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**PASTORAL CARE OF EASTERN CATHOLIC FAITHFUL RESIDING
OUTSIDE THEIR HISTORICAL TERRITORY WITH PARTICULAR
REFERENCE TO THE UNITED STATES AND CANADA**

by
George N. OONNONNY

A dissertation submitted to the Faculty of Canon Law
Saint Paul University, Ottawa, Canada, in partial
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Abstract

The recent events in Eastern Europe, Asia and in the Middle East have clearly demonstrated how people's survival instinct forces them to seek safety and security in lands alien to their culture and way of life. During the past two centuries, millions of people belonging to Eastern Christian traditions, due to a variety of reasons, have found themselves uprooted from their native soil and planted in Western Europe, Canada, United States, Latin America and Australia. This surge in dislocation of peoples has always been a source of concern for the Church, especially when it comes to offering them proper pastoral care. Issues such as Christian education, spiritual formation, sacramental participation, pastoral care of the family, marriages between Catholics of the various Churches *sui iuris* and between Catholics and Orthodox, pastoral care of different groups and of ethnic minorities, etc., appear at the forefront of the Church's pastoral concerns.

In his apostolic constitution *Sacri canones*, through which he promulgated the *Code of Canons of the Eastern Churches* in 1990, Pope John Paul II underlined the importance of Eastern traditions for the life and well-being of the whole Catholic Church. He affirmed that, to experience the fullness of life "the Church must learn to breathe again with its two lungs, its Eastern one and its Western one." To "learn to breathe with two lungs" is the challenge we are faced with today in the presence of serious pastoral problems in caring for Eastern Catholics who find themselves in the diaspora.

Five fundamental, but intrinsically related, issues constitute the core of our study of pastoral care of Eastern Catholics living in the diaspora. The first issue we consider is the origins of Eastern Catholic Churches, in order to identify and understand the root causes of the problem. If the Eastern and Western (Latin) traditions were identical, then there would have been no reason for raising the question in the first place. The second issue concerns the actual pastoral problems directly affecting those faithful who are displaced from their native territories and find themselves in the diaspora. The third issue is related to the source of the right of Eastern Catholics to proper pastoral care flowing from their legitimate ascription to a Church *sui iuris*. The fourth issue involves the proper authorities who have the primary obligation to provide pastoral care for the faithful. It includes the highly debated question of the jurisdiction of the patriarch or archbishop over their faithful who live outside their historical territory. The fifth issue concerns appropriate pastoral approaches to problems faced today by Eastern Catholics in the diaspora.

Our study is divided into five chapters corresponding to the five issues mentioned above. Thus, the first chapter deals with the historical origins of the Eastern Catholic Churches. In the second and third chapters we examine the current pastoral problems of the Eastern Catholic faithful in the diaspora and their right to appropriate pastoral care in virtue of their ascription to a particular *sui iuris* Church. Historical evidence indicates that the Church has always demonstrated its pastoral solicitude toward migrants and displaced people. This is evident in the Church's documents and papal teachings. An analysis of these ecclesiastical documents is the thrust of the fourth chapter. In the final chapter we address some issues of practical and pastoral importance related to Eastern Catholics living in the diaspora. Also included in this final chapter is an analysis of the results of a questionnaire we sent out to selected arch/dioceses in the United States and Canada.

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ABBREVIATIONS

<i>AA</i>	<i>Apostolicam actuositatem</i>
<i>AAS</i>	<i>Acta Apostolicae Sedis</i>
<i>AER</i>	American Ecclesiastical Review
<i>AG</i>	<i>Ad gentes</i>
<i>ASS</i>	<i>Acta Sanctae Sedis</i>
<i>CA</i>	<i>Crebrae allatae</i>
<i>CCEO</i>	<i>Codex canonum Ecclesiarum orientalium</i>
<i>CD</i>	<i>Chritus Dominus</i>
<i>CIC 1917</i>	<i>Codex iuris canonici 1917</i>
<i>CIC 1983</i>	<i>Codex iuris canonici 1983</i>
<i>CICO</i>	<i>Codex iuris canonici orientalium</i>
<i>CLD</i>	<i>Canon Law Digest</i>
<i>CLSA</i>	Canon Law Society of America
<i>CS</i>	<i>Cleri sanctitati</i>
<i>CT</i>	<i>Catechesi tradendae</i>
<i>DH</i>	<i>Dignitatis humanae</i>
<i>DV</i>	<i>Dei Verbum.</i>
<i>ECE</i>	<i>Ex corde Ecclesiae</i>
<i>EF</i>	<i>Exsul familia</i>
<i>GE</i>	<i>Gravissimum educationis</i>
<i>GS</i>	<i>Gaudium et spes</i>
<i>LG</i>	<i>Lumen gentium</i>

ABBREVIATIONS

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NCCB	National Conference of Catholic Bishops
<i>NCE</i>	<i>New Catholic Encyclopedia</i>
<i>OE</i>	<i>Orientalium Ecclesiarum</i>
<i>OT</i>	<i>Optatam totius</i>
<i>PAL</i>	<i>Postquam apostolicis litteris</i>
<i>PB</i>	<i>Pastor bonus</i>
PCCICOR	Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo
PCCICR	Pontificia Commissio Codici Iuris Canonici Recognoscendo
<i>PG</i>	<i>Patrologia graeca</i>
<i>PL</i>	<i>Patrologia latina</i>
<i>PO</i>	<i>Presbyterorum ordinis</i>
RCIA	Rite of Christian Initiation of Adults
<i>SC</i>	<i>Sacrosanctum Concilium</i>
SCCRM	Sacred Consistorial Congregation Regarding Migrants
SCOC	Congregation for the Oriental Churches
<i>SN</i>	<i>Sollicitudinem nostram</i>
<i>UR</i>	<i>Unitatis redintegratio</i>

GENERAL INTRODUCTION

The twentieth and twenty-first centuries have seen massive waves of migration of people from one part of the world to another. Recent events in Eastern Europe, Asia and the Middle East have led to the uprooting and emigration of hundreds of thousands of people from their homelands. As a result, millions of Christians from the Eastern traditions are now to be found in Western Europe, Canada, United States, Latin America and Australia. Suddenly, people from the Eastern traditions find themselves living alongside Catholics of the Western tradition, all of which creates new pastoral problems for the Church as a whole. Issues such as Christian education, spiritual formation, religious life in the family, marriages between Catholics of the various Churches *sui iuris* and also between Catholics and Orthodox, pastoral care of individuals and families living in isolated areas, needs of other minority groups etc., all appear at the forefront of the Church's pastoral concerns.

In commenting on the lack of understanding that often exists, as well as on the ignorance people have of the spiritual traditions and values forming part of the heritage of so many Christians of Eastern Churches *sui iuris*, Pope John Paul II has emphasized the importance of these traditions for the life and well-being of the whole Church with his striking affirmation that “the Church must learn to breathe again with its two lungs, its Eastern one and its Western one.”¹ It is only when we confront these issues realistically

¹ See JOHN PAUL II, Address to Cardinals and Collaborators of the Roman Curia, in *L'Osservatore romano*, 15 July 1985, p. 5.

that we can respond positively to the challenge of the Pope to “learn to breathe with two lungs.”

William Cardinal Baum succinctly addresses this problem in the guidelines given by the Congregation for Catholic Education in 1987. The Cardinal asks, “How much is known of the liturgical and spiritual life of the ancient Christian traditions of these new neighbors? Are serious efforts being made to acquire and spread this knowledge and to draw suitable conclusions of a pastoral nature? In some areas, at least, has the presence of these new communities led to renewed misunderstanding and to further alienation?”²

The purpose of this dissertation is to address some theoretical and pastoral issues that might enable pastors and teachers of the Church to minister to their Eastern Catholic faithful in accord with their own theological, spiritual, cultural, historical and juridical patrimony. We shall analyze the canonical provisions made in the *Codex canonum Ecclesiarum orientalium* for Eastern Catholics living outside the territories of their Churches.³ However, given that the Eastern Code is only part of the body of Canon Law of the universal Church, other canonical dispositions for the care of these Eastern Catholics will also be found in the *Codex iuris canonici* and *Pastor bonus*.⁴ In presenting

² *Diakonia*, 21 (1/1987), p. 40.

³ *Codex canonum Ecclesiarum orientalium* (= CCEO), the first complete body of the common law for all Eastern Churches, was promulgated on 18 October 1990, through the Apostolic Constitution *Sacri canones* of John Paul II. The official Latin text of the constitution, a preface to the Eastern Code and the canons themselves, were published in *Acta Apostolicae Sedis [=AAS]*, 82 (1990), pp. 1033-1363. For an English translation, see *Code of Canons of the Eastern Churches*, Latin-English ed., new English translation prepared under the auspices of the Canon Law Society of America (=CLSA), Washington, DC, CLSA, 2001.

⁴ *Codex iuris canonici* (=CIC), *auctoritate Ioannis Pauli PP. II promulgatus*, Vatican City, Typis polyglottis Vaticanis, 1983; English translation, *Code of Canon Law*, Latin-English ed., New English translation, prepared under the auspices of the Canon Law Society of America, Washington, DC, CLSA, 1999.

the new Eastern Code to the 28th General Congregation of the Synod of Bishops on 25 October 1990, Pope John Paul II stated that these three bodies of law constituted one “*Corpus iuris canonici*” of the Church.⁵ Since a study of the norms for the care of Eastern Catholics outside the historical territory of their Churches necessarily involves a thorough review of the entire body of Canon Law of the Church, this study attempts to analyze in a systematic way those magisterial and canonical sources which deal with the pastoral care of Eastern Catholics in the Diaspora.

In view of the foregoing, we will address the following specific questions:

1. What are the historical origins of the Eastern Catholic Churches *sui iuris*? And what factors led to the migration of many Eastern Catholic faithful from their historical territories?

2. What are the rights of Eastern Catholic faithful within and outside their historical territory?

3. How did the universal Church and the particular Churches provide in the past for the pastoral needs of Eastern Catholics residing outside the historical territories?

4. What practical approaches could the Church adopt to provide appropriate pastoral care to the Eastern Catholic faithful who presently live in the Diaspora?

During the past few decades there has been much discussion among writers about different aspects of the pastoral care actually provided for Eastern Catholic faithful living among predominantly Latin Catholic communities. A number of canonical studies and

JOHN PAUL II, Apostolic Constitution on the Roman Curia, *Pastor bonus* (=PB), 28 June 1988, in *AAS*, 80 (1988), pp. 841-924; English translation in *Code of Canon Law*, pp. 679-751.

⁵ See *AAS*, 83 (1991), p. 490.

books have dealt directly with different aspects of the pastoral care of Eastern Catholics outside their historical territory. Jobe Abbass, for example, examines the canons in both the Latin and Eastern Codes concerning the care of the faithful belonging to Eastern Catholic Churches, and who live outside their own territory.⁶ He does not address any specific canonical problems that affect their pastoral care.

James Arampulickal focused his study on several issues relating to the pastoral care of the Syro-Malabar Catholics who have migrated to the northern part of India.⁷ But the pastoral care of the Eastern Catholics in North America and its related problems are not a part of his inquiry. John Faris has provided a good commentary on some of the relevant canons.⁸ As he explains in the Preface of the book, “it is intended to serve as a practical guide to bishops, canonists and those entrusted with the pastoral care of Eastern Catholics.”⁹ Francis Marini’s book published in 1998 is a historico-juridical study of the *fontes* or sources of the power of patriarchs during the last two millennia.¹⁰ His book does in fact address the pastoral problems of the Eastern Catholics in the diaspora. The author has edited another book entitled: *The Comparative Sacramental Discipline in the CCEO and CIC*. This is a handbook for the pastoral care of members of the other Catholic

⁶ Jobe ABBASS, “Canonical Dispositions for the Care of Eastern Catholics Outside Their Territory,” in *Periodica*, 86 (1997), pp. 321-362.

⁷ James ARAMPULICKAL, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, Kottayam, Oriental Institute Religious Studies Publications, 1994.

⁸ John D. FARIS, *Eastern Catholic Churches: Constitution and Governance*, New York, NY, St. Maron Publications, 1992.

⁹ *Ibid.*, p. xx.

¹⁰ Francis MARINI, *The Power of Patriarch: Patriarchal Jurisdiction on the Verge of the Third Millennium*, New York, NY, St. Maron Publications, 1998.

Churches *sui iuris*.¹¹ It compares the canons of both Codes which concern inter-ecclesial sacramental celebrations. No attempt is made in this book to evaluate the current pastoral needs nor the Church's solicitude for Eastern Catholics living outside the historical territory of their Churches *sui iuris*.

The principal method we use in this study is historico-analytical in nature. A review of historical sources of some of the canonical issues we intend to address in our work will be inevitable. But the central question of our inquiry concerns the pastoral care of the Eastern Catholics outside their historical territory. This important question is not a current problem, but has a long history behind it.

The Churches have faced and responded to this problem in the past in different ways. Laws, instructions, directives etc., have been issued to deal with relevant issues at different times. These initiatives and more recent developments in the Church's response to current problems will be subjected to critical analysis. Our study is analytical in the sense that the historical facts and various sources, such as papal instructions, decrees, laws, the documents of Second Vatican Council, both Codes of Canon Law and subsequent documents will be critically analyzed. This dissertation is divided into five chapters.

In the first chapter we will study the nature and historic origins of various Churches *sui iuris*. The existence of various Churches *sui iuris* has been a remarkable witness to the unity in diversity that has characterized the early apostolic Church. It is our hope that this historical overview will constitute an important context for our research on

¹¹ Francis MARINI (ed.), *Comparative Sacramental Discipline in the CCEO and CIC*, Washington, DC, CLSA, 2003.

the current initiatives undertaken by the Church to provide proper pastoral care to Eastern Catholics in the diaspora. We intend to do this by examining carefully those early Christian documents which inform us today of the origin, development, functions of the early Churches, and the elements that have constituted and safeguarded the one Church of Jesus Christ.

The second chapter will examine the phenomenon of migration, its origin, effects and difficulties currently faced by subsequent generations. We will briefly trace the history of migration of Eastern Catholics from their historical territories and analyze the relevant canonical and pastoral issues, the Church's solicitude towards them, and in particular the situation of Eastern Catholics in the United States and Canada.

Ascription to a Church *sui iuris* has a major impact on the pastoral care of Eastern Catholics in the diaspora. Every Christian is ascribed to a Church *sui iuris* and belongs to a local Church under the jurisdiction of the local bishop. The third chapter will be devoted to the issues related to different aspects and consequences of ascription to the Catholic Church.

Although for many centuries Eastern Catholic Churches were subject to severe persecution and even suppression, the Church of Rome always acted with great solicitude for Eastern Churches by providing them pastoral care without forcing their members to change their ritual affiliation. Some Roman Pontiffs did their best to protect Eastern Catholics from the dangers of heresy, schism, political oppression and persecution. Some of them explicitly recognized the pristine ecclesial status of the Eastern Catholic Churches *sui iuris* and offered them assistance even when their members migrated to

distant lands. It is this pastoral solicitude the Church has had toward the Eastern Catholic faithful in the diaspora that will be the focus of the fourth chapter.

The Eastern Catholic patriarchal and major archiepiscopal Churches today enjoy a higher degree of self-rule or autonomy in respect to their exercise of the power of governance within their territorial circumscriptions according to *CCEO*. But the situation is quite different outside their territories. Therefore, in the fifth chapter we shall examine the canonical competence of the patriarchs and archbishops of Eastern Catholic Churches to provide pastoral care to members of their own Churches, living in the diaspora, especially in the administration of sacraments. We shall present information we have gathered from a survey on steps concretely taken by some archdioceses/dioceses of the United States and Canada to provide effective pastoral care to the Eastern Catholic faithful residing in their territories.

It is our hope that this study will offer some practical suggestions to respond effectively to the problems the Church presently encounters in providing pastoral care to the Eastern Catholics in the diaspora.

CHAPTER ONE

THE NATURE OF *SUI IURIS* CHURCHES

INTRODUCTION

There seems to be a general agreement among theologians that one of the main achievements of the Second Vatican Council has been the ‘rediscovery’ of the nature and role of the universality of the Catholic Church, which is comprised of various particular Churches.¹ The Council through its decree *Orientalium Ecclesiarum* clearly described the nature of the Catholic Church.² It is a communion of particular Churches, designated in canon law as *Ecclesiae sui iuris*, literally, “of their own right.” Such a designation refers to the ability of these Churches to govern themselves in all matters except those reserved to the Supreme Authority of the Church, i.e., the Roman Pontiff or/and Ecumenical Council. Rite in the universal Church comprises the various worship forms, institutions, discipline, spiritual heritage, and the usages which developed as the Christian message spread throughout the various peoples of the world from Apostolic times.³ Every rite is part of the

¹ See, for example, Karl RAHNER, “Basic Theological Interpretation of the Second Vatican Council,” in *Theological Investigations 20*, New York, Crossroad Publications, 1981, p. 78, where we read: “The Second Vatican Council is the beginning of a tentative approach by the Church to the discovery and official realization of itself as world-Church.”

² SECOND VATICAN COUNCIL, Decree on the Eastern Catholic Churches, *Orientalium Ecclesiarum* [= *OE*], 21 November 1964, in *Acta Apostolicae Sedis* [= *AAS*], 57 (1965), p. 76: “Sancta et catholica Ecclesia, quae est Corpus Christi Mysticum, constat ex fidelibus, qui eadem fide, iisdem sacramentis et eodem regimine in Spiritu Sancto organice uniuntur, quique in varios coetus hierarchia iunctos coalescentes, particulares Ecclesias seu ritus constituunt.” For English translation, see Austin FLANNERY (gen. ed.), *Vatican Council II*, vol. 1, *Conciliar and Post Conciliar Documents* (= FLANNERY I), Northport, NY, Costello Publishing Company, 1996, p. 441.

³ See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium* [= *LG*], 21 November 1964, in *AAS*, 57 (1965), pp. 17-18; for English translation, see FLANNERY I, p. 365. Also see Joseph RATZINGER, *Wessen und Auftrag der Theologie*, Freiburg, Johannes Verlag Einsiedeln, 1993, pp. 59-60. When Cardinal Ratzinger described the theology of the Catholic Church, he summarized the structure of

heritage and the living memory of the common patrimony of the one Church of Jesus Christ. The existence of various *Ecclesiae sui iuris* is the remarkable witness to the unity in diversity that was the original structure of the Church during Apostolic and post-Apostolic times.

In order to rediscover the important aspects of the common tradition of the undivided Church, it is necessary to analyze its origin, development, jurisdiction and pastoral care, the current structure and how the early Fathers of the Church kept unity in diversity. We will briefly go through the early Christian documents to explore the origin, development, and function of the early Churches, and the elements that unified them into the one Church of Jesus Christ, and then we will look into the current status, jurisdiction, and pastoral care of all the *Ecclesiae sui iuris* of the East.

1. 1. THE ONE CHURCH OF JESUS CHRIST

The word “Church,” ever since the earliest Christian times, has been used to indicate the gathering of peoples born of Christ. This word encapsulated the communal meaning of the Greek *ekklesia*,⁴ which, at first, meant simply ‘assembly’. The concept of Christian Church was derived from the New Testament reference to the gathering of the followers of Christ. The Christian assembly was a unique reality whose characteristics were described by Saint Paul as the mystical proof of Christ’s presence on earth and, in heaven, the holy

the Church in these terms: “The Church is the universal people of God to which admission is gained by baptism and which is constituted by the inter-locking network of local Churches. These Churches draw their life from the eucharist which is celebrated under the leadership of the local bishop, who stands in communion with the entire Apostolic college gathered around Peter and his successors.”

⁴ See *The Englishman’s Greek Concordance of the New Testament*, London, Samuel Bagster and Sons Limited, 1903, pp. 225-226. The Greek term *ekklesia* is used in the New Testament more than 116 times on various occasions to signify different meanings: community of believers; gathering of faithful; gathering of several communities; house Churches; individual Church; and Churches of God.

company of all those whom He has saved (1Cor. 1: 1-2; 12: 27), and thus was very different from all other kinds of groupings that were known up to that time.⁵

The increasing number of Christians had led to the expansion of the Church, as well as to the creation of various offices and services to the needy, and as a consequence there emerged dissatisfaction and disquiet among the followers (Acts 6: 1). About the middle of the first century, the disputes were finally referred to the leaders who convoked the Council of Jerusalem (Acts 15: 1-41), where the main issues which led to an open conflict between Peter and Paul were resolved (Gal. 2: 11-14). This decision meant that the early Christian community was composed of both gentiles and Jews, and the Church had to adapt itself to the political, social, cultural and spiritual realities of the times.⁶ There is no evidence of a consistent or uniform ecclesiology in the early Church, but rather there were various New

⁵ The New Testament offers us a truly unique insight into the multi-dimensional character of the early Church. While Jesus' ministry was restricted to the people of Galilee, Samaria, and Jerusalem, his disciples preached all over the Roman Empire, to the Jews, Romans and to all peoples regardless of their origin, race, color or socio-religious background. Thus the early Christianity had followers from Judaism, Asian and African heritage, and Greek Hellenistic traditions. In the letters of Peter and Paul, there is some evidence of the emergence of local Churches. Peter addressed letters to the communities of Galatia, Pontus, Capadocia and Asia, and Paul addressed to the provincial capitals of the Roman Empire; Rome, Ephesus, Corinth, Thessalonika, etc. As the Christian community grew in number its mission extended to Iconium, Lystra, Asia Minor, Phrygia, Galatia, Beroea, Athens, Syria, and Malta (Acts 16: 6; 17, 10-16). Within two decades of the death of Jesus, communities of the faithful began to emerge in most of the political provincial capitals and the major cities of the Roman Empire. The relationship with the Churches of the remote centers were cut off with the conquest of Jerusalem and the destruction of the temple in 70 AD; both Christians and Jews fled to various secure locations of the Roman Empire, especially to the countryside of Judea and Samaria, where the Church enjoyed peace (Acts 8: 1; 9: 31). The nascent Church was isolated from its nurturing roots in Jerusalem and was left to fend for itself in the hostile environment of the Greco-Roman world and the gradual independent emergence of the Church started at Phoenicia, Cyprus, and Antioch, the Eastern capital of the Roman Empire (Acts 11: 19). See Raymond BROWN and John MEIER, *Antioch and Rome*, New York, Paulist Press, 1983. p. 89. These authors say that Antioch was the first great city of the Roman Empire to become a center of the Christian movement, and it could be called the cradle of worldwide Christianity.

⁶ Cf. Raymond BROWN, *The Churches the Apostles Left Behind*, New York, Paulist Press, 1984, pp. 20-24. After a thorough investigation of these early Christian communities, Raymond Brown concludes that many varied models of Church were already in the first decades of the Christian era. The early communities tended to follow the distinctive heritages left by the apostles Peter, Paul and John. These early Churches held different views on several issues: the relationship between Jews and Gentiles, the obedience to the Mosaic Law, the demand for circumcision of Christians by Judaizers, the structure of the believing community and the appointment of Church officials.

Testament Churches with distinct and varying emphases on theology, worship, and practice.⁷

1. 1. 1. The Origin of Independent Churches

From the very beginning of Christianity the Church in the Roman Empire was subjected to cruel persecution. Despite serious adversities the gospel message of Jesus spread throughout the Roman Empire in the second century. The Acts of the Apostles described the expansion of Christianity into Syria, Asia Minor, Macedonia, Greece, Southern Italy, Gaul, and Rome.⁸

Tradition says that John arrived at Ephesus some time in 44 AD and established the first Church outside of Jerusalem. When Paul visited Ephesus about 55 AD, he found a well-established Church there. Although Ephesus was the capital of the Roman province of Asia, the official military headquarters of the whole of the Eastern Empire was Antioch.⁹ After the Ascension of Christ, a number of Christians fled to Antioch to avoid the

⁷ See *ibid*, p. 146. Also see PONTIFICIUM CONCILIUM AD CHRISTIANORUM UNITATEM FOVENDAM, *Directory for the Application of Principles and Norms on Ecumenism [=Ecumenical Directory]*, 16, Vatican City, Libreria editrice Vaticana, 25 March 1993, p. 18.

⁸ According to several ancient Roman and ecclesiastical historians, many Christians left Jerusalem after the martyrdom of Saint Stephen (about 44 AD) and few stayed back until King Agrippa I started the Christian persecution in 64 AD. After the destruction of Jerusalem (70 AD), Christianity spread to Ephesus, Antioch and Alexandria, under the leadership of John, Luke and Mark. See Pamphili EUSEBIUS, *Historiae ecclesiasticae [= HE]*, III, n. 4, in Jaques P. MIGNE, *Patrologiae cursus completus, Series graeca [= PG]*, vol. 20, Paris, Bibliothecae Cleri universae, 1800-1875, p. 222; also see Peter B. ROBERTS, *In Search of Early Christian Unity*, New York, Vantage Press, 1985, pp. 7-8.

⁹ See ROBERTS, Peter, *In Search of Early Christian Unity*, New York, Vantage Press, 1985, p. 16. The importance of Antioch goes back to 320 BC. Alexander the Great made Antioch as the capital of the Greek-speaking Seleucid Empire. With the occupation of Romans in 64 BC, the city became their Eastern headquarters. See Francis SULLIVAN, *From Apostles to Bishops*, New York, The Newman Press, 2001, pp. 62-63, where we read: "Antioch was the third largest city of the Roman Empire. Its Christian community, including both Gentiles and Jews, was founded not by an apostle, but by Hellenist Jewish Christians, originally from Cyprus and Cyrene, who had fled from Jerusalem during the persecution that followed the martyrdom of Stephen (Acts 11: 19-20). When the Jerusalem Church heard of the conversion of Gentiles at Antioch, they sent Barnabas to look into it (Acts 3, 1-3)."

persecutions of the Jewish Sanhedrin in Jerusalem. It was from Antioch that Paul set out on his missionary journeys and where Luke actually wrote the Gospel.

Mark, a close associate of Peter, founded the Alexandrian Church in 59 AD. Alexandria was the education center and home for many Greek philosophers, and the Churches in Alexandria were able to exercise freedom of speech not permitted in other imperial centers such as Antioch or Rome and thus it became the second Christian center after Ephesus. The Church in Rome was established with the arrival of Peter and Paul about 61 AD.¹⁰

In addition to the concentration of Christians in Palestine and Asia Minor, by the end of the second century, Christians were to be found in sizeable numbers in Italy, including Sicily and Sardinia, and also along the North African coast with its center in Carthage. In the third century, Tertullian (160-220) says, there were Christian communities established under local bishops in Spain, France, Armenia, and Britain beyond the Roman territory.¹¹ Due to severe persecution under the Emperor Valerian (240-67), many leading

¹⁰ See EUSEBIUS, *HE*, III, n. 4; also See ROBERTS, *In Search of Early Christian Unity*, pp. 9-19. Being the capital of the province of Asia, Ephesus was the main center for missionary activities before the establishment of communities in Antioch, Rome and Alexandria. Apostolic *Constitution* VII, 46 says that Timothy was the first bishop of Ephesus and the letter to the Ephesians called the leaders of the Church 'pastors' for the first time in the Bible (Eph: 4, 11).

¹¹ See TERTULLIAN, *Adversus Iudaeos VIII*, in Jaques P. MIGNE, *Patrologiae cursus completus, Series latina*, [= *PL*] vol. 2, Paris, Bibliothecae Cleri universae, 1844, p. 610. English translation in Alexander ROBERTS and James DONALDSON, (eds.), *Ante-Nicene Fathers*, vol. 3, Buffalo, The Christian Literature Publishing Company, 1885, pp. 157-158: "For upon whom else have the universal nations believed, but upon the Christ who is already come? For whom have the nations believed, Parthians, Medes, Elamites, and they who inhabit Mesopotamia, Armenia, Phrygia, Cappadocia, and they who dwell in Pontus, and Asia, and Pamphylia, Tarriers in Egypt, and inhabitants of the region of Africa which is beyond Cyrene, Romans and sojourners, yes, and in Jerusalem Jews, and all other nations; as, for instance, by this time the varied races of the Gaetulians, and manifold confines of the Moors, all the limits of the Spains, and the diverse nations of the Gauls, and the haunts of the Britons - inaccessible to the Romans, but subjugated to Christ, and of the Samaritans, and Dacians, and Germans, and Scythians, and of many remote nations, and of provinces and islands many, to us unknown, and which we can scarce enumerate?" Also see EUSEBIUS, *Life of Constantine*,

Christians had to leave their cities to go into hiding. Because of persecution many Christians in Palestine and Egypt found it safer to leave the empire altogether and fled to Persia, the present day Iran. At the same time others from Caesarea in Cappadocia crossed over the border into the hill country of Armenia.¹²

In general, early Christian Churches developed simultaneously within and outside the confines of the Roman Empire, each with self-government without direction or control from any external authority. Before Constantine, the Churches in Armenia, Persia, and India enjoyed a certain degree of freedom and even approval from secular rulers. The Syriac-speaking Christians in Armenia, Persia, Edessa, the metropolis of the Syriac-speaking Church, and India were the Churches outside of the Roman Empire.¹³ Though the bishops of these areas were independent, they were part of the general organizational structure of the Church.¹⁴ Ultimately the intellectual power of the Byzantine world and the political power

III, n. 19; IV, n. 50. According to Eusebius, Britain and India came under the rule of Constantine when he became the emperor.

¹² See ROBERTS, *In Search of Early Christian Unity*, p. 31.

¹³ See Francis C. BURKITT, *Early Christianity Outside the Roman Empire*, Cambridge, Cambridge University Press, 1899, p. 11. Burkitt gives clear evidence from the ancient Syriac manuscripts and writings that the Syriac-speaking branch of the Church has an organized structure older than that of Justin Martyr or Hegesippus. Christianity planted in the Euphrates valley seems to have developed more slowly than that of the Greeks. Also see Eusebius, *HE* III, n. 1: Origen, Rufinus of Aquileia, Socrates and the Clementine Recognitions give us evidence that St. Thomas went to (Parthia) India. In ancient times a good deal of North West India was included in Parthia. See *PL* vol. 21, p. 278; *PG*, vol. 20, p. 215; vol. 67, p. 125; also the apocryphal work, *The Act of Judas Thomas*, written in Syriac in the second century speaks of Thomas evangelizing India. Eusebius in the third century gives us the account of establishing a theological school in Alexandria where Pantaenus was one of the eminent teachers was sent to India at the request of Indian Christians where he found a copy of the Gospel according to Matthew in Hebrew language. Eusebius, *HE*, V, n.10). Jerome also gives the same account. This proves that India had Christianity long before Eusebius and Jerome.

¹⁴ See Samuel G. POTHAN, *The Syrian Christians of Kerala*, London, Asia Publishing House, 1962, p. 21. The Council of Nicea, in 325 AD, was attended by 318 bishops and framed the Nicene Creed which became the basis of all the Church doctrine ever since and is used in all Christian Churches today. The Council also divided the bishoprics of the Church into four major divisions, Rome, Alexandria, Antioch and Jerusalem. The bishop of Antioch was invested with the authority of managing the affairs of the Churches of the Eastern

of Rome were to fall sway to the teachings of the followers of Jesus. It is obvious from this background that a variety of Churches and communities of the faithful came into existence from the very beginning of Christianity.

1. 1. 2. Origin of the Administrative System

The early Church felt the need of a permanent ministerial structure and, therefore, we see the evidence of the existence of hierarchical ranks in the Church dating back to the Apostolic times: chapter 11 of the Acts of the Apostles refers to the ‘elders’ or ‘presbyters’ and chapter 20 to the supervisors or “*episcopoi*.”¹⁵

As conversions increased, local communities were formed and placed under the care of various elders, or presbyters. Paul and Barnabas, the traveling missionaries, named a religious leader, “elder” or a “presbyter” (Acts 14: 23) for each community. These newly added auxiliaries to the apostolate were so named because of a particular mission confided to them – as was the case for Barnabas, Silas, and Judas; or simply because of their actual cooperation in the work of evangelization – as was the case of Timothy and Mark, etc. These auxiliaries were first an extension of the apostles’ activity, later they succeeded in the functions of the Apostles themselves.

provinces and was given jurisdiction over the Indian Churches. The Parthian Empire included parts of India also. It is significant that a representation from India was at the Council, named “Johannes, metropolitan of Persia and Great India,” who was a signatory to the proceedings of the Council. Also see Joannes PITRA, (ed.), *Analecta Sancta Spicilegio Solesmense*, vol. 4, Paris, Ex Publico Galliarum Typographeo, 1883, pp. 459- 462: Names of the participants of the Council of Nicaea are listed.

¹⁵ As a human society the Church needed an organization from the moment of her establishment and for this reason Jesus empowered and entrusted his Church to his disciples with the power of the keys, that is, a commission to decide disputes and to give rulings about the erring individuals (Mt. 16: 13-20). The Apostles and disciples were the witnesses to the Lord’s resurrection and the authoritative source of decision-making or pastoral jurisdiction in the early communities.

The conversion of Constantine (312 AD) and the subsequent Edict of Milan (313 AD) brought an end to the age of martyrs and persecution, and the Church of the Catacombs became the Church of the Empire, and an administrative system was established in the Church after the imperial model.¹⁶ Through his legislation, Constantine made Christianity not merely the most highly favored but the only recognized religion of the Empire, and paganism gradually began to be suppressed. Thus Christianity became officially acceptable both socially and politically. It was now possible to stabilize existing structures and complete the official organization of the Church.¹⁷

Constantine wanted to see the Roman Empire firmly based upon the one true faith and called the bishops of the West to Arles in 314 to standardize Church practices, and eleven years later held the first ecumenical Council at his summer palace in Nicaea in 325 AD presided over by himself.¹⁸ The canonical decisions of the Council were promulgated as imperial laws - an indication of the importance with which the Emperor regarded Christian matters.¹⁹

¹⁶ Cf. EUSEBIUS, *HE*, X, n. 5, in *PG*, vol. 20, p. 879. For English translation, see Henry WACE and Philip SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church*, vol. 1, *Eusebius*, New York, The Christian Literature Company, 1890, pp. 379-380. After the Edict of Milan the emperor Constantine issued a separate decree for the Catholic Church returning all confiscated property to the Church.

¹⁷ See EUSEBIUS, *HE*, II, n. 21, *De vita Constantini*, in *PG*, vol. 20, p. 999. For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 505.

¹⁸ See EUSEBIUS, *HE*, X, n. 5, in *PG*, vol. 20, p. 890. For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 382. Constantine convened a synod of bishops in Arles, a city in Southern France, for the purpose of removing all dissensions among the bishops.

¹⁹ See EUSEBIUS, *HE*, X, nn. 4,5,6. Eusebius lists several imperial decrees which were either canons or discussions of various councils of bishops; for instance, grant was made to the Catholic Church; money granted to the Churches; return of the confiscated property of the Churches; and exemption of clergy from political duties. The Council fulfilled a double task. First, they clarified and articulated the visible organization of the Church, and secondly the council defined once and for all the Church's teaching concerning the fundamental doctrines of the Christian faith, the Trinity, and the Incarnation.

1. 1. 3. The Beginning of Episcopacy

As a first step we recall here the development of ministry that took place during the New Testament period. The Gospels tell us that Jesus gathered disciples around himself and gave a structure to their community with Peter as their spokesman and leader. When the Apostles were sent with the mandate to teach they had to encounter several difficulties including the question of supervision of the communities they established. The apostles did not establish episcopacy in every center they evangelized nor they did not appoint a single bishop to lead each of the Churches they had founded.²⁰ Initially, they instituted various ministries with authority granted to exercise the service of almsgiving and caring for the poor, the widowed, and the less fortunate (Acts 11: 29-30).²¹ The increasing number of converts to Christianity, false teachings, and persecution demanded strong leadership.²²

By the end of the first century, Christians faced a desperate situation. Peter and Paul had died; Jerusalem was destroyed;²³ false teachings like Docetism, Judaism and other

²⁰ See EUSEBIUS, *HE*, III, n. 23; English translation in WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, p. 150: "After the death of the emperor, John the Apostle returned from the isle of Patmos to Ephesus, he went away upon their invitation to the neighbouring territories of the Gentiles, to appoint bishops in some places, to other places to set in order whole Churches, elsewhere to choose to the ministry someone of those that were pointed out by Spirit."

²¹ See EUSEBIUS, *HE*, II, nn., 3, 4. Eusebius describes here the first converts to Christianity and the establishment of Church's ministry.

²² See Alexander ROBERTS and James DONALDSON (eds.), *Ante-Nicene Fathers*, vol. 4, Buffalo, The Christian Literature Publishing Company, 1885, p. 126. As more and more people received the gospel, it became necessary to structure the community in such a way that the needs of the group could be satisfactorily met. It has been estimated that in the first century there existed almost half a million Christians. By the end of the second century, their number had risen to two million; at the close of the third century, their number had again more than doubled- to almost five million. By the beginning of the fourth century almost twenty percent of the Roman Empire became Christian, ten million out of fifty million people.

²³ See EUSEBIUS, *HE*, II, nn., 20, 25. Jerusalem was destroyed twice and Eusebius describes the first destruction of Jerusalem and the death of the Apostles Peter and Paul and the survival of the Church in Rome during the persecution of the Emperor Nero.

heresies emerged.²⁴ As the life of the Church became more and more complex, the Christians needed authorities to whom they could turn for direction and supervision. Though a new generation of leaders, like evangelists Mark and Luke, came to the fore, they could not courageously guide the Christian communities as the apostles did.

To ensure orthodoxy (traditional faith handed down from the Apostles) the Church had adopted an administrative system, a system of government, which had as its object preservation of uniformity in thought and practice in all parts of the Church. The writings of St. Clement of Rome as well as the *Didache* and the Acts of the Apostles refer to two hierarchical categories: the bishops and the deacons. Each community would appear to have been led by a group of bishops or presbyters (the two names seem to have been synonymous in this period). The newly instituted officials of various ranks replaced the wandering missionaries and teachers of the Pauline period, and each Church was headed by an overseer or bishop.²⁵

²⁴ See André HUMBERT, "Docetism," in *New Catholic Encyclopedia* (=NCE), vol. 4, New York, McGraw-Hill Book Co., 1967, p. 934: Docetism was an early Christian heresy which taught that Christ did not die on the cross, but only seemed to. It is the theological error of denying the material reality of the body of Christ. The Gnostic tendency of this view of the incarnation is derived from the understanding of Christ as wholly spiritual, not possessing a real physical body. The Greek - educated converts could not accept the teachings of Docetists since many people had seen Jesus. The Docetists explained his appearance by saying that Jesus just seemed to have a body. This view negated the very redemptive act of Jesus. Also see J. CASTELOTT, "Judaizers," in *NCE*, vol. 8, p. 13, where we read: "Judaizers were a class of people in the Apostolic Church, mainly Judeo-Christians, who wished to compel Gentiles converted to Christianity to observe the Mosaic Law, claiming that this was necessary for salvation. The problem stirred up by the Judaizers was not whether or not the Gentiles should be admitted to the Church, but whether they should be compelled to observe the Jewish customs based on the Old Testament legislation."

²⁵ See EUSEBIUS, *HE*, II, nn. 24,25. Eusebius gives here an account of the successors of the apostles and evangelists in various Churches like Alexandria, Rome, Corinth, and Ephesus who heroically suffered martyrdom and defended the Church from heresies. Also see CLEMENT OF ROME, First Letter to the Corinthians 44, in Oscar DE GEBHARDT, *Patrum apostolicorum opera*, Lipsiae, J. C. Hinrichs, 1876, pp. 71-73. For English translation, see James B. LIGHTFOOT, *The Apostolic Fathers*, London, Macmillan and Co., 1893, p. 76: This office of overseer or bishop was very important, for it required leadership and courage to carry the duties of the office in the face of the many problems confronting the Church. Throughout the first hundred

1. 1. 4. Episcopacy During Ignatius of Antioch

Ignatius wrote seven letters and five of them were addressed to the Churches located in the Roman province of Asia, whose capital city was Ephesus, one letter addressed to the Church of Rome and the final one addressed to an individual bishop. Many of the Churches he addressed in the province of Asia had presbyter leaders rather than bishops.²⁶ In the works of Ignatius we see a three fold hierarchical system. Under him a group of presbyters served as a sort of council of elders, and at the lower level a group of deacons.²⁷ The bishop was the chief teacher in the Church, guaranteeing the unity of faith and of the Church. The rise of false teachings and heresies pressured the Church to have a firm hierarchical structure so that a united Church could meet a common enemy.²⁸ By the end of the second century, the single-bishop form of government had triumphed in the major Churches of the Roman Empire.²⁹

Ignatius defined the Church in terms of the bishop, who represented the system. It seems that from the beginning of the second century, this system was accepted in the Asian Churches as a general rule.³⁰ The Church in Antioch during the second century became

years these institutions were to become increasingly defined and consolidated so that, from about the year 100 AD, their general features became fairly clear.

²⁶ Leaders of the Corinthian and Ephesian Churches were called “presbyters.”

²⁷ Ignatius’ letters presuppose the existence of the three-tier hierarchy in Ephesus, Magnesia, Tralles, Philadelphia and Smyrna. His exhortation to be submissive to the bishop seems to indicate that the role of the single-bishop is relatively new in these Churches.

²⁸ See BROWN and MEIER, *Antioch and Rome*, p. 75. Also see SULLIVAN, *From Apostles to Bishops*, p. 223, where we read: “In the course of the second century, in the Churches of Corinth, Philippi, and Rome, there was a transition from the leadership of a college of presbyters to the leadership of a single bishop.”

²⁹ See BROWN and MEIER, *Antioch and Rome*, p. 86.

³⁰ See IGNATIUS OF ANTIOCH, Letter to the Smyrneans VIII, in DE GEBHARDT, *Patrum apostolicorum opera*, p. 91: “Illa firma gratiarum action reputetur, quae sub episcopo est, vel quam utique ipse concesserit. Ubi utique apparet episcopus, illic multitudo sit, quemadmodum utique ubi est Christus Iesus, illic catholica

more hierarchically structured and headed by a bishop who enjoyed full authority. By the mid part of the second century the ecclesiastical organization was almost fixed and the main features that we know today already existed.³¹

1. 1. 5. Non-Episcopal Leaders of the First Century

Besides the three levels or grades in the hierarchy, there were also widows and deaconesses in the early Church.³² Apart from these official administrative grades, the

ecclesia. Non licitum est sine episcopo neque baptizare neque agapen facere, sed quod utique ille probaverit, hoc et Deo beneplacitum, ut stabile sit et firmum omne quod agitur.” For English translation, see LIGHTFOOT, *The Apostolic Fathers*, p. 158; also see DE GEBHARDT, p. 91, where we read: “Nullus sine episcopo aliquid operatur eorum quae convenient in ecclesiam.”

³¹ See EUSEBIUS, *HE*, VI, n. 43; English translation in WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, p. 288. By the time of Eusebius the principle that there should be one bishop in a city was the acceptable norm. “There should be one bishop in a Catholic Church. There were forty-six presbyters, seven deacons, seven sub-deacons, forty-two acolytes, fifty-two exorcists, readers and janitors and over fifteen hundred widows and persons in distress, all of whom the grace and kindness of the Master nourish.” In Books VII, n. 29; VIII, n. 30, Eusebius mentions that presbyters had been appointed to rural parishes and the system of bishop remained only in major cities and the bishop’s decisions, especially synodal decisions concerning heretics, were communicated to every other bishops and parishes. See also William MEISSNER, *The Cultic Origins of Christianity*, Minnesota, Liturgical Press, 2000, p. 119.

³² See SOZOMEN, *HE*, VIII, n. 23. Saint John Chrysostom constituted deaconesses in the Eastern Church. There were about forty deaconesses attached to the Church of Constantinople at his time. Also see THEODORET, *HE*, III, n. 19. In the Church of Antioch also there were deaconesses. Emperor Julian persecuted several deaconesses for not worshipping the idols of the heathen. Also see Adolf Von HARNACK, *Sources of Apostolic Canons*, London, Norgate Co., 1895, p. 20. Several councils regulated the life, constitution and ministry of deaconesses and widows. See Cecilia ROBINSON, *The Ministry of Deaconesses*, London, Methuen & Co, 1914, pp. 16-17. The New Testament recognizes the ministry of women parallel with the ministry of men in serving the Church. The First Council of Nicea (325 AD) defined the canonical status of deaconesses in canon 19. “They do not receive any imposition of hands, so they are in all respects to be numbered among the laity.” See Norman P. TANNER, *Decrees of the Ecumenical Councils*, vol. 1, London, Sheed & Ward; Washington DC, Georgetown University Press, 1990, p. 15.

In recent times there has been much controversy regarding the admission of women to Sacred Orders. The Pontifical Biblical Commission was asked to study the role of women in the Bible and they declared in their report: “The masculine character of the hierarchical order which has structured the Church since its beginning thus seems attested to by scripture in an undeniable way” (*Origins*, 6 [1976], p. 95). The Congregation for the Doctrine of Faith studied the question of the admission of women to the priestly ministry and stated that: “to ordain women for the priesthood and for the episcopate would be contrary to the Church’s Apostolic tradition.” See “Declaration Regarding the Admission of Women to the Ministerial Priesthood,” 15 October 1976, in *AAS*, 69 (1977), pp. 98-116. Pope John Paul II issued the Apostolic Letter *Ordinatio sacerdotalis*, on 22 May 1994, declaring that “the Church has no authority whatsoever to confer priestly ordination on women and that this judgment is to be definitively held by all the Church’s faithful.” See *AAS*, 86 (1994), pp. 545-548.

primitive Church has a number of elements of which we have scarcely any idea today. Four categories of spiritual persons whose saintly character is unquestionable were apostles, prophets, confessors, and doctors or teachers as described by Paul (1 Cor. 12: 28. Paul does not mention confessors in this section).³³ Their role appears to have been considerable during this period, but it was to grow progressively weaker as Christian society became more firmly established. The existence of these different types of men and women, all equally devoted, body and soul, to Christ, and consumed by their zeal for the faith, gives us an idea of the youthful vigor of the primitive Church.³⁴ Each of these categories of God's servants corresponded to a profound intention of Christianity; each brought an element of life itself to the common task.

1. 1. 6. Church Leadership in Subsequent Centuries

The second century had witnessed the leadership of individual bishops with specific duties. Their duties were almost fixed and they fell into four categories: liturgical celebrations, religious instruction, administration of the community's goods and properties and the moral and spiritual supervision of the community. Every believer had his/her modest place in the Church while each priest, deacon or deaconess had their own task within the hierarchical rank. The bishop, however, as the person responsible for all,

³³ See Lake KIRKSOPP, *The Apostolic Fathers*, Greek and English text, Cambridge, Massachusetts, Harvard University Press, 1945, p. 33. Also see *The Holy Qurbano*, The Divine Liturgy of the Syro-Malankara Catholic Church, Trivandrum, Saint Mary's Press, 1985, pp. 3-7. This is the ancient known form of the Divine Liturgy attributed to Saint James, the brother of our Lord and the first bishop of Jerusalem, currently used in the Syro-Malankara Catholic and Orthodox Churches. According to this liturgy apostles, prophets, confessors and martyrs are remembered whenever a sacrifice is being offered. See EUSEBIUS, *HE*, VII, nn. 11, 24. Here Eusebius is describing the state of the imprisoned confessors.

³⁴ See EUSEBIUS, *HE*, III, n. 37, in *PG*, vol. 20, pp. 291-294. For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 169.

incorporated all of these functions into his own office.³⁵ He attended to the community's discipline and morals; he ensured that accord existed among his flock. Should one of them waver or behave badly, or apostatize, the bishop would feel such acts as wounds inflicted upon the mystical Body.³⁶

Wherever the communion was threatened, the bishops came to the rescue of the Church in danger. Thus, Iranaeus intervened in the Montanist controversy;³⁷ Faustinus, bishop of Lyons, asked Cyprian of Carthage to intervene in the case of Marcion, bishop of Arles.³⁸ Many of the letters of Ignatius of Antioch and Clement of Rome were concerned with correcting abuses and offering advice in promoting the faith. The episcopal system was one of the fundamental elements of Christianity during that decisive period when it spread to different parts of the world.

By introducing episcopacy as the principle of authority, the Church succeeded in establishing unity within its ranks, and most harmful elements that tended to creep into the Church were kept out. The early bishops provided an awareness of the necessity of maintaining the original strength and purity of Christian faith. They were the guardians of the faith, the keepers of the sacred trust and the agents of the sacraments.

³⁵ IGNATIUS OF ANTIOCH, Letter to the Philadelphians IV, in DE GEBHARDT, *Patrum apostolicorum opera*, p.73: "Unum altare ut unus episcopus cum presbyterio et diaconis, conservis meis; ut quod facitis secundum deum faciatis." For English translation, see Lake KIRKSOPP, *The Apostolic Fathers*, London, W. Hineman, 1912-1913, p. 243.

³⁶ IGNATIUS OF ANTIOCH, Letter to the Philadelphians VII, in William A. JURGENS, *The Faith of the Early Fathers*, vol. 1, Collegeville, Liturgical Press, 1979, p. 23.

³⁷ Cf. EUSEBIUS, *HE*, IV, n. 21; V, n. 26.

³⁸ Cf. EUSEBIUS, *HE*, IV, n. 26: Besides Cyprian, Philip, bishop of the parish of Gortyna, also wrote an elaborate work against the teaching of Marcion.

1. 2. HISTORICAL ANTECEDENTS OF THE LOCAL CHURCHES

Apostolic tradition and Apostolic succession were the two important norms for the Church to follow during the process of expansion and organization of the hierarchy in the Apostolic and post-Apostolic times.³⁹ Each Church in every city was established with its own head (the bishop), members, economic organization, social works and even, to a large extent, its own custom and liturgy.⁴⁰ Christians of the local community were conscious of unity among themselves and with their bishop; bishops expressed their sense of unity with other bishops by constant written communication and meetings.⁴¹

1. 2. 1. The Origin and Power of Metropolitans and Primates

The administrative system of the Church and its leadership in the second century was transformed, from the relatively loose structure of teachers, evangelists, prophets, and confessors of the first century, into a Church with a more structured and articulated hierarchy, headed by a bishop who enjoyed full authority. By the end of second century, the single-bishop form of government with jurisdiction had triumphed in almost every Christian community.⁴²

³⁹ EUSEBIUS, *HE*, V, n. 6 in *PG*, vol. 20, p. 446: “Hac serie et successione, tum traditio apostolorum in Ecclesia, tum veritatis praedicatio ad nos usque pervenit.” For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 224.

⁴⁰ See EUSEBIUS, *HE*, V, n. 24. The bishops of Asia, led by Polycrates, held a synod and decided to follow the ancient custom handed on to them by the fathers especially regarding the day of Easter and the manner of fast. The bishops were not permitting any foreign custom creep into their Church.

⁴¹ See EUSEBIUS, *HE*, V, n. 25. We can see the proof of this in written correspondence to all the Churches, including the bishop of Rome, concerning the decisions made over the Passover dispute. “Endeavor to send copies of our letter to every Church, that we may not furnish occasion to those who easily deceive their souls. We show you indeed that also in Alexandria they kept it on the same day that we do. For letters are carried from us to them and from them to us, so that in the same manner and at the same time we keep the sacred day.”

⁴² See BROWN and MEIER, *Antioch and Rome*, p. 86. Every Church in different cities had its own tradition, administration, custom, and ways and means to defend doctrine, and faith. Among the several

Antioch is the first Church known to have articulated a rationale for an authoritative Church structure centered on a single bishop surrounded by a group of presbyters and deacons.⁴³ In Rome and Alexandria the situation was slightly different with the emergence of “house Churches” and a “presbyter/bishop” in functional succession to the Apostolic See. It became his task to observe the Church of a given area (1 Tim. 5:17).⁴⁴ However, by the end of the second century, Rome followed the episcopacy as promoted by Ignatius of Antioch whereby bishops were the leaders of almost all known Christian Churches both within and outside the Roman Empire. This then became the theological foundation for the unity of the universal Church.⁴⁵

Jurisdiction was not arbitrary but rather in accordance with whatever matter was discussed or powers regulated by a council of bishops representing neighboring Churches.⁴⁶ These bishops possessed certain rights and authority which the other administrators like presbyters and evangelists of the Church did not have. Whenever a problem arose which an individual bishop could not resolve, but which called for a unified response binding a whole

Churches, there was no attempt to coordinate either ministerial or administrative functions under any single head or to transplant such functions from one Church to another.

⁴³ See *ibid.*, p. 13. The authors say that, “Ignatius of Antioch, the bishop of the city, developed a theological synthesis, holding to the unity of the divine and human in Christ and holding to the unity of the local Church and of the Church Catholic. Peter, Matthew, and Ignatius all had to undertake a deliberate balancing act between left and right as they struggled for a middle position in what was to become this universal Church” (p. 85).

⁴⁴ See EUSEBIUS, *HE*, II, n. 17; V, nn. 24, 14.

⁴⁵ Cf. EUSEBIUS, *HE*, IV, nn. 1, 4, 5, 10, 13, 19, 20, 21, 22, 23, 24, 25, 27, and 30. Here Eusebius gives us an account of the bishops of the Churches in Alexandria, Rome, Antioch, Ephesus, Corinth, Smyrna, Asia, Jerusalem, Hierapolis, Crete (III, n. 4), Gortyna, Sardis, Caesaria in Palestine, Tyre, the Church of Ptolemias and Syria.

⁴⁶ See EUSEBIUS, *HE* VI, n. 43. By the end of the third century having a single bishop for every city became the common practice. EUSEBIUS, *HE* VII, n. 29, by the year 270 - 275 AD, presbyters had been appointed to parishes; the episcopal system operated only in major cities.

region in order to avoid confusing the faithful, the bishops recognized the need to convoke synods on a regional level under the leadership of the bishop of the provincial capital or local major city, which eventually came to be known as “metropolitan.”⁴⁷

Several councils and synods dealt with the question of common regional leadership and defined the special honor, power and jurisdiction of the bishop who would minister within the region as the senior or metropolitan bishop as well as the bishop of a particular diocese.

1. 2. 2. Synods prior to the Ecumenical Councils

The Council of Jerusalem was an exceptional gathering of the leaders of the entire Church, for which there is no parallel until the Council of Nicaea in 325. But by Cyprian’s time it had already become customary to hold local councils, attended by all the bishops in a particular civil province of the Roman Empire. A local council of this type normally met in the provincial capital under the presidency of the metropolitan.⁴⁸

⁴⁷ See EUSEBIUS, *HE*, V, n. 24; VI, n. 43, 44; VII, nn. 21, 29; VIII, n. 30, in *PG*, vol. 20, p. 707, where we read: “Hujus temporibus postrema synodus innumerabilium fere episcoporum congregata est, in qua auctor ille nefariae apud Antiochiam haereseos Paulus, convictus et ab omnibus manifestissime deprehensus falsi dogmatis reus, ab universa quae sub caelo est Ecclesia catholica eliminatus est.” For English translation, see WACE and SCHAFFE (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, p. 313. Even though the early synods were local, they communicated the decisions to all parts of the Church and thus fostered its visible unity and exercised authority to resolve disputes and even to impose a just penalty (excommunication) on people who propagated false doctrines and heresies. EUSEBIUS, *HE* VIII, n. 30 says that the synodal decisions were communicated to all the provinces and it addresses to all the fellow ministers throughout the world.” Also see TANNER, *Decrees of the Ecumenical Councils*, vol. 1, p. 93. The Church followed the civil provincial system to establish a metropolitan see. Canon 12 of the Council of Chalcedon (451) notes: “It has come to our notice that, contrary to the ecclesiastical regulations, some have made approaches to the civil authorities and have divided one province into two by official mandate, with the result that there are two metropolitans in the same province. The sacred synod therefore decrees that in future no bishop should dare do such a thing, since he who attempts it stands to lose his proper station. Such places as have already been honoured by imperial writ with the title of metropolis to be treated as honorary, and that goes also for the bishop who is in-charge of the Church there, without prejudice of course to the proper rights of the real metropolis.” Also see William DE VRIES, “The Origin of Eastern Patriarchates and their Relationship to the Power of the Pope,” in *One in Christ*, 2 (1966), p. 51.

⁴⁸ See Timothy WARE, *The Orthodox Church*, New York, Penguin Books, 1997, p. 16.

As the third century proceeded, councils widened in scope and began to include bishops from several civil provinces.⁴⁹ These larger gatherings tended to assemble in the chief cities of the Empire, such as Alexandria, Antioch, and Rome.⁵⁰ Thus it came about that the bishops of certain major cities began to acquire an importance above the provincial metropolitans and exercised certain jurisdiction over the other bishops of the region formerly given to local bishops alone. But for the time being nothing was decided or decreed about the precise status of these great sees.

1. 2. 2. 1. Canons of the Holy Apostles

The Canons of the Holy Apostles are called Apostolic, not in the sense of having been composed by the Apostles, but simply insofar as they represent the pre-Nicene traditions and accurately reflect the customary law of the Church, and thus constitute the early canon law of the Christian Church. A clear three-tier hierarchical order, viz., bishop, presbyter, and deacon, with presbyter and deacon being carefully screened before their

⁴⁹ See EUSEBIUS, *HE*, X, n. 5. For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, pp. 494-495. Eusebius describes how Constantine participated in the synods of bishops from various provinces with a spirit of harmony, calm, and conciliatory temper and had delighted in the general harmony of sentiment among the bishops.

⁵⁰ Eusebius gives testimony to several gatherings of bishops in Alexandria, Antioch and Rome on various occasions to deal with heresies and other common enemies of the Church. See Joannes Dominicus MANSI, (ed.), *Sacrorum conciliorum nova et amplissima collectio*, editio novissima, (=MANSI), Florentiae, Venetiis, Parisiis, 1757-1927, vols. 1& 2 lists more than twenty-four councils and synods in the third and fourth century alone before the ecumenical council of Nicaea: Synod of Pope Cornelius in 252 AD, Council of Africa I & II in 255 AD, Synod of Rome in 255 AD, Council of Rome in 263 AD, Synod of Alexandria in 263 AD, Council of Antioch in 264 AD, Council of Antioch in 269 AD, Synod of Mesopotamia in 275 AD, Council of Numidia in 296 AD, Council of Liberitanum in 305 AD, Council of Alexandria in 306 AD, Council of Carthage in 306 AD, Council of Carthage in 308 AD, Council of Rome in 313 AD, Council of Seleucia in 314 AD, Council of Arles in 314 AD, Council of Ancrya in 314 AD, Council of Neocaesarea in 314 AD, Council of Rome in 315 AD, Synod of Alexandria in 321 AD, Council of Palastine in 322 AD, Council of Laodicea in 320 AD, Council of Rome in 324 AD.

appointment by bishops, all very evident in the Apostolic canons.⁵¹ At the head of the congregation there stood everywhere one bishop, also called pastor, who was the director of worship, cared for all the needs of the congregation and represented the congregation to the outer world. The duty and the territory were also clearly articulated.⁵² As senior bishop, the metropolitan had to be recognized as the head of the provincial Church and was to be consulted in respect to his exercise of any jurisdiction not explicitly his own.

Canon 34 of the apostolic canons may represent the earliest provision pertaining to the concept and duties of the presiding bishop (metropolitan).⁵³ For every important matter which in one way or another had an effect outside the diocese the decision had to be collegial, so that the bishop did not act without the agreement of the head among them, and reciprocally he did not act without them. There was a well-organized bishops' council mandated to meet at least twice a year to authorize any changes and even to impose penalties on members.⁵⁴

⁵¹ MANSI, vol. 1, p. 30. cc. 1&2: "Episcopus a duobus vel tribus episcopis ordinetur. Presbyter ab uno Episcopo ordinetur et diaconus, et reliqui clerici." For English translation, see Denver CUMMINGS, *The Rudder*, Chicago, The Orthodox Christian Educational Society, 1957, pp. 1-4, cc. 1-2.

⁵² MANSI, vol. 1. p. 32 c. 14: "Si quis presbyter, vel diaconus, vel omnis ex clericorum catalogo, relicta sua parochia, in aliam abscesserit et cum penitus transierit, praeter sui episcopi sententiam in alia parochia maneat, eum non amplius celebrare jubemus, maxime si eum adhortante episcopo ut rediret, non paruerit, in contumacia et insolentia perseverans: is tamen ut laicus communicet." C. 32. p. 35: "Nullus externorum episcoporum, vel presbyterorum, vel diaconorum sine commendatitiis recipiatur: iisque asserentibus examinentur. Sin minus, iis quae sunt necessaria, aliis exhibitis, ad communionem ne admittantur, multa enimper surreptionem fiunt."

⁵³ MANSI, vol.1. p. 35, c. 34: "Episcopos unuscujusque gentis nosse oportet eum qui in eis est primus, et existimare ut caput: nihil facere, quod fit arduum aut magni momenti, praeter illius sententiam: illa autem facere unumquemque, quae ad suam parochiam pertinent, et pagos qui ei subsunt. Sed nec ille absque omnium sententia aliquid agat. Sic enim erit Concordia, et glorificabitur Deus per Dominum Jesum Christum." For English translation, see CUMMINGS, *The Rudder*, p. 50, c. 34. Later on the Council of Nicaea repeated the same decree in its canon 5. Also see Francis J. MARINI, *The Power of the Patriarch*, p. 29.

⁵⁴ MANSI, vol. 1. pp. 35-37, c. 34: "Bis in anno fiat episcoporum synodus, et inter se examinent decreta religionis et incidentes ecclesiasticas controversias componant: semel quidem Quarta hebdomada pentecostes, iterum autem Hyperberetaeci duodecimo." p. 43, 37: "Episcopum a viris fide dignis ob aliquid

1. 2. 2. 2. The Ecumenical Council of Nicaea (325 AD)

The Council of Nicaea dealt with the visible organization of the Church. It singled out three great centers of Christianity: Rome, Alexandria, and Antioch and the *sui iuris* nature of the Churches of those centers.⁵⁵ It also laid down that the see of Jerusalem, while remaining subject to the metropolitan of Caesarea, should be given the next place of honor after these three sees.⁵⁶ Constantinople (Byzantium) naturally was not mentioned, since it was not officially inaugurated as the new capital until five years later; it continued to be subject, as before, to the metropolitan of Heraclea.⁵⁷

It also imposed stability on priests and deacons. There are two principles expressed in canon 6 of Nicaea: first, the *sui iuris* nature of the Churches of Rome, Alexandria, and Antioch; and second, the requirement of the consent or confirmation of the metropolitan to the election of a bishop.⁵⁸

accusatum, ipsum ab episcopis vocari necesse est: et si se quidem fuerit, et confessus vel convictus sit, statuatur poena. Si autem vocatus non paruerit, secundo etiam vocetur, missis ad ipsum episcopis duobus. Si etiam sic non obedierit, vocetur et tertio, duobus ad eum rursus missis episcopis. Si autem vel sic aspernans et contumax se non stiterit, synodus ea quae videntur, adversus eum pronunciet, ne lucrifacere videatur, dum iudicium subtersugit.” For English translation, see CUMMINGS, *The Rudder*, pp. 55 & 131.

⁵⁵ MANSI, vol. 2, pp. 679-680, c. 6: “Antiqua consuetudo servetur per Aegyptum, Lybyam, et Pentapolin, ita ut Alexandrinus episcopus horum omnium habeat potestatem; quia et urbis Romae episcopo parilis mos est. Similiter autem et apud Antiochiam, caeterasque provincias, suis privilegia servantur ecclesiis. Illud autem generaliter clarum est, quod si quis praeter sententiam metropolitani fuerit factus episcopus, hunc magna synodus definivit episcopum esse non oportere. Sin autem communi cunctorum decreto rationabili et secundum ecclesiasticam regulam comprobato, duo aut tres propter contentione proprias contradicant, obtineat sententia plurimorum.” For English translation, see TANNER, *Decrees of the Ecumenical Councils*, vol. 1, pp. 8-9. The canon does not use the term *sui iuris*. However, the autonomous nature of the Churches of Alexandria, Rome and Antioch are protected through the canon.

⁵⁶ See MANSI, vol. 2, p. 680, c. 7: “Quia consuetudo obtinuit, et antiqua traditio, ut Aeliae episcopus honoretur habeat honoris consequentiam, favla metropolis propria dignitate.” For English translation, see TANNER, *Decrees of the Ecumenical Councils*, vol. 1, pp. 9.

⁵⁷ See WARE, *The Orthodox Church*, p. 22. Also see TANNER, *Decrees of the Ecumenical Councils*, vol. 1, p. 7, c. 4.

⁵⁸ See MARINI, *The Power of the Patriarch*, p. 27. The Council did not call the bishops of Rome, of Alexandria, and of Antioch as ‘patriarchs’ because the term ‘patriarch’ had not yet been used in the

1. 2. 2. 3. Local Synod of Antioch (341 AD)

In comparison to other synods, a highly disciplined Church around the metropolitan and a clear juridical structure was evident in the synod of Antioch.⁵⁹ This synod reiterated the canons of the Holy Apostles and the Council of Nicaea and further emphasized two important points; first, the metropolitan has a responsibility for the entire province, and second, the metropolitan has precedence over the bishop of the provincial capital. The system of government turned into a new hierarchical relationship: the provincial bishop, metropolitan bishops and the suffragan bishops.

Only the metropolitan had the authority to represent the Church before civil authorities and permission was needed for any suffragan bishops to meet the Emperor.⁶⁰ Beside its consideration of the power of the metropolitan, the synod of Antioch dealt with the Church government, and various degrees of synods: local, provincial, inter-provincial, or national and ecumenical. A synod would be incomplete without the presence of the

terminology of the Apostolic Christian Church. But there was reference to a certain office, a certain position in the hierarchy and the bishops who held such a position in the hierarchy became known in later ages by the title of patriarch. The Council of Nicaea did not institute the patriarchal rank. It found the rank already existing as an ancient institution, recognized it as such, and commanded that there be no change.

⁵⁹ MANSI, vol. 2. p. 1331, c. 9: "Per singulas provincias episcopos constitutos scire oportet, episcopum metropolitanum, qui prae est, curam et sollicitudinem totius provinciae suscepisse. Propter quod ad metropolitanam civitatem ab his qui causas habent sine dubio concurratur. Quapropter placuit eum et honore praecire, et nihil ultra sine ipso reliquos episcopos agere secundum antiquum patrum nostrorum qui obtinuit canonem, nisi haec tantum quae uniuscujusque ecclesiae per suam diocesim competunt. Unumquemque enim episcopum oportet habere suae dioceseo potestatem, ad hanc gubernandam secundum competentem sibi reverentiam, ad providendum omni regioni, quae sub ipsius est civitate, ita ut etiam ordinare ei presbyteros et diaconos probabili iudicio liceat, et de singulis illius regionis causis cum moderatione et pondere disceptare. Ultra autem nihil agere permittitur citra metropolitani episcopi conscientiam, nec metropolitanus sine ceterorum aliquid gerat confilio sacerdotum." For English translation, see CUMMINGS, *The Rudder*, p. 539, c. 9.

⁶⁰ *Ibid.*, vol. 2. p. 1332, c. 11. For English translation, see CUMMINGS, *The Rudder*, p. 540, c. 11.

metropolitan in the sense that it would not then represent the whole province; however, synodal decisions would still be valid for members present.⁶¹

1. 2. 2. 4. The Council of Laodicea (364 AD)

Further development in the Church government was made more explicit in the Council of Laodicea. It acknowledged that the metropolitan had power to appoint bishops as well as to call them, confirm them, and ordain them. Numerous fathers assembled from various provinces of Asia and decreed that suffragan bishops should be appointed with the judgment of the metropolitans.⁶²

1. 2. 2. 5. Council of Carthage (418 AD)

Regardless of the number of bishop-candidates for episcopal ordination, only those were to be ordained who were actually approved by the metropolitan. The bishops' council was able to erect a primatial see with a primatial bishop, a provincial episcopal head and an individual diocesan bishop.⁶³

1. 2. 3. Origin of Patriarchates

Patriarchates are neither of divine institution nor of Apostolic origin but of divine providence. Their formation indicates centralization on a regional level necessitated for better government of the Church as a whole.⁶⁴ Major cities and the provincial capitals of the

⁶¹ See *ibid.*, vol. 2, p. 1333, c.16: “ Si quis episcopus vacans in ecclesiam vacantem supervenerit, et hanc obreperit, praeter plenariam synodum, diripiendam esse crediderit, hunc abjici oportet, tametsi eum plebs quam diripuerit, velit sibi episcopum retinere. Illa autem dicitur synodus plenaria, in qua etiam episcopus metropolitanus adfuerit.” For English translation, see CUMMINGS, *The Rudder*, p. 543, c. 16.

⁶² See *ibid.*, vol. 2, p. 1334, c. 12: “ Ut episcopi metropolitanorum et eorum, qui sunt circumcirca, episcoporum iudicio, in ecclesiastico magistratu constituentur, diu examinati, et in ratione fidei, et in rectae rationis dispensatione.” For English translation, see CUMMINGS, *The Rudder*, p. 556, c. 12.

⁶³ See CUMMINGS, *The Rudder*, p. 612, c. 13 and c. 23.

⁶⁴ See EUSEBIUS, *HE*, V, n. 9, in *PG*, vol. 20, p. 454. Eusebius described that the first century Church had one bishop for every individual Church; in fact he uses the term “bishop” of the parish of Alexandria,

Roman Empire were the centers of life because of their size and large population and naturally they became important centers of Christianity as well. It was obvious that the Church tried to spread the Gospel from these centers that had the best means of communication and audience. Gradually the civil provinces became ecclesiastical units and eventually the elevation of the political rank of a city had as its logical consequence the elevation of the ecclesiastical rank of its bishops.⁶⁵

Whenever bishops of a particular region wanted to resolve certain major theological and social issues they convened local and regional synods under the guidance of super-episcopal (metropolitan) or super-metropolitan (patriarch) bishops. Such synods, convoked sporadically and without any system, could not suffice to give the Church of a region the aid it needed, especially in the fight against heresies. In order to give the Church such assistance a close relationship or unification under one principal bishop became necessary. The existence of heretical sects forced the Church into a certain concentration and unification of several Churches under the authority of one bishop. In the majority of cases, it would be the

bishop of the parish of Jerusalem, bishop of the parish of Ephesus, bishop of the parish of Corinth and so on. But towards the end of the second century he speaks specifically of one bishop for several Churches of a region. These bishops dealt with both local and widespread problems and initiated missionary activity. For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 224.

⁶⁵ The first ecumenical council, Nicaea in 325 A. D., through its canon 4 officially recognized this political principle, where we see certain rights given to the bishops of the capitals of the provinces regarding the confirmation of bishops in their provinces. The accommodation of the ecclesiastical organization to the civil regime was an accomplished fact before the Council of Nicaea. This principle was confirmed by the Council of Chalcedon, Council of Trullo and several other provincial synods. The coordination of the missionary activity eventually became the function of bishops, especially the bishops of certain major cities who exercised leadership and control of that region. They were concerned for the welfare and unity of the Church even beyond their local communities, and intervened both individually and collectively for the cause. For example, Polycrates, the bishop of Asia, decided to continue to follow the tradition of the Church, which is handed on to them by the Apostles Philip and John, and Polycarp of Smyrna, regarding the day of the observance of the Passover and the manner of the fast. He convened a meeting of bishops and communicated this message to all the Churches including the bishop of Rome. See EUSEBIUS, *HE*, V, nn. 24, 8.

bishops of major cities initiating leadership; and while at first such bishops were called 'metropolitans', they eventually became known as 'patriarchs' and the area of their influence 'patriarchates'.⁶⁶ Hence, this hierarchical system furthered the change from 'primates' to patriarchs, all of which served to contain the original freedoms in local Churches that had been exercised by individual bishops.

Bishops of the major cities outside the Roman Empire were called *Katholikos*.⁶⁷ The patriarchates and *Katholikates* of the East both inside and outside the Roman Empire evolved from below rather than from above, as for example from an ecumenical council or from a pope. In the ancient Church, there were four patriarchates: Rome, Alexandria, Antioch, Jerusalem; a fifth - Constantinople - was added to the list only after Emperor Constantine the Great elevated the city as the second capital of the Roman Empire.

⁶⁶ See MANSI, vol. 6, p. 70. The term 'patriarch', a Christian title of honor, appears first as applied to Pope Leo I in a letter of Theodosius II (408-450): "Ex litteris tuae mansuetudinis nostra cognovit aeternitas, quid reverendissimus patriarcha Leo a tua aeternitate poposcerit." The Nicean Fathers did not use the term 'patriarch' but they referred to a certain office, a certain position in the hierarchy, and the bishop who held such a position became known in the later ages by the title of patriarch.

Also see DE VRIES, "The Origin of Eastern Patriarchates and Their Relationship to the Power of the Pope," p. 53; CUMMINGS, *The Rudder*, p. 294. The Council of Trullo in 691 AD called the archbishop of Alexandria 'patriarch' in its canon 2.

⁶⁷ See Krikor MAKSOUDIAN, "Katholikos," in *Dictionary of the Middle Ages*, New York, Charles Scribner's Sons, 1982, vol. 7, p. 226. *Katholikos* is a Greek word which means general or universal and it was originally applied to the secular superintendent of finance in each diocese at the time of Constantine the Great. The use of this word as a title of a metropolitan bishop started in Syrian and Armenian Churches about the same time as the Greek Church used the term patriarch for their metropolitan bishop. The patriarchates originated inside the Roman Empire. Outside of the Roman Empire there were *Katholikates* of Persia and Armenia. Here the title patriarch and *katholikos* are synonymous. See John MCLINTOCK and James STRONG, *Encyclopaedia of Biblical, Theological, and Ecclesiastical Literature*, vol. 5, New York, Harper and Brothers Publishers, 1873, p. 729. In the Syrian Church, Maphrian is the highest episcopal dignitary after the patriarch of Antioch. The jurisdiction of the maphrians extends over Chaldea, Assyria, Mesopotamia and other territories outside the Roman Empire. A Maphrian acted as a chief delegate of the patriarch and was the source of all episcopal ordinations of the territory. One time maphrians had supra-metropolitan jurisdiction over the territories outside the Roman Empire but today maphrians are only nominally distinguished from the other metropolitans.

1. 2. 4. Territorial Jurisdiction of the early Patriarchal Churches

The oldest patriarchates of the East are those of Alexandria, Antioch and Rome, whose unique place was sanctioned as early as the Council of Nicaea in 325 AD. The Council referred to the bishops of Rome, Alexandria, and Antioch as the true patriarchs.⁶⁸ These three bishops were, therefore, the highest-ranking ecclesiastics within the limits of their patriarchates. Further, the provisions of canon 6 of the First Council of Nicaea confirmed an already existing ecclesiastical tendency to form local Churches into actual ecclesiastical provinces corresponding to the civil territories of the Empire.⁶⁹

1. 2. 4. 1. Patriarchal territory of Alexandria

The Council of Nicaea did not speak of a patriarchate although Alexandria already had the rights of a true patriarchate similar to that of the bishop of Rome. Canon 6 of the Council of Nicaea acknowledged the territory of the bishop of Alexandria, which includes Egypt, Libya, and Pentapolis. By the third century the bishop of Alexandria was already consecrating all bishops in Egypt and had the right to depose them. He convened and directed synods in Alexandria and Pentapolis and intervened in disciplinary matters whenever he wished.⁷⁰ In referring to Egypt, the Council included also upper Egypt, which was made up of the four civil provinces of Egypt, Libya, Pentapolis and of Thebias.⁷¹

⁶⁸ See TANNER, *The Decrees of the Ecumenical Councils*, vol. 1, pp. 8-9, c. 6. Also see MARINI, *The Power of the Patriarch*, p. 27.

⁶⁹ See Dimitris SALACHAS, *Istituzioni di diritto canonico delle Chiese cattoliche orientali: strutture ecclesiali nel CCEO*, Roma e Bologna, Edizioni Dehoniane, 1993, pp. 130-131.

⁷⁰ Cf. Francis DVORNIK, *The Idea of Apostolicity in Byzantium and the Legend of the Apostle Andrew*, Cambridge, Massachusetts, Cambridge University Press, 1958, p. 34.

⁷¹ See HEFELE-LECLERCQ, *Histoire des Conciles*, Paris, Letouzey et Ané, 1938, p. 560.

1. 2. 4. 2. Patriarchal territory of Antioch

There was no uncertainty at the First Council of Nicaea (325) about the supremacy of the bishop of Antioch, extending over several provinces, each one provided with a metropolitan. The Council of Constantinople (381) confirmed the territorial jurisdiction of the bishop of Antioch over the civil diocese of the East, which in turn was divided into several provinces with metropolitans in each province.⁷²

1. 2. 4. 3. Patriarchal territory of Jerusalem

The First Council of Nicaea affirmed the custom and ancient tradition whereby the bishop of Jerusalem was held in honor. The Council also ordered that he be given a pre-eminence of honor over the bishops of his province and was under the jurisdiction of the Church of Antioch. The Council of Chalcedon (451) placed the provinces of Palestine under the bishop of Jerusalem and abolished its previous dependence on Antioch.⁷³ Thus the patriarchate of Jerusalem came into existence with its proper territorial jurisdiction in the province of Palestine.

1. 2. 4. 4. Patriarchal territory of Constantinople

From its very beginning the see of Constantinople was the suffragan see of the metropolitan of Heraclea. In the year 324 the capital of the Empire was moved from Rome

⁷² See *ibid.*, p. 559. The privileges of the bishop of Antioch were not clearly defined at the First Council of Nicaea. Although Antioch developed the jurisdiction of a real patriarchate only in the course of the fourth and fifth century, the Council of Nicaea approved a supra-metropolitan position of the Church of Antioch. Later Pope Innocent I (401-417) stated explicitly that the Council of Nicaea recognized the superior position of the Church of Antioch. Canon 6 of Nicaea was the juridical foundation for this later development. See MANSI, vol. 3, p. 1055.

