117 and Sollicitudinem nostram, 6 January 1950, in AAS, 42 (1950), pp. 5-120.
At the beginning of this chapter, two questions were raised. First, what types of finance administrative systems prevailed among Saint Thomas Christians? The answer is: the systems that existed in the early centuries were democratic in nature and depended upon the yogam (assembly) of the Syro-Malabar Church. Secondly, are these systems the real sources of the finance administrative system of today? The answer must be: yes, to a certain extent.

The promulgation of CCEO and the elevation of the Syro-Malabar Church to the major archiepiscopal level are the two milestones in the recent history of the Syro-Malabar Church. The promulgation of CCEO enabled the Syro-Malabar Church sui iuris to restore much of its Eastern character, especially in regard to the office of the finance officer. The following chapters will, therefore, show the office of the finance officer in the context of the organizational structure of the administration of the temporal goods of the Syro-Malabar Major Archiepiscopal Church.
CHAPTER TWO

THE OFFICE OF THE FINANCE OFFICER IN THE ORGANIZATIONAL STRUCTURE OF THE FINANCIAL ADMINISTRATION OF THE MAJOR ARCHIEPISCOPAL CHURCH

INTRODUCTION

On the occasion of the presentation of the Codex canonum Ecclesiarum orientalium at the Eighth Ordinary General Assembly of the Synod of Bishops on 25 October 1990, Pope John Paul II stated: “In presenting the Code to this Assembly, which is so representative of the universal Church, I wish to say that I consider it an integral part of the sole Corpus iuris canonici, made up of the three above mentioned documents [CIC/83, CCEO, and PB] promulgated over a span of seven years.”¹ Consequently, the Eastern Code becomes a new complement to the teachings of the Second Vatican Council. The Council pointed to the need to safeguard and retain the traditions of the Eastern Churches.² In particular, on the preservation of the spiritual heritage of the Eastern Catholic Churches, OE, no. 5 stated “[...] the Churches of the East like those of the West have the right and duty to govern themselves according to their own special disciplines.”³

Chapter two of this study will examine the codification process of the canons related to the organizational structure of the financial administration of the major


² LG, no. 13 reads: “Holding a rightful place in the communion of the Church there are also particular Churches that retain their own traditions, without prejudice to the Chair of Peter which presides over the whole assembly of charity [...]” (in AAS, 57 [1965], pp. 5-75, English translation in FLANNERY 1, p. 365). See also Code of Canons of the Eastern Churches, pp. xxiii-xxiv.

archiepiscopal Church and the roles of the major archbishop, synod of bishops, permanent synod, and finance officer. Various drafts of CCEO and the modifications made to them in the course of their evolution will, therefore, be examined.

The Guidelines for the Revision of the Code of Oriental\textsuperscript{4} Canon Law are helpful in deepening our understanding of the canons of the Eastern Code. Among the principles for the revision, there was one on preserving the Eastern character of the legislation:

The Oriental Code should draw its inspiration from, as well as express, the common discipline, such as it is contained: a) in the apostolic tradition; b) in the Oriental canonical collections and in the customary norms common to the Oriental Churches and not fallen into desuetude.\textsuperscript{5}

Pontifical Commission for the Redaction of Eastern Canon Law drafted the entire \textit{Codex iuris canonici Orientalis} in 1945 and presented it to Pope Pius XII in 1948. Most of its canons, however, were not drawn from the Eastern sources. In this context and on the basis of the above mentioned directive of the Guidelines for the Revision of the Code of Oriental Canon Law, a question can be asked as to whether the formulation of the canons concerning the finance officer of the major archiepiscopal Church is truly safeguarding the Eastern character of the new legislation.

\textbf{2.1 – General Organization of the Financial Administration of the Major Archiepiscopal Church}

The Second Vatican Council aimed at restoring the power of the patriarchs, lost due to various reasons in the course of history. The council stated:

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{4} According to George Nedungatt, most European languages lack a terminological pair corresponding to “Eastern” and “Oriental.” See NEDUNGATT, \textit{The Spirit of the Eastern Code}, Bangalore, Dharmaram Publications, 1993, p. 34.
  \item \textsuperscript{5} PCCICOR, “Guidelines for the Revision of Oriental Canon Law,” p. 19.
\end{itemize}
\end{footnotesize}
The most ancient tradition of the Church, special honor is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head. Therefore this holy council enacts that their rights and privileges be restored in accordance with the ancient traditions of each church and the decrees of the ecumenical councils.6

In accordance with CCEO, c. 151 the major archbishop is the metropolitan of a see determined or recognized by the supreme authority of the Church who presides over an entire Eastern Church sui iuris, but without the patriarchal title.7

Before the promulgation of PA and CS, Acacius Cardinal Coussa (1897-1962), the former secretary of the Congregation for the Oriental Churches and a member of the Code Commission, published an abridgement of lectures in which he elucidated the legal system of the Eastern Churches in the year 1940. In order to distinguish a titular archbishop from a metropolitan who had authority over metropolitans, Cardinal Coussa applied to the latter the title “major archbishop.”8 The title “major archbishop” is, therefore, of a recent origin, even though the historical roots9 of the office of major archbishop go back to early councils, including the council of Nicaea I (325) and the council of Ephesus (431) which gave to certain archbishops the authority over other

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6 OE, no. 9, English translation in FLANNERY 1, p. 445.


8 See G.A. COUSSA, Epitome praelectionum de iure ecclesiastico orientali, vol. 1. [Vatican], Typis Monasterii Exarchici Cryptoferratensis, 1948, p. 283. It was first published in 1940, the second and the third editions in 1948 and 1958, respectively. In 1930, during the process of the first codification of Eastern canonical discipline, Cyril Korolevskyj proposed the term archiepiscopus maior. See PCCICOR, “Ecclesia universalis, particularis, singularis,” in Nuntia, 2 (1976), pp. 31-36. In an official ecclesiastical document, the term was used for the first time in PA and CS.

9 When the Roman Empire was divided into civil circumscriptions called “dioceses,” the bishop of the seat of the governor of a diocese was called exarch or archbishop. Bishops who had no suprametropolitan jurisdiction and those who had no subject bishops were given the title “archbishop” by Byzantine emperors. See POSPISHIL, Eastern Catholic Church Law, pp. 194-195; FARIS, The Eastern Catholic Churches, pp. 366-368.
metropolitan sees.¹⁰

The notion of the office of archbishop was established by CS, c. 324: “Among metropolitans, the archbishop is preeminent whose dignity is united to a metropolitan see situated outside the patriarchate either by decree, or recognition of the Roman Pontiff, or by an ecumenical council.”¹¹ The Roman Pontiff freely appointed or confirmed lawfully elected major archbishops (CS, c. 325 §1). The major archbishop preceded all metropolitans and other (resident or titular) archbishops (CS, c. 339).

The CS introduced the title of major archbishop to stress the distinction of the major archbishop from the patriarch. In order to express the notion of “pater et caput,” in order to express the notion of “pater et caput,” in addition to the term “patriarch,” the term catholico (Primate of the East)¹² was used in certain Eastern Churches. In other words, in accordance with the provisions of CS, the dignity of the catholico was equal to that of the major archbishop who did not have the title of the patriarch (CS, c. 335 §1).¹³

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¹⁰ Later the emperors, Constans II and Byzantine also granted similar authority to certain archbishops. For a more detailed treatment, see POSPISHIL, The Law on Persons, p. 156; FARIS, The Eastern Catholic Churches, pp. 366-368.

¹¹ “Inter Metropolitas excellit Archepiscopus, quae dignitas coniuncta est cum sede metropolitana, extra patriarchatus sita, determinata vel agnita a Romano Pontifice aut a Synodo Oecumenica” (CS, c. 324). The title “archbishop” was used in CIC/17 in a different sense than in the Eastern tradition. In CS the archbishop has almost the same powers as the patriarch. Consequently, under the authority of the archbishop there were metropolitans and bishops of the sees located within the archbishop’s territory. See WOJNAR, “The Code of Oriental Canon Law,” p. 432.


¹³ See POSPISHIL, The Law on Persons, p. 192. In the Syrian Church a chief delegate of the patriarch was known under the title of maphrian. When a division took place in the Syriac (Jacobite/monophysitic) Church, one part of it remained in the Byzantine Empire and other in the Persian Empire. The Syrian Patriarch of Antioch appointed a metropolitan in Persia as his delegate. The delegate had the right to appoint and ordain metropolitans and bishops, and to bless the holy Myron. This delegate of the Syrian Patriarch of Antioch was called maphrian, “i.e., fructifier, because he transmitted the Holy Spirit in ordination.” See FARIS, The Eastern Catholic Churches, p. 368. See also POSPISHIL, The Law on Persons, p. 159; ID., Eastern Catholic Church Law, p. 195. Although maphrian was mentioned in CS, c. 355 §2, CCEO does not refer to the titles catholico and maphrian.
The major archbishop presides over the major archiepiscopal Church which is constituted as a community of the Christian faithful, and is united by a hierarchy according to the norms of law (cf. \textit{CCEO}, cc. 151 and 27). Though the status of the major archiepiscopal Church is not equal to the status of the patriarchal Church, the Second Vatican Council stated that the rights enjoyed by the patriarch are also applicable to the major archbishop: “What is laid down concerning patriarchs applies also, in accordance with canon law, to major archbishops who rule the whole of some individual church or rite.”\textsuperscript{14} \textit{CCEO}, c. 152 determines that whatever common law states concerning patriarchal churches, it applies to major archiepiscopal churches as well, with a clause: “[…] unless the common law expressly provides otherwise or it is evident from the nature of the matter.”\textsuperscript{15} Consequently, the canons concerning the office of the patriarchal finance officer are also applicable to the finance officer of the major archiepiscopal Church in accordance with \textit{CCEO}, c. 152.

2.1.1 – Distinction between the Financial Administration of the Major Archiepiscopal Church and the Major Archbishop’s Eparchy

The first session of the study group of PCCICOR which was held from 7 to 9 October 1985 contained a rather long discussion on draft c. 93 concerning the office of the finance officer. The draft reads:

\begin{itemize}
  \item \textbf{§1.} A special office shall be established in the patriarchal curia for the administration of the goods of the patriarchate, distinct from the office which is in charge of the administration of goods that belongs to the patriarch’s own eparchy, and which shall consist of a finance officer, an accountant and other necessary ministers.
  \item \textbf{§2. 1º} The patriarchal finance officer is in direct charge of this administrative office and he manages the goods of the patriarchate according to the canonical norms;
  \item \textbf{2º} The office of patriarchal finance officer shall be committed to a trustworthy, diligent cleric of proven virtue and an expert in the duties of temporal goods; it cannot be validly
\end{itemize}

\textsuperscript{14} \textit{OE}, no. 10, English translation in \textit{Flannery} 1, p. 445.

conferred on persons who are related to the patriarch by consanguinity or affinity up to the fourth degree inclusive;

3º He shall be appointed and removed by the patriarch, to whom he is subject in the exercise of his duty, with the consent of the permanent synod;

4º The office of the patriarchal finance officer can be joined, with the consent of the permanent synod, with the office of finance officer of the patriarch’s own eparchy.

§3. The patriarchal finance officer must submit an annual report in writing on his administration to the permanent synod, or whenever so requested by it. The synod shall have examined the accounting submitted by the finance officer by at least two synodal bishops, who shall audit the available cash, shall undertake or order appropriate inspections by others, even unexpectedly, of the real estate, documents securities, and shall diligently make provisions for the conservation, protection and increase of the patriarchal patrimony.

§4. It is the right of the synod of bishops, if the majority of its members ask it expressly, to demand the account of administration and to subject it to its [synod’s] examination.  

There was a suggestion to grant the major archbishop (patriarch) a direct supervisory role in the financial administration of the eparchies of the major archiepiscopal (patriarchal) Church. He was to accomplish this function either by himself or through the assistance of the major archiepiscopal (patriarchal) finance officer. The discussion resulted in adding §5 to the draft of the canon. The two proposals of the study group included in the proposed §5 were the following: (1) “the patriarch, by virtue of his office, as stipulated in the draft of c. 93 §1, shall submit to inspection the administration of ecclesiastical goods of every eparchy, exarchate and stauropegial place, and give a report

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16 “§1. Pro administratione bonorum patriarchalis, in curia patriarchali speciale Officium, ab illo Officio distinctum quod administrationem bonorum eparchiae Patriarchae propriae curat, constituendum est, constans oeconomo, ratiocinatore et aliis necessariis ministris. §2. 1º Oeconomus patriarchalis Officio administrationis immediate praeest et bona patriarchalis ad normam canonum administrat; 2º oeconomi patriarchalis munus clerico fideli, diligenti, probatae vitae atque in administrandis bonis temporalibus experto committatur; iis autem qui cum Patriarcha consanguinitate vel affinitye usque ad quartum gradum inclusio coniuncti sint valide conferri non potest; 3º idem de consensu Synodi permanentis nominatur et amovetur a Patriarcha, a quo pendet in munere exercendo; 4º munus oeconomi patriarchalis cumulare potest, de consensu Synodi permanentis, cum munere oeconomi eparchiae Patriarchae propriae. §3. Oeconomus patriarchalis rationem administrationis Synodo permanenti quotannis et quoties ab ipso petitur in scriptis reddere debet; Synodus autem per duos saeltem Episcopos ciudem Synodi sodales, rationes ab oeconomo exhibitas examinat, arcam recognciscit, convenientes inspectiones bonorum, documentorum, nominum, inopinato etiam, exsequi etinem seu exsequendas iubet, et diligenter conservationi, tutelae, incremento patrimonii patriarchalis providet. §4. Integrum est Synodo Episcoporum, si maior pars sodalium id expresse petiverit, rationem administrationis exquirere et proprio examine subieicere” (PCCICOR, “De Ecclesiis patriarchalibus,” in Nuntia, 22 [1986], pp. 88-89, English translation of the first three paragraphs in POSPISHIL, The Law on Persons, p. 149. Paragraph 4 was a new addition as compared to CS, c. 299. We are grateful to Msgr. Kuriakose Parampath for his valuable assistance in translating the texts from Nuntia for the purposes of this thesis; unless indicated otherwise, all the translations from Nuntia are provided by Msgr. Kuriakose Parampath).
of the result to the permanent synod”; 17 (2) “the patriarch is to subject to his scrutiny the administration of the temporal goods of the eparchies, with the help of the patriarchal finance officer and his office according to the norms of the particular law.” 18 Both proposals were eventually rejected by the study group of the PCCICOR. The reason for the rejection was that draft c. 93 referred exclusively to the administration of “the goods of the patriarchal Church,” that is, those goods over which the major archbishop (patriarch) has direct authority.

Another proposal of draft c. 93 was the following: “If the administration of temporal goods of the patriarchate by the patriarch is to be subjected to the scrutiny of the permanent synod, then the administration of the temporal goods of the eparchy by the bishops should be subjected to the supervision of the patriarch.” 19 The study group, however, respecting the principle of subsidiarity rejected this suggestion. In the discussion on draft c. 146, the study group expressed its conviction that the eparchial bishops are entrusted with the pastoral care of their particular churches as the substitutes and legates of Christ. Though they are ultimately subjected to the supreme authority of the Church, they, nevertheless, exercised proper, ordinary, and immediate power in the name of Christ. 20 Thus the study group underlined the unique dignity of the office of eparchial bishop, as explained in LG:

17 “Patriarcha per officium de quo in §1 administrationem bonorum ecclesiasticorum uniuscuiusque eparchiae, exarchiae, loci stauropegiaci inspectioni submittat ac de eius exitu Synodo permanenti rationem reddat” (PCCICOR, “De Ecclesiis patriarchalibus,” in Nuntia, 22 [1986], p. 89).


The bishops, as vicars and legates of Christ govern by their councils, persuasion and example the particular churches assigned to them, and also by the authority and sacred power which they exercise exclusively for the spiritual development of their flock in truth and holiness, keeping in mind that the greater must become like the lesser, and the leader as the servant (see Lk 22:26-27). This power, which they exercise personally in the name of Christ, is proper, ordinary and immediate, although its exercise is ultimately controlled by the supreme authority of the Church and can be confined within certain limits should the usefulness of the Church and the faithful require that [...].

In short, the study group took into account the distinctive prerogatives of the major archbishop (patriarch) and eparchial bishop, the finance officer of the major archiepiscopal (patriarchal) Church, and the finance officer of the eparchy. Further, in the drafts of canons 190 and 921 §2, the study group included the unique characteristic of these offices.

Canon 122 §1 of the 1986 Schema read:

For the administration of the goods of the patriarchal Church, the patriarch, with the consent of the permanent synod, is to appoint a patriarchal finance officer, distinct from the finance officer of the eparchy which the patriarch governs. He [finance officer] should be one of the Christian faithful who is expert in economical matters and outstanding for honesty. Anyone who is related to the fourth degree of consanguinity or affinity inclusively is excluded from being validly appointed.

Compared with the 1985 Schema, this formulation was more in line with the principle of keeping separate the juridic entities of the major archiepiscopate (patriarchate) and the eparchy. In 1988, draft c. 122 §1 introduced only a slight change: the word patriarcha was changed to patriarchae. In the 1990 Schema, draft c. 122 reaffirmed the stipulations of

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21 *LG*, no. 27, English translation in FLANNERY 1, pp. 382-383. This text has greatly influenced the final formulation of the canon on eparchial bishop (*CCEO*, c. 178) which says: “The eparchial bishop, to whom the eparchy has been entrusted to shepherd in his own name, governs it as the vicar and legate of Christ; the power which he exercises personally in the name of Christ is proper, ordinary, and immediate, although by the supreme authority of the Church its exercise is ultimately regulated and can be circumscribed within certain limits in view of the benefit of the Church or of the Christian faithful.”

22 “Pro administratione bonorum Ecclesiae patriarchalis Patriarcha de consensu Synodi permanentis nominet oeconomum patriarchalem ab oeconomo eparchiae, quam Patriarcha regit, distinctum, qui sit christifidelis in re oeconomica peritus et probitate praestans excluso vero ad validitatem eo, qui cum Patriarcha consanguinitate vel affinitate usque ad quartum gradum inclusive conjunctus est” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 24-25 [1987], p. 21).

the previous drafts.

2.1.2 – Major Archiepiscopal Curia in the Financial Administration of the Major Archiepiscopal Church

The CS stated that in order to govern the major archiepiscopate (patriarchate), the major archbishop (patriarch) was to establish a major archiepiscopal (patriarchal) curia (c. 286). Consequently, CCEO demands that in every major archiepiscopal Church there should be a major archiepiscopal curia which is to be distinct from the curia of the eparchy of the major archbishop (CCEO, c. 114 §1). The major archiepiscopal curia consists of the permanent synod, the bishops of the major archiepiscopal curia, the finance officer, the chancellor, the ordinary tribunal, the liturgical commission, and other commissions by law attached to the patriarchal curia (CCEO, c. 114 §1). The major archbishop can select the members of the curia from the entire major archiepiscopal Church, although he is obliged to consult their respective eparchial bishops before their appointment. In the case of religious, before their appointment the major archbishop is to consult their respective religious major superiors (CCEO, c. 114 §2). Among the commissions of the major archiepiscopal Church, the liturgical commission has some pre-eminence: it alone is specifically named in CCEO, most likely to stress the importance of the liturgy in the life of the Eastern Churches.24

CS, c. 299 prescribed that the major archbishop must constitute an office for the administration of temporal goods of the entire major archiepiscopate. In addition to the

finance officer, this office included an accountant and other necessary ministers (c. 299 §1). The same norm stipulated that the major archbishop (patriarch), with the consent of the permanent synod, can combine the office of the major archiepiscopal (patriarchal) finance officer with the office of finance officer of the major archbishop’s (patriarch’s) own eparchy (CS, c. 299 §2, 4º). Before the appointment or removal of the finance officer, the major archbishop (patriarch) had to obtain the consent of the permanent synod (CS, c. 299 §2 3º).

A similarity of CS, c. 299 with the canon on eparchial finance officer is evident: CS, c. 438 stated that the eparchial bishop was bound to establish in the eparchial curia a special office for the administration of ecclesiastical goods.

2.2 - THE ROLE OF THE SYNOD OF BISHOPS IN FINANCIAL ADMINISTRATION

Collegiality is enshrined in the traditions of the Eastern Churches and is in compliance with the teachings of the Second Vatican Council: “The patriarchs with their synods are the higher (superior) authority for all business of the patriarchate, not excepting the right of setting up new eparchies (dioceses) and appointing bishops of their rite within the patriarchal territory, without prejudice to the inalienable right of the Roman Pontiff to intervene in any particular case.”

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25 OE, no. 9, English translation in FLANNERY 1, p. 445; Flannery incorrectly translates “superior instantia” as “highest authority.” During the conciliar discussions the following areas were recommended by the conciliar fathers as especially important for the application of the principle of subsidiarity: 1) the bishops and governance of the eparchies; 2) the reform of the membership and of the praxis of the Roman Curia; and 3) juridic powers of the episcopal conferences. See Acta synodalia Sacrosanti Concilii Oecumenici Vaticani II: cura et studio archive Concilii Oecumenici Vaticani II, vol. 2, Typis polyglottis Vaticanis, 1970, p. 454. See also PALLATH, The Synod of Bishops of Catholic Oriental Churches, p. 76. The principle of subsidiarity greatly influenced the formulation of the canons of CCEO in all its sections, particularly with regard to particular law.
Within the territorial boundaries of a major archiepiscopal Church *sui iuris*, the synod of bishops\(^{26}\) is competent to enact laws for the Church (*CCEO*, c. 110 §1).\(^{27}\) It exercises its judicial power either acting directly as the superior tribunal in the Church *sui iuris* or as a synodal tribunal of three bishops (*CCEO*, cc. 110 §2, 1062). In accordance with *CCEO*, c. 110 §4 the synod of bishops is not competent to perform administrative actions unless common law allows for that, or the major archbishop determines so for certain actions. On the other hand, in administrative matters which affect the entire major archiepiscopal Church or are of special importance, the major archbishop is obliged to consult the permanent synod, or the synod of bishops, or the major archiepiscopal assembly (cf. *CCEO*, c. 82 §3).\(^{28}\)

### 2.2.1 – Legislative History of *CCEO* regarding the Synod of Bishops

In order to have a proper understanding of the role of the synod of bishops in relation to the office of the finance officer, it is important to analyze the codification process reported through the different volumes (fascicles) of *Nuntia* regarding the synod of bishops.


\(^{27}\) In accordance with *CCEO*, c. 150 §§2, the particular laws on disciplinary matters enacted by the synod of bishops and promulgated by the major archbishop have the force of law in the proper territory of the major archiepiscopal Church. But with regard to the liturgical laws, they affect the entire major archiepiscopal Church, even outside the proper territory.

2.2.1.1 – 1975 and 1977 Schemata

The mandate for the PCCICOR was to revise the canons of the Eastern canon law in the light of the directives of the Second Vatican Council.29 On 18 March 1974, during the inauguration of the work of PCCICOR, Pope Paul VI reminded its members of that objective.30 The Decree on Eastern Catholic Churches was taken as one of the theological foundations of the codification process of the CCEO.31 On the ecclesial status of the Eastern patriarchs OE, no. 9 stated:

Following the most ancient tradition of the Church, special honor is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head. […] The patriarchs with their synods are the higher [superior] authority for all business of the patriarchate, […]32

The expression “father and head” (pater et caput) is found in CS, c. 216 §1: “Special respect is due to the patriarchs of the East, in accordance with the oldest tradition of the Church, since each presides his own patriarchate or rite as father and head with the most ample powers, granted or recognized by the Roman Pontiff.”33 The study group of the PCCICOR desired, however, to stress the importance of the synod: “together with the


32 English translation in Flannery 1, pp. 528-529. The English translation seems to be deficient: while the Latin text reads “patriarchae cum sui synodis superiorem constituunt instantiarn” (AA5, 57 [1965], p. 79), the English translation in Flannery states: “the patriarchs with their synods are the highest authority.” The English translation contains, therefore, a substantial mistake.

33 “Secundum antiquissimum Ecclesiae morem, singulari honore prosequendi sunt Orientis Patriarchae, quippe qui amplissima potestate, a Romano Pontifice data seu agnita, suo cuique patriarchatui seu ritui tamquam pater et caput praesunt” (CS, c. 216 §1).
patriarch, who is always its president, [the synod of bishops] is the holder of the great part of superior authority that governs the patriarchal Churches.”

Ivan Žužek, the secretary of the PCCICOR, explained the reasons for that proposal:

[...] the synods of the patriarchate are considered in this motu proprio [CS] as synods of the patriarch “and not of the patriarchal Church.” Even the Second Vatican Council expresses it in this manner, as for example, Orientalium Ecclesiarum, number 9, which starts with the words, “patriarchs with their synods.” When we consider the matter well, this does not correspond to the “sacred canons” of the first millennium, which without any shadow of doubt, considered the synods of bishops of an autonomous Church superior also to the patriarchs, in such a way that, if necessary, they could proceed to their deposition.

It became necessary to clarify the distinction between various synodal bodies. During the revision of the synodal structure it was decided: “There should be only one synod in the patriarchates, the synod of bishops, presently called synodus electionum, and synodus patriarchalis (CS, cc. 340-342) should be eliminated.” The proposal from the study group to include the expression “perfecta synodus” or “sancta synodus” was rejected. The final decision of the study group was to accept the name “synodus episcoporum Ecclesiae patriarchalis” in order to show the interdependence of the synod of bishops and the patriarch.

From the content of the discussions during the codification process, it appeared that the competence of the synod of bishops was understood in the context of communion

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with the patriarch (major archbishop) who was regarded as the father and head (*pater et caput*) of his Church.

### 2.2.1.2 – 1984 Schema

The proposals of the PCCICOR which were sent to the patriarchs and other hierarchs of the Eastern Catholic Churches on 12 October 1984 included the draft of c. 93, equivalent to *CS*, c. 299. The canon concerned the intervention of the synod of bishops in the finance administration. The draft read: “It belongs to the synod of bishops to demand a report of the administration and subject it to its examination if the majority of the members request it expressly.”[^38] This provision of demanding a report subject to the examination of the synod of bishops corresponds to the early practice of the synods of the Eastern Churches of reserving matters of major importance to the synod of bishops.[^39]

### 2.2.1.3 – 1985 Schema

Canon 93 of the 1985 Schema was identical to the previous draft c. 93 of 1984 with regard to the intervention of the synod of bishops in the finance administration of the patriarchal Church. In the discussion regarding the term of office of the patriarchal (major archiepiscopal) finance officer (c. 93 §2, 3°), the study group suggested a fixed term of five years. However, later the determination of the duration of the term was left to the particular laws of the Churches *sui iuris*:[^40]

[^38]: “Integrum est Synodo Episcoporum, si maior pars sodalium id expresse petiverit, rationem administrationis exquirere et proprio examini subicere” (PCCICOR, “De summo pontifice deque collegio episcoporum,” in *Nuntia*, 19 [1984], p. 39).


The patriarchal finance officer is appointed for the term determined by particular law. During this period he or she cannot be removed by the patriarch without the consent of the synod of bishops of the patriarchal Church or, if there is danger in delay, of the permanent synod.\footnote{“§2. Oeconomus patriarchalis nominatur ad tempus iure particulari determinatum; munere durante a Patriarcha amoveri non potest nisi de consensu Synodi Episcoporum aut, si periculum in mora est, Synodi permanentis” \cite{ibid.}, p. 91.}

In the discussion, the study group was of the opinion that the wording of the 1984 Schema\footnote{See PCCICOR, “De curia patriarchali,” in \textit{Nuntia}, 19 (1984), p. 39.} “report of the administration” was too general and should be changed. The last draft of the 1985 Schema included the formulation, “the report of the administration of the past year, as well as the budget of income and expense of the coming year.”\footnote{“[… ] rationem administrationis exeuntis annis necnon provisiones accepti et expensi anni incipientis” \cite{PCCICOR, “De curia patriarchali,” in \textit{Nuntia}, 22 [1986], p. 89}.} The draft of the canon at the end of the discussion was: “It belongs to the synod of bishops, if the majority of its members expressly ask for it, to demand from the patriarchal finance officer the administration report and the budget of income and expenditures, and to subject it to examination.”\footnote{“Integrum est Synodo Episcoporum, si maior pars membrorum id expresse postulat, rationem administrationis necnon praevisionem accepti et expensi ab oeconomo patriarchali exquirere et examini subicere” \cite{ibid.}, p. 91.}

\subsection*{2.2.1.4 – 1986 Schema}

The discussion of the patriarchal (major archiepiscopal) curia also addressed the office of the finance officer. The draft of the canon on the finance officer was similar to the one of the 1985 Schema; however, the canon number was changed in the drafting process: instead of c. 93, the new draft had c. 122. In §4, the new text offered more clarity: “It belongs to the synod of bishops to require a report on the administration as well as the
budget of income and expense from the patriarchal finance officer and subject it to its proper examination.\footnote{45}{“Integrum est Synodo Episcoporum rationem administrationis necnon praevisionem accepti et expensi ab oeconomo patriarchali exquirere et proprio examini subicere” (PCCICOR, “De curia patriarchali,” Nuntia, 24-25 [1987], p. 21).}

2.2.2 – Functions of the Synod of Bishops in the General Administration of the Major Archiepiscopal Church

\textit{CCEO}, c. 110 refers to the authority of the synod of bishops. Concerning the legislative power, the synod of bishops is exclusively competent to make laws for the Church \textit{sui iuris} but in accordance with \textit{CCEO}, c. 111 §1, the laws are promulgated by the major archbishop in the manner and at the time determined by the synod of bishops. With regard to judicial power, the synod of bishops is the tribunal of the Church \textit{sui iuris} according to \textit{CCEO}, c. 1062. Concerning the exercise of executive power, the synod of bishops conducts the election of the major archbishop and bishops. On the other hand, the synod of bishops is not competent for administrative actions; nevertheless, the major archbishop can grant to the synod of bishops a faculty for certain acts. Also, common law reserves certain actions to the synod of bishops.\footnote{46}{John D. Faris provides examples of the exercise of administrative authority of the synod of bishops: 1) resolution of controversies regarding the transfer of bishops (\textit{CCEO}, c. 85 §2, 2º); 2) requesting and examining the report of the financial administration and the budget (\textit{CCEO}, c. 122 §4); 3) determining the matters to be discussed in the patriarchal assembly (\textit{CCEO}, c. 144 §1); 4) providing for the support of bishops emeriti (\textit{CCEO}, c. 211 §2), and 5) caring for the unity and integrity of the faith and morals (\textit{CCEO}, cc. 605, 652 §2). See Faris, \textit{The Eastern Catholic Churches}, p. 295.}

The \textit{CCEO} requires that the major archbishop is to obtain counsel or consent of the synod of bishops when performing certain juridical acts.\footnote{47}{See Pospischil, \textit{Eastern Catholic Church Law}, pp. 169-170; Faris, \textit{The Eastern Catholic Churches}, pp. 293-297; Pallath, \textit{The Synod of Bishops of Catholic Oriental Churches}, pp. 143-181. The “consent” of the synod rather than “counsel” is required by the \textit{CCEO} because “to convokle such a synod just to give counsel does not seem opportune” (Zužek, “The Patriarchal Structure According to the Oriental Code,” p. 53).} In order to obtain the lawful consent from the synod of bishops, the consent of the absolute majority of those present is
generally required.\textsuperscript{48} Since the major archbishop is obliged to obtain the consent of the synod of bishops for certain acts, if he acts without obtaining the required consent, then the juridic act of the major archbishop is invalid (\textit{CCEO}, c. 934 §2, 2).\textsuperscript{49} The convocation of the synod of bishops, made in accordance with the norm of law,\textsuperscript{50} must be followed by a meeting of the members. For the quorum of the sessions of the synod of bishops, the required majority that is stipulated either in common law or particular law is essential (\textit{CCEO}, 107 §1).

\textbf{2.2.2.1 – Legislating the Monetary Amount for Alienation}

\textit{PA}, c. 66 §2, 2\textsuperscript{a} stipulated the fixed amount for the alienation in a major archiepiscopal Church: the alienation of ecclesiastical goods with a value of between “thirty thousand but less than sixty thousand francs” (\textit{ultra trigita milia sed infra sexaginta milia francorum}) required the consent of the major archbishop (patriarch).\textsuperscript{51} As the synod of bishops is competent to enact particular law with regard to alienation of ecclesiastical goods in its (major archiepiscopal Church) proper territory (cf. \textit{CCEO}, 110 §1), the synod of bishops is to determine the minimum and maximum amount (\textit{CCEO}, 1036 §1).

\textbf{2.2.2.2 – Indemnification According to \textit{CCEO} c. 1033}

According to \textit{CCEO}, c. 1033 if the administrator (finance officer) of ecclesiastical goods abandons his/her office in an arbitrary manner, and that abandonment harms the Church (juridic person), then he/she is liable for restitution. It is relevant to note that this

\textsuperscript{48} Absolute majority is more than half of the votes. See L. NAVARRO, “Persons and Juridical Acts,” in \textsc{Nedungatt} (ed.), \textit{A Guide to the Eastern Code}, p. 632.

\textsuperscript{49} Cf. \textit{CS}, c. 32 §1 and §1, 2\textsuperscript{a}. The corresponding norm of the \textit{CIC}/83 is found in c. 127.

\textsuperscript{50} For the procedure for the legitimate convocation, see \textit{CCEO}, c. 948.

\textsuperscript{51} See \textit{PA}, c. 66 §2, 2\textsuperscript{a}, in \textit{AAS}, 44 (1952), p. 84. \textit{PA}, c. 281 §1, 3\textsuperscript{a} provided the norms for alienation in an eparchy: after having heard the administrative council and having obtained the consent of the eparchial councilors, the hierarch was entitled to grant the permission for the alienation of property when its value exceeded 50,000 francs.
canon deals specifically with the resignation of the finance officer without giving proper notice to the higher authority. Indeed, if the finance officer abandoned his office in an arbitrary manner, the ecclesiastical superior might not have sufficient time to take measures to safeguard the ecclesiastical property.\textsuperscript{52}

The \textit{CCEO} does not contain any specific prescription regarding the procedure for restitution. Regarding the Syro-Malabar Church, since its synod of bishops has legislative power, it can enact particular laws with regard to this critical matter.

\textbf{2.2.2.3 – Role of the Synod of Bishops with Regard to the Expenses of the Curia}

The \textit{CS}, c. 305 stated that the patriarchal (major archiepiscopal) synod could assign appropriate amounts that individual eparchies were to contribute in order to meet the expenses of the curia.\textsuperscript{53} Draft c. 96 (corresponding to \textit{CS}, c. 305) regarding the expenses of the curia proposed that these expenses be paid from the goods of the major archiepiscopal Church which the major archbishop could use for this purpose. In the case of deficiency of funds, the individual eparchies were obliged to share in regard to bearing the expenses, in accordance with the amounts determined by the patriarchal (major archiepiscopal) synod.\textsuperscript{54}

The synod of bishops could also enact appropriate particular laws to respond to the situation of insufficiency of the funds of the major archiepiscopal curia. Regarding the discussions in 1985, it was apparent that the Schema retained the previous wording of the


\textsuperscript{53} In the drafting process of the canons on the synod of bishops, the study group of PCCICOR desired to eliminate the notion of ”patriarchal synod:” in the patriarchal synod there can be participation of non-episcopal members. See ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 45.

The 1986 draft provided more clarification regarding the contribution of individual eparchies: “The expenses of the patriarchal curia are paid from the goods that the patriarch can use for this purpose; if these are not sufficient, the individual eparchies shall share in paying the expenses according to the formula defined by the synod of bishops.”

Canon 125 of the 1988 Schema included the words “that the patriarch can use for this purpose” (quibus patriarcha ad hunc finem uti potest) presumably for the purpose of showing that the authority of the patriarch (major archbishop) was exercised apart from the synod of bishops. In fact, during the revision process of the section on the hierarchical constitution of the Eastern Catholic Churches, the study group of PCCICOR made some observations on the power of the patriarch (major archbishop): “The patriarchs and they alone, without their synods, have wider powers than they had before the separation between the Orthodox Church and the Catholic Church; even wider powers than that of Orthodox patriarchs today.”

In accordance with CCEO, c. 150 §2, only the synod of bishops has the authority to tax the eparchies. According to J.D. Faris, the tax should be proportionate to the ability

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56 “Expensae curiae patriarchalis solvantur ex bonis, quibus uti ad hunc finem potest Patriarcha; si haec non sufficient, singulae eparchiae pro mensura a Synodo Episcoporum definienda ad expensas solvendas concurrant” (PCCICOR, “De curia patriarchali,” in Nuntia, 24-25 [1987], p. 22).


58 “[...] les Patriarches à eux seuls, sans leurs Synodes, ont des pouvoirs plus larges que ce qu’ils avaient avant la séparation de l’Église orthodoxe et de l’Église catholique, plus larges encore que les pouvoirs de Patriarches Orthodoxes actuels” (PCCICOR, “La nuova revisione dello schema canonum de constitutione hierarchica ecclesiarum orientalium,” in Nuntia, 22 [1987], p. 5, English translation in ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 50). Ivan Žužek holds the same opinion as that of the study group of the PCCICOR that the Catholic patriarchs enjoyed more administrative power throughout the history than what the Orthodox patriarchs are enjoying to this date. See ibid.
of each eparchy to contribute.\textsuperscript{59} That corresponds to the obligation of the Christian faithful to provide for the needs of the Church (\textit{CCEO}, c. 25), as the Second Vatican Council reminded them:

\begin{quote}
The laity will continuously cultivate the “feeling for the diocese,” of which the parish is a kind of cell; they will be always ready on the invitation of their bishop to make their own contribution to diocesan undertakings. Indeed, they will not confine their cooperation within the limits of the parish or diocese [...].\textsuperscript{60}
\end{quote}

However, with regard to the expenditures of the curia, \textit{CCEO} uses a general term “expenses of the curia” which evidently includes the expenses of various commissions and officers. In this regard it is worthwhile mentioning that \textit{CCEO}, c. 124, requires that the major archbishop institutes a liturgical commission as part of the curia. Similarly, in accordance with \textit{CCEO}, c. 585 §2, an evangelization commission is to be instituted in the major archiepiscopal Church. Moreover, in each Church \textit{sui iuris} there should be a catechetical commission (c. 622 §1). Additionally, since the Church \textit{sui iuris} has to promote the ecumenical movement, establishing an ecumenical commission is advisable (c. 904). A commission for the examination of books (c. 664 §1) also can be formed in the major archiepiscopal Church. There are as well, provisions for other commissions such as a preparatory commission for the synod of bishops (c. 113), a commission for the major archiepiscopal assembly (c. 144 §2), and a commission for censoring of books (c. 664 §2). All of them, as we mentioned earlier, are parts of the major archiepiscopal curia (c. 114 §1).


\textsuperscript{60} AA, no. 10, in AAS, 58 (1966), pp. 837-864, English translation in FLANNERY 1, p. 778.
2.2.2.4 – Examining the Report of the Administration, Budget, Income and Expenditure Account and Examination of the Accounts

The synod of bishops is authorized to request from the finance officer a report of the Church’s finance administration (CCEO, c. 122 §4). The report is submitted for the examination of the synod of bishops. As mentioned earlier, according to CCEO, c. 110 §4, generally the synod of bishops has no competency for issuing administrative acts. However, the major archbishop can entrust to the synod of bishops the faculty to act in a determined administrative matter. Common law can also reserve certain administrative acts to the synod of bishops. In this context, requesting and examining the report of the financial administration and the budget of the patriarchal Church is an example of the synod of bishops acting in an administrative capacity (CCEO, c. 122 §4).

2.3 – The Role of the Permanent Synod in the Financial Administration of the Major Archepiscopal Church

The permanent synod is a representative body of the synod of bishops of a major archiepiscopal (patriarchal) Church. The permanent synod acts as a council for the major archbishop. In CCEO, there are several canons referring to acts of the authority which require consent or consultation of the permanent synod. Therefore, the members of the permanent synod are the immediate collaborators of the major archbishop. The permanent

61 In this regard, it is useful to point to the English, Italian, and Latin usages of the term “budget.” In Latin, the formula praevesio accepti et expensi denotes the provision of receipts and expenses, while in Italian the term bilancio preventive points rather to precautionary measures that serve to prevent possible damage. The English translation of CCEO (see c. 122 §3) uses the term “budget of income and expenditures” which closely corresponds to the Latin expression; CCEO, c. 263 §5 maintains the same usage. For George Nedungatt, however, the English translation tends to be pleonastic in style. See Nedungatt, A Companion to the Eastern Code, p. 104.


synod also functions as an executive committee in the major archiepiscopal Church.  