⁷³ See MANSI, vol. 7, p. 179.

to Constantinople, the *New Rome*.⁷⁴ As a result of this change the city and the Church of Constantinople acquired a position of greater importance and honor.⁷⁵ Canon 17 of the council of Chalcedon (451 AD) provided the option to approach the bishop of Constantinople, if anyone was injured by his own metropolitan. The injured party could bring the case either before the exarch of the diocese or before the bishop of Constantinople.⁷⁶

At the Council of Chalcedon, the bishop of Constantinople had acknowledged the right to ordain the metropolitans for the dioceses of Pontus, Thrace, and Asia as well as bishops for those parts of the dioceses occupied by the barbarians.⁷⁷ From 379 onward the

⁷⁴ SOCRATES, *HE*, I, n. 16; English translation in WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 2, *Socrates, Sozomenus*, p. 20: "The Emperor Constantine carried out the reparation of Churches in every city as well as in the city named after him, which being previously called Byzantium, he enlarged, surrounded with massive walls, and adorned with various edifices; and having rendered it equal to imperial Rome, he named it *Constantinople*, establishing by law that it should be designated *New Rome*. This law was engraven on a pillar of stone erected in public view in the Strategium, near the Emperor's equestrian statue."

⁷⁵ TANNER, *The Decrees of the Ecumenical Councils*, vol. 1, pp. 8-9, c. 3.

⁷⁶ MANSI, vol. 7, p. 366, c. 17: "Quae sunt in unaquaque provincia, rurales vicinasque parochias, firmas et inconcussas manere apud eos qui illas tenent episcopos: Et maxime si XXX annorum tempore eas sine vi detinentes administraverint. Si autem intra XXX annos fuit aliqua vel fuerit de iis controversia, licere iis qui injuriam sibi fieri dicunt, de iis litem movere apud synodum provinciae. Si quis autem injuria afficiatur a proprio metropolitano, apud exarchum dioceses, vel Constantinopolitanam sedem litiget, sicut prius dictum est. Sin autem etiam civitas aliqua ab imperatoria auctoritate innovata est, vel deinceps innovata fuerit, civiles et publicas formas ecclesiasticarum quoque parochiarum ordo consequatur."

⁷⁷ See *ibid.*, vol. 7, p. 370, c. 28: "Sanctorum partum decreta ubique sequentes, et canonem qui nuper lectus est, centum et quinquaginta Dei amantissimorum episcoporum agnoscentes, eadem quoque et nos decernimus ac statuimus de privilegiis sanctissimae ecclesiae Constantinopolis nova Romae. Etenim antiquae Romae Throno quod urbs illa imperaret, jure patres privilegia tribuerunt. Et eadem consideratione moti centum quinquaginta Dei amantissimi episcopi, sanctissimo novae Romae throno aequalia privilegia tribuerunt, recte judicantes, urbem quae et imperio et senatu honorata sit, et aequalibus cum antiquissima regina Roma privilegiis fruatur, etiam in rebus ecclesiasticis, non secus ac illam, extolli ac magnifieri, secundam post illam existentem: ut et Pontice et Asiaticae et Thraciae dioceses metropolitanis soli, praeterea episcopi praedicatorum diocesum quae sunt inter barbaros, a praedicto throno sanctissimae Constantinopolitanae ecclesiae ordinentur: unoquoque scilicet praedictarum diocesum metropolitano cum provinciae episcopis, provinciae episcopos ordinante, quemadmodum divinis canonibus est traditum. Ordinarii autem, sicut dictum est, praedictarum diocesum metropolitanos a Constantinopolitano archiepiscopo, convenientibus de more factis electionibus, et ad ipsum relatis."

bishop of Constantinople tried to extend his jurisdiction to Eastern Illyricum, which was part of the Western patriarchate.⁷⁸

1. 2. 5. Patriarchates and the other Local Churches

The origin and development of patriarchates did not imply the abolition of the freedom or the jurisdiction of the particular *sui iuris* Churches. The forms of worship and offering of the Holy Sacrifice differed from Church to Church, and the vernacular was retained by the local faithful with, for example, Aramaic used in Jerusalem, with Greek in both Antioch and Rome. All of this was accepted without any interruption, and such forms of liturgy gradually solidified into 'liturgical families' in the more important Churches of the capital cities; they actually became normative for lesser ones associated with them or dependent upon them.⁷⁹ The liturgical rite has essentially nothing to do with the patriarchal Church. Formerly, subjects from several liturgical traditions could be under a single patriarch.⁸⁰

⁷⁸ See Thomas KANE, *The Jurisdiction of the Patriarchs of the Major Sees in Antiquity and in the Middle Ages*, Canon Law Studies No. 276, Washington DC, Catholic University of America Press, 1949, p. 33.

⁷⁹ See EUSEBIUS, *HE*, IV, n., 6, *De vita Constantini*, in *PG*, vol. 20, p. 4059. Eusebius beautifully described the differences in the early Church when he mentioned the Council of Nicaea: "Posteaquam in unum convenere, Dei opus esse id quod gerebatur apparuit. Nam qui non modo animis, verum etiam corporibus et regionibus ac locis et provinciis longissime inter se dissiti errant, tunc in unum congregati cernebantur: et velut maximam quamdam sacerdotum coronam ex pulcherimis floribus contextam, una cunctos civitas capiebat." For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 1, p. 521. Also see Donald ATTWATER, *The Christian Churches of the East*, vol. 1, Milwaukee, The Bruce Publishing Company, 1948, pp. 2-3.

⁸⁰ See Venerabilis BEDA, *The Ecclesiastical History of the English People*, IV, n. 1, Oxford, Oxford University Press, 1994, p. 171. At one time, the bishop of Rome, the Western patriarch, was the patriarch of Byzantines in Illyricum as well as the metropolitan of those in *Magna Graecia*, in the Southern province of Italy. The great archbishop of Canterbury, St. Theodore, had been a Greek monk of Calabria until Pope St. Vitalian appointed him in 664 to rule over the Western Church. He was a member of the *Italo-Greek Albanian* Church: received the holy orders according to the Eastern tradition, was consecrated a bishop by Pope Vitalian in 26 March 668 and had to make changes in his clerical attire in order to serve the Latin Church.

The Church was from the beginning a communion of Churches.⁸¹ The universal Church had a variety of cultures, traditions and liturgical practices in the early centuries and it exercised uniformity in faith and morals through the councils and synods. The Ecumenical Council of Nicaea (325 AD) and the first Council of Constantinople (381 AD) decreed to keep the ancient customs proper to all individual Churches existing at the time of the Fathers.⁸² The Council of Sardica, in 354 AD, was a gathering of provincial bishops from more than twenty-two provinces from Asia, Europe, and Africa, with various traditions of the Church mutually respected and nourished.⁸³ The council of Carthage in 418 AD had given each particular Church a provision whereby they would follow the ancient local custom of married clergy.⁸⁴ It seems that the autonomous nature of individual Churches had never been challenged by any external authority.

⁸¹ See Henry Melvill GWATKIN, *Early Church History*, London, Macmillan and Co., 1912, p. 302.

⁸² TANNER, *Decrees of the Ecumenical Councils*, vol. 1, p. 9, c. 7: "Diocesan bishops are not to intrude in Churches beyond their own boundaries, nor are they to confuse the Churches: but in accordance with the canons, the bishop of Alexandria is to administer affairs in Egypt only; the bishops of the East are to manage the East alone (while safeguarding the privileges granted to the Church of the Antiochenes in the Nicene canons); and the bishops of the Asian diocese are to manage only Asian affairs; and those in Pontus only the affairs of Pontus; and those in Thrace only Thracian affairs. Unless invited, bishops are not to go outside their diocese to perform an ordination or any other ecclesiastical business. If the letter of the canon about dioceses is kept, it is clear that the provincial synod will manage affairs in each province, as was decreed at Nicaea. But the Churches of God among barbarian peoples must be administered in accordance with the custom in force at the time of the fathers."

⁸³ *PL*, vol. 10, pp. 506-507: "Sancta synodus in Sardica congregata ex diversis provinciis Orientalium partium, Thebaida, Aegypto, Palestina, Arabia, Phoenice, Syria, Mesopotamia, Cilicia, Cappadocia, Ponto, Paphlagonia, Galatia, Bithynia, Hellesponto, Asia, Phrygiis duabus, Pisidia, Cycladum insularum, Pamphylia, Caria, Lydia, Europa, Thracia, Emimonto, Mysia, Pannoniis duabus, hanc exposimus fidem." For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 9, p. 13.

⁸⁴ CUMMINGS, *The Rudder*, p. 624, c. 33: "It is decreed that sub-deacons who attend to the mysteries, and deacons and presbyters, and even bishops, on the same terms, must abstain from their wives, so as to be as though they had none; which if they fail to do they shall be removed from office. As for the rest of the clerics, they shall not be compelled to do this, unless they be of an advanced age; but the rule ought to be kept in accordance with the custom of each particular Church."

1. 2. 6. The Divided Empire and the Divided Church

By the end of the third century the Empire, while remaining theoretically one, was divided into two, the East and the West, each under its own Emperor. Constantine furthered this process of separation by founding a second imperial capital in the East, Constantinople, and later on by appointing his three sons heirs to the empire.⁸⁵

After the division had been completed, there was neither political nor cultural unity. The schisms of the 10th and 11th centuries culminated in the excommunication of the patriarch of Constantinople, Michael Cerularius, in 1054. Thus the Byzantine Empire was completely separated and alienated from Rome and remained an ‘autocephalous’ Church.⁸⁶ When portions of these Churches were reunited with the communion of Rome, they retained the liturgical, spiritual, and theological patrimony, which they developed during the long years of separation and independence.⁸⁷ For the last few centuries this happened to many Churches in many countries of Eastern Europe, Asia, and India.⁸⁸

⁸⁵ See Placid PODIPPARA, *Paurasthyasabhakal* (Malayalam), Mannanam, 1930, p. 1. SOCRATES, *HE*, I, n. 16 in *PG*, vol. 67, p. 415: “Imperator vero post peractum concilium, summa in laetitia vitam exegit, Celebrata igitur festivitate publica vicennialium suorum, statim ad ecclesiarum instaurationem omne studium suum contulit. Idque tum in alis civitatibus praestitit, tum in urbe sibi cognomina. Quam quidem Byzantium ante hac appellatam, magnopere amplificavit, et ingentibus cinctam muris, variisque aedificiis exornatam, reginae urbium Romae exaequans, Constantinopolim nominavit, utque nova Roma vocaretur, lege sanxit.” SOCRATES, *HE*, I, n. 39, p. 179: “Quo vehementer exhilaratus, testamentum condit, in quo tres quidem liberos imperii haeredes instituit, suam cuique partem, prout vivus fecerat assignans. Romae vero et urbi quam suo nomine Constantinopolim nuncuparat, multa relinquens privilegia.”

⁸⁶ Victor J. POSPISHIL, *Eastern Catholic Church Law*, New York, St. Maron Publications, 1996, p 35: “Autocephaly is total canonical or administrative independence from any other Church, including the right to elect their own primate (who carries the title of patriarch, archbishop or metropolitan) and other bishops. They are in theological, spiritual and liturgical communion with the other autocephalous and autonomous Churches. Autonomy is independence from other Churches with the exception of the mother Church, from which the election of the head bishop is to be approved.”

⁸⁷ See William BASSETT, *The Determination of Rite*, Rome, Gregorian University Press, 1967, p. 11.

⁸⁸ See Cyril MALANCHARUVIL, *The Syro-Malankara Church*, Alwaye, Pontifical Publications, 1974, pp. 126-128.

Another reason for the development of different *sui iuris* Churches within the Catholic Church was the emergence of heresies and subsequent divisions.⁸⁹ Several Christological heresies played a large part in the division between the Churches of the East and the West.⁹⁰ Due to subsequent heresies, false teachings and mutual animosity, both sides became strangers to one another. Portions of these heretical groups later confessed the faith and united with the Catholic Church.

1. 2. 7. Relationship Between the Patriarchates of the East and West

Canonical autonomy of the patriarchates was a fact during the first millennium, and Rome recognized it in practice and attitude. The bishop of Rome did not acknowledge the right of the Eastern patriarchs to share in the supreme governing power of Peter's successor. However, from the earliest times, the primacy of the see of Peter in Rome, followed by the bishops of Alexandria and Antioch, was recognized. After Constantine the Great had transferred his capital to the East, Constantinople soon climbed to the second place of honor while the see of Jerusalem was always honored as the ancient ecclesiastical center. All these divisions were administratively independent of the other; each elected its own patriarch

⁸⁹ SOCRATES, *HE*, III, n. 7 in *PG*, vol. 67, p. 42: "Haec ille novis atque inauditis assertionibus cum ita conclusisset, multos ad eam quaestionem excitavit. Atque ex modica scintilla magnum subito exstitit incendium. Ortum quippe ab Alexandria Ecclesia malum per universam Aegyptum et Libyam ac superiorem Thebaidem pervasit: tandem vero reliquas provincias ac civitates depastum est." For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 2, *Socrates, Sozomenus*, p. 3.

⁹⁰ SOZOMEN, *HE*, III, n. 7 in *PG*, vol. 67, p. 1050: "Hunc in modum consilia eorum qui contrariam heresiam tuebantur, felicem successum habuerunt, depositis episcopis qui per Orientis provincias fidem in Nicaena synodo stabilitam pertinaciter defendebant. Jamque occupatis nobilissimis sedibus, Alexandriae siliceat que est in Aegypto, Antiochiae in Syria, et urbis regiae quae ad Hellespontum sita est, omnes earum partium episcopos sibi parentes habebant. Verum Romanae antistes Ecclesiae, et universi per Occidentem sacerdotes haec non secus contumeliam sibi privatim illatam accepere. Nam cum sententiam eorum qui apud Nicaeanam congregati sunt, jam inde ab initio in omnibus approbassent, usque in hunc diem in eadam opinione preserverarunt." For English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 2, *Socrates, Sozomenus*, p. 287.

locally and was informed of each other's election, of their liturgy, discipline and customs.⁹¹ Occasionally, they would approach the bishop of Rome as the final court of appeal to settle dogmatic disputes.⁹² The regional Council of Sardicia, Illirica, in 347 AD, clearly acknowledged the primacy of the bishop of Rome and mandated the intervention of Pope Julius in recognition of his primacy in order to settle a dispute in the Eastern part of the Empire.⁹³

In the second millennium, especially during the time of Pope Innocent III, a new tradition began whereby every bishop received his power directly from the pope; and furthermore, that the power of every bishop was only a participation in the authority of the

⁹¹ See ATTWATER, *The Christian Churches of the East*, vol. 1, p. 3.

⁹² See EUSEBIUS, *HE*, V, n. 24. Polycrates, bishop of Asia, wrote to the bishop of Rome to settle the problem over the date of the Passover feast; there was a strong action against the bishops of Asia, by the reason of primacy, imposing penalty (excommunication) on the entire episcopacy, by the bishop of Rome. EUSEBIUS, *HE*, VII, n. 5. Stephen, the bishop of Rome, wrote to all the bishops of the Church concerning the Novatian heresy and re-baptism, re-emphasizing the decrees of the synod and sacred tradition of the Church. EUSEBIUS, *HE*, X, n. 5, Disputes among the African bishops were settled with the intervention of the bishop of Rome.

⁹³ CUMMINGS, *The Rudder*, p. 585, c. 3: "And it is necessary to add this too, that no bishop may cross from his own diocese or province into another province in which there happen to be bishops, unless he be called or invited by some of the brethren there, lest we seem to be shutting the gates of love. And this likewise must be provided, so that, if anyone among the bishops in a province should be at variance with a brother and fellow bishop, he shall not call upon any other one of the bishops from any other province to support his cause. If therefore, any of the bishops in any dispute seem to be condemned, and considers himself not to be at fault, but that it would be a good thing to have the case reopened, if it seem right to you, let us honor the memory to the love of St. Peter the Apostle, and let the case be appealed from the judges to Julius the bishop of Rome, so that through the bishops who are neighbors to the province in question a new court may be held and he be granted new examiners. But if it cannot be established that such is the case as to merit a new trial, let what has once been tried and decided be re-examined, but, on the contrary, whatever the reality may it be accepted as true." However, the bishops of Rome were neither above correction nor advice from the other bishops or councils of the Church. Council of Carthage in 418 AD, presided over by a metropolitan of the city of Carthage, wrote an advisory letter to the Pope recommending reconciliation with the Church of Alexandria in order to keep peace in the universal Church. From history we understand that many eminent bishops of the East and Africa wrote to the bishop of Rome concerning several issues of the day. The Provincial Council of Carthage called the bishop of Rome Most Holy Pope; the independent nature of the Churches of Rome and Alexandria and the concern of the African Church for universal Church unity are very evident. c. 112: "It has pleased the Council furthermore to decree that as regards the dissension and discord between the Roman and the Alexandrian Churches a letter be written to the most holy Pope Innocent with the object of making each of the two Churches keep the peace with the other, which the Lord enjoined" (*ibid.*, p. 669).

pope.⁹⁴ This new ecclesiology was an exaggerated view of the papal primacy that led to a mistaken notion of patriarchates. It was from this narrow perspective of primacy that the Catholic patriarchates of the 16th century evolved.⁹⁵ At that time, the Roman Church believed itself to be the originator of these new patriarchates as well as the source of their authority. This distorted notion of papal primacy was completely foreign to the ancient patriarchates of Alexandria and Antioch. Yet, if the Church were able to exist for thousand years without this exaggerated notion of papal primacy, it would seem to indicate that such a conception could not be founded on divine law but rather on the emergence of a medieval monarchical view of the Papacy proper to the Western Church.⁹⁶

1. 3. PRESENT STRUCTURE OF *ECCLESIAE SUI IURIS*

There is no evidence of any external agencies such as the papacy or ecumenical council influencing the major patriarchal or non-patriarchal Churches of the East in favor of keeping their autonomy. Custom and tradition were the two major factors that contributed toward the development, dignity, ecclesial authority, and autonomous nature of the individual Eastern Catholic Churches. Canons 27-28 of the Code of Canons of the Eastern

⁹⁴ See MANSI, vol. 22, pp. 990-991; also see *PL* 214, p. 778.

⁹⁵ Although there is some disagreement among scholars regarding the origin of the current patriarchate of the Armenian Church, the Maronites and Armenians are the only two patriarchates that are considered not to have been created by Rome. All the other Catholic patriarchates that developed from the middle of the 16th century were considered by Rome as its creations. Roberson describes that there was a synodal structure and patriarchal jurisdiction in the Armenian Church before the Council of Chalcedon in 451. See Ronald ROBERSON, *The Eastern Christian Churches*, Rome, Orientalia Christiana, 1999, p. 24. However, according to Pospishil, the Armenian patriarchate was established in 1740. See POSPISHIL, *Eastern Catholic Church Law*, p. 28.

⁹⁶ See Thomas BIRD and Eid PIDDUBCHESHEN (eds.), *Archiepiscopal and Patriarchal Autonomy*, New York, Fordham University, 1972, p. 26.

Churches (*CCEO*) define the nature and autonomous status of every Church *sui iuris* in the Universal Catholic Church.⁹⁷

In calling for provision to be made for the pastoral care of the Eastern Catholics, the Second Vatican Council moved towards a radical modification of the Eastern Catholic Churches. The Eastern Code, being a product of the Second Vatican Council, categorized the Eastern Catholic Churches into four different groups: patriarchal, major archiepiscopal, metropolitan, and other Churches *sui iuris*.⁹⁸

1. 3. 1. Patriarchal Churches

As prescribed in the canons of several ecumenical councils and local synods, the ancient patriarchal Sees of Rome, Alexandria, Antioch, Jerusalem and Constantinople had autonomous Church leadership and jurisdiction in the early part of the first millennium.⁹⁹

⁹⁷ See POSPISHIL, *Eastern Catholic Church Law*, pp. 107-113. The term “Church” designates various entities. In the broadest sense, the Church is the communion of all the baptized followers of Christ; those organized in Churches or in other forms of community, foremost those Christians of the Catholic communion under the primacy of the Roman Pontiff. The spiritual community of Christians is not a juridic entity and could be called *Universal Christian Church*. The communion of *sui iuris* Churches, or self-governing Churches assembled under the primacy of the Roman Pontiff, a communion referred to as the *Universal Catholic Church*. Also see Joseph RATZINGER, “Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion,” in *L’Osservatore romano*, 17 June 1992, p. 1.

⁹⁸ See POSPISHIL, *Eastern Catholic Church Law*, p. 110. Neither the New Testament nor any early Christian Fathers have not used the term *sui iuris* to express the independent nature of individual Churches. However, the notion is implicit; the term *sui iuris* is an institution of Roman law, referred to persons who were independent of the father’s power, and were therefore not *alieni iuris* (governed by another). The term *sui iuris* can be translated into English as “autonomous,” as being the closest to the Latin original. Many nations do not permit religious superiors to reside in another nation, with the exception of supranational supervisory function of the Roman Pontiff. In case of a new national boundary divides a diocese, the bishop will be prevented from exercising jurisdiction in that territory. Thus they were forced to establish an independent autocephalous Church. For example in 1918 Poland demanded that the local Eastern Orthodox Church had to separate from the mother Church of Moscow and establish itself as an autocephalous Church. The same is applicable to the parts of the Ukrainian Catholic Church in Poland, Belarus, Romania and other nations, namely they will not belong directly to the Ukrainian Church. Autocephalous is self-governing completely and autonomous is self-governing in most respects, but not possessing full independence. See *ibid.*, pp. 148-149.

⁹⁹ See George NEDUNGATT, *The Spirit of the Eastern Code*, Bangalore, Dharmaram Publications, 1993, p. 92. For various reasons, the Eastern Churches gradually became divided on religious issues and hence decreased in power, while the Western patriarchate gathered strength and evolved. Following the East-West schism, which occurred during the time of the crusades, Rome appointed Latin patriarchs in place of the

The Second Vatican Council prescribed that the powers of the Eastern Catholic patriarchs should be restored to the original unity that had existed before the division of the East and the West.¹⁰⁰ Accordingly, the *CCEO* has incorporated the conciliar teachings into the Code. The patriarchal Churches are those *sui iuris* Churches with the highest degree of autonomy. The hierarchy of the patriarchal Churches may elect the heads of their Churches, the patriarchs (cc. 63-77), elect bishops for offices inside the territory (cc. 180-189), enact liturgical laws for the entire patriarchal Church and disciplinary laws for that portion of the Church inside the territory (cc. 110 § 1 and 150 § 2). They may also adjudicate matters relating to the respective Churches in all instances (cc. 110 § 2, 1062, 1063).¹⁰¹

Eastern patriarchs, who were regarded as heretical or schismatic. These Latin patriarchs in effect were able to exercise authority only over small groups of Latin faithful dispersed in the East; they were diminutive figures with much less power in comparison with the Eastern patriarchs. It was after the model set by these Latin patriarchs that Rome began to establish the Eastern Catholic patriarchates during the age of “uniatism.”

¹⁰⁰ *OE*, n. 9: “Haec autem iura et privilegia sunt illa, quae tempore unionis Orientis et Occidentis vigerunt, etsi ad hodiernas conditiones aliquantum aptanda sint.” For English translation, see FLANNERY I, p. 445.

¹⁰¹ Following are the present Eastern Catholic patriarchal Churches: (1) Coptic Church (with approximately 200,000 faithful), (2) Maronite Church (with approximately two million faithful), (3) Melkite Church (with approximately one million faithful), (4) Syrian Church (with approximately 100,000 faithful), (5) Chaldean Church (with approximately 500,000 faithful), and (6) Armenian Church (with approximately 200,000 faithful) (see *Anuario Pontificio 2001*, Città del Vaticano, Libreria editrice Vaticana, 2001, pp. 979-982). All Eastern patriarchs are equal by reason of their patriarchal dignity (*CCEO* c. 59 § 1). Among them, however, there is a precedence of honor, first determined by the order of precedence among the ancient patriarchal sees (Alexandria, Antioch, Jerusalem and Constantinople) and the more recent patriarchal sees according to the date of their establishment (c. 59 §§ 2-3) and secondly, if there is more than one titleholder to the same patriarchal see, by the seniority of election to the see (c. 59 § 4). Application of these principles has resulted in the following order of precedence among the patriarchs. There is no Catholic patriarch in Constantinople. The Coptic patriarch of Alexandria is first, who is followed by the patriarchs of Antioch: (a) the Maronite patriarch (enthroned on 19 April 1986), (b) the Syrian Catholic patriarch (enthroned on 20 February 2001), and (c) the Melkite patriarch (enthroned on 29 November 2000). Since there is no Eastern Catholic titleholder to the see of Jerusalem, the Antiochene patriarchs are followed by the Chaldean patriarch (whose see was established on 20 April 1553) and finally the Armenian patriarch (whose see was established on 26 March 1740).

1. 3. 1. 1. The Coptic Church

Saint Mark evangelized Egypt, which became the catechetical center of the ancient Christianity. The patriarchs of Alexandria were considered next in honor to the bishops of Rome. The Coptic Church continued the tradition of the Church among the native people of Egypt in their opposition to the politics of the Emperor Constantine and the decisions of the Council of Chalcedon in 451.¹⁰² Any chance of re-union was removed by the Arab conquest of Egypt in 639, and the majority of the Copts were compelled by various means to embrace Islam and to adopt the Arabic language. A formal union between the Catholic and Coptic Orthodox Churches took place with the signing of the document *Cantate Domino* by a Coptic delegation at the Council of Florence on 4 February 1442, but because the act was not popular in Egypt, it had no concrete results.¹⁰³

Catholic missionaries were first active among the Copts in the 17th century in the persons of Franciscans and later Jesuits. In 1741 a Coptic Orthodox bishop in Jerusalem, Amba Athnadius, embraced the Catholic Church. Pope Benedict XIV appointed him Vicar Apostolic of the small community of Egyptian Catholics. In 1824 the Holy See erected a patriarchate for Coptic Catholics, but it existed only in documents. The Ottoman authorities permitted the Coptic Catholics to begin building their own Churches only in 1829.¹⁰⁴

In 1895 Pope Leo XIII re-established the patriarchate of Alexandria of the Copts comprising six eparchies in Egypt along with some emigrants in other parts of the world.¹⁰⁵

¹⁰² See ATTWATER, *The Christian Churches of the East*, vol. 1, p. 132.

¹⁰³ See MANSI, vol. 31 B, pp. 1734-1735.

¹⁰⁴ See A. H. SCANDAR, "The Coptic Rite," in *NCE*, vol. 4, pp. 312-315; also see ATTWATER, *The Christian Churches of the East*, vol. 1, p. 134.

¹⁰⁵ See *Acta Sanctae Sedis* [= *ASS*], 28 (1895-96), pp. 257-260.

The offices of the patriarchate are located in Cairo, although the largest concentration of Coptic Catholics has always been in Upper Egypt. In 1990 Coptic Catholic sources estimated that there were about 10,000 faithful in the diaspora under the pastoral care of the local Latin bishops.¹⁰⁶ Besides all of Egypt, they have parishes located in France, Canada, United States and Australia.

1. 3. 1. 2. The Maronite Church

The Maronites of Lebanon trace their origin back to the late 4th century and the charismatic figure St. Maron. They founded a monastery in Antioch and in the 5th century the monastery vigorously supported the Christological doctrine of the Council of Chalcedon. The monastery of St. Maron refused to join the various religious factions of the Monophysites and remained loyal to the Church of the Empire. A major reforming synod took place at Mount Lebanon in 1736 and drafted a complete Code of Canons for the Maronite Church, created a regular diocesan structure for the first time, and established the main lines of Maronite ecclesial life that was to endure to this day.¹⁰⁷

¹⁰⁶ See ROBERSON, *The Eastern Christian Churches*, pp. 154-155.

¹⁰⁷ See E. EL-HAYEK, "Maronite Rite," in *NCE*, vol. 9, pp. 251-252. Papal legate Assemani closely supervised the Synod of Mount Lebanon and modified the synodal decisions in ways to satisfy the Roman curia. According to El-Hayek the canons of this synod marked the ratification of liturgical and canonical Latinization that the Holy See had tried to introduce into the Maronite Church since the Crusades. By the 8th century, the monks had moved with their followers into a remote mountain of Lebanon, where they began to develop a distinct identity as a Church and to elect a bishop as their head who took the title of patriarch of Antioch and the entire East. During the 12th century period of crusades, the Maronites came into contact with the Church of Rome, and in 1182 the entire Maronite nation formally confirmed its union with Rome – a tie maintained up to the present day. There is a strong tradition among the Maronites that their Church had never been out of communion with the Holy See (see ROBERSON, *The Eastern Christian Churches*, p. 143). By the 19th century, the Western powers, especially France, began to offer protection to the Maronites within the Ottoman Empire. After the First World War both Lebanon and Syria came under French control. When France granted Lebanon full independence in 1944, it attempted to guarantee the safety of the Maronite community constitutionally. But in 1975, with the eruption of civil war, the future of the community remained precarious. Many thousands of Maronites left Lebanon to make new lives for themselves in the West (see ATTWATER, *The Christian Churches of the East*, vol. 1, p. 168).

The Maronite patriarchs have resided at Bkerke, about 25 miles from Beirut, since 1790. Today there are ten dioceses in Lebanon with about 770 parishes and seven other jurisdictions in the Middle East. This is the largest Church in Lebanon, making up about 37% of the Christians and 17% of the overall population. The steady emigration of Maronites from Lebanon in recent years has produced flourishing communities in the diaspora. They have several eparchies in Lebanon, Syria, Cyprus, Egypt, Brazil, Canada, the United States, and Australia.¹⁰⁸

1. 3. 1. 3. The Melkite Church

The word “Melkite” comes from the Syriac and Arabic words for “King,” and was originally used to refer to those within the ancient patriarchates of Alexandria, Antioch and Jerusalem who had accepted the Christological faith professed by the Byzantine Emperor after the Council of Chalcedon (451).¹⁰⁹ Today the term more often refers to Byzantine Catholics associated with those three patriarchates. The official name of this Church is the *Melkite Greek-Catholic* Church. After the Arab invasion in the seventh century the Melkites of all three patriarchates came under the ecclesiastical influence of Constantinople, and by the end of the thirteenth century they had adopted the liturgies of imperial Byzantium.¹¹⁰

In 1724 a schism arose in the Orthodox Melkite patriarchate regarding the election of patriarch Cyril. The patriarch of Constantinople opposed Cyril on the basis of his affinity to Catholics and ordained instead a man named Sylvester to the office of patriarch. The Ottoman Turkish government recognized this replacement. Cyril meanwhile was deposed,

¹⁰⁸ See ROBERSON, *The Eastern Christian Churches*, pp. 143-144.

¹⁰⁹ See ATTWATER, *The Christian Churches of the East*, vol. 1, p. 104.

¹¹⁰ Cf. A. HAGE, “Melchite Rite,” in *NCE*, vol. 9, pp. 627-630.

excommunicated by Constantinople and forced to seek refuge in Lebanon. Pope Benedict XIII subsequently recognized Cyril's election as patriarch of Antioch in 1729. Thus the schism was formalized, and the Catholic segment of the patriarchate eventually became known as the Melkite Greek Catholic Church.¹¹¹

Significant emigration from the Middle East in recent years has created flourishing Melkite communities in the West. The Church has eighteen eparchial jurisdictions in the Near East,¹¹² six in Europe, Canada, the United States and Australia. Because of the adverse political situations in the Near East after the creation of Israel, many Melkites have emigrated to all parts of the globe. It seems that most may now be permanently settled outside the historical boundaries of the Melkite patriarchal territory.

1. 3. 1. 4. The Syrian Church

The decisions of the Council of Chalcedon were not accepted by everyone in the patriarchate of Antioch and thus there evolved two Churches: the Catholic and the

¹¹¹ See ATTWATER, *The Christian Churches of the East*, vol. 1, p. 107. In the beginning this new Catholic community was limited to what is now Syria and Lebanon. But Melkite Catholics later began to immigrate to Palestine and Egypt, where Melkite communities had long existed. In view of the new demographic situation, in 1838 the Melkite Catholic patriarch was given the additional titles of patriarch of Jerusalem, Alexandria and the entire East. At first, the Ottoman government was very hostile to this new Church and took strong measures against it. But conditions improved and in 1848 the government formally recognized the Melkite Catholic Church, and the patriarchate itself moved to Damascus from Sidon, Lebanon. After the Maronites, the Melkite Catholic Church is the largest and most prosperous Catholic community in the Middle East. The majority of Melkite Catholic faithful live in Syria, Lebanon, Israel, the West Bank, and Jordan.

¹¹² See Robert L. STERN, in *CNEWA World*, 27 (3/2001), p. 30. The term *Near East* is originally a usage of the British Foreign Office when it divided Asia into the Near East, the Middle East and the Far East. The Near East referred to the countries lying East of the Mediterranean, mostly South West Asia. It is not a precise designation. Sometimes it extended from Western Greece around Western Egypt. Sometimes it included all the Balkans. The *Middle East* is often referred to as countries further east than the *Near East*, up to but not including India and Pakistan (the South East Asian countries). The 'Far East' refers to Malaysia, Singapore, Japan, Korea and Philippines. The division of the Mediterranean world into East and West is a usage dating back to the Roman Empire.

Monophysite Jacobite (Syrian Orthodox) groups.¹¹³ The Syrian Church is an offspring of the Aramaic-speaking Christians of both the Near East and the Middle East. They were subjected to the brutal force of the Mongols, Tartars, Seljuks and Turks, and were largely absorbed into Islam.¹¹⁴

The largest concentration of Syrian Catholics can be found in Syria, Lebanon, Egypt, Palestine, Turkey and Iraq. The core of this Church became located in the Southeastern portion of present-day Turkey, but because of adverse economic and political pressure, most Catholics and non-Catholics of this Church have recently emigrated to Western Europe as well as North and South America. They have an extra-territorial eparchy for the United States and Canada established in 1996 and a coordinator/chaplain for Australia.

¹¹³ See G. KHOURI-SARKIS, "The Syrian Rite," in *NCE*, vol. 13, pp. 899-905. The Council of Chalcedon in 451 AD formulated the doctrine of the two natures in Christ and anathematized those who refused to accept them. The Churches of Syria, Rome, Egypt, Ethiopia, Armenia and Georgia refused to accept the doctrines. The Greek-speaking population of Syria and Egypt accepted it and thus the Antiochene Church split in two.

¹¹⁴ See ATWATER, *The Christian Churches of the East*, vol. 1, p. 153. During the Crusades there were many attempts at union between Catholic and Syrian Orthodox bishops, but no concrete results were achieved. Many Syrians were received into Catholic communion in 1662 and a Catholic patriarch, Andrew Akhidjan, was elected owing to the influence of Jesuit and Capuchin missionaries. This provoked a split in the Syrian community and after his death there were two opposing patriarchs elected. But when the Catholic patriarch died in 1702, this brief line of Syrian Catholic patriarchs died out with him. The Ottoman government supported the Syrian Orthodox against the Catholics, and throughout the 18th century Catholic Syrians underwent much suffering and persecution. There were long periods when no Syrian Catholic bishops were functioning, and the community was forced underground. In 1782 the Syrian Orthodox Holy Synod elected a patriarch, Michael Jarweh of Aleppo, who declared himself Catholic shortly after his enthronement, and took refuge in Lebanon. After Jarweh there was an unbroken succession of Syrian Catholic patriarchs. In 1829 the Turkish government granted legal recognition to the Syrian Catholic Church and in 1831 a residence for the patriarchs in Aleppo was established. In 1850 the patriarchate was moved to Mardin, now in Southern Turkey, due to the severe persecution of the Christian community at Aleppo. In the early 1920s, the patriarchal residence was moved to Beirut due to the persecution and massacres that took place during the First World War.

1. 3. 1. 5. The Chaldean Church

This Church was called the Church of the East and was established by the late first century or early second century Christian missionaries in the Parthian Empire, which was overthrown by the Persians in the third century, and the Church continued to grow under Persian rule.¹¹⁵ The Persians were almost continuously at war with the Romans and, as a result of political pressure, the Christians in Persia separated themselves from the Western Church, adopting Nestorianism.¹¹⁶

The Chaldean Catholics suffered heavily from massacres during the First World War. In 1950 the patriarchate moved its location to Baghdad after substantial migration of Chaldean Catholics to the capital city. The Chaldean Catholic Church's relationship with the Assyrian Church of the East has improved dramatically since the signing of a joint christological agreement between Pope John Paul II and the Assyrian patriarch in Rome in November 1994.¹¹⁷

Today the largest concentration of Chaldean Catholics remains in Baghdad. There are ten Chaldean dioceses in Iraq, four in Iran and four in the Middle East. The travails of the war in Iraq and the Near East in the 1980's, Islamic fanatical fundamentalism, and better economic prospects in other countries have induced a considerable number of the faithful to

¹¹⁵ For a historical description of the Chaldean Church, see <http://www.cired.org/aceov.html>: In 1552, due to a schism in the Assyrian Church, one group approached Rome seeking unity. In early 1553 Pope Julius III appointed Simon VIII as patriarch of the Chaldean Catholics. But the strong rival Assyrian opposition captured Simon and executed him in 1555. For the next two hundred years, there was much turmoil and changing of sides as the pro- and anti-Catholic parties struggled with one another. The situation was fully stabilized when Pope Pius VIII confirmed metropolitan John Hormizdas as head of all Chaldean Catholics, with the title of ' patriarch of Babylon' of the Chaldeans with his See in Mosul, the modern Iraq.

¹¹⁶ See P.T. CAMELOT, "Nestorianism," in *NCE*, vol. 10, pp. 346-348. This was a heresy that evolved in the Antiochene Church in the third century. They taught that Christ has two natures, a clearly distinct human nature and divine nature, as opposed to the teaching of Cyril of Alexandria.

¹¹⁷ See *L'Osservatore romano*, 16 November 1994, p. 1.

emigrate to all parts of the globe. They have one extra-territorial eparchy in the United States and a coordinator/chaplain in Australia. In other areas of the diaspora, Chaldeans are under the spiritual care of the local Latin ordinaries.

1. 3. 1. 6. The Armenian Church

According to tradition, two of the Apostles, St. Thaddeus and St. Bartholomew, preached the Gospel in Armenia as early as the second half of the first century. Then in 314, St. Gregory the Illuminator formally established the Church in Armenia, when King Tiridates III was baptized and declared Christianity as the state religion. Missionaries from Cappadocia helped to develop the establishment of the Armenian Church in the fourth century.¹¹⁸ Latin Crusaders established close contacts with the Armenian Apostolic Church in the 12th century when they passed through the Armenian Kingdom in Cilicia on their way to the Holy Land. An alliance between the Crusaders and the Armenian King contributed to the establishment of a union between the two Churches in 1198.¹¹⁹

Today the largest concentrations of Armenian Catholics are in Beirut, Lebanon, Aleppo in Syria, Iran, Iraq, Egypt, Turkey and a small number in the former Soviet Union

¹¹⁸ See <http://www.sain.org/Armenian.Church/intro.txt>.

¹¹⁹ See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 182-183: A decree of reunion with the Armenian Apostolic Church, *Exultate Deo*, was published at the Council of Florence in 1439. For a long three hundred years they had no autonomous jurisdiction. However in 1742, Pope Benedict XIV appointed Abraham Ardzivian as patriarch of Cilicia of the Armenians. Based in Lebanon, he was given jurisdiction over the Armenian Catholics in the southern provinces of the Ottoman Empire. In the North, they continued to be under the spiritual care of the Latin Vicar Apostolic in Constantinople. The Ottoman political system placed Armenian Catholics under the civil jurisdiction of the Armenian Apostolic Orthodox patriarch in Constantinople. This resulted in serious difficulties and even persecution of Armenian Catholics until 1829. The Ottoman government, under French pressure, gave Armenian Catholics the right to organize civilly as a separate entity. At that time they had an archbishop of their own in Constantinople who in 1846 was vested with civil authority as well. In 1867 Pope Pius IX united the two sees in Lebanon and moved the patriarchal residence to Constantinople. The First World War virtually destroyed the Armenian Catholic community in Turkey. Since it had been drastically reduced in size, an Armenian Catholic Synod of Rome in 1928 decided to transfer the patriarchate back to Lebanon (Beirut), and to make Constantinople (now Istanbul) an archdiocese.

countries and Romania. There are jurisdictions established for the Armenian Catholic emigrants and their descendents in France, Argentina, United States, Canada, and Ordinariates for small communities in Romania and Greece. Armenian Catholics in Great Britain, Australia, and New Zealand are under the spiritual care of the local Latin Ordinaries. A coordinator/chaplain had been appointed in Australia for Armenian Catholics.

1. 3. 2. The Major Archiepiscopal Churches

The origin of the first major archiepiscopal Church can be traced to the year 431 when the ecumenical council of Ephesus recognized in its canon 8 the autonomy of the Church of Cyprus as having an ancient right to elect its own bishops without dependence on the bishop of Antioch, the capital of the civil province of the East, to which Cyprus belonged.¹²⁰ The head of the Orthodox Church of Cyprus ranks still today as a major archbishop, although the title “major” has never been in use among the Orthodox Churches.

This ancient tradition has been incorporated into the documents of the Second Vatican Council,¹²¹ and the Eastern Code has translated this conciliar prescript into law and defined the rights and privileges of a major archbishop.¹²² Accordingly, a Church presided

¹²⁰ See NEDUNGATT, *The Spirit of the Eastern Code*, p. 95.

¹²¹ *OE*, n. 10: “ Quae sunt dicta, valent etiam, ad normam iuris, de Archiepiscopis maioribus, qui universae cuidam Ecclesiae particulari seu ritui praesunt.” For English translation, see FLANNERY I, p. 445.

¹²² See POSPISHIL, *Eastern Catholic Church Law*, pp. 194-196. Major archbishop has a clear supra-metropolitan authority with a long history in the Eastern Catholic tradition. According to the provisions given in canons 151-154, a major archbishop is a metropolitan who exercises authority over an entire non-patriarchal Church *sui iuris* that could comprise several metropolitan sees. The canonical provisions for the major archiepiscopal Churches are generally the same as those for the patriarchal Churches (c. 152) and whatever is said in the Eastern Code about patriarchs applies also to major archbishops. A noticeable distinction is that the election of a major archbishop needs confirmation by the Roman Pontiff in order for the enthronement to proceed (c. 153), while the election of a patriarch is simply notified, a practice respected for other patriarchs as well (c. 76). The major archbishop is equal in authority with the patriarch, but follows him in hierarchical rank. Only the Supreme Authority of the Church, either an ecumenical council or the Roman Pontiff, can create, restore, modify or suppress a patriarchal or major archiepiscopal Church (c.57).

over by a major archbishop has the same structure and the same autonomy as that of a patriarchal Church (c. 152) without the title of patriarch.

Today there are only two major archiepiscopal Churches in the Catholic communion, the Ukrainian and the Syro-Malabar Churches. The Ukrainian Church was headed by a metropolitan-archbishop since 1807 and raised to a major archiepiscopal Church by Pope John XXIII in 1963.¹²³ Pope John Paul II raised the Syro-Malabar Church to a major archiepiscopal Church on 16 December 1992.¹²⁴

1. 3. 2. 1. The Ukrainian Church

The Church of the Ukrainians, who had received Christian faith from the Byzantines, was originally linked to the patriarchate of Constantinople. By the 14th century, most of the Ukraine passed under the political control of Catholic Lithuania. In 1569, when Lithuania and Poland united to form a single commonwealth, most of Ukraine was annexed to Poland. The political and religious situation of the new country led to the Synod of Orthodox bishops at Brest in 1595-1596, which proclaimed a union between Rome and the metropolitan province of Kiev.¹²⁵

¹²³ See AAS, 56 (1964), p. 214.

¹²⁴ JOHN PAUL II, Apostolic Constitution, 16 December 1992, *Quo maiori*, in AAS, 85 (1993), pp. 398-399.

¹²⁵ This event sparked a violent conflict between those who accepted the union and those who opposed it. But as Orthodox Russia expanded its control into Ukraine, the union was gradually suppressed and in 1839, Tsar Nicholas I abolished it in all areas under Russian rule. By the end of the 19th century Greek Catholicism had virtually disappeared from the empire. But the Ukrainian Catholic Church did however survive in Galicia that had come under Austrian rule. The situation changed dramatically at the beginning of the Second World War, when most of Galicia was annexed by the Soviet Union. The new Soviet administration liquidated the Ukrainian Catholic Church and in 1945 all of its bishops were arrested and sentenced to long terms of forced labor.

On 23 December 1963, Joseph Slipyj, as metropolitan of L'viv, was released from prison and was recognized by Rome as the major archbishop of L'viv for the Ukrainians.¹²⁶

On 1 December 1989, Ukrainian Catholic Communities were given the right to register with the government, and thus began the arduous task of revitalizing their Church and resuming normal ecclesial life. On 30 March 1991, Slipyj's successor Myroslav Ivan Cardinal Lubachivsky took up residence in L'viv.

Adding to the metropolitan See and the eparchy of Ivano-Franivsk, four new eparchies Kolomyia-Chernivtsi, Sambir-Drohobych, Ternopil and Zboriv were created on 20 April 1993. On 12 October 2000 three additional eparchies (Bucac, Tryj, and Sokal-Zhovkva) were also created. All these eparchies and the Archiepiscopal exarchy of Kyiv-Vyshhorod are subject to the major archbishop.¹²⁷

In addition to the metropolitan province of L'viv, the Ukrainian Catholic Church has three extra-territorial metropolitan provinces (Canada, Poland and the United States) regulated by c. 138 of the Eastern Code, three extra-territorial eparchies (Argentina, Brazil, and Australia) and three extra-territorial exarchates (France, Germany, and Great Britain).¹²⁸

¹²⁶ See George MALONEY, "The Present Canonical Status of the Ukrainian Catholic Church and Its Future," in BIRD and PIDDUBCHESHEN (eds.), *Archiepiscopal and Patriarchal Autonomy*, p. 49.

¹²⁷ For a brief history and the statistics on the Ukrainian Catholic Church, see <http://www.ugcc.org.ua/eng/Church/catholics>.

¹²⁸ *CCEO* c. 311§1: "An exarchy is a portion of the people of God which, because of special circumstances, is not erected as an eparchy, and which being delimited territorially or on some other criterion, is entrusted to an exarch to shepherd."

1. 3. 2. 2. The Syro-Malabar Church

Malabar is on the Southwest coast of India where Saint Thomas the Apostle evangelized in 52 AD.¹²⁹ As a Church that existed outside the Roman Empire, the Church of St. Thomas had little contact with Rome or with other Churches of the Roman Empire. At the same time it maintained communion with the Church of Rome through the Church in the Persian Empire, which later came to be known as the East Syrian or Chaldean or

¹²⁹ See *L'Osservatore romano*, 14 May 2003, p. 3. John Paul II reiterated the ancient Apostolic tradition of the St. Thomas Christians of India. On the occasion of the 'ad limina visit' of the Syro-Malabar bishops the Pontiff said: "In a way, your journeying here to meet me reunites the Apostles Peter and Thomas in the joy of the resurrection as we join in proclaiming to the beloved people of India 'an inheritance which is imperishable, undefiled and unfading' (1Peter 1:14)." Also see THE SYNOD OF THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH, in *Synodal News*, 1 (1993), p. 1 (*Synodal News* is the Bulletin of the Syro-Malabar major archiepiscopal Church. This bulletin carries the important documents and news related to this Church). The Syro-Malabar major archiepiscopal Church is the second largest Eastern Church in the Catholic communion. The Apostolic tradition of St. Thomas is strong, living, and is connected with definite places and even families and is also shared by certain Hindu families. The Christians of Malabar (Southern part of India), therefore, are called Thomas Christians. For a brief history of this Church, see POSPISHIL, *Eastern Catholic Church Law*, pp. 27-28; FARIS, *Eastern Catholic Churches*, pp. 64-66. For a short historical sketch, canonical sources and hierarchical Grades of the Syro - Malabar Church before the Second Vatican Council, see Thomas PUTHIYAKUNNEL, *Syro-Malabar Clergy and Their General Obligations: An Historico-Juridical Study in the Light of Canons 60-87 of the motu proprio "Cleri sanctitati,"* Ernakulam, Vincentian Publishing Bureau, 1964, pp. 1-30. For an overall view of laws and regulations of Syro-Malabar Church, see Andrews THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, Kottayam, Pontifical Institute of Religious Studies, 1987.

Among the St. Thomas Christians of India (who follow Chaldean liturgical tradition), currently there are two distinct ethnic communities known as the Northists and the Southists (*Vadakumbhagam* and *Thekkumbhagam* in the native language Malayalam). According to the generally accepted tradition, the Northists are the descendants of those who were evangelized by the Apostle Thomas and later converts while the Southists trace their origin back to 72 Mesopotamian Christian families who immigrated to India under the leadership of Thomas Kinayi and settled in Cranganore (Southern part of India) in 345 AD. These ethnic distinctions also run across their ecclesial division into Catholics and non-Catholics. Southists form but a small minority counting about 200,000 persons out of the total four and a half million Oriental Christians in India. About two-thirds of the Southists are Catholics and the rest Syrian Orthodox acknowledging the spiritual authority of the patriarch of Antioch. Ecclesiastically, the Southists, both the Catholics and the Orthodox, are now organized into exclusive eparchies, distinct from the many eparchies of the Northists. The eparchy of Kottayam is erected exclusively for the Southists among Catholics, and the Southist Orthodox have their own eparchy of Chingavanam. The eparchy of Kottayam follows Syro-Malabar liturgical tradition and the particular law of the Syro-Malabar Church. The eparchial bishop has personal jurisdiction over the Southists within the historical territory of the Syro-Malabar Archiepiscopal Church. For details on the origin of the Southists among the St. Thomas Christians, see Jacob KOLLAPARAMBIL, *The Babylonian Origin of the Southists Among the St. Thomas Christians*, Roma, Orientalia Christiana Anelecta, 1992.

Babylonian Church.¹³⁰ For some unknown reasons, the East Syrian Church appointed bishops to the Malabar Church from the 8th till the end of the 16th century.

Because of the Portuguese colonization of the 16th century the ecclesiastical arrangements were changed and the bishops of the Latin Church were appointed by the Roman Pontiffs to govern the St. Thomas Christians. The Portuguese rule in the Church ended in 1896 and a local bishop was appointed to the see of St. Thomas and a Syro-Malabar Hierarchy erected in 1923.¹³¹ By that time the ancient name “Church of St. Thomas Christians” had given way to the present name “Syro-Malabar Church.”¹³²

At the time of the promulgation of the *CCEO*, the Syro-Malabar Church had two metropolitan Sees: Ernakulam and Changanacherry, erected under the provision of the 1917 CIC.¹³³ In 1995, two more provinces were erected in Tellicherry and Trichur. On 16 December 1992, with the Apostolic constitution, *Quo maiori*, Pope John Paul II elevated the Syro-Malabar Church to the status of a major archiepiscopal Church.¹³⁴

¹³⁰ See SOCRATES, *HE*, I, n. 19, in *PG*, vol. 67, p. 126; for English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 2, *Socrates, Sozomenus*, p. 23; CYRENE THEODORET (ed.), *Historiae ecclesiasticae* [= *HE*], I, 22, in *PG*, vol. 82, p. 970; for English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 3, *Theodoret, Jerome, Gennadius, Rufinus*, p. 58; EUSEBIUS, *HE*, V, n. 10; RUFINUS, *HE*, nn. 1,9. Ecclesiastical historians like Socrates, Theodoret, Eusebius, and Rufinus testify that Emperor Constantine the Great evangelized the interior part of India. It seems that the Christians in India had contact with the Christians of the Persian Empire from very early times. Given the commercial dealings India had in those days, such a contact was possible. There is evidence of the existence of the East Syrian Church in Malabar before the sixth century with the Chaldean liturgical tradition in Syriac language.

¹³¹ See PIUS XI, Apostolic Constitution, *Romani Pontifices*, 21 December 1923, in *AAS*, 16 (1924), pp. 257-262.

¹³² See LEO XIII, Apostolic Letter, *Humanae salutis*, 1 September 1896, in *ASS*, 19 (1896), pp. 176-184.

¹³³ See *AAS*, 16 (1924), pp. 257-262.

¹³⁴ See JOHN PAUL II, Apostolic Constitution, 16 December 1992, *Quo maiori*, in *AAS*, 85 (1993), pp. 398-399. In 1993 the Roman Pontiff reserved to himself the appointment of the major archbishop and bishops and the making of decisions in liturgical matters. The See of the major archbishop is Ernakulam-Angamaly, which, as a metropolitan See, has as its suffragan the eparchy of Kothamangalam, with a total population of

From ancient history we know that the St. Thomas Christians had metropolitan bishops and that their jurisdiction extended to all over India.¹³⁵ The Syro-Malabar hierarchy had requested extra-territorial jurisdiction for some time, which had been generally limited to Kerala. Currently there are 25 eparchies in the Syro-Malabar Church. However, according to the decision of the Holy See, only 14 of them are considered to be the proper territory of the Syro-Malabar major archbishop. The other eleven eparchies with a total population of 300,000 are not suffragans of any of the Syro-Malabar archiepiscopal metropolitans but of the local Latin archdioceses. They are outside the proper territory of the major archbishop and are directly under the jurisdiction of the Roman Pontiff. However, the bishops of those dioceses are members of the Syro-Malabar bishops' Synod.¹³⁶

1. 3. 3. Metropolitan Churches *sui iuris*

The third category of autonomous Eastern Catholic Churches is the metropolitan Church *sui iuris*, which is different from a mere ecclesiastical province of a patriarchal or major archiepiscopal Churches. The chief hierarch of this Church is not subject to a patriarch or major archbishop, and he exercises authority over the bishops, clergy and

almost one million faithful. The metropolitan see of Chengannacherry has four suffragan sees: Kanjirappally, Kottayam, Palai, and Thuckalay, with the total population of a little over a million. The metropolitan see of Tellicherry has three suffragan eparchies: Belthangady, Mananthavady, and Thamarasserry, with a total population of more than 700,000 faithful (The metropolitan see of Tellicherry was erected on 18 May 1995; see AAS, 87 [1995], p. 984). The metropolitan see of Trichur has two suffragan sees: Iringalakuda and Palghat, with a total population of 600,000 faithful (The metropolitan see of Trichur was erected on 18 May 1995; see AAS, 88 [1995], p. 985). The eparchy of St. Thomas for the Syro-Malabar faithful in the United States was created on 13 March 2001, the first eparchy outside India, with a total population of about 100,000 faithful (see *L'Osservatore romano*, 14 March 2001, p. 12).

¹³⁵ See Joseph PORUNNEDOM, *The Syro-Malabar Church and All India Jurisdiction*, Doctoral diss., Rome, Pontifical Oriental Institute, 1991, p. 147.

¹³⁶ See <http://thesyromalabarChurch.org/dioceses.htm>. The eleven dioceses outside the proper territory are: Adilabad, Bijnor, Chanda, Gorakhpur, Jagdalpur, Kalyan, Rajkot, Sagar, Satna, Ujjain and St. Thomas diocese in Chicago.

faithful of his Church (cc. 155-173). The metropolitan Church is erected, suppressed and modified, and the metropolitan is appointed and vested with *pallium* freely by the Roman Pontiff. One can say that the metropolitan Church is an autonomous Church whose patriarchal authority is exercised by the Roman Pontiff.¹³⁷

The autonomous metropolitan's power of governance is ordinary (joined to the office), proper (exercised in his own name), but personal, which means he cannot constitute a vicar for his entire Church nor delegate his power for all cases. In addition, it is territorial and he represents the Church in all juridic matters (c. 157). The metropolitan has the same rights and obligations as other eparchial bishops in his own eparchy from which he takes his title (c. 158).¹³⁸ The Ethiopian Church, Romanian Church, Ruthenian Church, and Syro-Malankara Church are the current four metropolitan *sui iuris* Churches in the Catholic Church.

¹³⁷ There are five kinds of "metropolitans" in the *CCEO*: (a) the metropolitan of a patriarchal or major archiepiscopal Church located within the territory of the patriarchal/major archiepiscopal Church (cc. 133- 137), who do not receive the *pallium* from the Roman Pontiff; (b) the metropolitan of a patriarchal/major archiepiscopal Church outside the territorial boundaries of the patriarchal/archiepiscopal Church (c. 138) (Since patriarchs and synods do not exercise direct jurisdiction over hierarchs located outside the territorial boundaries of the patriarchal Churches (cc. 146-150), these metropolitans are not under the direct authority of the patriarchs, but are immediately subject to the Roman Pontiff. Two such metropolitans exist in the Ukrainian major archiepiscopal Church; the metropolitan provinces of Philadelphia for the eparchies in the United States of America and the metropolitan province of Winnipeg for the Ukrainian eparchies in Canada); (c) metropolitans who are designated for eparchial bishops located outside the patriarchal territory but not within a province (c. 139), who receive the *pallium* from the Roman Pontiff; (d) metropolitans who are heads of autonomous Churches (cc. 155-173), who receive the *pallium* from the Roman Pontiff; (e) Titular metropolitans who are given such a title in virtue of an eparchial see which was at one time a metropolitan see or as a personal distinction (c. 136).

¹³⁸ He ordains and enthrones bishops who are appointed by the Roman Pontiff, convokes, prepares, presides, transfers, postpones, suspends or dissolves the council of hierarchs. He erects the metropolitan tribunal, a court of appeal, oversees that the faith and disciplines are observed, conducts canonical visitations in eparchies if the eparchial bishops were negligent, and appoints an administrator of an eparchy if he was not properly elected (c. 221 § 4). He appoints and confirms officials in lieu of a bishop who neglects to do it and communicates the acts of the Roman Pontiff to the Church and supervises their execution (c. 159).

1. 3. 3. 1. The Ethiopian Church

Ethiopia had been evangelized during the middle of the 4th century and later more aggressively by the Syrian Monophysites in the 6th century, remaining under the jurisdiction of the Coptic patriarch of Alexandria. In the 16th (1508-1540) century when the Mohammedans invaded Ethiopia, the Christians approached the king of Portugal for protection and thus the Jesuits and later Franciscans came into the area to evangelize. Hence the cause of unity was set back for many generations to come.¹³⁹

The present canonical structure of the Ethiopian Church dates from 1961 when Addis Ababa was established as a metropolitan see¹⁴⁰ with two suffragan sees, Adigrat and Asmara. After the independence of Eritrea in 1993, two eparchies (Barentu and Karen) were established from territory taken from Asmara. Despite the enmity between the two countries, both the metropolitan and the bishops continue in their efforts to function as the Ethiopian Church *sui iuris* (a problematic name for the Eritrean communities).

1. 3. 3. 2. The Romanian Church

The Romanians were descendants of Roman Trojan colonies in Illyrica of the province of Dacia since the beginning of second century. In the 9th century, they were conquered by the Bulgars and placed under the jurisdiction of the Byzantine bishops. Later on they were drawn into the schism of Constantinople. In 1697, the Orthodox metropolitan

¹³⁹ See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 142-145.

¹⁴⁰ It had been an Apostolic exarchate since 1951.

of Alba Julia, Theophilus Szeremy, came into Catholic union together with thirty-eight archpriests.¹⁴¹

In 1982, an Apostolic exarchate for the Romanian Catholics was established in the United States;¹⁴² in 1987, this exarchate was established as an eparchy of Saint George's in Canton for the Romanians. On 14 March 1990, Pope John Paul II re-established the Romanian Catholic hierarchy by appointing bishops for all eparchies of the Romanian Church.

1. 3. 3. 3. The Ruthenian Church

The motherland for the Ruthenian Catholic Church is now in extreme Western Ukraine, southwest of the Carpathian Mountains at the Eastern end of Slovakia; and the district is now commonly called Ruthenia. The term "Ruthenian" was formerly used more broadly to include Ukrainians, Belarusians, and Slovaks. Now, the Church authorities use this term in a narrower sense to denote this specific Greek Catholic Church.¹⁴³

¹⁴¹ See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 98-103. The Romanian Catholics were originally subject to the Latin Primate of Hungary. In 1854, Pope Pius IX created the metropolitan see of Fagaraş and Alba Julia with three suffragan sees. By 1940, there were five dioceses with 1,500 priests and approximately one and a half million faithful. On 1 December 1948, the communist government in Romania dissolved the Romanian Catholic Church, imprisoned its bishops, and gave the property to the Orthodox Church. After the collapse of the communist regime in 1990, the 1948 communist decree was abrogated.

¹⁴² See AAS, 76 (1984), p. 56.

¹⁴³ Cf. Meletius WOJNAR, "The Ukrainian Rite," in *NCE*, vol. 14, pp. 372-375. The Ukrainian Catholic Church formally united with Rome in 1596 at the Union of Brest. But the Polish Catholics were not in favor of the union and opposed it vehemently. However, several bishops reunited for several decades and finally the union was concluded in 1646 at Użhhorod. Also see ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 88-92. The Ruthenian Church finds its *ecclesia sui iuris* status with the reunion of bishop Basil Tarasevich and some faithful in 1646. The Union of Użhorod took place six years later through which the rest of the people came to the Catholic unity. Although the Ruthenian Catholics desired to have their own ecclesiastical jurisdiction, the Ruthenian bishop of Mukačevo functioned only as a vicar of the Latin bishop of Eger; the Ruthenian priests served as assistants in the local Latin parishes. In 1771, Pope Clement XIV established the Ruthenian eparchy of Mukačevo as a suffragan to the Latin Primate of Hungary. After World War II, Mukačevo, as part of Transcarpathia, was annexed to the Soviet Union as part of the Ukrainian Soviet Socialist Republic and in 1949 the Ruthenian Church was integrated into the Orthodox Church.

After the collapse of communism in 1991, the present Pope confirmed the ordination of the bishop of Mukačevo and two auxiliaries who had been functioning in the underground Church. Their eparchy was immediately made subject to the Roman Pontiff which had 264 priests and 141 parishes. In 1996, Pope John Paul II established another exarchate for Byzantine Catholics in the Czech Republic to serve the 42,000 faithful.¹⁴⁴

Another jurisdiction of the Ruthenian Church is found in the United States, the metropolitan see based in Pittsburgh, with three suffragan sees (Passaic, Parma, and Van Nuys), to serve 170,000 faithful. The Prefect of the Congregation for the Eastern Churches expressly recognized the *sui iuris* stature of the Church in the notification of reception of its particular law.¹⁴⁵

1. 3. 3. 4. The Syro-Malankara Church

Malankara is another name for the present day state of Kerala, the cradle of Christianity in India.¹⁴⁶ In a manner similar to the Syro-Malabar Church, the Syro-Malankara Church was established as a province in 1932 under the provisions of the Latin

¹⁴⁴ See AAS, 88 (1996), p. 354.

¹⁴⁵ See Letter from Achille Silvestrini to archbishop Judson Procyck, 30 March 1999 (Port. No 80 /96), (unpublished letter made available to us by the curia office of the Eparchy of Passaic).

¹⁴⁶ See C. A. ABRAHAM, "Malankar Rite," in *NCE*, vol. 9, pp. 103-106. Between the 4th and 9th centuries there were waves of immigrants from Mesopotamia to Kerala, and at least from 6th century onward the Christians in Kerala received their bishops from Mesopotamia. The Portuguese missionaries made an effort to Latinize the Syrian liturgy and thus the Syrian Church in India was divided in 1653. The separated Syrians approached Antioch and the West Syrian Jacobite patriarch of Antioch provided pastoral care for the separated Syrians in Kerala. On 20 September 1930, Mar Ivanios and Mar Theophilos, two Jacobite bishops, together with three other followers came into communion with Rome and thus the Syro-Malankara *Ecclesia sui iuris* came into existence. John Paul II commented to the bishops about the growth of the Syro-Malankara Catholic Church during their 'ad limina visit' of 2003. The Pontiff said: "As we give thanks together for these important landmarks in your ecclesial life, we are also mindful of the multiple blessings that have been bestowed on your Church in a relatively short time. You have become one of the fastest growing Catholic communities in the world, boasting large numbers of vocations to the priesthood and religious life, and your *pusillus grex* is home to many educational and welfare institutions." See *L'Osservatore romano*, 21 May 2003, p. 5.

Code.¹⁴⁷ It seems that there has not been a formal administrative act establishing the Syro-Malankara Church as a Church *sui iuris*, but the papal bull of the appointment of Cyril Mar Baselios, the current metropolitan, refers to the rights, obligations and faculties attached to the office as found in the *CCEO*; such a reference would constitute an implicit recognition of the *sui iuris* status of the Syro-Malankara Church.¹⁴⁸

The archiepharchy of Trivandrum, established in 1932, has four suffragan sees: Tiruvalla, Sultan Bathery, Marthandam, and Muvattupuzha with a total population of almost 500,000 faithful.¹⁴⁹ An Apostolic Visitor for the Syro-Malankara faithful in the United States and Canada was appointed on 20 June 2001.¹⁵⁰ This is the first extra-territorial pastoral care arrangement made for the Syro-Malankara Catholic faithful who are about 5,000 in number on the North American continent.

1. 3. 4. The Other Churches *sui iuris*

The fourth category of Churches *sui iuris* is simply referred as “Other Churches *sui iuris*.” Canons 174-176 regulate the ecclesial life of these Churches. These *sui iuris* Churches are entrusted to a hierarch who presides over them according to the norm of common and particular law established by the Roman Pontiff (c. 174).¹⁵¹ The majority of

¹⁴⁷ See PIUS XI, Apostolic Constitution, *Christo pastorum principi*, 1 September 1932, in AAS, 24 (1932), pp. 289-292.

¹⁴⁸ See JOHN PAUL II, *Papal Bull*, 29 November 1995, in *L'Osservatore romano*, 6 December 1995, p. 16.

¹⁴⁹ The archiepharchy of Trivandrum and the eparchy of Tiruvalla were established with the same Apostolic Constitution, *Christo pastorum principi* on 1 September 1932; see AAS, 24 (1932), pp. 289-292; the eparchy of Bathery was established on 28 October 1978; see AAS, 70 (1978), p. 995, and the eparchy of Marthandam on 18 December 1996, in AAS 89 (1997), p. 54; The eparchy of Muvattupuzha was established on 15 January 2003; see *L'Osservatore romano*, 22 June 2003, p. 12.

¹⁵⁰ See *L'Osservatore romano*, 20 June 2001, p. 12.

¹⁵¹ See POSPISHIL, *The Eastern Catholic Church Law*, p. 200. The hierarch exercises the rights and obligations mentioned in respect to autonomous metropolitan (c. 159 § 3-6), but as delegate of the Apostolic

these Churches were under the communist oppression for decades. For that reason, the primary impact of the *CCEO* on most of these Churches was the re-establishment of a hierarchy.

1. 3. 4. 1. The Albanian Church

Albania was evangelized during the fourth century, probably via Armenia and Syria, although it later came under the jurisdiction of Constantinople and drifted into schism. There was a body of Byzantine Catholics being served in 1628 by Basilian monks from Sicily but their mission collapsed in 1765. In 1801 Russia invaded Georgia, and the Church became an annex of the Russian exarchate. Today there are a few hundred Byzantine Catholics using the Georgian language for liturgy.¹⁵² It exists as the “Apostolic Administration of Southern Albania” (established in 1939). An Apostolic administrator was appointed in 1966, but the faithful are almost entirely Latin; the few hundred Albanian Eastern Catholics are dispersed in the West.

1. 3. 4. 2. The Belarus Church

The Belarusian Catholics originated in the Union of Brest (1595-1596).¹⁵³ The Russian imperial government along with the Ukrainian Catholic Church, in the 19th century, suppressed this Greek Catholic Church. After World War I, a community of about 30,000 Greek Catholics emerged in areas of Belarus that had been annexed by Poland. In 1931, an

See (c 175). If common law assigns something to particular law or the superior administrative authority of an autonomous Church, the competence lies with the hierarch who presides over it with the consent of the Apostolic See (c. 176). In other words, the Apostolic See exercises the patriarchal and metropolitan rights of such a Church unless it is decreed otherwise.

¹⁵² See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 130-131.

¹⁵³ See WOJNAR, “The Ukrainian Rite,” in *NCE*, vol. 14, pp. 372-375. The Ukrainian synod of bishops decided to unite with the see of Rome in Brest-Litovsk in 1596. Rome gave the Kievan metropolitan the right to appoint and consecrate bishops without recourse to the bishop of Rome.

Apostolic visitator was appointed for them along with an exarch in 1940, but after World War II, the Church was suppressed and integrated into the Russian Orthodox Church.¹⁵⁴ After the collapse of communism and the independence of Belarus, approximately 100,000 Belarusian Catholics emerged from the underground with approximately 5000 members now in the West. They have a parish in Chicago, Illinois, and a Religious and Cultural Center in London, England.

1. 3. 4. 3. The Bulgarian Church

At the beginning of their struggle with Constantinople there was an influential minority of Bulgars who sought ecclesiastical independence from the Greeks by means of reunion with Rome.¹⁵⁵ The ecclesiastical structure of the Bulgarian Church dates from 1926 when the Apostolic See recognized the Bulgarian Catholic Church and erected an apostolic exarchate in 1926. The communists, although not suppressing the Bulgarian Catholic Church, imposed many restrictions on it. In 1951, the bishop died under mysterious circumstances and many of the priests were imprisoned. Following the collapse of communism, a bishop was appointed in 1995.¹⁵⁶

1. 3. 4. 4. The Greek Church

The Roman province of Illyricum was under the jurisdiction of the bishop of Rome before the division of the empire. With the division, the Eastern part of Illyricum came under the Eastern Empire and by the fifth century the patriarch of Constantinople claimed to have jurisdiction over it. In the early part of the nineteenth century, the Modern Greek state

¹⁵⁴ See ROBERSON, *The Eastern Christian Churches*, p. 186.

¹⁵⁵ See ATTWATER, *The Christian Churches of the East*, vol. 1, p. 121.

¹⁵⁶ See AAS, 88 (1996), p. 353.

was established and in 1839 a body of Greek Catholics of the Byzantine Church came into existence.¹⁵⁷

Today it comprises an apostolic exarchate in the Thracian village of Malgara in Istanbul that was established in 1911 by Pope Pius X and an apostolic exarchate in Greece established by Pope Pius XI in 1932. The Catholics of Malgara and Dandeli emigrated to near Salonika due to a variety of circumstances. Yet only a few thousand faithful in Greece and a small parish in Istanbul are actually without a priest.

1. 3. 4. 5. The Hungarian Church

The faithful of the Hungarian Church are descendants of Carpathians, Serbs, Ruthenians, a few Rumanians living in the Great Hungarian plain, Slovaks, Greeks, and Hungarian protestant converts. For a long time, these Hungarian Byzantine Catholics had been made subject to non-Hungarian Byzantine bishops, such as Ruthenian and Romanian eparchies up until 1912. It was then that Pope Pius X established the diocese of Hajdúdorog with jurisdiction in Eastern Hungary and Budapest. The faithful and the civil authorities were concerned about the influence of foreign bishops in the newly established diocese, and more than half of them returned to the jurisdiction of Romanian bishops on the formation of the kingdom of Greater Romania after the First World War.¹⁵⁸ In 1924, an apostolic exarchate was established as Miskolc for the Ruthenian parishes that remained in the Hungarian territory after Czechoslovakia was created. In 1928, the jurisdiction of the eparch of Hajdúdorog was extended to all of Hungary, and the eparch also became the apostolic

¹⁵⁷ See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 115-116.

¹⁵⁸ See *ibid.*, p. 93.

administrator of Miskolc. There are approximately 280,000 faithful in this Church. In the United States, the Romanians are also included with the Hungarian Ruthenians.

1. 3. 4. 6. The Italo-Albanian Church

This Church was in communion with Rome before the Eastern schism began.¹⁵⁹ Today the Italo-Albanian Church is comprised of two eparchies: Lungro, established in 1919 by Pope Benedict XV with jurisdiction over continental Italy and Piana degli Albenesi, near Palermo. The Italo-Albanian Church was established in 1937 with jurisdiction over Sicily as well as over the monastery of Grottaferrata. The latter dates back to 1004, but was established as a territorial abbey only in 1937. The Italo-Albanian Church now numbers approximately 64,000 faithful. There were large emigrations of Italo-Albanians into the United States at the end of the nineteenth century, and the majority of them followed the Latin Church due to the lack of personnel and other pastoral care arrangements.

1. 3. 4. 7. The Križevci Church (Yugoslavian)

When the king of Hungary, Matthias Corvinus, recaptured Bosnia from the Turks, he established on the border military colonies of refugee Serbs (Uscochi, “refugees”) of the Orthodox Church. They nominally came into Catholic communion in 1611.¹⁶⁰ The Križevci Church was established as a diocese in 1777, at first a suffragan to the Primate of Hungary and later to the archbishop of Zagreb. After the establishment of Yugoslavia, the jurisdiction of the diocese was extended over all the Byzantine Catholics of that country. Those

¹⁵⁹ Ibid., p. 59. The provinces of Calabria and Apulia of Southern Italy are known historically as *Magna Graecia* and the present inhabitants believe that their Church has an Apostolic foundation. About the middle of the third century the Latin superseded the Greek liturgy in Rome; the Roman and Byzantine liturgies existed side by side in Southern Italy and Sicily; and there is no doubt that all bishops of these Christians were under the bishop of Rome.

¹⁶⁰ See *ibid.*, p. 95. Today they are comprised of five distinct groups: Croatians, Ruthenians from Slovakia, and Ukrainians from Galicia, Slavic Macedonians, and Romanians.

Byzantine Catholics in the former Yugoslav Republic of Macedonia, although they still remain part of the Križevci, are under the jurisdiction of the Latin bishop of Skopje.

1. 3. 4. 8. The Russian Church

The Russian Church received its liturgy, canon law, and customs from the anti-Western Constantinople. In 1589, the patriarch of Constantinople acknowledged Russia as a separate patriarchate of the Orthodox Church. Towards the end of the nineteenth century, there began a movement to have Russian Catholics keep their own liturgical tradition, and in 1917, an “Apostolic Exarchate for Catholics of the Byzantine Rite in Moscow” was established. Subsequently another Apostolic Exarchate was created for Russians of the Byzantine Rite as well as for all Catholics of the Eastern Rites. This was effected at Manchuria in 1928,¹⁶¹ but no precise information on this Church is available nor, it seems, has a hierarchy been reconstituted.¹⁶² There are four Russian Catholic parishes established in the United States, Canada, and Australia.

1. 3. 4. 9. The Slovak Church

The religious history of Greek Catholics in Slovakia is closely related to that of the Ruthenians. Today this Church comprises three jurisdictions: (1) the eparchy of Prešov established in 1818 that had originally been a suffragan of the Primate of Hungary but was placed under the immediate jurisdiction of the Apostolic See in 1937; (2) the eparchy of Saints Cyril and Methodius in Canada established in 1980; (3) the Apostolic Exarchate of Kosice established in 1997.¹⁶³

¹⁶¹ See AAS, 21 (1929), p. 27.

¹⁶² See ATTWATER, *The Christian Churches of the East*, vol. 1, pp. 124-125.

¹⁶³ See ROBERSON, *The Eastern Christian Churches*, p. 182.

Today there are twenty-one Eastern Catholic Churches *sui iuris* in the universal Catholic Church derived from five major traditions. All of them are bound by the *Codex canonum Ecclesiarum orientalium* and the conciliar decree *Orientalium Ecclesiarum*.¹⁶⁴

1. 4. JURISDICTION AND PASTORAL CARE OF *SUI IURIS* CHURCHES

The legal status of the Eastern Catholic Churches, according to the *CCEO* c. 27, is “autonomous.” The twenty-one Eastern Catholic Churches are autonomous in their relationship with the Supreme Authority of the Church, i.e., the Roman Pontiff and the Ecumenical Councils. This autonomy is not absolute but relative. They can govern themselves in all matters not reserved to the Supreme Authority. Besides, autonomy is not identical for all: the patriarchal Churches possess the greatest degree of autonomy, with lesser degrees for the major archiepiscopal Churches, the metropolitan Churches, and the Other Churches *sui iuris*.¹⁶⁵

1. 4. 1. Nature of Patriarchal Jurisdiction

Patriarchs enjoyed mainly four areas of jurisdiction over the entire patriarchal Church as a guardian of the faith and a protector against heresy: (a) The right to ordain metropolitans and bishops within the territory of the patriarchal Church; (b) The right of supervision over the entire patriarchate to watch over the faith and to protect it from heresy;

¹⁶⁴ See George NEDUNGATT, “A New Code for the Oriental Churches,” in *Vidyajyothi*, 55 (1991), p. 329. For a detailed illustration of the status, tradition and the order of precedence of each Church *sui iuris*, see the Appendix I.

¹⁶⁵ The Church of Jesus Christ exists in this world as a hierarchical society. The hierarchy of orders implies the exercise of spiritual power for the purpose of sanctifying the faithful through the administration of the sacraments, while the hierarchy of jurisdiction signifies the exercise of a spiritual power for the purpose of teaching and ruling the people of God with a view to directing them towards the ultimate purpose of life.

(c) Rights pertaining to patriarchal synods (convocation and presiding over synods); (d) The power to receive repentant heretics and schismatics and to absolve from excommunication.