2.3.1 – Legislative Evolution of the Role of the Permanent Synod in the Financial Administration Prior to CCEO

Historically, in order to settle certain issues like ordinances for the patriarchate or dispositions of the recourse from the lower level of the patriarchate, patriarchs were required to obtain counsel of the synod of bishops. While convening the entire synod of bishops was not always practical, patriarchs “made use of the permanent or temporary presence of bishops in their city.” CS, cc. 288-295 provided the norms regarding the institute of the permanent synod that existed in the Eastern Catholic Churches prior to CCEO.

CS, c. 288 set the norm on the institution of the permanent synod: “The patriarchs must have a synod permanently established, which is to aid them in transacting matters of importance and in deciding of questions which concern the patriarchate.” Regarding the composition of the permanent synod, CS, c. 289 §1 stipulated that it consists of the patriarch (who is its president) and four bishops appointed for five years. Out of the four bishops, the synod of bishops elected only one bishop to the permanent synod. The


66 POSPISHIL, The Law on Persons, p. 146. In the Eastern non-Catholic Churches like the Patriarchate of Constantinople there exists the institution of permanent synod which is the governing body of the Church. With regard to that system Pospishil comments: “The patriarch or other head of the Church needs the consent of the majority of its members for every act of patriarchal jurisdiction” (ibid).

67 See ibid. Pospishil explains four types of acts of the patriarch concerning the administration of ecclesiastical goods: (1) matters of routine, (2) matters needing either counsel or consent, (3) matters reserved to the synod of bishops (i.e., matters of major importance), and (4) matters reserved to the Roman Pontiff.

68 “Patriarchae habere debent Synodum permanenter constitutam quae eos iuvet in maioris momenti negotiis expediendis quaestionibusque definiendis quae patriarchatum respicient” (CS, c. 288).

69 “Synodus permanens constat Patriarcha praeside et quatuor Episcopis ad quinquennium nominates” (CS, c. 289 §1).
The patriarch had to appoint another and the two others were residential bishops designated for five years in order of seniority in episcopal ordination.\textsuperscript{70} Substitutes were allowed when a member of the permanent synod was impeded (CS, c. 289 §3, 2º).

The permanent synod was a part of the patriarchal curia and was to aid the patriarch in acting in matters of importance which concerned the patriarchal Church. For the validity of certain acts, the patriarch had to solicit the consent of the majority of the members of the permanent synod.\textsuperscript{71} There were a few instances mentioned in CS, c. 299 wherein the patriarch needed to obtain consent from the permanent synod. They included: (1) the appointment and removal of the finance officer (CS, c. 299 §2, 3º), and (2) the joining of the office of the finance officer of the patriarchal Church with the office of the finance officer of the patriarch’s own eparchy (CS, c. 299 §2, 4º).\textsuperscript{72}

With regard to the administration of ecclesiastical goods, the finance officer was obliged to submit a written report annually and whenever requested by the permanent synod (CS, c. 299 §3). The permanent synod’s duties with regard to the annual report were: (1) examination of the report (which needed to be done by at least two bishops); and (2) auditing the available funds as well as inspecting the real estate, pertinent documents and other securities. These audits and inspections could be done by the bishops or by

\textsuperscript{70} See CS, c. 289. See also ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 52.

\textsuperscript{71} The CCEO and CS differ in the manner of constituting the permanent synod. In accordance with CS, c. 289, the permanent synod consists of four bishops and out of four, only one bishop had to be elected by the synod of bishops. The patriarch was obliged to nominate one member and others were residential bishops. The residential bishops were designated according to the priority of the date of consecration. In accordance with CCEO, c. 115 the synod of bishops elects three bishops and only one is nominated by the major archbishop (patriarch). See POSPIŠIL, Eastern Catholic Church Law, pp. 172-173; ID., The Law on Persons, pp. 146-147; WOJNAR, “The Code of Oriental Canon Law,” p. 425; PALLATH, The Synod of Bishops of Catholic Oriental Churches, pp. 182-183.

\textsuperscript{72} In accordance with CS, the permanent synod had no authority over the major archbishop’s own eparchy. The permanent synod’s competency was thus limited within the major archiepiscopate (patriarchate). See POSPIŠIL, Eastern Catholic Church Law, p. 146.
appropriate delegates. With these controlling functions, the permanent synod contributed to the preservation, protection and increase of the patrimony of the Church.  

2.3.1.1 – 1984 Schema

According to the draft c. 93 of the 1984 Schema, equivalent to CS, c. 299, the permanent synod was to give the consent for the appointment and the removal of the patriarchal finance officer: in §2, 3°, it stated that the finance officer “is appointed or removed with the consent of the permanent synod by the patriarch [major archbishop], on whom he depends in the exercise of his function.” As we have noted earlier, there was a discussion regarding joining of the office of the finance officer of the eparchy of the major archbishop with the office of the finance officer of the major archiepiscopate (patriarchate). Number 4 of the same section allowed that, but in order to do so, the major archbishop was to solicit the consent from the permanent synod.

Canon 93 §3 of the 1984 Schema described the notion of vigilance exercised by the permanent synod over the finance officer. The permanent synod was obliged to examine the annual report of the finance officer: at least two bishops of the permanent synod were to be chosen for this particular function. They were to verify the money coffer and to conduct, or order others to conduct convenient inspections of the goods, documents, and securities for debts, even unexpectedly, and to provide for the diligent

73 See ibid.

74 “[…] idem de consensus Synodi permanentis nominatur vel amovetur a Patriarcha, a quo pendet in munere exercendo” (PCCICOR, “De curia patriarchali,” in Nuntia, 19 [1984], p. 39).

75 See ibid. The canon draft reads: “munus oeconomii patriarchalis cumulare possit, de consensu Synodi permanentis, cum munere oeconomii eparchiae Patriarchae propriae.”
conservation, protection and growth of the patriarchal patrimony.76

2.3.1.2 – 1985 Schema

Canon 93 §2, 3º of the 1985 Schema was based on the CS, c. 299 §2, 3º, which prescribed: “He [the finance officer] shall be appointed and removed by the patriarch, to whom he is subject in the exercise of his duty, with the consent of the permanent synod.”77

In the process of discussion, the study group made a substantial change concerning the removal of the finance officer: for the removal of the patriarchal (major archiepiscopal) finance officer, the patriarch (major archbishop) was obliged to obtain the consent of the synod of bishops, while in CS, c. 299 §2, 3º the patriarch was required to act in agreement with the permanent synod. On this matter, the study group adopted the identical provision of the Schema De processibus regarding removal of the judges.78

The final draft of c. 93 read:

1) For the administration of the goods of the patriarchal Church, the patriarch with the consent of the permanent synod appoints a patriarchal finance officer […].

2) […] During his term in office he or she cannot be removed by the patriarch without the consent of the synod of bishops of the patriarchal Church or if there is danger in delay, of the permanent synod.

3) The patriarchal finance officer must submit annually to the permanent synod a written report of the past year of administration as well as the budget of revenue and expenditure for the coming year; the finance officer is to submit an administration report whenever it is requested by the permanent synod.79

76 “Oeconomus patriarchalis rationem administrationis Synodo permanenti quotannis et quoties ab ipsa petitur in scriptis reddere debet; Synodus autem per duos salem Episcopos eiusdem Synodi sodales, rationes ab oecono exhibitas examinat, arcam recognoscit, convenienties inspectiones bonorum, documentorum, nominum, inopinato etiam, exsequitur seu exsequeundas iubet, et diligenter conservationi, tutelae, increment patrimonii patriarchalis providet” (ibid).

77 “Idem de consensu Synodi permanentis nominatur et amovetur a Patriarcha, a quo pendet in munere exercendo” (CS, c. 299 §2, 3º).


79 §1. “Pro administratione bonorum Ecclesiae patriarchalis Patriarcha, de consensu Synodi permanentis, nominet oeconomum patriarchalem, […]. §2. […] munere durante a Patriarcha amoveri non potest nisi de consensu Synodi Episcoporum aut, si periculum in mora est, Synodi permanentis. §3. Oeconomus patriarchalis rationem administrationis exunctis anni necnon praevisiones accepti et expensi anni incipientis Synodo permanenti quotannis scripto reddere debet; ratio administrationis reddenda est
In the new formulation of a proposed norm on the patriarchal finance officer, the study group sought to safeguard justice (canonical equity) on the one hand, and, on the other hand, positive requirements of canon law as indicated first in c. 60 of the Schema and eventually in *CS*, c. 134 (just cause, appropriate procedure) with regard to the removal of a person from office.  

### 2.3.2 – The Permanent Synod with Regard to the Financial Administration

Throughout history, permanent synods were constituted by patriarchs in order to seek advice for the enactment of ordinances. The members of the permanent synod resided usually, as a matter of fact, near the patriarchal city. The reason behind the institution of the permanent synod was that the summoning of the synod of bishops was not always feasible (due, for instance, to great geographical distances, political instability of the region, or persecution of the Church). *CCEO* provides for the provision of the permanent synod because it is not always practical to convene all the bishops to consult on important matters.

According to *CCEO*, c. 115 §1, the permanent synod consists of the major archbishop and four bishops. Among these bishops, one is to be appointed by the major archbishop and the other three are to be elected by the synod of bishops; this provision etiam quoties a Synodo permanenti id petitur” (PCCICOR, “De curia patriarchali,” in *Nuntia*, 22 [1986], p. 91). This 1985 draft of c. 93 was similar to the 1986 draft of c. 122. See PCCICOR, “De curia patriarchali,” in *Nuntia*, 24-25 (1987), p. 21.

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81 In the patriarchal Church of Constantinople the permanent synod was called “Synodos endemousa” (resident synod). See POSPISHIL, *The Law on Persons*, p. 146. Prior to the promulgation of *CS*, “Synodos endemousa” existed even in non-Catholic Eastern Churches where the patriarch was required to obtain consent of the permanent synod for certain acts of jurisdiction. See FARIS, *The Eastern Catholic Churches*, p. 307; POSPISHIL, *Eastern Catholic Church Law*, pp. 172-173.

signifies that the CCEO, unlike CS, gives the priority to the synod of bishops in the selection of members of the permanent synod. Of the three elected members, two must be eparchial bishops. The members of the permanent synod have a five-year term so they enjoy certain stability. In this context, it is fair to say that it is a permanent structure of the representative body of the synod of bishops in the major archiepiscopal curia. CCEO, c. 115 §3 stipulates that, according to the order determined by the synod of bishops, substitution can be made for impeded members of the permanent synod. The substitutes of the members of the permanent synod are to be appointed when they are prevented from attending meetings.

Regarding competency, the permanent synod and the synod of bishops differ substantially. The permanent synod acts as an “executive committee” or “board of directors” in a major archiepiscopal Church in the context of the exercise of executive power of governance of the major archbishop. Thus, a certain balance is achieved: although the major archbishop (patriarch) cannot make decisions against the majority of the members, the permanent synod also cannot accomplish anything without the major archbishop (patriarch). While the synod of bishops enjoys legislative power (CCEO, c. 110 §1), the permanent synod does not have such power.

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87 See PALLATH, The Synod of Bishops of Catholic Oriental Churches, p. 76.
For the validity of certain acts, the major archbishop either is to obtain consent from or is to consult with the permanent synod. The appointment of the finance officer of the major archiepiscopal Church is one of the administrative acts of the major archbishop for which he needs the consent of the permanent synod (CCEO, c. 122 §1).

Although the finance officer exercises his office under the authority of the major archbishop, he is also accountable to the permanent synod. As was seen earlier in the discussion of the 1984 Schema, c. 93 §3, stipulated that the finance officer was obliged to submit annually a written report of the administration to the permanent synod, and this same provision is found in CCEO, c. 122 §3. This obligation can be considered the minimum administrative duty on the part of the finance officer. The next clause of the same paragraph of the canon expresses the norm that the finance officer is bound to render the administration report whenever requested by the permanent synod. As CCEO, c. 122 §4, stipulates that the synod of bishops also has the right to demand from the finance officer a report of administration and a budget of income and expenditure, one can conclude that both the synod of bishops and permanent synod are competent to inspect the budget.

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88 Prior to performing certain actions, the major archbishop requires counsel or consent of the permanent synod. As an example of an act which requires counsel, see CCEO, c. 1037, 1° which stipulates that the counsel of the permanent synod is required for the alienation of ecclesiastical goods of the major archiepiscopal Church, if the value of goods falls within the minimum and maximum amounts established by the synod of bishops of the same Church. As an example of an act which requires consent, see CCEO, c. 122 §1, regarding the appointment of the major archiepiscopal finance officer. Cf. also FARIS, The Eastern Catholic Churches, pp. 309-311.

89 According to Ivan Žužek, the term “to hear” (audire) does not refer to the validity of the administrative acts; the terms “to consult” (consultare) and “counsel” (consilium) are the only terms that can be understood to bear on the validity of the administrative acts. See ŽUŽEK, “The Patriarchal Structure According to the Oriental Code,” p. 53.

CCEO is not assigning to the synod of bishops and permanent synod the competence to approve or disapprove the budget. According to V.J. Pospishil, the major archbishop (patriarch) is to approve the budget.\(^9\) For J.D. Faris, a particular law of the Church \textit{sui iuris} can establish its norms concerning the details on the responsibilities of the office of the finance officer and its relationship towards other synodal structures (the synod of bishops and the permanent synod).\(^2\) Since CCEO does not mention the approval of the budget, the particular law can provide a suitable norm in this regard.

The 1985 draft c. 93 §3 was very similar to CCEO, c. 122 §3, especially with regard to the submission of the “budget of revenue and expenditures of the coming year” by the finance officer.\(^3\) The budget which is to be submitted before the permanent synod must contain projected income and expenditures of the coming financial year.\(^4\) As this may prove to be a complex task, the major archbishop, according to the particular law or with the consent of the permanent synod, can invite experts to provide their opinions to the synod of bishops (CCEO, c. 102 §3). The synod of bishops is also competent to make norms on the admittance of the experts and non-bishops. However, these participants will not have any voting capacity in the synod of bishops.\(^5\)

\section*{2.4 – The Office of the Finance Officer in the Structure of the Financial Administration of the Major Archiepiscopal Church}

It is an obligation of the major archbishop to appoint a finance officer of the major archiepiscopal Church. This appointment is for the purpose of diligently carrying out the

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functions related to the administration of ecclesiastical goods. The following section, therefore, analyzes the evolution and important aspects of the canonical norm regarding the finance officer, especially his appointment, necessary qualities, term of office, and loss of office.

2.4.1 – The Development of the Legislation Regarding the Finance Officer of the Major Archiepiscopal Church

The office of the eparchial finance officer has a very ancient tradition in the Church, while in major archiepiscopal Churches the office is of recent origin. It is, therefore, necessary to consider first the development of the legislation pertaining to the finance officer of the major archiepiscopal Church.

2.4.1.1 – Distinction between the Eparchial and the Major Archiepiscopal Curia

The 1984 draft of CCEO, c. 122 stated: “The office of the patriarchal finance officer can be combined with the office of the finance officer of the eparchy of the patriarch himself, with the consent of the permanent Synod.” However, this proposal was not accepted in the later discussions.

In accordance with CCEO, c. 921 §2, a major archiepiscopal (patriarchal) Church is to be considered as a separate legal entity, different from the eparchy of the major archbishop. By the law itself, both entities are endowed with juridic personality. Both (major archiepiscopal Church and eparchial Church) should, therefore, have a curia of their own (c. 114 §3) and a separate financial administrative system in order to maintain

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96 Ancient ecumenical councils (like Chalcedon [451], c. 2) ordered that bishops must have a priest steward (oikonomos) for the management of ecclesiastical goods. See POSPISHIL, Eastern Catholic Church Law, p. 238; FARIS, The Eastern Catholic Churches, p. 533.


the transparency of the financial administration.

*CCEO*, c. 942 determines that no person is to hold two or more offices which cannot be suitably fulfilled at the same time. In accordance with *CCEO* c. 122 §1, for the administration of the goods of the major archiepiscopal Church, the major archbishop is required to appoint a finance officer, distinct however from the finance officer of the eparchy of the major archbishop. While the canon does not speak about the invalidity of the act of appointment when this norm is not followed, nevertheless the major archbishop who designates the holder of an office is to use every precaution so as to avoid instances that could negatively affect the legitimacy of the appointment. According to J.D. Faris:

> [T]he fiscal officer of the patriarchal curia should not be appointed as fiscal officer of the eparchy of the patriarch. While the law admits exception in the case of necessity, precaution should be taken even if there is no appearance of a conflict of interest or collusion in the exercise of the two offices by the same person.

This distinction is also important from the point of view of civil legal order. The major archbishop is the competent person to represent the Church *sui iuris* in all legal matters; he also has the responsibility to represent his own eparchy. In the practical realm, submission to the secular government of separate annual financial returns for the major archiepiscopal Church and for the eparchy is necessary to maintain the distinct legal status of each entity in the secular order.

### 2.4.1.2 – Required Qualities of the Finance Officer

According to *CCEO*, c. 940 §1, in order to be promoted to an office, the individual must have the qualities required by law. As the required qualities for the office of finance officer are determined in *CCEO*, it is mandatory that the major archbishop abide by them.

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99 The corresponding *CIC/83*, c. 152 provides a similar norm.

100 See P.V. Pinto, “*Gli uffici,*” in *Commento al Codice dei canoni delle Chiese orientali*, p. 807.

Nevertheless, the validity of the appointment of a person who lacks the qualities required for a given office is intact unless the law specifies that the particular quality is required for validity (c. 940 §2).\textsuperscript{102}

According to \textit{CCEO}, c. 122 §1, the patriarchal finance officer is to be a member of the Christian faithful, expert in economic matters, and a person of outstanding honesty. One can trace the requirements of the present canon to \textit{CS}, c. 299 §2, 2° which outlined the qualities required of the patriarchal finance officer: he was to be a trustworthy person and a diligent cleric of proven virtue. His character was to be proven before the appointment. The finance officer needed to be an expert in the administration of temporal goods. The persons related to the patriarch, inclusive to the fourth degree of consanguinity or affinity, were excluded from an appointment to this office (\textit{CS}, c. 299 §2, 2°).

The discussion of the study group on c. 93 of the 1984 Schema underlined the results of the discussion on c. 75 of the 1979 Schema concerning the qualities of the finance officer.\textsuperscript{103} Canon 93 stated “[…] it [the office of finance officer] cannot, however, be validly conferred on those who are related to the patriarch by consanguinity or affinity up to the fourth degree inclusively.”\textsuperscript{104} In order to maintain transparency and exclude favoritism in the appointment of the finance officer and to avoid any kind of personal financial gain on the part of the patriarch and the finance office, the qualities adopted in


\textsuperscript{103} It is to be noted that the discussion of 1979 Schema concerned the office of the eparchial finance officer. See PCCICOR, “Canones de episcopis,” in \textit{Nuntia}, 9 (1979), pp. 48-49.

\textsuperscript{104} “[…] iis autem qui cum Patriarcha consanguinitate vel affinitate usque ad quartum gradum inclusive coniuncti sint valide conferri non potest” (PCCICOR, “De curia patriarchali,” in \textit{Nuntia}, 19 [1984], p. 39).
the draft of c. 75 §2, 1º referred to the qualities to be possessed by the patriarchal finance officer as stipulated in CS, c. 299 §2, 2º. ¹⁰⁵

According to CCEO, c. 122 §1, the office of the finance officer is not exclusively reserved for clerics since the canon uses the term “Christian faithful.” In addition, the CCEO does not require that “the person must be in the communion of the Church” while CIC/83 includes that provision. ¹⁰⁶ With regard to the notion of communion, LG, no. 14 states: “Fully incorporated into the society of the Church are those who, possessing the spirit of Christ, accept its entire structure and all the means of salvation established within it and who in its visible structure are united with Christ, [...].” ¹⁰⁷ On the special position of the non-Catholic Eastern Churches, UR, no. 15 stated that they profess the fundamental dogmas of the Christian faith, possess true sacraments, and by apostolic succession, the priesthood and the Eucharist, “whereby they are still joined to us in closest intimacy” (“arctissima necessitudine adhuc nobiscum coniunguntur”). ¹⁰⁸ Baptism administered in the non-Catholic Eastern Churches is recognized as valid by the Catholic Church:

¹⁰⁵ “Oeconomus [...] atque iis qualitatibus praeditus sit oportet quae in economo patriarchali requiruntur” (PCCICOR, “De oecono et consilio a rebus oeconomicis,” in Nuntia, 9 [1979], pp. 48-49). The draft of c. 76 §2 (cf. PA, c. 263 §2), when referring to members of the finance council of the eparchy stated: “[...] this office cannot be validly conferred on persons who are related to the local hierarch by consanguinity or affinity up to the fourth degree inclusive” (“A Consilio a rebus oeconomicis excluduntur qui cum Hierarcha loci, usque ad quartum gradum inclusive, consanguinitate vel affinitate coniuncti sint”) (ibid., p. 49).

¹⁰⁶ According to PO, no. 20, all offices have a spiritual end, therefore de facto communion with the Church is required. See ABBASS, “Ecclesiastical Offices,” p. 636. The faithful who is punished with a major excommunication cannot be appointed to an ecclesiastical office (CCEO, c. 1434 §3). See PINTO, “Gli uffici,” pp. 806-807.

¹⁰⁷ LG, no. 14, English translation in FLANNERY 1, p. 20.

¹⁰⁸ UR, no. 15, English translation in FLANNERY 1, p. 465. See also D. SALACHAS, “Receiving Other Christians in the Church,” p. 600.
There is no doubt about the validity of baptism as conferred in the various Eastern Churches. It is enough to establish the fact of the baptism. In these Churches the sacrament of confirmation (chrismation) is properly administered by the priest at the same time as baptism. There it often happens that no mention is made of confirmation in the canonical testimony of baptism. This does not give grounds for doubting that this sacrament was also conferred.\(^{109}\)

Indeed, in virtue of *CCEO*, c. 897, the term “Christian faithful” can be understood to mean not only Catholics but also Eastern non-Catholics.\(^{110}\) Pope John Paul II, while presenting *CCEO* to the synod of bishops, insisted that the *CCEO* should be a vehicle for ecumenical dialogue.\(^{111}\) Since *CCEO* stands as a fostering medium in the realm of ecumenism, c. 122 grants an opportunity to the faithful who belong to an Eastern non-Catholic Church to be appointed as a finance officer of an Eastern Catholic Church *sui iuris*.

The norm that the patriarchal finance officer should be one of the Christian faithful\(^{112}\) brings forward other consequences as well. In conformity with the notion of “Christian faithful” given in *CCEO*, c. 7, it means that not only those in sacred orders, but also laity of both genders, religious, married, and unmarried are considered as admissible candidates for appointment to that particular office. However, the discussion of the study group of PCCICOR in 1985 revealed a difference of opinions with regard to the

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\(^{111}\) See JOHN PAUL II, address to the Eight Ordinary General Assembly of the Synod of Bishops, 5 November 1990, in *L’Osservatore Romano*, English ed., 27 October 1990, pp. 4-5, especially at 5.

\(^{112}\) “[…] oeconomum patriarchalem […] qui sit christifidelis […]” (*CCEO* c. 122).
appointment of the laity to the office of finance officer. A new proposal stated that the
office of the patriarchal finance officer shall be committed to either a cleric or lay
person. After further discussion, the respective norm of the 1985 Schema was
formulated as: “[…] the patriarchal [major archiepiscopal] finance officer should be one of
the Christian faithful who is an expert in economic matters and outstanding for honesty
[…].” Later drafts and the final version of the canon in CCEO maintained the same
wording.

In the discussion of the required qualities of the finance officer, CCEO, c. 114 §2
is to be noted, however. The canon reads: “Persons belonging to the patriarchal curia can
be selected by the patriarch from the clerics of the entire Church over which he presides
[...].” However, given the possibility of the appointment of lay people and baptized
Eastern non-Catholics to the office of finance officer, the inclusion of officers of the curia
other than the clerics cannot be contested.

According to CCEO, c. 122 §1, the finance officer is to be an expert in economic
matters. Similarly, as some other ecclesiastical offices which call for expert persons as
their holders, the canon requires a truly skilled person to be appointed to the office of
finance officer which indeed demands very particular qualities from the office holder.
Additionally, to be considered for such an appointment a person must demonstrate

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113 “[…] oeconomi patriarchalis munus sive cleric sive laico, fidei […]” (PCCICOR, “De curia
patriarchali,” in Nuntius, 22 [1986], p. 89).

114 “[…] qui sit christifidelis in re oeconomica peritus et probitate praestans […]” (ibid., p. 91).

115 For instance, a person suitable for the episcopate must be knowledgeable in sacred sciences:
“(…) at least have expertise in some sacred science” (CCEO, c. 180, 6º); the protosyncellus or the syncellus
are to have “[…) expertise in some sacred science” (CCEO, c. 247 §2).
personal honesty and integrity. The criteria of “honesty” and “integrity” can be further specified in the particular law of the Church, while CCEO simply speaks in general terms (“outstanding for honesty”).

Finally, a person related to a major archbishop through blood or marriage within the fourth degree is to be excluded from being considered for the office. CCEO, c. 122 §1 reads: “[…] anyone who is related to the patriarch up to the fourth degree of consanguinity or affinity inclusively is excluded from being validly appointed”. As the canon does not specify the line, both the direct line and the collateral line are included in the prohibition. Likewise, in order to avoid any suspicion of partiality or conflict of interest, careful assessment of the situation is required at the very beginning of the process leading to the appointment.

2.4.2 – Appointment of the Finance Officer

The finance officer of the major archiepiscopal Church is to be appointed by

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118 Appointment, resignation, and removal of the finance officer are juridic acts. CCEO, c. 931 states that for the validity of a juridic act the following requirements are necessary: 1) the act is to proceed from a person who is capable and competent; 2) all the essential elements must be included; and 3) all formalities and other requirements established in law are to be observed. See POSPISHIL, Eastern Catholic Church Law, p. 676. Luis Navarro offers the following definition of a juridic act: “These are acts that create, modify or terminate juridical relationships, acts that originate from the free activity of men and women (where the intellect and the will of the individual are involved)” (NAVARRO, “Persons and Juridical Acts,” p. 631). Olysius Robleda defines the juridic act in the following words: “[Juridic act] is an externally manifested act of the will by which a certain juridical effect is intended” (O. ROBLEDA, Quaestiones disputatae iuridico-canonicæ, Rome, Libreria editrice Universitâ Gregoriana, 1969, p. 13, English translation in M. HUGHES, “A New Title in the Code: On Juridical Acts,” in SJC, 14 [1980], p. 392). See also M. WIJLENS, Commentary on cc. 124-128, in CLSA Comm 2, p. 177. Wijlens distinguishes between juridic facts and juridic acts. Her definition of juridic facts is: “[…] juridic facts […] are facts or actions that have legal consequences by the law itself and for which no will is required” (ibid.). In accordance with CCEO, c. 931 §1, the person placing a juridic act must be capable and competent, and the act itself must have the required essential elements, while the formalities and prerequisites prescribed by law for the validity are to be followed. There are four types of capacities that are distinguished in canon law: 1) natural capacity (a psychologically capable person), 2) basic canonical capacity (physical or juridical person) 3) specific capacity (specific capacity necessary for the given juridic act) and 4) competence (capacity to
the major archbishop with the consent of the permanent synod (CCEO, c. 122 §1). The major archbishop is to convocate the permanent synod of bishops in accordance with CCEO, c. 120, in order to request its consent.119 CCEO, c. 934, determines the modalities of such convocation. In accordance with the prescriptions of CCEO, c. 948, the electors are to be summoned by the presiding officer of the college a place and time that is suitable to them. If a member has not been summoned and does not take part, that member can demand that it be declared invalid. If more than one-third of the electors were overlooked and did not take part, the election is null and void.120

CCEO, c. 934 provides a similar norm to that of CS, c. 35 with regard to the canonical requirements for obtaining the consent or counsel. The consent of the absolute majority of the members who are present is necessary (CCEO, 934 §1). Regarding the invalidity of the act, Pospishil states:

Whenever the law prescribes that a superior may place a juridic act only with the consent or with the counsel of a group of persons, they must be convoked according to the law, and an absolute majority must concur for the validity of the act. While the act of the superior placed against the counsel is valid, without having obtained the counsel (or without the consent) it is invalid.121


119 The permanent synod convenes at least two times a year, or more frequently, as determined by the particular law of the Church. Moreover, any time the patriarch thinks it is opportune to convocate the permanent synod, he can convene it (c. 120).


121 POSPISHIL, Eastern Catholic Church Law, p. 676. Luis Navarro provides a comparative analysis of CCEO, c. 934 and CIC/83, c. 127. CIC/83 speaks about the juridic acts of the superiors while CCEO “extends the norm to all authorities, whether superiors or not.” In CCEO, the authority is obliged to adhere to prescribed guidelines such as to “supply the necessary information” to the concerned members. This provision is not incorporated in CIC/83. While CIC/83 obliges the members to maintain secrecy, it rules that members keep secrecy regarding serious matters only. CCEO, on the other hand, requires that the members maintain secrecy in all matters. See NAVARRO, “Persons and Juridical Acts,” pp. 632-633.
According to *CCEO*, c. 934 §3, in order to express their informed opinion and judgment, the persons who are called upon are to be provided with the necessary information.

*CCEO*, c. 431 §1 provides guidelines for the religious who are fulfilling the duties of an office outside their religious institute:

> Without the written consent of his or her major superior, a religious cannot be promoted after first profession to a dignity or office outside the institute, except those that the synod of bishops confers through a completed election and with due regard for can. 89, §2; after having fulfilled the function, the religious must return to the monastery, order or congregation.

Normally, a religious after his/her first profession requires the written consent of the respective major superior to be promoted to the offices outside the institute. *CCEO*, c. 89 §2 allows, however, the major archbishop (patriarch), after consulting with the major superior (unless the particular law of the Church *sui iuris* requires consent) to appoint a member of a religious institute or of a society of the common life in the manner of religious, to an office within the major archiepiscopal (patriarchal) Church.

Because the appointment is an administrative act, it must be communicated to the concerned person in a written form (*CCEO*, c. 1514 §2) and should be notarized. 122

*CCEO*, c. 123 §2 provides the directives on how to notarize the administrative acts of the major archiepiscopal curia: cc. 253-254 are applicable. The chancellor of the curia is obliged to preserve all the documents concerning appointments (*CCEO*, c. 252 §1).

### 2.4.3 – Term of Office of the Finance Officer

The elements of the definition of the ecclesiastical office are described in *PO*, no. 20: “[…] any office conferred in a permanent fashion and to be exercised for a spiritual

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Stability in office is essential for the exercise of each office. The finance officer is no exception. Its holder requires stability for an effective performance of his/her functions. The appointment for a determined period of time safeguards the stability of the finance officer in office. Additionally, *CCEO* guarantees some additional stability for the office holder: the major archbishop (patriarch) must obtain the consent of the permanent synod in order to remove the finance officer of the major archiepiscopal Church before the completion of his/her term of office (*CCEO*, c. 122 §2).

The 1985 discussion of draft c. 93 shows that the term of five years was suggested. Ultimately, however, the determination of the definitive term of office of the finance officer was left to each Church *sui iuris*. *CCEO* follows this direction and stipulates that the finance officer is to be appointed for a time period determined by the particular law of the Church (*CCEO*, c. 122 §2). With regard to the renewal of the term, the common norm left it to the particular law of the Church. In this regard, J.D. Faris states:

> If particular law permits, the patriarch can renew the appointment six months before the expiration of the term of office or appoint a new finance officer who will acquire office upon the expiration of the term. The former patriarchal finance officer must be informed in writing of the expiration of the term in order for the position to be terminated and vacated.

The norms promulgated in *CCEO* regarding the term of office of the finance officer are reflected in the particular law of the Syro-Malabar Church: the term of office of

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125 The appointment of the finance officer of the eparchy also is for a determined time period that is assigned by the particular laws of the Church *sui iuris* (*CCEO*, c. 262 §2).

the major archiepiscopal finance officer is five years and the same person is not to be appointed for more than two consecutive terms.\footnote{127}

2.4.4 - Juridic Status of the Finance Officer during the Vacancy of the See

As to the issue of vacancy of the patriarchal [major archiepiscopal] see, \textit{CCEO}, c. 126 §1 determines that “[it] becomes vacant at the death or resignation of the patriarch [major archbishop].” \textit{CCEO}, c. 127 furnishes the provisions concerning the administrator of the vacant see. The administrator is designated in the following ways: 1) the bishop designated by the particular law; 2) or a senior\footnote{128} curial bishop; and 3) if there is no curial bishop, the senior bishop of the permanent synod.\footnote{129}

The proposals of the PCCICOR sent to the patriarchs and other hierarchs of the Eastern Catholic Churches on 12 October 1984, included draft c. 101 §1 which stated: “The primary power passes to the administrator of the patriarchal Church excluding all those things which cannot be done unless after having obtained the consent or having heard the members of the synod of bishops.”\footnote{130} The corresponding norm of \textit{CCEO}, c. 130

\footnote{127} See article 6 in \textit{Synod of Syro-Malabar Major Archepiscopal Church (= SSMMAC), “Particular Laws on Major Archbishop, Metropolitan, Bishops, Exarchs and the Organs Assisting the Eparchial Bishop in the Governance of the Eparchy” (= “Particular Law of the Syro-Malabar Church”), in \textit{Synodal News}, 11 (2003), p. 11. Consequently, in the Syro-Malabar Church, the finance officer who is a lay faithful is allowed, for a maximum of ten years, to hold office. After the completion of the second consecutive term, the finance officer will have to face the practical problem of the consequences of loss of office and the corresponding income. This situation necessitates agreements, valid in civil law, with the lay faithful before their appointment; accordingly, a lay faithful can function as a finance officer practically only on a contract basis.

\footnote{128} Seniority will be considered on the basis of the episcopal ordination.


\footnote{130} “Ad administratorem Ecclesiae patriarchalis transit ordinaria potestas iis omnibus exclusis quae agi non possunt nisi consentientibus vel auditis sodalibus Synodi Episcoporum” (PCCICOR, “De ecclesiis patriarchalibus,” in \textit{Nuntia}, 19 [1984], p. 41). The 1985 draft of c. 101 made a small change in the wording: “The primary power passes to the administrator of the patriarchal Church excluding all those things which cannot be done unless with the consent or the counsel of the synod of bishops.” Instead of the words “having heard,” the word “counsel” was introduced: “Ad administratorem Ecclesiae patriarchalis transit ordinaria potestas iis omnibus exclusis quae agi non possunt nisi de consensu vel consilio Synodi
§1 specifies the character of the power of the administrator of the patriarchal Church ("the ordinary power of the patriarch"), and limits its scope by excluding "all those matters that cannot be performed without the consent of the synod of bishops of the patriarchal Church." In particular, the administrator is not competent to remove the finance officer from office (CCEO, c. 122 §2) or to proceed with alienation of ecclesiastical goods because, as it will be considered in detail later in the thesis, alienation of ecclesiastical goods that exceed double the maximum amount, or alienation of precious goods that were given to the Church in virtue of a vow, require the consent of the synod of bishops (CCEO, c. 1037, 3º).

John D. Faris adds a useful clarification concerning the question of the restricted power that the administrator enjoys during the interim period: "The general restriction imposed on the patriarchal administrator when a see is vacant also applies here, i.e., there are to be no innovations (c. 228 §1) and that he is prohibited from doing anything which could be prejudicial to the rights of the future patriarch." Victor J. Pospishil also holds the same opinion: the ordinary power passes to the administrator, "except the power to

Episcoporum" (PCCICOR, "De ecclesiis patriarchalibus," in Nuntia, 22 [1986], p. 95). Cf. footnote 90 for an opinion on the potential importance of this change.

131 The power that the administrator enjoys is different from the patriarchal power or the major archbishop's power. With regard to the power of the patriarch, Ivan Žužek states: "[I]t is common doctrine that the special prerogatives of the Apostles, entitled by Jesus Christ to share the supreme authority of the Church, including infallibility, are to be well distinguished from their episcopal prerogatives. The former ceased with the ending of the apostolic age, the latter, established for all times, were transmitted to the bishops. After the apostolic age, the supreme authority of the Church was statuente Domino, reserved to the Roman Pontiff, as the successor of St. Peter and, with him as head to the college of bishops united with him. It is not in agreement with this common doctrine to sustain that the 'patriarchal power,' included in but not adequately distinct from the power iuris divini that the Apostles had, emerged sometime at the end of the persecutions as an 'intermediate power,' established iure divino for all time, to be substantially always safeguarded by the supreme authority of the Church" (I. Žužek, "The Authority and Jurisdiction in the Oriental Catholic Tradition," in I. Žužek [ed.], Understanding the Eastern Code, Kanonika 8, Rome, Pontifical Oriental Institute, 1997, p. 473).

make innovations.” In accordance with CCEO, c. 131, the major archiepiscopal administrator is to present a report regarding his administration to the new major archbishop.

2.4.5 – Loss of Office of the Finance Officer

In accordance with CCEO, c. 965 §1, an ecclesiastical office is lost (besides “other cases prescribed by law”), by the lapse of a predetermined time, by reaching the age determined by the law, by resignation, by transfer, by removal, and by privation.

2.4.5.1 – Loss of Office of the Finance Officer by Resignation of the Holder

A person who holds an ecclesiastical office has the right to resign from an ecclesiastical office for just cause. For the validity of the resignation from an ecclesiastical office, the conditions include basic psychological competence and just cause (CCEO, c. 967), freedom from grave fear, lack of substantial error, and exclusion of simony (CCEO, c. 968). The resignation is to be presented in a written form or made orally to the competent authority in the presence of two witnesses (CCEO, c. 969). The resignation takes effect immediately unless acceptance is required; then it takes effect after the acceptance has been communicated to the person resigning. If the intimation of

133 POSPISHIL, Eastern Catholic Church Law, p. 177.

134 “Qui sui compon est, potest officio iusta de causa renuntiare.” CS, c. 126 stated that one who has possession of his mental faculties can renounce an ecclesiastical office. For more details, see NAVARRO, “Persons and Juridical Acts,” p. 631; L. CHIAPPETTA, Il Codice di diritto canonico: commento giuridico pastorale, vol. 1, Rome, Edizioni Dehoniane, 1996, p. 189.


136 “To be valid a resignation must be made in writing or in the presence of two witnesses, to the authority to whom it pertains to make canonical provision of the office in question; unless acceptance is needed, it takes effect immediately” (CCEO, c. 969).

137 See CCEO, c. 970 §1. A similar norm can be found in CS, c. 132: “§1. When a renunciation was lawfully submitted and accepted, the office becomes vacant when the renouncing office holder has been notified of the acceptance. §2. The renouncing office holder remains in the office as long as he has not
acceptance does not reach the person within three months, the resignation has no effect
and the person resigning has the right to revoke the resignation (CCEO, c. 970). The
person who has resigned from office can obtain the same office by another canonical
provision (CCEO, c. 971).

In accordance with CCEO, c. 931, for its validity a juridic act must be carried out
by a capable and competent person. Moreover, all the essential elements of the juridic act
and all formalities and other requirements established in law are to be observed. The
resignation is, generally, to be made in writing. It can also be made orally, in the presence
of two witnesses. In CS, c. 128 there was a provision to resign through a proxy, but in
CCEO that provision is absent.