1. 4. 2. Autonomy of the Patriarchal Churches

In the first millennium, the Eastern patriarchs enjoyed a truly far-reaching autonomy.¹⁶⁶ Autonomy does not mean complete independence. Such would be contrary to the synodal approach to the government of the Eastern Churches and to the primacy of jurisdiction held by the successor of Peter. Therefore, when we speak of ‘autonomy’, we always mean a relative independence and do not exclude the patriarchal synodal decisions and the occasional interventions, in extremely important administrative disputes, of the successor of Saint Peter, by reason of primacy.¹⁶⁷ Besides, there is only a canonical autonomy, which in no way touches the supreme authority of the patriarchal synod or the bishop of Rome, since in matters of faith, it is papal primacy that must finally prevail at the center of the “*ecclesial communio*.” Though it is not currently practiced, we can describe the autonomy exercised in the first millennium in the following manner: (1) The Eastern Churches freely elect their own patriarchs and bishops. (2) The Eastern Churches independently regulate their liturgy, etc. (3) The Eastern Churches deal independently with the discipline of the clergy and laity. If it can be shown that such an autonomy was enjoyed

¹⁶⁶ See William DE VRIES, “La Santa Sede ed i patriarcati cattolici d’Orient,” in *Christian Orient*, 27 (1961), p. 313.

¹⁶⁷ SOCRATES, *HE*, II, n. 15; for English translation, see WACE and SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers*, vol. 2, *Socrates, Sozomenus*, p. 42. There is a clear incident of the exercise of primacy in the late third century described by Socrates. Athanasius and Paul, two bishops from Alexandria and Constantinople, approached Rome to present their case to Julius, the bishop of Rome. He settled the dispute and gave them letters of approval in their respective disputed dioceses.

by patriarchs in the Church during the first millennium, it should not contradict the dogma of papal primacy for the second.¹⁶⁸

1. 4. 3. Non- Patriarchal Churches

In addition to the three Sees, namely Rome, Alexandria and Antioch, the First Council of Nicaea also referred to other Churches of superior rank such as the bishop of Caesarea in Capadocia in the civil diocese of Pontus, the bishop of Ephesus in the civil diocese of Asia and the bishop of Heraclea in the civil diocese of Thrace. Although the Council did not give any detailed description of the rights of these bishops, the common interpretation is that the Council wished to confirm for them the same superior jurisdiction over the dioceses of Thrace, Asia Prima, and Pontus that the bishops of Alexandria and Antioch exercised over the dioceses of Egypt and the East.¹⁶⁹ Their territory was less extensive than that of Rome, Alexandria, and Antioch and geographically closer to the city of Constantinople. With the rise of Constantinople they were little by little reduced to suffragan sees of the patriarchate of Constantinople. The title “exarch” became proper to them while the title “patriarch” was reserved for the bishops of the major Sees.¹⁷⁰

Again, at the First Council of Constantinople (381), the Fathers reiterated the teaching of the First Council of Nicaea through its canon 2.¹⁷¹ What is most striking about this canon is that it directly and specifically prohibited bishops from *intruding* into or

¹⁶⁸ See DE VRIES, “The Origin of the Eastern Patriarchates and their Relationship to the Power of Pope,” p. 65.

¹⁶⁹ See Joseph SCHROEDER, *Disciplinary Decrees of the General Councils, Text, Translation, and Commentary*, St. Louis and London, Herder Book Co., 1937, p. 32.

¹⁷⁰ See Bertrand KURTSCHIED, *Historia iuris canonici, historia institutorum*, vol. 1, Romae, Officium Libri Catholici, 1941, p. 124.

¹⁷¹ TANNER, *Decrees of the Ecumenical Councils*, vol. 1, pp. 31-32, c. 2.

confusing the Churches in other ecclesiastical territories. The bishops of each region were to manage the affairs of their region only. The canon reaffirms governance by the Provincial Synod as laid down by canons 5 and 6 of the First Council of Nicaea. It adds a related provision prohibiting bishops from ordaining or conducting ecclesiastical business outside their own territory. Finally, a new provision that the Churches among barbarian peoples, i.e. missionary lands, be administered according to the custom of the fathers, i.e., by their mother Churches.¹⁷²

The existence of various *sui iuris* Churches in one Catholic Church is clarified by the Congregation for the Doctrine of Faith on the basis of the teachings of the Second Vatican Council and the Extraordinary Synod of bishops of 1985. The congregation states that there is only one basic ecclesiology in the Church, which certainly can be approached and worked out in different ways. The harmony of the authentic doctrinal tradition must be maintained by preserving the integrity of what has been revealed.¹⁷³ Thus we may be able to find an historical antecedent to the modern so-called concept of “uniatism,” which represents a method employed in maintaining unity between different *sui iuris* Churches in the Catholic Church. This method is opposed by the Orthodox Churches.

¹⁷² See Hubert JEDIN and John DOLAN, (eds.), *History of the Church*, vol 2, New York, Seabury Press, 1983, p. 75. The First Council of Constantinople clearly reaffirmed the principle of territoriality as the basis of the *sui iuris* Churches, and also of the principle of synodal government as the norm in every ecclesiastical province. This gives us some indication of the existence, and approval by the early Council of the autonomous nature of non-patriarchal *sui iuris* Churches. The non-patriarchal *sui iuris* Churches were not the invention of the popes of the second millennium.

¹⁷³ See CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion, in *L'Osservatore romano*, 17 June 1992, p. 1.

CONCLUSION

When one examines the origins of the present day Christian Churches and ecclesial communities, it is difficult to see similarities between them and the original communities established by the Apostles and their immediate successors. The development of the institute of episcopacy was gradual with its elements already present in the foundation of the Church. The complete juridical structure of the Church did not emerge at the moment of its establishment. The Apostles themselves were the first bishops who planted the Church in different places and, before their passage from this world, they entrusted their authority to their successors. The unique feature of the infant Church was that the bishops of individual Churches were truly conscious of their co-responsibility for the welfare of the universal Church.

The notes of unity, universality, apostolicity and sanctity of the Church, are not the recent inventions of modern theologians. They characterize the Apostolic Church which zealously safeguarded its unity through its sharing in the life and message of Christ. This does not mean that the divisions among Christians were unreal. Insofar as it exists, divided or undivided, the Church continues its saving mission on earth only because it shares in the life and mission of Christ. He is at its center as its life giving force (Cf. 1 Cor. 3:11).

The historical evidence confirms the fact that the Church of Christ, from its inception, was planted in various parts of the then known world and in the concrete cultures of the people who received the word of God. Any culture that received the message of salvation was transformed by it. For this reason, today every Catholic Church *sui iuris* can lay claim to a specific heritage, and therefore, to its right to retain and foster its own forms

of worship and discipline. Each Church *sui iuris* within the Catholic family possesses an equal right to live out its uniquely native heritage. Any attempt to force uniformity within the universal Church would be detrimental to its intrinsic unity. The universal Catholic Church is not a monolithic institution but a communion of several autonomous Churches. It is one Church in which one particular autonomous Church, whether Eastern or Western, cannot lay claim to superiority over others.

Furthermore, historical evidence clearly attests to the fact that the autonomous nature of the individual Churches of the first millennium was not the consequence of any special concession of some superior external authority made at a particular time in history. It was something intrinsic to each Church *sui iuris*. Therefore, even when, during the first millennium, Christians were forced out of their homelands and into distant countries by religious persecution and political upheavals, they kept their own liturgical practices and developed administrative structures proper to their concrete nature in accord with the apostolic tradition they had originally received. During the second millennium also the Christian faithful of various Churches *sui iuris* were driven out of their own countries and into distant lands by political, social, religious and economic situations, and wherever they went they carried with them their ancient patrimony, which the Church has always insisted on preserving in order to safeguard their distinct identity.

As determined and declared by different ecumenical councils, every patriarchate was limited to a particular territory during the first millennium. Patriarchs exercised jurisdiction only within their own territories. Therefore, it is reasonable to assume that the local hierarchs (Ordinaries) belonging to a particular patriarchal Church exercised jurisdiction

over the immigrant faithful residing within their territory. However, even during this time, the primacy of the bishop of Rome was never in dispute, because all bishops sought his advice on or solutions to controversial matters, especially those concerning faith and morals. However, the pristine jurisdictional autonomy became a victim of the centralization of papal jurisdiction in the second millennium. There is no doubt that the current centralized system of administration is not of divine origin. It began emerging at the beginning of the second millennium, and slowly assumed highly complex juridical structures which we find in the Church today. In a sense, this was a blessing in disguise as the centralized authority was able to provide the necessary pastoral care to Eastern Catholics who migrated to different parts of the world for various reasons.

It was with the awareness of the original structures of the universal Church that the fathers of the Second Vatican Council decreed that every Church *sui iuris* must preserve its native tradition, liturgical customs and ecclesial unity reflecting the early Church.

The fact that the jurisdiction of patriarchs, or of their equivalents in law, is restricted to their respective territories has always been a source of serious problems vis-a-vis the pastoral care of Christ's faithful rooted out of their native soil and planted in strange lands. The particular Churches were not able to provide such care. However, the universal Church always demonstrated its solicitude in providing for the pastoral needs of such faithful, although at times in ways foreign to their native religious and cultural heritage. In the following chapter we will review the different responses of the Church to the phenomenon of migration, and examine how it has tried to safeguard this identity and membership in their own autonomous Churches, and consider the various pastoral strategies adopted by the

Church in ministering to those faithful, while striving at the same time to preserve the unity of the one Catholic Church.

CHAPTER TWO

PHENOMENON OF MIGRATION: RELEVANT PASTORAL AND CANONICAL ISSUES

INTRODUCTION

In the previous chapter we explored the origin and development of various traditions and rites in the Church and the ways in which they maintained unity in diversity. Local unity found its focal expression in the person of the bishop. Ignatius of Antioch said that the single figure of the bishop is a sacramental expression of the unity of God: “The true Christian penitent returns to the unity of God and the communion with the bishops.”¹ Every Christian is ascribed to a local Church which comes under the jurisdiction of the local bishop. The local bishop was, therefore, the focal point for Church life in every aspect.² Every bishop in every city had his own baptized members following the tradition and customs of that particular Church. Even though there had been unity among bishops of various cities, the local Church with its individual bishop was the constitutional reality of the early Church. It did not mean, however, that the Church became a static juxtaposition of local Churches, which in principle were self-sufficient.

¹ IGNATIUS OF ANTIOCH, Letter to the Philadelphians VIII, in Carolus HEFELE, *Patrum apostolicorum opera*, Tubingae, Bibliopolio Henrici Laupp, 1855, p. 217: “Omnibus igitur poenitentibus remittit Deus, si se convertant ad unionem cum Deo et ad communionem cum episcopo.”

² IGNATIUS OF ANTIOCH, Letter to the Smyrneans VIII, in HEFELE, *Patrum apostolicorum opera*, p. 229: “Omnes episcopo obtemperate, ut Jesus Christus Patri; et presbyterio ut apostolis; diaconos autem reveramini ut Dei mandatum. Separatim ab episcopo nemo quidquam faciat eorum, quae ad ecclesiam spectant. Valida eucharistia habeatur illa, quae sub episcopo peragitur, vel sub eo, cui ipse concesserit. Ubi comparuerit episcopus, ibi et multitudo sit; quemadmodum, ubi fuerit Christus Jesus, ibi catholica est ecclesia. Non licet sine episcopo neque baptizare, neque agapen celebrare; sed quodcunque ille probaverit, hoc et Deo est beneplacitum, ut firmum et validum sit omne, quod peragitur.”

The Church needed to remain apostolic; otherwise the dynamism of unity with the universal Church would be compromised.

At least until the fourth century, the ecclesiological view of the primitive Church was characterized by the communion of its relatively autonomous local Church communities. This communion was based on the unity of faith and sacrament celebrated in these Churches and was manifested pre-eminently in the communion of their bishops.³

In this chapter we will look into the phenomenon of migration, its origin, effects and the current difficulties faced by the subsequent generations. This century has seen massive waves of people moving from one part of the world to another. The events in Eastern Europe and the Middle East have led recently to the uprooting of hundreds of thousands of people from their homelands. The consequence of this migration is that millions of Christians from the Eastern traditions can be found in Western Europe, the American continents and Australia. All of a sudden, people from the Eastern traditions are living along side Catholics of the Western tradition, creating new pastoral problems for the whole Church. Issues such as education, spiritual formation, marriages between Catholics of various Churches *sui iuris* and other needs of minority groups, had to be faced.

³ See Jobe ABBASS, *Apostolic See in the Eastern Code of Canon Law*, Lewiston, London, Mellen University Press, 1994, p. 105.

2. 1. MIGRATION OF EASTERN CHRISTIANS FROM THEIR HISTORICAL TERRITORY

As long as the apostolic community remained in Jerusalem, the Twelve exercised the principal missionary activities with others to be incorporated later into their evangelizing mission team. Although Hellenistic culture had obviously embraced the faith, the field of apostolic activity remained essentially concentrated in Jerusalem and among Jews. Obeying the mandate of Christ to evangelize all peoples, and moved by the grace and charity of the Holy Spirit, the apostles and the disciples went all around the world, leaving their homeland, and preached the Good News.

Christianity began to expand in the Roman Empire and beyond, with the persecution of Christians beginning in 64 AD by Emperor Nero. It continued for several years with Nero banning the profession of Christianity and making it unlawful for Christians to exist in the Roman Empire.⁴ With the martyrdom of Stephen, many Christians fled from their home in Palestine to various parts of the Roman Empire to avoid persecution. Some went to Judea and Samaria and others traveled as far as Antioch, Alexandria, and even to cities outside the Roman Empire. It was there that the first practical work of evangelization among gentiles started.⁵ Persecution began first in Rome, then in the Italian peninsula, Lyons and other western parts of the Empire, and later it extended to the provinces of Asia, Bithynia, Greece, Asia Minor, Syria, Palestine, Egypt, and Africa.

⁴ See EUSEBIUS, *HE*, II, n. 4.

⁵ See Karl BAUS, *From the Apostolic Community to Constantine*, Freiburg, Herder and Co., 1965, pp. 76-77.

The persecution of Christians under Roman Emperors took various forms such as exile both within and outside the Roman Empire often involving hard manual labor, compulsory idol and even emperor worship.⁶ The expelled Christians established communities and brought along with them their traditions to wherever they settled. Besides persecutions, natural calamities and famine also became reasons for people to move from city to city.⁷ Some of the Christians who had fled returned to their hometowns when the situation improved for the better, but most made their home in the diaspora. Though persecution and natural calamities were some of the reasons to spread Christianity to various corners of the Roman Empire, evangelization was the main motive for the missionaries to travel everywhere.

During the early years of Diocletian (284-305), imperial power was shared by two or more princes so that, at least theoretically, the political power was shared within the Roman Empire. Towards the end of Diocletian's reign there were two equal and independent heads. A real division of the Empire, as East and West, took place after Diocletian.⁸ As seen in the preceding chapter, emperor Constantine granted freedom of worship to all Christians and restored to them the properties the government had

⁶ See EUSEBIUS, *HE*, VI, n. 3. Eusebius records that persecution drove everyone away from Alexandria during the time when Origen was a teacher at the catechetical school. Origen himself fled from Alexandria when persecution broke out there. According to Origen, a Christian should flee from persecution not due to cowardice, but simply to observe the Teacher's commandment, to keeping himself pure so that others might be helped by his safety. Also see WACE and SCHAFF (eds.), *A Select Library of the Nicene and Post-Nicene Fathers*, vol. 6, pp. 256-257. Athanasius, bishop of Alexandria, described that more than thirty bishops fled from Egypt and Libya during the Arian persecution.

⁷ Cf. SOZOMEN, *HE*, IV, n. 16.

⁸ Cf. EUSEBIUS, *HE*, VIII, n. 13.

confiscated.⁹ After the conversion of Constantine, the exiled prelates were allowed to return and minister to their flock. After the edict of Constantine (313 AD), which provided freedom for Christianity, many people from different parts of the world, such as India, Ethiopia, and Persia returned to settle permanently within the confines of the Roman Empire.¹⁰

The Council of Sardica (343 AD) noted that many Christians, including bishops, priests and lay people had fled to different cities because of persecution, hardship and suffering.¹¹ The Council of Trullo (692 AD) ordered all clerics who had fled from their dioceses because of persecutions to return to their own original Churches as soon as the causes, which drove them out, had ceased. They were not to be registered in the clergy list of any other Church.¹² The council also dealt with the cases of bishops who could not take canonical possession of their office due to barbarian invasions.¹³

⁹ Cf. EUSEBIUS, *Life of Constantine*, II, nn. 30, 31.

¹⁰ Cf. EUSEBIUS, *Life of Constantine*, IV, n. 8.

¹¹ See Henry PERCIVAL, *The Seven Ecumenical Councils of the Undivided Church*, Oxford, James Parker & Co., 1900, p. 431. Council of Sardica, c. 17: "That if anyone suffers violence and is unjustly cast out on account of his discipline and Catholic confession or for his defense of the truth, and, fleeing from dangers, although innocent and devout, comes to another city, let him not be forbidden to stay there until he can return or his wrong redressed. For it is harsh and unfeeling that he who is suffering persecution should not be received; indeed, great cordiality and abundant consideration should be shown him."

¹² See *ibid.* p. 374. Council of Trullo, c. 18: "We order those clerics who in consequence of a barbaric incursion or on account of any other circumstance have gone abroad, to return again to their Churches if the reason no longer exists, or when the incursion of the barbarians is at an end. Nor are they to leave them for long time without cause. If anyone shall not have returned according to the direction of this present canon – let him be cut off until he shall return to his own church. And the same shall be the punishment of the bishop who received him."

¹³ *Ibid.* p. 382, c. 37: "Since at different times there have been invasions of barbarians, and therefore very many cities have been subjected to the infidels, the bishop of a city may not be able, after he has been ordained, to take possession of his see, nor settle in it in sacerdotal order. Hence he would be unable to perform and manage ordinations with whatever customs appertain to the bishop. We therefore, preserving honor and veneration for the priesthood, and in no wise wishing to repeat the Gentile destruction of ecclesiastical rights, have decreed that those who have been ordained thus, and because of the aforesaid reasons have not been settled in their sees, may be kept [in good standing] and canonically permitted to

Alexandria, Antioch, Constantinople and Asia Minor became the main Eastern Christian centers of the early centuries. Alexandria was one of the largest cities of the Roman Empire and the major intellectual, political and cultural center of the East. Christianity took root there early, leading to the establishment of a patriarchate in Alexandria that played a prominent role in the theological controversies and ecclesiastical power politics of the 4th and 5th centuries. Sasanians (Persians) occupied Alexandria in 618 and Arabs conquered it in 642.¹⁴ Christians had to flee to secure areas of the Middle East and Europe.

Antioch was the military and administrative center of the Roman Empire in antiquity and the seat of one of the four Eastern patriarchates. In 665 AD Arabs attacked Antioch, and destroyed it in 717 AD. The Turks had occupied it permanently in 1097 and the city never really recovered from the devastation. However, it did remain the ecclesiastical metropolis in the 12th century.

Constantinople was the imperial capital of the Eastern (New) Roman Empire and later it became the Byzantine Empire within which Churches of the Byzantine tradition developed. In 674 and 717 the Arabs attacked the city and expelled most of the inhabitants with the survival of only a small remnant. Constantinople started to recover in the 9th century, further expanding in the 11th and 12th centuries. Again the Latin

perform the ordination of the different clerics using the authority of their office according to defined limits. Whatever administration proceeds from such permission may be valid and legitimate. For the exercise of his episcopal office shall not be circumscribed by a reason of necessity when an exact observance of law is usually circumscribed.”

¹⁴ Sasanians were descendents of a king called Sasan whose dynasty ruled Persia (modern Iran) for more than 400 years. The Sasanian period marks the end of the ancient and the beginning of the medieval era in the history of the Middle East. They adopted Zoroastrianism as the official state religion.

occupation of 1204 AD destroyed the city along with its Byzantine tradition, and Latinization was imposed on the faithful. In 1453 the Turks occupied it completely. The Turkish occupation compelled many to reject the Byzantine Christian tradition and to accept Islam. Those who remained committed to their faith were exiled.

Asia Minor was the westernmost part of Asia where Christianity prospered from the very beginning and where it enjoyed peace for a few centuries. The 7th century brought a fundamental change to the region by the Persian attack. Then the Arabs occupied it along with Syria, Palestine and Egypt. Persians forced the immigrants from Syria and Armenia to flee to other regions or to embrace Islam.¹⁵

Ever since the conquest of the Near East and other major places of Eastern Christians by Muslim Arabs in the 7th century, Christian communities in those places had an unstable existence. The Churches founded in the Middle Eastern cities by the Apostles and their disciples were seriously threatened by the animosity of non-Christians. Later on during the Middle Ages the Western Church made efforts to proselytize the surviving Eastern Christians and thus the Eastern Church's presence diminished from that region.¹⁶ The history of early Christianity demonstrates that the Church survived and flourished in the diaspora.

¹⁵ For a brief political and religious history of the ancient Eastern Christian Centers, see Alexander KAZHDAN, *The Oxford Dictionary of Byzantium*, New York, Oxford University Press, 1991.

¹⁶ Cf. POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 11.

2. 2. MIGRATIONS OF EASTERN CHRISTIANS IN THE 19TH AND 20TH CENTURIES

The search for a peaceful economic and political security is the fundamental driving force behind all migration. People tend to leave when they see their ethnic identity threatened and when they fear impending persecution. In the modern era, the largest movements of international migration took place during the 19th and 20th centuries. Most of the world's major migrations were triggered by the colonial powers of Europe and by the receiving countries such as the United States, Australia, New Zealand, Argentina, Brazil, South Africa, and Rhodesia.¹⁷ Historically, people have always sought to move when they were unable to survive because of war, civil disturbances, political turmoil, oppression, draught, famine, or widespread unemployment and contagious diseases.

There were massive migrations of peoples to both the North and South American continents from Eastern Europe and the Near East in the early part of the 20th century. The phenomenon of the dispersion of the faithful of the Eastern Churches to the American continents and Australia is the consequence of two world wars, the collapse of the Hapsburg, Russian, and Ottoman empires, the Arab-Israeli wars. Most recently, the disintegration of Soviet empire and the regrettable events in the Middle East have caused

¹⁷ INTERNATIONAL ORGANIZATION FOR MIGRATION, *Migration and Health*, vol. 2, New York, IOM Publications, 1992, p. 1: "Colonial powers were responsible for an estimated 15 million slaves being transported from Africa for work in the Americas prior to 1850, and during the century following the official end of slavery (from 1834 to 1937), over 30 million persons were shifted from the Indian sub-continent to work in other colonies of Asia, the Indian Ocean and the Caribbean." During the 19th century, an estimated 50 million Europeans immigrated to North America. Twenty million of them emigrated to Central and South America - mainly Spaniards, Portuguese, Italians and about seventeen million to South Africa and Australia - mainly Anglo-Saxon and Dutch.

the uprooting of hundreds of thousands of Christians, among others, from their homeland. All these events caused millions of Christians from the Eastern tradition to migrate to Western Europe, Canada, the United States, South America, and the Australian continent. They are no longer people from far away countries; instead they are brothers and sisters living beside Catholics of Western tradition throughout the world.

There are also serious tensions between many of the Orthodox communities of the old Soviet Union and their Eastern Catholic counterparts. In certain cases the governments of these countries are taking actions favoring Orthodox churches, especially in matters concerning the distribution of government-seized church property.¹⁸ Since Eastern Catholics in their mother countries have faced religious persecution, war, and civil disorders, the 20th century has witnessed an unprecedented and large-scale emigration of Eastern Catholics from Eastern Europe, the Middle East, and Asia.¹⁹ Even in the recent past we have witnessed tragic instances of forced movements of peoples on ethnic and nationalistic pretensions, which have added untold misery to the lives of targeted groups.²⁰

Migration has become a widespread phenomenon in the modern world and involves all nations, either as countries of departure, or transit or of arrival. It affects millions of human beings, and presents a challenge that the pilgrim Church cannot fail to take up and meet in the Gospel spirit of universal charity.²¹ “The past and present

¹⁸ See ROBERSON, *The Eastern Christian Churches*, p. 124.

¹⁹ See POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 9.

²⁰ See JOHN PAUL II, Letter to the Pontifical Council for Migrants and Refugees, in *AAS*, 65 (2003), pp. 336-237.

²¹ *Ibid.*, p. 336.

migration has brought members of communities of individual Churches to Europe, to the Americas and Australia on a scale that could not be anticipated a few decades ago.”²² For example, of the three and a half million Maronite Catholics living worldwide, about 55,000 live in the United States, 45,000 in Canada, and 150,000 in Australia. Of the five million Ukrainian Catholics living worldwide, about 145,000 live in the United States, about 200,000 in Canada, 35,000 in Australia, and about 15,000 in Great Britain.²³ These emigrants’ love of God, their Church, rite and cultural heritage motivated them to bring priests from their homeland and as a result communities, missions, parishes and eparchies were soon established.

It is important to note that currently all Eastern Catholics in the Western hemisphere and the Australian continent are not immigrants, nor are they of one ethnic background. The immigration of any Eastern Catholic ethnic group or nationality did not take place as a single event. Rather, it usually took place in waves. When we treat the issues of the Eastern Catholic immigrants, it should be noted that some emigrations never take the faithful beyond the borders of their own nations. For example, the Syro-Malabar and the Syro-Malankara faithful have emigrated from Kerala, their home state, to all parts of India. In most countries such a transplant would not require much of a cultural adaptation, but in India, it means learning a new language, and accommodating themselves to new cultural circumstances.²⁴ The two Eastern Catholic hierarchies in India

²² See Johannes MADEY, *Orientalium Ecclesiarum: More than Twenty Years After*, Paderborn, West Germany, Eastern Churches Publications, 1987, p. 42.

²³ See ROBERSON, *The Eastern Christian Churches*, pp. 124, 146.

²⁴ See James ARAMPULICKAL, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, Vadavathoor, Kottayam, India, Oriental Institute of Religious Studies India Publications, 1994, p. 56.

have been struggling for years to be permitted to establish parishes and hierarchies for their faithful who have migrated to various parts of India, but have regularly met with obstacles from the local Latin hierarchy until the last decade.

2. 3. MIGRATION OF EASTERN CATHOLICS TO THE UNITED STATES AND CANADA

The presence of Eastern Catholics in the United States and Canada is primarily the result of both the late nineteenth-century migration from Eastern Europe and the more recent turmoil and upheaval in the Middle East and India. Until 1820 there had not been any migration of large groups of Catholics. However, the American Catholic Church experienced an enormous increase in immigrants during the years between the end of Civil War and the First World War. Between 1865 and 1890, Germany, Great Britain, Ireland, and the Scandinavian countries supplied the largest numbers of Catholic immigrants to the United States; but after 1890, the major groups came from Italy, Austria, Hungary, and Russia. A mass immigration of Slavs from the old Austro-Hungarian Empire began in 1880. They called themselves Ruthenians or Sub-Carpathian Ruthenians, while others from Galicia preferred to call themselves Ukrainians. Many settled in the coal-mining areas of Pennsylvania. In 1907, 81% of immigrants came from Eastern and Southern Europe soon to populate 152 parishes and 43 missions for Eastern Catholics in the United States. As a result, America and the American Catholic Church became diverse in ethnicity, culture and ecclesial origin.²⁵ In 1900, about one in seven persons in the United States was a Catholic with almost eleven million in a total United

²⁵ See David J. O'BRIEN, *Public Catholicism*, New York, Orbis Books, 1996, p. 77.

States population of seventy-six million. To avoid misunderstanding among Latin Catholics, who were unaware of the Eastern tradition of married clergy, the Congregation for the Propagation of Faith decreed that only celibate or widowed priests were to be sent to the United States.²⁶ However, the increase in immigration included also married priests. One hundred years later, almost one in four people in the United States are Catholic numbering some sixty million in a population of two hundred and sixty seven million. Since then the total number of Eastern Catholics has increased significantly.²⁷

The lack of their own hierarchy in the beginning, the requirement that they submit to local Latin bishops, and the thorny issue of married clergy in their countries caused great discontent among Slavic Catholics. About 200 Eastern Catholic parishes with nearly 225,000 faithful became Russian Orthodox due to the lack of proper pastoral care of Eastern Catholic immigrants. In 1964 this number increased to at least 400,000 thus forming about 60 percent or more of the present-day Russian Orthodox-American church.²⁸

In 1964 the Eastern Catholic Christians of North America numbered more than four million and conversion to the Russian Orthodox Church had ceased. The majority of Eastern Christians were of Byzantine tradition. By the beginning of the 20th century, Ukrainian and Ruthenian Churches had their own hierarchy and they could grow in

²⁶ See *Collectanea Sacrae Congregationis de Propaganda Fide seu decreta instructiones rescripta pro apostolicis missionibus* [=Collectanea], vol. 2, Romae, Typographia Polyglotta, 1907, n. 1966.

²⁷ See Bryan T. FROEHLE and Mary L. GAUTIER, *Catholicism in the USA*, Washington, DC, Georgetown University, 2000, p. 1.

²⁸ See George MALONEY, "Eastern Churches," in *NCE*, vol, 5, pp. 13-21.

numbers and in depth, forming a clergy and laity eager to retain their religious heritage, as late as the early part of the 1960's.

During the early part of the 20th century, all the members of the other Eastern Catholic Churches in North America were under the jurisdiction of local Latin bishops, although they kept their own liturgical practices, their traditions, discipline and their own code of canon law.²⁹ As the Eastern Catholic community in the United States grew in number and diversity, it has come to reflect more and more closely the regional, social, ethnic and ecclesial composition of the United States.³⁰ It is erroneous to identify the Eastern Catholic Churches in the North American continent or any other continents as migrant churches. Given the fact that the immigration of faithful from Eastern Europe and the Middle East began during the 19th century, currently these communities rightly demand to be called "American" or "Canadian," and they are to be treated as another Church *sui iuris*.

2.4. PROBLEMS ENCOUNTERED IN THE DIASPORA

As a preliminary note, a brief explanation of the use of the term *Diaspora* is apropos here. It has a technical as well as a general connotation. The term itself is derived from the Greek word *diaspeir* or *diaspeirein*, which literally means "to scatter." In its technical sense, when preceded by *the*, *Diaspora* means "the dispersion of the Jews among the Gentiles mainly in the 8th - 6th century BC (after the Babylonian captivity), or

²⁹ ASS, 24 (1891-1892), p. 390. "Maxima et generalis sacrae Congregationis quod patriarchae ritus orientalis exercere nequeant propriam iurisdictionem extra eorumdem patriarchatus; et consequenter quod sacerdotes et fideles cuiuslibet ritus orientalis, domicilium habentes extra respectivos patriarchatus, sive etiam intra litem eorumdem, sed non habentes parochos proprii ritus, subiiciantur ordinario latino loci, in quo morantur, praecipue in diocesibus latinis."

³⁰ See FROEHLE, and GAUTIER, *Catholicism in the USA*, p.10.

Jews dispersed in this way. In its general connotation, the term *diaspora* means “any group of people similarly dispersed” or “their dispersion.”³¹ In our study, the word “diaspora” is being used in the latter sense to designate members of the Eastern Catholic Churches who are dispersed from their homelands for various reasons and have established their homes in foreign lands. However, we cannot overlook the fact that the use of this term (*diaspora*) to designate Eastern Catholics dispersed from their homeland is not without problems. The term might give the impression to people concerned that their “true” Church is in their homeland and, therefore, their goal in life is to somehow return to their native country. This would be an unrealistic hope for most if not all immigrants who are now comfortably settled in their new surroundings. There is no doubt, however, that those who have made their homes in their adopted countries owe their allegiance to those whom they have left behind, that does not mean that they should long to return permanently to their original homelands.

Another problem in using the word *diaspora* to designate communities of Eastern Catholic Churches established outside their historical territories is that it could in some way denigrate the very catholicity of those Churches as though they are out of place in the western countries and are just longing to return to their homelands. Those communities which are already firmly established in the western countries have proven capable of adapting themselves to the socio-cultural environs of the adopted countries. In

³¹See “Diaspora,” in *The Oxford Encyclopedic English Dictionary*, Joyce M. HAWKINS and Robert ALLEN (eds.), Oxford, Clarendon Press, 1991, p. 399; *New Webster’s Dictionary and Thesaurus of the English Language*, New York, Lexicon Publications, Inc., 1991, p. 264.

order to avoid any confusion in terminological usage,³² the term “sister” Church also does not seem to be an option, for the Second Vatican Council in fact used it in its decree on Ecumenism (*UR* n. 14) to call Orthodox Churches as “sister Churches.” In his address to the Orthodox Church in Poland, Pope John Paul II said: “To say ‘Sister Churches’ is not just a polite phrase, but rather a fundamental ecumenical category of ecclesiology. The mutual relations between all Churches should be built upon it.”³³ Therefore, we are adopting the term *diaspora* to designate a particular Church *sui iuris* now canonically established outside its historical territory.

Pope John XXIII eloquently expressed the existing situation and difficulties of emigrants when they were uprooted and planted in a new home. He said: “The migration of peoples is an ever more extensive phenomenon, which, first of all, certainly presents positive aspects for individuals as well as families. In their new frame of life, they may find a better situation and greater possibilities for human and family development. But it often happens that the emigrant is not only uprooted from his/her own land and transplanted in a foreign country but is also thrown into the atmosphere of large industrial cities, and consequently often moves from Catholic surroundings into an environment

³² Would it be appropriate to call these communities “Daughter” Churches to distinguish them from their “Mother” Churches? This familial analogy could find some justification because the principal head of every Eastern Catholic Church is a patriarch, the “father” of his Church. But we should note that this terminology also seems inadequate to express the reality sufficiently well because the communities established outside the historical territories are not under the direct control of the “Mother” Churches. In some ways, the “daughter” is really an orphan! Furthermore, this terminology could also signal the perpetual immaturity of the “daughter” Church!

³³ JOHN PAUL II, Address to the Representatives of the Orthodox Church in Poland, 5 June 1991, in *Information Service*, 76 (1991), p. 39.

permeated with other religious ideas, if not total indifferentism. This change exposes the emigrant to the risk of having his human and Christian dignity shipwrecked.”³⁴

2. 4. 1. Select Issues

Once the immigrant Eastern Catholics arrive in the diaspora, especially in the United States, Canada, and Australia, they become cultural and ecclesial minorities, and must struggle to maintain their identity.³⁵ Large numbers of immigrants live in isolation from one another and there is no practical way for all to be reached by their own clergy to provide for them adequate pastoral care and worship according to their own liturgical rite. The major difficulties that the Eastern Catholic communities face today in their new home are: the lack of their own pastors, inability to communicate in the local language, and their widely scattered locations. Eastern Catholics living in remote areas must endure long periods without the opportunity to celebrate the holy mysteries according to their own liturgical traditions. Moreover, they must face the added difficulty of pressure, both direct and indirect, to abandon their own liturgical celebrations and spiritual heritage and to become a part of the life of the Latin Church.

Wherever priests are assigned, either to parishes, missions or communities established, for pastoral care, they celebrate the Eucharistic Liturgy in their own rite almost every Sunday. They encourage their own people to attend every week, but attendance varies according to the particular feast celebrated. All have parishioners or members who live a long way from their gathering center.

³⁴ JOHN XXIII, Address to the Supreme Council of Emigration, 20 October 1961, in *L'Osservatore romano*, 21 October 1961, p. 6.

³⁵ See POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 9.

There are programs for sacramental preparation in most of the Churches *sui iuris* established or organized in the diaspora countries. Children are encouraged to take part in these programs and learn about their liturgies and traditions. Most Churches *sui iuris* offer annual programs for reconciliation and first holy communion. They try to offer these to children who are in the programs at their local Latin Church parish schools during the week.³⁶

There are also different language programs offered by different Churches *sui iuris* in the hope of maintaining their liturgical languages and the language of their cultural heritage.³⁷ Most of the young people speak and understand English only, while many of the older people speak little English. Some priests use only their liturgical language, in the hope of preserving their rite intact. Some have the readings in two languages, while others have liturgies all in English.

It should be noted that the category of *migrant* is not expressly mentioned in the Code of Canon Law so that we are unable to identify issues. However, there are many factors that in some way touch the lives of migrants, which we shall explore within the limited scope of our study.

³⁶ Cf. John D. FARIS, "The Pastoral Care of Migrants and the Code of Canons of the Eastern Churches," in the *CLSA Proceedings*, 63 (2001), pp. 85-86.

³⁷ See Joseph TAKCHI, "Joint Paper on Behalf of the Eastern Rite Catholic Priests in Australia in 1987," in *Australasian Catholic Record*, 65 (January, 1988), pp. 8-9: With regard to education, the Maronites have established three primary schools and one secondary school in Sydney. This is seen as one way of preserving and maintaining the Maronite identity.

2. 4. 2. Age and Condition

The categories of “age” and “condition” comprise a number of specific qualities relating to the pastoral needs.³⁸ With regard to “age,” the Church can take pride in its programs to provide spiritual, educational, and social programs for the youth, but the elderly are sometimes neglected. Care of elderly immigrants is sometimes a most difficult task because of their special needs (e.g., language and cultural barriers) in the established Churches *sui iuris*. However, care of the youth is very limited due to language and cultural barriers of the newly immigrant clergy in the now flourishing Churches *sui iuris* (e.g., Syro-Malabar and Syro-Malankara Churches are struggling to organize their youth due to the lack of American-trained clergy). Bishops and pastors are urged to provide both the elderly and youth with adequate pastoral care.

With regard to “condition,” migrants are listed as a separate category in the *Directory on the Pastoral Ministry of Bishops*³⁹ because of their particular needs, but among the migrant population, other factors such as lack of education, unemployment, underemployment, psychological trauma, and social problems contribute to make the plight of the immigrant even more acute.⁴⁰ In caring for the immigrants, bishops and pastors will be called upon to address all these issues.

³⁸ CD, n. 44. The *Directorium de pastorali ministerio episcoporum*, issued by the Sacred Congregation for Bishops, 22 February 1973, (*Enchiridion Vaticanum 4:1226-1487*) offers guidance in this area.

³⁹ See USCC, *Directory on the Pastoral Ministry of Bishops*, Washington, DC, 1974, n. 156.

⁴⁰ It is important to bear in mind always that in dealing with immigrants, we are often dealing with persons who have been *traumatized* by something: war, poverty, oppression, or violence.

2. 4. 3. Nation

As one would expect, the factor of nationality plays an important role in the pastoral care of migrants. The Orthodox Churches (perhaps excessively to their detriment) are national churches and their Eastern Catholic counterparts on occasion replicate their nationalistic and ethnic prejudices. Nationality differences can arise simply because immigrants pertaining to the same Church *sui iuris* might have migrated from different countries. Each of these national groups brings prejudices and political differences (often imperceptible to an outsider) that give rise to parties and factions in the community. Even from within the same country there are parties and factions on regional and ethnic basis. For example, Syro-Malabar immigrants comprised of two ethnic groups: the Southists, also called the Knanaya community and the Northists. Both groups must be recognized equally and adequately by the priests and bishops. American and Canadian born bishops and pastors at first might not be aware of the sensibilities of the migrants or they might initially discount or downplay the differences. However, the issues need to be addressed in order to avoid disputes and divisions within the immigrant community. Favoritism or ecclesiastical apartheid are absolutely to be avoided.⁴¹

The situation is not rare that one “wave” of immigrants refuses to accept another “wave.” Because immigrants are traumatized, they easily become frightened of anyone who might pose a threat. In the secular world, established immigrants are resentful of new arrivals who will work for lower wages. In the Church, the established immigrants

⁴¹ The Ethiopian Church comprises faithful from both Ethiopia and Eritrea; the Maronite Church has faithful from both Lebanon and Syria. In both cases, the two nations are hostile to one another.

might have struggled and sacrificed to establish a parish church, only to find that it is being overrun by new arrivals, who may want to do things differently.

Bishops and pastors, always susceptible to accusations of favoritism or prejudice, must be sensitive to these differences. Such sensitivity is reflected not only in their immediate relations with laypersons, but also in curial and parochial appointments.

2. 4. 4. Pastoral Care

The *CCEO* provides that a group of faithful lacking a bishop of their own could be entrusted to the pastoral care of the bishop of another Church *sui iuris*.⁴² Quite often, it is a case of Eastern Catholics being entrusted to the pastoral care of a Latin bishop, but the possibility remains that an Eastern Catholic eparchial bishop could be entrusted with the pastoral care of faithful of other Eastern Catholic Churches *sui iuris*.⁴³ Both codes provide for the possibility of the creation of a parish,⁴⁴ designation of a priest⁴⁵ or the appointment of a syncellus/episcopal vicar⁴⁶ to respond to the pastoral needs of the Eastern Catholic faithful.

2. 4. 5. Temporary Residents

Although some immigrants depart from their homeland with an intention never to return, it is not rare for others to deny that they have come to a new home; for them the new land is only a temporary refuge, not a new home. They intend to return to their

⁴² See *CCEO* cc. 207 and 916 §1.

⁴³ For example, the Eparchy of Križevci (Croatia) was established to serve Serbian Orthodox who had come into full communion with Rome. Eventually, Ruthenians from Slovakia, Ukrainians from Galicia, Slavic Macedonians, and Romanians were incorporated into the Eparchy.

⁴⁴ See *CCEO* c. 280 §1; *CIC* c. 518.

⁴⁵ See *CCEO* c. 678 §2; *CIC* c. 383 §2.

⁴⁶ See *CCEO* c. 246; *CIC* c. 476.

homeland as soon as it becomes feasible. The temporary resident status has an impact on the pastoral care to be provided and on the overall parish life. In some cases, the migrants are barely legal-or illegal. Illegal persons are reluctant to “register” in the parish, thereby relegating themselves to anonymity. They might have difficulty in obtaining a marriage license and perhaps can enter only into a marriage that would not be recognized in the civil forum.⁴⁷ Such persons have difficulty in obtaining a job with wages sufficient to support a family. Naturally, their financial support of the parish will be affected.

2. 4. 6. Inability to Avail Themselves of Ordinary Pastoral Care

The Second Vatican Council mentions certain categories of persons who receive little or no benefit from the ordinary pastoral care provided in parishes. “Special concern should be shown for those members of the faithful who, on account of their way of life are not adequately catered for by the ordinary pastoral ministry of the parochial clergy or are entirely deprived of it. These include the many migrants, exiles and refugees, sailors and air force personnel, itinerants and tourists. Suitable pastoral care should be developed to provide for the spiritual life of people on holidays.”⁴⁸ This category could conceivably be expanded to persons in relationships that morally prevent them from the reception of the Holy Eucharist. Effective pastoral care requires us to reach everybody to provide the care and assistance regardless of their status or ethnic origin.

⁴⁷ See *CCEO* c. 789, 2°.

⁴⁸ *CD*, n. 18.

2. 4. 7. Non-Practitioners of Religion

In 1990, the churches of Eastern Europe emerged from the catacombs after approximately seven decades of atheistic and communistic oppression. The great majority of the faithful, if they had been baptized at all, had only a meager understanding of their faith. For such people, religion is met with disdain or ignorance. Clerics ordained during this period received only slightly more formation in the celebration of the liturgy than ordinary faithful. The mid-twentieth century conciliar renewal is unknown to them.⁴⁹ For these reasons, a significant portion of the immigrant population is non-practicing and *de facto* requires an evangelization program.⁵⁰

2. 4. 8. Baptized non-Catholics

The *CCEO* c. 192 §2 calls for the pastoral concern of the eparchial bishop to extend beyond the limits of the Catholic Church and treats those faithful with kindness and respect.⁵¹ It is quite common for communities originating in Eastern Europe or the Middle East to be comprised of Catholics and Orthodox. They bring with them not only the cultural treasures of their homeland, but also the prejudices and animosities. The eparchial bishop must extend a helping hand to these non-Catholic faithful without being accused of proselytism. The task is a delicate one since the faithful, both Orthodox and

⁴⁹ Some facets of conciliar reform, e.g., ecumenism, would not be easily received and implemented in the Eastern European churches.

⁵⁰ See FARIS, "The Pastoral Care of Migrants and the Code of Canons of the Eastern Churches," pp. 82-83.

⁵¹ Although it is of no great importance, the canons of the *CCEO* and the *CIC* treat the pastoral care of baptized non-Catholics differently: While the *CCEO* calls for the eparchial bishop to foster an ecumenical spirit among those Christian faithful entrusted to his care, *CIC* c. 383 §3 addresses the matter from the perspective of the diocesan bishop's direct relationship with baptized non-Catholics and secondly, calls him to foster ecumenism: "He is to act with kindness and charity towards those who are not in full communion with the Catholic Church, fostering ecumenism as it is understood by the Church."

Catholics, will often gravitate to a church in which they are linguistically and culturally comfortable and overlook issues of ecclesiastical affiliation. The eparchial bishop will be successful in achieving the balance if he endeavors to support the Orthodox hierarchy and clergy in the pastoral care of their faithful. This can be done in a variety of ways:

- Catholic schools, hospitals and other similar institutions are to see that other Christians who attend the institutions or stay there have their own ministers and can receive the sacraments from them.⁵²
- Eastern Catholics should cooperate with other Christians in matters of charitable works, works of social justice, defense of human rights, promotion of peace and civic occasions.⁵³ Even when immigrants come from the same country, it is not rare for the community to be divided between the Orthodox and Catholic churches. There are certain causes and civic celebrations that can serve as occasions for fraternal encounter. In this area, precaution must be taken that any of these occasions do not devolve into the source of partisan political activity.
- If non-Catholic Christians lack a place in which divine worship can be celebrated with dignity, the eparchial bishop can grant permission for them to use a Catholic building, cemetery or church.⁵⁴ An even more radical approach would be for Catholic and Orthodox to construct, hold title, and use the same church facilities. In the case of migrant populations, given the limited resources available to them, this might be a more practical approach.

⁵² See *CCEO* c. 907.

⁵³ See *CCEO* cc. 25 § 1; 908.

⁵⁴ See *CCEO* c. 670 § 2.

2. 4. 9. Non-Baptized

Non-baptized persons are also to be recipients of the pastoral attention of the Church. *CCEO* c. 192 §3 teaches that the eparchial bishop is to consider the non-baptized as being committed to him in the Lord and to see that the love of Christ shines upon them from the witness of the Christian faithful living in ecclesial communion.

Again, because of the atheistic dictatorships under which many Eastern Churches suffered for decades, it is not rare that a person with a Catholic or Orthodox parentage is non-baptized. If it were their desire to receive baptism, then they would become catechumens.⁵⁵ Even for those who lack the faith and the desire to become Christians, it is still the obligation of the bishop and pastors to be concerned for their welfare and witness the love of Christ to them.

2. 5. ESTABLISHMENT OF HIERARCHIES AND PARISHES

Eastern Catholic immigrants have the right “to worship God according to the prescripts of their own Church *sui iuris*”⁵⁶ and “to receive assistance from the pastors of the Church from the spiritual goods of the Church, especially the word of God and the sacraments.”⁵⁷ Such rights impose a corresponding obligation on the hierarchy and clergy to provide ecclesial structures for worship, reception of the sacraments, and the preservation of their ritual patrimony.

⁵⁵ See *CCEO* cc. 9 § 2; 587.

⁵⁶ See *CCEO* c. 17.

⁵⁷ See *CCEO* c. 16.

The Second Vatican Council called for the establishment of parishes and hierarchies of the various Churches *sui iuris* wherever the spiritual good of the faithful requires it. "Steps should therefore be taken for the preservation and enlargement of all the Churches *sui iuris* throughout the world, and so parishes and their own hierarchy should be set up wherever the spiritual good of the faithful requires it."⁵⁸ It should be noted that the justification given by the Council for the establishment of parishes or hierarchies is not the expansion of the Church *sui iuris* or the observance of any rite; rather, parishes and hierarchies are to be established *if the spiritual good of the faithful requires it*. Because of their limited understanding of the Church and religion, the faithful themselves may or may not be aware of this need.

Because the Catholic Church sometimes operates with the sluggishness typical of all bureaucracies, the hierarchies are often established not for the Eastern Catholic immigrants themselves, but for their offspring. It was usually left to the communities themselves, with varying degrees of support from the local Latin bishop, to establish a parish and bring a priest from the homeland to serve them. The small immigrant parishes under the care of a foreign-born priest remained the regular state of affairs for decades.

When inquiries are made as to the spiritual necessity of the appointment of a bishop of their own Church *sui iuris*, the clergy and laity usually respond that the appointment of a bishop would impose an unnecessary financial hardship on the

⁵⁸ *OE*, n. 4: In the United States, ordinariates were at first appointed for the Ukrainians and Ruthenians in 1913. Later, bishops were appointed for the Maronites (1966), the Melkites (1966), the Armenians (1981), the Chaldeans (1982), the Romanians (1987), the Syrians (1995), and the Syro-Malabars (2001). An Apostolic Visitor (a bishop) for North America and Europe for the Syro-Malankarans was appointed in 2001 who currently coordinates the pastoral care of members of the Syro-Malankara Church in the United States and Canada.

community. If a bishop is eventually appointed, he arrives to find communities and pastors who have functioned under the benevolent neglect of the local Latin bishops. A struggle for control ensues. For example, when a bishop was appointed in the Syro-Malabar Church for the United States in 2001, some of the clergy and faithful reluctantly accepted him and demanded representation in various curial offices on the basis of ethnicity and geographical region of the homeland, Kerala. Between the two groups of the Saint Thomas Christians in Kerala, the “Northists” and the “Southists,” the Knanaya Catholic community insisted to have a separate canonical establishment for them in the United States. Even though the bishop recently established ten missions exclusively for the community in various parts of the country, to date some of them have not accepted the canonical authority of the bishop and have petitioned the Apostolic See to provide for them a separate pastoral care arrangement so that they may continue to practice endogamy (marrying into one’s own ethnic group) in the United States.⁵⁹ The property

⁵⁹ The Congregation for Eastern Churches has prohibited the practice of endogamy outside the historical territory of the Syro-Malabar Church. The Eparchial bishop of Kottayam has personal jurisdiction only to the Knanaya faithful residing within the territory of four Metropolitan provinces of the Syro-Malabar Archiepiscopal Church. The following is the *Instruction* from the Congregation for the Eastern Churches regarding the pastoral care of the Knanaya community in the United States:

“This Congregation has been aware for some time of the delicate nature of the position of the Knanaya Community in the United States. A serious dispute in the 1980’s prompted the late archbishop of Chicago, Joseph Cardinal Bernardin, to request directives from this Congregation concerning the Special Ministry for the Knanaya Catholic Community in the archdiocese. With Rescript Port. N. 124/83 of 30 January 1986, this Congregation made clear the position to be taken regarding the endogamous practice of those Knanaya faithful of the Eparchy of Kottayam who had emigrated to the Greater Chicago area. When Mar Kuriakose Kunnacherry, the bishop of Kottayam, requested a review of the policy embodied in the Rescript, this Congregation responded with letter Prot. No. 24/91 of 3 October 1997, upholding the previous decision of the Congregation and informed the present major archbishop of Ernakulam-Angamaly, His Eminence Varkey Cardinal Vithayathil, of the decision. As Your excellency will note from these letters, this Congregation explained clearly that the practice of endogamy was not acceptable in the United States, or in any jurisdiction outside of the proper territory of the Syro-Malabar Church. Furthermore, the letter clarified the fact that the Knanaya Catholic Mission was responsible to the local Latin archbishop and the major archbishop of Ernakulam-Angamaly and not the bishop of Kottayam.

“With the erection of the Eparchy of Saint Thomas of Chicago and your nomination as the first bishop, the Holy See foresees the necessity to provide adequate and proper pastoral care to Syro-Malabar

they previously purchased remains private, which should have been transferred to the diocese upon the erection, under the title of Knanaya Catholic Association. Besides, the newly appointed bishop has no financial stability to establish a curia or any other structure without the full cooperation and generosity of the clergy and laity.

2. 5. 1. Clerics and Ministers

The provision of competent ministers is probably the key to success in serving the needs of immigrants. It is also the greatest challenge that bishops face. The vocation crisis of the American and Canadian Catholic Church is only one factor in the complex matter of preparing priests to serve in the Eastern Catholic Churches in the United States and Canada.

A bishop of an Eastern Catholic Church serving in the United States and Canada must provide his faithful with priests who know their own Church *sui iuris*, its rite (liturgy, spirituality, history, music, iconography and hagiography), the language(s) of the people, and possess pastoral and administrative skills apt for the needs in these countries.

On the one hand, the bishop can bring candidates or priests from the homeland to serve in the American and Canadian parishes. This was the case at the time of the immigration and is increasingly becoming the norm with the shortage of priests in these

faithful of the Eparchy of Kottayam who now resides in the United States. The care of these faithful is to be marked by great sensitivity and patience, based upon an appreciation of the cultural atmosphere from which they have arrived. However, this pastoral care must also recognize the values and societal expectations present in the United States and even more fundamentally, the evangelical values requisite in all pastoral care. Therefore, this Congregation foresees a pastoral care which is sensitive to the Knanaya expectation to be served by Knanaya priests, but does not make any allowance for endogamy to play a role in defining the membership of faithful in any mission or parish established by the Eparchy. The further establishment of missions and even parishes for the Knanaya faithful, as presently practiced in the United States, is understood to be beneficial. However, the Holy See continues to follow the directives outlined in the Rescript Prot. No. 124/83 mentioned above.” See CONGREGATION FOR THE EASTERN CHURCHES, *Instruction*, Port. N. 85/2002 (from the archives of the Saint Thomas Syro-Malabar Eparchy, Chicago).

countries. Naturally, these priests bring with them many qualities that well serve the community: they know the language, the culture, the mentality of the people, and the rite. On the negative side, the priests are usually not well trained in pastoral care since ministry in many countries was for a long time restricted to cult due to the political and religious oppression. The priest may also have a difficult time in learning English, adapting himself to the American and Canadian mentality and milieu, and administering the parish in accordance with standard American and Canadian practices.⁶⁰

The other possibility is for the bishop to educate candidates for the priesthood who were born in these countries. As noted above, such candidates are indeed “rare birds.” The positive aspect of such an arrangement is that the young men already know English and possess an American or Canadian mentality. On the negative side, American or Canadian-born candidates may not understand or even be condescending towards the immigrants they are called to serve. Their knowledge of or ability to learn the language of the immigrants may be limited. In the matter of rites, an American or Canadian-born candidate can learn what is needed, but there is always the danger that his liturgical approach will be weak or syncretic (Latinizing). There is also the danger that he becomes over-zealous, desiring a “purity” of the rite non-existent even in the homeland.

Pastoral formation of such candidates requires that they be instructed in catechesis, homiletics, liturgy, parochial administration, ecumenism, social apostolate, social communications, as well as psychology and pastoral sociology.⁶¹ This is not an

⁶⁰ See FARIS, “The Pastoral Care of Migrants and the Code of Canons of the Eastern Churches,” pp. 85-99.

⁶¹ See *CCEO* c. 352 §§2-3.

easy task and perhaps achieved only partially in the best of circumstances. Unfortunately, some of the bishops who are most desirous of educating American or Canadian-born candidates in desperation ordain young men who are unsuitable for the priesthood.

2. 5. 2. Bonds with Hierarchy in the Homeland

With regard to the pastoral care of immigrants of whatever nationality or ethnic group who belong to the Latin Church, their hierarchical bonds with the homeland are of no immediate concern to bishops and pastors in the United States and Canada. In the case of Eastern Catholics, the maintenance of such a bond is canonically required and pastorally beneficial.

The bonds between the Eastern Catholic faithful residing outside the patriarchal territory and the hierarchy are *juridical* in that the faithful are members of that Church *sui iuris*,⁶² but are not *jurisdictional* since the hierarchies established outside the patriarchal territory are (with the exception of liturgical matters) directly subject to the Roman Pontiff and not to the patriarch and synod.⁶³ These juridical bonds are maintained in various ways:

- The Eastern Code calls for eparchial bishops “to foster relations with the higher authority of that Church.”⁶⁴
- The eparchial bishops who are constituted outside the patriarchal, major archiepiscopal, or metropolitan territory are to send a copy of the quinquennial

⁶² See *CCEO* cc. 29, 30, 33-35, 38.

⁶³ See *CCEO* cc.146-150.

⁶⁴ See *CCEO* c. 193 §1.

report (required to be sent to the Apostolic See) to the patriarch, major archbishop or metropolitan.⁶⁵

- Eparchial bishops and diocesan bishops⁶⁶ are to inform the Apostolic See about the status and needs of Eastern Catholic faithful committed to their care.⁶⁷
- If an eparchial (or diocesan) bishop has been entrusted with the pastoral care of the faithful of another Church *sui iuris*, he is to formulate a plan of action in consultation with the patriarch. Since neither the faithful nor the bishop are subject to the authority of the patriarch, the bishop acts on his own authority and submits a report of this activity to the Apostolic See. If the patriarch is opposed to the action of the bishop, he can submit his protest to the Apostolic See.⁶⁸

The burden of maintenance of bonds with the hierarchy in the homeland also rests with the patriarch who has the right and obligation to seek appropriate information regarding the faithful residing outside the territory of his Church through a visitor sent by him with the consent of the Apostolic See.⁶⁹ After examining the visitation report with the synod of bishops, the patriarch can recommend a course of actions to be taken by the Apostolic See.⁷⁰ A visitation might also be the occasion for the patriarch to

⁶⁵ See *CCEO* c. 206 §2.

⁶⁶ The language of *CCEO* c. 207 does not appear to be appropriate: *Episcopus eparchialis cuiuscumque Ecclesiae sui iuris, etiam Ecclesiae latinae*. There are no *eparchial* bishops in the Latin Church. In like manner, when *CCEO* c. 193 treats eparchial bishops to whom Christian faithful of another Church *sui iuris* have been entrusted, it is most likely that these bishops will be *diocesan bishops*.

⁶⁷ See *CCEO* c. 207.

⁶⁸ See *CCEO* c. 193 §3.

⁶⁹ See *CCEO* c. 148 §1: A Patriarch or major archbishop could make such a visitation personally without the permission of the Apostolic See.

⁷⁰ See *CCEO* c. 148 §3.

request a “temporary special law” (*ius speciale ad tempus*) with regard to the pastoral care of faithful residing outside the territory.⁷¹

2. 5. 3. Liturgical Texts

The Eastern Code refers to the responsibility of the eparchial bishop as the “moderator, promoter and guardian of the entire liturgical life in the eparchy committed to him.”⁷² In any eparchy, this is never a small task, but in the eparchies established outside the historical territory, the task becomes enormous because of language.⁷³ The need for English texts might not be immediately apparent because the immigrants will naturally desire for the liturgical life to be celebrated in the language of the homeland; but if some accommodation is not made for the needs of the children of the newly-arrived immigrants, who go to school and socialize in an English-speaking milieu, the second generation will wander away from the Church and return, perhaps, only for special occasions.

To assist him in this enormous task, the eparchial bishop should establish a liturgical commission. While the Eastern Code mandates the establishment of liturgical commissions for patriarchal and major archiepiscopal Churches⁷⁴ and alludes to the

⁷¹ See Letter of Pope John Paul II to Archbishop Edward I. Cassidy, 10 November 1988, published in *Nuntia* 29 (1989), p. 27 and the 27 October 1990 address of Pope John Paul II in presenting the *CCEO* to the Synodal Fathers published in the weekly English edition of *L'Osservatore romano*, 5 November 1990, p. 5.

⁷² See *CCEO* c. 199 §1.

⁷³ The need for an English liturgical text for this country is universally accepted, but the immigrant population would not be satisfied without their native language. We believe that the primary responsibility of the eparchial bishops in this country is to provide accurate and attractive English adaptations, not merely transliterations, of the liturgical texts of their churches. Liturgical music also should be composed to suit the linguistic taste of the culture.

⁷⁴ See *CCEO* cc. 114 §1 and 124.

responsibility of the council of hierarchs to provide for the proper observance of their own rite,⁷⁵ no mention is made of liturgical commissions at the eparchial level.

The approval of translations of liturgical texts, after review by the Apostolic See, is reserved to the patriarch or major archbishop with the consent of the synod of bishops or the metropolitan with the consent of the council of hierarchs.⁷⁶

2. 5. 4. Parochial Structures

Eastern Catholic parishes are often faced with the polarity of American or Canadian-born and foreign-born parishioners. As stated earlier, Eastern Catholic parishes are often comprised of different “waves” of immigrants and the resulting situations are often surprising. In the past, our conception of the parish population was that of elderly immigrants and their American or Canadian-born offspring. Today, the elderly immigrants have passed away and their offspring are now the elders of the parish. Political turmoil in Eastern Europe and the Middle East have propelled another wave of immigrants to these countries. Some Eastern Catholic parishes are now comprised of elderly American or Canadian-born parishioners and younger immigrants. The two groups make very different demands of the pastor and resent each other.

The American or Canadian-born Eastern Catholics are confronted with foreigners who often come in numbers that threaten to “take over” the parish. Because the immigrants are unable to provide financial support of the parish, due to the fact that they are trying to establish themselves in these new countries, those born here resent that they are obliged to “foot the bill” for the entire parish.

⁷⁵ See *CCEO* c. 169.

⁷⁶ See *CCEO* c. 657 §2.

Quite often, immigrants look to the parish not only for spiritual nourishment but also as a cultural and linguistic refuge. It is the one place where there is a possibility to replicate the life of the homeland. They want liturgies, catechesis, and social activities to be in the language of the homeland. In many cases, the American or Canadian-born Eastern Catholics who have completely lost the language or have only a meager comprehension of it want everything in English. Division within the parish community results; at times, one or more of the groups abandon the parish. There are no easy measures to resolve the difficulties that pastors of these parishes confront, but the Eastern Code does provide certain basic tools to assist them.

2. 5. 5. Social Assistance Programs

In the case of the Latin Church, social assistance programs are generally treated within the context of diocesan pastoral plans; however, in the case of the Eastern Catholic eparchies and exarchies with communities dispersed throughout the country, it is not usually practical to have social assistance programs at the eparchial level. It might be possible for the eparchial bishops to cooperate with the Latin diocesan bishops or other Eastern Catholic bishops in establishing and maintaining social assistance programs.⁷⁷ However, the task usually falls on the pastors. Most immigrants especially from the countries of civil oppression and war are traumatized, as mentioned above, and such a condition makes them very needy and often demanding. Sometimes they never even make these needs known; on other occasions they constantly approach the parish priest for help with the immigration office, to find a job or an apartment, to get their children

⁷⁷ See *CCEO* c. 202.

into schools, and even financial aid. Such demands can try the patience of the most compassionate of pastors, but we must remember that in their homelands the faithful were accustomed to approach the Church for assistance with all these matters.

Youth programs are given top priority, but success varies from Church to Church. In some cases the priests feel very limited because they do not speak English fluently. Most try to organize social functions, choirs and other events to bring people together.

2. 5. 6. Parish Councils

Christian faithful have the right to make known their needs, especially their spiritual needs, to the pastors of the Church.⁷⁸ In like manner, according to their own competency and role, Christian faithful also have the right, and sometimes the obligation, to express their views to their pastors on matters relating to the good of the Church.⁷⁹ At the parish level, one forum for dialogue is the parish council. The Eastern Code, because of the diversity of situations, relegates this issue to the realm of particular law, and simply calls for the establishment of appropriate councils in the parish to deal with pastoral and financial matters.⁸⁰

Beyond the fundamental obligation of pastors to create councils that reflect the demographic makeup of the parish, involvement of immigrants in parish councils can be beneficial in numerous ways:

- The co-mingling of foreign-born and American or Canadian-born Christian faithful will serve to familiarize each of them with the other's mentality and

⁷⁸ See *CCEO* c. 15 §2.

⁷⁹ See *CCEO* c. 15 §3.

⁸⁰ See *CCEO* c. 295.

understanding of the Church. Such collaboration will require adaptation and compromise on the part of both groups.

- It will empower the immigrant who is often marginalized and disenfranchised in most facets of society.
- The presence of immigrants in councils will serve as a living (admittedly sometimes irritating) bond with the church in the homeland.⁸¹

2. 5. 7. Obstacles Encountered

One of the most difficult questions facing individual members of the Eastern Catholic Churches *sui iuris* within the diaspora is whether or not to continue to attend a Church with a distinct liturgical, cultural and ethnic heritage once the family has otherwise assimilated into the predominant culture.⁸² In many cases, the grandchildren of immigrants no longer speak the language of their ancestors and lose interest in any ethnicity of a foreign country. They feel removed from the culture and traditions of the original ethnic group, especially if they were raised outside of an area where there is an Eastern Catholic parish. Within the diaspora, especially countries like the United States, Canada, and Australia, this ethnic shift happens very frequently. Many assimilated

⁸¹ See FARIS, "The Pastoral Care of Migrants and the Code of Canons of the Eastern Churches," pp. 85-99.

⁸² See Michel THÉRIAULT, "Canonical Questions Brought About by the Presence of Eastern Catholics in Latin Areas in the Light of the *Codex canonum Ecclesiarum orientalium*," in *Ius Ecclesiae*, 3 (1991), pp. 201-202. Thériault analyses here the current trend of the emigrants as follows. "From the experience of the United States and Canada, the generations of immigrants tend to go through various stages: the ethnocentric stage for the first couple of generations; the next few generations tend to be 'ethnofugal', i.e., they tend to shy away from ethnic identification and cultural heritage and want to blend with the majority (it is there you will see Western names, some modifications of surnames, the refusal to learn one's root language, etc.) then, some later generations will want to go back to their roots... During that 'ethnofugal' period, religious practice, for many will wane; for some, there will even be a denial of their cultural and religious heritage. This is over and above the normal phenomenon of secularization that is going through our society as a whole."

Eastern Catholics choose to abandon their own Church *sui iuris* in favor of the Latin Church because it is the Latin Church that best meets their westernized spiritual needs and sensibilities.

Preserving the traditions and culture of Eastern Catholic Churches within North America raises the issue of women's liturgical participation in the Eastern Catholic Churches *sui iuris*. Currently the participation of females in the liturgical celebration is much greater in the Latin Church than in the Eastern Churches. Altar service, proclamation of the Word of God, and extraordinary Eucharistic ministering may not be an issue within the Eastern Church's mother countries; it is certainly an issue with women in western countries.

It has not been easy for priests to work as Eastern Catholics within the local church. Although some express feelings of satisfaction in their ministry, many can identify with the following experiences:

1. The local Latin Church does not seem to be too interested in any other traditions.
2. The local church does not fully support Eastern clergy and their projects.
3. Local priests do not know much about other Churches *sui iuris*.
4. Most Eastern Catholic priests are not informed of baptisms, marriages, or any other sacraments by the local clergy even when it is required of the law.
5. Lack of understanding at Catholic schools has led to difficulties regarding: First holy communion of children in their own rite; confirmation (All Eastern Catholic Churches confirm at baptism; some children are presented again for confirmation

with their class); general lack of knowledge means that children are not receiving any instruction at school as to the make up of the local church.

6. Other obstacles include financial support, difficulties in obtaining centers for worship and social gatherings, and some priests felt that they were treated as second-class priests.⁸³

2. 5. 8. Hopes for the Future

Eastern Catholic Churches are already at a disadvantage by being “ecclesial minorities” to the more prominent and visible Latin Catholic Church, and are frequently forced to use the personnel and resources of the Latin Church. This disadvantage is exacerbated by the fact that in many countries of the diaspora the people view the Latin Catholic Church as their country’s Catholic Church, even though the country does not have an “official” Catholic Church. In the United States and Canada, “not a few Eastern Catholic faithful, especially the newly immigrated, are desirous to become ‘American’ or ‘Canadian.’ They often live under the false assumption that the Latin Catholic Church is truly ‘American’ or ‘Canadian’ Catholic Church.⁸⁴ This false belief has drawn many Eastern Catholics away from their own Church *sui iuris* to the Latin Catholic Church.

⁸³ The Syro-Malankara Catholic Church *sui iuris* had difficulty to continue their pastoral care in one of its established centers due to financial reasons. The priest assigned to the ministry resides in a different diocese and serves as a fulltime parochial assistant, who also provides pastoral care for Malankara people on weekends. Currently the community gathers for Sunday worship in a rented protestant place. Both Eastern and Latin Codes of Canon Law clearly legislated that permission from the local ordinary is essential for using protestant or non-Catholic premises for Eucharistic celebrations. *CCEO* c. 705 § 2: “In order for a priest to be able to celebrate the Divine Liturgy in a non-Catholic Church, he needs permission of the local hierarch.” *CIC* c. 933: “For a just cause and with express permission of the local ordinary, a priest is permitted to celebrate the Eucharist in the place of worship of some Church or ecclesial community which does not have full communion with the Catholic Church so long as there is no scandal.” The struggle for survival and the desire to keep up the tradition continue even with rejection and non-cooperation.

⁸⁴ See POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 21.

Over time, Eastern Catholics may lose their original ethnic and linguistic characteristics, perhaps declaring that their own ethnic or national character is identical to that of the majority or even rejecting their original patrimony. It is the acceptable social norm, as evidenced in the legislation of nations, to recognize the possibility of assimilation to the majority.⁸⁵ Assimilation often takes place within less than two generations of immigration, adaptation, intermarriage and the social, psychological and spiritual absorption of the numerous variant factors in a new environment before it is practically impossible to recognize or even to discover the real rite of an individual.⁸⁶

There are occasions of unintentional separation of Eastern Catholics from their original Church *sui iuris*. Due to intermarriage and demographic shifts, people unintentionally get detached from their lawful Church for generations or even in perpetuity. The Eastern Catholic Churches *sui iuris* lose many of their members *de facto* by remaining in an area that does not have an Eastern Church presence. The problem of lost or concealed ascription is exacerbated by the fact that the local Latin Catholic priests do not inquire about which Catholic Church *sui iuris* the person is ascribed to when administering sacraments.

Eastern Catholic Churches in the diaspora have a very difficult time in legally obtaining new converts because most of the people converting within the diaspora are from protestant communities, and therefore, if they come into the Catholic Church they are automatically classified as Latin Catholics.

⁸⁵ See POSPISHIL, *Eastern Catholic Church Law*, P. 117.

⁸⁶ See BASSETT, *The Determination of Rite*, p. 238.

In effect, the Eastern Catholic Churches in the diaspora are facing serious problems. The Churches do not want to return to the days of sheep stealing from their counterpart Orthodox sister Churches because the Catholic Churches *sui iuris* are themselves hurt by this practice. Nor does the Church want to proselytize the Orthodox because this violates the ecumenical norms and is likely to revive the animosity between the Churches. On a practical level, given the current policies concerning the Eastern Catholic Churches *sui iuris*' attracting converts in the diaspora is to find large pockets of non-baptized people which would be very difficult and at times extremely demanding.

Ideally it is hoped that every *sui iuris* Catholic Church grows in any place it is planted. The Catholicity of the Church becomes evident in her ethnic and cultural variety. This Catholicity implies a complete openness towards others, a readiness to share and live the same ecclesial communion.

On a practical level, however, many people, including priests, have mixed feelings about the future of their Church in the United States and Canada. Some feel that they have to preserve their rite intact – language, attitudes, expressions, and their native culture. Others feel that they will be completely assimilated within one or two generations. Many young people do not appreciate their cultural or liturgical backgrounds, nor do they seem to be interested in the activities of their Church. They are comfortable with the local liturgical celebrations. Some older Eastern Catholic priests feel after their death there will be no one to replace them or continue their work due to lack of vocations.

The problem of vocations is common to both Eastern and Western Catholic Churches in the United States and Canada. Though they have sufficient vocations to priesthood and religious life in their homeland, there are practically no such vocations in the diaspora. The older priests feel limited in their ministry offered in the English language. It is generally felt that any hope for a dynamic future lies in the ordination of priests in the United States and Canada who can speak English with an American or Canadian accent, associate with the youth at the same time, and respect the ancient traditions and rites. Many of the older priests feel that they are ministering to an older generation who want to preserve their faith, whereas the younger people find it easier to associate with local parishes because of schools and the use of English.

CONCLUSION

The Eastern Catholic Churches *sui iuris* are presently facing serious problems in maintaining their membership because of serious civil, political and religious strife in their native countries as well as because of the shortages of clergy in the diaspora. There could be a bright future for the Eastern Catholic Churches in North America, but it would need much conscious effort and hard work on the part of the whole Church. This would be possible only when there is a distinct awareness within the universal Church that the fullness of its universality can be realized and enriched only by a mutually supportive co-existence between the Eastern and Western traditions. When we look at the history of different Eastern Catholic Churches, it is evident that most, if not all, of them developed and matured in countries where they were persecuted and oppressed. They survived for many centuries because of their determination. In fleeing from their homelands, most of

them were seeking, among other things, the freedom to worship in peace and to safeguard the gift of their faith. Of course they did not encounter persecution in their new-found homes, but they had to work harder to preserve their identity and their religio-cultural heritage.

For the continued existence of the Eastern Catholic Churches *sui iuris* outside their native lands, there should be a balanced approach to the liturgical and cultural adaptations. A total westernization of their way of life is not an answer to the problem. On the other hand, if the Eastern Catholic Churches were to survive in their adopted homelands, they ought to make certain adaptations to the western culture, otherwise they are likely to risk their very existence. Should the latter happen, the loss to the universal Church would be immense. The Church cannot afford to allow this to happen. Therefore, the Church should encourage Eastern rite communities in the diaspora to be the microcosms of their own traditional liturgies and cultures wherever they live, regardless of the fact that they are now living outside their original cultural milieus.

We are of the opinion that the Latin Church is not to be blamed for all the woes the Eastern Catholics face in North America. The Eastern Catholic faithful are capable of making their own decisions concerning their religious practices, for example, attending Sunday liturgy, receiving other sacraments in the Latin Church, etc., even where proper Eastern rite parishes are available. In order to counter such attitudes on the part of Eastern Catholics and to foster closer relationship between members of all Churches *sui iuris* in a given area, we make the following suggestions to be implemented by the local Churches.

- Promote an awareness within the local Church of the diversity and richness the Catholic Church possesses within its communion. This could be done in many different ways, like introducing in the Latin churches occasional liturgical celebrations or other socio-cultural activities proper to Eastern Churches represented in the area.
- Educate the Christian faithful of the local Church about other traditions, through catechesis. The catechetical instruction could include explanations of various traditions of the Churches *sui iuris* so that even children would grow up with a sense of universality of their faith. The parish bulletins could be used as a tool to educate the people about the different traditions in the Church.
- Promote in North America more publications on the universality of the Church. The National Conferences of Bishops should take appropriate steps in this direction. We know the fact that ordinary people have very little access to information on the nature and structures of Eastern Catholic Churches *sui iuris*. The diocesan journals or magazines could become effective tools in realizing this task in particular churches and parishes where Eastern rite Catholics are in considerable number.
- Offer financial support to Eastern Catholic Churches during the early stages of their establishment.
- Local Ordinaries and parish clergy should keep themselves informed of the activities of Eastern Catholics in their dioceses and parishes.

- Those who are involved in Catholic schools, especially the principals and teachers, should be endowed with the appropriate knowledge of the traditions of other Churches *sui iuris* so that they may be able to inculcate into the young minds due respect for those traditions. Speaking specifically on this point in his recent letter, Pope John Paul II eloquently said that, “solidarity with migrants does not come easily. It requires training and a turning away from attitudes of closure, which in many societies today have become more subtle and penetrating. To deal with this phenomenon, the Church possesses vast educational and formative resources at all levels. I therefore appeal to parents and teachers to combat racism and xenophobia by inculcating positive attitudes based on Catholic social doctrine.”⁸⁷
- The faithful attending Sunday liturgy in a Latin church should be made to feel welcome in the parish and their children be afforded equal opportunities in parochial schools even if parents might sometimes choose to worship in their own church which may not have its own school. Also if Christ’s faithful wish to organize their own celebrations, the Latin parish should offer them the facilities it might have for such celebrations.
- Latin parish priests and faithful should respect the traditions of Eastern Catholics especially in regard to the sacraments of initiation and marriage.

⁸⁷ JOHN PAUL II, Letter to the Pontifical Council for Migrants and Refugees, 3 May 2003, in AAS, 95 (2003), p. 338.

- Those Latin priests who might be entrusted with the pastoral care of the faithful of Eastern Catholic Churches *sui iuris* should receive proper formation in the culture and heritage of the people to whom they are to minister.
- Pastoral care of the elderly of Eastern Catholic Churches may need special care and this might be possible only through those who speak their language. This would certainly necessitate bringing clergy from their native lands. This possibility is not to be overlooked by the local Church.
- Arrangements should be made for priests of a same Church *sui iuris* to come together at a national or regional level at least once a year for workshops, seminars, convention, etc., so that they may get to know each other and offer mutual help in their ministry when necessary.

A deep respect for all traditions and cultures within the universal Church and particular Churches is a necessity which no one can afford to overlook at this time of our history if we have the good of all people at heart. Without this, the one Church of Christ will remain fragmented within its own communion. All prejudices we harbor in our hearts and minds about other people can be shed only through an openness that is characterized by the genuine love, which Jesus demands that we have, of our neighbor and appropriate education concerning the life and traditions of other people.

Ascription to a particular Church *sui iuris* is an issue fundamental to the exercise of one's ecclesial rights and obligations within the Church. This is not only a complex but also a very sensitive issue as far as many second and third generation immigrants are

concerned. Because of their many years of involvement and practice of their faith in local Latin Catholic parishes, some of them might assume that they belong to the Latin Church. This is not true as far as the law is concerned. Therefore, in the next chapter we will study the different aspects of ascription, namely the acquisition, transfer and canonical consequences of ascription to a Catholic Churches *sui iuris*.

CHAPTER THREE

ASCRPTION TO THE CATHOLIC CHURCH

INTRODUCTION

In the previous chapter we have identified some of the canonical, pastoral and social difficulties experienced by the Eastern Catholic faithful in the diaspora. Ascription to a Church *sui iuris* has a major impact on the pastoral care of the Eastern Catholics in the diaspora. Every Christian has an ascription to the local Church that comes under the jurisdiction of the local bishop. The local bishop is, therefore, the focal point for Church life in every aspect.¹

The Eastern Churches have made great efforts to maintain their distinct traditions despite the overwhelming influence of the Latin Church, especially in countries such as United States, Canada, and Australia. The Latin Church's practice of freely assimilating the members of other Churches *sui iuris* was officially rejected and prohibited through law by the 1957 motu proprio *Cleri sanctitati*, which stated the general principle that people should either be enrolled in the Church in which they were legitimately baptized, or in the Church in which they should have been baptized, not the Church whose ritual was used for the baptism.² The Second Vatican Council reaffirmed this teaching, stating the "Catholic Church wishes the traditions of each particular Church or rite to remain

¹ See IGNATIUS OF ANTIOCH, Letter to the Smyrneans 8, in HEFELE, *Patrum apostolicorum*, p. 229.

² See AAS, 49 (1957), p. 453.

whole and entire.” Further, it noted that, “provision must be made therefore everywhere to protect and advance all these individual Churches.”³

Following the Second Vatican Council, various organs within the Church have taken further steps to prevent the assimilation of small Eastern Catholic Churches *sui iuris* into the Latin Church. Both Codes of Canon Law, Eastern and the Latin, as well as the current Church policy teach in great length to protect ascription to a particular Eastern Catholic Church *sui iuris*. This chapter will explore the ascription issues facing both the Eastern Churches and its members, the canonical aspects of ascription into the Catholic Church, the possibilities of incorporation or ascription to the Church, the canonical and pastoral effect of being excluded or of disengaging themselves from the Church and the canonical consequences of ascription.

3. 1. ASCRPTION TO A CHURCH *SUI IURIS*

Before the Second Vatican Council several Roman Pontiffs issued solemn statements and apostolic constitutions to reaffirm the apostolic origin and dignity of Eastern Catholic Churches.⁴ Unfortunately, however, these Churches were seen more as *rites* than as *sui iuris* Churches.⁵ The Second Vatican Council changed this notion. A new

³ *OE*, n. 21.

⁴ For reference to several papal statements concerning the Eastern Catholic Churches, see Walter M. ABBOTT and Joseph GALLAGHER (eds.), *The Documents of Vatican II*, New York, NY, America Press, 1966, pp. 374 - 415.

⁵ See Aemilius HERMAN, “De conceptu ritus,” in *The Jurist*, 2 (1942), pp. 338-339. The term *rite* had never been used with a determined and consistent meaning prior to the Second Vatican Council. It meant different things for different jurists, but none of them have provided a common definition. Canonical writers used the term to express the juridic aspect of a particular Church and the liturgical writers used it to express the tradition and culture of a group of people. Aemilius Herman included both aspects and defined the term *rite*: “A rite is a group of faithful who are governed by laws and customs of their own, based on

understanding of the term *rite* was introduced that recognized the Church as one, holy, catholic, and apostolic, with the same sacraments and faith but with various traditions and liturgical patrimony.⁶ According to Saint Paul, the Church whether local or universal, consisted of those who were “sanctified in Christ Jesus” (1 Cor. 1: 2) or “called to be saints” (Rom. 1:7). Saint Paul’s concept of the Church is characterized by a deep sense of unity constituted by the possession of “one Lord, one faith, one baptism” (Eph. 4:5). This union with Christ and with each other was effected by baptism (Gal. 3: 27; 1 Cor. 12: 13). In the strict sense of apostolic teaching, ascription to the Church belonged to those who receive the message of salvation and are baptized into the Body of Christ and are united with one another in the Holy Spirit. In this sense, the “Church” is an earthly fellowship, not merely the company of departed souls and saints.

Looking at the Church as an earthly fellowship and a visible society rooted in faith may tempt one to regard ascription to a Church from a purely statistical or sociological point of view. Although this may have some political advantage, it would certainly lack any theological sense. Thus, for example, one could define a Catholic in

ancient traditions not only in regard to liturgical matters, but also in respect to the canonical order, and which group is acknowledged by the Holy See as autonomous and distinct from others” (ibid., p. 340).

Other canonists, like Pospishil, explain that the chief characteristic of an Eastern Catholic Church is that it is composed of Christians who are conscious of being a separate ecclesial body, a Church, governed by a hierarchy. Hence, a Catholic shall not be said “to belong” to a rite, but to follow or observe a rite. Equally the term “inter-ritual” is to be replaced with inter-ecclesial. A number of *sui iuris* Churches share the same liturgical rite, so the liturgical aspects of a Church cannot serve as criteria for distinguishing one Church from another. See POSPHISHIL, *The Eastern Catholic Church Law*, p. 112.

⁶ ABBOTT and GALLAGHER, *The Documents of Vatican II*, p. 374, footnote 6: “The word *rite* means more than liturgical customs. It could be called the style of Christian life of a community, which according to the Decree on Ecumenism (nos. 15, 16, 17), is to be found in the particularities of worship, of canon law, of asceticism and monasticism and also in the peculiar theological system. The consideration of the Church for Eastern rites is emphasized in the Decree on Ecumenism.”

certain European countries for purposes of state taxes. Such non-theological approaches are beyond the purview of our consideration. We are concerned here with a theological understanding because in truth the Church is a mystery of the divine-human communion in Jesus Christ, the mystical Body of Christ. To be in the Body of Christ (The Body of Christ or the Church of Christ subsists within the Catholic Church⁷) is to be incorporated in Jesus interiorly by faith and externally by baptism, the sacrament of faith.⁸

The basic requirement and the theological foundation of Church ascription is baptism. The early Church accepted this truth on the authority of the risen Lord.⁹ Baptism in Christ is the most important ecclesial event which releases us from our solidarity with a sinful world and makes us members of the Church, the Body of the risen Christ.¹⁰ This theory of ascription is grounded in the Pauline letters (Col. 1: 13-14) and developed at some length by Fathers of the early Church. Since baptism makes us children of God,¹¹ all baptized members are incorporated into the family of God. Therefore, those who are baptized into the Catholic Church or received into it, provided they have sufficient use of reason, are subject to the merely ecclesiastical laws.¹²

⁷ *CCEO* c. 7 §2; *CIC* c. 204 §2; *LG* n. 8. For an analysis of the phrase “subsists in,” see F. SULLIVAN, “The Significance of the Vatican II Declaration that the Church of Christ ‘Subsists in’ the Roman Catholic Church,” in *Vatican II: Assessment and Perspectives*, vol. 2, ed. Rene LATOURELLE, New York, Paulist Press, 1989, pp. 272-287.

⁸ See Avery DULLES, *Church Membership as a Catholic and Ecumenical Problem*, Milwaukee, Marquette University, Theology Department, 1974, p. 7.

⁹ Cf. Mt. 28: 19; Mk. 16: 16; Acts 2: 38; 10: 48; 8:16; 19:5; 1Cor 1: 13-15; 6:11.

¹⁰ Cf. CATECHISM OF THE CATHOLIC CHURCH, English translation, Liguori Publications, Missouri, 1994, p. 312, #1293, 1994.

¹¹ Cf. Rom. 8:14-16; Gal. 4: 6 ff.

¹² See *CIC* c. 11; *CCEO* c. 1490.

According to Saint Paul, the theological consequence of baptism is that we live in Christ and are called to share in the final manifestation of his glory (Cf. Col. 3:4). The post-apostolic Church had a clear understanding of the theological consequences of baptism. Ignatius of Antioch wrote to Polycarp, the bishop of Smyrna, using the imagery of military service to describe Christian life. He said: "Let none of you be found to be a deserter, let your baptism remain as your arms; your faith as your helmet; your love as your spear; your endurance as your armor."¹³ To many of the early Fathers and writers, baptism and Church life were inseparably united. Nonetheless, it is necessary to distinguish between the theological consequences of baptism and its juridical effects, with the rights and obligations of all members of the Church.

3. 1. 1. Pre-Canonical Notion of Ascription in the Early Church

A controversy of the apostolic period that was resolved during the Council of Jerusalem (Acts 15:5) was fundamentally concerned with ascription to the Church, specifically whether circumcision and adherence to the Mosaic Law were required to be a Christian.

Fathers and early Christian writers considered the Church a divine act of salvation achieved in the fullness of time by Jesus Christ the divine redeemer. Therefore, incorporation into or ascription to the Church can be described as a catechetical process

¹³ IGNATIUS OF ANTIOCH, Letter to Polycarp 6, in HEFELE, *Patrum apostolicorum*, p. 241: "Episcopo attendite, ut et Deus vobis attendat. Utinam ego vicissim recreare possim eos, qui subditi sunt episcopo, presbyteris, diaconis; et utinam mihi contingat, cum illis partem habere in Deo. Collaborate vobis mutuo; una certate, una currite, compatimini, una dormite, una exurgite, ut Dei administratores, familiares et ministri. Placete illi, cui militatis, a quo et stipendia fertis. Nemo vostrum desertor inveniatur. Baptismus vester maneat velut arma, fides ut galea, charitas ut hasta, patientia ut tota armatura. Desposita vestra sint opera vestra, ut accepta vestra digne reportetis."

linking evangelization and ascription to the Church with the person of Christ.¹⁴ The whole life of a Church member is to be a servant of the word of Christ, thus living fully the life begun at baptism.

Although the early Church expressed itself in and through different liturgical traditions from the very beginning, it had adopted a unified approach to Christianity in its teaching of faith and morals. In the writings of Clement of Rome (150-160 AD), there is evidence of extensive acquaintance among Christians of various traditions and of close relationship.¹⁵

Christians of a particular tradition and nationality, who had moved to some other place, felt a sense of belonging to their Church of origin and upbringing, as well as to the Church of their new home. Ancient Rome, being the largest city of the Empire, had a highly cosmopolitan population drawn from all quarters of the known world.¹⁶ The conflict about the paschal celebration in the second century gives us an idea about the

¹⁴ See Lage PERNVEDEN, *The Church in the Shepherd of Hermas*, Sweden, Berlingska Boktryckeriet, 1966, pp. 112-113. According to the Shepherd of Hermas, membership in the Church requires three components: hearing the Word of God, acceptance of the name of Christ or faith, and receiving the seal or the Holy Spirit, i.e., baptism.

¹⁵ See EUSEBIUS, *HE*, IV, n. 2. Eusebius talks about the writings of Clement of Rome. "This work, indeed, is not a writing composed for display, but simply notes stored up for my old age as a remedy against forgetfulness, an image without art, a sketch of those clear and inspiring words and of those men blessed and truly noteworthy. Of these men, one, the Ionian, was in Greece; another, in Magna Graecia; a third was from Coele-Syria; another, from Egypt; and others were in the East, and of these one was from among the Assyrians and another in Palestine of Hebrew origin. And when I met the last, but in power he was certainly first, having hunted him out of concealment in Egypt, I found rest. But these men preserved the true tradition of the blessed faith direct from Peter and James and John and Paul, the holy Apostles, some having received it from a father, and they have by the grace of God come down even to us to deposit those ancestral and apostolic seeds."

¹⁶ EUSEBIUS, *HE*, V, n. 13. Eusebius gives us here clear evidence of the cosmopolitan nature of the population of the Roman Empire including many of Asiatic origin: "At this time, also, Rhodo, racially belonging to the people of Asia, had been taught at Rome, as he himself relates, by Tatian, with whom we became acquainted above, wrote various books, including one especially directed against the heresy of Marcion."

variety of people in the city of Rome. A substantial number of Christians of Asiatic origin were living in Rome at the time. The tradition of the Church in Asia was to observe the Christian paschal celebration on the day of the Jewish Passover, the 14th day of the month of Nissan, whereas the Roman Church observed it on the Sunday following. The Asiatic Christians insisted on following their custom in Rome. It was agreed between Anicetus of Rome and Polycarp of Smyrna that the difference in customs should continue, which meant that the two practices continued for a time side by side within the Church at Rome. Later on a council of bishops both from East and West decreed observance of the Paschal feast on Sundays in order to maintain the unity, individuality and dignity of each culture and liturgical tradition.¹⁷

Unity and diversity were part of the fabric of the early Church. This was expressed primarily by strong awareness of the unity of the one Church in all places, an awareness that spontaneously came to the fore wherever separatist tendencies appeared. For example, in the fourth and fifth centuries the Donatists began to create a kind of particular African Church with no ties to the Church in other cities or continents. Optatus of Milevis reacted decisively against this separatist tendency and instead favored communion between Churches of provinces as a characteristic of the true Church.¹⁸

Eusebius testified to the fact that the Churches in the East and the West were well aware

¹⁷ EUSEBIUS, *HE*, V, n. 23: "Then, synods and conferences of bishops on the same question took place, and they unanimously formulated in their letters a doctrine of the Church for people everywhere proclaiming that the mystery of the Lord's Resurrection from the dead be celebrated on no other day than the Lord's day, and that on this day alone we should observe the close of the Paschal feast." Also see John KENT and Robert MURRAY (eds.), *Intercommunion and Church Membership*, London, Longman and Todd, 1973, p. 40.

¹⁸ See Joseph RATZINGER, *Volk und Haus Gottes in Augustins Lehre von der Kirche*, Munich, K. Zink, 1954, pp. 102-123.

of the heresy of gnosticism during the second and third centuries and to the unity that was being maintained through the leadership of bishops.¹⁹ Even though the Christian community was juridically structured under local bishops, the bishops were the concrete connecting links of unity within the universal Church. While the jurisdiction of the local bishop remained restricted to the local church, the mutual relationship went beyond individual bishops. As pastors and leaders of the community, local bishops were custodians of particular traditions, customs and the liturgical patrimony of their own territory, but they cultivated and maintained the mutual relationship within the universal communion of the Church.

3. 1. 2. Ascription and Identity During Persecution and Schism

During the persecution of Decius (250-251 AD), Christians who denied their faith were the source of controversy due to the rigid approach taken by Novatian who refused to re-admit them into the Church. The Novatian Church that spread across the Roman Empire endured for centuries questioned the juridical aspect of ascription in the Church and the validity of sacraments. The Roman and the North African Christians in communion with the See of Rome taught that the validity of sacraments did not depend on the worthiness of the minister since sacraments received their validity from Christ.

¹⁹ EUSEBIUS, *HE*, V, nn. 14-15: "The enemy of the Church of God, who is especially a hater of good and a lover of evil, and has overlooked no means of any kind for plotting against men, was again active in producing strange heresies against the Church. Some of these, like poisonous reptiles, crawled over Asia and Phrygia, boasting that Montanus was the Paraclete and that the women among his followers, Priscilla and Maximilla, were prophetesses of Montanus. Others flourished in Rome, and their leader was Florinus, who had fallen from the presbyterate of the Church, and Blastus with him, who had also fallen. These drew many away from the Church who began to rely solely on their own opinion, each in his own way striving to introduce innovations about the truth."

Thus the validity of baptism, even if administered by a schismatic minister was regarded as valid and ascription to the Church was affirmed.

The Council of Ancyra (314 AD) decreed that those Christians who were subjected to violent persecution should be received into full communion with the Church.²⁰ The problem of the Church's unity grew in complexity with an increase in the size and number of Christian congregations and mobility of Christians from their native places. The favorable attitude of the Emperor towards the Church facilitated the growth of Christian communities far and wide. Moreover, the Arian heresy in the early part of the 4th century became a worldwide phenomenon compared to any other controversy within the Church. Rival congregations emerged in many centers, each out of communion with the others but each maintaining a network of Christian groups in other places with mutual recognition and fellowship.

In such a situation a Christian was forced to choose his/her allegiance. The barriers were seen as absolute. To enter into communion and fellowship with members of a congregation not in communion with one's own, meant cutting oneself off from one's fellowship. It was unlawful to associate with those excommunicated. Communion fellowship was so basic to Church ascription that any improper abstention from it could

²⁰ Henry PERCIVAL, *The Seven Ecumenical Councils of the Undivided Church*, New York, James Parker and Co., 1900, p. 64: Council of Ancyra, c. 3: "Those who have fled and been apprehended, or have been betrayed by their servants; or those who have been otherwise despoiled of their goods, or have endured tortures, or have been imprisoned and abused, declaring themselves to be Christians; or who have been freed to receive something which their persecutors violently thrust into their hands, or meat offered to idols, continually professing that they were Christians; and who, by their whole apparel, and demeanor, and humility of life, always give evidence of grief at what has happened; these persons, in as much as they were free from sin, are not to be repelled from their communion." c. 4: "Concerning those who have been forced to sacrifice, and have partaken of feasts in honor of idols; it is decreed that they return to full communion."

lead to excommunication. No religious association was permissible with those not in communion with the whole Church. One could not be in communion fellowship with those who had consciously and deliberately broken away from the true communion. Communion fellowship was expressive of the love and unity which belonged essentially to the Body of Christ. In the early Church, the eucharist was, among other things, a sacrament of unity. No intercommunion existed between members of rival groups. This situation gave rise to several fourth century schisms. As rivals, each saw the other as having abandoned the true faith. Hence, communion fellowship or coexistence between two rival communities was not possible.

One of the consequences of the fifth-century Christological disputes and the eleventh century Great Schism was a complication of the issue of ecclesial ascription. During the Reformation, certain protestant theologians defined the Church as the faithful predestined by God or justified by faith alone, thereby emphasizing the invisible elements of ecclesial ascription. As a response to the protestants, Robert Bellarmine argued that the Church is visible and the conditions for ascription in it are tangible: the Church is a community of believers joined by the same faith, sacraments, and allegiance to the Roman Pontiff.²¹ The logical consequences of Bellarmine's identification of Church with the Roman Catholic Church excluded and denied ascription to every baptized Christian who was not in communion with Rome.

The Church not only denied ecclesial legitimacy to non-Catholic communities but also made a missionary effort to convert baptized persons and bring back individuals or

²¹ See Robert BELLARMINE, *De Ecclesia*, Naples, Lauriel Publications, 1872, p. 75.

communities to the Catholic Church.²² The Bellarmine definition was operative in Catholic theology and canon law until the Second Vatican Council. One of the most profound insights articulated by the Second Vatican Council was its reformulation of the notion of Church.²³

3. 2. ACQUISITION OF ASCRPTION

Neither *CCEO* nor the *CIC* employs the term “member” with reference to ecclesial ascription. Instead, both Codes speak of *incorporatio* (“incorporation”) with reference to the ascription to the Church of Christ²⁴ and in *plena communione* (“in full communion”) with reference to ascription to the Catholic Church.²⁵ Both Codes employ the term *ascriptio* (“ascription”) in treating ecclesial ascription to a Church *sui iuris*.²⁶

With regard to ascription, the *CCEO* has categorized persons in different groups. A person who is not baptized, i.e., not a member of the Church of Christ, is referred to as *non baptizatus* (c. 803 § 1) or *homo nondum baptizatus* (c. 679). A person who is preparing to receive baptism is designated as a *catechumenus* (c. 9) and is granted certain prerogatives of baptized persons. Members of the Christian Church are designated as *baptizatus* (c. 8), *christianus* (c. 9 § 2) or *christifidelis* (a term applied both to members of

²² See Athanasius G. WELYKU (ed.), *Documenta Unionis Berestensis eiusque auctorum (1590-1600)*, Rome, Basiliani, 1970, p. 218. The text of the constitution *Union of Brest* refers to the fact that the Ruthenian bishops “had not been members of the Body of Christ, the Church, because they lacked the bond with the visible head of the Church, the Roman Pontiff.”

²³ Many elements of sanctification and of truth are found outside the visible confines of the Church. Since these are gifts belonging to the Church of Christ, they are forces impelling towards Catholic unity. See *LG*, n. 8.

²⁴ See *CCEO* c. 7 §1 and *CIC* c. 204 §1.

²⁵ See *CCEO* c. 8 and *CIC* c. 205.

²⁶ See *CCEO* c. 29 §1 and *CIC* c. 111 §1.

Catholic Churches [c. 19] and also to members of other Churches or ecclesial communities [c. 897]). A Christian who is not a member of a Catholic Church, is designated as *acatholicus* (c. 681 § 4), *acatholicus baptizatus* (c. 896) or *christianus acatholicus* (c. 681 § 5). On occasion, a distinction is made between an Eastern non-Catholic Church member (c. 897) and a non-Eastern non-Catholic Church member, i.e., Christians of protestant Churches or communities (c. 901).

A member of the Communion of Catholic Churches is designated as a *catholicus* (c. 834 § 2) or *christifidelis* regardless of gender, sacred orders or ascription to an institute of consecrated life. A distinction is also made between a Catholic enrolled in an *Eastern Catholic Church* and in the *Latin Church* (c. 834 § 2).

A free will decision on the part of the individual or his/her parents (in the case of infant baptism) is involved in the ecclesial ascription. However, a person does not become ascribed to a Church *sui iuris* in virtue of a personal decision. Instead, a person is always incorporated into the Church through baptism. It should be recalled that a person cannot administer baptism to him/herself. One attains incorporation in the *Church of Christ* only through baptism by the pouring of water and the invocation of the Holy Trinity.²⁷ There are three ways in which a person can become a member of the Catholic Communion of Churches: baptism into one of the twenty-two Churches *sui iuris*, transfer from one Church *sui iuris* to another Church *sui iuris*, and reception into one of the Catholic Churches *sui iuris* from another Christian tradition. A person never becomes a

²⁷ See *CCEO* c. 675 §1; *CIC* c. 849.

member of the Catholic Church at large, rather a person is enrolled in a specific autonomous Church in accord with the provisions of law.²⁸

3. 2. 1. Ascription Through Baptism

The Catholic Church regards baptism as unrepeatable; therefore, only a *non-baptized person* can be baptized.²⁹ The sacrament of baptism is the gateway through which a person passes into the life of grace in the Church and is a means of incorporation into a particular Church *sui iuris*. Baptism received in the Catholic Church ordinarily, but not always, results in ascription to the Catholic Church.³⁰ Baptism bestows upon the individual the duties and rights proper to Christians.³¹ Ascription to a Church *sui iuris* is normally effected through baptism; in other words, the rite of baptism is a practical means for ascription to the Catholic Church.³² There are two forms of baptism, which determine one's ascription in a particular Church *sui iuris*: infant baptism and baptism chosen by one's own free will.³³

According to *CIC* c. 111 § 2 and *CCEO* cc. 29 § 1 and 30, persons who have not completed fourteen years of age belong, through baptism, to the Church *sui iuris* of their

²⁸ See FARIS, *The Eastern Catholic Churches*, p. 153.

²⁹ See *CCEO* c. 679.

³⁰ The *CCEO* provides provision for infant baptism (not in danger of death) of non-Catholic Christians who are unable to approach their own minister, without the requirement that the newly-baptized child be educated in the Catholic Church. See *CCEO* c. 681 §1, 1° and §5.

³¹ See *CCEO* c. 675; *CIC* cc. 849, 96. Also see FARIS, *The Eastern Catholic Churches*, p. 153 says: "Membership in the Catholic Church arises out of the reception of baptism or entrance into full communion with the Catholic Church."

³² JOHN PAUL II, Letter to the Pontifical Council for Migrants and Refugees, in *AAS*, 65 (2003), p. 337: "Membership in the Catholic community is not determined by nationality, or by social ethnic origin, but essentially by faith in Jesus Christ and Baptism in the name of the Holy Trinity."

³³ Cf. *CIC* c. 111; *CCEO* cc. 29, 30, 588.

parents, provided the parents are Catholic and belong to the same Church *sui iuris*.³⁴ However, if both parents are members of two different Churches *sui iuris*, a mutual agreement or disagreement on the part of the parents becomes the determining factor. If there is no agreement, the infant pertains to the Church *sui iuris* of the father.³⁵ The celebration of baptism out of necessity, by mistake or because of practical preference in a different Church *sui iuris* would not enroll the person so baptized in that Church. In other words, neither practical necessity nor natural assimilation effects a transfer from one ritual Church to another. Consequently, the baptismal rite of itself does not constitute an absolute criterion for ritual ascription.³⁶ The rite in which baptism is administered is of no juridic import except insofar as it creates a simple presumption that the Catholic parents

³⁴ *CIC* c. 111 §1 establishes the following possibilities: (1) If both parents belong to the Latin Church, the child is ascribed to the Latin Church; (2) If the father is of an Eastern Church and the mother is of the Latin Church and they both agree, they can have their child baptized in and ascribed to the Latin Church; (3) If they do not agree then the child is to be baptized in and ascribed to the ritual Church of the father. According to this canon if a Latin father and an Eastern mother would agree to have their child baptized in the Eastern Church, the provision is not clear. If they both agree, the baptism must be in the Latin Church. In no case can parents ascribe their children to a ritual Church *sui iuris* other than that to which at least one of them belongs.

³⁵ See *CCEO*, c. 29 §1; also see John D. FARIS, "Inter-Ritual Matters in the Revised Code of Canon Law," in *StC*, 17 (1983), p. 243; Augustine MENDONÇA, *Interecclesial Legislation*, at p. 39 where we read: "In the past, if the father was of the Latin Church and the mother was of an Oriental Church, all the children were to be baptized in the Latin Church. The legislator harmonized the inequality which existed between the Churches by the fact that a husband of a Latin Church may now transfer to an Oriental Church of his wife, and consequently the children may be baptized in the ritual Church of their parents." The *CCEO* places emphasis on the ecclesial community to which the parents of the child belong and it determines that when a child is baptized before the age of fourteen, it belongs to the ritual Church of the father.

³⁶ See PIUS XII, *Motu proprio*, *Cleri sanctitati*, 2 June 1957, c. 6 §1-2, in *AAS*, 49 (1957), pp. 433-603, here at p. 437. A *de facto* baptism, when it takes place contrary to canon law, does not create a *de iure* ritual ascription (see *CLD* 1, p. 85; *CLD* 3, p. 302; *Roman Replies and CLSA Advisory Opinions*, 1993, pp. 11-14).

in an inter-ecclesial marriage have selected legitimately this particular Church *sui iuris* for the child.³⁷

Persons under the age of eighteen are canonically minors (*CCEO* c. 909 § 1), but with regard to the acquisition of ascription to a Church *sui iuris* or transfer of ascription, persons who have completed fourteen years of age are canonically qualified to decide for themselves.³⁸ An unbaptized person, having completed fourteen years of age, can freely choose the ritual Church to which he or she wishes to belong.³⁹ This option is applicable even when a priest or minister of a rite other than the one selected administers baptism. It would also apply to a non-Catholic doubtfully baptized after the completion of his/her fourteenth year.⁴⁰ Though both Codes allow the nonbaptized persons over the age of fourteen the choice of belonging to any of the Catholic Churches *sui iuris*, “it is the desire of the Catholic Church that the individual join the Church that is most appropriate to his/her culture (*CCEO* c. 588).”⁴¹ Ethnicity and cultural factors are to be taken into consideration with regard to ascription to a specific Church *sui iuris*.

³⁷ See POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 22; also see MENDONÇA, *Interecclesial Legislation*, p. 42. There are disagreements among canonists regarding the effect of ascription and the rite of baptism. John Huels says that there must be an intervention of a Catholic minister of baptism in order for the candidate to become a Catholic through baptism. Therefore a protestant who baptizes a baby of Catholic parents in danger of death does not admit that child into the Catholic Church unless there is another formal act of reception into the Catholic Church. See John M. HUELS, *Preparation for Marriage, Impediments, Form, Mixed Marriages and the Effects of Marriage*, (class notes), Ottawa, Saint Paul University, 2000-2001, p. 46; also see *Roman Replies and CLSA Advisory Opinions*, 2001, pp. 53-57. This, we believe, is a probable opinion.

³⁸ See FARIS, *Eastern Catholic Churches*, p. 155.

³⁹ Cf. *Cleri sanctitati*, c. 12; *CIC* c. 111 §2; *CCEO* cc. 29-30.

⁴⁰ See Meletius M. WOJNAR, *The Code of Oriental Canon Law: De ritibus and De personis*, Washington, DC, CUA press, 1959, pp. 236-237.

⁴¹ See *CCEO* c. 588; POSPISHIL, *Eastern Catholic Church Law*, p. 118.

It should be noted that the requirements to receive baptism or to be received into the Catholic Church are minimal, but the provisions regarding ascription to a Church *sui iuris* are extensive. Requirements regarding ascription to a Church *sui iuris* (for example, the ascription status of one's parents), determine the Catholic Church of baptism, not vice versa.⁴²

3. 2. 2. Ascription Through Transfer to Another Rite

In the early centuries transfer from one Church *sui iuris* to another was not systematically organized or legislated and the discipline governing the transfer developed only gradually in the Church.⁴³ In 440 AD, Pope Leo the Great prohibited any transfer of clerics to another Church simply for popular and financial reasons.⁴⁴ Emergence of fourth century heresies and the socio-cultural situations of the time required the Eastern Churches to develop a personal ecclesiastical law rather than one that was territorial. The situation became worse with the Islamic invasions and occupation of Eastern territories where Christianity ceased to exist as autonomous political entities and where Islamic authorities recognized only the ecclesiastical leaders of their own choice. However, in regions where there was only one ethnic-religious group, laws retained their territorial

⁴² See *CCEO* c. 683; baptism must be celebrated according to the liturgical prescriptions of the Church *sui iuris* in which, according to the norm of law, the person to be baptized is to be enrolled. In the former legislation, the "rite" in which a person was baptized was ordinarily the determinant factor in the ascription in a Church *sui iuris*. See 1917 *CIC* c. 909 §1 and *Cleri sanctitati*, c. 6.

⁴³ See M. GNESKO, *Interritual Relations*, (class notes), Ottawa, Saint Paul University, 1981, p. 27.

⁴⁴ See WACE and SCHAFF (eds.), *A Select Library of the Nicene and Post-Nicene Fathers*, vol. 11, pp. 2, 19. Pope Leo the Great in 440 AD reaffirmed the previous legislation and decreed that neither in the grade of the priesthood nor in the order of diaconate nor in the lower ranks of the clergy, is any one at liberty to migrate from church to church. The Pontiff clearly prohibited the transfer of a bishop from one city to another because of a larger population or financial benefits. This prohibition was imposed because the bishops themselves were transferring from one diocese to another for financial and material benefits.

character. In regions, where one particular rite was predominant, the faithful of other rites adapted themselves to that rite. Hence, without any canonical formality, they automatically became members of that rite without the need for intervention of any higher ecclesiastical authority.⁴⁵

On 6 September 1448, Pope Nicolas V enacted a law for the first time prohibiting the practice of transfer from one rite to the other (from Latin Rite to Greek Rite).⁴⁶ Later on such a prohibition was made universal and permission of the Holy See or at least of the diocesan bishop was required. On 26 July 1755, Pope Benedict XIV legislated and clarified the norms governing transfer from one rite to another through his encyclical *Allatae sunt*, which was applicable to the universal Catholic Church.⁴⁷ On 20 November 1838, the Sacred Congregation for the Propagation of the Faith gave new norms governing transfer from one Eastern Catholic Church to another. If the eucharistic matter, leavened or unleavened bread, was the same in both rites, the transfer became effective as soon as both concerned bishops consented; in such a situation no recourse to the Holy See was needed.⁴⁸ Pope Leo XIII reformed and updated the discipline on the transfer of

⁴⁵ See MENDONÇA, *Interecclesial Legislation*, p. 44.

⁴⁶ NICOLAS V, Apostolic Constitution, *Pervenit ad aures nostras*, in Francisco GAUDE (ed.), *Bullarium romanum*, vol. 5, Taurinensis, Augustae Taurinorum, 1860, pp. 100-101: “Pervenit ad aures nostras quod in locis, quae catholicis in Graecia subiecta sunt, multi catholici, unionis praetextu, ad Graecos impudenter transeunt ritus. Mirati admodum sumus, mirarique non desistimus, nescientes quid sit quod eos a consuetudine ac ritibus, in quibus nati enutritique sunt, in alienigenarum ritus transposuit: nam, est laudabiles Orientalis Ecclesiae ritus sint, non licet tamen Ecclesiarum ritus permiscere, neque id unquam sacrosancta synodus Florentina permisit.” Also see MENDONÇA, *Interecclesial Legislation*, p. 44.

⁴⁷ See BENEDICT XIV, Encyclical, *Allatae sunt*, 26 July 1755, in *Magnum bullarum*, vol. 19, pp. 151-166; English translation in Claudia CARLEN, *The Papal Encyclicals 1740-1878*, Wilmington, DE, McGrath Publishing Company, 1981, pp. 51-73.

⁴⁸ See *Collectanea*, vol. 1, pp. 499-500; also see M. WOJNAR, *De ritibus orientalibus*, Washington, DC, CUA Press, 1959, p. 233; MENDONÇA, *Interecclesial Legislation*, pp. 44-45. For any Churches other

Rite and gave 13 norms concerning the preservation of Eastern Rites in his Apostolic Letter, *Orientalium dignitas* promulgated on 30 November 1894. These norms were wholly incorporated into the 1917 Code of Canon Law.⁴⁹

On 1 May 1897, the Sacred Congregation for the Propagation of Faith gave Eastern Catholics who had immigrated to North America an indult to adhere to the Latin

than the Armenian and the Maronite, who use unleavened bread, a petition had to be presented to the Holy See for transfer.

⁴⁹ See LEO XIII, Apostolic Letter, *Orientalium dignitas*, in ASS, 27 (1894-95), pp. 257-264. “(1) Missionarius quilibet latinus, e clero saeculari vel regulari, qui orientalem quempiam ad latinum ritum consilio auxiliave inducat, praeter *suspensionem a divinis* quam *ipso facto* incurret, ceterasque poenas per eandem Constitutionem *Demandatam* inflictas, officio suo privetur et excludatur. Quae praescripto ut certa et firma consistat, exemplar eius patere vulgatum apud Latinorum ecclesias iubemus. (2) Ubi desit proprii ritus sacerdos cui Patriarcha orientalis mandet spiritualem suorum administrationem, ibi eorum curam suscipiat Parochus alieni ritus qui easdem atque ipsi species, azymum vel fermentatum, ad consecrandum adhibeat; anteferantur qui eos adhibeat ritu orientali. (3) Sodalitates Religiosorum latinae, quae iuventuti instituendae in Oriente dant operam, si quo in collegio alumnos ritu orientali non paucos numerent, sacerdotem eiusdem ritus, Patriarcha consulto, apud se habeant ipsorum commodo alumnorum, ad missae sacrificium, ad sacram synaxim, ad catechesim patria lingua impertiendam ritusque explicandos; aut saltem diebus dominicis ceterisque de praecepto occurrentibus festis talem sacerdotem arcessant, ea officia prestiturum. (4) Eadem praescripta transferenda sunt, quoad fieri posit, ad Religiosarum Sodalitates, puellis educandis in asceteriis scholisque deditas. Quod si qua immutatio per tempora et res opportuna incidit, ea non ante fiat quam Patriarche consensus accesserit et venia Apostolicae Sedis. (5) Nova, ritu latino, iuventutis collegia vel domus Religiosorum utriusvis sexus ne in posterum aperiuntur, nisi Apostolica Sede rogata et consentiente. (6) Presbyteris tum latinis tum orientalibus neque in suis, neque in alieni ritus ecclesiis, fas est quemquam absolvere a casibus qui suis cuiusque Ordinariis sint reservati, nisi facultate ab eisdem permissa: qua in re quod vis privilegium, vel speciali mentione dignum, prorsus revocamus. (7) Orientalibus qui ritum latinum, etiamsi ex pontificio rescripto, susceperint, revertere ad pristinum, Apostolica Sede exorata, licebit. (8) Mulieri latini ritus quae viro nupserit ritus orientalis, aequae ac mulieri orientali quae nupserit latino, integrum erit ut ad ritum viri, ineundo vel durante matrimonio, transeat matrimonio autem soluto, resumendi proprii ritus libera erit potestas. (9) Quicumque orientalis, extra patriarchale territorium commorans, sub administratione sit cleri latini, ritui tamen suo permanebit adscriptus; ita ut, nihil diuturnitate aliave causa ulla suffragante, recidat in ditionem Patriarche, simul ac in eius territorium reverent. (10) Nulli, utriusvis sexus, Ordini vel Instituto religioso latini ritus, quemquam orientalem inter sodales suos fas erit recipere, qui proprii Ordinarii testimonials litteras non ante exhibuerit. (11) Si qua ex dissidentibus communitas vel familia vel persona ad catholicam unitatem venerit, conditione velut necessaria interposita amplectendi latini ritus, huic ritui remaneat ea quidem ad tempus adstricta, in eius tamen potestate sit ad nativum ritum catholicum aliquando redire. Si vero eiusmodi conditio non intercesserit, sed ideo ipsa communitas, familia, persona a latinis presbyteris administretur quia desint orientales, regrediendum ipsi erit ad ritum suum, statim ut sacerdotis orientalis fuerit copia. (12) Matrimoniales et ecclesiasticae, quaecumque sint causae, de quibus ad Apostolicam Sedem appellatio fiat, nequaquam Delegatis Apostolicis definiende, nisi aperte ea iusserit, committantur, sed ad sacrum Concilium christiano nomini propagando omnino deferantur. (13) Patriarchae Graeco Melchitae iurisdictionem tribuimus in eos quoque fideles eiusdem ritus qui intra fines Turcici Imperii versantur” (ibid. p. 260-262).

Rite, but they were to return to the practice of their original Rite upon return to their homeland.⁵⁰ The 1917 Code of Canon Law established clear norms concerning the transfer of rites and prohibited any transfer without the express permission of the Holy See. In c. 98, §3, it stated: “Nobody is allowed, without permission of the Apostolic See, to go over to another Rite or, after a legitimate transfer, to return to his/her former Rite.”⁵¹ The Motu proprio, *Cleri sanctitati* c. 8 §1, had a similar prescript: “Nobody can [*potest*], without permission of the Apostolic See, go over *validly* to another Rite or, after a legitimate transfer, return to his/her former Rite.”⁵² The most important difference between these two canons is the adverb “*valide*” (“validly”) qualifying the verb “to go over,” which basically implied that any attempted act contrary to the norm of law would be *invalid*, and not merely illicit. In other words, during the regime of pre-conciliar legislation, an attempted transfer, that is, without prior permission of the Apostolic See, from one Rite to another was probably only illicit according to *CIC 1917*, but invalid under the Eastern law.

Canon 112 § 1 of the 1983 Code has a slightly different formula in regard to this issue compared to that of *CIC 1917*. Canon 112 reads: “§1. After the reception of baptism, the following are enrolled in another ritual Church *sui iuris*: 1° a person who has obtained permission from the Apostolic See.” There is no mention in this norm whether

⁵⁰ See *Collectanea*, vol, 2, pp. 357-358; also see GNESKO, *Interritual Relations*, p. 29; MENDONÇA, *Interecclesial Legislation*, p. 45.

⁵¹ *CIC 1917*, c. 98 §3: “Nemini licet sine venia Apostolicae Sedis ad alium ritum transire, aut, post legitimum transitum, ad pristinum reverti.”

⁵² *AAS*, 49 (1957), p. 438: “Nemo potest sine licentia Sedis Apostolicae ad alium ritum *valide* transire, aut, post legitimum transitum, ad pristinum reverti” (emphasis added to indicate the notable difference between the two norms).

the permission of the Apostolic See is necessary for the validity of the transfer. But the canon certainly speaks of a *ipso facto* transfer when there is such a permission, thus implying that there is no transfer without such permission. However, *CCEO* c. 32 §1 gives no room for doubt. It reads: “No one can *validly* transfer to another Church *sui iuris* without the consent of the Apostolic See.”⁵³ This clearly states that the consent or permission of the Apostolic See is necessary for the *validity* of transfer from one Church *sui iuris* to another. In light of this norm of *CCEO* it is now reasonable to state that any attempted transfer without the permission of the Apostolic See will be *invalid*. But the question is how one understands this “consent” or “permission” of the Apostolic See?

The norms governing legitimate transfer from one *sui iuris* Church to another in virtue of the consent or permission of the Apostolic See imply that such a consent can be either “explicit” or “implicit.” An explicit permission (consent) is present when the Apostolic See itself, in response to a legitimate petition, directly grants it via a rescript. In some situations this is done also through Apostolic Nuncios or Apostolic Delegates who are given the faculty to grant such consent. But the consent of the Apostolic See is implicit when the following requirements stipulated by law are met: The eparchial bishop of the Church *sui iuris* to which the person wishes to transfer, that is, the Church *ad quam*, and the eparchial bishop of the Church *sui iuris* from which the said person wants to transfer, that is, the *sui iuris* Church *a qua*, and both bishops are within the same territory, consent in writing in favor of the request for transfer. In this case, the consent

⁵³“Nemo potest sine consensu Sedis Apostolicae ad aliam Ecclesiam sui iuris valide transire” (*CCEO* c. 32 §1).

of the Apostolic See for the transfer is implicit. This principle is stated in *CCEO* c. 32 §2, which reads: “In the case of Christian faithful of an eparchy of a certain Church *sui iuris* who petition to transfer to another Church *sui iuris* which has its own eparchy in the same territory, this consent of the Apostolic See is presumed, provided that the eparchial bishops of both eparchies consent to the transfer in writing.”⁵⁴

⁵⁴ It would seem that, if c. 112 §1, 1° of the 1983 *CIC* is interpreted by itself, one might argue that, because *CIC* makes no mention of the presumed consent of the Apostolic See, members of the Latin Church should obtain Apostolic consent for valid transfer to another Church *sui iuris*. In fact, in light of c. 32 §2 of *CCEO*, a *dubium* was raised concerning the applicability of the “presumption” of the canon also to the Latin faithful (see *Communicationes*, 24 [1992], p. 14). The Pontifical Council for the Interpretation of the Legislative Texts studied this *dubium* and came to the conclusion that the permission can be presumed as often as one of the Christian faithful of the Latin Church has petitioned for a transfer to another ritual Church *sui iuris* which has its eparchy within the same territory, provided that the diocesan bishops of both dioceses agree with each other about it in writing. On 26 November 1992, the Supreme Pontiff approved this opinion (see *AAS*, 85 [1993], p. 81). For a detailed study on this issue, see Javier CANOSA, “La presunzione della licenza di cui can. 112 §2, 1° del Codice di diritto canonico,” in *Ius Ecclesiae*, 5 (1993), pp. 613-631.

CCEO c. 32 §2 is certainly applicable to members of Oriental Churches who wish to transfer from one Oriental Church to another. This provision can be applied also to a case in which an Oriental person wishes to transfer to the Latin Church as long as the bishops *a quo* and *ad quem* are within the same territory and they consent to the transfer in writing (see MENDONÇA, *Interecclesial Legislation*, p. 47). Before the response of the Pontifical Council, authors disputed over this issue. For example FARIS stated: “The question has arisen as to whether the consent of the Apostolic See is presumed if an Eastern Catholic and Latin Catholic bishop reach such an agreement. If the procedure formulated in canon 32 is strictly reserved to hierarchs of the Eastern Catholic Churches, it may be that the consent of the Apostolic See cannot be presumed in cases involving a Latin Catholic. However, a special faculty could be accorded to the Latin diocesan bishops” (see his *Eastern Catholic Churches*, p. 181). But according to PROVOST, “The wording of the canon 32 §2 is that the permission of the Apostolic See is presumed. As such this is not an exception to the law, but the extension of a favor; it would seem, therefore, that this is not subject to a strict interpretation and can serve as suppletory law even for the Latin Church.” See James H. PROVOST, “Some Practical Issues for Latin Canon Lawyers from the Code of Canons of the Eastern Churches,” in *The Jurist*, 51 (1991), p. 56.

Generally the petition for transfer must contain all the pertinent information about the petitioner; reasons for transfer must be prepared and signed by the petitioner and submitted it to the eparchial bishop of the Rite “*ad quem*.” He, in turn, after attaching his own *votum*, sends it to the Apostolic Nuncio or Delegate. The Nuncio or the Delegate asks for the *votum* of the eparchial bishop of the Rite “*a quo*” and sends the *vota* to the Congregation for the Oriental Churches for a decision. For a detailed explanation of the application procedure, see *CLSA Newsletter*, June 1993, p. 4.

On 6 December 1928, the Congregation for Eastern Churches granted delegation of the faculty to all Apostolic Delegates, Nuncios, or those who temporarily took their place to permit change of rites, except in the case of priests who might petition for transfer (see *AAS*, 20 [1928], p. 416; *CLD*, vol. 1, pp.

Why is the consent or permission of the Apostolic See necessary for the validity of transfer? A more probable answer to this question was contained in a response from the Congregation for the Eastern Churches to the bishop of Djakovo (Croatia), in which it was stated that the law of ascription to a “particular Church or Rite” seems to be constitutive rather than disciplinary, hence not dispensable.⁵⁵ Naturally, without its constitutive element a juridic act cannot come into being. Therefore, the consent or permission of the Apostolic See, whether it is given explicitly or implicitly, is necessary for the validity of transfer. A petition to transfer is granted by the Apostolic See only for most grave reasons.⁵⁶

The long-term observance - even for a lifetime - of another rite does not constitute a transfer of ascription to another Church *sui iuris*.⁵⁷ This provision holds even in the case of Eastern Catholics committed to the pastoral care of a bishop of another Church *sui*

85-86). But this delegation was revoked by the same Congregation through its decree dated 23 November 1940. See *AAS*, 33 (1941), p. 28; *CLD*, vol. 2, p. 50.

⁵⁵ See *CLD*, vol. 9, p. 51; also see GNESKO, *Interritual Relations*, p. 30; MENDONÇA, *Interecclesial Legislation*, p. 45.

⁵⁶ FARIS, *The Eastern Catholic Churches*, p. 169: “Two reasons that may justify a transfer of one’s Church *sui iuris* are returning to the Church *sui iuris* of one’s ancestors and to enhance family unity. It is important to note that the Congregation for the Eastern Churches may not grant any transfer rescript unless the reason is very grave.” “A woman baptized in the Armenian Orthodox Church had been attending Latin Catholic Church for 12 years decided to become a Catholic. Because there was no Armenian Catholic Church for 200 miles, she petitioned for a transfer from the Armenian Catholic Church to the Latin Catholic Church. The Congregation for the Eastern Churches denied the request stating the following reasons: (1) a distance of 200 miles does not constitute enough of a ‘grave motive’ to warrant transfer; (2) the Church does not wish to give impression to non-Catholic brethren that to be Catholic automatically signifies the loss of their proper national and religious identity; and (3) it is not the person that chooses what Church he/she is ascribed to, but ‘it is the Church that generates through Christ the person, inserting [that person] into a characteristic history of its own proper connotation and tradition.’ After stating that, the woman could certainly continue with her participation in the life of the local Latin Church.” Also see *Roman Replies and CLSA Advisory Opinions*, 1995, pp. 28-29.

⁵⁷ See *CIC* c. 112 §2.

iuris; they retain ascription to their own Church *sui iuris*.⁵⁸ When a cleric is incardinated into another Church *sui iuris*, transfer from the Church of ascription is not autonomic. Similarly, in order for a monk or religious to be admitted to the novitiate of a monastery, order, congregation or society of the common life of another Church *sui iuris*, the permission of the Apostolic See is required; again, this permission in itself does not constitute transfer to another Church *sui iuris*.⁵⁹ The transfer to another Church *sui iuris* is a separate juridic act

3. 2. 3. Transfer During Marriage

A Latin Catholic husband or wife can freely transfer to the autonomous Church of the spouse in virtue of the 1983 *CIC* c. 112 § 1, 2°. An Eastern Catholic wife wanting to change her ritual ascription to that of her spouse's Church *sui iuris* may freely do so at the time of marriage or any time during the marriage, simply by signing a declaration in the presence of the pastor "*ad quem*" and two witnesses (*CCEO* c. 33).⁶⁰ The same procedure is to be observed when, after the dissolution of the marriage, the spouse who had changed Rite decides to return to his/her native Rite. This declaration should be

⁵⁸ Cf. *CCEO* cc. 38, 916 §5; *CIC* c. 112 §2.

⁵⁹ Cf. *CCEO* cc. 451, 517 §2, 559 §1.

⁶⁰ According to *CIC* c. 112, the transfer of an Eastern Catholic to the Latin Church requires, for validity, the consent of both the eparchial bishop and the diocesan bishop. In such cases, the canon presumes the consent of the Apostolic See. A Latin Catholic spouse before or during marriage to an Eastern Catholic may declare his/her intention to transfer to the spouse's Church *sui iuris*. However, the Eastern Code allows (c. 33) only the woman to transfer. This difference in discipline may make inter-ecclesial marriage a sensitive issue. The intention of one's spouse's Church *sui iuris* requires a public declaration made before the appropriate pastor with two witnesses and put it in writing. In practice, it is easier for a Latin Catholic to ascribe to an Eastern Catholic Church than for an Eastern Catholic to transfer to the Latin Church. See *Roman Replies and CLSA Advisory Opinions*, 1995, pp. 28-3.

recorded immediately in the appropriate registers.⁶¹ But an Eastern Catholic husband cannot transfer to the autonomous Church of his wife without the written consent of both bishops *a quo* and *ad quem* or without the permission of the Holy See (*CCEO* c. 32).⁶² This provision for the transfer to the autonomous Church of the other spouse applies to all marriages whether blessed in the church of the man or of the woman. Since the transfer of ascription constitutes a public act, it is important that the intention be clearly expressed and recorded.⁶³

The transfer of ascription in the case of marriage takes effect in the act of exchange of consent (and blessing) during the wedding ceremony.⁶⁴ Therefore, a person who wishes to transfer to the Church *sui iuris* of his/her spouse remains in the original autonomous Church until the moment of exchange of consent (and blessing). This has significant relevance to the canonical form, which must be observed in the celebration of marriage, and the impediments which might affect the persons.

Children must be raised in the Church *sui iuris* of the father or, in the case of mixed marriage, in the Church *sui iuris* of the mother. Therefore, both Codes provide for automatic transfer of ritual affiliation of children under the age of fourteen when their

⁶¹ See *CS* c. 13 §2; *CCEO* c. 37; GNESKO, *Interritual Relations*, pp. 36-37.

⁶² See *Nuntia*, 24-25 (1987), pp. 31; 28 (1989), pp. 25-26; 29 (1989), pp. 6-48: The 1986 *Draft* permitted the Eastern Catholic husband to transfer to the autonomous Church of his wife, but objections were raised by the members who considered it “strange” and “incomprehensible” to the Eastern mentality that such a transfer would be allowed. Some stated that the personal statutes might not permit it. The question was further debated during the 1988 plenary assembly of the PCCICOR, during which the motion was proposed that only the wife would be able to transfer to the autonomous Church of her husband without permission of the bishops. Also see FARIS, *Eastern Catholic Churches*, pp. 170-171.

⁶³ See *CCEO* cc. 35-36. Even if the formalities of these canons are not observed, the transfer could be valid. See Aemilius HERMAN, “De ritu mulieris,” in *Periodica*, 29 (1940), p. 60.

⁶⁴ See *AAS*, 32 (1940), p. 212. On 29 April 1940, the Code Commission clarified that a woman changing the Rite is not exempt from the form of marriage. Also see *CLD*, vol. 2, pp. 49-50.

parents enroll in another Church *sui iuris*.⁶⁵ Adopted children will follow the same norm governing natural children of parents, and children of unknown parents will follow the principle applicable to those persons legitimately entrusted with the care of the child in case of any change of Church *sui iuris*.⁶⁶ The *CCEO* has a clause, not found in the *CIC*, requiring that when both parents are Catholic but only one parent transfers, it is necessary to have the consent of both parents in order to effect transfer in the children's ritual affiliation.⁶⁷ Children transferred to another Church *sui iuris* because of parental decision are free to return to their original Church *sui iuris* at any time after they have completed fourteen years of age (*CIC* c. 112, §, 3^o; *CCEO* c. 34). This return to one's previous Church *sui iuris* should be done through a declaration before the pastor and two witnesses and should be noted in the baptismal register.⁶⁸

The Church wants to encourage families to become members of the same Church *sui iuris* because "such transfer[s] promotes family unity and facilitates the religious education of the children."⁶⁹ Furthermore, it is "contrary to the spirit of the law for parents to enroll some of their children in one Church *sui iuris* and others in another

⁶⁵ See *CS* c. 10; *CCEO* c. 34; 1983 *CIC* c. 112 §1, 3^o. Faris notes that since children over the age of fourteen do not automatically transfer with their parents, they must either sign the petition along with their parents or submit individual petitions if they desire to transfer with the rest of their family. See FARIS, "Inter-Ritual Matters in the Revised Code of Canon Law," p. 247.

⁶⁶ See *CCEO* c. 29 §1, 2^o

⁶⁷ See POSPISHIL, *Eastern Catholic Church Law*, p. 120. The likely reason for this difference is that the Eastern Churches want to prevent losing two generations of members if a parent transfers. This way, the children do not transfer automatically, instead there must be a conscious choice for their transfer.

⁶⁸ FARIS, *Eastern Catholic Churches*, pp. 172-173: "When the child who transferred membership by virtue of the transfer of parent(s) attains the age of fourteen, he or she is free to return to the original Church at any time (see also the 1983 *CIC* c. 112 §1, 3^o). Because it is a public juridic act, a clear expression and record of the intention to transfer membership should be made (*CCEO* c. 36-37)."

⁶⁹ See FARIS, "Inter-Ritual Matters in the Revised Code of Canon Law," p. 244.

Church *sui iuris*, unless there are cultural, political, or social circumstances which might suggest a division.”⁷⁰ Canons 34 of the *CCEO* and 112 § 1 of the *CIC* have provisions for the transfer of children under the age of fourteen within this context.

3. 2. 4. Ascription Through the Reception into Full Communion

Entrance into full communion is generally described in the *CCEO* as “reception” into the Catholic Church. The term “reception” quite appropriately describes the nature of becoming a full member of the Catholic Church. Just as a person cannot administer baptism to him/herself, likewise, a baptized person does not simply “join” the Church, but is, instead, *received* into it.⁷¹ The basic principle for receiving the baptized non-Catholics into any Catholic Church *sui iuris* is that they do not change Rites.⁷²

CCEO c. 35 has aroused an interesting controversy over the classification of the ‘rites’ of various baptized non-Catholic Christians because it fails to distinguish the Eastern Orthodox or Eastern Christians from Western protestant Christians. Many canonists believe that distinctions in the treatment of these two groups are both necessary and appropriate. Clearly, the Eastern Catholic Churches *sui iuris* and their Orthodox counterparts are intimately linked by their liturgy, and common historical, cultural, and theological heritage. Therefore, Orthodox converts are ascribed, by law itself, to the

⁷⁰ Ibid. p. 244.

⁷¹ *CCEO* c. 897 explains how an Eastern non-Catholic “is to be received into the Catholic Church.” *CCEO* c. 898 determines what Catholic authority has the right to receive Eastern non-Catholic bishops, clerics, and laity.

⁷² Cf. *CS* c. 11; *OE*, n. 4; *CCEO* c. 35.

Eastern Catholic Church that corresponds to their Orthodox tradition.⁷³ However, the debate continues as to whether protestant Christians should be classified as separated Latin Catholics and be automatically ascribed to the Latin Catholic Church or whether they should be considered as being outside the classification of rites and be treated like those who are non-baptized. This would enable protestants to choose to ascribe themselves to any Catholic Church *sui iuris*. Currently, protestant Christians are treated as having separated from the Latin Catholic Church. Therefore, a protestant is by law itself ascribed to the Latin Church, when he/she is received into the Catholic Church and if he/she wants to be an Eastern Catholic, then he/she must petition for permission from the Apostolic See before or after his/her formal reception into the Catholic Church. In the diaspora, this policy becomes one of the major pastoral problems.⁷⁴

There are a number of arguments both for and against treating protestants as separated Latin Catholics. One of the main reasons that protestants are treated as

⁷³ It is not the general policy of the Congregation for Eastern Churches to grant permission to transfer from one rite to another. In a recent reply to a diocesan bishop in the United States the Congregation denied the request for transfer. Two reasons are stated in the reply for the denial: (a) The Church desires, except for grave reasons, that the one who comes into communion with the Catholic Church from one of the Eastern Orthodox Churches keep ties with his/her proper origin, particularly when it involves ethnic churches. This is so since 'belonging' to a people in the East often involves a specific way of perceiving the religion very connected to the cultural fact, both often realized in the same person. One may not wish to give the impression to non-Catholic brethren that to be Catholic automatically signifies the loss of their proper national and religious identity. (b) It is not the person who chooses the Church to which he/she belongs; it is the Church which gives the life of Christ to that person, inserting him/her into a characteristic history with its own proper meaning and tradition received as a gift. Ritual transfer within the Church, therefore, as the cited canon well understands, would not promote a correct ecclesiological vision, except in the case of absolute necessity. See *Roman Replies and CLSA Advisory Opinions*, 1995, p. 30.

⁷⁴ POSPISHIL, *Eastern Catholic Marriage Law*, p. 65: "The Eastern Catholic Churches which exist in North America, Australia and some other countries are trying valiantly to maintain their ranks as best as possible. The Eastern Catholic faithful very often enter marriages with protestants, who constitute the majority in these nations. However, if protestants, would be considered to belong somehow to the Latin Church on account of their historical origin, the Eastern Catholic Churches could not aggregate them to their communities by occasional conversion to Catholicism."

separated members of Latin Church is that “the protestant communities observed the Latin rite prior to their separation in the 16th century.”⁷⁵ However, some Eastern authors argue that after the protestant Churches of the West separated from the Catholic Church, their theology, worship, sacramental understanding and traditions changed so much that they ceased to be part of the Latin rite.⁷⁶ Therefore, the argument is made that “since the protestants do not observe the Latin Rite, those entering the Catholic Church cannot be obliged to retain it and are free to enter any Church *sui iuris* at their discretion.”⁷⁷

To sum up this discussion, the current regulation of the Church insists that a baptized non-Catholic person should retain and cherish his/her own rite anywhere on earth and observe it to the best of his/her ability. Therefore, when baptized non-Catholics enter into the Catholic Church, they are not obliged to abandon their spiritual heritage. On the contrary, they are automatically enrolled in the Catholic Church *sui iuris* that corresponds to their original non-Catholic Church. This automatic ascription by virtue of the law takes place regardless of the Church *sui iuris* in which the person is actually received.

If a protestant of the Western tradition desires to enter an Eastern Catholic Church *sui iuris*, permission must be obtained from the Apostolic See. But, when protestants of Eastern tradition, e.g., *Marthomites* in India, come into full communion with the Catholic

⁷⁵ See FARIS, *The Eastern Catholic Churches*, p. 175.

⁷⁶ POSPISHIL, *Eastern Catholic Marriage Law*, p. 65: “Protestants usually have not preserved a specific ‘rite’, but have created their own, new ‘rites’, which cannot become the structure and definition of an autonomous Catholic Church because they are based on doctrinal assumptions that negate essential ecclesiastical and other Catholic (and Eastern Orthodox) teachings, such as their rejection of an ordained or sacramental priesthood, episcopacy, apostolic succession, etc.”

⁷⁷ See FARIS, *The Eastern Catholic Churches*, p. 175.

Church, they should become members of the corresponding Eastern Catholic Churches *sui iuris*. In other words, when a baptized person enters into full communion with the Catholic Church, that person is assigned ascription to a specific Church *sui iuris* by law itself and it is not subject to one's personal choice. Consequently, a baptized non-Catholic cannot join a Catholic Church different from his/her native ritual tradition.⁷⁸

Individuals or groups who are baptized in non-Catholic Churches or ecclesial communities and who request full communion with the Catholic Church can be obliged to do only what is necessary in order to accomplish it since no burden should be imposed beyond what is necessary.⁷⁹

The Church takes a moderate approach in establishing requirements for a baptized person who wants to enter into full communion with the Catholic Church. In the case of Eastern non-Catholics, after receiving appropriate doctrinal and spiritual instruction, they are obliged to make only a profession of faith in order to be received into the Catholic Church.⁸⁰ Other validly baptized non-Catholics are to be received into the Catholic

⁷⁸ Sees FARIS, *Eastern Catholic Churches*, p. 176. The question concerning the validity of an act contrary to the obligation of *CCEO* c. 35 was discussed at length during the revision process. There was also disagreement among canonists as to whether the permission of the Holy See was necessary for the validity of transfer from one rite to another. Wojnar argued that the decree *OE* (art. 4) rendered invalid a transfer of a member of one Church *sui iuris* to another Church *sui iuris* without the permission of the Holy See. Whereas, Faris and others maintained that the permission of the Holy See was not necessary for the validity of the transfer. See WOJNAR, "Interritual Law in the Revised Code of Canon Law," p. 197; FARIS, "Interritual Matters in the Revised Code of Canon Law," pp. 239-259; POSPISHIL and FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, p. 26. The 1984 *Schema* (p. 6), seems to indicate that the permission of the Holy See for the transfer mentioned in *CCEO* c. 35 would be necessary only for its liceity. *CCEO* c. 35 also seems to confirm this position.

⁷⁹ See *CCEO* c. 896.

⁸⁰ See *CCEO* c. 897; also see Dimitri SALACHAS, "Implicanze ecumeniche del Codice dei canoni delle Chiese orientali alla luce del nuovo Direttorio ecumenico," in Kuriakose BHARANIKULANGARA, *Il diritto canonico orientale nell'ordinamento ecclesiale*, in *Studi Giuridici* 34, Città del Vaticano, Libreria editrice Vaticana, 1995, pp. 258-260. In making the profession of faith, the convert could recite the Nicene-

Church following more adequate doctrinal and spiritual instruction by making the profession of faith, and they are to receive the sacraments of reconciliation and chrismation/confirmation.⁸¹ A baptized person under the age of fourteen should not be received without parental consent;⁸² likewise, when it is foreseen that reception of an older person (over fourteen years complete) into the Church could cause grave harm to the Church or the person concerned, it should be delayed except in danger of death.

Entrance into full communion with the Catholic Church should take the form of a public act. However, an informal reception may be more appropriate when a baptized non-Catholic makes a conscious decision to become a Catholic and has already been receiving the sacraments for an extended period of time. Such an informal reception into the Catholic Church is valid before the law, but it may be difficult to prove in the external forum since it is not recorded anywhere.⁸³ Ascription has legal implications since after becoming a Catholic the person becomes subject to the laws of the Catholic Church, e.g., the observance of the canonical form in the celebration of marriage.⁸⁴

With regard to ecclesial ascription, when a person enters into full communion with the Catholic Church, he/she does not become a “Catholic at large,” but becomes a member of a specific Church *sui iuris*, and is thereby made subject to a specific hierarchy and pertinent particular laws. Therefore, a clear determination must be made regarding

Constantinopolitan Creed, with a formula that expresses allegiance to the Catholic Church and its teachings.

⁸¹ Cf. *CCEO* c. 901; *CIC* cc. 206, 850, 883.

⁸² See *CCEO* cc. 900.

⁸³ See POSPISHIL, *Eastern Catholic Church Law*, p. 122.

⁸⁴ Cf. *CIC* c. 11; *CCEO* c. 1490; FARIS, *Eastern Catholic Churches*, pp. 173-174.

the specific Church *sui iuris* that a baptized non-Catholic should enter. The Second Vatican Council recognized the ecclesial character of the Eastern non-Catholic Churches and strongly advocated the preservation of all Eastern rites as a heritage of the Church of Jesus Christ. It also required that those entering the Catholic Church should continue to observe the rite corresponding to the one to which they belonged at the time of entering into full communion. Thus a person would continue to retain and observe his/her own rite in the Catholic Church in virtue of his/her enrollment in the Eastern non-Catholic Church.⁸⁵

An Eastern non-Catholic bishop can be received into the Catholic Church by the Roman Pontiff, patriarch, or major archbishop with the consent of the synod of bishops of his Church, or by the Metropolitan *sui iuris* with the consent of the council of hierarchs.⁸⁶ Local hierarchs are competent to receive others into the Catholic Church.⁸⁷ Particular law can also reserve this right to the patriarch. Pastors are competent to receive lay people into the Catholic Church unless particular law provides otherwise.⁸⁸

A cleric of an Eastern non-Catholic Church entering into full communion with the Catholic Church can exercise sacred orders according to the norms established by

⁸⁵ Cf. *UR*, nn. 15-16; *OE*, nn. 4, 5; *CCEO* c. 35.

⁸⁶ See *CCEO* c. 898 §1.

⁸⁷ Cf. *CCEO* c. 984 §2; *CIC* c. 134 §1-2. According to both Codes, the local hierarchs are Roman Pontiff, eparchial bishops, exarchs, apostolic administrators, as well as those who succeed them in interim governance in their absence, protosyncellus and syncellus. These hierarchs can receive anybody, including clergy and religious, other than bishops, into the Catholic Church.

⁸⁸ See *CCEO* c. 898 §§2, 3.

competent authority; a non-Catholic bishop entering into full Catholic communion cannot validly exercise the power of governance without the “assent” of the Roman Pontiff.⁸⁹

3. 2. 5. Conformation to Another Church *sui iuris*

The Congregation for Eastern Churches has introduced into its practice, for both laity and clergy, a possibility of temporary transfer or ascription to another Church *sui iuris*. Permission is given through special “*indults of accommodation of rite*” and the process is called *adaptation* or *conformation*.⁹⁰ These indults do not constitute a transfer of enrollment, but permit a person to function on a permanent basis according to the rite of another Church *sui iuris* as long as the person is serving in the same Church or remains a member of the same religious community. This provision was introduced in order to provide pastoral care for members of the Eastern Catholic Churches immigrating to lands where there were neither communities or priests, nor hierarch of their own Church *sui iuris*. According to this provision, an individual applying for conformation is ascribed to the Church *ad quem* and is subjected to the laws and customs of that Church. Such an ascription by conformation to another Church *sui iuris* is not perpetual. If the person returns to his/her native place and reestablishes a domicile in the country of origin or region where the native Church *sui iuris* exists, he/she automatically regains the ascription in the original Church *sui iuris*.

The Church explicitly prohibits all forms of forced transfer from one Church *sui iuris* to another. Benedict XIV attached a penalty to such acts. Clerics were punished with

⁸⁹ See CCEO c. 899.

⁹⁰ See FARIS, *Eastern Catholic Churches*, p. 165; GNESKO, *Interritual Relations*, pp. 38-41; MENDONÇA, *Interecclesial Legislation*, p. 62.

latae sententiae suspension from the celebration of sacraments. Leo XIII, the 1917 *CIC* c. 98 § 2, and *Cleri sanctitati* c. 7 reiterated and even augmented the penalty. The same prohibition was introduced into the 1984 *Schema* c. 22, and the 1986 *Schema* c. 34. The *CCEO* c. 31 prohibits forceful transfer of any Christian faithful from one Church *sui iuris* to another. Whoever presumes to act contrary to this prescript, would act in contravention of the universal law of the Catholic Church. In *CCEO* c. 1465, the legislator has attached a penal sanction to the violation of the prescript of *CCEO* c. 31.

3. 2. 6. Canonical Consequences of Ascription

To be a subject of the law of any Church *sui iuris*, a person must become a member of that Church in accordance with the norm of law. The law determines ascription and no one can assume that the reception of baptism or entrance into full communion with the Catholic Church would automatically provide a person ascription to a particular Church *sui iuris*. Ascription to a certain Church *sui iuris* accords a person rights and duties, and affects him/her in all phases of life. Through ascription alone, the faithful can ascertain their obligations and rights with regard to the sacraments and other services offered by the Church (Cf. *CCEO* cc. 7-26). In this connection the juridical aspect of ascription serves an important function in the person's ecclesial life.

Any question about ascription to the Church necessarily and rightly presupposes certain knowledge of the nature of the Church. One is a member of a particular Church

sui iuris, not a member of the Catholic Church at large, and this makes one also a member of the universal Catholic Church governed by the Roman Pontiff.⁹¹

The Church being a juridically organized society, by virtue of a penalty of excommunication, schism, heresy and apostasy, a person loses communion with the visible Church but does not forfeit ascription.⁹²

Through baptism a person becomes a member of the Church and is subjected to its authority. But even non-Catholics may be indirectly subjected to the laws of the Church that have reference to the validity of sacraments. For example, they would be indirectly affected by canonical impediments to marriage and regulations for convalidations.⁹³

Ascription is a critical factor for determining the validity of marriage because of the special nature of the Eastern Catholic canonical form.⁹⁴ For members of the Latin

⁹¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 114.

⁹² Canons on excommunication, schism, and heresy do not explicitly or implicitly deny ascription to those people. Some canonists hold the opinion that ascription has two dimensions, active and passive, which begin with baptism. Baptism gives essential ascription, also called constitutional ascription, that cannot be dissolved either by the baptized person or by the Church and also it is the basis for the operative ascription. Therefore, heretics, schismatics and *excommunicatus vitandus* are in the Church without any active or passive function of ascription either through their own fault or simply through being barred. Cf. Klaus MÖRS DORF, "Die Kirchengliedschaft im Lichte der kirchlichen Rechtsordnung," in *Theologie und Seelsorge*, 34 (1944), pp. 115-131; Karl RAHNER, *Theological Investigations*, vol. 2, Baltimore, Helicon Press Publications, 1964, pp. 18-25.

⁹³ See RAHNER, *Theological Investigations*, vol. 2, p. 13.

⁹⁴ See *CCEO* c. 828; *CIC* c. 1127 §1; also see Jobe ABBASS, "The Codes in Comparison," in *Kanonika* 7 (1997), pp. 91-92, 97-103. According to Abbass, outside of an emergency situation, a marriage of an Eastern Catholic celebrated by either a delegated lay person or a deacon would be invalid for defect of canonical form; also see *Catechism of the Catholic Church*, n. 1623, p. 405, where it provides a summary of the two distinct theologies, of the Latin Church and of the Eastern Churches, of marriage: "In the Latin Church, it is ordinarily understood that the spouses, as ministers of Christ's grace, mutually confer upon each other the sacrament of Matrimony by expressing their consent before the Church. In the Eastern liturgies the minister of this sacrament (which is called Crowning) is the priest or bishop who, after receiving the mutual consent of the spouses, successively crowns the bridegroom and the bride as a sign of the marriage covenant."

Catholic Church the ministers of the sacrament of matrimony are the spouses themselves, whereas, the minister of a marriage in the Eastern Churches is the priest who blesses it. This difference has inevitable impact on the validity of marriage.⁹⁵

Normally for a person living in the diaspora the ascription to a Church *sui iuris* does not affect reception of the sacraments of reconciliation and holy eucharist. However, ascription is an essential determining factor for the celebration of the sacrament of reconciliation and reception of the holy eucharist. The Eastern Catholic Church law makes provision for reception of communion in normal circumstances to its members who have not completed the age of seven on the basis of Eastern theology concerning the sacraments of initiation. Pastors of the Latin Church should be aware of the days of obligations and the tradition of administering the sacraments of initiation to all members of the Eastern Catholic Churches.⁹⁶

⁹⁵ David MOTIUK, "Catholic and Orthodox Issues in Ukraine," in *CLSA Proceedings*, 59 (1997), p. 214: "In the West, while the sacrament of marriage is ordinarily celebrated by a priest, it is equally permissible for deacons, even properly delegated lay persons, to validly assist at marriages. In the East only those marriages in which a priest celebrating as the true minister of the sacrament, blesses the marriage by virtue of his priestly power to sanctify, are valid. Consequently, marriages of Eastern Christians entered into before a deacon or a layperson incapable of bestowing a priestly blessing are invalid. Marriages celebrated without the availability of a priest, frequently occurred under communist persecution, or when there is danger of death are considered valid in virtue of the extraordinary form of marriage (*Crebrae allatae*, c. 89; *CCEO* c. 832). Here the implied doctrinal principle is that the Christians cannot be prevented from validly entering into sacramental marriages without a priest when one is not available. Therefore, such marriages are to be judged by the Catholic Church as valid and indissoluble. The Catholic Church recognizes the validity of a marriage between a Catholic and an Orthodox before an Orthodox priest (*CIC* c. 1127 §1; *CCEO* c. 834 §2). For liceity, a dispensation from canonical form is required from the Catholic bishop, while still observing the other requirements of the law."

⁹⁶ Latin Rite confessors should be aware of the fact that when an Eastern Rite penitent confesses that he/she had missed one of the days of obligations or had not kept the stricter norms of abstinence and fasting not common to all Catholics of the country, he/she still obliged to follow them in accordance with the norms of the particular Church *sui iuris* due to the existence of a canonically established hierarchy and jurisdiction of that particular Church *sui iuris*. For example, The Syro-Malabar major archiepiscopal Church *sui iuris* now has an eparchy in the United States. Holy Days of Obligations include St. Thomas the Apostle's Martyrdom, Ascension, Assumption, Dormition of the Holy Mother Mary, Feasts of Saints Peter

Celebration of the sacraments of Christian initiation, the blessing of marriages, and the ecclesiastical funeral rites are ordinarily the responsibility entrusted to the local pastor (*CIC* c. 530; *CCEO* c. 290 § 2); but if a priest of a *sui iuris* Church is assigned to the region, he will have priority over the local Latin pastor in respect to those sacraments.

Permission of the Apostolic See is required to licitly admit a member of an autonomous Church into a religious institute of another Church *sui iuris*. However, this permission is not necessary in the case of a candidate destined for a province or house of his/her own Church *sui iuris*.⁹⁷ When permission of the Apostolic See is required, it must be requested before admission to the novitiate. Seminarians who are wishing to be ordained in a diocese of a different Church *sui iuris* also come under the same norm governing religious in this matter.⁹⁸

Ascription to a Church cannot be lost because of the theological principle that the sacrament of baptism is irrevocable. Once a person is validly baptized, he/she remains “baptized” for life regardless of his/her participation in the life of the Church. No censure, not even excommunication, separates the baptized person from the communion

and Paul, Epiphany; these are binding on all Syro-Malabar Catholics in the United States until some other provision is made.

Similarly members of the Eastern Catholic Churches receive first communion and confirmation at the time of baptism regardless of their age. Those Catholics under the age of seven attending Latin Catholic local parish schools and Sunday masses have a canonical right to receive communion and should not be denied even though their Latin classmates may not have received their first communion.

⁹⁷ See *CCEO* c. 517 §2; 1917 *CIC* c. 542, 2°; also see *Postquam apostolicis litteris*, c. 74 §2, 6°. *CCEO* c. 432 makes the provision for a dependent monastery, a house or province of a religious institute of any Church *sui iuris* to attach to another Church *sui iuris* with the approval of the Apostolic See.

⁹⁸ Cf. Jobe ABBASS, “Admission of Eastern Catholic to Latin Religious Institute,” in *Roman Replies and CLSA Advisory Opinions*, 2001, pp. 177-180.

of the Church. A person through sin or loss of faith can morally distance him/herself from the Church and God. But the Church cannot totally dissociate itself from the sinner.

In addition to the spiritual bonds between the baptized person and the Church of Christ, there are also visible, juridical bonds which fall within the purview of canon law. As a social-juridical entity, the Catholic Church may be obliged to impose penalties to reform the delinquent or to demonstrate that certain doctrinal positions or behavior are incompatible with Catholic teachings. The penal sanctions curtail exercise of certain rights of a baptized person; but the person still remains a member of the Church. The Church upholds the freedom of conscience, but also teaches that the ascription to it through baptism is the complete expression of the will of Christ.⁹⁹ This principle is a key element when the Church deals with persons who abandon the Catholic faith and embrace another religion or atheism. There is never an absolute loss of ascription to the Catholic Church, especially from the perspective of the law of the Catholic Church.¹⁰⁰

CONCLUSION

We have studied in this chapter the canonical discipline regarding ascription to a Church *sui iuris*. In view of the increasing number of the Eastern Catholic faithful living

⁹⁹ SECOND VATICAN COUNCIL, Decree on the Right of the Person and Communities to Social and Civil Liberty in Religious Matters, *Dignitatis humanae* [= *DH*], nn. 1, 3, 7 December 1965, in *AAS*, 58 (1966), pp. 885 – 889.

¹⁰⁰ The Latin Code speaks of a Catholic's departure from the Church by a formal act, defined as "formal adherence to a non-Catholic religion or atheism" and frees such a person from certain norms of marriage law, among which is the obligation to observe the Catholic canonical form of marriage. The other obligations that bind Christians and Latin Catholics remain intact (Cf. *CIC* cc. 1086 §1; 1117; 1124). The Eastern Code takes the approach that once a person is a member of an Eastern Catholic Church, the person always retains the rights and obligations of that status. In the case of voluntary departure from the faith, the Church can impose censures. Cf. *CCEO* cc. 1436 §1; 1437; *CIC* cc. 1364; 1371, 1; 1364.

outside their historical territories and of their freedom to nourish their spiritual and sacramental life in an Eastern or Latin Church, we considered such a study essential and timely to provide proper pastoral care to members of the Eastern Catholic Churches who have been uprooted from their native roots and planted in alien lands.

Our survey of the canonical legislation related to the ascription of a person to a Church *sui iuris*, may be summarized as follows:

First, the praxis of ascription to a particular Church *sui iuris* is as old as the Church itself. Therefore, from the very beginning of Christianity the Church had to deal with the problem of maintaining ascription to the mother Church while its members were away from their homeland.

Second, Eastern Catholics are, for various reasons, having difficulties at present in maintaining their ascription to their own Churches *sui iuris*, particularly while living in the countries outside their historical territories. Practically speaking, for many people it is simply much easier to attend a neighborhood Latin Catholic church than to travel some distance to attend liturgical worship in a church belonging to their own Church *sui iuris*. This is especially true if a person feels liturgically and culturally dissociated (2nd or 3rd generations) from that Church for a long period of time.

Third, many Eastern faithful continue to retain their ascription to the Church *sui iuris* of their homeland even while living outside its historical territory, and yet they do not register themselves in any particular local church. This they do even when they reside within the territory of a particular eparchy or exarchy. Because of physical distances they are not active in any parish, and as a result they often remain only as nominal

parishioners on the parish membership list. Although they are always assigned to a hierarch, who is technically responsible for their care, such assignment does not remedy the fact that in a very real sense these Eastern Catholics effectively do not belong anywhere on a parish level.