Since the authority to whom it pertains to make canonical provision of the office of
the finance officer is the major archbishop, the resigning finance officer is to submit his
resignation to him, in accordance with CCEO, c. 969. In CIC/83 and CCEO there seems to
be no general principle regarding the question of which offices actually require acceptance
of resignation. James H. Provost, when commenting on CIC/83, c. 189 states that no
acceptance of a resignation is needed if the office did not require direct intervention of
competent authority to confer it.138 Pospishil comments on CCEO, cc. 969 and 970:

[Resignation] takes legal effect immediately, unless the law requires that it be accepted
by the superior (c. 969). Most offices in the service of the Church demand acceptance of
resignation, and thereby prevent that the functions of an office are interrupted. Such a
resignation takes effect only after acceptance, and if none is forthcoming within three
months, the resignation becomes invalid. It can also be withdrawn by the office holder
any time before the acceptance has been communicated. As with all decisions in the
Church, only that resignation can be accepted which is based on a just and proportionate
reason (c. 970).139

ascertained that the superior has granted his acceptance.” Cf. CIC/83, c. 189 for the formalities with regard
to the validity of the resignation.

138 See J.H. PROVOST, Commentary on c. 189, in CLSA Comm 2, p. 222.

139 POSPISHIL, Eastern Catholic Church Law, p. 682.
Following the reasoning of Pospishil that the absence of the requirement of an acceptance of resignation from office could be prejudicial to the good of the ecclesial community and taking into account Provost’s opinion, one can maintain that the particular law of a major archiepiscopal Church should regulate this matter and demand acceptance of resignation of the finance officer by the major archbishop.\textsuperscript{140}

If the particular law indeed requires acceptance of resignation of the finance officer, the major archbishop must have moral certainty that the finance officer’s resignation is based on just and proportionate cause (\textit{CCEO}, c. 970 §3).\textsuperscript{141} \textit{CCEO}, c. 970 §3 warns that “[t]he authority is not to accept a resignation that is not based on a just and proportionate cause.” \textit{CCEO} is however silent regarding the evaluation and determination of the just cause. It is, therefore, left to the discretion of the major archbishop. The acceptance of resignation requires the signature of the chancellor of the curia or notary (\textit{CCEO}, cc. 123 §2, 253 §1). Until the acceptance of resignation has been intimated to the person resigning from office, the resignation can be revoked (\textit{CCEO}, c. 970 §2).

\textbf{2.4.5.2 – Loss of Office of the Finance Officer by Removal from Office}

\textit{CS}, c. 134 §1 prescribed that one could be deprived of an office either by law itself or by the decision of a lawful superior. For removal of a cleric from an irremovable office, the hierarch had to follow special procedures prescribed by the law (\textit{CS}, c. 134 §2).

\textsuperscript{140} J.D. Faris comments on \textit{CCEO}, c. 969: “The patriarchal finance officer can resign from office by submitting a resignation in writing to the patriarch or make his/her intentions known to the patriarch in the presence of two witnesses; no acceptance is required in order for the resignation to become effective (c. 969)” (“The Patriarchal Churches,” p. 184).

\textsuperscript{141} There are, therefore, two personal judgments related to the juridic act of resignation from office. First, the person who resigns should be in a proper frame of mind before and during the submission of his resignation. Secondly, “[t]he authority must consider the proportionality of the cause presented against the other information that makes up the other side of the proportion” (P. GEFÄELL, Commentary on c. 189, in \textit{Exegetical Comm}, vol. 1, p. 1045).
PA, c. 259 §2, 3º granted the major archbishop the power to appoint and remove the major archiepiscopal finance officer, with the consent of the permanent synod. The same norm was repeated in CS, c. 299 §2, 3º. With regard to CCEO, the removal of the finance officer before the completion of his/her term of office rests with the major archbishop, and is possible only after obtaining the consent of the synod of bishops or, if there is a danger in delay, the consent of the permanent synod (CCEO, c. 122 §2). As it is not always feasible to convene the synod of bishops for the entire major archiepiscopal Church, in specific situations when the finance officer’s further exercise of authority could cause harm to the Church and removal appears warranted, obtaining the consent of the permanent synod is necessary and sufficient. With regard to the removal of a person from office, CCEO, c. 974 §2 must be followed: “To take effect, the decree of removal must be intimated in writing.”

Finally, CCEO, c. 976 §1 provides for the removal from office by the law itself under the following circumstances: 1) loss of the clerical state; 2) the public abandonment of the Catholic faith; 3) public rejection of communion with the Catholic Church; or 4) an attempted marriage, even if only civilly, by a cleric.142

2.4.5.3 – Loss of Office by Privation

In the context of moral demands imposed on the office of the finance officer, and indeed on any public office concerned with financial management, privation of office deserves special attention. Even though financial malfeasance is not always punished by

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privation of office, nonetheless, due to the lack of public trustworthiness and harm caused to the good name of the Church, it may be necessary. 143

While the prior norm of CCEO in this regard, supplied by CS, c. 134 §1 prescribed that “one can be deprived of an office either by law itself or by the decision of a lawful superior,” 144 CCEO stipulates: “Privation of office can only be inflicted as a penalty for a delict” (c. 978).

The privation of office is to be inflicted upon the finance officer by a penal procedure. The penal sanctions are treated in CCEO, cc. 1401-1467 and the penal procedure for imposing penalties is outlined CCEO, cc. 1468-1487. 145

2.5 – A COMPARATIVE ANALYSIS OF THE OFFICES OF THE FINANCE OFFICER AT THE MAJOR ARCHIEPISCOPAL AND EPARCHIAL LEVELS

A short comparative analysis of the office of the finance officer at the major archiepiscopal level and eparchial level is helpful in order to situate the canonical figure of the major archiepiscopal finance officer in a broader context. While in CCEO there is only one canon (c. 122) on the major archiepiscopal finance officer, two canons (cc. 262, 263) examine the eparchial finance officer.

2.5.1 – Finance Officers as Members of the Curia

In accordance with CCEO, cc. 122 and 262, the offices of the major archiepiscopal finance officer and the eparchial finance officer are stable offices within their curia. The

143 Instances of financial malfeasance which can be reasons for penal measures against the finance officer are considered in Chapter 3.4.

144 “Privatio officii locum habet vel ipso iure, vel ex facto legitimi Superioris” (CS, c. 134 §1).

canons are placed in the sections on the patriarchal curia and the eparchial curia, respectively.\footnote{With the introduction of the figure of syncellus, the status of the finance officer in the Eastern Catholic Churches diminished. See POSPISHIL, \textit{The Law on Persons}, p. 192. \textit{CIC/17} did not include the office of finance officer \textit{sede plena}. See FARIS, \textit{The Eastern Catholic Churches}, p. 534.}

The office of the eparchial finance office, which is outlined in \textit{CCEO}, emerged from the early traditions of the Church. Canon 10 of Theophilus of Alexandria (385-412) stated that in order to expend the goods of the Church, a finance officer (\textit{oeconome}) must be named.\footnote{In \textit{Sacred Congregation for the Eastern Churches}, \textit{Codificazione canonica orientale, Fonti}, fasc. 9, Typographia polyglotta Vaticana, 1933, p. 497.} The Council of Chalcedon (451), c. 26 advised the bishops that they must deal with the administration of the property of the Church through an administrator.\footnote{See \textit{Council of Chalcedon}, c. 26, in \textit{DEC}, vol. 1, p. 99.}

In the modern era, \textit{CS}, c. 438 concerned the eparchial finance officer.\footnote{Pospishil commented on this canon: “The existence of the office of an eparchial \textit{econome} means that the bishop is not entitled to act as immediate administrator of the diocesan property” (\textit{The Law on Persons}, p. 192).} The renaissance of the office of eparchial finance officer is the characteristic feature of the Eastern tradition in which the eparchial bishop was relieved from all of the duties of temporal management. All of the eparchial bishop’s efforts were directed towards responding to other pastoral aspects of his office.\footnote{See FARIS, \textit{The Eastern Catholic Churches}, p. 533.}

On the other hand, the office of the major archiepiscopal finance officer was regulated for the first time by \textit{CS}, c. 299. In the Syro-Malabar Church, the canonical institution of the office of finance officer originated only in 1993.

\textit{CIC/83}, c. 494 §1 also mandates the diocesan bishop to appoint a finance officer. When compared with \textit{CIC/17}, this office is a new figure in the diocesan curia: as per
CIC/17, c. 1520, the council of administration was the body that existed for the purposes of administration of the temporal goods of the diocese.\footnote{151}

2.5.1.1 – The Appointment of the Finance Officers

\textit{CCEO}, c. 262 §1 states that the eparchial bishop must appoint an eparchial finance officer in his eparchy. As the eparchial bishop is ultimately responsible for the administration of ecclesiastical goods, the eparchial finance officer is to exercise his office under the authority of the eparchial bishop.\footnote{152} Thus the appointment of the eparchial finance officer is a free choice of the eparchial bishop, although prior to the appointment, he is bound to consult the college of eparchial consultors and the finance council. As to the obligation of the eparchial bishop to make this appointment, \textit{CCEO}, c. 159, 7º determines that if the eparchial bishop fails to do so, the metropolitan must first warn him and appoint one in case of default.\footnote{153} Similarly to the major archiepiscopal level, the finance officer at the eparchial level is to be a member of the Christian faithful (\textit{CCEO}, cc. 122 §1).\footnote{154} Consequently, as was stated before, in the Eastern Catholic Churches, an Eastern non-Catholic Christian can become a finance officer.

\footnote{151} In the Latin Church, if during the vacancy of the diocesan see the finance officer is chosen as an administrator of the diocese, he is to be replaced by someone elected by the diocesan finance council (see \textit{CIC}/83, c. 423 §2). According to Barbara Anne Cusack it is a “rare example of a significant diocesan appointment by someone other than the bishop” (Commentary on c. 494, in CLSA Comm 2, p. 651). In a major archiepiscopal Church \textit{sui iuris}, during the vacancy of an eparchial see and after having informed the Roman Pontiff, the major archbishop assumes the power of the eparchial bishop. He is obliged, however, to appoint an administrator for that eparchy within one month (\textit{CCEO}, c. 220). Cf. POSPISHIL, \textit{Eastern Catholic Church Law}, p. 226. If the finance officer becomes the administrator of the eparchy, the eparchial consultors must elect another finance officer (\textit{CCEO}, 225 §2).

\footnote{152} See FARIS, \textit{The Eastern Catholic Churches}, p. 536.


Regarding the office of the major archiepiscopal finance officer, he/she is responsible for the administration of the goods of the major archiepiscopal Church and fulfills his/her duties under the authority of the major archbishop (CCEO, c. 122 §1).

As to the prescriptions regarding the personal qualities of the finance officer at the major archiepiscopal level, the law prohibits those who are related to the major archbishop up to the fourth degree of consanguinity or affinity, inclusively to be appointed (CCEO, c. 122 §1). Although at the eparchial level (see CCEO, c. 262), and at the diocesan level of the Latin Church (see CIC/83, c. 494), the exclusion of close relatives of the bishop is not prescribed in the canons on the office of the finance officer, nevertheless the law does exclude close relatives of the eparchial/diocesan bishop from membership in the finance council (CCEO, 263 §3). In effect, the eparchial finance officer who ipso iure is a member of the eparchial finance council (CCEO, 263 §2), cannot be related to the eparchial bishop up to the fourth degree of consanguinity or affinity, inclusively.

Governance of an eparchy in a collaborative style is expressed through various instances of consultation required of the eparchial bishop. Concerning the appointment of finance officer, the previous Eastern legislation outlined in CS, c. 438 and PA, c. 262 obliged the eparchial bishop to do so, but without imposing an obligation of prior consultation with the eparchial consultors and eparchial finance council. In accordance

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155 See CIC/83, c. 492 §3. In the Latin Church “[t]he finance committee is presided over by the diocesan bishop or by his delegate who may not, however, be the financial administrator […] the latter is a servant of the finance committee, not a member of it” (G. READ, Commentary on c. 492, in G. SHEEHY et al. [eds.], The Canon Law: Letter and Spirit, A Practical Guide to the Code of Canon Law. [= CLSGBI Comm], prepared by the CANON LAW SOCIETY OF GREAT BRITAIN AND IRELAND in association with the CANADIAN CANON LAW SOCIETY, Collegeville, MN, The Liturgical Press, 1995, p. 273). While CIC/83, c. 492 §1 stipulates that the finance council is to have at least three members, corresponding CCEO, c. 263 does not determine the number of members of the eparchial finance council.

156 See POSPISHIL, Eastern Catholic Church Law, p. 239. For the Latin Church, CIC/83, c. 492 does not mention the participation of the finance officer in the finance council. See FARIS, The Eastern Catholic Churches, p. 570, footnote 21.
with CCEO, c. 262 §1, the eparchial bishop is to consult both the college of eparchial consultors and the eparchial finance council and a lack of required consultation results in the invalidity of the act of the appointment. ¹⁵⁷

While the major archbishop needs to obtain consent from the permanent synod for the appointment of the finance officer of the major archiepiscopal Church (CCEO, c. 122 §1), the eparchial bishop is obliged to consult the college of eparchial consultors and the eparchial finance council. As we have mentioned earlier, although there was a discussion about the need for freedom to be accorded to the patriarch in the appointment and removal of the finance officer, the coetus decided to consider the office of the patriarchal finance officer as comparable to that of a judge of the patriarchal ordinary tribunal ¹⁵⁸ who is appointed with the consent of the permanent synod (CCEO, c. 1063 §2).

In accordance with CIC/83, c. 494 §1 prior consultation with the diocesan college of consultors and the finance council is required for the appointment of the diocesan finance officer. ¹⁵⁹

¹⁵⁷ “The procedure of asking and receiving consent or consultation is to be written down in the minutes which are to be authenticated by the chancellor or some other notary” (POSPISHIL, Eastern Catholic Church Law, p. 677).


¹⁵⁹ CCEO, c. 262 §1 and CIC/83, c. 494 §1 do not state that the office of the finance officer is exclusively destined for clerics: “This marks a departure from the ancient legislation, both of the East and of the West, which required a cleric for the office of the eparchial oeconomus or diocesan financial administrator” (NEDUNGATT, Laity and Church Temporalities, p. 239).
2.5.1.2 – Term of Office

The appointment of the eparchial finance officer is for a definitive term and the eparchial bishop can renew the mandate for another period of time (term). As mentioned already, the term of office of the major archiepiscopal finance officer is to be determined by the particular laws of the Church sui iuris (CCEO, §2). The term of an eparchial finance officer also is to be determined by the particular law (CCEO, c. 262 §2). Most of the eparchial statutes in the Syro-Malabar Church fix the term as three years. However, some eparchial statutes do not provide for a fixed term. As the term of office indicates the stability of the office holder and allows for a certain independence of action, it is worthwhile to include such a norm in the statutes of the eparchies. As far as CIC/83 is concerned, the term of office of the finance officer is fixed at five years and can be renewed for another five years (CIC/83, c. 494 §2).

The major archbishop must obtain the consent of the synod of bishops for the removal of the major archiepiscopal finance officer before the expiry of the predetermined time (CCEO, c. 122 §2). At the eparchial level, the eparchial bishop must first consult with the eparchial college of consultors and the eparchial finance council before making such a decision (CCEO, c. 262 §2).

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162 In this sense, like in an Eastern Catholic Church sui iuris, a diocesan finance officer of the Latin Church also enjoys stability in the office. See CUSACK, Commentary on c. 494, p. 651.
2.5.1.3 – Specific Obligations of the Finance Officers in Accordance with *CCEO* and Particular Laws

As indicated above, both officers (major archiepiscopal finance officer and eparchial finance officer) are members of their respective curia. The eparchial bishop supervises the administration of ecclesiastical goods of the eparchy but the finance officer administers the temporal goods of the eparchy. In this context, both *CCEO* and *CIC/83* make the appointment of a finance officer obligatory in every eparchy/diocese.\(^{163}\)

In accordance with *CCEO*, c. 262 §3, the finance officer is to exercise his office subject to the authority of the eparchial bishop. The specific functions of the administrator of ecclesiastical goods are stipulated in *CCEO*, c. 262 §§ 3 and 4; these norms correspond to the previous Eastern legislations in *CS*, c. 438 and *PA*, c. 262. *CCEO*, c. 262 §3 states:

> Under the power of the eparchial bishop, who is to determine in greater detail the rights and relationships of the eparchial finance officer to the finance council, the eparchial finance officer is to administer the temporal goods of the eparchy, to oversee the administration of ecclesiastical goods throughout the eparchy, to provide for their preservation, safety and increase, to supply for the negligence of local administrators and to administer the goods that lack an administrator designated by law.

While the canon on the eparchial finance officer includes the duty of overseeing, preserving, safeguarding and increasing of ecclesiastical goods of the entire eparchy,\(^{164}\) the canon on the major archiepiscopal finance officer does not mention similar duties. At the major archiepiscopal level, the competency of the finance officer is limited to the sphere of the major archiepiscopal curia. *CCEO* is silent on the supervisory role of the major

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\(^{163}\) The eparchial finance officer is to execute the policy of the eparchial bishop and of the eparchial finance council. See FARIS, *The Eastern Catholic Churches*, p. 533.

\(^{164}\) According to J.D. Faris “the fiscal officer is not restricted to the execution of the policy of others; the fiscal officer shares in the responsibility of preservation, protecting, and increasing the goods of the eparchy” (ibid., p. 537).
archiepiscopal finance officer with regard to other institutions (juridic persons) that are common to the major archiepiscopal Church.\footnote{165}

At the eparchial level, the finance officer is to supervise the administration of ecclesiastical goods of juridic persons subject to the eparchial bishop. In fulfilling his/her tasks the eparchial finance officer is to observe the provisions of \textit{CCEO}, particular law, policies and instructions established by the eparchial bishop.\footnote{166} In this context, George Nedungatt remarks on the issue of vigilance over ecclesiastical goods of the eparchy: “It is through the \textit{oeconomus} that the bishop exercises indirect vigilance over the administration of the temporal goods of the eparchy. This means that the vigilance over inferior administrators subject to the bishop (like parish priests) is exercised directly by the \textit{oeconomus}.”\footnote{167} The supervisory capacity of the eparchial finance officer includes reviewing annual reports that are submitted by the representatives of juridic persons who are immediately responsible for the administration of their goods (\textit{CCEO}, cc. 922 §2, 3º; 1031 §1).\footnote{168}

Regarding the annual statement of income and expenditure account, \textit{Ernakulam-Angamaly athirupatha niyamasamhitha} (Statutes of the Archeparchy of Ernakulam)\footnote{169} state:

\footnote{165}{The specific limits of power of the major archiepiscopal finance officer of the Syro-Malabar Church will be discussed in the last chapter.}
\footnote{166}{See FARIS, \textit{The Eastern Catholic Churches}, p. 536; BROGI, “Norms on Eparchies and Bishops,” p. 239.}
\footnote{167}{NEDUNGATT, \textit{Laity and Church Temporalities}, p. 241.}
\footnote{168}{See POSPISHIL, \textit{Eastern Catholic Church Law}, p. 701; FARIS, \textit{The Eastern Catholic Churches}, p. 536.}
\footnote{169}{On 16 December 1992, through the apostolic constitution \textit{Que maiori} Pope John Paul II constituted the Syro-Malabar Church as a major archiepiscopal Church. The permanent residential see of the major archbishop is in the town of Ernakaulam. The Archeparchy of Ernakaulam is the major
The finance officer is appointed to administer the temporal goods of the archeparchy under the authority of the archbishop. He is responsible for the maintenance of the details of movable and immovable goods and to keep the income and expenditure accounts of the archeparchy. He is to supervise vigilantly the operations of other administrators of parish property of the entire archeparchy. The finance officer is required to present the annual audited account to the finance council and the college of consultors. He is also required to present the same account to the pastoral council and the meeting of the presbyterium of the archeparchy.\textsuperscript{170}

Similar norms are promulgated in other eparchies of the Syro-Malabar Church.\textsuperscript{171}

For instance, in accordance with the \textit{Ernakulam-Angamaly athirupatha niyamasamhitha}, the eparchial finance officer is obliged to obtain an approval of the annual statement of income and expenditure account from the eparchial finance council and the college of consultors. Moreover, the eparchial finance officer must present the same account in the respective eparchial pastoral council and the meeting of the presbyterium.

In accordance with \textit{CCEO}, c. 122 §3, the major archiepiscopal finance officer is to submit a written financial account every year to the permanent synod, or whenever demanded by the same synod or by the synod of bishops. Likewise, at the eparchial level, the finance officer is obliged to render the annual financial report of accounts to the respective bishops after obtaining the approval from the finance council (\textit{CCEO}, c. 262 §4).

\textit{CCEO}, c. 1031 §2 obliges the administrator of ecclesiastical goods to render the financial account concerning the goods offered to the Church. In accordance with this

\footnotesize{archbishop’s own eparchy. In relation to this eparchy, the major archbishop enjoys the same rights and obligations as other bishops in their eparchies. See POSPISHIL, \textit{Eastern Catholic Church Law}, p. 165. The Syro-Malabar Church in India consists of four metropolitan provinces (Ernakulam, Changanacherry, Tellicherry, and Trichur). See ibid.}


canon, various eparchial statutes stipulate the norms for the rendering of accounts to the college of eparchial consultors, as well as the meeting of the presbyterium and the eparchial pastoral councils. CIC/83, c. 1287 leaves to the particular law the determination of the manner of rendering to the faithful an account of the goods that they have given to the Church.

2.5.2 – Canonical Structures Assisting the Office of Finance Officer at the Major Archiepiscopal and Eparchial Levels

In carrying out the financial administration of the Church, CCEO obliges the major archbishop and the eparchial bishop to ask for advice or consent from certain canonical organisms such as the synod of bishops, the permanent synod, the college of eparchial consultors, and the eparchial finance council, in order to carry out certain acts.

2.5.2.1 - College of Eparchial Consultants and Its Role in the Financial Administration

The college of eparchial consultors is an obligatory body in an eparchy: in accordance with CCEO, c. 271 §1 the eparchial bishop is obliged to establish the college of eparchial consultors. The eparchial bishop appoints them freely, but there is a certain limitation as to the choice of the members. They must be selected from the presbyteral council (CCEO, c. 271 §4). Their term of office is fixed at five years. Due to the

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172 Pospishil defines the college of eparchial consultors: “College of consultants parallels the presbyteral council and exists for specific instances when the bishop is obliged by law to receive its advice or consent. It also assumes the temporary administration of the eparchy just after the vacancy has occurred” (POSPISHIL, Eastern Catholic Church Law, p. 241).

173 Regarding CIC/83, c. 502, the Pontifical Council for the Interpretation of Legislative Texts issued a clarification that a member of the college of consultants who ceases to be a member of the presbyteral council retains the office of consultor. The diocesan bishop is not bound to replace one who ceases to hold office in the course of a five year term. See PONTIFICAL COUNCIL FOR THE INTERPRETATION OF LEGISLATIVE TEXTS, Reply to private questions, 11 July 1984, in AAS, 76 (1984), p. 747, English translation in CLD, vol. 11, p. 72. Only if the number of members of the college falls below the minimum, the eparchial bishop is required to name another member. See POSRISHIL, Eastern Catholic Church Law, p. 242. According to Pospishil the concept of eparchial consultors is borrowed from Latin canon law and
importance of this body, in order to provide for the continuity of the existence and its functioning, the law determines that the college of eparchial consultors continues after the completion of the term until the new college is established (CCEO, c. 271 §2). The number of members of the eparchial college of consultors must be not less than six and not more than twelve (CCEO, 271 §3). This stipulation safeguards a sufficient pool of opinions, and at the same time, assures an effective functioning of the college due to the adequate number of members.

With regard to the financial administration of an eparchy, the eparchial bishop is to consult with the college of eparchial consultors prior to carrying out the following acts: 1) appointment of the eparchial finance officer (CCEO, 262 §1); 2) appointment of the eparchial finance council (CCEO, 263 §1); and 3) removal of the eparchial finance officer during the term of office (CCEO, c. 262 §2). On the other hand, the eparchial bishop is to obtain consent of the same college for an alienation of goods within the proper territory of the Church sui iuris, the value of which falls between the minimum and the maximum sum as determined by the synod of bishops (CCEO, c. 1036 §1, 1º). Moreover, during the vacancy of an eparchial see (outside of the proper territory), the college of eparchial consultors elects the finance officer (if necessary), or receives his/her resignation.

because of the same underlying reasoning, the above-mentioned prescription of the Pontifical Council for the Interpretation of Legislative Texts is also applicable to Eastern Catholic Churches. See ibid.

174 See BROGI, “Norms on Eparchies and Bishops,” p. 117. Consequently, in an eparchy that is situated in the proper territory of the Syro-Malabar Church, an alienation of goods exceeding the amount of one million dollars/ten lakhs rupees up to ten million dollars/one crore rupees is to be accomplished only with the consent of the college of eparchial consultants and the finance council. See SSMMAC, “Particular Laws of the Syro-Malabar Church,” p. 50.

2.5.2.2 - Eparchial Finance Council and Syro-Malabar Major Archepiscopal Finance Council

The eparchial finance council is part of the eparchial curia. In cases of greater importance, the eparchial bishop is obliged to consult with the finance council, “unless their consent is required by common law in cases specifically mentioned or by the founding document (CCEO, c. 263 §4).” The eparchial bishop is ex officio president of the finance council. Since the finance council is to offer advice or consent to the eparchial bishop, he (the eparchial bishop) cannot be considered as a finance council member. On the other hand, by virtue of his office, the eparchial finance officer is a member of the finance council. CCEO, c. 263 §1 requires that the members of the finance council be suitable persons and, if possible, have expertise in civil law (CCEO, c. 263 §1).

With regard to the procedure of the appointment, the eparchial finance council is to be appointed by the eparchial bishop after consultation with the college of eparchial consultors unless the particular laws of the Church sui iuris provide for some other procedure (CCEO, c. 263 §1). In the Syro-Malabar Church, the particular law states that the eparchial bishop is to appoint the eparchial finance council after consulting with the

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176 George Nedungatt elaborates on the fourfold functions of the finance officer and the finance council at the eparchial level: 1) decentralization – relieving the eparchial bishop from the details of ordinary administration; 2) expertise – availability of experts in the administration of ecclesiastical goods; 3) transparency – safeguarding the eparchial bishop from suspicion of dishonest dealings; and 4) freedom – the eparchial bishop exercises, however, vigilance over ecclesiastical goods. See NEDUNGATT, Laity and Church Temporalities, p. 242. See also POSPISHIL, Eastern Catholic Church Law, p. 703.

177 See FARIS, The Eastern Catholic Churches, p. 538.

178 CCEO, c. 263 §1 corresponds to CIC/83, c. 492 §1. While CIC/83 provides that a delegate of the bishop can preside over the finance committee, CCEO omits this possibility. According to Gordon Read, however, the diocesan finance officer as a servant of the finance committee may not be the delegate of the bishop to preside over the same committee. See READ, Commentary on c. 492, p. 273.

179 According to J.D. Faris, the eparchial finance council can advise the eparchial bishop on particular aspects of the civil legal order concerning real estate and finance. See The Eastern Catholic Churches, p. 538.
college of eparchial consultors.\textsuperscript{180} The statutes of several eparchies provide specific norms on the composition of the finance council: the eparchial statutes of Irinjalakuda determine that, by virtue of the office, the protosyncellus, syncelli, finance officer, chancellor of the eparchial curia, and regional forane vicars (protopresbyters) are members of the finance council. Apart from them, there are to be two elected members from the presbyteral council and two lay faithful elected by the pastoral council members. The eparchial bishop nominates three persons who are experts in civil and tax laws.\textsuperscript{181} In accordance with \textit{CCEO}, c. 263 §1, those who are elected or nominated by others following the norms of particular law require confirmation of the eparchial bishop.

The eparchial bishop is obliged to consult with the eparchial finance council prior to performing the following acts: 1) transactions of greater importance relating to the temporal goods (\textit{CCEO}, c. 263 §4); 2) appointment of the finance officer (\textit{CCEO}, c. 262 §1), and 3) removal of the finance officer during his/her tenure (\textit{CCEO}, c. 262 §2). The eparchial bishop seeks the consent of the finance council for: 1) imposition of a tax on the subjects of the eparchial bishop (\textit{CCEO}, c. 1012 §1); 2) alienation of goods, the value of which falls within the minimum and maximum amount (\textit{CCEO}, c. 1036 §1, 1º); 3) alienation of the goods of juridic persons subject to the eparchial bishop, when the value of alienation is between the minimum and maximum sum (\textit{CCEO}, c. 1036 §1, 2º); and 4) the eparchies outside the territory of a major archiepiscopal Church, if the amount proposed to be alienated exceeds the limit established by or approved by the Apostolic See

\textsuperscript{180} The respective norm reads: “The eparchial bishop shall establish a finance council which shall consist of a president, who is the eparchial bishop himself, and of other suitable persons including experts in civil law if possible, appointed by the eparchial bishop after consulting the college of eparchial consultors” (SSMMAC, “Particular Laws of the Syro-Malabar Church,” p. 11).

\textsuperscript{181} See \textit{Irinjalakuda rupatha niyamavaly}, pp. 8-9.
or if it is a case of precious goods or gifts to the Church made in virtue of a vow (CCEO, cc. 1036 §1, 1º; 1036 §4).\(^{182}\)

*CCEO* does not mention the establishment of a patriarchal (major archiepiscopal) finance council, though the particular law could require it.\(^{183}\) According to Nedungatt, in a major archiepiscopal (patriarchal) Church the permanent synod functions to a great extent as a finance council.\(^{184}\) In the Syro-Malabar Major Archiepiscopal Church, apart from the office of finance officer, a finance council is constituted. As far as the major archiepiscopal Churches are concerned, the canonical institution of the major archiepiscopal finance council is a novelty. The finance officer of the Syro-Malabar Church presents the annual statement of income and expenditure accounts of the curia of the Syro-Malabar Church before the major archiepiscopal finance council.\(^{185}\)

**CONCLUSION**

One of the significant qualities of the revised norms concerning the finance officer is the emphasis placed upon the functions of the major archbishop towards the office of the finance officer. The revision process for *CCEO* and the development of c. 122 demonstrate the authority of the major archbishop concerning the administration of temporal goods of the major archiepiscopal Church. At the same time, the distinctive roles of the major archiepiscopal curia and the eparchial curia of the major archbishop are

\(^{182}\) “[I]n addition to the consent of the eparchial finance council, the consent of the eparchial college of consultors and Apostolic See is required” (*Faris, The Eastern Catholic Churches*, p. 541); see also *Pospishil, Eastern Catholic Church Law*, p. 702.


\(^{184}\) See *Nedungatt, Laity and Church Temporalities*, p. 374.

underlined. A comparative analysis of the canons concerning the finance officer at the major archiepiscopal and eparchial levels leads to a conclusion that even though there are differences with regard to the appointment, required qualities and duties of the office, most of the canons are similar: both officers have important responsibilities in the major archiepiscopal curia and in the eparchy.

The participatory role of various offices of the curia in financial administration is especially visible in the process of appointment/loss of office and assistance/vigilance over the fulfillment of duties by the finance officer. The synod of bishops and the permanent synod fulfill the precise roles of providing consent or counsel regarding the financial administration of the Church. In particular circumstances, these actions are necessary for the validity of the acts performed by the finance officer. Historically, in a major archiepiscopal (patriarchal) Church, the permanent synod was constituted to offer advice to the major archbishop (patriarch). Currently, it is considered to be an executive committee of the major archiepiscopal Church.

Although there is only one canon, c. 122, in CCEO that concerns the office of the finance officer, it specifically prescribes the finance officer’s personal qualities, the procedure for his appointment, the duration of the term of office, and conditions for the loss of office. With regard to the competency of the finance officer, his/her authority, functions, and responsibilities will be treated in the third chapter of the thesis.

At the beginning of the chapter, a question was raised whether the formulation of the canons concerning the finance officer of the major archiepiscopal Church is truly faithful to the guidelines concerning the Eastern character of the new legislation. The restoration of the patriarchal system and the major archiepiscopal system in CCEO signifies the fact that the codification was accomplished in accordance with the prescribed
guidelines. The analysis of this chapter supports the determination that the PCCICOR was, in fact, faithful to the Eastern canonical tradition in the formulation of the canons concerning the finance officer.

Having examined, in chapter one, the finance administration of the Syro-Malabar Church from a historical point of view, and in chapter two, the place of the office of the finance officer in the organizational structure of the financial administration of the Syro-Malabar major archiepiscopal Church, chapter three will provide a detailed study of the functions of the finance officer in the major archiepiscopal Church.
CHAPTER THREE

PRINCIPAL FUNCTIONS AND RESPONSIBILITIES OF THE FINANCE OFFICER OF THE MAJOR ARCHIEPISCOPAL CHURCH

INTRODUCTION

Every society which is intrinsically open to the ultimate good of people has the innate right to be independent in achieving its proper purposes. The Church, which possesses also the nature of a perfect society, has the innate right to acquire, retain, administer, and alienate temporal goods.\(^1\) The Second Vatican Council stressed the societal character of the Church in its Dogmatic Constitution on the Church *Lumen gentium*, no. 8:

[... ] This Church is constituted and organized as a society in the present world, subsists in the Catholic Church, which is governed by the successor of Peter and by the bishops in communion with him [...], the Church although she needs human resources to carry out her mission, is not set up to seek earthly glory, but to proclaim, and this by her own example humility and self denial.\(^2\)

Those who are responsible for the mission of the Church have to administer its goods to achieve the purposes of the Church.\(^3\) Generally, in carrying out the administration of the juridic persons, the immediate responsibility to manage ecclesiastical goods rests upon the administrator of ecclesiastical goods. Particularly, with regard to a major archiepiscopal Church, by virtue of the norms of common law, the finance officer acts under the authority of the major archbishop.\(^4\) In exercising his/her

\(^1\) See *CCEO*, c. 1007.

\(^2\) *LG*, no. 8, in in *AAS*, 57 (1965), pp. 11-12, English translation in *FLANNERY 1*, pp. 357-358.

\(^3\) See *PO*, no. 17, English translation in *FLANNERY 1*, p. 895.

\(^4\) See *CCEO*, c. 122.
office in the temporal administration of the Church, the finance officer is to take into account the principles such as subsidiarity, collaboration, accountability and sincerity.

From the description of the office of finance officer, it is clear that to fulfill the functions of this office its holder is not required to possess the *potestas ordinis*. Accordingly, PCCICOR states in the Guidelines for the Revision of Oriental Canon Law: “Though the Church by divine institution is a hierarchical society and though, consequently, the hierarchy, invested with the *potestas ordinis*, pertains to the Church’s essential structure, nevertheless, the ecclesiastical organization calls for many other public functions which are not necessarily connected with the *potestas ordinis*.”

The functions of the finance officer of the major archiepiscopal Church, who, historically, was called the “great oeconomus,” are quite different from those of the finance officer of an eparchy. Since the proper subject of this study is the legislation concerning the major archiepiscopal level of administration, the main source of this analysis is *CCEO*, complemented with other sources, especially *PA* and *CS*, both of which were abrogated with the promulgation of *CCEO*. By way of comparison, the corresponding canons of *CIC*/17 and *CIC*/83 on temporal goods are incorporated into this chapter.

In the apostolic constitution *Sacri canones*, on 18 October 1990, Pope John Paul II stated that as the human body possesses two lungs, the Church also has two Codes, namely *CIC* and *CCEO*: “[…] the Church, gathered by the one spirit breathes, as it were, with the two lungs of East and West, and burns with the love of Christ, having one heart,

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as it were, with two ventricles.” By the promulgation of CCEO, John Paul II also expressed the need for comparative studies, especially in the faculties of canon law; up to this time, however, very few comparative analyses of CCEO and CIC/83 have been done.

3.1 – PRINCIPLES GUIDING THE EXERCISE OF THE OFFICE OF THE FINANCE OFFICER

In order to carry out the functions in a proper way, the administrator of ecclesiastical goods is obliged to maintain the integrity of the office. That demands from him/her trustworthiness, transparency in actions, respecting the spirit of collaboration, and the demands of social justice.

3.1.1 – The Principle of Subsidiarity

The principle of subsidiarity legitimizes or guarantees the autonomy of the lower office versus the superior authority. This principle admits the fact that subordinate offices on certain occasions need assistance from the higher offices: by exercising its functions, the subordinate office cannot exceed its capacities, so it has to depend upon the higher authorities. This rule also regulates the relationship between a society (organization) and the state, in which the state respects the rights and responsibilities of the society and vice versa. The term subsidiarity underlines the dependence and the reciprocal assistance

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that is necessary for the establishment of various offices in society. Thus, in this context, subsidiarity means that: 1) the higher authority assists the subordinates in realizing their goals, and 2) the higher authority normally does not interfere in the functions of the subordinates.\textsuperscript{11}

Pope Pius XI used the principle of subsidiarity with reference to civil society. He confirmed its universal character, as independent on any concession of the public authority: “[I]t is a fundamental principle of social philosophy, fixed and unchangeable, that one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry.” As the consequence, he considered “injustice and at the same time a grave evil and disturbance of right order to transfer to the larger and higher collectively functions which can be performed and provided for by lesser and subordinate bodies.”\textsuperscript{12}

The Church, which is a divine mystery, is also a human institution. Although its power comes from God, it is still necessarily mediated by human beings, human systems, human structures. Ecclesial institutions remain profoundly human so that it would be ultimately inconceivable that the values which the Church espouses for the secular


communities will be for long excluded from the ecclesial ones. The Church obviously is not a civil society, but it is a political entity and remains subject to the same laws.\textsuperscript{13}

Indeed, Pope Pius XII applied the principle of subsidiarity to the life of the Church:\textsuperscript{14} from the principle stated by Pius XI that “all social activity is by its nature subsidiary,” he concluded that it applies “[…] to social life and also for the life of the Church, without prejudice to the hierarchical structure.”\textsuperscript{15}

The Second Vatican Council in its Declaration on Christian Education \textit{Gravissimum educationis} (GE), no. 6 reminds the authorities of the state that the principle of subsidiarity is necessary for a peaceful coexistence of the citizens in the society.\textsuperscript{16} In the Church, the meaning of the principle of subsidiarity is to be understood in the context of the ecclesiology of communion. The Church is a communion with a sacramental divine origin, and the existence of a superior authority allows the subordinate authorities or offices to possess certain powers which they may exercise, but always in communion with their superiors.\textsuperscript{17}

The First Plenary Assembly of the PCCICOR, held from 18 to 23 March 1974, proposed the principle of subsidiarity as one of the guiding principles for the revision of


\textsuperscript{14} See PALLATH, \textit{The Synod of Bishops of Catholic Oriental Churches}, p. 76.

\textsuperscript{15} PIUS XII, address in a consistory, 20 February 1946, in AAS, 38 (1946), pp. 141-151, English translation in PALLATH, \textit{The Synod of Bishops of Catholic Oriental Churches}, p. 76.

\textsuperscript{16} See GE, no. 6, in AAS, 58 (1966), pp. 728-739, English translation in FLANNERY 1, p. 731.

\textsuperscript{17} See E. ODAGA, \textit{The Role of the Diocesan Curia in the Light of Canon 469}, JCD diss., Rome, Pontifical University of Urbaniana, 1995, p. 205. LG, no. 22 states: “[…] indeed, the very ancient discipline whereby the bishops installed throughout the whole world lived in communion with one another and with the Roman Pontiff in a bond of unity, charity and peace […]” (English translation in FLANNERY 1, p. 374).
the Code.  

The Guidelines for the Revision of the Code of Oriental Canon Law provide that “The new code should limit itself to the codification of the discipline common to all the Oriental Churches, leaving to the competent authorities of these Churches the power to regulate by particular law all other matters not reserved to the Holy See.”  

Indeed, the synod of bishops is competent to make laws for the entire Church sui iuris (CCEO, c. 110 §1). Thus CCEO recognizes the principle of subsidiarity (e.g., CCEO, cc. 1012 §2 and 1036 §3). On the other hand, in accordance with CCEO, c. 150 §2, in a major archiepiscopal Church, disciplinary laws and those which concern other decisions of the synod of bishops do not have force of law outside of the territory of this Church.

The General Assembly of the Synod of Bishops, held from 30 September to 4 October 1967, ratified the guiding principles for the revision of CIC. The principle of


19 PCCICOR, “Guidelines for the Revision of the Code of Oriental Canon Law,” p. 21. See also PALLATH, The Synod of Bishops of Catholic Oriental Churches, p. 79. The term “particular law” includes all the laws, legitimate customs, statutes and norms which are neither common to the entire Church nor to all the Eastern Churches. See CCEO, c. 1493 §2.