Fourth, there are several important canonical and pastoral issues related to the pastoral care of the Eastern Catholic faithful in North America, which are directly linked to one's ascription to a Church *sui iuris*. Since the transfer of ascription is strictly regulated by Church law, the members have a fundamental responsibility to observe the ceremonies in the celebration and reception of sacraments proper to their own Church *sui iuris*.

Fifth, the canonical examination of ascription to a particular Church *sui iuris* may, at first glance, appear to be a purely technical issue, of interest only to specialists! However, a deeper consideration of the matter reveals that the institute of ascription to a particular Church *sui iuris* has important juridical, pastoral and spiritual consequences to concrete people, the ultimate of these being the salvation of souls.

Sixth, the canonical consequences of ascription have a major impact on the sacramental life of the person. Christian education and spiritual formation, religious life in the family, marriages between Catholics of various Churches *sui iuris* and between Catholics and Orthodox, pastoral care of isolated groups etc., are all made possible validly and licitly on the basis of ascription to the Church.

Seventh, a clear understanding of ascription has implications also for ecumenical relationships, especially between Catholics and Orthodox.

While it is important to urge the faithful to retain their ascription to their own Churches *sui iuris* even when they are forced, by circumstances beyond their control, to live outside their ancestral homelands, the current legal and pastoral arrangements do not seem to attract many of them to the Church of their origin. What should the Church do about this problem?

In the following chapter, we will explore the Church's solicitude for the pastoral care of Eastern Catholics who live outside their historical territories. In order to safeguard the integrity and identity of every Church *sui iuris*, the universal Church has undertaken numerous initiatives including public pronouncements and instructions, which will be the focus of our analysis in the next chapter.

CHAPTER FOUR

THE CHURCH'S SOLICITUDE FOR THE PASTORAL CARE OF EASTERN CATHOLIC FAITHFUL IN THE DIASPORA

INTRODUCTION

History teaches us that in many Eastern and Middle Eastern countries Eastern Catholic Churches were destroyed or severely suppressed by barbarian and Islamic invasions. Because of its solicitude for Eastern Churches, Rome neither left their members without any assistance nor forced them to change their ascription. Some Roman Pontiffs even took initiative to protect Eastern Catholics from the dangers of heresy, schism, political oppression and persecutions.

However, we cannot ignore the fact that bitterness and hostility marred the relationship between the Eastern Orthodox Churches and the Western Catholic Church for many centuries. The Crusaders exacerbated this pattern when they plundered and destroyed Orthodox churches and shrines. The fourth crusaders captured Constantinople in 1204 and established there a seat for the Roman Church, which intensified the existing enmity between Greeks and Romans. The expansion of papal jurisdiction deepened the crisis after the demise of the Eastern Empire. The Greeks regarded the appointment of a Latin patriarch in Constantinople as the culmination of the schism. With the development of a centralized government in the West and its political and social expansion towards the East, the Eastern Churches were gradually absorbed either forcefully or voluntarily into

the papal system.¹ Nevertheless, it is heartening to note that certain Roman Pontiffs explicitly recognized the pristine ecclesiastical status of the Eastern Catholic Churches *sui iuris* and endeavored to protect the Eastern Christians not only in their home countries but also when they migrated to distant lands. The longstanding tradition of the Catholic Church, most recently articulated in the Eastern Code, has urged Catholics not to change their affiliation with their Churches *sui iuris* even when they have immigrated to lands away from their own.² It is this pastoral solicitude the Church had toward the Eastern Catholic faithful in the diaspora that will be the focus of our present chapter.

4. 1. HISTORIC OVERVIEW OF PASTORAL CARE OF EASTERN CATHOLICS

Before the Council of Chalcedon there is no explicit evidence of any legislation or major synodal decisions regarding the pastoral solicitude extended to the members of Churches *sui iuris* living outside their historical territory. The Council of Chalcedon (451 AD) issued norms for the pastoral care of all travelers and pilgrims. They were required to obtain a letter of commendation from a reputable person of their home church in order

¹See BENEDICT XIV, Encyclical, *Allatae sunt*, 26 July 1755, in *Bullarium romanum (magnum): bullarium privilegiorum ac diplomatum romanorum pontificum amplissima collectio*, vol. 4, Roma, Typis Sacrae Congregationis Propaganda Fide, 1746-1757, pp. 286-316; English translation in Claudia CARLEN, *Papal Encyclicals 1740-1878*, Wilmington, DE, McGrath Publishing Company, 1981, pp. 51-73.

Benedict XIV acknowledged that Latin missionaries partially destroyed or at least weakened the Eastern Churches in the course of converting Orientals from the error of schism to the unity of the Catholic Church and prescribed certain procedures in his encyclical *Allatae sunt* to receive them into the Catholic unity. Benedict XIV stated: "They induced Oriental Catholics to embrace the Latin rite with the sole motivation of zealously spreading religion and performing a good work pleasing to God. We have thought it fitting for this reason to treat as briefly as possible in this encyclical the proper procedure in all cases when Orientals are converted to the Catholic Religion. This procedure is to be observed in the case of Oriental Catholics who live both in places where there are no Latins and where Latin Catholics dwell together with Oriental Catholics (art. 4)." See CLAREN, *Papal Encyclicals*, p. 52."

² See BASSETT, *The Determination of Rite*, pp. 139-141.

to get ecclesiastical services in another city. Those who were clerics and lectors among them were absolutely forbidden to serve in another city without letters of commendation except in the case of those displaced from their own country and had been forced to move to the territory of another Church.³

During the first millennium several synods and papal decrees addressed the problems involved specifically in the migration of bishops, priests, deacons, and those aspiring to clerical state; but there was no explicit provision for the pastoral care of migrants or members of other Churches *sui iuris*.

After the Photian schism⁴ of the early tenth century, several efforts were made by many Popes to bring Eastern Churches into the original unity they had with the universal Church. In order to achieve their goal, they convened councils and made significant efforts to reach out to Eastern Catholic Churches by extending solicitude and pastoral care to them.

³ See TANNER, vol. 1, pp. 92-96: Canon 11: "Omnes pauperes et indigentes auxilio, cum proficiscuntur, sub probatione epistolis ecclesiasticis pacificis tantummodo commendari decrevimus, et non commendaticiiis litteris, propterea quod commendaticiae litterae personis honoratioribus solummodo conceduntur. Canon 13: peregrinos clericos et lectores in alia civitate praeter commendaticias litteras sui episcopi nusquam penitus ministrare debere." Canon 20: "Clericos in ecclesia ministrantes, sicut iam constituimus, in alterius civitatis ecclesia statutes fieri non licere, sed contentos esse in quibus ab initio ministrare meruerunt, exceptis illis qui proprias amittentes provincias ex necessitate ad aliam ecclesiam transierunt. Si quis autem episcopus post hanc definitionem susceperit clericum ad alium episcopum pertinentem, placuit et susceptum et suscipientem communionem privari, donec is qui migraverat clericus ad propriam fuerit regressus ecclesiam."

⁴ See François JANKOWIAK, "Schism," in *The Papacy: An Encyclopedia*, vol. 3, Philippe LEVILLAIN (gen. ed.), New York, Routledge Publishers, 1994, pp. 1394-1395. Photius was the patriarch of Constantinople who provoked a temporary schism with Roman See on the conflict which originated in the first ecumenical councils of Nicaea (325 AD) and Constantinople (381) over the question of the Procession of the Holy Spirit. The Councils held that the Holy Spirit proceeded from the Father alone (*a Patre Filioque*). The Roman See later affirmed that the Spirit proceeded from the Father and the Son. Photius supported the position of the earlier councils.

Leo IX (1048-1054), for example, sent a legate on 16 July 1054 to Constantinople (Cardinal Humbert) to put an end to the Photian schism⁵ and kept all the Greek Churches open in Rome and in surrounding areas even when Latin churches were closed in Constantinople by the order of Michael Cerularius in the 11th century.⁶

At the beginning of the 13th century Innocent III established a Latin patriarchate in Constantinople with jurisdiction over Greeks as well as Latins, but he did not want any harm done to the Greek churches but instead urged them to continue to cherish their ancient customs and traditions.⁷ In 1215 the Fourth Lateran Council decreed that the Church should respect the rite and language of the dispersed people and made provisions for their pastoral care by appointing priests or auxiliary bishops belonging to their own

⁵ Photius was the patriarch of Constantinople from 858 to 867 and again from 878 to 886. The dispute between East and West started in 858, the year in which Nicholas I (858-867) became Pope, and Photius became the patriarch of Constantinople.

⁶ The Church extended her solicitude and pastoral care in the 12th century toward pilgrims who visited the shrines and tombs of the apostles in Rome. There was no explicit evidence for pastoral care extended toward Eastern Catholics who separated from the Roman See. The First Lateran Council in 1123 promulgated a law in order to protect pilgrims visiting the shrines of the apostles and churches of saints in the city of Rome. The Second and Third Lateran Councils in 1139 and 1179 issued decrees protecting the property of pilgrims while they were away from home. Cf. TANNER, vol. 1, p. 193, c. 14; p. 199, c.11; p. 222, c. 22.

Benedict XIV acknowledged and praised the efforts of his predecessors in regard to the Church's pastoral solicitude towards the Eastern Catholics. In his encyclical *Allatae sunt*, the Pontiff said: "Our predecessor Saint Leo IX sent his legates to Constantinople to put an end to the schism, which after almost two centuries' respite, had been renewed by Michael Cerularius; but their efforts came to nothing. Subsequently Urban II summoned the Greeks to the council of Bari. They accomplished very little though, even though, Saint Anslem, archbishop of Canterbury, was fully engaged in working for unity between them and the Roman Church and in revealing to them the errors of their ways by the light of his teaching" (art. 5). "In the 11th century, several Latin churches observing the Latin rite thrived in Constantinople, Alexandria and the patriarchate of Jerusalem; just as in Rome, Greek Churches performed ceremonies in the Greek rite. Michael Cerularius commanded the closing of the Latin churches. Leo IX rather than closing the Greek churches in Rome, he desired them to remain open. Although there are many Greek monasteries or churches, both inside and outside Rome, none of these has yet been disturbed or forbidden to follow the tradition of its fathers or its own custom; rather all of them are advised and urged to observe it." See CLAREN, *Papal Encyclicals*, pp. 52-53.

⁷ See CLAREN, *Papal Encyclicals*, p. 53.

rite as their pastors when their spiritual good demanded it.⁸ The council vehemently opposed erection of another diocese for the faithful of a different rite in the same city or within the jurisdiction of another Catholic bishop. They followed the principle of territoriality in the ecclesiastical governance. The canons of the early ecumenical councils as well as the practice of the Church advocated the strict observance of the principle of 'one city one bishop'.⁹

However, a very short time after the fourth Lateran Council, Honorius III (1216-1227) took a radically different approach by appointing two bishops, a Latin and a Greek, in the same Cyprus district to care for all the faithful of the Latin and Greek Churches.¹⁰ His immediate successor, Gregory IX (1227-1241), continued the efforts of his predecessor as well as made some concrete provisions for the pastoral care of migrants and members of other rites. This included appointment of priests who could speak their

⁸ See TANNER, vol. 1, p. 239. Canon 9: "Since in many places of different languages live within the same city or diocese, having one faith but different rites and customs, we therefore strictly order bishops of such cities and dioceses to provide suitable men who will do the following in the various rites and languages: celebrate the divine services for them, administer the Church's sacraments, and instruct them by word and example. We altogether forbid one and the same city or diocese to have more than one bishop, as if it were a body with several heads like a monster. But if for the aforesaid reasons urgent necessity demands it, the bishop of the place may appoint, after careful deliberation, a Catholic bishop who is appropriate for the nations in question and who will be his vicar in the aforesaid matters and will be obedient and subject to him in all things. If any such person behaves otherwise, let him know that he has been struck by the sword of excommunication and if he does not return to his senses let him be deposed from every ministry in the Church, with the secular arm being called if necessary to quell such great insolence."

⁹ See Joseph VALLAVANKOTT, *The Nature of Extra-territorial Eparchy with Special Reference to the Eparchy of Kalyan*, Rome, Pontifical Institute of Oriental Studies, 1997, p. 3.

¹⁰ See MANSI, vol. 22, p. 1183; also see CLAREN, *Papal Encyclicals*, p. 53.

language, bishop's vicars (prelates) for peoples of different languages, and parishes for different rites within the same city.¹¹

The King of Russia (Yaroslav II, 1237-1246) tolerated and encouraged the existence of various Catholic rites in his kingdom. Innocent IV (1243-1254) praised the king of Russia for allowing the preservation of various Catholic rites in his Kingdom. In a letter to the King, the Pontiff wrote, "We are moved by your prayer and grant by the authority of this letter to the bishops and other priests of Russia permission to consecrate unleavened bread in accordance with their custom and to observe their other rites which are not opposed to the Catholic faith held by the Church of Rome." In order to extend the pastoral solicitude to the Kingdom of Cyprus, Innocent IV appointed an Apostolic Legate vested with full authority over all the Greeks who lived in the Kingdom of Cyprus and the patriarchates of Antioch and Jerusalem, as well as over the Jacobites, Maronites, and Nestorians. The Pontiff commanded him especially to protect, by his authority, all Greeks from any kind of harassment from the Latins.¹²

To continue the same pattern of pastoral solicitude to the Eastern Catholics, Alexander IV (1254-1261) made a provision to bring the Greek clergy to Latin Synods, provided that the statutes of the synods did not conflict with Greek rites, so that they

¹¹ Augustinus BARBOSA, *Collectanea doctorum, commentaria in quinque decretalium libris*, vol. 1, Lugduni, Petri Borde, Joan & Petri Arnaud, 1688, *De officio iudicis ordinarii*, XIV, p. 276: "Populi diversarum linguarum et rituum sub Romana fide, quando sunt in una civitate, vel diocesi, unus tantum debet esse Episcopus, qui provideat de idoneis ministris ad docendum, et ministrandum Sacramenta in diversis linguis: et si necessitas urgeat, potest habere suffraganeum praesulem pro aliqua lingua, qui sibi subsit, et non Metropolitano."

¹² Cf. *Allatae sunt*, art. 9, in CLAREN, *Papal Encyclicals*, pp. 53-54.

could also be part of the decision making body. In negotiations with the Byzantine Emperor, Theodore II Lascaris, Alexander attempted to reunite Greek and Latin Churches. In Cypress he successfully settled the rival claims of the two Churches. In Syria he made the head of the recently reconciled Maronites the patriarch of Antioch.¹³

Even in the face of bitter enmity between the East and the West, Pope Gregory X (1271-1276) convened the Council of Lyons and made the Byzantine Empire subject to the Council. The emperor of the East, Michael VIII, ended Latin rule in Constantinople, and Greek bishops accepted unity in principle with the Roman Church, but later abandoned its pursuit. Gregory was an enthusiastic advocate of Church unity and sent envoys to Constantinople in 1272. He openly expressed his desire for unity and sent a special delegation to Michael Paleologos, the Emperor of Constantinople and to the Council of Lyons. The union that Gregory X wanted was accomplished when Emperor Michael renounced the schism, and the Eastern representatives agreed to the Roman creed, including the double procession of the Holy Spirit. However, the patriarch of Constantinople was not represented in the Greek delegation, and the results of the council were not accepted in the East.¹⁴ Nicholas III, the successor of Gregory X, sent legates to Constantinople with a letter affirming that all existing ancient Greek customs should continue on and the integrity of the Greek Catholic Church must be maintained.¹⁵

¹³ See J. A. BRUNDAGE, "Pope Alexander IV," in *NCE* (2nd ed.), vol. 1, p. 257.

¹⁴ See J. A. SHEPPARD, "Gregory X," in *NCE* (2nd ed.), vol. 6, pp. 498-499.

¹⁵ See *Allatae sunt*, art. 9, in CLAREN, *Papal Encyclicals*, p. 54.

Benedict XII (1334-1342) made efforts of unifying the Armenian Church with the See of Rome through a delegate to Emperor Andronicus of Armenia. He manifested his solicitude and deep concern for the Church in Armenia, which in the early fourteenth century suffered from Islamic invasions.¹⁶

Eugene IV (1431-1447) convened the Council of Florence (1431-1434), later relocated to the City of Ferrara and again back to Florence a year later. The Greek bishops and theologians and representatives from Armenian and Coptic Churches attended the council of Ferrara in April 1438. When the council met in Florence on 6 July 1439, the decrees of union with the Greek, the Armenian and the Coptic Churches were approved.¹⁷ Also the Council of Florence decreed that no changes should be made to the Greek, Coptic, and Armenian rites, and Pope Eugene IV approved the decisions unconditionally. The other approved decrees of the council included the union with the Bosnians, the Syrians (Jacobites) and finally with the Chaldeans and Maronites of Cyprus. Finally the council was transferred to Rome on 24 February 1443 and the last session of the council was held on 7 August 1445.¹⁸ Though the union with Greeks achieved by this council was short lived, it set the principles for all unions. It articulated the expression of faith with freedom in matters of particular traditions and rite.

¹⁶ See *ibid.*

¹⁷ See G. GILL, "Council of Florence," in *NCE* (2nd ed.), vol. 5, pp. 770-772. The Council of Florence also discussed the issue of the procession of the Holy Spirit. The Latins contended that within the Holy Trinity the Holy Spirit proceeds from the Father and the Son while the Greeks held the position that the Holy Spirit proceeds from the Father only. Eugene IV addressed the council encouraging, congratulating, chiding, and exhorting the members and urged them to come to an agreement on the issue. Although union was achieved, it did not last long.

¹⁸ *Ibid.*, p. 771.

In 1559, Pius IV decreed that Greeks living in Latin dioceses should be subject to Latin bishops but insisted that Greeks should keep their tradition and liturgy. Thus he entrusted the responsibility of providing pastoral care of Greek Catholics, living among the Latin Catholics, to Latin bishops without making them change their ritual affiliation to the Latin rite. He decreed: "We do not propose that the Greeks themselves should be drawn away from their Greek rite, or that they should be hindered in any way in other places by the local Ordinaries of others."¹⁹

Gregory XIII (1572-1585) followed the example of his predecessor and made several attempts to restore unity to the Catholic faith by seeking union with the Copts and the Armenians, and established three colleges in Rome for the education of Greek, Maronite and Armenian students urging them to continue to hold onto and cherish their oriental rites.²⁰ Gregory XIII expanded the missionary activities to the Eastern part of the world and showed particular interest in reuniting the schismatic churches of the East with Rome. Thus during his pontificate, the representative of the Jacobite Syrian Church, patriarch of Antioch, visited him with the hope of attaining unity with Rome. But the Pope died before the talks bore fruit.²¹

Clement VIII (1592-1605) made a remarkable declaration regarding the preservation of the ancient tradition and culture in whatever place the Eastern Catholics lived. He sealed a solemn union of Ruthenians with the Apostolic See and declared that

¹⁹ See CARLEN, *Papal Encyclicals*, p. 55.

²⁰ See *ibid.*

²¹ See Agostino BORROMEIO, "Gregory XIII," in *The Papacy: An Encyclopedia*, vol. 2, p. 664.

their rites of the Divine Liturgy and holy sacraments should be preserved and fully observed in accordance with the custom of the Oriental Church in every place they settled.²² He sent a delegate to the Coptic patriarch of Alexandria with the intention of forging unity with him. Thus the unity was achieved with the Coptic Church in 1597.²³ He also received into union the metropolitan of Kiev and several members of Ruthenian bishops in 1595 following the Union of Brest.²⁴

Benedict XIV (1740-1758) acknowledged in his encyclical, *Allatae sunt* dated 26 July 1755, the liturgical families of Eastern rites, namely Greek, Armenian, Syriac, and Coptic and outlined procedures for the reception of Eastern Christians into the Catholic unity. He continued the efforts of his predecessors to restore unity with Eastern Christians.²⁵ The Pontiff made a radical declaration contrary to ancient ecclesiology stating that “the Latin rite is the rite of the holy Roman Church and since this Church is the mother and teacher of the other Churches, the Latin rite should be preferred to all others.”²⁶

Benedict XIV amended liturgical books of the Oriental Churches. On 1 March 1756 he published another encyclical, *Ex quo primum*, through which he introduced

²² Cf. *Allatae sunt*, art. 14, in CLAREN, *Papal Encyclicals*, p. 55.

²³ Cf. Bernard BARBICHE, “Clement VIII,” in *The Papacy: An Encyclopedia*, vol. 1, p. 348.

²⁴ See J. C. WILLKE, “Clement VIII,” in *NCE* (2nd ed.), p. 785.

²⁵ See CARLEN, *Papal Encyclicals*, pp. 52-58. In the encyclical, *Allatae sunt*, Benedict XIV recalls the efforts of his predecessors to achieve unity with Oriental Christians. Pope Nicholas I attempted to restore the lawfully elected patriarch of Constantinople, Ignatius, during the schism of Photius. Pope Leo IX sent legates to Constantinople to put an end to the schism. Urban II summoned the Greeks to the Council of Bari for reconciliation. Gregory X convened the Council of Lyons to achieve unity. Eugene IV convened the Council of Florence and almost achieved unity with the Churches of Armenia and Jacobites.

²⁶ See *ibid.* p. 58.

substantial modifications, corrections and improvements into the Greek Missals breviaries, rituals and Martyrologies.²⁷ He established a formal union with some of the Eastern Churches. The frequent attempts of the Greek Melkite patriarchs of Alexandria, Antioch, and Jerusalem to obtain recognition from the Holy See did not materialize for a long time because of dissatisfaction on the part of the popes with the formulation of the Oriental creeds. The conflicts in the Maronite Church, after the deposition of Jacob II, which seriously threatened its unity, were settled in a national council (1736), the decrees of which were approved by Benedict XIV. In 1744, Benedict XIV sent the pallium to Seraphin Tanas whom he acknowledged as patriarch of the Greek Melchites of Antioch. The controversy regarding the Chinese and Malabar customs, or the system of accommodation to heathenism which some missionaries had permitted their converts to practice, and by which it was said that pagan ideas and pagan practices had been grafted on Christianity, was resolved by Benedict XIV through two Bulls, namely, *Ex quo singulari*, which dealt with the abuses in China, and *Omnium sollicitudinum*, which concerned Malabar customs, and required the missionaries to take an oath that such abuses would not be tolerated in the future.

The Congregation for the Propagation of the Faith prohibited in 1702 missionaries and Prefects Apostolic from granting dispensations to Catholics of Oriental rites under any circumstances. The Congregation also decreed that the Oriental Catholics should not

²⁷ See BENEDICT XIV, Encyclical, *Ex quo primum*, 1 March 1756, in *Bullarium romanum (magnum)*, vol. 19, pp. 192-211; English translation in CARLEN, *The Papal Encyclicals*, pp. 75-103.

abandon their customs and should observe everywhere their own rite approved by the Roman Church.²⁸

Until the beginning of the 19th century, the Congregation for the Propagation of the Faith remained the only pontifical body for missionary affairs since its establishment in 1622. On 7 January 1862, Pius IX established the *Congregatio de Propaganda Fide pro Negotiis Ritus Orientalis* within the Congregation for the Propagation of the Faith for the effective pastoral care of those Eastern Catholics living in their historical territory and in the diaspora.²⁹ Through the encyclical *Amantissimus* dated 8 April 1862, Pius IX reiterated that a variety of legitimate rites is not opposed to unity in the Catholic Church; rather, such diversity greatly enhances the dignity of the Church.³⁰ The encyclical *Quae in patriarchatu* limited the jurisdiction of the Chaldean patriarch over the Malabar Christians in India on 16 November 1872.³¹ On 6 January 1873, through the encyclical *Quartus supra*, Pius IX prohibited elected Eastern Catholic patriarchs from taking canonical possession of their office without a confirmation letter from the Pope, and he established new norms similar to those in the Latin Church for the election of bishops in the Eastern synod.³² The encyclical *Omnium sollicitudinem*, published on 13 May 1874,

²⁸ See CARLEN, *The Papal Encyclicals*, p. 52.

²⁹ See *ibid.*, p. 365.

³⁰ See *ibid.* pp. 363-367.

³¹ See *ibid.* pp. 409-412.

³² See ASS, 7 (1873), pp. 223-253; English translation in CARLEN, *The Papal Encyclicals*, pp. 413-426.

prohibited Eastern Churches from making any changes or innovations in the liturgical books without prior approval of the Bishop of Rome.³³

Leo XIII (1878-1903) decreed in *Grande munus* the inclusion of the feasts of Saints Cyril and Methodius, Eastern Catholic saints, in the calendar and breviary of the Roman Church. In a letter to the rulers of the world, *Praeclara gratulationis*, Leo XIII invited the Oriental princes and people to unite with the Church of Rome while reiterating the doctrine of primacy.

The encyclical on Churches of the East, *Orientalium dignitas*, published on 30 November 1894, was the first Roman document ever fully to accept the dignity and *sui iuris* nature of all Eastern Catholic Churches. It prohibited Latin rite clergy who were working among Eastern Catholics to do anything other than to support Eastern patriarchs or bishops in their mission. For the first time in history, the Roman Pontiff established norms whereby all Eastern Catholics were prohibited by law from changing their ritual ascription. Any Eastern Catholic person living outside the historical territory of their respective Church came under the jurisdiction of the local Latin Bishop and all ecclesiastical cases appealed to the Apostolic See were brought under the direct jurisdiction of the Congregation for the Propagation of the Faith. Jurisdiction of the Melkite patriarch was extended over the faithful of the same rite who were residing within the entire Ottoman Empire. This last situation seems like a gesture of either

³³ See CARLEN, *The Papal Encyclicals*, pp. 439-441.

extending the territorial boundary of a patriarchal Church *sui iuris* or conceding extra-territorial jurisdiction to an Eastern patriarch for the first time in history.³⁴

On 24 December 1894, the encyclical *Christi nomen* was published, which defined the relationship between the Congregation for the Propagation of the Faith and Eastern Churches, and appealed to all Catholics to support Eastern Catholics in opening schools and other institutions for the education of Eastern clergy and faithful. This ecumenical gesture was intended to promote a full and peaceful coexistence between the Church of Rome and the Eastern Catholic Churches.³⁵ Leo XIII exercised jurisdiction over all the Eastern Churches by reason of primacy. The apostolic letter on unity among the Greek Melkites, *Omnibus compertum*, dated 21 July 1900, encouraged the Greek Church to convene a synod for the discussion of the rights of patriarchs and bishops, the proper pastoral care of the faithful, the discipline of the clergy, monastic orders, sacred liturgy and other matters that were needed to promote the dignity and *sui iuris* nature of the Greek Melkite Church.³⁶

Pius X (1903-1914) realized that a large number of Ruthenian Catholics had emigrated to the United States in the 1800's and appointed a Ruthenian bishop, without a diocese, for providing them proper pastoral care.³⁷ This bishop, however, came directly

³⁴ John Paul II also made a similar provision in regard to the extra-territorial jurisdiction of patriarchs. In a letter to the Eastern Code Commission, the Pontiff assured that the case would be dealt with on an individual basis. See *Nuntia*, 29 (1989), pp. 26-27.

³⁵ See *ASS*, 27 (1895), pp. 385-387.

³⁶ See *ASS*, 33 (1900), pp. 65-67.

³⁷ See *ASS*, 41 (1908), pp. 3-12.

under the immediate jurisdiction of the Roman Pontiff. He was not an Ordinary but functioned with jurisdiction delegated to him by each of the Ordinaries in whose dioceses Ruthenians lived. He had the right of visitation to Ruthenian missions only after obtaining written permission from the local Ordinary. At the conclusion of the visitation the Ruthenian bishop was to submit to the local Ordinary a written report on the spiritual and economic status of the mission.

Benedict XV (1914-1922) reached out to Eastern Christians and made an effort to bring them into unity with Rome. In order to provide them effective pastoral care, he established the *Sacred Congregation for the Eastern Churches* and a graduate institute for Oriental studies in Rome.³⁸ *The Pontifical Oriental Institute* was established and given the faculty to offer doctoral degrees in ecclesiastical sciences relating to Eastern Christianity.³⁹ Through the encyclical *Principi Apostolorum Petro*, the pontiff taught, as his predecessors had done, the need to preserve the legitimate liturgical customs, canonical prescriptions and sacred traditions of every Eastern Catholic Church *sui iuris*.⁴⁰

Pius XI (1922-1939) acknowledged and condemned past wrongs done to Eastern Christians by Latin missionaries and advised them to correct them. In his encyclical *Ecclesiam Dei*, the Pontiff urged the Christians of the Western tradition to study the history and customs of Orientals, and he fostered Eastern Christian studies at the

³⁸ See AAS, 9 (1917), pp. 529-533.

³⁹ See BENEDICT XV, Apostolic letter, *Quod nobis*, in AAS, 12 (1920), pp. 440-441.

⁴⁰ See AAS, 12 (1920), pp. 457-471.

Pontifical Oriental Institute in Rome.⁴¹ He directly intervened in establishing a special faculty for Eastern Christian studies in Paris, Louvain, and Lille, and encouraged the publication of *Orientalia christiana* in order to promote the knowledge of Eastern Christianity as a means to unity.⁴²

Pius XI had a genuine interest in the Eastern Catholic Churches and took personal responsibility to provide pastoral care to all Eastern Catholics, both within their own historical territory and in the diaspora.⁴³ In order to expand the Eastern Christian studies, he entrusted the Oriental Institute in Rome to the Jesuits.⁴⁴ His encyclical *Rerum orientalium* is a genuine effort to reach the Eastern Christians all over the world. He invited, through this encyclical, all Eastern Christians to remove the impediments of union, which started during the Eastern schism, with the Church of Rome. In order to achieve his goal he sent delegation of priests to work in the East, promoted oriental languages in European schools, founded the Roman Institute for Eastern Christians, provided for the location of the Institute at Saint Mary Major, and prescribed courses in theology, Eastern Fathers, Byzantine and Islamic studies in history, liturgy and archeology.⁴⁵ In 1928 he affiliated the Pontifical Biblical Institute and Oriental Institutes to the Gregorian University, and the Holy See took exclusive jurisdiction over the Institutes. In 1929 he erected a Russian college in Rome for the preparation of young

⁴¹ See AAS, 15 (1923), pp. 573-583.

⁴² See AAS, 20 (1928), pp. 277-288.

⁴³ See AAS, 16 (1924), pp. 498-497.

⁴⁴ See AAS, 14 (1922), pp. 545-546.

⁴⁵ See AAS, 20 (1928), pp. 277-288.

Russian seminarians to the priesthood, under the direction of Jesuits.⁴⁶ Also he established a Pontifical Seminary for Ethiopians on 12 February 1930.⁴⁷ Through his encyclical, *Lux veritatis*, he taught that the Bishop of Rome has supreme power, authority and jurisdiction over the universal Catholic Church.⁴⁸ He had meetings with various Eastern Orthodox hierarchies, for example, Armenian and Ruthenian, in Rome in order to discuss the Roman primacy question.⁴⁹

The Congregation for the Eastern Churches issued a decree, *Cum data fuerit*, regarding the spiritual administration of the Greek-Ruthenian Catholics in the United States on 1 March 1929. It declared that the appointment of the bishops of the Greek-Ruthenian Church for the territory of the United States be reserved to the Apostolic See.⁵⁰ The bishops appointed to the outside territories remained under the immediate jurisdiction of the Apostolic See. They were asked to submit the quinquennial report to the Apostolic delegate. Priestly training, canonical status of extern priests, incardination and excardination of priests, establishment of missions, quasi-parishes, parishes, annual convocation of priests, responsibility of the laity towards their hierarchy, liturgical and spiritual obligations, lay associations, mixed marriages, etc., were clearly mandated in the decree *Cum data fuerit*.

⁴⁶ See AAS, 20 (1928), pp. 309-315; AAS, 21 (1929), pp. 577-581.

⁴⁷ See AAS, 21 (1929), 152- 159.

⁴⁸ See AAS, 22 (1930), pp. 237-240.

⁴⁹ See AAS, 21 (1929), pp. 707-722.

⁵⁰ See AAS, 21 (1929), pp. 152- 159.

Pius XII (1939-1958), in his solicitude to Christians of the East, called on everyone to respect the sacred liturgy, hierarchical orders and other observances of Christian life, traditions and heritage practiced by the Eastern Christians. His encyclical on Saint Cyril, patriarch of Alexandria, *Orientalis ecclesiae*, taught that the Eastern Catholic faithful should neither be forced to abandon their legitimate rites nor exchange their own venerable and traditional customs for Latin rites and customs. Every Eastern Catholic Church *sui iuris* should be held in equal esteem and equal honor.⁵¹ He further instructed that no changes be made in the rites of the liturgy of the Eastern Church without the approval of the Apostolic See.⁵² Through his encyclical *Sempiternus rex Christus*, apostolic letters *Veritatem facientes*, and *Sacro vergente anno*, and the encyclical *Orientalis ecclesias*, Pius XII declared that the Roman Pontiff has a divine mandate to support and provide pastoral care for all the Eastern Catholic Churches everywhere.⁵³

4. 2. APOSTOLIC CONSTITUTION *EXSUL FAMILIA*

The Church could not limit itself to a narrow pastoral ministry, as if the spiritual care of its members remained unaffected by historical events and life. Due to the massive immigration of European people in the late 19th century to the Americas and Australia, the Church became more seriously involved in the phenomenon of migration. It established several offices and commissions, such as the Vatican Information Office, the

⁵¹ See AAS, 36 (1944), pp. 129-144.

⁵² See AAS, 38 (1946), pp. 33-63.

⁵³ See AAS, 43 (1951), pp. 625-644; 44 (1952), pp. 249-253; 505-511; 45 (1953), pp. 5-14.

Pontifical Commission for Assistance, the Pontifical Commission for Assistance to Refugees (later changed to the Pontifical Commission for Relief), with various missions in different countries. In order to meet various needs of the time, the Catholic hierarchies in various countries have been involved with governmental authorities to assist migrants and refugees.

Pope Pius XII promulgated the Apostolic constitution *Exsul familia* on 1 August 1952 in which he presented a summary of the Church's concern for the pastoral care of exiles and refugees and outlined appropriate norms to direct the pastoral care of these people in the circumstances following the Second World War.⁵⁴

As an apostolic constitution, the document contained new legislation for the pastoral care of migrants. Pastoral care workers all over the world considered it as the Church's *Magna Charta* for migrants, since it was the first document dealing with the problems of pastoral care.⁵⁵

Exsul familia was aimed at forming an organizational base for offering spiritual assistance to migrants so that provisions would be made to guarantee the same religious and spiritual care they once enjoyed in their own homeland.⁵⁶ It focused on providing

⁵⁴ See PIUS XII, Apostolic constitution, *Exsul familia* (=EF), in AAS, 44 (1952), pp. 649-704; English translation in Giulivo TESSAROLO (ed.), *The Church's Magna Charta for Migrants*, New York, St. Charles Seminary, 1962, pp. 25-100.

⁵⁵ See TESSAROLO, *The Church's Magna Charta*, p. 23.

⁵⁶ EF, p. 649; in TESSAROLO, *The Church's Magna Charta*, p. 25: "Holy Mother Church, impelled by ardent love of souls, has striven to fulfill the mandate of universal salvation, given to her by Christ, and in no way she was reluctant to take care, even of pilgrims, strangers, exiles, and of all immigrants. She does this without sparing her resources and using priests, who through the sacraments and the preaching of the divine word, will work with solicitude to confirm Christians in the faith and tighten the bonds of charity."

priests, the establishment of personal or national parishes for various languages and nationality groups and other means to offer effective pastoral care to the migrants.

The Latin rite migrants were placed under the sole responsibility of the Sacred Consistorial Congregation Regarding Migrants (*SCCRM*) all over the world. However, if their migration was to countries under the jurisdiction of the Congregation for the Eastern Churches (*SCEC*) or under the Congregation for the Propagation of Faith, these Congregations were to consult with the *SCCRM* to implement any pastoral ministry to migrants.⁵⁷ In the case of Eastern Catholic emigrants residing outside territories under the jurisdiction of the *SCEC*, the *SCCRM* was to provide pastoral care in accordance with regulations of the *SCEC*.⁵⁸

Exsul familia created two canonical arrangements for the pastoral care of migrants: personal parishes and the *Missio cum cura animarum*. As a norm, it exhorted local Ordinaries that, whenever the ministry of migrants was needed, they should apply to the Congregation for the Eastern Churches and Congregation for the Propagation of Faith for permission to establish parishes for Eastern Catholics and national parishes for Latin Catholic immigrants respectively.⁵⁹ Language and ethnic origin (nationality) were the two main factors distinguishing a personal parish from a territorial parish.

The *Missio cum cura animarum* was the means through which the constitution offered spiritual assistance to migrants, especially if the migrants were seasonal workers.

⁵⁷ See *EF*, pp. 692-693.

⁵⁸ See *ibid.*, p. 693.

⁵⁹ See *ibid.*, pp. 699-700.

The possibility of establishing a personal parish for seasonal workers was remote and rare. The constitution made it clear that every local Ordinary should make an earnest effort to entrust the spiritual care of migrants to priests, whether secular or religious, who shared their language or nationality, under the mandate of the Congregation.⁶⁰ The provision of *Missio cum cura animarum* was an initial step towards eventual establishment of a personal parish. The *Missio* was to be initially attached to a territorial parish, chapel, public or semi-public oratory until it became a canonically established parish.

4. 3. SECOND VATICAN COUNCIL

Exsul familia presented a juridical structure for the pastoral care of migrants and focused on the role of missionaries and priests of the same language and nationality in the diaspora. Vatican Council II, however, addressed the question of the existence of a particular Church *sui iuris* within a multiplicity of cultures.

With regard to the governing ministry of eparchial bishops, the Council plunged into the early sources contained in the liturgical, patristic, theological and disciplinary records of the early centuries of the Church and brought out the original and authentic vision. In its discussion on diocesan boundaries, the decree *Christus Dominus* recognized the diversity of peoples in so many particular churches.⁶¹ In order to minister to different

⁶⁰ See *ibid.*, p. 700.

⁶¹ See Klaus MÖRS DORF, "Decree on the Bishops' Pastoral Office in the Church," in *Commentary on the Documents of Vatican II*, Herbert VORGRIMLER (gen. ed.), Freiburg, Herder and Herder, 1967-1969, vol. 2, pp. 241-242. According to Vorgrimler, "Mörsdorf observes that the provisions for the care of

language groups, the decree reiterated the teaching of *Exsul familia* and recommended that priests assigned to the pastoral care of migrants be able to speak the language and to understand the culture of the people. Bishops, either individually or through the episcopal conference of a nation, should make provisions to coordinate the pastoral care of migrants of various languages and cultures. *Christus Dominus* made provisions for national or ethnic parishes entrusted to an episcopal vicar.⁶²

It also provided for the pastoral care of members of different Churches *sui iuris* by urging appointment of priests belonging to those Churches, or by creating special parishes, or by appointing episcopal vicars with the necessary faculties.⁶³

In order to clarify the autonomous nature of the Eastern Churches,⁶⁴ the Council dealt with the concept of individual Churches or rites. An individual Church, translated

members of another language differ from those made for the faithful of another rite merely by the fact that the erection of a special hierarchy has not been mentioned, at least not in words. The reason for this is that it does not seem advisable to create dioceses differing only in language and nationality in one and the same territory. What is suitable in the sphere of the parish, where it is a matter of the daily care of souls, may from the diocesan point of view easily lead to divisions with the duty to think and act for others would be forgotten.”

⁶² See *CD*, n.18.

⁶³ See *ibid.*, nn. 18-19.

⁶⁴ See Paul PALLATH, *The Synod of Bishops of Catholic Oriental Churches*, Rome, Marthoma Yogam, St. Thomas Christian Fellowship, 1994, p. 58. Pallath here describes the difference between Orthodox concept of autocephaly and the Catholic concept of autonomy. “According to the principle of autocephaly, the Orthodox Church in each nation is governed by its own synod without interference from any other Church and has its own head (patriarch, archbishop or metropolitan). Juridically an autocephalous Church does not depend on any other Church and it elects bishops of the same Church, elects its head and regulates every aspect of ecclesial life with complete freedom and independence and without any interference from any other Church. When we speak of autonomy of a Church *sui iuris*, it does not mean autocephaly in the Orthodox sense or complete independence from Rome, but an autonomy of the heart of the Catholic Church, which implies always the recognition of the authority of the Roman Pontiff and the ecumenical Councils. Autonomy is the right to self-governance while remaining subject to a superior authority in certain matters, while autocephaly is complete independence from any superior authority in matters of ordinary governance. Therefore, autonomy in the Catholic Church is not absolute, but only relative, limited by law established by the supreme authority of the Church.”

most commonly as a “particular Church,” has two sets of elements. First, the common elements found in any individual Church such as the same faith, same sacraments, and the same government. Common to all the faithful, these elements place the individual Church within the Mystical Body of Christ, organically united in the Holy Spirit. They find their highest expression in the ecclesiology of *communio*. Second, the elements which differentiate one individual Church from another are such as liturgy, theology, spirituality, canon law, culture, and historical circumstances of a distinct people.⁶⁵ Between the different Churches *sui iuris*, there exists an admirable bond of unity. One is not superior to the others because of its numerical strength. Every tradition has its own worth and none can be neglected without impoverishing the universal Church.⁶⁶ The equality of Churches does not consist in numerical strength, territorial expanse, economic affluence or power, but in their intrinsic nature and tradition.⁶⁷

The different expressions of the same faith and the variety of ways of life are not contrary to the unity of the universal Church, but they manifest that unity in diversity and

⁶⁵ See *OE*, nn. 2-4; *CCEO* c. 27 defines a Church *sui iuris* as a group of Christian faithful united by a hierarchy according to the norm of law which the supreme authority of the Church expressly or tacitly recognizes as such. Canon 28 §1 defines a rite as the “liturgical, theological, spiritual and disciplinary patrimony, culture and circumstances of history of a distinct people, by which its own manner of living the faith is manifested in each” autonomous Church. The term Church *sui iuris* is not to be confused with the term rite. Though the terms “particular Church” and “rite” were used synonymously prior to the promulgation of the *CCEO*, it is now canonically correct to speak of the faithful of a Church *sui iuris* and not of a particular *rite*. Also see FARIS and POSPISHIL, *The New Latin Code of Canon Law and Eastern Catholics*, p. 7.

⁶⁶ On 18 March 1974 the Plenary Assembly of the Pontifical Commission for the Revision of Oriental Code discussed about the equality of Churches in detail. See *Nuntia*, 30 (1990), pp. 55-63; 71-72; 75-77; 82-85; also see *Sacrosanctum Concilium* (=SC), n. 4, where we read: “In faithful obedience to tradition, the sacred Council declares that Holy Mother Church holds all lawfully recognized rites to be equal in right and dignity; that she wishes to preserve them in the future and to foster them in every way.”

⁶⁷ See PALLATH, *The Synod of Bishops*, p 55.

express thereby the communion of Catholic Churches.⁶⁸ Thus the individual Churches, both of the West and of the East, share in a fundamental equality in dignity, rights and obligations. The right to preach the gospel is specifically mentioned among the rights and obligations of all the individual Churches. All the individual Churches are entitled to do missionary work, because they have an inherent obligation to evangelize the world, according to the Lord's command. This obligation is not dispensable. Furthermore, this right/obligation of Christians cannot be restricted to territorial circumscriptions because evangelization of the whole world is carried out "under the direction of the Roman Pontiff."⁶⁹

The Second Vatican Council focused on the preservation and expansion of individual Churches, inter-church relations and cooperation in the same territory, the need for proper instruction in inter-ritual matters and the preservation of one's own rite.⁷⁰ The Council called for the protection of all the individual Churches and urged them to

⁶⁸ See *CCEO* c. 45 § 1; *CIC* c. 331.

⁶⁹ Cf. James ARAMPULICKAL, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, Kottayam, Oriental Institute of Religious Studies India Publications, 1994 pp. 115-118. In the past, and, sometimes also at present the understanding of this common task has been far from common to all, even in the Roman curia. For example, in India the hierarchies of the Latin Catholic Church have the opinion that the Oriental Churches are to have just the right to survive by taking care of their own faithful in their native territory, but that all evangelizing work among non-Christians falls exclusively within the competence of the Latin Catholic Church. The question of the denial of this fundamental equality in the Indian context was discussed in the Council. *Orientalium Ecclesiarum* has corrected this wrong view stressing the right and the obligation of the Eastern Churches to preach the gospel to the whole world and has confirmed the principle of equality of all the Churches in respect to evangelization. *OE*, n. 3: "Eaedem proinde pari pollent dignitate, ita ut nulla earum ceteris praestet ratione ritus, atque iisdem fruuntur iuribus et tenentur obligationibus, etiam quod attinet ad evangelium praedicandum in universum mundum (Mk. 16:15), sub moderamine Romani Pontificis." It may be that some of the Eastern Churches, because of the scarcity of their personnel or other circumstances, are not in a position to undertake effective missionary work here and now, but those Eastern Churches which can and wish to spread the message of Christ, should not be hindered in any way.

⁷⁰ See *OE*, n. 4.

grow in every part of the world. The protection and advancement of Eastern Catholic Churches is the task of the entire Catholic Church and not some individual Church *sui iuris*. The Council acknowledged that the need to make concrete provisions for the protection and advancement of the Eastern Catholic Churches had reached a critical point due to the recent phenomenon of the migration of the members of various *sui iuris* Churches. According to the Church's teaching, all the individual Churches enjoy equal rights, therefore they must be free to work everywhere and to minister to their own faithful.

Among the most important means for the preservation of individual Churches *sui iuris* throughout the world is the erection of parishes and the constitution of a proper hierarchy.⁷¹ These provisions are indispensable for the organic growth of Churches *sui iuris* in the diaspora. Priestly formation must include instruction of candidates for the priesthood in the knowledge of individual Churches *sui iuris*. The laity also must be educated about their own traditions as well as the traditions of other Churches *sui iuris*.⁷² All Catholics, Eastern and Western, are to preserve their own rite to the best of their ability everywhere in the world and not to transfer to another Church *sui iuris* without permission from the Apostolic See.⁷³ In addition, baptized members of non-Catholic Churches or communities coming to the fullness of the Catholic communion should

⁷¹ See *CCEO* c. 280 § 1; *CIC* c. 372 § 2.

⁷² See *CCEO* c. 405.

⁷³ *OE*, n. 4: "Provisions must be made therefore everywhere in the world to protect and advance all these individual Churches. For this purpose, each should organize its own parishes, and hierarchy, where the spiritual good of the faithful requires it." On the right to worship according to the laws of one's own Church *sui iuris*, see *CCEO* c. 17; *CIC* c. 214.

retain their own rite.⁷⁴ The Council explicitly acknowledged the right and obligation of all Churches *sui iuris* to govern themselves according to their own discipline.⁷⁵ In order to realize this, they must be enabled to foster their own theology, spirituality, liturgy, and canonical discipline.

The Council recognized the ancient origin of the institute of patriarchate especially that of the pentarchy: the patriarchal Churches of Rome, Alexandria, Antioch, Constantinople and Jerusalem, and laid down important principles affecting the issues and questions regarding the institute of the patriarchate.⁷⁶ It seems the Council rediscovered the true nature of the ministry and the responsibility of eparchial bishops regarding pastoral care of their subjects.⁷⁷ The Council clarified and defined the meaning of the term “patriarch” in accordance with the ancient traditions of each Church and restored the rights and privileges of patriarchs and major archbishops.⁷⁸ The Council did not deal with all the norms and principles related to patriarchal jurisdiction outside the historical territory. The Council decreed: “Whenever an ordinary of a rite is appointed outside the boundaries of his patriarchal territory, he remains attached to the hierarchy of the patriarchate of the same rite in accordance with the norm of law.”⁷⁹

⁷⁴ See *CCEO* c. 35.

⁷⁵ See *OE*, n. 5.

⁷⁶ See *OE*, n. 7.

⁷⁷ See Joseph KADUPPIL, *Ministry of Governance of the Eparchial Bishops: Nature and Limits*, JCOD diss., Rome, Pontifical Oriental Institute, 2002, p 150.

⁷⁸ See *OE*, n. 9.

⁷⁹ *OE*, n. 7.

Orientalium Ecclesiarum urged restoration of the genuine traditions of Christian antiquity and reiterated the love and respect the entire Church has for the Eastern patriarchal system. The decree acknowledged the patriarch as father and head of his Church, with ordinary power over metropolitans, bishops, clergy, religious and faithful within his territory. The decree emphasized that the members of the Eastern rites have an obligation to preserve faithfully their genuine traditions. Therefore the Church expressed its desire that they abandon all extraneous influences and restore in everything the original elements of their rite.

The universal Catholic Church has high regard for the spiritual heritage and canonical discipline of the Eastern Catholic Churches, and the Second Vatican Council proclaimed that the apostolicity and the sacred traditions are the undivided heritage and treasure of the universal Church.⁸⁰ This renewed consciousness of the original traditions aroused new interest in them and injected vigor into the universal Church and gave shape to the present canonical disciplines, which provide guidelines for the faith life in the Church. A loss of part of this spiritual patrimony would be a loss for Catholicism. The Council as an expression of its genuine solicitude for the Eastern Churches decreed that they should flourish and fulfill, with fresh apostolic vigor, the task entrusted to them.⁸¹ To achieve this goal the Council articulated certain general principles and norms that are now translated into legislation in the Code of Canons of the Eastern Churches.

⁸⁰ See *OE*, n. 1.

⁸¹ The teachings of the Council to foster and preserve the traditions of the Eastern Churches are translated into law in *CCEO* cc. 39-41.

4. 4. POST-CONCILIAR DOCUMENTS

The Council laid a theological foundation for the model of the Church as a *communio ecclesiarum*. The individual Churches are not simply parts or administrative segments of a confederation of Churches called the universal Church, but rather the same supreme reality of the one Church of Christ, manifested in a specific place and culture.

The theology of the Church *sui iuris* was developed in conciliar decrees drafted after *Lumen gentium*, such as those dealing with the pastoral duties of bishops, the Eastern Churches, and the missionary activity in the Church. The living experience of the fathers of the Council proved to be decisive in the effort to reach integration of the theology of the universal Church and individual Churches. This experience of the universality of the Church has been even stronger in the synods of bishops periodically convened during the past three post-conciliar decades and in the papal documents.⁸²

On 25 March 1970, the Congregation for the Eastern Churches promulgated norms concerning the election, voting power, and the relationship with the Roman Pontiff of Eastern bishops outside the boundaries of the patriarchal territory.⁸³ Through another

⁸² Angel ANTON, "Postconciliar Ecclesiology," in Rene LATOURELLE (ed.), *Vatican II: Assessment and Perspectives*, vol. 1, New York, Paulist Press, 1988, pp. 424-427.

⁸³ See AAS, 62 (1970), p. 179; *CLD*, vol. 7, pp. 9-10: "In its solicitude for safeguarding and promoting the growth of the Oriental Catholic Churches, the Apostolic See believes that certain norms should be established for strengthening closer relations between the patriarchs and the hierarchs of their rites who are set up outside the limits of the patriarchal territory and for promoting more effectively the welfare of the faithful of oriental rites who are living outside the patriarchate. Wherefore the Sacred Congregation for the Oriental Churches, acceding to requests that the prescriptions of the third clause of number 7 of the conciliar decree, *Orientalium Ecclesiarum*, be put into effect, by order of the Supreme Pontiff, makes the following declaration:

decree on 27 June 1972 the same Congregation granted certain faculties to religious of the Eastern Churches in response to the intent of the Council.⁸⁴

4. 4. 1. *Motu proprio Ecclesiae sanctae*

Immediately after the Council, Pope Paul VI promulgated the *motu proprio Ecclesiae sanctae* on 6 August 1966 which included provision for the pastoral care of members of Eastern Catholic Churches *sui iuris*. It particularly focused on the issues of the distribution of clergy between episcopal conferences, transfer of clerics from one diocese to another, pastoral care of all immigrants, establishment of pastoral councils and parish councils. This *motu proprio* was to be in effect until the promulgation of the new

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- Oriental hierarchs, who have been set up outside the limits of the patriarchal territory, can take part with deliberative vote in the patriarchal synods of their own rite, whether these pertain to elections or to business matters.
 - The patriarch or, if the see is vacant or impeded, the patriarchal administrator is obliged to summon to the synods those mentioned in no. 1 all and each of the hierarchs of his rite who have been set up outside the limits of the patriarchal territory.
 - With reference to the designation of hierarchs of his own rite for the oriental faithful who are living outside the patriarchate, the patriarch in conjunction with his synod of elections can, at the proper time, propose to the Apostolic See a list of at least three fit candidates but the Roman Pontiff retains the right to appoint to offices of this kind whomever he himself prefers.

“The above-established norms will obtain for the interim until the oriental canonical discipline has been reorganized in accord with the decrees and intent of the Second Vatican Ecumenical Council. In so far as necessary, the prescriptions of the current oriental canon law are abrogated but this does not mean that the jurisdiction of the patriarch is extended beyond the limits of his patriarchate. All things to the contrary notwithstanding, even those deserving special mention.”

⁸⁴ See AAS, 64 (1972), pp. 738-743; *CLD*, vol. 7, pp. 19-24.

Code of Canon Law.⁸⁵ It called on all bishops to take into account those areas where the faithful of a particular Church *sui iuris* lived together.⁸⁶

4. 4. 2. 1967 Synod of Bishops

The Synod of Bishops is a permanent institution established by Pope Paul VI, on 15 September 1965, in response to the desire of the Fathers of the Council to keep alive the positive spirit engendered by the conciliar experience. The Synod called for a revision of the *CIC* 1917 and exhorted all pastors of the universal Church to consider implementing adequate pastoral care to keep pace with a rapidly changing world and urged them to adopt other criteria such as rite, nationality, language etc., for establishing dioceses and parishes.⁸⁷

4. 4. 3. *Motu proprio Pastoralis migratorum cura*

The *Pastoralis migratorum cura* of Paul VI, 15 August 1969, and the subsequent instruction *Nemo est* by the Congregation for Bishops, on 22 August 1969, reviewed the norms for the pastoral care of migrants. This was done both in light of Vatican Council II and a wider consultation with several countries of emigrants' places of origin and the countries to where they immigrate.⁸⁸ Paul VI assigned the task to the Congregation for Bishops of revising *Exsul familia* and of issuing new norms through a special

⁸⁵ See AAS, 58 (1966), pp. 757-782.

⁸⁶ Ibid. p. 764: "Pro ecclesiis Orientalibus vero optandum est ut, in defeniendis eparchiarum circumscriptionibus, ratio quoque habeatur maioris propinquitatis illorum locorum, in quibus fideles eiusdem ritus commorantur."

⁸⁷ See ARAMPULICKAL, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, p. 150.

⁸⁸ See AAS, 61 (1969), pp. 601-603; for English translation, see *CLD*, vol. 7, pp. 188-190.

instruction.⁸⁹ Accordingly, the Congregation for Bishops made an extensive study before implementing certain new norms and principles and updated the apostolic constitution *Exsul familia*. It is important to note that the *motu proprio Pastoralis migratorum cura* still remains as one of the principal documents in the area of pastoral care of immigrants.⁹⁰

The document reiterated the concern the Church has for the preservation of the native language, culture and spiritual heritage of migrants and stressed the need for an adequate pastoral care by establishing certain juridical structures. Pope Paul VI gave the Congregation for Bishops the responsibility of pastoral care of Latin rite emigrants all over the world. Thus the Congregation for Bishops was empowered to regulate, provide, coordinate and promote everything which pertains to the spiritual welfare of Latin rite emigrants as well as the Eastern rite faithful in consultation with the Congregation for the Eastern Churches. In consultation with episcopal conferences or at the request of episcopal conferences, the Congregation for Bishops could establish personal or territorial prelatures consisting of specially trained priests from the ranks of diocesan clergy. These prelatures should be governed by their own prelates and should have

⁸⁹ See AAS, 61 (1969), pp. 614-643.

⁹⁰ See JOHN PAUL II, Allocution to the Bishops of the Syro-Malabar and Syro-Malankara Churches on the Occasion of their 'Ad limina' Visit, 29 August 1980, in *Insegnamenti di Giovanni Paolo II*, Vatican, Libreria editrice Vaticana, 1980, vol. III, p. 481, where the Pope says: "It is well known how, after the Council, the Church wished to revise the Apostolic Constitution 'Exsul familia', and my predecessor Paul VI in 'Pastoralis migratorum cura' did not omit any effort to place every spiritual help at the disposal of emigrants. The common concern of bishops of the emigrants' places of origin and the bishops of their new homes requires a harmony of relationships and a spirit of fraternal collaboration. It is my earnest desire, and my conviction, that the episcopal conferences, whether of India or the regional ones, will find a way to develop a just manner of providing for this need."

particular statutes.⁹¹ All religious institutes specifically established for the purpose of the pastoral care of the migrants also came under the direct jurisdiction of the Congregation for Bishops or the prelates if any.

Pastoralis migratorum cura exhorted episcopal conferences to set up educational institutions for the formation of priests and missionaries to offer pastoral ministry to migrants.⁹² At the diocesan level, if it seemed necessary or useful, the bishops were to establish special offices for immigrants and appoint episcopal vicars or other priest coordinators for the effective pastoral care of immigrants. The faithful also were to be adequately instructed in order to receive the immigrants properly and to promote ecumenism as taught by the Second Vatican Council.⁹³ Above all, the local pastors of parishes where the immigrants live have the obligation to provide for them adequate pastoral care.

⁹¹ AAS, 61 (1969), p. 621: "16. § 1. Sacrae Congregationis pro Episcopis est ea omnia moderari, providere, inter se componere atque provehere, quae ad christifidelium latini ritus, quocumque migrantium, spiritualem adstantiam pertinet, collatis tamen consiliis cum Sacra Congregatione pro Orientalibus Ecclesiis, vel cum Sacra Congregatione pro Gentium Evangelizatione, si de territoriis agatur alterutri subiectis, et firmis pariter locorum Ordinarii officiis atque auctoritate in iis, quae animorum curam spectant.

"§2. Itemque Sacrae Congregationis pro Episcopis munus est, eadem promovere ad migratorum utilitatem ex orientalibus ritibus, initi pariter rationibus cum Sacra Congregatione pro Ecclesiis Orientalibus, quotiescumque fideles singulorum orientalium rituum loca petant, eidem Sacrae Congregationi non obnoxia, ubi aliquis proprii ritus sacerdos desit.

"§3. Ad normas pariter Litterarum motu proprio datarum, a verbis *Ecclesiae Sanctae* incipientium, commemorata Congregatio, auditis Episcoporum Conferentiis, quarum intersit, aut si aliqua Episcopalis Conferentia id petierit, ad spiritualem curam praestandam quibusdam socialibus coetibus, numero frequentibus, *erigere potest Praelaturas quae constant presbyteris cleri saecularis peculiari formatione donatis, quaeque sunt sub regimine proprii Praelati et propriis gaudent statutis.*"

⁹² See AAS, 61 (1969), pp. 625-626.

⁹³ See AAS, 61 (1969), pp. 629-630.

4. 4. 4. Pontifical Commission's Letter on 4 May 1978

A letter, *The Church and Human Mobility*, addressed to all episcopal conferences, was published in order to address concrete issues arising from population mobility.⁹⁴ It specifically stressed the need for ecumenical collaboration in caring for immigrant populations and instructed each local church to welcome them in a spirit of love and respect. It also addressed the need to provide effective pastoral care with inter-ecclesial or inter-ritual collaboration.

4. 5. THE CODES OF CANON LAW

The 1917 Code of Canon Law had a provision for the establishment of personal parishes in particular circumstances with an apostolic indult.⁹⁵ Its canon 216 § 4 supposed the existence of some non-territorial parishes under the pastoral care of duly appointed pastors. The people who belonged to these parishes were not scattered throughout the country, but were presumed to reside in a determined locality.

4. 5. 1. CIC 1983

The Code of Canon Law promulgated on 25 January 1983 for the Latin Church includes several canons which affect the disciplinary life of Eastern Catholics especially where both Eastern and Latin Catholics live in the same territory. Though this Code is

⁹⁴ See AAS, 70 (1978), pp. 357-378.

⁹⁵ CIC 1917 c. 216 § 4: "Non possunt sine speciali apostolico indulto constitui paroeciae pro diversitate sermonis, seu nationis fidelium in eadem civitate vel territorio degentium, nec paroeciae mere familiares aut personales; ad constitutas autem quod attinet, nihil innovandum, inconsulta Apostolica Sede."

intended only for the Latin Church as expressed in its very first canon, there are instances where the interests of the Latin and Eastern Churches and of their faithful become intertwined. We shall examine those inter-ecclesial norms within the limited space allowed for this theme.

As a canonical response to pastoral care of migrants, the 1983 *CIC* offers certain pastoral approaches to migrant ministry such as establishing ecclesiastical offices, teaching and sanctifying offices, seminary formation and ecclesiastical structures like personal parishes or quasi-parishes.

- *CIC* c. 403 §§ 1 and 2 makes provision for auxiliary bishops with special faculties to care for the special pastoral needs of the diocese.
- Canon 476 urges appointment of episcopal vicars for the pastoral care of migrants. “Whenever the correct governance of a diocese requires it, the diocesan bishop can also appoint one or more episcopal vicars, namely those who in a specific part of the diocese or in a certain type of affairs or over the faithful of a specific rite or over certain groups of persons possess the same ordinary power which a vicar general has by universal law, according to the norm of the following canons.”
- Canon 448 § 1: “As a general rule, a conference of bishops includes those who preside over all the particular churches of the same nation, according to the norm of c. 450.”

- Canon 450 § 1: “To a conference of bishops belong by the law itself all diocesan bishops in the territory, those equivalent to them in law, coadjutor bishops, auxiliary bishops, and other titular bishops who perform in the same territory a special function entrusted to them by the Apostolic See or conference of bishops. Ordinaries of another rite can also be invited though in such a way that they have only a consultative vote unless the statutes of the conference of bishops decree otherwise.”
- Canon 529 § 1 refers to the responsibility of pastors. The pastor of any parish, whether territorial or personal, is to serve the migrants who belong to it.
- Canon 564 describes a chaplain as a priest entrusted with the pastoral care of a certain community or a particular group of the Christian faithful in a stable manner, to be exercised according to universal and particular law.
- Canon 568 clearly states that the local ordinary is responsible for providing pastoral care for groups that cannot avail themselves of the services provided in parishes or quasi-parishes.
- Canon 383 §§ 1 and 2 list as examples of such groups migrants, exiles, refugees, nomads, sailors and the members of different Churches *sui iuris*.
- Canon 545 § 2 indicates that a parochial vicar can be assigned to minister either to an entire parish, a definite part of the parish, or a certain group of the faithful within the parish.

- Canon 771 § 1 exhorts the diocesan bishop and other pastors to respect the right of those Christian faithful who do not enjoy ordinary pastoral care to receive Christian education and formation. Certainly migrants are also invited to enjoy this basic right.
- Canon 796 addresses the concern for the accommodation of the preaching of Christian doctrine to the condition of the preacher's audience and to the needs of the time.
- Canon 516 § 1 allows establishment of quasi-parishes for definite communities of the Christian faithful in a particular church.⁹⁶ Even if there is no possibility of erecting a quasi-parish, the diocesan bishop is to provide pastoral care to those people in some other way (c. 516 § 2)
- Every Christian faithful has a right to worship according to the precepts of their own rite and spirituality in communion with the Catholic Church (c. 214).
- Canon 383 § 2 mandates the diocesan bishop to provide for the spiritual needs of the faithful belonging to a different rite residing within his diocese.
- Canon 846 § 2 requires ministers to celebrate sacraments according to their own rite.

⁹⁶ CIC c. 111 § 2: The decree *Orientalium Ecclesiarum* used the term 'particular churches' while the new Code uses the term *ecclesia ritualis sui iuris* in order to accentuate the unique juridical nature of the Eastern *sui iuris* Churches. The Code uses the term 'particular church' to designate a diocese or its juridical equivalent. FARIS and POSPISHIL state that these kinds of changes and improvements are the results of recent theological and philosophical ideas that contemplate the relationship between the individual member of the Church to his own parish, diocese, ritual Church and indeed to the entire people of God. See FARIS and POSPISHIL, *The New Latin Code of Canon Law and Eastern Catholics*, p. 6.

- Canon 209 § 1 stipulates that the Christian faithful, even in their own manner of acting, are always obliged to maintain communion with the Church. Paragraph 2: “With great diligence they are to fulfill the duties which they owe to the universal Church and the particular Church to which they belong according to the prescripts of the law.”
- Canon 248 says that the academic program of the seminary is to enable students to preach the gospel in a manner which is adapted to the understanding of the people of their times.
- Canon 249 states that they are also to be suitably familiar with those foreign languages, which will be necessary or useful for their pastoral ministry. The ecclesiastical structures pertinent to the pastoral care of migrants are quasi-parish, team ministry, small ecclesial community, and personal parish.

The Code makes provision for the pastoral care of every Catholic in a diocese. When members of an Eastern Catholic Church *sui iuris* are very few in number to justify the establishment of eparchies or even parishes of their own ritual Church, they will be entrusted to the pastoral care of the bishops of other Churches *sui iuris*. Because of the numerical preponderance of the Latin Church in many countries, the bishops and pastors charged with the pastoral care of Eastern Catholics who are not organized in parishes are nearly everywhere local Latin bishops and pastors.⁹⁷

⁹⁷ Cf. FARIS and POSPISHIL, *The New Latin Code of Canon Law and Eastern Catholics*, p. 17.

The subjection of Eastern Catholics to Latin ordinaries is limited according to the Code. However, disciplinary laws of the Latin ordinary bind them as long as they lack a hierarchy in the United States, unless otherwise specified. There is a reciprocal duty of the Latin ordinary to assist them in the fulfillment of their obligations, and Eastern Catholics must be supplied with their own clergy and institutions insofar as this is possible. *Christus Dominus* treated bishops, both Eastern and Western, with equal dignity and status.⁹⁸ However, the Code allows the national conference of bishops to invite Eastern hierarchs to participate in the conference and to determine their voting status (c. 450).⁹⁹

4. 5. 2. Apostolic Constitution *Pastor bonus*

With the Apostolic Constitution *Pastor bonus*,¹⁰⁰ the responsibility for the pastoral care of migrants is now shared by two dicasteries of the Roman Curia with autonomous jurisdiction: the Congregation for Eastern Churches and the Pontifical Council for the Pastoral Care of Migrants and Itinerant People. These two dicasteries are now directly or indirectly involved in the pastoral care of people who are on the move from their homelands.

⁹⁸ See *CD*, n. 38 (2).

⁹⁹ See John G. JOHNSON, "Conference of Bishops," in John P. BEAL, James A. CORRIDEN, Thomas J. GREEN (eds.), *New Commentary on the Code of Canon Law*, p. 593, footnote 99: Here the writer says: "According to Article II, a, 1, of the statutes of the NCCB, all diocesan bishops, coadjutors, and auxiliaries of any *rite* are *de iure* members of the conference. Eastern bishops can speak but cannot vote and are not counted as part of the quorum when questions affecting only the Latin Church are being decided (Article IV b)."

¹⁰⁰ See JOHN PAUL II, Apostolic constitution, *Pastor bonus* (=PB), 28 June 1988, in AAS, 80 (1988), pp. 841-912; English translation in the *Code of Canons of the Eastern Churches*, Latin-English edition, Prepared under the auspices of CLSA, Washington, DC, CLSA, 2001, pp. 775-843.

Pastor bonus extends the jurisdiction of the Congregation to all matters that are proper to the Eastern Churches.¹⁰¹ It exhorts the Congregation to pay careful attention to the Eastern Catholic faithful living in the Latin territories and to provide adequate spiritual care either by means of Visitators or through establishment of hierarchy for the faithful of various Churches *sui iuris* in the diaspora.¹⁰²

4. 6. THE ORIENTAL CANON LAW

Until 1949, the Oriental Churches were bound by the ancient holy canons, certain constitutions, decrees and instructions of regional and local synods as well as by the decrees, instructions and apostolic constitutions of the Holy See.¹⁰³ There were no uniform Codes of canon law for all Oriental Churches. Each Church followed its own discipline based on early ecumenical councils. After the promulgation of the 1917 Code, Benedict XV urged collection and codification of all the Eastern canons and this process in fact began in 1929. Accordingly, a special commission was established to draft the

¹⁰¹ *PB*, art. 58 §1: "Huius Congregationis competentia ad omnia extenditur negotia, quae Ecclesiis Orientalibus sunt propria, quaeque ad Sedem Apostolicam deferenda sunt, sive quoad Ecclesiarum structuram et ordinationem, sive quoad munus docendi, sanctificandi et regendi exercitium, sive quoad personas, earundem statum, iura ac obligationes. Omnia quoque explet, quae de relationibus quinquennialibus ac visitationibus ad limina ad normam artt. 31, 32 agenda sunt."

¹⁰² *Ibid.*, art. 59: "Congregatio sedula cura item prosequitur communitates Christifidelium orientalium in circumscriptionibus territorialibus Ecclesiae Latinae versantium, eorumque necessitatibus spiritualibus per Visitatores, immo, ubi numerus fidelium atque adiuncta id exigent, quatenus fieri possit, etiam per propriam Hierarchiam consulit, collatis consiliis cum Congregatione pro constitutione Ecclesiarum particularium in eodem territorio competenti."

¹⁰³ Congregation for the Eastern Churches has issued a series of decrees and instructions on the pastoral care of Eastern Catholics outside their historical territory. For example, *Quo sollerti*, 23 December 1929, in *AAS*, 22 (1930), p. 99; *Non raro accidit*, 2 January 1930, in *AAS*, 22 (1930), p. 106; *Saepenumero*, 7 January 1930, in *AAS*, 22 (1930), p. 108; *Quo facilius*, 26 September 1932, in *AAS*, 24 (1932), p. 344.

Code of Oriental Canon Law, which resulted in the promulgation of four *motu proprio*s at different times.¹⁰⁴

4. 6. 1. *Crebrae allatae*

Since the canons on the sacrament of matrimony were urgently needed because of the frequent moves and emigrations of the people, the *motu proprio Crebrae allatae* was promulgated on 22 February 1949 and came into force on 2 May 1949. From a practical standpoint, this was the most important legislative act. It established for the first time a common matrimonial law for all Eastern Catholic Churches. Twelve chapters and 131 canons on matrimony resolved many problems related to inter-ritual marriages.

In general, the *motu proprio* followed the format similar to the 1917 Code on marriage. However, there were in several places additions, clarifications, and further explanations of terms of the corresponding canons of the 1917 Code.

4. 6. 2. *Sollicitudinem nostram*

This *motu proprio* contained the procedural law for contentious and criminal cases with 576 canons. It followed a pattern similar to that of 1917 Code. It was promulgated on 6 January 1950 and it came into force one year later, that is, 6 January 1951. This enabled all Eastern Catholic Churches to establish ecclesiastical tribunals for their people.

¹⁰⁴ The four *motu proprio*s are: *Crebrae allatae*, in AAS, 41 (1949), pp. 89-119; *Sollicitudinem nostram*, in AAS, 42 (1950), pp. 5-120; *Postquam apostolicis litteris*, in AAS, 44 (1952), pp. 65-162; *Cleri sanctitati*, in AAS, 49 (1957), pp. 433-603.

4. 6. 3. *Postquam apostolicis litteris*

This *motu proprio* was promulgated on 9 February 1952 and came into effect on 21 November 1952. It had three sections with 325 canons dealing with monks and religious, temporal goods of the Church and the meaning of some important canonical terms. This collection of canons helped to preserve the identity, traditions and customs of monasteries and religious houses of the Eastern Catholic Churches.

4. 6. 4. *Cleri sanctitati*

This *motu proprio* contained 558 canons on physical and moral persons, clerics in general, clerics in particular and laity, and was promulgated on 2 June 1957. It actually came into effect on 25 March 1958. The introductory section on Eastern rites stressed the need for preserving the liturgical traditions and cultural heritage of each Church *sui iuris*. It legislated on the lawful transfer of rites for clergy and laity, on membership, on patriarchal synods, patriarchal extra-territorial jurisdiction, major archiepiscopal structure, metropolitan *sui iuris* structure and pastoral care of Eastern Catholics outside of their traditional territory. The Latin Church's practice of assimilating members of the other Catholic Churches *sui iuris* was prohibited by *Cleri sanctitati*, in which it was stated as a general principle that people should either be enrolled in the Church in which they were legitimately baptized or in the Church in which they should have been baptized.

4. 6. 5. *CCEO*

The juridical structures of the *sui iuris* Churches which existed during “venerable antiquity” were based on the so-called “sacred canons” (*sacri canones*), and the *CCEO* constitutes continuation of those sacred canons, the common juridical patrimony of all Eastern Churches (c. 2).¹⁰⁵ When John Paul II promulgated the *CCEO*, he expressly stated that this new Code entrusted to the particular law of individual Churches *sui iuris* those matters which are not considered necessary to the common good of all the Eastern Churches. He clearly stated that it was his intention that those who enjoy legislative power in each of the Churches should as soon as possible formulate particular norms on those matters, keeping in mind the tradition of their own rite and the precepts of the Second Vatican Council.¹⁰⁶ The pastoral care and salvation of all the Eastern Catholic faithful is the primary goal of the *CCEO*.

In delineating the rights and obligations of eparchial bishops, cc. 192 and 193 of *CCEO* oblige the eparchial bishop to show concern for all those entrusted to his pastoral care.¹⁰⁷ Pastors are also mandated to show solicitude for various categories of persons.¹⁰⁸

¹⁰⁵ For a detailed treatise on the common juridical sources of all the Eastern Churches, see Kuriakose BHARANIKULANGARA, *Ius particulare Ecclesiae sui iuris*, Rome, Pontifical Oriental Institute, 1994.

¹⁰⁶ See JOHN PAUL II, *Sacri canones*, in the *Code of Canons of the Eastern Churches*, p. xxiv:

¹⁰⁷ The counterpart of these two canons in the 1983 *CIC* is c. 383, which comprises four paragraphs: (1) It treats the pastoral care of persons regardless of age, condition or nationality. (2) It urges the diocesan bishop to provide for the spiritual needs of “faithful of a different rite” [*fideles diversi ritus*]. (3) It calls on the bishop to act with kindness and charity towards those who are not in full communion with the Catholic Church and to foster ecumenism according to the norms of the Church. (4) The bishop is called to be a witness of charity of Christ towards the non-baptized.

The issue of whether the authority of the patriarchs and their synods should be extended beyond the historical boundaries of the patriarchal Church has been the most contentious one in the entire codification process.¹⁰⁹ Canons 146-150 have the ecclesiological and practical solution to the problem of jurisdiction of patriarchs outside their historical territory.¹¹⁰ These canons must be read within the context of c. 78 §2, which generally circumscribes the limits of patriarchal/synodal authority to the historical territory of the respective Church.¹¹¹

¹⁰⁸ CCEO c. 293 states that the pastor is to be mindful of his duties and solicitude for the Catholics and non-Catholics, for the baptized and the non-baptized, and for those who have distanced themselves from the sacraments or even abandoned the faith.

¹⁰⁹ See FARIS, *Eastern Catholic Churches*, p. 350.

¹¹⁰ For reports regarding the formulation of these canons and the evolution of the texts, see *Nuntia* 6, (1978), pp. 3-33, 36-37; *Nuntia* 19, (1984), pp. 12, 45-47, 118-126; *Nuntia* 22, (1986), pp. 103-112, 118-126; *Nuntia* 24-25, (1987), pp. 146-150; *Nuntia* 27, (1988), pp. 22, 40, 76, 149; *Nuntia* 28, (1989), pp. 26-30, 41-43, 49; *Nuntia* 29, (1989), pp. 26-27; *Nuntia* 31, (1990), pp. 38-39. The issue of the territoriality of jurisdiction has been treated by various authors with diverging opinions: See Pierre DUPREY, "La structure synodale de l'Eglise dans la théologie orientale," in *Proche orient chrétien* 20, (1970), pp. 123-145; John MADEY, *Orientalium Ecclesiarum*, Paderborn, Pontifical Oriental Institute of Religious Studies, 1987, pp. 79-87; George NEDUNGATT, "La giurisdizione delle Chiese particolari," in *Unitas*, 31, (1976), pp. 180-198, 261-285; Victor POSPISHIL, *Ex occidente lex: From the West – The Law, the Eastern Catholic Churches under the Tutelage of the Holy See of Rome*, Carteret, NJ, St. Mary's Religious Action Fund, 1979, pp. 111-140; Clemens PUJOL, "De extensione iurisdictionis Ecclesiarum particularium orientalium," in *Periodica*, 65 (1976), pp. 509-528.

¹¹¹ Cf. MARINI, *The Power of the Patriarch*, pp. 191-192. Marini states that during the codification process the Code Commission exercised legislative, judicial and, to a lesser extent, electoral powers in the Synod of bishops rather than patriarch alone. The reasons according to Marini, for this legislation are: (1) It is consistent with the view that the patriarchate is not a divine institution, wherefore it is all the bishops in the Synod who jointly exercise the legislative and judicial power in the patriarchal Church. (2) It returns to the tradition of *Sacri canones* by mandating a collegial approach to legislative and judicial powers, even as it maintains this traditional approach to elective powers. This collegial exercise of the legislative, judicial and elective powers of the patriarchal Church is not an exclusion of the patriarch from these powers, nor even a removal of the legislative and judicial powers from him, but rather a joint exercise of such powers by patriarch and Synod together, since the patriarch is the president of the synod of bishops (c. 103).

Also see FARIS, *Eastern Catholic Churches*, p. 350, where we read: "The principle one bishop in any given territory (Cf. Council of Constantinople I [381], canon 2) has occasionally been cited as a factor which opposes the extension of the jurisdiction of the Eastern Catholic patriarchs in the patriarchal territory of the Western Church. However, this principle has been observed more in the breach than in the observance; canon 28 of the Council of Chalcedon (451) acknowledged the extension of the power of the

Despite the general principle that the jurisdiction of the patriarchs is restricted to historical territory, there have been isolated examples of the extension of authority over the faithful of a particular Church. For example, Leo XIII (1878-1903) in the apostolic constitution *Orientalium dignitas* (30 November 1894) extended the jurisdiction of the Greek-Melkite patriarch over all the faithful of his Church residing in the Turkish Empire.¹¹²

4. 6. 5. 1. Canon 146: Territoriality of Jurisdiction

The pre-conciliar legislation prescribed that the patriarchs enjoyed jurisdiction only inside the territorial boundaries of their patriarchal Church.¹¹³ With the exception of liturgical laws, no general or particular law conceded to any patriarch jurisdiction over the faithful residing outside his historical territory. Although *Cleri sanctitati* imposed

bishop of Constantinople over the neighboring exarchates of Pontus, Asia and Thrace. Such a principle was ignored by the Latin Church when it continued to maintain Latin patriarchal offices for the Sees of Antioch, Alexandria (officially abolished in 1967 by Paul VI), and Jerusalem. At the level of local bishops, a plurality of co-territorial jurisdictions has existed in the United States and Canada for most of the 20th century.”

¹¹² The Congregation for the Propagation of the Faith, in a reply to the archbishop of Paris, dated 12 May 1890, stated: “The principle is that Oriental rite patriarchs cannot exercise their proper jurisdiction outside their patriarchates.” For the exception given to the Melkite patriarch, see *Collectanea* vol. 2, p. 316.

¹¹³ CS c. 240 §1: “The patriarch exercises ordinary power in the entire patriarchate, and therefore it is his right and duty to exercise, according to the norms of the canons and legitimate customs, jurisdiction over the bishops, the clergy and the faithful, who all must show him canonical obedience and respect.” C. 240 §2: “This power can validly be exercised only in the patriarchate, unless on account of the nature of the matter or of law the opposite is true.” This canon provides the possibility of extending the authority of the patriarch outside the historical territory in accordance with the law.

restrictions on patriarchal jurisdiction, a relationship between the patriarch and the faithful residing outside the territory was recognized.¹¹⁴

Mindful of the emigration of the Eastern Catholic faithful from their homelands, the Second Vatican Council encouraged the establishment of parishes and hierarchies to serve the displaced faithful.¹¹⁵ In response to this conciliar teaching parishes and hierarchies for Eastern Catholics were established throughout the world. However, with the increased number of hierarchies outside the historical territories, the question of the relationship between the hierarchs thus appointed and their own patriarchs and synods became more acute.

In order to clarify the issue, the Congregation for the Eastern Churches issued a declaration on 25 March 1970.¹¹⁶ Aside from the various details which were left unaddressed by the declaration (e.g., the obligation of the hierarchs appointed outside the territory to attend the synods), its provisions are now incorporated into *CCEO*.

Now the *CCEO* is the common law governing all Eastern Catholic Churches. The patriarchal synod can make provision for the needs of the faithful residing outside the patriarchal territory in accordance with the law (c. 148). The jurisdiction of the patriarch and the synod is currently circumscribed *personally* and *territorially*. *Personally*, in the sense that jurisdiction is exercised only over the members enrolled in a particular Church

¹¹⁴ CS c. 260 § 1, 2°: "If particular law so stipulates, to designate the hierarch for faithful of his rite who reside outside the patriarchal territory, provided the care of such faithful has been committed to the patriarch in virtue of particular law, and he has obtained the consent of the Apostolic See."

¹¹⁵ *OE*, n. 4.

¹¹⁶ *AAS*, 62 (1970), p. 179.

sui iuris and *territorially*, in the sense that it is exercised inside the territorial boundaries of the patriarchal Church. According to the canon, there are two criteria prescribed for the territorial circumscription (c. 146 § 1).

(1) The liturgical *rite* proper to the patriarchal Church must be observed in the territory. The term *rite* should be understood according to the prescript of c. 28 § 1, and, therefore, it also indicates a tradition observed by a specific Church and not a generic tradition (c. 28 § 2).¹¹⁷ The observance of the specific rite need not extend back to antiquity but can be a phenomenon of recent origin. (2) The patriarch must have lawfully acquired the right to establish an exarchy, eparchy or province (c. 85 § 1 and 3). The right to establish one of these ecclesiastical jurisdictions can be of ancient origin or of a later date but must be expressly conceded or ratified by the Roman Pontiff.

It is the exclusive competence of the supreme authority to erect, modify or suppress a patriarchal Church (c. 57 § 1). Therefore, if a doubt or dispute should arise concerning the territorial boundaries of a patriarchal Church or if the synod of bishops desires to expand the sphere of patriarchal/synodal jurisdiction, the matter should be

¹¹⁷ For an explanation of the term *ritus*, see ARAMPULICKAL, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, pp. 85-133. The *CCEO* makes a clear distinction between *Church* and *rite* which are neither synonymous nor are they interchangeable as in the past. 'Church' refers to a communion of persons, while 'rite' to something that belongs to a Church. 'Church' is a moral person and 'rite' is something that belongs to it, constituting its property or patrimony and consisting of four constitutive elements, namely liturgy, theology, spirituality and canonical discipline (c. 28§1). Therefore, preservation of *rite* includes, liturgical, theological, spiritual, disciplinary and cultural patrimony of a distinct people. Also see NEDUNGATT, "Equal Rights of the Churches in the Catholic Communion," p. 3.

referred to the Roman Pontiff, who alone has the authority to resolve the doubt or to modify the boundaries (c. 146 § 2).¹¹⁸

Canon 146 is based on *CS* c. 159, which deals with erection, restoration, modification and suppression of patriarchates, archiepiscopates, provinces, eparchies in general, and on *OE*, n. 11.¹¹⁹

4. 6. 5. 2. Canon 147: Pastoral Care of Other Faithful

Canon 147 addresses the issue of the pastoral care of the faithful inside the territory of a patriarchal Church, but who are not its members. The pastoral care to be offered by the patriarch and synod includes the exercise of jurisdiction of a hierarch over those entrusted to their care.

Between the patriarch and the faithful of his Church there can exist various canonical relationships: the faithful living within the territorial limits of the patriarchal Church are directly subject to the patriarch in his own eparchy, where he is not only their patriarch but also their bishop. Over the faithful living within the suffragan dioceses of the patriarchate, the patriarch enjoys only mediate jurisdiction, to be exercised primarily through the local hierarch. Concerning the faithful of his Church *sui iuris* outside the

¹¹⁸ See FARIS, "Patriarchal Churches," in *A Guide to the Eastern Code*, p. 193. Faris suggests that certain conditions must be met before the request for the resolution of a doubt is presented to the Roman Pontiff. (1) The issue is to be studied and discussed in the synod of bishops. The initiative for the resolution of a doubt or a modification of territorial boundaries cannot come solely from the patriarch. (2) The heads of other Catholic Churches *sui iuris* that would be affected by the modification must be consulted. Ecumenical considerations might also recommend that the hierarchs of Orthodox Churches be consulted in some cases. (3) The petition, which is to be drawn up by the synod of bishops, is to include the rationale supporting the position taken by the synod.

¹¹⁹ See *Nuntia*, 6 (1976), p. 39.

traditional territory of his patriarchate, the patriarch has the initiative in organizing their pastoral care, although his activity in this realm is channeled through the Apostolic See.¹²⁰

Regardless of where persons reside, they remain enrolled in their own Church *sui iuris* (Cf. c. 32) and are obliged to observe their proper rite in so far as it is possible (*OE*, n. 4 and c. 40 § 3). If there is no hierarch of his/her own Church *sui iuris* in the region where a person resides, the person is entrusted to the pastoral care of another hierarch. Such an arrangement does not modify the person's enrollment status in his/her proper Church *sui iuris* (c. 38).

In the case of a plurality of patriarchal Churches in one region (e.g., the Middle East): (1) the Apostolic See entrusts the faithful who are members of non-patriarchal Churches to a hierarch, or (2) the members of a patriarchal Church, who lack a hierarch in the territory, are entrusted to the pastoral care of another hierarch by their own patriarch with the assent of the Apostolic See.¹²¹ The faithful could even be entrusted to the care of a hierarch of the Latin Church. Further, in consideration of the fundamental equality of all the Churches *sui iuris*,¹²² the faithful of the Latin Church residing in a traditionally Eastern territory could be entrusted to the pastoral care of an Eastern Catholic hierarch.

¹²⁰ See Victor J. POSPISHIL, *Code of Oriental Canon Law: The Law on Persons*, Ford City, PA, St. Mary's Ukrainian Catholic Church, 1960, p. 131.

¹²¹ See *CCEO* c. 916 § 5.

¹²² See *OE*, n. 3.

The responsibility of assigning a proper pastor for the faithful who lack their own hierarchy is left to the eparchial bishop responsible for them (cc. 193 § 3 and 916 § 4).

4. 6. 5. 3. Canon 148: Patriarchal Visitators

Canon 148 legislates the ways in which the patriarchs can effectively discharge their responsibilities toward the pastoral care of the faithful of their own Church living outside of the patriarchal territories:

- The patriarch has the right to send out instructions to the faithful of his Church regarding doctrine, piety, and their spiritual welfare (c. 82 § 1, 2^o) and to issue encyclical letters to his entire Church with regard to questions touching upon his Church and rite (c. 82 § 1, 3^o).
- The patriarch has the right to object to a specific appointment by the local Latin diocesan bishop of a specific presbyter, pastor, or syncellus to provide pastoral care for the faithful enrolled in his Church. In such situations, the matter should be referred to the Apostolic See (c. 193 § 3).
- The eparchial bishop entrusted with the pastoral care of the faithful of another Church *sui iuris* should foster relations with the higher authorities of that Church (c. 193 § 1).

- Eparchial bishops constituted outside the territory of the patriarchal Church are to send a copy of the quinquennial report to their respective patriarchs (c. 206 § 2).¹²³

Another manner by which the bonds between the patriarch and the faithful residing outside the patriarchal territory can be maintained is through visitations, either conducted personally by the patriarch himself or through a representative. The patriarch has the right and obligation to make such visitations whether or not a hierarch of his Church has been appointed in the region.

In as much as the patriarch is the father and head of his Church, he does not require the approval of the Apostolic See to conduct pastoral visitation personally. Nor is he canonically required to notify the eparchial bishop responsible for his faithful of his visitation. After the completion of his visit, the patriarch will discuss the various issues with the synod of bishops of the patriarchal Church and report to the Apostolic See on the spiritual needs of the faithful. Such a report can present proposals for the establishment of parishes, exarchies or eparchies.¹²⁴

If the patriarch decides to send a representative, certain conditions must be fulfilled: (1) Consent of the Apostolic See is required; (2) before the patriarchal representative can begin the visit, he must present his letter of appointment to the eparchial bishop entrusted with the pastoral care of the faithful; (3) after the visit is

¹²³ See FARIS, *The Eastern Catholic Churches*, p. 359.

¹²⁴ *Ibid.*, pp. 359-360.

completed, the visitator is to report to the patriarch who will study it with the synod of bishops of the patriarchal Church and make appropriate recommendations to the Apostolic See.

4. 6. 5. 4. Canon 149: Election of Candidates in the Diaspora

Canon 149 deals with the process for the designation of the bishops of a patriarchal Church for the faithful living outside the patriarchal territory. The appointment of eparchial bishops, exarchs, coadjutor and auxiliary bishops for offices constituted outside the territory of the patriarchal Church is reserved to the Roman Pontiff. However, the synod of bishops of the patriarchal Church is involved in the process: the synod is to conduct an election and prepare a list of at least three candidates for the office (Cf. cc. 180-189) and the list is to be submitted to the Roman Pontiff, who alone makes the final decision on the appointment. The Roman Pontiff is not obliged to select a name from the list. Throughout the process and even after the appointment is made, the results of the election are to be kept secret.

4. 6. 5. 5. Canon 150 § 1: Rights and Obligations of Bishops in the Diaspora

There are two canons, 150 § 1 and 102 § 2, in *CCEO* which specifically refer to the relationship between the hierarchs constituted inside and outside the territory of the patriarchal Church. Eparchial coadjutor and auxiliary bishops constituted outside the patriarchal territory generally have the same rights and obligations as those constituted inside the patriarchal territory. However, particular law of the patriarchal Church can restrict their deliberative vote, in certain matters, remaining intact in the canons

concerning the election of the patriarch, bishops and candidates for office mentioned in c. 149 (c. 102 §2). The restriction is logical, because bishops constituted outside the patriarchal territory should not have the right to cast a deliberative vote on issues which might not oblige them. In such matters, their participation could be restricted to a consultative vote.

4. 6. 5. 6. Canon 150 §2: Scope of the Synodal Legislative Authority in the Diaspora

Laws enacted by the synod of bishops of the patriarchal Church and promulgated by the patriarch are binding inside the patriarchal territory. Liturgical laws enacted and promulgated by the same authorities are binding both inside and outside the territory of the patriarchal Church. As *Cleri sanctitati* (c. 1 § 1) legislated, the patriarchs and hierarchs must see to the faithful preservation and accurate observance of their rite (CS c. 40 § 1). However, even in liturgical matters, the authority of the synod of bishops of the patriarchal Church is not supreme: revision of liturgical texts used by a patriarchal Church requires the prior approval of the Apostolic See (c. 657 § 1). The establishment, transferal or suppression of feasts days and penitential days common to all the Eastern Churches is reserved to the supreme authority of the Church, the Roman Pontiff or the College of Bishops (c. 880 §1). Particular laws of the patriarchal Church can transfer or suppress the obligations of these feasts only with the prior approval of the Apostolic See (c. 880 § 3).

4. 6. 5. 7. Canon 150 §3: Attribution of Force of Law in the Diaspora

Disciplinary laws or other synodal decisions do not ordinarily enjoy the force of law outside the territory of the patriarchal Church. However, synodal legislation or decisions can acquire the force of law outside the territory of the patriarchal Church if the eparchial bishop promulgates it as eparchial law in his own eparchy, provided the eparchial bishop has competence over the matter.¹²⁵

To have the force of law outside the territory, the synodal legislation or decisions should obtain approval from the Apostolic See. In such a case, the legislation would be pontifical law and not synodal law; therefore, its abrogation can be done only by the Apostolic See.¹²⁶

When we look at the legislative history of cc. 146-150 of the *CCEO*, it is evident that the principle of territoriality had been implemented in the Eastern Churches according to the teachings of the early ecumenical councils. The practical implementation of the principle of territoriality in the *CCEO* has contributed to a better understanding of the ancient discipline and has demonstrated how it can promote the good of the people of God in the diaspora.¹²⁷

¹²⁵ *CCEO* c. 985 § 2: "The eparchial bishop is not competent to enact laws in matters which are excluded by the *CCEO* from the competence of eparchial bishops or which are contrary to any laws enacted by the Apostolic See."

¹²⁶ See FARIS, *Eastern Catholic Churches*, p. 363.

¹²⁷ See MARINI, *The Power of the Patriarch*, pp. 236-237.

4. 7. LETTER OF JOHN PAUL II TO THE *PCCICOR*¹²⁸

John Paul II issued a letter on 10 November 1988 through the Secretariat of State to the *PCCICOR* in order to clarify the territorial jurisdiction of the patriarchal Churches. It is important to consider this letter because of the nature of the remarks contained in it concerning the territorial limitation of the patriarchal jurisdiction. The Pontiff authorized the commission to discuss the question of patriarchal territoriality, but attention was drawn to the ecumenical councils which saw this jurisdiction as restricted to the patriarchal territory, and to the decision of the Second Vatican Council not to extend the jurisdiction. The *PCCICOR* was specifically reminded once again of the exhortation of

¹²⁸ *Nuntia* 29 (1989), pp. 26-27: "Relativamente alla 'Mozione' del 5 c.m., sottoscritta dalla 'Plenaria di codesta Commissione' riunita in questi giorni, compio il venerato incarico di comunicarle che il Santo Padre autorizza l'Assemblea a discutere sulla istanza fatta, ma tenendo fermo quanto hanno deciso i Concilii ecumenici, che hanno previsto la giurisdizione patriarcale solo nel territorio del Patriarcato e in particolare quanto ha stabilito il Concilio Vaticano II, che no ha accolto la richiesta di estendere tale giurisdizione fuori dei confini del Patriarcato.

"E' necessario che l'Assemblea presenti al Santo Padre un progetto di Codice in tutto conforme sia alle tradizioni orientali sia alle decisioni Conciliari.

"Tuttavia per le Chiese che si trovano in situazioni speciali per quanto riguarda loro fedeli abitanti fuori del territorio delle medesime, il Santo Padre sarà lieto di considerare, a Codice promulgato, le proposte elaborate dai Sinodi con chiaro riferimento alle norme del Codice che si ritenesse opportune specificare con uno 'ius speciale e ad tempus'."

English translation in MARINI, *The Power of the Patriarch*, pp. 143-144: "Regarding the 'Motion' of the 5th of this month, subscribed by the 'Plenary Codification Commission,' which is currently meeting, it is my solemn duty to inform you that the Holy Father authorizes the Assembly to discuss the matter requested, but holding fast to what the ecumenical councils have decided in foreseeing in patriarchal jurisdiction only in the territory of the patriarchate and in particular to what the Second Vatican Council established, which council did not accede to the request to extend such jurisdiction outside of the limits of the patriarchate.

"It is necessary that the Assembly present to the Holy Father a proposed Code in complete conformity to the Eastern traditions and to the Conciliar decisions.

"Nonetheless, for churches which find themselves in special situations insofar as their faithful residing outside the territory of the same, after the Code is promulgated, the Holy Father will be happy to consider proposals worked up by the Synods with clear reference to the norms of the Code, which, if he should consider it opportune, would be specified with a special law (*ius speciale*) and for certain time(*ad tempus*)."

Paul VI to formulate a Code within the parameters of the Eastern traditions and the decisions of the Second Vatican Council.¹²⁹ The letter clearly prohibited drafting of any new law, at least by the *PCCICOR*, which would expand patriarchal jurisdiction, but it positively indicated that the subject could be addressed in a different manner. The letter offered the possibility of innovative legislation from the Roman Pontiff after the finalization of the *CCEO*, i.e., not through the *PCCICOR*, but through the synods of the individual patriarchal Churches and the Roman Pontiff.¹³⁰

CONCLUSION

When we carefully analyze the historical evidence on the Church's pastoral solicitude towards the Eastern Catholics, it seems evident to us that, despite the schisms and animosity between the Churches of the East and of the West, the universal Church had always endeavored to offer timely and needed pastoral assistance to those Catholics who were forced out of their homelands. In the course of time, various attempts were made by different Pontiffs for the preservation of the spiritual patrimony of the faithful who found themselves living outside their historical territories. Therefore, in this chapter we analyzed some important documents to determine the various structures the Church created through them for the purpose of providing proper pastoral care to the Eastern Catholics who were living in the diaspora.

¹²⁹ See *Nuntia*, 1 (1975), p. 7.

¹³⁰ In a recent letter dated 13 May 2003, addressed to the major archbishop of the Syro-Malabar archiepiscopal Church, the Congregation for the Evangelization of Peoples has firmly rejected a request from the major archbishop of the Syro-Malabar Church to extend his jurisdiction over the faithful residing in the Middle East, in order to provide them with proper pastoral care (The letter was released for our study by the curia office of the Syro-Malabar archiepiscopal Church, Prot. N. 1184/03).

It was the normal procedure in the Church, during the first millennium, to teach and enact legislation through councils and synods. This was facilitated by the fact that patriarchal Churches enjoyed sufficient legislative, judicial, electoral and administrative autonomy. However, in the second millennium this situation changed as most of the legislation and directives began to flow from the Roman Pontiffs or the Roman Curia. During this time, there emerged schisms, animosity among Churches, changes in political life as emperors rose and fell in both the West and the East, crusades, Islamic and barbaric invasions, etc. This situation rendered the possibility of convoking any ecumenical council very remote. The power in the Church became more and more centralized and rested in the office of the Supreme Pontiff. To a certain extent, this resulted in the diminution of autonomy of patriarchs, especially in the domain of liturgy, canonical legislation, administration of discipline and the method of synodal governance in the Eastern Churches. As a consequence, the Eastern patriarchs lost considerable autonomy in governance, particularly outside their historical territories, as well as prestige proper to their patriarchal dignity. Hence, in the late 19th century, several Popes introduced legislation with a view to restore and protect the original identity and dignity of Eastern Catholic Churches *sui iuris* from further deterioration.

The Second Vatican Council did not produce one single document intended to provide pastoral care for Eastern Catholics who live outside their homelands, but it did not fail to express its concerns in various ways. These concerns were later implemented through the post-conciliar legislation, especially through *CIC*, *CCEO* and *PB*. The Fathers of the Second Vatican Council acknowledged the rights and privileges of the

Eastern patriarchs and urged their restoration. The restoration of their rights and privileges, however, did not include the right to exercise their jurisdiction outside their historical territories. The council affirmed the exercise of patriarchal jurisdiction in communion with the bishop of Rome. The principal intention of the council was to transform the Church into the Church of the early centuries in its life, structures and method of governance. Therefore, the council unequivocally proclaimed the need to review and revise current ecclesiology so that the Church could make adequate provision for the effective pastoral care of all Catholics around the world. Because of this thrust, the Second Vatican Council has been called the “pastoral council.” This has resulted in a strong affirmation of the unique relationship existing between the rights and privileges of the Eastern patriarchs and those of the Supreme Pontiff.

Both Codes of Canon Law, especially *CCEO* cc. 146-150, clearly acknowledge the inherent right of the patriarchs and of the synod of bishops to govern the members of their Churches *sui iuris* living inside their historical territories. The provisions of these canons are not new in the history of canonical legislation. The territorial circumscription of the patriarchal jurisdiction explicitly affirmed in the canons seems to reflect the true letter and spirit of the conciliar teachings. Some experts and canonists regarded as very fluid the principle of territoriality as applied to the patriarchal Churches, and in fact they requested the Supreme Legislator to clarify it in light of ancient traditions and teachings of the Eastern Catholic Churches.

The reply of Pope John Paul II undoubtedly confirmed the teaching of the Second Vatican Council and rejected the request for revision of the legislation on the jurisdiction

of patriarchs outside their historical territories. However, he left the matter open so that the Supreme Legislator of the Church could make in the future appropriate adaptations on the matter for individual cases. This openness implies that, should a future pope decide to take a new direction in this matter, he would certainly have the discretion to do so as the Supreme Legislator for the universal Church.

The need for proper pastoral care of Eastern Catholics outside their historical territories is not a new phenomenon. As explored in this chapter, the problem had been simmering for the past several centuries. In the next chapter we will look into certain canonical problems one encounters in the present legislation, especially in sacramental celebrations, intended to facilitate the pastoral care of the Eastern Catholics living in North America. Just as every practicing Latin Catholic would always try to remain faithful to the Latin Church *sui iuris* in the actual living out of his/her faith, we presume that every practicing Eastern Catholic family or individual would also wish to remain always faithful to the heritage of their own Church *sui iuris*. Fidelity to one's Church *sui iuris* entails living according to the patrimony of that Church (c. 12 §2). We realize that the current arrangements for pastoral care are certainly not adequate because of the radical changes that are taking place in our world, and they certainly need to be reappraised and updated in order to offer effective pastoral care to all Christ's faithful in the 21st century.

CHAPTER FIVE

PASTORAL CARE OF THE EASTERN CATHOLIC FAITHFUL IN THE UNITED STATES AND CANADA

INTRODUCTION

Several important juridical and pastoral principles have emerged from our discussion presented in the preceding chapters. First, the patriarchs, archbishops and metropolitans of *sui iuris* Churches have no jurisdiction beyond their historical territories, except in matters pertaining to liturgy and certain pastoral issues. Second, those hierarchs appointed by the Apostolic See for the care of Eastern Catholic faithful living outside their historical territories are directly subject to the Supreme Pontiff although since Vatican II they are able to participate more in the life of their native Churches *sui iuris*. Third, the responsibility of providing for the pastoral needs of Eastern Catholic faithful who live outside their historical territories falls directly on the Supreme Pontiff (Apostolic See). Fourth, through the recently promulgated legislation contained in the two new Codes of Canon Law and other documents, the Supreme Authority of the Church has outlined some juridic guidelines for caring for the pastoral needs of Eastern Catholics who find themselves away from their homelands. These legislative documents have identified those who bear direct responsibility of caring for Eastern Catholics living in the diaspora. Fifth, it is the desire of the Church that the Eastern Catholic Churches should be enabled to safeguard, foster and live out even in the diaspora their cultural, religious, theological and liturgical patrimony to the best of their ability.

In light of these principles, we ask the fundamental question to be answered in this final chapter, namely: What has the Church done or is doing for the pastoral care of Eastern Catholic Faithful who live in North America? An answer to this question will necessitate an inquiry into the canonical competency to provide for the members of Eastern Catholic Churches, especially in the area of administration of sacraments. The field study that was undertaken in order to identify the actual status of the pastoral care of the Eastern Catholics in the diaspora has yielded some results which we will analyze toward the end of this chapter. This, we hope, will enable to make some concrete suggestions for effective pastoral care of the Eastern Catholics who have established their home away from home.

5. 1. JURISDICTION AND PASTORAL CARE

All the Eastern Catholic Churches *sui iuris* have faithful residing outside the territorial boundaries of their Churches. In some cases, the majority of the faithful reside outside the territory. Currently many of the Eastern Catholic Churches have either eparchies or exarchies established outside the territorial boundaries. Under the provision of the Eastern Code, the jurisdiction¹ of the patriarchs and the synod of bishops of the patriarchal Churches are restricted to the territorial boundaries of their respective Churches. The consequence of this restriction is that a significant number of Churches *sui iuris* are not self-governing, but *alieni iuris*, i.e., ‘under the law of another’. The two Codes of canon law have principles which are meant to provide effective pastoral care for

¹ Cf. Jobe ABBASS, “Eastern Faithful not Entrusted to the Care of Specific Hierarchy of Other Church *sui iuris*,” in *Roman Replies and CLSA Advisory Opinions*, 2003, p. 123. The term “jurisdiction” does not appear in the Eastern Code, instead the *CCEO* uses the term “power of governance.”

and to determine the relationship of the patriarch with the faithful residing outside their historical territories (c. 148).

With the consent of the Apostolic See, the patriarchs and the synod of bishops of the patriarchal Church may send a visitor to assess current pastoral needs of their faithful who reside outside their territories (*CCEO* c. 148).² The visitor is to contact the respective eparchial bishops, visit the faithful in the area and submit a report to the synod of bishops. The synod of bishops must discuss the report and if it comes up any proposals, it must submit them to the Apostolic See for action. That is about the extent of

² The Code stipulates that it is the right and obligation of the patriarch to seek appropriate information concerning the Christian faithful who reside outside the territorial boundaries of the Church. The patriarch can send a visitor to the diaspora with the assent of the Apostolic See. Since the major archbishop also shares the same power of governance, he can do the same. They are commonly called patriarchal/major archiepiscopal Visitors. However, the Code does not make any such provision for the metropolitan Churches *sui iuris*. It is the Apostolic See who takes responsibility for pastoral care of the Christian faithful of these Churches residing in the diaspora. They are commonly called Apostolic Visitors. In the United States and Canada there are apostolic visitors appointed to various Churches *sui iuris*.

Apostolic Visitors are officials who are generally classed with papal legates. Visitors differ from other Apostolic delegates, principally in this, that their mission is only transient and comparatively of short duration. In ancient times, the popes generally exercised their right of inspecting the dioceses of various countries through their nuncios or delegates, though they occasionally, even in the early Churches, sent special visitors. At the present time, the mission of papal nuncios is of a diplomatic rather than of a visitatorial character. Apostolic Visitors are at present deputized by the Roman Pontiff/Apostolic See for special emergencies or occasions. Their duty is to inspect the state of the Church in the country confided to them and submit a report to the Apostolic See. At times, this visitation is made with the same attention to details as is an episcopal visitation.

Apostolic Visitors are also appointed to visit various provinces of a religious order, whenever, in the judgment of the pope, this becomes useful or necessary. In all cases of an Apostolic visitation, the pope, through delegates, exercises his supreme and immediate jurisdiction which is his over any and every part of the Church. The exact powers of a visitor can be known only from his brief of delegation. His office ceases as soon as he has submitted his report to the Apostolic See through the Consistorial Congregation. For the city of Rome itself there is a permanent Commission of the Apostolic Visitation. Established by Urban VIII as one of the Roman Congregations under the presidency of the Cardinal Vicar; it was changed into a commission by Pius X. These Apostolic Visitors annually inspect the parishes and institutions of Rome and report on their spiritual and financial condition. They pay special attention to the fulfillment of the obligations springing from pious foundations and legacies for Masses and chaplaincies. Currently, the Syro-Malabar bishop of Chicago is also a permanent Apostolic Visitor to Canada. See *NCE*, vol. 8, pp. 607-609.

the authority of patriarch/major archbishop and his synod of bishops relative to pastoral care of their faithful outside their territory. The patriarchs/major archbishops/metropolitans *sui iuris* are not competent to erect eparchies or exarchies in these areas, even though these still belong to their Churches *sui iuris*; this competency pertains only to the Apostolic See.

According to the *CCEO*, the laws enacted by a patriarch or his equivalent in law, when approved by the Apostolic See, have force everywhere in the world (c. 150 §3). But the patriarch and his synod cannot execute these laws outside their territory. That is the sole competence of the Apostolic See. Nevertheless, enactment of such laws and their approval by the Apostolic See is one way in which a patriarch and his synod can exercise their of governance beyond their territorial boundaries.³

The Code also calls for the erection of Eastern Church parishes, exarchies and eparchies for proper care of Eastern Catholics who reside outside their historical territories (c. 148 §3). Metropolitans of a patriarchal or major archiepiscopal Church *sui iuris* constituted by the Apostolic See outside the historical territory have the same rights and obligations, which metropolitans have within the territory. Other powers, may be attached to their office or delegated to them if the synod of bishops of the patriarchal/major archiepiscopal Church *sui iuris* so proposes and the Apostolic See

³ See ABBASS, "Eastern Faithful not Entrusted to the Care of Specific Hierarchy," p. 124.

approves them or they may be directly granted to the metropolitans by the Apostolic See (c. 138).⁴

The patriarch has ordinary and proper power over both the bishops and the Christian faithful of his Church (c. 78 §1). However, he can exercise that power validly only within the territorial confines of the patriarchal Church over which he presides unless the nature of the matter or the common or particular law that is approved by the Roman Pontiff establishes otherwise (c. 78 §2). The Code also provides certain rights and obligations of patriarchs towards the members of his Church everywhere. It is the right and obligation of the patriarch to acquire appropriate information regarding the faithful outside the territorial boundaries (c. 148). The patriarch is entitled to receive a copy of the quinquennial report from the eparchial bishops appointed by the Apostolic See outside his territory (c. 206 §2). He can issue instructions to the faithful of his Church regarding doctrine, piety, and their spiritual welfare (c. 82 §1, 2^o) as well as encyclical letters to his entire Church on matters related to his Church and rite (c. 82 §1, 3^o). He can bless marriages everywhere, as long as one of the parties is ascribed to the Church over which he presides, and observes the other requirements of the law (c. 829 §3). With regard to the election of bishops for offices outside the territorial boundaries of the patriarchal Church, the synod of bishops is competent to elect three candidates for office

⁴ Among other responsibilities, these metropolitans convoke, preside, and exercise the other usual functions in a metropolitan synod. They establish a metropolitan tribunal, and permit tribunals of eparchies subject to them to substitute a single clerical judge if a collegiate tribunal cannot be established in the first instance. They oversee the observance of faith and discipline, conduct a visitation if the eparchial bishop neglects to do this, and make appointments in eparchies subject to them if the eparchial bishop fails to do so within the prescribed time set by the law. Cf. *CCEO* cc. 133, 135, 136, 160, 1084.

who are proposed by the patriarch to the Roman Pontiff, who will then make the appointment (c. 149).

5. 1. 1. The Faithful with their Own Hierarchy

The presence of Eastern Catholics in the United States and Canada are primarily the result of the late 19th century migration from Eastern Europe, of the more recent turmoil and upheaval in the Middle East and of the economic/employment opportunities of the modern age. Lack of their own pastors, insufficient language skills and the widely scattered places where they live have often required those Eastern Catholics to endure long periods without the opportunity to celebrate the Divine Liturgies according to the liturgical traditions of their own Churches *sui iuris*.

All Eastern Catholic Churches *sui iuris* which have episcopal jurisdiction in North America are under the direct authority of the Apostolic See. Inasmuch as the eparchies and exarchies thus constituted by the Apostolic See are located outside the historical territories of these Churches, their patriarchs and major archbishops with their synods do not exercise direct jurisdiction over them.⁵

If a person belongs to a Church *sui iuris* with an eparchial bishop or exarch appointed for the country or region, that person has no jurisdictional relationship with the local Latin bishop.⁶ This kind of agreement has serious consequences especially in

⁵ Cf. *CCEO* cc. 146-150

⁶ See *Roman Replies and CLSA Advisory Opinions*, 1984, pp. 5-9. On behalf of the Eastern Catholic Ordinaries, the Maronite bishop of Brooklyn asked the Congregation for the Eastern Churches whether the jurisdiction of the Eastern Catholic bishops in the United States is cumulative or exclusive. The Congregation, in a letter dated 24 May 1982 (Prot. No. 106/82), responded with the following points: "The Eastern Rite Ordinaries have *exclusive* jurisdiction over the faithful of their own rite; theirs is not a cumulative jurisdiction with the Latin Rite Ordinaries. However, in places where there is no legitimately

respect to matters which require dispensations and delegation. Thus, for example, the concession of a dispensation or delegation by a canonically incompetent bishop would be invalid and can result in the invalidity of a marriage.⁷

If a pastor is appointed for the community of a Church *sui iuris* established in a territory, all the Christian faithful of that Church *sui iuris* are his parishioners. If no pastor is appointed specifically for the faithful of a Church *sui iuris* in the United States, then the local Latin pastor is to be considered the pastor of these faithful. The appointment of a proper pastor is very crucial to determine the validity of the exercise of jurisdiction. In the case of appointment of a pastor, the relationship between a pastor and the faithful must be real and not simply a legal fiction. For example, an Eastern Catholic priest cannot claim that the territorial boundaries of his parish are the entire state of New York. To be realistic in his claim parishioners should have relatively easy access to him for their pastoral needs. This factor can have serious consequences in the area of

and formally erected parish of his own rite, the Eastern Rite ordinary is entitled to designate a pastor of another rite (not necessarily Latin, and always with the consent of his own ordinary) to administer pastoral duties and sacramental care for these Eastern Rite faithful deprived of their own pastor. In the absence of such an official designation by the Eastern Rite ordinary the Holy See has provided that these Eastern Rite faithful, for the same purposes, are subjects of the Latin pastor. In this latter case, not the Latin Rite ordinary but the Eastern Rite Hierarch remains the only local ordinary of these faithful.” The decision of the Holy See clarified the matter of jurisdiction of Eastern Catholic hierarchs in the United States. This arrangement is advantageous from an ecclesiological point of view in that a local community should not have two bishops. Secondly, from a more practical viewpoint, the Eastern eparch/exarch should be the one who has the responsibility to care for the pastoral needs of his faithful. Only when there is no eparch/exarch or he has not designated a priest should the local Latin ordinary intervene and act in virtue of c. 678 §2.

⁷ Regarding the competency of a Latin tribunal to adjudicate marriage nullity cases of two Eastern Catholics, when an eparchy has no tribunal, it is the Apostolic Signatura which should grant competence to the Latin tribunals. The Latin tribunal has to follow its own procedure unless the Signatura has stated otherwise. Motiuk states that a Latin tribunal, which has been granted competence to judge a marriage case of two Eastern Catholics of the same Church *sui iuris*, is to follow the Latin Code for procedure, but it should follow the Eastern canons for substantive law on marriage and the corresponding jurisprudence that has emerged from the application of those canons. See David MOTIUK, “Latin Tribunal Handling Marriage Case Involving Two Eastern Catholics,” in *Roman Replies and CLSA Advisory Opinions*, 2003, pp. 126-131.

marriage. For example, if a Latin priest celebrates the marriage of an Eastern Catholic and a baptized non-Catholic, the marriage would be valid, provided that no parish has been established in the area for the faithful of the Church *sui iuris* to which the Eastern Catholic belongs. In such a situation the Latin pastor is the proper pastor of the Eastern Catholic party. If a proper Eastern Catholic parish is established in the area, the marriage would be invalid because the pastor of that parish would be proper pastor of the Eastern Catholic party, and consequently, the Latin pastor would have no faculty to assist at that person's wedding.

The following Eastern Catholic Churches *sui iuris* have episcopal jurisdiction in the United States: (1) The Melkite Greek Catholic, (2) The Maronite, (3) The Chaldean, (4) The Syrian Catholic, (5) The Armenian, (6) The Ukrainian, (7) The Syro-Malabar, (8) The Ruthenian (Byzantine Catholic), (9) and The Romanian. The Syro-Malankara Church has an Apostolic Visitor to study the possibility of establishing some kind of canonical structure.⁸

⁸ See Matthew BUNSON (gen. ed.), *Catholic Almanac 2003*, Huntington, Indiana, Our Sunday Visitor Publishing Division, 2003, p. 353. The Eastern Catholic eparchies and exarchates in the United States are: (1) Ukrainian Metropolitan Province of Philadelphia; (a) Archeparchy of Philadelphia, (b) Eparchy of Stamford, (c) Eparchy of St. Nicholas of Chicago, (d) Eparchy of St. Josephat in Parma. (2) Byzantine Ruthenian Metropolitan Province of Pittsburgh: (a) Arch eparchy of Pittsburgh, (b) Eparchy of Passaic, (c) Eparchy of Parma, Ohio, (d) Eparchy of Van Nuys, California. The Hungarian and Croatian Byzantine Catholics are also under the canonical jurisdiction of Ruthenian bishops. (3) The Melkite Greek Catholic Eparchy of Newton, Massachusetts. (4) The Maronite Eparchy of Saint Maron of Brooklyn; eparchy of Our Lady of Lebanon, Los Angeles. (5) Chaldean Eparchy of Saint Thomas Apostle in Detroit: Eparchy of Saint Peter the Apostle, San Diego. (6) Saint Thomas Syro-Malabar Eparchy of Chicago. (7) Armenian Catholic Exarchate of the USA and Canada. (8) Romanian Catholic Eparchy in the USA. (9) Syrian Catholic Eparchy of the United States and Canada; Our Lady of Deliverance of Newark.

Belarusan Church has one parish in the United States; the Russian and the Coptic Churches have parishes in California and New York; the Syro-Malankara Church has about 13 parishes, missions and communities in various cities. All of them are all under the jurisdiction of the local Latin Bishops.

The Eastern Catholic Churches *sui iuris* represented in Canada with episcopal jurisdiction are: (1) The Ukrainian, (2) The Slovak Byzantine, (3) The Maronite, (4) The Melkite Greek - Catholic, (5) Syrian Catholic Eparchy of the USA and Canada, (6) Exarchate of Armenians of Canada and the United States.⁹

All other Churches *sui iuris*, for a variety of reasons, do not have an eparchy or apostolic exarchate in the USA or Canada. Some of the Churches, the Russian, Belarusan, Coptic, Ethiopian, Syro-Malankara, have one or more priests in the United States and Canada to provide pastoral care for their faithful. These priests and the faithful are entrusted to the governance of the local Ordinaries of the Latin Church. However, there are many members of Eastern Churches who, because they do not have any contact with their own pastors, should be assisted as far as possible in observing their own traditions and customs. Pope John Paul II has expressed a special concern for these Catholics in his apostolic letter *Oriente lumen*: “Where in the West there are no Eastern priests to look after the faithful of the Eastern Catholic Churches, Latin Ordinaries and their co-workers should see to it that those faithful grow in the awareness and knowledge

⁹ See Novalis, *Canadian Catholic Church Directory*, Ottawa, Novalis, 2002, pp. 400-425. The Eastern Catholic eparchies and exarchates in Canada are: (1) Ukrainian Metropolitan Province of Winnipeg: (a) Metropolitan Eparchy of Winnipeg, (b) Eparchy of Edmonton (Alberta), (c) Eparchy of New Westminster (BC), (d) Eparchy of Saskatoon (Saskatchewan), (e) Eparchy of Toronto (Ontario). (2) Slovak Eparchy of Saints Cyril and Methodius of Toronto. (3) Maronite Eparchy of Saint Maron of Montreal. (4) Melkite Greek Catholic Saint Savior’s Eparchy of Montreal. (5) Armenian Catholic Apostolic Exarchate of the United States and Canada. There are number of other Eastern Catholic Churches who have parishes or communities established in Canada: (a) Hungarians, (b) Chaldeans, (c) Syro-Malabar, (d) Syro-Malankara, (e) Romanians, and (f) Russians.

There is an Apostolate for the Hungarians living outside of Hungary established in 1983. The person in-charge is a bishop, who has responsibility of providing spiritual care to the Hungarians living in Europe, Canada and the United States, whose headquarters is in Scarborough, Ontario, Canada. The purpose of the Apostolate is to give spiritual assistance to the Hungarians living outside of Hungary in cooperation with and through the local ordinary and pastors. Unless it is otherwise specified the local ordinary is the local Latin Bishop.

of their own tradition, and they should be invited to cooperate actively in the growth of the Christian community by making their own particular contribution.”¹⁰

5. 1. 2. The Faithful Without Their Own Hierarchy

In places where no hierarchy has been established for the faithful of a Church *sui iuris*, the Eastern Code provides that the local hierarch of another Church *sui iuris*, even the Latin Church, is to be considered their proper hierarch (c. 916 §5). One may be a member of an autonomous Church, e.g., an Eastern Catholic from India who is a member of the Syro-Malankara Church, now in the United States or Canada, but this fact alone does not necessarily make him subject to the jurisdiction of a Syro-Malankara hierarch in India. As already established above, the jurisdiction of patriarchs, major archbishops, metropolitans of Metropolitan Churches *sui iuris*, and bishops of other Churches *sui iuris* does not extend beyond their traditional boundaries except in liturgical matters. This means that the Syro-Malabar eparch of Chicago, although a member of the synod of bishops of the Syro-Malabar Archiepiscopal Church, he is not bound to follow the decisions of the synod except those which concern liturgical matters. He may, however, promulgate them as particular law if it is a matter which falls within his competence (c. 150 §§1-2). The Apostolic See, however, can apply as particular law the synodal non-liturgical legislation to a particular eparchy or to all Syro-Malabar eparchies constituted outside the historical territory of their Church.¹¹

¹⁰ See JOHN PAUL II, Apostolic Letter, *Oriente lumen* (=OL), n. 26, Fairfax, VA, Eastern Christian Publications, 1996, p. 36.

¹¹ See Michel THÉRIAULT, “Canonical Questions Brought About the Presence of Eastern Catholics in Latin Areas in the Light of the *Codex canonum Ecclesiarum orientalium*,” in *Ius Ecclesiae*, 3 (1991), pp. 206- 207.

If a Malankara man is domiciled in a place where there is no Malankara hierarchy, he does not cease to be a member of his Church *sui iuris*, but he will be under the actual jurisdiction of the hierarchy of another Church *sui iuris*: in most cases, especially in the United States and Canada, this is the local Latin diocesan bishop. The Latin bishops have no automatic jurisdiction over Eastern Catholics, which have no hierarchs of their own. The Apostolic See may assign members of specific Churches to the care of non-Latin *sui iuris* Churches; for example, the Hungarian Catholics of the Byzantine tradition in Canada are under the care of the Ukrainian Catholic hierarchy, while the Romanian Catholics of the Byzantine tradition in Canada are under the Latin bishops.¹² The principle is that the members of an autonomous Church having no hierarchy of their own are under the care of the diocesan bishop of the Catholic Church *sui iuris* of the area; if there are more *sui iuris* Churches in the area, the decision on the matter is made by the Apostolic See.¹³

¹² The Holy See made the decision (published in a letter to the President of the NCCB dated 24 June 1982, Prot. No. 2368/82/4) that the faithful without a proper hierarchy and who have not been entrusted to the hierarchy of another Church *sui iuris*, have the Latin hierarchy as their proper ordinary in the United States.

Certain canonists have a different opinion in this regard. Abbass states that "in the case of the faithful of a patriarchal Church, it is for the patriarch, with the assent of the Holy See, to designate their hierarchy from among those established in that place. For example, in the United States, the Coptic patriarch would have local hierarchs of many other Churches *sui iuris* from which to choose. If the Coptic patriarch does not entrust his faithful to the local hierarchy of one of these Churches, it does not follow that the Latin hierarchy is to be considered their proper hierarchy." See ABBASS, "Eastern Faithful not Entrusted to Care of Specific Hierarchy," pp.124-125. On the other hand Dominique Le Tourneau argues that, "The faithful without a proper hierarchy, who reside outside the territory of their patriarchal Church and who have not been entrusted to the hierarchy of another Church, have the Latin hierarchy as their proper hierarchy." See Dominique LE TOURNEAU, "Le soin pastoral des catholiques orientaux en dehors de leur Église du rite propre. Le cas de l'ordinariat français," in *Ius Ecclesiae*, 13 (2001), p. 404.

¹³ The members of the Latin Church who are domiciled within the Italo-Albanian eparchies of Lungro and Piana degli Albanesi in Italy are under the jurisdiction of the Italo-Albanian hierarchs.

If no hierarch has been constituted to care for the pastoral needs of members of a particular Church *sui iuris*, it is possible to bring in a priest or chaplain of that Church and placed under the jurisdiction of the local ordinary (hierarch) for the purpose. In his apostolic letter *Oriente lumen*, John Paul II writes: “A particular thought goes out to the lands of the diaspora where many faithful of the Eastern Churches who have left their countries of origin are living in a mainly Latin environment. I particularly urge the Latin Ordinaries in these countries to study attentively, grasp thoroughly and apply faithfully the principles issued by the Holy See concerning ecumenical cooperation and the pastoral care of the faithful of the Eastern Catholic Churches, especially when they lack their own hierarchy.”¹⁴

5. 2. COMPETENCY TO ADMINISTER SACRAMENTS

In the day-to-day life of the Church, Eastern Catholics who reside within a particular territorial parish face many problems. These problems relate to the celebration of sacraments, especially the sacraments of initiation and marriage. Solutions to these questions require a clear understanding of Eastern traditions on the part of both Latin and Eastern pastors of local parishes. The three sacramental mysteries of baptism, chrismation with holy Myron and the eucharist together form a theological unity and from the beginning of Christianity they were administered together to adults joining the Church. For various historical reasons, especially with the introduction of the baptism of infants, their administration was separated. The re-emphasis of their unity at the Second

¹⁴ *OL*, n. 26.

Vatican Council suggests that they must be administered together again even to infants in the Eastern Catholic Churches.¹⁵ By so doing, they restore the theological unity of the sacraments of initiation in all Eastern Catholic Churches.

5. 2. 1. Baptism

The sacrament of baptism is absolutely necessary for the valid reception of all other sacraments. Outside of a case of necessity, baptism is celebrated in a parish church with due regard for legitimate customs (c. 687 §1).¹⁶ In the Eastern Churches, the ordinary minister of baptism is the bishop or priest where the person has a domicile or quasi-domicile.¹⁷ In case of necessity, the order of priority is the deacon, other clerics, religious, laity and even the parents when no one else is available.¹⁸

Canons 677 §1 and 678 §1 are based on the principle that the right to administer baptism is determined by territoriality and ascription to the Church *sui iuris*. A priest cannot administer baptism without the required permission, but a pastor cannot deny permission to a priest of another Church *sui iuris* who is of the same Church *sui iuris* of the person to be baptized. Canon 678 §2 considers the cases involving faithful who do not have a pastor of their own Church *sui iuris* to administer baptism. The eparchial bishop

¹⁵ See CONGREGATION FOR THE EASTERN CHURCHES, *Instruction Applying the Liturgical Prescriptions of the Code of Canons of the Eastern Churches (=Instruction)*, 6 January 1996, Vatican City, Libreria editrice Vaticana, 1996, n. 51.

¹⁶ The same canon allows for baptism to be administered in private homes according to the precepts of particular law or with the permission of the local hierarch (c. 687 §2). The Latin Code permits baptism to be administered in private homes only for a grave reason and with the permission of the local ordinary (CIC c. 860 §1).

¹⁷ Eastern law does not ordinarily permit a deacon to baptize because baptism must always be conferred together with the sacrament of chrismation, which can be administered only by a priest (CCEO c. 695 §1). In the Latin Church, on the contrary, the deacon is an ordinary minister of the sacrament of baptism (CIC c. 861 §1).

¹⁸ CCEO c. 677 §§1-2.

should designate a priest of that Church *sui iuris*, if it is possible, to administer baptism for those faithful.¹⁹

A child should be baptized in and ascribed to the Church *sui iuris* of the father; if only the mother is Catholic, then to the Church *sui iuris* of the mother. However, if the parents transfer to another Church *sui iuris* at the time of their marriage or by Apostolic indult, the child should be baptized in the Church of their present ascription. If the ordinary of the parents judges that particular or special circumstances warrant the celebration of baptism of the child in another Church *sui iuris*, he may grant the required permission with the understanding that the child canonically belongs to the Church *sui iuris* of the parents.²⁰ If there is no proper Eastern Church pastor or hierarch of the parent, the local Latin ordinary is competent to grant such permission in the United States and Canada.

The *CCEO* requires that baptism be celebrated according to the liturgical norms of the Church *sui iuris* in which, according to law, the infant to be baptized is to be ascribed (c. 683). Regardless of where the child is baptized, the law provides that the infant will remain a member of the Church *sui iuris* of the parents in accord with the

¹⁹ It is presumed that the eparch who is to designate a priest exercises jurisdiction over these faithful who reside in the territory of the eparchy. The Congregation for the Eastern Churches has clarified that the mere absence of a pastor of the same Church *sui iuris* as these faithful does not automatically mean that jurisdiction over them is given to the local Latin ordinary.

²⁰ In the diaspora, parents may find it necessary to request the baptism of their child in the ceremonies of a liturgical rite other than their own, when a minister of their own liturgical rite is not available, or when they themselves are in the process of transferring from one Church *sui iuris* to another. This applies even when they are not, in fact, practicing their own Church *sui iuris* celebrations. To avoid accumulation of problems in the future, the minister should immediately make a notation in the baptismal register about the Church *sui iuris* of the baby. A person of fourteen years of age or older, who requests baptism, is free to choose any Church *sui iuris*.

norm of law.²¹ Moreover, the universal law requires that the minister celebrate the sacraments according to his own rite.²² The minister of the sacramental mystery must be certain that he follows the ritual of his own Church *sui iuris* in administering baptism, and only in danger of death would this be dispensed. The proper form found in all the Churches *sui iuris* should be followed in order to ensure the validity of baptism, and this includes the Trinitarian formula and the use of water by immersion, infusion or aspersion. A priest or a deacon of the Latin Church, in ordinary circumstances, may not baptize a child of Eastern Catholic parents, unless a priest of the parent's Church is not available to perform baptism.²³

5. 2. 2. Chrismation with Holy Myron (Confirmation)

Myron must be consecrated by a bishop/patriarch, who is the original minister of the sacrament, even if it is conferred by a priest (cc. 693-694). Chrismation is conferred either jointly with baptism or separately by a priest (c. 694).²⁴ Except in a case of necessity (for example, when a deacon administers baptism), chrismation should be

²¹ See *CIC* c. 112 §2; *CCEO* c. 38.

²² See *CCEO* c. 674; *CIC* c. 846 §2. This requirement holds except when a presbyter possesses bi-ritual faculty.

²³ The following circumstances constitute unavailability of the priest of the Eastern Church, and in such cases a priest or deacon of the Latin Church may baptize the child. (1) The child is in danger of death; (2) the priest of the Eastern Catholic Church is too far away to bring the child to him; (3) the priest of the Eastern Catholic Church cannot come to baptize the child. If, in these circumstances, a priest or deacon of the Latin Church baptizes the child he must: (a) state, in his own baptismal register, to which Eastern Catholic Church the child belongs; (b) send notifications of the baptism, if there is a canonical arrangement for the people in the country, to the priest-in-charge of the Eastern Catholic Church. If there is no priest of the child's Eastern Church in the country, the registration of the baptism is made only in the parochial register of the Latin Church, but with a notation in the register of the Eastern Church to which the child belongs.

²⁴ Even though chrismation is not regarded as necessary for salvation, this sacrament carries with it a strict obligation to be administered to baptized members of the Church as a sign of the gift of the Holy Spirit, and thus the person becomes an active co-builder of the Kingdom of Christ (c. 692).

conferred with baptism. If out of true necessity this cannot be done, the chrismation is to be conferred as soon as possible (c. 695 §1).²⁵

All Eastern Catholic presbyters and all Latin priests, who have the proper faculties, can validly confer the sacrament of chrismation either along with baptism or separately on all the faithful without regard to Church *sui iuris* (c. 696 §§1-2). Priests may administer chrismation *lawfully* only to those members of their own Church *sui iuris* (c. 696 §3).²⁶

If, in exceptional circumstances, a Latin priest were to baptize a child of Eastern Catholic parents, he must not chrismate that child unless he has the faculty to administer confirmation and the permission of the proper pastor to do so. In such a situation, the child should be chrismated by a priest of his/her own Church *sui iuris* as soon as possible after baptism.²⁷ Any attempt to repeat the sacrament of chrismation is strictly prohibited. As many Eastern Catholic children attend local Latin Church schools, it often happens

²⁵ Those cases wherein parents want to delay chrismation in order that the child could receive it with his/her Latin rite classmates do not seem to be included in this provision.

²⁶ Regarding the minister of the sacrament of chrismation the *Instruction* says: "All presbyters of the Eastern Churches can validly administer this sacrament along with baptism or separately to all the Christian faithful of any Church *sui iuris* including the Latin Church. Eastern presbyters are to use their faculty of chrismating the Latin faithful with great discretion and contacting, as much as possible, the competent hierarchs of that Church" (n. 50). There is no mention in *CCEO* of the validity of the sacrament conferred by an Eastern non-Catholic priest. Eastern law legislates that the holy eucharist should be administered as soon as possible in accord with the norms of the particular law of each Church *sui iuris* (c. 697).

²⁷ Marini says that if no Eastern Catholic presbyter is available in a geographic region and if there is only a Latin Catholic presbyter available and a family of Eastern Catholics with a newborn wish to have the infant baptized, then the Latin presbyter can administer sacraments of initiation to the Eastern Catholic infant. This family should not have to settle for their child to receive sacraments in accord with the Latin discipline, but should and can receive all three sacraments of initiation according to the Eastern tradition. See MARINI, *Comparative Sacramental discipline*, p. 45.

that they are involved in sacramental preparation programs.²⁸ If, at the time of preparing for confirmation of children belong to the Latin Church, it is found that a child (or children) belonging to an Eastern Church has not yet received chrismation, that child must be chrismated in his/her proper Church *sui iuris*, if there is one.²⁹

5. 2. 3. Holy Eucharist

Holy eucharist completes Christian initiation, and the practice of communicating infants receiving communion at baptism had been a long-standing practice in both the East and the West.³⁰ There was a time when many Eastern Catholic Churches stopped the practice of infant communion, either because of social pressure or direct orders from Rome.³¹ Infant communion is now being restored generally but gradually in most of the Eastern Catholic Churches. Eastern Catholic children are not limited to receiving holy Communion only at the moment of initiation. Instead they can and should receive holy Communion frequently, even from the local Latin church, at any celebration of the

²⁸ It can be suggested that these Eastern Catholic children should be properly informed and given an opportunity to celebrate the occasion with a special blessing in the interest of not excluding them from what their Latin classmates are going through in being confirmed by their own bishop. We believe that such actions constitute pastoral accommodation and should be encouraged with due diligence.

²⁹ *CCEO* c. 696 §3: "Any presbyter licitly administers this sacrament only to the Christian faithful of his own Church *sui iuris*; but when it is a case of the Christian faithful of other Churches *sui iuris*, he acts licitly if they are his subjects, or are those he licitly baptizes in virtue of another title, or are those who are in danger of death, but always with due regard for agreements entered into between Churches *sui iuris* in this matter." According to this canon, if the Eastern faithful lack a hierarchy in the country, the local Latin pastor can validly and licitly administer, if he has the faculty, the sacrament of chrismation.

³⁰ Cf. MARINI, *Comparative Sacramental Discipline*, pp. 30-31.

³¹ *Ibid.* p. 31: "Infant communion was forbidden to the Italo-Greeks by Pope Benedict XIV in the Apostolic Constitution *Etsi pastoralis* of 26 May 1742. The Ruthenian Church dropped the practice of infant communion at the Synod of Zamošć in 1720, the Melkites at the Synod of San Salvatore in 1790, and the Romanians at the Synod of Alba-Julia in 1872."

Divine Liturgy.³² This is their right as fully initiated members of the Body of Christ. The law states that sacred ministers cannot deny the sacraments to those who seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them³³ and that the Christian faithful have the right to receive the sacraments.³⁴

Holy Communion may be received in any Catholic Church. Since the sacramental initiation is perfected in the reception of the Divine eucharist, children of the Eastern Catholic Churches who have not received the eucharist at the time of their Christian initiation, should receive their first holy Communion in their own Church *sui iuris*.³⁵

Canon 701 provides for concelebration, with permission of the eparchial bishop, by bishops and presbyters of different Churches *sui iuris* in order to foster unity of Churches, but it affirms the right of the priest to celebrate individually (c. 700 §2).

³² See *Instruction*, n. 51.

³³ See *CIC* c. 843 §1; *CCEO* c. 381 §2.

³⁴ A fully initiated Eastern Catholic infant is not prohibited by law from receiving holy Communion even from a Latin priest, and in fact has a right to receive holy Communion during Mass (appropriate time). An infant is one who habitually lacks the use of reason (*CIC* c. 97; *CCEO* c. 909 §3), and therefore, is not capable of committing mortal sin. He/she is the one who habitually lacks the use of reason and is therefore considered to be properly disposed for reception of the sacraments (*CIC* c. 213; *CCEO* c. 16). On the contrary, the Latin law does not permit infants to receive holy Communion except in a danger of death situation and if they can distinguish the holy eucharist from ordinary food and be able to receive the sacrament reverently (*CIC* c. 913 §2). According to the Latin tradition, the administration of holy Communion to children requires that they have sufficient knowledge and careful preparation so that they understand the Mystery of Christ according to their capacity and are able to receive the Body of Christ with faith and devotion (*CIC* c. 913). As a result, it would be inappropriate for an Eastern Catholic pastor to administer holy Communion to a Latin Catholic infant who does not possess the right to receive the same sacrament in his/her own Church *sui iuris*. Even though administering holy Communion to an infant is not against the discipline of his own Eastern Church *sui iuris*, such an action should not take place because it disrespects the legitimate Latin traditions and discipline and moreover can amount to inter-ecclesial proselytism strictly prohibited by *CCEO* c. 31. See MARINI, *Comparative Sacramental Discipline*, pp. 49-50.

³⁵ In the normal practice of the Church, Catholics celebrate the Lord's Day by participating in the celebration of the eucharist in a community of their own Church *sui iuris*. Where there is a diversity of Churches in one place, the faithful worthily celebrate the resurrection of Jesus by attending eucharist in any Churches *sui iuris*.

During inter-ecclesial concelebration, incompatible elements from another Church *sui iuris* are not permitted. Each concelebrant should wear his own proper vestments and follow the liturgical rite of the principal concelebrant (c. 701).³⁶

Catholic priests are forbidden to concelebrate the Divine Liturgy with non-Catholic priests or ministers (c. 702). A Catholic priest, however, may celebrate the Divine Liturgy on the altar of any Catholic Church *sui iuris*. In order for a priest to be able to celebrate the Divine Liturgy in a non-Catholic Church, he needs the permission of the local hierarch (c. 705 §§1-2).

The *CCEO* makes no division between the eucharist as sacrifice and sacrament, but the one celebration of the eucharist is treated as a whole.³⁷ Regarding the matter of the eucharist, the Latin Code requires that according to the ancient tradition of the Latin Church, the presbyter is to use unleavened bread in the eucharistic celebration (*CIC* c. 926). In contrast, the Eastern Code allows for diversity among the various Churches *sui iuris* in this regard noting that the particular law of each Church *sui iuris* must establish precise norms regarding the preparation of the eucharistic bread (*CCEO* c. 707 §1).³⁸

³⁶ "Concelebration is nevertheless preferable to the so-called individual celebrations without the people. Individual, independent celebrations of the eucharist on multiple altars in the same place at the same time are categorically prohibited. Such restriction is not applicable, obviously, to the simultaneous and synchronized celebration sometimes permitted, particularly in the Western Syrian and Ethiopian traditions. For concelebration, the appropriate vestments and insignia of their own Church *sui iuris* should be worn" (*Instruction*, n. 57).

³⁷ See *Nuntia*, 4 (1977), pp. 55-71.

³⁸ See POSPISHIL, *Eastern Catholic Church Law*, p. 301. Generally speaking one can say that the Latin Church uses unleavened bread and the Eastern Churches use leavened bread. But traditions differ in Eastern Catholic Churches. For example, the Armenians have used unleavened bread since antiquity and later Maronites and the Syro-Malabars adopted this practice. The required matter for the sacramental Mystery of the holy eucharist is wheaten bread and grape wine. In the Latin Church and in some Eastern Churches the Communion bread is a wafer made only of wheaten flour and water (unleavened bread). In

Ordinarily bishops and presbyters distribute communion, or if the particular law of the Church *sui iuris* allows, a deacon also may distribute. It is the exclusive competency of the Synod of Bishops of the patriarchal Church or the Council of Hierarchs of the other Churches *sui iuris* to establish suitable norms on distribution of communion by lay persons or minor clergy (c. 709 §§1-2).³⁹

Canon 40 §3 establishes that the faithful must observe their own rite everywhere.⁴⁰ Similarly if priests accept offerings for the Divine Liturgy from the Christian faithful of another Church *sui iuris*, they are bound by grave obligation to observe the norms of that Church regarding those offerings, unless it is established differently by the donor (c. 717).

5. 2. 4. Sacrament of Penance

The Second Vatican Council explains the genuine tradition of the Church regarding the mystery of penance, and c. 718 succinctly states the universal Catholic

most of the Eastern Churches, the Communion bread is made of wheaten flour, water and yeast (leavened bread) which is then cut into small pieces during the preparation rite.

³⁹ *CCEO* c. 327 provides for minor clergy who can be admitted to exercise certain functions during the Sacred Liturgy. The 1983 *CIC* has no such provision for minor clergy. According to *CCEO* c. 709, particular laws can be enacted by Churches *sui iuris*, if necessary, in the diaspora, in order to give laity and religious more active participation in the Divine Liturgy as eucharistic ministers. The *Instruction* says: "The eucharist should be distributed under both species of consecrated bread and wine. Thus the usage of distributing the Communion under the species of Bread alone, as sometimes occurs today because of Latin influence, should be abandoned without delay. Such practice is to be considered a recent innovation, completely foreign to the Eastern tradition" (n. 59).

⁴⁰ Concerning the preparation for participation in the Divine eucharist such as fasting, prayers and other penitential works, according to the particular law of each Church *sui iuris*, the faithful are to observe faithfully the norms of the Church *sui iuris* to which they are ascribed not only within the traditional territorial boundaries of the Church but also as much as possible everywhere (c. 713 §2).

understanding of it.⁴¹ Besides chrismation with holy Myron it is true also with regard to most other sacraments that the original minister is the bishop.⁴² In the former and current disciplines, the minister of the sacraments of penance and anointing of the sick is the bishop or presbyter.⁴³ Catholics may receive absolution from any priest belonging to any Church *sui iuris* provided that such a priest has the faculty to administer the sacrament of penance.⁴⁴ However, priests of the Latin Church hearing confession of members of the Eastern Churches should exercise particular care, regarding the days of obligation, reserved sins and any other particular regulations of the individual Churches *sui iuris*.⁴⁵

⁴¹ Cf. *LG*, nn. 11, 28; *CD*, n. 30; *PO*, n. 5. Anyone who is aware of serious sin is to receive the Mystery of penance as soon as possible; and it is strongly recommended to all the Christian faithful that they receive this mystery frequently, especially during the times of fasts and penance observed in their own Church *sui iuris* (c. 719).

⁴² The Eastern Code makes it licit for Catholic ministers to provide the Mysteries of penance, eucharist and anointing of the sick to Eastern Orthodox, as also to Christian faithful who ask for them and who are properly disposed to receive them. This liceity would also apply to baptized non-Catholics who are in danger of death or in some other serious necessity properly defined, who are unable to approach their own ministers or ask for these Mysteries, yet who manifest a faith consonant with the teaching of the Catholic Church concerning them and are truly disposed to receive them (c. 671 §§3 and 4).

⁴³ See *CCEO* c. 722 §1; *CIC* c. 965; also see George NEDUNGATT, "Minister of the Sacrament of Marriage in the East and the West," in *Periodica*, 90 (2001), p. 370.

⁴⁴ See *CCEO* c. 722 §4; *CIC* c. 991. Interesting questions arise in this regard, for example, whether a priest of the Latin Church *sui iuris* endowed with the faculty to hear confessions can validly absolve a penitent of an Eastern Catholic Church *sui iuris* from sins reserved either in the *CCEO* itself or in the particular law of the penitent's Eastern Catholic Church *sui iuris*; or whether a priest of an Eastern Catholic Church endowed with the faculty to hear confessions can validly absolve a penitent of a different Eastern Catholic Church *sui iuris* from sins reserved in the particular law of the penitent's Church *sui iuris*. Since the faculty to absolve is a share in the executive power of governance of the competent authority who grants the faculty or confers the office which has this faculty, it would seem that it is the law of the Church *sui iuris* of the confessor which should control such situations. Thus absolution of sins, which are reserved under the law applicable to the penitent would nonetheless be valid, but absolution of sins which are reserved under the law applicable to the confessor would be invalid. See MARINI, *Comparative Sacramental Discipline*, pp. 107-108.

⁴⁵ *Latae sententiae*, that is, automatic penalty, is not found in the *CCEO*. There are reserved sins in the Eastern Code, whereas sins are no longer directly reserved in the Latin Code. The existence of reserved sins means that a confessor of one Church *sui iuris* who is the proper pastor for the Catholic faithful of a different Church *sui iuris* should at least be aware that certain sins are reserved under the *CCEO*, and that there may be additional reserved sins under the particular law of the Church *sui iuris* of the penitent. In this situation the particular law of the penitent should be applied. Otherwise the law of the Church *sui iuris* of

All bishops can validly administer the Mystery of penance anywhere to any Christian faithful, by virtue of the law itself, unless with regard to liceity, the eparchial bishop expressly denies this in a special case (c. 722 §2). However, to act validly, presbyters must have the faculty to administer the sacrament of penance; which faculty is conferred either by law itself (*ipso iure*) or by a special grant from the competent ecclesiastical authority (c. 722 §3). Unlike bishops, presbyters do not receive the faculty to administer the Mystery of penance automatically through sacred ordination. Presbyters endowed with this faculty, however, can validly administer the sacrament of penance anywhere to any Christian faithful, unless a certain local hierarch in a special case expressly denies it (c. 722 §4).⁴⁶

The authorities who are competent to give priests the faculty to hear confessions by a special grant are the local hierarch and the superior of certain clerical institutes of

the confessor would predominate, because the faculty to hear confessions is an exercise of the executive power of governance. If, however, the confessor possesses bi-ritual faculties, the applicable law would be the law of the Church *sui iuris* whose ritual he is using to administer the Mystery/sacrament of penance at the time. Since it may not always be possible in practice for a confessor to realize that a reserved sin applies or to know which law is applicable, the Church will supply the power of governance in appropriate cases. See MARINI, *Comparative Sacramental Discipline*, p. 157. Individual and integral confession is the ordinary manner by which the faithful are reconciled with God and the Church (c. 720 §1). The circumstances allowing general absolution (c. 720 §2) are similar to those mentioned in the Latin Code (CIC c. 961 §§1-2). Although the matter of indulgences is not included in the *CCEO*, the grant of indulgences by the supreme authority of the Church applies also to the Eastern Catholic faithful by virtue of c. 1492.

⁴⁶ Although priests do not automatically obtain the faculty to hear confessions with ordination, they do obtain it automatically along with certain offices. By virtue of his office, the local hierarch, the parish priest or another priest who takes his place, as well as superiors of religious institutes and societies of common life of pontifical or patriarchal right, if they are priests, have the faculty of administering the sacrament of penance. As for the latter, the faculty is to be exercised only in relation to members of his own institute and those who live day and night in his house (c. 723 §§1 and 2).

consecrated life.⁴⁷ Obviously, the power to confer the sacraments is based on episcopal authority. Hierarchs without episcopal dignity and religious superiors have the faculty to hear confessions in virtue of law established by the supreme authority of the Church.⁴⁸ The faculty to hear confessions can cease in three ways: by express revocation, by operation of law (*ipso iure* or automatic revocation) and through the imposition of penalties.⁴⁹

The church is the proper place to celebrate the Mystery of penance. Obviously, because of sickness or for some other reason, it can be celebrated in another place (c. 736 §§1-2). It is a custom in many Eastern Churches to celebrate this sacrament, not in a confessional of the kind in use in the Latin Church, but in the same sacred building and, in some traditions, before an icon of Christ.⁵⁰

⁴⁷ The local hierarch (c. 984 §2) can confer on any priest the faculty to hear confessions of any of the Christian faithful (c. 724 §1); while the superior of a clerical institute of consecrated life can confer the faculty on any priest as long as the superior himself has the executive power of governance, and then only within the limits mentioned in c. 723 §2, i.e., to hear confessions of only the members of the institute and other persons actually residing in the religious house, and only in accordance with the norms of the typicon or statutes of his institute of consecrated life.

⁴⁸ See *Nuntia*, 28 (1989), p. 95. The competence of a religious superior to grant faculties to hear confessions is much more limited than that of the local hierarch. In danger of death any priest can validly, and licitly absolve from any censure and sin, even if an approved priest is present (c. 725). Even a priest who, according to the norm of law, has lost the clerical state can absolve validly and licitly any penitent who is in danger of death (c. 395).

⁴⁹ Cf. *CCEO* cc. 726 §§1, 2 and 3, 1430 §1, 1432 §1, 1434 §1; *CIC* cc. 974 §§1, 2, 975, 1338 §1, 1333 §1, 1334 §1, 1331.

⁵⁰ The Churches *sui iuris* in the diaspora will have to attentively examine their liturgical books, even those of the past, to find the formulas which best express the richness of their own traditions in the specific field. See NEDUNGATT, *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, Rome, Pontificio Istituto Orientale, 2002, p. 527.

5. 2. 5. Anointing of the Sick

Every priest, by virtue of the power of sacred ordination, can validly administer the anointing of the sick. However, this is the duty of the parish priest or parochial vicar or the priest who legitimately exercises the ministry of the care of souls. Other priests can also administer it with permission, at least presumed, of the priests assigned to the parish; indeed they must administer it in case of necessity or danger of death (c. 739 §§1-2), and make sure it is provided in timely fashion.

Priests are not simply dispensers of the sacrament but also its celebrants, that is, they consecrate the oil with the appropriate prayer prescribed for it in the liturgical text of the Church *sui iuris* of the celebrant and then anoint the sick (c. 742). The central moments in the administration of this sacrament are the blessing of the oil and the anointing of the sick person.⁵¹

It should be noted that in some Eastern Churches there is the custom for several priests together to administer the sacrament of the anointing to one sick, e.g., the practice in many Byzantine Churches of the anointing of a sick person by three, five or seven priests.⁵² The law states that care should be taken to preserve this custom as much as possible (c. 737 §2). But in those situations where the sick person is *in extremis* and there

⁵¹ See POSPISHIL, *Eastern Catholic Church Law*, p. 529. The blessing of the Oil of the Sick in the Latin Church is normally reserved for bishops alone (*CIC* c. 999), while according to the Eastern Code it is normally any priest who administers the sacrament. It is up to the priest who administers the sacrament to bless the oil to be used in the administration of the sacrament of anointing of the sick, unless the particular law of the Church *sui iuris* establishes otherwise (c. 741), that is, that it be blessed by the bishop as in the Latin Church. In the Eastern tradition, the priests pray over the sick person after having anointed that person with oil in the name of the Lord.

⁵² See *ibid.*, p. 416; also see MARINI, *Comparative Sacramental Discipline*, p. 149.

is not enough time to follow the complete ritual, it is sufficient to anoint the sick person with the blessed oil together with prayers suited to the actual anointing.⁵³

5. 2. 6. Sacrament of Marriage

In the diaspora, it is at the time of marriage that most members of Eastern Churches approach the pastors of the Latin Church. Given the inter-ecclesial or multi-ritual nature of the Catholic Church in the United States and Canada, practically every priest and deacon has pastoral relations with Catholics of various Eastern Churches *sui iuris*. Since the validity of the sacrament of matrimony depends on the observance of the law in these matters, it is important that one knows and observes the relevant norms in force.

Preparation: Both Codes uphold the natural right of a person to marry.⁵⁴ “Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law but also by canon law, without prejudice to the competence of the civil authority in respect to the merely civil effects of the marriage.”⁵⁵ The canonical norm mentioned in the *CIC* c. 1059 is different for persons who belong to different Churches *sui iuris*. In the situation of an inter-ecclesial marriage, more than one ecclesial legislation or Codes may affect each partner individually. Both parties must be free from all diriment

⁵³ See MARINI, *Comparative Sacramental Discipline*, p. 153.

⁵⁴ See *CIC* c. 1058; *CCEO* c. 778. The *Instruction* says: “The pastors of souls have the obligation to take care of the faithful who are preparing for the matrimonial state, so that they may get to know and be informed about the meaning of Christian marriage, about its characteristics of union and indissolubility in the image of the indefectible union of Christ with the Church and about its duties in the union between them and toward their offspring, c. 776 §1 and 2” (n. 80).

⁵⁵ See *CIC* c. 1059; *CCEO* c. 780 §1.

impediments⁵⁶ established by the law of both ritual Churches before being able to contract marriage validly. Otherwise a diriment impediment renders a person incapable of contracting marriage validly.⁵⁷ The Eastern Code adds further: “An impediment, even if only one of the two parties has it, still renders the marriage invalid” (c. 790 §2).

Therefore, it is the duty of the priest who is to solemnize the marriage to make sure that the parties are free to marry. According to the Latin Code, the pre-marital investigation should clarify the canonical status of the persons to be married with regard to the ritual affiliation.⁵⁸ The jurisdiction of Eastern Catholic hierarchs outside the historical territory is exclusive and, therefore, the determination of the proper pastor and the Church ascription of the two parties are essential in order to avoid invalid marriages because of a defect of form caused by the lack of jurisdiction in the officiating minister. The norms governing the impediments of impotence, bond, age and a public perpetual vow of chastity in a religious institute are substantially the same in both Codes of Canon Law. However, some differences regarding other impediments must be noted.

Impediments: Impediment of the disparity of worship exists between a person baptized in or received into the Catholic Church and a non-baptized person (c. 803 §1). Such a marriage, however, is bound by the form of marriage. If grave difficulties hinder

⁵⁶ The diriment impediments listed in both Codes are: the impediments of age (*CCEO* c. 800; *CIC* c. 1083), impotence (*CCEO* c. 801; *CIC* c. 1084), existing valid marriage bond (*CCEO* c. 802; *CIC* c. 1085), disparity of cult (*CCEO* c. 803; *CIC* c. 1086), sacred orders (*CCEO* c. 804; *CIC* c. 1087), public and perpetual religious vows (*CCEO* c. 805; *CIC* c. 1088), consanguinity (*CCEO* c. 808; *CIC* c. 1091), legal adoption (*CCEO* c. 812; *CIC* c. 1094), public propriety (*CCEO* c. 810; *CIC* c. 1093), and crime (*CCEO* c. 807; *CIC* c. 1090).

⁵⁷ See *CIC* c. 1073; *CCEO* c. 790.

⁵⁸ *CIC* c. 1066: “Before marriage takes place, it must be established that nothing stands in the way of its valid and lawful celebration.”

the observance of canonical form, the Latin Code permits the local ordinary of the Catholic party, after having consulted the ordinary of the place in which the marriage is celebrated, to dispense from the form in such cases.⁵⁹ According to c. 835 of the Eastern Code, dispensation from the form of the celebration of marriage is reserved to the Apostolic See or the patriarch (c. 835), who will not grant it except for a most serious reason. The Latin Code exempts from the canonical form those who have defected from the Catholic Church by a formal act.⁶⁰ On the contrary, the Eastern Code does not exempt from the observance of canonical form an Eastern Catholic party who has defected from the Church through a formal act (c. 834 §1). Eastern Catholics who have publicly abandoned the Catholic Church or enrolled in another Christian church or another religion are not exempt from the observance of canonical form nor from any other ecclesiastical laws.⁶¹ Therefore, the observance of canonical form is necessary for validity in the case of persons baptized in the Eastern Church or received into it. When the local Latin ordinary deals with the Eastern faithful residing in his territory, due regard for the law of the Eastern Churches mentioned in c. 835 is to be observed.⁶²

⁵⁹ See *CIC* c. 1086 §1, and c. 1127 §2.