20 See FARIS, The Eastern Catholic Churches, pp. 362-363; POSPISHIL, Eastern Catholic Church Law, p. 189. Liturgical laws enacted by the synod of bishops of the patriarchal or major archiepiscopal Churches have the force of law everywhere in the world (CCEO, c. 150 §2). In all the Latin dioceses outside of Kerala state there are faithful from the Syro-Malabar Church. In this respect Bishop Jose Porunnedom writes: “Even though the Malabarians [faithful of Syro-Malabar Church] form only 19.2% of the Catholic population, the Malabar jurisdiction extends itself only to 16.61% of the total area of India. The Malabar Church has such a surplus of vocations as to cater for the Latin dioceses and congregations also. […] Until recently there was hardly any move to implement the conciliar declarations in India either for the pastoral care of the Malabarians living under the Latin ordinaries or tap fully the vocations from the Syro-Malabar Church for the missionary activity” (J. PORUNNEDAM, “The Right of the Syro-Malabar Church for an All-India Jurisdiction,” in CHIRAMEL and BHARANIKULANGARA [eds.], The Code of Canons of the Eastern Churches, p. 317). Despite constant requests from the Syro-Malabar Church to establish the all India jurisdiction, the apostolic constitution Quae maiori of Pope John Paul II limited the jurisdiction of the Syro-Malabar Church to the ecclesiastical provinces of Ernakulam and Changanacherry. In other words, apart from liturgical laws, the synod of bishops of the Syro-Malabar Church does not enjoy legislative, judicial and electoral powers in the extra-territorial eparchies. The major archbishop also does not enjoy any administrative power beyond the proper territory. See PALLATH, The Catholic Church in India, p. 127.
subsidiarity as a directive for the revision of both Codes (CCEO and CIC/83) specifically called for more local, regional, and national autonomy in the areas of temporal goods and procedures.

The influence of the principle of subsidiarity can be found in the formulation of all sections of CCEO. In particular, CCEO gives “ample space” for particular law for all Eastern Catholic Churches sui iuris, and other lower bodies of each Church sui iuris: “In fact, this principle covers every type of ius particulare, ranging from the law of the eparchy to that of an individual religious community or of an association or to the legitimate internal rules of a seminary, a faculty of higher studies and so on.”

The office of the finance officer, like other offices of the curia, has the obligation to assist the major archbishop in the governance of the major archiepiscopal Church. In virtue of the principle of subsidiarity, in order to support and coordinate the subordinate offices, a higher office can intervene in the activities of the subordinate ones. As we have seen before, certain canons of CCEO stipulate the right of the synodal structures (synod of bishops and permanent synod) to intervene in the administration of ecclesiastical goods of the major archiepiscopal Church.

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22 See PCCICR, “Principia quae codicis iuris canonici recognitionem dirigant,” pp. 80-82, especially at p. 81; see also GREEN, “The Latin and Eastern Codes,” p. 246.


24 Ibid.
3.1.2 – The Principle of Collaboration

The principle of collaboration has its roots in the concept of the ministerial Church, which reflects the trinitarian communion:25 *LG*, no. 4, quoting St. Cyprian, presents the Church as “a people brought into unity from the unity of the Father, the Son and the Holy Spirit.”26 There are three forms of *communio* realized in the Church, namely *communio fidelium*, *communio hierarchica*, and *communio ecclesiarum*.27 The hierarchical communion, as defined by James H. Provost: “[…] refers to the relationships which bind all legitimately consecrated bishops to each other and the Pope in a collegial unity.”28 According to then Cardinal Joseph Ratzinger, the “collegial” or “synodal”

25 See *ODEGA*, *The Role of the Diocesan Curia in the Light of Canon 469*, p. 198.

26 *LG*, no. 4, English translation in *FLANNERY 1*, p. 352.

27 For a detailed study on these three forms of communion, see W. AYMANS, “Ecclesiological Implications of the New Legislation,” in *StC*, 17 (1983), pp. 82-92. See also M. VATTAKUZHY, “The Synodal Functioning in the Syro-Malabar Church,” in J. PORUNNEDAM (ed.), *Acts of the Synod of Bishops of the Syro-Malabar Church: Held in the Vatican from 8 to 16 January 1996*, Kochi, The Syro-Malabar Major Archiepiscopal Curia, 1996, p. 42. In order to foster the principle of collaboration among various Churches *sui iuris*, structures such as inter-Church councils share common concerns and cooperate for the common good of the faithful. In the state of Kerala the representatives of different churches (Catholic and non-Catholic Churches) form a council called “Inter Church Council.” Regarding the cooperation of individual Churches present in the same territory, *OE*, no. 4 stated: “Prelates of the various individual churches who have jurisdiction in the same territory should meet at regular intervals for consultation, and thus foster unity of action and strive together to meet their common tasks, so as better to further the good of religion and to safeguard more effectively the discipline of their clergy” (English translation in *FLANNERY 1*, p. 442). In accordance with this decree, regular meetings of the hierarchs of the individual Churches are to be fostered to promote unity of action. Conversely, the inter-Church relations are to be reflected in the various common areas of cooperation of the Eastern Churches.). *CCEO*, c. 202 promotes the cooperation among eparchial bishops of different Churches *sui iuris*, as it reads: “The episcopal bishops of several Churches *sui iuris* exercising power in the same territory are to ensure that through the exchange of views in periodic meetings, they foster unity of action and, by combined resources, help advance common works more readily to promote of the good of religion and more effectively safeguard ecclesiastical discipline.” *CCEO*, c. 322 on the institution of the assemblies of hierarchs of several churches *sui iuris* indicates among the goals of cooperation, the promotion of the common good, and the effective maintenance of ecclesiastical discipline. According to John Madey, some of the common areas of cooperation are: pastoral action (including pastoral conferences), mass media, various charitable or educational activities, social insurance for the clergy, and help to national policies and problems. See J. MADEY, *Orientalium Ecclesiarum: More than Twenty Years After: A New Commentary on Vatican II’s Decree on the Oriental Catholic Churches*, Kottayam, OIRSI Publications, 1987, p. 42.

aspect of communion is essential to the office of bishop. The unity of the Church is rooted in the unity of the episcopate.  

In particular, the trinitarian communion of the synodal structure was emphasized by Pope John Paul II on the occasion of the Synod of Bishops of the Syro-Malabar Church held in the Vatican from 8 to 16 January 1996: “The synodal structure of the Eastern Churches is a particularly eloquent way of living and manifesting the mystery of the Church as communion.”

In a patriarchal/major archiepiscopal Church, the juridic expression of communion is the aspect of collaboration, vividly present in the synod of bishops. “The Synod of the patriarchal Churches is based on ecclesial identity [...]. It is juridically the operative organism of a hierarchy with a unifying head such as a patriarch, major archbishop or sui iuris metropolitan.” In particular, the canonical requirement of obtaining consent or seeking the counsel of the synod of bishops or the permanent synod prior to certain acts concerning the administration of ecclesiastical goods underscores a close working relationship between the major archbishop and these colleges (synod of


30 JOHN PAUL II, message to the Synod of Bishops of the Syro-Malabar Church, 8 January 1996, in Acts of the Synod of Bishops of the Syro-Malabar Church, p. 15.

31 VATTAKUZHY, “The Synodal Functioning in the Syro-Malabar Church,” p. 44.
bishops and permanent synod). This collaboration has its other realization in the area of
temporal goods in the exercise of the legislative power of the synod of bishops.

The administration of ecclesiastical goods requires the collaboration of various
levels of authority in the Church. With regard to the principle of collaboration underlying
the Code’s discipline on temporal goods, John Renken writes:

To collaborate means ‘to work together’ for a common purpose, whether as equals, as
agents of a superior, as persons who give consent, or as persons who offer their counsel.
Several examples of these kinds of collaboration are found throughout the code [...].
Since ecclesiastical goods belong to the Church and not to individuals, and must be used
for the proper purposes of the Church, those charged with caring for them wisely
collaborate with others.  

The finance officer, as one of the officers of the curia of the major archiepiscopal
Church, exercises his functions in order to assist the major archbishop in the governance
of the major archiepiscopal Church. With regard to the administration of ecclesiastical
goods, he/she works closely in collaboration with other offices and members of the curia.
Thus collaboration becomes an underlining principle for the actions of the finance
officer.

3.1.3 – The Principle of Accountability and Transparency

The Second Vatican Council insisted that temporal goods be used only within the
framework supplied by the teaching of Christ and the regulations of the Church (PO, no.
17).  

Maintaining the principle of accountability in the finance management of the

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32 J.A. RENKEN, “The Principles Guiding the Care of the Church Property,” in The Jurist, 68
(2008), p. 152. Although John Renken comments on CIC/83, his study is helpful for the Eastern Catholic
Churches as well. In particular, in this article he explains how the Roman Pontiff in his universal role
collaborates with the dicasteries of the Roman Curia.

33 See PO, no. 17, English translation in FLANNERY 1, p. 895. Cf. H. VORGRIMLER (gen. ed.),
Commentary on the Documents of Vatican II: Declaration on Christian Education, Declaration on
Religious Freedom, Decree on the Church’s Missionary Activity, Decree on the Ministry and Life of
conciliar teaching on temporal goods, see F.G. MORRISEY, “Acquiring Temporal Goods for the Church’s
Church *sui iuris* is, therefore, of vital importance.\(^{34}\) Regarding the duty of the administrator of ecclesiastical goods, *CCEO*, c. 1028 §1 states: “Every administrator of ecclesiastical goods is bound to fulfill his or her office with the diligence of a good householder.”\(^{35}\)

Respect for the norms and a sense of vigilance are essential for the administration of ecclesiastical goods. In this context, Victor George D’Souza states:

Temporal goods have great importance in the Church for they are in the service of evangelical charity and constitute an instrument for spreading the gospel message. They are also placed in danger, because they are administered by human beings who can be easily tainted by the spirit of the world, which could become an obstacle to gospel witness.\(^{36}\)

Accountability naturally demands supervision of a superior. Supervision differs from administration:\(^{37}\) it includes the superior’s right to visit, demand reports, audit the accounts, and examine the reports and accounts. It also entails issuing opportune instructions as prescribed by *CCEO*, c. 1022 §2. Indeed, efficient and regular involvement of the synod of bishops and of the permanent synod contributes to the efficient fulfillment of the duties of the finance officer and helps to avoid the chances of harm that may occur due to the mismanagement of ecclesiastical goods. Moreover, with regard to the eparchial level of administration, for his eparchy the eparchial bishop

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\(^{35}\) The corresponding Eastern legislation prior to *CCEO* was *PA*, c. 269 (which was a repeated norm of *CIC*/17, c. 1523).


supervises the administration of all temporal goods which are not exempt from his authority (CCEO, c. 1022 §1). He fulfils this duty through the eparchial finance officer. According to George Nedungatt, it applies mutatis mutandis also to the finance officer of the major archiepiscopal Church.\textsuperscript{38}

The vigilance of the competent ecclesiastical authority over ecclesiastical goods serves to safeguard the transparency of the actions of the administrators of ecclesiastical goods and to avoid misappropriations. Precisely in this regard CCEO formulates the duty of the administrators to render a public statement of accounts concerning the goods donated to the Church (CCEO, c. 1031 §2). Thus, CCEO expects the finance officer to be accountable to the synodal structures of the major archiepiscopal Church. In reference to the acquisition of goods, CCEO prescribes that the intentions of the donor are to be respected (CCEO, c. 1016 §1): if the funds were raised for certain purposes, the donors have the right to know what has been done with their contribution.\textsuperscript{39}

In regard to transparency of the actions of administrators,\textsuperscript{40} CCEO specifies certain obligations of the finance officer: 1) rendering the annual report to the permanent synod (CCEO, c. 122 §3); 2) verifying the inventory (CCEO, 1025, 2°); 3) updating of the inventory (CCEO, c. 1026); 4) obtaining of the written consent of the competent authority for the acts which exceed the limits and manner of ordinary administration (CCEO, c. 1024 §1); 5) seeking consent from the competent authority for the alienation of ecclesiastical goods (CCEO, 1035 §1, 3°); 6) listing the obligations of the pious

\textsuperscript{38} See NEDUNGATT, \textit{Laity and Church Temporalities}, p. 241.

\textsuperscript{39} For more details, see L.Y. MEDROSO, “Administration of Temporal Goods of the Church and Transparency,” in \textit{Philippine Canonical Forum}, 6 (2004), pp. 244-245.

\textsuperscript{40} Transparency and accountability of the administrators of the public and private juridic persons, in the context of CIC/83, has been elaborately treated in RENKEN, “The Principles Guiding the Care of the Church Property,” pp. 168-171.
foundations (CCEO, c. 1051 §1); and 7) prohibiting the alienation of ecclesiastical goods to the administrator or his/her close relatives (CCEO, c. 1041).

Before beginning to exercise his/her functions, the finance officer has to take a promise of office before the major archbishop or his delegate (CCEO, c. 1025, 1º). He/she promises to fulfill the office conscientiously and faithfully. Trustworthiness, as was mentioned in the earlier chapter, is one of the prerequisites of candidates for the office of the major archiepiscopal finance officer, as described in CS, c. 299 §2, 2º, the draft of c. 93 §2, 2º and in the CCEO.  

3.1.4 – Social Principles With Regard to the Remuneration of Workers

The social teaching of several popes showed clearly the concept of “wages of workers” in the social system. Pope Leo XIII, in his encyclical letter Rerum novarum declared that the workers’ wages should be sufficient to support their families. Through the encyclical letter Quadragesimo anno Pope Pius XI established the teaching regarding family wages: that the fathers of families should receive sufficient wages to meet adequate domestic needs. Pope John XXIII, by his encyclical letter Mater et magistra stressed that human dignity must be reflected through just wages: by fair remuneration for their work, workers and their families can live in conditions in accord with human

41 CCEO, c. 1025, 1º uses the term “hierarch.”


43 See CCEO, c. 122 §1.


45 See PIUS XI, encyclical letter Quadragesimo anno, 15 May 1931, in AAS, 23 (1931), pp. 177-228, English translation in O’BRIEN and SHANNON (eds.), Catholic Social Thought, p. 60.
dignity. Pope John Paul II, in his encyclical letter *Laborem exercens* stated that working people should be properly remunerated in accordance with the socio-economic system. Remuneration can be given either through family wages or through social measures.

The Second Vatican Council’s Pastoral Constitution on the Church in the Modern World *Gaudium et spes* expressed concern for the working conditions of the workers. *GS*, no. 67 demands that:

> […] Remuneration for work should guarantee man the opportunity to provide a dignified livelihood for himself and his family on the material, social, cultural and spiritual level to correspond to the role and the productivity of each, the relevant economic factors in his employment, and the common good.

During the process of the formulation of *CCEO*, c. 1030, discussions were held regarding c. 101 of the 1982 Schema, similar to *PA*, c. 272. The latter stipulated that clerics, religious (for the services rendered to them), and administrators of ecclesiastical goods must compensate the workers with honest and just salaries. Even though the study group suggested including the word “sustenance” (*sustentatio*) in place of “salary” (*merces*), nevertheless the word *merces* remained in the draft. The study group also wanted to keep the structure of c. 101 §2, in line with the corresponding legislation of the *CIC/83*, c. 1286, 2° which stated that the administrators of ecclesiastical goods must pay

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a just and decent wage (\textit{iusta et honesta merces}), so workers can support themselves and their dependents.

\textit{CCEO}, c. 1030, 1\textdegree{} obliges the administrator of ecclesiastical goods to observe the civil law concerning labor and social policy “according to the principles” (\textit{secundum principia}) of the Church, while the corresponding legislation of \textit{CIC/83}, c. 1286, 1\textdegree{} uses the word \textit{iuxta principia} instead of \textit{secundum principia}. With regard to this difference Robert T. Kennedy comments:

\begin{quote}
[T]he Eastern code replaces \textit{iuxta} with \textit{secundum}, the primary meaning of which is ‘after, behind, in the second place,’ which effectively accords appropriate priority to Church teachings by enjoining administrators to observe civil law after, or secondarily to, the principles handed down by the Church; the English translation, however, renders \textit{secundum} as ‘according to’.\textsuperscript{50}
\end{quote}

The Christian faithful are subject to the legal order of the Church and society, to canon law (according to the norm of law) and civil law. However, in anticipation of incompatibility of particular demands of those two legal orders, canon law mandates that civil laws, to which canon law refers, are be observed in canon law with the same effects, as far as they are not contrary to divine law or unless it is provided otherwise in canon law (\textit{CCEO}, c. 1504).

Similar Church teaching is at the foundation of \textit{CCEO}, c. 937 §1 which prescribes that one who sets up an office must see to it that “just remuneration of those who carry out the office is provided.”\textsuperscript{51} As demanded in \textit{CCEO}, c. 1030, 1\textdegree{}, observance of civil law as regards to the remuneration of employees is required. \textit{CCEO}, 1030, 2\textdegree{} reads: “An administrator of ecclesiastical goods […] is to pay a just remuneration to employees so


\textsuperscript{51} RENKEN, “Temporal Goods in the Latin and Eastern Codes,” p. 102, footnote 38. There is no corresponding canon in \textit{CIC/83}.
that they are able to provide fittingly for their own needs and those of their dependents.”

In accordance with this canon, there are two obligations on the part of the administrator of ecclesiastical goods towards the employment of workers, namely: 52 1) the administrator of ecclesiastical goods is to enter into a working contract with the employees with the acceptance of the provisions of the civil law; and 2) this contract should be based on the teachings of the social doctrines of the Church. With regard to wages, the administrator of ecclesiastical goods is obliged to fulfill the following conditions: 53 1) just wages are to be rendered to the employees; and 2) the wages must meet the requirements and the necessities of their families. 54

The canonical discipline of the Church outlined in the norms regarding justice in employment reflects the Church’s social principles 55 which are to be observed in the matters of employment and social policy. In a word, priests, religious, and lay faithful who render services in the offices of the Church are to be paid just and decent wages and personal and family needs are to be satisfied by decent remuneration. The ecclesiastical regulations on just wages may, therefore, become inspirational for the society at large, especially in the political and social circumstances of injustice and exploitation.


53 See ibid.

54 CCEO, c. 1030, 2 resembles CCEO, c. 409 §2 which prescribe that the lay people have the right to appropriate remuneration and benefits. The corresponding norm of CIC/83 is c. 231 §2.

3.2 – The Notion of Administration of Ecclesiastical Goods

Temporal goods are created by God for human beings and destined to realize their proper purposes.\textsuperscript{56} Although there is no particular document of the Second Vatican Council devoted to the administration of ecclesiastical goods, references are made in several conciliar documents. They paved the way for the formulation of canons on the administration of ecclesiastical goods.

3.2.1 – Administration of Temporal Goods in the Teaching of the Second Vatican Council

The basic concept of temporal goods is described in \textit{GS}, no. 69: “God destined the earth and all it contains for all men and all peoples so that all created things would be shared fairly by all mankind under the guidance of justice tempered by charity.”\textsuperscript{57} As for priests, they “[…] ought to use temporal goods only for those purposes to which the teaching of Christ and the direction of the Church allow them to be devoted,”\textsuperscript{58} i.e., for “the organization of divine worship, the provision of decent support for the clergy, and the exercise of works of the apostolate and of charity, especially for the benefit of those in need.”\textsuperscript{59} The Decree on the Appropriate Renewal of Religious Life \textit{Perfectae caritatis} (\textit{PC}), no. 13, when it referred to the evangelic counsel of poverty, stated that religious “[…] should avoid any semblance of luxury, excessive wealth and accumulation of property.”\textsuperscript{60}

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\textsuperscript{57} \textit{GS}, no. 69, English translation in FLANNERY 1, p. 975.
\textsuperscript{58} \textit{PO}, no. 17, English translation in FLANNERY 1, p. 894.
\textsuperscript{59} \textit{PO}, no. 17, English translation in FLANNERY 1, p. 895.
The Church needs temporal means to carry out her mission.\textsuperscript{61} The use of the material resources must be understood, however, in the spirit of solidarity and sharing. In particular, the ecclesiology of communion has to be expressed also in the contribution of the material resources to particular Churches. In this regard, \textit{CD}, no. 6, stated: “[B]ishops should bear it in mind that in the expenditure of ecclesiastical resources they must take into account the needs not only of their own dioceses but of other individual churches, since they too form part of the one Church of Christ.”\textsuperscript{62}

The Second Vatican Council’s call for solidarity extends to priests who are reminded that “they should […] contribute liberally to the material needs of the diocese, according to the bishop’s directives”\textsuperscript{63} and to the laity as well. The Decree on the Apostolate of Lay People \textit{Apostolicam actuositatem} (\textit{AA}) stated that lay faithful are called to participate in the life and activities of the Church. They should “make missionary works by providing them with material means and even with personal service.”\textsuperscript{64} In particular, \textit{GS}, no. 68, affirmed the right to form labor unions which would contribute to the proper arrangement of economic life.\textsuperscript{65}

To sum up, various aspects of the conciliar teaching on the matter of temporal goods and their administration set the groundwork necessary for the post conciliar legislative developments, including the pertinent legislation.

\textsuperscript{61} See \textit{LG}, no. 8, English translation in \textit{FLANNERY 1}, p. 358.

\textsuperscript{62} English translation in \textit{FLANNERY 1}, p. 567.

\textsuperscript{63} \textit{CD}, no. 28, English translation in \textit{FLANNERY 1}, p. 580.

\textsuperscript{64} \textit{AA}, no. 10, English translation in \textit{FLANNERY 1}, p. 778.

3.2.2 – “Ecclesiastical Goods” and Their Administration in the Name of the Church

CCEO defines ecclesiastical goods as: “All temporal goods which belong to juridic persons […]” (CCEO, c. 1009 §2). According to CIC/83, c. 1257 §1, only the goods of the public juridic persons belong to the category of ecclesiastical goods because public juridic persons “fulfill in the name of the Church, according to the norm of the prescripts of the law, the proper function entrusted to them in view of the public good;” temporal goods of private juridic persons are excluded from the notion of “ecclesiastical goods.”

However, CCEO does not distinguish between private and public juridic persons. The understanding of CCEO is that “once temporal goods are acquired in the Church, they are defined as ecclesiastical goods.”

66 The study group of PCCICOR in 1981 and 1984 discussed and reached an agreement with regard to the juridic personality of the Catholic Church and the Apostolic See. The Catholic Church is a reality of divine order and this truth does not seem necessarily to be affirmed in an ecclesiastical law, but by all means is to be supposed. Similar considerations are valid in the case of the Apostolic See. The study group wanted rather to distinguish between “collegial” and “non collegial” juridic persons in the Church. See PCCICOR, “De personis et actibus iuridicis,” in Nuntia, 13 (1981), p. 4; PCCICOR, “De personis et actibus iuridicis,” in Nuntia, 18 (1984), pp. 11-12. The final draft of CCEO has made a distinction between “collegial” and “non collegial” juridic persons which is also repeated in the promulgated Code (see CCEO, c. 920).


68 The discussions on the formulation of CIC/83, c. 1257 §1 were accomplished in different sessions. For the detailed study, see PCCICR, “De bonis ecclesiae temporalibus,” in Comm, 37 (2005), pp. 204-208, 220-221, 238, 261-262. See also RENKEN, Church Property, p. 57.

69 ABBASS, Two Codes in Comparison, p. 178. According to Jobe Abbass, “the qualification ‘ecclesiastical’ in chapter II of the Eastern Code reveals a terminological precision not present in the corresponding Latin title.” Ibid. The laws regarding the administration of ecclesiastical goods are to be interpreted as other ecclesiastical laws, that is, in accordance with CCEO, c. 1499: according to the proper sense of the words drawn from the text and the context. If the meaning of a word (or of an expression) is not clear, other means such as recourse to parallel places, to the purpose and circumstances of the law and to the mind of the legislator are to be followed. For the detailed study of this subject matter, see W. KOWAL, Understanding Canon 17 of the 1983 Code of Canon Law in Light of Contemporary Hermeneutics, Lewiston, NY, The Edwin Mellen Press, 2000, pp. 41-60. Cf. also V. DE PAOLIS, “Prescription and Computation of Time;” in NEDUNGATT (ed.), A Guide to the Eastern Code, pp. 821-822.
Texts remarked on *CCEO*, c. 1009 §2 and *CIC/83*, c. 1257 §1 that the qualification “ecclesiastical goods” has a two-fold effect, namely: it recognizes the power of the Church over ecclesiastical goods, and it expresses the fact that ecclesiastical goods come under the authority of the competent ecclesiastical authority.\(^70\) *CCEO*, c. 1010 affirms that juridic persons “can acquire temporal goods by any just means permitted to others,” so in accordance with the norms of *CCEO*, each Church *sui iuris* is entitled to acquire goods for the fulfillment of its purposes.

### 3.2.3 – The Supreme Administrator and Other Administrators

The administration of ecclesiastical goods of a juridic person in the Church implies a structure of a hierarchical dependency.\(^71\) First, all administrators of ecclesiastical goods administer under the authority and power of the supreme administrator. In this regard *CIC/17*, c. 1518 stated: “The Roman Pontiff is the supreme administrator and dispenser of all ecclesiastical goods,”\(^72\) while *PA*, c. 236 §2 also had a similar stipulation (*sub suprema auctoritate Romani Pontificis*). During the process of the codification of *CCEO*, the draft of the corresponding norm, c. 79 was formulated on the basis of *PA*, cc. 236 and 257\(^73\). As a result, *CCEO*, c. 1008 §1 affirms the supreme authority of the Roman Pontiff over all ecclesiastical goods. The corresponding Latin legislation *CIC/83*, c. 1273 also has a similar norm but with an explanation of the reason:

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\(^71\) See De PAOLIS, *I beni temporali della Chiesa*, p. 43.


\(^73\) “Dominium bonorum, sub suprema auctoritate Romani Pontificis, ad eam pertinet moralem personam quae eadem bona legitime acquisiverit” (*PA*, c. 236 §2). *PA*, c. 257 read: “Romanus Pontifex est omnium bonorum ecclesiasticorum supremus administrator et dispensator.”
“by virtue of his primacy of governance.” In the ordinary course of affairs the pope exercises this power through: 1) establishing the laws for the juridic persons; 2) reserving for himself certain acts of administration; 3) exercising the role of supreme administrator through the structures of the Roman Curia; 4) standing as the highest appeal authority; and 5) deciding for the good of the Church and common interest. It should be noted in this context that the Pontifical Council for the Legislative Texts, in its instruction of 12 February 2004, stated that the Roman Pontiff who acts as the primatus regiminis by virtue of his public office in the Church is not, nevertheless, to be held responsible for the consequences of the acts of financial administration made by the immediate administrators of the juridic persons.

On the part of other ecclesiastical authority, common law demands that in order to have control over the administration of ecclesiastical goods, the authority should be vigilant. In short, the authorities who are ultimately responsible for ecclesiastical goods and those who offer counsel or consent in view of certain acts of administration of ecclesiastical goods also participate in the responsibility of the administrator.

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74 By adding this clause CIC/83 confirms that the acts of the administration of ecclesiastical goods are acts of governance. See R.T. KENNEDY, Commentary on c. 1273, in CLSA Comm 2, p. 1474.

75 See PCCICR, “Acta commissionis,” in Comm, 12 (1980), p. 413; see also MORRISEY, “The Temporal Goods of the Church,” p. 719. Though this issue concerns primarily the Latin Church, nevertheless it has consequences also for the Eastern Churches: CCEO, c. 1036 prescribes that in the territory outside of the patriarchal Church, if the value exceeds the maximum amount, consent of the Apostolic See is required.


78 See DE PAOLIS, I beni temporali della Chiesa, p. 44.
3.2.4 – Temporal Goods in the Service of the Proper Purposes of the Church

The teaching of the Second Vatican Council underlines the right of the Catholic Church to own property. Fulfilling the mission of the Church is the ultimate purpose of ecclesiastical property. While PO, no. 17, specified the proper purposes of ecclesiastical goods as “the organization of divine worship, the provision of decent support for the clergy, and the exercise of the works of the apostolate and of charity, especially for the benefit of those in need,” GS, no. 42, pointed out that the mission of the Church also consists of the works of mercy.

CCEO, c. 1007 states that the Church has an innate right to provide for the spiritual well-being of people and to possess and use for that purpose temporal goods. This claim includes the Church’s innate and inalienable “right to acquire, possess, administer and alienate those temporal goods which are necessary for achieving its own purposes.” Consequently, the canon underlines the foundation of its claim, the right granted to the Church by God and to be respected by secular society. In this context, Victor J. Pospishil states:

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79 PO, no. 17, English translation in FLANNERY I, p. 895.

80 “[...] the Church is able, indeed it is obliged, if times and circumstances require it, to initiate action for the benefit of all men, especially of those in need, like works of mercy and similar undertakings” (GS, no. 42, English translation in FLANNERY I, p. 942).

81 CCEO, c. 1007: “In taking care of the spiritual well-being of people, the Church needs and uses temporal goods insofar as its proper mission demands it. Therefore, the Church has the innate right to acquire, possess, administer and alienate those temporal goods which are necessary for its own purposes, especially for divine worship, works of the apostolate, charity, and also for suitable support of ministers.” The corresponding norm of CIC/83 is c. 1254. Content wise CCEO, c. 1007 and corresponding law of CIC/83, c. 1254 are similar except that CCEO omits the phrase “independently from civil power” (RENKEN, Church Property, p. 24).
While the goals of the Church as an institution established by its divine founder Jesus Christ are directed toward the spiritual, supernatural world, they have to be attained in this material world, in a society of humans, a task that requires the means appropriate to this world, which refers to temporal possessions, pecuniary income, real and personal property, legal claims, and the freedom to acquire, possess, administer and alienate them for the purposes of the Church.  

As to the acquisition of temporal goods by juridic persons, CCEO, c. 1010 allows for every just means permitted to others. The corresponding legislation of CIC/83, c. 1259 refers to the “Church” instead of “juridic persons.” Jobe Abbass explains in this regard: “The Latin canons reference to ‘Church’ is defined to include the universal Church, the Roman Apostolic See and public juridic persons.” Moreover, CIC/83, c. 1259 adds the phrase “natural or positive law permitted to others,” which is absent in CCEO. To sum up, we can conclude that the moral quality of the means of acquisition of temporal goods is essential for the validity of the act of acquisition.

3.3 – Canonical Obligations of the Finance Officer Related to His Functions

The administrator of ecclesiastical goods as a good paterfamilias or steward in accordance with the prescriptions of canon law must demonstrate in his exercise of duties “the same solicitude he would have for his own property.” Various canons of CCEO explicitly show the ardent desire of the Church to safeguard the highest moral and professional standards in the administration of ecclesiastical goods.

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82 POSPISHIL, Eastern Catholic Church Law, p. 694.
84 See RENKEN, Church Property, p. 66. “[…] canon 1259 would seem best understood as claiming for public juridic persons in the Church freedom from unjust restriction in the acquisition of temporal goods, a claim less problematically stated in the Code of Canons of the Eastern Churches, which omits all reference to natural or positive law” (KENNEDY, Commentary on c. 1259, in CLSA Comm 2, p. 1460).
3.3.1 – Preliminary Obligations of the Office

The administration of ecclesiastical goods requires faithfulness on the part of an administrator. The canonical discipline demands a promise that the administrator will faithfully carry out his/her duties according to the formalities determined by CCEO. Making a promise by the administrators of Church property before the hierarch or his delegate to fulfill faithfully his/her office presumes the intention to carry out the functions with the diligence of a good householder in order to accomplish the proper purposes of the Church. CCEO, c. 1025 §1, 1° corresponds to CIC/83, c. 1283, 1°. The term “promise” (promissio) is used in CCEO instead of “oath” (iureiurandum) found in CIC/83. Taking an oath is different from a mere promise: an oath invokes God as a witness to the matter promised, so it is an act of the virtue of religion, while a promise does not invoke God and will not have force in civil law.

During the revision process of CCEO, in 1981, a study group of the PCCICOR made a proposal to include the term “oath” in the text. It was not accepted by the group because they desired to reduce the demands for an oath to the minimum. Finally, the commission chose the obligation of a promise which is less demanding than an oath. René Metz explains the reason behind the decision of the PCCICOR for the inclusion of a

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86 See RENKEN, Church Property, p. 206.

87 According to John Renken, a promissory oath obliges the person to do what is affirmed by oath. A detailed description of the discussion regarding the inclusion of the word “oath” in the revision process of CIC/83, c. 1283 can be found in ibid., pp. 205-208. In the discussion during the revision of CIC/83, there was a suggestion concerning c. 27 of the 1977 Schema, “[...] that it make mention of a promise (rather than oath) to fulfill one’s office faithfully.” Obviously, the consultors of the PCCICR chose otherwise. See PCCICR, “Canones praeeliminares,” in Comm., 12 (1980), p. 418. See also RENKEN, Church Property, p. 206, footnote 121.

simple promise.\textsuperscript{89} “according to the tradition founded on Matthew 5, 34 [...], Eastern legislation tends to shrink from a promissory oath, whereas Latin law shows itself less reticent on this subject.”\textsuperscript{90}

While the earlier Eastern legislation established that before administrators assumed their offices they were to take an oath in the presence of the local hierarch, or the protopresbyter, or the vicar forane (PA, c. 267 §§1-3), CCEO, c. 1025, 1° demands that before taking up the function, the administrator must promise before the hierarch of the Church sui iuris or his delegate to fulfill the office faithfully. The promise has to be in a prescribed form, determined by the hierarch.

Another preliminary obligation of the finance officer is to draw up an inventory (CCEO, c. 1025, 2º). This obligation is to be examined in the light of the norm prescribed by the Synod of the Lebanese Maronite Church, in 1736, and it is one of the sources of the current norm in this regard.\textsuperscript{91} The synod stipulated that after the death of a bishop, the goods belonging to him must be registered by the oeconomus in an inventory book and this inventory is to be handed over to the successor of the deceased bishop.\textsuperscript{92} The


\textsuperscript{90} METZ, “The Temporal Goods of the Church,” p. 701, footnote 17.


\textsuperscript{92} Chapter 4, c. 27, 2° of the Synod of Lebanese of the Maronite Church stated: “There may be goods belonging to the bishop, different from the goods of the Church; when one is elevated to the episcopacy, those things, which belong to the bishop before the episcopacy, shall be listed by the archdeacon in a special catalogue; the bishop has the power to do whatever he likes with regard to these goods and to dispose of them in any way. Not so about the goods belonging to the Church, or about the goods, whether they are immovable or movable, acquired by the bishop with the episcopal revenue coming to him. After the death of the bishop, these goods, if they are immovable, like landed estates, lands in cultivation, houses, belong to the episcopal see, if they are movable, they pertain to the patriarchal camera as pillage, and if it is about household properties, they will return to the patriarchal see. Objects left by the deceased bishop, such as the ecclesiastical furniture, the jars, the books of the mass and the prayers and the
previous Eastern norm (PA, c. 267 §1, 2º) also referred to the need of taking an accurate and detailed inventory of all subscriptions, immovable goods, precious movable goods, and other things, with their description and valuation. The administrators of ecclesiastical goods were also to note which things in the interim had been lost or acquired.  

As the inventory is a guarantee for maintaining the transparency of stewardship of the administrator of ecclesiastical goods and for their safe custody, the inventory must be carefully reviewed by the hierarch. The administrator of ecclesiastical goods is to check the accuracy of the already existing inventory in accordance with the prescription of CCEO, c. 1025, 2º which states that before an administrator begins his or her office, he or she “[...] must sign an accurate inventory, reviewed by the hierarch, of the ecclesiastical goods entrusted to his or her administration.” The administrator maintains the accuracy of the inventory of ecclesiastical goods, which also implicitly necessitates detailed documentation. Thus, in accordance with the prescription of CCEO, the details of the inventory must contain the description and estimate of the value of ecclesiastical goods and also include such data as the number of the series of things and the measurements of particular items. In this regard, the photographs or the videos of ecclesiastical goods...

93 PA, c. 234 §1 distinguished between corporeal goods which consist of movable and immovable goods and incorporeal goods, while PA, c. 234 §2 identified the category of sacred goods and precious goods.

94 CIC/83 also mandates drawing up of an inventory with the description and the estimate value of the immovable property, precious movable property, property of cultural interest and other goods (c. 1283, 2º). Cultural goods are the property which bear witness to culture and is inspired by faith. Financially, it is not measurable. See M.L. ALARCON, Commentary on c. 1283, in Code of Canon Law Annotated, p. 990.
could be used and kept appropriately.\textsuperscript{95} If changes occur during the course of his/her administration, the administrator must record them in the inventory.

In a major archiepiscopal Church, in accordance with \textit{CCEO}, c. 1026, one copy of an inventory must be filed in the archives of the major archiepiscopal curia and another copy is to be kept in the office of the finance officer. Both copies must be updated in a timely manner, in accordance with the modifications brought to the stable patrimony.\textsuperscript{96} The norm in regard to the inventory is especially relevant when there is a change of administrator of ecclesiastical goods. It is a question of eliminating any doubts regarding the transparency of the administration.

\textbf{3.3.2 – Acquisition of Goods}

The “temporal goods have their place and special role to play in building up the People of God.”\textsuperscript{97} Indeed, in order to fulfill the proper purposes of the Church, the Church has an innate right to possess and to use temporal goods. This claim includes the Church’s right to acquire temporal goods. \textit{CCEO}, c. 1010 states: “Juridic persons can acquire temporal goods by any just means permitted to others.”


\textsuperscript{96} “[...] any change which the stable patrimony of the same juridic person happens to undergo is to be noted in each copy” (\textit{CCEO}, c. 1026). However, the corresponding norm of \textit{CIC/83} omits the adjective “stable”: “[...] any change which the patrimony happens to undergo is to be noted in each copy” (\textit{CIC/83}, c. 1283, 3º).

\textsuperscript{97} MORRISEY, “Acquiring Temporal Goods for the Church’s Mission,” p. 590.
3.3.2.1 – Acquisition of Temporal Goods through Voluntary Contributions of the Faithful

The tradition of the Church has always respected the intentions of the donor because, through the offering, the donor wishes to honor God in the Church.\textsuperscript{98} The priority of the intention of the donor is more than a legal principle, it is based on a moral principle because it safeguards the finality incorporated into the donations by the donor and thus requires its accomplishment.\textsuperscript{99} The moral principle of the observance of the intention of the donor has in any case to be safeguarded:

[...\] goods whether by way of property or of money, given to and accepted by an ecclesiastical administrator for a specific purpose, may be used for that purpose only; this prescription should alert the administrator to the need for prudence and careful consideration before accepting such gifts.\textsuperscript{100}

The contractual relationship, that is, an offering made with a determined intention by the donor and the administrator’s obligation to observe the intention of the donor, is to be mutually respected and acknowledged. Therefore, in accordance with \textit{CCEO}, c. 1016 §1, voluntary contributions are to be applied to the definite purpose for which they were given.\textsuperscript{101} The administrators of ecclesiastical goods are bound to observe the obligations attached to the offerings.

The corresponding norm prior to \textit{CCEO}, c. 1016\textsuperscript{102} was \textit{PA}, c. 286. Numerous times, during the process of the revision of the Eastern law, it was stressed that the intentions of the donors must be carefully and diligently fulfilled. In the process of the

\textsuperscript{98} See DE PAOLIS, \textit{I beni temporali della chiesa}, p. 120.


\textsuperscript{100} MORRISEY, Commentary on c. 1284, p. 728.

\textsuperscript{101} See POSPISHIL, \textit{Eastern Catholic Church Law}, p. 697.

\textsuperscript{102} The corresponding norm in \textit{CIC}/83, c. 1267 is similar to that of \textit{CCEO}, c. 1016.
revision, c. 87 addressed that matter. It is interesting to note that §3 of c. 87 of the 1981
Schema, treating the intention of the donor\textsuperscript{103} became §1 of the same canon during the
discussion on the 1982 Schema.\textsuperscript{104} In this way, the study group emphasized the great
importance of the donor’s intentions.\textsuperscript{105} No other changes were introduced to the text of
the canon.

Another principle concerning the offerings of the faithful states that the offerings
given to moderators or administrators of ecclesiastical goods are presumed to be given to
the juridic person (\textit{CCEO}, 1016, §2).\textsuperscript{106} The previous corresponding norm was \textit{PA}, c. 286
§1. During the acceptance of the offerings, it is preferable that the donor manifests the
purposes of the offering. In the case of an unclear intention, “recourse should be made to
the donor; if this is not possible, recourse would be made to the [hierarch] since he is the
executor of all pious wills.”\textsuperscript{107}

Once the offering is accepted, the administrator is obliged to exercise his duty
scrupulously in order to fulfill the intention of the donor.\textsuperscript{108} No offering should be refused
unless for a just cause. Regarding the refusal of an offering, apart from a just cause, if it
is a matter of “greater importance,” the permission of the hierarch is required (\textit{CCEO},

\textsuperscript{103} “Oblationes ad certum finem factae nonnisi ad eundem finem destinari possunt” (PCCICOR,

§3 states that offerings given by the faithful for a certain purpose must be applied only for that same


\textsuperscript{107} RENKEN, \textit{Church Property}, p. 131. According to A. Rajeh, in the situation when the intention
of the donor is not expressed, the administrator must consider the circumstances and the nature of the
donation. See RAJEH, \textit{I beni temporali nella Chiesa Maronita}, p. 84. One should remember, however, the
presumption regarding the destination of the offerings given to moderators or administrators of
ecclesiastical goods which are deemed to be given to the juridic person (\textit{CCEO}, 1016, §2).

1016 §3). Since the meaning of the expression “greater importance” is not specified in CCEO, it can be determined in the particular law of the Church sui iuris. René Metz offers some examples of the just cause for refusal of an offering: ill gotten money, donation by an ill reputed agency or by a person who deprives others. The same norm (CCEO, 1016 §3) reminds the administrators of ecclesiastical goods that the norm on alienation, which is outlined in CCEO, c. 1042, must be observed when there is a question of a modal obligation or a condition is attached to an offering. In accordance with CCEO, c. 1042, the prescriptions concerning alienation are to be observed in any business transaction which could worsen the patrimonial condition of the juridic person. Uncertain demands attached to a donation are not welcomed by the Church.

Regarding the need to attend carefully to the intentions of the founder, CCEO, c. 1028 §2, 3° specifies: “[...] he or she must especially [...] collect the return of goods and the income accurately and on time, protect what is collected, and use them according to the intention of the founder or legitimate norms.” The previous Eastern norm, PA, c. 269, 3° stipulated a similar prescription. The Latin equivalent of CCEO, c. 1028 §2, 3°, that is c. 1284 §2, 4° also stresses the principle of respecting the intention of the founder and

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109 In the case of a major archiepiscopal Church, the permission of the major archbishop is required. See COPPOLA, “I beni temporali della Chiesa,” p. 851.

110 The statutes of the public juridic person may determine “greater importance.” See KENNEDY, Commentary on c. 1267, in CLSA Comm 2, p. 1469. However, F. Morrisey states that “matters of greater importance” comprise any sum which goes beyond the minimum amount determined by the bishops’ conference for the purposes of alienation. MORRISEY, Commentary on c. 1267, p. 715.

111 See METZ, “The Temporal Goods of the Church,” p. 697. “The just cause shall be established in relation to the lawful origin of the goods, the good faith of the donor, the destination of the goods, the nature and figurative representative of the object [...]” (ALARCÓN, Commentary on c. 1267, in Code of Canon Law Annotated, p. 974).

112 “Modal obligation is an obligation undertaken at the time of accepting a gift which is enforceable against the donee but the breach of which does not result in reversion of the gift to the donor” (KENNEDY, Commentary on c. 1267, p. 1469).

113 See POSPISHIL, Eastern Catholic Church Law, p. 703.
3.3.2.2 – Prescription

_CCEO_, c. 1017 states that the Church recognizes prescription as one of the means of acquiring temporal goods in accordance with the norms of _CCEO_, cc. 1540-1542. “Prescription is a manner of acquiring property or of freeing from an obligation, and applies when a property, while belonging to someone else, is held in good faith as one’s own for the duration of a certain period of time.”

Regarding the acquisitive and liberative prescription, Velasio De Paolis states: “Prescription is a way to become a title-holder of rights (acquisitive or usucaptive prescription) or to free oneself from obligations (liberative prescription), when the conditions foreseen by the law are verified.”

The Church accepts prescription as it exists in civil law as a means of acquiring or losing subjective right and freeing oneself from obligations unless otherwise established in civil law (_CCEO_, c. 1540). The administrator of ecclesiastical goods must, therefore, follow the civil law of the place.

Civil laws, to which canon law refers, are to be observed in canon law with the same effects, with the exception of the cases when they would be found contrary to the precepts of divine law or it is provided otherwise in canon law.

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Compliance with the requirements that are stipulated in canon law and civil law is essential for the validity of prescription. The basic requirements for validity are: the object must be actually held, the object must be held in good faith for the entire time, the object must be subject to prescription, and the time required by law must have passed.

Prescription is not applicable in the following areas of administration: 1) rights and obligations which directly relate to the spiritual life (CCEO, c. 1542, 3º); 2) certain and undisputed ecclesiastical boundaries (CCEO, c. 1542, 4º); and 3) mass offerings (CCEO, c. 1542, 5º). The prescription time period with regard to immovable property, precious movable property, other real or personal property rights, and claims of the Church sui iuris, is fifty years. With regard to the prescription period, CCEO, c. 1019...

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119 See POSPISHIL, Eastern Catholic Church Law, p. 768. In accordance with CCEO, c. 1504 and the corresponding norm of CIC/83, c. 22, when the civil law conflicts with divine law or canon law, the canon law prevails. See J.M. HUELS, Commentary on c. 22, in CLSA Comm 2, p. 85.


121 Four conditions necessary for prescription are given by John Renken in his study on prescription. Canons on prescription both in CCEO, cc. 1017 and 1540-1542, and CIC/83, cc. 1268 and 197-199 are almost identical. See RENKEN, Church Property, pp. 132-133.


123 According to CCEO, c. 1545 time has to be counted continuously. See DE PAOLIS, “Prescription and Computation of Time,” p. 845; KENNEDY, Commentary on c. 200, in CLSA Comm 2, p. 234.

124 The remaining stipulations of CCEO, c. 1542, 1º, 2º, 6º, and 7º concern the rights and obligations that are of the divine law, rights that can be obtained from apostolic privilege alone, offices which require the exercise of the sacred order, the right of visitation on the part of the ecclesiastical authority, and the obligation of obedience on the part of the Christian faithful, respectively. The corresponding norm in CIC/83 is c. 199.

125 This includes one’s right to worship in his rite. See KENNEDY, Commentary on c. 199, in CLSA Comm 2, p. 232.

126 The previous Eastern norm, PA, c. 247, 4º referred to the territories of the patriarchal, major archiepiscopal, ecclesiastical provinces, eparchies, exarchates and parishes. If a particular territory is uncertain and disputed, then the territory is subject to prescription. See ibid.
treats the Church *sui iuris* and the eparchy as equal. According to René Metz, the prescription period of the non-precious movable goods is to be determined according to civil law. It would be appropriate to establish norms regarding the prescription period of the non-precious movable goods in the particular laws of a Church *sui iuris*.

Acquisition of sacred things by prescription is regulated by *CCEO*, c. 1018. Sacred things which are the property of the ecclesiastical juridic person can be acquired only by another juridic person. The reasons for that are the protection of the proper use of the objects, and the prevention from any profanity. On the other hand, the sacred character of the objects of the Church *sui iuris* can be lost by different ways, namely,

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127 With regard to the Apostolic See, the prescription period is one hundred years and for the eparchy it is fifty years. In the case of other juridic persons, the time period is thirty years (*CCEO*, c. 1019). The two sources of *CCEO*, c. 1019 were c. 17 of the Council of Chalcedon (451) and c. 18 of the IV Council of Constantinople (869-870). Council of Chalcedon, in c. 17 prescribed that parishes have to stay firmly tied to the bishops who had possession of them over a thirty-year period. See *DEC*, vol. 1, p. 95. The IV Council of Constantinople, in c. 18 stated that goods or privileges of a church, whether donated in writing or not, are the property of that church after the period of thirty years. See *DEC*, vol. 1, p. 180. The norm in regard to the prescription period in *PA*, c. 249 corresponded to *CIC*/17, c. 1511 §1: the prescription period in the case of an eparchy was thirty years (*PA*, c. 249). Apart from *PA*, c. 249, the 1980 Schema prescribed the prescription period of fifty years for the Church *sui iuris*. See PCCICOR, “De bonis ecclesiae temporalibus,” in *Nuntia*, 13 (1981), p. 34. The 1986 draft of the canon on prescription was the same as that of the final text of *CCEO*. See PCCICOR, “De bonis ecclesiae temporalibus,” in *Nuntia*, 24-25 (1987), p. 184. *CIC*/83, c. 1270 states that the prescription period in the case of goods of the public juridic person is thirty years.


129 *CCEO*, c. 1018 has a corresponding legislation in *CIC*/83, c. 1269. The norm of *PA*, c. 248 §2 was same as that of *CIC*/17, c. 1510 §2. These norms determined that the sacred things of a moral person were subject to a prescription by another ecclesiastical moral person: “Res sacrae, quae in dominio privatorum non sunt, non a persona privata, sed a persona morali ecclesiastica contra aliam personam moralem ecclesiasticam praescribi possunt” (*PA*, c. 248 §2).

130 The corresponding canon of *CIC*/83, c. 1269 permits sacred objects to be acquired privately by prescription; “privately” means physical persons and private juridic persons.

secularization, destruction, or turnover for profane use with the approval of the competent authority.¹³²

3.3.3 – Administration of Ecclesiastical Goods

In all the juridic acts of the major archiepiscopal/patriarchal Church, the major archbishop/patriarch represents the Church sui iuris (a juridic person),¹³³ at the same time, he has the obligation to represent his eparchy in its juridic matters. On the other hand, the finance officer administers ecclesiastical goods under the authority of the major archbishop (CCEO, c. 122).¹³⁴ The right to administer property is quite different from ownership. It is useful to note that the power to govern and the power to administer are inherently connected, but are not in themselves identical.¹³⁵ Although the major archbishop remains the superior authority with regard to the administration of the goods of the major archiepiscopal Church, the finance officer provides the day to day administrative services.

3.3.3.1 – Protection of Property through the Instruments of Civil Law

The administrator has the duty to fulfill his functions with the diligence of a good householder. The Eastern legislation imposes certain measures to safeguard ecclesiastical

¹³² Cf. POSPISHIL, Eastern Catholic Church Law, p. 698. The description of the ways of losing the sacred character of the sacred places and objects is given by John Renken. See RENKEN, Church Property, p. 134.


¹³⁴ The prerogatives of the major archbishop with regard the actions of the finance officer include: 1) refusal and acceptance of offerings that burden the Church (CCEO, 1016 §3); 2) issuing appropriate instructions (CCEO, c. 1022 §2); 3) consenting to the investment of the money (CCEO, c. 1028 §2, 5°); 4) permitting to initiate or engage in civil litigation (CCEO, c. 1032); 5) consenting for an alienation (CCEO, c. 1035 §1, 3°), and, 6) demanding to take measures for the safeguarding of ecclesiastical goods (CCEO, c. 1046 §2).

¹³⁵ See COPPOLA, “I beni temporali della Chiesa,” p. 856.
goods against any misappropriation by the administrator. On the proper registration of the property, *CCEO*, c. 1020 states:

§1. Each authority is bound by the grave obligation to take care that the temporal goods acquired by the Church are registered in the name of the juridic person to whom they belong, after having observed all the prescripts of civil law which protect the rights of the Church.

§2. However, if civil law does not allow temporal goods to be registered in the name of a juridic person, each authority is to take care that, after having heard experts in civil law and competent council, the rights of the Church remain unharmed by using methods valid in civil law.

§3. These prescripts are to be observed also with respect to temporal goods legitimately possessed by a juridic person, but whose acquisition has not yet been confirmed by written records.

§4. The immediately higher authority is bound to urge the observance of these prescripts.

Ecclesiastical goods are to be registered in the name of the juridic person which owns them, observing all the prescriptions of civil law to protect the rights of the Church (*CCEO*, c. 1020). In this respect Victor J. Pospishil states:

If civil law does not allow real property to be registered in the name of an ecclesiastical juridic person, as it was in all communist nations, or has other demands, such as that the Catholic Church is first recognized by civil law, the Church authority must protect the rights of the Church by employing other means available in civil law, having heard civil law experts and the appropriate council.\footnote{Pospishil, *Eastern Catholic Church Law*, p. 698.}

Therefore, as not only the law but also as common sense dictates, through consultation with civil law experts, enquiries are to be made about the most efficacious means to safeguard the temporal goods.\footnote{See *PA*, c. 256 §§3 and 4. *CCEO*, c. 1020 §§3 and 4 have no parallel norm in *CIC/83*.}

Like *CCEO*, c. 1020 §1, also *CIC/83*, c. 1284 §2, 1° prescribes that all administrators are to be vigilant over property so that goods in no way can be lost or damaged. In accordance with *CIC/83*, c. 1284 §2, 2° administrators must protect the property of the public juridic person by means of civil methods.\footnote{The following aspects must be taken into account by the administrator in performing his duties: 1) acquisition of the goods by means recognized by the civil law (*CCEO*, c. 1010); scrupulously following the civil law requirements concerning contracts (*CCEO*, c. 1034), prescriptions (*CCEO*, c. 1540), and...
Renken, “if public juridic persons themselves are civilly incorporated, the civil legal documents must reflect canon law.”\textsuperscript{139} With regard to the civil incorporation, administrators are to observe canonical norms and they must uphold the canonical relationship between the owner and the goods. Civil legal documents of incorporation should be prepared in such a way that they protect the rights to the property of the Church in order to guarantee that civilly incorporated ecclesiastical goods serve the achievement of the proper purposes of the Church.\textsuperscript{140}

The administrator of ecclesiastical goods shall also be sufficiently bonded according to civil law.\textsuperscript{141} With respect to this obligation, CCEO, c. 1027 states: “Authorities are to take care that administrators of ecclesiastical goods give suitable guarantees valid in civil law so that the Church suffers no loss by reason of the death or cessation from office of the same administrators.”\textsuperscript{142} This demand is directed towards preventing contingent damage which the juridic person could suffer in the case of the administrator’s death or irregular cessation from office.\textsuperscript{143} Regarding the norm on bonding, Jobe Abbass states: “In view of the fact that canon law gives effect to the civil law of contracts for a given territory (CCEO c. 1034; CIC c. 1290), the retention of such

testaments (CCEO, c. 1043 §2); 2) registration of temporal goods in the name of the juridic person (CCEO, c. 1020 §1); 3) seeking assistance of civil lawyers (CCEO, c. 1020 §2); 4) protection of ecclesiastical goods by observance of civil law (CCEO, c. 1028 §2, 2°), and 5) payment of remuneration as prescribed by the civil law (CCEO, c. 1030, 2°).

\textsuperscript{139} RENKEN, Church Property, p. 214.

\textsuperscript{140} See ibid.

\textsuperscript{141} See POSPIŠIL, Eastern Catholic Church Law, p. 700.

\textsuperscript{142} This canon has no corresponding legislation either in CIC/17 or CIC/83. The previous Eastern norm was PA, c. 268 §1.

a general norm in the Eastern Code is very prudent in today’s society.”¹⁴⁴ These guarantees, being administrative acts, must be presented in written form (CCEO, c. 1514) and must ensure that the administrator acts in the name of the juridic person.¹⁴⁵

The administrator of ecclesiastical goods is to take canonical and civil steps in order to protect ecclesiastical goods in civilly valid ways (CCEO, c. 1028 §2, 2°).¹⁴⁶ This canon calls for the observance of the ramifications imposed by canon law, civil law, and the intentions of founders of donors.¹⁴⁷ According to Antoine Rajeh, the insistence on respecting the civil laws as a means of protection of ecclesiastical goods is to prevent any harm to the goods of the juridic person and to obtain the benefits resulting from the application of civil law.¹⁴⁸ As a “good householder” the administrator has the responsibility to avoid damages which could harm the patrimony of the Church. In order to avoid any negative effects of not following civil regulations in administration, the advice of a panel of experts, civil lawyers and chartered accountants is recommended.

Finally, regarding a litigation process in civil courts, CCEO, c. 1032 prohibits the administrator of ecclesiastical goods from initiating or contesting a lawsuit in a civil forum without the permission of the hierarch.¹⁴⁹ The reason for obtaining permission

¹⁴⁴ ABBASS, Two Codes in Comparison, p. 204.


¹⁴⁶ As we have seen above, CIC/83, c. 1284 §2, 3° is the corresponding Latin norm.

¹⁴⁷ See POSPISIL, Eastern Catholic Church Law, p. 700.

¹⁴⁸ See RAJEH, I beni temporali nella Chiesa Maronita, p. 111.

¹⁴⁹ One has to remember that this canon speaks directly on the administration of ecclesiastical goods on the eparchial level, therefore it mentions a hierarch. CCEO, c. 1032 corresponds to CIC/83, c. 1288 but differs in one aspect. CIC/83 requires a prior written permission, while CCEO omits that clause. The reason for the difference is not explained. See RENKEN, Church Property, p. 237; RAJEH, I beni temporali nella Chiesa Maronita, p. 118; KENNEDY, Commentary on c. 1288, in CLSA Comm 2, p. 1491;
from the hierarch is that the hierarch could, in a particular case, decide on resolving the
dispute out of court.\textsuperscript{150} The previous Eastern norm, \textit{PA}, c. 275 also included a similar
restriction that the administrator must not begin a lawsuit without having obtained prior
permission from the hierarch: written permission had to be acquired by the administrator.
Similar legislation can be found in \textit{CIC}/83, c. 1288: the administrator is to obtain prior
written permission from his own ordinary. Although \textit{CCEO} omits the term “prior written
(permission),” the study group of PCCICOR clarified the reason for that during the 1982
discussion.\textsuperscript{151} c. 151 of the Schema has included the provision of written permission
when the proof of the administrative acts was mentioned.\textsuperscript{152} As the former Schema c. 151
became \textit{CCEO}, c. 1514, it states that an administrative act issued for the external forum is
to be set forth in writing.\textsuperscript{153}

\textit{CCEO}, c. 1032 is silent regarding the permission of the hierarch to approach an
ecclesiastical tribunal. According to Luigi Chiapetta, it is prudent and right to inform the
hierarch before approaching such a tribunal.\textsuperscript{154}

\footnotesize
\begin{itemize}
\item \textsuperscript{150} See \textit{RENKEN, Church Property}, p. 237; \textit{KENNEDY, Commentary on c. 1288}, p. 1491; \textit{MORRISEY, Commentary on c. 1288}, pp. 730-731.
\item \textsuperscript{151} See PCCICOR, “Nuova revision dello Schema canonum de normis generalibus et de bonis
\item \textsuperscript{152} See ibid., p. 85. The study group of PCCICOR did not give the reason for obtaining the prior
permission.
\item \textsuperscript{153} See \textit{POSPISHIL, Eastern Catholic Church Law}, p. 773.
\item \textsuperscript{154} See \textit{CHIAPPETTA, Il codice di diritto canonico}, vol. 2, p. 553.
\end{itemize}
3.3.3.2 – Provisions and Remedies for Fulfiling the Duties of Administrators

Canon 99 of the 1981 Schema was the draft of CCEO, c. 1028. Paragraph 1 reads: “§1. All administrators of ecclesiastical goods are to be fulfilled their duty as would a diligent head of a household.”

In 1982, during the discussion on that canon, there was a suggestion regarding the term *paterfamilias* in the new legislation as this term would not indicate the possibility of appointing women as administrators. The proposal was not accepted because the expression *paterfamilias* is a traditionally accepted term by which it is possible to identify the administrator without any gender discrimination.

The administrators of ecclesiastical goods are obliged to fulfill their duty with the diligence of a good householder. These duties of the administrators refer to several provisions and remedies that are outlined mainly in CCEO, cc. 1028 and 1029:

1) The administrators of ecclesiastical goods are obliged to collect income accurately and on time (CCEO, c. 1028 §2, 3º). After the collection, it is the duty of the administrator to protect the income. The income must be used for the proper purposes of the Church in accordance with the intention of the founder or according to legitimate norms of law.

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157 See POSPISHIL, Eastern Catholic Church Law, p. 700.

158 PA, c. 269, 3º prescribed that the administrators of ecclesiastical goods were bound to collect the income accurately and in due time and to keep the income in a safe place: “Reditus bonorum ac proventus accurate et iusto tempore exigere exactosque loco tuto servare.” Canon 99 of the 1981 Schema read: “[…] they must: […] 3º collect the income from goods and the proceeds accurately, and at the correct time, and preserve them in a safe place and spend them according to the mind of the founder or established laws and norms.”
2) A timely debt reduction schedule has to be maintained by administrators of ecclesiastical goods (CCEO, c. 1028 §2, 4°). This Eastern norm corresponds to CIC/83, c. 1284 §2, 5°. Luigi Chiappetta points out that the administrator is to consider debt repayment as a primary obligation and he is to be punctual in the repayment of loans and mortgages before the expiration of date.\(^{159}\) Both Codes give priority to paying interest on loans. In accordance with CCEO, c. 1028 §2, 4°, the following are the important aspects of the duties of the administrators in this regard: 1) paying debts in a timely manner; 2) giving priority to the payment of interest rather than the debt; and 3) payment of the loan before the expiration of the time period of the debt.\(^{160}\)

3) The administrator has the duty, after paying the expenses, to invest the money for the goals of the Church or of a juridic person (CCEO, c. 1028 §2, 5°).\(^{161}\) The management of investments demands safety and security. According to A. Rajeh, the most secure investment, at present, is the use of money in order to purchase property or to do the works of renovation, restoration, and construction.\(^{162}\)

With respect to the investment of money, CCEO, c. 1028 §2, 5° expects administrators to invest money with the consent of the hierarch for the purposes of the Church. Robert T. Kennedy comments on CIC/83, c. 1284 §2, 6°, which corresponds to CCEO, c. 1028 §2, 5°, that the investment of the surplus fund after payment of debts

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\(^{160}\) Canon 99 of the 1981 Schema read: “[…] they must: […] 4° at the proper time pay the interest which is due by reason of a mortgage or pledge, and take care that in due time the capital is repaid.”

\(^{161}\) The norm prior to CCEO was PA, c. 269, 4° which was the same as CIC/17, c. 1523, 4°. Canon 99 of the 1981 Schema read: “[…] they must: […] 5° with the consent of the hierarch invest the money which may be left over after expenses and can be usefully set aside for the purposes of the Church or institute.”

\(^{162}\) See RAJEH, I beni temporali nella Chiesa Maronita, p. 112.
requires the consent of the relevant ordinary.\textsuperscript{163} However, according to F. Morrisey, consent is necessary when the administrator is converting the money into stable capital; this does not mean to invest “simply” into a bank account to accrue the interest.\textsuperscript{164} With regard to the investments, it seems that Morrisey’s view is more reasonable and practical: after the daily financial transactions, it is not always possible to obtain the consent from the hierarch for the deposit of surplus funds. When there is a need to convert money for a fixed deposit, deposit on the bonds of the state, and deposit in the share markets, the administrator must obtain the consent of the hierarch.\textsuperscript{165}

4) It is a strict duty of every administrator to keep records of receipts and expenditures of a juridic person (\textit{CCEO}, c. 1028 §2, 6º).\textsuperscript{166} In accordance with this norm, the books of income and expenditures and the registers of the patrimonial assets must be carefully maintained. Keeping such registers is a condition \textit{sine qua non} of a good administration.\textsuperscript{167} The preservation of records is essential for the administration of ecclesiastical goods of a juridic person and also for verification conducted by various

\textsuperscript{163} See KENNEDY, Commentary on c. 1284, in \textit{CLSA Comm} 2, p. 1487.

\textsuperscript{164} See MORRISEY, Commentary on c. 1284, p. 728. See also REINKEN, \textit{Church Property}, p. 216.

\textsuperscript{165} It is relevant to point out that in the realm of financial transactions whether performed on a daily basis or not, there should be accountability from lower to higher levels of authority. See HITE, “The Administration of Church Property,” p. 412. This principle is applicable in the exercise of the office of the finance officer of a major archiepiscopal Church.

\textsuperscript{166} Canon 99 of the 1981 Schema read: “[…] they must: […] 6º keep well organized books of receipts and expenditures.”

\textsuperscript{167} See RAJEH, \textit{I beni temporali nella Chiesa Maronita}, p. 112. In the Indian context, the records of the receipts and the expenditures include: 1) cash book; 2) ledger; 3) journal register; 4) investment register; 5) fixed assets register; and 6) stock register (inventory). Apart from this, the books which concern the government grants and foreign contribution acts also are to be maintained. For a detailed study of the question, see Taxmann’s \textit{Guide to Foreign Contribution (Regulation) Act 2010}, New Delhi, Taxmann Publications (P.) Ltd., 2010, pp. 8-141; V.K. SINGHANIA and K. SINGHANIA, Taxmann’s \textit{Direct Taxes Law and Practice}, New Delhi, Taxmann Publications (P.) Ltd., 2010, pp. 29-66, 867-890.
internal and external bodies. Former Eastern legislation, *PA*, c. 269, 5° also prescribed such an obligation.  

5) Presentation of the annual administration report is an obligation of an administrator of ecclesiastical goods (*CCEO*, cc. 1028 §2, 7°, 1031 §1). The presentation of this report reflects the success or failure of annual planning, or deviations from it. This annual report is to be submitted to the hierarch (*CCEO*, c. 1031 §1). The report should “minimally reflect other issues concerning the administration” of ecclesiastical goods such as: 1) the balance sheet of the current year; 2) debts incurred or reduced; 3) investments; 4) insurance coverage; 5) compliance with the intentions of the donors; and 6) legal protections. The rendering of this annual account is regulated by the particular laws of the Church. The hierarch is to decide in which form the public account should be done and to what degree made public (*CCEO*, c. 1031 §2).

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168 “Accepti et expensi libros bene ordinatos habere” (*PA*, c. 269, 5°).

169 Canon 99 of the 1981 Schema read: “[…] they must: […] 7º draw up a report of the administration at the end of each year.”

170 The decree of the Congregation for the Propagation of the Faith, on 13 April 1807 prescribed that every prelate should carefully watch over the revenues which come from the offerings of the faithful and from institutions, and it is ideal to make an exact account with regard to the distribution of the income. See *Collectanea S. Congregationis de Propaganda Fide*, p. 413.


172 See ibid.

173 See MORRISEY, Commentary on c. 1284, p. 728.

174 See POSPISHIL, *Eastern Catholic Church Law*, p. 701. *CCEO*, c. 1031 §2 states: “According to the manner determined by particular law, an administrator of ecclesiastical goods is to render an account publicly concerning the goods offered to the Church, unless the local hierarch establishes otherwise for a grave reason.” In accordance with *CCEO*, c. 984 §2, besides the Roman Pontiff, local hierarchs are the eparchial bishop, the exarch, the apostolic administrator and those who for a time succeed them in the governance in their absence, and also the protosyncellus and the syncellus. The major archbishop is the local hierarch only with respect to his own eparchy, therefore with respect to the Church *sui iuris*, the major archbishop cannot be called “local hierarch.” Thus the term “local hierarch” which is used in *CCEO*, 1031 §2 does not intend to include the major archbishop.
6) Maintaining records and documents related to ecclesiastical goods on a daily basis is necessary for proper administration. Thus CCEO c. 1028 §2, 8º obliges administrators to maintain an archive of the documents.175

7) Juridic persons have an obligation to dispense charity, therefore CCEO, c. 1029 provides a norm for making donations:176 “An administrator of ecclesiastical goods is not to make donations from movable goods that do not belong to the stable patrimony, except for donations within moderation according to legitimate custom, and unless for a just cause of piety or charity.” The previous Eastern norm, PA, c. 285 was similar and determined that, in principle, prelates and rectors were not to make donations out of mobile goods (bona mobilia); they could, however, donate small and moderate amounts as sanctioned by the legitimate custom of the place, unless just cause intervened, for the sake of remuneration, piety, or Christian charity.177 While PA, c. 285 corresponded to CIC/17, c. 1535178 neither norm used the term “stable patrimony” (patrimonium stabile), unlike CCEO, c. 1029 and the corresponding CIC/83, c. 1285. Therefore, the term “stable patrimony” is a novelty in CCEO as well as in CIC/83. In fact, in the process of the revision of CIC, at the time of the discussion on c. 29 of the 1979 Schema, there was a difference of opinion among the consulters regarding the inclusion of the term “stable

175 PA, c. 269, 6º also prescribed appropriate documentation, while c. 99 of the 1981 Schema read: “[...] they must: […] 8º organize carefully and keep in a convenient and apt archive the documents and records, on which the rights of the Church and institutes on goods are based, and deposit authentic copies of them in the archive of the curia when it can be done conveniently.” See also METZ, “The Temporal Goods of the Church,” p. 703. According to F. Morrisey, it is the strict duty of the administrator “to ensure both accurate records and their secure protection in an adequate filing-cabinet or other archive” (MORRISEY, Commentary on c. 1284, p. 728). The corresponding CIC/83 norm is c. 1284 §2, 9º.

176 See POSPISHIL, Eastern Catholic Church Law, p. 700.


patrimony.” The commission sought to limit the possibility of the administrators to make gifts and the norm that the administrators can donate from the movable property serves to protect the immovable property and the stable patrimony of the juridic person. In other words, the administrator can never touch in any way the stable patrimony to make such donations.

### 3.3.3.3 – Preparing the Budget of Income and Expenditures Account

In order to fulfill the purposes of every juridic person, planning is necessary. In conformity with CCEO, c. 1028 §3, it is strongly recommended that administrators of each juridic person establish a budget; particular laws regulate and determine the manner of its preparation. The corresponding norm of CIC/83, c. 1284 §3 also leaves to particular law the manner of the preparation of the annual budget.

In accordance with CCEO, c. 122 §3, the finance officer of a patriarchal (major archiepiscopal) Church must submit to the permanent synod a budget of projected income and expenditures for the forthcoming year. With respect to the formulation of CCEO, c. 122 §3, the respective text of the 1982 Schema was the same as that of CS, c. 299 §3 which stipulated that the patriarchal/major archiepiscopal finance officer must submit to the permanent synod a written annual report on his administration. The above

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179 In our context movable goods include the regular income and donations which the Church receives from benefactors, and money collected regularly from the faithful. John Renken has defined the movable goods as “ [...] corporeal goods which can be transferred from place to place [... ]” (RENKEN, Church Property, p. 23).

180 Stable patrimony is the “immovable and movable goods which, by legitimate designation of competent authority through an act of extraordinary administration, form the secure basis of a juridic person so that it can perform its works” (ibid., p. 24).

181 See ABBASS, Two Codes in Comparison, p. 195; MORRISEY, Commentary on c. 1284, p. 729; RENKEN, Church Property, p. 218.

mentioned Schema did not mention the annual budget. However, the discussions on the 1985 Schema led the study group of PCCICOR to include the obligation of drawing up of a budget annually and presenting it to the permanent synod, namely, the study group observed that the clause “report of the administration” that was included in the earlier 1982 Schema was too general a term, and decided that the past year’s balance and the budget of income and expenditure of the coming year be specified in the new draft.

The draft of c. 93 §3 of 1985 and 1986 Schema c. 122 §3 were effectively the same as that of CCEO, c. 122 §3. Canon 122 §3 of the 1986 Schema reads:

The patriarchal finance officer must submit annually to the permanent synod a written report of the past year of administration as well as the budget of revenue and expenditures for the coming year; the finance officer is to submit an administration report whenever it is requested by the permanent synod.

The budget is to reflect the proper purposes of the Church, namely: providing for divine worship, works of the apostolate, charity, and suitable support of ministers (CCEO, c. 1007). Generally, a budget includes the following analysis: 1) the previous year’s projected income and expenses, the actual income and expenses, and the difference; 2) the current financial year’s projected income and expenses, the actual income and expenses, and the difference; and 3) the next financial year’s projected income and expenses. The budget must be focused on the following considerations: 1) increasing the income; 2) provisions for meeting expenditures; 3) provisions for the

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183 “Oeconomus patriarchalis rationem administrationis Synodo permanenti quotannis et quoties ab ipso petitur in scriptis reddere debet; Synodus autem per duos saltem synodales Episcopos, rationes ab oeconomo exhibitas examinat, aream recognoscit, convenientes inspections bonorum, documentorum, nominum, inopinato etiam, exsequitur seu exsequendas iubet, et diligenter conservationi, tutelae, incremento patrimonii patriarchalis providet” (CS, c. 299 §3).


unforeseen circumstances; and 4) provisions for fulfilling the proper purposes of the Church. As with regard to general principles guiding a budget, Garrett J. Roche states that formulation of a budget is to include the demands of social justice, especially the works of charity to the needy. Robert T. Kennedy concurs with these views and stresses that to include the provision to raise funds for the works of charity, the drawing up of the budget is to be in accordance with social justice. Simply accumulating money is not the aim of the Church and it should not be considered as the goal of administrators. Acquired funds are to be utilized in accord with the budget provisions.

3.3.3.4 – Acts of Extraordinary Administration

In a major archiepiscopal Church, while the administrator of ecclesiastical goods is the major archbishop himself, as the chief hierarch of the Church, the finance officer fulfills his/her function under the authority of the major archbishop. The major archbishop represents the Church sui iuris in all its juridic affairs (CCEO, c. 79).

Administrators of ecclesiastical goods act invalidly when they exceed the boundaries of ordinary administration unless they obtain prior written consent from the competent authority (CCEO, c. 1024 §1). In accordance with CCEO, c. 1024 §2, the statutes of the juridic person are to determine the acts which exceed the limits

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187 “All budgeting in the Church should be done, not just with a view to increasing income, meeting expenditures, and providing for unforeseen circumstances, but also in the light of the demands of social justice (see c. 1286) and in the light of one of the principal purposes of raising funds in the Church, namely, to be able to perform the works of charity toward the needy (see c. 1254, §2)” (KENNEDY, Commentary on the c. 1284, p. 1487).

188 It is worthwhile to mention that it is the responsibility of the eparchial finance council to prepare the annual budget for the eparchy (CCEO, c. 263 §5).

189 See POSPISHIL, Eastern Catholic Church Law, p. 700.
and manner of ordinary administration. If the statutes remain silent with regard to such acts, the authority to whom the juridic person is immediately subject is to determine the matter, after consultation with the competent council. Generally, the accepted scope of the acts of extraordinary administration includes the following: accepting or renouncing inheritances and legacies; purchasing immovable goods; selling or mortgaging objects of art, historical documents, or other movable property of great importance; selling, exchanging, mortgaging immovable church property or subjecting it to servitudes or other burdens; borrowing large sums of money as temporary loans; building, razing or rebuilding a church or making extraordinary repairs; establishing a cemetery; entering a law suit as an involved party.

With regard to the validity of the acts which go beyond the ordinary administration, PA, c. 276 §1 prescribed: “Unless they [administrators] have first sought the faculty of the hierarch to be given in writing, administrators invalidly place acts that exceed the limits and manner of ordinary administration.” Canon 1039 of the 1986 draft had a similar formulation: if administrative acts exceed the limits and manner of

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190 For the contemporary notion of ordinary and extraordinary administration, see MORRISEY, “Ordinary and Extra Ordinary Administration,” p. 711.


193 “Nisi prius ab Hierarcha loci licentiam impetraverint, scriptis dandam, administratores invalide actus ponunt qui ordinariae administrationis fines et modum excedant” (PA, c. 276 §1). The Congregation for the Propagation of the Faith provided the criteria for the extraordinary administration for the dioceses of Holland on 21 July 1856. See Collectanea S. Congregationis de Propaganda Fide, pp. 607-610. See also MORRISEY, “Ordinary and Extra Ordinary Administration,” pp. 711-712.
ordinary administration, the acts of the administrator are valid only if he acted with the written consent of the competent authority.\textsuperscript{194}

The norm of \textit{CCEO}, c. 1024 §1 limits the competency of the administrator of ecclesiastical goods and requires written consent from the competent authority which stands as the necessary element for valid administration. In a major archiepiscopal Church \textit{sui iuris}, its particular law defines the acts which go beyond the limits and manner of ordinary administration.\textsuperscript{195}

3.3.4 – Alienation of Ecclesiastical Goods

Alienation is described by V.J. Pospishil as follows: “The term \textit{alienation} refers to legal transactions of any kind which could place the property or right in a less favorable position.”\textsuperscript{196} \textit{CCEO}, cc. 1035-1042 provides the norms which govern alienation of ecclesiastical goods in the Eastern Catholic Churches, while \textit{CIC/83} stipulates the corresponding norms in cc. 1291-1298. Jobe Abbass states that the norms of \textit{CCEO} and \textit{CIC/83} are similar with regard to the general principles governing alienation.\textsuperscript{197} Except for canons on public and private juridic persons,\textsuperscript{198} “[…] the parallel Latin and Eastern norms are similar in identifying […] ecclesiastical goods legitimately designated as part

\textsuperscript{194} “Administrator actus, qui finem et modum ordinariae administrationis excedunt, valde non potest nisi de consensus auctoritatis competentis scripto dato” (PCCICOR, “De bonis ecclesiasticis administrandis,” in \textit{Nuntia}, 24-25 [1987], p. 185).

\textsuperscript{195} \textit{CCEO}, c. 1024 corresponds to \textit{CIC/83}, c. 1277.

\textsuperscript{196} \textit{POSPISHIL, Eastern Catholic Church Law}, p. 701.

\textsuperscript{197} According to J. Abbass, the norms of \textit{PA} largely followed \textit{CIC/17}. The norms of \textit{CCEO} on alienation were undoubtedly formulated with the \textit{CIC/83} canons in mind. The report of the PCCICOR (May 8-21, 1977) showed that most of the former norms of \textit{PA} were changed very little. And […] “the new Eastern legislation relies heavily on the text used to formulate the 1983 Latin Code” (ABBASS, \textit{Two Codes in Comparison}, p. 177); Id., “Alienating Ecclesiastical Goods in the Eastern Catholic Churches,” p. 132; see also PCCICOR, “De laicis deque consociationibus christifidelium ac de officis ecclesiasticis et iure Ecclesiae patrimoniali,” in \textit{Nuntia}, 5 (1977), p. 49.

\textsuperscript{198} \textit{CCEO}, 1009 §2 refers to juridic persons, while \textit{CIC/83}, c. 1291 concerns the goods of public juridic persons and \textit{CIC/83}, c. 1257 §2 treats on the goods of private juridic persons.
of the juridic person’s stable patrimony to be subject to the general norms governing alienation.”\textsuperscript{199}

As to the sources of the present legislation in \textit{CCEO}, one can point to \textit{PA}, c. 280 which regulated alienation of ecclesiastical goods.\textsuperscript{200} Ecclesiastical goods were not to be alienated for a lower price than indicated in an appraisal made by the experts (\textit{PA}, c. 280 §1). Alienation was to be accomplished through public auction or the administrator was to make sure that alienation was conducted in some other public manner, unless circumstances dictated otherwise. Ecclesiastical goods had to be transferred to the person who offered the highest value (\textit{PA}, c. 280 §2). The amount received was to be invested carefully, safely and usefully in favor of the Church (\textit{PA}, c. 280 §3). According to \textit{PA}, c. 281 §4, the hierarch was to obtain consent for alienation from the finance council (board of administrators) and interested parties. The canons on prescriptions were to be observed regarding alienation and any kind of contracts (\textit{PA}, cc. 279-282).\textsuperscript{201} In accordance with \textit{PA}, c. 284, the Church, as a moral person, had the right to take personal action against the illegal holder of the goods, and against the administrator who irregularly alienated them. The corresponding Latin legislation was \textit{CIC/17}, c. 1534.

If ecclesiastical goods were to be pledged or mortgaged, or debts had to be contracted, the legitimate superior was obliged to give permission. Before granting permission, the legitimate superior had to insist that the interested parties be heard


\textsuperscript{200} \textit{PA}, cc. 278-293 referred to contracts. The norms accepted the prescriptions of civil law with regard to contracts unless they were contrary to divine law or unless canon law stipulated otherwise.