⁶⁰ See *CIC* c. 1117.

⁶¹ See David MOTIUK, "The Code of Canons of the Eastern Churches: Some Ten Years Later," in *StC*, 36 (2002), p. 219.

⁶² Motiuk says that instead of dispensing the canonical form Eastern eparchial bishops have the power to heal an invalid marriage: "Yet, an Eastern eparchial bishop can grant a radical sanation for marriage deemed invalid because of lack of canonical form (c. 852). This anomaly in the Eastern Code where the Eastern hierarch cannot grant a dispensation from the canonical form, yet can perform a greater act by healing an invalid marriage due to its lack of canonical form, must be resolved." See MOTIUK, "The Code of Canons of the Eastern Churches," pp. 218-219.

Attention must be paid to the possible impediment of affinity in the collateral line in inter-ecclesial marriages because the Eastern Code includes affinity in the second degree in the collateral line as a diriment impediment while the Latin Code does not have it.⁶³ The impediment of spiritual relationship arising from baptism, abolished in the Latin Code, remains in the Eastern Code in conformity with the Eastern tradition (c. 811 §1). There is a diriment impediment for those who are related by a legal relationship arising out of adoption in the direct line and the second degree of the collateral line (c. 812). No marriage can take place with a person, whether man or woman, who is abducted or at least detained for the purpose of entering into marriage (c. 806).

Dispensations: When the faithful of an Eastern Catholic Church *sui iuris* have no hierarch of their own in the country, the local Latin ordinary can dispense since he is the competent ordinary. For the granting of dispensations, the Latin ordinary may use the faculties granted to him by the Codes.⁶⁴ If the parties belong to different Churches *sui iuris*, for example, where the groom is of the Latin Church and the bride is a Maronite Catholic, the dispensation should normally be sought from the ordinary of the groom. If one of the parties is non-Catholic, dispensation must be sought from the ordinary of the Catholic party.

If the Eastern Catholic faithful have a hierarch of their own in the United States and Canada, they do not belong to the Latin parish nor are they subject to the Latin ordinary of the diocese in which they may live. For example, if a Maronite man wants to

⁶³ See *CIC* c. 1092; *CCEO* c. 809 §1.

⁶⁴ See *CIC* cc. 1078-1081; *CCEO* cc. 795-798.

marry an unbaptized woman, the dispensation from disparity of worship can be granted only by the Maronite ordinary. Should a Latin ordinary presume to grant the dispensation, such an act would be invalid and, consequently the marriage also would be invalid.⁶⁵ However, those Eastern Catholics who do not have their own hierarch in the United States or Canada are placed under the jurisdiction of the local Latin bishop and, therefore, they may be validly dispensed by him.

Assistance at an Inter-ecclesial Marriage: It is the current canonical tradition of the Eastern Churches that marriage is to be celebrated before the pastor of the groom unless particular law determines otherwise or a just cause excuses (c. 831 §2). While the Eastern Code has retained the general rule that a marriage is to be celebrated before the pastor of the groom, the norm is not restrictive since either the particular law of each Church *sui iuris* or a just cause can provide otherwise.⁶⁶ Those Eastern Catholic faithful who have no hierarchy of their own are subject to the local Latin ordinary whose rulings would apply to them (*CIC* c. 1115).⁶⁷ The Latin Code does not have specific norms

⁶⁵ See David MOTIUK, *Canon Law of Eastern Catholic Churches* (Class notes), Ottawa, Saint Paul University, 2000-2001, pp. 101-102.

⁶⁶ The Eastern Code (c. 831 §2) provides the general norm for all Eastern Catholic Churches. The Code commission (*PCCICOR*) during the formulation of this norm was convinced that it is not necessary to legislate an absolute common norm for all Churches on this matter (*Nuntia*, 15 [1982], p.83). In an inter-ecclesial marriage, it is important to respect each other's discipline and marriage may be licitly celebrated before the pastor of the groom or of the bride after having due regard for all legal formalities. Pospishil says: "This preference for the groom's parish and pastor is so weak that it can be set aside by the contrary wish of the partners themselves." Therefore, he concludes that "in as much as both Codes do not wish to restrict the freedom of choice of the prospective spouses, where there is an inter-ecclesial marriage of two Catholics of different Churches *sui iuris*, both the Church and pastor can be selected by the partners, and neither pastor with the right to demand that they be married under his jurisdiction. See POSPISHIL, *Eastern Catholic Marriage Law*, p. 383.

⁶⁷ According to the Latin Code, the normal place for the celebration of marriage is the place where at least one of the parties if both are Catholics or, in the case of mixed marriages, the Catholic party has a domicile, quasi-domicile or month-long residence. The marriages of those who have no domicile or quasi-

regulating the celebration of an inter-ecclesial marriage involving Latin and Eastern Catholics. According to *CIC* c. 1109, as long as one of the parties, either bride or groom, in an inter-ecclesial marriage is a member of his ritual Church, the Latin pastor can validly assist at the marriage. When both parties are Eastern Catholics and, in a mixed marriage situation, the Catholic party is a member of an Eastern Church, with their own hierarch in the country, the Latin local ordinary or pastor must seek delegation from the competent Eastern hierarch or pastor, in order to assist validly at the marriage (c. 830 §1).⁶⁸

Proper delegation: The patriarch is endowed with the faculty to personally bless marriages anywhere in the world, as long as at least one of the parties is enrolled in the Church over which he presides, and observes the requirements of law (c. 829 §3). Canon law establishes that a local hierarch or pastor of one of the parties may validly assist at and bless marriages everywhere within the confines of their territory.⁶⁹ They can also validly delegate the faculty to bless a particular marriage ‘within the limits of their own territory’ to another priest of any Church *sui iuris*, including the Latin Church (c. 830 §1). The Eastern Code also specifies further that the local hierarch or pastor may also licitly

domicile are normally celebrated where they actually reside. The permission of the ordinary or pastor of one of the spouses is required to licitly celebrate marriage elsewhere (*CIC* c. 1115).

⁶⁸ The *CCEO* c. 831 §1, 1° says that a local hierarch or pastor lawfully blesses a marriage in “a place exclusively of another Church *sui iuris*, unless the hierarch who exercises power in that place expressly refuses.” The Latin Code does not say that a Latin ordinary or pastor can lawfully bless a marriage in a place exclusively of an Eastern Church *sui iuris*, unless the Eastern hierarch expressly refuses. The local Eastern Catholic hierarch and parish priest can delegate the faculty to bless a determined marriage’ within the limits of their territory’ to another priest of any Churches *sui iuris*, including the Latin Church (c. 830 §1).

⁶⁹ See *CCEO* c. 829 §1; *CIC* c. 1109.

bles a marriage in a place exclusively of another Church *sui iuris*, unless the hierarch who exercises power in that place expressly refuses (c. 831 §1, 3°). Therefore, in the case of a member of the Eastern faithful who might ask to be married by his/her pastor in a neighboring Latin parish or chapel, the Latin ordinary who has jurisdiction over that place need not grant an express permission or consent. If there is an Eastern local hierarch or pastor assigned to the same territory he may validly and licitly celebrate the sacred rite in the Latin parish unless the Latin ordinary expressly denies the permission.⁷⁰

The local hierarch can grant general delegation to a priest who can further sub-delegate others but only for a specific marriage. The pastor can grant general delegation only to his assistant (c. 302 §2); and the assistant pastor with such a faculty can sub-delegate others only for a specific marriage. The assistant pastor does not have the general faculty of blessing marriages unless he has general delegation in virtue of a general diocesan law or has received general delegation from the hierarch or from the pastor. Other priests can receive either from the hierarch or from the pastor a particular delegation, that is, one that refers to a specific marriage, as well as from the assistant pastor if he possesses general delegation.⁷¹ The local hierarch can give to any Catholic priest the faculty of blessing the marriages of the Christian faithful of an Eastern non-Catholic Church in the case where those faithful cannot approach a priest of their own Church without great difficulty, provided they voluntarily ask for the blessing and nothing stands in the way of a valid and licit celebration (c. 833 §1).

⁷⁰ See MARINI, *Comparative Sacramental Discipline*, p. 187.

⁷¹ See POSPISHIL, *Eastern Catholic Marriage Law*, pp. 377-378.

Within the boundaries of his own parish, a Latin pastor can validly assist at the marriages of: (1) two Latin Catholics; (2) a Latin Catholic with a non-Catholic; (3) a Latin Catholic with an Eastern Catholic, even if there is a pastor of the Eastern Church in the area of the marriage. While valid, such a marriage may be unlawful; (4) between an Eastern Catholic with a non-Catholic, if there is no hierarch or canonically erected parish of his/her own Church; (5) or between two Catholics of the same or differing Eastern Churches, if they have no hierarch or canonically erected parish.⁷²

Canonical Form: Regarding the canonical form, the Eastern Code stipulates that those marriages “are valid which are celebrated with a sacred rite, in the presence of the local hierarch, local pastor, or a priest who has been given the faculty of blessing the marriage by either of them, and at least two witnesses” (c. 828 §1). The Canonical form for members of the Eastern Catholic Church requires not only consent expressed before a duly authorized priest and two witnesses, but also that some form of liturgical blessing or ‘sacred rite’ be performed.⁷³ This blessing is necessary for validity even in the case of a

⁷² In the United States and Canada, if an Eastern Catholic parish is established in a territory, a priest of the Latin Church may not without special delegation given by the parish priest or eparch of the Eastern Church validly bless the marriages even if they are celebrated in the Latin priest’s own parish. This might involve, for example, two Eastern Catholics belonging to any of the several Eastern Churches with a hierarchy of their own in Canada and the United States; an Eastern Catholic person belonging to a Church with its own hierarchy marrying a baptized person who is not a member of the Catholic Church or who is as yet not baptized. In such cases, a Latin ordinary has no jurisdiction to permit such a marriage or grant a dispensation for it.

In the United States and Canada, a priest of the Latin Church, with the faculty to assist at marriages, may validly bless those marriages of Eastern Catholics in the following cases: two Eastern Catholics neither of whom belongs to a Church that has its own hierarchy in the country; an Eastern Catholic, who does not have a hierarch of his/her own in the country, marrying a baptized person who is not a member of a Catholic Church or who is not baptized with dispensation from the impediment of disparity of cult.

⁷³ A “sacred rite” is to be understood as “the intervention of a priest who assists and blesses” (c. 828 §2). In the Eastern tradition, Catholic and non-Catholic, the nuptial blessing, which is reserved to the

mixed marriage (c. 834 §2). Therefore, according to the Eastern tradition, the blessing of a marriage is reserved to priests. For this reason, a hierarch or a pastor cannot delegate an Eastern deacon to bless the marriage of Eastern faithful.⁷⁴ There are differences of opinion among canonists regarding the competency of Latin deacons to assist validly at the marriages of Eastern Catholics.⁷⁵ The celebration of a sacred rite required by this

priest, is required for the validity of the marriage. Hence it follows that the faculty of blessing a marriage cannot be conferred on a deacon. In the Latin Church, the marriage blessing is not an essential element of the ordinary form of celebration of marriage. The intervention of the priest as the representative of the ecclesial community in the celebration of marriage essentially consists only in the juridic act of asking and receiving the consent of the spouses (*CIC* c. 1108 §2). Hence, even a layperson may be delegated to fulfill this role (*CIC* c. 1112).

⁷⁴ Nedungatt argues that according to Eastern theology the ministers of the sacrament are the spouses with their mutual consent and with the sacred rite administered by the priest. "The minister of the sacrament of marriage is the one who posits the sacramental sign. In the Latin Church, the sacramental sign is only the legitimately manifested consent of the parties. It is the spouses who mutually confer the sacrament upon them. In Eastern Catholic Churches, the sacramental sign essentially consists in the indispensably reciprocal consent of the parties (c. 817 §1) and also by ecclesiastical disposition, in the sacred rite, that is, in the priestly blessing that is an essential element of the form and condition for the validity of marriage. Therefore, in the Eastern Catholic Churches, the ministers of the sacrament of marriage are the spouses together with the blessing of the priest. It is common among Orthodox writers that the sacrament of marriage consists solely in the priestly blessing." (NEDUNGATT, "Minister of the Sacrament of Marriage in the East and the West," pp. 305-388). Also see NEDUNGATT, *A Guide to the Eastern Code*, p. 543. In this regard the Congregation for Eastern Churches provided clear guidance in its *Instruction*: "It should be noted that the obligation of the sacred rite, and thus of the priestly blessing, for the validity of the marriage is specific to Eastern law. In the Latin Church, simply the presence of the local ordinary, or the parish priest, or a priest or deacon delegated by either of them is required. In the Eastern tradition, the priest, in addition to assisting, must bless the marriage. To bless means to act as the true minister of the sacrament, in virtue of his priestly power to sanctify, so that the spouses may be united to God in the image of the flawless nuptial union of Christ with the Church and be consecrated to each other by sacramental grace" (n. 82).

⁷⁵ George Gallaro seems to have two different views on the issue: "A Latin local ordinary cannot validly delegate a deacon to assist at marriage involving Eastern Catholics, even his subjects, since the Eastern canonical form requires the celebration of a sacred rite, which is explicitly defined as the intervention of a bishop or a presbyter assisting and blessing." See MARINI, *Comparative Sacramental Discipline in the CCEO and CIC*, p. 192. In another place he argues that when Eastern Catholics are subject to a Latin ordinary, a marriage blessed by a deacon with due delegation from the Latin ordinary must be considered valid, because the Latin deacon enjoys the faculty of imparting blessings, both constitutive and invocative. See George GALLARO, *Roman replies and CLSA Advisory Opinions*, 1995, p. 91. Pospishil also agrees with this latter view that a Latin deacon can validly assist at a marriage of Eastern Catholics. He says: "Of course, if an Eastern Catholic marriage rite is *lawfully* performed by a Latin deacon, the blessing of the deacon will be a valid marriage since the place rules the action (*locus regit actum*), i.e., when a juridical act is transferred *lawfully* elsewhere, the procedural norms of that place (or jurisdiction) rule the legal requirements. Such contingency could occur in a case of Eastern Catholics subject to the Latin bishop

form excludes the deacon in normal circumstances since the rite is defined as “the intervention of a priest assisting and blessing” (c. 828 §2). The patriarch or the Apostolic See can grant a dispensation from form “for most grave cause” (c. 835). Though there are differences of opinion among canonists on this issue, it can be argued that the Eastern Christian faithful, even if committed to the care of a hierarch or pastor of another Church *sui iuris*, nevertheless remain enrolled in their own Church (c. 38) and, therefore, must observe the norms on marriage of the Eastern Code.⁷⁶

Extraordinary form: The requirement of priestly blessing on an Eastern Catholic marriage is not *absolute* because the extraordinary form of marriage (c. 832) does not require the blessing for validity of the marriage in certain circumstances. The Eastern Code makes provisions for celebrating marriage validly and licitly in the presence of two witnesses in extraordinary circumstances (c. 832 §1).⁷⁷ However, if another priest, even a

and pastor. The Latin bishop has the faculty of granting a dispensation from the form in the case of marriages with non-Catholics (*CIC* c. 1127 §2). He can therefore make it possible by dispensing from the form in order for a deacon and even a lay person (*CIC* c. 1112) provided that the local bishops' conference has sanctioned such a procedure) to assist validly at a mixed marriage” (POSPISHIL, *Eastern Catholic Marriage Law*, p. 372). He agrees with the opinion that a Latin deacon can validly assist at the marriage of Eastern Catholics if they are subject to the Latin bishop from whom the deacon receives his delegation. Dimitrios Salachas says: “However, we maintain that the Latin deacon cannot bless the marriage, whether between a Latin and an Easterner, or between Easterners, because it is contrary to the theological and canonical tradition of the Eastern Churches” (Dimitrios SALACHAS, *Il sacramento del matrimonio nel nuovo diritto canonico delle Chiese orientali*, Rome/Bologna, Editioni Dehoniane, 1994, pp. 200-201). Joseph Prader maintains that a Latin local ordinary could delegate a Latin deacon to bless a marriage between Eastern Catholics subject to him. “However, we maintain that the Latin local ordinary, where a hierarch and proper pastor of the Eastern faithful is lacking, can validly and licitly delegate a Latin deacon to bless the marriage of Eastern faithful, if they are subjects of the Latin ordinary in conformity with *CCEO* c. 916 §5. In any event, *CCEO* c. 828, which prescribes the blessing, must be observed. The Latin deacon has the faculty to impart both constitutive and invocatory blessings” (Joseph PRADER, *La legislazione matrimoniale latina e orientale; problemi interecclesiali, interconfessionali e interreligiosi*, Rome, Edizioni Dehoniane, 1993, p. 39).

⁷⁶ See MOTIUK, “The Code of Canons of the Eastern Churches,” pp. 220-221.

⁷⁷ *CCEO* c. 832 §1: “If the priest who is competent in accord with the norm of law cannot be present or be approached without grave inconvenience, those who intend to celebrate a true marriage can

non-Catholic, is present, he is to bless the marriage, “without prejudice to the validity of the marriage celebrated in the presence of only the witnesses” (§2). In any event, spouses who marry according to the extraordinary form are to receive the blessing of a priest as soon as possible (§3). While the extraordinary form recognizes that the natural right to marry may be compromised in certain situations, as during wartime or persecution, the provision itself is clearly at odds with Eastern marriage theology.⁷⁸

Persons bound by canonical form: The obligation to observe canonical form derives from the ascription either through baptism or reception into the Catholic Church (c. 834). In a marriage which involves a Catholic and a non-Catholic (Protestant), the canonical form is obligatory. This obligation also extends to a marriage of a Catholic with an Eastern non-Catholic before a non-Catholic priest. However, in the latter instance the form for the celebration of marriage prescribed by law is to be observed only for liceity; for validity, however, the blessing of a priest is required, while observing the other requirements of law (c. 834 §2).⁷⁹

The dispensation from the canonical form of marriage between two Eastern Catholics (allowing for a danger of death situation) is reserved to the Apostolic See or to

validly and licitly celebrate it in the presence of two witnesses only: 1° in danger of death; 2° apart from the danger of death, provided it is prudently foreseen that this state of affairs will continue for a month.”

⁷⁸ See MOTIUK, “The Code of Canons of the Eastern Churches,” p. 218.

⁷⁹ The Eastern Code explicitly recognizes the legitimacy of the matrimonial law of the non-Catholic Churches and Ecclesial communities (cc.780 §2; 781). The proper law of the baptized non-Catholic would be used to determine matrimonial impediments, if any, when the Church is called to decide on the question of the validity of non-Catholic marriages. With regard to the form of the celebration of marriage, the Church recognizes any form prescribed or admitted by the law to which the parties were subject at the time of the celebration of the marriage, provided that the consent had been expressed in a public form (c. 781, 2°). But if at least one party is a Christian faithful belonging to an Eastern non-Catholic Church, the marriage must be celebrated for validity, with a sacred rite (c. 781, 2°).

the patriarch within the patriarchal territory (c. 835).⁸⁰ Since the six Eastern Catholic patriarchal Churches and the two major archiepiscopal Churches validly exercise their power of governance within the territorial boundaries of their respective Churches *sui iuris*, the dispensation from the form of marriage celebration for their faithful in the United States and Canada is, for the present time, reserved to the Apostolic See. In the case of the other thirteen Churches *sui iuris*, both inside and outside their historical territories, a dispensation from the canonical form can only be granted by the Apostolic See.

5. 2. 7. Sacred Ordination

The Eastern Code defines that “in virtue of sacred ordination clerics are distinguished as bishops, presbyters and deacons” (c. 325). In addition to these, other ministers are also admitted or instituted for the service of the people of God. In order to exercise functions of the sacred liturgy, they are to be raised to minor Orders and generally called “minor clerics.” Their role is governed by the particular law of their own Church *sui iuris* (c. 325).⁸¹ The Code also allows the Church in the diaspora to adopt a common program of formation for all candidates to the priesthood, even those from

⁸⁰ See AAS, 77 (1985), p. 771.

⁸¹ *Instruction*, n. 73: “Whoever has received minor Orders, is no longer a lay person, but becomes a member of what the liturgical books of most Eastern Churches call the ‘clergy’ or ‘Sacred Orders.’ The difference between minor Orders and ministries entails consequences also in the way of interpreting c. 358: it affirms that a candidate ‘is enrolled as a cleric in the eparchy for whose service he is ordained unless, according to the norm of the particular law of his own Church *sui iuris*, he has already been enrolled in the same eparchy’. It would be beneficial that the enrollment in the clergy of the different eparchies happen at the moment of the constitution in a minor Order, so as to place the minister from that moment into a full and stable form of service for the eparchy.” Ibid., n. 75: “The minor orders and the diaconate are not mere formalities in preparation for presbyteral ordination. They provide a specific service in the Church, and as such are to be effectively exercised in a definitive way by those who do not intend to enter the presbyterate, and in a sufficiently ample way by those who are to be ordained presbyters.”

various ritual traditions, and it leaves the task of priestly formation to the Synod of Bishops (c. 330 §2). The Code also has norms relating to the ordination of married men to the priesthood (c. 758 §3).

According to ancient tradition, and as a rule, at least three bishops should participate in an episcopal ordination.⁸² If bishops of the same Church *sui iuris* as that of the first ordaining bishop are not available, the other two bishops may be from other Churches *sui iuris* (c. 746 §2).

As a rule, diaconal and presbyteral ordinations must be celebrated by one's own bishop, or by another bishop with legitimate dimissorial letters (c. 747).⁸³ An eparchial bishop cannot ordain one of his subjects ascribed to another Church *sui iuris* without the permission of the Apostolic See, or of the patriarch. This applies if it concerns a candidate ascribed to a patriarchal Church and who has a domicile or quasi-domicile within the territorial boundaries of the same Church.⁸⁴ Hence, it is necessary to distinguish the ascription to a Church *sui iuris* of a candidate to holy Orders from ascription to an eparchy. The ascription to a Church *sui iuris* takes place according to the

⁸² See *CCEO* c. 746 §1; *CIC* c. 1014.

⁸³ A dimissorial letter is the document by which one's own bishop authorizes another bishop to ordain his subject. Without the dimissorial letter, the ordination is illicit, but valid. An ordination performed by another bishop without the dimissorial letter is a penal offense (c. 1459 §2). For a detailed discussion about the decree of accommodation and apostolic indult, see Jobe ABBASS, "The Admission of Eastern Catholics to the Novitiate of Latin Religious Institutes," in *StC*, 36 (2002), pp. 293-318.

⁸⁴ See *CCEO* c. 748 §2; *CIC* c. 1015 §2; *Instruction*, n. 77 reads: "The obligation of this permission concerns only the licitness of the celebration of ordination and more appropriately refers to the case in which the celebration takes place in a liturgical rite that is different from that to which the candidate belongs, or when the ordaining eparchial bishop asks permission to celebrate the ordination in the rite of the candidate. Beyond the rite of the celebration itself, the bishop of the eparchy or diocese where the candidate is to be enrolled maintains the full rights of granting dimissorial letters to a Bishop belonging to the candidate's own Church *sui iuris*, so that the sacred ordination proceeds while observing the liturgical prescriptions of the proper rite."

norms of cc. 29-38, while the ascription to an eparchy takes place through diaconal ordination.⁸⁵ Both Codes establish the same norm for Eastern Catholics living in the diaspora so that Eastern Catholic Churches can safeguard the ascription of their members everywhere.⁸⁶

The same principle is followed in relation to the norm for issuing dimissorial letters.⁸⁷ If a cleric ascribed to an Eastern Church *sui iuris* wishes to transfer to the Latin Church and be ascribed to a Latin diocese, the consent of the Apostolic See is required, pursuant to c. 32, for transfer to the Latin Church. Additionally, the procedure of c. 359 for the transfer from one eparchy to another (dimissorial letters of his bishop and letters of ascription of the bishop of the eparchy to which he wishes to be ascribed) should also be followed. In summary, the parallel norms effectively confirm the rule that, even if Eastern Catholics in the diaspora are committed to the care of a Latin bishop, or vice versa, they always retain their ascription to their own Church *sui iuris* (c. 38).⁸⁸

The state of married clerics has always been held in high honor, sanctioned as it had been in practice through the centuries, by the early Church and the Eastern Churches (c. 373). However, when it is a matter of admission of married men to sacred orders, the norms of particular law of each Church *sui iuris* or the special norms given by the Apostolic See should be observed (c. 758 §3). In various Eastern Churches celibacy was

⁸⁵ See *CCEO* c. 358; *CIC* c. 266.

⁸⁶ In a particular case involving members of patriarchal Churches having domicile or quasi-domicile within the territorial boundaries of the same Church, *CCEO* c. 748 §2 makes provision for the patriarch to grant the required permission to the ordaining bishop of another Church *sui iuris*.

⁸⁷ See *CCEO* cc. 472, 537 §2, 560, 752; *CIC* c. 1021.

⁸⁸ See Jobe ABBASS, "Canonical Dispositions for the Care of Eastern Catholics Outside Their Territory," in *Periodica*, 86 (1997), pp. 353-354.

observed as a rule by clerics for long periods of time. When speaking of celibate clergy and married clergy, one must keep in mind that both celibacy and marriage in the presbyteral ministry have been part of the tradition of the universal Church. As part of this whole tradition, a married man in Eastern Churches considered suitable to receive the presbyterate, according to the law, should not be refused. On the other hand, it would be contrary to Eastern and Latin traditions for a Latin faithful, who is a candidate to holy Orders, to seek ascription to an Eastern Church just to be ordained as a married cleric.⁸⁹

An Eastern Catholic priest, celibate or married, can celebrate the divine liturgy on the altar of any Catholic Church and it would be contrary to canonical legislation if a married Eastern priest were to be prevented from celebrating in a Latin Church simply because he is married. Impediments for receiving or exercising sacred orders cannot be established by particular law (c. 764).

The permanent diaconate, both in the East and the West, is ordained “not unto the priesthood, but unto the ministry.”⁹⁰ A deacon is seen as a member of the hierarchy, not as a layperson. In the liturgy, the deacon is at the service of the bishop, preaching during the divine liturgy and at other sacramental and non-sacramental celebrations. As the Eastern Code states, “bishops, priests and deacons, each according to the grade of his sacred order, have as their foremost duty the ministry of the Word of God” (c. 608). Deacons, like priests of the Eastern Churches, may be either celibate or married men.

⁸⁹ See MARINI, *Comparative Sacramental Discipline*, pp. 201-202.

⁹⁰ *LG*, n. 29.

In order to be licitly admitted to the novitiate of a religious institute (monastery, order or congregation)⁹¹ of another Church *sui iuris* a candidate of an Eastern Catholic Church requires the permission of the Apostolic See (cc. 432 and 517 §2). There are a few elements to be especially noted in these canons. First, since the permission of the Apostolic See for an Eastern Catholic to enter the novitiate of a Latin religious institute is required only for liceity, the absence of such permission does not invalidate a candidate's subsequent professions.⁹² Second, the Eastern candidate for the novitiate of a Latin religious institute must seek the required permission from the Apostolic See and not from the hierarchical authorities of his/her own Church *sui iuris*. Third, the permission of the Apostolic See for an Eastern candidate to enter a Latin rite novitiate licitly does not by itself demand or cause a change in the candidate's ascription to his/her Church *sui iuris*.⁹³ Finally, such permission is not required if the Eastern candidate for the novitiate of a Latin religious institute is destined for a monastery or a religious house or province of that institute which has been ascribed to the Church *sui iuris* to which that candidate

⁹¹ "A monastery is a religious house in which the members strive for evangelical perfection by the observance of the rules and traditions of the monastic life" (c. 433 §1). "An order is a society erected by a competent ecclesiastical authority, in which the members, although they are not monks, make a profession that is equivalent to monastic profession" (c. 504 §1). "A congregation is a society erected by a competent ecclesiastical authority, in which the members make profession with the three public vows of obedience, chastity and poverty, which, however, are not equivalent to monastic profession, but they have their own force in accord with the norm of law" (c. 504 §2).

⁹² See ABBASS, "The Admission of Eastern Catholics," p. 299.

⁹³ Commenting on *CIC* c. 645 §1, Rosemary Smith states: "The licit admission of such a candidate requires an indult of accommodation either from the head of the Eastern Church *sui iuris* (i.e., the patriarch, major archbishop, or metropolitan) or, in the United States, from the Apostolic pro-nuncio who may grant such an indult" (Rosemary SMITH, "The Governance of Institutes," in John P. BEAL, James A. CORIDEN, Thomas J. GREEN [eds.], *New Commentary on the Code of Canon Law*, New York/ Mahwah, NJ, Paulist Press, 2000, p. 811, footnote 105).

belongs.⁹⁴ This law governing admission of an Eastern candidate to the novitiate is applicable not only to monasteries but also to orders and congregations (c. 517 §2), and to societies of common life according to the manner of religious (c. 559 §1), provided that the candidate is not destined for a province or house of his/her Church *sui iuris*.⁹⁵ However, for the admission of candidates to secular institutes the Code does not demand such a requirement (c. 568 §1). Such an admission without the necessary permission of the Holy See may not affect its validity, but only its lawfulness.

In the case of houses and provinces of Latin religious institutes ascribed to an Eastern Church *sui iuris*, while they continue to be governed by their own constitutions and statutes regarding matters of internal governance, they are subject to the Eastern Code and to the particular laws of the Eastern Church to which they are ascribed in matters pertaining to their apostolate and governance.

⁹⁴ See ABBASS, "The Admission of Eastern Catholics," p. 299- 302. The implementation of *CCEO* c. 432 can be seen in Kerala, India. A custody of the Conventual Franciscan Friars, a vice-province of the Redemptorists, and two provinces of the Capuchin Franciscan Friars have been ascribed to the Syro-Malabar Church. While Syro-Malabar candidates normally require the permission of the Holy See to enter a Latin rite novitiate licitly, they do not need that permission if destined for those parts of the Latin religious institutes ascribed to the Syro-Malabar Church *sui iuris*. Wherever the candidates are destined to a religious institute of another Church *sui iuris*, they will be bound to observe the rules or statutes regarding that institute's internal governance. For example, the rule of St. Francis applies in those Franciscan Orders, that are ascribed to an Eastern Catholic Church *sui iuris*.

⁹⁵ The common law in the Eastern Code permits monks and religious to transfer to another monastery or to another religious institute. If this transfer takes place from and to the monasteries of the same confederation, the permission of the president of the confederation is sufficient (c. 487 §1). If the transfer is from and to non-confederated monasteries but subject to the same authority, the permission of this authority is enough (c. 487 §2). If they are subject to two different authorities, permission of both authorities is needed (c. 487 §2). Thus in the monasteries of eparchial right, permission to transfer from one monastery to another is given by the eparchial bishop, provided that the monastery to which the transfer is sought belongs to the same *sui iuris* Church. But if transfer is requested to a monastery of another *sui iuris* Church, the consent of the Apostolic See is required (c. 487 §4). This consent is also necessary for both orders and congregations (c. 544 §4) as well as for the societies of common life existing after the manner of religious (c. 562 §1).

5. 2. 8. Prohibition Against Married Priests in the United States

According to the Second Vatican Council the Eastern discipline is to be observed by Easterners everywhere, without any territorial restriction.⁹⁶ This is the principle: however, in practice, a territorial restriction has been imposed on the apostolic tradition of married clergy.⁹⁷ The current discipline regarding the tradition of married clergy requires two different sets of ordinances; one for inside the historical territory of Eastern Catholic Churches and the other for the diaspora.

The issue of Eastern Catholic married clergy in the North American continent has already been dealt with at length. During the mass migrations of the late 19th and early 20th centuries Eastern Catholics brought with them to the North American continent their culture, tradition and liturgy. In the 1890's the Latin Catholic American hierarchy, immigrants themselves, mostly from Ireland, who had brought with them their culture and tradition, was confronted with a wave of Eastern Catholic immigrants who actually brought or wanted to bring with them married priests who would minister to their communities. The notion of a married clergy was unknown to local clergy trained in Western Europe. As a result, the married clergy who accompanied the immigrants often had to face hostile reactions and rejection from the local Latin hierarchy.⁹⁸

The Latin Catholic bishops of the United States and Canada were of course within their legal rights to determine which clerics they wanted to minister in their dioceses.

⁹⁶ See *OE*, n. 4.

⁹⁷ See George NEDUNGATT, "Celibate and Married Clergy in *CCEO* Canon 373," in *StC*, 36 (2002), p. 159.

⁹⁸ See John SEKELICK, "Catholic Ruthenians of the Byzantine Rite in the United States of America," in *Diakonia*, 24 (1992), pp. 19-59.

When the immigrant married priests of the Eastern Catholic Churches presented themselves to the local Latin ordinary for ministry, in accordance with the instructions of the Congregation for the Eastern Churches, they were often refused permission to exercise ministry because of their marital status. For lack of proper guidelines on the issue, the North American bishops turned to the Holy See for direction, especially with respect to questions concerning clerical celibacy and pastoral ministry by married priests in the new land.

In a letter to the archbishop of Paris, on 12 May 1890, the Congregation for the Propagation of the Faith clarified the position and jurisdiction of a patriarch outside his territory.⁹⁹ On 1 October 1890, the same Congregation issued a decree concerning the North American question.¹⁰⁰

Another letter, addressed to Archbishop Gibbons, archbishop of Baltimore, on 10 May 1892 stated that only celibate priests were allowed to go to North America, and

⁹⁹ See ASS, 24 (1891-1892), p. 390, where we read: "Maxima est generalis huius sacrae Congregationis quod Patriarchae ritus orientalis exercere nequeant propriam iurisdictionem extra eorumdem Patriarchatus; et consequenter quod sacerdotes et fideles cuiuslibet ritus orientalis, domicilium habentes extra respectivos Patriarchatus, sive etiam intra limites eorumdem, sed non habentes parochos proprii ritus, subiiciantur Ordinario latino loci, in quo morantur, praecipue in diocesibus latinis."

¹⁰⁰ See *Collectanea*, vol. 2, n. 1966: The following norms were presented:

1. Priests of the Eastern Catholic Church who immigrate to North America must be celibate.
2. The Sacred Congregation must be notified in writing to which Latin diocese such priests are to be assigned in order that the Latin ordinary may be prepared for their arrival.
3. Each priest must present himself to the ordinary in whose diocese he wishes to exercise sacred ministry in order that he may obtain faculties.
4. The priests must be subject to the ordinary in whose jurisdiction they are.

those married priests already in the country were to return to their diocese of origin.¹⁰¹

All appeals to North American Latin bishops for concessions with respect to married clergy were met with opposition and rejection.

The American Latin Catholic hierarchy claimed that their Roman Catholic faithful could not distinguish between a Ruthenian married priest and a Protestant minister, and this was a source of confusion and scandal. The presence of married priests was also regarded as a danger to the chastity of the celibate Roman Catholic clergy. For this reason they requested the Apostolic See to impose a prohibition against Eastern Catholic married priests exercise in the United States.¹⁰² On 14 June 1907, Pius X established an episcopal jurisdiction for the Ruthenian Church in North America and addressed the issue of married clergy, making it very difficult for married priests to exercise their priestly ministry in the diaspora.¹⁰³ On 1 March 1929, the Congregation for the Eastern Churches promulgated the decree *Cum data fuerit*, which unequivocally prohibited married clergy from ministering on the North American continent.¹⁰⁴ Finally a complete prohibition on

¹⁰¹ See "Decretum de sacerdotibus ruthenis," in *American Ecclesiastical Review*, 7 (1892), pp. 66-67.

¹⁰² See C. SIMON, "The First Years of Ruthenian Church Life in America," in *Periodica*, 60 (1994), pp. 187-232.

¹⁰³ See PIUS X, Apostolic letter, *Ea semper*, 14 June 1907, in *ASS*, 41 (1908), pp. 3-12.

¹⁰⁴ See *AAS*, 21 (1929), pp. 155-159; also see CONGREGATION FOR THE EASTERN CHURCHES, Decree, *Qua sollerti*, 23 December 1928, in *AAS*, 22 (1930), pp. 99-105. After the prohibition, it became very difficult to obtain the ministry of a priest since the priests from their homeland were usually married and thus majority of Eastern Catholics left their original *sui iuris* Churches and ascribed themselves to the corresponding Orthodox Churches, Latin Church and Protestant communities.

married clergy was imposed in 1930 not only in the United States but also in the entire North, South, and Central America as well as in Australia.¹⁰⁵

The approach adopted by the Holy See toward the ordination of married men in the United States is understandable in light of the 19th century ecclesiology and the purely western notion of clerical celibacy. However, times have changed, situations have improved, a new ecclesiology has emerged from the teachings of the Second Vatican Council and the possibility of scandal has disappeared. The Latin Church itself has already ordained married former Anglican priests. Now everywhere in the Latin Church there are married permanent deacons. Moreover, married priests of the Eastern Orthodox Churches are present all over the land. The Australian hierarchy has even formally indicated to the Apostolic See that it would have no objection if the prohibition against married priests were lifted.¹⁰⁶ The Canadian Conference of Catholic Bishops has gone on record in 1974 in support of the ordination of married Eastern Catholic candidates in Canada. But the Congregation for Eastern Churches has rejected such moves and declared that the lifting of the prohibition is reserved to the Apostolic See. Again a second time in 1989 the Canadian Bishop's Council recommended the lifting of the prohibition.¹⁰⁷ Perhaps it is time for the United States Catholic Conference of Bishops (USCC) to consider proposing a similar request that the prohibition be lifted.

¹⁰⁵ See AAS, 22 (1930), pp 99-105.

¹⁰⁶ See *Church and Life, Ukrainian Weekly*, 1-7 June 1998, p.7.

¹⁰⁷ MOTIUK, "The Code of Canons of the Eastern Churches," pp. 216-217: "Numerous written and personal interventions to the Apostolic See have been made by the Ukrainian Church requesting the prohibition be abrogated. To date, no favorable responses have been received and the matter continues to be addressed by the heads of the various Eastern Catholic Churches and the Apostolic See, the latter of which maintains that the prohibition against the ordination of married men in the so-called diaspora

Honesty and prudence should guide any radical change in this discipline. One should note that the removal of the restriction would not oblige Eastern Catholic bishops to ordain married men to the priesthood. Even if the prohibition were lifted, many Eastern Churches would probably continue the practice of optional clerical celibacy for practical and historic reasons. Any movement for reform and renewal must come from within the Eastern Churches themselves, and the decision to implement changes must be on the initiative of these Churches. Where there is a married clergy, these must be respected and supported.

There could arise some inter-ecclesial problem when a Latin diocesan bishop decides to establish a personal parish for the faithful of a different Church *sui iuris* in his diocese according to the norms of the Latin Code.¹⁰⁸ In this situation one may raise the following questions: Can a Latin bishop ascribe/enroll to his diocese a married Eastern presbyter in order to assign him to an Eastern rite personal parish? Or again, can a Latin bishop enroll to his diocese a married Eastern rite man who aspires to the presbyterate in order to minister to Eastern Catholics in his diocese? Some respond to these questions

remains in effect. More recently, the intervention of the Byzantine Metropolitan Church *sui iuris* of Pittsburgh in the matter of ordination of married men presents an interesting case in point. The promulgation of the particular law of this Church was delayed one year when the Congregation for the Eastern Churches asked for a revision of the norms due to a miscommunication regarding its text. The text approved by the Vatican demands that the bishops of the Byzantine Church *sui iuris* who plan to ordain married men to the priesthood must first submit the names of the candidates to Rome for approval on a case-by case basis. While the motivation behind the norm is questionable, it is clear that the Byzantine Church *sui iuris* is competent to judge the qualification and preparedness for ordination of celibate candidates, but not for married men.”

¹⁰⁸ See *CIC* cc. 383 §2 and 518.

affirmatively saying the Latin bishop can licitly do this in order to provide for the pastoral care of his Eastern rite subjects.¹⁰⁹

Lifting of the prohibition is also not without problems that will have to be addressed. Supporting married clergy and their families will be a greater challenge than supporting a celibate clergy. Transfer of clergy will also be more difficult since the needs of all family members, such as spouses and children will have to be taken into account. The spiritual and academic formation of the seminarians who are married will be challenging. The Eastern students should be formed in the spirit of the East, receiving their basic, foundational education in Eastern Christian studies. Latin faithful should also be exposed to the traditions of the Eastern Churches as an integral part of the heritage of Christ's Church.¹¹⁰

The Eastern Churches have a deep reverence for the celibate state as lived by monks and nuns. The episcopate, the fullness of priesthood, is only bestowed on celibate priests. It is the mind of the Catholic Church that each individual Church *sui iuris* retain its traditions whole and entire, while adjusting its way of life to the various needs of time

¹⁰⁹ See MARINI, *Comparative Sacramental Discipline*, p. 202.

¹¹⁰ See MOTIUK, "The Code of Canons of the Eastern Churches," p. 211. John Paul II exhorts all the faithful of the Western tradition to get acquainted with the Eastern traditions. In *Oriente lumen* he says: "The members of the Catholic Church of the Latin tradition must also be fully acquainted with this treasure and thus feel, with the Pope, a passionate longing that the full manifestation of the Church's Catholicity be restored to the Church and to the world, expressed not only by a single tradition, and still less by one community in opposition to the other; and that we too may be granted a full taste of the divinely revealed and undivided heritage of the universal Church which is preserved and grows in the life of the Churches of the East as in those of the West" (*OL*, n. 1). Lifting of the restriction would result in significant changes in the lives of the Eastern Catholic Churches in the diaspora. A positive result would probably be the provision of priests for communities currently lacking them. Since the Eastern Catholic faithful are dispersed, they are sometimes found in rather small communities, too small to support the full-time ministry of a priest. If a mature married man (possibly one who is already a deacon) were ordained, he could serve the community without being totally dependent on it for a livelihood.

and place.¹¹¹ The Second Vatican Council, through its ecclesiology, has affirmed the Eastern discipline¹¹² and has placed the Eastern married clergy in a positive light, recognizing its full legitimacy.

Even though the Second Vatican Council has mandated all Eastern Catholic Churches to foster their sacred traditions and customs in every part of the world,¹¹³ the prohibition has been reinforced with regard to the admission of married men to sacred order in the *CCEO*.¹¹⁴ Pope John Paul II has urged all the Eastern Catholic bishops of the United States to treasure the heritage of the Eastern Catholic Churches and to take care to hand it on integrally to future generations.¹¹⁵

5.3. PARTICULAR LAWS AND TRADITIONS OF THE EASTERN CHURCHES

Out of concern for Eastern Churches and with a hope that they will flourish and fulfill with fresh apostolic vigor the task entrusted to them, the Second Vatican Council in its decree *Orientalium Ecclesiarum*, decided to draw up some guiding principles in addition to those applicable to the whole Church, leaving other matters to the care of the

¹¹¹ See *OE*, n. 2.

¹¹² See *PO*, n. 16.

¹¹³ See *OE*, n. 24. Here we read: "The Eastern Churches in communion with the Apostolic See of Rome have a special role to play in promoting the unity of all Christians, particularly Eastern Christians, according to the principles of this sacred synod's Decree on Ecumenism: first of all by prayer, then by the example of their lives, by religious fidelity to ancient Eastern traditions, by greater mutual knowledge, by collaboration, and by brotherly regard for objects and attitudes."

¹¹⁴ *CCEO* c. 758 §3: "The particular law of each Church *sui iuris* or special norms established by the Apostolic See are to be followed in admitting married men to sacred orders." It should be noted that the prohibition is still in effect in the United States and Canada and the canon does not give full freedom to practice the ancient tradition of married priests.

¹¹⁵ See JOHN PAUL II, Address to the Eastern Catholic Bishops of the United States, 23 November 1978, in *Diakonia*, 14 (1979), pp. 83-84.

Eastern synods and the Apostolic See. The council granted freedom to Eastern Churches at least in some areas: for example, the administration of the sacrament of holy chrismation by all priests, but following, for liceity, what is laid down by their common and particular law (*OE*, n. 14), the nature of subdiaconate and of minor orders according to the law of each Church *sui iuris* (*OE*, n. 17), the feast days of an individual Church to be determined also by the patriarchal or archiepiscopal synods (*OE*, n. 19), the date of the Easter celebration (*OE*, n. 20), the divine praises in tradition and in particular law (*OE*, n. 22), and finally the language of the sacred liturgy to be determined by the patriarch or the supreme authority of the Catholic Church (*OE*, n. 23).

CCEO c. 1493 states that the term particular law designates all laws, lawful customs, statutes and other norms of law which are not common to the whole Church or to all Eastern Churches. The *CCEO* has left sufficient room for particular laws. It is the responsibility of each Church *sui iuris* to determine the area where there a need for particular legislation.¹¹⁶ No deadline is prescribed for its promulgation, and it is left to the supreme authority of each Church *sui iuris* to decide when it is to be prepared and promulgated. However, the Supreme Legislator has exhorted all the legislators of each Church *sui iuris* to draft their own particular laws “at the earliest possible time.”¹¹⁷

¹¹⁶ See Kuriakose BHARANIKULANGARA, *Particular Law of the Eastern Catholic Churches*, New York, Saint Maron Publications, 1996, pp. 11-15.

¹¹⁷ JOHN PAUL II, Apostolic Constitution, *Sacri canones*, in *AAS*, 82 (1992), p. 1036: “Besides, in this matter, attention should well be given to all of the things committed to the particular law of each *sui iuris* Church, which may not be considered as necessary for the common good of all Eastern Churches. Concerning these matters, our wish is that those who possess legislative power in each *sui iuris* Church should provide at the earliest possible time its own particular norms, keeping in mind the traditions of their own rite as well as the teachings of the Second Vatican Council.”

The *CCEO* legislates principally on matters common to all Eastern Catholic Churches. However, in almost every title of the Code ample room is provided for each of the Eastern Catholic Churches *sui iuris* to develop its own particular laws in accordance with common laws binding all Eastern Catholic Churches. Norms pertaining to several particular matters are often left to the particular law, to the decisions of the Synod of Bishops, the Council of Hierarchs, the provisions of *typicon* and the statutes and decrees of institutions.

5. 4. CONCRETE STEPS TAKEN TO PROMOTE PASTORAL CARE OF EASTERN CATHOLICS

In order to identify the concrete steps taken to provide effective pastoral care to the members of the Eastern Catholic Churches *sui iuris* by the local Latin archdioceses/dioceses of the United States and Canada, we undertook a survey of some issues related to our topic. Though the survey is of a limited scope numerically and geographically, we tapped on some major areas of concern with respect to the pastoral care of the members of the Eastern Catholic Churches.

The survey reached a representative sample of ten archdioceses/dioceses across the United States and Canada¹¹⁸ through a questionnaire on the actual state of the pastoral care of Eastern Catholics in the United States and Canada. Almost all respondents were either persons in charge of the pastoral care of the Eastern Catholics of the archdiocese/diocese or were delegates, authorized to provide requested information. The questions were intended to extract information on the provision and manner of pastoral

¹¹⁸ For a complete description of this field study, see the Appendix II.

care of Eastern Catholics as well as any canonical structure(s) created for this purpose in the archdioceses/dioceses involved. We chose for our study only a limited number of archdioceses/dioceses across North America due to the fact that majority of the Eastern Catholic immigrants initially settle in major cities due to employment opportunities. The following are the results of our survey:

(1) Diocese of Rockville Center: Within the territory of the diocese there are members of two Eastern Catholic Churches *sui iuris*, Syro-Malabar and Syro-Malankara, providing pastoral care. The diocese established a quasi-parish, according to *CIC* c. 516 §1, for the Syro-Malankara Catholic faithful residing in the diocese where they assemble on a weekly basis for Sunday liturgy. There is an administrator appointed to the quasi-parish who serves also in the Latin parish as a fulltime associate.¹¹⁹ Although there are about nine Syro-Malabar priests serving in the diocese only one priest has a diocesan appointment to provide pastoral care to the Syro-Malabar faithful residing in the diocese.

¹¹⁹ The diocese of Rockville Center has established the following policies and procedures for the quasi parish erected for the Syro-Malankara Catholic community:

- i. The administrator will accurately maintain sacramental registers and financial accounts.
- ii. The administrator will communicate letters of the diocesan bishop to the members of the mission.
- iii. The administrator will submit an annual spiritual report to the diocesan bishop.
- iv. The administrator will submit an annual budget and financial report to the diocesan finance office.
- v. The mission will be responsible for the usual diocesan assessments, the bishop's annual appeal goal, and national collections taken up in this diocese.
- vi. The administrator will receive support, guidance and direction from diocesan officials and departments.
- vii. The mission will be governed by universal and particular Church law and be subject to the authority of the Diocesan bishop of the Diocese of Rockville Center until such time as the Holy See deems it fitting to establish an eparchy of the Syro-Malankara Catholic Church in the United States of America.

(2) **Archdiocese of Baltimore:** This archdiocese has, within the territory, three Eastern Catholic Churches *sui iuris*, the Ruthenian, Ukrainian, and Syro-Malabar. Ruthenians and Ukrainians have established their own parishes and the Syro-Malabar faithful use Latin parishes for their Sunday worship. Although several Syro-Malabar priests are serving in various diocesan appointments, none of them is appointed to provide pastoral care to the Syro-Malabar faithful on a fulltime basis. There are members of several other Catholic Churches *sui iuris* living in various parts of the archdiocese. No other organized community exists nor has any provision been made for their pastoral care by the archdiocese.

(3) **Archdiocese of Chicago:** There are, in the archdiocese of Chicago, members of nine Eastern Catholic Churches *sui iuris*: Ukrainian, Syro-Malabar, Chaldean, Maronite, Melkite, Belarus, Ruthenian, Syro-Malankara, and Syrian Churches providing organized pastoral care to their members.

Missions have been established by the archdiocese for the Chaldean, Syrian, and Syro-Malankara Churches *sui iuris*. There is no episcopal vicar or delegate assigned to the pastoral care of Eastern Catholics in the archdiocese. However, there is a delegate appointed by the archbishop for the Syro-Malabar Church *sui iuris* although the relevance of that delegation has been significantly diminished upon the establishment of an eparchy. The missions established for the Syro-Malabar Church *sui iuris* have been incorporated into the eparchy of the Saint Thomas Syro-Malabar Church with its priests immediately appointed by the eparch. The members of the Belarus and Syrian Churches are ministered to by Latin and Maronite Priests who have bi-ritual indults. The

archdiocese faces difficulties when there are marriages with neither party belonging to the rite of the priest.

(4) Archdiocese of Los Angeles: The archdiocese of Los Angeles has members of thirteen Eastern Catholic Churches *sui iuris*: Armenian, Chaldean, Coptic, Maronite, Melkite, Syrian, Ukrainian, Syro-Malabar, Syro-Malankara, Romanian, Ruthenian, Hungarian and Russian Churches. The Melkites and the Romanians have one mission each with their own priest appointed by the archdiocese. The Syro-Malankara has no priest assigned on a permanent basis and the faithful are cared for under the direction of the Archdiocesan office of ecumenical and inter-religious affairs.

(5) Archdiocese of Newark: There are members of six Eastern Catholic Churches *sui iuris* in the archdiocese of Newark: Coptic, Syrian, Ukrainian, Syro-Malabar, Ruthenian and Syro-Malankara. Out of the six, two Churches, Coptic and Syro-Malankara, have no episcopal jurisdiction in North America.

Though the Syro-Malabar Church has a hierarchy in the United States, most of their communities and parishes are still using the facilities of the Latin parishes for their Sunday Liturgies and other activities. There are five established missions for the Syro Malabar Church and they are currently under the jurisdiction of the Syro-Malabar eparch of Chicago. One priest has been appointed by the archdiocese for the pastoral care of the Syro-Malabar faithful with four other priests helping him. All the Syro-Malabar priests are serving fulltime in Latin parishes and providing pastoral care to the Syro-Malabar faithful on weekends.

The Coptic Church had a weekly mass celebrated in one of the Latin parishes until a few years ago, but this ceased upon the death of the Coptic priest. The Latin episcopal vicar of the local area of the archdiocese was entrusted by the archbishop to oversee the pastoral care of the Coptic Catholics in his parish. Because of the small number of Coptic families in the archdiocese, the service was discontinued. The existing Coptic families attend Coptic liturgy occasionally in the neighboring diocese which is at least 40 miles away.

The Syro-Malankara Church had Sunday Liturgies regularly for almost 8 years in a local Latin church. Due to the limited number of families and financial constraints they had to change the venue and now they occasionally celebrate the Divine Liturgy and other activities elsewhere.

Considering the number of people from India residing in the archdiocese of Newark, the former archbishop appointed a Coordinator for the *Indian Apostolate*, working under the supervision of a Vicar for Pastoral Life, who is responsible for the pastoral care of the members of the Syro-Malabar and Syro-Malankara Churches.

(6) Archdiocese of New York: The archdiocese of New York has members of nine Eastern Catholic Churches *sui iuris*: Armenian, Melkite, Ukrainian, Ruthenian, Russian, Italo-Albanian, Chaldean, Syro-Malabar and Syro-Malankara. The archdiocese has entrusted the pastoral care of Eastern Catholics to the director of ethnic affairs. Six of the Churches *sui iuris* have their own hierarchy in the country and may, for example, get partial or full assistance, a place of worship, clergy support, etc., from the archdiocese. Communities of Churches *sui iuris* which do not have a hierarchy of their own in the U.S.

receive full or partial assistance from the archdiocese for the pastoral care of their members.

(7) **Archdiocese of Philadelphia:** The archdiocese of Philadelphia is home for members of six Eastern Catholic Churches *sui iuris*: Armenian, Maronite, Ukrainian, Ruthenian, Syro-Malabar and Syro-Malankara Churches. The Syro-Malankara members are cared for by their own Eastern rite priests under the direction of the Archdiocesan Office of Pastoral Care for Migrants and Refugees and the rest have their own hierarchy in the country. The priest has a fulltime assignment to a Latin parish and provides pastoral care to the Syro-Malankara faithful on weekends. Some of the Churches *sui iuris*, who have a hierarchy in this country, use the Latin Church facilities for their worship and often seek a fulltime assignment in the archdiocese due to their small numbers as well as for economic support.

(8) **Archdiocese of San Francisco:** Within the territory of the archdiocese there are members of four Eastern Catholic Churches *sui iuris*: Ethiopian, Byzantine, Maronite, and Ukrainian. The Ethiopian Church (Ge'ez Church) is currently a community without a priest.¹²⁰ The Byzantine Church has one parish, Our Lady of Fatima Byzantine Catholic

¹²⁰ See <http://www.catholic-forum.com/churches/kidanemehret/aboutus.htm>: The Ethiopian and Eritrean Catholics trace their religious heritage back to the Apostolic times. The ancient Alexandrian rite was translated into Ge'ez language and thus they are also known as Kidane-Mehret Ge'ez Rite Catholic Church. The name of the Church officially listed in the *Annuario Pontificio* is Ethiopian Church *sui iuris*.

Approximately ten years ago, a Ge'ez Catholic priest came from Eritrea via Rome to attempt to establish a Mission for the many Ethiopian and Eritrean Catholics of the Bay Area. Although faculties were readily granted to him by the archdiocese, the several Northern California Dioceses in which he ministered were never able to successfully put together cooperative financial support for his work. The Jesuit community of the University of San Francisco gave him room and board and also financially supported his mission for four to five years, until he had to return home for health reasons. Currently, a Ge'ez Catholic priest who is a Graduate Student at the Jesuit School of Theology at Berkeley is living at St.

Church, which is canonically part of the archdiocese. There are two Maronite and Ukrainian Catholic Parishes within the geographic boundaries of the archdiocese, but they are part of their own eparchies. No episcopal vicar has been appointed to oversee the pastoral care of Eastern Catholics. However, the pastor of Our Lady of Fatima Byzantine Catholic Church assists whenever questions or problems arise in regard to Eastern Catholic Churches.

In Northern California there is an Eastern Catholic Pastoral Association, comprised of thirteen or so Eastern Catholic parishes, missions and the Monastery of Northern California. The association includes Ecumenical Offices of the Northern California Roman Catholic Dioceses, and these facilitate the promotion of Eastern Catholic ministries while fostering interchurch activity and understanding.

(9) Archdiocese of Toronto: The archdiocese of Toronto is diverse in culture, language, and tradition with its many Eastern Churches. Within the territory of the archdiocese there are members of ten Eastern Catholic Churches *sui iuris* with parishes or missions/communities with their own priests: Slovak, Armenian, Maronite, Melkite, Ukrainian, Chaldean, Coptic, Syrian, Syro-Malabar and Syro-Malankara. Six of these Churches have hierarchies in Canada and have their own parishes. However, some of them are using Latin Church facilities for their worship due to their small numbers. Priests of the other four Churches have fulltime assignments in the archdiocese and provide pastoral care to their own members on weekends.

Joseph the Worker Parish (Berkeley) in the diocese of Oakland, and ministers to the Ge'ez people insofar as his studies permit. He hopes to continue that ministry after the completion of his program.

(10) **Archdiocese of Washington:** Here there are members of seven Eastern Catholic Churches, namely Maronite, Melkite, Ukrainian, Ethiopian, Ruthenian, Syro-Malabar and Syro-Malankara Churches, within the archdiocese.

The Ethiopian Church has no episcopal jurisdiction in the country, but they do have one parish with a priest in the archdiocese.¹²¹ There is no episcopal vicar or a person in-charge assigned specifically for the pastoral care of the Eastern Catholic faithful residing in the archdiocese of Washington.

This survey shows that members of Eastern Catholic Churches are found everywhere in the North American continent. Wherever they go, they bring with them their own heritage and desire to live it in complete freedom. If there is good will on the part of the established Churches *sui iuris*, the newcomers may be able to flourish in their new surroundings immediately. In our time, the Latin hierarchs in general have recognized the value of the Eastern traditions and see their presence as an enrichment of the universal Catholic heritage.

CONCLUSION

The *CCEO* has maintained the principle of territoriality, which generally limits the jurisdiction of the patriarch and the synod of bishops to the territorial confines of a patriarchal Church. The Supreme Legislator has made provisions for the care of all Eastern Catholics who reside outside the territorial boundaries of their native Churches, whether they be patriarchal/major archiepiscopal or any of the other thirteen Eastern

¹²¹ In 1984 a Ge'ez Rite Catholic Church was established in the archdiocese of Washington with about 50 members and it has grown to 1500 within the last 13 years. This parish serves the Catholic Ethiopian and Eritrean refugees and immigrants in the Metropolitan Washington area.

Catholic Churches *sui iuris*.¹²² The primary aim of this chapter has been to outline the provisions of canon law, especially in the area of sacramental celebrations, meant for the benefit of the Eastern Catholic faithful living in North America.

Some important differences between the two Codes concerning the celebration of sacraments point to serious inter-ecclesial problems with respect to jurisdiction and to the validity of the sacraments. Since the Eastern Catholics living outside their historical territories are more often subject to the Latin bishop than to another Eastern rite bishop, our study focused more on the celebration of the sacraments by the Eastern faithful entrusted to the care of a Latin bishop. The general principle here is that if a person belongs to a Church *sui iuris* which has its own eparchial bishop or exarch in the region, that person has no jurisdictional relationship with the local Latin bishop.

The clergy and faithful of Eastern Catholic Churches who are without their own hierarchs with episcopal jurisdiction in the United States and Canada come under the jurisdiction of the local Latin bishop who would have the power to organize proper pastoral care for them, including concession of dispensations, permissions etc.

The American hierarchy in the 19th century asserted its supremacy of jurisdiction/governance over members of the Eastern Churches. Instead of respecting the traditions and customs of the Eastern Churches, they failed to provide proper pastoral care for the millions of Eastern Catholics who flocked to North America during the 19th century. Probably such a painful history will be erased when unnecessary prohibitions are lifted and the rights of people and their ancient traditions are given due recognition according

¹²²See JOHN PAUL II, Letter to the Bishops of India, 28 May 1987, in *Christian Orient*, 8 (1987), pp. 93-97.

to the mind of the Second Vatican Council. John Paul II has enunciated three fundamental principles with which the issue of pastoral care of Eastern Catholics living outside their historical territories must be treated: truth, justice and charity. Justice, after all, cannot be denied to anyone under any pretext. Therefore, it is our hope that the National Conferences of Catholic Bishops will make an official request to the Apostolic See to lift the prohibition on married clergy so that Eastern Catholic Churches may be able to minister to their faithful according to their own ancient traditions as desired by the Second Vatican Council.

Our survey indicates that none of the Latin archdioceses/dioceses, which responded to our questionnaire on different pastoral issues, have implemented **fully** the directives of both Codes of Canon law (*CIC* c. 383 and *CCEO* c. 193), which require of them to provide proper pastoral care to their subjects who are members of Eastern Catholic Churches *sui iuris*. The pastoral care mentioned in the cited canons includes also the possibilities of cherishing and cultivating their own religio-cultural heritage. A careful review of the information gathered in the survey tempts us to ask the question: What concrete steps should be taken to respond positively and effectively to the needs of recent immigrants and of their children and grandchildren within the context of their own cultural and religious heritage both in the United States and Canada?

It is time to examine our consciences as God's people. The most important thing in our present situation is to know each other. The Eastern Churches have been planted in North America now for a couple of centuries. And yet there is so much ignorance within us about each other's heritage. Those who have been integrated into the North American

way of life cannot be treated as aliens in our Church life. Both Codes of Canon Law and our present Holy Father stress the urgent need to provide effective pastoral care for members of Eastern Catholic Churches living in this (Western) part of the world. It is now the responsibility of local Churches to live by the norms of the Codes and to put into practice the desires of the Supreme Pastor of the Church.

GENERAL CONCLUSION

Every Catholic, in virtue of his or her baptism, has the ecclesial right to draw from the spiritual treasures of the Church whatever is necessary for one's salvation. This right includes the possibility of worshiping God and receiving Sacraments within one's own religio-cultural context. Therefore, the Church has the correlative obligation to provide, as far as possible, the necessary means for each person's salvation. This would include making it possible for all Christian faithful to receive appropriate pastoral care in a given situation. The Church has always recognized this responsibility and has made provisions for its members to receive proper pastoral care in whatever situation they might have found themselves.

The primary aim of this study has been a critical examination of the canonical provisions made and the practical possibilities offered by the Church for pastoral care of members of Eastern Catholic Churches who, for a variety of reasons, find themselves outside their historical territories, with particular reference to those living in the United States and Canada.

In the pursuit of our study, we found it necessary to answer some important questions related to the following issues: a) the historical origins of Eastern Catholic Churches *sui iuris*; b) the reasons for unprecedented emigration of members of Eastern Catholic Churches to different parts of the world; c) the rights of Eastern Catholic faithful within and outside their historical territories; d) the attempts made by the universal Church and particular Churches *sui iuris* to provide for the pastoral care of Eastern Catholics who find themselves outside their native lands; and e) the practical approaches the Church could adopt in providing appropriate pastoral care for Eastern Catholic faithful presently living in North America.

Our inquiry into the different problems the Eastern Catholic faithful had to face in the past and are still facing even in our own times outside their home countries has enabled us to gain some valuable insights into their needs and to propose some constructive and practical suggestions for providing pastoral care suitable to the varied situations they presently live in. The following is a brief synthesis of the results of our inquiry.

First, the one, holy, catholic, and apostolic Church of Christ planted itself in diverse socio-cultural contexts and adapted itself to the existing cultures and in a sense assumed them into its own life and transformed them. In this way, there emerged in the universal Church many autonomous Churches characterized by their unique cultural, religious, spiritual, disciplinary and theological heritage. This did not in any way diminish the oneness of the Church of Christ, because they all together constituted one Church through their communion with each other. For this reason, each Church *sui iuris* today possesses equal right and enjoys equal dignity within the communion of all *sui iuris* Churches. The universal Church is a communion of several autonomous Churches, and therefore, no Church can claim superiority over another. Each one should consider itself to be at the service of the other.

Second, the principle of territoriality of the patriarchal jurisdiction is not a modern day creation but was a determination of the early ecumenical councils. This principle essentially meant that during the first millennium patriarchs exercised their jurisdiction within their own territory and were in fact explicitly prohibited from stepping out of their territorial circumscriptions. Therefore, it is reasonable to assume that the patriarch and local hierarchs possessed jurisdiction over all those who were within their territory, including immigrants. However, this did not detract in any way from the primacy of the bishop of Rome, because all

bishops at different times sought from him advice and guidance in the resolution of controversies over matters of faith and morals.

Third, a brief historical examination of the Church's solicitude reveals the fact that the Church has always tried to offer proper pastoral care to Christ's faithful who found themselves outside their historical territories. This solicitude included also the protection of the identity and membership in their own autonomous Churches. This fact had never involved extension of patriarchal authority beyond its historically determined territorial circumscription. In other words, the situation of migration of their subjects outside their historical territories had not given the patriarchs the pretext of exercising their jurisdiction beyond their traditional territories.

Fourth, ascription to a particular Church *sui iuris* plays a crucial role in the exercise of one's rights and fulfillment of one's obligations in the Church and determines the authority who bears the responsibility for making adequate provision for it. The institute of ascription is as old as the Church itself and its consequences have great impact on the ecclesial, spiritual and sacramental life of every Christian faithful. This includes, for example, Christian education of children, their spiritual formation, the sacramental and spiritual life of the family, marriages between Catholics of various *sui iuris* Churches and between Catholics and Orthodox Christians or Protestants, membership in a religious institute, incardination of a cleric, the pastoral care of different groups, etc., all these are governed by the principle of ascription to a particular Church *sui iuris*.

Fifth, the Second Vatican Council clearly recognized the autonomy of each Church *sui iuris* and called for legislation that would guarantee proper care of Eastern Catholics, especially when these are found in foreign lands. The council also urged restoration of the rights and

privileges of Eastern Catholic patriarchs which they enjoyed before the great schism. But the council did not include among these rights and privileges the jurisdiction of the patriarch beyond his historical territory. This means that even now the patriarch cannot validly and licitly exercise his jurisdiction beyond his territory without proper delegation, except in matters already specified in law. Even Pope John Paul II subsequently reiterated this same teaching and rejected requests to extend patriarchal authority over members of his Church who live outside his historical territory.

Sixth, the teachings of the council and of the Holy Father concerning proper pastoral care of the Eastern Catholics who live outside their historical territories have been incorporated into the new legislation found in the two Codes and in the apostolic constitution *Pastor bonus*. This *corpus* of legislation makes it clear that the local Ordinaries bear the responsibility for organizing appropriate pastoral care for those residing in their territories but belong to a Church *sui iuris* different from their own. Two general principles are clear on this issue, namely: (a) If a person belongs to a Church *sui iuris* which has its own hierarchy in the country or region, that person has no jurisdictional relationship with the local Latin Ordinary. (b) If persons belonging to a Church *sui iuris* do not have their own hierarchy in the United States and Canada, they come under the jurisdiction of the local Latin Ordinary, who would have the power, according to the norm of law, to organize pastoral care for them, including concession of dispensations and permissions. For all jurisdictional matters, they are subject to the local Latin Ordinary.

Seventh, our survey of several archdioceses/dioceses reveals that the wishes of the council and the norms of both Codes have not been fully implemented in North America. This failure could be the result of many factors which may lie beyond the control of authorities

concerned. However, what is clear in all this is that there is much work to be done in both countries in respect to provision of effective pastoral care of Eastern Catholics. This is a matter for serious reflection for bishops of North America concerning the proper pastoral care of Eastern Catholics who continue to stream into these countries in large numbers even today.

Eighth, one of the contentious issues that had and continues to have negative effect on the provision of proper pastoral care for Eastern Catholics is the prohibition on Eastern rite married clergy in North America. This prohibition is effective even today. The Second Vatican Council urged all Eastern Catholic Churches to reclaim their religio-cultural heritage, which includes married clergy. It is our hope that in the near future this prohibition will be lifted and the Eastern Churches *sui iuris* will be able to live out their cultural heritage to the fullest. This is something the Church should seriously consider now so that the Eastern Churches may have sufficient clergy to minister to the needs of their members.

Ninth, we feel that there is a very urgent need for establishing a multilateral working relationship between the Holy See, the Conferences of Bishops of all Catholic Churches *sui iuris* present in a country or region and the patriarchs/archbishops/metropolitans who still have the responsibility for caring pastorally for their faithful living outside their historical territories. Any decision that is made for the pastoral/spiritual welfare of Eastern Catholics in the diaspora should have input from all such persons. In other words, all those who bear any responsibility, directly or indirectly, for the pastoral care of the people should be involved in such decisions.

Tenth, the very existence of Eastern Catholic Churches *sui iuris* in the diaspora demands adaptation of liturgical and cultural aspects of their life to the concrete situations in which their faithful live. But we strongly feel that a pure westernization of their faith life is not the answer.

Nevertheless, if Eastern Catholic Churches in the diaspora are not allowed to make some accommodations to the western culture, there is certain risk of undermining their very existence, because they will be completely absorbed into the western way of life, which would include their religious and cultural heritage. Every effort should be made to avoid this catastrophe from happening to Eastern Catholic Churches.

Eleventh, in response to canonical obligations placed by the Second Vatican Council and by the two Codes on hierarchs of different Churches *sui iuris*, local Ordinaries should encourage promotion of liturgies of other *sui iuris* Churches which exist within their territory. Raising the awareness of the faithful concerning different traditions within the one Catholic Church will enable them to appreciate other people's heritage and identity. This will also increase respect in the minds and hearts of people of one Church *sui iuris* for the members of other *sui iuris* Churches. To recall again the words of the Holy Father expressed in his letter to the Pontifical Council for Migrants and Refugees, "solidarity with migrants does not come easily. It requires training and turning away from attitudes of closure, which in many societies today have become more subtle and penetrating. To deal with this phenomenon, the Church possesses vast educational and formative resources at all levels. I, therefore, appeal to parents and teachers to combat racism and xenophobia by inculcating positive attitudes based on Catholic social doctrine."¹ This message of the pope should be taken seriously into consideration by all concerned, especially the pastors of souls.

Twelfth, even in the absence of clergy belonging to a particular Church *sui iuris* whose members are in a particular diocese, the local Ordinary must appoint suitable clergy for the

¹ JOHN PAUL II, Letter to the Pontifical Council for Migrants and Refugees, 3 May 2003, in *AAS*, 65 (2003), p. 338.

pastoral care of those faithful. But before assigning them to this special ministry, such clergy should be given special formation in respect to the culture and heritage of the faithful to be ministered to. This is a very important prerequisite for proper pastoral care of members belonging to *sui iuris* Churches which do not have their own pastors in a particular diocese.

Thirteenth, as noted earlier, the pastoral care of Christian faithful is determined by one's ascription to a particular Church *sui iuris*. This institute of ascription has major consequences for the celebration of sacraments. Although all dioceses may not have the resources necessary to provide such ministry, the spiritual needs of Eastern Catholics must be met as far as possible without forcing or misleading them concerning their ascription to their own Church *sui iuris*.

We began this study with the hope of subjecting to a critical inquiry the existing provisions made available by the Church for the pastoral care of Christian faithful belonging to different Eastern Catholic Churches *sui iuris*, who are now living in the northern hemisphere of the American continent, which has always offered a home away from home to millions of refugees and immigrants from distant lands. The journey we undertook has enabled us to appreciate, in the first place, the problems both the Christian faithful and the pastors have faced and continue to face in attending to this enormous task. We have come to one final conclusion from our study, that is, there is much to be done for the effective pastoral care of the faithful of the Eastern Catholic Churches living in the diaspora, and our hope is that all pastors who have vested interest in the well being of their flock will cultivate a keener interest in proving themselves caring and compassionate shepherds of souls. Such an attitude on the part of all concerned, we believe, is absolutely necessary for the success of any pastoral program designed to promote and to foster the salvation of all souls God continues to entrust to their care.

APPENDIX I

Tradition or Liturgical Families		Churches		Status	Order of precedence
I	Alexandrian	1	Coptic	Patriarchal	I
		2	Ethiopian	Metropolitan	
II	Antiochian	3	Syrian	Patriarchal	III
		4	Maronite	Patriarchal	II
		5	Syro-Malankara	Metropolitan	
III	Armenian	6	Armenian	Patriarchal	VI
IV	Chaldean	7	Chaldean	Patriarchal	V
		8	Syro-Malabar	Major Archiepiscopal	VIII
V	Constantinopolitan or Byzantine	9	Albanian		
		10	Bielorussian		
		11	Bulgarian		
		12	Greek		
		13	Hungarian		
		14	Italo-Albanian		
		15	Melkite	Patriarchal	IV
		16	Romanian	Metropolitan	
		17	Ruthenian	Metropolitan	
		18	Russian		
		19	Slovak		
		20	Ukrainian	Major Archiepiscopal	VII
		21	Yugoslavian, Križevci		

APPENDIX II

The following table was sent out to officials of ten archdioceses/dioceses to collect information on the pastoral care of Eastern Catholics residing within their particular territories.

No	Churches <i>Sui iuris</i>	Have an Episcopal Vicar or Delegate	Have parishes or Quasi parishes with priests	Missions with priests of the same rite or other	Communities with priests of the same rite or other	Communities without priests
1	Armenian					
2	Chaldean					
3	Coptic					
4	Maronite					
5	Melkite					
6	Syrian					
7	Ukrainian					
8	Syro-Malabar					
9	Ethiopian					
10	Romanian					
11	Ruthenian					
12	Syro- Malankara					
13	Albanian					
14	Belarus					
15	Bulgarian					
16	Greek					
17	Hungarian					
18	Italo- Albanian					
19	Križevci					
20	Russian					
21	Slovak					

We specifically asked them the following question: Have you encountered any practical difficulties of a canonical and pastoral nature in providing appropriate pastoral care for the Eastern Catholic faithful in your diocese? If yes, please describe them.

SELECTED BIBLIOGRAPHY

SOURCES

Acta et documenta Concilio oecumenico Vaticano II apparando, cura et studio Secretariae Generalis Concilii Oecumenici Vaticani II, in Civitate Vaticana, Typis polyglottis Vaticanis, 1960-1988, 4 vols., 22 parts.

Acta synodalia Sacrosancti Concilii oecumenici Vaticani II, cura et studio archivi Concilii Oecumenici Vaticani II, in Civitate Vaticana, Typis polyglottis Vaticanis, 1970-1990, 5 vols., 27 parts.

Annuario Pontificio per l'Anno 2001, Città del Vaticano, Libreria editrice Vaticana, 2001.

Bullarium pontificium Sacrae Congregationis de Propaganda Fide, Romae, Typis Collegii Urbani, 1839-1841, 2 vols.

Bullarium pontificium Sacrae Congregationis de Propaganda Fide, Romae, Typis Collegii Urbani, 1841-1859, 5 vols.

Catechism of the Catholic Church, New York, Catholic Publishing Co., 1994; & Rome, Libreria editrice Vaticana, 1994.

Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, Vatican City, Typis polyglottis Vaticanis, 1983; English translation, *Code of Canon Law*, Latin-English ed., New English translation, Prepared under the auspices of the Canon Law Society of America [=CLSA], Washington, DC, CLSA, 1999.

Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus, Libreria editrice Vaticana, 1995; *Code of Canons of the Eastern Churches*, Latin-English ed., New English translation, Prepared under the auspices of the Canon Law Society of America, Washington, DC, CLSA, 2001.

Codificazione canonica orientale, Fonti, Parte I, Città del Vaticano, Typographia polyglotta Vaticana, 1930.

Collectanea Sacrae Congregationis de Propaganda Fide, Romae, Typographia Polyglotta, S. C. Propaganda Fide, 1907, 2 vols.

CONGREGATIO PRO CLERICIS, PONTIFICIUM CONCILIUM PRO LAICIS, *Congregationes de Doctrina Fidei, de Cultu Divino et Disciplina Sacramentorum, pro Episopis, pro Gentium Evangelizatione, pro Institutis Vitae Consecratae et Societibus Vitae Apostolicae and Pontificium Concilium de Legum Textibus Interpretadis*, Instruction on Certain Questions Regarding the Collaboration of the Non-Ordained

SELECTED BIBLIOGRAPHY

Faithful in the Sacred Ministry of Priest, *Ecclesiae de mysterio*, 15 August 1997, in *Acta Apostolicae Sedis [=AAS]*, 89 (1997), pp. 852-877.

CONGREGATION FOR THE DOCTRINE OF FAITH, *Dominus Iesus*, 6 August 2000, in *Origins*, 30:4 (14 September 2000), pp. 209-224.

CONGREGATION FOR THE EASTERN CHURCHES, *Istruzione per l'applicazione delle prescrizioni liturgiche del Codice dei canoni delle Chiese orientali*, 6 January 1996, Vatican City, Libreria editrice Vaticana, 1996. Official English translation in CONGREGATION FOR THE EASTERN CHURCHES, *Instruction for Applying the Liturgical Prescriptions of the Code of Canons of the Eastern Churches*, Fairfax, VA, Eastern Churches Publications, 1996.

EUSEBIUS, Pamphili, *Historiae ecclesiasticae*, in Jaques P. MIGNE, *Patrologiae cursus completes. Series graeca*, Paris, Bibliothecae Cleri universae, 1800-1875, 20 vols.

GUTIÉRREZ, Andrés D., *Leges Ecclesiae post Codicem iuris canonici editae*, Romae, EDIURCLA, 1994-2001, 3 vols (7-9).

Ius pontificium De Propaganda Fide, Pars I, Complectens Bullas, Brevia, Acta, etc., edited by Raphaelis DE MARTINIS, Romae, Typographia polyglotta, 1838-1909, 7 vols.

JOHN PAUL II, Apostolic Constitution on the Roman Curia, *Pastor bonus*, 28 June 1988, in *AAS*, 80 (1988), pp. 841-924; English translation in *Code of Canon Law*, pp. 679-751.

_____, Address to Cardinals and Collaborators of the Roman Curia, in *L'Osservatore romano*, English edition, 15 July 1985, pp. 3-5.

_____, Address to the Eastern Catholic Bishops of the United States, in *Diakonia*, 14 (1979), pp. 83-84.

_____, Allocuzione alla assemblea plenaria della pontificia commissione per la revisione del codice di diritto canonico orientale, in *Appolinaris*, 61 (1988), pp. 466-481.

_____, Apostolic Constitution, *Quod satis constat*, 5 August 1991, in *AAS*, 83 (1991), pp. 917-918.

_____, Apostolic Letter, *Egregiae virtutis*, 31 December 1980, in *AAS*, 73 (1981), pp. 258-262.

_____, Apostolic Letter, *Euntes in mundum*, 25 January 1988, in *AAS*, 80 (1988), pp. 935-956.

JOHN PAUL II, Apostolic Letter, "Third Centenary of the Union of the Greek-Catholic Church of Romania with the Church of Rome (7 May 2000)," in *The Pope Speaks*, 45 (2000), pp. 328-335.

SELECTED BIBLIOGRAPHY

- JOHN PAUL II, Encyclical Letter, *Redemptoris missio*, 7 December 1990, in AAS, 83 (1991), pp. 249-340.
- _____, Apostolic Constitution, *Quo maiori*, in AAS, 85 (1993), pp. 398-399.
- _____, Apostolic Letter, *Oriente lumen*, 2 May 1995, in AAS, 87 (1995), 745-774.
- _____, "Pressing the Quest for Catholic-Orthodox Unity: Apostolic Letter of Pope John Paul II for the Third Centenary of the Union of the Greek-Catholic Church of Romania with the Church of Rome (7 May 2000)," in *The Pope Speaks*, 45 (2000), p. 329.
- LEO XIII, Apostolic Letter, *Orientalium dignitas*, 30 November 1894, in *Leonis XIII Pontificis Maximi acta*, vol. 14, Romae, 1895, pp. 358-370.
- _____, Apostolic Letter, *Humanae salutis*, 1 September 1896, in ASS, 19 (1896), pp. 176-184.
- MANSI, Joannes D. (ed.), *Sacrorum conciliorum nova et amplissima collectio*, Florentiae-Parisiis, 1901-1927, 53 vols.
- MIGNE, Jaques, *Patrologiae cursus complectus, Series graeca*, Paris, Bibliothecae cleri universae, 1857-1866, 162 vols.
- _____, *Patrologiae cursus completus, Series latina*, Paris, Bibliothecae cleri universae, 1844-1864, 221 vols.
- NATIONAL CONFERENCE OF CATHOLIC BISHOPS, *Guidelines for the Transfer of Rite Cases*, approved by the Congregation for Oriental Churches on 19 December 1978, Washington, DC, NCCB, 1979.
- NICOLAS V, Apostolic Constitution, *Pervenit ad aures nostras*, in FRANCISCO GAUDE (ed.), *Bullarium romanum*, vol. 5, Taurinensis, Augustae Taurinorum, 1860, pp. 100-101.
- OCHOA, Xaverius (ed.), *Leges Ecclesiae post Codicem iuris canonici editae*, Roma, Institutum iuridicum claretianum, 1966-1987, 6 vols. (1-6).
- PAUL VI, *Motu proprio*, The Position of Oriental Patriarchs in the Sacred College of Cardinals, in AAS, 57 (1965), pp. 295-296; English translation in *Australasian Catholic Record*, 42 (1965), p. 177.
- PIUS XI, *Motu proprio*, De iurisdictione Sacrae Congregationis pro Ecclesia Orientali, in AAS, 30 (1938), pp. 154-159; English translation "About the Increased Jurisdiction of the Sacred Congregation for the Oriental Church," in *Australasian Catholic Record*, 15 (1938), pp. 194-196.

SELECTED BIBLIOGRAPHY

- PIUS XI, Encyclical Letter on the Eastern question and the promotion of Oriental studies in ecclesiastical seminaries, *Rerum orientalium studiis*, in AAS, 20 (1928), pp. 277-288; English translation in *Australasian Catholic Record*, 6 (1929), pp. 5-14.
- _____, Apostolic Constitution, *Romani Pontifices*, 21 December 1923, in AAS, 16 (1924), pp. 257-262.
- _____, Apostolic Constitution, *Christo pastorum principi*, 1 September 1932, in AAS, 24 (1932), pp. 289-292.
- PIUS XII, Encyclical Letter on the Oecumenical Council of Chalcedon, on the occasion of its Fifteen Hundredth Anniversary, *Sempiternus Christus Rex*, in AAS, 43 (1951), pp. 625-644; English translation in *The Eastern Churches Quarterly*, 9, No. 5 (1952), pp. 229-244.
- _____, *Motu proprio* on Marriage, *Crebrae allatae*, 22 February 1949, in AAS, 41 (1949), pp. 89-119.
- _____, *Motu proprio* on Procedure, *Sollicitudinem nostram*, 6 January 1950, in AAS, 42 (1950), pp. 5-120.
- _____, *Motu proprio* on Religious and Temporal Goods, *Postquam apostolicis litteris*, 9 February 1952, in AAS, 44 (1952), pp. 65-152.
- _____, *Motu proprio* on Rites and Persons, *Cleri sanctitati*, 2 June 1957, in AAS, 49 (1957), pp. 433-603.
- PONTIFICIA COMMISSIO CODICI IURIS CANONICI ORIENTALIS RECOGNOSCENDO, *Schema canonum de cultu divino et praesertim de sacramentis*, Romae, Tipografia Pompei, 1980.
- _____, *Schema Codicis iuris canonici orientalis*, in *Nuntia*, 24-25 (1987), pp. 1-278. English translation: *Code of Eastern Canon Law: 1986 Draft*, Brooklyn, NY, U.S. Eastern Catholic Bishops Consultation, 1987.
- PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Relatio complectens synthesisim animadversionum ab Em. mis atque Exc. mis Patribus Commissionis ad novissimum schema Codicis iuris canonici exhibitaram, cum responsionibus a secretaria et consultoribus datis*, in Civitate Vaticana, Typis polyglottis Vaticanis, 1981.
- _____, *Codex iuris canonici: schema novissimum iuxta placita Patrum Commissionis emendatum atque Summo Pontifici praesentatum*, in Civitate Vaticana, Typis polyglottis Vaticanis, 1982.

SELECTED BIBLIOGRAPHY

- PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Codex iuris canonici: schema Patribus Commissionis reservatum*, in Civitate Vaticana, Libreria editrice Vaticana, 1980.
- PONTIFICAL COUNCIL FOR CHRISTIAN UNITY, *Directory for the Application and Norms on Ecumenism*, Vatican City, Typis polyglottis Vaticanis, 1993.
- PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF THE MIGRANTS AND ITINERANT PEOPLE, XII Plenary Meeting Report, *Toward Today's Growing Human Mobility*, 19-21 October 1993, Vatican City, Typis polyglottis Vaticanis, 1995, pp. 129-135.
- PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF EASTERN CANON LAW, "Le revisione del Codice di diritto canonico orientale alla luce del decreto conciliare *Orientalium Ecclesiarum*," in *Nuntia*, 20 (1985), pp. 128-131.
- _____, "Guidelines for the Revision of the Code of Oriental Canon Law," in *Nuntia*, 3 (1976), pp. 18-24.
- _____, "Canons on Clerics in General," in *Nuntia*, 7 (1978), pp.7-20.
- _____, "The Scheme of the Canons *De Paroeciis, de Vicariis paroecialibus, de Rectoribus ecclesiarum ac de Protopresbyteris*," in *Nuntia*, 9 (1979), pp. 62-89.
- Rite of Christian Initiation (Baptism, Chrismation and Eucharist): Priest/Deacon Edition*, West Paterson, NJ, Eparchy of Passaic, 1997.
- SACRA CONGREGATIO PRO ECCLESIA ORIENTALI, *Decretum, Facultas concedendi transitum ad alium ritum deinceps uni S. Sedi reservatur*, in *AAS*, 33 (1941), p. 28.
- _____, Instruction Concerning Oriental Clerics Sojourning Outside Their Proper Patriarchate or District, *De clericis orientalibus apud exteris nationes praeter proprium patriarchatum vel propriam regionem versantibus*, 26 September 1932, in *AAS*, 24 (1932), pp. 344-346; English translation in *Australasian Catholic Record*, 10 (1933), pp. 9-10.
- _____, Decretum, De sacramento confirmationis administrando etiam fidelibus orientalium rituum a presbyteris latini ritus, qui hoc indulto gaudeant pro fidelibus sui ritus, 1 May 1948, in *AAS*, 11 (1948), pp. 422-423.
- _____, Decretum, De recta cleri orientalis, saecularis et religiosi, institutione in territoriis patriarchalibus, 27 January 1940, in *AAS*, 32 (1940), pp. 152-157.
- _____, Monitum, De normis servandis quoad clericos ritus orientalis extra fines proprii patriarchatus peregrinantes, 20 July 1937, in *AAS*, 29 (1937), pp. 342-343.

SELECTED BIBLIOGRAPHY

- SACRA CONGREGATIO PRO ECCLESIA ORIENTALI, De constituenda pontificia commissione ad redigendum "Codicem iuris canonici orientalis," 17 July 1935, in AAS, 27 (1935), pp. 306-308.
- _____, Decretum, De venia apostolica transitus ad alium ritum a Romani Pontificis legatis concedenda, 6 December 1928, in AAS, 20 (1928), pp. 416-417.
- _____, *Instruction for Applying the Liturgical Prescriptions of the Code of Canons of the Eastern Churches*, Vatican City, Typis polyglottis Vaticanis, 1996.
- SACRED CONGREGATION FOR THE CLERGY, *General Directory for Catechesis*, Vatican City, Typis polyglottis Vaticanis, 1997.
- SACROSANCTUM OECUMENICUM CONCILIUM VATICANUM II, *Constitutiones, decreta, declarationes*, cura et studio Secretariae Generalis C.O. Vaticani II, Vatican City, Typis polyglottis Vaticanis, 1996.
- SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium*, 21 November 1964, in AAS, 57 (1965), pp. 5-75; English translation in Austin FLANNERY *Vatican Council II*, vol. 1, *The Conciliar and Post Conciliar Documents*, (gen. ed.), New revised edition (=FLANNERY I), Northport, NY, Costello Publishing Co., 1998, pp. 350-426.
- _____, Decree on Ecumenism, *Unitatis redintegratio*, 21 November 1964, in AAS, 57 (1965), pp. 90-112; English translation in FLANNERY I, pp. 452-563.
- _____, Decree on the Catholic Eastern Churches, *Orientalium Ecclesiarum*, 21 November 1964, in AAS, 57 (1965), pp. 76-89; English translation in FLANNERY I, pp. 441-451.
- _____, Decree on the Apostolate of the Laity, *Apostolicam actuositatem*, 18 November 1965, in AAS, 58 (1966), pp. 837-864; English translation in FLANNERY I, pp. 766-798.
- _____, Decree on the Church's Missionary Activity, *Ad gentes*, 7 December 1965, in AAS, 58 (1966), pp. 947-990; English translation in FLANNERY I, pp. 813-856.
- _____, Decree on the Life and Ministry of Priests, *Presbyterorum ordinis*, 7 December 1965, in AAS, 58 (1966), pp. 991-1024; English translation in FLANNERY I, pp. 863-902.
- _____, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, 28 October 1965, in AAS, 58 (1966), pp. 673-701; English translation in FLANNERY I, pp. 564-590.

SELECTED BIBLIOGRAPHY

SECOND VATICAN COUNCIL, Dogmatic Constitution on Divine Revelation, *Dei Verbum*, 18 November 1965, in *AAS*, 58 (1966), pp. 817-835; English translation in FLANNERY I, pp. 750-765.

_____, Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, 7 December 1965, in *AAS*, 58 (1966), pp. 1025-1120; English translation in FLANNERY I, pp. 902-1001.

_____, The Constitution on the Sacred Liturgy, *Sacrosanctum Concilium*, 4 December 1965, in *AAS*, 56 (1964), pp. 97-138; English translation in FLANNERY I, pp. 1-36.

PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, *Directory for the Application of Principles and Norms of Ecumenism*, Boston, MA, St. Paul Books and Media Publishing House, 1993.

TANNER, Norman P. (ed.), *Decrees of the Ecumenical Councils*, London, Sheed & Ward; Washington, DC, Georgetown University Press, 1990, 2 vols.

The Encyclicals of John Paul II, edited with introductions by J. Michael MILLER, Huntington, Ind., Our Sunday Visitor, 1996.

The Englishman's Greek Concordance of the New Testament, London, Samuel Bagster and Sons Limited, 1903.

The New American Bible, Saint Joseph Edition, New York, Catholic Book Publishing Company, 1969-1991.

The Rites of the Catholic Church, vol. 1, Prepared by the International Commission on English in the Liturgy, Collegeville, MN, The Liturgical Press, 1990.

THE SYNOD OF THE SYRO-MALABAR MAJOR ARCHIEPISCOPAL CHURCH, "Particular Laws of the Syro-Malabar Church," in *Synodal News*, 1(May 2003), pp. 1-138.

WACE, Henry and Philip SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church*, vol.1, *Eusebius*, New York, The Christian Literature Company, 1890.

_____, *Nicene and Post-Nicene Fathers. Second Series*, Peabody, MA, Hendrickson Publishers, Inc., 1995.

SELECTED BIBLIOGRAPHY

BOOKS

- ABBOTT, Walter and Joseph GALLAGHER (eds.), *The Documents of Vatican II*, New York, NY, America Press, 1966.
- ABBASS, Jobe, *Apostolic See in the New Eastern Code of Canon Law*, Lewiston/ Queenston/ Lampeter, Mellen University Press, 1994.
- _____, *Offices in the Church: A Comparative Study of the Eastern and Latin Codes of Canon Law*, Rome, Libreria editrice Vaticana, 1994.
- _____, *Two Codes in Comparison*, Rome, Pontificio Istituto Orientale, 1997.
- ARAMPULICKAL, James, *The Pastoral Care of the Syro-Malabar Catholic Migrants*, Vadavathoor, Kottayam, India, Oriental Institute of Religious Studies India Publications, 1994.
- ATTWATER, Donald, *The Christian Churches of the East*, Milwaukee, The Bruce Publishing Company, 1947-1948, 2 vols.
- BAGGATTI, Bellarmino, *The Church from the Circumcision*, Jerusalem, Franciscan Printing Press, 1984.
- BASSETT, William, *The Determination of Rite*, Series Facultatis iuris canonici: Analecta Gregoriana, sectio B, No. 21, Rome, Gregorian University Press, 1967.
- BAUS, Karl, *From the Apostolic Community to Constantine*, Freiburg, Herder and Co., 1965.
- BEAL, John P., James A. CORIDEN and Thomas J. GREEN (eds.), *New Commentary on the Code of Canon Law*, Commissioned by the Canon Law Society of America, New York, NY/ Mahwah, NJ, Paulist Press, 2000.
- BEDA, Venerabilis, *The Ecclesiastical History of the English People*, Revised edition, New York, NY, Penguin Books, 1990.
- BELLAIRMINE, Robert, *De Ecclesia*, Naples, Lauriel Publication, 1872.
- BENSON, Robert Louis, *The Bishop-elect*, New Jersey, Princeton University Press, 1968.
- BESENDORFER, Ralph, *The Valid and Licit Assistance at Interritual Marriage in the United States of America*, Canon Law Studies, No. 458, Washington, DC, The Catholic University of America [=CUA] Press, 1968.

SELECTED BIBLIOGRAPHY

- BHARANIKULANGARA, Kuriakose, *An Introduction to the Ecclesiology and Contents of the Oriental Code: The Code of Canons of the Eastern Churches: A Study and Interpretation*, Alwaye, India, Saint Thomas Academy of Research, 1992.
- _____, (ed.), *Il diritto canonico orientale nell'ordinamento ecclesiale*, Studi giuridici 35, Città del Vaticano, Libreria editrice Vaticana, 1995.
- _____, *Ius particulare Ecclesiae sui iuris: Problems and Prospects for the Syro-Malabar Church*, Romae, Pontificium Institutum Orientale, Facultas Iuris Canonici Orientalis, 1994.
- BIRD, Thomas and E. PIDDUBCHESHEN (eds.), *Archiepiscopal and Patriarchal Autonomy*, New York, Fordham University, 1972.
- BLAZEJOWSKYJ, Dmytro, *Schematism of the Ukrainian Catholic Church: A Survey of the Church in Diaspora*, Rome, S.G.S. Instituto Pio XI, 1988.
- BLUNT, James, *The Christian Church During the First Three Centuries*, London, John Murray, 1872.
- BOURQUE, Rohan, *The Juridical Power of the Church*, Canon Law Studies, No. 337, Washington, DC, CUA Press, 1953.
- BRÉHIER, Louis, *Bizánc tündöklése és hanyatlása* (The Rise and Fall of the Byzantine Empire), Budapest, Bizáncológiai Intézeti Alapítvány, 1999.
- BRODERICK, Robert, *Baptism: Divine Birth*, Nashville, TN, Thomas Nelson, Inc., 1976.
- BROWN, Raymond, *The Churches the Apostles Left Behind*, New York, Paulist Press, 1983.
- BROWN, Raymond and John MEIER, *Antioch and Rome*, New York, Paulist Press, 1983.
- BURKITT, Francis C., *Early Christianity Outside the Roman Empire*, Cambridge, Cambridge University Press, 1899.
- BURTCHAELL, Tunst, *From Synagogue to Church: Public Services and Offices in the Earliest Christian Communities*, Cambridge, Cambridge University Press, 1992.
- CANADIAN CONFERENCE OF CATHOLIC BISHOPS, *The Byzantine Ukrainian Rite*, Ottawa, CCCB Publications Service, 1975.
- CAPPELLO, Felice M., *Summa iuris canonici*, 5th ed., Roma, Università Gregoriana, 1951, 3 vols.
- CARLEN, Claudia, *The Papal Encyclicals 1740-1878*, Wilmington, DE, McGrath Publishing Company, 1981.

SELECTED BIBLIOGRAPHY

- CHIRAMEL, Jose, *Patriarchal Structure of the Church in the New Code of Canons of the Eastern Churches*, JCOD diss., Rome, Pontificium Istitutum Orientale, 1990.
- CIESLUK, Joseph, *National Parishes in the United States*, Canon Law Studies, No. 190, Washington, DC, CUA Press, 1944.
- COGAN, Patrick (ed.), *CLSA Advisory Opinions 1984-1993*, Washington, DC, CLSA, 1995.
- CORIDEN, James A., Thomas J. GREEN, and Donald E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, 1985.
- CULTRAZ, François, *Baptism: Divine Birth*, Staten Island, New York, Alba House Publications, 1962.
- CUMMINGS, Denver, *The Rudder*, Chicago, The Orthodox Christian Educational Society, 1957.
- CUSCHIERI, Andrew, *The Sacrament of Reconciliation: A Theological and Canonical Treatise*, New York, University Press of America, Inc., 1992.
- CUSSACK, Barbara and T. SULLIVAN, *Pastoral Care in Parishes Without a Pastor: Applications of Canon 517, Section 2*, Washington, DC, CLSA, 1995.
- DAVIES, John, *The Early Christian Church*, London, Weidenfeld and Nicolson, 1965.
- DAY, Peter, *The Liturgical Dictionary of Eastern Christianity*, Collegeville, MN, The Liturgical Press, 1993.
- DEIDRICHS, Ferdinand, *Jurisdiction of the Latin Ordinaries Over their Oriental Subjects*, Canon Law Studies, No 229, Washington DC, CUA Press, 1946.
- DE GEBHARDT, Oscar, *Patrum apostolicorum opera*, Lipsaie, J. C. Henrichs, 1876.
- DIX, Gregory, *Jurisdiction in the Early Church; Episcopal and Papal*, London, Faith Home, 1975.
- DULLES, Avery, *Church Membership as a Catholic and Ecumenical Problem*, Milwaukee, Marquette University, Theology Department, 1974.
- _____, *Vatican II and the Extra-Ordinary Synod: An Overview*, Collegeville, The Liturgical Press, 1985.
- DUSKIE, Aloysius, *The Canonical Status of the Orientals in the United States*, Canon Law Studies No. 48, Washington, DC, CUA Press, 1928.
- DVORNIK, Francis, *The Idea of Apostolicity in Byzantium and the Legend of the Apostle Andrew*, Massachusetts, Cambridge University Press, 1958.

SELECTED BIBLIOGRAPHY

- DZIOB, Michael, *The Sacred Congregation for the Oriental Churches*, Canon Law Studies, No. 214, Washington, DC, CUA Press, 1945.
- ERICKSON, John, *The Challenge of Our Past*, Crestwood, New York, Saint Vladimir Seminary Press, 1991.
- FARIS, John D., *The Communion of Catholic Churches: Terminology and Ecclesiology*, Brooklyn, NY, Preferred Book Publishing House, 1985.
- _____, *Eastern Catholic Churches: Constitution and Governance*, New York, St. Maron Publications, 1992.
- _____, *The Code of Canons of the Eastern Churches: A Pastoral-Canonical Manual for Bishops*, Washington, DC, NCCB, 1992.
- FEDORIW, George, *History of the Church in Ukraine*, trans. by Petro KRAWCHUK, St. Catharines, Ontario, Canada, St. Sophia Religious Association of Ukrainian Catholics in Canada, 1983.
- FITZSIMMONS, Eugene, *Competence of the Sacred Congregations in the Reform of Pope Paul VI*, JCD diss., Rome, Pontificia Universitas Lateranensis, 1971.
- FLANNERY, Austin (gen. ed.), *The Vatican Council II; vol. 2: More Post Conciliar Documents* (=FLANNERY II), New revised edition, Dublin, Dominican Publications, 1998.
- FLORISTAN, Casiano, *The Parish: Eucharistic Community*, London, Fides Publishers, 1965.
- FROEHLE, Bryan and Mary GAUTIER, *Catholicism in USA*, Washington, DC, Georgetown University, 2000.
- GALLAGHER, Clarence (ed.), *The Code of Canons of the Oriental Churches*, Roma, St. Thomas Christian Fellowship (Marthoma Yogam), 1991.
- GAUTHIER, Albert, *Roman Law and Its Contribution to the Development of Canon Law*, Ottawa, Saint Paul University, 1996.
- GNESKO, Michel, *Interritual Relations* (unpublished class notes), Ottawa, Saint Paul University, 1981.
- GOODWINE, Joseph, *The Reception of Converts: Commentary with Historical Notes*, Canon Law Studies, No. 198, Washington, DC, CUA Press, 1944.
- GWATKIN, Melvill, *Early Church History*, London, Macmillan and Co., 1912.
- HEFELE, Carolus, *Patrum apostolicorum opera*, Tubingae, Bibliopolio Henrici Laupp, 1855.

SELECTED BIBLIOGRAPHY

- HENN, William, *One Faith: Biblical and Patristic Contributions Toward Understanding Unity in Faith*, NJ, Paulist Press, 1995.
- HILLING, Nicholas, *Procedure at the Roman Curia: A Concise and Practical Handbook*, New York, Joseph Wagner, 1907.
- HITE, Jordan, Sesto J. GENNARO, and Daniel WARD, *Readings, Cases, Materials in Canon Law: A Text Book for Ministerial Students*, Collegeville, MN, Liturgical Press, 1980.
- HUELS, John M., *The Pastoral Companion: A Canon Law Handbook for Catholic Ministry*, new series, 2nd ed., revised, updated and expanded, Chicago, IL, Franciscan Press, 2000.
- _____, *Empowerment for Ministry: A Complete Manual on Diocesan Faculties for Priests, Deacons, and Lay Ministers*, New York, Paulist Press, 2003.
- _____, *More Disputed Questions in the Liturgy*, Chicago, Liturgy Training Publications, 1996.
- _____, *The Catechumenate and the Law: A Pastoral and Canonical Commentary for the Church in the United States*, Chicago, Liturgy Training Publications, 2003.
- Initiation, Reception, and the Eastern Churches: A Directory for the Diocese of Lansing*, Lansing, MI, Diocese of Lansing, 2002.
- INTERNATIONAL ORGANIZATION FOR MIGRATION, *Migration and Health*, vol. 2, New York, IOM Publications, 1992.
- JEDIN, Herbert and John DOLAN (eds.), *History of the Church*, vol. 2, New York, Seabury Press, 1983.
- KADUPPIL, Joseph, *Ministry of Governance of the Eparchial Bishops: Nature and Limits*, JCOD diss., Rome, Pontifical Oriental Institute, 2002.
- KANE, Thomas, *The Jurisdiction of the Patriarchs of the Major Sees in Antiquity and in the Middle Ages*, Canon Law Studies, No. 276, Washington, DC, CUA Press, 1949.
- KARAMBAI, Sebastin, *Structures of Decision-Making in the Local Church*, Bangalore, Theological Publications in India, 1995.
- KAZHDAN, Alexander, *The Oxford Dictionary of Byzantium*, New York, Oxford University Press, 1991.
- KILIAN, Sabbas, *Theological Models for the Church*, New York, Alba House, 1976.

SELECTED BIBLIOGRAPHY

- KIRKSOPP, Lake, *The Apostolic Fathers*, Greek and English text, Cambridge, MA, Harvard University Press, 1945.
- KOCHUTHUNDIL, John, *A Study of Reciprocal Rights and Obligations of the Eparchial Bishop and Presbyters in the Light of the Code of Canons of the Eastern Churches*, New York, NY, Saint Maron Publications, 1998.
- KOESTER, H., *History and Literature of Early Christianity*, 2nd ed., New York, W. De Gruyter, 2000, 2 vols.
- KOLLAPARAMBIL, Jacob, *The Babylonian Origin of the Southists Among the St. Thomas Christians*, Roma, Orientalia Christiana Anelecta, 1992.
- KOUDELKA, Charles, *Pastors: Their Rights and Duties According to the New Code of Canon Law*, Canon Law Studies, No. 11, Washington, DC, CUA, 1921.
- KUCHAREK, Casimir, *The Sacramental Mysteries: A Byzantine Approach*, Allendale, NJ, Alleluia Press, 1976.
- KURTSCHIED, Bertrand, *Historia iuris canonici, historia institutorum*, vol. 1, Romae, Officium Libri Cattolici, 1941.
- LATTEY, Father C., *The Pre-Nicene Church*, London, Burns Oates & Washbourne Ltd., 1935.
- LECLERQ, Hefele, *Histoire des Conciles*, Paris, Letouzé et Ané Publication, 1938.
- LEDDIT, Josephus, *Iure canonico orientali*, Quebec, Universitas Lavallensis, 1947.
- LIGHTFOOT, James, *The Apostolic Fathers*, London, Macmillan and Co., 1893.
- MADEY, John, *Le patriarcat ukrainien vers la Perfection de l'état juridique actuel*, Romae, Societatis Scientificaе Ukrainorum, 1971.
- _____, *Orientalium Ecclesiarum: More than Twenty Years After*, Paderborn, West Germany, Eastern Churches Publications, 1987.
- MAGOCSI, Paul, *Historical Atlas of East Central Europe*, Toronto, University of Toronto Press, 1993.
- MAGNIN, Etienne, *Pastor and People: A Summary of the Canon Law Affecting Parish Priests, Curates and the Laity*, trans. by J. SCANLON, St. Louis, MO, B. Herder Book Co, Book, 1929.
- MAKANZE, Francis, *The Parish Priest as Shepherd of the Parish Community According to Canon 519*, Excerpts from thesis (doctoral), Romae, Pontifical University Urbaniana, 1995.

SELECTED BIBLIOGRAPHY

- MALLET, James (ed.), *The Ministry of Governance*, Washington, DC, CLSA, 1986.
- MANGALATHIL, Joy, *Metropolitans of Patriarchal or Major Archiepiscopal Churches*, JCOD diss., Roma, Pontificium Institutum Orientale, 1997.
- MANKUZHAKARY, Mathew, *Ajapalana Dharmam* (Malayalam), Vadavathoor, St. Thomas Book Stall, 1989.
- MARINI, Francis, *The Power of the Patriarch: Patriarchal Jurisdiction on the Verge of the Third Millennium*, New York, NY, St. Maron Publications, 1998.
- _____, *The Power of the Patriarch; An Historical-Juridical Study of Canon 78 of the Codex canonum Ecclesiarum orientalium*, JCOD diss., Roma, Pontificium Institutum Orientale, 1994.
- _____, (ed.), *Comparative Sacramental Discipline in the CCEO and CIC*, Washington, DC, CLSA, 2003.
- MASTRANTONIS, George, *Ancient Epitome of the Sacred Canons of the Eastern Orthodox Churches*, St. Louis, MO, OLOGOS Mission, [undated].
- MCBRIDE, Thomas, *Incardination and Excardination of Seculars*, Canon Law Studies, No. 145, Washington, DC, CUA Press, 1941.
- MCLINTOCK, John and James STRONG, *Encyclopedia of Biblical, Theological and Ecclesiastical Literature*, vol. 5, New York, Harper and Brothers Publishers, 1873.
- MENDONÇA, Augustine, *Interecclesial Legislation* (unpublished class notes), Ottawa, Saint Paul University, 1996-97.
- MEYENDORFF, John, *Imperial Unity and Christian Divisions*, Crestwood, NY, Saint Vladimir Seminary Press, 1989.
- _____, *Byzantine Theology, Historical Trends and Doctrinal Themes*, New York, Fordham University, 1987.
- MPALANYI, Katampa, *The Church and Her Exercise of Power(s) with Some Reference to a Particular/Local Church in an African Set-up*, Rome, Pontificia Universitas Lateranensis, 1980.
- NEDUNGATT, George, *The Spirit of the Eastern Code*, Rome, Dharmaram Publications, 1993.
- _____, *A Companion to the Eastern Code*, Rome, Pontificio Istituto Orientale, 1994.
- _____, *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches*, Rome, Pontificio Istituto Orientale, 2002.

SELECTED BIBLIOGRAPHY

- New Catholic Encyclopedia*, vol. 15, New York, McGraw Hill Publishing Co., 1967.
- New Catholic Encyclopedia*, 2nd ed., vol. 19, New York, McGraw Hill Publishing Co., 2003.
- NORRIS, Alfred, *Understanding the Faith of the Church*, New York, Seabury Press, 1979.
- O'BRIEN, David, *Public Catholicism*, New York, Orbis Books, 1996.
- ORMESSON, Wladimir, *The Papacy*, in *The Twentieth Century Encyclopedia of Catholicism*, vol. 81, English trans. by Michael DERRICK, New York, Hawthorn Books, 1971.
- ÖRSY, Ladislav, *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, MN, The Liturgical Press, 1992.
- O'SULLIVAN, B. Anthony, *Pastoral Options for Minority Communities Applied to the Archdiocese of Wellington*, JCD diss., Ottawa, Saint Paul University, 1999.
- OSWALD, Roy et al., *New Visions for the Long Pastorate*, Washington, DC, The Alban Institute, 1983.
- PAGELS, Elaine, *The Gnostic Gospels*, New York, Random House Inc., 1979.
- PALLATH, Paul, *The Synod of Bishops of Catholic Oriental Churches*, JCOD diss., Roma, Pontificium Institutum Orientale, 1994.
- PASKA, Walter, *Sources of Particular Law for the Ukrainian Catholic Church in the United States*, Canon Law Studies, No. 485, Washington, DC, CUA, 1975.
- PERNVEDEN, Lage, *The Church in the Shepherd of Hermas*, Sweeden, Berlingska Boktryckeriet, 1966.
- PENNINGTON, Robert, *The Papal Conclaves*, New York, E. & J. B. Young & Co., 1897.
- PFNAUSCH, Edward (ed.), *Code, Community, Ministry: Selected Studies for the Parish Minister Introducing the Code of Canon Law*, 2nd ed., Washington, DC, CLSA, 1992.
- PERCIVAL, Henry, *The Seven Ecumenical Councils of the Undivided Church*, Oxford, James Parker & Co., 1900.
- PINTO, Pio V., *Commento al Codice dei canoni delle Chiese orientali*, Città del Vaticano, Libreria editrice Vaticana, 2001.
- PITRA, Joannes (ed.), *Analecta sanctae Hildegardis: opera Spicilegio solemnensi*, vol. 4, Paris, Ex Publico Galliarum Typographeo, 1883.
- PODIPPARA, Placid, *Paurasthyasabhakal* (Malayalam), Mannanam, Kerala, 1930.

SELECTED BIBLIOGRAPHY

- PORUNNEDOM, Joseph, *The Syro-Malabar Church and All India Jurisdiction*, JCOD diss., Rome, Pontifical Oriental Institute, 1991.
- POSPISHIL, Victor J., *Interritual Canon Law Problems in the United States and Canada*, Chesapeake City, MD, Saint Basil's, 1955.
- _____, *Eastern Catholic Church Law*, Brooklyn, NY, St. Maron Publications, 1993.
- _____, *Eastern Catholic Marriage Law*, Brooklyn, NY, Saint Maron Publications, 1991.
- _____, *Ex occidente lex: From the West - The Law. The Eastern Catholic Churches Under the Tutelage of the Holy See of Rome*, Carteret, NJ, Saint Mary's Religious Action Fund, 1979.
- _____, *Code of Oriental Canon Law: The Law of Persons*, Ford City, PA, St. Mary's Ukrainian Catholic Church, 1960.
- POSPISHIL, Victor J. and John D. FARIS, *The New Latin Code of Canon Law and Eastern Catholics*, Brooklyn, NY, Diocese of St. Maron, 1984.
- POTHAN, Samuel, *The Syrian Christians of Kerala*, London, Asia Publishing House, 1963.
- PROVOST, James, *Interecclesial Communion in the Light of the II Vatican Council*, JCD diss., Rome, Pontificia Universitas Lateranensis, 1967.
- PRUSAK, Bernard, *The Canonical Concept of a Particular Church Before and After Vatican II*, JCD diss., Rome, Pontificia Universitas Lateranensis, 1967.
- PUTHIYAKUNNEL, Thomas, *The Syro-Malabar Clergy and Their General Obligations: An Historico-Juridical Study in the Light of Canons 60-87 of the motu proprio Cleri sanctitati*, Ernakulam, Vincentian Publishing Bureau, 1964.
- RATZINGER, Joseph, *Wessen und Auftrag der Theologie*, Freiburg, Johannes Verlag Einsiedeln, 1993.
- _____, *Volk und Haus Gottes in Augustins Lehre von der Kirche*, Munich, K. Zink, 1954.
- RICHARDSON, Cyril, *The Christianity of Ignatius of Antioch*, New York, Columbia University Press, 1935.
- RICHASTER, Thomas, *Liturgical Law: New Style, New Spirit*, Chicago, IL, Franciscan Herald Press, 1977.
- ROBERSON, Ronald, *The Eastern Christian Churches: A Brief Survey*, Rome, Pontificio Istituto Orientale, 1999.

SELECTED BIBLIOGRAPHY

- ROBERTS, Alexander and James DONALDSON (eds.), *Ante-Nicene Fathers*, Buffalo, The Christian Literature Publishing Company, 1885, 8 vols.
- ROBERTS, Peter, *In Search of Early Christian Unity*, New York, Vantage Press, 1985.
- ROBINSON, Cecilia, *The Ministry of Deaconesses*, London, Methuen and Co., 1914.
- ROPS, Daniel, *The Church of Apostles and Martyrs*, London, J. M. Dent & Sons Ltd., 1960.
- SALACHAS, Dimitri, *Istituzioni di diritto canonico delle Chiese catholiche orientali: strutture ecclesiali nel CCEO*, Rome, Edizioni Dehoniane, 1993.
- _____, *L' iniziazione cristiana nei Codice orientale e latino, Battesimo, Cresima, Eucaristia nel CCEO e nel CIC*, Roma, Edizioni Dehoniane, 1991.
- SCHON, Dietmar, *Der Codex canonum Ecclesiarum orientalium und das authentische Recht im christlichen Orient: Eine Untersuchung zur Tradition des Kirchenrechts in sechs katholischen Ostkirchen*, Würzburg, Augustinus-Verlag, 1999.
- SCHROEDER, Joseph, *Disciplinary Decrees of the General Councils, Text, Translation and Commentary*, St. Louis and London, Herder Book Co., 1937.
- SCOTT, William, *A History of the Early Christian Church*, Nashville, Cokesbury Press, 1936.
- SHEEHY, Gerard et al. (eds.), *The Canon Law, Letter & Spirit: A Practical Guide to the Code of Canon Law*, Collegeville, MN, The Liturgical Press, 1995.
- SIMPSON, Sparrow, *The Catholic Conception of the Church*, London, Robert Scott Roxburghe, 1914.
- SKAFF, E., *The Place of the Patriarchs of Antioch in Church History*, Newton Center, MA, Sophia Press, 1993.
- SKELICK, Timothy, *An Evaluation of Transfer of Rites*, JCL thesis, Washington, DC, CUA, 1978.
- SOULS, Becket, *Eastern Canon Law Bibliography* (Revised edition), Brooklyn, NY, Saint Maron Publication, 1994.
- SULLIVAN, Francis, *From Apostles to Bishops*, New York, The Newman Press, 2001.
- SWEENEY, Edward, *The Obligations and Rights of the Pastor of a Parish According to the Code of Canon Law*, New York, Alba house, 2002.
- SZAI, Ignatius, *The Communication of Catholics with Schismatics*, Canon Law Studies, No. 264, Washington, DC, CUA Press, 1948.

SELECTED BIBLIOGRAPHY

- TAFT, Robert, *The Liturgy of Hours in East and West: The Origin of the Divine Office and Its Meaning for Today*, Collegeville, Liturgical Press, 1986.
- TANNER, Norman P., *Decrees of the Ecumenical Councils*, London, Sheed & Ward, 1990, 2 vols.
- TESSAROLO, Giulivo, *The Church's Magna charta for Migrants*, New York, St. Charles Seminary, 1962
- THAZHATH, Andrews, *The Juridical Sources of the Syro-Malabar Church*, Kottayam, Pontifical Institute of Religious Studies, 1987.
- TURNER, Cuthbert, *Studies in Early Church History*, Oxford, Clarendon Press, 1912.
- TYSON, Joseph, *A Study of Early Christianity*, New York, Macmillan Company, 1973.
- UNITED STATES CATHOLIC BISHOPS CONFERENCE, *Eastern Catholics in the United States of America*, Washington, DC, United States Catholic Conference, 1997.
- VALLAVANKOTT, Joseph, *The Nature of an Extra-territorial Eparchy with Special Reference to the Eparchy of Kalyan*, JCOD diss., Roma, Pontificium Institutum Orientale, 1997.
- VANN Kevin and James DONLON (eds.), *Roman Replies and CLSA Advisory Opinions 1995*, Washington, DC, CLSA, 1995.
- VARGHESE, Mammen, *The Laity and Their Cooperation in Church Governance According to the Provisions of CCEO and the Tradition of the Malankara Catholic Church*, Exerpta ex Dissertatione ad Doctoratum, Romae, Pontificium Institutum Orientale, Facultas Iuris Canonici Orientalis, 1996.
- VON CAMPENHAUSEN, Hans, *Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries*, trans. by J.A. BAKER, London, Adam and Charles Black, 1969.
- VORGRIMLER, Herbert (ed.), *Commentary on the Documents of Vatican II*, New York/ London, Burns & Oates/ Herder and Herder, 1968, 5 vols.
- WALKER, Jeremy, *The Churchmanship of St. Cyprian*, Ecumenical Studies in History No. 9, London, Lutterworth Press, 1968.
- WARE, Timothy, *The Orthodox Church*, New York, Penguin Books, 1997.
- WELYKU, Athanasius (ed.), *Documenta Unionis Berestensis eiusque auctorum (1590-1600)*, Rome, Basiliani, 1970.

SELECTED BIBLIOGRAPHY

- WOESTMAN, William H., *Sacraments: Initiation, Penance, Anointing of the Sick*, Ottawa, Saint Paul University, 1992.
- ZELLER, Jacques, *Christian Beginnings*, in *The Twentieth Century Encyclopedia of Catholicism*, vol. 74, English translation by Hepburne SCOTT, New York, Hawthorn, 1960.
- ZINKEWYCH, Oysp and Andrew SOROKOWSKI (eds.), *Thousand Years of Christianity in Ukraine: An Encyclopedic Chronology*, New York, Smoloskyp Pub., 1988.
- ZIZIOULAS, Jean, *Being as Communion: Studies in Personhood and the Church*, Crestwood, NY, St. Vladimir Seminary Press, 1985.
- ŽUŽEK, Ivan, *Index analyticus Codicis canonum Ecclesiarum orientalium*, Rome, Pontificium Institutum Studiorum Orientalium, 1992.
- _____, *Index Analyticus Codicis canonum Ecclesiarum orientalium*, Rome, Pontificium Institutum Studiorum Orientalium, 1994.
- _____, *I patriarchati orientali nel primo millennio*, Rome, Pontificium Institutum Studiorum Orientalium, 1968.

ARTICLES

- ABBASS, Jobe, "Canonical Dispositions for the Care of Eastern Catholics Outside Their Territory," in *Periodica*, 86 (1997), pp. 321-362.
- _____, "Two Codes in Comparison," in *Kanonika*, 7 (1997), pp. 91-131.
- _____, "The Admission of Eastern Catholics to the Novitiate of Latin Religious Institutes," in *StC*, 36 (2002), pp. 293-318.
- AERTS, G., "Pastoral Care of the Oriental Faithful," in *Australasian Catholic Record*, 54 (1977), pp. 133-141.
- ALBERIGO, Giuseppe, "Serving the Communion of Churches," trans. by Paul BURNS, in *Concilium*, 127 (1979), pp. 12-33.
- ALESANDRO, John A., "The Revision of the Code of Canon Law: A Background Study," in *StC*, 24 (1990), pp. 91-146.
- ALESANDRO John A. and A. PLACA, "Church Agents and Employees: Legal and Canonical Issues," in *CLSA Proceedings*, 58 (1996), pp. 35-82.

SELECTED BIBLIOGRAPHY

- ANTON, Angel, "Postconciliar Ecclesiology," in Rene LATOURELLE (ed.), *Vatican II: Assessment and Perspectives*, vol. 1, New York, Paulist Press, 1988, pp. 424-427
- ARBUCKLE, Gerard, "Migrants and Pastoral Care," in *The Jurist*, 46 (1986) pp. 452-473.
- ARULSAMY, S., "The Issue of Rites: A Pastoral Perspective," in *Indian Theological Studies*, 30 (1993), pp. 264-287.
- AYMANS, Winfried, "Apostolic Authority in God's People," in *Theology Digest*, 27 (1979), pp. 239-242.
- _____, "Strutture sinodali nel Codex canonum Ecclesiarum orientalium," in *Saggi di diritto canonico in prospettiva teologica (Collona di diritto canonico ed ecclesiastico)*, 10 (1993), pp. 63-90.
- _____, "Synodale Strukturen im Codex canonum Ecclesiarum orientalium," in *Archiv für katholisches Kirchenrecht*, 160 (1991), pp. 367-389.
- BAURA, Eduardo, "Movimientos migratorios y derechos de los fieles en la Iglesia," in *Ius canonicum*, 63 (2003), pp. 51-86.
- BREYDY, Michael, "Dialogo canonico entre orientales y occidentales," in *Estudios de deusto*, 9 (1961), pp. 140-150.
- BROGI, Marco, "Codificazione del diritto comune delle Chiese orientali cattoliche," in *Revista española de derecho canónico*, 45 (1988), pp. 7-30.
- _____, "Il nuovo Codice orientale e la Chiesa latina," in *Antonianum*, 66 (1991), pp. 35-61.
- _____, "Osservazione sui vicari patriarchali," in *Antonianum*, 52 (1977), pp. 165-176.
- _____, "Sinodi patriarchali, assemblee e conferenze episcopali di rito orientale," in *Antonianum*, 51(1976), pp. 250-265.
- _____, "Nomine vescovil nelle Chiese orientali cattoliche," in *Kanon*, 7 (1985), pp. 124-141.
- BUCCI, Onnarato, "Il Codice di diritto canonico orientale nella storia della chiesa," in *Apollinaris*, 55 (1982), 370-448.
- CAMELOT, P., "Nestorianism," in *New Catholic Encyclopedia*, vol. 10, New York, McGraw Hill Publishing Co., 1967, pp. 346-348.
- CANON LAW SOCIETY OF AUSTRALIA AND NEW ZEALAND, "Catholics of Eastern Rites in Australia," in *Australasian Catholic Record*, 48 (1971), pp. 286-309.

SELECTED BIBLIOGRAPHY

- CAPELLINI, E., "Con il Codex canonum Ecclesiarum orientalium - Nouve prospettive didattiche per il diritto canonico," in *L'Osservatore romano*, 8 (1991), pp. 5-8.
- CAPRILE, Giovanni, "Il nuovo Codice dei canoni delle Chiese orientali," in *La cività cattolica*, 1 (1991), pp. 171-177.
- CASTILLO LARA, Rosalio, "Some Reflections on the Proper Way to Approach the Code of Canon Law," in *Communicationes*, 17 (1985), pp. 267-286.
- _____, "Some General Reflections on the Rights and Duties of the Christian Faithful," in *StC*, 20 (1986), pp. 7-32.
- CHIRAMEL, Jose, "Hierarchical Structuring in the Oriental Legislation," in *The Code of Canons of the Eastern Churches: A Study and Interpretation*, Alwaye, India, St. Thomas Academy for Research, 1992, pp. 91-107.
- CONN, James, "Parishes of Choice: Canonical, Theological and Pastoral Considerations," in *Periodica*, 92 (2003), pp. 257-304.
- CORECCO, Eugenio, "Ecclesiological Bases of the Code," in *Concilium*, 185 (1986), pp. 3-13.
- COYLE, Kevin, "Recent Views on the Origin of Clerical Celibacy: A Review of the Literature from 1980-1991," in *Logos*, 34 (1993), pp. 480-531.
- DE PAOLIS, Velasio, "La Chiesa e le migrazioni nei secoli XIX e XX," in *Ius canonicum*, 63 (2003), pp. 13-49.
- DE VRIES, William, "Theoretical and Practical Renewals of the Primacy of Rome: The Development After Constantine," trans. by David SMITH, in *Concilium*, 4 (1971), pp. 45-53.
- _____, "The College of Patriarchs," trans. by Theodore WESTOW, in *Concilium*, 8 (1965), pp. 35-43.
- _____, "The Eastern Patriarchates and Their Relationship to the Power of the Pope," trans. by Charles ROONEY, in *One in Christ*, 2 (1966), pp. 130-142.
- _____, "The Eastern Patriarchates and Their Relationship to the Power of the Pope: A Contribution to the Question of the Relationship of the Episcopacy to the Primacy," trans. by Charles ROONEY, in *One in Christ*, 2 (1966), pp. 50-69.
- _____, "Origin of the Eastern Patriarchates and Their Relationship to the Power of the Pope," in the *Archiepiscopal and Patriarchal Autonomy*, Thomas BIRD and Eid PIDDUBCHESHEN (eds.), New York, Fordham University, 1972, pp. 14-21.
- DE VRIES, William, "La Santa Sede ed i patriarcati cattolici d'Oriente," in *Christian Orient*, 27 (1961), pp. 301-316.

SELECTED BIBLIOGRAPHY

- DE VRIES, William, "The Origin of the Eastern Patriarchates and Their Relationship to the Power of Pope," in *One in Christ*, 2 (1966), pp. 37-74.
- DE HALLEUX, André, "The Catholicity of the Local Church in the Patriarchate of Antioch After Chalcedon," trans. by Joseph KOMONCHAK, in *The Jurist*, 52 (1992), pp. 109-129.
- DIAS, Silva., "Should One Adapt to or Change/Adopt the Rite?," in *Vidyajyoti*, 54 (1990), pp. 527-530.
- DIEDERICHS, Michael, "Disparity of Cult and Determination of Rite," in *The Jurist*, 20 (1960), pp. 218-219.
- DOUMITH, M., "De l'unité du Code de droit dans l'Eglise catholique," in *Antiochena*, 7 (1965), pp. 23-27.
- DULLES, Avery, "The Catholicity of the Church and Globalization," in *Seminarium*, 40 (2000), pp. 259-268.
- DUPREY, Pierre, "Brief Reflections on the Title *Primus inter pares*," in *One in Christ*, 10 (1974), pp. 7-12.
- _____, "La structure synodale de l'Église dans la théologie orientale," in *Proche orient chretien*, 20 (1970), pp. 123-145.
- DVORNIK, Frantisek, "Byzantium and the Roman Primacy," in *American Ecclesiastical Review*, 144 (1960), pp. 289-312.
- EDELBY, Neophytos, "Unity or Plurality of Codes. Should the Eastern Churches have a Special Code?," trans. by Dinah WHARTON, in *Concilium*, 8 (1973), pp. 20-25.
- _____, "Unity or Plurality of Codes. Should the Eastern Churches have a Special Code?," in *Concilium*, 28 (1967), pp. 37-47.
- _____, "Scope of Patriarchal Authority Outside the East," in *The Jurist*, 29 (1969), pp. 174-182.
- EID, Emile, "Illustrazione del codice ai padri sinodali," in *Apollinaris*, 63 (1990), pp. 467-474.
- _____, "La presentazione del Codice dei canoni delle Chiese orientali," in *L'Osservatore romano*, 7 (1990) pp. 3-4.
- _____, "La revision du Code droit canonique oriental: Historie et principes," in *L'Année canonique*, 33 (1990), pp. 11-27.
- EL-HAYEK, E., "Revision of the Eastern Code of Canon Law: A Monumental Task," in *The Jurist*, 34 (1974), pp. 408-412.

SELECTED BIBLIOGRAPHY

- EL-HAYEK, E., "Maronite Rite," in *New Catholic Encyclopedia*, vol. 9, New York, McGraw Hill Publishing Co., 1967, pp. 245-253.
- EUART, Sharon, "Parishes Without a Resident Pastor: Reflections on the Provisions and Conditions of Canons 517 Paragraph 2 and Its Implications," in *The Jurist*, 54 (1994), pp. 369-386
- FAHEY, Michael, "The Catholicity of the Church in the New Testament and in the Early Patristic Period," in *The Jurist*, 52 (1992), pp. 44-70.
- FALTIN, Daniel., "La codificazione del diritto canonico orientale," in *La Sacra Congregazione per le Chiese Orientali nel cinquantèsimo della fondazione*, (1967), pp. 121-137.
- FAMERE, Joseph, "Collegiality and Communion in the Church," in *Theology Digest*, 42 (1995), pp. 9-11.
- FARIS, John D., "The Codification and Revision of Eastern Canon Law," in *StC*, 17 (1983), pp. 449-485.
- _____, "An Overview of the Code of Canons of the Eastern Churches," in *New Commentary of the Code of Canon Law*, John P. BEAL, James A. CORRIDEN, and Thomas J. GREEN, (eds.), New York, Paulist Press 2000, pp. 27-44.
- _____, "Inter-Ritual Matters in the Revised Code of Canon Law," in *StC*, 17 (1983), pp. 239-259.
- _____, "Toward a Recognition of the Status of the Eastern Churches in the Catholic Communion of Churches," in *The Living Light*, 32 (1996), pp. 50-57.
- _____, "Canonical Issues in the Pastoral Care of Eastern Catholics," in *CLSA Proceedings*, 53 (1991), pp. 154-164.
- _____, "Synodal Governance in the Eastern Churches," in *CLSA Proceedings*, 50 (1988), pp. 212-226.
- _____, "Interritual Matters in the Revised Code of Canon Law," in M. THÉRIAULT, J. THORN (eds.), *The New Code of Canon Law: Proceedings of the 5th International Congress of Canon Law*, Organized by Saint Paul University and held at the University of Ottawa, August 19-25, 1984, Ottawa, 1986, pp. 821-823.
- _____, "A Pearl Anniversary," in *Catholic Near East*, 20 (1994), pp. 20-25.
- _____, "Emerging from the Catacombs," in *Catholic Near East*, 24 (1998), pp. 13-18.
- _____, "Eastern Churches in the Western World," in *Catholic Near East*, 26 (2000), pp. 20-25.

SELECTED BIBLIOGRAPHY

- FARIS, John D., "Penal Law in the Catholic Church," in *Folia canonica*, 2 (1999), pp. 53-93.
- _____, "One and Many Churches," in *Catholic Near East*, 24 (1998), pp. 7- 12.
- _____, "Synodal Governance in the Eastern Catholic Churches," in *CLSA Proceedings*, 49 (1987), pp. 212-226.
- _____, "Code of Canons of the Eastern Churches and Temporal Goods," in *Church Finance Handbook*, K. MCKENNA, L. DiNARDO, and J. POKUSA (eds.), Washington, DC, CLSA, 1999, pp. 27-43.
- _____, "Reception of Baptized Non-Catholics into Full Communion," in *Acta symposii internationalis circa Codicem canonum Ecclesiarum orientalium, kaslik*, Aprilis 24-29, 1996, Lebanon, Université Saint-Espirit, 1996, pp. 159-177.
- _____, "Pastoral Care of Migrants and the Code of Canons of the Eastern Churches," in *CLSA Proceedings*, 63 (2001), pp. 85-99.
- _____, "A Canonical Examination on the Acquisition, Consequences and Loss of Membership in a Church," in *Folia canonica*, 4 (2001), pp. 135-153.
- FASHOLÉ-LUKE, Edward, "Christian Unity: St. Cyprian's and Ours," in *Scottish Journal of Theology*, 23 (1970), pp. 312-322.
- FELICIANI, Giorgio., "Il Concilio Vaticano I e la codificazione del diritto canonico," in *Ephemerides iuris canonici*, 33 (1977), pp. 115-143; 269-289.
- FENTON, C., "Contemporary Questions About Membership in the True Church," in *American Ecclesiastical Review*, 145 (1961), pp. 39-57.
- FLUMERFELT, Robert, "Reception of the Eucharist in the Latin Church by Eastern Child," in *Roman Replies and CLSA Advisory Opinions, 2002*, Washington, DC, CLSA, 2002, pp. 165-171.
- FORANEUS, "Some Thoughts on the Ruthenian Question in the United States and Canada," in *American Ecclesiastical Review*, 52 (1915), pp. 42-50.
- FOX, Joseph, "A General Synthesis of the Work of the Pontifical Commission for the Revision of the Code of Canon Law," in *The Jurist*, 48 (1988), pp. 800-840.
- FREYNE, Sean, "The Exercise of Christian Authority According to the New Testament," in *Irish Theological Quarterly*, 37 (1970), pp. 93-117.
- FUHRMANN, Horst, "Theoretical and Practical Renewals of the Primacy of Rome: From the Early Middle Ages Until the Gregorian Reform," trans. by David SMITH, in *Concilium*, 4, (1971), pp. 54-61.

SELECTED BIBLIOGRAPHY

- GALLARO, George, "The Eastern Code and the Latin Church," in *Australasian Catholic Record*, 69 (1992), pp. 217-221.
- GAUTHIER, Albert, "Juridical Persons in the Code of Canon Law," in *StC*, 25 (1991), pp.77-92.
- GARKOWSKI, John, "A Pastor's Stroll Through Immigration Law," in *The Priest*, August (2002), pp. 36-38.
- GEFAELL, Pablo., "La presentazione del codice orientale," in *Ius Ecclesiae*, 3 (1991), pp. 344-355.
- GIANNINI, Amedeo, "Sulla codificazione del diritto canonico orientale," in *Il diritto ecclesiastico*, 58 (1947), pp. 193-204.
- GREEN, Thomas J., "Reflections on the Eastern Code Revision Process," in *The Jurist*, 51 (1991), pp. 18-37.
- _____, "The Teaching Function of the Church: A Comparison of Selected Canons in the Latin and Eastern Codes," in *The Jurist*, 55 (1995), pp. 93-140.
- _____, "Diocesan and Parish Structures: A Comparison of Selected Canons in the *Codex iuris canonici* and *Codex canonum Ecclesiarum orientalium*," in *StC*, 33 (1999), pp. 349-397.
- GULLO, Carlo, "Territorialità della giurisdizione patriarcale e difetto di forma nel matrimonio canonico dei fedeli appartenenti alle chiese orientali," in *Il diritto ecclesiastico*, 102 (1991), 203-213.
- HAGE, A., "Melkite Rite," in *New Catholic Encyclopedia*, vol. 9, New York, McGraw Hill Publishing Co., 1967, pp. 627-630.
- HAJJAR, Joseph, "Synod in the Eastern Church," in *Concilium*, 8 (1965), pp. 55-65.
- _____, "Quelques jalons modernes de la codification canonique et orientale," *Apollinaris*, 35 (1962), pp. 231-23
- _____, "Patriarchal Synods in the New Eastern Code of Canon Law," in *Concilium*, 26 (1990), pp. 88-97.
- HALLIGAN, Nicholas, "Some Inter-Ritual Norms," in *The Jurist*, 42 (1982), pp.164-168.
- HEALY, Nicholas, "Indirect Method in Theology: Karl Rahner as an *ad hoc* Apologist," in *Thomist*, 56 (1992), pp. 613-633.
- HENNESSY, Paul, "Episcopal Collegiality and Papal Primacy in the Pre-Vatican I American Church," in *Theological Studies*, 44 (1983), pp. 288-297.

SELECTED BIBLIOGRAPHY

- HENNESSY, Paul, "The Infallibility of the Papal Magisterium as Presented in the Pastoral Letters of the Bishops of the United States after Vatican I," in *Horizons*, 23 (1996) pp. 7-28.
- HUELS, John M., "Permissions, Authorizations and Faculties in Canon Law," in *StC*, 36 (2002), pp. 25-58.
- HUGHES, M., "The Juridical Nature of the Act of Joining the Catholic Church," in *StC*, 8 (1974), pp.45-74.
- HUIZING, Petrus, "The New Codification of the Church Order: Nature and Limits," trans. by Theodore WESTOW, in *Concilium*, 8 (1967), pp. 15-19.
- JARRELL, Lynn, "A Look at Current Practice Surrounding the Transfer of Clerics," in *The Jurist*, 50 (1990), pp. 310-321
- JOHNSON, Timothy, "Koinonia: Diversity and Unity in Early Christianity," in *Theology Digest*, 46, (1999), pp. 303-313.
- KÉRAMÉ, Oreste, "Pluralism in the One Church: The Apostolic Churches of the East," trans. by V. GREEN, in *Concilium*, 8, (1973), pp. 59-72.
- KHOURY, Joseph, "Election of Bishops in the Eastern Churches," in *Concilium*, 147 (1981), pp. 20-27.
- KOODAPUZHA, Xavier, "The Nature of Ministry in the Church," in *Kanon*, 13 (1995), pp.112-118.
- LANDMAN, Christina, "The Priestly Right to be Married: An Eleventh Century Reaction Against Celibacy," in *Acta patristica et byzantina*, 4 (1993), pp. 51-60.
- LANNE, Emmanuel, "The Papacy and the Reform: To What Extent is the Roman Primacy Unacceptable to the Eastern Churches?," trans. by Paul BURNS, in *Concilium*, 4 (1971), pp. 62-67.
- _____, "La révision du droit canonique oriental et le retour aux traditions authentiques de l'orient," in *Irenikon*, 54 (1981), 485-497.
- _____, "Uniatism and Catholic-Orthodox Dialogue," in *Theology Digest*, 42, (1995), pp. 127-140.
- LEGRAND, Hervé-Marie, "Theology and the Election of Bishops in the Early Church," trans. by A. R. WILSON, in *Concilium*, 7 (1972), pp. 31-42.
- LOBO, George., "Notes and Queries: Choice of Rite by Converts," in *Clergy Monthly*, 28 (1964), pp. 58-60.

SELECTED BIBLIOGRAPHY

- LOVER, James., "New Law Affecting Our Dealings with Oriental Catholics," in *American Ecclesiastical Review*, 139 (1958), pp. 249-254.
- LYNCH, John, "The Eastern Churches: Historical Background," in *The Jurist*, 51 (1991), pp.1-17.
- MADEY, John, "*Orientalium Ecclesiarum: More than Twenty Years After*," in *Eastern Churches Service Publications*, 1987, pp.176-200.
- _____, "Rights of the Ukrainian Church at the Time of the Union of Brest and Its Present Situation," in *Archiepiscopal and Patriarchal Autonomy*, Thomas BIRD and Eid PIDDUBCHESHEN (eds.), New York, Fordham University, 1972, pp. 29-43.
- MADEY, John, "Rite of Notification and Acceptance of the Episcopal Election in the Melkite Orthodox Patriarchate of Antioch," in *The Harp*, 10 (1997), pp. 85-91.
- MAKSOUDIAN, Krikor, "Katholikos," in *Dictionary of the Middle Ages*, vol. 7, New York, Charles Scribner's Sons, 1892.
- MALONEY, Anne, "The Death of a Church," in *Diakonia*, 15 (1980), pp.103-107.
- MARBACH, Francis, "Some Marriage Questions Concerning Orientals in this Country and in Canada," in *The Jurist*, 9 (1949), pp.17-43.
- MAROT, Hilaire, "The Primacy and the Decentralization of the Early Church," in *Concilium*, 7 (1965), pp. 9-15.
- MAXIMOS IV, "Contre le projet d'un code unique pour l'Église orientale et l'Église occidentale," in *L'Église Grecque-Melkite au Concile*, (1967), pp. 505-507.
- MCCUE, James, "Roman Primacy in the First Three Centuries," in *Concilium*, 4, (1971), pp. 36-44.
- _____, "The Roman Primacy in the Second Century and the Problem of the Development of Dogma," in *Theological Studies*, 25 (1964), pp.161-196.
- MCGUIRE, Anthony, "New Faces and Cultures in Parish Life," in *The Priest*, 58 (August 2002), pp. 18-21.
- MCINTYRE, John, "Optional Celibacy," in *StC*, 29 (1995), pp. 103-154.
- MCMANUS, Federic, "Code of Canons of the Eastern Catholic Churches," in *The Jurist*, 53 (1993), pp. 22-61.
- MCSORLEY, Harry & Paul MISNER, "Papal Primacy in a Pluriform Polity: Some Forgotten Truths About the Petrine Ministry," in *Journal of Ecumenical Studies*, 11 (1974), pp. 208-261.

SELECTED BIBLIOGRAPHY

- METZ, René., "La nouvelle codification du droit de l'Église (1959-1983)," in *Revue de droit canonique*, 33 (1983), pp. 155-168.
- _____, "la seconde codification du droit des Églises Orientales catholiques à partir de 1972," in *Histoire du droit et des institutions de l'Église en Occident*, 16 (1981), pp. 343-351.
- _____, "La seconde tentative de codifier le droit des Église orientales catholiques au XX siècle (1972 á ...). Latinisation ou identité oriental?," in *L'Année canonique*, 22 (1979), pp. 289-302.
- _____, "La désignation des évêques dans le droit actuel: étude comparative entre le code latin de 1983 et le code oriental de 1990," in *StC*, 27 (1993), 321-334.
- MENDONÇA, Augustine, "Promotion and Protection of Rights in the Church," in *Philippiniana sacra*, 99 (September-December 1998), pp. 435-466.
- MICHIELS, Robrecht, "Church of Jesus Christ: An Exegetical-Ecclesiological Consideration," in *Louvain Studies*, 18 (1993), pp. 297-317.
- MILANO, Gian, "Riflessioni sulla natura della potestà dei patriarchi e dei loro sinodi alla luce della costituzione 'sacri canones'," in *Ephemerides iuris canonici*, 47 (1991), pp. 157-175.
- MORRISEY, Francis G., "Pastors and Parishes According to the New Code of Canon Law," in *Pastoral Life*, 33 (1984), pp. 20-29.
- MÖRSORF, Klaus, "Decree on the Bishops' Pastoral Office in the Church," in *Commentary on the Documents of Vatican II*, Herbert VORGRIMLER (gen. ed.), Freiburg, Herder and Herder, 1967-1969, vol. 2, pp. 241-242.
- MOTUIK, David, "The Code of Canons of the Eastern Churches: Some Ten Years Later," in *StC*, 36/1 (2002), pp. 189-224.
- MURPHY, John, "Joint Paper on Latin Rite Migrant Chaplains," in *Australasian Catholic Record*, 64 (1988), pp. 13-21.
- NEDUNGATT, George, "Equal Rights of the Churches in the Catholic Communion," in *The Jurist*, 49 (1989), pp. 1-21.
- NEDUNGATT, George, "Le chiese cattoliche orientali e il nuovo codice dei canoni," in *La civiltà cattolica*, (1992), pp. 325-338.
- _____, "A New Code for the Oriental Churches," in *Vidyajyoti*, 55 (1991), 265-284.
- _____, "The Title of the New Canonical Legislation," in *StC*, 19 (1985), pp. 61-80.

SELECTED BIBLIOGRAPHY

- NEDUNGATT, George, "Glossary of the Main Terms Used in the Code of Canons of the Eastern Churches," in *The Jurist*, 51 (1991), pp. 451-459.
- _____, "Synodality in the Eastern Catholic Churches According to the New Code," in *Concilium*, 5 (1992), pp. 65-81.
- _____, "The Patriarchal Ministry in the Church of the Third Millennium," in *The Jurist*, 61 (2001), pp. 1-89.
- _____, "Celibate and Married Clergy," in *StC*, 36 (2002), pp. 129-167.
- O'HARA, Ellen, "Members and Guests: Church Membership Revisited," in *CLSA Proceedings*, 44 (1982), pp. 251-262.
- ONCLIN, Willy, "Ordatio ecclesiae universae in specie ad ecclesias rituales sui iuris quod attinet," in *Revue de droit canonique*, 30 (1980), pp. 304-317.
- O'NEILL, W. and W. SPOHN, "Rights of Passage: The Ethics of Immigration and Refugee Policy," in *Theological Studies*, 59 (1998), pp. 84-106.
- ONUFERKO, A., "The New Code of Canons of the Eastern Churches: Ecclesiological Presuppositions," in *Logos*, 345 (1994), pp. 133-168.
- PERI, Vittorio, "Local Churches and Catholicity in the First Millennium of the Roman Tradition," trans. by Joseph KOMONCHAK, in *The Jurist*, 52 (1992), pp. 79-108.
- PERZEKOP, E., "Qui in electione patriarcharum ad normas juris pro ecclesiis catholicis vigentis peragenda servetur quidque mutetur," in *Kanon*, 3 (1977), pp. 271-293.
- PLÖCHL, Willibald, "Non-Solemn Baptism and Determination of Rite," in *The Jurist*, 5 (1945), pp. 359-388.
- _____, "The Change of Rite in *matrimonio ineundo vel eo durante*," in *The Jurist*, 6 (1946), pp. 275-304.
- POSPISHIL, Victor J., "The Ukrainians in the United States and Ecclesiastical Structures," in *The Jurist*, 39 (1979), pp. 368-422.
- _____, "The Eastern Catholic Codification," in *Diakonia*, 21 (3/1987), pp. 141-154.
- _____, "The Constitutional Development of the Eastern Catholic Churches in the Light of the Re-Codification of Their Canon Law," in *Kanon*, 5 (1981), pp. 36-71.
- _____, "The Ukrainian Major Archiepiscopate," in *Diakonia*, 3 (1968), 5-24.
- POTTMEYER, Hermann, "The Actualization of Vatican II," in *The Theology Digest*, 49/2 (2002), pp. 145-150.

SELECTED BIBLIOGRAPHY

- POTTMEYER, Hermann, “*The Plena et suprema potestas iurisdictionis* of the Pope at the First Vatican Council and *receptio*,” trans. by Ronny E. JENKINS, in *The Jurist*, 57, (1997), pp. 217- 234.
- POTZ, Richard., “Das katholische Ostkirchenrecht nach dem zweiten Vatikanum,” in *Il diritto ecclesiastico*, 89 (1978), pp. 204-219.
- PRISCO, San José, “Los emigrantes en la Iglesia particular,” in *Ius canonicum*, 63 (2003), pp. 135-165.
- PROVOST, James H., “Some Practical Issues for Latin Canon Lawyers from the Code of Canons of the Eastern Churches,” in *The Jurist*, 51 (1991), pp. 38-66.
- PUJOL, Carlos, “De extensione iurisdictionis Ecclesiarum particularium orientalium,” in *Periodica*, 65 (1976), pp. 509-528.
- RACHFORD, Nicholas, “Two Lungs, Two Ventricles: The Eastern Canons as Suppletory Laws,” in *CLSA Proceedings*, 56 (1994), pp. 153-170.
- RAHNER, Karl, “Towards a Fundamental Theological Interpretation of Vatican II,” in *Theological Studies*, 40 (1979), pp. 716-727.
- _____, “Basic Theological Interpretation of the Second Vatican Council,” in *Theological Investigations*, 20 (1981), pp. 56-87.
- RATZINGER, Joseph, “Letter to the Bishops of the Catholic Church on Some Aspects of the Church Understood as Communion,” in *L’Osservatore romano*, 24 June 1992, p. 1.
- REZAC, Joannes, “Sur l’extension du pouvoir des patriarches et, en general, des Églises orientales sur les fidèles de leur rite,” in *Concilium*, 48 (1969), pp. 103-114.
- ROBITAILLE, Lynda, “An Examination of Various Forms of Preaching: Toward an Understanding of the Homily and Canons 766-767,” in *CLSA Proceedings*, 58 (1996), pp. 308-325.
- ROHBAN, L., “Codification du droit canonique oriental,” in *Apollinaris*, 65 (1992), pp. 237-298.
- ROMERA, Magaña, “Competencias y actuaciones de las conferencias episcopales a favor de los emigrantes,” in *Ius canonicum*, 63 (2003), pp. 123-134.
- RUOCO, Carrasco, “Response to Hermann Pottmeyer,” trans. by James H. PROVOST, in *The Jurists*, 57 (1997), pp. 235- 248.
- SALACHAS, Dimitri, “Teologia e nomotecnica del Codex canonum Ecclesiarum orientalium,” in *Periodica*, 82 (1993), pp. 317-338.

SELECTED BIBLIOGRAPHY

- SALACHAS, Dimitri, "L'istituzione ecclesiale dell'assemblea eparchiale nel diritto Chiese orientali," in *Apollinaris*, 61 (1988), 861-877.
- _____, "Lo *status sui iuris* delle chiese patriarcali nel diritto canonico orientale," in *Periodica*, 83 (1994), pp. 569-609.
- SHEEHY, Maurice, "The Later Eastern Councils," in *Irish Ecclesiastical Record*, 49 (1963), pp. 1-11.
- SKELLICK, John, "Catholic Ruthenians of the Byzantine Rite in the United States of America," in *Diakonia*, 24 (1992), pp. 19-59.
- STAVROU, Michel, "The Catholicity of the Church," in *Theology Digest*, 46 (1999), pp. 147-154.
- TAKCHI, Joseph, "Joint Paper on behalf of the Eastern Rite Catholic Priests in Australia in 1987," in *Australasian Catholic Record*, 64 (1988), pp. 3-11.
- TAYLOR, J., "Canon Law in the Age of the Fathers," in *Australasian Catholic Record*, 54 (1977), pp. 151-168.
- THAZHATH, Andrews, "The Superior and Ordinary Tribunals of a *sui iuris* Eastern Catholic Church," in *StC*, 29 (1995), pp. 375-396.
- THEISSEN, Gerd, "The Unity of the Church," in *Theology Digest*, 42 (1995), pp. 117-126.
- THÉRIAULT, Michel, "Canonical Questions Brought About by the Presence of Eastern Catholics in Latin Areas in the Light of the *Codex canonum Ecclesiarum orientalium*," in *Ius Ecclesiae*, 3 (1991), pp. 201-232.
- THILS, Gustave, "The Theology of the Primacy: Towards a Revision," in *One in Christ*, 10 (1974), pp. 13-30.
- TILLARD, Jean-Marie, "The Primacy-Conciliarity Tension," in *Theology Digest*, 41 (1994), pp. 41-45.
- _____, "The Jurisdiction of the Bishop of Rome," in *Theological Studies*, 40 (1979), pp. 3-22.
- TRAVIJJANO, Ramon, "Response to Michael Fahey," trans. by James H. PROVOST, in *The Jurist*, 52 (1992), pp. 71-78.
- TRIVISONNO, M., "Chancery Matters Involving Different Rites," in *The Jurist*, 21 (1961), pp. 263-270.
- TYSON, J., "The Emerging Church and the Problem of Authority in Acts," in *Interpretation*, 42 (1988), pp. 132-145.

SELECTED BIBLIOGRAPHY

- VADAKUMCHERRY, Jose, "Marriage Laws in the Code of Canon Law and the Code of Canons of the Eastern Churches," in *StC*, 26 (1992), pp. 437-460.
- VALUPARAMBIL, Kurian, "Ut Unum Sint: A Response," in *Christian Orient*, 21 (2000), pp. 189-193.
- VERE, Peter, "Orthodox Christians as Godparents in the Catholic Church," in the *CLSA Advisory Opinions, 1994-2000*, Arthur J. ESPELAGE (ed.), Washington, DC, CLSA, 2002, pp. 257-258.
- VIANA, Antonio, "La Sede Apostólica y la organización de la asistencia pastoral a los emigrantes," in *Ius canonicum*, 63 (2003), pp. 87-121.
- WALKER, David, "The Spirituality of Eastern Christendom," in *Australasian Catholic Record*, 54 (1/1977), pp. 142-150.
- WALKOWIAK, David, "Sacramental Law and the Code of Canons of the Eastern Churches: An Inter-Ecclesial Perspective," in *CLSA Proceedings*, 55 (1993), pp. 214-233.
- WICKHAM, Lionel, "Response to De Halleux and Van Esbroeck," in *The Jurist*, 52 (1992), pp. 130-137.
- WOJNAR, Meletius, "Interritual Law in the Revised Code of Canon Law," in *The Jurist*, 43 (1983), pp. 191-198.
- _____, "The Code of Oriental Canon Law *de ritibus orientalibus* and *de personis*," in *The Jurist*, 19 (1959), pp. 212-245.
- WUYTS, Antonio, "Nota de praecedentia patriarcharum," in *Periodica*, 49 (1960), pp. 489-496.
- ZIADEH, I., "Sur la nécessité d'un code unique de droit canonique pour l'Église," in *Antiochena*, 6 (1965), pp. 11-14.
- ŽUŽEK, Ivan, "Oriental Canon Law: Survey of Recent Developments," in *Concilium*, vol. 8, No. 1 (1965), pp. 67-78.
- _____, "Opinions on the Future Structure of Oriental Canon Law," in *Concilium*, vol. 8, No. 3 (October 1967), pp. 65-75.
- _____, "Canons Concerning the Authority of Patriarchs Over the Faithful of Their Own Rite Who Live Outside the Limits of Patriarchal Territory," in *Nuntia*, 6 (1978), pp. 2-33.
- _____, "Canoni de synodo ecclesiae patriarchalis et de conventu patriarchali," in *Nuntia*, 7 (1978), pp. 21-46.

SELECTED BIBLIOGRAPHY

- ŽUŽEK, Ivan, "Canoni de episcopis," in *Nuntia*, 9 (1979), pp. 3-61.
- _____, "The Ancient Oriental Sources of Canon Law and the Modern Legislation for Oriental Catholics," in *Kanon*, 1 (1973), pp. 147-159.
- _____, "L'economie dans les travaux de la Commission Pontificale pour la revision du Code de droit canonique oriental," in *Kanon*, 6 (1983), pp. 66-83.
- _____, "Omissione di alcune sezioni di canoni dal Codex canonum Ecclesiarum orientalium," in *Apollinaris*, 66 (1993), pp. 439-449.
- _____, "Testi iniziali de causis beatificationis et canonizationis," in *Nuntia*, 9 (1979), pp. 90-106.
- _____, "Informatio de statu laborum Pontificiae Commissionis Codici iuris canonici orientalis recognoscendo," in *Periodica*, 67 (1978), pp. 765-772.
- _____, "Presentazione del Codex canonum Ecclesiarum orientalium," in *Monitor ecclesiasticus*, 115 (1990), pp. 591-612.
- _____, "Les textes non publiés du Code de droit canon oriental," in *Nuntia*, 1 (1975), pp. 23-31.
- _____, "Common Canons and Ecclesial Experience in the Oriental Catholic Churches," in *Understanding the Eastern Code*, Rome, Pontificio Istituto Orientale, 1997, pp. 203-238.
- _____, "Un codice per una 'Varietas Ecclesiarum'," in *Understanding the Eastern Code*, Rome, Pontificio Istituto Orientale, 1997, pp. 239-265.
- _____, "One Code for a Varietas Ecclesiarum," in *The Proceedings of the Canon Law Society of Australia and New Zealand* (1993), pp. 48-79.
- _____, "Riflessioni circa la costituzione apostolica *Sacri canones*," in *Apollinaris*, 65 (1992), pp. 53-64.

BIOGRAPHICAL NOTE

George Neervila Oonnoony was born on 24 May 1959 in Punnala, Kerala, India. After completing his seminary formation at St. Joseph's Seminary, Dunwoodie, New York, he was ordained to the priesthood on 11 May 1991 for the Archdiocese of New York. He has a Bachelor of Arts degree in Philosophy from the Pontifical University of Urbaniana, Rome, and a Bachelor of Arts degree in Political Science from the University of Kerala, India. He also has a Bachelor of Theology and a Master of Arts degree in Theology from St. Joseph's Seminary, Dunwoodie, New York. He obtained a Licentiate degree in Canon Law from the Pontifical University of Saint Thomas Aquinas (Angelicum), Rome. In 2000 he began his doctoral studies in Canon Law, at Saint Paul University, Ottawa, Canada.

He has served his Archdiocese as a Parochial Vicar, Defender of the Bond and Judge of the Metropolitan Tribunal.