\textsuperscript{201} All the necessary precautions were to be taken by the superiors (\textit{PA}, c. 279 §2).
The corresponding Latin norm was CIC/17, c. 1538.\textsuperscript{202}

3.3.4.1 – Canonical Notion of Alienation

CCEO, c. 1035 concerns alienation of ecclesiastical goods. This norm corresponds to CIC/83, c. 1295. CCEO, c. 1035 §1, refers to temporal goods lawfully designated as the stable patrimony of a juridic person and stipulates the basic requirements for alienation: 1) just cause (necessity, advantage, piety, charity, or pastoral reason),\textsuperscript{203} 2) written appraisal by experts, and 3) written consent of the competent authority. In accordance with CCEO, c. 1495, the norm of CCEO, c. 1035 §1, 3º is considered as an invalidating law: alienation is not valid if written consent of the competent authority is not obtained.\textsuperscript{204}

The meaning of the term alienation is a matter of discussion by different authors. Though CCEO does not give a direct definition regarding alienation in the strict sense, the definitions proposed in the context CIC/83, should be examined. Adam J. Maida and Nicholas P. Cafardi state: “Alienation is the conveyance to another party, the encumbrance or the placing in jeopardy of loss of any interest in a public juridic person’s stable patrimony (immovable goods or fixed capital).”\textsuperscript{205} For them, the sale of real property, the use of fixed capital for other purpose than the initial purposes, leasing, pledging, and mortgaging come under the title of alienation. On the other hand, according to their definition, any transfer of movable goods will not come under the title of

\textsuperscript{202}See WOYWOD, A Practical Commentary on the Code of Canon Law, p. 213.

\textsuperscript{203}See POSHPISHIL, Eastern Catholic Church Law, p. 702.


alienation. Francis Morrisey, while commenting on the Latin norms on alienation, which are similar to the general norms governing alienation in CCEO, states: “It would seem that the generally accepted meaning of the term today is ‘conveyance,’ or transfer of ownership, at least when alienation is considered in the strict sense of the term.” He categorizes a number of transactions which come under the title of alienation, namely: transferring of the title of the property; spending fully or partly the immobilized goods for other purposes than that for which they were originally immobilized (for instance, conveying money or investments to other persons for whom they were not originally intended, withdrawals of money and investments for other purposes, conveyance to others of money and its equivalents received from the sale of property, transferring money or securities received in the form of annuities, transferring money or securities accrued from pious foundations, bursaries, endowments, and the like); acts which are a preparation for conveyance such as giving security, a mortgage, an option compromise, settlement, either perpetually or for a long time burdening ecclesiastical goods; acts that burden ecclesiastical goods perpetually or for a long time by usufruct or easements of various kinds; sale or conveyance of precious works and relics; and establishing of a

206 See ibid., p. 86.

207 Generally, the norms concerning temporal goods in CCEO and CIC/83 have many similarities. René Metz states: “In CIC – 17, the legislation concerning temporal goods comprised 57 canons (cc. 1495 – 1551). In CICO, it was the section that formed Title XIX (De bonis Ecclesiae temporalibus) of the entire Schema and was promulgated on 9 February 1952 in PA, constituting cc. 232 – 301 of this MP [motu proprio], a total of 70 canons. The two pieces of legislation, the Eastern and Latin had much in common; this is easily understood. The issues regarding material things are such as hardly allow a choice of concrete solutions” (Metz, “The Temporal Goods of the Church,” p. 599).

trust.\textsuperscript{209} Morrisey’s definition that alienation is the transfer of ownership is more plausible. As the notion of alienation includes also the transfer of the right to the property, alienation is the absolute transfer of the title and rights to another person: the donor loses the rights of ownership over the property and the receiver obtains the rights of ownership.

Stable patrimony is defined as “immoveable and movable goods which, by legitimate designation of competent authority, through an act of extraordinary administration, form the secure basis of a juridic person so that it can perform its works.”\textsuperscript{210} Stable patrimony can be further described, as in the study of Francis Morrisey,\textsuperscript{211} as: 1) property immobilized through investment;\textsuperscript{212} 2) invested stabilized money for a specific purpose; 3) an investment fund for a specific purpose but not for a long period; 4) free or working capital amount; 5) a gift which after the expiration of time determined by the donor becomes a free capital; and 6) a quasi-reserve fund which is destined for the general purposes of the juridic person.

\textsuperscript{209} See ibid., pp. 295-296. Contracting debts, mortgages, annuity obligations, arbitration in financial matters, easements acts of security for others and all contracts of the similar nature come under the term alienation. See T. L. BOUSCAREN, A.C. ELLIS, and F.N. KORTH, Canon Law: A Text and Commentary, Milwaukee, WI, The Bruce Publishing Company, 1963, p. 845. Morrisey lists certain acts that do not come under the realm of alienation, namely: 1) spending of the free (not fixed) capital; 2) transfer of goods from one ecclesiastical juridic person to another; 3) transfer of a title for a similar title; 4) acts of renegotiating loans; 5) sale of furniture and equipment; 6) observing the intentions of the donors; 7) curtailment of property rights through negligence; 8) refusal of gifts; 9) acceptance of foundations; 10) involuntary surrender of property; and 11) conversion of capital assets. For a detailed study, see MORRISEY, “The Alienation of Temporal Goods in Contemporary Practice,” pp. 306-310. See also POSPISHIL, Eastern Catholic Church Law, p. 702.

\textsuperscript{210} RENKEN, Church Property, p. 24. Though the term “non-stable patrimony” is not used in CCEO, commentators define it as immovable and movable goods which are not legitimately designated as stable patrimony (cf. CIC/83, c. 1285). See ibid.


\textsuperscript{212} It is a permanent investment through which income is generated; it is an immovable property. See ibid., p. 302.
CCEO, c. 1042 helps to understand the meaning of alienation in the broader sense, even though the canon does not provide a definition of alienation. It reads: “Canons 1035-1041 must be observed not only in alienation but also in any transaction which can worsen the patrimonial condition of a juridic person.”\(^\text{213}\) On the basis of that stipulation which points to a rather technical meaning of the term “alienation” as opposed to other transactions of similar kind, a definition of alienation in the broad sense of the term was proposed by René Metz: “[alienation] designates the transfer of a right of any kind over a thing belonging to a juridic person, who risks diminishing the value of his stable patrimony: such as, for example, lending on use, pledging, mortgage, emphyteusis.”\(^\text{214}\) CCEO, c. 1042 has a Latin counterpart in CIC/83, c. 1295. On the latter, F. Morrisey comments: “The difficulty arises not from the understanding of transfer or conveyance, but rather because of the prescription of c. 1295 which gives a broader meaning to the term since it applies the norms of the law to those transactions whereby the patrimonial condition of the juridic person could be jeopardized.”\(^\text{215}\)

Indeed, regarding understanding alienation in such a broader sense, there are differences of opinion. For instance, Robert T. Kennedy, while commenting on CIC/83, c. 1295 warns that the notion of alienation in the broad sense “can lead to confusion and

\(^\text{213}\) Cf. CIC/83, c. 1295. PA, c. 283 stated: “Quae in can. 279-282 de alienatione statuuntur, servanda sunt etiam in quolibet contractu quo, ex ipsa contractus natura, condicio Ecclesiae peior fieri posit.”


\(^\text{215}\) MORRISEY, “The Alienation of Temporal Goods in Contemporary Practice,” p. 294. See also ABBASS, “Alienation in the Eastern Catholic Churches,” p. 128. CIC/83, c. 1295 reads: “The requirements of cann. 1291-1294, to which the statutes of juridic persons must also conform, must be observed not only in alienation but also in any transaction which can worsen the patrimonial condition of a juridic person.”
to canonical errors,” because under the scope of c. 1295 would fall the act of acceptance of donations made under an onerous condition or obligation, an act which is acquisition, not alienation. Jobe Abbass maintains nevertheless that the canonical norms have to be observed in the context of a broader application of CCEO, c. 1042 and CIC/83, c. 1295. He concludes in this regard:

In any event, it seems clear that CIC canon 1295 (CCEO c. 1042) objectively intends that, when transactions such as loans, leases and other liens involve sums that exceed those defined at law, then the canons regarding alienation will apply. It will be the competent authorities mentioned in those norms who will decide whether or not to consent to the transaction while also taking into consideration its likely impact on the overall financial condition of the juridic person concerned.

In this regard, a useful remark comes from Francis Morrisey who outlines three aspects to determine whether the patrimonial condition of a juridic person worsens, namely: “a) loss or diminishing of ownership; b) loss or diminishing of sponsorship; [and] c) loss or diminishing of control.” The responsibility of the competent authority is to determine the economic condition of the juridic person in view of the proposed transaction in light of those three elements.

3.3.4.2 – Formalities Required for Alienation

In order to safeguard ecclesiastical goods, CCEO specifies certain formalities for alienation. CCEO, c. 1035 §1, 1º states that there must be a just cause for alienation, such as urgent necessity, evident advantage, piety, charity, or other pastoral reasons. Before

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217 See KENNEDY, Commentary on c. 1295, in CLSA Comm 2, p. 1504.


219 Ibid., p. 130.

220 MORRISEY, “The Alienation of Temporal Goods in Contemporary Practice,” p. 311. The transaction which does not affect the stable patrimony will not come under the scope of alienation.
granting consent for alienation, the competent authority is to decide on whether there is just cause or not for alienation.

In accordance with CCEO, c. 1035 §1, 2º, written appraisal of the goods is to be made by experts before any alienation. Other precautions prescribed by the lawful authority are to be taken into consideration (CCEO, c. 1035 §2). CCEO, c. 1041 stipulates that, except by special permission (made with regard to the specific object and the specific person, taking into account the circumstances of the case), goods may not be sold or leased by administrators to persons related to them up to the fourth degree of consanguinity or affinity.

222 According to CCEO, c. 1035 §1, 3º (cf. CIC/83, c. 1291), written consent of the competent authority is required: “The alienation of ecclesiastical goods, which constitute, by legitimate designation, the stable patrimony of a juridic person, requires […] in cases prescribed by law, written consent of the competent authority, without which the alienation is invalid.” The need for consent of the respective authorities depends upon the value of goods which will be determined by the particular law of the Church sui iuris.

Regarding the request for the consent, the administrator is to make sure that the formalities required for alienation are in order. He has the responsibility to reveal the detailed “economic state of the juridic person whose temporal goods are proposed for alienation and of previous alienations” (CCEO, c. 1038).

As mentioned earlier, the permission required from the three levels of competent authorities in the major archiepiscopal Church is decided upon the basis of the monetary

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value of the asset. Consequently, for alienation of ecclesiastical goods of a major archiepiscopal Church valued between the minimum and the maximum amount, the major archbishop is to consult the permanent synod (CCEO, c. 1037, 1º); for alienation of goods exceeding in value the maximum sum and not double this sum, he needs the consent of the permanent synod (CCEO, c. 1037, 2º); and for alienation of goods exceeding by double the maximum sum, as well as for alienation of precious goods and those given by reason of a vow, the major archbishop requires the consent of the synod of bishops (CCEO, c. 1037, 3º). Jobe Abbass underlines that “[...] in a significant application of the principle of subsidiarity in favor of the Eastern patriarchal Churches, the required consent for these alienations within the patriarchal territories is given in all cases by the bishop or patriarch with the consent either of the permanent synod or the synod of bishops (CCEO, c. 1036 §§2-3).” On the other hand, sacred relics, icons, and images of the patriarchal Church cannot, in any manner, be validly alienated nor perpetually transferred to another Church without the consent of the Apostolic See or patriarch. The patriarch grants his consent with the consent of the permanent synod in accordance with CCEO, c. 1037 (CCEO, c. 888 §2).

Regarding alienation of ecclesiastical goods without following the canonical requirements but valid in civil law, CCEO, c. 1040 states that the higher authority of the

223 Though CCEO, c. 1037, 3º is mentioning the “double the sum” (eandem summam duplo) and not double the maximum amount, J. Abbass maintains that such an interpretation should be made. See ABBASS, “Alienation in the Eastern Catholic Churches,” p. 131, footnote 56. See also ID., Two Codes in Comparison, p. 187, footnote 26.

one who carried out the alienation is to determine which action is to be taken in order to vindicate the rights of the Church.  

3.4 – CANONICAL PROVISIONS FOR ADMINISTRATION OF JUSTICE WITH RESPECT TO FINANCIAL MALFEASANCE

The Church has been richly blessed by the donations of its people. It is the duty of administrators to take the necessary steps for the retention, administration, and alienation of ecclesiastical goods which have been received through the benevolence of the faithful. Pope Benedict XVI, in the encyclical letter Caritas in veritate states: “Economy and finance, as instruments, can be used badly when those at the helm are motivated by purely selfish ends.” The Pope called fraudulent malpractices, such as money-laundering, “criminal activities.” As John Renken remarks, the financial harm caused by the administrators of ecclesiastical goods can be “scandal to the faithful, hurt to donors, and damage to the public image of the Church.” Consequently, when financial malfeasance takes place in the administration of ecclesiastical goods, it is the duty of competent ecclesiastical authorities to restore the confidence and the trust of the faithful by taking necessary steps to redress the situation, repair harm, and demand the compensation. The respective authority also has the duty to act towards restoring the

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225 The parallel norm in CIC/83, c. 1296, in addition “calls for a decision to be made as to whether any action should be taken and, if so, whether it should be real or personal [...]” (Kennedy, Commentary on c. 1296, in CLSA Comm 2, p. 1506). CCEO is clearer in this regard and Kennedy accepted the canonical norm prescribed in CCEO, c. 1040 while interpreting CIC/83, c. 1296. See ibid. See also Abbass, “Alienation in the Eastern Catholic Churches,” p. 133.


227 See Benedict XVI, Apostolic Letter on the Charter of the Information Authority of the Financial Institution Statuto to dell’autorità di informazione finanziaria, 30 December 2010, art. 2 §1, in AAS, 103 (2011), pp. 7-8, especially at p. 7.

stability of the juridic person affected by financial malfeasance through sound fiscal oversight and demanding accountability of the officers.\footnote{229}

In accordance with PA, c. 284, the Church in virtue of being a moral person (subject of rights and obligations), had the right to take personal action against the illegal holder of ecclesiastical goods, and against the administrator who irregularly alienated them. The corresponding Latin legislation was CIC/17, c. 1534.\footnote{230}

In the context of financial malfeasance,\footnote{231} the issue of delicts and restoration of justice through penal measures is to be considered in accordance with the prescriptions of CCEO. Several canons of CCEO can be applied to situations involving financial

\footnote{229} Here it is relevant to have a picture of the measures to be taken by the competent authorities in accordance with common law and particular laws. Expertise in financial matters and unquestionable honesty are outlined in CCEO, c. 122 §1 as the qualities required for the appointment of the finance officer, and show the Church’s desire to protect the ecclesiastical property from malfeasance. The internal (to a given juridic person) and external auditing systems, periodical reviews of the financial activities by the finance committee, the presentation of the financial report and of the budget of receipt and payment accounts of the past year and the forthcoming year to the synod of bishops and the permanent synod, and the required counsel or consent of the synod of bishops and of the permanent synod for the acts which go beyond the sphere of ordinary administration, are the precautionary measures applied in the Syro-Malabar Church.

\footnote{230} Joseph F. Cleary has commented on the latter: “It grants the church body which has suffered the damage a real action (actio realis) against any holder of property irregularly alienated when the alienation is null. [...] The same church body has a personal action (actio personalis) against the administrators and their heirs to oblige them to repair the wrong done” (Canonical Limitations on the Alienation of Church Property, Washington, DC, Catholic University of America, 1936, pp. 104-105).

\footnote{231} CCEO, c. 935 obliges anyone who unlawfully caused damage upon someone by a juridic act or by any other act placed by fraud or negligence to make reparations for the damage inflicted. CCEO, c. 1024 states that the juridic person is not responsible for the invalid acts of the administrator. Regarding it Victor J. Pospishil states: “Civil law will not free the juridic person as a rule from obligations incurred by the person appearing as its administrator if the claim is based on good faith on the part of the claimant” (POSPISHIL, Eastern Catholic Church Law, p. 700). Regarding the initiation of a lawsuit, with the written permission of the hierarch, an administrator can initiate or contest the suit in a civil court (CCEO, c. 1032). But the question is whether this civil action will be in accord with the norm and spirit of canon law. Regarding the coercive penal authority John D. Faris states: “[T]he clear distinction at the outset permits the penal law of the Church to be structured primarily on the basis of theological considerations and not simply a counterpart or complement to civil penal law: ecclesiastical penal law has the salus animarum as its primary goal” (J.D. FARIS, “Penal Law in the Catholic Churches,” in Folia canonica, 2 [1999], p. 58).
malfeasance. Among the delicts associated with financial malfeasance, one can name the following:\(^{232}\)

1) The abuse of power and negligence in the exercise of authority - to be punished with an appropriate penalty (\textit{CCEO}, c. 1464). While the corresponding norm of \textit{CIC}/83, c. 1389 operates in the context of a deliberate violation of the law or precept, and culpable negligence, \textit{CCEO} substitutes for the above mentioned prerequisites the notions of deliberate action, serious culpable omission of due diligence, and seriously culpable ignorance of the law or precept.\(^{233}\) In the context of \textit{CCEO}, c. 1464, one can invoke \textit{CCEO}, c. 935, which states that anyone who unlawfully inflicts damage upon someone by an act performed with malice or culpability is obliged to compensate for the damage inflicted.\(^{234}\)

2) The falsification of documents - to be punished with an appropriate penalty (\textit{CCEO}, c. 1455). The delicts covered by the canon are: a) falsification of an ecclesiastical document; b) assertion of falsehood in an ecclesiastical document; c) deliberate use of a false or altered document in an ecclesiastical matter; and d) changing, destroying, or concealing an authentic document (not necessarily ecclesiastical). The corresponding legislation in \textit{CIC}/83, c. 1391, determines that the one who violates c. 1391 “can be punished” (\textit{puniri potest}), while \textit{CCEO} c. 1455 categorically demands that the offender “is to be punished” (\textit{poena puniatur}): “Unlike the Latin code, […] it


\(^{234}\) “Quicumque illegitime actu iuridico immo quovis alio actu dolo vel culpa posito alii damnum infert, obligatione tenetur damnum illatum reparandi” (\textit{CCEO}, c. 935).
envisions a preceptive, not a discretionary, penalty for various delicts involving falsifying documents.”

3) Impeding freedom of Church authorities in their disposition of ecclesiastical goods - to be punished appropriately (CCEO, c. 1447 §2). The corresponding legislation in CIC/83, c. 1375 prescribes that anyone who deliberately and successfully obstructs the use of ecclesiastical goods can be punished with a just penalty, while CCEO, c. 1447 §2 mandates an appropriate penalty.

4) The invalid alienation of ecclesiastical goods - to be punished with an appropriate penalty (CCEO, c. 1449). However, some commentators on CIC/83 (the corresponding norm in CIC/83 is c. 1377) stress that the competent ecclesiastical authority is to take into consideration the gravity of the situation resulting from the alienation completed without the prescribed permission and the scandal caused.

5) Attempting to bribe and accepting a bribe - to be punished with an appropriate penalty (CCEO, c. 1463). In accordance with this canon, one who has for pecuniary interest induced somebody unlawfully to do or to omit something regarding the exercise of an office, a ministry or function, and the one who has committed such acts, are to be punished appropriately. The similar legislation in CIC/83, c. 1386 also prescribes that

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235 T.J. GREEN, Commentary on c. 1391, in CLSA Comm 2, p. 1595, footnote 267.

236 According to John Renken, a mere attempt to impede the use of ecclesiastical goods is insufficient for committing a delict: the attempt must be successful. See “Penal Law and Financial Malfeasance,” p. 44.

237 See FARIS, “Penal Law in the Catholic Churches,” p. 81.

238 See MARTIN, Commentary on c. 1377, in CLSGBI Comm, p. 793. See also GREEN, Commentary on c. 1377, in CLSA Comm 2, p. 1585.

239 See POSPISHIL, Eastern Catholic Church Law, p. 755.
the penalty is to be imposed on the persons who deliberately influence the ecclesiastical authority to do or omit something illegitimately in exchange for gifts or promises.240

In conclusion this brief overview of the penal consequences of financial malfeasance, it is appropriate to note certain points. Penal action for financial malfeasance is extinguished after the three-year period (CCEO, c. 1152 §2; CIC/83, c. 1362 §1). The preliminary investigation begins and concludes with a decree (CCEO, c. 1470; CIC/83, c. 1719). Even though financial malfeasance is not always punished by deprivation of the office, however, due to the lack of public trustworthiness, the continued service of the offender in the same office may harm the good name of the Church. In this regard, it is interesting to note that, in accordance with the registration deed, the finance officer of the Syro-Malabar Church acts before civil law as one of the trustees of the Trust of the Major Archiepiscopal Curia of the Syro-Malabar Church.241

Ultimately, the juridic person is not canonically liable for the invalid actions of the finance officer (administrator): “Unless and to the extent that it is to its own advantage, a juridic person is not bound to answer for acts invalidly placed by its

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240 See GREEN, Commentary on c. 1386, in CLSA Comm 2, p. 1591.

241 See The Trust Deed of the Major Archiepiscopal Curia, 2 August 1993, no. 1, p. 4. When a denunciation occurs, an investigation must be performed without endangering the good name of the accused. In accordance with CCEO, cc. 1468-1471 with regard to the acts of financial malfeasance of the employees of the office of the finance officer, (e.g., accountants) the finance officer has the obligation to take appropriate action. If financial malfeasance happens directly due to the negligence of the finance officer, the concerned authority is the hierarch: the major archbishop has to take the immediate steps to bring the situation under control, having first consulted with such experts as financial auditors and civil lawyers. Thus, we summarize the following measures applied by the major archbishop will likely be: 1) taking control and repossessing the books and records; 2) taking control of the bank documents and cash on hand; 3) informing the bank authorities regarding the fraud; 4) ascertaining the amount of loss; 5) appointment of a commission of enquiry; and, if necessary 6) conducting a special audit. See M. KANDASAMI, Management of Finances in Non-Profit Organizations, New Delhi, Caritas India, 1994, pp. 166-167. As we have mentioned already CCEO, c. 1024, prescribes that unless and in so far as it is to its advantage, a juridic person is not responsible for the invalid acts of the administrator (CCEO, c. 1024 §3).
administrators” (CCEO, c. 1024 §3). This canon reflects PA, c. 276, which also stated that the Church is not responsible for the invalid administration of the administrators who acted without the permission of the superiors. In a major archiepiscopal Church, its particular law will determine the action against the offender.

**CONCLUSION**

This chapter focused mainly on the functions of the administrator of ecclesiastical goods of a Church sui iuris. The exercise of the office of administrator of ecclesiastical goods, as prescribed in CCEO, is aimed at the fulfillment of the proper purposes of the Church. In order to carry out his/her functions in an adequate way, the administrator is to maintain the integrity of the office. The required diligence in fulfilling his/her functions entails fidelity and trustworthiness which are to be solemnly promised to the major archbishop or his delegate.

The norms prescribed in CCEO outline the obligations of the administrator of ecclesiastical goods with regard to the acquisition, administration, and alienation of ecclesiastical goods. There are certain canons with respect to acquisition of goods that are especially relevant for a major archiepiscopal Church in the cultural and social context of India. They relate to the intention of the donors, the prescription, and the collection of revenue and investments.

Since ecclesiastical goods are to be destined and financial activities are to be organized for the fulfillment of the Church’s objectives, the annual budget should reflect the concerns of the Church towards the poor, the sick, and the socially and economically

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242 “Nisi quando et quatenus in rem eius versum est, persona iuridica non tenetur respondere de actibus ab administratoribus invalide positis” (CCEO, c. 1024 §3).
disadvantaged. Similarly, workers are to be compensated justly in accordance with the social principles of the Church.

The major archiepiscopal finance officer is the steward and custodian of all ecclesiastical goods of the major archiepiscopal Church *sui iuris*. It is the responsibility of the finance officer, as an administrator of ecclesiastical goods, to employ civilly valid methods of safeguarding ownership of ecclesiastical goods and to observe all relevant civil laws to protect property. The preservation and the updating of the relevant registers require the utmost care in order to satisfy the scrutiny of the higher authorities and the successors in office.

The synod of bishops and the permanent synod, whose own responsibilities are established by *CCEO*, can facilitate the exercise of the functions of the finance officer. The permanent synod acts as an executive committee at the major archiepiscopal level. The finance officer can make use of its suggestions and interventions in his/her administration.

The finance officer also has specific responsibilities concerning alienation of ecclesiastical goods. With regard to selling and leasing, he/she must exercise prudence in soliciting or receiving consent and counsel from the appropriate levels of authority in the major archiepiscopal Church. The finance officer should be aware of the dire consequences of improperly disposing of the Church’s assets.

Certain canons of *CCEO* can be applied when there is a question of justice relating to financial malfeasance. Deliberately exercising ecclesiastical functions contrary to basic ecclesial purposes is to be considered as an abuse of office. The competent authority must preclude such office holders from any activities detrimental to the well-being of the Church, and has the right to make decisions regarding the procedure to be
followed for the restoration of justice. Always, however, the administration of justice is to be accomplished in view of the salvation of the delinquent and the good of the Church.
CHAPTER FOUR

SPECIFIC ECCLESIASTICAL AND SECULAR LEGAL PARAMETERS OF THE EXERCISE OF THE OFFICE OF THE FINANCE OFFICER IN THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH

INTRODUCTION

In the apostolic constitution *Quae maiori*, Pope John Paul II stated that the territory of the Syro-Malabar Church shall be limited to the confines of the ecclesiastical provinces of Ernakulam and Changanacherry.\(^1\) Thus, the synod of bishops of the Syro-Malabar Church enjoys legislative and judicial powers within these territorial boundaries. The synod of bishops, however, acts in an administrative capacity only in cases in which the patriarch concedes this faculty or common law reserves some acts to the synod of bishops (*CCEO*, c. 110 §4). Similarly, the major archbishop exercises executive power within the territorial boundaries. In the political realm of the Republic of India and of Kerala State, the Syro-Malabar Church also operates in a secular legal system, as does the finance officer in the Syro-Malabar Major Archiepiscopal Church. This situation calls for a presentation of the important parameters of the functioning of the finance officer in the two legal systems: ecclesiastical and secular, each with its own corresponding bodies of laws and traditions.

In order to offer a broader canonical perspective, a short comparison of the particular legislation relating to the finance officer as promulgated by the three other major archiepiscopal Churches is included at the end of the present chapter. This

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comparative analysis of the particular laws of the major archiepiscopal Churches will help to shed additional light on the revision process of the particular legislation of the Syro-Malabar Church.


During the revision process of the Eastern law, on 11 July 1977, Cardinal Joseph Slipyj, the Major Archbishop of the Ukrainian Church, wrote to the president of the PCCICOR about the necessity to respect each Church’s particular law: “I am against a Code which would be formally common to all Eastern Catholic Churches, without respect for the particular Church and for its law. With a common Code we would be denying the law of the particular Church […]”.2 The fear of Cardinal Slipyj that the common Code would compromise the individuality of the Churches sui iuris and their particular laws was answered by PCCICOR by accepting the principle of subsidiarity as one of the guiding values for the revision of the law: “The new Code should limit itself to the codification of the discipline common to all the Oriental Churches, leaving to the competent authorities of these Churches the power to regulate by particular law all other matters not reserved to the Holy See.”3 In accordance with this principle, the CCEO has allowed sufficient room for the provisions of particular laws.4

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4 It is relevant and helpful to take note of the concepts of the ius particulare and ius magis particulare. See NEDUNGATT, Laity and Church Temporalities, pp. 263-268. The English term “law” encompasses two Latin terms, “ius” and “lex.” According to George Nedungatt, the word “lex” refers to
By making use of various provisions that are outlined in the canons of the CCEO and in response to the call of Pope John Paul II in the apostolic constitution *Sacri canones*, the synod of bishops of the Syro-Malabar Church promulgated its particular laws in the official publication of the synodal decisions called “Synodal News.” The particular laws concerning the office of the finance officer come under the title “On Major Archbishop, Metropolitan, Bishops, Exarchs and the Organs Assisting the Eparchial Bishop in the Governance of the Eparchy” and they are complementary to the CCEO.

The areas of particular law that are especially relevant for this study are the following: the term of office of the finance officer, the different modes of acquisition of property, the amounts determining acts of ordinary and extraordinary administration of ecclesiastical goods, the procedure for obtaining consent for the alienation of ecclesiastical goods, the institution of the finance council on the major archiepiscopal

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“statutory law,” while the word “ius” has a broader meaning which includes also customs, decrees, precepts, injunctions, orders, and judicial sentences. Nedungatt continues, therefore: “The relationship between these two kinds of particular law (ius particulare and ius magis particulare) is not concurrence but subordination or hierarchical. Hence according to CCEO, c. 985 §2 an inferior legislator cannot validly enact a law (lex) that is contrary to a higher law (ius), and the particular law represented by the eparchial statutes has to conform, as a rule, to the higher particular law of the Church sui iuris” (ibid., p. 264). In other words, the broadly understood body of absolute objective rights which determine the object of justice, something that is due, that is just, is expressed in causal or normative objective rights, i.e. in the norms where the object of justice, what is due, is defined. This law (ius) cannot be contradicted by a written norm (lex). As a specific instance of this relationship, one can consider the principle that the particular laws enacted at the eparchial level which express the ius magis particulare must be subordinate to the law determined by the ius particulare at the major archiepiscopal level.

5 Pope John Paul II stated that as soon as possible each Church sui iuris should make its own particular laws, based upon each Church’s traditions and the teachings of Second Vatican Council. See JOHN PAUL II, apostolic constitution *Sacri canones*, English translation in *Code of Canons of the Eastern Churches*, p. xxiv.

6 For the particular laws of the Syro-Malabar Church, see SSMMAC, “Particular Laws of the Syro-Malabar Church,” in *Synodal News*, 11 (2003), pp. 5-137.

7 See ibid., pp. 10-12.
level of administration, and the statutes for the ordinary tribunals of the Syro-Malabar Church.

The administration of ecclesiastical goods of the major archiepiscopal Church requires close cooperation among the different bodies, such as the synod of bishops and the permanent synod. The particular laws that prescribe the formalities for the acquisition, administration, and alienation of ecclesiastical goods, together with certain administrative decisions on the synodal structures of the Church, are therefore to be considered in this particular context.

4.1.1 – Specific Means of Generating Revenue for the Syro-Malabar Church

The Syro-Malabar Church has the right to acquire temporal goods for the spiritual and pastoral needs of the Church. In fact, a variety of means to acquire goods is outlined in its particular laws. With regard to the acquisition of goods, the finance officer serves as a steward who carries out the policies determined by the synod of bishops and the permanent synod.

4.1.1.1 – Generating Revenue for the Missionary Activities of the Syro-Malabar Church

The missionary activity of the Syro-Malabar Church is based on the principle that all faithful are called to exercise the mission which God has entrusted to them to fulfill in this world. In accordance with OE, no. 3, the Eastern Catholic Churches are entitled to participate in preaching of the Gospel, even in the whole world under the guidance of the

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8 Cf. CCEO, c. 1007.


10 Cf. CCEO, c. 7.
Roman Pontiff. In this context, the observation of V.J. Pospishil on the missionary activity of the Syro-Malabar Church has special relevance:

The Syro-Malabar Church was forbidden to propagate the Gospel outside very narrow borders in order not to interfere in the missionary efforts of the Latin Church; only now are they permitted to approach the non Christians anywhere in their country, where they represent a religious denomination that is present for nearly two millennia and have thereby acquired the right to be regarded truly as Indian, more so than the colonial Latin Church.

The growth of the Syro-Malabar Church faced several adversities due to foreign domination. Despite having enormous resources and personnel, this Church sui iuris is still facing many difficulties in extending its missionary activities in India. Undoubtedly, the Syro-Malabar Church reveals a desire to fulfill the proper purposes of its mission. The participation of the faithful in the missionary task of the Church is clearly manifested today in the particular laws on the acquisition of property. In this regard, art. 204 of Particular Laws on Acquisition and Administration of Temporal Goods states: “As


12 POSPISHIL, Eastern Catholic Church Law, pp. 359-360. Pospishil calls the Syro-Malabar Church the “most active Eastern Catholic Church of this century” (ibid., p. 359).

13 Cf. CCEO, c. 1007. According to F. Morrisey, the means of fulfilling the missionary responsibilities include both spiritual and financial assistance. See MORRISEY, Commentary on c. 781, p. 431.


the Church is missionary, a Sunday shall be set apart in order to raise funds for the missionary activities of the Syro-Malabar Major Archiepiscopal Church. The utilization of this fund may be decided by the synod of bishops.”

Among the Eastern Catholic Churches, the Syro-Malabar Church is in the forefront of the ministry of evangelization in various countries. George Nedungatt remarks that many personnel (including bishops, priests, and religious of the Syro-Malabar Church) are working in almost all the Latin dioceses of India. At the same time, however, the mission eparchies of the Syro-Malabar Church that are erected outside the proper territory (state of Kerala) are facing the challenge of the availability of funds. Therefore, in order to offer financial support to the missionaries who are working in the mission eparchies of the Syro-Malabar Church, the mother Church (the Syro-Malabar Major Archiepiscopal Church) established the Mission Sunday collection.

Prior to the beginning of the Syro-Malabar Mission Sunday collection, one Sunday within the year was designated, in virtue of a custom existing in the Syro-Malabar Church, as the Mission Sunday of the universal Church. The collection which was taken on that day was destined for the support of the mission works of the universal Church. This practice continues nowadays in the Syro-Malabar Church.

16 Ibid., p. 105.


20 Ernakulam-Angamaly athirupatha niyamasamhittha, no. 115.4 states: “Since the universal Church observes Mission Sunday on the Sunday preceding the last Sunday of October, a special collection is to be taken in every church on that day and the collected amount is to be remitted to the archeparchial curia of Ernakulam-Angamaly” (Ernakulam-Angamaly athirupatha niyamasamhittha, 2009, p. 104). The translation is mine.
In accordance with the prescription of particular law, the Central Liturgical Committee of the Syro-Malabar Church has included the second Sunday of Denaha (the liturgical season of Epiphany) as the “Syro-Malabar Mission Sunday” in the liturgical calendar.\(^\text{21}\) During the Twelfth Synod of Bishops, in 2004, some members worried that the observance of the Syro-Malabar Mission Sunday does not convey the message envisioned by the synodal Fathers. According to the critics, through the observance of the Syro-Malabar Mission Sunday, the Syro-Malabar Church has to cultivate a deeper relationship with the universal Church. This discussion led the Synod to request that every year the major archbishop send a message to the faithful regarding the Mission Sunday of the Syro-Malabar Church,\(^\text{22}\) awaking mission awareness, promoting prayer for the mission, and raising resources for missionary activities.

Regarding the Mission Sunday collection of the Syro-Malabar Church, the competence of the finance officer is limited to the task of the collection of money from the respective eparchies and the disbursement of these funds to the mission eparchies, subject to the decision of the major archbishop. Since there are no particular laws with regard to the disbursement of the Mission Sunday collection, the finance officer is to be directed by the major archbishop.

The synod of bishops of the Syro-Malabar Church held 6 - 10 March 1995 made a decision to adopt mission eparchies outside Kerala.\(^\text{23}\) At the present time, there are thirteen eparchies of the Syro-Malabar Church situated outside the proper territory.\(^\text{24}\)

\(^{21}\) See DEPARTMENT OF LITURGY OF THE ARCHEPARCHY OF CHANGANCHERRY, Liturgical Calendar 2010-2011, Changancherry, Mar Thoma Vidya Nikethan, 2009, p. 3.


which are considered suffragan eparchies (dioceses) of the Latin archdioceses of the place. Among the thirteen, three eparchies, namely the Eparchy of Kalyan (1988), the suffragan eparchy of the Latin Archdiocese of Mumbai, the Eparchy of Saint Thomas the Apostle in Chicago (2001), Illinois, immediately subjected to the Apostolic See, and the Eparchy of Faridabad of the Syro-Malabarians (2012), the suffragan eparchy of the Latin Archdiocese of Delhi are erected for the pastoral care of the Syro-Malabar emigrants. Ten remaining eparchies (outside the proper territory), and three eparchies of the proper territory, namely, Mandya, Ramanathapuram, and Thuckaly are considered as mission eparchies. These mission eparchies are facing certain challenges on account of the religious, cultural, political, economical, and historical complexities of India.

24 Within the proper territory, there are the following eparchies: 1) the ecclesiastical province of Changanacherry includes the eparchies of Kanjirappilly, Palai, and Thuckaly; 2) the ecclesiastical province of Ernakulam-Angamaly includes the eparchies of Idukki and Kothamangalam; 3) the ecclesiastical province of Trichur includes the eparchies of Irinjalakuda, Palghat, and Ramanathapuram; 4) the ecclesiastical province of Tellicherry includes the eparchies of Mananthavady, Thamarassery, Beltangady, and Mandya; and 5) the Kottayam archeparchy which has no suffragan eparchies. Outside the proper territory, there are the following eparchies: Adilabad, Bhadravadi, Bijnor, Chanda, Gorakhpur, Jagdalpur, Kalyan, Rajkot, Sagar, Satna, Ujain, St. Thomas the Apostle Eparchy in Chicago, and the Eparchy of Faridabad of the Syro-Malabarians. See http://www.Smcim.smonline.org/diocesesoverview.htm (5 February 2012).


28 See B. PUTHUR, “The Theology of the Mission According to the Teachings of Post Conciliar Documents,” in P. KANNOOKADAN (ed.), The Mission Theology of the Syro-Malabar Church, Kochi, Syro-Malabar Liturgical Research Centre, 2008, p. 64. Indian society is a composite of different races, religions, languages, castes, ethnic groups and tribes. Half of the population falls below the poverty line. See ibid. Challenges of evangelization can be summarized as follows: 1) religious fundamentalism; 2) anti-conversion acts promulgated by various state governments; 3) curtailment of educational rights by some state governments; and 4) restriction in regard to obtaining extra territorial jurisdiction for the Syro-Malabar Church. See M. KANIAMPARAMPIL, “Response to the Paper: Missionary Activities of the Syro-Malabar Church in the Present Context,” in The Mission Theology of the Syro-Malabar Church, p. 195.
Responding to the appeal made by the bishops of the mission eparchies, the aforementioned Synod (1995) adopted the following measures to help them: 1) for the Syro-Malabar Mission Sunday the bishops and priests from the mission eparchies will be invited to preach about their missions in the churches within the proper territory; and 2) the adoption of mission eparchies by the eparchies in Kerala will promote mutual visits of their bishops and priests.29

The Third (1996) and Eighth (1999) Synods of Bishops of the Syro-Malabar Church decided that the financially troubled mission eparchies, which are located outside the proper territory of the Syro-Malabar Church, are to be “adopted” by other eparchies of Kerala.30 The synod itself calls this arrangement the “twinnage program.” To effectively implement the twinnage program, the synod prepared the following list: the Chanda mission eparchy is sponsored by the Eparchy of Kanjirappaly; the Bhadravathi mission eparchy by the Eparchy of Thamarassery; the Gorakpur mission eparchy by the Archeeparchy of Ernakulam; the Jagadalpur mission eparchy by the Archeeparchy of Changancherry; the Ramanathapuram and Sagar mission eparchies by the Archeeparchy of Trichur; the Rajkot mission eparchy by the Archeeparchy of Kottayam; the Mandya mission eparchy by the Eparchy of Mananthavady; the Bijnor and Adilabad mission

On the right of obtaining pastoral care by the Syro-Malabar migrants, Archbishop Joseph Powathil states: “We are faced with severe obstacles in securing our rights. Although the Oriental Churches emphasize personal jurisdiction, the territorial principle is still dominating the scene. It is true that Eugenio Pacelli, the future Pope Pius XII, had defended the thesis that authority is essentially personal. The Council also stated that the Church is missionary (AG, no. 1), that all individual Churches have the same right and duty to evangelize the whole world (OE, no. 3) and that every Church hands on its heritage to new generations (UR, no. 14)” (J. POWATHIL, “Missionary Activities of the Syro-Malabar Church in the Present Context,” in The Mission Theology of the Syro-Malabar Church, p. 176).


eparchies by the Archeeparchy of Tellicherry; the Satna mission eparchy by the Eparchy of Kothamangalam; and the Thuckalay, and Ujain mission eparchies by the Eparchy of Palai.\(^{31}\) Apart from financial assistance, prayer, services offered by priests and religious, promotion of missionary vocations, and mutual visits, there are also other means by which the eparchies in Kerala try to enhance the growth of the mission eparchies.\(^{32}\) In particular, the “adoptive” eparchies are allowed to send the Syro-Malabar Mission Sunday collection directly to the respective “adopted” eparchies.\(^{33}\)

In this context, the pastoral letter of Major Archbishop Cardinal George Alenchery to the faithful of the Syro-Malabar Church calls them to an active and effective involvement in the works of evangelization in India and abroad:

The Syro-Malabar Eparchies in Kerala, as the Mother Church, have to help the missions with personnel and finances. Individuals, families, parishes, and institutions in our Church should come forward to adopt mission areas outside Kerala and to encourage them with prayer, sacrifices and financial contributions. It is good to conduct mission visits from parishes and institutions to regions where our missionaries work. Having a direct experience of the mission work and knowing their needs and necessities would certainly be an incentive to encourage the missionaries.\(^{34}\)

The twinnage program requires proper guidance and coordination at the major archiepiscopal level. Since particular law of the Syro-Malabar Church does not prescribe

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any norm regarding the twinnage program, it is appropriate to have specifications in the particular law regarding the program activities.

4.1.1.2 – Provisions for the Financial Support of the Major Archiepiscopal Curia

While CCEO prescribes general norms on meeting the expenses of the curia such as the income from the goods of the major archiepiscopal Church and the contribution of the individual eparchies, as determined by the synod of bishops, the particular law of the Syro-Malabar Church determines the precise ways in which this objective is to be fulfilled. Since taxation from the eparchies is one of the just means of acquiring income (CCEO, c. 125), the synod of bishops is competent to determine the rate of the tax in proportion to the ability of each eparchy. While taxation has a mandatory character, a collection or a donation is voluntary. As a matter of fact, voluntary contributions from various institutions of the Syro-Malabar Church (e.g., self-financing colleges), in accordance with their ability to contribute, have been requested.

In order to provide resources for satisfying the ordinary expenses of the curia, the synod of bishops of the Syro-Malabar Church held 7-23 November 1994 decided that ordinary expenses are to be covered by the annual contributions of each eparchy. The main source of the acquisition of funds directed to this purpose is the collection taken on the feast day of Saint Thomas the Apostle (Dukrana of Mar Thoma Sleeha - the

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35 See CCEO, c. 125.


38 Dukrana is a Syriac term for “remembrance.”
The commemoration day of the martyrdom of Saint Thomas the Apostle, 3 July). The collection itself is called the Sabhadinam (the day of the Church) collection. Although the funds acquired through this collection have increased significantly (at least recently), there is still a great need for creating even more awareness programs in order to provide necessary funds in the future.

Since the Major Archiepiscopal Tribunal is part of the curia (in accordance with CCEO, c. 114), regarding judicial expenses, the particular law stipulates: “The rates of fees for judicial services, determined by a decree of the Major Archbishop and renewed periodically, are as per Schedule annexed to these Statutes. This Schedule is to be made known to the party at the presentation of the libellus introducing a suit.” This norm of the particular law responds to CCEO, c. 1335, 1º which prescribes that the expenses to be met by the parties are to be mentioned in the statutes of the tribunal. Moreover, the eparchies of the Syro-Malabar Church contribute towards the expenses of the Major Archiepiscopal Tribunal, especially for the remuneration of its officials, in ways determined by the synod of bishops. On the paying of the curial expenses the Guidelines for the Functioning of the Major Archiepiscopal Curia state: “The finance officer shall take care to get the annual contribution for the functioning of the Curia from the juridical and physical persons who are obliged to do so.” Since the Major Archiepiscopal Tribunal depends on the finance officer in that which concerns its


41 See ibid.

financial administration, it is the responsibility of the finance officer to receive the contributions and disburse the remuneration to tribunal personnel.

As for other means of generating income, the synod of bishops of the Syro-Malabar Church held 15-20 November 1999 decided to collect annual contributions from the main shrines of various eparchies. The synod also proposed the manner of collection of these contributions. The local hierarchs of the respective shrines and parishes are to contact their pastors and kaikarans and to collect from each unit an annual contribution for the expenses of the major archiepiscopal curia. Apart from the contributions from the eparchies of the proper territory of the Syro-Malabar Church, the synod of bishops decided that the Eparchy of Saint Thomas the Apostle in Chicago will be asked to contribute to the alleviation of curial expenses. While the particular disciplinary laws affect the proper territory of the Syro-Malabar Church, and while the Eparchy of Saint Thomas the Apostle is located outside of that territory, it (the Eparchy of Saint Thomas) is


44 The annual contribution was fixed at a minimum Rs. 10,000. When the construction work on the curial building was in progress, some income generating programs were planned by the synod of bishops, including: 1) the Apostolic Administrator’s personal letters addressed to prospective donors, able and willing to donate substantial amounts; 2) meetings of the finance officer, accompanied by curial officials of the eparchies, with persons able to contribute larger amounts; 3) the Apostolic Administrator’s requests directed to the major superiors of the institutes of consecrated life to extend credit to the major archiepiscopal curia for interest at bank deposit rates. See SSMMAC, “Report of the Synod of Bishops,” in Synodal News, 5 (1997), p. 19. At that time, from 1996 to 1999, the Syro-Malabar Church was under the authority of the Apostolic Administrator sede vacante et ad nutum Sanctae Sedis, Archbishop Varkey Vithayathil. The Second Synod of Bishops, in its third assembly, decided to collect 1% of the gross income of the parishes and a per capita contribution of Rs. 1/- from the Syro-Malabar faithful for the expenses of the construction work on the major archiepiscopal curial building. See SSMMAC, “Decisions of the Synod,” in Synodal News, 3 (1995), p. 20.

is not legally bound by this norm: the voluntary contributions depend upon the decision of the eparchial bishop in Chicago.

In order to meet the expenses of the curia both local and foreign benefactors contribute to certain activities of the offices of the curia. For instance, the Report of the Commission for the Clergy and the Institutes of Consecrated Life,\textsuperscript{46} August 2004 - December 2005 points to the subsidies received from the Catholic Near East Welfare Association (CNEWA). The report states that “CNEWA has been magnanimous to grant a special subsidy to conduct the programs” at Mount St. Thomas (the curial office of the Syro-Malabar Church).\textsuperscript{47} The financial contribution of CNEWA helped in the establishment of a museum at the curia building of the Syro-Malabar Church.\textsuperscript{48} Other foreign benefactors, such as Missio Aachen and Oeuvre d’Orient of Paris contributed to several training programs which are conducted at Mount St. Thomas.\textsuperscript{49}

In relation to the remittance of the expenses of the major archiepiscopal curia, the synod of bishops of the Syro-Malabar Church has prescribed a special annual contribution from the selected parishes and an appeal for voluntary contributions from selected religious institutes of consecrated life of the Syro-Malabar Church. In fact, during the Eleventh Synod of Bishops of the Syro-Malabar Church, the finance officer briefed the members about the actual financial situation of the curia and stressed the need

\textsuperscript{46} This commission is a part of the archiepiscopal curia.


for creating effective means to reduce expenses and increase revenues.\textsuperscript{50} To increase the contributions, the finance officer proposed that the eparchial bishops identify more parishes that could contribute and that they request from them to do so. He also asked the synod of bishops to contact selected religious institutes to obtain their voluntary contributions. The proposals made by the finance officer were accepted by the synod of bishops as a special means of acquisition, intended for the remittance of the extraordinary expenses of the curia. Regarding the acquisition of funds, in accordance with the decision of the synod of bishops of the Syro-Malabar Church, the finance officer was to collect the amount for the Church,\textsuperscript{51} while always respecting the principle of the observance of the donor’s intention.

4.1.2 – Administration of Ecclesiastical Goods of the Syro-Malabar Church

\textit{CCEO} determines that the administrator of ecclesiastical goods cannot go beyond the limits (object of the act) and procedures (manner of fulfilling the act) of ordinary administration. For the validity of acts beyond the scope of ordinary administration, the administrator needs written consent of the hierarch (the major archbishop).\textsuperscript{52} Particular law of the Syro-Malabar Church does not specify the acts which go beyond the the limits of ordinary administration, however. On the absence of such particular laws, James Thalachallor, the secretary of the Synodal Commission for the Formulation of Particular Laws states:

\begin{footnotes}
\item[52]See \textit{CCEO}, c. 1024 §1.
\end{footnotes}
The commission for drafting the particular law of the Syro-Malabar Church has almost completed its work of drafting laws for this Church wherever the common law explicitly so demanded or in some cases providing for the lacuna legis and other occasions in the form of statutes for the juridical institutions in the Church. There are a few more drafts which await final discussion in the Synod and promulgation.\(^{33}\)

Apart from the office of the finance officer,\(^ {54}\) the following bodies were also established in the Syro-Malabar Church: 1) Syro-Malabar Major Archiepiscopal Commission for Finance; and 2) finance council.

The Guidelines for the Syro-Malabar Major Archiepiscopal Commission for Finance specify that: “[It] is a body of the Syro-Malabar bishops constituted to assist the major archbishop in the administration of the temporal goods of the Syro-Malabar Major Archiepiscopal Church as per the provisions of common and particular law.”\(^ {55}\) The finance officer is the \textit{ex officio} secretary of the commission. Besides helping in the budgeting, planning, and evaluation of the financial administration of the curia, the commission has the following responsibilities: 1) to evaluate and give its considered comments to the permanent synod and the synod of bishops on the financial report of the curia and of the synodal commissions/institutes; 2) to give its opinion, if asked for by the major archbishop, on applications for alienation of ecclesiastical goods whose nature is such that it requires his consent; 3) to consider ways and means of raising funds for the extension of the Syro-Malabar Church activities to new areas; and 4) to present a detailed annual report of its activities in the ordinary annual session of the synod of bishops. The


term of office for members of the commission is five years.\textsuperscript{56} Recently, in 2011, the commission consisting of four bishops, with the finance officer acting as its secretary, was elected by the synod of bishops of the Syro-Malabar Church.\textsuperscript{57}

Besides the Syro-Malabar Major Archiepiscopal Commission for Finance, the finance council of the Syro-Malabar Major Archiepiscopal Church is a unique feature. In \textit{CCEO}, there is no provision for the institution of a finance council for the major archiepiscopal Church,\textsuperscript{58} while, on the other hand, \textit{CCEO} mandates the institution of a finance council at the eparchial level.\textsuperscript{59} The Guidelines for the Syro-Malabar Major Archiepiscopal Finance Council state:

\begin{quote}
The Finance Council is a body of priests, religious and lay faithful of the Syro-Malabar Church experts in financial matters that function ‘under the guidance of the Major Archiepiscopal Commission for Finance’ to do financial planning and budgeting of the Syro-Malabar Major Archiepiscopal Curia and to find out the methods to raise funds for the needs of the Curia.\textsuperscript{60}
\end{quote}

In the beginning of the Syro-Malabar Church as a major archiepiscopal Church, there was a pressing need for the establishment of its infrastructure, including the construction of the curial buildings. In order to raise funds and give directions to the finance officer, the synod of bishops, as an initial step in 1995 constituted a finance council consisting of

\textsuperscript{56} See ibid., pp. 166-168.


\textsuperscript{58} During the revision process, there was a proposal to include a provision for a patriarchal administrative council which was similar to the finance council of an eparchy. However, during the discussion the proposal was not accepted by the respective study group of PCCICOR. See PCCICOR, “De ecclesiis patriarchalibus,” in \textit{Nuntia}, 22 (1986), p. 91.

\textsuperscript{59} See \textit{CCEO}, c. 263.

nine members. The first finance council was composed of the following members: 1) representatives from the synod of bishops; 2) the finance officer of the Syro-Malabar Church; 3) representatives of the eparchial finance officers; and 4) representatives of religious and lay persons. However, the first finance council was dissolved in 1998, after the completion of the construction of the curial buildings, since its purpose was achieved.

After the dissolution of the first finance council in 1998, in accordance with the decision of the synod of bishops the major archbishop constituted a new finance council in 2005, with the following members: 1) the finance officer of the Syro-Malabar Church (who is at the same time the secretary of the finance council); 2) two religious (one religious priest and one woman religious); and 3) five lay faithful. This finance council is to function under the guidance of the Syro-Malabar Major Archiepiscopal Commission for Finance. Compared to the finance council of the eparchial level, the finance council of the Syro-Malabar major archiepiscopal level has a limited competency. As we mentioned above, the guidelines of the finance council stipulate the following responsibilities: 1) financial planning and budgeting of the curia; and, 2) finding methods.

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63 The members of the finance council are: Fr. Mathew Pulimoottil (finance officer cum secretary), Fr. Antony Kariyil, CMI, Sr. Espirit Moolayil, SH, Mr. V.A. Joseph, Prof. Cyriac Thomas, Dr. Mohan Thomas Palkomattom, Mr. John Antraper, and Mrs. Monamma Kokkattu. See SSMMAC, “Decree Constituting the Finance Council,” in Synodal News, 13 (2005), pp. 67-68.

64 For instance, on the eparchial level, the finance council is the competent body to prepare the budget for the coming year and to give approval for receipts and payments for the past year. See CCEO, c. 263 §5.
to raise funds for the needs of the curia. The finance officer is the *ex officio* secretary of the finance council. The curial bishops, the chancellor of the curia, and various synodal commission secretaries are also the *ex officio* members of the finance council. The other members of the finance council are selected by the chairman of the Syro-Malabar Major Archiepiscopal Commission for Finance with the prior approval of the major archbishop.\(^6^5\)

A notable feature of the major archiepiscopal finance council is the representative character of its composition: there are more lay persons than clerics. That situation recalls the ancient administrative system of the Syro-Malabar Church, namely the *yogam*.\(^6^6\) As was pointed out in the first chapter of this study, the *yogam* had a substantial role in the decision-making processes concerning the administration of ecclesiastical goods of the Church.

In 2009, the synod of bishops of the Syro-Malabar Church decided to present the statement of accounts to the major financial contributors to the major archiepiscopal curia.\(^6^7\) The synod believed that this practice would enable the benefactors to be more confident that their donations are correctly utilized by the office of the finance officer. Also, the contents of the statement of accounts were presented to the members of the

\(^{65}\) The term of office of the members of the finance council is five years. Regarding the voting, the guidelines for the finance council prescribe that only the members of the finance council, and not the members of the Syro-Malabar Major Archiepiscopal Commission for Finance, shall vote. The proposals of the finance council are to be submitted to the Syro-Malabar Major Archiepiscopal Commission for Finance which will consider them and if found relevant, will present them to the major archbishop for necessary follow-up and action, in due consultation with the permanent synod or synod of bishops when necessary. See SSMMAC, Guidelines for the Functioning of the Syro-Malabar Major Archiepiscopal Commission for Finance,” pp. 167-168.


Assembly of the Syro-Malabar Church.68 Indeed, CCEO permits particular law to determine the manner of presentation of the income and expenditure account.69

In order to avoid undesirable financial conflicts between the major archiepiscopal Church and the archeparchy of the major archbishop (Ernakulam), and in order to facilitate a smooth functioning of the office of the finance officer with regard to the question of the competence of the major archiepiscopal curia and the curia of the archeparchy of the major archbishop70 in matters of common interest, the synod of bishops of the Syro-Malabar Church decided that the expenses related to common functions (e.g., installation of the major archbishop) will be shared by both institutions at the discretion of the major archbishop.71

In order to have more transparency in the functioning of the finance officer, the synod of bishops decided to appoint two internal auditors (one priest and one lay person).72 They audit the accounts of the curia on a quarterly basis. This internal auditing is different from external auditing: the internal auditors appointed by the major

68 The preamble of the Statutes of the Major Archiepiscopal Church gives the definition of the assembly: “The Major Archiepiscopal Assembly of the Syro-Malabar Church is the gathering together of a representative cross-section of the same Church, integrating the spirit and dynamism of the ancient ecclesial institution of the Thomas Christians called yogam. In it is restored and updated that organ in fidelity to the tradition of the universal Church and in obedience to the legislation given by the Roman Pontiff to the Eastern Catholic Churches (Code of Canons of the Eastern Churches, canons 140-145), so that it is made to correspond to the changed historical situation and the new hierarchical status of the Syro-Malabar Church” (SSMMAC, “Statutes of the Major Archiepiscopal Assembly,” in Synodal News, 11 [2003], p. 128). The assembly is a consultative body for dealing with matters of major importance for the Church and its mission. It is convoked normally once in five years. Its resolutions have the force of law only if they are ratified by the competent ecclesiastical authority. See ibid., pp. 130-131.

69 See CCEO, c. 1028 §3.

70 As it was noted earlier, CCEO, c. 122 §1 stipulates that the finance officer of the major archiepiscopal Church is to be distinct from the finance officer of the major archbishop’s eparchy.


archbishop provide mainly guidance to management, the external auditors’ report is used for filing returns in accordance with the civil legal requirements. In regard to the permanent synod, the particular law, art. 15 states: “The Permanent Synod is to audit the annual accounts and pass the annual budget submitted by the major archiepiscopal finance officer.” This particular law specifies the norm of CCEO, c. 122 §3 which obliges the finance officer to submit to the permanent synod a written report of the previous year’s administration together with the income and expenditure budget for the forthcoming year. The canon does not assign the permanent synod to approve or disapprove the administration report or budget. For V.J. Pospishil, the budget is to be approved by the patriarch/major archbishop. However, J.D. Faris expresses an opinion that particular law can determine in a detailed manner the responsibilities of the finance officer and his/her relationship with synodal structures. With respect to the approval of the administration report and the budget, the particular law of the Syro-Malabar Church assigns the permanent synod to do so.

The finance officer has a role in the financial administration of the Liturgical Research Center, Kochi, which was erected under the authority and jurisdiction of the major archbishop of the Syro-Malabar Church on 10 April 1999. The Statutes of the Liturgical Research Center were approved in the synod of bishops of the Syro-Malabar Church which was held 15-20 November 1999. Article 9 of the Statutes refers to the

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73 Cf. KANDASAMI, Management of Finances in Non-Profit Organizations, p. 156.


75 See POSPISHIL, Eastern Catholic Church Law, p. 175.

financial administration of the Center: “[…] until the Center becomes self-sufficient, the finance officer of the Major Archepiscopal Center [Church] shall function as its finance officer.”\textsuperscript{77} The same article (9 e) states: “There shall be a finance council for the Center consisting of the Chairman, Executive Director, Finance Officer of the Center, Finance Officer of the Major Archepiscopal Center, one of the Board Members, and others as decided by the Board of Directors.”\textsuperscript{78} It has to be noted that the Statutes of the Liturgical Research Center, in art. 9 use the term “Major Archepiscopal Centre” instead of the technical term “Major Archepiscopal Church.”

The role of the finance officer of the Syro-Malabar Church in regard to priests’ welfare merits particular attention. Through the institution of the priests’ welfare associations, the eparchial bishops are putting into practice the teaching of the Second Vatican Council. The Council reminded the bishops that “[they] should be solicitous for the welfare - spiritual, intellectual, and material - of [their] priests, so that they may live holy and pious lives, and exercise a faithful and fruitful ministry.”\textsuperscript{79} Indeed, even before the promulgation of \textit{CCEO} the system of welfare associations had been instituted in the eparchies of the Syro-Malabar Church.

Every eparchy in the proper territory of the Syro-Malabar Church has the system of a priest’s welfare association. The statutes of the priests’ welfare association of the Archeparchy of Changanacherry,\textsuperscript{80} Saint Joseph Priests’ Provident Fund Association, can


\textsuperscript{78} Ibid.

\textsuperscript{79} \textit{CD}, no. 16, English translation in \textit{Flannery 1}, p. 573.

\textsuperscript{80} Promulgated by Archbishop Mar Antony Padiyara in 1981.
conveniently serve as a model regarding the welfare programs for priests in various eparchies of the Syro-Malabar Church. The aim of the association is to provide full financial security to the priests of the archeparchy during their illness and retirement.\(^8^1\) According to the statutes, all priests of the archeparchy are members of this association; religious priests and those incardinated in other dioceses/eparchies are not admitted. Members must pay the premium which is determined by the general assembly of the association.\(^8^2\)

Apart from the obligation to pay the premium, members have to fulfill certain obligations, namely: 1) to offer the bination and trination masses for the intention of the archbishop; 2) to present the account of such masses at the time of the annual retreat; and 3) to offer one mass for each deceased member of the Priests Provident Fund Association. In addition, every year the parish or the institution where the member serves must contribute to the Priests’ Provident Fund Association a month’s salary.\(^8^3\) Any deficiency of funds will be provided by the archeparchy.

All the members benefit from the following: 1) all medical treatment and prescription bills paid by the members are reimbursed; 2) the needs of members of the association who stay at priests’ retirement homes are paid for by the association; and 3) retired members staying elsewhere are paid 50% of the monthly allowance and their expenses for medicine and medical treatments are reimbursed.\(^8^4\) Regarding the loss of membership, the statutes determine the circumstances: 1) when a member joins another

\(^8^1\) See Archeparchy of Changanacherry Priests Welfare Scheme Rules and Regulations, p. 1.

\(^8^2\) See ibid.

\(^8^3\) See ibid., p. 2.

\(^8^4\) See ibid., p. 5.
diocese/eparchy; 2) when he joins another religious society; and 3) when he leaves the priesthood. The collection of the bination and trination stipends and of the contributions from the parishes and other institutions is usually done by the eparchial finance officer.

Although efforts are made to raise, at the major archiepiscopal level, a common fund for the maintenance of retired priests, such attempts have not brought results up to this time. Regarding a common fund at the major archiepiscopal level, the synod of bishops of the Syro-Malabar Church which was held 5-17 September 2001 decided to refer this project to CNEWA.

With regard to the authority of the finance officer towards the other institutions which come under the authority of the major archbishop, art. 9 makes it clear that the finance officer has no direct authority over them unless particular law prescribes otherwise. For example, the Syro-Malabar Church has three major seminaries which are immediately subject to the authority and control of the Syro-Malabar major archbishop and to the synod of bishops. A synodal commission composed of three bishops elected by the synod is responsible for the government of each seminary. Each seminary has its own finance officer appointed by the chairman of the synodal commission. The finance officer of the seminary is in charge of the property of the seminary. He is to maintain proper audited accounts, to prepare the annual budget, and to present the accounts and the budget to the finance council of each seminary. The finance officer of the Syro-Malabar Church does not have any authority over the seminaries since their statutes do not provide

85 See ibid., p. 6.
for that. Therefore, the major archiepiscopal finance officer is not the administrator of all
the goods of the major archiepiscopal Church.

4.1.3 – Alienation of Ecclesiastical Goods of the Syro-Malabar Church

With regard to alienation of ecclesiastical goods of the major archiepiscopal
Church, the particular law on the permanent synod, art. 16 states: “The Permanent Synod
is to be consulted in the following cases […] to alienate the temporal goods of the Major
Archiepiscopal Church, whose value is between the minimum and the maximum amount
fixed by the synod of bishops.”88 The particular law on temporal property, art. 208, rules
on the amounts for alienation: “Alienation of property exceeding an amount of rupees ten
lakhs/one million up to one crore/ten million is to be done only with the consent of the
finance council and the eparchial consultors. An amount exceeding rupees one crore/10
million up to two crores/20 million, needs the consent of the Major Archbishop with the
Permanent Synod.”89 The particular norm concerning the minimum and maximum
amounts for alienation of property was, however, not harmonized with the regulation
given in CCEO. Indeed, CCEO, c. 1037 assigns three levels for alienation of
ecclesiastical goods of a patriarchal/major archiepiscopal Church: 1) ecclesiastical goods
valued between the minimum amount and the maximum amount; 2) ecclesiastical goods
valued between the maximum amount and double the maximum; and 3) ecclesiastical
goods exceeding double the maximum amount. The synod of bishops of the Syro-
Malabar Church, held from 17 to 28 August 2009, after having noticed the inadequacy of
the proposed amount for alienation decided to change the tariff. It made the following

particular law corresponds to CCEO, c. 1037, 1”.

p. 50-51.
proposal: 1) the value of the property exceeding the amount of rupees ten lakhs (1 million) up to ten crores (100 million) requires the counsel of the permanent synod; 2) the value of property exceeding the amount of rupees ten crores (100 million) up to fifty crores (500 million) requires the consent of the permanent synod, and 3) an amount exceeding fifty crores (500 million), requires the consent of the synod of bishops. The proposal of the synod is now under study by the synodal committee for canonical questions.

4.2 – THE INDIAN STATE LAW AND THE FINANCIAL ADMINISTRATION OF THE SYRO-MALABAR CHURCH

The laws enacted by the synod of bishops and promulgated by the major archbishop regarding liturgical matters have the force of law in the respective Church everywhere in the world, while disciplinary laws and other decisions of the synod of bishops generally have the force of law within the territorial limits of the Church sui iuris (CCEO, c. 150 §2). In this context, as far as the Syro-Malabar Church is concerned, the particular laws on financial administration directly affect the proper territory of the Church. As we have already mentioned, in accordance with the apostolic constitution Quae maior (16 December 1992), the proper territory of the Syro-Malabar Church is limited to the ecclesiastical provinces of Ernakulam and Changanacherry. The Indian

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92 See footnote 1 of this chapter. Regarding the confines of the territory of the Syro-Malabar Church, Msgr. George Mifsud, in an intervention in the Synod of Bishops of the Syro-Malabar Church, held in the Vatican from 8 to 16 January 1996, stated: “It is obvious that the territory proper to the Syro-Malabar Major Archepiscopal Church is still to be considered as largely, though not exclusively, missionary. The state of Kerala has a population of some thirty million, of whom 30% are Christian; and in this area the Syro-Malabarians have never ceased to be mission-conscious. In spite of prohibitions, they undertook missionary activity around them as a matter of course” (G. Mifsud, “Missionary Activity in the Syro-Malabar Church,” in Acts of the Synod of Bishops of the Syro-Malabar Church, p. 216).
civil laws which address acquisition, administration, and alienation of property are generally “territorial” in nature. The finance officer, therefore, as the administrator of ecclesiastical goods, is to follow various civil regulations related to the territorial boundaries of the Syro-Malabar Church. Accordingly, it is necessary to consider civil requirements concerning financial administration in order to fully ascertain the effects that civil law has in the canonical system. Since the particular territory of the Syro-Malabar Church is limited to the state of Kerala, the laws on the administration of property and the rules of the Kerala state government are relevant in this regard.

4.2.1 – Civil Incorporation of Ecclesiastical Juridic Persons

The Second Vatican Council in GS, no. 76 spoke about the autonomy of the Church within the political organization of secular society: “The political community and the Church are autonomous and independent of each other in their own fields.” The autonomy of the political community and of the Church calls for mutual respect. The Second Vatican Council also expressed its desire that in order to promote justice and peace, the civil authority should safeguard religious freedom.

To address the issue of civil incorporation, it is beneficial to understand the basic governmental structure of India. The central government of India comprises of three branches, namely legislative, executive, and judiciary. The legislative body, the parliament, consists of Lok sabha (the House of the People/Lower House), and Rajya sabha (the Council of States/Upper House). The executive body is headed by the president and his/her powers are exercised by a council of ministers. The prime minister

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93 GS, no. 76, English translation in FLANNERY 1, p. 984.

94 See DH, no. 6, in AAS, 58 (1966), pp. 929-946, English translation in FLANNERY 1, p. 804.
is the head of the council of ministers. The judicial power belongs to the Supreme Court, high courts, district, and sessions courts. Apart from central government, each state has its own legislative, executive, and judicial setup.\textsuperscript{95}

The laws of India were based mainly on the constitutional order of the United Kingdom. After the emancipation (1947), the Indian Republic (1956) established its own Constitution which guaranteed religious freedom and the right to own property (articles 25 and 26).\textsuperscript{96}

Apart from the Constitution there are three registration acts binding on all non-profit organizations, namely: the Societies Registration Act (1860), the Public Charitable Trusts Act (1882), and the Companies Act (1956).\textsuperscript{97}

Black’s law dictionary provides the following definition (this definition of Black’s law dictionary is “authoritative also in India”\textsuperscript{98}) of the Church:

In its most general sense, the religious society [is] founded and established by Jesus Christ, to receive, preserve and propagate His doctrines and ordinances. It may also mean a body of communicants gathered into church order; [a] body or community of Christians, united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; place where persons regularly assemble for worship; congregation; organization for religious purposes; religious society or body; the clergy or officilaldom of a religious body […].\textsuperscript{99}

\begin{itemize}
\item \textsuperscript{96} George Nedungatt provides a review of various Indian civil codes and acts. See Nedungatt, \textit{Laity and Church Temporalities Appraisal of Tradition}, pp. 429-438.
\item \textsuperscript{97} The societies Registration Act is an all India act by which a society can be registered either under the central act or respective state act. By Public Charitable Trusts Act, a trust can be registered within the sub-registrar of the registration department of the respective state department. The companies Act 1956 is an all India act and the state governments have no authority to change or modify this act. See Kandasami, \textit{Management of Finances in Non-Profit Organizations}, p. 8.
\item \textsuperscript{98} Nedungatt, \textit{Laity and Church Temporalities Appraisal of Tradition}, p. 431.
\end{itemize}
In this regard CCEO, c. 7 §2 states: “This Church, constituted and organized in this world as a society, subsists in the Catholic Church, governed by the successor of Peter and the bishops in communion with him.” CCEO, c. 921 §2 acknowledges that the Church *sui iuris* is endowed with a juridic personality so that it has its own purposes and means to fulfill those purposes. However, the juridic persons recognized in canon law are not automatically recognized in Indian civil law. Civil incorporation of ecclesiastical juridic persons is, therefore, necessary in India because many benefits are available only for legally incorporated bodies. Thus in India, incorporation enables a canonical juridic person to receive legal personality before the civil law.

In the Indian context, the actions of a given organization concerning temporal goods, like purchasing of lands, receiving of property (including money), obtaining subsidies from various agencies, construction of buildings, and obtaining tax exemptions require the possession of the appropriate civil legal status. By civil incorporation, the Syro-Malabar major archiepiscopal curia obtains the status of a legal entity before civil law and, in virtue of that status, receives the legal rights to accomplish those functions.

### 4.2.2 – Civil Law Trust

Since the curia of the Syro-Malabar Church was incorporated as a trust, the civil laws governing trusts must be observed by the trustees. The finance officer of the Church has become one of the trustees of the trust.

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100 See Kandasami, *Management of Finances in Non-Profit Organizations*, p. 7. On the formation of non-profit organizations Kandasami states: “The body that is incorporated becomes a legal person just like an individual, but with no physical existence. As such, it can acquire and hold property and can sue and be sued. Thus, an incorporated body has a separate existence, distinct from that of its members. An unincorporated body may exist in fact, but is not considered to exist in law” (ibid).

101 According to Kandasami, although the civil law might not require incorporation in certain cases, there is a practical necessity for it, since many benefits are available only for legally incorporated bodies. See ibid.
There are certain mandatory provisions in the Indian civil law system which requires the incorporation of voluntary or charitable organizations as legal bodies.\textsuperscript{102} Generally there are three forms of registration available in India for the incorporation of voluntary charitable bodies such as the Church: public trust, society, and non-profit company.

The term “trust” is defined in the Indian Trusts Act, section 3 as follows: “[Trust] is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.”\textsuperscript{103} According to Om Prakash Agarwala, a trust is a gift of a property, or an interest in property, to a person or institution by or through the intervention of a trustee. A trust presupposes great confidence in the trustee.\textsuperscript{104}

The terms “trustee,” “beneficiary,” “trust-property,” “beneficial interest,” and “the instrument of the trust” are used commonly in the Trusts Act. Article 3 of the Indian Trusts Act provides the following clarifications:

The person who accepts the confidence is called the “trustee”; the person for whose benefit the confidence is accepted is called the “beneficiary”; the subject-matter of the trust is called “trust-property” or “trust-money”; the “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the “instrument of trust.”\textsuperscript{105}

By the civil incorporation of a trust, the trust obtains a legal status before civil law. As a legal entity, the incorporated legal body must achieve its proper objectives.

\textsuperscript{102} For a detailed reading on the accounting, taxation, auditing and submission of the annual returns of a civil incorporated body, see SINGHANIA and SINGHANIA, Tax Mann’s Direct Taxes; Taxmann’s Guide to Foreign Contribution (Regulation) Act 2010.


\textsuperscript{104} See O.P. AGARWALA, The Indian Trusts Act, 1882, Delhi, Metropolitan Book Co (Private) Ltd., 1970, p. 88.

\textsuperscript{105} The Indian Trusts Act, 1882, art. 3, p. 3.
However, as a consequence of the incorporation, a charitable trust is not allowed to carry out any activity for profit. The Income Tax Act (1961), section 2 (15) denies tax exemption on such profit-making activity carried on by a trust: “Charitable purpose includes relief to the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit.”¹⁰⁶

With regard to the agents who carry out the functions of the trust, they exercise the functions in accordance with the bylaws of the trust. Article 11 of the Indian Trusts Act (1882) determines that the trustee is the one who executes the trust: “The trustee is bound to fulfill the purpose of the trust, and to obey the directions of the author of the trust given at the time of its creation, except as modified by the consent of all the beneficiaries being competent to contract.”¹⁰⁷ The general responsibilities of the trustee outlined in the Indian Trusts Act (1882) can be summarized as follows: the trustee is 1) to obtain the necessary permission to transfer the property, to invest money, to recover the debt and property of the trust (art. 12); 2) to maintain the title of the trust by making use of filing suits in civil courts (art. 13); 3) not to set up a title that would be detrimental to the beneficiary (art. 14); 4) to deal with trust property with prudence (art. 15); 5) to convert the perishable property into a permanent and immediately profitable property (art. 16); 6) to prevent the destruction of the property (arts. 17-18); 7) to maintain the accounts and information as prescribed by the state government rules (art. 19); and 8) to invest the money as imposed by the government rules regarding the trust (art. 20).


¹⁰⁷ The Indian Trusts Act, 1882, art. 11, p. 5.
With regard to the rights and powers of the trustee, the Indian Trusts Act (1882) determines that: 1) the trustee is entitled to have the right to the title of the property (art. 31); he also has 2) the right of reimbursement of expenses (art. 32); 3) the right of indemnity from the person who breaches the contract (art. 33); 4) the right to seek a court opinion in the management of trust property (art. 34); 5) the right to settle accounts after the completion of the duties as a trustee (art. 35); 6) the power to sell the property by public auction and contract (art. 37); and 7) the power to issue a receipt for transactions (art. 42). The statutory provisions outlined in the Trusts Act can be considered as the general norms of the trust. On the basis of the laws of the Indian Trusts Act (1882) each trust has to form and constitute its bylaws.

Nine articles in Chapter Five of the Indian Trusts Act (1882) stipulate policies regarding the restrictions on the power of the trustees. Generally, a trustee is not free to renounce the trust unless he has received permission from the principal civil court of the original jurisdiction, or if the beneficiary is competent to contract, with his consent, or by the special power in the trust deed (art. 46). A trustee cannot delegate his office unless the trust has provision to do so, or the delegation becomes a regular course of business, or the beneficiary consents to the delegation, or the delegation becomes necessary (art. 47). When there are several trustees, one trustee cannot act singlehandedly (art. 48). The trustee is not allowed to receive remuneration if there is any uncertainty arising from a trust execution on the part of the trustee (art. 50). Also the trustee is not permitted to use the trust property for his own profit (art. 51). The trustee or his agent, directly or indirectly, is not allowed to buy or sell the property (art. 52). To implement the laws controlling the activities and procedures of the trust, the government intervenes in the
activities of the trust through its different agencies, for instance, the income tax department.

The religious and charitable trusts receive income tax exemption in accordance with various provisions of the Income Tax Act of 1918, 1922 and 1961.\textsuperscript{108} Privileges such as income tax exemption impose certain obligations on the trust: for example, strict observation of the submission of annual returns to the government. The Income Tax Act (1961) took special measures to prevent the misuse of the trust funds: articles 11, 12, and 12 (A) stipulate that failure in the maintenance of accounts, auditing, investment and utilization of the trust funds in accordance with the income tax rules will cause the cancellation of the registration of the charitable trust and of the benefits of the tax exemptions.\textsuperscript{109}

The books of accounts are to be maintained on a daily basis with financial records such as cash bills, invoices, performa invoices and vouchers.\textsuperscript{110} Section 11 (5) of the Income Tax Act (1961)\textsuperscript{111} states that investments can be made in savings certificates or any other securities issued by the central government. Deposits can be made in any

\textsuperscript{108} Since the Income Tax Act of 1922 and of 1961 are amendments to the Income Tax Act of 1918, all three income tax acts are in force.

\textsuperscript{109} A commentary on articles 11, 12, and 12 (A) is provided by K.N. Chadturvedi. See CHADTVURVEDI, “Business Activity and Tax Exemption on Charitable Trusts in Income Tax Law,” pp. 550-551.

\textsuperscript{110} A cash bill is a simple bill given by the recipient to the trust in acknowledgment of the receipt of money. An invoice is a credit bill, that is, a bill for goods or services provided where the payment is yet to be made. A performa is a quotation giving the estimated cost of the goods or services. A performa invoice must always be supported by the invoice and receipt. A voucher is the basic document used to support the authenticity of a transaction entered in the books of accounts. The maintenance of the accounts include maintenance of files (voucher files for cash book, journal register, bank file, receipt file, fixed asset file, receipt file, file for asset and fixed deposit, management reports, financial audited statements, audited accounts, budget file, income tax file, and foreign contribution file). For more details, see KANDASAMI, Management of Finances in Non-Profit Organizations, pp. 81-85.

\textsuperscript{111} See ibid., pp. 149-150.
account pertaining to the post office, scheduled banks, co-operative societies engaged in banking, unit trusts of India, securities of the government, debentures issued by the government-recognized companies and corporations, public sector companies, financial corporations in the government sector, public companies that are specified for the promotion of housing programs, investments in immovable property, investments in the Industrial Development Bank of India, and in mutual funds. These prescriptions concerning the manner of administration of the trust are derived from the general implementations of the laws of the parliament and the state assembly.

The religious and charitable trusts are regulated by the provision for proper audit as prescribed by the income tax rules. Section 19 of the Foreign Contribution Regulation Act (FCRA) (2010) prescribes that the accounts and records have to be audited by an officer authorized by the central government. The external audit is different from the internal audit: “The external auditor is an independent person or firm specially appointed to audit the accounts of the organization. […] The internal auditor is normally appointed by the management basically to provide guidance to the management.” As every registered trust is to submit annual returns to the government, every trust registered under FCRA Regulation Act must also furnish the returns to the government of India.

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112 “An audit is a systematic review of the financial transactions of an organization” (ibid., p. 155).


114 KANDASAMI, Management of Finances in Non-Profit Organizations, p. 156.
4.2.3 – Civil Incorporation of the Major Archiepiscopal Curia

Jerald A. Doyle provides an explanation of the act of incorporation: “The act of incorporation is, canonically speaking, an act of administration and as such it is an act of the juridical person. That is, an act placed by the physical agents who are the incorporators, relative to the purposes and goods of the juridical person.” The secular understanding of incorporation points, however, to the act of individuals: “Thus, the civil law regards incorporation as the act of individuals and the resulting corporation as a subject of rights and obligations […].” The civil incorporation of the Church is an accepted way of protecting the rights of the Church in the civil law of India as in many other countries.

The Second Vatican Council described the Church “as a society in the world,” the expression found in CCEO, c. 7 §2. Members of the Church are subject to ecclesiastical laws and, as members of the civic society, also to civil laws. Moreover, according to CCEO, c. 1504, civil laws, to which canon law defers must be observed in canon law with the same effects, in so far as the civil law is not contrary to divine law and unless it is provided otherwise in canon law.

The civil law of India recognizes personal law, such as the law regarding marriage and divorce in Hindu, Muslim, Christian and Parsi religions. In accordance with the

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117 The legal status of the Church has been clarified by one of the judgments of the high court of Kerala in 1962 (Justice T.C Raghavan). See James Chinnamma v. Joseph Abraham, in Kerala Law Times, 240 (1962), pp. 240-242. The judgment declared that: 1) the Church has the right to hold the title “person” in law; 2) the authorities of the Church have the right to hold property; and 3) the Church as a legal entity (“juristic” person) is capable to hold property.

118 LG, no. 8, English translation in FLANNERY I, p. 357.
Indian legal system, however, personal law is applicable only in so far as the civil law does not have any corresponding provisions.\(^{119}\) Therefore, although the civil law does not accept indiscriminately the provisions of canon law, it has accepted canon law where there is no corresponding provision of civil law: a judgment of the Kerala high court established that in the absence of statutory laws, canon law governs the members of the Syrian Catholic Church.\(^{120}\)

Regarding the civil incorporation, civil law requirements may not, at times, correspond to the stipulations of canon law. As was mentioned earlier, the administrator must make sure that, through the observance of the civil law, the ecclesiastical property is protected from harm (\textit{CCEO}, c. 1028 §2, 2º), especially with regard to contracts and payments in which case canon law mandates that the regulations as determined by the civil law of the territory are to be observed in canon law with the same effects.\(^{121}\)

In accordance with the Charitable and Religious Act, the curia of the Syro-Malabar Major Archiepiscopal Church was registered with the sub-registrar of the registration department, on 2 August 1993.\(^{122}\) By its incorporation as a charitable trust, the curia obtains the legal capacity to hold the property in accordance with the civil law of India and attains flexibility in terms of provisions for the management of ecclesiastical goods, as any type of structure of management can be provided in the trust deed.\(^{123}\)


\(^{120}\) See All India Reporter (1993), p. 57, quoted after JAYASEELAN, “Civil Law Confronts Canon Law,” p. 685. All India Reporter is a law journal which reports the decisions of the Supreme Court and the high courts of India.

\(^{121}\) See DOYLE, Civil Incorporation of Ecclesiastical Institutions, p. 187. Cf. \textit{CCEO}, cc. 1034, and 1540.

\(^{122}\) See The Trust Deed of the Major Archiepiscopal Curia, 2 August, 1993, p. 1.
particular, the incorporation enables the Church to have the rights of benefits, such as exemption from the tax laws of the country, the right to obtain the registration number in accordance with the FCRA (1976), and the right to the income tax exemption in accordance with the Income Tax Registration Act.

These advantages have been actualized in the Syro-Malabar Church through the exercise of the trust incorporation. Correspondingly, there are certain general obligations to be fulfilled by the Church, namely: 1) to exercise its function within the limits of ecclesiastical laws; 2) to inform the government about changes of the members of the trust at regular intervals; 3) to implement the decisions of the trusts’ meetings in the minute book; and 4) to maintain and audit the regular accounts of the trust.

By its incorporation as a religious and charitable trust, the curia of the Syro-Malabar Church acquired the status of a non-profit organization. The registered trust received the name “Major Archiepiscopal Curia of the Syro-Malabar Church.” The objects of the trust are described in no. 5 of the deed which reads: “The sole object of the Trust shall be to carry out the temporal aspects of the public religious activities of the synod of bishops of the Syro Malabar Church […].” In accordance with no. 5 (a) of the trust deed, the finance officer of the Syro-Malabar Church is one of the trustees of the trust. At the same time, no. 5 (b) stipulates that the major archbishop is the president of

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123 See Kandasamy, Management of Finances in Non-Profit Organizations, p. 10.

124 The Syro-Malabar Church was registered under the FCRA (Regulation) Act (1976). In 2010, amendments have been introduced into FCRA (Regulation) Act (1976). For a comparative analysis of the FCRA (Regulation) Act (1976) and FCRA (Regulation) Act (2010), see Taxmann’s Guide to Foreign Contribution (Regulation) Act 2010, pp. 11–17.

125 The general obligations of non-profit organizations are discussed by M. Kandasamy. See Kandasamy, Management of Finances in Non-Profit Organizations, p. 9.

126 The Trust Deed of the Major Archiepiscopal Curia, no. 1, p. 4.

127 Ibid., no. 4, p. 4.
the trust and that he appoints the other members of the board of trustees, while no. 5 (d) mandates that every financial year (ending with 31 March), a meeting of the board of trustees is to be held to approve the audited statements of accounts. The remuneration of the trust members is outlined in no. 5 (d) of the deed. The trustees who are bishops are not eligible to receive remuneration for their services, although the trust has the authority to reimburse all the expenses incurred by them in service for the trust. The remuneration of the other members of the trust is determined by its president.

Specific powers and duties of the trustees are provided in no. 6 of the trust deed. The trust can acquire funds by donations, grants and subsidies. The trust has the right to make modifications in management regulations of property and to appoint suitable persons for the day-to-day management of the trust. It also has the power to alienate the property of the trust.

According to no. 7 (h) of the trust deed, the chief trustee (the major archbishop) has the power to delegate his duties and functions to any other trustee: “The Chief Trustee shall have the power to delegate his duties and functions reserved under the Deed of Trust to any other member of the Board of Trustees with the knowledge of the Board.” In conformity with this clause, the finance officer, the holder of the delegated

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128 Number 5 (b) reads: “Within two months of registration of the deed of trust, the President of the Synod shall form a board of trustees for the trust, with himself as the president of the trust, and the chief trustee with other members, namely: the Major Archbishop of Ernakulam and Angamaly Archiepiscopal Church, if he is not the President of the Synod, the bishops of the permanent synod, the financial officer, and the chancellor as the members of the Major Archiepiscopal curia (all of them ex-officio). If found necessary from time to time, the President of the Synod shall nominate to the board of trustees the chairman of any, or all, the commissions of the Synod, also as members” (The Trust Deed of the Major Archiepiscopal Curia, no. 5, p. 6). As at the time of incorporation the major archiepiscopal curia did not have all of its present offices, the Pontifical delegate, Archbishop Abraham Kattumana, became the settler of the trust deed.

129 The acquisition rights include the goods received from the faithful or other individuals, or from the Apostolic See ibid., no. 6 (1), p. 7.
power from the point of view of secular law, has the following prerogatives: a) to exercise the management of the property of the trust; b) to enter into contracts or agreements on behalf of the trust; c) to represent the trust in the course of civil law proceedings; d) to appoint and remove civil advocates to represent the trust in the courts; e) to execute the decisions of the board of trustees with regard to the lease, promissory notes and bonds; f) to take necessary steps for the efficient management of the trust; and g) to file suits for the trust. Regarding bank accounts, no. 8 prescribes that they are to be operated jointly by the finance officer and the chief trustee or the nominee of the chief trustee. Other than for charitable purposes, the income of the trust should not be used for any other purposes (no. 9). The amendments of the trust deed have to be approved by the commissioner of income tax (no. 11).

Among the powers of the finance officer, the foremost is his right of acquisition. The civilly recognized methods, such as donations, grants and subsidies, do not correspond to the canonical understanding of the manner of acquisition of ecclesiastical goods which is described in CCEO, cc. 1010-1021 and in the particular laws on the acquisition of temporal goods of the Syro-Malabar Church. Administrators are, therefore, responsible for safeguarding the effects of the canonically recognized manner of acquisition of the property as in the civil law.

The sole purpose of the acquisition of goods mentioned in the object of the trust deed is to carry out the temporal aspects of the public religious activities of the trust.\textsuperscript{131} Separation of temporal aspects of the activity of the Church from its religious activities is one of the notable features of the civil law. However, as far as the Church is concerned, it

\textsuperscript{130} Ibid., no. 7 (h), p. 10.

\textsuperscript{131} See ibid., no. 4, p. 5.
is composed of a human and of a divine element, as described in LG no. 8, “it is impossible to make a sharp separation between the two, the spiritual and the material.”

The civil law trust deed of the Syro-Malabar Church fosters other religious and charitable activities through its various stipulations which are not outlined in the articles of the Indian Trusts Act (1882) and stipulates that such activities must be in agreement with the norms of CCEO. In particular, by civil incorporation, the finance officer is not exempted from obtaining consent or counsel from the canonical organisms of the Church. The canonical relationship between the ecclesiastical authorities and ecclesiastical goods, therefore, is respected by the civil law.

Indeed, with regard to the acquisition, administration, and alienation of ecclesiastical goods, the administrator of ecclesiastical goods has the duty to ensure that both the canonical and civil formalities are followed in the management of ecclesiastical goods. Meticulous observance of the canonical formalities is essential in order to protect the patrimonial condition of the Church (CCEO, c. 1042). The particular law of the Syro-Malabar Church on alienation of ecclesiastical goods imposes, therefore, various levels of monetary amounts which provide the criteria for distinguishing between the ordinary and the extraordinary acts of administration of ecclesiastical goods. Moreover, as there is no particular law in the Syro-Malabar Church on contracts, consequently, the Church has

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133 See The Trust Deed of the Major Archiepiscopal Curia, no. 4 (i), p. 5.

134 Jerald A. Doyle describes the concepts of canonical ownership and civil incorporation. His study is based on the American civil law system. See DOYLE, Civil Incorporation of Ecclesiastical Institutions, p. 185.

to follow the prescriptions of the civil law with the same effects in canon law (cf. *CCEO*, c. 1034).

**4.2.4 – Canonical Implications of Incorporation of the Curia of the Major Archiepiscopal Church**

According to Cardinal Adam J. Maida and Nicholas P. Cafardi, a civil incorporation of an ecclesiastical juridic person does not create a parallel, separate canonical entity.\(^{136}\) The administrators (incorporators) “incorporate in order to give a legal civil form to one or more of the activities of the juridical person.”\(^ {137}\)

In the present context, it is a question of total incorporation, that is, inclusive of the activities of the incorporated entity. A negative consequence of the incorporation is that civil authorities may implement amendments or enact new laws which could adversely affect the civil legal status of the Church in administering its ecclesiastical goods.

Regarding the future amendments of the registered deed, the deed itself recognizes the authority of the Church to enact laws: “Any provisions in this deed […] can be] annulled or substituted by the SBSMC [the synod of bishops of the Syro-Malabar Church] at any time, provided that the effect of such amendments is in the spirit of the Code of Canons [of] the Eastern Churches as made from time to time.”\(^ {138}\) The authority to make amendments rests, therefore, with the synod of bishops and corresponds with the canonical understanding of the responsibility of the synod of bishops in making of the laws of the Church. The particular law on the synod of bishops

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136 See MAIDA and CAFARDI, *Church Property, Church Finances, and Church-Related Corporations*, pp. 148-149.

137 DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 190.

138 The Trust Deed of the Major Archiepiscopal Curia, no. 11 (a), p. 11.
of the Syro-Malabar Church, article 8.1 prescribes: “With due regard for the provisions of common law, the synod of bishops of the SMMAC [Syro-Malabar Major Archiepiscopal Church] is exclusively competent to make laws for the entire SMMAC which obtain force according to the norms of canon 150 §§2, 3 (c. 110 §1).” The particular norms concerning the financial administration of the Syro-Malabar Church correspond to the stipulations of the trust as well. Both systems provide the provisions for the finance officer to administer ecclesiastical goods. In short, when the finance officer acts as a trustee based on the trust deed of the Syro-Malabar Church, he is in compliance with the secular law and with canonical norms of the Church.

The administrator (finance officer) of ecclesiastical goods has the responsibility “to ensure the validity of acts” (concerning financial administration) of the juridic person and of the trust. Also, the trust deed accepts the canon law prescriptions regarding acquiring, administering and alienating the ecclesiastical property.

As to the act itself - of incorporation of the ecclesiastical entity - it can be classified as an act of administration. The trust deed itself answers the question on what ground the settler and the trustee acquire the power to incorporate the Church:

[The Holy See, [...] in recognition of the tremendous growth and service rendered to the humanity by the Syro-Malabar Church in India, made it as a Major Archiepiscopal Church, under [canons] 27 and 151 of the Code of Canons [of] the Eastern Churches, herein after referred as Permanent Synod, in view of giving it more freedom and flexibility to carry its activities to further heights.

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139 SSMMAC, “Statutes of the Synod of Bishops of the Syro-Malabar Major Archiepiscopal Church,” p. 89.

140 See DOYLE, Civil Incorporation of Ecclesiastical Institutions, p. 184.

141 See The Trust Deed of the Major Archiepiscopal Curia, no. 4, p. 5.

142 Ibid., p. 2.
The incorporation falls into the category of acts of extraordinary administration in accordance with the common and particular laws of the Church. Jerald A. Doyle states in this regard:

The act of incorporation is, canonically speaking, an act of administration and as such it is an act of the juridical person. That is, an act placed by the physical agents who are the incorporators, relative to the purposes and goods of the juridical person. Because of its nature as a one-time action and in view of the long-term consequences relative to civil law responsibilities, it must be considered an act of extraordinary administration and governed by the universal and particular law governing such acts. It is, then, an act which produces juridical effects since it will bind the juridical person to the observance of civil law requirements.  

In accordance with CCEO, c. 1024 §1 the administrator must have written consent of the competent authority for the acts which exceed the scope of ordinary administration. However, the trust deed was registered on 2 August 1993, and before that time no particular laws concerning the new status of the major archiepiscopal level of the Syro-Malabar Church were promulgated. On the other hand, the Congregation for the Eastern Churches, in its decree of appointment of the Papal delegate, on 16 December 1992, stated: “The Papal delegate shall exercise, for the duration of his mandate, the functions of pastoral governance proper to Archbishops Major in the manner, and within the limits, defined by Canon Law (cf. CCEO, cc. 152; 78-111).”

The first assembly of the synod of bishops of the Syro-Malabar Church took place 20 - 25 May 1993. There was, however, no mention of civil incorporation in the decisions of the synod. Moreover, no synodal decision has been made on the issue of incorporation as of this date. However, it can be argued that since the major archbishop

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143 DOYLE, Civil Incorporation of Ecclesiastical Institutions, p. 189.


has the responsibility to exercise vigilance over the proper administration of ecclesiastical goods (CCEO, c. 97), even if there was a lack of consent from the appropriate bodies, his act of civil incorporation of the property of the Church would be justified in view of the authorization of the Apostolic See.

The act of incorporation is accomplished by physical persons (incorporators) on behalf of a juridic person. Up to 1992, the Syro-Malabar Church was in a canonically anomalous situation of having two metropolitans instead of a common head. In instituting the Church as a major archiepiscopal Church, a new structural ordering, including regularizing its civil legal status was necessitated.

The incorporated curia of the Syro-Malabar Church is to observe certain conditions and formalities for the acts of extraordinary administration. CCEO, c. 1024 §1 stipulates that written consent of the competent authority is required for the acts which go beyond the limits and manner of ordinary administration. From the canonical perspective, the finance officer acts under the authority of the major archbishop, who, in order to accomplish/authorize certain acts of extraordinary administration, needs the consent or counsel of the competent juridical bodies such as the synod of bishops and the permanent synod, as determined by law in particular cases. However, the curia of the Church, the civilly incorporated trust, remains also under control of the board of trustees, with the major archbishop as the chief trustee. In accordance with the Indian Trusts Act, a meeting of the trustees must be convened at least once a year. The decisions concerning the acts of extraordinary administration of the trust have to be made, therefore, with the approval of the board of trustees.
The incorporation of the trust called “Major Archiepiscopal Curia of the Syro-
Malabar Church” includes various commissions and also the tribunals of the curia.\textsuperscript{146} Canonically, since all offices, tribunals, and commissions are attached to the curia of the Syro-Malabar Church in accordance with its particular law, the civil incorporation can be considered as a total civil incorporation of the curia of the Syro-Malabar Major Archiepiscopal Church.

\textbf{4.3 – PARTICULAR LEGISLATIONS OF OTHER MAJOR ARCHIEPISCOPAL CHURCHES CONCERNING THE OFFICE OF THE FINANCE OFFICER}

A comparative analysis of the particular laws of other major archiepiscopal Churches \textit{sui iuris} will be useful for proper understanding of the particular laws concerning the finance officer of the Syro-Malabar Church. Other than the Syro-Malabar Church, there are three major archiepiscopal Churches in the Catholic Church, namely, the Ukrainian, Syro-Malankara and Romanian Churches.\textsuperscript{147} The comparative study of their respective legislation, its extent, analogies, and differences are relevant for the present discussion. Obviously, the manner of exercising the task of administration of temporal goods varies from one Church to the other, based on the traditions and customs of each of them. These differences are reflected in the corresponding particular law. The comparative study that follows is based on the particular law of the Syro-Malabar, Syro-
Malankara, and Ukrainian major archiepiscopal Churches.\textsuperscript{148}

\begin{itemize}
\item \textsuperscript{146} See SSMMAC, “The Statutes of the Liturgical Research Centre of the Syro-Malabar Church,” pp. 86-87; SSMMAC, “The Statutes of the Major Archiepiscopal Tribunal,” p. 127.
\item \textsuperscript{147} The Romanian Catholic Church was elevated to the status of a major archiepiscopal level on 18 December 2005.
\item \textsuperscript{148} For the Ukrainian and Syro-Malankara Churches particular laws, see respectively \url{http://www.Archeparchy.ca/documents/particular_laws_canons/} (26 January 2011) (= Particular Laws of the Ukrainian Church) and SYNOD OF BISHOPS OF THE SYRO-MALANKARA MAJOR ARCHIEPISCOPAL CHURCH, \textit{Particular Laws of the Syro-Malankara Catholic Church}, Thiruvananthapuram, Major Archiepiscopal Curia, 2011 (= \textit{Particular Laws of the Malankara Church}). We are indebted to Major Archbishop Baselios Cleemis
\end{itemize}
Along with the Syro-Malabar Church, the other two Churches have set five years as the term of office of the finance officer.\textsuperscript{149} The particular laws of the Syro-Malabar Church and Syro-Malankara Church are identical in prescribing that the term of office of the finance officer can be extended for one more term. Article 6 of the particular law of the Syro-Malabar Church states: “The term of office of the major archiepiscopal finance officer shall be five (5) years. The same person shall not be appointed for more than two terms consecutively (c. 122 §2).”\textsuperscript{150} Canon 16 of the particular law of the Ukrainian Church does not address the issue of repetition of the term of office of the finance officer.\textsuperscript{151}

Regarding the removal of the finance officer, the particular law of the Syro-Malankara Church prescribes that “[…] he or she cannot be removed from office by the Major Archbishop-Catholicos without the written consent of the Holy Episcopal Synod, or if there is the danger of delay, of the Permanent Synod.”\textsuperscript{152} Even though the major Catholicos for providing the particular law of Syro-Malankara Church and Bishop David Motiuk of the Ukrainian Church for giving time for consultation on the particular law of Ukrainian Church. Despite efforts, it was impossible to collect the particular laws of Romanian Catholic Church. They are not available in any of the libraries in India or Ottawa or on the web site of the Romanian Catholic Church.

\textsuperscript{149} See Particular Laws of the Ukrainian Church, c. 16, p. 2 and \textit{Particular Laws of the Malankara Church}, c. 53, p. 12. It is to be noted that particular laws of the Ukrainian and Syro-Malankara Churches contain “canon” to denote each norm. But the particular law of the Syro-Malabar Church contains “article.”

\textsuperscript{150} SSMMAC, “Particular Laws of the Syro-Malabar Church,” p. 11.

\textsuperscript{151} “The patriarchal finance officer is appointed for a term of five years; during the tenure he cannot be removed by the patriarch/major archbishop without the consent of the Synod of Bishops of the patriarchal/major archiepiscopal Church or, if there is danger in delay, that of the Permanent Synod” (Particular Laws of the Ukrainian Church, c. 16, p. 2).

archbishop of the Syro-Malankara Church is considered, in accordance with the patrimonial tradition and the prescriptions of the particular law of the Syro-Malankara Church, the “Primate of the East,”¹⁵³ he is, nevertheless, not entitled to remove the finance officer from office without first asking for the consent of the synod of bishops. While CCEO, c. 122 §2 demands the consent of the synod of bishops, the particular law of the Syro-Malankara Church requires “written consent.”¹⁵⁴

The particular laws of the Syro-Malabar Church do not provide any specific norms on the removal of the finance officer, while c. 16 of the particular law of the Ukrainian Church is a repetition of CCEO, c. 122 §2 in this regard. The finance officer enjoys a certain stability in office, therefore it would be altogether helpful to establish particular norms regulating the process of his/her removal from office, as there are, moreover, some differences of opinion among the authors, regarding for instance the acceptance of the resignation of the finance officer.¹⁵⁵

To remit the expenses of the curia of the major archiepiscopal Churches, CCEO, c. 125 stipulates two means to acquire the necessary resources: either from the property

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¹⁵⁴ Particular Laws of the Malankara Church, c. 53, p. 12.

¹⁵⁵ Specific references are also required from a particular law of a major archiepiscopal Church regarding the procedure for restitution due to the abandonment of the office.
of the Church or from the tax imposed on the eparchies. In this regard, the Syro-
Malankara Church states in c. 584:

The Major Archbishop-Catholicos, with the approval of the Holy Episcopal Synod can
require each eparchy and institute of religious life to remit to the finance office of the
Major Archiepiscopal curia an amount proportionate to their income towards the
common expenses of the Syro-Malankara Catholic Church. Regarding the contribution
from institutes of religious life, the Major Archbishop-Catholicos may fix the amount in
consultation with the major superior concerned.156

In accordance with this particular norm, in the Syro-Malankara Church, the office
of the finance officer is the competent authority which acquires the funds for the
Church.157 Moreover, the norm provides for acquiring funds from religious institutes. In
accordance with CCEO, c. 413,158 the major archbishop has authority over all religious
institutes of major archiepiscopal right, founded as such or later elevated to this state.159

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156 Ibid., c. 584, p. 100.

157 The Synod of bishops can impose a tax only on eparchies that are within the proper territory
of the Church sui iuris (CCEO, c. 150 §2). Regarding the imposition of a tax on the eparchies, J.D. Faris
wrote: “A certain anomaly exists in this situation: the synod of bishops of the patriarchal Church could
decide that it wants to establish a certain commission, but when the time arrives to fund the commission, it
has the authority only to tax the eparchies inside the territorial boundaries of the patriarchal Church (c.
150, §2), unless the extra territorial bishops decide to share in the burden. Such an anomaly can be also
corrected by restricting the active vote to those bishops who accept the imposition of a tax on their
eparchy (c. 150, §3). In such financial matters, there are advantages to restricting the deliberative vote to
eparchial bishops to the exclusion of the titular bishops” (FARIS, The Eastern Catholic Churches, p. 323).
On the voluntary contribution of the eparchies outside the proper territory of the Church sui iuris, V.J.
Pospishil states: “In practice, the parts of the Church outside the patriarchate readily make voluntary
contributions” (POSPISHIL, Eastern Catholic Church Law, p. 176). During the Eleventh Synod of Bishops
of the Syro-Malabar Church, held from 3 to 15 November 2003, the eparchial bishop of the eparchy of St.
Thomas the Apostle in Chicago (which is outside of the proper territory of the Syro-Malabar Church)
expressed his readiness to make contributions for the remittance of expenses of the major archiepiscopal

158 “Unless the law provides otherwise, religious institutes are subject with respect to internal
governance and religious discipline directly and exclusively to the Apostolic See if they are of Pontifical
right; if they are of patriarchal or eparchial right, they are directly subject to the patriarch or eparchial
bishop, with due regard for can. 418, §2” (CCEO, c. 413).

159 See POSPISHIL, Eastern Catholic Church Law, p. 315. “The particular duties of religious
favor toward the Church - in virtue of necessary union - will be expressed in submission to hierarchical
authority (c. 590) and in spirit of filial reverence and love toward their shepherds who govern the
universal Church and local churches” (V. KOLUTHARA, Rightful Autonomy of Religious Institutes in the
Code of Canons of the Oriental Churches [CCEO] and in the Code of Canon Law [CIC], Rome,
Nevertheless, the rightful autonomy of the religious institutes is to be respected and protected in a Church *sui iuris*. Since religious institutes are integral part of the Church and they are obliged to respond to the needs of the Church, the mutual consultation between the major archbishop and the major superior will foster a good relationship between the hierarchy and the religious institute.

The Ukrainian Church does not provide any particular norms on the remittance of the expenses of the curia. The proposal of annual contributions from each eparchy towards the ordinary expenses of the curia was approved by the Third Assembly of the Second Synod of Bishops of the Syro-Malabar Church, but regarding the remittance of the expenses of the curia, no particular law has been enacted.\(^{160}\) As mentioned earlier, the Syro-Malabar Church decided to collect the funds on Saint Thomas day (3 July). Similarly, the particular law of the Syro-Malankara Church fixed a Sunday to acquire funds for the remittance of the expenses of the curia.\(^{161}\) In accordance with this provision, the Sunday nearest to 10 February is celebrated as Catholicos’ Day: the offerings collected during the Masses and other special donations are to be remitted for the expenses of the major archiepiscopal curia. While the Syro-Malabar Church mandates only one collection to remit the expenses of the curia, the Syro-Malankara Church prescribed three other collections apart from that on Catholicos’ Day. Among them, one is destined for the youth ministry at the major archiepiscopal level, as the commission for the youth apostolate is considered part of the curia in accordance with the particular law (c. 57). According to c. 605, the nearest Sunday after or before 4 October (the feast of Saint Francis Assisi, the patron saint of the Malankara Catholic youth movement) is to be

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\(^{161}\) See *Particular Laws of the Malankara Church*, c. 596, p. 102.
observed as Youth Sunday. Half of the offering collected on that day in a given eparchy is to be destined for the activities of the youth ministry at the major archiepiscopal level; the other half of the offering remains for the purposes of funding the youth ministry in the eparchy. Another collection prescribed in the Syro-Malankara Church (taken on the first Sunday after Easter) is intended for payment of the expenses of the “Malankara Major Seminary.”

Lastly, the Syro-Malankara Church has fixed the first Sunday of May to be observed as the Day for the Laity, and the offering received at the Masses is used for the welfare of the laity involved at the major archiepiscopal level. The office of the finance officer is entitled to collect and utilize the funds in accordance with the decisions of the major archbishop. Compared with the particular legislation of other major archiepiscopal Churches, its (Syro-Malankara Church) particular law provides specific and clear directives, for instance, on curial expenses, on means for generating income, and on the role of the finance officer in the remission of the collection.

Regarding the administration of ecclesiastical goods, the particular laws of the Syro-Malabar Church did not provide any specific norm on the documentation of the financial administration. However, the Syro-Malankara Church determines that: “The documents of the temporal goods common to the Syro-Malankara Catholic Church shall be kept under the safe custody of the finance office of the Major Archiepiscopal Curia.” This norm of the particular law specifies CCEO, cc. 1025, 2⁰ and 1028 §2, 8⁰ which oblige the finance officer to establish an accurate inventory and to keep the documents related to ecclesiastical goods in a proper manner. With regard to the

162 Ibid., c. 600, pp. 102-103.
163 See ibid., c. 601, p. 103.
164 Ibid., c. 582, p. 100.
obligations of administrators of ecclesiastical goods, the particular law of the Ukrainian Church gives general directions to the hierarchs (including the major archbishop) by specifying that they have the right “[…] to see that the entire administration of ecclesiastical goods be suitably organized according to the prescriptions of CCEO c. 1028.”

The particular laws of the Syro-Malabar Church and Ukrainian Church still have to provide specific and clear directives regarding the administration of ecclesiastical goods especially in accordance with CCEO, c. 1028.

Only the Syro-Malabar Church has given due place in its particular legislation to the support of the missionary works of the Church. The Syro-Malabar Church assigned a date for the observance of the “Syro-Malabar Mission Sunday” and the collection which is received on this day is destined for the support of the mission territories.

With regard to alienation of ecclesiastical goods, the particular law of the Ukrainian Church states that, in the absence of the metropolitan structure, the eparchial bishop, with the consent of the major archbishop, can establish the particular norms for the alienation of ecclesiastical goods whose value exceeds the maximum sum fixed by the synod of bishops. Regarding the determination of the exact amounts for the alienation, Bishop David Motiuk expressed the opinion that, as the Ukrainian Church is a “worldwide Church,” each bishop is to decide on the matter: except for the liturgical

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165 Particular Laws of the Ukrainian Church, c. 128, p. 17. Regarding the ecclesiastical authority which supervises the administration of temporal goods, Vincent Chittilappilly comments: “there are goods belonging to juridical persons common to the whole Church whose administration is supervised by the Major Archbishop; goods belonging to juridical persons of the eparchies the administration of which is overseen by the eparchial Bishops and the goods belonging to the institutes of consecrated life whose administration is supervised by the respective major Superiors” (CHITTILAPILLY, “Particular Laws in Temporal Administration,” pp. 234-235).


167 See Particular Laws of the Ukrainian Church, c. 130, p. 17.
laws, all other laws and decisions of the synod of bishops do not have force of law outside the proper territory of the Ukrainian Church.168

CONCLUSION

In the present chapter, the particular laws of the Syro-Malabar Church concerning the finance officer of the Syro-Malabar Church were presented and reviewed. In particular, the synodal decision with regard to the adoption of the mission eparchies that are outside of the proper territory of the Church sui iuris can be considered as an expression of charity and of concern towards the needy. Also, the provision for the finance council as a new canonical body at the major archiepiscopal level of the Syro-Malabar Church, brought about by the decision of the synod of bishops, seems to be especially useful and beneficial for the proper functioning of the finance administrative system of the Church. Numerous synodal decisions reflect the attempt of the synod of bishops to remit the debts of the curia by implementing various methods of acquiring the necessary funds.

The situation of the management of ecclesiastical goods in the reality of the secular order, namely the civil law of India, by the finance officer was analyzed as well. In order to safeguard ecclesiastical goods as required by the CCEO, the curia of the Syro-Malabar Church has been incorporated as a trust in accordance with the Indian Trusts Act. The intention of the papal delegate, the settler of the trust, was not in any way to replace the canonical juridic person of the Church with the civil construct of the trust, but to guarantee the proper status of the Church in civil law and the unobstructed functioning

of the Church within the civil society. In particular, the act of incorporation enabled the Church to acquire property, especially at the beginning stage of the institution of the Church on the major archiepiscopal level. One of the important advantages of the incorporation is that the curia of the Syro-Malabar Church has benefitted from exemptions from various financial taxes of the country. The mandatory provision of the Indian civil law that non-profit organizations are to be incorporated as legal entities creates the need to accept the fact that the canonical and civil requirements have to be reconciled, at times creatively indeed, with regard to the administration of ecclesiastical goods for the benefit of the ecclesial community.

The review of the particular laws of the three major archiepiscopal Churches shows that there is very little if any legislation concerning the finance officer. In fact, the Syro-Malabar Church has promulgated only a few norms in this regard. Therefore, there is a pressing need for the inclusion in the particular legislation of the specific norms regarding not only the finance officer, but also other aspects of financial administration of the Church, especially prescriptions with regard to the acquisition, administration, and alienation of temporal goods.
GENERAL CONCLUSION

This study proves that the finance officer of the Syro-Malabar Major Archiepiscopal Church is not just an administrator of the temporal goods of the Church but one who is vitally involved in the mission and ministry of the major archbishop. The task of governing the Church *sui iuris* includes the exercise of the shared ministry of various holders of ecclesiastical offices. As far as a major archiepiscopal Church is concerned, this shared ministry is implemented by the establishment of the major archiepiscopal curia. Although the major archbishop represents the major archiepiscopal Church in all its juridic matters, the finance officer is responsible for the administration of the goods of the major archiepiscopal Church under the authority of the major archbishop. The finance officer as the immediate administrator of ecclesiastical goods and as a member of the major archiepiscopal curia shares, therefore, in the responsibility of the major archbishop. The task of the finance officer is to be accomplished in union with the major archbishop and in obedience to him.

The primary purpose of this thesis is to present the canonical parameters of the office of finance officer of the Syro-Malabar Church. The focal point of this study concerns the role of the finance officer in the administration of ecclesiastical goods of the Syro-Malabar Church. The other main aspects of the study present the role of the major archbishop, the synod of bishops, and the permanent synod in relation to the office of the finance officer.

A careful analysis of various canons related to the finance officer led to a conclusion that the organization of finance administration on the major archiepiscopal level is quite different from that of the eparchial level.
The office of the eparchial finance officer and that of the major archiepiscopal finance officer differ on issues such as: the institution of the office, the procedure of appointment, the functions of office, and the loss of office. The revision process of the Eastern legislation clarified that juridic persons such as the major archiepiscopal Church and the eparchy are two distinct levels of organization. While each eparchy has its own curia and its finance officer is considered part of the curia, the major archiepiscopal Church has a separate curia. Both the eparchy and the major archiepiscopal Church have their own decision making bodies and canonical procedures for the administration of ecclesiastical goods.

With regard to the role of the finance officer of the major archiepiscopal Church towards other ecclesiastical institutions, CCEO is silent regarding his/her competency. As far as the Syro-Malabar Church is concerned, the finance officer of the major archiepiscopal Church normally has no authority over an institution that directly comes under the authority of the major archbishop. The administration of the property of such institutions is exercised by their own finance officers unless their particular laws provide that the administration of their ecclesiastical goods belongs to the major archiepiscopal finance officer. While at the eparchial level, the finance officer supervises the administration of temporal goods of juridic persons subject to the eparchial bishop, however, CCEO does not provide such a provision at the major archiepiscopal level.

With regard to the financial administration of the Church, the canonical norms stress that the finance officer of the major archiepiscopal Church is to strive for transparency of actions and to maintain a high standard of accountability. To ensure the smooth functioning of the financial administration of the Church, procedures and systems
such as internal controls, professional accounting systems, reporting and monitoring systems need to be in place.

In order to protect the goods of the Church, in accordance with the Indian Trusts Acts, the Syro-Malabar Church established a trust and, by that act of incorporation, the Church acquired certain privileges before the civil law. All the day-to-day transactions of the incorporated trust of the Syro-Malabar Church are accomplished through its finance officer. The incorporation obliges the finance officer to function within the objectives and bylaws of the trust. As the major archiepiscopal finance officer shares in the responsibility of the administration of the Church, collective planning, with the advice of experts in financial matters such as auditors and civil lawyers, is essential for the fulfillment of the proper purposes of the incorporated body. Although short-term planning is essential to carry out the activities which help to fulfill the long-term objectives of the trust, long-term planning is to provide security for the continuity of the mission of the Church. This type of planning demonstrates a sense of foresight and wisdom, which naturally requires expert opinions. Therefore it is a healthy practice to make a long-term plan for at least five to ten years. Long-term planning can be reflected in the making of the budget because budgeting can be a successful tool for effective planning.

The inquiry into the principal questions which were raised at the beginning of this study offers some valuable insights and allows proposing some suggestions for the future revision of the particular laws of the Syro-Malabar Church concerning the office of the finance officer.

First, in the history of the Syro-Malabar Church, the office of the bishop was concerned primarily with munus sanctificandi and the administration of the Church was carried out by the archdeacon and the yogam of the Church. Through these structures the
Saint Thomas Christians participated directly in the life, mission, and governance of the Church. Until the Syro-Malabar Church came into existence as a major archiepiscopal Church in 1992, it did not have a common head and no finance officer common to the Church. In that period, the eparchies had their own administrative systems and the finance officers of the eparchies were exercising their prerogatives regarding eparchial goods. The motu propria PA and CS, the statutes of eparchies, and the statutes of the bishops’ conferences were the canonical norms for the administration of ecclesiastical goods. For the first time in the history of the Syro-Malabar Church, a codified form of particular laws came into effect only in 2003.

Second, the required qualities such as expertise in financial matters and a reputation for honesty as prescribed in CCEO, c. 122 §1 for the appointment of the finance officer imply that financial administration, especially in the 21st century requires personnel trained in basic accounting and financial management. With regard to the competency of the finance officer, he/she functions within the scope of the budget examined by the permanent synod and administers ecclesiastical goods under the authority of the major archbishop.

Third, the organizational structure of the financial administration is very closely related to the synodal functions in the Syro-Malabar Church. The major archbishop requires the consent or counsel of the synodal structures for certain executive acts. As prescribed in CCEO, c. 948, the lawful convocation of the synodal structures is essential for the validity of the acts of the major archbishop.

Fourth, at the eparchial level, the finance council is the body which prepares the budget and examines the report of administration by the finance officer (CCEO, c. 263). It acts as an executive body in the eparchy and participates in the eparchial bishop’s tasks
as the administrator of ecclesiastical goods of the eparchy. Similarly, at the major archiepiscopal level of administration, the permanent synod functions as an executive committee. On the other hand, while the eparchial finance officer, by virtue of his/her office is a member of the eparchial finance council, as far as the major archiepiscopal Church is concerned, common law does not authorize participation of the finance officer in the permanent synod during the discussions of financial affairs. Although non-episcopal participation is excluded in common law, the submission of the report of the administration, and submission of the budget of projected income and expenditures of the forthcoming financial year require in fact participation, limited as it is, of the finance officer in the permanent synod. The particular law of the Syro-Malabar Church can determine conditions regarding the admittance of the finance officer on the occasions of the discussion on the financial reports and budget.

Fifth, the term of office of the finance officer is determined by the particular law. In accordance with the particular law of the Syro-Malabar Church, the term of office is five years and can be renewed for another five-year term by the major archbishop. As the appointment of the finance officer is for a fixed term, other than for a grave reason he/she cannot be removed from office. On the other hand, after the completion of the term of office, a lay person may face the practical problems of loss of office and corresponding income. The Church needs to enter into agreements with lay persons before their appointment. Accordingly, a lay person can function as a finance officer only on a contract basis.

Sixth, similar to the system of the eparchial finance council, at the major archiepiscopal level in the Syro-Malabar Church there is also a finance council. The institution of the finance council can be considered as an innovation proper to the Syro-
Malabar Church as common law does not provide any directives for the institution of the finance council in the major archiepiscopal Church.

Seventh, there are mandatory provisions in civil law, especially Indian civil law which require that juridic persons must be incorporated as legal bodies. The practical necessity of the incorporation of ecclesiastical structures is dictated by the fact that many prerogatives, such as acquiring, holding, and alienating property are available only for legally incorporated bodies. Although there were no synodal decisions on the incorporation, the act of incorporation was fully justified because its purpose was to protect the patrimony of the Church. It is a vital duty of the ecclesiastical authorities to issue appropriate norms regarding incorporation, as in the absence of relevant directions the incorporation may prove detrimental to ecclesiastical property.

Eighth, the incorporation of the trust of the Syro-Malabar Church requires a particular legislation for a separate incorporation of such ecclesiastical institutions as seminaries, which come directly under the authority of the major archbishop. The statutes of the trust of the Syro-Malabar Church do not include holding the title to the goods of other juridic persons that come directly under the authority of the major archbishop.

Ninth, the particular law of the Syro-Malabar Church promulgated in 2003 serves as complementary norms to CCEO. In the particular law, however, one can notice a number of lacunae regarding several issues; for instance, there is no direct reference to acquisition, administration, and alienation of temporal goods. On the other hand, the particular legislation of the Syro-Malankara Church provides separate norms for the acquisition, administration, and alienation of ecclesiastical goods on the major archiepiscopal level of administration. Opportunities for improvement are, therefore, still
available in the revision of the particular legislation on the administration of the property of the Syro-Malabar Church.

Tenth, before beginning the functions of the finance officer, as a diligent householder he/she must sign an accurate inventory. Proper laws of the Syro-Malabar Church need to be specified with regard to the submission of the inventory along with the annual financial report to the permanent synod. It would also be desirable to include the provision concerning a place for safe custody of financial documents.

These conclusions lead to the consideration of two possible areas for future study. First, in the juridic system of the Syro-Malabar Church, no canonical procedure has been put in place to safeguard the possibility of the restitution for the financial damages to the Church. Based on CCEO and particular law of the Syro-Malabar Church, a study of the administration of justice would be beneficial to outline the different aspects of a procedure for financial restitution. As the injured party, the Church sui iuris has the right to bring an action against the offender.

The second area for future considerations refers to the incorporation of the property of the Church in accordance with Indian civil laws. Specifically, the canonical requirements and the effects of the incorporation have to be more clearly determined. As the particular law of the Syro-Malabar Church is silent with regard to this issue, a detailed study on civil incorporation in the context of Indian civil law would be helpful in safeguarding ecclesiastical goods.
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BIOGRAPHICAL NOTE

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